

Introduced: 3/16/72
Referred: Commerce

1 IN THE HOUSE

BY THE COMMERCE COMMITTEE

CS HOUSE BILL NO. 737

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the activities of the Alaska
7 Transportation Commission."

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

9 * Section 1. AS 42.07.121 is amended to read:

10 Sec. 42.07.121. GENERAL POWERS AND DUTIES. The Alaska Trans-
11 portation Commission shall supervise and regulate transportation in the
12 state as provided in this chapter and in AS 02.05 and chs. 10, [AND]
13 15 and 25 of this title, and may do all things, whether specifically
14 designated in this chapter or in AS 02.05 or chs. 10, [OR] 15 or 25
15 of this title, or in addition thereto, which are necessary or convenient
16 in the exercise of this power and jurisdiction.

17 * Sec. 2. AS 42.10.113 is amended to read:

18 Sec. 42.10.113. IDENTIFICATION OF VEHICLES. The commission shall
19 prescribe rules and regulations requiring that each contract carrier,
20 common carrier, exempt carrier, and private carrier place sufficient
21 and proper identification on each motor vehicle operated by the
22 carrier. The required identification shall be sufficient to allow
23 immediate determination of the carrier's name, address, operating
24 authority, and permit number.

25 * Sec. 3. AS 42.10.130(a) is amended to read:

26 (a) No [AFTER JANUARY 1, 1961, NO] common carrier, contract
27 carrier, or temporary carrier may operate for the transportation of
28 property in intrastate commerce for compensation in the state without
29 a permit. An application for a permit as a common carrier or contract

1 carrier or an extension of the permit shall be on file for at least
2 30 days before it is granted unless the commission finds that special
3 conditions require the earlier granting of it. [HOWEVER, IF A COMMON
4 CARRIER OR PREDECESSOR IN INTEREST WAS IN BONA FIDE OPERATION AS A
5 COMMON CARRIER OR CONTRACT CARRIER BY MOTOR VEHICLE ON OCTOBER 1, 1959,
6 OVER THE ROUTE FOR WHICH APPLICATION IS MADE AND HAS OPERATED SINCE
7 THAT TIME, EXCEPT IN INSTANCES OVER WHICH THE APPLICANT OR PREDECESSOR
8 IN INTEREST HAD NO CONTROL, THE COMMISSION SHALL ISSUE A PERMIT WITHOUT
9 REQUIRING FURTHER PROOF THAT THE SERVICE IS ESSENTIAL TO THE PUBLIC
10 NEEDS, AND WITHOUT FURTHER PROCEEDINGS, IF APPLICATION FOR THE CERTIFI-
11 CATE WAS MADE TO THE COMMISSION NOT LATER THAN APRIL 1, 1961.] Except
12 as provided in this section, the commission shall not grant a permit
13 or an extension of a permit if it finds that the applicant is not
14 financially able, properly and adequately equipped and capable of
15 conducting the transportation service applied for in compliance with
16 the law and rules and regulations of the commission. The commission
17 may deny an application if the applicant or any of its principal
18 officers or stockholders fails or has failed to comply with the laws
19 of the state.

20 * Sec. 4. AS 42.10.130(c) is amended to read:

21 (c) Except as provided in (a) and (b) of this section a permit
22 shall be issued to any qualified applicant, authorizing the whole or a
23 part of the operations covered by the application, if the proposed
24 service is or will be required by the present or future public con-
25 venience and [OR] necessity; otherwise the application shall be
26 denied.

27 * Sec. 5. AS 42.10 is amended by adding a new section to read:

28 Sec. 42.10.135. REGISTRATION OF INTERSTATE OPERATING AUTHORITY.

29 (a) No motor carrier may engage in the transportation of property

1 for compensation by motor vehicle moving in interstate or foreign
2 commerce in the state without registering the operation with the
3 commission. Registration shall be granted upon the filing of an
4 application and the payment of applicable fees and shall be conditioned
5 upon compliance with all other applicable provisions of this chapter.
6 An application for registration shall be accompanied by either:

7 (1) a copy of the operating authority pertaining to service
8 from, to, or within this state issued by the Interstate Commerce Com-
9 mission under the Interstate Commerce Act; or

10 (2) an affidavit of the exempt status including a descrip-
11 tion of the operations to be conducted if the operation does not
12 require authority from the Interstate Commerce Commission under the
13 Interstate Commerce Act.

