

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

February 13, 1973

The Honorable Tom Fink
Speaker, House of Representatives
State Capitol
Juneau, Alaska 99801

The Honorable Terry Miller
President of the Senate
State Capitol
Juneau, Alaska 99801

Gentlemen:

The Second Session of the Seventh Legislature, by resolution (SCR 21), directed the Legislative Council to study and develop a transportation code covering all modes (excluding transportation by pipeline) for the state, considering among other things:

- (1) the regulatory relationships between interstate and intrastate transportation and the regulatory responsibilities and jurisdiction of both federal and state regulatory agencies;
- (2) coordination with the Civil Aeronautics Board in developing a sound transportation policy in air commerce, particularly in areas of overlapping jurisdiction and carrier service;
- (3) delineation of the responsibilities for developing and pursuing state policy and objectives with regard to interstate transportation and to proceedings before federal regulatory agencies;
- (4) development of the nature, organization and budget requirements of the Alaska Transportation Commission adequate to effectively and efficiently carry out the assigned responsibilities for transportation regulation.

Rep. Tom Fink
Senator Terry Miller

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February 13, 1973

To carry out this directive the Council contracted with an independent consultant as authorized by SCR 21.

The attached bill is the finished product drafted by the consultant and is being submitted for committee consideration without recommendation. The consultant will be available to the committees when the proposed legislation is received.

Respectively submitted,


Richard L. McVeigh, Chairman
Legislative Council

Introduced: 2/14/73
Referred: Commerce and
Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY REQUEST
OF THE LEGISLATIVE COUNCIL

2

SENATE BILL NO. 144

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

EIGHTH LEGISLATURE - FIRST SESSION

5

A BILL

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For an Act entitled: "An Act relating to the regulation of public transportation in the state; and providing for an effective date."

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

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* Section 1. AS 42.07 is repealed and re-enacted to read:

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CHAPTER 07. ALASKA TRANSPORTATION COMMISSION.

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ARTICLE 1. ESTABLISHMENT OF TRANSPORTATION COMMISSION.

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Sec. 42.07.012. CREATION AND COMPOSITION. (a) There is created

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the Alaska Transportation Commission as a quasi-judicial agency under sec. 26, art. III of the Constitution of the State of Alaska, and in that name may sue or be sued. The commission consists of three members appointed by the governor and confirmed by the legislature in joint session.

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(b) The commissioners shall elect one member of the commission as chairman of the commission. The chairman shall serve for a term of two years or until his term as commissioner expires, whichever first occurs, but may be elected for successive terms.

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Sec. 42.07.016. TERM OF OFFICE; VACANCY. (a) The commissioners first appointed under this chapter shall continue in office for terms of two, four, and six years, respectively, but their successors shall each be appointed for a term of six years unless appointed to fill an unexpired term. A commissioner, upon the expiration of his term, shall continue to hold office until his successor is appointed and qualified. The term of a member begins on February 1.

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1 (b) A vacancy arising in the office of commissioner shall be
2 filled by appointment by the governor and confirmed by the legislature
3 in joint session and an appointee selected to fill a vacancy shall
4 hold office for the balance of the term for which his predecessor was
5 appointed.

6 (c) A vacancy in the commission does not impair the authority
7 of a quorum of commissioners to exercise the powers and perform the
8 duties of the commission.

9 Sec. 42.07.022. REMOVAL OF COMMISSIONERS. (a) The governor may,
10 with the consent of the senate, remove a commissioner from office for
11 cause. Cause includes but is not limited to incompetence, inefficiency,
12 neglect of duty or misconduct in office. A commissioner shall be
13 given a copy of the charges against him, and afforded an opportunity
14 to be publicly heard in person or by counsel in his own defense upon
15 not less than 10 days notice. If a commissioner is removed, the
16 governor shall file with the lieutenant governor a complete statement
17 of the charges made against the commissioner and his findings, together
18 with a complete record of the proceeding.

19 (b) If the governor removes a commissioner as provided for in
20 (a) of this section between regular sessions of the legislature, a
21 copy of the governor's statement of charges, findings, and decision
22 shall be submitted to the senate for approval within 10 days after the
23 next regular session convenes. The governor's decision is approved
24 unless the senate disapproves it within 20 days after it is submitted.

25 (c) The governor may remove a commissioner from office without
26 cause with the consent of two-thirds of all members of the legislature
27 in joint session.

28 Sec. 42.07.026. ADDITIONAL DUTIES OF CHAIRMAN; SUBSTANTIVE
29 DECISIONS; QUORUM. (a) The chairman is the executive and administrative

1 head of the commission and presides at all meetings and sessions of
2 the commission. He shall organize, coordinate, supervise, and direct
3 the operations and affairs of the commission in a manner that prevents
4 delay and promotes the expeditious and efficient disposition of all
5 matters within the commission's jurisdiction. He may organize the
6 work of the commission into several categories and assign various duties
7 and responsibilities to the members. The chairman shall designate a
8 member to exercise, in his absence, the authority and duties of the
9 chairman.

10 (b) The chairman shall determine whether matters pending before
11 the commission are to be heard initially by the full commission, by
12 one or more commissioners, or by a hearing examiner or hearing officer
13 and assign the proceedings accordingly.

14 (c) The chairman may hear and determine, or assign to a commis-
15 sioner, hearing examiner, or hearing officer for decision a procedural
16 motion or petition made before hearing on the merits of the proceedings,
17 including continuances, extensions, joinders, amendments, motions to
18 strike, orders for examinations and depositions, temporary orders, and
19 other motions and orders of a similar nature not determinative of the
20 merits of the controversy.

21 (d) The chairman acting alone, or a majority of the members of
22 the commission, may initiate an investigation, complaint proceeding,
23 order to show cause, or other proceedings, within the jurisdiction of
24 the commission.

25 (e) Matters of commission policy, delegation of authority, or
26 matters which require a decision by the commission shall be decided by
27 a quorum of the commissioners.

28 (f) Two members of the commission constitute a quorum.

29 Sec. 42.07.032. QUALIFICATIONS. (a) A commissioner shall be a

1 citizen of the United States and a resident of the state.

2 (b) A commissioner shall be appointed with regard to his fitness
3 and ability to exercise the powers and duties of the commission, based
4 upon his experience and familiarity with the principles of public
5 utility or transportation regulation or his educational and experience
6 background in the fields of engineering or transportation, law, busi-
7 ness administration, or finance and accounting. At least one member
8 shall be a graduate of an accredited school of law.

9 Sec. 42.07.036. OATH OF OFFICE. A commissioner, before entering
10 office, shall take the oath prescribed for principal officers of the
11 state.

12 Sec. 42.07.042. RESTRICTIONS. No commissioner, employee, or
13 agent of the commission may have an official or professional relation
14 to or in connection with, or hold stock or securities or have a
15 pecuniary interest in, a business or agency subject to regulation under
16 this Act. Membership in a cooperative association is not a "pecuniary
17 interest" within the meaning of this section. If a commissioner or
18 employee becomes the owner of such stocks or securities or becomes
19 pecuniarily interested in such a business or agency involuntarily, his
20 office or employment becomes vacant unless within a reasonable time
21 he divests himself of the ownership or interest.

22 Sec. 42.07.046. COMPENSATION. The commissioners are in the
23 exempt service under AS 39.25 and receive the same compensation as
24 superior court judges.

25 Sec. 42.07.052. PRINCIPAL OFFICE AND SEAL. (a) The commission
26 shall establish a principal office. For the convenience of the public
27 or of parties to a proceeding the commission may hold hearings or other
28 proceedings at another location.

29 (b) The commission shall adopt and use an official seal by which

1 the commission shall authenticate its proceedings, and of which seal
2 the courts shall take judicial notice. A copy of a paper or document
3 on file with the commission authenticated by the seal shall be evidence
4 equally and in like manner as the original.

5 Sec. 42.07.156. GENERAL COUNSEL. (a) The commission shall
6 employ an attorney, to be known as the general counsel, to perform legal
7 services for the commission in proceedings and matters before the com-
8 mission, and to do legal research for and on behalf of the commission.
9 The general counsel represents the commission on appeals from commis-
10 sion orders and before state and federal agencies and courts. He
11 performs such other legal services for the commission as the chairman
12 and the members of the commission request.

13 (b) In a hearing or proceeding in which the commission exercises
14 a judicial function, the general counsel shall not appear before the
15 commission or represent or advise a party in connection with the develop-
16 ment or presentation of evidence as an advocate, in order that he may
17 properly advise the commission on legal matters in the deliberation
18 process.

19 (c) The general counsel serves at the pleasure of the commission.

20 Sec. 42.07.062. COMMISSION SECRETARY. (a) There is an office
21 of the secretary of the commission. The secretary shall be the cus-
22 todian of the commission's official seal; keep full and accurate minutes
23 of all transactions, proceedings and determinations of the commission;
24 keep a full and true record of all proceedings, acts, orders and judg-
25 ments of the commission; issue all necessary process, returns and
26 notices; keep all books, maps, documents and papers ordered filed by
27 the commission in its official docket files; and perform other duties
28 as assigned.

29 (b) The secretary is responsible to the commission for the safe

1 custody and preservation of all documents in its office.

2 (c) The secretary serves at the pleasure of the commission.

3 Sec. 42.07.066. HEARING EXAMINERS. (a) The commission shall
4 appoint one or more hearing examiners for the purpose of making investi-
5 gations and of holding hearings. An examiner shall preside at investi-
6 gations and hearings as assigned and shall have, in connection with
7 them, the power and duties set out in this chapter unless otherwise
8 provided in the assignment of a proceeding.

9 (b) A hearing examiner shall be a graduate of an accredited
10 school of law but need not be licensed to practice law in the state.

11 Sec. 42.07.072. TEMPORARY HEARING OFFICERS AND RESEARCH ASSISTANTS.

12 (a) The commission may employ temporary hearing officers to preside
13 for limited purposes at commission hearings.

14 (b) The commission may employ technical research assistants to
15 advise and assist the commissioners, general counsel, hearing examiners
16 and hearing officers in the review and analysis of evidence studies,
17 reports or other material and information received under circumstances
18 in which the division of regulatory services may not communicate.
19 Research assistants may not be assigned to the division of regulatory
20 services.

21 (c) Temporary hearing officers and research assistants serve at
22 the pleasure of the commission.

23 Sec. 42.07.076. CREATION OF DIVISION OF REGULATORY SERVICES.

24 There is created the division of regulatory services within the Alaska
25 Transportation Commission. The division is headed by the executive
26 director of the commission.

27 Sec. 42.07.082. APPOINTMENT OF EXECUTIVE DIRECTOR; TERM; VACANCY;
28 REMOVAL; QUALIFICATIONS; COMPENSATION. (a) The executive director of
29 the commission shall be appointed by the governor and confirmed by the

1 legislature in joint session.

2 (b) The term of office of the director is four years and the term
3 of the first director ends January 31, 1975. Upon expiration of his
4 term the director holds office until he is either reappointed or until
5 his successor is appointed and confirmed.

6 (c) A vacancy in the office of executive director shall be filled,
7 and a director shall be removed from office, in the same manner as
8 prescribed for filling a vacancy on the commission, and removing a com-
9 missioner from office under secs. 16(b) and 22 of this chapter.

10 (d) The executive director shall have had at least five years
11 experience in a responsible administrative capacity and shall be ex-
12 perience in transportation carrier management or regulation.

13 (e) The director is an employee of the state in the exempt service
14 under AS 39.25 and is compensated under the basic salary schedule
15 (AS 39.27.010) at range 25.

16 Sec. 42.07.086. POWERS AND DUTIES OF THE DIVISION OF REGULATORY
17 SERVICES AND ITS RELATIONSHIP TO THE COMMISSION. (a) Except as other-
18 wise provided in this section, the division of regulatory services acts
19 under the supervision and control of the commission in the exercise
20 of powers and duties delegated by the commission.

21 (b) In adjudicatory proceedings before the commission in which
22 the division is a party, the commission may not supervise or control
23 the investigation, development, presentation or prosecution of the
24 division's case in any different manner or extent than it may supervise
25 or control other parties in the proceeding. However, a commissioner
26 may direct the division to develop information or make studies or other
27 investigations of a matter assigned, and to present the results and
28 its recommendations as part of the division's case in the proceeding.
29 The scope of the informational response study or investigation shall

1 be clearly defined in a written assignment directed to the executive
2 director but no supervision or control of the study, or investigation
3 or of the findings and recommendations of the division may be exercised
4 by a commissioner.

5 (c) It is the duty of the division when it is a party in an
6 adjudicatory proceeding to represent the public.

7 (d) Subject to secs. 102 and 142(b) of this chapter, the powers
8 and duties of the commission which are necessary to the division for it
9 to properly and adequately investigate, develop, present, or prosecute
10 its case under (b) and (c) of this section may be exercised by the
11 division without the necessity of delegation by rule or order of the
12 commission as otherwise required in sec. 142 of this chapter.

13 Sec. 42.07.092. LEGAL COUNSEL FOR THE DIVISION. The attorney
14 general is legal counsel for the division of regulatory services in
15 proceedings listed in sec. 86(c) of this chapter and in other proceed-
16 ings or matters in which the division may require the representation,
17 advice or assistance of counsel.

18 Sec. 42.07.096. DIVISION OF REGULATORY SERVICES PERSONNEL. (a)
19 The commission may employ professional, technical, administrative,
20 secretarial and clerical personnel it considers necessary. Personnel
21 employed in accordance with this section shall be assigned to the
22 division of regulatory services except that secretaries and clerks may
23 be assigned as necessary. Employees under this section are in the
24 classified service under AS 39.25.

25 Sec. 42.07.102. CONTRACTED PERSONAL SERVICES. The chairman, or
26 with the concurrence of the chairman, the executive director may con-
27 tract for the services of consultants and experts he considers neces-
28 sary for the purpose of developing information or conducting studies
29 and investigations.

1 Sec. 42.07.106. BUDGET. The commission shall submit a budget of
2 its anticipated needs for each fiscal year to the finance committees
3 of the legislature. The commission shall also submit its budget to
4 the governor for his consideration in the preparation of the executive
5 budget.

6 Sec. 42.07.112. ANNUAL REPORT. The commission shall publish an
7 annual report reviewing its work and submit it to the legislature by
8 February 15 of each year. In addition, the report shall contain infor-
9 mation and data which bear a significant relationship to the development
10 and regulation of transportation in the state.

11 ARTICLE 2. JURISDICTION, POWERS, DUTIES.

12 Sec. 42.07.116. JURISDICTION. The jurisdiction and powers and
13 duties of the commission shall extend under this Act to

14 (1) all persons who or which, directly or indirectly, hold
15 themselves out, offer, provide for, contract or undertake, for compensa-
16 tion, the transportation of passengers or property, or both, in this
17 state by, through, over, above or under land, water, or air, but shall
18 not include transportation services or vehicles

19 (A) operated by an agency of the state or federal
20 government;

21 (B) of operations by railroad or by air cushion vehicle;

22 (C) operated as a taxicab;

23 (D) operated as a sailing vessel;

24 (E) operated as a carrier by bus for the transportation
25 of passengers and their baggage when the bus service is conducted
26 wholly and exclusively within the boundaries of a municipality and
27 the municipality regulates the carrier;

28 (F) operated by, or under contract with a school board,
29 district, agency or person responsible for the administration of

1 school functions when providing transportation of bona fide stu-
2 dents and their instructors to or from school or authorized school
3 activities;

4 (G) of operations conducted by a unit of local govern-
5 ment as a private carrier;

6 (H) operated by a municipality as a common carrier or
7 contract carrier in the performance of transportation services
8 for, and necessary to, the health, safety or welfare of the resi-
9 dents of the municipality;

10 (I) operated exclusively in the transportation of
11 United States mail to the extent that jurisdiction is precluded by
12 federal law;

13 (J) operated exclusively in the transportation of news-
14 papers or periodicals alone or in conjunction with an express
15 service delivering a package or packages not exceeding 100 pounds
16 in the aggregate to a consignee;

17 (K) operated exclusively in the transportation of
18 injured, ill, or dead persons;

19 (L) operated by a hotel, motel or lodge to provide a
20 courtesy service in the transportation of its patrons between the
21 hotel, motel or lodge and local air terminals, bus terminals,
22 railroad stations, ferry terminals and other common carrier
23 stations when the vehicles used are owned by the hotel, motel or
24 lodge and no charge is made for the service;

25 (M) operate exclusively to provide transportation of
26 voting machines to and from polling places by any person for or
27 on behalf of a political subdivision of the state for use in a
28 primary, general or special election;

29 (2) a carrier authorized to furnish transportation services

1 subject to the provisions of this Act even though the carrier does not
2 hold itself out, offer or undertake to provide such transportation for
3 compensation;

4 (3) a person who violates or aids or abets a violation of
5 a provision of this Act or a rule, regulation or order of the commis-
6 sion;

7 (4) the owners, officers, employees and agents of a person
8 subject to the jurisdiction of the commission, while performing an act
9 subject to the jurisdiction of the commission;

10 (5) the representation of the state and the public generally
11 or in particular in proceedings before federal regulatory agencies to
12 the extent provided for in this Act.

