

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8204 HOUSE TRANSPORTATION

467

HB

367

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 13, 1994

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 3/1/94

The TRANSPORTATION Committee considered:

HB 367

HOUSE BILL NO. 367

PROHIBITED HIGHWAY ADVERTISING

"An Act relating to the control of outdoor advertising."

RECOMMENDATIONS:

be replaced with CSHB 367 (TRA)

the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____

SIGNING <u>DO PASS</u>	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>			
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>[Signature]</i>	<input checked="" type="checkbox"/>				

[Signature]
CHAIRMAN'S SIGNATURE

ALASKA STATE LEGISLATURE



Delta Junction Office:
P.O. Box 1189
Delta Junction, AK 99737-1189
907-895-4236

While in Juneau:
State Capitol, Room 110
Juneau, AK 99801
907-465-4859

Representative Harley Olberg

INDEX FOR HB 367

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- (2) CS Work Draft for HB 367 and HB 367
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- (5) Defining Zoned/Unzoned Commercial or Industrial areas
- (6) Alaska Statutes
- (7) Federal Register
- (8) Alaska Highway Maps

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SPONSOR STATEMENT FOR CSSB 367

House Bill 367 would allow certain restricted exceptions to the State's limitations on outdoor advertising, thereby addressing the need for improved directional signage to accommodate the State's travelling public.

These changes would facilitate efforts by roadside businesses to direct motorist to available services and products. In response to suggestions made by members of committees of both bodies last session, I would like you to consider this work draft, CSHB 367, today.

This CS for HB 367 would allow one new exception to the State limitation on outdoor advertising signs, display and devices; directional signs could be placed in zoned/unzoned commercial or industrial areas along a State highway, subject to stringent restrictions. The draft bill would also codify two existing DOT/PF programs in statute: the airspace leasing program and TODS (Tourist Oriented Directional Signing) program.

The changes proposed by CS HB 367 would help many small business owners while not negatively impacting the scenery visible from Alaska's highway. I strongly encourage you support for this bill.

8-LS1153E
Luckhaupt
2/26/94

CS FOR HOUSE BILL NO. 367()
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE OLBERG

A BILL

FOR AN ACT ENTITLED

1 "An Act relating limitations on outdoor advertising signs, displays, and devices."

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

3 * Section 1. AS 19.25.105(a) is amended to read:

4 (a) Outdoor advertising may not be erected or maintained within 660 feet of
5 the nearest edge of the right-of-way and visible from the main-traveled way of the
6 interstate, primary, or secondary highways in this state except the following:

7 (1) directional and other official signs and notices which include, but
8 are not limited to, signs and notices pertaining to natural wonders, scenic and historic
9 attractions, which are required or authorized by law, and which shall conform to
10 federal standards for interstate and primary systems;

11 (2) signs, displays, and devices advertising the sale or lease of property
12 upon which they are located or advertising activities conducted on the property upon
13 which they are located;

14 (3) signs determined by the state, subject to concurrence of the United

1 States Department of Transportation, to be landmark signs, including signs on farm
2 structures, or natural surfaces, of historic or artistic significance, the preservation of
3 which would be consistent with the provisions of this chapter;

4 (4) directional signs and notices pertaining to schools;

5 (5) advertising on bus benches or bus shelters if

6 (A) the state determines that the advertising conforms to local,
7 state, and federal standards for interstate and primary highways;

8 (6) directional signs whose size, lighting, and spacing, are approved
9 by the United States Department of Transportation, may be erected and
10 maintained outside of the right-of-way adjacent to interstate and primary
11 highways in areas zoned industrial or commercial or in unzoned commercial or
12 industrial areas as may be determined by agreement with the United States
13 Department of Transportation; under this paragraph, the directional signs must

14 (A) be for an individual business entity that is of significant
15 interest to the traveling public as evidenced by documentation that at least
16 75 percent of the entity's gross business receipts are from motorists
17 residing more than 20 miles from the business;

18 (B) consist of four or fewer off-premises signs for each
19 business, and each sign

20 (i) must be located on private property;

21 (ii) must provide directional information;

22 (iii) must indicate the specific business entity;

23 (iv) must be located within 50 miles of the physical
24 location of the business entity; and

25 (v) may not exceed 8 feet by 12 feet in size

26 [HIGHWAY SYSTEMS].

27 * Sec. 2. AS 19.25.105(d) is amended to read:

28 (d) Outdoor advertising may not be erected or maintained within the
29 right-of-way of an interstate, primary, or secondary highway except that

30 (1) outdoor advertising is allowed on bus benches and bus shelters
31 located within the right-of-way under the authority of a permit issued under

1 AS 19.25.200, if the bus benches or bus shelters are located within a borough or
2 unified municipality and the buses that stop at that location operate during the entire
3 year;

4 (2) signs, displays, and devices located on right-of-way property
5 leased from the state that advertise activities conducted on business property
6 adjacent to the highway may be erected and maintained;

7 (3) signs within the right-of-way that give specific business
8 information in the interest of the traveling public may be erected and maintained
9 to the extent permitted under federal law or regulation.

10 * Sec. 3. AS 19.25.180 is repealed and reenacted to read:

11 Sec. 19.25.180. APPLICABILITY OF MUNICIPAL ENACTMENTS.
12 Notwithstanding AS 19.25.080 - 19.25.180, a municipality may enact ordinances that
13 regulate outdoor advertising in a way that is more restrictive than the provisions of
14 AS 19.25.080 - 19.25.180, except that a municipality may not restrict directional signs
15 allowed under AS 19.25.105(a)(6).

16 * Sec. 4. AS 19.45.002 is amended to read:

17 Sec. 19.45.002. PENALTIES. A person who violates a [ANY] provision of
18 AS 19.05 - AS 19.25, except a violation of AS 19.25.080 - 19.25.180, is guilty of a
19 misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor
20 more than \$500, or by imprisonment in jail for a period not to exceed one year, or by
21 both.

22 * Sec. 5. 17 AAC 20.010 is annulled.

8-LS1153E
Luckhaupt
2/26/94

CS FCR HOUSE BILL NO. 367()
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
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11 (2) signs, displays, and devices advertising the sale or lease of property
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1 States Department of Transportation, to be landmark signs, including signs on farm
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10 maintained outside of the right-of-way adjacent to interstate and primary
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13 Department of Transportation; under this paragraph, the directional signs must

14 (A) be for an individual business entity that is of significant
15 interest to the traveling public as evidenced by documentation that at least
16 75 percent of the entity's gross business receipts are from motorists
17 residing more than 20 miles from the business:

18 (B) consist of four or fewer off-premises signs for each
19 business, and each sign

20 (i) must be located on private property;

21 (ii) must provide directional information;

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2 unified municipality and the buses that stop at that location operate during the entire
3 year;

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19 misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor
20 more than \$500, or by imprisonment in jail for a period not to exceed one year, or by
21 both.

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Sectional Summary of CSHB 367

In conformity with federal law as found in 23 U.S.C. 131, Section 1 of the Bill amends AS 19.25.105 (a) to allow one additional exception to the State prohibition on outdoor advertising with 660 feet of a highway right-of-way. This exception would allow directional signage to be placed in zoned/unzoned industrial or commercial areas along a State highway if it meets the following criteria:

- * It must be for an individual business entity that is of significant interest to the traveling public as evidenced by documentation that at least 75 percent of the entity's gross business receipts are from motorists residing more than 20 miles from the business;
- * Each business is limited to four or fewer off-premises signs;
 - * Each sign must be located on private property;
 - * Each sign must provide directional information;
 - * Each sign must indicate the specific business entity;
 - * Each sign must be located within 50 miles of the physical location of the business entity; and
 - * Each sign must not exceed 8 feet by 12 feet in size. (1)pg 2

Section 2 of the Bill amends AS 19.25.105(d) to allow additional exceptions to the State prohibition on outdoor advertising WITHIN THE RIGHT-WAY of a State highway. Both of these new exceptions codify existing DOT/PF programs. The language added in Paragraph (2) establishes a statutory basis for the department's airspace leasing program. The language added in paragraph (3) establishes a statutory basis for the federally designed TODS (Tourist Oriented Directional Signing) Program.

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SECTION 3 of the Bill repeals and reenacts AS 19.25.180 to provide for the right of a municipality to enact more restrictive ordinance to control outdoor advertising, notwithstanding AS 19.25.091-19.25.180, except that a municipality may not further restrict directional signage allowed in zoned/ unzoned commercial or industrial areas.

SECTION 4 of the Bill amends AS 19.45.002 to exempt unlawful advertising from the penalty provisions pertaining to AS 19.05-19.25.

SECTION 5 of the Bill annuls 17AAC 20.010 to allow for the operation of both the airspace leasing program and the TODS program.

(1) By way of comparison, the maximum size allowed under the Federal-State Outdoor Advertising Agreement is a total area of 650 square feet with a maximum height of 20 feet and maximum length of 50 feet.

LIMITATIONS ON OUTDOOR ADVERTISING: ALLOWABLE SIGNS

CURRENT LAW

HOUSE BILL 367
SENATE BILL 157

CS FOR HOUSE BILL 367
CS FOR SENATE BILL 157

<p>Within highway right-of-way:</p> <ol style="list-style-type: none"> 1. Bus bench/shelter advertising. 2. Official TODS signs. 3. Airspace lease program signs. 	<p>Within highway right-of-way:</p> <ol style="list-style-type: none"> 1. Bus bench/shelter advertising. 2. Official TODS signs. 3. Airspace lease program signs. 	<p>Within highway right-of-way:</p> <ol style="list-style-type: none"> 1. Bus bench/shelter advertising. 2. Official TODS signs. 3. Airspace lease program signs.
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<p>Within 660' of edge of right-of-way and visible from highway:</p> <ol style="list-style-type: none"> 1. Directional & other official signs. 2. On-premise signs advertising sale or lease of premises, or activities conducted on premises. 3. Landmark signs. 4. Signs pertaining to schools. 5. Bus bench/shelter advertising. 	<p>Within 660' of edge of right-of-way and visible from highway:</p> <ol style="list-style-type: none"> 1. Directional & other official signs. 2. On-premise signs advertising sale or lease of premises, or activities conducted on premises. 3. Landmark signs. 4. Signs pertaining to schools. 5. Bus bench/shelter advertising. <u>*6. Signs advertising free coffee.</u> <u>*7. Signs in zoned/unzoned commercial or industrial areas; no restrictions.</u> 	<p>Within 660' of edge of right-of-way and visible from highway:</p> <ol style="list-style-type: none"> 1. Directional & other official signs. 2. On-premise signs advertising sale or lease of premises, or activities conducted on premises. 3. Landmark signs. 4. Signs pertaining to schools. 5. Bus bench/shelter advertising. <u>*6. Signs in zoned/unzoned commercial or industrial areas with restrictions for the purpose of directional signage.</u>
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<p>Beyond 660' from edge of right-of-way and visible from highway:</p> <ol style="list-style-type: none"> 1. Directional & other official signs. 2. On-premise signs advertising sale or lease of premises, or activities conducted on premises. 3. Landmark signs. 4. Signs pertaining to schools. 5. Bus bench/shelter advertising. 	<p>Beyond 660' from edge of right-of-way and visible from highway:</p> <ol style="list-style-type: none"> 1. Directional & other official signs. 2. On-premise signs advertising sale or lease of premises, or activities conducted on premises. 3. Landmark signs. 4. Signs pertaining to schools. 5. Bus bench/shelter advertising. <u>*6. Signs advertising free coffee.</u> <u>*7. Signs in zoned/unzoned commercial or industrial areas; no restrictions.</u> <u>*8. Signs in urbanized areas.</u> 	<p>Beyond 660' from edge of right-of-way and visible from highway:</p> <ol style="list-style-type: none"> 1. Directional & other official signs. 2. On-premise signs advertising sale or lease of premises, or activities conducted on premises. 3. Landmark signs. 4. Signs pertaining to schools. 5. Bus bench/shelter advertising. <u>*6. Signs in zoned/unzoned commercial or industrial areas with restrictions for the purpose of directional signage.</u>
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FEDERAL HIGHWAY ADMINISTRATION
400 SEVENTH ST., SW
ROOM 4223, HCC-10
WASHINGTON, D.C. 20590

TITLE 23 -- UNITED STATES CODE
HIGHWAYS

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in January 1990

Please notify HCC-10 (202)366-1388, Sherie Abbasi
if errors are encountered in text

[text in WordPerfect 5.1]

[electronic file available on FEBBS for FHWA Staff]

UPDATED: 5/10/91: Pub. L. 101-427 (10/15/90).
 Secs. 333 and 336 of Pub. L. 101-516 (11/5/90).
1/8/92: Pub. L. 102-143 (10/28/91), Sec. 333.
 Pub. L. 102-240 (ISTEA of 1991, 12/18/91).

TITLE 23-UNITED STATES CODE
HIGHWAYS
CHAPTER 1.-FEDERAL-AID HIGHWAYS

- Sec.
101. Definitions and declaration of policy.
 102. Program efficiencies.
 103. Federal-aid systems.
 104. Apportionment.
 105. Programs.
 106. Plans, specifications, and estimates.
 107. Acquisition of rights-of-way-Interstate System.
 108. Advance acquisition of rights-of-way.
 109. Standards.
 110. Project agreements.
 111. Agreements relating to use of and access to rights-of-way Interstate System.
 112. Letting of contracts.
 113. Prevailing rate of wage.
 114. Construction.
 115. Advance construction.
 116. Maintenance.
 117. Certification acceptance.
 118. Availability of funds.
 119. Interstate maintenance program.
 120. Federal share payable.
 121. Payment to States for construction.
 122. Payment to States for bond retirement.
 123. Relocation of utility facilities.
 124. Advances to States.
 125. Emergency relief.
 126. Diversion.
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 128. Public hearings.
 129. Toll roads, bridges, tunnels, and ferries.
 130. Railway-highway crossings.
 131. Control of outdoor advertising.
 132. Payments on Federal-aid projects undertaken by a Federal agency.
 133. Surface transportation program.
 134. Metropolitan planning.
 135. Statewide planning.
 136. Control of junkyards.
 137. Fringe and corridor parking facilities.
 138. Preservation of parklands.
 139. Additions to Interstate System.
 140. Nondiscrimination.
 141. Enforcement of requirements.
 142. Public transportation.
 143. Economic growth center development highways.
 144. Highway bridge replacement and rehabilitation program.
 145. Federal-State relationship.
 146. Carpool and vanpool projects.

147. Priority primary routes.
148. Development of a national scenic and recreational highway.
149. Congestion mitigation and air quality improvement program.
150. Allocation of urban system funds.
151. National Bridge Inspection program.
152. Hazard elimination program.
153. Use of safety belts and motorcycle helmets.
154. National maximum speed limit.
155. Access highways to public recreation areas on certain lakes.
156. Income from airspace rights-of-way.
157. Minimum allocation.
158. Minimum drinking age.
159. Revocation or suspension of drivers' licenses of individuals convicted of drug offenses.
160. Reimbursement for segments of the Interstate System constructed without Federal assistance.

Sec. 101. Definitions and declaration of policy

(a) As used in this title, unless the context requires otherwise-

The term "apportionment" in accordance with section 104 of this title includes unexpended apportionments made under prior acts.

The term "construction" means the supervising, inspecting, actual building, and all expenses incidental to the construction or reconstruction of a highway, including locating, surveying, and mapping (including the establishment of temporary and permanent geodetic markers in accordance with specifications of the National Oceanic and Atmospheric Administration in the Department of Commerce) resurfacing, restoration, and rehabilitation, acquisition of rights-of-way, relocation assistance, elimination of hazards of railway grade crossings, elimination of roadside obstacles, acquisition of replacement housing sites, acquisition and rehabilitation, relocation, and construction of replacement housing, and improvements which directly facilitate and control traffic flow, such as grade separation of intersections, widening of lanes, channelization of traffic, traffic control systems, and passenger loading and unloading areas. The term also includes capital improvements which directly facilitate an effective vehicle weight enforcement program, such as scales (fixed and portable), scale pits, scale installation, and scale houses and also includes costs incurred by the State in performing Federal-aid project related audits which directly benefit the Federal-aid highway program.

The term "county" includes corresponding units of government under any other name in States which do not have county organizations, and likewise in those States in which the county government does not have jurisdiction over highways it may be construed to mean any local government unit vested with jurisdiction over local highways.

The term "Federal lands highways" means forest highways, public

and subsection (b) of this section, may be paid from sums apportioned in accordance with section 104 of this title.

(b) The Secretary may classify the various types of projects involved in the elimination of hazards of railway-highway crossings, and may set for each such classification a percentage of the costs of construction which shall be deemed to represent the net benefit to the railroad or railroads for the purpose of determining the railroad's share of the cost of construction. The percentage so determined shall in no case exceed 10 per centum. The Secretary shall determine the appropriate classification of each project.

