

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES (Filing No. H-928)
109TH LEGISLATURE
SECOND REGULAR SESSION

H.P.

COMMITTEE AMENDMENT "A" to 1771, L.D. 1891, Bill, "AN ACT to Establish a Modified Procedure on Matters before the Public Utilities Commission Relating to Contract Carrier Permits and Special and Charter Bus Licenses."

Amend the bill by striking out everything after the enacting clause and inserting in its place the following:

'Sec. 1. 35 MRSA §1554, 1st sentence is amended to read:

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-not-served by-a-single-common-carrier.~~

Sec. 2. 35 MRSA §1555, sub-§3, first sentence, as repealed and replaced by PL 1977, c. 46, is repealed and the following enacted in its place:

← The commission shall hold a hearing on an application for a permit if a hearing is requested, within 15 days after notice is given, by a common carrier having a direct and substantial interest in the outcome of the proceeding. The commission may, in its discretion, hold a hearing on any application. No application or any part thereof, may be denied without providing the applicant an opportunity for a hearing if requested.

Sec. 3. 35 MRSA §1555, sub-§5, as repealed and replaced by PL 1977,

c. 45, is repealed and the following enacted in its place:

Temporary permit.

5. /The commission may issue a temporary contract carrier permit without holding a hearing when the commission finds that there exists an immediate and urgent need for the proposed operation and that the issuance of a temporary permit will not be contrary to the declaration of policy set forth in /^{section}1551 or seriously infringe on common carrier service. A temporary permit shall be valid for (one hundred and eighty) days unless the commission specifies a shorter time. A common carrier serving in the same area may request a hearing to determine the extent of any infringement on its operations while the permit is in effect. If the commission determines, after hearing, that there will be a serious infringement, the commission shall have authority, notwithstanding Title 5, section/^{10051,} to terminate the temporary permit. The issuance of a temporary permit shall not create a presumption that corresponding permanent authority will be granted thereafter. No temporary permit may be issued unless the applicant has paid the fees and procured insurance as ^{section} as required by /1557, subsection 2 and /^{section}1559 and met any other requirements as may from time to time be prescribed by the commission.

Sec. 4. 35 MRS §1557, sub-§3, 3rd sentence, as enacted by PL1979, c. 100, is repealed the following enacted in its place:
The commission shall hold a hearing on an application for assignment and transfer of a common carrier certificate if a hearing is requested within 15 days after notice of the application is given. The commission may, in its discretion, hold a hearing on any application for assignment and transfer of a common carrier certificate or a contract carrier permit. No application, or any part thereof, may be denied without providing the applicant an opportunity for a hearing if requested.

Sec. 5. 35 MRSA §1643, 3rd, 4th, 5th and 6th sentences, as repealed and replaced by PL 1979, c. 81, are repealed and the following enacted in their place:

The commission shall give notice of the application to any common carrier offering the same or similar service and to such other parties as it deems necessary. The commission shall hold a hearing on the application if a hearing is requested, within 15 days after notice is given, by a common carrier having a direct and substantial interest in the outcome of the proceeding. The commission may, in its discretion, hold a hearing on any application. No application or any part thereof may be denied without providing the applicant an opportunity for a hearing if requested. A license shall be issued to any qualified applicant, authorizing all or any part of the operations covered by the application, if it is found that the applicant is fit, willing and able to perform the service proposed and to conform to the applicable provisions of law and the requirements, rules and regulations of the commission, and that the proposed service to the extent to be authorized by the license is or will be consistent with the public interest and the policy described in section 1641; otherwise the application shall be denied.

Statement of Fact

The purpose of this amendment is to clarify the law with respect to interlining carriers, to consider railroad routes as well as common carrier truck routes with respect to the issue of contract carrier permits and to establish a more lenient standard for the granting of temporary contract carrier permits.

Interlining Carriers

In August 1978, following the investigation of a complaint filed by Fox and Ginn, a common and contract carrier, the Public Utilities Commission issued a decision, mandated by existing law, that may seriously hurt a number of truck carriers unless the law is changed. According to the law, a carrier engaged in tacking cannot charge a single factor rate. For example, if Express Company A provides direct service between Portland and Bangor, this firm can charge a single factor or lower thru rate than it could charge for providing service from Portland to Augusta and then from Augusta to Bangor. If Express Company A purchases one authority to provide service between Portland and Augusta and then purchases another authority to provide service between Augusta and Bangor (tacking) Express Company A cannot charge a thru rate for service between Portland and Bangor. However, until the Commission's decision was rendered and this law clarified, tackers had been charging single factor rates.

As a result of the Commission's decision, firms which have been tacking have asked the Public Utilities Commission for thru authority in order to charge single factor rates, the lower thru rates for direct service . If these firms are granted thru authority, interlining carriers serving these same routes will be prohibited from charging single factor rates and thereby be seriously hurt unless the law is changed as proposed by this amendment. For example, if Express Company B which provides service between Portland and Augusta interlines or combines its authority with Express Company C which provides service between Augusta and Bangor, these firms are prohibited from charging

the lower thru rate or single factor rate between Portland and Bangor as long as Express Company A serves that route. As a result, Companies B and C cannot compete in price with Express Company A.

This amendment allows interlining carriers to charge single factor rates and to compete with carriers with thru authority.

Railroad routes and Common Carrier Truck Routes

The bill allows a common carrier to request the Public Utilities Commission to hold a hearing for the application of a contract carrier to serve the same route as the common carrier. This amendment allows a railroad or water common carrier that may not serve exactly the same route as the proposed contract carrier service but which would be significantly affected by the new service to also request the Public Utilities Commission to hold a public hearing on the contract carrier application. Since railroad tracks and water routes do not follow the same routes as roads, the bill excludes railroads from requesting a public hearing upon a new application for contract carrier service. Nevertheless, a railroad line that serves municipalities from Portland to Bangor would be affected by a proposed contract carrier service between Brunswick and Augusta.

Temporary Contract Carrier Service

This amendment expands the purpose for which a temporary contract carrier permit may be issued. Current law limits temporary contract carrier permits to emergency situations. This amendment uses a standard of an immediate and urgent need which is the same standard used by the Interstate Commerce Commission. Common carriers may request a hearing to determine the extent of the infringement on their operations while the temporary authority

remains in effect.

In addition, the limit of a temporary permit has been increased from 90 days or the duration of the emergency to 180 days. The amendment would also remove any question concerning the requirement of going to the Administrative Court, under Title 5, section 10051, to terminate a permit once it has been issued if a common carrier serving the same area requests a hearing.