

HOUSE BILL NO. 517

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE TRANSPORTATION COMMITTEE

Introduced: 2/14/96

Referred: Transportation, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to records and hearings of the Department of Public Safety;
2 relating to a temporary permit to drive a motor vehicle; relating to regulation
3 of motor vehicles and commercial motor vehicles; relating to renewal of a driver's
4 license by mail; increasing the property damage amounts for proof of financial
5 responsibility and proof of motor vehicle eligibility in order to lawfully operate
6 a motor vehicle in the state; relating to certain notifications in accidents involving
7 property damage; relating to motor vehicle registration procedures; and providing
8 for an effective date."

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

10 * **Section 1.** AS 28.05.061(c) is amended to read:

11 (c) Records maintained by the department under this title or regulations
12 adopted under this title may be stored in any reasonable manner, including
13 electronic data storage. The commissioner and officers and employees of the

1 department designated by the commissioner shall, upon request, prepare under the seal
2 of the department and deliver, unless otherwise prohibited by law, a certified copy of
3 any record of the department maintained under this title or regulations adopted under
4 this title, charging a fee for each certified copy. A certified copy **of the record stored**
5 **under this section** is admissible in **an administrative** [A] proceeding **or** in a court
6 in the same manner as the original document.

7 * **Sec. 2.** AS 28.05.141(b) is amended to read:

8 (b) A hearing ordered under (a) of this section **must** [SHALL] be held **by**
9 **telephone unless the hearing officer finds that a telephonic hearing would**
10 **substantially prejudice the rights of the person involved in the hearing or that an**
11 **in-person hearing is necessary to decide the issues to be presented in the hearing.**
12 **An in-person hearing must be held** at the office of the department nearest to the
13 residence of the person **involved in** [REQUESTING] the hearing unless the department
14 and the person agree that the hearing is to be held elsewhere. The department shall
15 grant a hearing delay if the person presents good cause for the delay. If a person fails
16 to **attend or** appear for the hearing at the time and place stated by the department and
17 if a hearing delay has not been granted, the person's failure to **attend or** appear is
18 considered a waiver of the hearing and the department may take appropriate action
19 with respect to the person.

20 * **Sec. 3.** AS 28.10.031(b) is amended to read:

21 (b) A licensed vehicle dealer may issue to the purchaser of a vehicle sold by
22 the dealer a temporary permit to drive the vehicle. A permit is effective for a period
23 not to exceed **60** [30] days. The commissioner shall adopt regulations governing the
24 issuance of permits under this section.

25 * **Sec. 4.** AS 28.10.051(a) is amended to read:

26 (a) The department may suspend or revoke the registration of a vehicle, the
27 certificate of registration or registration plates for a vehicle, or a special permit when

28 (1) the department determines that the registration or certificate, plate,
29 or permit was fraudulently procured or erroneously issued;

30 (2) the department determines that a registered vehicle is mechanically
31 unsafe to be driven or moved on a highway, vehicular way or area, or other public

1 property in this state and the vehicle has been seized or impounded under
2 AS 28.05.091;

3 (3) a registered vehicle has been scrapped, dismantled, or destroyed
4 beyond repair;

5 (4) the department determines that a required fee or tax has not been
6 paid and the fee or tax is not paid upon reasonable notice and demand;

7 (5) a registration plate, permit, or certificate is knowingly displayed
8 upon a vehicle other than the vehicle for which issued;

9 (6) the department determines that the owner of a vehicle has
10 committed an offense under this chapter involving the registration or the certificate,
11 plate, or permit to be suspended or revoked;

12 (7) the vehicle has been reported to the department as stolen or
13 unlawfully converted;

14 (8) the department is otherwise required to do so under the laws of this
15 state; [OR]

16 (9) the department determines that the vehicle owner has violated the
17 requirements of AS 28.10.146 or 28.10.147;

18 **(10) the department determines that a repair to a commercial**
19 **motor vehicle, ordered by the department under regulations adopted under**
20 **AS 28.05.011, was not completed after the owner or operator represented to the**
21 **department that the repair had been completed; or**

22 **(11) the owner or operator of a commercial motor vehicle has**
23 **placed a commercial motor vehicle back in service after it has been placed out of**
24 **service by the department without having it reinspected as required under**
25 **regulations adopted under AS 28.05.011.**

26 * Sec. 5. AS 28.15.101(c) is amended to read:

27 (c) A driver's license may be renewed by mail if the licensee complies with
28 (a) of this section, except that a license may not be renewed by mail if

