

CHAPTER 221

MOTOR CARRIERS; PIPELINE CARRIERS

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221.01 [Repealed, Ex 1957 c 17 s 31]

221.011 DEFINITIONS.

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

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

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

Subd. 2b. **Board.** "Board" means the transportation regulation board.

Subd. 3. **Vehicle.** "Vehicle" means a vehicle or combination of vehicles used upon the highways for the transportation of persons or property.

Subd. 4. [Repealed, 1983 c 371 s 44]

Subd. 5. **Public highway.** "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.** "Person" means any individual, firm, copartnership, cooperative, company, association and corporation, or their lessees, trustees, or receivers.

Subd. 7. **Certificate.** "Certificate" means the certificate of public convenience and necessity issued under section 221.071 to a regular route common carrier of passengers, a class I motor carrier, or a petroleum carrier.

Subd. 8. **Permit.** "Permit" means the license, or franchise, which may be issued to motor carriers other than regular route common carriers of passengers, class I 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.** "Regular route common carrier" means a person who holds out to the public as willing, for hire, to transport passengers by motor vehicle between fixed termini over a regular route upon the public highways.

Subd. 10. **Petroleum carrier.** "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. [Repealed, 1992 c 600 s 34]

Subd. 12. **Contract carrier.** "Contract carrier" means a 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.

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

Subd. 14. **Permit carrier.** "Permit carrier" means a motor carrier embraced within this chapter other than regular route common carriers of passengers, class I carriers, and petroleum carriers.

Subd. 15. **Motor carrier.** "Motor carrier" means a carrier operating for hire under the authority of this chapter and subject to the rules and orders of the commissioner or the board.

Subd. 16. **For hire.** "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, and includes compensation obtained by a motor carrier indirectly, by subtraction from the purchase price or addition to the selling price of property transported, when the purchase or sale of the property is not a bona fide purchase or sale. The transportation of property by a person who purchases it immediately before transporting it, and sells it immediately after transporting it, is transportation for hire. The lease or rental of a motor vehicle to a person for transportation of the person's property is transportation for hire and not private carriage when the lessor, directly or indirectly, serves as driver or obtains or arranges for a driver under the terms of the motor vehicle lease. For hire does not include motor vehicle operations conducted by a private carrier.

Subd. 17. **Contiguous.** "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.** "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.** "Service of notice and orders" means depositing the notice and orders in the United States mails properly enveloped, addressed, and stamped, provided that service of a notice or order requiring an affirmative or negative action by a person must be by certified United States mail with return receipt.

Subd. 20. **Charter.** "Charter" means the agreement whereby the owner of a motor vehicle 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.** "Charter carrier" means a person who engages in the business of transporting the public by motor vehicle under charter. The term "charter carrier" does not include regular route common carriers of passengers, school buses or Head Start buses described in section 221.025, clause (a), or persons providing limousine service described in section 221.84.

Subd. 22. [Repealed, 1983 c 371 s 44]

Subd. 23. **Household goods.** "Household goods" means personal effects and property used or to be used by the owner in the owner's 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.** "Livestock carrier" means any person whose primary business is the transportation of livestock.

Subd. 25. **Courier services carrier.** "Courier services carrier" means any person who transports packages and articles except household goods by either:

- (1) expedited delivery, which means that:
 - (i) shipments are made by single axle straight truck or smaller vehicle;
 - (ii) shipments are picked up within one hour of the shipper's initial request for service;
 - (iii) after shipments are picked up, delivery is made within six hours; and
 - (iv) there is no cross docking or overnight sorting of shipments; or
- (2) overnight small package delivery, which means that:
 - (i) the transportation originates and ends on the same calendar day or the following business day;
 - (ii) no package or article of a shipment exceeds 100 pounds per item;
 - (iii) the aggregate of shipments received by a single consignee from a single consignor on a single calendar day does not exceed 400 pounds;
 - (iv) a vehicle at the point of delivery does not exceed 15,000 pounds gross vehicle weight;
 - (v) there may be cross docking or overnight sorting of shipments; and
 - (vi) operations of the courier services carrier may resemble operations of other types of carriers defined in this section.

Courier service carriers must maintain accurate records of each shipment picked up and delivered, including (1) time of the request for service, (2) time of the pickup, (3) time of delivery, (4) weight of the shipment, and (5) the specific vehicle or vehicles used to transport the shipment.

Subd. 26. **Private carrier.** "Private carrier" means a person engaged in the transportation of property or passengers by motor vehicle when:

- (a) the person transporting the property or passengers is engaged in a business other than transportation; and
- (b) the transportation is within the scope of and furthers a primary business, other than transportation, of that person.

"Private carrier" does not include a person while engaged in transportation described in section 221.025.

Subd. 27. **Commuter van.** "Commuter van" means a motor vehicle used in a ridesharing arrangement and 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:

- (a) when the vehicle is operated by a person who does not drive the vehicle for that person's principal occupation but is driving it only to or from that person's principal place of employment or to or from a transit stop authorized by a local transit authority; or

- (b) when the vehicle is operated for personal use at other times by an authorized driver.

Subd. 28. **Local cartage carrier.** "Local cartage carrier" means a person engaged in transporting property or freight, other than household goods and petroleum products, 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 subdivision 17.

Subd. 29. **Hazardous material.** "Hazardous material" means a substance or material determined by the United States secretary of transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and so designated by the United States secretary of transportation.

Subd. 30. **Hazardous substance.** "Hazardous substance" has the meaning given it in Code of Federal Regulations, title 49, section 171.8.

Subd. 31. **Hazardous waste.** "Hazardous waste" has the meaning given it in Code of Federal Regulations, title 49, section 171.8.

Subd. 32. **Special passenger carrier.** "Special passenger carrier" means a person who holds out to the public to provide transportation of passengers for hire by motor vehicle over the public highways under the following conditions: (1) the service is provided in vehicles that are not limousines, (2) the vehicle has a seating capacity, excluding the driver, of more than six persons, (3) the service does not begin or end at an airport, and (4) the service is provided to definite, predetermined locations to which tickets are sold on an individual basis.

Subd. 33. **Gross vehicle weight.** "Gross vehicle weight" has the meaning given it in section 169.01, subdivision 46.

Subd. 34. **Personal transportation service.** "Personal transportation service" means service that:

- (1) is not provided on a regular route;
- (2) is provided in a personal transportation service vehicle as defined in section 168.011, subdivision 36;
- (3) is not metered for the purpose of determining fares;
- (4) provides prearranged pickup of passengers;
- (5) charges more than a taxicab fare for a comparable trip.

Subd. 35. **Truckload freight.** "Truckload freight" means freight collected by a motor carrier (1) from one consignor at a single place and delivered directly to one or more consignees, or (2) from one or more consignors and delivered directly to one consignee at a single place.

Subd. 36. **Less-than-truckload freight.** "Less-than-truckload freight" means freight carried by a motor carrier that is not truckload freight.

Subd. 37. **Certificated carrier.** "Certificated carrier" means a motor carrier holding a certificate issued under section 221.071.

Subd. 38. **Class I carrier.** "Class I carrier" means a person who has been issued a certificate under section 221.071 to operate as a class I carrier.

Subd. 39. **Class II carrier.** "Class II carrier" means a person who has been issued a permit under section 221.121, subdivisions 6c to 6e, to operate as a class II carrier. Class II carrier includes persons who have been issued either a class II-T or class II-L permit, or both.

Subd. 40. **Terminal.** "Terminal" means (1) a facility that a motor carrier owns, leases, or otherwise controls, and uses to load, unload, dispense, receive, interchange, gather, or otherwise physically handle freight for shipment, or (2) any other location at which freight is exchanged by motor carriers between vehicles. "Terminal" does not mean a public warehouse with a storage capacity of at least 5,000 square feet that was licensed under chapter 231 on or before March 1, 1992.

Subd. 41. **Temperature-controlled commodity.** "Temperature-controlled commodity" means a commodity requiring protection from heat or cold that is transported with or without other commodities, provided that all such commodities move in mechanically temperature-controlled vehicles.

Subd. 42. **Lightweight vehicle.** "Lightweight vehicle" means a vehicle with a gross vehicle weight of 10,000 pounds or less, but does not include a vehicle transporting passengers for hire or a vehicle transporting hazardous materials that must be placarded or marked under Code of Federal Regulations, title 49, section 177.823.

Subd. 43. **Petroleum transport.** "Petroleum transport" means a vehicle, trailer, or semitrailer with a tank (1) that is mounted on it or made an integral part of it, other than the fuel supply tank for the engine of that vehicle, (2) that is filled or emptied while on the vehicle, and (3) that is used to transport petroleum products in bulk.

Subd. 44. **Armored carrier service.** "Armored carrier service" means transportation of property in armored vehicles protected by at least one armed person other than the driver.

Subd. 45. **Armored carrier.** "Armored carrier" is a motor carrier engaged in providing armored carrier service.

Subd. 46. **Bulk commodity.** "Bulk commodity" means a commodity that (1) can be poured, scooped, or shoveled into a vehicle, (2) is carried loose in that vehicle, (3) is confined by the bottom and sides of the vehicle, and (4) is not sacked, boxed, bundled, or otherwise assembled before delivery.

Subd. 47. **Motor carrier of property.** "Motor carrier of property" means a motor carrier engaged in the for-hire transportation of property, other than household goods, in Minnesota who has filed a registration statement with the commissioner.

History: *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; 1979 c 50 s 23; 1980 c 428 s 1,2; 1980 c 465 s 1; 1980 c 534 s 55-57; 1981 c 209 s 7,8; 1982 c 617 s 19; 1983 c 371 s 3-18; 1984 c 520 s 1-3; 1985 c 299 s 15,16; 1986 c 444; 1989 c 318 s 7,8; 1992 c 418 s 1; 1992 c 578 s 13-17; 1992 c 600 s 1-11; 1993 c 117 s 7,8,30; 1993 c 213 s 1,2; 1994 c 603 s 19; 1994 c 635 art 1 s 17,41; 1996 c 377 s 1,2*

221.02 [Renumbered 221.01 subds 2-22]

MOTOR CARRIERS

221.021 OPERATION CERTIFICATE OR PERMIT REQUIRED.

No person may operate as a motor carrier or advertise or otherwise hold out as a motor carrier without a certificate or permit in effect. A certificate or permit may be suspended or revoked upon conviction of violating a provision of sections 221.011 to 221.296 or an order or rule of the commissioner or board governing the operation of motor carriers, and upon a finding by the court that the violation was willful. The board may, for good cause after a hearing, suspend or revoke a certificate or permit for a violation of a provision of sections 221.011 to 221.296 or an order issued or rule adopted by the commissioner or board under this chapter.

History: *Ex1957 c 17 s 2; 1963 c 605 s 1; 1971 c 25 s 67; 1976 c 166 s 70; 1980 c 534 s 58; 1983 c 371 s 19; 1984 c 520 s 4; 1985 c 248 s 70; 1986 c 444; 1992 c 578 s 18*

221.022 EXCEPTION.

The powers granted to the board under sections 221.011 to 221.296 do not include the power to regulate any service or vehicles operated by the metropolitan council or to regulate passenger transportation service provided under contract to the department or the metropolitan council. A provider of passenger transportation service under contract to the department or the metropolitan council may not provide charter service without first having obtained a permit to operate as a charter carrier.

History: *1984 c 654 art 3 s 75; 1989 c 122 s 1; 1989 c 250 s 4; 1990 c 462 s 3; 1994 c 628 art 3 s 17*

221.025 EXEMPTIONS.

The provisions of this chapter requiring a certificate or permit to operate as a motor carrier do not apply to the intrastate transportation described below:

(a) the transportation of students to or from school or school activities in a school bus inspected and certified under section 169.451 and the transportation of children or parents to or from a Head Start facility or Head Start activity in a Head Start bus inspected and certified under section 169.451;

(b) the transportation of solid waste, as defined in section 116.06, subdivision 22, including recyclable materials and waste tires, except that the term "hazardous waste" has the meaning given it in section 221.011, subdivision 31;

(c) a commuter van as defined in section 221.011, subdivision 27;

(d) authorized emergency vehicles as defined in section 169.01, subdivision 5, including ambulances; and tow trucks equipped with proper and legal warning devices when picking up and transporting (1) disabled or wrecked motor vehicles or (2) vehicles towed or transported under a towing order issued by a public employee authorized to issue a towing order;

- (e) the transportation of grain samples under conditions prescribed by the board;
- (f) the delivery of agricultural lime;
- (g) the transportation of dirt and sod within an area having a 50-mile radius from the home post office of the person performing the transportation;
- (h) the transportation of sand, gravel, bituminous asphalt mix, concrete ready mix, concrete blocks or tile and the mortar mix to be used with the concrete blocks or tile, or crushed rock to or from the point of loading or a place of gathering within an area having a 50-mile radius from that person's home post office or a 50-mile radius from the site of construction or maintenance of public roads and streets;
- (i) the transportation of pulpwood, cordwood, mining timber, poles, posts, decorator 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;
- (j) the transportation of fresh vegetables from farms to canneries or viner stations, from viner stations to canneries, or from canneries to canneries during the harvesting, canning, or packing season, or transporting sugar beets, wild rice, or rutabagas from the field of production to the first place of delivery or unloading, including a processing plant, warehouse, or railroad siding;
- (k) the transportation of property or freight, other than household goods and petroleum products in bulk, entirely within the corporate limits of a city or between contiguous cities except as provided in section 221.296;
- (l) the transportation of unprocessed dairy products in bulk within an area having a 100-mile radius from the home post office of the person providing the transportation;
- (m) the transportation of agricultural, horticultural, dairy, livestock, or other farm products within an area having a 100-mile radius from the person's home post office and the carrier may transport other commodities within the 100-mile radius if the destination of each haul is a farm;
- (n) passenger transportation service that is not charter service and that is under contract to and with operating assistance from the department or the metropolitan council;
- (o) the transportation of newspapers, as defined in section 331A.01, subdivision 5, telephone books, handbills, circulars, or pamphlets in a vehicle with a gross vehicle weight of 10,000 pounds or less; and
- (p) transportation of potatoes from the field of production, or a storage site owned or otherwise controlled by the producer, to the first place of processing.

The exemptions provided in this section apply to a person only while the person is exclusively engaged in exempt transportation.

History: 1983 c 371 s 20; 1984 c 520 s 5; 1985 c 299 s 17; 1988 c 544 s 4; 1989 c 122 s 2; 1989 c 250 s 5; 1990 c 462 s 4; 1991 c 284 s 5; 1991 c 333 s 32; 1992 c 578 s 1,19; 1993 c 117 s 9,30; 1994 c 519 s 1; 1994 c 603 s 20; 1994 c 628 art 3 s 18; 1998 c 403 s 20; 1998 c 405 s 9

221.0251 CARRIER REGISTRATION.

Subdivision 1. **Registration statement.** A person who wishes to operate as a motor carrier shall file a complete and accurate registration statement with the commissioner. A registration statement must be on a form provided by the commissioner and include:

- (1) the registrant's name, including an assumed or fictitious name used by the registrant in doing business;
- (2) the registrant's mailing address and business telephone number;
- (3) the registrant's federal Employer Identification Number and Minnesota Business Identification Number and the identification numbers, if any, assigned to the registrant by the United States Department of Transportation, Interstate Commerce Commission, or Environmental Protection Agency;
- (4) the name, title, and telephone number of the individual who is principally responsible for the operation of the registrant's transportation business;
- (5) the principal location from which the registrant conducts its transportation business and where the records required by this chapter will be kept;

(6) if different from clause (5), the location in Minnesota where the records required by this chapter will be available for inspection and copying by the commissioner;

(7) whether the registrant transports hazardous materials or hazardous waste;

(8) whether the registrant's business is a corporation, partnership, limited liability partnership, limited liability company, or sole proprietorship; and

(9) if the registrant is a foreign corporation authorized to transact business in Minnesota, the state of incorporation and the name and address of its registered agent.

Subd. 2. Signature required. A registration statement may be signed only by a corporate officer, general partner, limited liability company board member, or sole proprietor. A signature must be notarized.

Subd. 3. Certificate of registration; issuance; location. (a) The commissioner shall issue a certificate of registration to a registrant who has filed a registration statement that complies with subdivisions 1 and 2 and paid the required fee, has a satisfactory safety rating and, if applicable, has complied with the financial responsibility requirements in section 221.141. The commissioner may not issue a certificate of registration to a registrant who has an unsatisfactory safety rating:

(b) A certificate of registration must be numbered and bear an effective date.

(c) A certificate of registration must be kept at the registrant's principal place of business.

Subd. 4. Duration. A certificate of registration is not assignable or transferable and is valid until it is suspended, revoked, or canceled.

Subd. 5. Obligation to keep information current. A registrant shall notify the commissioner in writing of any change in the information described in subdivision 1.

History: 1996 c 377 s 3

221.026 MOTOR CARRIER OF PROPERTY; EXEMPTIONS.

Subdivision 1. Registration. No person may engage in the for-hire transportation of property, other than household goods, in Minnesota unless the person has filed a registration statement with the commissioner on a form the commissioner prescribes.

Subd. 2. Exemptions from requirements. Notwithstanding any other law, a motor carrier of property is exempt from sections 221.021; 221.041; 221.061; 221.071; 221.072; 221.081; 221.121; 221.122; 221.123; 221.131; 221.132; 221.151; 221.161; 221.172, subdivisions 3 to 8; 221.185, except as provided in subdivision 4; and 221.296. The exemptions in this subdivision do not apply to a motor carrier of property while transporting household goods.

Subd. 3. Safety regulations. A motor carrier of property is subject to those federal regulations incorporated by reference in section 221.0314, unless exempted from those regulations by section 221.031.

Subd. 4. Suspension and cancellation of registration. The commissioner shall suspend or cancel, following the procedures for suspension or cancellation in section 221.185, the registration of a motor carrier of property who fails to file with the commissioner or maintain the insurance or bond required under section 221.141. A person may not engage in the for-hire transportation of property, other than household goods, in Minnesota while the person's registration is under suspension or cancellation under this subdivision.

Subd. 5. Local regulation. Section 221.091 applies to registration statements under this section to the same extent that it applies to certificates and permits issued by the board.

History: 1996 c 377 s 4

221.0269 RELIEF FROM SAFETY REGULATION.

Subdivision 1. Governor may grant relief. The governor may declare an emergency and grant relief from any of the regulations incorporated in section 221.0314 to carriers and drivers operating motor vehicles in Minnesota to provide emergency relief during the emergency. The relief granted may not exceed the duration of the motor carrier's or driver's direct assistance in providing emergency relief, or 30 days from the date of the initial declaration of the emergency, whichever is less.

Subd. 2. **Extension of relief.** On request of a carrier or driver, the commissioner may extend the 30-day relief period in subdivision 1. A request for extension must be in writing and must give a detailed explanation of the reasons for requesting additional relief. The commissioner shall consider the severity of the ongoing emergency and the nature of the relief services to be provided by the motor carrier or driver in determining whether to grant an extension. If the commissioner decides to grant an extension, the extension must include a new time limit and may include any restrictions on the carrier or driver the commissioner considers necessary.

Subd. 3. **Termination of relief efforts.** (a) Upon termination of direct assistance to an emergency relief effort, a carrier or driver is subject to the requirements of section 221.0314, except that a driver may return empty to a carrier's terminal or the driver's normal work reporting location without complying with that section. A driver who informs the carrier that the driver needs immediate rest must be permitted at least eight consecutive hours off duty before the driver is required to return to the terminal or location. Having returned to the terminal or other location, the driver must be relieved of all duty and responsibilities.

(b) When a driver has been relieved of all duty and responsibilities upon termination of direct assistance to an emergency relief effort, no carrier shall permit or require any driver used by it to drive nor shall any such driver drive in commerce until the driver:

(1) has met the requirements of Code of Federal Regulations, title 49, section 395.3, paragraph (a); and

(2) has had at least 24 consecutive hours off duty if (i) the driver has been on duty for more than 60 hours in any seven consecutive days at the time the driver is relieved of all duty if the employing carrier does not operate every day in the week, or (ii) the driver has been on duty for more than 70 hours in any eight consecutive days at the time the driver is relieved of all duty if the employing carrier operates every day in the week.

(c) For purposes of this section, direct assistance to an emergency relief effort terminates when a driver or commercial motor vehicle is used to transport cargo not destined for the emergency relief effort, or when the carrier dispatches that driver or vehicle to another location to begin operations in commerce.

History: 1996 c 377 s 5

221.03 [Repealed, Ex1957 c 17 s 31]

221.031 RULES FOR OPERATION OF CARRIER.

Subdivision 1. **Powers, duties, reports, limitations.** (a) This subdivision applies to motor carriers engaged in intrastate commerce.

(b) The commissioner shall prescribe rules for the operation of motor carriers, including their facilities; accounts; leasing of vehicles and drivers; service; safe operation of vehicles; equipment, parts, and accessories; hours of service of drivers; driver qualifications; accident reporting; identification of vehicles; installation of safety devices; inspection, repair, and maintenance; and proper automatic speed regulators if, in the opinion of the commissioner, there is a need for the rules.

(c) The commissioner shall direct the repair and reconstruction or replacement of an 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 a city in this state or at a 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.

