

Original sponsor: Commerce Committee

Offered: 4/24/72  
Referred: Rules

1 IN THE HOUSE

BY THE COMMERCE COMMITTEE

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CS FOR HOUSE BILL NO. 737

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SEVENTH LEGISLATURE - SECOND SESSION

5

A BILL

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For an Act entitled: "An Act relating to the activities of the Alaska

7

Transportation Commission."

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

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

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

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

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

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(a) No [AFTER JANUARY 1, 1961, NO] common carrier, contract carrier, or temporary carrier may operate for the transportation of property in intrastate commerce for compensation in the state without 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), (b), (d) and (e) [AND (B)] of  
22 this section a permit shall be issued to any qualified applicant,  
23 authorizing the whole or a part of the operations covered by the  
24 application, if the proposed service is or will be required by the  
25 present or future public convenience and [OR] necessity; otherwise the  
26 application shall be denied.

27 \* Sec. 5. AS 42.10.130 is amended by adding new subsections to read:

28 (d) Notwithstanding the provisions of (a) - (c) of this section,  
29 a common carrier or contract carrier constituting a business entity

1 which is a corporation organized under and existing by virtue of the  
2 laws of this state, whose principal business office is in this state  
3 and 51 per cent or more of whose stock is owned by residents of Alaska,  
4 or a sole proprietorship and the sole proprietor is a resident of  
5 Alaska, or a partnership and each partner is a resident of Alaska, and  
6 has continuously operated as a common carrier or contract carrier in  
7 the state since January 3, 1959, possessing Alaska interstate operating  
8 authority under a grant of grandfather rights in Alaska by the Inter-  
9 state Commerce Commission, shall, by action of the Alaska Transportation  
10 Commission under this subsection, be granted Alaska intrastate operating  
11 authority coextensive with the carrier's Alaska interstate operating  
12 authority. A carrier eligible under this subsection shall, within  
13 30 days of the effective date of this Act, file an application with the  
14 Alaska Transportation Commission requesting reconciliation of its  
15 Alaska intrastate operating authority with its Alaska interstate opera-  
16 ting authority. A carrier's failure to file an application within  
17 the 30-day period constitutes an absolute bar to the granting of opera-  
18 ting authority under this subsection, and no application filed after  
19 the expiration of this period may be accepted by the Alaska Transporta-  
20 tion Commission.

21 (e) The Alaska Transportation Commission shall determine which  
22 carriers are eligible under (d) of this section and issue to them,  
23 within 60 calendar days from the effective date of this Act,  
24 revised intrastate operating authority. The Alaska intra-  
25 state operating authority granted under (d) and (e) of this section  
26 shall be equivalent in all respects to the Alaska interstate grandfather  
27 authority granted by the Interstate Commerce Commission. No common  
28 carrier or contract carrier which possesses a greater scope of Alaska  
29 intrastate operating authority than Alaska interstate operating authority

1 may have the intrastate operating authority reduced in any way by the  
2 operation of (d) and (e) of this section.

3 (f) Nothing in (d) and (e) of this section affects carriers which  
4 have obtained interstate operating authority by means other than under  
5 grandfather rights granted by the Interstate Commerce Commission.

6 \* Sec. 6. AS 42.10 is amended by adding a new section to read:

7 Sec. 42.10.135. REGISTRATION OF INTERSTATE OPERATING AUTHORITY.

8 (a) No motor carrier may engage in the transportation of property  
9 for compensation by motor vehicle moving in interstate or foreign  
10 commerce in the state without registering the operation with the  
11 commission. Registration shall be granted upon the filing of an  
12 application and the payment of applicable fees and shall be conditioned  
13 upon compliance with all other applicable provisions of this chapter.  
14 An application for registration shall be accompanied by either:

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

18 (2) an affidavit of the exempt status including a descrip-  
19 tion of the operations to be conducted if the operation does not  
20 require authority from the Interstate Commerce Commission under the  
21 Interstate Commerce Act.

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

28 (c) Motor carriers engaged in the transportation of property for  
29 compensation by motor vehicle moving in interstate or foreign commerce

1 in the state, who before July 1, 1971 have registered their authority  
2 from the Interstate Commerce Commission with the Alaska Transportation  
3 Commission are not required to file another initial application as  
4 prescribed in (a) of this section, but are only required to file an  
5 application for renewal as prescribed in (b) of this section; however,  
6 the renewal application may not be granted until the applicant has  
7 complied with all other applicable provisions of this chapter.

