

Introduced in the House: 1/13/97
Referred: Transportation, Labor and Commerce, Finance

Introduced in the Senate: 1/13/97
Referred: Transportation, State Affairs, Judiciary, Finance

EXECUTIVE ORDER NO. 98

1 Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance
2 with AS 24.08.210, I order the following:

3 * **Section 1. FINDINGS.** (a) As governor, I find that it would be in the best interests of
4 efficient administration to transfer the following state agency functions to the Department of
5 Transportation and Public Facilities:

6 (1) enforcement of size and weight standards for vehicles, inspection of scales
7 and other measuring and weight devices used in trade and commerce and monitoring of
8 commercial practices relating to the measuring of various products; and enforcement of air
9 carrier financial responsibility requirements, by the Department of Commerce and Economic
10 Development;

11 (2) administration of commercial motor vehicle safety inspection programs and
12 of the state’s commercial motor vehicle financial responsibility program, by the Department
13 of Public Safety.

14 (b) The consolidation of these programs in one state agency should result in greater
15 convenience to industry and the public, as well as more efficient management of the
16 programs.

17 * **Sec. 2.** AS 02 is amended by adding a new chapter to read:

Chapter 40. Responsibilities of Air Carriers.

18 **Sec. 02.40.010. Air carrier financial responsibility.** (a) A person who
19 carries passengers or freight for commercial purposes intrastate in an aircraft shall
20 procure and maintain security in the following minimum amounts:

21 (1) \$150,000 per seat for bodily injury or death in a single occurrence;

22 and
23

24 (2) \$100,000 for property damage in a single occurrence.

25 (b) Evidence of security required under (a) of this section shall be filed with

1 the department and must be

2 (1) a policy or certificate of insurance issued by an insurer acceptable
3 to the department; or

4 (2) a bond of a surety company licensed to write surety bonds in the
5 state; or

6 (3) evidence accepted by the department, showing ability to self-insure;
7 or

8 (4) other security approved by the department.

9 (c) The department may authorize department personnel to enforce this section
10 and may adopt procedural regulations necessary to implement this section. Upon
11 finding a violation the department may issue a stop use order.

12 (d) A policy of insurance, surety bond, or other form of security may not be
13 canceled on less than 30 days' written notice to the department. This requirement
14 must be clearly stated in the policy or endorsement for an insurance policy submitted
15 as proof of financial responsibility under AS 02.40.020(a)(1). The 30-day notice
16 period is measured from the date on which the department receives notice.

17 (e) A person who violates this section is guilty of a class A misdemeanor and
18 is punishable by a fine of not less than \$1,000 or more than \$5,000 for each day of
19 violation but not to exceed \$10,000 for each violation.

20 **Sec. 02.40.020. Certification of compliance of air carriers.** (a) A person
21 may not use an aircraft in air commerce before obtaining an annual certificate of
22 compliance for that aircraft from the department. The department may issue a
23 certificate of compliance for one aircraft or a fleet of two or more aircraft. The
24 department shall issue or renew a certificate of compliance upon application and
25 presentation of

26 (1) proof of financial responsibility required under AS 02.40.010;

27 (2) proof of compliance with Federal Aviation Administration
28 requirements, and, where applicable, federal certification for scheduled airline service.

29 (b) The annual fee for a certificate of compliance for one aircraft and for a
30 fleet of two or more aircraft shall be set by the department by regulation. The
31 certificate is valid for a calendar year. The certificate shall be visible to boarding

1 passengers.

2 (c) The department may authorize department personnel to enforce this section
3 and may adopt procedural regulations necessary to implement this section. Upon
4 finding a violation the department may issue a stop use order.

5 (d) A person who violates this section is guilty of a class B misdemeanor and
6 is punishable by a fine of not less than \$500 or more than \$1,000.

7 **Sec. 02.40.990. Definitions.** In this chapter,

8 (1) "air carrier" means a person undertaking to engage in air
9 commerce, whether directly or indirectly, or by lease, contract, or any other
10 arrangement, and whether over regular or irregular routes;

11 (2) "air commerce" means carriage by aircraft of persons or freight for
12 commercial purposes or hire in intrastate commerce, including the carriage by aircraft
13 of persons or freight that move partly by aircraft and partly by other forms of
14 transportation;

15 (3) "aircraft" means a propeller, rotor, or jet-powered device used or
16 designed for flight in the air;

17 (4) "commercial purposes" means activities for which the person
18 receives direct monetary compensation and does not include activities incidental to
19 and done in furtherance of the person's primary business;

20 (5) "department" means the Department of Transportation and Public
21 Facilities;

22 (6) "freight" means commodities, articles, and cargo, of whatever
23 nature or value, excluding garbage and trash.

