

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

5163 HTRA HB 271 - HB 305

735

HB

271

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: HB 271

Publish Date: \_\_\_\_\_

REQUEST

Revision Date: \_\_\_\_\_

Title: "An Act relating to weights and measures..."

Sponsor: Labor & Commerce Committee

Requestor: House Transportation

Agency Affected: Public Safety

BRU: Alaska State Troopers

Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING         | FY 87 | FY 88 | FY 89 | FY 90 | FY 91 | FY 92 |
|-------------------|-------|-------|-------|-------|-------|-------|
| 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 FUNDS |  | 0 | 0 | 0 | 0 | 0 |
| FEDERAL FUNDS |  |   |   |   |   |   |
| OTHER         |  |   |   |   |   |   |
| TOTAL         |  | 0 | 0 | 0 | 0 | 0 |

POSITIONS:

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| FULL-TIME |  |  |  |  |  |  |
| PART-TIME |  |  |  |  |  |  |
| TEMPORARY |  |  |  |  |  |  |

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

Prepared by: Kathy Niles, Administrative Ass't

Phone: 465-4336

Division: Commissioner's Office

Date: 4/22/87

Approved by Commissioner

Date: 4/24/87

Agency: Public Safety

Distribution (by preparer):

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

JNR  
4/24/87

BILL NO: HB 271

DATE: 4/22/87

TITLE: "An Act relating to weights and measures; and providing for an effective date.

CONTACT: James D. Vaden  
Deputy Commissioner  
465-4322

DEPARTMENT OF PUBLIC SAFETY

Grant authority to the Department of Commerce & Economic Development to write citations and provide penalties for weights and measures violations.

The Department of Commerce & Economic Development is responsible for scale house operations, and as such is responsible for weighing trucks; however, existing Statutes do not give them the authority to enforce size and weight limitations through the issuance of citations. This bill corrects that. In addition, it provides penalties for size and weight limitation violations.

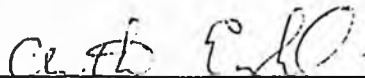
Amendments proposed:

Add a new paragraph to Sec. 45.75.131 (4) "Equipment violations under regulations in 13 AAC.

Sec. 45.75.132(a)-(f) could be deleted and replaced with a paragraph under Sec. 45.75.131 which would read "Citations issued under this Section must be in accordance with AS 12.25.190-220." Sec. 45.75.132(g) could be adopted as sub-paragraph 6 under Sec. 45.75.131, or listed independently under a new Section number.

An amendment will need to be made to AS 12.25.190 to address the issuance of citations proposed under Sec. 45.75.131.

The Department of Public Safety supports this legislation.

  
Arthur English  
Commissioner



- P. O. Box 73398
- 600 Driveway St.
- Fairbanks,
- Alaska 99707

- Telephone  
(907) 452-1181
- Telex  
090-35493

April 13, 1987

Representative Bette Cato  
P.O. Box V  
Juneau, AK 99811

APR 21 1987

Subj: Senate Bill No. 146, an act relating to weights and measures

Dear Representative Cato:

We are urging your support of legislation which would give limited citation issuing authority to Scale House Operators. Currently, the authority for enforcement of all infractions, including weight and length violations, rests with the State Troopers. The budget situation has forced the Troopers to focus their limited resources on more pressing crimes than weight and height violations. The result is widespread abuse of the law.

The scale house is the appropriate place to monitor size and weight limitations and therefore would seem to be the place to issue citations for violations. There would be no additional costs involved and you would go a long way towards stopping the destruction of our roads from overweight trucks.

Sincerely;



Richard Gregory, President

SOURDOUGH EXPRESS, INC.

*Alaska Transportation Since 1898*

- General Commodities
- Bulk Commodities
- Household Goods
- Electronics

HB

272

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: An Act relating to release of motor vehicle records.  
Sponsor: Rieger  
Requestor: House Transportation

Agency Affected: Public Safety  
BRU: Division of Motor Vehicles  
Components: Vehicle Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING         | FY 88 | FY 89 | FY 90 | FY 91 | FY 92 | FY 93 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | -0-   | 29.8  | 30.7  | 31.6  | 32.6  | 33.6  |
| TRAVEL            |       |       |       |       |       |       |
| CONTRACTUAL       |       | 14.2  | 13.1  | 13.5  | 13.9  | 14.3  |
| SUPPLIES          |       | .2    | .2    | .2    | .3    | .3    |
| EQUIPMENT         |       | 16.1  |       |       |       |       |
| LAND & STRUCTURES |       |       |       |       |       |       |
| GRANTS, CLAIMS    |       |       |       |       |       |       |
| MISCELLANEOUS     |       |       |       |       |       |       |
| TOTAL OPERATING   |       | 60.3  | 44.0  | 45.3  | 46.8  | 48.2  |

|         |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|
| CAPITAL |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|

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|---------|--|--|--|--|--|--|
| REVENUE |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

|               |  |      |      |      |      |      |
|---------------|--|------|------|------|------|------|
| GENERAL FUND  |  | 60.3 | 44.0 | 45.3 | 46.8 | 48.2 |
| FEDERAL FUNDS |  |      |      |      |      |      |
| OTHER         |  |      |      |      |      |      |
| TOTAL         |  | 60.3 | 44.0 | 45.3 | 46.8 | 48.2 |

POSITIONS:

|           |  |   |   |   |   |   |
|-----------|--|---|---|---|---|---|
| FULL-TIME |  | 1 | 1 | 1 | 1 | 1 |
| PART-TIME |  |   |   |   |   |   |
| TEMPORARY |  |   |   |   |   |   |

ANALYSIS : (Attach a separate page if necessary)

A 3% inflation factor included in FY90 and subsequent years.  
Assume effective date of July 1, 1988.  
See attached page.

Prepared by: Jay N. Dulany *JND* Phone: 269-5551  
Division: Motor Vehicles Date: 1/12/88

Approved by Commissioner: Paul A. A. O'Brien Date: 1-28-88  
Agency: Dept. of Public Safety *Dep Comm.*

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

CONTINUATION OF FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB272

EXPENDITURES:

|                                    |       |             |
|------------------------------------|-------|-------------|
| Personal Services                  |       |             |
| 1 MVR II, Range 9, Anchorage       | 29.8  | 29.8        |
| Contractual                        |       |             |
| Communications                     |       |             |
| Telephone and tolls                | 2.0   |             |
| Postage                            | 1.5   |             |
| Printing                           |       |             |
| Forms                              | 2.0   |             |
| Data Processing                    |       |             |
| DP Network connect                 | 1.5   |             |
| DPS Info. Systems chargeback       | 5.7   |             |
| @ \$475 per month                  |       |             |
| CRT/Printer/Controller maintenance | 1.5   |             |
|                                    |       | 14.2        |
| Commodities                        |       |             |
| Normal office supplies, envelopes  | .2    | .2          |
| Equipment                          |       |             |
| 1 chair                            | .3    |             |
| 1 desk                             | .5    |             |
| 1 calculator                       | .3    |             |
| 1 CRT terminal                     | 3.8   |             |
| 1 typewriter                       | .9    |             |
| 1 controller                       | 5.8   |             |
| 1 printer                          | 4.5   |             |
|                                    |       | 16.1        |
|                                    | Total | <u>60.3</u> |

|   |                    |  |                       |                  |                           |
|---|--------------------|--|-----------------------|------------------|---------------------------|
| Position Title<br>Motor Vehicle Representative II |                    |  | No. of Positions<br>1 | Range/Step<br>9B | Barg. Unit<br>GGU         |
| Time Status<br>PFT                                | Staff Months<br>12 |  | Location<br>Anchorage |                  | Election District<br>7-15 |
| Type of Expenditure                               |                    |  | Amount                |                  |                           |
| 1   |                    |  | 2                     |                  | 3                         |
| Salary  |                    |  | 21,420                |                  |                           |
| Benefits  |                    |  | 5,355                 |                  |                           |
| Premium Pay                                       |                    |  |                       |                  |                           |
| Other   |                    |  | 3,027                 |                  |                           |
| Total Personal Services                           |                    |  |                       |                  | 29.8                      |
| Travel  |                    |  |                       |                  |                           |
| Contractual                                       |                    |  |                       |                  | 14.2                      |
| Commodities                                       |                    |  |                       |                  | .2                        |
| Equipment   |                    |  |                       |                  | 16.1                      |
| Other   |                    |  |                       |                  |                           |
| Total Cost  |                    |  |                       |                  | 60.3                      |
| Funding Source for Total Cost                     |                    |  |                       |                  |                           |
| Federal Receipts 1002                             |                    |  |                       |                  |                           |
| G.F. Match 1003                                   |                    |  |                       |                  |                           |
| General Fund 1004                                 |                    |  |                       |                  | 60.3                      |
| I-A Receipts 1006                                 |                    |  |                       |                  |                           |
| CIP Receipts 1061                                 |                    |  |                       |                  |                           |
| Other   |                    |  |                       |                  |                           |
|   |                    |  |                       |                  |                           |
|   |                    |  |                       |                  |                           |

This position will be required to deal with the additional activity resulting from passage of this bill.

Due to the FY83 elimination of a research position in the Anchorage office, microfiche was made available at the office for individuals to research and find their own information from motor vehicle registration records. With passage of this bill, anyone requesting vehicle information will have to be screened to verify eligibility. If the requestor is eligible, they will be provided with the necessary data.

This position will do the screening to determine eligibility, and perform the record search when necessary.

REQUEST FOR  
NEW POSITION

Agency Public Safety  
BRU Motor Vehicles  
Component Vehicle Services

FY 89

Page 3 of 3  
Revised Date

BILL NO: HB 272

DATE: April 21, 1987

TITLE: An Act relating to release  
of motor vehicle records.

CONTACT: Bill Brown  
465-4335

APR 28 1987

Motor vehicle registration information is currently public. This bill would restrict who could obtain data from those files. It also prohibits disclosure of a social security number.

The main part of the bill relating to the release of data from registration files is workable, however, there are additional needs to be addressed. It will preclude certain persons now utilizing the information from having access. Some examples are: private enterprise acting through contracts to provide service to the State (ie: student loan collection); civil process servers; private investigators; collection agencies; private individuals wanting to identify vehicles abandoned on their property; attorney services; and surprisingly, private individuals who purchase cars and do not transfer appropriate paperwork, at some later time lose their paperwork, and don't even know who they bought the car from, which is not uncommon. A recommended amendment is to add an item 6 in Section 2(d) of the bill as follows:  
"(6) a business or person determined by the commissioner to have a legitimate need for receiving a copy of the record requested."

The prohibition to release a social security number is opposed. It is recommended the first sentence in subsection (e), beginning on line 4 of page 2 be deleted. The SSN is not currently released to any of those persons or firms listed in subsection (d). However, it is released to governmental agencies listed in subsection (c). It is unknown why the legislature would want to take an identification tool away from these agencies, especially from the criminal justice agencies.

Due to the FY83 elimination of a research position in the Anchorage office, microfiche was made available to allow individuals in Anchorage to research the vehicle registration records themselves. In other areas of the State, DMV employees do the research to respond to inquiries. This legislation will require the department to set stricter guidelines concerning access to registration information. This will eliminate the opportunity for open individual research. Therefore, one motor vehicle representative position will be necessary in Anchorage to screen requests, determine eligibility, and perform the record search when necessary.

The department is neutral on this bill, with the exception of the first sentence beginning on line 4, page 2, which it opposes.

  
Arthur English  
Commissioner

DEPARTMENT OF  
PUBLIC SAFETY

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STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST: \_\_\_\_\_

Bill Version : HR 272

Publish Date : \_\_\_\_\_

Revision Date: \_\_\_\_\_

Agency Affected: Public Safety

Title: An Act relating to release of motor vehicle records.

BRU: Motor Vehicles

Sponsor: Rieker

Components: Vehicle Services

Requestor: House Transportation

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING         | FY 87 | FY 88 | FY 89 | FY 90 | FY 91 | FY 92 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES |       | 29.8  | 30.7  | 31.6  | 32.6  | 33.6  |
| TRAVEL            |       |       |       |       |       |       |
| CONTRACTUAL       |       | 14.2  | 13.1  | 13.5  | 13.9  | 14.3  |
| SUPPLIES          |       | .2    | .2    | .2    | .3    | .3    |
| EQUIPMENT         |       | 16.1  |       |       |       |       |
| LAND & STRUCTURES |       |       |       |       |       |       |
| GRANTS, CLAIMS    |       |       |       |       |       |       |
| MISCELLANEOUS     |       |       |       |       |       |       |
| TOTAL OPERATING   |       | 60.3  | 44.0  | 45.3  | 46.8  | 48.2  |

|         |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|
| CAPITAL |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|

|         |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|
| REVENUE |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

|               |  |      |      |      |      |      |
|---------------|--|------|------|------|------|------|
| GENERAL FUND  |  | 60.3 | 44.0 | 45.3 | 46.8 | 48.2 |
| FEDERAL FUNDS |  |      |      |      |      |      |
| OTHER         |  |      |      |      |      |      |
| TOTAL         |  | 60.3 | 44.0 | 45.3 | 46.8 | 48.2 |

POSITIONS:

|           |  |   |   |   |   |   |
|-----------|--|---|---|---|---|---|
| FULL-TIME |  | 1 | 1 | 1 | 1 | 1 |
| PART-TIME |  |   |   |   |   |   |
| TEMPORARY |  |   |   |   |   |   |

ANALYSIS : (Attach a separate page if necessary)

A 3% inflation factor included in FY89 and subsequent years.  
Assume effective date of July 1, 1987.

Prepared by: Charles R. Hosack

Phone: 269-5551

Division: Motor Vehicles

Date: 4-21-87

Approved by Commissioner: [Signature]

Date: 4/21/87

Agency: Public Safety

Distribution (by preparer):

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

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 272

EXPENDITURES:

Personal Services

|                              |      |      |
|------------------------------|------|------|
| 1 MVR II, Range 9, Anchorage | 29.8 | 29.8 |
|------------------------------|------|------|

Contractual

Communications

|                     |     |  |
|---------------------|-----|--|
| Telephone and tolls | 2.0 |  |
| Postage             | 1.5 |  |

Printing

|       |     |  |
|-------|-----|--|
| Forms | 2.0 |  |
|-------|-----|--|

Data Processing

|  |      |      |
|--|------|------|
| DP Network Connect                               | 1.5* |      |
| DPS Info Systems chargeback<br>@ \$475 per month | 5.7  |      |
| CRT/Printer/Controller maintenance               | 1.5  |      |
|  |      | 14.2 |

Commodities

|                                    |    |    |
|------------------------------------|----|----|
| Normal office supplies, envelopes. | .2 | .2 |
|------------------------------------|----|----|

Equipment

|                |     |  |
|----------------|-----|--|
| 1 chair        | .3  |  |
| 1 desk         | .5  |  |
| 1 calculator   | .3  |  |
| 1 CRT terminal | 3.8 |  |
| 1 typewriter   | .9  |  |
| 1 controller   | 5.8 |  |
| 1 printer      | 4.5 |  |

|       |  |      |
|-------|--|------|
|       |  | 16.1 |
| TOTAL |  | 60.3 |

|  |                           |                              |                         |                                  |
|--|---------------------------|------------------------------|-------------------------|----------------------------------|
| Position Title<br><b>Motor Vehicle Representative II</b> |                           | No. of Positions<br><b>1</b> | Range/Step<br><b>9B</b> | Barg. Unit<br><b>GGU</b>         |
| Time Status<br><b>PFT</b>                                | Staff Months<br><b>12</b> | Location<br><b>Anchorage</b> |                         | Election District<br><b>7-15</b> |
| Justification  |                           |                              |                         |                                  |
| Type of Expenditure                                      |                           |                              | Amount                  |                                  |
| <b>1</b>   | <b>2</b>                  | <b>3</b>                     |                         |                                  |
| Salary   | 21,420                    |                              |                         |                                  |
| Benefits   | 5,355                     |                              |                         |                                  |
| Premium Pay  |                           |                              |                         |                                  |
| Other  | 3,027                     |                              |                         |                                  |
| Total Personal Services                                  |                           | 29.8                         |                         |                                  |
| Travel   |                           |                              |                         |                                  |
| Contractual  |                           | 14.2                         |                         |                                  |
| Commodities  |                           | .2                           |                         |                                  |
| Equipment  |                           | 16.1                         |                         |                                  |
| Other  |                           |                              |                         |                                  |
| Total Cost   |                           | 60.3                         |                         |                                  |
| Funding Source for Total Cost                            |                           |                              |                         |                                  |
| Federal Receipts   | 1002                      |                              |                         |                                  |
| G. F. Match  | 1003                      |                              |                         |                                  |
| General Fund   | 1004                      | 50.3                         |                         |                                  |
| I-A Receipts   | 1006                      |                              |                         |                                  |
| CIP Receipts   | 1061                      |                              |                         |                                  |
| Other  |                           |                              |                         |                                  |

This position will be required to deal with the additional activity resulting from passage of this bill.

