

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
6191 HOUSE TRANSPORTATION

595

HB

535

HOUSE COMMITTEE REPORT

(5)

Date Referred: February 12, 1990

FURTHER REFERRALS:

JUDICIARY

Date of Committee Action: 4/17/90

The TRANSPORTATION Committee considered:

HB 535

HOUSE BILL NO. 535

MOTOR VEHICLE FRONT SEAT OCCUPANCY LIMIT

"An Act relating to occupancy of motor vehicles."

RECOMMENDATIONS:

- [] be replaced with _____ [] the same title
[] a new title
[] have attached amendment(s)
[] do pass
[] do not pass
[] no recommendation
[] individual recommendations
[] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept) _____

APPROVES PREVIOUS:

(Date/Dept)

- [] fiscal impact _____ [] fiscal note(s) _____
[] zero fiscal note _____ [] zero fiscal note(s) _____
[] zero with analysis _____ [] zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not Pass No Rec Amend

Richard J. D'Amico
Bill Hulse

SIGNING:	Do Not Pass	No Rec	Amend
<u>Ben ...</u>		X	
<u>Loren A. Penman</u>		✓	

Richard J. D'Amico
Chairman's Signature

BRENT C. MOODY
CHIEF OF POLICE

WRANGELL POLICE DEPARTMENT



DAVID L. JACK
LIEUTENANT

431 ZIMOVIA HIGHWAY
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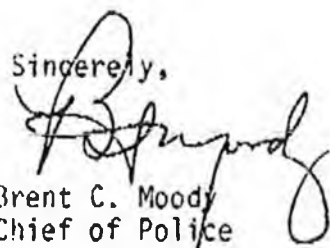
Representative Robin Taylor
Room 601, Court
P.O. Box V
Juneau, AK 99811

April 17, 1990

Dear Representative Taylor,

Please accept this letter fully supporting House Bill 535. I think that is very important that the state limit the number of persons in the front seat of a vehicle.

Sincerely,


Brent C. Moody
Chief of Police

FISCAL NOTE

REQUEST:

Revision Date: 4/11/90
Title: Relating to vehicle front seat occupancy
Sponsor: Rep. Taylor
Requestor: House Transportation Committee

Agency Affected: Public Safety
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

ANALYSIS : (Attach a separate page if necessary)

Prepared by: House Transportation Committee Phone: 465-4158
Division: Alaska State Legislature Date: 4/10/90

Approved by Commissioner: Leah M. Oh - for Gayle Hartsock Date: 4/10/90
Agency: Dept of Public Safety

Distribution (by preparer):

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

ALASKA STATUTES

Title 28
Motor Vehicles

SEPTEMBER 1989

Sec. 28.35.130. False report or destruction of evidence. An officer or person who knowingly makes or subscribes a false report concerning an investigation of a vehicle or damage or injury caused by a vehicle, as provided in this chapter, is guilty of perjury. A person who destroys, obliterates, conceals or removes, or who aids, abets, or assists in the destruction, obliteration, concealment, or removal from a vehicle, of evidence showing or tending to show that the vehicle collided with a person or property, is punishable by a fine of not more than \$500, or by imprisonment for not more than six months, or by both. (§ 50-5-6 ACLA 1949)

Article 5. Miscellaneous Offenses.

Section	Section
135. Unlawful to knowingly make false statement, application, or certification	182. Stopping at direction of peace officer
140. Unlawful obstruction or blocking of traffic	225. Enforcement
145. Overtaking and passing school bus	235. Unauthorized use of handicapped parking
155. Operation of vehicle with certain tires prohibited	245. Motorcycle helmet
180. Disobedience to signals of officer regulating traffic prohibited	251. Contained or confined loads
	253. Anti-spray devices required
	255. Penalty

Sec. 28.35.135. Unlawful to knowingly make false statement, application, or certification. (a) A person may not knowingly make a false affidavit, statement, or representation, or affirm falsely with respect to a matter or fact required to be set out under this title, nor may the person use a name other than the person's true name. A person convicted of violating this section is guilty of unsworn falsification and is punishable as prescribed by law.

(b) A person who has a certification, registration, title, license, or other form issued under this title, or who has applied for a certification, registration, license, or other form, and who changes the person's name or moves from the address shown on the department's records or forms, shall notify the department in writing of the change in name or address within 30 days. (§ 7 ch 241 SLA 1976; am § 43 ch 102 SLA 1980)

Cross references. — For crime of for penalties. see AS 12.55.035 and unsworn falsification. see AS 11.56.210; 12.55.135.

Sec. 28.35.140. Unlawful obstruction or blocking of traffic. A person may not purposely obstruct or block traffic on any roadway by any means. However, a service vehicle such as a bus, garbage truck, tow truck, or ambulance may make brief stops on a roadway, which stops on the roadway are necessary in the performance of its services. (§ 50-5-7 ACLA 1949; am § 1 ch 174 SLA 1970)

NOTES TO DECISIONS

This law pertains to roads of sufficient width and condition to permit vehicles to pass, without injury to their tires or other parts, and without danger of collision. *Vogler v. Greimann*, 12 Alaska 19, 78 F. Supp. 575 (D. Alaska 1948)

On a two lane highway, even a one foot obstruction could easily cause a following car to swerve into the opposite lane to clear a parked vehicle. This would interfere with the normal flow of traffic and amount to a violation under this section. *Beaumaster v. Crandall*, 576 P.2d 988 (Alaska 1978).

This section is not an exclusive list of service vehicles. *Beaumaster v. Crandall*, 576 P.2d 988 (Alaska 1978).

A driver, while not operating a professional service vehicle, may be engaged in the same activity as a service vehicle would have been. *Beaumaster v. Crandall*, 576 P.2d 988 (Alaska 1978).

Such as pulling over to aid occu-

pants of overturned car. — This section describes service vehicles as buses, garbage trucks, tow trucks or ambulances, but a reasonable construction of the statute would hold that one who pulled his car over to the side of the road in an emergency situation in order to aid the occupants of an overturned car, was acting in a service capacity. *Beaumaster v. Crandall*, 576 P.2d 988 (Alaska 1978).

A person who pulled over to the side of the road in an emergency situation in order to aid the occupants of an overturned car, apparently parking as far over on the right as he could given the snow conditions and the presence of a ditch on the side of the road, and who also turned his emergency flasher lights on, was entitled to make a brief stop on the roadway as necessary in the performance of samaritan efforts. *Beaumaster v. Crandall*, 576 P.2d 988 (Alaska 1978).

Collateral references. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 277.

61A C.J.S., Motor Vehicles, § 684.

Stopping vehicle on traveled portion of highway as affecting responsibility for collision between vehicles, 131 ALR 562.

Sec. 28.35.145. Overtaking and passing school bus. (a) The driver of a vehicle that approaches from any direction a school bus stopped on a highway or vehicular way or area shall stop not less than 30 feet from the school bus before reaching it when there are in operation on the school bus flashing red lights as required by regulation. The driver may not proceed until the school bus proceeds and the flashing lights are no longer illuminated.

(b) When a school bus is stopped on a highway or vehicular way or area, whether or not there are in operation on the school bus flashing red lights as required by regulation, the driver of a vehicle shall yield the right-of-way to a person crossing a highway, vehicular way, or area to embark on or disembark from the school bus, whether or not the person is crossing within a marked crosswalk.

(c) The driver of a vehicle on a highway with separate roadways is not required to stop when meeting or passing a school bus that is on a different roadway or, if upon a controlled access highway, when a school bus is stopped off the highway in a loading zone that is part of, or adjacent to, the controlled access highway, and pedestrians are not permitted to cross the highway.

(d) A driver convicted under this section is guilty of a class B misdemeanor and, in addition to other penalties as provided by law, is

(2) "signal" means a hand motion, audible mechanical or electronic noise device, visual light device, or combination of them, used in a manner that a reasonable person would understand to mean that the peace officer intends that the person stop. (§ 1 ch 66 SLA 1984)

Sec. 28.35.190. Penalty for violation of certain sections. [Repealed, § 47 ch 32 SLA 1971.]

Sec. 28.35.200. Unlawful operation of vehicles. [Repealed, § 20 ch 241 SLA 1976.]

Sec. 28.35.210. Seizure of unsafe or defectively equipped vehicles. [Repealed by implication by AS 28.05.091, enacted by § 6 ch 178 SLA 1978.]

Sec. 28.35.220. Action by state for damages. [Repealed, § 20 ch 241 SLA 1976.]

Sec. 28.35.225. Enforcement. All law enforcement officers in this state and employees of the department designated by the commissioner shall enforce this title and regulations adopted under this title. The state troopers shall advise and instruct all other law enforcement officers in the state concerning the requirements of this title and regulations adopted under this title. (§ 11 ch 241 SLA 1976; am § 7 ch 54 SLA 1979)

NOTES TO DECISIONS

"Law enforcement officers". — Any member of the police force of an incorporated city or borough is a "law enforcement officer" for purposes of this section. *State v. Burke*, 714 P.2d 374 (Alaska Ct. App. 1986).

An airport police officer is a law enforcement officer for purposes of this section. *Clark v. State*, 738 P.2d 772 (Alaska Ct. App. 1987).

Enforcement authority. — This sec-

tion authorizes all "law enforcement officers" to stop any vehicle whose driver has committed a statewide traffic offense in the officer's presence, regardless not only of whether the offense was committed within the territorial limits of the jurisdiction which employed the officer, but also of whether the vehicle is in the territorial limits at the time the officer decides to make the stop. *State v. Burke*, 714 P.2d 374 (Alaska Ct. App. 1986).

Sec. 28.35.230. [Renumbered as AS 28.40.050.]

Sec. 28.35.235. Unauthorized use of handicapped parking.
(a) A person may not park a motor vehicle in a parking place reserved for disabled or medically handicapped persons unless

(1) the person has a special permit issued by the department under AS 28.10.495;

(2) the motor vehicle displays a special license plate issued to disabled or handicapped persons under AS 28.10.181(d); or

(3) the motor vehicle displays a special license plate or permit issued to disabled or handicapped persons by another state, province, territory, or country.

(b) A person who violates this section is guilty of an infraction. Upon conviction the court shall impose a fine of not less than \$100. (§ 2 ch 11 SLA 1987)

Sec. 28.35.240. Duty to obey school patrol. [Repealed, § 3 ch 68 SLA 1964.]

Sec. 28.35.245. Motorcycle helmet. (a) After January 1, 1978, motorcycle helmets may not be manufactured or sold in Alaska that do not conform to standards established by regulation by the commissioner of public safety. The regulations must provide for helmets that allow normal peripheral vision and hearing and minimize neck injuries to the wearer potentially caused by the helmet. The adoption of these regulations shall be under the provisions of the Administrative Procedure Act (AS 44.62).

(b) A person who has reached the age of majority as defined by AS 25.20.010 may not be required to wear a helmet while operating a motorcycle if the person is the holder of a license that, under regulations adopted under AS 28.15.041, is classified singly as a license to operate a motorcycle. (§ 1 ch 230 SLA 1976)

Collateral references. — 7A Am. Jur.
2d, Automobiles and Highway Traffic,
§ 210.

Sec. 28.35.250. Application of law. [Repealed, § 20 ch 241 SLA 1976.]

Sec. 28.35.251. Contained or confined loads. (a) A person may not drive a motor vehicle loaded with sand, gravel, rock, or similar materials on a highway unless

(1) the load is contained or confined to prevent the load from dropping, shifting, leaking, or escaping, except that sand or other substances may be dropped, sprinkled, or sprayed for the purpose of cleaning or maintaining the highway or providing traction; and

(2) the load is subjected to treatment by methods, approved by the commissioner by regulation, designed to settle the load or remove loose material before the vehicle is driven on the highway.

(b) If a cover is used to contain or confine a load being driven on a highway, the cover shall be securely fastened to prevent the cover from becoming loose or detached, or from being a hazard to other users of the highway. (§ 1 ch 62 SLA 1986)

Sec. 28.35.253. Anti-spray devices required. A person may not drive a motor vehicle on a highway unless the vehicle is equipped with fenders, mud flaps, or other anti-spray devices adequate to prevent the vehicle from being a hazard to other users of the highway. (§ 1 ch 62 SLA 1986)

Sec. 28.35.255. Penalty. A person convicted of violating AS 28.35.251 or 28.35.253 is guilty of an infraction. (§ 1 ch 62 SLA 1986)

Sec. 28.35.260. [Renumbered as AS 28.40.100.]

Sec. 28.35.270. [Renumbered as AS 28.40.110.]

Chapter 37. Driver License Compact.

Article

1. General Provisions (§§ 28.37.010 — 28.37.040)
2. Compact Terms (§§ 28.37.110 — 28.37.190)

Article 1. General Provisions.

Section

10. Compact enacted
20. Licensing authority

Section

30. Expenses of administrator
40. Executive head

Sec. 28.37.010. Compact enacted. The Driver License Compact is enacted into law and entered into with all other jurisdictions legally joining in it in the form substantially contained in AS 28.37.110 — 28.37.190. (§ 18 ch 60 SLA 1986)

Sec. 28.37.020. Licensing authority. In this chapter the term "licensing authority" with reference to this state means the division of motor vehicles in the Department of Public Safety. The department shall furnish to the appropriate authority of another party state the information or documents reasonably necessary to facilitate the administration of AS 28.37.130 — 28.37.150. (§ 18 ch 60 SLA 1986)

Sec. 28.37.030. Expenses of administrator. The compact administrator provided for in AS 28.37.170 is not entitled to additional compensation on account of service as the administrator, but is entitled to expenses incurred in connection with the duties and responsibilities as the administrator, in the same manner as for expenses incurred in connection with other duties or responsibilities of the office or employment. (§ 18 ch 60 SLA 1986)

Sec. 28.37.040. Executive head. In this chapter, with reference to this state, the term "executive head" means the governor. (§ 18 ch 60 SLA 1986)

Article 2. Compact Terms.

<p>Section 110. Findings and policy statement 120. Compact definitions 130. Reports of convictions 140. Effect of conviction in party state 150. Grounds requiring refusal to issue license</p>	<p>Section 160. Application of other state laws 170. Administrator of compact 180. Compact as law; withdrawal procedure 190. Construction and validity; severability</p>
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Sec. 28.37.110. Findings and policy statement. (a) The party states find that

(1) the safety of their streets and highways is materially affected by the degree of compliance with state laws and local ordinances relating to the operation of motor vehicles;

(2) violation of a law or ordinance is evidence that the violator engages in conduct that is likely to endanger the safety of persons and property;

(3) the continuance in force of a license to drive is predicated upon compliance with laws and ordinances relating to the operation of motor vehicles, in whichever jurisdiction the vehicle is operated.

