

SECTION 255a. The revision of chapter 203 of the statutes made in 1933 shall not obligate or require any company to discontinue, prior to 1935, the use of standard fire insurance policy forms which it had in stock and the use of which was lawful at the time of the passage of this revision act provided that all loss settlements be made according to the terms and provisions of the insurance laws of the state.

SECTION 256. This act shall take effect on September 1, 1933.  
Approved July 25, 1933.

No. 940, A.]

[Published August 2, 1933.]

### CHAPTER 488.

AN ACT to repeal section 76.54 and sections 194.01 to 194.16; to amend subsections (5) and (6) of section 20.51; and to create new sections of the statutes to be numbered 194.01 to 194.46 and 76.54, relating to the regulation of common motor carriers of property or passengers, contract motor carriers and private motor carriers, imposing a tax thereon, providing a penalty and making an appropriation.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. Section 76.54 and sections 194.01 to 194.16 of the statutes are repealed.

SECTION 2. Subsection (5) (created by chapter 5, laws of special session 1931-1932) and subsection (6) of section 20.51 of the statutes are amended to read: (20.51) (5) All moneys collected under the provisions of \* \* \* *section 194.04* to be used for carrying out the provisions of chapter 194 \* \* \* and *section 76.54*.

(6) Annually, such sums as may be necessary for the administration of \* \* \* *chapter 194 and section 76.54*.

SECTION 3. Forty-seven new sections are added to the statutes to be numbered and to read: 194.01 DEFINITIONS. In this chapter, unless the context otherwise requires:

(1) "Motor vehicle" means any automobile, truck, trailer, semitrailer, tractor, motor bus, or any self-propelled or motor driven vehicle, except a motorcycle or a motor vehicle operated on rails, or trackless trolley car, used upon any public highway of this state for the purpose of transporting persons or property.

(2) "Public highway" means every public street, alley, road, highway or thoroughfare of any kind, except waterways, used by the public.

(3) "Commission" means the public service commission of Wisconsin.

(4) "Person" means and includes any individual, firm, co-partnership, corporation, company, association, including express and forwarding companies or agencies and electric or steam railroad companies, or their lessees, trustees or receivers.

(5) "Common motor carrier of property" means any person who holds himself out to the public as willing to undertake for hire to transport the property of others by motor vehicle between fixed termini or over a regular route upon the public highways, excepting persons engaged exclusively in the transportation of milk from the farm.

(6) "Common motor carrier of passengers" means any person who holds himself out to the public as willing to undertake for hire to transport persons by motor vehicle between fixed termini or over a regular route upon the public highways.

(7) "Between fixed termini or over a regular route" means the termini or route between or over which any common motor carrier of passengers or property usually or ordinarily operates any motor vehicle, even though there may be periodical or irregular departures from such termini or route. Fixed termini shall mean incorporated or unincorporated municipalities in this state or the boundary lines of this state.

(8) "Urban busses" means busses of a common motor carrier of persons operated exclusively within one incorporated municipality or between contiguous incorporated municipalities; "interurban busses" means all busses not defined as urban busses.

(9) "Certificate" means a certificate issued by the commission to a common motor carrier of property or a common motor carrier of passengers authorizing operation under this chapter.

(10) "Common carrier permit" means a permit issued by the commission to authorize a specific motor vehicle to be operated under a certificate or certificates.

(11) "Contract motor carrier" means any person engaged in the transportation by motor vehicle of property for hire and not included in the term "common motor carrier of property".

(12) "License" means a license issued by the commission to a contract motor carrier authorizing operation under this chapter.

(13) "Contract carrier permit" means a permit issued by the commission to authorize a specific motor vehicle to be operated under a license or licenses.

(14) "Private motor carrier" means any person engaged in the transportation of property by motor vehicle other than an automobile or two-wheeled trailer while used therewith, upon the public highways, and not included in the term "common motor carrier of property" or "contract motor carrier of property".

(15) "Private carrier permit" means a permit issued by the commission to a private motor carrier authorizing him to operate a specific motor vehicle under this chapter.

(16) The term "gross weight" when applied in this section to a motor vehicle of a common or contract motor carrier of property or a private motor carrier shall mean the actual weight of such motor vehicle unloaded plus the licensed carrying capacity of such motor vehicle. Any alteration in a motor vehicle operated under the provisions of chapter 194 and this section, for the purpose of increasing its capacity shall be reported to the commission, and the commission may in such cases determine the capacity, which, plus the actual weight of such motor vehicle unloaded, as altered shall apply for the purpose of determining the gross weight of such motor vehicle.

(17) The term "gross weight" when applied in this section to a motor vehicle of a common motor carrier of passengers shall mean the actual weight of such motor vehicle unloaded plus the amount arrived at in pounds by multiplying one hundred and fifty by the number of passengers, including the driver, capable of being seated in such motor vehicle.

(18) The term "municipality" means a township, or an incorporated village or city. "Contiguous" means abutting to the municipality in which is located the principal place of business of the person to whom a motor vehicle is permitted.

194.02 LEGISLATIVE INTENT. It is hereby declared to be the purpose and policy of the legislature in enacting chapter 194 and section 76.54 to confer upon the commission the power and authority and to make it its duty to supervise and regulate the transportation of persons and property by motor vehicles upon or over the public highways of this state in all matters, whether specifically mentioned herein or not, so as to:

(a) Relieve the existing and all future undue burdens on the highways arising by reason of the use of the highways by motor vehicles.

(b) Protect the safety and welfare of the traveling and shipping public in their use of the highways; and

(c) Carefully preserve, foster and regulate transportation and permit the co-ordination of transportation facilities.

194.03 INTERSTATE COMMERCE. (1) Interstate common motor carriers of persons or property shall be subject to all of the provisions of this act to the extent that the same is an exercise of the police power of the state and particularly in the following respects:

(a) As to highways and routes over which said carrier may operate and the schedules thereof, so as to prevent congestion on such highways.

(b) Provisions relating to requirements as to obtaining a certificate and permits for vehicles operated on the public highways of this state, having special regard to the number of vehicles operated and the congestion of the highways.

(c) Public liability insurance relating to passengers and property on the highways of the state, and the provisions relating to insurance for passengers and property whose destination or whose point of origin is within the state of Wisconsin.

(d) Provisions relating to cargo insurance for property whose point of origin or destination is within the state of Wisconsin to the extent that the same is related to the public highways in Wisconsin.

(e) Provisions relating to section 76.54.

(f) Provisions relating to application and permit fees.

(g) Provisions of this act regarding the supervision and regulation of such carriers and matters relating to hours of labor of drivers.

(h) Provisions with respect to inspection of premises or vehicles shall also apply to interstate common motor carriers of property and persons.

(i) Provisions for inspectors for reporting violations.

(j) Provisions for review; rehearing.

(k) Provisions for procedure.

(l) Provisions for enforcement.

(m) Provisions for penalties.

(2) The provisions herein specifically made applicable to interstate common motor carriers of persons or property shall apply with respect to interstate operations only, and in the event such carrier engages in intrastate business, full compliance with the provisions of this act shall be necessary with respect to such intrastate business, and such permits and certificates issued to such interstate carriers with respect to interstate business shall not be deemed to be an authorization or consent to engage in intrastate business without full compliance with the provisions of this act and vice versa. Said certificates and permits issued to interstate common carriers shall be appropriately designated as may be provided by the commission, so as to show and provide that the same applies only to interstate business by such carriers.

(3) Interstate contract motor carriers shall be subject to the same provisions of this chapter as hereinbefore provided for with respect to interstate common motor carriers of persons or property.

(4) Interstate private motor carriers shall be subject to the provisions of this chapter only to the extent that the same applies to private motor carriers licensed within the state respecting use of certain highways to prevent congestion, hours of labor of operators thereof, and provisions of section 76.54. Interstate private motor carriers shall also obtain the permits provided for herein with respect to motor vehicles. A single use of the Wisconsin highways by a private motor carrier shall not be subject to the provisions of this section as to obtaining a permit for the use of the highways. The provisions of this chapter shall apply to interstate private motor carriers operating in or through the state more than one round trip in any one year.

(5) It shall be a condition of the continuance of certificates, licenses, and permits to such interstate carriers for interstate business or intrastate business that they shall also pay a gasoline tax at the regular rate provided for to the extent that such carriers use gasoline for operation on the public highways in the state of Wisconsin.

194.04 CERTIFICATES; LICENSES; PERMITS (1) AUTHORITY TO OPERATE. (a) Every common motor carrier of persons or property must obtain a certificate, every contract motor carrier must obtain a license and pay the fees for such certificate or license as required by this chapter. Every common motor carrier of property or passengers and every contract

motor carrier and every private motor carrier must also obtain the permits for motor vehicles required by this chapter, and pay the fees therefor.

