

Original sponsor: Commerce Committee

Offered: 4/24/72
Referred: Rules

1 IN THE HOUSE

BY THE COMMERCE COMMITTEE

2 CS FOR 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), (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 the
7 state since January 3, 1959, possessing Alaska interstate operating au-
8 thority under a grant of grandfather rights in Alaska by the Interstate
9 Commerce Commission, shall, by action of the Alaska Transportation Com-
10 mission under this subsection, be granted Alaska intrastate operating
11 authority coextensive with the carrier's Alaska interstate operating
12 authority. However, no carrier otherwise eligible under the provisions
13 of this section shall be ineligible by virtue of having had transferred
14 either its Alaska interstate or Alaska intrastate operating authority,
15 or both, from one form of business entity to another, so long as the
16 same persons possessing the operating authority before the transfer
17 possess at least 51 percent of the equity in the business entity after
18 the transfer. A carrier eligible under this subsection shall, within
19 30 days of the effective date of this Act, file an application with the
20 Alaska Transportation Commission requesting reconciliation of its Alaska
21 intrastate operating authority with its Alaska interstate operating
22 authority. A carrier's failure to file an application within the 30-day
23 period constitutes an absolute bar to the granting of operating authority
24 under this subsection.

25 (e) The Alaska Transportation Commission, upon review of the
26 carriers' Interstate Commerce Commission grandfather certificates, shall
27 determine which carriers are eligible under (d) of this section and
28 issue to them, within 60 calendar days from the effective date of this
29 Act, revised intrastate operating authority. The Alaska intrastate

1 operating authority granted under (d) and (e) of this section shall be
2 equivalent in all respects to the Alaska interstate grandfather author-
3 ity granted by the Interstate Commerce Commission. No common carrier or
4 contract carrier which possesses a greater scope of Alaska intrastate
5 operating authority than Alaska interstate operating authority may have
6 the intrastate operating authority reduced in any way by the operation
7 of (d) and (e) of this section.

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

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

12 Sec. 42.10.135. REGISTRATION OF INTERSTATE OPERATING AUTHORITY.

13 (a) No motor carrier may engage in the transportation of property for
14 compensation by motor vehicle moving in interstate or foreign commerce
15 in the state without registering the operation with the commission. Re-
16 gistration shall be granted upon the filing of an application and the
17 payment of applicable fees and shall be conditioned upon compliance with
18 all other applicable provisions of this chapter. An application for
19 registration shall be accompanied by either:

20 (1) a copy of the operating authority pertaining to service
21 from, to, or within this state issued by the Interstate Commerce Commis-
22 sion under the Interstate Commerce Act; or

23 (2) an affidavit of the exempt status including a description
24 of the operations to be conducted if the operation does not require au-
25 thority from the Interstate Commerce Commission under the Interstate
26 Commerce Act.

27 (b) Registration of authority to engage in the transportation of
28 property for compensation by motor vehicle moving in interstate or
29 foreign commerce in this state under (a) of this section, shall be

1 renewed annually be filing a renewal application and paying the renewal
2 fee and shall be conditioned upon continued compliance with all other
3 applicable provisions of this chapter.

4 (c) Motor carriers engaged in the transportation of property for
5 compensation by motor vehicle moving in interstate or foreign commerce
6 in the state, who before July 1, 1971 have registered their authority
7 from the Interstate Commerce Commission with the Alaska Transportation
8 Commission are not required to file another initial application as pre-
9 scribed in (a) of this section, but are only required to file an applica-
10 tion for renewal as prescribed in (b) of this section; however, the
11 renewal application may not be granted until the applicant has complied
12 with all other applicable provisions of this chapter.

13 * Sec. 7. AS 42.10.160 is amended to read:

14 Sec. 42.10.160. FEES. (a) A filing fee of \$50 shall be paid with
15 each application for a permit, temporary permit, or for extension or
16 transfer of a permit requesting authority to transport property for com-
17 penetration by motor vehicle moving in intrastate commerce in this state.

18 (b) A filing fee of \$25 shall be paid for filing an initial regis-
19 tration of authority authorizing a motor carrier to engage in the trans-
20 portation of property for compensation by motor vehicle in interstate
21 or foreign commerce in the state.