13 Sec. 42.07.122. GENERAL POWERS AND DUTIES. (a) The commission
14 shall supervise and regulate transportation in the state as provided
15 in this Act and may do all things, whether specifically designated in
16 this Act, or in addition to them, which are reasonably necessary or
17 convenient in the proper exercise of its power and jurisdiction.

18 (b) It is the duty of the commission to protect the users of the
19 services of public transportation carriers and to protect the public
20 generally in all matters relating to rates, services, safety and other
21 matters within its jurisdiction. The commission shall represent the
22 public and determine and promote the public interest.

23 (c) Upon written request of the attorney general and approval
24 of the commission, the commission may appear by counsel and represent
25 the interests and welfare of the state as a party in a proceeding
26 involving interstate transportation before an officer, department,
27 board, commission or court of this state or of another state or the
28 United States and to intervene in, protest, resist, or advocate or
29 appeal the granting, denial, or modification of any petition,

1 application, complaint or other proceeding.

2 (d) The commission may confer with, make joint investigations,
3 hold joint or concurrent hearings inside or outside the state, and
4 issue joint or concurrent decisions and orders in conjunction or con-
5 currence with an official, board, commission or agency of a state or of
6 the United States.

7 Sec. 42.07.126. REGULATORY AUTHORITY AND JURISDICTION LIMITED BY
8 FEDERAL LAW. The provisions of this Act apply to transportation in
9 interstate or foreign commerce except to the extent that they are in
10 conflict with the constitution and laws of the United States.

11 Sec. 42.07.132. ADMINISTRATIVE AUTHORITY; REGULATIONS. (a) The
12 commission may promulgate regulations which are necessary or proper in
13 the exercise of its powers or for the performance of its duties under
14 this Act.

15 (b) The commission shall promulgate regulations which govern
16 practice and procedure and the conduct of all investigations, hearings
17 and proceedings which it holds.

18 (c) The commission shall adopt, as a rule, a description of the
19 commission's organization, stating the general course and method of
20 the commission's operations and the methods whereby the public may
21 obtain information, or make submissions or requests.

22 (d) The commission may issue subpoenas and subpoenas duces tecum
23 upon request or on its own initiative. All subpoenas shall be signed
24 by a commissioner or by the secretary of the commission. The commis-
25 sion may petition a court to enforce its subpoenas or other process.

26 (e) The commission, each commissioner, and secretary may certify
27 to all official acts of the commission.

28 Sec. 42.07.136. INVESTIGATION POWERS. (a) The commission may
29 reasonably inquire into the management of the business, inspect and

1 reproduce the records, and examine under oath an officer, agent or
2 employee of transportation carriers within its jurisdiction.

3 (b) A person making an inquiry, inspection or examination under
4 (a) of this section shall, upon request, produce his authority. The
5 authority shall be in writing and imprinted with the commission's seal.

6 (c) Nothing in this section authorizes the commission to use or
7 disclose the information obtained for other than legitimate regulatory
8 purposes.

9 (d) The commission may require, by order or subpoena served on
10 a carrier or other person, the production, within the state at such
11 reasonable time and place as it designates, of the records kept by the
12 person outside the state, or, at its option, verified copies in lieu
13 of them. In the alternative the commission may examine and reproduce
14 the records outside the state and shall be reimbursed by the carrier or
15 person for all expenses incurred.

16 Sec. 42.07.142. DELEGATION OF AUTHORITY. (a) Within the limita-
17 tions provided in (b) of this section and sec. 286 of this chapter,
18 the commission may delegate by order or rule its powers or duties to
19 staff members or to the division of regulatory services. The official
20 act of the person exercising a delegated power or duty is the official
21 act of the commission.

22 (b) The commission may not delegate its power and duty to estab-
23 lish commission policy, adopt regulations, or sign an interim or final
24 order after hearing, an order upon an investigation the commission
25 initiates, an order affecting a rule or regulation, an order on recon-
26 sideration or following rehearing, an order granting immunity from
27 prosecution, forfeiture or penalty, or a subpoena or subpoena duces
28 tecum.

29 Sec. 42.07.146. PUBLICATION OF REPORTS, DECISIONS, ORDERS.

1 (a) The commission shall provide for the publication of its orders
2 and decisions in a form and manner that will readily and adequately
3 inform the public of the nature and content of the orders and decisions.
4 Publications bearing the commission's seal are competent evidence of
5 the orders, decisions, rules, regulations, and reports of the commis-
6 sion in courts of the state, without further proof or authentication.

7 (b) All orders and decisions shall be published within 12 months
8 from the date officially issued or served by the commission.

9 ARTICLE 3. COMPLIANCE, ENFORCEMENT, PENALTIES.

10 Sec. 42.07.152. JUDICIAL ENFORCEMENT OF AN ORDER. If an appeal
11 is not taken from a final order of the commission, the commission may
12 apply to the superior court for enforcement of this chapter, the regu-
13 lations adopted under it and the orders of the commission. The court
14 shall enforce the order by injunction or other process.

15 Sec. 42.07.156. COMPLIANCE WITH CHAPTER REQUIRED. No common
16 carrier, contract carrier, or private carrier subject to the jurisdic-
17 tion of the commission may operate a vehicle for the transportation of
18 persons or property, or both, in the state and no person may act as
19 a forwarder, except in accordance with the provisions of this Act.

20 Sec. 42.07.162. ENFORCEMENT OFFICERS: DUTIES; AUTHORITY. (a)
21 The commission shall employ and designate enforcement officers charged
22 with the duty of policing and enforcing the provisions of this Act
23 and commission rules, regulations and orders.

24 (b) An enforcement officer of the commission may make arrests
25 for violation of a provision of this Act and of an order, rule or
26 regulation of the commission and serve a notice, order or subpoena
27 issued by a court, the commission, its secretary or other employee
28 authorized to issue them. An enforcement officer, upon reasonable
29 belief that a vehicle is being operated in violation of the law or

1 order, rule or regulation of the commission, may (1) stop and detain
2 the vehicle, under reasonable conditions; (2) require the operator to
3 exhibit the registration certificate, permit, lease or other document
4 issued for the vehicle and required by law to be carried; (3) inspect
5 bills of lading, waybills, invoices or other evidences of the character
6 of the lading being transported in the vehicle; (4) inspect the con-
7 tents of the vehicle for the purpose of comparing them with bills of
8 lading, waybills, invoices or other evidence of ownership or evidence
9 of transportation for compensation. An enforcement officer may im-
10 pound books, papers, bills of lading, waybills and invoices which
11 would indicate the transportation service being performed is in viola-
12 tion of this Act.

13 Sec. 42.07.166. UTILIZATION OF STATE TROOPERS IN ENFORCEMENT.
14 The commission may call upon the state troopers for police service or
15 police assistance necessary for the proper and efficient policing of
16 carriers operating under this Act. The commission and the state
17 troopers shall cooperate in enforcement to avoid duplication of service
18 or expense.

19 Sec. 42.07.172. VIOLATION A MISDEMEANOR. A person who knowingly
20 violates a provision of this Act or a regulation, order or decision of
21 the commission, or a final order or decree of a court, or who knowingly
22 procures, aids or abets a violation, is guilty of a misdemeanor and,
23 upon conviction, is punishable by a fine of not less than \$150 nor more
24 than \$500 for each offense.

25 Sec. 42.07.176. CIVIL PENALTIES FOR VIOLATION. (a) A carrier
26 or other person, together with its officers, managers, agents or
27 employees, which either violates or procures, aids or abets the
28 violation of a provision of this Act, or of an order, rule, regulation
29 or written requirement of the commission is subject to a maximum

1 penalty of \$150 for each violation. Each act of omission as well as
2 each act of commission is a violation.

3 (b) No penalty may be assessed unless the commission first pro-
4 vides reasonable opportunity for a hearing.

5 Sec. 42.07.182. EACH VIOLATION A SEPARATE OFFENSE. Each viola-
6 tion of a provision of this Act or of an order, rule or regulation of
7 the commission is a separate and distinct offense. When there is a
8 continuing violation, each day's continuance is a separate and distinct
9 offense.

10 Sec. 42.07.186. PENALTIES CUMULATIVE, NOT EXCLUSIVE. (a)
11 Penalties imposed under this chapter are cumulative and an action for
12 the recovery of a civil penalty is not a bar to the recovery of any
13 other civil penalty nor a bar to a criminal prosecution.

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

18 Sec. 42.07.192. CIVIL PENALTIES MAY BE COMPROMISED. A civil
19 penalty may be compromised by the commission. In determining the
20 amount of the penalty, or the amount agreed upon in compromise, the
21 appropriateness of the penalty to the size of the business of the
22 person charged, the gravity of the violation, and the good faith of
23 the person charged in attempting to achieve compliance, after notifica-
24 tion of a violation, shall be considered. The amount of the penalty,
25 when finally determined, or the amount agreed upon in compromise, may
26 be deducted from any sums otherwise owing by the state to the person
27 charged or may be recovered in a civil action in the state courts.

28 Sec. 42.07.196. RECOVERY OF CIVIL PENALTIES. Actions to recover
29 penalties or impose fines under this chapter shall be brought by the

1 attorney general. All penalties recovered under the provisions of this
2 chapter shall be paid to the commission and deposited in the general
3 fund of the state.

4 Sec. 42.07.202. JOINDER OF ACTIONS. Appeals from orders of the
5 commission, applications for enforcement of commission orders, and
6 actions for recovery of a penalty may be joined. The court may in the
7 interests of justice separate the actions.

8 ARTICLE 4. HEARINGS, PROCEDURES, DECISIONS,
9 ORDERS, COMMISSION REVIEW.

10 Sec. 42.07.206. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.

11 (a) The administrative adjudication procedures of the Administrative
12 Procedure Act (AS 44.62) do not apply to adjudicatory proceedings of
13 the commission.

14 (b) The Administrative Procedure Act applies to the promulgation
15 and adoption of regulations by the commission.

16 Sec. 42.07.212. COMMISSION HEARINGS. Except as otherwise pro-
17 vided in this Act, the provisions of secs. 206 - 322 of this chapter
18 govern hearings upon a matter or issue coming before the commission,
19 whether instituted on the application, petition or complaint of others
20 or initiated by the commission. The commission is not bound by this
21 section if and to the extent it is necessary to properly and satis-
22 factorily conduct joint or concurrent hearings as provided in sec. 122
23 of this chapter.

24 Sec. 42.07.222. HEARING TO BE PUBLIC; RECORD OF PROCEEDINGS.

25 (a) Hearings before the commission shall be public, conducted in
26 accordance with rules of practice and procedure adopted by the commis-
27 sion.

28 (b) A complete record shall be kept and made readily available
29 for review by the parties at any reasonable time. The transcript or

1 recording of testimony and exhibits, together with all pleadings,
2 requests and other papers which are properly received in evidence and
3 notice of matters properly taken, constitutes the exclusive record
4 for decision.

5 (c) It is not necessary to transcribe testimony taken at a
6 hearing unless requested. For purposes of rehearing, reconsideration
7 or court review, a transcription shall be made at the commission's
8 expense and copies supplied to the parties, at cost. A transcript
9 requested for any other purpose shall be made available to the party
10 requesting it upon the payment of reasonable charges prescribed by
11 the commission. A copy of the transcript shall be supplied to a party
12 without cost upon the filing with the commission of a satisfactory
13 affidavit of indigency.

14 Sec. 42.07.226. PLACE OF HEARINGS; CONTINUATION. A hearing may
15 be held at any place designated by the commission in the state, or
16 different parts of a hearing may be held at different places in the
17 state, as designated by the commission. A hearing once set may be
18 continued from time to time and place to place as ordered by the com-
19 mission, hearing examiner or hearing officer.

20 Sec. 42.07.232. COMPLAINT; PERSONS ENTITLED TO FILE; CONTENTS;
21 AMENDMENTS. (a) A person, including the division of regulatory ser-
22 vices, may file a complaint before the commission. The complaint shall
23 be against a person whose business or activities are regulated by the
24 commission. The person filing the complaint shall be known as the
25 complainant and the person against whom the complaint is filed shall
26 be known as the respondent. In the case of a complaint filed by the
27 division of regulatory services, the complainant shall be the state.

28 (b) It is not necessary that a complainant have a pecuniary inter-
29 est in the matter in controversy or in the matter complained of.

1 (c) The complaint shall state all grounds of complaint on which
2 the complainant seeks relief or the violation of the laws claimed to
3 have been committed by the respondent, and the prayer of the complaint
4 shall pray for the relief to which the complainant claims he is en-
5 titled.

6 (d) The commission, by order, may allow the complaint to be
7 amended at any time before the completion of taking of evidence. How-
8 ever, if a charge not contained in the original complaint or a prior
9 amended complaint is sought to be made by an amendment, the respondent
10 shall be given a reasonable time to investigate the new charge and
11 answer the amended complaint. The final hearing shall, if necessary,
12 be continued until some date after the respondent has had a reasonable
13 time to investigate and be prepared to meet the amended complaint.

14 Sec. 42.07.236. NOTICE OF COMPLAINT TO DEFENDANT; RESPONSIVE
15 PLEADINGS; SETTING CAUSE FOR HEARING. (a) The commission shall serve
16 a copy of the complaint upon the respondent and give the respondent at
17 least 20 days within which to respond to the complaint. Within the
18 time so fixed, or such further time as the commission shall fix, the
19 respondent shall file its answer to the complaint, taking issue on
20 such parts of the complaint as it desires and setting out additional
21 matter pertinent to the matter in controversy. The additional matter
22 shall be considered denied by the complainant without the filing of
23 any other pleading by the complainant. After the answer has been filed,
24 the commission shall set the matter for hearing, giving the parties at
25 least 10 days written notice of the time and place of the hearing,
26 unless the commission for good reason stated in the notice fixes a
27 shorter time. Amendment of an answer may be permitted by order of the
28 commission.

29 (b) If the respondent fails to file a responsive pleading or

1 otherwise appear within the time prescribed in (a) of this section,
2 or if the responsive pleading filed raises no issue of law or fact,
3 the commission may act on the complaint without a hearing.

4 Sec. 42.07.242. INVESTIGATIONS AND HEARINGS ON COMMISSION'S OWN
5 MOTION; HEARINGS FOR AGGRIEVED PERSONS. (a) When the commission
6 believes that a rate, rule, regulation, classification, or practice of
7 a carrier may be unlawful, or that a service is unsafe, inadequate,
8 or is not properly provided, or that an investigation of a matter
9 relating to a carrier or other person under its jurisdiction should be
10 made, or relating to a person to determine if the person is subject
11 to the commission's regulatory jurisdiction, it may on its own motion
12 summarily investigate the matter, with or without notice.

13 (b) If after making its investigation the commission is satisfied
14 that sufficient grounds exist to warrant a hearing being ordered, it
15 shall furnish the person under investigation a statement which may be
16 contained in an order to show cause or an order of investigation,
17 notifying him of the matters under investigation. The notice or order
18 shall also specify the time and place for hearing.

19 Sec. 42.07.246. SEGREGATION OF ISSUES; INTERIM ORDERS. At any
20 time before the conclusion of the taking of evidence in a proceeding,
21 the commission may segregate the issues involved and order separate
22 hearings on them at times and places it may prescribe. The commission
23 may issue interim orders on the issues and the interim order shall be
24 subject to judicial review without awaiting determination of the other
25 issues involved in the proceeding. Failure to seek judicial review
26 of an interim order does not waive the right to seek review following
27 final order on all issues.

28 Sec. 42.07.252. PARTIES TO PROCEEDINGS. (a) In all adversary
29 proceedings before the commission, the named parties, persons filing

1 a timely and accepted responsive pleading, and the division of regula-
2 tory services shall be parties without the necessity of petitioning
3 for intervention and approval of the commission.

4 (b) The commission may permit a person to become a party to a
5 proceeding and to participate in the hearings who might, on the insti-
6 tution of the proceeding, have been a party, if petition to intervene,
7 in accordance with the commission's rules, is made before the final
8 taking of evidence in the proceeding. The commission shall grant the
9 petition, subject to appropriate conditions or limitations, if it
10 determines that the petitioner has a sufficient interest in it, and
11 that the appearance and participation will not unreasonably broaden
12 the issues or burden the record, and otherwise may deny the petition.

13 (c) The commission may permit a person not a party to a proceed-
14 ing to appear at a hearing, other than in an enforcement proceeding,
15 and present proper evidence relevant to the issues. A person present-
16 ing evidence shall be subject to cross-examination.

17 Sec. 42.07.256. RULES AND FORM OF EVIDENCE. (a) In the conduct
18 of a hearing, the commission shall not be bound by the technical rules
19 of evidence. Oral or documentary evidence may be received by the
20 person presiding, but the commission, as a matter of policy and dis-
21 cretion, shall provide for the exclusion of irrelevant, immaterial, or
22 unduly repetitious evidence. No informality in a hearing, investiga-
23 tion or proceeding or in the manner of taking testimony shall, by
24 reason of the informality, invalidate an order, decision or rule made,
25 approved, or confirmed by the commission, but no decision or order of
26 the commission may be made or entered in a contested proceeding unless
27 the same is supported by competent, material and substantial evidence
28 upon consideration of the whole record. All evidence, including
29 records and documents in the possession of the commission of which it

1 desires to avail itself, shall be made a part of the record in the
2 case by specific reference to it at the hearing. A party introducing
3 a document or record in evidence by reference shall bear the expense
4 of all copies required for the record in the event of an appeal from
5 the commission's order. A party to a proceeding is entitled to present
6 his case or defense by oral or documentary evidence, to submit rebuttal
7 evidence, and to conduct cross-examination that may be required for
8 a full and true disclosure of the facts.

