

# MAINE STATE LEGISLATURE

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(Governor's Bill)  
FIRST REGULAR SESSION

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ONE HUNDRED AND NINTH LEGISLATURE

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**Legislative Document**

**No. 1606**

H. P. 1381

House of Representatives, May 9, 1979

The Committee on Public Utilities suggested and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Howe of South Portland.

Cosponsor: Mr. Davies of Orono.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

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**AN ACT Relating to Motor Carrier Reform.**

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

**Sec. 1. 35 MRSA c. 93**, as amended, is repealed.

**Sec. 2. 35 MRSA c. 93-A** is enacted to read:

**CHAPTER 93-A**

**MAINE MOTOR CARRIER REFORM ACT**

§ 1571. **Short title**

**This chapter shall be known as the "Maine Motor Carrier Reform Act."**

§ 1572. **Findings and purpose**

**The Legislature finds that an efficient and safe transportation system is essential to the economy of the State of Maine. It is the purpose of this Act to provide for a safe, reliable and efficient motor carrier system by reducing certain aspects of government regulation of that system and increasing competition while retaining safety and financial responsibility requirements for those operating motor trucks for hire on the highways of this State. The Legislature further finds that presently certificated Maine common carriers have made financial plans and**

arrangements relying upon the existing regulation scheme and, therefore, reduction of government regulation should occur on a phased basis.

§ 1573. Certificate required

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 over regular routes or in the business of transporting household goods, as that commodity shall from time to time be defined by the commission, for hire as a common carrier over irregular routes between points within this State without having obtained from the commission a certificate declaring that public necessity and convenience require and permit that operation. The commission shall have authority and jurisdiction to determine applications for these certificates. The words "regular routes" as used in this chapter 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 those routes, whether that departure is periodic or irregular. Whether or not the operation is over regular routes within the meaning of this chapter shall be a question of fact to be determined by the commission, the Supreme Judicial Court, the Superior Court or the District Court. Every application for a certificate shall be made in such form and contain such matters as the commission may prescribe. Upon the filing of any such application and the payment of the fee prescribed, the commission shall within a reasonable time fix the time and place for a hearing thereof. Notice of that hearing, in such manner as the commission may deem necessary, and of the right to file a protest in accordance with the commission's requirements, shall be given by the commission at least 7 days before the hearing of such application, to the applicant, to such common carriers, including steam and electric railway and water carriers, as the commission shall deem necessary, to the Commissioner of Transportation and to any other person, firm or corporation who may, in the opinion of the commission, be interested in or affected by the issuance of that certificate. Any person, firm or corporation having an interest in the subject matter shall have the right, in accordance with the rules and regulations prescribed therefor by the commission, to file a protest to the granting in whole or in part of the certificate applied for and to make representations and to introduce evidence in support of that protest. After the hearing, the commission shall have the power to issue to the applicant a certificate in a form to be prescribed by the commission, declaring that public convenience and necessity require the operation for which application is made, or refuse to issue the certificate, or to issue it for the partial exercise only of the privilege sought, and may attach to the exercise of the rights granted by the certificate such terms and conditions as in its judgment public convenience and necessity may require. If no protest to the granting of the certificate is filed with the commission prior to or at the time fixed for the hearing and if the commission is satisfied that the privilege sought by the applicant is convenient and necessary in the public interest, the certificate may be granted without a public hearing. In

determining whether or not such a certificate shall be granted, the commission shall take into consideration the existing transportation facilities and the effect upon them, the public need for the service the applicant proposes to render, the ability of the applicant efficiently to perform the service for which authority is requested, conditions of and effect upon the highways involved and the safety of the public using the highways. 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 that additional service and that public convenience will be promoted thereby.

1. Certificate for transportation of household goods; service having been rendered. A certificate authorizing the transportation of household goods, as that commodity shall from time to time be defined by the commission, for hire as a common carrier over irregular routes, shall be granted as a matter of right when it appears to the satisfaction of the commission, after hearing, that an adequate and responsible service in transportation of used furniture or used household goods is being lawfully rendered by the applicant within the general area covered by the application, and that the applicant has been rendering that service without substantial interruption since January 1, 1963, and, in cases where that authorized service has been so rendered, the operation may lawfully be continued pending the issuance of the certificate, provided application therefor is made within 15 days from September 21, 1963.

