

MAINE STATE LEGISLATURE

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New Draft of H. P. 1139, L. D. 1356
FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1678

H. P. 1576

House of Representatives, May 29, 1981

Reported by Representative McKean from the Committee on Public Utilities. Printed under Joint Rules No. 2.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Reform the Regulation of Carriers of Passengers and Freight.

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

Sec. 1. 13-A MRSA § 103, sub-§ 8 is enacted to read:

8. The validity of any corporate act by any railroad or railroad company and of any incorporation, prior to the effective date of this subsection, shall be determined with reference to the law then in effect. The validity of any provision of the articles or bylaws of a railroad or railroad company existing on the effective date of this subsection shall be determined with reference to the law which was in effect when the article or bylaw was adopted. A provision of the articles or bylaws which was valid under the law in existence at the time the provision was adopted shall remain in effect, notwithstanding any contrary provision of this Title, until repealed or amended by voluntary act of the railroad or railroad company, but any amendment thereof shall be adopted by the procedures set out in this Title and shall, as amended, conform to the requirements of this Title.

Sec. 2. 29 MRSA c. 25 is enacted to read:

CHAPTER 25

MAINE HIGHWAY TRANSPORTATION REFORM ACT

§ 2701. Short title

This chapter shall be known and may be cited as the "Maine Highway Transportation Reform Act."

§ 2702. Policy

The Legislature finds that an efficient and safe highway transportation system is essential to the economy of the State. It is the purpose of this chapter to provide for a safe, reliable and efficient motor carrier system by permitting greater entry into and competition within the for-hire transportation industry while promulgating requirements for the State. The Legislature further finds that efficient regulation requires that safety requirements for these carriers be administered by the Bureau of State Police.

§ 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 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.

Notwithstanding the foregoing, any person, firm or corporation transporting freight, merchandise or household goods by motor vehicle for hire in this State, on the effective date of this Act, pursuant to a certificate or permit issued by the Public Utilities Commission 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).

§ 2704. Vehicle identification required

Each motor vehicle 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.

§ 2705. Lapse of permit

If, after obtaining a permit pursuant to section 2703, the holder of the permit fails to obtain an identification device as described in section 2704 within one year after obtaining a permit or fails to renew any identification device for one year, the permit shall lapse and become void.

§ 2706. Elimination of service

No holder of a permit may eliminate service in any municipality in which it provided service prior to the effective date of this Act, which service was authorized by a certificate issued by the Public Utilities Commission, unless that permit holder files, with the bureau and the municipality affected, a written notice of intention to eliminate the service. The written notice shall be given at least 30 days prior to eliminating the service.

§ 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 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" wherever those terms occur in the rules promulgated by the commission. The bureau is authorized to 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 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 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.

§ 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.

§ 2709. Exemptions in operation of motor vehicles

1. Exemptions. There is exempt from this chapter the operation over the highways of motor vehicles transporting freight or merchandise for hire:

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 permit as required by this chapter; nor may any such person, firm or corporation participate in the transportation of property originating or terminating beyond the limits without holding such a permit unless the property is delivered to or received from a carrier over the highways operating under a permit issued by the bureau or railway, railway express or water common carrier, but nothing in this section may prevent a carrier from delivering and picking up with his exempt motor vehicle, in a city or town where he has a terminal, freight and merchandise transported or to be transported over territory for which a permit is required; nothing in this paragraph permits the transportation of freight or merchandise for hire, by motor vehicle, under

any circumstances by any person, firm or corporation beyond the 15-mile limit as prescribed unless the person, firm or corporation holds a permit from the bureau;

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 processing plants or quick freezing plants, places of storage or places of shipment, or the products of vining and cutting plants to processing plants or quick freezing plants;

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 the 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, including race horses, to and from agricultural fairs, race tracks 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 that 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 place 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, processing or 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;

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; and

M. While engaged exclusively in the transportation of sand, gravel, loam, rocks, crushed rock, hot top, cold top and bituminous mixes in dump-truck type ehicles, but not including tractor-trailer vehicles.

Nothing under this chapter applies to persons, firms or corporations operating motor vehicles carrying property of which they are the actual and 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 bureau shall require a permit and charge fees as required by this chapter.

2. Exemptions concerning transportation of newspapers. This chapter does not apply to the transportation of newspapers.

§ 2710. Exceptions

Nothing in this chapter authorizes the use by any motor vehicle of any highway or street in any municipality in violation of any charter provisions or ordinance thereof, nor may this chapter 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 this chapter, or as curtailing the general police power of any such municipality over its highways or streets, nor may this chapter 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 is operated on the highways or streets of that municipality.

§ 2711. 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 this chapter, or any rule issued by the bureau pursuant to the authority of this chapter, or issued by the Public Utilities Commission and remaining in effect pursuant to this chapter, is guilty of a Class E crime.

If any such person, after being ordered to appear in court to answer any violation of this chapter or any rule issued by the bureau or by the Public Utilities Commission and remaining in effect pursuant to this chapter, 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 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 any motor vehicle subject to regulation under this chapter, if licensed in this State, or suspend or revoke his right to

operate in this State, or suspend or revoke his right to operate any motor vehicle subject to regulation under this chapter in the 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 appears in court as ordered.

If any carrier holding a permit from the bureau 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 issued pursuant to this chapter, the court shall notify the bureau, which shall immediately suspend the permit held by the carrier until such time as the carrier complies with or satisfies the order or judgment. In the case of such failure by a carrier holding a license issued under Title 35, section 1505 or holding a license issued under Title 35, section 1643, the court shall notify the Department of Transportation, which shall immediately suspend the certificate or license until such time as the carrier complies with or satisfies the order or judgment.

2. Certificate. The certificate of the Chief of the State Police shall be received in any court of law in this State as prima facie evidence of the making or issuing by the bureau of any rule authorized by this chapter to be made or issued by the bureau. 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 proceeding before the bureau or the Department of Transportation 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 or registration of any motor vehicle.

