

Submitted by: Assembly Member Clementson
Prepared by: Department of Law
For reading: December 15, 1998

ANCHORAGE, ALASKA
AO NO. 98-187(S)

AN ORDINANCE OF THE MUNICIPALITY OF ANCHORAGE AMENDING ANCHORAGE MUNICIPAL CODE SECTION 4.50.095 AND CHAPTERS 11.10-11.40 CREATING A SAFETY ADVISORY COMMITTEE FOR VEHICLES REGULATED BY THE ANCHORAGE TRANSPORTATION COMMISSION, REQUIRING ADDITIONAL EQUIPMENT ON VEHICLES REGULATED BY THE ANCHORAGE TRANSPORTATION COMMISSION, AND MAKING OTHER CHANGES AIMED AT INCREASING THE SAFETY OF CHAUFFEURS OF TAXICABS.

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1: That the Anchorage Municipal Code is hereby amended by adding a new section 4.50.095 to read as follows:

4.50.095 Regulated vehicle safety advisory committee.

- A. There is established a regulated vehicle safety advisory committee. The committee shall consist of 15 members, fourteen of which shall be employed or otherwise make their living in the regulated vehicle industry. The committee shall meet every three months unless it meets more frequently. The committee shall make safety-related recommendations to the assembly, mayor, and transportation commission concerning vehicles regulated by the transportation commission.
- B. The transportation inspector shall provide staff support to the regulated vehicle safety advisory committee.

Section 2: That section 1 .20.070 of the Anchorage Municipal Code is hereby amended to read as follows:

11.20.070 Taxicabs—Vehicle markings.

- A. Every taxicab shall bear the trade name under which it is operated on each side of the taxicab with permanent letters no less than four inches high.
- B. Every taxicab shall bear its vehicle number, as assigned to it by the transportation inspector, on all sides of the taxicab with permanent letters no less than four inches high.
- C. Except as otherwise provided by law, no taxicab may be used or sold for any purpose other than for use as a taxicab until all signs, insignia, lights or other markings have been

1 removed or an "out of service" sign is posted on the taxicab in the form and manner
2 designated by the transportation inspector.

3
4 D. Every taxicab shall bear the markings adopted by its dispatch service.

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6 E. Notwithstanding any other provision of this section, a taxicab may be used for shared ride
7 service in accordance with this title so long as the vehicle is clearly marked on both
8 exterior sides in the manner prescribed by the transportation inspector.

9
10 F. Each owner shall display on his or her taxicab(s) a decal stating "Driver does not carry
11 more than \$20 in change." This decal shall be prominently displayed on the exterior and
12 the interior of each taxicab. A chauffeur may not be cited for a violation of this Code based
13 on the amount of change the chauffeur is carrying.

14
15 **Section 3:** That section 11.20.080 of the Anchorage Municipal Code is hereby amended to
16 read as follows:

17
18 **11.20.080 Taxicabs—Required equipment.**

19
20 A. Every taxicab shall be equipped with an operable two-way radio that receives and
21 transmits a signal only on the frequency used by that taxicab's dispatch service. At no
22 time may a taxicab be equipped with an apparatus capable of monitoring a frequency used
23 by a dispatch service other than that used by that taxicab's dispatch service. The radio of
24 each taxicab shall be identifiable through the dispatch company through which the taxicab
25 is dispatched.

26
27 B. Every taxicab shall be equipped at all times with an interior light of not less than two
28 candlepower arranged so as to illuminate the entire passenger compartment. The light shall
29 be illuminated whenever passengers are being loaded or unloaded from the taxicab
30 between one-half hour after sunset of one day and one-half hour before sunrise the next
31 day. No shades or blinds shall be drawn over any windows of the taxicab while occupied
32 by a passenger.

33
34 C. Every taxicab shall be equipped with a nonflashing light on the exterior of the roof of a
35 type approved by the transportation inspector. The light shall be illuminated only when the
36 taxicab is not occupied by a paying passenger.