9 (b) The commission may take official notice of its decisions,
10 the reports and other documents required to be filed with it, published
11 reports of federal regulatory agencies and reputable financial report-
12 ing services, generally recognized technical and scientific facts
13 within the commission's specialized knowledge, and such other facts
14 and evidence as may be judicially noticed by a court. When a commis-
15 sion decision relies on such official notice of material facts not
16 appearing in evidence, it shall be so stated with particularity in the
17 decision and any party shall, upon petition filed within 10 days after
18 service of the decision, be afforded an opportunity to contest the
19 purported facts noticed or show to the contrary in rehearing, unless
20 such opportunity was provided during the hearing.

21 Sec. 42.07.262. STIPULATIONS AND AGREEMENTS; PREHEARING CONFER-
22 ENCE; ASSIGNMENT OF RESPONSIBILITY OF PRODUCING EVIDENCE. (a) In
23 contested proceedings, the commission may require prehearing confer-
24 ence or other procedures it may consider expedient and in the public
25 interest, for the purposes of encouraging the parties and their counsel
26 to make and enter stipulations of record and to otherwise facilitate
27 and expedite the proceeding by

28 (1) eliminating the necessity of proof of facts which may
29 be admitted and of the authenticity of documentary evidence;

- 1 (2) facilitating the use of exhibits;
- 2 (3) clarifying the issues of fact and law;
- 3 (4) assigning the responsibility of producing evidence among
- 4 the parties according to the parties in control of or with the best
- 5 access to the evidence, except that such assignment of responsibility
- 6 shall not operate to shift from one party to another the ultimate
- 7 burden of persuasion upon issues to be litigated in the proceeding;
- 8 (5) responding to requests for discovery or information; and
- 9 (6) acting upon other appropriate matter not inconsistent
- 10 with the purposes of this section.

11 (b) A stipulation between the parties as to an issue upon which
12 the commission is required to make findings of fact in reaching its
13 decision does not relieve the commission from the responsibility of
14 making the findings from the record.

15 Sec. 42.07.266. BURDEN OF PROOF. In all proceedings instituted
16 by the commission for the purpose of investigating a rate, rule,
17 regulation, classification, practice or service, the burden of proof
18 shall be upon the carrier under investigation to show that its rate,
19 rule, regulation, classification, or practice is lawful or that its
20 service is safe and adequate. In all other proceedings the burden of
21 proof shall be upon the complainant or proponent, unless specifically
22 provided to the contrary by statute.

23 Sec. 42.07.272. TAKING AND USE OF DEPOSITIONS. (a) In an
24 investigation, formal or informal, the commission or the division of
25 regulatory services may take the testimony of any person by deposition
26 upon oral examination or written interrogatories for the purpose of
27 discovery or for use in the investigation.

28 (b) In a proceeding requiring a hearing, the commission or party
29 to the proceeding may take the testimony of a person by deposition

1 upon oral examination or written interrogatories for the purpose of
2 discovery or for use as evidence in the proceeding, or for both purposes.

3 (c) Depositions may be taken inside or outside the state by a
4 commissioner or any other person authorized to administer oaths, in
5 accordance with procedures prescribed by the rules of the commission.

6 (d) The commission shall promulgate rules concerning the manner
7 of applying for and taking depositions and the use of them. These
8 rules shall make reasonable provisions against abuse of such procedure
9 and for protection of the rights of all persons affected.

10 Sec. 42.07.276. ISSUANCE OF SUBPOENAS; FAILURE TO COMPLY. (a)
11 The commission shall issue subpoenas for the attendance of witnesses
12 and shall issue subpoenas duces tecum for the production of documentary
13 evidence, upon its own motion or upon request of any party to a pro-
14 ceeding, and in the case of subpoenas duces tecum upon proper showing
15 of the general relevance and reasonable scope of the documentary or
16 physical evidence sought. Witnesses appearing pursuant to subpoenas,
17 other than the parties or their officers, employees, representatives,
18 agents, or employees of the commission, shall receive fees and mileage
19 as prescribed by law for witnesses in civil actions before the courts.

20 (b) If a person fails to comply with a subpoena properly issued
21 or a party or witness refuses to testify on a matter on which he may
22 be lawfully interrogated, the judge of the superior court in any judi-
23 cial district in the state, upon the application of the commission or
24 of the party requesting the issuance of the subpoena, shall compel
25 obedience by proceedings for contempt as in the case of disobedience
26 of the requirements of a subpoena issued from the court or a refusal
27 to testify therein.

28 Sec. 42.07.282. SELF-INCRIMINATION OF WITNESSES IN COMMISSION
29 PROCEEDINGS. (a) No person shall be excused from testifying or from

1 producing evidence in a proceeding held by the commission on the ground
2 that the testimony or evidence required of him may tend to incriminate
3 him or subject him to prosecution, penalty or forfeiture if

4 (1) the person has been directed by the commission to testify
5 or produce evidence under oath;

6 (2) the person claims, at the time he is directed by the
7 commission to testify or produce evidence, that the testimony or
8 evidence required of him may tend to incriminate him or subject him
9 to prosecution, penalty or forfeiture; and

10 (3) the commission specifically grants the person immunity
11 from prosecution, penalty or forfeiture regarding those matters about
12 which he testifies or produces evidence as directed.

13 (b) Except for prosecution and punishment for perjury, no person
14 who testifies or produces evidence in accordance with (a) of this
15 section shall be prosecuted or subjected to a penalty or forfeiture
16 concerning a matter about which he so testified or produced evidence.

17 Sec. 42.07.286. INITIAL AND PROPOSED DECISIONS; REPORTS; FINDINGS
18 AND CONCLUSIONS REQUIRED; EXCEPTIONS; REVIEW. (a) In an adjudicatory
19 proceeding a report, decision and order made or recommended to the
20 commission by the presiding commissioner, hearing examiner or hearing
21 officer with respect to the matter referred for hearing shall be in
22 writing and set out findings of fact and conclusions of law and the
23 reasons or basis for them, on all material issues of fact, law or dis-
24 cretion presented on the record and, as may be required in the referral
25 for hearing, the appropriate decision and order thereon. Such report,
26 decision and order shall thereupon be filed with the commission and
27 served upon all parties of record in the proceeding.

28 (1) If the person presiding is a commissioner or hearing
29 examiner, he shall initially decide the case and order unless the

1 commission requires, either in specific cases or by general rule, the
2 record to be certified to it for decision. An initial decision and
3 order of a commissioner or hearing examiner, when signed by a commis-
4 sioner, becomes the decision and order of the commission without
5 further proceedings or review unless there is a timely appeal for
6 review to the commission or the commission, on its own motion, issues
7 an order for review within the time provided.

8 (2) If a hearing officer presides at a hearing, he shall
9 issue a report or recommended decision to the commission. A recom-
10 mended decision does not become the decision of the commission unless,
11 after review and consideration of exceptions to it, the commission
12 specifically adopts the recommended decision including all findings
13 and conclusions in it and reissues it, by order, as the decision of
14 the commission.

15 (b) Within the time prescribed by the commission's rules, the
16 parties have an opportunity to appeal for commission review of an
17 initial decision and to file exceptions to a report or an initial or
18 recommended decision or order and to file briefs in support of it and
19 reply to exceptions taken by other parties. When exceptions are filed,
20 the commission shall grant the parties opportunity for oral argument
21 as provided by its rules.

22 (c) The commission shall review and consider all exceptions timely
23 filed and if sufficient reason appears for it shall grant a review or
24 make such order or hold or authorize such further hearings or proceed-
25 ings as it considers necessary. The commission, after review, upon
26 the whole record, or as supplemented by a further hearing, shall decide
27 the matter in controversy and make an appropriate decision or order,
28 or both.

29 (d) In an appeal or review of an initial decision the commission

1 may limit the issues which it will review and allow the initial decision
2 on those issued not reviewed to stand as the decision of the commission.

3 (e) A review of an initial decision, on its own motion or granted
4 on appeal, shall stay the effective date of the initial decision until
5 further order of the commission.

6 Sec. 42.07.292. EX PARTE COMMUNICATIONS. (a) In adjudicatory
7 proceedings in which there are adversary parties of record, all communi-
8 cations of any nature between a party and a commissioner, hearing
9 examiner, or hearing officer, which pertain to the merits of matters
10 in issue or under investigation, shall be made only with full knowledge
11 and notice to all other parties of record. All parties shall have an
12 opportunity to be informed fully as to the nature of such communication
13 and to be present and heard with respect to it.

14 (b) No member of the staff or counsel of the division of regulatory
15 services may confer with or advise the commission, ex parte, on a
16 matter in an adversary proceeding before the commission in which the
17 division is a party. However, nothing in this Act shall be construed
18 as prohibiting the division from conferring with and advising the
19 commission on any matter in which a formal proceeding has not been
20 implemented.

21 (c) For purposes of (b) of this section, a formal proceeding is
22 considered implemented when a matter has been assigned for hearing by
23 the commission, or upon the filing of a complaint by the division of
24 regulatory services or any other complainant, or when an enforcement
25 investigation has been ordered by the commission.

26 Sec. 42.07.296. FINAL DECISIONS AND ORDERS; FINDINGS; TAKING
27 EFFECT; COMPLIANCE. (a) All final decisions and orders of the com-
28 mission shall be in writing signed by a commissioner and sufficient in
29 detail to enable the court, on appeal, to determine the controverted

1 questions and issues presented in the proceedings and shall include:

2 (1) separate findings of fact and conclusions of law, and
3 the reasons or bases for them, upon all material issues of fact, law,
4 or discretion presented in the record; and if any party to the pro-
5 ceeding has filed exceptions to an initial or proposed decision, the
6 decision of the commission shall include a ruling upon each exception
7 so presented with the reasons for them clearly stated; and

8 (2) the appropriate order implementing the decision.

9 (b) A final decision and order shall be served by registered or
10 certified mail or by delivery within a reasonable time to each party
11 or to his attorney of record. The service date shall be the date of
12 mailing or delivery as the case may be and shall be indicated in the
13 order. An order shall take effect when served unless otherwise pro-
14 vided, and shall continue in force either for a period which may be
15 designated in the order or until changed or revoked by the commission.
16 If an order cannot, in the judgment of the commission, be complied with
17 within the time stated in the order, the commission may grant such
18 additional time for compliance as it considers reasonably necessary.

19 Sec. 42.07.302. POWER OF COMMISSION TO RESCIND, ALTER, OR AMEND
20 PRIOR ORDER OR DECISION. The commission may at any time, upon notice
21 to all interested parties and after an opportunity to be heard as
22 provided in the case of complaint proceedings, rescind, alter or amend
23 an order or decision made by it. An order rescinding, altering or
24 amending a prior order or decision shall, when served upon the party
25 affected, have the same effect as an original order or decision.

26 Sec. 42.07.306. APPEAL FOR RECONSIDERATION OF A FINAL DECISION
27 OR ORDER. (a) After a decision and order has been issued and served
28 by the commission, any party to the proceeding may appeal to the
29 commission for reconsideration or other relief with respect to any

1 matter determined in the decision or order, by filing with the commis-
2 sion notice of appeal and exceptions taken to the decision or order.
3 The appeal and exceptions shall set out specifically the ground or
4 grounds on which the aggrieved party considers the decision or order
5 to be unlawful, unjust, unreasonable, or otherwise improper, including
6 errors alleged to have been committed by the commission. An appeal
7 shall be filed with the commission within 30 days after the date of
8 service of the decision or order, unless the commission for good cause
9 shown shall extend the time for filing before expiration of the 30 days.

10 (b) Copy of the notice of appeal and exceptions shall be mailed
11 by the appealing party at the time of filing with the commission, to
12 each party to the proceeding. The failure of any party, other than
13 the commission, to be served with or to receive a copy of the notice
14 of appeal and exceptions shall not affect the validity or regularity
15 of the appeal.

16 (c) The commission may on motion of any party to the proceeding
17 or on its own motion set the matter for further hearing on designated
18 exceptions.

19 (d) An application for reconsideration or other relief shall not
20 excuse a party against whom the order has been issued from compliance
21 with the order nor operate in any manner to stay or postpone its enforce-
22 ment without the issuance of a staying order by the commission.

23 (e) If a rehearing is granted, the proceedings on it shall conform
24 as nearly as possible to the proceedings in an original hearing, except
25 as the commission may otherwise direct. If in the judgment of the
26 commission, after rehearing and the consideration of all facts, including
27 those arising since the initial hearing, the order is in any respect
28 unlawful, unjust, unreasonable, or otherwise improper, it may rescind
29 or modify the order. An order rescinding or modifying the original

1 order shall have the same force and effect as an original order.

2 Sec. 42.07.312. PRIMA FACIE EFFECT OF COMMISSION'S ACTIONS. All
3 rates, tariffs, classifications, regulations, practices and service
4 fixed, approved or prescribed by the commission and any order issued
5 upon any matter within its jurisdiction shall be in force and shall
6 be prima facie lawful and reasonable until found otherwise in a pro-
7 ceeding brought for that purpose before the commission or a court of
8 the state.

9 Sec. 42.07.316. ORDERS BINDING ON SUCCESSORS IN INTEREST. (a)
10 An order of the commission issued in accordance with the provisions of
11 this chapter is binding upon the successors in interest of each person
12 affected by the order, until set aside, rescinded, suspended, or modi-
13 fied as provided by law.

14 (b) An investigation, hearing, or other proceeding, involving
15 the issuance of an order of the commission, that has not been finally
16 determined when a transfer of any interests of a person is effected
17 may be continued and finally determined, notwithstanding any such trans-
18 fer of interest. An order issued in an investigation, hearing or other
19 proceeding is binding upon the successors in interest.

20 Sec. 42.07.322. DECLARATORY RULINGS. On petition of an inter-
21 ested person, the commission may issue a declaratory ruling with
22 respect to the applicability to any person, property, or state of facts
23 of a rule or statute enforceable by the commission. A declaratory
24 ruling is binding between the commission and the petitioner on the
25 state of facts alleged, unless it is modified, vacated or set aside
26 by a court or by order of the commission after further hearing.
27 Binding rulings provided for by this section are subject to judicial
28 review in the same manner provided for the review of commission orders.

29 ARTICLE 5. JUDICIAL REVIEW.

1 Sec. 42.07.326. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT TO
2 JUDICIAL REVIEW. Judicial review as provided in AS 44.62.560 - 44.62.-
3 570 applies to final decisions and orders of the commission except as
4 modified in secs. 326 - 352 of this chapter.

5 Sec. 42.07.332. RIGHT OF APPEAL TO SUPERIOR COURT; PARTIES.

6 (a) A party aggrieved by a final decision or order of the commission
7 may, within 30 days after an application for reconsideration is denied,
8 or, if granted, then within 30 days after the decision on reconsidera-
9 tion, appeal the decision or order to the superior court by filing a
10 notice of appeal in accordance with the applicable rules of court
11 governing appeals in civil matters.

12 (b) In an appeal to the superior court, the complainant in the
13 original complaint before the commission shall be a party to the record
14 and each of the parties to the proceeding before the commission shall
15 have a right to appear and participate in the appeal.

16 Sec. 42.07.336. NO EVIDENCE ADMITTED ON APPEAL; REMISSION FOR
17 FURTHER EVIDENCE. No evidence shall be received at the hearing on
18 appeal, but if a party shall satisfy the court that evidence has been
19 discovered since the hearing before the commission that could not have
20 been obtained for use at that hearing by the exercise of reasonable
21 diligence, and will materially affect the merits of the case, the court
22 may, in its discretion, remand the record and proceedings to the com-
23 mission with directions to take such after discovered evidence and,
24 after consideration of it, to make such order as the commission may
25 consider proper, from which order an appeal shall lie as in the case
26 of any other final order.

27 Sec. 42.07.342. RECORD ON APPEAL; SCOPE OF JUDICIAL REVIEW. (a)
28 An appeal to the superior court shall be determined upon the record
29 certified by the commission to the court. The superior court shall

1 review the record and the exceptions and assignments of error and any
2 alleged irregularities in procedure before the commission, not shown
3 in the record, in accordance with its rules.

4 (b) So far as necessary to its decision and where presented, the
5 superior court shall decide all relevant questions of law, interpret
6 constitutional and statutory provisions, and determine the meaning and
7 applicability of the terms of any commission action. The court may
8 affirm, reverse or set aside the decision of the commission, or remand
9 the case for further proceedings.

10 (c) The grounds for, and the scope of review of the superior
11 court, shall be limited to whether the order of the commission and
12 decision, if any, is

13 (1) in conformity with the constitution and laws of the state
14 and the United States;

15 (2) within the statutory authority and jurisdiction of the
16 commission;

17 (3) made in accordance with procedures prescribed in this
18 Act or established by regulations of the commission;

19 (4) supported by competent, material and substantial evi-
20 dence in the record;

21 (5) arbitrary and capricious or an abuse of discretion.

22 (d) In making the determinations under (a) of this chapter, the
23 superior court shall review the entire record or such portions of it
24 as may be cited by any party and due account shall be taken of the rule
25 of prejudicial error. The appellant shall not be permitted to rely
26 upon any grounds for relief on appeal which were not set out specifi-
27 cally in his notice of appeal and exceptions filed with the commission.

