



LAWS OF ALASKA

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Source

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Chapter No.

104

AN ACT

Relating to the Alaska Transportation Commission, defining its powers and duties; and providing for an effective date.

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

* Section 1. AS 42.07.010 - 42.07.150 are repealed.

* Sec. 2. AS 42.07 is amended by adding new sections to read:

CHAPTER 7. ALASKA TRANSPORTATION COMMISSION ACT.

ARTICLE 1. ESTABLISHMENT OF TRANSPORTATION COMMISSION.

Sec. 42.07.011. CREATION AND COMPOSITION. (a) There is created the Alaska Transportation Commission within the Department of Commerce. The commission consists of three members appointed by the governor and confirmed by the legislature in joint session.

(b) The governor shall designate one member of the commission as chairman of the commission. This member shall serve as chairman for a term of two years, but may be appointed for successive terms.

Sec. 42.07.021. TERM OF OFFICE; VACANCY. (a) The commissioners first appointed under this chapter shall continue in office for terms of two, four and six years, respectively, but their successors shall each be appointed for a term of six years unless appointed to fill an unexpired term. A commissioner, upon the expiration of his term, shall continue to hold office until his successor is appointed and qualified. The term of a member begins on February 1.

(b) A vacancy arising in the office of commissioner shall be filled by appointment by the governor and

confirmed by the legislature in joint session and an appointee selected to fill a vacancy shall hold office for the balance of the full term for which his predecessor on the commission was appointed.

(c) A vacancy in the commission does not impair the authority of a quorum of commissioners to exercise all the powers and perform all the duties of the commission.

(d) The commission shall serve at the pleasure of the governor.

Sec. 42.07.031. QUORUM. Two members of the commission constitute a quorum for the transaction of business, for the performance of a duty, or for the exercise of a power of the commission.

Sec. 42.07.041. QUALIFICATIONS. (a) Each commissioner shall be a citizen of the United States and a resident of the state.

(b) Each commissioner shall be appointed with regard to his fitness and ability to exercise the powers and duties of the commission, based upon his experience and familiarity with the principles of public utility regulation or his educational and experience background in the fields of engineering or transportation or law or business administration, finance and accounting.

Sec. 42.07.051. OATH OF OFFICE. Each commissioner, before entering upon the duties of his office, shall take the oath prescribed for principal officers of the state.

Sec. 42.07.061. RESTRICTIONS. No commissioner, employee or agent of the commission may have an official or professional relation or connection with, or hold stock or securities or have a pecuniary interest in, any business or agency subject to regulation under this chapter. Membership in a cooperative association is not a "pecuniary interest" within the meaning of this section. If a commissioner or employee becomes the owner of such stocks or securities or becomes pecuniarily interested in such a business or agency otherwise than voluntarily, his office or employment shall become vacant unless within a reasonable time he divests himself of the ownership or interest.

Sec. 42.07.071. MEMBERS IN PARTIALLY EXEMPT SERVICE. The commissioners are employees of the state in the partially exempt service under AS 39.25.

Sec. 42.07.081. PRINCIPAL OFFICE AND SEAL. (a) The commission shall establish a principal office. For the convenience of the public or of parties to a proceeding the commission may hold hearings or other proceedings at another location.

(b) The commission shall have an official seal.

Sec. 42.07.091. LEGAL COUNSEL. (a) The attorney general is the legal counsel for the commission. He shall advise the commission in legal matters arising in the discharge of its duties and represent the commission in suits to which it is a party. The attorney general may represent the public interest in any proceeding before the

commission.

(b) The commission may employ temporary legal counsel in proceedings before the commission in which the attorney general is representing the public interest or a party before the commission.

Sec. 42.07.101. EMPLOYMENT AND COMPENSATION OF PERSONNEL. (a) The commission may employ engineers, experts, clerks, accountants, and other agents and assistants it considers necessary. Employees and agents of the commission, other than legal counsel, are in the classified service under AS 39.25.

(b) In addition to its staff of regular employees the commission may contract for and engage the services of the consultants and experts the commission considers necessary for the purpose of developing information or conducting studies, investigations, hearings or other proceedings.

