

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1947



ENROLLED

HOUSE BILL No. 410

(By Mr. Hambarger & Mr. Flacuss)



PASSED March 7, 1947

In Effect May 1, 1947 ~~Passage~~



410

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**House Bill No. 410**

(BY MR. HANSBARGER and MR. FLACCUS)

[Passed March 7, 1947; in effect May 1, 1947.]

AN ACT to amend and reenact sections two and three, article one; section five, article five; section four, five and six, article six; article seven; and to repeal article four, all of chapter twenty-four-a of the code of West Virginia, one thousand nine hundred thirty-one, relating to regulation of motor carriers of passengers and property for hire.

*Be it enacted by the Legislature of West Virginia:*

That article four, chapter twenty-four-a of the code of West Virginia, one thousand nine hundred thirty-one, be repealed; that sections two and three, article one; section five, article five; sections four, five and six, article six; and article seven, of said chapter, be amended and reenacted to read as follows:

**Article 1.**

Section 2. *Definitions.*—When used in this act: (a)

2 the term "motor vehicle" means, and includes, any auto-  
3 mobile, truck, tractor, truck-tractor, trailer, semi-trail-  
4 er, motor bus, taxicab, any self-propelling motor-driven  
5 motor vehicle, or any combination thereof, used upon  
6 any public highway in this state for the purpose of trans-  
7 porting persons or property; (b) the term "public high-  
8 way" means any public street, alley, road, or highway,  
9 or thoroughfare of any kind in this state used by the  
10 public; (c) the term "commission" means the public  
11 service commission of West Virginia; (d) the term  
12 "person" means and includes any individual, firm, co-  
13 partnership, corporation, company, association, or joint  
14 stock association, and includes any trustee, receiver, as-  
15 signee, or personal representative thereof; (e) the term  
16 "common carrier by motor vehicle" means any person  
17 who undertakes, whether directly or by lease or any other  
18 arrangement, to transport passengers or property, or  
19 any class or classes of property, for the general public  
20 over the highways of this state by motor vehicles for  
21 hire, whether over regular or irregular routes, including  
22 such motor vehicle operations of carriers by rail, water

23 or air and of express or forwarding agencies, and leased  
24 or rented motor vehicles, with or without drivers; (f)  
25 the term "contract carrier by motor vehicle" means any  
26 person not included under paragraph (e) of this section,  
27 who under special and individual contracts or agree-  
28 ments, and whether directly or by lease or any other  
29 arrangement, transports passengers or property over  
30 the highways in this state by motor vehicle for hire; (g)  
31 the term "motor carrier" includes both a common carrier  
32 by motor vehicle and a contract carrier by motor vehicle;  
33 (h) the term "exempt carrier" means any person operat-  
34 ing a motor vehicle exempt from the provisions of this  
35 act under section three thereof.

Sec. 3. *Exemptions.*—The provisions of this act, ex-  
2 cept where specifically otherwise provided, shall not  
3 apply to: (a) motor vehicles operated exclusively in the  
4 transportation of United States mail or in the transpor-  
5 tation of newspapers; (b) motor vehicles owned and  
6 operated by the United States of America, the state of  
7 West Virginia, or any county, municipality, or county  
8 board of education, or by any department thereof, and

9 any motor vehicles operated under a contract with a  
10 county board of education exclusively for the transpor-  
11 tation of children to and from school or such other  
12 legitimate transportation for the schools as the commis-  
13 sion may specifically authorize; (c) motor vehicles  
14 owned and operated by farmers for the transportation,  
15 with or without compensation, of agricultural products  
16 produced on the farm owned or leased by such farmer,  
17 or on lands within a radius of eight air miles of such  
18 farm or lands, or the transportation of agricultural sup-  
19 plies to be used on such farm or lands, and in the trans-  
20 portation by such farmer, of fresh fruits, raw milk, or  
21 livestock, from point of production to markets or pro-  
22 cessing plants, packing houses, railroad stations and cold  
23 storage plants.

**Article 4. This article is hereby repealed.**

**Article 5.**

Sec. 5. *Further Regulatory Powers of the Commis-*  
2 *sion.*—The commission shall:

3 (a) Prescribe rules of practice and procedure, the  
4 method and manner of holding hearings, and for taking

5 evidence on all matters that may come before it, and enter  
6 such orders as may be just and lawful. In the investiga-  
7 tions, preparations, and hearings of cases, the commission  
8 shall not be bound by the technical rules of pleading and  
9 evidence, but in that respect it may exercise such discre-  
10 tion as will facilitate its efforts to understand and learn  
11 all the facts bearing upon the right and justness of the  
12 matters before it.

