

Introduced: 3/6/73
Referred: Commerce

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 195

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the activities of the Alaska
7 Transportation Commission; and providing for an
8 effective date."

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

10 * Section 1. AS 02.05.040 is amended to read:

11 Sec. 02.05.040. CERTIFICATES REQUIRED. Subject to the provisions
12 of sec. 50 of this chapter, no person may engage in air commerce,
13 whether directly or indirectly, unless there is in force a certificate
14 issued by the commission authorizing that person to engage in air
15 commerce as a scheduled carrier, contract carrier, [OR] air taxi
16 operator, or indirect carrier.

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

18 Sec. 02.05.045. REGISTRATION OF INTERSTATE, OVERSEAS, OR FOREIGN
19 OPERATING AUTHORITY. (a) [No air carrier, unless it holds a certifi-
20 cate of public convenience and necessity issued by the commission, may
21 engage in interstate,] overseas, or foreign air commerce within the
22 state for compensation without first registering all of its Alaskan
23 operations with the commission as set out in this subsection.

24 (1) If the operations of the air carrier, or any part of
25 them, require authority from the Civil Aeronautics Board or the Federal
26 Aviation Administration under the Federal Aviation Act of 1958 as
27 amended, a copy of each operating authority pertaining to this state
28 shall be filed with the application for registration. A copy of any
29 additions or amendments shall also be filed with the commission when

1 the changes are made.

2 (2) If the operations of the air carrier, or any part of
3 them, do not require authority from the Civil Aeronautics Board or the
4 Federal Aviation Administration under the Federal Aviation Act of 1958
5 as amended, an affidavit of exempt status shall be filed with the
6 application for registration. The affidavit shall include a descrip-
7 tion of the operations to be conducted in this state by the carrier.
8 An affidavit describing changes in the carrier's exempt operations in
9 this state shall also be filed with the commission when the changes
10 are made.

11 (b) Registration shall be allowed upon the filing of a completed
12 application with the appropriate attachments and the payment of
13 applicable fees.

14 (c) Registration shall be renewed annually by filing a renewal
15 application and paying the renewal fee.

16 (d) This section does not apply to the operation of aircraft
17 which fly through the state without landing or which land in the state
18 only for the purposes of refueling and servicing, or repairs or
19 maintenance, or due to circumstances beyond the control of the carrier;
20 nor does this section apply to indirect air carriers who do not have
21 an agent or place of business in this state.

22 * Sec. 3. AS 02.05.050(a)(2) is amended to read:

23 (2) may make charter trips and render other special services
24 between points on routes which he is authorized by his certificate
25 to serve. Unless otherwise restricted by its certificate, a scheduled
26 carrier may render charter [CHARTER] trips and other special services
27 [MAY BE RENDERED] to or from any other point inside or outside the
28 state if those trips originate at or are destined to a point on a route
29 the carrier is authorized by its certificate to serve.

1 * Sec. 4. AS 02.05.050 is amended by adding a new subsection to read:

2 (f) Indirect carriers. A person holding a certificate of public
3 convenience and necessity issued pursuant to this chapter authorizing
4 that person to engage in air commerce as an indirect carrier may en-
5 gage in air commerce to the extent authorized by the certificate. Any
6 person who, as an indirect carrier, was authorized to and did engage
7 indirectly in air commerce after August 31, 1971, and before January 1,
8 1973, may file an application for a certificate with the commission
9 before July 1, 1973, in which case the commission shall issue a certi-
10 ficate authorizing that person to continue to engage indirectly in air
11 commerce to the extent his operations were conducted during the period
12 after August 31, 1971, and before January 1, 1973. The commission, by
13 regulation, may establish more than one separate classification of
14 indirect carriers, and if the classifications are established, the
15 commission shall prescribe in its regulations the extent to which each
16 classification is to be regulated under the provisions of this
17 chapter.

