

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

5166 HTRA HB 357 - HB 401

738

CITIES (Continued)

PALMER

Allocation: \$317,982.00

PROJECTS COMPLETEDFUNDS EXPENDED

| | | |
|--------|--------------------------------|---------------|
| G10189 | Palmer City Streets | \$ 29,626.00 |
| G12501 | Palmer Street Improvements | \$ 68,616.95 |
| G12502 | Cope Industrial Way | \$ 10,000.00 |
| G12503 | North Gulkana Street | \$ 75,032.50 |
| G12504 | North Alaska Street | \$ 75,382.00 |
| G12505 | Palmer Traffic & Parking Study | \$ 14,590.09 |
| G12506 | West Dogwood Avenue | \$ 36,729.00 |
| | TOTAL | \$ 309,976.54 |

UNDER AGREEMENTFUNDS AUTHORIZESEWARD

Allocation: \$160,629.00

PROJECTS COMPLETEDFUNDS EXPENDED

| | | |
|--------|-----------------------------------|---------------|
| G12301 | Seward Road Improvement | \$ 69,552.00 |
| G12302 | Fourth of July Creek Access Road | \$ 30,029.00 |
| G12303 | Ballaine Boulevard Overlay - 1985 | \$ 61,048.00 |
| | TOTAL | \$ 160,629.00 |

UNDER AGREEMENTFUNDS AUTHORIZEKODIAK

Allocation: \$294,703.00

PROJECTS COMPLETEDFUNDS EXPENDED

| | | |
|--------|---------------------------|---------------|
| G10159 | Mission Road | \$ 38,799.19 |
| G12401 | Mission Road Overlay | \$ 49,044.53 |
| G12402 | Mission Road Improvements | \$ 134,574.00 |
| | TOTAL | \$ 222,417.72 |

UNDER AGREEMENTFUNDS AUTHORIZE

\$ 0:00

CITIES (Continued)

HOMER

Allocation: \$33,035.00 (Received first allocation in July, 1983)

| <u>PROJECTS COMPLETED</u> | | <u>FUNDS EXPENDED</u> |
|---------------------------|-----------------------|-----------------------|
| G12601 | Bishop's Beach Access | \$ 30,162.00 |

| <u>UNDER AGREEMENT</u> | | <u>FUNDS AUTHORIZED</u> |
|------------------------|--|-------------------------|
|------------------------|--|-------------------------|

KING COVE

Allocation: \$14,545.00 (Received first direct allocation in July, 1983)

| <u>PROJECTS COMPLETED</u> | | <u>FUNDS EXPENDED</u> |
|---------------------------|--|-----------------------|
| | | \$ 0.00 |

| <u>UNDER AGREEMENT</u> | | <u>FUNDS AUTHORIZED</u> |
|------------------------|-----------------------------|-------------------------|
| G13001 | King Cove Boardwalks - 1985 | \$ 14,545.00 |

SAINT MARY'S

Allocation: \$12,366.00 (Received first direct allocation in July, 1983)

| <u>PROJECTS COMPLETED</u> | | <u>FUNDS EXPENDED</u> |
|---------------------------|--|-----------------------|
| | | \$ 0.00 |

| <u>UNDER AGREEMENT</u> | | <u>FUNDS AUTHORIZED</u> |
|------------------------|-------------------------------------|-------------------------|
| G13101 | Dixon Circle/Kassag Road/Kamuck Way | \$ 11,291.00 |

SAND POINT

Allocation: \$19,744.00 (Received first direct allocation in July, 1983)

| <u>PROJECTS COMPLETED</u> | | <u>FUNDS EXPENDED</u> |
|---------------------------|------------------------------|-----------------------|
| G13201 | Sand Point Boardwalks - 1985 | \$ 19,744.00 |

| <u>UNDER AGREEMENT</u> | | <u>FUNDS AUTHORIZED</u> |
|------------------------|--|-------------------------|
|------------------------|--|-------------------------|

CITIESSELDOVIA

Allocation: \$7,133.00 (Received first direct allocation in July, 1983)

PROJECTS COMPLETEDFUNDS EXPENDED

\$ 0.00

UNDER AGREEMENTFUNDS AUTHORIZED

\$ 0.00

SOLDOTNA

Allocation: \$34,605.00 (Received first direct allocation in July, 1983)

PROJECTS COMPLETEDFUNDS EXPENDED

\$ 0.00

UNDER AGREEMENTFUNDS AUTHORIZED

G12701 Soldotna Street Improvements - 1986

\$ 34,605.00

UNALASKA

Allocation: \$41,800.00 (Received first direct allocation in July, 1983)

PROJECTS COMPLETEDFUNDS EXPENDED

\$ 0.00

UNDER AGREEMENTFUNDS AUTHORIZED

G13301 HUD Housing & Airport Road

\$ 41,800.00

CITIES (Continued)

KENAI

Allocation: \$360,915.00

| <u>PROJECTS COMPLETED</u> | <u>FUNDS EXPENDED</u> |
|--|-----------------------|
| G10028 Riverview Drive | \$ 4,584.20 |
| G10029 Willow Street | \$ 7,576.93 |
| G10039 Fourth Avenue | \$ 8,454.42 |
| G12201 Redoubt Avenue | \$ 0.00 |
| G12202 Boat Harbor Access Road | \$ 0.00 |
| G11203 LSR&T-LPW | \$ 142,076.00 |
| G11204 Willow Street Illumination | \$ 66,958.00 |
| G12205 1st & 2nd Streets - 1983 (Design) | \$ 20,000.00 |
| G12206 Aliak, McCollum, Cinderella, Fox, Princess, & Linwood City Streets | \$ 28,288.00 |
| G12207 Standard, Richmond & Thompson Streets | \$ 18,000.00 |
| | TOTAL \$ 295,937.55 |

UNDER AGREEMENTFUNDS AUTHORIZEDCORDOVA

Allocation: \$327,027.00

| <u>PROJECTS COMPLETED</u> | <u>FUNDS EXPENDED</u> |
|---|-----------------------|
| Not of record -- projects constructed while City was under the jurisdiction of the Valdez District | \$ 214,865.00 |
| G52101 LaFevere Street Improvement | \$ 23,627.36 |
| | TOTAL \$ 238,492.36 |

UNDER AGREEMENTFUNDS AUTHORIZEDDILLINGHAM

Allocation: \$49,386.00 (Received first direct allocation in July, 1983)

| <u>PROJECTS COMPLETED</u> | <u>FUNDS EXPENDED</u> |
|---------------------------|-----------------------|
|---------------------------|-----------------------|

UNDER AGREEMENTFUNDS AUTHORIZED

1/19/88

LSR&T PROGRAM

| DISTRICT | 50/50 | % TOTAL | 30/70 | % TOTAL | DELTA | % CHANGE |
|----------------|--------------------|---------------|--------------------|---------------|-------------|-------------|
| I. ANCHORAGE | \$2,031,000 | 33.9% | \$1,357,800 | 22.6% | (\$673,200) | -11.2% |
| II. FAIRBANKS | \$1,464,000 | 24.4% | \$1,696,800 | 28.3% | \$232,800 | 3.9% |
| III. SOUTHEAST | \$618,000 | 10.3% | \$567,600 | 9.5% | (\$50,400) | -0.8% |
| IV. WESTERN | \$1,629,000 | 27.2% | \$2,059,800 | 34.3% | \$430,800 | 7.2% |
| V. VALDEZ | \$258,000 | 4.3% | \$318,000 | 5.3% | \$60,000 | 1.0% |
| TOTAL | \$6,000,000 | 100.0% | \$6,000,000 | 100.0% | \$0 | 0.0% |

The table above shows how a theoretical \$6 million LSR&T Program would be allocated under the present statutes which divides the funds to each district 50% by population and 50% by area (square miles). It also shows how the allocation would change under the proposed housekeeping bill allocation formula of 30% by population and 70% by area. This would tend to favor the rural districts. The concept appears to be to help the rural areas that do not have the tax base to support their own program, but anomalies such as the North Slope Borough with a large area, small population, and a superior tax base are not addressed.

This allocation concept is complicated by the fact that the allocation districts do not conform to Regional boundaries. For example the large Western District encompasses both Nome and Bethel.

If the funds were allocated to the three DOT&PF Regions on either a 50/50 or 30/70 split, the program would look like the table below. It is difficult to compare the two tables as it is not known how the Western District allocation would be suballocated between Central and Northern Regions.

| REGION | 50/50 | % TOTAL | 30/70 | % TOTAL | DELTA | % CHANGE |
|--------------|--------------------|---------------|--------------------|---------------|-------------|-------------|
| CENTRAL | \$2,966,400 | 49.4% | \$2,515,912 | 41.9% | (\$450,488) | -7.5% |
| NORTHERN | \$2,416,500 | 40.3% | \$2,917,667 | 48.6% | \$501,167 | 8.4% |
| SOUTHEAST | \$617,100 | 10.3% | \$566,421 | 9.4% | (\$50,679) | -0.8% |
| TOTAL | \$6,000,000 | 100.0% | \$6,000,000 | 100.0% | \$0 | 0.0% |

JAN 26 1988

Tanana Chiefs Conference, Inc.

201 First Ave.
Fairbanks, Alaska 99701
(907) 452-8251

YUKON TANANA SUBREGION

January 19, 1988

Chairman Bette Cato
House Transportation Committee
P.O. Box V
Juneau, AK 99811

Dear Representative Cato:

This letter supports House Bill 356 "An Act relating to grants for local service roads and trails, and providing for an effective date." Rural areas need funding for service roads and trails. HB 357 would allocate monies for much needed road improvements to the community of Rampart.

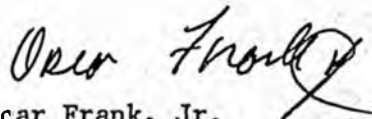
Short-term jobs would be created in a down economy. It would also assist in the future development of both land development within the community of Rampart along the perimeter of the existing roadway, and expansion of fish processing to support both fresh and frozen products.

I think HB 357 should receive favorable comments from the Transportation Committee to the Legislature.

Thank you.

Sincerely,

TANANA CHIEFS CONFERENCE, INC.



Oscar Frank, Jr.
Community Resource Coordinator

OFJr/alj

HB

397

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

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

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

House Transportation:

2/19/88

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to licensing school bus drivers."
Sponsor: Rep. Cato and Frank
Requestor: House Rules

Agency Affected: Public Safety
BRU: Motor Vehicles

Components: _____

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 | -0- | -0- | -0- | -0- | -0- | -0- |
|---------|-----|-----|-----|-----|-----|-----|

| | | | | | | |
|---------|-----|-----|-----|-----|-----|-----|
| REVENUE | -0- | -0- | -0- | -0- | -0- | -0- |
|---------|-----|-----|-----|-----|-----|-----|

FUNDING: (Thousands of Dollars)

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

POSITIONS:

| | | | | | | |
|-----------|---|---|---|---|---|---|
| FULL-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact on this department.

Prepared by: Bill Brown Phone: 465-4335
Division: Motor Vehicles Date: 3/7/88

Approved by Commissioner: *Wayne Houtski, Dep. Comm.* Date: 3-16-88
Agency: Public Safety

Distribution (by preparer):

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

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version : HB-397
Publish Date : _____

REQUEST: _____

Revision Date: _____
Title: licensing of school bus drivers.

Agency Affected: Education
BRU: _____

Sponsor: Cato
Requestor: House Transportation

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 | | Ø | Ø | Ø | Ø | Ø |
| CAPITAL | | | | | | |
| REVENUE | | | | | | |

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Steve Hole
Division: Commissioner's Office

Phone: 465-2800
Date: 2-18-88

Approved by Commissioner: William G. Demmert
Agency: Education

Date: 2-18-88

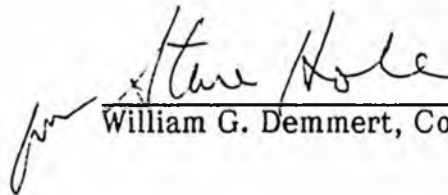
Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary

ALASKA DEPARTMENT OF EDUCATION
Position Paper - SB 375
2/10/88

The Department of Education strongly supports training and licensing of drivers who transport large groups of students to or from school or school activities.

We agree with the requirements of this bill for training and special licensing of drivers who transport school children to or from school or school activities on school buses, or who transport school age children to or from school on buses.

While the department takes no position on the intent of the bill to delete training and special licensing of drivers of non-school buses transporting school age children on activity trips, we believe that school districts should provide these drivers with training in at least the following areas: pre-trip inspection, defensive driving, emergency situations, and passenger management.



William G. Demmert, Commissioner

Fairbanks North Star Borough
School District

&

Interior Delegation Meeting

December 14, 1987

Interior Delegation

Sen. Jack Coghill
Sen. Bettye Fahrenkamp
Sen. Ken Fanning

Rep. Mark Boyer
Rep. Mike Davis
Rep. Steve Frank
Rep. Niilo Koponen
Rep. Mike Miller

Fairbanks School Board

Bonnie Brody, President

Mike Kramer
Jerry McBeath
Gene Reduen

Walt Schlotfeldt
Karl Schroeder
Andy Warwick

Tony Barnhill, Post Rep.

Mike Griffin, Base Rep.

Linda Lowery, Student Rep.

Rick Cross, Superintendent

SCHOOL BUS DRIVERS' LICENSES

POSITION PAPER AS 28.15.046(A)

I. Statutory requirement

Effective Sept 1, 1987 a person may not drive a school bus, or a bus transporting school age children, until that person has been issued a school bus driver's license.

II. Impact on District

Since the new licensing requirements apply to persons driving any bus transporting school age children, many more people are required to possess school bus driver's licenses than in the past. Anyone who drives school age children in a vehicle capable of transporting 11 or more students must now obtain a school bus driver's license.

