WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1947

ENROLLED

HOUSE BILL No. 410

(By Mr. Hambarger, Mr. Lescue)

PASSED March 7, 1947

In Effect May 1, 1947

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

Be it enacted by the Legislature of West Virginia:

That article four, chapter twenty-four-a of the code of West Virginia, one thousand nine hundred thirty-one, be repealed; that sections two and three, article one; section five, article five; sections four, five and six, article six; and article seven, of said chapter, be amended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

Article 1.

Section 2. Definitions.—When used in this act: (a)
the term "motor vehicle" means, and includes, any automobile, truck, tractor, truck-tractor, trailer, semi-trailer, motor bus, taxicab, any self-propelling motor-driven motor vehicle, or any combination thereof, 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
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 lease or any other arrangement, transports passengers or property over the highways in this state by motor vehicle 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 "exempt carrier" means any person operating a motor vehicle exempt from the provisions of this act under section three thereof.

Sec. 3. Exemptions.—The provisions of this act, except where specifically otherwise provided, shall not apply to: (a) motor vehicles operated exclusively in the transportation of United States mail or in the transportation of newspapers; (b) 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, and
any motor vehicles operated under a contract with a county board of education exclusively for the transportation of children to and from school or such other legitimate transportation for the schools as the commission may specifically authorize; (c) motor vehicles owned and operated by farmers for the transportation, with or without compensation, of agricultural products produced on the farm owned or leased by such farmer, or on lands within a radius of eight air miles of such farm or lands, or the transportation of agricultural supplies to be used on such farm or lands, and in the transportation by such farmer, of fresh fruits, raw milk, or livestock, from point of production to markets or processing plants, packing houses, railroad stations and cold storage plants.

Article 4. This article is hereby repealed.

Article 5.

Sec. 5. *Further Regulatory Powers of the Commission.*—The commission shall:

(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 investiga-
tions, preparations, 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 discre-
tion 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 evidence at any hearing held
or required by the provisions of this act, which employees
are hereby empowered to administer 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 connec-
tion with the provisions of this act.

(c) Prescribe a schedule of fees to accompany ap-
plications for certificates of convenience and necessity
and permits and for the filing and recordation of other papers with the commission. 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 necessary and incident to hearings before it or its employees and order the same paid by the unsuccessful party. Sums collected in this manner, except witness fees, shall be paid into the state treasury and be credited to the public service commission motor carrier fund provided for in section six of article six of this act. The witness fees shall be paid to the persons who are entitled thereto.

(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 prescribe 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 money, and any other forms, records and memo-
randa which in the judgment of the commission may be
necessary to carry out any of the provisions of this
chapter.
(e) Require persons subject to the provisions of this
chapter, to furnish any information which may be in
their possession, or obtainable from their accounting or
other records, 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.
(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 the 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 thereof. A claim that 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
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contract carriers by motor vehicle subject to the provisions of this act either to procure insurance from a company authorized to write such insurance in west virginia, or to qualify as a self-insurer, or to deposit such security, upon such terms and conditions and for such limits of liability as the commission shall determine to be necessary for the reasonable protection of the traveling, shipping, and general public against injury, loss, damage or default for which such carrier may be liable, and prescribe rules and regulations governing the filing of evidence of such insurance and such security with the commission. in fixing the amount of such insurance policy or policies, the qualifications as a self-insurer, or the deposit of security, the commission shall give due consideration to the character and amount of traffic, the value of the property transported, the number of persons affected, and the degree of danger involved in any such motor carrier operation.

(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 or holders of certificates and permits of the said state or states and the state of West Virginia respecting certificates and permits, fees, assessments, and identification cards and plates, and the transportation of either persons or property into or 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 qualifications and maximum hours of service of drivers and chauffeurs of common and contract carriers by motor vehicle of passengers and property subject to the provisions of this act, and promulgate any other rules and regulations which the commission may deem proper to carry out the provisions and intent of this act.

Article 6.

Sec. 4. Identification Card.—The commission shall prescribe an identification card which shall be displayed within the cab of each motor vehicle operated by any motor carrier, showing thereon the description and serial number of the vehicle for which it is issued and the number of the identification plate issued for said vehicle. 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 motor carrier, his agent, servant, or employee, or
any other person to use or display said identification
card or other insignia of authority from the commission
at any time after the certificate or permit issued to said
motor carrier has expired or has been cancelled, sus-
pended, revoked, or otherwise disposed of, or to operate
any vehicle without such identification card.

Sec. 5. Identification Plate.—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 plate re-
quired by law. Such plates shall be issued annually and
attached to each such motor vehicle not later than July
first of each year.

Sec. 6. Motor Carrier Fund; Assessment; Collec-
tion; Appropriation.—In addition to the license fees, registration fees, or any other taxes required by law to be collected from motor carriers subject to this act, each such motor carrier shall be subject to, and shall pay to the public service commission, a special annual assessment for the purpose of paying the salaries, compensation, costs and expenses of administering and enforcing this act. All proceeds or funds derived from such assessment shall be paid into the state treasury and credited to a special fund designated public service commission motor carrier fund, to be appropriated as provided by law for the purposes herein stated. Each member of the commission shall receive a salary of fifteen hundred dollars per annum as compensation for the administration of this act in addition to all other salary or compensation otherwise provided by law, to be paid in monthly installments from said fund, but in no event shall the salary of a commissioner exceed six thousand dollars per annum. The special assessment against each motor carrier shall be apportioned upon the number and capacity
22 of motor vehicles used by said carrier, computed as here-inafter provided.

