

# STATE OF ALASKA

## EXECUTIVE ORDER NO. 98

1997



1 Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance  
2 with AS 24.08.210, I order the following:

3 \* **Section 1. FINDINGS.** (a) As governor, I find that it would be in the best interests of  
4 efficient administration to transfer the following state agency functions to the Department of  
5 Transportation and Public Facilities:

6 (1) enforcement of size and weight standards for vehicles, inspection of scales  
7 and other measuring and weight devices used in trade and commerce and monitoring of  
8 commercial practices relating to the measuring of various products; and enforcement of air  
9 carrier financial responsibility requirements, by the Department of Commerce and Economic  
10 Development;

11 (2) administration of commercial motor vehicle safety inspection programs and  
12 of the state's commercial motor vehicle financial responsibility program, by the Department  
13 of Public Safety.

14 (b) The consolidation of these programs in one state agency should result in greater  
15 convenience to industry and the public, as well as more efficient management of the programs.

16 \* **Sec. 2.** AS 02 is amended by adding a new chapter to read:

### 17 **Chapter 40. Responsibilities of Air Carriers.**

18 **Sec. 02.40.010. Air carrier financial responsibility.** (a) A person who  
19 carries passengers or freight for commercial purposes intrastate in an aircraft shall

1 procure and maintain security in the following minimum amounts:

2 (1) \$150,000 per seat for bodily injury or death in a single occurrence;

3 and

4 (2) \$100,000 for property damage in a single occurrence.

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

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

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

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

13 (4) other security approved by the department.

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

17 (d) A policy of insurance, surety bond, or other form of security may not be  
18 canceled on less than 30 days' written notice to the department. This requirement  
19 must be clearly stated in the policy or endorsement for an insurance policy submitted  
20 as proof of financial responsibility under AS 02.40.020(a)(1). The 30-day notice  
21 period is measured from the date on which the department receives notice.

22 (e) A person who violates this section is guilty of a class A misdemeanor and  
23 is punishable by a fine of not less than \$1,000 or more than \$5,000 for each day of  
24 violation but not to exceed \$10,000 for each violation.

25 **Sec. 02.40.020. Certification of compliance of air carriers.** (a) A person  
26 may not use an aircraft in air commerce before obtaining an annual certificate of  
27 compliance for that aircraft from the department. The department may issue a  
28 certificate of compliance for one aircraft or a fleet of two or more aircraft. The  
29 department shall issue or renew a certificate of compliance upon application and  
30 presentation of

31 (1) proof of financial responsibility required under AS 02.40.010;

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

3 (b) The annual fee for a certificate of compliance for one aircraft and for a  
4 fleet of two or more aircraft shall be set by the department by regulation. The  
5 certificate is valid for a calendar year. The certificate shall be visible to boarding  
6 passengers.

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

10 (d) A person who violates this section is guilty of a class B misdemeanor and  
11 is punishable by a fine of not less than \$500 or more than \$1,000.

12 **Sec. 02.40.990. Definitions.** In this chapter,

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

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

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

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

25 (5) "department" means the Department of Transportation and Public  
26 Facilities;

27 (6) "freight" means commodities, articles, and cargo, of whatever nature  
28 or value, excluding garbage and trash.

29 \* **Sec. 3.** AS 19.10.060 is amended by adding new subsections to read:

30 (b) The department shall operate motor vehicle weighing stations, issue special  
31 written permits authorizing the operation of overweight and oversize vehicles, establish

1 fees for the overweight and oversize vehicle special permits, enforce the size, weight,  
2 and load limitations adopted under this section, and establish regulations relating to  
3 pilot car services and the enforcement of the size, weight, and load limitations adopted  
4 under this section.

5 (c) The department shall adopt regulations necessary to implement a  
6 commercial motor vehicle safety inspection program needed to avoid loss or  
7 withholding of federal highway money.

8 \* Sec. 4. AS 19.10 is amended by adding new sections to read:

9 **Article 4. Commercial Motor Vehicle Requirements.**

10 **Sec. 19.10.300. Financial responsibility.** (a) A person who carries  
11 passengers or freight for hire intrastate in a commercial motor vehicle or a person who  
12 carries freight in a motor vehicle for commercial purposes, or a person who rents or  
13 leases a motor vehicle for the use of another to carry freight shall procure and maintain  
14 security in the following minimum amounts:

15 (1) \$200,000 for property damage in a single occurrence;

16 (2) \$500,000 for bodily injury or death in a single occurrence.

