

SB 503

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THE STATE SENATE
Monday, February 23, 2009

Senate Bill No. 503
As Amended

SENATE BILL NO. 503 - By: Bingman of the Senate and Thompson of the House.

[motor vehicles - Household Goods Act of 2009 -
codification - effective date]

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 161A of Title 47, unless there is created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the "Household Goods Act of 2009". The purpose of this act is to regulate intrastate transportation by motor carriers of household goods in such manner as to establish standards for public safety, fair competitive practices, adequate and dependable service, and protect shippers from deceptive or unfair practices.

B. The provisions of this act, except as specifically limited herein, shall apply to the intrastate transportation of household goods by motor carriers over public highways of this state; and the regulations of such transportation, and the procurement thereof and the provisions of facilities therefore, are hereby vested in the

1 Corporation Commission. The following types of operations shall not
2 be regulated by the Commission:

3 1. Shipments that occur wholly within the corporate limits of a
4 city or town; or

5 2. Shipments contracted by the federal government, a state
6 government, a tribal government or any local government or political
7 subdivision thereof.

8 Nothing in this act shall be construed to interfere with the
9 exercise by agencies of the government of the United States of its
10 power of regulation of interstate commerce.

11 C. As used in this act:

12 1. "Commission" means the Corporation Commission;

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

17 3. "Household goods" means used personal effects and property
18 of a dwelling;

19 4. "Household goods certificate" means a certificate of
20 authority issued by the Corporation Commission to transport
21 household goods within this state;

22 5. "Intercorporate hauling" means the transportation of
23 household goods, by motor vehicle, for compensation, by a carrier

1 which is a member of a corporate family, as defined in this section,
2 when the transportation for compensation is provided for other
3 members of the corporate family;

4 6. "Motor carrier of household goods" means a person
5 transporting household goods for compensation or other
6 consideration, with an origin and destination within this state;

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

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

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

18 10. "Tariff" means a document filed with the Corporation
19 Commission by a household goods carrier showing the maximum rates,
20 fares, and charges for transportation, and all services in
21 connection therewith assessed by the carrier.

22 D. The terms and provisions of this act shall apply to commerce
23 with foreign nations, or commerce among the several states of this

1 Union, insofar as such application may be permitted under the
2 provisions of the Constitution of the United States and the Acts of
3 Congress.

4 SECTION 2. AMENDATORY 47 O.S. 2001, Section 162, as
5 amended by Section 2, Chapter 418, O.S.L. 2005 (47 O.S. Supp. 2008,
6 Section 162), is amended to read as follows:

7 Section 162. A. ~~It shall be the duty of the~~ The Corporation
8 Commission is hereby vested with power and authority to:

9 1. Supervise and regulate every motor carrier of household
10 goods ~~or used emigrant movables and not operating exclusively within~~
11 ~~the limits of an incorporated city or town in this state;~~

12 2. ~~Fix or approve the maximum or minimum, or maximum and~~
13 ~~minimum rates, fares, charges, classifications and rules pertaining~~
14 ~~thereto, of each such motor carrier~~ Protect the shipping and general
15 public by requiring liability insurance and cargo insurance of all
16 motor carriers of household goods;

17 3. ~~Regulate and supervise the accounts, schedules and service~~
18 ~~of each such motor carrier; and for the conservation of the public~~
19 ~~highways~~ Ensure motor carriers of household goods are complying with
20 applicable size and weight laws and safety requirements;

21 4. ~~Prescribe a uniform system and classification of accounts to~~
22 ~~be used, which among other things shall set up adequate depreciation~~
23 ~~charges, and after such accounting system shall have been~~

1 ~~promulgated, such motor carriers shall use no other~~ Ensure consumer
2 protection measures and loss and damage claim procedures are in
3 place;

4 5. ~~Require the filing of annual reports, and other data as~~
5 ~~required from time to time by the Commission~~ maximum tariffs; and

6 6. ~~Supervise and regulate such motor carriers in all other~~
7 ~~matters affecting the relationship between such carriers and the~~
8 ~~traveling and shipping public~~ Enforce the provisions of this act.

9 B. The Commission is authorized to promulgate rules applicable
10 to ~~any or all motor carriers~~ transporters of household goods ~~or used~~
11 ~~emigrant movables.~~

12 C. 1. The Commission is authorized to administer a hazardous
13 material transportation registration and permitting program for
14 motor carriers engaged in transporting hazardous material upon or
15 over the public highways and within the borders of the state.

16 2. The Commission shall promulgate rules implementing the
17 provisions of this subsection. Rules promulgated pursuant to this
18 subsection shall be consistent with, and equivalent in scope,
19 coverage, and content to requirements applicable to operators of
20 vehicles transporting hazardous materials contained in the report
21 submitted to the Secretary of the United States Department of
22 Transportation, pursuant to 49 U.S.C. 5119(b), by the Alliance for
23 Uniform Hazardous Material Transportation Procedures.

1 D. Nothing in this section shall be construed to remove or
2 affect the jurisdiction of the Department of Environmental Quality
3 to implement hazardous waste transportation requirements for federal
4 hazardous waste program delegation to this state under the federal
5 Resource Conservation and Recovery Act.

6 E. The Commission is authorized to promulgate rules and set
7 fees applicable to interstate motor carriers, pertaining to carrier
8 registration, operation of equipment and filing of proper proof of
9 liability insurance.

