

FIRST REGULAR SESSION

HOUSE BILL NO. 430

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BURLISON (Sponsor), NOLTE, LEACH, SCHOELLER,
McNARY, LONG, FUNDERBURK, KOENIG, HOUGHTON, FISHER, SCHARNHORST,
CAUTHORN AND PARKINSON (Co-sponsors).

1235L.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 387.040, 387.050, 387.080, 387.110, 390.051, 390.061, 390.081, 390.101, 390.116, and 390.280, RSMo, and to enact in lieu thereof seventeen new sections relating to motor carrier transportation regulated by the state highways and transportation commission, with penalty provisions.

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

Section A. Sections 387.040, 387.050, 387.080, 387.110, 390.051, 390.061, 390.081, 390.101, 390.116, and 390.280, RSMo, are repealed and seventeen new sections enacted in lieu thereof, to be known as sections 387.040, 387.050, 387.080, 387.110, 387.135, 387.137, 387.355, 387.365, 390.051, 390.054, 390.061, 390.081, 390.101, 390.116, 390.205, 390.280, and 622.560, to read as follows:

387.040. 1. No motor carrier subject to the provisions of this chapter shall engage or participate in the transportation of passengers [or household goods], between points within this state, until its schedules of rates, fares and charges shall have been filed **with the state highways and transportation commission** and published in accordance with the provisions of this chapter. Any motor carrier, which shall undertake to perform any service or furnish any product or commodity unless or until the rates, tolls, fares, charges, classifications and rules and regulations relating thereto, applicable to such service, product or commodity, have been filed with the highways and transportation commission and published in accordance with the provisions of this chapter, shall be subject to forfeiture to the state pursuant to the provisions of sections 390.156 to 390.176.

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.

11 2. [Notwithstanding subsection 1 of this section, a motor carrier shall not be required to
12 file its schedules of rates, fares, and charges for shipments of household goods that are
13 transported wholly or exclusively within a commercial zone as defined in 390.020 or within a
14 commercial zone established by the highways and transportation commission pursuant to the
15 provisions of subdivision (4) of section 390.041.] **Notwithstanding any provision of this**
16 **chapter or chapter 390 to the contrary, a motor carrier transporting household goods in**
17 **intrastate commerce shall not be required to file its schedule of rates, fares, and charges**
18 **with the state highways and transportation commission. In lieu of filing its schedules of**
19 **rates, fares, charges, or tolls with the state highways and transportation commission, a**
20 **motor carrier transporting household goods in intrastate commerce shall maintain and**
21 **publish its schedules of rates, fares, charges, and tolls in every station or office as described**
22 **in subsection 3 of section 387.050 and such rates shall be available for inspection by the**
23 **state highways and transportation commission, shippers, and the public upon request. Any**
24 **motor carrier transporting household goods in intrastate commerce that fails to comply**
25 **with the provisions of this subsection shall be subject to forfeiture to the state under the**
26 **provisions of sections 390.156 to 390.176.**

 387.050. 1. Every motor carrier shall file with the [division of motor carrier and railroad
2 safety] **state highways and transportation commission** and shall print and keep open to public
3 inspection schedules showing the rates, fares and charges for the transportation of passengers and
4 household goods within this state between each point upon its route and all other points thereon
5 and between each point upon its route and all points upon every route leased, operated or
6 controlled by it and between each point on its route or upon any route leased, operated or
7 controlled by it and all points upon the route of any other motor carrier, whenever a through
8 route and joint rate shall have been established or ordered between any two such points. If no
9 joint rate over a through route has been established, the several carriers in such through route
10 shall file, print and keep open to public inspection, as aforesaid, the separately established rates,
11 fares and charges applied to the through transportation. **Beginning August 28, 2011, motor**
12 **carriers shall not be required to file their schedules showing the rates, fares, and charges**
13 **for the transportation of household goods within this state but shall print and keep open**
14 **for public inspection such schedules in accordance with this section and section 387.040.**

15 2. The schedules printed as aforesaid shall plainly state the places between which
16 household goods and passengers will be carried, and shall also contain the classification of
17 passengers or household goods in force, and shall also state separately all terminal charges,
18 storage charges, icing charges and all other charges which the [division] **state highways and**
19 **transportation commission** may require to be stated, all privileges or facilities granted or
20 allowed, and any rules or regulations which may in any way change, affect or determine any part

21 or the aggregate of such aforesaid rates, fares and charges, or the value of the service rendered
22 to the passenger, shipper or consignee.