(b) It is the policy of the party states to

(1) promote compliance with the laws, ordinances, and administrative regulations relating to the operation of motor vehicles by their drivers in each of the jurisdictions where those drivers operate motor vehicles;

(2) make the reciprocal recognition of licenses to drive and eligibility for them more just and equitable by considering the overall compliance with motor vehicle laws, ordinances, and administrative regulations as a condition precedent to the continuance or issuance of a license by reason of which the licensee is authorized or permitted to operate a motor vehicle in the party states. (§ 18 ch 60 SLA 1986)

Sec. 28.37.120. Compact definitions. In this chapter

(1) "conviction" means a conviction of an offense related to the use or operation of a motor vehicle that is prohibited by state law, municipal ordinance, or administrative regulation, or a forfeiture of bail, bond or other security deposited to secure appearance by a person charged with having committed an offense described in this paragraph, and that is required to be reported to the licensing authority under AS 28.37.130;

(2) "home state" means the state that has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle;

(3) "state" means a state territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico. (§ 18 ch 60 SLA 1986)

Sec. 28.37.130. Reports of convictions. The licensing authority of a party state shall report each conviction of a person from another party state occurring within its jurisdiction to the licensing authority of the home state of the licensee. The report shall clearly identify the person convicted; describe the violation specifying the section of the statute, code, or ordinance violated; identify the court in which action was taken; indicate whether a plea of guilty or not guilty was entered, or the conviction was a result of the forfeiture of bail, bond or other security; and shall include any special findings made in connection with the conviction. (§ 18 ch 60 SLA 1986)

Sec. 28.37.140. Effect of conviction in party state. (a) The licensing authority in the home state, for the purposes of suspending, revoking, or limiting the license to operate a motor vehicle, shall give the same effect to the conduct reported under AS 28.37.130 as it would if the conduct had occurred in the home state, in the case of a conviction for

(1) manslaughter or negligent homicide resulting from the operation of a motor vehicle;

(2) driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, or under the influence of any other drug to a degree that renders the driver incapable of safely driving a motor vehicle;

(3) any felony in the commission of which a motor vehicle is used;

(4) failure to stop and render aid in the event of a motor vehicle accident resulting in the death or personal injury of another.

(b) As to another conviction, reported under AS 28.37.130, the licensing authority in the home state shall give the effect to the conduct that is provided by the laws of the home state if the offense constituting the conduct report under AS 28.37.130 has elements similar to those of the home state as defined in the home state at the time the offense constituting the conduct report under AS 28.37.130 was committed.

(c) If the laws of a party state do not provide for offenses or violations denominated or described in precisely the words employed in (a) of this section, the party state shall construe the denominations and descriptions appearing in (a) of this section as being applicable to and identifying the offenses or violations of a substantially similar nature, and the laws of the party state shall contain the provisions necessary to ensure that full force and effect is given to this section. (§ 18 ch 60 SLA 1986)

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Sec. 28.37.150. Grounds requiring refusal to issue license. Upon application for a license to drive, the licensing authority in a party state shall ascertain whether the applicant has ever held, or is the holder of a license to drive issued by another party state. The licensing authority in the state where application is made may not issue a license to drive to the applicant if

(1) the applicant has held a license, but the license has been suspended by reason, in whole or in part, of a violation, and the suspension period has not terminated;

(2) the applicant has held a license, but the license has been revoked by reason, in whole or in part, of a violation, and the revocation has not terminated; except that after the expiration of one year from the date the license was revoked, the person may make application for a new license if permitted by law: the licensing authority may refuse to issue a license to an applicant if, after investigation, the licensing authority determines that it will not be safe to grant to the person the privilege of driving a motor vehicle on the public highways;

(3) the applicant is the holder of a license to drive issued by another party state and currently in force, unless the applicant surrenders the license. (§ 18 ch 60 SLA 1986)

Sec. 28.37.160. Application of other state laws. Except as expressly required by provisions of this chapter, nothing in this chapter shall be construed to affect the right of a party state to apply any of its other laws relating to licenses to drive to any person or circumstance, nor to invalidate or prevent any driver license agreement or other cooperative arrangement between a party state and a nonparty state. (§ 18 ch 60 SLA 1986)

Sec. 28.37.170. Administrator of compact. (a) The head of the licensing authority of each party state shall be the administrator of the compact for that state. The administrators of all party states, acting jointly, shall have the power to formulate all necessary and proper procedures for the exchange of information under this compact.

(b) The administrator of each party state shall furnish to the administrator of each other party state the information or documents reasonably necessary to facilitate the administration of the compact. (§ 18 ch 60 SLA 1986)

Sec. 28.37.180. Compact as law; withdrawal procedure. (a) The compact shall become effective as to any state in which the compact becomes effective as the law of that state.

(b) A party state may withdraw from the compact by enacting a statute repealing the compact as the law of the state, but a withdrawal may not take effect until six months after the executive head of the withdrawing state has given notice of the withdrawal to the

executive heads of all other party states. Withdrawal does not affect the validity or applicability by the licensing authorities of states remaining party to the compact of any report of conviction occurring before the withdrawal. (§ 18 ch 60 SLA 1986)

Sec. 28.37.190. Construction and validity; severability. The compact shall be liberally construed so as to effectuate its purposes. The provisions of the compact are severable and if any phrase, clause, sentence, or provision of the compact is declared to be contrary to the constitution of any party state or of the United States or the applicability of it to a government, agency, person or circumstance is held invalid, the validity of the remainder of the compact and the applicability of it to any government, agency, person or circumstance shall not be affected by it. If the compact is held contrary to the constitution of any party state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. (§ 18 ch 60 SLA 1986)

Chapter 40. General Provisions.

Section	Section
50. Penalty for violations of law, regulations, and municipal ordinances	100. Definitions for title
	110. Short title

Sec. 28.40.050. Penalty for violations of law, regulations, and municipal ordinances. (a) It is a misdemeanor for a person to violate a provision of this title unless the violation is by this title or other law declared to be a felony or an infraction.

(b) A person convicted of a misdemeanor for a violation of a provision of this title for which another penalty is not specifically provided is punishable by a fine of not more than \$500, or by imprisonment for not more than 90 days, or by both. In addition, the privilege to drive or the registration of vehicles may be suspended or revoked.

(c) Unless otherwise specified by law a person convicted of a violation of a regulation adopted under this title, or a municipal ordinance regulating vehicles or traffic when the municipal ordinance does not correspond to a provision of this title, is guilty of an infraction and is punishable by a fine not to exceed \$300.

(d) An infraction, as provided for in (c) of this section, is not considered a criminal offense and may not result in imprisonment, nor is a fine imposed for the commission of an infraction considered a penal or criminal punishment; nor may the commission of a single infraction result in the loss of a driver's license or privilege to drive in this state except as may result from the accumulation of points under AS 28.15.221 — 28.15.261, or the registration of vehicles; nor does a person cited with an infraction have a right to trial by jury or to court-appointed counsel.

(e) [Repealed] ch 241 SL 1987)

Revisor's 28.35.230. Effect of

This sec for violati three catep nies, misde v. (Clayton. Violatio shable un State, 442 Prerequ or privile cense or pr be suspend licensed or to drive a Roberts v. App. 1985 Generic tion (b) is specificall while licep neric peni ble to viol for which Roberts v App. 198 Meanir — The te (c) of this actments cannot be municipa ipality (Alaska Nature tween or by subse correspor this sect) between vision of nance : tory cou ty of A Ct. App The h ing sub criminal fenses w such offe

This section makes no changes in the traditional mode of proceeding in criminal matters with the exception of its declaration that a person cited with an infraction does not have a right to trial by jury or to court-appointed counsel. The action is brought in the name of the state; it is commenced by the filing of a complaint by a law enforcement official; it is prosecuted by the district attorney. The exceptions

appear to merely codify existing constitutional law. *State v. Clayton*, 684 P.2d 1111 (Alaska 1978).

Applied in *Munderson v. State*, 655 P.2d 1320 (Alaska Ct. App. 1983).

Stated in *Francis v. Municipality of Anchorage*, 641 P.2d 226 (Alaska Ct. App. 1982).

Cited in *Lowry v. State*, 655 P.2d 780 (Alaska Ct. App. 1982).

Collateral references. — 7A Am. Jur. 2d, *Automobiles and Highway Traffic*, § 204. 61A C.J.S., *Motor Vehicles*, §§ 588 to 595.

Sec. 28.40.100. Definitions for title. (a) Unless otherwise specifically defined or unless the context otherwise requires, in this title and in regulations adopted under this title

(1) "cancel" means the annulment or termination by formal action of the department of a certification, registration, license, permit or privilege issued or allowed under this title or regulations adopted under this title, because of an error or defect in the document issued or the application for issuance or because the person holding the document is no longer entitled to it;

(2) "commissioner" means the commissioner of public safety;

(3) "department" means the Department of Public Safety;

(4) "driver" means a person who drives or is in actual physical control of a vehicle;

(5) "driver's license" or "license" when used in relation to driver licensing, means a license, permit, or privilege to obtain a driver's license, whether or not a person holds a valid license issued in this or another jurisdiction, to drive a motor vehicle under the laws of this state;

(6) "highway" means the entire width between the boundary lines of every way that is publicly maintained when a part of it is open to the public for purposes of vehicular travel, including but not limited to every street and the Alaska state marine highway system but not vehicular ways or areas;

(7) "motor vehicle" means a vehicle which is self-propelled except a vehicle moved by human or animal power;

(8) "motorcycle" means a vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground; the term does not include a tractor;

(9) "motor-driven cycle" means a motorcycle, motor scooter, motorized bicycle, or similar conveyance with a motor attached and having an engine with 50 or less cubic centimeters of displacement;

(10) "official traffic-control device" means a sign, signal, marking, or other device not inconsistent with this title, placed or erected by

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authority of a state or municipal agency or official having jurisdiction, for the purpose of traffic regulating, warning, and guiding;

(11) "owner" means a person, other than a lienholder, having the property in or title to a vehicle, including but not limited to a person entitled to the use and possession of a vehicle subject to a security interest in another person, but exclusive of a lessee under a lease not intended as security;

(12) "revoke" means the termination by formal action of the department or a court of a certification, registration, license, permit, or privilege issued or allowed under this title or regulations adopted under this title; the certification, registration, license, permit, or privilege may not be reissued, renewed, or restored during the time for which revoked; however, after that time, an application for a new certificate, registration, license, permit, or privilege may be made;

(13) "roadway" means that portion of a highway designed or ordinarily used for vehicular travel, exclusive of the sidewalk, berm, or shoulder, even though the sidewalk, berm, or shoulder is used by persons riding bicycles or other human powered vehicles; and in the event that a highway includes two or more separate roadways, the term refers to each roadway separately but not to all such roadways collectively;

(14) "suspend" means the temporary withdrawal by formal action of the department or a court of a certificate, registration, license, permit, or privilege issued or allowed under this title or regulations adopted under this title, effective for a period of time which must be specifically designated by the department or court;

(15) "traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using a highway or vehicular way or area that is open to public use for purposes of travel;

(16) "underinsured motor vehicle" means a motor vehicle licensed for highway use with respect to ownership, operation, maintenance, or use for which there is a bodily injury or property damage insurance policy or a bond applicable at the time of an accident and the amount of insurance or bond

(A) is less than the limit for uninsured and underinsured coverage of the insured's policy; or

(B) has been reduced by payments to persons other than an insured, injured in an accident, to less than the limit for uninsured and underinsured coverage of the insured's policy;

(17) "vehicle" means a device in, upon, or by which a person or property may be transported or drawn upon or immediately over a highway or vehicular way or area except devices used exclusively upon stationary rails or tracks; and

(18) "vehicular way or area" means a way, path, or area, other than a highway or private property, that is designated by official traffic

control devices or customary usage and that is open to the public for purposes of pedestrian or vehicular travel, and which way or area may be restricted in use to pedestrians, bicycles, or other specific types of vehicles as determined by the department or other agency having jurisdiction over the way, path, or area.

(b) The commissioner shall adopt regulations to define other terms which are used in this title and in regulations adopted under this title. (§ 50-1-1 ACIA 1949; am § 3 ch 81 SLA 1973; am §§ 13, 14 ch 241 SLA 1976; am § 1 ch 135 SLA 1977; am § 14 ch 70 SLA 1984; am § 1 ch 13 SLA 1985; am § 88 ch 74 SLA 1985; am § 2 ch 130 SLA 1988)

Revisor's notes. — Formerly AS 28.35.260. Renumbered in 1984.

In 1984, in subsection (a), paragraph (19), added in 1984, was renumbered as present paragraph (16) and present paragraphs (17) and (18) were renumbered as paragraphs (18) and (19) to retain alphabetical order. In 1989, however, because of redesignations due to the repeal of former paragraph (10), paragraphs (18) and (19) were changed back to paragraphs (17) and (18).

Cross references. — For definitions adopted by regulation, see 13 Alaska Admin. Code 40.010.

Effect of amendments. — The first 1985 amendment in paragraph (9) of subsection (a) substituted "50 or less" for "less than 150" and deleted "or with not to exceed five brake-horsepower" at the end of the paragraph.

The second 1985 amendment repealed paragraph (10) of subsection (a), which defined "municipality."

The 1988 amendment, effective September 1, 1988, substituted "permit, or privilege to obtain a driver's license" for "permit or privilege" in paragraph (a)(5).

NOTES TO DECISIONS

Applied in *Conner v. State*, 696 P.2d 680 (Alaska Ct. App. 1985); *Caulkins v. State, Dep't of Pub. Safety*, 743 P.2d 366 (Alaska 1987).

Cited in *Francis v. Municipality of Anchorage*, 641 P.2d 226 (Alaska Ct. App.

1982); *Uhde v. State*, 654 P.2d 1323 (Alaska Ct. App. 1982); *State v. Robertson*, 749 P.2d 902 (Alaska Ct. App. 1988); *State v. Straetz*, 758 P.2d 133 (Alaska Ct. App. 1988).

Sec. 28.40.110. Short title. This title and the regulations adopted under it may be cited as the Alaska Uniform Vehicle Code. (§ 14 ch 241 SLA 1976)

Revisor's notes. — Formerly AS 28.35.270. Renumbered in 1984.

