

SENATE CS FOR CS FOR HOUSE BILL NO. 210(TRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE TRANSPORTATION COMMITTEE

Offered: 4/12/96

Referred: State Affairs

Sponsor(s): REPRESENTATIVES VEZEY, Kelly

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to issuance of motor vehicle registrations and titles, and to
2 licenses and permits to operate a motor vehicle."

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

4 * **Section 1.** AS 28 is amended by adding a new chapter to read:

5 CHAPTER 12. THIRD-PARTY REGISTRATION, TITLING, AND TESTING.

6 Sec. 28.12.010. THIRD-PARTY REGISTRATION, TITLING, AND
7 TESTING. (a) The department may establish a program that authorizes

8 (1) third-party agents to

9 (A) process applications for registration of motor vehicles and
10 issue registration certificates and plates as required under AS 28.10;

11 (B) process applications for certificates of titles and issue
12 certificates of title as required under AS 28.10.201 - 28.10.261; and

13 (C) administer driver's license examinations as required under
14 AS 28.15.081 and issue licenses or permits as provided under AS 28.15;

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(2) third-party registrars to

(A) process applications for registration of motor vehicles and issue registration certificates and plates as required under AS 28.10; and

(B) process applications for certificates of titles and issue certificates of title as required under AS 28.10.201 - 28.10.261;

(3) third-party examiners to administer driver's license examinations as required under AS 28.15.081 and issue licenses or permits as provided under AS 28.15.

(b) The department may utilize third-party agents, registrars, and examiners to perform the functions described under (a) of this section. A person may not be or act as a third-party agent, registrar, or examiner unless the person satisfies the requirements of this chapter and other applicable law and enters into a contract with the department that specifies the duties of the third-party agent, registrar, or examiner.

Sec. 28.12.020. CERTIFICATION OF AGENTS, REGISTRARS, AND EXAMINERS. (a) An application for third-party agent, registrar, or examiner certification shall be filed with the department on a form prescribed by the department.

(b) If the department determines that an individual is qualified under this chapter as a third-party agent, registrar, or examiner, the department shall issue to the individual an identification number for electronic record keeping purposes and a certificate indicating the individual is qualified and authorized to perform the functions as provided under AS 28.12.010(a). A third-party agent, registrar, or examiner shall prominently display the certificate in the agent's place of business.

(c) A certificate is effective on the date of issuance and expires three years after issuance. A renewal application form must be filed with the department not less than 30 days before the time the certification expires.

(d) In reviewing an application submitted by a third-party agent or examiner, the department shall also review the driving record of an individual performing functions as an agent or examiner. If the record is satisfactory and the individual is otherwise qualified under this chapter, the prospective agent or examiner may be scheduled for third-party agent or examiner training.

Sec. 28.12.030. REQUIREMENTS FOR THIRD-PARTY AGENTS. The

1 department may not certify a third-party agent unless the third-party agent meets all
2 of the conditions set out in this section. The third-party agent shall

3 (1) meet all applicable requirements of law;

4 (2) allow the department to conduct random examinations, inspections,
5 and audits of operating facilities and records as provided under AS 28.12.120;

6 (3) allow the department to conduct annual on-site inspections,
7 evaluations, and audits of operations, facilities, and records;

8 (4) transmit the original forms and reports to the department as required
9 by the department;

10 (5) conduct skills tests as required under AS 28.15 and provide that
11 applicants who fail to successfully complete driving skills testing are not tested more
12 than once in a seven-day period, unless the original test failure was due to vehicle or
13 document deficiencies;

14 (6) issue written certification, on a form provided by the department,
15 to each driver-applicant who passes the driving skills test administered by the third-
16 party agent;

17 (7) attend all training courses, workshops, seminars, and other
18 instructional meetings, as required by the department;

19 (8) provide information and reports to the department, upon request,
20 concerning a complaint against the third-party agent;

21 (9) transmit to the department all fees imposed under this title that are
22 collected as required under AS 28.12.100;

23 (10) ensure that at least 95 percent of the forms submitted to the
24 department are error free;

25 (11) comply with the provisions of AS 28.12.050(2) and (5) - (8).

