

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
6203 HOUSE TRANSPORTATION

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STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CSSB 366 (Finan
PUBLISH DATE: 3/21/90

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Dalton Highway maintenance
and access
Sponsor: Senator Frank
Requestor: Senate Finance

Agency Affected: Public Safety
BRU: Alaska State Troopers and
Fish and Wildlife Protection
Components: Detachments (AST) and
Enforcement (FWP)

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	141.93	141.93	141.93	141.93	141.93	141.93
TRAVEL	3.00	3.00	3.00	3.00	3.00	3.00
CONTRACTUAL	71.88	71.88	71.88	71.88	71.88	71.88
SUPPLIES	4.50	4.50	4.50	4.50	4.50	4.50
EQUIPMENT	51.60	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	272.91	221.31	221.31	221.31	221.31	221.31

CAPITAL	70.0	0	0	0	0	0
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	342.91	221.31	221.31	221.31	221.31	221.31
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	342.91	221.31	221.31	221.31	221.31	221.31

POSITIONS:

FULL-TIME						
PART-TIME	3	3	3	3	3	3
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Senator Rick Uehling, Co-chairman
Division: Senate Finance Committee

Phone: 465-4821
Date: 3/20/90

Approved by Commissioner: _____
Agency: _____

Date: _____

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

SB 366 - FISCAL NOTE BACKUP
DEPARTMENT OF PUBLIC SAFETY - CAPITAL

CAPITAL:

2 X Mobile Homes	\$40.0
Site Preparation	10.0
Transportation & Installation	20.0
	<hr/>
	\$70.0

The Mobile Homes would be utilized to house the Alaska State Trooper and Fish & Wildlife Protection Officer to be stationed at Coldfoot. It is intended that the Department of Public Safety locate the trailers in the Department of Transportation & Public Facilities compound at Coldfoot including hooking the units into the DOT/PF utility system.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Act relating to the Dalton Highway
Sponsor: Senator Frank
Requestor: Senate Finance

Agency Affected: DOTPF
BRU: Northern Region Interior Maintenance and Operat:
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	20.0	20.0	20.0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	20.0	20.0	20.0	20.0	0	0

CAPITAL	92.0	0	0	0	0	0
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REVENUE						
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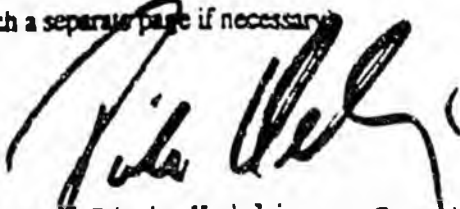
FUNDING: (Thousands of Dollars)

GENERAL FUND	112.0	20.0	20.0	20.0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	92.0	20.0	20.0	20.0	0	0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)



Prepared by: Senator Rick Uehling, Co-chairman
Division: Senate Finance Committee

Phone: 465-4821
Date: 3/20/90

Approved by Commissioner: _____
Agency: _____

Date: _____

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

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Act relating to the Dalton Highway
 Sponsor: Senator Frank
 Requestor: Senate Finance

Agency Affected: Administration
 BRU: Information Services
 Components: Telecommunications

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
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

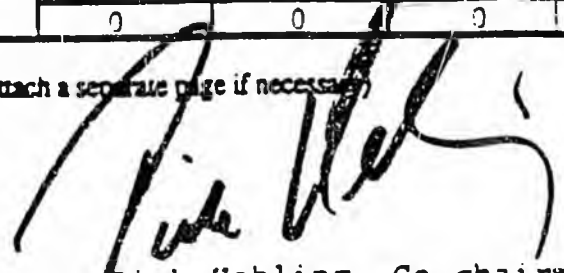
FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)



Prepared by: Senator Rick Uehling, Co-chairman
 Division: Senate Finance Committee

Phone: 465-4821
 Date: 3/20/90

Approved by Commissioner: _____
 Agency: _____

Date: _____

Distribution (by preparer):

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

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act Relating to the
Dalton Highway
Sponsor: Frank
Requestor: Senate State Affairs

Agency Affected: Fish and Game
BRU: Wildlife Conservation
Components: Wildlife Conservation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	9.9	10.4	10.9	11.4	11.9	12.4
TRAVEL	2.0	2.0	2.2	2.2	2.4	2.4
CONTRACTUAL						
SUPPLIES	3.0	3.0	3.0	3.0	3.0	3.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	14.9	15.4	16.1	16.6	17.3	17.8

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	14.9	15.4	16.1	16.6	17.3	17.8
FEDERAL FUNDS						
OTHER						
TOTAL	14.9	15.4	16.1	16.6	17.3	17.8

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

A Fish and Wildlife Technician III will be hired for 3 months to monitor hunting activities & assist with enforcement of regulations, especially relating to off-road vehicle use. No FY 90 costs.

Prepared by: W. Bruce Dineford Phone: 465-4140
Division: Wildlife Conservation Date: 1-29-90
Approved by Commissioner: [Signature] Date: Jan 31, 1990
Agency: ADF & G

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



STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Wildlife Conservation	BILL NUMBER SB 366	SPONSOR Senator Frank
SHORT TITLE OF BILL An Act Relating to the Dalton Highway			
DEPARTMENT POSITION Neutral			
PREPARED BY Bruce Dinneford	DATE 1/29/90	COMMISSIONER'S SIGNATURE <i>Ramon G. Willey</i>	DATE 1/31/90

SUMMARY

OTHER AGENCIES AFFECTED BY BILL DOTPF & DPS	CONSTITUENT GROUP(S) AFFECTED BY BILL All citizens of Alaska
ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL

FISCAL IMPACT NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

Opening the Dalton Highway for public use will affect the Department of Fish and Game and may affect wildlife management in Game Management Unit (GMU) 26B. At present the road is closed to the public north of Disaster Creek except for commercial purposes. Some hunters ignore the road closure at the seasonally operated (1 July--30 September) check station at Chandalar Camp and travel on to hunt in GMU 26B. The number of hunters doing this

ANALYSIS OF BILL/PROGRAM EFFECTS

Unless effective enforcement of existing laws and regulations can be ensured the Department of Fish and Game has two important concerns relative to opening the highway. First, the illegal use of off-road vehicles can be expected to increase. Off-road vehicle use will cause habitat damage in this sensitive environment where ice-rich soils and permafrost near the ground surface are common. Increased soil erosion and water pollution could occur. Additional monitoring and law enforcement will be required by the Department of Fish and Game, and Public Safety. The Division of Wildlife Conservation would need additional funds to monitor hunters and use of off-road vehicles during late summer and fall. Second, the wildlife resources in the area will likely receive increased use by hunters. It may be necessary for the Board of Game to pass more restrictive big game hunting regulations. Additional wildlife surveys would be necessary to provide more accurate information to the Board of Game on the status of big game popula-

AMENDMENTS PROPOSED

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

Background/Legislative Intent cont.

increases each year. If the road is opened, the number of hunters who travel on to GMU 26B will increase even more rapidly. The number of guides/outfitters operating in the area should not increase because these individuals can already obtain permits to use the road.

Current statutes prohibit hunting with firearms within five miles of the Dalton Highway north of the Yukon River (AS 16.05.789) and regulations prohibit hunting for moose within two miles of the highway in GMU 26B. Furthermore, regulation (5 AAC 92.530) allows only the hunting of big game and small game by bow and arrow only. Also AS 19.40.210 prohibits use of off-road vehicles within five miles of the highway for hunting. These laws and regulations would provide adequate protection to wildlife resources in the area, but the Division of Fish and Wildlife Protection has only one officer in Coldfoot to to enforce hunting regulations and other laws. To date, enforcement has not been effective in preventing violations.

Analysis of Bill/Program Effects cont.

tions in order for the board to make more informed decisions. The funding needed for those surveys is not reflected in the fiscal note.

JAMES DALTON HIGHWAY

CONSTRUCTION

BUILDER: Alyeska Pipeline Service Company Contractors

DATES: April 29, 1974 - September 29, 1974 = 154 days

LENGTH: 415 Miles = Livengood to Deadhorse

MATERIAL: 32,000,000 cubic yards - free use, mostly BLM

MANPOWER: 3,000,000 plus man hours

COST: \$370,000,000 - State has engineering dollars only
in project

YUKON RIVER BRIDGE: Completed 1975 - \$26,000,000; \$3,000,000 State funds

MAINTENANCE

ALYESKA: September 1974 - October 15, 1978

STATE OF ALASKA: October 15, 1978

PERSONNEL

<u>Location</u>	<u>PFT</u>	<u>PPT</u>	<u>PFT Buildings</u>	
7-Mile	4	0	2	
Jim River	4	0	2	
Coldfoot	4	1	1	
Chandalar	8	1	2]
Sag River	6	1	2] Rotation
Deadhorse	8	1] Stations
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	34	4	9 = 47	Positions

MILEAGE FOR ELLIOTT & DALTON HIGHWAYS

LOCATION	FROM FAIRBANKS	FROM MP 0 DALTON	FROM YUKON RIVER	BETWEEN POINTS
TOX	11.5	73.5	130.7	
LIVENGOOD	80.8	4.2	61.4	69.3
0 MILE TAPS	85.0	0.0	57.2	4.2
PUMP STATION 6	140.0	55.0	2.2	55.0
YUKON RIVER	142.2	57.2	0.0	2.2
5 MILE AIRPORT	146.4	61.4	4.2	4.2
7 MILE CAMP	148.0	63.0	5.8	1.6
FINGER MOUNTAIN	185.3	100.3	43.1	37.3
OLD MAN	194.5	109.5	52.3	9.2
BEAVER SLICE	196.4	111.4	54.2	1.9
ARCTIC CIRCLE	202.0	116.0	60.0	5.8
GOBBLERS KNOW	220.1	135.1	77.9	17.9
PUMP STATION 6	225.4	140.4	83.2	5.3
JIM RIVER MAINTENANCE	226.4	141.4	84.2	1.0
KOYUKUK	245.0	160.0	102.8	18.6
COLDFOOT	264.3	179.3	122.1	19.3
WISEMAN TURNOFF	278.2	193.2	136.0	13.9
ETRICH	300.4	215.4	158.2	22.2
HANDALAR	333.0	248.0	190.8	32.6
ATIGUN SUMMIT	337.6	252.6	195.4	4.6
ATIGUN CAMP	342.5	257.5	200.3	4.9
PUMP STATION 4	361.9	276.9	219.7	19.4
GALBRAITH TURNOFF	367.9	282.9	225.7	6.0
TOOLIK	377.7	292.7	235.5	9.8
MS 117-1	384.0	299.0	241.8	6.3
SAG RIVER MAINTENANCE	399.6	314.6	257.4	15.6
PUMP STATION 3	406.0	321.0	263.8	6.4
ICE CUT	419.8	334.8	277.6	13.8
HAPPY VALLEY	429.8	344.4	287.6	10.0
PUMP STATION 2	455.4	370.4	313.2	25.6
FRANKLIN BLUFFS	474.7	389.7	332.5	19.3
END OF DALTON HIGHWAY	511.9	426.9	369.7	37.2
DEADHORSE AIRPORT	515.9	430.9	373.7	4.0

11/9/88

DALTON HIGHWAY CHECK POINT

AVERAGE DAILY TRAFFIC
VEHICLE COUNT
1976 - 1988

MONTH YEAR	76	77	78	79	80	81	82	83	84*	85	86	87	88
January		98	89	73	68	122	164	105					
February		262	96	49	68	122	131	122					
March		465	112	59	76	215	181	156					
April		433	98	68	75	206	169	113					
May		251	96	69	83	149	145	95					
June		240	157	75	105	112	174	81					
July	402	222	119	81	125	122	151	100	79	109	88	57	72
August	381	210	142	89	154	139	137	104		76	91	67	80
September	349	203	81	84	136	159	150	98		36	69	64	85
October	231	142	62	73	130	136	122	94			63	55	64
November	166	131	71	69	115	140	97	96			58	48	
December	119	120	69	59	100	134	103	71					
ANNUAL AVERAGE	275	231	99	71	103	146	144	103	79	74	74	58	77
LOCATION	YUKON RIVER							DISASTER CREEK		CHANDALAR SHELF			

* 1984 figures are from DOT&PF traffic counter at Atigun River

Chapter 35. Relocation Assistance.

[Repealed, § 2 ch 41 SLA 1971.]

Chapter 40. James Dalton Highway.

Section

- 10. Declaration of policy
- 15. Highway named
- 20. Contractual authority
- 30. Undertakings of contractors
- 40. Exemption
- 50. Highway width
- 60. Conditions to be met
- 65. Regulations and penalties
- 70. Conflict with other laws

Section

- 100. Use of the highway by industrial or commercial traffic
- 110. Public use of a portion of the highway
- 120. Closure of the highway to traffic
- 200. Disposal of land or materials
- 210. Prohibition of off-road vehicles
- 290. Definitions

Opinions of attorney general. — It is within the power of the Department of Transportation and Public Facilities un-

der AS 19.05.040(11) to charge a toll for use of the James Dalton Highway. February 20, 1987 Op. Att'y Gen.