This change impacts primarily the extra curricular programs of the District. It also effects the use of the District van by FAJHS staff to transport students. District activities will be impacted as follows:

1. Schools may not rent vans to transport teams to and from events unless the sponsor/driver possesses a valid school bus driver's license. This applies to renting vans in Fairbanks to drive to another town. It also applies to renting vans in Anchorage (or any other town) to travel around town after flying from Fairbanks.

This restriction on the use of vans will increase the cost of transporting teams. Teams will have to either rent smaller capacity vans, rent school buses, or arrange for sponsors to obtain bus driver's licenses. Each of those alternatives increases activity costs, possibly to the point of making it too expensive to travel out of district for certain groups.

2. Schools may no longer charter buses from common carriers (e.g. Westours, Sturgeon, etc.) unless the drivers of those motor coaches possess school bus driver's licenses. These drivers do not generally possess school bus driver licenses, so the district cannot presently use common carriers on long haul charters.

3. The FAJHS must either lower the capacity of its van (presently a 15 passenger van) to less than 10 passenger capacity, or the staff at FAJHS must obtain school bus driver's permits.

III. Potential Solutions

The District has several options available to address the problems created by these new licensing requirements. They are as follows:

1. Hire all transportation of students to school bus contractors.
2. Arrange for all coaches/sponsors travelling with students to obtain school bus driver's permits.
3. Only rent/lease vehicles of 10 passenger or less.
4. Pursue amendment to AS 28.15.046(a) that will change the persons required to possess a school bus driver's license.

The district is presently using a combination of alternatives 1-3 in an effort to comply with the new law. This changes the way students transportation has occurred in the past, making it both more expensive and more difficult to arrange.

IV. Recommended Solution

The alternative of amending the law should be considered. The new law, designed to standardize school bus driver training requirements, has created a new class of persons required to obtain this license. These people will probably never drive a yellow school bus, but are still required to possess a school bus driver's permit.

To suggest that only drivers of school buses should need school bus driver's licenses is not unreasonable. The District supports a change in the law that will limit the application of the statute to those drivers who actually transport students on school buses.

27.21.998

and other
or sale and
apter; and
this para-
id surface,
e activity;
vement or
ty and for
entilation
den piles,
air areas,
reas upon
materials
y;
"7" means
amended;
a permit-
apter be-
care. (§ 1

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).

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 schoolage 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);

3.15.046
ion has
amina-
ler this
suance.
depart-
ing the
til the
r (2) of
his sub-
a valic
ted all
In this
in AS
§ 2 ch
or an-
in the
dition
rive a
orting
een is-
on un-
e year
1, and
round
ecords
licant
course
is two
to an
fenses
34 —
0);

§ 28.15.051

MOTOR VEHICLES

§ 28.15.051

- (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

§ 28.10.502

transporta-

and storage
ter 60 days
y, has been
or unless a
owner and
with the De-
another juris-
on it are

f 30 days in
nsportation
e sale. The
y served on
r vehicle in
ns. If either
notice of the
nholders, if
a receipt re-
tor vehicle,
entification
ment of the
whom the

on shall be
e sale and
n the motor
ale shall be
uted to the
remaining
sold under
prior lien.

and storage
on of this sen-
let.

§ 28.15.011

MOTOR VEHICLES

§ 28.15.041

Chapter 15. Drivers' Licenses.

Article

1. Issuance, Expiration and Renewal of Licenses (§§ 28.15.041, 28.15.046, 28.15.051, 28.15.071)
2. Cancellation, Suspension, Revocation or Limitation of Drivers' Licenses (§§ 28.15.166, 28.15.171, 28.15.191)
3. Point System (§§ 28.15.221, 28.15.231)
4. Fees (§ 28.15.271)

Article 1. Issuance, Expiration and Renewal of Licenses.

Section

41. Classification of drivers' licenses
46. Licensing of school bus drivers
51. Instruction permit, temporary

Section

- driver's license and special driver's permit
71. Application of minors

Sec. 28.15.011. Drivers must be licensed.

NOTES TO DECISIONS

Subsection (a) construed. — The provisions of subsection (a) constitute a broad statement of the legislature's intent, in enacting the motor vehicle code, to adopt a statutory scheme that deals with the licensing of Alaska drivers in a comprehensive and uniform manner; this subsection is not a legislative commitment to the philosophical concept of an innate privilege to drive. *Roberts v. State*, Ct. App. Op. No. 478 (File No. A-342), 700 P.2d 815 (1985).

Sec. 28.15.041. Classification of drivers' licenses. (a) The commissioner shall provide by regulation for the classification of drivers' licenses. The regulations shall specify license classifications which are reasonably necessary for the safe operation of the various types, sizes and combinations of motor vehicles. The regulations shall also establish medical standards, standards of driving conduct and proficiency, and other standards governing the issuance, renewal, or denial of these licenses. The department may examine each applicant to determine the applicant's qualifications according to the class of license applied for, and upon issuing a driver's license the department shall indicate on the license the classification for which an applicant for a license has qualified by examination. The regulations and any subsequent modifications under this section become effective only if approved by a concurrent resolution adopted by a majority vote of each house of the legislature.

(b) A person may not drive a motor vehicle when in use for the transportation of persons for compensation until the person has applied for and has been 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 had at least one year of driving experience, and the department is satisfied as to the applicant's good character, competence and fitness to be licensed;

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).

- (3) incest (
- (4) unlawf
- (5) contrib
- (6) a felon
- trolled subs
- (7) a felon
- imitation c
- (8) prom
- 11.66.110
- (d) The
- been conv
- years of tl
- conviction
- applicati
- (e) For
- victed of
- under p
- element
- (d) of t
- (f) C.

Alaska Statutes

Title 1. General Provisions.

Chapter

10. Laws and Statutes (§§ 01.10.030, 01.10.055, 01.10.060, 01.10.070)

Chapter 05. Alaska Statutes.

Sec. 01.05.006. Adoption of Alaska Statutes.

Cross references. — For exception to provision that section headings are not a part of the law, see AS 45.01.109.

NOTES TO DECISIONS

Cited in *Schnabel v. State*, Ct. App. Op. No. 250 (File No. 7273), 663 P.2d 960 (1983).

Sec. 01.05.031. Revision of statutes.

NOTES TO DECISIONS

Quoted in *Schnabel v. State*, Ct. App. Op. No. 250 (File No. 7273), 663 P.2d 960 (1983).

Chapter 10. Laws and Statutes.

Article

2. General Rules of Statutory Construction (§§ 01.10.030, 01.10.055, 01.10.060)
3. Effect of Statutes (01.10.070)

Article 1. Common Law.

Sec. 01.10.010. Applicability of common law.

NOTES TO DECISIONS

Quoted in *Wells v. State*, Ct. App. Op. No. 401 (File Nos. 7479, 7663), 387 P.2d 917 (1984); *Beran v. State*, Ct. App. Op. No. 506 (File Nos. A-535, A-629, A-630, A-679), 705 P.2d 1280 (1985); *Balentine v. State*, Ct. App. Op. No. 538 (File No. A-381), 707 P.2d 922 (1985); *State v. Burke*, Ct. App. Op. No. 583 (File No. A-908), 714 P.2d 374 (1986).
Cited in *Jackson v. State*, Ct. App. Op. No. 211 (File No. 6664), 657 P.2d 405 (1983); *Stiegele v. State*, Ct. App. Op. No. 382 (File No. A-399), 685 P.2d 1255 (1984).

(10) "property" includes real and personal property;

(11) "real property" is coextensive with land, tenements, and hereditaments;

(12) "signature" or "subscription" includes the mark of a person who cannot write, with the name of that person written near the mark by a witness who writes the witness's own name near the name of the person who cannot write; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names to the sworn statement;

(13) "state" means the State of Alaska unless applied to the different parts of the United States and in the latter case it includes the District of Columbia and the territories;

(14) "writing" includes printing. (§ 4 ch 62 SLA 1962; am § 2 ch 66 SLA 1965; am § 10 ch 117 SLA 1968; am § 19 ch 74 SLA 1985)

Revisor's notes. — Reorganized in 1985 to alphabetize the defined terms. Effect of amendments. — The 1985 amendment added paragraph (4).

NOTES TO DECISIONS

Quoted in *Hull v. Alaska Fed. Sav. & Loan Ass'n*, Sup. Ct. Op. No. 2605 (File No. 6346), 658 P.2d 122 (1983).

Article 3. Effect of Statutes.

Section

70. Time statutes become law and take effect

Sec. 01.10.070. Time statutes become law and take effect. (a) All bills passed by the legislature become law upon the governor's signature or upon the governor's veto being overridden or, when the governor allows a bill to become law without signature, on the day after expiration of the period allowed for gubernatorial action by art. II, § 17 of the Alaska Constitution. Acts become effective 90 days after becoming law, unless the legislature, by concurrence of two-thirds of the membership of each house, provides for another effective date.

(b) The actual effective date of an Act having no effective-date provision is determined by starting with the day after it is signed by the governor or the day after the governor's veto is overridden or the day after expiration of the period allowed for gubernatorial action by art. II, § 17 of the Alaska Constitution, and counting 90 calendar days, the Act becoming effective at 12:01 a.m., Alaska Standard Time on the 90th day.

(c) The actual effective date and time of an Act having an immediate-effective-date provision is 12:01 a.m., Alaska Standard Time, on

70
re-
on
rk
he
an
rn
he
er-
he
36
5)
85
a)
s
ne
ay
t.
ys
o-
ve
o-
ne
ay
rt.
s,
on
li-
on

the day after it is signed by the governor or on the day after the governor's veto is overridden or on the day after expiration of the period allowed for gubernatorial action by art. II, § 17 of the Alaska Constitution.

(d) An Act which specifies a definite effective date becomes effective at 12:01 a.m., Alaska Standard Time on the date specified.

(e) When the governor allows a bill to become law without signature, the governor shall give written notice of that fact to the legislature. The date of this notice has no effect upon the date the bill becomes law nor upon the date the Act takes effect.

(f) In this section

(1) "Act" means a bill which has become law;

(2) "bill" means a legislative document proposing an Act;

(3) "becomes effective" means becomes applicable; "effective date" does not mean date of enactment (or date of becoming law), although the two will coincide when a bill which has an immediate-effective-date provision is allowed to become law without the governor's signature;

(4) "becomes law" means is enacted; "enactment" occurs when any one of the following takes place:

(A) a bill which is passed by the legislature is signed by the governor;

(B) the period specified in art. II, § 17 of the Alaska Constitution expires without gubernatorial action;

(C) the legislature overrides the governor's veto of a bill;

(5) "passed by the legislature" means that the required majority of each house of the legislature has taken final action in approving the same version of a bill. (§ 5 ch 62 SLA 1962; am § 8 ch 126 SLA 1966; am § 1 ch 115 SLA 1974; am §§ 1—3 ch 6 SLA 1984)

Effect of amendments. — The 1984 amendment substituted "Alaska" for "Pacific" near the end of subsection (b), near the beginning of subsection (c), and in subsection (d).

NOTES TO DECISIONS

Applied in *Atlantic Richfield Co. v. State*, Sup. Ct. Op. No. 2695 (File No. S-52), 666 P.2d 1031 (1985).

Sec. 01.10.080. Computation of time.

NOTES TO DECISIONS

Quoted in *Fairbanks N. Star Borough v. Tundra Tours, Inc.*, Sup. Ct. Op. No. 3052 (File Nos. S-524, S-554), P.2d (1986).

**CHAPTER 40.
GENERAL PROVISIONS**

Section

10. Definitions

13 AAC 40.010. DEFINITIONS. In chapters 02, 04, 06, and 08 of this title, and in AS 28, unless otherwise provided

(1) "alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for use by through vehicular traffic;

(2) "arterial street" means a U.S. or state numbered route, controlled-access highway, or other major radial or circumferential street or highway designated by a municipality within its respective jurisdiction as part of an interlocking system of streets or highways;

(3) "authorized emergency vehicle" means a vehicle equipped as required by 13 AAC 04.090, 095 and 210 and which is used by a publicly maintained fire or police department, airport security police, a public or private ambulance service, a vehicle of a federal agency which is designated as an emergency vehicle by that agency, or other vehicles designated by the commissioner; the term does not include a person's private vehicle equipped as provided by 13 AAC 04.100;

(4) "authorized flagman" means every person who is directing or regulating traffic as required by statute, regulation or ordinance, or by contract or agreement, and who is wearing and equipped with the warning devices set out in the Alaska Traffic Manual, published by the Department of Transportation and Public Facilities;

(5) "bicycle" means a vehicle propelled exclusively by human power upon which a person may ride, having two tandem wheels or three wheels in contact with the ground, except scooters and similar devices;

(6) "bus" means every motor vehicle designed for carrying more than 10 passengers and used primarily for the transportation of passengers, and every motor vehicle designed and used for the transportation of persons for

compensation, except a taxicab or school bus;

(7) "business district" means the territory contiguous to and including a highway, other than a controlled-access highway, when within any 600 feet along the highway there are buildings in use for business or industrial purposes, including, but not limited to, hotels, banks, office buildings, railroad stations or public buildings other than schools which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway; however, if the highway is physically divided into two or more roadways, only those buildings facing each roadway separately may be regarded;

(8) "centerline" means the line, marked or unmarked, parallel to and approximately equidistant from the sides of a roadway or highway, or a plainly marked dividing line on a roadway between lanes of traffic traveling in opposite directions which may or may not be equidistant from the sides of the roadway or highway;

(9) "controlled-access highway" means every highway, street, or roadway where access to or from the highway is determined by the public authority having jurisdiction over the highway, street or roadway;

(10) "cowling" means the forward or rear portion of a snowmobile surrounding the motor and clutch assembly;

(11) "crosswalk" means that portion of a roadway at an intersection which is between an extension of a sidewalk which ends on the opposite side of the roadway or, in the absence of a sidewalk, that portion of the roadway which is an extension of the edge of the roadway to the opposite side of the roadway and between a parallel line 10 feet from that extension in a direction away from the intersection, except as modified by a marked crosswalk on a portion of a roadway at an intersection or elsewhere which is distinctly indicated by lines or other markings on the surface of the roadway;

