

MINNESOTA STATUTES 1978

3287

MOTOR VEHICLE CARRIERS; PIPELINE CARRIERS 221.011

CHAPTER 221

MOTOR VEHICLE CARRIERS; PIPELINE CARRIERS; FOR HIRE, REGULATION

Sec.		Sec.	
221.011	Definitions.	221.251	Overcharges refund.
221.021	Operation certificate or permit required.	221.261	Complaints, action in district court.
221.031	Rules for operation of motor carriers.	221.271	Motor carriers, liability.
221.041	Rate-making powers.	221.281	Violations, penalties.
221.051	Abandonment or discontinuance of service.	221.291	Violations, penalties.
221.061	Operation certificate for regular route common carrier or petroleum carrier.	221.292	Renewal of permits.
221.071	Issuance of certificate to regular route common carrier or petroleum carrier.	221.293	Violations; complaint, hearing, cease and desist orders.
221.081	Sale or lease of certificate of regular route common carrier or petroleum carrier.	221.294	For hire vehicles; application.
221.091	Limitations.	221.295	Notice to metropolitan transit commission.
221.101	Additional authority to petroleum carriers.	221.296	Local cartage carriers.
221.111	Permits to other motor carriers.		PIPELINE CARRIERS
221.121	Petition; hearing; issuance; renewal.	221.54	Transportation by pipelines.
221.131	Permits; terms, fees, identification cards.	221.55	Certificate of public convenience and necessity.
221.141	Insurance or bonds of motor carriers.		INTERSTATE OPERATIONS
221.151	Permits assignable or transferable.	221.61	Necessity of obtaining federal authority; registration of authority.
221.161	Schedule of rates and charges.	221.62	Exempt interstate carriers; registration of exemption authority.
221.171	Compensation of permit carriers fixed by schedules of rates and charges.	221.63	Affidavit of exemption.
221.181	Interstate carriers; permits, regulation.	221.64	Registration fee; exemptions.
221.221	Enforcement powers.	221.65	Reciprocal agreements.
221.231	Reciprocal agreements.	221.66	Enforcement.
221.241	Transport for hire of food for human consumption.	221.67	Service of process.
		221.68	Violations; penalties.
			COMMUTER VANS
		221.71	Commuter vans; driver liability.

NOTE: For penalties for the violation of the provisions of this chapter, see section 235.13.

221.01 [Repealed, Ex1957 c 17 s 31]

221.011 DEFINITIONS. Subdivision 1. For the purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. "Department" means the department of transportation.

Subd. 2a. "Commissioner" means the commissioner of transportation.

Subd. 2b. "Commission" means the public service commission.

Subd. 3. "Motor vehicle" means any self-propelled vehicle used upon the highways for the transportation of persons or property for hire.

Subd. 4. "Commercial motor vehicle" means any motor vehicle engaged in commercial activity on the public highways.

Subd. 5. "Public highway" means every public street, alley, road, highway or thoroughfare of any kind, except waterways, open to public travel and use.

Subd. 6. "Person" means any individual, firm, co-partnership, cooperative, company, association and corporation, or their lessees, trustees, or receivers.

Subd. 7. "Certificate" means the certificate of public convenience and necessity which may be issued under the provisions of sections 221.011 to 221.291.

Subd. 8. "Permit" means the license, or franchise, which may be issued to motor carriers, other than regular route common carriers and petroleum carriers, under the provisions of this chapter, authorizing the use of the highways of Minnesota for transportation for hire.

Subd. 9. "Regular route common carrier" means any person who holds himself out to the public as willing to undertake for hire to transport by motor vehicle between fixed termini over a regular route upon the public highways passengers or property but shall not include persons while engaged exclusively in the transportation of children to or from school; or persons while engaged exclusively in farming or in transporting agricultural, horticultural, dairy or farm products from farms to primary markets; or persons while engaged in transporting freight within any city or between

MINNESOTA STATUTES 1978

221.011 MOTOR VEHICLE CARRIERS; PIPELINE CARRIERS

3288

contiguous cities when such transportation is not under a common control, management or arrangement for a continuous carriage or shipment, to or from a point without such city; or any person engaged in operating taxicabs or operating hotel buses from a depot or airport to a hotel; or any bona fide cooperative association whose membership is limited to bona fide farmers' cooperative associations and who performs transportation and does business only with and for such associations, which business includes substantially other business than merely transportation.

Subd. 10. "Petroleum carrier" means any person engaged in the business of transporting for hire over the public highways petroleum products in bulk in quantities in excess of 2,000 gallons per load but it shall not include the transportation of such products between points or places wholly within a city, or wholly within a single group of contiguous cities.

Subd. 11. "Irregular route common carrier" means any person who holds himself out to the public as willing to undertake to transport property from place to place over highways for hire but who does not operate between fixed termini or over a regular route or on regular time schedules.

Subd. 12. "Contract carrier" means any person engaged in the business of transporting property for hire over the highways under special contracts of carriage with the shippers or receivers of freight who require a specialized service to meet their needs, or a carrier who limits his hauling for the account of not more than ten customers.

Subd. 13. "Interstate carrier" means any person engaged exclusively in transporting property in interstate commerce from or into Minnesota, or between any point in the state of Minnesota and the Dominion of Canada.

Subd. 14. "Permit carrier" means every carrier embraced within the provisions of this chapter other than regular route common carriers and petroleum carriers except as otherwise provided herein.

Subd. 15. "Motor carriers" includes all carriers operating under the authority of sections 221.011 to 221.291 and subject to the rules or orders of the commissioner or the commission.

Subd. 16. "For hire" means for remuneration or compensation of any kind promised, paid or given to or received by a person for the transportation of persons or property on the highways.

Subd. 17. "Contiguous" means having any portion of a common boundary with another municipality or with one of a group of contiguous municipalities.

Subd. 18. "Petroleum products" means crude petroleum and natural gas and any and all derivatives arising out of the refinement thereof, including anhydrous ammonia and liquid fertilizer.

Subd. 19. "Service of notice and orders" means depositing the same in the United States mails properly enveloped, addressed and stamped, provided that service of any notice or order requiring an affirmative or negative action by any person must be by registered United States mail with return receipt.

Subd. 20. "Charter" means the agreement whereby the owner of a motor bus lets the same to a group of persons as one party for a specified sum and for a specified act of transportation at a specified time.

Subd. 21. "Charter carrier" means a person who engages in the business of transporting the public by motor buses under charter. The term "charter carrier" shall not be construed to include taxicabs or school bus operators when engaged in transportation involving any school activity or regular route common carriers or passengers.

Subd. 22. "Exempt carrier" means any carrier exempt from this chapter, or exempted from any other law or rule by the commissioner or commission. The following are so exempt:

(a) Any person engaged in farming or in transporting agricultural, horticultural, dairy, livestock, or other farm products within an area having a 25 mile radius from his home post office. Such carrier may transport other commodities within such area if the destination of each haul is a farm within the above described area. The owner of any truck operating under this provision shall imprint his name and address in prominent visible letters on the outside of the cab of his truck.

MINNESOTA STATUTES 1978

3289

MOTOR VEHICLE CARRIERS; PIPELINE CARRIERS 221.011

(b) Any occasional accommodation service beyond the 25 mile radius from his home post office by any person engaged in farming as his primary means of livelihood and actually residing on a farm and whose truck or trucks are licensed under provisions of section 168.013, subdivision 1, paragraph 4a. Occasional accommodation service shall mean not in excess of six trips in any calendar year.

(c) Any person engaged in agricultural pursuits, who owns and uses a truck for transporting the products of his farm, or any person while engaged exclusively in the transportation of fresh vegetables from farms to canneries or viner stations, or from viner stations to canneries, or from canneries to canneries during the harvesting, canning or packing season, or potatoes, sugar beets, wild rice and rutabagas from the field of production to the first place of delivery or unloading, including but not limited to a processing plant, warehouse or railroad siding. This term shall also apply to a manufacturer, producer, dealer or distributor who, in the pursuit of his own business, owns and uses trucks for the purpose of transporting his own products, and shall apply to any person while engaged exclusively in the transportation of pulpwood, cord wood, mining timber, poles, posts, decorative evergreens, wood chips, sawdust, shavings and bark from the place where the products are produced to the point where they are to be used or shipped.

(d) Any person while exclusively engaged in the transportation of dirt and sod within an area having a 50 mile radius from his home post office.

(e) Any person while exclusively engaged in the transportation of sand, gravel, bituminous asphalt mix or crushed rock to or from the point of loading or a place of gathering within an area having a 50 mile radius from his home post office or a 50 mile radius from the site of construction or maintenance of public roads and streets.

