

Introduced: 4/12/84
Referred: Labor and Commerce
and Transportation

1 IN THE SENATE BY THE TRANSPORTATION COMMITTEE
2 SENATE BILL NO. 548
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act relating to commercial air carriers, estab-
7 lishing the Aviation Safety Commission; and providing
8 for an effective date."

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

10 * Section 1. AS 02 is amended by adding a new chapter to read:

11 CHAPTER 06. COMMERCIAL AIR CARRIERS.

12 ARTICLE 1. AVIATION SAFETY COMMISSION.

13 Sec. 02.06.010. AVIATION SAFETY COMMISSION ESTABLISHED. (a)

14 There is established in the Department of Transportation and Public
15 Facilities the Aviation Safety Commission consisting of seven commis-
16 sioners. Members of the commission shall be appointed by the governor
17 and confirmed by the legislature in joint session.

18 (b) Members of the commission shall be state residents and no
19 more than two members may be from the same judicial district. One
20 member shall have at least 10 years aviation management experience in
21 the state, one member shall have aviation safety inspection and en-
22 forcement experience, and one member shall be a public member with no
23 direct financial interest in aviation except as a consumer.

24 (c) Members of the commission serve staggered terms of three
25 years.

26 Sec. 02.06.020. QUORUM. Four members of the commission consti-
27 tute a quorum for the transaction of business. At least four affirma-
28 tive votes are required for commission action.

29 Sec. 02.06.030. COMPENSATION. Members of the commission serve

1 without compensation but are entitled to per diem and travel expenses
2 authorized by law for state boards and commissions.

3 Sec. 02.06.040. VACANCIES. (a) A vacancy on the commission is
4 filled by appointment by the governor, and the appointment must be
5 confirmed by the legislature in joint session. A member appointed to
6 fill a vacancy holds office for the balance of the term for which the
7 member's predecessor was appointed.

8 (b) A vacancy on the commission does not impair the authority of
9 a quorum of members to exercise the powers and perform the duties of
10 the commission.

11 (c) A member of the board whose term has expired shall serve
12 until a successor has been appointed and confirmed.

13 Sec. 02.06.050. OFFICERS. The commission shall elect from its
14 membership a chairman. The commission may elect additional officers.

15 Sec. 02.06.060. MEETINGS. (a) The chairman shall call meetings
16 of the commission at least twice each year and may call other meetings
17 as necessary. The chairman shall preside at meetings.

18 (b) The commission shall keep minutes of each meeting.

19 Sec. 02.06.070. REGULATIONS. The commission shall adopt regu-
20 lations in accordance with the Administrative Procedure Act (AS 44.62)

21 (1) establishing safety requirements applicable to air
22 carriers certified under this chapter;

23 (2) ensuring that air carriers certified under this chapter
24 obtain and maintain in force adequate levels of liability insurance to
25 protect persons using air carrier services;

26 (3) to carry out the provisions of this chapter.

27 ARTICLE 2. CERTIFICATION.

28 Sec. 02.06.100. LIMITED AIR TAXI CERTIFICATE. (a) An air
29 carrier operating air transportation services in conjunction with and

1 support of other activities of its business shall obtain a limited air
2 taxi certificate. A limited air taxi may offer air transportation on
3 demand service only from bases of operation named on the certificate
4 and may only engage in air transportation on demand service for a
5 number of air hours each year that is equal to or less than 50 percent
6 of the number of air hours performed in support of other activities of
7 its business.

8 (b) To obtain a limited air taxi certificate an air carrier must
9 apply on forms approved by the commission and supply the following
10 information:

11 (1) the name, address, and telephone number of the air
12 carrier and the form of the air carrier's business organization;

13 (2) the address and telephone number of each proposed base
14 of operations for the air carrier;

15 (3) the names, titles, citizenship, and addresses of each
16 person managing the air carrier and of the chief pilots of the air
17 carrier;

18 (4) the names and addresses of each person with 10 percent
19 or more ownership interest in the air carrier;

20 (5) a copy of the air carrier's currently valid Federal
21 Aviation Administration Air Carrier Operating Certificate (F.A.R. 135
22 or 121);

23 (6) a description of each aircraft to be used in the air
24 carrier's operations;

25 (7) a copy of the air carrier's current liability insurance
26 coverage that satisfied requirements established by regulations of the
27 commission;

28 (8) the name and description of the other activities of its
29 business that the air carrier will support;

1 (9) an estimate of the annual air hours performed in sup-
2 port of the other activities of its business and the annual air hours
3 performed on air transportation on demand service.

