

Original sponsor: Rules Committee  
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Referred: Rules

1 IN THE SENATE

BY THE COMMERCE COMMITTEE

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CS FOR SENATE BILL NO. 376

*am H*

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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 Alaska Air Commerce Act."

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

8 \* Section 1. AS 02.05.050(d) is repealed and re-enacted to read:

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(d) Air taxi operators. The commission, by regulation, may

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establish more than one subclassification of air taxi operator and shall

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establish the extent to which a subclassification shall be regulated

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under the provisions of this chapter. A person authorized under this

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chapter to engage in air commerce as an air taxi operator

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(1) may, in accordance with his certificate, the limitations

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established by this chapter and regulations of the commission, utilize

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in all areas of the state authorized, aircraft having a maximum certifi-

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cated takeoff weight of 12,500 pounds or less except as authorized on

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certificates in effect on the effective date of this Act or as other-

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wise authorized by the commission;

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(2) may employ pilots and may lease, rent, and own aircraft;

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however, a person who has not received authority under this chapter may

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not operate under another person's air taxi certificate of authority;

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(3) may charge individual passenger fares and per pound

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cargo rates on bush routes or points served by him on an irregular

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basis; however, the individual passenger fares and per pound cargo rates

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may not be less than those contained in the published tariff of a

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scheduled carrier between points being served by the carrier;

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(4) may enter into long-term, written exclusive charter

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contracts if

1 (A) the carrier continues to provide reasonable and  
2 continuous air taxi service to the public at its base of opera-  
3 tions;

4 (B) term rates for a contractual period of less than  
5 30 consecutive days are properly made, published and filed in  
6 accordance with secs. 140 and 150 of this chapter and the  
7 regulations of the commission; and

8 (C) a complete copy of the exclusive charter contract,  
9 including amendments or supplements, for a contractual period of  
10 30 or more consecutive days is on file at the base of operations  
11 of the carrier and available to the commission on request before  
12 the performance of any service under the contract; except as  
13 provided in sec. 150(a)(3) of this chapter, rates provided in  
14 the contracts are exempt from the provisions of secs. 140 - 150  
15 of this chapter;

16 (5) shall establish and register with the commission, on  
17 forms furnished by the commission, his base of operations; however, a  
18 person may not operate from more than one base of operations except  
19 upon approval by the commission after a finding that public convenience  
20 and necessity requires it and a change in the base or bases of opera-  
21 tions may be made only upon approval of the commission.

22 \* Sec. 2. AS 02.05 is amended by adding a new section to read:

23 Sec. 02.05.053. RESTRICTION ON HOLDING AUTHORITY BOTH AS AIR TAXI  
24 OPERATOR AND CONTRACT CARRIER. (a) No carrier may hold certificates  
25 both as an air taxi operator and as a contract carrier after December 31,  
26 1973.

27 (b) Before January 1, 1974, the commission shall examine the  
28 operations of carriers holding both an air taxi certificate and con-  
29 tract carrier certificate and after notice and opportunity for hearing

1 shall determine whether either or both of the carrier's authorities  
2 are dormant and upon a finding of dormancy revoke the dormant autho-  
3 rity or authorities.

4 (c) Before January 1, 1974, the commission shall examine  
5 outstanding certificates issued to a contract carrier and shall  
6 institute a proceeding either upon its own initiative or upon  
7 application of a certificated carrier actually in operation or  
8 upon complaint of an interested party and after notice and hearing  
9 determine

10 (1) whether the carrier's authority is active or dor-  
11 mant and upon a finding of dormancy revoke the dormant autho-  
12 rity;

13 (2) whether the carrier is operating as an air taxi .  
14 or contract carrier within the contractual authority relating  
15 to air taxi operators under sec. 50(d)(4) of this chapter or  
16 within the restricted authority governing contract carriers as  
17 defined in sec. 250(8) of this chapter and if the commission  
18 finds that the operations of a person holding a contract carrier  
19 certificate, before the effective date of this Act, (A) do not  
20 conform with the definitions of a contract carrier in sec. 250(8)  
21 of this chapter; and (B) are actually those of an air taxi operator  
22 and otherwise lawful, the commission shall issue a certificate  
23 authorizing the carrier to engage in air commerce as an air taxi  
24 operator and shall establish the base of operations from which  
25 the carrier may operate; however, the carrier may instead elect  
26 to retain its authority as a contract carrier restricting its  
27 operations to those of a contract carrier as defined in sec. 250(8)  
28 of this chapter.

