

1 IN THE HOUSE

BY STATE AFFAIRS COMMITTEE

2 COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 162

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIRST LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act pertaining to ferry transportation;  
7 authorizing the Department of Public Works to  
8 acquire ferry terminal facilities, to issue  
9 certificates of public convenience and neces-  
10 sity to ferry operators; providing standards  
11 for rates and services of ferry operators,  
12 and enforcement by the Department; authoriz-  
13 ing expenditures; and providing for an  
14 effective date."

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

16 Section 1. TITLE. This Act shall be known as "The Alaska  
17 Ferry Transportation Act."

18 Sec. 2. DEFINITIONS. As used in this Act:

19 "Ferry" shall mean and include any vessel used in the common  
20 carriage of passengers and self-propelled vehicles in intrastate  
21 commerce within the State of Alaska;

22 "Ferry operator" shall mean any individual, partnership,  
23 corporation, association, Alaska state agency, municipality, or  
24 other political subdivision of the state, or other organization  
25 holding itself out to serve the public by operating ferries;

26 "Department" shall mean the Department of Public Works; and

27 "State" shall mean the State of Alaska.

28 Sec. 3. FERRY TERMINAL FACILITIES. The Department is hereby  
29 specifically authorized and directed to acquire, by construction,

1 purchase or lease, and to repair and maintain, ferry terminal  
2 facilities for the loading and unloading of passengers, and  
3 vehicles under their own power, on and off ferries, at locations  
4 selected by the Department. The Department is further authorized  
5 to connect these facilities with local highway systems. The  
6 Department is also authorized to make reasonable rules and regu-  
7 lations governing the use of these facilities by the public as the  
8 Department may deem necessary and proper in the public interest.  
9 Nothing in this section shall be construed as preventing the  
10 construction, by persons other than the Department, of ferry ter-  
11 minal facilities at locations approved by the Department, and sub-  
12 jected to such reasonable rules and regulations governing their  
13 use as the Department may deem necessary and proper in the public  
14 interest, but no ferry terminal facility shall be constructed  
15 within this state without the approval of the Department. Private  
16 and other ferry terminal facilities in existence and serving the  
17 public on January 1, 1959 shall not be affected by this Act.

18 Sec. 4. CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY.

19 (1) The Department is hereby authorized and directed  
20 to issue certificates of public convenience and necessity, con-  
21 formable to the provisions of this Act, as hereinafter set forth,  
22 to ferry operators within the state. This authority shall include  
23 discretion to issue exclusive certificates on such routes and  
24 upon such conditions as the Department deems advisable or necessary  
25 in the public interest to secure continuous, efficient and depend-  
26 able ferry service in the affected areas.

27 (2) No ferry operator shall engage in transportation of  
28 passengers or vehicles by ferry between points within this state  
29 unless it holds a certificate of public convenience and necessity

1 issued by the Department.

2 (3) Applications for a certificate shall be made in  
3 writing to the Department, be verified under oath, and shall be in  
4 such form, and contain such information as the Department shall by  
5 regulation require.

6 (4) The Department shall issue a certificate to any  
7 qualified applicant therefor, authorizing the whole or part of the  
8 operation covered by the application, if the Department finds that  
9 the applicant is fit, willing and able to perform the service  
10 proposed and to conform to the provisions of this Act and the  
11 requirements, rules and regulations of the Department thereunder,  
12 and that the proposed service, to the extent authorized by the  
13 certificate, is or will be required by the present or future  
14 public convenience and necessity; otherwise such application shall  
15 be denied.

16 (5) Such certificate shall specify the route or routes  
17 over which, or the points to and from which, such carrier is  
18 authorized to operate, and at the time of issuance and from time  
19 to time thereafter there shall be attached, to the exercise of the  
20 privileges granted by the certificate, such reasonable terms,  
21 conditions, and limitations as the public convenience and neces-  
22 sity may from time to time require, including terms, conditions  
23 and limitations as to the extension of the route or routes of the  
24 operator and such other terms, conditions, and limitations as are  
25 necessary to carry out, with respect to the operations of the  
26 operator, the requirements of this Act or those established by the  
27 Department pursuant thereto: provided, however, that no terms,  
28 conditions or limitations shall restrict the right of the operator  
29 to add to its equipment, facilities or service within the scope of

1 such certificate, as the development of the business and the de-  
2 mands of the public shall require.