2. Common carrier. Holders of contract carrier permits who since January 1, 1963, have not engaged in the transportation of used furniture or used household goods for hire, but who propose to engage in such transportation as a common carrier over irregular routes, shall upon application be granted a certificate authorizing the transportation of household goods, as that commodity shall from time to time be defined by the commission, for hire as a common carrier over irregular routes when it appears to the satisfaction of the commission, after hearing, that the transportation was within the scope of the permit held by the applicant.

3. Limitation. A certificate issued under subsections 1 and 2 shall not grant more authority than existed by virtue of the contract carrier permit held by the applicant, except as may result from the adoption of the term "household goods" as that commodity shall from time to time be defined by the commission.

4. General exception. Notwithstanding the provisions of this section, any carrier domiciled in Maine and holding on January 1, 1979, either a certificate of public convenience and necessity, pursuant to this section, or a permit to operate as a contract carrier, pursuant to section 1577, over any routes in this State shall be entitled to render common carrier service over any other routes in this State, notwithstanding that these routes are served by any other certified common carrier.

Any right or privilege granted by this subsection shall not be transferable.

This section is repealed on January 1, 1982.

**§ 1574. Certificate required**

Commencing on January 1, 1982, no person, corporation, partnership or transportation company of any kind shall operate, or cause to be operated, any motor vehicle upon any public way in the business of transporting freight, merchandise or household goods for hire over regular or irregular routes between points within this State, whether scheduled or on a trip or contract basis, without having obtained from the Public Utilities Commission a certificate declaring that the recipient is fit and able to undertake transportation for hire on the public ways of this State.

Every application for a certificate shall be made in such form and shall be accompanied by such filing fee as the commission shall prescribe. The commission shall require that each applicant establish that it has sufficient equipment, employees and financial responsibility, in the form of insurance or otherwise, to insure the safety and protection of the general public in the use of the highways of this State and those persons whose goods and merchandise are carried by the motor carrier.

If adequate information on equipment, employees and financial responsibility is contained in the application, the commission may issue the certificate without need for public hearing. If the commission, in its discretion, determines that a public hearing on an application is necessary, the commission shall direct specific questions to the applicant as the additional information it determines is needed and the public hearing shall be held within 60 days of the filing of the application, unless the applicant requests that the hearing be continued. At such a public hearing, any interested person may present evidence if the commission finds the evidence relevant to the specific issues under consideration. If, after hearing, the commission finds that an applicant is not fit and able to provide the services it proposes, the commission shall refuse to issue the certificate requested, but may issue a certificate which accomodates the applicant's preferences and the findings of the commission in regard to the applicant's fitness and ability to provide service.

Certificates shall be issued as a matter of right and without hearing when it appears to the satisfaction of the commission that an applicant is, pursuant to prior authorization from the Public Utilities Commission, providing an adequate service in the business of transporting freight, merchandise or household goods between points within this State. That certificate shall be limited to routes and services which the applicant was providing on the date this provision becomes effective.

**§ 1575. Regulations and law applicable to certain carriers**

Any person, firm or corporation authorized to provide common carrier service under section 1573 shall be subject to all the provisions of chapters 1 to 17 so far as applicable, and to such orders, rules and regulations as shall be adopted and promulgated by the commission under the authority of these chapters. That person, firm or corporation and the service rendered or furnished shall be

included under the general supervision and regulation of the commission and shall be subject to its jurisdiction and control in the same manner and to the same extent as service performed by other persons, firms or corporations engaged in the transportation of freight or merchandise as common carriers for hire, as provided in these chapters, except that sections 52, 69 and 171 to 211 shall not so apply.

This section is repealed on January 1, 1982.

§ 1576. Schedule of rates filed

Every common carrier of interstate freight in the State 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. Whenever the commission receives notice of any change or changes proposed to be made in any schedule of rates, joint rates, classifications, charges, rules or regulations and filed with the commission under the provisions of the law, it shall have the power at any time before the effective date of the change or changes, either upon complaint or upon its own motion and after reasonable notice, to hold a public hearing and make investigation as to the propriety of the proposed change or changes. At any such hearing, involving any change or changes as specified in this section, the burden of proof to show that the change is reasonable shall be on the common carrier. After the hearing and investigation, the commission may make the order with reference to any new rate, joint rate, classification, charge, rule or regulation proposed as would be proper pursuant to section 294.

