

Original sponsor: Sumner

Offered: 3/13/79
Referred: Rules

1 IN THE SENATE

BY THE COMMERCE COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 60 am

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 and its regulation of air commerce under the
8 Alaska Air Commerce Act of 1960."

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

10 * Section 1. AS 42.07.031 is amended to read:

11 Sec. 42.07.031. QUORUM. Two members of the commission constitute
12 a quorum for the transaction of business, for the performance of a duty,
13 or for the exercise of a power of the commission, except as provided in
14 AS 42.07.181(d).

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

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

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

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

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

28 Sec. 42.07.171. ENFORCEMENT AUTHORITY. An enforcement officer
29 authorized and designated by the commission has the enforcement autho-

1 rity set out in this section in order to enforce regulations and orders
2 of the commission and to enforce the statutes that the commission has
3 the responsibility to administer. The commission may authorize that
4 person to

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

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

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

29 (4) issue citations for the violation of a regulation, order,

1 or statute under the jurisdiction of the commission; and

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

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

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

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

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

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

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

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

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

1 (e) The regulations of the commission shall provide that a person
2 subject to a stop order is given the opportunity to have the stop order
3 rescinded because he has complied with its terms.

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

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

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

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

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

24 * Sec. 7. AS 02.05.050(d)(1) is amended to read:

25 (1) may, in accordance with his certificate, the limitations
26 established by this chapter and regulations of the commission, utilize
27 in all areas of the state from which he is authorized to operate, air-
28 craft which have a maximum payload capacity determined with reference
29 to federal air regulations of not more than 7,500 pounds and a maximum

1 passenger seating configuration, exclusive of any pilot's seat, of 30
2 [HAVING A MAXIMUM CERTIFICATED TAKEOFF WEIGHT OF 12,500 POUNDS OR LESS]
3 except as authorized on certificates in effect on September 26, 1972 or
4 as otherwise authorized by the commission;

5 * Sec. 8. AS 02.05.050(d)(3) is amended to read:

6 (3) may charge individual passenger fares and per pound cargo
7 rates, except between points where a scheduled air carrier provides two
8 or more single plane round trips per week, including flag stops [ON BUSH
9 ROUTES OR POINTS SERVED BY HIM ON AN IRREGULAR BASIS; HOWEVER, NO INDI-
10 VIDUAL PASSENGER FARE AND PER POUND CARGO RATE MAY BE LESS THAN THAT
11 CONTAINED IN THE PUBLISHED TARIFF OF A SCHEDULED CARRIER BETWEEN POINTS
12 BEING SERVED BY THE CARRIER];
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