Sec. 19.40.010. Declaration of policy. (a) The legislature finds and declares that there is an immediate need for a public highway from the Yukon River to the Arctic Ocean and that this public highway should be constructed by the State of Alaska at this time because

(1) it will assist in the fulfillment of art. VIII, § 1, Constitution of the State of Alaska, in which it is provided that it is the policy of the state to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest;

(2) it will provide the first year-round, overland route from north of the Yukon River to the Arctic Ocean, and will consequently result in the completion of a highway from the Pacific Ocean to the Arctic Ocean;

(3) it is in conformity with the policy of 23 U.S.C. 101(b) (Federal-Aid Highway Act of 1956), in which it is declared to be in the national interest to accelerate the construction of certain highways which are of primary importance to the national defense;

(4) it will benefit local and interstate commerce because the area north of the Yukon River is rich in natural resources but is inaccessible at the present time because of the lack of roads and this inaccessibility prohibits the successful use of the natural resources of this area;

(5) it is consonant with art. VIII, § 2, Constitution of the State of Alaska, in which it is provided that the legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the state, including land and water, for the maximum

benefit of its people, because the highway will benefit not only local and interstate commerce but will also augment the revenue of the state and result in conservation of natural resources, for example, by facilitating a system of forest fire suppression.

(b) It is the sense of the legislature that the construction of the highway will not impair the natural wilderness adjacent to the highway and will not unreasonably interfere with subsistence hunting, fishing, trapping, and gathering.

(c) It is the intent of the legislature that the state shall be reimbursed for the cost plus interest of constructing the public highway from the Yukon River to the Arctic Ocean.

(d) It is the intent of the legislature that employment of Alaska residents be encouraged and that the provisions of AS 36.10 be complied with. (§ 1 ch 231 SLA 1970)

Sec. 19.40.015. Highway named. The highway is named the James Dalton Highway. (§ 2 ch 10 SLA 1981)

Sec. 19.40.020. Contractual authority. (a) Subject to (b) of this section, the department may contract in accordance with AS 36.30 for the construction of a secondary highway from the Yukon River to the Arctic Ocean. The provisions of AS 36.10 govern in employment practices on all work authorized by this chapter.

(b) The authority granted under (a) of this section may not be exercised until the state enters into a contract with the participants in the Trans Alaska Pipeline System or other organization formed for the purpose of transporting oil by pipeline from the North Slope (that area of Alaska lying north of 68 degrees latitude). The contract shall provide for reimbursement to the state by the participants, jointly and severally, in the Trans Alaska Pipeline System or other organization formed for the purpose of transporting oil by pipeline, of the full amount of the highway's cost of construction plus interest on the state's expenditures at the rate of seven and one-half per cent per year. Complete reimbursement together with interest shall be made within five years from the date of the contract. The state may, with the agreement of the participants, elect to construct an oil pipeline from the North Slope. In that event, the provisions of this subsection requiring reimbursement do not apply.

(c) The contract with the participants must include additional terms and conditions that are in the best interests of the state. Any advance payments made under the contract shall be deposited in a special account which will be used for disbursements to the contractor charged with construction of the highway. Disbursements to the contractor shall be made on order of the commissioner of transportation and public facilities on presentation of a proper voucher or the presentation of a voucher by an employee of the department authorized in

writing to certify as to such payment. (§ 1 ch 231 SLA 1970; am § 18 ch 106 SLA 1986)

Effect of amendments. — The 1986 amendment inserted "in accordance with AS 36.30" in the first sentence in subsection (a) and deleted the former second sentence in subsection (a) which read, "The department may request bids and award

contracts for the construction of the highway, or it may elect to directly negotiate contracts for the construction of the highway if it appears to be in the best interests of the state."

Sec. 19.40.030. Undertakings of contractors. The department, in place of the bonds or individual sureties required by AS 36.25.010, may accept corporate undertakings that include the same essential provisions of the bonds or individual sureties required by AS 36.25.010 and that are satisfactory to the department. (§ 1 ch 231 SLA 1970)

Sec. 19.40.040. Exemption. The Alaska Net Income Tax Act and the Alaska Business License Act do not apply to any money received by the general contractor from the state under a highway construction contract authorized under this chapter if the money is to be paid to a subcontractor for work performed under the construction contract. The money received by the subcontractors is subject to the Alaska Net Income Tax Act, the Alaska Business License Act, and any other applicable state taxes. (§ 1 ch 231 SLA 1970)

Sec. 19.40.050. Highway width. In accordance with AS 19.10.015, the width of this highway is designated as 200 feet. (§ 1 ch 231 SLA 1970)

Sec. 19.40.060. Conditions to be met. Construction authorized under AS 19.40.020 — 19.40.050 may not be undertaken until all of the following conditions are met:

- (1) certification by the commissioners of natural resources and fish and game that adequate precautions have been taken to protect and preserve the total ecology of the area traversed;
- (2) certification by the commissioner of transportation and public facilities that the road design and construction methods will cause minimal landscape defacement or environmental degradation by erosion or waste disposal;
- (3) certification by the commissioner of health and social services that adequate and reasonable precautions have been taken for the prevention of pollution during construction and subsequent public use;
- (4) all certifications, as well as the regulations, contract provisions, specifications, inspection procedures, and programs necessary to im-

plement and accomplish AS 19.40.020 — 19.40.050 shall be filed with the governor's office and published;

(5) the governor has approved all certifications and supporting material submitted under (4) of this section as being in the best public interest, and has certified that the contract required by AS 19.40.020 has been executed. (§ 1 ch 231 SLA 1970; am § 6 ch 104 SLA 1971)

Sec. 19.40.065. Regulations and penalties. All departments and agencies of the state are given the specific authority to adopt under the Administrative Procedure Act (AS 44.62) emergency, temporary, and permanent regulations necessary to accomplish the purposes of AS 19.40.020 — 19.40.050. The violation of any regulation adopted under AS 19.40.020 — 19.40.050 is a misdemeanor and upon conviction the person is punishable by a fine of not more than \$10,000 for each offense. (§ 1 ch 231 SLA 1970)

Sec. 19.40.070. Conflict with other laws. In the event of a conflict between this chapter and any other law of this state, the provisions of this chapter govern and supersede any such other law. (§ 1 ch 231 SLA 1970)

Sec. 19.40.100. Use of the highway by industrial or commercial traffic. (a) The department shall maintain the highway and keep it open to industrial or commercial traffic throughout the year.

(b) "Industrial or commercial traffic" means

(1) travel necessary and related to resource exploration and development or to support of those activities, if the individual engaged in those activities has all necessary permits;

(2) travel necessary and related to access by local residents to their property; or

(3) motor carriers engaged in commerce. (§ 3 ch 177 SLA 1980; am § 51 ch 59 SLA 1982; am § 10 ch 21 SLA 1985)

Effect of amendments. — The 1985 amendment deleted "which are common carriers or contract carriers regulated by

the Alaska Transportation Commission under AS 42.10" at the end of paragraph (3) of subsection (b).

NOTES TO DECISIONS

Negligence action against state precluded. — The state was immune from tort liability, under the discretionary function immunity exception to the Tort Claims Act, in an action based on negligent failure to institute dust control procedures on the Dalton Highway. *Freeman v. State*, Sup. Ct. Op. No. 2976 (File No. S-458), 705 P.2d 918 (1985).

Indemnity provision in highway use permit held unenforceable. — Semi-

trailer operator injured in a single-vehicle accident was not barred by an indemnity and hold harmless provision in the highway use permit from seeking recovery for personal injuries and property damage from the state for its alleged negligence; the indemnity provision was unenforceable because the state's maintenance of the highway was a "public duty." *Kuhn v. State*, Sup. Ct. Op. No. 2868 (File Nos. 6833, 7080), 692 P.2d 261 (1984).

Highway permit indemnity regulation held unenforceable. — A highway permit indemnity regulation (17 AAC 050) was inconsistent with subsection () of this section because the regulation bore no reasonable relation to the state's statutory duty to maintain the highway,

and the regulation was unenforceable where it did not fall within one of the AS 19.05.040 exceptions to the duty. *State v. Alyeska Pipeline Serv. Co.*, Sup. Ct. Op. No. 3092 (File No. S-966), 723 P.2d 76 (1986).

Sec. 19.40.110. Public use of a portion of the highway. The department shall maintain the section of the highway between the Yukon River and Dietrich Camp and shall keep that section of the highway open to use by the public between June 1 and September 1 each year. (§ 4 ch 177 SLA 1980)

Revisor's notes. — Enacted as AS 19.40.120. Renumbered in 1980.

Opinions of attorney general. — This section should be interpreted as setting the maximum extent to which the Dalton Highway may be kept closed to public traffic by regulation, rather than the max-

imum that it may be opened; it is not an impediment to the department's adopting regulations which would open the Dalton Highway to Dietrich Camp to year-round public traffic. September 2, 1983 Op. Att'y Gen.

NOTES TO DECISIONS

Applied in *Kuhn v. State*, Sup. Ct. Op. No. 2868 (File Nos. 6833, 7080), 692 P.2d 261 (1984).

Sec. 19.40.120. Closure of the highway to traffic. The provisions of AS 19.10.100 apply to the closure of the highway by the department. (§ 3 ch 177 SLA 1980)

Revisor's notes. — Enacted as AS 19.40.110. Renumbered in 1980.

Sec. 19.40.200. Disposal of land or materials. (a) The state may not dispose of state land under AS 38 which is within five miles of the right-of-way of the highway.

(b) The prohibition on disposal of state land under (a) of this section does not apply to a disposal necessary for

(1) an oil and gas lease under AS 38.05.180;

(2) exploration, development, production, or transportation of oil and gas north of 68 degrees north latitude; or

(3) a state lease or materials sale for exploration, development, production, or transportation of oil and gas or reconstruction or maintenance of the highway north of 68 degrees north latitude.

(c) Before the sale of materials under (b)(3) of this section to a private entity or person or to a state agency the state shall give due consideration to the availability of materials from private sources in the area where the materials are needed. (§ 5 ch 177 SLA 1980; am § 1 ch 77 SLA 1985)

Revisor's notes. — By judgment dated March 19, 1981, in Alaska Legislative Council v. Hammond, case no. 4FA-80-1689, the superior court for the fourth judicial district upheld the validity of the enactment of ch. 177, SLA 1980.

Effect of amendments. — The 1985 amendment added subsections (b) and (c).

Editor's notes. — Section 3, ch. 77, SLA 1985 made the 1985 amendments to this section retroactive to October 5, 1980.

Legislative history reports. — For governor's letter returning SCS HB am S (H. failed eff. date) see 1980 House Journal, p. 2240, and 1980 Senate Journal, p. 1781.

For Senate letter of intent relating to (b)(3) of this section, see 1985 Senate Journal, page 264, which refers to identical language in an earlier version of the bill.

Sec. 19.40.210. Prohibition of off-road vehicles. Off-road vehicles are prohibited on land within five miles of the right-of-way of the highway. However, this prohibition does not apply to off-road vehicles necessary for oil and gas exploration, development, production, or transportation or to a person who holds a mining claim in the vicinity of the highway and who must use land within five miles of the right-of-way of the highway to gain access to the mining claim. (§ 5 ch 177 SLA 1980; am § 2 ch 77 SLA 1985)

Revisor's notes. — Enacted as AS 19.40.200(b). Renumbered in 1980.

Effect of amendments. — The 1985 amendment added subsection (b) and inserted "to off-road vehicles necessary for oil and gas exploration, development, pro-

duction, or transportation or" and substituted "the" for "his" following "access to."

Editor's notes. — Section 3, ch. 77, SLA 1985 made the 1985 amendments to this section retroactive to October 5, 1980.

Sec. 19.40.290. Definitions. In this chapter

- (1) "department" means the Department of Transportation and Public Facilities;
- (2) "highway" means the secondary highway from the Yukon River to the Arctic Ocean. (§ 1 ch 231 SLA 1970)

Revisor's notes. — Formerly AS 19.40.080. Renumbered in 1988.

Chapter 45. Miscellaneous Provisions.

Section
01. Definitions
02. Penalties

Section
15. Highway construction near airports

Sec. 19.45.001. Definitions. In AS 19.05 — AS 19.40

- (1) "commissioner" means the commissioner of transportation and public facilities;
- (2) "construction" or any derivation means construction, reconstruction, alteration, improvement or major repair;
- (3) "controlled-access facility" means a highway especially designed for through traffic, and over, from, or to which owners or occupants of

STEVE COWPER, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

OFFICE OF THE COMMISSIONER

P.O. BOX 2
JUNEAU, ALASKA 99811-2500
PHONE: (907) 465-3900

January 29, 1988

The Honorable Al Adams
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Representative Adams:

In response to your recent request, the following is an analysis of how opening the entire Dalton Highway to public use would affect Department of Transportation and Public Facilities (DOT&PF) responsibilities.

Elimination of the checkpoint and the need for processing permits would save the cost of checkpoint operation (currently \$20,000 per year), would save the time and cost involved with administering the system and issuing permits, and would save highway users the bother and expense of obtaining permits. It would also end the constant public involvement effort necessary to explain the current policy to people who feel they have a right to travel the route. Opening the remainder of the Dalton Highway to public use would represent a standardized policy for operation and management of all rural state access routes. Though some of them are open only seasonally, all other state highways are open to the public.

