



LAWS OF ALASKA

2003

Source
CSHB 280(FIN)

Chapter No.

AN ACT

Relating to the regulation of commercial motor vehicles to avoid loss or withholding of federal highway money, and to out-of-service orders concerning commercial motor vehicles; moving authority for commercial motor vehicle regulation from the Department of Public Safety to the Department of Transportation and Public Facilities; amending Rule 43.1, Alaska Rules of Administration; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Relating to the regulation of commercial motor vehicles to avoid loss or withholding of
2 federal highway money, and to out-of-service orders concerning commercial motor vehicles;
3 moving authority for commercial motor vehicle regulation from the Department of Public
4 Safety to the Department of Transportation and Public Facilities; amending Rule 43.1, Alaska
5 Rules of Administration; and providing for an effective date.

6

7 * **Section 1.** AS 19.10.060(c) is repealed and reenacted to read:

8 (c) Except for requirements relating to a commercial motor vehicle driver's
9 licensing program under AS 28, the department shall adopt regulations under
10 AS 44.62 (Administrative Procedure Act) that are necessary to implement
11 requirements imposed by federal statute or regulation that relate to commercial motor
12 vehicles and that are necessary to avoid loss or withholding of federal highway

1 money.

2 * **Sec. 2.** AS 28.33.130(a) is amended to read:

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

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

5 (A) consumed or was under the influence of

6 (i) an alcoholic beverage;

7 (ii) a controlled substance not prescribed by a
8 physician; or

9 (iii) a controlled substance prescribed by a physician
10 that might impair a person's ability to operate a commercial motor
11 vehicle; or

12 (B) had any measurable alcohol concentration within the blood
13 or breath or any detectable presence of alcohol;

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

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

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

20 (3) after being placed out of service for violation of a regulation
21 adopted under **AS 19.10.060(c)** or AS 28.05.011; or

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

23 * **Sec. 3.** AS 28.33.140(a) is amended to read:

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

27 (1) operating a commercial motor vehicle while under the influence of
28 an alcoholic beverage, inhalant, or controlled substance in violation of AS 28.33.030;

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

30 (3) operating a motor vehicle while under the influence of an alcoholic
31 beverage, inhalant, or controlled substance in violation of AS 28.35.030;

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

4 (5) a felony under state or federal law **that** [, WHICH] was facilitated
5 because the person used a commercial motor vehicle;

6 (6) a serious traffic violation; or

7 (7) driving after being placed out of service in violation of regulations
8 adopted under **AS 19.10.060(c) or** AS 28.05.011.

9 * **Sec. 4.** AS 28.33.190(10) is amended to read:

10 (10) "out-of-service order" means an order issued under regulations
11 adopted under **AS 19.10.060(c) or** AS 28.05.011 that prohibits an owner or operator of
12 a commercial motor vehicle from operating a commercial motor vehicle; [.]

13 * **Sec. 5.** AS 28.05.011(a)(8) is repealed.

14 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
15 read:

16 **INDIRECT COURT RULE AMENDMENT.** The provisions of secs. 1 - 5 of this Act
17 have the effect of changing Rule 43.1, Alaska Rules of Administration, by changing the
18 references to the Alaska Administrative Code in the traffic bail forfeiture schedule for certain
19 commercial motor vehicle offenses.

20 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 **TRANSITION: REGULATIONS.** (a) The Department of Transportation and Public
23 Facilities may proceed to adopt regulations necessary to carry out the changes made by this
24 Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not
25 before the effective date of the statutory change.

26 (b) Regulations related to commercial motor vehicles that were adopted under
27 AS 28.05.011(a)(8) and are in effect on July 1, 2003, remain in effect and may be
28 implemented and enforced by the Department of Transportation and Public Facilities until
29 regulations are adopted by that department under AS 19.10.060(c), as repealed and reenacted
30 by sec. 1 of this Act, and take effect.

31 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 CONDITIONAL EFFECT. Sections 1 - 5 and 7 of this Act take effect only if sec. 6
3 of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
4 Constitution of the State of Alaska.

5 * **Sec. 9.** Section 7(a) of this Act takes effect immediately under AS 01.10.070(c).

6 * **Sec. 10.** Except as provided in sec. 9 of this Act, this Act takes effect July 1, 2003.