13 (b) Appoint such employees as may be necessary to  
14 carry out the provisions of this act, and shall fix their  
15 respective salaries or compensation. Such employees  
16 shall hold office during the pleasure of the commission.  
17 The commission may designate such employees as it  
18 deems necessary to take evidence at any hearing held  
19 or required by the provisions of this act, which employees  
20 are hereby empowered to administer oaths in all parts of  
21 the state so far as the exercise of such power is properly  
22 incidental to the performance of their duties in connec-  
23 tion with the provisions of this act.

24 (c) Prescribe a schedule of fees to accompany ap-  
25 plications for certificates of convenience and necessity

26 and permits and for the filing and recordation of other  
27 papers with the commission. The commission shall like-  
28 wise prescribe a schedule of fees to be charged for the  
29 certification of all records and papers and sums to be  
30 paid witnesses and other costs necessary and incident to  
31 hearings before it or its employees and order the same  
32 paid by the unsuccessful party. Sums collected in this  
33 manner, except witness fees, shall be paid into the state  
34 treasury and be credited to the public service commis-  
35 sion motor carrier fund provided for in section six of  
36 article six of this act. The witness fees shall be paid to  
37 the persons who are entitled thereto.

38 (d) Establish a system of accounts to be kept by  
39 motor carriers or classify motor carriers and establish  
40 a system of accounts for each class, and prescribe the  
41 manner in which such accounts shall be kept. It may also  
42 in its discretion prescribe the form of accounts, records,  
43 and memoranda to be kept by such motor carriers, in-  
44 cluding the accounts, records, and memoranda for the  
45 movement of traffic as well as the receipts and expendi-  
46 tures of money, and any other forms, records and memo-

47 randa which in the judgment of the commission may be  
48 necessary to carry out any of the provisions of this  
49 chapter.

50 (e) Require persons subject to the provisions of this  
51 chapter, to furnish any information which may be in  
52 their possession, or obtainable from their accounting or  
53 other records, respecting rates, charges, classifications,  
54 or practices in conducting their business, and to furnish  
55 the commission at all times for inspection any books or  
56 papers or reports and statements, which reports and  
57 statements shall be under oath, when so required by the  
58 commission, and the form of all reports required under  
59 this act shall be prescribed by the commission.

60 (f) Either as a commission or by any of its members,  
61 or by designated employees, subpoena witnesses and take  
62 testimony, and administer oaths to any witness in any  
63 proceeding or examination instituted before it or  
64 conducted by it with reference to any matter  
65 within its jurisdiction. In all hearings or proceedings  
66 before the commission or its designated employees the  
67 evidence of witnesses and the production of documentary



68 evidence may be required at any designated place of  
69 hearing within the state; and in the case of disobedience  
70 to a subpoena or other process the commission or any  
71 party to the proceedings before the commission may in-  
72 voke the aid of any circuit court in the state in requiring  
73 the evidence and testimony of witnesses and the produc-  
74 tion of papers, books, and documents. And such court,  
75 in case of refusal to obey the subpoena issued to any per-  
76 son or to any motor carrier subject to the provisions of  
77 this chapter, shall issue an order requiring such motor  
78 carrier or any person to appear before the commission  
79 or designated employees and produce all books and  
80 papers, if so ordered, and give evidence touching the mat-  
81 ter in question. Any failure to obey such order of the  
82 court may be punished by such court as contempt thereof.

83 A claim that such testimony or evidence may tend to in-  
84 criminate the person giving the same shall not excuse  
85 such witness from testifying, but such witness shall not  
86 be prosecuted for any offense concerning which he is  
87 compelled hereunder to testify.

