
By: Chairman, Environmental Matters Committee (Departmental - Public Service Commission)

Introduced and read first time: January 17, 1996

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Public Service Commission - Motor Carrier Companies - Carriers of Flammables**

3 FOR the purpose of repealing the Public Service Commission's authority over carriers of
4 flammables; and generally relating to the regulation of carriers by the Public Service
5 Commission.

6 BY repealing and reenacting, with amendments,
7 Article 78 - Public Service Commission Law
8 Section 2, 27, 29, 31, 32, 33, 35, and 72
9 Annotated Code of Maryland
10 (1995 Replacement Volume)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article 78 - Public Service Commission Law**

14 2.

15 (a) The following terms, and such variants thereof as may be due to requirements
16 of grammar and syntax, when used in this article, shall be construed, unless the context
17 clearly otherwise requires, in accordance with the following definitions.

18 [(b) "Carriers of flammables" means (1) any motor vehicle common carrier which
19 transports in bulk in tank vehicles, any liquid which will give off flammable vapors at or
20 below 300 degrees Fahrenheit, or any liquid which, when mixed with wood, sawdust, rags
21 or similar organic substances, will cause spontaneous heating and ignition; and (2) any
22 motor vehicle contract carrier as defined in subsection (gg) of this section engaged in the
23 transportation of such liquids, in bulk, serving a specified list of shippers filed by such
24 carrier under the provisions of § 31(d).]

25 [(c)] (B) "Commission" means the Public Service Commission.

26 [(d)] (C) "Common carrier" means and includes any person, public authority,
27 federal, State, district or municipal transportation agency engaged in the public
28 transportation for hire of persons, whether by land, water, air or any combination of
29 them, and includes, but is not limited to, airline company, car company, motor vehicle

2

1 company (including automobile company and motor bus company), power boat company
 2 (including vessel-boat company and steamboat company and ferry company), railroad
 3 company, street railroad company, sleeping car company, taxicab company, toll bridge
 4 company, and transit company. ["Common carrier" includes any person engaged in the
 5 public transportation for hire by motor vehicle of flammables in bulk.]Any provisions of
 6 this article to the contrary notwithstanding, "common carrier" does not mean and shall
 7 not include any county revenue authority or any toll bridges or other facilities owned and
 8 operated by any county revenue authority. "Common carrier" does not include any
 9 vanpool or launch service.

10 [(e)] (D) "Company", as a designation for a type of enterprise, such as "public
 11 service company" or "electric company" means and includes any person owning such
 12 enterprise, whether in his own right or as agent, trustee, or receiver.

13 [(f)] (E) "Electric company" means and includes any public service company,
 14 other than a company generating and/or transmitting electricity exclusively for its own
 15 use, (1) which (A) owns any electric plant and (B) transmits, sells, or distributes
 16 electricity, or generates electricity for distribution or sale; or (2) any such company which
 17 is authorized to erect, lay down or maintain wires, pipes, conduits, ducts or other fixtures
 18 in, over, or under streets for furnishing or distributing electricity, or to maintain
 19 underground conduits or ducts for electrical conductors; or (3) every municipal
 20 corporation in the business of supplying electricity for other than municipal purposes.

21 [(g)] (F) "Electric plant" means plant owned by an electric company and includes
 22 but is not limited to batteries, boilers, buildings, cables, conduits, converters, dams, ducts
 23 (or other devices for containing or carrying electrical conductors), dynamos, easements,
 24 lamps, meters, motors, poles, power stations, real estate, services, transformers,
 25 waterfalls, water plant and water property.

26 [(h)] (G) "Gas company" means and includes (1) any public service company
 27 authorized to erect, lay down or maintain pipes, conduits, ducts or other fixtures in, over,
 28 or under streets for furnishing or distributing gas; and (2) any public service company
 29 which (A) owns any gas plant, and (B) transmits, sells, supplies, or distributes artificial or
 30 natural gas, or manufactures gas for distribution or sale; and (3) every municipal
 31 corporation in the business of supplying gas for other than municipal purposes.

32 [(i)] (H) "Gas plant" means plant owned by a gas company and includes but is
 33 not limited to boilers, buildings, condensers, easements, extensions, holders, lamps,
 34 mains, meters, pipes, pipe galleries, purifiers, retorts, real estate, scrubbers, services, and
 35 water gas sets.

36 [(j)] (I) "Own" means own, operate, lease to, lease from, manage, or control.