23 3. Such schedules shall be plainly printed in large type, and a copy thereof shall be kept
24 by every such carrier readily accessible to and for convenient inspection by the public in every
25 station or office of such carrier where passengers or household goods are respectively received
26 for transportation, when such station or office is in charge of an agent, and in every station or
27 office of such carrier where passenger tickets for transportation or tickets covering bills of lading
28 or receipts for household goods are issued. All or any of such schedules kept as aforesaid shall
29 be immediately produced by such carrier for inspection upon the demand of any person.

30 4. A notice printed in bold type and stating that such schedules are on file with the agent
31 and open to inspection by any person and that the agent will assist any such person to determine
32 from such schedules any transportation rates or fares or rules or regulations which are in force
33 shall be kept posted by the carrier in two public and conspicuous places in every such station or
34 office.

35 5. The form of every such schedule shall be prescribed by the [division] **state highways**
36 **and transportation commission.**

37 6. The [division] **state highways and transportation commission** shall have power,
38 from time to time, in its discretion, to determine and prescribe by order such changes in the form
39 of such schedules as may be found expedient, and to modify the requirements of this section in
40 respect to publishing, posting and filing of schedules either in particular instances or by general
41 order applicable to special or peculiar circumstances or conditions.

387.080. 1. The names of the several carriers which are parties to any joint tariff, **except**
2 **those carriers prohibited in subsection 3 of this section**, shall be specified therein, and each
3 of the parties thereto, other than the one filing the same, shall file with the [division of motor
4 carrier and railroad safety] **state highways and transportation commission** such evidence of
5 concurrence therein or acceptance thereof as may be required or approved by the [division] **state**
6 **highways and transportation commission**; and where such evidence of concurrence or
7 acceptance is filed, it shall not be necessary for the carriers filing the same also to file copies of
8 the tariffs in which they are named as parties.

9 2. Every motor carrier shall file with the [division] **state highways and transportation**
10 **commission** sworn copies of every contract, agreement or arrangement with any other motor
11 carrier or motor carriers relating in any way to the transportation of passengers or [property]
12 **household goods.**

13 **3. Motor carriers of household goods are prohibited from participation in any joint**
14 **tariff under the provisions of this chapter, except that this subsection shall not prohibit**

15 **joint tariffs relating to joint rates for household goods transportation over any through**
16 **routes or by interline service performed by two or more separate motor carriers.**

387.110. 1. No motor carrier shall make or give any undue or unreasonable preference
2 or advantage to any person or corporation or to any locality or to any particular description of
3 traffic in any respect whatsoever, or subject any particular person or corporation or locality or
4 any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in
5 any respect whatsoever.

6 2. [Notwithstanding any other provision of law to the contrary, no common carrier of
7 household goods shall use any schedule of rates or charges, or both, for the transportation of
8 household goods within this state which divides this state into territorial rate areas. Any
9 schedule of rates or charges, or both, which divides, or attempts to divide, this state into
10 territorial rate areas is unjust, unreasonable, and invalid.] **Subject to other applicable**
11 **requirements of this chapter, a common carrier may reasonably apply specific rates for the**
12 **transportation of household goods between points located wholly within a commercial**
13 **zone, as that term is defined in section 390.020, or as defined by an order issued under**
14 **subsection 4 of section 390.041, or between points located wholly within another contiguous**
15 **geographic area defined in the carrier's tariff schedules, which differ from the rates the**
16 **carrier applies to similar transportation of household goods between points that are not**
17 **located wholly within that commercial zone or defined contiguous area, if the carrier has**
18 **incurred or reasonably expects to incur different costs of providing such transportation**
19 **exclusively within that commercial zone or other defined contiguous area, as compared to**
20 **the relevant costs that the carrier has incurred or reasonably expects to incur in providing**
21 **similar transportation in other geographic areas, and this cost difference reasonably**
22 **justifies the carrier's application of such differing rates to such similar transportation.**

387.135. 1. Every owner, officer, agent, or employee of any motor carrier, and
2 every other person who violates or fails to comply with or who procures, aids, or abets in
3 the violation of any provision of this chapter, or who fails to obey, observe, or comply with
4 any order, decision, rule or regulation, direction, demand, or requirement of the state
5 highways and transportation commission, or who procures, aids, or abets any person in
6 his or her failure to obey, observe, or comply with any such order, decisions, rule,
7 direction, demand, or regulation thereof is guilty of a misdemeanor.