(f) Any person engaged in the transportation of household goods for the federal government or any agency thereof or the transportation of household goods for the state government or any agency thereof, where competitive bids are required by law shall be exempt from the provisions of section 221.161.

(g) Any person engaged in transporting property or freight, excepting household goods and petroleum products in bulk, when the movement is entirely within the corporate limits of a city or between contiguous cities.

(h) Emergency vehicles such as ambulances, tow trucks, and hearses when carrying proper and legal warning devices.

(i) Any person engaged in delivery or spreading of agricultural lime.

(j) Any person engaged in transporting rubbish as defined in section 443.27.

(k) Any person engaged in the transportation of grain samples under such terms and conditions as the commissioner or commission may prescribe.

(l) A motor vehicle, in this chapter referred to as a "commuter van," having a capacity of seven to 16 persons which is used principally to provide prearranged transportation of persons for a fee to or from their place of employment or to or from a transit stop authorized by a local transit authority which vehicle is to be operated by a person who does not drive the vehicle for his principal occupation but is driving it only to or from his principal place of employment, to or from a transit stop authorized by a local transit authority, or for personal use at other times by an authorized driver; provided, that commuter vans shall not be exempt from any provision of this chapter which by its terms explicitly applies to these vehicles.

Subd. 23. "Household goods" means personal effects and property used or to be used by the owner in his dwelling; furniture, fixtures, equipment and property of business places and institutions, public or private, when a part of the stock, equipment, supplies or property of such establishments.

Subd. 24. "Livestock carrier" means any person whose business is the transportation of livestock and who, in so doing on his return trip may transport other commodities or property to his headquarters area, and who also may transport supplies and equipment used in farm work from his headquarters area to any point in the state or from any point in the state to his headquarters area.

[Ex1957 c 17 s 1; 1959 c 376 s 1; 1965 c 523 s 1; 1969 c 870 s 1; 1971 c 25 s 67; 1971 c 74 s 2; 1971 c 631 s 1; 1973 c 123 art 5 s 7; 1973 c 367 s 1; 1973 c 754 s 2; 1975 c 313 s 4,5; 1976 c 166 s 65-69; 1976 c 233 s 9]

221.02 [Renumbered 221.01, subs 2 to 22]

MINNESOTA STATUTES 1978

221.021 MOTOR VEHICLE CARRIERS; PIPELINE CARRIERS

3290

221.021 OPERATION CERTIFICATE OR PERMIT REQUIRED. No person shall operate as a motor carrier without a certificate or permit in full force and effect with respect to such operation. Any certificate or permit shall be suspended or revoked upon conviction of violating any provision of sections 221.011 to 221.291 or any order, rule or regulation of the commissioner or commission governing the operation of motor carriers, and upon a finding by the court that the violation was wilful. The commission may for good cause, after hearing, suspend or revoke any permit for a violation of the provision of the sections noted herein or any order, rule or regulation of the commissioner or commission issued pursuant to the provisions of this chapter.

[Ex1957 c 17 s 2; 1963 c 605 s 1; 1971 c 25 s 67; 1976 c 166 s 70]

221.03 [Repealed, Ex1957 c 17 s 31]

221.031 RULES FOR OPERATION OF MOTOR CARRIERS. Subdivision 1. The commissioner shall prescribe rules and regulations for operation of all motor carriers, including their facilities, accounts, service, safety of operations and equipment, maximum hours of service of drivers, installation of safety devices and proper automatic speed regulators if, in the opinion of the commissioner, there is a necessity therefor. The commissioner shall direct the repair and reconstruction or replacement of any inadequate or unsafe motor carrier vehicle or facility. The commissioner may require the construction and maintenance or furnishing of suitable and proper freight terminals, passenger depots, waiting rooms and accommodations or shelters in any city in this state or at any point on the highway traversed which the commissioner, after investigation by the department, may deem just and proper for the protection of passengers or property. The commissioner shall require the filing of annual and other reports including annual accounts of motor carriers, schedules of rates and charges or other data by such motor carriers, regulate such motor carriers in all matters affecting the relationship between them and the traveling and shipping public and prescribe such other rules as may be necessary to carry out the provisions of this chapter; provided, however, that any motor carrier having gross revenues from all for-hire transportation in any calendar year of less than \$15,000 may, at the discretion of the commissioner, be exempted from the filing of an annual report, if in lieu thereof such motor carrier files an affidavit, in such form as may be prescribed by the commissioner, attesting that said gross revenues have not exceeded \$15,000 in the previous calendar year. Motor carrier gross revenues from for-hire transportation, for the purposes of this subdivision only, shall not include gross revenues received from the operation of school buses as defined in section 169.01, subdivision 6. The commissioner shall make no rules relating to rates or tariffs, or the granting, limiting or modifying of permits or certificates of convenience and necessity, which powers are granted to the commission pursuant to Laws 1976, Chapter 166. The commission may extend the termini of any route or alter or change the route of any regular route common carrier upon petition and after finding that public convenience and necessity require such extension, alteration or change.

Subd. 2. The department shall investigate the operation of all motor carriers, their compliance with all rules and regulations of the department and with the provisions of sections 221.011 to 221.291, and may institute and prosecute any and all actions and proceedings in the proper district court for enforcement of the same.

[Ex1957 c 17 s 3; 1965 c 120 s 1; 1969 c 1031 s 4; 1971 c 25 s 67; 1973 c 123 art 5 s 7; 1976 c 166 s 71]

221.04 [Repealed, Ex1957 c 17 s 31; 1965 c 49 s 1]

221.041 RATE-MAKING POWERS. Subdivision 1. The commission shall fix and establish just, reasonable and nondiscriminatory rates, fares, charges, and the rules and classifications incident to tariffs for all regular route common carriers and petroleum carriers. In prescribing such rates, fares, charges, classifications and rules for the carrying of freight, persons or property, the commission shall take into consideration the effect of the proposed rates or fares upon the users of the service and upon competitive carriers by motor vehicle and rail and, insofar as possible, avoid rates and fares which will result in unreasonable and destructive competition. In making its determination, the commission shall consider, among other things, the cost of the service rendered by the carrier, including an adequate sum for maintenance and depreciation, and an adequate operating ratio under honest, economical and efficient management. No such rate or fares shall be put into effect or changed or altered except upon hearing duly had and an order therefor by the commission, or except as

MINNESOTA STATUTES 1978

3291

MOTOR VEHICLE CARRIERS; PIPELINE CARRIERS 221.071

herein otherwise provided. The commission may authorize such changes ex parte which, in its opinion, are not of sufficient import to require a hearing. In any emergency, the commission may order a change in existing rates or fares without a hearing. In instances of such ex parte or emergency orders, the commission shall, within five (5) days, serve a copy of its order granting such change in rates upon all parties which the commission deems interested in the matter, including all competing carriers. Any interested party shall have 30 days from the date of the issuance of the order to object to the order. If objection is made, the matter shall be set down for hearing with notice to competing carriers.

Subd. 2. No regular route common carrier or petroleum carrier shall charge or receive a greater or less or different compensation for the transportation of passengers or property or for any service in connection therewith than the rates, fares and charges and the rules and classifications governing the same which have been duly approved therefor by order of the commission; nor shall any regular route common carrier or petroleum carrier refund or remit in any manner or by any device any portion of such rates, fares and charges required to be collected under the commission's order; nor extend to any shipper or person any privilege or facilities in connection with the transportation of passengers or property except such as are authorized under the order of the commission. No passenger carrying regular route common carrier shall alter or change its time schedules except upon order of the commission. Such order may be issued ex parte unless the commission shall decide that public interest requires that a hearing be had thereon.

[Ex1957 c 17 s 4; 1971 c 25 s 67; 1976 c 166 s 72]

221.05 [Repealed, Ex1957 c 17 s 31]

221.051 ABANDONMENT OR DISCONTINUANCE OF SERVICE. No regular route common carrier shall abandon or discontinue any service required under its certificate without an order of the commission therefor, except in cases of emergency or conditions beyond its control.

A passenger regular route common carrier may depart from the route over which it is authorized to operate for the purpose of transporting chartered or excursion parties to any point in the state of Minnesota on such terms and conditions as the commission may prescribe.

[Ex1957 c 17 s 5; 1971 c 25 s 67; 1976 c 166 s 73]

221.06 [Repealed, Ex1957 c 17 s 31]

221.061 OPERATION CERTIFICATE FOR REGULAR ROUTE COMMON CARRIER OR PETROLEUM CARRIER. Any person desiring a certificate authorizing operation as a regular route common carrier or petroleum carrier, or an extension of or amendment to such certificate, shall file a petition therefor with the commission which shall contain such information as the commission, by rule may prescribe.

Upon the filing of a petition for a certificate, the petitioner shall pay into the state treasury as a fee for the issuance thereof the sum of \$75 and for any transfer or lease of such certificate the sum of \$37.50.

