

Original sponsor: Sumner

Offered: 4/29/79
Referred: Rules

1 IN THE SENATE

BY THE COMMERCE COMMITTEE

2 HOUSE CS FOR CS FOR 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 and to 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 AS 42.07.101 is repealed and re-enacted to read:

16 Sec. 42.07.101. EMPLOYMENT OF COMMISSION PERSONNEL. (a) The
17 commission may employ an executive director who shall have had at least
18 five years of experience in public transportation management or regula-
19 tion, law, accounting, or an allied field. The executive director may
20 be a member of the commission. The commission may employ engineers,
21 hearing officers, staff legal counsel, experts, clerks, accountants, and
22 other agents and assistants it considers necessary. The executive
23 director, if not a member of the commission, his deputy and staff legal
24 counsel to the commission are in the partially exempt service under
25 AS 39.25.120. All other employees and agents of the commission are in
26 the classified service under AS 39.25.100. The salary of an executive
27 director who is a member of the commission may not exceed that of a
28 superior court judge.

29 (b) In addition to its staff of regular employees, the commission

may contract for and engage the services of consultants and experts the commission considers necessary.

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

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

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

Sec. 42.07.171. ENFORCEMENT AUTHORITY. An enforcement officer authorized and designated by the commission has the enforcement authority set out in this section in order to enforce regulations and orders of the commission and to enforce the statutes that the commission has the responsibility to administer. The commission may authorize that person to

(1) require the operator of any surface or air vehicle which may be subject to or is reasonably believed to be subject to the authority of the commission to present documents of vehicle registration, ownership, or other documents required by regulation to be in the possession of the operator;

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

(3) 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 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 if the order is not issued. In addition, the commis-

1 sion may issue a stop order on its own motion if it finds that the party
2 to whom the order is directed

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) is operating without an appropriate certificate or permit
6 allowing him to conduct the transportation in question; or

7 (4) is operating in a manner that will jeopardize the public
8 safety if such an order is not issued.

9 (c) A stop order issued by the commission on its own motion and
10 without a hearing is effective for five days, and the order shall pro-
11 vide the respondent a hearing within five days. If requested by the
12 respondent, the hearing shall be held in the judicial district in which
13 the residence or principal place of business of the respondent is
14 located. If a hearing has been provided within five days, the commis-
15 sion may extend the stop order an additional five days in order that the
16 commission may decide the matter.

17 (d) If a single commissioner finds that a person engaging in
18 transportation does so in a manner that creates a likelihood that the
19 public safety will be jeopardized if a stop order is not issued, he may
20 issue a stop order without a hearing. A stop order issued by a single
21 commissioner is effective for 48 hours or until a stop order is issued
22 by the commission under (c) of this section.

23 (e) A stop order shall be rescinded if the commission finds, upon
24 petition or upon its own motion, that the respondent has complied with
25 the terms of the stop order, or that the stop order was erroneously or
26 improperly issued.

27 (f) If, after a hearing, the commission finds that a respondent
28 violated the stop order, the commission may fine that person not more
29 than \$1,000 for each day the violation of the stop order continues, or

1 an amount equal to any revenue that person earned as a result of violat-
2 ing the stop order, whichever is greater. No fine may be collected if
3 violations or alleged conditions upon which the stop order was issued
4 are found by the commission or by a court not to apply.

5 (g) A respondent who is injured by the stop order or citation and
6 is subsequently determined not to have been in violation of a regula-
7 tion, order, or statute under the jurisdiction of the commission has a
8 claim against the state. A claim under this subsection shall be filed
9 in the superior court. It is not a defense to a claim under this sub-
10 section that the stop order or citation constituted a discretionary act
11 on the part of the commission or the enforcement officer.

12 (h) In this section, "respondent" means a person against whom a
13 stop order or citation is directed.

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

19 * Sec. 6. AS 02.05.050(d)(1) is amended to read:

20 (1) may, in accordance with his certificate, the limitations
21 established by this chapter and regulations of the commission, utilize
22 in all areas of the state from which he is authorized to operate, air-
23 craft which have a maximum payload capacity determined with reference
24 to federal air regulations of not more than 7,500 pounds and a maximum
25 passenger seating configuration, exclusive of any pilot's seat, of 30
26 [HAVING A MAXIMUM CERTIFICATED TAKEOFF WEIGHT OF 12,500 POUNDS OR LESS]
27 except as authorized on certificates in effect on September 26, 1972 or
28 as otherwise authorized by the commission;

29 * Sec. 7. AS 02.05.050(d)(3) is amended to read:

(3) may charge individual passenger fares and per pound cargo rates [ON BUSH ROUTES OR POINTS SERVED BY HIM ON AN IRREGULAR BASIS; HOWEVER, NO INDIVIDUAL PASSENGER FARE AND PER POUND CARGO RATE MAY BE LESS THAN THAT CONTAINED IN THE PUBLISHED TARIFF OF A SCHEDULED CARRIER BETWEEN POINTS BEING SERVED BY THE CARRIER];

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