

CS FOR HOUSE BILL NO. 517(TRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE TRANSPORTATION COMMITTEE

**Offered: 3/11/96
Referred: Judiciary**

Sponsor(s): HOUSE TRANSPORTATION COMMITTEE

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 ownership of certain
4 abandoned motor vehicles; relating to renewal of a driver's license by mail;
5 relating to commercial driver training schools; increasing the property damage
6 amounts for proof of financial responsibility and proof of motor vehicle eligibility
7 in order to lawfully operate a motor vehicle in the state; relating to certain
8 notifications in accidents involving property damage; relating to motor vehicle
9 registration procedures; and providing for an effective date."**

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

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

12 (c) Records maintained by the department under this title or regulations

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

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

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

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

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

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

28 (a) The department may suspend or revoke the registration of a vehicle, the
29 certificate of registration or registration plates for a vehicle, or a special permit when
30 (1) the department determines that the registration or certificate, plate,
31 or permit was fraudulently procured or erroneously issued;

1 (2) the department determines that a registered vehicle is mechanically
2 unsafe to be driven or moved on a highway, vehicular way or area, or other public
3 property in this state and the vehicle has been seized or impounded under
4 AS 28.05.091;

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

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

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

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

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

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

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

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

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

28 * Sec. 5. AS 28.11 is amended by adding a new section to read:

29 Sec. 28.11.025. CLAIM OF OWNERSHIP BY PRIVATE PROPERTY
30 OWNER. (a) In addition to removal of an abandoned vehicle under AS 28.11.020,
31 a vehicle that is left standing or parked on private property without the consent of the

1 private property owner and for a period in excess of three years is presumed to be an
2 abandoned vehicle and title to the vehicle may be transferred to the private property
3 owner as provided under this section. A person who claims ownership of an
4 abandoned vehicle under this section shall provide notice of the claim to the vehicle
5 owner of record and to lienholders in the manner prescribed for giving notice by the
6 department under AS 28.05.121. The notice must state the location of the vehicle and
7 the period of abandonment. If the vehicle is not registered in this state or the name
8 and address of the registered or legal owner or lienholder cannot be ascertained, notice
9 shall be given by publication in the manner prescribed in the rules of the court for
10 service of process by publication.

11 (b) If an abandoned vehicle is not reclaimed within 30 days after notice is
12 given as required under (a) of this section, the title to the vehicle vests with the owner
13 of the private property on which the vehicle is located. Upon application, the
14 department shall issue a new certificate of title to a vehicle whose ownership is
15 transferred under this section.

16 * **Sec. 6.** AS 28.15.101(c) is amended to read:

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

19 (1) [THE APPLICANT'S LICENSE, WITHIN THE PREVIOUS FIVE
20 YEARS, HAS BEEN REVOKED BY A COURT AFTER CONVICTION FOR AN
21 OFFENSE UNDER AS 28.15.181(a) OR ANOTHER LAW OR ORDINANCE WITH
22 SUBSTANTIALLY SIMILAR ELEMENTS;

23 (2) THE APPLICANT'S LICENSE, WITHIN THE PREVIOUS FIVE
24 YEARS, HAS BEEN SUSPENDED, REVOKED, OR DENIED BY THE
25 DEPARTMENT UNDER AS 28.15.165 OR 28.15.251;

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

28 (4)] the most recent renewal of the applicant's license was by mail; or

29 (2) [(5)] the applicant is 69 years of age or older on the expiration date
30 of the driver's license being renewed.

31 * **Sec. 7.** AS 28.15.166(d) is amended to read:

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

6 * **Sec. 8.** AS 28.15.166(e) is amended to read:

7 (e) **The** [NOTWITHSTANDING AS 28.05.141(b), THE] hearing under this
8 section **must** [SHALL] be held **by telephone unless the hearing officer finds that**
9 **a telephonic hearing would substantially prejudice the rights of the person**
10 **involved in the hearing or that an in-person hearing is necessary to decide the**
11 **issues to be presented in the hearing. An in-person hearing must be held** at the
12 office of the department nearest to the residence of the person **involved in**
13 [REQUESTING] the hearing unless

14 [(1) A DISTRICT COURT JUDGE OR A MAGISTRATE HAS BEEN
15 DESIGNATED AS A HEARING OFFICER IN THE MATTER BY THE
16 COMMISSIONER; OR

17 [(2)] the department and the person agree that the hearing is to be held
18 elsewhere.

