

1981 Senate Bill 150

Date published: **May 6, 1982**

CHAPTER 347 , Laws of 1981

AN ACT to repeal 20.923 (4) (d) 15, 189.05, 194.04 (4) (d), 194.14, 194.15, 194.17 (2), 194.18, 194.19, 194.21, 194.22, 194.225, 194.25 (2), 194.26, 194.27, 194.28, 194.29, 194.30, 194.36 and 194.38 (1), (3) and (4); to amend 15.03, 15.461 (1),

15.465 (title) and (1), 20.917 (1) (intro.) and (2), 20.923 (4) (e) 11, 35.28, 35.29 (2), 66.065 (5), 66.07 (2), 78.76 (1), 84.30 (18), 85.01 (3), 88.66 (2), 88.87 (4), 88.88 (2), 114.135 (9), 189.01 (1), 189.02 (4), 190.001 (1), 190.02 (9) (c), 191.001 (1), 191.09 (1), 191.10 (1), 191.20, 192.001 (1), 192.47, 193.001, 194.01 (3), (5), (11) and (15), 194.04 (1) (b) and (c), 194.17 (1), 194.20 (1), 194.25 (title), 194.31, 194.37 (3), 194.38 (2), 194.46, 195.001 (1), 195.03 (8) and (9), 195.044 (1), 195.17, 197.10 (4) and (5), 230.08 (2) (mm) and 347.43 (4); to repeal and recreate 194.02, 194.10, 194.23 and 194.34; and to create 15.06 (1) (am), 194.025, 194.41 (6) and 230.08 (2) (mm) of the statutes, relating to motor carrier deregulation, enforcing the tax on fuel purchased outside the state and decreasing an appropriation.

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

SECTION 1. 15.03 of the statutes is amended to read:

15.03 Attachment for limited purposes. Any division, office, commission or board attached under this section to a department or independent agency or a specified division thereof shall be a distinct unit of that department, independent agency or specified division. Any division, office, commission or board so attached shall exercise its powers, duties and functions prescribed by law, including rule-making, licensing and regulation, and operational planning within the area of program responsibility of the division, office, commission or board, independently of the head of the department or independent agency, but budgeting, program ~~co-ordination~~ coordination and related management functions shall be performed under the direction and supervision of the head of the department or independent agency.

SECTION 2. 15.06 (1) (am) of the statutes is created to read:

15.06 (1) (am) The commissioner of transportation shall be nominated by the governor, and with the advice and consent of the senate appointed, for a 6-year term expiring on March 1 of an odd-numbered year.

SECTION 3. 15.461 (1) of the statutes, as affected by chapter 20, laws of 1981, is amended to read:

15.461 (1) (title) **OFFICE OF THE COMMISSIONER OF TRANSPORTATION.** The ~~transportation commission~~ office of the commissioner of transportation shall have the program responsibilities specified for the ~~commission office~~ under chs. 189 to 195 and 197, and ss. 26.20 (3) and (10), 30.33, 59.965 (2) (f), 59.968 (4), 66.064, 66.065 (5) and (6), 66.07 (2) to (5), 66.94 (30), 67.04 (2) (g) and (5) (i), 84.05, 84.13 (1), 84.205, 84.30 (18), 84.31 (6) (a), 86.16 (5), 86.301 (5), 86.32, 88.66 (2), 88.87 (4), 88.88 (2), 114.134 (4) (b) and (d), 114.135 (9), 114.20 (16) and (19), 175.05 (4), 218.01 (2) (bd) 2, (3) (b), (c), (g) and (h), (3c) (c) and (d), (5) (b) and (9), 218.11 (7) (a) and (b), 218.22 (4) (a) and (b), 218.32 (4) (a) and (b), 342.26, 343.33, 343.69, 344.02 (1) to (3), 344.03 and 348.25 (9).

SECTION 4. 15.465 (title) of the statutes is amended to read:

15.465 (title) Same; attached board and office.

SECTION 5. 15.465 (1) of the statutes is amended to read:

15.465 (1) **TRANSPORTATION COMMISSION.** There is created a transportation commission which is attached to the department of transportation for limited administrative purposes under s. 15.03, provided that all budgetary, personnel, and related operational requests by the transportation commission shall be processed and properly forwarded by the department of transportation without change except as requested and concurred in by the

transportation commission, and provided that s. 85.02 does not apply to the transportation commission. No member of the commission may have a financial interest in a railroad, motor carrier or other transportation enterprise. ~~If any member voluntarily becomes so interested, the office shall become vacant. If a member involuntarily becomes so interested, the member shall dispose of such interest within a reasonable time; failing to do so, his or her office shall become vacant.~~ No commissioner may serve on or under any committee of a political party. Each commissioner shall hold office until a successor is appointed and qualified.

SECTION 6. 15.465 (1) of the statutes, as affected by chapter (this act), laws of 1981, is amended to read:

15.465 (1) (title) OFFICE OF THE COMMISSIONER OF TRANSPORTATION. There is created ~~a transportation commission~~ an office of the commissioner of transportation which is attached to the department of transportation for limited administrative purposes under s. 15.03, provided that all budgetary, personnel, and related operational requests by the ~~transportation commission~~ office of the commissioner of transportation shall be processed and properly forwarded by the department of transportation without change except as requested and concurred in by the ~~transportation commission~~ office of the commissioner of transportation, and provided that s. 85.02 does not apply to the ~~transportation commission~~. ~~No member of the commission~~ office of the commissioner of transportation. ~~The commissioner of transportation may not have a financial interest in a railroad, motor carrier or other transportation enterprise.~~ The commissioner may not serve on or under any committee of a political party. ~~Each~~ The commissioner shall hold office until a successor is appointed and qualified.