29 (d) A certificate which the commission finds should be revoked

1 in accordance with (b) of this section may not be transferred or  
2 otherwise disposed of but must be revoked.

3 \* Sec. 3. AS 02.05.080(a) is amended to read:

4 (a) Subject to the provisions of (d) of this section, the  
5 commission shall issue a certificate authorizing the applicant to  
6 engage in air commerce as a scheduled or contract carrier or air taxi  
7 operator, or authorizing the whole or any part of the operation covered  
8 by an application for a certificate,

9 (1) if the commission finds that the applicant is fit,  
10 willing and able to engage in air commerce properly and to comply  
11 with the provisions of this chapter and the rules, regulations, and  
12 requirements of the commission; and

13 (2) if the commission finds that air commerce and the  
14 performance of it by the applicant in the type of aircraft for which  
15 a certificate is requested under (e) of this section is required by  
16 the public convenience and necessity and is consistent with the declara-  
17 tion of policy contained in sec. 10 of this chapter.

18 \* Sec. 4. AS 02.05.090(f) is amended to read:

19 (f) Except as provided in (g) of this section, each [EACH]  
20 aircraft owned or leased by any person subject to the provisions of  
21 this chapter shall be registered with the commission before the  
22 aircraft is used in air commerce. Certificates of registration for  
23 each aircraft shall be issued by the commission. These certificates  
24 are valid for a period of 12 months from the date of registration  
25 and are renewed at the expiration of each 12 month period. The fees  
26 for registration of aircraft are as follows:

27 (1) Aircraft weighing 4,000 pounds gross weight or  
28 less..... \$25

29 (2) Aircraft weighing over 4,000 pounds but less than

1	7,900 pounds gross weight.....	50
2	(3) Aircraft weighing 7,900 pounds but less than	
3	12,500 pounds gross weight .....	100
4	(4) Aircraft weighing 12,500 pounds but less than	
5	27,000 pounds gross weight .....	150
6	(5) Aircraft weighing 27,000 pounds but less than	
7	50,000 pounds gross weight .....	300
8	(6) Aircraft weighing 50,000 pounds but less than	
9	75,000 pounds gross weight .....	400
10	(7) Aircraft weighing 75,000 pounds gross weight	
11	or more .....	600

\* Sec. 5. AS 02.05.090 is amended by adding new subsections to read:

(g) Scheduled carriers certificated by the Civil Aeronautics Board that provide intrastate service between points in the state on their interstate or foreign routes and who use, for that intrastate service, aircraft based primarily outside the state, shall register the aircraft used in intrastate service in the state with the commission. Registration fees shall be paid on the basis of the maximum number of aircraft used in the intrastate service during any 24-hour period during the year as provided by regulations of the commission.

(h) Failure to register an aircraft prior to its use in air commerce by a person holding a certificate of authority under this chapter may be cause for suspension or revocation of his certificate in accordance with AS 02.05.100.

\* Sec. 6. AS 02.05.110 is amended by adding new subsections to read:

(e) Only those rights under a certificate which are shown to be in active and regular use may be transferred. The transferor shall certify to the commission that the authority contained in the certificate has been in reasonable continuous and active use as to the

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

8 (f) Applications for transfer shall not be granted until:

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

14 (2) all money due shippers or other parties entitled to  
15 receive the money for shipments performed on a COD basis have been paid.

16 (g) For purposes of this section, a transfer requiring commission  
17 approval includes transfer of control over the certificate by any of  
18 the following ways:

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

22 (2) merger;

23 (3) consolidation;

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

27 \* Sec. 7. AS 02.05.135(a)(1) is amended to read:

28 (1) a policy or certificate of insurance issued by an insurer  
29 acceptable to the commission and approved by the state division of

1 insurance, Department of Commerce [LICENSED TO WRITE THIS INSURANCE  
2 IN A STATE OF THE UNITED STATES; OR IN THE JURISDICTION WHERE IT IS  
3 DOMICILED, THE INSURER MAINTAINS IN A BANK LOCATED IN AND SUBJECT TO  
4 THE LAWS OF THE UNITED STATES A TRUST FUND FOR THE BENEFIT OF ITS  
5 POLICYHOLDERS OF NOT LESS THAN \$200,000];

6 \* Sec. 8. AS 02.05.170 is amended by adding a new subsection to read:

7 (e) An air carrier shall have an office in the state in which  
8 its property or some portion of its property is located and shall keep  
9 in that office all the books, accounts, papers, and records required  
10 by the commission to be kept within the state. These books, accounts,  
11 papers or records may not, at any time, be removed from the state  
12 except upon conditions prescribed by the commission.

