

Introduced: 2/13/79
Referred: Commerce

1 IN THE SENATE

BY SUMNER

2 SPONSOR SUBSTITUTE FOR 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 Alaska Transportation Commis-
7 sion."

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 AS 42.07.181(d).

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

15 (a) The commission may employ engineers, hearing officers,
16 experts, clerks, accountants, and other agents and assistants it con-
17 siders necessary. The executive director, hearing officers and legal
18 counsel are in the partially exempt service under AS 39.25. All other
19 employees of the commission [EMPLOYEES AND AGENTS OF THE COMMISSION,
20 OTHER THAN 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. An enforcement officer
28 authorized and designated by the commission has the enforcement autho-
29 rity set out in this section in order to enforce regulations and orders

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

4 (1) require the operator of any surface or air vehicle which
5 may be subject to or is reasonably believed to be subject to the author-
6 ity of the commission to present documents of vehicle registration,
7 ownership, or other documents required by regulation to be in the pos-
8 session of the operator;

9 (2) stop any surface or air vehicle which may be subject to
10 or is reasonably believed to be subject to the authority of the commis-
11 sion and request the right to inspect cargo within the vehicle for the
12 purpose of determining whether the operation of the vehicle violates any
13 regulation or order of the commission or violates any statute which the
14 commission has a responsibility to administer; if the operator of that
15 vehicle refuses to permit inspection of the vehicle or its cargo, the
16 enforcement officer may, by placing a seal on or around the cargo,
17 prohibit the discharge of cargo except at the point or points of destin-
18 ation and in the presence of an authorized enforcement officer of the
19 commission;

20 (3) detain or remove from service a surface or air vehicle
21 which is subject to or is reasonably believed to be subject to the
22 authority of the commission when it reasonably appears that the con-
23 tinued operation of the vehicle would jeopardize the public safety; the
24 enforcement officer may, if he discovers a safety violation which in his
25 opinion will not cause an accident or breakdown, order the vehicle to
26 proceed to a designated repair area where the violation shall be
27 corrected before the vehicle proceeds further;

28 (4) issue citations for the violation of a regulation, order,
29 or statute under the jurisdiction of the commission; and

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

Sec. 42.07.181. STOP ORDERS. (a) The commission may, following a hearing under its regulations, issue a stop order directed to a person violating or aiding or abetting the violation of a regulation, order, or statute under the jurisdiction of the commission.

(b) The commission may issue a stop order on its own motion before a hearing if it finds that immediate and irreparable harm is likely to occur to the public or any member of the industry if the order is not issued. In addition, the commission may issue a stop order on its own motion if it finds that the party to whom the order is directed

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

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

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

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

(c) A stop order issued by the commission on its own motion and without a hearing is effective for 10 days, and the order shall provide the person a hearing within 10 days. If requested by the carrier charged, the hearing shall be held in the judicial district in which the principal place of business of the carrier is located. If a hearing has been provided within 10 days, the commission may extend the stop order an additional 30 days in order that the commission may decide the matter.

(d) A single commissioner may issue a stop order without a hearing if he finds that a person engaging in transportation does so in a manner that creates a likelihood that the public safety will be jeopardized if a stop order is not issued.

(e) The regulations of the commission shall provide that a person

1 subject to a stop order is given the opportunity to have the stop order
2 rescinded because he has complied with its terms.

3 (f) If, after a hearing, the commission finds that a person to
4 whom a stop order is directed violated the stop order, the commission
5 may fine that person \$1,000 for each day the violation of the stop order
6 continues, or an amount equal to any revenue that person earned as a
7 result of violating the stop order, whichever is greater.

8 (g) A person who refuses to allow an officer of the commission to
9 examine his vehicle or cargo within the vehicle upon request under AS
10 42.07.171(2) and who is subsequently determined to be in violation of a
11 regulation, order, or statute under the jurisdiction of the commission
12 shall be fined \$1,000 a day for each day of the violation or fined an
13 amount equal to the gross revenues earned by the violator in that par-
14 ticular operation, whichever amount is greater.

15 * Sec. 5. The Alaska Transportation Commission shall amend its rules of
16 practice and procedure within 180 days of the effective date of this Act to
17 insure that any person subject to a stop order issued under AS 42.07.181 has
18 the opportunity to have the stop order rescinded because he has complied with
19 its terms.

20 * Sec. 6. AS 39.25.120 is amended by adding a new paragraph to read:

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