

Original sponsor: Commerce Committee

Offered: 2/22/78  
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 362

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 enforcement authority of the  
7 Alaska Transportation Commission."

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

9 \* Section 1. AS 42.07.031 is amended to read:

10 Sec. 42.07.031. QUORUM. Two members of the commission constitute  
11 a quorum for the transaction of business, for the performance of a duty,  
12 or for the exercise of a power of the commission, except as provided in  
13 sec. 181(b) of this chapter.

14 \* Sec. 2. AS 42.07.101(a) is amended to read:

15 (a) The commission may employ engineers, hearing officers, ex-  
16 perts, clerks, accountants, and other agents and assistants it considers  
17 necessary. The executive director, hearing officers and legal counsel  
18 are in the partially exempt service under AS 39.25. All other employees  
19 of the commission [EMPLOYEES AND AGENTS OF THE COMMISSION, OTHER THAN  
20 LEGAL COUNSEL,] are in the classified service under AS 39.25.

21 \* Sec. 3. AS 42.07.141 is amended by adding a new subsection to read:

22 (e) The commission may adopt regulations or issue orders governing  
23 the protection, assemblage, exchange, and distribution of information  
24 including the allocation of any costs incurred by a person in performing  
25 those activities.

26 \* Sec. 4. AS 42.07 is amended by adding new sections to read:

27 Sec. 42.07.171. ENFORCEMENT AUTHORITY. Every person so authorized  
28 by the commission has the enforcement authority set out in this section  
29 in order to enforce regulations and orders of the commission and to en-

1 force the statutes that the commission has the responsibility to admin-  
2 ister. The commission may authorize any person to

3 (1) require the operator of any surface or air vehicle which  
4 may be subject to or reasonably believed to be subject to the authority  
5 of the commission to present documents of vehicle registration, owner-  
6 ship, or other documents required by regulation to be in the possession  
7 of the operator;

8 (2) stop any surface or air vehicle and request the right to  
9 inspect cargo within the vehicle for the purpose of determining whether  
10 the operation of the vehicle violates any regulation or order of the  
11 commission or violates any statute the commission has the responsibility  
12 to administer; if a party refuses an enforcement officer the right to  
13 inspect the vehicle or its cargo, the officer may, by placing a seal on  
14 or around the cargo, prohibit the discharge of cargo except at the point  
15 or points of destination and in the presence of an authorized enforce-  
16 ment officer;

17 (3) detain or put a surface or air vehicle out of service  
18 where it reasonably appears that the continued operation of such a  
19 vehicle would jeopardize the public safety; the enforcement officer may,  
20 if he discovers a safety violation which in his opinion will not cause  
21 an accident or breakdown, order the vehicle to proceed to a designated  
22 repair area where the violation shall be corrected before the vehicle  
23 proceeds further;

24 (4) issue citations for the violation of commission regula-  
25 tions, orders, or the statutes which the commission has authority to  
26 administer; and

27 (5) apply to a court for an appropriate order.

28 Sec. 42.07.181. STOP ORDERS. (a) After providing a hearing in  
29 accordance with its regulations, the commission may issue a stop order

1 directed to any person violating, aiding or abetting the violation of  
2 any statute or regulation that the commission has authority to admin-  
3 ister.

4 (b) The commission may issue, ex parte, a stop order before hear-  
5 ing when it finds the interest of the public health, welfare or safety  
6 is likely to be jeopardized and the person who is operating

7 (1) has failed to file required insurance or surety bonds;

8 (2) is no longer fit, willing and able to operate properly;

9 (3) does so without an appropriate certificate or permit  
10 allowing him to conduct the transportation in question; or

11 (4) does so in a manner to establish a likelihood that the  
12 public safety will be jeopardized if such an order is not issued.

13 (c) Any stop order issued ex parte and without a hearing is effec-  
14 tive for 15 days, and the order shall provide the person a hearing  
15 within 15 days. If a hearing has been provided within 15 days, the  
16 commission may extend the stop order an additional 30 days in order that  
17 the commission may decide the matter.

18 (d) A stop order must be issued by a quorum of the commission ex-  
19 cept a single commissioner may issue a stop order under (b)(4) of this  
20 section.

21 (e) The commission may at any time rescind the stop order when the  
22 person is in compliance. The commission shall amend its rules of prac-  
23 tice and procedure within 90 days of the effective date of this Act to  
24 insure that any person subject to a stop order has the opportunity to  
25 have the stop order rescinded if the person is in compliance and to have  
26 a speedy and fair hearing in conformance with this section.

27 (f) If, after a hearing, the commission finds that a person to  
28 whom a stop order is directed knew that such an order had been issued  
29 before violating the order, the commission may fine that person \$1,000

1 for each day the violation of the order continues, or an amount equal to  
2 any revenue that person earned as a result of violating the order,  
3 whichever is greater.

4 (g) A person who refuses to allow an enforcement officer to ex-  
5 amine his cargo upon request under sec. 171(a)(2) of this chapter and  
6 who is subsequently determined to be in violation of a commission regu-  
7 lation shall be fined a sum of \$1,000 per day for each day of the viola-  
8 tion or the gross revenues earned in that particular operation, which-  
9 ever amount is greater.

10 \* Sec. 5. AS 39.25.120 is amended by adding a new paragraph to read:

11 (10) the executive director, hearing officers, and legal  
12 counsel of the Alaska Transportation Commission.