

MAINE STATE LEGISLATURE

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NEW DRAFT

E I G H T Y - S I X T H L E G I S L A T U R E

Legislative Document

No. 1000

S. P. 629

In Senate, March 21, 1933.

Tabled by Senator Weatherbee of Penobscot pending acceptance of either report and 500 copies ordered printed.

ROYDEN V. BROWN, Secretary.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED THIRTY-
THREE

AN ACT Providing for the Regulation of the Use of the Highways by
Motor Vehicles Transporting Property for Hire in the State of Maine,
and for the Supervision and Control of Such Motor Vehicles.

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

Transportation by Motor Truck

Common Carrier

Sec. 1. Declaration of policy. The business of operating motor trucks for hire on the highways of this state affects the interests of the public. The rapid increase in the number of trucks so operated, and the fact that they are not effectively regulated, have increased the dangers and hazards on public highways, and make more effective regulation necessary to the end that highways may be rendered safer for the use of the general public; that the wear of such highways may be reduced; that discrimination in rates charged may be eliminated; that congestion of traffic on the highways may be minimized; that the use of the highways for the transportation of property for hire may be restricted to the extent required by the necessity of the general public, and that the various transportation agencies of the State may be adjusted and correlated so that public highways may serve the best interest of the general public.

Common Carrier

Sec. 2. Certificate from commission required before operation. No person, corporation, partnership, railroad, street railway or other transportation company shall operate any motor vehicle 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 between points within this state without having obtained from the public utilities commission (in this and the following sections hereinafter called the "commission") a certificate declaring that public necessity and convenience require and permit such operation. The words "regular routes" as used in this act mean those routes over which any person, firm or corporation is usually or ordinarily operating any motor vehicle, even though there may be departures from said routes, whether such departure be periodic or irregular. Whether or not any motor vehicle is being operated over regular routes within the meaning of this chapter shall be a question of fact to be determined by the commission. Immediately after the effective date of this act, the commission shall have authority and jurisdiction to determine applications for such certificates. 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 hereinafter prescribed, the commission shall within a reasonable time fix the time and place for a hearing thereof. A written notice of such hearing and of the right to file a protest in accordance with the commission's requirements shall be mailed by the commission at least 10 days before the hearing of such application, to the applicant, to all common carriers (including steam and electric railway companies) serving any part of the route to be served by the applicant, to the chairman of the state highway commission 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 such 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 such protest. After such 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 same, or to issue it for the partial exercise only of the privilege sought, and may attach to the exercise of the rights granted by such certificate such terms and conditions as in its judgment public convenience and interest may require; provided, however, if no pro-

test to the granting of the certificate be filed with the commission prior to the date fixed for the hearing and if the commission is satisfied that the privilege sought by the applicant is convenient or 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 such 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 such additional service and that public convenience will be promoted thereby. A certificate shall be granted as a matter of right when it appears to the satisfaction of the commission, after a hearing, that an adequate and responsible service is being rendered by the applicant over the route or routes covered by the application, and that the applicant has been operating substantially uninterrupted service over said route or routes from the 1st day of March, 1932, and in cases where such service has been rendered the operation may lawfully be continued pending the issue of such certificate, provided application therefor is made within 15 days from the effective date of this act. Except as above provided, if 2 or more operators who have been engaged in the transportation of property as common carriers before this act becomes effective apply for a similar certificate authorizing them to perform substantially the same service in the same territory under similar conditions, and if the commission shall be of opinion, in accordance with the provisions of this section, that certificates should be granted to some but not all of such applicants, preference shall be given to the operator or operators who have been longest engaged in such service, provided such service has been rendered in accordance with the requirements of the law.