To date there has been no federal participation in road improvement projects north of the Yukon River Bridge even though the entire Dalton Highway is on the federal-aid system. This is due to the requirement that federally funded highway projects be open to the public. The limited ability of the public to travel parts of the highway has clouded the issue of federal participation. Recently, the Federal Highway Administration (FHWA) declined to include a Barrow to Prudhoe Bay corridor on the federal-aid system, in part because the Dalton Highway is not open to the public. In the future, this would preclude our ability to utilize federal funding for construction of a Nuiqsut to Prudhoe Bay Road.

Opening the remainder of the Dalton Highway to the public would necessitate some additional traveler services. Private facilities providing vehicular services and lodging are available at the Yukon Crossing, Coldfoot and Deadhorse. It would probably prove necessary for someone to develop additional private facilities between Coldfoot and Deadhorse. We see the need for two additional public wayside/campsite facilities, with vault toilets and litter barrels (like what we have now at the Arctic Circle and at Marion Creek) along the northern section of the road. Some signing and additional litter barrels would also be required. We estimate the development cost for these facilities to be \$60,000. We expect they would cost approximately \$20,000 per year to maintain. That maintenance cost would be offset by the savings which would be realized by closing the existing checkpoint, thereby resulting in a neutral operating budget impact for DOT&PF. Enclosed is a new fiscal note detailing these expenses.

There may also be a need to extend the Dalton Highway to the terminal area of the Deadhorse Airport. Currently, the Dalton Highway ends approximately 2 miles short of the terminal area. The remaining segment of road, though on airport property, was built and is maintained by the oil companies. We do not see a problem reaching a reasonable accommodation, so we have not included a cost estimate for this on the attached fiscal note.

Another problem and additional cost may occur since the current road stops several miles short of the Arctic Ocean. If the Legislature desires access as far as the Arctic Ocean, as currently suggested in HB 115 and SB 132, there may be additional costs for inclusion. Arrangements would have to be made with the oil companies to achieve this goal.

Summer and fall traffic volumes would increase as a result of opening the remainder of road. However, as indicated by past limited openings of the route, we would not expect a large volume of additional traffic. The long distances involved, the cost of services and repairs, and the lack of pavement would tend to hold the number of pleasure vehicles down. Since we already maintain the route for truck traffic, we do not anticipate an appreciable increase in maintenance costs resulting from the additional traffic. The smaller public vehicles would have little effect on the road surface relative to the commercial trucks.

The capacity of the road would also not be a limiting factor. Again, where improvement is needed, it is already needed for the existing truck traffic and is needed to improve the level of service provided by the facility rather than to increase the capacity. The geometric standards of the Dalton Highway are already superior to those of several other rural routes in the state which are open to public use and are subject to higher traffic volumes.

While there may be some concern that public traffic would interfere with possible gasline construction, we do not feel that this is a significant negative consideration. Just as with oil pipeline construction activity, gasline construction activity would share hundreds of miles of highway such as the Steese, Elliott and Richardson Highways with substantially higher traffic volumes than would occur on the Dalton Highway. Construction activity itself may deter some people from using the route. If it becomes necessary during gasline construction to temporarily close a portion of the highway to public use, this could be done under A.S. 19.10.100.

As it pertains to DOT&PF, the opening of the entire Dalton Highway would require minimal additional state facilities, would relieve us of the troublesome task of administering the existing user permitting program, would not require appreciable additional maintenance, and would not tax the traffic volume capacity of the existing facility. For us, the positive effects of opening the entire highway to public use outweigh the possible negative effects.

There are a number of other issues, that while not direct DOT&PF concerns, I believe would need attention to implement this decision properly. The following is a list of key concerns.

A. Traffic Safety, Fish and Wildlife Enforcement

Opening the entire Dalton to general public access, particularly on a year-round basis, could significantly affect Public Safety's ability to perform these responsibilities.

B. Environmental/Fish And Game Impact

A range of environmental and fish and game impacts could occur due to an opening decision. This could include detrimental impacts from off-road vehicle and hunting violations, and other negative impacts associated with off-road activities along the currently restricted road portions.

C. Facility Development Needs

Year-round access will necessitate additional development of commercial service facilities (i.e., auto services; food; lodging) at one or two new locations north of Coldfoot. Some effort will be needed to ensure the opportunity is available for private sector development.

D. Land Selection Status

State efforts are continuing in terms of state selections within the Bureau of Land Management (BLM) Utility Corridor. I would recommend contacting DNR to ascertain any possible problems that might be posed by this proposal. (see Mike Pentfold)

E. Partial Opening

It may be wise, at least at first, to limit general access to eight months, thereby avoiding public safety risks during the dead of winter. You might want to contact DPS on this question.

Since this question does impact a number of other areas, I have taken the liberty of copying affected agencies for their information. You may also want to contact Bob Evans so the administration can work with you in a more coordinated manner.

Sincerely,



Mark S. Hickey
Commissioner

Enclosure

cc: J. Anthony Smith, Commissioner, Department of Commerce and Economic Development
Dennis D. Kelso, Commissioner, Department of Environmental Conservation
Don W. Collingsworth, Commissioner, Department of Fish and Game
Arthur A. English, Commissioner, Department of Public Safety
Mary Halloran, Associate Director, Office of Management and Budget
Bob Evans, Legislative Liaison, Office of the Governor

STEVE COWPER, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

P.O. BOX 3-2000
JUNEAU, ALASKA 99802-2000
PHONE: (907) 465-4100

February 18, 1988

The Honorable Steve Frank
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Frank:

Circumstances relating to caribou hunting near the Dalton Highway north of the Yukon River have been somewhat confusing for a number of years. Some background may help put the matter in perspective.

As you know, public access has been constrained by statute (AS 19.40.100 and 19.40.110), and use of off-road vehicles within five miles on each side of the Dalton Highway right-of-way is prohibited except for access to mining claims (AS 19.40.210). However, because no penalty provision was included in the latter section, the prohibition on off-road or all-terrain vehicles (ORV/ATV) could not be enforced. Although these laws were in place, people were able to gain access to the northern portion of the Dalton Highway. Also because the ORV/ATV restriction was ineffective, a convention of use of these vehicles developed among people who were able to gain access to the northern Dalton Highway. Thus, public use of the highway and of ORV/ATVs for hunting purposes was only partly constrained.

This situation contributed to a rapid increase in caribou harvest from along the highway between 1982 and 1986. Seasons and bag limits for the Central Arctic Caribou Herd (CAH) during that period were designed to provide ample opportunity for use of caribou for food by local residents of Game Management Unit 26B (GMU 26B), and presumed that restrictions of Dalton Highway and ATV use effectively moderated hunting pressure from elsewhere. That was not the case, and in 1986 the department recommended and the Board of Game adopted a regulation reducing from five to two the number of caribou that could be transported out of GMU 26B. That regulation was in effect in 1986-87. Also, the administration in 1986 introduced a bill containing a

February 18, 1988

penalty provision for off-road use of ATVs so that the law would be enforceable, but it did not pass.

In March 1987, the Department of Fish and Game proposed a regulation establishing a bag limit of five caribou for subsistence hunters, and one caribou for other hunters. This proposed regulation also expanded the area affected to include all of the principal range of the CAH. The Board of Game adopted this proposal as regulation, which became effective July 1, 1987. In addition, the board promulgated a regulation prohibiting the use of motorized vehicles, (except for licensed highway vehicles, aircraft, and motor boats) for hunting purposes within the Dalton Highway corridor. The net effect was to prohibit use of ORV/ATVs for hunting purposes.

These changes have affected total harvests of caribou as shown below.

Reported Harvest of Central Arctic Caribou Herd

<u>Year</u>	<u>Total</u>
1982-83	81
1983-84	170
1984-85	364
1985-86	662
1986-87	345
1987-88 (through 2/5/88)	181

We anticipate that the total harvest in 1987-88 will be below that of 1986-87. Although even at the highest harvest level, in 1985-86, there was no danger to the CAH's well-being, the trend was of concern, since a continued rapid increase in harvest levels could have stopped or reversed growth of the herd.

Under the present regulatory regime, hunting will not limit growth of the CAH. However, the more conservative seasons and bag limits and the enforceable regulation on use of ATVs in the Dalton Highway corridor for hunting, have reduced public hunting opportunities. Further experience with the current regulations may indicate in the future that some relaxation of restrictions may be warranted. Because the herd's welfare is also being studied in relation to oilfield development, it is important that hunting not constrain herd growth.

Some other difficulties with management of the CAH remain unresolved. First, Wiseman, located within the utility corridor, is a recognized subsistence community under federal law and is classified as rural under state law.

February 18, 1988

Because of the prohibition on the use of firearms and ATVs, its residents are at a disadvantage in hunting in or near the corridor. Other residents of the corridor are also considered rural. This disadvantage is aggravated by the fact that nonlocals and nonresidents can hunt there with bows and arrows.

Second, because of the history of ATV use during the several years when an ATV use prohibition existed but was widely known as being unenforceable, a number of local people and other state residents now feel that they have been treated unfairly by the imposition of the regulation prohibiting ATV use for hunting in the corridor.

Public use of the entire Dalton Highway as an access route to northern hunting areas remains a subject of contention.

Given the current regulatory regime, the presence of Fish and Wildlife Protection staff and of our own staff in the area, and the apparent cooperation by most of the public with current regulations, we are confident of being able to ensure the well-being of the Central Arctic Caribou Herd and of other wildlife in the Dalton Highway area.

I will be glad to be of further assistance in any way that I can.

Sincerely,



Don W. Collinsworth
Commissioner

cc: L. Pamplin
D. Bishop

STATE OF ALASKA

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

P.O. BOX N
JUNEAU, ALASKA 99811-1200
PHONE: 465-4322

February 10, 1988

The Honorable Steve Frank
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Frank:

During our last hearing, concern was expressed for the Fish and Wildlife Protection activities along the Dalton Highway. The following information was obtained from the Fish and Wildlife Protection Division relating to violations which occurred from January, 1987 to the present within the Dalton Highway corridor.

1. Carcasses found:	5
2. No hunting/fishing license:	2
3. Trapping:	2
4. Guiding:	1
5. Use of firearms within corridor:	9
6. Highway permits:	15

As you can see, our caseload for the corridor is quite low. The Coldfoot trooper, however, now has the added responsibility of covering Bettles, as well as other area villages. Since this is a remote post, the Fish and Wildlife Protection Trooper's duties also include the "blue shirt" activities.

With the closing of our Bettles post and transferring the aircraft and officer to Coldfoot, we now have the ability to conduct aircraft patrol throughout the area with either a Supercub or a Cessna 185. In those instances where it appears off-the-road violations have occurred, we will have the ability to better cover the area by using our aircraft. This does give us limited enforcement profile, however, it also increases the area that we can cover with limited manpower.

As I mentioned during our meeting, if the Dalton Highway were to open, it would be necessary for us to station two

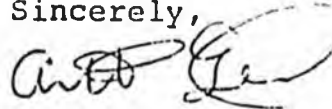
The Honorable Steve Frank

-2-

February 10, 1988

additional employees at Prudhoe Bay, an AST "blue shirt," and another FWP "brown shirt." In addition, we will add another "blue shirt" to the Coldfoot post. With these personnel, our enforcement effort would be enhanced; however, we would still have a limited impact on the area.

Sincerely,

A handwritten signature in cursive script, appearing to read "Arthur English".

Arthur English
Commissioner



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
ALASKA STATE OFFICE
222 W. 7th Avenue, #13
ANCHORAGE, ALASKA 99513-7599



3344 (1980)

JAN 29 1990

Senator Pat Pouchot
Pouch V
Capitol Building Room 304
Juneau, Alaska 99811

Dear Senator Pouchot:

As you requested, I am pleased to offer comments on the potential impact of Senate Bill 366 (opening of the Dalton Highway north of Disaster Creek) on Bureau of Land Management activities in the Utility Corridor. We have no specific objections to the opening of the Dalton Highway north of Disaster Creek to the general public.

In September 1989, we issued the Utility Corridor Proposed Resource Management Plan and Final Environmental Impact Statement. None of the proposed actions in the plan will become final until a Record of Decision is issued sometime in the near future. Copies of the proposed plan were widely distributed. Additional copies are available from my office.

The proposed plan recognizes the portions of the Dalton that are already open, as well as the potential for future openings north of Disaster Creek.

Aside from the primary purpose of the corridor remaining as a energy minerals transportation route, we anticipate that recreation and tourism will rapidly become the major land use within the corridor. Because of that potential becoming reality in a few short years, we are accelerating our recreation planning for the corridor. To this end, we anticipate having the Dalton Highway Recreation Area Management Plan substantially completed by the beginning of 1991.

Within the recreation strategy for the BLM lands in the corridor, the recreation plan will investigate site specific opportunities for facilities such as campgrounds, cabins, concessions and lodges, information/interpretive sites, trails and trailheads, ORV use, scenic viewpoints, and etc. This planning will involve close coordination with the State of Alaska to identify needs and priorities. Even with today's level of traffic on the highway, we are concerned about the general lack of facilities to meet the needs of the motoring public. We are also concerned about the interim protection of prehistoric and historic cultural sites until we have funding for proper management of the sites.