37 [(k)] (J) "Person" includes individual, corporation, firm, partnership, association,
 38 company, cooperative, joint stock company or association, and any other form of business
 39 enterprise.

40 [(l)] (K) "Personnel of the Commission" includes commissioners, general
 41 counsel, officers and employees of the Commission.

42 [(m)] (L) "Plant" includes gas plant, electric plant, railroad, street railroad,
 43 telegraph lines, telephone lines, water plant and all material, equipment, apparatus,

3

1 devices and property of every kind owned by any public service company and used or to be
2 used for or in connection with or in furtherance of a public utility service.

3 [(n)] (M) "Proceedings" includes actions, complaints, hearings, investigations,
4 trials, appeals, orders and similar proceedings pending before or made or conducted by
5 an official body.

6 [(o)] (N) "Public service company" means a common carrier company, gas
7 company, electric company, steam heating company, telephone company, telegraph
8 company, water company, sewage disposal company, and/or any combination thereof.
9 Two public service companies shall be considered of the same class, where they are both
10 common carrier companies or both gas companies, electric companies, gas and electric
11 companies, steam heating companies, telephone companies, telegraph companies, water
12 companies, or sewage disposal companies.

13 [(p)] (O) "Railroad" includes every common carrier by rail, however powered,
14 with all branches, bridges, cars, extensions, ferries, plant, spurs, stations, subways,
15 switches, terminal facilities, tracks, tunnels, and equipment used thereon or in connection
16 therewith.

17 [(q)] (P) "Rates" includes tolls, fares, tariffs, fees, prices and any other charges
18 for public utility services, whether individual or joint, of a public service company; and
19 any schedule, regulation, classification or practice of any public service company affecting
20 the amount of such charges or the nature and value of the services rendered therefor.

21 [(r)] (Q) "Records" includes accounts, books, charts, contracts, documents, files,
22 maps, papers, profiles, reports (annual and otherwise), schedules and any other records.

23 [(s)] (R) "Sewage disposal company" includes any privately-owned public service
24 company which owns or maintains pipes or other fixtures and facilities for the disposal or
25 disposition of household, animal and human waste, refuse and slops.

26 [(t)] (S) "Steam heating company" includes any public service company
27 manufacturing, selling or distributing steam for use, sale or distribution.

28 [(u)] (T) "Street" includes street, highway, avenue, road, bridge, and any other
29 accommodation for public passage on land.

30 [(v)] (U) "Street railroad" includes any railroad which is not part of a trunk line
31 railway system, and whose routes are mainly within the corporate limits of Baltimore City,
32 or any other city or town with a population of not less than two thousand people.

33 [(w)] (V) "Taxicab" means any motor vehicle for hire (other than a vehicle
34 operated, with the approval of the Commission, on regular schedules and between fixed
35 termini, as these terms are defined in Title 11 of the Transportation Article) that is
36 designed to carry seven or fewer individuals, including the driver, and is used to accept or
37 solicit members of the public for transportation for hire between those points along the
38 public streets as the passengers request.

39 [(x)] (W) "Telegraph company" includes any public service company which owns
40 telephone lines for the reception, transmission or communication of messages by
41 telegraph, or which lets, licenses, or sells telegraphic communication.

4

1 [(y)] (X) "Telegraph lines" means the plant owned by any telegraph company,
2 and includes the company's appliances, buildings, crossbars, easements, instruments,
3 machines, poles, real estate and wires.

4 [(z)] (Y) "Telephone company" includes any public service company which owns
5 telephone lines for the reception, transmission or communication of messages by
6 telephone or teletype, or which lets, licenses, or sells telephonic or teletype
7 communication. It does not include a cellular telephone company.

8 [(aa)] (Z) "Telephone lines" means the plant owned by a telephone company and
9 includes the company's appliances, buildings, crossbars, easements, instruments,
10 machines, poles, real estate, receivers, transmitters and wires.

11 [(bb)] (AA) "Toll bridge" means any bridge heretofore or hereafter operated by
12 any person authorized to charge and collect toll from any or all traffic using the bridge.

13 [(cc)] "Transportation of property or freight" means any transporting of property or
14 freight, except the transportation of fluid milk, and includes any service in connection
15 with delivery, elevation, handling, icing, receiving, refrigeration, storage, transfer in
16 transit, or ventilation of the property or freight transported, but shall not include any
17 service or handling in connection with the transportation of fluid milk.]