26 Sec. 28.12.040. REQUIREMENTS FOR THIRD-PARTY REGISTRARS. The
27 department may not certify a person as a third-party registrar unless the person
28 complies with provisions of AS 28.12.030(1) - (4), (7), (9), and (10).

29 Sec. 28.12.050. REQUIREMENTS FOR THIRD-PARTY EXAMINERS. An
30 examiner applicant shall meet the conditions set out in this section in order to qualify
31 and maintain qualification as a third-party examiner. The examiner shall

1 (1) comply with the provisions of AS 28.12.030(1) - (3), (5), (6), and
2 (8) - (10);

3 (2) hold a valid driver's license required for operation of the motor
4 vehicle used in the driving skills test conducted by the examiner;

5 (3) have successfully completed an examiner training workshop and
6 certified examiner program conducted or approved by the department;

7 (4) attend all training courses, workshops, seminars, and other
8 instructional meetings as required by the department;

9 (5) have a driving record that indicates the applicant is competent to
10 operate a motor vehicle safely;

11 (6) have not had a conviction or administrative license action for any
12 of the following violations under the law of this state or a local ordinance or a law or
13 local ordinance of another state substantially similar to the law of this state, during the
14 five-year period preceding application or during the time the individual is an examiner:

15 (A) operating a vehicle while intoxicated in violation of
16 AS 28.33.030 or AS 28.35.030;

17 (B) refusal to submit to a blood alcohol or breath test in
18 violation of AS 28.35.032;

19 (C) failure to stop and provide identification after a personal
20 injury or property damage accident in violation of AS 28.35.060;

21 (D) driving without insurance in violation of AS 28.22.011;

22 (E) a felony;

23 (7) while performing duties as an examiner and during the five-year
24 period preceding application, have not had a driver's license suspended, revoked,
25 denied, cancelled or disqualified, or been subjected to a driver's license sanction
26 ordered by the department or a court;

27 (8) be at least 21 years of age and have at least three years of
28 experience in driving a motor vehicle;

29 (9) transmit the original forms and reports to the department as required
30 by the department.

31 Sec. 28.12.060. PROFESSIONAL CONDUCT. (a) A third-party agent or

1 examiner may not provide a driver's license applicant answers to questions on a
2 knowledge or driving skills test or other driver examination.

3 (b) A third-party agent, registrar, or examiner shall provide services in a
4 professional manner.

5 (c) A third-party agent or examiner who gives driving skills tests may not be
6 an employee of or receive compensation from a driving school.

7 (d) A third-party agent, registrar, or examiner may not consume intoxicating
8 beverages or controlled substances within eight hours before or during licensing or
9 testing activities and may not be under the influence of intoxicating beverages during
10 licensing or testing activities. In this subsection,

11 (1) "controlled substance" has the meaning given in AS 28.33.190 but
12 does not include a drug prescribed for that person by a physician licensed in this state
13 and used as required by the prescription, unless the prescribed drug affects the ability
14 of a person to safely operate a motor vehicle;

15 (2) "under the influence" includes 0.02 percent or more by weight of
16 alcohol in the person's blood or 20 milligrams or more of alcohol per 100 milliliters
17 of blood, or when there is 0.02 grams or more per 210 liters of the person's breath.

18 Sec. 28.12.070. NOTIFICATION REQUIREMENTS. (a) A third-party agent,
19 registrar, or examiner shall notify the department in writing within

20 (1) 30 days before a change in name or address;

21 (2) 10 days of any of the following:

22 (A) a civil action resulting from duties imposed under this
23 chapter, or a complaint regarding driving skills test administration received by
24 the agent or examiner;

25 (B) ceasing business operations in the state.

26 (b) A third-party agent or examiner shall notify the department as follows:

27 (1) before the end of the next business day after the agent or examiner
28 receives notice of any suspension, revocation, cancellation, or disqualification of the
29 agent's or examiner's driver's license ordered by a court or the department;

30 (2) within 10 days after being convicted or found responsible for
31 violation of a law or local ordinance of any state relating to motor vehicle traffic

1 control, other than a parking violation;

2 (3) before the end of the next business day after the agent or examiner
3 is charged with a crime.

