



LAWS OF ALASKA

1972

Source

Chapter No.

CSSB 376 am H

146

AN ACT

Relating to the Alaska Air Commerce Act.

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

* Section 1. AS 02.05.050(d) is repealed and re-enacted to read:

(d) Air taxi operators. The commission, by regulation, may establish more than one subclassification of air taxi operator and shall establish the extent to which a subclassification shall be regulated under the provisions of this chapter. A person authorized under this chapter to engage in air commerce as an air taxi operator

(1) may, in accordance with his certificate, the limitations established by this chapter and regulations of the commission, utilize in all areas of the state from which he is authorized to operate, aircraft having a maximum certificated takeoff weight of 12,500 pounds or less except as authorized on certificates in effect on the effective date of this Act or as otherwise authorized by the commission;

(2) may employ pilots and may lease, rent, and own aircraft; however, a person who has not received authority under this chapter may not operate under another person's air taxi certificate of authority;

(3) may charge individual passenger fares and per pound cargo rates on bush routes or points served by him on an irregular basis; however, the individual passenger fares and per pound cargo rates may not be less than those contained in the published tariff of a scheduled carrier between points being served by the carrier;

(4) may enter into long-term, written exclusive charter contracts if

(A) the carrier continues to provide reasonable and continuous air taxi service to the public at its base of operations;

(B) term rates for a contractual period of less than 30 consecutive days are properly made, published and filed in accordance with secs. 140 and 150 of this chapter and the regulations of the commission; and

(C) a complete copy of the exclusive charter contract, including amendments or supplements, for a contractual period of 30 or more consecutive days is on file at the base of operations of the carrier and available to the commission on request before the performance of any service under the contract; except as provided in sec. 150(a)(3) of this chapter, rates provided in the contracts are exempt from the provisions of secs. 140 - 150 of this chapter;

(5) shall establish and register with the commission, on forms furnished by the commission, his base of operations; however, a person may not operate from more than one base of operations except upon approval by the commission after a finding that public convenience and necessity requires it and a change in the base or bases of operations may be made only upon approval of the commission.

* Sec. 2. AS 02.05 is amended by adding a new section to read:

Sec. 02.05.053. RESTRICTION ON HOLDING AUTHORITY BOTH AS AIR TAXI OPERATOR AND CONTRACT CARRIER. (a) No carrier may hold certificates both as an air taxi operator and as a contract carrier after December 31, 1973.

(b) Before January 1, 1974, the commission shall examine the operations of carriers holding both an air taxi certificate and contract carrier certificate and after notice and opportunity for hearing shall determine whether either or both of the carrier's authorities are dormant and upon a finding of dormancy revoke the dormant authority or authorities.

(c) Before January 1, 1974, the commission shall examine outstanding certificates issued to a contract carrier and shall institute a proceeding either upon its own initiative or upon application of a certificated carrier actually in operation or upon complaint of an interested party and after notice and hearing determine

(1) whether the carrier's authority is active or dormant and upon a finding of dormancy revoke the dormant authority;

(2) whether the carrier is operating as an air taxi or contract carrier within the contractual authority

relating to air taxi operators under sec. 50(d)(4) of this chapter or within the restricted authority governing contract carriers as defined in sec. 250(8) of this chapter and if the commission finds that the operations of a person holding a contract carrier certificate, before the effective date of this Act, (A) do not conform with the definitions of a contract carrier in sec. 250(8) of this chapter; and (B) are actually those of an air taxi operator and otherwise lawful, the commission shall issue a certificate authorizing the carrier to engage in air commerce as an air taxi operator and shall establish the base of operations from which the carrier may operate; however, the carrier may instead elect to retain its authority as a contract carrier restricting its operations to those of a contract carrier as defined in sec. 250(8) of this chapter.

(d) A certificate which the commission finds should be revoked in accordance with (b) of this section may not be transferred or otherwise disposed of but must be revoked.

