

Original sponsor: Sumner

Offered: 3/8/78
Referred: Judiciary

1 IN THE SENATE

BY THE COMMERCE COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 166

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the jurisdiction of the Alaska
7 Transportation Commission; and providing for an effec-
8 tive date."

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

10 * Section 1. AS 42.10.350 is repealed and re-enacted to read:

11 Sec. 42.10.350. CARRIERS' AGREEMENTS. (a) Every agreement, which
12 includes an amendment or supplement to a previously approved agreement,
13 entered into between two or more carriers shall be submitted to the
14 commission for approval before the agreement shall become effective if
15 the terms of the agreement relate to or affect

16 (1) rates, fares, classifications or rules pertaining to
17 rates, fares, classifications, or other rules;

18 (2) pooling of profits or earnings, division of profits or
19 earnings, allowances, or charges for use of facilities, equipment or
20 authority;

21 (3) acquisition or sale of substantial assets, merger, con-
22 solidation, or divestiture; or

23 (4) procedures that regulate the conduct of the agreeing
24 parties with respect to the establishment of or implementation of any
25 agreement or procedure applicable to the resolution of disputes between
26 or among the agreeing parties.

27 (b) The commission may not approve any agreement to which this
28 section applies unless it finds that the relief granted by (k) of this
29 section would advance the state transportation policy expressed in sec.

1 10 of this chapter that the agreement would be consistent with the
2 public purpose, and that the agreement would not unduly restrict compe-
3 tition. The commission may approve all or any part of an agreement and
4 attach any terms or conditions to that approval consistent with this
5 chapter.

6 (c) Agreements between carriers of different classes may only be
7 concerned with matters relating to joint rates or through routes and may
8 only be approved by the commission if the state transportation policy
9 declared in sec. 10 of this chapter is advanced, if approval is consis-
10 tent with the public interest, and if approval will not unduly restrict
11 competition. For purposes of this section, carriers by motor vehicle
12 are carriers of one class; carriers by water are carriers of one class;
13 carriers by railroad are carriers of one class; carriers by air are
14 carriers of one class; and freight forwarders are carriers of one class.

15 (d) The commission may not approve under this section any agree-
16 ment described in (a)(2) or (a)(3) or this section, unless the commis-
17 sion finds that the agreement will result in either better service or
18 economy of operation and will not unduly restrict competition.

19 (e) The commission may not approve any agreement establishing a
20 conference, bureau, committee, or other organization that is authorized
21 to develop uniform rates, fares, or classifications, unless the commis-
22 sion finds that there is accorded to each party under the agreement the
23 right to take action independent from any other party at any time.

24 (f) An agreement required to be approved by the commission takes
25 effect without approval 30 days after the agreement has been submitted
26 to the commission by a carrier party, unless (1) the commission deter-
27 mines that the public interest requires a hearing, (2) the agreement is
28 designated by the commission as one involving issues of unusual complex-
29 ity or difficulty, or (3) the approval is denied. Designation of an

1 agreement as one involving issues of unusual complexity or difficulty is
2 not a final order of the commission. An order denying approval of all
3 or any part of an agreement is a final order of the commission. A court
4 may not stay a final order of the commission pending appeal of the
5 order. Any order approving or disapproving an agreement under this
6 section shall be based upon findings of fact and conclusions of law.

7 (g) Commission proceedings involving an agreement subject to this
8 section shall take precedence over all other matters, and the commission
9 shall expeditiously process such proceedings.

10 (h) The commission may temporarily approve all or any part of an
11 agreement pending its final determination if it finds that the public
12 interest requires a hearing, the agreement has been designated as one
13 involving issues of unusual complexity or difficulty, and the public
14 interest requires the agreement be temporarily approved. Temporary
15 approval of all or any part of an agreement is not a final order of the
16 commission.

17 (i) The approval of any agreement by the commission may be modi-
18 fied in whole or in part, suspended, or revoked if the commission finds
19 that the terms and conditions upon which approval was originally granted
20 have not been observed, the public interest no longer requires the
21 approval of such an agreement, or the agreement unduly restricts compe-
22 tition.

23 (j) The commission may designate certain evidence submitted in
24 support of or in opposition to the approval of an agreement under this
25 section as confidential records, if the commission finds the records are
26 a trade secret or would substantially affect the competitive position of
27 the party offering the records.

28 (k) Parties to any agreement approved by the commission under this
29 chapter and other persons are, if the approval of the agreement is not

1 prohibited by (e) of this section or by AS 42.10.351, exempted from the
2 operation of the antitrust laws of this state (AS 45.52) with respect to
3 the making of the agreement, and with respect to carrying out the agree-
4 ment in conformity with its provisions and in conformity with the terms
5 and conditions prescribed by the commission.

6 (1) Any action of the commission under this section in approving
7 an agreement, or in denying an application for that approval, or in
8 terminating or modifying its approval of an agreement, or in prescribing
9 the terms and conditions upon which its approval is to be granted, or in
10 modifying those terms and conditions, shall be construed as having
11 effect solely with reference to the application of the antitrust laws
12 and does not constitute either approval or disapproval of the rates,
13 fares, classifications, or rules contained within the agreement.

14 *Sec. 2. AS 42.10 is amended by adding a new section to read:

15 Sec. 42.10.351. RATE BUREAUS. (a) No conference, bureau, commit-
16 tee, or other organization established under sec. 350(e) of this chapter
17 may

18 (1) file a protest or appear as a party before the commission
19 in opposition to any independent action taken by a member carrier;

20 (2) attempt in any way to discourage any member carrier from
21 publishing individual tariffs or proposing independent action;

22 (3) allow any carrier which is in any way affiliated with a
23 shipper to serve on the board of directors, general rate committee, or
24 any other committee which has an effect, either directly or indirectly,
25 upon the rate-making function of the conference, bureau, committee, or
26 other organization, without specific prior approval of the commission;

27 (4) operate as a profit-making organization;

28 (5) acquire other rate bureaus without prior commission ap-
29 proval;

1 (6) invest in any commercial business, whether related or
2 unrelated to its primary function of processing and causing to be pub-
3 lished rates and related matters for member carriers.

4 (b) A conference, bureau, committee, or other organization estab-
5 lished or continued under any agreement approved by the commission under
6 the provisions of sec. 350(e) of this chapter shall maintain the ac-
7 counts, records, files, and memoranda and shall submit the reports to
8 the commission as required by the commission.

9 (c) A conference, bureau, committee, or other organization estab-
10 lished or continued under any agreement approved by the commission under
11 the provisions of sec. 350(e) of this chapter shall keep formal, accu-
12 rate minutes of all rate committee proceedings and shall maintain the
13 minutes for inspection by the commission and by the attorney general.

14 (d) Violation of (a) of this section constitutes a violation of AS
15 45.52.010.

16 * Sec. 3. AS 45.52.060(e) is amended to read:

17 (e) This chapter does not apply to [CARRIERS REGULATED UNDER AS
18 42.10, AS 42.15, AND AS 02.05, OR TO] ferries regulated under AS 42.25.

19 * Sec. 4. All carriers or conferences, bureaus, committees, or other
20 organizations subject to AS 42.10 as amended by this Act shall file appro-
21 priate amendments to their respective agreements consistent with the re-
22 quirements and standards of this Act and shall submit those amended agree-
23 ments to the commission for approval within 120 days of the effective date of
24 this Act.

25 * Sec. 5. This Act takes effect September 1, 1978.
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