WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1961

ENROLLED

HOUSE BILL No. 203

(By Mr. Singleton and Mr. Spilker)

PASSED
February 20, 1961
In Effect
July 1, 1961

Filed in Office of the Secretary of State
of West Virginia
March 3, 1961
JOSE F. BURDETT
SECRETARY OF STATE
AN ACT to repeal section five, article six; and to amend and reenact section two, article one; section five, article five; and sections four and six, article six, all of chapter twenty-four-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to uniform regulation of public for hire motor vehicles by the public service commission.

Be it enacted by the Legislature of West Virginia:

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article six, chapter twenty-four-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that section two, article one; section five, article five; sections four and six, article six, of said chapter be amended and reenacted to read as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


Section 2. Definitions.—When used in this chapter: (a)
the term "motor vehicle" means, and includes, any auto-
mobile, 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 trans-
porting persons or property; (b) the term "public high-
way" 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 serv-
ice commission of West Virginia; (d) the term "person"
means and includes any individual, firm, copartnership,
corporation, company, association, or joint stock associa-
tion, and includes any trustee, receiver, assignee or per-
sonal representative thereof; (e) the term "common car-
rrier 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 opera-
tions of carriers by rail, water or air and of express or
forwarding agencies, and leased or rented motor vehicles, with or without drivers; (f) the term "contract carrier by motor vehicle" means any person not included in subsection (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 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 "exempt carrier" means any person operating a motor vehicle exempt from the provisions of this chapter under section three thereof; (i) the term "power unit" means any vehicle which contains within itself the engine, motor, or other source of power by which said vehicle is propelled.

Article 5. Powers and Duties of Commission.

Section 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 investigations, 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 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 chapter, 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 chapter, 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 connection with the provisions of this chapter.

(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 commission. The commission shall likewise pre-
scribe a schedule of fees to be charged for the certifica-
tion of all records and papers and sums to be paid wit-
nesses 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 chapter. The witness fees shall be paid to the per-
sons 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 dis-
cretion prescribe the form of accounts, records, and mem-
oranda 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 memoranda 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 chapter 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 with-
in 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 contract carriers by motor vehicle subject to the provi-
sions of this chapter 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 ve-
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 uniform vehicle identification cards, 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 chapter 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 chapter, and promulgate any other rules and regulations which the commission may deem proper to carry out the provisions and intent of this chapter.

Article 6. Duties and Privileges of Motor Carriers Subject to Regulations of the Commission.

Section 4. Uniform Vehicle Identification Card.—The commission shall prescribe a uniform vehicle identification card which shall be displayed within the cab of each power unit operated by any motor carrier, showing thereon the description and serial number of the vehicle for which it is issued and the number given to the vehicle by the commission, and may contain such other information as may be required by the commission. Such cards shall be issued annually and displayed in each such power unit not later than July first of each year. It shall
be unlawful for any motor carrier to operate any power unit within this state unless said identification card is displayed within such vehicle. 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, suspended, revoked, or otherwise disposed of.

Sec. 6. Motor Carrier Fund; Assessment; Collection; 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 chapter, 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 chapter. 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 pur-
poses herein stated. Each member of the commission shall receive a salary of two thousand dollars per annum as compensation for the administration of this chapter in addition to all other salary or compensation otherwise provided by law, to be paid in monthly installments from said fund. The special assessment against each motor carrier shall be apportioned upon the number and capacity of motor vehicles used by said carrier, computed as hereinafter provided.

(a) For each uniform vehicle identification card $3.00
(b) Upon each power unit of such carriers of property in accordance with its capacity as rated by its manufacturer, in addition to amount of subsection (a).

Of one ton or less capacity $9.00
Of over one to one and one-half tons capacity 13.50
Of over one and one-half tons to two tons capacity 18.00
Of over two tons to three tons capacity 22.50
Of over three tons to four tons capacity 27.00
Of over four tons to five tons capacity 31.50
Of over five tons to six tons capacity 36.00
Of over six tons to seven tons capacity $40.50
Of over seven tons to eight tons capacity $45.00
Of over eight tons to nine tons capacity $49.50
Of over nine tons to ten tons capacity $54.00
Of over ten tons capacity, $54.00 plus $4.50 for each additional ton of capacity in excess of ten tons.

(c) Upon each trailer and semi-trailer of such carriers of property, in accordance with its capacity as rated by its manufacturer, in an amount of two-thirds of the amount provided for vehicles of its capacity in subsection (b) of this section.

(d) Upon each power unit of such carriers of passengers, in accordance with the seating capacity thereof, in addition to amount in subsection (a).

Of ten passengers or less $13.50
Of eleven to twenty passengers, inclusive 22.50
Of twenty-one to thirty passengers, inclusive 31.50
Of thirty-one to forty passengers, inclusive 45.00
Of over forty passengers 54.00

(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 subsections (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 three dollars provided in subsection (a).

(f) Upon payment by any motor carrier of the assessment provided for, the public service commission shall advise the department of motor vehicles by notice in writing that such assessment has been paid, whereupon the department of motor vehicles 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, 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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House.

Takes effect July 1st, 1961, passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the third day of March, 1961.

Governor