

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

4397 STRA SB 82 - SB 103 (FILE 3)

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1 standards of weight and measure obtained by a city which has appointed
2 a sealer of weights and measures, and shall approve them if they are
3 correct. The commissioner [DIRECTOR] shall inspect the standards at
4 least once every two years.

5 (b) The commissioner [DIRECTOR] shall from time to time test all
6 weights and measures used in checking the receipt or disbursement of
7 supplies in every institution maintained by money appropriated by the
8 legislature, and shall report the commissioner's [HIS] findings, in
9 writing, to the supervisory board and to the executive officer of the
10 institution concerned.

11 * Sec. 8. AS 45.75.080(a) is amended to read:

12 (a) The commissioner [DIRECTOR] may inspect and test, to ascer-
13 tain if they are correct, all weights and measures kept, offered, or
14 exposed for sale. The commissioner [DIRECTOR] shall, at least annu-
15 ally [SEMIANNUALLY AND MORE OFTEN AS HE CONSIDERS NECESSARY], inspect
16 and test, to ascertain if they are correct, all weights and measures
17 commercially used

18 (1) in determining the weight, measurement, or count of
19 commodities or things sold, or offered or exposed for sale, on the
20 basis of weight or of measure;

21 (2) in computing the basic charge or payment for services
22 rendered on the basis of weight or of measure or count; or

23 (3) in determining weight or measurement when a charge is
24 made for this determination.

25 * Sec. 9. AS 45.75.090 is amended to read:

26 Sec. 45.75.090. INVESTIGATIONS. The commissioner [DIRECTOR]
27 shall investigate complaints of violations of this chapter, and shall
28 [, UPON HIS OWN INITIATIVE,] conduct other [THE] investigations ^{That} [which]
29 the commissioner [HE] considers appropriate and advisable to develop

1 information on prevailing procedures in commercial quantity determ-
2 ination ~~and~~ on possible violations of this chapter; and to promote the
3 general objective of accuracy in the determination and representation
4 of quantity in commercial transactions.

5 * Sec. 10. AS 45.75.100 is amended to read:

6 Sec. 45.75.100. INSPECTION OF PACKAGES. (a) The commissioner
7 [DIRECTOR] shall, from time to time, weigh or measure and inspect
8 packages or amounts of commodities kept, offered, or exposed for sale
9 to determine whether they contain the amounts represented and whether
10 they are kept, offered, or exposed for sale in accordance with law.
11 *Same* When packages or amounts of commodities do not contain the amounts
12 represented, or are kept, offered, or exposed for sale in violation of
13 law, the commissioner [DIRECTOR] may order them off sale and may mark
14 or tag them to show they are illegal. The commissioner [DIRECTOR] may
15 use recognized sampling procedures. Compliance of a given lot of
16 packages must [SHALL] be determined on the basis of the result ob-
17 tained on a sample selected from and representative of the lot.

18 (b) ⁹ [No] person may not

19 (1) sell, or keep, offer, or expose for sale in intrastate
20 commerce a package or amount of commodity that has been ordered off
21 sale or marked or tagged as provided in this section until the package
22 or amount of commodity has been brought into full compliance with all
23 legal requirements; or

24 (2) dispose of a package or amount of commodity that is
25 ordered off sale or marked or tagged as provided in this section and
26 that does not meet legal requirements, except with the specific ap-
27 proval of the commissioner [DIRECTOR].

28 * Sec. 11. AS 45.75.110(a) is amended to read:

29 (a) The commissioner [DIRECTOR] may issue stop-use orders,

1 stop-removal orders, and removal orders for weights and measures used
2 or capable of being used commercially. The commissioner [DIRECTOR]
3 may issue stop-removal orders and removal orders for packages or
4 amounts of commodities kept, offered, or exposed for sale whenever the
5 commissioner [HE] considers it necessary or expedient in enforcing
6 this chapter.

7 * Sec. 12. AS 45.75.120 is amended to read:

8 Sec. 45.75.120. DISPOSITION OF CORRECT AND INCORRECT APPARATUS.

9 (a) The commissioner [DIRECTOR] shall approve for use and seal or
10 mark with appropriate devices the weights and measures ^{that} [which] the
11 commissioner [HE] finds upon inspection and test to be correct as
12 provided in AS 45.75.050, and shall reject and mark or tag as "re-
13 jected" the weights and measures ^{that} [which] are found [HE FINDS], upon
14 inspections or testing [TEST], to be incorrect as provided in AS 45.-
15 75.050 but which in the commissioner's [HIS] best judgment may be
16 satisfactorily repaired [ARE SUSCEPTIBLE OF SATISFACTORY REPAIR].
17 This sealing or marking is not required for weights and measures
18 exempted by regulation [OF THE DIRECTOR].

19 (b) The commissioner [DIRECTOR] shall condemn, and may seize and
20 destroy weights and measures found to be incorrect ^{that} [which], in the
21 commissioner's [HIS] best judgment, cannot be satisfactorily repaired
22 [ARE NOT SUSCEPTIBLE OF SATISFACTORY REPAIR]. Weights and measures
23 which are rejected under (a) of this section may be confiscated and
24 destroyed by the commissioner [DIRECTOR] if not corrected as required
25 by AS 45.75.180 or if used or disposed of contrary to the requirements
26 of AS 45.75.180.

27 * Sec. 13. AS 45.75.130 is amended to read:

28 Sec. 45.75.130. POLICE POWERS AND RIGHT OF ENTRY AND STOPPAGE.

29 (a) In the enforcement of this chapter and any other law dealing with

1 weights and measures, the commissioner [DIRECTOR] has special police
2 powers. The commissioner [HE] may arrest, without formal warrant, any
3 person violating the law, and seize for use as evidence, without
4 formal warrant, incorrect or unsealed weights and measures or amounts
5 or packages of commodity, used, retained, offered, or exposed for
6 sale, or sold in violation of law. In performing ^{these} [his] duties, the
7 commissioner [DIRECTOR] may enter, without formal warrant, any struc-
8 ture or premises, and stop any person and require the person ^[him] to pro-
9 ceed to a specified place.

10 (b) An employee of the Department of Commerce and Economic
11 Development who is authorized by the commissioner to enforce the size,
12 weight, and load limitations adopted by the Department of Transporta-
13 tion and Public Facilities under AS 19.10.060 may arrest or issue a
14 citation to a person who violates (1) any of those limitations, (2)
15 the terms of an overweight or oversize vehicle permit issued under
16 AS 44.33.020(25) and AS 45.75.040, or (3) the provisions of regu-
17 lations adopted under AS 44.33.020(25) and AS 45.75.050(b)(5). [Cita- A
18 tions issued under this subsection must be treated as specified by
19 AS 12.25.180 -- 12.25.230 for citations issued by a peace officer.]

20 * Sec. 14. AS 45.75.140 is amended to read:

21 Sec. 45.75.140. POWERS AND DUTIES OF INSPECTORS [DEPUTY DIRECTOR
22 AND INSPECTOR]. The powers and duties of the commissioner [DIRECTOR]
23 specified in AS 45.75.070, 45.75.080, 45.75.090, 45.75.100, 45.75.120,
24 45.75.130, and 45.75.170 may [, AND 45.75.380 SHALL] also be exercised
25 by [THE DEPUTY DIRECTOR AND] inspectors, when acting under the in-
26 structions and at the direction of the commissioner [DIRECTOR].

27 * Sec. 15. AS 45.75.150 is amended to read:

28 Sec. 45.75.150. APPOINTMENT OF CITY SEALERS AND DEPUTY SEALERS
29 OF WEIGHTS AND MEASURES. (a) A city may appoint a sealer of weights

1 and measures, and the deputy sealers of weights and measures it needs.
2 If the city appoints a sealer, it shall obtain at its expense the
3 standards of weight and measure [WEIGHTS AND MEASURES] and the addi-
4 tional equipment, for use in the enforcement of this chapter in the
5 city, which the commissioner [DIRECTOR] prescribes.

6 (b) When the standards of weight and measure provided by a city
7 are examined and approved by the commissioner [DIRECTOR], they are the
8 official standards for the city. At least every five years, the
9 sealer shall make or arrange to have made comparisons between the
10 sealer's [HIS] field standards and appropriate standards of a higher
11 order belonging to the sealer's [HIS] city or to the state, in order
12 to maintain the field standards in accurate condition.

13 * Sec. 16. AS 45.75.160 is amended to read:

14 Sec. 45.75.160. CITY SEALERS AND DEPUTY SEALERS. The sealer of
15 a city, and the sealer's deputy [SEALER] when acting under the seal-
16 er's [HIS] instructions and [AT HIS] direction, have the same powers
17 and shall perform the same duties within the city as those granted to
18 and imposed upon the commissioner [DIRECTOR] by AS 45.75.080 -- 45.-
19 75.130 and 45.75.380.

20 * Sec. 17. AS 45.75.170 is amended to read:

21 Sec. 45.75.170. CONCURRENT JURISDICTION. In each city having a
22 sealer of weights and measures, the commissioner [DIRECTOR] has con-
23 current authority to enforce this chapter.

24 * Sec. 18. AS 45.75.180 is amended to read:

25 Sec. 45.75.180. DUTY OF OWNERS OF INCORRECT APPARATUS. Weights
26 and measures rejected by the commissioner [DIRECTOR] or a sealer
27 remain subject to the control of the rejecting authority until suit-
28 able repair or disposition of them is made as required by this sec-
29 tion. The owner of a rejected weight and measure shall correct it

1 within 30 days or a longer period authorized by the rejecting author-
2 ity, [;] or [,] may dispose of it in the manner authorized by the
3 rejecting authority. Rejected weights and measures may not again be
4 used commercially until officially re-examined and found to be correct
5 or until specific written permission for their use is issued by the
6 rejecting authority.

7 * Sec. 19. AS 45.75.190(c) is amended to read:

8 (c) The commissioner [DIRECTOR] may adopt [ISSUE] reasonable
9 regulations necessary to assure that amounts of commodity sold are
10 determined in accordance with good commercial practice and are so
11 determined and represented as to be accurate and informative.

12 * Sec. 20. AS 45.75.200(c) is amended to read:

13 (c) Under (a)(1) of this section the commissioner [DIRECTOR]
14 shall, by regulation, establish

15 (1) reasonable variations or tolerances to be allowed, which
16 may include variations below the declared weight or measure caused by
17 ordinary and customary exposure, only after the commodity is intro-
18 duced into intrastate commerce, to conditions that normally occur in
19 good distribution practice and that unavoidably result in decreased
20 weight or measure,

21 (2) exemption as to small packages, and

22 (3) exemptions as to commodities put up in variable weights
23 or sizes for sale to the consumer intact and either customarily not
24 sold as individual units or customarily weighed or measured at the
25 time of sale to the consumer.

26 * Sec. 21. AS 45.75.220 is amended to read: ^A

27 Sec. 45.75.220. MISLEADING PACKAGES. ^[No] commodity in package
28 form may be ^{not} wrapped, or put in a container so made, formed, or
29 filled as to mislead the purchaser as to the quantity of the contents

1 of the package, and the contents of a container may not fall below the
2 reasonable standard of fill ^{that} ~~which~~ the commissioner [DIRECTOR] pre-
3 scribes for the commodity.

4 * Sec. 22. AS 45.75.282(b) is amended to read:

5 (b) One of the tickets provided for in (a) of this section shall
6 be retained by the vendor, and the other shall be delivered to the
7 purchaser at the time of delivery of the commodity, or surrendered, on
8 demand, to the commissioner [DIRECTOR, OR THE DEPUTY DIRECTOR,] or an
9 inspector, or a sealer [,] or a deputy sealer, who may [, IF HE WANTS
10 TO] retain it as evidence and, if it is retained, shall issue a weight
11 slip in place of it.

12 * Sec. 23. AS 45.75.290(b) is amended to read:

13 (b) One of the tickets provided for under (a) of this section
14 shall be retained by the vendor and the other shall be delivered to
15 the purchaser at the time of delivery of the fuel, or shall be sur-
16 rendered, on demand, to the commissioner [DIRECTOR, OR THE DEPUTY
17 DIRECTOR] or an inspector, or a sealer or deputy sealer, who may [, IF
18 HE DESIRES TO] retain it as evidence and [, SHALL] issue a weight slip
19 in place of it for delivery to the purchaser. If the purchaser car-
20 ries away the [HIS] purchase, the vendor is required only to give to
21 the purchaser at the time of sale a delivery ticket stating the number
22 of pounds of fuel delivered to the purchaser [HIM].

