

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1937



## ENROLLED

Com. Sub for

HOUSE BILL No. 424

(By Mr. Committee on Judiciary)



PASSED March 13, 1937

In Effect 90 days from Passage

**ENROLLED**

COMMITTEE SUBSTITUTE FOR

**House Bill No. 424**

[Originating in the Committee on the Judiciary.]

[Passed March 13, 1937; in effect ninety days from passage.]

AN ACT providing for the regulation of the transportation of passengers and property for hire and of private carriers of property by motor vehicles over the public highways in the state of West Virginia; defining the duties, and providing for compensation of the members, of the public service commission of West Virginia in relation thereto, providing for the payment of fees by motor vehicles, and repealing acts and parts of acts inconsistent herewith; to be known as chapter twenty-four-a of the code of West Virginia, one thousand nine hundred thirty-one.

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

**ARTICLE I—Purposes, Definitions, and Exemptions.**

Section 1. *Purposes.* It is hereby declared to be the pur-

2 pose and policy of the Legislature in enacting this law to  
3 confer upon the public service commission of West Virginia,  
4 in addition to all other powers conferred and duties im-  
5 posed upon it by law, the power, authority, and duty to  
6 supervise and regulate the transportation of persons and  
7 property for hire and private carriers of property by motor  
8 vehicles upon or over the public highways of this state so as  
9 to: (a) protect the safety and welfare of the traveling and  
10 shipping public in their use of transportation agencies by  
11 motor vehicle; (b) preserve, foster, and regulate transporta-  
12 tion and permit the coordination of transportation facilities;  
13 (c) provide the traveling and shipping public transportation  
14 agencies rendering stabilized service at just and reasonable  
15 rates. This act shall apply to persons and motor vehicles  
16 engaged in interstate commerce to the extent permitted by  
17 the constitution and laws of the United States.

Sec. 2. *Definitions.* When used in this act: (a) the term  
2 "motor vehicle" means, and includes, any automobile, truck,  
3 trailer, semi-trailer, tractor, motor bus, or any self-propelling  
4 motor-driven motor vehicle used upon any public highway  
5 in this state for the purpose of transporting persons or

6 property; (b) the term "public highway" means any public  
7 street, alley, road, or highway or thoroughfare of any kind  
8 in this state used by the public; (c) the term "commission"  
9 means the public service commission of West Virginia; (d)  
10 the term "person" means and includes any individual, firm,  
11 copartnership, corporation, company, association, or joint  
12 stock association, and includes any trustee, receiver, assignee  
13 or personal representative thereof; (e) the term "common  
14 carrier by motor vehicle" means any person who under-  
15 takes, whether directly or by lease or any other arrange-  
16 ment, to transport passengers or property, or any class or  
17 classes of property, for the general public over the highways  
18 of this state by motor vehicles for hire, whether over regular  
19 or irregular routes, including such motor vehicle operations of  
20 carriers by rail, water or air and of express or forwarding  
21 agencies; (f) the term "contract carrier by motor vehicle"  
22 means any person not included under paragraph (e) of this  
23 section, who under special and individual contracts or agree-  
24 ments, and whether directly or by a lease or any other ar-  
25 rangement, transports passengers or property over the high-  
26 ways in this state by motor vehicles for hire; (g) the term

27 "motor carrier" includes both a common carrier by motor  
28 vehicle and a contract carrier by motor vehicle; (h) the  
29 term "private carrier of property by motor vehicle" means  
30 any person not included in the terms "common carrier by  
31 motor vehicle" and "contract carrier by motor vehicle"  
32 who transports over the highways in this state by motor  
33 vehicle property of which such person is the owner, lessee, or  
34 bailee, when such transport is for the purpose of sale, lease,  
35 rent, or bailment, or the furtherance of any commercial en-  
36 terprise; (i) the term "exempt carrier" means any person  
37 operating a motor vehicle exempt from the provisions of this  
38 act under section three hereof.

Sec. 3. *Exemptions.* The provisions of this act, except  
2 where specifically otherwise provided, shall not apply to:  
3 (a) taxicabs, or other motor vehicles performing a bona fide  
4 taxicab service, within the corporate limits of any munici-  
5 pality, having a capacity of not more than six passengers  
6 and not operated on a regular route or between fixed termini;  
7 (b) motor vehicles operated exclusively in the transportation  
8 of the United States mail or in the transportation of news-  
9 papers; (c) motor vehicles owned and operated by the United

10 States of America, the state of West Virginia, or any county,  
11 municipality, or county board of education, or by any de-  
12 partment thereof; (d) motor vehicles owned and operated  
13 by farmers in the transportation of their own farm, orchard,  
14 or dairy products from point of production to market, or in  
15 the infrequent or seasonal transportation by one farmer for  
16 another in his immediate neighborhood of products of the  
17 farm, orchard, or dairy, or of supplies or commodities to be  
18 used on the farm, orchard, or dairy; (e) vehicles especially  
19 constructed for towing or wrecking and not otherwise used  
20 in transporting property or passengers for compensation.  
21 (f) This act shall not apply to any truck of two tons or less  
22 capacity, or where there are not more than three trucks  
23 owned by a person, company, or corporation.

**ARTICLE II**—*Common Carriers by Motor Vehicle.*

Section 1. All common carriers by motor vehicle are  
2 hereby declared to be affected with a public interest and  
3 subject to the laws of this state now in force or that here-  
4 after may be enacted pertaining to public utilities and com-  
5 mon carriers as far as applicable, and not in conflict here-  
6 with.