10 SECTION 3. AMENDATORY 47 O.S. 2001, Section 163, is
11 amended to read as follows:

12 Section 163. A. ~~No common carrier by motor vehicle, unless~~
13 ~~otherwise provided by this act, shall engage in the transportation~~
14 ~~of household goods or used emigrant movables unless the rates,~~
15 ~~fares, and charges upon which the same are transported by said~~
16 ~~carrier have been published, filed and are in effect in accordance~~
17 ~~with the provisions of this act~~ person shall transport household
18 goods for compensation or other consideration in intrastate commerce
19 without a valid certificate issued by the Corporation Commission.

20 B. All charges made by any motor carrier of household goods for
21 any intrastate service rendered or to be rendered ~~by any motor~~
22 ~~carrier~~ in the transportation of household goods ~~or used emigrant~~
23 ~~movables~~, or in connection therewith, shall be ~~just and reasonable~~

1 ~~and every unjust and unreasonable charge for such service or any~~
2 ~~part thereof is prohibited and declared unlawful not exceed the~~
3 ~~rates and charges contained within the tariff filed by the motor~~
4 ~~carrier of household goods with the Commission.~~

5 C. ~~In the exercise of its power to prescribe just and~~
6 ~~reasonable rates, fares, and charges for the transportation of~~
7 ~~household goods or used emigrant movables by common carriers by~~
8 ~~motor vehicle, and classifications, regulations and practices~~
9 ~~relating thereto, the Commission shall give due consideration, among~~
10 ~~other factors, to the need, in the public interest, of adequate and~~
11 ~~efficient transportation service by such carriers at the lowest cost~~
12 ~~consistent with the furnishing of such service; and to the need of~~
13 ~~revenues sufficient to enable such carriers to provide such service~~
14 ~~at a reasonable return to the carrier.~~

15 D. Every ~~common~~ intrastate motor carrier of household goods by
16 ~~motor vehicle~~ shall file with the Commission, publish, and keep open
17 to public inspection tariffs showing all the maximum rates, fares,
18 and charges for transportation, and all services in connection
19 therewith, ~~of household goods or used emigrant movables in~~
20 ~~intrastate commerce between points on its own route and points on~~
21 ~~the route of any other such carrier when a through route and joint~~
22 ~~rate shall be established.~~ The tariffs required by this section
23 shall be published, filed and posted in such form and manner and

1 shall contain such information as ~~the Commission by regulations~~
2 ~~shall rules prescribe, and the.~~ The Commission is authorized to
3 reject any tariff filed with it, the form of which is not consistent
4 with this section and with ~~such regulations~~ Commission rules. Any
5 ~~tariff so rejected by the Commission shall be void and its use shall~~
6 ~~be unlawful. The Commission is further authorized in its discretion~~
7 ~~to suspend, upon complaint of any interested person or upon its own~~
8 ~~motion, the effectiveness of any tariff or portion thereof filed~~
9 ~~with it, where it appears said tariff or portion thereof may not be~~
10 ~~consistent with this section or the regulations of the Commission,~~
11 ~~and shall set the motion for hearing; and after hearing the~~
12 ~~Commission shall, within ninety (90) days after hearing, amend or~~
13 ~~reject the tariff or portion thereof so filed, upon determination as~~
14 ~~to whether or not it is consistent with this section and with the~~
15 ~~regulations of the Commission.~~

16 E. D. No ~~common~~ intrastate motor carrier of household goods ~~or~~
17 ~~used emigrant movables by motor vehicle~~ shall charge or demand or
18 collect or receive a greater, ~~or less, or different~~ compensation for
19 transportation or for any service in connection therewith between
20 the points enumerated or distances set out in such tariff than the
21 rates, fares, and charges specified in the tariffs in effect at the
22 time; ~~and no such carrier shall refund or remit in any manner or by~~
23 ~~any device, directly or indirectly, any portion of the rates, fares,~~

1 ~~or charges so specified, or extend to any person any privileges or~~
2 ~~facilities for transportation in intrastate commerce except such as~~
3 ~~are specified in its tariffs.~~ All actions at law for the recovery
4 of ~~undercharges or overcharges,~~ or any part thereof, shall be begun
5 within three (3) years from the time the cause of action accrues and
6 not thereafter.

7 ~~F.~~ E. No change shall be made in any rate, fare, charge, or
8 classification, or any rule, ~~regulation,~~ or practice affecting such
9 rate, fare, charge, or classification, or the value of the service
10 thereunder, specified in any effective tariff ~~or a common~~ of an
11 intrastate motor carrier of household goods ~~or used emigrant~~
12 ~~movables by motor vehicle,~~ except after thirty (30) days' notice of
13 the proposed change filed and posted in accordance with this
14 section. Such notice shall plainly state the change proposed to be
15 made and the time when such change will take effect. The Commission
16 may, in its discretion and for good cause shown, allow such change
17 upon notice less than that herein specified or modify the
18 requirements of this section with respect to posting and filing of
19 tariffs either in particular instances or by general order
20 applicable to specific or peculiar circumstances or conditions.