The petition shall be processed as any other petition. The commission shall cause a copy and a notice of hearing thereon to be served upon any competing carrier operating into any city located on the proposed route of the petitioner and to such other persons or bodies politic which the commission deems interested in the petition. Such competing carrier and other persons or bodies politic are hereby declared to be interested parties to the proceedings.

If, during the hearing, an amendment to the petition is proposed which appears to be in the public interest, the commission may allow the same when the issues and the territory are not unduly broadened by the amendment.

[Ex1957 c 17 s 6; 1969 c 1148 s 34; 1971 c 25 s 67; 1973 c 123 art 5 s 7; 1975 c 313 s 6; 1976 c 166 s 74]

221.07 [Repealed, 1947 c 266 s 6]

221.071 ISSUANCE OF CERTIFICATE TO REGULAR ROUTE COMMON CARRIER OR PETROLEUM CARRIER. If the commission finds from the evidence that the petitioner is fit and able to properly perform the services proposed and that public convenience and necessity requires the granting of the petition or any part thereof, it shall issue a certificate of public convenience and necessity to the peti-

MINNESOTA STATUTES 1978

221.081 MOTOR VEHICLE CARRIERS; PIPELINE CARRIERS

3292

tioner. In determining whether a certificate should be issued, the commission shall give primary consideration to the interests of the public that might be affected thereby, to the transportation service being furnished by any railroad which may be affected by the granting of the certificate and to the effect which the granting of the certificate will have upon other transportation service essential to the communities which might be affected by the granting of the certificate. The commission may issue a certificate as applied for or issue it for a part only of the authority sought and may attach to the authority granted such terms and conditions as in its judgment public convenience and necessity may require.

The commission may grant a temporary certificate, ex parte, valid for a period not exceeding six months, upon a showing that no regular route common carrier is then authorized to serve on the route sought, that there is no other petition on file with the commission covering said route and that there is need for the proposed service.

A certificate which has been issued to a regular route common carrier may be amended by the commission on ex parte petition and payment of a fee of \$25 so as to grant an additional or alternate route where there is no other means of transportation over such proposed additional route or between the termini thereon, and such proposed additional route does not exceed ten miles in length.

[Ex1957 c 17 s 7; 1971 c 25 s 67; 1975 c 313 s 7; 1976 c 166 s 75]

221.08 [Repealed, Ex1957 c 17 s 31]

221.081 SALE OR LEASE OF CERTIFICATE OF REGULAR ROUTE COMMON CARRIER OR PETROLEUM CARRIER. Certificates authorizing operations as a regular route common carrier or as a petroleum carrier may be sold or leased but only upon order of the commission approving the same. The proposed seller and buyer or lessor and lessee of a certificate shall file a joint petition with the commission, setting forth the names and addresses of the parties, the identifying number of the certificate and the description of the authority which the parties seek to sell or lease, a short statement of the reasons for the proposed sale or lease, a short statement of the buyer or lessee's present operating authority, if any, a statement of all outstanding claims of creditors which are directly attributable to the operations conducted under said certificate, a copy of the contract of sale or lease and a financial statement with balance sheet and income statement, if existent, of the buyer. If it appears to the commission from the contents of the petition and from the department's records, files and investigation of the petition that the approval of the sale or lease of the certificate will not adversely affect the rights of the users of the service and will not have an adverse effect on any other motor carrier, the commission may make an ex parte order granting the same. When the proposed sale or lease is between persons who are direct competitors to a material degree, the petition shall be set down for hearing with notice to the communities which may be affected by the proposed merger and to any other persons the commission or department deems to be interested parties.

[Ex1957 c 17 s 8; 1971 c 25 s 67; 1976 c 166 s 76]

221.09 [Repealed, Ex1957 c 17 s 31]

221.091 LIMITATIONS. No provision in sections 221.011 to 221.291 shall authorize the use by any carrier of any public highway in any city of the first class in violation of any charter provision or ordinance of such city in effect January 1, 1925, unless and except as such charter provisions or ordinance may be repealed after that date; nor shall sections 221.011 to 221.291 be construed as in any manner taking from or curtailing the right of any city to reasonably regulate or control the routing, parking, speed or the safety of operation of a motor vehicle operated by any carrier under the terms of sections 221.011 to 221.291, or the general police power of any such city over its highways; nor shall sections 221.011 to 221.291 be construed as abrogating any provision of the charter of any such city requiring certain conditions to be complied with before such carrier can use the highways of such city and such rights and powers herein stated are hereby expressly reserved and granted to such city; but no such city shall prohibit or deny the use of the public highways within its territorial boundaries by any such carrier for transportation of passengers or property received within its boundaries to destinations beyond such boundaries, or for transportation of passengers or property from points beyond such boundaries to destinations within the same, or for transportation of passengers or property from points beyond such boundaries through such municipality to points beyond the boundaries of such municipality,

MINNESOTA STATUTES 1978

3293

MOTOR VEHICLE CARRIERS; PIPELINE CARRIERS 221.121

where such operation is pursuant to a certificate of convenience and necessity issued by the commission.

[*Ex1957 c 17 s 9; 1971 c 25 s 67; 1973 c 123 art 5 s 7; 1976 c 166 s 77*]

221.10 [Repealed, *Ex1957 c 17 s 31*]

221.101 ADDITIONAL AUTHORITY TO PETROLEUM CARRIERS. In addition to the specific authority granted to petroleum carriers, every petroleum carrier holding a certificate as such may transport petroleum products from an origin point he is not authorized to serve when the needs of the shippers he serves because of seasonal failure of supplies require service from such origin point, upon securing permission from the commission, provided that this provision shall not include the right to enlarge the carrier's destination area.

[*Ex1957 c 17 s 10; 1971 c 25 s 67; 1973 c 754 s 3; 1976 c 166 s 78*]

221.11 [Repealed, *Ex1957 c 17 s 31*]

221.111 PERMITS TO OTHER MOTOR CARRIERS. All motor carriers other than the regular route common carriers and petroleum carriers shall obtain a permit in accordance with section 221.121, including irregular route, livestock, contract and charter carriers, and regular route common carriers and petroleum carriers engaged exclusively in interstate transportation.

[*Ex1957 c 17 s 11; 1959 c 376 s 2; 1971 c 25 s 67; 1976 c 166 s 79*]

221.12 [Repealed, *Ex1957 c 17 s 31*]

221.121 PETITION; HEARING; ISSUANCE; RENEWAL. Subdivision 1. **Permit carriers.** Any person desiring to operate hereunder as a permit carrier, except as a livestock carrier, shall file a petition with the commission specifying the kind of permit desired, the name and address of the petitioner, and the names and addresses of the officers, if a corporation, and such other information as the commission may require. The commission, after notice to interested parties and a hearing, shall issue the permit upon compliance with all laws and regulations relating thereto, if it finds that petitioner is fit and able to conduct the proposed operations, that petitioner's vehicles meet the safety standards established by the department, that the area to be served has a need for the transportation services requested in the petition, and that existing permit and certificated carriers in the area to be served have failed to demonstrate that they offer sufficient transportation services to meet fully and adequately such needs, provided that no person who holds a permit at the time sections 221.011 to 221.291 take effect shall be denied a renewal thereof upon compliance with other provisions of sections 221.011 to 221.291. A permit once granted shall continue in full force and effect until abandoned or unless suspended or revoked, subject to compliance by the permit holder with all applicable provisions of law and the rules of the commissioner or commission governing permit carriers. No permit shall be issued to any common carrier by rail, whereby said common carrier will be permitted to operate trucks for hire within this state, nor shall any common carrier by rail be permitted to own, lease, operate, control or have any interest in any permit carrier by truck, either by stock ownership or otherwise, directly, indirectly, through any holding company, or by stockholders or directors in common, or in any other manner. Nothing in sections 221.011 to 221.291 shall prevent the commission from issuing a permit to a common carrier by rail, whereby such carrier will be given authority to operate trucks wholly within the limits of any municipality or within adjacent or contiguous municipalities or a common rate point served by said railroad and which service shall only be a service supplementary to the rail service now established by such carriers.

The commission may grant a temporary permit, ex parte, valid for a period not exceeding six months upon a showing there is an immediate and urgent need for the proposed service, pending prompt action by the permit holder to follow regular procedure in securing the permit, and that such immediate and urgent authority from the commission is in the public interest. A copy of the order granting such temporary permit, ex parte, shall be mailed immediately to interested parties.

The commission may issue a permit as a contract carrier to such cooperative associations as are described in section 221.011, subdivision 9, notwithstanding the number of its hauling contracts, and provided that such contract carrier shall be permitted to haul its own property.