§ 2712. Agents for service of process

Each holder of a permit from the bureau under this chapter shall file with the bureau, 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 bureau and shall be valid until revoked.

Should the carrier fail to file any appointment of a resident agent, representative or attorney as required, the bureau shall refuse to issue the permit 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.

§ 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 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. 3. 30 MRSA § 4972, last 2 sentences, as enacted by PL 1979, c. 505, § 6, are repealed as follows:

~~In the case of a district that receives funds administered by the Department of Transportation, the Commissioner of Transportation shall appoint an additional member to the board of directors who shall sit formally as a member of the board, except that he shall neither vote upon official matters nor be counted for quorum purposes. The additional member shall serve at the pleasure of the Commissioner of Transportation~~

Sec. 4. 30 MRSA § 4984, as amended by PL 1979, c. 663, § 201, is repealed and the following enacted in its place:

§ 4984. Membership

Any municipality so located as to be contiguous to any other municipality authorized to provide transportation services in accordance with this chapter or contiguous to any municipality which is a member of the transit district may make application to the transit district and the board of directors may accept or refuse the application for the membership.

Sec. 5. 35 MRSA § 15, sub-§ 3 is repealed.

Sec. 6. 35 MRSA § 15, sub-§ 13 is amended to read:

13. Public utility. "Public utility" includes every ~~common-carrier~~ gas company, natural gas pipeline company, electrical company, telephone company, telegraph company, water company, public heating company, wharfinger and warehouseman, as those terms are defined in this section, and each thereof is declared to be a public utility and to be subject to the jurisdiction, control and regulation of the commission, and to chapters 1 to 17. **Nothing in this subsection precludes the jurisdiction, control and regulation by the commission pursuant to private and special Act of the Legislature.**

Sec. 7. 35 MRSA § 15, sub-§ 14 is amended to read:

14. Railroad. "Railroad," as used in chapters 51 to 57, includes every commercial, interurban and other railway and each and every branch and extension thereof by whatsoever power operated, together with all tracks, bridges, trestles, rights-of-way, subways, tunnels, stations, depots, union depots, ferries, yards, grounds, terminals, terminal facilities, structures and equipment and all other real estate, fixtures and personal property of every kind used in connection therewith, owned, controlled, operated or managed for public use in the transportation of persons or property.

Sec. 8. 35 MRSA § 15, sub-§ 15 is amended to read:

15. Railroad company. "Railroad company," as used in chapters 51 to 57, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any railroad for compensation within this State.

Sec. 9. 35 MRSA § 17, sub-§ 1, first sentence, as enacted by PL 1979, c. 427, is amended to read:

Every electric, gas, telegraph, telephone and water utility subject to regulation by the commission **and every water carrier subject to the jurisdiction of the commission pursuant to private and special Act of the Legislature** shall be subject to an assessment of not more than .2% of the intrastate gross operating revenues of each utility to produce no more than ~~\$150,000~~ \$600,000 in revenue annually.

Sec. 10. 35 MRSA § 17, sub-§ 1, ¶ B, as repealed and replaced by PL 1979, c. 614, is amended to read:

B. For the purposes of this section, intrastate gross operating revenues means intrastate revenues derived from filed rates, except revenues derived from ~~fuel adjustment charges and~~ sales for resale.

Sec. 11. 35 MRSA § 17, sub-§ 2, as enacted by PL 1979, c. 427 is amended by adding at the end a new sentence to read:

The commission shall also report annually, before February 1st, to the joint standing committee of the Legislature having jurisdiction over public utilities on its planned expenditures for the year and on its use of funds in the previous year.

Sec. 12. 35 MRSA § 17, sub-§ 4, as amended by PL 1979, c. 663, section 218, is further amended to read:

4. **Use of funds.** The Public Utilities Commission is authorized to ~~hire 4 fund~~ ~~22 employees to be funded~~ from the revenues provided in this section to defray the costs incurred by the commission pursuant to this Title and to include administrative expenses, general regulatory expenses, consulting fees and all other reasonable costs incurred to administer this ~~chapter and chapters 2 to 17~~ Title.

Sec. 13. 35 MRSA § 66 is repealed and the following enacted in its place:

§ 66. Adherence to rate schedules; change in form of schedules

It is unlawful for any public utility to charge, demand, collect or receive a greater or less compensation, except as otherwise provided in section 103, for any service performed by it within the State or for any service in connection therewith, than is specified in such printed schedules as may at the time be in force, or to demand, collect or receive any rate, toll or charge not specified in the schedules. The rates, tolls and charges named therein shall be the lawful rates, tolls and charges until they are changed as provided in chapters 1 to 17. The commission may prescribe such changes in the form in which the schedules are issued by any public utility as may be found to be expedient.

Sec. 14. 35 MRSA §§ 67 and 68 are repealed.

Sec. 15. 35 MRSA § 70, as last amended by PL 1975, c. 771, § 394, is repealed.

Sec. 16. 35 MRSA § 211, last sentence is repealed.

Sec. 17. 35 MRSA § 212, last sentence is amended to read:

This section shall not apply to any ~~railroad corporation engaged in interstate commerce while and so long as such corporation is required by federal law to make application to and procure consent from the Interstate Commerce Commission as a condition precedent to any such abandonment of property or discontinuance of service as is herein contemplated; nor to action under any order of a court having and exercising jurisdiction over a public utility in bankruptcy, foreclosure or receivership proceedings.~~

Sec. 18. 35 MRSA § 255 is repealed.

Sec. 19. 35 MRSA § 297, 2nd ¶, first sentence, is amended to read:

Whenever any public utility ~~except a common carrier or carrier of persons or property for hire~~ has been notified by the commission that a public hearing will be held as provided in section 69 or section 293 and it appears to the commission that reasonable publicity has not or will not be given, by newspaper publication or otherwise, of the time and place of said hearing and the general nature thereof, the commission, in its discretion, may, by written notice to such public utility, require it to give such reasonable notice as the commission shall specify of the time and place of such public hearing to each of the subscribers affected or to be

affected by such rates or service and to file at the same time in the office of the clerk of the municipalities wherein such subscribers reside such pertinent information as the commission may prescribe as to rates and services involved, including schedules of any proposed rates.

