

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND ELEVENTH LEGISLATURE

FIRST REGULAR SESSION
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Chapters 1-452

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J.S. McCarthy Co., Inc.
Augusta, Maine
1983

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

CHAPTER 234

H.P. 781 - L.D. 1010

AN ACT to Deregulate Motor Carriers of Passengers for Hire.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 29 MRSA §2703, as enacted by PL 1981, c. 469, §2, is amended to read:

§2703. Operating permit required

In order that there may be proper supervision and control of the use of the highways of this State, every person, firm or corporation transporting freight, merchandise ~~or~~, household goods or passengers by motor vehicle for hire upon the public highways of this State, between points within this State, between points without the State but passing through this State or between points within and points without the State, is required to obtain a permit for that operation from the Bureau of State Police. Application for these permits shall be made in the manner and form to be prescribed by the bureau in its regulations and these permits shall issue as a matter of right upon compliance with these regulations and payment of fees. An application for a permit shall be accompanied by a fee of \$25. No permit issued under this section may be transferred, except that, where the holder of a permit has become incorporated, the holder may transfer his permit to the corporation upon the payment of any transfer fee and the filing of written notice of intent to transfer with the bureau. Every person, firm or corporation transporting passengers for hire shall be assessed an annual permit renewal fee of \$15.

Notwithstanding the foregoing, any person, firm or corporation transporting freight, merchandise ~~or~~, household goods or passengers by motor vehicle for hire in this State, on the effective date of this Act, pursuant to a certificate ~~or~~, permit or a license issued by the Public Utilities Commission or Department of Transportation, as the case may be, shall be deemed to hold an operating permit as required by this section.

The acquisition of an operating permit, as provided for by this section, shall not be deemed to be a termination, restriction in scope or suspension of a prior intrastate certificate of public convenience

and necessity as defined in the United States Code, Title 49, Section 306(6).

Sec. 2. 29 MRSA §2704, as enacted by PL 1981, c. 469, §2, is amended to read:

§2704. Vehicle identification required

Every motor vehicle transporting freight, merchandise or household goods and required to obtain an operating permit under this chapter shall at all times display identification to be prescribed and furnished by the bureau in accordance with rules promulgated by the bureau. The annual fee for the vehicle identification device is \$8 for each motor vehicle and \$2 shall be charged for each transfer of that identification. The bureau may refuse to furnish identification for any motor vehicle not registered in the name of the holder of a permit. The bureau may, in its discretion, issue upon request telegraphic authority for transportation for hire by motor vehicles in this State pending issuance of proper vehicle identification devices. The telegraphic authority shall not exceed that already granted the requesting carrier by the United States Interstate Commerce Commission or the bureau and the cost of the telegraphic authority shall be borne by the requesting carrier.

Sec. 3. 29 MRSA §2707, as enacted by PL 1981, c. 469, §2, is amended to read:

§2707. Rules

The bureau may make such rules as it deems necessary or advisable to ensure proper administration and enforcement of this chapter and to promote the safety of the operation of motor carriers, including passenger carriers ~~otherwise subject to the jurisdiction of the Department of Transportation under Title 35, chapters 91 and 97,~~ over the highways. This authority includes the right to make rules relating to the length of duty of drivers operating any motor vehicle on the highways of this State engaged in for-hire transportation. These rules shall conform as nearly as practicable to the standards set forth by the appropriate federal agencies pertaining to the length of duty of drivers operating motor vehicles in interstate commerce. Until these rules have been promulgated by the bureau, the rules promulgated by the Public Utilities Commission or Department of Transportation and in effect on the effective date of this Act shall remain in effect to the extent consistent with this Act. The terms "Bureau of State Police" or "bureau" shall be substituted for the terms "Public Utilities Commission" or "commission" or "Department of Transportation" wherever those terms occur in the

rules promulgated by the commission or department. The bureau ~~is authorized to~~ may enter into and make cooperative agreements with the Interstate Commerce Commission and the United States Department of Transportation to enforce the laws and regulations of the United States and this State concerning highway transportation.

The bureau may refuse to reissue any vehicle identification device issued under this chapter for any willful or continued violations of this chapter or of any rules promulgated by the bureau pursuant to the authority thereof or of any rules promulgated by the Public Utilities Commission or Department of Transportation and remaining in effect under this section. The bureau may file a complaint in the Administrative Court seeking revocation or suspension of an operating permit. Notwithstanding Title 5, section 10051, the bureau may suspend a permit for lack of sufficient insurance. Any suspension shall continue until the bureau is satisfied that the carrier has obtained adequate insurance. It is the duty of the State Police, sheriffs and their deputies and all other peace officers to investigate any alleged violations of this chapter and any rules promulgated by the bureau pursuant to the authority thereof, or promulgated by the Public Utilities Commission or Department of Transportation and remaining in effect under this section, to prosecute violators of this chapter and those rules and otherwise to aid in the enforcement of the provisions thereof.

