

Introduced: 1/25/85
Referred: State Affairs, Transportation
and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 103

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act providing authority for the Department of
7 Public Safety to regulate safety of motor carrier and
8 air carrier operations; and providing for an effec-
9 tive date."

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

11 * Section 1. AS 42.30 is amended by adding new sections to article 5 to
12 read:

13 Sec. 42.30.195. COMPLIANCE ENJOINED. A person may not operate
14 as a motor carrier on a public highway of this state, or engage in air
15 commerce to or from any point in this state, except in accordance with
16 AS 42.30.195 -- 42.30.270.

17 Sec. 42.30.197. EXEMPT MOTOR VEHICLES. (a) AS 42.30.195 --
18 42.30.220 and AS 42.30.230 -- 42.30.270 apply to all motor vehicles of
19 a motor carrier unless specifically exempted by this section. Unless
20 specifically provided otherwise, AS 42.30.195 -- 42.30.220 and AS 42.-
21 30.230 -- 42.30.270 do not apply to

22 (1) a motor vehicle operated exclusively in the transporta-
23 tion of United States mail or in the transportation of newspapers or
24 periodicals alone or in conjunction with an express service delivering
25 packages not to exceed 100 pounds to any one receiver;

26 (2) a motor vehicle owned and operated by the United
27 States, the state, or a borough, city, or unified municipality in the
28 state, or by an agency of any of them, except when the vehicle is used
29 to transport property of the general public for compensation in

1 competition with other carriers subject to this chapter, and to the
2 extent that regulation of vehicles operated by the United States is
3 permitted by the laws of the United States;

4 (3) a motor vehicle that is a "farm vehicle," as defined by
5 the department by regulation; that does not exceed an unladen total
6 gross weight of 16,000 pounds; that is owned by a person whose primary
7 source of livelihood is derived from the operation of a ranch, farm,
8 or dairy; and that is used exclusively to transport that person's own
9 ranch, farm, or dairy products to and from the market or to transport
10 supplies, commodities, or equipment to be used on the person's ranch,
11 farm, or dairy;

12 (4) a motor vehicle weighing 5,000 pounds or less, unladen
13 gross weight;

14 (5) a motor vehicle operated exclusively for the transpor-
15 tation of persons, which has a seating capacity of less than 16 pas-
16 sengers; and

17 (6) a motor vehicle operated exclusively for the transpor-
18 tation of students and teachers to or from school, which is subject to
19 regulation under AS 14.09.

20 (b) A vehicle weighing 5,000 pounds to 12,000 pounds, unladen
21 gross weight, is exempt from the requirements of AS 42.30.230.

22 * Sec. 2. AS 42.30.200 is amended to read:

23 Sec. 42.30.200. FINANCIAL RESPONSIBILITY. (a) A person operat-
24 ing as a motor carrier, except with regard to a vehicle exempt under
25 AS 42.30.197, or a person engaging in air commerce, [WHO CARRIES
26 PASSENGERS OR FREIGHT FOR HIRE INTRASTATE] shall procure and maintain
27 security in an amount determined by the Department of Public Safety as
28 necessary for the reasonable protection of the public against damages
29 or injury caused by the person.

1 (b) Evidence of security required under (a) of this section must
2 [SHALL] be filed with the department and must be

3 (1) a policy or certificate of insurance issued by an insur-
4 er acceptable to the department; or

5 (2) a bond of a surety company licensed to write surety
6 bonds in the state; or

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

9 (4) other security approved by the department.

10 (c) A policy of insurance, surety bond, or other form of securi-
11 ty is not cancellable on less than 30 days' written notice to the
12 department. This requirement must be clearly stated in the policy or
13 endorsement. The 30-day notice period is measured from the date upon
14 which the department receives notice.

15 (d) The department may authorize enforcement officers to enforce
16 this section.

17 (e) The department shall adopt regulations relating to financial
18 responsibility and enforcement of the financial responsibility re-
19 quirements set out in this section.