Sec. 20. 35 MRSA § 298, 2nd sentence is amended to read:

The commission may authorize reparation or adjustment where the utility admits that a rate charged was excessive or unreasonable or collected through error, and where it further appears that the utility, within 90 days ~~or in the case of railroads 6 months~~ after the rendering of any service within the State under such rate, has filed a reduced rate in place of the rate which admittedly was excessive or unreasonable or collected through error.

Sec. 21. 35 MRSA c. 51, sub-c. I, as amended, is repealed.

Sec. 22. 35 MRSA c. 51, sub-c. I-A is enacted to read:

SUBCHAPTER I-A

ORGANIZATION

§ 631. Approval of location; proceedings

Every corporation organized under this Title or under Title 13-A, before commencing the construction of its road, shall present to the Department of Transportation a petition for approval of location, defining its courses, distances and boundaries accompanied with a map of the proposed route, and with a profile of the line on the relative scales of profile paper in common use, and with a report and estimate prepared by a skillful engineer from actual survey. The department shall, on presentation of that petition, appoint a day for hearing, and the petitioners shall give such notice as the department deems reasonable and proper, in order that all persons interested may have an opportunity to appear and object. If the department, after hearing the petition, approves the proposed location, the corporation may proceed with the construction, provided they first file with the clerk of the county commissioners of each county through which the road passes a plan of the location of the road, defining its courses, distances and boundaries, and a copy of the plan with the department; but the location so filed shall not vary, except to avoid expense of construction, from the route first presented to the department. The location, together with any variation made therein, shall be filed within two years from the time when the articles of incorporation are filed in the office of the Secretary of State. The Department of Transportation, upon written application, may extend the time of filing the variations in its discretion. No railroad may be made across tide waters where vessels can navigate without first obtaining special permission of the Legislature.

§ 632. Location; subscribers' objections; proceedings

The railroad shall be located within the time and substantially according to the description of its charter, and the location shall be filed with the county

commissioners, who shall endorse the time of filing thereon and order that location recorded. When a corporation, by its first location, fails to acquire the land actually embraced in its roadway, or the location as recorded is defective or uncertain, it may, at any time, correct and perfect its location and file a new description. In that case, it is liable in damages, by reason of the new or amended location, only for land embraced therein for which the owner had not previously been paid. Railroad charters whenever granted, limiting the time within which the railroad must be completed do not affect the portion completed within that time, and all charters under which railroads have been constructed for a portion of the line authorized are confirmed and made valid as to that portion.

Sec. 23. 35 MRSA § 652, as amended by PL 1965, c. 91, § 6, is repealed and the following enacted in its place.

§ 652. Land for improvements; proceedings

Any railroad corporation may purchase or take and hold, as for public uses, additional land or rights therein, at any time required for improving the alignment or grades of its road, or for double tracking its road, or for protecting the tracks against erosion of adjoining or adjacent land or against the action of the elements, or reasonably necessary in the enhancement of public safety at dangerous curves or crossings; and land or rights therein, for borrow, ballast and gravel pits, necessary tracks, side-tracks, spur tracks, freight or passenger yards, stations, station grounds, approaches to stations and station grounds and to other facilities furnished by the railroad for public use, coal sheds, woodshed, water tanks, repair shops, car, engine, freight and section houses, section dwellings houses and storage warehouses, or other structures, which the Department of Transportation, after hearing, shall find to be reasonably required in the safe, economical and efficient operation of the railroad and in rendering of adequate service to the public. If the owner or owners of that land do not consent, or if the parties do not agree as to the necessity for the taking or as to the area to be taken, or if the parties are unable to agree as to the fair value of the land, the corporation may make written application to the Department of Transportation requesting its approval of the taking by the railroad corporation for any of such public uses, describing the land and appurtenances and naming the persons interested. The department shall then appoint a time for a hearing near the premises and require notice to be given to the persons interested, as they may direct, at least 14 days before that time. The department shall then view the premises, hear the parties, determine how much, if any, of the real estate should be taken for the reasonable accommodation of the traffic, the safe operation of the railroad and the appropriate business of the corporation, and enter an order containing a definite description of the real estate and furnish the corporation with a true copy of the order. When a certified copy of the order is filed with the registry of deeds in the county where the land lies, the land shall be deemed and treated as taken. When land is held by a tenant for life and the reversion is contingent as to the persons in whom it may vest on the termination of the life estate, that fact shall be stated in the application, and the department shall, in addition to the notice to the tenant for

life, give notice by publication to all others interested, in such manner as it deems proper.

Sec. 24. 35 MRSA § 653 is amended to read:

§ 653. Change in location

Any railroad corporation ~~under the direction of the commission~~ may make any changes in the location of its road which it deems necessary or expedient and such changes shall be recorded where the original location was required by law to be recorded.

Sec. 25. 35 MRSA § 656 is repealed and the following enacted in its place:

§ 656. Branch tracks

Any railroad corporation may locate, construct and maintain branch railroad tracks to any railroad station of another corporation or to connect with another railroad or to any mills, mines, quarries, gravel pits, log landing or yard, warehouses and storehouses, airports, piers, docks, shipyards, educational institutions or manufacturing establishments erected, or in process of erection, in any town or township through which the main line of that railroad is constructed, but not within any city without the consent of the city government, and for that purpose the corporation shall have all the powers and rights granted and be subject to all the duties imposed upon it by its charter.

Sec. 26. 35 MRSA § 618, first and 2nd sentences are repealed and the following enacted in their place:

For real estate taken pursuant to section 652, the owners are entitled to damages to be paid by the corporation. The corporation shall attempt to settle the amount of damages, with the consent of the owners, within 60 days from the date of the taking. If all parties do not agree on the amount of damages, they shall be estimated by the county commissioners on written application by either party. The county commissioners shall estimate the damages within one year of the date application is made. When no estimate is made within that time, the owner may maintain a civil action or have any remedy provided.

