CS FOR SENATE BILL NO. 1010(L&C) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SPECIAL SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Amended: 6/5/96
Offered: 6/4/96

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to vehicle records and hearings of the Department of Public
2 Safety; increasing the period under which a person may drive a motor vehicle
3 under a temporary permit; relating to ownership of certain abandoned vehicles;
4 relating to suspension or revocation of a vehicle registration, certificate of
5 registration, registration plate, or special permit; relating to renewal of a
6 driver's license by mail; relating to procedures applicable to administrative
7 revocation of a driver's license; relating to commercial driver training schools;
8 increasing the property damage amounts for financial responsibility laws related
9 to vehicles and proof of motor vehicle eligibility in order to lawfully operate
10 a motor vehicle in the state; amending the definitions of 'commercial motor
11 vehicle' and 'commercial purposes'; relating to prohibitions against operation of
12 a commercial motor vehicle and being on duty to operate a commercial motor
vehicle and to disqualification from driving a commercial motor vehicle; relating
to certain notifications in accidents involving property damage; relating to vehicle
registration procedures; and providing for an effective date."

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

* Section 1. AS 28.05.061(c) is amended to read:

(c) Records maintained by the department under this title or regulations
adopted under this title may be stored in any reasonable manner, including
electronic data storage. The commissioner and officers and employees of the
department designated by the commissioner shall, upon request, prepare under the seal
of the department and deliver, unless otherwise prohibited by law, a certified copy of
any record of the department maintained under this title or regulations adopted under
this title, charging a fee for each certified copy. A certified copy of the record stored
under this section is admissible in an administrative [A] proceeding or in a court
in the same manner as the original document.

* Sec. 2. AS 28.05.141(b) is amended to read:

(b) A hearing ordered under (a) of this section must [SHALL] be held by
telephone unless the hearing officer finds that a telephonic hearing would
substantially prejudice the rights of the person involved in the hearing or that an
in-person hearing is necessary to decide the issues to be presented in the hearing.
An in-person hearing must be held at the office of the department nearest to the
residence of the person involved in [REQUESTING] the hearing unless the department
and the person agree that the hearing is to be held elsewhere. The department shall
grant a hearing delay if the person presents good cause for the delay. If a person fails
to attend or appear for the hearing at the time and place stated by the department and
if a hearing delay has not been granted, the person’s failure to attend or appear is
considered a waiver of the hearing and the department may take appropriate action
with respect to the person.

* Sec. 3. AS 28.10.031(b) is amended to read:

(b) A licensed vehicle dealer may issue to the purchaser of a vehicle sold by
the dealer a temporary permit to drive the vehicle. A permit is effective for a period not to exceed 60 [30] days. The commissioner shall adopt regulations governing the issuance of permits under this section.

* Sec. 4. AS 28.10.051(a) is amended to read:

(a) The department may suspend or revoke the registration of a vehicle, the certificate of registration or registration plates for a vehicle, or a special permit when

(1) the department determines that the registration or certificate, plate, or permit was fraudulently procured or erroneously issued;

(2) the department determines that a registered vehicle is mechanically unsafe to be driven or moved on a highway, vehicular way or area, or other public property in this state and the vehicle has been seized or impounded under AS 28.05.091;

(3) a registered vehicle has been scrapped, dismantled, or destroyed beyond repair;

(4) the department determines that a required fee or tax has not been paid and the fee or tax is not paid upon reasonable notice and demand;

(5) a registration plate, permit, or certificate is knowingly displayed upon a vehicle other than the vehicle for which issued;

(6) the department determines that the owner of a vehicle has committed an offense under this chapter involving the registration or the certificate, plate, or permit to be suspended or revoked;

(7) the vehicle has been reported to the department as stolen or unlawfully converted;

(8) the department is otherwise required to do so under the laws of this state; [OR]

(9) the department determines that the vehicle owner has violated the requirements of AS 28.10.146 or 28.10.147;

(10) the department determines that a repair to a commercial motor vehicle, ordered by the department under regulations adopted under AS 28.05.011, was not completed after the owner or operator represented to the department that the repair had been completed; or
(11) the owner or operator of a commercial motor vehicle has placed a commercial motor vehicle back in service after it has been placed out of service by the department without having it reinspected as required under regulations adopted under AS 28.05.011.