29 (1) [THE APPLICANT'S LICENSE, WITHIN THE PREVIOUS FIVE
30 YEARS, HAS BEEN REVOKED BY A COURT AFTER CONVICTION FOR AN
31 OFFENSE UNDER AS 28.15.181(a) OR ANOTHER LAW OR ORDINANCE WITH

1 SUBSTANTIALLY SIMILAR ELEMENTS;

2 (2) THE APPLICANT’S LICENSE, WITHIN THE PREVIOUS FIVE
3 YEARS, HAS BEEN SUSPENDED, REVOKED, OR DENIED BY THE
4 DEPARTMENT UNDER AS 28.15.165 OR 28.15.251;

5 (3) THE APPLICANT, WITHIN THE PREVIOUS FIVE YEARS, HAS
6 BEEN CONVICTED OF A MOVING TRAFFIC VIOLATION;

7 (4) the most recent renewal of the applicant’s license was by mail; or

8 (2) [(5)] the applicant is 69 years of age or older on the expiration date
9 of the driver’s license being renewed.

10 * **Sec. 6.** AS 28.15.166(d) is amended to read:

11 (d) A person who has requested a hearing under this section and who fails to
12 **attend or** appear at the hearing, for reasons other than lack of actual notice of the
13 hearing or physical incapacity such as hospitalization or incarceration, waives the right
14 to a hearing. The determination of the department that is based upon the enforcement
15 officer’s report becomes final.

16 * **Sec. 7.** AS 28.15.166(e) is amended to read:

17 (e) **The** [NOTWITHSTANDING AS 28.05.141(b), THE] hearing under this
18 section **must** [SHALL] be held **by telephone unless the hearing officer finds that**
19 **a telephonic hearing would substantially prejudice the rights of the person**
20 **involved in the hearing or that an in-person hearing is necessary to decide the**
21 **issues to be presented in the hearing. An in-person hearing must be held** at the
22 office of the department nearest to the residence of the person **involved in**
23 [REQUESTING] the hearing unless

24 [(1) A DISTRICT COURT JUDGE OR A MAGISTRATE HAS BEEN
25 DESIGNATED AS A HEARING OFFICER IN THE MATTER BY THE
26 COMMISSIONER; OR

27 (2)] the department and the person agree that the hearing is to be held
28 elsewhere.

29 * **Sec. 8.** AS 28.15.166(f) is amended to read:

30 (f) A review under this section shall be held before a hearing officer
31 designated by the commissioner. [UPON THE CONSENT OF THE

1 ADMINISTRATIVE DIRECTOR OF THE STATE COURT SYSTEM, THE
2 COMMISSIONER MAY DESIGNATE A DISTRICT COURT JUDGE OR A
3 MAGISTRATE TO SERVE AS THE HEARING OFFICER.] The hearing officer has
4 [SHALL HAVE] authority to

- 5 (1) administer oaths and affirmations;
- 6 (2) examine witnesses and take testimony;
- 7 (3) receive relevant evidence;
- 8 (4) issue subpoenas, take depositions, or cause depositions or
9 interrogatories to be taken;
- 10 (5) regulate the course and conduct of the hearing;
- 11 (6) make a final ruling on the issue.

12 * **Sec. 9.** AS 28.20.050(a) is amended to read:

13 (a) The provisions of this chapter requiring deposit of security and suspension
14 for failure to deposit security apply to the driver and owner of a vehicle subject to
15 registration under the laws of this state that is involved in any manner in an accident
16 in this state resulting in bodily injury to or death of a person or damage to the property
17 of any one person exceeding \$1,500 [\$500].

18 * **Sec. 10.** AS 28.20.050(e) is amended to read:

19 (e) A peace officer investigating an accident that results in bodily injury to or
20 the death of a person or damage to the property of a person exceeding \$1,500 [\$500]
21 shall inform persons involved in the accident in writing of the requirements of this
22 chapter as they apply to suspension of an operator's license or driving privileges.

23 * **Sec. 11.** AS 28.20.100(c) is amended to read:

24 (c) If the department evaluates the injuries or damage to a minor in an amount
25 not more than \$1,500 [\$500], the department may accept, for the purposes of this
26 chapter only, evidence of a release from liability executed by a parent [NATURAL]
27 or legal guardian on behalf of the minor without court approval.

28 * **Sec. 12.** AS 28.20.230(a) is amended to read:

29 (a) The provisions of this chapter requiring the deposit of proof of financial
30 responsibility for the future apply to persons who are convicted of or forfeit bail for
31 certain offenses under motor vehicle laws or who, by ownership or operation of a

1 vehicle of a type subject to registration under AS 28.10, are involved in an accident
2 in this state that results in bodily injury to or death of a person or damage to the
3 property of any one person exceeding \$1,500 [\$500].