Sec. 27. 35 MRSA §§ 777 and 778 are repealed.

Sec. 28. 35 MRSA § 779, 2nd sentence is amended to read:

When application is made to take such grounds, the ~~commission~~ Department of Transportation, upon notice and hearing thereon, shall determine whether the land proposed to be taken is necessary or not and whether any public necessity requires it to be taken.

Sec. 29. 35 MRSA § 780 is amended to read:

§ 780. Use of passenger stations

Whenever any railroad passenger station shall be erected or maintained in any city or town in this State, any railroad corporation having or using a track or

passenger station within such city or town shall have the right to run its passenger trains to and from such station, over any railroad track or tracks leading thereto, and to use the same for the purpose of delivering and receiving through passengers, under such reasonable terms and regulations and over such tracks as may be agreed upon by the owner of such station, the railroad whose tracks are used in running to and from the same and the railroad corporation so desiring its use for said purpose, and in case of disagreement, upon petition, notice and hearing thereon, the ~~commission~~ **Department of Transportation** shall fix and determine such terms, tracks and regulations. No corporation which shall deny, in any proceedings, the authority of the ~~commission~~ **Department of Transportation** to proceed and make the determination, or which shall refuse to abide by ~~their~~ **its** decision rendered therein, shall avail itself of this section.

Sec. 30. 35 MRSa § 781, as amended by PL 1977, c. 694, § 667, is repealed.

Sec. 31. 35 MRSa §§ 782, 783 and 784 are repealed.

Sec. 32. 35 MRSa § 827, as amended by PL 1977, c. 341, § 11, is further amended to read:

§ 827. Report of decisions and copies to parties interested

The ~~commission~~ **Department of Transportation** shall make a report in writing of ~~their~~ **its** decision in all matters named in section 826, file the same in ~~their~~ **its** office, and cause a copy of such decision to be sent by mail to each of the railroad corporations and to the municipal officers of the cities or towns, as the case may be, interested therein.

Sec. 33. 35 MRSa § 964 is repealed.

Sec. 33-A. 35 MRSa § 965 is repealed.

Sec. 34. 35 MRSa § 965-A is enacted to read:

§ 965-A. Discontinuance of service

No railroad or railroad company may discontinue service to any point served prior to the effective date to this section unless the railroad or railway company has filed with the Department of Transportation and with any municipality affected by the discontinuance of service and, in the case where service is discontinued solely to one shipper, with that shipper, a written notice of intention to discontinue that service. The written notice shall be given at least 30 days prior to discontinuing the service. This section does not apply to any railroad corporation engaged in interstate commerce while and so long as that corporation is required by federal law to make application to and procure consent from the Interstate Commerce Commission as a condition precedent to any such abandonment of property or discontinuance of service as is contemplated in this section.

Sec. 35. 35 MRSa § 966 is repealed.

Sec. 36. 35 MRSa § 967, as amended by PL 1977, c. 234, § 9, is repealed.

Sec. 37. 35 MRSA §§ 968-971 are repealed.

Sec. 38. 35 MRSA § 1138 is repealed and the following enacted in its place:

§ 1138. Organization certificate filed with Secretary of State

Whenever a corporation is organized under section 1093, 1131 or 1135, or under any other law by which a return is not specifically required, the corporation shall file with the Secretary of State a certificate signed and sworn to by the president, treasurer and a majority of the directors of that corporation, setting forth the name of the corporation and all facts as to that organization which are necessary to give full information in relation to that organization. The organization of that corporation shall date from, and it shall have the authority and rights of a corporation, only after filing the certificate.

Sec. 39. 35 MRSA § 1194 is repealed and the following enacted in its place:

§ 1194. Orders of commission

The Superior Court is given full jurisdiction to enforce compliance with any order issued prior to the effective date of this sentence by the Public Utilities Commission or any order issued by the Department of Transportation under this chapter. It is the duty of the Department of Transportation to see that the rights of the public under this chapter are fully protected.

Sec. 40. 35 MRSA § 1501 is repealed and the following enacted in its place:

§ 1501. Jurisdiction of Department of Transportation and Bureau of State Police

The Department of Transportation, in chapters 91 and 97 called the "department," has jurisdiction over every person, firm or corporation operating, without state or municipal subsidies, any motor vehicle upon any public street or highway for the common carriage of passengers for hire, by indiscriminately receiving and discharging passengers along regular routes between points within this State. 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 these routes, whether the departure is periodic or irregular. Application for an original certificate shall be accompanied by a fee of \$25; yearly renewals and amendments, by a fee of \$15 and transfer of a certificate, by a fee of \$15. The funds so received by the department shall be used to defray the expenses of the department in connection therewith and the expenses incurred by the Bureau of State Police pursuant to Title 29, chapter 25.

The Bureau of State Police has jurisdiction over all matters pertaining to the safety of carriers regulated by this chapter. The provisions of Title 29, chapter 25, are expressly made applicable to the extent not inconsistent with this chapter.

Sec. 41. 35 MRSA § 1501-A is enacted to read:

§ 1501-A. Exemption; nonprofit community organization

Chapters 91 and 97 do not apply to operations or activities, otherwise subject to those provisions, conducted within a specific municipality or community by a nonprofit organization existing within that community. An organization taking advantage of this section may not engage in special or charter transportation.