20 * Sec. 3. AS 42.30 is amended by adding new sections to read:

21 Sec. 42.30.205. BOND TO PROTECT SHIPPERS AND CONSIGNEES. The
22 department may, under regulations it adopts, require a motor or air
23 carrier to file a surety bond, or deposit security or a bond, in an
24 amount fixed by the department. The bond or security must be condi-
25 tioned upon the carrier paying to shippers and consignees money be-
26 longing to shippers and consignees, respectively, and coming into the
27 possession of the carrier in connection with its transportation ser-
28 vice. A carrier required by law to compensate a shipper or consignee
29 for loss, damage, or default for which a connecting carrier is legally

1 responsible is subrogated to the rights of the shipper or consignee
2 under the bond or deposit of security to the extent of the sum paid.

3 Sec. 42.30.210. IDENTIFICATION OF MOTOR VEHICLES. Each motor
4 carrier that is required to register under AS 42.30.315 shall place
5 sufficient identification, as determined by the department, on each
6 motor vehicle operated by that carrier that is not exempt under
7 AS 42.30.197. The required identification must be sufficient to allow
8 immediate determination of the carrier's name, address, and registra-
9 tion number. The department shall adopt regulations necessary to
10 implement this section.

11 Sec. 42.30.215. REGISTRATION OF INTRASTATE MOTOR CARRIERS. (a)
12 A person may not operate as an intrastate motor carrier, except with
13 regard to a vehicle exempt under AS 42.30.197, without obtaining
14 registration as a motor carrier from the department. Registration is
15 conditioned upon compliance with all other applicable provisions of
16 AS 42.30.195 -- 42.30.270, payment of applicable fees, and the filing
17 of an application accompanied by the following:

18 (1) proof of financial responsibility required under
19 AS 42.30.200;

20 (2) proof of bonding if required by regulations adopted
21 under AS 42.30.205;

22 (3) proof of a satisfactory safety inspection within the
23 preceding six months, by the department or its authorized representa-
24 tive, under AS 42.30.230 for all motor vehicles operated by the carri-
25 er, or, if the safety inspection for a vehicle within the preceding
26 six months was unsatisfactory, proof of repair or correction of the
27 vehicle's deficiency.

28 (b) An application for registration must be made in writing on a
29 form prescribed by the department, and must state the ownership,

1 control, affiliation with any other carrier, equipment to be used, and
2 other information the department requires.

3 (c) Registration under (a) of this section must be renewed
4 annually by paying the applicable renewal fee and filing a renewal
5 application, accompanied by the documentation of financial responsi-
6 bility, bonding, and safety compliance specified in (a)(1) -- (3) of
7 this section.

8 (d) A motor carrier, otherwise required to register under (a) of
9 this section, who is engaged in the transportation of property or
10 passengers by motor vehicle in intrastate commerce and who, before
11 February 28, 1985, obtained a permit to operate from the Alaska Trans-
12 portation Commission, is not required to file another application for
13 registration as prescribed in (a) of this section. Such a carrier is
14 required to file an application for renewal as prescribed in (c) of
15 this section no later than February 28, 1986; however, the renewal
16 application may not be granted until the applicant has complied with
17 all other applicable provisions of AS 42.30.195 -- 42.30.270.

18 Sec. 42.30.220. REGISTRATION OF MOTOR CARRIER'S INTERSTATE OPER-
19 ATING AUTHORITY. (a) A motor carrier may not operate as a motor
20 carrier in interstate or foreign commerce in the state without regis-
21 tering the operation with the department. Registration must be gran-
22 ted upon the filing of an application, the payment of applicable fees,
23 and upon compliance with the bonding requirement of AS 42.30.205, if
24 applicable, and with safety regulations adopted under AS 42.30.230(a).
25 An application for registration must be accompanied by either

26 (1) a copy of the operating authority pertaining to service
27 from, to, or within this state issued by the Interstate Commerce Com-
28 mission under 49 U.S.C. sec. 10921 (Interstate Commerce Act); or

29 (2) an affidavit of the motor carrier's exempt status,

1 including a description of the operations to be conducted, if the
2 operation does not require authority from the Interstate Commerce
3 Commission under 49 U.S.C. sec. 10921 (Interstate Commerce Act).