Sec. 2. No common carrier by motor vehicle shall operate  
2 any motor facility for transportation of either persons or  
3 property for hire on any public highway in this state except  
4 in accordance with the provisions of this act and the trans-  
5 portation for more than one consignor, or to more than three  
6 consignees by any motor carrier shall be *prima facie* evidence  
7 that such motor carrier is operating as a common carrier.

Sec. 3. The commission is vested with power and author-  
2 ity to supervise and regulate all common carriers by motor  
3 vehicle and to fix, alter, regulate, and determine just, fair, rea-  
4 sonable, and sufficient rates, joint rates, charges and classi-  
5 fications; to regulate the facilities, accounts, service and  
6 safety of operations of each such carrier, to regulate  
7 operating and time schedules so as to meet the reasonable  
8 needs of any community, so as to provide adequate trans-  
9 portation service to the territory traversed by such carriers,  
10 and so as to prevent unnecessary multiplication of service  
11 among common carriers by motor vehicle and between them  
12 and steam and electric railroads, to require the co-ordination  
13 of the service facilities and schedules of competing common  
14 carriers by motor vehicle or electric and steam railroads;

15 to require the filing of annual and other reports, tariff,  
16 schedules, and other data by such common carriers, in all  
17 matters affecting the relation between such carriers and  
18 the public and between such carriers and other common car-  
19 riers. The commission shall have power and authority, by  
20 general order or otherwise, to prescribe rules and regulations  
21 in conformity with this act applicable to any and all such  
22 common carriers by motor vehicle and to do all things neces-  
23 sary to carry out and enforce the provisions of this act.

Sec. 4. All rates, fares, and charges made by any common  
2 carrier by motor vehicle shall be just and reasonable, and  
3 shall not be unlawfully discriminatory, prejudicial nor prefer-  
4 ential. No such carrier shall charge, demand, collect, or re-  
5 ceive a greater or less or different remuneration for the trans-  
6 portation of passengers or property, or for any service in  
7 connection therewith, than the rates, fares, and charges which  
8 have been legally established and filed with the commission;  
9 nor shall any such carrier refund, remit, discount or rebate  
10 in any manner or by any device any portion of the rates,  
11 fares, and charges required to be collected by the tariffs on  
12 file with or ordered by the commission.



Sec. 5. (a) It shall be unlawful for any common carrier by  
2 motor vehicle to operate within this state without first having  
3 obtained from the commission a certificate of convenience and  
4 necessity. Upon the filing of an application for such certifi-  
5 cate and after hearing thereon, if the commission finds from  
6 the evidence that the public convenience and necessity require  
7 the proposed service or any part thereof it may issue the  
8 certificate as prayed for, or issue it for the partial exercise  
9 only of the privilege sought, and may attach to the exercise  
10 of the right granted by such certificate such terms and con-  
11 ditions as in its judgment the public convenience and neces-  
12 sity may require. Before granting a certificate to a common  
13 carrier by motor vehicle the commission shall take into con-  
14 sideration existing transportation facilities in the territory  
15 for which a certificate is sought, and in case it finds from the  
16 evidence that the service furnished by existing transportation  
17 facilities is reasonably efficient and adequate, the commission  
18 shall not grant such certificate.

19 (b) The commission shall prescribe such rules and regu-  
20 lations as it may deem proper for the enforcement of the  
21 provisions of this section, and in establishing that public con-

22 venience and necessity do exist the burden of proof shall be  
23 upon the applicant. The commission may designate any of its  
24 employees to take evidence at the hearing of any application  
25 for a certificate and submit findings of fact as a part of a  
26 report or reports to be made to the commission.

27 (c) No certificate issued in accordance with the terms of  
28 this act shall be construed to be either a franchise or irre-  
29 vocable, or to confer any property right upon the holder  
30 thereof. No certificate issued under this act shall be assigned  
31 or otherwise transferred without the approval of the com-  
32 mission.

33 (d) The commission may at any time, for good cause, sus-  
34 pend and, upon not less than fifteen days' notice to the  
35 grantee of any certificate and an opportunity to be heard,  
36 revoke or amend any certificate.

### **ARTICLE III—*Contract Carriers by Motor Vehicle.***

Sec. 1. It is hereby declared that the business of contract  
2 carriers by motor vehicle is affected with a public interest and  
3 that the safety and welfare of the public, the preservation and  
4 maintenance of the public highways, and the integrity of the  
5 regulation of common carriers require the regulation of con-

6 tract carriers by motor vehicle to the extent herein provided.

Sec. 2. No contract carrier by motor vehicle shall operate  
2 any motor vehicle for the transportation of either persons or  
3 property for hire on any public highway in this state except  
4 in accordance with the provisions of this act.

Sec. 3. (a) It shall be unlawful for any contract carrier by  
2 motor vehicle to operate within this state without first having  
3 obtained from the commission a permit. Upon the filing of an  
4 application for such permit, the commission shall fix a time  
5 and place for hearing thereon and after hearing may grant  
6 or deny the permit prayed for or grant it for the partial  
7 exercise only of the privilege sought, and may attach to the  
8 exercise of the privilege granted by such permit such terms  
9 and conditions as in its judgment are proper and will carry  
10 out the purposes of this act. No permit shall be granted  
11 unless the applicant has established to the satisfaction of the  
12 commission that the privilege sought will not endanger the  
13 safety of the public or unduly interfere with the use of the  
14 highways or impair unduly the condition or unduly increase  
15 the maintenance cost of such highways, directly, or indirectly,  
16 or impair the efficient public service of any authorized com-

17 mon carrier or common carriers adequately serving the same  
18 territory.

