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Introduced: 1/11/82
Referred: Labor & Commerce
and Judiciary

IN THE SENATE

BY RAY AND DANKWORTH

HOUSE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 611

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act revising the criminal penalties for unlawful operation of an aircraft."

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

* Section 1. STATEMENT OF INTENT CONCERNING CHAPTERS 30 & 35 OF TITLE 2, ALASKA STATUTES. It is recognized by the Legislature, that from time to time certain Statutes require revision in order that they comply with Federal provisions, state of the art and public concern and safety. For these reasons, the intent of the Legislature in this bill is to make those revisions to the two above noted Chapters of Alaska Statutes which will at once cause them to operate in concert with applicable Federal Aviation Regulations, actual operating characteristics of the aircraft and aircrews involved, and to focus attention on the several areas of violation which the Legislature perceives as areas of major public concern. The Legislature recognizes that Air Commerce is an invaluable portion of the activities of the State, but that safety and operations of those aircraft so involved are such that without a high degree of professionalism and carefully prepared and enforced controls, the public is hopelessly at the mercy of the various operators. Therefore the following provisions are hereby enacted to provide workable statutes which do not provide duplication of penalties without genuine purpose.

* Section 2 AS 02.30.010 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 3. AS 02.30.030 (a) is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 4. AS 02.30.030 (b) is amended to read:

Sec. 02.30.010 (a) No person may operate an aircraft occupied by a crew member [or passenger] who is obviously under the influence of intoxicating intoxicating liquor or [habit-forming] drugs.

* Section 5. AS 02.30.030 (c) is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 6. AS 02.30.030 (d) is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 7. AS 02.30.040 is repealed and reenacted to read:

Sec. 02.30.020. PENALTIES A person violating AS 02.30.010 shall be guilty of a class B misdemeanor.

* Section 8. AS 02.35.010 is amended to read:

Sec. 02.35.010. Federal law followed. It is declared that the policy, principals, and practices established by the United States Air Commerce Act of 1958 [1926], and all amendments to it are adopted and extended and made applicable to cover all air traffic in this state, so far as not covered by federal law.

* Section 9. AS 02.35.020 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 10. AS 02.35.030 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 11. AS 02.35.040 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 12. AS 02.35.050 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 13. AS 02.35.060 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 14. AS 02.35.070 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 15. AS 02.35.080 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 16. AS 02.35.090 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 17. AS 02.35.100 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 17. AS 02.35.110 is amended to read:

Sec. 02.35.020. Emergency rations and equipment. (a) No airman may make a flight inside the State with an aircraft unless emergency equipment is carried as follows:

(1) The minimum equipment to be carried during the summer months is as follows:

(A) food for each occupant sufficient to sustain life for two weeks;

(B) one axe or hatchet;

(C) One first aid kit with capacity for each passenger and crew-member carried, as stated by the kit manufacturer;

(D) one pistol, revolver, shotgun or rifle, and ammunition for same in the following minimum quantities: pistol or revolver: 50 rounds
shotgun or rifle: 20 rounds;

(E) one small gill net, and an assortment of tackle such as hooks, flies, lines, sinkers etc.;

(F) one knife with a blade at least 5" long;

(G) [two small boxes of matches] two waterproof containers of matches each containing at least 25 matches, or equal;

- (H) one mosquito headnet for each occupant;
- (I) [two] four small signaling devices [such as] to include 2 colored smoke bombs, [railroad fuses] and 2 colored rocket or flare devices or Very pistol shells, in sealed metal containers, accompanied by the appropriate pistol or launching device.

(2) In addition to the above, the following must be carried as minimum equipment from October 15 to April 1 of each year:

- (A) one pair of snowshoes or one pair of cross country skis with proper bindings, poles and boots;
- (B) one sleeping bag;
- (C) one wool blanket for each occupant over four years of age, for whom a sleeping bag is not provided;

(b) However, operators of multi-engine aircraft licensed to carry more than 15 passengers need carry only the food, mosquito nets and signalling equipment at all times other than the period from October 15 to April 1 of each year, when two sleeping bags, and one blanket for every two passengers shall be carried. All of the above requirements as to emergency rations and equipment are considered to be minimum requirements which are to remain in full force and effect, except as further safety measures may be from time to time imposed by the department, in the form of published regulations.

* Section 18. AS 02.35.115 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 19. AS 02.35.120 is repealed and reenacted to read:
Sec. 02.35.030. Penalties for violation of this chapter. A person who violates a provision of this chapter shall be guilty of a class B misdemeanor.

* Section 20. AS 02.35.130 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 21. AS 02.35.140 is amended by changing its identification to AS 02.35.040.

* Section 22. AS 02.35.150 is amended by adding a second paragraph to read:

AS 02.35.050 (b) "AIRCRAFT" is defined in this chapter means a device that is used or intended to be used for flight in the air, and includes helicopters, gyrocopters, airplanes, sailplanes and gliders.

RATIONALE' AND EXPLANATION

SEC. 02.30.010. Two-way radios required.

Inasmuch as this section refers to "Commercial" aircraft operations with passengers, the applicable portions of the FAR's are found in Part 135. We note that those commercial operations that do not carry passengers, are not covered in the present language, thus allowing training flights with crew or ferry flights in uncontrolled airspace, and we feel that this is correct and needs no attention.

Part 135.157, however, provides that:

(a) No person may operate, under VFR, an aircraft carrying passengers at night, in a control zone or, except as provided in paragraph (c) of this section, over-the-top unless that aircraft has two-way radio communications equipment able, at least in flight, to transmit to, and receive from, ground facilities 25 miles away.

This part goes on with additional, similar language for other conditions, as shown in parts (b) and (c), but they are redundant for these purposes.

RATIONALE': The FAR is much more comprehensive and far better wording. The State statute is vague and sloppy. As one simple example, almost no aircraft radio will work 50 miles on the ground, and no other provision is allowed in the State language. Inasmuch as Sec. 02.35.010 Specifically adopts all the FAR's for State compliance, there is no need to lay this additional one on and attempt to enforce it.

Finally, the effect of SB 611, as written, would add CRIMINAL penalties to what is basically a technical equipment area of concern. As a practical matter, all part 121 (airline) aircraft always comply. Additionally, it would be a rare situation to find a part 135 (air-taxi/Charter) operator without at least one such aircraft radio; they often have 2 or more!

SEC. 02.30.030. (a) Reckless operation.

This section is also found, almost verbatim in several FAR's, and is redundant.

Part 91.8, provides:

No person may assault, threaten, intimidate, or interfere with a crewmember in the performance of the crewmember's duties aboard an aircraft being operated.

Part 91.9, provides:

No person may operate an aircraft in a careless or reckless manner so as to endanger the life or property of another.

RATIONALE': The FAR's more than adequately cover the problem and provide penalties for violation. Inasmuch as Sec. 02.35.010 Specifically adopts all the FAR's for State compliance, there is no need to lay this additional one on and attempt to enforce it.

If the desire is to provide stiffer penalties, then this may be accomplished by simply making reference to the specific FAR and provide Class A or B misdemeanor status.

Sec. 02.30.030 (b) (liquor or drugs)

The Alaska Airmen's Association and AOPA both heartily agree that aircrew members who violate this or parallel FAR's are a serious threat to public safety and are a discredit to an honorable profession. We have no objection to the State tacking on Criminal penalties to his portion.

We do however, have problems with the language of the present section, wherein

"No person may operate an aircraft occupied by a crew member or passenger who is obviously under the influence of intoxicating liquor or habit-forming drugs." (emphasis added)

Part 91.11, provides:

(a) No person may act as a crewmember of a civil aircraft-

- (1) Within 8 hours after the consumption of any alcoholic beverage;
- (2) While under the influence of alcohol; or
- (3) While using any drug that affects his faculties in any way contrary to safety.

(b) Except in an emergency, no pilot of a civil aircraft may allow a person who is obviously under the influence of intoxicating liquors or drugs (except a medical patient under proper care) to be carried in that aircraft. (emphasis added)

Part 135.115, provides:

(a) No person may drink any alcoholic beverage aboard an aircraft unless the certificate holder operating the aircraft has served that beverage.

