

**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

1 vehicle and to disqualification from driving a commercial motor vehicle; relating  
2 to certain notifications in accidents involving property damage; relating to vehicle  
3 registration procedures; and providing for an effective date."

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

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

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

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

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

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

29 (b) A licensed vehicle dealer may issue to the purchaser of a vehicle sold by

1 the dealer a temporary permit to drive the vehicle. A permit is effective for a period  
2 not to exceed 60 [30] days. The commissioner shall adopt regulations governing the  
3 issuance of permits under this section.

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

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

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

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

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

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

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

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

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

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

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

28 (10) the department determines that a repair to a commercial  
29 motor vehicle, ordered by the department under regulations adopted under  
30 AS 28.05.011, was not completed after the owner or operator represented to the  
31 department that the repair had been completed; or

1                   (11) the owner or operator of a commercial motor vehicle has  
2                   placed a commercial motor vehicle back in service after it has been placed out of  
3                   service by the department without having it reinspected as required under  
4                   regulations adopted under AS 28.05.011.

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

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

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

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

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

28                         (2) snowmobile, three-wheeler, four-wheeler, or a similar off-highway  
29                         motor vehicle designed or adapted for cross-country operation over unimproved terrain,  
30                         ice, or snow and that has been declared by its owner at the time of registration and  
31                         determined by the department to be unsuitable for general highway use, although the

1 vehicle may make incidental use of a highway as provided in this title, but not  
2 including implements of husbandry or special mobile equipment, such as construction  
3 machinery or earthmoving equipment.

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

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

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

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

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

16 (4)] the most recent renewal of the applicant's license was by mail; or  
17 (2) [(5)] the applicant is 69 years of age or older on the expiration date  
18 of the driver's license being renewed.

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

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

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

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

1 [REQUESTING] the hearing unless

2 [(1) A DISTRICT COURT JUDGE OR A MAGISTRATE HAS BEEN  
3 DESIGNATED AS A HEARING OFFICER IN THE MATTER BY THE  
4 COMMISSIONER; OR

5 (2)] the department and the person agree that the hearing is to be held  
6 elsewhere.

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

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

14 (1) administer oaths and affirmations;

15 (2) examine witnesses and take testimony;

16 (3) receive relevant evidence;

17 (4) issue subpoenas, take depositions, or cause depositions or  
18 interrogatories to be taken;

19 (5) regulate the course and conduct of the hearing;

20 (6) make a final ruling on the issue.

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

22 (b) Regulations adopted under this section must state the requirements for a  
23 school license, including requirements concerning manner and form of application,  
24 location, place of business, facilities, records, equipment, courses and standards of  
25 instruction, instructors, previous records of the school and instructors, financial  
26 statements, schedule of fees and charges, character and reputation of the operators and  
27 instructors, vehicle equipment and condition, inspection during reasonable business  
28 hours, insurance or bonds in the sum and with the provisions the commissioner  
29 considers necessary, and other matters the commissioner may prescribe for the  
30 protection of the public. Regulations regarding courses and standards of  
31 instruction for

1                   (1) noncommercial motor vehicles must be consistent with  
2                   standards adopted by the commissioner; and

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

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

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

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

18                  (c) If a person fails to pay a civil penalty imposed under this section within  
19                  30 days after the civil penalty is imposed by the department, or if the civil penalty is  
20                  stayed pending an appeal, within 10 days after the court enters a final judgment in  
21                  favor of the department, the department shall notify the attorney general. The attorney  
22                  general may commence a civil action to recover the amount of the civil penalty.

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

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

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

30                  (e) A peace officer investigating an accident that results in bodily injury to or  
31                  the death of a person or damage to the property of a person exceeding \$501 [\$500]

1 shall inform persons involved in the accident in writing of the requirements of this  
2 chapter as they apply to suspension of an operator's license or driving privileges.

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

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

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

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

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

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

20 (1) has previously furnished or immediately furnishes security required  
21 by this chapter, or is excepted from furnishing security under AS 28.20.060; [,] and

22 (2) maintains proof of financial responsibility for three years following  
23 the accident.

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

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

31 \* **Sec. 18.** AS 28.22.041(h) is amended to read:



1 (h) Subsection (a) does not apply to a person who is required to provide proof  
2 under AS 28.22.021 if the person

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

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

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

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

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

16 (A) used to transport passengers or property;

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

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

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

23 (C) which

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

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

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

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

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

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

10 (iii) school buses;

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

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

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

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

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

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

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

27 (A) consumed or was under the influence of

28 (i) an alcoholic beverage;

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

30 or

31 (iii) a controlled substance prescribed by a physician that

1 might impair a person's ability to operate a commercial motor vehicle;  
2 or

3 (B) had any measurable alcohol concentration within the blood  
4 or breath or any detectable presence of alcohol; [OR]

5 (2) while in possession of an alcoholic beverage or a controlled  
6 substance not prescribed by a physician unless

7 (A) the alcoholic beverage or controlled substance is manifested  
8 and documented as part of an authorized shipment of cargo; or

9 (B) under AS 04, the alcoholic beverage may be legally served  
10 to passengers being carried for hire;

11 **(3) after being placed out of service for violation of a regulation**  
12 **adopted under AS 28.05.011; or**

13 **(4) with an invalid operator's or commercial operator's license.**

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

15 (a) In addition to the court action provided in AS 28.15.181, conviction of any  
16 of the following offenses is grounds for immediate disqualification from driving a  
17 commercial motor vehicle for the periods set out in this section:

18 (1) operating a commercial motor vehicle while intoxicated in violation  
19 of AS 28.33.030;

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

21 (3) operating a motor vehicle while intoxicated [,] in violation of  
22 AS 28.35.030;

23 (4) leaving the scene of an accident in violation of AS 28.35.060, or  
24 failing to file, or providing false information in, an accident report in violation of  
25 AS 28.35.110;

26 (5) a felony under state or federal law, which was facilitated because  
27 the person used a commercial motor vehicle; [OR]

28 (6) a serious traffic violation; **or**

29 **(7) driving after being placed out of service in violation of**  
30 **regulations adopted under AS 28.05.011.**

31 \* 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

1 TO

2 (i) THE LAND CONNECTED STATE HIGHWAY  
3 SYSTEM; OR

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

7 (C) that

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

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

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

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

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

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

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

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

28 (3) "commercial purposes" means activities for which a person receives  
29 direct monetary compensation or activities for which a person receives no direct  
30 monetary compensation but that are incidental to and done in furtherance of the  
31 person's [PRIMARY] business;

- 1     \* **Sec. 29.** AS 28.10.108(b) and 28.10.108(c) are repealed.
- 2     \* **Sec. 30.** This Act takes effect July 1, 1996.