(c) Any railroad involved in a project for the elimination of hazards of railway-highway crossings paid for in whole or in part from sums made available for expenditure under this title, or prior Acts, shall be liable to the United States for the net benefit to the railroad determined under the classification of such project made pursuant to subsection (b) of this section. Such liability to the United States may be discharged by direct payment to the State highway department of the State in which the project is located, in which case such payment shall be credited to the cost of the project. Such payment may consist in whole or in part of materials and labor furnished by the railroad in connection with the construction of such project. If any such railroad fails to discharge such liability within a six-month period after completion of the project, it shall be liable to the United States for its share of the cost, and the Secretary shall request the Attorney General to institute proceedings against such railroad for the recovery of the amount for which it is liable under this subsection. The Attorney General is authorized to bring such proceedings on behalf of the United States, in the appropriate district court of the United States, and the United States shall be entitled in such proceedings to recover such sums as it is considered and adjudged by the court that such railroad is liable for in the premises. Any amounts recovered by the United States under this subsection shall be credited to miscellaneous receipts.

(d) Survey and Schedule of Projects.- Each State shall conduct and systematically maintain a survey of all highways to identify those railroad crossings which may require separation, relocation, or protective devices, and establish and implement a schedule of projects for this purpose. At a minimum, such a schedule shall provide signs for all railroad-highway crossings.

(e) Special Rules.-

(1) Funds for Protective Devices.- At least 1/2 of the funds authorized and expended under this section shall be available for the installation of protective devices at railway-highway crossings.

(2) Set Aside for Public Information Programs.- \$250,000 of the amounts available for expenditure under this section in each fiscal year shall be expended for a public information program-

(A) which the Secretary determines will be effective in educating the public as to the hazards posed at

railway-highway crossings and the importance of heeding warning signals at such crossings; and

(B) which the Secretary determines will provide information necessary to diminish railway-highway crossing accidents.

(3) Procedures.- Sums authorized to be appropriated by this subsection shall be available for obligation in the same manner as funds apportioned under section 104(b)(1) of this title.

(f) Twenty-five percent of the funds authorized to be appropriated to carry out this section shall be apportioned to the States in the same manner as sums authorized to be appropriated under section 104(b)(2) of this title, 25 percent of such funds shall be apportioned to the States in the same manner as sums authorized to be appropriated under section 104(b)(6) of this title, and 50 percent of such funds shall be apportioned to the States in the ratio that total railway-highway crossings in each State bears to the total of such crossings in all States. The Federal share payable on account of any project financed with funds authorized to be appropriated to carry out this section shall be 90 percent of the cost thereof.

(g) Annual Report.- Each State shall report to the Secretary of Transportation not later than December 30 of each year on the progress being made to implement the railway-highway crossings program authorized by this section and the effectiveness of such improvements. Each State report shall contain an assessment of the costs of the various treatments employed and subsequent accident experience at improved locations. The Secretary of Transportation shall submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the house of Representatives not later than April 1 of each year, on the progress being made by the State in implementing projects to improve railway-highway crossings. The report shall include, but not be limited to, the number of projects undertaken, their distribution by cost range, road system, nature of treatment, and subsequent accident experience at improved locations. In addition, the Secretary's report shall analyze and evaluate each State program, identify any State found not to be in compliance with the schedule of improvements required by subsection (d), and include recommendation for future implementation of the railroad highway crossings program.

(h) Use of Funds for Matching.- Funds authorized to be appropriated to carry out this section may be used to provide a local government with funds to be used on a matching basis when State funds are available which may only be spent when local government produces matching funds for the improvement of railway-highway crossings.

Sec. 131. Control of outdoor advertising

(a) The Congress hereby finds and declares that the erection and maintenance of outdoor advertising signs, displays, and devices in

areas adjacent to the Interstate System and the primary system should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve natural beauty.

(b) Federal-aid highway funds apportioned on or after January 1, 1968, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System and the primary system of outdoor advertising signs, displays, and devices which are within six hundred and sixty feet of the nearest edge of the right-of-way and visible from the main traveled way of the system, and Federal-aid highway funds apportioned on or after January 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System and the primary system of those additional outdoor advertising signs, displays, and devices which are more than six hundred and sixty feet off the nearest edge of the right-of-way, located outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way, shall be reduced by amounts equal to 10 per centum of the amounts which would otherwise be apportioned to such State under section 104 of this title, until such time as such State shall provide for such effective control. Any amount which is withheld from apportionment to any State hereunder shall be reapportioned to the other States. Whenever he determines it to be in the public interest, the Secretary may suspend, for such periods as he deems necessary, the application of this subsection to a State.

(c) Effective control means that such signs, displays, or devices after January 1, 1968, if located within six hundred and sixty feet of the right-of-way and, on or after July 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, if located beyond six hundred and sixty feet of the right-of-way located outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way, shall, pursuant to this section, be limited to (1) directional and official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, which shall conform to national standards hereby authorized to be promulgated by the Secretary hereunder, which standards shall contain provisions concerning lighting size, number, and spacing of signs, and such other requirements as may be appropriate to implement this section, (2) signs, displays, and devices advertising the sale or lease of property upon which they are located, (3) signs, displays, and devices, including those which may be changed at reasonable intervals by electronic process or by remote control, advertising activities conducted on the property on which they are located, (4) signs lawfully in existence on October 22, 1965, determined by the State subject to the

approval of the Secretary, to be landmark signs, including signs on farm structures or natural surfaces, or historic or artistic significance the preservation of which would be consistent with the purposes of this section, and (5) signs, displays, and devices advertising the distribution by nonprofit organizations of free coffee to individuals traveling on the Interstate System or the primary system. For the purposes of this subsection, the term "free coffee" shall include coffee for which a donation may be made, but is not required.

(d) In order to promote the reasonable, orderly and effective display of outdoor advertising while remaining consistent with the purposes of this section, signs, displays, and devices whose size, lighting and spacing, consistent with customary use is to be determined by agreement between the several States and the Secretary, may be erected and maintained within six hundred and sixty feet of the nearest edge of the right-of-way within areas adjacent to the Interstate and primary systems which are zoned industrial or commercial under authority of State law, or in unzoned commercial or industrial areas as may be determined by agreement between the several States and the Secretary. The States shall have full authority under their own zoning laws to zone areas for commercial or industrial purposes, and the actions of the States in this regard will be accepted for the purposes of this Act. Whenever a bona fide State, county, or local zoning authority has made a determination of customary use, such determination will be accepted in lieu of controls by agreement in the zoned commercial and industrial areas within the geographical jurisdiction of such authority. Nothing in this subsection shall apply to signs, displays, and devices referred to in clauses (2) and (3) of subsection (c) of this section.

(e) Any sign, display, or device lawfully in existence along the Interstate System or the Federal-aid primary system on September 1, 1965, which does not conform to this section shall not be required to be removed until July 1, 1970. Any other sign, display, or device lawfully erected which does not conform to this section shall not be required to be removed until the end of the fifth year after it becomes nonconforming.

(f) The Secretary shall, in consultation with the States, provide within the rights-of-way for areas at appropriate distances from interchanges on the Interstate System, on which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained. The Secretary may also, in consultation with the States, provide within the rights-of-way of the primary system for areas in which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained. Such signs shall conform to national standards to be promulgated by the Secretary.

(g) Just compensation shall be paid upon the removal of any outdoor advertising sign, display, or device lawfully erected under State law and not permitted under subsection (c) of this section, whether or not removed pursuant to or because of this section. The Federal share of such compensation shall be 75 per centum. Such

compensation shall be paid for the following:

(A) The taking from the owner of such sign, display, or device of all right, title, leasehold, and interest in such sign, display, or device; and

(B) The taking from the owner of the real property on which the sign, display, or device is located, of the right to erect and maintain such signs, displays, and devices thereon.

(h) All public lands or reservations of the United States which are adjacent to any portion of the Interstate System and the primary system shall be controlled in accordance with the provisions of this section and the national standards promulgated by the Secretary.

(i) In order to provide information in the specific interest of the traveling public, the State highway departments are authorized to maintain maps and to permit information directories and advertising pamphlets to be made available at safety rest areas. Subject to the approval of the Secretary, a State may also establish information centers at safety rest areas and other travel information systems within the rights-of-way for the purpose of informing the public of places of interest within the State and providing such other information as a State may consider desirable. The Federal share of the cost of establishing such an information center or travel information system shall be that which is provided in section 120 for a highway project on that Federal-aid system to be served by such center or system.

(j) Any State highway department which has, under this section as in effect on June 30, 1965, entered into an agreement with the Secretary to control the erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System shall be entitled to receive the bonus payments as set forth in the agreement, but no such State highway department shall be entitled to such payments unless the State maintains the control required under such agreement: Provided, That permission by a State to erect and maintain information displays which may be changed at reasonable intervals by electronic process or remote control and which provide public service information or advertise activities conducted on the property on which they are located shall not be considered a breach of such agreement or the control required thereunder. Such payments shall be paid only from appropriations made to carry out this section. The provisions of this subsection shall not be construed to exempt any State from controlling outdoor advertising as otherwise provided in this section.

(k) Subject to compliance with subsection (g) of this section for the payment of just compensation, nothing in this section shall prohibit a State from establishing standards imposing stricter limitations with respect to signs, displays, and devices on the Federal-aid highway systems than those established under this section.

(l) Not less than sixty days before making a final determination to withhold funds from a State under subsection (b) of this

section, or to do so under subsection (b) of section 136, or with respect to failing to agree as to the size, lighting, and spacing of signs, displays, and devices or as to unzoned commercial or industrial areas in which signs, displays, and devices may be erected and maintained under subsection (d) of this section, or with respect to failure to approve under subsection (g) of section 136, the Secretary shall give written notice to the State of his proposed determination and a statement of the reasons therefor, and during such period shall give the State an opportunity for a hearing on such determination. Following such hearing the Secretary shall issue a written order setting forth his final determination and shall furnish a copy of such order to the State. Within forty-five days of receipt of such order, the state may appeal such order to any United States district court for such State, and upon the filing of such appeal such order shall be stayed until final judgment has been entered on such appeal. Summons may be served at any place in the United states. The court shall have jurisdiction to affirm the determination of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the United States court of appeals for the circuit in which the State is located and to the Supreme Court of the United States upon certiorari or certification as provided in title 28, United States Code, section 1254. If any part of an apportionment to a State is withheld by the Secretary under subsection (b) of this section or subsection (b) of section 136, the amount so withheld shall not be reapportioned to the other States as long as a suit brought by such State under this subsection is pending. Such amount shall remain available for apportionment in accordance with the final judgment and this subsection. Funds withheld from apportionment and subsequently apportioned or reapportioned under this section shall be available for expenditure for three full fiscal years after the date of such apportionment or reapportionment as the case may be.

(m) There is authorized to be appropriated to carry out the provisions of this section, out of any money in the Treasury not otherwise appropriated, not to exceed \$20,000,000 for the fiscal year ending June 30, 1966, not to exceed \$20,000,000 for the fiscal year ending June 30, 1967, not to exceed \$2,000,000 for the fiscal year ending June 30, 1970, not to exceed \$27,000,000 for the fiscal year ending June 30, 1971, not to exceed \$20,500,000 for the fiscal year ending June 30, 1972, not to exceed \$50,000,000 for the fiscal year ending June 30, 1973. The provisions of this chapter relating to the obligation, period of availability and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967. Subject to approval by the Secretary in accordance with the program of projects approval process of section 105, a State may use any funds apportioned to it under section 104 of this title for removal of any sign, display, or device lawfully erected which does not conform to this section.

(n) No sign, display, or device shall be required to be removed under this section if the Federal share of the just compensation

to be paid upon removal of such sign, display, or device is not available to make such payment.

(o) The Secretary may approve the request of a State to permit retention in specific areas defined by such State of directional signs, displays, and devices lawfully erected under State law in force at the time of their erection which do not conform to the requirements of subsection (c), where such signs, displays, and devices are in existence on the date of enactment of this subsection and where the State demonstrates that such signs, displays, and devices (1) provide directional information about goods and services in the interest of the traveling public, and (2) are such that removal would work a substantial economic hardship in such defined area.

(p) In the case of any sign, display, or device required to be removed under this section prior to the date of enactment of the Federal-Aid Highway Act of 1974, which sign, display, or device was after its removal lawfully relocated and which as a result of the amendments made to this section by such Act is required to be removed, the United States shall pay 100 per centum of the just compensation for such removal (including all relocation costs).

(q) (1) During the implementation of State laws enacted to comply with this section, the Secretary shall encourage and assist the States to develop sign controls and programs which will assure that necessary directional information about facilities providing goods and services in the interest of the traveling public will continue to be available to motorists. To this end the Secretary shall restudy and revise as appropriate existing standards for directional signs authorized under subsections 131(c)(1) and 131(f) to develop signs which are functional and aesthetically compatible with their surroundings. He shall employ the resources of other Federal departments and agencies, including the National Endowment for the Arts, and employ maximum participation of private industry in the development of standards and systems of signs developed for those purposes.

(2) Among other things the Secretary shall encourage States to adopt programs to assure that removal of signs providing necessary directional information, which also were providing directional information on June 1, 1972, about facilities in the interest of the traveling public, be deferred until all other nonconforming signs are removed.

(r) REMOVAL OF ILLEGAL SIGNS.--

(1) BY OWNERS.--Any sign, display, or device along the Interstate System or the Federal-aid primary system which was not lawfully erected, shall be removed by the owner of such sign, display, or device not later than the 90th day following the effective date of this subsection.

(2) BY STATES.--If any owner does not remove a sign, display, or device in accordance with paragraph (1), the State within the borders of which the sign, display, or device is located shall remove the sign, display, or device. The owner of the removed sign, display, or device shall be liable to the State for the costs

of such removal. Effective control under this section includes compliance with the first sentence of this paragraph.

(s) SCENIC BYWAY PROHIBITION.--If a State has a scenic byway program, the State may not allow the erection along any highway on the Interstate System or Federal-aid primary system which before, on, or after the effective date of this subsection, is designated as a scenic byway under such program of any sign, display, or device which is not in conformance with subsection (c) of this section. Control of any sign, display, or device on such a highway shall be in accordance with this section.

(t) PRIMARY SYSTEM DEFINED.--For purposes of this section, the terms "primary system" and "Federal-aid primary system" mean the Federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the National Highway System.

Sec. 132. Payments on Federal-aid projects undertaken by a Federal agency

Where a proposed Federal-aid project is to be undertaken by a Federal agency pursuant to an agreement between a State and such Federal agency and the State makes a deposit with or payment to such Federal agency as may be required in fulfillment of the State's obligation under such agreement for the work undertaken or to be undertaken by such Federal agency, the Secretary, upon execution of a project agreement with such State for the proposed Federal-aid project, may reimburse the State out of the appropriate appropriations the estimated Federal share under the provisions of this title of the State's obligation so deposited or paid by such State. Upon completion of such project and its acceptance by the Secretary, an adjustment shall be made in such Federal share payable on account of such project based on the final cost thereof. Any sums reimbursed to the State under this section which may be in excess of the Federal pro rata share under the provisions of this title of the State's share of the cost as set forth in the approved final voucher submitted by the State shall be recovered and credited to the same class of funds from which the Federal payment under this section was made.

Sec. 133. Surface transportation program

(a) ESTABLISHMENT.--The Secretary shall establish a surface transportation program in accordance with this section.

(b) ELIGIBLE PROJECTS.--A State may obligate funds apportioned to it under section 104(b)(3) for the surface transportation program only for the following:

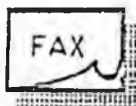
(1) Construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements for highways (including Interstate highways) and bridges (including bridges on public roads of all functional classifications), including any such construction



*Engineering and Operations Standards
Alaska Department of Transportation
and Public Facilities*

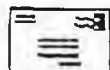
Addressed to:

Nancy Hemenway
Rep. Menard's Office
465-2864



From:

Jeffery C. Citesen, Chief, ROW & Environment
Voice (907) 465-6954
FAX (907) 465-2460
Headquarters
3132 Channel Drive
Juneau, AK 99801-7898



Total number of pages (including this sheet): 2

if there are problems with transmission, please call Nancy Black at (907) 465-2951

Comments: I reviewed the 1968 agreement with FIIWA on sign size, spacing, etc. It is amendable, but it's quite a structured process, so relaxing it would not be a pro forma exercise. However, we can go stricter without getting into an amendment if so authorized by the Legislature (see p. 7 of agreement).

In unzoned commercial/industrial activity, a single business enterprise creates an area eligible for off-premises outdoor advertising. The area for signing is 500 feet from either side of the business activity measured from the area occupied by the business (e.g. building, parking lot, storage areas), not the property lines. It does not include land on opposite side of highway unless there is a commercial/industrial business there too.

