

CS FOR HOUSE BILL NO. 517(TRA)(title am)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE TRANSPORTATION COMMITTEE

Amended: 3/25/96

Offered: 3/11/96

Sponsor(s): HOUSE TRANSPORTATION COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to motor vehicle records and hearings of the Department of
2 Public Safety; increasing the period under which a person may drive a motor
3 vehicle under a temporary permit; relating to ownership of certain abandoned
4 motor vehicles; relating to suspension or revocation of a motor vehicle
5 registration or special permit; relating to renewal of a driver's license by mail;
6 relating to procedures applicable to administrative revocation of a driver's
7 license; relating to commercial driver training schools; increasing the property
8 damage amounts for proof of financial responsibility and proof of motor vehicle
9 eligibility in order to lawfully operate a motor vehicle in the state; amending
10 the definition of 'commercial motor vehicle'; relating to prohibited operation of
11 a commercial motor vehicle and to disqualification from driving a commercial
12 motor vehicle; relating to certain notifications in accidents involving property

1 damage; relating to motor vehicle registration procedures; and providing for an
2 effective date."

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

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

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

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

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

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

28 (b) A licensed vehicle dealer may issue to the purchaser of a vehicle sold by
29 the dealer a temporary permit to drive the vehicle. A permit is effective for a period
30 not to exceed 60 [30] days. The commissioner shall adopt regulations governing the

1 issuance of permits under this section.

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

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

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

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

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

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

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

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

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

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

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

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

30 **(11) the owner or operator of a commercial motor vehicle has**
31 **placed a commercial motor vehicle back in service after it has been placed out of**

1 service by the department without having it reinspected as required under
2 regulations adopted under AS 28.05.011.

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

4 Sec. 28.11.025. CLAIM OF OWNERSHIP BY PRIVATE PROPERTY
5 OWNER. (a) In addition to removal of an abandoned vehicle under AS 28.11.020,
6 a vehicle that is left standing or parked on private property without the consent of the
7 private property owner and for a period in excess of three years is presumed to be an
8 abandoned vehicle and title to the vehicle may be transferred to the private property
9 owner as provided under this section. A person who claims ownership of an
10 abandoned vehicle under this section shall provide notice of the claim to the vehicle
11 owner of record and to lienholders in the manner prescribed for giving notice by the
12 department under AS 28.05.121. The notice must state the location of the vehicle and
13 the period of abandonment. If the vehicle is not registered in this state or the name
14 and address of the registered or legal owner or lienholder cannot be ascertained, notice
15 shall be given by publication in the manner prescribed in the rules of the court for
16 service of process by publication.

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

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

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

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

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

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

3 (4)] the most recent renewal of the applicant's license was by mail; or
4 (2) [(5)] the applicant is 69 years of age or older on the expiration date
5 of the driver's license being renewed.

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

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

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

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

20 [(1) A DISTRICT COURT JUDGE OR A MAGISTRATE HAS BEEN
21 DESIGNATED AS A HEARING OFFICER IN THE MATTER BY THE
22 COMMISSIONER; OR

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

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

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

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

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

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

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

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

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

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

31 (b) Before imposing a civil penalty under this section, the department shall

1 provide notice of the civil penalty and an opportunity to request an administrative
2 hearing. If a hearing is not requested within 30 days after notice of the civil penalty
3 is received, the right to a hearing is considered waived. If a hearing is requested, the
4 hearing shall be conducted as provided under AS 28.05.141.

5 (c) If a person fails to pay a civil penalty imposed under this section within
6 30 days after the civil penalty is imposed by the department, or if the civil penalty is
7 stayed pending an appeal, within 10 days after the court enters a final judgment in
8 favor of the department, the department shall notify the attorney general. The attorney
9 general may commence a civil action to recover the amount of the civil penalty.

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

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

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

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

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

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

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

27 (a) The provisions of this chapter requiring the deposit of proof of financial
28 responsibility for the future apply to persons who are convicted of or forfeit bail for
29 certain offenses under motor vehicle laws or who, by ownership or operation of a
30 vehicle of a type subject to registration under AS 28.10, are involved in an accident
31 in this state that results in bodily injury to or death of a person or damage to the

1 property of any one person exceeding \$1,500 [\$500].

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

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

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

9 (2) maintains proof of financial responsibility for three years following
10 the accident.

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

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

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

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

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

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

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

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

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

3 (A) used to transport passengers or property;

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

5 (i) THE LAND-CONNECTED STATE HIGHWAY
6 SYSTEM; OR

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

10 (C) which

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

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

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

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

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

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

28 (iii) school buses;

29 (iv) vehicles owned and operated by the federal
30 government unless the vehicle is used to transport property of the
31 general public for compensation in competition with other persons who

1 own or operate a commercial motor vehicle subject to this chapter, and
2 except to the extent that regulation of vehicles operated by the federal
3 government is permitted by federal law; and

4 (v) vehicles used exclusively for purposes other than
5 commercial purposes;

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

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

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

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

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

14 (A) consumed or was under the influence of

15 (i) an alcoholic beverage;

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

17 or

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

20 or

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (6) a serious traffic violation; or

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

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

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

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

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

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

2 (a) 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 immediately by the quickest means of communication give notice of the
5 accident to the local police department if the accident occurs within a municipality,
6 otherwise to the Department of Public Safety.

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

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

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

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

17 (A) used to transport passengers or property;

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

19 TO

20 (i) THE LAND CONNECTED STATE HIGHWAY
21 SYSTEM; OR

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

25 (C) that

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

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

30 (iii) is used in the transportation of materials found by
31 the United States Secretary of Transportation to be hazardous for

1 purposes of 49 U.S.C. 1801 - 1813 (Hazardous Materials Transportation
2 Act);

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

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

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

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

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

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

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

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