

Introduced: 1/18/79
Referred: Commerce and
Judiciary

1 IN THE SENATE

BY SUMNER

2 SENATE BILL NO. 60

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST 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
13 in AS 42.07.181(b).

14 * Sec. 2. AS 42.07.141 is amended by adding a new subsection to read:

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

19 * Sec. 3. AS 42.07 is amended by adding new sections to read:

20 Sec. 42.07.171. ENFORCEMENT AUTHORITY. An enforcement officer
21 authorized and designated by the commission has the enforcement autho-
22 rity set out in this section in order to enforce regulations and orders
23 of the commission and to enforce the statutes that the commission has
24 the responsibility to administer. The commission may authorize that
25 person to

26 (1) require the operator of any surface or air vehicle which
27 may be subject to or reasonably believed to be subject to the authority
28 of the commission to present documents of vehicle registration, owner-
29 ship, or other documents required by regulation to be in the possession

1 of the operator;

2 (2) stop any surface or air vehicle which may be subject to
3 or reasonably believed to be subject to the authority of the commission
4 and request the right to inspect cargo within the vehicle for the pur-
5 pose of determining whether the operation of the vehicle violates any
6 regulation or order of the commission or violates any statute the com-
7 mission has the responsibility to administer; if a party refuses an
8 enforcement officer the right to inspect the vehicle or its cargo, the
9 officer may, by placing a seal on or around the cargo, prohibit the dis-
10 charge of cargo except at the point or points of destination and in the
11 presence of an authorized enforcement officer;

12 (3) detain or put a surface or air vehicle which may be
13 subject to or reasonably believed to be subject to the authority of the
14 commission out of service where it reasonably appears that the continued
15 operation of such a vehicle would jeopardize the public safety; the en-
16 forcement officer may, if he discovers a safety violation which in his
17 opinion will not cause an accident or breakdown, order the vehicle to
18 proceed to a designated repair area where the violation shall be cor-
19 rected before the vehicle proceeds further;

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

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

24 Sec. 42.07.181. STOP ORDERS. (a) After providing a hearing in
25 accordance with its regulations, the commission may issue a stop order
26 directed to any person violating, aiding or abetting the violation of
27 any statute or regulation that the commission has authority to admin-
28 ister.

29 (b) The commission may issue, ex parte, a stop order before hear-

1 ing when it finds the interest of the public health, welfare or safety
2 is likely to be jeopardized and the person who is operating

3 (1) has failed to file required insurance or surety bonds;
4 (2) is no longer fit, willing and able to operate properly;
5 (3) does so without an appropriate certificate or permit
6 allowing him to conduct the transportation in question; or

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

9 (c) A stop order issued ex parte and without a hearing is effec-
10 tive for 10 days, and the order shall provide the person a hearing
11 within 10 days. If requested by the carrier charged, the hearing shall
12 be held in the judicial district in which the principal place of busi-
13 ness of the carrier is located. If a hearing has been provided within
14 10 days, the commission may extend the stop order an additional 30 days
15 in order that the commission may decide the matter.

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

19 (e) The commission shall rescind the stop order when a satis-
20 factory showing is made that the person is in compliance. The commis-
21 sion shall amend its rules of practice and procedure within 90 days of
22 the effective date of this Act to insure that any person subject to a
23 stop order has the opportunity to have the stop order rescinded if the
24 person is in compliance and to have a speedy and fair hearing in confor-
25 mance with this section.

26 (f) If, after a hearing, the commission finds that a person to
27 whom a stop order is directed knew that such an order had been issued
28 before violating the order, the commission may fine that person either
29 an amount not to exceed \$1,000 for each day the violation of the order

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continues, or an amount equal to any revenue that person earned as a result of violating the order.

(g) A person who refuses to allow an enforcement officer to examine his cargo upon request under AS 42.07.171(a)(2) and who is subsequently determined to be in violation of a commission regulation shall be fined either an amount not to exceed \$1,000 a day for each day of the violation or the gross revenues earned in that particular operation.