

Introduced: 3/8/77
Referred: Commerce and Judiciary

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 CS SENATE BILL NO. 224

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the functions of the Alaska
7 Transportation Commission."

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

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

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

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

17 Sec. 02.05.045. REGISTRATION OF INTERSTATE OR FOREIGN OPERATING
18 AUTHORITY. (a) An air carrier may not engage in interstate or foreign
19 commerce within the state unless it has complied with the requirements
20 of this section:

21 (1) If all or any part of a carrier's operation requires
22 authority from the Civil Aeronautics Board, the carrier shall file
23 with the commission a petition for registration and a document of
24 registration, which state the operation to be conducted within the
25 state and which is authorized by the Civil Aeronautics Board. A copy
26 of the carrier's Civil Aeronautics Board certificate must be attached
27 to the carrier's petition for registration. A copy of the document
28 that amends an interstate or foreign commerce air carrier's authority
29 to operate must also be filed with the commission within a reasonable

1 time after the amending authority has been granted.

2 (2) If no any part of an interstate or foreign commerce air
3 carrier's operation requires authority from the Civil Aeronautics
4 Board, the carrier shall file with the commission a petition for
5 registration and a document of registration. The document of regis-
6 tration must state the type of operation and location of that operation
7 to be conducted within the state. The operation to be conducted
8 within the state must be described in sufficient detail that a person
9 familiar with the applicable federal laws will be able to determine
10 from the information provided by the document of registration that
11 Civil Aeronautics Board authority is not required for that operation.
12 The carrier shall attach to the petition for registration an affidavit
13 of the carrier's chief executive officer or his designee stating that
14 the document of registration is true and complete, that the common
15 carrier operation to be conducted within the state does not require
16 Civil Aeronautics Board authority, and that liability and property
17 damage insurance has been obtained by the carrier under sec. 130 of
18 this chapter. Payment of all applicable fees must accompany the
19 petition for registration. If the carrier's operation as stated in
20 the document of registration is modified, the carrier shall submit an
21 amended document of registration and other documents in the same
22 manner as if the carrier were filing its original petition for registra-
23 tion.

24 (b) A carrier is registered with the commission when the commis-
25 sion has ordered the acceptance of the petition for registration.

26 (c) This section does not require the registration of interstate
27 or foreign commerce air carrier authority when the enforcement of this
28 statute would violate federal law.

29 * Sec. 3. AS 02.05.050(a)(2) is repealed and re-enacted to read:

1 (2) may make charter trips and render other special services
2 as authorized by the commission.

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

4 (f) Indirect carriers. A person holding a certificate issued
5 under this chapter which authorizes that person to engage in air com-
6 merce as an indirect carrier may engage in air commerce to the extent
7 authorized by the certificate. Any person who indirectly engaged in
8 air commerce after August 31, 1971, and before January 1, 1978, may
9 file an application with the commission for authority to operate in
10 air commerce as an indirect carrier, if the application is filed
11 before July 1, 1978. The commission shall issue a certificate of
12 authority under the requirements of this subsection. The certificate
13 authorizes the applicant to engage in indirect air commerce to the
14 extent the applicant conducted indirect air commerce operations con-
15 tinuously during the period August 31, 1971 - January 1, 1978. The
16 commission by regulation may establish more than one separate classi-
17 fication of indirect air carriers, and if the classifications are
18 established, the commission shall prescribe in its regulations the
19 extent to which each classification is to be regulated under the
20 provisions of this chapter.

21 * Sec. 5. AS 02.05.055 is repealed and re-enacted to read:

22 Sec. 02.05.055. TYPES OF AIRCRAFT AUTHORIZED. An air carrier
23 subject to the provisions of this chapter may operate only that type
24 of aircraft authorized by the air carrier's certificate of authority.
25 The commission may amend, modify, or revoke a carrier's authority to
26 operate a type of aircraft under the requirements of sec. 100 of this
27 chapter.

