

Introduced: 2/26/76
Referred: Commerce and
Judiciary

1 IN THE HOUSE

BY THE COMMERCE COMMITTEE

2 HOUSE BILL NO. 845

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act limiting the regulatory authority of the Alaska
7 Transportation Commission."

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

9 * Section 1. AS 42.10.010 is amended to read:

10 Sec. 42.10.010. DECLARATION OF POLICY. The business of operating
11 as a motor carrier of freight for compensation or gain upon the public
12 highways is a business affected with a public interest. The sparsely
13 settled area, the tremendous distances between small and large centers
14 of population, the difficult terrain and the hazards of weather make
15 imperative that an adequate, dependable, and available transportation
16 service for the movement of necessary supplies and material be main-
17 tained. It is the purpose of this chapter to provide the shippers and
18 receivers of freight in the state with a stabilized service and rate
19 structure; to foster sound economic conditions among the carriers which
20 will guarantee transportation in the public interest; to promote ade-
21 quate, economical and efficient service by motor carriers, and reason-
22 able charges without unjust discrimination, undue preferences or
23 advantages, or unfair or destructive competitive practices; to preserve
24 the common carrier of commodities by motor carrier in the public
25 interest; to improve and coordinate the relations between, and trans-
26 portation by and regulation of, motor carriers and other carriers so
27 that the highways of the state may be properly developed and preserved,
28 and the public assured of adequate, complete, dependable and stable
29 transportation service in all its phases. It is not the purpose of

1 this chapter to provide for regulation of motor carriers which do not
2 cross borough boundaries except in the interests of safety, and the
3 direct protection of the shipping and the general public.

4 * Sec. 2. AS 42.10.020 is amended by adding a new paragraph to read:

5 (5) vehicles owned and operated by a motor carrier who is
6 not engaged in the transportation of property across borough boundaries
7 regardless of competition with other carriers, compensation, the effect
8 on rate structures, or any other economic factors.

9 * Sec. 3. AS 42.10.100 is amended to read:

10 Sec. 42.10.100. BOND TO PROTECT SHIPPERS AND CONSIGNEES. The
11 commission may, under rules and regulations it prescribes, require a
12 common carrier and an exempt carrier as described in sec. 20(5) of this
13 chapter to file a surety bond, or deposit security or a bond guaranteed
14 by individuals approved by the commission. The commission shall fix
15 the amount of the bond or the security. The bond or security shall be
16 conditioned upon the carrier paying over to shippers and consignees
17 money belonging to shippers and consignees, and coming into the posses-
18 sion of the carrier in connection with its transportation service. A
19 [COMMON] carrier required by law to compensate a shipper or consignee
20 for loss, damage, or default for which a connecting common carrier is
21 legally responsible shall be subrogated to the rights of the shipper or
22 consignee under the bond or deposit of security to the extent of the
23 sum paid.

24 * Sec. 4. AS 42.10.190(a) is amended to read:

25 (a) For an exempt carrier described in sec. 20(5) of this chapter
26 and in [IN] granting a permit to a common carrier and a contract
27 carrier, the commission shall require the carrier to either procure and
28 file liability and property damage insurance from a company licensed to
29 write insurance in the state or deposit security for the limits of

1 liability and upon the terms and conditions the commission determines
2 necessary for the reasonable protection of the public against damage
3 and injury for which the carrier may be liable by reason of the opera-
4 tion of a motor vehicle.

5 * Sec. 5. AS 42.10.240(a) is amended to read:

6 (a) Every common carrier, contract carrier, private carrier and
7 exempt carrier as described in sec. 20(4) or (5) of this chapter in-
8 cluding those operating motor vehicles not otherwise registered or
9 licensed in the state, and every person who rents or leases motor
10 vehicles to common, contract or private carriers, shall pay the follow-
11 ing weight fees each year for each motor vehicle owned or operated by
12 it on the public highways of the state:

13 (1) motor vehicles of private carriers and exempt carriers
14 as described in sec. 20(4) of this chapter, except those of persons who
15 rent, lease or otherwise provide a motor vehicle for use of motor
16 carriers, weighing over 4,000 pounds \$25