21 F. The Commission shall promulgate rules establishing a
22 consumer complaint and mediation procedure.

1 G. ~~It shall be the duty of every contract carrier of household~~
2 ~~goods or used emigrant movables by motor vehicle to establish and~~
3 ~~observe reasonable actual rates and charges, which shall not be~~
4 ~~lower than the published common carrier rates and charges, for any~~
5 ~~service rendered or to be rendered in the transportation of~~
6 ~~household goods or used emigrant movables or in connection~~
7 ~~therewith, and to establish and observe reasonable regulations and~~
8 ~~practices to be applied in connection with said reasonable actual~~
9 ~~rates and charges. It shall be the duty of every contract carrier~~
10 ~~of household goods or used emigrant movables by motor vehicle to~~
11 ~~file with the Commission, publish, and keep open for public~~
12 ~~inspection, in the form and manner prescribed by the Commission,~~
13 ~~schedules containing the actual rates or charges of such carrier~~
14 ~~actually maintained and charged for the transportation of household~~
15 ~~goods or used emigrant movables in intrastate commerce, and any~~
16 ~~rule, regulation, or practice affecting such rates or charges and~~
17 ~~the value of the service thereunder. No such contract carrier,~~
18 ~~unless otherwise provided by this act, shall engage in the~~
19 ~~transportation of household goods or used emigrant movables in~~
20 ~~intrastate commerce unless the actual charges for such~~
21 ~~transportation by said carrier have been published, filed and posted~~
22 ~~in accordance with the provisions of this act. No change shall be~~
23 ~~made in any such charge either directly or by means of any change in~~

1 ~~any rule, regulation, or practice affecting such charge or the value~~
2 ~~of service thereunder, except after thirty (30) days' notice of the~~
3 ~~proposed change filed in the aforementioned form and manner, but the~~
4 ~~Commission may, in its discretion and for good cause shown, allow~~
5 ~~such change upon less notice, or modify the requirements of this~~
6 ~~paragraph with respect to posting and filing of such schedules,~~
7 ~~either in particular instances, or by general order applicable to~~
8 ~~special or peculiar circumstances, or conditions. Such notice shall~~
9 ~~plainly state the change proposed to be made and the time when such~~
10 ~~change will take effect. No such carrier shall demand, charge, or~~
11 ~~collect a different compensation for such transportation than the~~
12 ~~charges filed in accordance with this paragraph, as affected by any~~
13 ~~rule, regulation, or practice so filed, or as may be prescribed by~~
14 ~~the Commission from time to time, and it shall be unlawful for any~~
15 ~~such carrier, by the furnishing of special services, facilities, or~~
16 ~~privileges, or by any other device whatsoever, to charge or accept~~
17 ~~other than the charges so published and filed.~~

18 ~~H. Whenever, after hearing, upon complaint or upon its own~~
19 ~~initiative, the Commission finds that any actual rate or charge of~~
20 ~~any contract carrier of household goods or used emigrant movables by~~
21 ~~motor vehicle, or any rule, regulation, or practice of any such~~
22 ~~carrier affecting such actual rate or charge, or the value of the~~
23 ~~service thereunder, for the transportation of household goods or~~

1 ~~used emigrant movables or in connection therewith is in violation of~~
2 ~~any provision of this act, the Commission may prescribe such just~~
3 ~~and reasonable actual rate or charge, or such rule, regulation or~~
4 ~~practice as in its judgment may be necessary or desirable in the~~
5 ~~public interest and will not be in violation of any provision of~~
6 ~~this act. Such actual rate or charge, or such rule, regulation, or~~
7 ~~practice so prescribed by the Commission, shall give no advantage or~~
8 ~~preference to any such carrier in competition with any common~~
9 ~~carrier by motor vehicle subject to this act. The Commission shall~~
10 ~~give due consideration to the cost of the services rendered by such~~
11 ~~carrier and to the effect of such actual rate or charge, or such~~
12 ~~rule, regulation, or practice, upon the movement of traffic by such~~
13 ~~carriers. All complaints shall state fully the facts complained of~~
14 ~~and shall be made under oath.~~

15 ~~F.~~ Every motor carrier, subject to this act, receiving
16 household goods ~~or used emigrant movables~~ for transportation in
17 intrastate commerce shall issue a receipt or bill of lading
18 therefor, the form of which shall be prescribed by the Commission.

19 H. Record-keeping documents, as required by the Commission,
20 shall be maintained by the motor carrier of household goods for a
21 minimum of three (3) years. The Commission is authorized to require
22 certain documents to be retained for a longer period of time pending
23 a claim for any other reason the Commission deems necessary.

1 ~~J. No common carrier by motor vehicle shall deliver or~~
2 ~~relinquish possession at destination of any household goods or used~~
3 ~~emigrant movables transported by it in intrastate commerce until all~~
4 ~~tariff rates and charges thereon have been paid, except under such~~
5 ~~rules and regulations as the Commission may from time to time~~
6 ~~prescribe to govern the settlement of all such rates and charges.~~

7 ~~K. I.~~ Any person, motor carrier, or shipper who shall willfully
8 violate any provision of this section ~~by any means shall be deemed~~
9 ~~guilty of a misdemeanor and upon conviction thereof be fined as~~
10 ~~provided by law~~ act may be found in violation by the Commission.
11 After proper notice and hearing, violators may be assessed penalties
12 in an amount not to exceed Ten Thousand Dollars (\$10,000.00) per
13 separate offense.

14 SECTION 4. AMENDATORY 47 O.S. 2001, Section 165, is
15 amended to read as follows:

16 Section 165. A. Upon the filing ~~by an intrastate~~ of an
17 application to operate as a motor carrier of household goods ~~or used~~
18 ~~emigrant movables of an application for a permit or certificate or~~
19 ~~the transfer of a permit or certificate,~~ the applicant shall pay to
20 the Corporation Commission a filing fee ~~in the sum of One Hundred~~
21 ~~Dollars (\$100.00) with an original application for permanent or~~
22 ~~temporary authority~~ as set by Commission rule.