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

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

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

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

25 (4) other security approved by the department.

26 (c) The department shall adopt regulations necessary to carry out the  
27 provisions of this section. The department may authorize department personnel to  
28 enforce this section and may adopt procedural regulations necessary to implement this  
29 section.

30 (d) A policy of insurance, surety bond, or other form of security may not be  
31 canceled on less than 30 days' written notice to the department. This requirement

1 must be clearly stated in the policy or endorsement for an insurance policy submitted  
2 as proof of financial responsibility under (b)(1) of this section. The 30-day notice  
3 period is measured from the date on which the department receives notice.

4 (e) A person who violates (a) of this section is guilty of a class B  
5 misdemeanor and is punishable by a fine of not less than \$500 or more than \$1,000.

6 (f) Notwithstanding AS 19.10.399, in this section

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

9 (A) used to transport passengers or property;

10 (B) used upon a land highway or vehicular way; and

11 (C) that

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

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

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

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

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

24 (ii) farm vehicles that are controlled and operated by a  
25 farmer; used to transport agricultural products, farm machinery, or farm  
26 supplies to or from that farmer's farm; not used in the operations of a  
27 common or contract motor carrier; and used within 150 miles of the  
28 farmer's farm; and

29 (iii) recreational vehicles used exclusively for purposes  
30 other than commercial purposes;

31 (2) "freight" means commodities, articles, and cargo, of whatever nature

1 or value.

2 **Sec. 19.10.310. Commercial motor vehicle safety inspections.** A commercial  
3 motor vehicle may not be operated after January 1, 1986 without a certificate of  
4 inspection. An owner of a commercial motor vehicle shall renew a certificate of  
5 inspection at least semi-annually at an official inspection station under AS 19.10.320.  
6 The owner may renew a certificate of inspection at any time during the office hours  
7 of the inspection station. An owner of a commercial motor vehicle shall display a  
8 current sticker of inspection visible from outside the vehicle in a location determined  
9 by the department.

10 **Sec. 19.10.320. Commercial motor vehicle inspection station permits.** (a)  
11 A person may not operate an official commercial motor vehicle inspection station  
12 without a permit from the department. The department shall approve an application  
13 for permit to operate an inspection station if

14 (1) the department determines the inspection station has proper  
15 equipment and competent personnel; and

16 (2) a commercial motor vehicle inspector certified under AS 19.10.330  
17 is employed at the inspection station.

18 (b) After the department approves an application for a permit to operate an  
19 official inspection station under (a) of this section, it shall provide the applicant with  
20 a permit and certificates of inspection.

21 (c) Upon receipt of a permit from the department under (b) of this section, the  
22 operator of an official commercial motor vehicle inspection station shall post the  
23 permit in a conspicuous place at the location designated by the department.

24 (d) The department may enter the premises of the operator of an official  
25 commercial motor vehicle inspection station during the station's business hours to  
26 inspect the work of a certified commercial motor vehicle inspector or to determine if  
27 the operator continues to meet the requirements of this section.

28 (e) The department shall suspend or revoke a permit of an operator of an  
29 official commercial motor vehicle inspection station if the operator fails to meet the  
30 requirements of this section.

31 (f) Upon notice of suspension or revocation of a permit under (e) of this

1 section, the operator of an official commercial motor vehicle inspection station shall  
2 immediately terminate all inspection activities and, on demand by the department,  
3 return the permit and all unissued certificates of inspection. The department shall issue  
4 a receipt for all returned certificates of inspection.

5 (g) If a permit is suspended or revoked under (e) of this section, the  
6 department shall give the holder of the permit a hearing within 10 days after receipt  
7 of a written request filed with the department within 30 days after suspension or  
8 revocation.

9 (h) A permit to operate an official commercial motor vehicle inspection station  
10 may not be assigned, transferred, or used at a location other than the location  
11 designated by the department.

12 **Sec. 19.10.330. Certification of commercial motor vehicle inspectors.** (a)  
13 A person may not conduct a commercial motor vehicle inspection at an official  
14 inspection station under AS 19.10.320 unless certified as a commercial motor vehicle  
15 inspector by the department.

16 (b) The department may suspend or revoke the certification issued to a  
17 commercial motor vehicle inspector under (a) of this section if the commercial motor  
18 vehicle inspector improperly conducts inspections or fails to comply with a provision  
19 of this section.

20 (c) If a certificate is revoked or suspended under (b) of this section the  
21 department shall give a commercial motor vehicle inspector a hearing within 10 days  
22 after the receipt of a written request filed with the commissioner within 30 days after  
23 revocation or suspension.