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

26 * Sec. 8. AS 42.10 is amended by adding a new section to read:

27 Sec. 42.10.391. REBATING. A person, subject to this chapter, a
28 shipper, or consignee, or an officer, employee, agent, or representative
29 who knowingly offers, grants, gives, solicits, accepts, or receives a

1 rebate, concession, or discrimination in violation of this chapter, or
2 who by means of a false statement or representation, or by the use of a
3 false or fictitious bill, bill of lading, receipt, voucher, roll, account,
4 claim, certificate, affidavit, deposition, lease, or bill of sale, or
5 by any other means or device knowingly and wilfully assists, suffers or
6 permits a person to obtain transportation of property subject to this
7 chapter for less than the applicable rate or charge, or who knowingly and
8 wilfully by any such means or otherwise fraudulently seeks to evade or
9 defeat a regulation provided in this chapter is guilty of a misdemeanor.

10 * Sec. 9. AS 42.10.400 is repealed and re-enacted to read:

11 Sec. 42.10.400. HOURS OF OPERATORS. A carrier subject to this
12 chapter may not permit or require a driver employed or used by it to
13 remain on duty in excess of the hours or violate in any way the regula-
14 tions which the commission adopts to safeguard the safety of drivers, the
15 general public and property.

16 * Sec. 10. AS 42.10.420(12) is amended to read:

17 (12) "construction contractor" means a contractor licensed by
18 the state as a general contractor under AS 08.18 to engage in and who is
19 actively and regularly engaged in the business of constructing, repair-
20 ing or removing any kind of private or public facility or structure and
21 does not include "contract carriers" authorized to transport commodities
22 in bulk in dump-type equipment unless the "contract carrier" is also ac-
23 tively engaged in the business of constructing, repairing or removing
24 private or public facilities or structures as a licensed general contrac-
25 tor under AS 08.18.

26 * Sec. 11. AS 42.15 is amended by adding a new section to read:

27 Sec. 42.15.286. CIVIL PENALTY. The commission may, after providing
28 notice and an opportunity for a hearing, levy a civil penalty of not more
29 than \$150 for each violation against a person, whether or not a carrier

1 by bus or an officer, agent, or employee of a carrier by bus, who
2 knowingly violates or who knowingly procures, aids or abets a violation
3 of a provision of this chapter or of a regulation, order, or decision of
4 the commission. The levy shall be in the form of a written order by the
5 commission.

6 * Sec. 12. AS 42.15.301 is repealed and re-enacted to read:

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

8 (a) Penalties occurring under this chapter are cumulative and the re-
9 covery of one penalty is not a bar to and does not bar recovery of
10 another penalty and is not a bar to a prosecution and imposition of a
11 fine against a bus carrier, officer, director, agent or employee of a
12 bus carrier or other person.

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

16 (c) Actions to recover penalties or impose fines under this chapter
17 shall be brought by the attorney general in a court of competent juris-
18 diction. Fines imposed and penalties recovered under the provisions of
19 this chapter shall be paid to the commission and deposited by it in the
20 general fund of the state.

21 * Sec. 13. AS 42.25.010 is amended to read:

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

26 * Sec. 14. AS 42.25.020 is amended to read:

27 Sec. 42.25.020. COMMISSION [DEPARTMENT] TO ISSUE CERTIFICATES OF
28 PUBLIC CONVENIENCE AND NECESSITY. The commission [DEPARTMENT] may issue
29 a certificate of public convenience and necessity to a ferry operator.

1 The commission [DEPARTMENT] may issue an exclusive certificate on such
2 routes and upon such conditions as it considers advisable or necessary
3 in the public interest to secure continuous, efficient, and dependable
4 ferry service.

5 * Sec. 15. AS 42.25.030 is amended to read:

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

13 * Sec. 16. AS 42.25.040 is amended to read:

14 Sec. 42.25.040. APPLICATION FOR CERTIFICATE. A ferry operator who
15 desires to engage in the transportation of passengers or vehicles shall
16 apply to the commission [DEPARTMENT] for a certificate of public conven-
17 ience and necessity. The commission [DEPARTMENT] shall prescribe by
18 regulation, the form and content of the application.

19 * Sec. 17. AS 42.25.050 is amended to read:

20 Sec. 42.25.050. PUBLIC HEARING. Before issuing a certificate of
21 public convenience and necessity, the commission [DEPARTMENT] shall hold
22 a public hearing.