24 * **Sec. 3.** AS 19.10.060 is amended by adding new subsections to read:

25 (b) The department shall operate motor vehicle weighing stations, issue
26 special written permits authorizing the operation of overweight and oversize vehicles,
27 establish fees for the overweight and oversize vehicle special permits, enforce the size,
28 weight, and load limitations adopted under this section, and establish regulations
29 relating to pilot car services and the enforcement of the size, weight, and load
30 limitations adopted under this section.

31 (c) The department shall adopt regulations necessary to implement a

1 commercial motor vehicle safety inspection program needed to avoid loss or
2 withholding of federal highway money.

3 * **Sec. 4.** AS 19.10 is amended by adding new sections to read:

4 **Article 4. Commercial Motor Vehicle Requirements.**

5 **Sec. 19.10.300. Financial responsibility.** (a) A person who carries
6 passengers or freight for hire intrastate in a commercial motor vehicle or a person
7 who carries freight in a motor vehicle for commercial purposes, or a person who rents
8 or leases a motor vehicle for the use of another to carry freight shall procure and
9 maintain security in the following minimum amounts:

10 (1) \$200,000 for property damage in a single occurrence;

11 (2) \$500,000 for bodily injury or death in a single occurrence.

12 (b) Evidence of security required under (a) of this section shall be filed with
13 the department and must be

14 (1) a policy or certificate of insurance issued by an insurer acceptable
15 to the department;

16 (2) a bond of a surety company licensed to write surety bonds in the
17 state;

18 (3) evidence accepted by the department, showing ability to self-insure;
19 or

20 (4) other security approved by the department.

21 (c) The department shall adopt regulations necessary to carry out the
22 provisions of this section. The department may authorize department personnel to
23 enforce this section and may adopt procedural regulations necessary to implement this
24 section.

25 (d) A policy of insurance, surety bond, or other form of security may not be
26 canceled on less than 30 days' written notice to the department. This requirement
27 must be clearly stated in the policy or endorsement for an insurance policy submitted
28 as proof of financial responsibility under (b)(1) of this section. The 30-day notice
29 period is measured from the date on which the department receives notice.

30 (e) A person who violates (a) of this section is guilty of a class B
31 misdemeanor and is punishable by a fine of not less than \$500 or more than \$1,000.

1 (f) Notwithstanding AS 19.10.399, in this section

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

4 (A) used to transport passengers or property;

5 (B) used upon a land highway or vehicular way; and

6 (C) that

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

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

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

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

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

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

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

26 (2) "freight" means commodities, articles, and cargo, of whatever
27 nature or value.

28 **Sec. 19.10.310. Commercial motor vehicle safety inspections.** A
29 commercial motor vehicle may not be operated after January 1, 1986 without a
30 certificate of inspection. An owner of a commercial motor vehicle shall renew a
31 certificate of inspection at least semi-annually at an official inspection station under

1 AS 19.10.320. The owner may renew a certificate of inspection at any time during
2 the office hours of the inspection station. An owner of a commercial motor vehicle
3 shall display a current sticker of inspection visible from outside the vehicle in a
4 location determined by the department.

5 **Sec. 19.10.320. Commercial motor vehicle inspection station permits.** (a)

6 A person may not operate an official commercial motor vehicle inspection station
7 without a permit from the department. The department shall approve an application
8 for permit to operate an inspection station if

9 (1) the department determines the inspection station has proper
10 equipment and competent personnel; and

11 (2) a commercial motor vehicle inspector certified under AS 19.10.330
12 is employed at the inspection station.

13 (b) After the department approves an application for a permit to operate an
14 official inspection station under (a) of this section, it shall provide the applicant with
15 a permit and certificates of inspection.

16 (c) Upon receipt of a permit from the department under (b) of this section, the
17 operator of an official commercial motor vehicle inspection station shall post the
18 permit in a conspicuous place at the location designated by the department.