HB

552

STATE OF ALASKA
THE LEGISLATURE

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Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMFR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HB 552

House Transportation

2/22/90

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF MEASUREMENT STANDARDS

STEVE COWPER, GOVERNOR

P.O. BOX 111066
ANCHORAGE, ALASKA 99511
PHONE: (907) 345-7750
FAX (907) 345-2841

March 2, 1990

The Honorable Lyman Hoffman
House Finance Committee Co-Chairman
Capitol Building, Room 519
Juneau, Alaska 99801

Dear Representative Hoffman:

House Bill 552, which will be heard before the House Finance Committee on March 6, 1990, will set Air Carrier certificate of compliance fees not to exceed \$50 for one aircraft and \$150 for a fleet of two or more aircraft.

However, after considering public testimony regarding regulation 9AAC 38.010, which sets Air Carrier certificate of compliance fees at \$25 per aircraft, and reviewing our own inhouse procedures, the Division of Measurement Standards has amended this regulation. The amended regulation sets fees (per carrier) at \$50 for one aircraft, \$100.00 for two aircraft, and \$150 for three or more aircraft.

Because the amended regulation establishes fees similar to those in HB552, the Division feels this bill is unnecessary. Attached is a copy of the amended regulation as submitted to the office of the Attorney General. It is our intention at this time to refund any overpayment of fees collected under the emergency regulation, pending opinions from the Attorney General's Office.

Thank your for your consideration in this matter.

Sincerely,



Edward Moses
Director

Register , 1990 COMMERCE AND ECONOMIC DEVELOPMENT 3 AAC 38.010

*Title 3. COMMERCE AND
ECONOMIC DEVELOPMENT*

3 AAC is amended by adding a new part and chapter to read:

PART 3B. AIR CARRIER COMPLIANCE

CHAPTER 38. AIR CARRIER COMPLIANCE CERTIFICATES

3AAC 38.010. Air Carrier Certificate Fees. The annual fee to a carrier for a certificate of compliance for one aircraft is \$50, for two aircraft is \$100, and for a fleet of three or more aircraft is \$150.

Authority: AS 42.30.225(b)

each violation. (1983 Initiative Proposal No. 2, § 3; am § 5, 6 ch 104 SLA 1985; am §§ 2, 3 ch 59 SLA 1987)

Effect of amendments. — The 1986 amendment rewrote subsection (a), in subsection (c) substituted "department personnel" for "enforcement officers" and added "and may adopt procedural regulations necessary to implement this section" at the end of the subsection, and added subsections (d) and (e).

The 1987 amendment added the second sentence to subsection (c), and in subsection (e) deleted "(a) of" following "who violates" and substituted "class A misdemeanor" for "class B misdemeanor," "\$1,000" for "\$500," and "\$5,000 for each day of violation but not to exceed \$10,000 for each violation" for "\$1,000."

Sec. 42.30.225. Certification of compliance of air carriers.

(a) A person may not use an aircraft in air commerce before obtaining an annual certificate of compliance for that aircraft from the department. The department may issue a certificate of compliance for one aircraft or a fleet of two or more aircraft. The department shall issue or renew 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 annual fee for a certificate of compliance for one aircraft and for a fleet of two or more aircraft shall be set by the department by regulation. The certificate is valid for a calendar year. The certificate shall be visible to boarding passengers.

(c) *[Repealed, § 11 ch 59 SLA 1987.]*

(d) *[Repealed, § 11 ch 59 SLA 1987.]*

(e) The department may authorize department personnel to enforce this section and may adopt procedural regulations necessary to implement this section. Upon finding a violation the department may issue a stop use order.

(f) The commissioner of administration shall separately account for certificate of compliance fees collected under this section that the department deposits in the general fund. The annual estimated balance in the account may be used by the legislature to make appropriations to the department to carry out the purposes of this section.

(g) A person who violates this section is guilty of a class B misdemeanor and is punishable by a fine of not less than \$500 or more than \$1,000. (§ 7 ch 104 SLA 1985; am § 65 ch 138 SLA 1986; am §§ 4 — 8, 11 ch 59 SLA 1987)

Effect of amendments. — The 1986 amendment added subsection (f).

The 1987 amendment added the second sentence in subsection (a); in subsection (b) added the language beginning "per calendar year" at the end of the first sen-

tence, deleted the former second sentence, which read "The certificate is valid for a period of 12 months following the date of certification," and in the last sentence deleted "displayed on the aircraft so that it is" preceding "visible"; rewrote subsection

(b), effective January 1, 1989, to replace the version effective until that date which read: "The annual fee for a certificate of compliance is \$50 per calendar year for one aircraft and \$100 per calendar year for a fleet of two or more aircraft. The certificate shall be visible to boarding passengers"; added the last sentence in subsection (e); added subsection (g); and re-

pealed subsection (c), concerning possible denial of certificate for aircraft use and air commerce before obtaining a certificate of compliance and subsection (d), concerning a temporary exclusion from the requirement to obtain a certificate of compliance.

Collateral references. — 8 Am. Jur. 2d, Aviation, § 44.

Sec. 42.30.380. Definitions. In AS 42.30.200 — 42.30.380,

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

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

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

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

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

(6) "freight" means commodities, articles, and cargo, of whatever nature or value, excluding garbage and trash. (§ 7 ch 104 SLA 1985; am § 9 ch 59 SLA 1987)

Effect of amendments. — The 1987 amendment inserted "rotor" in paragraph (3).

Chapter 35. Public Utility Districts.

[Repealed, § 72 ch 69 SLA 1970.]

Chapter 40. Alaska Railroad Corporation.

Article

1. Establishment and Organization (§§ 42.40.010 — 42.40.060)
2. Management (§§ 42.40.100 — 42.40.120)
3. Administrative Provisions (§§ 42.40.150 — 42.40.230)
4. Powers and Duties (§§ 42.40.250 — 42.40.310)
5. Corporation Property (§§ 42.40.350 — 42.40.450)
6. Financial Provisions (§§ 42.40.500 — 42.40.540)
7. Bonds (§§ 42.40.600 — 42.40.700)
8. Personnel and Labor Relations (§§ 42.40.705 — 42.40.890)
9. General Provisions (§§ 42.40.900 — 42.40.990)

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to fees for certificates of compliance for aircraft
Sponsor: Representative Foster
Requestor: House Transportation Comm.

Agency Affected: Commerce & Economic Dev.
BRU: Measurement Standards

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL						
REVENUE	[\$5,615]	[\$5,896]	[\$6,191]	[\$6,505]	[\$6,829]	[\$7,178]

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary) Current revenues are based on an emergency regulation which allows fees per certificate to be set at \$25.00 each. HB 552 would allow fees of no more than \$50.00 for one aircraft and no more than \$150.00 for a fleet of two or more aircraft. HB 552 would reduce revenues in FY 91 by \$5,615, with increasing reductions through FY 96.

Prepared by: Jennifer Breslin Phone: 345-7750
Division: Measurement Standards Date: 2/16/90

Approved by Commissioner: Larry Merculieff Date: 2-20-90
Agency: Department of Commerce & Economic Development

Distribution (by preparer):
Legislative Finance
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STATE OF ALASKA
THE LEGISLATURE

FOUCHY - STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 21, 1990

SUBJECT: Certificates of compliance of air carriers
TO: Representative Richard Foster
Chair House Transportation Committee
FROM: George Utermohle *GU*
Legislative Counsel

Wendy Mulder of your staff has asked whether the Department of Commerce and Economic Development has authority to issue a certificate of compliance for a fleet of aircraft.

The answer is yes.

Before an aircraft may be used in air commerce in the state, the Department of Commerce and Economic Development must issue a certificate showing that the owner of the aircraft has complied with the financial responsibility requirements of AS 42.30.200. The procedures for issuance of certificates of compliance are set out in AS 42.30.225.

Under AS 42.30.225(a) the "department may issue a certificate of compliance for one aircraft or a fleet of two or more aircraft." Under AS 42.30.225(b) the department shall set the "annual fee for a certificate of compliance for one aircraft and for a fleet of two or more aircraft." Thus it is clear that the department may issue a certificate of compliance for a fleet of aircraft.

If I may be of further assistance, please advise.

GU:pl
WKP2/072

Register 113, April 1990

COMMERCE AND
ECONOMIC DEVELOPMENT

3 AAC 38.010

Title 3. COMMERCE AND
ECONOMIC DEVELOPMENT

3 AAC is amended by adding a new part and chapter to read:

PART 3B. AIR CARRIER COMPLIANCE

CHAPTER 38. AIR CARRIER COMPLIANCE CERTIFICATES

3AAC 38.010. *Air Carrier Certificate Fees. The annual fee for each certificate is \$25 per aircraft, regardless of the number of aircraft in a fleet. (Expires April 10, 1990, unless made "permanent" by the adopting agency.) (Eff. 12/12/89, Reg. 113)*

Authority: AS 42.30.225(b)

AIR CARRIERS COMPLIANCE TO DATE

AIRCARRIER	NUMBER OF PLANES	COST WITH NEW REG	COST WITH OLD REG
Weidendehr Air, Inc.	1	25.00	50.00
K2 Aviation	5	125.00	100.00
Lake Clark Air Service	4	100.00	100.00
Rust's Flying Service, Inc.	8	200.00	100.00
Bush Air, Inc.	2	50.00	100.00
Meekin's Air Service	1	25.00	50.00
Aero Tech Flight Service, Inc	1	25.00	50.00
Homer Air	4	100.00	100.00
Evergreen Helicopters of Alaska, Inc.	10	250.00	100.00
Caribou Air Service	1	25.00	50.00
Fishing & Flying	3	75.00	100.00
Rav Atkins, Registered Guide	1	25.00	50.00
SouthCentral Air, Inc.	15	375.00	100.00
Alaska West Air, Inc.	6	150.00	100.00
Ram Air	1	25.00	50.00
Alaska Mountain Air, Inc.	1	25.00	50.00
Rocky Mountain Helicopters	3	75.00	100.00
Security Aviation, Inc.	5	125.00	100.00
Misty Fjords Air and Outfitting	1	25.00	50.00
Tundra Copters, Inc.	19	475.00	100.00
Windy's MAG AIR, Inc.	1	25.00	100.00
Delta Airlines	182	4550.00	100.00
Spennak Airways, Inc.	2	50.00	100.00
Ellis Air Taxi, Inc.	2	50.00	100.00
Cassaron Turbo Helicopters	2	50.00	100.00
Northwestern Aviation	2	50.00	100.00
Taku Glacier Air, Inc.	3	200.00	100.00
Wrangell Air Service	3	75.00	100.00
Umial Enterprises, Inc.	3	75.00	100.00
Spennak Airways, Inc.	1	25.00	50.00
Harbor Air Service	5	125.00	100.00
Era Aviation, Inc.	67	1675.00	100.00
Peninsula Airways, Inc.	25	625.00	100.00
MARKAIR, Inc.	9	225.00	100.00
Wright Air Service, Inc.	13	325.00	100.00
Veteran's Air Service, Inc.	2	50.00	100.00
Northern Air Cargo, Inc.	14	250.00	100.00
Alpine Aviation Adventures	1	25.00	50.00
Branch River Air Service	3	75.00	100.00
Bering Air, Inc.	12	300.00	100.00
Manokolak Airways, Inc.	5	125.00	100.00
McMahan Guide and Flying Service	1	25.00	50.00
Airlift Alaska	3	75.00	100.00
Reeve Aleutian Airways, Inc.	8	200.00	100.00

Hageland Aviation Services, Inc.	4	100.00	100.00
Yule Air Alaska, Inc.	1	25.00	50.00
Uliamna Air Taxi, Inc.	4	100.00	100.00
Alaska Island Air, Inc.	2	50.00	100.00
Haines Airways, Inc.	5	125.00	100.00
CFA Air Service	1	25.00	50.00
Tucker Aviation, Inc.	2	50.00	100.00
H&H Air Services, Inc.	1	25.00	50.00
Empire Airlines, Inc.	2	50.00	100.00
Bighorn Airways, Inc.	2	50.00	100.00
Cub Air	2	50.00	100.00
Porcupine Air Service	2	50.00	100.00
North Star Air Cargo	3	75.00	100.00
Bran Air	2	50.00	100.00
Seaside Air Service	1	25.00	50.00
Olson Air Service	9	225.00	100.00
Ketchum Air Service, Inc.	1	25.00	50.00
High Adventure Air Charter, Inc.	1	25.00	50.00
Pacific Wind, Inc.	1	25.00	50.00
Talkeetna Air Taxi, Inc.	2	50.00	100.00
Hudson Air Service, Inc.	2	125.00	100.00
Chugiak Aviation	1	25.00	50.00
Alaska Airlines, Inc.	35	1375.00	100.00
Comair Air	4	100.00	100.00
Jayhawk Air, Inc.	2	50.00	100.00
Maritime Helicopters, Inc.	3	75.00	100.00
Golden Plover Air	1	25.00	50.00
Tanana Air Service	4	100.00	100.00
Tamarack Air, Ltd.	3	75.00	100.00
Katmai Air	4	100.00	100.00
Yukon Helicopters, Inc.	3	75.00	100.00
F.S. Air Service	5	150.00	100.00
Six Mile Air Service	2	50.00	100.00
Alaska Rivers	1	100.00	100.00
Sawmill Creek Air	1	25.00	50.00
Bush Masters, Inc.	1	25.00	50.00
McCarty Air Service	1	25.00	50.00
Ryan Air Service, Inc.	12	300.00	100.00

Fox Airways		25.00	50.00
Foss Air, Inc.		25.00	50.00
Loken Aviation	2	50.00	100.00
Netervik Air	1	25.00	50.00
Pro Mech, Inc.	1	25.00	50.00
Sixty Third North	1	25.00	50.00
Alaska Coastal Airlines	3	75.00	100.00
Anchorage Air Center, Inc.	2	50.00	100.00
Alutian Air, Ltd.	1	25.00	50.00
Solov Helicopters, Inc.	5	150.00	100.00
Pacific Rim Wilderness	1	50.00	100.00
Erickson Air Crane	3	75.00	100.00
Hermens/Markair Express	5	150.00	100.00
Tundra Air	1	25.00	50.00
Kusko Aviation	4	100.00	100.00
Sound Adventures Air Service, Inc.	4	100.00	100.00
Frontier Flying Service, Inc.	10	250.00	100.00

Ambler Air Service	3	75.00	100.00
Kenai Aviation	3	75.00	100.00
Nordic Air, Inc.	1	25.00	50.00
Yukon Air Service	1	25.00	50.00
40-Mile Air	7	175.00	100.00
Doug Beeting	2	50.00	100.00
Kenai Air Alaska	12	300.00	100.00
Juneau Executive Travel, Inc.	1	25.00	50.00
Tatonduk Flying Service	4	100.00	100.00
Skadway Air Service, Inc.	4	100.00	100.00
Alaska Cargo Service	1	25.00	50.00
Gulkana Air Service	1	75.00	100.00
Seahawk, Inc.	3	75.00	100.00
Craig Air	1	25.00	50.00
Kachemak Air Service, Inc.	2	50.00	50.00
Barrow Air	1	75.00	100.00
Country Lakes Flying Service, Inc.	1	25.00	50.00
Luppenot Flying Service	1	25.00	50.00

The air carriers listed below the asterisk have submitted applications as of January 27, 1990, which are in the process of being processed or have a problem, such as no insurance verification, wrong amount of money being sent, or no air carrier's certificate from FAA.

