

## CHAPTER 194

## MOTOR VEHICLE TRANSPORTATION

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**NOTE:** This chapter is shown as affected by chapter 347, laws of 1981, which revised the chapter to remove economic regulation of the motor industry eff. 10-1-82. It also is shown as substituting the "office of the commissioner of transportation" for the "transportation commission" eff. 7-1-83 in numerous sections.

**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 motor driven cycle or a vehicle operated on rails, or trackless trolley car.

(2) "Public highway" means every public street, alley, road, highway or thoroughfare of any kind, except waterways, in this state while open to public travel and use.

(3) "Office" means the office of the commissioner of transportation.

**NOTE:** Sub. (3) is shown as affected by ch. 347, laws of 1981, eff. 7-1-83. Prior to that date it reads:

"(3) "Commission" means the transportation commission."

(3d) "Department" means the department of transportation.

(3s) "Secretary" means the secretary of transportation.

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

(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 or property 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.

(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.

(14) "Private motor carrier" means any person except a common or contract motor carrier engaged in the transportation of property by motor vehicle other than an automobile or trailer used therewith, upon the public highways.

(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 deemed to be transporting the property for hire and not a bona fide purchaser or seller thereof. 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

deemed to be transportation for hire and not private carriage. 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.

(16) The term "gross weight" when applied to a motor vehicle used for the transportation of property shall mean the actual weight of such motor vehicle unloaded plus the licensed carrying capacity of such motor vehicle.

(17) The term "gross weight" when applied to a motor vehicle used for the transportation of passengers shall mean the actual weight of such motor vehicle unloaded plus one hundred and fifty pounds for each person capable of being seated in such motor vehicle.

(18) The term "municipality" means a town or an incorporated village or city.

**History:** 1971 c. 164 s. 88; 1977 c. 29 ss. 1303, 1304, 1654 (9) (c), (f), (10) (a); 1979 c. 34, 110, 221, 355; 1981 c. 347.

A buy-sell arrangement whereby the carrier "buys" property at the shipping point, immediately transports it to a delivery point, and there "sells" it to the real purchaser—with the carrier's profit amounting only to the price of the transportation between the 2 points—raises a rebuttable presumption under (15), that the property is being transported "for hire." *Gensler v. Dept. of Revenue*, 70 W (2d) 1108, 236 NW (2d) 648.

**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.

**History:** 1977 c. 29 s. 1654 (9) (c); 1981 c. 347.

**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.

**History:** 1981 c. 347.

**194.03 Interstate and foreign commerce.**

(1) This chapter shall apply to motor carriers engaged in interstate and foreign commerce upon the public highways of this state, in all particulars and provisions lawful under the constitution of the United States.

(2) Fees and taxes provided in this chapter shall be assessed against operations in interstate and foreign commerce and collected from the carriers performing such operations, as partial compensation for the use of the highways and policing of the same.

(4) Motor carriers operating in interstate and foreign commerce shall obtain permits and display evidence thereof as required by the department in the same manner as is required of motor carriers operating in intrastate commerce.

(5) No certificate or license hereafter issued shall contain authority to engage both in operations requiring a certificate or permit under the Federal Motor Carrier Act, 1935, and in operations which do not require such certificate or permit.

(6) Whenever the term "interstate commerce" is used in this chapter it shall be interpreted as including foreign commerce.

**History:** 1977 c. 29 s. 1654 (7) (a).

**194.04 Certificates; licenses; permits.**

(1) AUTHORITY TO OPERATE. (b) Every application for a certificate shall be accompanied by a filing fee of \$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.

(bd) Except as hereinafter provided each holder of a certificate shall also pay an annual permit fee as provided in this section for each motor vehicle operated under such certificate.

(c) Every application for a license shall be accompanied by a filing fee of \$500, except an application for a license under the federal motor carrier act of 1935, which shall be accompanied by a filing fee of \$25.

(cb) Except as hereinafter provided, each holder of a license shall also pay an annual permit fee as provided in this section for each motor vehicle operated under such license.