24 (a) For each identification card and plate $1.00.
25 (b) Upon each motor vehicle, except semi-trailers, of such carriers of property, in accordance with its capacity as rated by its manufacturer, in addition to amount in sub-section (a).
29 Of one ton or less capacity $ 9.00
30 Of over one to one and one-half tons capacity 13.50
31 Of over one and one-half tons to two tons capacity 18.00
32 Of over two tons to three tons capacity 22.50
33 Of over three tons to four tons capacity 27.00
34 Of over four tons to five tons capacity 31.50
35 Of over five tons to six tons capacity 36.00
36 Of over six tons to seven tons capacity 40.50
37 Of over seven tons to eight tons capacity 45.00
38 Of over eight tons to nine tons capacity 49.50
39 Of over nine tons to ten tons capacity 54.00
40 Of over ten tons capacity, $54.00 plus $4.50 for each additional ton of capacity in excess of ten tons.
42 (c) Upon each semi-trailer of such carriers of property,
in accordance with its capacity as rated by its manufac-
turer, in an amount of two-thirds of the amount provided
for vehicles of its capacity in sub-section (b) of this
section.

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

<table>
<thead>
<tr>
<th>Seating Capacity</th>
<th>Assessment Amount</th>
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</thead>
<tbody>
<tr>
<td>Of ten passengers or less</td>
<td>$13.50</td>
</tr>
<tr>
<td>Of eleven to twenty passengers, inclusive</td>
<td>22.50</td>
</tr>
<tr>
<td>Of twenty-one to thirty passengers, inclusive</td>
<td>31.50</td>
</tr>
<tr>
<td>Of thirty-one to forty passengers, inclusive</td>
<td>45.00</td>
</tr>
<tr>
<td>Of over forty passengers</td>
<td>54.00</td>
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</tbody>
</table>

(e) The annual assessment of each motor carrier shall
be paid on or before the first day of July of each year.

Additional assessments shall be collected upon the placing
in use of any additional motor vehicle: Provided, That
such additional assessments shall be subject to a reduction
in the amounts shown in sub-sections (b), (c), and (d)
corresponding to the unexpired quarterly periods of the
fiscal year, but shall not in any event be less than one-
fourth of such amount plus the sum of one dollar provided in sub-section (a).

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

(g) Prior to the beginning of any fiscal year the public service commission, after taking into consideration any unexpended balance in the motor carrier fund, the probable receipts to be received in the ensuing fiscal year, and the probable costs of administering and enforcing the motor carrier act for the ensuing fiscal year, may fix the assessments provided for in this section for the ensuing fiscal year in amounts which, in the commission's judgment, will produce sufficient revenue to administer and enforce the motor carrier act for said fiscal year: Provided, That in no event shall such assessments exceed the amounts set up in this section.
Article 7.

Section 1. Complaints Against Motor Carriers; Investigation.—Any person, firm, association of persons, corporation, municipality, or county, complaining of anything done or omitted to be done by any motor carrier 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, 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 of property by motor vehicle within the time specified shall make reparations for the injury alleged to have been done or to 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 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. *Falsifying Records; Penalty.*—Any person, officer, agent or employee of any motor carrier subject to this act who will knowingly or wilfully make any false entries in the accounts, account books, records, or memoranda kept by any motor carrier, or who shall knowingly or wilfully destroy or mutilate any account book, record, or memoranda 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 books, records, or memoranda, or who shall knowingly or wilfully 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 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. *Continuing Offenses.*—Every day during which any person shall fail to observe and comply with any order or direction of the commission 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. *Penalty for Violation of Chapter; Second Offense.*—Every officer, agent, employee, or stockholder of any motor carrier, or any motor carrier, and every person who violates, procures, aids, or abets in the violating of any of the provision of this act, or who fails to obey any order, decision, requirement, rule, or regulation of the commission or procures, aids, or abets any person in his failure to obey such order, decision, requirement, rule, or regulations, 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
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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 addi-
tion thereto, be confined in the county jail for not less
than three months nor more than one year.

Sec. 5.  Duty of Prosecuting Attorneys and Peace Of-
ficers to Enforce Chapter; Police Powers of Inspectors.—
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 in-
spectors shall have all the lawful powers of peace officers
to enforce this act in any county or city of this state.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Forest L. Corr. Neer
Chairman Senate Committee

R.L. Matthews
Chairman House Committee

Originated in the House of Delegates

Takes effect May 1, 1947

Howard Meyers
Clerk of the Senate

J. A. Miller
Clerk of the House of Delegates

Arnold M. Verkuyl
President of the Senate

John E. Amos
Speaker House of Delegates

The within approved this the 14th
day of March, 1947.

Dwain McIvor
Governor

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

WM. S. O'Brien
SECRETARY OF STATE

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