In light of the year 1992 being a celebration year of the 50th anniversary of the Alcan Highway opening, and the 125th anniversary of the purchase of Alaska from Russia, there will certainly be an influx of recreational vehicles and bus tours during 1991-1993. Our limited funding inhibits our ability to do basic planning and survey and design, let alone construction, in such a relatively short time. We are, however, entering into efforts with the State of Alaska to

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seek alternatives for temporary facilities to accommodate the increased traffic. Of primary concern to us are sites for overnight parking, water, and sanitary facilities. Close coordination will be necessary to assure Off-Road Vehicle (ORV), subsistence, and public safety issues will be addressed.

I look forward to an outstanding partnership with the State of Alaska in the future management of the Utility Corridor and the Dalton Highway for the benefit of the citizens of Alaska and the nation. Please feel free to contact me if you have any questions.

Sincerely,

Lester K. Rosenkrance



Resource Development Council

for Alaska, Inc.

807 "G" Street, Suite 200, Anchorage, Alaska 99501-3448
 Box 100516, Anchorage, Alaska 99516-0516 - 907/276-0700

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EX-OFFICIO MEMBERS
 Senator Ted Stevens
 Senator Frank Murkowski
 Congressman Don Young

March 5, 1987

Representative Steve Frank
 Alaska State Legislature
 Pouch V
 Juneau, AK 99811

re: HB 115 and SB 132

Dear Steve:

The Resource Development Council is pleased to support HB 115 and SB 132, Acts relating to public use of the Dalton Highway. Our Executive Committee's action in this regard was unanimous.

We agree that these bills will allow the state to further develop the industries that rely on access to Northern Alaska. We need to encourage development and use of this key element in the state's road system if we are to foster development of valuable resources.

Please call on RDC if we can be of assistance to your office on this issue.

Sincerely,

RESOURCE DEVELOPMENT COUNCIL
 for Alaska, Inc.

Paula P. Easley
 Executive Director

cc: Senator Jack Coghill
 Mayor Juanita Helms
 Mayor Bill Walley



Greater Fairbanks

Chamber

of Commerce

First National Center

P O Box 74446

100 Cushman Street

(907) 452-1105

Fairbanks, Alaska 99707

RESOLUTION 3-0287

A RESOLUTION TO OPEN THE DALTON HIGHWAY TO THE GENERAL PUBLIC

WHEREAS, there is no justifiable reason that the general public should not have access to a public highway, and

WHEREAS, public funds are used to maintain this road, and

WHEREAS, the denial of the public to use the Dalton Highway as any other highway in Alaska, as stated in A.S. 19.40.120, is discriminatory, and

WHEREAS, there are existing state and federal regulations which provide for management of public use of land and resources adjoining public highways, and

WHEREAS, the opening of the Dalton Highway has been part of the program of work as stated in the Interior Transportation Needs Study developed by the Greater Fairbanks Chamber of Commerce;

NOW, THEREFORE, be it resolved, that the Greater Fairbanks Chamber of Commerce recommends that the Legislature pass HB 115 without further restrictions.

Be it further resolved that this resolution be sent to the following:

Governor Cowper
The Interior Delegation
The Congressional Delegation
The Commissioner of Transportation

DATED THIS 23rd
BY James Dodson
James Dodson, Chairman of the Board

DAY OF February, 1987
BY Althea St. Martin
Althea St. Martin, Acting President

Editorial Opinion and Comment of



Daily News - Miner

"Independent in All Things . . . Neutral in None"

Other opinions expressed on this page do not necessarily reflect those of the Daily News-Miner.

Dalton daffiness

We continue to be mystified by state officials who don't think their constituents should be allowed to drive the Dalton Highway.

At a recent hearing on the subject, an official of the Alaska Department of Public Safety delivered a masterpiece of bureaucratic circle-think.

The road is unsafe, he said, because traffic is sparse and there are few facilities. As even he acknowledged, the reason is obvious: The state keeps the road closed to the public.

A state senator, meanwhile, said the road shouldn't be opened because truckers and the Alyeska Pipeline Service Company might get stuck caring for stranded motorists.

"There's some places the public shouldn't go, for their own safety," he said.

Maybe we're wrong, but we have the idea that Alaskans don't want or need to be protected from themselves. In fact, we suspect there are a good many who came here to get away from the smothering embrace of bureaucrats and politicians who see it as their duty to protect people from themselves.

These are the same tired arguments we've heard for years against opening the Dalton, and they make less sense than ever.

The "sparse traffic, few facilities" reasoning collapses of its own weight, so we'll not devote further attention to it here, except to reiterate our serene confidence that the free enterprise system is able and willing to provide such facilities as are needed; certainly that has happened on the lower portion of the road that is open to the public.

As for the senator's tender concern for the burden that will be placed on Alyeska or truckers on the highway, we have no doubt that the development of facilities will speedily remedy that problem, if it ever arises. In addition, travelers on the road should be advised of its hazards and warned that they travel at their own risk.

Finally, let's remember that the state pays to maintain this road, but the oil industry is about the only user. If the public is going to pay for the upkeep of the Dalton Highway, the public should be allowed to drive it.

1455 Skopline Dr

Fairbanks AK 99712

457-5602

Rep. Steve Frank

P.O. Box 5

Juneau, AK. 99811

This letter is to clarify my public affairs message of yesterday, and to add further emphasis for my support to the legislation to allow public use of the highway to its terminus.

I feel that because of the regulations already in place regarding hunting and fishing along the highway, and because to the south of Wiseman there is a distance of about 50 miles East and west to any native village, and to the north, the distance is greater to the only two villages Niqnesuit, to the west and Kallorik to the east, the highway should be opened to the

Further emphasis is added by the fact that our busses are presently allowed to travel the road to its terminus. Only the common citizen is prevented from exercising his rights of free travel on public roads.

I regard the road as a restricted public highway by virtue of the fact that state and Federal funds are being expended to maintain and repair the highway.

I feel that justice will be served by the passage of HB 115.

As chief of the village of Wiseman, the only community on the haul road, which has been reported since 1920, to do otherwise is a travesty of justice.

Sincerely
 Vern Thiller, Chief, Wiseman



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MILE 176 JAMES DALTON HWY
COLDFOOT, ALASKA

Mailing Address
COLDFOOT SERVICES
COLDFOOT, ALASKA 99701 9938

February 23, 1987

Dear Mrs. Cato,

I should like to express my views concerning HB# 115 related to the Dalton Highway.

In April 1981 the legislature opened the Dalton Highway to the public. Then Governor Hammond, by decree, allowed the highway north of the Yukon River to Disaster Creek be opened only for the months of June, July and August.

The State at the same time decreed that someone provide a service facility at Coldfoot for the traveling public. That someone ended up being myself.

When Gov. Sheffield arrived on the scene, I approached him with the fact that we were here in Coldfoot year around, yet the road was opened to the general public only three months. He immediately, by Governor's decree, opened the road for the entire year, yet still only to Disaster Creek. This policy continues today.

There are several facilities opened to the public at Deadhorse, motels, restaurants, service stations and of course, the state airport facilities.

I can't see why the Dalton Highway should be divided, south or north of the Yukon River or south or north of Dietrich.

1. It's a state maintained road, using public funds.
2. Facilities are available year around.
3. Tourist traffic exceeds commerical traffic for five months of each year.
4. The state spends millions encouraging tourism.
5. Tour buses run the Dalton Highway fully realizing the attraction of:
 1. Yukon River
 2. Driving north of the Arctic Circle.
 3. The allure of the Brooks Range.
 4. The interest of Prudhoe Bay area.

The State D.O.T. maintains the checkpoint is a saftey checkpoint when we realize in fact, it's a political matter.

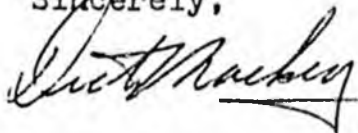
If in fact, it's a saftey checkpoint, then you should arrive, state you have extra tires and gasoline and continue on your way.

If it's a political matter, consider that no tourist is upsetting the lifestyle of any North Slope Borough resident as none live along the highway, that no corporation lands border the highway. That the D.O.T. when it does issue a permit, issues that permit for the vehicle, irregardless of the number of passengers. Why should one receive a permit to take a vehicle over a given section of highway right-of-way, and others be denied?!

Page 3

I believe it's time to adhere to our state constitution, open the highway, see the results of promotion of tourism and quit the political games with the North Slope Borough.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dick Mackey". The signature is written in dark ink and is positioned below the word "Sincerely,".

Dick Mackey
Coldfoot Services
Mile 175 Dalton Hwy.
Coldfoot, AK 99701-9998

STEVE FRANK
DISTRICT K
SEAT A

119 N. Cushman, Rm. 213
Fairbanks, Alaska 99701

While in Juneau
P.O. Box V
Juneau, Alaska 99811
(907) 465-3709
Capitol Rm. 514

Alaska State Legislature



Senate

adopted Sen. Transmittal 1/16/90

INTENT LANGUAGE - SB 366

MEMBER
Finance Committee
Resources Committee
Legislative Council
Special Committee on Banking &
Economic Development

VICE-CHAIR
Community & Regional
Affairs Committee

It is the intent of the Legislature that the Department of Transportation and Public Facilities work with the operators of the Prudhoe Bay oil fields to allow access beyond the security checkpoints to the Arctic Ocean and that the operators of the oil fields continue to maintain those roads which are beyond the security checkpoints.

NORTH SLOPE BOROUGH

OFFICE OF THE MAYOR

P.O. Box 69
Barrow, Alaska 99723

Phone: 907-852-2611

George N. Ahmaogak, Sr., Mayor



February 23, 1990

Senator Al Adams
Alaska State Legislature
P. O. Box V
Juneau, AK 99801

Representative Eileen MacLean
Alaska State Legislature
P. O. Box V
Juneau, AK 99801

RE: NORTH SLOPE BOROUGH POSITION ON OPENING OF THE HAUL ROAD

Dear Senator Adams and Representative MacLean:

I. BOROUGH OPPOSES OPENING OF HAUL ROAD

The North Slope Borough is opposed to any legislation or other action which would open the James Dalton Highway (Haul Road) to increased public use. We offer the following primary reasons as the basis for this position:

A. When the Utility Corridor was created and the Haul Road and TAPS constructed, the only stated functions of the system were to facilitate the transportation of supplies and materials to the Prudhoe Bay infrastructure and to transport oil and gas from the North Slope to southern markets. We were assured that negative impacts on subsistence resources and subsistence activities would be mitigated by a restriction on use of the road to only that traffic associated directly with the expressly stated industrial functions of the Corridor. The passage of time does not cloud our memory of the mitigative measures promised, and should not serve as a basis for now yielding to the pressures of a small number of vocal urban residents who wish to use our backyard as a playground.

B. Increased public access will result in increased disturbance of subsistence resources and further displacement from traditional hunting areas. It is not true that traditional subsistence activities no longer take place within the Utility Corridor. These activities have been somewhat curtailed in the area only because there is now a road, a pipeline, and significant traffic there. We are not willing to accept the further disruption which will result from increased access and recreational activity.

Letter to Senator Adams, Representative MacLean
February 23, 1990
Page 2

C. Increased public use of the Haul Road will negate the efforts of industry to minimize the environmental and social impacts of development, will hamper large-scale maintenance projects, will make use of the road more hazardous for both industrial and recreational travellers, will compromise the security of the TAPS, and will interfere with construction of the proposed gas pipeline. As has always proven the case in the past, greater uncontrolled access to our rural communities will result in a marked increase in alcohol, drug, and other social problems which are already overwhelming. We are also fearful that settlements which grow up around facilities developed to serve increased traffic will blossom into permanent communities requiring municipal services. The Borough does not have the financial resources to construct and maintain additional schools, sanitation, public safety, and health facilities.

D. Even with the increased funding proposed, the state will not be able to properly control the activities of an increased number of users of the full length of the road. The existing state DOT-run checkpoint at Chandalar has proven totally ineffective in regulating even the limited traffic which now uses the road. Vehicles frequently drive through the checkpoint without stopping, and the single DOT employee stationed there has no way of knowing whether they have the required permit or not. Even if a vehicle is suspected of being unpermitted, there are not the resources to pursue and apprehend the violator. Even if they are charged with travelling the road without a permit, violators' cases are routinely dismissed as a waste of judicial effort. The situation has become so ludicrous that Dick Mackey, owner of Coldfoot Services has promised in published advertisements that he would pay the fines of anyone caught improperly using the road who stopped at his establishment. The utter failure of the state to adequately enforce its permit regulations at even a simple checkpoint convinces us that promised control of increased traffic will also be a failure.

E. Because state mismanagement has already resulted in impacts along the road, we feel that policies governing access and enforcement efforts should be strengthened, rather than weakened. In annual drives along the road, we have observed much evidence of alcohol use, improper disposal of refuse, and abuse of game resources. The state DOT, with a supporting informal opinion of the Department of Law, has deemed guide and outfitter activities to be commercial and allowed access since 1986. Many sport hunters have gained access by filing fictitious mining claims in the area of the corridor. The state has yet to establish a fine schedule or other penalty for violations of AS 19.49.210, which prohibits the use of off-road vehicles within five miles of the road right-of-way.

Letter to Senator Adams, Representative MacLean
February 23, 1990
Page 3

II. SB 366 FISCAL NOTES ARE INADEQUATE

A. Department of Fish and Game Fiscal Note

We agree with the comments of Fish and Game and the concerns expressed in the Bill Analysis accompanying the department's fiscal note.