(cm) Vehicles permitted under common or contract motor carrier authorities shall pay permit fees for the same period as registration fees are paid under ch. 341 except that permit fees paid under sub. (4) (cm) shall be for the period required under the rules adopted pursuant to 49 USC 11506 and except that permit fees paid under sub. (4) (cr) shall be for the same period as required for vehicles subject to the fee under sub. (4) (cm).

(2) PERMITS; APPLICATION, EXPIRATION. Every permit, except the quarterly and multiple-year permits issued pursuant to sub. (1) (cm) or permits subject to the fee provided in sub. (4) (cm) or (cr), for the operation of a motor vehicle expires on December 31 of each year. Except as herein provided application for permits shall be made annually and shall be accompanied by the annual fee reduced by one-fourth for each quarter of the permit year in which the vehicle has not been operated, except that there

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shall be no reduction of the fees paid by private motor carriers or on renewals. No permit shall be issued or renewed for any motor vehicle unless the registration required by ch. 341 is paid in this state.

**(3) PERMITS; RESTRICTION OF USE.** (a) No motor vehicle permit issued under this chapter shall be transferable from one motor vehicle to another except as authorized under the regulations adopted under 49 USC 11506 or as further provided in this subsection. Common motor carrier vehicles, except truck tractors or road tractors, upon which the common motor carrier permit fee has been paid may be used or operated in intrastate commerce by other common motor carriers without the payment of an additional permit fee. Contract motor carrier vehicles upon which the contract motor carrier permit fee has been paid may be used or operated in intrastate commerce by other contract motor carriers without the payment of an additional permit fee and, if operated exclusively in the metropolitan area of any city within a county having a population of 500,000 or more, may be used or operated in the hauling of common motor carrier trailers within the metropolitan area. When used in railroad trailer-on-flat-car service, and when interchanged between contract and common motor carriers, contract or common motor carrier trailers and semitrailers upon which the contract or common motor carrier permit fee has been paid may be used or operated by other contract or common motor carriers without an additional permit. Private motor carrier trailers and semitrailers may be used or operated both by private motor carriers and by common and contract motor carriers upon the payment of the appropriate common or contract motor carrier permit fee.

(am) No additional permit or payment of fees is required by the lessee of a contract motor carrier vehicle licensed in this state if the lessor is a Wisconsin resident and the lessee has a contract carrier license or common carrier certificate of authority issued by the office and insurance on file with the department as prescribed in s. 194.41.

(b) When a motor truck, motor bus, tractor, trailer or semitrailer having a permit is sold or otherwise disposed of, and its permit canceled and such vehicle is replaced by another such motor vehicle, a permit of the same class shall be issued by the department for the same year to such replacement vehicle without charge, except that if a motor vehicle is subject to 49 USC 11506 the provisions for replacement vehicle permits set out in the regulations adopted pursuant to 49 USC 11506 shall apply.

(c) 1. Any individual, copartnership or corporation whose principal business is leasing of

motor vehicles, including trailers and semitrailers as described in s. 194.44, without drivers for compensation, may, upon payment of an additional annual permit fee of \$20 for each such leased motor vehicle, trailer or semitrailer, lease the same to common and contract motor carriers. Such lessor shall not be considered to obtain the privileges or be subject to the obligations of s. 194.23 or 194.34 nor shall either of said sections apply to such lessor.

2. An authorized common or contract carrier, when leasing a motor vehicle, trailer or semitrailer from a person engaged in the business of leasing under this section and under s. 194.44, shall not be required to procure a permit as prescribed in s. 194.23 or 194.34 if the motor vehicle trailer or semitrailer leased carries the permit required under this section.

**(4) ANNUAL PERMIT FEES.** The annual permit fees required for motor vehicles except as provided in sub. (2) operated under this chapter shall be as follows:

(a) Motor vehicles operated solely in intrastate commerce by common motor carriers of passengers, \$30.

(b) Motor vehicles operated solely in intrastate commerce by common motor carriers of property, \$30.

(c) Motor vehicles operated solely in intrastate commerce by contract carriers, \$15.

(cm) Motor vehicles, except trailers and semitrailers, operated entirely or in part in interstate commerce by common and contract motor carriers under authority issued by the interstate commerce commission and subject to office regulation, \$5.

(cr) Motor vehicles, except trailers and semitrailers, operated entirely or in part in interstate commerce by common and contract motor carriers exempt from interstate commerce commission regulation but subject to office regulation, \$5.