17 (2) motor vehicles of common carriers, contract carriers,
18 exempt carriers as described in sec. 20(5) of this chapter and of pri-
19 vate carriers excepted in (1) of this subsection weighing:

- | | |
|-------------------------------|------|
| 20 (A) 12,000 pounds or less | \$35 |
| 21 (B) 12,001 - 18,000 pounds | 55 |
| 22 (C) over 18,000 pounds | 75 |

23 * Sec. 6. AS 42.10.400 is amended to read:

24 Sec. 42.10.400. HOURS OF OPERATORS. A carrier subject to this
25 chapter, including exempt carriers as described in sec. 20(5) of this
26 chapter, may not permit or require a driver employed or used by it to
27 remain on duty in excess of the hours or violate in any way the regula-
28 tions which the commission adopts to safeguard the safety of drivers,
29 the general public and property.

1 * Sec. 7. AS 42.15.011 is amended to read:

2 Sec. 42.15.011. DECLARATION OF POLICY. The business of operating
3 as a carrier by bus for compensation or gain upon the public highways
4 is a business affected with the public interest. It is the purpose of
5 this chapter to provide passengers, shippers and receivers of express in
6 the state with a stabilized service and rate structure; to foster sound
7 economic conditions among the carriers which will guarantee transporta-
8 tion in the public interest; to promote adequate, economical, and
9 efficient service by motor carriers and reasonable charges, without
10 unjust discrimination, undue preferences or advantages, or unfair
11 competitive practices; to improve and coordinate the relations among
12 and transportation by and regulation of common carriers by bus and
13 other carriers in order that the highways of the state may be properly
14 developed and preserved and the public assured of adequate, complete,
15 dependable and stable transportation service in all its phases; and to
16 promote, require and enforce safe conditions and practices in the
17 public interest. It is the purpose of this chapter to regulate carriers
18 by bus whose operations do not cross borough boundaries only to the
19 extent necessary to assure safe conditions and practices and to provide
20 reasonable information concerning their operation regardless of the
21 effect on competition, pricing structure or other economic factors.

22 * Sec. 8. AS 42.15.031 is amended to read:

23 Sec. 42.15.031. REGULATION OF PRIVATE AND EXEMPT CARRIERS. (a)
24 The commission shall supervise and regulate every private and exempt
25 carrier in the state

26 (1) as to safety of its operations;

27 (2) so as to prevent operation as a common carrier.

28 (b) The commission may require a private or exempt carrier to
29 file reports and other information and data.

1 * Sec. 9. AS 42.15.221 is amended by adding a new subsection to read:

2 (d) The commission may require and fix the amount of security for
3 exempt carriers which are not regulated in that respect by local govern-
4 ment.

5 * Sec. 10. AS 42.15.331(a) is amended to read:

6 (a) Every common carrier and exempt carrier shall pay the follow-
7 ing weight fees each year for each motor bus owned or operated by it on
8 the public highways of the state:

9 Over 0 pounds but not over 12,000 pounds	\$35
10 12,001 pounds but not over 18,000 pounds	55
11 18,000 pounds and over	75

12 * Sec. 11. AS 42.15.431(5) is amended to read:

13 (5) "common carrier" means a carrier by bus, other than an
14 exempt carrier, which holds itself out to the public as willing to under-
15 take, for compensation, to transport passengers by motor bus upon the
16 public highway;

17 * Sec. 12. AS 42.15.431 is amended by adding a new paragraph to read:

18 (13) "exempt carrier" means a carrier by bus, other than those
19 exempted under sec. 421 of this chapter, which does not provide service
20 in an area that transcends borough boundaries.

21 * Sec. 13. AS 42.25.010 is amended to read:

22 Sec. 42.25.010. CERTIFICATE REQUIRED. No person, including exempt
23 operators, may engage in the transportation of passengers or vehicles by
24 ferry between points within this state without a certificate of public
25 convenience and necessity issued by the commission.

26 * Sec. 14. AS 42.25 is amended by adding a new section to read:

27 Sec. 42.25.025. EXEMPT OPERATORS. (a) This chapter, except when
28 specifically otherwise provided, does not apply to exempt operators.