SECTION 7. 20.917 (1) (intro.) of the statutes, as affected by chapter 20, laws of 1981, is amended to read:

20.917 (1) (intro.) Whenever a person currently employed in a position in the civil service, other than on a limited term basis, is ordered to relocate or is promoted to a different position in the civil service and the new place of employment requires in the judgment of the new appointing authority at the new place of employment, or in the judgment of the appointing authority in an intra-agency relocation or promotion, a change in location of residence, he shall authorize such employe to be reimbursed for the actual and necessary expense for the use of one owned automobile at the rate specified in s. 20.916 (4) or its equivalent if public transportation is used in transporting himself and the immediate members of his family to his new place of residence and for the preparation and transportation of his household effects to his new place of residence. The amount of reimbursement for moving household effects intrastate shall may not exceed the maximum amount ~~authorized by the rates prescribed~~ established by the transportation commission for the weight of goods moved and the distance involved.

SECTION 8. 20.917 (2) of the statutes is amended to read:

20.917 (2) No more than 2 such reimbursements under sub. (1) may be granted to any employe in a calendar year. Such reimbursement shall be approved and paid in the same manner as travel expenses. In any instance, the amount of reimbursement for moving household effects shall not exceed the amount required to move household effects with a weight of 10,000 pounds at the maximum rates for transporting household effects ~~on file with~~ established by the transportation commission. The amount of reimbursement for the preparation of household effects incident to moving shall not exceed \$300. The amount of reimbursement for transporting the employe and his or her immediate family to the new place of residence shall not exceed the cost of automobile travel at the rate specified in s. 20.916 (4).

SECTION 9. 20.923 (4) (d) 15 of the statutes is repealed.

SECTION 10. 20.923 (4) (e) 11 of the statutes is amended to read:

20.923 (4) (e) 11. Transportation, department of; office of the commissioner of transportation ~~commission~~; chairman ~~commissioner~~.

SECTION 11. 35.28 of the statutes is amended to read:

35.28 Orders by department. The department may order printed in suitable form, in reasonable quantities, copies of opinions and briefs of the attorney general and the supreme court; opinions of the court of appeals; decisions of the ~~transportation commission~~ or public service commission; and special editions of parts of official reports.

SECTION 12. 35.29 (2) of the statutes is amended to read:

35.29 (2) Upon receiving the necessary printer's copy the department shall order printing as follows: Of the opinions of the attorney general, not more than 1,000 copies; of the decisions of the ~~transportation commission~~ or public service commission, not more than 500 copies; of any report made by the department of natural resources under s. 23.11 (3), so many copies as may be ordered by the governor.

SECTION 13. 66.065 (5) of the statutes is amended to read:

66.065 (5) Any city or village may by action of its governing body and with a referendum vote provide, acquire, own, operate or engage in a municipal bus transportation system where no existing bus, rail, trackless trolley or other local transportation system exists in such city or village. Any city or village in which there exists any local transportation system by similar action and referendum vote may acquire, own, operate or engage in the operation of a municipal bus transportation system upon acquiring the local transportation system by voluntary agreement with the owners thereof, or pursuant to law, or upon securing a certificate from the transportation commission under s. 194.23 ~~that public convenience and necessity requires the acquisition and operation of such bus transportation system by the municipality.~~

SECTION 14. 66.07 (2) of the statutes is amended to read:

66.07 (2) The preliminary agreement shall fix the price of sale or lease, and provide that if the amount fixed by the ~~transportation commission~~ office of the commissioner of transportation or public service commission shall be larger, the price shall be that fixed by such commission or office.

SECTION 14m. 78.76 (1) of the statutes is amended to read:

78.76 (1) Every person who purchases or obtains motor fuel or special fuel outside of this state and operates any motor vehicle into this state upon the public highways of this state and transports motor fuel or special fuel in the fuel supply tank or tanks attached or unattached to said motor vehicle for the sole purpose of operating said vehicle, shall pay the Wisconsin motor fuel or special fuel tax on the gallons consumed by such motor vehicle while operated on Wisconsin public highways, except that this section shall not apply to any motor vehicle coming into this state with a motor fuel or special fuel tank capacity not to exceed 20 gallons. Payment of the tax shall be made by purchase of motor fuel or special fuel within Wisconsin of such gallonage as is equivalent to the gallonage consumed while operating such motor vehicle on the public highways of Wisconsin, or by direct remittance to the department. If deemed necessary to determine the amount of tax due or to prevent tax evasion, the department may require any such person to report on forms prescribed by it, and to pay taxes in the same manner as is provided for licensees. If any person is convicted of evading the tax due under this subsection, the department shall require any such person to report quarterly on forms prescribed by it, and to pay taxes in the same manner as is provided for licensees. Every person required to make returns and pay the tax herein imposed shall be subject to all provisions of this chapter and all fines and penalties herein imposed for violations thereof. The department shall give priority to the enforcement of this subsection.

SECTION 15. 84.30 (18) of the statutes is amended to read:

84.30 (18) HEARINGS; TRANSCRIPTS. Hearings concerning sign removal notices under sub. (11) or the denial or revocation of a sign permit or license shall be conducted before the ~~transportation commission~~ office of the commissioner of transportation as are hearings in contested cases under ch. 227. The decision of the ~~transportation commission~~ office of the commissioner of transportation is subject to judicial review under ch. 227. Any person requesting a transcript of the proceedings from the ~~commission~~ office shall pay \$1 per page for the transcript.

SECTION 16. 85.01 (3) of the statutes is amended to read:

85.01 (3) "Commission Office" means the ~~transportation commission~~ office of the commissioner of transportation.

SECTION 17. 88.66 (2) of the statutes is amended to read:

88.66 (2) Every district whose drains cross the right of way of a railway company is liable to such company for the reasonable cost of opening its right of way and also for the cost of the culverts and bridges made necessary by such drain. The drainage board shall include such costs in its cost of construction, as set forth in its report of benefits and damages, and shall award them as damages to the railway company. The bridge or culvert shall be designed by the district's engineer and the design submitted to the railway company for approval. If a dispute arises as to the adequacy of the design, either party may submit the dispute to the ~~transportation commission~~ office of the commissioner of transportation by filing with the ~~commission~~ office a statement as to the facts involved and the nature of the dispute. The ~~commission~~ office shall investigate and determine the matter in controversy in accordance with ch. 195, and any order it makes in such proceeding has the same effect as an order in any other proceeding properly brought under ch. 195.