23 * Sec. 24. AS 45.75.300(3) is amended to read:

24 (3) reasonable tolerances shall be permitted, and these
25 must [SHALL] be included in regulations adopted for the enforcement of
26 this section [THAT ARE ISSUED BY THE DIRECTOR];

27 * Sec. 25. AS 45.75.330 is amended to read:

28 Sec. 45.75.330. INJUNCTION. The commissioner [DIRECTOR] may
29 apply to a court for a temporary or permanent injunction restraining a

1 person from violating a provision of this chapter.

2 * Sec. 26. AS 45.75.380 is amended to read:

3 Sec. 45.75.380. OFFENSES AND PENALTIES. It is a class A misde-
4 meanor for a person to perform any of the following acts or otherwise
5 to violate a provision of this chapter [A PERSON WHO, BY HIMSELF OR BY

6 HIS SERVANT, OR AGENT, OR AS THE SERVANT OR AGENT OF ANOTHER, PERFORMS
7 ANY ONE OF THE FOLLOWING ACTS IS GUILTY OF A MISDEMEANOR AND UPON A
8 FIRST CONVICTION OF THE VIOLATION IS PUNISHABLE BY A FINE OF NOT LESS
9 THAN \$20 NOR MORE THAN \$200, OR BY IMPRISONMENT FOR NOT MORE THAN
10 THREE MONTHS, OR BY BOTH. UPON A SECOND OR SUBSEQUENT CONVICTION, THE
11 PERSON IS PUNISHABLE BY A FINE OF NOT LESS THAN \$50 NOR MORE THAN
12 \$500, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH]:

13 (1) uses or has in possession for the purpose of using for
14 any commercial purpose specified in AS 45.75.080, sells, offers, or
15 exposes for sale, or hire, or has in possession for the purpose of
16 selling or hiring, an incorrect weight or measure or a device or
17 instrument used to or calculated to falsify a weight or measure;

18 (2) uses or has in possession for current use, in buying or
19 selling a commodity or thing, or for hire or award, or in the computa-
20 tion of a basic charge or payment for services rendered on the basis
21 of weight or measurement, or in the determination of weight or mea-
22 surement when a charge is made for determination, a weight or measure
23 that has not been tested and sealed by the appropriate authority
24 within one year, (A) unless written notice is given to the appropriate
25 authority to the effect that the weight or measure is available for
26 examination, or is due for re-examination, as the case may be, (B) un-
27 less specific written permission to use the weight or measure is
28 received from the appropriate authority, or (C) unless the weight or
29 measure is exempt from sealing or annual testing requirements by

1 AS 45.75.080 or by a regulation adopted [OF THE DIRECTOR ISSUED] under
2 AS 45.75.050;

3 (3) disposes of a rejected weight or measure in a manner
4 contrary to law or regulation;

5 (4) removes from a weight or measure, contrary to law or
6 regulation, a tag, seal, or mark placed on it by the appropriate
7 authority;

8 (5) sells, offers, or exposes for sale less than the quan-
9 tity he represents of a commodity, thing, or service;

10 (6) takes more than the quantity [he] represents of a commod-
11 ity, thing, or service when, as buyer, [he] furnished the weight or
12 measure by means of which the amount of the commodity, thing, or
13 service is determined;

14 (7) keeps for the purpose of sale, advertises, or offers [or
15 exposes] for sale, or sells a commodity, thing, or service in a condi-
16 tion or manner contrary to law or regulation;

17 (8) uses in retail trade, except in the preparation of
18 packages put up in advance of sale and of medica' prescriptions, a
19 weight or measure that is not so positioned that its indications may
20 be accurately read and the weighing or measuring operation observed
21 from some position which may reasonably be assumed by a customer;

22 (9) violates a provision of this chapter or of a regulation
23 adopted under this chapter for which a specific penalty is not pre-
24 scribed;

25 (10) hinders or obstructs the commissioner, an inspector, a
26 sealer, or a deputy sealer in the performance of official duties under
27 this chapter;

28 (11) violates a provision of an overweight or oversize
29 permit;

1 (12) violates a weight, load, or size limitation established
2 under AS 19.10.060 or regulations adopted under AS 19.05.020 or 45.-
3 75.050(b)(5).

4 * Sec. 27.. AS 45.75.390(4) is repealed and reenacted to read:

5 (4) "commissioner" means the commissioner of commerce and
6 economic development or a designee;

7 * Sec. 28. [AS 28.35.230(e)] and AS 45.75.360 are repealed.

8 * Sec. 29. This Act takes effect immediately in accordance with AS 01.-
9 10.070(c).

and of the other standards and equipment provided for by this chapter. The director shall keep accurate records of the standards and equipment. The director shall enforce this chapter. He shall supervise the weights and measures offered for sale, sold, or in use in the state. (§ 8 ch 101 SLA 1961)

Sec. 45.75.050. Adoption of regulations. (a) The director shall issue regulations for the enforcement of this chapter in accordance with the Administrative Procedure Act (AS 44.62). These have the effect of law.

(b) The regulations may include

(1) standards of net weight, measure, or count, and reasonable standards of fill, for any commodity in package form;

(2) rules governing the technical and reporting procedures to be followed, and the report and record forms and marks of approval and rejection to be used by inspectors of weights and measures in the discharge of their official duties;

(3) exemptions from the sealing or marking requirements of AS 45.75.120 with respect to weights and measures of a character or size that sealing or marking would be inappropriate, impracticable, or damaging to the apparatus in question; and

(4) with respect to classes of weights and measures of a character that annual retesting is unnecessary to continued accuracy, exemptions from the requirements of AS 45.75.070 and 45.75.080 for annual testing, and schedules fixing the frequency of required retests for classes of devices exempted.

(c) The regulations shall include specifications, tolerance, and regulations for weights and measures of the character of those specified in AS 45.75.030, designed to eliminate from use, without prejudice to apparatus that conforms as closely as practicable to the official standards, those (1) that are not accurate, (2) that are of such construction that they are not reasonably permanent in their adjustment or will not repeat their indications correctly, or (3) that facilitate the perpetration of fraud.

(d) The specifications, tolerances, and regulations for commercial weighing and measuring devices, together with amendments to them, as recommended by the National Bureau of Standards and published in National Bureau of Standards Handbook 44 and supplements to it, or in any publication revising or superseding Handbook 44, are the specifications, tolerances, and regulations for commercial weighing and measuring devices of the state, except as specifically modified, amended, or rejected by a regulation issued by the director.

(e) For the purposes of this chapter, apparatus is correct when it conforms to the requirements adopted in accordance with this section; other apparatus is considered incorrect. (§ 9 ch 101 SLA 1961)

Original sponsor: Rules/Governor

1 IN THE SENATE

BY THE TRANSPORTATION COMMITTEE

2 CS FOR SENATE BILL NO. 82 (Transportation)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to weights and measures; and provid-
7 ing for an effective date."

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

9 * Section 1. AS 45.75.030 is amended to read:

10 Sec. 45.75.030. STATE DIRECTOR AND INSPECTORS OF WEIGHTS AND
11 MEASURES. The commissioner of commerce and economic development is ex
12 officio state director of weights and measures. The commissioner may
13 delegate this authority, and [DIRECTOR] may appoint state inspectors.

14 * Sec. 2. AS 45.75.040 is amended to read:

15 Sec. 45.75.040. GENERAL POWERS AND DUTIES OF COMMISSIONER [DI-
16 RECTOR]. The commissioner [DIRECTOR] is the custodian of the state
17 standards of weight and measure and of the other standards and equip-
18 ment provided for by this chapter, and [. THE DIRECTOR] shall keep
19 accurate records of the standards and equipment. The commissioner
20 [DIRECTOR] shall enforce this chapter, implement AS 44.33.020(25), and
21 [. HE SHALL] supervise the weights and measures offered for sale,
22 sold, or in use in the state.

23 * Sec. 3. AS 45.75.050(a) is amended to read:

24 (a) The commissioner [DIRECTOR] shall adopt [ISSUE] regulations
25 necessary for the enforcement of this chapter in accordance with the
26 Administrative Procedure Act (AS 44.62). These have the effect of
27 law.

28 * Sec. 4. AS 45.75.050(b) is amended to read:

29 (b) The regulations may include

1 (1) standards of net weight, measure, or count, and reason-
2 able standards of fill, for a [ANY] commodity in package form;

3 (2) rules governing the technical and reporting procedures
4 to be followed, and the report and record forms and marks of approval
5 and rejection to be used by inspectors of weights and measures in the
6 discharge of their official duties;

7 (3) exemptions from the sealing or marking requirements of
8 AS 45.75.120 for [WITH RESPECT TO] weights and measures of a character
9 or size that sealing or marking would be inappropriate, impracticable,
10 or damaging to the apparatus in question; [AND]

11 (4) for [WITH RESPECT TO] classes of weights and measures
12 of a character that annual retesting is unnecessary to continued
13 accuracy, exemptions from the requirements of AS 45.75.070 and 45.75.-
14 080 for annual testing, and schedules fixing the frequency of required
15 retests for classes of devices exempted;

16 (5) in the implementation of AS 44.33.020(25), provisions
17 governing the enforcement of the size, weight, and load limitations
18 established under AS 19.10.060; the issuance of, and the enforcement
19 of the terms of, permits for overweight and oversize vehicles; and the
20 operation of weigh stations.

21 * Sec. 5. AS 45.75.050(d) is amended to read:

22 (d) The specifications, tolerances, and regulations for commer-
23 cial weighing and measuring devices, together with amendments to them,
24 as recommended by the National Bureau of Standards and published in
25 National Bureau of Standards Handbook 44 and supplements to it, or in
26 any publication revising or superseding Handbook 44, are the specifi-
27 cations, tolerances, and regulations for commercial weighing and
28 measuring devices of the state, except as specifically modified,
29 amended, or rejected by a regulation adopted [ISSUED] by the

1 commissioner [DIRECTOR].

2 * Sec. 6. AS 45.75.060 is amended to read:

3 Sec. 45.75.060. OFFICE AND FIELD [WORKING] STANDARDS AND EQUIP-
4 MENT. The commissioner [STATE] shall maintain [SUPPLY THE DIVISION OF
5 WEIGHTS AND MEASURES WITH] a duplicate set of state standards of
6 weight and measure, referred to in this chapter as office standards.
7 The commissioner [STATE] shall also supply field standards and the
8 equipment that [WHICH] is necessary to carry out this chapter. The
9 commissioner shall verify the office standards and field standards on
10 [SHALL BE VERIFIED UPON] their initial receipt and at least once each
11 year afterward. The commissioner shall verify the office standards
12 [SHALL BE VERIFIED] by direct comparison with the state standards.
13 The commissioner shall verify the [THE] field standards [SHALL BE
14 VERIFIED] by comparison with the office standards.

15 * Sec. 7. AS 45.75.070 is amended to read:

16 Sec. 45.75.070. TESTING AND INSPECTION OF LOCAL STANDARDS AND
17 WEIGHTS AND MEASURES AT STATE-SUPPORTED INSTITUTIONS. (a) At least
18 once every five years, the commissioner [DIRECTOR] shall test the
19 standards of weight and measure obtained by a city that [WHICH] has
20 appointed a sealer of weights and measures, and shall approve them if
21 they are correct. The commissioner [DIRECTOR] shall inspect the
22 standards at least once every two years.

23 (b) The commissioner [DIRECTOR] shall from time to time test all
24 weights and measures used in checking the receipt or disbursement of
25 supplies in every institution maintained by money appropriated by the
26 legislature, and shall report the commissioner's [HIS] findings, in
27 writing, to the supervisory board and to the executive officer of the
28 institution concerned.

