Original sponsor: Rules Committee by request of the Joint Pipeline Impact Committee

Offered: 4/13/72
Referred: Rules

IN THE SENATE BY THE RESOURCES COMMITTEE

CS FOR SENATE BILL NO. 294 MCS

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to lease of rights-of-way over state land for the transportation of oil and gas within the state; and providing for an effective date."

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

* Section 1. AS 38 is amended by adding a new chapter to read:

CHAPTER 35. RIGHT-OF-WAY LEASING ACT OF 1972.

Sec. 38.35.010. LEGISLATIVE DECLARATION OF POLICY. The natural resources of this state in crude oil and natural gas and in its land for transportation of these resources and their products by pipeline toward markets both in and out of the state are capable of making a significant contribution to the general welfare of the people of this state. It is the policy of this state that the development, use, and control of a pipeline transportation system be directed to make the maximum contribution to the development of the human resources of this state, the increase in the standard of living for all of its residents, the advancement of existing and potential sectors of its economy, the strengthening of free competition in its private enterprise system, and the careful protection of its incomparable natural environment.

Sec. 38.35.020. GRANT OF RIGHT-OF-WAY LEASE. Rights-of-way on state owned lands including right-of-way on, over, under, along, across, or upon the right-of-way of a public road or highway or the right-of-way of a railroad or other public utility, or on, across, upon, over, or under a river or other body of water or land belonging to or administered by the state may be granted by noncompetitive lease

by the commissioner for pipeline purposes for the transportation of oil, products or natural gas under those conditions prescribed by law and by administrative regulations. No person shall engage in any construction, acquisition or operation of, or transportation, service, or sale by the whole or a part of an oil, products, or natural gas pipeline, which in whole or in part is or is proposed to be on state public land, unless that person is a carrier and has obtained from the commissioner a right-of-way lease of the land under this chapter as well as a certificate that the construction, acquisition, operation, transportation, service, or sale, if subject to the lease, will be in accordance with its terms.

Sec. 38.35.030. ABANDONMENT OF OR REDUCTION OR IMPAIRMENT OF SERVICE OF PIPELINE BY LESSEE CARRIER. No lessee carrier may abandon any portion of a pipeline that is on state public land or subject to the lease, or operation or transportation, service, or sale by it, or reduce or impair service, unless the carrier has first applied for and the commissioner has granted a certificate that the abandonment, reduction, or impairment is in accordance with the terms of the lease.

Sec. 38.35.040. TEMPORARY OR EMERGENCY SERVICE OR TEMPORARY ABANDONMENT, REDUCTION OR IMPAIRMENT OF SERVICE BY LESSEE CARRIER. The commissioner may, either upon a request made in the form he shall by regulation require, or upon his own motion without request, authorize or require temporary or emergency rendering of service or temporary or emergency abandonment, reduction or impairment of service by a pipeline of a lessee carrier without compliance with secs. 50 - 110 of this chapter. Nothing in this section prevents a carrier from temporarily suspending operations in the event of an emergency which threatens public health or safety; however notice shall be given the commissioner as soon as possible.

Sec. 38.35.050. APPLICATIONS FOR RIGHT-OF-WAY LEASES AND

CERTIFICATES. (a) A carrier desiring to engage in construction, acquisition or operation of, or transportation, service, or sale by the whole or a part of a pipeline, which in whole or part is or is proposed to be on state public land may apply for a noncompetitive right-of-way lease of this land and, as applicable, a certificate that the construction, acquisition, operation, transportation, service, or sale is in accordance with the lease. A lessee carrier desiring to engage, on other than state public land, in construction, acquisition, or operation of, or transportation, service, or sale by a pipeline subject to the lease may apply for a certificate that the act or acts will be in accordance with that lease.

(b) All carriers or lessee carriers owning or planning to own an interest in a pipeline or proposed pipeline subject to a lease, and every corporation or association employed or to be employed to operate the pipeline, must join in the application under (a) of this section.