Sec. 42. 35 MRSA § 1502 is amended to read:

§ 1502. Permit to operate interstate buses

In order that there may be proper supervision and control of the use of the highways of this State, every person, firm or corporation regularly engaged in transporting passengers for hire as a common carrier or special or charter carrier by motor vehicle upon the public highways between points within and points without the State is required to obtain a permit for such operation from the ~~commission department~~. ~~Whether or not any person is so regularly engaged shall be a question of fact to be determined by the commission~~ Application for such permits shall be made in the manner and form to be prescribed by the ~~commission department~~ department in its regulations, and such permits shall issue as a matter of right upon compliance with such regulations and payment of fees, unless the ~~commission department~~ department shall find 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. **Any rules promulgated by the Public Utilities Commission pursuant to this section and in effect on the effective date of this sentence shall remain in effect until superseded by rules promulgated by the department. The terms "Department of Transportation" or "department" shall be substituted for the terms "Public Utilities Commission" or "commission" wherever those terms occur in the rules promulgated by the commission.**

Sec. 43. 35 MRSA § 1503 is amended to read:

§ 1503. Rules governing use of motor vehicles

The ~~commission department~~ department is authorized to make from time to time rules and regulations governing the operation of the motor vehicles described in sections 1501 and 1502, which shall include provisions concerning the route of operation, schedule to be operated and maintained, rates of fare to be charged for the carriage of passengers ~~the safeguarding of passengers and other persons using the streets and highways~~ and such other reasonable regulations as may be deemed necessary for the ~~safety or~~ convenience of the public. **Any rules promulgated by the Public Utilities Commission pursuant to this section in effect on the effective date of this sentence shall remain in effect until superseded by rules promulgated by the department. The terms "Department of Transportation" or "department" shall be substituted for the terms "Public Utilities Commission" or "commission" wherever those terms occur in the rules promulgated by the commission. Any rules relating to safety are governed by Title 29, chapter 25. The power and authority conferred upon the commission in section 299 is made applicable to this chapter**

The power and authority conferred upon the Commissioner of Transportation

pursuant to Title 23, section 4206, subsections 5 and 6, apply to this chapter. The commissioner may appoint, to serve during his pleasure, examiners, who, being first duly sworn, may conduct hearings, administer oaths and affirmations, issue subpoenas, and compel the attendance and testimony of witnesses and the production of papers, records, books and documents. Evidence so taken and received has the same force and effect as though taken and received by the commissioner and the department may act as though the evidence was taken and received by the commission. The presiding officer shall, at the outset of any hearing, inform the public as to the steps necessary to preserve any right to appeal the final order or decision of the department to the Supreme Judicial Court under the provisions of section 303, except that references in that section to the Public Utilities Commission shall be deemed to be references to the Department of Transportation.

Any person, firm or corporation required to procure a certificate under section 1505 shall be subject to all the provisions of sections 141, 212 and 300 to 304, except that whenever the term "commission" appears in those sections, the term "department" shall be substituted therefor, and to such orders and rules ~~and regulations~~ as shall be adopted and promulgated ~~by the commission under the authority of chapters 1 to 17~~ by the department under the authority of Title 23.

Sec. 44. 35 MRSA § 1505, as amended by PL 1969, c. 181, § 1, is repealed and the following enacted in its place:

§ 1505. Certificates for operation

No person, firm or corporation may operate a motor vehicle or vehicles as described in section 1501 on any street or highway in any city or town of this State, without first obtaining from the department a certificate permitting that operation. The department may not issue an original certificate or amend a certificate unless it finds that public convenience and necessity require that operation. The department shall give notice of any application for a certificate to any common carrier offering the same or similar service and to such other parties as the department deems necessary. The department 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 department 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. In determining whether a certificate shall be granted, the department shall take into consideration 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, the safety of the public using those highways and whether granting the authority will impair the efficient common carrier public service of any authorized common carrier. At any hearing, the burden of proof shall be on the protesting carrier to demonstrate that a certificate should not be issued.

The department may, in its discretion and for good and sufficient reason, issue a temporary certificate authorizing any operation for which application has been made pursuant to the preceding paragraph. No temporary certificate may be issued for a period longer than 90 days. No temporary certificate may be issued, unless the applicant has paid the fees and has established proof of financial responsibility for liability for personal injury or property damage as required by sections 1510 to 1512.

Any certificate issued by the Public Utilities Commission prior to the effective date of this section and pursuant to this section shall be deemed to have the same force and effect as any certificate issued by the department after the effective date of this section.

Sec. 45. 35 MRSA § 1506 is amended to read:

§ 1506. Certificate required

Any person, firm or corporation operating a motor vehicle or motor vehicles as described in section 1501 on any street or highway in this State, without having obtained from the ~~commission department~~ a certificate permitting such operation, may be restrained and enjoined from such operation upon a complaint addressed to the Superior Court and brought by the department or by any certificate holder under this chapter ~~or by any carrier of passengers for hire under any other law of this State providing same or similar service.~~

Sec. 46. 35 MRSA § 1507 is amended to read:

§ 1507. Transfer of certificate

Any such certificate may be assigned and transferred, with the approval and consent of the ~~commission department~~ but not otherwise, by the holder or the personal representatives of said holder to whom the rights and privileges under said certificate shall pass at the death of said holder. The ~~commission department~~ is authorized to prescribe the conditions precedent to such transfer and make any necessary rules ~~and regulations~~ pertaining thereto. ~~Any rules promulgated by the Public Utilities Commission pursuant to this section and in effect on the effective date of this sentence shall remain in effect until superseded by rules promulgated by the department. The terms "Department of Transportation" or "department" shall be substituted for the terms "Public Utilities Commission" or "commission" wherever those terms occur in the rules promulgated by the commission.~~

Sec. 47. 35 MRSA § 1508, as amended by PL 1977, c. 694, § 668, is further amended to read:

§ 1508. Revocation of certificate

The ~~commission department~~ shall have the right to file a complaint in the Administrative Court seeking revocation of the certificate of any person, firm or corporation who shall fail to comply with the rules ~~and regulations~~ as provided in section 1503 ~~or with any rules promulgated pursuant to Title 29, section 2707 and~~

applicable to this chapter. This section is applicable to any failure to comply with rules promulgated by the Public Utilities Commission remaining in effect after the effective date of this sentence.