29 * Sec. 8. AS 45.75.080(a) is amended to read:

1 (a) The commissioner [DIRECTOR] may inspect and test, to ascer-
2 tain if they are correct, all weights and measures kept, offered, or
3 exposed for sale. The commissioner [DIRECTOR] shall, at least annu-
4 ally [SEMIANNUALLY AND MORE OFTEN AS HE CONSIDERS NECESSARY], inspect
5 and test, to ascertain if they are correct, all weights and measures
6 commercially used

7 (1) in determining the weight, measurement, or count of
8 commodities or things sold, or offered or exposed for sale, on the
9 basis of weight or of measure;

10 (2) in computing the basic charge or payment for services
11 rendered on the basis of weight or of measure or count; or

12 (3) in determining weight or measurement when a charge is
13 made for this determination.

14 * Sec. 9. AS 45.75.090 is amended to read:

15 Sec. 45.75.090. INVESTIGATIONS. The commissioner [DIRECTOR]
16 shall investigate complaints of violations of this chapter, and shall
17 [, UPON HIS OWN INITIATIVE,] conduct other [THE] investigations that
18 the commissioner [WHICH HE] considers appropriate and advisable to
19 develop information on prevailing procedures in commercial quantity
20 determination, [AND] on possible violations of this chapter, and to
21 promote the general objective of accuracy in the determination and
22 representation of quantity in commercial transactions.

23 * Sec. 10. AS 45.75.100 is amended to read:

24 Sec. 45.75.100. INSPECTION OF PACKAGES. (a) The commissioner
25 [DIRECTOR] shall, from time to time, weigh or measure and inspect
26 packages or amounts of commodities kept, offered, or exposed for sale
27 to determine whether they contain the amounts represented and whether
28 they are kept, offered, or exposed for sale in accordance with law.
29 When packages or amounts of commodities do not contain the amounts

1 represented, or are kept, offered, or exposed for sale in violation of
2 law, the commissioner [DIRECTOR] may order them off sale and may mark
3 or tag them to show they are illegal. The commissioner [DIRECTOR] may
4 use recognized sampling procedures. The commissioner shall determine
5 the compliance [COMPLIANCE] of a given lot of packages [SHALL BE
6 DETERMINED] on the basis of the result obtained on a sample selected
7 from and representative of the lot.

8 (b) A [NO] person may not

9 (1) sell, or keep, offer, or expose for sale in intrastate
10 commerce a package or amount of commodity that has been ordered off
11 sale or marked or tagged as provided in this section until the package
12 or amount of commodity has been brought into full compliance with all
13 legal requirements; or

14 (2) dispose of a package or amount of commodity that is
15 ordered off sale or marked or tagged as provided in this section and
16 that does not meet legal requirements, except with the specific ap-
17 proval of the commissioner [DIRECTOR].

18 * Sec. 11. AS 45.75.110(a) is amended to read:

19 (a) The commissioner [DIRECTOR] may issue stop-use orders,
20 stop-removal orders, and removal orders for weights and measures used
21 or capable of being used commercially. The commissioner [DIRECTOR]
22 may issue stop-removal orders and removal orders for packages or
23 amounts of commodities kept, offered, or exposed for sale whenever the
24 commissioner [HE] considers it necessary or expedient in enforcing
25 this chapter.

26 * Sec. 12. AS 45.75.120 is amended to read:

27 Sec. 45.75.120. DISPOSITION OF CORRECT AND INCORRECT APPARATUS.

28 (a) The commissioner [DIRECTOR] shall approve for use and seal or
29 mark with appropriate devices the weights and measures that the

1 commissioner [WHICH HE] finds on [UPON] inspection and test to be
2 correct as provided in AS 45.75.050, and shall reject and mark or tag
3 as "rejected" the weights and measures that are found [WHICH HE
4 FINDS], upon inspections or testing [TEST], to be incorrect as pro-
5 vided in AS 45.75.050 but which in the commissioner's [HIS] best
6 judgment may be satisfactorily repaired [ARE SUSCEPTIBLE OF SATISFAC-
7 TORY REPAIR]. This sealing or marking is not required for weights and
8 measures exempted by regulation [OF THE DIRECTOR].

9 (b) The commissioner [DIRECTOR] shall condemn, and may seize and
10 destroy weights and measures found to be incorrect that [WHICH], in
11 the commissioner's [HIS] best judgment, cannot be satisfactorily
12 repaired [ARE NOT SUSCEPTIBLE OF SATISFACTORY REPAIR]. Weights and
13 measures that [WHICH] are rejected under (a) of this section may be
14 confiscated and destroyed by the commissioner [DIRECTOR] if not cor-
15 rected as required by AS 45.75.180 or if used or disposed of contrary
16 to the requirements of AS 45.75.180.

17 * Sec. 13. AS 45.75.130 is amended to read:

18 Sec. 45.75.130. POLICE POWERS AND RIGHT OF ENTRY AND STOPPAGE.
19 In the enforcement of this chapter and [ANY] other laws [LAW] dealing
20 with weights and measures, the commissioner [DIRECTOR] has special
21 police powers. The commissioner [HE] may arrest, without formal
22 warrant, a [ANY] person violating the law, and seize for use as evi-
23 dence, without formal warrant, incorrect or unsealed weights and
24 measures or amounts or packages of commodity, used, retained, offered,
25 or exposed for sale, or sold in violation of law. In performing these
26 [HIS] duties, the commissioner [DIRECTOR] may enter, without formal
27 warrant, a [ANY] structure or premises, and stop any person and re-
28 quire the person [HIM] to proceed to a specified place.

29 * Sec. 14. AS 45.75 is amended by adding new sections to article 2 to

1 read:

2 Sec. 45.75.131. ISSUANCE OF CITATIONS. An employee of the
3 Department of Commerce and Economic Development who is authorized by
4 the commissioner to enforce the size, weight, and load limitations
5 adopted by the Department of Transportation and Public Facilities
6 under AS 19.10.060 may issue a citation to a person who violates

7 (1) a load limitation;

8 (2) the terms of an overweight or oversize vehicle permit
9 issued under AS 44.33.020(25) and AS 45.75.040; or

10 (3) the provisions of a regulation adopted under AS 44.33.-
11 020(25) and AS 45.75.050(b)(5).

12 Sec. 45.75.132. FORM AND ISSUANCE OF CITATION. (a) A citation
13 issued under this section must be in writing. A person receiving the
14 citation is not required to sign a promise to appear in court.

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

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

24 (d) An employee who issues a citation under this section shall
25 deposit the original or a copy of the citation with a court having
26 jurisdiction over the alleged offense. Upon its deposit with the
27 court, the citation may be disposed of only by trial in the court or
28 other official action taken by the magistrate, judge, or prosecutor.
29 The employee who issued the citation may not dispose of it or copies

1 of it or of the record of its issuance except as required under this
2 subsection and (e) of this section.

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

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

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

22 Sec. 45.75.133. BAIL FORFEITURE. (a) The supreme court shall
23 specify by rule or order those violations that are appropriate for
24 disposition without court appearance, and shall establish a schedule
25 of bail amounts. The maximum bail forfeiture amount for an offense
26 may not exceed the maximum fine specified by law for that offense. If
27 the person who has been cited can dispose of the violation without
28 court appearance, the issuing employee shall write on the citation the
29 amount of bail forfeiture applicable to the violation.

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

5 (1) the amount of bail indicated on the citation for that
6 offense; and

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

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

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

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

23 * Sec. 15. AS 45.75.140 is amended to read:

24 Sec. 45.75.140. POWERS AND DUTIES OF INSPECTORS [DEPUTY DIRECTOR
25 AND INSPECTOR]. The powers and duties of the commissioner [DIRECTOR]
26 specified in AS 45.75.070 - 45.75.100, 45.75.120, [AS 45.75.070,]
27 45.75.130, and 45.75.170 may [, AND 45.75.380 SHALL] also be exercised
28 by [THE DEPUTY DIRECTOR AND] inspectors, when acting under the in-
29 structions and at the direction of the commissioner [DIRECTOR].

1 * Sec. 16. AS 45.75.150 is amended to read:

2 Sec. 45.75.150. APPOINTMENT OF CITY SEALERS AND DEPUTY SEALERS
3 OF WEIGHTS AND MEASURES. (a) A city may appoint a sealer of weights
4 and measures, and the deputy sealers of weights and measures it needs.
5 If the city appoints a sealer, the city [IT] shall obtain at its
6 expense the standards of weight and measure [WEIGHTS AND MEASURES] and
7 the additional equipment, for use in the enforcement of this chapter
8 in the city, which the commissioner [DIRECTOR] prescribes.

9 (b) When the standards of weight and measure provided by a city
10 are examined and approved by the commissioner [DIRECTOR], they are the
11 official standards for the city. At least every five years, the
12 sealer shall make or arrange to have made comparisons between the
13 sealer's [HIS] field standards and appropriate standards of a higher
14 order belonging to the sealer's [HIS] city or to the state, in order
15 to maintain the field standards in accurate condition.

16 * Sec. 17. AS 45.75.160 is amended to read:

17 Sec. 45.75.160. CITY SEALERS AND DEPUTY SEALERS. The sealer of
18 a city, and the sealer's [HIS] deputy [SEALER] when acting under the
19 sealer's [HIS] instructions and [AT HIS] direction, have the same
20 powers and shall perform the same duties within the city, as those
21 granted to and imposed upon the commissioner [DIRECTOR] by AS 45.75.-
22 080 - 45.75.130 and 45.75.380.

23 * Sec. 18. AS 45.75.170 is amended to read:

24 Sec. 45.75.170. CONCURRENT JURISDICTION. In each city having a
25 sealer of weights and measures, the commissioner [DIRECTOR] has con-
26 current authority to enforce this chapter.

27 * Sec. 19. AS 45.75.180 is amended to read:

28 Sec. 45.75.180. DUTY OF OWNERS OF INCORRECT APPARATUS. Weights
29 and measures rejected by the commissioner [DIRECTOR] or a sealer

1 remain subject to the control of the rejecting authority until suit-
2 able repair or disposition of them is made as required by this sec-
3 tion. The owner of a rejected weight and measure shall correct it
4 within 30 days or a longer period authorized by the rejecting author-
5 ity, [;] or [,] may dispose of it in the manner authorized by the
6 rejecting authority. The owner of rejected [REJECTED] weights and
7 measures may not use them again [BE USED] commercially until the
8 rejected weights and measures are officially reexamined [RE-EXAMINED]
9 and found to be correct or until specific written permission for their
10 use is issued by the rejecting authority.

11 * Sec. 20. AS 45.75.190(c) is amended to read:

12 (c) The commissioner [DIRECTOR] may adopt [ISSUE] reasonable
13 regulations necessary to assure that a seller determines the amounts
14 of commodity sold [ARE DETERMINED] in accordance with good commercial
15 practice and in an accurate and informative manner [AND ARE SO DETER-
16 MINED AND REPRESENTED AS TO BE ACCURATE AND INFORMATIVE].

17 * Sec. 21. AS 45.75.200(c) is amended to read:

18 (c) Under (a)(1) of this section the commissioner [DIRECTOR]
19 shall, by regulation, establish

20 (1) reasonable variations or tolerances to be allowed, that
21 [WHICH] may include variations below the declared weight or measure
22 caused by ordinary and customary exposure, only after the commodity is
23 introduced into intrastate commerce, to conditions that normally occur
24 in good distribution practice and that unavoidably result in decreased
25 weight or measure,

26 (2) exemptions for [EXEMPTION AS TO] small packages, and

27 (3) exemptions for [AS TO] commodities put up in variable
28 weights or sizes for sale to the consumer intact and either customar-
29 ily not sold as individual units or customarily weighed or measured at

1 the time of sale to the consumer.

2 * Sec. 22. AS 45.75.220 is amended to read:

3 Sec. 45.75.220. MISLEADING PACKAGES. A [NO] commodity in pack-
4 age form may not be so wrapped, or put in a container so made, formed,
5 or filled as to mislead the purchaser about [AS TO] the quantity of
6 the contents of the package, and the contents of a container may not
7 fall below the reasonable standard of fill that [WHICH] the commis-
8 sioner [DIRECTOR] prescribes for the commodity.