18 [(dd)] (BB) "Violating any of the provisions of this article" includes failing,
19 neglecting or refusing to comply with any provision of this article, or with any effective
20 and outstanding action, direction, ruling, order, rule, regulation, or decision of the
21 Commission.

22 [(ee)] (CC) "Water company" includes any public service company which owns any
23 water plant, and which sells, distributes or supplies water for gain.

24 [(ff)] (DD) "Water plant" means the plant owned by a water company and includes
25 buildings, canals, dams, easements, real estate, waterfalls, water power station or water
26 supply.

27 [(gg)] "Contract carriers of flammables" shall mean and include any person which,
28 under individual written contracts or agreements of a term or duration of not less than 90
29 days, with a limited number of persons, engages in the transportation, as a carrier of
30 flammables, in bulk, for compensation within the State of Maryland.

31 [(hh)] "Private carriers of flammables" shall mean and include those carriers of
32 flammable liquids in bulk, where the carrier is the owner of the cargo or carriage is for the
33 purpose of sale or in the furtherance of a commercial enterprise to which carriage is
34 incidental. All carriers in this class shall be specifically exempted from the provisions of
35 this article.]

36 [(ii)] (EE) "Radio common carrier" shall mean every public service company
37 operating or managing a radio common carrier engaged in the business of providing a
38 service of one-way or two-way radio communications and licensed as a miscellaneous
39 common carrier by the Federal Communications Commission, but not engaged in the
40 business of providing a public land line message telephone service or a public message
41 telegraph service. The terms "telegraph company", "telephone company", or "a person

5

1 operating telegraph or telephone lines" when used in this article, shall not be construed
2 to include radio common carriers.

3 [(kk)] (FF) "Family" in the case of commissioners, the People's Counsel, the
4 General Counsel and hearing examiners means spouse, dependent child, parent, brother
5 or sister and in the case of other personnel of the Commission and of the Office of the
6 People's Counsel means spouse or dependent child.

7 [(ll)] (GG) "Relative" means any person related by blood or marriage.

8 [(mm)] (HH) "Transportation of passengers for hire" means any transportation
9 of passengers for hire, including, but not limited to regularly scheduled operations,
10 charter or contract operations, tour or sightseeing operations, and passengers carried by
11 corporations, groups, and associations engaged in the transportation of their
12 stockholders, shareholders or members, or their property or freight, whether on the
13 cooperative plan or otherwise.

14 [(nn)] (II) "Launch service" means any power boat company that transports
15 passengers or freight between points on shore and vessels located in any body of water
16 within the State.

17 [(oo)] (JJ) "Small rural electric cooperative" means an electric company that:

18 (1) Is owned and controlled exclusively by the consumers whom it serves;

19 (2) Conducts its business on a nonprofit basis; and

20 (3) Supplies electricity to less than 1,000 electric meters in Maryland.

21 [(pp)] (KK) (1) "Gas master meter operator" means a person who owns or
22 operates a pipeline system:

23 (i) That distributes gas within, but not limited to, a definable area,
24 such as a mobile home park, housing project, or apartment complex;

25 (ii) For which the operator purchases metered, artificial, or natural gas
26 from an outside source for resale through a gas distribution pipeline system; and

27 (iii) Which supplies the ultimate consumer, who either purchases the
28 gas directly through a meter or by other means, such as by rents.

29 (2) In this subsection, "pipeline system" does not include piping within a
30 building.

31 27.

32 (a) No public service company shall in its utility operations:

33 (1) Sell or render service or furnish any commodity until its schedules of
34 rates therefor have been duly filed and published in accordance with § 28(a) of this
35 article;

36 (2) Demand or collect a greater or less compensation for any service or
37 commodity than specified therefor in its schedules as in force at the time;

6

1 (3) Demand or collect any charge which for any reason violates any of the
2 provisions of this article; or

3 (4) Assist, suffer or permit any of the things prohibited by this section to be
4 done by any means or device, including but not limited to false billing, false classification,
5 false weighing, or false report of weight.

6 (b) No person shall accomplish or seek to accomplish any of the things prohibited
7 by subsection (a)(4) of this section, whether with or without the connivance or consent of
8 the public service company or any of its personnel.