28 * Sec. 6. AS 02.05 is amended by adding a new section to read:

29 Sec. 02.05.065. TEMPORARY AUTHORITY AND TEMPORARY APPROVAL. (a)

1 The commission may grant temporary authority to operate between points
2 or within an area as an air carrier in order to provide service for
3 which there is an immediate and urgent need or when unusual circum-
4 stances have imposed on the carrier an undue burden that may jeopardize
5 the viability of the carrier to provide adequate and continuous service.
6 The granted authority may not exceed 180 days unless a hearing has
7 been provided interested parties.

8 (b) The commission may grant temporary authority to operate as
9 an air carrier in order to evaluate and obtain operational information
10 of a new method or mode of transportation. The granted authority is
11 valid for the time the commission specifies, but the commission shall
12 re-evaluate the propriety of continuing the temporary authority at
13 least once each year.

14 (c) The commission may temporarily approve the transfer of an
15 air carrier certificate pending the final disposition of an application
16 for transfer of a certificate if the failure to grant such temporary
17 approval may result in the interruption of adequate and continuous
18 service to the public or may result in destruction of or injury to the
19 present value or future usefulness of the air carrier properties
20 sought to be transferred.

21 (d) Transportation service rendered under the grant of temporary
22 authority or temporary approval of transfer is subject to all applicable
23 provisions of this chapter and the regulations, requirements, and
24 orders of the commission. Temporary authority or temporary approval
25 of transfer may be granted without a hearing or other proceeding. If
26 the lawfulness of such a grant is an issue in an adjudicatory pro-
27 ceeding, the commission, within its discretion and without hearing,
28 may extend the temporary authority or temporary approval for a period
29 not to exceed the pendency of the proceeding or such lesser time as

1 required by the public interest. The grant of temporary authority or
2 temporary approval of transfer creates no presumption that a correspond-
3 ing permanent certificate or permanent approval of transfer will be
4 granted.

5 * Sec. 7. AS 02.05.075 is repealed and re-enacted to read:

6 Sec. 02.05.075. FEES. A fee must be paid to the commission by
7 every applicant, petitioner, complainant, or other person who applies
8 for a certificate, temporary certificate, extension of or transfer of
9 a certificate, or who petitions the commission for registration of
10 interstate or foreign commerce authority, files an accusation or
11 complaint, or initiates any other formal proceeding which will require
12 the commission to make a formal decision. The commission may adopt
13 regulations interpreting this statute and setting reasonable fees to
14 be assessed.

15 * Sec. 8. AS 02.05.080(a) is amended to read:

16 (a) Subject to the provisions of (d) of this section, the commis-
17 sion shall issue a certificate authorizing air carrier operations.
18 The commission may grant less authority than that requested by the
19 applicant or refuse to grant any authority. [THE APPLICANT TO ENGAGE
20 IN AIR COMMERCE AS A SCHEDULED OR CONTRACT CARRIER OR AIR TAXI OPERATOR,
21 OR AUTHORIZING THE WHOLE OR ANY PART OF THE OPERATIONS COVERED BY AN
22 APPLICATION FOR A CERTIFICATE,] The commission shall grant authority,

23 (1) if the commission finds that the applicant is fit,
24 willing and able to engage in air commerce properly and is able to
25 comply with the provisions of this chapter and the [RULES,] regula-
26 tions[,] and requirements of the commission; and

27 (2) if the commission finds that air commerce and the per-
28 formance of it by the applicant in the type of aircraft for which a
29 certificate is requested under (e) of this section is required by the

1 public convenience and necessity and is consistent with the declaration
2 of policy contained in sec. 10 of this chapter.

3 * Sec. 9. AS 02.05.080(e) is amended to read:

4 (e) A certificate issued by the commission [AFTER MAY 1, 1966,]
5 shall specify what type or types of aircraft [WHETHER] the certificated
6 air carrier may use [OPERATE FIXED-WING AIRCRAFT, ROTARY-WING AIRCRAFT,
7 OR BOTH].