28 (e) The court shall also compel action of the commission unlaw-
29 fully withheld or unreasonably delayed.

1 Sec. 42.07.346. JUDGMENT ON APPEAL ENFORCED BY MANDAMUS. In
2 all cases in which, upon appeal, an order or decision of the commis-
3 sion is affirmed, in whole or in part, the superior court shall include
4 in its decree a mandamus to the appropriate party to put the order in
5 force, or so much of it as shall be affirmed, or the superior court
6 may make such other order as it considers appropriate.

7 Sec. 42.07.352. COUNSEL FOR COMMISSION ON APPEAL. The commis-
8 sion's general counsel shall represent the commission in any appeal
9 to the court of a commission decision or order in which the commission
10 is named an indispensable party or otherwise elects to become a party.
11 The attorney general shall represent the division of regulatory ser-
12 vices in any appeal to the court of a commission decision or order in
13 which the division was a party in the proceeding before the commission
14 and is a named party in the appeal.

15 ARTICLE 6. GENERAL PROVISIONS.

16 Sec. 42.07.356. SUBSTANTIAL COMPLIANCE TO EFFECTUATE ORDERS;
17 LIBERAL CONSTRUCTION. (a) A substantial compliance with the require-
18 ments of the laws administered by the commission shall be sufficient
19 to give effect to all rules, orders, acts and regulations of the
20 commission, and they shall not be declared inoperative, illegal or
21 void in part or in their entirety for an omission of a technical
22 nature.

23 (b) The provisions of the laws administered by the commission
24 shall be liberally construed with a view towards the promotion of the
25 general welfare, efficient use of facilities and substantial justice
26 between users on the one hand, and the regulated transportation
27 carriers on the other, and in the public interest generally.

28 Sec. 42.07.362. DEFINITIONS. Unless the context clearly indicates
29 otherwise in this chapter,

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

2 (2) "commissioner" means one of the members of the Alaska
3 Transportation Commission;

4 (3) "director" means the executive director of the division
5 of regulatory services of the Alaska Transportation Commission;

6 (4) "hearing examiner" is a member of the commission's staff
7 who is qualified and employed to fill a permanent position of "hearing
8 examiner" as that position and the qualifications for it are estab-
9 lished;

10 (5) "hearing officer" is a permanent or temporary member
11 of the commission's staff, other than a commissioner or hearing examiner,
12 who is specifically assigned to preside at a commission hearing;

13 (6) "person" means an individual, corporation, association,
14 joint stock association, or partnership, and includes its lessees,
15 trustees, receivers, executors, administrators and other successors in
16 interest.

17 * Sec. 2. AS 42 is amended by adding new chapters to read:

18 CHAPTER 08. ECONOMIC REGULATION OF TRANSPORTATION CARRIERS.

19 ARTICLE 1. POLICY, PURPOSE AND COVERAGE.

20 Sec. 42.08.010. PUBLIC INTEREST. It has been determined that
21 economic, efficient and adequate transportation systems and networks
22 making the best use of the various available modes of transportation
23 at reasonable cost are essential to protect the interests of the users
24 of transportation and to maintain and improve the economic well-being
25 and growth of the state and the health and welfare of the public and
26 that the business of providing transportation services to the public
27 for compensation or gain within the state is a business affected with
28 a substantial public interest.

29 Sec. 42.08.020. POLICY AND PURPOSES OF ECONOMIC REGULATION. It

1 is the purpose of the legislature in providing for economic regulation
2 of transportation services which are rendered for compensation to bring
3 about the development, maintenance, integration, and constant improve-
4 ment of transportation systems and networks in the public interest by:

5 (1) recognizing and preserving the inherent advantages of
6 the various modes of transportation;

7 (2) fostering and promoting sound economic conditions among
8 the carriers of all modes and between modes;

9 (3) promoting and preserving adequate and efficient trans-
10 portation services at reasonable charges without unjust discrimination,
11 undue preferences or advantages, or unfair or destructive competitive
12 practices;

13 (4) encouraging, promoting and assuring dependable, scheduled
14 or other regular transportation services to the extent that the public
15 convenience and necessity are best served by them;

16 (5) providing for the level of competition necessary to
17 assure sound, economical and efficient transportation systems (modal
18 as well as intra-modal) properly adapted to and adequate to meet the
19 widely varying transportation needs of the public and commerce of the
20 state;

21 (6) improving the relations between and coordinating the
22 service and regulation of all carriers of all modes of transportation;

23 (7) providing for the regulation of intrastate transportation
24 in a manner reasonably conducive to coordination and cooperation with
25 the regulation of interstate transportation by federal regulatory
26 agencies when the intrastate and interstate transportation services
27 are substantially interrelated and to the end that the public interest
28 is better served by them;

29 (8) promoting the preservation and safe condition of the

1 public ways and facilities, and assuring that the public transportation
2 services offered by carriers are safe to the user and to the public in
3 general.

4 Sec. 42.08.030. MODAL CLASSIFICATIONS OF CARRIERS BY VEHICLE.

5 Carriers by vehicle are classified by mode as:

- 6 (1) air carrier;
- 7 (2) motor freight carrier;
- 8 (3) motor bus carrier;
- 9 (4) water carrier;
- 10 (5) railroad carrier; and
- 11 (6) air cushion vehicle carrier.

12 Sec. 42.08.040. TRANSPORTATION SUBJECT TO THE PROVISIONS OF THIS
13 CHAPTER. Persons and transportation services subject to the juris-
14 diction of the commission as provided in AS 42.07 and vehicles used in
15 those transportation services are subject to the provisions of this
16 chapter except those persons, services, and vehicles engaged, provided
17 or used exclusively in

18 (1) the transportation of natural resources in an unmanu-
19 factured and unprocessed condition including but not limited to the
20 transportation of logs, earth, sand, gravel, rock, ore, crude oil,
21 water, snow;

22 (2) towing disabled, wrecked, abandoned, impounded and
23 repossessed vehicles by use of motor vehicles specially constructed
24 for such purpose and not otherwise used in the transportation of proper-
25 ty for compensation;

26 (3) the transportation of property in an unmanufactured and
27 unprocessed condition, consisting of livestock, fish (including shell-
28 fish) or agricultural commodities as prescribed by regulations of the
29 commission;

- 1 (4) transportation of property as a private carrier;
- 2 (5) passenger charter vessel operations which do not provide
- 3 transportation between points;
- 4 (6) the transportation of garbage or refuse;
- 5 (7) the bona fide lease of a vehicle to an authorized common
- 6 or contract carrier even though a driver is furnished by the lessor.

7 ARTICLE 2. COMMON CARRIERS: ALL MODES.

8 Sec. 42.08.050. CERTIFICATE REQUIRED. Except as provided in
9 sec. 60 of this chapter, no person subject to the provisions of this
10 chapter may operate as a common carrier by vehicle in this state,
11 unless he has first obtained a certificate of public convenience and
12 necessity issued by the commission authorizing that operation.

13 Sec. 42.08.060. TEMPORARY EXEMPTION OF COMMON CARRIER BY VEHICLE.

14 (a) The commission may, with or without hearing, and within its dis-
15 cretion, exempt a common carrier by vehicle from the requirements of
16 sec. 50 of this chapter for a period not to exceed 90 days if it
17 reasonably finds that an emergency exists which requires the service;
18 or that there is an immediate and urgent public need for the proposed
19 service which cannot or may not be reasonably met by existing carriers
20 authorized to provide such service; and that it is in the public inter-
21 est to grant a temporary exemption under the circumstances.

22 (b) A temporary exemption granted under the provisions of this
23 section remains in force only for the time specified in the granting
24 order or ordered extensions of it.

25 (c) A finding by the commission that there is an immediate and
26 urgent public need for the service for which an exemption is granted
27 does not create a presumption that that need will continue to exist
28 beyond the exemption period or that corresponding permanent authority
29 will be granted.

1 (d) The commission shall, as soon as reasonably possible either
2 before or after granting an exemption, provide notice and hearing on it
3 and may amend or rescind its order granting the exemption in accordance
4 with its findings upon hearing. An exemption may be extended for
5 additional periods, up to an aggregate term of 180 days from the effec-
6 tive date of the original grant, for the purpose of continuing the
7 service provided under it until the commission determines whether a
8 certificate should be issued to the exempt carrier. No extension beyond
9 the original 90-day period may be made unless the exempt carrier has
10 also applied for a certificate of convenience and necessity concurrently
11 with its application for an exemption.

12 (e) Application for an exemption shall be made in the same manner
13 as an application for a certificate of convenience and necessity.

14 Sec. 42.08.070. APPLICATION FOR CERTIFICATE OF CONVENIENCE AND
15 NECESSITY. (a) An application for a certificate of convenience and
16 necessity shall be made in writing to the commission, be verified under
17 oath, and shall be in the form, contain the information and show proof
18 of service upon the interested parties, as the commission shall, by
19 regulation, require.

20 (b) An application for a certificate may not be noticed nor
21 considered by the commission if it does not comply with the commission's
22 regulations for the application or does not include reasonable support-
23 ing evidence tending to show the fitness and ability of the applicant
24 and tending to show that the public convenience and necessity may
25 require the service.

26 (c) An application for a certificate shall be accompanied by a
27 filing fee of \$200 made payable to the commission. No part of the
28 filing fee may be refunded after notice of the application has been
29 published or otherwise provided.

1 (d) A person whose application for a certificate is denied is
2 not eligible to renew the application for a period of six months from
3 the date of the order denying the application.

4 Sec. 42.08.080. ISSUANCE OF CERTIFICATES. (a) Subject to the
5 provisions of this chapter and AS 42.07 and AS 42.09 and the commis-
6 sion's regulations, a certificate shall be issued to a qualified appli-
7 cant for it, authorizing the whole or a part of the operations covered
8 by the application if it is found that the applicant is fit, willing
9 and able properly to perform the service proposed and to conform to
10 the provisions of this chapter and AS 42.07 and AS 42.09 and the re-
11 quirements, rules and regulations of the commission, and that the
12 proposed service, to the extent to be authorized, is or will be required
13 by the public convenience and necessity in accordance with the policy
14 declared in sec. 20 of this chapter; otherwise the application shall
15 be denied.

16 (b) No certificate may be issued by the commission except after
17 notice and opportunity for hearing.

18 (c) In determining the fitness of an applicant, the commission
19 shall take into consideration the applicant's reliability, safety
20 record, experience, financial condition, and sense of responsibility
21 toward the public and the state and federal laws, and any other matters
22 tending to show whether or not the proposed service would be responsibly
23 and adequately provided by the applicant if the certificate were
24 granted.

25 (d) In determining whether issuance of a certificate is required
26 by the public convenience and necessity, the commission shall be guided
27 by the policy and objectives set out in sec. 20 of this chapter and
28 shall consider, among other factors, (1) the public need for the
29 specific type and mode of service proposed; (2) the availability and

1 adequacy of existing service of that type and mode; (3) the reasonable-
2 ness and adequacy and alternative transportation services available to
3 the public if the application is denied; (4) probable traffic diver-
4 sions, if any, from existing common carriers and the resultant effects
5 on them; (5) reasonableness of rates and services proposed by the
6 applicant; and (6) the economic viability of the proposed operation if
7 conducted wholly within the scope and limits of the authority requested.
8 The enumeration in this subsection of specific factors to be considered
9 and weighed by the commission does not exclude consideration and
10 weighing of factors not enumerated nor is it intended that the commis-
11 sion's finding as to any enumerated factor or combination of factors
12 be controlling of its determination of the requirements of the present
13 and future public convenience and necessity as a whole.

14 (e) No certificate may be issued by the commission until and
15 unless the carrier has complied with all relevant provisions of this
16 chapter and AS 42.09 and the regulations of the commission requiring
17 the procuring and filing of acceptable security for the protection of
18 the public, the filing and acceptance of tariffs, and the registration
19 and approval of the vehicles to be used.

20 (f) The commission shall specify in the certificate (1) the
21 transportation mode and the classification or classifications of
22 operations authorized; (2) the service to be rendered; and (3) the
23 routes over which, the fixed termini, if any, between which, and the
24 intermediate and off-route points, if any, at which, and in case of
25 operations not over specified routes or between fixed termini, the
26 territory within which, the carrier is authorized to operate. There
27 shall, at the time of issuance and from time to time thereafter, be
28 attached to the exercise of the privileges granted by the certificate
29 reasonable terms, conditions, and limitations consistent with the

1 modal character of the holder, as the public convenience and necessity
2 may from time to time require and as are necessary to carry out the
3 requirements established under this chapter. However, no terms,
4 conditions or limitations shall restrict the right of the carrier to
5 add to its equipment and facilities over the routes, between the ter-
6 mini, or within the territory specified in the certificate, as the
7 development of the business and the demands of the public shall require.

8 (g) No certificate issued under this chapter confers proprietary
9 or property rights in the use of the public highways, airways, water-
10 ways or public facilities nor exclusive rights to provide the service
11 authorized in it.

12 (h) A certificate issued by the commission is prima facie evidence
13 that the authority stated in it is the authority granted by the com-
14 mission. A misstatement in a certificate of the authority granted
15 cannot enlarge upon the authority granted and may be corrected by re-
16 issuance of the certificate after notice to the affected carrier and
17 opportunity for hearing.

18 Sec. 42.08.090. INTRA-MODAL CLASSIFICATIONS AND SUBCLASSIFICATIONS
19 OF COMMON CARRIERS BY VEHICLE: EXEMPTION OF CLASS. (a) The commission
20 may from time to time establish such just and reasonable classifications
21 and subclassifications of groups of common carriers by vehicle within
22 each mode as the special nature of the services performed by those
23 carriers shall require, and such just and reasonable rules, regulations
24 and requirements, consistent with the provisions of this chapter, to
25 be observed by the carriers so classified as the commission considers
26 necessary or desirable in the public interest.

27 (b) The commission may exempt a class of common carrier by
28 vehicle from the requirements of this chapter, or a provision of it,
29 or any rule, regulation, term, condition, or limitation prescribed

1 under it, if it finds that the enforcement of a section, provision,
2 rule, regulation, term, condition or limitation is or would be an
3 undue burden on the class of carrier by reason of the limited extent
4 of, or unusual circumstances affecting, the operations of carriers
5 within that class and is not in the public interest.

6 (c) Regulations establishing or abolishing a classification or
7 subclassification of common carrier by vehicle or exempting a class
8 of carrier as provided in this section may be adopted only after
9 classification hearings have been noticed and held in which all inter-
10 ested members of the public have had an opportunity to be heard.

11 Sec. 42.08.100. OPERATIONS UNDER MORE THAN ONE CLASSIFICATION.

12 (a) The commission may certificate a common carrier by vehicle to
13 provide transportation services in more than one classification with
14 a single mode if it finds that the authority for each classification
15 should be granted in accordance with the requirements of sec. 80 of
16 this chapter and that the transportation services to be provided in
17 each class are compatible.

18 (b) The commission may certificate a common carrier by vehicle
19 to provide transportation services in more than one mode if it finds
20 that (1) the authority for each mode should be granted in accordance
21 with the requirements of sec. 80 of this chapter; (2) the transporta-
22 tion services to be provided in each mode are not mutually competing;
23 and (3) it is in the public interest for the carrier to provide multiple
24 modal common carrier transportation services. Separate certificates
25 shall be issued for each modal service authorized.

26 Sec. 42.08.110. DUTY TO PROVIDE SERVICE; COMMISSION AUTHORIZED
27 TO REGULATE TIME SCHEDULES OF SCHEDULED CARRIERS. (a) A common
28 carrier by vehicle shall provide safe and adequate service, equipment
29 and facilities to reasonably accommodate the convenience and necessity

1 of the public for the type of transportation service which the carrier
2 is authorized by the commission to provide.

3 (b) The commission may reasonably regulate the operating time
4 schedules of a common carrier by vehicle authorized to provide
5 scheduled service over regular routes so as to meet the reasonable
6 needs of a community included in its authorized route or for the pur-
7 pose of preventing unnecessary or otherwise undesirable duplication of
8 scheduled services.

9 Sec. 42.08.120. VOLUNTARY ABANDONMENT OR DISCONTINUANCE OF
10 SERVICE; TEMPORARY SUSPENSION. (a) No common carrier by vehicle may
11 abandon or discontinue a service or part of a service for which a
12 certificate has been issued by the commission unless, upon the applica-
13 tion of the carrier after notice to the public, and hearing, the com-
14 mission finds that the abandonment or discontinuance is in the public
15 interest. Any person whose interests would be affected by the abandon-
16 ment or discontinuance shall be given an opportunity to be heard.

17 (b) Notwithstanding the provisions of (a) of this section, the
18 commission, upon petition of a common carrier by vehicle and without
19 notice to the public or hearing, may authorize a temporary suspension
20 of a certificated service or part of a service for a period not to
21 exceed 180 days if it finds, upon investigation, that the temporary
22 suspension will be consistent with the public interest. A temporary
23 suspension may not be extended beyond 180 days by the commission except
24 by compliance with (a) of this section.

