

Original Sponsor: Rules Committee  
by Request of the Governor

Offered: 4/28/69  
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 295

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to regulation of air carriers; and  
7 providing for an effective date."

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

9 \* Section 1. AS 02.05.090 is amended by adding a new subsection to read:

10 (g) An air carrier shall notify the commission in writing of the  
11 sale, lease or withdrawal from service of any aircraft registered under  
12 this section. Registration of an aircraft is nontransferable and is  
13 cancelled upon sale to another person or corporation.

14 \* Sec. 2. AS 02.05.110 is repealed and re-enacted to read:

15 Sec. 02.05.110. TRANSFER. (a) The commission shall approve a  
16 transfer or lease upon a finding, after notice and opportunity for  
17 hearing, that the transfer or lease will not materially harm the public  
18 interest. No transfer may be made in any of the following instances,  
19 without commission approval:

20 (1) transfer from one business entity to another business  
21 entity, be it a sole proprietorship, partnership, corporation, joint  
22 venture, or any other authorized form of doing business;

23 (2) merger;

24 (3) consolidation;

25 (4) acquisition by one or more persons of a controlling  
26 interest in an air carrier firm, by purchase, by acquisition of stock,  
27 or by any other means.

28 (b) The transferor shall certify to the commission that the  
29 authority contained in the certificate has been in reasonably continuous

1 and active use as to the territory or routes authorized to be served,  
2 and as to the various services authorized to be rendered by the  
3 carrier. The commission may require documentary evidence in support of  
4 the certification. Dormant operating rights of the transferor will not  
5 be transferred unless the commission finds that the service is needed  
6 for the public convenience and necessity, and that the transferee will  
7 provide such service.

8 (c) Applications for transfer may not be granted until

9 (1) all unpaid claims for loss or damage arising out of the  
10 carrier's operations have been paid or until the claims have been  
11 secured by the transferor's insurance carrier, or by satisfactory bond,  
12 or after settlement approved by the commission as satisfactory for the  
13 protection of all claimants; and

14 (2) all money due shippers or other parties entitled to  
15 receive it for shipments performed on a C.O.D. basis have been paid  
16 or the obligation has been settled to the satisfaction of the  
17 commission.

18 \* Sec. 3. AS 02.05.120 is repealed and re-enacted to read:

19 Sec. 02.05.120. DISCONTINUANCE, ABANDONMENT OR TEMPORARY SUS-  
20 PENSION OF CERTIFICATED OPERATIONS. (a) Except as otherwise provided  
21 in this chapter, no certificated carrier may abandon an operation or  
22 part of an operation for which a certificate has been issued by the  
23 commission unless upon the application of the carrier and if, after  
24 notice and opportunity for hearing, the commission finds that discon-  
25 tinuance or abandonment will not materially harm the public interest.  
26 Any interested person may file with the commission a protest or memo-  
27 randum of opposition to or in support of discontinuance or abandonment.  
28 The commission may authorize temporary suspension of an operation or  
29 part of an operation.

1 (b) The commission may, at the request of a certificated carrier,  
2 suspend its certificate for a definite period of not more than 180 days.

3 (c) Upon suspension of a certificate it is unlawful for the  
4 carrier to conduct any operation for which a certificate is required.

5 (d) Upon complaint or upon its own motion, the commission may re-  
6 investigate a previously authorized discontinuance, abandonment or  
7 suspension of an operation of an air carrier. If, after providing notice  
8 and an opportunity for a hearing, the commission finds that the public  
9 convenience and necessity require the service to be resumed, it may  
10 order the carrier to reinstate the operation.

11 \* Sec. 4. AS 02.05.130 is repealed and re-enacted to read:

12 Sec. 02.05.130. ACCIDENT LIABILITY PROTECTION REQUIRED. (a) No  
13 certificate may be issued to a person to operate as an air carrier with-  
14 in the state and no certificated carrier may operate within the state  
15 unless the person or carrier has procured and kept in force reasonable  
16 security required by the commission for the protection of the public  
17 against damage and injury for which the carrier may be liable by reason  
18 of its operation as an air carrier.

19 (b) In fixing the amount of necessary security for a certificated  
20 carrier the commission shall give consideration to the character and  
21 amount of traffic, the number of persons affected and the degree of  
22 danger which the proposed operation involves.

23 (c) The commission may at any time refuse to accept, or revoke  
24 its acceptance of, any security or form of security, if, in its judgment  
25 the security does not comply with the regulations, or for any reason  
26 fails to provide satisfactory or adequate protection for the public.  
27 Refusal or revocation of acceptance of security does not relieve the  
28 carrier from compliance with this section.

