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

Sec. 2. Definitions. When used in this act: (a) the term "motor vehicle" means, and includes, any automobile, truck, trailer, semi-trailer, tractor, motor bus, or any self-propelling motor-driven motor vehicle used upon any public highway in this state for the purpose of transporting persons or
property; (b) the term "public highway" means any public street, alley, road, or highway or thoroughfare of any kind in this state used by the public; (c) the term "commission" means the public service commission of West Virginia; (d) the term "person" means and includes any individual, firm, copartnership, corporation, company, association, or joint stock association, and includes any trustee, receiver, assignee or personal representative thereof; (e) the term "common carrier by motor vehicle" means any person who undertakes, whether directly or by lease or any other arrangement, to transport passengers or property, or any class or classes of property, for the general public over the highways of this state by motor vehicles for hire, whether over regular or irregular routes, including such motor vehicle operations of carriers by rail, water or air and of express or forwarding agencies; (f) the term "contract carrier by motor vehicle" means any person not included under paragraph (e) of this section, who under special and individual contracts or agreements, and whether directly or by a lease or any other arrangement, transports passengers or property over the highways in this state by motor vehicles for hire; (g) the term
"motor carrier" includes both a common carrier by motor vehicle and a contract carrier by motor vehicle; (h) the term "private carrier of property by motor vehicle" means any person not included in the terms "common carrier by motor vehicle" and "contract carrier by motor vehicle" who transports over the highways in this state by motor vehicle property of which such person is the owner, lessee, or bailee, when such transport is for the purpose of sale, lease, rent, or bailment, or the furtherance of any commercial enterprise; (i) the term "exempt carrier" means any person operating a motor vehicle exempt from the provisions of this act under section three hereof.

Sec. 3. Exemptions. The provisions of this act, except where specifically otherwise provided, shall not apply to: (a) taxicabs, or other motor vehicles performing a bona fide taxicab service, within the corporate limits of any municipality, having a capacity of not more than six passengers and not operated on a regular route or between fixed termini; (b) motor vehicles operated exclusively in the transportation of the United States mail or in the transportation of newspapers; (c) motor vehicles owned and operated by the United
States of America, the state of West Virginia, or any county, municipality, or county board of education, or by any department thereof; (d) motor vehicles owned and operated by farmers in the transportation of their own farm, orchard, or dairy products from point of production to market, or in the infrequent or seasonal transportation by one farmer for another in his immediate neighborhood of products of the farm, orchard, or dairy, or of supplies or commodities to be used on the farm, orchard, or dairy; (e) vehicles especially constructed for towing or wrecking and not otherwise used in transporting property or passengers for compensation. (f) This act shall not apply to any truck of two tons or less capacity, or where there are not more than three trucks owned by a person, company, or corporation.

ARTICLE II—Common Carriers by Motor Vehicle.

Section 1. All common carriers by motor vehicle are hereby declared to be affected with a public interest and subject to the laws of this state now in force or that hereafter may be enacted pertaining to public utilities and common carriers as far as applicable, and not in conflict herewith.
Sec. 2. No common carrier by motor vehicle shall operate
any motor facility for transportation of either persons or
property for hire on any public highway in this state except
in accordance with the provisions of this act and the trans-
portation for more than one consignor, or to more than three
consignees by any motor carrier shall be \textit{prima facie} evidence
that such motor carrier is operating as a common carrier.

Sec. 3. The commission is vested with power and author-
ity to supervise and regulate all common carriers by motor
vehicle and to fix, alter, regulate, and determine just, fair, rea-
sonable, and sufficient rates, joint rates, charges and classi-
fications; to regulate the facilities, accounts, service and
safety of operations of each such carrier, to regulate
operating and time schedules so as to meet the reasonable
needs of any community, so as to provide adequate trans-
portation service to the territory traversed by such carriers,
and so as to prevent unnecessary multiplication of service
among common carriers by motor vehicle and between them
and steam and electric railroads, to require the co-ordination
of the service facilities and schedules of competing common
carriers by motor vehicle or electric and steam railroads;
to require the filing of annual and other reports, tariff, schedules, and other data by such common carriers, in all matters affecting the relation between such carriers and the public and between such carriers and other common carriers. The commission shall have power and authority, by general order or otherwise, to prescribe rules and regulations in conformity with this act applicable to any and all such common carriers by motor vehicle and to do all things necessary to carry out and enforce the provisions of this act.