88 (g) Require common carriers by motor vehicle and

89 contract carriers by motor vehicle subject to the provi-  
90 sions of this act either to procure insurance from a com-  
91 pany authorized to write such insurance in West Vir-  
92 ginia, or to qualify as a self-insurer, or to deposit such  
93 security, upon such terms and conditions and for such  
94 limits of liability as the commission shall determine to  
95 be necessary for the reasonable protection of the travel-  
96 ing, shipping, and general public against injury, loss,  
97 damage or default for which such carrier may be liable,  
98 and prescribe rules and regulations governing the filing  
99 of evidence of such insurance and such security with the  
100 commission. In fixing the amount of such insurance  
101 policy or policies, the qualifications as a self-insurer, or  
102 the deposit of security, the commission shall give due  
103 consideration to the character and amount of traffic,  
104 the value of the property transported, the number of  
105 persons affected, and the degree of danger involved in  
106 any such motor carrier operation.

107 (h) Cooperate with the federal government and the  
108 interstate commerce commission of the United States or  
109 any other commission or organized delegated authority

110 to regulate interstate or foreign commerce by motor  
111 vehicles, and it shall be its duty so to do, to the end that  
112 the transportation of persons and property by motor  
113 vehicles in interstate and foreign commerce into and  
114 through the state of West Virginia may be regulated and  
115 the laws of the United States and of the state of West  
116 Virginia enforced and administered cooperatively in the  
117 public interest.

118 (i) Make agreements on behalf of the state of West  
119 Virginia with any other state or states providing for  
120 reciprocal rights, privileges, and courtesies between the  
121 licensees or holders of certificates and permits of the  
122 said state or states and the state of West Virginia re-  
123 specting certificates and permits, fees, assessments, and  
124 identification cards and plates, and the transportation  
125 of either persons or property into or through the re-  
126 spective state or states and the state of West Virginia,  
127 and all existing agreements between a state or states  
128 and the state of West Virginia for reciprocal rights,  
129 privileges, and courtesies may, provided constitutional

130 and contractual rights are not violated, be declared void  
131 by the commission, and new agreements negotiated.

132 (j) Promulgate safety rules and regulations ap-  
133 plicable to motor vehicles subject to the provisions of this  
134 act and promulgate regulations governing the qualifica-  
135 tions and maximum hours of service of drivers and  
136 chauffeurs of common and contract carriers by motor  
137 vehicle of passengers and property subject to the provi-  
138 sions of this act, and promulgate any other rules and  
139 regulations which the commission may deem proper to  
140 carry out the provisions and intent of this act.

#### **Article 6.**

Sec. 4. *Identification Card.*—The commission shall  
2 prescribe an identification card which shall be displayed  
3 within the cab of each motor vehicle operated by any  
4 motor carrier, showing thereon the description and ser-  
5 ial number of the vehicle for which it is issued and the  
6 number of the identification plate issued for said vehicle.  
7 The identification card provided for herein may be in  
8 such form and contain such other information as may be  
9 required by the commission. It shall be unlawful for

10 the motor carrier, his agent, servant, or employee, or  
11 any other person to use or display said identification  
12 card or other insigna of authority from the commission  
13 at any time after the certificate or permit issued to said  
14 motor carrier has expired or has been cancelled, sus-  
15 pended, revoked, or otherwise disposed of, or to operate  
16 any vehicle without such identification card.

Sec. 5. *Identification Plate.*—It shall be unlawful for  
2 any motor carrier to operate any motor vehicle  
3 within this state unless there shall be displayed  
4 and firmly fixed upon the rear of such vehicle,  
5 an identification plate to be furnished by the  
6 commission. Such plate shall be different in design for  
7 the different classes of certificates or permits, shall bear  
8 the number given to the vehicle by the commission, and  
9 such other marks of identification as may be prescribed,  
10 and shall be in addition to the regular license plate re-  
11 quired by law. Such plates shall be issued annually and  
12 attached to each such motor vehicle not later than July  
13 first of each year.

Sec. 6. *Motor Carrier Fund; Assessment; Collec-*

2 *tion; Appropriation.*—In addition to the license fees,  
3 registration fees, or any other taxes required by law to  
4 be collected from motor carriers subject to this act, each  
5 such motor carrier shall be subject to, and shall pay to  
6 the public service commission, a special annual assess-  
7 ment for the purpose of paying the salaries, compensa-  
8 tion, costs and expenses of administering and enforcing  
9 this act. All proceeds or funds derived from such assess-  
10 ment shall be paid into the state treasury and credited to  
11 a special fund designated public service commission  
12 motor carrier fund, to be appropriated as provided by  
13 law for the purposes herein stated. Each member of  
14 the commission shall receive a salary of fifteen hundred  
15 dollars per annum as compensation for the administra-  
16 tion of this act in addition to all other salary or com-  
17 pensation otherwise provided by law, to be paid in  
18 monthly installments from said fund, but in no event shall  
19 the salary of a commissioner exceed six thousand dollars  
20 per annum. The special assessment against each motor  
21 carrier shall be apportioned upon the number and capacity

22 of motor vehicles used by said carrier, computed as here-  
23 inafter provided.