(c) A carrier other than one described in (a) or (b) of this section may join in an application under (a) or (b) of this section if the commissioner approves the joinder.

(d) Applications under (a), (b), or (c) of this section shall be made in a form and manner prescribed by regulation.

(e) An amendment to an application filed under this section or sec. 60 of this chapter, other than to correct a typographical, computational, or similar error, is subject to the regulations applying to an original application.

Sec. 38.35.060. APPLICATION FOR CERTIFICATE TO ABANDON OR DIMINISH SERVICE. A lessee carrier desiring to abandon or diminish operation of or transportation, service, or sales by all or a portion of a pipeline subject to its lease, shall apply, in the form and manner prescribed by regulation, for a certificate that the abandonment or diminution

will be in accordance with the lease.

Sec. 38.35.070. NOTICE OF APPLICATION. Upon receiving an application under sec. 50 or 60 of this chapter, the commissioner shall

(1) cause notice of it to appear in the daily newspaper of general circulation published nearest the location of the proposed pipeline;

(2) file copies of the application with each coordinate agency; and

(3) furnish at cost copies of a notice or application to persons requesting them.

Sec. 38.35.080. MULTIPLE APPLICATIONS FOR SAME LEASE. When the commissioner receives within a 30-day period two or more applications relating to the same or substantially the same subject matter, he shall consider the applications upon a comparative basis. The commissioner may extend the time within which a carrier may submit an application for consideration upon a comparative basis with a previously filed application.

Sec. 38.35.090. DECISIONS UPON APPLICATIONS. (a) The commissioner shall determine, on an application filed with him under sec. 50 of this chapter for a right-of-way lease of state public land or for a certificate under a lease, whether the applicant is fit, willing, and able to perform the transportation or other acts proposed and to conform to the provisions of the proposed right-of-way lease or certificate, and of this chapter, and whether the proposed construction, acquisition, or operation of or transportation, service, or sale by the pipeline is or will be required by the present or future public interest and necessity. If the commissioner makes these determinations favorably to the applicant, then he may grant the whole or part of the application. Otherwise, he shall deny the application. In order to grant the whole

or part of the application the commissioner shall offer a lease or certificate to the applicant for its acceptance through signing of the lease or certificate and agreeing to comply with its terms, conditions, and obligations and with this chapter. Only upon proper acceptance of offered lease or certificate by the applicant within 30 days after its having been presented is the grant of the application consummated.

(b) The commissioner, on application by a lessee carrier for a certificate to abandon or diminish operation of, or transportation, service, or sale by any portion of a pipeline that is subject to its lease, shall determine whether the proposed abandonment or diminution is or will be consistent with the present or future public interest, convenience, and necessity. If the commissioner makes this determination favorably to the applicant, he may grant the whole or a part of the application. Otherwise, he shall deny the application.

(c) For a right-of-way lease granted under this chapter for an oil or natural gas pipeline valued at $1,000,000 or more to be valid and of legal effect, it must contain the terms required to be inserted under the provisions of secs. 100 - 140 of this chapter. An oil or natural gas pipeline right-of-way lease granted under this chapter that does not contain the required terms is null and void and without legal effect and does not vest any interest in state public land or any authority in the carrier granted the lease.

(d) The commissioner may, at his discretion, include the terms set out in secs. 100 - 140 of this chapter in leases of state public land for products pipeline right-of-way purposes.

Sec. 38.35.100. TERM OF LEASE. Each lease of state public land for pipeline right-of-way purposes shall contain a provision that the lease shall run for a specified term of 25 years, and shall be renewable on the same terms for an additional period of up to 10 years, so long as the

lessee is in full compliance with all state law, including but not limited to state law pertaining to regulation and taxation of the pipeline facility, and is in compliance with all terms of the lease.

