



# LAWS OF ALASKA

1996

## FIRST SPECIAL SESSION

**Source**

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**Chapter No.**

6

### AN ACT

Relating to vehicle records and hearings of the Department of Public Safety; increasing the period under which a person may drive a motor vehicle under a temporary permit; relating to ownership of certain abandoned vehicles; relating to suspension or revocation of a vehicle registration, certificate of registration, registration plate, or special permit; relating to renewal of a driver's license by mail; relating to procedures applicable to administrative revocation of a driver's license; relating to commercial driver training schools; increasing the property damage amounts for financial responsibility laws related to vehicles and proof of motor vehicle eligibility in order to lawfully operate a motor vehicle in the state; amending the definitions of "commercial motor vehicle" and "commercial purposes"; relating to prohibitions against operation of a commercial motor vehicle and being on duty to operate a commercial motor vehicle and to disqualification from driving a commercial motor vehicle; relating to certain notifications in accidents involving property damage; relating to vehicle registration procedures; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

**Approved by the Governor:** July 3, 1996

**Actual Effective Date:** July 4, 1996

AN ACT

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2 period under which a person may drive a motor vehicle under a temporary permit; relating to  
3 ownership of certain abandoned vehicles; relating to suspension or revocation of a vehicle  
4 registration, certificate of registration, registration plate, or special permit; relating to renewal  
5 of a driver's license by mail; relating to procedures applicable to administrative revocation of  
6 a driver's license; relating to commercial driver training schools; increasing the property  
7 damage amounts for financial responsibility laws related to vehicles and proof of motor  
8 vehicle eligibility in order to lawfully operate a motor vehicle in the state; amending the  
9 definitions of "commercial motor vehicle" and "commercial purposes"; relating to prohibitions  
10 against operation of a commercial motor vehicle and being on duty to operate a commercial

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1 motor vehicle and to disqualification from driving a commercial motor vehicle; relating to  
2 certain notifications in accidents involving property damage; relating to vehicle registration  
3 procedures; and providing for an effective date.

4 \_\_\_\_\_

5 \* Section 1. AS 28.05.061(c) is amended to read:

6 (c) Records maintained by the department under this title or regulations  
7 adopted under this title may be stored in any reasonable manner, including  
8 electronic data storage. The commissioner and officers and employees of the  
9 department designated by the commissioner shall, upon request, prepare under the seal  
10 of the department and deliver, unless otherwise prohibited by law, a certified copy of  
11 any record of the department maintained under this title or regulations adopted under  
12 this title, charging a fee for each certified copy. A certified copy of the record stored  
13 under this section is admissible in an administrative [A] proceeding or in a court  
14 in the same manner as the original document.

15 \* Sec. 2. AS 28.05.141(b) is amended to read:

16 (b) A hearing ordered under (a) of this section must [SHALL] be held by  
17 telephone unless the hearing officer finds that a telephonic hearing would  
18 substantially prejudice the rights of the person involved in the hearing or that an  
19 in-person hearing is necessary to decide the issues to be presented in the hearing.  
20 An in-person hearing must be held at the office of the department nearest to the  
21 residence of the person involved in [REQUESTING] the hearing unless the department  
22 and the person agree that the hearing is to be held elsewhere. The department shall  
23 grant a hearing delay if the person presents good cause for the delay. If a person fails  
24 to attend or appear for the hearing at the time and place stated by the department and  
25 if a hearing delay has not been granted, the person's failure to attend or appear is  
26 considered a waiver of the hearing and the department may take appropriate action  
27 with respect to the person.

28 \* Sec. 3. AS 28.10.031(b) is amended to read:

29 (b) A licensed vehicle dealer may issue to the purchaser of a vehicle sold by  
30 the dealer a temporary permit to drive the vehicle. A permit is effective for a period

1 not to exceed 60 [30] days. The commissioner shall adopt regulations governing the  
2 issuance of permits under this section.

