

Original sponsor: Commerce Committee

Offered: 5/6/79

1 IN THE SENATE

BY THE FREE CONFERENCE COMMITTEE

2 FREE CONFERENCE CS FOR SENATE BILL NO. 236

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL.

6 For an Act entitled: "An Act continuing the existence of the Alaska Trans-
7 portation Commission and amending laws relating to the
8 commission; and providing for an effective date."

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 42.07.141 is amended by adding a new subsection to read:

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

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

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

27 (1) require the operator of any surface or air vehicle which
28 may be subject to or is reasonably believed to be subject to the author-
29 ity of the commission to present documents of vehicle registration,

1 ownership, or other documents required by regulation to be in the pos-
2 session of the operator;

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

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

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

10 (b) The commission may issue a stop order on its own motion before
11 a hearing if it finds that immediate and irreparable harm is likely to
12 occur to the public if the order is not issued. In addition, the commis-
13 sion may issue a stop order on its own motion if it finds that the party
14 to whom the order is directed

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

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

17 (3) is operating without an appropriate certificate or permit
18 allowing him to conduct the transportation in question; or

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

21 (c) A stop order issued by the commission on its own motion and
22 without a hearing is effective for five days, and the order shall pro-
23 vide the respondent a hearing within five days. If requested by the
24 respondent, the hearing shall be held in the judicial district in which
25 the residence or principal place of business of the respondent is
26 located. If a hearing has been provided within five days, the commis-
27 sion may extend the stop order an additional five days in order that the
28 commission may decide the matter.

29 (d) If a single commissioner finds that a person engaging in

1 transportation does so in a manner that creates a likelihood that the
2 public safety will be jeopardized if a stop order is not issued, he may
3 issue a stop order without a hearing. A stop order issued by a single
4 commissioner is effective for 48 hours or until a stop order is issued
5 by the commission under (c) of this section.

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

10 (f) If, after a hearing, the commission finds that a respondent
11 violated the stop order, the commission may fine that person not more
12 than \$1,000 for each day the violation of the stop order continues, or
13 an amount equal to any revenue that person earned as a result of violat-
14 ing the stop order, whichever is greater. No fine may be collected if
15 violations or alleged conditions upon which the stop order was issued
16 are found by the commission or by a court not to apply.

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

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

26 * Sec. 4. The Alaska Transportation Commission shall amend its rules of
27 practice and procedure within 180 days of the effective date of this Act to
28 insure that any person subject to a stop order issued under AS 42.07.181 has
29 the opportunity to have the stop order rescinded because he has complied with

1 its terms.

2 * Sec. 5. AS 02.05.050(d)(1) is amended to read:

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

12 * Sec. 6. AS 44.66.010(2) is amended to read:

13 (2) Alaska Transportation Commission (AS 42.07.011) --
14 June 30, 1981 [1979];

15 * Sec. 7. AS 02.05 is amended by adding a new section to read:

16 Sec. 02.05.035. EXEMPT AIR CARRIERS. This chapter applies to all
17 air carriers unless specifically exempted by this section. This chap-
18 ter, except when specifically otherwise provided, does not apply to air
19 carriers based in Alaska who provide 12-month service by

20 (1) the operation of rotary-wing aircraft (helicopters);

21 (2) the operation of unscheduled, single-engine, fixed-wing
22 aircraft with a certified gross takeoff weight of 5,500 pounds or less.

23 * Sec. 8. AS 39.25.120 is amended by adding a new paragraph to read:

24 (12) the director, deputy director, staff legal counsel, and
25 hearing officers of the Alaska Transportation Commission.

26 * Sec. 9. AS 42.07.101 is repealed and re-enacted to read:

27 Sec. 42.07.101. EMPLOYMENT OF COMMISSION PERSONNEL. (a) The
28 commission may employ an executive director who shall have had at least
29 five years of experience in public transportation management or regula-

1 tion, law, accounting, or an allied field. The executive director may
2 be a member of the commission. The commission may employ engineers,
3 hearing officers, staff legal counsel, experts, clerks, accountants, and
4 other agents and assistants it considers necessary. The executive
5 director, if not a member of the commission, his deputy and staff legal
6 counsel, and hearing officers to the commission are in the partially
7 exempt service under AS 39.25.120. All other employees and agents of
8 the commission are in the classified service under AS 39.25.100. The
9 salary of an executive director who is a member of the commission may
10 not exceed that of a superior court judge.

11 (b) In addition to its staff of regular employees, the commission
12 may contract for and engage the services of consultants and experts the
13 commission considers necessary.