(d) The commissioner shall require holders of household goods mover permits, charter carrier permits, and regular route passenger carrier certificates to file annual and other reports including annual accounts of motor carriers, schedules of rates and charges, or other data by motor carriers, regulate motor carriers in matters affecting the relationship between them and the traveling and shipping public, and prescribe other rules as may be necessary to carry out the provisions of this chapter.

(e) A motor carrier subject to paragraph (d) but having gross revenues from for-hire transportation in a calendar year of less than \$200,000 may, at the discretion of the commis-

sioner, be exempted from the filing of an annual report, if instead the motor carrier files an abbreviated annual report, in a form as may be prescribed by the commissioner, attesting that the motor carrier's gross revenues did not exceed \$200,000 in the previous calendar year. Motor carrier gross revenues from for-hire transportation, for the purposes of this subdivision only, do not include gross revenues received from the operation of school buses as defined in section 169.01, subdivision 6.

(f) The commissioner shall enforce sections 169.781 to 169.783.

(g) The commissioner shall make no rules relating to the granting, limiting, or modifying of permits or certificates of convenience and necessity, which are powers granted to the board.

(h) The board may extend the termini of a route or alter or change the route of a regular route common carrier upon petition and after finding that public convenience and necessity require an extension, alteration, or change.

Subd. 2. Exemptions for private carrier. This subdivision applies to private carriers engaged in intrastate commerce.

(a) Private carriers operating vehicles with a gross vehicle weight of more than 10,000 pounds shall comply with rules adopted under:

(1) section 221.0314, subdivisions 2 to 5, for driver qualifications;

(2) section 221.0314, subdivision 9, for hours of service of drivers;

(3) section 221.0314, subdivision 6, for driving of motor vehicles;

(4) section 221.0314, subdivision 7, for parts and accessories necessary for safe operation;

(5) section 221.0314, subdivision 10, for inspection, repair, and maintenance; and

(6) this section for leasing of vehicles or vehicles and drivers.

Private carriers not subject to the rules for driver qualifications before August 1, 1992, must comply with those rules on and after August 1, 1994.

(b) The rules for hours of service of drivers do not apply to private carriers who are (1) public utilities as defined in section 216B.02, subdivision 4; (2) cooperative electric associations organized under chapter 308A; (3) telephone companies as defined in section 237.01, subdivision 2; or (4) engaged in the transportation of construction materials, tools and equipment from shop to job site or job site to job site, for use by the private carrier in the new construction, remodeling, or repair of buildings, structures or their appurtenances.

(c) The rules for driver qualifications and hours of service of drivers do not apply to vehicles controlled by a farmer and operated by a farmer or farm employee to transport agricultural products, farm machinery, or supplies to or from a farm if the vehicle is not used in the operations of a motor carrier and not carrying hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with section 221.033.

(d) The rules for driver qualifications do not apply to a driver employed by a private carrier while operating a lightweight vehicle.

Subd. 2a. Agricultural exemptions. (a) Notwithstanding the provisions of subdivision 2, private carriers engaged in intrastate commerce and operating vehicles transporting agricultural and other farm products within an area having a 50-mile radius from the business location of the private carrier must comply only with the rules for driver qualifications; driving of motor vehicles; and parts and accessories necessary for safe operation, except as provided in paragraphs (b) and (c).

(b) A rear-end dump truck or other rear-unloading truck while being used for hauling agricultural and other farm products from a place of production or on-farm storage site to a place of processing or storage, is not subject to any rule of the commissioner requiring rear-end protection, including a federal regulation adopted by reference.

(c) A private carrier operating a commercial motor vehicle as defined in section 169.781, subdivision 1, must comply with sections 169.781 to 169.783.

Subd. 2b. Other exemptions. From August 1, 1992, to August 1, 1994, the rules for hours of service of drivers do not apply to a person exclusively engaged in the transportation of asphalt cement, cementitious material, fly ash, or sod, construction debris, and solid waste

when transported by a transfer driver, when the transportation is provided within a radius of 100 miles from (1) the person's home post office, or (2) a highway construction or maintenance site where the asphalt cement, cementitious material, fly ash, or sod is being used.

Subd. 3. Vehicle over 10,000 pounds not exempt. (a) This subdivision applies to persons engaged in intrastate commerce who operate vehicles providing transportation described in section 221.025 with a gross vehicle weight in excess of 10,000 pounds, except school buses, commuter vans, and authorized emergency vehicles.

(b) Persons providing transportation described in section 221.025, clause (f), (j), (l), or (m), must comply with the rules for driving of motor vehicles and for parts and accessories necessary for safe operation.

(c) Persons providing transportation described in section 221.025, except for persons providing transportation described in clause (f), (j), (l), or (m), must comply with the rules for driving of motor vehicles; parts and accessories necessary for safe operation; and, after August 1, 1994, the rules for driver qualifications.

Subd. 3a. Contractor or recipient of transportation assistance. Notwithstanding subdivision 3, providers of passenger transportation service under contract to and with operating assistance from the department or the metropolitan council must comply with rules for driver qualifications; driving of motor vehicles; parts and accessories necessary for safe operation; hours of service of drivers; inspection, repair, and maintenance; and the rules adopted in section 221.0314, subdivision 8, for accident reporting.

This subdivision does not apply to (1) a local transit commission, (2) a transit authority created by the legislature, (3) special transportation service certified by the commissioner under section 174.30, or (4) special transportation service defined in section 174.29, subdivision 1, when provided by a volunteer driver operating a private passenger vehicle defined in section 169.01, subdivision 3a.

Subd. 3b. Passenger transportation; exemptions. (a) A person who transports passengers for hire in intrastate commerce, who is not made subject to the rules adopted in section 221.0314 by any other provision of this section, must comply with the rules for hours of service of drivers while transporting employees of an employer who is directly or indirectly paying the cost of the transportation.

(b) This subdivision does not apply to:

- (1) a local transit commission;
- (2) a transit authority created by law; or
- (3) persons providing transportation:

(i) in a school bus as defined in section 169.01, subdivision 6;

(ii) in a Head Start bus as defined in section 169.01, subdivision 80;

(iii) in a commuter van;

(iv) in an authorized emergency vehicle as defined in section 169.01, subdivision 5;

(v) in special transportation service certified by the commissioner under section 174.30;

(vi) that is special transportation service as defined in section 174.29, subdivision 1, when provided by a volunteer driver operating a private passenger vehicle as defined in section 169.01, subdivision 3a;

(vii) in a limousine the service of which is licensed by the commissioner under section 221.84; or

(viii) in a taxicab, if the fare for the transportation is determined by a meter inside the taxicab that measures the distance traveled and displays the fare accumulated.

Subd. 3c. Solid waste transporter not exempt. Persons providing transportation described in section 221.025, clause (b), must comply with the rules for driver qualifications after August 1, 1994; hours of service of drivers; driving of motor vehicles; parts and accessories necessary for safe operation; and inspection, repair, and maintenance. A local government unit, as defined in section 115A.03, subdivision 17, shall not enact or enforce laws, ordinances, or regulations for the operation of solid waste transporters that are inconsistent with the rules adopted in section 221.0314.

Subd. 4. [Repealed, 1984 c 520 s 26]

Subd. 5. **Department investigates.** The department shall investigate the operation of carriers subject to the rules adopted in section 221.0314, their compliance with rules of the department and board and with the provisions of this chapter, and may institute and prosecute actions and proceedings in the proper district court for enforcement of those rules.

Subd. 6. **Vehicle identification rule.** (a) The following carriers shall display the carrier's name and address on the power unit of each vehicle:

- (1) motor carriers, regardless of the weight of the vehicle;
- (2) interstate and intrastate private carriers operating vehicles with a gross vehicle weight of more than 10,000 pounds; and
- (3) vehicles providing transportation described in section 221.025 with a gross vehicle weight of more than 10,000 pounds except those providing transportation described in section 221.025, clauses (a), (c), and (d).

Vehicles described in clauses (2) and (3) that are operated by farmers or farm employees and have four or fewer axles are not required to comply with the vehicle identification rule of the commissioner.

(b) Vehicles subject to this subdivision must show the name or "doing business as" name of the carrier operating the vehicle and the community and abbreviation of the state in which the carrier maintains its principal office or in which the vehicle is customarily based. If the carrier operates a leased vehicle, it may show its name and the name of the lessor on the vehicle, if the lease relationship is clearly shown. If the name of a person other than the operating carrier appears on the vehicle, the words "operated by" must immediately precede the name of the carrier.

(c) The name and address must be in letters that contrast sharply in color with the background, be readily legible during daylight hours from a distance of 50 feet while the vehicle is stationary, and be maintained in a manner that retains the legibility of the markings. The name and address may be shown by use of a removable device if that device meets the identification and legibility requirements of this subdivision.

Subd. 7. **Medical examiner's certificate; charter carrier driver.** While in the state, the driver for a charter carrier engaged in intrastate commerce who has in possession a license with a school bus endorsement under section 171.321 or rules of the commissioner of public safety is not required to have in possession or to present a separate medical examiner's certificate otherwise required by Code of Federal Regulations, title 49, sections 391.41 to 391.49.

Subd. 8. **Driveaway-towaway exemption.** For purposes of regulating commercial motor vehicles as defined in section 169.781, subdivision 1, the exemption provided in Code of Federal Regulations, title 49, section 396.11, paragraph (d), applies in Minnesota only to driveaway-towaway operations.

Subd. 9. **Out-of-service criteria adopted by reference.** The North American Uniform Driver, Vehicle, and Hazardous Materials Out-Of-Service Criteria developed and adopted by the federal highway administration and the commercial vehicle safety alliance are adopted in Minnesota.

Subd. 10. **Controlled substance and alcohol use and testing exemption.** A person who or political subdivision of the state which is required to comply with the alcohol and controlled substances testing requirements of Code of Federal Regulations, title 49, part 219, 382, 653, or 654, is exempt from sections 181.950 to 181.957 if the testing also complies with the procedures for transportation workplace drug and alcohol testing programs in Code of Federal Regulations, title 49, part 40.

History: *Ex 1957 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; 1980 c 465 s 2; 1980 c 534 s 59; 1981 c 209 s 9; 1983 c 371 s 21; 1984 c 520 s 6-9; 1985 c 299 s 18,19; 1987 c 54 s 1; 1988 c 544 s 5-9; 1989 c 118 s 1; 1989 c 122 s 3; 1989 c 318 s 9; 1989 c 356 s 11,23,24; 1990 c 372 s 1; 1990 c 462 s 5; 1990 c 563 s 4-6; 1990 c 588 s 1; 1991 c 333 s 33; 1992 c 568 s 2; 1992 c 578 s 20-27; 1993 c 117 s 10-19; 1994 c 603 s 21; 1994 c 628 art 3 s 19; 1995 c 265 art.2 s 21; 1996 c 377 s 6*

221.0313 CONTROLLED SUBSTANCE TESTING AND PROCEDURES:

Subdivision 1. **Purpose; intent; exemption.** (a) The purpose of this section is to adopt federal regulations governing testing for controlled substances.

(b) The legislature intends that the adopted federal regulations be applied:

(1) to persons who provide intrastate transportation, who are subject to the rules adopted in section 221.0314, subdivisions 2 to 5, for driver qualifications, and who operate commercial motor vehicles, as defined in Code of Federal Regulations, title 49, section 391.85; and

(2) in the same manner that the federal regulations apply to interstate transportation.

(c) Intrastate carriers who are required to comply with the adopted federal regulations are exempt from the requirements of sections 181.950 to 181.957. This exemption applies only to the testing of drivers.

Subd. 2. **Definitions.** For purposes of this section, the following terms used in the federal regulations adopted in subdivisions 4 and 5 have the meanings given them in this subdivision:

(a) "DOT agency" means the commissioner of transportation.

(b) "DOT agency regulations" means the federal regulations adopted in subdivisions 4 and 5.

(c) "Motor carrier" means:

(1) a motor carrier as defined in section 221.011, subdivision 15; and

(2) a private carrier as defined in section 221.011, subdivision 26, or a person providing transportation described in section 221.025 when the private carrier or person:

(i) is subject to the rules of the commissioner for driver qualifications under section 221.031; and

(ii) is operating a commercial motor vehicle.

The term "motor carrier" includes a motor carrier's agents; officers; representatives; employees responsible for hiring, supervising, training, assigning, or dispatching drivers; and employees concerned with installing, inspecting, and maintaining motor vehicle equipment or accessories. The definition of motor carrier includes the term "employer."

Subd. 3. **Applicability.** The regulations adopted in subdivisions 4 and 5 apply to a motor carrier providing transportation by commercial motor vehicle in intrastate commerce.

Subd. 4. **Driver qualifications; federal regulations adopted.** Code of Federal Regulations, title 49, sections 391.41, paragraph (c); 391.43, paragraph (a)(2); 391.81, paragraphs (a) and (b); 391.85; 391.87; 391.89; 391.95 to 391.123; and part 391, appendix D, are incorporated by reference.

Subd. 5. **Controlled substance testing; federal regulations adopted.** Code of Federal Regulations, title 49, sections 40.1; 40.3; 40.21, paragraphs (a), (c), and (d); 40.23 to 40.39; and part 40, appendix A, are incorporated by reference.

Subd. 6. **Applicability of other testing programs.** (a) If a drug testing program established under this section is limited to testing for the controlled substances listed in Code of Federal Regulations, title 49, section 40.21, paragraph (a), sections 181.950 to 181.957 do not apply.

(b) Persons subject to this section may test for drugs, in addition to those listed in Code of Federal Regulations, title 49, section 40.21, paragraph (a), or for alcohol, only in accordance with sections 181.950 to 181.957, and rules adopted under those sections.

History: 1992 c 578 s 28; 1993 c 117 s 20

221.0314 FEDERAL SAFETY REGULATIONS; ADOPTION.

Subdivision 1. **Applicability.** (a) Intrastate motor carriers must comply with the federal regulations incorporated in this section. Private carriers and persons providing intrastate transportation described in section 221.025 must comply with the federal regulations incorporated in this section to the extent required by section 221.031. Every carrier and its officers, agents, representatives, and employees responsible for managing, maintaining, equipping, operating, or driving motor vehicles, or hiring, supervising, training, assigning, or dis-

patching drivers, must be instructed in and comply with the rules incorporated in this section and shall require that its agents, representatives, drivers, and employees comply.

(b) In the rules incorporated in subdivisions 2 to 11:

(1) the term "motor carrier" means a carrier required to comply with this section;

(2) a reference to a federal agency or office means the Minnesota department of transportation; and

(3) a reference to a federal administrative officer means the commissioner of the Minnesota department of transportation.

Subd. 2. **Qualification of driver.** Code of Federal Regulations, title 49, part 391 and appendixes D and E, are incorporated by reference except for sections 391.2; 391.11, paragraph (b)(1); 391.47; 391.49; 391.62; 391.64; 391.67; 391.68; 391.69; 391.71; and 391.73. In addition, cross-references to sections or paragraphs not incorporated in this subdivision are not incorporated by reference.

Subd. 3. **Waiver for limb impairment.** A person who is not physically qualified to drive under subdivision 2, but who meets the other qualifications under subdivision 2, may drive a motor vehicle if the commissioner grants a waiver to that person. The commissioner may grant a waiver to a person who is not physically qualified to drive under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(1) or (b)(2), according to rules adopted under section 221.031.

Subd. 3a. **Waiver for other medical condition.** (a) The commissioner may grant a waiver to a person who is not physically qualified to drive under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(3) to (b)(13). A waiver granted under this subdivision applies to intrastate transportation only.

(b) A person who wishes to obtain a waiver under this subdivision must give the commissioner the following information:

(1) the applicant's name, address, and telephone number;

(2) the name, address, and telephone number of an employer coapplicant, if any;

(3) a description of the applicant's experience in driving the type of vehicle to be operated under the waiver;

(4) a description of the type of driving to be done under the waiver;

(5) a description of any modifications to the vehicle the applicant intends to drive under the waiver that are designed to accommodate the applicant's medical condition or disability;

(6) whether the applicant has been granted another waiver under this subdivision;

(7) a copy of the applicant's current driver's license;

(8) a copy of a medical examiner's certificate showing that the applicant is medically unqualified to drive unless a waiver is granted;

(9) a statement from the applicant's treating physician that includes:

(i) the extent to which the physician is familiar with the applicant's medical history;

(ii) a description of the applicant's medical condition for which a waiver is necessary;

(iii) assurance that the applicant has the ability and willingness to follow any course of treatment prescribed by the physician, including the ability to self-monitor or manage the medical condition; and

(iv) the physician's professional opinion that the applicant's condition will not adversely affect the applicant's ability to operate a motor vehicle safely; and

(10) any other information considered necessary by the commissioner including requiring a physical examination or medical report from a physician who specializes in a particular field of medical practice.

(c) In granting a waiver under this subdivision, the commissioner may impose conditions the commissioner considers necessary to ensure that an applicant is able to operate a motor vehicle safely and that the safety of the general public is protected.

(d) A person who is granted a waiver under this subdivision must:

(1) at intervals specified in the waiver, give the commissioner periodic reports from the person's treating physician, or a medical specialist if the commissioner so requires in the

waiver, that contain the information described in paragraph (b), clause (9), together with a description of any episode that involved the person's loss of consciousness or loss of ability to operate a motor vehicle safely; and

(2) immediately report the person's involvement in an accident for which a report is required under section 169.09, subdivision 7.

(e) The commissioner shall deny an application if, during the three years preceding the application, the applicant's driver's license has been suspended, canceled, or revoked or the applicant has been convicted of a disqualifying offense, as defined in Code of Federal Regulations, title 49, section 383.51, paragraph (b)(2), which is incorporated by reference.

(f) The commissioner may deny an application or may immediately revoke a waiver granted under this subdivision. Notice of the commissioner's reasons for denying an application or for revoking a waiver must be in writing and must be mailed to the applicant's or waiver holder's last known address by certified mail, return receipt requested. A person whose application is denied or whose waiver is revoked is entitled to a hearing under chapter 14.

(g) A waiver granted under this subdivision expires on the date of expiration shown on the medical examiner's certificate described in paragraph (b), clause (8).

Subd. 4. Age requirement for driver. Drivers of vehicles engaged in intrastate transportation and subject to subdivision 2 must be at least 18 years of age. Drivers of vehicles subject to section 221.033 must be at least 21 years of age, except as provided in that section.

Subd. 5. Location of driver qualification file. A carrier subject to subdivision 2 must keep each driver's qualification file at the carrier's principal place of business for as long as a driver is employed by that carrier and for three years after the driver leaves employment. Upon written request to and with the written approval of the commissioner, a carrier may retain driver qualification files at a regional or terminal office.

Subd. 6. Driving of motor vehicle. Code of Federal Regulations, title 49, part 392, is incorporated by reference.

Subd. 7. Parts and accessories necessary for safe operation. Code of Federal Regulations, title 49, part 393, is incorporated by reference except for paragraph (d) of section 393.43. In addition, despite the first paragraph of Code of Federal Regulations, title 49, section 393.95, a lightweight vehicle must carry a fire extinguisher meeting the requirements in Code of Federal Regulations, title 49, section 393.95.

Subd. 8. Accident by carrier. The definitions of "accident," "disabling damage," and "fatality" in Code of Federal Regulations, title 49, sections 390.5 and 390.15, are incorporated by reference.

Subd. 9. Hours of service of driver. Code of Federal Regulations, title 49, part 395, is incorporated by reference, except that paragraphs (a), (c), (d), (f), (i), (j), (l), (m), (n), and (o) of section 395.1 and section 395.13 of that part are not incorporated. In addition, cross-references to sections or paragraphs not incorporated in this subdivision are not incorporated by reference. The requirements of Code of Federal Regulations, title 49, part 395, do not apply to drivers of lightweight vehicles.

Subd. 9a. Hours of service exemptions. The federal regulations incorporated in subdivision 9 for maximum driving and on-duty time do not apply to drivers engaged in the interstate or intrastate transportation of:

(1) agricultural commodities or farm supplies for agricultural purposes in Minnesota during the planting and harvesting seasons from March 15 to December 15 of each year; or

(2) sugar beets during the harvesting season for sugar beets from September 1 to March 15 of each year;

if the transportation is limited to an area within a 100-air-mile radius from the source of the commodities or the distribution point for the farm supplies.

Subd. 10. Inspection, repair, and maintenance. Code of Federal Regulations, title 49, part 396, is incorporated by reference, except that sections 396.9; 396.11, paragraph (d); 396.17; 396.19; 396.21; and 396.23 of that part are not incorporated.

Subd. 11. Transporting hazardous materials; driving and parking. A person who transports hazardous materials shall comply with this section and rules adopted under section 221.031 when that person is transporting a hazardous material, hazardous waste, or hazard-

ous substance in a vehicle that must be marked or placarded in accordance with Code of Federal Regulations, title 49, section 172.504, incorporated by reference in section 221.033. Code of Federal Regulations, title 49, part 397, is incorporated by reference. A petroleum transport driver shall not park on a public street adjacent to a bridge, tunnel, dwelling, building, or place where persons work, congregate, or assemble, except when necessary to unload.