TOTALS

328 Certificates issued @ 25.00 ea = \$8200.00

102 Certificates to issue @ 25.00 ea = \$2550.00

Total collected in 1990 \$10750.00

Total collected on unpaid fees \$0.00

** These totals do not cover January 1990, and \$1000.00 is for 353 more aircraft to be certified by next year.

1989 AIR CARRIER CERTIFICATES ISSUED

<u>AIRCARRIER</u>	<u>CERTIFICATES</u>
Aero Tech Flight Service, Inc.	1
Air Adventures	1
Air Lift Alaska	4
Alaska Air Charter	0
Alaska Air Guides	0
Alaska Airlines	51
Alaska Bush Carrier	2
Alaska Cargo Service	1
Alaska Coastal Airlines, Inc.	0
Alaska Flight Centre	1
Alaska Flyers	4
Alaska Helicopters, Inc.	18
Alaska Island Air, Inc.	3
Alaska Mountain Air, Inc.	2
Alaska West Air, Inc.	6
Alaskan Air Ventures	0
Aleutian Air, Ltd.	1
Alpine Aviation Adventures	1
Alyeska Air Service, Inc.	0
Alyeska Flightseeing Service	0
Ambler Air Service	3
Anaruk Air Service	0
Anchorage Air Center, Inc.	0
Arctic Air Guides	3
Arctic Wings	1
Armstrong Air Service, Inc.	0
Ray Atkins, Registered Guide	1
Audi Air	0
Aviation North	0
Baker Aviation, Inc.	0
Barrow Air, Inc.	3
Beluga Lake Float Plane Service	2
Bering Air, Inc.	17
Bighorn Airways, Inc.	2
Birchwood Air Service	1
Bran Air	3
Branch River Air Service	3
Bristol Air	
Brooks Range Aviation, Inc.	4
Bush Air, Inc.	2
Bush Masters, Inc.	1
CFA Air Service	1
Camai Air	4
Canning Air Service/C Air	1
Cape Smythe Air	17
Caribou Air Service	1
Cassaron Turbo Helicopters	2
Chitina Air Service	9

Chuquak Aviation	1
Clearwater Air	2
Cook Inlet Aviation	4
Cordova Air Service, Inc.	3
Country Lakes Flying Service, Inc.	1
Craig Air	1
Cub Air	2
Deering Air Taxi	1
Delta Air Services, Inc.	2
Delta Air Lines, Inc.	354
Denali Air	0
Diamond Aviation	0
Ellis Air Taxi, Inc.	2
Empire Airlines, Inc.	3
Era Helicopters, Inc.	14
Erickson Air Crane	0
Expedition Services	0
F.S. Air Service	10
Fish River Air, Inc.	0
Fishing & Flying	1
40 Mile Air, Ltd.	17
4 W Air	1
Foss Air, Inc.	1
Foster Aviation, Inc.	0
Fox Airways	2
Frontier Flying Service	2
G&G Aerial Tankers, Inc.	2
Doug Geeting Aviation	2
George Air Service	1
Glacier Bay Airway, Inc.	3
Golden North Air Service, Inc.	0
Golden Plover Air	1
Greichel Air Taxi	1
Gull Air Taxi, Inc.	1
Gussic Air Service	1
H & H Services, Inc.	1
Hageland Aviation Services, Inc.	4
Haines Airways, Inc.	5
Harbor Air Service	3
Hermen's Markair Express	46
High Adventures Air Charter	7
Hub Air Service, Inc.	1
Hudson Air Service, Inc.	3
Iliamna Air Taxi, Inc.	3
Interior Flight Seeing, Inc.	0
Island Air Service	5
L & M Alaska Air Tours	0
Jayhawk Air, Inc.	3
Juneau Executive	1
K2 Aviation	7
Kachenak Air Service, Inc.	3
Katmai Air	6
Kenai Air Alaska, Inc.	11
Kenai Aviation	0

Benar Float Plane Service, Inc.	3
Benar Lake Air Service	5
Betchikan Air Service	4
Betchum Air Service, Inc.	6
King Flying Service	2
Bipnuk Air	9
Brink Air, Inc.	2
Bodial Air Service	1
Bupreanor Flying Service	1
Busko Aviation, Inc.	4
L.A.B. Flying Service, Inc.	9
Lake Clark Air Service	13
Larry's Flying Service, Inc.	12
Loken Aviation	1
Manokotak Airways, Inc.	3
Maritime Helicopters, Inc.	4
Mark Air, Inc.	1
Matsu Bush Flying, Inc.	1
McHahan Guide & Flying Service	1
McCarthy Air	1
McCart Air Service	1 (19)
Meekins Air Service	1
Metervik Air Service	1
Misty Fjords Air & Outfitting	1
Mountain Aviation	2
Nordic Air, Inc.	1
North Country Air	9
North Star Air Cargo, Inc.	3
Northern Air Cargo, Inc.	12
Northwestern Aviation	9
Olson Air Service, Inc.	10
Pacific Wind, Inc.	1
Peninsula Airways, Inc.	1
Petroleum Helicopters, Inc.	1
Porcupine Air Service	1
Pro Hech, Inc.	1
Ram Air	1
Raven Air, Inc.	3
Reeve Aleutian Airways, Inc.	2
Ried Air	1
Regal Air	1
Rocky Mountain Helicopters, Inc.	1
Rusts Flying Service, Inc.	1
Ryan Air Service, Inc.	1
Sawmill Creek Air	1
Sea Hawk, Inc.	1
Seagull Air Service, Inc.	1
Seaside Air Service	1
Security Aviation, Inc.	1
Shellabarger Flying, Inc.	1
Six Mile Air Service	2
Sixty Thirty North	1
Skagway Air Service	2
Soloy Heli Ops	6

Sound Adventures Air Service, Inc.	0
Sourdough Air Service, Inc.	3
SouthCentral Air, Inc.	19
Spenak Airways	2
Sportsman Flying Service & Gulkana Air Service	0
Susitna Air Service	2
Taku Glacier Air, Inc.	18
Talkeetna Air Taxi, Inc.	4
Tamarack Air, Ltd.	4
Tanana Air Service	4
Taquan Air Service, Inc.	7
Tatonduk Flying Service	4
Temsco Helicopters	49
Trail Ridge Air, Inc.	4
Trans-Alaska Helicopters, Inc.	0
TransAero	1
Trov Air	15
Tucker Aviation	-
Tundra Aviation	-
Tundra Copters, Inc.	10
Umat Enterprises, Inc.	3
Uyak Air Service	2
Vennair	-
Veteran's Air Service, Inc.	2
Walker Air Service	1
Watts Air Service	1
Ward Air	3
Wiederkehr Air, Inc.	1
Wilbur's, Inc.	12
Willow Air Service	0
Windv's Hag Air, Inc.	2
Wings of Alaska	13
Woods Air Service	2
World Jet Corp.	10
Wrangell Air Service, Inc.	1
Wren Air	3
Wright Air Service, Inc.	12
Yukon Air Service	3
Yukon Helicopters, Inc.	2
Yupit Tengsenn, Inc.	1
Yutana Airlines	0
Yute Air Alaska	0

*** The aircarriers with ~~no~~ certificates, either they are no longer in business or they failed to compl. in 1989. There is no information on those that are out of business.

(907) 345-7750
FAX 345-2641

December 20, 1988

Kim Daniels, Executive Director
Alaska Air Carriers Association
4040 B Street
Anchorage, Alaska 99503

Dear Ms. Daniels:

Due to an oversight in our recent procedures regarding emergency Air Carrier regulations, your organization was overlooked as one of our initial contacts. On behalf of the Division of Measurement Standards, I would like to apologize for this oversight and will assure you of notification of similar changes affecting air carriers in the future.

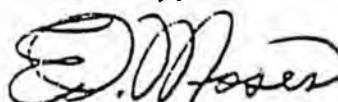
The emergency regulations were adopted because air carrier certificates could not be issued as of January 1, 1990 without these regulations, and air carriers would have been in noncompliance as a result. AS 42.30.225(b) states that "The annual fee for a certificate of compliance for one aircraft and for a fleet of two or more aircraft shall be set by the department by regulation;" therefore, certificate fees were established by the Division of Measurement Standards, Department of Commerce and Economic Development. Fees were determined based on the cost to the State to administer the program, (as a result of a recommendation by the House Finance Subcommittee to the Department of Commerce and Economic Development to fund our programs, if possible, with receipts), although at this time the \$25 fee per aircraft supports approximately 93% of the total costs associated with the air carrier program. A breakdown of annual costs follows:

Personnel (75% of salary and benefits)	\$ 26,974
Data processing time	500
Postage	200
Supplies (paper, printer ribbons, forms, etc.)	<u>250</u>
Total	27,924

Air carrier collections in fiscal year 1989 were \$14,350; based on the same number of certificates issued in 1990 projected revenues will be \$25,825 with the increased fees.

I hope I have been able to address your concerns regarding the emergency regulations and the air carrier program. If you have further questions, please don't hesitate to call.

Sincerely,



Ed Moses
Director

Hand delivered 12/20/89

HOUSE COMMITTEE REPORT

(5)

Date Referred: February 12, 1990

FURTHER REFERRALS:

FINANCE

Date of Committee Action: 2/22/90

The TRANSPORTATION Committee considered:

HB 552

HOUSE BILL NO. 552

"An Act relating to fees for certificates of compliance for aircraft."

RECOMMENDATIONS:

- [] be replaced with _____ [] the same title
[] have attached amendment(s) [] a new title
[] do pass
[] do not pass
[] no recommendation
[] individual recommendations
[] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- [] fiscal impact _____
[] zero fiscal note _____
[] zero with analysis _____

- [] fiscal note(s) _____
[] zero fiscal note(s) _____
[] zero fn/analysis _____

SIGNING DO PASS:

Richard D. Doherty
Regene A. Kubina
Loren A. Linn

SIGNING:

(Check approp. column)

	Do Not Pass	No Rec	Amend
<u>Richard D. Doherty</u>		<input checked="" type="checkbox"/>	

Richard D. Doherty
Chairman's Signature



Representative Bette Cato, Chair House Transportation Committee

SUBJECT OF MEETING:

DATE:

PLACE:

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Andy Andrecheck	Yukon AACA Helicopters	Box 976, Bethel, AK	99554	543-3250	-	<input checked="" type="radio"/>	N	general
Richard Stern	AACA/Bering	Air Box 1650, Nome, AK	99762	443-5464	-	<input checked="" type="radio"/>	N	several issues
Bob Engelbrecht	AACA Temasco	1650 Maplesdenway, Juneau AK	99801	789-4025	789-9521	<input checked="" type="radio"/>	N	Aviation issues
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	

air carrier issues

CERTIFICATE OF COMPLIANCE

- Emergency regulations adopted by the Department of Commerce on December 12, 1990.
- Hearings currently underway to adopt regs permanently.
- Hearing period ends February 28, 1990.
- Regs increase overall cost of air carrier compliance certificates for insurance.
- Previously, owners paid \$50.00 per aircraft up to a maximum of \$100.00 per fleet.
- This has now been increased to \$25.00 per aircraft. There is no cap.
- Under this new proposal, many air carriers will experience substantial increases in fees for certificates of compliance.
- The department states this increase is necessary to help offset the costs associated with administering the program.
- AS 42.30.225 states "the department may issue a certificate of compliance for one aircraft or a fleet of two or more aircraft."

The department currently issues a certificate for every aircraft. It is the department's opinion that the statutes require this.

Legislative Legal services provided a legal opinion (attached) which states the department may issue **one** certificate of compliance for a single aircraft or for a fleet of aircraft.

Issuing one certificate per aircraft or per fleet of aircraft would significantly reduce the administrative costs associated with the program.

Revenues generated from certificate of compliance fees would be:

\$14,300.00	under existing regulations \$50 per aircraft \$100.00 for two or more aircraft
\$25,800.00	Under emergency regulations \$25.00 per aircraft
\$20,500	under HB 552 \$50.00 per aircraft \$150.00 for two or more aircraft

STATE OF ALASKA
THE LEGISLATURE

FOUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 21, 1990

SUBJECT: Certificates of compliance of air carriers
TO: Representative Richard Foster
Chair House Transportation Committee
FROM: George Utermohle *GU*
Legislative Counsel

Wendy Mulder of your staff has asked whether the Department of Commerce and Economic Development has authority to issue a certificate of compliance for a fleet of aircraft.

The answer is yes.

Before an aircraft may be used in air commerce in the state, the Department of Commerce and Economic Development must issue a certificate showing that the owner of the aircraft has complied with the financial responsibility requirements of AS 42.30.200. The procedures for issuance of certificates of compliance are set out in AS 42.30.225.

Under AS 42.30.225(a) the "department may issue a certificate of compliance for one aircraft or a fleet of two or more aircraft." Under AS 42.30.225(b) the department shall set the "annual fee for a certificate of compliance for one aircraft and for a fleet of two or more aircraft." Thus it is clear that the department may issue a certificate of compliance for a fleet of aircraft.

If I may be of further assistance, please advise.

GU:pl
WKP2/072

HB

570

HOUSE COMMITTEE REPORT

(5)

Date Referred: February 27, 1990

FURTHER REFERRALS:

STATE AFFAIRS

Date of Committee Action: 3/15/90

The TRANSPORTATION Committee considered:

HB 370

HOUSE BILL NO. 570 PROCUREMENT CODE AMENDMENTS

"An Act relating to state procurement."