29 \* Sec. 5. AS 02.05. is amended by adding new sections to read:

1           Sec. 02.05.135. EVIDENCE OF PROTECTION: DEPOSIT OF INSURANCE  
2 POLICY BOND OR OTHER SECURITY. (a) The protection required under sec.  
3 130 of this chapter shall be evidenced by deposit with the commission,  
4 covering each aircraft used or to be used under its certificate, either

5           (1) a policy of insurance issued by an insurer acceptable to  
6 the commission and licensed to write such insurance in a state of the  
7 United States; or in the jurisdiction where it is domiciled, the in-  
8 surer maintains in a bank located in and subject to the laws of the  
9 United States a trust fund for the benefit of its policyholders of not  
10 less than \$200,000; or

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

13           (3) other security approved by the commission; or

14           (4) such evidence of qualification of the carrier as a self-  
15 insurer as may be approved by the commission.

16           (b) Endorsements for policies of insurance, surety bonds, certi-  
17 ficates of insurance, applications to qualify as a self-insurer, or  
18 for approval of other securities or agreements, and notices of can-  
19 cellation must be in the form prescribed or approved by the commission.

20           (c) Certificates of insurance and surety bonds shall be issued in  
21 the full and correct name of the individual, partnership, corporation  
22 or other person to whom the certificate is, or is to be issued. In the  
23 case of a partnership, all partners shall be named.

24           Sec. 02.05.136. DURATION OF PROTECTION: CANCELLATION OF INSURANCE,  
25 BOND OR OTHER SECURITY. (a) The protection against liability required  
26 by sec. 130 of this chapter shall be continued in effect during the  
27 active life of the certificate.

28           (b) Policies of insurance, surety bonds and other forms of  
29 security may not be cancellable on less than 30 days written notice to

1 the commission and this shall be clearly stated in the policy or  
2 endorsement.

3 (c) The 30 day notice shall be measured from the date upon which  
4 the commission receives notice.

5 Sec. 02.05.137. FIDUCIARIES, INSURED AND PRINCIPAL. The term  
6 "insured" and "principal" as used in certificates of insurance, surety  
7 bonds, and notices of cancellation filed by or in behalf of air  
8 carriers shall be construed to include not only the air carrier named  
9 in the certificate, surety bond, or notice of cancellation, but also  
10 the fiduciary of the air carrier. The coverage of fiduciaries provided  
11 for in this chapter shall attach at the moment of succession of the  
12 fiduciaries.

13 \* Sec. 6. AS 02.05.230 is repealed and re-enacted to read:

14 Sec. 02.05.230. VIOLATION A MISDEMEANOR. A person (whether or  
15 not a certificated carrier or an officer, agent, or employee of a  
16 certificated carrier) who knowingly fails, omits, neglects or refuses  
17 to comply with a provision of this chapter or a regulation, order or  
18 decision of the commission, or a final order or decree of a court, or  
19 who knowingly procures, aids or abets such a violation, is guilty of a  
20 misdemeanor, and upon conviction, is punishable by a fine of not more  
21 than \$500 for each offense plus payment of the costs of prosecution.

22 \* Sec. 7. AS 02.05 is amended by adding new sections to read:

23 Sec. 02.05.232. EACH VIOLATION A SEPARATE OFFENSE. Each violation  
24 of this chapter or of an order, decision or regulation of the  
25 commission by an air carrier or other person is a separate and distinct  
26 offense, and in case of a continuing violation each day's continuance  
27 is a separate and distinct offense.

28 Sec. 02.05.234. ACTIONS TO RECOVER FINES; DISPOSITION. (a)  
29 Actions to impose fines under this chapter shall be brought by the

1 attorney general in a court of competent jurisdiction.

2 (b) All fines imposed under this chapter shall be paid to the  
3 commission and deposited by it in the general fund of the state.

4 Sec. 02.05.235. CRIMINAL PROSECUTION NOT A BAR TO ENFORCEMENT.  
5 A criminal prosecution under this chapter is not a bar to an enforce-  
6 ment proceeding to require compliance, nor to any other remedy provided  
7 by this chapter.

8 Sec. 02.05.236. JOINDER OF ACTIONS. Under the applicable court  
9 rules, appeals from orders of the commission and applications for en-  
10 forcement of commission orders may be joined. The court may in the  
11 interests of justice separate the actions.

12 \* Sec. 8. This Act takes effect on the day after its passage and approval  
13 or on the day it becomes law without approval.  
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