History: 1993 c 117 s 21; 1994 c 600 s 8; 1995 c 265 art 2 s 22; 1996 c 387 s 1-3; 1996 c 456 s 22; 1997 c 230 s 7-13; 1998 c 403 s 21

221.0315 INVESTIGATIVE DATA PROVIDED.

The commissioner may provide to the board investigative data about a petitioner or carrier that is subject to the jurisdiction of the board. When the data are transferred to the board, the commissioner shall notify the petitioner or carrier in writing that the data are being provided to the board.

History: 1988 c 544 s 10; 1988 c 670 s 11

221.032 [Repealed, 1983 c 371 s 44]

221.033 REGULATION OF HAZARDOUS MATERIALS.

Subdivision 1. **Requirements.** Except as provided in subdivisions 2 to 3, no person may transport or offer or accept for transportation within the state of Minnesota a hazardous material, hazardous substance, or hazardous waste except in compliance with United States Code, title 49, sections 1801 to 1811 and the provisions of Code of Federal Regulations, title 49, parts 171 to 199. Those provisions apply to transportation in intrastate commerce to the same extent they apply to transportation in interstate commerce.

Subd. 2. **Exemption for farmer.** (a) This subdivision applies to persons engaged in intrastate commerce.

(b) Farmers or their employees transporting diesel fuel, gasoline, agricultural chemicals, or agricultural fertilizers for use on the transporter's farm are not required to comply with the rules adopted in section 221.0314, subdivisions 2 to 5, for driver qualifications or with the shipping paper requirements of the Code of Federal Regulations, title 49, sections 172.200 and 177.817 or with section 397.7(B) or 397.9(A) of the Federal Motor Carrier Safety Regulations when:

(1) transporting diesel fuel or gasoline in motorized tank truck vehicles of less than 1,500-gallon capacity owned by the transporter, or in tanks securely mounted in other motor vehicles with a gross vehicle weight of less than 10,000 pounds and owned by the transporter; or

(2) transporting agricultural chemicals and agricultural fertilizers.

Subd. 2a. **Agriculturally related exemption.** (a) This subdivision applies to persons engaged in intrastate commerce.

(b) Fertilizer and agricultural chemical retailers or their employees are exempt from the rule in section 221.0314, subdivision 4, requiring that drivers must be at least 21 years of age when:

(1) the retailer or its employee is transporting fertilizer or agricultural chemicals directly to a farm for on-farm use within a radius of 50 miles of the retailer's business location; and

(2) the driver employed by the retailer is at least 18 years of age.

Subd. 2b. **Cargo tank.** (a) The requirements in Code of Federal Regulations, title 49, sections 180.405, paragraphs (b), (c), (g), (h), and (j) and 180.407, paragraphs (c), (d), clause (1), (e), (f), (g), (h), and (i) do not apply to cargo tanks of up to 3,500 gallons capacity that transport gasoline in intrastate commerce if before providing transportation under this subdivision:

(1) the owner or operator of the cargo tank provides the commissioner with evidence that the cargo tank was manufactured according to the cargo tank specification regulations in Code of Federal Regulations, title 49, sections 178.340 to 178.341-7, as amended through November 1, 1985;

(2) a copy of the evidence described in clause (1) is kept in the vehicle to which the cargo tank is attached; and

(3) the manufacturer's metal certification plate is removed from the cargo tank or covered.

(b) A cargo tank operated under this subdivision must:

(1) be visually inspected annually by a person authorized to perform such inspections under Code of Federal Regulations, title 49, section 180.409, and a copy of the annual inspection must be kept in the vehicle; and

(2) be visually inspected monthly by the operator in a manner prescribed by the commissioner, and a copy of each monthly inspection must be kept at the operator's principal place of business for at least one year beyond the date of the inspection.

(c) No person may operate a cargo tank described in this subdivision that (1) violates paragraph (a) or (b), or (2) leaks gasoline from any portion of the tank that regularly contains gasoline.

(d) The commissioner shall keep a record of persons who provide the evidence described in this subdivision.

Subd. 3. Variance, rules. The commissioner shall adopt rules which provide a procedure for granting a variance from those rules adopted under subdivision 1 which prescribe specifications for tank motor vehicles used to transport gasoline. The variance may be granted only for tank motor vehicles with a capacity of 3,000 gallons or less that are used to transport gasoline and which were designed and manufactured between 1950 and 1975 to transport petroleum products. The commissioner shall prescribe alternative requirements to assure the safety of the tank motor vehicles operated under the variance, and shall register each tank motor vehicle operated under the variance.

Subd. 4. [Repealed, 1994 c 589 s 8]

Subd. 4. [Repealed, 1998 c 310 s 8]

History: 1983 c 371 s 22; 1985 c 248 s 70; 1985 c 299 s 20; 1986 c 398 art 24 s 1; 1986 c 454 s 27; 1990 c 588 s 2; 1991 c 298 art 4 s 10; 1991 c 333 s 34; 1992 c 578 s 29-32; 1993 c 117 s 22,23; 1994 c 589 s 3,4; 1996 c 387 s 4; 1996 c 456 s 23

221.0335 [Repealed, 1998 c 310 s 4]

221.034 REPORT OF HAZARDOUS MATERIAL INCIDENT.

Subdivision 1. Notice required. At the earliest practicable moment, each person who transports hazardous materials, including hazardous wastes, shall give notice in accordance with subdivision 2 after each incident that occurs during the course of transportation including loading, unloading, and temporary storage, in which as a direct result of hazardous materials:

- (1) a person is killed;
- (2) a person receives injuries requiring hospitalization;
- (3) estimated carrier or other property damage exceeds \$50,000;
- (4) an evacuation of the general public occurs lasting one or more hours;
- (5) one or more major transportation arteries or facilities are closed or shut down for one hour or more;
- (6) the operational flight pattern or routine of an aircraft is altered;
- (7) fire, breakage, spillage, or suspected radioactive contamination occurs involving shipment of radioactive material;
- (8) fire, breakage, spillage, or suspected contamination occurs involving shipment of etiologic agents;
- (9) a situation exists of such a nature that, in the judgment of the carrier, it should be reported in accordance with subdivision 2 even though it does not meet the criteria of clause (1), (2), or (3), but a continuing danger to life exists at the scene of the incident; or
- (10) there has been a release of a marine pollutant in a quantity exceeding 450 liters (119 gallons) for liquids or 450 kilograms (882 pounds) for solids.

Subd. 2. Information required. Each notice required by subdivision 1 must be given to the Minnesota department of public safety, emergency services division. Notice involving

etiologic agents must be given as required in Code of Federal Regulations, title 49, section 171.15. Each notice must include the following information:

- (1) name of reporter;
- (2) name and address of carrier represented by reporter;
- (3) phone number where reporter can be contacted;
- (4) date, time, and location of incident;
- (5) extent of injuries, if any;
- (6) classification, name, and quantity of hazardous materials involved, if the information is available; and
- (7) type of incident and nature of hazardous material involvement and whether a continuing danger to life exists at the scene.

Each carrier making a report under this subdivision shall also make the report required by subdivision 3.

Subd. 3. **Time limit.** Each carrier who transports hazardous materials shall report in writing in duplicate on a form prescribed by the commissioner within 30 days of the date of discovery, each incident that occurs during the course of transportation, including loading, unloading, or temporary storage, in which any of the circumstances set forth in subdivision 1 occurs or there has been an unintentional release of hazardous materials from a package, including a tank, or any quantity of hazardous waste has been discharged during transportation.

Subd. 4. **Report of hazardous waste discharge.** If a report pertains to a hazardous waste discharge, a copy of the hazardous waste manifest for the waste must be attached to the report, and an estimate of the quantity of the waste removed from the scene, the name and address of the facility to which it was taken, and the manner of disposition of any unremoved waste, must be reported.

Subd. 5. **Discharge exemptions.** Except as provided in subdivision 6, the requirements of subdivision 3 do not apply to incidents involving the unintentional release of hazardous materials being transported under the following proper shipping names:

- (1) consumer commodity;
- (2) battery, electric storage, wet, filled with acid or alkali;
- (3) paint, enamel, lacquer, stain, shellac or varnish aluminum, bronze, gold, wood filler, and liquid or lacquer base liquid when shipped in packagings of five gallons or less; or
- (4) materials prepared and transported as a limited quantity according to Code of Federal Regulations, title 49, subchapter C.

Subd. 6. **Reporting exceptions not applicable.** The exceptions to incident reporting provided in subdivision 5 do not apply to incidents required to be reported under subdivision 1 and incidents involving the transportation of hazardous waste.

History: 1984 c 520 s 10; 1984 c 655 art 2 s 2 subd 1; 1992 c 578 s 33,34; 1998 c 403 s 22,23

221.035 [Repealed, 1998 c 310 s 4]

221.0355 UNIFORM HAZARDOUS MATERIAL AND HAZARDOUS WASTE REGISTRATION AND PERMIT REQUIREMENTS.

Subdivision 1. **Purpose.** The purpose of this section is to enable Minnesota to participate in establishing, implementing, and administering a uniform registration and permitting program for persons who transport or ship hazardous material or hazardous waste by motor vehicle on the public highways in interstate or intrastate commerce. The program's procedures and requirements must conform to those contained in the report submitted to the secretary of transportation pursuant to the "Hazardous Materials Transportation Uniform Safety Act of 1990," United States Code, title 49 appendix, section 1819, subsection (c).

Subd. 2. **Definitions.** For purposes of this section, the following words and phrases have the meanings given them in this subdivision:

- (a) "Base state" means the state selected by a carrier according to the procedures established by the uniform program.

(b) "Base state agreement" means the agreement between participating states electing to register or permit carriers of hazardous material or hazardous waste.

(c) "Carrier" means a person who operates a motor vehicle used to transport hazardous material or hazardous waste.

(d) "Designated hazardous material" means a hazardous material described in Code of Federal Regulations, title 49, section 107.601, which is incorporated by reference.

(e) "Hazardous material" means:

(1) a hazardous material when the hazardous material is of a type or in a quantity that requires the transport vehicle to be placarded in accordance with Code of Federal Regulations, title 49, part 172; or

(2) a hazardous substance or marine pollutant when transported in bulk packaging as defined in Code of Federal Regulations, title 49, section 171.8, which is incorporated by reference.

(f) "Hazardous material transportation" means the transportation of hazardous material or hazardous waste, or both, on the public highways.

(g) "Hazardous waste" means hazardous waste of a type and amount that requires the shipment to be accompanied by a uniform hazardous waste manifest described in Code of Federal Regulations, title 40, part 262, including state-designated hazardous wastes when a list of state-designated hazardous wastes has been filed by the state with the national repository under the uniform program.

(h) "Participating state" means a state electing to participate in the uniform program by entering a base state agreement.

(i) "Person" means an individual, firm, copartnership, cooperative, company, association, limited liability company, corporation, or public entity.

(j) "Public entity" means a carrier who is a federal or state agency or political subdivision.

(k) "Shipper" means a person who offers a designated hazardous material for shipment or who causes a designated hazardous material to be transported or shipped.

(l) "Uniform application" means the uniform motor carrier registration and permit application form established under the uniform program.

(m) "Uniform program" means the Uniform State Hazardous Materials Transportation Motor Carrier Registration and Permit Program established in the report submitted to the secretary of transportation pursuant to the "Hazardous Materials Transportation Uniform Safety Act of 1990," United States Code, title 49 appendix, section 1819, subsection (c).

Subd. 3. **General requirements.** Except as provided in subdivision 17, after October 1, 1994:

(a) No carrier, other than a public entity, may transport a hazardous material by motor vehicle in Minnesota unless it has complied with subdivision 4.

(b) No carrier, other than a public entity, may transport a hazardous waste in Minnesota unless it has complied with subdivisions 4 and 5.

(c) No shipper may offer a designated hazardous material for shipment or cause a designated hazardous material to be transported or shipped in Minnesota unless it has complied with subdivision 7.

(d) No carrier, other than a public entity, may transport a designated hazardous material by rail or water in Minnesota unless it has complied with subdivision 7a.

(e) No public entity may transport a hazardous material or hazardous waste by motor vehicle in Minnesota unless it has complied with subdivision 8.

Subd. 4. **Hazardous material registration and permit.** (a) A carrier with its principal place of business in Minnesota or that designates Minnesota as its base state, shall register its hazardous material transportation with and obtain a permit from the commissioner before transporting a hazardous material or hazardous waste in Minnesota. A carrier that designates another participating state as its base state shall register its hazardous material transportation with and obtain a permit from that state before transporting a hazardous material or hazardous waste in Minnesota.

(b) A carrier who engages in the interstate transportation of a hazardous material and who is required to register its hazardous material transportation in Minnesota shall file parts I and II of the uniform application with the commissioner and pay an administrative processing fee of \$50 and an apportioned vehicle registration fee. The amount of the apportioned vehicle registration fee must be calculated under subdivision 6. A carrier who engages only in the intrastate transportation of a hazardous material, excluding hazardous waste, and who is required to register its hazardous material transportation in Minnesota shall file part I of the uniform application, pay a vehicle registration fee of \$15 for each vehicle it operates, and pay no apportioned fee.

(c) Upon a carrier's compliance with this subdivision, the commissioner shall issue a notice of registration form and a permit to the carrier. A notice of registration form must include a company registration number. A registration is valid for one year from the date a notice of registration form is issued and a permit is valid for three years from the date issued or until a carrier fails to renew its registration, whichever occurs first.

(d) A registered carrier shall maintain a copy of the notice of registration form and the permit in each vehicle it uses to transport a hazardous material or hazardous waste.

(e) A carrier with a permit shall annually certify that its current operations are not substantially different from its operations on the date it obtained its permit and shall recertify its compliance with applicable laws and regulations in part II of the uniform application when it renews its registration under this subdivision. Failure to comply with the certifications in part II is prohibited.

Subd. 5. Hazardous waste transporter. (a) A carrier with its principal place of business in Minnesota or who designates Minnesota as its base state shall file a disclosure statement with and obtain a permit from the commissioner that specifically authorizes the transportation of hazardous waste before transporting a hazardous waste in Minnesota. A carrier that designates another participating state as its base state shall file a disclosure statement with and obtain a permit from that state that specifically authorizes the transportation of hazardous waste before transporting a hazardous waste in Minnesota. A registration is valid for one year from the date a notice of registration form is issued and a permit is valid for three years from the date issued or until a carrier fails to renew its registration, whichever occurs first.

(b) A disclosure statement must include the information contained in part III of the uniform application. The commissioner shall not issue a notice of registration or permit to a hazardous waste transporter who has not made a full and accurate disclosure of the required information or paid the fees required by this subdivision. Making a materially false or misleading statement in a disclosure statement is prohibited.

(c) The commissioner shall assess a carrier the actual costs incurred by the commissioner for conducting the uniform program's required investigation of the information contained in a disclosure statement.

Subd. 6. Apportioned vehicle registration fee calculation. (a) An apportioned vehicle registration fee shall be equal to the percentage of Minnesota transportation multiplied by the percentage of hazardous material transportation multiplied by the total number of vehicles the carrier operates multiplied by a per-vehicle fee of \$30.

(b) A carrier shall calculate its percentage of Minnesota transportation and its percentage of hazardous material transportation as follows:

(1) A carrier shall determine its percentage of Minnesota transportation by dividing the number of miles it traveled in Minnesota under the international registration plan, pursuant to section 168.187, during the previous year, by the number of miles it traveled in the United States and Canada under the international registration plan during the previous year. If a carrier operated only in Minnesota, it must use 100 percent of the miles traveled as its percentage of Minnesota transportation. If a carrier does not register its vehicles through the international registration plan, it must calculate the number of miles traveled in the manner required under the international registration plan. If a carrier operates more than one fleet under the international registration plan the carrier must add all miles traveled by all vehicles in all fleets to calculate its mileage. A Minnesota carrier who operates in an adjacent state under a

reciprocal agreement with that state must include the miles operated under the agreement as miles traveled in Minnesota in calculating mileage under this clause.

(2) A carrier shall determine its percentage of hazardous material transportation as follows:

(i) for less-than-truckload shipments, it must divide the weight of the carrier's hazardous material and hazardous waste shipments transported during the previous year by the total weight of all shipments transported during the previous year; or

(ii) for truckload shipments, it must divide the number of shipments transported during the previous year for which placarding, marking, or manifesting, was required by Code of Federal Regulations, title 49, part 172, by the total number of all shipments transported during the previous year.

(c) A carrier that transports both truckload and less-than-truckload shipments of hazardous material or hazardous waste must determine its percentage of hazardous material transportation by calculating the absolute percentage of business that is hazardous material transportation on a proportional basis with the percentage of business that is not hazardous material transportation or by calculating its percentage within the ranges allowed following procedures under the uniform program.

(d) A carrier may use data from its most recent complete fiscal year or the most recent complete calendar year in calculating the percentages required in this subdivision for transportation conducted during the previous year.

Subd. 7. Shipper registration. (a) A shipper who maintains a distribution, terminal, warehouse, or other facility in Minnesota used to ship hazardous material or hazardous waste and who is required to comply with Code of Federal Regulations, title 49, sections 107.601 to 107.620, shall file, with the commissioner, a complete and accurate copy of its current registration statement, on the form described in Code of Federal Regulations, title 49, section 107.608, and a copy of its current federal certificate of registration. The fee for filing a shipper registration statement is \$250. If a shipper is required to pay a fee under section 299K.095, the commissioner shall credit the actual amount paid by the shipper during the previous 12 months toward payment of the fee required in this subdivision, not to exceed \$250 annually.

(b) Upon a shipper's compliance with this subdivision, the commissioner shall issue a certificate of registration to the shipper. A certificate of registration must bear an effective date and show the shipper's Minnesota hazardous material transportation registration number. A certificate of registration is valid for one year from the date it is issued and must be kept at the shipper's principal place of business.

(c) A shipper whose name, principal place of business, or business telephone number has changed during the time a certificate of registration is effective, shall notify the commissioner of the change by submitting an amended registration statement not later than 30 days after the change. Upon receiving an amended registration statement, the commissioner shall issue an amended certificate of registration. There is no fee for filing an amended registration statement or for issuing an amended certificate of registration.

Subd. 7a. Rail and water carriers. (a) A carrier of hazardous material by rail or water who is required to comply with Code of Federal Regulations, title 49, sections 107.601 to 107.620, shall file with the commissioner a complete and accurate copy of its current registration statement, on the form described in Code of Federal Regulations, title 49, section 107.608, and a copy of its current federal certificate of registration. The fee for filing the registration statement is \$250. If the carrier is required to pay a fee under section 299K.095, the commissioner shall credit the actual amount paid by carrier during the previous 12 months toward payment of the fee required in this subdivision, not to exceed \$250 annually.

(b) Upon a carrier's compliance with this subdivision, the commissioner shall issue a certificate of registration to the carrier. A certificate of registration must bear an effective date and show the carrier's Minnesota hazardous material transportation registration number. A certificate of registration is valid for one year from the date it is issued and must be kept at the carrier's principal place of business.

(c) A carrier whose name, principal place of business, or business telephone number has changed during the time a certificate of registration is effective, shall notify the commission-

er of the change by submitting an amended registration statement not later than 30 days after the change. Upon receiving an amended registration statement, the commissioner shall issue an amended certificate of registration. There is no fee for filing an amended registration statement or for issuing an amended certificate of registration.

Subd. 8. Public entity registration. (a) A public entity with its principal place of business in Minnesota or that designates Minnesota as its base state, shall register its hazardous material transportation with the commissioner before transporting a hazardous material or hazardous waste in Minnesota. A public entity that designates another participating state as its base state shall register its hazardous material transportation with that state before transporting a hazardous material or hazardous waste in Minnesota.

(b) A public entity that is required to register its hazardous material transportation in Minnesota shall file part I of the uniform application with the commissioner. There is no fee for the registration required in this subdivision.

(c) Upon a public entity's compliance with this subdivision, the commissioner shall issue a notice of registration form to the public entity. The notice of registration form must include a registration number. A registration is valid for one year from the date a notice of registration form is issued.

(d) A registered public entity shall maintain a copy of the notice of registration form in each vehicle it uses to transport hazardous material or hazardous waste.

Subd. 9. Application data. The following data submitted to the commissioner under subdivisions 4 and 5 are private data, with respect to data on individuals, and nonpublic data, with respect to data not on individuals: information contained in parts II and III of the uniform application relating to a carrier's customers and service provided to specific customers, financial balance sheet and income statement data, ownership and debt liability data, and information relating to a carrier's parent companies, affiliates, and subsidiaries. For the purpose of administering or enforcing the uniform program, the commissioner may disclose any information classified as private data on individuals or nonpublic data by this subdivision to the United States Department of Transportation, any other participating state or state agency, or to the national repository established under the uniform program.

Subd. 10. Enforcement. The commissioner may inspect or examine any motor vehicle or facility operated by a carrier or any facility operated by a person who ships, or offers for shipment, hazardous material or hazardous waste and may require the production of papers, books, records, documents, or other evidentiary material necessary to determine if a carrier or shipper is accurately reporting its hazardous material transportation operations and is otherwise complying with this section and the uniform program. The commissioner also may conduct investigations and audits necessary to determine if a carrier is entitled to a permit or to make suspension or revocation determinations.

Subd. 11. Administrative penalties. The commissioner may issue an order requiring violations of this section to be corrected. An order may include the administrative assessment of a monetary penalty up to a maximum of \$10,000 for all violations of this section identified during a single inspection, investigation, or audit. Section 221.036 applies to administrative penalty orders issued under this section. Penalties collected under this section must be deposited in the state treasury and credited to the trunk highway fund.