Due to the FY83 elimination of a research position in the Anchorage office, microfiche was made available at the office for individuals to research and find their own information from motor vehicle registration records. With passage of this bill, anyone requesting vehicle information will have to be screened to verify eligibility. If the requestor is eligible, they will be provided with the necessary data.

This position will do the screening to determine eligibility, and perform the record search when necessary.

**Request For  
New Position**

Agency Public Safety  
 BRU Motor Vehicles  
 Component Vehicle Services

Page 3 of 3  
 Revised Date \_\_\_\_\_

**FY 88**

# Motznik Computer Services, Inc.

3701 Mountain View Drive  
Anchorage, Alaska 99508  
(907) 276-6254

JAN 28 1988

January 25, 1988

Rep. Bette Cato  
P.O. Box V  
Juneau, Alaska 99811

Dear Rep. Cato:

I'm writing regarding HB272 which would make motor vehicle information confidential.

The motor vehicle file showing ownership and liens on vehicles is the clearing house for vehicle ownership, just as the recording office is the clearing house for ownership or attachments of real property. I don't see how you can make this information confidential.

Some of the current uses of the file are:

1. Lenders check the file to see that their lien on the vehicle is properly recorded. If the vehicle they are lending on is used, they check the file to see there are no lien holders before them.
2. An individual buying a used car can check the file to make sure there are no lien holders.
3. A towing company can check the file to find out who owns the vehicle they have towed.
4. Before disposing of an unclaimed vehicle, a towing company must notify the lien holder.
5. Anyone with a judgement can check the file to see if the defendant has a vehicle that can be attached to satisfy the judgement, or check if a vehicle he is about to repossess has a lien holder.
6. By court ruling, the trustee in a foreclosure must make a diligent effort to obtain the current address of the person being foreclosed on. The motor vehicle file works well for obtaining current addresses, because most people have a vehicle and the registration must be renewed each year so the address is more current than in many other files.
7. Attorneys, investigators, and collection departments use the file for obtaining a current address for witnesses or defendants.
8. Large companies use the file to determine the owner of a vehicle in their parking lot before having the vehicle towed. This way they don't tow away the boss's second car.
9. The volume users of motor vehicle information currently get the motor vehicle file on microfiche and do their look-ups in their own office. This bill will require them to make every request in writing to the motor vehicle department; creating a tremendous increase in employee time and cost.

It is my understanding that the purpose of proposing this bill is to prevent a criminal from obtaining the address of a potential victim through the use of a

license plate number. The standard example being that a rapist can see a girl drive by, write down her license plate number and go to the motor vehicle office to get her address. While this is a situation we would all like to prevent, I doubt that HB272 would have much effect. Even if a motor vehicle clerk determined that the potential rapist at the counter was lying about his reason for needing the address of the vehicle owner or that he had false identification, he would probably find his victim through another means or attack someone else. He probably would not reform on the spot. Money spent on policemen, police dogs, rehabilitation etcetera has got to be a better crime deterrent than money spent on motor vehicle clerks.

The passage of HB272 would probably create more criminal activity rather than less. It would make it harder to locate individuals and attach their property for such criminal activities as bad checks, non-payment of bills, or fraudulent business dealings. It is the attorneys, investigators, banks, and collection agencies that enforce these types of crimes and the motor vehicle file is one of their tools. I feel that the social security number in this file should also be made available. This is the only way to tell you have the right 'Charles Smith.' To attach a person's permanent fund check, you must give the state the person's social security number or birth date. While stealing money with a bad check is not as dramatic as in a robbery or burglary, it still has the same effect and its the civil proceedings rather than the police that are the enforcers.

If the legislature determines that this bill should be passed, I suggest that some of the following changes be made to lessen its impact on the valid users of the file:

1. Rather than make the whole file confidential, just make the license plate number confidential. The file then could not be accessed by plate number, but could still be accessed by owner name or manufacturers serial number.
2. Make provision in the bill that the volume users of the file can apply once a year to the motor vehicle department to be approved for unlimited access to the file on microfiche, magnetic tape, or online computer access such as our Public Information Access System. It seems ridiculous to have a bank or tow company fill out thousands of forms a year only to have a public employee do the work they could have done more efficiently by themselves.

Please call me if you would like a further discussion about this bill. Thank you for consideration of my remarks.

Sincerely,

  
Robert L. Motznik  
President

RLM/vb

cc: PIAS subscribers

OFFICE: (907) 561-2221  
907 E. DOWLING ROAD  
SUITE #13  
MAILING: P.O. BOX 230288  
ANCHORAGE, ALASKA 99523-0288



*Armored Car Service  
Uniformed Security Officer Service  
Insured - Bonded - Licensed*

February 11, 1988

Representative Bette Cato  
Chairman  
Transportation Committee  
House of Representatives  
P. O. Box V  
Juneau, Alaska 99811

RE: HB 272, relating to Motor Vehicle Records.

Dear Representative Cato:

I am writing this letter to ask you to further consider the impact this bill will have on legitimate business.

I know the belief that this bill will prohibit some types of crime was a motivating factor behind its introduction. If, however, an individual is intent on finding who a person is or where they live, all they have to do is follow them home.

I agree that maybe some control is necessary but I feel that state licensed companies, who perform quasi government service through contracts, should not be prohibited from access to public records.

As an example, we have contracts to provide security for the protection of persons and property with the Port of Anchorage, Anchorage Telephone Utility, Department of Corrections, hospitals and banks. Frequently, this requires us to identify both persons and vehicles for trespassing, illegal parking and suspicious activity related to thefts and assaults. By restricting companies such as mine in this bill you only make it easier for the criminal element while handicapping the honest citizens.

Since we are a state licensed agency and we do in fact, act as an agent of the local, State and Federal Governments through our contracts; I am asking that you at least amend Section 1 (C) to include licensed Security Agencies as being allowed the same access to these records as the agencies with whom we are contractually bound to perform responsibilities in their stead.

Overall I see this bill as a protective blanket for every dead beat in the State and a hindrance to Alaska business.

Your earnest consideration is appreciated.

Sincerely

A handwritten signature in cursive script that reads "Richard L. Burton". The signature is written in dark ink and is positioned above the typed name.

Richard L. Burton (Retired Commissioner of Public Safety)  
President

RLBdrb

cc. Anchorage  
Chamber Legislative Committee

HB

280

# Alaska State Legislature

## House of Representatives

### Committee on Transportation



Rep. Bette Cato, Chairman

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4858

May 8, 1987

#### COMMITTEE CALENDAR:

- HB 213: "An Act relating to allocation of federal-aid highway funds; and providing for an effective date."
- HB 280: "An Act relating to taxation of watercraft motor fuel."
- CSSB 17: "An Act relating to unlawful possession and vandalism of official traffic control devices, disregard of a highway obstruction, and damages to highway."

#### FOR THIS MEETING YOU HAVE:

##### A folder on HB 213 that includes:

- \* a copy of the committee substitute for HB 213
- \* a sectional analysis
- \* a letter of intent
- \* a fiscal note on CSHB 213 from DOT/PF
- \* a copy of HB 213
- \* a fiscal note & position paper on HB 213 from DOT/PF
- \* information from the six-year capital plan
- \* a classification of road miles within Alaska
- \* a letter from the Ass't. Division Administrator of the Federal Highway Administration
- \* a report on HB 213 from Rep. Hoffman
- \* minutes from the 4/13, 4/15 & 5/4 public hearings of HB 213

##### A folder on HB 280 that includes:

- \* a copy of HB 280
- \* a fiscal note from the Dept. of Revenue
- \* a position paper on the Senate companion bill
- \* a discussion on the watercraft motor fuel tax
- \* a resolution from the Anchorage Chamber of Commerce
- \* written testimony from two witnesses

##### A folder on CSSB 17 that includes:

- \* a copy of CSSB 17
- \* a fiscal note and position paper from the Dept. of Public Safety
- \* a memorandum and sectional analysis from Sen. Faiks
- \* a copy of the statutes impacted by CSSB 17

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: HB 280

REQUEST \_\_\_\_\_

Publish Date: \_\_\_\_\_

Revision Date: 2/12/87

Agency Affected: Revenue

Title: An act relating to taxation of watercraft motor fuel

BRU: Audit

Sponsor: Cato

Components: \_\_\_\_\_

Requestor: Transportation & Finance

EXPENDITURES/REVENUES: (Thousands of Dollars)

|                    | FY 87 | FY 88 | FY 89 | FY 90 | FY 91 | FY 92 |
|--------------------|-------|-------|-------|-------|-------|-------|
| OPERATING          |       |       |       |       |       |       |
| PERSONAL SERVICES  | -     | -     | -     | -     | -     | -     |
| TRAVEL             | -     | -     | -     | -     | -     | -     |
| CONTRACTUAL        | -     | -     | -     | -     | -     | -     |
| SUPPLIES           | -     | -     | -     | -     | -     | -     |
| EQUIPMENT          | -     | -     | -     | -     | -     | -     |
| LANDS & STRUCTURES | -     | -     | -     | -     | -     | -     |
| GRANTS, CLAIMS     | -     | -     | -     | -     | -     | -     |
| MISCELLANEOUS      | -     | -     | -     | -     | -     | -     |
| TOTAL OPERATING    | - 0 - | - 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: See attached.

Prepared By: Steven E. Kettel *St. E. Kettel* Phone: 465-2320  
Division: Audit Date: 5/5/87

Approved by Commissioner: Hugh Malone *H. Malone* Date: 5/5/87  
Agency: Revenue

Distribution (by Agency preparing fiscal note):

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

House Bill 280  
Fiscal Note Analysis  
May 5, 1987

HB 280 amends definitions in AS 43.40.100 by correcting language usage and adding a section under the definition of motor fuel which excludes from the definition that fuel originating outside the jurisdiction of the State and brought into the State in fuel storage tanks on watercraft for the purpose of operating said watercraft, engines on the watercraft or auxiliary watercraft carried by the watercraft.

Until recently it was Department policy that watercraft of all types, whether engaged in intrastate or interstate commerce must pay the five-cent watercraft motor fuel tax on fuel consumed or used in Alaska. This policy had been conveyed to the water transportation, crude oil tanker, cruise ship and fish processing industries. This position was challenged by the industry and a formal hearing decision issued by the Department. The decision held that the Department, in asserting its policy against the interstate water transportation industry in 1985 had, in effect, changed its policy without regulatory authority. In response, the Department has requested an opinion from the Attorney General whether it is statutorily permissible to tax fuel consumed in the State, and if so, whether an amendment to the regulations is necessary.

We believe it is sound public policy to assert the tax against the interstate shipping industry. First, the levy is borne by Alaska resident shipping companies and puts them at a competitive disadvantage with foreign companies which are not taxed on their fuel purchased in other jurisdictions. Second, there is substantial revenues at stake, conservatively estimated at \$3 million per year.

Suggested Amendments:

Sub-paragraph (M) exempts fuel consumed by "auxiliary watercraft carried by the watercraft." It is our understanding that the sponsors do not intend to exempt from tax fuel consumed by fish processing facilities in the State, especially fishing vessels or other smaller watercraft which enable the processing vessel to take fish in Alaskan waters. The amending language may provide a loophole for fish processors, and we suggest amending language be drafted which disallows the exemption to vessels while they are fishing in Alaskan waters.

The amendment also may permit fish processors to be exempt from tax on fuel used by on-board generators and other engines not associated with propulsion of the vessel. This may also be outside the scope of the sponsor's intention.

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: SB 100  
Publish Date: \_\_\_\_\_

REQUEST \_\_\_\_\_

Revision Date: 2/12/87  
Title: An act relating to taxation of watercraft motor fuel  
Sponsor: Jones  
Requestor: Transportation & Finance

Agency Affected: Revenue  
BRU: \_\_\_\_\_  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

|                        | FY 87 | FY 88 | FY 89 | FY 90 | FY 91 | FY 92 |
|------------------------|-------|-------|-------|-------|-------|-------|
| <b>OPERATING</b>       |       |       |       |       |       |       |
| PERSONAL SERVICES      | -     | -     | -     | -     | -     | -     |
| TRAVEL                 | -     | -     | -     | -     | -     | -     |
| CONTRACTUAL            | -     | -     | -     | -     | -     | -     |
| SUPPLIES               | -     | -     | -     | -     | -     | -     |
| EQUIPMENT              | -     | -     | -     | -     | -     | -     |
| LANDS & STRUCTURES     | -     | -     | -     | -     | -     | -     |
| GRANTS, CLAIMS         | -     | -     | -     | -     | -     | -     |
| MISCELLANEOUS          | -     | -     | -     | -     | -     | -     |
| <b>TOTAL OPERATING</b> | - 0 - | - 0 - | - 0 - | - 0 - | - 0 - | - 0 - |
| <b>CAPITAL</b>         | -     | -     | -     | -     | -     | -     |
| <b>REVENUE</b>         | -     | -     | -     | -     | -     | -     |

FUNDING: (Thousands of Dollars)

|               |   |       |       |       |       |       |
|---------------|---|-------|-------|-------|-------|-------|
| GENERAL FUND  | - | -     | -     | -     | -     | -     |
| FEDERAL FUNDS | - | -     | -     | -     | -     | -     |
| OTHER         | - | -     | -     | -     | -     | -     |
| <b>TOTAL</b>  | - | - 0 - | - 0 - | - 0 - | - 0 - | - 0 - |

POSITIONS:

|           |   |   |   |   |   |   |
|-----------|---|---|---|---|---|---|
| FULL-TIME | - | - | - | - | - | - |
| PART-TIME | - | - | - | - | - | - |
| TEMPORARY | - | - | - | - | - | - |

ANALYSIS: See attached.