Size--maximum area for one sign is 650 square feet with maximum height of 20 feet and maximum length of 50 feet. Signs may be two-faced in a back-to-back or V-arrangement.

On controlled access highways minimum sign spacing is 500 feet; and none within 2,000 feet of interchange or intersection.

On two lane highways outside towns and cities, minimum spacing is 300 feet. In cities and towns minimum spacing is 100 feet. On-premise signs do not count toward these spacing requirements.

Given that the state must enforce these provisions or lose federal-aid, I'm beginning to realize we need to enact regulations which could require a review of the placement of signs, or at least formally adopt the size, spacing standards so that the public is aware of them. Otherwise we'll have signs erected contrary to these federal rules and be forced to have them removed--the process coming full circle to the same problem we have now.

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Form FHW 131 (Rev. 5-73)

UNITED STATES GOVERNMENT

DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

Memorandum

DATE: APR 8 1980

SUBJECT: Outdoor Advertising Program - Process
For Amendment of State/Federal Agreements

In reply
refer to HRW-14

FROM: Chief, Real Property Acquisition Division
Washington, D.C.

TO: Regional Federal Highway Administrators
Regions 1-10

There have been several recent requests to amend the State/Federal Agreements for the outdoor advertising program. We believe that it is imperative that justification for such changes must be evaluated and every opportunity should be provided to allow the public to be aware of such changes and be afforded appropriate opportunity to comment.

A standardized policy for processing agreement modifications is attached (see Attachment). The methodology should be followed to ensure a fair and objective evaluation of all proposed agreement changes. If a State proposes an amendment to the negotiated agreements, your review should ensure that the methodology was followed as a means of expediting a recommended revision to the agreement.

G. B. Saunders
for G. B. Saunders

Attachment

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impact, are included in the submission.

3. Upon receipt, the FHWA will publish the proposed agreement amendment, proposed impact, and State justification in the Federal Register for comment.
4. Comments received will be evaluated along with the State's proposal and background submitted.
5. The decision on the proposal will be announced by the FHWA to the State and through the Federal Register simultaneously. If approved, the executed agreement will be forwarded to the State.

WHEREAS, Title 19 of the Alaska State Statutes authorizes the Commissioner of Highways to perform and do such other and further acts not specifically provided in Title 19 of the Alaska Statutes as may be necessary to comply with the Federal-aid Highway Acts and the rules and regulations promulgated thereunder; and

WHEREAS, Section 131(b) of Title 23, United States Code provides that Federal-aid highway funds apportioned on or after January 1, 1968, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the primary system of outdoor advertising signs, displays and devices which are within six hundred and sixty feet of the nearest edge of the right of way and visible from the main traveled way of the system, shall be reduced by amounts equal to 10 per centum of the amounts which would otherwise be apportioned to such state under Section 104 of Title 23, United States Code until such time as such State shall provide for such effective control; and

WHEREAS, the State of Alaska desires to implement and carry out the provisions of Section 131 of Title 23, United States Code, and the National policy in order to remain eligible to receive the full amount of all Federal-aid highway funds to be apportioned to such state on or after January 1, 1968, under Section 104 of Title 23, United States Code;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. Definitions

A. The term "Act" means Section 131 of Title 23, United States Code (1965) commonly referred to as Title I of the Highway Beautification Act of 1965.

B. Commercial or industrial activities for purposes of unzoned industrial and commercial areas mean those activities generally recognized as commercial or industrial by zoning authorities in this State, except that none of the following activities shall be considered commercial or industrial:

E. Federal-aid primary highway means any highway within that portion of the State Highway System as designated, or as many hereafter be so designated by the State, which has been approved by the Secretary of Transportation pursuant to subsection (b) of Section 103 of Title 23, United States Code.

F. Traveled way means the portion of a roadway for the movement of vehicles exclusive of shoulders.

G. Main-traveled way means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.

H. Sign means any outdoor sign, display, device, figure, painting, drawing, message, card, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any highway.

I. Erect means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

J. Safety rest area means an area or site established and maintained within or adjacent to the highway right of way by or under public supervision or control for the convenience of the travelling public.

K. Information center means an area or site established and maintained at a safety rest area for the purpose of informing the public of places of interest within the State and providing such other information as the State may consider desirable.

II. Scope of Agreement

This agreement shall apply to the following area:

2. Controlled Access Highways on the Federal-aid Primary System
 - a. No two structures shall be spaced less than 500 feet apart.
 - b. No structure may be located within 2000 feet of an interchange, or intersection at grade, safety rest area or information center (measured along the freeway from the sign to the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way.)
3. Non-Controlled Access Federal-aid Primary Highways
 - a. Outside of Villages and Cities - no two structures shall be spaced less than 300 feet apart.
 - b. Within Villages and Cities - no two structures shall be spaced less than 100 feet apart.
4. Explanatory Notes
 - a. Official and "on premise" signs, as defined in Section 131(c) of Title 23, United States Code, shall not be counted nor shall measurements be made from them for purposes of determining compliance with spacing requirements.
 - b. The minimum distance between signs shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway.

LIGHTING

Signs may be illuminated, subject to the following restrictions:

1. Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited, except those giving public service information such as time, date, temperature, weather, or similar information.
2. Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled ways of the Federal-aid primary highway and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.
3. No sign shall be so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal.
4. All such lighting shall be subject to any other provisions relating to lighting of signs presently applicable to all highways under the jurisdiction of the State.

B. The State and local political subdivisions shall have full authority under their own zoning laws to zone areas for commercial or industrial purposes and the action of the State and local political subdivisions in this regard will be accepted for the purposes of this agreement.

Revisor's notes. — Reorganized in 1988 to alphabetize the defined terms.

Chapter 25. Protection and Use of State Highways and Roads.

Article

1. Utilities in Highways (§§ 19.25.010 — 19.25.020)
2. Outdoor Advertising (§§ 19.25.080 — 19.25.180)
3. Encroachments In Highways (§§ 19.25.200 — 19.25.250)

Article 1. Utilities in Highways.

Section

10. Use of rights-of-way for utilities

Section

20. Relocation of utilities incident to highway projects

Sec. 19.25.010. Use of rights-of-way for utilities. A utility facility may be constructed, placed, or maintained across, along, over, under, or within a state right-of-way only in accordance with regulations adopted by the department and if authorized by a written permit issued by the department. (§ 8 art VII title II ch 152 SLA 1957; am § 3 ch 106 SLA 1977)

NOTES TO DECISIONS

A utility may construct a powerline on an unused section line easement reserved for highway purposes under AS 19.10.010. *Fisher v. Golden Valley Elec. Ass'n*, Sup. Ct. Op. No. 2606 (File No. 5902), 658 P.2d 127 (1983).

This section places Alaska among those states which permit powerline construction by a utility as an incidental and subordinate use of a highway easement.

Fisher v. Golden Valley Elec. Ass'n, Sup. Ct. Op. No. 2606 (File No. 5902), 658 P.2d 127 (1983).

Maintenance. — Maintenance as defined in paragraph (9) of AS 19.45.001 refers to some type of active work undertaken to preserve the utility facility. *Johnson v. State*, Sup. Ct. Op. No. 2434 (File Nos. 4866, 4871, 4894), 636 P.2d 47 (1981).

Collateral references. — 39 Am. Jur. 2d, Highways, Streets and Bridges, §§ 218-234.

40 C.J.S., Highways, §§ 232, 233.

Placement, maintenance, or design of

standing utility pole as affecting private utility's liability for personal injury resulting from vehicle's collision with pole within or beside highway, 51 ALR4th 602.

Sec. 19.25.020. Relocation of utilities incident to highway projects. (a) If, incident to the construction of a highway project, the department determines and orders that a utility facility located across, along, over, under, or within a state right-of-way must be changed, relocated, or removed, the utility owning or maintaining the facility shall change, relocate, or remove it in accordance with the order. The order must provide a reasonable time period for compliance.

(b) If the utility facility is not changed, relocated, or removed in accordance with the order, the facility becomes an unauthorized encroachment and may be disposed of in accordance with AS 19.25.240 — 19.25.250. In addition, the owner of the facility shall indemnify the state for any amount for which the state may be liable to a contractor by reason of the encroachment.

(c) The cost of change, relocation, or removal necessitated by highway construction is a cost of highway construction to be paid in accordance with AS 19.45.001(4) as follows:

(1) by the department as a cost of highway construction, if the utility facility is installed or authorized under a utility permit or a regulation after June 11, 1986, and is installed in the location specified in the permit;

(2) by the department as a cost of highway construction, if the facility was installed before June 11, 1986, under a utility permit issued on or after July 1, 1960, and is in the location specified in the permit;

(3) by the department as a cost of highway construction, if the utility facility was installed before July 1, 1960, or before the road became part of the state highway system;

(4) by the department as a cost of highway construction, if the utility permit that requires the utility to pay the relocation cost was issued more than five years before the contract for the highway construction project was first advertised;

(5) by the utility in all other cases, unless the commissioner finds it is in the public interest for the cost to be paid by the department.

(d) If requested by a municipality, the department shall implement this chapter by requiring to the maximum extent possible location underground of electric power transmission lines within the municipality. (§§ 2, 3 ch 57 SLA 1961; am § 4 ch 106 SLA 1977; am § 3 ch 142 SLA 1986)

Effect of amendments. — The 1986 amendment in subsection (c) deleted "by the state" following "construction to be paid" and substituted the language beginning "as follows:" for "notwithstanding the terms or provisions of any existing

permit, agreement, regulation or statute to the contrary."

Opinions of attorney general. — This section is constitutional. 1961 Op. Att'y Gen. No. 12.

Secs. 19.25.030 — 19.25.040. Damages and obstructions. [Repealed, § 5 ch 52 SLA 1988.]

Article 2. Outdoor Advertising.

Section

80. Purpose
90. Outdoor advertising prohibited
105. Limitations of outdoor advertising signs, displays and devices

Section

130. Penalty for violation
140. Compensation for removal of advertising
150. Unlawful advertising

Section

160. Definitions

170. Agreements with the United States; regulations

Section

180. Interpretation

Opinions of attorney general. — The safety of persons using the road is of overriding importance when weighed against the interest of a sign owner who has illegally placed a sign where it threatens public safety. January 3, 1984 Op. Att'y Gen.

The Department of Transportation and Public Facilities may summarily remove a sign or other object it determines to be a visual obstruction or a safety hazard; so long as it protects the sign or other object upon removal, the department is protect-

ing the owner's only recognizable interest. January 3, 1984 Op. Att'y Gen.

The Department of Transportation and Public Facilities may not collect the cost of removal of a sign or other object unless the owner has had an opportunity to remove the object and save that cost. The department may use a fee payment schedule instead of figuring the actual removal cost in every case, as long as the schedule is based upon and reflects actual removal costs incurred by the department; and it may charge a reasonable fee for storing the sign. January 3, 1984 Op. Att'y Gen.

Sec. 19.25.080. Purpose. The purposes of AS 19.25.080 — 19.25.180 are

(1) to protect the public safety and the welfare of persons using the highways of the state by having outdoor advertising signs, displays, and devices along the highways controlled;

(2) to prevent unreasonable distraction of operators of motor vehicles; to prevent confusion with regard to traffic lights, signs, or signals or other interference with the effectiveness of traffic regulations, and to promote the safety, convenience, and enjoyment of travel on, and protection of the public investment in, highways in this state; to preserve and enhance the natural scenic beauty or aesthetic features of the highways and adjacent areas; and to attract tourists;

(3) to regulate outdoor advertising signs, displays, and devices in areas adjacent to the rights-of-way of the interstate, primary, and secondary systems within this state in accordance with this chapter and the regulations adopted under this chapter;

(4) to provide that outdoor advertising signs, displays, and devices that are not in conformity with the requirements of this chapter are a public nuisance;

(5) to provide a statutory basis for regulation of outdoor advertising signs, displays, and devices consistent with the public policy declared by the Congress relating to areas within and adjacent to the right-of-way of a highway of the interstate, primary, or secondary systems. (§ 1 ch 59 SLA 1949; am § 1 ch 86 SLA 1953; am § 2 ch 233 SLA 1968; am § 1 ch 155 SLA 1970; am § 1 ch 158 SLA 1988)

Effect of amendments. — The 1988 amendment rewrote paragraph (5) to the extent that a detailed comparison is impracticable.

Legislative history reports. — For report on ch. 233, SLA 1968 (HCSSB 144 am FCC), see 1968 House Journal, p. 815.

Collateral references. — 40 Am. Jur. 2d, Highways, Streets and Bridges, §§ 273-336.

40 C.J.S., Highways, §§ 217, 232.

Billboards and other outdoor advertising signs as civil nuisance. 38 ALR3d 647.

Validity and construction of provision prohibiting or regulating advertising sign overhanging street or sidewalk. 80 ALR3d 667.

Validity and construction of state or local regulation prohibiting off-premises advertising structures. 31 ALR3d 486.

Governmental liability for compensation or damages to advertiser arising from obstruction of public view of sign or billboard on account of growth of vegetation in public way. 21 ALR4th 1309.

Sec. 19.25.090. Outdoor advertising prohibited. Except as provided in AS 19.25.105, all outdoor advertising is prohibited. (§ 3 ch 59 SLA 1949; am § 1 ch 86 SLA 1953; am § 2 ch 155 SLA 1970)

Sec. 19.25.100. Rural signs. [Repealed, § 14 ch 155 SLA 1970.]

Sec. 19.25.105. Limitations of outdoor advertising signs, displays and devices. (a) Outdoor advertising may not be erected or maintained within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate, primary, or secondary highways in this state except the following:

(1) directional and other official signs and notices which include, but are not limited to, signs and notices pertaining to natural wonders, scenic and historic attractions, which are required or authorized by law, and which shall conform to federal standards for interstate and primary systems;

(2) signs, displays, and devices advertising the sale or lease of property upon which they are located or advertising activities conducted on the property;

(3) signs determined by the state, subject to concurrence of the United States Department of Transportation, to be landmark signs, including signs on farm structures, or natural surfaces, of historic or artistic significance, the preservation of which would be consistent with the provisions of this chapter;

(4) directional signs and notices pertaining to schools;

(5) advertising on bus benches or bus shelters if the state determines that the advertising conforms to local, state, and federal standards for interstate and primary highway systems.

(b) *[Repealed, § 21 ch 94 SLA 1980.]*

(c) Outdoor advertising may not be erected or maintained beyond 660 feet of the nearest edge of the right-of-way of the main traveled way of the interstate primary or secondary highways in this state with the purpose of their message being read from that travel way except those outdoor advertising signs, displays, or devices allowed under (a) of this section.

(d) Outdoor advertising may not be erected or maintained within the right-of-way of an interstate, primary, or secondary highway except that outdoor advertising is allowed on bus benches and bus shelters located within the right-of-way under the authority of a permit issued under AS 19.25.200, if the bus benches or bus shelters are located within a borough or unified municipality and the buses that stop at that location operate during the entire year. (§ 3 ch 155 SLA 1970; am §§ 1, 2 ch 195 SLA 1975; am § 1 ch 30 SLA 1980; am § 21 ch 94 SLA 1980; am § 1 ch 6 SLA 1987; am § 2 ch 158 SLA 1988)

Effect of amendments. — The 1987 amendment in subsection (a) substituted "Outdoor advertising may not" for "No outdoor advertising may" at the beginning of the subsection and added paragraph (5).

The 1988 amendment added subsection (d).

Collateral references. — Classifica-

tion and maintenance of advertising structure as nonconforming use. 80 ALR3d 630.

Validity and construction of state or local regulation prohibiting the erection or maintenance of advertising structures within a specified distance of street or highway. 81 ALR3d 564.

Secs. 19.25.110 — 19.25.120. Removal of nonconforming advertising; neglect or refusal to obey removal order. [Repealed, § 43 ch 85 SLA 1988.]

Sec. 19.25.130. Penalty for violation. A person who violates AS 19.25.080 — 19.25.180, or a regulation adopted under them, is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$50 nor more than \$1,000. (§ 7 ch 59 SLA 1949; added by § 1 ch 86 SLA 1953; am § 4 ch 233 SLA 1968)

Sec. 19.25.140. Compensation for removal of advertising. (a) The department is authorized to acquire by purchase, gift, or condemnation, all advertising devices and any property rights pertaining to them, when the advertising devices are required to be removed under AS 19.25.150.