3 \* Sec. 4. AS 28.10.051(a) is amended to read:

4 (a) The department may suspend or revoke the registration of a vehicle, the  
5 certificate of registration or registration plates for a vehicle, or a special permit when

6 (1) the department determines that the registration or certificate, plate,  
7 or permit was fraudulently procured or erroneously issued;

8 (2) the department determines that a registered vehicle is mechanically  
9 unsafe to be driven or moved on a highway, vehicular way or area, or other public  
10 property in this state and the vehicle has been seized or impounded under  
11 AS 28.05.091;

12 (3) a registered vehicle has been scrapped, dismantled, or destroyed  
13 beyond repair;

14 (4) the department determines that a required fee or tax has not been  
15 paid and the fee or tax is not paid upon reasonable notice and demand;

16 (5) a registration plate, permit, or certificate is knowingly displayed  
17 upon a vehicle other than the vehicle for which issued;

18 (6) the department determines that the owner of a vehicle has  
19 committed an offense under this chapter involving the registration or the certificate,  
20 plate, or permit to be suspended or revoked;

21 (7) the vehicle has been reported to the department as stolen or  
22 unlawfully converted;

23 (8) the department is otherwise required to do so under the laws of this  
24 state; [OR]

25 (9) the department determines that the vehicle owner has violated the  
26 requirements of AS 28.10.146 or 28.10.147;

27 (10) the department determines that a repair to a commercial  
28 motor vehicle, ordered by the department under regulations adopted under  
29 AS 28.05.011, was not completed after the owner or operator represented to the  
30 department that the repair had been completed; or

31 (11) the owner or operator of a commercial motor vehicle has

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1 placed a commercial motor vehicle back in service after it has been placed out of  
2 service by the department without having it reinspected as required under  
3 regulations adopted under AS 28.05.011.

4 \* Sec. 5. AS 28.11 is amended by adding a new section to read:

5 Sec. 28.11.025. CLAIM OF OWNERSHIP BY PRIVATE PROPERTY  
6 OWNER. (a) In addition to removal of an abandoned vehicle under AS 28.11.020,  
7 a vehicle that is left standing or parked on private property without the consent of the  
8 private property owner and for a period of six months is presumed to be an abandoned  
9 vehicle and title to the vehicle may be transferred to the private property owner as  
10 provided under this section. A person who claims ownership of an abandoned vehicle  
11 under this section shall provide notice of the claim to the vehicle owner of record and  
12 to lienholders in the manner prescribed for giving notice by the department under  
13 AS 28.05.121. The notice must state the location of the vehicle and the period of  
14 abandonment. If the vehicle is not registered in this state or the name and address of  
15 the registered or legal owner or lienholder cannot be ascertained, notice shall be given  
16 by publication in the manner prescribed in the rules of the court for service of process  
17 by publication.

18 (b) If an abandoned vehicle is not reclaimed within 30 days after notice is  
19 given as required under (a) of this section, the title to the vehicle vests with the owner  
20 of the private property on which the vehicle is located. Upon application, the  
21 department shall issue a new certificate of title to a vehicle whose ownership is  
22 transferred under this section.

23 (c) In this section, "vehicle" means a

24 (1) passenger car, motor home, bus, truck, truck-tractor, motorcycle,  
25 motorbike, or similar motor vehicle that is designed for use primarily to transport a  
26 person or to transport or draw property on a highway or vehicular way; and

27 (2) snowmobile, three-wheeler, four-wheeler, or a similar off-highway  
28 motor vehicle designed or adapted for cross-country operation over unimproved terrain,  
29 ice, or snow and that has been declared by its owner at the time of registration and  
30 determined by the department to be unsuitable for general highway use, although the  
31 vehicle may make incidental use of a highway as provided in this title, but not

1 including implements of husbandry or special mobile equipment, such as construction  
2 machinery or earthmoving equipment.