19 (b) The commission shall prescribe such rules and regu-  
20 lations as it may deem proper for the enforcement of the  
21 provisions of this section and may designate any of its em-  
22 ployees to take evidence at the hearing on any application for  
23 a permit and submit findings of fact as a part of a report or  
24 reports to be made to the commission.

25 (c) No permit issued in accordance with the terms of this  
26 act shall be construed to be either a franchise or irrevocable  
27 or to confer any property right upon the holder thereof. No  
28 permit issued under this act shall be assigned or otherwise  
29 transferred without the approval of the commission.

30 (d) The commission may at any time, for good cause, sus-  
31 pend and, upon not less than fifteen days' notice to the  
32 grantee of any permit and an opportunity to be heard, re-  
33 voke or amend any permit.

34 (e) Every contract carrier by motor vehicle who shall cease  
35 operation or abandon his rights under a permit issued shall  
36 notify the commission within thirty days of such cessation or  
37 abandonment.

Sec. 4. The commission is hereby vested with power and  
2 authority, and it shall be its duty, to supervise and regulate  
3 contract carriers by motor vehicle for the purpose of pro-  
4 moting safety of their operation as transportation agencies  
5 upon the highways; to regulate and supervise the accounts  
6 and method of keeping the same; to prescribe such rules and  
7 regulations as it may deem necessary to carry out the pro-  
8 visions of this act; and to supervise and regulate contract  
9 carriers by motor vehicle in all matters affecting the relation-  
10 ship between such carriers and the traveling and shipping  
11 public.

Sec. 5. Every contract carrier by motor vehicle is hereby  
2 forbidden to give or cause any undue or unreasonable advan-  
3 tage or preference to those whom it serves as compared with  
4 the patrons of any common carrier by motor vehicle as that  
5 term is used in this act, or the patrons of any other common  
6 carrier, or to subject the patrons of any such common carriers  
7 to any undue or unreasonable discrimination or disadvantage;  
8 or by unfair competition to destroy or impair the service or  
9 business of any common carrier by motor vehicle, or of any  
10 other common carrier, or the integrity of the state's regu-

11 lation of any such service or business; and, to the end that  
12 the said commission may enforce these provisions, each such  
13 contract carrier by motor vehicle shall maintain on file with  
14 the commission a statement of its charges, and of such other  
15 matters as the commission may require.

Sec. 6. The commission is hereby vested with power and  
2 authority, and it is hereby made its duty, to prescribe rules  
3 and regulations covering the operations of contract carriers  
4 by motor vehicles in competition with common carriers of this  
5 state, and the commission shall prescribe minimum rates,  
6 fares, and charges to be collected by such contract carriers  
7 by motor vehicle, which shall not be less than the rates pre-  
8 scribed for common carriers by motor vehicle for substan-  
9 tially the same service.

**ARTICLE IV—*Private Carriers of Property by Motor Vehicle.***

Section 1. No private carrier of property by motor vehicle  
2 shall operate any motor vehicle for the transportation of prop-  
3 erty on any public highway in this state except in accordance  
4 with the provisions of this act.

Sec. 2. The commission is hereby vested with power and  
2 authority, and it shall be its duty, to issue permits to private

3 carriers of property by motor vehicle; to require the filing  
4 of annual and other reports and such additional data as may  
5 be required by the commission in carrying out the provisions  
6 of this act. The commission shall have power and authority,  
7 by general order or otherwise, to prescribe reasonable and  
8 necessary rules and regulations governing all private carriers  
9 of property by motor vehicle, and to supervise and regulate  
10 such private carriers in all other matters affecting their rela-  
11 tionship with the shipping and the general public.

Sec. 3. It shall be unlawful for any private carrier of prop-  
2 erty by motor vehicle to operate within this state without first  
3 having obtained from the commission a permit therefor. An  
4 application shall be made to the commission in writing, stating  
5 the ownership of the equipment to be used, and such other  
6 information as the commission may request. Upon receipt of  
7 such information, and on compliance with the provisions of  
8 this act and the commission's rules and regulations, the com-  
9 mission shall issue a permit to such applicant.

Sec. 4. The commission shall prescribe forms of application  
2 for such permits for the use of applicants and shall make  
3 regulations for the filing thereof.

Sec. 5. No permit issued under the authority of this act shall be subject to assignment or transfer. Subject to any right a holder of a permit may have to engage in interstate commerce, no permit issued in accordance with the terms of this act shall be construed to be irrevocable. Every private carrier of property by motor vehicle who shall cease operation or abandon his rights under a permit issued shall notify the commission within thirty days of such cessation or abandonment. The commission may at any time, for good cause, suspend, and upon at least fifteen days' notice to the grantee of any permit, and an opportunity to be heard, revoke such permit.

**ARTICLE V—Powers and Duties of the Commission.**

Section 1. The commission shall have power to originate, establish, promulgate, change, investigate and enforce tariffs, rates, joint rates, classifications, and schedules for all motor carriers, and the practices, services and facilities of all motor carriers. And whenever the commission shall, after hearing, find any existing rates, tariffs, joint rates, classifications, schedules, practices, services, or facilities unjust, unreasonable, insufficient, or unjustly discriminatory or otherwise in



9 violation of any of the provisions of this act, the commission  
10 shall, by order, fix and require reasonable rates, joint rates,  
11 tariffs, classifications, schedules, practices, services, or facili-  
12 ties to be followed or established in the future in lieu of those  
13 found to be unjust, unreasonable, insufficient, or unjustly dis-  
14 criminatory or otherwise in violation of any provisions of  
15 law.