14 (b) Registration of authority to engage in the transportation of
15 property for compensation by motor vehicle moving in interstate or
16 foreign commerce in this state under (a) of this section, shall be
17 renewed annually by filing a renewal application and paying the renewal
18 fee and shall be conditioned upon continued compliance with all other
19 applicable provisions of this chapter.

20 (c) Motor carriers engaged in the transportation of property for
21 compensation by motor vehicle moving in interstate or foreign commerce
22 in the state, who before July 1, 1971 have registered their authority
23 from the Interstate Commerce Commission with the Alaska Transportation
24 Commission are not required to file another initial application as
25 prescribed in (a) of this section, but are only required to file an
26 application for renewal as prescribed in (b) of this section; however,
27 the renewal application may not be granted until the applicant has
28 complied with all other applicable provisions of this chapter.

29 * Sec. 6. AS 42.10.160 is amended to read:

1 Sec. 42,10,160, FEES, (a) A filing fee of \$50 shall be paid
2 with each application for a permit, temporary permit, or for ex-
3 tension or transfer of a permit requesting authority to transport
4 property for compensation by motor vehicle moving in intrastate
5 commerce in this state.

6 (b) A filing fee of \$25 shall be paid for filing an initial
7 registration of authority authorizing a motor carrier to engage in
8 the transportation of property for compensation by motor vehicle in
9 interstate or foreign commerce in the state.

10 (c) A filing fee of \$10 shall be paid with each annual renewal
11 application for the registration of authority to engage in the trans-
12 portation of property for compensation by motor vehicle moving in
13 interstate or foreign commerce in the state.

14 * Sec. 7. AS 42.10.400 is repealed and re-enacted to read:

15 Sec. 42,10,400. HOURS OF OPERATORS. A carrier subject to this
16 chapter may not permit or require a driver employed or used by it
17 to remain on duty in excess of the hours or violate in any way the
18 regulations which the commission adopts to safeguard the safety
19 of drivers, the general public and property.

20 * Sec. 8. AS 42.10.420(12) is amended to read:

21 (12) "construction contractor" means a contractor licensed
22 by the state as a general or specialty contractor under AS 08.18 to
23 engage in and who is actively and regularly engaged throughout the year
24 in the business of constructing, repairing or removing any kind of
25 private or public facility or structure and does not include "contract
26 carriers" authorized to transport commodities in bulk in dump-type
27 equipment unless the "contract carrier" is also actively engaged in the
28 business of constructing, repairing or removing private or public
29 facilities or structures as a licensed general or specialty contractor

1 under AS 08.18.

2 * Sec. 9. AS 42.15 is amended by adding a new section to read:

3 Sec. 42.15.286. CIVIL PENALTY. The commission may, after pro-
4 viding notice and an opportunity for a hearing, levy a civil penalty
5 of not more than \$150 for each violation against a person, whether or
6 not a carrier by bus or an officer, agent, or employee of a carrier
7 by bus, who knowingly violates or who knowingly procures, aids or abets
8 a violation of a provision of this chapter or of a regulation, order,
9 or decision of the commission. The levy shall be in the form of a
10 written order by the commission.

11 * Sec. 10. AS 42.15.301 is repealed and re-enacted to read:

12 Sec. 42.15.301. PENALTIES CUMULATIVE, NOT EXCLUSIVE; RECOVERY.

13 (a) Penalties occurring under this chapter are cumulative and the
14 recovery of one penalty is not a bar to and does not bar recovery of
15 another penalty and is not a bar to a prosecution and imposition of
16 a fine against a bus carrier, officer, director, agent or employee of
17 a bus carrier or other person.

