

Original sponsor: Rules Committee
by Request

Offered: 4/11/72
Referred: Rules

1 IN THE SENATE

BY THE COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 376

re-enacted

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 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 AS 02.05.050(d) is repealed and re-enacted to read:

9 (d) Air taxi operators. The commission, by regulation, may
10 establish more than one subclassification of air taxi operator and shall
11 establish the extent to which a subclassification shall be regulated
12 under the provisions of this chapter. A person authorized under this
13 chapter to engage in air commerce as an air taxi operator

14 (1) may, in accordance with his certificate, the limitations
15 established by this chapter and regulations of the commission, utilize
16 in all areas of the state from which he is authorized to operate,
17 aircraft having a maximum certificated takeoff weight of 12,500 pounds or
18 less except as authorized on certificates in effect on the effective
19 date of this Act or as otherwise authorized by the commission;

20 (2) may employ pilots and may lease, rent, and own aircraft;
21 however, a person who has not received authority under this chapter may
22 not operate under another person's air taxi certificate of authority;

23 (3) may charge individual passenger fares and per pound cargo
24 rates on bush routes or points served by him on an irregular basis, how-
25 ever, the individual passenger fares and per pound cargo rates may not be
26 less than those contained in the published tariff of a scheduled carrier
27 between points being served by two or more scheduled carriers;

28 (4) may enter into long-term, written exclusive charter
29 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(6) is amended to read:

23 (6) "type of aircraft" means

24 (A) the classification of aircraft as being either
25 fixed-wing aircraft or rotary-wing aircraft, and [.]

26 (B) as to fixed-wing aircraft in excess of 12,500 pounds
27 gross certificated takeoff weight, a specific make and basic model
28 of aircraft, including modifications thereto that do not change
29 its handling characteristics.

1 * Sec. 12. AS 02.05.250 is amended by adding new paragraphs to read:

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

7 (8) "contract carrier" means an air carrier holding a certi-
8 ficate of public convenience and necessity which authorizes it to
9 provide, in accordance with written contracts for exclusive use of the
10 carrier's aircraft, air service of a continuing nature for a definite
11 and limited number of persons; a contract carrier's air service is
12 designed to meet the distinct air transportation needs of the individual
13 customer; a contract carrier does not represent to the public at large
14 expressly or by course of conduct that it furnishes transportation for
15 compensation, hire, or lease;

16 (9) "dormancy" means

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

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

25 * Sec. 13. AS 02.05.050(e) and AS 02.05.075(b) are repealed.
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