(b) Damages resulting from a taking in eminent domain shall be ascertained in the manner provided by law. (§ 5 ch 233 SLA 1968; am § 45 ch 69 SLA 1970)

Sec. 19.25.150. Unlawful advertising. An advertising sign, display, or device which violates the provisions of this chapter is a public nuisance. The department shall give 30 days' notice, by certified mail, to the owner of the land on which the advertising sign, display or device is located, ordering its removal if it is prohibited by this chapter or ordering the owner to cause it to conform to regulations if it is authorized by this chapter. If the owner of the property fails to comply within 30 days as required in the notice, the department shall remove

the outdoor advertising sign, display, or device at the expense of the owner of the land or the person who erected it. (§ 5 ch 233 SLA 1968)

Sec. 19.25.160. Definitions. In AS 19.25.080 — 19.25.180

(1) "department" means the Department of Transportation and Public Facilities;

(2) "interstate system" means that portion of the National System of Interstate and Defense Highways located in this state, as officially designated, or as may hereafter be so designated, by the commissioner, and approved by the secretary of transportation (or by the secretary of commerce before the effective date of the transfer of functions under Public Law 89-670 [80 Stat. 931]), under the provisions of Title 23, United States Code, "Highways";

(3) "outdoor advertising" includes any outdoor sign, display, or device used to advertise, attract attention or inform and which is visible to a person on the main-traveled way of a highway of the interstate, primary, or secondary systems in this state, whether by printing, writing, painting, picture, light, drawing, or whether by the use of figures or objects, or a combination of these, or any other thing designed, intended, or used to advertise, inform, or attract attention;

(4) "primary system" or "secondary system" means that portion of connected main highways, as officially designated, or as may hereafter be so designated, by the commissioner, and approved by the secretary of transportation (or by the secretary of commerce before the effective date of the transfer of functions under Public Law 89-670 [80 Stat. 931]), under the provisions of Title 23, United States Code, "Highways". (§ 5 ch 233 SLA 1968; am §§ 46, 47 ch 69 SLA 1970; am §§ 5, 6 ch 155 SLA 1970)

Revisor's notes. — Reorganized in 1988 to alphabetize the defined terms.

Sec. 19.25.170. Agreements with the United States; regulations. The department may enter into agreements in conformity with the provisions of this title with the United States Secretary of Transportation as provided by Title 23, United States Code, relating to the control of outdoor advertising signs, displays, and devices in areas adjacent to interstate and primary systems and to take action in the name of the state to comply with the terms of the agreements, and to adopt required regulations. (§ 5 ch 233 SLA 1968)

Sec. 19.25.180. Interpretation. AS 19.25.080 — 19.25.180 may not be construed to abrogate or affect any law, ordinance, regulation or resolution that is more restrictive than the provisions of AS 19.25.080 — 19.25.180. (§ 5 ch 233 SLA 1968)

Article 3. Encroachments In Highways.

<p>Section 200. Encroachment permits 210. Relocation or removal of encroachment 220. Unauthorized encroachments</p>	<p>Section 230. Notice of removal 240. Summary removal 250. Removal after noncompliance: removal expense</p>
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Opinions of attorney general. — Encroachment under this article covers any intrusion into the highway right of way, including signs, or infringement of the limitations on use of the right of way. January 3, 1984 Op. Att'y Gen.

The Department of Transportation and Public Facilities may not collect the cost of removal of a sign or other object unless

the owner has had an opportunity to remove the object and save the cost. The department may use a fee payment schedule instead of figuring the actual removal cost in every case, as long as the schedule is based upon and reflects actual removal costs incurred by the department; and it may charge a reasonable fee for storing the sign. January 3, 1984 Op. Att'y Gen.

Sec. 19.25.200. Encroachment permits. (a) An encroachment may be constructed, placed, changed, or maintained across or along a highway, but only in accordance with regulations adopted by the department. An encroachment may not be constructed, placed, maintained, or changed until it is authorized by a written permit issued by the department, unless the department provides otherwise by regulation. The department may charge a fee for a permit issued under this section. The commissioner of administration shall separately account for encroachment permit fees that the department deposits in the general fund. The annual estimated balance in the account may be used by the legislature to make appropriations to the department to carry out the purposes of this section.

(b) The provisions under (a) of this section do not apply to a mailbox or a newspaper box attached to a mailbox. (§ 2 ch 64 SLA 1971; am § 41 ch 138 SLA 1986; am § 4 ch 142 SLA 1986)

Effect of amendments. — The first 1986 amendment added the third, fourth and fifth sentences and made grammatical changes in the second sentence.

The second 1986 amendment designated the existing language as subsection (a), in the second sentence of subsection (a) deleted "duly" preceding "authorized"

and added the language "unless the department provides otherwise by regulation" and added subsection (b).

Collateral references. — 3 Am. Jur. 2d. Advertising, §§ 2, 7, 11, 24-26, 39 Am. Jur. 2d. Highways, Streets and Bridges, § 288.

40 C.J.S., Highways, §§ 217-231.

Sec. 19.25.210. Relocation or removal of encroachment. If, incidental to the construction or maintenance of a state highway, the department determines and orders that an encroachment previously authorized by written permit must be changed, relocated, or removed, the owner of the encroachment shall change, relocate, or remove it at no expense to the state (except as provided in AS 19.25.020), within a

reasonable time set by the department. If the owner does not change, relocate, or remove an encroachment within the time set by the department, the encroachment shall be considered an unauthorized encroachment and subject to the provisions of AS 19.25.220 — 19.25.250. (§ 2 ch 64 SLA 1971)

Sec. 19.25.220. Unauthorized encroachments. If an unauthorized encroachment exists in, on, under, or over a state highway, the department may require the removal of the encroachment in the manner provided in AS 19.25.230 — 19.25.250. (§ 2 ch 64 SLA 1971)

Sec. 19.25.230. Notice of removal. Except as otherwise provided in AS 19.25.200, 19.25.210 and 19.25.240, notice shall be given the owner, occupant, or person in possession of the encroachment, or to any other person causing or permitting the encroachment to exist, by serving upon any of them a notice demanding the removal of the encroachment. The notice must describe the encroachment complained of with reasonable certainty as to its character and location. Service of the notice may be made by certified mail. (§ 2 ch 64 SLA 1971)

Sec. 19.25.240. Summary removal. The department may at any time remove from a state highway or road an encroachment that obstructs or prevents the use of the highway or road by the public. (§ 2 ch 64 SLA 1971)

Opinions of attorney general. — The safety of persons using the road is of overriding importance when weighed against the interest of a sign owner who has illegally placed a sign where it threatens public safety. January 3, 1984 Op. Att'y Gen.

An encroachment which obstructs anyone's view of the road is one which "obstructs ... the highway or road" and also

presents a serious danger to the public. January 3, 1984 Op. Att'y Gen.

The Department of Transportation and Public Facilities may summarily remove a sign or other object it determines to be a visual obstruction or a safety hazard; so long as it protects the sign or other object upon removal, the department is protecting the owner's only recognizable interest. January 3, 1984 Op. Att'y Gen.

Sec. 19.25.250. Removal after noncompliance; removal expense. After a failure of the owner of an encroachment to comply with a notice or demand of the department under the provisions of AS 19.25.200, 19.25.210 and 19.25.230, the department may remove, or cause to be removed, the encroachment, and the owner of the encroachment shall pay to the department

(1) the expenses of the removal of the encroachment;

(2) all costs and expenses paid by the state as a result of a claim or claims filed against the state by third parties for damages due to delays because the encroachment was not changed, removed, or relocated according to the order of the department; and

Article 2. Outdoor Advertising.

Section

105. Limitations of outdoor advertising signs, displays and devices

Section

150. Unlawful advertising

Sec. 19.25.105. Limitations of outdoor advertising signs, displays and devices. (a) Outdoor advertising may not be erected or maintained within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate, primary, or secondary highways in this state except the following:

(1) directional and other official signs and notices which include, but are not limited to, signs and notices pertaining to natural wonders, scenic and historic attractions, which are required or authorized by law, and which shall conform to federal standards for interstate and primary systems;

(2) signs, displays, and devices advertising the sale or lease of property upon which they are located or advertising activities conducted on the property;

(3) signs determined by the state, subject to concurrence of the United States Department of Transportation, to be landmark signs, including signs on farm structures, or natural surfaces, of historic or artistic significance, the preservation of which would be consistent with the provisions of this chapter;

(4) directional signs and notices pertaining to schools;

(5) advertising on bus benches or bus shelters if the state determines that the advertising conforms to local, state, and federal standards for interstate and primary highway systems.

(b) [Repealed, § 21 ch 94 SLA 1980.]

(c) Outdoor advertising may not be erected or maintained beyond 660 feet of the nearest edge of the right-of-way of the main traveled way of the interstate, primary, or secondary highways in this state with the purpose of their message being read from that travel way except those outdoor advertising signs, displays, or devices allowed under (a) of this section.

(d) Outdoor advertising may not be erected or maintained within the right-of-way of an interstate, primary, or secondary highway except that outdoor advertising is allowed on bus benches and bus shelters located within the right-of-way under the authority of a permit issued under AS 19.25.200, if the bus benches or bus shelters are located within a borough or unified municipality and the buses that stop at that location operate during the entire year. (§ 3 ch 155 SLA 1970; am §§ 1, 2 ch 195 SLA 1975; am § 1 ch 30 SLA 1980; am § 21 ch 94 SLA 1980; am § 1 ch 6 SLA 1987; am § 2 ch 158 SLA 1988)

Editor's notes. — This section is set out above to correct minor errors in the main pamphlet.

Sec. 19.25.150. Unlawful advertising. An advertising sign, display, or device that violates the provisions of AS 19.25.080 — 19.25.180 is a public nuisance. The department shall give 30 days' notice, by certified mail, to the owner of the land on which the advertising sign, display, or device is located, ordering its removal if it is prohibited by AS 19.25.080 — 19.25.180 or ordering the owner to cause it to conform to regulations if it is authorized by AS 19.25.080 — 19.25.180. If the owner of the property fails to comply within 30 days as required in the notice, the department shall remove the outdoor advertising sign, display, or device at the expense of the owner of the land or the person who erected it. (§ 5 ch 233 SLA 1968; am § 19 ch 21 SLA 1991)

Effect of amendments. — The 1991 amendment, effective June 11, 1991, substituted Code section references for "this chapter" in three places.

Article 3. Encroachments in Highways.

Section

200. Encroachment permits

Sec. 19.25.200. Encroachment permits. (a) An encroachment may be constructed, placed, changed, or maintained across or along a highway, but only in accordance with regulations adopted by the department. An encroachment may not be constructed, placed, maintained, or changed until it is authorized by a written permit issued by the department, unless the department provides otherwise by regulation. The department may charge a fee for a permit issued under this section.

(b) The provisions under (a) of this section do not apply to a mailbox or a newspaper box attached to a mailbox. (§ 2 ch 64 SLA 1971; am § 41 ch 138 SLA 1986; am § 4 ch 142 SLA 1986; am § 10 ch 90 SLA 1991)

Effect of amendments. — The 1991 amendment, effective July 3, 1991, in subsection (a), deleted the former last two sentences.

(53) "utilidor" means a structure containing one or more channels, usually prefabricated in units, including units that are fitted with a removable cover that may also be used as a sidewalk or roadway surface;

(54) "utility" includes any corporation, company, individual, or association of individuals, or any lessee, trustee, or court-appointed receiver, that owns, operates, manages, or controls any line, plant, pipeline, or system for furnishing, producing, generating, transmitting, or distributing power, electricity, communications, telecommunications, water, gas, oil, petroleum products, steam, heat, light, chemicals, air, sewage, drainage not connected with highway drainage, irrigation, or similar products including publicly owned fire and police signal systems and street lighting systems which directly or indirectly serve the public or a segment of the public; "utility" also includes any corporation, company, individual, or association of individuals, or any lessee, trustee, or court-appointed receiver that owns, operates, manages, or controls any system for furnishing transportation of goods or persons by means of a railway, tramway, cableway, conveyer, flume, canal, tunnel, pipeline, or any other similar means;

(55) "utility locate service" means a service provided by a utility to locate its buried utility facilities;

(56) "utility service connection" means the cable, wire, or pipe that connects the utility distribution line to the premises served;

(57) "wet-boring" means the method or process of boring with the use of jets of water or liquid slurry;

(58) "airport" has the same meaning as in AS 02.15.260(5);

(59) "public facility" has the same meaning as in AS 35.25.020(7). (Eff. 5/23/82, Register 82; am 10/2/87, Register 103)

Authority:	AS 02.15.020	AS 19.30.051
	AS 02.15.102	AS 19.30.121
	AS 02.15.106	AS 19.40.065
	AS 19.05.020	AS 35.05.020
	AS 19.05.040	AS 35.10.230

CHAPTER 20. MAINTENANCE

Section	Section
10. Outdoor advertising	30. Transfer of excess equipment
20. Closure and restriction	40. General

17 AAC 20.010. OUTDOOR ADVERTISING. It shall be unlawful to place, erect, or maintain any outdoor advertising sign within the right-of-way of any highway or highway lands, nor shall any permit be issued for the placement or erection of the sign. (Eff. 6/25/69, Register 30)

Authority: AS 19.05.020

Editor's notes. — The source of this section is former 14 AAC 2.391.2.

17 AAC 20.020. CLOSURE AND RESTRICTION. (a) The department may restrict the use of, or close, any highway whenever the department considers such closing or restriction of use necessary

(1) for the protection of the public; or

(2) for the protection of such highway from damage during storms, floods, thawing conditions or during construction or maintenance operations.

(b) The department will provide traffic guidance in case of restriction or provide suitable detour as soon as possible to minimize traffic delay.

(c) To notify the public that a highway is closed, or its use has been restricted, the department may

(1) erect suitable barriers or obstructions at such locations upon the highway as will best serve the purpose;

(2) post warnings or notices of the condition of any such highway;

(3) post signs for the direction of traffic upon it, or to or upon other highway or detour open to public travel;

(4) place warning devices upon such highways;

(5) assign a flagman to warn, detour or direct traffic on such highway.

(d) Nothing within the above shall be construed to create any liability upon the state or any officer, employee, agent, or contractor of the state for failure to provide any or all of the above notices; however, willful failure or neglect to provide the notice shall be the subject of disciplinary action.

(e) Except in sudden emergencies, the department shall notify the nearest state police unit before closing or restricting the use of any highway, or before diverting traffic to any other highway or detour, in the manner provided in the preceding sections; whenever possible, such notice shall be in writing.

(f) Whenever required by sudden emergency, to protect the traveling public or to prevent or mitigate damage to public property, or to prevent or mitigate damage to private property for which the department might be held responsible, the department may, acting by or through its senior officer, or employee actually at the vicinity of the emergency, enter into contracts for the leasing or renting of tools or equipment needed for such highway emergency purposes. Such contracts shall be in writing, but shall be preceded by a memorandum of intent with a brief explanation of the nature of the sudden emergency, labor and equipment required, estimate of time required and the purpose for which labor, tools and equipment are needed. (Eff. 6/25/69, Register 30; am 11/16/83, Register 88)

Intermodal Surface Transportation Efficiency Act of 1991 Amendments to 23 U.S.C. 131, Control of Outdoor Advertising

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: On December 18, 1991, the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Public Law 102-240, 105 Stat. 1914, was signed into law. Section 1046 of the ISTEA amended 23 U.S.C. 131 which deals with outdoor advertising control. This notice describes the impact of section 1046 on how States can provide for effective control of outdoor advertising in accord with regulations previously issued by the Federal Highway Administration (FHWA) in 23 CFR 750.705. This document is being issued to advise States that the ISTEA may require them to consider changes in their laws and administrative practices in order to remain eligible for full Federal-aid funding. The ISTEA itself provides no lead time for the States to come into compliance with these new provisions. A discussion of initiatives that will be considered in evaluating how "effective control" is maintained under the new requirements is a part of this notice.

Under section 1046, 23 U.S.C. 131 will continue to apply to the Interstate System and the Federal-aid primary system as they existed on June 1, 1991, and, when designated, all portions of the approved National Highway System. The three major amendments made to 23 U.S.C. 131 by section 1046 of ISTEA are: (1) An amendment prohibiting the erection of most new signs adjacent to

an Interstate or Federal-aid primary designated a Scenic Byway under a State Program; (2) a specific requirement that illegal signs be removed; and (3) a provision authorizing for the first time the use of Federal-aid highway funding to purchase signs that do not conform to outdoor advertising controls.

DATES: The ISTEA was signed into law on December 18, 1991, with the provision of new sections 131(s) and 131(r)(1) of title 23, U.S.C., effective as of that date.