(12) "dazzle" means to cause a person to lose clear vision due to the effect of a brilliantly shining light;

(45) "safety zone" means the area of space officially set apart within a roadway for the exclusive use of pedestrians, and which is protected or marked by signs which are plainly visible at the time it is used as a safety zone;

(46) "school bus" means every motor vehicle that complies with the color and identification requirements set forth in the edition of Minimum Standards for School Buses and Minimum Standards for Alaska School Buses, which is in effect on the effective date of this section, and is used to transport children to or from school or in connection with school activities; it does not include buses operated by common carriers for the urban transportation of school children;

(47) "semitrailer" means a vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property, drawn by a motor vehicle, and constructed so that part of its weight rests upon or is carried by another vehicle;

(48) "sidewalk" means that portion of a street between the curblines or the lateral lines of a roadway and the adjacent property lines, and intended for use by pedestrians;

(49) "snowmobile" means a motor vehicle designed to travel over ice or snow, and supported in part by skis, belts, cleats, or low-pressure tires;

(50) "solid rubber tire" means a tire of rubber or other resilient material which does not depend upon compressed air for the support of the load;

(51) "specially constructed vehicle" means a vehicle required to be registered under AS 28.10, which is not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and which is not materially altered from its original construction;

(52) "special mobile equipment" means a vehicle which is not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including but not limited to ditch digging apparatus, well boring apparatus,

construction and maintenance equipment, such as asphalt spreaders, graders, loaders, tractors, earthmovers, ditchers, leveling machines, motor graders, earthmoving carriers, shovels and drag lines, and earthmoving equipment, house trailers, mobile vehicles, dump trucks, mixers, cranes, or other vehicles designed for the transportation of property to which maintenance equipment is attached;

(53) "stand" or "standstill" means the stopping of a vehicle, whether temporary or permanent, for the purpose of actually engaged in the transportation of passengers;

(54) "stop" or "stoppage" means the cessation from movement of a vehicle momentarily, of a vehicle which is not, except when necessary, in compliance with other traffic control devices, in the directions of a posted sign or signal;

(55) "street" means a highway as defined in AS 28;

(56) "through lane" means that portion of a highway which has preferential right-of-way over other vehicles, and which, on highways is required to be obeyed to the extent of an official traffic control device;

(57) "tow car" means a motor vehicle which is equipped for the purpose of being used primarily for the purpose of providing assistance to other vehicles;

(58) "trailer" means a vehicle without motive power, designed for the transportation of persons or property, and which is not a motor vehicle, or a motor vehicle with a trailer;

(59) "transportation" means the business of delivering

vehicle
and
designated
of ident
an en
by its
department
another juris
wrecked
disable
for it
repair
70)

8/27/87

STATE OF ALASKA
DEPARTMENT OF EDUCATION

Regulations on School Bus Driver Training
DRAFT

The following regulations were adopted by the State Board of Education at its regular meeting held on August 17, 1987:

4 AAC 27 is amended by adding new sections to read:

4 AAC 27.200. APPROVED SCHOOL BUS DRIVER TRAINING COURSES. (a) Upon application by a district on forms prescribed by the department, the department may approve a school bus driver training course that is required by a pupil transportation contract which was awarded pursuant to 4 AAC 27.085. Courses approved under this subsection are approved until the expiration of the transportation contract under which the approval was made.

(b) Upon application on forms prescribed by the department and until June 30, 1988, the department may approve a school bus driver training course which includes at least 10 hours of training in the following subjects: pre-trip inspection; seat and mirror adjustment; defensive driving; driving skills; loading and unloading procedures; student management; and safety and emergency procedures. Courses approved under this subsection are approved until June 30, 1988 unless otherwise authorized in writing by the department.

(c) Upon application on forms prescribed by the department, the department may approve a school bus driver training course that:

(1) is conducted by a school bus driver training instructor certified under 4 AAC 27.210;

(2) meets the minimum standard training requirements of 4 AAC 27.220; and

(3) except as otherwise authorized in writing, by the department, follows the Minimum Course Content for Pre-Service Training of Alaska School Bus Drivers, 1987 Edition, issued by the department.

(d) Courses approved under subsection (c) are approved for a period of three years.

4 AAC 27.210. CERTIFICATION OF INSTRUCTORS. (a) The department will certify a person holding a school bus driver permit as a school bus driver training instructor if the person:

(1) has a minimum of two years' school bus driving experience; and

(2) satisfactorily completes a school bus driver training instructor certification program conducted by the department.

(b) A school bus driver training instructor certificate issued under (a) of this section expires three years from the date of issuance or whenever the holder fails to continue to hold a school bus driver permit, whichever comes first.

(c) A certificate issued under (a) of this section may be renewed any number of times if the holder submits an application on a form prescribed by the department and

(1) has conducted at least one state approved training course annually during the life of the certificate; or

(2) has prior approval of the department to enter and satisfactorily completes a school bus driver training instructor refresher program conducted by the department.

4 AAC 27.220. MINIMUM STANDARDS FOR SCHOOL BUS DRIVER TRAINING COURSES. (a) In order for a person to be certified by a department approved instructor as having met the requirements of a school bus driver training course approved under 4 AAC 27.200(c), the person must successfully:

- (1) identify the major mechanical component parts of a school bus;
- (2) complete a pre-trip inspection of a school bus;
- (3) adjust the driver's seat of a school bus so that all controls can be reached easily;
- (4) adjust the mirrors of a school bus for optimum visibility;
- (5) demonstrate starting and stopping the bus smoothly using proper coordination of accelerator, clutch where applicable, and brakes;
- (6) stop a school bus a specified distance from another object or point using over the hood, rear and curb reference points;
- (7) where applicable, shift gears on a moving school bus in a manner which provides a safe ride to passengers and avoids damage and unnecessary wear to the bus components;
- (8) where applicable, demonstrate the use of shifting in slowing and stopping the bus;
- (9) turn a corner in a school bus while keeping the bus in the correct lane of traffic;
- (10) back up a school bus in a straight line, and turn the bus around by backing into a side street under conditions of both ample and limited space;
- (11) explain and demonstrate defensive driving skills which may help prevent accidents in school buses in spite of incorrect actions of others;
- (12) demonstrate procedures for properly loading and unloading students;
- (13) explain techniques for managing the behavior of pupils on a school bus in a positive way;

- (14) explain proper actions to take during driving emergencies;
- (15) locate and explain how to use emergency equipment found on school buses;
- (16) explain and demonstrate procedures for safely positioning a school bus on a road after a mechanical breakdown or emergency situation;
- (17) demonstrate procedures for safely evacuating passengers of a school bus; and
- (18) demonstrate procedures for properly crossing railroad tracks in a school bus.

4 AAC 27.230. ISSUANCE OF SCHOOL BUS DRIVER CERTIFICATES; RECORDKEEPING REQUIREMENTS. (a) An instructor certified under 4 AAC 27.210 may issue a certificate certifying that a person has completed a state approved school bus training course under AS 14.07.020(a)(14) only if the person has completed a course approved under 4 AAC 27.200 using the Minimum Course Content for Pre-Service Training of Alaska School Bus Drivers, 1987 Edition, issued by the department, and has demonstrated to the instructor's satisfaction that the driver has met each of the minimum standards set forth in 4 AAC 27.220.,

(b) An instructor must keep records available for inspection by the department for a period of three years for each person to whom he or she has given instruction in school bus driving indicating:

(1) the objectives on which training was given, including when the training was given, and the amount of training given on each objective; and

(2) evaluation sheets, dated and signed by the instructor and driver, documenting that the driver has met each of the minimum standards set forth in 4 AAC 27.220.

(c) The instructor must furnish a duplicate of each certificate issued under (a) of this section to the department within 5 days of its issuance.

4 AAC 27.240. REVOCATION OF INSTRUCTOR CERTIFICATE. A certificate issued under 4 AAC 27.210 may be revoked for the following reasons:

- (a) fraudulent certification of training;
- (b) failure to follow department regulations and instructions concerning school bus driver training;
- (c) negligence in driving or instructional techniques;
- (d) revocation of school bus driver permit;
- (e) failure to properly document training as required by 4 AAC 27.230; or
- (f) willful failure to submit duplicate certificate to the department as required by 4 AAC 27.230.

KENAI PENINSULA BOROUGH SCHOOL DISTRICT

148 North Binkley Street • Soldotna, AK 99669 • Phone 907/262-5846



February 10, 1988

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

Dear Representative Cato:

I am corresponding with you in regard to two items:

1. Licensure of occupational therapists.
2. Necessity to hold a school bus driver's license to operate a school van.

Licensure of occupational therapists. There has been considerable confusion regarding this issue. You will recall that this item was before the legislature last year. It is our belief that an occupational therapist need not hold a license from the state in order to provide occupational therapy services to school children in an educational setting. They simply must hold state certification through the Department of Education. HB 368 clarifies this situation and clearly exempts school employed occupational therapists from a requirement of holding licensure from the State of Alaska. We support this provision and encourage your passage of this amendment.

School bus drivers license. Again, there has been confusion regarding this item. There have been various interpretations as to what type of requirements must be met by individuals who drive school vans to transport youngsters for extracurricular activities. HB 397 and SB 375 address this issue. We encourage your passage of SB 375 and HB 397 if amended to 19 feet. These bills would clearly stipulate that it is not necessary for a person to hold a "school bus driver's license" in order to operate a school van transporting youngsters for extracurricular activities.

Thank you for your attention to these items as they come before you.

Sincerely,

A handwritten signature in cursive script that reads "Fred".

Fred Pomeroy
Superintendent

bj

Original sponsors: Cato and Frank

1 IN THE HOUSE

BY THE TRANSPORTATION COMMITTEE

2 CS FOR HOUSE BILL NO. 397 (Transportation)

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 licensing of school bus drivers;
7 and providing for an effective date."

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

9 * Section 1. AS 28.15.046(a) is amended to read:

10 (a) In addition to the requirements of AS 28.15.041(a), a person
11 may not drive a school bus transporting school children to or from
12 school to enable them to participate in class or a school activity, or
13 a bus transporting school [SCHOOL-AGE] children to or from school for
14 classroom studies until the person has applied for and has been issued
15 a license for that purpose under this section. This subsection does
16 not apply to a person or a motor vehicle exempted under regulations
17 adopted by the commissioner.

18 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

HOUSE BILL 397

GOOD AFTERNOON. I AM HERE TODAY TO EXPLAIN MY REASONS FOR INTRODUCING HB 397 AND PROVIDE YOU WITH SOME BACKGROUND AND CONCERNS IN THE AREA OF SCHOOL BUS DRIVER LICENSING.

IN 1986 THE LEGISLATURE PASSED HB 409 WHICH WAS SIGNED INTO LAW BY THE GOVERNOR APRIL 30, 1986.

HB 409 IMPOSED STRICTER REQUIREMENTS ON SCHOOL BUS DRIVERS TO HELP ENSURE THE SAFETY OF OUR CHILDREN. THE NEW LAW REQUIRES ALL SCHOOL BUS DRIVERS TO BE ISSUED A SCHOOL BUS DRIVER'S LICENSE. IN ORDER TO OBTAIN THIS LICENSE, DRIVERS MUST COMPLETE A SCREENING PROCESS WHICH INCLUDES A BACKGROUND CHECK, FINGERPRINTING PROCESS TO IDENTIFY SEXUAL OFFENDERS AND DWI OFFENDERS, THE BILL ALSO REQUIRES ALL DRIVERS TO COMPLETE A 40 HOUR TRAINING PROGRAM.

WHILE I STRONGLY SUPPORT THESE REQUIREMENTS, I HAVE INTRODUCED HB 397 TO MORE CLEARLY DEFINE THE SEVERAL AREAS OF CONCERN WITH THE CURRENT REGULATIONS.

THE EXISTING LICENSING REQUIREMENTS APPLIES TO PERSONS DRIVING A "BUS TRANSPORTING SCHOOL AGE CHILDREN". WHILE THIS LANGUAGE WAS DESIGNED TO ENSURE THAT ALL PERSONS, INCLUDING VOLUNTEERS, WHO TRANSPORT CHILDREN TO AND FROM SCHOOL MEET THE

NEW LICENSING REQUIREMENT. IT ALSO UNINTENTIONALLY INCLUDED MANY ORGANIZATIONS AND GROUPS SUCH AS GIRLS AND BOYS CLUBS, WHO USE PARENTS AND CHAPERONES TO TRANSPORT CHILDREN TO EVENTS. SCHOOL DISTRICTS HAVE EXPRESSED FRUSTRATIONS BY THE REQUIREMENT FOR SCHOOL COACHES TO OBTAIN A SCHOOL BUS DRIVERS LICENSE TO TRANSPORT A TEAM (debate) TEAM TO AN EVENT.

HB 397 MORE CLEARLY DEFINES THIS 'GREY' AREA.

SECTION 1. LINE 11 STATES: A PERSON MAY NOT DRIVE A SCHOOL BUS TRANSPORTING SCHOOL CHILDREN TO OR FROM SCHOOL TO ENABLE THEM TO PARTICIPATE IN CLASS OR SCHOOL ACTIVITY, OR A BUS TRANSPORTING SCHOOL CHILDREN TO OR FROM SCHOOL FOR CLASSROOM STUDIES;

A SCHOOL BUS IS DEFINED AS EVERY MOTOR VEHICLE THAT COMPLIES WITH THE COLOR AND IDENTIFICATION REQUIREMENTS SET FORTH IN THE MINIMUM STANDARDS FOR SCHOOL BUSES AND IS USED TO TRANSPORT CHILDREN TO OR FROM SCHOOL OR IN CONNECTION WITH SCHOOL ACTIVITIES. THEREFORE, ANY PERSON DRIVING A SCHOOL BUS (MANY OF YOU HAVE SEEN THE YELLOW AND BLACK BUSES WITH THE WARNING LIGHTS) TO OR FROM SCHOOL FOR CLASS OR "SCHOOL' ACTIVITY" WOULD BE REQUIRE TO HAVE THIS LICENSE. THIS WOULD INCLUDE 'ANY ACTIVITY' THAT THE SCHOOL WAS INVOLVED WITH.