Subd. 12. Suspension, revocation, and denial. (a) The commissioner may suspend or revoke a permit issued under this section or order the suspension of the transportation of hazardous material or hazardous waste in Minnesota by a carrier who has obtained a permit from another participating state under the uniform program if the commissioner determines that a carrier:

(1) committed a violation of Code of Federal Regulations, title 49, parts 100 to 180, 383, 387, or 390 to 397, while engaging in hazardous materials transportation if the violation posed an imminent hazard to the public or the environment;

(2) made a knowing falsification of a material fact in a uniform application;

(3) has received an unsatisfactory safety rating from the state or the United States Department of Transportation; or

(4) has exhibited reckless disregard for the public and the environment.

(b) In determining if a carrier has exhibited reckless disregard for the public and the environment in violation of paragraph (a), clause (4), the commissioner shall consider:

(1) whether the carrier has engaged in a pattern of violations of Code of Federal Regulations, title 49, parts 100 to 180, 383, 387, or 390 to 397, or regulations governing the management of hazardous waste, while engaging in hazardous materials transportation, when the violations are viewed in relation to the number of truck-miles of hazardous material transportation and the number of vehicles in the carrier's fleet;

(2) the actual or potential level of environmental damage resulting from an incident or a violation of the federal regulations described in paragraph (a), clause (1);

(3) the response by the carrier to an incident or a violation of the federal regulations described in paragraph (a), clause (1);

(4) the carrier's history of violations for the past three years;

(5) any mitigating factors; and

(6) other factors as justice requires, if the commissioner specifically identifies the additional factors in the order of suspension or revocation.

(c) The commissioner may not issue a permit to a carrier if the commissioner determines that a carrier's conduct would constitute grounds for suspension or revocation under this subdivision. A carrier who wishes to contest a denial, suspension, or revocation is entitled to a hearing under chapter 14.

Subd. 13. Base state agreement. The commissioner may enter into agreements with federal agencies, a national repository, or other participating states as necessary to allow the reciprocal registration and permitting of carriers transporting hazardous material or hazardous waste. The agreements may include procedures for determining a base state, the collection and distribution of registration fees, dispute resolution, the exchange of information for reporting and enforcement purposes, and other provisions necessary to fully implement, administer, and enforce the uniform program.

Subd. 14. Preemption. This section preempts and supersedes any hazardous material or hazardous waste transportation registration or permitting program administered or enforced by any state agency, city, county, or other political subdivision of the state.

Subd. 15. [Repealed, 1998 c 310 s 4]

Subd. 16. Revolving account. (a) The commissioner shall deposit in a separate account in the trunk highway fund all federal funds received for implementing, administering, and enforcing this section. Money in the account is appropriated to the commissioner for those purposes.

(b) The commissioner shall accept and disburse federal funds available for the purpose of implementing, administering, and enforcing the uniform program.

Subd. 17. Exemptions. This section does not apply to the intrastate transportation described as follows:

(1) the transportation of hazardous material in a vehicle controlled by a farmer and operated by a farmer or farm employee when the hazardous material is to be used on the farm to which it is transported;

(2) the transportation of a hazardous waste jointly designated as a "special waste" by the commissioner of transportation and the commissioner of the Minnesota pollution control agency; or

(3) transportation by fertilizer and agricultural chemical retailers while exclusively engaged in the delivery of fertilizer and agricultural chemicals when:

(i) the delivery is from the retailer's place of business directly to a farm within a 50-mile radius of the retailer's place of business; and

(ii) the fertilizer and agricultural chemicals are for use on the farm to which they are delivered.

Subd. 18. Deposit and use of fees. Fees received by the commissioner for administrative processing and investigating information in a disclosure statement must be deposited in the state treasury and credited to the trunk highway fund. Notwithstanding section 221.82, registration fees collected under subdivisions 4, 5, 7, and 7a must be deposited in the state

treasury, credited to the general fund, and used to cover the costs of hazardous materials incident response capability under sections 299A.48 to 299A.52 and 299K.095.

History: 1994 c 589 s 5,8; 1995 c 260 s 1-6; 1996 c 455 art 3 s 30,31,33; 1997 c 230 s 14,15,23; 1998 c 310 s 1-3

221.036 ADMINISTRATIVE ORDERS, ENFORCEMENT, PENALTIES, HEARINGS, REMEDIES.

Subdivision 1. **Order.** The commissioner may issue an order requiring violations to be corrected and administratively assessing monetary penalties for a violation of (1) section 221.021; (2) section 221.033, subdivision 2b; (3) section 221.041, subdivision 3; (4) section 221.081; (5) section 221.151; (6) section 221.171; (7) section 221.141; (8) section 221.035, a material term or condition of a license issued under that section; or rules of the board or commissioner relating to the transportation of hazardous waste, motor carrier operations, insurance, or tariffs and accounting. An order must be issued as provided in this section.

Subd. 2. **Election of penalties.** The commissioner may not both assess an administrative penalty under this section and seek a criminal sanction under section 221.291, subdivision 3, for violations arising out of the same inspection or audit.

Subd. 3. **Amount of penalty; considerations.** (a) The commissioner may issue an order assessing a penalty of up to \$5,000 for all violations of section 221.021; 221.041, subdivision 3; 221.081; 221.141; 221.151; or 221.171, or rules of the board or commissioner relating to motor carrier operations, insurance, or tariffs and accounting, identified during a single inspection, audit, or investigation.

(b) The commissioner may issue an order assessing a penalty up to a maximum of \$10,000 for all violations of section 221.033, subdivision 2b, or 221.035, and rules adopted under those sections, identified during a single inspection or audit.

(c) In determining the amount of a penalty, the commissioner shall consider:

- (1) the willfulness of the violation;
- (2) the gravity of the violation, including damage to humans, animals, air, water, land, or other natural resources of the state;
- (3) the history of past violations, including the similarity of the most recent violation and the violation to be penalized, the time elapsed since the last violation, the number of previous violations, and the response of the person to the most recent violation identified;
- (4) the economic benefit gained by the person by allowing or committing the violation; and
- (5) other factors as justice may require, if the commissioner specifically identifies the additional factors in the commissioner's order.

Subd. 4. **Contents of order.** An order assessing an administrative penalty under this section must include:

- (1) a concise statement of the facts alleged to constitute a violation;
- (2) a reference to the section of the statute, rule, order, or material term or condition of a license that has been violated;
- (3) a statement of the amount of the administrative penalty to be imposed and the factors upon which the penalty is based; and
- (4) a statement of the person's right to review of the order.

Subd. 5. **Corrective order.** (a) The commissioner may issue an order assessing a penalty and requiring the violations cited in the order to be corrected within 30 calendar days from the date the order was received.

(b) The person to whom the order was issued shall provide information to the commissioner before the 31st day after the order was received demonstrating that the violation has been corrected or that appropriate steps toward correcting the violation have been taken. The commissioner shall determine whether the violation has been corrected and notify the person subject to the order of the commissioner's determination.

Subd. 6. **Penalty.** (a) Except as provided in paragraph (b), if the commissioner determines that the violation has been corrected or appropriate steps have been taken to correct the

action, the penalty must be forgiven. Unless the person requests review of the order under subdivision 7, 8, or 9 before the penalty is due, the penalty in the order is due and payable:

(1) on the 31st day after the order was received, if the person subject to the order fails to provide information to the commissioner showing that the violation has been corrected or that appropriate steps have been taken toward correcting the violation; or

(2) on the 20th day after the receipt of a notice by the person subject to the order of the commissioner's determination under subdivision 5, paragraph (b), that information supplied to the commissioner is not sufficient to show that the violation has been corrected or that appropriate steps have been taken toward correcting the violation.

(b) For a repeated or serious violation, the commissioner may issue an order with a penalty that will not be forgiven after the corrective action is taken. The penalty is due within 30 days after the order was received unless review of the order under subdivision 7, 8, or 9 has been sought.

(c) Interest at the rate established in section 549.09 begins to accrue on penalties on the date that the penalty is due and payable if no request for review is filed under subdivision 7, 8, or 9.

Subd. 7. Expedited administrative hearing. (a) Within 30 days after the date on which an order was received, or within 20 days after the receipt of a notice that the commissioner has determined that a violation has not been corrected or appropriate steps have not been taken, the person subject to an order under this section may request an expedited hearing. The person to whom the order is directed and the commissioner are the parties to the expedited hearing to review the order and the penalty. The commissioner must notify the person to whom the order is directed of the time and place of the hearing at least 20 days before the hearing. The expedited hearing must be held within 30 days after a request for hearing has been filed with the commissioner unless the parties agree to a later date.

(b) All written arguments must be submitted within ten days following the close of the hearing. The hearing must be conducted under the conference contested case rules of the office of administrative hearings, as modified by this subdivision. The office of administrative hearings may, in consultation with the commissioner, adopt rules specifically applicable to cases under this section.

(c) The administrative law judge shall issue a report making recommendations about the order to the commissioner within 30 days following the close of the record. The administrative law judge may not recommend a change in the amount of the proposed penalty unless the administrative law judge determines that, based on the factors in subdivision 3, the amount of the penalty is unreasonable.

(d) If the administrative law judge makes a finding that the hearing was requested solely for purposes of delay or that the hearing request was frivolous, the commissioner may add to the amount of the penalty the costs charged to the commissioner by the office of administrative hearings for the hearing.

(e) If a hearing has been held, the commissioner may not issue a final order until at least five days after receipt of the report of the administrative law judge. The person subject to the order may, within those five days, comment to the commissioner on the recommendations and the commissioner shall consider the comments. The final order may be appealed in the manner provided in sections 14.63 to 14.69.

(f) If a hearing has been held and a final order issued by the commissioner, the penalty must be paid by the 15th day after the final order was mailed, together with interest accruing at the rate established in section 549.09 from 31 days after the original order was received.

Subd. 8. District court hearing. (a) Within 30 days after the receipt of an order, or within 20 days after the receipt of a notice that the commissioner has determined that a violation has not been corrected or appropriate steps have not been taken, the person subject to an order under this section may file a petition in district court for review of the order. The petition must be filed with the court administrator with proof of service on the commissioner. The petition must be captioned in the name of the person making the petition as petitioner and the commissioner as respondent. The petition must state with specificity the grounds upon which the petitioner seeks rescission of the order, including the facts upon which each claim is based.

(b) At trial, the commissioner must establish by a preponderance of the evidence that a violation subject to this section and for which the petitioner is responsible occurred, that the factors listed in subdivision 3 were considered when the penalty amount was determined, and that the penalty amount is justified by those factors. In addition, if the commissioner immediately assesses a penalty as provided for under subdivision 5, paragraph (a), the commissioner must establish by a preponderance of the evidence that the immediate imposition of the penalty was justified.

Subd. 9. **Mediation.** In addition to review under subdivision 6 or 7, the commissioner may enter into mediation concerning an order issued under this section if the commissioner and the person to whom the order is issued both agree to mediation.

Subd. 10. **Election of remedies.** A person subject to a corrective order under this section may not seek review of the order under both subdivisions 7 and 8.

Subd. 11. **Enforcement by attorney general.** (a) The attorney general may proceed on behalf of the state to enforce penalties that are due and payable under this section in any manner provided by law for the collection of debts.

(b) The attorney general may petition the district court to file the administrative order as an order of the court. At a court hearing, the only issues parties may contest are procedural and notice issues. Once entered, the administrative order may be enforced in the same manner as a final judgment of the district court.

(c) If a person fails to pay the penalty, the attorney general may bring a civil action in district court seeking payment of the penalties, injunctive, or other appropriate relief including monetary damages, attorney fees, costs, and interest.

Subd. 12. **Revocation and suspension of permit.** If a person fails to pay a penalty owed under this subdivision, the commissioner has grounds to revoke or refuse to reissue or renew a license issued by the commissioner under section 1.

Subd. 13. **Cumulative remedy.** The authority of the commissioner to issue a corrective order assessing penalties is in addition to other remedies available under statutory or common law. Except as provided in subdivision 2, the payment of a penalty does not preclude the use of other enforcement provisions in connection with the violation for which the penalty was assessed.

Subd. 14. **Credited to trunk highway fund.** Penalties collected under this section must be deposited in the state treasury and credited to the trunk highway fund.

History: 1987 c 393 art 1 s 2; 1992 c 600 s 12,13; 1993 c 117 s 25,26; 1994 c 589 s 6,7

221.037 HAZARDOUS MATERIALS; INFORMATION, INSPECTION.

Subdivision 1. **Required to provide information.** A person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled hazardous materials, hazardous substances, or hazardous waste shall (1) give to transportation representatives and hazardous material specialists of the department information relating to the materials, substances, or waste, or (2) permit them access to and copying of records relating to the materials, substances, or waste, or both.

Subd. 2. **Authority to inspect.** Transportation representatives and hazardous material specialists of the department have the authority to enter, at a reasonable time and place, any vehicle, cargo tank, or other container used to transport hazardous materials, hazardous substances, or hazardous waste and any treatment, storage, or disposal facility or other place where the materials, substances, or waste are or have been generated, stored, treated, disposed of, or transported from. They may inspect the vehicle, cargo tank, or container and obtain from any person samples of the materials, substances, or waste and samples of the containers or labeling of the materials, substances, or waste for enforcing sections 221.033 to 221.036 or rules adopted under those sections. The authority granted under this subdivision includes the right to break and replace seals.

History: 1992 c 578 s 38

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

221.041 RATEMAKING POWERS.

Subdivision 1. **Considerations; procedures.** The board shall fix and establish just, reasonable, and nondiscriminatory rates, fares, charges, and the rules and classifications incident to tariffs for certificated carriers. In prescribing rates, fares, charges, classifications, and rules for the carrying of freight, persons, or property, the board 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 board 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 rate or fares may be put into effect or changed or altered except upon hearing duly had and an order therefor by the board, or except as herein otherwise provided. The board may authorize rate changes ex parte which, in its opinion, are not of sufficient import to require a hearing. In an emergency, the board may order a change in existing rates or fares without a hearing. In instances of ex parte or emergency orders, the board shall, within five days, serve a copy of its order granting the change in rates upon parties which the board deems interested in the matter, including competing carriers. An 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 board shall determine whether a hearing is necessary for resolution of the material issues relating to the proposed change in rates. On finding that a hearing is unnecessary for this purpose, the board, no sooner than 30 days after issuing its initial order granting the change in rates, may enter an order finally disposing of the rate change application. On determining otherwise, the board may take final action on the rate change application and the objections to it only after a contested case hearing has been conducted under chapter 14.

Subd. 2. **Filing.** A certificated carrier, upon approval by the board of its rates, fares, charges, and rules and classifications incident to tariffs shall file its rates, fares, charges, and tariffs with the commissioner. Filings must be prepared and filed in the manner prescribed by the commissioner. The commissioner may not accept for filing rates, fares, charges, and tariffs which have not been approved by the board.

Subd. 3. **Prohibitions; compensation and time schedules.** No certificated carrier may charge or receive a greater or less or different compensation for the transportation of passengers or property or for 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 board. A certificated carrier may not refund or remit in any manner or by any device a portion of those rates, fares, and charges required to be collected under the board's order; nor extend to a shipper or person a privilege or facilities in connection with the transportation of passengers or property except as are authorized under the order of the board. No passenger-carrying regular route common carrier may alter or change its time schedules except upon order of the board. The order may be issued ex parte unless the board decides that the public interest requires that a hearing be held.

Subd. 4. **Nonapplicability.** This section does not apply to any regular route passenger transportation being performed with operating assistance provided by the metropolitan council.

History: Ex1957 c 17 s 4; 1971 c 25 s 67; 1976 c 166 s 72; 1980 c 534 s 60; 1983 c 371 s 23; 1984 c 654 art 3 s 76; 1986 c 468 s 6; 1992 c 600 s 14; 1994 c 628 art 3 s 20

221.05 [Repealed, Ex1957 c 17 s 31]

221.051 REGULAR ROUTE PASSENGER CARRIER.

Subdivision 1. **Abandonment or discontinuance of service.** No regular route common carrier of passengers or class I carrier may abandon or discontinue any service required under its certificate without an order of the board therefor, except in cases of emergency or conditions beyond its control.

Subd. 2. **Incidental charter authority.** Notwithstanding any other law, a regular route common carrier of passengers that was granted incidental charter operating authority by the board before August 1, 1993, may continue to exercise that authority.

History: *Ex1957 c 17 s 5; 1971 c 25 s 67; 1976 c 166 s 73; 1980 c 534 s 61; 1992 c 600 s 15; 1993 c 323 s 2*

221.06 [Repealed, Ex1957 c 17 s 31]

221.061 PETITION FOR CERTIFICATE; FEE; HEARING.

A person desiring a certificate authorizing operation as a regular route common carrier of passengers, a class I carrier, or petroleum carrier, or an extension of or amendment to that certificate, shall file a petition with the commissioner which must contain information as the board and commissioner, by rule may prescribe.

Upon the filing of a petition for a certificate, the petitioner shall pay to the commissioner as a fee for issuing the certificate the sum of \$300 and for a transfer or lease of the certificate the sum of \$300.

The petition must be processed as any other petition. The board shall cause a copy and a notice of hearing thereon to be served upon a competing carrier operating into a city located on the proposed route of the petitioner and to other persons or bodies politic which the board deems interested in the petition. A 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 board may allow it when the issues and the territory are not unduly broadened by the amendment.

History: *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; 1980 c 534 s 62; 1983 c 293 s 78; 1987 c 393 art 2 s 1; 1988 c 544 s 11; 1992 c 600 s 16*

221.07 [Repealed, 1947 c 266 s 6]

221.071 ISSUANCE OF CERTIFICATE; VEHICLE REGISTRATION.

Subdivision 1. **Considerations; temporary certificate; amending.** If the board finds from the evidence that the petitioner is fit and able to properly perform the services proposed and that public convenience and necessity require the granting of the petition or a part of the petition, it shall issue a certificate of public convenience and necessity to the petitioner. In determining whether a certificate should be issued, the board shall give primary consideration to the interests of the public that might be affected, to the transportation service being furnished by a 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 board 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 terms and conditions as in its judgment public convenience and necessity may require. If the petitioner is seeking authority to operate regular route transit service wholly within the seven-county metropolitan area with operating assistance provided by the metropolitan council, the board shall consider only whether the petitioner is fit and able to perform the proposed service. The operating authority granted to such a petitioner must be the operating authority for which the petitioner is receiving operating assistance from the metropolitan council. A carrier receiving operating assistance from the metropolitan council may amend the certificate to provide for additional routes by filing a copy of the amendment with the board, and approval of the amendment by the board is not required if the additional service is provided with operating assistance from the metropolitan council.

The board may grant a temporary certificate, ex parte, valid for a period not exceeding 180 days, upon a showing that no regular route common carrier or petroleum carrier is then authorized to serve on the route sought, that no other petition is on file with the board covering the route, and that a need for the proposed service exists.

A certificate may be amended by the board on ex parte petition and payment of a \$25 fee to the commissioner, to grant an additional or alternate route if there is no other means of

transportation over the proposed additional route or between its termini, and the proposed additional route does not exceed ten miles in length.

Subd. 2. Vehicle registration. Certificate carriers shall annually register each vehicle as provided in section 221.131, subdivision 3.

History: *Ex1957 c 17 s 7; 1971 c 25 s 67; 1975 c 313 s 7; 1976 c 166 s 75; 1980 c 534 s 63; 1983 c 293 s 79; 1983 c 371 s 24; 1984 c 654 art 3 s 77; 1986 c 444; 1992 c 600 s 17; 1994 c 628 art 3 s 21*

221.072 CLASS I CARRIER.

Subdivision 1. Authority. The board may issue a class I certificate only to a motor carrier who owns, leases, or otherwise controls more than one terminal. Except as provided in subdivision 2, a motor carrier may not own, operate, or otherwise control more than one terminal without having obtained a class I certificate from the board. For purposes of this section, utilization of a local cartage carrier by a class I carrier constitutes ownership, lease, or control of a terminal.

Subd. 2. Exceptions. This section does not apply to any carrier listed in section 221.111, clauses (3) to (10).

Subd. 3. Operation. A class I certificate authorizes the certificate holder to transport both truckload and less-than-truckload freight to and from points named in the certificate, over routes described in the certificate. A holder of a class I certificate may transfer freight to and from another class I carrier.

History: *1992 c 600 s 18; 1993 c 213 s 3*

221.08 [Repealed, Ex1957 c 17 s 31]

221.081 SALE OR LEASE OF CERTIFICATE.

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 board approving the same. The proposed seller and buyer or lessor and lessee of a certificate shall file a joint petition with the commissioner, 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 board 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 board 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 board or department deems to be interested parties.

History: *Ex1957 c 17 s 8; 1971 c 25 s 67; 1976 c 166 s 76; 1980 c 534 s 64; 1988 c 544 s 12*

221.09 [Repealed, Ex1957 c 17 s 31]

221.091 LIMITATIONS; RELATIONSHIP TO LOCAL LAWS.

No provision in sections 221.011 to 221.291 and 221.84 to 221.85 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 and 221.84 to 221.85 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 those sections, or the

general police power of any such city over its highways; nor shall sections 221.011 to 221.291 and 221.84 to 221.85 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, where such operation is pursuant to a certificate of convenience and necessity issued by the commission or to a permit issued by the commissioner under section 221.84 or 221.85.