B. DOT & PF Fiscal Note

We agree that campsite facilities, toilets, informational signs, and litter barrels will be needed in sufficient quantities to accommodate the increased traffic, but also think that additional services will be required. As currently occurs, some users of the road will not utilize the established waste facilities and litter barrels. Some provision should be made and personnel and funds provided, to periodically travel the road and pick up any loose trash. In addition, there should be funding for facilities to handle the disposal of gray water and septic refuse from recreational vehicles using the road. It will also be important for safety reasons to upgrade the quality of the entire road to AASHTO standards.

C. Department of Public Safety Fiscal Note

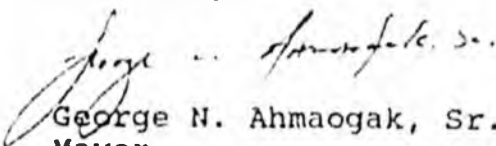
Throughout this fiscal note we believe that expenses are underestimated. In addition, it is unclear what entity is expected to provide emergency medical care beyond simple response when such care is needed in the event of serious vehicle or hunting accidents, illness, or other emergency situations arise along the road. A fully loaded tour bus or RV driving off the substandard road could result in multiple serious injuries which could not be handled by the facilities provided for in the note.

We have particular difficulty with the absence of adequate funding for search and rescue operations. In fact, we have yet to see any discussion of the level of anticipated search and rescue and medical evacuation services projected to be required after the road is opened. It is our experience on the North Slope that such operations, including helicopter supported search and rescue operations, are extremely expensive. Because in some specific instances it is likely that the North Slope Borough will be asked to respond to particular emergencies which would not exist without the road being opened, we believe there should be some stated arrangement for reimbursement of the Borough's expenses included in any bill or accompanying fiscal note opening the highway. In one instance last year, the North Slope Borough leased a Super Puma helicopter to evacuate individuals who were involved in a plane crash. The cost for the 3.7 hour operation was in excess of \$23,000.00.

Letter to Senator Adams, Representative MacLean
February 23, 1990
Page 4

Please feel free to contact my office if you have any questions regarding this position.

Sincerely,



George N. Ahmaogak, Sr.
Mayor

mayor/adams.gna/k

Original sponsor(s): SEN. FRANK, Coghill, Fahrenkamp, Pourchot

1 IN THE SENATE BY THE TRANSPORTATION COMMITTEE
2 HOUSE CS FOR CS FOR SENATE BILL NO. 366 (Transportation)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Dalton Highway; and providing
7 for an effective date."

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

9 * Section 1. FINDINGS, PURPOSE, AND INTENT. (a) The legislature finds

10 (1) the northern portion of the Dalton Highway possesses unique
11 scenic and recreational resources of high public value;

12 (2) significant wildlife and fishery resources are present along
13 the Dalton Highway and represent important resources to highway users for
14 viewing and to local residents for subsistence;

15 (3) current levels of public law enforcement services along the
16 Dalton Highway are not sufficient to cope with increased use of the highway
17 to ensure the safety of users of the highway, or to protect fish and wild-
18 life resources;

19 (4) future facilities, both private and public, along the high-
20 way should be permitted and constructed only in accordance with land use
21 plans in order to prevent adverse effects on the scenic, recreational, or
22 fish and wildlife values of the highway corridor.

23 (b) It is the purpose of this Act to

24 (1) permit public use of a publicly owned and maintained high-
25 way; and

26 (2) increase and enhance tourism along the Dalton Highway.

27 (c) It is the intent of the legislature that

28 (1) the opening of the Dalton Highway not adversely affect local
29 fish and wildlife resources;

1 (2) rigorous monitoring, enforcement, and regulations be imple-
2 mented to protect fish and wildlife resources along the highway corridor;

3 (3) future developments in the highway corridor be restricted to
4 nodes of development of facilities and services along the highway;

5 (4) if land along the highway corridor is transferred to the
6 state, such land should not be disposed of, or subject to lease, by the
7 state except as provided by a land use plan prepared by the state.

8 * Sec. 2. AS 19.40.110 is amended to read:

9 Sec. 19.40.110. PUBLIC USE OF [A PORTION OF] THE HIGHWAY. The
10 department shall upgrade, maintain, and provide for the upkeep of the
11 [SECTION OF THE] highway to promote the public health, safety, and
12 welfare [BETWEEN THE YUKON RIVER AND DIETRICH CAMP] and shall keep
13 [THAT SECTION OF] the highway open to use by the public [BETWEEN JUNE
14 1 AND SEPTEMBER 1 EACH YEAR].

15 * Sec. 3. AS 19.40.290(2) is amended to read:

16 (2) "highway" means the secondary highway from the Yukon
17 River to a terminus near the Arctic Ocean.

18 * Sec. 4. This Act takes effect July 1, 1990.
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PERSONNEL EXPENSES:

Pilots*:	4 pilots @ \$45,000.00	\$ 180,000.00
Mechanics*:	2 mechanics @ \$45,000.00	\$ 90,000.00
Medics*:	4 medics @ \$45,000.00	\$ 180,000.00
Travel**:	70 R/T fares @\$ 500.00	\$ 35,000.00
Room/Board:	7 months @ \$7,500.00	\$ 52,500.00
Misc. (uniforms, etc):		\$ 10,000.00
	Total Personnel Expenses:	\$ 547,500.00

TOTAL ESTIMATED EXPENSES:**\$ 1,252,500.00**

- * All labor should be contracted for the duration of the season, two weeks on, two weeks off.
- ** Labor should be paid travel from Anchorage to job site and return.

*
* DELIVER TO: LIOCBLS *
*
* ORIGINAL *
* SENT: 04/19/90 TIME: 08:21 *
* FROM: LIOCTOM *
* SUBJECT: 90-04-043; BL; (H)TRSP; 4-19-90 *
* PRINT DATE: 04/19/90 TIME: 08:24 *
*

TC NO: 90-04-043

DATE: 4-19-90
SPONSOR: HOUSE HESS
SUBJECT: SB366
MODERATOR: TOM FILLIFANT
SITE: ANCHORAGE

SITES FOR TODAY'S TELECONFERENCE:

- ~~1.~~ MATSU -MARY- 1 TESTIFIER
2. FAIRBANKS -FRAN- 2 TESTIFIERS
- ~~3.~~ BARROW -SARAH- SEVERAL TO TESTIFY; EXPECTING MORE
- ~~4.~~ JUNEAU **CHAIRING SITE** BARBARA LYNN
- ~~5.~~ ANCHORAGE -TOM- 1 OBSERVER
- 6.
- 7.
- 8.
- 9.
- 10.

EMAIL ADDRESS: LIOCTOM
BACKUP NUMBER: 561-1199

TRANSPORTATION COMMITTEE MEETING AGENDA

- 1) CALL MEETING TO ORDER
- 2) NOTE MONTH/DAY/YEAR THURSDAY, APRIL 5TH
- 3) NOTE TIME:
- 4) NOTE MEMBERS PRESENT AND EXCUSED
(For the record, note any late arrivals to the meeting)
- 5) REMIND PARTICIPANTS TO SIGN WITNESS REGISTER
- 6) ORDER OF BUSINESS:

SB 506 - Relating to overtime wages for truck drivers
This bill is being teleconferenced to Anchorage.
Tom Stewart from Dept. of Labor is on line
12:37

CSSB 366 - Relating to public use of the Dalton Highway
This bill is being teleconferenced to Barrow
and Anchorage.
- 8) THE NEXT COMMITTEE MEETING IS SCHEDULED:

Tuesday, April 10th

SCR 25 - Plan for expansion of Alaska transportation
system

SCR 47 - procedures for rural roads
- 9) ANNOUNCE TIME OF ADJOURNMENT

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*****
*
* DELIVER TO: LIOCDAR
*
* ORIGINAL
* SENT: 04/05/90 TIME: 08:52
* FROM: LIOCBAR
* SUBJECT: 90-04-004, PL#2; SB506; 4-5-90
* PRINT DATE: 04/05/90 TIME: 08:52
*
*****