Sec. 2. No motor carrier subject to this act shall change,  
2 suspend, or annul any individual rate, joint rate, fare, charge,  
3 or classification for the transportation of passengers or prop-  
4 erty except after thirty days' notice to the commission and  
5 the public, which notice shall plainly state the changes pro-  
6 posed to be made in the schedule then in force and the time  
7 when the changed rates or charges shall go into effect. The  
8 commission may enter an order suspending the proposed rates  
9 and prohibiting such motor carrier from putting such pro-  
10 posed new rate into effect pending the hearing and final de-  
11 cision of the matter, in which case the proposed new rate shall  
12 stand suspended until it is determined by the commission  
13 whether or not the same is just or reasonable. The proposed  
14 changes shall be shown by printing new schedules, or shall be

15 plainly indicated upon the schedules in force at the time, and  
16 kept open to public inspection: *Provided, however,* That the  
17 commission may, in its discretion, and for good cause shown,  
18 allow changes upon less time than the notice herein specified,  
19 or may modify the requirements of this section in respect to  
20 publishing, posting and filing of tariffs, either by particular  
21 instructions or by general order.

22 Whenever there shall be filed with the commission any  
23 schedule stating a change in the rates or charges, or joint  
24 rates or charges, or stating a new individual or joint rate or  
25 charge or joint classification or any new individual or joint  
26 regulation or practice affecting any rate or charge, the com-  
27 mission shall have authority, either upon complaint or upon  
28 its own initiative without complaint, to enter upon a hearing  
29 concerning the propriety of such rate, charge, classification,  
30 regulation or practice; and, if the commission so orders, it  
31 may proceed without answer or other form of pleading by the  
32 interested parties, but upon reasonable notice, and pending  
33 such hearing and the decision thereon the commission, upon  
34 filing with such schedule and delivering to the motor carrier  
35 affected thereby a statement in writing of its reasons for such

36 suspension, may suspend the operation of such schedule and  
37 defer the use of such rate, charge, classification, regulation or  
38 practice, but not for a longer period than one hundred and  
39 twenty days beyond the time when such rate, charge, classi-  
40 fication, regulation or practice would otherwise go into effect;  
41 and after full hearing, whether completed before or after the  
42 rate, charge, classification, regulation, or practice goes into  
43 effect, the commission may make such order in reference to  
44 such rate, charge, classification, regulation or practice as  
45 would be proper in a proceeding initiated after the rate,  
46 charge, classification, regulation or practice had become effec-  
47 tive: *Provided*, That if any such hearing cannot be conducted  
48 within the period of suspension, as above stated, the commis-  
49 sion may in its discretion extend the time of suspension for  
50 a further period, not exceeding six months. At any hearing  
51 involving a rate sought to be increased or involving the  
52 change of any fare, charge, classification, regulation or prac-  
53 tice, the burden of proof to show that the increased rate or  
54 proposed increased rate, or the proposed change of fare,  
55 charge, classification, regulation or practice, is just and reas-  
56 onable, shall be upon the motor carrier making application

57 for such change. When in any case pending before the com-  
58 mission all evidence shall have been taken, and the hearing  
59 completed, the commission shall, within three months, render  
60 a decision in such case.

61 The commission shall prescribe such rules and regulations  
62 as to the giving of notice of a change in rates as are reason-  
63 able and are deemed proper in the public interest.

Sec. 3. The commission shall have power and authority to  
2 require a common carrier by motor vehicle, railroad, express,  
3 air, or water to establish reasonable through rates with other  
4 common carriers by motor vehicle, railroad, express, air, or  
5 water and to provide safe and adequate service, equipment,  
6 and facilities for the transportation of passengers and prop-  
7 erty; to establish and enforce just and reasonable individual  
8 and joint rates, charges, and classifications, and just and  
9 reasonable regulations and practices relating thereto; and in  
10 case of such joint rates, fares, and charges to establish just  
11 and reasonable divisions thereof as between the carriers par-  
12 ticipating therein which shall not unduly prefer or prejudice  
13 any of such participating carriers.

Sec. 4. (a) It shall be lawful, under the conditions speci-  
2 fied below, but under no other conditions, for two or more

3 motor carriers to consolidate or merge their property, or any  
4 part thereof, into one corporation for the ownership, manage-  
5 ment, and operation of the properties theretofore owned,  
6 managed, and operated separately; or for any such motor  
7 carrier or two or more such carriers jointly, to purchase,  
8 lease, or contract to operate the properties, or any part  
9 thereof, of another such carrier; or for any such motor car-  
10 rier or two or more such carriers jointly, to acquire control  
11 of another such carrier through purchase of its stock; or for  
12 a person, not a motor carrier, to acquire control of two or  
13 more motor carriers through ownership of their stock; or for  
14 any person in control of one or more motor carriers to acquire  
15 control of another such carrier through ownership of its  
16 stock; or for a carrier by railroad, express, air, or water to  
17 consolidate or merge with, purchase, or acquire control of,  
18 any motor carrier, or lease or contract to operate its prop-  
19 erties or any part thereof.

20 (b) When a consolidation, merger, purchase, lease, operat-  
21 ing contract, or acquisition of control is proposed under this  
22 section the carrier, or carriers, or person, seeking authority  
23 therefor shall present an application to the commission and,

24 after hearing, if the commission deems a hearing necessary,  
25 if the commission finds that the transaction proposed will be  
26 consistent with the public interest it shall enter such order  
27 as it may deem proper and as the circumstances may require,  
28 attaching thereto such conditions as it may deem proper,  
29 consenting to the entering into or doing of the things herein-  
30 above provided without approving the terms and conditions  
31 thereof, and thereupon it shall be lawful to do the things  
32 provided for in such order.