* Sec. 5. AS 28.11 is amended by adding a new section to read:

Sec. 28.11.025. CLAIM OF OWNERSHIP BY PRIVATE PROPERTY OWNER. (a) In addition to removal of an abandoned vehicle under AS 28.11.020, a vehicle that is left standing or parked on private property without the consent of the private property owner and for a period of six months is presumed to be an abandoned vehicle and title to the vehicle may be transferred to the private property owner as provided under this section. A person who claims ownership of an abandoned vehicle under this section shall provide notice of the claim to the vehicle owner of record and to lienholders in the manner prescribed for giving notice by the department under AS 28.05.121. The notice must state the location of the vehicle and the period of abandonment. If the vehicle is not registered in this state or the name and address of the registered or legal owner or lienholder cannot be ascertained, notice shall be given by publication in the manner prescribed in the rules of the court for service of process by publication.

(b) If an abandoned vehicle is not reclaimed within 30 days after notice is given as required under (a) of this section, the title to the vehicle vests with the owner of the private property on which the vehicle is located. Upon application, the department shall issue a new certificate of title to a vehicle whose ownership is transferred under this section.

(c) In this section, "vehicle" means a

(1) passenger car, motor home, bus, truck, truck-tractor, motorcycle, motorbike, or similar motor vehicle that is designed for use primarily to transport a person or to transport or draw property on a highway or vehicular way; and

(2) snowmobile, three-wheeler, four-wheeler, or a similar off-highway motor vehicle designed or adapted for cross-country operation over unimproved terrain, ice, or snow and that has been declared by its owner at the time of registration and determined by the department to be unsuitable for general highway use, although the
vehicle may make incidental use of a highway as provided in this title, but not including implements of husbandry or special mobile equipment, such as construction machinery or earthmoving equipment.

* Sec. 6. AS 28.15.101(c) is amended to read:

(c) A driver’s license may be renewed by mail if the licensee complies with (a) of this section, except that a license may not be renewed by mail if

(1) [THE APPLICANT’S LICENSE, WITHIN THE PREVIOUS FIVE YEARS, HAS BEEN REVOKED BY A COURT AFTER CONVICTION FOR AN OFFENSE UNDER AS 28.15.181(a) OR ANOTHER LAW OR ORDINANCE WITH SUBSTANTIALLY SIMILAR ELEMENTS;

(2) THE APPLICANT’S LICENSE, WITHIN THE PREVIOUS FIVE YEARS, HAS BEEN SUSPENDED, REVOKED, OR DENIED BY THE DEPARTMENT UNDER AS 28.15.165 OR 28.15.251;

(3) THE APPLICANT, WITHIN THE PREVIOUS FIVE YEARS, HAS BEEN CONVICTED OF A MOVING TRAFFIC VIOLATION;

(4) the most recent renewal of the applicant’s license was by mail; or

(2) [(5)] the applicant is 69 years of age or older on the expiration date of the driver’s license being renewed.

* Sec. 7. AS 28.15.166(d) is amended to read:

(d) A person who has requested a hearing under this section and who fails to attend or appear at the hearing, for reasons other than lack of actual notice of the hearing or physical incapacity such as hospitalization or incarceration, waives the right to a hearing. The determination of the department that is based upon the enforcement officer’s report becomes final.

* Sec. 8. AS 28.15.166(e) is amended to read:

(e) The [NOTWITHSTANDING AS 28.05.141(b), THE] hearing under this section must [SHALL] be held by telephone unless the hearing officer finds that a telephonic hearing would substantially prejudice the rights of the person involved in the hearing or that an in-person hearing is necessary to decide the issues to be presented in the hearing. An in-person hearing must be held at the office of the department nearest to the residence of the person involved in
REQUESTING] the hearing unless

[(1) A DISTRICT COURT JUDGE OR A MAGISTRATE HAS BEEN
DESIGNATED AS A HEARING OFFICER IN THE MATTER BY THE
COMMISSIONER; OR
(2)] the department and the person agree that the hearing is to be held
elsewhere.