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T/C NO. 90-04-004

DATE: 4-5-90
SPONSOR: HOUSE TRANSPORTATION
SUBJECT: SB506, SB 366
MODERATOR: SARAH
SITE: BARROW

```

PARTICIPANT LIST#1

TESTIFIED

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
✓ 1. BEN JAMIN F. NAGEAK			
✓ 2. DAVE GERMAN			
✓ 3. EMILY WILSON			
✓ 4. GEORGE AHMAOGAK			
5.			

OBSERVED

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1. DENNIS PACKER			
2. RALPH DAVIS			
3. DAVE HARDING			
4. TOM LOHMAN			
5. LARRY BIGELOW			

TESTIFIED:
 UNABLE:
 OBSERVED:
 TOTAL:

START TIME:

END TIME:

* SUBJECT: 90-04-004;BL;(H)TRA;4-5-90 *
* PRINT DATE: 04/05/90 TIME: 08:21 *
* *

TC NO: 90-04-004

DATE: 4-5-90
SPONSOR: HOUSE TRANSPORTATION
SUBJECT: SB506,366
MODERATOR: TOM PILLIFANT
SITE: ANCHORAGE

SITES FOR TODAY'S TELECONFERENCE:

1. BARROW -SARAH- 4 PARTICIPANTS?
2. JUNEAU **CHAIRING SITE** DEBBIE
3. ANCHORAGE -TOM- NO PARTICIPANTS AS OF 8:20AM
4. ANCHORAGE -RANDY CARR
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

EMAIL ADDRESS: LIOCTOM
BACKUP NUMBER: 561-1199

TELECONFERENCE PARTICIPATION

SPONSOR _____

DATE/TIME _____

SUBJECT _____

LIO'S

(moderator)

	TESTIFY	OBSERVE	TESTIFY	OBSERVE
ANCHORAGE ()			PETERSBURG * ()	
BARROW * ()			SITKA ()	
BETHEL ()			SOLDOTNA ()	
DELTA JUNCTION * ()			VALDEZ * ()	
DILLINGHAM * ()			LTC'S	
FAIRBANKS ()			HOMER	
GLENNALLEN * ()			WRANGELL	
JUNEAU ()			OFFNETS	
KETCHIKAN ()			OFF1	
KODIAK ()			OFF2	
KOTZEBUE ()			OFF3	
MAT-SU ()			OFF4	
NOME ()			OFF5	
			OFF6	

NO one yet

3 } (4) to testify

Newant

Tom RandyCar 306

VTS'S ON BACK

* SESSION ONLY



Representative Bette Cato, Chair House Transportation Committee

SUBJECT OF MEETING:
SB 366
SB 506

DATE: 4/5/90

PLACE: Room 17

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Pat Switz	AFL-CIO					(Y) N	SB506 ✓
Bruce Dinnard	ADFG wildlife cons.	Box 3-2000 Juneau	99802	5-4190		Y N	SB 366 if questions
Phil Holdsworth	AMA	Juneau		586-1389		(Y) N	SB 366
Bill Glude	AEL	PO Box 22151 JUNO	99802		463-3366	(Y) N	SB 366
Roger McCoy	PUBLIC SAFETY	JUNEAU		465-4322 →		(Y) N	SB 366
Jim Jansen	Lynn	Juneau				Y N	SB 366 ✓
Dan Bloom	Wallis			3732		(Y) N	SB 366
Keith Gerkin	D.O.T					Y N	SB 366
Eileen Macken						Y N	SB 366
						Y N	
						Y N	

CORRECTION

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

TELECONFERENCE PARTICIPATION

SPONSOR _____

DATE/TIME _____

SUBJECT _____

LIO'S

(moderator)

	TESTIFY	OBSERVE	TESTIFY	OBSERVE
ANCHORAGE ()			PETERSBURG * ()	
BARROW * ()			SITKA ()	
BETHEL ()			SOLDOTNA ()	
DELTA JUNCTION * ()			VALDEZ * ()	
DILLINGHAM * ()			LTC'S	
FAIRBANKS ()			HOMER	
GLENNALLEN * ()			WRANGELL	
JUNEAU ()			OFFNETS	
KETCHIKAN ()			OFF1	
KODIAK ()			OFF2	
KOTZEBUE ()			OFF3	
MAT-SU ()			OFF4	
NOME ()			OFF5	
			OFF6	

NO one yet
3 } (4) to testify
4u

Warrant
Tom
Randy Car
5043

VTS'S ON BACK

* SESSION ONLY

VOLUNTEER TELECONFERENCE SITES

AKK - Akhoik	WAI - Wainwright
AMB - Ambler	YAK - Yakutat
AND - Anderson	
ANG - Angoon	
CAN - Cantwell	
CHG - Chignik	
CHL - Chignik Lake	
CHN - Chiniak	
CHS - Chistochina	
CHI - Chitina	
COP - Copper Center	
COR - Cordova	
CRA - Craig	
DOT - Dot Lake	
EAG - Eagle	
FTY - Fort Yukon	
GAK - Gakona	
GAL - Galena	
GAM - Gambell	
HNS - Haines	
HEA - Healy	
HOO - Hoonah	
HPB - Hooper Bay	
HYD - Hydaburg	
HYR - Hyder	
KAK - Kake	
KAT - Kaktovik	
KAU - Karluk	
KEN - Kenny Lake	
KLA - Klawock	
LAB - Larsen Bay	
MEN - Mentasta Lake	
MES - Mentasta Lodge	
MET - Metlakatla	
MOS - Mosquito Lake	
NAK - Naknek	
NEN - Nenana	
NEW - Newhalen	
NIK - Nikiski	
NPT - North Pole	
NOW - Northway	
OUZ - Ouzinkie	
PEL - Pelican	
PTH - Point Hope	
PTL - Port Lions	
STP - Saint Paul	
SAV - Savoonga	
SLW - Selawik	
SEW - Seward	
SHS - Shishmaref	
SKG - Skagway	
SLA - Slana	
TOG - Togiak	
TOK - Tok	
UNK - Unalakleet	
UAK - Unalaska	



Representative Bette Cato, Chair House Transportation Committee

SUBJECT OF MEETING:
SB 366
SB 506

DATE: 4/5/90

PLACE: Room 17

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Pat Smutz	AFL-CIO					(Y) N	SB506 ✓
Bruce Diamond	ADFG wildlife cons.	Box 3-2000 Juneau	99802	5-4190		Y N	SB 366 if proposed ✓
Phil Holdsworth	AMA	Juneau		586-1389		(Y) N	SB 366 ✓
Bill Glude	AEL	PO Box 22151 JUNO	99802		463-3366	(Y) N	SB 366 ✓
Roger McCoy	PUBLIC SAFETY	JUNEAU		465-4322 →		(Y) N	SB 366 ✓
Jim Jansen	Lynn	Juneau				Y N	SB 366 ✓
Dan Bloom	Wallis			3732		(Y) N	SB 366 ✓
Keith Gorkia	D.O.T					Y N	SB 366 ✓
Elson Malcom						Y N	SB 366 ✓
						Y N	
						Y N	

S B

368

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Public Safety
 Title: An Act Relating to Commercial BRU: Highway Safety
Motor Vehicle Inspections
 Sponsor: Senate Rules Component: Commercial Vehicle Safety
 Requestor: Senate Judiciary

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	230.2	230.2	230.2	230.2	230.2	230.2
TRAVEL	17.3	17.3	17.3	17.3	17.3	17.3
CONTRACTUAL	20.4	20.4	20.4	20.4	20.4	20.4
SUPPLIES	4.1	4.1	4.1	4.1	4.1	4.1
EQUIPMENT	9.3	9.3	9.3	9.3	9.3	9.3
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	281.3	281.3	281.3	281.3	281.3	281.3

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	56.3	56.3	56.3	56.3	56.3	56.3
FEDERAL FUNDS	225.0	225.0	225.0	225.0	225.0	225.0
OTHER/PROG RCPT						
TOTAL	281.3	281.3	281.3	281.3	281.3	281.3

POSITIONS:

FULL-TIME	-5-	-5-	-5-	-5-	-5-	-5-
PART-TIME	-1-	-1-	-1-	-1-	-1-	-1-
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This fiscal note represents current funding plus a budget increment of 44.2 GF and 175.0 federal funds. See Public Safety FY 91 budget, page 00191.

Prepared by: T. Michael Lewis Phone: 465-4374
 Division: Highway Safety Planning Agency Date: April 3, 1990
 Approved by Commissioner: A. H. English Date: 4-3-90
 Agency: Department of Public Safety Page 1 of i

DPS - Fiscal Note - Personal

4/3/90

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Public Safety
 Title: An Act relating to commercial BRU: Highway Safety Planning Agency
vehicle inspections
 Sponsor: Rules Committee Component: Commercial Vehicle Safety
 Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
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/PROG RCPT						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 28.32 to bring Alaska law into conformity with federal motor carrier safety regulations. These changes are needed to allow Alaska to participate in the federal commercial vehicle safety inspection program. Alaska's participation in the federal program is not mandated by the federal government, at least at this time. A State program is being developed; funding for implementation will be sought through the normal departmental budgetary process. There will be no direct fiscal impact as a result of the passage of this bill.

Prepared by: Earl D. Clark
 Division: Highway Safety Planning Agency

Phone: 465-2446
 Date: 12/15/89

Approved by Commissioner: S.A.H. English
 Agency: Department of Public Safety

Date: 12/15/89
 Page 1 of 1

(Handwritten)
12/15/89

HOUSE COMMITTEE REPORT

(5)

Date Referred: April 30, 1990

FURTHER REFERRALS:

FINANCE

Date of Committee Action: 5/1/90

The TRANSPORTATION Committee considered:

CSSB 368 (FINANCE)

CS SB NO. 368 (Finance)

COMMERCIAL MOTOR VEHICLE INSPECTIONS

"An Act relating to commercial motor vehicle inspections and licensing; and providing for an effective date."

RECOMMENDATIONS:

- [] be replaced with _____ [] the same title
[] a new title
[] have attached amendment(s)
[] do pass
[] do not pass
[] no recommendation
[] individual recommendations
[] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- [] fiscal impact _____
[] zero fiscal note _____
[] zero with analysis _____

- [] fiscal note(s) _____
[] zero fiscal note(s) _____
[] zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not Pass
No Rec
Amend

Ben D. ...
Bill ...
Karen ...
Eugene ...
Richard ...

	Do Not Pass	No Rec	Amend

Richard ...
Chairman's Signature

commercial motor vehicle inspector improperly conducts inspections or fails to comply with a provision of this section.

(c) If a certificate is revoked or suspended under (b) of this section the division shall give a commercial motor vehicle inspector a hearing within 10 days after the receipt of a written request filed with the commissioner within 30 days after revocation or suspension. (§ 3 ch 104 SLA 1985)

Sec. 28.32.050. Issuance of certificate of inspection. (a) A person operating an official commercial motor vehicle inspection station shall issue a certificate of inspection to the owner of a commercial motor vehicle after determining that the commercial motor vehicle is in a safe and mechanically sound condition.

(b) A person operating an official commercial motor vehicle inspection station shall keep a record of each inspection performed at the station. The division may audit the records of an official inspection station at any time. (§ 3 ch 104 SLA 1985)

Sec. 28.32.060. Falsely representing to be an official station.

(a) A person may not represent a place as an official commercial motor vehicle inspection station unless the station is operating under a valid permit issued by the division under AS 28.32.030.

(b) A person may not issue a certificate of inspection under AS 28.32.050 unless the person holds a valid permit under AS 28.32.030. (§ 3 ch 104 SLA 1985)

Sec. 28.32.070. Counterfeit certificates of inspection. (a) A person may not make, issue, or knowingly use an imitation or counterfeit of an official certificate of inspection.

(b) A person may not knowingly display or issue a certificate of inspection on a commercial motor vehicle unless the commercial motor vehicle has met the requirements of AS 28.32.050(a). (§ 3 ch 104 SLA 1985)

Sec. 28.32.080. Duties of commissioner. The commissioner of public safety shall adopt procedural regulations appropriate to achieve compatibility with other western states and procedural regulations necessary to implement this chapter. (§ 3 ch 104 SLA 1985)

Sec. 28.32.090. Violation a misdemeanor. A person who violates a provision of this chapter is guilty of a class B misdemeanor. (§ 3 ch 104 SLA 1985)

Sec. 28.32.900. Definitions. In this chapter,

(1) "commercial motor vehicle" means a vehicle used by the owner or another person for commercial purposes upon a highway or vehicular way with a daily traffic volume greater than 499 that is a part of the state highway system or is connected by another highway or vehicular way to the state highway system, if the vehicle is

(A) a school bus;

(B) a state or local government vehicle of more than 10,000 pounds unladen gross weight;

(C) a truck or bus of more than 10,000 pounds unladen gross weight; or

(D) a trailer of 5,000 pounds or more unladen gross weight attached to a vehicle described in (C) of this paragraph;

(2) "commercial purposes" means activities for which a person receives direct monetary compensation or activities for which a person receives no direct monetary compensation but are incidental to and done in furtherance of the person's primary business;

(3) "division" means the division of motor vehicles, Department of Public Safety. (§ 3 ch 104 SLA 1985)

Chapter 33. Commercial Motor Vehicle Financial Responsibility.

Section

10. Financial responsibility

Sec. 28.33.010. Financial responsibility. (a) A person who carries passengers or freight for hire intrastate in a commercial motor vehicle or a person who carries freight in a motor vehicle for commercial purposes, or a person who rents or leases a motor vehicle for the use of another to carry freight shall procure and maintain security in the following minimum amounts:

(1) \$200,000 for property damage in a single occurrence;

(2) \$500,000 for bodily injury or death in a single occurrence.

(b) Evidence of security required under (a) of this section shall be filed with the department and must be

(1) a policy or certificate of insurance issued by an insurer acceptable to the department;

(2) a bond of a surety company licensed to write surety bonds in the state;

(3) evidence accepted by the department, showing ability to self-insure; or

(4) other security approved by the department.

(c) The department may authorize department personnel to enforce this section and may adopt procedural regulations necessary to implement this section.

Chapter 25. Protection of Blind Persons.

[Repealed, § 1 ch 19 SLA 1972.]

Chapter 30. Abandoned Vehicles.

[Repealed, § 36 ch 127 SLA 1974.]

Chapter 31. Abandoned Motor Vehicles.

[Repealed, § 3 ch 61 SLA 1976. For current law, see AS 28.11.]

Chapter 32. Commercial Motor Vehicle Safety Inspections.

Section	Section
10. Commercial motor vehicle safety inspections	60. Issuance of certificate of inspection
20. Exemptions	60. Falsely representing to be an official station
30. Official commercial motor vehicle inspection stations	70. Counterfeit certificates of inspection
40. Certification of commercial motor vehicle inspectors	80. Duties of commissioner
	90. Violation a misdemeanor
	900. Definitions

Sec. 28.32.010. Commercial motor vehicle safety inspections. A commercial motor vehicle may not be operated after January 1, 1986 without a certificate of inspection. An owner of a commercial motor vehicle shall renew a certificate of inspection at least semi-annually at an official inspection station under AS 28.32.030. The owner may renew a certificate of inspection at any time during the office hours of the inspection station. An owner of a commercial motor vehicle shall display a current sticker of inspection visible from outside the vehicle in a location determined by the division. (§ 3 ch 104 SLA 1985)

Sec. 28.32.020. Exemptions. A commercial motor vehicle is exempt from the requirements of AS 28.32.010 if it is

(1) owned and operated by the federal government unless the vehicle is used to transport property of the general public for compensation in competition with other persons who own or operate a commercial motor vehicle subject to this chapter, and except to the extent regulation of vehicles operated by the federal government is permitted by federal law;

(2) used exclusively to transport ranch and farm products other than bulk milk; or

(3) customarily and historically used for commercial purposes for less than 20 hours per month. (§ 3 ch 104 SLA 1985)

Sec. 28.32.030. Official commercial motor vehicle inspection stations. (a) A person may not operate an official commercial motor vehicle inspection station without a permit from the division. The division shall approve an application for permit to operate an inspection station if

(1) the division determines the inspection station has proper equipment and competent personnel; and

(2) a commercial motor vehicle inspector certified under AS 28.32.040 is employed at the inspection station.

(b) After the division approves an application for a permit to operate an official inspection station under (a) of this section, it shall provide the applicant with a permit and certificates of inspection.

(c) Upon receipt of a permit from the division under (b) of this section, the operator of an official commercial motor vehicle inspection station shall post the permit in a conspicuous place at the location designated by the division.

(d) The division may enter the premises of the operator of an official commercial motor vehicle inspection station during the station's business hours to inspect the work of a certified commercial motor vehicle inspector or to determine if the operator continues to meet the requirements of this section.

(e) The division shall suspend or revoke a permit of an operator of an official commercial motor vehicle inspection station if the operator fails to meet the requirements of this section.