Sec. 3. Regulations and law applicable to such carriers. Any person, firm or corporation required to procure a certificate of public convenience and necessity under the provisions of the preceding section shall be subject to all the provisions of chapter 62 of the revised statutes so far as applicable, and to such orders, rules and regulations as shall be adopted and promulgated by the commission under the authority of said chapter, and such 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 said chapter, except that sections 40 to 44, both inclusive, of said chapter shall not so apply

Sec. 4. Schedules of rates to be filed. The owner and/or operator of every motor vehicle subject to the 2 preceding sections shall file with the commissioner a schedule or schedules showing the rates or charges for service rendered or furnished or to be rendered or furnished within the state. Such rates shall be just and reasonable. Such schedule or schedules shall be subject to the approval of the commission. No such owner or operator shall charge, demand, exact, receive or collect for any service rendered an amount greater or less than the rate specified in such schedule or schedules, nor shall any such carrier refund or remit in any manner by any device any portion of the rate so specified, nor make or give any unreasonable preference or advantage to any person, nor subject any person to any unreasonable prejudice or discrimination. The commission may, on its own motion or on complaint by any interested party, after notice and hearing, allow or disallow, alter or prescribe such rates.

Contract Carrier

Sec. 5. "Contract Carrier" defined. The term "contract carrier" as hereinafter used is intended to include all operators of motor vehicles transporting freight or merchandise for hire other than common carriers over regular routes; except that the term shall not be construed to include any person, firm or corporation who does not engage regularly in the transportation business but who on occasional trips transports the property of others for hire. Whether or not any 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.

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

A. No contract carrier shall operate 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.

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

C. No application for permit shall be granted by the commission until after a hearing, nor shall any such permit be granted if the commission shall be of the opinion that the proposed operation of any such contract carrier will impair the efficient public service of any authorized common carrier or common carriers then adequately serving the same territory. The commission shall give written notice of such hearing to all persons or corporations interested in or affected by the issuance of such permit at least 10 days prior to the time fixed for such hearing. A permit shall be granted as a matter of right when it appears to the satisfaction of the commission, after hearing, that the applicant has been regularly engaged in the business of a contract carrier as herein defined within this state, from the 1st day of March, 1932; and in such cases, operation may lawfully be continued pending the issuance of such permit, provided application therefor is made within 15 days from the effective date of this act.

D. The commission is hereby vested with power and authority and it is hereby made its duty to prescribe rules and regulations covering the operation of contract carriers in competition with common carriers over the highways of this state, and the commission shall prescribe minimum rates and charges to be collected by contract carriers which shall not be less than the rates charged by such common carriers for substantially the same or similar service. Nothing in this paragraph shall apply to the transportation of property by motor vehicle for any common carrier when the rate charged the public for transportation of such property is already published and filed with the commission.

Interstate Transportation

Sec. 6. Permit to operate. In order that there may be proper supervision and control of the use of the highways of this state, every common carrier and every contract carrier regularly engaged in transporting freight or merchandise between points within and points without the state, (and all persons making 2 or more such trips in any 30 day period shall be deemed to be so regularly engaged) is hereby required to obtain a permit for such operation from the commission. 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 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 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.

General Provisions

Sec. 7. Fees for permits. Each application for a certificate or permit shall be accompanied by a fee of \$15, which is not for revenue purposes, but is to be used by the commission for the purpose of defraying the expenses of administering this act, and any portion of such fees not used or required for this purpose shall be added to the general highway funds of the state. Distinguishing plates shall be prescribed and furnished by the commission for, and shall be displayed at all times on, each motor vehicle operated under the provisions of the foregoing sections. The charge for each set of plates shall be \$2. Any certificate or permit issued under the provisions of this act except as otherwise provided in section 3 hereof 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. Provided, however, that 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 act shall be effective after the 1st day of January of the year following the year of its issue. Renewals shall be issued upon application made in accordance with the commission's requirements upon the payment of the fees prescribed for original applications, provided, however, that the commission shall have no power to refuse to renew any existing permit or certificate or to cancel any such permit or certificate whenever issued except for wilful or continued violations of the provisions of this act or the regulations of the commission and after a hearing, at least 10 days' notice of which shall be given to the holder of the permit or certificate. And provided further that no order of the commission refusing to renew any existing permit or certificate shall be effective until 10 days after the same has been issued and a copy thereof mailed to the holder of such permit or certificate. Within said period of 10 days any party deeming himself aggrieved by the order of the commission may appeal therefrom to the term of the Superior Court next to be held in the county 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 be taken under this section, no exceptions shall be taken under section 63 of chapter 62 of the revised statutes.