18 * Sec. 5. AS 02.05.055 is amended to read:

19 Sec. 02.05.055. PUBLIC CONVENIENCE AND NECESSITY REQUIRED FOR
20 OPERATION OF DIFFERENT TYPES OF AIRCRAFT. Before a certificated
21 [CONTRACT OR] air carrier [TAXI OPERATOR] may utilize [OPERATE] a
22 [DIFFERENT] type of aircraft different from the type [THAT] which he
23 utilized [OPERATED] in Alaska during the period of May 1, 1965, to
24 May 1, 1966, or different from the type specified in his certificate,
25 there must be a finding by the commission that public convenience and
26 necessity require the change [IT].

27 * Sec. 6. AS 02.05.060 is repealed and re-enacted to read:

28 Sec. 02.05.060. TEMPORARY CERTIFICATES. The commission may issue
29 a temporary certificate to an air carrier for a period of 30 days if it

1 finds that existing authorized air carriers cannot supply the
2 necessary service. A temporary certificate may be extended an addi-
3 tional 60 days if the same conditions continue to exist. Under no
4 circumstances may a temporary certificate exceed a total of 90 days.
5 An application for a temporary certificate shall comply with sec. 70
6 of this chapter. The commission may prescribe special rules and regu-
7 lations and impose special terms and conditions for a temporary certifi-
8 cate which in its judgment are reasonable and necessary in carrying out
9 the purposes of this chapter.

10 * Sec. 7. AS 02.05 is amended by adding a new section to read:

11 Sec. 02.05.065. EMERGENCY AUTHORITY. The commission may, on
12 the finding of an emergency situation, authorize a person to engage in
13 air commerce for a period of not more than 10 days. The commission
14 may prescribe special rules and regulations and impose special terms
15 and conditions for an emergency authority which in its judgment are
16 reasonable and necessary in carrying out the purposes of this chapter.
17 Sec. 70 of this chapter shall not apply to emergency applications.

18 * Sec. 8. AS 02.05.075 is repealed and re-enacted to read:

19 Sec. 02.05.075. APPLICATION FEES. The following fees shall be
20 paid at the time an application is filed with the commission, including,
21 with respect to applications for intrastate authority, applications
22 for transfers, amendments, leases, and applications for temporary
23 exemption:

- 24 (1) applications for intrastate authority involving aircraft
25 having a gross take off weight of 12,500 pounds or less . . . \$100;
26 (2) applications for intrastate authority involving aircraft
27 having a gross take off weight of more than 12,500 pounds . . . \$200;
28 (3) applications for intrastate authority involving indirect
29 carriers . . . \$100;

1 (4) applications for the initial registration of interstate,
2 overseas, or foreign operating authority pursuant to sec. 45 of this
3 chapter \$25;

4 (5) applications for annual renewal of registration of inter-
5 state, overseas, or foreign operating authority pursuant to sec. 45
6 of this chapter \$10;

7 (6) applications for filing changes in interstate, overseas
8 or foreign operations, pursuant to sec. 45 of this chapter, if the
9 registration of those changes occurs at a time other than that pro-
10 vided for a renewal application \$10.

11 * Sec. 9. AS 02.05.080(a) is amended to read:

12 (a) Subject to the provisions of (d) of this section, the com-
13 mission shall issue a certificate authorizing [THE APPLICANT TO ENGAGE
14 IN AIR COMMERCE AS A SCHEDULED OR CONTRACT CARRIER OR AIR TAXI OPERATOR,
15 OR AUTHORIZING] the whole or any part of the operation covered by an
16 application for a certificate,

17 (1) if the commission finds that the applicant is fit,
18 willing and able to engage in air commerce properly and to comply
19 with the provisions of this chapter and the rules, regulations, and
20 requirements of the commission; and

21 (2) if the commission finds that air commerce and the per-
22 formance of it by the applicant in the type of aircraft for which a
23 certificate is requested under (e) of this section is required by the
24 public convenience and necessity and is consistent with the declara-
25 tion of policy contained in sec. 10 of this chapter.