**NOTE:** Pars. (cm) and (cr) are shown as affected by ch. 347, laws of 1981, s. 80 (5), which substitutes "office" for "transportation commission", eff. 7-1-83.

**(5a) COLLECTION OF FEES.** The department shall collect all fees prescribed by this section.

**(6) DISPOSITION OF FEES COLLECTED.** All moneys received under this section shall be paid into the transportation fund.

**History:** 1975 c. 143; 1977 c. 29 ss. 1304m, 1305, 1654 (1), (7) (a); 1979 c. 221; 1981 c. 20; 1981 c. 347 ss. 38, 39, 80 (5).

Vehicle exempted under 341.405 from state registration requirement is not exempted under 194.04 (2) from state permit requirement. *State v. Yellow Freight System, Inc.* 101 W (2d) 142, 303 NW (2d) 834 (1981).

Motor carrier permit fees required by (4) (a), (b) and (c) are not in conflict with interstate commerce commission regulations and may be collected. The permit fee required by (4) (d) is in conflict with such regulations and may not be collected. 63 Atty. Gen. 206.

**194.05 Exemption. (1)** This chapter shall not apply to motor vehicles owned by the United States, any state, or any political subdivision thereof, except in the case of transportation systems acquired and operated between counties under s. 59.968 (4) but in such a case the political subdivision is exempt from the annual permit fee under s. 194.04 (4) (a).

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

(3) This chapter shall not apply to transportation of newspapers by motor vehicles having a gross weight of less than 8,000 pounds when any transportation for hire provided by the person who owns or operates the motor vehicle is confined exclusively to the transportation or distribution of newspapers within a radius of 50 miles of the point where the person or motor carrier receives the newspapers from the newspaper publisher or his drop-off agent or carrier.

**History:** 1973 c. 63, 259; 1977 c. 234, 447.

**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.

**194.08 Effect of this chapter on powers of department and municipalities.** None of the provisions of this chapter shall be deemed to deprive the department 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 prevent said department 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.

**History:** 1977 c. 29 s. 1654 (8) (a).

**194.09 Marking carrier 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 department may prescribe, so as

to identify such motor vehicle as being operated under such a permit.

**History:** 1977 c. 29 s. 1654 (7) (a).

**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.

**History:** 1981 c. 347.

**194.11 Inspection of premises or vehicles.** The department, 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.

**History:** 1977 c. 29 s. 1654 (7) (a).

**194.145 Office; hearing; decision. (1)** Any person adversely affected by a determination of the department under this chapter may petition the office for review. The office shall set a time for a hearing on the matter, and notice of the hearing shall be given to the petitioner and the department at least 10 days prior to the hearing. The hearing shall be conducted as are hearings for contested cases under ch. 227.

(2) In its decision the office may confirm or reverse or may modify, with or without conditions, the determination of the department. Where appropriate, the office may by order direct the department to implement the decision of the office.

(3) Review of department determinations made under this chapter is a condition precedent to judicial review under ch. 227. Decisions of the office are subject to judicial review under ch. 227.

**History:** 1977 c. 29; 1981 c. 347 s. 80 (1).

**194.16 Operation while delinquent unlawful.** No motor carrier of property or of passengers shall operate any motor vehicle under any permit issued pursuant to this chapter while delinquent in the payment of any part of the fees provided under ch. 341.

**194.17 Penalties. (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, shall forfeit not less than \$500 nor more than \$5,000. Each violation 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.

**History:** 1977 c. 29 ss. 1307m, 1654 (7) (a); 1977 c. 273, 447; 1979 c. 34; 1981 c. 347.

**NOTE:** This section is shown as it appears in ch. 347, laws of 1981, which amended sub. (1) but omitted some language without showing it as stricken.

**194.178 Uniform traffic citation.** Service of a uniform traffic citation on the operator of a vehicle shall be deemed sufficient process to give the appropriate court jurisdiction over the person having or required to have a certificate of authority, permit or license under this chapter or the person required to meet other responsibilities under this chapter upon the filing with such court of the uniform traffic citation.