33 (c) Every consolidation, merger, purchase, lease, operat-  
34 ing contract, or acquisition of control, or other transaction  
35 referred to in this section made otherwise than as hereinabove  
36 provided, shall be void.

Sec. 5. The commission may:

2 (a) Prescribe rules of practice and procedure, the method  
3 and manner of holding hearings, and for taking evidence on  
4 all matters that may come before it and enter such orders  
5 as may be just and lawful. In the investigations, prepara-  
6 tions, and hearings of cases, the commission shall not be  
7 bound by the technical rules of pleading and evidence but in  
8 that respect it may exercise such discretion as will facilitate

9 its efforts to understand and learn all the facts bearing upon  
10 the right and justness of the matters before it.

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

21 (c) Prescribe a schedule of fees to accompany applications  
22 for certificates of convenience and necessity and permits and  
23 for the filing and recordation of other papers with the com-  
24 mission. The commission shall likewise prescribe a schedule  
25 of fees to be charged for the certification of all records and  
26 papers and sums to be paid witnesses and other costs neces-  
27 sary and incident to hearings before it or its employees and  
28 order the same paid by the unsuccessful party. Sums col-  
29 lected in this manner, except witness fees, shall be paid into

30 the state treasury and be credited to the public service com-  
31 mission fund provided for in chapter twenty-four of the code  
32 of West Virginia as amended. The witness fees shall be paid  
33 to the persons who are entitled thereto. The sums to be paid  
33 into the public service commission motor carrier fund repre-  
34 senting the collections of any month shall be so paid on or  
35 before the tenth of the following month.

36 (d) Establish a system of accounts to be kept by motor  
37 carriers or classify motor carriers and establish a system of  
38 accounts for each class, and prescribe the manner in which  
39 such accounts shall be kept. It may also in its discretion pre-  
40 scribe the form of accounts, records, and memoranda to be  
41 kept by such motor carriers, including the accounts, records,  
42 and memoranda for the movement of traffic as well as the  
43 receipts and expenditures of moneys, and any other forms,  
44 records and memoranda which in the judgment of the com-  
45 mission may be necessary to carry out any of the provisions  
46 of this chapter.

47 (e) Require persons subject to the provisions of this chap-  
48 ter, to furnish any information which may be in their pos-  
49 session, or obtainable from their accounting or other records,



50 respecting rates, charges, classifications, or practices in con-  
51 ducting their business, and to furnish the commission at all  
52 times for inspection any books or papers or reports and  
53 statements, which reports and statements shall be under oath,  
54 when so required by the commission, and the form of all re-  
55 ports required under this act shall be prescribed by the com-  
56 mission. The commission shall collect, receive and preserve  
57 the same, and shall annually tabulate and publish the same  
58 in statistical form, together with the other acts and proceed-  
59 ings of the commission.

60 (f) Either as a commission or by any of its members, or  
61 by designated employees, subpoena witnesses and take testi-  
62 mony, and administer oaths to any witness in any proceeding  
63 or examination instituted before it or conducted by it with  
64 reference to any matter within its jurisdiction. In all hear-  
65 ings or proceedings before the commission or its designated  
66 employees the evidence of witnesses and the production of  
67 documentary evidence may be required at any designated  
68 place of hearing within the state; and in case of disobedience  
69 to a subpoena or other process the commission or any party  
70 to the proceedings before the commission may invoke the aid

71 of any circuit court in the state in requiring the evidence and  
72 testimony of witnesses and the production of papers, books,  
73 and documents. And such court, in case of refusal to obey  
74 the subpoena issued to any person or to any motor carrier  
75 subject to the provisions of this chapter, shall issue an order  
76 requiring such motor carrier or any person to appear before  
77 the commission or designated employees and produce all  
78 books and papers, if so ordered, and give evidence touching  
79 the matter in question. Any failure to obey such order of  
80 the court may be punished by such court as contempt there-  
81 of. A claim that any such testimony or evidence may tend  
82 to incriminate the person giving the same shall not excuse  
83 such witness from testifying, but such witness shall not be  
84 prosecuted for any offense concerning which he is compelled  
85 hereunder to testify.

86 (g) Require common carriers by motor vehicle and con-  
87 tract carriers by motor vehicle subject to the provisions of  
88 this act either to procure and file liability and property  
89 damage insurance from a company licensed to write such in-  
90 surance in West Virginia or to deposit such security for such  
91 limits of liability and upon such terms and conditions as the

92 commission shall determine to be necessary for the reasonable  
93 protection of the public against damage and injury for which  
94 such carrier may be liable by reason of the operation of any  
95 motor vehicle. In fixing the amount of said insurance policy,  
96 or policies, or deposit of security, the commission shall give  
97 due consideration to the character and amount of traffic and  
98 the number of persons affected and the degree of danger  
99 which the proposed operation involves.

100 (h) Cooperate with the federal government and the inter-  
101 state commerce commission of the United States or any other  
102 commission or organized delegated authority to regulate in-  
103 terstate or foreign commerce by motor vehicles, and it shall  
104 be its duty so to do, to the end that the transportation of  
105 persons and property by motor vehicles in interstate and for-  
106 eign commerce into and through the state of West Virginia  
107 may be regulated and the laws of the United States and of  
108 the state of West Virginia enforced and administered co-  
109 operatively in the public interest.

110 (i) Make agreements on behalf of the state of West Vir-  
111 ginia with any other state or states providing for reciprocal  
112 rights, privileges, and courtesies between the licensees and

113 permittees of the said state or states and the state of West  
114 Virginia respecting licenses and the transportation of prop-  
115 erty into and through the respective state or states and the  
116 state of West Virginia, and all existing agreements between  
117 a state or states and the state of West Virginia for reciprocal  
118 rights, privileges, and courtesies may, provided constitutional  
119 and contractual rights are not violated, be declared void by  
120 the commission and new agreements negotiated.

