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TESTIMONY TO SENATE TRANSPORTATION COMMITTEE

SB 458

March 5, 1986

Chairman Coghill and members of the Senate Transportation Committee, my name is Bob Jacobsen and I am here today as President of the Alaska Air Carriers Association. I would like to thank you for your willingness to deal with these small but important technical amendments to HB 133 enacted last year.

Very simply, the bill before you today (SB 458) is deemed necessary by the Division of Weights and Measurement Standards to adequately enforce the law which requires commercial air carriers to maintain at least \$150,000 per seat in liability insurance (\$300,000 for scheduled carriers). Statistics provided to you by the Division early this session indicate a less than satisfactory level of compliance based on the initial letters of notice to commercial carriers.

We have submitted as part of your committee packet a sectional rationale for each provision, and if you wish, I will go through each of the proposed changes with you.

As you are aware, the fiscal note for HB 133 last session was not funded, accounting, in part, for low compliance to date. The Governor has requested about \$100,000 in his FY 87 operating budget for this program, and we urge you to support the request.

I would also like to take this opportunity to briefly mention our industry's serious problem with insurance rates. While we maintain our strong support for the minimum insurance requirements as a condition of business, we are having the same problems with dramatic escalation of rates as most other industries. We have lost several members during the last year due to bankruptcies or failure to obtain insurance at rates which would permit an operating profit. Others are on the verge of collapse.

If you want to help maintain viable air transportation in the future, we strongly urge your support of SB 377 this session.

Thank you for the opportunity to testify, and for your attention to our concerns.

Amendment 1 (Sec. 42.30.200(c)) specifically authorizes the Department of Commerce to stop aircraft from carrying passengers for hire until they secure the minimum required liability insurance. It also authorizes the Department to conduct investigations if necessary to find violators.

Amendment 2 (Sec. 42.30.200(e)) increases the size and severity of a fine to an air carrier who flies passengers for hire without first securing the minimum insurance levels required by HB 133 (\$150,000 per seat). Without a more strict penalty, carriers may find it cheaper to ignore the law than to comply.

Amendment 3 (Sec. 42.30.225(b)) allows the insurance "certificate of compliance" to be posted in a visible location other than in the aircraft. This would be particularly helpful to the jet carriers which often interchange planes, thus making it difficult to post certificates in the aircraft. It would also reduce the cost of a certificate from \$50 to \$25.

Amendment 4 (Sec. 42.30.225(e)) provides specific authority to issue stop use orders if a carrier is operating without a state certificate of insurance.

Amendment 5 (Sec. 42.30.225(d)) provides for a specific penalty for a carrier who fails to obtain a certificate of insurance from the State.

Amendment 6 (Sec. 42.30.380(3)) clarifies the definition of aircraft to include rotor devices (helicopters).

Alaska State Legislature

Senate Transportation Committee



Sen. John B. (Jack) Coghill, Chairman
Sen. Paul Fischer, Vice-chairman
Sen. Mitch Abood
Sen. Jan Finks
Sen. Joe Josephson

Pouch V
Juneau, Alaska 99811

March 4, 1986

TO: All Committee Members
FROM: Committee Staff
RE: SB 458

This bill adds enforcement capabilities to the legislation passed last year setting up insurance requirements and certificates of compliance for air carriers.

Sect. 1 (c) allows the Department of Commerce and Economic Development, Division of Weights and Measures to investigate possible violations of financial responsibility requirements. It also enables DCEC to issue a stop work order when it is found that the air carrier is in noncompliance.

Sect. 2 (e) defines the penalties for violating the insurance requirements. The current penalty, a Class B misdemeanor, is upgraded to a Class A. The fine is increased from a minimum of \$500 to a minimum of \$1000 with the maximum fine to be \$5000 per day of violation. The fine has been capped at \$10,000 for each violation.

Sec. 3 amends AS 42.30.225 (b) and lowers the annual fee for the certificate of compliance from \$50 to \$25.

Sec. 4 amends AS 42.30.225 (e), dealing with certificates of compliance, and allows the Department to investigate whether an air carrier has a certificate of compliance. If not in compliance, the department may issue a stop work order.

Sec. 5 adds a new subsection to AS 42.30.225. The penalty for violating the certificate of compliance requirement is a Class B misdemeanor and may be fined not less than \$500 or no more than \$1000.

Sec. AS 42.30.380(3), a definition section, is amended to add rotor craft to the definition of aircraft.

PURPOSE

The purpose of the certification of compliance of air carriers is to provide the assurance that all persons who carry passengers or freight for commercial purposes intrastate in an aircraft, comply with the provisions in AS 42.30.200 and AS 42.30.225.