Sec. 48. 35 MRSA § 1509 is amended to read:

§ 1509. Records and reports to be filed

Every person, firm or corporation operating any motor vehicle under this chapter shall keep an accurate record of the mileage, of the number of trips made, number of passengers carried, of the receipts from operation, operating and other expenses, etc. and shall file with the ~~commission~~ department, at such times and in such form as it may prescribe, reports duly verified covering the period fixed by the ~~commission~~ department. The ~~commission~~ department shall prescribe the character of the information to be embodied in such reports and furnish a blank form therefor. **Compliance with any requirements promulgated by the Public Utilities Commission pursuant to this section shall be deemed to be compliance with this section until such time as requirements are promulgated by the department.**

Sec. 49. 35 MRSA § 1510 is amended to read:

§ 1510. Financial responsibility for personal injury or property damage

The Secretary of State shall not register any motor vehicle subject to the supervision and control of the ~~commission~~ department under this chapter, and the ~~commission~~ department shall not issue a certificate permitting the operation of such motor vehicle, and no person or persons shall operate or cause to be operated upon any public highway any such motor vehicle unless, in the opinion of the ~~commission~~ department, the owner or owners thereof are financially responsible through insurance, indemnity bond or otherwise to respond to any legal liability for personal injury, the death of any person or property damage which may result from or have been caused by the use or operation of such motor vehicle.

When, in the opinion of the ~~commission~~ department, the carrier's insurance, indemnity bond or other proof of financial responsibility is inadequate to meet its legal liabilities under this section, the ~~commission~~ department shall forthwith require that the registration plates issued to said carrier by the Secretary of State be returned thereto.

Sec. 50. 35 MRSA § 1511 is amended to read:

§ 1511. Extent of financial responsibility

The extent to which such financial responsibility shall be required shall be determined by the ~~commission~~ department and shall be subject to change from time to time. **The determination last made by the Public Utilities Commission under this section shall remain in effect until replaced by the determination of the department.**

Sec. 51. 35 MRSA § 1512 is amended to read:

§ 1512. Filing of proof

The ~~commission~~ **department** may require such proof of insurance or indemnity bond or such form of insurance or indemnity bond or such appointment of agent for service of process or the deposit or segregation of such securities or such proof of other type of financial responsibility as it shall deem appropriate to the establishment and continuance of such financial responsibility. **No requirements promulgated by the Public Utilities Commission pursuant to this section and in effect on the effective date of this sentence shall lapse until they are superseded by requirements promulgated by the department.** No insurance or indemnity bond given to satisfy the requirements of sections 1510 to 1512 shall lapse, expire or be cancelled until at least 30 days' written notice shall have been given to the ~~commission~~ **department** and the Secretary of State of an intention to cancel by the insurer or bond guarantor. Carriers may appeal from the ~~commission's~~ **department's** decision under sections 1510 to 1512 as prescribed ~~in applicable provisions of chapters 1 to 17 in section 303.~~

Sec. 52. 35 MRSA § 1513 is amended to read:

§ 1513. Notice to company of injury or damage

Any person sustaining bodily injuries, or injury to or destruction of his property, and the personal representatives of any person sustaining death by reason of any accident arising out of the ownership, operation, maintenance or use upon the ways of the State of any motor vehicle subject to the supervision and control of the ~~commission~~ **department**, shall within one year thereafter give to the company or individuals executing any motor vehicle liability bond as surety for the owner or the person responsible for the operation of such motor vehicle involved in such accident, or to the liability insurance company issuing the motor vehicle liability policy covering such owner or other person, a notice in writing of the time, place and cause of the said injury, death or damage.

Sec. 53. 35 MRSA § 1514 is amended to read:

§ 1514. Limitation of action

Civil actions for injuries to the person or for death and for injuries to or destruction of property, caused by the ownership, operation, maintenance or use on the ways of the State of motor vehicles, subject to the supervision or control of the ~~commission~~ **department**, shall be commenced only within 2 years ~~next~~ after the cause of action occurs.

Sec. 54. 35 MRSA c. 93, as amended, is repealed.

Sec. 55. 35 MRSA c. 95 is repealed.

Sec. 56. 35 MRSA § 1641 is amended to read:

§ 1641. Policy

It is declared to be the policy of this State to regulate **to the extent provided by**

this chapter or by Title 29, chapter 25, transportation by “special or charter carrier of passengers by motor vehicle”, as defined in section 1642, to the end that the highways may be rendered safer for the use of the general public and in such manner as to recognize and preserve the inherent advantages of, and foster sound economic conditions in, ~~such transportation and among such carriers and~~ carriers to whom a certificate has been issued under section 1505 in the public interest; promote safe and adequate ~~economical and efficient~~ service by such carriers of passengers by motor vehicle ~~and reasonable charges therefor without unfair or destructive competitive practices.~~

Sec. 57. 35 MRSA § 1642, sub-§ 2 is amended to read:

2. Capacity. Motor vehicles having a capacity of not more than 6 passengers operated ~~in what is commonly known as taxicab service, unless such service becomes, or is held out to be regular service between fixed termini, localities, areas or territories over irregular routes and without a fixed schedule;~~

Sec. 58. 35 MRSA § 1643, as last amended by PL 1979, c. 702, § 5, is further amended to read:

§ 1643. License required

No person shall operate a motor vehicle for the transportation of passengers in special or charter service as defined in section 1642 on any street or highway in any city or town of this State unless there is in force with respect to such person a license issued by the ~~commission~~ **department** authorizing such operations. Application for such licenses shall be made in writing to the ~~commission~~ **department** and shall be in such form and contain such information as the ~~commission~~ **department** may require. The ~~commission~~ **department** 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~~ **department** 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~~ **department** 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. **At any hearing, the burden of proof shall be upon the protesting carriers to demonstrate that a license should not be issued.** 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 ~~and rules and regulations~~ of the ~~commission~~ **department**, 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. In determining whether issuance of a license will be consistent with the public interest and the policy described in section 1641, the ~~commission~~ **department** shall consider the nature of the service proposed and the demand therefor and the ability of existing authorized ~~common~~

carriers to ~~perform the service~~ **satisfy the demand** and the effect which the granting of the license would have upon the services of the protesting carriers. Any license issued shall specify the service to be rendered and the territory within which the licensee is authorized to operate; and there shall, at the time of issuance and from time to time thereafter, be attached to the exercise of the privilege granted by the license such reasonable terms, conditions and limitations as the public interest may, from time to time, require. The ~~commission~~ **department** shall have the right to file a complaint in the Administrative Court seeking the suspension or revocation of any license issued. Applications for an original license shall be accompanied by a fee of \$25; yearly renewals and amendments requiring a public hearing, by a fee of \$15; and transfer of a license, by a fee of \$15. The funds so received by ~~said commission~~ **the department** shall be used to defray the expenses of ~~said commission~~ **the department** in connection therewith **and the expenses incurred by the Bureau of State Police pursuant to Title 29, chapter 25. Any license issued by the Public Utilities Commission prior to the effective date of this sentence and pursuant to this section shall be deemed to have the same force and effect as any license issued by the department after that effective date.**

1. **Assignment and transfer of licenses.** Any license issued under this chapter may be assigned and transferred, with the approval and consent of the department but not otherwise, by the holder or by the personal representatives of the holder to whom the rights and privileges under the license shall pass at the death of the holder. The department may prescribe the conditions precedent to the transfer and may make any necessary rules pertaining to the transfer. The department shall give notice of all requests for assignment and transfer in such manner and to such persons, agencies and carriers as it deems necessary. The department shall hold a hearing on an application for assignment and transfer of a special or charter license if a hearing is requested within 15 days after notice of the application is given, by a common carrier having a direct and substantial interest in the outcome of the proceeding. The department may, in its discretion, hold a hearing on any application for assignment and transfer of a special or charter license. No application, or any part of the application, may be denied without providing the applicant an opportunity for a hearing if requested. The department may, in its discretion and for good cause shown, issue a temporary authority permitting the transferee to conduct special or charter passenger operations within the scope of the license of the transferor pending final determination by the department as to whether the petition to assign and transfer the license should be granted or denied. No temporary authority may be issued unless the transferee has paid fees, procured insurance and is in compliance with the department's rules governing the transportation of passengers for hire.

2. **Temporary permits.** The department may issue a temporary special or charter license without holding a hearing when the department finds that there exists an immediate and urgent need for the proposed operation, and that the issuance of a temporary license will not be contrary to the declaration of policy set forth in section 1641 or seriously infringe on common carrier service. A

temporary license is valid for 180 days unless the department 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 license is in effect. If the department determines, after hearing, that there will be a serious infringement, the department may, notwithstanding Title 5, section 10051, terminate the temporary license. The burden of proof shall be upon the common carrier to demonstrate serious infringement. The issuance of a temporary license does not create a presumption that corresponding permanent authority will be granted thereafter. No temporary license may be issued unless the applicant has: Paid the fees as required in this section; established proof of financial responsibility for personal injury or property damage as required by section 1510 and 1511; and met any other requirements as may from time to time be prescribed by the department.

Sec. 59. 35 MRSA § 1644, as amended by PL 1969, c. 181, § 2, is further amended to read:

§ 1644. Certificate holders exempted

A license shall not be required to be obtained by a common carrier transporting passengers under a certificate issued pursuant to section 1505 and such common carriers may transport between any points in the State of Maine special or charter parties under such rules and regulations as the ~~commission~~ department shall have prescribed. ~~The holding of special or charter authority under this section does not give the holder the right to protest applications for authority filed under sections 1505 and 1643, unless the carrier can demonstrate that the granting of authority under those sections will effect the carrier's special or charter authority in such a way as to cause serious infringement on its common carrier operations.~~ This section shall not apply to the holders of a ~~trial~~ temporary certificate as described in section 1505. Any rules promulgated by the Public Utilities Commission pursuant to this section and in effect on the effective date of this sentence shall remain in effect until superseded by rules promulgated by the department. The terms "Department of Transportation" and "department" shall be substituted for the terms "Public Utilities Commission" or "commission" wherever those terms occur in the rules promulgated by the commission.

Sec. 60. 35 MRSA § 1645 is amended to read:

§ 1645. Rules

The ~~commission~~ department may, from time to time, establish reasonable rules and regulations covering the operation of motor vehicles under a license granted pursuant to section 1643. Any rules promulgated by the Public Utilities Commission pursuant to this chapter and in effect on the effective date of this sentence shall remain in effect until superseded by rules promulgated by the department. The terms "Department of Transportation" and "department" shall be substituted for the terms "Public Utilities Commission" and "commission" wherever those terms occur in the rules promulgated by the commission. ~~The commission may require holders of licenses issued under section 1643 to file with~~

~~the commission and publish and keep open for public inspection schedules containing all rates, fares and charges of such carriers for the transportation of persons, and any rule, regulation or provision effecting such charges and value of service thereunder, or, in the alternative, the commission may establish minimum mileage rates, and in determining such rates the commission shall consider as a part of the rate base the elements of waiting time, deadhead mileage and the type of equipment employed~~

The Bureau of State Police shall have jurisdiction over all matters pertaining to the safety of carriers regulated by this chapter. The provisions of Title 29, chapter 25, are expressly made applicable to the extent not inconsistent with this chapter.

Sec. 61. 38 MRSA § 1155 is amended by adding after the first sentence a new sentence to read:

If any sewer line of any sanitary district as provided above crosses the property or line of any railroad corporation, the procedure shall be the same as stated in the preceding sentence, except that the Department of Transportation shall be substituted for the Public Utilities Commission.