FOR FURTHER INFORMATION CONTACT: Mr. Marlin E. Meese, Chief, Special Programs and Evaluation Branch, Office of Right-of-Way, HRW-12, (202) 366-2017; or Mr. Robert Black, Attorney, Office of Chief Counsel, HCC-31, (202) 366-1359, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 4 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION: Section 131 is the implementing authority within title 23, U.S.C., for the Highway Beautification Act of 1965, as amended. The basic principles of outdoor advertising control are in section 131. The original Act provided specific controls on the erection and maintenance of outdoor advertising signs and devices along the Interstate and Federal-aid primary highway systems. The Interstate and primary highway systems comprise only 306,000 miles of the 3.9 million miles of public roads and streets in the United States. Therefore, the outdoor advertising controls apply to less than 8 percent of the total national public road mileage. Statutory controls in section 131(c) limit signs which a State can permit to directional and official signs, sale or lease signs, on-premise signs, landmark signs, and free coffee signs. In addition, under section 131(d), States can permit signs in zoned or unzoned commercial or industrial areas adjacent to the controlled systems. Section 131(d) provides for an agreement between each State and the Secretary of Transportation regarding size, lighting, and spacing standards of signs in commercial and industrial areas.

Scenic Byway Prohibition

The ISTEA in section 1046(c) amended title 23, U.S.C., by adding section 131(s). The new section limits the erection of new advertising displays to those permitted under section 131(c) along road segments that are designated Scenic Byways which are on the Interstate System, the Federal-aid primary system (as it existed on June 1,

1991), or on the National Highway System, when designated. These routes, collectively, are referred to as the controlled systems for Highway Beautification Act purposes. Thus new signs which would have been permitted in commercial and industrial areas under section 131(d) are no longer permitted on scenic byway portions of the controlled system.

Based on the 1990 Scenic Byways Study (U.S. DOT/FHWA Publication No. PD-91-010, January 1991), all but 15 States have some form of scenic byways program. About 35,000 miles of roads had been designated as scenic as of December 1990, when the study was conducted. The study projected that only about 50,000 total miles would be designated. Of the total projected mileage, about 50 percent is located on the Interstate and Federal-aid primary systems. Almost all of the mileage already designated as scenic along a controlled highway system is on two lane roadways. Most scenic byways are two lane roadways in rural areas where commercial and industrial areas are fewer in number. Thus, while the scope of this new control is limited to only about 25,000 miles, it complements the actions already taken by the States in determining that these routes have particular scenic importance.

Removal of Illegal Signs

The ISTEA in section 1046(b) also added section 131(r) to title 23, U.S.C. This new section requires all owners of illegal signs to remove their illegal signs within 90 days. The section further states that in the event owners do not remove their illegal signs, the State, to exercise effective control, shall remove the signs. The section provides that States recover removal costs of unremoved illegal signs from the sign owner. This cost recovery provision is not part of "effective control" for purposes of the sanction provisions of the Highway Beautification Act (23 U.S.C. 131(b)).

The FHWA recognizes that most States have already caused the removal of a substantial number of the illegal signs within their boundaries. Some States, however, have significant numbers of illegal signs remaining. Based on State reports, a total of about 22,000 remaining illegal signs have been identified. The law gave sign owners only 90 days from the effective date of ISTEA on December 18, 1991, to remove their illegal signs. The short period given to the owners is an indication of the emphasis to be applied to remove illegal signs. In consideration of the period granted to the owners, and the specific

mandate to the States to conclude removals when the sign owner has not performed, the FHWA has set a goal of an additional 90 days through June 18, 1992, for the States to act on the removal of illegal signs as required by 23 U.S.C. 131(r)(2). The FHWA recognizes that State law or procedural impediments may have to be overcome before a State can fully comply with this objective. However, considering the short time frame stated in the legislation for the removal of illegal signs by the sign owners, and the specific tie of this action to effective control requirements, States must take immediate steps after March 18, 1992, to demonstrate reasonable progress in meeting the effective control responsibilities required by this amendment. Good faith efforts by a State, including efforts to seek legislative authority, to comply with the provisions quickly will be considered by the FHWA in deciding how to deal with a failure to achieve effective control. Cumbersome administrative or procedural requirements that do not provide for prompt removal of illegal signs are not consistent with the intent of this section.

Funding for Removal of Nonconforming Signs

A new funding source for outdoor advertising control was provided in section 1048(a) of the ISTEA. By amending 23 U.S.C. 131(m), highway trust funds apportioned under 23 U.S.C. 104 are now available for the removal of nonconforming signs (i.e., lawfully erected signs which do not conform to the control requirements of section 131 or stricter State laws). In addition, in section 1007 of the ISTEA, control and removal of outdoor advertising is identified as one of several eligible "transportation enhancement activities" under the new Surface Transportation Program (STP). This major new program requires that at least 10 percent of apportioned funds for the program must be directed toward "transportation enhancement activities."

Initially, Federal funds for the control of outdoor advertising came from the General Fund. Now, funds made available from the Highway Trust Fund for highway projects may be used for outdoor advertising control. This will have a profound impact on the ability and responsibility of States to remove outdoor advertising signs. Under section 131(n), the States are not required to remove nonconforming signs unless Federal funds are available to participate in the acquisition costs associated with their removal. In the years immediately following the passage of the Highway Beautification Act,

considerable sums were made available to inventory and remove nonconforming signs. However, funding was never sufficient to complete the acquisition process and no General Funds have been appropriated since 1983.

With this amendment made by the ISTEA, the States should have sufficient funds to remove nonconforming signs much more expeditiously. The change in the funding provided by the ISTEA, making available significant funds for the Federal share of just compensation payments and other control costs, will enable States to complete the removal of nonconforming signs in order to maintain effective control under Section 131(b). The timely removal of nonconforming outdoor advertising signs has always been part of "effective control." Failure to exercise effective control subjects a State to a 10 percent reduction of its Federal-aid highway apportionment, pursuant to 23 U.S.C. 131(b).

The FHWA estimates that about 92,000 nonconforming signs remain to be acquired. Most of these signs have been in place for over 20 years. Removal has been delayed, but now with increased Federal funding available to complete acquisition activities and ensure effective control, the law requires expedient removal.

The ISTEA authorizes \$121 billion over the next six years for highway programs, including the STP which is a block grant program designed to fund a wide range of transportation related projects. For Fiscal Year (FY) 1992 alone, over \$11 billion in Federal-aid under 23 U.S.C. 104 is being distributed to the States for highway construction and maintenance, and other transportation activities, including removal of outdoor advertising signs. The estimated total Federal share of the cost to acquire the remaining nonconforming signs is \$428 million. This amount represents just 4 percent of the total eligible Federal-aid funds available to the States in FY 1992. Thus, the FHWA considered requiring States to remove all nonconforming signs along controlled highways in the first year ISTEA funding is available.

However, the FHWA recognizes that while the ISTEA represents a dramatic increase in Federal-aid funding, the non-Federal share must come from State or local sources. Moreover, the impact on individual States in providing for immediate removal would vary. For example, a State with an inventory of just a few hundred nonconforming signs would have a more manageable acquisition task than a State with over 2,000 such signs.

In addition, the FHWA recognizes that other problems might hamper the immediate removal of all remaining nonconforming signs. First, many States have been inactive regarding a sign acquisition program, and might need to update their administrative tools and sign acquisition procedures. Second, we do not believe that the Congress intended that the removal of signs take precedence over all other title 23 projects and programs.

For these reasons, we believe the ISTEA requires States to begin immediate removal of nonconforming signs, and to make reasonable progress in completing their removal program expeditiously. The FHWA, however, has set a two year goal for complete removal of remaining nonconforming signs. The FHWA believes that 2 years provides States with adequate time to remove all nonconforming signs without unduly constricting Federally-funded highway construction and other projects. States should be prepared to justify any reason for concluding that this period would impose an undue hardship on their priorities and programs.

During the next two years period, more than \$24 billion Federal-aid dollars can be expected to be made available to the States for 23 U.S.C. 104 programs and projects. Considering the number of nonconforming signs remaining in the various States, most States could conclude their removal program using less than 2 percent of their 23 U.S.C. 104 funds within the two year period. Therefore, full acquisition and removal of the remaining nonconforming signs over the next two years would seem to be an achievable goal. By meeting this goal States will have removed all nonconforming signs on controlled Federal-aid highways by December 18, 1993.

The elements of removal programs will necessarily vary from State to State, and States should confer with the FHWA as to how best structure a removal program. In implementing removal programs, the States will have to review their existing priorities and formulate programs and processes that will maintain effective control. The States may wish to involve interested parties and affected entities such as other state and local agencies, sign owners, environmental groups and the business community, and establish priorities for sign removal.

This notice provides States and other interested parties a discussion of FHWA's goals and objectives to assure effective control is maintained to achieve the full implementation of the objectives expressed in the 1985

Highway Beautification Act, as amended, and to prevent interruption of Federal-aid funding. Each State should advise the FHWA by June 18, 1992, of its process, program, and timetable to ensure effective control is achieved and maintained. The FHWA intends to monitor and evaluate each State's progress in providing for the prompt removal of illegal and nonconforming signs on controlled systems.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: March 2, 1992.

T.D. Larson,

Administrator.

[FR Doc. 92-5287 Filed 3-5-92; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF VETERANS AFFAIRS

Cooperative Studies Evaluation Committee; Meeting

The Department of Veterans Affairs gives notice under Public Law 92-463 (Federal Advisory Committee Act) as

amended by section 5(c) of Public Law 94-409 that a meeting of the Cooperative Studies Evaluation Committee will be held at the Ramada Renaissance Hotel, 999 9th Street NW., Washington, DC, on April 28, 1992. The session is scheduled to begin at 7:30 a.m. and end at 6 p.m. The meeting will be for the purpose of reviewing the progress of one on-going cooperative study in immunization in the prevention of infection, and three new clinical trials, one in the treatment of alcoholic cirrhosis, one in diabetes mellitus, and one in unstable angina.

The Committee advises the Director, Medical Research Service, through the Chief of the Cooperative Studies Program, on the relevance and feasibility of studies, the adequacy of the protocols, and the scientific validity and propriety of technical details, including protection of human subjects.

The meeting will be open to the public up to the seating capacity of the room, from 7:30 a.m. to 8 a.m., to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. Ping

Huang, Coordinator, Cooperative Studies Evaluation Committee, Department of Veterans Affairs, Washington, DC, (202-535-7154), prior to April 14, 1992.

The meeting will be closed from 8 a.m. to 6 p.m., for consideration of specific proposals in accordance with provisions set forth in section 10(d) of Public Law 92-463, as amended by section 5(c) of Public Law 94-409, and 5 U.S.C. 552b(c)(6). During this portion of the meeting, discussions and recommendations will deal with qualifications of personnel conducting the studies, staff and consultant critiques of research protocols, and similar documents, and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: February 28, 1992.

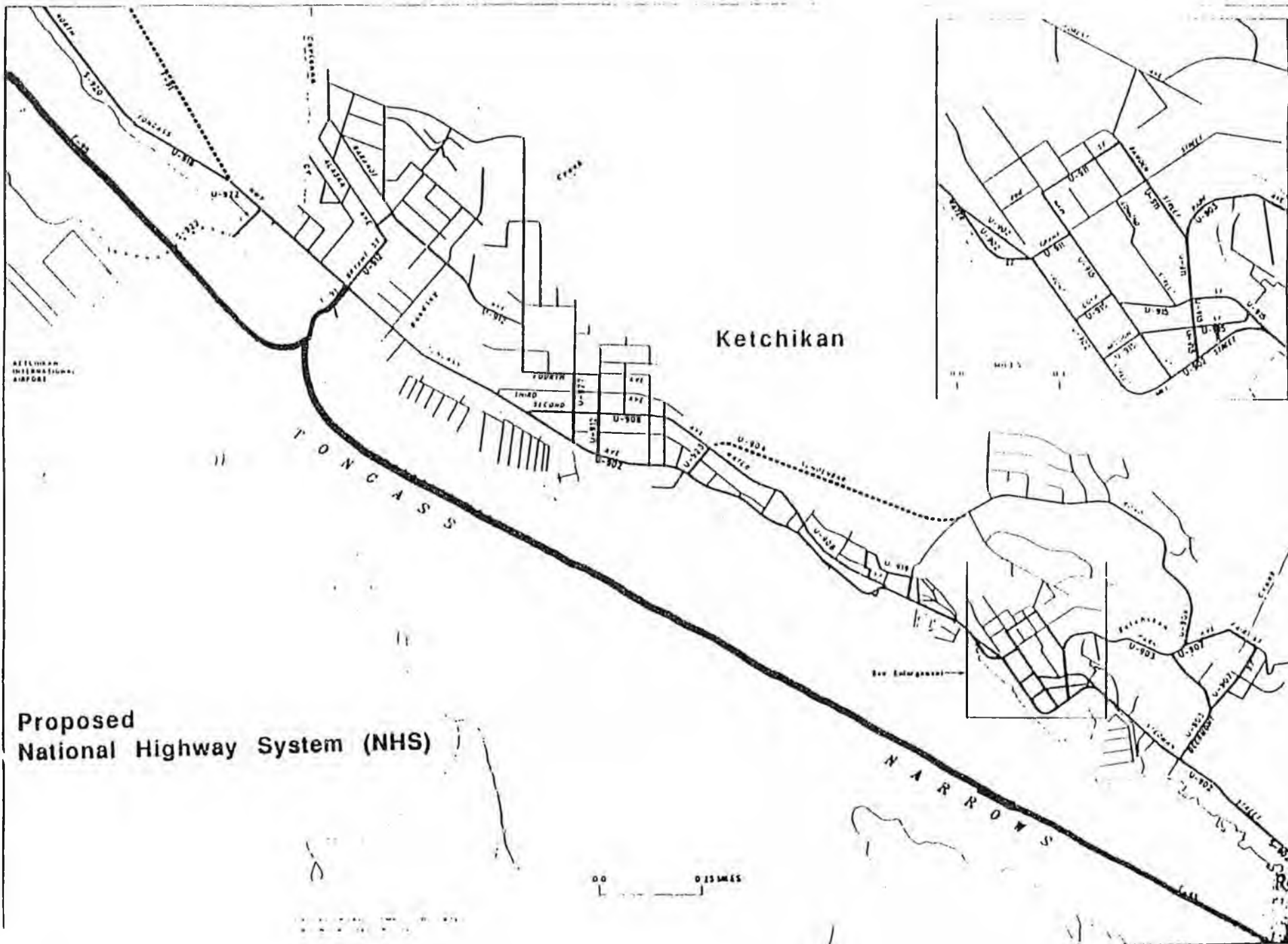
By Direction of the Secretary,

Diane H. Landis,

Committee Management Officer.

[FR Doc. 92-5217 Filed 3-5-92; 8:45 am]

BILLING CODE 8320-01-M



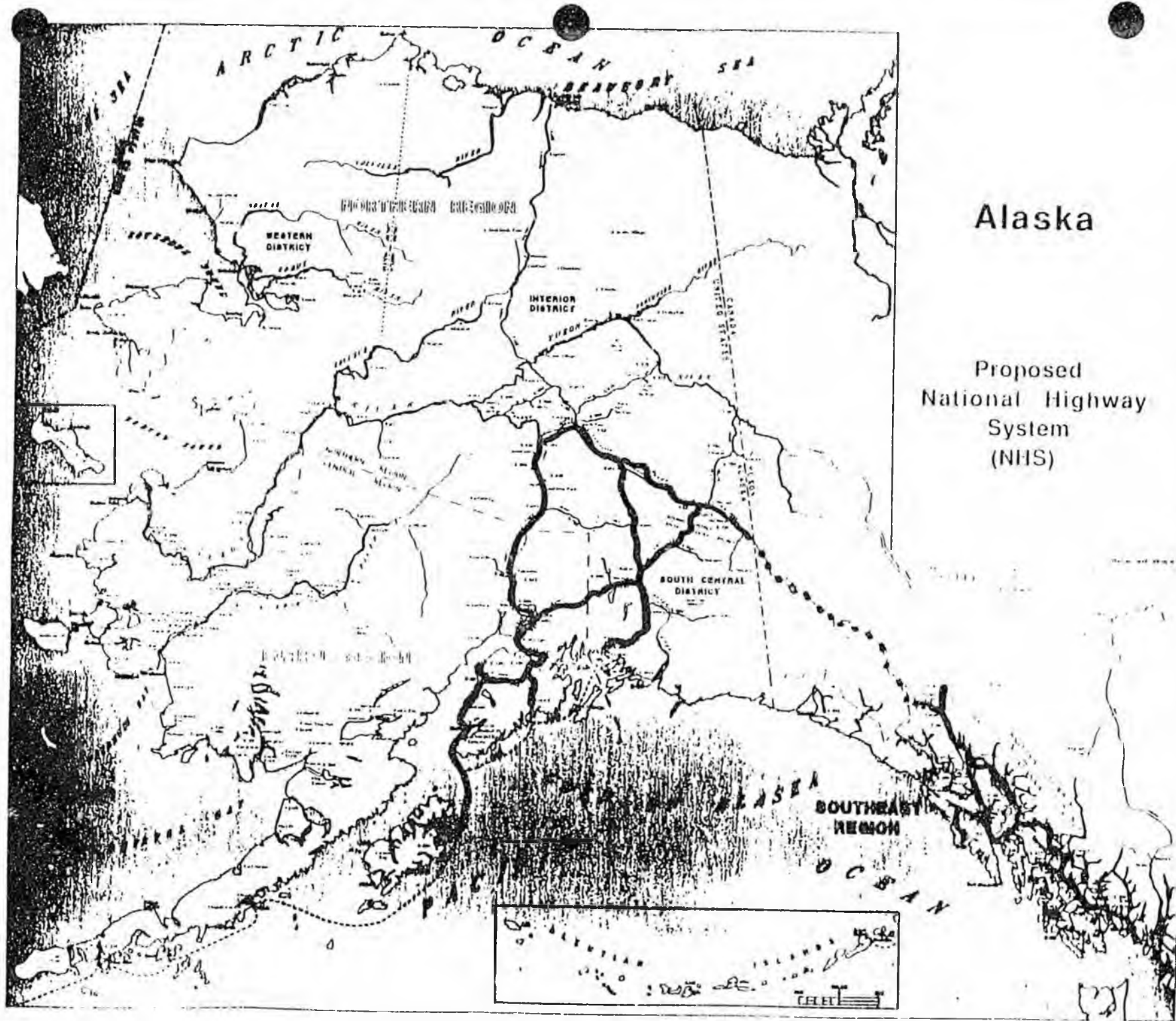
**Proposed
National Highway System (NHS)**