Sec. 4. All rates, fares, and charges made by any common carrier by motor vehicle shall be just and reasonable, and shall not be unlawfully discriminatory, prejudicial nor preferential. No such carrier shall charge, demand, collect, or receive a greater or less or different remuneration for the transportation of passengers or property, or for any service in connection therewith, than the rates, fares, and charges which have been legally established and filed with the commission; nor shall any such carrier refund, remit, discount or rebate in any manner or by any device any portion of the rates, fares, and charges required to be collected by the tariffs on file with or ordered by the commission.
Sec. 5. (a) It shall be unlawful for any common carrier by motor vehicle to operate within this state without first having obtained from the commission a certificate of convenience and necessity. Upon the filing of an application for such certificate and after hearing thereon, if the commission finds from the evidence that the public convenience and necessity require the proposed service or any part thereof it may issue the certificate as prayed for, or issue it for the partial exercise only of the privilege sought, and may attach to the exercise of the right granted by such certificate such terms and conditions as in its judgment the public convenience and necessity may require. Before granting a certificate to a common carrier by motor vehicle the commission shall take into consideration existing transportation facilities in the territory for which a certificate is sought, and in case it finds from the evidence that the service furnished by existing transportation facilities is reasonably efficient and adequate, the commission shall not grant such certificate.

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

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

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

ARTICLE III—Contract Carriers by Motor Vehicle.

Sec. 1. It is hereby declared that the business of contract
carriers by motor vehicle is affected with a public interest and
that the safety and welfare of the public, the preservation and
maintenance of the public highways, and the integrity of the
regulation of common carriers require the regulation of con-
tract carriers by motor vehicle to the extent herein provided.

Sec. 2. No contract carrier by motor vehicle shall operate:

any motor vehicle for the transportation of either persons or
property for hire on any public highway in this state except
in accordance with the provisions of this act.

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

(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 a 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 property right upon the holder thereof. No permit issued under this act shall be assigned or otherwise transferred without the approval of the commission.

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

(e) Every contract carrier 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.
Sec. 4. The commission is hereby vested with power and authority, and it shall be its duty, to supervise and regulate contract carriers by motor vehicle for the purpose of promoting safety of their operation as transportation agencies upon the highways; to regulate and supervise the accounts and method of keeping the same; to prescribe such rules and regulations as it may deem necessary to carry out the provisions of this act; and to supervise and regulate contract carriers by motor vehicle in all matters affecting the relationship between such carriers and the traveling and shipping public.

Sec. 5. Every contract carrier by motor vehicle is hereby forbidden to give or cause any undue or unreasonable advantage or preference to those whom it serves as compared with the patrons of any common carrier by motor vehicle as that term is used in this act, or the patrons of any other common carrier, or to subject the patrons of any such common carriers to any undue or unreasonable discrimination or disadvantage; or by unfair competition to destroy or impair the service or business of any common carrier by motor vehicle, or of any 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
carriers of property by motor vehicle; to require the filing of annual and other reports and such additional data as may be required by the commission in carrying out the provisions of this act. The commission shall have power and authority, by general order or otherwise, to prescribe reasonable and necessary rules and regulations governing all private carriers of property by motor vehicle, and to supervise and regulate such private carriers in all other matters affecting their relationship with the shipping and the general public.

Sec. 3. It shall be unlawful for any private carrier of property by motor vehicle to operate within this state without first having obtained from the commission a permit therefor. An application shall be made to the commission in writing, stating the ownership of the equipment to be used, and such other information as the commission may request. Upon receipt of such information, and on compliance with the provisions of this act and the commission’s rules and regulations, the commission shall issue a permit to such applicant.