(b) No certificate holder may serve any alcoholic beverage to any person aboard its aircraft if that person appears to be intoxicated.

(c) No certificate holder may allow any person to board any of its aircraft if that person appears to be intoxicated.

(d) Each certificate holder shall, within 5 days after the incident, report to the Administrator the refusal of any person to comply with paragraph (a) of this section, or any disturbance caused by a person who appears to be intoxicated aboard any of its aircraft. (emphasis added)

RATIONALE: Inasmuch as the FAR's are explicit and more comprehensive than the current State statute section, recommend they be the controlling directive; especially in light of Sec. 02.35.010 Specifically adopting the FAR's for State compliance.

We do however, have difficulty in making it a CRIMINAL offence as relates to the passengers. Terms such as "obviously under the influence" also include those suffering a hangover from the previous night, and they do not offer a threat to the Public traveling aboard an aircraft. As a matter of fact, they are docile. Terms such as "appears to be intoxicated" and the like are often used in this context. We submit that rigid enforcement of this portion would, as a practical matter, cut air commerce in this state in half over night.

Recommend that the FAR's be adopted and that the more severe penalty for Air Crew members be adopted on its own.

Sec. 02.30.030 (c) (over water)

This section is more than adequately covered in the FAR's, with little confusion and excellent language:

Part 91.33 (11) provides:

If the aircraft is operated for hire over water and beyond the power-off gliding distance from shore, approved floatation gear readily available to each occupant, and at least one pyrotechnic signaling device. (is required)

Part 91.79 (a) provides:

Except when necessary for takeoff or landing, no person may operate an aircraft lower than the following altitudes:

(a) ANYWHERE. An altitude allowing, if a power unit fails, an emergency landing without undue hazard to persons or property on the surface.

Part 135.167 provides:

No person may operate an aircraft in extended overwater operations unless it carries:

(note: This section is extremely long, and contains all manner of specific relations to rafts, floatation and signalling devices and the like. None of that is required here to make the point that there is no reference to any specific distances from land; only equipment required when flying off shore.)

RATIONALE': To begin with, the current State language, if enforced, would halt approximately 50% of the air commerce in the State immediately. Here are several obvious examples:

1. A single-engine land plane flying from Anchorage to Kodiak. (not uncommon)

To comply with this part, the aircraft would need to fly higher than 25,000 feet! Only those aircraft equipped with both turbochargers and pressurization could possibly comply.

2. A single-engine land plane flying from Anchorage to Juneau or Ketchikan. (not uncommon)

After Yakutat, heading southeasterly, the beach rapidly ends, replaced by beautiful mountains, covered with large trees, ending in rocks and surf. There is no beach; no "landing" is possible. One ditches in the Gulf of Alaska near shore and wades ashore with survival gear.

We feel that the Federal regulations more than adequately cover this contingency, with far better language, in all instances. Inasmuch as Sec. 02.35.010 adopts the FAR's for compliance by the State, it is redundant and confusing to establish still another, poorly worded criteria.

Finally, we feel that enforcement of this regulation is more than adequately covered by the FAA and no CRIMINAL record needs be developed, and no more severe penalties need be applied to this section of the code than is already provided.

Recommend deleting the section.

Sec. 02.30.030 (d) (snow and ice)

This section is more than adequately covered by FAR's:

Part 135.85, provides:

(a) No pilot may take off an aircraft that has-

(1) Frost, snow, or ice adhering to any rotor blade, propeller, windshield, or powerplant installation, or to an airspeed, altimeter, rate of climb, or flight attitude instrument system;

(2) Snow or ice adhering to the wings, or stabilizing control surfaces; or

(3) Any frost adhering to the wings, or stabilizing control surfaces, unless that frost has been polished to make it smooth.

(there are additional sections, but they are redundant for these purposes)

Part 91.209 provides virtually identical text.

RATIONALE': The FAA language is far more comprehensive. Inasmuch as Sec. 02.35.010 adopts the FAR's for State compliance, it is redundant and confusing to establish yet another, less comprehensive and confusing standard.

Finally, we feel that enforcement of this regulation is more than adequately covered by the FAA and no CRIMINAL record needs to be developed, and no more severe penalties need be applied to this section of the code than is already provided.

Recommend deletion of this section.

Sec. 02.35.010 Federal law followed

Good
This is an excellent section, and would and is referred to above and in other sections not herein noted. Unfortunately the United States Air Commerce Act of 1926 has been void since it was replaced with the 1958 edition. Recommend adoption of the current one.

Sec 02.35.040 Registration of Aircraft

This section provides that all the registration and documentation already required by applicable FAR's, and already on file with the FAA in Oklahoma City, and already available to the public upon request, and already printed in a government circular at least semi-annually, also be duplicated and filed with the Department of Transportation and Public Facilities.

We are unaware of any general aviation pilot who is aware of this provision or complies. We are unaware of any attempts by DOTPF to implement this section. We are unaware of any requirement for it. Recommend its deletion as an unnecessary, expensive and duplicating bureaucratic requirement with no valid requirement.

Sec. 02.35.050, Registration of Airmen

See section 02.35.040 above. Recommend deletion of this ineffective portion as well for the same reasons.

Sec. 02.35.060, 070 & 080.

See items above. Recommend deletion of these sections, which provide administrative control of the previous sections.

COMMENT: Inasmuch as these four (4) sections appear to have been in Public Law since 1949, and no attempt to comply has ever been initiated to our certain knowledge, this fact alone attests to the lack of requirement.

Sec. 02.35.090 License and permit to be exhibited on request.

Part 61.3, provides:

(a) *No person shall act as pilot in command or in any other capacity as a required pilot flight crew member of a civil aircraft of United States registry unless he has in his personal possession a current pilot certificate issued to him under this part.*

(h) *Each person who holds a pilot certificate, flight instructor certificate, medical certificate, authorization, or license required by this part shall present it for inspection upon request of the Administrator, an authorized representative of the National Transportation Safety Board, or any Federal, State, or local law enforcement officer.*

Part 91.27, provides:

(a) *Except as provided in part 91.23 (foreign aircraft), no person may operate a civil aircraft unless it has the following.*

(1) *An appropriate and current airworthiness certificate. Each U.S. airworthiness certificate used to comply with this subparagraph (except a special flight permit, a copy of the applicable operations specifications issued under 21.197(c) of this chapter, appropriate sections of the air carrier manual required by parts 121 or 127 of this chapter containing that portion of the operations specifications under 21.187(c), or an authorization under 91.45), must have on it the registration number assigned to the aircraft under part 47 of this chapter. However, the airworthiness certificate need not have on it an assigned special identification number before 10 days after that number is first affixed to the aircraft. A revised airworthiness certificate having on it an assigned special identification number, that has been affixed to an aircraft, may only be obtained upon application to an FAA flight standards district office.*

(2) *a Registration Certificated issued to its owner.*

(b) *No person may operate a civil aircraft unless the airworthiness certificate required by paragraph (a) of this section or a special flight authorization issued under 91.28 is displayed at the cabin or cockpit entrance so that it is legible to passengers or crew.*

RATIONALE' Obviously the Federal language more than adequately covers the entire situation and others not even dreamt of by State officials. Recommend deleting it and relying on Sec. 02.35.010 for application of the FAR's in Alaska.

Sec. 02.35.100 Temporary permit.

This entire section covers an area expressly preempted by the Federal Government. There simply is no legal way for the State of Alaska to license pilots under any circumstances. This is 100% an FAA matter.

As a practice matter, here is what would happen should there be an earthquake, major fire, flood or other State emergency: The authorized State official on the scene (Civil Defense Director, member of the National Guard etc), invoking whatever emergency authority may be available under other statutes, would notify the pilot/owner of an aircraft that it was required for service to say, send a generator to Bethel, evacuate something, haul medicine or supplies or the like. At that moment, the operator of the aircraft is under control and contract of the State of Alaska, and may operate any aircraft with no licenses at all.

He or she is operating in what is called the PUBLIC SERVICE, much the same as FAA pilots, military pilots, and even State pilots.

Recommend deletion of this entire section.

Sec. 02.35.110 Emergency rations and equipment.