Prepared By: Steven E. Kettel *Steve Kettel*  
Division: Audit

Phone: 465-2320  
Date: 2/12/87

Approved by Commissioner: *H. Malone*  
Agency: REVENUE *SEE ADDITIONAL*

Date: \_\_\_\_\_  
*FISCAL NOTE  
ON REVENUE  
IMPACT*

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

Senate Bill 100  
Fiscal Note Analysis  
February 12, 1987

SB 100 amends definitions in AS 43.40.100 by correcting language usage and adding a section under the definition of motor fuel which excludes from the definition that fuel originating outside the jurisdiction of the State and brought into the State in fuel storage tanks on watercraft for the purpose of operating said watercraft, engines on the watercraft or auxiliary watercraft carried by the watercraft.

It is current Department policy that watercraft of all types, whether engaged in intrastate or interstate commerce must pay the five-cent watercraft motor fuel tax on fuel consumed or used in Alaska. This policy has been conveyed to the water transportation, crude oil tanker, cruise ship and fish processing industries. This position has been challenged by the industry and is currently in the formal hearing process.

We believe it is sound public policy to assert the tax against the interstate shipping industry. First, the levy is borne by Alaska resident shipping companies and puts them at a competitive disadvantage with foreign companies which are not taxed or their fuel purchased in other jurisdictions. Second, there is substantial revenues at stake, conservatively estimated at \$3 million per year.

Suggested Amendments:

Sub-paragraph (M) exempts fuel consumed by "auxiliary watercraft carried by the watercraft." It is our understanding that the sponsors do not intend to exempt from tax fuel consumed by fish processing facilities in the State, especially fishing vessels or other smaller watercraft which enable the processing vessel to take fish in Alaskan waters. The amending language may provide a loophole for fish processors, and we suggest amending language be drafted which disallows the exemption to vessels while they are fishing in Alaskan waters.

The amendment also may permit fish processors to be exempt from tax on fuel used by on-board generators and other engines not associated with propulsion of the vessel. This is also outside the scope of the sponsor's intention.

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: SB 100  
Publish Date: 2/3/87

REQUEST \_\_\_\_\_  
Revision Date: \_\_\_\_\_  
Title: An Act relating to the taxation  
of watercraft motor fuel  
Sponsor: Jones by Request  
Requestor: \_\_\_\_\_

Agency Affected: \_\_\_\_\_  
BRU: \_\_\_\_\_  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

|                    | FY 87 | FY 88    | FY 89    | FY 90    | FY 91    | FY 92    |
|--------------------|-------|----------|----------|----------|----------|----------|
| OPERATING          |       |          |          |          |          |          |
| PERSONAL SERVICES  | -     | -        | -        | -        | -        | -        |
| TRAVEL             | -     | -        | -        | -        | -        | -        |
| CONTRACTUAL        | -     | -        | -        | -        | -        | -        |
| SUPPLIES           | -     | -        | -        | -        | -        | -        |
| EQUIPMENT          | -     | -        | -        | -        | -        | -        |
| LANDS & STRUCTURES | -     | -        | -        | -        | -        | -        |
| GRANTS, CLAIMS     | -     | -        | -        | -        | -        | -        |
| MISCELLANEOUS      | -     | -        | -        | -        | -        | -        |
| TOTAL OPERATING    | -     | -        | -        | -        | -        | -        |
| CAPITAL            | -     | -        | -        | -        | -        | -        |
| REVENUE            | -     | (3000.0) | (3000.0) | (3000.0) | (3000.0) | (3000.0) |

FUNDING: (Thousands of Dollars)

|               |   |   |   |   |   |   |
|---------------|---|---|---|---|---|---|
| GENERAL FUND  | - | - | - | - | - | - |
| FEDERAL FUNDS | - | - | - | - | - | - |
| OTHER         | - | - | - | - | - | - |
| TOTAL         | - | - | - | - | - | - |

POSITIONS:

|           |   |   |   |   |   |   |
|-----------|---|---|---|---|---|---|
| FULL-TIME | - | - | - | - | - | - |
| PART-TIME | - | - | - | - | - | - |
| TEMPORARY | - | - | - | - | - | - |

ANALYSIS: Attach a separate page if necessary

Analysis assumes an effective date of July 1, 1987. See attached.

Prepared By: <sup>DT</sup> David Tonkovich Phone: 465-2173  
Division: Research/Revenue Date: 2/12/87

Approved by Commissioner: [Signature] Date: 2/16/87  
Agency: REVENUE

Distribution (by Agency preparing fiscal note): SEE ADDITIONAL  
FISCAL NOTE ON  
ADMINISTRATIVE COST  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)  
Senate Secretary

Continuation for Fiscal Note Analysis

SB 100

Analysis:

This legislation exempts from the \$.05/gallon marine fuel tax that fuel which is purchased outside the State's jurisdiction but is brought into the state for use by a watercraft.

It is the State's contention that fuel used within the three mile limit is subject to the fuel tax. This contention is currently the subject of an administrative hearing process. Because of uncertainty over the outcome of that process current revenue estimates do not include these potential revenues.

There are three pieces of information required to estimate the - revenue impact of this bill: 1) The volume of vessel traffic into and out of Alaska; 2) The amount of fuel used within the State's jurisdiction by these vessels; and 3) The portion of the fuel purchased outside the State. Unfortunately there is only fragmentary data on any of these items.

An earlier fiscal note on this topic (SB 387, 1986 Legislative Session) tried to provide a rough estimate of the impact of excluding this fuel usage from the tax. The procedure to develop that estimate is summarized below. Because there have been no further returns filed on this element of the marine fuel tax (pending the outcome of the administrative hearing process) the figures developed for that legislation remain our best estimate of the impact.

The estimate contained in the note for SB 387 was prepared by dividing potential collections into two parts:

1. Revenues from users whose tax liability could be estimated from data on the number of trips, average fuel consumption and time in Alaska waters. Also, for several of these users a full year return was available. This part of the estimate covered these major users:

Tankers into and out of Valdez  
Cruiseships in Southeast Alaska  
Several large common carriers serving Southcentral Alaska  
Several carriers distributing petroleum products for local use.

Our estimate for these users is \$2 million annually.

2. Revenues for remaining users. This tax liability is more difficult to estimate because of the diversity of users and the fact that available returns cover only part of the year. This estimate would cover many of the common and contract carriers, freighters hauling raw materials and semi-finished products such as LNG, fish processors and a variety of other users.

Our estimate for these users is \$1 million. Because of the numbers and variety of users involved this estimate is probably conservative.

POSITION PAPER - SB 100

SB 100 is identical to CS SB 387 (Fin.) which passed the Senate but died in House Rules Committee upon adjournment in 1986.

This legislation is necessary to correct a new (1985) and onerous reinterpretation of the motor fuel tax by the Department of Revenue (D.O.R.). It concerns fuel brought into the state in a marine vessel's fuel storage tanks and consumed to operate the vessel while in Alaska waters. SB 100 would clarify that, consistent with the application of the motor fuel tax laws between 1946 and 1985, fuel brought into the state in fuel storage tanks for the purpose of operating the vessel is not subject to the motor fuel tax.

Background Information

The motor fuel tax was enacted in 1946. Marine fuel purchased or transferred within Alaska is taxable in full at \$.05 per gallon.

Since its enactment in 1946 until 1985, motor fuel purchased outside Alaska and consumed in Alaska without first being stored or otherwise coming to rest in the state was not taxed under the motor fuel tax provisions.

In 1985, without benefit of any new legislative authorization, D.O.R. initiated a series of letters to certain marine cargo carriers, among others, attempting to levy a fuel tax on fuel consumed in Alaska but which was brought into the state in fuel storage tanks and used to propel and operate the vessel.

This "new interpretation" of the law has not been authorized by the Legislature or existing law and extends the tax beyond the original scope of the marine fuel tax statute.

D.O.R. contends that a 1982 amendment to its administrative regulations authorizes its "new interpretation." However, D.O.R. admits that nothing in the public notice of intent to adopt the regulations stated that D.O.R. intended to tax mere consumption of marine fuel or that it intended to change the application of the law it had used the previous 39 years.

The amendment in question consists of deletion of the word "and" used in the statute and substitution of the word "or" to define "user." The result is that the statute defines "user" as follows:

(4) "user : eans a person consuming or using motor fuel, who either

(A) purchases the fuel out of the state and ships it into the state for personal use in the state;

(B) manufactures the fuel in the state;

or

(C) purchases or receives fuel in the state that is not taxed at the time of purchase or receipt or is taxed at a rate that is less than the rate prescribed by AS 43.40.010. (emphasis added)

However, after the D.O.R. amendment, the regulations defines "user" as follows:

(6) "user" means a person consuming or using motor fuel who purchases the fuel out of state or ships it into the state for personal use in the state, who manufactures the

fuel in the state, or who purchases or receives in the state fuel that is not taxed at the time of purchase or receipt or is taxed at a rate that is less than the rate prescribed by AS 43.40.010; (emphasis added)

The regulations are obviously inconsistent with statute and appear to be an attempt to extend the scope of the fuel tax beyond that originally intended by the Legislature. This unilateral action by an executive branch agency which attempts to make substantive changes in the law without legislative authorization is highly questionable and unfair.

SB 100 would amend the statute to prevent this "new interpretation" and clarify legislative intent to ensure that D.O.R. will tailor its administrative activity consistent with the 39-year history of the motor fuel tax.

It is worthy of note that D.O.R. has said that if successful in the marine fuel area, it will extend its "new interpretation" to vehicular motor transportation and aviation (which raises questions similar to those in the marine transportation area.

POLICY CONSIDERATIONS IN SUPPORT OF SB 100

1. D.O.R.'s "new interpretation" would certainly increase the costs of consumer goods, construction materials and equipment, and other products shipped to Alaska and thereby increasing the cost of living to all Alaskans;
2. The "new interpretation" would result in higher tourist travel costs to Alaska as cruise ships would be subject to the new fuel tax;
3. The "new interpretation" would impose the tax on the amount of marine fuel consumed while inside the three-mile limit of Alaska waters thereby placing certain ports at a competitive disadvantage due to their location farther inside bays, harbors and inlets;
4. The "new interpretation" would also apply to tanker traffic to and from Valdez, however, this merely increases transportation costs which are "netted back" reducing the well-head value to the state of Alaska;
5. The "new interpretation" would apply to the large fishing fleet and pleasure craft which ply Alaska waters raising questions of the administrative, enforcement, and personnel costs required to adequately monitor the expansion of the tax to fuel "consumed" in transit.
6. When the "new interpretation" is applied to motor vehicle transportation, it is readily apparent that revenue agents would be necessary at the Canadian border to measure fuel in tanks of automobiles, recreation vehicles and trucks

coming into Alaska to levy and collect this tax. (Ferry travel from Seattle would require similar treatment.)

7. No other west coast state, neither Texas nor Hawaii impose a "consumption tax" such as is being proposed under D.O.R.'s "new interpretation."
8. When applied to the aviation travel, both commercial and private, similar questions of increased travel costs and administrative costs are evident.
9. Aside from the obvious administrative costs and enforcement problems, as a matter of public policy, it does not make good sense to permit this extension of the motor fuel tax which will result in more expensive consumer goods, construction equipment and materials and which would possibly discourage tourist travel to Alaska. This is an especially sensitive question at this time of economic stagnation in the state.
10. There is no revenue loss to the state of Alaska because the tax has not been levied or collected between 1946-1985.

### ALASKA MOTOR FUEL TAX CHRONOLOGY

The following is a chronology of key events in the interpretation and application of the Alaska Motor Fuel Tax.

- 1946 Alaska Territorial Legislature imposes motor fuel tax on (1) all fuel sold and delivered or otherwise transferred within the Territory; and (2) all fuel consumed by a "user," defined as "any person, firm or corporation consuming or using any motor fuel, who shall have purchased such fuel out of the Territory and shipped it into the Territory for his or its own use within the Territory." Laws of Alaska 1946, Ch. 18 (emphasis added).
- 1946 - Present Alaska Legislature amends and reenacts motor fuel tax numerous times, without substantive change to provisions relevant here.
- 1946 - 1985 Division of Audit (DOA) of Department of Revenue applies motor fuel tax in accord with constitutional and statutory limits:
- A. Motor fuel purchased or transferred within Alaska was taxable in full without regard to the jurisdiction in which the fuel was actually consumed.
  - B. Motor fuel purchased outside Alaska and consumed in Alaska during propulsion without first being stored or otherwise coming to rest in the state was not taxed under the Motor Fuel Tax provisions.
- June 3, 1982 Governor approves House Bill 101, which amends the motor fuel tax statute without substantive change to the definition of "user" or other provisions relevant here.
- July 19, 1982 Department adopts first comprehensive motor fuel tax regulations, without prior notice. Finding of Emergency states that the regulations are necessary to implement House Bill 101. However, the regulations also purport to restate the definition of "user" as follows:

A. The statute defines "user" as a person consuming or using motor fuel who . . . purchases the fuel out of the state and ships it into the state for personal use in the state . . . AS 43.40.100(4) (emphasis added).

B. The regulations define "user" as "a person consuming or using motor fuel who purchases the fuel out of state or ships it into the state for personal use in the state . . ." 15 AAC 40.900(5) [now(6)] (emphasis added)."

July 20, 1982

Department issues Notice of Adoption of Emergency Regulation. Nothing in the notice states that the Department adopted a different definition of "user," or that the Department intended to tax fuel merely consumed in state waters, or that DOA intended to change the way it had applied the motor fuel tax since 1946. No notice is sent to marine fuel consumers as such, or to the Taxpayers here. Extensive comments are submitted on numerous topics, but none of them mention the definition of "user" or taxation of fuel merely consumed in state waters. Nothing in the Department's file on the regulations even discusses the definition of "user" or taxation of fuel merely consumed in state waters.

Nov. 14, 1982

The July 1982 regulations are adopted and made permanent by the Department.

1985

DOA begins to apply the motor fuel tax differently. DOA now interprets the statute and regulations as follows:

A. Motor fuel purchased or transferred within Alaska remained taxable in full at the time of purchase, but in-state purchasers could seek a refund of tax on any fuel consumed outside Alaska. Under this interpretation, fuel both purchased and consumed in the state would be subject to only one tax.

B. Motor fuel purchased outside Alaska and consumed while in transit through Alaska would be subject to Motor Fuel Tax on the fuel actually consumed within the state, even

though not stored or otherwise coming to rest in the state . . . without regard to whether such fuel was subject to actual or potential taxation in the state or foreign country where purchased, and without any express statutory or regulatory credit for taxes paid outside the state.

May 1985

DOA issues Questions and Answer Booklet reflecting its new interpretation as to motor fuel purchased in Alaska. DOA does not seek to comply with Alaska Administrative Procedure Act requirements in the issuance of the Booklet.

June 1985

DOA issues 200 letters applying its new interpretation of the statute to motor fuel purchased outside Alaska and merely consumed in state waters. The letters instruct the recipients, including the Taxpayers here, to file returns for the periods they had allegedly been using fuel in Alaska waters and to respond within 30 days, or else taxes, penalties, and interest would be assessed accordingly. DOA does not seek to comply with Alaska Administrative Procedure requirements in the issuance of the letters. The letters are the first written notice directed to Taxpayers or to marine fuel consumers in general regarding application of the tax to fuel merely consumed in state waters.