4 Sec. 02.06.110. AIR TAXI CERTIFICATE. (a) An air carrier
5 providing only air transportation on demand service shall obtain an
6 air taxi certificate. An air taxi may provide services anywhere in
7 the state.

8 (b) To obtain an air taxi certificate an air carrier must apply
9 on forms approved by the commission and supply the following informa-
10 tion:

11 (1) information required under AS 02.06.100(b)(1) - (7);

12 (2) information required by the commission to determine
13 whether the air carrier is fit to provide public air transportation on
14 demand service;

15 (3) a list of all aviation accidents, incidents, or vio-
16 lations involving the air carrier or persons managing the air carrier
17 or chief pilots of the air carrier that occurred within the previous
18 five years, together with the outcome of each and a description of
19 corrective actions taken;

20 (4) a list of each criminal or civil action brought against
21 the air carrier or a person managing the air carrier or a chief pilot
22 of the air carrier, together with the outcome of each action;

23 (5) a list of each judgment against the air carrier of
24 \$2,500 or more;

25 (6) a list of all consumer complaints filed against the air
26 carrier with an agency of the state or federal government;

27 (7) a list of every action taken against the air carrier or
28 a person managing the air carrier or a chief pilot of the air carrier
29 by the Civil Aeronautics Board, the United States Department of

1 Transportation, the Alaska Transportation Commission, or the Aviation
2 Safety Commission during the previous five years;

3 (8) any financial records of the air carrier for the pre-
4 vious fiscal year required by the commission;

5 (9) a description of the business organization of the air
6 carrier including job descriptions of management personnel responsible
7 for aspects of the operation relating to safety;

8 (10) a description of all aircraft and facilities to be used
9 in the proposed air taxi operation and, if the facilities are not
10 already owned or leased by the air carrier, a description of how they
11 will be acquired and financed; an air carrier certified as a limited
12 air taxi may submit proof of actual operation under its limited air
13 carrier certificate in lieu of this requirement.

14 Sec. 02.06.120. SCHEDULED AIR CARRIER CERTIFICATE. (a) An air
15 carrier providing scheduled air transportation service shall obtain a
16 scheduled air carrier certificate. A scheduled air carrier may also
17 provide air transportation on demand service.

18 (b) To obtain a scheduled air carrier certificate an air carrier
19 must apply on forms approved by the commission and supply the follow-
20 ing information:

21 (1) information required under AS 02.06.110(b)(1) - (9);

22 (2) the proposed initial schedule of air transportation
23 service offered and fares;

24 (3) the proposed contract of carriage to be used in the air
25 carrier's scheduled air transportation operations;

26 (4) a description of all aircraft and facilities to be used
27 in the proposed scheduled air transportation operation and, if the
28 facilities are not already owned or leased by the air carrier, a
29 description of how they will be acquired and financed; an air carrier

1 certified as an air taxi may submit proof of actual operation under
2 its air taxi certificate in lieu of this requirement.

3 Sec. 02.06.130. CONDITIONAL CERTIFICATION. If an air carrier
4 provides all information required for certification under this chapter
5 except a copy of its currently valid Federal Aviation Administration
6 Air Carrier Operating Certificate or a copy of its current liability
7 insurance coverage that satisfies requirements established by regu-
8 lations of the commission, the commission may issue a certificate with
9 operations under the certificate conditioned on filing the omitted
10 information with the commission.

11 Sec. 02.06.140. GRANTING OR DENYING A CERTIFICATE. (a) The
12 commission shall publish public notice of the receipt of an applica-
13 tion for an air carrier certificate. The notice shall include a
14 statement that objections to the application must be received by the
15 commission no later than 45 days after the notice is published.

16 (b) If the commission determines that the application is com-
17 plete and accurate and the applicant qualifies for certification, and
18 if the commission receives no objections to the application, the
19 commission shall issue an air carrier certificate 45 days after the
20 notice under (a) of this section is published.