MINNESOTA STATUTES 1978

221.131 MOTOR VEHICLE CARRIERS; PIPELINE CARRIERS

3294

Subd. 2. **Extensions of authority.** The commission may grant extensions of authority ex parte after due notice of a petition has been published. Any party desiring to protest the petition must file its protest by mail or in person within 20 days of the date of notice. If a timely filed protest is received, the matter shall be placed on the calendar for hearing. If a timely protest is not received, the commission may issue its order ex parte.

Subd. 3. **Livestock carriers.** Any person desiring to operate hereunder as a livestock carrier shall file a petition with the commission specifying the kind of permit desired, the name and address of the petitioner, and the names and addresses of the officers, if a corporation, and such other information as the commission may require.

The commission shall issue the permit upon compliance with all laws and regulations relating thereto unless it finds that petitioner's vehicles do not meet the safety standards prescribed by the commission or that petitioner is not fit and able to conduct the proposed operations. All permits issued hereunder shall be renewed upon compliance with the provisions of this act and the rules of the commission.

[*Ex1957 c 17 s 12; 1959 c 376 s 3; 1965 c 51 s 40; 1965 c 523 s 2; 1971 c 25 s 67; 1971 c 645 s 2; 1973 c 754 s 4; 1975 c 313 s 8; 1976 c 166 s 80*]

221.13 [Repealed, *Ex1957 c 17 s 31*]

221.131 PERMITS; TERMS, FEES, IDENTIFICATION CARDS. Permits issued pursuant to the provisions of sections 221.011 to 221.291 shall be effective for a 12-month period, commencing on the first day of the month of their issuance and shall continue from year to year thereafter upon payment of the required registration fee and compliance otherwise with law. The permit holder shall pay into the treasury of the state of Minnesota a fee of \$25 for each kind of permit, reinstatement, or extension of authority thereof for which a petition is filed, except on annual renewal, pursuant to section 221.121 and a registration fee of \$20 on each vehicle, including pickup and delivery vehicles, operated by him under authority of such permit during said 12-month period or fraction thereof. Trailers used by petitioner in combination with power units shall not be counted as vehicles in the computation of fees under this section, provided petitioner pays the fees for such power units. The commissioner shall furnish a distinguishing identification card for each vehicle or power unit for which a fee has been paid, which identification card shall at all times be carried in the vehicle or power unit to which it has been assigned. Identification cards may be reassigned to another vehicle or power unit without fee by the commissioner upon petition of the permit holder. Identification cards issued under the provisions of this section shall be good only for the period for which the permit is effective. The name and residence of the permit holder shall be stenciled or otherwise shown on both sides of each registered vehicle operated under his permit. In the event a permit has been suspended or revoked, the commission may consider a petition for reinstatement thereof, upon the same procedure required for an original petition, and may, in its discretion, grant or deny the same. Regular route common carriers and petroleum carriers, operating under sections 221.011 to 221.291, shall annually on or before January 1 of each calendar year, pay into the treasury of the state of Minnesota an annual registration fee of \$20 for each vehicle, including pickup and delivery vehicles, operated during any calendar year.

A fee of \$3 shall be charged for the replacement of an unexpired identification card which has been lost or damaged by the owner.

The provisions of this section are limited by the provisions of any applicable federal law.

[*Ex1957 c 17 s 13; 1969 c 1031 s 5; 1969 c 1148 s 35; 1971 c 25 s 67; 1971 c 74 s 3; 1973 c 754 s 5; 1973 c 766 s 1; 1975 c 313 s 9; 1976 c 166 s 81*]

221.14 [Repealed, *Ex1957 c 17 s 31*]

221.141 INSURANCE OR BONDS OF MOTOR CARRIERS. Subdivision 1. Before any certificate or permit shall be issued to any motor carrier, it shall secure and cause to be filed with the commissioner and keep the same at all times in full effect, a certificate of insurance in a form required by the commissioner, evidencing public liability and indemnity insurance in such amount and in such form as the commissioner shall have prescribed, covering injuries and damage to persons or property occurring on the highways, other than the employees of such motor carrier or the property being transported by such carrier, provided that the commissioner shall require cargo in-

MINNESOTA STATUTES 1978

3295

MOTOR VEHICLE CARRIERS; PIPELINE CARRIERS 221.151

insurance for certificated carriers, except those carrying passengers exclusively, and may require any permit carrier to file such insurance when it deems necessary to protect the users of the service. Any insurance issued to satisfy the requirements of this subdivision shall be subject to cancellation for nonpayment of premiums or withdrawals from service of a vehicle or vehicles covered thereby upon not less than 30 days' written notice to the insured and to the commissioner. Such insurance or bond may from time to time be reduced or increased by order of the commissioner. The commissioner may, if desired by the petitioner, prescribe in lieu of the bond or insurance such other form of security as may be satisfactory. The failure to maintain and cause to be filed a certificate for any required insurance or security shall, two days after dispatch by the commissioner by certified mail of notice of such suspension, addressed to the last known address of the motor carrier, suspend the permit or certificate without further administrative proceedings until such time as the requirements of this subdivision have been satisfied.

Subd. 2. Notwithstanding the contrary provisions of subdivision 1, if a permit carrier having grandfather rights transfers the same to another and the transferee defaults on his contract and has had a permit voided subsequent to January 1, 1965, solely by reason of failure to keep in effect insurance or other security as required by this section, the permit carrier, being the transferor in the transaction, shall have his permit fully reinstated by the commission, together with all operating authority granted theretofore, upon his filing with the commission, within 15 days after June 5, 1975, public liability and indemnity insurance or bond in the amount and form as the commission prescribes.

[*Ex1957 c 17 s 14; 1965 c 523 s 3; 1969 c 1031 s 6; 1971 c 25 s 67; 1971 c 73 s 1; 1973 c 754 s 6; 1975 c 313 s 10; 1975 c 317 s 1; 1976 c 166 s 82; 1977 c 122 s 1; 1978 c 674 s 60*]

221.15 [Repealed, *Ex1957 c 17 s 31*]

221.151 PERMITS ASSIGNABLE OR TRANSFERABLE. Subdivision 1. Permits, except livestock permits, issued under the provisions of sections 221.011 to 221.291 may be assigned or transferred but only upon the order of the commission approving same after notice and hearing.

The proposed seller and buyer or lessor and lessee of a permit, except for livestock carrier permits, shall file a joint notarized petition with the commission setting forth the name and address of the parties, the identifying number of the permit and the description of the authority which the parties seek to sell or lease, a short statement of the reasons for the proposed sale or lease, a statement of all outstanding claims of creditors which are directly attributable to the operation to be conducted under said permit, a copy of the contract of sale or lease and financial statement with balance sheet and income statement, if existent, of the buyer or lessee. If it appears to the commission, after notice to interested parties and a hearing, from the contents of the petition, from the evidence produced at the hearing, and the department's records, files and investigation that the approval of the sale or lease of the permit will not adversely affect the rights of the users of the service and will not have an adverse effect upon any other competing carriers, the commission may make an order granting same. Provided, however, that the commission shall make no order granting the sale or lease of a permit to any person or corporation or association which holds any certificate or permit from the commission pursuant to this chapter or to any common carrier by rail.

Provided further that the commission shall make no order approving the sale or lease of a permit if the commission finds that the price paid for such sale or lease of a permit is disproportionate to the reasonable value of said permit considering all assets and goodwill involved. The commission shall approve the sale or lease of a permit only after a finding that the transferee is fit and able to conduct the operations authorized under said permit and that the vehicles he proposes to use in conducting such operations meet the safety standards of the commission. In determining the extent of the operating authority to be conducted by the transferee under the sale or lease of the permit, the past operations of the transferor within the two year period immediately preceding the transfer shall be considered and only such operating authority shall be granted to the transferee as was actually exercised by the transferor under his authority within the two year period immediately preceding the transfer as evidenced by bills of lading, company records, operation records or other relevant evidence.

If any authority to operate as a permit carrier is held by a corporation, any sale, assignment, pledge or other transfer of such stock interest in the corporation which will accomplish a substantial or material change or transfer of the majority ownership of said corporation, as exercised through its stockholders, shall be reported in the manner prescribed in accordance with the rules and regulations of the commission within 90 days after said sale, assignment, pledge or other transfer of stock. The commission shall then make a finding whether or not said stock transfer does, in fact, constitute a sale, lease or other transfer of the permit of said corporation to a new party or parties and, if they so find, then the continuance of the permit issued to said corporation shall only be upon the corporation's complying with the standards and procedures otherwise imposed by this section.

