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 ____________ 1945

In Effect ____________

JARRETT PRINTING COMPANY, CHARLESTON, W. VA.
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 re-enacted to read as follows:

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-
adequacy or insufficiency before any certificate shall be
granted to an applicant proposing to operate over such
route or routes as a common carrier. Before granting a
certificate to a common carrier by motor vehicle the com-
mission shall take into consideration existing transporta-
tion 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 convenience 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
irrevocable or to confer any proprietary or property rights
in the use of the public highways. No certificate issued
under this act shall be assigned or otherwise transferred
without the approval of the commission. Upon the death
of a person holding a certificate, his personal representa-
tive or representatives may operate under such certificate
while the same remains in force and effect and, with the
consent of the commission, may transfer such certificate.


Section 3. Permit; Hearing on Application; Transfer;
Revocation.—(a) It shall be unlawful for any contract
carrier by motor vehicle to operate within this state with-
out 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 shall 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 purpose
of this chapter. 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 common 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 report or reports to be made to the commission.

(c) No permit issued in accordance with the terms of this act shall be construed to be either a franchise or irrevocable or to confer any proprietary or property rights in the use of the public highways. No permit issued under this act shall be assigned or otherwise transferred without the approval of the commission. Upon the death of a person holding a permit, his personal representative
or representatives may operate under such permit while
the same remains in force and effect and, with the con-
sent of the commission, may transfer such permit.
(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 is-
sued shall notify the commission within thirty days of
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

Chairman House Committee

Originated in the Senate

Takes effect 90 days from passage

Herman Viges
Clerk of the Senate

Clerk of the House of Delegates

Cornelius Tucker
President of the Senate

John E. Ashoo
Speaker House of Delegates

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

Governor.

[Enr. Com. Sub. for S. B. No. 193]

MAR 16 1945

Wm. S. O'Brien,
Secretary of State