121 (j) Promulgate safety rules and regulations applicable to  
122 motor vehicles subject to the provisions of this act and pro-  
123 mulgate regulations governing the hours of employment of  
124 drivers and chauffeurs of motor vehicles subject to the pro-  
125 visions of this act and any other rules and regulations which  
126 the commission may deem proper to carry out the provisions  
127 and intent of this act.

**ARTICLE VI—Duties and Privileges of Motor Carriers Subject to  
Regulation of the Commission.**

Section 1. Every motor carrier subject to this act shall  
2 establish and maintain adequate and suitable facilities, safety  
3 appliances, and other suitable appliances and shall perform  
4 such service in respect thereto as shall be reasonably safe and

5 sufficient for the security and convenience of the public, and  
6 the safety and comfort of its employees and in all respects  
7 just and fair, and without any unjust discrimination or pref-  
8 erence. Every motor carrier may be required by the com-  
9 mission to establish and maintain such suitable public service  
10 facilities and conveniences as may be reasonable and just. No  
11 motor carrier shall discontinue any regular passenger or other  
12 public service facility, or change any passenger schedule or  
13 time table without first obtaining authority from the commis-  
14 sion so to do, unless the same be done under uniform rules  
15 and regulations filed by such motor carrier with the public  
16 service commission and approval by said commission. All  
17 motor carriers subject to this chapter shall, according to their  
18 respective powers and facilities, afford all reasonable, proper,  
19 and equal facilities for the interchange of traffic between their  
20 respective lines, and for the receiving, forwarding, and deliv-  
21 ery of passengers and property to and from their several lines,  
22 and those connecting therewith, including common carriers  
23 not subject to this act, and shall not discriminate in their  
24 rates and charges or methods or manner of service between  
25 such connecting lines. The commission may require such

26 interchange of traffic and the joint use of terminal facilities  
27 as may be reasonable and just.

Sec. 2. Every motor carrier subject to the provisions of  
2 this chapter shall file with the commission, and keep open to  
3 public inspection, schedules showing all the rates and charges  
4 for service to be rendered by it or by other persons in con-  
5 nection with it: *Provided, however,* That the reports and  
6 tariffs filed by an interstate motor carrier with the commission  
7 may be copies of its reports and tariffs filed with the inter-  
8 state commerce commission, but nothing herein shall proclude  
9 the commission from requiring interstate motor carriers to  
10 furnish information bearing upon any complaint or question  
11 before said commission and with which it has a right to deal.

Sec. 3. Certificates of convenience and necessity and per-  
2 mits issued to motor carriers by state authorities under the  
3 authority of the laws of this state in effect prior to the date  
4 this act becomes effective shall remain in effect until con-  
5 firmed, revoked or suspended by the commission, but persons  
6 who are the holders of such certificates and permits shall be  
7 subject to all provisions of this act. The procedure for con-  
8 firming such certificates and permits shall be the same as is

9 herein provided for issuing certificates and permits in the  
10 first instance: *Provided*, That if any motor carrier was in  
11 operation on or prior to March one, one thousand nine hun-  
12 dred thirty-seven, over the route or routes or within the  
13 territory for which application is made and has so operated  
14 since that time, except as to interruptions over which the  
15 applicant had no control, the commission shall issue such  
16 certificate or permit without requiring further proof that  
17 public convenience and necessity will be served by such  
18 operation and without further proceedings if application for  
19 such certificate or permit to operate is made to the commis-  
20 sion within ninety days from effective date of this act: *Pro-*  
21 *vided, however*, That the applicant shall be required to sub-  
22 mit proof and evidence of his or its operation on or prior  
23 to March one, one thousand nine hundred thirty-seven, and  
24 continuous thereafter until date of application in such man-  
25 ner as required by the commission: *Provided further*, That  
26 pending determination of any application, the continuance  
27 of operation in which the motor carrier was so engaged on or  
28 prior to March one, one thousand nine hundred thirty-seven,  
29 shall be ~~2~~lawful.

{ *OK Oregon Franchise Clerk*  
*OK Geo. H. Hall, Clerk*

Sec. 4. The commission shall prescribe an identification  
2 card which must be displayed within the cab of each motor  
3 vehicle required to have a permit under this act, setting forth  
4 permit number and the route over, or territory in which, the  
5 vehicle is authorized to operate and the name and address of  
6 the owner of said permit. The identification card provided  
7 for herein may be in such form and contain such other infor-  
8 mation as may be required by the commission. It shall be  
9 unlawful for the owner of said permit, his agent, servant, or  
10 employee, or any other person, to use or display said identi-  
11 fication card, the permit number, or other insignia of author-  
12 ity from the commission after said permit has expired, been  
13 cancelled, or disposed of, or to operate any vehicle under per-  
14 mit without such identification card.

Sec. 5. It shall be unlawful for any motor carrier to  
2 operate any motor vehicle within this state unless there  
3 shall be displayed and firmly fixed upon the rear of such  
4 vehicle, an identification plate to be furnished by the com-  
5 mission. Such plate shall be different in design for the dif-  
6 ferent classes of certificates or permits, shall bear the number  
7 given to the vehicle by the commission, and such other marks



8 of identification as may be prescribed, and shall be in addi-  
9 tion to the regular license plates required by law. Such plates  
10 shall be issued annually and attached to each such motor  
11 vehicle not later than July first of each year. The commis-  
12 sion shall collect from the applicant a fee of one dollar for  
13 each plate so issued, and all fees for such plates shall be de-  
14 posited in the state treasury to the credit of the public service  
15 commission motor carrier fund.