4 * **Sec. 13.** AS 28.20.260(a) is amended to read:

5 (a) Upon receipt by the department of the report of an accident resulting in
6 bodily injury to or death of a person, or [PROPERTY] damage to the property of
7 any one person exceeding \$1,500 [\$500], the department shall suspend the license of
8 the driver of a motor vehicle involved in the accident unless the driver or owner

9 (1) has previously furnished or immediately furnishes security required
10 by this chapter, or is excepted from furnishing security under AS 28.20.060; [,] and

11 (2) maintains proof of financial responsibility for three years following
12 the accident.

13 * **Sec. 14.** AS 28.22.021 is amended to read:

14 Sec. 28.22.021. REQUIREMENT OF PROOF OF MOTOR VEHICLE
15 LIABILITY INSURANCE. The owner or operator of a motor vehicle required to have
16 motor vehicle liability insurance that complies with this chapter or a certificate of self-
17 insurance that complies with AS 28.20.400, shall show proof of this insurance when
18 that person is involved in an accident that results in bodily injury to or death of a
19 person, or damage to the property of a person exceeding \$1,500 [\$500].

20 * **Sec. 15.** AS 28.22.041(h) is amended to read:

21 (h) Subsection (a) does not apply to a person who is required to provide proof
22 under AS 28.22.021 if the person

23 (1) is involved in an accident that results in property damage of less
24 than \$1,500 [\$1,000] and the damage occurs only to the property of the person
25 required to show proof of insurance;

26 (2) not later than 15 days after the accident, provides proof of motor
27 vehicle liability insurance that complies with this chapter or a certificate of self-
28 insurance that complies with AS 28.20.400 to the department; and

29 (3) establishes by a preponderance of the evidence that the failure to
30 have in effect motor vehicle liability insurance or to self-insure as required by this
31 chapter at the time of the accident was due to circumstances beyond the control of the

1 person.

2 * **Sec. 16.** AS 28.32.900(1) is amended to read:

3 (1) "commercial motor vehicle" means a motor vehicle or a
4 combination of a motor vehicle and one or more other vehicles

5 (A) used to transport passengers or property;

6 (B) used upon a highway or vehicular way [CONNECTED TO

7 (i) THE LAND-CONNECTED STATE HIGHWAY
8 SYSTEM; OR

9 (ii) A LAND HIGHWAY OR VEHICULAR WAY
10 WITH AN AVERAGE DAILY TRAFFIC VOLUME GREATER
11 THAN 499]; and

12 (C) which

13 (i) has a gross vehicle weight rating or gross
14 combination weight rating greater than 10,000 pounds;

15 (ii) is designed to transport more than 15 passengers,
16 including the driver; or

17 (iii) is used in the transportation of materials found by
18 the United States Secretary of Transportation to be hazardous for
19 purposes of 49 U.S.C. 1801 - 1813 (Hazardous Materials Transportation
20 Act);

21 (D) except that the following vehicles meeting the criteria in
22 (A) - (C) of this paragraph are not commercial vehicles:

23 (i) emergency or fire equipment that is necessary to the
24 preservation of life or property;

25 (ii) farm vehicles that are controlled and operated by a
26 farmer; used to transport agricultural products, farm machinery, or farm
27 supplies to or from that farmer's farm; not used in the operations of a
28 common or contract motor carrier; and used within 150 [300] miles of
29 the farmer's farm;

30 (iii) school buses;

31 (iv) vehicles owned and operated by the federal

1 government unless the vehicle is used to transport property of the
2 general public for compensation in competition with other persons who
3 own or operate a commercial motor vehicle subject to this chapter, and
4 except to the extent that regulation of vehicles operated by the federal
5 government is permitted by federal law; and

6 (v) vehicles used exclusively for purposes other than
7 commercial purposes;

8 * **Sec. 17.** AS 28.32.900(2) is amended to read:

9 (2) "commercial purposes" means activities for which a person receives
10 direct monetary compensation or activities for which a person receives no direct
11 monetary compensation but which are incidental to and done in furtherance of the
12 person's [PRIMARY] business;

13 * **Sec. 18.** AS 28.33.130(a) is amended to read:

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

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

16 (A) consumed or was under the influence of

17 (i) an alcoholic beverage;

18 (ii) a controlled substance not prescribed by a physician;

19 or

20 (iii) a controlled substance prescribed by a physician that
21 might impair a person's ability to operate a commercial motor vehicle;