24 **Sec. 19.10.340. Issuance of certificate of inspection.** (a) A person operating  
25 an official commercial motor vehicle inspection station shall issue a certificate of  
26 inspection to the owner of a commercial motor vehicle after determining that the  
27 commercial motor vehicle is in a safe and mechanically sound condition.

28 (b) A person operating an official commercial motor vehicle inspection station  
29 shall keep a record of each inspection performed at the station. The department may  
30 audit the records of an official inspection station at any time.

31 **Sec. 19.10.350. Falsely representing to be an official station.** (a) A person

1 may not represent a place as an official commercial motor vehicle inspection station  
2 unless the station is operating under a valid permit issued by the department under  
3 AS 19.10.320.

4 (b) A person may not issue a certificate of inspection under AS 19.10.340  
5 unless the person holds a valid permit under AS 19.10.320.

6 **Sec. 19.10.360. Counterfeit certificates of inspection.** (a) A person may not  
7 make, issue, or knowingly use an imitation or counterfeit of an official certificate of  
8 inspection.

9 (b) A person may not knowingly display or issue a certificate of inspection on  
10 a commercial motor vehicle unless the commercial motor vehicle has met the  
11 requirements of AS 19.10.340(a).

12 **Sec. 19.10.370. Regulations.** The commissioner shall adopt procedural  
13 regulations appropriate to achieve compatibility with other western states and  
14 procedural regulations necessary to implement AS 19.10.310 - 19.10.399.

15 **Sec. 19.10.380. Criminal penalty.** A person who violates a provision of  
16 AS 19.10.310 - 19.10.399 is guilty of a class B misdemeanor.

17 **Sec. 19.10.399. Definitions.** In AS 19.10.300 - 19.10.399,

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

20 (A) used to transport passengers or property;

21 (B) used upon a highway or vehicular way; and

22 (C) that

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

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 miles of the  
8 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 AS 19.10.310 -  
14 19.10.399, and except to the extent that regulation of vehicles operated  
15 by the federal government is permitted by federal law; and

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

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

22 (3) "commissioner" means the commissioner of transportation and  
23 public facilities;

24 (4) "department" means the Department of Transportation and Public  
25 Facilities;

26 (5) "gross combination weight rating" means the value specified by the  
27 manufacturer as the loaded weight of a combination vehicle, except that if a value has  
28 not been specified by the manufacturer, the gross combination weight rating is  
29 determined by adding the gross vehicle weight rating of the power unit and the total  
30 weight of the towed unit and the load on the towed unit;

31 (6) "gross vehicle weight rating" means the value specified by the

1 manufacturer as the loaded weight of a single vehicle;

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

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

8 (9) "official traffic-control device" means a sign, signal, marking, or  
9 other device not inconsistent with AS 28, placed or erected by authority of a state or  
10 municipal agency or official having jurisdiction, for the purpose of traffic regulating,  
11 warning, and guiding;

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

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

19 (12) "vehicle" means a device in, upon, or by which a person or  
20 property may be transported or drawn upon or immediately over a highway or  
21 vehicular way or area; "vehicle" does not include

22 (A) devices used exclusively upon stationary rails or tracks;

23 (B) mobile homes;

24 (13) "vehicular way or area" means a way, path, or area, other than a  
25 highway or private property, that is designated by official traffic control devices or  
26 customary usage and that is open to the public for purposes of pedestrian or vehicular  
27 travel, and which way or area may be restricted in use to pedestrians, bicycles, or other  
28 specific types of vehicles as determined by the Department of Public Safety or other  
29 agency having jurisdiction over the way, path, or area.

30 \* Sec. 5. AS 28.05.011 is amended to read:

31 **Sec. 28.05.011. Duty of commissioner to adopt regulations.** The

1 commissioner shall, unless otherwise provided by statute, adopt regulations in  
2 compliance with AS 44.62 (Administrative Procedure Act) necessary to carry out the  
3 provisions of this title and other statutes the administration of which is vested in the  
4 department. The regulations must include, but are not limited to:

5 (1) rules of the road relating to the driving, stopping, standing, parking,  
6 and other conduct of vehicles, to pedestrians, and to official traffic control devices;

7 (2) minimum equipment for vehicles, including, but not limited to,  
8 minimum standards of compliance to be met by manufacturers and vehicle sales and  
9 repairs businesses;

10 (3) inspection of vehicles, and the removal of vehicles from areas of  
11 public use when they are found to be in a defective or unsafe condition;