Sec. 8. Length of duty of driver limited. It shall be unlawful for any driver to operate or for the owner thereof to require or permit any driver to operate any motor vehicle for the transportation of freight for hire on the highways of this state, when the driver has been continuously on duty for more than 12 hours, and after a driver has been continuously on duty for 12 hours it shall be unlawful for him to operate or for the owner of the vehicle to permit him to operate any such motor vehicle on the highways of this State until he shall have had at least 8 consecutive hours off duty.

It shall be unlawful for any driver to operate or for the owner thereof to require or permit any driver to operate any motor vehicle for the transportation of freight for hire on the highways of this state when the driver has been on duty more than 16 hours in the aggregate in any 24-hour period, and when a driver has been on duty 16 hours in any 24-hour period, it shall be unlawful for him to operate or for the owner thereof to require or permit him to operate a motor vehicle on the highways of this state until he shall have had at least 10 consecutive hours off duty. Periods of release from duty herein required shall be given at such place and under such circumstances that rest and relaxation from the strain of the duties of the employment may be obtained. No period off duty shall be deemed to break the continuity of service unless it be for at least 3 consecutive hours at a place where there is opportunity for a rest. In case of an unforeseen emergency the driver or chauffeur may complete his run or tour of duty if such run or tour of duty, but for the delay caused by such emergency, would reasonably have been completed without a violation of this section.

The commission shall have authority to make such rules and regulations as it deems necessary or advisable to insure proper enforcement of the provisions of this section.

Sec. 9. Indemnity bonds. The secretary of state shall not register any motor vehicle subject to the provisions of sections 2 and 5, and the commission shall not issue certificates or permits covering the operation of such motor vehicle, and no person, firm or corporation shall operate or cause to be operated upon any public way any such motor vehicle until the owner or owners thereof have procured a good and sufficient insurance policy or indemnity bond 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) and which

insurance policy or bond shall adequately provide for the reasonable protection of the patrons of the motor vehicle for hire and of the public in the collection of damages for which the owner or operator may be liable by reason of the operation of any such motor vehicle, provided, however, that the bond or insurance policy required of the contract carrier need not provide for the protection of its patrons.

Sec. 10. Exemptions. There shall be exempted from the provisions of the foregoing sections 2 to 9, inclusive, (1) motor vehicles operating exclusively within the limits of a single city or incorporated town or within 15 miles of the limits thereof; (2) motor vehicles while engaged exclusively in 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; (3) motor vehicles while engaged exclusively in the delivery of the United States mail. Nothing in this act contained shall apply to owners or operators of motor vehicles carrying their own property.

Sec. 11. Further exceptions. No provisions in sections 2 or 5 shall authorize the use by any motor vehicle of any highway or street in any municipality in violation of any charter provision or ordinance thereof, nor shall this act be construed as taking from, or in any manner curtailing, the right of any city, town or village to regulate and control the routing, parking, speed or safety of operation of motor vehicles operated under the provisions of this act, or as curtailing the general police power of any such city, town or village over its highways or streets, nor shall this act be construed as abrogating any provisions of law whereby any such municipality has the right to require certain conditions to be complied with before such motor vehicle shall be operated on the highways or streets of such city, town or village.

Sec. 12. Penalty. Any person, firm or corporation violating any of the provisions of the 11 preceding sections shall be punished by a fine of not less than \$10 nor more than \$500, or by imprisonment for not more than 11 months, or by both fine and imprisonment.

Sec. 13. Validity of act. If for any reason, any section, subsection, sentence, clause or phrase of the foregoing sections 1 to 9, inclusive, of this act shall be held unconstitutional, such decision shall not affect the validity of any other portion.

It is hereby declared to be the legislative intent that said sections would have been adopted had such void or ineffective article, section, subsection, sentence, clause or phrase not been included therein.'