* Sec. 9. AS 28.15.166(f) is amended to read:

(f) A review under this section shall be held before a hearing officer
designated by the commissioner. [UPON THE CONSENT OF THE
ADMINISTRATIVE DIRECTOR OF THE STATE COURT SYSTEM, THE
COMMISSIONER MAY DESIGNATE A DISTRICT COURT JUDGE OR A
MAGISTRATE TO SERVE AS THE HEARING OFFICER.] The hearing officer has
[SHALL HAVE] authority to

(1) administer oaths and affirmations;
(2) examine witnesses and take testimony;
(3) receive relevant evidence;
(4) issue subpoenas, take depositions, or cause depositions or
interrogatories to be taken;
(5) regulate the course and conduct of the hearing;
(6) make a final ruling on the issue.

* Sec. 10. AS 28.17.041(b) is amended to read:

(b) Regulations adopted under this section must state the requirements for a
school license, including requirements concerning manner and form of application,
location, place of business, facilities, records, equipment, courses and standards of
instruction, instructors, previous records of the school and instructors, financial
statements, schedule of fees and charges, character and reputation of the operators and
instructors, vehicle equipment and condition, inspection during reasonable business
hours, insurance or bonds in the sum and with the provisions the commissioner
considers necessary, and other matters the commissioner may prescribe for the
protection of the public. Regulations regarding courses and standards of
instruction for
(1) noncommercial motor vehicles must be consistent with standards adopted by the commissioner; and

(2) commercial motor vehicles must meet or exceed the model curriculum for training tractor-trailer drivers adopted by the United States Department of Transportation.

* Sec. 11. AS 28.17.061 is repealed and reenacted to read:

Sec. 28.17.061. CIVIL PENALTY. (a) If the department determines a person has violated a provision of this chapter, or a regulation adopted under this chapter, the department may impose a civil penalty not to exceed $5,000. In determining the amount of a civil penalty imposed under this section, the department shall consider the economic benefit resulting from the violation, the person’s prior violations under this section, and the seriousness of the violation.

(b) Before imposing a civil penalty under this section, the department shall provide notice of the civil penalty and an opportunity to request an administrative hearing. If a hearing is not requested within 30 days after notice of the civil penalty is received, the right to a hearing is considered waived. If a hearing is requested, the hearing shall be conducted as provided under AS 28.05.141.

(c) If a person fails to pay a civil penalty imposed under this section within 30 days after the civil penalty is imposed by the department, or if the civil penalty is stayed pending an appeal, within 10 days after the court enters a final judgment in favor of the department, the department shall notify the attorney general. The attorney general may commence a civil action to recover the amount of the civil penalty.

* Sec. 12. AS 28.20.050(a) is amended to read:

(a) The provisions of this chapter requiring deposit of security and suspension for failure to deposit security apply to the driver and owner of a vehicle subject to registration under the laws of this state that is involved in any manner in an accident in this state resulting in bodily injury to or death of a person or damage to the property of any one person exceeding $501 [$500].

* Sec. 13. AS 28.20.050(e) is amended to read:

(e) A peace officer investigating an accident that results in bodily injury to or the death of a person or damage to the property of a person exceeding $501 [$500]
shall inform persons involved in the accident in writing of the requirements of this chapter as they apply to suspension of an operator’s license or driving privileges.

* Sec. 14. AS 28.20.100(c) is amended to read:

(c) If the department evaluates the injuries or damage to a minor in an amount not more than $501 [$500], the department may accept, for the purposes of this chapter only, evidence of a release from liability executed by a parent [NATURAL] or legal guardian on behalf of the minor without court approval.

* Sec. 15. AS 28.20.230(a) is amended to read:

(a) The provisions of this chapter requiring the deposit of proof of financial responsibility for the future apply to persons who are convicted of or forfeit bail for certain offenses under motor vehicle laws or who, by ownership or operation of a vehicle of a type subject to registration under AS 28.10, are involved in an accident in this state that results in bodily injury to or death of a person or damage to the property of any one person exceeding $501 [$500].