* Sec. 3. AS 02.05.080(a) is amended to read:

(a) Subject to the provisions of (d) of this section, the commission shall issue a certificate authorizing the applicant to engage in air commerce as a scheduled or contract carrier or air taxi operator, or authorizing the whole or any part of the operation covered by an application for a certificate,

(1) if the commission finds that the applicant is fit, willing and able to engage in air commerce properly and to comply with the provisions of this chapter and the rules, regulations, and requirements of the commission; and

(2) if the commission finds that air commerce and the performance of it by the applicant in the type of aircraft for which a certificate is requested under (e) of this section is required by the public convenience and necessity and is consistent with the declaration of policy contained in sec. 10 of this chapter.

* Sec. 4. AS 02.05.090(f) is amended to read:

(f) Except as provided in (g) of this section, each aircraft owned or leased by any person subject to the provisions of this chapter shall be registered with the commission before the aircraft is used in air commerce. Certificates of registration for each aircraft shall be issued by the commission. These certificates are valid for a period of 12 months from the date of registration and are renewed at the expiration of each 12 month period. The fees for registration of aircraft are as follows:

(1) Aircraft weighing 4,000 pounds gross weight or less	\$ 25
(2) Aircraft weighing over 4,000 pounds but less than 7,900 pounds gross weight	50

(3) Aircraft weighing 7,900 pounds but less than 12,500 pounds gross weight	100
(4) Aircraft weighing 12,500 pounds but less than 27,000 pounds gross weight	150
(5) Aircraft weighing 27,000 pounds but less than 50,000 pounds gross weight	300
(6) Aircraft weighing 50,000 pounds but less than 75,000 pounds gross weight	400
(7) Aircraft weighing 75,000 pounds gross weight or more	600

* Sec. 5. AS 02.05.090 is amended by adding new subsections to read:

(g) Scheduled carriers certificated by the Civil Aeronautics Board that provide intrastate service between points in the state on their interstate or foreign routes and who use, for that intrastate service, aircraft based primarily outside the state, shall register the aircraft used in intrastate service in the state with the commission. Registration fees shall be paid on the basis of the maximum number of aircraft used in the intrastate service during any 24-hour period during the year as provided by regulations of the commission.

(h) Failure to register an aircraft prior to its use in air commerce by a person holding a certificate of authority under this chapter may be cause for suspension or revocation of his certificate in accordance with sec. 100 of this chapter.

* Sec. 6. AS 02.05.110 is amended by adding new subsections to read:

(e) Only those rights under a certificate which are shown to be in active and regular use may be transferred. The transferor shall certify to the commission that the authority contained in the certificate has been in reasonable continuous and active use as to the territory or routes authorized to be served, and as to the various services authorized to be rendered by the carrier. The commission may require documentary evidence in support of the certification of the transferor. Dormant operating rights of the transferor may not be transferred unless the commission finds that the service is needed for the public convenience and necessity, and that the transferee will provide that service.

(f) Applications for transfer shall not be granted until:

(1) all unpaid claims for loss or damage arising out of the operations of the carrier have been paid or until the claims have been secured by the insurance carrier of the transferor, or by satisfactory bond, or after settlement approved by the commission as satisfactory for the protection of all claimants; and

(2) all money due shippers or other parties entitled to receive the money for shipments performed on a COD basis have been paid.

(g) For purposes of this section, a transfer requiring commission approval includes transfer of control over the certificate by any of the following ways:

(1) transfer from one business entity to another business entity, whether a sole proprietorship, partnership, corporation, joint venture, or any other authorized form of doing business;

(2) merger;

(3) consolidation;

(4) acquisition by one or more persons of a controlling interest in an air carrier firm by purchase, by acquisition of stock, or by any other means.