History: *Ex1957 c 17 s 9; 1971 c 25 s 67; 1973 c 123 art 5 s 7; 1976 c 166 s 77; 1991 c 284 s 6; 1992 c 578 s 39; 1993 c 323 s 3; 1994 c 635 art 1 s 41*

221.10 [Repealed, Ex1957 c 17 s 31]

221.101 ADDITIONAL AUTHORITY TO PETROLEUM CARRIER.

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 the carrier is not authorized to serve when the needs of the shippers the carrier serves because of seasonal failure of supplies require service from such origin point, upon securing permission from the board, provided that this provision shall not include the right to enlarge the carrier's destination area.

History: *Ex1957 c 17 s 10; 1971 c 25 s 67; 1973 c 754 s 3; 1976 c 166 s 78; 1980 c 534 s 65; 1986 c 444*

221.11 [Repealed, Ex1957 c 17 s 31]

221.111 PERMIT TO OTHER MOTOR CARRIER.

Motor carriers other than certificated carriers and local cartage carriers shall obtain a permit in accordance with section 221.121. The board shall issue only the following kinds of permits:

- (1) class II-T permits;
- (2) class II-L permits;
- (3) livestock carrier permits;
- (4) contract carrier permits;
- (5) charter carrier permits;
- (6) courier service carrier permits;
- (7) local cartage carrier permits;
- (8) household goods mover permits;
- (9) temperature-controlled commodities permits; and
- (10) armored carrier permits.

History: *Ex1957 c 17 s 11; 1959 c 376 s 2; 1971 c 25 s 67; 1976 c 166 s 79; 1983 c 371 s 25; 1992 c 600 s 19; 1993 c 213 s 4*

221.12 [Repealed, Ex1957 c 17 s 31]

221.121 PERMIT: APPROVAL PROCESS; OPERATING AUTHORITY; FEE.

Subdivision 1. **Petition; notice and hearing; scope.** (a) A person desiring to operate as a permit carrier, except as provided in subdivision 5 or section 221.296, shall file a petition with the commissioner 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 other information as the board and commissioner may require. Letters of shipper support must be filed with the petition. No person shall knowingly make a false or misleading statement in a petition.

(b) The board, after notice to interested parties and a hearing, shall issue the permit upon compliance with the laws and rules relating to it, 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 those needs, provided that no person who holds a permit at the time sections 221.011 to 221.291 take effect may be denied a renewal of the permit upon compliance with other provisions of sections 221.011 to 221.291.

(c) A permit once granted continues in full force and effect until abandoned or unless suspended or revoked, subject to compliance by the permit holder with the applicable provisions of law and the rules of the commissioner or board governing permit carriers.

(d) No permit may be issued to a common carrier by rail permitting the common carrier to operate trucks for hire within this state, nor may a common carrier by rail be permitted to own, lease, operate, control, or have an interest in a permit carrier by truck, either by stock ownership or otherwise, directly, indirectly, through a holding company, or by stockholders or directors in common, or in any other manner. Nothing in sections 221.011 to 221.291 prevents the board from issuing a permit to a common carrier by rail authorizing the carrier to operate trucks wholly within the limits of a municipality or within adjacent or contiguous municipalities or a common rate point served by the railroad and only as a service supplementary to the rail service now established by the carriers.

Subd. 2. **Temporary permit.** The board may grant a temporary permit, ex parte, valid for a period not exceeding 180 days, upon a showing that 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 immediate and urgent authority from the board is in the public interest. A copy of the order granting the temporary permit, ex parte, must be mailed immediately to interested parties.

Subd. 3. **Cooperative association.** The board may issue a permit as a contract carrier to cooperative associations whose memberships are limited to bona fide farmers' cooperative associations, that transport and do business only with and for the associations, and who transport merely as an incident to other business. The board may not limit the number of hauling contracts of a cooperative association.

Subd. 4. **Extensions of authority.** The board may grant extensions of authority ex parte after due notice of a petition has been published. A party desiring to protest the petition shall file its protest by mail or in person within 20 days of the date of notice, except that no protest may be filed against an application submitted under subdivision 6f. If a timely filed protest is received, the matter must be placed on the calendar for hearing. If a timely protest is not received, the board may issue its order ex parte.

Subd. 5. **Livestock carrier.** A person desiring to operate as a livestock carrier shall file a petition with the commissioner 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 other information as the board and commissioner may require.

The board shall issue the permit upon compliance with laws and rules relating to the permit unless it finds that petitioner's vehicles do not meet the safety standards prescribed by the commissioner or that petitioner is not fit and able to conduct the proposed operations. A permit issued under Laws 1983, chapter 371, must be renewed upon compliance with the provisions of Laws 1959, chapter 376, and the rules of the board and commissioner. A livestock carrier, on the return trip after hauling livestock and delivering the livestock, may transport other commodities or property to the carrier's headquarters area. The livestock carrier may transport supplies and equipment used in farm work from the carrier's headquarters area to any point in the state or from any point in the state to the headquarters area.

Subd. 6. **Courier services carrier.** A person desiring to operate as a courier services carrier shall follow the procedure established in subdivision 1 and shall be granted a permit as a courier services carrier if the person meets the criteria established in subdivision 1. The board shall not deny a permit for a courier services carrier on the grounds that operations

performed by the applicant resemble operations of other types of carriers defined in section 221.011.

Subd. 6a. Household goods carrier. A person who desires to hold out or to operate as a carrier of household goods shall follow the procedure established in subdivision 1, and shall specifically request a household goods mover permit. The permit granted by the board to a person who meets the criteria established in this subdivision and subdivision 1 shall authorize the person to hold out and to operate as a household goods mover. A person who provides or offers to provide household goods packing services and who makes any arrangement directly or indirectly by lease, rental, referral, or by other means to provide or to obtain drivers, vehicles, or transportation service for moving household goods, must have a household goods mover permit.

Subd. 6b. Special passenger carrier. A person who has been granted a charter carrier permit by the board may provide special passenger service within the territory or on the routes granted in the order granting the charter carrier permit. A charter carrier that provides special passenger service must file a tariff that shows the rates and charges that apply to the special passenger service.

Subd. 6c. Class II carrier. (a) A person desiring to operate as a permit carrier, other than as a carrier listed in section 221.111, clauses (3) to (9), shall follow the procedure established in subdivision 1 and shall specify in the petition whether the person is seeking a class II-T or class II-L permit. If the person meets the criteria established in subdivision 1, the board shall grant the class II-T or class II-L permit or both. A class II permit holder may not own, lease, or otherwise control more than one terminal. The board may not issue a class II permit to a motor carrier who owns, leases, or otherwise controls more than one terminal.

(b) For purposes of this section: (1) utilization of a local cartage carrier by a class II carrier constitutes ownership, lease, or control of a terminal; and (2) "terminal" does not include (i) a terminal used exclusively for handling bulk commodities, and (ii) a terminal used by a permit holder who also holds a class I certificate, household goods permit, or temperature-controlled commodities permit for the unloading, docking, handling, and storage of freight transported under the certificate, household goods permit, or temperature-controlled commodities permit.

Subd. 6d. Temperature-controlled commodities carrier. A person who desires to hold out or to operate as a carrier of temperature-controlled commodities shall follow the procedure established in subdivision 1 and shall specifically request a temperature-controlled commodities permit. The permit granted by the board to a person who meets the criteria established in subdivision 1 shall authorize the person to hold out and to operate as a carrier of temperature-controlled commodities.

Subd. 6e. Class II-T permit. A holder of a class II-T permit may transport truckload freight to and from any point named in the permit without restriction as to routes, schedules, or frequency of service.

Subd. 6f. Class II-L permit. (a) A motor carrier with a class II-L permit may transport less-than-truckload freight as provided in this subdivision.

(b) A motor carrier with a class II-L permit may transport less-than-truckload freight to and from any point named in the permit, without restriction as to routes, schedules, or frequency of service.

(c) A motor carrier with a class II-L permit may transport less-than-truckload freight to and from points within the geographic area the carrier was authorized to serve on December 31, 1992, that were not listed in the carrier's permit. Service by a carrier under this paragraph may be provided no more often than on 24 days in a 12-month period.

(d) A motor carrier described in paragraph (c) may amend the carrier's permit to add points within the geographic area the carrier was authorized to serve on December 31, 1992. The carrier must submit to the commissioner an application on a form provided by the commissioner; the application must name the points proposed to be served and include evidence of need for the proposed service. Evidence of need may consist of a letter from a consignor attesting to need for the proposed service and intent to use the proposed service. The commissioner shall transmit the application to the board. The board shall publish notice of an approved application in the board's weekly calendar. Failure by the board to deny the applica-

tion within ten days after receipt of the application from the commissioner constitutes approval of the application.

Subd. 6g. **Armored carrier.** A person who desires to hold out or to operate as an armored carrier must follow the procedure established in subdivision 1 and specifically request an armored carrier permit. No permit is required of a private carrier shipping its own items of extraordinary value. The board shall issue the permit if it finds that the petitioner meets the criteria established in subdivision 1 and has provided evidence that:

(a) The carriers' personnel, security, and insurance standards and procedures render it fit and able to protect the property the petitioner will transport under the permit.

(b) The carrier has obtained a protective agent's or private detective's license under sections 326.338 and 326.3381, subdivision 1, and holds the license in good standing.

Subd. 6h. **Charter carrier entirely within Saint Paul.** A person who provides regular route passenger service using trolley-type vehicles exclusively within Saint Paul and who seeks to operate as a charter carrier using trolley-type vehicles exclusively within the city shall file a petition with the commissioner requesting such authority. The board shall grant the permit upon the petitioner's compliance with the law and rules relating to charter carrier permits if it finds that the petitioner's vehicles meet the safety standards prescribed by the commissioner and that the petitioner is fit and able to conduct the proposed operations. A permit issued under this subdivision authorizes charter carrier operation only within Saint Paul.

Subd. 7. **Fee.** The petitioner shall pay a fee of \$150 into the treasury of the state of Minnesota for each kind of permit or extension of authority for which a petition is filed under this section.

History: *Ex 1957 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; 1980 c 428 s 3; 1980 c 534 s 66; 1983 c 371 s 26; 1984 c 520 s 11; 1986 c 444; 1987 c 393 art 2 s 2,3; 1988 c 544 s 13,14; 1989 c 318 s 11,12; 1992 c 578 s 40,41; 1992 c 600 s 20-26; 1993 c 213 s 5; 1994 c 635 art 1 s 18; 1996 c 321 s 1*

221.122. COMPLIANCE WITH ORDER GRANTING PERMIT OR CERTIFICATE.

Subdivision 1. **Registration, insurance, and filing requirements.** An order issued by the board which grants a certificate or permit must contain a service date. The person to whom the order granting the certificate or permit is issued shall do the following within 45 days from the service date of the order:

(1) register vehicles which will be used to provide transportation under the permit or certificate with the commissioner and pay the vehicle registration fees required by law;

(2) file and maintain insurance or bond as required by sections 221.141 and 221.296 and rules of the commissioner and board; and

(3) file rates and tariffs as required by sections 221.041 and 221.161 and rules of the commissioner and board.

Subd. 2. **Time extension.** The commissioner may extend the time for compliance with the requirements of subdivision 1. The person to whom the order was issued shall request the extension in writing and shall state the reasons for requesting the extension. The commissioner may not grant an extension of more than 45 days.

Subd. 3. **Failure to comply.** An order of the board granting a certificate or permit to operate as a motor carrier takes effect on the date of compliance with the requirements of subdivision 1. Failure of the person to whom the order was issued to comply with the requirements of subdivision 1 within 45 days from the service date of the order, or within the extended time for compliance if an extension was granted by the commissioner, makes the order null and void upon the expiration of the time for compliance.

History: *1984 c 520 s 12*

221.123. EFFECT OF DEATH OF PERMIT HOLDER.

This section governs the transfer of a permit in the event of the death of the permit holder. Within one year after the transfer of a permit of a deceased permit holder by the deceased

permit holder's personal representative, or within one year after the date of a decree or order issued by the district court transferring the permit of a deceased permit holder, the distributee, as defined in section 524.1-201, who received the permit shall apply to the board to have the permit transferred under the provisions of section 221.151, subdivision 2.

If an application to transfer the permit is not filed within the time prescribed above, the permit is revoked and the commissioner shall so notify the person who had received the permit.

History: 1989 c 318 s 13; 1995 c 189 s 8; 1996 c 277 s 1

221.124 INITIAL MOTOR CARRIER CONTACT PROGRAM.

Subdivision 1. **Initial motor carrier contact.** The initial motor carrier contact program consists of an initial contact, for educational purposes, between a motor carrier required to participate and representatives of the department of transportation. The initial contact may be through an educational seminar or at the discretion of the department through a personal meeting with a representative of the department. The initial contact must consist of a discussion of the statutes, rules, and regulations that apply to motor carriers. Topics discussed must include: carrier authority; the leasing of drivers and vehicles; insurance requirements; tariffs; annual reports; accident reporting; identification of vehicles; driver qualifications; maximum hours of service of drivers; the safe operation of vehicles; equipment, parts, and accessories; and inspection, repair, and maintenance. The department shall provide written documentation of proof of compliance with the requirements of subdivision 2 and shall give a copy of the document to the motor carrier.

Subd. 2. **Participation required.** A motor carrier that receives a certificate or permit from the board for new authority on or after September 1, 1991, shall participate in the initial motor carrier contact program. A motor carrier required to participate in the program must have in attendance at least one motor carrier official having a substantial interest or control, directly or indirectly, in or over the operations conducted or to be conducted under the certificate or permit.

Subd. 3. **Time for compliance.** A motor carrier required by subdivision 2 to participate in the program must do so within 90 days of the service date of the order granting the certificate or permit. Failure to comply with the requirement of subdivision 2 makes the order granting the certificate or permit void upon expiration of the time for compliance.

History: 1991 c 333 s 35

221.13 [Repealed, Ex1957 c 17 s 31]

221.131 CARRIER VEHICLE REGISTRATION; FEES; IDENTIFICATION; CAB CARD.

Subdivision 1. **Permit renewal.** Permits issued under section 221.121 are effective for a 12-month period. A permit holder must renew the permit annually by registration of the vehicles operated under authority of that permit as required by subdivision 2. A permit holder has one annual renewal date encompassing all of the permits held by the holder.

Subd. 2. **Permit carrier; annual vehicle registration.** (a) This subdivision applies only to holders of household goods mover permits and charter carrier permits.

(b) The permit holder shall pay an annual registration fee of \$40 on each vehicle, including pickup and delivery vehicles, operated by the holder under authority of the permit during the 12-month period or fraction of the 12-month period. Trailers and semitrailers used by a permit holder in combination with power units may not be counted as vehicles in the computation of fees under this section if the permit holder pays the fees for power units.

(c) The commissioner shall furnish a distinguishing annual identification card for each vehicle or power unit for which a fee has been paid. The identification card must at all times be carried in the vehicle or power unit to which it has been assigned. An identification card may be reassigned to another vehicle or power unit upon application of the permit holder and payment of a transfer fee of \$10. An identification card issued under this section is valid only for the period for which the permit is effective.

(d) A fee of \$10 is charged for the replacement of an unexpired identification card that has been lost.

Subd. 2a. **Vehicle identification.** The permit holder must be identified on the power unit of each registered vehicle operated under the permit. Vehicles must show the name or the "doing business as" name of the permit holder operating the vehicle and the community and abbreviation of the state in which the permit holder maintains its principal office or in which the vehicle is customarily based. If the permit holder operates a leased vehicle, it may show its name and the name of the lessor on the vehicle, if the lease relationship is clearly shown. If the name of a person other than the operating permit holder appears on the vehicle, the words "operated by" must immediately precede the name of the permit holder. The name and address must be in letters that contrast sharply in color with the background, be readily legible during daylight hours from a distance of 50 feet while the vehicle is stationary, and be maintained in a manner that retains the legibility of the markings. The name and address may be shown by use of a removable device if that device meets the identification and legibility requirements of this subdivision.

Subd. 3. **Certificate carrier; annual vehicle registration.** Certificated passenger carriers shall pay an annual registration fee of \$40 for each vehicle, including pickup and delivery vehicles, operated during a calendar year. The commissioner shall issue distinguishing identification cards as provided in subdivision 2.

Subd. 4. **Floater card; fee.** The department may issue to carriers subject to subdivision 2 or 3 special "floater" identification cards up to a maximum of five per motor carrier. Floater cards may be freely transferred between vehicles used under short-term leases by the motor carrier. The motor carrier shall pay a fee of \$100 for each floater card issued.

Subd. 5. **Limitation.** The provisions of this section are limited by applicable federal law.

Subd. 6. [Repealed by amendment, 1995 c 265 art 2 s 23]

Subd. 7. [Repealed by amendment, 1995 c 265 art 2 s 23]

History: *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; 1980 c 465 s 3; 1980 c 534 s 67; 1983 c 371 s 27; 1984 c 520 s 13; 1985 c 299 s 21; 1986 c 444; 1987 c 393 art 2 s 4,5; 1992 c 578 s 42-44; 1992 c 600 s 27,28; 1993 c 213 s 6; 1995 c 265 art 2 s 23*

221.132 PREPAID TEMPORARY VEHICLE IDENTIFICATION CARD.

The commissioner may issue a prepaid temporary vehicle identification card to a permit or certificate holder subject to section 221.131, subdivision 2 or 3, for a fee of \$5 per card. The card must be preprinted by the commissioner with the carrier's name, address, and permit or certificate number. The card may be used by the motor carrier to whom it is issued to identify a vehicle temporarily added to its fleet. The card must be executed by the motor carrier by dating and signing the card and describing the vehicle in which it will be carried. The identification card is valid for a period of ten days from the date the motor carrier places on the card when the card is executed. The card must be used within one year from the date of issuance by the commissioner. The card may not be used if the permit or certificate is not in full force and effect. The card may not be transferred. The commissioner may not refund the cost of unused prepaid temporary vehicle identification cards.

History: *1987 c 393 art 2 s 6; 1995 c 265 art 2 s 24*

221.14 [Repealed, Ex1957 c 17 s 31]

221.141 INSURANCE OR BOND.

Subdivision 1. **Financial responsibility of carrier.** No motor carrier and no interstate carrier shall operate a vehicle until it has obtained and has in effect the minimum amount of financial responsibility required by this section. Policies of insurance, surety bonds, other types of security, and endorsements must be continuously in effect and must remain in effect until canceled. Before providing transportation, the motor carrier or interstate carrier shall secure and cause to be filed with the commissioner and maintain in full effect, a certificate of insurance in a form required by the commissioner, evidencing public liability insurance in the amount prescribed. The insurance must cover injuries and damage to persons or property

resulting from the operation or use of motor vehicles, regardless of whether each vehicle is specifically described in the policy. This insurance does not apply to injuries or death to the employees of the motor carrier or to property being transported by the carrier. The commissioner shall require cargo insurance for certificated carriers, except those carrying passengers exclusively. The commissioner may require a permit carrier to file cargo insurance when the commissioner deems necessary to protect the users of the service.

Subd. 1a. **Cancellation.** Insurance, bonds, endorsements, certificates, and other evidence of financial responsibility issued to satisfy the requirements of this section may be canceled on not less than 30 days' written notice to the insured and to the commissioner.

Subd. 1b. **Amount.** Except as provided in subdivision 1d, the amount of insurance, bond, or other security required for motor carriers is the amount prescribed by order of the commissioner. The amount prescribed 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 some other form of security as may be satisfactory. Each policy of insurance, surety bond, or other evidence of financial responsibility issued to a motor carrier or to an interstate carrier must be amended by attachment to the policy of the Uniform Motor Carrier Bodily Injury and Property Damage Liability Insurance Endorsement (Form F) prescribed in Code of Federal Regulations, title 49, part 1023, or must by its terms provide coverage that conforms to the terms and conditions of that endorsement.

Subd. 1c. **Interstate carrier.** An interstate carrier must obtain insurance or bond in the minimum amounts prescribed in Code of Federal Regulations, title 49, section 1043.2, paragraphs (a) and (b).

Subd. 1d. **Motor carrier of hazardous cargo.** A motor carrier that transports property described under (2) and (3) of the schedule of limits in Code of Federal Regulations, title 49, section 387.9, must obtain insurance or bond in the amounts prescribed in those regulations.

Subd. 1e. **Insurer must be authorized.** A policy of insurance, bond, or other evidence of financial responsibility does not satisfy the requirements of this section unless the insurer or surety furnishing the evidence of financial responsibility is authorized or registered by the department of commerce to issue the policies, bonds, or certificates in this state.

Subd. 1f. **Financial responsibility defined.** "Financial responsibility" means a policy of insurance, surety bond, or other financial undertaking sufficient to pay liability amounts required by this section.

Subd. 2. [Repealed, 1983 c 371 s 44]

Subd. 3. **Replacement certificate of insurance; effective date.** Certificates of insurance which have been accepted by the commissioner under subdivision 1 may be replaced by other certificates of insurance and the liability of the retiring insurer under the certificate of insurance is considered terminated as of the effective date of the replacement certificate, provided the replacement certificate is acceptable to the commissioner.