29 (b) The commission shall issue a certificate of public convenience

1 and necessity for an indefinite period to an exempt operator who has
2 legally applied and is willing and able to provide safe, sanitary ser-
3 vice to the public.

4 (c) The commission may require reports from exempt operators to
5 verify their status and maintain records and may conduct inspections
6 that are necessary to assure the safety of the public.

7 * Sec. 15. AS 42.25.040 is amended to read:

8 Sec. 42.25.040. APPLICATION FOR CERTIFICATE. A ferry operator,
9 including exempt operators, who desires to engage in the transportation
10 of passengers or vehicles shall apply to the commission for a certifi-
11 cate of public convenience and necessity. The commission shall prescribe
12 by regulation, the form and content of the application.

13 * Sec. 16. AS 42.25.140 is amended to read:

14 Sec. 42.25.140. PROOF OF FINANCIAL RESPONSIBILITY. The commission
15 shall require each ferry operator, including exempt operators, to
16 furnish proof of financial responsibility for bodily injury to passen-
17 gers and other persons or damage to property, caused by the negligent
18 operation, maintenance or use of facilities and equipment in the control
19 of the ferry operator. The amount of financial responsibility shall be
20 in an amount reasonably calculated to protect the public interest.

21 * Sec. 17. AS 42.25.150 is amended to read:

22 Sec. 42.25.150. REGULATION OF SERVICE. The commission shall re-
23 quire every ferry operator, including exempt operators, to provide and
24 furnish safe and reasonably adequate services and facilities for the
25 public. The commission shall establish just and reasonable charges for
26 services rendered to the public by operators who are not exempt.

27 * Sec. 18. AS 42.25.210 is amended by adding a new paragraph to read:

28 (4) "exempt operator" means a ferry operator that does not
29 operate in an area that crosses borough boundaries.

1 * Sec. 19. AS 02.05.010 is amended by adding a new paragraph to read:

2 (8) Avoid economic regulation of carriers whose service area
3 does not cross borough boundaries.

4 * Sec. 20. AS 02.05 is amended by adding a new section to read:

5 Sec. 02.05.035. EXEMPT CARRIERS. (a) This chapter, except when
6 specifically otherwise provided, does not apply to exempt carriers.

7 (b) The commission shall issue a certificate of public convenience
8 and necessity to an exempt carrier who has applied in writing and who
9 has complied with the applicable portions of this chapter and all laws
10 and regulations relating to the providing of safe service, equipment
11 and facilities in connection with air commerce.

12 (c) The regulatory authority of the commission with respect to
13 certificated carriers does not extend to carriers certified as exempt
14 carriers unless the authority is expressly granted in this chapter.

15 (d) Nothing in this chapter shall be construed to prevent a
16 carrier who is qualified as an exempt carrier from being certificated
17 as an exempt carrier regardless of other status or eligibility.

18 * Sec. 21. AS 02.05.040 is amended to read:

19 Sec. 02.05.040. CERTIFICATES REQUIRED. Subject to the provisions
20 of sec. 50 of this chapter, no person may engage in air commerce unless
21 there is in force a certificate issued by the commission authorizing
22 that person to engage in air commerce as a scheduled carrier, exempt
23 carrier, contract carrier, or air taxi operator.

24 * Sec. 22. AS 02.05.050 is amended by adding a new subsection to read:

25 (f) Exempt carriers. A person authorized by this chapter to
26 engage in air commerce as an exempt carrier may engage in any form of
27 air commerce not inconsistent with federal law as long as he is in
28 compliance with the applicable portions of this chapter.