RECOMMENDATIONS:

- [] be replaced with _____ [] the same title
- [] have attached amendment(s) [] a new title
- [] do pass
- [] do not pass
- [] no recommendation
- [] individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- [] fiscal impact _____ [] fiscal note(s) _____
- [] zero fiscal note _____ [] zero fiscal note(s) _____
- [] zero with analysis _____ [] zero fn/analysis _____

SIGNING DO PASS:

Ernest A. Kukura
Bill Hurd
Richard L. Lacey

SIGNING:
(Check approp. column)

	Do Not Pass	No Rec	Amend
<i>Ernest A. Kukura</i>		X	
<i>Ernest A. Kukura</i>		✓	

Richard L. Lacey
 Chairman's Signature

Memorandum
March 13, 1990

To: House Transportation Committee

From: Larry J. Houle
Legislative Liaison
Alaska Railroad Corporation

Re: Position paper HB 570

Thank you Mr. Chairman for the opportunity to comment before your committee and give testimony relating to HB 570 as it affects the Alaska Railroad Corporation.

The Alaska Railroad Corporation is a unique experiment in public ownership of a private business. As you know, the Alaska Railroad Corporation Act established the Corporation as a self-sustaining business, exclusively responsible for the financial and legal obligations incurred by the railroad, and provide for the prudent operation of the railroad according to sound business management practices. Further, the

March 13, 1990
Page 2 of 3

management is charged with the responsibility of fostering long-term economic growth and development of the state's land and natural resources, as well as maintain the viability of the railroad pending eventual sale or transfer from state ownership.

For the past five and a half years the railroad has operated as a self-sustaining business. As you know, we have not come back to you in the legislature to ask for any subsidies and in fact have turned down monies offered to us for passenger services. We did this to preserve our mandate of operating on a business-like basis and because we felt that by applying sound business management practices we could effectively reduce costs or increase revenues on this service to a point where we could be satisfied with the returns.

This brings me to the reason we are here. The same law which established the corporation also charged us with the responsibility of ensuring the procurement procedures of the corporation meet accepted railroad industry standards. The corporation held public hearings and adopted such policies and procedures early on in our corporate existence. We felt we had excellent vendor relations, good sources of supplies and an efficient,

March 13, 1990

Page 3 of 5

well-managed procurement program in accordance with how other railroads operate. However, as you know in 1987 and 1988, the state adopted a new procurement code as a result of certain circumstances in Fairbanks. The railroad corporation was included in these new rules and regulations as being required to have "substantially equivalent" policies and procedures. There was nothing wrong with the way we had been conducting our procurement program but, all of a sudden, in mid-stream, we had to change our whole approach. As a result, we are no longer similar to industry practices but are forced to try to implement "public" procurement practices while attempting to conduct a "private" business on a profitable basis. We have added two additional staff positions just to handle additional administrative burdens required under the new law. I might add these new positions have not added anything to the bottom line of the corporation, but are simply handling paperwork. Further, we feel an additional 30 to 45 days have been added to the procurement process. As you are fully aware, in business, time is money. Hard dollar costs are hard to determine in cases like this, but I feel confident in saying we are spending an additional \$200 hundred thousand dollars annually because of the procurement code.

March 13, 1990

Page 4 of 5

The corporation is fully committed to the principles of competitive bidding, and fair and equitable treatment of its vendors and suppliers. Prime consideration to the company's interest is achieved while seeking to maintain and further long-term, mutually profitable, ethical supplier relationships. The Alaska Railroad is bottom line oriented. As a result, we must insure we have the best procurement program available which purchases needed materials and supplies at the most competitive rate while ensuring quality, dependable service. We are a business and as such we must be given the opportunity to pursue market opportunity when and where it arises. Market opportunity is not a consideration in the state procurement code.

House Bill 570 language which is before you for consideration would return the Alaska Railroad Corporation to the standard expected of us as a private business and as stated in our enabling legislation AS. 42.40. Procedures which are consistent with accepted railroad industry standards assures you we are acting in a consistent, fair, publicly accountable practice while ensuring the Corporation has the ability to pursue its legislative mandate of maintaining itself as a viable investment of the State of Alaska.

Sincerely,



Larry J. Houle

Alaska Railroad Corporation

State of Alaska

Committees

CO-CHAIR, HOUSE JUDICIARY
VICE CHAIR, HOUSE LABOR AND COMMERCE
HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES



MAR 6 11

P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4712
465-4968/4986
(SESSION)

914 CLAY COURT
ANCHORAGE, ALASKA 99503
(907) 276-6844

Representative Max F. Gruenberg, Jr.
District 11
Spennard, Upper Midtown Anchorage

*L
R
Wendy*

MEMORANDUM

TO: Rep. Richard Foster
Chairman, House Transportation Committee

FROM: Rep. Max F. Gruenberg, Jr.
Co-Chairman, House Judiciary Committee *Max*

SUBJECT: Scheduling of HB 570

DATE: February 27, 1990

HB 570, "An act relating to state procurement", was introduced by the House Judiciary Committee and was referred to the Transportation Committee today.

This bill makes several minor amendments to the state Procurement Code which are derived from provisions dropped from SB 170 in the House last year. It also changes the law regarding procurements by the Alaska Railroad. A sectional analysis is attached.

The bill is ready for a hearing. As I discussed with you and Rep. Menard, the hearing on the bill could be combined with hearings on HB 484 on moose kills, for a hearing aboard the railroad. Please schedule the bill at your earliest opportunity.

Thank you.

SECTIONAL ANALYSIS OF
HOUSE BILL 570

Sections 1 and 2 [AS 36.30.015(e), -.035]

The Alaska Railroad is not currently covered by the Procurement Code. However, AS 36.30.015(e) requires the ARR to adopt procurement procedures substantially equivalent to the Procurement Code. Section 1 removes that requirement, which is replaced by a requirement in Section 2 that the ARR adopt and publish procurement procedures that meet accepted railroad industry standards. The language in Section 2 implements existing AS 42.40.100(8).

Sections 3, 5 and 6 [AS 36.30.040(b); -.370]

These three sections implement a proposal set forth in Section 15 of SB 170. They make it clear that the general prohibition against cost-plus-percentage-of-cost contracts in the Procurement Code does not apply to change orders in construction contracts. Change orders are standard construction contract terms that provide for payment for unanticipated work during the course of a construction contract. Such work is outside the scope of the original contract, but is routinely performed by the contractor.

Section 4 [AS 36.30.100(b)]

The bill deletes three of six existing exemptions from the competitive sealed bidding requirement of the Procurement Code, including purchases where the rates are fixed by law, for professional services, and for concessions on state property. Under the bill, if rates are fixed by law the transaction will now be completely exempted from the Procurement Code, by virtue of new AS 36.30.850(b)(27) [page 3, line 13]. Contracts for professional services and concessions on state property may be exempted from competitive sealed bidding only by administrative action.

Section 7 [AS 36.30.850(b)]

This section adds a number of specific transactions to the list of transactions exempt from the Procurement Code. They are subsections:

(22): disposals of supplies acquired through foreclosure of loans from the Alaska Agricultural Loan Fund (AS 03.10);

(23): purchases of curatorial and conservation services for state-owned objects of art or of cultural, historical, or archaeological significances;

(24): acquisitions of confidential seismic survey data necessary for pre-sale oil and gas lease analyses;

(25): contracts for village public safety officers;

(26): purchases supporting operations of law enforcement officers, if a finding is made that publicity of the purchases would jeopardize the safety of personnel or the success of the operation; and

(27): expenditures where rates are set by law.

Subsections (22) through (25) are retained from Section 17 of SB 170. Subsections (26) and (27) are derived from language in Section 18 of SB 170.

Section 8 [repealers]

This section repeals AS 36.30.540 (4) and (5). Those provisions required the Commissioner of Administration to biennially report to the legislature a list of all in and out of state procurements. The information remains available on request.

Adopted July 10, 1905
As Amended

Amended by Resolution 88-C
04/21/88

Rule No. 8 Adopting Procurement Rules for the Corporation.

Summary: The rule provides for the procurement and purchasing of materials, supplies and services for the Corporation. The rule provides for purchasing, procurement by requesting bids, procurement by purchase order, oral agreements to purchase, contract negotiations, inspection of goods received, decisions to make or buy materials or supplies, returns to vendors, female and minority owned vendors, product endorsements, purchases by employees, price quotations, standardization of material purchases, use of the Corporation name, vendor relations and selection, and requirements of State law.

ALASKA RAILROAD
CORPORATION

SUBJECT:	Procurement Rules	Rev. No.	U	Index	A
		Issue Date	7-18-85	Page	1 of 8

PROCUREMENT RULES1100.0 PROCUREMENT POLICY

1100.1 Objective The overall objective of this Rule is to assure that needed goods and services are obtained in a manner that treats vendors fairly and equitably, and provides the best value to the Corporation.

1100.2 Competition ARRC policy is to purchase all goods and services with a value of \$1,000.00 or more on a competitive basis. Purchases made without competition must be justified in writing, approved, and be fair and reasonable.

1100.3 Written Solicitations Written solicitations will be utilized on all acquisitions of material and/or services with an estimated unit price of \$5,000.00 or more, unless specifically authorized by the V.P. Finance.

1100.4 Formal Solicitations A written "Invitation for Bid" or "Request for Proposal" will be utilized on all acquisitions of material and/or services that have an estimated unit price of \$25,000.00 or more.

ALASKA RAILROAD
CORPORATION

SUBJECT:	Procurement Rules	Rev. No.	0	Index	A
		Issue Date	7-18-85	Page	2 of 8

1100.5 Professional Services Procurement of Professional Services are made in accordance with AS 36.98 et seq.

1100.6 Female, Minority, and Alaskan Owned Vendors It is the policy of the ARRC to encourage meaningful participation of female, minority, and Alaskan owned vendor sources to provide useful and acceptable quality services or material at competitive prices.

1200.0 GENERAL PROVISIONS

1200.1 Authority These rules are adopted under the authority of AS 42.40.010 et seq., and P.L. 97-468 (The Alaska Railroad Transfer Act), 45 U.S.C. Sections 1201-1214 ("ARTA"). These rules shall be read in a manner consistent with applicable law.

1200.2 Application These rules shall apply to all employees of the Alaska Railroad Corporation (ARRC).

ALASKA RAILROAD
CORPORATION

SUBJECT:	Procurement Rules	Rev. No.	0	Index	A-
		Issue Date	7-18-85	Page	3 of 8

1200.3 Delegation The CEO may delegate the authority and responsibilities necessary for the implementation of these rules as he may deem appropriate.

1200.4 PROCEDURE The CEO shall establish such procedures as are necessary to implement these rules.

1200.5 Conflict with Existing Rules These rules supersede the rules continued in effect by Emergency Rule No. 85-2, which have no further force or effect. These rules shall control in the event of a conflict between these rules and any other rules of the ARRC existing as of the date of adoption of these rules.

1200.6 Terminology The use of any gender in these rules shall be deemed to include the other gender, wherever appropriate. The use of the singular in these rules shall be deemed to include the plural and vice versa, wherever appropriate.

1200.7 Product Endorsement Requests for approval of a news release or advertisement stating that the ARRC, or any of its operating units or personnel, uses a product made or service offered by another firm must be approved by the CEO.

**ALASKA RAILROAD
CORPORATION**

SUBJECT:	Procurement Rules	Rev. No.	0	Index	A
		Issue Date	7-18-85	Page	4 of 8

1200.8 Use of ARRC Name The design or ordering of material that includes the use of the ARRC name or symbols must be approved by the Director of Administration.

1200.9 Standardization In order to maximize purchasing power, standardization of supplies, materials and equipment is to be achieved wherever appropriate.

1200.10 Purchases by Employees Employees may not purchase through the ARRC any materials purchased or used by the ARRC.

1200.11 Agreement with ARRC Policies and Practices Vendor selection and products shall be consistent with policies and standard practices of the ARRC.

1200.12 Make or Buy Where products required for company operations can be produced by the ARRC's operating departments or can be acquired from vendors, ARRC departments should be considered in the same manner as any other vendor.

1200.13 Conflict of Interest Internal Rule 900, "Conflict of Interest", is applicable to all Procurement Division personnel and activities.

ALASKA RAILROAD
CORPORATION

SUBJECT:	Procurement Rules	Rev. No.	0	Index	A.
		Issue Date	7-18-85	Page	5 of 8

1200.14 Oral Agreements When the value of an order is \$500.00 or more there must be written notation recording the order and terms, normally a purchase order.

1200.15 Commitment Authority Only those persons to whom authority has been delegated by the CEO may commit the ARRC to the purchase of materials, equipment, supplies, and services.

ALASKA RAILROAD
CORPORATION

SUBJECT:	Procurement Rules	Rev. No.	0	Index A-
		Issue Date	7-18-85	Page 6 of 8

1300.0 PROCUREMENT DIVISION RESPONSIBILITIES

1300.1 Obligation Authority The Procurement Division will obligate the ARRC and make the final determination on sources of supply, quantities purchased, delivery schedule and price negotiations, except where others are authorized. They are responsible for ensuring that the Corporation is in compliance with the provisions of AS 36.05 et seq. in all of its procurement and purchasing activities.

1300.2 Purchasing Practices The Manager of Procurement shall examine the quality and kind of material requested to ensure that the best interest of ARRC are served, and shall inform ordering departments whenever the quantity or specifications of materials ordered are inconsistent with sound purchasing practices and market conditions.

1300.3 Interpretation of Rule Interpretation of this Rule is the responsibility of the Manager of Procurement. The Manager shall maintain a uniform set of forms, and procedures.

**ALASKA RAILROAD
CORPORATION**

SUBJECT:	Procurement Rules	Rev. No.	D	Index	A.
		Issue Date	7-18-85	Page	7 of 8

1300.4 Advance Procurement Program The Manager of Procurement will establish and maintain an advance procurement program.

1300.5 Evaluation Bids, proposals, and quotations will be evaluated in a manner that assures fair and equitable treatment of bidders and provides the best value to the ARRC.

Determination of the successful bidder and award of the order will be made by the Procurement Division, in consultation with the using department, only after all aspects including preference of the requisitioner have been considered. Results of formal solicitations will be disclosed to authorized ARRC personnel, ARRC Board and Legislative Audit. The name of the successful bidder and the amount of the award will be provided, on request, to firms that submitted qualified offers.