1. Pending investigation and order. Pending the investigation and order, the commission may, at any time within the period preceding the effective date of any schedule, by order suspend the operation of the schedule or any part thereof, but not for a longer period than 3 months from the date of the order of suspension. If the investigation cannot be concluded within the period of 3 months, the commission may in its discretion extend the time of suspension for a further period of 5 months; except that the commission may not suspend nor disapprove and no hearing is necessary on any rate increase which does not result in a total increase of the rate on a particular route during a calendar year of more than 7.5% over the rate in effect on that route on January 1st of the calendar year in which the request is made, or on any rate decrease.

2. Joint rates and through routes. Subject to all of the provisions contained in subsection 1, every common carrier may file reasonable joint rates and charges and establish reasonable through routes with any other common carrier or common carriers by railroad, express and water. In the case of joint rates or charges, it shall be the duty of the holders and carriers, who are parties thereto, to establish just, reasonable and equitable divisions thereof between the holders and carriers participating therein which shall not unduly prefer or prejudice any of the participating holders or carriers. The joint rates and charges and through routes may be allowed only if the commission determines the joint rates or charges and through routes to be in the public interest. In determining public interest, the

commission shall take into consideration the effect the joint rates and charges and through routes will have on the potential economic strength of common carriers, or other holders of public convenience and necessity under section 1573, and their importance to the economy of the State, or any part thereof; the benefit to be derived by the public; whether the establishment will facilitate the movement of freight within the State; and other factors or evidence, which are material and relevant thereto. The joint rates or charges and through routes shall in no way constitute an unfair or destructive competitive practice.

3. Interstate rates. Whenever any common carrier shall file with the commission and with the Interstate Commerce Commission a tariff containing both intrastate rates and interstate rates on the same commodity, and prior to the effective date thereof, the interstate rates are suspended by the Interstate Commerce Commission, then the commission shall have power to suspend, at any time within 10 days after the date of the suspension order issued by the Interstate Commerce Commission, the proposed intrastate rates, and the suspension may be kept in full force and effect so long as the interstate rates shall continue under suspension with a reasonable time thereafter for preparation of and issuance of the decision. The commission may hold joint hearings with the Interstate Commerce Commission with respect to the relationship between rate structures and practices of carriers subject to the jurisdiction of the commission and the Interstate Commerce Commission, in accordance with the Act to Regulate Commerce and applicable amendments.

4. Rebates. It shall be unlawful for any person, firm or corporation, or any officer, agent or employee thereof, knowingly to offer, grant or give, or to solicit, accept or receive any rebate, discount, concession or discrimination in violation of any provision of this chapter or chapter 95, or by means of any false or fictitious bill, bill of lading, receipt, voucher, roll, account claim, certificate, affidavit, deposition, lease or bill of sale, or by any other means or device whatsoever, knowingly or willfully assist, suffer or permit any person, firm or corporation to obtain transportation of property subject to this chapter and chapter 95, free or for less than the applicable rate or charge, or by any means, or otherwise, fraudulently seek to evade or defeat regulation as provided in chapters 91 to 97; except that free or reduced rate transportation of property may be given by a holder of a certificate or permit for the same purposes and to the same extent as is authorized by section 103.

This section is repealed on January 1, 1982.

#### § 1577. Contract carrier, defined; regulations

The term "contract carrier" as used in chapters 91 to 97 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 or common carriers of household goods, as such commodity shall from time to time be defined by the commission, over irregular 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. Whether or not other person, firm or corporation is engaging regularly in the transportation business within the meaning of this paragraph shall be a question of fact to be determined by the commission, the Supreme Judicial Court, the Superior Court or the District Court, but the making of 2 trips for hire during any 6-month period shall be deemed as regularly engaging in the transportation business.

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 provided in this section.

1. Permits. No contract carrier shall operate, or cause to be operated, any motor vehicle or vehicles for the transportation of property for hire on any public highway within this State without having obtained a permit from the commission.

2. Application. Applications for permits shall be made in manner and form prescribed by the commission in regulations which it shall make.