3 \* Sec. 6. AS 28.15.101(c) is amended to read:

4 (c) A driver's license may be renewed by mail if the licensee complies with  
5 (a) of this section, except that a license may not be renewed by mail if

6 (1) [THE APPLICANT'S LICENSE, WITHIN THE PREVIOUS FIVE  
7 YEARS, HAS BEEN REVOKED BY A COURT AFTER CONVICTION FOR AN  
8 OFFENSE UNDER AS 28.15.181(a) OR ANOTHER LAW OR ORDINANCE WITH  
9 SUBSTANTIALLY SIMILAR ELEMENTS;

10 (2) THE APPLICANT'S LICENSE, WITHIN THE PREVIOUS FIVE  
11 YEARS, HAS BEEN SUSPENDED, REVOKED, OR DENIED BY THE  
12 DEPARTMENT UNDER AS 28.15.165 OR 28.15.251;

13 (3) THE APPLICANT, WITHIN THE PREVIOUS FIVE YEARS, HAS  
14 BEEN CONVICTED OF A MOVING TRAFFIC VIOLATION;

15 (4)] the most recent renewal of the applicant's license was by mail; or

16 (2) [(5)] the applicant is 69 years of age or older on the expiration date  
17 of the driver's license being renewed.

18 \* Sec. 7. AS 28.15.166(d) is amended to read:

19 (d) A person who has requested a hearing under this section and who fails to  
20 attend or appear at the hearing, for reasons other than lack of actual notice of the  
21 hearing or physical incapacity such as hospitalization or incarceration, waives the right  
22 to a hearing. The determination of the department that is based upon the enforcement  
23 officer's report becomes final.

24 \* Sec. 8. AS 28.15.166(e) is amended to read:

25 (e) The [NOTWITHSTANDING AS 28.05.141(b), THE] hearing under this  
26 section must [SHALL] be held by telephone unless the hearing officer finds that  
27 a telephonic hearing would substantially prejudice the rights of the person  
28 involved in the hearing or that an in-person hearing is necessary to decide the  
29 issues to be presented in the hearing. An in-person hearing must be held at the  
30 office of the department nearest to the residence of the person involved in  
31 [REQUESTING] the hearing unless

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1 [(1) A DISTRICT COURT JUDGE OR A MAGISTRATE HAS BEEN  
2 DESIGNATED AS A HEARING OFFICER IN THE MATTER BY THE  
3 COMMISSIONER; OR

4 (2)] the department and the person agree that the hearing is to be held  
5 elsewhere.

6 \* Sec. 9. AS 28.15.166(f) is amended to read:

7 (f) A review under this section shall be held before a hearing officer  
8 designated by the commissioner. [UPON THE CONSENT OF THE  
9 ADMINISTRATIVE DIRECTOR OF THE STATE COURT SYSTEM, THE  
10 COMMISSIONER MAY DESIGNATE A DISTRICT COURT JUDGE OR A  
11 MAGISTRATE TO SERVE AS THE HEARING OFFICER.] The hearing officer has  
12 [SHALL HAVE] authority to

- 13 (1) administer oaths and affirmations;
- 14 (2) examine witnesses and take testimony;
- 15 (3) receive relevant evidence;
- 16 (4) issue subpoenas, take depositions, or cause depositions or  
17 interrogatories to be taken;
- 18 (5) regulate the course and conduct of the hearing;
- 19 (6) make a final ruling on the issue.

20 \* Sec. 10. AS 28.17.041(b) is amended to read:

21 (b) Regulations adopted under this section must state the requirements for a  
22 school license, including requirements concerning manner and form of application,  
23 location, place of business, facilities, records, equipment, courses and standards of  
24 instruction, instructors, previous records of the school and instructors, financial  
25 statements, schedule of fees and charges, character and reputation of the operators and  
26 instructors, vehicle equipment and condition, inspection during reasonable business  
27 hours, insurance or bonds in the sum and with the provisions the commissioner  
28 considers necessary, and other matters the commissioner may prescribe for the  
29 protection of the public. Regulations regarding courses and standards of  
30 instruction for

31 (1) noncommercial motor vehicles must be consistent with

1 standards adopted by the commissioner; and

2 (2) commercial motor vehicles must meet or exceed the model  
3 curriculum for training tractor-trailer drivers adopted by the United States  
4 Department of Transportation.

5 \* Sec. 11. AS 28.17.061 is repealed and reenacted to read:

6 Sec. 28.17.061. CIVIL PENALTY. (a) If the department determines a person  
7 has violated a provision of this chapter, or a regulation adopted under this chapter, the  
8 department may impose a civil penalty not to exceed \$5,000. In determining the  
9 amount of a civil penalty imposed under this section, the department shall consider the  
10 economic benefit resulting from the violation, the person's prior violations under this  
11 section, and the seriousness of the violation.