July - Nov. 1985

DOA requests that Taxpayers file returns as of January 12, 1985, and represents that it will not seek returns for any prior period,

Oct. Dec. 1985

DOA and Taxpayers agree on appeal procedures, under which Taxpayers file a return for one month, pay the tax for that month, and simultaneously file a refund claim. DOA agrees to stay all other reporting, collection, penalty and assessment procedures pending final administrative and judicial resolution of the matter.

Currently

The matter is now on appeal before the Department of Revenue.

## Anchorage chamber issues 3 resolutions

The Anchorage Chamber of Commerce has adopted three resolutions relating to state policy and Anchorage development.

The first asks Gov. Steve Cowper for release of road funds impounded during the Fiscal Year 87 budget adjustment. These funds will continue replacement and upgrade of critical traffic thoroughfares.

The second addresses a state Department of Revenue administrative decision to collect a five percent tax on marine fuel used for ship operation within the three-mile limit, including cruise ships. Payment of the tax will impact most seriously in Alaska on goods transported into the Cook Inlet, said the chamber. The Chamber has asked the Governor and Legislature to reverse this administrative decision as not equitable.

The final action provides for supporting the proposed 3,680-acre land exchange between the Eklutna Inc. village corporation and the state of Alaska.

The Eklutna land is adjacent to Chugach State Park. The state land lies between Fifth and Sixth avenues and Cordova and A streets in Anchorage.

Each parcel of land is valued at about \$9 million. The land exchange would further enhance the municipality's efforts to protect the Eagle River Greenbelt. The Chamber also asks the state to support and assist Eklutna Inc. in the development of a major resort area north of Anchorage.

The three items were recorded as resolutions and forwarded to Governor Cowper for action by the Administration. The chamber said it considers these items important to the quality of growth in Anchorage.

This Resolution has been adopted by The  
Anchorage Chamber of Commerce.

RESOLUTION

WHEREAS, The Alaska Motor Fuel Tax laws have since 1946, levied a 5 cent per gallon tax on marine fuel purchased or transferred within Alaska; and

WHEREAS, for 39 years marine fuel purchased outside Alaska waters and brought into the state in fuel storage tanks on watercraft for the purpose of operating the vessel has not been taxed under the Motor Fuel Tax provisions of Alaska law; and

WHEREAS, in 1985, the Alaska Department of Revenue initiated a new and different interpretation of the law as applied to marine fuel brought into the state in fuel storage tanks on watercraft for the purposes of operating the vessel and began a tax collection effort; and

WHEREAS, this effort was undertaken without new authorizing legislation or amendment; and

WHEREAS, the new interpretation of the marine fuel tax will have serious implications for the business and individual consumers in Alaska by increasing the costs of goods brought into the state by water transportation; and

WHEREAS, the new interpretation will apply to cruise ships which visit Alaska waters thereby increasing costs of such tourist travel to our state; and

WHEREAS, because the new interpretation would impose the tax on the amount of marine fuel consumed while the watercraft is inside the 3 mile limits of Alaska waters, certain Alaska ports will be unfairly placed at a competitive disadvantage due to longer travel time inside bays, harbors and inlets; and

WHEREAS, in 1986 the Alaska Senate passed CS S.B. 387 (Finance) which would have specifically prevented application of the new interpretation; and

WHEREAS, the Alaska House of Representatives adjourned before S.B. 387 could reach the floor for a vote on the issue; and

WHEREAS, legislation similar to S.B. 387 would not result in a revenue loss to the State of Alaska because such a tax was not levied or collected between 1946 and 1985;

THEREFORE BE IT RESOLVED, that the Anchorage Chamber of Commerce urges that Governor Cowper and the Alaska Legislature take action to clarify the law so that marine fuel brought into the state in fuel storage tanks on watercraft for the purposes of operating the vessel not be taxed and avoid increasing costs of business and consumer goods to Alaska consumers, increasing the costs of tourist activities in the state and avoid the competitive discrimination against certain ports which could result;

BE IT FURTHER RESOLVED, that copies of this resolution together with a letter urging Governor Cowper and the legislative delegation to support a measure similar to S.B. 387 be sent to the appropriate state officials.

(8) "watercraft" means a ship, boat, vessel, or other structure that is capable of being moved in or on water either under its own propulsion or propelled by another craft, including a floating fish processor, a transportation barge, a drilling ship, and a semi-submersible drilling rig;

\* \* \*

(Eff. 4/8/82, Reg. 82; am. 8/1/82, Reg. 83; am. 7/19/82, Reg. 83; am. 11/14/82, Reg. 84; am. 8/12/84, Reg. 91)

### Discussion

The Taxpayers received letters from the Division in June, 1985 requiring them to file motor fuel tax returns and pay the tax based on fuel acquired outside of Alaska and consumed within the state. After quoting AS 43.40.010, the Revenue Auditor wrote:

This tax is a user tax. The fuel purchased out of state and used or consumed within Alaska waters is subject to the Alaska Motor Fuel tax. Every user is required to remit the tax accrued on motor fuel imported into the State and used during each month. Based on our information, we believe you are required to file a monthly tax return with the Department of Revenue.

I have enclosed Alaska Statutes and regulations governing motor fuel taxes. Also enclosed are motor fuel tax returns (04-541) with instructions on how to prepare these returns. We request that you file these returns for the periods that you have been using motor fuel within Alaska waters. If you need additional returns or information please contact this office.

Exs. 1 - 5, Letters to Taxpayers. The Taxpayers filed motor fuel tax returns for October, 1985, paid the taxes based on consumption and filed claims for refund. The claims were denied. F.F. 15. The Taxpayers filed appeals, F.F. 16, and an informal conference decision was issued, which upheld the taxation of the motor fuel, F.F. 17.

The Taxpayers have raised several issues concerning the application of the motor fuel tax to fuel purchased outside of Alaska and consumed in Alaska waters from a vessel's fuel tanks (bunkers). The Taxpayers protest the proposed taxation method based on statutory interpretation, the Administrative Procedure Act and constitutional grounds. Because we conclude that the action by the Division violates the Administrative Procedure Act, we do not reach the statutory interpretation and constitutional issues.

I. The Taxation Of Watercraft Fuel Purchased Outside of Alaska And Consumed In Alaska Proposed By The Audit Division In June, 1985 Was Inconsistent With The Prior Course Of Conduct Of The Division Concerning The Taxation Of Such Motor Fuel.

The Division and the Taxpayers have stipulated that a single course of conduct concerning the taxation of watercraft motor fuel was followed from the enactment of the law in 1946 until 1985. Motor fuel purchased or transferred within Alaska was taxable in full without regard to the jurisdiction in which the fuel was actually consumed and motor fuel purchased outside of Alaska and consumed in Alaska without first being stored or otherwise coming to rest in the state was not taxed. F.F. 1. In other words, a vessel taking on fuel in its bunkers outside of Alaska and consuming that fuel in Alaska did not pay motor fuel tax to Alaska. This historical approach was based primarily on statutory interpretation because the first regulations concerning the motor fuel tax were not adopted until 1982. See 15 AAC 40.010 -- 15 AAC 40.900, Eff. 7/19/82, Reg. 83.

Under AS 43.40.010 there were two classifications of taxpayers, dealers and users. A dealer was a person who sold or otherwise transferred in Alaska motor fuel upon which the tax had not been paid. AS 43.40.100(1). A user paid the motor fuel tax at the same rates as a dealer and was a person who consumed or used motor fuel who either purchased the fuel outside of Alaska and shipped it into the state for personal use in the state, or who manufactured the fuel in the state or who purchased or received fuel in the state which was not taxed at the time of purchase or receipt or was taxed at less than the proper rate. AS 43.40.100(4). The tax was levied when a dealer sold or otherwise transferred motor fuel, AS 43.40.010(a) or when a user consumed motor fuel, AS 43.40.010(b).

Prior to the Division's action in 1985, the Taxpayers in this case did not pay nor did the Division require that they pay motor fuel tax. They were not "dealers" because they were not selling or otherwise transferring the fuel in this case. The Taxpayers did not manufacture the fuel and did not otherwise receive fuel in the State; therefore they could not have received it tax-free or at a reduced tax rate. See F.F. 1. Had the Taxpayers been taxable at all, it would have been because, they purchased the fuel out of the state and shipped it into the state for personal use in the state. AS 43.40.100(4)(A). Though not conclusive as to the taxability of their use of motor fuel, neither the Taxpayers nor any other motor fuel consumer on watercraft filed a return and paid a tax on the consumption basis proposed in the June, 1985 letters to the Taxpayers. F.F. 19. The record contains no reference to any earlier attempt by the Division to impose or require this method of taxation on watercraft fuel use.

While the letters to the Taxpayers failed to cite authority for the Division's action in 15 AAC 40, the Division claims that its action and

change of method of taxation were authorized by properly adopted regulations. The key regulation is 15 AAC 40.900(6) which defines "user" differently than in the statute, AS 43.40.100(4). The statute defines "user" as follows:

"user" means a person consuming or using motor fuel, who either  
(A) purchases the fuel out of the state and ships it into the state for personal use in the state; . . . .

AS 43.40.100(4)(emphasis added).

This definition was first enacted in 1946, § 1(c), ch. 18, Session Laws of Alaska 1946 in substantially the same form:

"User" means any person, firm or corporation consuming or using any motor fuel, who shall have purchased such fuel out of the Territory and shipped it into the Territory for his or its own use within the Territory.

(Emphasis added). The regulation expands the definition by replacing the emphasized "and" in the statutory definition with an "or" in the regulation:

"user" means a person consuming or using motor fuel who purchases the fuel out of state or ships it into the state for personal use in the state, . . . .

15 AAC 40.900(6). AS 43.40.100(4) requires the taxpaying user to purchase outside of the state and ship into the state for personal use. Under the regulation anyone purchasing motor fuel outside of the state and bringing it by any means into the state for use is taxable. This is so because the import is no longer restricted to bringing it in by "shipping." If we presume, for the sake of argument, that the regulation was properly adopted, is consistent with AS 43.40.100(4), and is constitutional, there would be authority under the regulation to tax motor fuel on watercraft which was used in Alaska waters and brought into Alaska waters as the vessel's fuel supply. However, we conclude that the regulation does not provide the Division with the authority to change the method of taxation on fuel purchased outside of Alaska and used on watercraft. The new interpretation imposed in the June, 1985 letters was not covered by this regulation, but rather amounted to a "regulation" in and of itself. As such, it was not properly adopted.

A. The Department's Notice Of Proposed Adoption Of Emergency Regulations Is Presumed To Have Been Adequate To Notify The Public Of The Subject Of The Proposed Regulations.

The Division adopted 15 AAC 40.900(6), the new definition of "user" as part of a group of regulations first adopted as emergency regulations,

effective 7/19/82, Reg. 83, and then as permanent regulations, effective 11/14/82, Reg. 84. The emergency regulations were adopted in response to the passage of Conference Committee Substitute for House Bill 101 which became Chapter 82 of the 1982 Session Laws of Alaska. The newly enacted legislation, however, did not amend the definition of "user" nor did it expand the taxation of fuel consumed on watercraft. Those changes were introduced in the new regulations.

The Department's Notice of Adoption Of Emergency Regulations contained the following summary of the proposed regulations and their subject matter:

Section 010 relates to return filing requirements;

Section 020 indicates which fuel is subject to motor fuel tax and provides for exemptions from the tax;

Section 030 requires a certificate for certain tax exempt sales;

Section 040 contains licensing requirements;

Section 050 requires a bond for every qualified dealer;

Section 060 authorizes the revocation of a qualified dealers license;

Section 070 lists which records shall be kept;

Section 100 allows a refund or credit on certain sales or transfers of motor fuel;

Section 110 requires tax payments for sales of diesel fuel not used for heating purposes;

Section 200 allows a refund of tax for certain uses of motor fuel;

Section 210 requires a claim be filed in order to receive a tax refund;

Section 220 relates to recovery by the State of erroneously issued refunds;

Section 230 indicates what records must be kept in order to claim a tax refund;

Section 900 contains definitions.

Notice of Adoption of Emergency Regulations, Dept. of Revenue (Jul. 20, 1982). This notice was published three times each in the Juneau Empire, Aff. of Publication, Juneau Empire (Aug. 10, 1982), the Anchorage Daily News, Aff. of Publication, Anchorage Daily News (Aug. 6, 1982), and the Fairbanks Daily News-Miner, Aff. of Publication, Fairbanks Daily News-Miner (Aug. 31, 1982).

A notice of proposed adoption, amendment or repeal must contain an informative summary of the proposed subject of agency action. AS 44.62.200(a)(3). The standard which the notice must meet is whether the notice gave members of the public sufficient information to decide whether their interests could be affected by the agency action and thus to make their views known to the agency. State v. First Nat. Bank of Anchorage, 660 P.2d 406, 425 (Alaska 1982). The filing of a regulation by the lieutenant governor establishes the rebuttable presumption that all the requirements of adopting a regulation have been complied with, including providing adequate notice to the public. AS 44.62.100(a)(3). Thus, the notice set out above presumably was adequate to inform the public of the subject of the regulations which the Department was proposing to adopt.

In addition to the presumption that all requirements were met is the liberal construction to be given the informative summary. First Nat. Bank at 660 P.2d at 425 n. 32. Where a failure to comply with the requirements has been alleged, the failure must have been substantial before a regulation is set aside. Chevron U.S.A., Inc. v. LeResche, 663 P.2d 923, 929 (Alaska 1983).

The notice set out above gave the public notice that regulations were being proposed which would affect motor fuel tax "filing requirements," the determination of which "fuel is subject to motor fuel tax," the allowance of "a refund for certain uses of motor fuel" and the procedure for filing a refund claim. Notice of Proposed Adoption, supra. We believe the notice was adequate to notify the public of the proposed changes.

While the notice was adequate for the purposes stated, the regulation file is devoid of any intent of the Division to change the taxation method for watercraft motor fuel users. Thus, the June 1985 letters contained the first written notice of the change in the taxation of motor fuel consumed by the Taxpayers. In our opinion, no notice of the change was provided by the regulations adopted in 1982.

B. The June, 1985 Letters To The Taxpayers Imposed A New Basis For The Taxation Of The Taxpayers' Motor Fuel Which Should Have Been Adopted By Regulation.

The June, 1985 letters notified the taxpayers of the new interpretation of the motor fuel tax:

This tax is a user tax. The fuel purchased out of state and used or consumed within Alaska waters on watercraft is subject to the Alaska Motor Fuel tax. Every user is required to remit the tax accrued on motor fuel imported into the State and used each month. Based on our information, we believe you are required to file a monthly tax return with the Department of Revenue.

Letter from John Hansen, Revenue Auditor to Taxpayers at 2 (June 7 and 10, 1985) (requesting Taxpayer to file returns and pay motor fuel tax) (emphasis added).

In writing the letter to the Taxpayers, the auditor changed the statutory requirement that a user ship motor fuel into the state for personal use, AS 43.40.100(4)(A), to import fuel into the state, Letters to Taxpayers, supra. "To ship" primarily means to "place or receive on board of a ship for transportation by water . . . [or] to cause to be transported", Webster's Third New International Dictionary, at 2096 (1976). Under this definition, we do not consider a vessel "shipping" the fuel in its fuel tanks to Alaska any more than the family car can be considered to be "shipping" fuel around the city.