4 (b) Registration under (a) of this section, must be renewed
5 annually by filing a renewal application and paying the renewal fee.
6 Renewal is conditioned upon continued compliance with the bonding
7 requirement of AS 42.30.205, if applicable, and safety regulations
8 adopted under AS 42.30.230(a).

9 (c) A motor carrier operating as a motor carrier in interstate
10 or foreign commerce in the state, who, before February 28, 1985, reg-
11 istered its authority from the Interstate Commerce Commission with the
12 Alaska Transportation Commission, is not required to file another
13 initial application as prescribed in (a) of this section. Such a
14 carrier is required to file an application for renewal as prescribed
15 in (b) of this section; however, the renewal application may not be
16 granted until the applicant has complied with the bonding requirement
17 of AS 42.30.205, if applicable, and safety regulations adopted under
18 AS 42.30.230(a).

19 Sec. 42.30.225. REGISTRATION OF AIR CARRIERS. (a) A person may
20 not engage in air commerce without obtaining registration as an air
21 carrier from the department. Registration is conditioned upon compli-
22 ance with all other applicable provisions of AS 42.30.195 -- 42.30.-
23 270, payment of the applicable fees, and filing of an application
24 accompanied by the following:

25 (1) proof of financial responsibility required under
26 AS 42.30.200;

27 (2) proof of bonding if required by regulations adopted
28 under AS 42.30.205;

29 (3) evidence, satisfactory to the department, showing that

1 the applicant can and will comply with the provisions of the laws of
2 the United States and the state, and the regulations and orders re-
3 garding safety of operation.

4 (b) Applications for registration must be made in writing on a
5 form prescribed by the department, and must state the ownership, con-
6 trol, affiliation with any other carrier, equipment to be used, and
7 other information the department requires.

8 (c) Registration under (a) of this section must be renewed
9 annually by paying the applicable renewal fee and filing a renewal
10 application, accompanied by the documentation of financial responsi-
11 bility, bonding, and safety compliance specified in (a)(1) -- (3) of
12 this section.

13 (d) Except as provided in (e) of this section, each aircraft
14 owned or leased by a person subject to the provisions of this section
15 must be registered with the department before the aircraft is used in
16 air commerce. A certificate of registration must be issued by the
17 department for each aircraft. These certificates are valid for a
18 period of 12 months following the date of registration, and must be
19 renewed at the expiration of each 12-month period. The department
20 shall establish fees for registration of aircraft.

21 (e) Federally certificated interstate carriers that provide
22 intrastate service between points in the state on their interstate or
23 foreign routes and who use, for that intrastate service, aircraft
24 based primarily outside the state, shall register with the department
25 the aircraft used in intrastate service in the state. Registration
26 fees must be paid on the basis of the maximum number of aircraft used
27 in the intrastate service during any 24-hour period during the year,
28 as provided in regulations adopted by the department.

29 (f) Failure, by a person holding carrier registration under (a)

1 of this section, to register an aircraft before its use in air com-
2 merce may be cause for suspension or revocation of carrier registra-
3 tion in accordance with AS 42.30.240.

4 (g) An air carrier, operating as an air carrier, who, before
5 February 28, 1985, obtained a certificate to operate from the Alaska
6 Transportation Commission, is not required to file another application
7 for registration as prescribed in (a) of this section. Such a carrier
8 is required to file an application for renewal as prescribed in (c) of
9 this section no later than February 28, 1986; however, the renewal
10 application may not be granted until the applicant has complied with
11 all other applicable provisions of AS 42.30.195 -- 42.30.270.

12 Sec. 42.30.230. MOTOR VEHICLE SAFETY. (a) The department shall
13 adopt regulations governing the safety of operation of motor vehicles
14 that are subject to AS 42.30.195 -- 42.30.270, and providing for
15 enforcement of those safety requirements.