12 (b) Before imposing a civil penalty under this section, the department shall  
13 provide notice of the civil penalty and an opportunity to request an administrative  
14 hearing. If a hearing is not requested within 30 days after notice of the civil penalty  
15 is received, the right to a hearing is considered waived. If a hearing is requested, the  
16 hearing shall be conducted as provided under AS 28.05.141.

17 (c) If a person fails to pay a civil penalty imposed under this section within  
18 30 days after the civil penalty is imposed by the department, or if the civil penalty is  
19 stayed pending an appeal, within 10 days after the court enters a final judgment in  
20 favor of the department, the department shall notify the attorney general. The attorney  
21 general may commence a civil action to recover the amount of the civil penalty.

22 \* Sec. 12. AS 28.20.050(a) is amended to read:

23 (a) The provisions of this chapter requiring deposit of security and suspension  
24 for failure to deposit security apply to the driver and owner of a vehicle subject to  
25 registration under the laws of this state that is involved in any manner in an accident  
26 in this state resulting in bodily injury to or death of a person or damage to the property  
27 of any one person exceeding \$501 [\$500].

28 \* Sec. 13. AS 28.20.050(e) is amended to read:

29 (e) A peace officer investigating an accident that results in bodily injury to or  
30 the death of a person or damage to the property of a person exceeding \$501 [\$500]  
31 shall inform persons involved in the accident in writing of the requirements of this

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1 chapter as they apply to suspension of an operator's license or driving privileges.

2 \* Sec. 14. AS 28.20.100(c) is amended to read:

3 (c) If the department evaluates the injuries or damage to a minor in an amount  
4 not more than \$501 [\$500], the department may accept, for the purposes of this chapter  
5 only, evidence of a release from liability executed by a parent [NATURAL] or legal  
6 guardian on behalf of the minor without court approval.

7 \* Sec. 15. AS 28.20.230(a) is amended to read:

8 (a) The provisions of this chapter requiring the deposit of proof of financial  
9 responsibility for the future apply to persons who are convicted of or forfeit bail for  
10 certain offenses under motor vehicle laws or who, by ownership or operation of a  
11 vehicle of a type subject to registration under AS 28.10, are involved in an accident  
12 in this state that results in bodily injury to or death of a person or damage to the  
13 property of any one person exceeding \$501 [\$500].

14 \* Sec. 16. AS 28.20.260(a) is amended to read:

15 (a) Upon receipt by the department of the report of an accident resulting in  
16 bodily injury to or death of a person, or [PROPERTY] damage to the property of  
17 any one person exceeding \$501 [\$500], the department shall suspend the license of the  
18 driver of a motor vehicle involved in the accident unless the driver or owner

19 (1) has previously furnished or immediately furnishes security required  
20 by this chapter, or is excepted from furnishing security under AS 28.20.060; [,] and

21 (2) maintains proof of financial responsibility for three years following  
22 the accident.

23 \* Sec. 17. AS 28.22.021 is amended to read:

24 Sec. 28.22.021. REQUIREMENT OF PROOF OF MOTOR VEHICLE  
25 LIABILITY INSURANCE. The owner or operator of a motor vehicle required to have  
26 motor vehicle liability insurance that complies with this chapter or a certificate of self-  
27 insurance that complies with AS 28.20.400, shall show proof of this insurance when  
28 that person is involved in an accident that results in bodily injury to or death of a  
29 person, or damage to the property of a person exceeding \$501 [\$500].

30 \* Sec. 18. AS 28.22.041(h) is amended to read:

31 (h) Subsection (a) does not apply to a person who is required to provide proof

1 under AS 28.22.021 if the person

2 (1) is involved in an accident that results in property damage of less  
3 than \$2,000 [\$1,000] and the damage occurs only to the property of the person  
4 required to show proof of insurance;

5 (2) not later than 15 days after the accident, provides proof of motor  
6 vehicle liability insurance that complies with this chapter or a certificate of self-  
7 insurance that complies with AS 28.20.400 to the department; and

8 (3) establishes by a preponderance of the evidence that the failure to  
9 have in effect motor vehicle liability insurance or to self-insure as required by this  
10 chapter at the time of the accident was due to circumstances beyond the control of the  
11 person.

