

Original sponsor: Rules Committee by re-
quest of the Governor

Offered: 4/16/70
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 271

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the regulation of motor freight
7 carriers."

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

9 * Section 1. AS 42.10.020 is amended by adding a new paragraph to read:

10 (4) vehicles operated by a construction contractor while perform-
11 ing such a business as defined in sec. 420(12) of this chapter except that
12 weight fees in an amount as provided by sec. 240 of this chapter shall be
13 paid for each vehicle designed to be operated on a public highway.

14 * Sec. 2. AS 42.10.090 is amended to read:

15 Sec. 42.10.090. REGULATION OF PRIVATE AND EXEMPT CARRIERS. The com-
16 mission shall

17 (1) supervise and regulate every private carrier and exempt
18 carrier as to its safety of operation;

19 (2) require every private carrier and every exempt carrier except
20 as provided in sec. 20(4) of this chapter to file information required
21 by the commission to carry out this chapter, and supervise and regulate
22 each private carrier in all other matters affecting its relationship
23 with shipping and the general public.

24 * Sec. 3. AS 42.10.130(c) is repealed and re-enacted to read:

25 (c) Except as provided in (a) and (b) of this section a permit
26 shall be issued to any qualified applicant, authorizing the whole or a
27 part of the operations covered by the application, if the proposed ser-
28 vice is or will be required by the present or future public convenience
29 or necessity; otherwise the application shall be denied.

1 for a service provided or to be provided by it or extend privileges or
2 facilities for transportation affecting the value of the transportation
3 than those specified in its tariffs and files in the manner provided
4 in this chapter. The minimum rates specified in its properly filed
5 tariffs shall be the lawful minimum rates of such carrier until changed
6 in the manner provided in this chapter.

7 * Sec. 14. AS 42.10 is amended by adding a new section to read:

8 Sec. 42.10.315. APPROVAL OF CONTRACTS: CONTRACT RATES TO BE
9 CHARGED. (a) Each contract carrier, other than carriers of bulk
10 commodities in dump-type equipment, shall file with the commission all
11 contracts relating to the transportation of property. A contract
12 shall show the rates to be charged and all practices called for or
13 contemplated in its performance which would affect the value of, or
14 the rate for the service to be performed. No carrier may commence
15 performance under a contract until the contract has been approved by
16 the commission.

17 (b) No contract carrier may, directly or indirectly, demand or
18 receive a lesser rate for a service provided or to be provided by it
19 under a contract, or extend privileges or facilities for transportation
20 affecting the value of the transportation, than those specified in the
21 contract and filed in the manner provided in this chapter.

22 (c) The commission may examine the records of carriers operating
23 under this chapter and of persons employing the services of a carrier
24 for the purpose of discovering discrimination, undercharges, or over-
25 charges and rebates. The commission may, after hearing or opportunity
26 for hearing, suspend or revoke a permit for a violation of this section.

27 * Sec. 15. AS 42.10 is amended by adding a new section to read:

28 Sec. 42.10.355. COMPLAINTS AND POWER OF COMMISSION TO FIX RATES.

29 (a) Any person may make complaint in writing under oath to the commis-

1 sion that an individual or joint rate, classification, regulation, or
2 practice of a common carrier is or will be in violation of this chapter
3 or a regulation or order of the commission. A complaint shall state
4 fully the facts complained of and the reasons for complaint.

5 (b) Whenever the commission, after an investigation and hearing
6 upon complaint or upon its own motion, finds that a rate, demanded,
7 observed, charged or collected by a common carrier for a service, sub-
8 ject to the jurisdiction of the commission, or that a classification,
9 rule, regulation, practice, or contract affecting the rate, is unjust,
10 unreasonable, unduly discriminatory or preferential, the commission
11 shall determine a just and reasonable rate, classification, rule, regu-
12 lation, practice, or contract to be thereafter observed and in force,
13 and shall fix the same by order.

14 * Sec. 16. AS 42.10 is amended by adding new sections to Art. 7 to read:

15 ARTICLE 7. JUDICIAL REVIEW, PENALTIES AND ENFORCEMENT.

16 Sec. 42.10.391. EFFECT OF RULES, REGULATIONS AND ORDERS. Rules,
17 regulations and orders adopted and issued by the commission in accordance
18 with this chapter have the effect of law.

19 Sec. 42.10.392. REVIEW AND ENFORCEMENT. (a) All final orders of
20 the commission are subject to judicial review in accordance with AS 44.-
21 62.560 - 44.62.570 of the Administrative Procedure Act.

22 (b) The commission may apply to the superior court for enforcement
23 of this chapter, the rules and regulations adopted under it and the
24 orders of the commission. If the court determines that the statute,
25 rules and regulations are valid and that the order was regularly and
26 validly made and duly issued, it may enforce the order by injunction
27 or other process.