9 * Sec. 23. AS 45.75.282(b) is amended to read:

10 (b) The vendor shall retain one [ONE] of the tickets provided
11 for in (a) of this section [SHALL BE RETAINED BY THE VENDOR,] and
12 shall deliver the other [SHALL BE DELIVERED] to the purchaser at the
13 time of delivery of the commodity, or surrender the other [SURREN-
14 DERED], on demand, to the commissioner [DIRECTOR, OR THE DEPUTY DIREC-
15 TOR,] or an inspector, or a sealer[,] or a deputy sealer, who may [,
16 IF HE WANTS TO] retain it as evidence and, if it is retained, the
17 commissioner or deputy sealer [,] shall issue a weight slip in place
18 of it.

19 * Sec. 24. AS 45.75.290(b) is amended to read:

20 (b) The vendor shall retain one [ONE] of the tickets, provided
21 for under (a) of this section [SHALL BE RETAINED BY THE VENDOR] and
22 shall deliver the other [SHALL BE DELIVERED] to the purchaser at the
23 time of delivery of the fuel, or shall surrender it, [BE SURRENDERED,]
24 on demand, to the commissioner [DIRECTOR, OR THE DEPUTY DIRECTOR] or
25 an inspector, or a sealer or deputy sealer, who may [, IF HE DESIRES
26 TO] retain it as evidence and [, SHALL] issue a weight slip in place
27 of it for delivery to the purchaser. If the purchaser carries away
28 the [HIS] purchase, the vendor is required only to give to the pur-
29 chaser at the time of sale a delivery ticket stating the number of

1 pounds of fuel delivered to the purchaser [HIM].

2 * Sec. 25. AS 45.75.300 is amended to read:

3 Sec. 45.75.300. TEXTILE PRODUCTS. It is unlawful for a person
4 to keep for the purpose of sale, offer or expose for sale, or sell
5 textile yard goods put up or packaged in advance of sale in a bolt or
6 roll, or another [ANY OTHER] textile product put up or packaged in
7 advance of sale in another [ANY OTHER] unit, for wholesale or retail
8 sale, unless the person definitely, plainly and conspicuously marks
9 the bolt or roll, or other unit [, IS DEFINITELY, PLAINLY, AND CON-
10 SPICUOUSLY MARKED] to show its net measure in terms of yards or its
11 net weight, in terms of avoirdupois pounds or ounces, subject to the
12 following limitations and requirements:

13 (1) a unit of twine or cordage may be marked to show its
14 net measure in terms of feet; readywound bobbins not sold separately
15 are not required to be individually marked, but the package containing
16 the bobbins shall be marked to show the number of bobbins contained in
17 it and the net weight or measure of the thread on each bobbin; a unit
18 of sewing, basting, mending, darning, crocheting, tatting, hand-
19 knitting, or embroidery thread or yarn, except nylon hand-knitting
20 yarn, that is not composed in whole or in part of wool, the net weight
21 of which is less than two ounces avoirdupois, shall be marked to show
22 its net measure in terms of yards as unwound from the ball or from the
23 spool or other holder; a retail unit of a textile product sold only
24 for household use consisting of a package containing two or more
25 similar individual units that are not sold separately shall be marked
26 to show the number of individual units in the package and the net
27 weight or net measure of the product in each individual unit, but this
28 does not apply where the individual units are separately marked; a
29 unit of yarn, composed in whole or in part of wool, sold to consumers

1 for handiwork, shall be marked to show the net weight of the yarn,
2 except that a [ANY SUCH] unit of tapestry, mending, or embroidery yarn,
3 that [THE NET MEASURE OF WHICH] does not exceed 50 yards in net mea-
4 sure, may be marked to show its linear measure only;

5 (2) the marking required by this section shall in all cases
6 be in combination with the name and place of business of the manufac-
7 turer, packer, or distributor of the product, or a trademark, symbol,
8 brand, or other mark that identifies the manufacturer, packer, or
9 distributor;

10 (3) reasonable tolerances shall be permitted, and the
11 commissioner shall include reasonable tolerances [THESE SHALL BE
12 INCLUDED] in regulations adopted for the enforcement of this section
13 [THAT ARE ISSUED BY THE DIRECTOR];

14 (4) this section does not apply to the following textile
15 products when sold at wholesale in bulk by net weight: cordage, agri-
16 cultural bag sewing threads, twines, yarns that are to be processed,
17 and yarns that are to be industrially converted into end-use products.

18 * Sec. 26. AS 45.75.330 is amended to read:

19 Sec. 45.75.330. INJUNCTION. The commissioner [DIRECTOR] may
20 apply to a court for a temporary or permanent injunction restraining a
21 person from violating a provision of this chapter.

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

23 Sec. 45.75.380. OFFENSES AND PENALTIES. (a) A person commits a
24 violation subject to the penalty specified in AS 12.55.035(b)(5) if
25 the person does one or more of the following acts [A PERSON WHO, BY
26 HIMSELF OR BY HIS SERVANT, OR AGENT, OR AS THE SERVANT OR AGENT OF
27 ANOTHER, PERFORMS ANY ONE OF THE FOLLOWING ACTS IS GUILTY OF A MISDE-
28 MEANOR AND UPON A FIRST CONVICTION OF THE VIOLATION IS PUNISHABLE BY A
29 FINE OF NOT LESS THAN \$20 NOR MORE THAN \$200, OR BY IMPRISONMENT FOR

1 NOT MORE THAN THREE MONTHS, OR BY BOTH. UPON A SECOND OR SUBSEQUENT
2 CONVICTION, THE PERSON IS PUNISHABLE BY A FINE OF NOT LESS THAN \$50
3 NOR MORE THAN \$500, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR
4 BY BOTH]:

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

10 (2) uses or has in possession for current use, in buying or
11 selling a commodity or thing, or for hire or award, or in the computa-
12 tion of a basic charge or payment for services rendered on the basis
13 of weight or measurement, or in the determination of weight or mea-
14 surement when a charge is made for determination, a weight or measure
15 that has not been tested and sealed by the appropriate authority
16 within one year, (A) unless the person gives written notice [IS GIVEN]
17 to the appropriate authority to the effect that the weight or measure
18 is available for examination, or is due for reexamination [RE-EXAMINA-
19 TION], as the case may be, (B) unless the person receives specific
20 written permission to use the weight or measure [IS RECEIVED], from the
21 appropriate authority, or (C) unless the weight or measure is exempt
22 from sealing or annual testing requirements by AS 45.75.080 or by a
23 regulation adopted [OF THE DIRECTOR ISSUED] under AS 45.75.050;

24 (3) disposes of a rejected or condemned weight or measure
25 in a manner contrary to law or regulation;

26 (4) removes from a weight or measure, contrary to law or
27 regulation, a tag, seal, or mark placed on it by the appropriate
28 authority;

29 (5) sells or[,] offers [OR EXPOSES] for sale less than the

1 quantity the person [HE] represents of a commodity, thing, or service;

2 (6) takes more than the quantity the person [HE] represents
3 of a commodity, thing, or service when, as buyer, the person [HE]
4 furnished the weight or measure that the seller used to determine [BY
5 MEANS OF WHICH] the amount of the commodity, thing, or service [IS
6 DETERMINED];

7 (7) keeps for the purpose of sale, advertises, or offers
8 [OR EXPOSES] for sale, or sells a commodity, thing, or service in a
9 condition or manner contrary to law or regulation;

10 (8) uses in retail trade, except in the preparation of
11 packages put up in advance of sale and of medical prescriptions, a
12 weight or measure that is not so positioned that a customer may accu-
13 rately read, from a position that may reasonably be assumed by a
14 customer, its indications [MAY BE ACCURATELY READ] and observe the
15 weighing or measuring operation [OBSERVED FROM SOME POSITION WHICH MAY
16 REASONABLY BE ASSUMED BY A CUSTOMER];

17 (9) hinders or obstructs the commissioner, an inspector, a
18 sealer, or a deputy sealer in the performance of official duties under
19 this chapter;

20 (10) violates a provision of an overweight or oversize
21 vehicle permit issued under AS 44.33.020(25);

22 (11) violates a weight, load, or size limitation established
23 under AS 19.10.060 or a regulation adopted under AS 19.05.020, AS 44.-
24 33.020(25), or AS 45.75.050(b)(5);

25 (12) violates a provision of this chapter or of a regulation
26 adopted under this chapter for which a specific penalty is not pre-
27 scribed.

28 (b) Notwithstanding the maximum fine for a violation provided
29 under (a) of this section, the commissioner shall impose on a person

1 who violates a regulation or special permit governing the weight limit
2 of a motor vehicle a maximum penalty of \$.05 for each pound of weight
3 over the authorized weight limit for the vehicle.

4 * Sec. 28. AS 45.75.390(4) is repealed and reenacted to read:

5 (4) "commissioner" means the commissioner of commerce and
6 economic development or the commissioner's designee;

7 * Sec. 29. AS 28.40.050(e) and AS 45.75.360 are repealed.

8 * Sec. 30. This Act takes effect immediately in accordance with AS 01.-
9 10.070(c).

REPEALED

§ 28.40.050

§ 28.40.050

(e) Notwithstanding the maximum fine provided for infractions under (c) of this section, for the violation of regulations or special permits issued governing vehicle weight limits, overweight penalties shall be imposed at the rate of five cents for each pound of weight over the authorized weight limit for that vehicle. (§ 50-1-8 ACLA 1949; am § 12 ch 241 SLA 1976; am §§ 22, 23 ch 144 SLA 1977)

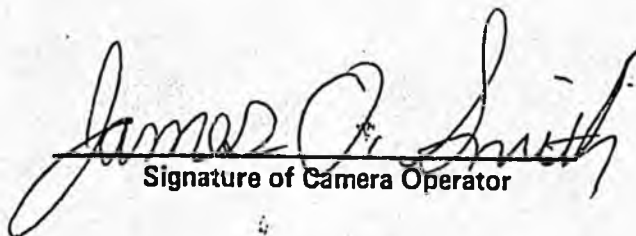
Revisor's notes. — Formerly AS
28.35.230. Renumbered in 1984.

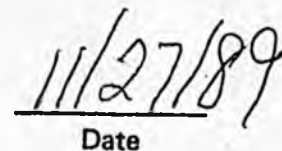
Sec. 45.75.360. Hindering or obstructing officer and penalty.
A person who hinders or obstructs the director, the deputy director, or an inspector, or a sealer or deputy sealer, in the performance of his official duties, is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$20 nor more than \$200, or by imprisonment for not more than three months, or by both. (§ 37 ch 101 SLA 1961)



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SB

103

File 1

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

January 31, 1985

SUBJECT: Senate Bill 103 as amending initiative 83-02
TO: Senator Jack Coghill
FROM: George W. Edwards *GWE*
Legislative Counsel

This is in response to your research request concerning the constitutional implications of Senate Bill 103 as an amendment to initiative 83-02 regarding the termination of the Alaska Transportation Commission.

Article XI, section 6 of the Alaska Constitution states that an initiative passed into law may not be repealed by the legislature for two years. It further states that such an initiative may be amended at any time.

This legislative power to amend has been broadly defined by the Alaska supreme court as a check or balance against the initiative process lest the process otherwise result in the frustration of sound government (see Warren v. Boucher 543 P2d 731 (Alaska, 1975) and Warren v. Thomas 568 P2d 400 (Alaska, 1977)). While the amendment process may not be employed by the legislature to so emasculate an initiative as to effectively repeal it, it may legitimately be used to clarify the law or to effectuate the intent of the electorate.

In order to determine the appropriateness of an amendment to an initiative the language and intent of the initiative and the language and effect of the amendment must be considered. If the amendatory language may be interpreted not to vitiate the intent of the initiative, the court is likely to approve the legislature's right to adopt the language.

Initiative 83-02 was concerned with, among other things, abolishing the ATC for the purpose of eliminating legalized price-fixing and tariffs. It proposed that other government

Senator Jack Coghill
January 31, 1985
Page 2

agencies could insure transportation safety standards and that financial responsibility of commercial carriers should be overseen by the Department of Public Safety. Senate bill 103 does not appear to incorporate any price support or tariff provisions which would conflict with the intent of the initiative. It contains provisions concerning financial responsibility and safety which are consistent with the terms of the initiative. It goes beyond the literal terms of the initiative in requiring both bonds to protect shippers and equipment registration, but these provisions serve a rational purpose and are not in conflict with the apparent intent of the initiative.