37
38 D. Every taxicab shall be equipped with a taximeter unless that taxicab is used exclusively at
39 all times for shared ride taxicab service and is never used for another type of taxicab
40 service.
41

E. Every taxicab shall be equipped with a silent electronic alarm system in conjunction with the radio between the taxicab and dispatch company. The electronic alarm system shall be chauffeur-activated by a foot switch or other means approved by the transportation inspector. A radio capable of being activated by a foot switch or other means approved by the transportation inspector shall qualify as a silent electronic alarm system under this section. The owner of the taxicab shall be responsible for all costs associated with the installation, operation, and maintenance of the electronic alarm system.

F. Every taxicab shall be equipped at all times with a safety shield and a surveillance system. The owner of the taxicab shall be responsible for all costs associated with the installation, operation, and maintenance of the safety shield and the surveillance system.

1 The safety shield shall be installed between the front compartment in which the chauffeur sits and the rear compartment or second seat. Each safety shield shall meet the standards established by the Federal Bureau of Investigation for "Level Two" protection against medium-power small arms.

2. The surveillance system shall have the capability to operate 24 hours a day and be compatible with any safety shield for surveillance during both daytime and nighttime. The surveillance system shall either have continuous operation or be activated by the opening of a door, the starting of the taxicab meter, or some other self-initiating device which does not require the specific decision or action by the chauffeur to activate the surveillance system. The system shall be based on either a low-light or infrared light source capable of producing high-quality pictures of suspects for law enforcement use.

Section 4: That section 11.30.020 of the Anchorage Municipal Code is hereby amended to read as follows:

11.30.020 Application for license.

A. An application for a chauffeur's license shall be made to the transportation inspector.

B. An application shall be submitted on a form approved by the transportation inspector and shall be accompanied by:

The fee specified in section 1 10.160.

2. Photographs to be taken by the transportation inspector.

3. A complete set of fingerprints made by the police department or transportation inspector on an FBI-approved form.

4. A certificate from a physician licensed to practice medicine in the state verifying the applicant's physical ability to drive and proof of a negative drug test certificate from a municipal-approved drug and alcohol testing facility. A positive test showing will be cause for denial of any license application.
5. Proof that the applicant currently holds a valid state driver's license which entitles him to operate a vehicle by which persons are transported for compensation.
6. Proof that the applicant is at least 19 years old.
7. Demonstrated ability to read, write and speak the English language.

C. An application shall not be complete until the applicant has passed an examination administered by the transportation inspector or his or her designee and has satisfactorily completed a commission-approved course of study encompassing safe driving, safe vehicle maintenance, knowledge of city streets and significant locations, driver personal safety, elements of successful tourism and visitor service, and commission regulations encompassing drug and alcohol testing, driver behavior and appearance, and any other subjects the commission finds to be in the public interest of ensuring safe and responsible public transportation. The course will include check ride certification for new chauffeurs by persons authorized by the transportation inspector to conduct check rides.

D. Applicants for a chauffeur's license must show proof of successful passage of [WILL PAY TO THE OPERATOR OF] the chauffeur training and testing program and payment of a fee developed by the commission [AND APPROVED BY THE ASSEMBLY TO DEFRAY A REASONABLE PORTION OF THE COSTS FOR THE TRAINING AND TESTING PROGRAM].

E. Any person who has been denied a license pursuant to this chapter may not apply again for such a license for a period of one year except for those denied or revoked under section 11.10.085.A.2 and 3 and pursuant to section 11.10.110.A.3.

F. A chauffeur applying for renewal of a chauffeur's license must have at least two hours of refresher training before the license is renewed. The refresher training program described in this subsection shall be provided by the Municipality of Anchorage.

Section 5: That section 1 .40.040 of the Anchorage Municipal Code is hereby amended to read as follows:

11.40.040 Provision of service; joint dispatch service.

- 1 A. Except as otherwise provided in this section, a dispatch service shall serve all taxicab
2 permittees and their chauffeurs who request dispatch service and meet the requirements of
3 this section so long as the fee for such service has been paid.
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- 5 B. A dispatch service may promulgate reasonable internal rules and regulations and shall
6 supply the transportation inspector with a current copy thereof at all times. A dispatch
7 service may refuse to serve a permittee or chauffeur only after the permittee or chauffeur
8 has habitually and knowingly violated one or more provisions of the reasonable rules and
9 regulations on file with the transportation inspector. If a dispatch service executes one or
10 more types of written contracts pertaining to dispatch of taxicabs, the dispatch service shall
11 supply the transportation inspector with one copy of each such current contract form at all
12 times.
13
- 14 C. A dispatch service shall not dispatch any taxicab unless such taxicab is being operated by a
15 properly licensed chauffeur pursuant to a valid taxicab permit.
16
- 17 D. A dispatch service may dispatch taxicabs from another taxicab company, but that company
18 shall retain its own business name, style and color and shall be substantially different in its
19 business name, style and color from that used by any other dispatch company.
20
- 21 E. A dispatch service seeking to merge with another for joint dispatch service shall submit a
22 plan which includes all the terms and conditions of the merger to the transportation
23 commission for approval.
24
- 25 F. Each dispatch service shall establish a system for identifying radio transmissions from
26 each taxicab which is dispatched through the dispatch service.
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28 **Section 6:** That the Anchorage Municipal Code is hereby amended by adding a new section
29 11.40.051 to read as follows:
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31 **11.40.051** Caller identification required.
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33 Dispatch companies shall not accept a request for taxicab service or dispatch a taxicab without
34 identifying and recording the person or persons making the request and the telephone number from
35 the person or persons are calling. Each dispatch company shall cause to have installed a caller
36 identification system which will automatically display the telephone number of each caller.
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38 **Section 7:** That the Anchorage Municipal Code is hereby amended by adding a new section
39 1.40.052 to read as follows:
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41 **11.40.052** Dispatcher and telephone assistant drug and alcohol testing.
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A By regulation, the commission shall:

- 1 Cause to be established a drug and alcohol testing program for dispatchers and telephone assistants. The program shall include applicant drug screening tests, random tests, and reasonable cause tests. The program shall be approved and administered by the transportation inspector.
2. Provide for the immediate order by the transportation inspector that a dispatch company stop employing as a dispatcher or telephone assistant any such dispatcher or telephone assistant failing, or failing to submit to, such an applicant drug test, a random drug or alcohol test, or a reasonable cause drug or alcohol test for a period of not less than six (6) months for a first offense and not less than two years for a second or subsequent offense.
3. Provide for fees to pay for drug and alcohol testing with costs of testing for applicant drug screening borne by applicants and costs of subsequent testing borne by dispatch companies.

B. A design, cost structure, and fee determination for the drug and alcohol testing program shall be developed by the commission and submitted to the assembly for approval subject to the following conditions:

- Costs for a drug screening shall be borne by applicants for jobs as dispatchers and telephone assistants.
2. Direct operational costs for random and reasonable cause drug and alcohol testing program shall be borne by dispatch companies through an increase in the annual permit renewal fee.

Section 8: That the Anchorage Municipal Code is hereby amended by adding a new section 11.40.053 to read as follows:

11.40.053 Two-way communication requirement between dispatchers and taxicab chauffeurs.

Each dispatch company licensed under this title must operate and maintain a two-way communications system between dispatchers and taxicab chauffeurs. The two-way communications system shall allow each chauffeur on a dispatch company radio frequency to monitor dispatcher transmissions and transmissions from other chauffeurs on that dispatch company radio frequency.

Section 9: That the Anchorage Municipal Code is hereby amended by adding a new section 11.40.054 to read as follows:

11.40.054 Standardized training and certification programs, standardized emergency notification code, and biennial refresher training.

Dispatch services shall establish a standardized training and certification program that each dispatcher must complete successfully before beginning or maintaining employment as a dispatcher. Such standardized program will include but not be limited to a standardized emergency notification code with procedures and a biennial refresher training course. The scope and curriculum of such training programs shall be approved by the transportation commission before the course is offered.

Section 10: That the Anchorage Municipal Code is hereby amended by adding a new section 11.40.057 to read as follows:

11.40.057 Compliance with Federal Communications Commission regulations.

Each dispatch service shall take steps to ensure that dispatchers and chauffeurs comply with the regulations of the Federal Communications Commission as to operation of radios.

Section 11: Ordinance review.

Within eighteen months after the adoption of this ordinance, the mayor in conjunction with the regulated vehicle safety action committee and the transportation commission shall review the ordinance and report and make recommendations to the Municipal Assembly concerning the effectiveness of safety devices required by this ordinance.