On the other hand, "import" has a broader meaning, "to bring from a foreign or external source; introduce from without." Id. at 1135. "Import" goes beyond "ships into" by including all fuel brought into the state by any means from any outside source and thus includes a vessel's own fuel. The Letters introduced a new interpretation of "user" and effectively was a "regulation" as defined in the Administrative Procedure Act, AS 44.62.640(a)(3), but was imposed on the Taxpayers without going through the process for adopting regulations under AS 44.62. Although arguably consistent with the new definition of "user" adopted in the 1982 regulations, 15 AAC 40.900(6), there was no change in the enforcement of the law until the June letters, almost three years after the adoption of the regulations. The June letters constituted a new interpretation of the law, and thus were not properly adopted as regulations under the Administrative Procedure Act.

Should the Division wish to pursue the method of taxation proposed in the June, 1985 letters, it should do so only after properly adopting a regulation providing notice of the change from the prior method of taxation. In the course of adopting such a regulation, the Division should consider the arguments presented in this appeal concerning the consistency of such an approach within the existing statutes and conformity with the provisions of the United States and Alaska Constitutions cited by the Taxpayers.



*This Resolution has been adopted by The Anchorage Chamber of Commerce.*

RESOLUTION

WHEREAS, The Alaska Motor Fuel Tax laws have since 1946, levied a 5 cent per gallon tax on marine fuel purchased or transferred within Alaska; and

WHEREAS, for 39 years marine fuel purchased outside Alaska waters and brought into the state in fuel storage tanks on watercraft for the purpose of operating the vessel has not been taxed under the Motor Fuel Tax provisions of Alaska law; and

WHEREAS, in 1985, the Alaska Department of Revenue initiated a new and different interpretation of the law as applied to marine fuel brought into the state in fuel storage tanks on watercraft for the purposes of operating the vessel and began a tax collection effort; and

WHEREAS, this effort was undertaken without new authorizing legislation or amendment; and

WHEREAS, the new interpretation of the marine fuel tax will have serious implications for the business and individual consumers in Alaska by increasing the costs of goods brought into the state by water transportation; and

WHEREAS, the new interpretation will apply to cruise ships which visit Alaska waters thereby increasing costs of such tourist travel to our state; and

WHEREAS, because the new interpretation would impose the tax on the amount of marine fuel consumed while the watercraft is inside the 3 mile limits of Alaska waters, certain Alaska ports will be unfairly placed at a competitive disadvantage due to longer travel time inside bays, harbors and inlets; and

WHEREAS, in 1986 the Alaska Senate passed CS S.B. 387 (Finance) which would have specifically prevented application of the new interpretation; and

WHEREAS, the Alaska House of Representatives adjourned before S.B. 387 could reach the floor for a vote on the issue; and

WHEREAS, legislation similar to S.B. 387 would not result in a revenue loss to the State of Alaska because such a tax was not levied or collected between 1946 and 1985;

THEREFORE BE IT RESOLVED, that the Anchorage Chamber of Commerce urges that Governor Cowper and the Alaska Legislature take action to clarify the law so that marine fuel brought into the state in fuel storage tanks on watercraft for the purposes of operating the vessel not be taxed and avoid increasing costs of business and consumer goods to Alaska consumers, increasing the costs of tourist activities in the state and avoid the competitive discrimination against certain ports which could result;

BE IT FURTHER RESOLVED, that copies of this resolution together with a letter urging Governor Cowper and the legislative delegation to support a measure similar to S.B. 387 be sent to the appropriate state officials.

TESTIMONY  
OF  
M.R. LADNER, PUBLIC AFFAIRS  
FOR  
SEALAND SERVICE, FAIRBANKS, ALASKA  
TO  
ALASKA HOUSE TRANSPORTATION COMMITTEE  
JUNEAU, ALASKA

MADAM CHAIR, MEMBERS OF THE COMMITTEE, MY NAME IS MIKE LADNER AND I AM THE PUBLIC AFFAIRS SPOKESMAN FOR SEALAND SERVICES IN ALASKA, BASED OUT OF FAIRBANKS. SEALAND SERVICES OPERATES THREE SHIPS BETWEEN SEATTLE AND THE RAILBELT AND ALEUTIAN CHAIN MARKETS OF ALASKA.

I AM TESTIFYING FOR SEALAND IN SUPPORT OF HB 280, WHICH WE STRONGLY FEEL CLARIFIES THE EXISTING LAW PASSED BY THE TERRITORIAL LEGISLATURE IN 1946. THE TERRITORIAL LEGISLATURE'S INTENT, WE BELIEVE, WAS TO STOP VESSEL OPERATORS FROM BRINGING IN BULK FUEL, FOR RESALE, THUS AVOIDING IN-STATE PURCHASED AND ALASKA TAXES.

THE ALASKA DEPARTMENT OF REVENUE IN JUNE OF 1985 CAME TO THE VESSEL OPERATORS AND STATED THEY WERE NOW GOING TO COLLECT A TAX ON FUEL BURNED, BUT NOT PURCHASED IN ALASKA'S THREE-MILE LIMIT. FOR THIRTY-NINE YEARS THIS TAX WAS NEVER COLLECTED, NOR WAS THE LAW INTERPRETED IN SUCH A WAY FOR IT TO BE ASSESSED. THE DEPARTMENT OF REVENUE ARBITRARILY, FOR REASONS OF ITS OWN, ISSUED WITHOUT CLEAR LEGISLATIVE INTENT, A NEW TAX.

THIS USER TAX WOULD COST OUR COMPANY APPROXIMATELY \$150,000 PER YEAR BASED PRIMARILY ON OUR CRUISING TIME WITHIN COOK INLET, KODIAK ISLAND, CORDOVA, AND DUTCH HARBOR, AS WELL AS INTERMEDIATE POINTS. A USER TAX

IS USUALLY BASED ON SERVICES RECEIVED, BUT ON THIS "CONSUMPTION" TAX, ALL AIDES TO NAVIGATION, INSPECTIONS, SAFETY AT SEA AND PORT CHARGES ARE EITHER PROVIDED BY THE FEDERAL OR LOCAL GOVERNMENTS.

SEALAND EMPLOYS 203 PEOPLE DIRECTLY AND INDIRECTLY IN ALASKA AND WE PAY TAXES ON PAYROLL, WORKERS' COMPENSATION, PERSONAL PROPERTY, EXCISE, AND LICENSE TAX. OUR COMPANY PAYS ITS FAIR SHARE OF TAXES IN ALASKA AND FEELS WE ARE GOOD CORPORATE CITIZENS.

SINCE THE DEPARTMENT OF REVENUE HAS NEVER COLLECTED THIS TAX, THERE WOULD BE NO LOSS OF REVENUE IN PASSING THIS LEGISLATION. THE DEPARTMENT OF REVENUE HAS INITIALLY SINGLED OUT THE MARITIME INDUSTRY ON THIS TAX, BUT CHECKS FOR TRUCKS AT THE BORDER, CARS AND RECREATIONAL VEHICLES AT THE BORDER AND ON THE FERRIES AND ALL AIRLINES WHEN THEY HIT ALASKA AIRSPACE WOULD ALSO FALL UNDER REVENUES' INTERPRETATION OF THIS TAX. AS ONE MIGHT IMAGINE, THE EQUITABLE ENFORCEMENT AND STAFFING TO ENFORCE THIS TAX WOULD BE A DIFFICULT AND COSTLY UNDERTAKING, PLUS THE ACCOUNTING BURDEN FOR THE TRANSPORTATION COMPANIES WOULD BE INCREASED.

IF THIS TAX WERE APPLIED TO THE COMMON CARRIERS OF ALASKA, IT WOULD BE ADDED TO THE RATES PAID BY THE ALASKAN CONSUMER, EITHER BY ADDING TO THE RATE OR BY ADDING AN ALASKA FUEL TAX SURCHARGE TO THE BILL OF LADING.

SEALAND THEREFORE URGES PASSAGE OF HB 280. I WISH TO THANK THE CHAIR AND THIS COMMITTEE FOR ALLOWING US TIME TO EXPRESS OUR OPINION ON THIS ISSUE.

THANK YOU.

TESTIMONY OF TOTEM OCEAN TRAILER EXPRESS, INC. (TOTE)  
BY LEIGHTON H. THETFORD, ALASKA GENERAL MANAGER BEFORE  
THE ALASKA HOUSE TRANSPORTATION COMMITTEE IN SUPPORT  
OF HOUSE BILL NO. 280  
MAY 6, 1987

Mr. Chairman, members of the Committee, TOTE is testifying today on our own behalf and on behalf of other ocean carriers shipping between the states of Alaska and Washington. We wish to express our support of Senate Bill 100, which was introduced to clarify the original intent of the legislature for the Alaska Motor Fuel Tax Act, and to eliminate any ambiguity in that act in relation to fuel brought into the state in the fuel storage tanks of watercraft.

The Motor Fuel Tax Act was passed as law by the Territorial Legislature in 1946. We believe that the legislature intended to tax fuel sold in Alaska and bulk fuel shipped as cargo into Alaska for personal use in the state. The legislature intended to prevent the shipping of untaxed bulk fuel into Alaska and therefore prevent a loss of sales tax revenue. The legislature did not intend to tax fuel brought into the state in fuel storage tanks on a watercraft for the purpose of operating the watercraft.

Alaska followed this legislative intent until June, 1985. No tax was asserted or collected on fuel brought into the state in fuel storage tanks on a watercraft for the purpose of operating the watercraft. In June, 1985 the Department of Revenue arbitrarily determined to redefine the legislative intent and to collect a tax on this bunker fuel. We strongly disagree with this new interpretation and believe that, in attempting to reinterpret the law and impose a new tax, the department violated the intent of the legislature as expressed in both the Motor Fuel Tax Act and the Alaska Administrative Procedure Act.

The department has asserted this tax is a user tax. The fuel tax has not previously been based on fuel used, but on fuel purchased in state or shipped into the state. The concept of a user tax is to pay for a service. The State of Alaska itself provides virtually no service for our industry. Aids to navigation, dredging, safety at sea, inspections and vessel safety are covered by the federal government. TOTE's port and dockside facilities are paid for by dockage fees and rental payments to the Port of Anchorage which were approximately \$1.9 million in 1986. In addition, TOTE is an Alaska corporation and pays substantial taxes to the State of Alaska, including income, property and payroll taxes.

A tax on bunker fuel consumed in Alaskan waters encourages carriers to avoid travel within the three-mile limit. Ports such as Anchorage, which lie further within Alaskan waters, would be discriminated against, as would carriers serving those ports. TOTE serves the Port of Anchorage only in our service to Alaska. Our ships cruise six hours in each direction through Cook Inlet. If a tax is imposed on bunker fuel, most of TOTE's tax would result from sailing through Cook Inlet to Anchorage.

Any increase in taxes would worsen the condition of the water transportation industry and increase costs to the Alaska consumer. In addition, our industry is a major source of commerce and employment in Alaska and any additional burden on the industry would be detrimental to the Alaskan economy. The past three years have been unprofitable for many carriers in our industry and several operators have been forced from the business as a result. The next three years are expected to be more difficult.

Our industry has filed an appeal with the Department of Revenue contesting this new tax. Although we expect to ultimately prevail in this matter, this arduous and expensive process can be avoided by clarifying the act through House Bill No. 280.

In summary, House Bill No. 280 was introduced to clarify the original intent of the legislature for the Alaska Motor Fuel Tax Act, and to eliminate any ambiguity in that act in relation to fuel brought into the state in the fuel storage tanks of watercraft. This bill will relieve the industry and the Department of Revenue from an expensive appeal and litigation process resulting from the department's radical new interpretation of the act. Finally, this bill will prevent a burden from being imposed on water carriers and consumers in Alaska.

I thank you for this opportunity to express the views of TOTE and of our industry. We encourage your support of House Bill No. 280 and will answer any questions you have at this time.

STATE OF ALASKA  
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE REFERENCE LIBRARY

May, 1988

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

Mary Van Nimwegen

H. TRANS.

5-8-87

1:30p.m.



Official Business

**COMMITTEE:**

House Transportation Committee

**DATE:** May 8, 1987

**SIGN-IN**

**Subject of meeting:**

HB 213: Allocation of Federal Highway Funds

\*HB 280: Taxation of Watercraft Motor Fuel

CSSB 17: Vandalism of Traffic Control Devices

**NAME** Please include title **ADDRESS** Please use full address. Please include zip. **PHONE** **REPRESENTING** **DO YOU WANT TO TESTIFY?**

| NAME<br>Please include title                | ADDRESS<br>Please use full address.<br>Please include zip. | PHONE    | REPRESENTING  | DO YOU WANT TO TESTIFY?        |
|---|--|----------|---------------|--------------------------------|
| Carl H. Meyer<br>Chief of Audit Appeals     | Dept. of Revenue<br>P.O. Box 5A                            | 465-2343 | DOR           | AVAILABLE for HB 280 Questions |
| Alexis Gabay<br>Staff Attorney - Sen. Faiks | — CSSB 17  | 465-4523 | Senator Faiks | Yes SBI 7                      |
| Jon Scriver                                 | DOT & PF<br>Pouch Z JNU                                    | 465-3900 | DOT & PF      | if questions, 217<br>yes       |
|   |  |          |               |                                |
|   |  |          |               |                                |
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\*indicates first public hearing

HB

305





Official Business

# Alaska State Legislature

House of Representatives

House Transportation Committee

P.O. Box V  
Juneau, Alaska  
99811

Phone:  
(907) 465-4859

February 10, 1988

\*\*\*\*\*

## COMMITTEE CALENDAR:

HB 305: "An Act relating to transportation of pupils;  
and providing for an effective date."

HJR 50: Requesting the Congress to remove the Highway  
Trust Fund and the Airport and Airway Trust  
Fund from the Unified Federal Budget.

(This is a first public hearing on HJR 50)

## FOR THIS MEETING, YOUR PACKET INCLUDE:

a folder on HB 305:

item #1: HB 305

#2: fiscal notes: Depart. of Labor  
Depart. of Education  
Depart. of Public Safety

#3: a statement from Rep. Donley, Chairperson of  
House Labor & Commerce

#4: sectional analysis

#5: letter re wages and safety record

#6: committee substitute for HB 305

#7: testimony - 2/3/88 minutes and other

#8: statutes

a folder on HJR 50:

item #1: HJR 50

#2: statement from Rep. Davis

#3: fiscal note: DOT/PF

# Alaska State Legislature

## House of Representatives

### Committee on Transportation



Rep. Bette Cato, Chairman

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4858

March 2, 1988

\*\*\*\*\*

#### COMMITTEE CALENDAR:

HB 305: "An Act relating to transportation of pupils;  
and providing for an effective date."