SECTION 18. 88.87 (4) of the statutes is amended to read:

88.87 (4) If a railway company fails to comply with sub. (2), any person aggrieved thereby may file a complaint with the ~~transportation commission~~ office of the commissioner of transportation setting forth the facts. The ~~commission~~ office shall investigate and determine the matter in controversy in accordance with ch. 195, and any order it makes in such proceeding has the same effect as an order in any other proceeding properly brought under ch. 195.

SECTION 19. 88.88 (2) of the statutes is amended to read:

88.88 (2) If the railway company fails to comply with sub. (1), the person aggrieved thereby may file a complaint with the ~~transportation commission~~ office of the commissioner of transportation setting forth the facts. The ~~commission~~ office shall investigate and determine the matter in controversy in accordance with ch. 195, and any order it makes in such proceeding has the same effect as an order in any other proceeding properly brought under ch. 195.

SECTION 20. 114.135 (9) of the statutes is amended to read:

114.135 (9) CONFLICTING AUTHORITY. Wherein conflicting jurisdiction arises over the control of the erection of a building, structure, tower or hazard between the secretary of transportation and any political subdivision of the state, the secretary of transportation may overrule rules and regulations adopted by any political subdivision under the laws of this state after a public hearing wherein all parties thereto have been given an opportunity to be heard. The secretary may refer such matters to the ~~transportation commission~~ office of the commissioner of transportation in which case the ~~commission~~ office shall hear and decide the matter after notice and hearing.

SECTION 21. 189.01 (1) of the statutes is amended to read:

189.01 (1) "Commission Office" means the ~~transportation commission~~ office of the commissioner of transportation.

SECTION 22. 189.02 (4) of the statutes is amended to read:

189.02 (4) Any hearing granted by the department pursuant to a request therefor under s. 227.064 shall be conducted before the transportation commission office which shall decide the matter.

SECTION 23. 189.05 of the statutes is repealed.

SECTION 24. 190.001 (1) of the statutes is amended to read:

190.001 (1) "Commission Office" means the transportation commission office of the commissioner of transportation.

SECTION 25. 190.02 (9) (c) of the statutes is amended to read:

190.02 (9) (c) Any railroad corporation organized to, and which shall acquire, directly or by mesne conveyances, the property of another railroad corporation sold in judicial proceedings, or any railroad corporation reorganized under the provisions of section 77 of the act of July 1, 1898, entitled "An Act to establish a uniform system of bankruptcy throughout the United States, as amended," which corporation under a plan of reorganization as confirmed pursuant to said act, shall have been authorized to put into effect and carry out said plan, or any new railroad corporation which shall be organized for the like purpose, shall have all powers by law conferred upon railroad corporations, and may, at such times, in such amounts, for such considerations and upon such terms and conditions as the board of directors of said corporation shall determine, and as shall be authorized by the commission office, or in the case of a railroad corporation organized for the purpose of acquiring a railroad engaged in interstate commerce, or any existing railroad corporation reorganized under said section 77 and acquiring railroad property used in interstate commerce, by the interstate commerce commission, as the case may be, issue, sell, pledge or otherwise dispose of its evidences of debt, which may be convertible, at the option of the holder, into stock, and shares of stock, which shares may have such nominal or par value or if the same be common stock, be without nominal or par value, and may be of such classes, with such rights and voting powers as may be expressed in its articles or any amendment thereto. In the case of a railroad corporation reorganized as aforesaid, the filing with the secretary of state of a certified copy of the plan of reorganization as confirmed pursuant to said bankruptcy act, if it shall so elect, shall accomplish and evidence the amendment of its charter or articles of incorporation without the necessity for any other or further action, corporate or otherwise, with respect thereto. Such reorganized railroad corporation shall thereupon have all powers necessary to put into effect and carry out such plan of reorganization in all respects but such filing of the plan of reorganization shall not preclude such existing corporation from amending its charter or articles in the manner now provided by law. The fees for filing such copy of plan of reorganization shall be the same as prescribed in s. 190.01 (3).

SECTION 26. 191.001 (1) of the statutes is amended to read:

191.001 (1) "Commission Office" means the transportation commission office of the commissioner of transportation.

SECTION 27. 191.09 (1) of the statutes is amended to read:

191.09 (1) (title) BEFORE THE OFFICE. The provisions of ~~chapter ch.~~ 195 relating to the subpoenaing of witnesses, the production of books, documents and papers, the administration of oaths, punishment for disobedience of an order of the commission office or ~~any the commissioner of transportation~~, or of a subpoena, or for refusal of a witness to be sworn or to testify, witness fees, taking depositions, the keeping of a record of the proceedings, the taking of testimony, transcribing the evidence, or relating to the procedure before ~~said commission the office~~ the office not inconsistent with this chapter shall apply to all proceedings under this chapter.

SECTION 28. 191.10 (1) of the statutes is amended to read:

191.10 (1) **ISSUANCE, FILING, CONDEMNATION.** If the ~~commission office~~ shall find that the proposed railroad would be a public convenience and that a necessity requires its construction, the ~~commission office~~ shall enter an order to that effect and forthwith issue to the applicant a certificate that public convenience and a necessity require the construction of said railroad as proposed. Such certificate shall be filed in the office of the secretary of state. Said ~~commission office~~ shall approve the map showing the route of said railroad. The applicant shall cause a copy of such map certified by the ~~secretary of the commission office~~ to be filed in the office of the register of deeds in each county in which said railroad shall be located. The filing of said certificate with the secretary of state and the filing of a copy of said map, as above provided, shall be conditions precedent to the right of said applicant to institute condemnation proceedings.