Sec. 42.07.111. ANNUAL REPORT. The commission shall publish an annual report reviewing its work and submit it to the legislature by February 15 of each year. In addition, the report shall contain information and data which bear a significant relationship to the development and regulation of transportation in the state.

ARTICLE 2. POWERS AND DUTIES OF COMMISSION.

Sec. 42.07.121. GENERAL POWERS AND DUTIES. The Alaska Transportation Commission shall supervise and regulate transportation in the state as provided in this chapter and in AS 02.05 and chs. 10 and 15 of this title, and may do all things, whether specifically designated in this chapter or in AS 02.05 or chs. 10 or 15 of this title, or in addition thereto, which are necessary or convenient in the exercise of this power and jurisdiction.

Sec. 42.07.131. AUTHORITY LIMITED BY FEDERAL LAW. The provisions of this chapter and AS 02.05 and chs. 10 and 15 of this title apply to transportation carriers engaged in foreign commerce and interstate commerce to the extent permitted by the constitution and laws of the United States.

Sec. 42.07.141. ADMINISTRATIVE AUTHORITY, REGULATIONS AND HEARING PROCEDURES. (a) The commission may adopt regulations, not inconsistent with the law, necessary or proper in the exercise of its powers or for the performance of its duties under this chapter.

(b) The commission shall adopt regulations, consistent with due process of law, which govern practice and procedure and the conduct of all investigations, hearings and proceedings which it holds.

(c) Common law on statutory rules of evidence apply to investigations, hearings and proceedings before the commission, except when the commission determines that their application is not required in order to assure fair treatment of all parties and that the evidence is relevant and of the sort on which responsible persons are accustomed to rely in the conduct of serious matters.

(d) The commission, each commissioner or an employee authorized by the commission may administer oaths, certify to all official acts, and issue subpoenas and other process to compel the attendance of witnesses and the production of testimony, records, papers, accounts and documents in an inquiry, investigation, hearing, or proceeding before the commission in any part of the state. The commission may petition a court of this state to enforce its subpoenas or other process.

Sec. 42.07.151. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT. (a) The administrative adjudication procedures of the Administrative Procedure Act (AS 44.62) do not apply to adjudicatory proceedings of the commission except that final administrative determinations by the commission are subject to judicial review as provided in AS 44.62.560 - 44.62.570.

(b) AS 44.62.10 - 320, 44.62.640 and 44.62.650 apply to regulations adopted by the commission.

Sec. 42.07.161. INVESTIGATIONS AND HEARING. An investigation or hearing which the commission has power to undertake or to hold may be undertaken or held by or before any one or more commissioners designated for the purpose by the commission. The testimony and evidence in an investigation or hearing may be taken by the commissioner to whom the investigation or hearing has been assigned. All investigations or hearings before or by commissioners are considered to be the investigations and hearings of the commission. A determination or order of commissioners upon such an investigation or hearing, so undertaken is not effective until approved and confirmed by the commission. Upon confirmation, the determination or order is the determination or order of the commission.

* Sec. 3. AS 32.25.120 is amended by adding a new subsection to read:

(7) commissioners of the Alaska Transportation Commission.

* Sec. 4. All litigations, hearings, investigations and other proceedings whatsoever, pending under any law repealed by this Act, shall continue in full effect, and may be continued and completed under the provisions of this Act. All certificates, orders, rules, regulations, or tariffs made, issued, or filed under any law repealed by this Act, and in full effect upon the effective date of this Act, shall remain in full effect for the term issued, or until revoked, vacated, or modified under the provisions of this Act. All existing contracts and obligations of the commission, entered into or created under any law repealed by this Act, and in effect upon the effective date of this Act, shall remain in full effect and shall continue to be performed by the commission.

* Sec. 5. The following laws are repealed: AS 42.10.060, 42.10.370, AS 02.05.020, 02.05.200(a) and 02.05.220.

* Sec. 6. This Act takes effect on the day after its passage and approval or on the day it becomes law without approval.