

Introduced: 2/13/84  
Referred: Labor and Commerce  
and Finance

1 IN THE SENATE

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2

SENATE BILL NO. 458

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act terminating the Alaska Transportation Commis-  
7 sion and repealing transportation laws administered  
8 by the commission; and requiring persons who carry  
9 persons or freight intrastate for compensation to  
10 have insurance or other security."

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

12 \* Section 1. STATEMENT OF PURPOSE. The legislature declares that

13 (1) because of Alaska's great size and distance from markets,  
14 Alaskans must have access to efficient low-cost transportation so that  
15 people and goods may move safely inside and out of the state;

16 (2) the Alaska Transportation Commission (ATC) creates motor and  
17 air carrier monopolies by legalized price fixing and tariffs that artifi-  
18 cially raise shipping rates and make consumer goods and services more  
19 expensive for all Alaskans;

20 (3) other government agencies can ensure safety standards while  
21 allowing persons to contract freely for services; and

22 (4) abolishing the ATC and its anti-competitive practices will  
23 subject air carriers and trucking companies to free market competition,  
24 thereby reducing freight rates, improving service, and saving Alaskan  
25 consumers millions of dollars each year.

26 \* Sec. 2. AS 28.10.105(c) is amended to read:

27 (c) Every vehicle registered before January 1, 1979 shall, no  
28 later than May 31, 1979, have its registration renewed by application  
29 for and payment of the registration fees prescribed in this chapter

1 [AND, IF APPLICABLE, THE ALASKA TRANSPORTATION COMMISSION FEES AS  
2 PRESCRIBED IN AS 42].

3 \* Sec. 3. AS 28.10.502(b) is amended to read:

4 (b) [A LIEN UNDER THIS SECTION IS LIMITED TO TOWING AND STORAGE  
5 CHARGES ASSESSED ACCORDING TO THE TARIFF FILED BY THE CARRIER WITH THE  
6 ALASKA TRANSPORTATION COMMISSION; HOWEVER, IN THE ABSENCE OF A FILED  
7 TARIFF, THE TOWING OR STORAGE CHARGE SHALL BE THE SAME AS THE LOWEST  
8 SIMILAR CHARGE IN THE OTHER FILED TARIFFS COVERING THE SAME SERVICE OR  
9 ROUTE.] Storage charges cease to be part of the lien after 60 days  
10 unless the registered owner or primary lienholder, if any, has been  
11 given actual notice of the possessory lien within that time or unless  
12 a certified letter has been mailed within that time to the owner and  
13 primary lienholder, if any, at their addresses of record with the  
14 Department of Public Safety or the corresponding office in another  
15 jurisdiction in which the title to the motor vehicle and the lien on  
16 it are recorded.

17 \* Sec. 4. AS 29.48.030(b) is amended to read:

18 (b) First and second class boroughs may exercise the powers  
19 conferred by (a) of this section or AS 29.48.033(a) only after they  
20 have been assumed in the manner required under AS 29.33.250 - 29.33.-  
21 290 for areawide exercise or in the manner required under AS 29.38.-  
22 010 - 29.38.050 for exercise in the borough area outside cities, or  
23 are conferred by AS 29.48.020 for exercise in the borough area outside  
24 cities. However, as to powers conferred under (a)(12) of this sec-  
25 tion, exercise of the powers areawide or in the borough area outside  
26 cities is at the option of the borough and is not subject to those  
27 restrictions on acquisition of additional borough powers. [WITH RE-  
28 SPECT ONLY TO BOROUGHS WHICH ON SEPTEMBER 10, 1972 ARE NOT EXERCISING  
29 POWERS CONFERRED UNDER (a)(12) OF THIS SECTION ON AN AREAWIDE BASIS,

1 OBJECTION WHICH A CITY MAY RAISE TO AREAWIDE EXERCISE OF THE POWERS BY  
2 A BOROUGH SHALL BE REVIEWED BY THE ALASKA TRANSPORTATION COMMISSION.  
3 THE COMMISSION SHALL DECIDE WHETHER EXERCISE OF THE POWERS EXCLUSIVELY  
4 BY THE BOROUGH AREAWIDE IS TO BE APPROVED AS IN THE PUBLIC INTEREST  
5 UNDER THE PARTICULAR FACTS AND CIRCUMSTANCES AT ISSUE.]

