

take an oath in writing to faithfully and honestly discharge the duties of their office. In case of a vacancy in the membership of said Board from death, resignation, removal or other causes, such vacancy shall be filled by majority of the remaining members of the Board until the next general municipal election, at which election a member shall be elected to fill the unexpired term. In case the remaining members of the Board cannot agree, they shall call a special election for the purpose of filling such vacancy. The Board shall choose its own chairman and secretary. The Board shall have authority to appoint the manager of such public utilities for a term not longer than five years, and shall formulate and enforce the general rules and policies of the utilities under its management. The Board shall fix the salary of such manager. The manager shall be subject to removal for cause by the Board.

Oath required.

Vacancy.

Board to appoint manager.

Section 3. An emergency is hereby declared to exist and this Act shall take effect immediately upon its passage and approval.

Emergency clause.

Approved March 23, 1949.

CHAPTER 93

AN ACT

[H. B. 69]

Establishing a Bus Transportation Commission with powers to control common carrier service by buses in Alaska, including issuance of certificates of convenience and necessity; defining offenses and prescribing penalties; and making an appropriation.

Be it enacted by the Legislature of the Territory of Alaska:

Title. Section 1. ALASKA BUS TRANSPORTATION COMMISSION. The Territorial Board of Road Commissioners, hereinafter referred to as the "Commission", is hereby constituted the Alaska Bus Transportation Commission.

Duties. Section 2. DUTIES AND POWERS OF THE COMMISSION. In addition to the powers already vested in it, the Commission is hereby authorized and directed to:

Regulations. (a) Administer the provisions of this Act, and to that end the Commission shall have authority to make and amend such general or special rules and regulations and to issue such orders as may be necessary to carry out such provisions.

Information from carriers. (b) Inquire into the management of the business of common carrier bus transportation services and require from such carriers such information as it deems necessary to carry out the provisions of this Act.

Classify carriers. (c) Establish from time to time such reasonable classifications of groups of carriers included in the term "common carrier by bus" as the special nature of services performed may require, and such reasonable rules, regulations and requirements consistent with the provisions of this Act to be observed by the carriers so classified or grouped, as the Commission, after hearing may deem necessary.

Investigate compliance with rules. (d) Investigate whether any such carrier has failed to comply with the provisions of this Act, and if, after notice and hearing, the Commission finds a failure of compliance, issue an appropriate order to compel compliance.

Issue convenience and necessity certificates. (e) Issue certificates of convenience and necessity, conformable to the provisions of this Act as hereinafter set forth. This authority shall include the discretion to

issue exclusive certificates on such routes and upon such conditions as the Commission deems necessary or advisable in the public interest to secure continuous, efficient and dependable bus services in the affected areas, provided that in making such determinations with respect to routes partly within and partly without incorporated towns, an order for issuance of a certificate shall not be final until concurred in by the city council or councils of the affected town or towns by a majority vote of the members to which such bodies are entitled.

(f) Prescribe lawful rates, fares or charges or the maximum and minimum rates, fares or charges thereafter to be observed, or the lawful regulation, practice or classification thereafter to be made effective, conformable with the provisions of this Act as hereinafter set forth. In thus establishing rates and allied prescriptions, the Commission shall evaluate the circumstances of any bus transportation operation and shall set rates calculated by the Commission to yield the operating company a reasonable profit that is consistent with earnings returns of privately owned utilities under government regulation in the United States, such profit to be based on the actual initial cost of the operation's physical properties, plus improvements and betterments thereto, less equitable depreciation allowance, and, further to be calculated after due allowance has been made for costs of operation and taxes; and in no event shall rates be permitted in excess of this prescription.

Prescribes rates
and fares.

(g) Prescribe a uniform system of accounts and reporting, if it sees fit so to do, applicable to any class of carrier hereunder.

System of
accounts.

Section 3. RATES, FARES, CHARGES, AND PRACTICES: THROUGH ROUTES.

(a) It shall be the duty of every common carrier by bus, with respect to transportation subject to this Act

Duty of carriers.

which it undertakes or holds itself out to perform, or which it is required by or under authority of this Act to perform, to provide and furnish such transportation upon reasonable request therefor, and to establish, observe, and enforce just and reasonable rates, fares, charges, and classifications, and just and reasonable regulations and practices, relating thereto. All charges made for any service rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection therewith, shall be just and reasonable, and every unjust and unreasonable charge for such service or any part thereof is prohibited and declared to be unlawful.

Joint rates and routes.