(b) Every application for a certificate by a common motor carrier of passengers or property shall be accompanied by a filing fee of twenty-five dollars. Every application by a common motor carrier of passengers or property for an amendment to a certificate which shall involve either abandoning service at one or more cities or villages, incorporated or unincorporated, authorized to be served under the certificate sought to be amended or establish service at one or more cities or villages, incorporated or unincorporated, not authorized to be served under such certificate may be made as are applications for certificates, and may be granted in the same manner as provided for certificates. Every application for such an amendment to a certificate shall be accompanied by a filing fee of twenty-five dollars.

(ba) Every application for authorization to abandon service under a complete certificate shall be accompanied by a filing fee of twenty-five dollars.

(bc) All applications for certificates shall also be accompanied by the permit fees as required in subsection (4) of this section. If the application for a certificate shall be denied, the permit fees deposited therewith shall be returned to the applicant.

(bd) On or before the first day of January of each year each holder of a certificate shall also pay to the commission an annual fee as provided in this section for each motor vehicle permit whose renewal is desired. The fees provided for in this section shall be paid into the state treasury and are reappropriated as in subsection (5) of section 20.51.

(c) Every application for a license by a contract motor carrier shall be accompanied by a filing fee of fifteen dollars.

(ca) All applications for licenses shall also be accompanied by the permit fees as required in subsection (4) of this section. If the application for a license shall be denied, the permit fees deposited therewith shall be returned to the applicant.

(cb) On or before the first day of January of each year each holder of a license shall also pay to the commission an annual permit fee as provided in this section for each motor vehicle whose renewal is desired. The fees provided for in this section shall be paid into the state treasury and are reappropriated as provided in subsection (5) of section 20.51.

(d) Applications for a private motor carrier permit for every vehicle shall be accompanied by the permit fee, but there shall be no additional filing fee required therewith.

(e) No application for a certificate to operate as a common motor carrier shall be granted by the commission to any person operating as a contract motor carrier and holding a license as such, except upon a finding of public convenience and necessity.

(f) No application for a license to operate as a contract motor carrier shall be granted by the commission to any person operating as a common motor carrier and holding a certificate as such, except upon a finding of public convenience and necessity.

(g) A common motor carrier of property shall be permitted to engage in pick-up and delivery service within any municipality included in its certificate, setting forth the fixed termini between which it is permitted to operate; pick-up and delivery service means the picking up or delivering of property transported or to be transported between the fixed termini for which it is permitted to operate.

(2) MOTOR VEHICLE PERMITS. Every permit for the operation of a motor vehicle by a common motor carrier of passengers shall expire on December thirty-first of each year. Every permit for the operation of a motor vehicle by a common motor carrier of property, a contract motor carrier or a private motor carrier shall expire on December thirty-first of each year. Such permits shall be renewed annually. Each application for a permit shall be accompanied by the fee, which shall be the annual fee reduced by one-twelfth for each month of the permit year in which the vehicle has not been operated, except that there shall be no reduction of the fees paid by private motor carriers as provided in this act. The full yearly fee shall be paid on all renewals. No permit shall be issued or renewed for any motor vehicle unless the registration required by section 85.01 shall be paid in this state.

(3) PERMITS; RESTRICTION OF USE. No motor vehicle permit issued under the provisions of this chapter shall be transferable from one motor vehicle to another. A permitted motor vehicle may be used under two or more certificates when the certificates are held by one common motor carrier of property or of persons, or under two or more licenses when licenses are held by one contract motor carrier of property, except motor vehicles excepted from the provisions of section 76.54.

(4) ANNUAL PERMIT FEES. The annual permit fees required for motor vehicles operated under this chapter shall be as follows:

(a) Motor vehicles operated by common motor carriers of passengers, twenty dollars.

(b) Motor vehicles operated by common motor carriers of property, twenty dollars.

(c) Motor vehicles operated by contract motor carriers, ten dollars.

(d) Motor vehicles operated by private motor carriers, having a gross weight less than eight thousand pounds, one dollar.

(e) Motor vehicles operated by private motor carriers, having a gross weight of eight thousand pounds or over, two dollars.

(f) The receipt showing payment of said permit fee by said private motor carrier shall be credited to the motor truck registration license fee required by section 85.01 of the statutes for said motor vehicle covered thereby, and said fee required by said section 85.01 shall be reduced by said amount for which said receipt is shown with relation to motor vehicles for which said fee herein provided for has been paid.

194.05 EXEMPTION. (1) Neither this chapter nor section 76.54 shall apply to motor vehicle or vehicles owned or operated by the United States, any state, or any political subdivision thereof.

(2) The provisions of this act shall not authorize the fixing of any rates, charges, or regulations respecting the transportation of United States mails.

194.06 PUBLIC INTEREST. The business of all common motor carriers of property or of passengers and of contract motor carriers is hereby declared to be affected with a public interest.

194.07 OPERATIONS SUBJECT TO LAW. No common motor carrier of property or of passengers or contract motor carrier or private motor carrier shall operate any motor vehicle for the transportation of either persons or property on any public highway in this state except in accordance with the provisions of this chapter and section 76.54.

194.08 NO INTERFERENCE WITH POWERS OF HIGHWAY COMMISSION OR OF CITIES OR VILLAGES. None of the provisions of this chapter shall be deemed to deprive the state highway commission or any city or village of any jurisdiction they now have or which may hereafter be conferred upon them over the public highways of the state, nor pre-

vent said highway commission or any city or village from suspending at any time the right of common motor carriers of property or of passengers, contract motor carriers or private motor carriers to operate motor vehicles over any public highway when necessary for the proper preservation or policing of the same.

194.09 MARKING OF PERMITTED VEHICLES. Each motor vehicle for which a common carrier permit, a contract carrier permit or a private carrier permit is issued, shall be plainly marked in such manner as the commission may prescribe, so as to identify such motor vehicle as being operated under such a permit.

194.10 NONRESIDENT CARRIERS; APPOINTMENT OF AGENT. If any common motor carrier of property or of passengers, any contract motor carrier, or any private motor carrier, subject to the provisions of this chapter, be a nonresident of this state, he shall, prior to operating under the provisions of this chapter, appoint an agent in this state upon whom process in any or all legal proceedings, arising out of its operation within this state or under the provisions of this act, may be served and shall forthwith notify the commission of such appointment and of the name and address of such agent, and such nonresident person shall, so long as he continues to operate in this state, maintain such an agent. Unless such an agent is appointed by the time the certificate, license or permit is issued, authorizing such nonresident person to operate in this state under the provisions of this chapter, or if at any time thereafter, so long as such nonresident person shall continue to operate in this state under the provisions of this chapter, he shall not maintain such an agent in this state, such nonresident person shall be deemed to have authorized the secretary of the commission to act as his agent for the service of process in such legal proceedings above set forth. In cases where the secretary of the commission is so designated such secretary shall upon being served with process as the agent of such nonresident person, forthwith notify such person of such service by mailing to him the papers served upon the secretary as such agent.

194.11 INSPECTION OF PREMISES OR VEHICLES. The commission, or its duly authorized agents may at any time enter upon any premises within this state occupied by any common motor carrier of property or passengers, any contract motor carrier or any private motor carriers, or any motor vehicle of a common motor carrier, contract motor carrier or a private motor

carrier, or may stop any such motor vehicle upon the public highways for the purpose of exercising any power provided for in this chapter or in section 76.54.

**194.12 INSPECTORS FOR REPORTING VIOLATIONS.** It shall be the duty of the commission to enforce the provisions of this chapter and of section 76.54, and to that end it may appoint agents or inspectors to make investigations and to report to the commission violations of this chapter or of section 76.54. Such agents or inspectors shall be charged with the duty of detecting violations of this act, and making complaints to secure the punishment provided for such violations. Such agents or inspectors in the discharge of their duties shall have the power of sheriffs, and shall have full authority to enter any place where motor vehicles subject to this chapter or section 76.54 are stored or parked, or to stop such motor vehicle while en route at any time, to examine the same, and may make arrests for all violations of this chapter and chapter 85. It shall be the duty of all justices of the peace, judges, district attorneys, and peace officers charged with enforcing the provisions of this act to assist in the enforcement of this chapter.

**194.13 REVIEW ; REHEARING.** The provisions of chapter 196 with respect to rehearing and the right to and procedure of appeal from and review of any order or determination of the commission shall apply to any order or determination of the commission made pursuant to the provisions of this chapter.