25 Sec. 42.08.130. TARIFFS AND OPERATING TIME SCHEDULES: FILING,
26 PUBLICATION, REJECTION. (a) A common carrier shall file with the
27 commission and shall print and keep open to the public inspection,
28 tariffs showing all rates, rules, regulations, classifications and
29 practices collected or enforced or to be collected or enforced by it

1 between all points served by it, and between points served by it and
2 points served by any other common carrier when through service and
3 rates have been established. A common carrier providing scheduled
4 service shall also file, print and keep open to the public all oper-
5 ating time schedules under which it provides or proposes to provide
6 scheduled service.

7 (b) The commission shall prescribe the form and content of
8 tariffs and time schedules and the manner of public notice and inspec-
9 tion. The tariffs and time schedules of a carrier which is also
10 subject to the jurisdiction of a federal regulatory agency shall cor-
11 respond, so far as practicable, to the form of tariff and time schedule
12 prescribed by the federal regulatory agency.

13 (c) The commission may reject all or part of a tariff which is
14 not consistent with this chapter or the regulations of the commission.
15 A tariff or part of a tariff so rejected is void.

16 (d) The commission may reject or may suspend all or part of a
17 time schedule that it determines will impair the ability of a common
18 carrier by vehicle to serve the public or appears to be unjust, un-
19 reasonable, prejudicial, discriminatory or otherwise unlawful.

20 (e) No common carrier by vehicle may be permitted to restrict
21 its services to paying time schedules on passenger routes or on
22 high-class or high-volume commodities with a low rate in competition
23 with a common carrier giving complete service. However, this subsection
24 does not apply to the transportation of commodities requiring special
25 equipment or to the transportation of express or any special or
26 particular commodity which because of its character or use requires
27 rapid transit or specialized handling.

28 (f) Notwithstanding (e) of this section, the commission may,
29 upon application and hearing, or upon its own motion, permit two or

1 more common carriers by vehicle authorized to serve the same point or
2 points to enter into an agreement for the pooling or division of
3 traffic, or of service, or of gross or net earnings, or any portion
4 of them as to such service point or points when it finds that the
5 agreement will be, and for as long as it continues to be, in the inter-
6 est of better service to the public, of economy of operation and will
7 not unduly restrain competition.

8 Sec. 42.08.140. CONTRACTS: FILING, REJECTION. (a) A common
9 carrier by vehicle shall file with the commission copies of every con-
10 tract, agreement, lease or arrangement with any other common carrier
11 relating in any way to the transportation of passengers or property,
12 and shall file copies of every contract, agreement, lease or arrangement
13 with any other person relating to use, by such common carrier, of
14 vehicles not owned by it in the furnishing of transportation of pas-
15 sengers or property.

16 (b) The commission may prescribe the manner of filing and form
17 of the contracts, agreements, leases or arrangements and may reject
18 a filing not in conformity with them. A contract, agreement, lease or
19 arrangement so rejected is void.

20 (c) Acceptance by the commission of a contract, agreement, lease
21 or arrangement for filing does not represent approval of the terms.

22 Sec. 42.08.150. TARIFF CHANGES. Unless the commission otherwise
23 orders, no change may be made by a common carrier in its rates, classi-
24 fications, rules, regulations or practices except after 30 days notice
25 to the commission and to the public. Notice shall be given by filing
26 with the commission and keeping open for public inspection the revised
27 tariff provisions which shall plainly indicate the changes to be made
28 in the tariffs then in force and the time when the changes will go into
29 effect. The commission may prescribe additional means of giving

1 notice. The commission, for good cause shown, may allow changes to
2 take effect on less than 30 days notice under conditions the commission
3 prescribes.

4 Sec. 42.08.160. HEARING REQUIRED ON GENERAL RATE INCREASE;
5 SUSPENSION OF TARIFF FILING; BURDEN OF PROOF. (a) When a common
6 carrier files a tariff containing a new or revised rate, classification,
7 rule, regulation, or practice, the commission shall, if the change would
8 effect a general rate increase otherwise, may, upon complaint or upon
9 its own motion and before the effective date of the tariff change,
10 order an investigation and hearing concerning the lawfulness of the
11 proposed change. If the change would effect a general rate increase,
12 the commission shall publish reasonable notice of it to the public.

13 (b) Pending completion of the investigation and hearing and a
14 decision on the lawfulness of the change, the commission, by order
15 stating the reasons for its action, may from time to time suspend the
16 implementation of all or any part of a tariff change and defer its
17 effective date, but not for a longer aggregate period than 210 days
18 beyond the time when the change would otherwise go into effect.

19 (c) The commission shall give a hearing and decision on a tariff
20 change priority over other proceedings pending before it and shall
21 render its decision and order on it as speedily as possible.

22 (d) After hearing, whether completed before or after the tariff
23 change becomes effective, the commission shall issue its decision and
24 order approving, denying or modifying the tariff change in whole or
25 in part.

26 (e) The burden of proof to show that a tariff change is lawful is
27 upon the carrier.

28 Sec. 42.08.170. THROUGH ROUTES AND JOINT RATES; DIVISION OF
29 REVENUE. (a) Subject to the approval of the commission, common carriers

1 by vehicle may establish reasonable through routes and joint rates
2 with other common carriers by vehicle.

3 (b) Where joint rates are provided the participating carriers
4 shall establish just and reasonable regulations and practices in con-
5 nection with them and just, reasonable, and equitable divisions as
6 between the participating carriers which shall not unduly prefer or
7 prejudice a participating carrier.

8 (c) The commission may establish just, reasonable, and equitable
9 division of joint rates between the participating carriers. In order-
10 ing and establishing joint through rates between different modal
11 classifications of carriers, the commission shall give full effect to
12 the differing costs of transportation of passengers or property by
13 a specific mode of carrier and shall reflect the lower costs by differ-
14 entials under a through rate of the higher cost carrier.

15 Sec. 42.08.180. ADHERENCE TO TARIFFS. (a) No common carrier
16 may, directly or indirectly, demand or receive a greater or lesser
17 rate, or refund, or remit in any manner or by any device any portion of
18 a rate for a service provided or to be provided by it, or extend privi-
19 leges or facilities for transportation affecting the value of the
20 transportation than those specified in its tariffs filed and in effect
21 at the time, except upon order of the commission.

22 (b) The rates specified in its properly filed and approved tariffs
23 shall be the lawful rates of a common carrier until changed in the
24 manner provided in this chapter and by regulations of the commission.

25 Sec. 42.08.190. SOLICITING OR ACCEPTING SPECIAL PRIVILEGES. No
26 person may knowingly solicit, accept or receive a rebate, concession or
27 discrimination in respect to any service whereby a service shall, by
28 any means or device, be rendered free or at a lesser rate than that
29 named in the published schedules and tariffs in force, or whereby a

1 service or advantage is received other than authorized in this chapter.

2 Sec. 42.08.200. LONG AND SHORT HAUL. (a) No common carrier may
3 charge or receive a greater compensation in the aggregate for the
4 transportation of persons or of a like kind of property, for a shorter
5 than for a longer distance over the same route in the same direction,
6 the shorter being included within the longer distance, or charge a
7 through rate which is greater than the aggregate of the intermediate
8 rates. These restrictions shall not be construed as authorizing a
9 common carrier to charge and receive as great a compensation for a
10 shorter as for a longer distance or haul.

11 (b) Upon application of a common carrier the commission may, by
12 order, authorize it to charge less for a longer than for a shorter
13 distance for the transportation of persons or property if, after investi-
14 gation, the commission determines that the rate disparity is justified
15 and is not contrary to the public interest. In its order of approval
16 the commission shall specify the extent to which the carrier is relieved
17 from the application of (a) of this section.

18 Sec. 42.08.210. RATES AND PRACTICES TO BE JUST AND REASONABLE;
19 UNJUST AND UNREASONABLE RATES AND PRACTICES UNLAWFUL. All rates, rules,
20 regulations, classifications and practices adopted by a common carrier
21 for service rendered or to be rendered in the transportation of pas-
22 sengers or property or in connection with them shall be just and
23 reasonable, and shall not be unduly discriminatory, prejudicial or pre-
24 ferential, and every unjust, unreasonable, discriminatory, prejudicial
25 and preferential rate, rule, regulation, classification or practice is
26 prohibited and unlawful.

27 Sec. 42.08.220. RATES FIXED ON COMPLAINT; UNIFORM RATES. (a)
28 Whenever the commission, after notice and hearing, upon the reasonable
29 complaint of any person or of the division of regulatory services,

1 finds that a rate, rule, regulation, classification or practice collected
2 or enforced or to be collected or enforced by a common carrier is unjust,
3 unreasonable, discriminatory, prejudicial or preferential, or that a
4 rate is insufficient to yield a reasonable compensation for the service
5 rendered, the commission shall determine a just and reasonable rate,
6 classification, rule, regulation, or practice to be thereafter observed
7 and enforced, and shall fix the same by order.

8 (b) In a proceeding to determine the justness or reasonableness
9 of a rate of a common carrier no value may be assigned or considered by
10 the commission for good will, earning power, or the certificate or
11 certificates under which the carrier is operating.

12 (c) When two or more common carriers by vehicle are furnishing
13 service in competition with each other, the commission may, after
14 hearing, when necessary for the preservation of adequate service and
15 when public interest demands, prescribe uniform rates, classifications,
16 rules, and practices to be charged, collected, and observed by all
17 such common carriers.

18 Sec. 42.08.230. INTERSTATE TARIFFS. Every common carrier autho-
19 rized by a federal regulatory agency to provide interstate transportation
20 service between points inside, to or from the state shall print and
21 file with the commission tariffs showing the rates, classifications,
22 rules, regulations and practices for the transportation of passengers
23 or property between all points inside the state and between all points
24 inside the state and all points outside the state upon its route, or
25 upon every route leased, operated, or controlled by it, and between
26 each point upon its route inside the state and all points outside the
27 state upon the route of another common carrier, whenever a through route
28 and joint rate has been established between any two of these points.
29 If no joint rate over a through rate has been established, the carrier

1 operating inside this state shall print and file with the commission the
2 separately established rates, classifications, rules, regulations and
3 practices applied to the through transportation.

4 Sec. 42.08.240. SURVEILLANCE OF INTERSTATE RATES AND SERVICES;
5 ATTORNEY GENERAL TO COMPLAIN. (a) The commission shall maintain sur-
6 veillance over all interstate rates, rules, regulations, classifications,
7 practices and services of common carriers providing transportation of
8 persons or property in interstate commerce, where an act in relation to
9 the transportation significantly affects or may affect the cost of ade-
10 quacy of transportation inside, to or from the state.

11 (b) When interstate rates, rules, regulations, classifications,
12 practices or services of carriers are, in the determination of the
13 commission, unjust, unreasonable, discriminatory, prejudicial or prefer-
14 ential or in violation of any federal law or are in conflict with the
15 rulings, orders or regulations of a federal regulatory agency having
16 jurisdiction therein or when interstate services are, in the opinion
17 of the commission inadequate, unsatisfactory, or discriminatory, the
18 commission shall so advise the attorney general of its opinion together
19 with its recommendations as to what relief, if any, should be requested
20 by the state. The commission shall, if requested by the attorney
21 general, provide technical assistance and advice to the attorney general
22 in any review, investigation or proceeding thereon implemented by the
23 attorney general or in which the state is otherwise a party.

24 Sec. 42.08.250. LIABILITY OF COMMON CARRIERS BY VEHICLE FOR DAM-
25 AGES TO PROPERTY IN TRANSIT; BILLS OF LADING. Every common carrier by
26 vehicle that receives property for transportation between points inside
27 the state shall issue a receipt, or bill of lading for it, and shall be
28 liable to the lawful holder of it for any loss, damage, or injury to
29 such property caused by it, or by any other common carrier by vehicle

1 to which it may have delivered such property. No contract, receipt,
2 rule or regulation shall exempt the common carrier from the liability
3 hereby imposed. However, the commission may, by regulation or order,
4 authorize or require a common carrier by vehicle to establish and
5 maintain rates related to the value of shipments declared in writing
6 by the shipper, or agreed upon in writing as the released value of the
7 shipments; such declaration or agreement shall have no effect other
8 than to limit liability and recovery to an amount not exceeding the
9 value so declared or released. A tariff filed pursuant to such regulation
10 or order shall specifically refer to it. However, nothing in this
11 section shall deprive a lawful holder of a receipt or bill of lading
12 of a remedy or right of action which the holder has under existing laws.
13 A common carrier by vehicle issuing a receipt or bill of lading shall,
14 in the event of a recovery of a judgment against it, or of a satis-
15 faction made by it for loss or damage, be entitled to recover from the
16 carrier on whose line the loss or damage occurred, an amount not in
17 excess of the actual loss or damage to the property or not in excess
18 of the amount actually paid to the holder of the receipt or bill of
19 lading.

20 Sec. 42.08.260. ACCOUNTS AND RECORDS OF COMMON CARRIERS. (a)

21 The commission shall prescribe the kind and form of accounts, manifests,
22 receipts and records to be used and maintained by common carriers per-
23 taining to their operations and the method, manner and length of time
24 for keeping them.

25 (b) The failure of the commission to promulgate regulations in
26 accordance with (a) of this section shall not be considered to affect
27 the commission's authority to inspect and audit a common carrier's
28 accounts, manifests, receipts and records or to demand the production
29 of such information; nor shall it be considered to relieve a common

1 carrier of the burden of proof to show that a tariff change is lawful.

2 Sec. 42.08.270. ACCIDENT LIABILITY PROTECTION REQUIRED. (a) No
3 certificate may be issued to a person to operate as a common carrier
4 by vehicle inside the state and no such carrier may conduct any opera-
5 tion by vehicle inside the state unless the person or carrier has pro-
6 cured and keeps in force reasonable security required by the commission
7 for the protection of the public against damage and injury for which
8 the carrier may be liable by reason of its operation as a common
9 carrier.

10 (b) In fixing the amount of security required by this section,
11 the commission shall consider the character and amount of traffic, the
12 number of persons affected and the degree of danger which the proposed
13 operation involves.

14 (c) The commission may at any time refuse to accept, or revoke
15 its acceptance of, a security or form of security if, in its judgment,
16 the security does not comply with its regulations, or for any reason
17 fails to provide satisfactory or adequate protection for the public.
18 Refusal or revocation of acceptance of security does not relieve the
19 carrier from compliance with this section.

20 Sec. 42.08.280. ADDITIONAL BONDS AND SECURITY REQUIRED. (a) In
21 addition to the accident liability security required in sec. 270 of
22 this chapter:

23 (1) common carriers of property must file a satisfactory
24 bond in a sum to be fixed by the commission. Bond or security shall be
25 conditioned upon the carrier paying over to shippers and consignees
26 money belonging to shippers and consignees, and coming into the pos-
27 session of the carrier in connection with its transportation service;
28 and

29 (2) common carriers of property by vehicle must file security

1 in the amount fixed by the commission for the loss of, or damage to,
2 property carried in, upon or attached to the vehicle operated by, for
3 or under the control or while in the care or custody of such carrier.

4 (b) The commission may waive the filing of bond or cargo security
5 for a carrier whose service is limited to commodities not subject to
6 material damage or loss through ordinary transportation hazards, or
7 a carrier who does not engage in transporting collect on delivery ship-
8 ments.

9 ARTICLE 3: AIR COMMON CARRIERS: SPECIFIC PROVISIONS.

10 Sec. 42.08.290. REQUIRED CLASSIFICATIONS. In addition to any
11 other classification or subclassification of air common carrier which
12 the commission established as provided in sec. 90 of this chapter, air
13 common carrier shall include the classification, "scheduled air carrier",
14 and the classification, "air taxi operator".

15 Sec. 42.08.300. ADDITIONAL RESTRICTIONS TO ISSUING CERTIFICATE
16 FOR SCHEDULED AIR CARRIER SERVICE. (a) In authorizing an air common
17 carrier by vehicle to provide scheduled air service, the commission may
18 restrict the size and type of aircraft which it may use.

19 (b) The commission may issue a certificate to an applicant to
20 provide competing scheduled service by aircraft over regular routes
21 and between points which it has previously certificated for such
22 scheduled service to another air carrier only when the commission finds
23 that the existing certificate holder cannot reasonably be depended upon
24 to provide such service to the reasonable satisfaction of the commission.

25 (c) The provisions of this section are in addition to, and not in
26 lieu of, the provisions of sec. 80 of this chapter.

27 Sec. 42.08.310. CHARTER SERVICE BY SCHEDULED AIR CARRIER. (a)
28 Unless otherwise provided by the commission a scheduled air carrier may
29 hold itself out to provide, and may provide, charter services to or

1 from any point named as a terminal or intermediate point on its certi-
2 ficated route, if (1) scheduled air service is regularly rendered by
3 the carrier to such named point; (2) the charter service is not pro-
4 vided in competition with or to the detriment of the carrier's
5 scheduled service; and (3) unless otherwise authorized by the commis-
6 sion, the type of traffic transported and the vehicle used are con-
7 sistent with the type transported and used in the carrier's authorized
8 scheduled service.

9 (b) Consistent with the provisions of this chapter, the commis-
10 sion may at any time, after notice and hearing, impose additional
11 charter conditions, and may extend or restrict the charter privileges
12 of a scheduled air carrier in the public interest.

13 Sec. 42.08.320. AIR TAXI OPERATOR: BASE OF OPERATIONS. A certi-
14 ficate issued to an air taxi operator shall specify its base of
15 operations together with any supplemental base of operations authorized.
16 An air taxi operator may not change its authorized base nor supplemental
17 bases of operation to a different location than that specified in its
18 certificate except in accordance with secs. 70 and 80 of this chapter.