Subd. 2. MS 1974 [Repealed, 1973 c 710 s 2; 1974 c 406 s 93]

Subd. 2. The commission shall allow a bona fide transfer of a permit, except a livestock carrier permit, ex parte without hearing where the transferee of said permit is in fact a member or members of the transferor's immediate family. For the purpose of this subdivision immediate family shall consist only of the lawful spouse, adult child or children, brother or sister of the transferor. Provided further that the immediate family as defined in this subdivision shall not include any person under legal disability or any member of the family regardless of relationship who holds any other permit or certificate pursuant to this chapter either as an individual or in partnership or as owner of an interest in a corporation holding a permit or a certificate pursuant to this chapter.

Provided further that the transfer pursuant to this subdivision shall include:

- (1) transfer to a corporation the stock of which is wholly owned by the transferor or the members of his immediate family;
- (2) transfer to a partnership or partner consisting solely of the immediate family as defined in this subdivision.

Provided further that said transfer of permit, pursuant to this subdivision, shall comply with the standards set forth in this section based upon the contents of the petition of petitioners, all pertinent information available to the commission and the department and their records and files. No determination of the extent of the operating authority previously exercised shall be required.

If it appears to the commission that said petition and exhibits do not reasonably comply with the standards set forth in this section, then after notice to interested parties and the petitioners, the commission shall set the matter down for hearing to determine compliance with this section. Any user of the service, competing carrier or interested party shall have the right to file a protest on such transfer as is provided for in this subdivision by filing a sworn statement with the commission within six months from the effective date of said transfer whereupon the commission shall set the matter down for hearing and the continuance of the permit shall only be upon the transferee's compliance with the standards and procedures otherwise imposed by this section.

[Ex1957 c 17 s 15; 1965 c 523 s 4; 1971 c 25 s 67; 1973 c 710 s 1; 1975 c 313 s 11,12; 1976 c 166 s 83]

221.16 [Repealed, Ex1957 c 17 s 31]

221.161 SCHEDULE OF RATES AND CHARGES. Subdivision 1. Every permit carrier including a livestock carrier shall file and maintain with the commissioner a schedule of rates and charges for the transportation of persons or property. The filing with and acceptance by the commissioner of such tariffs, in accordance with the rules relating to such schedules, shall constitute notice to the public and all interested parties of the contents of such tariffs. All schedules shall be prepared and filed in accordance with the rules and regulations of the commissioner. The commissioner shall not accept for filing schedules which are unjust and unreasonable or unjustly discriminatory or unduly preferential or prejudicial or otherwise in violation of the provisions of this section. If such schedules appear to be unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial or otherwise in violation of this section, the commission after notification and investigation by the department may suspend and postpone the effective date of such schedules and assign said schedules for hearing upon notice to the permit carrier filing such proposed schedules and to other interested parties, including users of the service and competitive carriers by motor vehicle and rail. At any such hearing, the burden of proof shall be upon the permit car-

MINNESOTA STATUTES 1978

3297

MOTOR VEHICLE CARRIERS; PIPELINE CARRIERS 221.171

rier filing the proposed schedule of rates and charges to sustain the validity of the proposed schedule of rates and charges. Schedules of rates and charges for the transportation of livestock shall not be subject to rejection, suspension, or postponement by the commission, except as provided in subdivisions 2 and 3. Such tariffs and subsequent supplements thereto or reissues thereof shall state the effective date thereof, which shall be not less than ten days subsequent to the date of filing, unless such period of time be reduced by special permission of the commission.

Subd. 2. Such tariffs, supplements and reissues shall be prepared and filed in accordance with rules to be promulgated by the commissioner, and any rates or charges including pickup charges named therein shall be subject to complaint to the commission by any interested party, whereupon the commission after investigation by the department by order on not less than ten days' notice may set such complaint for hearing, and if at such hearing the complainant submits facts and evidence sufficient to establish proof that such rates or charges complained of are excessive or noncompensatory, the commission may order such rates or charges canceled, and require the filing of alternative and reasonable rates and charges, the reasonable level of which at such time shall be indicated by the commission in such order.

Subd. 3. Upon the filing of any tariff or subsequent supplement thereto or reissue thereof, any other carrier shall have the right to petition the commission to suspend the taking effect of the same until opportunity has been had for a hearing on the reasonableness of the rates or charges named therein, as herein provided, and the commission may so suspend if in its judgment the rates or charges complained of are so unreasonably low as to create destructive competitive practices among or jeopardize the economic position of competing carriers. In determining whether the rates or charges are excessive or noncompensatory the commission shall include in its consideration, among other things, the reasonable cost of the services rendered for such transportation, including a reasonable return on the money invested in the business and an adequate sum for maintenance and depreciation of the property used.

Subd. 4. The commission after a suspension and hearing upon a schedule of rates and charges or upon complaint or upon its own initiative, either in extension of any existing complaint or without any complaint whatever, after department investigation and petition, and upon notice to the permit carrier or permit carriers proposing a schedule of rates and charges on any single group of related commodities and to the users of the service and competitive carriers by motor vehicle and rail may set down for hearing said schedule of rates and charges maintained or charged by any or all permit carriers; and, upon a finding, after a hearing, that such schedule of rates and charges are unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial or otherwise in violation of any of the provisions of this section, the commission may prescribe minimum rates and charges and the rates, rules and practices thereafter to be maintained and applied by such permit carrier or permit carriers. In any such hearing the burden of proof shall be upon the permit carrier or permit carriers whose schedules of rates and charges are under investigation to show that said schedules are not below a minimum reasonable level or are not noncompensatory. Schedules of rates and charges for the transportation of livestock shall not be subject to rejection, suspension, postponement or investigation by the commissioner except as provided in subdivisions 2 and 3.

[*Ex1957 c 17 s 16; 1959 c 376 s 4; 1965 c 523 s 5; 1971 c 25 s 67; 1976 c 166 s 84*]

221.17 [Repealed, *Ex1957 c 17 s 31*]

221.171 COMPENSATION OF PERMIT CARRIERS FIXED BY SCHEDULES OF RATES AND CHARGES. No permit carrier shall charge or receive a greater or less or different compensation for the transportation of persons or property or for any service in connection therewith, than the rates and charges named in the carrier's schedule on file and in effect with the commissioner including any rate fixed by the commission under the provisions of section 221.161; nor shall any permit carrier refund or remit in any manner or by any device, directly or indirectly, the rates and charges required to be collected by him under his schedules or under the rates, if any, fixed by the commission.

[*Ex1957 c 17 s 17; 1965 c 523 s 6; 1971 c 25 s 67; 1976 c 166 s 85*]

221.175 [Repealed, *1947 c 266 s 7*]

221.18 [Repealed, *Ex1957 c 17 s 31*]

MINNESOTA STATUTES 1978

221.181 MOTOR VEHICLE CARRIERS; PIPELINE CARRIERS

3298

221.181 INTERSTATE CARRIERS; PERMITS, REGULATION. The commissioner or commission, consistent with their respective powers pursuant to this chapter, shall have the power and authority to grant permits to interstate carriers and to supervise and regulate their operations to the extent that such supervision and regulation constitutes a valid exercise of the police powers of the state.

The issuance, renewal and cancellation of permits to interstate carriers shall follow the same procedure and be based upon the same conditions as herein provided for other permit carriers.

[*Ex1957 c 17 s 18; 1971 c 25 s 67; 1976 c 166 s 86*]

221.19 [Repealed, *Ex1957 c 17 s 31*]

221.191 [Repealed, *1978 c 700 s 2*]

221.20 [Repealed, *Ex1957 c 17 s 31*]

221.201 [Repealed, *1978 c 700 s 2*]

221.21 [Repealed, *Ex1957 c 17 s 31*]

221.211 [Repealed, *1978 c 700 s 2*]

221.22 [Repealed, *Ex1957 c 17 s 31*]

221.221 ENFORCEMENT POWERS. Transportation representatives of the department for the purpose of enforcing the provisions of sections 221.011 to 221.296 and the rules and regulations of the commissioner and commission issued pursuant hereto, but for no other purpose, shall have all the powers conferred by law upon police officers. The powers shall include the authority to conduct inspections at designated highway weigh stations or under other appropriate circumstances anywhere within the state for the purpose of viewing log books, chauffeur licenses, health certificates and other documents or equipment required to be maintained within commercial motor vehicles operating in Minnesota pursuant to applicable state motor vehicle carrier laws and regulations.

[*Ex1957 c 17 s 22; 1971 c 25 s 67; 1975 c 313 s 13; 1976 c 166 s 88; 1978 c 700 s 1*]

221.23 [Repealed, *Ex1957 c 17 s 31*]

221.231 RECIPROCAL AGREEMENTS. The commissioner may enter into reciprocal agreements with the regulatory bodies of other states and the provinces of the dominion of Canada, whereby the payment of the vehicle fee provided in section 221.131 hereof may be waived in whole or in part as to residents of or corporations or partnerships having an established place of business in the state or province, entering into the reciprocal agreement with the commissioner, provided that reciprocal privileges are extended under such agreement to residents of this state and to corporations or partnerships who have an established place of business in this state.