8 2. This section shall not authorize, prohibit, or otherwise affect any damage claims
9 resulting from a motor carrier's accidental or negligent damage to or destruction of a
10 claimant's household goods while the carrier had lawful possession of the damaged or
11 destroyed goods for purposes of transportation or storage.

2 **387.137. The state highways and transportation commission shall establish**
3 **consumer protection requirements for motor carriers transporting household goods in**
4 **intrastate commerce and establish a system for filing, logging, and responding to consumer**
5 **complaints.**

6 **387.355. On May 1, 2012, all rate orders issued by the state highways and**
7 **transportation commission or its predecessors affecting the transportation of household**
8 **goods by common carriers in intrastate commerce, under the authority of any of the**
9 **provisions in chapter 387 or chapter 390, shall be vacated and set aside, but only to the**
10 **extent that those rate orders require or prescribe any minimum rates, maximum rates, or**
11 **minimum-and-maximum rates for the transportation of household goods by common**
12 **carriers in intrastate commerce. This section shall not vacate or set aside any other**
13 **requirements or provisions contained in those rate orders, and shall not prohibit or affect**
14 **the authority of the commission to issue any future rate orders, after a hearing or other**
15 **proceedings in accordance with applicable laws, that require or prescribe any minimum**
16 **rates, maximum rates, or minimum-and-maximum rates for the intrastate transportation**
17 **of household goods by common carriers.**

18 **387.365. Notwithstanding any provision of law to the contrary, no complaint,**
19 **hearing, adjudication, or any other proceedings of the state highways and transportation**
20 **commission or of the administrative hearing commission shall be required as a prerequisite**
21 **to the commencement of any action in court relating to the transportation of household**
22 **goods by motor vehicle under section 390.156, 622.290, or 622.510.**

23 390.051. 1. Except as otherwise provided in section 390.030, no person shall engage in
24 the business of a common carrier **of household goods or passengers** in intrastate commerce on
25 any public highway in this state unless there is in force with respect to such carrier a certificate
26 issued by the [division] **state highways and transportation commission** authorizing such
27 operations.

28 2. Application for a certificate shall be made in writing to the [division] **state highways**
29 **and transportation commission** and shall contain such information as the [division] **state**
30 **highways and transportation commission** shall, by rule, require and shall include:

31 (1) Full information concerning the ownership, financial [condition] **status** of applicant
32 **through the submission of documentation describing assets, liabilities, and capital,**
33 equipment to be used and a statement listing the physical equipment of applicant and the
34 reasonable value thereof;

35 (2) The complete route or routes over which the applicant desires to operate, or territory
36 to be served; **except that the state highways and transportation commission shall not restrict**
37 **any certificate or permit authorizing the transportation of household goods or passengers**

16 in charter service with reference to any route or routes; except that the state highways and
17 transportation commission shall restrict the applicant's registration against the
18 transportation of any hazardous material as designated in Title 49, Code of Federal
19 Regulations, if the state highways and transportation commission finds that the applicant
20 has not shown it is qualified to safely transport that hazardous material in compliance with
21 all registration, liability insurance, and safety requirements applicable to the
22 transportation of that hazardous material under Title 49, Code of Federal Regulations;

23 (3) The proposed rates, schedule or schedules, or timetable of the applicant.

24 3. [Except as provided for in subsection 4 of this section, if the division] **If the state**
25 **highways and transportation commission** finds that an applicant seeking to transport [general
26 and specialized commodities in truckload lots, agricultural commodities in bulk in dump trucks]
27 **household goods** or passengers in charter service is fit, willing and able to properly perform the
28 service proposed and to conform to the provisions of this chapter and the requirements, rules and
29 regulations of the [division] **state highways and transportation commission** established
30 thereunder, a certificate therefor shall be issued.