19 Sec. 42.08.330. POINT TO POINT RATES OF AIR TAXI OPERATORS.

20 (a) In accordance with the provisions of this chapter and the regula-
21 tions of the commission, an air taxi operator may, unless otherwise
22 provided by the commission, charge individual passenger and per-pound
23 cargo rates between points served by it on an irregular basis; how-
24 ever, such rates may not be less than the corresponding tariff rates
25 for scheduled service of a scheduled air carrier serving the same
26 points.

27 (b) The commission may, upon complaint of a scheduled air carrier
28 or of the division of regulatory services, disapprove, suspend or
29 modify individual passenger and per-pound cargo rates of an air taxi

1 operator when it finds, after notice and hearing, that such rates
2 contribute to a significant diversion of traffic from the scheduled
3 air carrier service between the same points.

4 ARTICLE 4. MOTOR BUS COMMON CARRIER: SPECIFIC PROVISIONS.

5 Sec. 42.08.340. REQUIRED CLASSIFICATIONS. In addition to any
6 other classification or subclassification of motor bus common carrier
7 which the commission establishes as provided in sec. 90 of this chapter,
8 motor bus common carrier shall include the classification, "scheduled
9 interurban motor bus carrier".

10 Sec. 42.08.350. ADDITIONAL RESTRICTIONS TO ISSUING CERTIFICATE
11 FOR SCHEDULED INTERURBAN MOTOR BUS CARRIER SERVICE. (a) The commis-
12 sion may issue a certificate to an applicant to provide competing
13 scheduled interurban service by motor bus over regular routes and
14 between points which it has previously certificated for such scheduled
15 service to another motor bus carrier only when the commission finds
16 that the existing certificate holder cannot reasonably be depended
17 upon to provide the service to the reasonable satisfaction of the com-
18 mission.

19 (b) The provisions of this section are in addition to, and not
20 in lieu of, the provisions of sec. 80 of this chapter.

21 Sec. 42.08.360. CHARTER SERVICE BY SCHEDULED INTERURBAN MOTOR
22 BUS CARRIER. (a) Unless otherwise provided by the commission, a
23 scheduled interurban motor bus carrier may hold itself out to provide,
24 and may provide, charter services to or from any point named as a
25 terminal or intermediate point on its certificated route, if (1)
26 scheduled interurban motor bus service is regularly rendered by the
27 carrier to such named point; (2) the charter service is not provided
28 in competition with or to the detriment of the carrier's scheduled
29 service; and (3) unless otherwise authorized by the commission, the

1 type of traffic transported and the vehicle used are consistent with
2 the type transported and used in the carrier's authorized scheduled
3 service.

4 (b) Consistent with the provisions of this chapter, the commis-
5 sion may at any time, after notice and hearing, impose additional
6 charter conditions, and may extend or restrict the charter privileges
7 of a scheduled interurban motor bus carrier in the public interest.

8 ARTICLE 5. FREIGHT FORWARDERS.

9 Sec. 42.08.370. FREIGHT FORWARDERS: REGULATION AS A COMMON CARRIER
10 BY VEHICLE. A freight forwarder who, for any part of the service he
11 provides, including pickup and delivery service, uses his own vehicle
12 or procures the use of a vehicle of a person other than an authorized
13 common carrier by vehicle, for the transportation of property, is a
14 common carrier by vehicle and subject to the provisions of this Act
15 relating to common carriers by vehicle.

16 Sec. 42.08.380. FREIGHT FORWARDERS: REGULATION AS A COMMON CARRIER
17 A freight forwarder who for all of the transportation service he pro-
18 vides uses only authorized common carriers by vehicle for the transporta-
19 tion of property is subject to regulation by the commission as a common
20 carrier under this chapter but is not subject to those provisions
21 relating to common carrier by vehicle specifically.

22 Sec. 42.08.390. FREIGHT FORWARDER'S LICENSE REQUIRED; ISSUANCE.

23 (a) No person, subject to the provisions of this chapter, may act as
24 a common carrier freight forwarder unless he holds a forwarder's
25 license, issued by the commission, to engage in such transactions.

26 (b) A forwarder's license shall be issued to a qualified appli-
27 cant, authorizing the whole or any part of the operations covered by
28 the application, if it is found that:

29 (1) the applicant is fit, willing and able properly to

1 perform the service proposed and to conform to the provisions of this
2 chapter and the requirements, rules and regulations of the commission
3 thereunder; and

4 (2) the proposed service, to the extent to be authorized by
5 the license, is or will be consistent with the public interest.

6 (c) No forwarder's license may be issued or remain in force unless
7 the applicant furnishes a bond or other security approved by the com-
8 mission, in such form and amount as will insure financial responsibility
9 and the supplying of authorized transportation in accordance with
10 contracts, agreements or arrangements for it.

11 (d) The commission shall specify in the license the nature or
12 general description of the property for which, and the territory within,
13 to or from which the service may be performed. At the time of issuance,
14 and from time to time thereafter, there shall be attached to the exer-
15 cise of the privileges granted by the license, such reasonable terms,
16 conditions and limitations as are necessary to carry out the require-
17 ments established under this Act.

18 (e) An application for a license shall be made in the form and
19 manner prescribed by the commission and accompanied by a filing fee of
20 \$200 made payable to the commission. No part of the filing fee may
21 be refunded after notice of the application has been published or
22 otherwise provided.

23 (f) A person whose application for a license is denied is not
24 eligible to renew the application for a period of six months from the
25 date of the order denying the application.

26 ARTICLE 6. CONTRACT CARRIERS BY VEHICLE.

27 Sec. 42.08.400. PERMIT REQUIRED. Except as provided in sec. 410
28 of this chapter, no person subject to the provisions of this chapter
29 may operate as a contract carrier by vehicle in the state, unless he

1 has first obtained a permit issued by the commission authorizing such
2 operation.

3 Sec. 42.08.410. TEMPORARY EXEMPTION OF CONTRACT CARRIER BY
4 VEHICLE. (a) The commission may, with or without hearing, and within
5 its discretion, exempt a contract carrier by vehicle from the require-
6 ments of sec. 400 of this chapter for a period not to exceed 90 days,
7 if it reasonably finds that an emergency exists which requires the
8 service; or that there is an immediate and urgent need for the proposed
9 service which cannot or may not be reasonably met by existing carriers
10 authorized to provide such service; and that is is in the public inter-
11 est to grant a temporary exemption under the circumstances.

12 (b) A temporary exemption granted under the provisions of this
13 section shall be limited to the performance of one contract only.
14 However, the commission may grant more than one exemption to the same
15 carrier to allow the concurrent performance of more than one contract.
16 An exemption remains in force only for the time specified in the
17 granting order or ordered extensions of it unless sooner terminated
18 by the expiration, completion or other termination of the contract
19 under which the exempted service was being provided.

20 (c) A finding by the commission that there is an immediate and
21 urgent need for the service for which an exemption is granted does not
22 create a presumption that such need will continue to exist beyond the
23 exemption period or that corresponding permanent authority will be
24 granted.

25 (d) The commission shall, as soon as reasonably possible, either
26 before or after granting an exemption, provide notice and hearing on
27 it and may thereupon amend or rescind its order granting the exemption
28 in accordance with its findings upon hearing. An exemption may be
29 extended for additional periods up to an aggregate term of 180 days

1 from the effective date of the original grant, for the purpose of
2 continuing the service provided thereunder until the commission deter-
3 mines whether a permit should be issued to the exempt carrier. No
4 extension beyond the original 90-day period may be made unless the
5 exempt carrier has also applied for a permit to operate as a contract
6 carrier by vehicle concurrently with its application for an exemption.

7 (e) Application for an exemption shall be made in the same manner
8 as an application for a permit.

9 Sec. 42.08.420. APPLICATION FOR PERMIT. (a) An application for
10 a permit shall be made in writing to the commission, be verified under
11 oath, and shall be in the form, contain the information and show proof
12 of service upon the interested parties, as the commission shall, by
13 regulation, require. It shall have attached to it the original or
14 verified copies of all contracts to furnish transportation covered by
15 the application.

16 (b) An application for a permit may not be noticed nor considered
17 by the commission if it does not comply with the provisions of this
18 section and with the commission's regulations for such applications
19 or does not include reasonable supporting evidence tending to show the
20 fitness and ability of the applicant.

21 (c) An application for a permit shall be accompanied by a filing
22 fee in the amount of \$200 made payable to the commission. No part of
23 the filing fee may be refunded after notice of the application has been
24 published or otherwise provided.

25 (d) A person whose application for a permit is denied is not
26 eligible to renew the application for a period of six months from the
27 date of the order denying the application.

28 Sec. 42.08.430. ISSUANCE OF PERMITS. (a) Subject to the provi-
29 sions of AS 42.07 and AS 42.09 and the commission's regulations, a

1 permit shall be issued to a qualified applicant for it, authorizing
2 the whole or a part of the operations covered by the application if
3 it is found that the applicant is fit, willing and able properly to
4 perform the service proposed and to conform to the provisions of this
5 chapter and AS 42.07 and AS 42.09 and the requirements, rules and
6 regulations of the commission thereunder, and that the proposed service
7 to the extent to be authorized will be consistent with the public
8 interest in accordance with the policy declared in sec. 20 of this
9 chapter; otherwise the application shall be denied.

10 (b) No permit may be issued by the commission except after notice
11 and opportunity for hearing as provided by regulations of the commis-
12 sion.

13 (c) In determining the fitness of an applicant the commission
14 shall take into consideration the applicant's reliability, safety
15 record, experience, financial condition, and sense of responsibility
16 toward the public and the state and federal laws, and any other matters
17 tending to show whether or not the proposed service would be responsibly
18 provided by the applicant if the permit were granted.

19 (d) In determining whether issuance of a permit will be consis-
20 tent with the public interest and the policy and objectives set out
21 in sec. 20 of this chapter, the commission shall consider, among other
22 things, the number of shippers to be served by the applicant, the
23 nature of the service proposed, whether the proposed service can be
24 or is being properly performed by existing common carriers, the effect
25 which granting the permit would have upon the services of the protest-
26 ing carriers, the effect which denying the permit would have upon the
27 applicant, its shipper, or both, and the changing character of that
28 shipper's requirements. The enumeration in this subsection of specific
29 factors to be considered and weighed by the commission does not thereby

1 exclude consideration and weighing of factors not enumerated nor is it
2 intended that the commission's findings as to any enumerated factor or
3 combination of factors shall be controlling of its determination.

4 (e) No permit may be issued by the commission until and unless
5 the carrier has complied with all relevant provisions of this chapter
6 and AS 42.09 and the regulations of the commission requiring the pro-
7 curing and filing of acceptable security for the protection of the
8 public, the filing and approval of contracts to be performed and the
9 registration and approval of the vehicles to be used.

10 (f) No permit issued under this Act confers any proprietary or
11 property rights in the use of the public highways, airways, waterways
12 or public facilities nor exclusive rights to provide the service
13 authorized therein.

14 (g) The commission shall specify in the permit the business of
15 the contract carrier covered thereby, the scope thereof and the type
16 of equipment to be used and shall attach to it, at the time of issuance,
17 and from time to time thereafter, such reasonable terms, conditions,
18 and limitations consistent with the character of the holder as a con-
19 tract carrier by vehicle, including terms, conditions, and limitations
20 respecting the person or persons and the number or class or classes
21 thereof for which the contract carrier may perform transportation
22 service, as may be necessary to assure that the business is and will
23 remain that of a contract carrier within the scope of the permit, and
24 to carry out with respect to the operations of such carrier the require-
25 ments established by the commission under this Act.

26 (h) It shall be a condition of every permit that operations
27 under it may only be performed in accordance with a written contract,
28 existing for a specific term, requiring continuing performance over an
29 extended period of time and stating in it the rates to be charged and

1 all practices called for or contemplated in its performance which
2 would affect the value of, or the rate for the service to be performed.

3 (1) A permit issued by the commission is prima facie evidence
4 that the authority so stated in it is the authority granted by the
5 commission. A misstatement in the permit of the authority granted
6 cannot enlarge upon the authority granted and may be corrected by re-
7 issuance of the permit without notice.

8 Sec. 42.08.440. INTRA-MODAL CLASSIFICATIONS AND SUBCLASSIFICATIONS
9 OF CONTRACT CARRIERS BY VEHICLE. (a) The commission may, from time
10 to time, establish such just and reasonable classifications and sub-
11 classifications of groups of contract carriers by vehicle within each
12 mode as the special nature of the services performed by such carriers
13 shall require; and such just and reasonable rules, regulations, and
14 requirements, consistent with the provisions of this Act, to be
15 observed by the carriers so classified as the commission considers
16 necessary or desirable in the public interest.

17 (b) The commission may exempt a class of contract carrier by
18 vehicle from the requirements of this chapter, or a provision of it,
19 or any rule, regulation, term, condition, or limitation prescribed under
20 it, if it finds that the enforcement of such section, provision, rule,
21 regulation, term, condition or limitation is or would be an undue
22 burden on such class of carrier by reason of the limited extent of,
23 or unusual circumstances affecting, the operations of carriers within
24 that class and is not in the public interest.

25 (c) Regulations establishing or abolishing a classification or
26 subclassification of contract carrier by vehicle or exempting a class
27 of carrier as provided in this section may be adopted only after
28 classification hearings have been noticed and held in which all inter-
29 ested members of the public have had an opportunity to be heard.

1 Sec. 42.08.450. REGULATION OF OPERATIONS OF CONTRACT CARRIERS
2 BY VEHICLE. In the exercise of its regulatory powers over contract
3 carriers, the commission may fix, alter and amend, just, fair and
4 reasonable rules and regulations and minimum rates and charges of a
5 contract carrier; regulate its accounts, service and safety of opera-
6 tions; require the filing of reports and of other data thereby; and
7 supervise and regulate contract carriers in all other matters affecting
8 their relationship with both the shipping and the general public.

9 Sec. 42.08.460. APPROVAL OF CONTRACTS; CONTRACT RATES TO BE
10 CHARGED. (a) Unless otherwise authorized by the commission, no con-
11 tract carrier may commence performance under a contract until the con-
12 tract has been filed with and approved by the commission.

13 (b) No contract carrier may, directly or indirectly, demand or
14 receive a lesser rate for a service provided or to be provided by it
15 under a contract, or extend privileges or facilities for transportation
16 affecting the value of the transportation, than those specified in
17 the contract and filed in the manner provided in this chapter and by
18 the commission; nor may a contract carrier refund or remit in any manner
19 or by any device any portion of the rates required to be collected
20 under a contract.

21 Sec. 42.08.470. ACCIDENT LIABILITY PROTECTION REQUIRED. (a)
22 No certificate may be issued to a person to operate as a contract
23 carrier by vehicle inside the state and no such carrier may conduct
24 any operation by vehicle inside the state unless the person or carrier
25 has procured and keeps in force reasonable security required by the
26 commission for the protection of the public against damage and injury
27 for which the carrier may be liable by reason of its operation as a
28 contract carrier.

29 (b) In fixing the amount of security required by this section,

1 the commission shall consider the character and amount of traffic, the
2 number of persons affected and the degree of danger which the proposed
3 operation involves.

4 (c) The commission may at any time refuse to accept, or revoke
5 its acceptance of any security or form of security if, in its judgment,
6 the security does not comply with its regulations, or for any reason
7 fails to provide satisfactory or adequate protection for the public.
8 Refusal or revocation of acceptance of security does not relieve the
9 carrier from compliance with this section.

10 Sec. 42.08.480. ADDITIONAL SECURITY MAY BE REQUIRED. In addition
11 to the accident liability security required in sec. 470 of this
12 chapter, the commission may require a contract carrier of property by
13 vehicle to procure and file security in the amount fixed by the commis-
14 sion, for the loss of, or damage to, property carried in, upon or
15 attached to the vehicle operated by, for or under the control or while
16 in the care or custody of such carrier.

17 ARTICLE 7. SUSPENSION, MODIFICATION, REVOCATION,
18 TRANSFER OF CERTIFICATES, PERMITS AND LICENSES: UNLAWFUL CONTROL.

19 Sec. 42.08.490. DURATION; MODIFICATION, SUSPENSION AND REVOCATION.

20 (a) Certificates, permits and licenses issued by the commission under
21 this chapter shall be effective from the date specified therein, and
22 shall continue in effect for the period stated therein or until sus-
23 pended or terminated as provided in secs. 120 and 490 - 540 of this
24 chapter.

25 (b) The commission upon petition or complaint or upon its own
26 initiative, after notice and opportunity for hearing, may alter, amend,
27 modify or suspend a certificate, permit or license, in whole or in part,
28 if the public convenience and necessity so require, or may revoke a
29 certificate, permit, or license in whole or in part for wilful failure

1 to comply with a provision of this Act or with a lawful order, rule
2 or regulation of the commission or with a term, condition or limitation
3 of the certificate, permit or license, or for failure to render reason-
4 ably continuous service in providing the transportation authorized
5 therein. It is the intent of this provision to require the commission
6 to suspend or revoke, after notice and hearing, all or such part of the
7 authority granted by a certificate, permit or license which is not
8 exercised reasonably continuously. However, no certificate, permit or
9 license may be revoked (except upon application of the holder) unless
10 the holder of it wilfully fails to comply, within a reasonable time to
11 be fixed by the commission, with an order of the commission, commanding
12 obedience to the provision or to the order, rule, regulation, condition
13 or limitation found by the commission to have been violated. Any inter-
14 ested person may file with the commission a protest or memorandum in
15 support of or in opposition to the alteration, amendment, modification,
16 suspension, or revocation of the certificate.