[*Ex1957 c 17 s 23; 1971 c 25 s 67; 1976 c 166 s 89*]

221.24 [Repealed, *Ex1957 c 17 s 31*]

221.241 TRANSPORT FOR HIRE OF FOOD FOR HUMAN CONSUMPTION. No motor carrier engaged in either intrastate or interstate commerce shall transport for hire food for human consumption in any motor vehicle which he uses for the transportation of livestock, unless such motor vehicle has been cleaned.

[*Ex1957 c 17 s 24*]

221.25 [Repealed, *Ex1957 c 17 s 31*]

221.251 OVERCHARGES REFUND. Subdivision 1. All charges for freight, baggage or express that are collected by a motor carrier over what it is entitled to receive under the lawful tariff or classification shall be refunded by said carrier within 90 days after a claim is filed, provided that a claim shall be filed as hereinafter provided.

Subd. 2. Every claim against a motor carrier doing business in this state for an overcharge due to difference in weight or inapplicable rate, or for loss, damage or injury to property while in its possession, shall be adjusted and paid within 90 days after the filing of such claim with the agent of the carrier delivering said freight, baggage or express; unless the delivering carrier shall protest the validity of said claim in writing to the claimant within said 90 day period. Settlement of all such claims with the consignee shall be the responsibility of the carrier which delivered the freight, bag-

MINNESOTA STATUTES 1978

3299

MOTOR VEHICLE CARRIERS; PIPELINE CARRIERS 221.291

gage or express to its ultimate destination. No such claim shall be filed until after the arrival of a shipment, or of some part thereof, at the point of destination, or until after the lapse of a reasonable time for the arrival thereof. For this purpose, a claim, when filed, shall consist of (a) original bill of lading or shipping receipt, (b) paid freight bill, (c) bill of claimant, and (d) original invoice or certified copy when necessary. True copies of any of these documents may be used and, in case of absence, an explanation must be attached. The carrier shall acknowledge the filing of a claim, or any letters, papers or documents purporting to be such within ten days after receipt and, if the claim so filed does not comply with the above requirements, the carrier shall so inform the claimant and advise him of what may be required to complete the claim.

Subd. 3. If such claim is not paid or adjusted within 90 days of filing thereof, suit may be commenced in any court having jurisdiction thereof, in which all persons similarly situated may intervene or be joined, and, if claimant prevails, a penalty of ten percent plus legal interest, reasonable attorneys' fees, costs and disbursements shall be allowed.

[*Ex1957 c 17 s 25; 1965 c 523 s 7*]

221.26 [Repealed, *Ex1957 c 17 s 31*]

221.261 COMPLAINTS, ACTION IN DISTRICT COURT. An action or proceeding may be instituted, upon verified complaint of the commissioner or any interested person in any district court of any county wherein a motor carrier has a principal office or into which its route extends, for the enforcement of any provision of sections 221.011 to 221.291, or any order, rule or directive of the commissioner or commission herein authorized, and the court may grant provisional or other relief, ordinary or extraordinary, legal or equitable, which the nature of the case may require, including temporary mandatory or restraining orders. Except when there is a constitutional right to trial by jury not expressly waived, all such proceedings shall be tried summarily by the court and such matters shall take precedent over all other matters except criminal cases.

[*Ex1957 c 17 s 26; 1971 c 25 s 67; 1976 c 166 s 90*]

221.27 [Repealed, *Ex1957 c 17 s 31*]

221.271 MOTOR CARRIERS, LIABILITY. Any motor carrier which shall do or cause to be done any unlawful act as herein provided, or fail to perform any duty prescribed, or violate any duly established order, rule or directive of the commissioner or commission, or which shall aid or abet in the performance of any unlawful act or in the failure to perform any such duty, shall be liable in damages to any person injured thereby, and such person, if he recovers, shall be allowed, in addition to damages, reasonable attorneys' fees, together with costs and disbursements.

[*Ex1957 c 17 s 27; 1971 c 25 s 67; 1976 c 166 s 91*]

221.28 [Repealed, *Ex1957 c 17 s 31*]

221.281 VIOLATIONS, PENALTIES. Any regular route common carrier or petroleum carrier, or any officer, agent or employee of any such carrier, failing to comply with any final order, decision, rule, regulation or directive, or any part or provision thereof, of the commissioner or commission, or any provision of sections 221.011 to 221.296, shall be subject to a penalty of \$50 for each and every day of such failure, to be recovered for the state in a civil action brought by the commissioner. Any such carrier granting any special rate, rebate, drawback, or directly or indirectly charging, demanding, or collecting a greater or less compensation than provided by its regular established schedule of rates and charges, shall be punished by a fine not exceeding \$5,000 for each such offense.

[*Ex1957 c 17 s 28; 1971 c 25 s 67; 1973 c 754 s 8; 1976 c 166 s 92*]

221.29 [Repealed, *Ex1957 c 17 s 31*]

221.291 VIOLATIONS, PENALTIES. Subdivision 1. Any person who commits, procures, aids or abets or conspires to commit, or attempts to commit, aid or abet in the violation of any provision of this chapter or any valid order or rule of the commissioner or commission issued hereunder, whether individually or in connection with one or other more persons or as principal, agent, or accessory, shall be guilty of a misdemeanor, and every person who falsely, fraudulently, forcibly, or willfully induces, causes, coerces, requires, permits or directs another to violate any provision of this chapter, is likewise guilty of a misdemeanor. Every distinct violation shall be a separate offense.

Subd. 2. Any person employing or otherwise directing the driver of any vehicle to require or knowingly to permit the operation of the vehicle upon a highway in any manner contrary to this chapter is guilty of a misdemeanor.

[*Ex1957 c 17 s 29; 1971 c 25 s 67; 1973 c 754 s 9; 1975 c 313 s 14; 1976 c 166 s 93*]

221.292 RENEWAL OF PERMITS. No person holding a permit issued pursuant to any of the provisions of Minnesota Statutes, Chapter 221, on April 24, 1959, shall be denied a renewal thereof if he otherwise complies with the provisions of such chapter 221 as amended by Laws 1959, Chapter 376.

[*1959 c 376 s 5*]

221.293 VIOLATIONS; COMPLAINT, HEARING, CEASE AND DESIST ORDERS. Where any provisions of this chapter or any order adopted thereunder or any rule of the commissioner or commission has been violated, the commissioner upon complaint being filed with him or on his own motion, may issue and serve upon the person engaged in such violation, a complaint stating the charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed at least ten days after the service of the complaint and notice requiring the person so complained of to appear at the time and place fixed in the notice of hearing and show cause why an order should not be entered by the commissioner requiring such person to cease and desist from the violation alleged. If upon such hearing the commissioner shall find that any of the violations alleged in the order to show cause are true, he shall so find and shall issue and cause to be served upon such person an order requiring such person to cease and desist from such violation. The district court, upon petition, may enforce such cease and desist order by injunction or other appropriate writ or proceedings.

[*1959 c 376 s 6; 1971 c 25 s 67; 1975 c 313 s 15; 1976 c 166 s 94*]

221.294 FOR HIRE VEHICLES; APPLICATION. The provisions of sections 221.011 to 221.293 shall be applicable to all persons who transport passengers or property by motor vehicle upon the public highways for hire, except those persons exempted by the provisions of this chapter.

[*1965 c 523 s 8*]

221.295 NOTICE TO METROPOLITAN TRANSIT COMMISSION. Notwithstanding any provision of any statute to the contrary, the metropolitan transit commission shall be notified by the commissioner of any matter pertaining to or affecting public transit or an existing or proposed transit system within the Twin Cities metropolitan transit area, which matter is formally or informally before the commissioner or commission for action or which is under study, including the initiation of any request for action or study and prior to any hearings on other proceedings, whether ex parte or otherwise. Further, such notification shall in all cases be given in a manner, at such time, and with such information and data available to the commissioner or commission so as to enable the metropolitan transit commission to meaningfully evaluate, participate in, and comment upon the matter. The commissioner or commission shall not approve, deny, or otherwise attempt to resolve or act upon any such matter until receipt of the comments and advice of the metropolitan transit commission with respect thereto, but if none are received they may act within 30 days after demand therefor upon the metropolitan transit commission, or otherwise by mutual agreement. If the commissioner or commission takes action in any way contrary to or different from the comments and advice of the metropolitan transit commission, they shall specifically state the reasons and factual data for such action.

