

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 28
94TH GENERAL ASSEMBLY

Reported from the Special Committee on Energy and Environment February 22, 2007 with recommendation that House Committee Substitute for House Bill No. 28 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

0388L.02C

AN ACT

To repeal section 390.030, RSMo, and to enact in lieu thereof three new sections relating to motor carriers.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 390.030, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 387.075, 390.030, and 390.372, to read as follows:

387.075. 1. Notwithstanding any provision of chapter 390, RSMo, chapter 622, RSMo, or this chapter to the contrary, any common carrier that is authorized to transport household goods by a certificate issued under section 390.051, RSMo, may file one or more applications to the state highways and transportation commission for approval of rate schedules, applicable to that carrier's intrastate transportation of household goods, that authorize periodic rate adjustments outside of general rate proceedings to reflect increases and decreases in the carrier's prudently incurred costs of providing transportation of property by motor vehicle. The filing of applications by common carriers under this section shall be authorized upon the same terms and conditions as provided in section 386.266, RSMo, with reference to the filing of applications to the public service commission by an electrical, gas, or water corporation. These applications shall be made in such form, and shall contain such information, as the state highways and transportation commission reasonably may require.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 **2. Notwithstanding any provision of chapter 390, RSMo, chapter 622, RSMo, or**
15 **this chapter to the contrary, the state highways and transportation commission shall**
16 **consider and determine every application filed under subsection 1 of this section, upon the**
17 **same terms and conditions as provided in section 386.266, RSMo, with reference to the**
18 **public service commission's consideration and determination of applications by an**
19 **electrical, gas, or water corporation under that section.**

20 **3. In proceedings under this section, common carriers and the state highways and**
21 **transportation commission shall be governed by the statutes and rules of practice and**
22 **procedure that are applicable in motor carrier proceedings under chapters 387, 390, and**
23 **622, RSMo, except to the extent they are inconsistent with the requirements of this section.**
24 **The statutes and rules that generally govern public service commission proceedings**
25 **relating to electrical, gas, and water corporations shall not apply in proceedings under this**
26 **section.**

 390.030. 1. The provisions of this chapter shall not apply to:

- 2 (1) School buses;
- 3 (2) Taxicabs;
- 4 (3) Motor vehicles while being used exclusively to transport;
 - 5 (a) Stocker and feeder livestock from farm to farm, or from market to farm,
 - 6 (b) Farm or dairy products including livestock from a farm or dairy,
 - 7 (c) Agricultural limestone or fertilizer to farms,
 - 8 (d) Property from farm to farm,
 - 9 (e) Raw forest products from farm, or
 - 10 (f) Cotton, cottonseed, and cottonseed hulls;
- 11 (4) Motor vehicles when operated under contract with the federal government for
12 carrying the United States mail and when on a trip provided in the contract;
- 13 (5) Motor vehicles used solely in the distribution of newspapers from the publisher to
14 subscribers or distributors;
- 15 (6) The transportation of passengers or property performed by a carrier pursuant to a
16 contract between the carrier and the state of Missouri or any civil subdivision thereof, where the
17 transportation services are paid directly to the carrier by the state of Missouri or civil
18 subdivision;
- 19 (7) Freight-carrying motor vehicles duly registered and licensed in conformity with the
20 provisions of chapter 301, RSMo, for a gross weight of six thousand pounds or less;
- 21 (8) The transportation of passengers or property wholly within a municipality, or
22 between contiguous municipalities, or within a commercial zone as defined in section 390.020,
23 or within a commercial zone established by the division of motor carrier and railroad safety

24 pursuant to the provisions of subdivision (4) of section 390.041; provided, the exemption in this
25 subdivision shall not apply to motor carriers of persons operating to, from or between points
26 located wholly or in part in counties now or hereafter having a population of more than three
27 hundred thousand persons, where such points are not within the same municipality and to motor
28 carriers of commodities in bulk to include liquids, in tank or hopper type vehicles, and in a
29 commercial zone as defined herein or by the division;

30 (9) Street railroads and public utilities other than common carriers as defined in section
31 386.020, RSMo;

32 (10) Motor vehicles whose operations in the state of Missouri are interstate in character
33 and are limited exclusively to a municipality and its commercial zone;

34 (11) Motor vehicles, commonly known as tow trucks or wreckers, designed and
35 exclusively used in the business of towing or otherwise rendering assistance to abandoned,
36 disabled or wrecked vehicles;

37 (12) Motor vehicles while being used solely by a group of employees to commute to and
38 from their place or places of employment, except that the motor vehicle must be driven by a
39 member of the group.

40 2. Nothing contained in this section shall be deemed to exempt the vehicles of driveway
41 operators.

42 3. Except for the provisions of subdivision (5) of section 390.041, the provisions of this
43 chapter shall not apply to private carriers.

44 4. No agency of state government nor any county or municipality or their agencies shall
45 discriminate against any motor carrier or private carrier or deny any such carrier operating a
46 motor vehicle public access to any building, facility or area owned by or operated for the public
47 unless such discrimination or denial is based solely on reasonable vehicle size or weight
48 considerations. The provisions of this subsection shall only apply in cities not within a county
49 and first class counties with a charter form of government which adjoin any city not within a
50 county.

51 **5. Beginning January 1, 2008, the exemptions in subdivisions (8) and (10) of**
52 **subsection 1 of this section shall not apply to intrastate motor carriers that transport**
53 **household goods.**

390.372. 1. Notwithstanding any provision of law to the contrary, a provision,
2 **clause, covenant, or agreement contained in, collateral to, or affecting a motor carrier**
3 **transportation contract that purports to indemnify, defend, or hold harmless, or has the**
4 **effect of indemnifying, defending, or holding harmless, the promisee from or against any**
5 **liability for loss or damage resulting from the negligence or intentional acts or omissions**
6 **of the promisee is against the public policy of this state and is void and unenforceable.**

7 **2. For the purposes of this section, the following terms shall mean:**

8 **(1) "Motor carrier transportation contract", a contract, agreement, or**
9 **understanding covering:**

10 **(a) The transportation of property for compensation or hire by the motor carrier;**

11 **(b) The entrance on property by the motor carrier for the purpose of loading,**
12 **unloading, or transporting property for compensation or hire; or**

13 **(c) A service incidental to activity described in paragraphs (a) and (b) of this**
14 **subdivision, including but not limited to, storage of property;**

15 **"Motor carrier transportation contract" shall not include the Uniform Intermodal**
16 **Interchange and Facilities Access Agreement administered by the Intermodal Association**
17 **of North America or other agreements providing for the interchange, use or possession of**
18 **intermodal chassis, or other intermodal equipment;**

19 **(2) "Promisee", the promisee and any agents, employees, servants, or independent**
20 **contractors who are directly responsible to the promisee except for motor carriers party**
21 **to a motor carrier transportation contract with a promisee, and such motor carrier's**
22 **agents, employees, servants, or independent contractors directly responsible to such motor**
23 **carrier.**

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