

HOUSE BILL NO. 280

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Introduced: 4/23/03

Referred: Transportation, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the regulation of commercial motor vehicles to avoid loss or**
2 **withholding of federal highway money, and to out-of-service orders concerning**
3 **commercial motor vehicles; amending Rule 43.1, Alaska Rules of Administration; and**
4 **providing for an effective date."**

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

6 * **Section 1.** AS 19.10.060(c) is repealed and reenacted to read:

7 (c) Except for requirements relating to a commercial motor vehicle driver's
8 licensing program under AS 28, the department shall adopt regulations under
9 AS 44.62 (Administrative Procedure Act) that are necessary to implement
10 requirements imposed by federal statute or regulation that relate to commercial motor
11 vehicles and that are necessary to avoid loss or withholding of federal highway
12 money.

13 * **Sec. 2.** AS 28.33.130(a) is amended to read:

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

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

2 (A) consumed or was under the influence of

3 (i) an alcoholic beverage;

4 (ii) a controlled substance not prescribed by a
5 physician; or

6 (iii) a controlled substance prescribed by a physician
7 that might impair a person's ability to operate a commercial motor
8 vehicle; or

9 (B) had any measurable alcohol concentration within the blood
10 or breath or any detectable presence of alcohol;

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

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

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

17 (3) after being placed out of service for violation of a regulation
18 adopted under AS 19.10.060(c) or AS 28.05.011; or

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

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

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

24 (1) operating a commercial motor vehicle while under the influence of
25 an alcoholic beverage, inhalant, or controlled substance in violation of AS 28.33.030;

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

27 (3) operating a motor vehicle while under the influence of an alcoholic
28 beverage, inhalant, or controlled substance in violation of AS 28.35.030;

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

1 (5) a felony under state or federal law **that** [, WHICH] was facilitated
2 because the person used a commercial motor vehicle;

3 (6) a serious traffic violation; or

4 (7) driving after being placed out of service in violation of regulations
5 adopted under **AS 19.10.060(c) or** AS 28.05.011.

6 * **Sec. 4.** AS 28.33.190(10) is amended to read:

7 (10) "out-of-service order" means an order issued under regulations
8 adopted under **AS 19.10.060(c) or** AS 28.05.011 that prohibits an owner or operator of
9 a commercial motor vehicle from operating a commercial motor vehicle; [.]

10 * **Sec. 5.** AS 28.05.011(a)(8) is repealed.

11 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 **INDIRECT COURT RULE AMENDMENT.** The provisions of secs. 1 - 5 of this Act
14 have the effect of changing Rule 43.1, Alaska Rules of Administration, by changing the
15 references to the Alaska Administrative Code in the traffic bail forfeiture schedule for certain
16 commercial motor vehicle offenses.

17 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 **TRANSITION: REGULATIONS.** (a) The Department of Transportation and Public
20 Facilities may proceed to adopt regulations necessary to carry out the changes made by this
21 Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not
22 before the effective date of the statutory change.

23 (b) Regulations related to commercial motor vehicles that were adopted under
24 AS 28.05.011(a)(8) and are in effect on July 1, 2003, remain in effect and may be
25 implemented and enforced by the Department of Transportation and Public Facilities until
26 regulations are adopted by that department under AS 19.10.060(c), as repealed and reenacted
27 by sec. 1 of this Act, and take effect.

28 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
29 read:

30 **CONDITIONAL EFFECT.** Sections 1 - 5 and 7 of this Act take effect only if sec. 6
31 of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,

1 Constitution of the State of Alaska.

2 * **Sec. 9.** Section 7(a) of this Act takes effect immediately under AS 01.10.070(c).

3 * **Sec. 10.** Except as provided in sec. 9 of this Act, this Act takes effect July 1, 2003.