Sec. 38.35.110. COVENANTS REQUIRED TO BE INCLUDED IN LEASE. A noncompetitive lease of state public land for a right-of-way for an oil or natural gas pipeline valued at $1,000,000 or more may be granted only upon the condition that the lessee carrier expressly covenants in the lease, in consideration of the rights acquired by it under the lease, that:

(1) it will obtain a certificate of compliance with the terms and conditions of the lease before undertaking any construction, acquisition or operation of or transportation, service or sale by the whole or any part of a pipeline on state public land, including the portions of the pipeline not on state public land;

(2) it will undertake and complete or regularly perform within or during the time period and in accordance with the project description contained in the lease or certificate, throughout the entire route of the pipeline in the state, both on state public land obtained under the lease and on other land, any construction or acquisition or other act required to be performed in conjunction with the lease, or operation of, or transportation, service, or sale by the pipeline in good faith and in accordance with the lease and certificates, this chapter, and any other applicable state or federal law;

(3) it assumes the status of and will perform all of its functions undertaken under the lease as a common carrier and will accept, convey, and transport all crude oil or natural gas, depending on the kind of pipeline involved, delivered to it for transportation from fields in the vicinity of the pipeline subject to the lease throughout its route both on state public land obtained under the lease and on other land; however, the common carrier provision of this section

shall not apply to a natural gas pipeline operated by a person subject to regulation under the Natural Gas Act of the United States (52 Stat. 821, 68 Stat. 36);

(4) it will accept, convey, and transport or purchase crude oil or natural gas without unjust or unreasonable discrimination in favor of one producer or person, including itself, as against another in the same field, and without unjust or unreasonable discrimination as between fields in the state but will take the crude oil or natural gas, depending on the kind of pipeline involved, delivered or offered in the proportion that the commission shall, after a full hearing with due notice to the interested parties and a proper finding of facts, determine to be reasonable;

(5) it will exchange crude oil or natural gas, depending upon the kind of pipeline involved, with each like common carrier and provide connections and facilities for the interchange of crude oil or natural gas at every locality reached by both pipelines when the necessity exists, subject to rates and regulations made by the appropriate state or federal regulatory agency;

(6) the governor has the authority to obtain an option to purchase an undivided interest, not to exceed 20 per cent, in a trans-Alaska pipeline project or facility; a lease of state public land for right-of-way for a trans-Alaska pipeline facility shall contain the condition that the lessee grants to the state the option to purchase, on reasonable notice, an undivided interest, not to exceed 20 per cent, in the entire pipeline project or facility; the governor shall not exercise any option to purchase an interest in the pipeline project or facility unless the purchase price and other terms of the purchase proposal are approved by the legislature; in no event may the option to purchase be exercised until the purchase of the interest has been

approved by a majority of the voters in a statewide referendum; purchase of the interest may, at the option of the state, be made in stages subject to the foregoing provisions;

(7) it will maintain and preserve books, accounts, records, papers, and correspondence and other records and will make those reports that the state may prescribe by regulation or law as necessary and appropriate for purposes of administration of this chapter;

(8) it will accord at all reasonable times to the state and its authorized agents and auditors the right of access to its property and records, of inspection of its property, and of examination and copying of records;

(9) it will provide, where economically feasible and consistent with the primary function of the line, connections and facilities on the pipeline subject to the lease, both on state land and other land in the state, for the purpose of delivering crude oil or natural gas, depending upon the kind of pipeline involved, to persons desiring to purchase who are located in municipalities in the vicinity of the pipeline;

(10) it will, at its own expense, during the term of the lease

(A) maintain the leasehold and pipeline in good repair;

(B) exercise the highest degree of care in using the leasehold and operating the pipeline to prevent a pipeline incident;

(C) promptly repair or remedy any damage to or destruction of the leasehold or pipeline;

(D) promptly remedy any damage to or destruction of property resulting from damage to or destruction of the leasehold or pipeline;

(11) it will not transfer, assign, or dispose of in any manner, directly or indirectly, or by transfer of control of the carrier

corporation, its interest in a right-of-way lease, or any rights under the lease, or any pipeline subject to the lease, except as authorized by the commissioner, upon application by the carrier; the commissioner shall not unreasonably withhold his consent to the transfer, assignment or disposal;

(12) it will file with the commissioner a written appointment of a named permanent resident of the state to be its registered agent in the state and to receive service of notices, regulations, decisions and orders of the commissioner; if it fails to appoint an agent for service, service may be made by posting a copy in the office of the commissioner and filing a copy of it in the office of the lieutenant governor;

(13) the applicable law of this state will be used in resolving questions of interpretation of the lease.