22 or

23 (B) had any measurable alcohol concentration within the blood
24 or breath or any detectable presence of alcohol; [OR]

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

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

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

31 **(3) after being placed out of service for violation of a regulation**

1 adopted under AS 28.05.011; or

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

3 * **Sec. 19.** AS 28.33.140(a) is amended to read:

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

7 (1) operating a commercial motor vehicle while intoxicated in violation
8 of AS 28.33.030;

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

10 (3) operating a motor vehicle while intoxicated [,] in violation of
11 AS 28.35.030;

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

15 (5) a felony under state or federal law, which was facilitated because
16 the person used a commercial motor vehicle; [OR]

17 (6) a serious traffic violation; or

18 (7) driving after being placed out of service in violation of
19 regulations adopted under AS 28.05.011.

20 * **Sec. 20.** AS 28.33.140 is amended by adding a new subsection to read:

21 (j) A court convicting a person of an offense described in (a)(7) of this section
22 shall disqualify that person from driving a commercial motor vehicle for the following
23 periods: (1) if the person has not been previously convicted of violating an out-of-
24 service order, not less than 90 days; (2) if the person has been previously convicted
25 once of violating an out-of-service order, not less than one year; (3) if the person has
26 been previously convicted more than once of violating an out-of-service order, not less
27 than three years. In this subsection, "previously convicted" means having been
28 convicted in this or another jurisdiction of an offense described in (a)(7) of this section
29 within 10 years preceding the date of the present offense.

30 * **Sec. 21.** AS 28.33.190 is amended by adding a new paragraph to read:

31 (11) "out-of-service order" means an order issued under regulations

1 adopted under AS 28.05.011 that prohibits an owner or operator of a commercial
2 motor vehicle from operating a commercial motor vehicle.

3 * **Sec. 22.** AS 28.35.080(a) is amended to read:

4 (a) The driver of a vehicle involved in an accident resulting in bodily injury
5 to or death of a person or total property damage to an apparent extent of \$1,500 [\$500]
6 or more shall immediately by the quickest means of communication give notice of the
7 accident to the local police department if the accident occurs within a municipality,
8 otherwise to the Department of Public Safety.

9 * **Sec. 23.** AS 28.35.080(b) is amended to read:

10 (b) The driver of a vehicle involved in an accident resulting in bodily injury
11 to or death of a person or total property damage to an apparent extent of \$1,500 [\$500]
12 or more shall, within 10 days after the accident, forward a written report of the
13 accident to the Department of Public Safety and to the local police department if the
14 accident occurs within a municipality. A report is not required under this subsection
15 if the accident is investigated by a peace officer.

16 * **Sec. 24.** AS 28.40.100(a)(2) is amended to read:

17 (2) "commercial motor vehicle" means a motor vehicle or a
18 combination of a motor vehicle and one or more other vehicles

19 (A) used to transport passengers or property;

20 (B) used upon a land highway or vehicular way [CONNECTED

21 TO

22 (i) THE LAND CONNECTED STATE HIGHWAY
23 SYSTEM; OR

24 (ii) A LAND HIGHWAY OR VEHICULAR WAY
25 WITH AN AVERAGE DAILY TRAFFIC VOLUME GREATER
26 THAN 499]; and

27 (C) that

28 (i) has a gross vehicle weight rating or gross
29 combination weight rating greater than 26,000 pounds;

30 (ii) is designed to transport more than 15 passengers,
31 including the driver; or

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(iii) is used in the transportation of materials found by the United States Secretary of Transportation to be hazardous for purposes of 49 U.S.C. 1801 - 1813 (Hazardous Materials Transportation Act);

(D) except that the following vehicles meeting the criteria in (A) - (C) of this paragraph are not commercial vehicles:

(i) emergency or fire equipment that is necessary to the preservation of life or property;

(ii) farm vehicles that are controlled and operated by a farmer; used to transport agricultural products, farm machinery, or farm supplies to or from that farmer's farm; not used in the operations of a common or contract motor carrier; and used within 150 miles of the farmer's farm; and

(iii) recreational vehicles used exclusively for purposes other than commercial purposes;

* **Sec. 25.** AS 28.40.100(a)(3) is amended to read:

(3) "commercial purposes" means activities for which a person receives direct monetary compensation or activities for which a person receives no direct monetary compensation but that are incidental to and done in furtherance of the person's [PRIMARY] business;

* **Sec. 26.** AS 28.10.108(b) and 28.10.108(c) are repealed.

* **Sec. 27.** This Act takes effect July 1, 1996.