These provisions specify that the identified persons procure and maintain minimum amounts of insurance security and that the aircraft used for these purposes must be in compliance with federal safety regulations.

WHO DOES IT APPLY TO

AS 42.30.200 states that a person who carries passengers or freight for commercial purposes intrastate in an aircraft shall procure and maintain security as specified. For purposes of filing with the Department of Commerce and Economic Development, this paragraph is interpreted to mean those aircraft operating intrastate under Federal Aviation Administration regulations part 121 and 135.

AS 42.30.225 further requires that an annual certificate of compliance be obtained before a person uses an aircraft in air commerce.

In defining the applicability of the provisions of AS 42.30.200 - 42.30.380:

1. "air carrier" means a person undertaking to engage in air commerce, whether directly or indirectly, or by lease, contract, or any other arrangement and whether over regular or irregular routes;
2. "air commerce" means carriage by aircraft of persons or freight for commercial purposes or hire in intrastate commerce, including the carriage by aircraft of persons or freight that move partly by aircraft and partly by other forms of transportation;
3. "aircraft" means a propeller or jet powered device used or designed for flight in the air;
4. "commercial purposes" means activities for which the person receives direct monetary compensation and does not include activities incidental to and done in furtherance of the persons primary business.
5. "freight" means commodities, articles, and cargo of whatever nature or value excluding garbage and trash.

REQUIREMENTS

A person who carries passengers or freight for commercial purposes intrastate in an aircraft must maintain the following minimum security:

1. \$150,000 per seat for bodily injury or death in a single occurrence; and
2. \$100,000 for property damage in a single occurrence.

Evidence of insurance must be filed with the Department of Commerce and Economic Development, Division of Measurement Standards, and may not be cancelled on less than 30 days written notice to the Division of Measurement Standards. This notification of cancellation must be clearly stated in the policy or endorsement for an insurance policy submitted as proof of financial responsibility. This 30 day notice period is measured from the date on which the Division of Measurement Standards receives notice.

A person may not use an aircraft in air commerce before obtaining an annual certificate of compliance for that aircraft from the Department of Commerce and Economic Development, Division of Measurement Standards. The application for the certificate of compliance must include:

1. proof of financial responsibility in the amounts previously identified;
2. a copy of the Federal Aviation Administration's air carrier operating certificate, for each aircraft;
3. a Federal Aviation Administration certificate to operate if you are a scheduled air carrier; and
4. a \$50.00 annual fee for each aircraft being certified.

PROCEDURES

1. Complete an application for a certificate of compliance.
2. Attach copies of all required documents as outlined on the application.
3. Include the \$50.00 annual fee for each aircraft.
4. Mail complete application package to:

Division of Measurement Standards
P.O. Box 111686
Anchorage, Alaska 99511

INSTRUCTIONS
APPLICATION FOR
ALASKA AIR CARRIERS CERTIFICATE OF COMPLIANCE

1. Name of the individual making application.
2. Name of business.
3. Mailing address. If the operating location is different, please specify.
4. Date of application.
5. Business telephone number.
6. List those aircraft that are used intrastate in Federal Aviation Regulations part 121 and 135 operation. Do not list those aircraft that are used in parts 61, 91, and 141 operations.

Aircraft Description:

Type of aircraft; make and model.

Passenger Configuration:

Number of passengers the aircraft is configured to carry. If aircraft is used for freight only, so designate. (AS 42.30.200(a) requires \$150,000 per seat for bodily injury or death and \$100,000 for property damage.)

FAA Registration Number:

Federal Aviation aircraft registration number.

7. The total number of aircraft listed in #6. If an addendum sheet is used, include total from #6 plus total from addendum sheet in this section.
8. AS 42.30.225(a). A person may not use an aircraft in air commerce before obtaining an annual certificate of compliance for that aircraft from the Department of Commerce and Economic Development, Division of Measurement Standards.

AS 42.30.225(b). The annual fee for a certificate of compliance is \$50.00.

Multiply the number of aircraft listed in #7 times \$50.00. Place that result in section #8. Enclose that amount with the application.

9. Attach a copy of the Federal Aviation Administration's, Air Carrier Operating Certificate, form number 8430-18.
10. Attach a certificate of insurance or have the insurance company mail the certificate direct. A telex message can be used for temporary verification while waiting for the original certificate. A certificate of compliance cannot be issued without proof of insurance per AS 42.30.225(1).
11. For State Use Only - Do Not Fill In. This form will be returned to you with this section filled in and all required certificates attached.

