



LAWS OF ALASKA

1972

Source

Chapter No.

CSHB 737 am S

120

AN ACT

Relating to the activities of the Alaska Transportation Commission.

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

* Section 1. AS 42.07.121 is amended to read:

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, 15 and 25 of this title, and may do all things, whether specifically designated in this chapter or in AS 02.05 or chs. 10, 15 or 25 of this title, or in addition thereto, which are necessary or convenient in the exercise of this power and jurisdiction.

* Sec. 2. AS 42.10.113 is amended to read:

Sec. 42.10.113. IDENTIFICATION OF VEHICLES. The commission shall prescribe rules and regulations requiring that each contract carrier, common carrier, exempt carrier, and private carrier place sufficient and proper identification on each motor vehicle operated by the carrier. The required identification shall be sufficient to allow immediate determination of the carrier's name, address, operating authority, and permit number.

* Sec. 3. AS 42.10.130(a) is amended to read:

(a) No common carrier, contract carrier, or temporary carrier may operate for the transportation of property in intrastate commerce for compensation in the state without a permit. An application for a permit as a common carrier or contract carrier or an extension of the permit shall be on file for at least 30 days before it is granted

unless the commission finds that special conditions require the earlier granting of it. Except as provided in this section, the commission shall not grant a permit or an extension of a permit if it finds that the applicant is not financially able, properly and adequately equipped and capable of conducting the transportation service applied for in compliance with the law and rules and regulations of the commission. The commission may deny an application if the applicant or any of its principal officers or stockholders fails or has failed to comply with the laws of the state.

* Sec. 4. AS 42.10.130(c) is amended to read:

(c) Except as provided in (a), (b), (d) and (e) of this section a permit shall be issued to any qualified applicant, authorizing the whole or a part of the operations covered by the application, if the proposed service is or will be required by the present or future public convenience and necessity; otherwise the application shall be denied.

* Sec. 5. AS 42.10.130 is amended by adding new subsections to read:

(d) Notwithstanding the provisions of (a) - (c) of this section, a common carrier or contract carrier constituting a business entity which is a corporation organized under and existing by virtue of the laws of this state, whose principal business office is in this state and 51 per cent or more of whose stock is owned by residents of Alaska, or a sole proprietorship and the sole proprietor is a resident of Alaska, or a partnership and each partner is a resident of Alaska, and has continuously operated as a common carrier or contract carrier in the state since January 3, 1959, possessing Alaska interstate operating authority under a grant of grandfather rights in Alaska by the Interstate Commerce Commission, shall, by action of the Alaska Transportation Commission under this subsection, be granted Alaska intrastate operating authority coextensive with the carrier's Alaska interstate operating authority. However, no carrier otherwise eligible under the provisions of this section shall be ineligible by virtue of having had transferred either its Alaska interstate or Alaska intrastate operating authority, or both, from one form of business entity to another, so long as the same persons possessing the operating authority before the transfer possess at least 51 per cent of the equity in the business entity after the transfer. A carrier eligible under this subsection shall, within 30 days of the effective date of this Act, file an application with the Alaska Transportation Commission requesting reconciliation of its Alaska intrastate operating authority with its Alaska interstate operating authority. A carrier's failure to file an application within the 30-day period constitutes an absolute bar to the granting of operating authority under this subsection.

(e) The Alaska Transportation Commission, upon review of the carriers' Interstate Commerce Commission grandfather certificates, shall determine which carriers are eligible under (d) of this section and issue to them,

within 60 calendar days from the effective date of this Act, revised intrastate operating authority. The Alaska intrastate operating authority granted under (d) and (e) of this section shall be equivalent in all respects to the Alaska interstate grandfather authority granted by the Interstate Commerce Commission. No common carrier or contract carrier which possesses a greater scope of Alaska intrastate operating authority than Alaska interstate operating authority may have the intrastate operating authority reduced in any way by the operation of (d) and (e) of this section.

(f) Nothing in (d) and (e) of this section affects carriers which have obtained interstate operating authority by means other than under grandfather rights granted by the Interstate Commerce Commission.

* Sec. 6. AS 42.10 is amended by adding a new section to read:

Sec. 42.10.135. REGISTRATION OF INTERSTATE OPERATING AUTHORITY. (a) No motor carrier may engage in the transportation of property for compensation by motor vehicle moving in interstate or foreign commerce in the state without registering the operation with the commission. Registration shall be granted upon the filing of an application and the payment of applicable fees and shall be conditioned upon compliance with all other applicable provisions of this chapter. An application for registration shall be accompanied by either

(1) a copy of the operating authority pertaining to service from, to, or within this state issued by the Interstate Commerce Commission under the Interstate Commerce Act; or

(2) an affidavit of the exempt status including a description of the operations to be conducted if the operation does not require authority from the Interstate Commerce Commission under the Interstate Commerce Act.

(b) Registration of authority to engage in the transportation of property for compensation by motor vehicle moving in interstate or foreign commerce in this state under (a) of this section, shall be renewed annually by filing a renewal application and paying the renewal fee and shall be conditioned upon continued compliance with all other applicable provisions of this chapter.