Sec. 4. The commission shall prescribe forms of application for such permits for the use of applicants and shall make 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
plainly indicated upon the schedules in force at the time, and
kept open to public inspection: Provided, however, That the
commission may, in its discretion, and for good cause shown,
allow changes upon less time than the notice herein specified,
or may modify the requirements of this section in respect to
publishing, posting and filing of tariffs, either by particular
instructions or by general order.

Whenever there shall be filed with the commission any
schedule stating a change in the rates or charges, or joint
rates or charges, or stating a new individual or joint rate or
charge or joint classification or any new individual or joint
regulation or practice affecting any rate or charge, the com-
mission shall have authority, either upon complaint or upon
its own initiative without complaint, to enter upon a hearing
concerning the propriety of such rate, charge, classification,
regulation or practice; and, if the commission so orders, it
may proceed without answer or other form of pleading by the
interested parties, but upon reasonable notice, and pend-
such hearing and the decision thereon the commission, upon
filing with such schedule and delivering to the motor carrier
affected thereby a statement in writing of its reasons for such
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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, classifi-
40 cation, 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
for such change. When in any case pending before the com-
mission all evidence shall have been taken, and the hearing
completed, the commission shall, within three months, render
a decision in such case.

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

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

Sec. 4. (a) It shall be lawful, under the conditions speci-

motor carriers to consolidate or merge their property, or any part thereof, into one corporation for the ownership, management, and operation of the properties theretofore owned, managed, and operated separately; or for any such motor carrier or two or more such carriers jointly, to purchase, lease, or contract to operate the properties, or any part thereof, of another such carrier; or for any such motor carrier or two or more such carriers jointly, to acquire control of another such carrier through purchase of its stock; or for a person, not a motor carrier, to acquire control of two or more motor carriers through ownership of their stock; or for any person in control of one or more motor carriers to acquire control of another such carrier through ownership of its stock; or for a carrier by railroad, express, air, or water to consolidate or merge with, purchase, or acquire control of, any motor carrier, or lease or contract to operate its properties or any part thereof.

(b) When a consolidation, merger, purchase, lease, operating contract, or acquisition of control is proposed under this section the carrier, or carriers, or person, seeking authority therefor shall present an application to the commission and,
after hearing, if the commission deems a hearing necessary,
if the commission finds that the transaction proposed will be
consistent with the public interest it shall enter such order
as it may deem proper and as the circumstances may require,
attaching thereto such conditions as it may deem proper,
consenting to the entering into or doing of the things herein-
above provided without approving the terms and conditions
thereof, and thereupon it shall be lawful to do the things
provided for in such order.
(c) Every consolidation, merger, purchase, lease, operat-
ing contract, or acquisition of control, or other transaction
referred to in this section made otherwise than as hereinabove
provided, shall be void.

Sec. 5. The commission may:
(a) Prescribe rules of practice and procedure, the method
and manner of holding hearings, and for taking evidence on
all matters that may come before it and enter such orders
as may be just and lawful. In the investigations, prepara-
tions, and hearings of cases, the commission shall not be
bound by the technical rules of pleading and evidence but in
that respect it may exercise such discretion as will facilitate
its efforts to understand and learn all the facts bearing upon
the right and justness of the matters before it.

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

(c) Prescribe a schedule of fees to accompany applications
for certificates of convenience and necessity and permits and
for the filing and recordation of other papers with the com-
mission. The commission shall likewise prescribe a schedule
of fees to be charged for the certification of all records and
papers and sums to be paid witnesses and other costs neces-
sary and incident to hearings before it or its employees and
order the same paid by the unsuccessful party. Sums col-
lected in this manner, except witness fees, shall be paid into
the state treasury and be credited to the public service com-
mmission fund provided for in chapter twenty-four of the code
of West Virginia as amended. The witness fees shall be paid
to the persons who are entitled thereto. The sums to be paid
into the public service commission motor carrier fund repre-
senting the collections of any month shall be so paid on or
before the tenth of the following month.