12 (4) registration, titling, transfer, and abandonment of vehicles;

13 (5) licensing of drivers of vehicles and procedures for obtaining limited  
14 license privileges;

15 (6) financial responsibility relating to vehicles other than commercial  
16 motor vehicles;

17 (7) management of records of the department required for the  
18 administration of this title and regulations adopted under this title, including provisions  
19 for ensuring the accuracy of information contained in automated and manual  
20 information retrieval systems;

21 (8) definitions of words and phrases used in this title and in regulations  
22 adopted under this title unless otherwise provided by statute;

23 (9) registration of motor vehicle, trailer, and semi-trailer dealers;

24 (10) certification and regulation of junk yards;

25 (11) regulations necessary to implement [A COMMERCIAL MOTOR  
26 VEHICLE SAFETY INSPECTION PROGRAM,] a commercial motor vehicle driver's  
27 licensing program[,] and other requirements imposed by federal law or regulation that  
28 relate to commercial motor vehicles and that are needed to avoid loss or withholding  
29 of federal highway money, other than requirements relating to a commercial motor  
30 vehicle safety inspection program.

31 \* Sec. 6. AS 28.10.041(a) is amended to read:

1 (a) The department may refuse to register a vehicle if

2 (1) the application contains a false or fraudulent statement;

3 (2) the applicant fails to furnish information required by the  
4 department;

5 (3) the applicant is not entitled to the issuance of a certificate of title  
6 or registration under this chapter;

7 (4) the vehicle is determined to be mechanically unsafe to be driven or  
8 moved on a highway, vehicular way or area, or other public property in the state;

9 (5) the department has reasonable grounds to believe that the vehicle  
10 was stolen or fraudulently acquired or that the granting of registration would be a fraud  
11 against the rightful owner or other person having a valid lien upon the vehicle;

12 (6) the registration of the vehicle has been suspended or revoked for  
13 any reason under the laws of the state;

14 (7) the required fees or taxes have not been paid;

15 (8) the vehicle or applicant fails to comply with this chapter or  
16 regulations implementing this section;

17 (9) the vehicle is without a certificate of inspection required under  
18 AS 19.10.310 [AS 28.32.010];

19 (10) the vehicle is subject to a state-approved emission inspection  
20 program adopted under AS 46.14.400 or 46.14.510, and the vehicle does not meet the  
21 standards of that program, unless the vehicle uses a fuel source that does not primarily  
22 emit carbon monoxide;

23 (11) the applicant fails to certify to the department the existence of a  
24 motor vehicle liability policy that complies with AS 28.22.101 for the vehicle being  
25 registered unless the owner of the vehicle qualifies as a self-insurer under  
26 AS 28.20.400 or is exempted from obtaining liability insurance under AS 28.22.011.

27 \* **Sec. 7.** AS 42.05.351 is amended to read:

28 **Sec. 42.05.351. Testing of appliances.** The commission shall provide for the  
29 examination and testing of appliances used for the measuring of a service of a public  
30 utility and may purchase equipment, apparatus, and standards required for this purpose.  
31 The commissioner of transportation and public facilities [COMMERCE AND

1 ECONOMIC DEVELOPMENT] may assign the examination and testing function to  
2 appropriate staff of the Department of Transportation and Public Facilities under  
3 AS 45.75 [THE SECTION OF WEIGHTS AND MEASURES]. Upon the payment of  
4 a reasonable fee established by the commission, a consumer may have an appliance  
5 that is used by the consumer tested. The commission shall establish by regulation  
6 allowable tolerances with respect to the functioning or operation of the appliance. If  
7 the measuring appliance does not perform within these tolerances, the utility concerned  
8 shall pay the costs of the test by reimbursing the person requesting the test for the fee  
9 paid by that person. This reimbursement shall be made no later than at the time of the  
10 next regular billing following the test.

11 \* **Sec. 8.** AS 44.42.020(a) is amended by adding new paragraphs to read:

12 (16) implement the safety and financial responsibility requirements for  
13 air carriers under AS 02.40.010 - 02.40.990;

14 (17) inspect weights and measures.

15 \* **Sec. 9.** AS 45.75.020 is amended to read:

16 **Sec. 45.75.020. State standards of weight and measure.** The weights and  
17 measures obtained by the state in conformity with them and certified by the National  
18 Bureau of Standards or its successor organization, the National Institute of Standards  
19 and Technology, are the state standards of weight and measure. The state standards  
20 shall be kept in a safe and suitable place in the office or laboratory of the Department  
21 of Transportation and Public Facilities [STATE DIVISION OF WEIGHTS AND  
22 MEASURES]. They may not be removed from the office or laboratory except for  
23 repairs or for certification. The state standards shall be used only in verifying the  
24 office standards and for scientific purposes.