This is an important part of the aviation Safety field in Alaska, and it should remain. There are, however, two (2) items which require updating:

Good 1. Item (2) (A) requires showshoes. We recognize that a pair of cross-country skis, poles and boots are superior to snowshoes for survival travel, and recommend addition of the skis as shown on the attached proposed amended bill.

2. Item (1)(D) requires a firearm and ammunition. While this is an excellent suggestion, there are two (2) problems with the provision:

a. In most cases a hand-gun is not a suitable survival weapon. Of far more value would be a lightweight shotgun and a supply of slugs and shot. We will not, however, offer this as an amendment at this time, as we have been counseled that it may be a controversial enough issue to log down passage of the more important safety items. We urge consideration, however.

b. There is no specified amount of ammunition, and one round could qualify. Recommend a minimum amount such as 25 or 50 rounds.

Sec. 02.35.115 Downed aircraft transmitting devices. (ELT's)

Sec. 91.52, provides

(a) *Except as provided in paragraphs (e) and (f) of this section, no person may operate a U.S. registered civil airplane unless it meets the applicable requirements of paragraphs (b), (c) and (d) of this section.*

(b) *To comply with paragraph (a) of this section, each U.S. registered civil airplane must be equipped as follows:*

(1) *For operations governed by the supplemental air carrier and commercial operator rules of part 121 of this chapter, or the air travel club rules of part 123 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in operable condition and meets the applicability requirements of TSC-C91;*

(2) *For charter flights governed by the domestic and flag air carrier rules of Part 121 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in*

operable condition and meets the applicable requirements of TSO-C91;

(3) For operations governed by Part 135 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in operable condition and meets the applicable requirements of TSO-C91; and

(4) For operations other than those specified in subparagraphs (1), (2) and (3) of this paragraph, there must be attached to the airplane a personal type or an automatic type emergency locator transmitter that is in operable condition and meets the applicable requirements of TSO-C91.

(Note: there are 2 more pages of technical details that are not required to demonstrate sufficiency here.)

RATIONALE' There is obviously very complete and thorough Federal regulation to cover the installation, maintenance and operation of ELT's in all aircraft operations in this state; commercial and private. This is an area over which the state has no authority whatsoever, and where the state regulations CONFLICT with the appropriate Federal regulations.

Additionally, and as a much more practice matter, one notes that under the FAR's, such ELT is inspected each year during the annual inspection of the aircraft under FAA criteria, and the aircraft is grounded if the ELT is not present, not in proper order or has an expired battery date. There is no such inspection system established or required under State authority.

OK Recommend that the item be deleted in its entirety and that reference to the FAR's via Sec. 02.35.010 for application in Alaska be sufficient.

Sec. 02.35.120, Penalties for violation of Chapter

might delete This section will be reduced in scope by the actions above. The only requirement for the section remaining in in those areas which the State desires to inflict CRIMINAL penalties on top of Federal penalties. These are reflected in the attached, proposed substitute bill.

Sec. 02.35.130, Penalty for violation of 90 or 110 of this chapter.

Same as above.

Sec. 02.35.150, Deffinitions

Because of difficulties in interpretation, we suggest that "aircraft" and "airplane" be defined here precisely as they are in FAR's.

OK. AIRCRAFT means: a device that is used or intended to be used for flight in the air, and when used in air traffic control terminology, may include the aircrew. (includes aircraft, helicopters, gyrocopters and all other heavier-than-air equipment, as well as gliders and sail planes)

AIRPLANE means: a divice such as above, but not including helicopters or gyrocopters.

GENERAL: Penalties under the FAR's are found in two (2) areas:

Sec. 609: wherein the Administrator has authority to revoke, suspend, or modify certificates. This includes pilot certificates, aircraft certificates and operator certificates. This is considered severe and serious penalty authority, and exceeds anything the State is empowered to do.

Sec. 901; wherein the FAA may impost Civil penalties. Such penalties are limited in current law to \$1,000 for each violation.



AIRCRAFT
OWNERS
AND
PILOTS
ASSOCIATION

The Honorable Terry Martin
State House of Representatives
The Behrends Building, Room 211
Pouch V, Juneau, Alaska 99 11
Interdepartmental mail stop: 3100

Atten: Ms Mary Isaacs

081-27

Dear Mary,

22 March 1982

Thank you so much for your call this morning concerning our interest in SB 611, the "Drunk Pilot Bill".

Yes indeed, I have made some input on the matter. I think that it swept through the Senate without comment because the bill is so simple and so short. There is no reference to airplanes or pilots, and I think most folks did what I did; put a copy off to the side to research at the "first spare moment". Well, the Associated Press did the basic research and it was their item in the paper that got our attention. We were first concerned because of two aspects of the report to the press:

- a. The drunk pilot language currently on the books includes passengers under the influence, and they need to be separated because slapping a class A misdemeanor on a pilot with a hungover passenger is STEEP!
- b. The report incorrectly stated that the criteria for a single engine aircraft offshore, related to "Fixed Gear". That would indicate that a retractable gear, single engine bird was o.k.

So the research began, and what to our wondering eyes appeared, but a whole raft of statutes dealing with aircraft and pilots, all of which needed complete overhaul! It is terrible, and in many cases, in direct conflict with the Federal Aviation Administration Regulations.

What I attempted to do was to re-write the two chapters of title 2 to fix every-thing and update it. As you can see from the package attached, the Alaska Airmen's Association has already endorsed the proposed changes. At this writing the Alaska Air Carriers Association is reviewing it, and preliminary indications this morning were that they would also endorse the proposal. The FAA Regional Counsel has a copy, at his request, and you may receive some input there, and if he does not generate it, you may consider asking for it.

I will be in Juneau from about noon on Thursday the 1st of April through 5 pm on Friday the 2nd, and will be pleased to visit with you and any staff or committee members on this bill. I will also be there to work on HB 634 and the new work in progress in Senator Mulcahy's Committee to increase the aviation fuel tax in support of the Alaskan Aviation Safety Foundation.

Thank you again; I look forward to seeing you all next week!

KENT LEE WOODMAN,
Regional Representative

encl: SB 611 package

Alaska Air Carriers Association

March 22, 1982

The Honorable Terry Martin
Chairman
House Commerce Committee
Pouch V
Juneau, AK 99811

RE: SB611

Dear Mr. Martin:

The Alaska Air Carriers Association supports the amendments to Title 2 prepared by the Aircraft Owners and Pilots Association.

AACA agrees that the entire Title 2, especially chapters 30 and 35, are in need of revision.

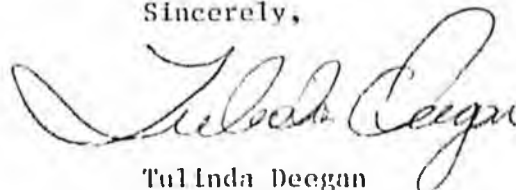
AACA is particularly concerned that Sec. 02.30.030 as written in SB611 and Title 2 will have a severe impact on air commerce in Alaska. AACA believes limitations on overwater flight are covered in the Federal Air Regulations. AACA recommends deleting this section.

AACA is also concerned with the wording of Section 02.30.030(b) (liquor or drugs). Air carriers would find it difficult to enforce the prohibition on transporting passengers "obviously under the influence" of alcohol or drugs.

The Aircraft Owner's and Pilots Association proposed several other important changes in Title 2.

AACA recommends that your committee adopt the proposed changes.

Sincerely,



Tulinda Deegan
Executive Director



ALASKA AIRMEN'S ASSN., INC.

P.O. Box 4-1287

Anchorage, Alaska 99509



THE HONORABLE RAMONA L BARNES
chairperson, House Judiciary Committee
The Capitol Building, Room 122
Pouch V, Juneau, Alaska 99811

Atten: Mr Dave Stancliff

Dear Mr Stancliff,

06 March 1982

This letter is to confirm that the Alaska Airmen's Association, Inc. supports the position and the work done by the AOPA representative on SB 611.

The entire Title 2 and especially chapters 30 and 35, were in need of work. As Mr Woodman has indicated, there certainly would not be 1 pilot in 50 that was aware of many of the requirements of the two chapters. Indeed, the DOTPF, even before it was emasculated by the present structure, never made any effort to establish the procedures, forms and formats for the various requirements under the current statute.