8 \* Sec. 7. AS 42.10.160 is amended to read:

9 Sec. 42.10.160. FEES. (a) A filing fee of \$50 shall be paid  
10 with each application for a permit, temporary permit, or for extension  
11 or transfer of a permit requesting authority to transport property for  
12 compensation by motor vehicle moving in intrastate commerce in this  
13 state.

14 (b) A filing fee of \$25 shall be paid for filing an initial  
15 registration of authority authorizing a motor carrier to engage in the  
16 transportation of property for compensation by motor vehicle in inter-  
17 state or foreign commerce in the state.

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

22 \* Sec. 8. AS 42.10.400 is repealed and re-enacted to read:

23 Sec. 42.10.400. HOURS OF OPERATORS. A carrier subject to this  
24 chapter may not permit or require a driver employed or used by it  
25 to remain on duty in excess of the hours or violate in any way the  
26 regulations which the commission adopts to safeguard the safety of  
27 drivers, the general public and property.

28 \* Sec. 9. AS 42.10.420(12) is amended to read:

29 (12) "construction contractor" means a contractor licensed

1 by the state as a general contractor under AS 08.18 to  
2 engage in and who is actively and regularly engaged throughout the year  
3 in the business of constructing, repairing or removing any kind of  
4 private or public facility or structure and does not include "contract  
5 carriers" authorized to transport commodities in bulk in dump-type  
6 equipment unless the "contract carrier" is also actively engaged in the  
7 business of constructing, repairing or removing private or public  
8 facilities or structures as a licensed general contractor  
9 under AS 08.18.

10 \* Sec. 10. AS 42.15 is amended by adding a new section to read:

11 Sec. 42.15.286. CIVIL PENALTY. The commission may, after pro-  
12 viding notice and an opportunity for a hearing, levy a civil penalty  
13 of not more than \$150 for each violation against a person, whether or  
14 not a carrier by bus or an officer, agent, or employee of a carrier  
15 by bus, who knowingly violates or who knowingly procures, aids or abets  
16 a violation of a provision of this chapter or of a regulation, order,  
17 or decision of the commission. The levy shall be in the form of a  
18 written order by the commission.

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

20 Sec. 42.15.301. PENALTIES CUMULATIVE, NOT EXCLUSIVE; RECOVERY.  
21 (a) Penalties occurring under this chapter are cumulative and the  
22 recovery of one penalty is not a bar to and does not bar recovery of  
23 another penalty and is not a bar to a prosecution and imposition of  
24 a fine against a bus carrier, officer, director, agent or employee of  
25 a bus carrier or other person.

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

29 (c) Actions to recover penalties or impose fines under this

1 chapter shall be brought by the attorney general in a court of competent  
2 jurisdiction. Fines imposed and penalties recovered under the provi-  
3 sions of this chapter shall be paid to the commission and deposited  
4 by it in the general fund of the state.

5 \* Sec. 12. AS 42.25.010 is amended to read:

6 Sec. 42.25.010. CERTIFICATE REQUIRED. No person may engage in  
7 the transportation of passengers or vehicles by ferry between points  
8 within this state without a certificate of public convenience and  
9 necessity issued by the commission [DEPARTMENT].

10 \* Sec. 13. AS 42.25.020 is amended to read:

11 Sec. 42.25.020. COMMISSION [DEPARTMENT] TO ISSUE CERTIFICATES OF  
12 PUBLIC CONVENIENCE AND NECESSITY. The commission [DEPARTMENT] may  
13 issue a certificate of public convenience and necessity to a ferry  
14 operator. The commission [DEPARTMENT] may issue an exclusive certifi-  
15 cate on such routes and upon such conditions as it considers advisable  
16 or necessary in the public interest to secure continuous, efficient,  
17 and dependable ferry service.

18 \* Sec. 14. AS 42.25.030 is amended to read:

19 Sec. 42.25.030. LIMITATIONS ON ISSUANCE OF EXCLUSIVE CERTIFICATES.  
20 The commission [DEPARTMENT] may not issue an exclusive certificate to  
21 a ferry operated on a route exceeding 10 miles in length unless the  
22 ferry operator provides service with a vessel equipped to carry at  
23 least 75 passengers and 25 passenger-type vehicles and the vessel is  
24 certificated by the United States Coast Guard for unlimited operation on  
25 the waters to be traversed on the route for which the certificate is  
26 issued.