26 * Sec. 10. AS 02.05.080(e) is amended to read:

27 (e) A certificate issued by the commission [AFTER MAY 1, 1966,]
28 shall specify what type or types of aircraft [WHETHER] the certificated
29 air carrier may utilize [OPERATE FIXED-WING AIRCRAFT, ROTARY-WING AIR-

1 CRAFT, OR BOTH].

2 * Sec. 11. AS 02.05.250(4) is repealed and re-enacted to read:

3 (4) "air taxi operator" means a common carrier holding a
4 certificate of public convenience and necessity authorizing it to pro-
5 vide transportation services from the base and supplemental bases of
6 operation and in the area authorized by the commission;

7 * Sec. 12. AS 02.05.250 is amended by adding a new paragraph to read:

8 (11) "indirect carrier" means a person not a bona fide
9 employee or agent of any scheduled carrier, contract carrier, or air
10 taxi operator, who, as principal or agent, sells or offers for sale,
11 or holds himself out by solicitation, advertisement, or otherwise, as
12 one who sells, provides, contracts for, or arranges for air trans-
13 portation subject to this chapter.

14 * Sec. 13. AS 42.10.050 is amended to read:

15 Sec. 42.10.050. COMBINATION OF SERVICES. Every person, except
16 as otherwise provided in this chapter, who, for compensation, performs
17 a combination of services which includes transportation of property
18 of others upon public highways is subject to the jurisdiction of the
19 commission as to the transportation, and shall not engage in the
20 transportation without a common carrier or contract carrier permit to
21 do so. Every person engaging in a combination of services which in-
22 cludes the transportation of property of others shall advise the com-
23 mission what portion of the consideration is intended to cover the
24 transportation service, and the agreement covering the combination of
25 services shall be in writing, and the rate and charge for transporta-
26 tion set forth in the agreement. The rates or charges for transporta-
27 tion services included in a combination of services are subject to
28 control and regulation by the commission.

29 * Sec. 14. AS 42.10.100 is amended to read:

1 Sec. 42.10.100. BOND TO PROTECT SHIPPERS AND CONSIGNEES. The
2 commission may, under rules and regulations it prescribes, require
3 a common carrier to file a surety bond, or deposit security or a bond
4 guaranteed by individuals approved by the commission. The commission
5 shall fix the amount of the bond or the security. The bond or security
6 shall be conditioned upon the carrier paying over to shippers and
7 consignees money belonging to shippers and consignees, and coming
8 into the possession of the carrier in connection with its transporta-
9 tion service. A common carrier required by law to compensate a shipper
10 or consignee for loss, damage, or default for which a connecting common
11 carrier is legally responsible shall be subrogated to the rights of the
12 shipper or consignee under the bond or deposit of security to the
13 extent of the sum paid. The commission shall adhere to the standards
14 of subpart F of Part 1023 of the Regulations of the Interstate Commerce
15 Commission (Title 49, Code of Federal Regulations) in applying this
16 section to motor carriers holding operating authority issued by the
17 Interstate Commerce Commission.

18 * Sec. 15. AS 42.10.130(a) is amended to read:

19 (a) No person may operate in the state as a common carrier or
20 contract carrier transporting property in intrastate commerce for
21 compensation without a permit. [NO COMMON CARRIER, CONTRACT CARRIER,
22 OR TEMPORARY CARRIER MAY OPERATE FOR THE TRANSPORTATION OF PROPERTY IN
23 INTRASTATE COMMERCE FOR COMPENSATION IN THE STATE WITHOUT A PERMIT.]

24 An application for a permit as a common carrier or contract carrier or
25 an extension of the permit shall be on file for at least 30 days before
26 it is granted unless the commission finds that special conditions re-
27 quire the earlier granting of it. Except as provided in this section,
28 the commission shall not grant a permit or an extension of a permit if
29 it finds that the applicant is not financially able, properly and

1 adequately equipped and capable of conducting the transportation
2 service applied for in compliance with the law and rules and regula-
3 tions of the commission. The commission may deny an application if
4 the applicant or any of its principal officers or stockholders fails
5 or has failed to comply with the laws of the state.

6 * Sec. 16. AS 42.10.130(b) is amended to read:

7 (b) This chapter does not confer upon any person the exclusive
8 right or privilege of transporting property for compensation over the
9 public highways of the state. The commission shall deny an application
10 when it appears [, AFTER PUBLIC HEARING,] that the additional service
11 would endanger the stability and dependability of the service essential
12 to the public needs as set forth in sec. 10 of this chapter.