21 (c) If the commission determines that the application is incom-
22 plete or incorrect or the applicant does not qualify for certifica-
23 tion, or if an objection to the application is filed, the commission
24 shall notify the applicant and give the applicant an opportunity to
25 respond. Within 30 days after the applicant responds, the commission
26 shall determine whether the application is complete and accurate and
27 the applicant qualifies for certification. If the application is
28 complete and accurate and the applicant qualifies for certification,
29 the commission shall issue the certificate. If the application is not

1 complete and accurate or the applicant does not qualify for certifica-
2 tion, the commission shall deny the application and notify the appli-
3 cant of reasons for the denial.

4 (d) An applicant whose air carrier certificate is denied may
5 apply for another certificate.

6 Sec. 02.06.150. AIRCRAFT CERTIFICATION. (a) An aircraft used
7 by an air carrier certified under this chapter must be certified by
8 the commission. Upon receipt of a copy of a current liability insur-
9 ance policy that meets requirements established by regulations of the
10 commission and covers the aircraft, the commission shall issue a
11 certificate indicating

- 12 (1) the name of the air carrier using the aircraft;
13 (2) the aircraft registration number;
14 (3) the expiration date of liability insurance covering the
15 aircraft.

16 (b) An air carrier shall display on the aircraft the certificate
17 issued under this section so that it is visible to boarding passen-
18 gers. The air carrier shall immediately remove the certificate and
19 cease using the aircraft in its air transportation operation if the
20 insurance specified on the certificate ceases to be in effect.

21 Sec. 02.06.160. ANNUAL REPORT. By January 31 of each year an
22 air carrier certified under this chapter shall file a report with the
23 commission. The report shall include

24 (1) an updated list of the names, titles, citizenship, and
25 addresses of each person managing the air carrier and of the chief
26 pilots of the air carrier;

27 (2) an updated list of the names and addresses of each
28 person with 10 percent or more ownership interest in the air carrier;

29 (3) a list of all aircraft used in operations of the air

1 carrier during the previous calendar year;

2 (4) if the air carrier is a limited air taxi, the annual
3 air hours performed during the previous calendar year in support of
4 the other activities of its business and the annual air hours per-
5 formed on air transportation on demand service;

6 (5) if the air carrier is an air taxi or scheduled air
7 carrier, the number of air hours of air transportation service per-
8 formed during the previous calendar year.

9 Sec. 02.06.170. AUTOMATIC SUSPENSION OR LAPSE OF AIR CARRIER
10 CERTIFICATES. (a) An air carrier certified under this chapter may
11 give the commission notice of voluntary suspension of air transporta-
12 tion services. Upon receipt of the notice, the commission shall
13 automatically suspend the air carrier certificate for the period of
14 time indicated in the notice, which may not exceed 12 months.

15 (b) An air carrier certificate shall automatically lapse if

16 (1) an air taxi or scheduled air carrier does not provide
17 air transportation services for compensation for 12 consecutive
18 months; or

19 (2) a limited air taxi does not provide air transportation
20 services for compensation for 21 consecutive months.

21 ARTICLE 3. ENFORCEMENT.

22 Sec. 02.06.200. COMPLAINTS. (a) A complaint against an air
23 carrier operating in the state may be filed with the commission within
24 90 days after an alleged violation of state or federal law or regula-
25 tion. If the information is available to the complainant, the com-
26 plaint shall include

27 (1) the name of the air carrier;

28 (2) the specific violation of state or federal law or
29 regulation alleged to have occurred;

- 1 (3) the date and place of the alleged violation;
2 (4) the names and titles of the persons involved in the
3 violation who are employed by or were acting on behalf of the air
4 carrier;
5 (5) a description of the circumstances and actions in-
6 volved;
7 (6) the name of the complainant.

8 (b) The commission shall review each complaint received to
9 determine whether a violation of state or federal law or regulation
10 may have occurred. If the commission determines that a violation may
11 have occurred, it shall request investigation of the complaint by the
12 Department of Public Safety. If the commission determines that a
13 violation did not occur, it shall dismiss the complaint and notify the
14 complainant.