Sec. 38.35.120. RIGHT-OF-WAY EASEMENTS OR LEASES ACQUIRED FROM OTHERS. (a) The lease shall contain the further express agreement by the carrier that

(1) the state reserves to itself and the lessee grants to the state the sole right to condemn, by declaration of taking real property for right-of-way purposes and to acquire to the extent federally permissible leases of or easements or rights-of-way on public lands belonging to the United States in this state, including "withdrawn public lands" as that term is defined in secs. 3(k) and 16(b) of the Alaska Native Claims Act of 1971 (85 Stat. 688), required for right-of-way purposes for the pipeline subject to the lease;

(2) the carrier will, if the commissioner delegates the function to it, condemn, by declaration of taking, real property and acquire leases of or easements or rights-of-way on public lands in this state belonging to the United States, including "withdrawn

public lands" required for right-of-way purposes for the pipeline subject to the lease on behalf of and as agent for the board in whom title to or interest in the land shall vest.

(b) The lease covenant required by this section shall be accompanied by a provision that the land, right-of-way, or easement acquired under this section is or will form part of the lands leased to the lessee carrier.

Sec. 38.35.130. PAYMENT OF PERCENTAGE RENTAL. (a) The carrier shall agree in the lease, as a condition for obtaining the noncompetitive lease of state public land for pipeline right-of-way, that it will pay annually to the state as rent for the premises demised not less than the amount calculated by the following formula: two per cent of that portion of annual net earnings less than two per cent of total assets; 25 per cent of that portion of annual net earnings between two per cent and four per cent of total assets; and 50 per cent of that portion of annual net earnings greater than four per cent of total assets; net earnings shall be determined before deduction of income taxes; the depreciation schedules, the determination of total assets, and other accounting rules that are to be applied in calculating net earnings shall be specified in the right-of-way lease.

(b) The lease shall provide for payment of the annual rental either on a monthly, quarterly, biannual, or annual basis and shall provide that any installment of rent not paid when due shall bear interest at the rate of 10 per cent per year.

(c) The lease may provide for payment of a reasonable percentage rental in excess of the minimum provided for in (a) of this section.

(d) When the commissioner determines that the costs of administration involved in calculating the rental payments due under the formula in (a) of this section are likely to exceed the benefits

accruing to the state from them, he may, after public notice of this determination as provided in sec. 70 of this chapter and compliance with the other provisions of this chapter, issue a right-of-way lease without the covenant to pay rental under (a) of this section.

(e) Each lease of state public land for pipeline right-of-way shall provide that all money and other sums which shall become due to the state by reason of any provision of the lease is and shall always be a valid and first lien upon the buildings and improvements on the demised property, and upon all of the interests of the lessee carrier in the lease and in the property of the carrier transported by the pipeline subject to the lease and paramount to any mortgage which the carrier may execute on them, or any lien caused by the carrier.

(f) In the event any of the provisions of subsections (a) through (e) of this section are found unconstitutional, the formula for determining annual rent for the premises shall be the fair market value of the right-of-way. Fair market value may be determined to be the price for which a reasonable and willing seller would sell or lease and at which a reasonable and willing buyer or lessee would buy or lease. The state may every 10 years, redetermine the annual rental based upon the formula set forth herein.

Sec. 38.35.140. ADDITIONAL PROVISIONS OF LEASE. (a) The commissioner may insert in any right-of-way lease other reasonable provisions and conditions that he determines the public interest, convenience and necessity requires, however, these other reasonable provisions and conditions shall relate to the primary function of the lease and the land involved.

