

CHAPTER 221

MOTOR CARRIERS; PIPELINE CARRIERS

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221.011 DEFINITIONS.

[For text of subs 1 to 48, see M.S.2000]

Subd. 49. **Small vehicle passenger service.** (a) "Small vehicle passenger service" means a service provided by a person engaged in the for-hire transportation of passengers in a vehicle designed to transport seven or fewer persons, including the driver.

(b) In the metropolitan area as defined in section 473.121, subdivision 2, "small vehicle passenger service" also includes for-hire transportation of persons who are certified by the metropolitan council to use special transportation service provided under section 473.386, in a vehicle designed to transport not more than 15 persons including the driver, that is equipped with a wheelchair lift and at least three wheelchair securement positions.

History: 2001 c 112 s 1

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:

(1) 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;

(2) 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;

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

(4) 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 (i) disabled or wrecked motor vehicles or (ii) vehicles towed or transported under a towing order issued by a public employee authorized to issue a towing order;

(5) the transportation of grain samples under conditions prescribed by the commissioner;

(6) the delivery of agricultural lime;

(7) 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;

(8) 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;

(9) 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;

(10) 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;

(11) 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;

(12) 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;

(13) 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;

(14) 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

(15) 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: 2001 c 213 s 30

221.031 INTRASTATE CARRIER; OPERATING REQUIREMENTS, EXEMPTIONS.

[For text of subs 1 to 3c, see M.S.2000]

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 commissioner 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.

[For text of subs 6 to 10, see M.S.2000]

History: 2001 c 213 s 30

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 commissioner, provided that this provision shall not include the right to enlarge the carrier's destination area.

History: 2001 c 213 s 30

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 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 commissioner, 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 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 commissioner 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 commissioner 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 commissioner 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 commissioner 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 commissioner may not limit the number of hauling contracts of a cooperative association.

Subd. 4. Extensions of authority. The commissioner 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 commissioner 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 commissioner may require.

The commissioner 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 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 commissioner 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 commissioner 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.

[For text of subds 6c to 7, see M.S.2000]

History: 2001 c 213 s 30

221.122 ORDER GRANTING PERMIT OR CERTIFICATE; COMPLIANCE.

Subdivision 1. **Registration, insurance, and filing requirements.** (a) An order issued by the commissioner which grants a certificate or permit must contain a service date.

(b) 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

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

[For text of subd 2, see M.S.2000]

Subd. 3. **Failure to comply.** An order of the commissioner 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: 2001 c 213 s 30

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 commissioner 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: 2001 c 213 s 30

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 commissioner 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 commissioner, 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 commissioner may make an order granting the sale or lease. Provided, however, that the commissioner 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 commissioner under this chapter or to a common carrier by rail.

Provided further that the commissioner shall make no order approving the sale or lease of a permit if the commissioner 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 commissioner 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 commissioner 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 commissioner 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 substantial 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 commissioner within 30 days after the sale, assignment, pledge, or other transfer of stock. The commissioner 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. **Ex parte transfer.** (a) The commissioner 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.

(b) 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.

(c) 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 commissioner, and their records and files. No determination of the extent of the operating authority previously exercised is required.

(d) If it appears to the commissioner 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 commissioner 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 commissioner within six months from the date of the transfer, whereupon the commissioner 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.

[For text of subd 3, see M.S.2000]

History: 2001 c 213 s 30

221.161 SCHEDULE OF RATES AND CHARGES.

[For text of subd 1, see M.S.2000]

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 commissioner by an interested party. The commissioner, 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 commissioner 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 commissioner 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 commissioner to suspend it from taking effect until opportunity is had for a hearing on the reasonableness of the rates or charges, and the commissioner 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 commissioner shall include in 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 commissioner, (1) after a suspension and hearing upon a schedule of rates and charges, or upon complaint, or upon the commissioner's 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 commissioner 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 commissioner except as provided in subdivisions 2 and 3.

History: 2001 c 213 s 30

221.165 COLLECTIVE RATEMAKING.

In order to ensure nondiscriminatory rates and charges for shippers and receivers, the commissioner 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 commissioner for the establishment of a rate or charge deviating from the collectively set rate. Upon receiving the commissioner's 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: 2001 c 213 s 30

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 commissioner 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 commissioner.

[For text of subd 2, see M.S.2000]

History: 2001 c 213 s 30

221.185 OPERATING AUTHORITY; SUSPENSION, CANCELLATION.

[For text of subd 1, see M.S.2000]

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 221.131 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 commissioner regarding the failure to comply with the law.

[For text of subs 2a and 3, see M.S.2000]

Subd. 3a. Hearing. If the motor carrier requests a hearing within 45 days after the date of suspension, the commissioner 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 commissioner shall cancel the carrier's suspended permit or certificate.

[For text of subs 4 to 9, see M.S.2000]

History: 2001 c 213 s 30

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 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 of transportation and the commissioner of revenue, 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 and 221.171 and the rules, orders, or directives of the commissioner 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 and 221.171.

[For text of subd 4, see M.S.2000]

History: 2001 c 213 s 30

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 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: 2001 c 213 s 30

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 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: 2001 c 213 s 30

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 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.

[For text of subd 2, see M.S.2000]

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 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.

[For text of subd 4, see M.S.2000]

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 commissioner, 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: 2001 c 213 s 30

221.293 COMPLAINT, HEARING, AND ORDER.

Where any provisions of this chapter or any order adopted thereunder or any rule of the commissioner has been violated, the commissioner upon complaint being filed or on the commissioner's own motion, may issue and serve upon the person engaged in such violation, a complaint stating the charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed at least ten days after the service of the complaint and notice requiring the person so complained of to appear at the time and place fixed in the notice of hearing and show cause why an order should not be entered by the commissioner requiring such person to cease and desist from the violation alleged. If upon such hearing the commissioner shall find that any of the

violations alleged in the order to show cause are true, 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: 2001 c 213 s 30

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 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 as to enable the metropolitan council to meaningfully evaluate, participate in, and comment upon the matter. The commissioner 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 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: 2001 c 213 s 30

221.296 LOCAL CARTAGE CARRIER.

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 commissioner 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 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 commissioner may require. The commissioner, 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 commissioner governing local cartage carriers.

[For text of subs 5 to 7, see M.S.2000]

Subd. 8. **Permit transferable.** (a) Permits, issued under the provisions of this section may be transferred but only upon the order of the commissioner approving same after notice and hearing.

(b) 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.

(c) After notice to interested parties and a hearing the commissioner shall not make an order approving and allowing the sale unless the commissioner 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 commissioner 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 commissioner 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 commissioner within 30 days of such agreement.

(d) If any authority to operate as a local cartage carrier, is held by a corporation, any sale, assignment, pledge or other transfer of such stock interest in the corporation which will accomplish a substantial or material change or transfer of the majority ownership of said corporation, as exercised through its stockholders, shall be reported in the manner prescribed by the rules of the commissioner within 30 days after said sale, assignment, pledge or other transfer of stock. The commissioner 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.

(e) The commissioner 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: 2001 c 213 s 30

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 commissioner authorizing such operation. Such certificate shall be issued by the commissioner pursuant to application, notice, and hearing, and the issuance of certificates and the transportation covered thereby shall be governed by the provisions of section 221.031, applying to certificated common carriers for hire, insofar as such provisions are not inconsistent with section 221.54 and this section.

History: 2001 c 213 s 30

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 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: 2001 c 213 s 30