16 Sec. 6. In addition to the license fees, registration fees, or  
17 taxes now required by law upon common carriers by motor  
18 vehicle and contract carriers by motor vehicle, subject to the  
19 provisions of this act, there shall be assessed against and  
20 collected from each such carrier annually a special license  
21 fee for the administration of this act computed as herein-  
22 after provided.

23 (a) The special license fee for all common carriers of  
24 property by motor vehicle and contract carriers of property  
25 by motor vehicle shall be as follows:

	<i>Annual Fee</i>
26 1 ton or less.....	\$10.00
27 Over 1 ton to 1½ tons.....	\$15.00

14	Over 1½ tons to 2 tons.....	\$20.00
15	Over 2 tons to 3 tons.....	\$25.00
16	Over 3 tons to 4 tons.....	\$30.00
17	Over 4 tons to 5 tons.....	\$35.00
18	Over 5 tons to 6 tons.....	\$40.00
19	Over 6 tons to 7 tons.....	\$45.00
20	Over 7 tons to 8 tons.....	\$50.00
21	Over 8 tons to 9 tons.....	\$55.00
22	Over 9 tons to 10 tons.....	\$60.00
23	Each additional ton over 10 tons.....	\$ 5.00

24 (b) The special license fee for common carriers of passen-  
 25 gers by motor vehicle, and contract carriers of passengers by  
 26 motor vehicle shall be as follows:

27		<i>Annual Fee</i>
28	Seating capacity of 10 passengers or less.....	\$15.00
29	Seating capacity of 10 to 20 passengers.....	\$25.00
30	Seating capacity of 20 to 30 passengers.....	\$35.00
31	Seating capacity of 30 to 40 passengers.....	\$50.00
32	Seating capacity of over 40 passengers.....	\$60.00

33 (c) The special license fees herein provided for shall be  
 34 paid to, and collected by, the state road commission of West  
 35 Virginia at the same time and in the same manner as regis-

36 tration fees and license fees required by the motor vehicles  
37 laws of the state of West Virginia are now paid and collected  
38 and no license or permit shall be issued by the state road  
39 commission to any motor carrier subject to the provisions of  
40 this act until it has paid to the state road commission of  
41 West Virginia the special license fee as herein provided.

42 (d) All special license fees collected by the state road com-  
43 mission by virtue of this act shall be paid into the state  
44 treasury and credited to the special fund designated public  
45 service commission motor carrier fund, to be appropriated  
46 as provided by law for the purpose of paying the expenses  
47 of the commission and salaries, compensation costs and ex-  
48 penses of its employees in administering this act. Each mem-  
49 ber of the commission shall receive a salary of fifteen hundred  
50 dollars (\$1500) per annum as compensation for the adminis-  
51 tration of this act in addition to all other salary or compen-  
52 sation provided by law, to be paid in monthly installments  
53 from said fund, but in no event shall the salary of a commis-  
54 sioner exceed six thousand dollars per annum: *Provided, how-*  
55 *ever,* That the total sum to be expended in the administration  
56 of this act shall not exceed during any fiscal year the sum of

57 one hundred thousand dollars.

58 (e) Any balance remaining in said fund, including other  
59 fees collected by the commission pursuant to the provisions of  
60 this act, at the end of the fiscal year shall, the succeeding  
61 year, be applied as credit on the special license fee herein re-  
62 quired and the special license fee required of each motor  
63 carrier shall be proportionately reduced on a percentage  
64 basis.

**ARTICLE VII—Complaints, Damages, and Violations.**

Section 1. Any person, firm, association of persons, corpo-  
2 ration, municipality, or county, complaining of anything done  
3 or omitted to be done by any motor carrier or by any private  
4 carrier of property by motor vehicle subject to this act, in  
5 contravention of the provisions thereof, or any duty owing  
6 by it under the provisions of this act, may present to the  
7 commission a petition which shall succinctly state all the  
8 facts. Whereupon, if there shall be any reasonable ground  
9 to investigate such complaint, a statement of the charges thus  
10 made shall be forwarded by the commission to such motor  
11 carrier or private carrier of property by motor vehicle, which  
12 shall be called upon to satisfy such complaint or to answer

13 the same in writing within a reasonable time to be specified  
14 by the commission. If such motor carrier or private carrier  
15 of property by motor vehicle within the time specified shall  
16 make reparations for the injury alleged to have been done  
17 or correct the practice complained of and obey the law and  
18 discharge its duties in the premises, then it shall be relieved  
19 of liability to the complainant for the particular violation of  
20 law or duty complained of. If such motor carrier or private  
21 carrier of property by motor vehicle shall not satisfy the  
22 complaint within the time specified it shall be the duty of the  
23 commission to investigate the same in such manner and by  
24 such means as it shall deem proper.

Sec. 2. Any person, officer, agent or employee of any motor  
2 carrier or private carrier of property by motor vehicle subject  
3 to this act who shall knowingly or willfully make any false  
4 entries in the accounts, account books, records, or memoranda  
5 kept by any motor carrier or private carrier of property by  
6 motor vehicle, or who shall knowingly or willfully destroy or  
7 mutilate any account book, record, or memorandum useful for  
8 the enforcement or administration of this act by the com-  
9 mission, or who shall alter or by any other means or device  
10 falsify the record of any such accounts, account book, records,

11 or memoranda, or who shall knowingly or willfully neglect  
12 or fail to make full, true, and correct entries of or in such  
13 account, account book, record, or memorandum of all the facts  
14 and transactions appertaining to such motor carrier or private  
15 carrier of property by motor vehicle, or who shall falsely  
16 make any statement required to be made to the commission,  
17 shall be deemed guilty of a felony, and, upon conviction  
18 thereof, shall be confined in the penitentiary not less than  
19 one year nor more than five years.