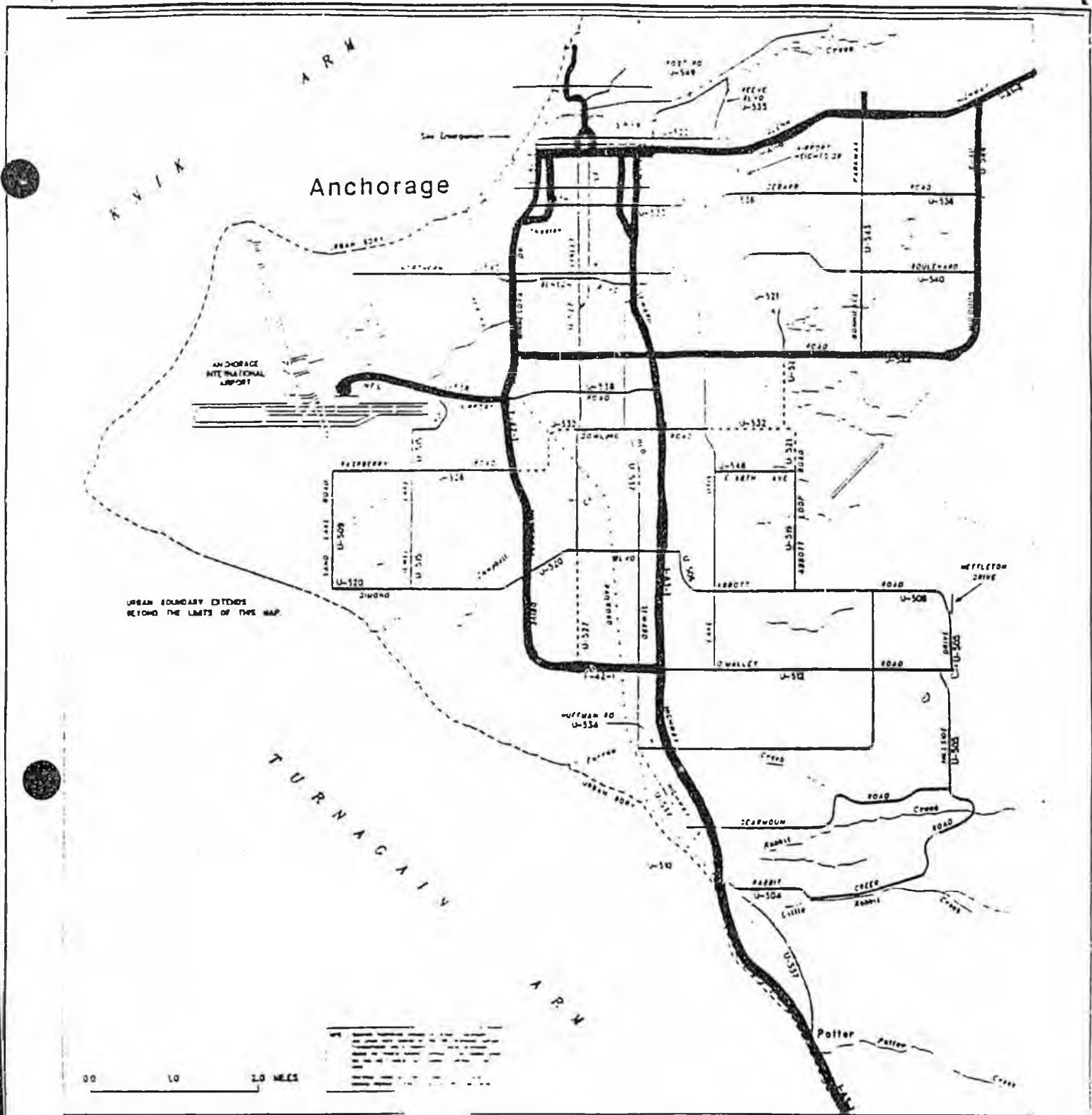
Ketchikan

TONGASS

NARROWS

0 0.5 MILES





Proposed National Highway System (NHS)

DASHED ROAD SYMBOL INDICATES UNCONSTRUCTED ROUTE.

Kizhuyak

Bay

Kodiak

KODIAK ISLAND

PORT LIONS

KIZHUYAK BAY

0.0 0.25 0.5 MILES

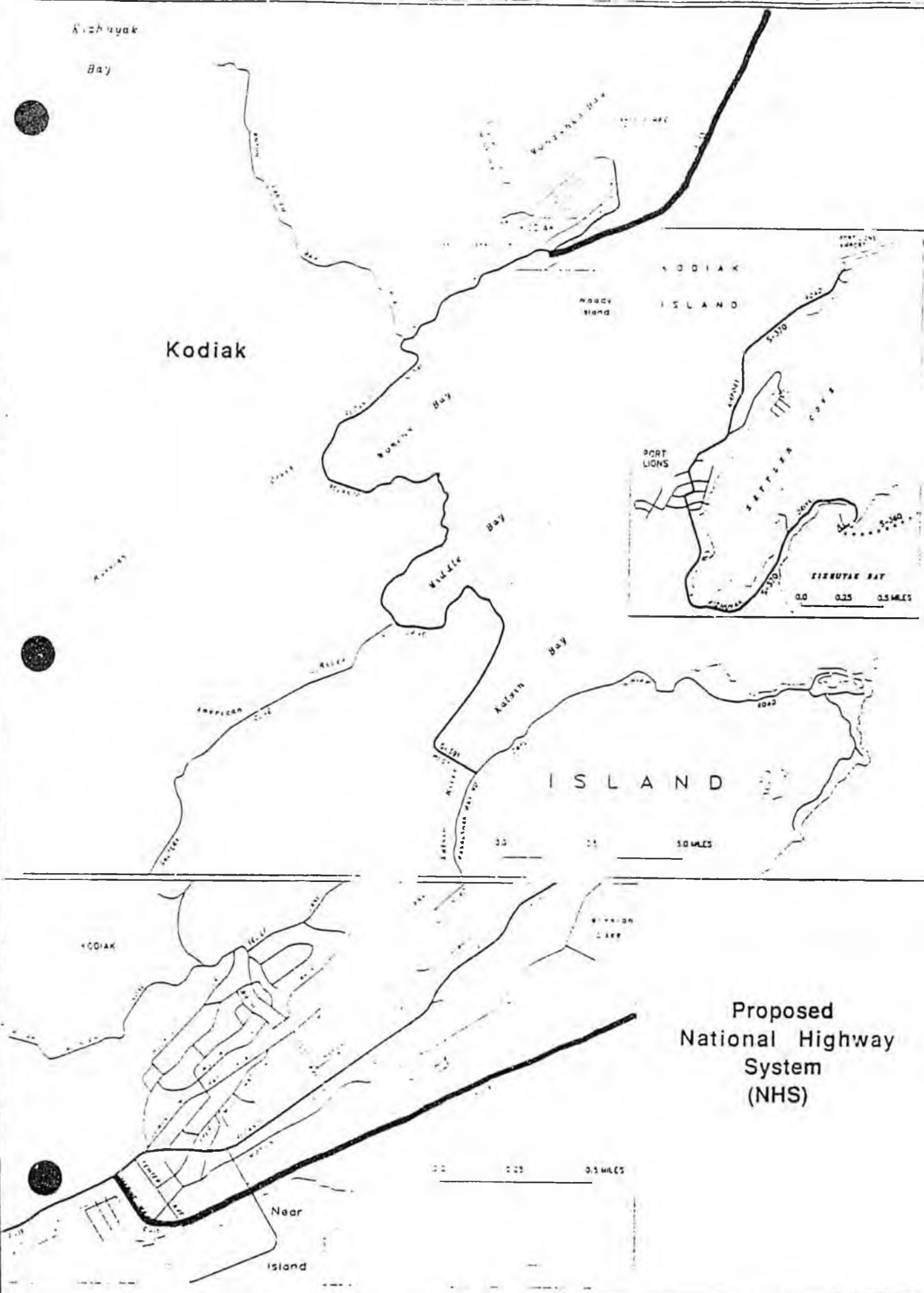
ISLAND

Proposed National Highway System (NHS)

0.0 0.25 0.5 MILES

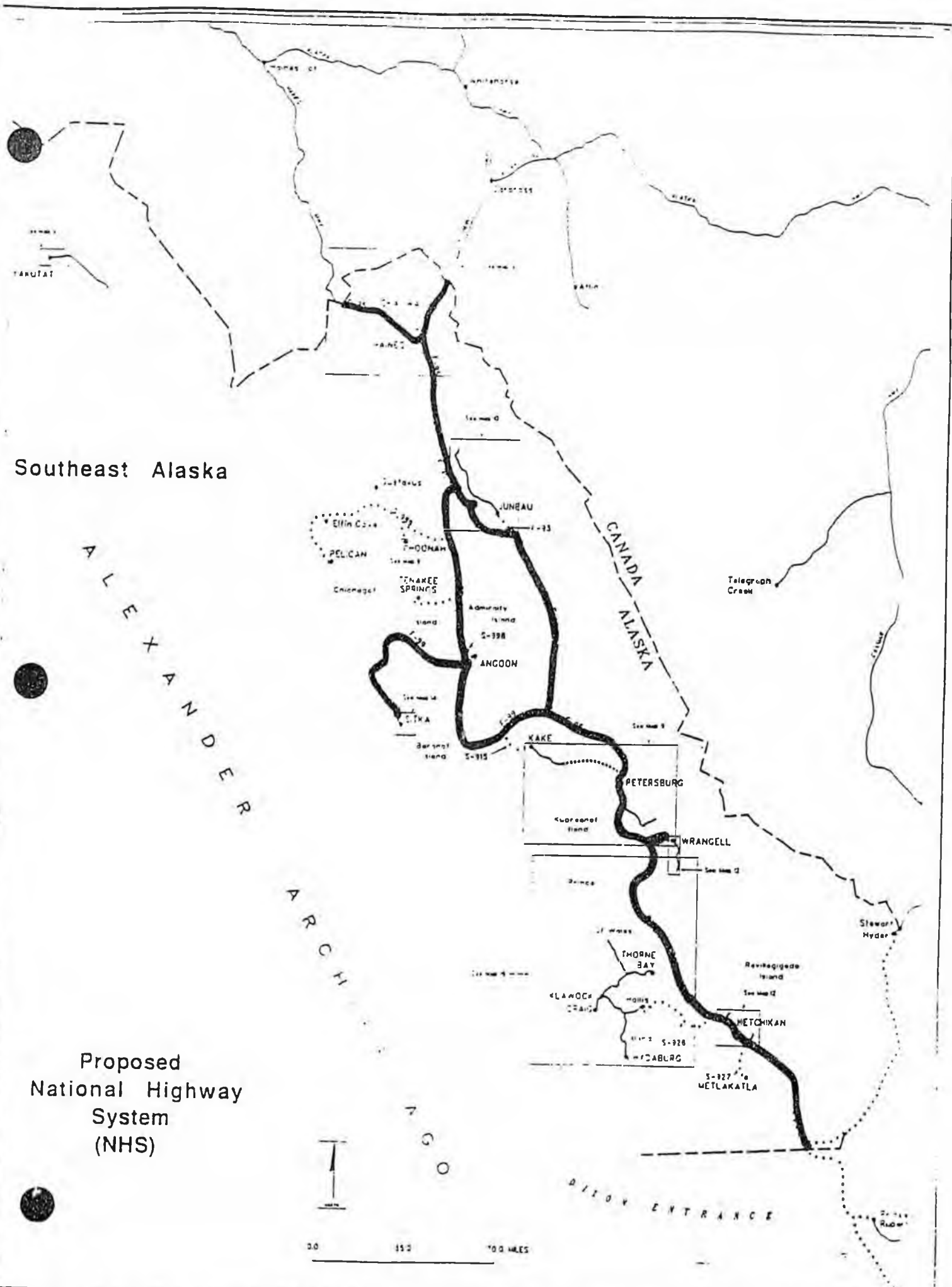
Near

Island

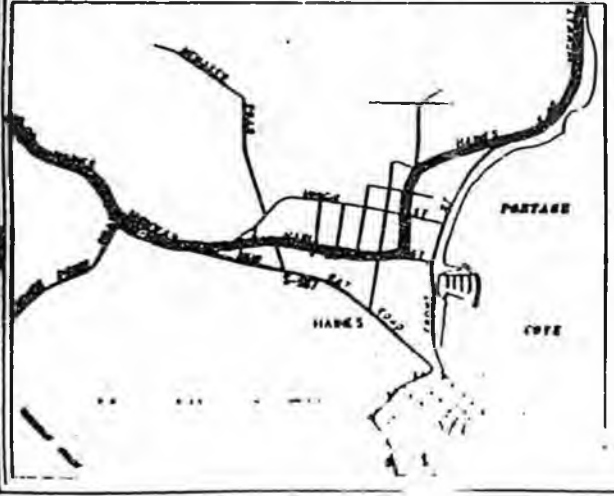
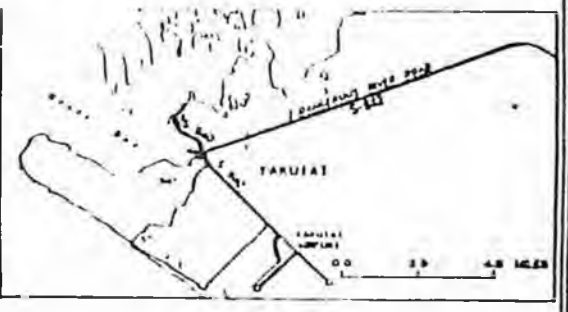
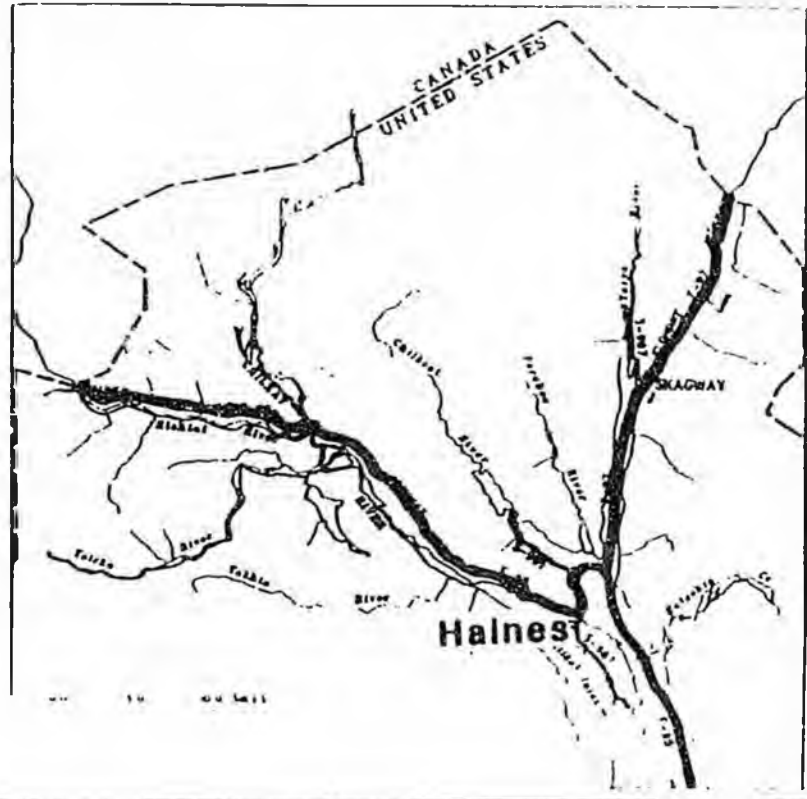
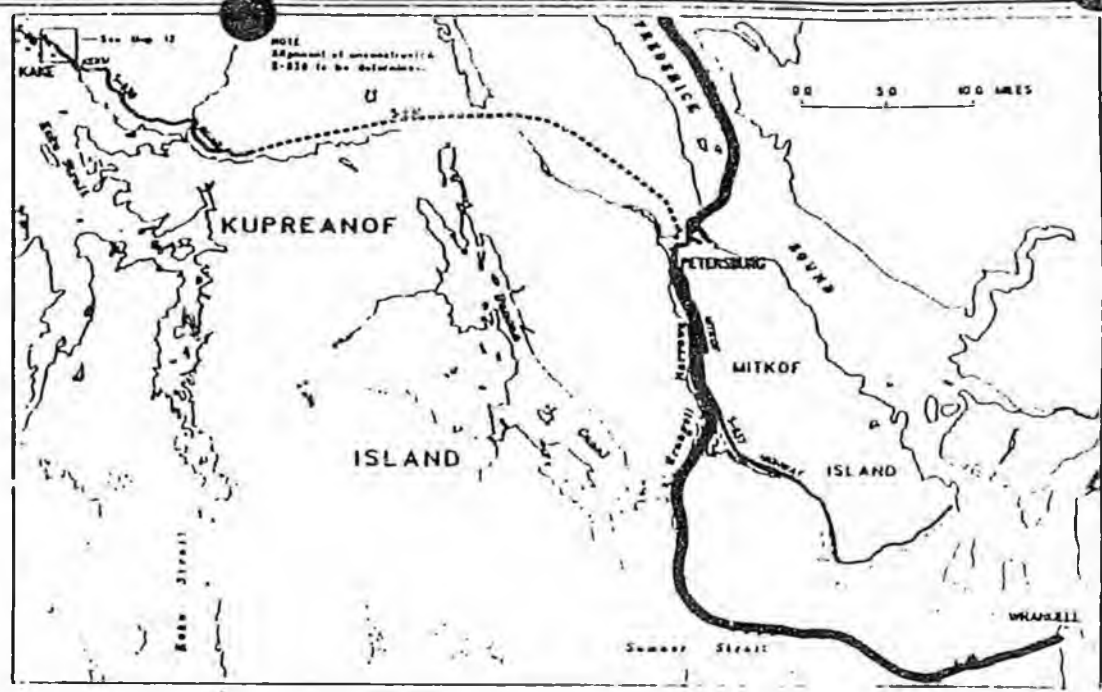