25 \* **Sec. 10.** AS 45.75.030 is amended to read:

26 **Sec. 45.75.030. State director and inspectors of weights and measures.** The  
27 commissioner of transportation and public facilities [COMMERCE AND  
28 ECONOMIC DEVELOPMENT] is ex officio state director of weights and measures.

29 The director may appoint state inspectors.

30 \* **Sec 11.** AS 45.75.050(b) is amended to read:

31 (b) The regulations may include

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

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

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

9 (4) for classes of weights and measures of a character that retesting is  
10 unnecessary to continued accuracy, exemptions from the requirements of AS 45.75.070  
11 and 45.75.080 for testing, and schedules fixing the frequency of required retests for  
12 classes of devices exempted; and

13 (5) in the implementation of AS 19.10.060(b) [AS 44.33.020(25)],  
14 provisions governing the size, weight, and load limitations established under  
15 AS 19.10.060; the issuance of permits for overweight and oversize vehicles; and the  
16 operation of weigh stations.

17 \* **Sec. 12.** AS 45.75.060 is amended to read:

18 **Sec. 45.75.060. Office and working standards and equipment.** The state  
19 shall supply the Department of Transportation and Public Facilities [DIVISION OF  
20 WEIGHTS AND MEASURES] with a duplicate set of state standards of weight and  
21 measure, referred to in this chapter as office standards. The state shall supply field  
22 standards and the equipment that is necessary to carry out this chapter. The office  
23 standards and field standards shall be verified upon their initial receipt and at least  
24 once each year afterward. The office standards shall be verified by direct comparison  
25 with the state standards. The field standards shall be verified by comparison with the  
26 office standards.

27 \* **Sec. 13.** AS 45.75.131(a) is amended to read:

28 (a) A peace officer or an employee of the Department of Transportation and  
29 Public Facilities [COMMERCE AND ECONOMIC DEVELOPMENT] who is  
30 authorized by the commissioner of transportation and public facilities [COMMERCE  
31 AND ECONOMIC DEVELOPMENT] to enforce this chapter may issue a citation to

1 a person who

2 (1) violates a weight, size, or load limitation adopted by the Department  
3 of Transportation and Public Facilities under AS 19.10.060;

4 (2) violates the terms of an overweight or oversize vehicle permit  
5 issued under AS 19.10.060(b) [AS 44.33.020(25)];

6 (3) violates a regulation adopted under AS 28.05.011(2) or under  
7 AS 19.10.060(b) [AS 44.33.020(25)] and AS 45.75.050(b)(5); or

8 (4) commits a violation identified under AS 45.75.380.

9 \* **Sec. 14.** AS 45.75.131(d) is amended to read:

10 (d) The commissioner of public safety is responsible for the issuance of books  
11 containing appropriate citations and shall maintain a record of each book and each  
12 citation contained in it. The commissioner of public safety shall require and retain a  
13 receipt for every book issued to an employee of the Department of Transportation  
14 and Public Facilities [COMMERCE AND ECONOMIC DEVELOPMENT] designated  
15 by the commissioner of transportation and public facilities [COMMERCE AND  
16 ECONOMIC DEVELOPMENT] to provide investigative services to enforce provisions  
17 of this chapter.

18 \* **Sec. 15.** AS 45.75.380(a) is amended to read:

19 (a) A person commits a violation subject to the penalty specified in  
20 AS 12.55.035(b)(5) if the person does one or more of the following acts:

21 (1) uses or has in possession for the purpose of using for a commercial  
22 purpose specified in AS 45.75.080, sells, offers, or exposes for sale, or hire, or has in  
23 possession for the purpose of selling or hiring, an incorrect weight or measure or a  
24 device or instrument used to or calculated to falsify a weight or measure;

25 (2) uses or has in possession for current use, in buying or selling a  
26 commodity or thing, or for hire or award, or in the computation of a basic charge or  
27 payment for services rendered on the basis of weight or measurement, or in the  
28 determination of weight or measurement when a charge is made for determination, a  
29 weight or measure that has not been tested and sealed by the appropriate authority  
30 within one year, unless

31 (A) the person gives written notice to the appropriate authority

1 to the effect that the weight or measure is available for examination, or is due  
2 for reexamination, as the case may be;