3. Hearing; permits. No application for a permit shall be granted by the commission until after a hearing, except that the commission need not require a hearing on any application if, within 15 days of giving notice as required herein, the commission receives no objection to granting the permit. No permit shall be granted if the commission finds that the proposed operation of any contract carrier will be contrary to the declaration of policy of this chapter and chapter 95, or otherwise will not be consistent with the public interest, or will impair the efficient public service of any authorized common carrier or will interfere with the use of the highways by the public. The commission shall give notice of all applications for permits, in such manner and to such persons, firms, corporations and common carriers as it deems necessary. When a hearing is required by this section or when the commission orders a hearing in its discretion, notice of the hearing shall be given to all persons, firms and corporations who seek to be parties in the proceedings at least 7 days prior to the time fixed for hearing. Permits granted by the commission shall authorize only such operations covered by the application as the commission finds to be justified by the evidence, and no permit shall be granted unless it appears that the applicant is fit, willing and able properly to perform the service of a contract carrier by motor vehicle and to conform to this chapter and chapter 95 and to the rules and regulations of the commission issued thereunder. The commission shall specify in the permit the business and operations of the contract carrier covered thereby, and the scope thereof, and shall attach to it, at the time of issuance and from time to time thereafter, such reasonable terms, conditions and limitations as it may find consistent with said chapters. Such terms and conditions may permit such



contract carrier to substitute or add contracts which are within the scope of his permit and may limit the period during which such permit will remain in effect; and such contract carrier shall have the right to add to his equipment and facilities within the scope of the permit as the development of his authorized business may require. Contract carriers now operating by virtue of so-called grandfather rights granted by the commission pursuant to this subsection as originally enacted, and whose present permits, in the opinion of the commission, need clarification, may be directed, upon reasonable notice given as provided, to appear before the commission for further public hearing, at which hearing evidence of regular operation as a contract carrier from March 1, 1932, to June 30, 1933, may be submitted, and the carrier may supplement same by evidence of regular operation subsequent to said period, and the commission shall issue an amended permit in accordance with the facts found on the original and new evidence presented. Said amended permit shall specify the territory within which and the general purposes for which the contract carrier may operate, but said amended permit shall not limit or restrict any rights lawfully existing, as shown by the record on the carrier's application filed in 1933, by virtue of this subsection as originally enacted, and shall not restrict the right of such carrier to substitute or add contracts which are within the scope of his permit or to add to his equipment and facilities within the scope of the permit as the development of the business and the demands of the public have or may require.

4. Rules and regulations. The commission is vested with power and authority and shall have the duty to prescribe rules and regulations covering the operations of contract carriers in competition with common carriers over the highways of this State. Any person, firm or corporation required to obtain a permit under this section shall be subject to all the provisions of sections 299 to 304. The commission may prescribe reasonable minimum rates and charges to be collected by contract carriers. 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 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. Whenever, after hearing, upon complaint of interested parties or in an investigation on its own motion, the commission finds that any minimum rate or charge of any contract carrier for the transportation of property, or any rule, regulation or practice of any such carrier affecting such minimum rate or charge, is unjust or unreasonable, or is contrary to this chapter, it shall prescribe the minimum rate or charge, or such rule, regulation or practice, as it shall find to be just and reasonable and to be necessary or desirable

to carry out the provisions and intent of said chapter. No contract carrier shall charge less than the minimum rates or charges filed with or prescribed by the commission, but nothing in this chapter shall prohibit any contract carrier from charging more than such minimum rates. Nothing in this subsection shall apply to the transportation of property by contract carriers for any common carrier over the highway when the rate charged the public for transportation of such property is already published and filed with the commission.

5. Temporary permit. The Commission may issue a temporary contract carrier permit without holding a hearing when the commission finds that an emergency exists and the proposed operation is not contrary, in the opinion of the commission, to the declaration of policy as set forth in section 1572 and will not seriously infringe on common carrier service. Temporary permits may be issued for 90 days or for the duration of the emergency. No temporary permit shall be issued unless the applicant has paid the fees and procured insurance as required by section 1579, subsection 2 and section 1581 and met any other requirements as may from time to time be prescribed by the commission.

6. Limitation upon holding both permit for common carriers and contract carriers. No person, firm or corporation, who has been issued a common carrier certificate, shall be granted a contract carrier permit which would authorize a transportation service between municipalities or points presently served by virtue of his common carrier certificate unless the commission finds that the public interest so requires, and no person, firm or corporation shall be granted such a contract carrier permit if such person, firm or officers, directors or stockholders of such corporation are those who have been issued a common carrier certificate unless the commission finds that the public interest so requires. Any person, who has been issued a common carrier certificate and a contract carrier permit which authorizes transportation service between municipalities or points being served by virtue of his common carrier certificate, shall relinquish either the certificate or the permit on or before January 1, 1969, unless otherwise authorized to retain both by the commission, and any such contract carrier permit which is relinquished shall not be transferred to any corporation whose officers, directors or stockholders are persons who are presently holding a common carrier certificate. For the purpose of this subsection, "person" shall be defined to include any partnership, corporation, trust or any other association. No carrier operating by virtue of its contract carrier permit shall transport in the same vehicle at the same time any property for hire not authorized by the said permit, nor shall any carrier authorized to operate both as a common carrier and as a contract carrier transport property as a common carrier and as a contract carrier in the same vehicle at the same time.

