



# LAWS OF ALASKA

1967

Source

Chapter No.

HB 211 am S

115

## AN ACT

Creating a conditional privilege for public officers and reporters as to sources of information.

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

\* Section 1. AS 09.25 is amended by adding new sections to read:

Sec. 09.25.150. CLAIMING OF PRIVILEGE BY PUBLIC OFFICIAL OR REPORTER. Except as provided in secs. 150 - 220 of this chapter, no public official or reporter shall be compelled to disclose the source of information procured or obtained by him while acting in the course of his duties as a public official or reporter.

Sec. 09.25.160. CHALLENGE OF PRIVILEGE. (a) When a public official or reporter claims the privilege in a cause being heard before the supreme court or a superior court of this state, a person who has the right to question him in that proceeding, or the court on its own motion, may challenge the claim of privilege. The court shall make or cause to be made whatever inquiry the court thinks necessary to a determination of the issue. The inquiry may be made instantaneously by way of questions put to the witness claiming the privilege and a decision then rendered, or the court may require the presence of other witnesses or documentary showing or may order a special hearing for the determination of the issue of privilege.

(b) The court may deny the privilege and may order the public official or the reporter to testify, imposing whatever limits upon the testimony and upon the right of cross examination of the witness as may be in the public interest or in the interest of a fair trial, if it finds the withholding of the testimony would

(1) result in a miscarriage of justice or the

denial of a fair trial to those who challenge the privilege;  
or

(2) be contrary to the public interest.

Sec. 09.25.170. ORDER DIVESTING PUBLIC OFFICIAL OR REPORTER OF THE PRIVILEGE. (a) This section is applicable to a hearing held under the laws of this state

(1) before a court other than the supreme or a superior court;

(2) before a court commissioner, referee, or other court appointee;

(3) in the course of legislative proceedings or before a commission, agency or committee created by the legislature;

(4) before an agency or representative of an agency of the state, borough, city or other municipal corporation, or other body; or

(5) before any other forum of this state.

(b) If, in a hearing, a public official or a reporter should refuse to divulge the source of his information, the agency body, person, official, or party seeking the information may apply to the superior court for an order divesting the official or reporter of the privilege. When the issue is raised before the supreme or a superior court, the application must be made to that court.

(c) Application for an order shall be made by verified petition setting out the reasons why the disclosure is essential to the administration of justice, a fair trial in the instant proceeding, or the protection of the public interest. Upon application, the court shall determine the notice to be given to the public official or reporter and fix the time and place of hearing. The court shall make or cause to be made whatever inquiry the court thinks necessary, and make a determination of the issue as provided for in sec. 160 of this chapter.

Sec. 09.25.180. ORDER SUBJECT TO REVIEW. An order of the superior court entered under secs. 150 - 220 of this chapter shall be subject to review by the supreme court, by appeal or by certiorari, as the rules of that court may provide. During the pendency of the appeal, the privilege shall remain in full force and effect.

Sec. 09.25.190. EXTENT OF PRIVILEGE. When a public official or reporter claims the privilege conferred by secs. 150 - 220 of this chapter and the public official or reporter has not been divested of the privilege by order of the supreme or superior court, neither he nor the news organization with which he was associated shall thereafter be permitted to plead or prove the sources of information withheld, unless the informant consents in writing or in open court.

Sec. 09.25.200. APPLICATION OF PRIVILEGE IN OTHER

COURTS. Secs. 150 - 220 of this chapter also apply to proceedings held under the laws of the United States or any other state where the law of this state is being applied.

Sec. 09.25.210. SECS. 150 - 220 OF THIS CHAPTER DO NOT ABRIDGE OTHER PRIVILEGES. Secs. 150 - 220 of this chapter shall not be construed to abridge any of the privileges recognized under the laws of this state, whether at common law or by statute.

Sec. 09.25.220. DEFINITIONS. In this chapter, unless the context otherwise requires,

(1) "privilege" means the conditional privilege granted to public officials and reporters to refuse to testify as to a source of information;

(2) "public official" means a person elected to a public office created by the constitution or laws of this state, whether executive, legislative or judicial and who was holding that office at the time of the communication for which privilege is claimed;

(3) "reporter" means a person regularly engaged in the business of collecting or writing news for publication, or presentation to the public, through a news organization; it includes persons who were reporters at the time of the communication, though not at the time of the claim of privilege;

(4) "news organization" means

(A) an individual, partnership, corporation or other association regularly engaged in the business of

(i) publishing a newspaper or other periodical which reports news events, is issued at regular intervals and has a general circulation;

(ii) providing newsreels or other motion picture news for public showing; or

(iii) broadcasting news to the public by wire, radio, television or facsimile,

(B) a press association or other association in individuals, partnerships, corporations, or other associations described in (4)(i), (ii), or (iii) of this section engaged in gathering news and disseminating it to its members for publication.

\* Sec. 2. This bill changes Rule 43(h) of the Supreme Court Rules by adding to the privileges there listed, the conditional privilege for public officers and reporters as to sources of information.