1300.6 Terms and Conditions Standard terms and conditions will apply to all purchases made by the ARRC.

1300.7 Return of Materials The Procurement Division will arrange for the return or disposition of merchandise that is received but not needed or acceptable.

**ALASKA RAILROAD
CORPORATION**

SUBJECT:	Procurement Rules	Rev. No.	0	Index	A-
		Issue Date	7-18-85	Page	8 of 8

1300.8 Freight Charges The Procurement Division is responsible for negotiating freight terms on all procurements.

1300.9 Follow Up The Manager of Procurement will follow up on all over-due or back-ordered purchase orders to assure prompt receipt of materials as required by the users.

1300.10 Working With Vendors When supplier sales representatives make personal calls, they are to be directed to the Procurement Division. All response to questions regarding prices and products shall be provided by the Procurement Division. The Manager of Procurement is responsible for maintaining effective and professional relationships with vendors. Employees involved in procurement activities will work to maintain and enhance the ARRC's image by their personal conduct and methods of doing business.

1300.11 Aggrieved Respondents The Manager of Procurement will establish a procedure for prompt and equitable resolution of vendor complaints.

Chapter 25. Contractors' Bonds.

Sec. 36.25.010. Bonds of contractors for public buildings or works.

NOTES TO DECISIONS

Contract for the delivery of "cover material" to a solid refuse landfill operated by the municipality of Anchorage was a supply contract which did not come within the scope of this chapter's bonding requirement. Municipality of Anchorage v. Tatco, Inc., Sup. Ct. Op. No. 3438 (File No. S-2697), P.2d (1989).

Sec. 36.25.020. Rights of persons furnishing labor or material.

NOTES TO DECISIONS

Quoted in Municipality of Anchorage v. Tatco, Inc., Sup. Ct. Op. No. 3438 (File No. S-2697), P.2d (1989).

Chapter 30. State Procurement Code.

Article

1. Organization of State Procurement (§§ 36.30.005, 36.30.015, 36.30.040, 36.30.050, 36.30.090)
2. Competitive Sealed Bidding (§§ 36.30.100 — 36.30.120, 36.30.170, 36.30.180)
3. Competitive Sealed Proposals (§§ 36.30.210, 36.30.250, 36.30.265)
4. Other Procurement Methods (§§ 36.30.300, 36.30.305, 36.30.320)
5. Preference for Alaska Products (§§ 36.30.324, 36.30.332, 36.30.338)
6. Contract Formation and Modification (§§ 36.30.360, 36.30.362)
8. Legal and Contractual Remedies (§§ 36.30.590, 36.30.645, 36.30.680, 36.30.685, 36.30.690)
9. Intergovernmental Relations (§§ 36.30.730, 36.30.735)
10. General Provisions (§§ 36.30.850, 36.30.990)

Article 1. Organization of State Procurement.

Section

05. Centralization of procurement authority
15. Executive branch agencies

Section

40. Procurement regulations
50. Lists of contractors
90. Delivery of supplies

Sec. 36.30.005. Centralization of procurement authority. (a) Except as otherwise provided, all rights, powers, duties, and authority relating to the procurement of supplies, services, and professional services, and the control over supplies, services, and professional services vested in or exercised by an agency on January 1, 1988, are transferred to the commissioner of administration and to the chief procurement officer. Authority granted under this subsection shall be exercised in accordance with this chapter.

(b) Except as otherwise provided, all rights, powers, duties, and authority relating to the procurement of construction and procure-

ments of equipment or services for the state equipment fleet and the control over construction of state facilities and the state equipment fleet vested in or exercised by an agency on January 1, 1988, are transferred to the commissioner of transportation and public facilities, subject to regulations adopted by the commissioner of administration. Notwithstanding AS 44.68.110, authority relating to disposals from the state equipment fleet is vested in the commissioner of transportation and public facilities, subject to regulations adopted by the commissioner of administration. Authority granted under this subsection shall be exercised in accordance with this chapter.

(c) Notwithstanding other provisions of law, all rights, powers, duties, and authority relating to the procurement of supplies, services, professional services, and construction and the disposal of supplies for the University of Alaska are transferred to the Board of Regents. To the maximum extent possible, authority granted under this subsection shall be exercised in accordance with this chapter. The Board of Regents shall adopt regulations under this subsection that are substantially equivalent to the regulations adopted by the commissioner of administration to implement this chapter. For the purposes of this subsection, unless the context otherwise requires, in this chapter

(1) "agency" means a subunit of the University of Alaska;

(2) "attorney general" means the president of the University of Alaska;

(3) "chief procurement officer" means a person designated by the president of the University of Alaska whose qualifications are substantially equivalent to those provided in AS 36.30.010(a);

(4) "commissioner," "commissioner of administration," or "commissioner of transportation and public facilities" means the Board of Regents or the president of the University of Alaska if so designated by the Board of Regents by regulations adopted under this subsection; and

(5) "department" means the University of Alaska. (§ 2 ch 106 SLA 1986; am §§ 1, 2 ch 65 SLA 1987)

Editorial notes. — This section is set out to incorporate editorial changes made by the Revisor of Statutes.

NOTES TO DECISIONS

Cited in *Bowers Office Prods., Inc. v. University of Alaska*, 755 P.2d 1095 (Alaska 1988).

Sec. 36.30.015
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Sec. 36.30.015. Executive branch agencies. (a) The commissioner of transportation and public facilities may delegate to another agency the authority to contract for construction. Before delegating authority to an agency under this subsection, the commissioner of transportation and public facilities shall make a written determination that the agency is capable of implementing the delegated authority. Notwithstanding delegation of authority under this subsection, contracts for construction are governed by this chapter and regulations adopted by the commissioner of administration under this chapter.

(b) The commissioner of administration may delegate to an agency the authority to contract for and manage services, professional services, and supplies. Notwithstanding delegation of authority under this subsection, an agency's exercise of the authority is governed by this chapter and regulations adopted by the commissioner under this chapter. Before delegating authority to an agency under this subsection, the commissioner shall make a written determination that the agency is capable of implementing the delegated authority.

(c) The commissioner of administration may not delegate the authority to dispose of supplies or the authority to adopt regulations under this chapter.

(d) An agency may not contract for the services of legal counsel without the approval of the attorney general.

(e) The boards of directors of the Alaska Railroad Corporation and the Alaska State Housing Authority shall adopt procedures to govern the procurement of supplies, services, professional services, and construction by the corporation. The procedures must be substantially equivalent to the procedures prescribed in this chapter and in regulations adopted under this chapter. (§ 2 ch 106 SLA 1986)

Revisor's notes. — Under § 2, ch. 11, "Alaska State Building Authority" in SLA 1989 and AS 01.05.031 "Alaska State Housing Authority" was substituted for 1989.

Sec. 36.30.040. Procurement regulations. (a) The commissioner shall adopt regulations governing the procurement, management, and control of supplies, services, professional services and construction by agencies. The commissioner may audit and monitor the implementation of the regulations and the requirements of this chapter with respect to using agencies.

(b) The commissioner shall adopt regulations pertaining to the following:

- (1) suspension, debarment, and reinstatement of prospective bidders and contractors;
- (2) bid protests;
- (3) conditions and procedures for the procurement of perishables and items for resale;

(4) conditions and procedures for the use of source selection methods authorized by this chapter, including sole source procurements, emergency procurements, and small procurements;

(5) the opening or rejection of bids and offers, and waiver of informalities in bids and offers;

(6) confidentiality of technical data and trade secrets submitted by actual or prospective bidders or offerors;

(7) partial, progressive, and multiple awards;

(8) storerooms and inventories, including determination of appropriate stock levels and the management of agency supplies;

(9) transfer, sale or other disposal of supplies;

(10) definitions and classes of contractual services and procedures for acquiring them;

(11) providing for conducting price analysis;

(12) use of payment and performance bonds in connection with contracts for supplies, services, and construction;

(13) guidelines for use of cost principles in negotiations, adjustments, and settlements;

(14) conditions under which an agency may use the services of an employment program;

(15) a bidder's or offeror's duties under AS 36.30.115 and 36.30.210; and

(16) the elimination and prevention of discrimination in state contracting because of race, religion, color, national origin, sex, age, marital status, pregnancy, parenthood, handicap, or political affiliation. (§ 2 ch 106 SLA 1986; am § 1 ch 102 SLA 1989)

Effect of amendments. — The 1989 amendment, effective September 10, 1989, deleted "as defined under AS 36.30.100(c)" at the end of subsection (b)(14).

Sec. 36.30.050. Lists of contractors. (a) The commissioner shall establish and maintain lists of persons who desire to provide supplies, services, professional services, or construction services to the state.

(b) A person who desires to be on a list shall submit to the commissioner evidence of a valid Alaska business license. A biennial fee may be established by regulation in an amount reasonably calculated to pay the costs of administering this section. A construction contractor shall also submit a valid certificate of registration issued under AS 08.18. The commissioner, by regulation, may require submission of additional information.

(c) The lists may be used by the chief procurement officer or an agency when issuing invitations to bid or requests for proposals under this chapter. The lists may be used by the legislative council, the court system, the Alaska State Housing Authority, and the Alaska Railroad Corporation.

(d) *[Repealed]*
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(d) *[Repealed, § 24 ch 65 SLA 1987.]* (§ 2 ch 106 SLA 1986; am §§ 3, 24 ch 65 SLA 1987)

Revisor's notes. — Under § 2, ch. 11, "Alaska State Building Authority" in SLA 1989 and AS 01.05.031 "Alaska State Housing Authority" was substituted for 1989.

Sec. 36.30.090. Delivery of supplies. Supplies purchased under this chapter shall be delivered at a location within the state unless the department determines that a point of delivery outside the state would be in the best interest of the state. A bid or proposal involving the procurement of supplies shall specify the delivery location and shall state that the price is the delivered price at that location. (§ 1 ch 8 SLA 1989)

Effective dates. — Section 2, ch. 8, SLA 1989, provides: "This Act takes effect July 1, 1989."

Article 2. Competitive Sealed Bidding.

Section

- 100. General policy
- 110. Invitation to bid
- 115. Subcontractors

Section

- 120. Bid security
- 170. Contract award after bids
- 180. Purpose

Sec. 36.30.100. General policy. (a) Except as otherwise provided in this chapter, or unless specifically exempted by law, an agency contract shall be awarded by competitive sealed bidding.

(b) Competitive sealed bidding is not required

(1) when the commissioner determines in writing that food, clothing, or medical supplies, or materials for use in laboratory or medical studies may be purchased otherwise to the best advantage of the state;

(2) when rates are fixed by law or ordinance;

(3) for the purchase of products or services manufactured or provided by an employment program;

(4) for the purchase of products or services provided by the correctional industries program established under AS 33.32;

(5) for professional services; or

(6) for concessions operated on state property.

(c) *[Repealed, § 20, ch 102, SLA 1989.]* (§ 2 ch 106 SLA 1986; am § 20 ch 102 SLA 1989)

Effect of amendments. — The 1989 amendment, effective September 10, 1989, repealed subsection (c).

(9) is determined by the procurement officer not to be a responsible subcontractor.

(c) If a bidder fails to list a subcontractor or lists more than one subcontractor for the same portion of work and the value of that work is in excess of half of one percent of the total bid, the bidder shall be considered to have agreed to perform that portion of work without the use of a subcontractor and to have represented the bidder to be qualified to perform that work.

(d) A bidder who attempts to circumvent the requirements of this section by listing as a subcontractor another contractor who, in turn, sublets the majority of the work required under the contract violates this section.

(e) If a contract is awarded to a bidder who violates this section, the purchasing officer may

(1) cancel the contract; or

(2) after notice and a hearing, assess a penalty on the bidder in an amount that does not exceed 10 percent of the value of the subcontract at issue. (§ 2 ch 106 SLA 1986; am §§ 4, 5 ch 65 SLA 1987; am § 2 ch 163 SLA 1988; am § 4 ch 102 SLA 1989)

Effect of amendments. — The 1988 amendment added the language in subsection (a). The 1989 amendment, effective September 10, 1989, substituted "subcontractor" for "bidder" at the end of paragraph (b)(9).

Sec. 36.30.120. Bid security. (a) Bid security shall be required for all competitive sealed bidding for construction contracts when the price is estimated by the procurement officer to exceed an amount established by regulation of the commissioner. Bid security on construction contracts under the amount set by the commissioner may be required when the circumstances warrant. Bid security may be required for competitive sealed bidding for contracts for supplies, services, or professional services in accordance with regulations of the commissioner when needed for the protection of the state.

(b) Bid security must be a bond provided by a surety company authorized to do business in the state or otherwise supplied in a form satisfactory to the commissioner. Bid security must be in an amount equal to at least five percent of the amount of the bid.

(c) When the invitation to bid requires security, the procurement officer shall reject a bid that does not comply with the bid security requirement unless, in accordance with regulations, the officer determines that the bid fails to comply in a nonsubstantial manner with the security requirements. (§ 2 ch 106 SLA 1986; am § 5 ch 102 SLA 1989)

Effect of amendments. — The 1989 amendment, effective September 10, 1989, rewrote the second sentence of subsection (b).

Sec. 36.30.170. Contract award after bids. (a) Except as provided in (b), (c), and (d) of this section, the procurement officer shall award a contract based on the solicited bids with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid conforms in all material respects to the requirements and criteria set out in the invitation to bid.

(b) The procurement officer shall award a contract based on solicited bids to the lowest responsive and responsible bidder after an Alaska bidder preference of five percent and an Alaska products preference as described in AS 36.30.322 — 36.30.338 have been applied. In this subsection, "Alaska bidder" means a person who

- (1) holds a current Alaska business license;
- (2) submits a bid for goods, services, or construction under the name as appearing on the person's current Alaska business license;
- (3) has maintained a place of business within the state staffed by the bidder or an employee of the bidder for a period of six months immediately preceding the date of the bid;
- (4) is incorporated or qualified to do business under the laws of the state, is a sole proprietorship, and the proprietor is a resident of the state or is a partnership, and all partners are residents of the state; and
- (5) if a joint venture, is composed entirely of ventures that qualify under (1) — (4) of this subsection.

(c) If a bidder qualifies under (b) of this section as an Alaska bidder, is offering services through an employment program, and is the lowest responsible and responsive bidder with a bid that is not more than 10 percent higher than the lowest bid of a nonresident, the procurement officer shall award the contract to that bidder.