(b) The commissioner shall require the lessee carrier to procure and file liability and property damage insurance from a company licensed to write insurance in the state or deposit security for the limits of

liability upon the terms and conditions the commissioner determines necessary for the protection of the public against damage and injury for which the lessee carrier may be liable by reason of the operation of the pipeline. This subsection shall not prevent a person from being a self-insurer.

(c) The commissioner shall require the lessee carrier to submit a security or bond in a reasonable amount conditioned for the construction and completion of the facility together with the payment of rent, taxes, assessments and other obligations under the lease until the construction and completion of the facility, after which the bond shall be cancelled or the securities returned. The agreement as to the securities and the bond shall provide that if the carrier fails to construct the facility specified in the project description, a reasonable amount of the securities or bond shall be held payable to the state as damages for failure to construct and complete the facility.

Sec. 38. 35.150. TRANSFER OF RIGHT-OF-WAY LEASE, CERTIFICATES, OR PIPELINE. No lessee carrier may transfer, assign, or dispose of in any manner its right-of-way lease, or any rights under the lease, or any pipeline subject to the lease, whether on state public land or other land in the state, either voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation holding the lease or certificate or owning the pipeline, to any person, except to the extent that the commissioner, after consideration of the public interest, convenience, and necessity, by order authorizes the transfer. The commissioner shall not unreasonably withhold this authorization. The application shall be disposed of as if the proposed transferee or assignee were making application under secs. 50 - 90 of this chapter.

Sec. 38.35.160. FORFEITURE OF LEASE. A determination, after due notice and an adequate hearing, that the carrier has failed to comply with

the provisions of this chapter or the provisions of the lease agreement shall be grounds for the forfeiture of the grant of the right-of-way lease, as well as grounds for the remedies provided in sec. 170 of this chapter. The commissioner may not forfeit a right-of-way lease until 60 days has elapsed after giving notice of intent to cancel or until judicial review of the commissioner's proposed action has commenced, whichever occurs earlier. The commissioner may insert in each lease of state public land for pipeline right-of-way additional reasonable provisions regarding default that he considers necessary and desirable.

Sec. 38.35.170. SUITS TO ENJOIN OR RECOVER DAMAGES FOR DEFAULTS. (a) When in the judgment of the commissioner a person has violated or is about to violate a provision of this chapter or an obligation, condition, or provision of a right-of-way lease, the attorney general, on advice of the commissioner, shall seek a prohibition or mandatory injunction from the superior court to remedy the violation.

(b) A penalty imposed by the provisions of a right-of-way lease issued under this chapter may be enforced in the superior court by proceedings in personam against the lessee carrier, or, in the case of a lien, by proceedings in rem against any of the lessee carrier's property.

(c) Neither this section nor the state's obtaining an injunction or recovering penalties extinguishes any civil cause of action or criminal responsibility arising out of a violation of this chapter, a right-of-way lease, or certificate under a lease. A person obtaining a money judgment in an action arising out of a violation is entitled to a reasonable attorney fee, fixed by the court, to be taxed and collected as costs of the suit.

Sec. 38.35.180. APPLICATION OF THE ADMINISTRATIVE PROCEDURE ACT. (a) AS 44.62.010 - 44.62.320, 44.62.640 and 44.62.650 apply to regulations

adopted by the commissioner under the authority of this chapter.

(b) AS 44.62.430 - 44.62.440 and 44.62.590 apply to actions of the commissioner under this chapter.

(c) AS 44.62.320 applies to right-of-way leases provided the legislature acts within 30 days after the commissioner submits the lease for review to the legislature. In computing the 30-day period, days in which either house is not in session because of adjournment for three or more days are excluded.

(d) AS 44.62.630 applies to all functions and decisions of the commissioner.

Sec. 38.35.190. JUDICIAL REVIEW OF ACTION TO CANCEL LEASE. A lessee carrier complaining of proposed action to be taken by the commissioner under sec. 160 of this chapter may have the commissioner's action reviewed by filing a petition for review in the superior court within 60 days after notice of the proposed action.

