

House Substitute for SENATE BILL No. 26

AN ACT concerning motor carriers; relating to the state corporation commission's regulation of motor carriers; updating and eliminating certain procedures for certificates of convenience and necessity and certificates of public service; revising certain laws to conform to federal regulation; amending K.S.A. 66-1,105, 66-1,108, 66-1,110, 66-1,111, 66-1,112, 66-1,112g, 66-1,112j, 66-1,114, 66-1,114b, 66-1,116, 66-1,119 and 66-1,141 and repealing the existing sections; also repealing K.S.A. 66-1,118, 66-1,119a, 66-1,140 and 66-1,142d.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 66-1,105 is hereby amended to read as follows: 66-1,105. The orders and decisions of the commission on the matters covered by this act shall be made in writing and copies of such decisions shall be served on motor carriers by *electronic mail if authorized by the motor carrier or* first class mail, except that orders and decisions potentially resulting in a negative impact upon any motor carrier's authority and initial orders in show cause proceedings shall be served by certified mail, return receipt requested. *A motor carrier may, at any time, revoke the authorization to receive the orders and decisions through electronic mail provided by this section, and any orders or decisions of the commission after the date of the revocation shall be served by mail.* Every order and decision of the commission on matters covered by this act shall become operative and effective within 30 days after service, and the motor carrier shall carry the provisions of the order into effect, unless the order is enjoined or set aside by a court of proper jurisdiction.

Sec. 2. K.S.A. 66-1,108 is hereby amended to read as follows: 66-1,108. As used in this act:

(a) "Commission" means the corporation commission of the state of Kansas;

~~(b) "ground water well drilling rigs" means any vehicle, machine, tractor, trailer, semi-trailer or specialized mobile equipment propelled or drawn by mechanical power and used on highways to transport water well field operating equipment, including water well drilling and pump service rigs equipped to access ground water;~~

(e) "household goods" means property and personal effects used or to be used in a dwelling, when a part of the equipment or supply of such dwelling and such other similar property, as the commission may provide by rules and regulations, if the transportation of such effects or property is:

(1) Arranged and paid for by the householder, including transportation of property from a factory or store when the property is purchased by the householder with intent to use in such householder's dwelling; or

(2) arranged and paid for by another party;

~~(c)~~ (c) "public motor carrier of household goods" means any person who undertakes for hire to transport by commercial motor vehicle, from place to place, the household goods of others who may choose to employ or contract with the motor carrier;

~~(d)~~ (d) "public motor carrier of passengers" means any person who undertakes for hire to transport by commercial motor vehicle, from place to place, persons who may choose to employ or contract with the motor carrier; and

~~(e)~~ (e) "public motor carrier of property" means any person who undertakes for hire to transport by commercial motor vehicle, from place to place, the property other than household goods of others who may choose to employ or contract with the motor carrier.

Sec. 3. K.S.A. 66-1,110 is hereby amended to read as follows: 66-1,110. All "public motor carriers of property, of household goods or of passengers" as defined in this act are hereby declared to be common carriers within the meaning of the public utility laws of this state, and are hereby declared to be affected with a public interest and subject to

this act, *to the extent not preempted by federal law*, and to the laws of this state, including the regulation of all rates and charges now in force or that hereafter may be enacted, pertaining to public utilities and common carriers as far as applicable, and not in conflict.

Sec. 4. K.S.A. 66-1,111 is hereby amended to read as follows: 66-1,111. No public motor carrier of property or passengers or private motor carrier of property or ~~local cartage carrier~~ shall operate any motor vehicle for the transportation of either persons or property on any public highway in this state except in accordance with the provisions of this act, and amendments thereto, and other applicable laws.

Sec. 5. K.S.A. 66-1,112 is hereby amended to read as follows: 66-1,112. (a) The commission is hereby vested with power and authority and it shall be its duty to license, supervise and regulate every public motor carrier of property, of household goods or of passengers in this state, to the full extent not preempted by federal law, including fixing and approving reasonable maximum or minimum, or maximum and minimum rates, fares, charges, classifications and rules and regulations pertaining to the transportation of household goods or passengers as defined in 49 U.S.C. § 13102. The commission shall prescribe rules and regulations related to uniform cargo liability, uniform bills of lading, uniform cargo credit and antitrust immunity for joint-line rates and routes, classifications and mileage guides. The commission is hereby vested with power and authority and it shall be its duty to license, supervise and regulate every public motor carrier transporting property, household goods or passengers in this state, and to regulate and supervise the accounts, schedules, service and method of operation of same; ~~to prescribe a uniform system and classification of accounts to be used; to require the filing of annual and other reports and any other data;~~ and to supervise and regulate public motor carriers transporting property, household goods or passengers in all matters affecting the relationship between such public motor carriers of property, of household goods or of passengers and the traveling and shipping public.