Subd. 4. **Household goods mover.** A household goods mover shall maintain in effect cargo insurance or cargo bond in the amount of \$50,000 and shall file with the commissioner a cargo certificate of insurance or cargo bond. A cargo certificate of insurance must conform to Form H, Uniform Motor Cargo Certificate of Insurance, described in Code of Federal Regulations, title 49, part 1023. A cargo bond must conform to Form J, described in Code of Federal Regulations, title 49, part 1023. Both Form H and Form J are incorporated by reference. The cargo certificate of insurance or cargo bond must be issued in the full and correct name of the person, corporation, or partnership to whom the household goods mover permit was issued and whose operations are being insured.

Subd. 5. **Passenger transportation.** For purposes of this section, "motor carrier" includes any person who transports passengers for hire in intrastate commerce. This section does not apply to an entity or person included in section 221.031, subdivision 3b, paragraph (b).

Subd. 6. **Armored carrier.** An armored carrier must maintain in effect cargo insurance, cargo bond, or moneys and securities insurance coverage in a minimum amount of \$300,000 per incident and must file, or its insurer must file, with the commissioner a cargo certificate of insurance, cargo bond, or certificate of moneys and securities coverage. A cargo certificate of insurance must conform to Form H, Uniform Motor Cargo Certificate of Insurance, de-

scribed in Code of Federal Regulations, title 49, part 1023. A cargo bond must conform to Form J described in Code of Federal Regulations, title 49, part 1023. A certificate of moneys and securities coverage must conform to either Form H or Form J with such variances as the commissioner may allow to accommodate industry practice. Form H and Form J are incorporated by reference. The cargo certificate of insurance, cargo bond, or certificate of moneys and securities coverage must be issued in the full and correct name of the person, corporation, or partnership to whom the armored carrier permit was issued and whose operations are being insured.

Subd. 7. Electronic filing of form. The commissioner may permit the electronic filing of insurance, bonds, endorsements, certificates, and other evidence of financial responsibility required in this section or rules adopted under this section. The electronic filing of a document imposes the same obligations on the person filing the document and has the same legal effect as if the document had been filed on a prescribed form.

History: *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; 1980 c 534 s 68; 1983 c 371 s 28,29; 1988 c 544 s 15; 1989 c 318 s 14,15; 1992 c 568 s 3; 1992 c 600 s 29; 1993 c 213 s 7; 1996 c 387 s 5*

221.15 [Repealed, Ex1957 c 17 s 31]

221.151 PERMIT ASSIGNABLE OR TRANSFERABLE.

Subdivision 1. Petition. Permits, except livestock permits, issued under section 221.121 may be assigned or transferred but only upon the order of the board approving the transfer or assignment 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 commissioner 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 outstanding claims of creditors which are directly attributable to the operation to be conducted under the permit, a copy of the contract of sale or lease, and a financial statement with a balance sheet and an income statement, if existent, of the buyer or lessee. If it appears to the board, after notice to interested parties and a hearing, from the contents of the petition, from the evidence produced at the hearing, and from 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 other competing carriers, the board may make an order granting the sale or lease. Provided, however, that the board shall make no order granting the sale or lease of a permit to a person or corporation or association which holds a certificate or permit other than local cartage carrier permit from the board under this chapter or to a common carrier by rail.

Provided further that the board shall make no order approving the sale or lease of a permit if the board finds that the price paid for the sale or lease of a permit is disproportionate to the reasonable value of the permit considering the assets and goodwill involved. The board 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 the permit and that the vehicles the transferee proposes to use in conducting the operations meet the safety standards of the commissioner. 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 must be considered. Only such operating authority may be granted to the transferee as was actually exercised by the transferor under the transferor's authority within the two-year period immediately preceding the transfer as evidenced by bills of lading, company records, operation records, or other relevant evidence. For purposes of determining the two-year period, the date of divesting of interest or control is the date of the sale. The board shall look to the substance of the transaction rather than the form. An agreement for the transfer or sale of a permit must be reported and filed with the board within 30 days of the agreement.

If an authority to operate as a permit carrier is held by a corporation, a sale, assignment, pledge, or other transfer of the stock interest in the corporation which will accomplish a sub-

stantial or material change or transfer of the majority ownership of the corporation, as exercised through its stockholders, must be reported in the manner prescribed in the rules of the board within 30 days after the sale, assignment, pledge, or other transfer of stock. The board shall then make a finding whether or not the stock transfer does, in fact, constitute a sale, lease, or other transfer of the permit of the corporation to a new party or parties and, if they so find, then the continuance of the permit issued to the corporation may 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. **Ex parte transfer.** The board shall allow a bona fide transfer of a permit, except a livestock carrier permit, ex parte without hearing if the transferee of the permit is in fact a member or members of the transferor's immediate family. For the purpose of this subdivision immediate family consists 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 does not include a person under legal disability or a member of the family regardless of relationship who holds any other permit or certificate under this chapter either as an individual or in partnership or as owner of an interest in a corporation holding a permit or a certificate under this chapter.

Provided further that the transfer under this subdivision must include:

(1) transfer to a corporation the stock of which is wholly owned by the transferor or immediate family members;

(2) transfer to a partnership or partner consisting solely of the immediate family as defined in this subdivision.

Provided further that the transfer of a permit under this subdivision must comply with the standards set forth in this section based upon the contents of the petition of petitioners, pertinent information available to the board and the department, and their records and files. No determination of the extent of the operating authority previously exercised is required.

If it appears to the board that the 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 board shall assign the matter for hearing to determine compliance with this section. A user of the service, competing carrier, or interested party shall have the right to file a protest on the transfer as provided in this subdivision by filing a sworn statement with the board within six months from the effective date of the transfer, whereupon the board shall assign the matter for hearing and the continuance of the permit may only be upon the transferee's compliance with the standards and procedures otherwise imposed by this section.

Subd. 3. **Transfer of certain authority.** Operating authority described in section 221.121, subdivision 6f, paragraph (c), that has not been added to the motor carrier's permit under section 221.121, subdivision 6f, paragraph (d), may not be transferred to any person except a member of the transferor's immediate family as defined in subdivision 2.

History: *Ex 1957 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; 1980 c 534 s 69; 1983 c 371 s 30; 1986 c 444; 1988 c 544 s 16; 1992 c 600 s 30*

221.152 CONVERSION OF PERMIT.

Subdivision 1. **Expiration of operating authority.** Except as provided in subdivision 3, paragraph (c), the following certificates and permits in effect on January 1, 1993, and all operating authority granted by those certificates and permits, expire on January 1, 1993:

(1) all certificates authorizing operation as a regular route common carrier of property, other than petroleum carrier certificates; and

(2) all permits authorizing operation as an irregular route common carrier, except those carriers listed in section 221.111, clauses (3) to (9).

Subd. 2. **Conversion.** All holders of certificates and permits that expire on January 1, 1993, under subdivision 1, who wish to continue providing the service authorized by those certificates and permits, must convert the certificates and permits into class I or class II certificates or permits by that date.

Subd. 3. **Issuance of new certificate or permit.** (a) By September 1, 1992, a motor carrier described in subdivision 2 must submit to the commissioner an application for conver-

sion: The application must be on a form prescribed by the commissioner and must be accompanied by an application fee of \$50. The application must state: (1) the name and address of the applicant; (2) the identifying number of the expiring certificates or permits the applicant wishes to convert; and (3) other information the commissioner deems necessary. An applicant for a class II-L permit must also submit a statement of the extent of operating authority that the applicant holds under the applicant's existing permit or permits and wishes to include in the new permit or permits, and evidence of the operating authority actually exercised as described in section 221.151, subdivision 1.

(b) The commissioner shall transmit to the board all applications that meet the requirements of paragraph (a). The board shall develop an expedited process for hearing and ruling on applications submitted under this subdivision. Within 60 days after receiving an application under this subdivision, the board shall issue an order approving or denying the issuance of a new certificate or permit. The board shall issue the certificate or permit requested in the application if it finds that the issuance is authorized under this section. An application submitted to the commissioner under this subdivision by September 1, 1992, is deemed approved by the board unless by November 1, 1992, or a later date determined under paragraph (c), the board has issued an order denying the application.

(c) If the board determines that a conversion of a certificate or permit under this subdivision requires a longer period of deliberation than that provided in paragraph (b), the board may prescribe a date: (1) on which a class I certificate or class II permit becomes effective; (2) on which the application for conversion becomes effective unless denied by the board; and (3) on which the certificate or permit being converted expires. The board may not prescribe a date under clauses (1) to (3) that is later than June 30, 1993.

Subd. 4. Authority converted. (a) The board shall not issue any certificate or permit under this subdivision that authorizes the carrier to serve any geographic area or transport any commodities that the carrier was not authorized to serve or transport under the expiring certificate or permit.

(b) Notwithstanding paragraph (a), the board shall not grant a class II-L permit to an applicant under this subdivision that names points that the permit holder did not serve at any time in the two years before April 30, 1992.

(c) When a person who had been issued before January 1, 1993, an irregular route common carrier permit with authority to transport household goods applies for conversion of that permit to a class II permit under subdivision 3, the board shall issue the applicant, along with a class II permit, a household goods mover permit with the same operating authority to transport household goods as was granted under the person's irregular route common carrier permit.

(d) When a person who, before January 1, 1993, held an irregular route common carrier permit under which the person transported temperature-controlled commodities applies for conversion of that permit to a class II permit under subdivision 3, the board shall issue the applicant a temperature-controlled commodities permit with authority to operate in the same geographic area authorized under the person's irregular route common carrier permit and a class II permit.

(e) A permit holder that received its permit less than 24 months prior to the effective date of Laws 1992, chapter 600, shall be authorized by the board to operate for a period of up to 24 months or December 31, 1993, whichever occurs first. Prior to January 1, 1994, the permit holder shall follow the procedures for conversion of permits contained in this section. The board shall extend the permit up to June 30, 1994, as required to convert the permit.

History: 1992 c. 600 s. 31

221.153 ARMORED CARRIER; CONVERSION OF OPERATING AUTHORITY.

Subdivision 1. Expiration of operating authority. All operating authority under certificates or permits granted by the board that authorizes armored carrier service expires on March 1, 1994. After February 28, 1994, no person may provide armored carrier service unless the person holds a valid armored carrier permit issued by the board. This subdivision does not require the expiration of any operating authority other than authority for armored carrier service. This subdivision does not limit the right of carriers to transport items of ex-

ceptional value in nonarmored vehicles that are not protected by at least one armed person exclusive of the driver.

Subd. 2. **Conversion.** A motor carrier holding operating authority that expires on March 1, 1994, under subdivision 1 who wishes to continue providing the service authorized by that operating authority must convert that operating authority into an armored carrier permit before that date.

Subd. 3. **Issuance of new permit.** (a) By November 1, 1993, a motor carrier described in subdivision 2 must submit to the commissioner an application for conversion. The application must be on a form prescribed by the commissioner and must be accompanied by an application fee of \$50. The application must state: (1) the name and address of the applicant; (2) the identifying number of all certificates or permits that grant the operating authority the applicant wishes to convert; (3) evidence of armored carrier service that the motor carrier has actually and lawfully performed under a certificate or permit within the two years prior to May 15, 1993; and (4) evidence of a protective agent's or private detective's license in good standing under section 221.121, subdivision 6g, paragraph (b).

(b) The commissioner shall transmit to the board all applications that meet the requirements of paragraph (a). The board shall develop an expedited process for hearing and ruling on applications submitted under this subdivision. Within 60 days after receiving an application under this subdivision, the board shall issue an order approving or denying the issuance of an armored carrier permit. The board shall issue the permit requested in the application if it finds that the issuance is authorized under this section. An application submitted to the commissioner under this subdivision by November 1, 1993, is deemed approved by the board unless by January 1, 1994, the board has issued an order denying the application.

(c) A motor carrier whose actual and lawful provision of armored carrier service has within the two years immediately prior to May 15, 1993, been limited exclusively to service to and from points within the local cartage zone shall only be issued an armored carrier permit that authorizes service as an armored carrier to and from points within that zone. A motor carrier whose actual and lawful provision of armored carrier service has within the two years immediately prior to May 15, 1993, been limited exclusively to service to and from points outside the local cartage zone shall be issued only an armored carrier permit that authorizes service as an armored carrier to and from points outside that zone. A motor carrier whose actual and lawful provision of armored carrier service has within the two years immediately prior to May 15, 1993, included service to and from points within and outside the local cartage zone shall be issued an armored carrier permit that authorizes armored carrier service to and from points anywhere in the state.

History: 1993 c 213 s 8

221.16 [Repealed, Ex1957 c 17 s 31]

221.161 SCHEDULE OF RATES AND CHARGES.

Subdivision 1. **Filing; hearing upon board initiative; armored carrier exemption.**

(a) Except as provided in paragraph (b), a permit carrier, including a livestock carrier but not including a local cartage carrier, shall file and maintain with the commissioner a tariff showing rates and charges for transporting persons or property. Tariffs must be prepared and filed in accordance with the rules of the commissioner. When tariffs are filed in accordance with the rules and accepted by the commissioner, the filing constitutes notice to the public and interested parties of the contents of the tariffs. The commissioner shall not accept for filing tariffs that are unjust, unreasonable, unjustly discriminatory, unduly preferential or prejudicial, or otherwise in violation of this section or rules adopted under this section. If the tariffs appear to be unjust, unreasonable, unjustly discriminatory, unduly preferential or prejudicial, or otherwise in violation of this section or rules adopted under this section, after notification and investigation by the department, the board may suspend and postpone the effective date of the tariffs and assign the tariffs for hearing upon notice to the permit carrier filing the proposed tariffs and to other interested parties, including users of the service and competitive carriers by motor vehicle and rail. At the hearing, the burden of proof is on the permit carrier filing the proposed tariff to sustain the validity of the proposed schedule of rates and charges. Tariffs for transporting livestock are not subject to rejection, suspension, or postponement by

the board, except as provided in subdivisions 2 and 3. The tariffs and subsequent supplements to them or reissues of them must state the effective date, which may not be less than ten days following the date of filing, unless the period of time is reduced by special permission of the commissioner.

(b) A holder of an armored carrier permit is not required to file a tariff under this subdivision for the service authorized by the armored carrier permit.

Subd. 2. Hearing upon complaint. Tariffs, supplements, and reissues must be prepared and filed in accordance with rules of the commissioner. Rates or charges, including pickup charges named therein, are subject to complaint to the board by an interested party. The board, after investigation by the department, by order on not less than ten days' notice, may assign the complaint for hearing, and if at the hearing, the complainant submits facts and evidence sufficient to establish proof that the rates or charges complained of are excessive or noncompensatory, the board may order the rates or charges canceled, and require the filing of alternative and reasonable rates and charges, the reasonable level of which at that time must be indicated by the board in the order.

Subd. 3. Hearing upon petition by another carrier. Upon the filing of a tariff or subsequent supplement or reissue, any other carrier has the right to petition the board to suspend it from taking effect until opportunity is had for a hearing on the reasonableness of the rates or charges, and the board may suspend the rates or charges 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 board shall include in its consideration, among other things, the reasonable cost of the services rendered for the 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. Hearing on merits of rates and charges. The board, (1) after a suspension and hearing upon a schedule of rates and charges, or upon complaint, or upon its own initiative, either in extension of an existing complaint or without a complaint whatever, (2) after department investigation and petition, (3) upon notice to the permit carrier or tariff agent proposing, maintaining, or charging a schedule of rates and charges on a single group of related commodities, and (4) upon notice to the users of the service and competitive carriers by motor vehicle and rail, may assign for hearing the schedule of rates and charges proposed, maintained, or charged by any or all permit carriers. Upon a finding, after a hearing, that the schedule of rates and charges are unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial or otherwise in violation of this section, the board may prescribe minimum rates and charges and the rates, rules, and practices thereafter to be maintained and applied by the permit carrier or tariff agent. In the hearing the burden of proof is upon the permit carrier or tariff agent whose schedules of rates and charges are under investigation to show that the schedules are not below a minimum reasonable level or are not noncompensatory. Schedules of rates and charges for the transportation of livestock are not subject to rejection, suspension, postponement, or investigation by the board except as provided in subdivisions 2 and 3.

History: *Ex 1957 c 17 s 16; 1959 c 376 s 4; 1965 c 523 s 5; 1971 c 25 s 67; 1976 c 166 s 84; 1980 c 534 s 70; 1983 c 371 s 31; 1985 c 248 s 70; 1985 c 299 s 22; 1992 c 578 s 45; 1993 c 213 s 9*

221.165 COLLECTIVE RATEMAKING.

In order to ensure nondiscriminatory rates and charges for shippers and receivers, the board shall establish a collective ratemaking procedure which will ensure the publication and maintenance of just and reasonable rates and charges under uniform, reasonably related rate structures. This procedure must provide for the joint consideration, initiation, and establishment of rates and charges, and must ensure that respective revenues and expenses of carriers engaged in such transportation are ascertained. A participating carrier party to a collectively mandated rate or charge shall have the right to petition the board for the establishment of a rate or charge deviating from the collectively set rate. Upon receiving board approval,

the carrier may proceed to establish the requested rate or charge. Motor carriers subject to rate regulation under this chapter are required to comply with the ratemaking procedure.

History: 1983 c 256 s 1

221.17 [Repealed, Ex1957 c 17 s 31]

221.171 COMPENSATION OF PERMIT CARRIER FIXED.

Subdivision 1. **Compensation fixed by schedule on file.** No permit carrier shall charge or receive a greater, lesser, or different compensation for the transportation of persons or property or for related service, 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 board under section 221.161; nor shall a permit carrier refund or remit in any manner or by any device, directly or indirectly, the rates and charges required to be collected by the carrier under the carrier's schedules or under the rates, if any, fixed by the board.

Subd. 2. **Exception.** A person engaged in the transportation of household goods for the federal government or an agency of the federal government or the transportation of household goods for the state government or an agency of the state government where competitive bids are required by law is exempt from subdivision 1.

History: Ex1957 c 17 s 17; 1965 c 523 s 6; 1971 c 25 s 67; 1976 c 166 s 85; 1980 c 534 s 71; 1983 c 371 s 32; 1986 c 444

221.172 SHIPPING DOCUMENT.

Subdivision 1. **Hazardous material bill of lading.** A person who transports a hazardous material by motor vehicle shall conform to the requirements of Code of Federal Regulations, title 49, with respect to shipping documents.

Subd. 2. **Hazardous waste manifest.** A person who transports a hazardous waste by motor vehicle shall carry in the vehicle a hazardous waste manifest which conforms to the requirements of Minnesota Rules, chapter 7045.

Subd. 3. **Class I, class II, or temperature-controlled commodities carrier; household goods mover.** A class I carrier, class II carrier, household goods mover, and a holder of a temperature-controlled commodities permit shall keep a record of each shipment transported under a certificate or permit. A record may consist of one or more documents, including a bill of lading, freight bill, manifest, delivery receipt, or other document. If it consists of more than one document, the documents constituting a shipment record must be available for inspection together. A record must show the:

- (1) names of the consignor and consignee;
- (2) date of shipment;
- (3) origin and destination points;
- (4) number of packages, if applicable to the rating of the freight or if the carrier's operating authority includes a package or article restriction, unless the shipment is transported by a household goods mover;
- (5) description of the freight;
- (6) weight, volume, or measurement of the freight, if applicable to the rating of the freight or if the carrier's operating authority includes a weight restriction;
- (7) exact rate or rates assessed;
- (8) total charges due, including the nature and amount of any charges for special service;
- (9) the name of each carrier participating in the transportation; and
- (10) after January 1, 1994, any terminals through which the shipment moved.

Subd. 4. **Truckload record.** In addition to the items listed in subdivision 3, if the transportation is provided under a class II-T permit or is a shipment of truckload freight, a record must include the word "truckload" or must prominently display the letters "II-T" and must show the name of the driver or drivers who transported the shipment, the pickup and delivery times, and the license plate number or unit number of the power unit and trailer used to transport the shipment.

Subd. 5. **Temperature-controlled commodities carrier.** In addition to the items listed in subdivision 3, if the transportation is provided under a temperature-controlled commodities permit, a record must include the words "temperature-controlled commodities" or must prominently display the letters "TCC" and must indicate the reasons for protecting the commodity from heat or cold.

Subd. 6. **Courier services carrier.** (a) A courier services carrier shall keep a record of each shipment transported. A record may consist of one or more documents, including a bill of lading, freight bill, manifest, delivery receipt, or other document. If it consists of more than one document, the documents constituting a shipment record must be available for inspection together. A record must show the:

- (1) names of the consignor and consignee;
- (2) date of shipment;
- (3) origin and destination points;
- (4) number of packages;
- (5) weight, volume, or measurement of the freight, if applicable to the rating of the freight;
- (6) exact rate or rates assessed; and
- (7) total charges due, including the nature and amount of any charges for special service.

(b) In addition to the items listed in paragraph (a), if the transportation is expedited delivery, a record also must show the:

- (1) license plate number or unit number of the vehicle used to transport the shipment;
- (2) time of the shipper's initial request for service; and
- (3) pickup and delivery times.