4 Sec. 28.12.080. TEST ADMINISTRATION. A driving skills test shall be
5 conducted strictly in accordance with the provisions of this title and the test
6 specifications and procedures prescribed by the department. A driving skills test shall
7 be conducted in a vehicle that is representative of the class and type of vehicle for
8 which the applicant seeks to be licensed and for which the third-party examiner is
9 qualified to test. Before testing, the third-party agent or examiner shall inspect the
10 vehicle to verify that it is empty, meets applicable motor carrier safety regulations,
11 is equipped as required by law, and is otherwise safe to operate.

12 Sec. 28.12.090. TERMINATION OF THIRD-PARTY AGENT, REGISTRAR,
13 OR EXAMINER CERTIFICATE. (a) The department may cancel or suspend the
14 certificate of a third-party agent, registrar, or examiner after determining that the agent,
15 registrar, or examiner has done one or more of the following:

16 (1) failed to comply with or satisfy any of the provisions of the contract
17 required under AS 28.12.010(b);

18 (2) falsified a record or information relating to the third-party agent,
19 registrar, or examiner program;

20 (3) committed any act or omission that compromises the integrity of
21 the third-party agent, registrar, or examiner program; before making a determination
22 under this paragraph, the department shall provide the agent, registrar, or examiner the
23 opportunity for a hearing as provided under AS 28.05.141; or

24 (4) acted as a third-party agent or examiner without a valid driver's
25 license, when the agent's or examiner's driver's license has been suspended or
26 revoked, when the agent's or examiner's certificate has been cancelled, or when the
27 agent's or examiner's application for a driver's license has been denied.

28 (b) If the department determines that grounds for termination of a third-party
29 agent's, registrar's, or examiner's certificate exist and that the grounds relate to a
30 failure to comply with or satisfy the requirements for a certificate or under the contract
31 required under AS 28.12.010(b), the department shall suspend the certificate. If the

1 department determines that the third-party agent, registrar, or examiner has corrected
2 the deficiency, the department may reinstate the certificate.

3 Sec. 28.12.100. COLLECTION OF FEES AND COMPENSATION TO
4 AGENTS. If the third-party agent, registrar, or examiner performs a function for
5 which a fee is imposed under this title, the third-party agent, registrar, or examiner
6 shall collect the statutory fee on behalf of the department and may collect and retain
7 a fee as compensation for performing the function. The fee due the third-party agent,
8 registrar, or examiner shall be set by the agent, registrar, or examiner, subject to
9 approval by the department. The third-party agent, registrar, or examiner shall retain
10 any amount due the agent, registrar, or examiner as provided under this section and
11 remit the amount collected on behalf of the department as determined by contract. Fee
12 collection and remission procedures are subject to approval by the department.

13 Sec. 28.12.110. DEPARTMENT REVIEW OF LICENSING APPLICATIONS.
14 The department may reject an application approved by a third-party agent, registrar,
15 or examiner if the application fails to comply with a provision of AS 28.10 or
16 AS 28.15. The department shall allow an applicant whose application is rejected under
17 this section to reapply to the department.

18 Sec. 28.12.120. ON-SITE INSPECTIONS AND AUDITS. (a) An applicant
19 for a third-party agent, registrar, or examiner certificate shall permit the department to
20 conduct inspections and to electronically audit its operations, facilities, and records
21 relating to its third-party agent, registrar, or examiner program, for the purpose of
22 determining whether the applicant is qualified to participate in the program. A third-
23 party agent, registrar, or examiner who has been certified and has executed an
24 agreement described under AS 28.12.010(b) shall permit the department to inspect and
25 audit its third-party agent, registrar, or examiner program to determine whether it
26 continues in compliance with the requirements of this chapter. The department may
27 perform an inspection or audit without prior notice to the third-party agent, registrar,
28 or examiner.