**194.14 EXISTING LAW APPLICABLE TO PROCEDURE.** In exercising the powers conferred by this chapter or by section 76.54, the commission shall be guided as to the procedure by the provisions of chapters 195 and 196 in so far as the same are applicable and not inconsistent with the specific requirements of this chapter or of section 76.54.

**194.15 ENFORCEMENT BY ATTORNEY-GENERAL AND DISTRICT ATTORNEYS.** Upon request of the commission, the attorney-general or the district attorney of the proper county shall aid in any investigation, hearing or trial had under the provisions of this chapter or of section 76.54, and shall institute and prosecute all necessary actions or proceedings for the enforcement of such provisions and for the punishment of violations of the same, and the attorney-general may upon request of the commission appoint a qualified attorney employed by the commis-

sion as an assistant attorney-general to assist in the performance of the duties imposed upon him by this section 195.07.

**194.16 OPERATION WHILE DELINQUENT UNLAWFUL.** It shall be unlawful for any common motor carrier of property or of passengers, any contract motor carrier or any private motor carrier to operate any motor vehicle under any common carrier permit, contract carrier permit or private carrier permit issued pursuant to this chapter and section 76.54, while delinquent in the payment of any part of the mileage or flat taxes due under said section or of interest due thereon.

**194.17 PENALTIES.** Every common motor carrier of property or of passengers, every contract motor carrier and every private motor carrier to which this chapter applies, and every person who shall violate any provision of this chapter or who shall do any act prohibited thereby, or shall fail or refuse to perform any duty enjoined upon him therein, or who shall fail, neglect or refuse to obey any lawful requirement or order made by the commission under the provisions of this chapter, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail for not exceeding sixty days, or by both such fine and imprisonment. Each day during which such a violation continues shall constitute a separate offense. In construing and enforcing the provisions of this section, the act, omission or failure of any officer, agent or servant or other person acting for or employed by any common motor carrier of property or of passengers, any contract motor carrier or any private motor carrier, done within the scope of his employment shall be deemed to be the act, omission, or failure of such common motor carrier of property or of passengers, contract motor carrier or private motor carrier.

**194.18 COMMON MOTOR CARRIER; REGULATION BY COMMISSION; POWERS; DUTIES.** The commission is vested with power and authority and it shall be its duty:

(1) To supervise and regulate all common motor carriers of property or passengers as defined in section 194.01.

(2) To designate from time to time the public highways as routes over which said common motor carriers may or may not operate, and to designate the time that such vehicles shall or shall not be operated thereon, so as to prevent congestion which shall affect the safety of persons or property upon such public high-

ways. Said commission may also determine whether the granting of additional certificates to common carriers on any highway will cause any congestion, so as to affect the safety of persons and property upon such public highway by the additional use thereof by such persons seeking such additional common carrier certificates, and such a finding by the commission shall be grounds for the denial of such certificates or permits, with respect to such highway or any portion thereof.

(3) To fix, alter, regulate and determine just, fair, reasonable and sufficient rates, fares, charges and classifications for such common motor carriers.

(4) To regulate the facilities, accounts, service and safety of operations of each such common motor carrier.

(5) To regulate the operating and time schedules and routes of such common motor carriers so as to meet the needs of any community, insure adequate transportation service to the territory traversed by such common motor carriers, and prevent unnecessary duplication of service between such common motor carriers or between them and the lines of competing steam and electric railroads.

(6) To require the co-ordination of service and schedules of common motor carriers of property or passengers and electric or steam railroads.

(7) To require the filing of annual and other reports, tariffs, schedules and other data by such common motor carriers.

(8) To prescribe rules and regulations as to the hours of labor of drivers of motor vehicles operated under common motor carrier permits.

(9) To supervise and regulate such common motor carriers in all matters affecting their relationship with the public and with other common carriers and with each other, to the end that the provisions of this chapter and section 76.54 may be fully and completely carried out. The commission shall have power and authority, by general order or otherwise, to prescribe rules and regulations in conformity with this chapter and section 76.54 applicable to any and all such common motor carriers and to do all things necessary to carry out and enforce the provisions of this chapter and of section 76.54.

194.19 CHARGES AND RATES TO BE REASONABLE.  
All rates, fares and charges made by any common motor carrier of property or passengers shall be just and reasonable, and shall

not be unjustly discriminatory, prejudicial or preferential; and every unreasonable, unjust or unjustly discriminatory, prejudicial or preferential rate, fare or charge is hereby prohibited. No such carrier shall charge, demand, collect or receive a greater or less or different remuneration for the transportation of passengers or property, or for any service in connection therewith, from the rates, fares and charges which have been legally established and filed with the commission; nor shall any such carrier refund or remit in any manner or by any device any portion of the rates, fares, or charges required to be collected by the tariffs lawfully on file with the commission.

194.20 RATES FOR INTERCHANGE TRAFFIC. All rates for interchange traffic shall be within the control, regulation and order of the commission in like manner as other rate matters.

194.21 REFUNDS OF EXCESSIVE CHARGES. (1) It shall be unlawful for any person, firm or corporation knowingly to accept or receive any rebate, concession or discrimination in respect to transportation of property wholly within this state, or for any service in connection therewith, whereby any such property shall, by any device whatsoever, be transported at a less rate than that named in the tariffs in force applicable to the motor carriers transporting said property, or whereby any service or advantage is received other than is therein specified. Any person, firm or corporation violating the provisions of this section shall be fined not less than fifty dollars nor more than one thousand dollars for each offense or by imprisonment in the county jail for not to exceed six months or both such fine and imprisonment.

(2) The commission shall have power to require common motor carriers of property to refund any over or excessive charges paid to them for the transportation of property in the manner provided for railroad companies and express companies in section 195.38.

194.22 CHANGES IN TARIFF SCHEDULES TO BE APPROVED. No change shall be made by any common motor carrier of property or passengers in any tariff schedule or in any classification, unless such change shall be first approved by the commission and all such changes shall be plainly indicated upon existing tariff schedules, or by filing new tariff schedules in lieu thereof, thirty days prior to the time the same are to take effect; provided, that the commission may authorize the filing of such tariff schedules on shorter notice in particular cases.

194.23 CERTIFICATE REQUIRED; HEARING; CONDITIONS. (1) It shall be unlawful for any common motor carrier of property or of passengers to operate a motor vehicle upon the public highways within or through this state without first having obtained from the commission a certificate. The commission, upon the filing of an application for a certificate, shall fix a time and place for hearing thereon, which shall not be less than fifteen days after such filing. The commission shall cause notice of such hearing to be mailed at least ten days before the hearing to an officer or owner of every common motor carrier that is operating a similar service or has applied for a certificate to operate a similar service in the territory to be served by the applicant, to each contract motor carrier and to each common carrier by steam or electric railroad serving all or any part of said territory, to the clerk of each city and village in the territory proposed to be served by the applicant, and to such other parties as the commission may deem advisable, and any party in interest may introduce evidence at such hearing. The commission shall have power, as the public interest may require, upon a finding of public convenience and necessity, to issue or refuse any such certificate or to issue it for the partial exercise only of the privilege sought. The commission may attach to the exercise of the privilege granted by such certificate such terms and conditions as in its judgment the public interest may require and is permitted under this chapter. Before granting a certificate to a common motor carrier, the commission shall take into consideration existing transportation facilities in the territory for which a certificate is sought, including contract motor carriers and steam and electric railway transportation.

(2) Every certificate shall specify the route or routes and the fixed termini thereof over which the common motor carrier is authorized thereby to operate, and no common motor carrier shall operate on any route or routes or beyond the fixed termini not specifically shown on its certificates except when necessary to detour on account of temporary suspension of highway traffic on such route or routes by public authority.

(3) In any case where a certificate has been denied for the reason that the existing transportation service is reasonably adequate, no application for a similar certificate shall be accepted by the commission within one year after such denial, unless it contains a statement under oath showing that the existing transporta-

tion service has been reduced or otherwise impaired, or that public convenience and necessity so requires.

(4) The commission shall make its finding and issue its order on any application within sixty days after completion of the hearing on said petition. In the event of the failure to so make its finding and issue its order, said petition shall be deemed to be granted except in cases where the applicant has in writing agreed after the hearing to a further extension of time provided to make its finding and to issue its order.