**History:** 1979 c. 34.

**194.20 Certificates and licenses for carriers in interstate and foreign commerce.**

(1) Motor carriers operating in interstate and foreign commerce shall obtain certificates and licenses as provided in ss. 194.23 and 194.34. Certificates and licenses which involve operations in interstate and foreign commerce may be denied by the office 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 the applicant.

(2) Notwithstanding sub. (1) the office is empowered to act under the provisions of section 206 (a) of the interstate commerce act, as amended by P.L. 87-805, 76 Stat. 911, by making any finding, determination and otherwise doing any other thing necessary to proceed under that statute.

**History:** 1981 c. 347 ss. 47, 80 (1).

**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 office and except by virtue of a permit issued by the department for the operation of the vehicle. The office may issue or refuse to issue any certificate. The office may attach to the exercise of the privilege granted by a certificate

such terms or conditions as are permitted under this chapter.

(2) The office shall issue a certificate without a hearing and order if the office 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 office 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 office denies a certificate, the office 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.

**History:** 1981 c. 347 ss. 51, 80 (1).

**NOTE:** This section is shown as affected by ch. 347, laws of 1981, ss. 51 and 80. Section 80, eff. 7-1-83, substitutes "office" for "commission" in several places.

**194.24 Application; form.** Applications for all certificates, licenses and permits required under this chapter shall be verified, written, and in conformity with department requirements as to form and content. The department shall prepare and make available such forms as the office may request. The department shall make provision on applications for any information required by the office.

**History:** 1977 c. 29 ss. 1313, 1654 (7) (e); 1977 c. 418; 1981 c. 347 s. 80 (1).

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

(3) When the holder of a certificate or license or any right or privilege thereunder dies, his personal representative, heirs or surviving spouse may continue to operate thereunder for a reasonable period after his death. The office shall have power to determine when such period shall end and no person shall operate under the provisions of this subsection beyond the date fixed by the office. Any person electing to operate under this subsection shall be considered as having assented to be considered as the holder of said certificate, license or any right or privilege thereunder for purposes of regulation under the laws of Wisconsin.

**History:** 1981 c. 347 ss. 52, 53, 80 (1).

**194.31 Inspection of records.** The 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 the commissioner of transportation or secretary who shall make such demand shall produce his or her authority under the hand and seal of the office or the department.

**History:** 1977 c. 29 s. 1654 (7) (c), (9) (e); 1977 c. 273; 1981 c. 347.

**NOTE:** This section is shown as affected by ch. 347, laws of 1981, s. 60, eff. 7-1-83. Until that date, the following language is in effect:

"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 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 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."

**194.32 Busses, restrictions.** 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 except for an articulated bus as defined in s. 340.01 (2m). Except for an articulated bus as defined in s. 340.01 (2m) which may be 65 feet in length, no interurban motor bus which exceeds 40 feet in length or 8 feet 6 inches in width or is double-decked shall be operated upon the public highways under the authority of a common carrier permit. As used in this section an interurban motor bus is deemed "double-decked" when passengers are carried therein on an upper level throughout the length of the bus over passengers on a lower level throughout the length of the bus.

**History:** 1981 c. 159.

**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 department.

**History:** 1977 c. 29 s. 1654 (7) (a).

**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 office and except by virtue of a permit issued by the department for the operation of the motor vehicle. The office may refuse to issue any license.

(2) The office shall issue a license without a hearing and order if the office 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 office 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 office denies a license, the office 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.

**History:** 1981 c. 347 ss. 61, 80 (1).

**NOTE:** This section is shown as affected by ch. 347, laws of 1981, ss. 61 and 80. Section 80, eff. 7-1-83, substitutes "office" for "commission" in several places.

**194.355 Operation under permit.** The operation of a motor vehicle under a permit issued to a common motor carrier or a contract motor carrier shall, during the effective life of said permit, be deemed to be the operation of the permittee for all purposes related to the enforcement of this chapter and chs. 110, 341 to 349 and 351.

**History:** 1979 c. 333 s. 5; 1981 c. 390.

**194.37 Division of powers; cooperation.**

(1) The department and the office shall enforce the orders relating to the provisions of this chapter and shall coordinate and allocate their activities so as to effectively enforce such orders and this chapter.