(c) Motor carriers engaged in the transportation of property for compensation by motor vehicle moving in interstate or foreign commerce in the state, who before July 1, 1971 have registered their authority from the Interstate Commerce Commission with the Alaska Transportation Commission are not required to file another initial application as prescribed in (a) of this section, but are only required to file an application for renewal as prescribed in (b) of this section; however, the renewal application may not be granted until the applicant has complied with all other applicable provisions of this chapter.

* Sec. 7. AS 42.10.160 is amended to read:

Sec. 42.10.160. FEES. (a) A filing fee of \$50 shall be paid with each application for a permit, temporary permit, or for extension or transfer of a permit requesting authority to transport property for compensation by motor vehicle moving in intrastate commerce in this state.

(b) A filing fee of \$25 shall be paid for filing an initial registration of authority authorizing a motor carrier to engage in the transportation of property for compensation by motor vehicle in interstate or foreign commerce in the state.

(c) A filing fee of \$10 shall be paid with each annual renewal application for the registration of authority to engage in the transportation of property for compensation by motor vehicle moving in interstate or foreign commerce in the state.

* Sec. 8. AS 42.10 is amended by adding a new section to read:

Sec. 42.10.391. REBATING. A person, subject to this chapter, a shipper, or consignee, or an officer, employee, agent, or representative who knowingly offers, grants, gives, solicits, accepts, or receives a rebate, concession, or discrimination in violation of this chapter, or who by means of a false statement or representation, or by the use of a false or fictitious bill, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, deposition, lease, or bill of sale, or by any other means or device knowingly and wilfully assists, suffers or permits a person to obtain transportation of property subject to this chapter for less than the applicable rate or charge, or who knowingly and wilfully by any such means or otherwise fraudulently seeks to evade or defeat a regulation provided in this chapter is guilty of a misdemeanor.

* Sec. 9. AS 42.10.400 is repealed and re-enacted to read:

Sec. 42.10.400. HOURS OF OPERATORS. A carrier subject to this chapter may not permit or require a driver employed or used by it to remain on duty in excess of the hours or violate in any way the regulations which the commission adopts to safeguard the safety of drivers, the general public and property.

* Sec. 10. AS 42.10.420(12) is amended to read:

(12) "construction contractor" means a contractor licensed by the state as a general contractor under AS 08.18 to engage in and who is actively and regularly engaged in the business of constructing, repairing or removing any kind of private or public facility or structure and does not include "contract carriers" authorized to transport commodities in bulk in dump-type equipment unless the "contract carrier" is also actively engaged in the business of constructing, repairing or removing private or public facilities or structures as a licensed general contractor under AS 08.18.

* Sec. 11. AS 42.15 is amended by adding a new section to read:

Sec. 42.15.286. CIVIL PENALTY. The commission may, after providing notice and an opportunity for a hearing, levy a civil penalty of not more than \$150 for each violation against a person, whether or not a carrier by bus or an officer, agent, or employee of a carrier by bus, who knowingly violates or who knowingly procures, aids or abets a violation of a provision of this chapter or of a regulation, order, or decision of the commission. The levy shall be in the form of a written order by the commission.

- * Sec. 12. AS 42.15.301 is repealed and re-enacted to read:

Sec. 42.15.301. PENALTIES CUMULATIVE, NOT EXCLUSIVE; RECOVERY. (a) Penalties occurring under this chapter are cumulative and the recovery of one penalty is not a bar to and does not bar recovery of another penalty and is not a bar to a prosecution and imposition of a fine against a bus carrier, officer, director, agent or employee of a bus carrier or other person.

(b) Neither a criminal prosecution nor an action to recover a penalty provided in this chapter is a bar to an enforcement proceeding to require compliance, nor to another remedy provided in this chapter.

(c) Actions to recover penalties or impose fines under this chapter shall be brought by the attorney general in a court of competent jurisdiction. Fines imposed and penalties recovered under the provisions of this chapter shall be paid to the commission and deposited by it in the general fund of the state.

- * Sec. 13. AS 42.25.010 is amended to read:

Sec. 42.25.010. CERTIFICATE REQUIRED. No person may engage in the transportation of passengers or vehicles by ferry between points within this state without a certificate of public convenience and necessity issued by the commission.

- * Sec. 14. AS 42.25.020 is amended to read:

Sec. 42.25.020. COMMISSION TO ISSUE CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY. The commission may issue a certificate of public convenience and necessity to a ferry operator. The commission may issue an exclusive certificate on such routes and upon such conditions as it considers advisable or necessary in the public interest to secure continuous, efficient, and dependable ferry service.

- * Sec. 15. AS 42.25.030 is amended to read:

Sec. 42.25.030. LIMITATIONS ON ISSUANCE OF EXCLUSIVE CERTIFICATES. The commission may not issue an exclusive certificate to a ferry operated on a route exceeding 10 miles in length unless the ferry operator provides service with a vessel equipped to carry at least 75 passengers and 25 passenger-type vehicles and the vessel is certificated by the United States Coast Guard for unlimited operation on the waters to be traversed on the route for which the certificate is issued.