We suspect that had a pilot actually turned in certified copies of his aircraft registration, pilots license and the like, requesting his certified receipt, that the DOTPF would have been hard-pressed to develop any reasonable response. Similarly, the issuance of a temporary airmen's (pilot's) certificate in an emergency situation would certainly be a shock to them as well as to the FAA, who has the preemptive authority.

We are pleased that Mr Woodman has taken the time and effort to go through both chapters in detail and update them all at one massive effort, rather than just respond to what we might have perceived as a threat to our members and their operations from SB 611. In this way we feel that we have made a genuine effort to assist the State and the public by the effort.

Please call upon us if you should require additional materials or if you should have any questions. Thank you very much in advance for your assistance. I have taken the liberty of enclosing one of our membership applications.

Best personal regards,

JIM WOOD,
President

encl: application

cy to: AOPA
Alaska Air Carriers Association.



**AIRCRAFT
OWNERS
AND
PILOTS
ASSOCIATION**

FEDERAL AVIATION ADMINISTRATION
Office of the Regional Counsel
701 C Street
Anchorage, Alaska 99501

068-23

Atten: Don Boberick

Dear Mr Boberick,

09 March 1982

Thank you so much for the conversation Friday concerning State House Bill 611 and its impact on Alaskan aircraft and airmen operations.

As you can see from the attached documents, which you requested, I undertook to do a complete review of the whole of Chapters 30 & 35 of Alaska Statutes Title 2. As you can also see, most of the work leans towards simple adoption of the applicable FAR's and away from any confusion with two sets of rules covering the same areas....one of which is weak.

The reception from Representative Romona Barnes' office to date has been excellent and I have high hopes that the proposed House Committee Substitute may be introduced at least similar to the attached. If this bill should make it through the House and be accepted by the Senate, it will go a long way towards cleaning up the Statutes, and at the same time give them the heavier penalties they felt they needed for drinking and flying.

As you can also see, the Alaska Airmen's Association has already endorsed the submittal. The Alaska Air Carriers Association is currently studying it and I anticipate similar endorsement. If you feel you can provide an FAA endorsement as well, then I am certain Representative Barnes will appreciate it very much and it will go a long way towards helping this bill through expeditiously.

Good reading! and thank you again,

KENT LEE WOODMAN
Regional Representative

encl: Proposed bill
Rationale
cy AOPA ltr
cy Airmen ltr
cy Statutes



AIRCRAFT
OWNERS
AND
PILOTS
ASSOCIATION

THE HONORABLE RAMONA L BARNES
Chairperson, House Judiciary Committee
The Capitol Building, Room 122
Pouch V, Juneau, Alaska 99811

Atten: Mr Dave Stancliff

064-22

Dear Dave,

05 March 1982

This letter, with attachments, will confirm our several conversations, and provide the input to SB 611 from both the Alaska Airmen's Association (the largest general aviation organization in the State of Alaska, representing the interests of over 12,500 pilots) and the AOPA (the largest general aviation organization in the world).

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- a. A proposed amendment to SB 611, containing all the "repairs" we feel are required to update.
- b. A description sheet providing all the rationale and references for each of the proposed changes.

Thank you so much for the opportunity of visiting with you on the bill. It would be our pleasure to participate in teleconference, in-person testimony on the bill and/or subcommittee efforts to complete proper language for a substitute. Please be advised that we feel strongly enough about these provisions to lobby as required, and this is not casual input. After you have reviewed the materials herein, please comment on the timing and appropriateness of releasing it to the Senate sponsors so that they may be ready for joint committee. We intend to go public with the positions as required.

KENT LEE WOODMAN
Regional Representative

encl: Amended SB 611
Data sheets

cy to: Alaska Airmen's Association
Alaska Air Carriers Association

Alaska State Legislature



PAT CARNEY
DISTRICT 6
WASILLA, ALASKA 99687

POUCH V
JUNEAU, ALASKA 99911

COMMITTEES

FINANCE
RESOURCES

House of Representatives

March 22, 1982

Arthur J. Petersen
Great Northern Construction
Box 509
Wasilla, Alaska 99687

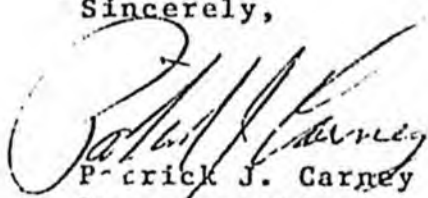
Dear Art:

Thank you for writing to me to inform me of some of the concerns you have with Senate Bill 611. I have talked with some people who are familiar with the area and they have indicated that they too have been concerned with the requirements that the proposed legislation would impose on pilots.

The bill is up for hearing in the House Labor and Commerce Committee on Thursday, March 25, 1982. I have sent a copy of your letter to Representative Martin so that he, too, may be aware of your suggestions. You may wish to call him directly at 465-3783.

If I can be of further assistance, please don't hesitate to contact me.

Sincerely,


Patrick J. Carney
Representative

GREAT NORTHERN CONSTRUCTION

BOX 509 • WASILLA, ALASKA 99687

MAR 16 1982



March 8, 1982

Representative Pat Carney
Pouch N
Wasilla, AK 99687

Dear Representative Carney:

Last week i read in the Anchorage Daily News that Senate Bill 611 recently passed had a stipulation and a stiff penalty for flying a single engine wheel plane over water at a low altitude as to making it impossilbe if the engine quite and you could not glide to shore.

If this is so, I feel then the House should hold some hearings on this bill in both the Anchorage and Mat-Su Valley areas. Becuase flying between Point McKenzie and Anchorage fields a private plane has to go over or under Elmendorfs Airspace. Most small planes use what is called the Ship Creek departure and cross the inlet from the mouth of Ship Creek to Point McKenzie at the 600 foot level and use the same return. This route is flown many times a day. If these planes were required to climb over the military corridor, they would have to circle over Anchorage to get to the required altitude and this in turn will thoroughly conjest and already crowded air space. If the paragraph states as was stated in the News, I really don't see its reasoning for it.

Sincerely,

Arthur J. Petersen, Private Pilot

*Thurs.
Pat.*



AIRCRAFT
OWNERS
AND
PILOTS
ASSOCIATION

THE HONORABLE RAMONA L BARNES
Chairperson, House Judiciary Committee
The Capitol Building, Room 122
Pouch V, Juneau, Alaska 99811

Atten: Mr Dave Stancliff

064-22

Dear Dave,

05 March 1982

This letter, with attachments, will confirm our several conversations, and provide the input to SB 611 from both the Alaska Airmen's Association (the largest general aviation organization in the State of Alaska, representing the interests of over 12,500 pilots) and the AOPA (the largest general aviation organization in the world).

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KENT LEE WOODMAN
Regional Representative

Box 2386 Star Road
Anch. AK 99507

encl: Amended SB 611
Data sheets

cy to: Alaska Airmen's Association
Alaska Air Carriers Association

Introduced: 1/11/82
Referred: Labor & Commerce
and Judiciary

IN THE SENATE

BY RAY AND DANKWORTH

HOUSE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 611

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act revising the criminal penalties for unlawful operation of an aircraft."

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

* Section 1. STATEMENT OF INTENT CONCERNING CHAPTERS 30 & 35 OF TITLE 2, ALASKA STATUTES. It is recognized by the Legislature, that from time to time certain Statutes require revision in order that they comply with Federal provisions, state of the art and public concern and safety. For these reasons, the intent of the Legislature in this bill is to make those revisions to the two above noted Chapters of Alaska Statutes which will at once cause them to operate in concert with applicable Federal Aviation Regulations, actual operating characteristics of the aircraft and aircrews involved, and to focus attention on the several areas of violation which the Legislature perceives as areas of major public concern. The Legislature recognizes that Air Commerce is an invaluable portion of the activities of the State, but that safety and operations of those aircraft so involved are such that without a high degree of professionalism and carefully prepared and enforced controls, the public is hopelessly at the mercy of the various operators. Therefore the following provisions are hereby enacted to provide workable statutes which do not provide duplication of penalties without genuine purpose.