(d) The procurement officer shall award an insurance-related contract based on solicited bids to the lowest responsive and responsible bidder after an Alaska bidder preference of five percent. In this subsection, "Alaska bidder" means a person who meets the criteria set out in (b)(1) — (5) of this section and who is an Alaska domestic insurer. (§ 2 ch 106 SLA 1986; am §§ 7 — 9 ch 65 SLA 1987; am § 6 ch 102 SLA 1989)

Effect of amendments. — The 1989 amendment, effective September 10, 1989, deleted "as defined under AS 36.30.100(c)" following "employment program" in subsection (c).

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Sec. 36.30.180. Purpose. The legislature finds that there exists in the state continuing high unemployment, underutilization of resident construction and supply firms, and high costs unfavorable to the welfare of Alaskans and to the economic health of the state. The purpose of bidder preference for resident firms when the state acts as a market participant is to encourage local industry, strengthen and stabilize the economy, decrease unemployment, and strengthen the tax and revenue base of the state. (§ 1 ch 70 SLA 1985)

Revisor's notes. — Formerly AS 37.05.225. Renumbered in 1988.

Article 3. Competitive Sealed Proposals.

Section	Section
210. Request for proposals	265. Multi-step sealed proposals
250. Award of contract	

Sec. 36.30.210. Request for proposals. (a) A request for competitive sealed proposals must contain the date, time, and place for delivering proposals, a specific description of the supplies, construction, services, or professional services to be provided under the contract, and the terms under which the supplies, construction, services, or professional services are to be provided. The request must require the offeror, no later than five working days after the proposal that is the most advantageous to the state is identified, to list subcontractors the offeror proposes to use in the performance of the contract. The list must include the name and location of the place of business for each subcontractor, the work to be subcontracted to each subcontractor, and evidence of the subcontractor's valid Alaska business license. An offeror for a construction contract shall also submit evidence of the offeror's registration under AS 08.18 and evidence of registration for each listed subcontractor.

(b) A request for proposals must contain that information necessary for an offeror to submit a proposal or contain references to any information that cannot reasonably be included with the request. The request must provide a description of the factors that will be considered by the procurement officer when evaluating the proposals received, including the relative importance of price and other evaluation factors.

(c) Notice of a request for proposals shall be given in accordance with procedures under AS 36.30.130. The procurement officer may use additional means considered appropriate to notify prospective offerors of the intent to enter into a contract through competitive sealed proposals.

(d) The provisions of AS 36.30.115(b) — (e) apply to competitive sealed proposals.

(e) The offeror must have a valid Alaska business license at the time designated, in the request for proposals, for opening of the proposals. (§ 2 ch 106 SLA 1986; am § 10 ch 65 SLA 1987; am §§ 7, 8 ch 102 SLA 1989)

Effect of amendments. — The 1989 amendment, effective September 10, 1989, in subsection (a), rewrote the second sentence and, in the third sentence, substituted "must" for "shall" and inserted "the work to be subcontracted to each subcontractor"; and added subsection (e)."

Sec. 36.30.250. Award of contract. (a) The procurement officer shall award a contract under competitive sealed proposals to the responsible and responsive offeror whose proposal is determined in writing to be the most advantageous to the state taking into consideration price and the evaluation factors set out in the request for proposals. Other factors and criteria may not be used in the evaluation. The contract file must contain the basis on which the award is made.

(b) In determining whether a proposal is advantageous to the state, the procurement officer shall take into account, in accordance with regulations of the commissioner, whether the offeror qualifies as an Alaska bidder under AS 35.30.170(b) or is offering the service of an employment program. (§ 2 ch 106 SLA 1986; am § 9 ch 102 SLA 1989)

Effect of amendments. — The 1989 amendment, effective September 10, 1989, deleted "as defined in AS 36.30.100(c)" at the end of subsection (b).

Sec. 36.30.265. Multi-step sealed proposals. When it is considered impractical to initially prepare a definitive purchase description to support an award based on listed selection criteria, the procurement officer may issue an expression of interest requesting the submission of unpriced technical offers, and then later issue a request for proposals limited to the offerors whose offers are determined to be technically qualified under the criteria set out in the expression of interest. (§ 10 ch 102 SLA 1989)

Effective dates. — Chapter 102, SLA 1989, which enacted this section took effect on September 10, 1989.

Article 4. Other Procurement Methods.

<p>Section 300. Sole source procurements 305. Limited competition procurements</p>	<p>Section 320. Small procurements</p>
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Sec. 36.30.300. Sole source procurements. (a) A contract may be awarded for supplies, services, professional services, or construction without competitive sealed bidding, competitive sealed proposals, or other competition in accordance with regulations adopted by the commissioner. A contract may be awarded under this section only when the chief procurement officer or, for construction contracts or procurements for the state equipment fleet, the commissioner of transportation and public facilities determines in writing that there is only one source for the required procurement or construction. A sole source procurement may not be awarded if a reasonable alternative source exists. The written determination must include findings of fact that support by clear and convincing evidence the determination that only one source exists. Except for procurements of supplies, services, or construction that do not exceed the amount for small procurements under AS 36.30.320(a), the authority to make the determination required by this subsection may not be delegated.

(b) The using agency shall submit written evidence to support a sole source determination. The commissioner of administration or the commissioner of transportation and public facilities, as appropriate, may also require the submission of cost or pricing data in connection with an award under this section.

(c) The procurement officer shall negotiate with the single supplier, to the extent practicable, to obtain a contract advantageous to the state.

(d) Procurement requirements may not be artificially divided, fragmented, aggregated or structured so as to constitute a purchase under this section or to circumvent the source selection procedures required by AS 36.30.100 — 36.30.270. (§ 2 ch 106 SLA 1986; am § 11 ch 102 SLA 1989)

Effect of amendments. — The 1989 amendment, effective September 10, 1989, in subsection (a), deleted "of administration" at the end of the first sentence and added "Except for procurements of sup-

plies, services, or construction that do not exceed the amount for small procurements under AS 36.30.320(a)" at the beginning of the last sentence.

Sec. 36.30.305. Limited competition procurements. (a) A contract for supplies, services, professional services, or a construction contract under \$100,000, may be awarded without competitive sealed bidding or competitive sealed proposals, in accordance with regulations adopted by the commissioner. A contract may be awarded under this section only when the commissioner, or, for construction contracts under \$100,000 or procurements for the state equipment fleet, the commissioner of transportation and public facilities, determines in writing that a situation exists that makes competitive sealed bidding or competitive sealed proposals impractical or contrary to the public interest. Procurements under this section shall be made with competi-

tion that is practicable under the circumstance. Except for procurements of supplies, services, or construction that do not exceed the amount for small procurements under AS 36.30.320(a), the authority to make a determination required by this section may not be delegated.

(b) The using agency shall submit written evidence to support a determination under this section.

(c) Procurement requirements may not be artificially divided, fragmented, aggregated, or structured so as to constitute a purchase under this section or to circumvent the source selection procedures required by AS 36.30.100 — 36.30.270.

(d) Sole source procurements may not be made under this section.

(e) Architectural, engineering, and land survey contracts under AS 36.30.270 may not be made under this section. (§ 11 ch 65 SLA 1987; am § 12 ch 102 SLA 1989)

Effect of amendments. — The 1989 amendment, effective September 10, 1989, in subsection (a), deleted "of administration" at the end of the first sentence and following "commissioner" in the second sentence and added "Except for procure-

ments of supplies, services, or construction that do not exceed the amount for small procurements under AS 36.30.320(e)" at the beginning of the last sentence.

Sec. 36.30.320. Small procurements. (a) A procurement for supplies, services, or construction that does not exceed an aggregate dollar amount of \$10,000 may be made in accordance with regulations adopted by the commissioner for small procurements.

(b) A contract for professional services that does not exceed \$25,000 may be made under regulations adopted by the commissioner for small procurements, except that an agency may not contract for the services of legal counsel without the approval of the attorney general.

(c) Small procurements need not be made through competitive sealed bidding or competitive sealed proposals but shall be made with competition that is practicable under the circumstances.

(d) Procurement requirements may not be artificially divided or fragmented so as to constitute a purchase under this section or to circumvent the source selection procedures required by AS 36.30.100 — 36.30.270.

(e) The procurement officer shall give adequate public notice of intent to make a procurement under this section in accordance with regulations adopted by the commissioner. (§ 2 ch 106 SLA 1986; am § 12 ch 65 SLA 1987; am § 13 ch 102 SLA 1989)

Effect of amendments. — The 1989 amendment, effective September 10, 1989,

substituted "\$10,000" for "\$5,000" in subsection (a).

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Article 5. Preference for Alaska Products.

Section

324. Use of Alaska products

332. Classification of Alaska products

Section

338. Definitions

Sec. 36.30.324. Use of Alaska products. Alaska products shall be used whenever practicable in procurements for an agency. Recycled Alaska products shall be used when they are of comparable quality, of equivalent price, and appropriate for the intended use. (§ 2 ch 106 SLA 1986; am § 4 ch 63 SLA 1988)

Effect of amendments. — The 1988 amendment added the second sentence.

Sec. 36.30.332. Classification of Alaska products. (a) The commissioner of commerce and economic development shall adopt regulations establishing the value added in the state for materials and supplies produced or manufactured in the state that are used in a state procurement and establishing whether a product qualifies as a recycled Alaska product. The commissioner shall publish a list of the products annually. A supplier may request inclusion of its product on the appropriate list.

(b) Materials and supplies with value added in the state that are

(1) more than 25 percent and less than 50 percent produced or manufactured in the state are Class I products;

(2) 50 percent or more and less than 75 percent produced or manufactured in the state are Class II products; and

(3) 75 percent or more produced or manufactured in the state are Class III products.

(c) In a bid or proposal evaluation a

(1) Class I product is given a three percent preference;

(2) Class II product is given a five percent preference;

(3) Class III product is given a seven percent preference. (§ 2 ch 106 SLA 1986; am § 15 ch 65 SLA 1987; am § 5 ch 63 SLA 1988)

Effect of amendments. — The 1988 amendment, in subsection (a), divided the former first sentence into the present first two sentences and added "and establish-

ing whether a product qualifies as a recycled Alaska product" at the end of the first sentence.

Sec. 36.30.338. Definitions. In AS 36.30.322 — 36.30.338

(1) "Alaska product" means a product of which not less than 25 percent of the value, as determined in accordance with regulations adopted under AS 36.30.332(a), has been added by manufacturing or production in the state;

(2) "produced or manufactured" means processing, developing, or making an item into a new item with a distinct character and use

through the application within the state of materials, labor, skill, or other services;

(3) "product" means materials or supplies but does not include gravel and asphalt;

(4) "recycled Alaska product" means an Alaska product of which not less than 50 percent of the value of the product consists of a product that was previously used in another product, if the recycling process is done in the state. (§ 2 ch 106 SLA 1986; am § 17 ch 65 SLA 1987; am § 6 ch 63 SLA 1988)

Effect of amendments. — The 1988 amendment added paragraph (4).

Article 6. Contract Formation and Modification.

Section

360. Determination of responsibility

Section

362. Determination to award a contract to a nonresident

Sec. 36.30.360. Determination of responsibility. (a) A written determination of nonresponsibility of a bidder or offeror shall be made by the procurement officer in accordance with regulations adopted by the commissioner. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility is grounds for a determination of nonresponsibility with respect to the bidder or offeror.

(b) Information furnished by a bidder or offeror under (a) of this section is confidential and may not be disclosed without prior written consent by the bidder or offeror. (§ 2 ch 106 SLA 1986; am § 14 ch 102 SLA 1989)

Effect of amendments. — The 1989 amendment, effective September 10, 1989, substituted "nonresponsibility" for "responsibility" in the first sentence in subsection (a).

Sec. 36.30.362. Determination to award a contract to a nonresident. Except for awards made under AS 36.30.170, if the procurement officer awards a contract to a person who does not reside or maintain a place of business in the state and if the supplies, services, professional services, or construction that is the subject of the contract could have been obtained from sources in the state, the procurement officer shall issue a written statement explaining the basis of the award. The statement required under this section shall be kept in the contract file. (§ 2 ch 106 SLA 1986; am § 15 ch 102 SLA 1989)

Effect of amendment, effective 1989. — Added "Except for a"

Article

Section

590. Appeal on a writ of certiorari. 645. Written determination. 680. Final decision.

Sec. 36.30.590.

Section of a procurement contract with the commissioner of transportation shall be filed within 10 days after the protest is filed. The protester shall file a copy of the protest with the commissioner of transportation.

(b) An appeal of a protest shall be filed with the commissioner of transportation within 10 days after the protest is filed.

36.30.560. In (1) a copy of the protest shall be filed with the commissioner of transportation. (2) The protest shall be the basis for the final decision. (SLA 1989)

Effect of amendment, effective 1989. — Added "and a copy of the protest shall be filed with the commissioner of transportation."

Sec. 36.30.600. The commissioner of transportation shall issue a written statement explaining the basis of the award.

(1) state the basis of the award. (2) inform the protester of the suspended contract.

(b) A copy of the statement shall be furnished to the protester and any other interested party.

Editor's note. — See note above to correct error in the main part of the statute.

Sec. 36.30.610. The commissioner of transportation shall issue a final decision on a protest. A decision shall be issued to the parties by the commissioner of transportation.

Effect of amendments. — The 1989 amendment, effective September 10, 1989, added "Except for awards made under AS 36.39.170" at the beginning of the first sentence.

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Article 8. Legal and Contractual Remedies.

Section	Section
590. Appeal on a protest	685. Judicial appeal
645. Written determinations	690. Exclusive remedy
680. Final decision by the commissioner	

Sec. 36.30.590. Appeal on a protest. (a) An appeal from a decision of a procurement officer on a protest may be filed by the protester with the commissioner of administration, or for protests involving construction or procurements for the state equipment fleet, the commissioner of transportation and public facilities. An appeal shall be filed within 10 days after the decision is received by the protester. The protester shall file a copy of the appeal with the procurement officer.

(b) An appeal must contain the information required under AS 36.30.560. In addition, the appeal must include

- (1) a copy of the decision being appealed; and
- (2) identification of the factual or legal errors in the decision that form the basis for the appeal. (§ 2 ch 106 SLA 1986; am § 16 ch 102 SLA 1989)

Effect of amendments. — The 1989 amendment, effective September 10, 1989, substituted "10 days" for "five days" in the second sentence in subsection (a).

Sec. 36.30.645. Written determinations. (a) The commissioner of administration or the commissioner of transportation and public facilities shall issue a written decision to debar or suspend. The decision must

- (1) state the reasons for the action taken; and
- (2) inform the debarred person of rights to judicial appeal or inform the suspended person of rights to administrative and judicial appeal.