Sec. 62. Transitional provisions. All of the records of the Transportation Division of the Public Utilities Commission shall remain in the custody and control of the Public Utilities Commission, unless the Chairman of the Public Utilities Commission, the Commissioner of Public Safety and the Commissioner of Transportation decide otherwise. All equipment and property funded, prior to the effective date of this Act, by the Highway Fund shall be apportioned between the Public Utilities Commission, the Department of Transportation and the Bureau of State Police in accordance with any recommendation made jointly by the Chairman of the Commissioner of Public Safety and the Commissioner of Public Safety and the Commissioner of Finance and Administration and approved by the Governor.

The following 16 positions shall be transferred to the Department of Public Safety:

Public Utility Investigator III	1
Public Utility Investigator II	2
Public Utility Investigator I	5
Clerk IV	1
Clerk Typist III	1
Clerk III	1
Clerk Typist II	5

Position incumbents shall be transferred without loss of accrued sick leave, vacation pay or other benefits or status. Position incumbents shall be determined in accordance with applicable provisions of governing collective bargaining agreements.

There shall be no reduction in the scope of or the level of effort in the areas of safety and insurance regulation of carriers of freight or passengers for hire.

Sec. 63. Lapse of funds from the Public Utilities Commission Transportation Division Fund. Any balance in the Public Utilities Commission Transportation Division Fund shall lapse to the Transportation Safety Fund on January 1, 1982.

Sec. 64. Transfer of funds. Notwithstanding any other provisions of law, on January 1, 1982, \$225,000 shall be transferred from the Transportation Safety Fund to the Public Utilities Commission Regulatory Fund set up pursuant to the Revised Statutes, Title 35, section 17. The purpose of this transfer is to allow funding during the period January 1, 1982, through June 30, 1982, for general commission activities, previously funded from the Public Utilities Commission Transportation Division Fund.

Sec. 65. Transitional allocation of the Public Utilities Commission Regulatory Fund. Notwithstanding any other provision of law, moneys from the Public Utilities Commission Regulatory Fund for the fiscal years from January 1, 1982, to June 30, 1982, and from July 1, 1982, to June 30, 1983, shall be segregated, apportioned and expended as designated in the following schedules:

	1981-82	1982-83
(January 1, 1982- June 30, 1982)		

ECONOMIC DEVELOPMENT

Public Utilities Commission

Regulatory Fund

Positions	(18)	(18)
Personal Services	183,816	367,632
All Other	41,184	82,368
	\$225,000	\$450,000
Total		

This allocates the Public Utilities Commission Regulatory Fund which is required by Public Law 1979, chapter 427.

Sec. 66. Transitional allocation of Transportation Safety Fund. Notwithstanding Title 29, section 2713, subsection 2, moneys in the Transportation Safety Fund during the fiscal years from January 1, 1982 to June 30, 1982, and from July 1, 1982, to June 30, 1983, shall be segregated, apportioned and expended as designated in the following schedules:

POLICY AREA CODE # UMBRELLA IDENTITY Program	ALLOCATION FROM TRANSPORTATION SAFETY FUND	
	1981-82	1982-83
06 PUBLIC PROTECTION		
16 DEPARTMENT OF PUBLIC SAFETY		
Public Safety-Motor Carrier Safety Unallocated	\$225,000	\$450,000
07 TRANSPORTATION		
17 DEPARTMENT OF TRANSPORTATION		
Transportation-Passenger Carrier Activities Unallocated	\$ 5,000	\$ 5,000

Any balance in the fund on or after June 30, 1982, shall be allocated in accordance with Title 29, section 2713.

Sec. 67. Effective date. This Act shall take effect on January 1, 1982.

STATEMENT OF FACT

This new draft eliminates economic regulation of the intrastate trucking, moving van and railroad businesses. It will allow free entry and promote competition, which in turn will allow for a more effective transportation system and assist in the economic development of the State.

An Attorney General's investigative report in 1978 found that Public Utilities Commission regulation of motor carriers overly protects the carriers, creates higher cost of service, increases rates and promotes inefficiency. The study concluded that "arbitrary price changes, interlining regulations and back haul restrictions significantly affect consumers and the business world in a very adverse way. Rates do not reflect the costs of service."

Deregulation of intrastate motor carriers in Delaware and New Jersey has resulted in lower rates and industry stability, while maintaining present levels of service. In addition, Arizona and Florida have recently deregulated their intrastate trucking industries. In movement toward less government regulation and greater reliance on the competitive marketplace, reform of the transportation industries is an important step.

This was recently recognized by the United States Congress, which eased interstate truck economic regulation in 1980.

The new draft requires all carriers, buses and vans, with certain enumerated exceptions, to meet minimum safety and insurance requirements to be set by the Department of Public Safety, instead of the Public Utilities Commission. Thus, enforcement activities would be concentrated in the state's enforcement agency, resulting in more effective operations.

Buses will be subject to economic regulation by the Department of Transportation instead of the Public Utilities Commission.

Railroads will continue to be subject to extensive safety regulations by the Department of Transportation.

The entire Transportation Division of the Public Utilities Commission will be eliminated, resulting in a net reduction in the state payroll expenses. In addition, more time would be available to the Public Utilities Commission to concentrate on the demanding tasks of regulating the electric, telephone and water utilities.

This new draft establishes a Transportation Safety Fund to receive the revenues produced from a continuation of the fees currently paid by motor carriers to the Public Utilities Commission. That fund will be used to finance the safety and insurance regulating responsibilities imposed on the Department of Public Safety, and the regulatory responsibilities of the Department of Transportation under this law. Any balance in the fund will be available for allocation in the same way as the Highway Fund.

The new draft results in a net decrease of 15 state employees. Abolition of the Transportation Division reduces the Public Utilities Commission by 31 positions. Of these, 16, with their incumbents, are transferred to the Department of Public Safety. The others are no longer needed due to the reduced regulatory burden.

There is a net reduction of \$432,000 in the Public Utilities Commission budget, even though assessment of utilities for the Public Utilities Commission's Regulatory Fund are increased to provide continued funding for 18 general purpose positions formerly funded by transportation fees.

Finally, the new draft includes transitional provisions to ensure continuity of these programs from now until the next biennium begins on July 1, 1983.