IN ORDER TO MORE CLEARLY UNDERSTAND THIS BILL, ONE POINT SHOULD BE NOTED, THE TERM SCHOOL BUS HAS A DIFFERENT DEFININATION THAN THE WORD BUS AS DEFINED BY THE DEPARTMENT OF PUBLIC SAFETY.

LINE 13 STATES: ANY PERSON DRIVING A BUS TRANSPORTING SCHOOL CHILDREN TO OR FROM SCHOOL FOR CLASSROOM STUDIES.

A BUS IS DEFINED AS EVERY MOTOR VEHICLE DESIGNED FOR CARRYING MORE THAN 10 PASSENGERS AND USED PRIMARILY USED FOR TRANSPORTING OF PASSENGERS. IN THIS SECTION A DRIVER WOULD BE REQUIRED TO HAVE A SCHOOL BUS DRIVERS LICENSE IF HE/SHE WERE DRIVING A BUS (VAN) TRANSPORTATING 10 PASSENGERS OR MORE AND THESE PASSENGERS WERE BE TRANSPORTED TO OR FROM SCHOOL FOR CLASSROOM STUDIES.

THIS WOULD NOT INCLUDE ANY PERSON TRANSPORTING SCHOOL CHILDREN IN A BUS/VAN TO SCHOOL ACTIVITIES OTHER THAN CLASSROOM STUDIES. THIS WOULD ALLOW A PARENT/CHAPERONE TO TRANSPORT A SMALL BUS/VAN OF CHILDREN TO A PLAY OR CONCERT ETC. WITHOUT THE FRUSTRATION OF THE LICENSING REQUIREMENT. IT WOULD ALSO ALLOW A PERSON TO TRANSPORT THE GIRLS SCOUT OR THE BOY SCOUTS TO A COOKOUT OR OTHER FUNCTION WITHOUT THIS LICENSING REQUIREMENT IMPAIRING THIS TRIP.

SB 375:

SB 375 CORRECTS A PROBLEM CREATED IN 1986 WHEN THE LEGISLATURE IMPOSED STRICTER REQUIREMENTS FOR SCHOOL BUS DRIVERS, AND THE ENSUING REGULATIONS ENCOMPASSED ALL VAN DRIVERS REGARDLESS OF THE PURPOSE OF TRANSPORTATION OF CHILDREN. MANY SCHOOL DISTRICTS ARE ADVERSELY AFFECTED, PARTICULARLY IN SMALLER COMMUNITIES AS THOSE SCHOOLS FREQUENTLY USE "SCHOOL ACTIVITY VANS" DRIVEN BY A VARIETY OF STAFF, COACHES OR TEACHERS. TO COMPLY, ALL WOULD HAVE TO UNDERGO THE TRAINING AND OTHER REQUIREMENTS WHICH CAN BE COSTLY TO THESE DISTRICTS.

"BUS" IS DEFINED IN EXISTING DEPARTMENT OF PUBLIC SAFETY REGULATIONS 13 AAC 40.010 (6): "BUS" MEANS "EVERY MOTOR VEHICLE DESIGNED FOR CARRYING MORE THAN 10 PASSENGERS AND USED PRIMARILY FOR THE TRANSPORTATION OF PASSENGERS, AND EVERY MOTOR VEHICLE DESIGNED AND USED FOR THE TRANSPORTATION OF PERSONS FOR COMPENSATION, EXCEPT A TAXICAB OR SCHOOL BUS."

BY THAT DEFINITION, CURRENT LAW REQUIRES THAT A DRIVER OF A VAN DESIGNED TO CARRY MORE THAN TEN PASSENGERS MUST POSSESS A SCHOOL BUS DRIVER'S LICENSE. IN ORDER TO COMPLY, THE DRIVER MUST COMPLETE A STATE APPROVED SCHOOL BUS DRIVER TRAINING COURSE; SUPPLY DPS WITH SUFFICIENT INFORMATION TO COMPLETE A NATIONAL CRIMINAL RECORDS CHECK AND BACKGROUND

CHECK; PASS A WRITTEN AND ROAD EXAM AND UNDERGO A PHYSICAL EXAMINATION.

SB 375 MORE CLEARLY DEFINES THAT SCHOOL BUS DRIVER'S LICENSES ARE REQUIRED ONLY WHEN TRANSPORTING CHILDREN TO AND FROM SCHOOL, OR WHEN A "SCHOOL BUS" IS BEING USED TO TRANSPORT CHILDREN TO AND FROM SCHOOL. ALL OTHERS WOULD NOT BE REQUIRED TO OBTAIN A "SCHOOL BUS " DRIVER'S LICENSE.

CS SB 375 (RULES) ADDS MINOR CHANGES WHICH FURTHER CLARIFY WHICH DRIVERS ARE AFFECTED BY REPLACING "SCHOOL-AGE" WITH "SCHOOL", AND BY PROVIDING A DEFINITION OF "CLASSROOM STUDIES."



GIRL SCOUTS

Farthest North
Girl Scout Council, Inc.
946 Cowles, Suite 210
Fairbanks, Alaska 99701
(907) 456-4782

February 10, 1988

Senator Bettye Fahrenkamp
515 7th Avenue Room 130
Fairbanks, Alaska 99701

Dear Senator Fahrenkamp;

The Farthest North Girl Scout Council supports Senate Bill 375.

The Council owns a twelve passenger van which is used extensively in our program delivery i.e.; resident camp, day camp, canoe trips. In the past we had been able to loan our van to Girl Scout leaders for transporting their troops to special outings. However, the law which requires a bus driver's license, made it impossible for our volunteer leaders to borrow the van. Programs have and will continue to be changed or deleted if vans transporting children require a bus driver's license.

Thank you for introducing this bill. Please convey our concern on these issues to the committees working on this issue.

Sincerely,

A handwritten signature in cursive script that reads "Janice M. Jenitis".

Janice M. Jenitis
Executive Director

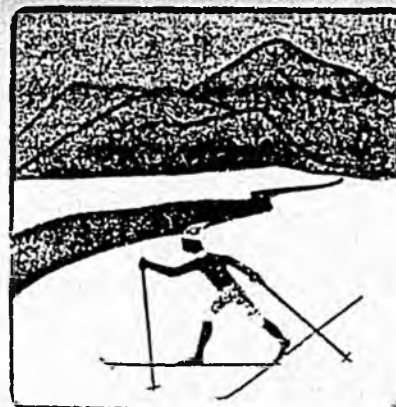
cc:LK/njk

SALCHA SKI CLUB

P.O. Box 140055

Salcha, Alaska 99714

(907) 488-3987 or 488-3012



February 10, 1988

Senator Bettye Fahrenkamp
Alaska State Senate
P.O. Box V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

I am writing to express the complete support of our organization (all 114 members) for your Senate Bill 375. This bill will remedy the transportation problems caused by current regulations which have forced us to leave behind team members who would ordinarily have travelled with us to ski races in Anchorage.

As an organization on a limited budget, run completely by volunteer help, we do not have the time or financial resources to obtain school bus driver's licenses for our drivers. Nor do we think that such licensing would improve the quality or safety-consciousness of our drivers.

Would you please pass along this letter to other members of the senate and also the Department of Transportation so that they will know of our problems with current regulations and our support for your Senate Bill 375. Thank you.

Sincerely,

James F. Ostlind

James F. Ostlind, Executive Director
Salcha Ski Club

FEB 19 1988



P.O. BOX 2580, SOLDOTNA, AK 99669, (907) 262-1811
HOMER TERMINAL: 276 OLSON LANE, HOMER, AK 99803, (907) 235-8165

FEB. 12, 1988

REPRESENTATIVE BETTY CATO,

THE SCHOOL BUS DRIVERS OF THE KENAI/NIKISKI AREAS ARE EXPOSED DAILY TO SAFE AND NOT SO SAFE CONDITIONS AROUND OUR PUBLIC SCHOOLS. AS A RESULT OF THAT EXPOSURE, WE WISH TO ADDRESS SOME AREAS WHERE POTENTIAL DANGER EXISTS. NIKISKI ELEMENTARY, KENAI CENTRAL HIGH SCHOOL, KENAI JUNIOR HIGH SCHOOL AND MOUNTAIN VIEW ELEMENTARY ARE LOCATED ALONG A HIGH TRAFFIC HIGHWAY WHERE SPEED (55MPH) AND SCHOOL BUSES HAVE TO MIX. OUR OBSERVATIONS AND CALLS FROM THE GENERAL PUBLIC CONFIRM OUR OPINION THAT THE INSTALLATION OF SCHOOL ZONE "FLASHING YELLOW" SIGNALS WOULD BEST SERVE OUR COMMUNITY SCHOOL AGE CHILDREN.

OUR BASIC PROBLEM STEMS FROM HAVING TO ENTER THE FLOW OF TRAFFIC FROM A DEAD STOP, CROSSING A FAST MOVING LINE OF TRAFFIC AND DOING THIS WITHOUT INTERFERING WITH TRAFFIC FLOW. "SCHOOL ZONE.. 20MPH WHEN CHILDREN ARE PRESENT" SIGNS ADDS LIMITATION FOR TRAFFIC SPEED, BUT ONLY WHEN CHILDREN ARE PRESENT ALONG THE ROADSIDE OR CROSSING THE ROADWAY. THIS IS IMPORTANT OF COURSE BUT A 35' BUS (ON A ICY ROAD SURFACE) FILLED WITH UP TO 72 CHILDREN, FINDS IT ALMOST IMPOSSIBLE TO BLEND WITH 55 MPH TRAFFIC. AS WE ENTER THE TRAFFIC, WE MUST CHANCE THE SAFETY OF OUR STUDENTS, OTHER MOTORIST AND OURSELVES BECAUSE OF LOST TRACTION WHICH MAKES FOR A SLOW START AND POOR ACCELERATION.

ONLY WHEN THESE FLASHING YELLOW SIGNALS ARE IN PLACE DO WE FIND THE ABSENCE OF HIGH SPEED AND THE PRESENCE OF MOTORIST SHOWING MORE CONCERN FOR LAW, BUSES AND SAFETY IN GENERAL.

NIKISKI ELEMENTARY SCHOOL NEEDS THE INSTALLATION OF STREET LIGHTS ON THE ENTRANCE AND EXIT OF THE SCHOOL. AS THIS SCHOOL IS LOCATED ON A CURVE IN THE HIGHWAY, WE HAVE WITNESSED MANY "CLOSE CALLS" OF HEAD ON COLLISIONS, SIDESWIPES AND SKIDDING. PROPER LIGHTING WILL ASSIST IN WARNING MOTORIST OF THE SCHOOL AREA, ILLUMINATE WALKING AND BIKE RIDING STUDENTS AND MAKE SLOW MOVING VEHICLES MORE VISABLE.

EACH YEAR WE ALSO EXPERIENCE 'HEART-FAILING' MOMENTS WHEN WE ARE FORCED TO DRIVE OUR BUSES DOWN A ROADWAY BESIDE BIKE RIDING STUDENTS ENROUTE TO SCHOOL. THIS PRACTICE (IN THE ABSENCE OF BIKE PATHS) HAS CAUSED MANY DRIVERS TO QUESTION THEIR EMPLOYMENT AS A SCHOOL BUS DRIVER.

IF YOU CAN ASSIST OUR COMMUNITY BY LENDING YOUR SUPPORT TO THE MATTERS MENTIONED ABOVE WE THANK YOU AND WILL CONTINUE OUR COMBINED EFFORT TO PROVIDE THE MOST ACCIDENT FREE ENVIRONMENT FOR OUR CHILDREN.

SINCERELY YOURS,

TED CARMICHAEL

A handwritten signature in cursive script that reads "Ted Carmichael".

(7)

HOUSE COMMITTEE REPORT

Date referred: 1/27/88

FURTHER REFERRALS:

State Affairs

DATE: February 19, 1988

The Transportation Committee has considered HB 397

"An Act relating to licensing of school bus drivers."

RECOMMENDS:

- replace with CS HB 397 (TRSD) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

Heinrich Spruyt

Mike Hill

Steve Lodica

Bill Hulls

SIGNING OTHER RECOMMENDATIONS:

Heinrich Spruyt

 Chairman's signature


```

*****
*
* DELIVER TO: LHSCTRA
*
* ORIGINAL
* SENT: 02/19/88 TIME: 14:08
* FROM: LTCCFBX
* SUBJECT: HTRAN;FS;SCH BUS;2-19-88
* PRINT DATE: 02/19/88 TIME: 14:57
*
*****

```

*****FINAL STATS*****

```

DATE:    __FEBRUARY 19, 1988__
SITE:    __FAIRBANKS__
SPONSOR: __HOUSE TRANSPORTATION__
SUBJECT: __LICENSING OF SCHOOL BUS DRIVERS__
MODERATOR: __FRAN__

```

```

*****
TESTIFY:
NAME\REPRESENTING      ADDRESS                      PHONE #
1.) BOB SHEFCHIK      578 CANOR ROAD,N.F.,99705  452-2000

```

```

*****
OBSERVE:
NAME\REPRESENTING      ADDRESS                      PHONE #
1.) JO SWARNER - AIDE TO SEN. FAHRENKAMP

```

```

*****
TESTIFIED___1___      TIME START__1:35 P.M.__
OBSERVED___1___      TIME END___1:55 P.M.__
TOTAL_____2_____

```

Walt Fawcett

STEVE COWPER, GOVERNOR

DEPARTMENT OF EDUCATION

OFFICE OF THE COMMISSIONER

GOLDBELT PLACE
801 WEST 10th STREET
POUCH F
JUNEAU, ALASKA 99811

March 18, 1988


The Honorable Bettye Fahrenkamp
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

As sponsor of SB 375, An Act Relating to Licensing School Bus Drivers, I wanted to let you know that a concern has been raised regarding availability of training for drivers of school buses transporting children to and from private schools. I would appreciate your sharing the following information with House members:

1. Training programs are available to private schools. A private school may apply directly to the Department of Education for approval of a program, or may enroll drivers in other programs already approved by the department.
2. Approved programs exist in many locations in the state. A list of programs is attached. At least two private schools in Anchorage - Anchorage Christian Schools and Abbott Loop Christian School - have applied for and received approval of programs. Additionally, Harvester Christian Academy sent a trainer to the state sponsored school bus driver instructor workshop last year.
3. School bus contractor training programs are open to private school drivers. Tundra Tours, Inc. of Mat-Su Valley, TMS of Anchorage, Fairbanks and Kodiak, and Laidlaw Transit, Inc. of Anchorage are examples of companies that will train private school drivers.
4. The state is developing a plan to reimburse private schools for a reasonable registration fee if a school bus driver successfully completes an approved training program.