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

Sec. 4. Every officer, agent, employee, or stockholder of any  
2 motor carrier or private carrier of property by motor vehicle,  
3 or any motor carrier or private carrier of property by motor  
4 vehicle, and every person who violates, procures, aids, or abets  
5 in the violating of any of the provisions of this act, or who  
6 fails to obey any order, decision, requirement, rule, or regu-  
7 lation of the commission or procures, aids, or abets any per-

8 son in his failure to obey such order, decision, requirement,  
9 rule, or regulation, shall be deemed guilty of a misdemeanor  
10 and, upon conviction, shall be fined not exceeding one thou-  
11 sand dollars or confined in jail for not less than thirty days  
12 nor more than one year, or both, in the discretion of the court.  
13 When any person is convicted for a violation of any provision  
14 of this act or any order, decision, requirement, rule, or regu-  
15 lation of the commission and it is alleged in the indictment  
16 upon which he is convicted and it is admitted, or by jury  
17 found, that he has been before convicted of a violation of any  
18 provision of this act or order, decision, requirement, rule, or  
19 regulation of the commission, committed prior to the violation  
20 for which the indictment upon trial was found, then he shall  
21 be fined not less than five hundred dollars nor more than  
22 five thousand dollars and shall, in addition thereto, be con-  
23 fined in the county jail for not less than three months nor  
24 more than one year.

Sec. 5. It shall be the duty of the department of public  
2 safety and the sheriffs of the counties in West Virginia to  
3 make arrests and the duty of the prosecuting attorneys of the  
4 several counties to prosecute all violations of this act, and

5 the commission employees designated by it as inspectors shall  
6 have all the lawful powers of peace officers to enforce this act  
7 in any county or city of this state.

**ARTICLE VIII**—*Review of Commission's Action; Parts of Acts  
Repealable.*

Section 1. Any party feeling aggrieved by the entry of a  
2 final order by the commission, affecting him or it, may present  
3 a petition in writing to the supreme court of appeals, or to  
4 a judge thereof in vacation, within thirty days after the entry  
5 of such order, praying for the suspension of such final order.  
6 The applicant shall deliver a copy of such petition to the  
7 secretary of the commission before presenting the same to the  
8 court or the judge. The court or judge shall fix a time for  
9 the hearing on the application, but such hearing, unless by  
10 agreement of the parties, shall not be held, sooner than five  
11 days after its presentation; and notice of the time and place  
12 of such hearing shall be forthwith delivered to the secretary  
13 of the commission, so that the commission may be represented  
14 at such hearing by one or more of its members or by counsel.  
15 If the court or the judge after such hearing be of the opinion  
16 that a suspending order should issue, the court or the judge



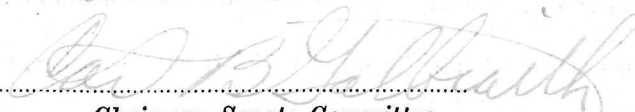
17 may require bond, upon such conditions and in such penalty,  
18 and impose such terms and conditions upon the petitioner,  
19 as are just and reasonable. For such hearing the commis-  
20 sion shall file with the clerk of said court all papers, docu-  
21 ments, evidence, and records or certified copies thereof as  
22 were before the commission at the hearing or investigation  
23 resulting in the entry of the order from which the petitioner  
24 appeals. The commission shall file with the court before the  
25 day fixed for the final hearing a written statement of its reas-  
26 ons for the entry of such order, and after arguments by  
27 counsel the court shall decide the matter in controversy as  
28 may seem to be just and right.

201 and Sec. 2. If any section, subsection, sentence, clause, or  
2 phrase is for any reason held to be unconstitutional and in-  
3 valid, such decision shall not affect the validity of the remain-  
4 ing portions of this act. The Legislature hereby declares that  
5 it would have passed this act, each section, subsection, sen-  
6 tence, clause, or phrase thereof irrespective of the fact that  
7 any one or more of the sections, subsections, sentences,  
8 clauses, or phrases be declared unconstitutional.

201 and Sec. 3. All parts of chapter seventeen of the code of

2 West Virginia as amended and reenacted by chapter sixty,  
3 acts of the West Virginia Legislature, first extraordinary ses-  
4 sion, one thousand nine hundred thirty-three, inconsistent or  
5 in conflict with this act, are hereby expressly repealed, and  
6 the provisions of any other act of said Legislature, or the code  
7 of West Virginia, one thousand nine hundred thirty-one, as  
8 amended which is inconsistent with the provisions of this  
9 act, are hereby expressly repealed.

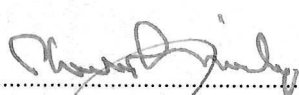
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
Chairman Senate Committee

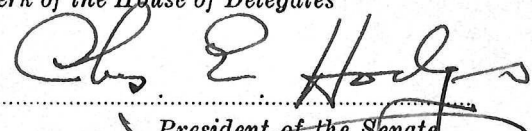
  
Chairman House Committee

Originated in the.....

Takes effect.....passage.

  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker House of Delegates

The within  this the 18<sup>th</sup>

day of , 1937.

  
Governor.

Filed in the office of the Secretary of State  
of West Virginia. MAR 19 1937

Wm. S. O'BRIEN,  
Secretary of State