(5) Any common motor carrier of property or of passengers who shall be lawfully operating in this state at the time of the taking effect of this chapter, under the provisions of chapter 194 of the statutes of 1931 and who shall not be in default of any of the provisions of section 76.54 of the statutes of 1931, and who shall within sixty days thereafter file with the commission application for a certificate as herein provided for, and who shall otherwise comply with the provisions of this act, may continue to operate under existing certificate or certificates until such time as the commission can issue a new certificate as provided for herein. A new certificate shall be issued without additional application or permit fees for the route or routes with the fixed termini set forth in the existing certificate or certificates and for the motor vehicles therein permitted, so that such common motor carriers to whom certificates have been issued under chapter 194 of the statutes of 1931 at the time of the taking effect of this chapter, shall be entitled to certificates under the provisions of this chapter without payment of the new application fee or duplicate permit fee, but shall in all other respects be subject to the provisions of this chapter and section 76.54 and to the orders, rules and regulations of the commission relating to common motor carriers of property or of passengers.

194.24 APPLICATION; FORM. Applications for certificates and motor vehicle permits shall be verified and made in writing, and shall contain such information and be in such form as the commission may require.

194.25 NATURE OF CERTIFICATE; ASSIGNABILITY.

(1) No certificate issued in accordance with the provisions of this chapter shall be construed to be irrevocable, or to confer any property right upon the holder thereof.

(2) No right, privilege or certificate held, owned or obtained by any common motor carrier of property or of passengers under

the provisions of this chapter shall be sold, assigned, leased, transferred or mortgaged either by voluntary or involuntary action, except after hearing and a finding by the commission that the same is not against public convenience and necessity and otherwise is not against the public interest.

194.26 DISCONTINUANCE OF SERVICE SUBJECT TO APPROVAL. No common motor carrier of property or of passengers authorized by this chapter to operate shall abandon or discontinue any service established under the provisions of this chapter without an order of the commission, except temporary suspensions due to road conditions or where ordered by the state or local highway authorities.

194.27 SUSPENSION, REVOCATION OR AMENDMENT OF CERTIFICATE. The commission may at any time, by its order duly entered, after a hearing had upon notice to the holder of any certificate hereunder, suspend, revoke, alter or amend such certificate or suspend or revoke any common carrier permit authorizing operation of a motor vehicle under such certificate, if the commission shall find that such holder has wilfully violated or refused to comply with any of the provisions of this chapter or of section 76.54, or of any of the orders, rules and regulations of the commission made in conformity with this chapter or section 76.54.

194.28 REPORTS; TIME FOR FILING. Prior to the first day of February of each year, unless the time therefor is extended by the commission for cause, the holder of every certificate shall file with the commission a report upon such forms as the commission shall prescribe and furnish. Such reports shall be under oath and, if made on behalf of a corporation, shall be sworn to by the president and secretary thereof, and shall contain such information as to the operation of motor vehicles under the certificate and the furnishing of service, and such financial statements and other information as the commission may prescribe. If such report is not filed with the commission by the holder of any certificate on or before the date hereinbefore named, the certificate and all common motor carrier permits thereunder shall immediately thereupon become null and void; provided, however, that the commission may by order extend the time for the filing thereof and may in its discretion at any time within thirty days next following accept such report if failure to file same has been for good cause, or the result of inadvertence or excusable neglect

and if all taxes and fees due are paid. The acceptance of such report by the commission within the time provided shall operate to continue in effect the validity of the certificate and the common motor carrier permits issued thereunder.

194.29 SERVICE TO BE REASONABLE. Every common motor carrier of property or of passengers shall furnish reasonable, safe, and adequate service and facilities.

194.30 ACCOUNTING SYSTEM MAY BE ESTABLISHED. The commission may, if it deems advisable, establish a system of accounts to be kept by common motor carriers of property or of passengers, and may classify such common motor carriers and establish a system of accounts for each class, and prescribe the manner in which such accounts shall be kept.

194.31 INSPECTION OF RECORDS. The commission, or any commissioner, or any person employed by the commission, shall, upon demand, have the right to inspect the books and papers of any common motor carrier of property or of passengers and to examine under oath any officer, agent or employe of such carrier in relation to its business and affairs; provided that any person other than one of said commissioners who shall make such demand shall produce his authority under the hand and seal of the commission.

194.32 TRAILERS EXCLUDED; SIZE LIMITATIONS. No common motor carrier of passengers shall operate any passenger carrying bus over any public highway of this state with any trailer or semitrailer attached. No interurban motor bus which shall exceed thirty-three feet in length or eight feet in width or is double-decked shall be operated upon the public highways under the authority of a common carrier permit.

194.33 MUNICIPAL CONSENT. No common motor carrier of property or of passengers shall operate any motor vehicle within or through any city or village except in compliance with action taken by such municipality in relation to such streets and routes. No action by any city or village under this section shall be subject to review by the commission. Provided that no carrier operating under this chapter shall be denied the right to operate in any such municipality over any federal or state trunk highway upon payment of such license tax not exceeding the maximum specified in subsection (17) of section 76.54 as the municipality may prescribe.

194.34 CONTRACT MOTOR CARRIERS; LICENSE; APPLICATION AND HEARING. (1) It shall be unlawful for any contract motor carrier to operate a motor vehicle upon the public highways within or through this state without first having obtained from the commission a license. The commission, upon the filing of an application for such license, shall fix a time and place for hearing thereon, which shall not be less than fifteen days after such filing. The commission shall cause notice of such hearing to be mailed at least ten days before the hearing to an officer or owner of every contract motor carrier that is operating a similar service or has applied for a certificate to operate a similar service in the territory proposed to be served by the applicant, and to each common motor carrier, and to each common carrier by steam or electric railroad serving all or any part of said territory, and to such other parties as the commission may deem advisable, and any party in interest may introduce evidence at such hearing. The commission shall have power as the public interest may require, upon a finding of public convenience and necessity, to grant or deny the license prayed for or to grant it for the partial exercise only of the privilege sought, and may attach to the exercise of the privilege granted by such license such terms and conditions as in its judgment the public interests may require and as is permitted under this chapter. Before granting a license to a contract motor carrier, except under subsection (2) hereof, the commission shall take into consideration existing transportation facilities in the territory for which a license is sought, including common motor carriers and steam and electric railway transportation.

(2) Any contract motor carrier which shall be lawfully operating in this state under the provisions of chapter 194 and who shall not be in default of any of the provisions of section 76.54 of the statutes of 1931 at the time of the taking effect of this chapter, and which shall within sixty days thereafter file with the commission application for a license, showing the contracts then outstanding and the vehicles then in use, as herein provided for, and upon full compliance with the provisions of this chapter and section 76.54 shall be issued the license herein provided for as on a finding of public convenience and necessity. All motor vehicles on which the permit fee has been paid for the year 1933 under the provisions of chapter 194 of the statutes of 1931 shall be exempted from the payment of the permit fee herein provided

for the year 1933, but thereafter the permit fee shall be as provided for under the provisions of this section.

(3) Each such application for license shall set forth the municipalities in which and the municipalities between which said applicant on the date of the taking effect of this chapter shall have bona fide contracts for the transportation of property, and the license issued on such application shall set forth the municipalities in which and the municipalities between which such applicant is found to have bona fide contracts on the date of the taking effect of this chapter, and such license shall be limited to such municipalities in which and the usual routes between which such contract carriers have served on such date, together with a statement showing the vehicles being used in such municipalities and between such municipalities respectively for such contract motor carrier service.

(4) No contract motor carrier shall enter into additional contracts with contractors other than those set forth in his license, except where such contract calls for the entire contract of transportation to be completed within the municipalities for which he is licensed or contiguous municipalities and except contracts of drayage where such contracts are for isolated or emergency instances of transportation by said contract carrier with said contractor even though more than one trip or one vehicle may be necessary to complete said contract and except contracts for the transportation of milk by a person engaged exclusively in the transportation of milk from the farm, until after application to said commission and a hearing had thereon and a finding of public convenience and necessity with respect to such additional contracts. In making said finding said commission shall take into consideration existing transportation facilities in the territory for which such consent is sought, including steam and electric railway transportation and common motor carriers and contract motor carrier facilities at the time of the making of such application. Such application for additional contracts shall be treated as an application for an amendment to his contract motor carrier license in the territory set forth in said application. Where applications for additional contracts do not include any new municipalities or routes, no application fee is necessary to accompany such application. Where an application for a new license is made covering new contracts between new municipalities, the application fee as required herein shall accompany such application.

194.35 APPLICATION; FORM. Applications for contract motor carrier licenses and motor vehicle permits shall be verified and made in writing and shall contain such information and be in such form as the commission may require.

194.36 CONTRACT MOTOR CARRIERS; REGULATION BY COMMISSION; POWERS; DUTIES. The commission is hereby vested with power and authority and it shall be its duty, as it may deem necessary to carry out the provisions of this act:

(1) To supervise and regulate every contract motor carrier for the purpose of promoting safety upon the public highways and the conservation of their use.