Sec. 38.35.200. DELEGATION OF COMMISSIONER'S AUTHORITY. The Commissioner may delegate to an employee of the Department of Natural Resources or the Department of Law the authority granted under this chapter, except for the authority to execute leases and certificates.

Sec. 38.35.210. CONTINUED OPERATION OF EXISTING CARRIER. (a) Existing easements or rights-of-way for pipelines on state public land existing on the effective date of this chapter are unaffected by the provisions of this chapter.

(b) If the existing right-of-way is revocable or for a term of years, then upon revocation or expiration this chapter applies.

(c) Applications for pipeline permits which have been filed with the division of lands before the effective date of this chapter shall be considered as filed under this chapter but this does not otherwise restrict the authority of the commissioner in acting on these applications under

this chapter; however, in the event the division of lands has, prior to the effective date of this chapter, granted right-of-entry to an applicant or issued a letter of no-objection to an applicant, and the applicant thereafter fully complies with all of the terms and conditions originally specified by the division of lands or other agency, these applications are an existing valid permit or easement on the effective date of this chapter and are unaffected by the provisions of this chapter.

(d) An applicant or competing applicant or a person who raises objections within 60 days of the filing of an application for a right-of-way are the only persons having standing to contest the commissioner's decisions in court.

Sec. 38.35.220. DEFINITIONS. In this chapter, unless the context otherwise requires,

(1) "association" means

(A) a trust or partnership, whether created or operated for profit or not for profit, or

(B) a group or organization of two or more individuals having a joint or common economic interest or jointly or commonly promoting their individual economic interests, whether or not the group or organization was created or is operated for profit or not for profit;

(2) "carrier" means a person who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage in operation of or transportation, service, or sale by pipeline for crude oil, natural gas, or products;

(3) "certificate" means the instrument of authorization required by this chapter of a carrier before it can engage in construction, acquisition, or operation of or transportation, service, or sale

by a pipeline on state public land or on other land subject to a lease;

(4) "commission" means the Alaska Oil and Gas Transportation Commission;

(5) "commissioner" means the commissioner of natural resources;

(6) "coordinate agencies" includes the Department of Labor, Department of Highways, Department of Environmental Conservation, and the Alaska Oil and Gas Transportation Commission;

(7) "corporation" includes a nonprofit corporation, joint-stock company, and professional corporation, but shall not include a municipality;

(8) "crude oil" or "oil" means crude petroleum oil in its natural state as produced and crude petroleum oil from which only the basic sediment and water and/or solution gas have been removed;

(9) "lease" means the instrument or extension of an instrument issued under this chapter granting a leasehold interest in state public land for pipeline right-of-way purposes to a carrier and authorizing upon issuance of certificates the construction, acquisition, or operation of, or transportation, service or sale by a pipeline for crude oil, natural gas, or products;

(10) "lessee carrier" means a carrier holding a valid lease and certificates thereunder issued by the commissioner;

(11) "municipality" includes all classes of organized boroughs and cities whether home rule or otherwise;

(12) "natural gas" or "gas" means natural gas, including bradenhead gas, casinghead gas, and gas produced from an oil or gas well, or any mixture of natural and artificial gas;

(13) "pipeline" or "pipeline facility" means all the facilities of a total system of pipe (whether owned or operated under a

contract, agreement, or lease) used by a carrier for transportation of crude oil, natural gas, or products for delivery, for storage, or for further transportation, and including all pipe, pump or compressor stations, station equipment, tanks, valves, access roads, bridges, airfields, terminal and terminal facilities, including docks and tanker loading facilities, operations control center for both the upstream part of the pipeline and the terminal, tanker ballast treatment facilities, and fire protection system, communication system, and all other facilities used or necessary for an integral line of pipe, taken as a whole, to effectuate transportation, including an extension or enlargement of the line;

(14) "pipeline incident" means any occurrence, including an extraordinary pipeline occurrence, within the state causing, within or outside the state, bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property, or damage to the natural environment, arising out of or resulting from the toxic, explosive, or other hazardous properties of a pipeline operation or of the crude oil, natural gas, or products carried by the pipeline;