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

(e) Require persons subject to the provisions of this chap-
ter, to furnish any information which may be in their pos-
session, or obtainable from their accounting or other records,
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respecting rates, charges, classifications, or practices in conducting their business, and to furnish the commission at all times for inspection any books or papers or reports and statements, which reports and statements shall be under oath, when so required by the commission, and the form of all reports required under this act shall be prescribed by the commission. The commission shall collect, receive and preserve the same, and shall annually tabulate and publish the same in statistical form, together with the other acts and proceedings of the commission.

(f) Either as a commission or by any of its members, or by designated employees, subpoena witnesses and take testimony, and administer oaths to any witness in any proceeding or examination instituted before it or conducted by it with reference to any matter within its jurisdiction. In all hearings or proceedings before the commission or its designated employees the evidence of witnesses and the production of documentary evidence may be required at any designated place of hearing within the state; and in case of disobedience to a subpoena or other process the commission or any party to the proceedings before the commission may invoke the aid
of any circuit court in the state in requiring the evidence and
testimony of witnesses and the production of papers, books,
and documents. And such court, in case of refusal to obey
the subpoena issued to any person or to any motor carrier
subject to the provisions of this chapter, shall issue an order
requiring such motor carrier or any person to appear before
the commission or designated employees and produce all
books and papers, if so ordered, and give evidence touching
the matter in question. Any failure to obey such order of
the court may be punished by such court as contempt there-
of. A claim that any such testimony or evidence may tend
to incriminate the person giving the same shall not excuse
such witness from testifying, but such witness shall not be
prosecuted for any offense concerning which he is compelled
hereunder to testify.

(g) Require common carriers by motor vehicle and con-
tract carriers by motor vehicle subject to the provisions of
this act either to procure and file liability and property
damage insurance from a company licensed to write such in-
surance in West Virginia or to deposit such security for such
limits of liability and upon such terms and conditions as the
commission shall determine to be necessary for the reasonable protection of the public against damage and injury for which such carrier may be liable by reason of the operation of any motor vehicle. In fixing the amount of said insurance policy, or policies, or deposit of security, the commission shall give due consideration to the character and amount of traffic and the number of persons affected and the degree of danger which the proposed operation involves.

(h) Cooperate with the federal government and the interstate commerce commission of the United States or any other commission or organized delegated authority to regulate interstate or foreign commerce by motor vehicles, and it shall be its duty so to do, to the end that the transportation of persons and property by motor vehicles in interstate and foreign commerce into and through the state of West Virginia may be regulated and the laws of the United States and of the state of West Virginia enforced and administered cooperatively in the public interest.

(i) Make agreements on behalf of the state of West Virginia with any other state or states providing for reciprocal rights, privileges, and courtesies between the licensees and
permittees of the said state or states and the state of West Virginia respecting licenses and the transportation of property into and through the respective state or states and the state of West Virginia, and all existing agreements between a state or states and the state of West Virginia for reciprocal rights, privileges, and courtesies may, provided constitutional and contractual rights are not violated, be declared void by the commission and new agreements negotiated.

(j) Promulgate safety rules and regulations applicable to motor vehicles subject to the provisions of this act and promulgate regulations governing the hours of employment of drivers and chauffeurs of motor vehicles subject to the provisions of this act and any other rules and regulations which the commission may deem proper to carry out the provisions 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 establish and maintain adequate and suitable facilities, safety appliances, and other suitable appliances and shall perform such service in respect thereto as shall be reasonably safe and
sufficient for the security and convenience of the public, and
the safety and comfort of its employees and in all respects
just and fair, and without any unjust discrimination or pref-
erece. Every motor carrier may be required by the com-
mission to establish and maintain such suitable public service
facilities and conveniences as may be reasonable and just. No
motor carrier shall discontinue any regular passenger or other
public service facility, or change any passenger schedule or
time table without first obtaining authority from the commis-
sion so to do, unless the same be done under uniform rules
and regulations filed by such motor carrier with the public
service commission and approval by said commission. All
motor carriers subject to this chapter shall, according to their
respective powers and facilities, afford all reasonable, proper,
and equal facilities for the interchange of traffic between their
respective lines, and for the receiving, forwarding, and deliv-
ery of passengers and property to and from their several lines,
and those connecting therewith, including common carriers
not subject to this act, and shall not discriminate in their
rates and charges or methods or manner of service between
such connecting lines. The commission may require such
interchange of traffic and the joint use of terminal facilities
as may be reasonable and just.

