SENATE CS FOR CS FOR HOUSE BILL NO. 210(TRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE TRANSPORTATION COMMITTEE

Offered:  4/12/96
Referred:  State Affairs

Sponsor(s):  REPRESENTATIVES VEZEY, Kelly

A BILL

FOR AN ACT ENTITLED

"An Act relating to issuance of motor vehicle registrations and titles, and to licenses and permits to operate a motor vehicle."

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

* Section 1.  AS 28 is amended by adding a new chapter to read:

CHAPTER 12. THIRD-PARTY REGISTRATION, TITLING, AND TESTING.

Sec. 28.12.010.  THIRD-PARTY REGISTRATION, TITLING, AND TESTING.  (a)  The department may establish a program that authorizes

(1)  third-party agents to

(A)  process applications for registration of motor vehicles and issue registration certificates and plates as required under AS 28.10;

(B)  process applications for certificates of titles and issue certificates of title as required under AS 28.10.201 - 28.10.261; and

(C)  administer driver’s license examinations as required under AS 28.15.081 and issue licenses or permits as provided under AS 28.15;
(2) third-party registrars to

(A) process applications for registration of motor vehicles and
issue registration certificates and plates as required under AS 28.10; and

(B) process applications for certificates of titles and issue
certificates of title as required under AS 28.10.201 - 28.10.261;

(3) third-party examiners to administer driver’s license examinations
as required under AS 28.15.081 and issue licenses or permits as provided under
AS 28.15.

(b) The department may utilize third-party agents, registrars, and examiners
to perform the functions described under (a) of this section. A person may not be or
act as a third-party agent, registrar, or examiner unless the person satisfies the
requirements of this chapter and other applicable law and enters into a contract with
the department that specifies the duties of the third-party agent, registrar, or examiner.

Sec. 28.12.020. CERTIFICATION OF AGENTS, REGISTRARS, AND
EXAMINERS. (a) An application for third-party agent, registrar, or examiner
certification shall be filed with the department on a form prescribed by the department.

(b) If the department determines that an individual is qualified under this
chapter as a third-party agent, registrar, or examiner, the department shall issue to the
individual an identification number for electronic record keeping purposes and a
certificate indicating the individual is qualified and authorized to perform the functions
as provided under AS 28.12.010(a). A third-party agent, registrar, or examiner shall
prominently display the certificate in the agent’s place of business.

(c) A certificate is effective on the date of issuance and expires three years
after issuance. A renewal application form must be filed with the department not less
than 30 days before the time the certification expires.

(d) In reviewing an application submitted by a third-party agent or examiner,
the department shall also review the driving record of an individual performing
functions as an agent or examiner. If the record is satisfactory and the individual is
otherwise qualified under this chapter, the prospective agent or examiner may be
scheduled for third-party agent or examiner training.

Sec. 28.12.030. REQUIREMENTS FOR THIRD-PARTY AGENTS. The
department may not certify a third-party agent unless the third-party agent meets all of the conditions set out in this section. The third-party agent shall

(1) meet all applicable requirements of law;

(2) allow the department to conduct random examinations, inspections, and audits of operating facilities and records as provided under AS 28.12.120;

(3) allow the department to conduct annual on-site inspections, evaluations, and audits of operations, facilities, and records;

(4) transmit the original forms and reports to the department as required by the department;

(5) conduct skills tests as required under AS 28.15 and provide that applicants who fail to successfully complete driving skills testing are not tested more than once in a seven-day period, unless the original test failure was due to vehicle or document deficiencies;

(6) issue written certification, on a form provided by the department, to each driver-applicant who passes the driving skills test administered by the third-party agent;

(7) attend all training courses, workshops, seminars, and other instructional meetings, as required by the department;

(8) provide information and reports to the department, upon request, concerning a complaint against the third-party agent;

(9) transmit to the department all fees imposed under this title that are collected as required under AS 28.12.100;

(10) ensure that at least 95 percent of the forms submitted to the department are error free;

(11) comply with the provisions of AS 28.12.050(2) and (5) - (8).

Sec. 28.12.040. REQUIREMENTS FOR THIRD-PARTY REGISTRARS. The department may not certify a person as a third-party registrar unless the person complies with provisions of AS 28.12.030(1) - (4), (7), (9), and (10).

Sec. 28.12.050. REQUIREMENTS FOR THIRD-PARTY EXAMINERS. An examiner applicant shall meet the conditions set out in this section in order to qualify and maintain qualification as a third-party examiner. The examiner shall
(1) comply with the provisions of AS 28.12.030(1) - (3), (5), (6), and
(8) - (10);

(2) hold a valid driver’s license required for operation of the motor
vehicle used in the driving skills test conducted by the examiner;

(3) have successfully completed an examiner training workshop and
certified examiner program conducted or approved by the department;

(4) attend all training courses, workshops, seminars, and other
instructional meetings as required by the department;

(5) have a driving record that indicates the applicant is competent to
operate a motor vehicle safely;