In summary, Senate Bill 103 does not appear to violate the constitutional provision concerning the amendment of initiatives.

GWE:csh
c2/199



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

sl 103

January 25, 1985

The Honorable Don Bennett
President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Bennett:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill authorizing the Department of Public Safety (DPS) to regulate the safety of motor carrier and air carrier operations. This bill amends AS 42.30.200, enacted by the Alaska Transportation Commission (ATC) initiative in the last general election, and creates several new sections in AS 42.30.

The intent of this legislation is to allow DPS to maintain an adequate level of safety requirements for commercial air and motor vehicle operations after the ATC's authority to do so is abolished. This is consistent with the portion of the initiative's statement of purpose that acknowledges that "other government agencies can insure safety standards while allowing persons to contract freely for services." The initiative has already authorized DPS to establish financial responsibility requirements and to enforce them. AS 42.30.200. This bill goes further by adding other sections to AS 42.30 to require registration of air and certain motor carriers and compliance with motor vehicle safety regulations or federal aircraft safety rules for those carriers.

The bill forbids certain motor carriers and air carriers to operate in Alaska without complying with its provisions. Proposed AS 42.30.195. The definitions for motor and air carriers, motor vehicles, aircraft, etc. are found in proposed AS 42.30.270, and were adapted from the definitions in the Motor Freight Carrier Act (AS 42.10.420) and the Air Commerce Act of 1960 (AS 02.05.250). The definitions differ from their predecessors in two ways: the four categories of motor carriers formerly recognized have been deleted and the term "motor carrier" now includes buses. Proposed AS 42.30.197 incorporates the provisions of AS 42.10.020 exempting certain vehicles from

coverage, and adds exemptions for school buses and for buses with a seating capacity of fewer than 16 persons.

The financial responsibility statute enacted by the initiative is clarified by a few amendments. AS 42.30.200. To conform the statute's terminology to other sections of the bill, the phrase "a person who carries passengers or freight for hire intrastate" is changed to "a person operating as a motor carrier or a person engaged in air commerce." A provision from AS 02.05.136 has been added, requiring 30 days' notice to DPS before insurance or surety bonds may be cancelled. The requirement that regulations be adopted under AS 42.30.200 was also added.

Proposed AS 42.30.205 gives the department the discretionary power to adopt regulations requiring carriers to obtain bonding. This provision is modeled after AS 42.10.100 and is intended to protect the public that uses the carrier's services. In keeping with the practice set up by AS 42.10.113, motor carriers are required to place their identification on their motor vehicles. Proposed AS 42.30.210.

The bill creates a new system of carrier registration. Unlike the ATC's system of issuing permits or certificates based on public convenience and necessity, this registration plan does not economically regulate entry into air or motor commerce. An intrastate motor carrier that is required to register will be registered if three simple conditions are met: the carrier shows proof of financial responsibility (which AS 42.30.200 already requires) and bonding (if required by regulation), and provides proof of compliance with safety regulations. Proposed AS 42.30.215. This latter element will be met by having all vehicles inspected by the department, or an authorized representative, once every six months, as provided in proposed AS 42.30.230(b). The inspections would be performed free of charge by a nonuniformed DPS employee. An interstate motor carrier will register its Interstate Commerce Commission (ICC) authority under proposed AS 42.30.220 just as it did under AS 42.10.135. Interstate carriers will be required to comply with Alaska's safety regulations and obtain bonding, if directed by regulation, but they will not be subject to this bill's insurance or inspection rules because those matters are governed by federal authority. An air carrier registers by providing proof of insurance, bonding, and compliance with federal safety laws. Proposed AS 42.30.225. As was set out in AS 02.05.090, air carriers must also register each aircraft used and pay an annual aircraft registration fee.

Proposed AS 42.30.225(e) and (f).

Proposed AS 42.30.235 gives DPS the ability to adopt regulations, under the Administrative Procedure Act, to carry out the bill's provisions. Other than the definitions portion, the remainder of the bill deals with enforcement and penalties for operating in violation of the provisions of this bill. If any carrier operates without the necessary insurance or bonding, or if an air carrier fails to register its aircraft, the carrier's registration can be summarily suspended, with an administrative hearing provided within 10 days. Proposed AS 42.30.240(a). This is similar to the ATC's stop-order authority in AS 42.07.181. There are three other bases for revocation, although they are not grounds for pre-hearing suspension: intentional misrepresentation of a material fact in obtaining registration; intentional failure to comply with the provisions of this bill or regulations adopted under them; and failure to pay applicable fees. Proposed AS 42.30.240(b). Carriers with a suspended registration may cure the defect any time before the hearing, or after a hearing and before registration is revoked. Proposed AS 42.30.240(c). However, if registration is revoked for any reason, the carrier must pay fees and reapply to become registered again. Revocations are appealable to the superior court. Proposed AS 42.30.240(d).

In addition to the ability to administratively handle violations by lifting a carrier's registration, DPS may also pursue enforcement actions in court. Under proposed AS 42.30.245(a)(4), designated representatives of the department may issue citations for violation of the commercial motor vehicle safety regulations. The department may pursue an action in superior court to enforce its statutes and regulations (proposed AS 42.30.245(b)) and seek a misdemeanor conviction or payment of civil penalties where applicable. Proposed AS 42.30.250 and 42.30.255. A knowing act or omission in violation of any of this bill's provisions is a misdemeanor punishable by a fine of not more than \$500, and payment of the costs of prosecution. Proposed AS 42.30.250 (modeled after AS 42.10.393 and AS 02.05.230). Carriers who operate without the necessary insurance or bonding while their registration is suspended, or who operate without obtaining registration or while registration is revoked, are subject to a civil penalty equal to the amount of revenue earned as a result of their operation, or up to \$1,000, whichever is greater. Proposed AS 42.30.255 (comparable to AS 42.10.394 and AS 02.05.231). Aircraft or motor vehicles used in commerce before registration is obtained, or after regis-

tration is revoked, may be seized by DPS. The court may order the aircraft or vehicle forfeited to the state, or may release it to the offending carrier upon payment of civil or criminal penalties. Proposed AS 42.30.245(c).

The initiative's action in abolishing the ATC and in effecting the economic deregulation of the transportation industry in Alaska creates a new era for both Alaska's residents and its industry. I believe that it is important that the legislative and executive branches of government cooperate to the fullest extent to establish a program that achieves the intent of the initiative and provides an adequate level of safety to protect the general public. I am willing to explore with the legislature other approaches to accomplishing this objective.

I urge prompt consideration of this measure before February 28, 1985 so that the roads and skies will remain safe for business and the public.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield".

Bill Sheffield
Governor

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB103
 Title: "...Public Safety to reg. safety of commerical vehicles..."
 Sponsor: _____
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: _____
Public Protection
 ERU, Program or Subprogram(s) Affected: _____
Division of Motor Vehicles -
Commercial Vehicle Safety

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		250.0	250.0	250.0	250.0	250.0
200 TRAVEL		3.0	3.2	3.4	3.6	3.8
300 CONTRACTUAL		66.0	53.6	56.3	59.1	62.1
400 SUPPLIES		7.0	7.4	7.8	8.2	8.6
500 EQUIPMENT		30.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		356.0	314.2	317.5	320.9	324.5

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		356.0	314.2	317.5	320.9	324.5
FEDERAL FUNDS						
OTHER						
TOTAL		356.0	314.2	317.5	320.9	324.5

POSITIONS:

FULL-TIME		6.0	6.0	6.0	6.0	6.0
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Marcia Lynn McKenzie
 Division: Administrative Services

Phone: 465-4349
 Date: 1/22/85

Approved by Commissioner: Robert J. Sundberg
 Agency: Public Safety

Date: 1/22/85

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

COST ANALYSIS

The following costs are for administration of permitting, certification, bonding and insurance. These costs are in addition to the positions and funding included in the Governor's budget which are for vehicle safety inspections.

Personal Services \$250.0

1	Administrative Support Center Supervisor	Range 14
4	Administrative Support Technicians	Range 12
1	Accounting Technician II	Range 14

It is anticipated that the positions, located in Anchorage, will be transferred from the ATC component, along with needed office equipment (desks, chairs, etc.). Minimal overtime and negotiated one-time compensatory payments are included.

Travel 3.0

Contractual Services 66.0

Telephone, postage, etc.	\$25.0
Printing of applications, forms, advertisements, etc.	8.0
Space Lease	15.0
Maintenance on data/word processing equipment	1.3
Copier costs	3.0
Professional fees (Dept. of Law)	12.0
Risk Management	1.7

Supplies and Materials 7.0

Office and library supplies

Equipment 30.0

Data/word processors

TOTAL \$356.0

For FY 87, space lease costs are transferred to the Department of Administration. A five percent annual inflation adjustment is applied beginning in FY 87.

05-12-04-06-00 (00-00-0-00-00-00)

STATE OF ALASKA -- COMPONENT BUDGET SUMMARY

17:51

12/21/84

AGENCY: DEPARTMENT OF PUBLIC SAFETY
 CATEGORY: PUBLIC PROTECTION

PROGRAM: MOTOR VEHICLES
 SUB-PROGRAM: COMMERCIAL VEHICLE SAFETY

----- F I S C A L Y E A R 1 9 8 5 -----

EXPENDITURES	(18)	(01)	(02)	(03)	(04)	(05)	(06)	(08)	(09)	(10)	(11)	(12)	(13)
1 FUNDING	FY83 ACT	FY84 ACT	FY85 ATH	ADJ BASE	FORMULA	INCREMNT	REQUEST	GOVERNOR	HOUSE	SENATE	C. C.	BILLS	LEG.REC.
01 PERS. SERV.				536.4			536.4	536.4					
02 TRAVEL				25.0			25.0	25.0					
03 CONTRACTUAL				100.0			100.0	100.0					
04 COMMODITIES				6.5			6.5	6.5					
05 EQUIPMENT													
06 LANDS/BLDGS													
07 GRANTS, CLMS													
08 MISC.													
* TOTAL EXPEND				667.9			667.9	667.9					
09 I-A TRANSFER				46.5			46.5	46.5					
1004 GEN FUND				667.9			667.9	667.9					
15 FULL TIME				11.0			11.0	11.0					
16 PART TIME													
17 TEMPORARY													
18 STAFF MCNTHS				132.0			132.0	132.0					

06-12-04-06-00 (00-00-0-00-00-00)

STATE OF ALASKA -- COMPONENT BUDGET ANALYSIS

17:51

12/21/84

AGENCY: DEPARTMENT OF PUBLIC SAFETY
CATEGORY: PUBLIC PROTECTION

PROGRAM: MOTOR VEHICLES
SUB-PROGRAM: COMMERCIAL VEHICLE SAFETY

***** GOVERNOR ANALYSIS *****

OBJECT GROUP	VARIATION		DESCRIPTION: GOVERNOR (\$667.9) VERSUS FY85 ATH (\$0.0)
01 PERS. SERV.	536.4	100.0%	TRANSFER FROM THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT (DCED), ALASKA TRANSPORTATION COMMISSION (ATC), FOR THE COMMERCIAL VEHICLE SAFETY PROGRAM \$536.4.
02 TRAVEL	25.0	100.0%	TRANSFER FROM DCED, ATC, FOR THE COMMERCIAL VEHICLE SAFETY PROGRAM \$25.0.
03 CONTRACTUAL	100.0	100.0%	TRANSFER FROM DCED, ATC, FOR THE COMMERCIAL VEHICLE SAFETY PROGRAM \$100.0.
04 COMMODITIES	6.5	100.0%	TRANSFER FROM DCED, ATC, FOR THE COMMERCIAL VEHICLE SAFETY PROGRAM \$6.5.
** TOTALS	667.9	100.0%	

Testimony prepared for the
Senate Transportation Committee
regarding Senate Bill 103 by
the Alaska Air Carriers Association

February 28, 1985

Mr. Chairman and members of the Senate Transportation Committee, my name is Bob Jacobsen and I am here today on behalf of the Alaska Air Carriers - an association comprised of 115 member air service companies throughout Alaska.