19 * **Sec. 9.** AS 28.15.166(f) is amended to read:

20 (f) A review under this section shall be held before a hearing officer
21 designated by the commissioner. [UPON THE CONSENT OF THE
22 ADMINISTRATIVE DIRECTOR OF THE STATE COURT SYSTEM, THE
23 COMMISSIONER MAY DESIGNATE A DISTRICT COURT JUDGE OR A
24 MAGISTRATE TO SERVE AS THE HEARING OFFICER.] The hearing officer **has**
25 [SHALL HAVE] authority to

- 26 (1) administer oaths and affirmations;
27 (2) examine witnesses and take testimony;
28 (3) receive relevant evidence;
29 (4) issue subpoenas, take depositions, or cause depositions or
30 interrogatories to be taken;
31 (5) regulate the course and conduct of the hearing;

1 (6) make a final ruling on the issue.

2 * **Sec. 10.** AS 28.17.041(b) is amended to read:

3 (b) Regulations adopted under this section must state the requirements for a
4 school license, including requirements concerning manner and form of application,
5 location, place of business, facilities, records, equipment, courses and standards of
6 instruction, instructors, previous records of the school and instructors, financial
7 statements, schedule of fees and charges, character and reputation of the operators and
8 instructors, vehicle equipment and condition, inspection during reasonable business
9 hours, insurance or bonds in the sum and with the provisions the commissioner
10 considers necessary, and other matters the commissioner may prescribe for the
11 protection of the public. **Regulations regarding courses and standards of**
12 **instruction for**

13 **(1) noncommercial motor vehicles must be consistent with**
14 **standards adopted by the commissioner; and**

15 **(2) commercial motor vehicles must meet or exceed the model**
16 **curriculum for training tractor-trailer drivers adopted by the United States**
17 **Department of Transportation.**

18 * **Sec. 11.** AS 28.17.061 is repealed and reenacted to read:

19 Sec. 28.17.061. CIVIL PENALTY. (a) If the department determines a person
20 has violated a provision of this chapter, or a regulation adopted under this chapter, the
21 department may impose a civil penalty not to exceed \$5,000. In determining the
22 amount of a civil penalty imposed under this section, the department shall consider the
23 economic benefit resulting from the violation, the person's prior violations under this
24 section, and the seriousness of the violation.

25 (b) Before imposing a civil penalty under this section, the department shall
26 provide notice of the civil penalty and an opportunity to request an administrative
27 hearing. If a hearing is not requested within 30 days after notice of the civil penalty
28 is received, the right to a hearing is considered waived. If a hearing is requested, the
29 hearing shall be conducted as provided under AS 28.05.141.

30 (c) If a person fails to pay a civil penalty imposed under this section within
31 30 days after the civil penalty is imposed by the department, or if the civil penalty is

1 stayed pending an appeal, within 10 days after the court enters a final judgment in
2 favor of the department, the department shall notify the attorney general. The attorney
3 general may commence a civil action to recover the amount of the civil penalty.

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

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

10 * **Sec. 13.** AS 28.20.050(e) is amended to read:

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

15 * **Sec. 14.** AS 28.20.100(c) is amended to read:

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

20 * **Sec. 15.** AS 28.20.230(a) is amended to read:

21 (a) The provisions of this chapter requiring the deposit of proof of financial
22 responsibility for the future apply to persons who are convicted of or forfeit bail for
23 certain offenses under motor vehicle laws or who, by ownership or operation of a
24 vehicle of a type subject to registration under AS 28.10, are involved in an accident
25 in this state that results in bodily injury to or death of a person or damage to the
26 property of any one person exceeding \$1,500 [\$500].