Section 12: That unless this ordinance provides otherwise, this ordinance shall become effective sixty (60) days after passage and approval by the Assembly.

Section 13: That Sections 1, 2, and 8 shall become effective ninety (90) days after passage and approval by the Assembly.

Section 14: That Sections 3, 5, 6, 7, and 9 shall become effective one hundred and eighty (180) days after passage and approval by the Assembly, except that the provisions of Section 3 adding new subsection 11.20.080.F shall become effective three hundred and sixty-five (365) days after passage and approval by the Assembly.

Section 15: That Section 4 shall become effective one hundred and eighty (180) days after passage and approval by the Assembly, except that the provision of Section 4 adding new subsection 11.30.020.F shall become effective sixty (60) days after passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 199_.

Chair of the Assembly

ATTEST:

Municipal Clerk



12. M

MUNICIPALITY OF ANCHORAGE
OFFICE OF THE MUNICIPAL ATTORNEY

MEMORANDUM

DATE: December 15, 1998

TO: Cheryl Clementson, Assembly Member

THRU: Mary K. Hughes, Municipal Attorney *MKH*

THRU: William A. Greene, Deputy Municipal Attorney *WAG*

FROM: Cliff John Groh, Assistant Municipal Attorney *CG*

SUBJECT: AO 98-187(S)

Attached is the substitute version for AO 98-187 you requested. This version changes two sections of the original version:

1. In proposed Section 3, the substitute returns to the proposal of the Safety Action Committee by making mandatory in taxicabs both the safety shield and the surveillance system. The original version requires one of three devices to be installed--a safety shield, a surveillance system, or a global positioning system—and leaves the choice between the three to the taxicab owner.
2. In proposed Section 11, the substitute changes from one year to 18 months the time when the ordinance shall be reviewed through a report to the Assembly.

As you requested, please find attached another copy of the memorandum addressing the requirement of drug and alcohol testing for dispatchers and telephone assistants in proposed Section 7.

Attachment



Municipality of Anchorage
Municipal Attorney's Office



Memorandum

DATE: May 7, 1998

TO: Dave Llewellyn, Transportation Inspector

THRU: Mary K. Hughes, Municipal Attorney *mkh*

THRU: Ann Waller Resch, Deputy Municipal Attorney *AWR*

FROM: Cliff John Groh, Assistant Municipal Attorney *CJG*

SUBJECT: Legality of Safety Action Committee Recommendations

Pursuant to your request, this office has reviewed the recommendations dated April 16, 1998 that you provided. Most of the recommendations involve mandates for additional equipment to help reduce the risk of future robberies, assaults, or murders of chauffeurs. The mandates for additional equipment--such as bullet-resistant partitions, surveillance systems, cash drop boxes, and electronic silent alarms--raise interesting policy questions, but do not pose legal issues. The only recommendation raising a legal question is the one which would produce a legal requirement that each dispatcher and telephone assistant participate in either the existing Municipal drug-testing program for chauffeurs or a similar program administered by the dispatch company.

As a threshold matter, both drug testing performed by the government directly and by an employer required by law to perform the testing is covered by the Fourth Amendment's protection against unreasonable searches or seizures. See *Skinner v. Railway Labor Executives' Association*, 489 U.S. 602, 614-16 (1989). The existing Municipal drug-testing program for chauffeurs of taxicabs, limousines, and vehicles for hire covers safety-sensitive positions and thus falls in the category of programs most likely to be allowed. See *id.* A driver operates a vehicle, and an intoxicated driver thus can directly cause injury and death. A requirement that dispatchers and telephone assistants be drug-tested is most likely to be upheld by demonstrating the role that persons in those positions hold in directing where the vehicles travel on duty. See *IBEW, Local 1245 v. Skinner*, 913 F. 1454, 1462 (9th Cir. 1990). There is still a risk, however, that such an expansion would be struck down. If a requirement was invalidated the Municipality would likely owe attorney's fees to the prevailing plaintiff as a public interest litigant (in state court) or as a prevailing plaintiff in a 42 USC § 1983 lawsuit (in federal court).