8 * Sec. 10. AS 02.05.250(4) is repealed and re-enacted to read:

9 (4) "air taxi operator" means a fixed-base air carrier
10 which holds itself out as a common carrier to provide air transportation
11 primarily through the charter of its aircraft from its authorized base
12 or bases of operation;

13 * Sec. 11. AS 02.05.250 is amended by adding new paragraphs to read:

14 (11) "indirect carrier" means a person who represents him-
15 self or herself as one who sells, offers for sale, contracts for,
16 arranges for, or offers to contract for or arrange for the air transpor-
17 tation of another person or another person's property and who expects
18 to receive or does receive compensation for the described services,
19 the term does not apply to persons acting as employee or agent of an
20 air carrier who is subject to or exempt from the authority of the
21 commission by other sections of this chapter;

22 (12) "scheduled carrier" means any person holding an air
23 carrier's certificate which authorizes the person to operate over
24 established routes on regular schedules and to make charter trips and
25 render special services when allowed by the operator's certificate;
26 the fact that the certificate may authorize other privileges under
27 this chapter does not change the character of the certificate.

28 * Sec. 12. AS 42.10.130(a) is amended to read:

29 (a) No person may operate in the state as a common carrier or

1 contract carrier transporting property in intrastate commerce for com-
2 ensation without a permit or temporary authority. [NO COMMON CARRIER,
3 CONTRACT CARRIER, OR TEMPORARY CARRIER MAY OPERATE FOR THE TRANSPORTA-
4 TION OF PROPERTY IN INTRASTATE COMMERCE FOR COMPENSATION IN THE STATE
5 WITHOUT A PERMIT]. An application for a permit as a common carrier or
6 contract carrier or an extension of the permit shall be on file for at
7 least 30 days before it is granted unless the commission finds that
8 special conditions require the earlier granting of it. Except as
9 provided in this section, the commission shall not grant a permit or
10 an extension of a permit if it finds that the applicant is not finan-
11 cially able, properly and adequately equipped and capable of con-
12 ducting the transportation service applied for in compliance with the
13 law and [RULES AND] regulations of the commission. The commission may
14 deny an application if the applicant or any of its principal officers
15 or stockholders fails to has failed to comply with the laws of the
16 state.

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

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

24 * Sec. 14. AS 42.10.135 is repealed and re-enacted to read:

25 Sec. 42.10.135. REGISTRATION OF INTERSTATE OR FOREIGN OPERATING
26 AUTHORITY. (a) A motor carrier may not engage in interstate or
27 foreign motor carriage within the state unless it has complied with
28 the requirements of this section:

29 (1) If all or any part of a carrier's operation requires

1 authority from the Interstate Commerce Commission, the carrier shall
2 file with the commission a petition for registration and a document of
3 registration, which state the operation to be conducted within the
4 state and which is authorized by the Interstate Commerce Commission.
5 A copy of the carrier's Interstate Commerce Commission permit must be
6 attached to the carrier's petition for registration. A copy of the
7 document that amends an interstate or foreign commerce motor carrier's
8 authority to operate must also be filed with the commission within a
9 reasonable time after the amending authority has been granted.

10 (2) If no part of an interstate or foreign commerce motor
11 carrier's operation requires authority from the Interstate Commerce
12 Commission, the carrier shall file with the commission a petition for
13 registration and a document of registration. The document of regis-
14 tration must state the type of operation and location of that operation
15 to be conducted within the state. The operation to be conducted
16 within the state must be described in sufficient detail that a person
17 familiar with the applicable federal laws will be able to determine
18 from the information provided by the document of registration that
19 Interstate Commerce Commission authority is not required for that
20 operation. The carrier shall attach to the petition for registration
21 an affidavit of the carrier's chief executive officer or his designee
22 stating that the document of registration is true and complete, that
23 the common carrier operation to be conducted within the state does not
24 require Interstate Commerce Commission authority, and that liability
25 and property damage insurance has been obtained by the carrier under
26 sec. 190 of this chapter. Payment of all applicable fees must accompany
27 the petition for registration. If the carrier's operation as stated
28 in the document of registration is modified, the carrier shall submit
29 an amended document of registration and other documents in the same

1 manner as if the carrier were filing its original petition for regis-
2 tration.