(f) Upon notice of suspension or revocation of a permit under (e) of this section, the operator of an official commercial motor vehicle inspection station shall immediately terminate all inspection activities and, on demand by the division, return the permit and all unissued certificates of inspection. The division shall issue a receipt for all returned certificates of inspection.

(g) If a permit is suspended or revoked under (e) of this section, the division shall give the holder of the permit a hearing within 10 days after receipt of a written request filed with the division within 30 days after suspension or revocation.

(h) A permit to operate an official commercial motor vehicle inspection station may not be assigned, transferred, or used at a location other than the location designated by the division. (§ 3 ch 104 SLA 1985)

Sec. 28.32.040. Certification of commercial motor vehicle inspectors. (a) A person may not conduct a commercial motor vehicle inspection at an official inspection station under AS 28.32.030 unless certified as a commercial motor vehicle inspector by the division.

(b) The division may suspend or revoke the certification issued to a commercial motor vehicle inspector under (a) of this section if the

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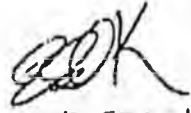
MEMORANDUM STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES - DIVISION OF AGRICULTURETO: Frank Mielke
Director

DATE: April 13, 1990

DNR/DIV OF AGRICULTURE

APR 13 1990

DIRECTOR'S OFFICE

FROM: Ed Kern 
Development Specialist

TELEPHONE: 745-7200

SUBJECT: Farm Vehicles
SB 368

The attached Senate Bill CSSB 368 (Judiciary) has recently come to my attention as having an economic impact on the agriculture industry.

Section 28.32.900 of this bill restricts the definition for farm vehicles to be exempt from the commercial vehicle rules.

(ii) farm vehicles that are controlled and operated by a farmer; used to transport agricultural products, farm machinery, or farm supplies to or from that farmer's farm; not used in the operations of a common or contract motor carrier; and used within 150 miles of the farmer's farm;

The key change is: used within 150 miles of the farmer's farm. The current statute language reads as follows:

(2) used exclusively to transport ranch and farm products other than bulk milk; or

(3) customarily and historically used for commercial purposes for less than 20 hours per month. ((3 ch 104 SLA 1985)

Local farmers must exceed the 150 mile limit to move livestock to market from either Delta or Homer when they deliver to the slaughterhouse here in Palmer. The same is true for grain, hay, seed or fertilizer from suppliers to farm or to market.

I would hope that there will be sufficient public notice to the agriculture industry to provide input on this issue. This bill has been through both Senate HES and JUD committee with no notice to the agriculture community that we have heard about. The next hearing on this bill is in Senate FIN April 20 at 9:00 a.m.

I have attached a copy of the current AS 28.32, plus the bill resolution and history report.

EK/kjh

Attachment

04-13/90

14:52

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DNR/DIV OF AGRI

SB 368c

2002

MEMORANDUM STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES - DIVISION OF AGRICULTURE

TO: Lennie Gorsuch
Commissioner

DATE: April 13, 1990

FM
FROM: Frank Mielke
Director

SUBJECT: SB 368/Effects on
Farm Vehicles

My staff brought up SB 368 (a Governor's bill) and some of the changes to farm vehicle requirements. No one in DOTPF to my knowledge has talked with the Division of Agriculture or the farmers about these changes.

FM/kjh

SENATE FINANCE COMMITTEE REPORT

DATE: 4/5/90

FURTHER:

DATE TURNED INTO OFFICE: 4/20/90

The Finance Committee considered

SB 368

"An Act relating to commercial motor vehicle inspections."

and recommended:

replace with _____ CS SB 368 (Finance)
 or adopt _____ CS _____
 attached amendment(s)
 _____ letter of intent adopted

same title
 new title
 technical title change (HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

Dept/Date:

fiscal note(s) DPS 4/3/90

zero fiscal note(s) _____

APPROVES PREVIOUS:

Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____

appropriation-no fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

1. _____

2. _____

Co-Chairs: Signatures and Recommendations



Representative Bette Cato, Chair House Transportation Committee

DATE: May 1st, 1990

PLACE: Room 17

SUBJECT OF MEETING:
CSSB 310
SB 368

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
EARL CLARK	Public SAFETY	9163 PARKWOOD	99801	789-4235	465-2446	(Y) N	SB 368
MARK HICKEY	DOT/PF	P.O. Box Z; JUNEAU	99811	9-9693	5-3900	(Y) N	SB 310
GAYLE HORETSKI	D.P.S. Deputy Commis	BOX N, JUNEAU	99811		4322	Y N	IF Q'S SB 368
						Y N	
						Y N	
						Y N	
						Y N	
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						Y N	
						Y N	

S B

483

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Licensing of golf carts

Agency Affected: Public Safety
BRU: Motor Vehicles

Sponsor: Duncan
Requestor: Senate Transportation

Component: Field Services

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
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-
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REVENUE	1.0	-0-	1.0	-0-	1.0	-0-
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FUNDING: (Thousand of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

It is estimated 30 golf carts would be licensed. Registration fee would be \$35.00 per cart, which would generate \$1,050 in revenue. Since it is a two year registration, the fee would be collected every other year.

JM
4/2/90 Prepared by: Bill Brown
Division: Motor Vehicles

Phone: 465-4335
Date: 4-3-90

Approved by Commissioner: Y.A.H. Arthur English
Agency: Department of Public Safety

Date: 4-3-90

Original sponsor(s): SEN. DUNCAN

IN THE SENATE

BY THE TRANSPORTATION COMMITTEE

HOUSE CS FOR CS FOR SENATE BILL NO. 483 (Transportation)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to golf carts; and providing for an effective date."

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

* Section 1. AS 05 is amended by adding a new chapter to read:

CHAPTER 32. GOLF CARTS.

ARTICLE 1. REGISTRATION.

Sec. 05.32.010. REGISTRATION. A person who operates a golf cart on a public road shall register the golf cart with the Department of Public Safety as provided in this chapter.

Sec. 05.32.020. REGISTRATION AND REGISTRATION FEE. A registration issued under this chapter is valid for two years. The registration fee is \$35. Money received by the Department of Public Safety under this chapter shall be deposited into the general fund.

Sec. 05.32.030. REGISTRATION CERTIFICATE AND DECALS. Upon registration of a golf cart, the registrant shall be issued a registration certificate and two numbered decals containing the registration number of the vehicle. Once a registration number has been issued for a golf cart, that number remains with that cart until the cart has been destroyed, abandoned, or permanently removed from the state. Numbered registration decals shall be displayed on each side of the golf cart.

ARTICLE 2. REGULATION AND EQUIPMENT.

Sec. 05.32.100. REGULATION. (a) Except as provided in (b) of this section, a city, or a borough in the area of the borough outside

a city, may by ordinance regulate the use and operation of a golf cart. A golf cart may not be operated on a public road in the state, except as authorized by the state under (b) of this section or by municipal ordinance.

(b) ~~The Department of Transportation and Public Facilities may regulate the use or operation of golf carts on a public road maintained by the state.~~

Sec. 05.32.110. EQUIPMENT REQUIRED. A golf cart must contain the following equipment:

(1) brakes adequate to control the movement of, to stop, and to hold the vehicle under normal conditions of operation;

(2) at least one head lamp aimed and of sufficient intensity to reveal persons and objects at a distance of at least 100 feet ahead during hours of darkness under normal atmospheric conditions;

(3) a throttle that, when released by the hand or foot, will return the engine speed to idle;

(4) at least two tail lights on the rear of the vehicle, one on each side, that are illuminated when the head lamp is in operation;

(5) at least two brake lights on the rear of the vehicle, one on each side, that operate when the brake pedal or control is pressed;

(6) turn signals, two in the front and two in the back activated by a single control;

(7) unless the golf cart is operated by electricity, an exhaust muffler in good working order.

ARTICLE 3. GENERAL PROVISIONS.

Sec. 05.32.200. REPORTING OF ACCIDENTS. The operator of a golf cart involved in an accident that results in injury to, or death of a

person, or property damage in the amount of \$100 or more, other than property damage to the operator's golf cart, shall immediately and by the quickest means of communication give notice of the accident to the local law enforcement agency.

Sec. 05.32.210. PENALTY. A person who violates a provision of this chapter is guilty of a violation.

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

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Jordan Creek Center
8800 Glacier Highway, Suite 223
Juneau, Alaska 99801

RUDDY, BRADLEY & KOLKHORST

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

P.O. Box 34338
Juneau, Alaska 99803-4338
Telephone (907) 789-0047
Fax (907) 789-0783

William G. Ruddy
James B. Bradley
Kathryn M. Kolkhurst

June 2, 1989

Mr. Arthur English
Commissioner of Public Safety
450 Wittier Street
Juneau, AK 99801

RE: Licensing of cruise carts for tourist use
in Juneau

Dear Commissioner English:

I represent Alaskan Cart Rentals, Inc., an Alaska corporation which wishes to be in the business of renting in Juneau, for use primarily by tourists, golf carts modified by adding a full range of equipment such as headlights, taillights, turn signals, seat belts, a horn and so on.

Alaskan Cart Rentals has received clearance for a conditional use permit by the City and Borough of Juneau and now need only to be licensed to operate on the city streets. Attached is a copy of a letter to the Juneau Planning Commission setting forth Alaskan Cart's position.

I spoke yesterday on the telephone at some length with Jay Delaney, who was inclined to not license the carts because they do not carry the federal safety sticker required of automobiles. The problem which we have is that they are not automobiles. They are smaller than any automobile I ever saw (footprint approximately 25 square feet) and they are slower than any automobile in which I have ridden (governed to less than 20 mph). They are designed for use on golf courses, which, of course, means the carts are designed for use in all sorts of terrain and topography. Their low center of gravity is specifically designed to prevent turnovers and their low speed compliments that feature.

That these machines cannot be utilized for a very worthwhile purpose is a bad result. I think it may also be a misinterpretation of the law. 13 AAC 02.54(3) seems to me to authorize the licensing of the vehicles. That golf carts are contemplated by your regulations is evidenced by 13 AAC 04.420(b), which refers specifically

Mr. Arthur English, Commissioner
June 2, 1989
Page 2

to "golf carts" and tells what equipment they must have in order to be used on the streets.

As I read the laws, these carts could be licensed as motorcycles if they had only three wheels and we put a funny seat on them. We add a fourth wheel, thereby substantially increasing the stability and safety of the vehicle, and all of a sudden are told that they cannot be licensed. The result does not seem to make a great deal of sense.

I am also troubled by an observed lack of consistency. The City and Borough of Juneau has a Dihatsu golf cart, four-wheeled with no safety sticker, which has been licensed and which is regularly used on the streets of Juneau for parking meter patrol. If it is okay for the City, it is difficult for me to understand why my clients should be subjected to a different standard.

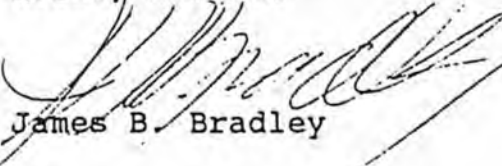
Juneau Police Chief Mike Gelston has test driven one of the carts, believes them to be safe, and is not opposed to their being licensed. Rentals will be made only to licensed drivers over the age of 25 years. Their area of use will be closely regulated. Also, we are willing to accept reasonable conditions imposed pursuant to the authority of 13 AAC 02.455(3).

Finally, on the subject of safety, let me ask you when was the last time you heard of somebody being injured either on or by a golf cart?

Thanks for you attention to this matter.

Very truly yours,

RUDDY, BRADLEY & KOLKHORST



James B. Bradley

JBB:gm
cc: Alaskan Cart Rentals, Inc.

Jay Delaney/ DMV

RECEIVED OCT 12 1989

Jordan Creek Center
8800 Glacier Highway, Suite 223
Juneau, Alaska 99801

RUDDY, BRADLEY & KOLKHORST

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

P.O. Box 34338
Juneau, Alaska 99803-4338
Telephone (907) 789-0047
Fax (907) 789-0783

William G. Ruddy
James B. Bradley
Kathryn M. Kolkhorst

October 11, 1989

Senator Jim Duncan
PO Box 020690
Juneau, AK 99802

RE: Possible legislation for licensing of golf carts

Dear Senator Duncan:

As I mentioned to you in our telephone conversation of this morning, I have received from Mr. Lundeen of Alaskan Cart Rentals, Inc., copies of relevant statutes from California, Florida and Arizona all dealing with the licensing of golf carts.

As you know, Alaska Cart Rentals is interested in renting golf carts to individuals during the tourist season so that accessibility to the city would not be denied to those many people who are physically handicapped or who simply are unwilling or unable to walk the steep hills.

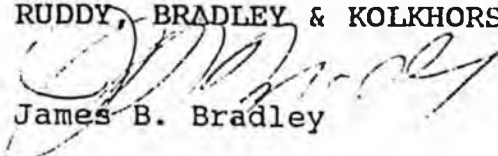
At this point the chief impediment to going forward with the project appears to be the inability to get the vehicles licensed which, in turn, makes it impossible to obtain insurance for them. Conversely, if the vehicles were licensed, insurance could probably be obtained.

Your willingness to help is appreciated. If, after you have had a chance to review the statutes, you would give me a call, I would be pleased to try and answer any questions you have about the matter. Hopefully you will be able to see your way to introduce a bill which would provide for the licensing of these vehicles.

Again, thanks for your interest.

Regards,

RUDDY, BRADLEY & KOLKHORST


James B. Bradley

JBB:gm
Enclosures
cc: Ron Lundeen

RECEIVED MAY 17 1989

Jordan Creek Center
8800 Glacier Highway, Suite 223
Juneau, Alaska 99801

RUDDY, BRADLEY & KOLKHORST
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

P.O. Box 34338
Juneau, Alaska 99803-4338
Telephone (907) 789-0047
Fax (907) 789-0783

William G. Ruddy
James B. Bradley
Kathryn M. Kolkhorst

May 17, 1989

City and Borough of Juneau
Planning Commission
155 S. Seward Street
Juneau, AK 99801

RE: APPLICATION FOR CONDITIONAL USE PERMIT
BY ALASKA CART RENTALS INC.

Commissioners:

I have been consulted by Alaska Cart Rentals, Inc., asked to assist them in obtaining their conditional use permit and would like to share a few thoughts with you.

