

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
10 necessity to ferry operators; providing
11 standards for rates and services of ferry
12 operators, and enforcement by the Department;
13 authorizing expenditures; and providing for
14 an 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 to issue certi-
20 ficates of public convenience and necessity, conformable to the
21 provisions of this Act, as hereinafter set forth, to ferry
22 operators within the state. This authority shall include discretion
23 to issue exclusive certificates on such routes and upon such
24 conditions as the Department deems advisable or necessary in the
25 public interest to secure continuous, efficient and dependable
26 ferry service in the affected areas, except that no exclusive
27 certificate shall be issued to and no vested right to continued
28 operation shall be established in, any ferry operator on routes
29 exceeding ten miles in length and not providing service with a

1 vessel or vessels equipped to carry at least seventy-five passengers
2 and twenty-five passenger-type vehicles and certificated by the
3 U. S. Coast Guard for unlimited operation on the waters to be
4 traversed on the route or routes for which the certificate is
5 issued. Public hearings shall be held on all applications for
6 certificates of public convenience and necessity.

7 (2) No ferry operator shall engage in transportation of
8 passengers or vehicles by ferry between points within this state un-
9 less it holds a certificate of public convenience and necessity
10 issued by the Department.

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

15 (4) The Department shall issue a certificate to any
16 qualified applicant therefor, authorizing the whole or part of the
17 operation covered by the application, if the Department finds that
18 the applicant is fit, willing and able to perform the service
19 proposed and to conform to the provisions of this Act and the re-
20 quirements, rules and regulations of the Department thereunder, and
21 that the proposed service, to the extent authorized by the certifi-
22 cate, is or will be required by the present or future public con-
23 venience and necessity; otherwise such application shall be denied.

24 (5) Such certificate shall specify the route or routes
25 over which, or the points to and from which, such carrier is
26 authorized to operate, and at the time of issuance and from time
27 to time thereafter there shall be attached, to the exercise of the
28 privileges granted by the certificate, such reasonable terms,
29 conditions, and limitations as the public convenience and necessity

1 may from time to time require, including terms, conditions and
2 limitations as to the extension of the route or routes of the
3 operator and such other terms, conditions, and limitations as are
4 necessary to carry out, with respect to the operations of the
5 operator, the requirements of this Act or those established by the
6 Department pursuant thereto: provided, however, that no terms,
7 conditions or limitations shall restrict the right of the operator
8 to add to its equipment, facilities or service within the scope of
9 such certificate, as the development of the business and the de-
10 mands of the public shall require.

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

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

19 (8) The Department may alter, amend, or modify any
20 certificate, in whole or in part, if the public convenience and
21 necessity so require, and may suspend or revoke any certificate,
22 in whole or in part, for any of the following reasons:

23 (a) For intentional misrepresentation of a material
24 fact in obtaining such certificate, or

25 (b) For voluntary discontinuance of operations, or

26 (c) For intentional failure to comply with any pro-
27 vision of this Act, or rule, regulation or order issued
28 thereunder, or

29 (d) For intentional failure to comply with any

1 term, condition, or limitation of such certificate, or

2 (e) For failure for any cause to assume the duties
3 charged to the operator by the certificate within the time
4 stated by the certificate.

5 (9) Any certificate may be transferred or leased subject
6 to a finding by the Department that the transfer or lease is in the
7 public interest.

8 (10) A ferry operator may abandon or temporarily dis-
9 continue service upon application and approval by the Department,
10 and a finding thereby that the discontinuance or abandonment is in
11 the public interest.

12 (11) The Department shall require ferry operators to
13 furnish proof of financial responsibility for bodily injury to
14 passengers and other persons, or damage to property, caused by the
15 negligent operation, maintenance or use of facilities and equipment
16 in the control of the ferry operator, in an amount reasonably
17 calculated to protect the public interest.

18 Sec. 5. ADDITIONAL DUTIES OF DEPARTMENT. The Department
19 shall require every ferry operator to provide and furnish safe and
20 reasonably adequate services and facilities for the public, and
21 shall establish just and reasonable charges for services rendered
22 or to be rendered to the public. The Department may, after hearing,
23 in a proceeding upon complaint or on its own initiative without
24 complaint, require or authorize any ferry operator to provide safe
25 and reasonably adequate services and facilities for the public,
26 or to cease and desist from charging a rate other than that estab-
27 lished by the Department for service to the public. The Department
28 shall allow, in its order, a sufficient and reasonable time for
29 compliance therewith, and if not obeyed within the time established

1 for compliance, may seek and obtain an injunction or other necessary
2 and proper relief in the Superior Court..

3 Sec. 6. RULES AND REGULATIONS. The Department shall establish,
4 in accordance with the terms of the Administrative Procedures Act,
5 rules and regulations governing procedures necessary to carry out
6 its duties under this Act. No right, privilege, certificate, or
7 term, condition or limitation, or grant of financial aid under
8 this Act shall be granted, denied, revoked, suspended, altered,
9 amended or modified, except after notice and opportunity for hear-
10 ing under the terms of the Administrative Procedures Act, which is
11 hereby made specifically applicable to the administration of this
12 Act, and under rules and regulations established by the Department
13 and consistent therewith.

14 Sec. 7. STATE-OPERATED FERRIES. Nothing contained in this
15 Act shall be deemed to preclude the state from operating ferries
16 or ferry systems within or without the state.

17 Sec. 8. Notwithstanding any other provisions of this Act,
18 the governor may, and shall upon the establishment of a public
19 service commission authorized to regulate other public transporta-
20 tion services within the state, transfer by executive order to the
21 Department of Commerce, or to such public service commission if
22 established, all functions, powers, and duties specified in this
23 Act relating to the economic regulation of ferries and ferry
24 operators, including but not limited to those provided in Sections
25 4, 5 and 6 of this Act.

26 Sec. 9. AUTHORIZATION OF EXPENDITURES. From monies appro-
27 priated from time to time by the legislature, either specifically
28 for the purposes of this Act, or for the general purposes of main-
29 taining the highways of this state, the Department is authorized

1 to make such expenditures as it deems necessary to administer the
2 provisions of this Act and to meet obligations incurred by it
3 under this Act.

4 Sec. 10. EFFECTIVE DATE. This Act shall take effect immed-
5 iately upon its passage and approval or upon its becoming law
6 without such approval.

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