Sincerely,


William G. Demmert
Commissioner

Attachment

Alaska State Legislature

SENATOR BETTYE FAHRENKAMP
CHAIRMAN, LEGISLATIVE COUNCIL
CHAIRMAN, OIL AND GAS COMMITTEE
515 7TH AVENUE, SUITE 130
FAIRBANKS, ALASKA 99701
OFFICE (907) 452-4882
HOME (907) 456-2899



WHILE IN JUNEAU
P.O. BOX V
JUNEAU, ALASKA 99811
CAPITOL ROOM 125
OFFICE (907) 465-3834
HOME (907) 780-6027

Senate

To: All Representatives
From: Senator Bettye Fahrenkamp
Date: March 17, 1988
Re: CS SB 375 (Rules), An Act Relating to School Bus
Licensing

SB 375 corrects a problem created in 1986 when the legislature imposed stricter requirements for school bus drivers and the ensuing regulations encompassed all van drivers regardless of the purpose of transportation of children. Many school districts are adversely affected, particularly in smaller communities as those schools frequently use "school activity vans" driven by a variety of staff, coaches or teachers. To comply, all would have to undergo the training and other requirements which can be costly to these districts.

"Bus" is defined in existing Department of Public Safety regulations 13 AAC 40.010 (6): "bus" means "every motor vehicle designed for carrying more than 10 passengers and used primarily for the transportation of passengers, and every motor vehicle designed and used for the transportation of persons for compensation, except a taxicab or school bus".

By that definition, current law requires that a driver of a van designed to carry more than ten passengers must possess a school bus driver's license. In order to comply, the driver must complete a state approved school bus driver training course; supply DPS with sufficient information to complete national criminal records check and background check; pass a written and road exam and undergo a physical examination.

SB 375 more clearly defines that school bus driver's licenses are required only when transporting children to and from school, or when a "school bus" is being used to transport children to and from school. All others would not be required to obtain a "school bus" driver's license.

CS SB 375 (Rules) adds minor changes which further clarify which drivers are affected by replacing "school-age" with "school", and by providing a definition of "classroom studies".

HB

401

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

House Transportation:

2/8/88

FISCAL NOTE

REQUEST:

Revision Date: February 5, 1988
Title: An Act establishing rebates for use in watercraft outside the state.
Sponsor: Cato, Naverre & Swackhammer
Requestor: Transportation & Finance

Agency Affected: Revenue
BRU: Income and Excise Audit
Components:

EXPENDITURES/REVENUES: (Thousands of Dollars)

| | FY 88 | FY 89 | FY 90 | FY 91 | FY 92 | FY 93 |
|--------------------|-------|-------|-------|-------|-------|-------|
| OPERATING | | | | | | |
| PERSONAL SERVICES | - | 34.0 | 34.0 | 34.0 | 34.0 | 34.0 |
| TRAVEL | - | - | - | - | - | - |
| CONTRACTUAL | - | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 |
| SUPPLIES | - | - | - | - | - | - |
| EQUIPMENT | - | 2.5 | -0- | -0- | -0- | -0- |
| LANDS & STRUCTURES | - | - | - | - | - | - |
| GRANTS, CLAIMS | - | - | - | - | - | - |
| MISCELLANEOUS | - | - | - | - | - | - |
| TOTAL OPERATING | - | 38.5 | 36.0 | 36.0 | 36.0 | 36.0 |
| CAPITAL | - | - | - | - | - | - |
| REVENUE | - | - | - | - | - | - |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|---|----------|----------|----------|----------|----------|
| GENERAL FUND | - | [2000.0] | [2000.0] | [2000.0] | [2000.0] | [2000.0] |
| FEDERAL FUNDS | - | - | - | - | - | - |
| OTHER | - | - | - | - | - | - |
| TOTAL | - | [2000.0] | [2000.0] | [2000.0] | [2000.0] | [2000.0] |

POSITIONS:

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

ANALYSIS:

Prepared By: Steven E. Kettel
Division: Income and Excise Audit

Phone: 465-2320
Date: February 5, 1988

Approved by Commissioner: *[Signature]*
Agency:

Date: *[Signature]*

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

Prepared by Steven E. Kettel
Director, Income and Excise Audit
Department of Revenue
February 5, 1988

Analysis of HB 401

Prior to July, 1984, the Department of Revenue did not issue motor fuel tax refunds to in-state purchasers, such as fishermen and fish processors that used the fuel outside the state's 3-mile taxing jurisdiction. In July, 1984 the Department began issuing the refunds, and at the same time assessing the motor fuel tax against out-of-state fuel purchasers that imported untaxed fuel and used the fuel in state waters. Several recent U.S. Supreme Court decisions allowing a properly apportioned tax were the basis for the change in the Department's watercraft tax policy. This policy, which placed the incidence of the tax on the use of the fuel in-state was overturned by a Departmental Hearing Decision #87-07 dated March 20, 1987. This decision required the Department to amend its regulations prior to authorizing the assessment of tax against the importer/consumers of marine fuel. Later in September of 1987, the Attorney General's office advised this Department that additional statutory authority was necessary to support the tax refunds to those purchasing fuel inside but consuming it outside the 3-mile limit.

HB 401 would provide the necessary authority for the Department to issue refunds of tax to out-of-state consumers. The legislation, however, does not provide a mechanism for taxing fuel imported and consumed by a vessel in this state. Passage of this legislation without consideration of the importation issue is not advised.

Department's Position on HB 401

The Department does not support passage without amendment for the following reasons:

- 1) The legislation further narrows the state's tax base by approximately \$2 million per year.
- 2) The recipients of these refunds are, by an overwhelming majority, non-resident individuals and businesses. Based upon our 18 month refunding project, only 14% of the claimants listed in-state addresses.
- 3) Purchasers of out-of-state fuel do not pay the 5¢ tax and thus have a competitive advantage over their Alaska resident competitors.
- 4) We have not seen evidence showing that without the refund legislation, motor fuel purchasers will move off-shore to make their fuel purchases. It is not clear to us that fuel sold on the high seas is significantly cheaper than fuel sold on-shore.
- 5) The watercraft tax account in the general fund has historically been used as a benchmark for appropriations to harbor facilities around the state. A decrease in marine fuel tax may reduce funding for these essential services and facilities.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HB 401/SB 366
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: February 5, 1988 Agency Affected: Commerce & Econ. Dev.
Title: Establishing rebates for motor BRU: Division of Business Development
fuel taxes
Sponsor: Cato Components: _____
Requester: _____

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- | | | |

| | | | | | | |
|---------|-----|-----|-----|--|--|--|
| CAPITAL | -0- | -0- | -0- | | | |
|---------|-----|-----|-----|--|--|--|

| | | | | | | |
|---------|-----|-----|-----|--|--|--|
| REVENUE | -0- | -0- | -0- | | | |
|---------|-----|-----|-----|--|--|--|

FUNDING: (Thousands of dollars)

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

POSITIONS:

| | | | | | | |
|-----------|-----|-----|-----|--|--|--|
| FULL-TIME | -0- | -0- | -0- | | | |
| PART-TIME | -0- | -0- | -0- | | | |
| TEMPORARY | -0- | -0- | -0- | | | |

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact on this department

Prepared by: Paul Peyton, Project Manager
Division: Business Development

Phone: 465-2162
Date: February 5, 1988

Approved by Commissioner: J. Anthony Smith
Agency: Department of Commerce and Economic Development

Date: 2/5/1988

Distribution (by preparer):

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

page ____ of ____

07850-2/020588a

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 22, 1988

SUBJECT: Sectional analysis, W.O. 5-1622B:
Rebates of motor fuel taxes for fuel used in
certain watercraft

TO: Senator Fred Zharoff

FROM: Jack Chenoweth
Legislative Counsel

This bill proposes to authorize rebates or refunds of motor fuel taxes when the fuel is used or consumed in the operation of watercraft outside the state.

Bill section 1 adds a new section, AS 43.40.033, authorizing the refund of watercraft motor fuel taxes, and directing the Department of Revenue to adopt necessary regulations and to prescribe forms to assure proper operation of the refund program.

Bill section 2 amends an existing section, AS 43.40.050(b), limiting to one year the filing period for refund claims for watercraft motor fuel taxes; the one year limitation is currently applicable to the department's other refund and credit programs.

Section 5 gives the Act a July 1, 1988 effective date. By section 3, the watercraft motor fuel rebate program, established by this Act, is made applicable to motor fuel sold and delivered in the state, and used and consumed in watercraft outside the state after June 30, 1988.

As I understand, between 1985 and March, 1987, the Department of Revenue made refunds of watercraft motor fuels (within the limits of and in a manner substantially similar to what is being proposed in this bill). The department stopped that program apparently after it was advised by the Department of Law that there was no legal basis for the refund program.

Senator Fred Zharoff
Page 2
January 22, 1988

Bill section 4, in a sense, "ratifies" those payments that were apparently made in error by declaring that the attorney general and the Department of Revenue may not recover these refunds. The provisor is drafted in a manner that recognizes the payments that have already been made; it does not authorize any additional refunds to persons who might have applied under that defunct program.

JBC:bb
WKB1/087

ALASKA STATUTES

Title 43 **Revenue and Taxation**

OCTOBER 1983

Sec. 43.35.140. Gambling not legalized. AS 43.35.100 — 43.35.150 do not legalize gambling. (§ 4 ch 116 SLA 1949; am § 1 ch 53 SLA 1951)

Cross references. — For limitations on authorized gaming activities, see AS 05.15.180.

Sec. 43.35.150. Violations and penalties. (a) It is unlawful for a person to (1) distribute in the state a punchboard for which the license tax provided in AS 43.35.100 — 43.35.150 is not paid; or (2) maintain for use, or permit the use of, in a place or premises occupied by the person a punchboard upon which the license stamp is not affixed.

(b) A person violating a provision of AS 43.35.100 — 43.35.150 is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$500. (§ 5 ch 116 SLA 1949; am § 1 ch 53 SLA 1951)

Chapter 40. Motor Fuel Tax.

Section

- 10. Tax on transfers or consumption of motor fuel and expenditure of proceeds
- add 33- 30. Refund for nonhighway use
- 35. Other refunds and credits
- 50. Refund claim by affidavit

Section

- 60. Separate invoices
- 70. Refund warrants
- 80. Examination of books and records
- 85. Preservation of books and records
- 100. Definitions

Collateral references. — 71 Am. Jur. 2d, State and Local Taxation, §§ 616 — 634; 53 Am. Jur. 2d, Licenses, §§ 30, 46 — 58.

State tax on or in respect of goods shipped in interstate commerce to consignee for sale on consignor's account without previous sale or order for purchase, 4 ALR2d 244.

Loading or unloading interstate freight in performance of obligation resting upon one other than interstate carrier as inter-

state commerce as regards local taxation, 10 ALR2d 651.

State taxation of motor carriers as affected by commerce clause, 17 ALR2d 421.

Power of legislature to remit, release, or compromise tax claim, 28 ALR2d 1425.

Financial hardship or inability to pay taxes as rendering inapplicable statutes denying remedy by injunction against assessment or collection of tax, 65 ALR2d 550.

Sec. 43.40.010. Tax on transfers or consumption of motor fuel and expenditure of proceeds. (a) There is levied a tax of eight cents a gallon on all motor fuel sold or otherwise transferred within the state, except that

- (1) the tax on aviation gasoline is four cents a gallon,
- (2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(c) The department shall establish the necessary regulations and prescribe the appropriate forms to prove that the motor fuel is taken to and used in foreign countries.

(d) If a person obtains motor fuel on which the tax levied by this chapter has been paid and the motor fuel is exempt from the tax, the person is entitled to a refund of the tax paid. (§ 2 ch 47 SLA 1955; am § 3 ch 27 SLA 1957; am § 2 ch 136 SLA 1961; am § 4 ch 158 SLA 1970; am § 3 ch 124 SLA 1971; am § 4 ch 125 SLA 1971; am § 4 ch 116 SLA 1977; am §§ 35, 36 ch 113 SLA 1980; am § 5 ch 82 SLA 1982)

Effect of amendments. — The 1980 amendment substituted a reference to this chapter in subsection (b), and added subsection (d).

The 1982 amendment substituted "the tax has been" for "duty is" in subsection (b).

Sec. 43.40.035. Other refunds and credits. (a) A person who resells fuel on which the tax under AS 43.40.010(a) or (b) was previously paid is entitled to a credit or refund of the tax if (1) the resold fuel is not motor fuel and the requirements of AS 43.40.010(l) have been fulfilled; or (2) the amount of tax previously paid exceeds the tax due on the resale. The amount of the credit or refund under this section is equal to the amount of tax previously paid on the resold fuel less the amount of tax prescribed by AS 43.40.010(a) or (b).