16 (b) An intrastate motor carrier shall have all of its motor
17 vehicles that are not exempted under AS 42.30.197 inspected for com-
18 pliance with safety regulations by the department or an authorized
19 representative of the department at least once every six months.

20 Sec. 42.30.235. ADOPTION OF REGULATIONS. The department may
21 adopt regulations to carry out the purposes of AS 42.30.195 -- 42.30.-
22 270 which apply to motor carriers, and to persons engaged in air
23 commerce, including but not limited to regulations for safety of
24 operations, financial responsibility, bonding, registration, fees,
25 identification of motor vehicles, and enforcement. The department
26 shall adopt these regulations under the Administrative Procedure Act
27 (AS 44.62).

28 Sec. 42.30.240. SUSPENSION OR REVOCATION OF CARRIER REGISTRA-
29 TION. (a) The department may suspend the registration of a motor

1 carrier or air carrier, without prior notice or hearing, upon failure
2 of the carrier to comply with AS 42.30.200, 42.30.205, or 42.30.225(e)
3 or (f). The suspension without a hearing is effective for 10 days.
4 The department shall provide the carrier whose registration is sus-
5 pended a hearing within 10 days. If the carrier so requests, the
6 hearing must be in the judicial district in which the carrier's prin-
7 cipal place of business in the state is located. If a hearing has
8 been provided by the department, the suspension may be extended for up
9 to 10 additional days in order that the hearing officer may decide the
10 matter.

11 (b) Upon complaint, or upon its own initiative, the department,
12 after notice and opportunity for hearing, and for good cause shown,
13 may revoke the registration of a motor carrier or air carrier. Good
14 cause for suspension or revocation of carrier registration includes
15 the following reasons:

16 (1) failure to submit evidence of financial responsibility
17 required by AS 42.30.200;

18 (2) failure to submit evidence of bonding if required by
19 regulations adopted under AS 42.30.205;

20 (3) failure to register aircraft used in air commerce as
21 required by AS 42.30.225(e) and (f);

22 (4) intentional misrepresentation of a material fact in
23 obtaining registration;

24 (5) intentional failure to comply with a provision of
25 AS 42.30.195 -- 42.30.270 or a regulation adopted under AS 42.30.235;

26 (6) failure to pay applicable fees.

27 (c) A carrier whose registration has been suspended for failure
28 to show financial responsibility or bonding may, at any time before
29 revocation, have the carrier registration reinstated upon proof of

1 compliance with AS 42.30.200 and 42.30.205. An air carrier whose
2 carrier registration has been suspended for failure to register air-
3 craft may, at any time before revocation, have the registration rein-
4 stated by complying with AS 42.30.225(e) and (f). In order to become
5 a registered carrier after registration has been revoked for any
6 reason, the carrier must pay applicable carrier registration fees and
7 submit a new application accompanied by the documentation required by
8 applicable provisions of AS 42.30.215, 42.30.220, and 42.30.225.

9 (d) A carrier whose registration has been revoked may appeal the
10 department hearing officer's decision to the superior court.

11 Sec. 42.30.245. ENFORCEMENT AUTHORITY; JUDICIAL ENFORCEMENT;
12 SEIZURE AND FORFEITURE. (a) Enforcement officers authorized by the
13 department and persons authorized and designated by the department to
14 perform inspections under AS 42.30.230 have the authority set out in
15 this section to enforce regulations of the department and to enforce
16 the statutes that the department administers. The department may
17 authorize these designated representatives to

18 (1) require the operator of a motor vehicle or aircraft
19 that might be subject to the authority of the department under AS 42.-
20 30.195 -- 42.30.270 to present documents of vehicle registration or
21 ownership, or other documents required by regulation to be in the
22 possession of the operator;

23 (2) stop a motor vehicle that might be subject to the au-
24 thority of the department under AS 42.30.195 -- 42.30.270 and request
25 the right to inspect cargo in the vehicle to determine whether the
26 operation of the vehicle violates a regulation of the department or a
27 statute which the department administers; if the operator of that
28 vehicle refuses to permit inspection of the vehicle or its cargo, the
29 authorized department representative may, by placing a seal on or