[*1969 c 625 s 9; 1976 c 166 s 95*]

221.296 LOCAL CARTAGE CARRIERS. Subdivision 1. **Definition.** "Local cartage carrier" means a person engaged in transporting property or freight for hire when the movement is entirely within an area composed of two contiguous cities of the first class and municipalities contiguous thereto as defined by section 221.011, subdivision 17. "Local cartage carrier" does not mean (1) a person engaged in transporting household goods, rubbish as defined in section 443.27, or petroleum products; (2) a person engaged in agricultural pursuits who owns and uses a truck for transporting the products of his farm; (3) a manufacturer, producer, dealer or distributor who

MINNESOTA STATUTES 1978

3301

MOTOR VEHICLE CARRIERS; PIPELINE CARRIERS 221.296

in the pursuit of his own business owns and uses trucks for the purpose of transporting his own products; (4) a permit carrier as defined in section 221.011; (5) a cartage service performed or to be performed by, for, or on behalf of a common carrier by rail or truck or any motor carrier subsidiary or affiliate of such common carrier by rail or truck; and (6) an exempt carrier as defined in section 221.011, subdivision 22, clauses (a), (b), (c), (d), (e), (f), and (h).

Subd. 2. Rules for safety and service. The commission shall prescribe rules for the operation of all local cartage carriers, including their facilities, accounts, service, safety of operation and equipment, maximum hours of service of drivers, installation of safety devices and proper automatic speed regulators if, in the opinion of the commission, there is a necessity therefor. The commission may require the filing of annual and other reports and shall regulate such local cartage carriers in all matters affecting the relationship between them and the shipping public, and prescribe such other rules and regulations as may be necessary to carry out the provisions of this section. The commissioner shall investigate the operation of all local cartage carriers, their compliance with all rules of the commissioner or commission and with the provisions of this section and may institute and prosecute any and all actions and proceedings in the proper district court for enforcement of the same. The provisions of sections 221.161 and 221.171 do not apply to local cartage carriers. The commissioner shall make no rules relating to rates and tariffs, or the granting, limiting or modifying of permits or certificates of convenience and necessity, which powers are granted to the commission pursuant to Laws 1976, Chapter 166.

Subd. 3. Permits required. No person shall operate a local cartage carrier without a permit in full force and effect with respect to such operation. The commission may revoke or suspend the permit of any local cartage carrier after notice and hearing for violating any provision of this section or any rule or regulation of the commission or the department governing local cartage carriers.

Subd. 4. Petition for permits. Any person desiring to operate hereunder as a local cartage carrier shall file a petition with the commission specifying the service offered, the name and address of the petitioner, and the names and addresses of the officers, if a corporation, and such other information as the commission may require. The commission, after notice to interested parties and a hearing, shall issue the permit upon compliance with all laws and regulations relating thereto unless it finds that the area to be served has a sufficient number of local cartage carriers to fully and adequately meet the needs of such area or that the petitioners' vehicles do not meet the safety standards set up by the commission, or that petitioner is not fit and able to conduct the proposed operations. A permit once granted shall continue in full force and effect until abandoned or unless suspended or revoked, subject to compliance by the permit holder with all applicable provisions of law and rules of the commission governing local cartage carriers.

Subd. 5. Permit fees. Upon filing of a petition for a permit the petitioner shall pay to the state treasury as a fee for the issuance thereof the sum of \$50, and shall thereafter pay an annual renewal fee of \$75 plus \$5 per motor vehicle if the local cartage carrier operates less than five motor vehicles, or \$100 plus \$5 per motor vehicle if the local cartage carrier operates at least five but less than 15 motor vehicles, or \$150 plus \$5 per motor vehicle if the local cartage carrier operates 15 or more vehicles provided that said \$5 per motor vehicle charge shall not apply to taxicabs operated pursuant to a local cartage permit. Upon issuance of the permit the commissioner shall assign the carrier a permit number, which shall be painted or prominently displayed on both sides of all vehicles used by the local cartage carrier under authority of said permit.

Subd. 6. Bonds. Local cartage carriers shall comply with the requirements of section 221.141, and before any such permit shall be issued to a local cartage carrier or renewed, such carrier shall secure and file with the commissioner and keep the same at all times in full effect, a third party liability bond with corporate surety in the amount of \$5,000 conditional, to pay to the owner all damages to the property being transported by such carrier and all other liabilities to the consignor or consignee arising from the transportation, including conversions of money or property; provided, however, that the aggregate liability of the surety for all breaches of the conditions of the bond shall, in no event, exceed the amount of such bond.

Subd. 7. Limitations. Nothing in this section shall be construed in any manner as taking from or curtailing the right of any city to reasonably regulate or control the

routing, parking, speed or the safety of operation of any motor vehicle operated by local cartage carriers, nor the general police powers of any city of its highways, nor as abrogating any provision of the charter of any city requiring conditions to be complied with before such local cartage carrier can use the highways of such city, and such rights and powers hereby stated are reserved and granted to such city; but no city shall prohibit or deny the use of the public highways within its territorial boundaries by any local cartage carrier for the transportation of property received within its boundaries to destinations beyond such boundaries, or for the transportation of property from points beyond such boundaries to destinations within the same, or for transporting property from points beyond such boundaries through such municipality to points beyond the boundaries of such municipality, where such operation is pursuant to a permit issued by the department pursuant to an order of the commission.

Subd. 8. Permits transferable. Permits, issued under the provisions of this section may be transferred but only upon the order of the commission approving same after notice and hearing.

The proposed seller and buyer of a permit, shall file a joint verified petition with the commission setting forth the legal name and address of the parties, the permit number and the description of the authority which the parties seek to sell, a verified statement of the reasons for the proposed sale, a verified statement of all outstanding claims of creditors which are attributable to the business conducted under said permit, a copy of the contract of sale and financial statement with balance sheet and income statement, if existent, of the buyer and the seller. After notice to interested parties and a hearing the commission shall not make an order approving and allowing the sale unless the commission finds that the buyer is fit and able to conduct the business authorized under said permit, that the vehicles he proposes to use in conducting such business meet the safety standards of the department, that the price paid for the purchase of the permit is not disproportionate to the reasonable value of the permit considering all assets and good will sold, that the proposed sale is in the best interest of the shipping public, and that the seller has legally engaged in the transportation of property or freight for hire on a meaningful basis as determined by the commission within the two year period immediately preceding the sale as proven by accurate and complete bills of lading, company records, operation records, or other relevant evidence. For purposes of determining said two year period, any divesting of interest or control shall be deemed the date of the sale and the commission shall look to the substance of the transaction rather than the form. Any agreement for the transfer or sale of a permit shall be reported and filed with the commission within 30 days of such agreement.

If any authority to operate as a local cartage carrier, is held by a corporation, any sale, assignment, pledge or other transfer of such stock interest in the corporation which will accomplish a substantial or material change or transfer of the majority ownership of said corporation, as exercised through its stockholders, shall be reported in the manner prescribed by the rules of the commission within 30 days after said sale, assignment, pledge or other transfer of stock. The commission shall then make a finding whether or not said stock transfer does, in fact, constitute a sale, or other transfer of the permit of said corporation to a new party or parties and, if they so find, then the continuance of the permit issued to said corporation shall only be upon the corporation's complying with the standards and procedures otherwise imposed by this section.

The commission shall allow a bona fide transfer of a permit, ex parte without hearing where the transferee of said permit is in fact a member or members of the transferor's immediate family. For the purpose of this paragraph immediate family shall consist only of the lawful spouse, adult child or children, brother or sister of the transferor. A transfer pursuant to this paragraph shall include:

- (1) transfer to a corporation the stock of which is wholly owned by the transferor or the members of his immediate family.
- (2) transfer to a partnership or partner consisting solely of the immediate family as defined in this paragraph.

