

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 am

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. A person who is an employee
28 of the commission and is so authorized by the commission has the en-
29 forcement authority set out in this section in order to enforce regu-

1 lations and orders of the commission and to enforce the statutes that
2 the commission has the responsibility to administer. The commission may
3 authorize that person to

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

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

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

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

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

29 Sec. 42.07.181. STOP ORDERS. (a) After providing a hearing in

1 accordance with its regulations, the commission may issue a stop order
2 directed to any person violating, aiding or abetting the violation of
3 any statute or regulation that the commission has authority to admin-
4 ister.

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

- 8 (1) has failed to file required insurance or surety bonds;
9 (2) is no longer fit, willing and able to operate properly;
10 (3) does so without an appropriate certificate or permit

11 allowing him to conduct the transportation in question; or

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

14 (c) Any stop order issued ex parte and without a hearing is effec-
15 tive for 15 days, and the order shall provide the person a hearing
16 within 15 days. If requested by the carrier charged, the hearing shall
17 be held in the judicial district in which the principal place of busi-
18 ness of the carrier is located. If a hearing has been provided within
19 15 days, the commission may extend the stop order an additional 30 days
20 in order that the commission may decide the matter.

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

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

1 (f) If, after a hearing, the commission finds that a person to
2 whom a stop order is directed knew that such an order had been issued
3 before violating the order, the commission may fine that person either
4 an amount not to exceed \$1,000 for each day the violation of the order
5 continues, or an amount equal to any revenue that person earned as a
6 result of violating the order.

7 (g) A person who refuses to allow an enforcement officer to ex-
8 amine his cargo upon request under sec. 171(a)(2) of this chapter and
9 who is subsequently determined to be in violation of a commission regu-
10 lation shall be fined either an amount not to exceed \$1,000 per day for
11 each day of the violation or the gross revenues earned in that parti-
12 cular operation.

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

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