12 \* Sec. 19. AS 28.32.900(1) is amended to read:

13 (1) "commercial motor vehicle" means a motor vehicle or a  
14 combination of a motor vehicle and one or more other vehicles

15 (A) used to transport passengers or property;

16 (B) used upon a highway or vehicular way [CONNECTED TO

17 (i) THE LAND-CONNECTED STATE HIGHWAY  
18 SYSTEM; OR

19 (ii) A LAND HIGHWAY OR VEHICULAR WAY  
20 WITH AN AVERAGE DAILY TRAFFIC VOLUME GREATER  
21 THAN 499]; and

22 (C) which

23 (i) has a gross vehicle weight rating or gross  
24 combination weight rating greater than 10,000 pounds;

25 (ii) is designed to transport more than 15 passengers,  
26 including the driver; or

27 (iii) is used in the transportation of materials found by  
28 the United States Secretary of Transportation to be hazardous for  
29 purposes of 49 U.S.C. 1801 - 1813 (Hazardous Materials Transportation  
30 Act);

31 (D) except that the following vehicles meeting the criteria in

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1 (A) - (C) of this paragraph are not commercial vehicles:

2 (i) emergency or fire equipment that is necessary to the  
3 preservation of life or property;

4 (ii) farm vehicles that are controlled and operated by a  
5 farmer; used to transport agricultural products, farm machinery, or farm  
6 supplies to or from that farmer's farm; not used in the operations of a  
7 common or contract motor carrier; and used within 150 [300] miles of  
8 the farmer's farm;

9 (iii) school buses;

10 (iv) vehicles owned and operated by the federal  
11 government unless the vehicle is used to transport property of the  
12 general public for compensation in competition with other persons who  
13 own or operate a commercial motor vehicle subject to this chapter, and  
14 except to the extent that regulation of vehicles operated by the federal  
15 government is permitted by federal law; and

16 (v) vehicles used exclusively for purposes other than  
17 commercial purposes;

18 \* Sec. 20. AS 28.32.900(2) is amended to read:

19 (2) "commercial purposes" means activities for which a person receives  
20 direct monetary compensation or activities for which a person receives no direct  
21 monetary compensation but which are incidental to and done in furtherance of the  
22 person's [PRIMARY] business;

23 \* Sec. 21. AS 28.33.130(a) is amended to read:

24 (a) A person may not operate a commercial motor vehicle or be on-duty

25 (1) if, within the preceding four hours, the person

26 (A) consumed or was under the influence of

27 (i) an alcoholic beverage;

28 (ii) a controlled substance not prescribed by a physician;

29 or

30 (iii) a controlled substance prescribed by a physician that  
31 might impair a person's ability to operate a commercial motor vehicle;

1 or

2 (B) had any measurable alcohol concentration within the blood  
3 or breath or any detectable presence of alcohol; [OR]

4 (2) while in possession of an alcoholic beverage or a controlled  
5 substance not prescribed by a physician unless

6 (A) the alcoholic beverage or controlled substance is manifested  
7 and documented as part of an authorized shipment of cargo; or

8 (B) under AS 04, the alcoholic beverage may be legally served  
9 to passengers being carried for hire;

10 (3) after being placed out of service for violation of a regulation  
11 adopted under AS 28.05.011; or

12 (4) with an invalid operator's or commercial operator's license.

13 \* Sec. 22. AS 28.33.140(a) is amended to read:

14 (a) In addition to the court action provided in AS 28.15.181, conviction of any  
15 of the following offenses is grounds for immediate disqualification from driving a  
16 commercial motor vehicle for the periods set out in this section:

17 (1) operating a commercial motor vehicle while intoxicated in violation  
18 of AS 28.33.030;

19 (2) refusal to submit to a chemical test in violation of AS 28.35.032;

20 (3) operating a motor vehicle while intoxicated [,] in violation of  
21 AS 28.35.030;

22 (4) leaving the scene of an accident in violation of AS 28.35.060, or  
23 failing to file, or providing false information in, an accident report in violation of  
24 AS 28.35.110;

25 (5) a felony under state or federal law, which was facilitated because  
26 the person used a commercial motor vehicle; [OR]

27 (6) a serious traffic violation; or

28 (7) driving after being placed out of service in violation of  
29 regulations adopted under AS 28.05.011.