(b) A reseller may elect, with the express written consent of the supplier of the resaler, to receive the credit or refund under this section directly from the supplier rather than by filing a claim for the credit or refund with the department. When an election is properly made under this subsection, the supplier may claim the credit or refund from the department. To be effective an election under this subsection must be signed in quadruplicate by the reseller and by the supplier. The reseller and the supplier shall each file one copy of the election, with original signatures, with the department. The reseller and supplier shall each retain a copy of the election with original signatures for audit review by the department. If an election is made under this subsection, it may not be revoked without the express written consent of the supplier. (§ 6 ch 82 SLA 1982; am § 3 ch 87 SLA 1983)

Effect of amendments. — The 1983 amendment substituted "the requirements of AS 43.40.010 (l) have been fulfilled" for

"a certificate of use is acquired under AS 43.40.010(l)" in the first sentence of subsection (a).

Sec. 43.40.040. Applications and permits for refund. [Repealed, § 45 ch 113 SLA 1980. For current law, see AS 43.40.050(a).]

Sec. 43.40.050. Refund claim by affidavit. (a) A person who claims a refund under AS 43.40.030 shall present the claim for the refund to the commissioner of revenue by affidavit upon a form provided by the commissioner. The claim shall include the name, address

and occupation of the applicant, the nature of the business of the applicant, and a description sufficient to identify the machinery or equipment in which the motor fuel for which the refund is claimed was used. The claim shall be accompanied by each invoice issued to the claimant at the time the motor fuel was purchased. The commissioner may require any additional information which the commissioner considers necessary for the administration of this subsection.

(b) A claim for refund under AS 43.40.030 or 43.40.035 shall be filed within one year from the date of the purchase of the motor fuel as indicated on the invoice, and failure to file within the one-year period is a waiver of the right to the refund. A claim is considered to be filed when the claim is mailed or personally presented to an office of the department.

(c) A reseller who claims a refund or credit under AS 43.40.035 shall present the refund claim to the department or to the supplier of that reseller by affidavit on a form provided by the department. The claim shall include the name, address, and occupation of the applicant, the nature of the business of the applicant, and a description sufficient to identify the reason for the refund or credit. The claim shall be supported by documentation required by the department. (§ 4 ch 47 SLA 1955; am § 1 ch 139 SLA 1960; am § 37 ch 113 SLA 1980; am §§ 7 — 9 ch 82 SLA 1982)

Effect of amendments. — The 1980 amendment in subsection (a), changed a reference to this chapter at the beginning and at the end of the subsection, substituted the present second sentence for the former material, which read: "with the information the commissioner requires", and substituted "was" for "is" preceding "purchase" at the end of the present third sentence.

The 1982 amendment substituted "under AS 43.40.030" for "as provided in

AS 43.40.010 — 43.40.100" and "the claim for the refund" for "his claim" in the first sentence of subsection (a), substituted "the commissioner" for "he" and "this subsection" for "AS 43.40.010 — 43.40.100" in the last sentence of subsection (a), inserted "under AS 43.40.030 or 43.40.035" in the first sentence of subsection (b), and added subsection (c).

Collateral references. — 53 C.J.S., Licenses, § 62.

Sec. 43.40.060. Separate invoices. The department may require the issuance of separate invoices for fuel sold, distributed, or transferred when the invoices will be the basis for a refund claim. (§ 6 ch 47 SLA 1955)

Sec. 43.40.070. Refund warrants. Upon approval of a refund claim by the department, a warrant shall be drawn on the highway fuel tax account in the general fund in favor of the applicant in the amount of the claim. (§ 7 ch 47 SLA 1955; am § 5 ch 131 SLA 1962)

Sec. 43.40.080. Examination of books and records. (a) To determine the validity of a claim for refund, the department may examine the books and records of the claimant and the books and records of a distributor of motor fuel. The department may cancel the refund permit

Article 4. Recovery of Money or Property Illegally Paid or Diverted.

Section

- 90. Action by attorney general
- 100. Costs of action and disposition of amount recovered

Sec. 37.10.090. Action by attorney general. Whenever money, funds, or property of a city, school district, municipal government, or the state are illegally paid or are diverted for an illegal purpose, or paid to a person not authorized by law to receive them, they may be recovered by an action instituted by the attorney general. When it appears to the attorney general that it is more advantageous to begin or conduct the action with additional counsel, the attorney general may choose and authorize additional counsel to bring the suit in the name of the proper party. (§ 12-5-1 ACLA 1949)

Sec. 37.10.100. Costs of action and disposition of amount recovered. (a) The necessary and reasonable costs of the suit and of the additional counsel shall be advanced by the state, and a sum recovered in the suit shall be deposited in the state treasury.

(b) However if the sum recovered belongs to a city, school district, or municipal government, the sum shall be transferred to it, less sums advanced by the state in the suit, and not already repaid to it. The Department of Administration may pay to the city, school district or municipal corporation the sums belonging to it, upon warrants drawn as provided by law. The warrants shall be based upon vouchers approved by the attorney general. (§ 12-5-2 ACLA 1949)

Chapter 11. Renewable Resources Funds.

Article

- 1. Alaska Renewable Resources Development Fund (§§ 37.11.010 — 37.11.060)
- 2. Alaska Renewable Resources Investment Fund (§§ 37.11.050 — 37.11.090)

Article 1. Alaska Renewable Resources Development Fund.

| Section | Section |
|---|----------------------|
| 10. Alaska renewable resources development fund | 30. Fund utilization |
| 20. Fund authorization level | 40. Fund balances |

Editor's notes. — This article may be unconstitutional under the rationale of State v. Alex, Sup. Ct. Op. No. 2488 (File Nos. 5065, 5068, 5142), P.2d (1982), which held that the assessment provisions of the Fisheries Enhancement

Loan Program Act AS 16.11.530 violated the proceeds of a state tax or license to a special purpose or improvement of Alaska Const. art. II § 7
Section 2 of 130 SLA 1974 provides "On June 30 of the fiscal year in which the

Title 37
Public Finance

DEC 15 1987

DRAFT POSITION PAPER

RE: State of Alaska Marine Fuel Tax Rebates

OFFICE OF THE COMMISSIONER

I. HISTORICAL BACKGROUND

In 1985 the Alaska Department of Revenue (DOR) instituted a rebate program for taxes paid on marine fuel purchased from shoreside fuel facilities in Alaska but consumed in waters beyond the State of Alaska three-mile territorial limit. By filing appropriate documents with DOR a consumer would receive a pro-rated rebate of the \$0.05 (five cent) per gallon tax. In other words the consumer paid the tax at the time of purchase but the tax was later refunded on that portion of the fuel estimated to be consumed beyond State of Alaska jurisdiction. In establishing the rebate procedure the state adopted the position that where the fuel was consumed took precedence over where the fuel was purchased.

Another pertinent provision of Alaska law provides an exemption from the marine fuel tax at the time of purchase. This exemption applies to marine fuel sold in Alaska and transported as "cargo out of the state into international waters if the fuel is sold or otherwise transferred to watercraft which operate exclusively in international waters and which do not enter state territorial waters, ports or facilities". This exemption allows high seas bunkering suppliers, which primarily are foreign flag tankers, to purchase marine fuel tax-free and refuel the fishing and processing fleet as long as the consuming vessels do not enter state waters.

Functioning together, the rebate procedure and the tax exemption for high seas bunkering activities created a tax structure whereby American based fisherman and fuel suppliers were treated on the same basis as high seas bunkering operators.

In April 1987 an internal assessment by DOR resulted in first a temporary suspension which in September 1987 became permanent after the Attorney

General reviewed the legality of the rebate program. In essence the Attorney General confirmed DOR lacked the statutory authority to rebate marine fuel taxes. Without the rebate program significant economic inequities resurfaced which penalized the shore-based fuel supplier and American flag vessels either operating in or re-entering state waters.

II. THE PROBLEM

Fundamentally, Alaska now has a marine fuel tax structure which tends to discourage the high-seas fleet from entering Alaska waters and simultaneously increases the operating expenses of the Alaskan based fishing operators to a level above their foreign competitors. Additionally, there is substantial basis for asserting that the tax generates an economic disincentive to establish shore-based fishing operations in Alaska. In essence this particular tax discourages the high seas fleet operators from calling on Alaska ports as they then lose the tax exempt status on fuel purchased beyond the three-mile limit. The net effect is that Alaskan ports and the Alaskan economy lose the benefits generated through the harvestation of our fish resources. These benefits include food purchases, crew changes, port berthing fees, tug assists, pilotage, repairs, maintenance supplies, personal purchases and in general all of the expenses vessels incur when calling on one of our coastal communities.

III. DISCUSSION

While Alaska continues to be in the throes of a devastating recession there is a bright light on our economic horizon. The shining star is the most traditional of Alaska's basic resources, commercial fishing, and specifically the bottom and intermediate trawl fishery. There is a consensus among those knowledgeable of the industry that if this resource is properly managed and regulated to the best interests of Americans this fishery will become the very mainstay of the seafood industry.

The Cowper Administration is undertaking an enormous effort to Alaskanize the bottom fish industry. The Governor has appointed a fisheries mini-cabinet to draft a fisheries policy which consists of goals and strategies for developing Alaska's seafood industry. One of the specific charges to this group is to examine and identify tax impediments to attracting shore-side processing. Unquestionably, the suspension of the rebate program has created an impediment and accordingly appears to be inconsistent with the Cowper Administrations commitment to the industry.

The North Pacific Fisheries Management Council is gradually phasing in a larger percentage of their recommended guide line harvest allocations to American fishing and processing firms. Organized groups such as the Southwest Municipal Conference are working diligently to encourage more shore based participation so Alaska can share in the economic benefits derived from the fish resources within our 200-mile Exclusive Economic Zone (EEZ).

The domestic fishing industry has been, historically, under capitalized and, of consequence, the additional fuel cost generated by the marine fuel tax may be a determining factor in decisions such as shore based plants vs floater and whether or not to base, re-supply and even repair vessels in Alaska. For example, the total amount of fuel consumed in U.S. waters by foreign flag vessels is estimated to be 160 million gallons annually. Purchases of fuel by these vessels operating within our waters from shore side fuel suppliers is estimated to be less than 10% or 16 million gallons. At sea refueling is a common practice not only for foreign flag vessels but also for American joint venture trawlers.

IV. POSSIBLE SOLUTIONS

There are two obvious solutions to the problem.

One is to repeal the exemption on fuel purchased in Alaska and consumed exclusively in international waters. This policy would subject all

Page Four

purchases of fuel in Alaska to the fuel tax and place the domestic based fishing vessels and the high seas bunkering operator on equal terms. Under the aforementioned situation we are assuming the high seas foreign flag refueler purchased fuel from an Alaskan based supplier rather than importing the fuel from a foreign country or transporting the fuel from another state. In reality, this approach would accomplish very little in terms of encouraging either the domestic or foreign consumer to utilize shoreside fuel suppliers.

The second option is to simply reinstate the rebate program. This procedure requires the legislature to enact a statute specifically authorizing DOR to implement a rebate system. Based on reasonable assumptions this approach would result in approximately 1.5 to 2 million dollars less revenue to the state treasury. The potential loss in revenue is a bonafide concern, however, this loss may well be more than offset by increased economic benefits associated with attracting the fishing industry shoreside.

The latter approach is consistent with the efforts of the Cowper Administration, North Pacific Fisheries Management Council, Southwest Municipal Conference and Alaska businesses all of who are attempting to create a positive business environment in Alaska.

For the record, I am Rep. Bette Cato, prime sponsor of HB 401.

HB 401 has two purposes. It reinstates a marine fuel tax refund program that existed from 1984 through early 1987, and it clarifies the fact that refunds made under the previous program were legal, and legal action may not be taken to recover them.

The marine fuel tax refund program allows a purchaser of marine fuel to apply for a tax refund on the marine fuel consumed outside of state waters.

The refund program provides two distinct benefits.

First of all, it attracts more commercial fishing vessels to Alaska's coastal communities to not only purchase fuel, but also to purchase groceries, clothing, minor repair work, and other products and services. It would help the economies of our coastal communities.

Secondly, it establishes a more equitable tax structure that will help our Alaskan shore based fuel suppliers compete with high seas suppliers. High seas fuel suppliers do not pay the tax because they operate outside state waters. In fact, under current law and regulations, a high seas fuel supplier can come into port, purchase tax-exempt marine fuel, take it outside the state's three mile limit and then sell it without the tax. State regulations provide this exemption apparently because of the U.S. Constitution's commerce clause. This creates a situation where people who fish who purchase their fuel in

port, from Alaskan sources, end up paying the tax, while people who fish who purchase their fuel from high seas fuel suppliers that operate beyond the three mile limit do not.

Alaska's fishing industry has changed with the development of long distance bottom fishing fleet. This fleet works mainly in areas outside the jurisdiction and control of the state of Alaska. Alaska's challenge is to attract this fleet to do business in Alaskan ports, and to allow the suppliers of products and services in our Alaskan ports, such as fuel suppliers, to operate effectively against their competitors outside the three mile limit. HB 401 establishes a tax structure which will help accomplish that goal.

Mt. Dale Lindsay, the president of Harbor Enterprises, Inc., is here today. He can provide the committee with specific details about the problem this legislation addresses.

Thank you.



PETRO MARINE SERVICES

A HARBOR ENTERPRISES COMPANY

P.O. Box 389 • Seward, Alaska 99664 • (907) 224-3190

Anchorage
(907) 278-7586

Nikiski
(907) 776-8000

Kodiak
(907) 486-3421

Dutch Harbor
(907) 581-1350

TESTIMONY OF DALE R. LINDSEY
HARBOR ENTERPRISES, INC.
HOUSE BILL 401
HOUSE TRANSPORTATION COMMITTEE

GOOD AFTERNOON. MY NAME IS DALE LINDSEY AND I AM THE PRESIDENT OF HARBOR ENTERPRISES, INC. TO PROVIDE YOU WITH A BIT OF BACKGROUND ON THE COMPANY, MYSELF AND MY SUPPORT OF HOUSE BILL 401, I OFFER THE FOLLOWING INFORMATION FOR YOUR ASSIMILATION.