31 4. If the [division] **state highways and transportation commission** finds that an
32 applicant seeking to transport[:

33 (1) General and specialized commodities in less-than-truckload lots;

34 (2) Commodities in bulk in dump trucks, other than agricultural commodities in bulk in
35 dump trucks, as defined in section 390.020;

36 (3) Mobile homes;

37 (4) Household goods;

38 (5) Passengers other than in charter service;

39 (6) Gasoline, fuel oil or liquefied petroleum gas;

40 (7) Boats;] **passengers other than in charter service** is fit, willing and able to properly
41 perform the service proposed, and to conform to the provisions of this chapter and the
42 requirement, rules and regulations of the [division] **state highways and transportation**
43 **commission**, and that the service proposed will serve a useful present or future public purpose,
44 a certificate therefor specifying the service authorized shall be issued, unless the [division] **state**
45 **highways and transportation commission** finds on the basis of evidence presented by persons
46 objecting to the issuance of a certificate that the transportation to be authorized by the certificate
47 will be inconsistent with the public convenience and necessity.

48 5. In making findings under subsection 4 of this section, the [division] **state highways**
49 **and transportation commission** shall consider the testimony of the applicant, the proposed
50 users of the service contemplated by the applicant, and any other relevant testimony or evidence,

51 and the [division] **state highways and transportation commission** shall consider, and to the
52 extent applicable, make findings on at least the following:

53 (1) The transportation policy of section 390.011; and

54 (2) The criteria set forth in this subsection. In cases where persons object to the issuance
55 of a certificate, the diversion of revenue or traffic from existing carriers shall be considered.

56 6. The [division] **state highways and transportation commission** shall streamline and
57 simplify to the maximum extent practicable the process for issuance of certificates to which the
58 provisions of this section apply.

59 7. The [division] **state highways and transportation commission** shall dismiss on its
60 motion any application for substantially the same common [or contract] authority that has been
61 previously denied within six months of filing the subsequent application.

390.054. Beginning January 1, 2012, and continuing thereafter, no certificate or
2 **permit to transport household goods in intrastate commerce shall be issued or renewed**
3 **unless the applicant demonstrates that the applicant has workers' compensation insurance**
4 **coverage that complies with chapter 287, for all employees.**

390.061. 1. Except as otherwise provided in section 390.030, no person shall engage in
2 the business of a contract carrier **of household goods or passengers** in intrastate commerce on
3 any public highway in this state unless there is in force with respect to such carrier a permit
4 issued by the [division of motor carrier and railroad safety] **state highways and transportation**
5 **commission** authorizing such operations.

6 2. Applications for such permits shall be made to the [division] **state highways and**
7 **transportation commission** in writing and shall contain such information as the [division] **state**
8 **highways and transportation commission** shall, by rule, require and shall include:

9 (1) Full information concerning the ownership, financial [condition] **status** of applicant
10 **through the submission of documentation describing assets, liabilities, and capital,**
11 equipment to be used and a statement listing the physical equipment of applicant and the
12 reasonable value thereof;

13 (2) The complete route or routes over which the applicant desires to operate, or territory
14 to be served; **except that the state highways and transportation commission shall not**
15 **restrict any certificate or permit authorizing the transportation of household goods or**
16 **passengers in charter service with reference to any route or routes; except that the state**
17 **highways and transportation commission shall restrict the applicant's registration against**
18 **the transportation of any hazardous material as designated in Title 49, Code of Federal**
19 **Regulations, if the state highways and transportation commission finds that the applicant**
20 **has not shown it is qualified to safely transport that hazardous material in compliance with**

21 **all registration, liability insurance, and safety requirements applicable to the**
22 **transportation of that hazardous material under Title 49, Code of Federal Regulations.**

23 3. If the [division] **state highways and transportation commission** shall find that the
24 applicant is seeking to transport [general and specialized commodities in truckload lots,
25 agricultural commodities in bulk,] **household goods** or passengers in charter service, and is fit,
26 willing and able to properly perform the service proposed and to conform to the provisions of
27 this chapter and the requirements, rules and regulations of the [division] **state highways and**
28 **transportation commission** thereunder, a permit therefor shall be issued.