(6) have not had a conviction or administrative license action for any
of the following violations under the law of this state or a local ordinance or a law or
local ordinance of another state substantially similar to the law of this state, during the
five-year period preceding application or during the time the individual is an examiner:

(A) operating a vehicle while intoxicated in violation of
AS 28.33.030 or AS 28.35.030;

(B) refusal to submit to a blood alcohol or breath test in
violation of AS 28.35.032;

(C) failure to stop and provide identification after a personal
injury or property damage accident in violation of AS 28.35.060;

(D) driving without insurance in violation of AS 28.22.011;

(E) a felony;

(7) while performing duties as an examiner and during the five-year
period preceding application, have not had a driver’s license suspended, revoked,
denied, cancelled or disqualified, or been subjected to a driver’s license sanction
ordered by the department or a court;

(8) be at least 21 years of age and have at least three years of
experience in driving a motor vehicle;

(9) transmit the original forms and reports to the department as required
by the department.

Sec. 28.12.060. PROFESSIONAL CONDUCT. (a) A third-party agent or
examiner may not provide a driver’s license applicant answers to questions on a
knowledge or driving skills test or other driver examination.

(b) A third-party agent, registrar, or examiner shall provide services in a
professional manner.

(c) A third-party agent or examiner who gives driving skills tests may not be
an employee of or receive compensation from a driving school.

(d) A third-party agent, registrar, or examiner may not consume intoxicating
beverages or controlled substances within eight hours before or during licensing or
testing activities and may not be under the influence of intoxicating beverages during
licensing or testing activities. In this subsection,

(1) "controlled substance" has the meaning given in AS 28.33.190 but
does not include a drug prescribed for that person by a physician licensed in this state
and used as required by the prescription, unless the prescribed drug affects the ability
of a person to safely operate a motor vehicle;

(2) "under the influence" includes 0.02 percent or more by weight of
alcohol in the person’s blood or 20 milligrams or more of alcohol per 100 milliliters
of blood, or when there is 0.02 grams or more per 210 liters of the person’s breath.

Sec. 28.12.070. NOTIFICATION REQUIREMENTS. (a) A third-party agent,
registrar, or examiner shall notify the department in writing within

(1) 30 days before a change in name or address;

(2) 10 days of any of the following:

(A) a civil action resulting from duties imposed under this
chapter, or a complaint regarding driving skills test administration received by
the agent or examiner;

(B) ceasing business operations in the state.

(b) A third-party agent or examiner shall notify the department as follows:

(1) before the end of the next business day after the agent or examiner
receives notice of any suspension, revocation, cancellation, or disqualification of the
agent’s or examiner’s driver’s license ordered by a court or the department;

(2) within 10 days after being convicted or found responsible for
violation of a law or local ordinance of any state relating to motor vehicle traffic
control, other than a parking violation;

(3) before the end of the next business day after the agent or examiner is charged with a crime.

Sec. 28.12.080. TEST ADMINISTRATION. A driving skills test shall be conducted strictly in accordance with the provisions of this title and the test specifications and procedures prescribed by the department. A driving skills test shall be conducted in a vehicle that is representative of the class and type of vehicle for which the applicant seeks to be licensed and for which the third-party examiner is qualified to test. Before testing, the third-party agent or examiner shall inspect the vehicle to verify that it is empty, meets applicable motor carrier safety regulations, is equipped as required by law, and is otherwise safe to operate.

Sec. 28.12.090. TERMINATION OF THIRD-PARTY AGENT, REGISTRAR, OR EXAMINER CERTIFICATE. (a) The department may cancel or suspend the certificate of a third-party agent, registrar, or examiner after determining that the agent, registrar, or examiner has done one or more of the following:

(1) failed to comply with or satisfy any of the provisions of the contract required under AS 28.12.010(b);

(2) falsified a record or information relating to the third-party agent, registrar, or examiner program;

(3) committed any act or omission that compromises the integrity of the third-party agent, registrar, or examiner program; before making a determination under this paragraph, the department shall provide the agent, registrar, or examiner the opportunity for a hearing as provided under AS 28.05.141; or

(4) acted as a third-party agent or examiner without a valid driver’s license, when the agent’s or examiner’s driver’s license has been suspended or revoked, when the agent’s or examiner’s certificate has been cancelled, or when the agent’s or examiner’s application for a driver’s license has been denied.

(b) If the department determines that grounds for termination of a third-party agent’s, registrar’s, or examiner’s certificate exist and that the grounds relate to a failure to comply with or satisfy the requirements for a certificate or under the contract required under AS 28.12.010(b), the department shall suspend the certificate. If the
department determines that the third-party agent, registrar, or examiner has corrected the deficiency, the department may reinstate the certificate.

Sec. 28.12.100. COLLECTION OF FEES AND COMPENSATION TO AGENTS. If the third-party agent, registrar, or examiner performs a function for which a fee is imposed under this title, the third-party agent, registrar, or examiner shall collect the statutory fee on behalf of the department and may collect and retain a fee as compensation for performing the function. The fee due the third-party agent, registrar, or examiner shall be set by the agent, registrar, or examiner, subject to approval by the department. The third-party agent, registrar, or examiner shall retain any amount due the agent, registrar, or examiner as provided under this section and remit the amount collected on behalf of the department as determined by contract. Fee collection and remission procedures are subject to approval by the department.