13 * Sec. 17. AS 42.10.130(c) is amended to read:

14 (c) Except as provided in (a) [,] and (b) [, (d) and (e)] of this
15 section, a permit shall be issued to any qualified applicant authoriz-
16 ing the whole or a part of the operations covered by the application,
17 if the proposed service is or will be required by the present or future
18 public convenience and necessity; otherwise the application shall be
19 denied.

20 * Sec. 18. AS 42.10 is amended by adding a new section to read:

21 Sec. 42.10.131. PUBLIC HEARING. Before issuing a permit or
22 denying an application for a permit, the commission shall hold a public
23 hearing if the applicant or a person having a substantial interest in
24 the proceeding requests it within the time provided by regulation.

25 * Sec. 19. AS 42.10.135 is repealed and re-enacted to read:

26 Sec. 42.10.135. REGISTRATION OF INTERSTATE OF FOREIGN OPERATING
27 AUTHORITY. (a) No motor carrier may engage in interstate or foreign
28 motor freight commerce within the state for compensation without first
29 registering all of its Alaskan operations with the commission as set

1 out in this subsection.

2 (1) If the operations, or any part of them, require authority
3 from the Interstate Commerce Commission under the Interstate Commerce
4 Act, a copy of the authority pertaining to this state shall be filed
5 with the application for registration. A copy of any additions or
6 amendments to this authority shall also be filed with the commission
7 when those changes are made.

8 (2) If the operations, or any part of them, do not require
9 authority from the Interstate Commerce Commission under the Interstate
10 Commerce Act, an affidavit of exempt status shall be filed with the
11 application for registration. The affidavit shall include a description
12 of the operations to be conducted in this state by the carrier.
13 An affidavit describing changes in the carrier's exempt operations in
14 the state shall also be filed with the commission when the changes are
15 made.

16 (b) Registration shall be allowed upon the filing of a completed
17 application with the appropriate attachments and the payment of appli-
18 cable fees.

19 (c) Registration shall be renewed annually by filing a renewal
20 application and paying the renewal fee.

21 (d) Motor carriers engaged in interstate or foreign motor freight
22 commerce within the state, who, before July 1, 1971, had registered
23 their authority from the Interstate Commerce Commission with the Alaska
24 Transportation Commission are not required to file another initial
25 application as prescribed in (a) of this section, but are only required
26 to file changes in their operations as prescribed in (a) of this
27 section and renewal applications as prescribed in (c) of this section.

28 (e) This section may not be construed as adopting requirements
29 for the registration of interstate and foreign motor freight carriers

1 in excess of the standards for registration set forth in subpart B of
2 Part 1023 of the Regulations of the Interstate Commerce Commission
3 (Title 49, Code of Federal Regulations), and the commission shall ad-
4 here to the standards of subpart B in its administration of this
5 section.

6 * Sec. 20. AS 42.10.160(a) is amended to read:

7 (a) A filing fee of \$100 [\$50] shall be paid with each applica-
8 tion for a permit, temporary permit, or for extension or transfer of a
9 permit requesting authority to transport property for compensation by
10 motor vehicle moving in intrastate commerce in this state.

11 * Sec. 21. AS 42.10.160(c) is amended to read:

12 (c) A filing fee of \$10 shall be paid with each annual renewal
13 application for the registration of authority to engage in the trans-
14 portation of property for compensation by motor vehicle moving in
15 interstate or foreign commerce in the state; and a filing fee of \$10
16 shall also be paid for registering any changes in a motor carrier's
17 interstate or foreign operations, if the registration of those changes
18 occurs at a time other than the time provided for a renewal applica-
19 tion.