24 (a) For each identification card and plate \$1.00.

25 (b) Upon each motor vehicle, except semi-trailers,  
26 of such carriers of property, in accordance with its  
27 capacity as rated by its manufacturer, in addition to  
28 amount in sub-section (a).

29 Of one ton or less capacity \$ 9.00

30 Of over one to one and one-half tons capacity 13.50

31 Of over one and one-half tons to two tons capacity 18.00

32 Of over two tons to three tons capacity 22.50

33 Of over three tons to four tons capacity 27.00

34 Of over four tons to five tons capacity 31.50

35 Of over five tons to six tons capacity 36.00

36 Of over six tons to seven tons capacity 40.50

37 Of over seven tons to eight tons capacity 45.00

38 Of over eight tons to nine tons capacity 49.50

39 Of over nine tons to ten tons capacity 54.00

40 Of over ten tons capacity, \$54.00 plus \$4.50 for each addi-  
41 tional ton of capacity in excess of ten tons.

42 (c) Upon each semi-trailer of such carriers of property,

43 in accordance with its capacity as rated by its manufac-  
 44 turer, in an amount of two-thirds of the amount provided  
 45 for vehicles of its capacity in sub-section (b) of this  
 46 section.

47 (d) Upon each motor vehicle of such carriers of  
 48 passengers, in accordance with the seating capacity there-  
 49 of, in addition to amount in sub-section (a).

50 Of ten passengers or less	\$13.50
51 Of eleven to twenty passengers, inclusive	22.50
52 Of twenty-one to thirty passengers, inclusive	31.50
53 Of thirty-one to forty passengers, inclusive	45.00
54 Of over forty passengers	54.00

55 (e) The annual assessment of each motor carrier shall  
 56 be paid on or before the first day of July of each year.  
 57 Additional assessments shall be collected upon the placing  
 58 in use of any additional motor vehicle: *Provided*, That  
 59 such additional assessments shall be subject to a reduction  
 60 in the amounts shown in sub-sections (b), (c), and (d)  
 61 corresponding to the unexpired quarterly periods of the  
 62 fiscal year, but shall not in any event be less than one-



63 fourth of such amount plus the sum of one dollar provided  
64 in sub-section (a).

65 (f) Upon payment by any motor carrier of the assess-  
66 ment provided for, the public service commission shall  
67 advise the state road commission by notice in writing  
68 that such assessment has been paid, whereupon the state  
69 road commission may issue motor vehicle license for the  
70 vehicles described in said notice.

71 (g) Prior to the beginning of any fiscal year the public  
72 service commission, after taking into consideration any  
73 unexpended balance in the motor carrier fund, the prob-  
74 able receipts to be received in the ensuing fiscal year, and  
75 the probable costs of administering and enforcing the  
76 motor carrier act for the ensuing fiscal year, may fix the  
77 assessments provided for in this section for the ensuing  
78 fiscal year in amounts which, in the commission's judg-  
79 ment, will produce sufficient revenue to administer and  
80 enforce the motor carrier act for said fiscal year: *Provided,*  
81 That in no event shall such assessments exceed the  
82 amounts set up in this section.

**Article 7.**

Section 1. *Complaints Against Motor Carriers; Investi-*  
2 *gation.*—Any person, firm, association of persons, cor-  
3 poration, municipality, or county, complaining of any-  
4 thing done or omitted to be done by any motor carrier  
5 subject to this act, in contravention of the provisions  
6 thereof, or any duty owing by it under the provisions of  
7 this act, may present to the commission a petition which  
8 shall succinctly state all the facts. Whereupon, if there  
9 shall be any reasonable ground to investigate such com-  
10 plaint, a statement of the charges thus made shall be  
11 forwarded by the commission to such motor carrier,  
12 which shall be called upon to satisfy such complaint or  
13 to answer the same in writing within a reasonable time  
14 to be specified by the commission. If such motor carrier  
15 of property by motor vehicle within the time specified  
16 shall make reparations for the injury alleged to have been  
17 done or to correct the practice complained of and obey the  
18 law and discharge its duties in the premises, then it shall  
19 be relieved of liability to the complainant for the partic-  
20 ular violation of law or duty complained of. If such motor  
21 carrier shall not satisfy the complaint within the time

22 specified it shall be the duty of the commission to investi-  
23 gate the same in such manner and by such means as it  
24 shall deem proper.