27 * **Sec. 16.** AS 28.20.260(a) is amended to read:

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

1 (1) has previously furnished or immediately furnishes security required
2 by this chapter, or is excepted from furnishing security under AS 28.20.060; [,] and
3 (2) maintains proof of financial responsibility for three years following
4 the accident.

5 * **Sec. 17.** AS 28.22.021 is amended to read:

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

12 * **Sec. 18.** AS 28.22.041(h) is amended to read:

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

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

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

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

25 * **Sec. 19.** AS 28.32.900(1) is amended to read:

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

28 (A) used to transport passengers or property;

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

30 (i) THE LAND-CONNECTED STATE HIGHWAY
31 SYSTEM; OR

1 (ii) A LAND HIGHWAY OR VEHICULAR WAY
2 WITH AN AVERAGE DAILY TRAFFIC VOLUME GREATER
3 THAN 499]; and

4 (C) which

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

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

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

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

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

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

22 (iii) school buses;

23 (iv) vehicles owned and operated by the federal
24 government unless the vehicle is used to transport property of the
25 general public for compensation in competition with other persons who
26 own or operate a commercial motor vehicle subject to this chapter, and
27 except to the extent that regulation of vehicles operated by the federal
28 government is permitted by federal law; and

29 (v) vehicles used exclusively for purposes other than
30 commercial purposes;

31 * **Sec. 20.** AS 28.32.900(2) is amended to read:

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

5 * **Sec. 21.** AS 28.33.130(a) is amended to read:

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

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

8 (A) consumed or was under the influence of

9 (i) an alcoholic beverage;

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

11 or

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

14 or

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

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

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

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

23 **(3) after being placed out of service for violation of a regulation**
24 **adopted under AS 28.05.011; or**

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

26 * **Sec. 22.** AS 28.33.140(a) is amended to read:

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

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

- 1 (2) refusal to submit to a chemical test in violation of AS 28.35.032;
2 (3) operating a motor vehicle while intoxicated [,] in violation of
3 AS 28.35.030;
4 (4) leaving the scene of an accident in violation of AS 28.35.060, or
5 failing to file, or providing false information in, an accident report in violation of
6 AS 28.35.110;
7 (5) a felony under state or federal law, which was facilitated because
8 the person used a commercial motor vehicle; [OR]
9 (6) a serious traffic violation; or
10 (7) driving after being placed out of service in violation of
11 regulations adopted under AS 28.05.011.

12 * **Sec. 23.** AS 28.33.140 is amended by adding a new subsection to read:

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

22 * **Sec. 24.** AS 28.33.190 is amended by adding a new paragraph to read:

23 (11) "out-of-service order" means an order issued under regulations
24 adopted under AS 28.05.011 that prohibits an owner or operator of a commercial
25 motor vehicle from operating a commercial motor vehicle.

26 * **Sec. 25.** AS 28.35.080(a) is amended to read:

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

1 * **Sec. 26.** AS 28.35.080(b) is amended to read:

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

8 * **Sec. 27.** AS 28.40.100(a)(2) is amended to read:

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

11 (A) used to transport passengers or property;

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

13 TO

14 (i) THE LAND CONNECTED STATE HIGHWAY
15 SYSTEM; OR

16 (ii) A LAND HIGHWAY OR VEHICULAR WAY
17 WITH AN AVERAGE DAILY TRAFFIC VOLUME GREATER
18 THAN 499]; and

19 (C) that

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

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

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

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

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

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

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

8 * **Sec. 28.** AS 28.40.100(a)(3) is amended to read:

9 (3) "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 that are incidental to and done in furtherance of the
12 person's [PRIMARY] business;

13 * **Sec. 29.** AS 28.10.108(b) and 28.10.108(c) are repealed.

14 * **Sec. 30.** This Act takes effect July 1, 1996.