(c) In addition to the items listed in paragraph (a), if the transportation is overnight small package delivery, a record also must show the:

- (1) license plate number or unit number of the vehicle used to transport the shipment at the point of delivery; and
- (2) weight of each package or article of a shipment.

Subd. 7. **Contract carrier.** A contract carrier shall keep a record of each shipment transported. A record may consist of one or more documents, including a bill of lading, freight bill, manifest, delivery receipt, or other document. If it consists of more than one document, the documents constituting a shipment record must be available for inspection together. A record must show the:

- (1) names of the consignor and consignee;
- (2) date of shipment;
- (3) origin and destination points;
- (4) description of freight;
- (5) weight, volume, or measurement of the freight, if applicable to the rating of the freight or if the contract carrier's operating authority includes a weight restriction;
- (6) exact rate or rates assessed; and
- (7) total charges due, including the nature and amount of any charges for special service.

Subd. 8. **Local cartage carrier.** A local cartage carrier shall keep a record of each shipment transported. A record may consist of one or more documents, including a bill of lading, freight bill, manifest, delivery receipt, or other document. If it consists of more than one document, the documents constituting a shipment record must be available for inspection together. A record must show the:

- (1) date of shipment;
- (2) origin and destination points; and
- (3) terminal through which the shipment moved, if any.

Subd. 9. **Charter transportation.** A charter carrier and a regular route common carrier with incidental charter operating authority shall keep a record of each charter it provides under a charter carrier permit or a certificate. A charter record may consist of one or more documents. If it consists of more than one document, the documents constituting a charter record must be available for inspection together. A charter record must show the:

- (1) name of the carrier;
- (2) names of the payor and organization, if any, for which the transportation is performed;
- (3) date or dates the transportation was performed;
- (4) origin, destination, and general routing of the trip;
- (5) identification and seating capacity of each vehicle requested or used;
- (6) number of persons transported;
- (7) mileage upon which charges are based, including any deadhead mileage, separately noted;
- (8) applicable rates per mile, hour, day, or other unit;
- (9) itemized charges for the transportation, including special services and fees; and
- (10) total charges assessed and collected.

A charter carrier must use the same method of computing its rates in billing for charter services as that shown in its tariff on file with the commissioner.

Subd. 10. Retained three years. A shipping document or record described in subdivisions 2 to 9, or a copy of it, must be retained by the carrier for at least three years from the date on the shipping document or record. A carrier may keep a shipping record described in subdivisions 3 to 9 by any technology that prevents the alteration, modification, or erasure of the underlying data and will enable production of an accurate and unaltered paper copy. A carrier shall keep a shipping record in a manner that will make it readily accessible and shall have a means of identifying and producing a legible paper copy for inspection by the commissioner upon request.

History: 1983 c 371 s 33; 1988 c 544 s 17; 1993 c 117 s 27

221.173 ELECTRONIC SIGNATURE.

(a) The commissioner may accept in lieu of a required document completed on paper, an electronically transmitted document authenticated by an electronic signature.

(b) The commissioner shall consult with the office of technology, which shall provide advice and assistance in establishing criteria and standards for authentication of electronic signatures and establishing to a reasonable certainty the validity, security, and linkage of a specific, unaltered, electronically transmitted document, its unforged signature, and its authorized signer.

(c) The commissioner may determine the technology or system to be used, which may include a private key/public key system, an encrypted or cryptology-based system, a pen-based, on-screen signature system that captures and verifies an autograph and links it to a specific document, or other system or technology or combination of systems.

(d) To the extent consistent with this section, laws and rules pertaining to paper-based documents also pertain to electronically transmitted documents.

History: 1997 c 230 s 16; 1998 c 359 s 19

221.175 [Repealed, 1947 c 266 s 7]

221.18 [Repealed, Ex1957 c 17 s 31]

221.181 INTERSTATE CARRIER; REGULATION.

The commissioner may register interstate carriers and may regulate their operations to the extent that regulation constitutes a valid exercise of the police powers of the state.

History: Ex1957 c 17 s 18; 1971 c 25 s 67; 1976 c 166 s 86; 1980 c 534 s 72; 1983 c 371 s 34

221.185 SUSPENSION OR CANCELLATION OF OPERATING AUTHORITY.

Subdivision 1. Grounds for suspension. Despite the provisions of section 221.021, authority to operate as a motor carrier under sections 221.011 to 221.296 is suspended without a hearing, by order of the commissioner, for a period not to exceed 45 days upon the occurrence of any of the following and upon notice of suspension as provided in subdivision 2:

(a) the motor carrier fails to maintain and file with the commissioner, the insurance or bond required by sections 221.141 and 221.296 and rules of the commissioner;

(b) the motor carrier fails to renew permits as required by section 221.131;

(c) the motor carrier fails to pay annual vehicle registration fees or renew permits as required by sections 221.071, 221.131, and 221.296; or

(d) the motor carrier fails to maintain in good standing a protective agent's or private detective's license required under section 221.121, subdivision 6g, paragraph (b), or 221.153, subdivision 3.

Subd. 2. Notice of suspension. (a) Failure to file and maintain insurance, renew permits under section 221.131, or to pay annual vehicle registration fees or renew permits under section 221.071, 221.131, or 221.296, or to maintain in good standing a protective agent's or private detective's license required under section 221.121, subdivision 6g, or 221.153, subdivision 3, suspends a motor carrier's permit or certificate two days after the commissioner sends notice of the suspension by certified mail, return receipt requested, to the last known address of the motor carrier.

(b) In order to avoid permanent cancellation of the permit or certificate, the motor carrier must do one of the following within 45 days from the date of suspension:

(1) comply with the law by filing insurance or bond, renewing permits, or paying vehicle registration fees; or

(2) request a hearing before the board regarding the failure to comply with the law.

Subd. 3. Rescind suspension. If the motor carrier complies with the requirements of this chapter within 45 days after the date of suspension and pays the required fees, including a late vehicle registration fee of \$5 for each vehicle registered, the commissioner shall rescind the suspension.

Subd. 3a. Hearing. If the motor carrier requests a hearing within 45 days after the date of suspension, the board shall review the suspension and:

(1) determine that the carrier has complied with the law and rescind the suspension;

(2) for just cause, grant an extension which must not exceed 20 days; or

(3) schedule a hearing to ascertain whether the carrier has failed to comply with the law. If it is determined after the hearing that the carrier has failed to comply with the law, the board shall cancel the carrier's suspended permit or certificate.

Subd. 4. Failure to comply, cancellation. Except as provided in subdivision 5a, failure to comply with the requirements of sections 221.141 and 221.296 relating to bonds and insurance, 221.131 relating to permit renewal, 221.071, 221.131, or 221.296 relating to annual vehicle registration or permit renewal, 221.121, subdivision 6g, or 221.153, subdivision 3, relating to protective agent or private detective licensure, or to request a hearing within 45 days of the date of suspension, is deemed an abandonment of the motor carrier's permit or certificate and the permit or certificate must be canceled by the commissioner.

Subd. 5. Notice of cancellation. The commissioner shall notify the motor carrier by certified mail, return receipt requested, that the permit or certificate is canceled effective on the date of mailing the notice of cancellation.

Subd. 5a. Reinstatement after cancellation. A motor carrier whose permit or certificate is canceled for failure to comply with sections 221.141 and 221.296 relating to bonds and insurance may ask the board to review the cancellation. Upon review, the board shall rescind the cancellation if: (1) the motor carrier presents evidence showing that before the effective date of the notice of cancellation issued under subdivision 5, the motor carrier had obtained and paid for the insurance required by sections 221.141 and 221.296, and the rules of the commissioner, and (2) the commissioner informs the board that the motor carrier has complied with the requirements of sections 221.141 and 221.296 and the rules of the commissioner.

Subd. 6. [Repealed, 1984 c 520 s 26]

Subd. 7. [Repealed, 1984 c 520 s 26]

Subd. 8. [Repealed, 1984 c 520 s 26]

Subd. 9. **New petition.** If the holder of a canceled permit or certificate seeks authority to operate as a motor carrier it shall file a petition with the commissioner for a permit or certificate as provided in section 221.061, 221.121, or 221.296, whichever is applicable.

History: 1983 c 371 s 35; 1984 c 520 s 14-20; 1985 c 299 s 23,24; 1988 c 544 s 18; 1993 c 213 s 10-12

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.

Subdivision 1. **Commissioner enforces.** The commissioner shall enforce the provisions of this chapter and rules, orders, and directives issued or adopted by the board or commissioner under this chapter.

Subd. 2. **Enforcement powers.** Transportation program specialists and hazardous material program specialists of the department, for the purpose of enforcing the provisions of this chapter, sections 169.781 to 169.783 relating to commercial vehicle inspections, and section 296A.27, subdivisions 6 and 12, relating to motor carrier licenses and trip permits, and the applicable rules, orders, or directives of the commissioner, the commissioner of revenue, and the board issued under this chapter and chapter 296A, but for no other purpose, have the powers conferred by law upon police officers. The powers include the authority to conduct inspections at designated highway weigh stations or under other appropriate circumstances.

Subd. 3. **Delegated powers.** Representatives of the department to whom authority has been delegated by the commissioner for the purpose of enforcing sections 169.781 to 169.783, 221.041, and 221.171 and the rules, orders, or directives of the commissioner or board adopted or issued under those sections, and for no other purpose, shall have the powers conferred by law upon police officers. The representatives of the department have the power to inspect records, logs, freight bills, bills of lading, or other documents which may provide evidence to determine compliance with sections 169.781 to 169.783, 221.041, and 221.171.

Subd. 4. **Document inspection.** Records, log books, certificates, licenses, shipping documents, or other papers or documents required to determine compliance with this chapter and rules adopted under this chapter, must be presented for inspection, upon request, to a peace officer or police officer or other person empowered to enforce the provisions of this chapter.

History: 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; 1980 c 465 s 4; 1980 c 534 s 73; 1981 c 209 s 10; 1983 c 293 s 81; 1983 c 371 s 36; 1984 c 520 s 21; 1990 c 563 s 7,8; 1997 c 230 s 17,18; 1998 c 299 s 30

221.23 [Repealed, Ex1957 c 17 s 31]

221.231 RECIPROCAL AGREEMENT.

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 fees provided in section 221.60 may be waived in whole or in part for motor carriers having an established place of business in that state or province; provided that reciprocal privileges are extended under the agreement to motor carriers of this state.

History: Ex1957 c 17 s 23; 1971 c 25 s 67; 1976 c 166 s 89; 1985 c 299 s 25

221.24 [Repealed, Ex1957 c 17 s 31]

221.241 TRANSPORTING 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 the carrier uses for the transportation of livestock, unless such motor vehicle has been cleaned.

History: *Ex1957 c 17 s 24; 1986 c 444*

221.25 [Repealed, Ex1957 c 17 s 31]

221.251 OVERCHARGE REFUND.

Subdivision 1. **Refund within 90 days.** Charges for freight, baggage, or express collected by a motor carrier over what the carrier is entitled to receive under the lawful tariff or classification must be refunded by the carrier within 90 days after a claim is filed, provided that a claim is filed as provided in this section.

Subd. 2. **Claim adjustment, payment.** 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, must be adjusted and paid within 90 days after the filing of the claim with the agent of the carrier delivering the freight, baggage, or express, unless the delivering carrier protests the validity of the claim in writing to the claimant within a 90-day period. Settlement of claims with the claimant is the responsibility of the carrier delivering the freight, baggage, or express to its ultimate destination. No claim may be filed until after the arrival of a shipment, or of some part of it, at the point of destination, or until after the lapse of a reasonable time for its arrival. For this purpose, a claim, when filed, must consist of:

- (a) an original bill of lading or shipping receipt;
- (b) a paid freight bill;
- (c) a bill of claimant; and
- (d) an 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 letters, papers, or documents purporting to be a claim, within ten days after receipt and, if the claim as filed does not comply with the above requirements, the carrier shall inform the claimant and advise the claimant of what may be required to complete the claim.

Subd. 3. **Court action.** If the claim is not paid or adjusted within 90 days of filing, suit may be commenced in a court having jurisdiction. 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 are allowed.

History: *Ex1957 c 17 s 25; 1965 c 523 s 7; 1983 c 371 s 37; 1986 c 444*

221.26 [Repealed, Ex1957 c 17 s 31]

221.261 COMPLAINT, 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 this chapter, or any order, rule or directive of the commissioner or board 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 proceedings shall be tried summarily by the court and these matters shall take precedent over all other matters except criminal cases.

History: *Ex1957 c 17 s 26; 1971 c 25 s 67; 1976 c 166 s 90; 1980 c 534 s 74; 1981 c 209 s 11*

221.27 [Repealed, Ex1957 c 17 s 31]

221.271 LIABILITY.

Any person 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 board, 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 the person recovers, shall be allowed, in addition to damages, reasonable attorneys' fees, together with costs and disbursements.

History: *Ex1957 c 17 s 27; 1971 c 25 s 67; 1976 c 166 s 91; 1980 c 534 s 75; 1986 c 444*

221.28 [Repealed, Ex1957 c 17 s 31]

221.281 VIOLATIONS, CIVIL 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, or directive, or any part or provision thereof, of the commissioner or board, 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 \$10,000 for each such offense.

History: *Ex1957 c 17 s 28; 1971 c 25 s 67; 1973 c 754 s 8; 1976 c 166 s 92; 1980 c 534 s 76; 1984 c 628 art 3 s 11; 1985 c 248 s 70*

221.29 [Repealed, Ex1957 c 17 s 31]

221.291 VIOLATIONS, MISDEMEANORS.

Subdivision 1. **Conspiracy, attempt, aid or abet.** Except as provided in subdivisions 4 and 5, and sections 221.036 and 609.671, a person who commits, procures, aids or abets or conspires to commit, or attempts to commit, aid or abet in the violation of a provision of this chapter or a valid order or rule of the commissioner or board issued hereunder, whether individually or in connection with one or 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 a provision of this chapter, is likewise guilty of a misdemeanor. Every distinct violation is a separate offense.

Subd. 2. **Directing another to violate.** Except as provided in subdivisions 4 and 5, and sections 221.036 and 609.671, a person employing or otherwise directing the driver of a vehicle to require or knowingly to permit the operation of the vehicle upon a highway in a manner contrary to this chapter is guilty of a misdemeanor.

Subd. 3. **Transportation of hazardous materials.** Except as provided in sections 221.036 and 609.671, a person who ships, transports, or offers for transportation hazardous waste, hazardous material, or hazardous substances in violation of a provision of this chapter or a rule or order of the commissioner or board adopted or issued under this chapter which specifically applies to the transportation of hazardous material, hazardous waste, or hazardous substances is guilty of a misdemeanor and upon conviction may be fined up to the maximum fine which may be imposed for a misdemeanor for each violation.

Subd. 4. **Operating without certificate or permit.** A person who operates a motor carrier without obtaining required certificates or permits to operate as required by this chapter is guilty of a misdemeanor, and upon conviction shall be fined not less than the maximum fine which may be imposed for a misdemeanor for each violation.

Subd. 5. **Variation of compensation rate.** A person who knowingly offers, grants, gives, solicits, accepts, or receives a rebate, concession, or discrimination in violation of a provision of this chapter, or who by any means knowingly assists, requires, or permits a person to obtain or provide transportation of persons or property for a greater or lesser or different compensation than that approved by order of the board, or in the case of permit carriers than that filed with the commissioner, is guilty of a misdemeanor and upon conviction shall be fined not less than \$200.

History: *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; 1980 c 534 s 77; 1983 c 371 s 38; 1985 c 299 s 26; 1986 c 468 s 7; 1987 c 393 art 1 s 3; 1988 c 544 s 19-21*

221.292 [Repealed, 1983 c 371 s 44]

221.293 COMPLAINT, HEARING, AND ORDER.

Where any provisions of this chapter or any order adopted thereunder or any rule of the commissioner or board has been violated, the board upon complaint being filed with it or on its 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 board requiring such person to cease and desist from the violation alleged. If upon such hearing the board shall find that any of the violations alleged in the order to show cause are true, it 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.

History: 1959 c 376 s 6; 1971 c 25 s 67; 1975 c 313 s 15; 1976 c 166 s 94; 1980 c 534 s 78

221.294 [Repealed, 1983 c 371 s 44]

221.295 NOTICE TO METROPOLITAN COUNCIL.

Notwithstanding any provision of any statute to the contrary, the metropolitan council must be notified by the commissioner of any matter affecting public transit or an existing or proposed transit system within the seven-county metropolitan area, which matter is formally or informally before the commissioner or board 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. Notification must in all cases be given in a manner, at such time, and with such information and data available to the commissioner or board as to enable the metropolitan council to meaningfully evaluate, participate in, and comment upon the matter. The commissioner or board shall not approve, deny, or otherwise attempt to resolve or act upon the matter until receipt of the comments and advice of the metropolitan council with respect thereto, but if none are received they may act within 30 days after demand of the metropolitan council, or otherwise by mutual agreement. If the commissioner or board takes action in any way contrary to or different from the comments and advice of the metropolitan council, they shall specifically state the reasons and factual data for the action.

History: 1969 c 625 s 9; 1976 c 166 s 95; 1980 c 534 s 79; 1984 c 654 art 3 s 78; 1994 c 628 art 3 s 22

221.296 LOCAL CARTAGE CARRIER.

Subdivision 1. [Repealed, 1983 c 371 s 44]

Subd. 2. [Repealed, 1985 c 299 s 43]

Subd. 3. **Permit required.** No person shall operate a local cartage carrier without a permit in full force and effect with respect to the operation. The board may revoke or suspend the permit of a local cartage carrier after notice and hearing for violating a provision of this section or a rule of the board or the commissioner governing local cartage carriers. The commissioner may by order suspend or cancel the permit under section 221.185.

Subd. 4. **Petition for permit.** A person desiring to operate as a local cartage carrier shall file a petition with the commissioner specifying the service offered, the name and address of the petitioner, the names and addresses of the officers, if a corporation, and other information as the board and commissioner may require. The board, after notice to interested parties and a hearing, shall issue the permit upon compliance with laws and rules relating to it 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 the area, that the petitioners' vehicles do not meet the safety standards adopted by rule by the commissioner, or that petitioner is not fit and able to conduct the proposed operations. A permit once granted continues in full force and effect until abandoned or unless suspended or revoked, subject to compliance by the permit holder with the

applicable provisions of law and rules of the board and commissioner governing local cartage carriers.

Subd. 5. **Permit fees.** Upon filing a petition for a permit the petitioner shall pay to the commissioner as a fee for the issuance of the permit, the sum of \$150, 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. Upon issuance of the permit the commissioner shall assign the carrier a permit number, which must be painted or prominently displayed on both sides of vehicles used by the local cartage carrier under authority of the permit.

The commissioner shall issue a distinguishing annual identification card for each vehicle or power unit for which a permit has been issued. The identification card must be carried in the vehicle or power unit to which it has been assigned. An identification card may be reassigned to another vehicle or power unit upon application of the permit holder and payment of a transfer fee of \$10. An identification card issued under this section is effective only for the period for which the permit is effective.

Subd. 6. **Bond.** Local cartage carriers shall comply with the requirements of section 221.141.

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

The proposed seller and buyer of a permit, shall file a joint verified petition with the commissioner 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 board shall not make an order approving and allowing the sale unless the board finds that the buyer is fit and able to conduct the business authorized under said permit, that the vehicles the buyer proposes to use in conducting such business meet the safety standards of the commissioner, that the price paid for the purchase of the permit is not disproportionate to the reasonable value of the permit considering all assets and goodwill 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 board 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 board 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 board 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 ac-

complete 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 board within 30 days after said sale, assignment, pledge or other transfer of stock. The board 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 board 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 immediate family members.

(2) transfer to a partnership or partner consisting solely of the immediate family as defined in this paragraph.

History: 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; 1980 c 534 s 80-83; 1983 c 293 s 82; 1983 c 371 s 39-41; 1984 c 520 s.22; 1985 c 248 s 70; 1986 c 444; 1987 c 393 art 2 s 7; 1988 c 544 s 22-24

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 PIPELINE.

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.

History: 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 board authorizing such operation. Such certificate shall be issued by the board 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 certificated common carriers for hire, insofar as such provisions are not inconsistent with section 221.54 and this section.

History: 1949 c 737 s 2; 1961 c 560 s 19; 1971 c 25 s 67; 1976 c 166 s 103; 1980 c 534 s 84

INTERSTATE MOTOR CARRIER OPERATIONS

221.60 REGISTRATION OF INTERSTATE CARRIER.

Subdivision 1. **Procedure.** A motor carrier may transport persons or property for hire in interstate commerce in Minnesota only if it first:

- (1) complies with section 221.141;
- (2) either registers with the commissioner the Interstate Commerce Commission operating authority that it intends to exercise, or registers and describes the transportation it performs under an exemption contained in the Interstate Commerce Act, United States Code, title 49; and
- (3) purchases an interstate identification stamp or an interstate registration trip permit for each vehicle to be used in interstate transportation in Minnesota.

Subd. 2. **Form and fees.** A motor carrier engaged in interstate commerce shall register its interstate transportation authority or exemption before February 1 of each year on a form prescribed by the commissioner. The fee for the initial registration is \$25. The fee for each identification stamp is \$5; however, a lesser fee may be collected pursuant to a reciprocal agreement authorized by section 221.65. In addition to the fees required by this subdivision, a motor carrier shall pay a service charge of 45 cents for each stamp or card issued.

