

ENGROSSED HOUSE
BILL NO. 2631

By: Adair of the House

and

Wilkerson of the Senate

An Act relating to motor vehicles; amending Section 2, Chapter 143, O.S.L. 1995, Section 3, Chapter 143, O.S.L. 1995, Section 4, Chapter 143, O.S.L. 1995, Section 7, Chapter 143, O.S.L. 1995, Section 8, Chapter 143, O.S.L. 1995, Section 11, Chapter 143, O.S.L. 1995 (47 O.S. Supp. 1995, Sections 230.22, 230.23, 230.24, 230.27, 230.28 and 230.31), which relate to the Motor Carrier Act of 1995; deleting private carriers from certain licensing and insurance requirements of the Motor Carrier Act of 1995; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 2, Chapter 143, O.S.L. 1995 (47 O.S. Supp. 1995, Section 230.22), is amended to read as follows:

Section 230.22 A. It is hereby declared that it is necessary in the public interest to regulate transportation by motor carriers and private carriers in such manner as to recognize the need to require all motor carriers ~~and private carriers~~ to have adequate insurance; for motor carriers and private carriers to provide service in a safe and efficient manner; and to establish that the

operations of motor carriers and private carriers will not have a detrimental impact on the environment.

B. The public policy of this state, as declared by the Legislature, requires that all existing intrastate certificates and permits granted by the Oklahoma Corporation Commission, except household goods and used emigrant movables, prior to January 1, 1995, are hereby revoked.

C. The provisions of the Motor Carrier Act of 1995, except as hereinafter specifically limited, shall apply to the transportation of passengers or property by motor carriers and private carriers, except motor carriers of household goods and used emigrant movables, over public highways of this state; and the regulations of such transportation, and the procurement thereof and the provisions of facilities therefor, are hereby vested in the Oklahoma Corporation Commission.

D. Nothing herein shall be construed to interfere with the exercise by agencies of the government of the United States of its power of regulation of interstate commerce.

E. The terms and provisions of the Motor Carrier Act of 1995 shall apply to commerce with foreign nations, or commerce among the several states of this Union, insofar as such application may be permitted under the provisions of the Constitution of the United States and the Acts of Congress.

SECTION 2. AMENDATORY Section 3, Chapter 143, O.S.L. 1995 (47 O.S. Supp. 1995, Section 230.23), is amended to read as follows:

Section 230.23 As used in the Motor Carrier Act of 1995:

1. "Person" means any individual, firm, copartnership, limited partnership, corporation, limited liability corporation, company, association, or joint-stock association and includes any trustee, receiver, assignee, or personal representative thereof;

2. "Commission" means the Oklahoma Corporation Commission;

3. "License" means the license issued under authority of the laws of the State of Oklahoma to motor carriers ~~and private carriers;~~

4. "Interstate Registration Certificate" (IRC) means a document issued by the Commission granting permission to operate upon the highways of the State of Oklahoma in interstate commerce exempt from federal motor carrier regulation;

5. "Motor vehicle" means any automobile, truck, truck-tractor, trailer or semitrailer or any motor bus or any self-propelled vehicle not operated or driven upon fixed rails or tracks;

6. "Motor carrier of persons or property" means any person, except a carrier of household goods or used emigrant movables, operating upon any public highway for the transportation of passengers or property for compensation or for hire or for commercial purposes, and not operating exclusively within the limits of an incorporated city or town within this state. Provided, the provisions of the Motor Carrier Act of 1995 shall not apply to cabs and bus companies engaged in the transportation of passengers and their baggage, not operated between two or more cities and towns, when duly licensed by a municipal corporation in which they might be doing business, and shall not apply to any person or governmental authority furnishing transportation for school children to and from public schools or to and from public-school-related extracurricular activities under contract with, and sponsored by, a public school board; provided, that motor vehicles and equipment operated for the purposes shall qualify in all respects for the transportation of school children under the Oklahoma School Code and the rules of the State Board of Education adopted pursuant thereto. Provided, this exemption shall apply only to such vehicles while they are being used for such transportation. Provided further, the provisions of the Motor Carrier Act of 1995 shall not apply to transportation of livestock and farm products in the raw state, when any of such

commodities move from farm to market or from market to farm on a vehicle or on vehicles owned and operated by a bona fide farmer not engaged in motor vehicle transportation on a commercial scale. Provided further, the provisions of this act shall not apply to tour buses as defined by Section 1171 of this title;