SECTION 29. 191.20 of the statutes is amended to read:

191.20 Railroad routes; right to alter. Every railroad company may, by the vote of two-thirds of its directors, alter or change the route of its railroad, by making and filing ~~in with~~ the office of the ~~commission~~ and also by recording in the office of the register of deeds of the county or counties where the alteration or change is to be made, a surveyed map and certificate of the alteration or change. The alteration or change may not deviate from the original route for a greater distance than one mile at any point. No city or village may be left off the railroad by the change of route. The original end points of the railroad, or the route in any city or village, shall not be changed without the approval of the ~~commission office~~ after notice to the municipality.

SECTION 30. 192.001 (1) of the statutes is amended to read:

192.001 (1) "Commission Office" means the ~~transportation commission office of the commissioner of transportation.~~

SECTION 31. 192.47 of the statutes is amended to read:

192.47 Railroad police; oath; powers. Any railway company may, at its own expense, appoint and employ policemen at such stations or other places on the line of its road within this state as it deems necessary for the protection of its property and the preservation of order on its premises and in and about its cars, depots, depot grounds, yards, buildings or other structures. Each policeman shall take an oath to support the constitution of the United States and showing that he is a citizen of the United States and shall file the same in the office of the ~~commission~~. Every such policeman shall, when on duty, wear a shield furnished by said company bearing the words "Railroad Police" and the name of the company for which he is appointed. These policemen may arrest, with or without warrant, any person who in their presence commits upon the premises of any such company or in or about its cars, depots, depot grounds, yards, buildings or other structures any offense against the laws of this state or the ordinances of any town, city or village, and shall also have the authority of sheriffs in regard to the arrest or apprehension of any such offenders in or about the premises or appurtenances aforesaid; but in case of the arrest, by any such policeman, of any person without warrant he shall forthwith take such offender before a judge having jurisdiction and make complaint against him. Every railway company shall be responsible for the acts of its policemen.

SECTION 32. 193.001 of the statutes is amended to read:

193.001 Definition. In this chapter "commission office" means the ~~transportation commission office of the commissioner of transportation.~~

SECTION 33. 194.01 (3) of the statutes is amended to read:

194.01 (3) "Commission Office" means the ~~transportation commission office of the commissioner of transportation.~~

SECTION 34. 194.01 (5) of the statutes is amended to read:

194.01 (5) "Common motor carrier" means any person who holds himself or herself out to the public as willing to undertake for hire to transport passengers by motor vehicle between fixed end points or over a regular route upon the public highways, ~~passengers or property other than livestock, fluid milk or other farm products or farm supplies transported to or from farms over regular or irregular routes upon the public highways.~~ The transportation of passengers in taxicab service or in commuter car pool or van pool vehicles with a passenger-carrying capacity of less than 16 persons or in a school bus under s. 120.13 (27) shall not be construed as being that of a common motor carrier.

SECTION 35. 194.01 (11) of the statutes is amended to read:

194.01 (11) "Contract motor carrier" means any person engaged in the transportation by motor vehicle over a regular or irregular route upon the public highways of property for hire and ~~not included in the term "common motor carrier of property"~~.

SECTION 36. 194.01 (15) of the statutes is amended to read:

194.01 (15) "For hire" means for compensation, and includes compensation obtained by a motor carrier indirectly, by subtraction from the purchase price or addition to the selling price of property transported, where the purchase or sale thereof is not a bona fide purchase or sale. Any person who pretends to purchase property to be transported by such person or who purchases property immediately prior to and sells it immediately after the transportation thereof shall be presumed deemed to be transporting the property for hire and not a bona fide purchaser or seller thereof, ~~which presumption may be rebutted.~~ The lease or rental of a motor vehicle to a person for transportation of the person's property which lease or rental directly or indirectly includes the lessor's services as a driver shall be presumed deemed to be transportation for hire and not private carriage, ~~except under arrangements approved by the commission and the department.~~ Nothing herein contained shall be construed to include motor vehicle operations which are conducted merely as an incident to or in furtherance of any business or industrial activity.

SECTION 37. 194.02 of the statutes is repealed and recreated to read:

194.02 Legislative intent. It is the intent of the legislature to remove the economic regulations which limit motor carrier operations in the state. The legislature intends to let the market promote competitive and efficient transportation services, while maintaining the safety regulations necessary to protect the welfare of the traveling and shipping public. It is the intent of the legislature that this chapter be interpreted in a manner which gives the most liberal construction to achieve the aim of a safe, competitive transportation industry.

SECTION 37m. 194.025 of the statutes is created to read:

194.025 Discrimination prohibited. No motor carrier may engage in any practice, act or omission which results in discrimination on the basis of race, creed, sex or national origin.

SECTION 38. 194.04 (1) (b) and (c) of the statutes are amended to read:

194.04 (1) (b) Every application for a certificate shall be accompanied by a filing fee of ~~\$40~~ \$500 for a common motor carrier of property certificate or \$50 for a common motor carrier of passengers certificate except an application for a certificate under the federal motor carrier act of 1935 which shall be accompanied by a filing fee of \$25. ~~Every application for approval of an assignment or lease of a certificate or for an amendment to a certificate shall be accompanied by a filing fee of \$40, except that an application by a carrier not holding a certificate for approval of an assignment or lease of a certificate under the federal motor carrier act shall be accompanied by a filing fee of \$25 and any other application for amendment to a certificate under the federal motor carrier act shall be accompanied by a filing fee of \$5. No fee is required for an application for abandonment of service under all or any part of a certificated authority nor for a restatement of authority contained in a certificate without enlarging the authority.~~

(c) Every application for a license ~~or for approval of assignment or lease thereof or for an amendment thereto~~ shall be accompanied by a filing fee of ~~\$25~~ \$500, except an application for ~~amendment to a license under the federal motor carrier act of 1935, which shall be accompanied by a filing fee of \$5. Only one fee is required when an application for assignment and application for amendment are filed simultaneously by one applicant~~ \$25.