This section is repealed on January 1, 1982.

#### § 1578. Permits for interstate carriers

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 or

merchandise for hire by motor vehicle upon the public highways of this State, between points within and points without the State or between points without the State but passing through this State, is required to obtain a permit for that operation from the commission. Application for these permits shall be made in the manner and form to be prescribed by the commission in its regulations, and these permits shall issue as a matter of right upon compliance with these regulations and payment of fees, unless the commission finds that the condition of the highways to be used is such that the operation proposed would be unsafe, or the safety of other users thereof would be endangered thereby.

§ 1579. Operations by or with rail or water common carriers

1. Filing of applications; hearings, issuance of certificates. Applications may be filed with the commission by railroads, electric railways, railway express or water common carriers asking its approval of operation by motor vehicles over the highways by or in connection with the service of such carriers, where highway transportation has been substituted by or for such carrier prior to January 1, 1935, for transportation service previously performed by such carrier or is to be substituted for transportation now performed by or for any such carrier. Hearings shall be ordered by the commission on every such application and notice thereof shall be given in such manner and to such persons, firms and corporations as the commission deems necessary at least 7 days prior to the date fixed therefor. If, after such hearing, the commission shall find that the operation is a service which regularly has been performed by or for such carrier prior to and since January 1, 1935, it shall grant a certificate of public convenience and necessity as a matter of right, and in cases where such service regularly has been performed by or for any such carrier prior to January 1, 1935, the service lawfully may be continued pending the issuance of such a certificate, provided application for such a certificate is filed with the commission within 15 days after July 6, 1935. If such service has not been regularly performed prior to and since January 1, 1935, such a certificate shall be issued only if the commission shall find that the public convenience and necessity require and permit such operation. Any applicant common carrier shall be permitted, in cases where any such order of approval is issued, to perform said highway transportation service itself or to contract therefor with such persons, firms or corporations as it may select, if the commission shall find that such arrangement will be consistent with the public interest. Rates to be charged the public for the transportation of property in such service between points in the State shall be filed with the commission and shall be subject to its jurisdiction and regulation in the same manner as is provided in chapters 1 to 17 or chapters 91 to 97, as the same may apply, but such jurisdiction and regulation shall not apply to the compensation to be charged by one carrier to another for performing service authorized in this section.

2. Permits and vehicle identification, fees for; employment of assistance; operation of vehicles, regulated. Each application for a certificate or permit shall be accompanied by a fee of \$25, and each application for amendment of a certificate or permit, for the transfer of a certificate of permit or for the

reopening or rehearing of an application shall be accompanied by a fee of \$10, which is not for revenue purposes, but shall be used by the commission for the purpose of defraying the expenses of administering this Title, and any portion of those fees not used or required for this purpose shall be added to the General Highway Fund. The commission may refuse to furnish identification for any motor vehicle not registered in the name of the holder of a certificate or a permit. Each motor vehicle operated or caused to be operated under this chapter shall at all times display identification to be prescribed and furnished by the commission in accordance with rules and regulations of the commission promulgated therefor.

The charge for such vehicle identification device shall be \$8 for each motor vehicle, and \$2 shall be charged for each transfer of such identification.

The commission is authorized and empowered to employ such assistance, subject to the Personnel Law, and to procure such office supplies and equipment as said commission may determine to be necessary in the administration and enforcement of this chapter and chapter 95. The salary and traveling expenses of employees and all office expense connected with the administration and enforcement of said chapters shall be paid out of the revenues received under this section and section 1584, which shall be set up as a separate fund in the office of the Treasurer of State, to be disbursed under the direct supervision and control of the commission.

It shall be unlawful for any person to act as driver or helper on any motor vehicle, for the operation of which a certificate or a permit is required by this chapter, unless such motor vehicle displays the prescribed identification as required by this section and by rules issued by the commission.