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

**History:** 1977 c. 29 ss. 1318, 1654 (7) (e), (9) (e); 1981 c. 347 ss. 63, 80 (1).

**NOTE:** Sub. (3) is shown as affected by ch. 347, laws of 1981, ss. 63 and 80. Section 80, which also amends sub. (1), is eff. 7-1-83 and substitutes "office" for "commission".

**194.38 Regulatory powers of department.** It shall be the duty of the department:

(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.

(5) To act in accordance with 49 USC 11506 by making any finding, determination and otherwise doing any other thing necessary to proceed under that statute. Nothing in this subsection shall permit the department to extend the length or weight of motor vehicles.

**History:** 1971 c. 139; 1977 c. 29 s. 1654 (7) (a); 1981 c. 20, 42, 347.

**194.41 Contract of liability for damage to person or property.** (1) No permit or vehicle registration may be issued to a common motor carrier of property, contract motor carrier or rental company and no permit or vehicle registration may remain in force to operate any motor vehicle for which a permit is required by this chapter unless the carrier or rental company has on file with the department and in effect an approved certificate for a policy of insurance or other written contract in such form and containing such terms and conditions as may be approved by the department issued by an insurer authorized to do a surety or automobile liability business in this state under which the insurer assumes the liability prescribed by this section with respect to the operation of such motor vehicles. The certificate or other contract is subject to the approval of the department and shall provide that the insurer shall be directly liable for and shall pay all damages for injuries to or for the death of persons or for injuries to or destruction of property that may be recovered against the owner or operator of any such motor vehicles by reason of the negligent operation thereof in such amount as the department may require. Such liability may be restricted so as to be inapplicable to damage claims on account of injury to or destruction of property transported, but the department may require a certificate or other contract protecting the owner of the property transported by carriers from loss or damage in such amount and under such conditions as the department may require. No permit or vehicle registration may be issued to a common motor carrier of passengers by any motor vehicle, or other carrier of passengers by motor bus, except those registered in accordance with ss. 341.26 (2) (d) and 341.267, and no permit or vehicle registration may remain in force to operate any motor vehicle unless it has on file with the department a like certificate or other contract in such form and containing such terms and conditions as may be approved by the department for the payment of damages for injuries to property and injuries to or for the death of persons,

including passengers in such amounts as the department may require.

(2) No certificate or other contract filed under this section may be limited as to the total liability of the insurer thereunder, for any series of accidents, and no such certificate or other contract may be terminated at any time prior to its expiration under the terms thereof, nor canceled for any reason whatever, unless there has been filed with the department by the insurer a notice thereof at least 30 days prior to the date of termination or cancellation. The 30-day notice may be waived if an acceptable replacement has been filed under this section.

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

(4) The department shall adopt rules for the administration and enforcement of this section and the secretary may appoint any employe in the department as a representative to affix the secretary's signature, including any facsimile signature adopted by the secretary, to administrative letters, notices and orders to enforce this section.

(5) The department of transportation may require blanket filings of insurance, subject to such rules as the department may adopt.

(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.

**History:** 1973 c. 200; 1975 c. 243, 421; 1977 c. 29 ss. 1319, 1654 (7) (a); 1977 c. 59, 203, 325; 1977 c. 418 s. 924 (48); 1979 c. 102, 154; 1981 c. 347.

The purpose of the insurance requirements of (1) is to protect the safety and welfare of the traveling or shipping public on the highways; hence, coverage for loading and unloading is not within the statutory requirements and—there being no express language as to such coverage in the carrier's policy—was not among the risks accepted by the carrier's insurer. *Kroske v. Anaconda American Brass Co.* 70 W (2d) 632, 235 NW (2d) 283.

**194.42 Exemption from undertaking; proof of financial responsibility; revocation.** The department may by order exempt from the requirements of s. 194.41 any common motor carrier of property or of passengers, or other carrier of passengers by motor bus, 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 s. 194.41. Any person so exempted shall furnish to the department from time to time such information as to financial ability as the department may require and shall promptly report to the department 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 department may by order revoke any such exemption, after hearing upon 10 days' notice, and for cause. Within 10 days after the date of such order of revocation the person affected thereby shall in all respects comply with s. 194.41.