* Section 2 AS 02.30.010 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 3. AS 02.30.030 (a) is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 4. AS 02.30.030 (b) is amended to read:

Sec. 02.30.010 (a) No person may operate an aircraft occupied by a crew member [or passenger] who is obviously under the influence of intoxicating intoxicating liquor or [habit-forming] drugs.

* Section 5. AS 02.30.030 (c) is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 6. AS 02.30.030 (d) is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 7. AS 02.30.040 is repealed and reenacted to read:

Sec. 02.30.020. PENALTIES A person violating AS 02.30.010 shall be guilty of a class B misdemeanor.

* Section 8. AS 02.35.010 is amended to read:

Sec. 02.35.010. Federal law followed. It is declared that the policy, principals, and practices established by the United States Air Commerce Act of 1958 [1926], and all amendments to it are adopted and extended and made applicable to cover all air traffic in this state, so far as not covered by federal law.

* Section 9. AS 02.35.020 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 10. AS 02.35.030 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 11. AS 02.35.040 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 12. AS 02.35.050 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 13. AS 02.35.060 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 14. AS 02.35.070 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 15. AS 02.35.080 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 16. AS 02.35.090 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 17. AS 02.35.100 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 17. AS 02.35.110 is amended to read:

Sec. 02.35.020. Emergency rations and equipment. (a) No airman may make a flight inside the State with an aircraft unless emergency equipment is carried as follows:

(1) The minimum equipment to be carried during the summer months is as follows:

(A) food for each occupant sufficient to sustain life for two weeks;

(B) one axe or hatchet;

(C) One first aid kit with capacity for each passenger and crew-member carried, as stated by the kit manufacturer;

(D) one pistol, revolver, shotgun or rifle, and ammunition for same in the following minimum quantities: pistol or revolver: 50 rounds
shotgun or rifle: 20 rounds;

(E) one small gill net, and an assortment of tackle such as hooks, flies, lines, sinkers etc.;

(F) one knife with a blade at least 5" long;

(G) [two small boxes of matches] two waterproof containers of matches each containing at least 25 matches, or equal;

- (H) one mosquito headnet for each occupant;
- (I) [two] four small signaling devices [such as] to include 2 colored smoke bombs, [railroad fuses] and 2 colored rocket or flare devices or Very pistol shells, in sealed metal containers, accompanied by the appropriate pistol or launching device.

(2) In addition to the above, the following must be carried as minimum equipment from October 15 to April 1 of each year:

- (A) one pair of snowshoes or one pair of cross country skis with proper bindings, poles and boots;
- (B) one sleeping bag;
- (C) one wool blanket for each occupant over four years of age, for whom a sleeping bag is not provided;

(b) However, operators of multi-engine aircraft licensed to carry more than 15 passengers need carry only the food, mosquito nets and signalling equipment at all times other than the period from October 15 to April 1 of each year, when two sleeping bags, and one blanket for every two passengers shall be carried. All of the above requirements as to emergency rations and equipment are considered to be minimum requirements which are to remain in full force and effect, except as further safety measures may be from time to time imposed by the department, in the form of published regulations.

* Section 18. AS 02.35.115 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 19. AS 02.35.120 is repealed and reenacted to read:
Sec. 02.35.030. Penalties for violation of this chapter. A person who violates a provision of this chapter shall be guilty of a class B misdemeanor.

* Section 20. AS 02.35.130 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 21. AS 02.35.140 is amended by changing its identification to AS 02.35.040.

* Section 22. AS 02.35.150 is amended by adding a second paragraph to read:

AS 02.35.050 (b) "AIRCRAFT" is defined in this chapter means a device that is used or intended to be used for flight in the air, and includes helicopters, gyrocopters, airplanes, sailplanes and gliders.

RATIONALE' AND EXPLANATION

SEC. 02.30.010. Two-way radios required.

Inasmuch as this section refers to "Commercial" aircraft operations with passengers, the applicable portions of the FAR's are found in Part 135. We note that those commercial operations that do not carry passengers, are not covered in the present language, thus allowing training flights with crew or ferry flights in uncontrolled airspace, and we feel that this is correct and needs no attention.

Part 135.157, however, provides that:

(a) No person may operate, under VFR, an aircraft carrying passengers at night, in a control zone or, except as provided in paragraph (c) of this section, over-the-top unless that aircraft has two-way radio communications equipment able, at least in flight, to transmit to, and receive from, ground facilities 25 miles away.

This part goes on with additional, similar language for other conditions, as shown in parts (b) and (c), but they are redundant for these purposes.

RATIONALE': The FAR is much more comprehensive and far better wording. The State statute is vague and sloppy. As one simple example, almost no aircraft radio will work 50 miles on the ground, and no other provision is allowed in the State language. Inasmuch as Sec. 02.35.010 Specifically adopts all the FAR's for State compliance, there is no need to lay this additional one on and attempt to enforce it.

Finally, the effect of SB 611, as written, would add CRIMINAL penalties to what is basically a technical equipment area of concern. As a practical matter, all part 121 (airline) aircraft always comply. Additionally, it would be a rare situation to find a part 135 (air-taxi/Charter) operator without at least one such aircraft radio; they often have 2 or more!

SEC. 02.30.030. (a) Reckless operation.

This section is also found, almost verbatim in several FAR's, and is redundant.

Part 91.8, provides:

No person may assault, threaten, intimidate, or interfere with a crewmember in the performance of the crewmember's duties aboard an aircraft being operated.

Part 91.9, provides:

No person may operate an aircraft in a careless or reckless manner so as to endanger the life or property of another.

RATIONALE': The FAR's more than adequately cover the problem and provide penalties for violation. Inasmuch as Sec. 02.35.010 Specifically adopts all the FAR's for State compliance, there is no need to lay this additional one on and attempt to enforce it.

If the desire is to provide stiffer penalties, then this may be accomplished by simply making reference to the specific FAR and provide Class A or B misdemeanor status.

Sec. 02.30.030 (b) (liquor or drugs)

The Alaska Airmen's Association and AOPA both heartily agree that aircrew members who violate this or parallel FAR's are a serious threat to public safety and are a discredit to an honorable profession. We have no objection to the State tacking on Criminal penalties to his portion.

We do however, have problems with the language of the present section, wherein

"No person may operate an aircraft occupied by a crew member or pas-

Part 91.11, provides:

(a) No person may act as a crewmember of a civil aircraft-

- (1) Within 8 hours after the consumption of any alcoholic beverage;
- (2) While under the influence of alcohol; or
- (3) While using any drug that effects his faculties in any way contrary to safety.

(b) Except in an emergency, no pilot of a civil aircraft may allow a person who is obviously under the influence of intoxicating liquors or drugs (except a medical patient under proper care) to be carried in that aircraft. (emphasis added)

Part 135.115, provides:

(a) No person may drink any alcoholic beverage aboard an aircraft unless the certificate holder operating the aircraft has served that beverage.

(b) No certificate holder may serve any alcoholic beverage to any person aboard its aircraft if that person appears to be intoxicated.

(c) No certificate holder may allow any person to board any of its aircraft if that person appears to be intoxicated.

(d) Each certificate holder shall, within 5 days after the incident, report to the Administrator the refusal of any person to comply with paragraph (a) of this section, or any disturbance caused by a person who appears to be intoxicated aboard any of its aircraft. (emphasis added)

RATIONALE: Inasmuch as the FAR's are explicit and more comprehensive than the current State statute section, recommend they be the controlling directive; especially in light of Sec. 02.35.010 Specifically adopting the FAR's for State compliance.

We do however, have difficulty in making it a CRIMINAL offence as relates to the passengers. Terms such as "obviously under the influence" also include those suffering a hangover from the previous night, and they do not offer a threat to the Public traveling aboard an aircraft. As a matter of fact, they are docile. Terms such as "appears to be intoxicated" and the like are often used in this context. We submit that rigid enforcement of this portion would, as a practical matter, cut air commerce in this State in half over night.

Recommend that the FAR's be adopted and that the more severe penalty for Air Crew members be adopted on its own.