(15) "product" means refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural gas gasoline, naphtha, distillate, gasoline, kerosene, benzine, wash oil, waste oil, blended gasoline, lubricating oil, blends or mixtures of petroleum and any liquid products or by-product derived from crude petroleum oil or natural gas;

(16) "public land of the United States" means the land owned by the United States as defined in Title 43, secs. 2, 931a, and 931c, USC, as amended, and Title 30, sec. 185, USC, as amended;

(17) "right-of-way" means the land covered by a lease;

(18) "state public land" means

(A) "state lands" as defined in AS 38.05.365;

(B) public land of the United States selected by the state under sec. 6 of the Alaska Statehood Act of 1958, 72 Stat. 399, as amended, and real property of the United States transferred to the state under secs. 21, 35 and 45 of the Alaska Omnibus Act of 1959, 73 Stat. 141, as amended;

(C) any interest owned by the state in land;

(19) "subject to the lease" means, in the context of a reference to a pipeline, or the construction, acquisition, or operation of, or transportation, service, or sale by it, that the pipeline or the performance of the above acts relative to it are specified in the lease or certificate issued by the commissioner as being subjected to the jurisdiction or coverage of that lease, certificate, this chapter, and any other applicable state or federal law;

(20) "transportation" means the shipment or carriage by a pipeline of crude oil, natural gas, or products from an upstream terminus in one or more fields or points of production or supply of the minerals to a downstream terminus in one or more points for delivery of the minerals to a purchaser or consignee, for storage, or for further carriage or shipment, including shipment or carriage within the state that may be classified as interstate or foreign transportation to the extent that the transportation may constitutionally be subjected to the provisions of this chapter, as well as all services necessary to effectuate shipment or carriage including among other things, the receipt, storage, processing, handling, transfer in transit, forwarding, and delivery of the minerals.

Sec. 38.35.230. SHORT TITLE. This chapter may be cited as the Alaska Right-of-Way Leasing Act of 1972.

* Sec. 2. AS 09.55.240(a)(12) is amended to read:

(12) subject to the requirements of the Alaska Right-of-Way Lease Act of 1972 (AS 38.35), for the location of pipelines for gathering, transmitting, transporting, storing, or delivering natural or artificial gas or oil or any liquid or gaseous hydrocarbons, including, but not limited to, pumping stations, terminals, storage tanks, or reservoirs, and related installations.

* Sec. 3. AS 38.05.020 is amended by adding a new subsection to read:

(c) The commissioner shall have all powers necessary and proper to implement the policy and powers of the Alaska Right-of-Way Lease Act of 1972, AS 38.35, including but not limited to:

(1) granting leases of state public land and issuing certificates for pipeline right-of-way purposes;

(2) leasing, purchasing or acquiring easements on private or federal land in this state for the purpose of utilizing or granting leases of the land or easements for pipeline right-of-way purposes;

(3) purchasing interests in pipelines in accordance with options included in right-of-way leases as provided in AS 38.35.

* Sec. 4. AS 38.05.330 is amended to read:

Sec. 38.05.330. PERMITS. The director, without the prior approval of the commissioner, may issue permits, rights-of-way or easements on state lands for secondary roads, trails, ditches, [PIPELINES,] telephone and transmission lines, log storage, oil well drilling sites and production facilities for the purposes of recovering minerals from adjacent lands under valid lease, and other similar uses or improvements, or for the limited personal use of timber or materials. The commissioner, upon recommendation of the director, shall establish a reasonable rate or fee schedule to be charged for these uses. In the granting, suspension or revocation of a permit or easement of lands,

the director shall give preference to that use of the land which will be of greatest economic benefit to the state and the development of its resources. However, first preference shall be granted to the upland owner for the use of a tract of tideland, or tideland and contiguous submerged land, which is seaward of the upland property of the upland owner and which is needed by the upland owner for any of the purposes for which the use may be granted.

* Sec. 5. This Act takes effect on the day after its passage and approval or on the day it becomes law without approval.