* Sec. 7. AS 02.05.135(a)(1) is amended to read:

(1) a policy or certificate of insurance issued by an insurer acceptable to the commission and approved by the state division of insurance, Department of Commerce;

* Sec. 8. AS 02.05.170 is amended by adding a new subsection to read:

(e) An air carrier shall have an office in the state in which its property or some portion of its property is located and shall keep in that office all the books, accounts, papers, and records required by the commission to be kept within the state. These books, accounts, papers or records may not, at any time, be removed from the state except upon conditions prescribed by the commission.

* Sec. 9. AS 02.05.230 is repealed and re-enacted to read:

Sec. 02.05.230. VIOLATION A MISDEMEANOR. A person who knowingly violates a provision of this chapter or a regulation, order or decision of the commission, or a final order or decree of a court, or who knowingly procures, aids or abets a violation, is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than \$500 for each offense.

* Sec. 10. AS 02.05 is amended by adding new sections to read:

Sec. 02.05.231. CIVIL PENALTIES FOR VIOLATION. The commission may, after notice and opportunity for a hearing, levy a civil penalty of not more than \$150 for each offense upon a person who violates or who procures, aids, or abets, a violation by an air carrier of a provision of this chapter, or an order, decision, rule or regulation of the commission. A levy of penalty shall be made by written order of the commission.

Sec. 02.05.232. EACH VIOLATION A SEPARATE OFFENSE. Each violation of the provisions of this chapter or of an

order, decision, rule or regulation of the commission by a person is a separate and distinct offense and, if a continuing violation, each day of continuance is a separate and distinct offense.

Sec. 02.05.233. PENALTIES CUMULATIVE, NOT EXCLUSIVE AND RECOVERY. (a) Penalties occurring under this chapter are cumulative and a suit for the recovery of one penalty is not a bar to and does not affect the recovery of another penalty and is not a bar to a criminal prosecution and imposition of a fine against a person.

(b) Neither a criminal prosecution nor an action to recover a penalty as provided in this chapter is a bar to an enforcement proceeding to require compliance, nor to any other remedy provided by this chapter.

(c) Actions to recover penalties or impose fines under this chapter shall be brought by the attorney general. All fines imposed and all penalties recovered under this chapter shall be paid to the commission and deposited in the general fund of the state.

Sec. 02.05.234. JOINDER OF ACTIONS. Under the applicable court rules, appeals from orders of the commission, applications for enforcement of commission orders and actions for recovery of a penalty may be joined. The court may in the interests of justice separate the actions.

* Sec. 11. AS 02.05.250(6) is amended to read:

(6) "type of aircraft" means

(A) the classification of aircraft as being either fixed-wing aircraft or rotary-wing aircraft, and

(B) as to fixed-wing aircraft in excess of 12,500 pounds gross certificated takeoff weight, a specific make and basic model of aircraft, including modifications thereto that do not change its handling characteristics;

* Sec. 12. AS 02.05.250 is amended by adding new paragraphs to read:

(7) "base of operations" means the point, together with the reasonably contiguous or closely related surrounding community or geographical area, from which the carrier represents to the public that it engages in air commerce, and at where it stations its aircraft, has its facilities and generally conducts its business as an air carrier;

(8) "contract carrier" means an air carrier holding a certificate of public convenience and necessity which authorizes it to provide, in accordance with written contracts for exclusive use of the carrier's aircraft, air service of a continuing nature for a definite and limited number of persons; a contract carrier's air service is designed to meet the distinct air transportation needs of the individual customer; a contract carrier does not

represent to the public at large expressly or by course of conduct that it furnishes transportation for compensation, hire, or lease;

(9) "dormancy" means failure of a person who holds a certificate of authority as an air taxi operator or a contract carrier to own or lease and operate aircraft in air commerce during the two quarters preceding an accusation by the commission;

(10) "supplemental base of operations" means the point together with the reasonable contiguous or closely related surrounding community or geographical area, from where, in addition to its "base of operations", the carrier also represents that it engages in air commerce.

* Sec. 13. AS 02.05.050(e) and AS 02.05.075(b) are repealed.