FOR THIS MEETING, YOU HAVE BEEN GIVEN:

a folder on HB 305 that includes:

- item #1: HB 305
- #2: fiscal notes, HB 305:   Depart. of Labor  
  Depart. of Education  
  Depart. of Public Safety
- #3: 2/3 statement from Rep. Donley
- #4: sectional analysis
- #5: letter regarding wages and safety record
- #6: original committee substitute - 2/4
- #7: 2/03 & 2/10 minutes
- #8: statutes

New information: 3/2 statement from Rep. Donley  
a new committee substitute - 2/16  
sectional analysis  
an amendment to the 2/16 CS

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: "An act relating to transportation of pupils.."  
Sponsor: House Labor and Commerce  
Requestor: House Transportation

Agency Affected: Labor  
BRU: Labor Standards and Safety  
Components: Wage and Hour

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING         | FY 88 | FY 89 | FY 90 | FY 91 | FY 92 | FY 93 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES |       |       |       |       |       |       |
| TRAVEL            |       |       |       |       |       |       |
| CONTRACTUAL       |       |       |       |       |       |       |
| SUPPLIES          |       |       |       |       |       |       |
| EQUIPMENT         |       |       |       |       |       |       |
| LAND & STRUCTURES |       |       |       |       |       |       |
| GRANTS, CLAIMS    |       |       |       |       |       |       |
| MISCELLANEOUS     |       |       |       |       |       |       |
| TOTAL OPERATING   | 0     | 0     | 0     | 0     | 0     | 0     |

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| REVENUE |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

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

POSITIONS:

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| FULL-TIME |  |  |  |  |  |  |
| PART-TIME |  |  |  |  |  |  |
| TEMPORARY |  |  |  |  |  |  |

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Tom Stuart, Director *Stuart*  
Division: Labor Standards and Safety

Phone: 264-2452  
Date: 2/02/88

Approved by Commissioner: Jim Sampson *J. Sampson*  
Agency: Labor

Date: 2/02/88

Distribution (by preparer):

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

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: ...transportation of pupils...

Agency Affected: Education  
BRU: K-12

Sponsor: House Labor and Commerce  
Requestor: House Labor and Commerce

Components: Pupil transportation

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING         | FY 88 | FY 89 | FY 90 | FY 91 | FY 92 | FY 93 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES |       |       |       |       |       |       |
| TRAVEL            |       |       |       |       |       |       |
| CONTRACTUAL       |       |       |       |       |       |       |
| SUPPLIES          |       |       |       |       |       |       |
| EQUIPMENT         |       |       |       |       |       |       |
| LAND & STRUCTURES |       |       |       |       |       |       |
| GRANTS, CLAIMS    |       |       |       |       |       |       |
| MISCELLANEOUS     |       |       |       |       |       |       |
| TOTAL OPERATING   |       |       |       |       |       |       |

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| REVENUE |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

|               |  |  |  |  |  |  |
|---------------|--|--|--|--|--|--|
| GENERAL FUND  |  |  |  |  |  |  |
| FEDERAL FUNDS |  |  |  |  |  |  |
| OTHER         |  |  |  |  |  |  |
| TOTAL         |  |  |  |  |  |  |

POSITIONS:

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| FULL-TIME |  |  |  |  |  |  |
| PART-TIME |  |  |  |  |  |  |
| TEMPORARY |  |  |  |  |  |  |

ANALYSIS : (Attach a separate page if necessary)

This is not a zero fiscal note. The potential cost of sections 2, 3, and 4 of the bill are indeterminate.

Prepared by: Steve Hole  
Division: Commissioner's Office

Phone: 465-2800  
Date: 2-2-88

Approved by Commissioner: William G. Demmert  
Agency: Education

Date: 2-2-88

Distribution (by preparer):

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

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Public Safety  
Title: An Act relating to transportation BRU: Motor Vehicles  
of pupils.  
Sponsor: House L&C Components: \_\_\_\_\_  
Requestor: House L&C

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING         | FY 88 | FY 89 | FY 90 | FY 91 | FY 92 | FY 93 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES |       |       |       |       |       |       |
| TRAVEL            |       |       |       |       |       |       |
| CONTRACTUAL       |       |       |       |       |       |       |
| SUPPLIES          |       |       |       |       |       |       |
| EQUIPMENT         |       |       |       |       |       |       |
| LAND & STRUCTURES |       |       |       |       |       |       |
| GRANTS, CLAIMS    |       |       |       |       |       |       |
| MISCELLANEOUS     |       |       |       |       |       |       |
| TOTAL OPERATING   | -0-   | -0-   | -0-   | -0-   | -0-   | -0-   |

|         |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|
| CAPITAL |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|

|         |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|
| REVENUE |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

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

POSITIONS:

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| FULL-TIME |  |  |  |  |  |  |
| PART-TIME |  |  |  |  |  |  |
| TEMPORARY |  |  |  |  |  |  |

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact on this department.

JMR  
2/2/88

Prepared by: Bill Brown Phone: 465-4335  
Division: Motor Vehicles Date: 2-2-88  
Approved by Commissioner: [Signature] Date: 2-3-88  
Agency: Public Safety

Distribution (by preparer):

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

# HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX V, JUNEAU 99811

(907) 465-3892



February 3, 1988

To: Representative Bette Cato, Chair  
Members, House Transportation Committee

From: Representative Dave Donley, Chair  
House Labor and Commerce Committee

Re: HB 305 - School Bus Drivers

HB 305, relating to wages and required experience for school bus drivers, was introduced by the House Labor and Commerce Committee and is before the House Transportation today.

I've included a brief sectional analysis of HB 305 to aid in your deliberations today. HB 305 makes three substantial amendments to existing statute: 1) raises the age to obtain a school bus drivers license from 19 to 21, 2) raises the one year requirement for having an Alaska drivers license to two years and, 3) establishes a minimum wage for drivers at no less than two and one half times the federal minimum wage law (\$3.35/hour - \$3.85/hour in Alaska).

The House Labor and Commerce Committee introduced HB 305 in response to concerns about the continuing reduction in wages for school bus drivers and the potential effect on the quality and availability of qualified drivers. Most school bus drivers are employees of contractors who bid for pupil transportation services. Less than twenty percent of school bus drivers in Alaska are paid directly by a school district. Since most pupil transportation costs are fixed (i.e. gas, oil, tires, insurance, heat, lights, license fees, routine maintenance, and the buses themselves), reducing wages paid to drivers may be the only way for a contractor to place the winning bid. The House Labor and Commerce Committee felt that the compensation levels of school bus drivers must not be allowed to deteriorate because wages currently paid are at an absolute minimum to expect qualified and proficient applicants.

Last year, the Committee received the results of a brief telephone survey of wages paid to school bus drivers:

| <u>CITY</u>   | <u>CONTRACTOR</u> | <u>ENTRY WAGE</u> | <u>TOP WAGE</u> |
|---------------|-------------------|-------------------|-----------------|
| KENAI         | LIDLAW            | \$8.10/HR         | \$11.45/HR      |
| MATSU/BOROUGH | FUNDRA TOURS      | \$8.22/HR         | \$10.40/HR      |
| KODIAK        | T.M.S.            | \$9.50/HR         | \$10.00/HR      |
| FAIRBANKS     | T.M.S.            | \$8.50/HR         | \$10.00/HR      |
| ANCHORAGE     | T.M.S.            | \$7.50/HR         | \$ 9.00/HR      |
| ANCHORAGE     | LIDLAW            | \$8.22/HR         | \$ 9.75/HR      |

Before deciding to introduce HB 305, our Committee heard arguments that there is no correlation between wages paid to school bus drivers and a good safety record. However, the Anchorage School district has suffered three student fatalities in the last four years, in three separate school bus accidents. In each case, the contractor was T.M.S. (Transportation & Marketing Systems).

The operation of a school bus is viewed by many as nothing more difficult than driving the family car. From a mechanical standpoint this may be true. However, from a safety standpoint it is not. A much greater level of proficiency must be required of our school bus drivers than we require from drivers who do not carry passengers, let alone a bus full of children.

In recognition of the greater degree of experience and proficiency required, the legislature recently adopted measures to substantially increase the required experience and training levels for school bus drivers. While this legislation imposed considerable costs on potential drivers, it did nothing to protect their wages and therefore helped to make bus driving a substantially less attractive job. The resulting increase in the turnover rate among drivers means wasted training dollars, potentially unsafe pressure on current employees, and an overall lower level of proficiency.

In order to correct errors in the current version of HB 305, I prepared two amendments for your consideration. The first would correct the effective date so that it reads September 1, 1988 instead of September 1, 1987. The second amendment corrects a drafting oversight so that the minimum wage requirements established under HB 305 apply to all school bus drivers, whether they are paid by a school district or through an independent contractor.

The House Labor and Commerce Committee believes that HB 305 reasonably and fairly addresses an important public safety issue. We support measures to increase the proficiency and experience level for school bus drivers and feel strongly that the best way to accomplish that goal and still maintain a pool of qualified, experienced drivers, is to guarantee that they receive no less than a livable wage.

# HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX V, JUNEAU 99811

(907) 465-3892



## Sectional Analysis for HB 305 "An Act relating to transportation of pupils"

### Section 1:

Section 1 contains Legislative Findings that establish the public purpose behind requiring additional experience and proficiency levels for school bus drivers in Alaska.

### Section 2:

Section 2 adds a new subsection (d) to AS 14.09.010 to require school districts, transportation contractors, or other recipients of state funds for pupil transportation services to establish classifications for their employees who provide transportation services in order to identify school bus drivers as employees eligible for the minimum wage established under AS 23.10.065(b). The section further requires that if the wage schedule for bus drivers established by an entity under this section is higher than the minimum wage established under AS 23.15.065 (b) then the higher wage applies to all other employees who work as bus drivers.

### Section 3:

Amends AS 23.10.065 (Section of law that establishes a minimum wage for all employees in Alaska as \$.50 cents above federal minimum wage) to exempt school bus drivers under AS 23.10.065(b).

### Section 4:

Adds a new subsection (b) to AS 23.20.065 providing that school bus drivers be paid a minimum wage no less than two and one half times the prevailing federal minimum wage. (Current federal minimum wage is \$3.35/hour nationally and \$3.85/hour in Alaska. Two and one half times \$3.85/hour establishes a minimum wage for school bus drivers as \$9.62 and hour.

### Section 5:

Section 5 amends AS 28.15.046(b) to raise the minimum age for obtaining a school bus drivers license from 19 to 21 years (AS 28.15.046(b)(1)), and raises the one year requirement for possession of a license to two years (AS 28.15.046(b)(2)).

### Section 6:

Effective date clause. The effective date in the current version is September 1, 1987.

Prepared by the House Labor and Commerce Committee  
Representative Dave Donley, Chairman  
February 3, 1988

# STATE OF ALASKA

## DEPARTMENT OF LABOR

STEVE COWPER, GOVERNOR

BOX 1149  
JUNEAU, ALASKA 99802

PHONE:

(907) 465-4856

April 21, 1987

APR 22 1987

The Honorable Dave Donley  
State Capital  
P.O. Box V  
Juneau, AK 99811

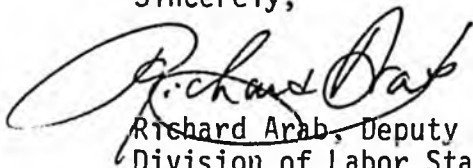
Dear Representative Donley:

I refer to your request of April 14, 1987 concerning statistics or a study which may indicate the relationship between wages paid to a school bus driver and his or her safety record.

The department does not have any information on this subject. I, therefore, called the Department of Education and the Alaska Highway Safety Council but neither of these agencies had any information on the subject. They referred me to the National School Transportation Association, in Springville, Virginia, and to the National Safety Council in Chicago, Illinois. I contacted both these organizations and they also were not aware of any studies in this area.

I am sorry I was not of more help but evidently there are no studies either on a state or national level on this subject.

Sincerely,



Richard Arab, Deputy Director  
Division of Labor Standards  
and Safety

5-0777B  
Ford  
2/4/88

Original sponsor: Labor and Commerce  
Committee

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 305 ( )

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to transportation of pupils; and  
7 providing for an effective date."

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

9 \* Section 1. LEGISLATIVE FINDINGS. The legislature finds that the  
10 driving conditions existing in this state are unique and require school bus  
11 drivers to have experience in driving a vehicle on the roads and under the  
12 conditions existing in the state in order to ensure that they are adequate-  
13 ly trained. The legislature also finds that in order to properly train  
14 school bus drivers, drivers should be licensed in this state for a minimum  
15 period of one year, as required under AS 28.15.046(b)(2), as amended by  
16 sec. 6 of this Act.

17 \* Sec. 2. AS 14.09.010 is amended by adding a new subsection to read:

18 (d) A school district, transportation contractor, or other  
19 recipient of state funds for pupil transportation shall establish two  
20 wage schedules for its employees who provide pupil transportation  
21 services. One wage schedule must include employees, other than driv-  
22 ers, paid on an hourly basis, by classification. The other wage  
23 schedule must include drivers, by classification. After an entity  
24 establishes a wage schedule required by this subsection, an employee  
25 hired by that entity to provide substantially the same pupil transpor-  
26 tation services as an employee compensated according to the estab-  
27 lished wage schedule shall be compensated at a rate not less than that  
28 established by the wage schedule. If wages paid to the employee are  
29 higher than the rate established by the wage schedule, the wage

1 schedule shall be amended to conform to the higher wage rate.

2 \* Sec. 3. AS 23.10.055(5) is amended to read:

3 (5) an individual employed by the United States or by the  
4 state or political subdivision of the state, except as provided in  
5 AS 23.10.065(b), including prisoners not on furlough detained or  
6 confined in prison facilities;

7 \* Sec. 4. AS 23.10.065 is amended to read:

8 Sec. 23.10.065. MINIMUM WAGES. Except as provided under (b) of  
9 this section, an [AN] employer shall pay to each employee wages at a  
10 rate of not less than 50 cents an hour greater than the prevailing  
11 Federal Minimum Wage Law or \$2.60 an hour, whichever is greater, for  
12 hours worked in a pay period, whether the work is measured by time,  
13 piece, commission or otherwise. An employer may not apply tips or  
14 gratuities bestowed upon employees as a credit toward payment of the  
15 minimum hourly wage required by this section. Tip credit as defined  
16 by the Fair Labor Standards Act of 1938 as amended does not apply to  
17 the minimum wage established by this section.

18 \* Sec. 5. AS 23.10.065 is amended by adding a new subsection to read:

19 (b) An employer shall pay to each person employed as a school  
20 bus driver wages at a rate of not less than two and one-half times the  
21 prevailing <sup>Alaska</sup> Federal Minimum Wage Law, <sup>as described in 23.10.065</sup> for hours worked in a pay period,  
22 whether work is measured by time, commission, or otherwise. An em-  
23 ployer may not apply fringe benefits as a credit toward payment of the  
24 minimum wage established under this subsection.

25 \* Sec. 6. AS 28.15.046(b) is amended to read:

26 (b) The department may not issue a license under this section  
27 unless the applicant

28 (1) is at least 21 [19] years of age;

29 (2) has had a license issued by the department to operate a

1 motor vehicle at least one year before the date of application and has  
2 had a license to operate a motor vehicle at least three years before  
3 the date of application:

4 (3) has successfully completed all required driving, writ-  
5 ten, and physical examinations;

6 (4) has submitted information sufficient to complete a  
7 background check consisting of a fingerprint check of national crimi-  
8 nal records and state criminal records of the state or states in which  
9 the applicant has resided for the past two years;

10 (5) has completed a state approved school bus driver train-  
11 ing course established under AS 14.07.020(a)(14) or has for the previ-  
12 ous two years been licensed by the state to operate a school bus.

13 \* Sec. 7. This Act applies to school bus driver employment contracts  
14 entered into or renewed on or after September 1, 1988.