1 around the cargo, prohibit the discharge of the cargo except at a
2 point of destination and in the presence of an authorized representa-
3 tive of the department;

4 (3) detain or remove from service a motor vehicle that
5 might be subject to the authority of the department under AS 42.30.-
6 195 -- 42.30.270 when it reasonably appears to an authorized represen-
7 tative of the department that the continued operation of the vehicle
8 would jeopardize the public safety; if an authorized department rep-
9 resentative discovers a safety violation that in the representative's
10 opinion will not cause an accident or breakdown, the representative
11 may order the vehicle to proceed to a designated repair area where the
12 violation must be corrected before the vehicle departs the area;

13 (4) issue a citation for a violation of a regulation or
14 statute administered by the department; and

15 (5) apply to a court for an appropriate order or fine.

16 (b) The department may apply to the superior court for the
17 enforcement of a statute or regulation, or decision of the department
18 to suspend or revoke the registration of a motor carrier or air carri-
19 er under AS 42.30.240. The court may enforce obedience by any pro-
20 cess, including the restraint of the person and the person's officers,
21 agents, employees and representatives, from further violation.

22 (c) A motor vehicle or aircraft, used by a motor carrier or air
23 carrier without obtaining valid registration under the applicable pro-
24 visions of AS 42.30.215, 42.30.220, and 42.30.225, or used after
25 registration has been revoked under AS 42.30.240(b), may be seized by
26 the department. Upon conviction of the offender or by other judgment
27 of the court, a motor vehicle or aircraft used in violation of these
28 registration requirements is forfeited to the state and must be dis-
29 posed of as directed by the court. If sold, the proceeds of the must

1 be transmitted to the proper state officer for deposit in the general
2 fund of the state treasury. Motor vehicles or aircraft seized, unless
3 forfeited by order of the court, must be returned after the final
4 court decision and payment of any criminal fines and civil penalties.

5 Sec. 42.30.250. VIOLATION A MISDEMEANOR. A person who knowingly
6 fails or refuses to comply with a provision of AS 42.30.195 -- 42.-
7 30.270, a regulation or decision of the department, or a final order
8 or decree of a court, or who knowingly procures, aids, or abets such a
9 violation, is guilty of a misdemeanor, and, upon conviction, must be
10 sentenced to pay the costs of prosecution and a fine of not more than
11 \$500 for each offense.

12 Sec. 42.30.255. CIVIL PENALTIES FOR OPERATING WITHOUT REGISTRA-
13 TION. A motor carrier or air carrier, whose registration is suspended
14 under AS 42.30.240(a), and who operates a motor vehicle or aircraft
15 without the insurance or bond required by AS 42.30.200 and 42.30.205,
16 or a motor carrier or air carrier that operates a motor vehicle or
17 aircraft without obtaining valid carrier registration under AS 42.-
18 30.215, 42.30.220 or 42.30.225 or operates while carrier registration
19 is revoked under AS 42.30.240(b), is subject to a civil penalty of not
20 more than \$1,000 or an amount equal to revenue the carrier earned as a
21 result of the illegal operation, whichever is greater. This civil
22 penalty is in addition to any other civil or criminal penalties and
23 remedies provided by law, and may only be levied by a court of compe-
24 tent jurisdiction.

25 Sec. 42.30.260. EACH VIOLATION A SEPARATE OFFENSE. Each viola-
26 tion, by a motor carrier, air carrier, or other person, of the pro-
27 visions of AS 42.30.195 -- 42.30.270, or of a decision or regulation
28 of the department, is a separate offense. In case of a continuing
29 violation, each day's continuance is a separate offense.