17 (c) Notwithstanding any other provision of this Act to the con-
18 trary, the commission may suspend a certificate or permit without prior
19 notice or hearing upon failure of the carrier to procure and file the
20 security for the protection of the public required in this chapter
21 and regulations of the commission.

22 (d) The commission suspend and enforce the suspension of certifi-
23 cates and permits issued by the commission, upon a proper finding by
24 any agency of the federal government that the carrier is operating in
25 violation of a federal safety law or regulation.

26 Sec. 42.08.500. SUSPENSION OR DISCONTINUANCE OF SCHEDULED SERVICE
27 TO A CERTIFICATED POINT. (a) No common carrier by vehicle, authorized
28 to provide scheduled service, may permanently discontinue operations
29 between any two or more points named in its certificate without approval

1 of the commission.

2 (b) Upon application for suspension or deletion of a certificated
3 point, the commission may by order authorize a temporary suspension.
4 A temporary suspension, when authorized, shall not become effective
5 until 30 days after the filing of the application. Upon the filing
6 of an application, and as soon as possible, the commission shall publish
7 notice of it and serve a copy of such notice upon the proper government
8 official of the community, if any, and such other persons as the com-
9 mission considers appropriate. If the application is protested, the
10 commission shall set the matter for early hearing and proceed to a
11 final decision on the application as speedily as possible. The division
12 of regulatory services shall be a party and represent the public in
13 the proceeding. A temporary suspension granted under this section may
14 be ordered for a maximum period of 90 days but may be renewed by the
15 commission for an additional 90-day period if the additional time is
16 required to complete the proceedings before the commission.

17 Sec. 42.08.510. TRANSFER OF CERTIFICATE, PERMIT OR LICENSE;
18 ACQUISITION OF CONTROL. (a) It is unlawful unless first approved by
19 order of the commission as provided in this section, secs. 520 and
20 530 of this chapter, and regulations of the commission for any certifi-
21 cate, permit or license issued under this chapter to be transferred,
22 or for control of it to be acquired by lease or acquisition of voting
23 securities or by any other means whatsoever.

24 (b) An application for commission approval shall be filed in the
25 form and manner prescribed by the commission, and shall be accompanied
26 by a filing fee of \$150.

27 (c) When the transferor is an individual or partnership and the
28 transferee is a corporation of which all outstanding voting securities
29 are owned by the transferor or when the transferor is a partnership

1 and the transferee is one or more of the individual partners of the
2 transferor, the commission shall approve the transfer with or without
3 notice and hearing if it determines that the transferee is fit, willing
4 and able properly to perform the service authorized and that the trans-
5 fer is consistent with the public interest.

6 (d) Except as otherwise provided in this section, the commission
7 shall approve a transfer or acquisition of control for which application
8 has been made if it finds, after notice and opportunity for hearing,
9 that the transferee is fit, willing and able properly to perform the
10 service authorized and to conform to the provisions of this chapter and
11 AS 42.07 and AS 42.09 and the requirements, rules and regulations there-
12 under, and that the transfer or acquisition is in the public interest.
13 However, if the transferee, or person acquiring control, is a common or
14 contract carrier or controls or is controlled by or is in any manner
15 affiliated with or has a substantial interest in a common or contract
16 carrier the commission shall consider, in addition to all other elements
17 of public interest, whether the transfer or acquisition, if approved,
18 would result in lessening of competition and, if so, whether such reduc-
19 tion in competition would be consistent with the public interest.

20 (e) In considering an application for transfer or acquisition of
21 control, the commission shall determine whether the operating rights
22 under the carrier's certificate, permit or license have been in reason-
23 ably continuous and active use as to the territory or routes authorized
24 to be served, and as to the various services authorized to be rendered
25 by the carrier. No transfer or acquisition of control of dormant
26 operating rights may be approved unless the commission finds that
27 the service is required by the public convenience and necessity in
28 the case of a certificate or is consistent with the public interest in
29 the case of a permit or license, and that the transferee will provide

1 such service.

2 (f) For the purposes of this section, any person acquiring
3 beneficially 10 per cent or more of the voting securities or capital,
4 as the case may be, of a carrier shall be presumed to be acquiring
5 control of such carrier unless the commission finds otherwise. As used
6 in this subsection, beneficial ownership of 10 per cent of the voting
7 securities of a carrier means ownership of such amount of its out-
8 standing voting securities as entitles the holder thereof to cast 10
9 per cent of the aggregate votes which the holders of all the outstanding
10 voting securities of the carrier are entitled to cast.

11 Sec. 42.08.520. TEMPORARY PERMISSION TO OPERATE. The commission
12 may, within its discretion and without hearing, issue temporary per-
13 mission for an applicant transferee or person seeking to acquire control
14 of a carrier, to direct the operations of the carrier pending final
15 determination on the application. Temporary permission may not be
16 issued for a longer period than 180 days and does not create a presump-
17 tion that the transfer or acquisition will be approved.

18 Sec. 42.08.530. TEMPORARY CONTINUANCE OF OPERATIONS PENDING
19 TRANSFER OF DECEDENT'S INTEREST. (a) Notwithstanding any provision
20 to the contrary, a temporary continuance of a carrier's operations
21 without prior compliance with the transfer and acquisition provisions
22 of this chapter is recognized as justified by the public interest in
23 cases in which the personal representatives, heirs, or surviving
24 spouses of deceased persons desire to continue the operations of the
25 carrier whom they succeed in interest subject to such reasonable rules
26 and regulations as the commission may prescribe.

27 (b) When there is a temporary continuance under the provisions
28 of this section, the successor shall immediately procure and file
29 security for the protection of the public as required of such a carrier

1 under this chapter.

2 (c) Immediately upon temporary continuance of carrier operations
3 and in any event not more than 30 days thereafter the successor shall
4 give written notice of the succession to the commission containing such
5 information as the commission shall prescribe. Operations under a
6 temporary continuance may be conducted for a period not to exceed 180
7 days unless extended by order of the commission for additional periods
8 not to exceed an additional 180 days in the aggregate.

9 Sec. 42.08.540. UNAUTHORIZED AFFILIATIONS. It is unlawful, unless
10 such relationship has been authorized by order of the commission, for

11 (1) a common or contract carrier to have and retain an offi-
12 cer or director who is an officer, director, or member, or who as a
13 stockholder holds a controlling interest in any other common or contract
14 carrier;

15 (2) a common or contract carrier, knowingly and willingly,
16 to have and retain an officer or director who has a representative or
17 nominee who represents such officer, director, or member as an officer,
18 director, or member, or as a stockholder holding a controlling interest,
19 in any other common or contract carrier;

20 (3) a person who is an officer or director of a common or
21 contract carrier to hold the position of officer, director, or member,
22 or to have a stockholder holding a controlling interest, or to have a
23 representative or nominee who represents such person as an officer,
24 director, or member, or as a stockholder holding a controlling inter-
25 est, in any other common or contract carrier.

26 ARTICLE 8. GENERAL PROVISIONS.

27 Sec. 42.08.550. EVIDENCE OF PROTECTION; DEPOSIT OF INSURANCE
28 POLICY BOND OR OTHER SECURITY. (a) The security protection required
29 in secs. 270, 280, 390, 470 and 480 of this chapter shall be evidenced

1 by depositing with the commission, in the form, manner and coverage
2 required by the commission, either

3 (1) a policy or certificate of insurance issued by an
4 insurer acceptable to the commission and approved by the state division
5 of insurance, Department of Commerce; or

6 (2) a bond of surety company licensed to write surety bonds
7 in the state; or

8 (3) other security approved by the commission; or

9 (4) such evidence of qualification of the carrier as a self-
10 insurer as may be approved by the commission.

11 (b) Such security protection shall be maintained in effect
12 throughout the active life of the certificate, permit or license. No
13 insurance policy or other security may be canceled or otherwise ter-
14 minated at any time before its expiration until the indemnity or surety
15 company or reciprocal insurance exchange which executed the same, has
16 filed with the commission a notice of cancellation as provided in such
17 bond or policy. Such cancellation shall be effective not less than
18 30 days from the date of receipt by the commission, and no agreement
19 between the parties thereto shall operate to avoid this restriction
20 upon cancellation.

21 Sec. 42.08.560. CARRIER REPORTS. The commission may require the
22 preparation and filing of periodic reports by common and contract
23 carriers in the form and manner and content reasonably necessary to the
24 commission in the regulation of transportation.

25 Sec. 42.08.570. IDENTIFICATION OF VEHICLES. The commission may
26 adopt regulations requiring common and contract carriers by vehicle
27 to display suitable identification upon each vehicle used in transpor-
28 tation and prescribing the manner and form of display including the
29 issuance by the commission or other agency of identification tags,

1 plates, decals or other appropriate form.

2 Sec. 42.08.580. DUAL OPERATIONS BY CARRIERS. (a) No person
3 may directly or indirectly at the same time hold a certificate of public
4 convenience and necessity as a common carrier and a permit as a contract
5 carrier authorizing transportation of passengers or property over the
6 same route or in the same territory unless for good cause shown the
7 commission finds that such certificate and permit may be held con-
8 sistently with the public interest and with the policy declared in
9 sec. 20 of this chapter.

10 (b) Before January 1, 1975, the commission shall examine the
11 operations of carriers holding both a common carrier certificate and a
12 contract carrier certificate or permit and after notice and opportunity
13 for hearing shall determine whether either or both of the carrier's
14 authorities are dormant. Upon a finding of dormancy the commission
15 shall revoke the dormant authority or authorities.

16 (c) Before January 1, 1975, the commission shall examine out-
17 standing certificates or permits issued to a contract carrier and shall
18 institute a proceeding either upon its own motion or upon application
19 of the carrier or upon complaint of an interested party and after
20 notice and opportunity for hearing determine whether

21 (1) the carrier's authority is active or dormant and upon
22 a finding of dormancy revoke the dormant authority;

23 (2) the carrier is operating as a common carrier or contract
24 carrier within the contractual authority or within the restricted
25 authority governing contract carriers and if the commission finds that
26 the operations of a person holding a contract carrier certificate or
27 permit, before the effective date of this Act, (A) do not conform with
28 the definitions of a contract carrier, and (B) are actually and lawfully
29 these of a common carrier, the commission shall issue a certificate

1 authorizing the carrier to engage in transportation as a common carrier
2 subject to the conditions and limitations prescribed for such intra-
3 modal common carriers; however, the carrier may instead elect to retain
4 its authority as a contract carrier restricting its operations to
5 those of a contract carrier.

6 (d) A certificate or permit which the commission finds should
7 be revoked in accordance with (b) of this section may not be transferred
8 or otherwise disposed of but must be revoked.

9 Sec. 42.08.590. REGISTRATION OF INTERSTATE OPERATING AUTHORITY;
10 REGISTRATION AND RENEWAL FEES. (a) No motor carrier may engage in
11 the transportation of passengers or property for compensation by motor
12 vehicle moving in interstate or foreign commerce in the state without
13 first registering the operation with the commission. Registration shall
14 be granted upon the filing of an application and the payment of a \$25
15 filing fee and shall be conditioned upon compliance with all other
16 applicable provisions of this chapter. An application for registration
17 shall be accompanied by either

18 (1) a copy of the operating authority pertaining to service
19 from, to, or inside this state issued by the Interstate Commerce Com-
20 mission under the Interstate Commerce Act; or

21 (2) an affidavit of the exempt status including a description
22 of the operations to be conducted if the operation does not require
23 authority from the Interstate Commerce Commission under the Interstate
24 Commerce Act.

25 (b) Registration shall be renewed annually by filing a renewal
26 application and payment of a renewal fee of \$10 and shall be conditoned
27 upon continued compliance with all other applicable provisions of this
28 chapter.

29 (c) Carriers engaged in the transportation of passengers or

1 property for compensation by motor vehicle moving in interstate or
2 foreign commerce in the state who before July 1, 1971 have registered
3 their authority from the Interstate Commerce Commission with the
4 commission are not required to file another initial application as
5 prescribed in (a) of this section, but are only required to file an
6 application for renewal as prescribed in (b) of this section. However,
7 the renewal application may not be granted until the applicant has
8 complied with all other applicable provisions of this chapter.

9 Sec. 42.08.600. REGISTRATION OF AIRCRAFT USED BY COMMON AND
10 CONTRACT AIR CARRIERS; REGISTRATION FEES. (a) Except as otherwise
11 provided in this section, each aircraft owned or leased by an air
12 common or contract carrier subject to the provisions of this chapter
13 shall be registered with, and in the form and manner prescribed by, the
14 commission before the aircraft may be used in intrastate or interstate
15 commerce between points inside the state. Registration must be renewed
16 annually. The fees for registration of aircraft based on gross take-
17 off weight, are as follows:

- | | | |
|----|---|-------|
| 18 | (1) 4,000 pounds or less | \$ 25 |
| 19 | (2) 4,001 pounds but less than 7,900 pounds | 50 |
| 20 | (3) 7,900 pounds but less than 12,500 pounds | 100 |
| 21 | (4) 12,500 pounds but less than 27,000 pounds | 150 |
| 22 | (5) 27,000 pounds but less than 50,000 pounds | 300 |
| 23 | (6) 50,000 pounds but less than 75,000 pounds | 400 |
| 24 | (7) 75,000 pounds or more | 600 |

25 (b) Scheduled carriers certificated by the Civil Aeronautics
26 Board that provide service between points inside the state on their
27 interstate or foreign routes, and who use for the intra-Alaska service
28 aircraft based primarily outside the state, shall register such air-
29 craft with the commission. Registration fees shall be paid on the

1 basis of the maximum number of aircraft used in the intra-Alaska
2 service during any 24-hour period during the year as provided by
3 regulations of the commission.

4 Sec. 42.08.610. REGISTRATION OF MOTOR VEHICLES USED BY COMMON
5 AND CONTRACT CARRIERS; WEIGHT FEES. (a) Each motor vehicle owned
6 or leased by a motor common or contract carrier subject to the provi-
7 sions of this chapter shall be registered with, and in the form and
8 manner prescribed by, the commission before the motor vehicle may be
9 used in intrastate or interstate commerce inside the state. Registra-
10 tion must be renewed annually. For each motor vehicle operated by
11 the carrier inside the state the carrier shall pay the following annual
12 weight fees:

- 13 (1) 12,000 pounds or less \$35
- 14 (2) 12,001 pounds but less than 18,000 pounds 55
- 15 (3) 18,000 pounds and over 75

16 (b) Weight fees shall be based upon the maximum gross unladen
17 weight of the vehicle as set by the carrier in its application to the
18 state for vehicle license plates, or, in the case of vehicles not
19 otherwise licensed, the unladen weight established by the manufacturer.

20 (c) Weight fees on motor vehicles regularly licensed and regis-
21 tered in the state shall be paid to the commissioner of revenue at the
22 same time that the regular annual license fee is paid. Weight fees
23 on vehicles not otherwise licensed in the state shall be paid to the
24 commission.