HARBOR ENTERPRISES, INC. (HEI) WAS FOUNDED IN SEWARD IN 1936 AND IS ONE OF THE OLDEST PETROLEUM MARKETING FIRMS IN ALASKA. OUR COMPANY CONTINUES TO BASE ITS OPERATIONS IN SEWARD. WE PRESENTLY HAVE BULK PLANT FACILITIES LOCATED AT NIKISKI, WHERE WE HAVE THREE EMPLOYEES; KODIAK, 6 EMPLOYEES; DUTCH HARBOR, 11 EMPLOYEES; AND SEWARD, 15 EMPLOYEES. IN ADDITION, WE HAVE MARKETING OFFICES LOCATED IN ANCHORAGE, 4 EMPLOYEES AND SEATTLE, 1 EMPLOYEE. WE ALSO DISTRIBUTE PETROLEUM PRODUCTS TO COASTAL COMMUNITIES LOCATED IN SOUTHCENTRAL ALASKA, KODIAK ISLAND, ALASKA PENINSULA, ALEUTIANS AND BERING SEA VIA BARGE. IN A POLL CONDUCTED BY ALASKA BUSINESS MONTHLY, WE RANKED 14TH IN ALASKA IN TERMS OF FISCAL 1986-87 GROSS SALES REVENUE. HEI IS ALSO THE LARGEST ALASKAN OWNED AND ALASKAN BASED FUEL DISTRIBUTOR.

AT THE PERSONAL LEVEL, I WAS BORN AND RAISED IN SEWARD AS WAS MY WIFE, CAROL AND OUR FOUR CHILDREN. AFTER A BRIEF STINT AS A LOCOMOTIVE FIREMAN AND ENGINEER WITH THE ALASKA RAILROAD, I



PAGE TWO
ACQUIRED A HEATING FUEL DISTRIBUTORSHIP IN SEWARD IN 1959 AND HAVE OVERSEEN ITS GROWTH AND EXPANDED OPERATIONS SINCE. IN ADDITION TO HEI, I OWN TWO CRAB FISHING VESSELS WHICH CURRENTLY OPERATE OUT OF DUTCH HARBOR. LET ME ASSURE YOU THAT ALTHOUGH I AM BOTH A SELLER OF FUEL AND A CONSUMER OF FUEL, MY PREFERENCE LIES IN SELLING THE STUFF RATHER THAN IN BUYING IT! IRRESPECTIVE OF WHICH SIDE OF THE FENCE THAT PERIODICALLY WE FIND OURSELVES ON, WE ARE WITHOUT QUESTION ALASKAN AND WE ARE QUITE PROUD OF THIS FACT.

HEI MARKETS AND OPERATES AS PETRO MARINE SERVICES. AS OUR TRADE NAME INDICATES WE ARE A MARINE ORIENTED COMPANY. ACCORDINGLY, WE FOCUS A GOOD DEAL OF OUR MARKETING EFFORT TOWARD SERVING THE MARINE INDUSTRY IN ALASKA OF WHICH A MAJORITY IS COMMERCIAL FISHING RELATED AND THIS BRINGS US TO THE REASON THAT I AM APPEARING BEFORE YOU TODAY.

IN JUNE 1985 I CAME TO JUNEAU TO DISCUSS SPECIFIC INEQUITIES IN THE STATE'S MOTOR FUEL TAX REGULATIONS WITH OFFICIALS IN THE DEPARTMENT OF REVENUE. THE CRUX OF THE ISSUE THEN AND NOW AGAIN, IS THE \$0.05 (FIVE CENTS) PER GALLON TAX CHARGED ON SALES OF MOTOR FUEL FOR MARINE USE CONSUMPTION. WHAT PROMPTED THESE DISCUSSIONS WAS A PROVISION IN THE STATUTES WHICH ALLOWED FOREIGN FLAG TANKERS TO PURCHASE FUEL FROM ALASKAN REFINERS EXEMPT ALL TAXES. THESE FOREIGN TANKER OPERATORS WOULD THEN TRANSPORT THIS FUEL BEYOND THE STATE'S THREE-MILE JURISDICTION AND SELL TO FOREIGN AND DOMESTIC FISHING VESSELS EX THE FIVE CENTS MARINE FUEL TAX WHICH WE SHORESIDE DISTRIBUTORS WERE SUBJECT TO. WHILE I WAS UNSUCCESSFUL IN CONVINCING REVENUE OFFICIALS THAT THEY



PAGE THREE

OUGHT TO EITHER CLOSE THE EXEMPTION TO THE FOREIGNERS OR REPEAL THE TAX ALTOGETHER, THEY DID MENTION THAT A REFUND WOULD BE ALLOWED ON TAXED FUEL PURCHASED WITHIN ALASKA BUT CONSUMED IN WATERS OUTSIDE THE STATE'S THREE-MILE LIMIT. IN ESSENCE THE REBATE PROCEDURE REPRESENTED A SIGNIFICANT DEPARTURE FROM THE DEPARTMENT OF REVENUE'S TRADITIONAL POSITION THAT THE PLACE OF DELIVERY TAKES TAX PRECEDENCE OVER WHERE THE FUEL IS CONSUMED. THE NET RESULT OF THIS DECISION WAS THAT APPROXIMATELY 95% OF THE TAX REVENUE GENERATED FROM FUEL SOLD TO THE HIGH SEAS FLEET OPERATING IN WATERS OUTSIDE ALASKA'S JURISDICTION WAS REFUNDED BETWEEN JANUARY 1, 1985 AND MAY 1, 1987.

FOLLOWING A DEPARTMENT OF REVENUE INTERNAL POLICY REVIEW IN THE SPRING OF 1987, THE REBATE PROGRAM WAS PLACED IN TEMPORARY SUSPENSION. THIS WAS FOLLOWED WITH PERMANENT SUSPENSION IN SEPTEMBER 1987 AFTER A LEGAL OPINION BY THE ATTORNEY GENERAL STATED DEPARTMENT OF REVENUE HAD EXCEEDED THEIR STATUTORY AUTHORITY WHEN THEY IMPLEMENTED THE REBATE PROGRAM.

UNFORTUNATELY, BY VIRTUE OF THE AFOREMENTIONED OPINIONS, THE INEQUITIES TO THE SHORESIDE FUEL DISTRIBUTOR WHICH EXISTED PRIOR TO JUNE 4, 1985 ARE PREVALENT ONCE MORE. IN VIEW OF THIS FACT MY RECOMMENDATION IS THAT THIS COMMITTEE SUPPORT HOUSE BILL 401 AS DRAFTED AND INTRODUCED BY REPRESENTATIVES CATO, NAVARRE AND SWACKHAMMER. THE IMPACT OF THE MARINE FUEL TAX NOW FALLS DISPROPORTIONATELY ON ALASKA FISHERMEN AND OTHER FISHERMEN WHO CHOOSE TO DO BUSINESS WITH ALASKA SHORESIDE SUPPLIERS. I WOULD LIKE TO UNDERSCORE THIS POINT. THOSE WHO PARTICIPATE IN THE ALASKAN ECONOMY BY HOME-PORTING HERE OR OPERATING IN ALASKA



PAGE FOUR

WATERS, BEAR THE BURDEN OF THE TAX. WITHOUT QUESTION, THE REBATE PROGRAM TENDED TO PROVIDE SOME RELIEF FOR FISHERMEN WHO PATRONIZED ALASKA SHORESIDE BUSINESSES, BUT HAD TO COMPETE WITH THE HIGH SEAS OPERATORS. THE CURRENT SITUATION--WITHOUT REBATES--TENDS TO PENALIZE THOSE FISHING VENTURES FROM WHICH ALASKANS BENEFIT THE MOST. IT TENDS TO INCREASE THE COSTS ASSOCIATED WITH DOING BUSINESS IN ALASKA.

IT SHOULD BE KEPT IN MIND THAT THE REBATE PROGRAM WAS SUSPENDED BECAUSE OF UNANTICIPATED LEGAL CONSIDERATIONS...NOT BECAUSE IT WAS POOR PUBLIC POLICY OR LACKED MERIT. IN FACT, TO THE BEST OF MY KNOWLEDGE, THE POLICY CONSIDERATIONS WHICH PROMPTED THE DEPARTMENT OF REVENUE TO BEGIN THE REBATES REMAIN THE SAME NOW AS THEY WERE IN 1985.

I HAVE DISTRIBUTED TO YOU, WITH MY WRITTEN TESTIMONY, A LIST OF PRACTICAL AND ECONOMIC REASONS THAT THE REBATE PROGRAM CONTINUES TO BE SOUND PUBLIC POLICY. IT CERTAINLY SEEMS CONSISTENT WITH THE MANY EFFORTS TO "ALASKANIZE" THE OFF-SHORE FISHERY. FOR EXAMPLE, THE LEGISLATURE IS NOW CONSIDERING SJR 51 AND HJR 45. THESE RESOLUTIONS EMBODY IMPORTANT POLICY STATEMENTS URGING THE NORTH PACIFIC FISHERIES MANAGEMENT COUNCIL TO ADOPT REQUIREMENTS THAT ALASKAN SHORE-SIDE SUPPORT SERVICES BE UTILIZED.

GOVERNOR COWPER HAS APPOINTED A FISHERIES MINI-CABINET TO ENSURE MAXIMUM PARTICIPATION BY ALASKANS IN THE SEAFOOD INDUSTRY. THIS GROUP WILL BE STUDYING IMPEDIMENTS TO SHORE-SIDE INFRASTRUCTURE DEVELOPMENT, INCLUDING STATE AND LOCAL TAX POLICY.

THE DEPARTMENT OF COMMERCE STUDY OF BERING SEA SUPPORT



PAGE FIVE

SERVICES WAS RELEASED LAST FALL. IT NOTES THAT THE MANNER IN WHICH THE OFFSHORE FISHERIES ARE BEING DEVELOPED IS NOT MEETING THE EXPECTATIONS OF MANY ALASKANS. I QUOTE:

"AMERICANIZATION FROM FOREIGN TO DOMESTIC PRODUCTION IS TAKING PLACE AT A PACE NO ONE ENVISIONED, LARGELY THROUGH EXPANSION AT OVER-THE-SIDE JOINT VENTURES AND FACTORY TRAWL HARVESTS. THIS HAS BEEN A FRUSTRATING EXPERIENCE FOR ALASKANS BECAUSE MUCH OF THIS ECONOMIC ACTIVITY LEAVES ONLY MINIMAL IN-STATE ECONOMIC BENEFIT."

THE STUDY ALSO CONCLUDES THAT AVAILABILITY OF FUEL IS THE SINGLE MOST IMPORTANT REASON FOR CHOICE OF PORT. IT ALSO FOUND THAT OWNERS DID NOT HESITATE TO COMPARE AT-SEA PRICES WITH THOSE SHORESIDE IN DUTCH HARBOR. I HAVE ALSO FOUND THIS TO BE TRUE. FOR EXAMPLE, LAST YEAR (WHILE THE REBATE PROGRAM WAS IN EFFECT) THE HIGH-SEAS PRICE FOR #2 MARINE DIESEL WAS \$0.71 PER GALLON. WE SOLD FUEL IN DUTCH HARBOR FOR \$0.69 PER GALLON. WITH THE MARINE FUEL TAX OF \$0.05 PER GALLON WE HAVE TO CHARGE \$0.74; HOWEVER, AS LONG AS THE REBATE PROGRAM WAS AVAILABLE OUR COMPANY COULD BE MORE COMPETITIVE, WHICH IS CRUCIAL TO OUR ECONOMIC SURVIVAL.

I APPRECIATE HAVING THIS OPPORTUNITY TO PRESENT MY VIEWS TO THE HOUSE TRANSPORTATION COMMITTEE. ONCE AGAIN, I RESPECTFULLY URGE YOUR SUPPORT OF THIS LEGISLATION.

I WOULD BE PLEASED TO ANSWER ANY QUESTIONS THAT YOU MAY HAVE CONCERNING MY POSITION AS THIS RELATES TO HOUSE BILL 401.



PETRO MARINE SERVICES

A HARBOR ENTERPRISES COMPANY

P.O. Box 389 • Seward, Alaska 99664 • (907) 224-3190

Anchorage
(907) 278-7586

Nikiski
(907) 776-8000

Kodiak
(907) 486-3421

Dutch Harbor
(907) 581-1350

WHY THE REBATE PROGRAM MAKES SENSE IS GOOD PUBLIC POLICY AND SHOULD BE REINSTATED.

- I. THE REBATE PROGRAM REMOVES A SIGNIFICANT COMPETITIVE DISADVANTAGE EXPERIENCED BY ALASKA FISHERMEN AND FISHERMEN DOING BUSINESS WITH ALASKA SHORE-SIDE SUPPLIERS.
 - A. HIGH SEAS FUEL SUPPLIERS ARE NOT SUBJECT TO THE TAX...ONLY ALASKA-BASED FISHERMEN AND USERS OF ALASKA SUPPLIERS PAY THE TAX, WHICH TENDS TO INCREASE THEIR EXPENSES COMPARED TO EXCLUSIVELY HIGH SEAS FISHING ENTERPRISES.

- II. BECAUSE THE REBATE PROGRAM TENDS TO EQUALIZE THE COSTS OF AT SEA FUEL WITH SHORE-SIDE FUEL, IT REMOVES A DISINCENTIVE FOR DOING BUSINESS WITH ALASKA SHORE-SIDE SUPPLIERS OF FUEL, SHIP REPAIRS, PROCESSING, TRANSPORTATION, AND COLD STORAGE (SEE SJR 51).
 - A. LOWER SHORE-SIDE FUEL COSTS RESULTING FROM REBATES MAY CREATE GREATER OPPORTUNITIES FOR ALASKA BUSINESSES, EMPLOYMENT, IMPROVED INFRASTRUCTURE AND COMMUNITY TAX REVENUES.