SECTION 39. 194.04 (4) (d) of the statutes is repealed.

SECTION 40. 194.10 of the statutes is repealed and recreated to read:

194.10 Service of process on nonresident carriers. Section 345.09 applies to any common, contract or private motor carrier that is a nonresident of this state.

SECTION 41. 194.14 of the statutes is repealed.

SECTION 42. 194.15 of the statutes is repealed.

SECTION 43. 194.17 (1) of the statutes is amended to read:

194.17 (1) 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 operates without obtaining a certificate under s. 194.23 or license under s. 194.34 or a permit or without meeting the insurance requirements under s. 194.41 or who violates any other provision of this chapter, or who fails, neglects or refuses to obey any lawful requirement or order made by the commission or the department under this chapter, shall forfeit not less than ~~\$50~~ \$500 nor more than ~~\$100~~ \$5,000. Each day during which such a violation continues constitutes 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 employment is deemed to be the act, omission, or failure of the common motor carrier of property or of passengers, contract motor carrier or private motor carrier.

SECTION 44. 194.17 (2) of the statutes is repealed.

SECTION 45. 194.18 of the statutes is repealed.

SECTION 46. 194.19 of the statutes is repealed.

SECTION 47. 194.20 (1) of the statutes is amended to read:

194.20 (1) Motor carriers operating in interstate and foreign commerce shall obtain certificates and licenses, ~~amendments thereto, and approval of the assignment thereof, as provided in ss. 194.23, 194.25 and 194.34, but the issuance thereof shall not be predicated upon findings in respect to public convenience and necessity. Certificates, and licenses, amendments thereto and approval of assignments thereof which involve operations in interstate and foreign commerce may be denied by the commission if it finds that the record and experience of the applicant evinces a disposition to violate or evade the laws or regulations of the state applicable to the operations proposed by him~~ the applicant.

SECTION 48. 194.21 of the statutes is repealed.

SECTION 49. 194.22 of the statutes is repealed.

SECTION 50. 194.225 of the statutes is repealed.

SECTION 51. 194.23 of the statutes is repealed and recreated to read:

194.23 Certificate required. (1) No person may operate any motor vehicle as a common motor carrier except in accordance with the terms and conditions of the certificate issued by the commission and except by virtue of a permit issued by the department for the operation of the vehicle. The commission may issue or refuse to issue any certificate. The commission may attach to the exercise of the privilege granted by a certificate such terms or conditions as are permitted under this chapter.

(2) The commission shall issue a certificate without a hearing and order if the commission finds that the applicant is fit, willing and able to provide the transportation authorized by the certificate and to comply with this chapter.

(3) In determining the ability and fitness of a common motor carrier under sub. (2), the commission shall consider all of the following:

- (a) The applicant's compliance with the requirements of ss. 194.41 and 194.42.
- (b) The applicant's safety record.
- (c) The applicant's financial ability to provide cargo insurance or to have adequate financial resources in order to pay for damage claims against the company.
- (d) The applicant's reliability and service record.

(4) If the commission denies a certificate, the commission shall notify the applicant in writing of the reason, and the applicant shall have 30 days to correct the deficiency and reapply without payment of an additional application fee.

SECTION 52. 194.25 (title) of the statutes is amended to read:

194.25 (title) Nature of certificates.

SECTION 53. 194.25 (2) of the statutes is repealed.

SECTION 54. 194.26 of the statutes is repealed.

SECTION 55. 194.27 of the statutes is repealed.

SECTION 56. 194.28 of the statutes is repealed.

SECTION 57. 194.29 of the statutes is repealed.

SECTION 58. 194.30 of the statutes is repealed.

SECTION 59. 194.31 of the statutes is amended to read:

194.31 Inspection of records. The commission and the secretary, or any person employed by either of them, shall, upon demand, have the right to inspect the ~~books and papers~~ insurance records of any common motor carrier of property or of passengers or of any contract motor carrier and to examine under oath any officer, agent or employe of such carrier in relation to ~~its business and affairs~~ the insurance required under s. 194.41; provided that any person other than said ~~commission~~ commissioner or secretary who shall make such demand shall produce his or her authority under the hand and seal of the commission or of the department.

SECTION 60. 194.31 of the statutes, as affected by chapter (this act), laws of 1981, is amended to read:

194.31 Inspection of records. The ~~commission~~ commissioner of transportation and the secretary, or any person employed by either of them, shall, upon demand, have the right to inspect the insurance records of any common motor carrier of property or of passengers or of any contract motor carrier and to examine under oath any officer, agent or employe of such carrier in relation to the insurance required under s. 194.41; provided that any person other than ~~said commission~~ the commissioner of transportation or secretary who shall make such demand shall produce his or her authority under the hand and seal of the ~~commission office~~ office or of the department.

SECTION 61. 194.34 of the statutes, as affected by chapter (Senate Bill 124), laws of 1981, is repealed and recreated to read:

194.34 Contract motor carriers; license; application and hearing. (1) No person may operate any motor vehicle as a contract motor carrier except in accordance with the terms and conditions of a license issued by the commission and except by virtue of a permit issued by the department for the operation of the motor vehicle. The commission may refuse to issue any license.

(2) The commission shall issue a license without a hearing and order if the commission finds that the applicant is fit, willing and able to provide the transportation to be authorized by the license and to comply with this chapter.

(3) In determining the ability and fitness of a contract motor carrier under sub. (2), the commission shall consider all of the following:

- (a) The applicant's compliance with the requirements of ss. 194.41 and 194.42.
- (b) The applicant's safety record.
- (c) The applicant's financial ability to provide cargo insurance or to have adequate financial resources in order to pay for damage claims against the company.
- (d) The applicant's reliability and service record.