Sec. 02.30.030 (c) (over water)

This section is more than adequately covered in the FAR's, with little confusion and excellent language:

Part 91.33 (11) provides:

If the aircraft is operated for hire over water and beyond the power-off gliding distance from shore, approved floatation gear readily available to each occupant, and at least one pyrotechnic signaling device. (is required)

Part 91.79 (a) provides:

Except when necessary for takeoff or landing, no person may operate an aircraft lower than the following altitudes:

(a) ANYWHERE. An altitude allowing, if a power unit fails, an emergency landing without undue hazard to persons or property on the surface.

Part 135.167 provides:

No person may operate an aircraft in extended overwater operations unless it carries:

(note: This section is extremely long, and contains all manner of specific relations to rafts, floatation and signalling devices and the like. None of that is required here to make the point that there is no reference to any specific distances from land; only equipment

RATIONALE': To begin with, the current State language, if enforced, would halt approximately 50% of the air commerce in the State immediately. Here are several obvious examples:

1. A single-engine land plane flying from Anchorage to Kodiak. (not uncommon)

To comply with this part, the aircraft would need to fly higher than 25,000 feet! Only those aircraft equipped with both turbochargers and pressurization could possibly comply.

2. A single-engine land plane flying from Anchorage to Juneau or Ketchikan. (not uncommon)

After Yakutat, heading southeasterly, the beach rapidly ends, replaced by beautiful mountains, covered with large trees, ending in rocks and surf. There is no beach; no "landing" is possible. One ditches in the Gulf of Alaska near shore and wades ashore with survival gear.

We feel that the Federal regulations more than adequately cover this contingency, with far better language, in all instances. Inasmuch as Sec. 02.35.010 adopts the FAR's for compliance by the State, it is redundant and confusing to establish still another, poorly worded criteria.

Finally, we feel that enforcement of this regulation is more than adequately covered by the FAA and no CRIMINAL record needs be developed, and no more severe penalties need be applied to this section of the code than is already provided.

Recommend deleting the section.

Sec. 02.30.030 (d) (snow and ice)

This section is more than adequately covered by FAR's:

Part 135.85, provides:

(a) *No pilot may take off an aircraft that has-*

(1) *Frost, snow, or ice adhering to any rotor blade, propeller, windshield, or powerplant installation, or to an airspeed, altimeter, rate of climb, or flight attitude instrument system;*

(2) *Snow or ice adhering to the wings, or stabilizing control surfaces; or*

(3) *Any frost adhering to the wings, or stabilizing control surfaces, unless that frost has been polished to make it smooth.*

(there are additional sections, but they are redundant for these purposes)

Part 91.209 provides virtually identical text.

RATIONALE': The FAA language is far more comprehensive. Inasmuch as Sec. 02.35.010 adopts the FAR's for State compliance, it is redundant and confusing to establish yet another, less comprehensive and confusing standard.

Finally, we feel that enforcement of this regulation is more than adequately covered by the FAA and no CRIMINAL record needs to be developed, and no more severe penalties need be applied to this section of the code than is already provided.

Recommend deletion of this section.

Sec. 02.35.010 Federal law followed

This is an excellent section, and would and is referred to above and in other sections not herein noted. Unfortunately the United States Air Commerce Act of 1926 has been void since it was replaced with the 1958 edition. Recommend adoption of the current one.

Sec 02.35.040 Registration of Aircraft

This section provides that all the registration and documentation already required by applicable FAR's, and already on file with the FAA in Oklahoma City, and already available to the public upon request, and already printed in a government circular at least semi-annually, also be duplicated and filed with the Department of Transportation and Public Facilities.

We are unaware of any general aviation pilot who is aware of this provision or complies. We are unaware of any attempts by DOTPF to implement this section. We are unaware of any requirement for it. Recommend its deletion as an unnecessary, expensive and duplicating bureaucratic requirement with no valid requirement.

Sec. 02.35.050, Registration of Airmen

See section 02.35.040 above. Recommend deletion of this ineffective portion as well for the same reasons.

Sec. 02.35.060, 070 & 080.

See items above. Recommend deletion of these sections, which provide administrative control of the previous sections.

COMMENT: Inasmuch as these four (4) sections appear to have been in Public Law since 1949, and no attempt to comply has ever been initiated to our certain knowledge, this fact alone attests to the lack of requirement.

Sec. 02.35.090 License and permit to be exhibited on request.

Part 61.3, provides:

(a) *No person shall act as pilot in command or in any other capacity as a required pilot flight crew member of a civil aircraft of United States registry unless he has in his personal possession a current pilot certificate issued to him under this part.*

(h) *Each person who holds a pilot certificate, flight instructor certificate, medical certificate, authorization, or license required by this part shall present it for inspection upon request of the Administrator, an authorized representative of the National Transportation Safety Board, or any Federal, State, or local law enforcement officer.*

Part 91.27, provides:

(a) *Except as provided in part 91.28 (foreign aircraft), no person may operate a civil aircraft unless it has the following.*

(1) *An appropriate and current airworthiness certificate. Each U.S. airworthiness certificate used to comply with this subparagraph (except a special flight permit, a copy of the applicable operations specifications issued under 21.197(c) of this chapter, appropriate sections of the air carrier manual required by parts 121 or 127 of this chapter containing that portion of the operations specifications under 21.187(c), or an authorization under 91.45), must have on it the registration number assigned to the aircraft under part 47 of this chapter. However, the airworthiness certificate need not have on it an assigned special identification number before 10 days after that number is first affixed to the aircraft. A revised airworthiness certificate having on it an assigned special identification number, that has been affixed to an aircraft, may only be obtained upon application to an FAA flight standards district office.*

(2) *a Registration Certificated issued to its owner.*

(b) *No person may operate a civil aircraft unless the airworthiness certificate required by paragraph (a) of this section or a special flight authorization issued under 91.28 is displayed at the cabin or cockpit*

RATIONALE' Obviously the Federal language more than adequately covers the entire situation and others not even dreamt of by State officials. Recommend deleting it and relying on Sec. 02.35.010 for application of the FAR's in Alaska.

Sec. 02.35.100 Temporary permit.

This entire section covers an area expressly preempted by the Federal Government. There simply is no legal way for the State of Alaska to license pilots under any circumstances. This is 100% an FAA matter.

As a practical matter, here is what would happen should there be an earthquake, major fire, flood or other State emergency: The authorized State official on the scene (Civil Defense Director, member of the National Guard etc), invoking whatever emergency authority may be available under other statutes, would notify the pilot/owner of an aircraft that it was required for service to say, send a generator to Bethel, evacuate something, haul medicine or supplies or the like. At that moment, the operator of the aircraft is under control and contract of the State of Alaska, and may operate any aircraft with no licenses at all.

He or she is operating in what is called the PUBLIC SERVICE, much the same as FAA pilots, military pilots, and even State pilots.

Recommend deletion of this entire section.

Sec. 02.35.110 Emergency rations and equipment.

This is an important part of the aviation Safety field in Alaska, and it should remain. There are, however, two (2) items which require updating:

1. Item (2) (A) requires showshoes. We recognize that a pair of cross-country skis, poles and boots are superior to snowshoes for survival travel, and recommend addition of the skis as shown on the attached proposed amended bill.
2. Item (1)(D) requires a firearm and ammunition. While this is an excellent suggestion, there are two (2) problems with the provision:
 - a. In most cases a hand-gun is not a suitable survival weapon. Of far more value would be a lightweight shotgun and a supply of slugs and shot. We will not, however, offer this as an amendment at this time, as we have been counseled that it may be a controversial enough issue to bog down passage of the more important safety items. We urge consideration, however.
 - b. There is no specified amount of ammunition, and one round could qualify. Recommend a minimum amount such as 25 or 50 rounds.

Sec. 02.35.115 Downed aircraft transmitting devices. (ELT's)

Sec. 91.52, provides

(a) Except as provided in paragraphs (e) and (f) of this section, no person may operate a U.S. registered civil airplane unless it meets the applicable requirements of paragraphs (b), (c) and (d) of this section.

(b) To comply with paragraph (a) of this section, each U.S. registered civil airplane must be equipped as follows:

(1) For operations governed by the supplemental air carrier and commercial operator rules of part 121 of this chapter, or the air travel club rules of part 123 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in operable condition and meets the applicability requirements of TSC-C91;

operable condition and meets the applicable requirements of TSO-C91;

(3) For operations governed by Part 135 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in operable condition and meets the applicable requirements of TSO-C91; and

(4) For operations other than those specified in subparagraphs (1), (2) and (3) of this paragraph, there must be attached to the airplane a personal type or an automatic type emergency locator transmitter that is in operable condition and meets the applicable requirements of TSO-C91.