* Sec. 16. AS 28.20.260(a) is amended to read:

(a) Upon receipt by the department of the report of an accident resulting in bodily injury to or death of a person or [PROPERTY] damage to the property of any one person exceeding $501 [$500], the department shall suspend the license of the driver of a motor vehicle involved in the accident unless the driver or owner

1. has previously furnished or immediately furnishes security required by this chapter, or is excepted from furnishing security under AS 28.20.060; and
2. maintains proof of financial responsibility for three years following the accident.

* Sec. 17. AS 28.22.021 is amended to read:

Sec. 28.22.021. REQUIREMENT OF PROOF OF MOTOR VEHICLE LIABILITY INSURANCE. The owner or operator of a motor vehicle required to have motor vehicle liability insurance that complies with this chapter or a certificate of self-insurance that complies with AS 28.20.400, shall show proof of this insurance when that person is involved in an accident that results in bodily injury to or death of a person, or damage to the property of a person exceeding $501 [$500].

* Sec. 18. AS 28.22.041(h) is amended to read:
(h) Subsection (a) does not apply to a person who is required to provide proof under AS 28.22.021 if the person

(1) is involved in an accident that results in property damage of less than $2,000 [$1,000] and the damage occurs only to the property of the person required to show proof of insurance;

(2) not later than 15 days after the accident, provides proof of motor vehicle liability insurance that complies with this chapter or a certificate of self-insurance that complies with AS 28.20.400 to the department; and

(3) establishes by a preponderance of the evidence that the failure to have in effect motor vehicle liability insurance or to self-insure as required by this chapter at the time of the accident was due to circumstances beyond the control of the person.

* Sec. 19. AS 28.32.900(1) is amended to read:

(1) "commercial motor vehicle" means a motor vehicle or a combination of a motor vehicle and one or more other vehicles

(A) used to transport passengers or property;

(B) used upon a highway or vehicular way [CONNECTED TO

(i) THE LAND-CONNECTED STATE HIGHWAY SYSTEM; OR

(ii) A LAND HIGHWAY OR VEHICULAR WAY WITH AN AVERAGE DAILY TRAFFIC VOLUME GREATER THAN 499]; and

(C) which

(i) has a gross vehicle weight rating or gross combination weight rating greater than 10,000 pounds;

(ii) is designed to transport more than 15 passengers, including the driver; or

(iii) is used in the transportation of materials found by the United States Secretary of Transportation to be hazardous for purposes of 49 U.S.C. 1801 - 1813 (Hazardous Materials Transportation Act);
(D) except that the following vehicles meeting the criteria in
(A) - (C) of this paragraph are not commercial vehicles:

(i) emergency or fire equipment that is necessary to the
preservation of life or property;

(ii) farm vehicles that are controlled and operated by a
farmer; used to transport agricultural products, farm machinery, or farm
supplies to or from that farmer’s farm; not used in the operations of a
common or contract motor carrier; and used within 150 [300] miles of
the farmer’s farm;

(iii) school buses;

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

(v) vehicles used exclusively for purposes other than
commercial purposes;

* Sec. 20. AS 28.32.900(2) is amended to read:

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

* Sec. 21. AS 28.33.130(a) is amended to read:

(a) A person may not operate a commercial motor vehicle or be on-duty

(1) if, within the preceding four hours, the person

(A) consumed or was under the influence of

(i) an alcoholic beverage;

(ii) a controlled substance not prescribed by a physician;

or

(iii) a controlled substance prescribed by a physician that
might impair a person’s ability to operate a commercial motor vehicle;

or

(B) had any measurable alcohol concentration within the blood

or breath or any detectable presence of alcohol; [OR]

(2) while in possession of an alcoholic beverage or a controlled

substance not prescribed by a physician unless

(A) the alcoholic beverage or controlled substance is manifested

and documented as part of an authorized shipment of cargo; or

(B) under AS 04, the alcoholic beverage may be legally served

to passengers being carried for hire;

(3) after being placed out of service for violation of a regulation

adopted under AS 28.05.011; or

(4) with an invalid operator’s or commercial operator’s license.