(b) A copy of the decision under (a) of this section shall be mailed or otherwise furnished immediately to the debarred or suspended person and any other intervening party. (§ 2 ch 106 SLA 1986)

Editor's notes. — This section is set out above to correct a typographical error in the main pamphlet.

Sec. 36.30.680. Final decision by the commissioner. A decision by the commissioner of administration or the commissioner of transportation and public facilities after a hearing under this chapter is final. A decision shall be sent within 20 days after the hearing to all parties by personal service or certified mail, except that a decision by the commissioner of transportation and public facilities involving pro-

curement of construction shall be sent within 90 days after the hearing to all parties by personal service or certified mail. (§ 2 ch 106 SLA 1986)

Editor's notes. — This section is set out above to correct a typographical error in the main pamphlet.

Sec. 36.30.685. Judicial appeal. (a) A final decision of the commissioner of administration or the commissioner of transportation and public facilities under AS 36.30.610, 36.30.635(a), 36.30.650, or 36.30.680 may be appealed to the superior court in accordance with the Alaska Rules of Appellate Procedure.

(b) A final decision of the commissioner of administration or the commissioner of transportation and public facilities under AS 36.30.630(b) may be appealed to the superior court for a trial de novo. (§ 2 ch 106 SLA 1986)

Editor's notes. — This section is set out above to correct a typographical error in the main pamphlet.

Sec. 36.30.690. Exclusive remedy. Notwithstanding AS 44.77 or other law to the contrary, AS 36.30.560 — 36.30.699 and regulations adopted under those sections provide the exclusive procedure for asserting a claim against an agency arising in relation to a procurement under this chapter. (§ 2 ch 106 SLA 1986)

Editor's notes. — This section is set out above to correct a typographical error in the main pamphlet.

Article 9. Intergovernmental Relations.

<p>Section 730. Supply of personnel, information, and technical services 735. Restriction on contracting with or</p>	<p>employing experts on radiation hazards</p>
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Sec. 36.30.730. Supply of personnel, information, and technical services. (a) A public procurement unit may, upon written request from another public procurement unit or external procurement activity, provide personnel to the requesting public procurement unit or external procurement activity. The public procurement unit or external procurement activity making the request shall pay the public procurement unit providing the personnel the direct and indirect cost of furnishing the personnel, in accordance with an agreement between the parties.

(b) The information unit or external public procurement activity. The procurement activity in accordance with

(c) Upon request for procurement services, among

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(b) The informational, technical, and other services of a public procurement unit may be made available to another public procurement unit or external procurement activity except that the requirements of the public procurement unit tendering the services has precedence over the requesting public procurement unit or external procurement activity. The requesting public procurement unit or external procurement activity shall pay for the expenses of the services so provided, in accordance with an agreement between the parties.

(c) Upon request, the commissioner may make available to public procurement units or external procurement activities the following services, among others:

- (1) standard forms;
- (2) printed manuals;
- (3) product specifications and standards;
- (4) quality assurance testing services and methods;
- (5) qualified products lists;
- (6) source information;
- (7) common use commodities listings;
- (8) supplier performance ratings;
- (9) lists of persons debarred or suspended from consideration for award of state contracts;
- (10) forms for invitations for bids, requests for proposals, instructions to bidders, general contract provisions, and other contract forms; and
- (11) contracts or published summaries of them, including price and time of delivery information.

(d) The commissioner may provide the following technical services, among others:

- (1) development of product specifications;
- (2) development of quality assurance test methods, including receiving, inspection, and acceptance procedures;
- (3) use of product testing and inspection facilities; and
- (4) use of personnel training programs.

(e) The commissioner may enter into contractual arrangements and publish a schedule of fees for the services provided under (c) and (d) of this section.

(f) The commissioner shall separately account for fees collected under (c) and (d) of this section and deposited in the general fund. The annual estimated balance in the account may be used by the legislature to make appropriations to the department to carry out the purposes of (c) and (d) of this section. (§ 2 ch 106 SLA 1986; am § 59 ch 14 SLA 1987)

Editor's notes. — This section is set out above to correct a typographical error in the main pamphlet.

Sec. 36.30.735. Restriction on contracting with or employing experts on radiation hazards. (a) Except for the Department of Health and Social Services, the Department of Labor, the Department of Environmental Conservation, and the Department of Military and Veterans' Affairs, a state agency may not

(1) contract, other than with the Department of Health and Social Services, to have services performed that require expertise in determining or reducing the hazards of radiation; or

(2) employ a person whose duties require expertise in determining or reducing the hazards of radiation.

(b) In this section, "state agency" means a state department or agency, whether in the legislative, judicial, or executive branch, including such entities as the Alaska State Housing Authority, but not including the University of Alaska, a municipality, or an agency of a municipality or the Alaska State Building Authority.

(c) In this section, "radiation" does not include radiation emitted from a Federal Communications Commission licensed facility emitting radiation of a wave length longer than one centimeter and an average power output not exceeding two kilowatts. (§ 2 ch 106 SLA 1986)

Revisor's notes. — Under § 2, ch. 11, "Alaska State Building Authority" in SLA 1989 and AS 01.05.031 "Alaska State Housing Authority" was substituted for 1989.

Article 10. General Provisions.

Section

850. Application of this chapter
990. Definitions

Sec. 36.30.850. Application of this chapter. (a) This chapter applies only to contracts solicited or entered into after January 1, 1988, unless the parties agree to its application to a contract solicited or entered into before that date.

(b) This chapter applies to every expenditure of state money by the state, acting through an agency, under a contract, except that this chapter does not apply to

(1) grants;

(2) contracts for professional witnesses to provide for professional services or testimony relating to existing or probable lawsuits in which the state is or may become a party;

(3) contracts of the University of Alaska where the work is to be performed substantially by students enrolled in the university;

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- (4) contracts for medical doctors and dentists;
- (5) acquisitions or disposals of real property or interest in real property, except as provided in AS 36.30.080;
- (6) disposals under AS 38.05;
- (7) contracts for the preparation of ballots under AS 15.15.030;
- (8) acquisitions or disposals of property and other contracts relating to airports under AS 02.15.070, 02.15.090, and 02.15.091;
- (9) disposals of obsolete property under AS 19.05.060;
- (10) disposals of obsolete material or equipment under AS 35.20.060;
- (11) agreements with providers of services under AS 44.47.250; AS 47.07; AS 47.08; AS 47.10; AS 47.17; AS 47.24; AS 47.25.195, and 47.25.310;
- (12) contracts of the Department of Fish and Game for flights that involve specialized flying and piloting skills and are not point-to-point;
- (13) purchases of income-producing assets for the state treasury or a public corporation of the state;
- (14) operation of the state boarding school established under AS 14.16, if the State Board of Education or the commissioner of education adopts regulations for use by the state boarding school in procurement and contracting;
- (15) a contract that is a delegation, in whole or in part, of investment powers held by the commissioner of revenue under AS 14.25.180, AS 14.40.400, AS 14.42.200, 14.42.210, AS 18.56.095, AS 22.25.048, AS 26.05.228, AS 37.10.070, 37.10.071, AS 37.14, or AS 39.35.080;
- (16) a contract that is a delegation, in whole or in part, of investment powers of the Board of Trustees of the Alaska Permanent Fund Corporation under AS 37.13;
- (17) the purchase of books, book binding services, newspapers, periodicals, audio-visual materials, network information services access, approval plans, professional memberships, archival materials, objects of art, and items for museum or archival acquisition having cultural, historical, or archaeological significance; in this paragraph
 - (A) "approval plans" means book selection services in which current book titles meeting an agency's customized specifications are provided to the agency subject to the right of the agency to return those books that do not meet with the agency's approval;
 - (B) "archival materials" means the noncurrent records of an agency that are preserved after appraisal because of their value;
 - (C) "audio-visual materials" means nonbook prerecorded materials, including records, tapes, slides, transparencies, films, filmstrips, cassettes, videos, compact discs, laser discs, and items that require the use of equipment to render them usable;

(D) "network information services" means a group of resources from which cataloging information, holdings records, inter-library loans, acquisitions information, and other reference resources can be obtained;

(18) contracts for the purchase of standardized examinations for licensure under AS 08;

(19) contracts for home health care and adult residential and foster care services provided under regulations adopted by the Department of Health and Social Services;

(20) contracts for supplies or services for research projects funded by money received from the federal government or private grants; or

(21) guest speakers or performers for an educational or cultural activity.

(c) Except for AS 36.30.700 — 36.30.790, this chapter does not apply to contracts between two or more agencies, the state and its political subdivisions, or the state and other governments.

(d) Nothing in this chapter or in regulations adopted under this chapter prevents an agency or political subdivision from complying with the terms and conditions of a grant, gift, bequest, cooperative agreement or federal assistance agreement.

(e) AS 36.30.170 applies to all insurance contracts involving state money. In this subsection, "state money" includes state grants and reimbursement to municipalities, school districts, and other entities. (§ 2 ch 106 SLA 1986; am §§ 21, 22 ch 65 SLA 1987; am § 1 ch 38 SLA 1988; am § 5 ch 73 SLA 1988; am § 18 ch 141 SLA 1988; am §§ 17, 18 ch 102 SLA 1989)



add

Revisor's notes. — Paragraphs (b)(15) — (17) were enacted as (b)(14), (15), and (14), respectively. Renumbered in 1988.

Effect of amendments. — The first 1988 amendment inserted subsection (b)(17).

The second 1988 amendment inserted subsection (b)(14).

The third 1988 amendment, effective June 9, 1988, inserted subsections (b)(15) and (b)(16).

The 1989 amendment, effective Septem-

ber 10, 1989, in subsection (b), substituted "money" for "funds, irrespective of their sources, including federal assistance except as otherwise specified in AS 36.30.890" in the introductory language, inserted "AS 44.47.250" in paragraph (11) and added paragraphs (18) — (21); and divided subsection (e) into two sentences, substituting "In this subsection, 'state money' includes" for "Including" at the beginning of the present second sentence.

Sec. 36.30.990. Definitions. In this chapter, unless the context in which a term is used clearly requires a different meaning or a different definition is prescribed for a particular provision.

(1) "agency" means a department, institution, board, commission, division, authority, public corporation, the Alaska Pioneers' Home, or other administrative unit of the executive branch of state government, except for the University of Alaska, the Alaska State Housing Authority and the Alaska Railroad Corporation; it does not include a

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regional Native housing authority created under AS 18.55.996, or a regional electrical authority created under AS 18.57.020;

(2) "change order" means a written order signed by the procurement officer directing the contractor to make changes that the changes clause of the contract authorizes the procurement officer to order without the consent of the contractor;

(3) "commissioner" means the commissioner of the Department of Administration;

(4) "competitive sealed bidding" means the procedure under AS 36.30.100 — 36.30.190;

(5) "competitive sealed proposals" means the procedure under AS 36.30.200 — 36.30.260;

(6) "construction" means the process of building, altering, repairing, maintaining, improving, or demolishing a public highway, structure, building, or other public improvement of any kind to real property other than privately owned real property leased for the use of agencies; it includes services and professional services relating to planning and design required for the construction; it does not include the routine operation of a public improvement to real property nor does it include the construction of public housing,

(7) "contract" means all types of state agreements, regardless of what they may be called, for the procurement or disposal of supplies, equipment for the state fleet, services, professional services, or construction;

(8) "contract modification" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract accomplished by mutual action of the parties to the contract;

(9) "department" means the Department of Administration;

(10) "employment program" means a nonprofit program to increase employment opportunities for individuals with physical or mental disabilities that constitute substantial handicaps to employment;

(11) "grant" means property furnished by the state, whether real or personal, designated by law, including an appropriation Act, as a grant;

(12) "person" means a business, individual, union, committee, club, other organization, or group of individuals;

(13) "procurement" means buying, purchasing, renting, leasing, or otherwise acquiring supplies, equipment for the state fleet, services, or construction; it also includes functions that pertain to the obtaining of a supply, equipment for the state fleet, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration;

(14) "procurement officer" means a person authorized to enter into and administer contracts for an agency and make written determina-

tions with respect to them; it also includes an authorized representative of a procurement officer acting within the limits of authority;

(15) "professional services" means professional, technical, or consultant's services that are predominantly intellectual in character, result in the production of a report or the completion of a task, and include analysis, evaluation, prediction, planning, or recommendation;

(16) "services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports that are merely incidental to the required performance; it does not include employment agreements or collective bargaining agreements;

(17) "state money" means any money appropriated to an agency or spent by an agency irrespective of its source, including federal assistance except as otherwise specified in AS 36.30.890, but does not include money held in trust by an agency for a person;

(18) "supplies" means all property of an agency, including equipment, materials, and insurance; it includes privately owned real property leased for the use of agencies, such as office space, but does not include the acquisition or disposition of other interests in land. (§ 2 ch 106 SLA 1986; am § 19 ch 102 SLA 1989)

Revisor's notes. — Paragraphs (10) and (17) were enacted as (17) and (18) respectively. Renumbered in 1989, at which time the remaining paragraphs were renumbered accordingly.

Effect of amendments. — The 1989 amendment, effective September 10, 1989, added present paragraphs (10) and (17).

Chapter 95. General Provisions.

Sec. 36.95.010. Definitions.

NOTES TO DECISIONS

Quoted in Municipality of Anchorage v. Tatco, Inc., Sup. Ct. Op. No. 3438 (File No. S-2697), P.2d (1989).

Chapter

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- 07. Executive
- 10. Public Fu
- 13. Alaska P
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Representative Bette Cato, Chair House Transportation Committee

DATE: 3/15/90

PLACE: Room 17

SUBJECT OF MEETING:
 HB 570
 CSHRB 73
 Port of Bellingham

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
LARRY MOSE	Alaska Railroad	P.O. Box 107520 Anch AK 99576			206-2502	(Y) N	HB 570
BOB LILIK	Dept of Admin	PO Box C Juneau 99801			465 1250	(Y) N	HB 570
Michael Brennan	Port of Bellingham	WCCI P.O. Box 958 Bellingham, WA 98227			206 734-1330	(Y) N	
KEITH GERGEN	DOT/WF	BOX 2		221	3700	Y N	HB 570
BOB TULL	Port of Bellingham	119 A GRAND AVE. Bellingham, WA. 98225			206 671 6460	(Y) N	
Andy Hemmingway	Rep Greenberg					Y N	HB 570
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HB

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