(Note: there are 2 more pages of technical details that are not required to demonstrate sufficiency here.)

RATIONALE' There is obviously very complete and thorough Federal regulation to cover the installation, maintenance and operation of ELT's in all aircraft operations in this state; commercial and private. This is an area over which the state has no authority whatsoever, and where the state regulations CONFLICT with the appropriate Federal regulations.

Additionally, and as a much more practical matter, one notes that under the FAR's, such ELT is inspected each year during the annual inspection of the aircraft under FAA criteria, and the aircraft is grounded if the ELT is not present, not in proper order or has an expired battery date. There is no such inspection system established or required under State authority.

Recommend that the item be deleted in its entirety and that reference to the FAR's via Sec. 02.35.010 for application in Alaska be sufficient.

Sec. 02.35.120, Penalties for violation of Chapter

This section will be reduced in scope by the actions above. The only requirement for the section remaining in in those areas which the State desires to inflict CRIMINAL penalties on top of Federal penalties. These are reflected in the attached, proposed substitute bill.

Sec. 02.35.130, Penalty for violation of 90 or 110 of this chapter.

Same as above.

Sec. 02.35.150, Definitions

Because of difficulties in interpretation, we suggest that "aircraft" and "airplane" be defined here precisely as they are in FAR's.

AIRCRAFT means: a device that is used or intended to be used for flight in the air, and when used in air traffic control terminology, may include the aircrew. (includes aircraft, helicopters, gyrocopters and all other heavier-than-air equipment, as well as gliders and sail planes)

AIRPLANE means: a device such as above, but not including helicopters or gyrocopters.

GENERAL: Penalties under the FAR's are found in two (2) areas:

Sec. 609: wherein the Administrator has authority to revoke, suspend, or modify certificates. This includes pilot certificates, aircraft certificates and operator certificates. This is considered severe and serious penalty authority, and exceeds anything the State is empowered to do.

Sec. 901; wherein the FAA may impose Civil Penalties. Such penalties are limited in current law to \$1,000 for each violation.

SEC. 02.30.010. Two-way radios required.

Inasmuch as this section refers to "Commercial" aircraft operations with passengers, the applicable portions of the FAR's are found in Part 135. We note that those commercial operations that do not carry passengers, are not covered in the present language, thus allowing training flights with crew or ferry flights in uncontrolled airspace, and we feel that this is correct and needs no attention.

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Part 91.8, provides:

No person may assault, threaten, intimidate, or interfere with a crewmember in the performance of the crewmember's duties aboard an aircraft being operated.

Part 91.9, provides:

No person may operate an aircraft in a careless or reckless manner so as to endanger the life or property of another.

RATIONALE': The FAR's more than adequately cover the problem and provide penalties for violation. Inasmuch as Sec. 02.35.010 Specifically adopts all the FAR's for State compliance, there is no need to lay this additional one on and attempt to enforce it.

If the desire is to provide stiffer penalties, then this may be accomplished by simply making reference to the specific FAR and provide Class A or B misdemeanor status.

Sec. 02.30.030 (b) (liquor or drugs)

The Alaska Airmen's Association and AOPA both heartily agree that aircrew members who violate this or parallel FAR's are a serious threat to public safety and are a discredit to an honorable profession. We have no objection to the State tacking on Criminal penalties to his portion.

We do however, have problems with the language of the present section, wherein

"No person may operate an aircraft occupied by a crew member or passenger who is obviously under the influence of intoxicating liquor or habit-forming drugs." (emphasis added)

(a) No person may act as a crewmember of a civil aircraft-

- (1) Within 8 hours after the consumption of any alcoholic beverage;
- (2) While under the influence of alcohol; or
- (3) While using any drug that effects his faculties in any way contrary to safety.

(b) Except in an emergency, no pilot of a civil aircraft may allow a person who is obviously under the influence of intoxicating liquors or drugs (except a medical patient under proper care) to be carried in that aircraft. (emphasis added)

Part 135.115, provides:

(a) No person may drink any alcoholic beverage aboard an aircraft unless the certificate holder operating the aircraft has served that beverage.

(b) No certificate holder may serve any alcoholic beverage to any person aboard its aircraft if that person appears to be intoxicated.

(c) No certificate holder may allow any person to board any of its aircraft if that person appears to be intoxicated.

(d) Each certificate holder shall, within 5 days after the incident, report to the Administrator the refusal of any person to comply with paragraph (a) of this section, or any disturbance caused by a person who appears to be intoxicated aboard any of its aircraft. (emphasis added)

RATIONALE: Inasmuch as the FAR's are explicit and more comprehensive than the current State statute section, recommend they be the controlling directive; especially in light of Sec. 02.35.010 Specifically adopting the FAR's for State compliance.

We do however, have difficulty in making it a CRIMINAL offence as relates to the passengers. Terms such as "obviously under the influence" also include those suffering a hangover from the previous night, and they do not offer a threat to the Public traveling aboard an aircraft. As a matter of fact, they are docile. Terms such as "appears to be intoxicated" and the like are often used in this context. We submit that rigid enforcement of this portion would, as a practical matter, cut air commerce in this State in half over night.

Recommend that the FAR's be adopted and that the more severe penalty for Air Crew members be adopted on its own.

Sec. 02.30.030 (c) (over water)

This section is more than adequately covered in the FAR's, with little confusion and excellent language:

Part 91.33 (11) provides:

If the aircraft is operated for hire over water and beyond the power-off gliding distance from shore, approved floatation gear readily available to each occupant, and at least one pyrotechnic signaling device. (is required)

Part 91.79 (a) provides:

Except when necessary for takeoff or landing, no person may operate an aircraft lower than the following altitudes:

(a) ANYWHERE. An altitude allowing, if a power unit fails, an emergency landing without undue hazard to persons or property on the surface.

Part 135.167 provides:

No person may operate an aircraft in extended overwater operations unless it carries:

(note: This section is extremely long, and contains all manner of specific relations to rafts, floatation and signalling devices and the like. None of that is required here to make the point that there is no reference to any specific distances from land; only equipment required when flying off shore.)

RATIONALE': To begin with, the current State language, if enforced, would halt approximately 50% of the air commerce in the State immediately. Here are several obvious examples:

1. A single-engine land plane flying from Anchorage to Kodiak. (not uncommon)

To comply with this part, the aircraft would need to fly higher than 25,000 feet! Only those aircraft equipped with both turbochargers and pressurization could possibly comply.

2. A single-engine land plane flying from Anchorage to Juneau or Ketchikan. (not uncommon)

After Yakutat, heading southeasterly, the beach rapidly ends, replaced by beautiful mountains, covered with large trees, ending in rocks and surf. There is no beach; no "landing" is possible. One ditches in the Gulf of Alaska near shore and wades ashore with survival gear.

We feel that the Federal regulations more than adequately cover this contingency, with far better language, in all instances. Inasmuch as Sec. 02.35.010 adopts the FAR's for compliance by the State, it is redundant and confusing to establish still another, poorly worded criteria.

Finally, we feel that enforcement of this regulation is more than adequately covered by the FAA and no CRIMINAL record needs be developed, and no more severe penalties need be applied to this section of the code than is already provided.

Recommend deleting the section.

Sec. 02.30.030 (d) (snow and ice)

This section is more than adequately covered by FAR's:

Part 135.85, provides:

(a) *No pilot may take off an aircraft that has-*

(1) *Frost, snow, or ice adhering to any rotor blade, propeller, windshield, or powerplant installation, or to an airspeed, altimeter, rate of climb, or flight attitude instrument system;*

(2) *Snow or ice adhering to the wings, or stabilizing control surfaces; or*

(3) *Any frost adhering to the wings, or stabilizing control surfaces, unless that frost has been polished to make it smooth.*

(there are additional sections, but they are redundant for these purposes)

Part 91.209 provides virtually identical text.