20 * Sec. 22. AS 42.10.190(a) is amended to read:

21 (a) In granting a permit or registration of interstate or foreign
22 operating authority to a common carrier or [AND] a contract carrier, the
23 commission shall require the carrier to either procure and file lia-
24 bility and property damage insurance from a company acceptable to the
25 commission and approved by the state division of insurance, Department
26 of Commerce, [LICENSED TO WRITE INSURANCE IN THE STATE] or to deposit
27 security for the limits of liability and upon the terms and conditions
28 the commission determines necessary for the reasonable protection of
29 the public against damage and injury for which the carrier may be

1 or property, but who does not provide, procure, or arrange for,
2 directly, indirectly or by course of dealing, an operator for the
3 vehicle.

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

5 Sec. 42.15.062. PUBLIC HEARING. Before issuing a certificate of
6 public convenience and necessity or denying an application for a certi-
7 ficate, the commission shall hold a public hearing if the applicant or a
8 person having a substantial interest in the proceeding requests it
9 within the time provided by regulation.

10 * Sec. 27. AS 42.15 is amended by adding a new section to read:

11 Sec. 42.15.066. REGISTRATION OF INTERSTATE OR FOREIGN OPERATING
12 AUTHORITY. (a) No bus carrier may engage in interstate or foreign
13 bus commerce within the state for compensation without first regis-
14 tering all of its Alaskan operations with the commission as set out in
15 this subsection.

16 (1) If the operations, or any part of them, require authority
17 from the Interstate Commerce Commission under the Interstate Commerce
18 Act, a copy of the authority pertaining to this state shall be filed
19 with the application for registration. A copy of any additions or
20 amendments to this authority shall also be filed with the commission
21 when those changes are made.

22 (2) If the operations, or any part of them, do not require
23 authority from the Interstate Commerce Commission under the Interstate
24 Commerce Act, an affidavit of exempt status shall be filed with the
25 application for registration. The affidavit shall include a descrip-
26 tion of the operations to be conducted in this state by the carrier. An
27 affidavit describing changes in the carrier's exempt operations in the
28 state shall also be filed with the commission, when the changes are
29 made.

1 liable by reason of the operation of a motor vehicle. The commission
2 shall adhere to the standards of subpart E of Part 1023 of the
3 Regulations of the Interstate Commerce Commission (Title 49, Code of
4 Federal Regulations) in applying this section to motor carriers
5 holding operating authority issued by the Interstate Commerce
6 Commission.

7 * Sec. 23. AS 42.10.270(b) is amended to read:

8 (b) No private carrier may transport property for compensation,
9 except as provided in this chapter.

10 * Sec. 24. AS 42.10.394(a) is amended to read:

11 (a) In addition to any other civil penalties and remedies pro-
12 vided by law the commission may levy for each offense a civil penalty
13 of not more than \$150 [FOR EACH OFFENSE] against a person, [UPON A
14 MOTOR CARRIER AND EACH] regardless of whether he is a motor carrier,
15 an officer, director, agent, or employee of a motor carrier, or a
16 person not related to a motor carrier, who violates [(INCLUDING FAILURE
17 TO OBEY OR COMPLY WITH)], or who procures, aids, or abets, a violation
18 [BY A MOTOR CARRIER] of a provision of this chapter, or an order,
19 decision, rule, or regulation of the commission.

20 * Sec. 25. AS 42.10.420(7) is repealed and re-enacted to read:

21 (7) "private carrier" is:

22 (A) a person who transports by motor vehicle, with or
23 without compensation, property which is owned or is being bought
24 or sold by him, or property of which he is the seller, purchaser,
25 lessee or bailee, and the transportation is incidental to and in
26 furtherance of some other primary business conducted by the person
27 in good faith;

28 (B) a person who rents, leases, or otherwise provides
29 a motor vehicle for the use of others in transporting passengers

1 (b) Registration shall be allowed upon the filing of a completed
2 application with the appropriate attachments and the payment of appli-
3 cable fees.

4 (c) Registration shall be renewed annually by filing a renewal
5 application and paying the renewal fee.

6 (d) Bus carriers engaged in interstate or foreign bus commerce
7 within the state, who, before July 1, 1971, had registered their autho-
8 rity from the Interstate Commerce Commission with the Alaska Transpor-
9 tation Commission are not required to file another initial application
10 as prescribed in (a) of this section, but are only required to file
11 changes in their operations as prescribed in (a) of this section and
12 renewal applications as prescribed in (c) of this section.