3. Transfers. Any certificate or permit issued under this chapter, except as otherwise provided in section 1573, may be assigned and transferred, with the approval and consent of the commission but not otherwise, by the holder or by the personal representatives of said holder to whom the rights and privileges under said certificate or permit shall pass at the death of said holder. The commission is authorized to prescribe the conditions precedent to such transfer and make any necessary rules and regulations pertaining thereto. The commission may, in its discretion and for good cause shown, issue a temporary authority permitting the transferee to conduct motor carrier operations within the scope of the certificate of the transferor pending final determination by the commission as to whether the petition to assign and transfer said certificate should be granted or denied. No temporary authority shall be issued unless the transferee has paid fees and procured insurance as required by subsection 2 and section 1581. No assignment or transfer of any such certificate granted as a matter of right under this section shall be made which would result in an exclusive right to any railroad company or its subsidiaries to operate motor vehicles for the transportation of freight or merchandise for hire over such route. No certificate or permit granted under this chapter shall be effective after the date, following the year of its issue, on which the right to display the registration plates issued by the Secretary of State on the holder's motor vehicle or vehicles shall have terminated.

4. **Renewals.** Provided application therefor is filed with the commission prior to the expiration date of a certificate or permit issued by the commission, renewals thereof shall be issued upon application made in accordance with the commission's requirements. The commission shall have no power to refuse to renew any existing permit or certificate or to cancel or suspend any such permit or certificate whenever issued except for willful or continued violations of this chapter and chapter 95, or the rules and regulations of the commission thereunder, or where the holder has for a period of one year ceased to conduct operations authorized by such certificate or permit and where upon complaint or the commission's own initiative, it is shown that such cessation of service constitutes an end of the operation to be conducted thereunder, provided that the commission shall not refuse to renew, or cancel or suspend certificates or permits issued as a matter of right until such certificates or permits have been clarified in accordance with statutory provisions therefor. The commission shall not cancel, suspend or refuse to renew a certificate or permit until after public hearing on the matter, at least 10-days' notice of which shall be given to the holder and to such other parties as the commission shall deem proper. No order of the commission suspending, canceling or refusing to renew any existing permit or certificate shall be effective until 10 days after such order has been issued and a copy thereof mailed to the holder of such permit or certificate and to such other parties as were represented at the hearing. Within said period of 10 days any party deeming himself aggrieved by the order of the commission may appeal therefrom to the Superior Court in the country wherein the holder of such permit or certificate resides, and cause notice of such appeal to be served on the commission. Such court, after hearing, shall affirm or reverse the order of the commission. If such appeal be seasonably taken, the order of the commission shall be stayed and the applicant permitted to continue operation, upon payment of the required fees, until final determination of such appeal. If appeal is taken under this section, no appeal shall be taken under section 303.

This section is repealed January 1, 1982.

§ 1580. Rules and regulations

The commission is authorized to make such rules and regulations as it deems necessary or advisable to insure proper administration and enforcement of this chapter and chapter 95 and to promote the safety of the operation of motor carriers over the highways. This authority includes the right to make rules and regulations relating to the length of duty of drivers operating any motor vehicle on the highways of this State engaged in carriage as defined in chapters 91 to 97. These rules and regulations shall conform as nearly as practicable to the standards set forth by the Interstate Commerce Commission pertaining to the length of duty of drivers operating motor vehicles in interstate commerce. The commission is authorized to enter into and make cooperative agreements with the Interstate Commerce Commission and the Department of Transportation to enforce the economic and safety laws and regulations of the United States and this State concerning highway transportation. The commission is authorized to refuse

to renew any certificate issued under this chapter and chapter 95 for any willful or continued violations of these chapters or of any rules or regulations promulgated by the commission pursuant to the authority thereof. The commission may file a complaint in the Administrative Court seeking revocation or suspension of a certificate. It shall be the duty of the State Police, sheriffs and their deputies and all other peace officers to investigate any alleged violations of this chapter and chapter 95 and any rules and regulations promulgated by the commission pursuant to the authority thereof, to prosecute violators of those chapters and those rules and regulations, and otherwise to aid in the enforcement of the provisions thereof.