19 (d) The department may enter the premises of the operator of an official
20 commercial motor vehicle inspection station during the station's business hours to
21 inspect the work of a certified commercial motor vehicle inspector or to determine if
22 the operator continues to meet the requirements of this section.

23 (e) The department shall suspend or revoke a permit of an operator of an
24 official commercial motor vehicle inspection station if the operator fails to meet the
25 requirements of this section.

26 (f) Upon notice of suspension or revocation of a permit under (e) of this
27 section, the operator of an official commercial motor vehicle inspection station shall
28 immediately terminate all inspection activities and, on demand by the department,
29 return the permit and all unissued certificates of inspection. The department shall
30 issue a receipt for all returned certificates of inspection.

31 (g) If a permit is suspended or revoked under (e) of this section, the

1 department shall give the holder of the permit a hearing within 10 days after receipt
2 of a written request filed with the department within 30 days after suspension or
3 revocation.

4 (h) A permit to operate an official commercial motor vehicle inspection
5 station may not be assigned, transferred, or used at a location other than the location
6 designated by the department.

7 **Sec. 19.10.330. Certification of commercial motor vehicle inspectors.** (a)
8 A person may not conduct a commercial motor vehicle inspection at an official
9 inspection station under AS 19.10.320 unless certified as a commercial motor vehicle
10 inspector by the department.

11 (b) The department may suspend or revoke the certification issued to a
12 commercial motor vehicle inspector under (a) of this section if the commercial motor
13 vehicle inspector improperly conducts inspections or fails to comply with a provision
14 of this section.

15 (c) If a certificate is revoked or suspended under (b) of this section the
16 department shall give a commercial motor vehicle inspector a hearing within 10 days
17 after the receipt of a written request filed with the commissioner within 30 days after
18 revocation or suspension.

19 **Sec. 19.10.340. Issuance of certificate of inspection.** (a) A person operating
20 an official commercial motor vehicle inspection station shall issue a certificate of
21 inspection to the owner of a commercial motor vehicle after determining that the
22 commercial motor vehicle is in a safe and mechanically sound condition.

23 (b) A person operating an official commercial motor vehicle inspection station
24 shall keep a record of each inspection performed at the station. The department may
25 audit the records of an official inspection station at any time.

26 **Sec. 19.10.350. Falsely representing to be an official station.** (a) A person
27 may not represent a place as an official commercial motor vehicle inspection station
28 unless the station is operating under a valid permit issued by the department under
29 AS 19.10.320.

30 (b) A person may not issue a certificate of inspection under AS 19.10.340
31 unless the person holds a valid permit under AS 19.10.320.

1 **Sec. 19.10.360. Counterfeit certificates of inspection.** (a) A person may
2 not make, issue, or knowingly use an imitation or counterfeit of an official certificate
3 of inspection.

4 (b) A person may not knowingly display or issue a certificate of inspection
5 on a commercial motor vehicle unless the commercial motor vehicle has met the
6 requirements of AS 19.10.340(a).

7 **Sec. 19.10.370. Regulations.** The commissioner shall adopt procedural
8 regulations appropriate to achieve compatibility with other western states and
9 procedural regulations necessary to implement AS 19.10.310 - 19.10.399.

10 **Sec. 19.10.380. Criminal penalty.** A person who violates a provision of
11 AS 19.10.310 - 19.10.399 is guilty of a class B misdemeanor.

12 **Sec. 19.10.399. Definitions.** In AS 19.10.300 - 19.10.399,

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

15 (A) used to transport passengers or property;

16 (B) used upon a highway or vehicular way; and

17 (C) that

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

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

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

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

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

30 (ii) farm vehicles that are controlled and operated by a
31 farmer; used to transport agricultural products, farm machinery, or farm

1 supplies to or from that farmer's farm; not used in the operations of a
2 common or contract motor carrier; and used within 150 miles of the
3 farmer's farm;

4 (iii) school buses;

5 (iv) vehicles owned and operated by the federal
6 government unless the vehicle is used to transport property of the
7 general public for compensation in competition with other persons who
8 own or operate a commercial motor vehicle subject to AS 19.10.310 -
9 19.10.399, and except to the extent that regulation of vehicles operated
10 by the federal government is permitted by federal law; and

11 (v) vehicles used exclusively for purposes other than
12 commercial purposes;

13 (2) "commercial purposes" means activities for which a person receives
14 direct monetary compensation or activities for which a person receives no direct
15 monetary compensation but that are incidental to and done in furtherance of the
16 person's business;