(b) It shall be the duty of common carriers by bus to establish reasonable through routes and rates with other such carriers. In the case of joint rates, fares, or charges it shall be the duty of the carriers parties thereto to establish just, reasonable, and equitable divisions thereof, which shall not unduly prefer or prejudice any of such carriers.

Equality of service.

(c) It shall be unlawful for any common carrier by bus to make, give, or cause any undue or unreasonable preferences or advantage to any particular person, transit point, locality, region, district, territory, or description of traffic in any respect whatsoever; or to subject any particular person, transit point, locality, region, district, territory or description of traffic to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Section 4. TARIFFS AND SCHEDULES.

Tariffs filed with Commission.

(a) Every common carrier by bus shall file with the Commission, and print, and keep open to public inspection tariffs showing all rates, fares, charges, classifications, rules, regulations, and practices for the transportation of passengers and property between places on its

own route, and between such places and places on the route of any other such carrier or on the route of any common carrier by railroad when a through route and joint rate shall have been established. Such tariffs shall plainly state the places between which property or passengers will be carried, the classification of property or passengers and, separately, all terminal charges, or other charges which the Commission shall require to be so stated, all privileges or facilities granted or allowed, and any rules or regulations which in anywise change, affect, or determine any part or the aggregate of such rates, fares, or charges, or the value of the service rendered to the passenger, shipper, or consignee.

(b) All charges of common carriers by bus shall be stated in lawful money of the United States. The Commission shall by regulations prescribe the form and manner in which the tariffs required by this Section shall be published, filed and posted; and the Commission is authorized to reject any tariff filed with it which is not in accordance with this Section and with such regulations. Any tariff so rejected by the Commission shall be void and its use shall be unlawful.

Commission to prescribe publication form.

(c) No common carrier by bus shall charge or demand or collect or receive a greater or less or different compensation for transportation subject to this Act or for any service in connection therewith than the rates, fares or charges specified for such transportation or such service in the tariffs lawfully in effect; and no such carrier shall refund or remit in any manner or by any device any portion of the rates, fares, or charges so specified, or extend to any person any privileges or facilities for transportation affecting the value thereof except such as are specified in its tariff.

Carriers to collect only published tariff.

(d) No common carrier by bus, unless otherwise provided by this Act, shall engage in transportation subject to this Act unless the rates, fares, and charges upon

Common carriers must file rates.

which the same are transported by said carrier have been filed and published in accordance with the provisions of this Act. No change shall be made in any rate, fare, charge, classification, regulation, or practice specified in any effective tariff of a common carrier by bus except after thirty days notice of the proposed change filed and posted in accordance with this Section. Such notice shall plainly state the change proposed to be made and the time when such change will take effect. The Commission may, in its discretion and for good cause shown, allow changes upon notice less than that herein specified, or modify the requirements of this Section, either in particular instances or by general order applicable to special circumstances or conditions.

Change of rates.

(e) Any common carrier operating wholly within the limits of a municipality is exempted hereunder, provided, such control is exercised by such municipality.

Section 5. COMMISSION'S AUTHORITY OVER RATES, AND SO FORTH.

(a) Any person may make complaint in writing to the Commission that any individual or joint rate, fare, charge, classification, regulation, or practice of any common carrier by bus is or will be in violation of this Act. Every complaint shall state fully the facts complained of and the reasons for such complaint and shall be made under oath.

Complaints.

(b) Whenever, after hearing, upon complaint or in an investigation on its own initiative, the Commission shall be of the opinion that any individual or joint rate, fare, or charge demanded, charged, or collected by any common carrier or carriers by bus for transportation subject to this Act, or any regulation, practice, or classification of such carrier or carriers relating to such transportation, is or will be unjust or unreasonable, or un-

Hearing on complaints.

justly discriminatory, or unduly preferential or prejudicial, or otherwise in violation of any provision of this Act, it may determine and prescribe the lawful rate, fare, or charge or the maximum or minimum, or maximum and minimum rate, fare, or charge thereafter to be observed, or the lawful regulation, practice, or classification thereafter to be made effective. ^{Fix rates or fares.}

(c) In any proceeding to determine the justness or reasonableness or any rate, fare, or charge of any common carrier by bus there shall not be taken into consideration or allowed as evidence or elements of value of the property of such carrier either goodwill, earning power, or the certificate under which such carrier is operating; and in applying for and receiving a certificate under this Act any such carrier shall be deemed to have agreed to the provisions of this subsection on its own behalf and on behalf of all transferees of such certificate.