1 B. Upon the filing by an interstate motor carrier of an
2 application to register interstate authority, or supplement thereto,
3 the applicant shall pay the Commission a filing fee as established
4 by the Commission and in full compliance with applicable federal
5 laws ~~and regulations~~.

6 C. The Commission shall, upon the receipt of any such fee,
7 deposit the same in the State Treasury to the credit of the
8 ~~Corporation Commission~~ Trucking One Stop Shop Revolving Fund.

9 SECTION 5. AMENDATORY 47 O.S. 2001, Section 166, is
10 amended to read as follows:

11 Section 166. A. It is hereby declared unlawful for any ~~common~~
12 ~~carrier of~~ person to transport household goods ~~or used emigrant~~
13 ~~movables by motor vehicle to operate or furnish service within this~~
14 ~~state in~~ intrastate commerce without ~~having obtained from the a~~
15 valid certificate issued by the Corporation Commission ~~a certificate~~
16 ~~declaring that public convenience and necessity require such~~
17 ~~operation, or for any contract carrier of household goods or used~~
18 ~~emigrant movables by motor vehicle to operate or furnish service~~
19 ~~within the state without having obtained a permit from the~~
20 ~~Commission declaring the operation shall be consistent with the~~
21 ~~public interest. The Commission shall have power, and it shall be~~
22 ~~its duty after public hearing, to issue said certificate or permit~~
23 ~~as prayed for, or to refuse to issue the same, or to issue it for~~

1 ~~the partial exercise only of said privilege sought within sixty (60)~~
2 ~~days of final hearing, and may attach to the exercise of the rights~~
3 ~~granted by such certificate or permit such terms and conditions as~~
4 ~~in its judgment the public convenience and necessity or public~~
5 ~~interest may require; provided that in all such cases it will be~~
6 ~~presumed, in the absence of competent evidence to the contrary, that~~
7 ~~intrastate common carriers operating under existing certificates are~~
8 ~~rendering adequate service between the points or within the areas~~
9 ~~authorized to be served by them, and the applicant has the burden of~~
10 ~~proof to show otherwise; and provided further, that the mere filing~~
11 ~~of an application does not authorize any person to operate as a~~
12 ~~motor carrier.~~

13 ~~B. In granting applications for certification or permits the~~
14 ~~Commission shall take into consideration the reliability and~~
15 ~~financial condition of the applicant and his sense of responsibility~~
16 ~~toward the public; the transportation service being maintained by~~
17 ~~presently existing motor carriers; and any other matters tending to~~
18 ~~show the need or lack of necessity for granting said application.~~
19 ~~No permit for any contract carrier by motor vehicle shall be issued~~
20 ~~without the applicant proving by competent evidence that the~~
21 ~~transport service proposed under the contract is not such that it~~
22 ~~could be reasonably furnished by existing carriers, and further,~~
23 ~~that such permit would not jeopardize the existing common carrier~~

1 ~~service. Provided, however, that in no instance shall a contract~~
2 ~~carrier of household goods or used emigrant movables by motor~~
3 ~~vehicle be authorized to serve more than six contracting shippers at~~
4 ~~any one time; provided further that such contracts are to be filed~~
5 ~~and approved by the Commission before the operation thereunder.~~
6 Motor carriers engaged in intercorporate hauling must obtain a
7 certificate in the transporter's name.

8 C. ~~No common motor carrier shall transport property as a~~
9 ~~contract carrier in the same truck, at the same time that he is~~
10 ~~transporting property as a common motor carrier. No common motor~~
11 ~~carrier shall transport any property as a contract carrier which~~
12 ~~property the carrier is authorized to so transport as a common~~
13 ~~carrier. No contract motor carrier shall transport property as a~~
14 ~~common carrier in the same truck at the same time that the contract~~
15 ~~carrier is transporting property as a contract carrier. Applicants~~
16 for intrastate authority to transport household goods shall file an
17 application as required by this act and as prescribed by the
18 Commission. A household goods certificate shall be issued to the
19 applicant upon completion of all requirements.

20 D. ~~In the event a person who has once been issued a certificate~~
21 ~~or permit files an application for additional authority with the~~
22 ~~Commission, each application shall be identified by consecutive~~
23 ~~subnumbers and if the application is granted, the additional~~

1 ~~authority shall be incorporated under the original certificate or~~
2 ~~permit of the person and identified by the applicable subnumbers.~~
3 ~~The Commission may at any time after a public hearing and for good~~
4 ~~cause, suspend, alter, amend or revoke any such certificate or~~
5 ~~permit. Provided that the record owner of the certificate or permit~~
6 ~~shall be entitled to have ten (10) days' written notice by certified~~
7 ~~mail from the Commission of any hearing affecting the certificate or~~
8 ~~permit, except as hereinafter provided in Section 169 of this title.~~
9 ~~The right of appeal from the order or orders shall be given as in~~
10 ~~other cases appealed from orders of the Commission. The Commission~~
11 ~~may consider any written protests or written complaints filed prior~~
12 ~~to granting or renewing a household goods certificate. If the~~
13 ~~Commission elects not to grant or renew a household goods~~
14 ~~certificate, the application shall be set for public hearing in~~
15 ~~accordance with Commission rules.~~

16 E. ~~No intrastate carrier shall discontinue any service~~
17 ~~authorized by permit or certificate under the provisions of this~~
18 ~~act, without written authority from the Commission. Any carrier to~~
19 ~~whom a permit or certificate has been issued under the provisions of~~
20 ~~this act, desiring to discontinue such service, shall apply to the~~
21 ~~Commission in writing for privilege to so discontinue such service,~~
22 ~~and give notice in writing in such manner as directed by the~~
23 ~~Commission, for a period of not less than thirty (30) days prior to~~