13 \* Sec. 9. AS 02.05.230 is repealed and re-enacted to read:

14 Sec. 02.05.230. VIOLATION A MISDEMEANOR. A person who knowingly  
15 violates a provision of this chapter or a regulation, order or decision  
16 of the commission, or a final order or decree of a court, or who  
17 knowingly procures, aids or abets a violation, is guilty of a misde-  
18 meanor, and upon conviction, is punishable by a fine of not more than  
19 \$500 for each offense.

20 \* Sec. 10. AS 02.05 is amended by adding new sections to read:

21 Sec. 02.05.231. CIVIL PENALTIES FOR VIOLATION. The commission  
22 may, after notice and opportunity for a hearing, levy a civil penalty  
23 of not more than \$150 for each offense upon a person who violates or  
24 who procures, aids, or abets, a violation by an air carrier of a provi-  
25 sion of this chapter, or an order, decision, rule or regulation of the  
26 commission. A levy of penalty shall be made by written order of the  
27 commission.

28 Sec. 02.05.232. EACH VIOLATION A SEPARATE OFFENSE. Each violation  
29 of the provisions of this chapter or of an order, decision, rule or

1 regulation of the commission by a person is a separate and distinct  
2 offense, and if a continuing violation, each day of continuance is a  
3 separate and distinct offense.

4 Sec. 02.05.233. PENALTIES CUMULATIVE, NOT EXCLUSIVE AND RECOVERY.

5 (a) Penalties occurring under this chapter are cumulative and a  
6 suit for the recovery of one penalty is not a bar to and does not affect  
7 the recovery of another penalty and is not a bar to a criminal prosecu-  
8 tion and imposition of a fine against a person.

9 (b) Neither a criminal prosecution nor an action to recover a  
10 penalty as provided in this chapter is a bar to an enforcement proceed-  
11 ing to require compliance, nor to any other remedy provided by this  
12 chapter.

13 (c) Actions to recover penalties or impose fines under this  
14 chapter shall be brought by the attorney general. All fines imposed  
15 and all penalties recovered under this chapter shall be paid to the  
16 commission and deposited in the general fund of the state.

17 Sec. 02.05.234. JOINDER OF ACTIONS. Under the applicable court  
18 rules, appeals from orders of the commission, applications for en-  
19 forcement of commission orders and actions for recovery of a penalty  
20 may be joined. The court may in the interests of justice separate  
21 the actions.

22 \* Sec. 11. AS 02.05.250 is amended by adding new paragraphs to read:

23 (7) "base of operations" means the point, together with the  
24 reasonably contiguous or closely related surrounding community or  
25 geographical area, from which the carrier represents to the public that  
26 it engages in air commerce, and at where it stations its aircraft, has  
27 its facilities and generally conducts its business as an air carrier;

28 (8) "contract carrier" means an air carrier holding a certi-  
29 ficate of public convenience and necessity which authorizes it to

1 provide, in accordance with written contracts for exclusive use of the  
2 carrier's aircraft, air service of a continuing nature for a definite  
3 and limited number of persons; a contract carrier's air service is  
4 designed to meet the distinct air transportation needs of the individual  
5 customer; a contract carrier does not represent to the public at large  
6 expressly or by course of conduct that it furnishes transportation for  
7 compensation, hire, or lease;

8 (9) "dormancy" means

9 (A) failure of a person who holds a certificate of  
10 authority as an air taxi operator or a contract carrier to own or  
11 lease and operate aircraft in air commerce during the two quarters  
12 preceding an accusation by the commission, or

13 (B) failure of a person who holds a certificate of  
14 authority to file with the commission a required report within 30  
15 days after the date ending the preceding reporting period;

16 (10) "supplemental base of operations" means the point to-  
17 gether with the reasonable contiguous or closely related surrounding  
18 community or geographical area, from where, in addition to its "base of  
19 operations", the carrier also represents that it engages in air commerce.

20 \* Sec. 12. AS 02.05.050(e) and AS 02.05.075(b) are repealed.  
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