3 (b) A carrier is registered with the commission when the commis-
4 sion has ordered the acceptance of the petition for registration.

5 (c) This section does not require the registration of interstate
6 or foreign commerce motor carrier authority when the enforcement of
7 this statute would violate federal law.

8 * Sec. 15. AS 42.10.160 is repealed and re-enacted to read:

9 Sec. 42.10.160. FEES. A fee must be paid to the commission by
10 every applicant, petitioner, complainant, or other person who applies
11 for a permit, temporary permit, extension of or transfer of a permit,
12 or who petitions the commission for registration of interstate or
13 foreign commerce authority, files an accusation or complaint, or
14 initiates any other formal proceeding which will require the commission
15 to make a formal decision. The commission may adopt regulations
16 interpreting this section and setting reasonable fees to be assessed.

17 * Sec. 16. AS 42.10.190(a) is repealed and re-enacted to read:

18 (a) The commission may not accept the registration of an inter-
19 state carrier or foreign common carrier under sec. 135 of this chapter,
20 nor grant a common carrier permit, a contract carrier permit, or a
21 temporary permit, nor allow any authorized carrier to retain its
22 permit unless the carrier has submitted to the commission evidence
23 that it has adequate liability and property damage insurance, the
24 commission has determined that the submitted evidence is sufficient
25 and that the terms of insurance satisfy the purpose of this section,
26 and the state has authorized the insurance carrier to do business
27 within this state. Alternatively, the applicant, petitioner, or
28 carrier may deposit with the commission, in place of evidence of
29 insurance, security which the commission determines is adequate to

1 satisfy the purpose of this section. The purpose of this section is
2 to protect the public against loss resulting from personal injury or
3 property damage for which a common carrier may be liable as a result
4 of its operations.

5 * Sec. 17. AS 42.10.210 is repealed and re-enacted to read:

6 Sec. 42.10.210. TEMPORARY AUTHORITY AND TEMPORARY APPROVAL. (a)

7 The commission may grant temporary authority to operate between points
8 or within an area as a common or contract carrier in order to provide
9 service for which there is an immediate and urgent need or when unusual
10 circumstances have imposed on the carrier an undue burden that may
11 jeopardize the viability of the carrier to provide adequate and con-
12 tinuous service. The granted authority may not exceed 180 days unless
13 a hearing has been provided interested parties.

14 (b) The commission may grant temporary authority to operate as a
15 common or contract carrier in order to evaluate and obtain operational
16 information of a new method or mode of transportation. The granted
17 authority is valid for the time the commission specifies, but the
18 commission shall re-evaluate the propriety of continuing the temporary
19 authority at least once each year.

20 (c) The commission may temporarily approve the transfer of a
21 common carrier or contract carrier permit pending the final disposition
22 of an application for transfer of a permit if the failure to grant
23 such temporary approval may result in the interruption of adequate and
24 continuous service to the public or may result in destruction of or
25 injury to the present value or future usefulness of the motor carrier
26 properties sought to be transferred.

27 (d) Transportation service rendered under the grant of temporary
28 authority or temporary approval of transfer is subject to all applicable
29 provisions of this chapter and the regulations, requirements, and

1 orders of the commission. Temporary authority or temporary approval
2 of transfer may be granted without a hearing or other proceeding. If
3 the lawfulness of such a grant is an issue in an adjudicatory proceed-
4 ing, the commission, within its discretion and without hearing, may
5 extend the temporary authority or temporary approval for a period not
6 to exceed the pendency of the proceeding or such lesser time as required
7 by the public interest. The grant of any temporary permit, temporary
8 authority, or temporary approval of transfer creates no presumption
9 that a corresponding permanent permit or permanent approval of transfer
10 will be granted.