Sec. 2. *Falsifying Records; Penalty.*—Any person,  
2 officer, agent or employee of any motor carrier subject  
3 to this act who will knowingly or wilfully make any false  
4 entries in the accounts, account books, records, or memo-  
5 randa kept by any motor carrier, or who shall know-  
6 ingly or wilfully destroy or mutilate any account book,  
7 record, or memoranda useful for the enforcement or ad-  
8 ministration of this act by the commission, or who shall  
9 alter or by any other means or device falsify the record  
10 of any such accounts, account books, records, or memo-  
11 randa, or who shall knowingly or wilfully neglect or  
12 fail to make full, true, and correct entries of or in such  
13 account, account book, record, or memorandum of all the  
14 facts and transactions appertaining to such motor  
15 carrier, or who shall falsely make any statement required  
16 to be made to the commission, shall be deemed guilty of  
17 a felony, and, upon conviction thereof, shall be confined

18 in the penitentiary not less than one year nor more than  
19 five years.

Sec. 3. *Continuing Offenses.*—Every day during  
2 which any person shall fail to observe and comply with  
3 any order or direction of the commission or to perform  
4 any duty enjoined by this act shall constitute a separate  
5 and distinct violation of the order or direction under this  
6 act.

Sec. 4. *Penalty for Violation of Chapter; Second Of-*  
2 *fense.*—Every officer, agent, employee, or stockholder  
3 of any motor carrier, or any motor carrier, and every  
4 person who violates, procures, aids, or abets in the vio-  
5 lating of any of the provision of this act, or who fails to  
6 obey any order, decision, requirement, rule, or regula-  
7 tion of the commission or procures, aids, or abets any  
8 person in his failure to obey such order, decision, re-  
9 quirement, rule, or regulations, shall be deemed guilty  
10 of a misdemeanor and, upon conviction, shall be fined  
11 not exceeding one thousand dollars or confined in jail  
12 for not less than thirty days nor more than one year, or  
13 both, in the discretion of the court. When any person is

14 convicted for a violation of any provision of this act or  
15 any order, decision, requirement, rule, or regulation of  
16 the commission and it is alleged in the indictment upon  
17 which he is convicted and it is admitted, or by jury found,  
18 that he has been before convicted of a violation of any  
19 provision of this act or order, decision, requirement, rule,  
20 or regulation of the commission, committed prior to the  
21 violation for which the indictment upon trial was found,  
22 then he shall be fined not less than five hundred dollars  
23 nor more than five thousand dollars and shall, in addi-  
24 tion thereto, be confined in the county jail for not less  
25 than three months nor more than one year.

Sec. 5. *Duty of Prosecuting Attorneys and Peace Of-*  
2 *ficers to Enforce Chapter; Police Powers of Inspectors.*—  
3 It shall be the duty of the department of public safety  
4 and the sheriffs of the counties in West Virginia to make  
5, arrests and the duty of the prosecuting attorneys of the  
6 several counties to prosecute all violations of this act,  
7 and the commission employees designated by it as in-  
8 spectors shall have all the lawful powers of peace officers  
9 to enforce this act in any county or city of this state.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Forest L. McNeer  
Chairman Senate Committee

R. L. Matthews  
Chairman House Committee

Originated in the House of Delegates

Takes effect May 1, 1947 passage.

Howard Meyer  
Clerk of the Senate

J. R. Clipp  
Clerk of the House of Delegates

Arnold M. Vickers  
President of the Senate

John E. Amos  
Speaker House of Delegates

The within approved this the 14<sup>th</sup>  
day of March, 1947.

Casey Meadows  
Governor.



Filed in the Office of the Secretary of State  
of West Virginia

MAR 14 1947

WM. S. O'BRIEN,  
SECRETARY OF STATE