- III. PASSAGE OF SB366 AND HB401 SHOULD NOT BE CONSIDERED AS "SPECIAL INTEREST LEGISLATION". ALL END-USE CONSUMERS AND SHORESIDE FUEL DISTRIBUTORS WILL BENEFIT ALONG WITH THE STATE BY VIRTUE OF ATTRACTING SIGNIFICANTLY MORE FISH PROCESSING AND RAW FISH LANDING ACTIVITY TO SHORE WHICH, IN TURN, WILL ENHANCE SERVICE AND SUPPLY BUSINESSES. IF A REVENUE LOSS SITUATION DID NOT EXIST THE REBATE PROGRAM BILL WOULD ESSENTIALLY BE NON-ISSUE LEGISLATION.

- IV. THE REBATE PROGRAM MAY HELP MAKE ALASKA PROCESSED FISH PRODUCTS MORE COMPETITIVE BY REMOVING AN EXPENSE WHICH HIGH SEAS OPERATORS DO NOT NECESSARILY INCUR.

- V. THE REBATE PROGRAM SHOULD HELP ENCOURAGE DEVELOPMENT OF AN ALASKA-BASED CATCHER-PROCESSOR FLEET AND CAPTURE A LARGER PORTION OF THE OFF-SHORE RESOURCE.
 - A. BRINGING THE ON-SHORE FUEL COSTS INTO A BETTER COMPETITIVE POSITION WITH HIGH SEAS COSTS WILL HELP



ALASKA COMMUNITIES SECURE HOME-PORTING OF CATCH-PROCESSORS. (FOR EXAMPLE, THE CITY OF HOMER'S EFFORTS TO SECURE HOME-PORTING OF "OCEAN TRAWL" VESSELS.)

- VI. THE REBATE PROGRAM IS CONSISTENT WITH THE GOALS OF THE COWPER ADMINISTRATION, THE ALASKA LEGISLATURE, THE FISHING INDUSTRY, THE ALASKA BUSINESS COMMUNITY, AND MUNICIPAL GOVERNMENTS.
- A. GOVERNOR COWPER HAS APPOINTED A FISHERIES MINI-CABINET TO FORMULATE A FISHERIES DEVELOPMENT POLICY± DESIGNED TO MAXIMIZE ALASKA OWNERSHIP AND EMPLOYMENT IN THE SEAFOOD INDUSTRY AND TO PROMOTE SUPPORT SERVICE DEVELOPMENT IN ALASKA COMMUNITIES. IMPORTANT ASPECTS OF THIS UNDERTAKING INCLUDE IDENTIFICATION OF CONSTRAINTS TO SHORE-SIDE INFRASTRUCTURE DEVELOPMENT AND POTENTIAL METHODS TO MITIGATE THE NEGATIVE ASPECTS OF STATE AND LOCAL TAX POLICY. THE REBATE PROGRAM IS CONSISTENT WITH THESE OBJECTIVES.
- B. THE LEGISLATURE'S STATED POLICY IS SIMILAR IF NOT IDENTICAL TO THE EXECUTIVE BRANCH. IN 1987, THE LEGISLATURE PASSED A FISHERIES BUSINESS TAX CREDIT PROGRAM DESIGNED TO FACILITATE GREATER ON-SHORE PROCESSING CAPACITY. CURRENTLY PENDING BEFORE THE LEGISLATURE ARE SJR 51 AND HJR 45, WHICH ARE IMPORTANT POLICY STATEMENTS RELATIVE TO INCREASING ALASKA'S PARTICIPATION IN THE ECONOMIC BENEFITS OF OFF-SHORE FISHING ACTIVITIES.
- C. THE NORTH PACIFIC FISHERIES MANAGEMENT COUNCIL IS REVIEWING A RECENT PROPOSAL, SPONSORED BY THE SOUTHWEST MUNICIPAL CONFERENCE, TO REQUIRE USE OF SHORE-SIDE FUEL SUPPLIERS, PROCESSORS, TRANSPORTATION COMPANIES AND THE LIKE.
- D. THE REBATE PROGRAM COMPLIMENTS ALL OF THESE EFFORTS AND SHOULD BE REINSTATED IN LAW.

FOOTNOTES;

1. IN 1986, 500 FOREIGN FLAG VESSELS SPENT 34,000 VESSEL DAYS IN U.S. EEZ, BUT USED ONLY MARGINAL AMOUNTS OF U.S. SHIPPING CAPACITY AND OTHER SUPPORT SERVICES (SJR 51 AND HJR 45.)
2. THE AMOUNT OF BULK FUEL CONSUMED IN U.S. EEZ BY FOREIGN FLEETS IS ESTIMATED TO EXCEED 160 MILLION GALLONS ANNUALLY. PURCHASES OF FUEL BY FOREIGN VESSELS FROM U.S. FIRMS IS ESTIMATED TO BE LESS THAN 10 PERCENT OF THE FUEL CONSUMED. AT-SEA REFUELING IS A COMMON PRACTICE NOT ONLY FOR FOREIGN OPERATORS BUT FOR U.S. JOINT VENTURE TRAWLERS (SOUTHWEST



MUNICIPAL CONFERENCE PROPOSAL TO NPFMC).

3. THE ALASKA DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT, DIVISION OF BUSINESS DEVELOPMENT, RECENTLY PUBLISHED A STUDY OF BERING SEA SUPPORT SERVICES FOR 1985. IT REACHED THE FOLLOWING CONCLUSIONS.
 - A. "THE MOST IMPORTANT REASONS FOR CHOICE OF PORT ARE, IN ORDER, FUEL, VESSEL MAINTENANCE AND REPAIR FACILITIES."
 - B. "PORTS INTERESTED IN ATTRACTING THESE SHIPS MUST HAVE SUBSTANTIAL FUEL AVAILABLE AND REPAIR FACILITIES, AS WELL."
 - C. "OWNERS TEND TO COMPARE AT-SEA FUEL PRICES WITH THOSE IN DUTCH HARBOR."



Official Business

COMMITTEE:

House Transportation Committee

DATE:

February 8, 1988

SIGN-IN

Subject of meeting:

*HCR 34: Relating to tourist-oriented signs

*HB 401: Rebates for Motor Fuel Taxes

*HCR 35: Commending the Alaska Marine Highway

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

| NAME | ADDRESS | PHONE | REPRESENTING | DO YOU WANT TO TESTIFY? |
|-----------------|--|----------------|---|-------------------------|
| Carl Meyer | P.O. Box 5A Juneau | 465-2343 | Dept. of Revenue | Yes HB 401 |
| Dale Lindsey | P.O. Box 389 Seward | 224-3190 | Marine Enterprises Inc | HB 401 Yes |
| DAVIN McCLUNE | 2033 SIXTH AVE. #770 SEATTLE WA 98121 ? | (206) 448-7588 | DEPT. OF REVENUE | NO |
| KEITH GERKEN | Box 2 JUNEAU | 465-3900 | DOT + PF | YES |
| Rep. Ron Larson | Box V Juneau | | will be here as soon as finance has a quorum | HJR 34 Yes |
| Greg Rubin | Here for 3 more mos | | | HCR 35 |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

* indicates first public hearing

FEB 11 1988

February 9, 1988

Mr. Bob Evans
Legislative Liaison
Office of the Governor
P. O. Box A
Juneau, Alaska 99811

Dear BOB:

This is to follow up our recent conversation regarding watercraft fuel taxation issues now under consideration by the Legislature.

There are two separate matters of concern which have shifted back and forth from the Administration to the Legislature due to 1987 AG opinions:

- (1) Does the State have the authority to tax fuel purchased out-of-state, but consumed in Alaska? As a matter of policy, should the State seek statutory authority if it does not now possess it?
- (2) Does the State have the authority to issue rebates of the State fuel tax for fuel purchased in Alaska but consumed out-of-Alaska? If not, is this a good policy?

With respect to fuel purchased out-of-State, the State has historically taken the position that no tax should be levied on fuel purchased out-of-State but consumed in-State. By "historically", I mean from territorial days until 1985, when the Department of Revenue used creativity to interpret its statutory authority to permit the collection of such a tax. Various marine carriers filed suit against the Department in 1985 regarding its authority to levy the tax by regulation, and won a procedural

Mr. Bob Evans
Office of the Governor
February 9, 1988
Page -2-

victory last year. The AG's office then opined that the Department should not attempt to reimpose the tax without specific legislative authorization. (Before the Ag's opinion, two bills had been introduced (SB 100/HB 280) to clarify the statutes to make it clear that the State did not have the authority to levy the tax.)

This issue has been resting peacefully until recent legislation (SB 366/HB 401) was introduced dealing with rebates for fuel purchased in-State, but consumed out-of-State. Historically, the State has been granting these rebates, but discontinued them last year when the AG's office told Revenue it lacked the statutory authority to do so. In the first hearing on SB 366, the Department of Revenue suggested to the Senate Resources Committee that it would support recontinuation of the rebates if the Legislature would give it the specific authority to tax out-of-State fuel. In a subsequent hearing on HB 401, the Department indicated it was drafting a bill to accomplish this.

Before the Governor's office makes a decision on whether to introduce the Department of Revenue's proposed legislation, I urge you to consider the following arguments in opposition to the concept:

- (1) The tax would add a "surcharge" to virtually all food and basic goods transported by water to Alaska. All the marine transportation companies would be forced to pass this new charge along to the "customer", which is all of us.
- (2) The tax could not be fairly applied, since it would catch major carriers, but miss charter operations, private vessels, etc. The State has no way of monitoring such trips to Alaska, so it would not be likely to collect the tax.
- (3) The same tax has also been considered by Revenue for aviation fuel purchased for aircraft flying into Alaska, as the same logic would apply to the State's tax jurisdiction over activities in air space as in the water. Such a tax would run counter to DOT and CED efforts to attract more air traffic into Alaska's major airports, particularly Anchorage.
- (4) There is no clear relationship between the proposed tax and public services rendered to those being taxed. The marine carriers operate to and from private facilities, and receive no State services that I can think of.

Mr. Bob Evans
Office of the Governor
February 9, 1988
Page -3-

On the other hand, providing a rebate for fuel purchased in-State but consumed out-of-State does make sense, because it encourages more business for shore based facilities which would otherwise go to offshore supply ships. This incentive for attracting business is widely used in other coastal states. Those states (i.e., Washington) which offer rebates, do not generally collect taxes on fuel purchased in neighboring states but consumed en route to their home ports. This would clearly serve as a dis-incentive to interstate commerce and diminish the impact of their port marketing programs.

For these reasons, I believe that the Administration should not link the two issues (i.e., the revenue from one pays the cost of the other) because they are separate and distinct issues. Further, I urge you to maintain the State's historic position on fuel taxation for sound public policy reasons.

Sincerely,

/s/
Reed R. Stoops

RRS:sd/rs.81

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

P.O. BOX 5
JUNEAU, ALASKA 99811-0400
PHONE: (907) 465-2300

February 12, 1988

The Honorable Bette Cato
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Representative Cato:

At the recent hearing on HB 401, the Transportation committee requested additional information from this Department.

(1) Is there documentation which substantiates the difference in fuel prices between shorebased and floating/foreign distributors?

Foreign sellers are not required to file tax returns with this Department. We have unconfirmed reports that the offshore price is only a few cents per gallon cheaper than the onshore price.

(2) Does the watercraft tax receipts correspond with the docks and harbor appropriation levels?

The watercraft motor fuel tax presently generates revenues of \$5 million per year. Correspondingly, the following budget request items relating to harbors and docks will exceed the revenue estimates:

| | |
|--|--|
| St. Paul Island - Completion of harbor project | \$4 million |
| Governor's Jobs Bill - Harbor projects | 2 million |
| Annual Debt Service on existing facilities | \$4.9 million ('87) \$4.1 million ('88) |

(3) What is the breakout of refunds (old program) by (a) country (b) state?

Representative Cato
February 12, 1988
Page 2

Marine Fuel Tax Refunds

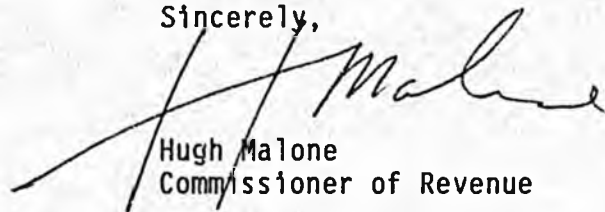
\$4,229,375.06 total refunded 18 month period

| | | |
|------------|------------|-------|
| Alaska | 94 | - 14% |
| Washington | 447 | |
| California | 27 | |
| Oregon | 28 | |
| Texas | 7 | |
| Ohio | 11 | - 86% |
| Maryland | 2 | |
| Virginia | 1 | |
| Canada | 22 | |
| Japan | 4 | |
| England | <u>1</u> | |
| | <u>644</u> | |

(4) Do the 86% nonresident figure represent the number of claims or the dollar amount?

85% of the claims were filed by nonresident businesses.

Sincerely,



Hugh Malone
Commissioner of Revenue

HM:SEK:sp
88-39

*Journal
Empire*

TUESDAY, JANUARY 26, 1988

Marine fuel tax rebate pushed

By SUE CROSS

THE ASSOCIATED PRESS

A Kodiak senator backed by the fishing industry is launching a drive to bring back Alaska's marine fuel tax rebate, a program that returned about \$2 million a year to fishermen before it was halted in September.

Sen. Fred Zharoff, D-Kodiak, says the measure he introduced Monday (SB366) would boost business in coastal towns that supply the Gulf of Alaska's international fishing fleet.

"When a vessel comes in to purchase fuel, it buys more than fuel — also groceries, clothing, etcetera," said Zharoff, a fisherman himself. "If we can offer this incentive, we'll be able to offer not only fuel, but other services as well."

The bill would rebate Alaska's 5-cents-per-gallon marine fuel tax for vessels that burn the fuel more than three miles offshore, outside Alaska's territorial limit.

Revenue officials say the state may not be able to afford the rebate anymore.

It was suspended in September and subsequently dropped.