(d) The Commission may, and it shall whenever deemed by it to be necessary or desirable in the public interest, after full hearing upon complaint or upon its own initiative without a complaint, establish through routes, joint classifications, and joint rates, fares, or charges, applicable to the transportation of passengers or property by common carriers by bus, or by such carriers and carriers by railroad, or the maxima or minima, or maxima and minima, to be charged, and the divisions of such rates, fares, or charges as hereinafter provided, and the terms and conditions under which such through routes shall be operated. ^{Fix through or joint rates and fares.}

(e) Whenever there shall be filed with the Commission any schedule stating a new rate, fare, charge, classification, regulation, or practice for the transportation of passengers or property by a common carrier or carriers by bus, the Commission may upon protest of interested parties or upon its own initiative at once, and, if it so orders, without answer or other formal pleading by such ^{Imposition of new rates.}

carrier or carriers, but upon reasonable notice, enter upon an investigation concerning the lawfulness of such rate, fare, charge, classification, regulation, or practice, and pending such hearing and the decision thereon, the Commission, by filing with such schedule and delivering to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may from time to time suspend the operation of such schedule and defer the use of such rate, fare, charge, classification, regulation, or practice, but not for a longer period than seven months beyond the time when it would otherwise go into effect. Upon termination of the hearing, the Commission shall enter an appropriate order with reference thereto.

Section 6. CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY.

(a) Except as allowed under Section 7, no common carrier by bus shall engage in transportation subject to this Act unless it holds a certificate of public convenience and necessity issued by the Commission; provided, however, that if any such carrier or a predecessor in interest was a bona fide operation as a common carrier by bus on January 1, 1947, over the route or routes or between the ports with respect to which application is made and has so operated since that time (or, if engaged in furnishing seasonal service only, was in bona fide operation during the seasonal period, prior to or including such date, for operations of the character in question) except, in either event, as to interruptions of service over which the applicant or its predecessor in interest had no control, the Commission shall issue such certificate without requiring further proof that public convenience and necessity will be served by such operation, and without further proceedings, if application for such certificate is made to the Commission as provided in subsection (b) of this Section and prior to the expiration of ninety days after this Section takes effect. Pending the determina-

Certificate
required.

Time limit for
certificate of
present operators.

tion of any such application, the continuance of such operation shall be lawful. If the application for such certificate is not made within ninety days after this Section takes effect, it shall be decided in accordance with the standards and procedure provided for in subsection (c), and such certificate shall be issued or denied accordingly. Any person, not included within the provisions of the foregoing proviso, who is engaged in transportation as a common carrier by bus when this Section takes effect may continue such operation for a period of ninety days thereafter without a certificate, and, if application for such certificate is made to the Commission within such period, the continuance of such operation shall be lawful pending determination of such application.

Failure to file in time limit.

(b) Application for a certificate shall be made in writing to the Commission, be verified under oath, and shall be in such form and contain such information and be accompanied by proof of service upon such interested parties as the Commission shall, by regulations, require.

Applications under oath.

(c) The Commission shall issue a certificate to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if the Commission finds that the applicant is fit, willing, and able properly to perform the service proposed and to conform to the provisions of this Act and the requirements, rules, and regulations of the Commission thereunder, and that the proposed service, to the extent authorized by the certificate, is or will be required by the present or future public convenience and necessity; otherwise such application shall be denied.

When certificate shall be issued.

(d) Such certificate shall specify the route or routes over which, or the points to and from which, such carrier is authorized to operate, and, at the time of issuance and from time to time thereafter there shall be attached, to the exercise of the privileges granted by such certifi-

Terms of certificate.

cate such reasonable terms, conditions, and limitations as the public convenience and necessity may from time to time require, including terms, conditions, and limitations as to the extension of the routs [route] or routes of the carrier, and such other terms, and conditions, and limitations as are necessary to carry out, with respect to the operations of the carrier, the requirements of this Act or those established by the Commission pursuant thereto; provided, however, that no terms, conditions, or limitations shall restrict the right of the carrier to add to its equipment, facilities, or service within the scope of such certificate, as the development of the business and the demands of the public shall require, or the right of the carrier to extend its services over uncompleted portions of highway projects hereafter completed.

(e) No certificate issued under this Act shall confer any proprietary or exclusive right or rights in the use of public highways.

No exclusive or
proprietary
rights.

Section 7. TEMPORARY OPERATIONS.

(a) To enable the provision of service for which there is an immediate and urgent need to a point or points having no carrier service capable of meeting such need, the Commission may, in its discretion and without hearings or other proceedings, grant temporary authority for such service by a common carrier by bus or a contract carrier by bus, as the case may be. Such temporary authority shall be valid for such time as the Commission shall specify, and shall create no presumption that corresponding permanent authority will be granted thereafter.