29 * Sec. 23. AS 02.05.090(f) is amended to read:

1 (f) Except as provided in (g) of this section, each aircraft
2 owned or leased by any person subject to the provisions of this chapter
3 shall be registered with the commission before the aircraft is used in
4 air commerce. Certificates of registration for each aircraft shall be
5 issued by the commission. These certificates are valid for a period of
6 12 months from the date of registration and are renewed at the expira-
7 tion of each 12 month period. The fees for registration of aircraft,
8 including aircraft owned and operated by an exempt carrier, are as
9 follows:

10 (1) Aircraft weighing 4,000 pounds gross	
11 weight or less	\$ 25
12 (2) Aircraft weighing over 4,000 pounds	
13 but less than 7,900 pounds gross weight	50
14 (3) Aircraft weighing 7,900 pounds but	
15 less than 12,500 pounds gross weight	100
16 (4) Aircraft weighing 12,500 pounds but	
17 less than 27,000 pounds gross weight	150
18 (5) Aircraft weighing 27,000 pounds but	
19 less than 50,000 pounds gross weight	300
20 (6) Aircraft weighing 50,000 pounds but	
21 less than 75,000 pounds gross weight	400
22 (7) Aircraft weighing 75,000 pounds gross	
23 weight or more	600

24 * Sec. 24. AS 02.05.100 is amended to read:

25 Sec. 02.05.100. MODIFICATION, SUSPENSION OR REVOCATION OF CERTI-
26 FICATES. (a) Upon a petition or accusation filed by any person or the
27 commission, and after notice and opportunity for hearing, the commission
28 by order may alter, amend, or modify a certificate, including that of an
29 exempt carrier, in whole or in part, if the public convenience and

1 necessity require it and may suspend or revoke a certificate, in whole
2 or in part, for any of the following reasons:

3 (1) intentional misrepresentation of a material fact in ob-
4 taining the certificate;

5 (2) voluntary discontinuance of operations;

6 (3) intentional failure to comply with a provision of this
7 chapter or an order, rule, or regulation issued under this chapter;

8 (4) intentional failure to comply with a term, condition or
9 limitation of the certificate.

10 (b) The commission may suspend the operating authority of an air
11 carrier, including an exempt carrier, without prior notice or hearing
12 upon failure of the carrier to comply with secs. 130 and 135 of this
13 chapter.

14 * Sec. 25. AS 02.05.130 is amended to read:

15 Sec. 02.05.130. ACCIDENT LIABILITY PROTECTION REQUIRED. (a) No
16 certificate may be issued to a person to operate as an air carrier, in-
17 cluding an exempt carrier, within the state and no certificated carrier
18 may operate within the state unless the person or carrier has procured
19 and kept in force a reasonable security required by the commission for
20 the protection of the public against damage and injury for which the
21 carrier may be liable by reason of its operation as an air carrier.

22 (b) In fixing the amount of necessary security for a certificated
23 carrier, including an exempt carrier, the commission shall give con-
24 sideration to the character and amount of traffic, the number of persons
25 affected and the degree of danger which the proposed operation involves.

26 (c) The commission may at any time refuse to accept, or revoke
27 its acceptance of, any security or form of security, if, in its judg-
28 ment the security does not comply with the regulations, or for any
29 reason fails to provide satisfactory or adequate protection for the

1 public. Refusal or revocation of acceptance of security does not
2 relieve the carrier, including an exempt carrier, from compliance with
3 this section.

4 * Sec. 26. AS 02.05.137 is amended to read:

5 Sec. 02.05.137. FIDUCIARIES, INSURED AND PRINCIPAL. The terms
6 "insured" and "principal" as used in certificates of insurance, surety
7 bonds, and notices of cancellation filed by or in behalf of air carriers
8 shall be construed to include not only the air carrier named in the
9 certificate, surety bond, or notice of cancellation, but also the
10 fiduciary of the air carrier. The coverage of fiduciaries provided for
11 in this chapter attaches at the moment of succession of the fiduciaries.
12 This section and secs. 135 and 136 of this chapter apply to exempt
13 carriers.

14 * Sec. 27. AS 02.05 is amended by adding a new section to read:

15 Sec. 02.05.195. APPLICATION TO EXEMPT CARRIERS. Secs. 200 - 240
16 of this chapter apply to exempt carriers.

17 * Sec. 28. AS 02.05.250 is amended by adding a new paragraph to read:

18 (11) "exempt carrier" means an air carrier whose service area
19 does not extend across borough boundaries.