15 \* Sec. 8. This Act takes effect September 1, 1988.  
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# STATE OF ALASKA THE LEGISLATURE

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

## LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

May, 1988

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

Mary Van Nimwegen

|          |         |           |
|----------|---------|-----------|
| H. TRANS | 2-3-88  | 1:30 p.m. |
| " "      | 2-10-88 | 1:30 p.m. |
| " "      | 3-2-88  | 1:30 p.m. |

GORDON EPPERLY : JUNEAU

1. School bus drivers are required to complete first aid and CPR classes, which takes about four hours of personal time and costs \$20 for their certification cards.
2. School bus drivers are required to have physicals, costing \$50 - \$100, on their own time.
3. New drivers are required to attend a two week training program, at their own expense, and complete a "ground check". Certification is \$10.
4. Returning drivers are required to attend eight hours of continued training per year. Own expense.

School bus drivers have been for years trying to become affiliated with a labor union, but because they are hired by a contractor, affiliation attempts have failed.

Other bus and truck drivers are paid Davis Bacon wages.

# Alaska Statutes

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## Title 14. Education.

### Chapter

- 03. Public Schools Generally (§§ 14.03.010 — 14.03.140)
- 07. Administration of Public Schools (§§ 14.07.010 — 14.07.170)
- 08. Education in the Unorganized Borough (§§ 14.08.011 — 14.08.151)
- 09. Transportation of Pupils (§§ 14.09.010 — 14.09.020)
- 11. Construction, Rehabilitation, and Improvement of Schools and Education-Related Facilities (§§ 14.11.010 — 14.11.135)
- 12. Organization and Government of School System (§§ 14.12.010 — 14.12.180)
- 14. Local Administration of Schools (§§ 14.14.020 — 14.14.310)
- 17. Public School Foundation Program (§§ 14.17.010 — 14.17.250)
- 18. Prohibition Against Discrimination Based on Sex in Public Education (§§ 14.18.010 — 14.18.110)
- 20. Teachers and School Officials (§§ 14.20.010 — 14.20.650)
- 25. Teachers' Retirement (§§ 14.25.010 — 14.25.220)
- 30. Pupils and Educational Programs for Pupils (§§ 14.30.010 — 14.30.660)
- 33. School Safety Patrols (§§ 14.33.010 — 14.33.060)
- 35. Vocational Education (§§ 14.35.010 — 14.35.030)
- 36. Community Schools (§§ 14.36.010 — 14.36.070)
- 40. The University of Alaska and the Community Colleges (§§ 14.40.010 — 14.40.640)
- 42. Postsecondary Education (§§ 14.42.010 — 14.42.390)
- 43. Scholarship, Loan, and Grant Programs for Postsecondary Students (§§ 14.43.010 — 14.43.910)
- 44. Interstate Education Compacts (§§ 14.44.010 — 14.44.060)
- 45. Private and Denominational Schools (§§ 14.45.010 — 14.45.200)
- 48. Regulation of Postsecondary Educational Institutions (§§ 14.48.010 — 14.48.210)
- 50. Federal Aid for Education (§§ 14.50.010 — 14.50.080)
- 56. State Library and Historical Library and State Library Programs (§§ 14.56.010 — 14.56.350)
- 57. The State Museum (§§ 14.57.010 — 14.57.080)
- 60. General Provisions (§ 14.60.010)

Sec. 14.08.170. [Repealed, § 1 ch 124 SLA 1975.]

### Chapter 09. Transportation of Pupils.

**Section**

10. Transportation of pupils

**Section**

20. Transportation for nonpublic school students

Collateral references. — 68 Am. Jur. 2d Schools, §§ 234-241.

79 C.J.S. Schools and School Districts, §§ 475-482.

One transporting children to or from school as independent contractor. 66 ALR 724.

Risks and causes of loss within liability policy covering transportation of school children. 154 ALR 1102.

Tort liability of public schools and institutions of higher learning for accidents associated with transportation of students. 34 ALR3d 1210.

Relief against school board's "bussing plan" to promote desegregation. 50 ALR3d 1089.

Tort liability for misclassification or wrongful placement of student in special education program. 33 ALR4th 1166.

Personal liability of executive or administrative officer unit for personal injury or death of student. 35 ALR4th 272.

Liability of school employee, other than teacher or administrator, for personal injury or death of student. 35 ALR4th 328.

**Sec. 14.09.010. Transportation of pupils.** (ε) The department may provide for the transportation of pupils who reside a distance from established schools, and in order to accomplish that purpose may

(1) require school districts to enter into contracts with the department for the administration, supervision, operation or subcontracting of the operation of transportation systems for students to and from the schools within their service area;

(2) require all school districts, transportation contractors and other recipients of state transportation funds to submit to the department an annual report, which includes a financial statement and other operational data required by the department;

(3) permit school districts to

(A) establish supplementary systems of student transportation for students ineligible to utilize transportation facilities paid for by the state;

(B) charge fares or fees for the supplementary transportation systems; and

(C) use local tax funds to pay, in whole or in part, the cost of the supplementary system.

(b) Each school district mentioned in (a)(1) of this section is entitled to receive reimbursement from the state for the operation of the transportation system on a unit cost basis determined by the department.

(c) The school board of a district, or the department for areas not within school districts, shall designate as hazardous those routes

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which cannot be safely traveled by children not served by school bus. The designation may recognize hazards that exist only part of the time and in these instances the designation shall be applicable only during the time the hazards are found to exist. The board or the department shall provide for the transportation of pupils on routes designated as hazardous. The additional cost of the transportation in a district shall be shared equally by the district and the department. Eligibility to receive school bus service on routes designated as hazardous shall not be subject to restrictions based on the minimum distance between established schools and the residences of pupils. (§ 1 ch 39 SLA 1966; § 1 ch 98 SLA 1966)

**Revisor's notes.** — Subsection (c) was enacted as AS 14.10.070(c). Renumbered in 1966.

**Opinions of attorney general.** — Until the Alaska Supreme Court issues a decision overruling *Matthews v. Quinton*,

Sup. Ct. Op. No. 31 (File No. 48), 362 P.2d 932 (1961), or modifying it in a significant manner, the law in the state is that public funds may not be used to provide transportation to private school children. 1978 Op. Att'y Gen. No. 23.

#### NOTES TO DECISIONS

**Prior law.** — For cases construing former similar provisions, see *Tapscott v. Page*, 17 Alaska 507 (1958); *Matthews v. Quinton*, Sup. Ct. Op. No. 31 (File No. 48), 362 P.2d 932 (1961), cert. denied, 368 U.S. 517, 82 S. Ct. 530, 7 L. Ed. 2d 522 (1962).

**Borough was not acting as an agent of the state in furnishing transportation of pupils.** *Kenai Peninsula Borough v. State*, Sup. Ct. Op. No. 1124 (File No. 2092), 532 P.2d 1019 (1975).

While the state did supervise the school transportation service insofar as it related to the funding provided by it and also had certain regulations in effect pertaining to the over-all safety of the transportation system, the actual control of the transportation services was undertaken by the borough which, on its own behalf, entered into the contract with a school bus owner to furnish transportation service for specified routes. *Kenai Peninsula Borough v. State*, Sup. Ct. Op. No. 1124 (File No. 2092), 532 P.2d 1019 (1975).

**Department of Education discretion in awarding school busing contracts.**

— Although neither the Department of Education nor regional school boards were explicitly given the discretion to decide when a busing contract was to be awarded by bid or by negotiation under former AS 37.05.230(4), the authority granted to the Department of Education under this section compelled the conclusion that the department additionally had been granted the discretion to choose between bid and negotiation in awarding busing contracts. *State v. Northern Bus Co.*, Sup. Ct. Op. No. 2899 (File No. 7079), 693 P.2d 319 (1984).

Applied in *Girves v. Kenai Peninsula Borough*, Sup. Ct. Op. No. 1168 (File No. 2016), 536 P.2d 1221 (1975).

Cited in *Jennings v. State*, Sup. Ct. Op. No. 1467 (File No. 2658), 566 P.2d 1304 (1977).

**Collateral references.** — Transportation of school pupils at expense of public. 63 ALR 413; 118 ALR 806; 146 ALR 625.

Nature and extent of transportation

that must be furnished under statute requiring free transportation of school pupils. 52 ALR3d 1036.

# Alaska Statutes

## Title 23. Labor and Workers' Compensation.

### Chapter

- 05. Department of Labor (§§ 23.05.010 — 23.05.340)
- 10. Employment Practices and Working Conditions (§§ 23.10.015 — 23.10.415)
- 15. Employment Services (§§ 23.15.010 — 23.15.650)
- 20. Alaska Employment Security Act (§§ 23.20.005 — 23.20.535)
- 25. Employer's Liability for Negligence (§§ 23.25.010 — 23.25.040)
- 30. Alaska Workers' Compensation Act (§§ 23.30.005 — 23.30.270)
- 35. Commercial Fishermen's Fund (§§ 23.35.010 — 23.35.150)
- 40. Labor Organizations (§§ 23.40.020 — 23.40.260)
- 45. General Provisions (§ 23.45.010)

Revisor's notes. — The provisions of this title were redrafted in 1984 to remove personal pronouns pursuant to § 4, ch. 58, SLA 1982, and to make other minor word changes.

Cross references. — For rights of correctional industries workers, see AS 33.32.

## Chapter 05. Department of Labor.

### Article

- 1. Administration (§§ 23.05.010 — 23.05.130)
- 2. Wage Claims (§§ 23.05.140 — 23.05.260)
- 3. General Provisions (§§ 23.05.270 — 23.05.280)
- 4. Reciprocal Agreements (§§ 23.05.320 — 23.05.340)

### Article 1. Administration.

#### Section

- 10. Purpose
- 20. Records of department
- 30. Funds
- 40. Bond of commissioner
- 50. Power to issue subpoenas and take testimony
- 60. Powers of the department

#### Section

- 80. Employer's records
- 90. Employer shall furnish information
- 100. Inspections and examination of records
- 110. Biennial report
- 120. Cooperation with other agencies
- 130. Preference for resident workers

## NOTES TO DECISIONS

Based on Fair Labor Standards Act. — See notes under same catchline under article analysis. Webster v. Bechtel, Inc., Sup. Ct. Op. No. 2245 (File Nos. 3979, 4139), 621 P.2d 890 (1980), Notes to Decisions.

AS 23.10.050 — 23.10.150 are directed toward a situation distinct from that of

the Equal Pay for Women Act. Brown v. Wood, Sup. Ct. Op. No. 1551 (File Nos. 2564, 2565), 575 P.2d 760 (1978), modified on rehearing on other grounds, 592 P.2d 1250 (1979).

Applied in Dresser Indus., Inc v. Alaska Dep't of Labor, Sup. Ct. Op. No. 2415 (File No. 5625), 633 P.2d 998 (1981).

**Sec. 23.10.055. Exemptions.** The provisions of AS 23.10.050 — 23.10.150 do not apply to

- (1) an individual employed in agriculture, which includes farming in all its branches and, among other things, includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, the raising of livestock, bees, fur-bearing animals, or poultry, and any practices, including forestry and lumbering operations, performed by a farmer or on a farm as an incident to or in conjunction with the farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market;
- (2) an individual employed in the catching, trapping, cultivating or farming, netting or taking of any kind of fish, shellfish, or other aquatic forms of animal and vegetable life;
- (3) an individual employed in the hand picking of shrimp;
- (4) an individual employed in domestic service, including a baby-sitter, in or about a private home;
- (5) an individual employed by the United States or by the state or political subdivision of the state including prisoners not on furlough detained or confined in prison facilities;
- (6) an individual engaged in the activities of a nonprofit religious, charitable, cemetery or educational organization where the employer-employee relationship does not, in fact, exist, and where services rendered to the organization are on a voluntary basis;
- (7) an employee engaged in the delivery of newspapers to the consumer;
- (8) an individual employed solely as a watchman or caretaker of a plant or property that is not in productive use for a period of four months or more;
- (9) an individual employed in a bona fide executive, administrative or professional capacity or in the capacity of an outside salesman or a salesman who is employed on a straight commission basis;
- (10) an individual employed in the search for placer or hard rock minerals;
- (11) an individual under 18 years of age employed on a part-time basis not more than 30 hours in a week; or

**Sec. 23.10.065. Minimum wages.** An employer shall pay to each employee wages at a rate of not less than 50 cents an hour greater than the prevailing Federal Minimum Wage Law or \$2.60 an hour, whichever is greater, for hours worked in a pay period, whether the work is measured by time, piece, commission or otherwise. An employer may not apply tips or gratuities bestowed upon employees as a credit toward payment of the minimum hourly wage required by this section. Tip credit as defined by the Fair Labor Standards Act of 1938 as amended does not apply to the minimum wage established by this section. (§ 4 ch 171 SLA 1959; am § 2 ch 2 SLA 1962; am § 1 ch 41 SLA 1974)

**Cross references.** — For the Fair Labor Standards Act of 1938, see 29 U.S.C. 201-219.

#### NOTES TO DECISIONS

This section is based on the federal Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201-219, and the terms used in the Alaska Statute are defined in the same way as in the federal act. *McGinnis v. Stevens*, Sup. Ct. Op. No. 1207 (File Nos. 2255, 2312), 543 P.2d 1221 (1975), decided prior to the 1978 amendment to AS 23.10.055(5).

**Prisoners as employees of the state.** — See *McGinnis v. Stevens*, Sup. Ct. Op. No. 1207 (File Nos. 2255, 2312), 543 P.2d 1221 (1975), decided prior to the 1978 amendment to AS 23.10.055(5).

**Article not void.** — The Alaska Wage and Hour Act merely requires higher minimum and overtime pay than the Fair Labor Standards Act, 29 U.S.C. §§ 201-219. Although compliance with both is more expensive than compliance with the federal act, it is not, in any sense, impossible so as to make the Alaska law void. *Webster v. Bechtel, Inc.*, Sup. Ct. Op.

No. 2245 (File Nos. 3979, 4139), 621 P.2d 890 (1980).

**Concurrent coverage of minimum wage claims is not preempted by the Federal Fair Labor Standards Act.** It appears that 29 U.S.C. § 218(a) was intended to allow the recovery of additional amounts under more protective state laws. It is logical that Congress contemplated that the state would allow for an action as to the whole claim, not just the increment, and, further, that Congress intended that the claims would be brought together, where possible, so that enforcement would not be costly. *Webster v. Bechtel, Inc.*, Sup. Ct. Op. No. 2245 (File Nos. 3979, 4139), 621 P.2d 890 (1980).

Applied in *Alaska Int'l Indus., Inc. v. Musarra*, Sup. Ct. Op. No. 1966 (File Nos. 3652, 3676), 602 P.2d 1240 (1979).

Cited in *Dresser Indus., Inc. v. Alaska Dep't of Labor*, Sup. Ct. Op. No. 2415 (File No. 5625), 633 P.2d 998 (1981).

