

Original sponsor: Transportation Committee

1 IN THE SENATE BY THE TRANSPORTATION COMMITTEE
2 CS FOR SENATE BILL NO. 146 (Transportation)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act relating to weights and measures; citation
7 authority of employees enforcing weights and measures
8 limitations; and providing for an effective date."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. AS 45.75.050(b) is amended to read:
11 (b) The regulations may include
12 (1) standards of net weight, measure, or count, and reason-
13 able standards of fill, for a [ANY] commodity in package form;
14 (2) rules governing the technical and reporting procedures
15 to be followed, and the report and record forms and marks of approval
16 and rejection to be used by inspectors of weights and measures in the
17 discharge of their official duties;
18 (3) exemptions from the sealing or marking requirements of
19 AS 45.75.120 for [WITH RESPECT TO] weights and measures of a character
20 or size that sealing or marking would be inappropriate, impracticable,
21 or damaging to the apparatus in question; [AND]
22 (4) for [WITH RESPECT TO] classes of weights and measures
23 of a character that retesting is unnecessary to continued accuracy,
24 exemptions from the requirements of AS 45.75.070 and 45.75.080 for
25 testing, and schedules fixing the frequency of required retests for
26 classes of devices exempted; and
27 (5) in the implementation of AS 44.33.020(25), provisions
28 governing the size, weight, and load limitations established under
29 AS 19.10.060; the issuance of permits for overweight and oversize

1 vehicles; and the operation of weigh stations.

2 * Sec. 2. AS 45.75 is amended by adding new sections to read:

3 Sec. 45.75.131. ISSUANCE OF CITATIONS. (a) A peace officer or
4 an employee of the Department of Commerce and Economic Development who
5 is authorized by the commissioner to enforce the size, weight, and
6 load limitations adopted by the Department of Transportation and
7 Public Facilities under AS 19.10.060 may issue a citation to a person
8 who violates

9 (1) a weight, size, or load limitation;

10 (2) the terms of an overweight or oversize vehicle permit
11 issued under AS 44.33.020(25); or

12 (3) a regulation adopted under AS 28.05.011(2) or under
13 AS 44.33.020(25) and AS 45.75.050(b)(5).

14 (b) A citation issued under this section must be in writing. A
15 person receiving the citation is not required to sign a promise to
16 appear in court.

17 (c) The time specified in the notice to appear on a citation
18 issued under this section must be at least 15 days after the issuance
19 of the citation, unless the person cited requests an earlier hearing.

20 (d) The commissioner is responsible for the issuance of books
21 containing appropriate citations and shall maintain a record of each
22 book and each citation contained in it. The commissioner shall re-
23 quire and retain a receipt for every book issued to an employee of the
24 Department of Commerce and Economic Development designated by the
25 commissioner to provide investigative service to enforce provisions of
26 this chapter.

27 (e) A peace officer or an employee who issues a citation under
28 this section shall deposit the original or a copy of the citation with
29 a court having jurisdiction over the alleged offense. Upon its

1 deposit with the court, the citation may be disposed of only by trial
2 in the court or other official action taken by the magistrate, judge,
3 or prosecutor. The peace officer or employee who issued the citation
4 may not dispose of it or copies of it or of the record of its issuance
5 except as required under this subsection and (f) of this section.

6 (f) The commissioner shall require the return of a copy of every
7 citation issued under this section and of all copies of every citation
8 that has been spoiled or on which an entry has been made and not
9 issued to an alleged violator. The commissioner shall also maintain
10 in connection with every citation issued a record of the disposition
11 of the charge by the court in which the original or copy of the cita-
12 tion was deposited.

13 (g) If the form of citation issued under this section includes
14 the essential facts constituting the offense charged and is sworn to
15 as required under the laws of this state for a complaint charging
16 commission of the offense alleged in the citation, the citation when
17 filed with a court having jurisdiction, is considered to be a lawful
18 complaint for the purpose of prosecution.

19 (h) Unless the citation has been voided or otherwise dismissed
20 by the magistrate, judge, or prosecutor, or bail has been forfeited
21 under AS 45.75.133, a person who fails to appear in court to answer a
22 citation issued under this section, regardless of the disposition of
23 the charge for which the citation was issued, is guilty of a class B
24 misdemeanor.

25 Sec. 45.75.133. BAIL FORFEITURE. (a) The supreme court shall
26 specify by rule or order those violations that are appropriate for
27 disposition without court appearance, and shall establish a schedule
28 of bail amounts. The maximum bail forfeiture amount for an offense
29 may not exceed the maximum fine specified by law for that offense. If

1 the person who has been cited can dispose of the violation without
2 court appearance, the issuing peace officer or employee shall write on
3 the citation the amount of bail forfeiture applicable to the viola-
4 tion.

5 (b) A person cited for a violation for which a bail forfeiture
6 amount has been established under (a) of this section may, within 15
7 days after the date of the citation, mail or personally deliver to the
8 clerk of the court in which the citation is filed by the employee

9 (1) the amount of bail indicated on the citation for that
10 offense; and

11 (2) a copy of the citation indicating that the right to an
12 appearance is waived, a plea of no contest is entered and the bail is
13 forfeited.

14 (c) When the cited person has forfeited bail under (b) of this
15 section, the court shall enter a judgment of conviction. Forfeiture
16 of bail is a complete satisfaction for the violation. The clerk of
17 the court accepting the bail forfeiture shall provide the offender
18 with a receipt stating that fact.