(2) To designate from time to time the public highways as routes over which said contract motor carriers may or may not operate, and to designate the time that such vehicles shall or shall not be operated thereon, so as to prevent congestion which shall affect the safety of persons or property upon such public highways.

(3) To prescribe rules and regulations for the safety of operation of such carriers, including rules and regulations as to the hours of labor of drivers of motor vehicles operated under contract motor carrier permits.

(4) To regulate, supervise and inspect the accounts of contract motor carriers in so far as the commission may deem necessary under the provisions of this act.

(5) To require the filing of such annual or other reports or data of such carriers as it may deem necessary under the provisions of this act.

(6) To require the filing and exclusive use of uniform bill of lading and contract to be prescribed by the commission for the transportation of property upon the public highways to which any contract motor carrier is a party and under which he agrees to furnish such transportation, and such other information with respect to the operation of such carriers as it may deem necessary under the provisions of this act.

(7) If at any time, after full hearing upon complaint or in an investigation on its initiative, the commission finds that any charge for the transportation of property by a contract motor carrier by motor vehicle is unduly low in that it:

(a) Gives or causes any undue or unreasonable advantage or preference to those whom it serves as compared to those served by any common carrier, or

(b) Subjects the patrons of any common carrier to any undue or unreasonable discrimination or disadvantage, or

(c) By unfair competition unduly impairs the service or business or the regulation of the service or business of any common carrier, the commission may determine, prescribe and order the minimum charge to be thereafter assessed and collected or imposed by such contract motor carrier in the particulars set forth in the complaint or in the notice of investigation by the commission.

(7a) To the end that the commission may enforce these provisions, each contract motor carrier shall file with the commission a statement of his charges and any changes therein and such other information, as the commission may require under the provisions of this act.

(8) The commission shall have the power, by general order or otherwise, to prescribe a general scale of minimum and maximum rates for contract carriers applicable to their operations in all or any specified part or parts of the state, and to prescribe such rules and regulations as it may deem necessary in carrying out the provisions of this chapter. Such power shall be exercised only after a hearing and on order of a majority of the members of said commission.

(9) To supervise and regulate contract motor carriers in all matters affecting the relationship between such carriers and the traveling and shipping public, and in all matters directly or indirectly impairing the efficient public service of any authorized common carrier or common carriers by motor vehicles or by steam or electric railroad then adequately serving all or any part of the same territory, in conformity with the purposes of this chapter.

194.37 LICENSES NON-TRANSFERABLE; DISCONTINUANCE SUBJECT TO APPROVAL. No license issued under the authority of this chapter shall be subject to assignment or transfer, except after a hearing and a finding by the commission that the same is not against public convenience and necessity and otherwise is not against the public interest. No license issued in accordance with the terms of this chapter shall be construed to be irrevocable or to confer any property right upon the holder

thereof. Every contract motor carrier who shall cease operation or abandon his rights under the license issued, shall notify the commission within thirty days of such cessation or abandonment.

194.38 SUSPENSION, REVOCATION OR AMENDMENT OF LICENSES. The commission may at any time, by its order duly entered, after a hearing had upon notice to the holder of any license hereunder, suspend, revoke, alter or amend such license or suspend or revoke any contract carrier permit authorizing operation of a motor vehicle under such license, if the commission shall find that the holder has wilfully violated or refused to comply with any of the provisions of this chapter or of section 76.54 or any of the orders, rules and regulations of the commission made in conformity with this chapter or section 76.54.

194.39 FILING AND PERMIT FEES. Every application for a license shall be accompanied by a filing fee of fifteen dollars, together with an additional permit fee for the remaining fractional year as provided by section 194.04 for each motor vehicle, for the operation of which authority is sought. If the application for a license shall be denied, such additional permit fee for each motor vehicle, accompanying the application, shall be refunded to the applicant. No annual report shall be accepted by the commission unless said taxes and fees due have been paid.

194.40 REPORTS; TIME FOR FILING. Prior to the first day of February each year, unless the time therefor is extended by the commission for cause, the holder of every license shall file with the commission a report upon such forms as the commission may prescribe and furnish. Such reports shall be under oath, and, if made on behalf of a corporation, shall be sworn to by the president and secretary thereof, and shall contain such information as the commission may prescribe, in conformity with the purposes of this chapter and section 76.54. If such report is not made to the commission by the holder of any license on or before the first day of February the license and all contract motor carrier permits thereunder shall immediately thereupon become null and void; provided, however, that the commission may by order extend the time for the filing thereof and may in its discretion at any time within thirty days next following, accept such report if the failure to file the same has been for good cause, or the result of inadvertance or excusable neglect and if all taxes and fees due are paid. The acceptance of such report by the commission within the time provided shall operate to continue in effect

the validity of the license and the contract motor carrier permits issued thereunder. The fees provided for in this section shall be paid into the state treasury and are reappropriated as provided in subsection (5) of section 20.51. The taxes provided for in this section shall be paid into the state treasury and are appropriated as provided in subsection (4) of section 76.54.

194.41 UNDERTAKING FOR DAMAGE TO PERSON OR PROPERTY. (1) No common motor carrier of property or of passengers, or contract motor carrier, shall operate any motor vehicle for which a permit is required by this chapter unless it shall have on file with the commission and in effect a good and sufficient indemnity bond, policy of insurance or other contract in writing issued by a surety, indemnity or insurance company or exchange lawfully qualified to transact such business in this state under which such indemnitor shall assume the liability prescribed by this section with respect to each motor vehicle so operated. Said undertaking shall be subject to the approval of the commission and shall provide that the indemnitor shall be directly liable for and shall pay all damages to persons or property that may be recovered against the owner or operator of each such motor vehicle by reason of the negligent use or operation thereof and shall provide that the amount of such liability shall be not less than (a) in case of injury to persons, five thousand dollars to any one person and ten thousand dollars for any one accident for vehicles having a gross weight not in excess of ten thousand pounds and ten thousand dollars to any one person and twenty thousand dollars for any one accident for vehicles having a gross weight in excess of ten thousand pounds, (b) in case of injury to property, five thousand dollars for any one accident. Such liability may be restricted so as to be inapplicable to damage claims on account of injury to property or passengers transported. Such liability may be restricted so as to be inapplicable to damage claims on account of injury to property transported in interstate commerce, but the commission may require an undertaking protecting the owner of the property transported from loss or damage thereto, which undertaking shall be in such amount and under such condition as the commission may require. In addition to the bond hereinbefore required, every common motor carrier of passengers shall at all times have on file with the commission a like undertaking which shall provide that the indemnitor shall be directly liable for and shall pay all dam-

ages to passengers that may be recovered against the owner or operator of such motor vehicle by reason of the use or operation thereof, provided that such liability shall be at least in the following amounts:

(a) Not exceeding ten thousand dollars to any one person or thirty thousand dollars for any one accident in the case of a motor vehicle having a seating capacity of seven passengers or less;

(b) Not exceeding ten thousand dollars to any one person or forty thousand dollars for any one accident in the case of each motor vehicle having a seating capacity of more than seven and less than sixteen passengers;

(c) Not exceeding ten thousand dollars to any one person or fifty thousand dollars for any one accident in the case of each motor vehicle having a seating capacity of more than fifteen and less than twenty-five passengers; and

(d) Not exceeding ten thousand dollars to any one person or seventy-five thousand dollars for any one accident in the case of each motor vehicle having a seating capacity of twenty-five passengers or more.

(2) Where more than one motor vehicle subject to permit is operated by the same person, a single undertaking may be filed subject to the approval of the commission as to form, covering each and every motor vehicle subject to the provisions of this chapter which is or shall be operated by such person while such undertaking is in force in the amounts and subject to the conditions hereinbefore imposed.

(3) No undertaking filed under the provisions of this section shall be limited as to the total liability of the indemnitor thereunder, for any series of accidents, and no such undertaking shall be terminated at any time prior to its expiration under the terms thereof, nor cancelled for any reason whatever, unless there shall have been filed with the commission by the indemnitor a notice thereof at least ten days prior to the date of such termination or cancellation. If any such undertaking so filed shall become inoperative, the motor vehicle or motor vehicles covered thereby shall not be operated until a new undertaking in conformity with the requirements of this section shall have been filed.

(4) The provisions of this section shall be deemed a part of every such undertaking and no other provision thereof or agreement between the parties thereto shall operate to avoid the same.