29 4. If the [division] **state highways and transportation commission** finds that an
30 applicant seeking to transport [commodities or passengers as described in subsection 4 of section
31 390.051] **passengers other than in charter service** is fit, willing and able to properly perform
32 the service proposed, and to conform to the provisions of this chapter and the requirements, rules
33 and regulations of the [division] **state highways and transportation commission**, and that the
34 service proposed will serve a useful present or future purpose, a permit therefor specifying the
35 service authorized shall be issued, unless the [division] **state highways and transportation**
36 **commission** finds on the basis of evidence presented by persons objecting to the issuance of a
37 permit that the transportation to be authorized by the permit will be inconsistent with the public
38 convenience and necessity.

39 5. Any permit issued under this section shall specify the service to be rendered, the
40 contracting parties, and the [points or] area to be served.

41 6. The [division] **state highways and transportation commission** will not have
42 jurisdiction over contract rates. A copy of the original contract must be filed with the [division]
43 **state highways and transportation commission** prior to issuance of a permit. In the event the
44 applicant chooses not to disclose contract rates in the application, the contract shall contain in
45 lieu of rates a specific provision which incorporates by reference a schedule of rates, in writing,
46 to be effective between carrier and shipper. Current contracts and rate schedules must be
47 maintained by the carrier and contracting shippers. A contract permit, authorizing the
48 transportation of [commodities] **household goods** or passengers [other than as described in
49 subsection 4 of section 390.051] **in charter service**, may be amended to include additional
50 contracting parties by the filing of said contracts with the [division] **state highways and**
51 **transportation commission** and acknowledgment by the [division] **state highways and**
52 **transportation commission**.

390.081. 1. In order to provide motor carrier service for which there is an immediate and
2 urgent need from, to or between a point or points or within a territory having no carrier service
3 deemed capable of meeting such need, the [division of motor carrier and railroad safety] **state**
4 **highways and transportation commission** shall, pending the filing of an application for a

5 certificate under section 390.051 or **permit under section 390.061 for the transportation of**
6 **passengers other than in charter service**, without a hearing or other proceeding, grant
7 temporary authority for a period not exceeding ninety days for such service by a common carrier
8 or contract carrier, as the case may be. The issuance of such temporary authority shall create no
9 presumption that corresponding permanent authority will be granted therefor.

10 2. Such temporary authority shall be granted only upon the payment of such fees and
11 compliance with such rules, regulations and requirements as the [division] **state highways and**
12 **transportation commission** shall, by general order establish for the administration of this
13 section, and transportation service rendered under such authority shall be subject to all applicable
14 provisions of this chapter and to the rules, regulations and requirements of the [division] **state**
15 **highways and transportation commission** established thereunder, that are not in conflict with
16 this section.

390.101. No common carrier **of passengers other than in charter service** authorized
2 under the provisions of this chapter to operate within the state of Missouri shall abandon,
3 discontinue, or fail to provide any service established or authorized to be established under the
4 provisions of this chapter, unless such action is authorized by the [division of motor carrier and
5 railroad safety] **state highways and transportation commission**.

390.116. 1. Common carriers of [property] **household goods** may establish reasonable
2 through routes **or interline service** and joint rates, charges and classifications with other such
3 carriers or with common carriers by railroad or express; and common carriers of passengers may
4 establish reasonable through routes and joint rates, fares or charges with other such carriers or
5 with common carriers by railroad. In case of such joint rates, fares, charges or classifications,
6 it shall be the duty of the **participating** carriers[, parties thereto,] to establish just and reasonable
7 regulations and practices in connection therewith, and just, reasonable and equitable divisions
8 thereof as between the carriers participating therein which shall not unduly prefer or prejudice
9 any of such participating carriers **and shall not result in any rate, fare, charge, classification,**
10 **regulation, or practice that is unjust or unreasonable to the shipper or receiver of the**
11 **household goods. Carriers of household goods participating in through routes or interline**
12 **service shall file and publish joint tariffs and evidence of concurrence or acceptance**
13 **thereof, in accordance with section 387.080, or individual tariffs for each participating**
14 **carrier, which shall set forth the joint or individual rates, fares, charges, classifications,**
15 **regulations, practices, and division of rates applicable to such through routes or interline**
16 **service, all in accordance with the applicable provisions in chapter 387.**

17 2. The [division] **state highways and transportation commission** may, whenever
18 deemed by it to be necessary or desirable in the public interest, after hearing, upon complaint or
19 upon its own motion, order the establishment of just and reasonable through routes and joint

20 rates, fares, charges, regulations or practices, applicable to the transportation of passengers or
21 [property] **household goods** by common carriers.