**Collateral references.** — Validity of minimum wage statutes relating to private employment, 39 ALR2d 740.

**Sec. 23.10.070. Exemptions from minimum wage.** To the extent necessary to prevent curtailment of opportunities of employment, the commissioner may by regulations or orders provide for the employment at wages lower than the minimum wage prescribed in AS 23.10.050 — 23.10.150 of

# Alaska Statutes

## Title 28. Motor Vehicles.

### Chapter

- 05. Administration (§§ 28.05.021, 28.05.041, 28.05.091, 28.05.141, 28.05.151)
- 10. Vehicle Registration and Title (§§ 28.10.011, 28.10.021, 28.10.041, 28.10.051, 28.10.101 — 28.10.108, 28.10.111, 28.10.121, 28.10.131, 28.10.141, 28.10.151, 28.10.181, 28.10.201, 28.10.321, 28.10.411, 28.10.421, 28.10.423, 28.10.431, 28.10.495, 28.10.502)
- 15. Drivers' Licenses (§§ 28.15.041, 28.15.046, 28.15.051, 28.15.071, 28.15.166, 28.15.171, 28.15.191, 28.15.221, 28.15.231, 28.15.271)
- 17. Commercial Driver Training Schools (§ 28.17.051)
- 20. Motor Vehicle Safety Responsibility Act (§ 28.20.440)
- 22. Motor Vehicle Liability Insurance (§§ 28.22.010, 28.22.100, 28.22.200, 28.22.600)
- 32. Commercial Motor Vehicle Safety Inspections (§§ 28.32.010 — 28.32.900)
- 33. Commercial Motor Vehicle Financial Responsibility (§ 28.33.010)
- 35. Miscellaneous Provisions (§§ 28.35.031 — 28.35.033, 28.35.045, 28.35.145, 28.35.235, 28.35.251 — 28.35.255)
- 37. Driver License Compact (§§ 28.37.010 — 28.37.040, 28.37.110 — 28.37.190)
- 40. General Provisions (§§ 28.40.050, 28.40.100)

### Chapter 05. Administration.

#### Article

- 1. Powers and Duties of Department of Public Safety (§§ 28.05.021, 28.05.041)
- 2. Vehicle Equipment Standards (§ 28.05.091)
- 3. Subpoenas, Notices and Hearings (§ 28.05.141)
- 4. Disposition of Certain Vehicle and Traffic Offenses (§ 28.05.151)

#### Article 1. Powers and Duties of Department of Public Safety.

##### Section

- 21. Commissioner to enter compacts and reciprocal agreements
- 41. Commissioner to prescribe forms, ex-

amine applications, and administer oaths

nor may the department issue the license until proper application has been made and all required driving, written, and physical examinations have been successfully completed. A license issued under this subsection expires on September 1 of the year following issuance. Application for renewal may be made by submitting to the department the results of a current physical examination and paying the required fee.

(c) A person may not drive a commercial motor vehicle until the person applies for and is issued a license for that purpose under (a) of this section. The department may not issue a license under this subsection unless the applicant is at least 19 years of age, has held a valid driver's license at least one year, and has successfully completed all required driving tests and written and physical examinations. In this subsection, "commercial motor vehicle" has the meaning given in AS 28.32.900. (§ 19 ch 178 SLA 1978; am § 2 ch 104 SLA 1985; am § 2 ch 19 SLA 1986)

Effect of amendments. — The 1985 amendment added subsection (c). The 1986 amendment deleted "school bus transporting school children, or a bus transporting school-age children or another" preceding "motor vehicle" in the first sentence of subsection (b).

*1986-28: editor deleted "school bus transporting school children, or a bus transporting school-age children or another" preceding "motor vehicle" in the first sentence of subsection (b).*

**Sec. 28.15.046. Licensing of school bus drivers.** (a) In addition to the requirements of AS 28.15.041(a), a person may not drive a school bus transporting school children, or a bus transporting school-age children until the person has applied for and has been issued a license for that purpose under this section.

(b) The department may not issue a license under this section unless the applicant

- (1) is at least 19 years of age;
- (2) has had a license to operate a motor vehicle at least one year before the date of application;
- (3) has successfully completed all required driving, written, and physical examinations;
- (4) has submitted information sufficient to complete a background check consisting of a fingerprint check of national criminal records and state criminal records of the state or states in which the applicant has resided for the past two years;

(5) has completed a state approved school bus driver training course established under AS 14.07.020(a)(14) or has for the previous two years been licensed by the state to operate a school bus.

(c) The department may not issue a license under this section to an applicant who has been convicted of any of the following offenses within 20 years of the time of application:

- (1) sexual abuse of a minor in any degree (AS 11.41.434 — 11.41.440);
- (2) sexual assault in any degree (AS 11.41.410 or 11.41.420);

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- (3) incest (AS 11.41.450);
- (4) unlawful exploitation of a minor (AS 11.41.455);
- (5) contributing to the delinquency of a minor (AS 11.51.130);
- (6) a felony involving possession of a controlled or imitation controlled substance (AS 11.71 or AS 11.73);
- (7) a felony or misdemeanor involving distribution of a controlled or imitation controlled substance (AS 11.71 or AS 11.73);
- (8) promoting prostitution in the first or second degree (AS 11.66.110 or 11.66.120).

(d) The department may not issue a license to an applicant who has been convicted of driving while intoxicated (AS 28.35.030) within two years of the time of application or to an applicant who has two or more convictions for driving while intoxicated within 10 years of the time of application.

(e) For purposes of determining whether an applicant has been convicted of an offense listed under (c) or (d) of this section, a conviction under prior state law or in another jurisdiction of an offense having elements substantially similar to those of the offenses listed in (c) or (d) of this section is considered a conviction.

(f) Costs of conducting the background check required under (b)(4) of this section shall be paid by the applicant. A license issued under this section expires on September 1 of the year following issuance. Application for renewal may be made by submitting to the department the results of a current physical examination and paying the required fee. (§ 3 ch 19 SLA 1986)

**Sec. 28.15.051. Instruction permit, temporary driver's license and special driver's permit.** (a) Except as provided in (b) of this section, a person who is at least 14 years of age may apply to the department for an instruction permit. The department may, after the applicant has successfully passed all parts of the examination under AS 28.15.081 other than the driving test, issue to the applicant an instruction permit. The permit allows a person, while having the permit in the person's immediate possession, to drive a specified type or class of motor vehicle on a highway or vehicular way or area for a period not to exceed two years. The permittee must be accompanied by a person at least 19 years of age who has been licensed at least one year to drive the type or class of vehicle being used, who is capable of exercising control over the vehicle and who occupies a seat beside the driver, or who accompanies and immediately supervises the driver when the permittee drives a motorcycle. An instruction permit may be renewed.

(b) The department, upon receiving proper application, may issue a restricted instruction permit effective for a school year or for a more restricted period to an applicant who is at least 14 years of age and who is enrolled in a driver education program which includes practice

# HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE  
Chairman - Representative Dave Donley

P.O. BOX Y, JUNEAU 99811  
(907) 465-3892



March 2, 1988

## M E M O R A N D U M:

To: Representative Bette Cato, Chair  
House Transportation Committee

From: Representative Dave Donley, Chair  
House Labor and Commerce Committee

Re: HB 305 - School bus drivers

A proposed committee substitute for HB 305, relating to school bus drivers, is before the House Transportation Committee for consideration today. The changes in the proposed CS are:

1. The minimum wage established for school bus drivers in HB 305 has been amended to be defined as two and one half times the federal minimum wage plus 50 cents ("Alaska" minimum wage).
2. The troublesome Section 2 from the previous version of HB 305 is deleted entirely.
3. Provisions have been added to provide that any change in the federal minimum wage (on which the minimum wage under HB 305 is based) does not apply during the contract period but only upon renewal or for a new contract.

The proposed CS for HB 305 represents good public policy that should go a long way in improving the experience and proficiency levels of Alaska's school bus drivers by protecting their wages and working conditions. The House Labor and Commerce Committee urges you to support the proposed House Transportation Committee Substitute for HB 305.

5-0777B  
Ford  
2/16/88

Original sponsor: Labor and Commerce  
Committee

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 305 ( )  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FIFTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL

6 For an Act entitled: "An Act relating to transportation of pupils; and  
7 providing for an effective date."

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

9 \* Section 1. LEGISLATIVE FINDINGS. The legislature finds that the  
10 driving conditions existing in this state are unique and require school bus  
11 drivers to have experience in driving a vehicle on the roads and under the  
12 conditions existing in the state in order to ensure that they are adequate-  
13 ly trained. The legislature also finds that in order to properly train  
14 school bus drivers, drivers should be licensed in this state for a minimum  
15 period of one year, as required under AS 28.15.046(b)(2), as amended by  
16 sec. 5 of this Act.

17 *(previous section has deleted)*

\* Sec. 2. AS 23.10.055(5) is amended to read:

18 (5) an individual employed by the United States or by the  
19 state or political subdivision of the state, except as provided in  
20 AS 23.10.065(b), including prisoners not on furlough detained or  
21 confined in prison facilities;

22 \* Sec. 3. AS 23.10.065 is amended to read:

23 Sec. 23.10.065. MINIMUM WAGES. Except as provided under (b) of  
24 this section, an [AN] employer shall pay to each employee wages at a  
25 rate of not less than 50 cents an hour greater than the prevailing  
26 Federal Minimum Wage Law or \$2.60 an hour, whichever is greater, for  
27 hours worked in a pay period, whether the work is measured by time,  
28 piece, commission or otherwise. An employer may not apply tips or  
29 gratuities bestowed upon employees as a credit toward payment of the

1 minimum hourly wage required by this section. Tip credit as defined  
2 by the Fair Labor Standards Act of 1938 as amended does not apply to  
3 the minimum wage established by this section.

4 \* Sec. 4. AS 23.10.065 is amended by adding new subsections to read:

5 (b) Subject to the limitation under (c) of this section, an  
6 employer shall pay to each person employed as a school bus driver  
7 wages at a rate of not less than two and one-half times the minimum  
8 wage established under (a) of this section, for hours worked in a pay  
9 period, whether work is measured by time, commission, or otherwise.  
10 An employer may not apply fringe benefits as a credit toward payment  
11 of the minimum wage established under this subsection.

12 (c) Notwithstanding (b) of this section, an employer who con-  
13 tracts with the Department of Education or a school district to pro-  
14 vide school bus transportation services is not required to adjust  
15 school bus driver wages under (b) of this section, except when enter-  
16 ing into or renewing the contract.

17 \* Sec. 5. AS 28.15.046(b) is amended to read:

18 (b) The department may not issue a license under this section  
19 unless the applicant

20 (1) is at least 21 [19] years of age;

21 (2) has had a license issued by the department to operate a  
22 motor vehicle at least one year before the date of application and has  
23 had a license to operate a motor vehicle at least three years before  
24 the date of application;

25 (3) has successfully completed all required driving, writ-  
26 ten, and physical examinations;

27 (4) has submitted information sufficient to complete a  
28 background check consisting of a fingerprint check of national crimi-  
29 nal records and state criminal records of the state or states in which

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the applicant has resided for the past two years;

(5) has completed a state approved school bus driver training course established under AS 14.07.020(a)(14) or has for the previous two years been licensed by the state to operate a school bus.

\* Sec. 6. This Act takes effect September 1, 1988.

# HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE  
Chairman - Representative Dave Donley

P.O. BOX Y, JUNEAU 99811  
(907) 465-3892



## Sectional Analysis for CS HB 305 (Transportation) "An Act relating to transportation of pupils"

### Section 1:

Section 1 contains Legislative Findings that establish the public purpose behind requiring additional experience and proficiency levels for school bus drivers in Alaska.

### Section 2:

Amends AS 23.10.055(5) to add school bus drivers to the list of exceptions from standard minimum wage requirements.

### Section 3:

Amends AS 23.10.065(a) which is the section of law that establishes a minimum wage for all employees in Alaska as \$.50 cents above federal minimum wage) to exempt school bus drivers under AS 23.10.065(b).

### Section 4:

Adds a new subsection (b) to AS 23.20.065 providing that school bus drivers be paid a minimum wage no less than two and one half times the prevailing federal minimum wage plus 50 cents. (Current federal minimum wage is \$3.35/hour nationally and \$3.85/hour in Alaska. Two and one half times \$3.85/hour establishes a minimum wage for school bus drivers as \$9.62 and hour).

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### Section 5:

Section 5 amends AS 28.15.046(b)(1) to raise the minimum age for obtaining a school bus drivers license from 19 to 21 years.

AS 28.15.046(b)(2)) is amended to require that an applicant has had a license to operate moter vehicle for at least three hears prior to application for a school bus drivers license and at least one of those years had to possess a license to operate a moter vehicle in Alaska.

### Section 6:

Effective date is September 1, 1988.

\* \* \* \* \*

Prepared by the House Labor and Commerce Committee  
Representative Dave Donley, Chairman  
March 3, 1988

CS HB 305

A M E N D M E N T

by CATO

Page 2 Line 7 is amended to read

wages at a rate of not less than two [delete "two and one  
half"] times the minimum

Original sponsor: Labor and Commerce  
Committee

IN THE HOUSE

BY THE TRANSPORTATION COMMITTEE

CS FOR HOUSE BILL NO. 305 (Transportation)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to transportation of pupils; and providing for an effective date."

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

\* Section 1. LEGISLATIVE FINDINGS. The legislature finds that the driving conditions existing in this state are unique and require school bus drivers to have experience in driving a vehicle on the roads and under the conditions existing in the state in order to ensure that they are adequately trained. The legislature also finds that in order to properly train school bus drivers, drivers should be licensed in this state for a minimum period of one year, as required under AS 28.15.046(b)(2), as amended by sec. 5 of this Act.

\* Sec. 2. AS 23.10.055(5) is amended to read:

(5) an individual employed by the United States or by the state or political subdivision of the state, except as provided in AS 23.10.065(b), including prisoners not on furlough detained or confined in prison facilities;

\* Sec. 3. AS 23.10.065 is amended to read:

Sec. 23.10.065. MINIMUM WAGES. Except as provided under (b) of this section, an [AN] employer shall pay to each employee wages at a rate of not less than 50 cents an hour greater than the prevailing Federal Minimum Wage Law or \$2.50 an hour, whichever is greater, for hours worked in a pay period, whether the work is measured by time, piece, commission or otherwise. An employer may not apply tips or gratuities bestowed upon employees as a credit toward payment of the

1 minimum hourly wage required by this section. Tip credit as defined  
2 by the Fair Labor Standards Act of 1938 as amended does not apply to  
3 the minimum wage established by this section.

4 \* Sec. 4. AS 23.10.065 is amended by adding new subsections to read:

5 (b) Subject to the limitation under (c) of this section, an  
6 employer shall pay to each person employed as a school bus driver  
7 wages at a rate of not less than two times the minimum wage  
8 established under (a) of this section, for hours worked in a pay  
9 period, whether work is measured by time, commission, or otherwise.  
10 An employer may not apply fringe benefits as a credit toward payment  
11 of the minimum wage established under this subsection.

12 (c) Notwithstanding (b) of this section, an employer who con-  
13 tracts with the Department of Education or a school district to pro-  
14 vide school bus transportation services is not required to adjust  
15 school bus driver wages under (b) of this section, except when enter-  
16 ing into or renewing the contract.

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21 (2) has had a license issued by the department to operate a  
22 motor vehicle at least one year before the date of application and has  
23 had a license to operate a motor vehicle at least three years before  
24 the date of application;

25 (3) has successfully completed all required driving, writ-  
26 ten, and physical examinations;

27 (4) has submitted information sufficient to complete a  
28 background check consisting of a fingerprint check of national crimi-  
29 nal records and state criminal records of the state or states in which

1 the applicant has resided for the past two years;

2 (5) has completed a state approved school bus driver train-  
3 ing course established under AS 14.07.020(a)(14) or has for the previ-  
4 ous two years been licensed by the state to operate a school bus.

5 \* Sec. 6. This Act takes effect September 1, 1988.  
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