(4) If the commission denies a license, the commission shall notify the applicant in writing of the reason, and the applicant shall have 30 days to correct the deficiency and reapply without payment of an additional application fee.

SECTION 62. 194.36 of the statutes is repealed.

SECTION 63. 194.37 (3) of the statutes is amended to read:

194.37 (3) Applications for certificates, or licenses, or amendments thereto, or approval of assignments thereof shall be made on forms prescribed by the commission and furnished by the department. The commission shall determine whether a filing fee is required and the amount thereof and shall collect the same for deposit in the transportation fund.

SECTION 64. 194.38 (1) of the statutes is repealed.

SECTION 65. 194.38 (2) of the statutes is amended to read:

194.38 (2) To prescribe rules and regulations as to safety of operations and the hours of labor of drivers of motor vehicles operated under common or contract motor carrier permits.

SECTION 66. 194.38 (3) and (4) of the statutes are repealed.

SECTION 67. 194.41 (6) of the statutes is created to read:

194.41 (6) (a) Except as provided under par. (b), the minimum insurance required under sub. (1) is the minimum level of insurance established under 49 USC 10927 (a) (1).

(b) The minimum insurance required under sub. (1) for a vehicle with a gross weight of 10,000 pounds or less is \$300,000 unless the vehicle is transporting hazardous materials as listed under 41 CFR 172.101, in which case the minimum insurance requirements under par. (a) apply.

SECTION 68. 194.46 of the statutes is amended to read:

194.46 Amendment or revocation of certificate, license or permit, or license under s. 194.44; hearing. The commission may at any time, by its order duly entered after a hearing had, upon notice to the holder of any certificate, license or permit, or a permit holder under s. 194.44, and an opportunity to be heard, at which it shall be proved that such holder has wilfully violated or refused to comply with any of the provisions of this chapter, or any orders or rules of the commission or department, alter, amend, suspend or revoke such certificate or license or suspend or revoke such permit or operation under s. 194.44. ~~After notice given to the licensee and opportunity to be heard, the commission may suspend or revoke any license upon a finding that service has been abandoned thereunder; and may suspend or revoke any item of authority under a license upon a finding that service under such item of authority has been abandoned.~~

SECTION 69. 195.001 (1) of the statutes is amended to read:

195.001 (1) "Commission Office" means the transportation commission office of the commissioner of transportation.

SECTION 70. 195.03 (8) and (9) of the statutes are amended to read:

195.03 (8) **QUESTIONNAIRES, ANSWERS COMPULSORY.** The commission office shall prepare blanks for the purpose of obtaining the information which it may deem necessary or useful to the proper exercise of its functions, which shall conform as nearly as practicable to the forms prescribed by the interstate commerce commission, and shall furnish such blanks to railroads, and every railroad receiving such blanks, shall cause the same to be properly filled out and verified under oath by its proper officer and returned to the commission office within the time fixed by the commission office.

(9) **EXAMINE BOOKS AND FILES OF CARRIERS.** The ~~commission or any~~ commissioner of transportation or any person employed by the commission office for that purpose shall, upon demand, have the right to inspect the books and papers of any railroad and to examine under oath any officer, agent or employe of such railroad in relation to its business and affairs; provided that any person other than ~~one of said commissioners~~ the commissioner of transportation who shall make such demand shall produce his authority under the hand and seal of the commission office.

SECTION 71. 195.044 (1) of the statutes is amended to read:

195.044 (1) Each witness who appears before the commission office or its agent, by its order, shall receive for attendance the fees and mileage now provided for witnesses in civil cases in courts of record, which shall be audited and paid by the state in the same manner as other expenses are audited and paid, upon the presentation of proper vouchers sworn to by such witnesses and approved by the ~~chairman of the commission~~ commissioner of transportation. Said fees and mileage shall be charged to the appropriation for the commission office.

SECTION 72. 195.17 of the statutes is amended to read:

195.17 Interstate rate investigation, petition for relief, tariffs filed. The commission office may investigate all freight rates on interstate traffic affecting Wisconsin, and when the same are, in the opinion of the commission office, excessive or discriminatory or are levied or laid in violation of the law, or in conflict with the rulings, orders or regulations of the interstate commerce commission, the commission office shall present the facts to the interstate carrier, with a request to make such changes as the commission office may advise, and if such changes are not made within a reasonable time the commission office shall petition the interstate commerce commission for relief. All freight tariffs issued by any railroad relating to interstate traffic in this state shall be filed in the office of ~~the commission~~ when issued.

SECTION 74. 197.10 (4) and (5) of the statutes are amended to read:

197.10 (4) Insofar as the use, operation, service, management, control, sale, lease, purchase, extension, improvement, rates, value or earnings of the properties of the public utility, street railway or interurban railway or provisions looking toward the ultimate acquisition of the same are made subject to the terms of any contract provided for in sub. (1) of this section, and so long as said contract remains in force, the following sections and parts of sections of the statutes shall be inapplicable to the same, to wit: ss. 193.37, 193.38, 193.39, 193.40, 193.41, 193.42, 193.43, 193.44, 195.05, 195.10, 196.02 (1), (2), 196.05, 196.09, 196.10, 196.11, 196.15, 196.16, 196.20, 196.21, 196.22, 196.23, 196.26, 196.27, 196.28, 196.29, 196.30, 196.37, 196.38, 196.39, 196.40, 196.58, 196.70, 196.77, 197.01 (2) to (4), 197.02, 197.03, 197.04, 197.05, 197.06, 197.08, 197.09; provided, that nothing in any contract made hereunder shall operate to prevent an appeal to the public service commission or the office of the commissioner of transportation, by any person, firm or corporation other than a party to said contract upon any complaint alleging that any rate, fare, charge or classification, or any joint rate, or any regulation, act or practice whatsoever affecting the transportation of persons or property, or relating to the production, transmission, delivery or furnishing of gas, heat, light or power, or any service in

connection therewith, are unjustly discriminatory, or that any such service is inadequate or cannot be obtained. Upon said appeal the commission or the office shall, as provided by law, determine and by order fix a rate, fare, charge, classification, joint rate or regulation, act or practice or service to be imposed, observed or followed in the future in lieu of that found to be unjustly discriminatory or inadequate.