7. "Corporate family" means a group of corporations consisting of a parent corporation and all subsidiaries in which the parent corporation owns directly or indirectly one hundred percent (100%) interest;

8. "Intercompany hauling" means the transportation of property, by motor vehicle, for compensation, by a carrier which is a member of a corporate family, as defined in the Motor Carrier Act of 1995, when the transportation for compensation is provided for other members of the corporate family;

9. "Private carrier" means any person engaged in transportation upon public highways, of persons or property, or both, but not as a motor carrier, and includes any person who transports property by motor vehicle where such transportation is incidental to or in furtherance of any commercial enterprise of such person, other than transportation;

10. "Market" means the point at which livestock and farm products in the raw state were first delivered by the producer of the livestock and farm products in the raw state, upon the sale thereof;

11. "Public highway" means every public street, road or highway, or thoroughfare in this state, used by the public, whether actually dedicated to the public and accepted by the proper authorities or otherwise; and

12. "Commercial enterprise" means all undertakings entered into for private gain or compensation, including all industrial pursuits, whether the undertakings involve the handling of or dealing in commodities for sale or otherwise.

SECTION 3. AMENDATORY Section 4, Chapter 143, O.S.L. 1995 (47 O.S. Supp. 1995, Section 230.24), is amended to read as follows:

Section 230.24 A. The Corporation Commission is hereby vested with power and authority, and it shall be its duty:

1. To supervise and regulate every motor carrier whether operating between fixed termini or over a regular route or otherwise and not operating exclusively within the limits of an incorporated city or town in this state ~~and all private carriers operating vehicles having a gross registered weight of greater than 26,000 pounds and not operating exclusively within the limits of an incorporated city or town in this state;~~

2. To protect the shipping and general public by supervising and requiring insurance of all motor carriers ~~and private carriers;~~

3. To ensure motor carriers and private carriers are complying with the applicable size and weight laws of this state and safety requirements;

4. To establish there will be no detrimental environmental impact; and

5. To supervise and regulate motor carriers in all other matters affecting the relationship between such carriers and the traveling and shipping public provided those matters do not exceed federal standards as they apply to this state.

B. The Commission shall have the power and authority by general order or otherwise to prescribe rules applicable to any or all motor carriers and private carriers as applicable.

C. The Commission shall cooperate and coordinate with the Oklahoma Department of Public Safety in regulating carrier safety, size and weight regulations of motor vehicles and the transportation of hazardous materials. The Commission may enter into interagency agreements with the Department of Public Safety for the purpose of implementing, administering and enforcing any provisions of the

Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act and the rules ~~and regulations~~ of the Department of Public Safety issued pursuant thereto. Any license issued by the Commission may be suspended or revoked due to operations conducted in violation of any laws or rules ~~and regulations~~ pertaining to motor carriers, ~~private carriers~~, carrier safety, size and weight regulations of motor vehicles and the transportation of hazardous materials.

SECTION 4. AMENDATORY Section 7, Chapter 143, O.S.L. 1995 (47 O.S. Supp. 1995, Section 230.27), is amended to read as follows:

Section 230.27 A. Upon the filing by an intrastate motor carrier ~~or private carrier~~ of an application for a license, the applicant shall pay to the Corporation Commission a filing fee in the sum of One Hundred Dollars (\$100.00) with an original or subapplication. Any valid license issued will remain in force, unless otherwise revoked by the Commission in accordance with the provisions of the Motor Carrier Act of 1995, for one (1) year from date of issuance.

B. Every motor carrier ~~or private carrier~~ wishing to continue operations under the original license, shall pay to the Corporation Commission an annual renewal fee of Fifty Dollars (\$50.00).

C. The Commission shall, upon the receipt of any fee, deposit the same in the State Treasury to the credit of the Corporation Commission Revolving Fund.

