

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1945

ENROLLED

Committee Substitute for

SENATE BILL No. 193

*Originating in the Senate Committee on the
Judiciary*

(By Mr. _____)

PASSED March 10 1945

In Effect 90 days from Passage



193

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 193

(Originating in the Senate Committee on the Judiciary.)

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

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

Be it enacted by the Legislature of West Virginia:

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

Article 2. Common Carriers by Motor Vehicle.

Section 5. *Certificates of Convenience and Necessity; Hearing on Application; Transfer; Revocation.*—(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 shall 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, and if the commission shall be of the opinion that the service rendered by any common carrier holding a certificate of convenience and necessity over any route or routes in this state is in any respect inadequate or insufficient to meet the public needs, such certificate holder shall be given reasonable time and opportunity to remedy such in-

21 adequacy or insufficiency before any certificate shall be
22 granted to an applicant proposing to operate over such
23 route or routes as a common carrier. Before granting a
24 certificate to a common carrier by motor vehicle the com-
25 mission shall take into consideration existing transporta-
26 tion facilities in the territory for which a certificate is
27 sought, and in case it finds from the evidence that the
28 service furnished by existing transportation facilities is
29 reasonably efficient and adequate, the commission shall
30 not grant such certificate.

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

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

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

Article 3. Contract Carriers by Motor Vehicle.

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

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

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

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

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

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

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

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

Charles C Morris

Chairman Senate Committee

J. A. DeGrumpe
Chairman House Committee

Originated in the Senate

Takes effect 90-days from passage

Thomas H. Hays
Clerk of the Senate

Phillip
Clerk of the House of Delegates

Arnold W. Tickers
President of the Senate

John E. Arns
Speaker House of Delegates

The within Approved this the 16
day of March, 1945.

Clarence Meadows
Governor.

Filed in the office of the Secretary of State
of West Virginia MAR 16 1945
Wm. S. O'BRIEN,
Secretary of State