**§ 1581. Indemnity bonds**

The Secretary of State shall not register any motor vehicle subject to sections 1573, 1577 and 1578 and the commission shall not issue a certificate or a permit covering the operation of any such motor vehicle or vehicles until the applicant for that certificate or permit has procured a good and sufficient insurance policy or indemnity bond, in such amount as the commission 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 commission. The insurance policy or bond shall adequately provide for cargo insurance and for protection of the public in the collection of damages for which the holder of a certificate or permit may be liable by reason of the operation of any such motor vehicle or vehicles. The bond or insurance policy required of applicants for permits need not provide for cargo insurance.

**§§ 1582. Exemptions in operation of motor vehicles**

1. Exemptions. There is exempt from sections 1573 to 1581 the operation over the highways of motor vehicles:

- A. While being used within the limits of a single city or town in which the vehicle is registered by the Secretary of State or in which the owner maintains a regular and established place of business, or within 15 miles, by highway in this State, of the point in that single city or town where the property is received or delivered, but no person, firm or corporation may operate, or cause to be operated, any motor vehicle for the transportation of property for hire beyond those limits without a certificate of fitness and ability;
- B. While engaged, directly or through a contractor, exclusively in construction or maintenance work for any branch of the Government of the United States, or for any department of the State, or for any county, city, town or village;
- C. While engaged exclusively in the transportation of the United States mail;
- D. While engaged exclusively in the transportation of fresh fruits and fresh vegetables from farms to canneries or quick freezing plants, places of storage or places of shipment, or the products of vining and cutting plants to canneries or quick freezing plants, during the harvest season;

**E. While engaged exclusively in the hauling of wood, pulpwood, logs or sawed lumber from the woodlot or forest area where cut or sawed to points within 100 miles thereof, by highway, or while hauling, within that distance, horses, crew, equipment and supplies to or from that woodlot or forest area;**

**F. While engaged exclusively in the transportation of livestock for exhibition purposes, excluding race horses, to and from agricultural fairs and other exhibits;**

**G. While engaged exclusively in the hauling of milk and cream to receiving stations from points within a distance of 25 miles, by highway, from them;**

**H. Of any bona fide agricultural cooperative association transporting property exclusively for the members of the association on a nonprofit basis, or of any independent contractor transporting property exclusively for the association;**

**I. Of any independent contractor while engaged exclusively in the transportation of seed, feed, fertilizer and livestock for one or more owners or operators of farms directly from the places of purchase of the seed, feed, fertilizer and livestock by the owners or operators of the farms to the farms, or in the transportation of agricultural products for one or more owners or operators of farms directly from the farm on which the agricultural products were grown to place of storage or place of shipment within 60 miles, by highway, of the farm;**

**J. While engaged exclusively in the transportation of Christmas trees, wreaths and greens;**

**K. While engaged exclusively in the transportation of disabled, collision damaged, wrecked or repossessed highway motor vehicles within 35 miles, by highway, from the carrier's regular place of business; and**

**L. While engaged exclusively in the transportation of refuse, garbage and trash to disposal areas from points within a distance of 30 miles, by highway, thereof.**

Nothing under this chapter applies to persons, firms or corporations operating motor vehicles carrying property of which they are the actual or bona fide owners, if the ownership is in pursuance of a primary business, other than the transportation business, of those persons, firms or corporations. The exemptions provided in this subsection apply to any nonresident owner or operator of any motor vehicle to the extent that the State, district or country of residence grants the same or similar privileges to residents of this State.

If a state, district or country requires a permit or charges residents of this State any fee for transportation exempted under this subsection, the commission shall require a permit and charge similar fees of residents of that state, district or country. If any state, district, province or country prohibits, in any way, the transportation of wood, pulpwood or logs from that state, district, province or country to this State, of by law or regulation requires a citizen of this State to

establish citizenship, a residence or place of business or to register a business in that state, district, province or country in order to transport wood, pulpwood or logs from that state, district, province or country to this State, similar provisions shall apply to residents of that state, district, province or country who transport wood, pulpwood or logs from Maine to that state, district, province or country. The limitations provided in this subsection shall not apply to the sale of sawlogs and pulpwood, but shall apply to the transportation and methods of transportation of sawlogs and pulpwood.