1 ~~the hearing thereof, to the public and all parties interested. Upon~~
2 ~~the filing of such application for discontinuance, the Commission~~
3 ~~shall direct the type of service or notice to be given for a period~~
4 ~~of not less than thirty (30) days, and fix the date of hearing~~
5 ~~thereof, at which hearing the Commission shall hear evidence and~~
6 ~~issue its order granting or refusing such application, as the facts~~
7 ~~developed may justify. Household goods certificates may not be~~
8 ~~assigned or transferred.~~

9 F. ~~Permits or certificates shall not be assigned or~~
10 ~~transferred, in any manner, without authority of the Commission and~~
11 ~~on written application and public hearing; the transfer of the~~
12 ~~permits or certificates shall not be authorized when the Commission~~
13 ~~finds such action will be inconsistent with the public interest, or~~
14 ~~will have the effect of destroying competition or creating a~~
15 ~~monopoly, nor where it appears that reasonable continuous service~~
16 ~~under the authority which is sought to be transferred has not been~~
17 ~~rendered for one hundred eighty (180) days prior to the application~~
18 ~~for transfer or assignment. All applications for transfer must be~~
19 ~~made on proper forms prescribed by the Commission.~~

20 G. ~~Motor carriers must operate and furnish service in strict~~
21 ~~conformity with the current existing terms and provisions of their~~
22 ~~respective certificates or permits. Provided, that it shall not be~~
23 ~~necessary for any interstate carrier, in order to obtain a permit,~~

1 ~~as herein provided, to make any showing of public need, except as to~~
2 ~~the transportation of passengers or freight between points within~~
3 ~~the state, the power to regulate such operation being specifically~~
4 ~~reserved herein; and provided further, the The Commission shall~~
5 exercise any additional power that may from time to time be
6 conferred upon the state by any Act of Congress.

7 ~~H. G. The Commission shall adopt rules prescribing the manner~~
8 ~~and form in which motor carriers shall apply for certificates or~~
9 ~~permits required by this section. Among other rules adopted, the~~
10 ~~application shall be in writing and shall contain:~~

11 ~~1. The name and address of the applicant and the names and~~
12 ~~addresses of its officers, if any;~~

13 ~~2. Full information concerning the financial conditions and~~
14 ~~physical properties of the applicant;~~

15 ~~3. The complete route, or routes, over which, or the area~~
16 ~~within which the applicant desires to operate; and~~

17 ~~4. A schedule or tariff showing the freight rates to be charged~~
18 ~~between the several points or localities to be served.~~

19 ~~I. Upon filing of the application, the Commission shall, in its~~
20 ~~discretion, fix the time and place for the hearing of the same,~~
21 ~~which shall not be more than forty five (45) days after the filing~~
22 ~~of said application.~~

1 ~~J. In order for the public and all interested parties to~~
2 ~~receive proper notice, in addition to any notice the Commission may~~
3 ~~prescribe, the Commission shall circulate, on its own docket form,~~
4 ~~notice of all applications for, or transfers of, certificates or~~
5 ~~permits to operate as a motor carrier which have been filed and are~~
6 ~~pending. The notice shall be published at least fifteen (15) days~~
7 ~~prior to the date of hearing and shall show:~~

8 ~~1. The time and place of the hearing;~~

9 ~~2. The name and address of the applicant;~~

10 ~~3. The route or territory involved; and~~

11 ~~4. Such other information as the Commission may consider~~
12 ~~pertinent to the notice.~~

13 ~~K. Upon written annual request and payment of an annual fee to~~
14 ~~the Commission, the publication shall immediately be furnished by~~
15 ~~mail to any person by the Commission. The fee shall be set by the~~
16 ~~Commission at reasonable cost and shall not exceed the actual~~
17 ~~expense of publication. The Commission shall upon receipt of any~~
18 ~~fee deposit the same in the State Treasury to the credit of the~~
19 ~~General Revenue Fund a household goods certificate.~~

20 SECTION 6. AMENDATORY 47 O.S. 2001, Section 166a, is
21 amended to read as follows:

22 Section 166a. A. As used in this section:

1 1. "Authorized carrier" means a ~~person or persons authorized to~~
2 ~~engage in the transportation~~ motor carrier of household goods ~~or~~
3 ~~used emigrant movables as a common or contract carrier;~~

4 2. "Equipment" means a motor vehicle, straight truck, tractor,
5 semitrailer, full trailer, any combination of these and any other
6 type of equipment used by authorized carriers in the transportation
7 of household goods ~~or used emigrant movables for hire;~~

8 3. "Owner" means a person to whom title to equipment has been
9 issued, or who, without title, has the right to exclusive use of
10 equipment for a period longer than thirty (30) days;

11 4. "Lease" means a contract or arrangement in which the owner
12 grants the use of equipment, with or without driver, for a specified
13 period to an authorized carrier for use in the regulated
14 transportation of household goods ~~or used emigrant movables,~~ in
15 exchange for compensation;

16 5. "Lessor", in a lease, means the party granting the use of
17 equipment, with or without driver, to another;

18 6. "Lessee", in a lease, means the party acquiring the use of
19 equipment with or without driver, from another;

20 7. "Addendum" means a supplement to an existing lease which is
21 not effective until signed by the lessor and lessee; and

1 8. "Shipper" means a person who sends or receives household
2 goods ~~or used emigrant movables~~ which ~~is~~ are transported in
3 intrastate commerce in this state.