27 \* Sec. 15. AS 42.25.040 is amended to read:

28 Sec. 42.25.040. APPLICATION FOR CERTIFICATE. A ferry operator  
29 who desires to engage in the transportation of passengers or vehicles

1 shall apply to the commission [DEPARTMENT] for a certificate of public  
2 convenience and necessity. The commission [DEPARTMENT] shall prescribe  
3 by regulation, the form and content of the application.

4 \* Sec. 16. AS 42.25.050 is amended to read:

5 Sec. 42.25.050. PUBLIC HEARING. Before issuing a certificate of  
6 public convenience and necessity, the commission [DEPARTMENT] shall  
7 hold a public hearing.

8 \* Sec. 17. AS 42.25.060 is amended to read:

9 Sec. 42.25.060. ISSUANCE OF CERTIFICATE. The commission [DEPART-  
10 MENT] shall not issue a certificate of public convenience and necessity  
11 to a qualified applicant, authorizing the operation covered by the  
12 application in whole or in part, unless it finds that (1) the applicant  
13 is fit, willing and able to perform the service proposed and to conform  
14 to the provisions of this chapter and the requirements, rules and regu-  
15 lations of the commission [DEPARTMENT] and (2) the proposed service,  
16 to the extent authorized by the certificate, is or will be required by  
17 the present or future public convenience and necessity.

18 \* Sec. 18. AS 42.25.070 is amended to read:

19 Sec. 42.25.070. CONTENTS OF CERTIFICATE. A certificate of  
20 public convenience and necessity shall specify

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

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

25 (3) the terms, conditions, and limitations necessary to  
26 carry out the requirements of this chapter and the requirements  
27 established by the commission [DEPARTMENT] with respect to the opera-  
28 tions of the carrier.

29 \* Sec. 19. AS 42.25.090 is amended to read:

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

5 \* Sec. 20. AS 42.25.110 is amended to read:

6           Sec. 42.25.110. ALTERATION, SUSPENSION OR REVOCATION OF CERTIFI-  
7 CATE. The commission [DEPARTMENT] may alter, amend, or modify a  
8 certificate of public convenience and necessity, in whole or in part,  
9 if the public convenience and necessity require it, and may suspend or  
10 revoke a certificate, in whole or in part, for

11                   (1) intentional misrepresentation of a material fact in  
12 obtaining a certificate,

13                   (2) voluntary discontinuance of operations,

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

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

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

20 \* Sec. 21. AS 42.25.120 is amended to read:

21           Sec. 42.25.120. TRANSFER OR LEASE OF CERTIFICATE. A certificate  
22 of public convenience and necessity may be transferred or leased  
23 if the commission [DEPARTMENT] finds that the transfer or lease is in  
24 the public interest.

25 \* Sec. 22. AS 42.25.130 is amended to read:

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

1 \* Sec. 23. AS 42.25.140 is amended to read:

2 Sec. 42.25.140. PROOF OF FINANCIAL RESPONSIBILITY. The commission  
3 [DEPARTMENT] shall require each ferry operator to furnish proof of  
4 financial responsibility for bodily injury to passengers and other  
5 persons or damage to property, caused by the negligent operation,  
6 maintenance or use of facilities and equipment in the control of the  
7 ferry operator. The amount of financial responsibility shall be in an  
8 amount reasonably calculated to protect the public interest.

9 \* Sec. 24. AS 42.25.150 is amended to read:

10 Sec. 42.25.150. REGULATION OF SERVICE. The commission [DEPART-  
11 MENT] shall require every ferry operator to provide and furnish safe  
12 and reasonably adequate services and facilities for the public. The  
13 commission [DEPARTMENT] shall establish just and reasonable charges  
14 for services rendered to the public.

15 \* Sec. 25. AS 42.25.160 is amended to read:

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

27 \* Sec. 26. AS 42.25.170(a) is amended to read:

28 (a) The commission [DEPARTMENT] shall establish, in accordance  
29 with the terms of the Administrative Procedure Act (AS 44.62), rules

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and regulations governing procedures necessary to carry out its duties under this chapter.

\* Sec. 27. AS 42.25.190 is repealed and re-enacted to read:

Sec. 42.25.190. AUTHORIZATION OF EXPENDITURES. From money appropriated from time to time by the legislature for the purposes of this chapter, the commission may make the expenditures it considers necessary to administer the provisions of this chapter and to meet obligations incurred by it under this chapter.

\* Sec. 28. AS 42.25.210(1) is repealed and re-enacted to read:

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