14 * Sec. 10. AS 42.07.121 is amended to read:

15 Sec. 42.07.121. GENERAL POWERS AND DUTIES. The Alaska Transporta-
16 tion Commission shall supervise and regulate transportation in the state
17 as provided in this chapter and in AS 02.05, [AND] AS 42.10, and AS
18 42.15, [AS 42.25], and may do all things, whether specifically desig-
19 nated in this chapter or in AS 02.05, [OR] AS 42.10, or AS 42.15,
20 [AS 42.25], or in addition thereto, which are necessary or convenient in
21 the exercise of this power and jurisdiction.

22 * Sec. 11. AS 42.07 is amended by adding a new section to read:

23 Sec. 42.07.126. EXEMPT TRANSPORTATION CARRIERS. The jurisdiction
24 of the commission does not extend to the regulation of ferry transporta-
25 tion.

26 * Sec. 12. AS 42.07.131 is amended to read:

27 Sec. 42.07.131. AUTHORITY LIMITED BY FEDERAL LAW. The provisions
28 of this chapter and AS 02.05 and AS 42.10 [AND AS 42.15] apply to trans-
29 portation carriers engaged in foreign commerce and interstate commerce

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to the extent permitted by the constitution and laws of the United States.

* Sec. 13. AS 42.07 is amended by adding a new section to read:

Sec. 42.07.136. INSURANCE OR DEPOSIT OF SECURITY ON EXEMPT CARRIERS. The commission shall require carriers exempted under AS 02.-05.035, AS 42.07.126, and AS 42.10.020 to procure and maintain bodily injury and property damage liability insurance from a company licensed to write insurance in the state or deposit security for the limits of liability and upon the terms and conditions the commission determines necessary for the reasonable protection of the public against damage and injury for which the carrier may be liable by reason of its operation. Evidence of the required insurance shall be filed with the commission.

* Sec. 14. AS 42.10.020 is amended by adding a new paragraph to read:

(5) motor vehicles under 14,000 pounds GVW operated as tow trucks.

* Sec. 15. AS 42.10.090(2) is amended to read:

(2) require every private carrier and every exempt carrier except as provided in AS 42.10.020(4) and (5) to file information required by the commission to carry out this chapter, and supervise and regulate each private carrier in all other matters affecting its relationship with the shipping and the general public.

* Sec. 16. AS 39.23.060 is amended to read:

Sec. 39.23.060. REVIEW OF COMPENSATION AND BENEFITS; OFFICERS COVERED. The commission shall conduct an ongoing review of compensation and retirement benefits for members of the legislature; the governor; the lieutenant governor; commissioners, deputy commissioners, and division directors of each executive department; members of the Alaska Public Utilities Commission; members of the Alaska Pipeline Commission; members of the Alaska Transportation Commission; members of the Alaska

1 Commercial Fisheries Entry Commission; and the judiciary, to determine
2 the appropriateness of compensation and benefits.

3 * Sec. 17. AS 39.27.011(b) is amended to read:

4 (b) The salary schedule set out in (a) of this section has no
5 effect upon other provisions of law specifying the salary of the gover-
6 nor, lieutenant governor, legislators, judicial officers as defined in
7 AS 22.20.010, department heads, and members of the Alaska Public Utili-
8 ties Commission, the Alaska Transportation Commission, the Alaska Pipe-
9 line Commission, or the Alaska Commercial Fisheries Entry Commission.

10 * Sec. 18. AS 42.07.071 is amended to read:

11 Sec. 42.07.071. COMPENSATION OF MEMBERS OF THE ALASKA TRANSPORTA-
12 TION COMMISSION. The Commissioners are in the exempt service under
13 AS 39.25 and shall receive an annual salary as established under
14 AS 39.23 [SET BY AS 39.27.011(a) FOR RANGE 27, STEP C OF THE STATE PAY
15 PLAN].

16 * Sec. 19. AS 42.15 and AS 42.25 are repealed.

17 * Sec. 20. AS 02.05.035(2), as added by sec. 7 of this Act, takes effect
18 July 1, 1980. AS 02.05.035(1) as added by sec. 7 of this Act and secs. 1 -
19 6, 8 - 15, and 19 of this Act take effect July 1, 1979. Sections 16 and 20
20 of this Act take effect immediately in accordance with AS 01.10.070(c). Sec-
21 tions 17 and 18 of this Act take effect on the effective date of the next
22 recommendation submitted to and accepted by the legislature under AS 39.23.-
23 080(c) following the effective date of sec. 16 of this Act.