17 (3) "commissioner" means the commissioner of transportation and
18 public facilities;

19 (4) "department" means the Department of Transportation and Public
20 Facilities;

21 (5) "gross combination weight rating" means the value specified by the
22 manufacturer as the loaded weight of a combination vehicle, except that if a value has
23 not been specified by the manufacturer, the gross combination weight rating is
24 determined by adding the gross vehicle weight rating of the power unit and the total
25 weight of the towed unit and the load on the towed unit;

26 (6) "gross vehicle weight rating" means the value specified by the
27 manufacturer as the loaded weight of a single vehicle;

28 (7) "highway" means the entire width between the boundary lines of
29 every way that is publicly maintained when a part of it is open to the public for
30 purposes of vehicular travel, including but not limited to every street and the Alaska
31 state marine highway system but not vehicular ways or areas;

1 (8) "motor vehicle" means a vehicle that is self-propelled except a
2 vehicle moved by human or animal power;

3 (9) "official traffic-control device" means a sign, signal, marking, or
4 other device not inconsistent with AS 28, placed or erected by authority of a state or
5 municipal agency or official having jurisdiction, for the purpose of traffic regulating,
6 warning, and guiding;

7 (10) "owner" means a person, other than a lienholder, having the
8 property in or title to a vehicle, including but not limited to a person entitled to the
9 use and possession of a vehicle subject to a security interest in another person, but
10 exclusive of a lessee under a lease not intended as security;

11 (11) "traffic" means pedestrians, ridden or herded animals, vehicles,
12 and other conveyances either singly or together while using a highway or vehicular
13 way or area that is open to public use for purposes of travel;

14 (12) "vehicle" means a device in, upon, or by which a person or
15 property may be transported or drawn upon or immediately over a highway or
16 vehicular way or area; "vehicle" does not include

17 (A) devices used exclusively upon stationary rails or tracks;

18 (B) mobile homes;

19 (13) "vehicular way or area" means a way, path, or area, other than
20 a highway or private property, that is designated by official traffic control devices or
21 customary usage and that is open to the public for purposes of pedestrian or vehicular
22 travel, and which way or area may be restricted in use to pedestrians, bicycles, or
23 other specific types of vehicles as determined by the Department of Public Safety or
24 other agency having jurisdiction over the way, path, or area.

25 * **Sec. 5.** AS 28.05.011 is amended to read:

26 **Sec. 28.05.011. Duty of commissioner to adopt regulations.** The
27 commissioner shall, unless otherwise provided by statute, adopt regulations in
28 compliance with AS 44.62 (Administrative Procedure Act) necessary to carry out the
29 provisions of this title and other statutes the administration of which is vested in the
30 department. The regulations must include, but are not limited to:

31 (1) rules of the road relating to the driving, stopping, standing,

1 parking, and other conduct of vehicles, to pedestrians, and to official traffic control
2 devices;

3 (2) minimum equipment for vehicles, including, but not limited to,
4 minimum standards of compliance to be met by manufacturers and vehicle sales and
5 repairs businesses;

6 (3) inspection of vehicles, and the removal of vehicles from areas of
7 public use when they are found to be in a defective or unsafe condition;

8 (4) registration, titling, transfer, and abandonment of vehicles;

9 (5) licensing of drivers of vehicles and procedures for obtaining
10 limited license privileges;

11 (6) financial responsibility relating to vehicles **other than commercial**
12 **motor vehicles**;

13 (7) management of records of the department required for the
14 administration of this title and regulations adopted under this title, including
15 provisions for ensuring the accuracy of information contained in automated and
16 manual information retrieval systems;

17 (8) definitions of words and phrases used in this title and in
18 regulations adopted under this title unless otherwise provided by statute;

19 (9) registration of motor vehicle, trailer, and semi-trailer dealers;

20 (10) certification and regulation of junk yards;

21 (11) regulations necessary to implement [A COMMERCIAL MOTOR
22 VEHICLE SAFETY INSPECTION PROGRAM,] a commercial motor vehicle driver's
23 licensing program[,], and other requirements imposed by federal law or regulation that
24 relate to commercial motor vehicles and that are needed to avoid loss or withholding
25 of federal highway money, **other than requirements relating to a commercial**
26 **motor vehicle safety inspection program**.