6 \* Sec. 5. AS 37.05.230 is amended to read:

7 Sec. 37.05.230. COMPETITIVE BIDS. In the manner provided in  
8 this chapter and regulations adopted [ESTABLISHED] under it

9 (1) a contract for construction and repairs, or a purchase  
10 of and contract for supplies, materials, equipment, and contractual  
11 services must be based on competitive bids; an award shall be made to  
12 the lowest responsible bidder after advertising for bids, except that  
13 (A) a bid shall be awarded to an Alaska bidder if the bid is not more  
14 than five percent higher than the lowest nonresident bidder's; and (B)  
15 competitive bids need not be required (i) for contractual services  
16 where no competition exists; (ii) for sales involving fair trade  
17 items; (iii) when, in the judgment of the purchasing agent, food,  
18 clothing, or medical supplies, or materials for use in laboratory and  
19 experimental studies may be purchased otherwise to the best advantage  
20 of the state; (iv) where rates are fixed by law or ordinance; (v) for  
21 items traded in on like items; or (vi) for professional services;

22 (2) if the amount of the contractual services, purchase, or  
23 sale is estimated to exceed \$5,000, sealed bids shall be solicited,  
24 when practicable, by publication in a newspaper calculated to reach  
25 prospective bidders and by posting notices in public places within the  
26 area where the work is to be performed or material furnished and in  
27 addition the department may also designate a trade journal for publi-  
28 cation; the department shall also solicit bids by sending notices by  
29 mail to all active prospective bidders known to it and all bids shall

1 be sealed when received, and shall be opened in public at the hour  
2 stated in the notice; the department may limit the solicitation of  
3 bids or negotiate directly if it finds that it is in the best inter-  
4 ests of the state;

5 (3) a contractual service, purchase or sale where the known  
6 requirements are estimated to be less than \$5,000 may be made either  
7 upon competitive bids in accordance with (2) of this section or in the  
8 open market, in the discretion of the department; but, so far as  
9 practicable, shall be based on at least three competitive bids and  
10 recorded as provided in AS 37.05.240; small purchases of less than  
11 \$500 in the discretion of the department may be made on the open  
12 market, and may be by cash payment from petty cash accounts set aside  
13 for that purpose; the department shall determine the amount of the  
14 petty cash accounts needed by each state agency, and inspect the petty  
15 cash accounts at least once each year to determine that the total plus  
16 amounts of receipts for unreplenished disbursements is equal to the  
17 fixed sum of cash set aside; shortages in petty cash accounts are a  
18 personal liability of the responsible head of the agency to whom the  
19 account is set aside; the department shall make all necessary regu-  
20 lations governing use and replenishment of petty cash funds;

21 (4) the provisions of this section relative to competitive  
22 bids do not apply to contracts for the operation of transportation  
23 systems for students to and from the schools within the state, as are  
24 authorized under AS 14.09.010; and these contracts may be awarded by  
25 bid or negotiation and, at the discretion of the Board of Education,  
26 may be awarded for periods of three years or less;

27 (5) an "Alaska bidder," for the purpose of bid awards under  
28 (1) (A) of this section, is a person who

29 (A) holds a current Alaska business license,

1 (B) submits a bid for goods or services under the name  
2 as appearing on the person's current Alaska business license,

3 (C) has maintained a place of business within the  
4 state for a period of six months immediately preceding the date  
5 of the bid;

6 (6) the competitive bid requirements of this section do not  
7 apply to air taxi services used by state employees when no formal  
8 contract is executed; the department affected shall pay the air taxi  
9 operator the [TARIFF] rates as filed [PUBLISHED] by the operator with  
10 the affected department [AIR TRANSPORTATION COMMISSION] for the type  
11 of aircraft required; the rates [TARIFFS] need not be uniform through-  
12 out the state and may reflect the diverse conditions of various areas  
13 of the state; the air taxi service used in each case shall be selected  
14 by the state employee who is to fly in the aircraft, or if more than  
15 one state employee is flying in the aircraft by the employee in  
16 charge; in all cases the air taxi operator shall have complied with  
17 [AS 02.05 AND OTHER] prequalifying regulations established by the  
18 affected department;

19 (7) the provisions of this section relative to an "Alaska  
20 bidder" do not apply to contracts estimated to exceed \$5,000 of the  
21 Department of Transportation and Public Facilities which are autho-  
22 rized under AS 35.15 or AS 19.10;

23 (8) the provisions of this section relative to competitive  
24 bids do not apply to the purchase of products or services manufactured  
25 or provided by a sheltered workshop;

26 (9) the provisions of this section relative to competitive  
27 bids do not apply to the purchase of products or services provided by  
28 the correctional industries program established under AS 33.32;

29 (10) requests for and acceptance of bids or other proposals

1 for professional services shall comply with AS 24.23 or AS 36.98.