Temporary
service.

(b) Pending the determination of an application filed with the Commission under this Act for approval of a consolidation or merger of the properties of two or more bus carriers, or of a purchase, lease, or contract to operate the properties of one or more bus carriers, the

Merger of
carriers.

Commission may, for good cause shown, and without hearings or other proceedings, grant temporary approval, for a period not exceeding one hundred and eighty days, of operation of the properties of such carriers by bus by the person proposing to acquire them, as aforesaid.

Section 8. TRANSFER OF CERTIFICATES AND PERMITS. Except as provided in this Act, any such certificate or permit may be transferred in accordance with such regulations as the Commission shall prescribe for the protection of the public interest and to insure compliance with the provisions of this Act.

Transfers of certificates.

Section 9. NOTICES, ORDERS, AND SERVICE OF PROCESS.

(a) It shall be the duty of every common carrier by bus to file with the Commission a designation in writing of the name and postoffice address of an agent upon whom or which service of notices or orders may be made under this Act. Such designation may from time to time be changed by like writing similarly filed. Service of notices or orders in proceedings under this Act may be made upon such carrier by personal service upon it or upon an agent so designated by it, or by registered mail addressed to it or to such agent at the address filed. In default of such designation, service of any notice or order may be made by posting with the Commission. Whenever notice or order is served by mail, as provided herein, the date of mailing shall be considered as the time of service. In proceedings before the Commission involving the lawfulness of rates, fares, charges, classifications, or practices, service of notice upon an attorney in fact of a carrier who has filed a tariff or schedule in behalf of such carrier shall be deemed to be due and sufficient service upon the carrier.

Designation of agent for services.

(b) No order, based upon a finding that any carrier by bus has violated any provision of this Act, shall be

Limitation on orders.

made by the Commission except after hearing upon complaint or after an investigation upon its own initiative.

Altering orders.

(c) The Commission may suspend, modify, or set aside its orders under this Act upon such notice and in such manner as it shall deem proper.

Effective date for orders.

(d) Except as otherwise provided in this Act, all orders of the Commission, other than orders for the payment of money, shall take effect within such reasonable time, not less than thirty days, as the Commission may prescribe and shall continue in force until its further order, or for a specified period of time, according to provisions of the order, unless the same shall be suspended, modified, or set aside by the Commission, or be suspended or set aside by a court of competent jurisdiction.

(e) It shall be the duty of every carrier by bus, its agents and employees, to observe and comply with such orders so long as the same shall remain in effect.

Section 10. ENFORCEMENT AND PROCEDURE.

Penalty.

(a) If any common carrier by bus fails to comply with or operates in violation of any provision of this Act (except provisions as to the reasonableness of rates, fares, or charges, and the discriminatory character thereof), or any rule, regulation, requirement, or order thereunder (except an order for the payment of money), or of any term or condition of any certificate or permit, the Commission (or, in case of such an order, any party injured by the failure to comply therewith or by the violation thereof), may apply to any district court having jurisdiction of the parties for the enforcement of such provision of this Act or of such rule, regulation, requirement, order, term, or condition; and such court shall have jurisdiction to enforce obedience thereto by a writ or writs of injunction or other process, mandatory or

Court enforcement.

otherwise, restraining such carrier and any officer, agent, employee, or representative thereof from further violation of such provision of this Act or of such rule, regulation, requirement, order, term, or condition and enjoining obedience thereto.

(b) The Commission shall enter of record a written report of hearings conducted upon complaint, or upon its own initiative without complaint, stating its conclusions, decisions, and order.

Section 11. UNLAWFUL ACTS AND PENALTIES.

Any person, firm, or corporation who knowingly and willfully violates any provision of this Act, or any rule, regulation, requirement, or order thereunder, or any term or condition of any certificate or permit shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be subject for each offense to a fine not exceeding \$500.00.

Violation a
misdemeanor.

Section 12. EMPLOYEES. The Commission is authorized to employ examiners, attorneys, and other employees as in its judgment may be necessary or advisable for the convenience of the public and for the efficient administration of this Act. Such examiners shall have power to administer oaths, examine witnesses, and receive evidence.

Commission may
hire necessary
personnel.

Section 13. SEPARABILITY OF PROVISIONS. If any provision of this Act or the application thereof to any person, or commerce, or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons, or commerce, or circumstances shall not be affected thereby.

Savings clause.

Section 14. APPROPRIATION. That there is hereby appropriated out of any moneys in the Treasury of the Territory of Alaska, not otherwise appropriated, the sum

Appropriation.