9 (c) Unless the Commission otherwise orders, no public service company shall
10 establish any new rate or make any change in any rate except after thirty days' notice, to
11 the Commission, and publication, in accordance with § 28(a) of this article, during all of
12 said period by means of new schedules or plainly indicated amendments upon the
13 schedules in force and posted, which shall plainly set forth the changes proposed to be
14 made in the schedules then in force and the time when the change in rate is to go into
15 effect.

16 [(d) (1) It shall be the duty of every common and contract carrier of flammables
17 by motor vehicle to provide safe and adequate service, equipment, and facilities for the
18 transportation of flammables within the State of Maryland; to establish, observe, and
19 enforce just and reasonable rates, charges, and classification, and just and reasonable
20 regulations and practices relating thereto and to the manner and method of presenting,
21 and delivering flammables for transportation, the facilities for transportation, and all
22 other matters relating to or connected with the transportation of flammables within the
23 State of Maryland.

24 (2) All charges made for any services rendered or to be rendered by any
25 carrier of flammables by motor vehicle, within the State of Maryland or in connection
26 therewith shall be just and reasonable, and every unjust and unreasonable charge for such
27 service or any part thereof is prohibited and declared to be unlawful. It shall be unlawful
28 for any common carrier to make, give, or cause any undue or unreasonable preference or
29 advantage to any particular person, locality, region, or district, in any respect whatsoever;
30 or to subject any particular person, locality, region, or district, to any unjust
31 discrimination or any undue or unreasonable prejudice or disadvantage in any respect
32 whatsoever. It shall be unlawful for any contract carrier by motor vehicle of flammables
33 within the State of Maryland to demand, charge or collect greater or less compensation
34 for such transportation than the charges filed in accordance with § 31(d) of this article or
35 subsection (a) of this section. Provided, however, that this subsection shall not be
36 construed to apply to discriminations, prejudice, or disadvantage to the traffic of any
37 other carrier of whatever description.

38 (3) Nothing in this section shall be held to extinguish any remedy or right of
39 action not inconsistent herewith.]

40 29.

41 Every common carrier company shall afford reasonable, proper, and equal facilities
42 for the prompt interchange and transfer of passengers[, and the prompt receipt and
43 forwarding of property and freight,] between its lines and the lines of every other

7

1 common carrier company. No common carrier company shall discriminate, as between
 2 other common carrier companies, in transferring, receiving or forwarding passengers[,
 3 property or freight] to or from such other common carrier companies. No common
 4 carrier company, however, shall be obliged to allow any other common carrier company to
 5 use its tracks or terminal facilities.

6 31.

7 (a) The form of tariff schedules which the Commission shall prescribe for
 8 common carriers shall be as nearly as practicable the same as that required for the
 9 particular kind of carrier by the Interstate Commerce Commission.

10 (b) In addition to such other matters and things as the Commission may require,
 11 the tariff schedules of every common carrier company shall show: (1) all the current rates,
 12 fares and charges (including those specified in § 26(b)) for the transportation of
 13 passengers [or property and freight] within this State, (i) between each point on its route
 14 and all other points on every route owned by it, and (ii) between each point on its route
 15 and all points upon the route of any common carrier company (which shall be named in
 16 the schedule) whenever a through route or joint rate has been established between such
 17 points; (2) the places between which [freight and] passengers will be carried; (3) the
 18 classification of [freight and] passengers; [(4) all terminal, storage, icing and similar
 19 charges, separately stated; (5)] (4) privileges or facilities granted; [(6)] (5) all rules and
 20 regulations which may in any manner change, affect, or determine any part of the
 21 aggregate of the rates, fares or charges, or the value of the service rendered.

22 (c) Any common carrier company which is a party to a joint rate set forth in the
 23 tariff schedule of any other common carrier company shall file with the Commission such
 24 evidence of acceptance thereof as may be required by the Commission.

25 [(d) Contract carriers of flammables, as well as common carriers shall file
 26 schedules in accordance with this section, and contract carriers shall also list therein the
 27 shippers with which they have written contracts.]

28 32.

29 [(a-1)] (A) Except as provided under the provisions of subsection(b) of this
 30 section, a permit shall be required of any passenger motor vehicle used in any
 31 transportation of passengers for hire.

32 [(a-2) A permit (certificate) shall be required for any motor carrier when engaged
 33 in the carriage of flammables in bulk, within the scope of the definitions set forth in this
 34 article. Permits of carriers of flammables shall be of two (2) classes: (1) common carrier
 35 certificates (permits), and (2) contract carrier certificates (permits).]