4 B. An authorized carrier may perform authorized transportation
5 in equipment it does not own only under the following conditions:

6 1. There shall be a written lease granting the use of the
7 equipment and meeting the requirements as set forth in subsection C
8 of this section;

9 2. The authorized carrier acquiring the use of equipment under
10 this section shall identify the equipment in accordance with the
11 Commission's requirements; and

12 3. Upon termination of the lease, the authorized carrier shall
13 remove all identification showing it as the operating carrier before
14 giving up possession of the equipment.

15 C. The written lease required pursuant to subsection B of this
16 section shall contain the following provisions. The required lease
17 provisions shall be adhered to and performed by the authorized
18 carrier as follows:

19 1. The lease shall be made between the authorized carrier and
20 the owner of the equipment. The lease shall be signed by these
21 parties or by their authorized representatives;

22 2. The lease shall specify the time and date or the
23 circumstances on which the lease begins and ends and include a

1 description of the equipment which shall be identified by vehicle
2 serial number, make, year, model and current license plate number;

3 3. The period for which the lease applies shall be for thirty
4 (30) days or more when the equipment is to be operated for the
5 authorized carrier by the owner or an employee of the owner;

6 4. The lease shall provide that the authorized carrier lessee
7 shall have exclusive possession, control and use of the equipment
8 for the duration of the lease. The lease shall further provide that
9 the authorized carrier lessee shall assume complete responsibility
10 for the operation of the equipment for the duration of the lease;

11 5. The amount to be paid by the authorized carrier for
12 equipment and driver's services shall be clearly stated on the face
13 of the lease or in an addendum which is attached to the lease. The
14 amount to be paid may be expressed as a percentage of gross revenue,
15 a flat rate per mile, a variable rate depending on the direction
16 traveled or the type of commodity transported, or by any other
17 method of compensation mutually agreed upon by the parties to the
18 lease. The compensation stated on the lease or in the attached
19 addendum may apply to equipment and driver's services either
20 separately or as a combined amount;

21 6. The lease shall clearly specify the responsibility of each
22 party with respect to the cost of fuel, fuel taxes, empty mileage,
23 permits of all types, tolls, detention and accessorial services,

1 base plates and licenses, and any unused portions of such items.
2 Except when the violation results from the acts or omissions of the
3 lessor, the authorized carrier lessee shall assume the risks and
4 costs of fines for overweight and oversize trailers when the
5 trailers are preloaded, sealed, or the load is containerized, or
6 when the trailer or lading is otherwise outside of the lessor's
7 control, and for improperly permitted ~~overdimension~~ over-dimension
8 and overweight loads and shall reimburse the lessor for any fines
9 paid by the lessor. If the authorized carrier is authorized to
10 receive a refund or a credit for base plates purchased by the lessor
11 from, and issued in the name of, the authorized carrier, or if the
12 base plates are authorized to be sold by the authorized carrier to
13 another lessor, the authorized carrier shall refund to the initial
14 lessor on whose behalf the base plate was first obtained a prorated
15 share of the amount received;

16 7. The lease shall specify that payment to the lessor shall be
17 made by the authorized carrier within fifteen (15) days after
18 submission of the necessary delivery documents and other paperwork
19 concerning a trip in the service of the authorized carrier. The
20 paperwork required before the lessor can receive payment is limited
21 to those documents necessary for the authorized carrier to secure
22 payment from the shipper. The authorized carrier may require the

1 submission of additional documents by the lessor but not as a
2 prerequisite to payment;

3 8. The lease shall clearly specify the right of those lessors
4 whose revenue is based on a percentage of the gross revenue for a
5 shipment to examine copies of the authorized carrier's freight bill
6 before or at the time of settlement. The lease shall clearly
7 specify the right of the lessor, regardless of method of
8 compensation, to examine copies of the carrier's tariff;

9 9. The lease shall clearly specify all items that may be
10 initially paid for by the authorized carrier, but ultimately
11 deducted from the lessor's compensation at the time of payment or
12 settlement together with a recitation as to how the amount of each
13 item is to be computed. The lessor shall be afforded copies of
14 those documents which are necessary to determine the validity of the
15 charge;

16 10. The lease shall specify that the lessor is not required to
17 purchase or rent any products, equipment, or services from the
18 authorized carrier as a condition of entering into the lease
19 arrangement;

20 11. As it relates to insurance:

21 a. the lease shall clearly specify the legal obligation
22 of the authorized carrier to maintain insurance
23 coverage for the protection of the public, and

1 b. the lease shall clearly specify the conditions under
2 which deductions for cargo or property damage may be
3 made from the lessor's settlements. The lease shall
4 further specify that the authorized carrier must
5 provide the lessor with a written explanation and
6 itemization of any deductions for cargo or property
7 damage made from any compensation of money owed to the
8 lessor. The written explanation and itemization must
9 be delivered to the lessor before any deductions are
10 made; and

11 12. An original and two copies of each lease shall be signed by
12 the parties. The authorized carrier shall keep the original and
13 shall place a copy of the lease in the equipment during the period
14 of the lease. The owner of the equipment shall keep the other copy
15 of the lease.