18 (b) Neither a criminal prosecution nor an action to recover a
19 penalty provided in this chapter is a bar to an enforcement proceeding
20 to require compliance, nor to another remedy provided in this chapter.

21 (c) Actions to recover penalties or impose fines under this
22 chapter shall be brought by the attorney general in a court of
23 competent jurisdiction. Fines imposed and penalties recovered
24 under the provisions of this chapter shall be paid to the commission
25 and deposited by it in the general fund of the state.

26 * Sec. 11. AS 42.25.010 is amended to read:

27 Sec. 42.25.010. CERTIFICATE REQUIRED. No person may engage in
28 the transportation of passengers or vehicles by ferry between points
29 within this state without a certificate of public convenience and

1 necessity issued by the commission [DEPARTMENT].

2 * Sec. 12. AS 42,25,020 is amended to read:

3 Sec. 42,25,020. COMMISSION [DEPARTMENT] TO ISSUE CERTIFICATES OF
4 PUBLIC CONVENIENCE AND NECESSITY. The commission [DEPARTMENT] may
5 issue a certificate of public convenience and necessity to a ferry
6 operator. The commission [DEPARTMENT] may issue an exclusive certifi-
7 cate on such routes and upon such conditions as it considers advisable
8 or necessary in the public interest to secure continuous, efficient,
9 and dependable ferry service.

10 * Sec. 13. AS 42,25,030 is amended to read:

11 Sec. 42,25,030. LIMITATIONS ON ISSUANCE OF EXCLUSIVE CERTIFI-
12 CATES. The commission [DEPARTMENT] may not issue an exclusive certi-
13 ficate to a ferry operated on a route exceeding 10 miles in length
14 unless the ferry operator provides service with a vessel equipped to
15 carry at least 75 passengers and 25 passenger-type vehicles and the
16 vessel is certificated by the United States Coast Guard for unlimited
17 operation on the waters to be traversed on the route for which the
18 certificate is issued.

19 * Sec. 14. AS 42,25,040 is amended to read:

20 Sec. 42,25,040. APPLICATION FOR CERTIFICATE. A ferry operator
21 who desires to engage in the transportation of passengers or vehicles
22 shall apply to the commission [DEPARTMENT] for a certificate of public
23 convenience and necessity. The commission [DEPARTMENT] shall prescribe
24 by regulation, the form and content of the application.

25 * Sec. 15. AS 42,25,050 is amended to read:

26 Sec. 42,25,050. PUBLIC HEARING. Before issuing a certificate of
27 public convenience and necessity, the commission [DEPARTMENT] shall
28 hold a public hearing.

29 * Sec. 16. AS 42,25,060 is amended to read:

1 Sec. 42.25.060. ISSUANCE OF CERTIFICATE. The commission
2 [DEPARTMENT] shall not issue a certificate of public convenience and
3 necessity to a qualified applicant, authorizing the operation covered
4 by the application in whole or in part, unless it finds that (1) the
5 applicant is fit, willing and able to perform the service proposed
6 and to conform to the provisions of this chapter and the requirements,
7 rules and regulations of the commission [DEPARTMENT] and (2) the pro-
8 posed service, to the extent authorized by the certificate, is or will
9 be required by the present or future public convenience and necessity.

10 * Sec. 17. AS 42.25.070 is amended to read:

11 Sec. 42.25.070. CONTENTS OF CERTIFICATE. A certificate of
12 public convenience and necessity shall specify

13 (1) the route over which, or the points to and from which,
14 the carrier is authorized to operate;

15 (2) the terms, conditions, and limitations as to the exten-
16 sion of the route; and

17 (3) the terms, conditions, and limitations necessary to
18 carry out the requirements of this chapter and the requirements
19 established by the commission [DEPARTMENT] with respect to the opera-
20 tions of the carrier.

21 * Sec. 18. AS 42.25.090 is amended to read:

22 Sec. 42.25.090. DURATION OF CERTIFICATE. A certificate of public
23 convenience and necessity is effective for the period specified on it.
24 If no period is specified, the certificate is effective indefinitely.
25 The commission [DEPARTMENT] may modify, suspend or revoke a certificate.