**History:** 1977 c. 29 s. 1654 (7) (a); 1977 c. 273.

**194.43 Private motor carriers; regulation by department.** The department is hereby vested with power and authority to regulate the operations of private motor carriers, including the power to designate from time to time the public highways over which private motor carrier vehicles may or may not be operated and to designate the time that such vehicles may or may 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; and to prescribe reasonable and necessary rules and regulations for the safety of operation of private motor carriers.

**History:** 1977 c. 29 s. 1654 (7) (a).

**194.44 Private motor carriers; permit. (1)** No private motor carrier may operate a motor vehicle upon the public highways without first having obtained from the department a private motor carrier permit therefor except that no permit is required for a trailer with a gross weight of 4,500 pounds or less.

(2) If any person engaged in the business of leasing motor vehicles without drivers, or leasing trailers to be hauled or propelled by a motor vehicle, leases such motor vehicles without drivers, or leases such trailers to private motor carriers, such lessor shall procure a private motor carrier permit in the lessor's name for the motor vehicles or trailers leased to private motor carriers, except that a permit is not required for a trailer with a gross weight of 4,500 pounds or less. A lessor's private motor carrier's permit on a motor vehicle or trailer being used by a private motor carrier shall constitute compliance with this chapter on the part of the motor carrier with respect to the requirements for a permit on the motor vehicle or trailer. When a leased motor vehicle or trailer is used by a private motor

carrier under permit issued to the lessor of the motor vehicle or trailer, the person in whose name the permit is issued shall be responsible to the state for the payment of all taxes, fees and other payments due under this chapter and ch. 341 because of the operation of the motor vehicle or trailer under the permit, and for the making of all reports in connection with the operation of the motor vehicle or trailer. The owner of the leased motor vehicle or trailer shall before leasing the same comply with the insurance requirements of s. 194.41. The annual permit fee for each such leased motor vehicle or trailer is \$10 and shall be collected by the department. The department shall supervise and regulate the operations of the leased motor vehicles and trailers to effectively accomplish the intent of s. 194.02. The department may investigate all leasing practices of any leasing company including the inspection of its records and requiring reports periodically to determine whether the leasing company is supplying for hire truck service without complying with this chapter.

(3) The provisions of sub. (2) shall not apply to any motor vehicle leased to or used by any private carrier who obtains a permit as required in sub. (1).

(4) The department of transportation may issue blanket permits under this section, subject to such rules as the department may adopt.

**History:** 1977 c. 29 ss. 1320, 1654 (7) (a), (9) (b); 1977 c. 273; 1979 c. 156.

Under sub. (3) a leasing company is relieved of the obligation to obtain a private motor carrier permit under sub. (2) only if the lessee obtains the necessary permit on the leased vehicle under sub. (1). 58 Atty. Gen. 190.

**194.46 Amendment or revocation of certificate, license or permit, or license under s. 194.44; hearing.** The office 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 office or department, alter, amend, suspend or revoke such certificate or license or suspend or revoke such permit or operation under s. 194.44.

**History:** 1977 c. 29; 1981 c. 347 ss. 68, 80 (1).

**NOTE:** This section is shown as affected by ch. 347, laws of 1981, ss. 68 and 80. Section 80, eff. 7-1-83, substitutes "office" for "commission".

**194.51 Suit to recover protested tax.** No suit shall be maintained in any court to restrain or delay the collection or payment of the taxes levied in this chapter. The aggrieved taxpayer shall pay the tax as and when due, and, if paid



under protest, may at any time within 90 days from the date of such payment, sue the state in an action at law to recover the tax so paid. If it is finally determined that said tax, or any part thereof, was wrongfully collected for any reason, it shall be the duty of the department of administration to issue a warrant on the state treasurer for the amount of such tax so adjudged to have been wrongfully collected, and the treasurer

shall pay the same out of the transportation fund. A separate suit need not be filed for each separate payment made by any taxpayer, but a recovery may be had in one suit for as many payments as may have been made within any 90-day period preceding the commencement of such an action. Such suits shall be commenced as provided in s. 775.01.

**History:** 1977 c. 29 s. 1654 (1); 1979 c. 32 s. 92 (5).