28 Sec. 42.10.393. VIOLATION A MISDEMEANOR. Any person (whether or
29 not a motor carrier or an officer, agent, or employee of a motor

1 carrier) who shall knowingly fail, omit, neglect or refuse to comply
2 with a provision of this chapter or a rule, regulation, order or deci-
3 sion of the commission, or an order of the commission prescribing tempor-
4 ary rates in a rate proceeding, or a final order or decree of a
5 court, or who shall knowingly procure, aid, or abet any such violation,
6 omission, failure, neglect, or refusal, shall be guilty of a misdemeanor,
7 and upon conviction, shall be sentenced to pay the costs of prosecution
8 and a fine of not more than \$500 for each offense.

9 Sec. 42.10.394. CIVIL PENALTIES FOR VIOLATION OR NONCOMPLIANCE.
10 In addition to any other civil penalties and remedies provided by law
11 the commission may levy a civil penalty of not more than \$150 for each
12 offense upon a motor carrier and each officer, director, agent, or
13 employee of a motor carrier who violates (including failure to obey
14 or comply with), or who procures, aids, or abets, a violation by a
15 motor carrier of a provision of this chapter, an order, decision,
16 rule, or regulation of the commission.

17 Sec. 42.10.395. EACH VIOLATION A SEPARATE OFFENSE. Each viola-
18 tion of the provisions of this chapter or of an order, decision, rule,
19 or regulation of the commission by a motor carrier or other person is
20 a separate and distinct offense, and in case of a continuing violation
21 each day's continuance is a separate and distinct offense.

22 Sec. 42.10.396. COMMISSION TO DETERMINE AND LEVY CIVIL PENALTY.
23 When the commission finds, after providing notice and an opportunity
24 to be heard, that a motor carrier, its officers or agents or other per-
25 son has been in violation or procured, aided and abetted a motor carrier
26 in a violation as defined in secs. 394 and 395 of this chapter, the
27 commission shall determine the extent and duration of the violation,
28 the circumstances under which it occurred and the amount of the civil
29 penalty, if any, to be levied. A levy of penalty shall be made by

1 written order of the commission.

2 Sec. 42.10.397. ACTIONS TO RECOVER PENALTIES AND FINES; DISPOSI-
3 TION. (a) Actions to recover penalties or impose fines under this
4 chapter shall be brought by the attorney general in a court of competent
5 jurisdiction.

6 (b) All fines imposed and all penalties recovered under the
7 provisions of this chapter shall be paid to the commission and deposited
8 by it in the general fund of the state.

9 Sec. 42.10.398. PENALTIES, CUMULATIVE: NOT EXCLUSIVE. (a) All
10 penalties occurring under this chapter shall be cumulative and a suit
11 for the recovery of one penalty shall not be a bar to or affect the
12 recovery of any other penalty or be a bar to any criminal prosecution
13 and imposition of a fine against a motor carrier or an officer, director,
14 agent or employee thereof or any other person.

15 (b) Neither a criminal prosecution nor an action to recover a
16 penalty as provided in this chapter shall be a bar to an enforcement
17 proceeding to require compliance, nor to any other remedy provided
18 by this chapter.

19 Sec. 42.10.399. JOINDER OF ACTIONS. Under the applicable court
20 rules, appeals from orders of the commission, applications for enforce-
21 ment of commission orders and actions for recovery of a penalty may be
22 joined. The court may in the interests of justice separate the actions.

23 * Sec. 17. AS 42.10.420(2)(B) is amended to read:

24 (B) a person who leases, rents, or provides a motor
25 vehicle for the use of another in transporting property, and who
26 provides, procures, or arranges for, directly or indirectly, or
27 by course of dealing, a driver or operator for the motor vehicle
28 or the necessary authority for the use of it on a public highway,
29 except when the motor vehicle is leased to an authorized common

1 carrier or contract carrier or by a construction contractor as
2 defined in (12) of this section to another construction contractor as
3 so defined, under rules and regulations to be prescribed by the
4 commission;

5 * Sec. 18. AS 42.10.420(6) is amended to read:

6 (6) "motor vehicle" means a truck, trailer, semi-trailer,
7 tractor, wrecker, tow car, hearse, ambulance or other self-propelled
8 or motor-driven vehicle used upon any public highway of this state for
9 the purpose of transporting property;

10 * Sec. 19. AS 42.10.420 is amended by adding new subsections to read:

11 (10) "rate" includes every rate, toll, fare, rental charge,
12 or other form of compensation demanded, observed, charged or collected
13 by a carrier for its services;

14 (11) "property" means all commodities, articles and cargo,
15 of whatever nature or value, including but not limited to refuse,
16 garbage, trash and other waste or nonwaste material;

17 (12) "construction contractor" means a contractor licensed by
18 the state to engage in and who is actively engaged in the business of
19 constructing, repairing or removing any kind of private or public facili-
20 ty or structure and does not include "contract carriers" authorized to
21 transport commodities in bulk in dump type equipment unless the "con-
22 tract carrier" is also actively engaged in the business of constructing,
23 repairing or removing private or public facilities or structures as a
24 licensed contractor.

25 * Sec. 20. AS 42.10.300, 42.10.360, 42.10.390 and 42.10.410 are repealed.
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