

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIRST LEGISLATURE

Legislative Document

No. 1262

H. P. 877

House of Representatives, February 12, 1963

Referred to Committee on Public Utilities. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Boothby of Livermore.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-THREE

**AN ACT Relating to Certificate of Public Necessity for Transporting Freight
for Hire as a Common Carrier.**

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

Sec. 1. R. S., c. 48, § 20, amended. The first 3 sentences of section 20 of chapter 48 of the Revised Statutes are amended to read as follows:

‘No person, corporation, partnership, railroad, street railway or other transportation company shall operate, or cause to be operated, any motor vehicle or vehicles not running on rails or tracks upon any public way in the business of transporting freight or merchandise for hire as a common carrier **by motor vehicle over regular routes between points within this State, or over irregular routes within a defined territory within this State** without having obtained from the commission a certificate declaring that public necessity and convenience require and permit such operation. The commission shall have authority and jurisdiction to determine applications for such certificates. **The term “common carrier by motor vehicle” as used in this section means any person, firm or corporation which holds itself out to the general public to engage in the transportation by motor vehicle in intrastate commerce of freight or merchandise for hire, whether over regular routes or within a defined territory.** The words “regular routes” as used in sections 19 to 32 mean those routes over which any person, firm or corporation is usually or ordinarily operating, or causing to be operated, any motor vehicle or vehicles, even though there may be departures from said routes, whether such departure be periodic or irregular, ~~whether~~. **The words “defined territory” as used in sections 19 to 32 mean that territory within which any person, firm or corporation is usually or ordinarily operating, or causing to be operated, but not over regular routes, any motor vehicle or vehicles. Whether or**

not the operation is over regular routes or is within defined territory within the meaning of said sections shall be a question of fact to be determined by the commission, the Supreme Judicial Court, the Superior Court or ~~a municipal~~ the District Court.'

Sec. 2. R. S., c. 48, § 20, amended. The last 2 sentences of section 20 of chapter 48 of the Revised Statutes are amended to read as follows:

'No such certificate shall be issued unless and until the applicant has established to the satisfaction of the commission that there exists a public necessity for such additional service and that public convenience will be promoted thereby; provided that if an applicant for a certificate of public convenience and necessity as a common carrier within a defined territory is, at the time of the application, the holder of a contract carrier permit granted by the commission, which authorizes motor carrier transportation service for hire within the defined territory and for the general purposes for which application is made, such certificate applied for shall be granted as a matter of right when it appears to the satisfaction of the commission, after a hearing, that an adequate and responsible motor vehicle transportation service for hire was being offered or rendered by the applicant, to the general public and not to limited or selected customers, within the defined territory covered by the application but not over regular routes, from March 1, 1932 to June 30, 1933, and the said applicant may supplement evidence of services during said period with evidence showing adequate and responsible motor vehicle transportation service for hire within said defined territory subsequent to said period, which evidence shall be given favorable consideration by the commission in its determination of the defined territory within and the general purposes for which the applicant has supplied such transportation service. Any such certificate issued by the commission shall specify the territory within and the general purposes for which the applicant may operate, and such certificate will be issued in lieu of that portion of any contract carrier permit held by the applicant authorizing motor carrier transportation service for hire within the defined territory and for the general purposes for which such certificate is issued. Such certificate shall not limit or restrict any rights of the said applicant lawfully existing except as provided in the sentence immediately above. The commission shall not direct nor proceed with a clarification of the so-called grandfather contract carrier rights of an applicant for a certificate as a common carrier within a defined territory, as provided by section 23, subsection III, until a final decision is reached on such application. If ~~2 or more~~ applicants who have been engaged in the transportation of property as common carriers before June 30, 1933 apply for a similar certificate authorizing them to perform substantially the same service in the same territory under similar conditions, and if the commission shall be of opinion, in accordance with the provisions of this section, that certificates should be granted to some but not all of such applicants, preference shall be given to the applicant or applicants who have been longest engaged in such service, provided such service has been rendered in accordance with the requirements of the law'

Sec. 3. R. S., c. 48, § 22, amended. The first sentence of section 22 of chapter 48 of the Revised Statutes is amended to read as follows:

'Every holder of a certificate of public convenience and necessity shall file with

the commission a schedule or schedules showing its rates or charges for service rendered or furnished or to be rendered or furnished within the State, including rates or charges established jointly with other such holders to the extent authorized by the commission over routes **or through defined territories** not served by a single common carrier.'

Sec. 4. R. S., c. 48, § 23, amended. The first sentence of the first paragraph of section 23 of chapter 48 of the Revised Statutes is amended to read as follows:

'The term "contract carrier" as used in this chapter is intended to include all persons, firms or corporations operating or causing the operation of motor vehicles transporting freight or merchandise for hire upon the public highways, other than common carriers ~~over regular routes~~; except that the term shall not be construed to include any person, firm or corporation not regularly engaged in the transportation business but who on occasional trips transports the property of others for hire.'

Sec. 5. R. S., c. 48, § 23, amended. The 2nd paragraph of section 23 of chapter 48 of the Revised Statutes is amended to read as follows:

'It is declared that the business of contract carriers, which term is intended to include all persons, firms or corporations operating or causing the operation of motor vehicles transporting freight or merchandise for hire upon the public highways, other than common carriers ~~over regular routes~~, is affected with the public interest and that the safety and welfare of the public upon such highways, the preservation and maintenance of such highways and the proper regulation of common carriers using such highways require the regulation of contract carriers to the extent ~~hereinafter~~ provided.'

Sec. 6. R. S., c. 48, § 23, sub-§ III, amended. The first sentence of subsection III of section 23 of chapter 48 of the Revised Statutes, as repealed and replaced by section 50 of chapter 429 of the public laws of 1957, is amended to read as follows:

'No application for a permit shall be granted by the commission until after a hearing, nor shall any permit be granted if the commission shall be of the opinion that the proposed operation of any such contract carrier will be contrary to the declaration of policy of sections 19 to 33, or otherwise will not be consistent with the public interest, or will impair the efficient public service of any authorized common carrier or common carriers then adequately serving the same territory by rail or **by motor vehicle** over the same general highway route or routes **or within the same territory**, or that an increase in the number of contract carriers operating in the area to be served by the applicant will interfere with the use of the highways by the public, **or will impair the efficient motor carrier transportation service of any authorized contract carrier contrary to the public interest.**'

Sec. 7. R. S., c. 48, § 23, sub-§ IV, amended. The 4th sentence of subsection IV of section 23 of chapter 48 of the Revised Statutes is amended to read as follows:

'It shall be the duty of every contract carrier to establish and observe reasonable minimum rates and charges for any service rendered or to be rendered in the

transportation of property or in connection therewith ~~which rates and charges shall not be less than the rates charged by common carriers for substantially the same or similar service~~ and to establish reasonable rules, regulations and practices to be applied in connection with said reasonable rates and charges; ~~it~~. It shall be the duty of every contract carrier to file with the commission, publish and keep open for public inspection, in the form and manner prescribed by the commission, schedules containing the minimum rates or charges of such carrier actually maintained and charged for the transportation of property in intrastate commerce and any rule, regulation or practice affecting such rates or charges.'