194.42 EXEMPTION FROM UNDERTAKING; PROOF OF FINANCIAL RESPONSIBILITY; REVOCATION. The commission may by order exempt from the requirements of section 194.41 any common motor carrier of property or of passengers or contract motor carrier upon written application therefor and finding that the applicant has the financial ability to pay any and all damages, liability for which would otherwise be assumed by an indemnitor under the provisions of section 194.41. Any person so exempted shall furnish to the commission from time to time such information as to his financial ability as the commission may require and shall promptly report to the commission all accidents and injuries arising out of its operations subject to this chapter. Such exemption may be granted as to all or part of the motor vehicles operated by the applicant. The commission may by order revoke any such exemption, after hearing upon ten days' notice, and for cause. Within ten days after the date of such order of revocation the person affected thereby shall in all respects comply with the requirements of section 194.41.

194.43 PRIVATE MOTOR CARRIERS; REGULATION BY COMMISSION. The commission is hereby vested with power and authority and it shall be its duty to issue permits to private motor carriers under the conditions herein prescribed, including the power to designate from time to time the public highways as routes over which said private motor carrier may or may not operate and to designate the time that such vehicles shall or shall not be operated thereon so as to prevent congestion which shall affect the safety of persons and property upon such public highways; to require the filing of satisfactory evidence that such vehicle is not being used for common or contract motor carrier purposes, as may be required by the commission in carrying out the provisions of this chapter; and to prescribe reasonable and necessary rules and regulations for the safety of operation of private motor carriers.

194.44 PERMIT; APPLICATION; FEE. It shall be unlawful for any private motor carrier to operate a motor vehicle upon the public highways within or through this state without first having obtained from the commission a private motor carrier permit therefor. Applications for private motor carrier permits shall be verified and made in writing and shall contain such information and be in such form as the commission may require. Every application for a private carrier permit shall be accompanied by the permit fee as provided by section 194.04 for each

motor vehicle for the operation of which such a permit is sought. On or before January first of each year each holder of a private carrier permit shall also pay to the commission an annual permit fee as provided in section 194.04 for each motor vehicle permit whose renewal is desired. The fees provided for in this section shall be paid into the state treasury, and are reappropriated as provided in subsection (5) of section 20.51. Upon the filing of such application, compliance with rules and regulations and the payment of fees, the commission shall issue a private motor carrier permit to the applicant. Each private motor carrier shall file the same reports as are required of contract motor carriers with respect to section 76.54 or as the commission may require in connection with vehicles subject to said section and not exempt therefrom.

**194.45 PERMITS NON-TRANSFERABLE, REVOCABLE, NOTICE OF DISCONTINUANCE.** No private motor carrier permit issued under the authority of this chapter shall be subject to assignment or transfer. Subject to any right a holder of such a permit may have to engage in interstate commerce, no permit issued in accordance with the terms of this chapter shall be construed to be irrevocable. Every private motor carrier of property who shall cease operation or abandon his rights under such permit issued shall notify the commission within thirty days thereafter of such cessation or abandonment.

**194.46 SUSPENSION OR REVOCATION OF PERMIT; HEARING.** The commission may at any time, by its order duly entered after a hearing had, upon notice to the holder of any private motor carrier permit hereunder, and an opportunity to be heard, at which it shall be proved that such holder has violated or refused to comply with any of the provisions of this chapter or of section 76.54, or any orders, rules or regulations of the commission made in conformity with this chapter or section 76.54, suspend or revoke any private carrier permit issued under the provisions of this chapter.

**76.54 MOTOR CARRIERS; MILE OR FLAT TAX LEVY; REPORTS. (1) DEFINITIONS.** (a) The definitions of terms contained in chapter 194, unless the context otherwise requires, shall apply in this section.

(b) The term "gross weight" when applied in this section to a motor vehicle of a common or contract motor carrier of property or a private motor carrier shall mean the actual weight of such

motor vehicle unloaded plus the licensed carrying capacity of such motor vehicles. Any alteration in a motor vehicle operated under the provisions of chapter 194 and this section, for the purpose of increasing its capacity shall be reported to the commission, and the commission may in such cases determine the capacity which, plus the actual weight of such motor vehicle unloaded, as altered shall apply for the purpose of determining the gross weight of such motor vehicle.

(c) The term "gross weight" when applied in this section to a motor vehicle of a common motor carrier of passengers shall mean the actual weight of such motor vehicle unloaded plus the amount arrived at in pounds by multiplying one hundred and fifty by the number of passengers, including the driver, capable of being seated in such motor vehicle.

(2) ELECTION. Every common motor carrier of property or passengers, every contract motor carrier, and every private motor carrier shall at the time of application for a motor vehicle permit and at the time of making application for renewal thereof make in writing an election to the commission whether he elects to pay a flat tax or a mileage tax on said motor vehicle. An election shall be binding until the end of the calendar year in which it is made. Such election shall apply to the particular motor vehicle only. The operation of a motor vehicle subject to section 76.54 without the filing of such an election in writing shall be subject to the mileage tax herein imposed until the making of a written election to the contrary. The said flat tax shall be an annual tax and shall cover the period from January first to December thirty-first of each year; said flat tax for the year 1933 shall be reduced by the number of months of said year 1933 which have elapsed at the time this act takes effect.

(3) FLAT TAX; ASSESSMENT; COLLECTION. The commission shall assess against and collect as herein provided from each common motor carrier of property or passengers, each contract motor carrier and each private motor carrier, a flat tax on any motor vehicle upon which said carrier has elected to pay the flat tax in lieu of the mileage tax, except those motor vehicles which are expressly exempt from the provisions of section 76.54 of the statutes, which tax shall be based upon the gross weight of said motor vehicles and shall be as follows as to common motor carriers of property, contract motor carriers and private motor carriers;

(a) For motor vehicles with all pneumatic tires:

1. Of a gross weight of four thousand five hundred pounds or less, twenty-two dollars and fifty cents.
2. Of a gross weight of over four thousand five hundred pounds and not over six thousand pounds, thirty dollars.
3. Of a gross weight of over six thousand pounds and not over eight thousand pounds, forty-eight dollars.
4. Of a gross weight of over eight thousand pounds and not over ten thousand pounds, sixty dollars.
5. Of a gross weight of over ten thousand pounds and not over twelve thousand pounds, seventy-two dollars.
6. Of a gross weight of over twelve thousand pounds and not over fourteen thousand pounds, ninety-four dollars.
7. Of a gross weight of over fourteen thousand pounds and not over sixteen thousand pounds, one hundred twenty dollars.
8. Of a gross weight of over sixteen thousand pounds and not over eighteen thousand pounds, one hundred forty-eight dollars.
9. Of a gross weight of over eighteen thousand pounds and not over twenty thousand pounds, one hundred eighty dollars.
10. Of a gross weight of over twenty thousand pounds and not over twenty-two thousand pounds, two hundred sixty-eight dollars.
11. Of a gross weight of over twenty-two thousand pounds and not over twenty-four thousand pounds, three hundred fifteen dollars.
12. Of a gross weight of over twenty-four thousand pounds and not over twenty-six thousand pounds, three hundred sixty-six dollars.
13. Of a gross weight of over twenty-six thousand pounds and not over twenty-eight thousand pounds, four hundred twenty dollars.
14. Of a gross weight of over twenty-eight thousand pounds and not over thirty thousand pounds, four hundred fifty dollars.
15. Of a gross weight of over thirty thousand pounds and not over thirty-two thousand pounds, four hundred eighty dollars.
16. Of a gross weight of over thirty-two thousand pounds and not over thirty-four thousand pounds, five hundred ten dollars.
17. Of a gross weight of over thirty-four thousand pounds and not over thirty-six thousand pounds, five hundred forty dollars.

18. For motor vehicles weighing over thirty-six thousand pounds the rate shall be five hundred forty dollars plus thirty dollars for each additional ton or fraction thereof;

(b) For motor vehicles with two or more solid tires the flat tax shall be two times the amount imposed in this section upon a motor vehicle of the same gross weight with all pneumatic tires;

(c) And as to common motor carriers of passengers for motor vehicles with all pneumatic tires:

1. Of a gross weight of four thousand five hundred pounds or less, seventy-five dollars.

2. Of a gross weight of over four thousand five hundred pounds and not over six thousand pounds, ninety dollars.

3. Of a gross weight of over six thousand pounds and not over eight thousand pounds, one hundred twenty dollars.

4. Of a gross weight of over eight thousand pounds and not over ten thousand pounds, one hundred fifty dollars.

5. Of a gross weight of over ten thousand pounds and not over twelve thousand pounds, one hundred eighty dollars.

6. Of a gross weight of over twelve thousand pounds and not over fourteen thousand pounds, two hundred ten dollars.

7. Of a gross weight of over fourteen thousand pounds and not over sixteen thousand pounds, two hundred forty dollars.

8. Of a gross weight of over sixteen thousand pounds and not over eighteen thousand pounds, two hundred seventy dollars.

9. Of a gross weight of over eighteen thousand pounds and not over twenty thousand pounds, three hundred dollars.

10. Of a gross weight of over twenty thousand pounds and not over twenty-two thousand pounds, three hundred thirty dollars.