(b) The commission shall have power and authority, by general order or otherwise, to prescribe reasonable and necessary rules and regulations governing all such motor carriers. All laws relating to the powers, duties, authority and jurisdiction of the corporation commission over common carriers are hereby made applicable to all such motor carriers except as herein otherwise specifically provided.

(c) In order to insure nondiscriminatory, nonpreferential and just and reasonable rates, joint rates, fares, tolls, charges and exactions for all shippers, the commission shall establish rate-making procedures for all ~~motor common carriers~~ *holders of a certificate of convenience and necessity*, including collective rate-making procedures for joint consideration, initiation and establishment of such rates and charges for transporting household goods or passengers as defined in 49 U.S.C. § 13102. The commission shall prescribe reasonable rules and regulations related to uniform cargo liability, uniform bills of lading, uniform cargo credit and antitrust immunity for joint-line rates and routes, classifications and mileage guides. Joint and collective rate-making shall be limited to:

(1) That which is necessary to formulate one or more joint rates as such term is used in K.S.A. 66-117, and amendments thereto;

(2) general rate increases or decreases if the tariff proposal gives shippers, under procedures approved by the commission, at least 15 days' notice of the proposal and an opportunity to present comments on it before a tariff is filed with the commission and if discussion of such increases or decreases is related to industry average carrier costs and does not include discussion related exclusively to individual markets or particular single-line rates;

(3) ~~changes in commodity classifications;~~

(4) changes in tariff structures if discussion of such changes is related to industry average carrier costs and does not include discussion related exclusively to individual markets or particular single-line rates; and

~~(5)~~(4) publishing of tariffs, filing of independent actions for individual members and changes in rules and regulations ~~which that~~ are of at least substantially general application throughout the area ~~in which~~ *where* such changes will apply.

(d) The provisions of K.S.A. 50-101 et seq., and amendments thereto, shall not apply to the activities and procedures of persons, groups, agencies, bureaus or other entities where such activities and procedures have received approval by order of the commission under this statute.

Sec. 6. K.S.A. 66-1,112g is hereby amended to read as follows: 66-1,112g. The commission shall issue permits to private motor carriers of property and require ~~the filing of annual and other reports, and~~ such additional data as may be required by the commission in carrying out the provisions of this act. The commission may adopt rules and regulations relating to private motor carriers of property.

Sec. 7. K.S.A. 66-1,112j is hereby amended to read as follows: 66-1,112j. Upon failure to comply with the provisions of the motor carrier law or other laws of the state relating to motor carriers, or upon failure to comply with motor carrier rules and regulations of the commission, or ~~rules and regulations of the state property valuation department, the department of revenue relating to taxation of motor carriers, or the port of entry board relating to motor carriers,~~ the commission may suspend or completely revoke, at any time, any permit, certificate or interstate license after notice and an opportunity to be heard has been given to the grantee in accordance with the provisions of the Kansas administrative procedure act.

Sec. 8. K.S.A. 66-1,114 is hereby amended to read as follows: 66-1,114. (a) Except as hereinafter provided, it shall be unlawful for any public motor carrier to operate as a carrier of household goods or passengers in intrastate commerce within this state without first having obtained from the commission a certificate of convenience and necessity to transport household goods or passengers. ~~The commission, upon the filing of an application for a certificate, shall fix a time and place for hearing thereon, which shall be not less than 20 and not more than 60 days after the filing and shall be conducted in accordance with the provisions of the Kansas administrative procedure act. Notices of hearings shall be published electronically on the commission's web site within three days of the filing of the application. Any person may offer testimony at such hearing. A motor carrier denied a certificate shall be afforded the opportunity of a hearing on the matter in accordance with the provisions of the Kansas administrative procedure act. If such hearing is requested, the hearing shall be held within 10 business days of the request.~~

(b) If the commission finds that the proposed service or any part thereof is proposed to be performed by the applicant, that the applicant is fit, willing and able to perform such service; and that the applicant is in compliance with the commission's safety rules and regulations, liability and cargo insurance requirements and other applicable state laws, the commission shall issue the certificate of convenience and necessity to transport household goods and passengers, except that if the commission finds that the proposed service is inconsistent with the public convenience and necessity, the commission shall not issue the certificate.

(c) Within 18 months of the issuance to a public motor carrier of a certificate of convenience and necessity to transport household goods or passengers, the commission shall verify that such public motor carrier continues to be fit, knowledgeable and in compliance with the commission's safety rules and regulations, liability ~~and cargo~~ insurance

requirements and other applicable state laws.