27 * **Sec. 6.** AS 28.10.041(a) is amended to read:

28 (a) The department may refuse to register a vehicle if

29 (1) the application contains a false or fraudulent statement;

30 (2) the applicant fails to furnish information required by the
31 department;

1 (3) the applicant is not entitled to the issuance of a certificate of title
2 or registration under this chapter;

3 (4) the vehicle is determined to be mechanically unsafe to be driven
4 or moved on a highway, vehicular way or area, or other public property in the state;

5 (5) the department has reasonable grounds to believe that the vehicle
6 was stolen or fraudulently acquired or that the granting of registration would be a
7 fraud against the rightful owner or other person having a valid lien upon the vehicle;

8 (6) the registration of the vehicle has been suspended or revoked for
9 any reason under the laws of the state;

10 (7) the required fees or taxes have not been paid;

11 (8) the vehicle or applicant fails to comply with this chapter or
12 regulations implementing this section;

13 (9) the vehicle is without a certificate of inspection required under
14 AS 19.10.310 [AS 28.32.010];

15 (10) the vehicle is subject to a state-approved emission inspection
16 program adopted under AS 46.14.400 or 46.14.510, and the vehicle does not meet the
17 standards of that program, unless the vehicle uses a fuel source that does not primarily
18 emit carbon monoxide;

19 (11) the applicant fails to certify to the department the existence of a
20 motor vehicle liability policy that complies with AS 28.22.101 for the vehicle being
21 registered unless the owner of the vehicle qualifies as a self-insurer under
22 AS 28.20.400 or is exempted from obtaining liability insurance under AS 28.22.011.

23 * **Sec. 7.** AS 42.05.351 is amended to read:

24 **Sec. 42.05.351. Testing of appliances.** The commission shall provide for the
25 examination and testing of appliances used for the measuring of a service of a public
26 utility and may purchase equipment, apparatus, and standards required for this
27 purpose. The commissioner of transportation and public facilities [COMMERCE
28 AND ECONOMIC DEVELOPMENT] may assign the examination and testing
29 function to appropriate staff of the Department of Transportation and Public
30 Facilities under AS 45.75 [THE SECTION OF WEIGHTS AND MEASURES].

31 Upon the payment of a reasonable fee established by the commission, a consumer

1 may have an appliance that is used by the consumer tested. The commission shall
 2 establish by regulation allowable tolerances with respect to the functioning or
 3 operation of the appliance. If the measuring appliance does not perform within these
 4 tolerances, the utility concerned shall pay the costs of the test by reimbursing the
 5 person requesting the test for the fee paid by that person. This reimbursement shall
 6 be made no later than at the time of the next regular billing following the test.

7 * **Sec. 8.** AS 44.42.020(a) is amended by adding new paragraphs to read:

8 (16) implement the safety and financial responsibility requirements for
 9 air carriers under AS 02.40.010 - 02.40.990;

10 (17) inspect weights and measures.

11 * **Sec. 9.** AS 45.75.020 is amended to read:

12 **Sec. 45.75.020. State standards of weight and measure.** The weights and
 13 measures obtained by the state in conformity with them and certified by the National
 14 Bureau of Standards or its successor organization, the National Institute of Standards
 15 and Technology, are the state standards of weight and measure. The state standards
 16 shall be kept in a safe and suitable place in the office or laboratory of the
 17 **Department of Transportation and Public Facilities** [STATE DIVISION OF
 18 WEIGHTS AND MEASURES]. They may not be removed from the office or
 19 laboratory except for repairs or for certification. The state standards shall be used
 20 only in verifying the office standards and for scientific purposes.

21 * **Sec. 10.** AS 45.75.030 is amended to read:

22 **Sec. 45.75.030. State director and inspectors of weights and measures.**

23 The commissioner of **transportation and public facilities** [COMMERCE AND
 24 ECONOMIC DEVELOPMENT] is ex officio state director of weights and measures.