I would like to begin by commending the Committee for its early review of this matter both because it is of great concern to our association and because of the February 28 deadline after which the Alaska Transportation Commission will no longer be in existence.

On Friday, I was present for the testimony of Representative Marrou regarding the intent of people who voted for the initiative which abolished A.T.C. We appreciate Representative Marrou's efforts to remove unnecessary regulatory constraints which impede free competition among air carriers. But it is also important for the Committee to recognize that among the people I know who voted in favor of the initiative, including some members of our organization, did so to express opposition to an overemphasis by A.T.C. on economic regulation and underemphasis on safety and fitness which are and should continue to be a primary concern of government. The only safe conclusion to draw when trying to figure out the intent of the initiative's supporters is that they believe in greater freedom of competition in the transportation industry and what they hope will be lower freight and passenger cost. That is the only common thread which ties the motor carriers, air carriers, and Jones Act (water) carriers together in the initiative.

We feel that it would be a mistake to conclude that Alaskans are no longer concerned with safety or that the initiative standing alone will assure that the transportation industry is as safe as possible. For this reason, we appreciate the efforts of Governor Sheffield in introducing legislation which we feel is necessary to protect public safety.

While we agree with the intent of Senate Bill 103, we do have some suggestions which we think will simplify and improve it.

First, the registration, insurance provisions, and proof of FAA certification, as they apply to the air carriers are similar to the occupational licensing function of the Department of Commerce. We believe the registration of air carriers would be handled by that Department more efficiently and at lower cost than by the Department of Public Safety.

Second, the minimum liability insurance which is currently required by A.T.C. for air carriers is \$100,000 per seat (non-certificated carriers). The minimum liability insurance which must be carried by certificated carriers is \$300,000 per seat. I have been advised by an attorney in Anchorage knowledgeable in this jurisdiction that the average death settlement in 1982 was approximately \$250,000. Rather than allow the minimum liability insurance requirement to be set by regulation, we suggest you consider this and recommend that you establish it by statute.

When the federal government recently deregulated the airline industry, the same issues were addressed as those now before the committee. In the decision to sunset the Civil Aeronautics Board (C.A.B.), it was decided by Congress that the economic regulatory function of the agency would be discontinued, but that oversight of fitness and financial responsibility for certificated carriers be transferred to the federal Department of Transportation. The certification process requires an application, an operations and business plan, and a declaration of previous accidents, consumer complaints, and judgments awarded against the applicant. The application is reviewed and awarded based on fitness to operate, not upon the competitive effects of the business.

Because we recognize that the line between economic regulation and public safety - one key aspect of which is financial responsibility and fitness to operate - is not easy to define with precision; and because we also feel strongly that legislation should be in place February 28 to protect public safety, we do not believe it is possible to tackle this issue without risk of delay beyond that date. Therefore, we strongly urge the Committee to consider an amendment which would require the administration to undertake an interim study which would:

1. Examine the federal certification process for scheduled carriers to determine which aspects are desirable to incorporate in the state registration process in the interest of public safety.
2. Examine the impact of deregulation on rural air service to determine whether measures designed to insure reliability of service are necessary.

The results of this study would be reported back to the next session of the legislature with recommendations.

We also recommend to you that because of some fundamental differences between the air and trucking industries, that you divide the Governor's bill into two separate bills.

Last, Mr. Chairman, we sympathize with your task in reducing state expenditures this year to bring them in line with available revenues. In FY 85, A.T.C. was budgeted at \$1.4 million. We feel that the Governor's bill with the amendments we have suggested could be administered by the Department of Commerce for a much smaller budget.

Part 103—Ultralight Vehicles

Subpart A—General

§ 103.1 Applicability.

This Part prescribes rules governing the operation of ultralight vehicles in the United States. For the purposes of this Part, an ultralight vehicle is a vehicle that:

- (a) Is used or intended to be used for manned operation in the air by a single occupant;
- (b) Is used or intended to be used for recreation or sport purposes only;
- (c) Does not have any U.S. or foreign airworthiness certificate; and,
- (d) If unpowered, weighs less than 155 pounds; or
- (e) If powered:
 - (1) Weighs less than 254 pounds empty weight, excluding floats and safety devices which are intended for deployment in a potentially catastrophic situation;
 - (2) Has a fuel capacity not exceeding 5 U.S. gallons;
 - (3) Is not capable of more than 55 knots calibrated airspeed at full power in level flight; and
 - (4) Has a power-off stall speed which does not exceed 24 knots calibrated airspeed.

§ 103.3 Inspection requirements.

(a) Any person operating an ultralight vehicle under this Part shall, upon request, allow the Administrator, or his designee, to inspect the vehicle to determine the applicability of this Part.

(b) The pilot or operator of an ultralight vehicle must, upon request of the Administrator, furnish satisfactory evidence that the vehicle is subject only to the provisions of this Part.

§ 103.5 Waivers.

No person may conduct operations that require a deviation from this Part except under a written waiver issued by the Administrator.

§ 103.7 Certification and registration.

(a) Notwithstanding any other section pertaining to certification of aircraft or their parts or equipment, ultralight vehicles and their component parts and equipment are not required to meet the airworthiness certification standards specified for aircraft or to have certificates of airworthiness.

(b) Notwithstanding any other section pertaining to airman certification, operators of ultralight vehicles are not required to meet any aeronautical knowledge, age, or experience requirements to operate those vehicles or to have airman or medical certificates.

(c) Notwithstanding any other section pertaining to registration and marking of aircraft, ultralight vehicles are not required to be registered or to bear markings of any type.

Subpart B—Operating Rules

§ 103.9 Hazardous operations.

(a) No person may operate any ultralight vehicle in a manner that creates a hazard to other persons or property.

(b) No person may allow an object to be dropped from an ultralight vehicle if such action creates a hazard to other persons or property.

§ 103.11 Daylight operations.

(a) No person may operate an ultralight vehicle except between the hours of sunrise and sunset.

(b) Notwithstanding paragraph (a) of this section, ultralight vehicles may be operated during the twilight periods 30 minutes before official

sunrise and 30 minutes after official sunset or, in Alaska, during the period of civil twilight as defined in the Air Almanac, if:

- (1) The vehicle is equipped with an operating anticollision light visible for at least 3 statute miles; and
- (2) All operations are conducted in uncontrolled airspace.

§ 103.13 Operation near aircraft; Right-of-way rules.

(a) Each person operating an ultralight vehicle shall maintain vigilance so as to see and avoid aircraft and shall yield the right-of-way to all aircraft.

(b) No person may operate an ultralight vehicle in a manner that creates a collision hazard with respect to any aircraft.

(c) Powered ultralights shall yield the right-of-way to unpowered ultralights.

§ 103.15 Operations over congested areas.

No person may operate an ultralight vehicle over any congested area of a city, town, or settlement, or over any open air assembly of persons.

§ 103.17 Operations in certain airspace.

No person may operate an ultralight vehicle within an airport traffic area, control zone, terminal control area, or positive control area unless that person has prior authorization from the air traffic control facility having jurisdiction over that airspace.

§ 103.19 Operations in prohibited or restricted areas.

No person may operate an ultralight vehicle in prohibited or restricted areas unless that person has permission from the using or controlling agency, as appropriate.

§ 103.21 Visual reference with the surface.

No person may operate an ultralight vehicle except by visual reference with the surface.

§ 103.23 Flight visibility and cloud clearance requirements.

No person may operate an ultralight vehicle when the flight visibility or distance from clouds is less than that in the following table, as appropriate:

<i>Flight Altitudes</i>	<i>Minimum Flight Visibility</i>	<i>Minimum Distance from Clouds</i>
1,200 feet or less above the surface regardless of MSL altitude:		
(1) Within controlled airspace—	3 statute miles	500 feet below 1,000 feet above 2,000 feet horizontal.
(2) Outside controlled airspace:	1 statute mile	Clear of clouds.
More than 1,200 feet above the surface but less than 10,000 feet MSL:		
(1) Within controlled airspace—	3 statute miles	500 feet below 1,000 feet above 2,000 feet horizontal.
(2) Outside controlled airspace—	1 statute mile	500 feet below 1,000 feet above 2,000 feet horizontal.
More than 1,200 feet above the surface and at or above 10,000 feet MSL:	5 statute miles	1,000 feet below 1,000 feet above 1 statute mile horizontal.

Drew - for 401 Application

IN ADDITION TO THE INFORMATION ASKED FOR IN PART 204.5, PLEASE INCLUDE THE FOLLOWING INFORMATION WITH YOUR PART 204 FITNESS DATA:

- 1) A brief description of each accident or incident involving the carrier seven (7) years prior to filing date of application.
 - A) Date of accident or incident.
 - B) Location of accident or incident.
 - C) Aircraft registration number (N#).
 - D) FAA and/or NTSB file number if known.
 - E) Name of pilot or other employees involved.
 - F) Finding of FAA/NTSB if applicable.
 - G) Positive actions taken by carrier as result of accident or incident.

ALSO, PLEASE INCLUDE THE FOLLOWING INFORMATION SO THAT THE BOARD MAY MAKE A RELIABILITY FINDING IN ADDITION TO A FITNESS DETERMINATION:

- 1) Carrier's systemwide on-time and completion record for the preceding year.
- 2) Availability of back-up aircraft. (If the aircraft used in your proposed scheduled service are down, does your fleet contain back-up aircraft, or would you be able to charter like aircraft to perform the scheduled service).
- 3) Fuel availability. (A brief description of carrier's contracts with fuel suppliers).

INDEX OF APPENDICES

Appendix	Title
A	Data Required by Section 204.5
B	Affidavit of Citizenship
C	Key Personnel
D	List of Stockholders
E	Financial Statements
F	Aircraft Operated
G	Affidavits of Aircraft Safety Compliance
H	Statements Regarding Consumer Complaints
I	Illustrative Description of Service
J	Projected Balance Sheet
K	Operating Authority

SAMPLE OUTLINE
OF
LETTER OF INTENT
(ON COMPANY LETTERHEAD)

COMPANY NAME

Type of Operations:

Type and Class of Aircraft:

Area of Operation:

Organizational Personnel:

Estimated Date for Submitting:

Formal Application _____
Operations Manual _____
Training Program _____
Proving Test Proposals _____
Operations Specifications _____
Maintenance Program _____
Maintenance Manual _____

Date Ready For Certification Inspection _____

SIGNATURE OF COMPANY OFFICIAL

Make an appointment with both the Principal Airworthiness Inspector and the Principal Operations Inspector for briefing.

2a. TYPE OF INSPECTION				<i>Instructions: Complete all items for original amendment, or base inspection. Complete applicable items coded (*) for ramp inspection.</i>				2b. PLACE OF INSPECTION							
ORIGINAL		BASE													
AMENDMENT		RAMP													
3. PERSONNEL		TOTAL NO.		PILOT(S)-IN-COMMAND*		SECOND PILOT(S)*		MECHANIC(S)		OTHER(S)					
4. AIRCRAFT*	MAKE AND MODEL			REG NO		OWNERSHIP		HOURS SINCE LAST 100 HR. INSPECTION		DATE OF LAST ANNUAL INSPECTION		AIRCRAFT CONDITION			
						OWNED LEASED									
5. TRIP DATA*		FROM				TO				DISPATCHER'S NAME					
		ESTIMATED FLIGHT TIME				FUEL ABOARD				CREW ON-DUTY TIME		CREW FLIGHT TIME			
6. ADMINISTRATIVE		<i>(For compliance, check "Yes," or "No")</i>						YES		NO					
		A. Operating Certificate & Specifications													
		B. Aircraft Requirements*													
		C. Current List of Aircraft													
		D. Current Pilot Records													
7. PERSONNEL		A. Airmen Qualification, Competency and Proficiency*													
		B. Check Airman Authorizations													
		C. Training Requirements													
		D. Autopilot Authorization*													
8. DISPATCH		A. Clearance: Required: <input type="checkbox"/> Yes <input type="checkbox"/> No Filed: <input type="checkbox"/> Yes <input type="checkbox"/> No													
		B. Weather Reports and Forecasts*													
		C. Required Operating Information*													
		D. Fuel Requirements*													
		E. Load Manifest*													
		F. Weight and Balance Control*													
		G. Airworthiness Check*													
		H. Area of Operations													
		I. Alternate Airport*													
9. A/C REQUIREMENTS		<i>(For compliance, check "Yes," or "No")</i>						YES		NO					
		A. Operating Limitations/Flight Manual*													
		B. Performance Requirements*													
		C. Inspection and Maintenance*													
		D. Maintenance Facilities & Personnel													
		E. Aircraft Log & Maintenance Records*													
		F. Service Difficulties Reported													
		G. Fueling Procedures*													
		10. AIRCRAFT & EQUIPMENT		A. Dual Controls*											
				B. Equipment Requirements: General*											
				C. Turbine Aircraft Requirements											
D. Night or VFR Over-the-Top*															
E. IFR Requirements*															
F. Radio & Navigational Equipment*															
(1) VFR Night, Over-the-Top															
(2) Extended Overwater or IFR															
G. Fire Extinguishers*															
H. Overwater, Emergency, & Evacuation*															
11. REMARKS (Attach supplemental sheet, if necessary)		I. Icing Conditions*													
		J. Oxygen Requirements*													
		K. Simulator													
12. SIGNATURE				TITLE				OFFICE				DATE			

TEAR OFF
BEFORE USE

DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

SUPPLEMENTAL
INFORMATION

APPLICATION FOR AIR TAXI COMMERCIAL OPERATOR
(ATCO) CERTIFICATION UNDER FAR 135 - PRIVACY ACT

The information on the accompanying form is solicited under the authority of the Federal Aviation Regulations, Part 135.