Sec. 9. K.S.A. 66-1,114b is hereby amended to read as follows: 66-1,114b. (a) Except as hereinafter provided, it shall be unlawful for any public motor carrier to operate as a carrier of property other than household goods or ~~as a carrier of~~ passengers in intrastate commerce within this state without first having obtained from the commission a certificate of public service to transport property other than household goods or to transport passengers.

(b) The commission, upon the filing of an application for a certificate of public service, shall ascertain that the motor carrier is fit, knowledgeable and in compliance with the commission's safety rules and regulations, liability ~~and cargo~~ insurance requirements and other applicable state laws. Once a motor carrier submits a complete application demonstrating that the motor carrier is fit, knowledgeable and in compliance with the commission's safety rules and regulations, liability ~~and cargo~~ insurance requirements and other applicable state laws, the commission may issue that motor carrier a ~~30-day interim certificate of public service, signed and approved by the commission's executive director. A list of applications received shall be published electronically on the commission's web site, and shall state whether an interim certificate has been granted to the applicant. Any person who opposes the grant of a certificate of public service to a motor carrier applicant shall have 30 days from the commission's grant of an interim certificate to file a written protest with the commission. If no protest against a motor carrier applicant is filed before the expiration of the 30-day interim certificate, the commission may issue the motor carrier applicant a permanent certificate, signed and approved by the commission's executive director. If the commission finds that an applicant is not fit, knowledgeable, or in compliance with the commission's safety rules and regulations, liability and cargo insurance requirements and other applicable state laws, an order shall be issued denying the application. If the commission deems it necessary, a hearing may be held on any application, and any commission decision on such application shall be issued by order certificate of public service. A motor carrier denied a certificate shall be afforded the opportunity of a hearing on the matter in accordance with the provisions of the Kansas administrative procedure act. If such a hearing is requested, the hearing shall be held within 10 business days of the request.~~

(c) Motor carriers holding a certificate of convenience and necessity to transport property other than household goods shall be considered as holding a certificate of public service to transport that property originally granted by the commission as a public motor carrier of property. Pursuant to federal law those motor carriers may transport that property originally granted by the commission statewide.

(d) Within 18 months of the issuance to a public motor carrier of a certificate of public service to transport property other than household goods or passengers, the commission shall verify that such public motor carrier continues to be fit, knowledgeable and in compliance with the commission's safety rules and regulations, liability ~~and cargo~~ insurance requirements and other applicable state laws.

Sec. 10. K.S.A. 66-1,116 is hereby amended to read as follows: 66-1,116. (a) It shall be unlawful for a public motor carrier of property, of household goods or of passengers to operate in interstate commerce regulated by the relevant federal agency without registering its motor vehicles in its base state pursuant to federal statutes in order to operate in Kansas.

(b) It shall be unlawful for a public motor carrier of property, of household goods or of passengers or a private motor carrier of property ~~which~~ *that* is exempt from federal regulations, to operate in interstate

commerce within this state, without having furnished the commission, in writing, such information as the commission may request ~~covering observance of state police regulations~~ and the payments of the fees. This act shall apply to all persons and motor vehicles engaged in interstate commerce only to the extent permitted by the constitution and laws of the United States.

Sec. 11. K.S.A. 66-1,119 is hereby amended to read as follows: 66-1,119. ~~No public motor carrier authorized by this act to operate shall change, abandon or discontinue any service established by this act or operations under any certificate of convenience and necessity issued for carriers of household goods or passengers without consent of the commission after written application.~~ Failure of any motor carrier to annually renew its authority, certificate or permit in a timely manner shall result in a termination of that motor carrier's authority by operation of law. ~~A list of applications for changes to, abandonments of or discontinuances of any authority, as well as any abandonments of authority by operation of law for failure to renew, shall be published on the commission's web site.~~

Sec. 12. K.S.A. 66-1,141 is hereby amended to read as follows: 66-1,141. The provisions of K.S.A. 66-1,138; *and* 66-1,139 ~~and 66-1,140, and amendments thereto,~~ shall be ~~and shall be construed as supplemental to and as a part of~~ *and supplemental to* article 1 of chapter 66 of the Kansas Statutes Annotated, ~~and any acts amendatory thereof or supplemental amendments thereto.~~

Sec. 13. K.S.A. 66-1,105, 66-1,108, 66-1,110, 66-1,111, 66-1,112, 66-1,112g, 66-1,112j, 66-1,114, 66-1,114b, 66-1,116, 66-1,118, 66-1,119, 66-1,119a, 66-1,140, 66-1,141 and 66-1,142d are hereby repealed.

Sec. 14. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted

Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE

as amended _____

HOUSE adopted

Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.