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

Sec. 3. Certificates of convenience and necessity and per-
mits issued to motor carriers by state authorities under the
authority of the laws of this state in effect prior to the date
this act becomes effective shall remain in effect until con-
firmed, revoked or suspended by the commission, but persons
who are the holders of such certificates and permits shall be
subject to all provisions of this act. The procedure for con-
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,
Sec. 4. The commission shall prescribe an identification card which must be displayed within the cab of each motor vehicle required to have a permit under this act, setting forth permit number and the route over, or territory in which, the vehicle is authorized to operate and the name and address of the owner of said permit. The identification card provided for herein may be in such form and contain such other information as may be required by the commission. It shall be unlawful for the owner of said permit, his agent, servant, or employee, or any other person, to use or display said identification card, the permit number, or other insignia of authority from the commission after said permit has expired, been cancelled, or disposed of, or to operate any vehicle under permit without such identification card.

Sec. 5. It shall be unlawful for any motor carrier to operate any motor vehicle within this state unless there shall be displayed and firmly fixed upon the rear of such vehicle, an identification plate to be furnished by the commission. Such plate shall be different in design for the different classes of certificates or permits, shall bear the number given to the vehicle by the commission, and such other marks
of identification as may be prescribed, and shall be in addition to the regular license plates required by law. Such plates shall be issued annually and attached to each such motor vehicle not later than July first of each year. The commission shall collect from the applicant a fee of one dollar for each plate so issued, and all fees for such plates shall be deposited in the state treasury to the credit of the public service commission motor carrier fund.

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

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

<table>
<thead>
<tr>
<th>Annual Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 ton or less</td>
</tr>
<tr>
<td>$10.00</td>
</tr>
<tr>
<td>Over 1 ton to 1½ tons</td>
</tr>
<tr>
<td>$15.00</td>
</tr>
<tr>
<td>Over 1½ tons to 2 tons</td>
</tr>
<tr>
<td>------------------------</td>
</tr>
<tr>
<td>Over 2 tons to 3 tons</td>
</tr>
<tr>
<td>Over 3 tons to 4 tons</td>
</tr>
<tr>
<td>Over 4 tons to 5 tons</td>
</tr>
<tr>
<td>Over 5 tons to 6 tons</td>
</tr>
<tr>
<td>Over 6 tons to 7 tons</td>
</tr>
<tr>
<td>Over 7 tons to 8 tons</td>
</tr>
<tr>
<td>Over 8 tons to 9 tons</td>
</tr>
<tr>
<td>Over 9 tons to 10 tons</td>
</tr>
<tr>
<td>Each additional ton over 10 tons</td>
</tr>
</tbody>
</table>

(b) The special license fee for common carriers of passengers by motor vehicle, and contract carriers of passengers by motor vehicle shall be as follows:

<table>
<thead>
<tr>
<th>Annual Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Seating capacity of 10 passengers or less</td>
</tr>
<tr>
<td>Seating capacity of 10 to 20 passengers</td>
</tr>
<tr>
<td>Seating capacity of 20 to 30 passengers</td>
</tr>
<tr>
<td>Seating capacity of 30 to 40 passengers</td>
</tr>
<tr>
<td>Seating capacity of over 40 passengers</td>
</tr>
</tbody>
</table>

(c) The special license fees herein provided for shall be paid to, and collected by, the state road commission of West 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
one hundred thousand dollars.

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

ARTICLE VII—Complaints, Damages, and Violations.