23 *Sec. 18. AS 42.25.060 is amended to read:

24 Sec. 42.25.060. ISSUANCE OF CERTIFICATE. The commission [DEPART-
25 MENT] shall not issue a certificate of public convenience and necessity
26 to a qualified applicant, authorizing the operation covered by the appli-
27 cation in whole or in part, unless it finds that (1) the applicant is
28 fit, willing and able to perform the service proposed and to conform to
29 the provisions of this chapter and the requirements, rules and regulations

1 of the commission [DEPARTMENT] and (2) the proposed service, to the ex-
2 tent authorized by the certificate, is or will be required by the present
3 or future public convenience and necessity.

4 * Sec. 19. AS 42.25.070 is amended to read:

5 Sec. 42.25.070. CONTENTS OF CERTIFICATE. A certificate of public
6 convenience and necessity shall specify

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

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

11 (3) the terms, conditions, and limitations necessary to carry
12 out the requirements of this chapter and the requirements established by
13 the commission [DEPARTMENT] with respect to the operations of the carrier.

14 * Sec. 20. AS 42.25.090 is amended to read:

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

19 * Sec. 21. AS 42.25.110 is amended to read:

20 Sec. 42.25.110. ALTERATION, SUSPENSION OR REVOCATION OF CERTIFI-
21 CATE. The commission [DEPARTMENT] may alter, amend, or modify a certifi-
22 cate of public convenience and necessity, in whole or in part, if the
23 public convenience and necessity require it, and may suspend or revoke a
24 certificate, in whole or in part, for

25 (1) intentional misrepresentation of a material fact in
26 obtaining a certificate,

27 (2) voluntary discontinuance of operations,

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

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

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

5 * Sec. 22. AS 42.25.120 is amended to read:

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

10 * Sec. 23. AS 42.25.130 is amended to read:

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

15 * Sec. 24. AS 42.25.140 is amended to read:

16 Sec. 42.25.140. PROOF OF FINANCIAL RESPONSIBILITY. The commission
17 [DEPARTMENT] shall require each ferry operator to furnish proof of fi-
18 nancial responsibility for bodily injury to passengers and other persons
19 or damage to property, caused by the negligent operation, maintenance or
20 use of facilities and equipment in the control of the ferry operator.
21 The amount of financial responsibility shall be in an amount reasonably
22 calculated to protect the public interest.

23 * Sec. 25. AS 42.25.150 is amended to read:

24 Sec. 42.25.150. REGULATION OF SERVICE. The commission [DEPARTMENT]
25 shall require every ferry operator to provide and furnish safe and
26 reasonably adequate services and facilities for the public. The commis-
27 sion [DEPARTMENT] shall establish just and reasonable charges for
28 services rendered to the public.

29 * Sec. 26. AS 42.25.160 is amended to read:

1 Sec. 42.25.160. PROCEEDINGS BY COMMISSION [DEPARTMENT]. In a pro-
2 ceeding upon complaint or on its initiative without complaint, the com-
3 mission [DEPARTMENT] may, after hearing, require or authorize a ferry
4 operator to provide safe and reasonably adequate services and facilities
5 for the public, or to cease and desist from charging a rate other than a
6 rate established by the commission [DEPARTMENT] for services to the public.
7 In its order the commission [DEPARTMENT] shall allow a sufficient and
8 reasonable time for compliance and, if it is not obeyed within the time
9 established for compliance, the commission [DEPARTMENT] may obtain an
10 injunction or other necessary and proper relief in the superior court.

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

12 (a) The commission [DEPARTMENT] shall establish, in accordance with
13 the terms of the Administrative Procedure Act (AS 44.62), rules and reg-
14 ulations governing procedures necessary to carry out its duties under
15 this chapter.

16 * Sec. 28. AS 42.25.190 is repealed and re-enacted to read:

17 Sec. 42.25.190. AUTHORIZATION OF EXPENDITURES. From money appro-
18 priated from time to time by the legislature for the purposes of this
19 chapter, the commission may make the expenditures it considers necessary
20 to administer the provisions of this chapter and to meet obligations
21 incurred by it under this chapter.

22 * Sec. 29. AS 42.25.210(1) is repealed and re-enacted to read:

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