[1967 c 79 s 1; 1971 c 25 s 67; 1973 c 123 art 5 s 7; 1973 c 231 s 1,2; 1973 c 766 s 2; 1975 c 313 s 16-18; 1976 c 166 s 96-102]

MINNESOTA STATUTES 1978

3303

MOTOR VEHICLE CARRIERS; PIPELINE CARRIERS 221.55

- 221.30 [Repealed, Ex1957 c 17 s 31]
- 221.31 [Repealed, Ex1957 c 17 s 31]
- 221.32 [Repealed, Ex1957 c 17 s 31]
- 221.33 [Repealed, Ex1957 c 17 s 31]
- 221.34 [Repealed, Ex1957 c 17 s 31]
- 221.35 [Repealed, Ex1957 c 17 s 31]
- 221.36 [Repealed, Ex1957 c 17 s 31]
- 221.37 [Repealed, Ex1957 c 17 s 31]
- 221.38 [Repealed, Ex1957 c 17 s 31]
- 221.381 [Repealed, Ex1957 c 17 s 31]
- 221.39 [Repealed, Ex1957 c 17 s 31]
- 221.40 [Repealed, Ex1957 c 17 s 31]
- 221.41 [Repealed, Ex1957 c 17 s 31]
- 221.42 [Repealed, Ex1957 c 17 s 31]
- 221.43 [Repealed, Ex1957 c 17 s 31]
- 221.44 [Repealed, Ex1957 c 17 s 31]
- 221.45 [Repealed, Ex1957 c 17 s 31]
- 221.46 [Repealed, Ex1957 c 17 s 31]
- 221.465 [Repealed, Ex1957 c 17 s 31]
- 221.47 [Repealed, Ex1957 c 17 s 31]
- 221.48 [Repealed, Ex1957 c 17 s 31]
- 221.49 [Repealed, Ex1957 c 17 s 31]
- 221.50 [Repealed, Ex1957 c 17 s 31]
- 221.51 [Repealed, Ex1957 c 17 s 31]
- 221.52 [Repealed, Ex1957 c 17 s 31]
- 221.53 [Repealed, Ex1957 c 17 s 31]

PIPELINE CARRIERS

221.54 TRANSPORTATION BY PIPELINES. The provisions of this section and section 221.55 shall apply to any corporation or any person or persons engaged in transportation for hire within this state of any commodity, except water, electricity, petroleum products, waste material, logs, timbers and natural or artificial gas, by means of pipelines, sluiceways, conveyor belts or similar types of mechanical conveyors, or partly by one or more of such means, who are hereby declared to be common carriers within the meaning and purpose of this section and section 221.55; provided, however, that this section and section 221.55 shall not apply to transportation which takes place wholly within a single city or wholly within a single group of contiguous cities or for distances of less than five miles, or to public or private sewer or water systems.

[1949 c 737 s 1; 1973 c 123 art 5 s 7]

221.55 CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY. No person or corporation shall engage in the transportation described in section 221.54 without a certificate of public convenience and necessity from the commission authorizing such operation. Such certificate shall be issued by the commission pursuant to application, notice and hearing as provided in sections 221.061 and 221.071, and the issuance of certificates and the transportation covered thereby shall be governed by the provisions of such sections and by sections 221.031, 221.041, 221.051 and 221.081, applying to auto transportation companies, insofar as such provisions are not inconsistent with section 221.54 and this section.

[1949 c 737 s 2; 1961 c 560 s 19; 1971 c 25 s 67; 1976 c 166 s 103]

INTERSTATE OPERATIONS

221.61 NECESSITY OF OBTAINING FEDERAL AUTHORITY; REGISTRATION OF AUTHORITY. It shall be unlawful for any motor carrier to perform any act of transportation in interstate commerce for hire upon the public highways of this state requiring authority therefor from the interstate commerce commission pursuant to the provisions of the federal motor carrier act or any amendment thereof without having first obtained such authority and without first having registered such authority with the commissioner.

[1963 c 399 s 1; 1971 c 25 s 67; 1976 c 166 s 104]

221.62 EXEMPT INTERSTATE CARRIERS; REGISTRATION OF EXEMPTION AUTHORITY. It shall be unlawful for any carrier engaged in interstate commerce exempt from seeking appropriate authority for transportation service from the interstate commerce commission, if written authority for such exemption is provided for by the interstate commerce act, to perform any transportation service for compensation upon the public highways of this state without first having registered such written authority for exemption with the commissioner.

[1963 c 399 s 2; 1971 c 25 s 67; 1976 c 166 s 105]

221.63 AFFIDAVIT OF EXEMPTION. In any case where the interstate commerce act exempts any carrier engaged in interstate commerce for hire from the necessity of procuring authority for any transportation service from the interstate commerce commission and does not provide for written authority for such exemption, such exempted carrier shall file with the commissioner a sworn affidavit disclosing the fact of the exemption and specifying the nature of the commodity carried and the specific nature of the service offered before performing any such interstate transportation service for compensation upon the public highways of this state. Such affidavit shall be executed by the individual owner of the carrier, or if such carrier be a partnership, by one of the partners, or if a corporation, by an officer or managing agent thereof.

[1963 c 399 s 3; 1971 c 25 s 67; 1976 c 166 s 106]

221.64 REGISTRATION FEE; EXEMPTIONS. Such registration as herein provided shall be granted upon petition, without hearing, upon payment of an initial filing fee in the amount of \$25. Upon petition, and payment of said fee if applicable, the commissioner shall furnish to the registration holder a distinguishing identification stamp for each motor vehicle included in said registration which stamp shall at all times be carried in the registered vehicle of the registration holder. For each identification stamp issued, the commissioner shall establish and collect a fee of no more than \$5 to be deposited in the state treasury, provided that a lesser fee may be collected pursuant to the terms of reciprocal agreements between the commissioner and the regulatory bodies of other states or provinces of the dominion of Canada.

[1963 c 399 s 4; 1971 c 25 s 67; 1971 c 74 s 4; 1973 c 766 s 3; 1975 c 313 s 19; 1976 c 166 s 107; 1977 c 122 s 2]

221.65 RECIPROCAL AGREEMENTS. Nothing in sections 221.61 to 221.68 shall be construed to impair the authority of the commissioner to enter into reciprocal agreements with the regulatory bodies of other states and the provinces of the Dominion of Canada, as provided in section 221.231.

For the purposes of section 221.231, the commissioner shall be deemed to be the successor of the department of public service. The commissioner may exercise any power, duty or function heretofore conferred by law or agreement upon the department of public service to the extent necessary to preserve any reciprocal agreement heretofore concluded under the provisions of section 221.231. Nothing in this section shall be construed to prevent the negotiation of new or replacement agreements as conditions and circumstances may warrant.

[1963 c 399 s 5; 1971 c 25 s 67; 1976 c 166 s 108]

221.66 ENFORCEMENT. If any motor carrier operates in violation of any provision of sections 221.61 to 221.68, the commissioner or his duly authorized agent or any carrier or other interested person may institute an action or proceeding upon verified complaint in any district court of any county wherein such motor carrier has designated a resident agent for service of process, or in the district court of Ramsey

MINNESOTA STATUTES 1978

3305

MOTOR VEHICLE CARRIERS; PIPELINE CARRIERS 221.71

county, for enforcement of any provisions of sections 221.61 to 221.68 and enjoining upon such motor carrier obedience to sections 221.61 to 221.68. The court may grant provisional or other relief, ordinary or extraordinary, legal or equitable, which the nature of the case may require, including temporary or mandatory restraining orders or injunctions.

[1963 c 399 s 6; 1971 c 25 s 67; 1976 c 166 s 109]

221.67 SERVICE OF PROCESS. The use of any of the public highways of this state for the transportation of persons or property for compensation by a motor carrier in interstate commerce shall be deemed an irrevocable appointment by such carrier of the secretary of state to be his true and lawful attorney upon whom may be served all legal process in any action or proceeding brought under section 221.66 against him or his executor, administrator, personal representative, heirs, successors or assigns. Such use is a signification of agreement by said interstate motor carrier that any such process in any action against him or his executor, administrator, personal representative, heirs, successors, or assigns which is so served shall be of the same legal force and validity as if served upon him personally. Such service shall be made by serving a copy thereof upon the secretary of state or by filing such copy in his office, together with payment of a fee of \$2, and such service shall be sufficient service upon the absent motor carrier; provided that notice of such service and a copy of the process are within ten days thereafter sent by mail by the plaintiff to the defendant at his last known address and that the plaintiff's affidavit of compliance with the provisions of sections 221.61 to 221.68 is attached to the summons.

[1963 c 399 s 7]

221.68 VIOLATIONS; PENALTIES. Any person who violates or procures, aids, or abets violation of, or fails to comply with, the provisions of sections 221.61 to 221.68 or any valid order or rule of the commissioner or commission issued hereunder shall be guilty of a misdemeanor; and, additionally, shall be subject to a penalty of \$50 for each and every day of such failure to so comply, to be recovered for the state in a civil action. Each distinct violation shall be a separate offense.

[1963 c 399 s 8; 1971 c 25 s 67; 1976 c 166 s 110]

COMMUTER VANS

221.71 COMMUTER VANS; DRIVER LIABILITY. Subdivision 1. Notwithstanding any other law to the contrary, the services performed by a driver of a commuter van shall be deemed to be those of an independent contractor and not those of an employee acting within his scope of employment, unless provided in writing to the contrary.

Subd. 2. A driver or owner of a commuter van shall not be held to the standard of care applicable to drivers or owners of common carriers, nor shall they be subject to ordinances or regulations which relate exclusively to the regulation of drivers or owners of automobiles for hire or other common carriers or public transit carriers.

[1976 c 233 s 10]