3 (B) the person receives specific written permission to use the  
4 weight or measure from the appropriate authority; or

5 (C) the weight or measure is exempt from sealing or annual  
6 testing requirements by AS 45.75.080 or by a regulation adopted under  
7 AS 45.75.050;

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

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

12 (5) sells or offers for sale less than the quantity the person represents  
13 of a commodity, thing, or service;

14 (6) takes more than the quantity the person represents of a commodity,  
15 thing, or service when, as buyer, the person furnished the weight or measure that the  
16 seller used to determine the amount of the commodity, thing, or service;

17 (7) keeps for the purpose of sale, advertises, or offers for sale, or sells  
18 a commodity, thing, or service in a condition or manner contrary to law or regulation;

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

24 (9) hinders or obstructs the director, an inspector, a sealer, or a deputy  
25 sealer in the performance of official duties under this chapter;

26 (10) violates a provision of an overweight or oversize vehicle permit  
27 issued under AS 19.10.060(b) [AS 44.33.020(25)];

28 (11) violates a weight, load, or size limitation established under  
29 AS 19.10.060 or a regulation adopted under AS 19.05.020, AS 19.10.060(b)  
30 [AS 44.33.020(25)], or AS 45.75.050(b)(5);

31 (12) violates a provision of this chapter or a regulation adopted under

1 this chapter for which a specific penalty is not prescribed.

2 \* **Sec. 16.** AS 28.32.010(a), 28.32.030, 28.32.040, 28.32.050, 28.32.060, 28.32.070,  
3 28.32.080, 28.32.090, 28.32.900; AS 28.33.010; AS 42.30.200, 42.30.225, 42.30.380;  
4 AS 44.33.020(6), 44.33.020(25), and 44.33.020(27) are repealed.

5 \* **Sec. 17.** TRANSITION. (a) Litigation, hearings, investigations, and other proceedings  
6 pending under a law amended or repealed by this Order, or in connection with functions  
7 transferred by this Order, continue in effect and may be continued and completed  
8 notwithstanding a transfer or amendment or repeal provided for in this Order.

9 (b) Contracts, rights, liabilities, and obligations created by or under a law amended  
10 or repealed by this Executive Order, and in effect on June 30, 1997, remain in effect  
11 notwithstanding this Order's taking effect. Records, equipment, appropriations, and other  
12 property of agencies of the state whose functions are transferred under this Order shall be  
13 transferred to implement the provisions of this Order.

14 (c) The regulations adopted by the Department of Commerce and Economic  
15 Development or the Department of Public Safety that relate to functions transferred by this  
16 Order remain in effect and may be implemented and enforced by the Department of  
17 Transportation and Public Facilities until that department adopts its own regulations under  
18 AS 02.40, AS 19.05, AS 19.10, AS 44.42.020, or AS 45.75, and those regulations take effect.

19 \* **Sec. 18.** REVISOR'S INSTRUCTIONS. (a) An Executive Order transferring certain  
20 functions, including functions under AS 28, to the Department of Administration was  
21 presented to the First Session of the Twentieth Alaska Legislature for consideration.

22 (b) This Order and the Order described in (a) of this section both affect some of the  
23 same statutes in AS 28.05, AS 28.32, and AS 28.33.

24 (c) To effectuate the transfers provided for in the two Orders, the revisor of statutes  
25 is requested to reconcile the language of the two Orders. However, in conformance with the  
26 later effective date of this Order, the transfers provided for in this Order are to take  
27 precedence over any transfer of the same functions in the Order described in (a) of this  
28 section.

29 (d) Both Orders amend AS 28.05.011 as that statute existed on the date of introduction  
30 of the Orders. If both Orders take effect, the substantive content of the amendments of  
31 AS 28.05.011 in this Order should be applied to the language of that statute as it was changed

1 by the Order described in (a) of this section. In reconciling the AS 28.05.011 amendments  
2 made by both Orders, the following principles should be applied:

3 (1) functions regarding financial responsibility relating to commercial motor  
4 vehicles, assigned to the Department of Public Safety under the Order described in (a) of this  
5 section, are transferred to the Department of Transportation and Public Facilities in this Order;  
6 and

7 (2) nothing in this Order affects functions transferred to the Department of  
8 Administration in the Order described in (a) of this section.

9 \* **Sec. 19.** This Order takes effect July 1, 1997.

DATED: January 13, 1997

/s/ Tony Knowles  
Tony Knowles  
Governor