11. Of a gross weight of over twenty-two thousand pounds and not over twenty-four thousand pounds, three hundred sixty dollars.

12. Of a gross weight of over twenty-four thousand pounds and not over twenty-six thousand pounds, three hundred ninety dollars.

13. Of a gross weight of over twenty-six thousand pounds and not over twenty-eight thousand pounds, four hundred twenty dollars.

14. Of a gross weight of over twenty-eight thousand pounds and not over thirty thousand pounds, four hundred fifty dollars.

15. Of a gross weight of over thirty thousand pounds and not over thirty-two thousand pounds, four hundred eighty dollars.

16. Of a gross weight of over thirty-two thousand pounds and not over thirty-four thousand pounds, five hundred ten dollars.

17. Of a gross weight of over thirty-four thousand pounds and not over thirty-six thousand pounds, five hundred forty dollars.

18. For motor vehicles weighing over thirty-six thousand pounds the rate shall be five hundred forty dollars plus thirty dollars for each additional ton or fraction thereof;

(d) As to common motor carriers of passengers for motor vehicles with two or more solid tires the flat tax shall be two times the amount imposed in this section upon a motor vehicle of the same gross weight with all pneumatic tires.

(e) On or before October 1, 1933, and quarterly thereafter each common motor carrier, contract motor carrier and private motor carrier, who has elected with respect to any of his vehicles to come under the provisions of the flat tax herein provided for in lieu of the mileage tax imposed on the operation of such vehicle, shall pay to the commission one-quarter of the amounts shown in subsection (3) of this section based upon the gross weight as provided therein for each respective vehicle subject to said flat tax. Said quarterly amount shall be for the quarterly period previous to such dates specified on which said amount shall become due and payable. In the event said quarterly portion of said flat tax for respective vehicles for which said payment of said flat tax has been elected is not paid, said commission shall by mail notify such common motor carrier, contract motor carrier or private motor carrier of the amount of such unpaid quarterly installment of said flat tax, which notification shall also state the motor vehicle permit number. If any such carrier shall fail or refuse to pay the quarterly installment when the same became due, the commission shall proceed in an action as provided for in subsection (8) providing for the collection of delinquent mileage taxes, except that said unpaid installment shall draw interest from the date said amounts became due as herein provided. The person to whom said motor vehicle is permitted shall continue to be subject to the succeeding quarterly installments for each calendar year for which an election has been made to make said vehicle subject to the flat tax in lieu of the mileage tax regardless of the operation or nonoperation during any quarterly period of said calendar year.

**(4) MILEAGE TAX; ASSESSMENT; COLLECTION.**

Every common motor carrier of property or passengers, every contract motor carrier and every private motor carrier may elect to be subject to a mileage tax on any one or more of his motor vehicles instead of the flat tax as set out in a preceding section. Such election shall take place at the time of the payment of the original or renewal permit fee on such vehicle. An election shall be binding until the end of the calendar year in which it is made. Such election shall apply to the particular motor vehicle only. In the event of the election by the carrier to pay such mileage tax the commission shall assess against and collect a tax per mile of operation by the motor vehicle upon which the election is so made, whether loaded or empty, upon the public highways, for all such operations as are not expressly exempt from the provisions of section 76.54 of the statutes, which tax per mile of operation shall be based upon the gross weight of such motor vehicle and shall be as follows, as to common motor carriers of property, contract motor carriers and private motor carriers:

(a) For motor vehicles with all pneumatic tires:

1. Of a gross weight of less than four thousand five hundred pounds, two and one-quarter mills.

2. Of a gross weight of over four thousand five hundred pounds and not over six thousand pounds, three mills.

3. Of a gross weight of over six thousand pounds and not over eight thousand pounds, four mills.

4. Of a gross weight of over eight thousand pounds and not over ten thousand pounds, five mills.

5. Of a gross weight of over ten thousand pounds and not over twelve thousand pounds, six mills.

6. Of a gross weight of over twelve thousand pounds and not over fourteen thousand pounds, eight mills.

7. Of a gross weight of over fourteen thousand pounds and not over sixteen thousand pounds, ten mills.

8. Of a gross weight of over sixteen thousand pounds and not over eighteen thousand pounds, twelve and one-half mills.

9. Of a gross weight of over eighteen thousand pounds and not over twenty thousand pounds, fifteen mills.

10. Of a gross weight of over twenty thousand pounds and not over twenty-two thousand pounds, eighteen mills.

11. Of a gross weight of over twenty-two thousand pounds and not over twenty-four thousand pounds, twenty-one mills.

12. Of a gross weight of over twenty-four thousand pounds and not over twenty-six thousand pounds, twenty-four and one-half mills.

13. Of a gross weight of over twenty-six thousand pounds and not over twenty-eight thousand pounds, twenty-eight mills.

14. Of a gross weight of over twenty-eight thousand pounds and not over thirty thousand pounds, thirty mills.

15. Of a gross weight of over thirty thousand pounds and not over thirty-two thousand pounds, thirty-two mills.

16. Of a gross weight of over thirty-two thousand pounds and not over thirty-four thousand pounds, thirty-four mills.

17. Of a gross weight of over thirty-four thousand pounds and not over thirty-six thousand pounds, thirty-six mills.

18. Of a gross weight of over thirty-six thousand pounds, the rate shall be thirty-six mills plus two mills for each additional ton thereafter;

(b) For motor vehicles with two or more solid tires the tax per mile of operation shall be two times the amount imposed in this section upon a motor vehicle of the same gross weight with all pneumatic tires;

(c) As to common motor carriers of passengers the tax per mile of operation shall be one mill for each ton or fraction thereof based on the gross weight of said vehicle for all operations as are not expressly exempt from the provisions of section 76.54 of the statutes.

(5) DAILY RECORDS AND QUARTERLY SUMMARIES. Every common motor carrier of property or of passengers, every contract motor carrier, and every private motor carrier shall keep daily records, upon forms prescribed and furnished by the commission, of the operation of all motor vehicles by him on which he has elected to pay a mileage tax and which are not expressly exempted from the provisions of the mileage tax provided for in subsection (4) of this section. On or before the fifteenth day of October, 1933, and quarterly thereafter, he shall certify under oath to the commission, upon forms prescribed and furnished by the commission, a summary of such daily records for the preceding quarter year ending on the last day of the preceding month, which shall show the total miles of operation by him of motor vehicles upon which election has been made as above and which are under chapter 194 and this section during such quarter year and contain such other information as the commis-

sion may require. Such daily reports and quarterly summaries, with respect to interstate operation, shall show the mileage within this state. The daily records shall be filed with the commission and preserved for a period of at least three years, and thereafter until permission for their destruction shall be given by the commission. Any person who shall wilfully, under oath, make a false report to the commission shall be deemed guilty of perjury.

(6) MILEAGE TAX; NOTICE; LEVY; PAYMENT. The commission shall thereupon compute for such preceding quarter year the amount of mileage tax provided for in subsection (4) of this section, and shall levy against the person to whom such vehicle is permitted, the amount of mileage tax for such motor vehicle; and shall by mail notify the holder of the common carrier permit, contract carrier permit, or private carrier permit authorizing the operation of such motor vehicle, of the amount of such levy, which notification shall state the number of miles of operation for which each motor vehicle is taxed, and the rate of taxation therefor; and such holder shall within thirty days after the mailing of such notice pay such tax to the commission.

(7) MILEAGE TAX; COMPUTATION AND LEVY WHERE NO REPORT IS FILED. If any common motor carrier of property or of passengers, any contract motor carrier or any private motor carrier shall fail or refuse to make any report required of him by this section or shall operate any motor vehicles for which a permit is required under chapter 194 and the operation of which is not expressly exempted from the payment of the flat tax or the mileage tax provided for in subsections (2), (3) and (4) of this section, the commission may proceed, upon the best information it may be able to obtain to make a statement for such common motor carrier of property or of passengers, such contract motor carrier or such private motor carrier, of all of the facts which should have been so reported, and shall notify him by registered letter of its action in that behalf. The commission shall thereupon proceed to compute and levy the tax for such common motor carrier of property or of passengers, such contract motor carrier or such private motor carrier, in the manner provided in subsection (4) of this section. Action by the commission under this subsection shall not relieve any such person from the penalties of any such failure on his own behalf to comply with the provisions of this act.