(5) Nothing in this section shall operate to deprive the ~~transportation commission office of the commissioner of transportation~~ or public service commission of its jurisdiction over service, rates and other matters as provided in chs. 195, 196 and 197, outside of the limits of said city of the first class. If any complaint or investigation before the ~~transportation commission office~~ or public service the commission as to service, rates or other matters arising outside of any such city necessarily shall involve any contract authorized in sub. (1), or any specifications, rules, regulations or acts in its conduct or administration such city shall be made a party to such proceeding and to the extent that such contract or its administration shall be determined by the office or the commission to be unreasonable or unjustly discriminatory as regards any person or municipality outside of such city, the same shall be changed to conform to the rates, service or regulations provided by said the office or the commission outside of such city.

SECTION 75. 230.08 (2) (mm) of the statutes is created to read:

230.08 (2) (mm) One executive assistant to the chairperson of the transportation commission created under s. 15.465 (1).

SECTION 76. 230.08 (2) (mm) of the statutes, as affected by chapter (this act), laws of 1981, is amended to read:

230.08 (2) (mm) One executive assistant to the ~~chairperson~~ commissioner of the ~~transportation commission~~ office of the commissioner of transportation created under s. 15.465 (1).

SECTION 77. 347.43 (4) of the statutes is amended to read:

347.43 (4) If a common carrier or person operating under a permit or certificate issued by the ~~transportation commission office of the commissioner of transportation~~ is convicted of operating a vehicle in violation of this section, the ~~commission office~~ may suspend or revoke such permit or certificate until such time as the vehicle has been equipped with safety glass as required by this section.

SECTION 78. **Nonstatutory provisions; transportation.** (1) TRANSPORTATION COMMISSION MEMBERS. (a) Notwithstanding sections 15.06 (1) (a) and 17.07 (3) of the statutes, except as provided in subsection (2), the terms of the members of the transportation commission on July 1, 1983, shall expire on July 1, 1983.

(b) The chairperson of the transportation commission on July 1, 1983, shall become the commissioner of transportation and shall continue to serve as the commissioner of transportation until his or her term expires under section 15.06 (1) (a) of the statutes.

(2) POSITION AUTHORIZATION REDUCTION. (a) The authorized FTE positions for the transportation commission are decreased by 9.0 SEG positions on October 1, 1982, due to the decreased workload of the commission resulting from this act.

(b) The authorized FTE positions for the office of the commissioner of transportation are decreased by 10.0 SEG positions on July 1, 1983, due to the decreased workload of the office resulting from this act.

(3) EXISTING CERTIFICATES AND LICENSES. (a) *Common motor carrier; certificates.*
1. The transportation commission shall issue a common motor carrier certificate under section 194.23 of the statutes, as affected by this act, to any person operating under a common motor carrier certificate issued by an agency of this state prior to October 1, 1982, if the person meets the insurance requirements of section 194.41 of the statutes.

2. No fee under section 194.04 (1) (b) of the statutes may be charged for issuing a certificate under subdivision 1.

(b) *Licenses.* 1. The transportation commission shall issue a contract motor carrier license under section 194.34 of the statutes, as affected by this act, to any person operating under a contract motor carrier license issued by an agency of this state prior to October 1, 1982, if the person meets the insurance requirements of section 194.41 of the statutes.

2. No fee under section 194.04 (1) (c) of the statutes may be charged for issuing a certificate under subdivision 1.

(4) **REPORTS TO THE LEGISLATURE.** (a) To assist the legislature in assessing the impact of this act on the shippers, the motor carrier industry and all the citizens of this state:

1. The transportation commission, in conjunction with the shippers and the motor carriers, shall record the changes that take place, analyze the effects of the changes especially on the shippers and the motor carrier industry and report to the legislature on the findings; and

2. The transportation commission, in conjunction with the motor carriers, shall investigate the effect of this act on the value of the motor carrier's authority and recommend to the legislature what, if any, measures should be taken to reduce any loss of that value identified.

(b) The transportation commission shall submit the reports required under paragraph (a) to the presiding officer of each house by July 1, 1983.

SECTION 79. Appropriation changes. The appropriation to the department of transportation under section 20.395 (7) (aq) of the statutes, as affected by the laws of 1981, is decreased by \$240,000 for fiscal year 1982-83 to reflect the reduction in staff by this act.

SECTION 80. Change in terminology. (1) Wherever the term "commission" or "commissioner's" appears in the following sections of the statutes, the term "office" or "office's", respectively, is substituted: 189.02 (1), (2), (3), (5), (6) and (7), 189.03, 190.02 (6), 190.03, 190.13, 190.16 (4) and (5), 191.01 (2), 191.03, 191.05, 191.07, 191.09 (2), 191.10 (2) and (3), 191.11, 191.13 (2), 191.16, 191.17, 191.19 (1) and (3), 191.21, 192.01, 192.14 (10) and (12), 192.15 (14), 192.19, 192.27 (1), 192.28 (2), 192.29 (1), (2) and (4), 192.291, 192.30, 192.31 (1), (2), (4) and (5), 192.324, 192.327 (3), (4), (5), (6) and (7), 192.33 (5), 192.34, 192.52 (3), (4) and (5), 192.53 (4), (5) and (6), 192.55 (5), 192.56 (1), (2), (3), (5) and (6), 193.05 (2), 193.10, 193.13, 193.29 (1) and (2), 193.30 (1) and (2), 193.31 (1), 193.34, 193.35, 193.36, 193.41, 193.42, 193.43, 193.44, 193.45, 193.46 (2), 194.01 (15), 194.04 (3) (am), 194.145, 194.20, 194.23, 194.24, 194.25 (3), 194.34, 194.37 (1) and (3), 194.46, 195.03 (title), (1), (7), (10) to (19), (25), (28) and (29), 195.04 (1), (2) and (3), 195.041, 195.042, 195.043, 195.044 (2), 195.045, 195.046, 195.05 (title), (1), (2) and (4) to (7), 195.055, 195.06, 195.07 (1), 195.08 (2), (5), (7) and (9), 195.10, 195.15, 195.16, 195.19 (1) and (3), 195.195, 195.196 (1) (intro.), (2) and (3), 195.20, 195.21, 195.23, 195.26, 195.27, 195.28 (1), (3) and (4), 195.285 (2), 195.286 (2), (5) and (8), 195.29 (1) to (7), 195.291, 195.30 (1), 195.305, 195.31, 195.32, 195.33 (1), (3), (4) and (5), 195.34, 195.36, 195.37 (1) to (4), 195.38, 195.45 (1), (2) and (4), 195.50 (1) and 195.60 (title), (1) to (6) and (7) (intro.) and (b).