* Sec. 22. AS 28.33.140(a) is amended to read:

(a) In addition to the court action provided in AS 28.15.181, conviction of any

of the following offenses is grounds for immediate disqualification from driving a

commercial motor vehicle for the periods set out in this section:

(1) operating a commercial motor vehicle while intoxicated in violation

of AS 28.33.030;

(2) refusal to submit to a chemical test in violation of AS 28.35.032;

(3) operating a motor vehicle while intoxicated [,] in violation of

AS 28.35.030;

(4) leaving the scene of an accident in violation of AS 28.35.060, or

failing to file, or providing false information in, an accident report in violation of

AS 28.35.110;

(5) a felony under state or federal law, which was facilitated because

the person used a commercial motor vehicle; [OR]

(6) a serious traffic violation; or

(7) driving after being placed out of service in violation of

regulations adopted under AS 28.05.011.

* Sec. 23. AS 28.33.140 is amended by adding a new subsection to read:
(j) A court convicting a person of an offense described in (a)(7) of this section shall disqualify that person from driving a commercial motor vehicle for the following periods: (1) if the person has not been previously convicted of violating an out-of-service order, not less than 90 days; (2) if the person has been previously convicted once of violating an out-of-service order, not less than one year; (3) if the person has been previously convicted more than once of violating an out-of-service order, not less than three years. In this subsection, "previously convicted" means having been convicted in this or another jurisdiction of an offense described in (a)(7) of this section within 10 years preceding the date of the present offense.

* Sec. 24. AS 28.33.190 is amended by adding a new paragraph to read:

(11) "out-of-service order" means an order issued under regulations adopted under AS 28.05.011 that prohibits an owner or operator of a commercial motor vehicle from operating a commercial motor vehicle.

* Sec. 25. AS 28.35.080(a) is amended to read:

(a) The driver of a vehicle involved in an accident resulting in bodily injury to or death of a person or total property damage to an apparent extent of $2,000 [§500] or more shall immediately by the quickest means of communication give notice of the accident to the local police department if the accident occurs within a municipality, otherwise to the Department of Public Safety.

* Sec. 26. AS 28.35.080(b) is amended to read:

(b) The driver of a vehicle involved in an accident resulting in bodily injury to or death of a person or total property damage to an apparent extent of $2,000 [§500] or more shall, within 10 days after the accident, forward a written report of the accident to the Department of Public Safety and to the local police department if the accident occurs within a municipality. A report is not required under this subsection if the accident is investigated by a peace officer.

* Sec. 27. AS 28.40.100(a)(2) is amended to read:

(2) "commercial motor vehicle" means a motor vehicle or a combination of a motor vehicle and one or more other vehicles

(A) used to transport passengers or property;

(B) used upon a land highway or vehicular way [CONNECTED
TO

(i) THE LAND CONNECTED STATE HIGHWAY SYSTEM; OR

(ii) A LAND HIGHWAY OR VEHICULAR WAY WITH AN AVERAGE DAILY TRAFFIC VOLUME GREATER THAN 499]; and

(C) that

(i) has a gross vehicle weight rating or gross combination weight rating greater than 26,000 pounds;

(ii) is designed to transport more than 15 passengers, including the driver; or

(iii) is used in the transportation of materials found by the United States Secretary of Transportation to be hazardous for purposes of 49 U.S.C. 1801 - 1813 (Hazardous Materials Transportation Act);

(D) except that the following vehicles meeting the criteria in (A) - (C) of this paragraph are not commercial vehicles:

(i) emergency or fire equipment that is necessary to the preservation of life or property;

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

(iii) recreational vehicles used exclusively for purposes other than commercial purposes;

*Sec. 28.* AS 28.40.100(a)(3) is amended to read:

(3) "commercial purposes" means activities for which a person receives direct monetary compensation or activities for which a person receives no direct monetary compensation but that are incidental to and done in furtherance of the person’s [PRIMARY] business;
* Sec. 29. AS 28.10.108(b) and 28.10.108(c) are repealed.

* Sec. 30. This Act takes effect July 1, 1996.