(8) DELINQUENT MILEAGE TAX; COLLECTION; LIEN; VENUE. All taxes remaining unpaid after the thirty days after the mailing of the letter notifying a common motor carrier of property or of passengers, a contract motor carrier or a private motor carrier as to the tax, shall draw interest at the rate of fifteen per cent per annum, and upon failure to pay the same the attorney-general shall upon notification by the commission proceed by action in the name of the state against such common motor carrier of property or of passengers, such contract motor carrier or such private motor carrier, to collect the same, together with interest and cost of suit. Such taxes shall be a first lien upon all permitted vehicles and other property used by or useful to such motor carrier in its operation subject to the provisions of chapter 194, prior to all other liens, debts, claims or demands whatsoever. Such lien may be enforced in such action which may be brought in the circuit court for the county of Dane or in any other court of competent jurisdiction in the county in which the property so taxed is located. The place of trial of said action shall not be changed from the county in which such action is commenced, except upon consent of the parties.

(9) OPERATION WHILE DELINQUENT UNLAWFUL; INJUNCTION; BOND. It shall be unlawful for any common motor carrier of property or of passengers, any contract motor carrier, or any private motor carrier to operate any motor vehicle under any common carrier permit, contract carrier permit or private carrier permit issued pursuant to chapter 194, while delinquent in the payment of any part of the flat tax or mileage taxes due under this section or of interest due thereon. In the event that an action is instituted under subsections (3) or (8) of this section for the recovery of such delinquent taxes and interest, the court may issue an injunctive order, without requiring bond, enjoining and restraining the defendant from operating any motor vehicle under a common carrier permit, a contract carrier permit, or a private carrier permit issued under chapter 194. In every case where such a motor carrier has been delinquent in the payment of its flat tax or mileage tax, it may resume operation only upon the payment of such tax and all penalties and interest due thereon.

(10) REVIEW; VENUE. Any common motor carrier of property or of passengers, any contract motor carrier or any private motor carrier claiming to be aggrieved by the levy of a tax

upon its property, pursuant to this section, may bring an action to have the same reviewed by the circuit court of Dane county in the manner and with the effect provided in sections 76.19 and 76.20.

(11) INSPECTION OF BOOKS AND RECORDS. Such books of account and records of common motor carriers of property or of passengers, contract motor carriers or private motor carriers as may, in the judgment of the commission, be necessary to enable it to obtain full information at all times regarding the amount due under the provisions of this section from any common motor carrier of property or of passengers, any contract motor carrier or any private motor carrier shall be open at all times to inspection by the commission or its duly authorized agents.

(12) RECORDS KEPT WITHIN STATE. The commission may, in its discretion, require any common motor carrier of property or of passengers, any contract carrier or any private motor carrier operating in this state to keep within this state, subject to inspection at all times by the commission, or its duly authorized agents, such books of account or records as may in the judgment of the commission be necessary to enable the commission to obtain full information at all times regarding the amount due under the provisions of this section from such common motor carrier of property or of passengers, contract motor carrier or private motor carrier.

(13) PURPOSE OF MILEAGE TAX OR FLAT TAX. The tax herein imposed is declared to be a tax for the maintenance, repair and construction of the public highways, and shall be in addition to all fees or taxes otherwise imposed upon common motor carriers of property or of passengers, contract motor carriers or private motor carriers.

(14) DISPOSITION OF TAXES. The taxes collected under this section shall be paid into the general fund of the state.

(15) MILEAGE RECORDING DEVICE. The commission may by general order require the installation and maintenance on each vehicle which is subject to the mileage tax imposed by section 76.54 of a suitable mileage recording device of a type to be approved by the commission.

(16) EXEMPTION FROM MILEAGE OR FLAT TAX. The following motor vehicles shall be exempt from the payment of the tax per mile of operation or flat tax provided for in sub-

section (2) of this section, but shall in all other respects be subject to the provisions of chapter 194.

(a) All motor vehicles owned by a producer and used by him or his employe in transporting his own dairy and his own farm products to market, or transporting back supplies for his own use. A co-operative association whose members consist exclusively of producers of dairy or other farm products, whether incorporated or not, when hauling for itself or its members or for members of another such co-operative shall be deemed to be a producer for the purposes of this subsection. A motor vehicle permitted under a common or contract motor carrier certificate or license shall be excluded from the exemptions of this paragraph.

(b) All motor vehicles which shall be operated exclusively in transporting (1) milk in fluid form (2) butter or cheese in the form in which they are customarily produced, between the point of production and the primary market for such products. Primary market shall not mean a receiving station, shipping point, or concentration point; and primary market shall include a canning factory and a warehouse.

(c) All motor vehicles operated under a contract carrier permit or under a private motor carrier permit, while they shall be operated exclusively in transporting farm products in the form in which they are customarily produced, between the point of production and the primary market for such products. Primary market shall not mean a receiving station, shipping point, or concentration point in this state; and primary market shall include a canning factory and a warehouse.

(d) Common motor carriers of property, or contract motor carriers or private motor carriers who shall operate exclusively within a municipality or between contiguous municipalities of this state; or motor vehicles operated by common motor carriers of property, or by contract motor carriers or by private motor carriers exclusively within any municipality or between contiguous municipalities of this state.

(e) All motor vehicles weighing not more than eight thousand pounds gross weight, either as a unit or as a combination of units, and operated under a private motor carrier permit while transporting exclusively the owner's property.

(f) All motor vehicles while used otherwise than on the public highways or while used on the portion of a public highway, duly closed to the public, being constructed or repaired and being used

in connection with such construction and repair, and all motor vehicles while operated in the employ of the United States, any state, or any political subdivision thereof and trailers or other similar equipment of such size and weight as to require special permits under section 85.53 of the statutes.

(g) All urban motor busses operated by common motor carriers of passengers which are operated exclusively within one municipality or between contiguous municipalities of this state.

(h) Any motor vehicle operated under a private carrier permit, while exclusively transporting forest products to a common carrier loading or unloading point located twenty-five miles or less from the point of production of such forest products.

(17) TAXATION BY CITIES AND VILLAGES. No city or village shall impose a license tax upon any common motor carrier of property or of passengers, any contract motor carrier or any private motor carrier on account of any operation subject to the mileage or flat tax, provided by this section. But any such city or village may require reasonable compensation for the repair and maintenance of pavements and bridges, and compensation for the regulation of street traffic, and for any further expense occasioned by the operation of such motor vehicles to be paid by the owners or operators of motor vehicles which are not subject to the mileage or flat tax provided by this section, but the compensation to be required by any such city or village for the operation of such motor vehicles shall not exceed in amount the tax which would result if the mileage tax prescribed in this section were applicable thereto.

SECTION 4. If any section, subsection, clause, sentence or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases be declared unconstitutional.

SECTION 5. SAVING CLAUSE. (1) The repeal of section 76.54 of the statutes of 1931 shall not be deemed an abrogation of the rights of the state of Wisconsin to receive reports required thereunder or to enforce any and all taxes which accrued to it and were not paid at the time of such repeal, but said state of Wisconsin shall have any and all rights to enforce the filing of

said reports and collection of said taxes as if said section had not been repealed.

(2) The repeal of sections 194.01 to 194.16 of the statutes of 1931 shall not be deemed a waiver or abrogation of the rights of the state of Wisconsin to thereafter enforce compliance with said sections of all unfulfilled obligations thereunder of persons subject to the provisions thereof.

SECTION 6. This act shall take effect thirty days after passage and publication.

Approved July 25, 1933.

No. 424, S.]

[Published Aug. 2, 1933.

### CHAPTER 489.

AN ACT to reconcile conflicts between chapter 487 (50-S) revising insurance laws and chapters 120, 140, 141, 142, 144, 148, 168, 230, 236 and 353, all of the laws of 1933, relating to insurance; to correct errors therein; and to repeal any implication that the enactment of said revision repealed or changed any provision of other acts of this session.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. A new subsection is added to section 200.03 of the statutes to read:

(200.03) (16) The service of such process shall be made by leaving duplicate copies thereof in the hands or office of the commissioner of insurance and paying to him for the use of the state a fee of two dollars for each company. A certificate by the commissioner of insurance showing such service and attached to the original or third copy of such process presented to him for that purpose shall be sufficient evidence thereof.

SECTION 2. Sections 200.27 and 203.47 of the statutes are repealed.

SECTION 3. Section 201.11 (as revised by section 36 of chapter 487 (50-S), Laws 1933) is amended to read:

201.11 STOCK COMPANIES' CAPITAL; SURPLUS.  
(1) No stock insurance company shall transact business unless it has capital, in cash or invested as provided by law, of at least \* \* \* two hundred thousand dollars for the insurance specified in any one subsection of section 201.04; with an additional \* \* \*