(2) Wherever the term "transportation commission" appears in the following sections of the statutes, the term "office of the commissioner of transportation" is substituted: 20.395 (7) (title) and (aq), 20.917 (2), 25.40 (1) (d), 26.20 (3) and (10), 30.33 (1) and (2), 59.965 (2) (f) 3 and 4, 59.968 (4) (intro.), 66.06 (2), 66.061 (2) (a), 66.064, 66.065 (5) and (6), 66.068 (3), 66.07 (3), (4), (5) and (7), 66.94 (30) (a), 67.04 (2) (g) and (5) (i), 71.18 (2), 84.05, 84.13 (1), 84.31 (6) (a), 86.16 (5), 86.301 (5), 86.32 (1), 114.134 (4) (b) and (d), 175.05 (4) (b), 184.01 (2), chapter 189 (title),

189.02 (title), 195.285 (1) and (3), 197.10 (1) (h), (2), (3) and (6), 218.01 (2) (bd) 2, (c), (3) (b), (c), (g) and (h), (3c) (c) and (d), (5) (b) and (9), 218.11 (7) (a) and (b), 218.22 (4) (a) and (b), 218.32 (4) (a) and (b), 218.41 (4), (5) (b) and (8), 226.025 (3), 227.01 (11) (s), 341.07 (1), 342.26, 343.33, 343.69, 344.02 (1), (2) and (3), 344.03, 346.45 (3) (d), 348.20 (1), 348.25 (9), 552.23 (1) and 945.06.

(3) Wherever the term "transportation commission's" or "commission's" appears in the following section of the statutes, the term "commissioner's" is substituted: 59.965 (2) (f) 3 and 4.

(4) Wherever the term "transportation commission" appears in the following sections of the statutes, the term "office of the commissioner of transportation" is substituted: 20.395 (7) (ax), 20.917 (1) (intro.), 25.40 (1) (a) and 114.20 (19), all as affected by chapter 20, laws of 1981.

(5) Wherever the term "transportation commission" appears in the following section of the statutes, the term "office" is substituted: 194.04 (4) (cm) and (cr), as created by chapter 20, laws of 1981.

SECTION 81. Program responsibility changes. In the sections of the statutes listed in Column A, the program responsibilities references shown in Column B are deleted and the program responsibilities references shown in Column C are inserted:

(32) DEPARTMENT OF JUSTICE.

A	B	C
Statute Sections	References Deleted	References Inserted
15.251 (intro.)	194.15	none

SECTION 82. Initial applicability. (1) The treatment of section 194.19 of the statutes by this act does not apply to hearings on rates filed before October 1, 1982.

(2) The treatment of sections 194.23 and 194.34 of the statutes by this act does not apply to hearings on applications filed before October 1, 1982.

(3) Nothing in this SECTION prevents the party who is entitled to a hearing under section 194.19, 194.23 or 194.34, 1979 stats., from waiving the right to a hearing.

SECTION 83. Effective dates. (1) The treatment of sections 15.465 (1) by SECTION 5 of this act, 20.917 (1) (intro.) and (2) by SECTIONS 7 and 8 of this act, 35.28, 35.29 (2), 66.065 (5) by SECTION 13 of this act, 78.76 (1), 189.05, 194.01 (5), (11) and (15), 194.02, 194.025, 194.04 (1) (b) and (c) and (4) (d), 194.10, 194.14, 194.15, 194.17 (1) and (2), 194.18, 194.19, 194.20 (1), 194.21, 194.22, 194.225, 194.23, 194.25 (title) and (2), 194.26, 194.27, 194.28, 194.29, 194.30, 194.31 by SECTION 59 of this act, 194.34, 194.36, 194.37 (3), 194.38 (1), (2), (3) and (4), 194.41 (6), 194.46 and 230.08 (2) (mm) by SECTION 75 of this act of the statutes and SECTIONS 78 (3) and (4), 79, 81 and 82 (3) of this act by this act takes effect on October 1, 1982.

(2) The treatment of sections 15.03, 15.06 (1) (am), 15.461 (1), 15.465 (title), 15.465 (1) by SECTION 6 of this act, 20.923 (4) (d) 15 and (e) 11, 66.07 (2), 84.30 (18), 85.01 (3), 88.66 (2), 88.87 (4), 88.88 (2), 114.135 (9), 189.01 (1), 189.02 (4), 190.001 (1), 190.02 (9) (c), 191.001 (1), 191.09 (1), 191.10 (1), 191.20, 192.001 (1), 192.47, 193.001, 194.01 (3), 194.31 by SECTION 60 of this act, 195.001 (1), 195.03 (8) and (9), 195.044 (1), 195.17, 197.10 (4) and (5), 230.08 (2) (mm) by SECTION 76 of this act and 347.43 (4) of the statutes and SECTION 80 of this act by this act takes effect on July 1, 1983.