**390.205. Notwithstanding any provision of law to the contrary, no complaint,
2 hearing, adjudication, or other proceedings in the state highways and transportation
3 commission or in the administrative hearing commission shall be required as a prerequisite
4 to the commencement of any action in court to recover a penalty or forfeiture, or to enforce
5 the powers of the state highways and transportation commission under section 390.156.**

390.280. 1. Certificates or permits, or both, which were issued before January 1, 1995,
2 and which authorized a person to transport any property in intrastate commerce by motor vehicle
3 as a common carrier or contract carrier, or both, are void, except that to the extent such
4 certificates or permits, or portions thereof, authorized a person to transport household goods over
5 irregular routes or passengers in intrastate commerce, or any property or passengers in interstate
6 commerce, those certificates or permits, or portions thereof, are exempt from the provisions of
7 this subsection.

8 2. Persons who owned certificates or permits, or both, that were in active status with the
9 division on December 31, 1994, and persons to whom the division issued certificates and permits
10 after December 31, 1994, pursuant to emergency rules adopted by the division, are deemed to
11 be qualified as registered property carriers, unless the person's certificate or permit has been
12 suspended, revoked or transferred to another person as provided by law. A person deemed
13 qualified pursuant to this subsection is not required to file an application pursuant to section
14 390.290 to continue providing intrastate transportation as a registered property carrier, but rather,
15 upon such person's compliance with the licensing and insurance requirements of the division the
16 person is deemed to have a property carrier registration in force as required pursuant to section
17 390.270, authorizing the person to transport property except household goods in intrastate
18 commerce on the public highways, unless the person's property carrier registration is suspended,
19 revoked or transferred to another person as provided by law. Within a reasonable time after
20 August 28, 1996, the division shall issue property carrier registrations to all persons who are
21 deemed to be qualified as registered property carriers and deemed to have property carrier
22 registrations in force pursuant to this subsection.

23 3. Notwithstanding any provision of this section to the contrary, this section shall not be
24 construed as authorizing any person to transport any hazardous material as designated in Title
25 49, Code of Federal Regulations, except hazardous materials which that person was expressly
26 authorized to transport in intrastate commerce within this state on August 28, 1996. A person
27 may file an application for property carrier registration pursuant to section 390.290 to transport
28 additional hazardous materials. Nothing in this section shall be construed to conflict with chapter
29 260, or of relieving an applicant of any duty to obtain a license pursuant to chapter 260.

30 **4. Notwithstanding any provision of the law to the contrary, any geographic**
31 **restriction or provision limiting the carrier's scope of authority to particular routes within**
32 **this state contained in a certificate or permit, or both, authorizing the transportation of**
33 **household goods in intrastate commerce, which was issued prior to August 28, 2011, and**
34 **any similar provision contained in a carrier's tariff schedule filed prior to such date, shall**
35 **be deemed void. In lieu of the geographic restrictions expressed in such certificates,**
36 **permits, or tariff schedules, a motor carrier shall be authorized to provide intrastate**
37 **transportation of household goods between all points and destinations within the state until**
38 **such time the certificates, permits, and tariff schedules are reissued or amended to reflect**
39 **the motor carrier's statewide operating authority.**

622.560. Notwithstanding any provision of law to the contrary, no complaint,
2 **hearing, adjudication, or other proceedings in the state highways and transportation**
3 **commission or in the administrative hearing commission shall be required as a prerequisite**
4 **to the commencement of any action in court to obtain relief by injunction or mandamus,**
5 **to recover a penalty or forfeiture, or to enforce the powers of the state highways and**
6 **transportation commission under section 622.290 or 622.510.**

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