- * Sec. 16. AS 42.25.040 is amended to read:

Sec. 42.25.040. APPLICATION FOR CERTIFICATE. A ferry operator who desires to engage in the transportation of passengers or vehicles shall apply to the commission for a certificate of public convenience and necessity. The commission shall prescribe by regulation, the form and content of the application.

- * Sec. 17. AS 42.25.050 is amended to read:

Sec. 42.25.050. PUBLIC HEARING. Before issuing a certificate of public convenience and necessity, the commission shall hold a public hearing.

- * Sec. 18. AS 42.25.060 is amended to read:

Sec. 42.25.060. ISSUANCE OF CERTIFICATE. The commission shall not issue a certificate of public convenience and necessity to a qualified applicant, authorizing the operation covered by the application in whole or in part, unless it finds that (1) the applicant is fit, willing and able to perform the service proposed and to conform to the provisions of this chapter and the requirements, rules and regulations of the commission and (2) the proposed service, to the extent authorized by the certificate, is or will be required by the present or future public convenience and necessity.

- * Sec. 19. AS 42.25.070 is amended to read:

Sec. 42.25.070. CONTENTS OF CERTIFICATE. A certificate of public convenience and necessity shall specify

(1) the route over which, or the points to and from which, the carrier is authorized to operate;

(2) the terms, conditions, and limitations as to the extension of the route; and

(3) the terms, conditions, and limitations necessary to carry out the requirements of this chapter and the requirements established by the commission with respect to the operations of the carrier.

- * Sec. 20. AS 42.25.090 is amended to read:

Sec. 42.25.090. DURATION OF CERTIFICATE. A certificate of public convenience and necessity is effective for the period specified on it. If no period is specified, the certificate is effective indefinitely. The commission may modify, suspend or revoke a certificate.

- * Sec. 21. AS 42.25.110 is amended to read:

Sec. 42.25.110. ALTERATION, SUSPENSION OR REVOCATION OF CERTIFICATE. The commission may alter, amend, or modify a certificate of public convenience and necessity, in whole or in part, if the public convenience and necessity require it, and may suspend or revoke a certificate, in whole or in part, for

(1) intentional misrepresentation of a material

fact in obtaining a certificate,

- (2) voluntary discontinuance of operations,
- (3) intentional failure to comply with this chapter, or a rule, regulation or order issued under it,
- (4) intentional failure to comply with a term, condition, or limitation of a certificate, or
- (5) failure to assume the duties imposed upon the operator by the certificate within the time stated by the certificate.

* Sec. 22. AS 42.25.120 is amended to read:

Sec. 42.25.120. TRANSFER OR LEASE OF CERTIFICATE. A certificate of public convenience and necessity may be transferred or leased if the commission finds that the transfer or lease is in the public interest.

* Sec. 23. AS 42.25.130 is amended to read:

Sec. 42.25.130. ABANDONMENT OR TEMPORARY DISCONTINUANCE OF SERVICE. If the commission finds that it is in the public interest, it may, upon application of a ferry operator, authorize the abandonment or temporary discontinuance of service.

* Sec. 24. AS 42.25.140 is amended to read:

Sec. 42.25.140. PROOF OF FINANCIAL RESPONSIBILITY. The commission shall require each ferry operator to furnish proof of financial responsibility for bodily injury to passengers and other persons or damage to property, caused by the negligent operation, maintenance or use of facilities and equipment in the control of the ferry operator. The amount of financial responsibility shall be in an amount reasonably calculated to protect the public interest.

* Sec. 25. AS 42.25.150 is amended to read:

Sec. 42.25.150. REGULATION OF SERVICE. The commission shall require every ferry operator to provide and furnish safe and reasonably adequate services and facilities for the public. The commission shall establish just and reasonable charges for services rendered to the public.

* Sec. 26. AS 42.25.160 is amended to read:

Sec. 42.25.160. PROCEEDINGS BY COMMISSION. In a proceeding upon complaint or on its initiative without complaint, the commission may, after hearing, require or authorize a ferry operator to provide safe and reasonably adequate services and facilities for the public, or to cease and desist from charging a rate other than a rate established by the commission for services to the public. In its order the commission shall allow a sufficient and reasonable time for compliance and, if it is not obeyed within the time established for compliance, the commission may obtain an injunction or other necessary and proper

relief in the superior court.

* Sec. 27. AS 42.25.170(a) is amended to read:

(a) The commission shall establish, in accordance with the terms of the Administrative Procedure Act (AS 44.62), rules and regulations governing procedures necessary to carry out its duties under this chapter.

* Sec. 28. AS 42.25.190 is repealed and re-enacted to read:

Sec. 42.25.190. AUTHORIZATION OF EXPENDITURES. From money appropriated from time to time by the legislature for the purposes of this chapter, the commission may make the expenditures it considers necessary to administer the provisions of this chapter and to meet obligations incurred by it under this chapter.

* Sec. 29. AS 42.25.210(1) is repealed and re-enacted to read:

(1) "commission" means the Alaska Transportation Commission;