11 * Sec. 18. AS 42.15 is amended by adding a new section to read:

12 Sec. 42.15.066. REGISTRATION OF INTERSTATE OR FOREIGN OPERATING
13 AUTHORITY. (a) A bus carrier may not engage in interstate or foreign
14 bus commerce within the state unless it has complied with the require-
15 ments of this section:

16 (1) If all or any part of a carrier's operation requires
17 authority from the Interstate Commerce Commission, the carrier shall
18 file with the commission a petition for registration and a document of
19 registration, which state the operation to be conducted within the
20 state and which is authorized by the Interstate Commerce Commission.
21 A copy of the carrier's Interstate Commerce Commission permit must be
22 attached to the carrier's petition for registration. A copy of the
23 document which amends an interstate or foreign commerce bus carrier's
24 authority to operate must also be filed with the commission within a
25 reasonable time after the amending authority has been granted.

26 (2) If no part of an interstate or foreign commerce bus
27 carrier's operation requires authority from the Interstate Commerce
28 Commission, the carrier shall file with the commission a petition for
29 registration and a document of registration. The document of regis-

1 tration must state the type of operation and location of that opera-
2 tion to be conducted within the state. The operation to be conducted
3 within the state must be described in sufficient detail that a person
4 familiar with the applicable federal laws will be able to determine
5 from the information provided by the document of registration that
6 Interstate Commerce Commission authority is not required for that
7 operation. The carrier shall attach to the petition for registration
8 an affidavit of the carrier's chief executive officer or his designee
9 stating that the document of registration is true and complete, that
10 the bus carrier operation to be conducted within the state does not
11 require Interstate Commerce Commission authority, and that liability
12 and property damage insurance has been obtained by the carrier under
13 sec. 221 of this chapter. Payment of all applicable fees must accom-
14 pany the petition for registration. If the carrier's operation as
15 stated in the document of registration is modified, the carrier shall
16 submit an amended document of registration and other documents in the
17 same manner as if the carrier were filing its original petition for
18 registration.

19 (b) A bus carrier is registered with the commission when the
20 commission has ordered the acceptance of the petition for registration.

21 (c) This section does not require the registration of interstate
22 or foreign commerce bus carrier authority when the enforcement of this
23 statute would violate federal law.

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

25 Sec. 42.15.074. FEES. A fee must be paid to the commission by
26 every applicant, petitioner, complainant, or other person who applies
27 for a permit, temporary permit, extension of or transfer of a permit,
28 or who petitions the commission for registration of interstate or
29 foreign commerce authority, files an accusation or complaint, or

1 initiates any other formal proceeding which will require the commission
2 to make a formal decision. The commission may adopt regulations
3 interpreting this statute and setting reasonable fees to be assessed.

4 * Sec. 20. AS 42.15.111 is repealed and re-enacted to read:

5 Sec. 42.15.111. TEMPORARY AUTHORITY AND TEMPORARY APPROVAL. (a)

6 The commission may grant temporary authority to operate between points
7 or within an area as a common carrier in order to provide service for
8 which there is an immediate and urgent need or when unusual circum-
9 stances have imposed on the carrier an undue burden that may jeopardize
10 the viability of the carrier to provide adequate and continuous service.
11 The granted authority may not exceed 180 days unless a hearing has
12 been provided interested parties.

13 (b) The commission may grant temporary authority to operate as a
14 common carrier in order to evaluate and obtain operational information
15 of a new method or mode of transportation. The granted authority is
16 valid for the time the commission specifies, but the commission shall
17 re-evaluate the propriety of continuing the temporary authority at
18 least once each year.