Sec. 4. 29 MRSa §2708, as enacted by PL 1981, c. 469, §2, is amended to read:

§2708. Indemnity bonds

The Secretary of State shall not register any motor vehicle required to obtain an operating permit subject to this chapter and the bureau shall not issue a permit covering the operation of any such motor vehicle or vehicles until the applicant for that permit has procured a good and sufficient insurance policy or indemnity bond, in such amount as the bureau prescribes, having as surety thereon, a surety company authorized to transact business in this State or 2 responsible individuals, which bond shall be approved by the bureau. The insurance policy or bond shall adequately provide for cargo insurance and for the collection of damages for which the holder of a permit may be liable by reason of the operation of any motor vehicle or vehicles subject to the operation of this chapter. Notwithstanding this section, any person, firm or corporation transporting freight between points within this State and points without this State, or between points without the State but passing through this State is not required to provide

cargo insurance. This section does not apply to motor vehicles used exclusively in the transportation of passengers.

Sec. 5. 29 MRSA §2709, sub-§3 is enacted to read:

3. Motor carriers of passengers; exemption. Motor carriers of passengers are exempt as noted from this chapter as follows:

A. The operation of a school bus as defined in section 2011, when the school bus is engaged in transportation of children to and from school and to and from any school-sponsored activity when the school-sponsored activity is performed as part of a continuing contract to transport children to and from school sessions. The transportation may include a reasonable number of chaperones formally designated as such by school authorities;

B. Motor vehicles having a capacity of not more than 6 passengers operated over irregular routes and without a fixed schedule;

C. Motor vehicles owned or operated by or on behalf of hotels and used exclusively for the transportation of patrons between hotels and local railroad or other common carrier stations;

D. Motor vehicles owned or operated by or in behalf of growers, processors and manufacturers of fruit, vegetable or fish products and used in the transportation of workers between their homes and places of employment;

E. "Cooperative use transportation" means the collective use of privately owned vehicles by 2 or more people where the providing of transportation is not the primary business of the owner or driver of the vehicle, or both, but is incidental to their livelihood. Cooperative use includes, but is not limited to, shared driving, shared expense car pools, station wagon pools and van pools, employer owned or leased vehicles, including buses which are operated for convenience of the employees, commuter services organized and arranged by employee cooperatives, labor unions, credit unions and neighborhood groups which are operated for the convenience of their members, and vehicles operated under the auspices of government sponsored commuter matching services and brokerage programs, and individuals or groups providing nonprofit matching and other brokerage type services;

F. "For profit brokerage and matching services" means that the provider of the service neither sets the rates for the service, provides backup transportation, passes upon the qualifications of the drivers or their vehicles, establishes the routes nor collects the fees paid for the service. The business of matching drivers with passengers and the rendering of technical assistance in support of cooperative use transportation is exempt from regulation under this chapter;

G. "For profit car pooling and van pooling" means the business of organizing and operating a car pooling or van pooling system. In this context, "car pools and van pools" mean any vehicle used in a continuing form of prearranged commuter transportation by a relatively fixed group of 15 persons or less for travel between their places of residence and their place of employment. The business of organizing and operating a car pooling or van pooling system, including the selection and approval of cars, vans and drivers, the fixing and collection of fees, the establishment of routes and the provision of backup transportation, is exempt from regulation under this chapter, provided that the operator's name, the list of equipment and proof of adequate insurance coverage, as determined by the bureau, is filed with the bureau prior to commencing operation; and

H. Motor carriers transporting passengers that receive state, municipal or federal subsidies administered by the Department of Transportation shall be required to submit their operating name and list of equipment to the bureau and shall be subject to the rules of the bureau pertaining to safety promulgated under section 2707. For the purpose of this section, the term subsidies shall include assistance that is provided by the State Government, municipal government or Federal Government that is used for purposes of planning to offset operating losses or to acquire capital equipment.

Sec. 6. 29 MRSA §2713, as enacted by PL 1981, c. 469, §2, is amended to read:

§2713. Transportation Safety Fund

1. Deposit of funds. All revenues derived from fees authorized by this chapter, and, for carriers of passengers, by Title 35, chapters 91 and 97 shall be deposited with the Treasurer of State in a separate account to be known as the Transportation Safety Fund.

2. Legislative approval of budget. Expenditures from the Transportation Safety Fund are subject to legislative approval in the same manner as allocations from the Highway Fund are approved.

3. Use of funds. Subject to the Personnel Law, money in the fund may be expended to hire employees and to defray other costs authorized by law for the several agencies as follows.

A. There shall be allocated to the Department of Public Safety for State Police up to \$450,000 annually from the fund to carry out the statutory duties of the bureau imposed by this chapter and Title 35 and for related activities.

~~B. There shall be allocated to the Department of Transportation not more than \$5,000 annually from the fund to be expended to carry out the statutory duties of the department imposed by this chapter and by Title 35, chapters 91 and 97, relating to common, special and charter carriers of passengers for hire and for related activities.~~

C. Any balance in the fund in excess of that required for the purposes of ~~paragraphs~~ paragraph A and B may be allocated in the same manner and for the same purposes as moneys in the Highway Fund, but with special emphasis on matters relating to transportation safety. Any allocation of this balance shall be identified as to source.

4. Unexpended funds. Any funds not expended at the end of a fiscal year shall not lapse, but shall be carried forward for the purposes specified in succeeding fiscal years.

Sec. 7. 35 MRSA cc. 91 and 97, as amended are repealed.

Sec. 8. Effective date. This Act shall take effect on January 1, 1984.

Effective January 1, 1984.

CHAPTER 235

H.P. 844 - L.D. 1094

AN ACT to Amend Certain Aspects of Post-conviction Review.