25 The director may appoint state inspectors.

26 * **Sec 11.** AS 45.75.050(b) is amended to read:

27 (b) The regulations may include

28 (1) standards of net weight, measure, or count, and reasonable
 29 standards of fill, for a commodity in package form;

30 (2) rules governing the technical and reporting procedures to be
 31 followed, and the report and record forms and marks of approval and rejection to be

1 used by inspectors of weights and measures in the discharge of their official duties;

2 (3) exemptions from the sealing or marking requirements of
3 AS 45.75.120 for weights and measures of a character or size that sealing or marking
4 would be inappropriate, impracticable, or damaging to the apparatus in question;

5 (4) for classes of weights and measures of a character that retesting
6 is unnecessary to continued accuracy, exemptions from the requirements of
7 AS 45.75.070 and 45.75.080 for testing, and schedules fixing the frequency of
8 required retests for classes of devices exempted; and

9 (5) in the implementation of **AS 19.10.060(b)** [AS 44.33.020(25)],
10 provisions governing the size, weight, and load limitations established under
11 AS 19.10.060; the issuance of permits for overweight and oversize vehicles; and the
12 operation of weigh stations.

13 * **Sec. 12.** AS 45.75.060 is amended to read:

14 **Sec. 45.75.060. Office and working standards and equipment.** The state
15 shall supply the **Department of Transportation and Public Facilities** [DIVISION
16 OF WEIGHTS AND MEASURES] with a duplicate set of state standards of weight
17 and measure, referred to in this chapter as office standards. The state shall supply
18 field standards and the equipment that is necessary to carry out this chapter. The
19 office standards and field standards shall be verified upon their initial receipt and at
20 least once each year afterward. The office standards shall be verified by direct
21 comparison with the state standards. The field standards shall be verified by
22 comparison with the office standards.

23 * **Sec. 13.** AS 45.75.131(a) is amended to read:

24 (a) A peace officer or an employee of the Department of **Transportation and**
25 **Public Facilities** [COMMERCE AND ECONOMIC DEVELOPMENT] who is
26 authorized by the commissioner of **transportation and public facilities**
27 [COMMERCE AND ECONOMIC DEVELOPMENT] to enforce this chapter may
28 issue a citation to a person who

29 (1) violates a weight, size, or load limitation adopted by the
30 Department of Transportation and Public Facilities under AS 19.10.060;

31 (2) violates the terms of an overweight or oversize vehicle permit

1 issued under AS 19.10.060(b) [AS 44.33.020(25)];

2 (3) violates a regulation adopted under AS 28.05.011(2) or under
3 AS 19.10.060(b) [AS 44.33.020(25)] and AS 45.75.050(b)(5); or

4 (4) commits a violation identified under AS 45.75.380.

5 * **Sec. 14.** AS 45.75.131(d) is amended to read:

6 (d) The commissioner of public safety is responsible for the issuance of books
7 containing appropriate citations and shall maintain a record of each book and each
8 citation contained in it. The commissioner of public safety shall require and retain
9 a receipt for every book issued to an employee of the Department of **Transportation**
10 **and Public Facilities** [COMMERCE AND ECONOMIC DEVELOPMENT]
11 designated by the commissioner of **transportation and public facilities**
12 [COMMERCE AND ECONOMIC DEVELOPMENT] to provide investigative services
13 to enforce provisions of this chapter.

14 * **Sec. 15.** AS 45.75.380(a) is amended to read:

15 (a) A person commits a violation subject to the penalty specified in
16 AS 12.55.035(b)(5) if the person does one or more of the following acts:

17 (1) uses or has in possession for the purpose of using for a commercial
18 purpose specified in AS 45.75.080, sells, offers, or exposes for sale, or hire, or has
19 in possession for the purpose of selling or hiring, an incorrect weight or measure or
20 a device or instrument used to or calculated to falsify a weight or measure;

21 (2) uses or has in possession for current use, in buying or selling a
22 commodity or thing, or for hire or award, or in the computation of a basic charge or
23 payment for services rendered on the basis of weight or measurement, or in the
24 determination of weight or measurement when a charge is made for determination, a
25 weight or measure that has not been tested and sealed by the appropriate authority
26 within one year, unless

27 (A) the person gives written notice to the appropriate authority
28 to the effect that the weight or measure is available for examination, or is due
29 for reexamination, as the case may be;

30 (B) the person receives specific written permission to use the
31 weight or measure from the appropriate authority; or

1 (C) the weight or measure is exempt from sealing or annual
2 testing requirements by AS 45.75.080 or by a regulation adopted under
3 AS 45.75.050;

4 (3) disposes of a rejected or condemned weight or measure in a
5 manner contrary to law or regulation;

6 (4) removes from a weight or measure, contrary to law or regulation,
7 a tag, seal, or mark placed on it by the appropriate authority;