15 Sec. 02.06.210. INVESTIGATION OF COMPLAINTS. (a) Upon receipt
16 of a request by the commission to investigate a complaint, the Depart-
17 ment of Public Safety shall conduct the investigation and attempt to
18 verify the facts alleged in the complaint.

19 (b) After conducting an investigation, the Department of Public
20 Safety shall provide a report of its findings to the commission with a
21 description of supporting evidence for the findings.

22 Sec. 02.06.220. COMMISSION ACTION. Upon receipt of a report on
23 an investigation by the Department of Public Safety, the commission
24 may refer the complaint and the report to the Department of Law or the
25 commission may conduct a disciplinary hearing under AS 02.06.230.

26 Sec. 02.06.230. DISCIPLINARY HEARINGS. (a) The commission may
27 censure an air carrier or revoke or suspend the certificate issued
28 under this chapter if the board finds after a hearing that the air
29 carrier violated this chapter or a regulation adopted under this

1 chapter or a federal law or regulation dealing with aviation safety.

2 (b) The commission shall immediately suspend the certificate of
3 an air carrier if it finds after a hearing that the air carrier does
4 not have in force liability insurance that meets requirements estab-
5 lished by regulations of the commission, the air carrier's Federal
6 Aviation Administration Air Carrier Operating Certificate is sus-
7 pended, or the air carrier has failed to file the annual report under
8 AS 02.06.160. A suspension under this subsection shall last until the
9 deficiency has been remedied by the air carrier.

10 (c) The commission shall permanently revoke the certificate of
11 an air carrier if it finds after a hearing that the air carrier has
12 not obtained liability insurance that meets requirements established
13 by regulations of the commission within 60 days after its insurance
14 lapses, the air carrier's Federal Aviation Administration Air Carrier
15 Operating Certificate is revoked or terminated, or the air carrier has
16 failed to file the annual report under AS 02.06.160 within 60 days
17 after it was due and has not obtained permission from the commission
18 to file the report late.

19 (d) Hearings shall be held under the Administrative Procedure
20 Act (AS 44.62).

21 Sec. 02.06.240. CERTIFICATION REQUIRED. (a) A person may not
22 provide or offer to provide air transportation services for compen-
23 sation unless the person is certified as an air carrier under this
24 chapter.

25 (b) Violation of this section is a class A misdemeanor.

26 Sec. 02.06.250. INJUNCTION. The commission may seek an injunc-
27 tion to stop or prevent a person from violating this chapter.

28 ARTICLE 4. GENERAL PROVISIONS.

29 Sec. 02.06.500. DEFINITION. In this chapter "commission" means

1 the Aviation Safety Commission.

2 * Sec. 2. Within 30 days after the effective date of this Act the
3 governor shall appoint initial members to the Aviation Safety Commission
4 and submit their names to the legislature for confirmation. Notwithstand-
5 ing AS 02.06.010(c) as enacted in sec. 1 of this Act, two initial members
6 shall serve one-year terms, two initial members shall serve two-year terms,
7 and three initial members shall serve three-year terms.

8 * Sec. 3. (a) Notwithstanding AS 02.06.100 as enacted in sec. 1 of
9 this Act, an air carrier may apply for and receive a limited air taxi
10 certificate if the air carrier holds on the effective date of this Act a
11 valid air taxi operator or contract carrier certificate issued by the
12 Alaska Transportation Commission that is limited to authorize the provision
13 of air transportation services only in support of other activities of the
14 air carrier's business.

15 (b) Notwithstanding AS 02.06.110 as enacted in sec. 1 of this Act, an
16 air carrier may apply for and receive an air taxi certificate if the air
17 carrier holds on the effective date of this Act a valid air taxi operator
18 or contract carrier certificate issued by the Alaska Transportation Commis-
19 sion that is not limited to authorize the provision of air transportation
20 services only in support of other activities of the air carrier's business.

21 (c) Notwithstanding AS 02.06.120 as enacted in sec. 1 of this Act, an
22 air carrier may apply for and receive a scheduled air carrier certificate
23 if the air carrier holds on the effective date of this Act a valid
24 scheduled air carrier certificate issued by the Alaska Transportation
25 Commission or the Civil Aeronautics Board.

26 * Sec. 4. AS 02.05 is repealed.

27 * Sec. 5. This Act takes effect July 1, 1984.