25 Sec. 42.08.620. REGISTRATION OF VESSELS USED BY COMMON AND CON-
26 TRACT CARRIERS; REGISTRATION FEES. Each vessel owned or leased by a
27 water common or contract carrier subject to the provisions of this
28 chapter shall be registered with, and in the form and manner prescribed
29 by, the commission before the vessel may be used in intrastate or

1 interstate commerce between points inside the state. Registration
2 must be renewed annually. The fees for registration of vessels based
3 on deadweight are as follows:

4	(1) less than 5 tons	\$ 25
5	(2) 5 tons but less than 20 tons	50
6	(3) 20 tons but less than 30 tons	75
7	(4) 30 tons but less than 40 tons	100
8	(5) 40 tons but less than 50 tons	175
9	(6) 50 tons but less than 100 tons	250
10	(7) 100 tons but less than 500 tons	500
11	(8) 500 tons or more	800

12 Sec. 42.08.630. DEFINITIONS. The following words, terms and
13 phrases shall have the meanings ascribed to them in this section unless
14 the context clearly indicates otherwise:

15 (1) "aircraft" means a vehicle, used or designed for naviga-
16 tion of or flight in the air, and which does not depend upon pressure
17 upon the earth's surface for support while in flight;

18 (2) "air cushion vehicle" means a vehicle which depends upon
19 a cushion of air pressing upon the earth's surface to support it in
20 horizontal movement; air cushion vehicle does not include a vehicle in
21 any other modal classification;

22 (3) "air taxi operator" means a common carrier by vehicle
23 holding a certificate of public convenience and necessity authorizing
24 it to provide charter transportation services utilizing aircraft of
25 the size (not to exceed 12,500 pounds gross takeoff weight) and type
26 and in the area and manner and from the base and supplemental bases of
27 operations, as prescribed in its certificate;

28 (4) "base of operations" means the point, together with the
29 reasonably contiguous or closely related surrounding community or

1 topographic setting from which a carrier represents to the public that
2 it engages in air commerce, and at which it stations its aircraft,
3 has its facilities and generally conducts its business as an air
4 carrier;

5 (5) "broker" means a person not included in the term "carrier"
6 and not a bona fide employee or agent of a carrier, or group of carriers,
7 who or which, as principal or agent, sells or offers for sale trans-
8 portation by a carrier, or the furnishing, providing, or procuring of
9 facilities therefor, or negotiates for, or holds out by solicitation,
10 advertisement, or otherwise, as one who sells, provides, furnishes,
11 contracts, or arranges for such transportation, or the furnishing,
12 providing, or procuring of facilities therefor, other than as a carrier
13 and who does not assume custody as a carrier;

14 (6) "carrier" means common carrier, contract carrier, or
15 private carrier;

16 (7) "commission" means the Alaska Transportation Commission;

17 (8) "common carrier" means a person who holds himself out,
18 offers or undertakes, directly or indirectly, service for compensation
19 to the public for the transportation of passengers or property, or
20 both, inside the state and includes forwarders but does not include
21 brokers; a person who leases, rents, or otherwise provides a vehicle
22 for the use of others to provide such transportation and who in connec-
23 tion therewith in the regular course of business provides, procures
24 or arranges for, directly, indirectly, or by course of dealing, a
25 driver or operator therefor, is a common carrier by vehicle;

26 (9) "contract carrier" means a person who for compensation
27 undertakes the specialized transportation of passengers or property,
28 or both, inside the state under special and individual agreements, and
29 not included in the term "common carrier";

1 (10) "forwarder" or "freight forwarder" means a person
2 except a carrier by vehicle and bona fide employees or agents of a
3 carrier by vehicle who, as principal or agent, is engaged in securing,
4 accepting or assembling, for compensation, directly or indirectly,
5 property not owned by him to be transported by carrier by vehicle;

6 (11) "motor vehicle" means a vehicle, operated upon and in
7 direct contact with the earth's surface, not on rails, water or an
8 air cushion, and which is used for the transportation of passengers
9 or property; motor vehicle includes motor bus and motor freight truck;

10 (12) "person" means an individual, corporation, association,
11 joint stock association, or partnership, and includes their lessees,
12 trustees, receivers, executors, administrators, and other successors
13 in interest;

14 (13) "private carrier" means

15 (A) a person not included in the term "common carrier"
16 or "contract carrier" who operates a vehicle inside the state
17 for the purpose of transporting property in connection with a
18 noncarrier commercial enterprise in which such person is engaged;
19 ownership of the property transported shall not be accepted as
20 sufficient proof of a private carrier operation, if the carrier
21 is in fact engaged in the transportation of property for hire,
22 compensation or remuneration, or if such transportation operations
23 are conducted for profit and not merely in furtherance and within
24 the scope of a noncarrier commercial enterprise in which such
25 person is engaged;

26 (B) a person who rents, leases, or otherwise provides
27 a vehicle for the use of others in their transportation of pas-
28 sengers or property for compensation, but who does not provide,
29 procure, or arrange for, directly or indirectly or by course of

1 dealing, an operator for the vehicle;

2 (14) "railroad vehicle" means a vehicle operated upon and in
3 direct contact with a rail or rails and which is used for the trans-
4 portation of passengers or property;

5 (15) "rate" includes every charge, payment, price, toll, fare,
6 rental charge, or any other form of compensation demanded, observed,
7 charged or collected by a carrier for its services;

8 (16) "safe for operation" means mechanical reliability and
9 compliance with commission regulations regarding equipment and opera-
10 tion;

11 (17) "scheduled carrier" means a common carrier by vehicle
12 holding a certificate of public convenience and necessity authorizing
13 it to provide regular, scheduled transportation service between the
14 points and along the routes and in the manner prescribed in its
15 certificate;

16 (18) "supplemental base of operations" means the point
17 together with the reasonable contiguous or closely related surrounding
18 community or topographic setting at which, in addition to its "base of
19 operations", an air taxi operator shall also hold itself out to the
20 public that it engages and shall so engage in authorized air commerce
21 and at which it may provide facilities and station aircraft;

22 (19) "taxicab" means a motor driven passenger vehicle having
23 a seating capacity of not more than seven persons, including driver,
24 which is offered for public hire on a time or distance basis and which
25 is not operated on a predetermined schedule or over fixed routes;

26 (20) "tariff" means all schedules or rates, all rules, regula-
27 tions, practices, or contracts involving any rate or rates, including
28 contracts for interchange of service, and, in the case of a common
29 carrier, schedules showing the method of distribution of the facilities

1 of such common carrier;

2 (21) "vehicle" means every device capable of being moved and,
3 in, upon or by which passengers or property are transported in commerce,
4 excepting devices moved by human or animal power;

5 (22) "vessel" means a vehicle, designed to be and normally
6 operated upon or in, and in direct contact with, the waters of the
7 state, and which is used for the transportation of passengers or proper-
8 ty.

9 CHAPTER 09. REGULATION OF SAFETY OF OPERATIONS

10 AND PROTECTION OF THE PUBLIC.

11 Sec. 42.09.010. PUBLIC INTEREST, POLICY AND PURPOSE OF SAFETY
12 REGULATION OF CARRIERS. The safety of operations in the state of a
13 carrier by vehicle providing transportation of passengers or freight
14 or both for compensation is a matter of paramount public concern. It
15 is imperative, in the public interest, that such carriers be regulated
16 to the effect that the danger and hazards to the users and employees
17 of such carriers and to the public in general are minimized to the
18 greatest extent possible, and to the effect that the public facilities
19 are not subjected to excessive or improper use.

20 Sec. 42.09.020. TRANSPORTATION SUBJECT TO THE PROVISIONS OF THIS
21 CHAPTER. All persons and transportation services subject to the
22 jurisdiction of the commission and all vehicles used in such trans-
23 portation services as provided in AS 42.07.116 are subject to the pro-
24 visions of this chapter unless otherwise provided.

25 Sec. 42.09.030. UNLAWFUL OPERATION OF VEHICLE. No vehicle subject
26 to the provisions of this chapter may be operated in the state unless
27 it meets the applicable requirements of this chapter and the regula-
28 tions of the commission related thereto.

29 Sec. 42.09.040. UNSAFE OPERATIONS OF VEHICLES PROHIBITED. No

1 common, contract or private carrier subject to the provisions of this
2 chapter may operate a vehicle in an unsafe manner or which is not
3 safe for operation in the transportation of passengers or property in
4 the state.

5 Sec. 42.09.050. COMMISSION TO ADOPT SAFETY REGULATIONS. The
6 commission shall, after notice and hearing, adopt and enforce reason-
7 able regulations, not inconsistent with or precluded by corresponding
8 federal regulations, governing the safety of operations of all carriers
9 and all vehicles subject to the provisions of this chapter.

10 Sec. 42.09.060. LICENSE REQUIRED FOR COMMON OR CONTRACT CARRIERS
11 WHO DO NOT HAVE CERTIFICATE OR PERMIT. (a) No person may transport
12 passengers or property listed in (b) of this section within the state
13 as a common or contract carrier unless he has first obtained a certifi-
14 cate or permit under the provisions of AS 42.08 or a license under
15 sec. 70 of this chapter.

16 (b) Transportation services covered by this section are:

17 (1) transportation of natural resources in an unmanufactured
18 and unprocessed condition;

19 (2) towing of disabled, wrecked, abandoned, impounded and
20 repossessed vehicles;

21 (3) transportation of unmanufactured and unprocessed live-
22 stock, fish (including shellfish) and agricultural commodities pre-
23 scribed by regulations of the commission;

24 (4) transportation, not between points, of passengers by
25 charter vessel;

26 (5) transportation of garbage or refuse except when such
27 transportation is provided by, or in accordance with, a franchise
28 granted by a unit of local government;

29 (6) transportation in a self-propelled vessel under five

1 tons net register.

2 Sec. 42.09.070. APPLICATION AND ISSUANCE OF LICENSE. (a) An
3 application for a license required by sec. 60 of this chapter shall
4 be made in writing to the commission, be verified under oath and shall
5 be in the form and contain the information required by the commission.
6 The filing fee is \$50, payable to the commission.

7 (b) The commission shall issue a license to a qualified applicant
8 authorizing the whole or part of the operations covered by the applica-
9 tion if it finds that the applicant has complied with the provisions
10 of this chapter and the commission's regulations thereunder, is fit,
11 willing and able properly to perform the service proposed and conform
12 to the provisions of this chapter and the regulations of the commission
13 and that such operations will be consistent with the public interest
14 expressed in sec. 10 of this chapter. Otherwise the application may
15 be denied.

16 (c) A license issued shall specify the nature of the operation
17 authorized and there shall, at the time of issuance and from time to
18 time thereafter, be attached to the exercise of the privileges granted
19 by the license, such reasonable terms, conditions and limitations con-
20 sistent with the nature of the operation as are necessary to carry out
21 the requirements established under this chapter.

22 (d) An application for license may be granted without notice,
23 hearing, or order, but notice and hearing may be provided by the com-
24 mission if it appears necessary in the public interest. An application
25 may not be denied without giving the applicant an opportunity for
26 hearing and issuance of a final decision and order thereon.

27 Sec. 42.09.080. TERM OF LICENSE; TRANSFER. (a) A license issued
28 under the provisions of this chapter shall remain in effect for the
29 period of time specified therein or until modified, suspended or revoked

1 by the commission.

2 (b) A license may be transferred in the same manner and subject
3 to the same requirements, conditions and findings as an application
4 for a new license under sec. 70 of this chapter.

5 Sec. 42.09.090. MODIFICATION, SUSPENSION OR REVOCATION OF
6 CERTIFICATE, PERMIT OR LICENSE FOR VIOLATION. The commission may
7 modify, suspend or revoke the certificate, permit or license of a
8 common or contract carrier for repeated violation of the provisions
9 of this chapter or of the commission's safety regulations or related
10 orders or of any other statutes or regulations of the state or federal
11 government governing safety of operations of vehicles and requirements
12 for protection of the public.

13 Sec. 42.09.100. ACCIDENT LIABILITY PROTECTION REQUIRED. (a)
14 No certificate, permit or license may be issued to a person to operate
15 as a carrier by vehicle in the state and no carrier may conduct an
16 operation by vehicle in the state unless the person or carrier has
17 procured and keeps in force reasonable security required by the com-
18 mission for the protection of the public against damage and injury for
19 which the carrier may be liable by reason of its operation as a carrier

20 (b) In fixing the amount of necessary security for a carrier by
21 vehicle the commission shall give consideration to the character and
22 amount of traffic, the number of persons affected and the degree of
23 danger which the proposed operation involves.

24 (c) The commission may at any time refuse to accept, or revoke
25 its acceptance of, any security or form of security, if, in its judg-
26 ment, the security does not comply with its regulation, or for any
27 reason fails to provide satisfactory or adequate protection for the
28 public. Refusal or revocation of acceptance of security does not
29 relieve the carrier from compliance with this section.

1 Sec. 42.09.110. EVIDENCE OF PROTECTION; DEPOSIT OF INSURANCE
2 POLICY BOND OR OTHER SECURITY. (a) The protection required under
3 sec. 100 of this chapter shall be evidenced by deposit with the com-
4 mission, covering each vehicle used or to be used by the carrier,

5 (1) a policy or certificate of insurance issued by an
6 insurer acceptable to the commission and approved by the state division
7 of insurance, Department of Commerce; or

8 (2) a bond of surety company licensed to write surety bonds
9 in the state; or

10 (3) other security approved by the commission; or

11 (4) such evidence of qualification of the carrier as a self-
12 insurer as may be approved by the commission.

13 (b) Endorsements for policies of insurance, surety bonds, certifi-
14 cate of insurance, applications to qualify as a self-insurer, or for
15 approval of other securities or agreements, and notices of cancellation
16 must be in the form prescribed or approved by the commission.

17 (c) Certificates of insurance and surety bonds shall be issued
18 in the full and correct name of the individual, partnership, corpora-
19 tion, or other person to whom the certificate, permit, or license is,
20 or is said to be issued. In the case of a partnership, all partners
21 shall be named.

22 Sec. 42.09.120. DURATION OF PROTECTION; CANCELLATION OF INSURANCE,
23 BOND OR OTHER SECURITY. (a) The protection against liability required
24 by sec. 60 of this chapter shall be continued in effect during the
25 entire time that any vehicle covered under this chapter is used in
26 transportation service.

27 (b) Policies of insurance, surety bonds, and other forms of
28 security may not be cancellable on less than 30 days written notice
29 to the commission and this shall be clearly stated in the policy or

1 endorsement.

2 (c) The 30-day notice shall be measured from the date upon which
3 the commission receives notice.

4 Sec. 42.09.130. NOTICE OF ACCIDENTS REQUIRED; REPORTS. (a)
5 Every carrier by vehicle who is subject to the provisions of this
6 chapter shall give immediate notice to the commission of every vehicle
7 accident occurring in the course of its operations resulting in death
8 or injury to any person. The commission may require reports to be
9 made by the carrier in the form and detail which it prescribes.

10 (b) A notice or report filed with the commission in accordance
11 with this section or related regulations of the commission may not be
12 admitted as evidence or used against the carrier giving it in any
13 action for damages growing out of the matter noticed or reported.

14 Sec. 42.09.140. INVESTIGATION OF ACCIDENTS. (a) The commission
15 shall investigate all vehicle accidents occurring in the course of
16 operations of a carrier by vehicle and which has resulted in loss of
17 life to a passenger or employee of the carrier.

18 (b) The commission may investigate all other accidents for which
19 notice is required to be given by sec. 130 of this chapter.

20 (c) Reasonable notice of an investigation and opportunity to be
21 heard shall be given by the commission to the carrier or carriers
22 affected thereby and the same may be named respondents in an investiga-
23 tion proceeding by order of the commission.

24 Sec. 42.09.150. REGISTRATION OF VEHICLES AND FEES OF LICENSED
25 CARRIERS. Every common and contract carrier licensed under the provi-
26 sions of this chapter shall register his vehicle used in transportation
27 and pay fees thereon in accordance with the appropriate provisions of
28 AS 42.08.600 - 42.08.620.

29 Sec. 42.09.160. REGISTRATION OF VEHICLES AND FEES OF PRIVATE

1 CARRIERS. Every private carrier shall register his vehicles used in
2 transportation in accordance with the appropriate provisions of
3 AS 42.08.600 - 42.08.620 and shall pay a fee thereon of \$25.

4 Sec. 42.09.170. IDENTIFICATION OF VEHICLES. The commission may
5 prescribe and require identification of all vehicles used in transporta-
6 tion by licensed or private carriers by vehicle.

7 Sec. 42.09.170. DEFINITIONS. Unless the context clearly indicates
8 otherwise, the words, terms and phrases used in this chapter have the
9 meanings ascribed to them in AS 42.07.362 and AS 42.08.630.

10 * Sec. 3. If any section, subsection, sentence, clause or phrase of
11 this Act is for any reason held to be unconstitutional, such decision shall
12 not affect the validity of the remaining portion of this Act.

13 * Sec. 4. All litigations, hearings, investigations, and other proceed-
14 ings whatsoever, pending under any law repealed by this Act, shall continue
15 and remain in full force and effect, and may be continued and completed under
16 the provisions of this Act. All certificates, permits, registrations, orders,
17 rules, regulations, or tariffs made, issued, or filed under any law repealed
18 by this Act, and in full force and effect upon the effective date of this
19 Act, shall remain in full force and effect for the term issued, or until
20 revoked, vacated, or modified under the provisions of this Act. All existing
21 contracts and obligations of the commission, entered into or created under
22 any law repealed by this Act, and in force and effect upon the effective date
23 of this Act, shall remain in full force and effect and shall continue to be
24 performed by the commission.

25 * Sec. 5. GRANDFATHER CERTIFICATES, PERMITS AND LICENSES. Subject to the
26 provisions of AS 42.08.580, if any person (or his predecessor in interest)
27 was lawfully engaged in a bona fide operation on January 1, 1973 over any
28 route or routes or in any area or areas within the state providing trans-
29 portation as a common or contract carrier and has so operated since that time

1 (or if engaged in furnishing seasonal service only, was engaged in such opera-
2 tion in the calendar year 1972 during the season ordinarily covered by its
3 operations, and such operations have not been discontinued), except in
4 either instance as to interruptions of service over which the person had no
5 control, the commission shall issue to such person commensurate with the
6 proven transportation service performed:

7 (1) if the person performing the service was not required to have
8 a certificate, permit, or license therefor but is so required by the provi-
9 sions of this Act; and

10 (2) an application for a certificate, permit or license as the
11 case may be is filed with the commission within 150 days after the effective
12 date of AS 42.08 and AS 42.09, in the form and manner and containing the
13 information and proof required by the commission, together with a filing
14 fee of \$50; and

15 (3) the person has complied with the relevant provisions of
16 AS 42.08 and AS 42.09 and the regulations of the commission requiring the
17 procuring and filing of acceptable security for the protection of the public,
18 the filing and acceptance of tariffs, the registration and approval of the
19 vehicles to be used, and payment of the attendant registration and weight
20 fees.

21 * Sec. 6. Section 2 of this Act takes effect July 1, 1974.

22 * Sec. 7. Sections 1, 3, 4 and 5 of this Act take effect July 1, 1973.
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