Section 1. Any person, firm, association of persons, corporation, municipality, or county, complaining of anything done or omitted to be done by any motor carrier or by any private carrier of property by motor vehicle subject to this act, in contravention of the provisions thereof, or any duty owing by it under the provisions of this act, may present to the commission a petition which shall succinctly state all the facts. Whereupon, if there shall be any reasonable ground to investigate such complaint, a statement of the charges thus made shall be forwarded by the commission to such motor carrier or private carrier of property by motor vehicle, which shall be called upon to satisfy such complaint or to answer
the same in writing within a reasonable time to be specified by the commission. If such motor carrier or private carrier of property by motor vehicle within the time specified shall make reparations for the injury alleged to have been done or correct the practice complained of and obey the law and discharge its duties in the premises, then it shall be relieved of liability to the complainant for the particular violation of law or duty complained of. If such motor carrier or private carrier of property by motor vehicle shall not satisfy the complaint within the time specified it shall be the duty of the commission to investigate the same in such manner and by such means as it shall deem proper.

Sec. 2. Any person, officer, agent or employee of any motor carrier or private carrier of property by motor vehicle subject to this act who shall knowingly or willfully make any false entries in the accounts, account books, records, or memoranda kept by any motor carrier or private carrier of property by motor vehicle, or who shall knowingly or willfully destroy or mutilate any account book, record, or memorandum useful for the enforcement or administration of this act by the commission, or who shall alter or by any other means or device falsify the record of any such accounts, account book, records,
or memoranda, or who shall knowingly or willfully neglect
or fail to make full, true, and correct entries of or in such
account, account book, record, or memorandum of all the facts
and transactions appertaining to such motor carrier or private
carrier of property by motor vehicle, or who shall falsely
make any statement required to be made to the commission,
shall be deemed guilty of a felony, and, upon conviction
thereof, shall be confined in the penitentiary not less than
one year nor more than five years.

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

Sec. 4. Every officer, agent, employee, or stockholder of any
motor carrier or private carrier of property by motor vehicle,
or any motor carrier or private carrier of property by motor
vehicle, and every person who violates, procures, aids, or abets
in the violating of any of the provisions of this act, or who
fails to obey any order, decision, requirement, rule, or regu-
lation of the commission or procures, aids, or abets any per-
son in his failure to obey such order, decision, requirement, rule, or regulation, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not exceeding one thousand dollars or confined in jail for not less than thirty days nor more than one year, or both, in the discretion of the court.

When any person is convicted for a violation of any provision of this act or any order, decision, requirement, rule, or regulation of the commission and it is alleged in the indictment upon which he is convicted and it is admitted, or by jury found, that he has been before convicted of a violation of any provision of this act or order, decision, requirement, rule, or regulation of the commission, committed prior to the violation for which the indictment upon trial was found, then he shall be fined not less than five hundred dollars nor more than five thousand dollars and shall, in addition thereto, be confined in the county jail for not less than three months nor more than one year.

Sec. 5. It shall be the duty of the department of public safety and the sheriffs of the counties in West Virginia to make arrests and the duty of the prosecuting attorneys of the several counties to prosecute all violations of this act, and
the commission employees designated by it as inspectors shall have all the lawful powers of peace officers to enforce this act 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 final order by the commission, affecting him or it, may present a petition in writing to the supreme court of appeals, or to a judge thereof in vacation, within thirty days after the entry of such order, praying for the suspension of such final order. The applicant shall deliver a copy of such petition to the secretary of the commission before presenting the same to the court or the judge. The court or judge shall fix a time for the hearing on the application, but such hearing, unless by agreement of the parties, shall not be held, sooner than five days after its presentation; and notice of the time and place of such hearing shall be forthwith delivered to the secretary of the commission, so that the commission may be represented at such hearing by one or more of its members or by counsel. If the court or the judge after such hearing be of the opinion that a suspending order should issue, the court or the judge
may require bond, upon such conditions and in such penalty, and impose such terms and conditions upon the petitioner, as are just and reasonable. For such hearing the commission shall file with the clerk of said court all papers, documents, evidence, and records or certified copies thereof as were before the commission at the hearing or investigation resulting in the entry of the order from which the petitioner appeals. The commission shall file with the court before the day fixed for the final hearing a written statement of its reasons for the entry of such order, and after arguments by counsel the court shall decide the matter in controversy as may seem to be just and right.

Sec. 2. If any section, subsection, sentence, clause, or phrase is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more of the sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

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...passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within...this the...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