16 D. The provisions of this section shall apply to the leasing of
17 equipment with which to perform household goods transportation
18 ~~regulated by the Corporation Commission by motor carriers holding~~
19 ~~permanent or temporary authority from the Commission to transport~~
20 ~~household goods or used emigrant movables.~~

21 SECTION 7. AMENDATORY 47 O.S. 2001, Section 169, is
22 amended to read as follows:

1 Section 169. A. No certificate ~~or permit~~ shall be issued by
2 the Corporation Commission to any motor carrier of household goods
3 ~~or used emigrant movables~~ until after such motor carrier shall have
4 filed with the Commission a liability insurance policy or bond
5 covering public liability and property damage, issued by some
6 insurance or bonding company or insurance carrier authorized as set
7 forth below, and which has complied with all of the requirements of
8 the Commission, which bond or policy shall be approved by the
9 Commission, and shall be in such sum and amount as fixed by a proper
10 order of the Commission; and such liability and property damage
11 insurance policy or bond shall bind the obligor thereunder to make
12 compensation for injuries to, or death of, persons, and loss or
13 damage to property, resulting from the operation of any such motor
14 carrier for which such carrier is legally liable. ~~A copy of the~~
15 ~~policy or bond shall be filed with the Commission, and, after~~
16 ~~judgment against the carrier for any damage, the injured party may~~
17 ~~maintain an action upon the policy or bond to recover the same, and~~
18 ~~shall be a proper party to maintain such action.~~

19 B. Every motor carrier of household goods ~~or used emigrant~~
20 ~~movables~~ shall file with the Commission a cargo insurance policy or
21 bond covering any goods or property being transported, issued by
22 some insurance or bonding company or insurance carrier authorized as
23 set forth below, and which has complied with all of the requirements

1 of the Commission, which bond or policy shall be approved by the
2 Commission, and shall be in a sum and amount as fixed by ~~a proper~~
3 ~~order of the~~ Commission rule. The cargo insurance must be filed
4 with the Commission prior to a certificate ~~or permit~~ being issued by
5 the Commission.

6 C. No carrier, whose principal place of business is in
7 Oklahoma, shall conduct any operations in this state unless the
8 operations are covered by a valid primary bond or insurance policy
9 issued by a provider authorized or approved by the State Insurance
10 Commissioner. No carrier shall conduct any operations in this state
11 unless the operations are covered by a valid bond or insurance
12 policy issued by a ~~provider licensed or approved by the State~~
13 ~~Insurance Commissioner or the insurance regulatory authority of any~~
14 ~~other state~~ National Association of Insurance Commissioners-
15 certified, state insurance commission-licensed provider.

16 D. Each motor carrier shall maintain on file, in full force,
17 all insurance required by the laws of the State of Oklahoma and the
18 rules of the Commission during such motor carrier's operation and
19 that the failure for any cause to maintain such coverage in full
20 force and effect shall immediately, without any notice from the
21 Commission, suspend such carrier's rights to operate until proper
22 insurance is provided. Any carrier suspended for failure to
23 maintain proper insurance shall have a reasonable time, not

1 exceeding sixty (60) days, within which to provide proper insurance
2 and to have ~~his~~ the carrier's authority reactivated, upon showing:

3 1. No operation during the period in which ~~he~~ the carrier did
4 not have insurance; and

5 2. Furnishing of proper insurance coverage.

6 E. Any carrier who fails to reactivate ~~his or its permit or the~~
7 carrier's certificate within sixty (60) days after such suspension,
8 as above provided, shall have ~~said permit or the~~ certificate
9 canceled, by operation of law, without any notice from the
10 Commission. No certificate ~~or permit~~ so canceled shall be
11 reinstated or otherwise made operative except that the Commission
12 may reinstate the authority of a motor carrier upon proper showing
13 that the motor carrier was actually covered by proper insurance
14 during the suspension or cancellation period, and that failure to
15 file with the Commission was not due to the motor carrier's ~~own~~
16 ~~negligence~~ fault. Any carrier desiring to file for reinstatement of
17 ~~its~~ the carrier's certificate ~~or permit~~ shall do so within ninety
18 (90) days of its cancellation by law.

19 F. The Commission shall, in its discretion, permit the filing
20 of certificates of insurance coverage on such form as may be
21 prescribed by the Commission, in lieu of copies of insurance
22 policies or bonds, with the proviso that if the certificates are
23 authorized, the insurance company or carrier so filing it, upon

1 request of the Commission, shall, at any time, furnish an
2 authenticated copy of the policy which the certificate represents,
3 and further provided that thirty (30) days prior to effective
4 cancellation or termination of the policy of insurance for any
5 cause, the insurer shall so notify the Commission in writing of the
6 facts or as deemed necessary by the Commission.

7 SECTION 8. AMENDATORY 47 O.S. 2001, Section 169.1, is
8 amended to read as follows:

9 Section 169.1 Every motor carrier of household goods ~~or used~~
10 ~~emigrant movables~~ shall be liable for all loss, damage or injury to
11 goods or property ~~due to any negligence while the same is being~~
12 ~~carried by it~~ entrusted to it during operations as a household goods
13 carrier.