26 * Sec. 19. AS 42.25.110 is amended to read:

27 Sec. 42.25.110. ALTERATION, SUSPENSION OR REVOCATION OF CERTIFI-
28 CATE. The commission [DEPARTMENT] may alter, amend, or modify a
29 certificate of public convenience and necessity, in whole or in part,

1 if the public convenience and necessity require it, and may suspend or
2 revoke a certificate, in whole or in part, for

3 (1) intentional misrepresentation of a material fact in
4 obtaining a certificate,

5 (2) voluntary discontinuance of operations,

6 (3) intentional failure to comply with this chapter, or a
7 rule, regulation or order issued under it,

8 (4) intentional failure to comply with a term, condition,
9 or limitation of a certificate, or

10 (5) failure to assume the duties imposed upon the operator
11 by the certificate within the time stated by the certificate.

12 * Sec. 20. AS 42.25.120 is amended to read:

13 Sec. 42.25.120. TRANSFER OR LEASE OF CERTIFICATE. A certifi-
14 cate of public convenience and necessity may be transferred or leased
15 if the commission [DEPARTMENT] finds that the transfer or lease is in
16 the public interest.

17 * Sec. 21. AS 42.25.130 is amended to read:

18 Sec. 42.25.130. ABANDONMENT OR TEMPORARY DISCONTINUANCE OF
19 SERVICE. If the commission [DEPARTMENT] finds that it is in the
20 public interest, it may, upon application of a ferry operator, authorize
21 the abandonment or temporary discontinuance of service.

22 * Sec. 22. AS 42.25.140 is amended to read:

23 Sec. 42.25.140. PROOF OF FINANCIAL RESPONSIBILITY. The commission
24 [DEPARTMENT] shall require each ferry operator to furnish proof of
25 financial responsibility for bodily injury to passengers and other
26 persons or damage to property, caused by the negligent operation,
27 maintenance or use of facilities and equipment in the control of the
28 ferry operator. The amount of financial responsibility shall be in an
29 amount reasonably calculated to protect the public interest.

1 * Sec. 23. AS 42.25.150 is amended to read:

2 Sec. 42.25.150. REGULATION OF SERVICE. The commission [DEPART-
3 MENT] shall require every ferry operator to provide and furnish safe
4 and reasonably adequate services and facilities for the public. The
5 commission [DEPARTMENT] shall establish just and reasonable charges
6 for services rendered to the public.

7 * Sec. 24. AS 42.25.160 is amended to read:

8 Sec. 42.25.160. PROCEEDINGS BY COMMISSION [DEPARTMENT]. In a
9 proceeding upon complaint or on its initiative without complaint, the
10 commission [DEPARTMENT] may, after hearing, require or authorize a
11 ferry operator to provide safe and reasonably adequate services and
12 facilities for the public, or to cease and desist from charging a
13 rate other than a rate established by the commission [DEPARTMENT] for
14 service to the public. In its order the commission [DEPARTMENT] shall
15 allow a sufficient and reasonable time for compliance and, if it is not
16 obeyed within the time established for compliance, the commission
17 [DEPARTMENT] may obtain an injunction or other necessary and proper
18 relief in the superior court.

19 * Sec. 25. AS 42.25.170(a) is amended to read:

20 (a) The commission [DEPARTMENT] shall establish, in accordance
21 with the terms of the Administrative Procedure Act (AS 44.62), rules
22 and regulations governing procedures necessary to carry out its duties
23 under this chapter.

24 * Sec. 26. AS 42.25.190 is repealed and re-enacted to read:

25 Sec. 42.25.190. AUTHORIZATION OF EXPENDITURES. From money ap-
26 propriated from time to time by the legislature for the purposes of
27 this chapter, the commission may make the expenditures it considers
28 necessary to administer the provisions of this chapter and to meet
29 obligations incurred by it under this chapter.

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* Sec. 27. AS 42.25.210(1) is repealed and re-enacted to read:

(1) "commission" means the Alaska Transportation Commission;