Submission of the information is mandatory.

The purpose of this information is to evaluate and establish eligibility for certification.

The data will be used for record keeping and statistical purposes

Incomplete submission may result in delay or denial of your request(s).

FAA Form 8000-6 (1-83)

Detach this part before using form below

No certificate may be issued unless a completed application form has been received (14 C.F.R. 135).



US Department of Transportation
Federal Aviation Administration

APPLICATION FOR AIR TAXI COMMERCIAL OPERATOR
(ATCO) CERTIFICATE UNDER FAR 135

Form Approved:
O.M.B. No. 2120-0039

Submit in triplicate (3) to appropriate FAA District Office		2a. OPERATING AS	
1. APPLICATION IS HEREBY MADE FOR ("X" applicable box) <input type="checkbox"/> ISSUANCE <input type="checkbox"/> AMENDMENT OF ATCO CERTIFICATE		<input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> CORPORATION <input type="checkbox"/> OTHER (Specify):	
2. NAME, ADDRESS, AND ZIP CODE OF APPLICANT		2b. U.S. CITIZENSHIP AS DEFINED IN FAR 135	
TELEPHONE (Include area code)		2c. PROOF OF REGISTRATION (CAB Part 253)	
3. PRINCIPAL OPERATIONS BASE (Airport, City, State)		2d. HOLD A COMMERCIAL OPERATING CERTIFICATE (If "Yes," state Regulation(s) under which issued):	
4. PRINCIPAL MAINTENANCE BASE (Airport, City, State)		5. NAME OF <input type="checkbox"/> DIRECTOR OF OPERATIONS <input type="checkbox"/> CHIEF PILOT	
6. NAME OF <input type="checkbox"/> DIRECTOR OF MAINTENANCE <input type="checkbox"/> CHIEF MECHANIC		PHONE (Include area code)	

7. OPERATION AUTHORIZATIONS REQUESTED (Use separate line for each different authorization requested)															8. AREA OF OPERATION									
AIRPLANE	HELICOPTER	SINGLE ENGINE LAND	SINGLE ENGINE SEA	MULTIENGINE LAND	MULTIENGINE SEA	PASSENGERS			JET	T PROP	RECIP	VFR	IFR	DAY	NIGHT	PASSENGER	CARGO	COMMUTER	AIRMAIL	OFF-AIRWAYS	AUTO-PILOT	RNAV	MLS	<input type="checkbox"/> CONTINENTAL U.S.
						9 OR LESS	10 TO 19	20 TO 30																<input type="checkbox"/> SPECIFIC AREAS
																								<input type="checkbox"/> INTERNATIONAL (List countries)

9. AIRCRAFT TO BE USED (List one aircraft only in each category and class)									
REGISTRATION NUMBER	MAKE	MODEL	CATEGORY AND CLASS	OWNERSHIP ("X" one)		EQUIPPED FOR ("X" applicable items)			
				Owned	Agreement or Lease (Attach copy)	VFR		IFR	
						DAY	NIGHT	DAY	NIGHT

10. CERTIFICATION			
I certify these statements and the attachments hereto are true and correct			
SIGNATURE OF APPLICANT		TITLE	DATE

RECORD OF ACTION—FOR FAA USE ONLY			
11. INSPECTOR'S RECOMMENDATIONS (If additional space is required, attach 8 x 10" sheet of paper)			

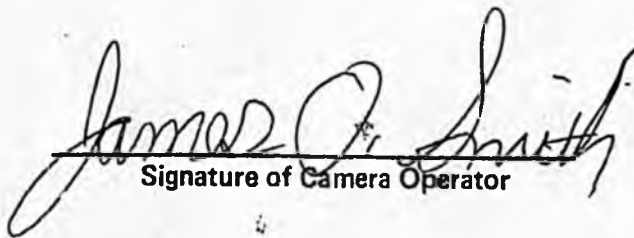
12. INSPECTORS' SIGNATURES	OPERATIONS	MAINTENANCE	AVIONICS
----------------------------	------------	-------------	----------

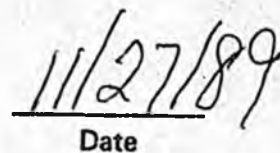
13. APPROVAL	COMMENTS
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RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.


Signature of Camera Operator


Date

SPB

103

File 2

DRAFT 2-04

DRAFT

DRAFT

"An Act relating to transportation safety and financial responsibility; and providing for an effective date."

* Sec. 1. AS 42.30.200 is amended to read:

Sec. 42.30.200. FINANCIAL RESPONSIBILITY. (a) A person who carries passengers or freight for hire intrastate shall procure and maintain security in an amount determined by the Department of Commerce and Economic Development (PUBLIC SAFETY) as necessary for the reasonable protection of the public against damages or injury caused by the person.

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

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

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

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

(4) other security approved by the department.

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

(d) The department may authorize enforcement officers to enforce this section and shall adopt regulations necessary to implement this section.

(e) A person who violates this section is guilty of a class B misdemeanor.

(f) This section does not apply to persons who carry passengers for hire in motor vehicles weighing 5000 pounds or less.

* Sec. 2. AS 42.30 is amended by adding a new section to read:

Section 42.30.225. CERTIFICATION OF COMPLIANCE OF AIR CARRIERS. (a)

A person may not engage in air commerce without obtaining a certificate of compliance from the Department of Commerce and Economic Development. The department shall issue a certificate of compliance upon application and presentation of

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

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

(b) The certificate of compliance under (a) of this section shall be renewed annually.

(c) Each aircraft owned or leased by a person subject to the provisions of this section must have a certificate of compliance issued by the department before the aircraft is used in air commerce. These certificates are valid for a period of 12 months following the date of certification. The certificate must be displayed on the aircraft so that it is visible to boarding passengers.

(d) Federally-certificated interstate carriers that provide intrastate service between points in the state on their interstate or foreign routes, and who use, for that intrastate service, aircraft based

primarily outside the state, must also obtain a certificate of compliance for each aircraft used in intrastate service.

(e) Use of an aircraft in air commerce prior to obtaining a certificate of compliance required under (a) of this section may be cause for suspension or revocation of the certificate.

(f) An air carrier, who before the effective date of this Act, obtained a certificate to operate from the Alaska Transportation Commission, is not required to obtain a certificate of compliance under (a) of this section until the date on which the insurance policy on each aircraft must be renewed.

(g) The department may authorize enforcement officers to enforce this section and shall adopt regulations necessary to implement this section.

Sec. 42.30.270. DEFINITIONS. For the purposes of AS 42.30.200 - 42.30.270,

(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 property, for compensation or hire, in intrastate commerce, including the carriage by aircraft of persons or property which move partly by aircraft and partly by other forms of transportation.

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

(4) "department" means the Department of Commerce and Economic Development;

(5) "freight" has the same meaning as "property";

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

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.070(c).

mtg agenda

M E M O R A N D U M

To: Transportation Committee Members
From: Chairman Coghill
Date: Monday, January 21, 1985
Re: Today's meeting

EOT Commissioner Knapp is scheduled for this afternoon's meeting, and the subject of discussion should follow the general line brought up by questions raised by members at our initial meeting:

- cataloging of the state's highways
- city/state/federal relationship regarding Anchorage roads
- Alaska Marine Highway -
- ~~Capital Project Cleanup -~~

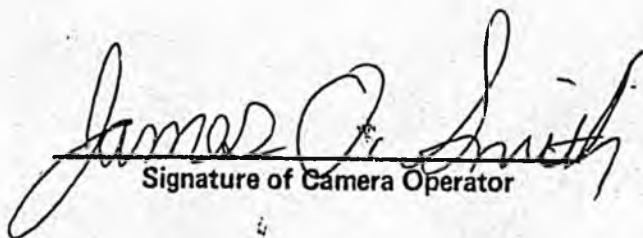
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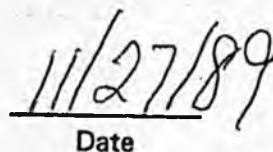


RECORDS CERTIFICATION



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Signature of Camera Operator


Date

SB

103

File 3

Alaska State Legislature

SENATOR
JOHN B. "JACK" COGHILL
Chairman

Senator Jan Faiks—Vice Chairman
Senator Mitch Abood
Senator Paul Fischer
Senator Joe Josephson



POUCH V
JUNEAU, ALASKA 99811
(907) 465-4921

Senate Committee on Transportation

MEMORANDUM

To: Committee members
From: Chairman Coghill
Date: Wednesday, February 6, 1985
Re: Draft CS for SB 103

The attached draft is considerably different from the last draft the committee discussed in that the new one considers certification of air carriers, as well as motor vehicle safety, and takes a different approach to vehicle inspections. The proposed CS can be broken down into three components: a revision of the financial responsibility language enacted by the initiative; a simple certification process for air carriers; and a mechanism providing state certification of motor vehicle safety inspection stations and mechanics.

In section 1, the initiative language is amended by moving oversight responsibility to Commerce, rather than Public Safety, and authorizing the department to adopt regulations implementing the section. Section 2 then adds language to require that the insuring company give the department 30-days notice before cancelling a policy; it sets out a violation of the financial responsibility requirement as a class B misdemeanor; and it specifies that the section apply only to persons carrying freight or passengers for hire in certain vehicles and aircraft. The intention of this last provision is to exempt taxicabs, hot air balloons, ultralights, etc.

Section 3 establishes a certificate of compliance under DCED for air carriers. This annual certificate would be issued for each aircraft used in air commerce, and would be issued upon application and showing proof of financial responsibility and proof of compliance with FAA requirements. The certificate would have to be displayed for boarding passengers to read, and interstate carriers would be required to obtain the certificates for the aircraft they use intrastate. The certificate could be revoked if it was shown that the aircraft had been used in commerce before the certificate was obtained; however, current ATC-authorized carriers would not have to certify their aircraft until the renewal dates on their insurance policies. This is to avoid an annual crush of renewals on the department.

The cs then defines "air carrier", "air commerce", "aircraft", "department", "freight", and "property".

Section 4 adds to the duties of the commissioner of Commerce and Economic Development the duty to implement the financial responsibility requirements of the initiative.

Section 5 of the current draft provides an immediate effective date.

The third component of the issue, truck safety inspections, is currently being written into the cs by legal services, so a rough draft of the proposal is included.

The essence of this approach, noticeably divergent from the previous truck inspection program as proposed by the division of measurement standards, is to place the responsibility and mechanism for inspection into the private sector.

The proposal would require trucks and trailers to be inspected once a year, and would exempt government vehicles.

A program of certification for official inspection stations and qualified mechanics would be established, with the authority in DCED to revoke or suspend the permits of station operators and inspectors who were not conducting their permitted functions as required. A hearing board would be established to hear appeals of permit-holders whose permits had been revoked or suspended.