SECTION 5. AMENDATORY Section 8, Chapter 143, O.S.L. 1995 (47 O.S. Supp. 1995, Section 230.28), is amended to read as follows:

Section 230.28 A. It shall be unlawful for any motor carrier to operate or furnish service within this state without first having obtained from the Commission a license declaring that all insurance requirements have been met and that the carrier will operate within all existing rules and state laws pertaining to safety standards,

size and weight requirements and, when applicable, lawful handling and disposal of hazardous materials and deleterious substances, and will operate in such a manner as to ensure there will be no detrimental environmental impact. ~~It shall also be unlawful for any private carrier to operate or furnish service within this state without first having obtained from the Commission a license declaring that all insurance requirements have been met and that the carrier will operate within all existing rules and state laws pertaining to safety standards, size and weight requirements and, when applicable, lawful handling and disposal of hazardous materials and deleterious substances, and will operate in such a manner as to ensure there will be no detrimental environmental impact.~~ The Commission shall have power, and it shall be its duty after public hearing, to issue the license as prayed for, or to refuse to issue the license within thirty (30) days of final hearing. The mere filing of an application does not authorize any person to operate as a carrier.

B. In granting applications for licenses, the Commission shall take into consideration the reliability of the applicant; the proper equipment meeting minimum safety criteria as adequate to perform the service; and the applicant's sense of responsibility toward the public and the environment.

C. The Commission may, at any time after a public hearing and for good cause, suspend or revoke any license. Provided, the record owner of the license shall be entitled to have ten (10) days' written notice by certified mail from the Commission of any hearing affecting the license, except as otherwise provided in the Motor Carrier Act of 1995. The right of appeal from such order or orders shall be given as in other cases appealed from orders of the Commission.

D. The Commission shall be authorized to exercise any additional power that may from time to time be conferred upon the

state by any Act of Congress. The Commission shall adopt rules prescribing the manner and form in which motor carriers ~~and private carriers~~ shall apply for licenses required by the Motor Carrier Act of 1995. Among other rules adopted, the application shall be in writing and shall set forth the following facts:

1. The name and address of the applicant and the names and addresses of its officers, if any;
2. Full information concerning the physical properties of the applicant; and
3. Such other information as the Commission may consider pertinent to the application.

E. Upon filing of the application, the Commission shall, in its discretion, fix the time and place for the hearing of the same, which shall not be more than forty-five (45) days after the filing of the application.

F. In order for the public and all interested parties to receive proper notice, in addition to any notice the Commission may prescribe, the Commission shall circulate, on its own docket form, notice of all applications for licenses to operate as a carrier which have been filed and are pending. The notice shall be published at least fifteen (15) days prior to the date of hearing and shall show:

1. The time and place of the hearing;
2. The name and address of the applicant; and
3. Such other information as the Commission may consider pertinent to such notice.

G. Upon written annual request and payment of an annual fee to the Commission, the publication shall immediately be furnished by mail to any person by the Commission. The fee shall be set by the Commission at reasonable cost and shall not exceed the actual expense of publication. The Commission shall upon receipt of the

fee deposit the same in the State Treasury to the credit of the General Revenue Fund.

SECTION 6. AMENDATORY Section 11, Chapter 143, O.S.L. 1995 (47 O.S. Supp. 1995, Section 230.31), is amended to read as follows:

Section 230.31 A. Nothing contained in the Motor Carrier Act of 1995 shall be construed to authorize the operation of any passenger or freight vehicle in excess of the gross weight, width, length or height authorized by law.

B. Any person who willfully advertises to perform transportation services for which the person does not hold a license shall be in violation of the Motor Carrier Act of 1995 and subject to the penalties prescribed for contempt of the Commission.

C. All licenses issued by the Commission under any law of the state relating to motor carriers ~~or private carriers~~ shall contain the provision that the Commission reserves to itself authority to suspend or cancel any such license for the violation, on the part of the applicant or any operator or operators of any motor vehicle to be operated thereunder, of any law of this state or any rule adopted by the Commission.

D. Licenses shall be considered personal to the holder of the license and shall be issued only to some definite legal entity operating motor vehicles as a motor carrier ~~or private carrier~~, and shall not be subject to lease, nor shall the holder of the license sublet or permit the exercise, by another, of the rights or privileges granted under the license.

SECTION 7. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 28th day of February, 1996.

Speaker

of the House of
Representatives

Passed the Senate the ____ day of _____, 1996.

President

of the Senate