Southeast Alaska

Proposed
National Highway
System
(NHS)



00 50 100 MILES



Proposed NHS

HB

437

Alaska State Legislature

COMMITTEES
RESOURCES
COMMUNITY AND REGIONAL AFFAIRS
LEGISLATIVE BUDGET AND AUDIT

FINANCE SUBCOMMITTEES
UNIVERSITY OF ALASKA
DEPARTMENT OF NATURAL RESOURCES



Alaska State Legislature
1000 North Steese Street, Suite 400
Juneau, Alaska 99801
(907) 455-8172
FAX (907) 455-1587

1000 North Steese Street
Juneau, Alaska 99801
(907) 455-8172
FAX (907) 455-1587

Representative John Davies
District 29

2/21/94

HB 437: Bicycles on Limited Access Highways Sponsor Statement

Bicycles are an economical, environmentally sound and healthy form of transportation that should be encouraged by the state. However, current regulations prohibit bicycles on many highways. This type of policy has the effect of discouraging bicycle use as a basic form of transportation.

HB 437 would prohibit regulations that restrict bicycle use on highways. It would prohibit the harassment of bicyclists. Additionally, this legislation would direct the department to consider the safe use of bicycles when planning, designing, and constructing highways. Finally, the department would be required to encourage "the safe use of bicycles as a basic means of transportation."



FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO: HB 437

Revision Date: _____ Dept. Affected: Public Safety
 Title: Bicycles on Limited Access Highways BRU: Motor Vehicles
 Component: Driver Services
 Sponsor: Rep. Davies
 Requestor: (H) TRA COMPONENT SERIAL NO. 500

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

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
<small>Revenue Code</small>						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

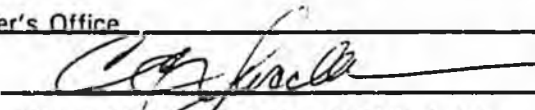
Estimate of current year (FY 94) impact: \$ _____

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.)

No significant impact on the Department of Public Safety is anticipated.

Prepared By: Lee Ann Lucas Phone: 465-4322
 Division: Commissioner's Office Date: 02/28/94
 Approved by Commissioner:  Date: 02/28/94
 Agency: Richard I. Burdon, Dept. of Public Safety

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POSITION PAPER - Department of Public Safety

BILL NO: HB 437

DATE: February 28, 1994

TITLE: Bicycles on Limited
Access Highways


CONTACT: C. E. Swackhammer
465-4322

HB 437 would restrict the Commissioner of Public Safety from adopting regulations that prohibit the operation of a bicycle on a highway. If this bill is adopted as written it would allow bicycles to be operated on controlled access facilities, such as freeways or major highways with posted traffic speeds of 50 to 65 miles per hour. Examples are the Seward, Parks and Glenn highways where there currently exists a high number of injury and fatal motor vehicle traffic accidents. In recent years many miles of bike paths have been built in Alaska, the sole purpose of these paths are to keep bicyclist and foot traffic separated from high speed vehicular traffic. HB 437 would place the bicyclist and the motorist in unsafe conditions that existed prior to bike paths being built.

Section 2 of this bill amends AS 28.35, by adding a new section, harassment of a bicyclist, to the motor vehicle statutes. This section should be clarified to define what constitutes harassment of a bicyclist. If it is specific to occupants of a motor vehicle, it may be placed appropriately in AS 28. If it includes other forms of harassment by the occupants, it may be better placed in AS 11.61.120. The class of offense for harassment needs to be defined.

Provisions of Section 2 of the bill are currently handled by law enforcement either under existing negligent or reckless driving statutes or under the existing criminal harassment statute.

The Department of Public Safety opposes HB 437 as it places bicyclists and motorists in dangerous situations and does not promote highway safety.


Richard L. Burton
Commissioner

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE DAVIES

TO: HB 437

Page 1, line 10, following "person", through line 11:

Delete all material.

Insert "commits the crime of harassment of a bicyclist: if the person, while operating a motor vehicle or as a passenger of a motor vehicle, directs loud, angry, or obscene verbal abuse at an operator of a bicycle for the purpose of threatening or intimidating the operator of the bicycle or limiting or preventing the bicyclist's lawful use of the highway."

HB

520

Sponsor Statement * HOUSE BILL 520

OVERVIEW

Recently, the Department of Transportation has adopted regulations that will charge "off airport" rental car agencies, and other companies that operate courtesy cars at Alaska's State run airports, up to 8% of their gross sales privilege to continue to pick up customers at the airports for transport to the location of their business.

HB 520 was introduced to exempt "off airport" rental car agencies, and other businesses that operate "courtesy cars" at the airport, from this fee, including them with previously exempted groups such as hotels and motels. This fee by the International Airport is a protectionist charge that interferes in the free market place by penalizing businesses which cannot afford or choose not to be located on the airport concourse.

Several "on airport" rental car agencies that lease space from the airport feel that "off airport" agencies should be required to pay a fee for "free and unobstructed access to customers at the airport." In short, they feel that they are being hurt by "off airport" competition, but the benefit that "on airport" agencies receive by being located on the airport, with it's limited spaces and competition, more than offsets the expense of their lease.

Finally, HB 520 would maintain the status quo. I believe the free market place is working. If a car rental business desires to have initial contact with air travellers, they should bid accordingly for the opportunity. If they don't feel that it is worth the cost, then they should relocate off airport. I strongly believe that it is inappropriate for the state to protect its lessors by manipulating the free market.

* Prepared by the office of Representative Mulder

HOUSE BILL NO. 520

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE TRANSPORTATION COMMITTEE

Introduced: 3/9/94

Referred: Transportation, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the operation of courtesy cars at certain airports."

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

3 * Section 1. AS 02.15.095 is amended to read:

4 Sec. 02.15.095. COURTESY CARS. Notwithstanding the provisions of
5 AS 02.15.090(a), the department may not exclude from the streets, roads, highways,
6 parking facilities, or other portions of a state-operated airport designated for operation
7 or parking of ground transportation vehicles, nor may the department prohibit from
8 picking up and discharging passengers, those motor vehicles commonly known as
9 "courtesy cars" owned or operated by hotels, motels, or other similar places of public
10 accommodation, or by rental car businesses located outside the terminal area, for
11 the transportation of their customers [GUESTS] to and from the airport at the request
12 of the customer [GUEST] and for which service no charge is made to the customer.
13 The department may not impose a charge or fee for the operation of a courtesy
14 car at a state-operated airport [GUEST].

FISCAL NOTE

Revision Date:
Title: Courtesy Cars Operated at Airports

Department Affected: DOT&PF
BRU: AIA and FIA

Sponsor: House Transportation
Requestor:

Component: ALA Admin & FIA Admin
Component Serial Number: #613 and #619

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	-	-FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES		0	0	0	0	0	0
TRAVEL		0	0	0	0	0	0
CONTRACTUAL		0	0	0	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:		0	0	0	0	0	0
CAPITAL		0	0	0	0	0	0
REVENUE FUND SOURCE		0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS	0	0	0	0	0	0
1003 GF MATCH	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/PROGRAM RECEIPTS	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL FUNDING:	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

Estimate of current year (FY94) impact: \$0

ANALYSIS: HB 520 doesn't directly affect operating or capital budgets, it creates potential for loss of a significant amount of revenue for AIA and FIA. If car rental firms outside the terminals are not subject to fees for accessing the same passenger market as in-terminal firms, the car rental agencies who operate in the terminals may relocate outside the terminals. This would be a disservice to the traveling public and could eliminate the \$2 million in revenue AIA and FIA receive (FY93) from in-terminal car rental firms. Such a loss in non-airline revenue would require airlines to make up for the lost revenue through increased landing fees.

Prepared by: John Ungar, AIAS Comptroller

Phone: 266-2541

Division: Alaska International Airport System

Date: March 11, 1994

Approved by Commissioner: 

Phone: 465-3901

Agency: Department of Transportation and Public Facilities

Date: March 17, 1994

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Sent Via Facsimile

March 24, 1994

Representative Eldon Mulder
State Capitol
Juneau, AK 99801

RE: House Bill No. 520
"An Act relating to the operation of courtesy cars at certain airports."

I support the aforementioned Senate Bill. My company, Payless Car Rental of Alaska operates in both the Anchorage and Fairbanks International Airport Terminals. It may seem unusual for an in terminal operator to support this Bill. I will explain why this position is taken.

Most in-terminal operators will attempt to make the case that off airport operators pay nothing for the "privilege" to pick up their customers at the airport. The in terminals must pay a percentage of their revenue to the airport. This amounts to a substantial amount of revenue paid to the airport. It sounds like a convincing argument. They neglect to remind you that they pay for this fee voluntarily. Why should they do this? Because it is more of an advantage to be in terminal than off airport. The off airport fee has the opposite effect. It benefits the in terminal operators. The effects of the fees also reaches every business and their efforts to control costs. For example, a fishing charter service in Kenai who books rentals for their clients will see an increase of 10 to 15%. He will consider doing business with an in terminal company instead. This takes money out of the outlying communities.

The airport outlines their goals in the "Off Airport Rental Car Privilege Fees" publication. They want to preserve existing revenue and generate additional revenue. There is no evidence in terminal operators want to move off airport. In fact, rental car revenue is increasing considerably. Another goal of the airport is to ensure that businesses pay fees consistent with the benefits they derive from the airports. Even though they do not pay any fees, they are already receiving benefits consistent from business derived from the airports. Remember, the airport won't even allow off airport operators to conduct business in-terminal because this is reserved for the elite six (6) companies. Another airport goal is to provide a high level of service to the traveling public with convenient transfer from air to ground transportation. Again, they will accomplish the opposite. People who rent off airport want to rent off airport. The transfer from air to ground transportation conveniently is debatable. This certainly is not the case at the Anchorage International Airport. Finding the transportation lobby and then your car has its disadvantages.

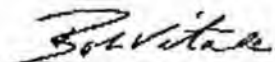
The airport is concerned about in terminal companies moving off airport. They claim the loss of revenue will be substantial. There is not any indication this is happening in Anchorage. They are really concerned that a major company would move off airport. If this is the case, then the airport is protecting the major companies at the expense of the smaller ones. It is not right that the airport through the State of Alaska, Department of Transportation, should enact regulations protecting big business over small.

Alaska Dial-A-Car, Inc. d/b/e Payless Car Rental
Fairbanks International Airport Terminal
P.O. Box 61500 • Fairbanks, Alaska 99706 • Telephone (907) 474-0177 Fax (907) 479-0190

This Bill amends the current Statue by adding Auto Rental Courtesy Cars as exempting from fees. Considering the limited number of off airport companies, isn't possible the imposition of fees could be devastating. The major rental companies will greatly benefit from these fees. I'm sure the Airport would like to tap into that industries revenue. The result would be many times what the off airport rental agencies will bring. It looks like the off airports are an easy target.

By passing this Bill, you will help off airport companies to provide the service needed and demanded of the traveling public. It would be an injustice if the Airports, in the name of the State Government, would intrude in a business that has been in existence for as long as anyone can remember.

Sincerely,



Bob Vitale

President

ALASKA DIAL-A-CAR, inc.

Affordable
NEW
CAR RENTAL

March 21, 1994

Representative Eldon Mulder
STATE OF ALASKA

Dear Representative Mulder,

I would like to forward this fax to you in support of the amendment of house bill 520.

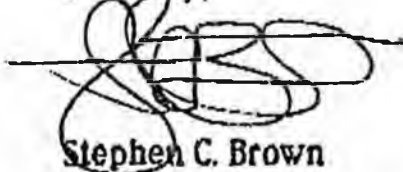
As the general manager of Affordable New Car Rental for the past 18 months, I have experienced the slim profit margins in this industry. I would like to pledge my support to any bill that would reduce state charges for both on and off airport car rental, hotel, and motel businesses.

The current proposed 8% airport fee (tax?) to the airport for the ability to pick up passengers who wish to spend their money in the state of Alaska would have an extremely negative impact on tourism. Ultimately, the tourist will have to foot the bill for this additional fee. Other questions that must be asked are; How much will enforcement and administration for this program cost? What services will these monies going to fund? What services will be provided to courtesy vehicles, apart from a single sign?

The other problem for our industry is the cost in time to administer this proposed fee. I would have to hire another employee to acquire and process the information requested by the airport. During the winter months I must cut my staff to bare bones to break even. Having to administer this program would ensure this would not be possible.

Your consideration in this matter is greatly appreciated. Please call if you have any questions.

Sincerely,



Stephen C. Brown
General Manager

Affordable New Car Rental
Airport Office
4707 Spanard Road
Anchorage, Alaska 99517
(907) 243-3370
(907) 248-3768

□ Downtown Office
Anchorage Hilton Hotel
500 W. 3rd Avenue
Anchorage, Alaska 99501
(907) 285-7107



Licensee
Midtown
3730 Spenard Road
Anchorage, AK 99517
907 276 2855
Fax 907 279 1326

Downtown
245 W. 5th Ave. #128
Anchorage, AK 99501
907 258 9422
Fax 907 258 8404

Out of Town
Reservations:
1-800-FOR-CARS™

March 21, 1994

Eldon Mulder
House Representative
State Capitol
Juneau, Ak. 99801-1182

Dear Honorable Representative Mulder,

I wish to send my support for HB 520. We are the largest off airport car rental company in the state of Alaska. In the tourist season we employ 40 people. The tax envisioned by the airport authority will have major impact on our business. We started in 1977 and we are a family business who until now have been able to withstand the ups and downs of the business climate of Alaska. However the addition of this might well cause us to have to close our doors.

True some say, just pass the tax on to the consumer, however many of our customers, about 25% are non airport customers and we will have to have discriminatory rates for the same cars. A 8% tax if you come through the airport no tax if not. Also the aspect of government having access to your books is a big brother situation all Alaskans resent. Very Strongly.

Please push HB 520 so it can become law.

Sincerely,


Clair A. Floyd
Thrifty Car Rental of Alaska



Licensee
Midtown
3730 Spenard Road
Anchorage, AK 99517
907 276 2855
Fax 907 279 1328

Downtown
245 W. 5th Ave. #128
Anchorage, AK 99501
907 258 9422
Fax 907 258 9404

Out of Town
Reservations:
1-800-FOR-CARSSM

March 22, 1994

State Senator
State Capitol
Juneau, Ak. 99801-1182

Dear Senator,

Please send a copy of Senate Bill # 343 as soon as possible.