2. Rate exemptions. There is exempt from the provisions of subsection 1 as to rate regulation the transportation by motor vehicle of property:

A. When moving in interstate commerce; and

B. When moving to warehouses, railroads or boats for reshipment by rail or vessel.

3. Exemptions in retransportation of newspapers. This chapter shall not apply to the transportation of newspapers.

#### § 1583. Exceptions

No provisions in sections 1573, 1577 and 1578 shall authorize the use by any motor vehicle of any highway or street in any charter provision or ordinance thereof, nor shall this chapter and chapter 95 be construed as taking from or in any manner curtailing the right of any municipality to regulate and control the routing, parking, speed or safety of operation of motor vehicles operated under those chapters, or as curtailing the general police power of any such municipality over its highways or streets, nor shall this chapter and chapter 95 be construed as abrogating any law whereby any such municipality has the right to require certain conditions to be complied with before that motor vehicle may be operated on the highways or streets of that municipality.

#### § 1584. Penalties and evidence

1. General penalty. Any person, firm or corporation, or any officer, agent or employee of any corporation who violates, orders, authorizes or knowingly permits a violation of any of the provisions of chapter 93, or any rule, regulation or order made or issued by the commission pursuant to the authority of this chapter and chapter 95 shall be guilty of a Class E crime.

If any such person, after being ordered to appear in court to answer any violation of chapters 91 to 97, fails to appear in court on the day specified, either in person or by counsel, the court shall notify the Secretary of State, who shall, pursuant to Title 29, chapter 17, at the expiration of 10 days after mailing the person, postage prepaid, a notice of his intention to do so, suspend or revoke his license to operate trucks, tractors or semitrailers, if licensed in this State, or suspend or revoke his right to operate trucks, tractors or semitrailers in this State and suspend or annul the registration of the motor vehicle operated or owned by that person so ordered to appear, if the motor vehicle is registered in this State,



and the suspension, annulment or revocation shall continue in effect until that person so appears in court as ordered.

§ 1585. Emergency authority

Whenever the commission deems it to the interest of the people, or in case of any emergency which the commission may adjudge to exist in the transportation of interstate exempt perishable agricultural commodities by motor vehicles for hire, it may temporarily alter, amend or suspend any of its existing regulations relating to the use of motor vehicles for hire operating in the State. This alteration, amendment or suspension of the commission's regulations shall take effect at such time and remain in force for such length of time as may be prescribed by the commission.

§ 1586. Agents for service of process

Each carrier holding a permit or certificate from the commission under chapter 93 shall file with the commission, in writing, an appointment of a resident of this State to be its true and lawful agent, representative or attorney upon whom all lawful processes may be served, and who may be required to appear in court on behalf of the carrier with the same legal force and validity as if the carrier were in court. The written assent of the resident agent, representative or attorney shall be filed with the commission.

Should the carrier fail to file any appointment of a resident agent, representative or attorney as required, the commission shall refuse to issue the permit or certificate or any renewal thereof held by the carrier until such time as the carrier files an appointment of resident agent, representative or attorney in compliance with this section.

If any carrier holding a permit or certificate from the commission has been required to appear in any court, through its appointed lawful agent or attorney, and fails to comply with or satisfy any lawful order or judgment of the court, the court shall so notify the commission, which shall immediately suspend the permit or certificate held by the carrier until such time as the carrier complies with or satisfies the order or judgment.

§ 1587. Vehicle identification device and permit

The commission is authorized to issue a vehicle identification device and permit for each vehicle as a condition to operation on the highways of this State to holders of certificates issued pursuant to section 1505, interstate permits issued pursuant to section 1502, certificates issued pursuant to section 1573, contract carrier permits issued pursuant to section 1577, interstate permits issued pursuant to section 1578 or special or charter bus service licenses issued pursuant to section 1643. The commission may suspend the vehicle permits for violation of state statutes or commission rules and regulations.

§ 1588. Evidence

**The certificate of the clerk of the commission, under the seal of the commission, shall be received in any court of law in this State as prima facie evidence of the making or issuing by the commission of any order, rule or regulation authorized by this chapter and chapter 95 to be made or issued by the commission. The certificate of the Secretary of State or his deputy, under seal of the State, shall be received in any court of law in this State or in any hearing or other proceeding before the commission as prima facie evidence of the issuance, suspension, revocation or restoration of any operator's license or the issuance, suspension, annulment or restoration of any certificate of registration of any motor vehicle under this chapter and chapter 94.**

#### STATEMENT OF FACT

This bill will permit free competition among intrastate motor freight carriers. Free enterprise will be phased in between now and January 1, 1982, to permit current carriers to protect their investments. Thereafter, any citizen or company which can meet financial, safety and insurance requirements may compete on any route in the State. It is the intent of this Act to promote reduced prices through genuine competition in the market place to assist in the economic development of the entire State.