19 (c) The commission may temporarily approve the transfer of a
20 common carrier certificate pending the final disposition of an appli-
21 cation for transfer of a certificate if the failure to grant such
22 temporary approval may result in the interruption of adequate and
23 continuous service to the public or may result in destruction of or
24 injury to the present value or future usefulness of the bus carrier
25 properties sought to be transferred.

26 (d) Transportation service rendered under the grant of temporary
27 authority or temporary approval of transfer is subject to all applicable
28 provisions of this chapter and the regulations, requirements and
29 orders of the commission. Temporary authority or temporary approval

1 of transfer may be granted without a hearing or other proceeding. If
2 the lawfulness of such a grant is an issue in an adjudicatory proceeding,
3 the commission, within its discretion and without hearing, may extend
4 the temporary authority or temporary approval for a period not to
5 exceed the pendency of the proceeding or such lesser time as required
6 by the public interest. The grant of temporary authority or temporary
7 approval of transfer creates no presumption that a corresponding
8 permanent certificate or permanent approval of transfer will be granted.

9 * Sec. 21. AS 42.15.221(a) is repealed and re-enacted to read:

10 Sec. 42.15.221. INSURANCE OR DEPOSIT OF SECURITY. (a) The
11 commission may not accept the registration of an interstate bus carrier
12 or foreign bus carrier under sec. 66 of this chapter, nor grant a bus
13 carrier permit or a temporary permit, nor allow any authorized bus
14 carrier to retain its permit unless the carrier has submitted to the
15 commission evidence that it has adequate liability and property damage
16 insurance, the commission has determined the submitted evidence is
17 sufficient and the terms of insurance satisfy the purpose of this
18 section, and the state has authorized the insurance carrier to do
19 business within this state. Alternatively, the applicant, petitioner,
20 or carrier may deposit with the commission, in place of evidence of
21 insurance, security which the commission determines is adequate to
22 satisfy the purpose of this section. The purpose of this section is
23 to protect the public against loss resulting from personal injury or
24 property damage for which a common bus carrier may be liable as a
25 result of its operations.

26 * Sec. 22. AS 42.25 is amended by adding a new section to read:

27 Sec. 42.25.025. TEMPORARY AUTHORITY AND TEMPORARY APPROVAL. (a)
28 The commission may grant temporary authority to operate between points
29 or within an area as a ferry operator in order to provide service for

1 which there is an immediate and urgent need or when unusual circum-
2 stances have imposed on the operator an undue burden that may jeopardize
3 the viability of the operator to provide adequate and continuous
4 service. The granted authority may not exceed 180 days unless a
5 hearing has been provided interested parties.

6 (b) The commission may grant temporary authority to operate as a
7 ferry operator in order to evaluate and obtain operational information
8 of a new method or mode of transportation. The granted authority is
9 valid for the time the commission specifies, but the commission shall
10 re-evaluate the propriety of continuing the temporary authority at
11 least once each year.

12 (c) The commission may temporarily approve the transfer of a
13 ferry operator permit pending the final disposition of an application
14 for transfer of a permit if the failure to grant such temporary
15 approval may result in the interruption of adequate and continuous
16 service to the public or may result in destruction of or injury to the
17 present value or future usefulness of the ferry operator's properties
18 sought to be transferred.

19 (d) Transportation service rendered under the grant of temporary
20 authority or temporary approval of transfer is subject to all applicable
21 provisions of this chapter and the regulations, requirements and
22 orders of the commission. Temporary authority or temporary approval
23 of transfer may be granted without a hearing or other proceeding. If
24 the lawfulness of such a grant is an issue in an adjudicatory proceed-
25 ing, the commission, within its discretion and without hearing, may
26 extend the temporary authority or temporary approval for a period not
27 to exceed the pendency of the proceeding or such lesser time as required
28 by the public interest. The grant of temporary authority or temporary
29 approval of transfer creates no presumption that a corresponding

1 permanent permit or permanent approval of transfer will be granted.

2 * Sec. 23. AS 42.10.130(d) (f) and 42.15.071(c) are repealed.
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