2 \* Sec. 6. AS 45.50.572(e) is amended to read:

3 (e) AS 45.50.562 - 45.50.596 do not apply to carriers regulated  
4 under [AS 42.10,] AS 42.15 [, AND AS 02.05,] or to ferries regulated  
5 under AS 42.25.

6 \* Sec. 7. AS 42.30 is amended by adding new sections to read:

7 ARTICLE 5. RESPONSIBILITIES OF MOTOR AND AIR CARRIERS.

8 Sec. 42.30.200. FINANCIAL RESPONSIBILITY. (a) A person who  
9 carries by surface or air persons or freight for compensation in  
10 intrastate commerce within the state shall procure and maintain se-  
11 curity in an amount determined by the department as necessary for the  
12 reasonable protection of the public against damages or injury caused  
13 by the person.

14 (b) Evidence of security required under (a) of this section  
15 shall be filed with the department and must be

16 (1) a policy or certificate of insurance issued by an  
17 insurer acceptable to the department;

18 (2) a bond of a surety company licensed to write surety  
19 bonds in the state;

20 (3) evidence accepted by the department, showing ability to  
21 self-insure; or

22 (4) other security approved by the department.

23 Sec. 42.30.205. ENFORCEMENT AUTHORITY. An enforcement officer  
24 authorized and designated by the department has the authority to  
25 enforce regulations adopted by the department to carry out AS 42.30.-  
26 200. The department may authorize the enforcement officer to

27 (1) require the operator of a surface or air vehicle who  
28 carries passengers or freight for hire intrastate that may be subject  
29 to the authority of the department to present evidence of security

1 required by AS 42.30.200 or by regulations adopted to implement  
2 AS 42.30.200;

3 (2) issue citations for a violation of AS 42.30.200 or a  
4 regulation adopted to implement AS 42.30.200; and

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

6 Sec. 42.30.210. STOP ORDERS. (a) The department may, following  
7 a hearing under its regulations, issue a stop order directed to a  
8 person violating or aiding or abetting a violation of AS 42.30.200, a  
9 regulation adopted to implement AS 42.30.200, or an order under this  
10 section.

11 (b) The department may issue a stop order on its own motion  
12 before a hearing if the department finds that immediate and irre-  
13 parable harm is likely to occur to the public if the order is not  
14 issued when the party to whom the order is directed has failed to file  
15 or maintain required security under AS 42.30.200 or regulations  
16 adopted to implement AS 42.30.200.

17 (c) A stop order issued by the department on its own motion and  
18 without a hearing is effective for 10 days and the order shall provide  
19 the respondent a hearing within 10 days. If a hearing has been pro-  
20 vided within 10 days, the department may extend the stop order an  
21 additional 10 days in order that the department may decide the matter.

22 (d) A respondent subject to a stop order shall be given the  
23 opportunity to have the stop order rescinded because the respondent  
24 has complied with the stop order requirements.

25 (e) If, after a hearing, the department finds that a respondent  
26 violated the stop order, the department may fine that person not more  
27 than \$1,000 for each day the violation of the stop order continues or  
28 an amount equal to revenue that person earned as a result of violating  
29 the stop order, whichever is greater.

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2 (f) In this section, "respondent" means a person against whom a  
3 stop order or citation is directed.

4 Sec. 42.30.215. REGULATIONS. The department shall adopt regula-  
5 tions to implement AS 42.30.200 - 42.30.220.

6 Sec. 42.30.220. DEFINITION. In AS 42.30.200 - 42.30.220,  
7 "department" means the Department of Public Safety.

8 \* Sec. 8. AS 02.05; AS 19.40.100(b)(3); AS 28.10.411(b); AS 30.13.140;  
9 AS 39.25.120(c)(7); AS 39.50.200(b)(30); AS 42.07; AS 42.10 and AS 44.66.-  
10 010(a)(2) are repealed.