We would all agree that tourism as an industry is of great importance to the economy of our community. It follows that whatever things can be reasonably done to make it a better and more complete tourist destination is in the best interests of all the members of our community.

Not all the tourists who visit Juneau want to take a bus tour and not all are physically able to walk up and down our hills. Nevertheless, between the buses and the Shank's mare, we offer only taxi cabs to accommodate the independent or mildly adventuresome tourist. The carts which are proposed for rental by Alaska Cart Rentals will help meet that need. With the availability of the carts, Juneau becomes available for viewing by the handicapped, by people who are unable because of age or inclination to walk our hills and hopefully by others who simply want to see Juneau.

Concerns have been voiced by some Juneauites. Those concerns involve mainly congestion and safety.

1. Congestion. Initially it should be understood that these carts are not very big. Depending upon the size car to which they are being compared, their footprint approximates 25% of an automobile. Stated differently, the 30 carts proposed would probably occupy less space than 8 Buicks.

Legal correspondence

City and Borough of Juneau
Planning Commission
May 17, 1989
Page 2

Our community has, for the past couple of years, had mopeds available as rentals. The mopeds obviously present a smaller footprint than even the carts. However, from the perspective of another vehicle attempting to pass, the moped is probably a greater problem than the cart since the four-wheeled cart offers a much greater margin of safety in terms of stability and direction of travel. Even at that, the mopeds do not appear to have presented any congestion problem of significance during the period of their use.

You are probably already aware that carts have been used for local transportation on Catalina Island for about a decade. The townspeople there have restricted regular vehicles in favor of cart use, obviously believing, among other things, that the carts actually cut down on congestion.

This is not to say that Alaska Cart expects to have no problems. In fact, they probably will have problems and will want to deal with them when and as they are identified.

The cart renters will be provided with a map showing the route which they are to follow with the carts. Their rental contract will call for confiscation of a cart found in a non-designated location. If congestion problems arise, the routing can be adjusted in a number of ways. The spectrum of possibilities ranges from banning the carts from the particular area on the one hand to requiring that the carts drive through the particular area without stopping on the other.

I suggest that the permit be issued with a provision for review, if deemed necessary, in 30-45 days when both the Commission and the operator have had an opportunity to gain a little Juneau experience. Problems, if any, can be identified and any needed adjustments made.

Alaska Cart Rentals wants each of its renters to have a memorable visit to Juneau. They want their passengers to leave happy with both Juneau and their cart trip, partly because it is good business and partly because they want Juneau to like the carts too.

City and Borough of Juneau
Planning Commission
May 17, 1989
Page 3

2. Safety. It seems to me that the question of the vehicle being safe enough to be on the streets is one which the State addresses in the licensing process. All vehicles will, of course, be licensed by the State of Alaska. Additionally, all drivers will be required to have a valid operator's license and carts will not be rented to anyone under 25 years of age. The carts will be governed to a maximum speed of 20 mph and will not be allowed to go on any major thoroughfares, such as Egan Drive.

At least one person has mentioned a concern about the cart's use on Juneau's hills. I can offer no personal insight on that at this time, but we all know that these carts are designed for use on golf courses which, of course, present a full range of topographies. Moreover, the brake pedal is one of only two floor controls and is disproportionately larger than the accelerator pedal, making it much easier to locate with the foot. There is, as is common in golf carts, a brake lock system which is available to lock the cart in any particular location.

Finally, if an accident does occur, the carts will be fully and adequately insured, thereby providing additional protection for both the cart users and others.

The leadership of Alaska Cart Rentals is anxious to cooperate with the community and to become a part of it. They want to provide a service which will make Juneau an even better place to visit and live.

Thank you for your consideration.

Sincerely,

RUDDY, BRADLEY & KOLKHORST



James B. Bradley

JBB:gm

cc: Alaska Cart Rentals, Inc.

NOTES TO DECISIONS

Applicability of chapter. — This chapter, specifically AS 05.25.040, was intended to cover nondocumented vessels temporarily devoted to recreational purposes, even though generally used com-

mercially. *Churchill v. F/V Fjord*, 744 F.2d 677 (9th Cir. 1984), rev'd on other grounds, 857 F.2d 571 (9th Cir. 1988).
 Quoted in *Churchill v. F/V Fjord*, 857 F.2d 571 (9th Cir. 1988).

Chapter 30. Snow Vehicles.

Article

- 1. Registration (§§ 05.30.010 — 05.30.050)
- 2. Regulation and Equipment (§§ 05.30.070 — 05.30.080)
- 3. General Provisions (§§ 05.30.100 — 05.30.120)

Article 1. Registration.

Section

- 10. Unlawful to operate unregistered vehicle
- 20. Registration and registration fee

Section

- 30. Exemption from registration fee
- 40. Registration certificate and decals
- 50. Transfer of ownership

Sec. 05.30.010. Unlawful to operate unregistered vehicle. Except for operation on the owner's private property, a person may not operate a snow vehicle unless the snow vehicle has been registered with the Department of Public Safety under this chapter. (§ 1 ch 182 SLA 1968; am § 1 ch 214 SLA 1975)

Collateral references. — 7A Am. Jur. 60 C.J.S., Motor Vehicles, §§ 58-65, 2d, Automobiles and Highway Traffic, 97-101, 105-145.
 §§ 5, 55, 58, 215.

Sec. 05.30.020. Registration and registration fee. A registration is valid for two years commencing September 1, 1968. The registration fee is \$5, which shall be paid into the general fund. (§ 1 ch 182 SLA 1968)

Sec. 05.30.030. Exemption from registration fee. Snow vehicles owned by the federal or state government or a political subdivision of the federal or state government shall be registered but are not required to pay a registration fee. (§ 1 ch 182 SLA 1968)

Sec. 05.30.040. Registration certificate and decals. (a) Upon registration of a snow vehicle, the registrant shall be issued a registration certificate and two numbered decals containing the registration number of the vehicle. Once a snow vehicle has been issued a number, it retains that number until the vehicle is destroyed, abandoned, or permanently removed from the state. Numbered registration decals shall be displayed on each side of the cowlings of a snow vehicle.

(b) As used in this section "cowling" means the forward or rear portion of a snow vehicle surrounding the motor and clutch assembly. (§ 1 ch 182 SLA 1968)

Revisor's note. — Subsection (b) was formerly AS 05.30.120(1). Renumbered in 1981.

Sec. 05.30.050. Transfer of ownership. The Department of Public Safety shall adopt regulations to accomplish transfer of ownership of snow vehicles. (§ 1 ch 182 SLA 1968; am § 2 ch 214 SLA 1975)

Article 2. Regulation and Equipment.

Section

70. Regulation by political subdivision
80. Equipment required

Sec. 05.30.070. Regulation by political subdivision. A city of any class, or an organized borough in the area outside cities, may, by ordinance, regulate the use and operation of snow vehicles. (§ 1 ch 182 SLA 1968)

Opinions of attorney general. — This section does not authorize a municipality to allow use of a snow machine on a public roadway without a valid driver's license, since such activity would be directly contrary to the provisions of AS 28.15.011(b), which requires a valid driver's license for

operating a vehicle on a public roadway. June 25, 1986, Op. Att'y Gen.

Collateral references. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, §§ 5, 58, 59, 61, 215.

Criminal liability based on violation of statute specifically regulating operation of snowmobile. 45 ALR3d 1438.

Sec. 05.30.080. Equipment required. (a) A snow vehicle must contain the following equipment:

- (1) brakes adequate to control the movement of and to stop and to hold the vehicle under normal conditions of operation;
- (2) at least one head lamp so aimed and of sufficient intensity to reveal persons and objects at a distance of at least 100 feet ahead during hours of darkness under normal atmospheric conditions;
- (3) a throttle that, when released by the hand, will return the engine speed to idle;
- (4) an exhaust muffler in good working order.

(b) The provisions of (a)(4) of this section do not apply to a snow vehicle while the vehicle is operated in a racing event permitted under AS 05.90.001. (§ 1 ch 182 SLA 1968; am § 3 ch 192 SLA 1970; am § 3 ch 59 SLA 1982)

Collateral references. — 60 C.J.S., similar noise-preventing devices on motor vehicles, § 26. 49 ALR2d
 Motor Vehicles, § 26. vehicles, aircraft or boats. 1202.
 Public regulation requiring mufflers or

Article 3. General Provisions.

Section	Section
100. Reporting of accidents	120. Definition
110. Penalty	

Sec. 05.30.100. Reporting of accidents. The operator of a snow vehicle involved in an accident resulting in injury to, or death of a person, or property damage other than to the operator's snow vehicle the estimated amount of which is \$100 or more, shall immediately, by the quickest means of communication, give notice of the accident to the nearest state trooper or city police officer. (§ 1 ch 182 SLA 1968)

Collateral references. — Accidents involving negligence in operation of snowmobile, skimobile, or similar vehicle. 42 ALR3d 1422.	Liability for injury or death allegedly caused by defect in snowmobile or other recreational-purpose vehicle. 81 ALR3d 394.
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Sec. 05.30.110. Penalty. A person who violates a provision of this chapter or a regulation adopted under this chapter is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than \$100 for each offense. (§ 1 ch 182 SLA 1968)

Sec. 05.30.120. Definition. In this chapter "snow vehicle" means a vehicle propelled by mechanical power, supported in part by skis, belts, cleats, or low pressure tires, and primarily designed to travel over ice or snow. (§ 1 ch 182 SLA 1968)

Chapter 35. Sports Facilities Grants and Sports Funds.

Article

1. Sports Facilities Grants (§§ 05.35.010 — 05.35.070)
2. Sport Funds (§§ 05.35.100 — 05.35.150)

Article 1. Sports Facilities Grants.

Section	Section
10. Grant of funds for sports facilities	40. Power of municipality
20. Application and disbursement	50. Limitation
30. Maintenance and employment of facility	60. Administration
	70. Definitions

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 9, 1990

Hon. Jim Duncan
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Re: Proposed CSSB 483
(Transportation)

Dear Senator Duncan:

You have asked us to review and comment on the proposed CSSB 483 (Trsp). Senator Fischer has apparently raised some concerns regarding the potential liability to the state if the bill were to become law in the form proposed. Briefly, we do not believe the bill would expose the state to any new liability.

Proposed CSSB 483 (Trsp) creates a registration requirement for golf carts, similar to what is in current law for snowmobiles under AS 05.30. Each golf cart would have to be registered with the Department of Public Safety (proposed AS 05.32.010 - 030), and municipalities would be authorized to regulate their use on public roads by ordinance. (Proposed AS 05.32.100). Each cart would be required to contain certain equipment. (Proposed AS 05,32,110). Finally, if an operator were involved in an accident involving personal injury or property damage in excess of \$100, the operator would be required to report the accident to the local law enforcement agency. (Proposed AS 05.32.200).

We do not see anything in these provisions that would expose the state to potential liability. Although the state can, in some cases, be held liable for negligent inspections (See Adams v. State, 555 P.2d 235 (Alaska 1976) (state breached its duty to alleviate a known fire hazard following inspection of hotel), and recent cases have been brought where the state allegedly improperly issued a license to an individual (these cases tend to be in the area of day-care), the state cannot be held liable for the mere act of registering a vehicle. See Galvan v. Superior Court of City and County of San Francisco, 452 P.2d 930 (Cal. 1969) (the basic difference between licensing and registration is that licensing

REPLY TO:

1031 W 4th AVENUE SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 276-3550
FAX: (907) 276-3697

1st NATIONAL CENTER
100 CUSHMAN ST SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 452-1568
FAX: (907) 456-1317

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 463-5295

Hon. Jim Duncan
Alaska State Legislature

April 9, 1990
Page 2

regulates activity based on determination of qualifications of the licensee, while registration catalogs all persons or things with respect to certain standards).

I hope this answers your questions. Please do not hesitate to contact me if I can do anything further.

Sincerely yours,

DOUGLAS B. BAILY
ATTORNEY GENERAL

By:



Alexis Gabay
Assistant Attorney General

AG:jf

cc: Senator Lloyd Jones, Chair, Senate Transportation Committee
Senator Paul Fischer

Trsp
Fin

(5)

Date Referred: April 18, 1990

FURTHER REFERRALS:

FINANCE

Date of Committee Action: 5/5/90

The TRANSPORTATION Committee considered:

CSSb 483 (Trsp)

CS SB NO. 483 (Transportation)

LICENSING OF GOLF CARTS

"An Act relating to golf carts; and providing for an effective date."

HCS CSSB 483 (Trsp)

RECOMMENDATIONS:

[] be replaced with HCS for CS for SB 483

[] the same title
[] a new title

[] have attached amendment(s)

[] do pass

[] do not pass

[] no recommendation

[] individual recommendations

[] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

[] fiscal impact _____

Senate

[] fiscal note(s) 4/10/90 DAS

[] zero fiscal note _____

[] zero fiscal note(s) _____

[] zero with analysis _____

[] zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not Pass
No Rec
Amend

B. Anderson
Richard J. [Signature]

<u>E. Kapina</u>		<input checked="" type="checkbox"/>	
<u>Arwen D. [Signature]</u>		<input checked="" type="checkbox"/>	

Richard J. [Signature]
Chairman's Signature

S B

499

JUD

(5)
Date Referred: April 9, 1990

FURTHER REFERRALS:

JUDICIARY

Date of Committee Action: 4/24/90

The TRANSPORTATION Committee considered:

SB 499

SENATE BILL NO. 499

APPEAL FROM DRIVER'S LICENSE REVOCATION

"An Act relating to appeal of administrative action against a driver's license."

RECOMMENDATIONS:

- be replaced with _____ the same title
- _____ a new title
- have attached amendment(s)
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact _____ fiscal note(s) _____
- zero fiscal note _____ zero fiscal note(s) DOT + courts
- zero with analysis _____ zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not Pass No Rec Amend

Ben Simpson

Bill Huls

Richard (Sorey)

	Do Not Pass	No Rec	Amend
Eugene A. Kuker		X	

Richard Sorey
Chairman's Signature