I wish to counter any claims by on airport concessioners have made that we as off airport car rentals have had a free ride regarding usage and access to airport customers. The availability to have first chance as deplaning potential customers is a feature many off airport car rental companies envy and would be willing to pay the 10% fee if we had the chance. However the airport has limited the number of of car rental to only six (6). This becomes a monopoly for these six and this is the reason off airport car rentals exist because many times the six are out of cars or because of their monopoly have escalated rates higher than the public is willing to pay or can afford to pay. The present problem would be solved if the airport would allow as many car rentals to go on airport as were able to meet the airport's insurance and financial requirements. The additional fees collected from off airport car rentals would not go directly to the airport but would reduce present or potential increased airline landing fees. If the airport needs additional funds why not charge all courtesy pick ups such as tour buses, hotels and motels and motorhome rentals ? We feel we are being singled out for two basic reasons:

1. Protection of the on airport car rental monopoly.
2. We do not have the political clout the above mentioned groups have.

As far as usage of airport facilities have any of you tried to get in or out of the airport when the tour buses and their baggage trucks are loading and unloading at the airport ? This looks to me like where the real traffic problem exists. I feel we do need a honest consideration of the situation.

Sincerely,

Clair A. Floyd
Alaska Franchise Owner

To: REP. ELDON MULDER
From: All Star Rent a Car

Date: 3-21-94
Phone: 465-3518

This is the only page of this fax

PLEASE SUPPORT HOUSE BILL 520

OUR BUSINESS CAN'T KEEP PACE WITH ALL THE NEW TAXES AND STILL MAKE A
PROFIT. WE HAVE JUST AS MANY RIGHTS TO USE THE AIRPORT ROADWAYS AS ANY
ONE ELSE.

IF YOU NEED MORE FEED BACK PLEASE FEEL FREE TO GIVE ME A CALL.

800-722-6484.

THANK YOU FOR YOUR HELP ..

CHUCK SCHERBAUM

Beauty Vans of Alaska

10121 Marmot Court
Anchorage, Alaska 99515
Telephone (907) 344-6790
Fax (907) 344-0436

3-22-94

Rep. Eldon Mulder,

We at Beauty Vans urge you to support & pass House bill #520. We do not use the airport to advertize, nor do we have an in-house phone for people to call us.

I don't think the airport would give us a commission for bringing people to their airport. 8% of our gross is just about our profit margin. That would just about put us out of business

Support Small Business!

Thank you,

C.A. Benham



**Anchorage
International
Airport**

State of Alaska DOT & PF
PO. Box 190649
Anchorage, Alaska
USA 99519-0649
(907) 266-2525
FAX (907) 243-0883

January 19, 1994

TO: Rental Car Firms and Other Interested Parties:

This letter is to let you know the current status of the Anchorage and Fairbanks International Airports' proposal to adopt off-airport rental car regulations and fees.

Off airport rental car regulations have been adopted (17 AAC 40.045) and became effective January 12, 1994. Airport leasing staff are preparing permits which will be available by April 15. All off airport rental car operators must have a permit by June 1 if they wish to conduct business on the airport.

We received comments on the proposed 8% of gross sales privilege fee in September, 1993, and the comments are still under consideration. We anticipate a final fee decision by the end of February.

The airports typically charge a minimum fee for leases and permits. That minimum is \$100 for an agreement with a term of less than one year or \$250 for an agreement with a term of one year or more. These minimums would also apply to off airport rental car permits. Off airport operators would pay the minimum OR the percentage fee, whichever is greater.

We did not make the minimum fees clear in our original public notice, so are issuing a supplemental public notice to correct that oversight. Attached is a copy of the notice.

Feel free to give me a call if you have questions or would like further information on the status of off airport rental car fees. You can reach me at (907) 266-2549.

Sincerely,

A handwritten signature in cursive script that reads "Judie Pank".

Judie Pank
Policy Planner

cc: Diane Barth, ANC Leasing Chief
Jane Brownfield, FIA Leasing Chief
Lowell Humphrey, ANC Director
D. C. Ruff, FIA Manager
John Ungar, AIAS Controller

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

SUPPLEMENTAL NOTICE OF OFF AIRPORT RENTAL CAR FEE

In accordance with AS 02.15.090(a), 17 AAC 40.070(c), and 17 AAC 40.340(a), the State of Alaska Department of Transportation and Public Facilities (DOT&PF) issues this supplemental notice to the Notice of Proposed Off Airport Rental Car Fee published in August and September, 1993.

Comments have already been received on the August, 1993 notice of a proposed 8% of gross sales privilege fee for business off airport rental car firms derive from picking up passengers at the Fairbanks and Anchorage International Airports. DOT&PF is considering the adoption of a minimum fee in conjunction with the percentage fee previously proposed.

DOT&PF invites comments on the proposed minimum fee only. DOT&PF proposes that each year off airport rental car agencies pay the greater of either the minimum fee OR 8% of revenue received from passengers picked up at the airports. The proposed minimum is \$100/year for a short term permit (less than one year) and \$250/year for a longer term permit (one year or more duration).

Written comments concerning the proposed minimum fee may be mailed to Judie Pank, Anchorage International Airport, P.O. Box 196960, Anchorage AK 99519-6960. To be considered, written comments must be received by no later than 5 p.m. on Thursday, February 17, 1994.

Persons with a disability who may need special accommodation to comment on the proposed minimum fee should contact Judie Pank at the above address (phone 266-2549; TTY 266-2686; fax 243-0663).

Upon its own motion, or based on written comments, DOT&PF may adopt proposals within the scope of this notice without further notice or may decide to take no action.

Judie Pank
Judie Pank, Policy Planner
Anchorage International Airport

Date 1/18/94



Alaska
International
Airport
System

PO Box 190649
Anchorage, Alaska
USA 99519-0849
(907) 266-2525
FAX (907) 243-0663

August 20, 1993

TO: Car Rental Agencies and Other Interested Parties

The Anchorage and Fairbanks International Airports are taking steps to initiate an off-airport rental car program. The airports propose to adopt a regulation covering program requirements and to implement a percentage of gross sales privilege fee.

We encourage interested parties to submit written comments and/or to participate in the public hearings scheduled for September 15th in Anchorage and September 16th in Fairbanks.

Enclosed is the following information:

- A copy of the public notice for the proposed regulation
- A copy of the proposed regulation
- A copy of the public notice for the proposed fee
- A report on the airports' study of the subject

If you are missing any of the listed items, please contact me at the Anchorage International Airport Director's Office, P.O. Box 196960, Anchorage AK 99519-6960. My telephone number is (907) 266-2549 and my fax number is (907) 243-0663.

Please do not hesitate to call me if you have questions.

Sincerely,

A handwritten signature in cursive script that reads "Judie Pank".

Judie Pank
Policy Planner

Enclosures

cc: Lowell Humphrey, ANC Director
Doyle Ruff, FAI Manager
John Ungar, AIAS Controller

DEFINITIONS

The following definitions apply in this report:

Airport: The Anchorage and Fairbanks International Airports collectively, unless otherwise identified.

ANC: Anchorage International Airport.

FAI: Fairbanks International Airport.

FY 1992: State of Alaska Fiscal Year 1992 (July 1, 1991 through June 30, 1992).

Off-Airport Operator: An individual or organization conducting a vehicle rental business from a location other than an Airport terminal, either by use of shuttle vehicles to transport passengers from the terminal to the vehicle rental business location or by picking up passengers at the terminal in the vehicle the passenger will rent.

On-Airport Operator: An individual or organization authorized to conduct a vehicle rental business from an Airport terminal building under a written agreement with the Airport.

Privilege Fee: A fee charged an operator for the opportunity to conduct business on the Airports and to enjoy the business benefits derived from the presence of the Airport and access to its passengers.

Rental Car(s): Automobiles, passenger vans, trucks, and other similar vehicles for road transportation. This definition does not include motor homes or other similar vehicles containing built-in sleeping accommodations.

State: The State of Alaska, Department of Transportation and Public Facilities, Alaska International Airport System (Anchorage and Fairbanks International Airports combined).

AUTHORITY

The State of Alaska owns ANC and FAI and operates them through the Department of Transportation and Public Facilities (department) under authority of AS 02.15.060, AS 02.15.090, and AS 37.15.410-550.

AS 02.15.060 establishes the authority of the department to "...plan, establish, construct, enlarge, improve, maintain, equip, operate, regulate, protect, and police airports....".

AS 02.15.090 sets forth the department's authority to operate and to grant user privileges, and to "...establish the terms and conditions and fix the charges, rentals, and fees for the privileges or services, that are reasonable and uniform for the same class of privilege or service.....".

AS 37.15.500 provides that the "...commissioner of transportation and public facilities shall fix and collect such fees, charges and rentals derived by the state from the ownership, lease, use and operation of the airports and all of the facilities and improvements of them or used in connection with them as will provide revenues sufficient to comply with all covenants of the bond resolution."

DISCUSSION

- we must
currently
draw out
business
from outside
sources!!
this info a
provided by
ANC

After careful consideration, ANC and FAI concluded that On- and Off-Airport Operators have access to the same airport passenger market, provide essentially the same service to those passengers, and should thus be subject to comparable fee and insurance requirements. This conclusion is consistent with AS 02.15.090, 17 AAC 40.320, and a 1988 Alaska Supreme Court decision (Herrick v. State of Alaska, 754 P.2d 1111 (Alaska 1988)).

Preservation of Existing Revenue

ANC and FAI receive in excess of \$1.9 million annually from On-Airport Operators. The Airports find it important to encourage car rental agencies to operate from the Airport terminals to the extent the terminals can accommodate such activity. If the Airports continue to differentiate the type of fee for operators providing essentially the same class of service, this may discourage potential bidders from participating in competitive bids for the on-Airport rental car concessions. On-Airport Operators might relocate off of Airport property, pay the \$25 permit fee, and continue to access the Airport passenger market. On-Airport Operator movement to off-Airport locations would reduce a significant existing revenue source and could decrease a level of service the Airports desire to provide for the traveling public.

Generation of Airport Revenue

ANC and FAI are obligated by law to be self supporting and the Airports receive no general fund monies. Federal Aviation Administration grant assurances also require the Airports to be as financially self sustaining as possible. All airlines and other users operating at either or both ANC and FAI pay rates and fees sufficient to cover the combined operating and capital costs for both Airports.

Continuation and implementation of fees appropriate to the various non-airline classes of Airport use is integral to the Airports' efforts to maintain reasonable air carrier rates and fees. It is also consistent with 17 AAC 40.340(a)(1) that states in part ".....privileges and permits granted will be set at an amount that will produce fair and reasonable revenue."

Consistent with AS 37.15.500, ANC and FAI will use revenue generated through off-Airport rental car privilege fees to maintain and operate both Airports.

Cost/Benefit Evaluation

ANC and FAI evaluated the costs and benefits to the Airports of implementing an off-Airport rental car program. The Airports estimate a \$25,000 initial implementation cost and a \$6,000 annual expense for program administration and monitoring. Costs include staff expense in drafting and administering agreements and audit expenses in monitoring compliance. Benefits include Airport revenue enhancement, preservation of existing revenue, and a closer approximation of similar fee arrangements for businesses providing essentially the same service to ANC and FAI passengers. Retention of the existing revenue source and the potential for \$270,000 in additional annual revenue far outweigh the cost for implementation and ongoing administration.

Neither ANC or FAI currently has an AVI system. Auditing the number of trips to verify accuracy of payments would require round-the-clock, in-person monitoring. The Airports conclude that a per-trip fee is not practical and do not recommend such a fee at this time. It is possible either Airport may install an AVI system in the future and will reevaluate use of per-trip fees at that time.

Per-Contract Fee

A per-contract fee consists of a set charge for each rental-car contract resulting from an Airport passenger pick up.

Although some lower 48 airports use a per-contract fee, the national trend is toward a percentage of gross sales fee consistent with the type of fee typically charged On-Airport Operators. This information was obtained from a variety of sources including the American Association of Airport Executives, the consulting firm of KPMG Peat Marwick, individual discussions with airport executives, and the April 1992 Parking Professional. Appendices 2 and 3 summarize some of this information.

A per-contract fee does not take into account the variation in gross sales between short and long term rental car contracts. ANC and FAI believe a per-contract fee is inconsistent with the Airport's goal of raising revenue and does not reflect the business benefits Off-Airport Operators derive from Airport use. In addition, a per-contract fee differs significantly from the type of fee paid by On-Airport Operators who provide rental car services to essentially the same passenger market.

Flat Fee

This is a set monthly or annual fee charged to Off-Airport Operators for use of the Airport.

ANC and FAI concluded it is not practical to establish a flat fee that adequately represents the business benefits Off-Airport Operators derive from the Airports since various Off-Airport Operators will have differing levels of Airport use. Further, a flat fee does not take into account that On- and Off-Airport Operators serve essentially the same Airport passenger market.

Percentage Privilege Fees

Charging Off-Airport Operators a percentage of gross sales is widely accepted throughout the United States airport industry as a fair indication of the business benefits rental car firms derive from airports. Percentage of gross sales fees for both On- and Off-Airport Operators reflect the fact that car rental business is a distinct class of use. On-Airport Operators pay percentage fees; Off-Airport Operators should have the same type of fee structure because they are the same class of use.

RECOMMENDATION

The Airports believe the off-airport privilege fee should reflect airport industry practice, be consistent with the type of fee paid by On-Airport Operators, and relate to the business benefits Off-Airport Operators derive from the Airports.

The Airports therefore recommend implementing a percentage of gross sales privilege fee for Off-Airport Operators who use the Airports from which to derive business.

The Airports recommend requiring Off-Airport Operators to enter into a written agreement with the Airports before conducting rental car business at ANC or FAI. The Airports' tentative schedule is to issue Off-Airport Operator agreements on December 1, 1993 with an effective date of January 1, 1994.

The Airports recommend that the agreement contain at least the following provisions:

A privilege fee based on 8% of gross sales from Airport-related business.

Eight percent is in line with industry practice. It is lower than the 10% maximum fee currently charged On-Airport Operators and reflects the fact that On-Airport Operators have a presence in the terminal and therefore more direct exposure to passengers without prior reservations. *Richard [unclear]*

A requirement for the Off-Airport Operator to demonstrate evidence of insurance coverage. See Appendix 5*.

A requirement to submit audited annual statements of gross sales. See Appendix 6*.

A requirement to submit to the Airports monthly payments and certified activity reports stating gross sales derived from business generated through customers picked up at the Airport.

A requirement allowing the Airport to conduct audits to verify the accuracy of payments made to the State. See Appendix 6*.

A contractual definition of gross sales as similar as possible to that used for On-Airport Operators. See Appendix 7*.

* The language in these appendices is contained in current On-Airport Operator agreements, which may be modified during preparation of the future agreements. The requirements for Off-Airport Operators will be similar to then-current On-Airport Operator requirements, where reasonable and appropriate.

Licensee
Midtown
3730 Spenard Road
Anchorage, AK 99517
907 276 2855
Fax 907 279 1326

Downtown
245 W. 5th Ave. #128
Anchorage, AK 99501
907 258 9422
Fax 907 258 9404

Out of Town
Reservations:
1-800-FOR-CARSSM



March 21, 1994

Eldon Mulder
House Representative
State Capitol
Juneau, Ak. 99801-1182

Dear Honorable Representative Mulder,

I wish to send my support for HB 520. We are the largest off airport car rental company in the state of Alaska. In the tourist season we employ 40 people. The tax envisioned by the airport authority will have major impact on our business. We started in 1977 and we are a family business who until now have been able to withstand the ups and downs of the business climate of Alaska. However the addition of this might well cause us to have to close our doors.

True some say, just pass the tax on to the consumer, however many of our customers, about 25% are non airport customers and we will have to have discriminatory rates for the same cars. A 8% tax if you come through the airport no tax if not. Also the aspect of government having access to your books is a big brother situation all Alaskans resent. Very Strongly.

Please push HB 520 so it can become law.

Sincerely,

Clair A. Floyd
Clair A. Floyd
Thrifty Car Rental of Alaska

To: REP. ELDON MULDER
From: All Star Rent a Car

Date: 3-21-94
Phone: 465-3518

This is the only page of this fax

PLEASE SUPPORT HOUSE BILL 520
OUR BUSINESS CAN'T KEEP PACE WITH ALL THE NEW TAXES AND STILL MAKE A
PROFIT. WE HAVE JUST AS MANY RIGHTS TO USE THE AIRPORT ROADWAYS AS ANY
ONE ELES.
IF YOU NEED MORE FEED BACK PLEASE FEEL FREE TO GIVE ME A CALL.
800-722-6484.
THANK YOU FOR YOUR HELP ..

CHUCK SCHERBAUM