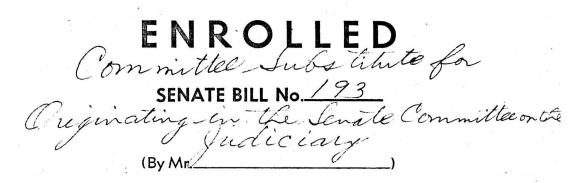
WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1945



PASSED March 10 1945

In Effect. 90-dap from Passage

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ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 193

(Originating in the Senate Committee on the Judiciary.)

[Passed March 10, 1945: in effect ninety days from passage.]

AN ACT to amend and reenact section five, article two, and section three, article three, chapter twenty-four-a of the code of West Virginia, one thousand nine hundred thirtyone, as amended, relating to the issuance of certificates and permits to motor carriers by the public service commission of West Virginia.

Be it enacted by the Legislature of West Virginia:

That section five, article two, and section three, article three, chapter twenty-four-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows: Enr. Com. Sub. for S. B. No. 193] 2

Article 2. Common Carriers by Motor Vehicle.

Section 5. Certificates of Convenience and Necessity; 2 Hearing on Application; Transfer; Revocation.-(a) It shall be unlawful for any common carrier by motor ve-3 hicle to operate within this state without first having ob-4 tained from the commission a certificate of convenience 5 and necessity. Upon the filing of an application for such 6 certificate and after hearing thereon, if the commission 7 finds from the evidence that the public convenience and 8 necessity require the proposed service or any part thereof, 9 10 it shall issue the certificate as prayed for, or issue it for 11 the partial exercise only of the privilege sought, and may 12 attach to the exercise of the right granted by such certificate such terms and conditions as in its judgment the 13 14 public convenience and necessity may require, and if the commission shall be of the opinion that the service ren-15 dered by any common carrier holding a certificate of con-16 17 venience and necessity over any route or routes in this state is in any respect inadequate or insufficient to meet 18 the public needs, such certificate holder shall be given 19 20 reasonable time and opportunity to remedy such in21 adequacy or insufficiency before any certificate shall be granted to an applicant proposing to operate over such 22 23 route or routes as a common carrier. Before granting a 24 certificate to a common carrier by motor vehicle the com-25 mission shall take into consideration existing transporta-26 tion facilities in the territory for which a certificate is sought, and in case it finds from the evidence that the 27 28 service furnished by existing transportation facilities is 29 reasonably efficient and adequate, the commission shall 30 not grant such certificate.

31 (b) The commission shall prescribe such rules and 32 regulations as it may deem proper for the enforcement 33 of the provisions of this section, and in establishing that 34 public convenience and necessity do exist the burden of 35 proof shall be upon the applicant. The commission may 36 designate any of its employees to take evidence at the 37 hearing of any application for a certificate and submit 38 findings of fact as a part of a report or reports to be made 39 to the commission.

40 (c) No certificate issued in accordance with the terms41 of this act shall be construed to be either a franchise or

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42 irrevocable or to confer any proprietary or property rights 43 in the use of the public highways. No certificate issued 44 under this act shall be assigned or otherwise transferred 45 without the approval of the commission. Upon the death 46 of a person holding a certificate, his personal representa-47 tive or representatives may operate under such certificate 48 while the same remains in force and effect and, with the 49 consent of the commission, may transfer such certificate.

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Article 3. Contract Carriers by Motor Vehicle.

Section 3. Permit; Hearing on Application; Transfer; 2 Revocation.—(a) It shall be unlawful for any contract carrier by motor vehicle to operate within this state with-3 out first having obtained from the commission a permit. 4 5 Upon the filing of an application for such permit, the commission shall fix a time and place for hearing thereon 6 and after hearing shall grant or deny the permit prayed 7 8 for or grant it for the partial exercise only of the privilege sought, and may attach to the exercise of the privilege 9 10 granted by such permit such terms and conditions as in 11 its judgment are proper and will carry out the purpose 12 of this chapter. No permit shall be granted unless the

13 applicant has established to the satisfaction of the com-14 mission that the privilege sought will not endanger the 15 safety of the public or unduly interfere with the use of the 16 highways or impair unduly the condition or unduly in-17 crease the maintenance cost of such highways, directly or indirectly, or impair the efficient public service of any 18 authorized common carrier or common carriers adequate-19 20 ly serving the same territory.

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(b) The commission shall prescribe such rules and regulations as it may deem proper for the enforcement of the provisions of this section and may designate any of its employees to take evidence at the hearing on any application for a permit and submit findings of fact as a part of report or reports to be made to the commission.

(c) No permit issued in accordance with the terms
of this act shall be construed to be either a franchise or
irrevocable or to confer any proprietary or property rights
in the use of the public highways. No permit issued under this act shall be assigned or otherwise transferred
without the approval of the commission. Upon the death
of a person holding a permit, his personal representative

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34 or representatives may operate under such permit while 35 the same remains in force and effect and, with the consent of the commission, may transfer such permit. 36

37 (d) The commission may at any time, for good cause, suspend and, upon not less than fifteen days' notice to 38 39 the grantee of any permit and an opportunity to be heard, 40 revoke or amend any permit.

41 (e) Every contract carrier by motor vehicle who shall 42 cease operation or abandon his rights under a permit is-43 sued shall notify the commission within thirty days of 44 such cessation or abandonment.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled. onis Chairman Senate Committee Chairman House Committee Originated in the Takes effect passage ora Clerk of the Senat Clerk of the House of Delegates President of the Senate mos Speaker House of Delegates this the 16 The within (anch _. 1945. day of. Governor. Find in the office of the Secretary of MAR 1 6 1945 of West Virginia Wm. S. O'BRIEN, Secretary of State The second