8 (5) sells or offers for sale less than the quantity the person represents
9 of a commodity, thing, or service;

10 (6) takes more than the quantity the person represents of a commodity,
11 thing, or service when, as buyer, the person furnished the weight or measure that the
12 seller used to determine the amount of the commodity, thing, or service;

13 (7) keeps for the purpose of sale, advertises, or offers for sale, or sells
14 a commodity, thing, or service in a condition or manner contrary to law or regulation;

15 (8) uses in retail trade, except in the preparation of packages put up
16 in advance of sale and of medical prescriptions, a weight or measure that is not so
17 positioned that a customer may accurately read, from a position that may reasonably
18 be assumed by a customer, its indications and observe the weighing or measuring
19 operation;

20 (9) hinders or obstructs the director, an inspector, a sealer, or a deputy
21 sealer in the performance of official duties under this chapter;

22 (10) violates a provision of an overweight or oversize vehicle permit
23 issued under AS 19.10.060(b) [AS 44.33.020(25)];

24 (11) violates a weight, load, or size limitation established under
25 AS 19.10.060 or a regulation adopted under AS 19.05.020, AS 19.10.060(b)
26 [AS 44.33.020(25)], or AS 45.75.050(b)(5);

27 (12) violates a provision of this chapter or a regulation adopted under
28 this chapter for which a specific penalty is not prescribed.

29 * **Sec. 16.** AS 28.32.010(a), 28.32.030, 28.32.040, 28.32.050, 28.32.060, 28.32.070,
30 28.32.080, 28.32.090, 28.32.900; AS 28.33.010; AS 42.30.200, 42.30.225, 42.30.380;
31 AS 44.33.020(6), 44.33.020(25), and 44.33.020(27) are repealed.

1 * **Sec. 17.** TRANSITION. (a) Litigation, hearings, investigations, and other proceedings
2 pending under a law amended or repealed by this Order, or in connection with functions
3 transferred by this Order, continue in effect and may be continued and completed
4 notwithstanding a transfer or amendment or repeal provided for in this Order.

5 (b) Contracts, rights, liabilities, and obligations created by or under a law amended
6 or repealed by this Executive Order, and in effect on June 30, 1997, remain in effect
7 notwithstanding this Order's taking effect. Records, equipment, appropriations, and other
8 property of agencies of the state whose functions are transferred under this Order shall be
9 transferred to implement the provisions of this Order.

10 (c) The regulations adopted by the Department of Commerce and Economic
11 Development or the Department of Public Safety that relate to functions transferred by this
12 Order remain in effect and may be implemented and enforced by the Department of
13 Transportation and Public Facilities until that department adopts its own regulations under
14 AS 02.40, AS 19.05, AS 19.10, AS 44.42.020, or AS 45.75, and those regulations take effect.

15 * **Sec. 18.** REVISOR'S INSTRUCTIONS. (a) An Executive Order transferring certain
16 functions, including functions under AS 28, to the Department of Administration was
17 presented to the First Session of the Twentieth Alaska Legislature for consideration.

18 (b) This Order and the Order described in (a) of this section both affect some of the
19 same statutes in AS 28.05, AS 28.32, and AS 28.33.

20 (c) To effectuate the transfers provided for in the two Orders, the revisor of statutes
21 is requested to reconcile the language of the two Orders. However, in conformance with the
22 later effective date of this Order, the transfers provided for in this Order are to take
23 precedence over any transfer of the same functions in the Order described in (a) of this
24 section.

25 (d) Both Orders amend AS 28.05.011 as that statute existed on the date of
26 introduction of the Orders. If both Orders take effect, the substantive content of the
27 amendments of AS 28.05.011 in this Order should be applied to the language of that statute
28 as it was changed by the Order described in (a) of this section. In reconciling the
29 AS 28.05.011 amendments made by both Orders, the following principles should be applied:

30 (1) functions regarding financial responsibility relating to commercial motor
31 vehicles, assigned to the Department of Public Safety under the Order described in (a) of this

1 section, are transferred to the Department of Transportation and Public Facilities in this
2 Order; and

3 (2) nothing in this Order affects functions transferred to the Department of
4 Administration in the Order described in (a) of this section.

5 * **Sec. 19.** This Order takes effect July 1, 1997.

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DATED: _____

Tony Knowles
Governor