WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1980

ENROLLED

HOUSE BILL No. 570

(By Mr. Martin (35th) and Mr. Candale)

Passed February 15, 1980

In Effect - from - Passage
ENROLLED

H. B. 890

(By Mr. Martin, 35th Dist., and Mr. Caudle)

(Originating in the House Committee on the Judiciary)

[Passed February 15, 1980; in effect from passage.]

AN ACT to amend and reenact section five, article two, chapter twenty-four-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to certificates of convenience and necessity for common carriers by motor vehicles; giving the public service commission the duty to prescribe rules for conducting certificate hearings; placing the burden of proof on the applicant; requiring public service commission permission to transfer a certificate including after the death of the person holding the certificate; authorizing the commission to suspend, revoke or amend a certificate; and authorizing the reaffirmation of said certificates issued since the tenth day of March, one thousand nine hundred seventy-nine.

Be it enacted by the Legislature of West Virginia:

That section five, article two, 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 VEHICLES.


1 (a) Required; application; hearing; granting.—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, the commission shall set a time and place for a hearing on the application: Provided, That the commission may, after giving proper notice and if no protest is received, waive formal hearing on the application. Notice shall be by publication which shall state that a formal hearing may be waived in the absence of a protest to such application. The notice shall be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area for such publication shall be the proposed area of operation. The notice shall be published at least ten days prior to the date of the hearing. After the hearing or waiver by the commission of the hearing, 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 inadequacy 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 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) Rules and regulations; taking evidence at hearings; burden of proof.—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 com-
mission 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) Certificate not franchise, etc.; assignment or transfer.—
No certificate issued in accordance with the terms of this
chapter 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 chapter shall be assigned or otherwise transferred without
the approval of the commission. Upon the death of a person
holding a certificate, his personal representative or representa-
tives may operate under such certificate while the same
remains in force and effect and, with the consent of the com-
misson, may transfer such certificate.

(d) Suspension, revocation or amendment.—The com-
mission may at any time, for good cause, suspend and, upon
not less than fifteen days' notice to the grantee of any certifi-
cate and an opportunity to be heard, revoke or amend any
certificate.

(e) The commission shall have the authority, after hearing,
to ratify, approve and affirm those orders issued pursuant to
this section since the tenth day of March, nineteen hundred
seventy-nine. For the purposes of this subsection the com-
misson may give notice by a Class I legal advertisement of
such hearing in any newspaper or newspapers of general
circulation in this state, and such other newspapers as the
commission may designate.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis  
Chairman Senate Committee

Chairman House Committee

Originated in the House.

Takes effect from passage.

J. C. Wells  
Clerk of the Senate

Clerk of the House of Delegates

W. O. Douglass Jr.  
President of the Senate

Clyde M. Lee Jr.  
Speaker House of Delegates

The within is approved this the 21

day of February, 1980.

Governor