

Offered: 5/14/87
Referred: Labor & Commerce
and Judiciary

5-0597N

Original sponsor: Transportation Committee

1 IN THE SENATE BY THE TRANSPORTATION COMMITTEE
2 HOUSE CS FOR 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 of commerce and economic development
6 to enforce the size, weight, and load limitations adopted by the
7 Department of Transportation and Public Facilities under AS 19.10.060
8 may issue a citation to a person 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 of public safety is responsible for the
21 issuance of books containing appropriate citations and shall maintain
22 a record of each book and each citation contained in it. The commis-
23 sioner of public safety shall require and retain a receipt for every
24 book issued to an employee of the Department of Commerce and Economic
25 Development designated by the commissioner of commerce and economic
26 development to provide investigative services to enforce provisions of
27 this chapter.

28 (e) A peace officer or an employee who issues a citation under
29 this section shall deposit the original or a copy of the citation with

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

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

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

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

26 Sec. 45.75.133. BAIL FORFEITURE. (a) The supreme court shall
27 specify by rule or order those violations that are appropriate for
28 disposition without court appearance, and shall establish a schedule
29 of bail amounts. The maximum bail forfeiture amount for an offense

1 may not exceed the maximum fine specified by law for that offense. If
2 the person who has been cited can dispose of the violation without
3 court appearance, the issuing peace officer or employee shall write on
4 the citation the amount of bail forfeiture applicable to the viola-
5 tion.

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

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

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

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

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

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

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

29 Sec. 45.75.380. OFFENSES AND PENALTIES. A person commits a

1 violation subject to the penalty specified in AS 12.55.035(b)(5) if
2 the person does one or more of the following acts [WHO, PERSONALLY OR
3 BY A SERVANT, OR AGENT, OR AS THE SERVANT OR AGENT OF ANOTHER, PER-
4 FORMS ANY ONE OF THE FOLLOWING ACTS IS GUILTY OF A MISDEMEANOR AND
5 UPON A FIRST CONVICTION OF THE VIOLATION IS PUNISHABLE BY A FINE OF
6 NOT LESS THAN \$20 NOR MORE THAN \$200, OR BY IMPRISONMENT FOR NOT MORE
7 THAN THREE MONTHS, OR BY BOTH. UPON A SECOND OR SUBSEQUENT CONVIC-
8 TION, THE PERSON IS PUNISHABLE BY A FINE OF NOT LESS THAN \$50 NOR MORE
9 THAN \$500, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH]:

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

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

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

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

29 (C) [UNLESS] the weight or measure is exempt from

- 1 sealing or annual testing requirements by AS 45.75.080 or by a
2 regulation adopted [OF THE DIRECTOR ISSUED] under AS 45.75.050;
- 3 (3) disposes of a rejected or condemned weight or measure
4 in a manner contrary to law or regulation;
- 5 (4) removes from a weight or measure, contrary to law or
6 regulation, a tag, seal, or mark placed on it by the appropriate
7 authority;
- 8 (5) sells or [,] offers [OR EXPOSES] for sale less than the
9 quantity the person represents of a commodity, thing, or service;
- 10 (6) takes more than the quantity the person represents of a
11 commodity, thing, or service when, as buyer, the person furnished the
12 weight or measure that the seller used to determine [BY MEANS OF
13 WHICH] the amount of the commodity, thing, or service [IS DETERMINED];
- 14 (7) keeps for the purpose of sale, advertises, or offers
15 [OR EXPOSES] for sale, or sells a commodity, thing, or service in a
16 condition or manner contrary to law or regulation;
- 17 (8) uses in retail trade, except in the preparation of
18 packages put up in advance of sale and of medical prescriptions, a
19 weight or measure that is not so positioned that a customer may accu-
20 rately read, from a position that may reasonably be assumed by a
21 customer, its indications [MAY BE ACCURATELY READ] and observe the
22 weighing or measuring operation [OBSERVED FROM SOME POSITION WHICH MAY
23 REASONABLY BE ASSUMED BY A CUSTOMER];
- 24 (9) hinders or obstructs the director, an inspector, a
25 sealer, or a deputy sealer in the performance of official duties under
26 this chapter;
- 27 (10) violates a provision of an overweight or oversize
28 vehicle permit issued under AS 44.33.020(25);
- 29 (11) violates a weight, load, or size limitation established

1 under AS 19.10.060 or a regulation adopted under AS 19.05.020,
2 AS 44.33.020(25), or AS 45.75.050(b)(5);

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

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

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

12 * Sec. 5. AS 28.40.050(e) and AS 45.75.360 are repealed.

13 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).