29 (b) An inspection or audit must include, at a minimum, an examination of
30 (1) records relating to the third-party agent, registrar, or examiner
31 program;

- 1 (2) evidence of compliance with this title;
- 2 (3) the following if the person is a third-party agent or examiner,
- 3 (A) skills testing procedures, practices, and operations;
- 4 (B) vehicles used for testing; and
- 5 (C) effectiveness of the driving skills test program by either
- 6 testing a sample of drivers who have been issued certificates evidencing that
- 7 they have passed the driving skills test administered by the third-party agent
- 8 or examiner or by having department employees or designees take the driving
- 9 skills test from a third-party agent or examiner.

10 (c) The department shall prepare a written report of an inspection or audit. A

11 copy of the report shall be provided to the third-party agent, registrar, or examiner.

12 Sec. 28.12.130. ADVERTISING. (a) A third-party agent or examiner may

13 not advertise in a manner that indicates in any way that the third-party agent or

14 examiner can guarantee the issuance of a driver's license or imply that the third-party

15 agent or examiner can in any way influence the department in the issuance of a

16 driver's license or imply that preferential or advantageous treatment from the

17 department can be obtained.

18 (b) A third-party agent, registrar, or examiner that is certified by the

19 department may advertise that the third-party agent, registrar, or examiner is

20 "certified," but may not indicate that the agent, registrar, or examiner is approved,

21 sanctioned, or in any other way endorsed by the department, and may not use any

22 other name besides the name on the application for certification. A third-party agent,

23 registrar, or examiner may not use "state" in any part of the third-party agent's,

24 registrar's, or examiner's business name, except when the name does not contain a

25 reference to the person's status as a third-party agent, registrar, or examiner.

26 Sec. 28.12.140. INSURANCE REQUIREMENTS. (a) A third-party agent or

27 examiner shall maintain insurance coverage that meets the requirements of

28 AS 28.22.101 on motor vehicles owned by or registered to a third-party agent or

29 examiner.

30 (b) In addition to the requirements of (a) of this section, a third-party agent or

31 examiner shall maintain bodily injury and property damage liability insurance coverage

1 on motor vehicles owned or used by the third-party agent or examiner to administer
2 skills tests in this state. The amount of insurance coverage required under this
3 subsection may not be less than \$1,000,000 for bodily injury to or death of one or
4 more persons in any one accident and not less than \$250,000 for injury to or
5 destruction of property of others in any one accident.

6 (c) A third-party agent or examiner shall maintain insurance coverage that does
7 not exclude from coverage a person taking a driving skills test administered by the
8 third-party agent or examiner, any person suffering bodily injury or sustained property
9 damage as a result of a driving skills test administered by the third-party agent or
10 examiner.

11 (d) As evidence of required insurance coverage, a third-party agent or
12 examiner shall file with the department a certificate of insurance issued by an
13 insurance company licensed to do business in this state or a certificate of self-insurance
14 approved by the department. A certificate of insurance or self-insurance must include
15 the make, model, year, and vehicle identification number of each vehicle that is used
16 by the third-party agent or examiner to administer a driving skills test.

17 (e) A third-party agent or examiner may not use a motor vehicle to administer
18 a driving skills test unless the vehicle is insured as required by law.

19 (f) The department may cancel a contract with a third-party agent or examiner
20 upon determining that the third-party agent or examiner has failed to file a certificate
21 of insurance or self-insurance or has failed to maintain insurance coverage.

22 * **Sec. 2.** AS 28.15.081(d) is amended to read:

23 (d) The department may enter into agreements with other state agencies,
24 municipalities, or qualified persons for the purpose of conducting the examinations,
25 **including commercial driver's license examinations**, required under this chapter.

26 * **Sec. 3.** AS 36.30.850(b) is amended by adding a new paragraph to read:

27 (34) a contract between the Department of Public Safety and a third-
28 party agent, registrar, or examiner under AS 28.12.

29 * **Sec. 4. TRANSITION.** (a) The Department of Public Safety shall implement the
30 provisions of this Act by July 1 of the year following the effective date of this Act.

31 (b) A contract existing on the effective date of this Act between the Department of

- 1 Public Safety and a third-party agent, registrar, or examiner for the purpose of performing
- 2 registration, titling, or licensing functions remains in effect under its terms notwithstanding
- 3 the provisions of this Act.