1 Sec. 42.30.265. PENALTIES CUMULATIVE; RECOVERY. (a) All penal-
2 ties incurred under AS 42.30.195 -- 42.30.270 are cumulative; an
3 action for the recovery of one penalty is not a bar to and does not
4 affect the recovery of any other penalty, and is not a bar to a crim-
5 inal prosecution and imposition of a fine against a motor carrier, air
6 carrier, or an officer, director, agent, or employee of a motor carri-
7 er or air carrier, or any other person.

8 (b) Neither a criminal prosecution nor an action to recover a
9 penalty is a bar to an enforcement proceeding to require compliance,
10 nor to any other remedy provided by AS 42.30.195 -- 42.30.270.

11 (c) An action to recover a penalty or impose a fine under
12 AS 42.30.195 -- 42.30.270 must be brought by the attorney general in a
13 court of competent jurisdiction. All fines imposed and all penalties
14 recovered under this chapter must be paid to the court and deposited
15 by it in the general fund of the state.

16 Sec. 42.30.270. DEFINITIONS. For the purposes of AS 42.30.-
17 195 -- 42.30.270,

18 (1) "air carrier" means a person undertaking to engage in
19 air commerce, whether directly or indirectly, or by lease, contract,
20 or any other arrangement, and whether over regular or irregular
21 routes;

22 (2) "air commerce" means carriage by aircraft of persons or
23 property, for compensation or hire, in intrastate commerce, including
24 the carriage by aircraft of persons or property which move partly by
25 aircraft and partly by other forms of transportation;

26 (3) "aircraft" means a device used or designed for flight
27 in the air;

28 (4) "department" means the Department of Public Safety;

29 (5) "motor carrier" includes

1 (A) a person who undertakes to transport property or
2 persons for the general public by motor vehicle, for compensa-
3 tion, including motor vehicle operations of other carriers by
4 rail or water and of express or forwarding companies;

5 (B) a person who leases, rents, or provides a motor
6 vehicle for the use of another in transporting property or per-
7 sons, and who provides, procures, or arranges for, directly or
8 indirectly, a driver or operator for the motor vehicle; or who
9 provides the necessary authority for the use of the vehicle on a
10 public highway, except when the motor vehicle is leased to another
11 carrier;

12 (C) a person engaged in the business of providing,
13 contracting for, or undertaking to provide, transportation of
14 property, for compensation, over the public highways as a broker
15 or forwarder;

16 (D) a person who transports by motor vehicle, with or
17 without compensation, property that is owned or is being bought
18 or sold by that person, or property of which that person is the
19 seller, purchaser, lessee, or bailee, and the transportation is
20 incidental to and in furtherance of some other primary business
21 conducted by the person in good faith;

22 (E) except when the motor vehicle is leased to another
23 carrier, a person who rents, leases, or otherwise provides a
24 motor vehicle for the use of others in transporting passengers or
25 property, but who does not provide, procure, or arrange for,
26 directly or indirectly, an operator for the vehicle;

27 (F) a person who, under special and individual con-
28 tracts or agreements, transports property by motor vehicle, for
29 compensation;

1 (6) "motor vehicle" means a truck, tractor, wrecker, tow
2 car, bus, van, hearse, ambulance, or other self-propelled or motor-
3 driven vehicle used upon any public highway of this state for the
4 purpose of transporting property or persons, which is not exempted
5 under AS 42.30.197;

6 (7) "property" means all commodities, articles, and cargo,
7 of whatever nature or value, excluding garbage, refuse, trash, or
8 other waste material;

9 (8) "public highway" means every street, road, or highway
10 in this state;

11 (9) "seating capacity" includes a space capable of accommo-
12 dating an average-sized adult, if the overall seat configuration and
13 design, and vehicle design, are such that the position is likely to be
14 used as a seating position while the vehicle is in motion, but does
15 not include auxiliary seating accommodations such as temporary or
16 folding jump seats;

17 (10) "vehicle" includes every device capable of being moved
18 upon a public highway and in, upon, or by which a person or property
19 is or may be transported or drawn upon a public highway; the term does
20 not include a device moved by human or animal power or used exclusive-
21 ly upon stationary rails or tracks.

22 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
23 10.070(c).