Subd. 3. **Failure to register.** Failure to register for three consecutive years cancels the carrier's registration. The commissioner must give 30-days' notice of the cancellation to the carrier at the carrier's last known address.

Subd. 3a. **Failure to maintain insurance.** If a carrier fails to maintain and file with the commissioner the insurance or bond required by section 221.141 and the rules of the commissioner, the commissioner shall suspend and cancel the carrier's interstate registration ac-

cording to the procedure in section 221.185, subdivisions 2, paragraphs (a) and (b), clause (1); and 3. If the carrier fails to comply with section 221.141 within 45 days of the date of suspension, the commissioner shall cancel the carrier's interstate registration until the carrier files and maintains insurance as required by section 221.141 and rules of the commissioner. The commissioner shall notify the carrier of the cancellation.

Subd. 4. Cab card. A carrier required to register under this section shall obtain the National Association of Regulatory Utility Commissioners cab card described in Code of Federal Regulations, title 49, section 1023.36, and affix the stamp to the cab card. A cab card bearing a current Minnesota interstate identification stamp must be carried in the cab of a vehicle operated for hire in interstate commerce in Minnesota.

Subd. 5. Temporary interstate registration. An interstate registration trip permit valid for ten days from the date of issue may be issued to a motor carrier engaged in interstate commerce that:

- (1) complies with section 221.141;
- (2) either registers its interstate operating authority or registers and describes the transportation it performs under an exemption contained in the Interstate Commerce Act, United States Code, title 49; and
- (3) pays a state fee of \$5 for each permit.

Subd. 6. Transfer of authorization document. A motor carrier engaged in interstate commerce may not transfer or sell or allow another carrier to use its interstate identification stamp, its interstate registration trip permit, or its cab card. However, a cab card and identification stamp may be transferred to a leased vehicle operated under the authority of the motor carrier to whom the cab card and identification stamp were issued.

History: 1985 c 299 s 27; 1987 c 393 art 2 s 8; 1989 c 318 s 16; 1992 c 578 s 46

221.601 AGREEMENT WITH ANOTHER STATE.

Subdivision 1. Authority. The commissioner may enter into agreements with representatives of other states to allow the cooperative registration of motor carriers transporting property or passengers for hire in interstate commerce. The agreement may authorize representatives of other states to issue interstate registration stamps and trip permits; accept the filing of insurance certificates, insurance cancellation notices, and interstate commerce commission orders; issue suspension and reinstatement orders or notices; and collect and disburse fees prescribed by this chapter. The agreement may allow the exchange of information for audit, reporting, and enforcement purposes, and the collection and disbursement of fees provided under this chapter and the laws of other states that participate in the agreement. The agreement and all amendments must be in writing. The agreement may provide for the gradual adoption of a base state registration system. It may provide that a motor carrier based in another state participating in the agreement, that has filed evidence of financial responsibility in that state that meets the requirements of this chapter and of the agreement, need not file evidence of financial responsibility with the commissioner for its interstate operations in this state.

Subd. 2. Definition. For purposes of this section, "state" means a state, the District of Columbia, or a state or province of a foreign country.

History: 1989 c 318 s 17; 1990 c 462 s 6

221.602 INTERSTATE CARRIER REGISTRATION.

Subdivision 1. Procedure; nonexempt carrier. A motor carrier subject to the jurisdiction of the Interstate Commerce Commission under United States Code, title 49, chapter 105, subchapter II, with its principal place of business in Minnesota or that designates Minnesota as its base state, may transport persons or property for hire in Minnesota only if it first complies with the insurance and registration regulations adopted by the Interstate Commerce Commission under United States Code, title 49, section 11506. The registration fee is \$5; however, a lesser fee may be collected pursuant to a reciprocal agreement authorized by section 221.65. A motor carrier shall pay a service charge of 45 cents for each registration receipt issued in addition to the fee required by this subdivision.

Subd. 2. **Procedure; exempt carrier.** (a) A motor carrier that is exempt from the jurisdiction of the Interstate Commerce Commission under the Interstate Commerce Act, United States Code, title 49, may transport persons or property for hire in interstate commerce in Minnesota only if it first:

- (1) complies with section 221.141;
- (2) registers and describes the transportation it performs under an exemption contained in the Interstate Commerce Act, United States Code, title 49; and
- (3) pays the fee required in subdivision 1.

(b) A motor carrier that complies with subdivision 1 is not also required to comply with this subdivision.

Subd. 3. **Registration period.** The registration period is that provided by the Interstate Commerce Commission in rules adopted under United States Code, title 49, section 11506.

Subd. 4. **Receipt.** On compliance with subdivision 1 or 2, the commissioner shall issue a receipt showing that the motor carrier has complied with the regulations applicable to it. Proof of registration must be kept in each of the carrier's vehicles.

History: 1993 c 117 s 28

221.605 COMPLIANCE BY CARRIER.

Subdivision 1. **Federal regulations.** (a) Interstate carriers and private carriers engaged in interstate commerce shall comply with the federal motor carrier safety regulations, Code of Federal Regulations, title 49, parts 390 to 398; with Code of Federal Regulations, title 49, part 40; and with the rules of the commissioner concerning inspections, vehicle and driver out-of-service restrictions and requirements, and vehicle, driver, and equipment checklists. For purposes of regulating commercial motor vehicles as defined in section 169.781, subdivision 1, the exemption provided in Code of Federal Regulations, title 49, section 396.11, paragraph (d), applies in Minnesota only to driveaway-towaway operations.

(b) An interstate carrier or private carrier engaged in interstate commerce who complies with federal regulations governing testing for controlled substances and alcohol is exempt from the requirements of sections 181.950 to 181.957 unless the carrier's drug testing program provides for testing for controlled substances in addition to those listed in Code of Federal Regulations, title 49, section 40.21, paragraph (a). Persons subject to this section may test for drugs, in addition to those listed in Code of Federal Regulations, title 49, section 40.21, paragraph (a), only in accordance with sections 181.950 to 181.957 and rules adopted under those sections.

Subd. 2. **Investigation, prosecution, and enforcement.** The commissioner shall investigate the operations of carriers engaged in interstate commerce in Minnesota and their compliance with federal regulations, this chapter, and the rules of the commissioner, and may institute and prosecute proceedings in the proper district court for their enforcement.

Subd. 3. **Out-of-service criteria adopted by reference.** The North American Uniform Driver, Vehicle, and Hazardous Materials Out-Of-Service Criteria developed and adopted by the federal highway administration and the commercial vehicle safety alliance are adopted in Minnesota.

History: 1988 c 544 s 25; 1990 c 563 s 9; 1991 c 333 s 36; 1992 c 578 s 47; 1996 c 377 s 7

221.61 [Repealed, 1985 c 299 s 43]

221.62 [Repealed, 1985 c 299 s 43]

221.63 [Repealed, 1985 c 299 s 43]

221.64 [Repealed, 1985 c 299 s 43]

221.65 RECIPROCAL AGREEMENT.

Nothing in this chapter 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.

History: 1963 c 399 s 5; 1971 c 25 s 67; 1976 c 166 s 108; 1985 c 299 s 28

221.66 [Repealed, 1985 c 299 s 43]

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 the carrier of the secretary of state to be the carrier's true and lawful attorney upon whom may be served all legal process in any action or proceeding brought under this chapter against the carrier or the carrier's executor, administrator, personal representative, heirs, successors or assigns. This use is a signification of agreement by the interstate motor carrier that any process in any action against the carrier or the carrier's 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 the carrier personally. Service shall be made according to section 5.25 and the plaintiff's affidavit of compliance with the provisions of this section and sections 221.60, 221.65, and 221.68 must be attached to the summons.

History: 1963 c 399 s 7; 1980 c 541 s 3; 3Sp1981 c 2 art 1 s 30; 1985 c 299 s 29; 1986 c 444; 1987 c 404 s 157; 1989 c 335 art 1 s 184; 1995 c 128 art 1 s 5

221.68 REGISTRATION VIOLATIONS; PENALTIES.

Any person who violates or procures, aids, or abets violation of, or fails to comply with, the provisions of Laws 1985, chapter 299, sections 27 to 29 or any valid order or rule of the commissioner or board 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.

History: 1963 c 399 s 8; 1971 c 25 s 67; 1976 c 166 s 110; 1980 c 534 s 85; 1985 c 299 s 30

MISCELLANEOUS

221.71 COMMUTER VAN; DRIVER LIABILITY.

Subdivision 1. **Employment relationship.** 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 the scope of employment, unless provided in writing to the contrary.

Subd. 2. **Standard of care.** 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 rules which relate exclusively to the regulation of drivers or owners of automobiles for hire or other common carriers or public transit carriers.

History: 1976 c 233 s 10; 1985 c 248 s 70; 1986 c 444

221.81 BUILDING MOVER.

Subdivision 1. **Definitions.** For the purposes of this section, the terms used in this section have the meanings given them in this subdivision.

(a) "Building mover" means a person, corporation, or other entity who raises, supports off the foundation, and moves buildings on and over public streets and highways. Building mover does not include a person who moves manufactured homes or modular homes, farmers moving their own farm buildings, or persons moving buildings which are less than 16 feet wide by 20 feet long.

(b) "Political subdivision" means a city, town, or county.

(c) "Road authority" has the meaning given it in section 160.02, subdivision 9.

Subd. 2. **License.** No person may operate as a building mover in this state unless licensed by the commissioner. The commissioner may inspect a building mover's vehicles or records to determine compliance with this section.

Subd. 3. **License application.** To obtain a license to operate as a building mover an applicant shall file an application with the commissioner specifying the name and address of its officers and other information as the commissioner may reasonably require. The commissioner shall issue the license upon compliance by the applicant with insurance requirements and payment of an initial \$150 filing fee. A license once granted continues in full force and effect, subject to a \$100 annual renewal fee and compliance with insurance requirements, unless revoked or suspended.

The commissioner, upon approval of a license for a building mover, shall issue a sufficient number of cab cards to each licensed mover to provide one cab card for each power unit used in moving buildings. The fee is \$10 for each cab card issued. The cab card must be carried at all times in a readily available place in the cab of the power unit for which it was issued. The building mover may also purchase up to five floater cab cards for a fee of \$100 for each floater card issued. Cab cards are effective for a 12-month period and continue from year to year thereafter upon payment of the required fee. Cab cards are only good for the period for which the license is effective.

Subd. 3a. **Insurance.** Each building mover shall have in effect the following:

(a) comprehensive general liability insurance including completed operations, underground property damage, and collapse coverage in the amount of at least \$500,000 for bodily injury or property damage; and

(b) motor vehicle liability insurance in the amount of at least \$500,000 for bodily injury or property damage.

The insurance must be written by an insurer licensed to do business in the state of Minnesota. Each building mover shall file with the commissioner a certificate evidencing the insurance. The insurance policy must provide that the policy may not be canceled without the insurer first giving 30 days' written notice to the commissioner of the impending cancellation.

On request of the commissioner, the insurer must furnish a duplicate original of the policy and all endorsements to the policy.

Subd. 3b. **Local permit.** A building mover may not move a building on or across a street or highway without first obtaining a permit from the road authority having jurisdiction over the street or highway. A permit for the movement of a building may not be granted to a building mover who does not possess a current license issued by the commissioner.

Subd. 3c. **Local regulation.** No license to move buildings or bond, cash deposit, or insurance coverage may be required by a political subdivision of the state other than the license and insurance coverage required by the commissioner. A road authority may charge a fee for services performed and may require a permit which reasonably regulates the hours, routing, movement, parking, or speed limit for a building mover operating on streets or highways under its jurisdiction. A building mover shall comply with the State Building Code in jurisdictions which have adopted the State Building Code, and with local ordinances which regulate the moving or removing of buildings. A building mover may not be required to pay a route approval fee to, or obtain a permit for the movement of a building on streets or highways from, a political subdivision which is not also the road authority. This section does not prohibit a political subdivision from charging a permit fee for regulation of activities which do not involve the use of public streets or highways. Neither the state nor a political subdivision may regulate rates charged by building movers.

Subd. 3d. **Identification.** (a) A building mover's name and address must be displayed on the power unit of a vehicle used to move buildings and on buildings being moved.

(b) Vehicles and buildings must show the name or "doing business as" name of the license holder operating the vehicle and the community and abbreviation of the state in which the license holder maintains its principal office or in which the vehicle is customarily based. If the building mover operates a leased vehicle, it may show its name and the name of the

lessor on the vehicle, if the lease relationship is clearly shown. If the name of a person other than the building mover appears on the vehicle, the words "operated by" must immediately precede the name of the building mover.

(c) The name and address must be in letters that contrast sharply in color with the background, be readily legible during daylight hours from a distance of 50 feet while the vehicle or building is stationary, and be maintained in a manner that retains the legibility of the markings. The name and address may be shown by use of a removable device if that device meets the identification and legibility requirements of this subdivision.

Subd. 3e. **Safety rules.** (a) A building mover must comply with the rules adopted in section 221.0314: (1) subdivision 6 for driving of motor vehicles; (2) subdivision 7 for parts and accessories necessary for the safe operation, except as provided in paragraph (b); (3) subdivision 10 for inspection, repair, and maintenance; (4) subdivision 8 for accident reporting; and, (5) on and after August 1, 1994, subdivisions 2 to 5 for driver qualifications.

(b) A towed vehicle, other than a full trailer, pole trailer, or semitrailer, as those terms are defined in Code of Federal Regulations, title 49, section 390.5, used by a building mover to move a building on a highway is not required to comply with rules for parts and accessories necessary for safe operation.

Subd. 4. **License revocation, suspension, denial.** The commissioner, after notice and a hearing, may revoke, suspend, or deny a license for:

(a) failure of the applicant or license holder to reimburse the road authority for damage to public highways, roads, streets, or utilities that are not paid for by the license holder's insurer;

(b) conduct of the applicant or license holder that endangers the health and safety of users of the public highways, roads, streets, or utilities;

(c) conduct of the applicant or license holder that obstructs traffic in a manner other than as authorized in the permit;

(d) violation of this section;

(e) failure to obtain or comply with required local moving permits or permits required by section 169.86;

(f) placing or leaving a building on property without the permission of the owner of the property or in violation of local ordinances; or

(g) abandoning a building after it is first moved under the road permit. For purposes of this subdivision, "abandon" means conduct that shows that a building mover has failed to use reasonable diligence in moving a building to the location described in the road permit.

Subd. 5. **Suspension by commissioner.** The commissioner shall suspend a license without a hearing for the following reasons:

(a) failure to pay the renewal fee; or

(b) failure to comply with insurance requirements.

The suspension continues until the fees are paid and the insurance requirements are satisfied.

Subd. 6. **Misdemeanor.** A person who violates, or aids or abets the violation of, any of the provisions of this section is guilty of a misdemeanor. Every distinct violation is a separate offense.

Subd. 7. [Repealed, 1983 c 293 s 84]

Subd. 8. [Repealed, 1983 c 293 s 84]

Subd. 9. [Repealed, 1983 c 293 s 84]

History: 1979 c 111 s 1; 1981 c 209 s 12; 1981 c 365 s 9; 1982 c 617 s 21; 1983 c 293 s 84; 1984 c 520 s 23; 1985 c 299 s 31; 1988 c 544 s 26; 1992 c 578 s 48-51; 1993 c 117 s 29

221.82 RECEIPTS CREDITED TO TRUNK HIGHWAY FUND.

Money received by the commissioner under the provisions of this chapter shall be paid into the state treasury and credited to the trunk highway fund.

History: 1983 c 293 s 85

221.83 COSTS PAID FROM TRUNK HIGHWAY FUND.

The costs of administering the provisions of this chapter shall be paid from the trunk highway fund.

History: 1983 c 293 s 86

221.84 LIMOUSINE.

Subdivision 1. **Definition.** "Limousine service" means a service that:

- (1) is not provided on a regular route;
- (2) is provided in a luxury passenger automobile that is not a van or station wagon and has a seating capacity of not more than 12 persons, excluding the driver;
- (3) provides only prearranged pickup; and
- (4) charges more than a taxicab fare for a comparable trip.

Subd. 2. **Permit required; rules.** No person may operate a for-hire limousine service without a permit from the commissioner. The commissioner shall adopt rules governing the issuance of permits for for-hire operation of limousines that include:

- (1) annual inspections of limousines;
- (2) driver qualifications, including requiring a criminal history check of drivers;
- (3) insurance requirements;
- (4) advertising regulation, including requiring a copy of the permit to be carried in the limousine and use of the words "licensed and insured";
- (5) provisions for agreements with political subdivisions for sharing enforcement costs;
- (6) issuance of temporary permits and temporary permit fees; and
- (7) other requirements deemed necessary by the commissioner.

This section does not apply to limousines operated by persons meeting the definition of private carrier in section 221.011, subdivision 26.

Subd. 3. **Administrative penalties.** The commissioner may issue an order requiring violations of statutes, rules, and local ordinances governing operation of limousines to be corrected and assessing monetary penalties up to \$1,000. The commissioner may suspend or revoke a permit for violation of applicable statutes and rules and, upon the request of a political subdivision, may immediately suspend a permit for multiple violations of local ordinances. The commissioner shall immediately suspend a permit for failure to maintain required insurance and shall not restore the permit until proof of insurance is provided. A person whose permit is revoked or suspended or who is assessed an administrative penalty may appeal the commissioner's action in a contested case proceeding under chapter 14.

Subd. 4. **Permit; decal; fees.** (a) The commissioner shall design a distinctive decal to be issued to permit holders under this section. Each decal is valid for one year from the date of issuance. No person may operate a limousine that provides limousine service unless the limousine has such a decal conspicuously displayed.

(b) During the period July 1, 1991, to June 30, 1992, the fee for each decal issued under this section is \$150. After June 30, 1992, the fee for each decal is \$80. The fee for each permit issued under this section is \$150. The commissioner shall deposit all fees under this section in the trunk highway fund.

History: 1991 c 284 s 7; 1992 c 578 s 52; 1997 c 159 art 2 s 38

221.85 PERSONAL TRANSPORTATION SERVICE.

Subdivision 1. **Permit required; rules.** No person may provide personal transportation service for hire without having obtained a personal transportation service permit from the commissioner. The commissioner shall adopt rules governing the issuance of permits and furnishing of personal transportation service. The rules must provide for:

- (1) annual inspections of vehicles;
- (2) driver qualifications including requiring a criminal history check of drivers;
- (3) insurance requirements;
- (4) advertising regulations, including requiring a copy of the permit to be carried in the personal transportation service vehicle and the use of the words "licensed and insured";

- (5) agreements with political subdivisions for sharing enforcement costs with the state;
- (6) issuance of temporary permits and fees therefor; and
- (7) other requirements the commissioner deems necessary to carry out the purposes of this section.

The rules must provide that the holder of a personal transportation service permit may not pick up passengers for hire within Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington county.

Subd. 2. Administrative penalties. The commissioner may issue an order requiring violations of law, rules, and local ordinances that govern the operation of personal transportation service vehicles to be corrected and assessing monetary penalties of up to \$1,000. The commissioner may suspend or revoke a permit for violation of applicable law and rules and, on request of a political subdivision, may immediately suspend a permit for multiple violations of local ordinances. The commissioner shall immediately suspend a permit for failure to maintain required insurance and shall not restore the permit until proof of insurance is provided. A person whose permit is revoked or suspended or who is assessed an administrative penalty may appeal the commissioner's action in a contested case proceeding under chapter 14.

Subd. 3. Permit; decal. (a) The commissioner shall design a distinctive decal to be issued to permit holders under this section. A decal is valid for one year from the date of issuance. No person may provide personal transportation service in a personal transportation service vehicle that does not conspicuously display a decal issued under this subdivision.

(b) From August 1, 1992, to June 30, 1993, the fee for each decal issued under this section is \$150. On and after July 1, 1993, the fee for each decal issued under this section is \$80. The fee for each permit issued under this section is \$150. The commissioner shall deposit all fees under this subdivision in the trunk highway fund.

History: 1992 c 578 s 53; 1993 c 323 s 4; 1994 c 635 art 1 s 19,41

221.86 PARTIAL IMMUNITY FOR MOTOR CARRIER EMPLOYER.

A motor carrier employer that discloses information in good faith about a present or former employee in response to a request pursuant to Code of Federal Regulations, title 49, section 382.413, is immune from civil liability, except in cases of knowing disclosure of false information or negligence, for the disclosure and the consequences proximately caused by the disclosure, provided that:

- (1) the employer has and observes a written testing policy and procedure which complies with federal and state laws;
- (2) the employer uses a certified laboratory and lawful test procedures;
- (3) the employer sends the information to the prospective employer who has requested the information, on a request and authorization form signed by the employee; and
- (4) the employer sends only information on the employee for whom the information was requested, that:
 - (i) shows whether or not, during the preceding two years, the employee tested 0.04 or greater alcohol concentration, tested positive on a verified test for the presence of controlled substances, or refused to be tested for alcohol or controlled substances;
 - (ii) states the dates of any tests listed in item (i); and
 - (iii) includes any and all information on confirmatory tests requested by the employee.

History: 1997 c 230 s 19