3 (6) Unless and until a certificate is modified, sus-  
4 pended or revoked, as hereinafter provided, each certificate shall  
5 be effective from the date specified thereon and shall continue in  
6 effect indefinitely, or, if issued for a limited period of time  
7 shall continue in effect until the expiration thereof.

8 (7) No certificate shall confer any proprietary, pro-  
9 perty, or exclusive right in the use of any waterway, dock or  
10 terminal facility.

11 (8) The Department may alter, amend, or modify any  
12 certificate, in whole or in part, if the public convenience and  
13 necessity so require, and may suspend or revoke any certificate,  
14 in whole or in part, for any of the following reasons:

15 (a) For intentional misrepresentation of a material  
16 fact in obtaining such certificate, or

17 (b) For voluntary discontinuance of operations, or

18 (c) For intentional failure to comply with any pro-  
19 vision of this Act, or rule, regulation or order issued  
20 thereunder, or

21 (d) For intentional failure to comply with any  
22 term, condition, or limitation of such certificate, or

23 (e) For failure for any cause to assume the duties  
24 charged to the operator by the certificate within the time  
25 stated by the certificate.

26 (9) Any certificate may be transferred or leased sub-  
27 ject to a finding by the Department that the transfer or lease is  
28 in the public interest.

29 (10) A ferry operator may abandon or temporarily dis-

1 continue service upon application and approval by the Department,  
2 and a finding thereby that the discontinuance or abandonment is in  
3 the public interest.

4 (11) The Department shall require ferry operators to  
5 furnish proof of financial responsibility for bodily injury to  
6 passengers and other persons, or damage to property, caused by the  
7 negligent operation, maintenance or use of facilities and equipment  
8 in the control of the ferry operator, in an amount reasonably cal-  
9 culated to protect the public interest.

10 Sec. 5. ADDITIONAL DUTIES OF DEPARTMENT. The Department  
11 shall require every ferry operator to provide and furnish safe and  
12 reasonably adequate services and facilities for the public, and  
13 shall establish just and reasonable charges for services rendered  
14 or to be rendered to the public. The Department may, after hear-  
15 ing, in a proceeding upon complaint or on its own initiative with-  
16 out complaint, require or authorize any ferry operator to provide  
17 safe and reasonably adequate services and facilities for the  
18 public, or to cease and desist from charging a rate other than  
19 that established by the Department for service to the public. The  
20 Department shall allow, in its order, a sufficient and reasonable  
21 time for compliance therewith, and if not obeyed within the time  
22 established for compliance, may seek and obtain an injunction or  
23 other necessary and proper relief in the Superior Court.

24 Sec. 6. RULES AND REGULATIONS. The Department shall estab-  
25 lish, in accordance with the terms of the Administrative Procedures  
26 Act, rules and regulations governing procedures necessary to carry  
27 out its duties under this Act. No right, privilege, certificate,  
28 or term, condition or limitation, or grant of financial aid under  
29 this Act shall be granted, denied, revoked, suspended, altered,

1 amended or modified, except after notice and opportunity for hear-  
2 ing under the terms of the Administrative Procedures Act, which is  
3 hereby made specifically applicable to the administration of this  
4 Act, and under rules and regulations established by the Department  
5 and consistent therewith.

6 Sec. 7. AUTHORIZATION OF EXPENDITURES. From monies approp-  
7 riated from time to time by the legislature, either specifically  
8 for the purposes of this Act, or for the general purposes of main-  
9 taining the highways of this state, the Department is authorized  
10 to make such expenditures as it deems necessary to administer the  
11 provisions of this Act and to meet obligations incurred by it  
12 under this Act.

13 Sec. 8. EFFECTIVE DATE. This Act shall take effect immed-  
14 idately upon its passage and approval or upon its becoming law  
15 without such approval.  
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