RATIONALE': The FAA language is far more comprehensive. Inasmuch as Sec. 02.35.010 adopts the FAR's for State compliance, it is redundant and confusing to establish yet another, less comprehensive and confusing standard.

Finally, we feel that enforcement of this regulation is more than adequately covered by the FAA and no CRIMINAL record needs to be developed, and no more severe penalties need be applied to this section of the code than is already provided.

Recommend deletion of this section.

Sec. 02.35.010 Federal law followed

This is an excellent section, and would and is referred to above and in other sections not herein noted. Unfortunately the United States Air Commerce Act of 1926 has been void since it was replaced with the 1958 edition. Recommend adoption of the current one.

Sec 02.35.040 Registration of Aircraft

This section provides that all the registration and documentation already required by applicable FAR's, and already on file with the FAA in Oklahoma City, and already available to the public upon request, and already printed in a government circular at least semi-annually, also be duplicated and filed with the Department of Transportation and Public Facilities.

We are unaware of any general aviation pilot who is aware of this provision or complies. We are unaware of any attempts by DOTPF to implement this section. We are unaware of any requirement for it. Recommend its deletion as an unnecessary, expensive and duplicating bureaucratic requirement with no valid requirement.

Sec. 02.35.050, Registration of Airmen

See section 02.35.040 above. Recommend deletion of this ineffective portion as well for the same reasons.

Sec. 02.35.060, 070 & 080.

See items above. Recommend deletion of these sections, which provide administrative control of the previous sections.

COMMENT: Inasmuch as these four (4) sections appear to have been in Public Law since 1949, and no attempt to comply has ever been initiated to our certain knowledge, this fact alone attests to the lack of requirement.

Sec. 02.35.090 License and permit to be exhibited on request.

Part 61.3, provides:

(a) *No person shall act as pilot in command or in any other capacity as a required pilot flight crew member of a civil aircraft of United States registry unless he has in his personal possession a current pilot certificate issued to him under this part.*

(h) *Each person who holds a pilot certificate, flight instructor certificate, medical certificate, authorization, or license required by this part shall present it for inspection upon request of the Administrator, an authorized representative of the National Transportation Safety Board, or any Federal, State, or local law enforcement officer.*

Part 91.27, provides:

(a) *Except as provided in part 91.23 (foreign aircraft), no person may operate a civil aircraft unless it has the following:*

(1) *An appropriate and current airworthiness certificate. Each U.S. airworthiness certificate used to comply with this subparagraph (except a special flight permit, a copy of the applicable operations specifications issued under 21.197(c) of this chapter, appropriate sections of the air carrier manual required by parts 121 or 127 of this chapter containing that portion of the operations specifications under 21.187(c), or an authorization under 91.45), must have on it the registration number assigned to the aircraft under part 47 of this chapter. However, the airworthiness certificate need not have on it an assigned special identification number before 10 days after that number is first affixed to the aircraft. A revised airworthiness certificate having on it an assigned special identification number, that has been affixed to an aircraft, may only be obtained upon application to an FAA flight standards district office.*

(2) *a Registration Certificate issued to its owner.*

(b) *No person may operate a civil aircraft unless the airworthiness certificate required by paragraph (a) of this section or a special flight authorization issued under 91.28 is displayed at the cabin or cockpit entrance so that it is legible to passengers or crew.*

RATIONALE' Obviously the Federal language more than adequately covers the entire situation and others not even dreamt of by State officials. Recommend deleting it and relying on Sec. 02.35.010 for application of the FAR's in Alaska.

Sec. 02.35.100 Temporary permit.

This entire section covers an area expressly preempted by the Federal Government. There simply is no legal way for the State of Alaska to license pilots under any circumstances. This is 100% an FAA matter.

As a practice matter, here is what would happen should there be an earthquake, major fire, flood or other State emergency: The authorized State official on the scene (Civil Defense Director, member of the National Guard etc), invoking whatever emergency authority may be available under other statutes, would notify the pilot/owner of an aircraft that it was required for service to say, send a generator to Bethel, evacuate something, haul medicine or supplies or the like. At that moment, the operator of the aircraft is under control and contract of the State of Alaska, and may operate any aircraft with no licenses at all.

He or she is operating in what is called the PUBLIC SERVICE, much the same as FAA pilots, military pilots, and even State pilots.

Recommend deletion of this entire section.

Sec. 02.35.110 Emergency rations and equipment.

This is an important part of the aviation Safety field in Alaska, and it should remain. There are, however, two (2) items which require updating:

1. Item (2) (A) requires snowshoes. We recognize that a pair of cross-country skis, poles and boots are superior to snowshoes for survival travel, and recommend addition of the skis as shown on the attached proposed amended bill.

2. Item (1)(D) requires a firearm and ammunition. While this is an excellent suggestion, there are two (2) problems with the provision:

a. In most cases a hand-gun is not a suitable survival weapon. Of far more value would be a lightweight shotgun and a supply of slugs and shot. We will not, however, offer this as an amendment at this time, as we have been counseled that it may be a controversial enough issue to bog down passage of the more important safety items. We urge consideration, however.

b. There is no specified amount of ammunition, and one round could qualify. Recommend a minimum amount such as 25 or 50 rounds.

Sec. 02.35.115 Downed aircraft transmitting devices. (ELT's)

Sec. 91.52, provides

(a) Except as provided in paragraphs (e) and (f) of this section, no person may operate a U.S. registered civil airplane unless it meets the applicable requirements of paragraphs (b), (c) and (d) of this section.

(b) To comply with paragraph (a) of this section, each U.S. registered civil airplane must be equipped as follows:

(1) For operations governed by the supplemental air carrier and commercial operator rules of part 121 of this chapter, or the air travel club rules of part 123 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in operable condition and meets the applicability requirements of TSC-C91;

(2) For charter flights governed by the domestic and flag air carrier rules of Part 121 of this chapter, there must be attached to the

operable condition and meets the applicable requirements of TSO-C91;

(3) For operations governed by Part 135 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in operable condition and meets the applicable requirements of TSO-C91; and

(4) For operations other than those specified in subparagraphs (1), (2) and (3) of this paragraph, there must be attached to the airplane a personal type or an automatic type emergency locator transmitter that is in operable condition and meets the applicable requirements of TSO-C91.

(Note: there are 2 more pages of technical details that are not required to demonstrate sufficiency here.)

RATIONALE' There is obviously very complete and thorough Federal regulation to cover the installation, maintenance and operation of ELT's in all aircraft operations in this state; commercial and private. This is an area over which the state has no authority whatsoever, and where the state regulations CONFLICT with the appropriate Federal regulations.

Additionally, and as a much more practice matter, one notes that under the FAR's, such ELT is inspected each year during the annual inspection of the aircraft under FAA criteria, and the aircraft is grounded if the ELT is not present, not in proper order or has an expired battery date. There is no such inspection system established or required under State authority.

Recommend that the item be deleted in its entirety and that reference to the FAR's via Sec. 02.35.010 for application in Alaska be sufficient.

Sec. 02.35.120, Penalties for violation of Chapter

This section will be reduced in scope by the actions above. The only requirement for the section remaining in in those areas which the State desires to inflict CRIMINAL penalties on top of Federal penalties. These are reflected in the attached, proposed substitute bill.

Sec. 02.35.130, Penalty for violation of 90 or 110 of this chapter.

Same as above.

Sec. 02.35.150, Deffinitions

Because of difficulties in interpretation, we suggest that "aircraft" and "airplane" be defined here precisely as they are in FAR's.

AIRCRAFT means: a device that is used or intended to be used for flight in the air, and when used in air traffic control terminology, may include the aircrew. (includes aircraft, helicopters, gyrocopters and all other heavier-than-air equipment, as well as gliders and sail planes)

AIRPLANE means: a divice such as above, but not including helicopters or gyrocopters.

GENERAL: Penalties under the FAR's are found in two (2) areas:

Sec. 609: wherein the Administrator has authority to revoke, suspend, or modify certificates. This includes pilot certificates, aircraft certificates and operator certificates. This is considered severe and serious penalty authority, and exceeds anything the State is empowered to do.

Sec. 901; wherein the FAA may impost Civil Penalties. Such penalties are limited in current law to \$1,000 for each violation.