36 (b) A permit is not required for the following:

37 (1) Any motor vehicle used exclusively for the transportation of pupils to
 38 and from public or private schools;

39 (2) Any motor vehicle operated for a period of not more than three months
 40 in any registration year in the transportation of persons employed at a cannery located in
 41 any county in Maryland;

8

1 (3) This subheading does not apply to taxicabs;

2 (4) Public transportation for hire authorized to operate on the boardwalk in
3 the Town of Ocean City, Maryland;

4 (5) A vanpool operation as defined in the Transportation Article;

5 (6) The public transportation system for Washington County established
6 pursuant to § 1-603 of the Code of Public Local Laws of Washington County being
7 Article 22 of the Code of Public Local Laws of Maryland; or

8 (7) The public transportation system for Allegany County established under
9 § 23-24 of the Code of Public Local Laws of Allegany County, being Article 1 of the Code
10 of Public Local Laws of Maryland.

11 (c) The public duties of a common carrier shall not be imposed on any person
12 with respect to any vehicle for which a permit is required under this section, if the vehicle
13 is not actually engaged in public transportation.

14 [(d) (1) No person, or any person controlling, controlled by, or under common
15 control with such person, shall hold a permit as a common carrier authorizing operation
16 for the transportation of flammables by motor vehicle within the State of Maryland, if
17 such person, or any such controlling person, controlled person, or person under common
18 control, holds a permit as a contract carrier authorizing operation for the transportation
19 of flammables by motor vehicle within the same territory, in the State of Maryland.

20 (2) No person, or any person controlling, controlled by, or under common
21 control with such person, shall hold a permit as a contract carrier authorizing operation
22 for the transportation of flammables by motor vehicle within the State of Maryland, if
23 such person, or any such controlling person, controlled person, or person under common
24 control, holds a permit as a common carrier authorizing operation for the transportation
25 of flammables by motor vehicle within the same territory in the State of Maryland.

26 (3) Nothing in this section shall be construed as invalidating any action
27 lawfully taken or rights lawfully acquired by any person prior to June 1, 1959.]

28 33.

29 [(a)] No motor carrier permit shall be issued unless the Commission, after
30 considering the number of vehicles to be used, the rate to be charged, potential demand,
31 qualifications of the applicant and such other factors as it deems relevant, deems that the
32 issuance of a permit will be best for the public welfare and convenience.

33 [(b) In case of application by carriers of flammables, no permit shall be issued
34 unless in addition to requirements of subsection (a) of this section, the applicant has
35 complied with all safety requirements prescribed by the Commission and with the
36 insurance or bond requirements of § 47 of this article. Section 47 shall be fully applicable
37 to such carriage, except that the required notice for cancellation or revocation shall be 30
38 days.

39 (c) In the case of applications by contract carrier of flammables, no permit shall
40 be issued unless the applicant was in bona fide operation as a contract carrier on June 1,

9

1 1954 and has continued such operations since that date; except, upon proof of public
2 convenience and necessity.]

3 35.

4 (a) No route or schedule of a motor vehicle for which a motor carrier permit is
5 granted may be changed or abandoned without permission, in writing, from the
6 Commission. Such permission may be granted only where the Commission finds that the
7 public convenience and welfare are not prejudiced thereby. However, an owner may
8 temporarily operate substitute or reserve vehicles, where necessary in an emergency, in
9 order to maintain the prescribed schedules over his route.

10 (b) [Permits issued to carriers of flammables shall not restrict such carriage to
11 any fixed routes or schedules.

12 (c) Nothing in this subtitle shall be construed to limit the power of incorporated
13 cities and towns to adopt reasonable traffic regulations, including the designation of
14 streets and the power to prohibit the use of certain streets or the parking of vehicles
15 thereon where such use or parking may menace the public safety or unduly congest
16 traffic.

17 72.

18 The Commission may investigate and ascertain at any time the fair value of the
19 property of any public service company[, except carriers of flammables,] used and useful
20 in rendering service to the public. Such valuation shall not become final unless the
21 Commission serves upon the company concerned a copy of the order fixing the proposed
22 valuation and the method by which it is arrived at, and allows a reasonable time in which
23 to file a protest. The valuation shall become final if no protest is filed within the time
24 specified. If a timely protest is filed, the Commission shall enter a final order of valuation
25 after hearing. All final valuations shall be prima facie evidence of value in proceedings
26 had in pursuance of this article.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 1996.