The draft further describes how the certificate would be issued, and that records of inspections would be kept and could be audited by the state.

Sanctions are provided for falsely representing to be an inspection station, use of counterfeit certificates of inspection and misuse of certificates. Violation of the section would be a misdemeanor.

A final section defines "motor vehicle".

Motor Carrier

1 IN THE SENATE

BY COGHILL

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to transportation safety and finan-
7 cial responsibility; and providing for an effective
8 date."

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

10 * Section 1. AS 42.30.200 is amended to read:

11 Sec. 42.30.200. FINANCIAL RESPONSIBILITY. (a) A person who
12 carries passengers or freight for hire intrastate shall procure and
13 maintain security in an amount determined by the Department of Com-
14 merce and Economic Development [PUBLIC SAFETY] as necessary for the
15 reasonable protection of the public against damages or injury caused
16 by the person.

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

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

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

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

25 (4) other security approved by the department.

26 (c) The department may authorize enforcement officers to enforce
27 this section and may procedural shall adopt regulations necessary to implement this
28 section.

29 * Sec. 2. AS 42.30.200 is amended by adding new subsections to read:

1 provides intrastate service between points in the state on an inter-
2 state or foreign route, and who uses, for that intrastate service,
3 aircraft based primarily outside the state, must also obtain a certif-
4 icate of compliance for each aircraft used in intrastate service.

5 (e) Use of an aircraft in air commerce prior to obtaining a
6 certificate of compliance required under (a) of this section may be
7 cause for suspension or revocation of the certificate.

8 (f) An air carrier, who before the effective date of this Act,
9 obtained a certificate to operate from the Alaska Transportation
10 Commission, is not required to obtain a certificate of compliance
11 under (a) of this section until the date on which the insurance policy
12 on each aircraft must be renewed.

13 (g) The department may authorize ^{Dept} enforcement officers to enforce
14 this section and ^{may} ~~shall~~ ^{procedural} adopt regulations necessary to implement this
15 section.

16 Sec. 42.30.270. DEFINITIONS. In AS 42.30.200 - 42.30.270,

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

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

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

27 (4) "department" means the Department of Commerce and
28 Economic Development;

29 (5) "freight" has the same meaning as "property";

1 (6) "property" means all commodities, articles, and cargo,
2 of whatever nature or value, excluding garbage, refuse, trash, or
3 other waste material.

4 * Sec. 4. AS 44.33.020 is amended by adding a new paragraph to read:

5 (27) implement the financial responsibility requirements for
6 motor vehicles and air carriers under AS 42.30.200 - 43.30.270.

7 * Sec. 5. This Act takes effect immediately in accordance with AS 01.-
8 10.070(c).

DRAFT

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

ARTICLE 6. MOTOR VEHICLE SAFETY INSPECTIONS

Sec. 42.30.300. MOTOR VEHICLE SAFETY INSPECTIONS. (a) The Department of Commerce and Economic Development shall require that every motor vehicle in this state be inspected at least once a year and that an official certificate of inspection and approval be obtained for each vehicle passing inspection.

(b) The commissioner of the Department of Commerce and Economic Development may adopt procedural regulations necessary to implement this section.

7. Sec. 42.30.310. EXEMPTIONS. A motor vehicle is exempt from the requirements of AS 42.30.300 if it is owned and operated by the United States, the state, or a borough, city, town or municipality in the state or by a department of any of them.

Sec. 42.30.320. OFFICIAL INSPECTION STATIONS. (a) The department shall issue permits and furnish instructions and all necessary forms to official stations for the inspection of motor vehicles as requested and the issuance of official certificates of inspection and approval.

(b) Application for permit shall be made upon an official form and shall be granted only when the department is satisfied that the station is properly equipped and has competent personnel to make inspections and adjustments. No official inspection station permit shall be issued or renewed unless a certified official inspection mechanic is employed at that station. The department before issuing a permit may require the applicant to file a bond conditioned that it will make compensation for any damage to a vehicle occurring during an inspection or adjustment due to negligence on the part of an applicant or its employees.

(c) No permit for an official inspection station shall be assigned or transferred or used at any location other than the location

designated and an official inspection station permit shall be posted in a conspicuous place at the designated location.

(d) The department shall supervise and inspect official inspection stations and shall suspend or revoke any permit issued to a station which it finds not properly equipped, staffed or conducted.

(e) Upon notice of suspension or revocation of a license the operator shall immediately terminate all inspection activities, and on demand by the department return all inspection stickers, license and supplies. The department shall issue a receipt for all unused inspection stickers.

(f) An operator of an official inspection station whose permit has been suspended or revoked under this section shall be given a hearing, provided a written request is filed with the department within ten days after suspension or revocation.

Sec. 42.30.330. CERTIFICATION OF MECHANICS. (a) No mechanic shall conduct motor vehicle inspections at an official inspection station unless certified as to training, qualifications and competence by the department.

(b) The department shall supervise mechanics certified under this section and may suspend the certification issued to a mechanic if it finds that the mechanic has improperly conducted inspections or has violated or failed to comply with any of the provisions of this section or regulations adopted under it.

(c) Any mechanic whose certificate has been denied or suspended under this section shall be given a hearing, provided a written request is filed with the commissioner within ten days after denial or suspension.

Sec. 42.30.340. HEARING BOARD. (a) There is hereby created the Safety Inspection Station and Mechanic's Hearing Board, consisting of the commissioner of the Department of Commerce and Economic Development,

UKAF I

the commissioner of the Department of Transportation and Public Facilities, and the Attorney General, or their designees.

(b) The hearing board shall be convened at the request of the commissioner of the Department of Commerce and Economic Development and shall hear all evidence and information regarding the suspension and revocation of an official inspection station license. The hearing board shall make written findings and conclusions pursuant to which an order shall be issued affirming, denying or modifying the action taken by the department.

(c) The order of the hearing board shall be subject to judicial review in the manner provided by law.

Sec. 42.30.350. ISSUANCE OF CERTIFICATE OF INSPECTION. (a) The person operating an official inspection station shall issue a certificate of inspection and approval upon an official form to the owner of a motor vehicle only upon inspecting the motor vehicle and determining that its equipment is in good condition and proper adjustment and that it is mechanically sound.

(b) The person operating an official inspection station shall make a record of each inspection performed at the station and the department may audit the records of an official inspection station at any time.

Sec. 42.30.360. FALSELY REPRESENTING TO BE AN OFFICIAL STATION.

(a) No person shall in any manner represent any place as an official inspection station unless the station is operating under a valid permit issued by the department.

(b) No person shall issue a certificate of inspection and approval unless holding a valid permit to do so.

Sec. 42.30.370. COUNTERFEIT CERTIFICATES OF INSPECTION. (a) No person shall make, issue, or knowingly use any imitation or counterfeit of an official certificate of inspection.

(b) No person shall display or cause or permit to be displayed upon any vehicle any certificate of inspection and approval knowing the certificate is fictitious or issued for another vehicle or issued without an inspection having been made.

Sec. 42.30.380. VIOLATION A MISDEMEANOR. A person who violates this section is guilty of a class B misdemeanor.

Sec. 42.30.390. DEFINITIONS. In AS 42.30.300 - 42.30.380 "motor vehicle" means

(1) a truck of more than 10,000 pounds unladen gross vehicle weight used upon any public highway of this state; and

(2) a trailer of more than 5,000 pounds unladen gross vehicle weight used upon any public highway of this state.

Alaska State Legislature

SENATOR
JOHN B. "JACK" COGHILL
Chairman

Senator Jan Falks—Vice Chairman
Senator Mitch Abood
Senator Paul Fischer
Senator Joe Josephson



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Senate Committee on Transportation

DAILY AGENDA

Senate Transportation Committee

February 6, 1985 3:30 p.m.

Room 205, Capitol Building-Butrovich Room

TOPICS

Commissioner Knapp, Department of Transportation

Consolidation of Road Building Authority

Briefing on SB 103

Alaska State Legislature

SENATOR
JOHN B. "JACK" COGHILL
Chairman

Senator Jan Falks—Vice Chairman
Senator Mitch Abood
Senator Paul Fischer
Senator Joe Josephson



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Senate Committee on Transportation

SENATE TRANSPORTATION COMMITTEE
465-4921

Butrovich Room 3:30
Capitol Room 205 M-W-F

Monday, February 11, 1985
Alaska Railroad Overview
Frank Turpin, Railroad Corporation President

Wednesday, February 13, 1985
SB 103 Regulation of Safety on Motor and Air Carriers

Friday, February 15, 1985
Overview of Alaska Ferry System-Ferry Terminals

Joe Komp

Alaska State Legislature

SENATOR
JOHN B. "JACK" COGHILL
Chairman

Senator Jan Faiks—Vice Chairman
Senator Mitch Abood
Senator Paul Fischer
Senator Joe Josephson



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Senate Committee on Transportation

SENATE TRANSPORTATION COMMITTEE
465-4745

Butrovich Room 3:30
Capitol Room 205 M-W-F

Monday, February 4, 1985

**SB 103 Regulation of Safety on Motor and Air Carriers

Wednesday, February 6, 1985

Commissioner Knapp, Department of Transportation
Consolidation of Overlapping Road Building Authority

Friday, February 8, 1985

**SB 82 Relating to Weights and Measures
Overview on Highway Shoulder Widening

Alaska State Legislature

SENATOR
JOHN B. "JACK" COGHILL
Chairman

POUCH V
JUNEAU, ALASKA 99811
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Senator Jan Faiks--Vice Chairman
Senator Mitch Aboud
Senator Paul Fischer
Senator Joe Josephson

Senate Committee on Transportation

MEMORANDUM

TO: Committee Members
FROM: Senator Coghill
DATE: February 13, 1985
RE: CS SB 103

Sectional Analysis of 2/13 Draft of CS for SB 103

Section 1

Amends the language of the initiative to set the required insurance amounts by statute at \$200,000 for property damage, \$500,000 bodily injury for motor vehicles and \$300,000 per seat bodily injury for aircraft.

Subsection (c) changes "enforcement officers" to "department personnel", and allows the department to adopt necessary regulations.

Section 2

Adds three new subsections to the financial responsibility section to: (d) disallow cancellation of insurance without 30 day notice to the department; (e) make a violation of the requirement to have insurance a class B misdemeanor with a minimum \$500 fine; and (f) applies the section only to certain types of vehicles and aircraft.

Section 3

Establishes a certification of compliance for air carriers. This establishes a certificate of compliance under DCED for air carriers. This annual certificate would be issued for each aircraft used in air commerce, and would be issued upon application and showing proof of financial responsibility and proof of compliance with FAA requirements. The certificate

would have to be displayed for boarding passengers to read, and interstate carriers would be required to obtain the certificates for the aircraft they use intrastate. The certificate could be revoked if it was shown that the aircraft had been used in commerce before the certificate was obtained; however, current ATC-authorized carriers would not have to certify their aircraft until the renewal dates on their insurance policies. This is to avoid an annual crush of renewal on the department.

Article 6 is added to AS 42.30 establishing a program of motor vehicle inspections.

.300 requires all motor vehicles to be inspected once a year, with an annually renewable certificate of inspection. The certificate would be carried in the vehicle, and stickers placed on the outside. The commissioner could adopt regulations to implement the program.

.310 exempts US government vehicles

.320 describes the process for permitting inspection stations, allows the department to monitor a station's work, and suspend or revoke the permit if necessary. A process is then established by which a suspension or revocation may be appealed.

.330 Describes the process for certifying a vehicle inspectors.

.340 Establishes a hearing board within DCED to mitigate disputed revocations and suspensions.

.350 Describes how certificates of inspection will be issued, and that a station operator will keep records, auditable by the department.

.360 prohibits falsely representing to be an official inspection station.

.370 prohibits the manufacture, issuance or use of counterfeit certificates of inspection.

.380 makes it a class B misdemeanor to violate the section.

.390 Defines "air commerce", "aircraft", "department", "freight", and "motor vehicle".

Section 4

Adds implementation of the financial responsibility requirements to the duties of the commissioner of DCED.

Section 5

Provides an immediate effective date.