Sec. 28.12.110. DEPARTMENT REVIEW OF LICENSING APPLICATIONS. The department may reject an application approved by a third-party agent, registrar, or examiner if the application fails to comply with a provision of AS 28.10 or AS 28.15. The department shall allow an applicant whose application is rejected under this section to reapply to the department.

Sec. 28.12.120. ON-SITE INSPECTIONS AND AUDITS. (a) An applicant for a third-party agent, registrar, or examiner certificate shall permit the department to conduct inspections and to electronically audit its operations, facilities, and records relating to its third-party agent, registrar, or examiner program, for the purpose of determining whether the applicant is qualified to participate in the program. A third-party agent, registrar, or examiner who has been certified and has executed an agreement described under AS 28.12.010(b) shall permit the department to inspect and audit its third-party agent, registrar, or examiner program to determine whether it continues in compliance with the requirements of this chapter. The department may perform an inspection or audit without prior notice to the third-party agent, registrar, or examiner.

(b) An inspection or audit must include, at a minimum, an examination of

(1) records relating to the third-party agent, registrar, or examiner program;
(2) evidence of compliance with this title;
(3) the following if the person is a third-party agent or examiner,
   (A) skills testing procedures, practices, and operations;
   (B) vehicles used for testing; and
   (C) effectiveness of the driving skills test program by either
testing a sample of drivers who have been issued certificates evidencing that
they have passed the driving skills test administered by the third-party agent
or examiner or by having department employees or designees take the driving
skills test from a third-party agent or examiner.
(c) The department shall prepare a written report of an inspection or audit. A
copy of the report shall be provided to the third-party agent, registrar, or examiner.

Sec. 28.12.130. ADVERTISING. (a) A third-party agent or examiner may
not advertise in a manner that indicates in any way that the third-party agent or
examiner can guarantee the issuance of a driver’s license or imply that the third-party
agent or examiner can in any way influence the department in the issuance of a
driver’s license or imply that preferential or advantageous treatment from the
department can be obtained.
(b) A third-party agent, registrar, or examiner that is certified by the
department may advertise that the third-party agent, registrar, or examiner is
"certified," but may not indicate that the agent, registrar, or examiner is approved,
sanctioned, or in any other way endorsed by the department, and may not use any
other name besides the name on the application for certification. A third-party agent,
registrar, or examiner may not use "state" in any part of the third-party agent’s,
registrar’s, or examiner’s business name, except when the name does not contain a
reference to the person’s status as a third-party agent, registrar, or examiner.

Sec. 28.12.140. INSURANCE REQUIREMENTS. (a) A third-party agent or
examiner shall maintain insurance coverage that meets the requirements of
AS 28.22.101 on motor vehicles owned by or registered to a third-party agent or
examiner.
(b) In addition to the requirements of (a) of this section, a third-party agent or
examiner shall maintain bodily injury and property damage liability insurance coverage
on motor vehicles owned or used by the third-party agent or examiner to administer
skills tests in this state. The amount of insurance coverage required under this
subsection may not be less than $1,000,000 for bodily injury to or death of one or
more persons in any one accident and not less than $250,000 for injury to or
destruction of property of others in any one accident.

(c) A third-party agent or examiner shall maintain insurance coverage that does
not exclude from coverage a person taking a driving skills test administered by the
third-party agent or examiner, any person suffering bodily injury or sustained property
damage as a result of a driving skills test administered by the third-party agent or
examiner.

(d) As evidence of required insurance coverage, a third-party agent or
examiner shall file with the department a certificate of insurance issued by an
insurance company licensed to do business in this state or a certificate of self-insurance
approved by the department. A certificate of insurance or self-insurance must include
the make, model, year, and vehicle identification number of each vehicle that is used
by the third-party agent or examiner to administer a driving skills test.

(e) A third-party agent or examiner may not use a motor vehicle to administer
a driving skills test unless the vehicle is insured as required by law.

(f) The department may cancel a contract with a third-party agent or examiner
upon determining that the third-party agent or examiner has failed to file a certificate
of insurance or self-insurance or has failed to maintain insurance coverage.

* Sec. 2. AS 28.15.081(d) is amended to read:

(d) The department may enter into agreements with other state agencies,
municipalities, or qualified persons for the purpose of conducting the examinations,
including commercial driver’s license examinations, required under this chapter.

* Sec. 3. AS 36.30.850(b) is amended by adding a new paragraph to read:

(34) a contract between the Department of Public Safety and a third-
party agent, registrar, or examiner under AS 28.12.

* Sec. 4. TRANSITION. (a) The Department of Public Safety shall implement the
provisions of this Act by July 1 of the year following the effective date of this Act.

(b) A contract existing on the effective date of this Act between the Department of
Public Safety and a third-party agent, registrar, or examiner for the purpose of performing registration, titling, or licensing functions remains in effect under its terms notwithstanding the provisions of this Act.