19 (d) A cited person who fails to pay the bail forfeiture amount
20 established under (a) of this section or to appear in court as re-
21 quired, is guilty of a class B misdemeanor.

22 (e) Notwithstanding other provisions of law, if a person cited
23 for a violation for which a bail forfeiture amount has been estab-
24 lished under (a) of this section appears in court and is found guilty,
25 the court may not impose a penalty that exceeds the bail forfeiture
26 amount for that offense established under (a) of this section.

27 * Sec. 3. AS 45.75.380 is amended to read:

28 Sec. 45.75.380. OFFENSES AND PENALTIES. A person commits a
29 violation subject to the penalty specified in AS 12.55.035(b)(5) if

1 the person does one or more of the following acts [WHO, PERSONALLY OR
2 BY A SERVANT, OR AGENT, OR AS THE SERVANT OR AGENT OF ANOTHER, PER-
3 FORMS ANY ONE OF THE FOLLOWING ACTS IS GUILTY OF A MISDEMEANOR AND
4 UPON A FIRST CONVICTION OF THE VIOLATION IS PUNISHABLE BY A FINE OF
5 NOT LESS THAN \$20 NOR MORE THAN \$200, OR BY IMPRISONMENT FOR NOT MORE
6 THAN THREE MONTHS, OR BY BOTH. UPON A SECOND OR SUBSEQUENT CONVIC-
7 TION, THE PERSON IS PUNISHABLE BY A FINE OF NOT LESS THAN \$50 NOR MORE
8 THAN \$500, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH]:

9 (1) uses or has in possession for the purpose of using for
10 a [ANY] commercial purpose specified in AS 45.75.080, sells, offers,
11 or exposes for sale, or hire, or has in possession for the purpose of
12 selling or hiring, an incorrect weight or measure or a device or
13 instrument used to or calculated to falsify a weight or measure;

14 (2) uses or has in possession for current use, in buying or
15 selling a commodity or thing, or for hire or award, or in the computa-
16 tion of a basic charge or payment for services rendered on the basis
17 of weight or measurement, or in the determination of weight or mea-
18 surement when a charge is made for determination, a weight or measure
19 that has not been tested and sealed by the appropriate authority
20 within one year, [(A)] unless

21 (A) the person gives written notice [IS GIVEN] to the
22 appropriate authority to the effect that the weight or measure is
23 available for examination, or is due for reexamination [RE-EXAMI-
24 NATION], as the case may be; [.]

25 (B) the person receives [UNLESS] specific written
26 permission to use the weight or measure [IS RECEIVED] from the
27 appropriate authority; [.] or

28 (C) [UNLESS] the weight or measure is exempt from
29 sealing or annual testing requirements by AS 45.75.080 or by a

- 1 regulation adopted [OF THE DIRECTOR ISSUED] under AS 45.75.050;
- 2 (3) disposes of a rejected or condemned weight or measure
3 in a manner contrary to law or regulation;
- 4 (4) removes from a weight or measure, contrary to law or
5 regulation, a tag, seal, or mark placed on it by the appropriate
6 authority;
- 7 (5) sells or [,] offers [OR EXPOSES] for sale less than the
8 quantity the person represents of a commodity, thing, or service;
- 9 (6) takes more than the quantity the person represents of a
10 commodity, thing, or service when, as buyer, the person furnished the
11 weight or measure that the seller used to determine [BY MEANS OF
12 WHICH] the amount of the commodity, thing, or service [IS DETERMINED];
- 13 (7) keeps for the purpose of sale, advertises, or offers
14 [OR EXPOSES] for sale, or sells a commodity, thing, or service in a
15 condition or manner contrary to law or regulation;
- 16 (8) uses in retail trade, except in the preparation of
17 packages put up in advance of sale and of medical prescriptions, a
18 weight or measure that is not so positioned that a customer may accu-
19 rately read, from a position that may reasonably be assumed by a
20 customer, its indications [MAY BE ACCURATELY READ] and observe the
21 weighing or measuring operation [OBSERVED FROM SOME POSITION WHICH MAY
22 REASONABLY BE ASSUMED BY A CUSTOMER];
- 23 (9) hinders or obstructs the director, an inspector, a
24 sealer, or a deputy sealer in the performance of official duties under
25 this chapter;
- 26 (10) violates a provision of an overweight or oversize
27 vehicle permit issued under AS 44.33.020(25);
- 28 (11) violates a weight, load, or size limitation established
29 under AS 19.10.060 or a regulation adopted under AS 19.05.020,

1 AS 44.33.020(25), or AS 45.75.050(b)(5):

2 (12) violates a provision of this chapter or [OF] a regula-
3 tion adopted under this chapter for which a specific penalty is not
4 prescribed.

5 * Sec. 4. AS 45.75.380 is amended by adding a new subsection to read:

6 (b) Notwithstanding the maximum fine for a violation provided
7 under (a) of this section, a person who violates a regulation or
8 special permit governing the weight limit of a motor vehicle shall pay
9 a penalty of \$.05 for each pound of weight over the authorized weight
10 limit for the vehicle.

11 * Sec. 5. AS 45.75.390 is amended by adding a new paragraph to read:

12 (14) "commissioner" means the commissioner of commerce and
13 economic development.

14 * Sec. 6. AS 28.40.050(e) and AS 45.75.360 are repealed.

15 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).