13 (e) This section may not be construed as adopting requirements
14 for the registration of interstate and foreign bus carriers in excess
15 of the standards for registration set forth in subpart B of Part 1023
16 of the Regulations of the Interstate Commerce Commission (Title 49,
17 Code of Federal Regulations), and the commission shall adhere to the
18 standards of subpart B in its administration of this section.

19 * Sec. 28. AS 42.15 is amended by adding a new section to read:

20 Sec. 42.15.074. FEES. (a) A filing fee of \$100 shall be paid
21 at the time of an application to the commission for intrastate autho-
22 rity under this chapter, including applications for transfers, amend-
23 ments, leases, consolidation, merger, contracts to operate the pro-
24 perties of one or more carriers, and temporary exemptions.

25 (b) A filing fee of \$25 shall be paid for filing an initial
26 registration of interstate or foreign operating authority pursuant to
27 sec. 66(a) of this chapter.

28 (c) A filing fee of \$10 shall be paid for the annual renewal of
29 registration of interstate or foreign operating authority pursuant to

1 sec. 66(c) of this section; and a fee of \$10 shall also be paid for
2 the filing of changes in interstate or foreign operations pursuant to
3 sec. 66(a) of this chapter, if the registration of those changes occurs
4 at a time other than the time provided for a renewal application.

5 * Sec. 29. AS 42.15.231(a)(1) is amended to read:

6 (1) a policy of insurance issued by an insurer acceptable
7 to the commission and approved by the state division of insurance,
8 Department of Commerce [LICENSED TO WRITE THIS INSURANCE IN A STATE OF
9 THE UNITED STATES OR IN THE JURISDICTION WHERE IT IS DOMICILED, IF THE
10 INSURER MAINTAINS IN A BANK LOCATED IN AND SUBJECT TO THE LAWS OF THE
11 UNITED STATES A TRUST FUND FOR THE BENEFIT OF ITS POLICYHOLDERS OF NOT
12 LESS THAN \$200,000]; or

13 * Sec. 30. AS 42.15 is amended by adding a new section to article 4
14 to read:

15 Sec. 42.15.256. APPLICATION TO INTERSTATE COMMERCE COMMISSION
16 CARRIERS. In their application to common carriers holding operating
17 authority issued by the Interstate Commerce Commission, secs. 221 -
18 256 of this chapter may not be construed as adopting requirements for
19 evidence of liability security or self-insurance and for notice of
20 security cancellation in excess of the standards set forth in subparts
21 E, G, and H of Part 1023 of the Regulations of the Interstate Commerce
22 Commission (Title 49, Code of Federal Regulations). The commission
23 shall adhere to the standards of Part 1023 in applying secs. 221 - 256
24 of this chapter to common carriers holding operating authority issued
25 by the Interstate Commerce Commission.

26 * Sec. 31. AS 42.25 is amended by adding a new section to read:

27 Sec. 42.25.045. FEES. A filing fee of \$100 shall be paid with
28 each application for a certificate, temporary certificate, or for an
29 extension or transfer of a certificate requesting authority to trans-

1 port passengers or vehicles by ferry in intrastate commerce in this
2 state.

3 * Sec. 32. AS 42.25.050 is amended to read:

4 Sec. 42.25.050. PUBLIC HEARING. Before issuing a certificate of
5 public convenience and necessity or denying an application for a
6 certificate, the commission shall hold a public hearing if the appli-
7 cant or a person having a substantial interest in the proceeding
8 requests it within the time provided by regulation.

9 * Sec. 33. AS 42.25.210(2) is amended to read:

10 (2) "ferry" means a vessel used in the common carriage of
11 passengers or [AND SELF-PROPELLED] vehicles in intrastate commerce;

12 * Sec. 34. The following laws are repealed: AS 42.10.130(d) - (f); and
13 AS 42.15.071(c).

14 * Sec. 35. This Act takes effect on the day after passage and approval
15 or on the day it becomes law without approval.

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