14 SECTION 9. AMENDATORY 47 O.S. 2001, Section 169.2, is
15 amended to read as follows:

16 Section 169.2 Every motor carrier of household goods ~~or used~~
17 ~~emigrant movables~~, upon receipt of a claim in writing for loss of or
18 damage to cargo during transportation, some portion of which was
19 performed by that carrier, regardless of the form in which the claim
20 is presented, shall:

- 21 1. Acknowledge receipt of the claim in writing within thirty
22 (30) days after receipt thereof by the motor carrier;

1 2. Commence an investigation in good faith to determine whether
2 the carrier acknowledges or denies liability for the loss or damage;

3 3. Either pay the claim in full, or as agreed to by mutual
4 compromise, or deny liability for loss or damage, in writing, within
5 ninety (90) days after receipt of the original claim by the carrier.
6 Such action shall not be withheld or postponed pending receipt of
7 payment or acknowledgment of liability from connecting carriers; and

8 4. Acknowledgment of liability shall be accompanied by payment
9 in full for the value of property lost or damaged except where
10 subject to limited liability or released value. When a shipper,
11 without prior approval from the consignee, elects to release a
12 shipment at a value less than the full value of the property
13 shipped, in the event of loss or damage, ~~said~~ the shipper will
14 indemnify to the consignee the difference between the released or
15 limited valuation paid by the carrier and the full value of the
16 property shipped. ~~A carrier's liability is limited to the released~~
17 ~~value or limited liability as stated in the carrier's governing~~
18 ~~tariff.~~

19 SECTION 10. AMENDATORY 47 O.S. 2001, Section 169.3, is
20 amended to read as follows:

21 Section 169.3 Where shipments of household goods ~~or used~~
22 ~~emigrant movables~~ are received by the carrier from the shipper in
23 apparent good order and with no exceptions noted on the bill of

1 lading, and delivered by the carrier with written exceptions
2 covering loss or damage thereto, the carrier shall have the burden
3 of proof to establish nonliability for such loss or damage. Terms
4 and conditions of the bill of lading contract referring to excepted
5 causes shall remain applicable.

6 SECTION 11. AMENDATORY 47 O.S. 2001, Section 169.4, is
7 amended to read as follows:

8 Section 169.4 Where shipments of household goods ~~or used~~
9 ~~emigrant movables~~ are received by the carrier from the shipper in
10 apparent good order and with no exceptions noted on the bill of
11 lading, and delivered by the carrier in the same manner, with no
12 exceptions noted, such concealed loss or damage claims must be
13 submitted to the carrier by the shipper. Inspections covering loss
14 or damage found after delivery must be requested to the delivering
15 carrier in writing within fifteen (15) days after the delivery of
16 the shipment involved. If more than fifteen (15) days have passed,
17 it is incumbent upon the consignee to offer reasonable evidence to
18 the carrier or a representative of the carrier that loss or damage
19 was not incurred by the consignee after delivery by the carrier.

20 SECTION 12. AMENDATORY 47 O.S. 2001, Section 169.5, is
21 amended to read as follows:

22 Section 169.5 If the carrier fails to process loss or damage
23 claims as provided in Sections 169.2 through 169.4 of this title, or

1 to express declinations of said claims in writing with proof of
2 nonliability, ~~said~~ the carrier may be ~~fined~~ found in contempt by the
3 Corporation Commission ~~an amount not to exceed Five Hundred Dollars~~
4 ~~(\$500.00) upon hearing of a complaint filed with the Commission~~
5 after proper notice and hearing. Failure to pay ~~the~~ any fine or
6 otherwise resolve the complaint ~~will~~ may result in a hearing by the
7 Corporation Commission to determine if the operating authority of
8 the carrier shall be revoked.

9 SECTION 13. AMENDATORY 47 O.S. 2001, Section 170, is
10 amended to read as follows:

11 Section 170. A. Nothing contained in this act shall be
12 construed to authorize the operation of any freight vehicle in
13 excess of the gross weight, width, length or height authorized by
14 law.

15 B. Any person who willfully advertises to perform
16 transportation services for which ~~he~~ the person does not hold a
17 proper certificate ~~or permit~~ shall be in violation of this act and
18 subject to the penalties prescribed for contempt of the Corporation
19 Commission.

20 C. ~~All certificates or permits issued by the Commission under~~
21 ~~any law of the state relating to motor carriers shall contain the~~
22 ~~provision that the Commission reserves to itself authority to~~
23 ~~suspend and/or cancel any such certificate or permit for the~~

1 ~~violation, on the part of the applicant or any operator or operators~~
2 ~~of any motor vehicle to be operated thereunder, of any law of the~~
3 ~~State of Oklahoma or any rule adopted by the Commission, and the~~
4 ~~Commission may cancel the certificate of any motor carrier operating~~
5 ~~as an intrastate carrier, who shall fail to remit to the consignor,~~
6 ~~within ten (10) days after collection from the consignee, of any or~~
7 ~~all C.O.D. charges or collections~~ Household goods certificates may
8 be suspended or revoked for any violation of state law or Commission
9 rule.

10 D. Certificates ~~or permits~~ shall be considered personal to the
11 holder thereof and shall be issued only to some definite legal
12 entity operating motor vehicles as a motor carrier of household
13 goods ~~or used emigrant movables~~, and shall not be subject to lease,
14 nor shall the holder thereof sublet or permit the exercise, by
15 another, in anywise, of the rights or privileges granted thereunder,
16 ~~provided, nothing herein contained shall be construed to prohibit~~
17 ~~the Commission, in case the necessities of public convenience~~
18 ~~require temporary service over any route, to grant authority to~~
19 ~~another motor carrier to render such service, upon compliance with~~
20 ~~the other provisions of law applicable to other motor carriers.~~

21 SECTION 14. REPEALER 47 O.S. 2001, Section 161, is
22 hereby repealed.

1 SECTION 15. REPEALER 47 O.S. 2001, Section 163.1, is
2 hereby repealed.

3 SECTION 16. This act shall become effective November 1, 2009.

4 COMMITTEE REPORT BY: COMMITTEE ON TRANSPORTATION, dated 2-17-09 - DO
5 PASS, As Amended and Coauthored.