30 \* Sec. 23. AS 28.33.140 is amended by adding a new subsection to read:

31 (j) A court convicting a person of an offense described in (a)(7) of this section

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1 shall disqualify that person from driving a commercial motor vehicle for the following  
2 periods: (1) if the person has not been previously convicted of violating an out-of-  
3 service order, not less than 90 days; (2) if the person has been previously convicted  
4 once of violating an out-of-service order, not less than one year; (3) if the person has  
5 been previously convicted more than once of violating an out-of-service order, not less  
6 than three years. In this subsection, "previously convicted" means having been  
7 convicted in this or another jurisdiction of an offense described in (a)(7) of this section  
8 within 10 years preceding the date of the present offense.

9 \* Sec. 24. AS 28.33.190 is amended by adding a new paragraph to read:

10 (11) "out-of-service order" means an order issued under regulations  
11 adopted under AS 28.05.011 that prohibits an owner or operator of a commercial  
12 motor vehicle from operating a commercial motor vehicle.

13 \* Sec. 25. AS 28.35.080(a) is amended to read:

14 (a) The driver of a vehicle involved in an accident resulting in bodily injury  
15 to or death of a person or total property damage to an apparent extent of \$2,000 [\$500]  
16 or more shall immediately by the quickest means of communication give notice of the  
17 accident to the local police department if the accident occurs within a municipality,  
18 otherwise to the Department of Public Safety.

19 \* Sec. 26. AS 28.35.080(b) is amended to read:

20 (b) The driver of a vehicle involved in an accident resulting in bodily injury  
21 to or death of a person or total property damage to an apparent extent of \$2,000 [\$500]  
22 or more shall, within 10 days after the accident, forward a written report of the  
23 accident to the Department of Public Safety and to the local police department if the  
24 accident occurs within a municipality. A report is not required under this subsection  
25 if the accident is investigated by a peace officer.

26 \* Sec. 27. AS 28.40.100(a)(2) is amended to read:

27 (2) "commercial motor vehicle" means a motor vehicle or a  
28 combination of a motor vehicle and one or more other vehicles

29 (A) used to transport passengers or property;

30 (B) used upon a land highway or vehicular way [CONNECTED

31 TO

1 (i) THE LAND CONNECTED STATE HIGHWAY  
2 SYSTEM; OR

3 (ii) A LAND HIGHWAY OR VEHICULAR WAY  
4 WITH AN AVERAGE DAILY TRAFFIC VOLUME GREATER  
5 THAN 499]; and

6 (C) that

7 (i) has a gross vehicle weight rating or gross  
8 combination weight rating greater than 26,000 pounds;

9 (ii) is designed to transport more than 15 passengers,  
10 including the driver; or

11 (iii) is used in the transportation of materials found by  
12 the United States Secretary of Transportation to be hazardous for  
13 purposes of 49 U.S.C. 1801 - 1813 (Hazardous Materials Transportation  
14 Act);

15 (D) except that the following vehicles meeting the criteria in  
16 (A) - (C) of this paragraph are not commercial vehicles:

17 (i) emergency or fire equipment that is necessary to the  
18 preservation of life or property;

19 (ii) farm vehicles that are controlled and operated by a  
20 farmer; used to transport agricultural products, farm machinery, or farm  
21 supplies to or from that farmer's farm; not used in the operations of a  
22 common or contract motor carrier; and used within 150 miles of the  
23 farmer's farm; and

24 (iii) recreational vehicles used exclusively for purposes  
25 other than commercial purposes;

26 \* Sec. 28. AS 28.40.100(a)(3) is amended to read:

27 (3) "commercial purposes" means activities for which a person receives  
28 direct monetary compensation or activities for which a person receives no direct  
29 monetary compensation but that are incidental to and done in furtherance of the  
30 person's [PRIMARY] business;

31 \* Sec. 29. AS 28.10.108(b) and 28.10.108(c) are repealed.

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1 \* Sec. 30. This Act takes effect July 1, 1996.