ORIGINAL AND ONE COPY OF ALL FORMS TO BE RETURNED TO THE DIVISION OF MEASUREMENT STANDARDS

1 Sec. 42.30.200. AIR CARRIER FINANCIAL RESPONSIBILITY. (a) A person
2 who carries passengers or freight for commercial purposes intrastate in an
3 aircraft shall procure and maintain security in the following minimum
4 amounts:

5 (1) Liability for bodily injury or death of person:

6 A limit of at least \$150,000 for any one person in any one
7 occurrence and a limit for each occurrence in any one aircraft of at least
8 an amount equal to the sum produced by multiplying one hundred fifty
9 thousand dollars (\$150,000) by seventy five percent (75 percent) of the
10 total rated seating capacity of the aircraft. [\$150,000 PER SEAT FOR
11 BODILY INJURY OR DEATH IN A SINGLE OCCURRENCE; AND]

12 (2) Liability for loss of or damage to property:

13 A limit of at least one hundred thousand dollars (\$100,000)
14 for each occurrence. [\$100,000 FOR PROPERTY DAMAGE IN A SINGLE OCCURRENCE]

15 (b) Evidence of security required under (a) of this section shall be
16 filed with the department and must be

17 (1) a policy or certificate of insurance issued by an insurer
18 acceptable to the department; or

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

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

23 (4) other security approved by the department.

24 (c) The department may authorize department personnel to enforce this
25 section and may adopt procedural regulations necessary to implement this
26 section.

27
28 Commerces Proposed Changes to
AS 42.30.200, .205, 380 - (Air
Carrier Financial Responsibility)

1 (d) A policy of insurance, surcty bond, or other form of security may
2 not be cancelled on less than 30 days written notice to the department.
3 This requirement must be clearly stated in the policy or endorsement for an
4 insurance policy submitted as proof of financial responsibility under AS
5 42.30.225(a)(1). The 30 day notice period is measured from the date on
6 which the department receives notice.

7 (e) A person who violates [(a) OF] this section is guilty of a class
8 [B] A misdemeanor and is punishable by a fine of not less than [\$500]
9 \$1,000 or more than [\$1,000] \$5,000.

10
11 Sec. 42.30.225. CERTIFICATION OF COMPLIANCE OF AIR CARRIERS. (a) A
12 person may not use an aircraft in air commerce before obtaining an annual
13 certificate of compliance for that aircraft from the department. The
14 department shall issue or renew a certificate of compliance upon
15 application and presentation of

16 (1) proof of financial responsibility required under AS
17 42.30.200;

18 (2) proof of compliance with Federal Aviation Administration
19 requirements, and, where applicable, federal certification for scheduled
20 airline service.

21 (b) The annual fee for a certificate of compliance is \$50. The
22 certificate is valid for a period of 12 months following the date of
23 certification. The certificate shall be displayed [ON THE AIRCRAFT] so
24 that it [IS] is visible to boarding passengers.

25 (c) The department may investigate complaints or violations of this
26 section and conduct other investigations that the department considers
27 appropriate and advisable to develop information on possible violations of
28 AS 42.30.200 or AS 42.30.225 and may, upon completion of this investigation

1 where a violation of AS 42.30.200(a) exists, issue a stop use order. [USE
2 OF AN AIRCRAFT IN AIR COMMERCE BEFORE OBTAINING A CERTIFICATE OF COMPLIANCE
3 REQUIRED UNDER (a) OF THIS SECTION MAY BE CAUSE FOR DENIAL OF THE
4 CERTIFICATE]

5 (d) A person who violates this section is guilty of a class B
6 misdemeanor and is punishable by a fine of not less than \$500 or more than
7 \$1,000. [A PERSON WHO HAS OBTAINED A CERTIFICATE TO USE AN AIRCRAFT IN AIR
8 COMMERCE FROM THE ALASKA TRANSPORTATION COMMISSION BEFORE THE EFFECTIVE
9 DATE OF THIS ACT IS NOT REQUIRED TO OBTAIN A CERTIFICATE OF COMPLIANCE
10 UNDER (a) OF THIS SECTION UNTIL THE DATE THE INSURANCE POLICY FOR THE
11 AIRCRAFT IS RENEWED]

12 (e) The department may authorize department personnel to enforce this
13 section and may adopt procedural regulations necessary to implement this
14 section.

15
16 Sec. 42.30.380. DEFINITIONS. (a) In AS 42.30.200 - 42.30.380,

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

20 (2) "air commerce" means carriage by aircraft of persons or
21 freight for commercial purposes or hire in intrastate commerce, including
22 the carriage by aircraft of persons or freight that move partly by aircraft
23 and partly by other forms of transportation;

24 (3) "aircraft" means a propeller, rotor or jet powered device
25 used or designed for flight in the air;

26 (4) "commercial purposes" means activities for which the persons
27 receives direct monetary compensation and does not include activities
28 incidental to and done in furtherance of the person's primary business;

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