

SECOND REGULAR SESSION

SENATE BILL NO. 1202

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR WESTFALL.

Read 1st time February 25, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

4670S.03I

AN ACT

To transfer sections 142.617, 142.830, 260.278, 260.385, 301.041, 301.265, 301.266, 301.267, 301.271, 301.275, 301.277, 304.200, 324.703, 324.706, 324.709, 324.712, 324.715, 324.718, 324.721, 324.724, 324.727, 324.730, 324.733, 324.736, 324.739, 324.742, 324.745, 387.010, 387.030, 387.040, 387.050, 387.060, 387.070, 387.080, 387.100, 387.110, 387.120, 387.130, 387.150, 387.180, 387.190, 387.200, 387.205, 387.207, 387.210, 387.300, 387.310, 387.320, 390.011, 390.020, 390.030, 390.041, 390.045, 390.051, 390.061, 390.062, 390.063, 390.066, 390.071, 390.081, 390.101, 390.111, 390.116, 390.121, 390.126, 390.128, 390.136, 390.138, 390.141, 390.150, 390.151, 390.156, 390.171, 390.201, 390.260, 390.270, 390.280, 390.290, 390.300, 390.310, 390.320, 390.330, 622.015, 622.027, 622.030, 622.035, 622.090, 622.095, 622.100, 622.110, 622.115, 622.120, 622.130, 622.140, 622.150, 622.160, 622.170, 622.190, 622.200, 622.210, 622.220, 622.230, 622.240, 622.250, 622.260, 622.290, 622.300, 622.310, 622.320, 622.330, 622.340, 622.350, 622.360, 622.370, 622.380, 622.390, 622.400, 622.410, 622.420, 622.450, 622.460, 622.470, 622.480, 622.490, 622.500, 622.520, 622.530, 622.540, 622.615 and 622.617, RSMo, and to repeal sections 32.028, 144.030, 260.203, 260.270, 260.370, 260.375, 260.380, 260.390, 260.395, 260.420, 260.425, 260.430, 301.030, 301.057, 301.058, 301.059, 301.067, 301.090, 301.121, 301.130, 301.273, 301.279, 301.442, 302.756, 303.026, 303.350, 304.030, 304.170, 304.180, 304.230, 304.235, 304.240, 307.350, 311.390, 311.400, 311.420, 311.440, 311.450, 324.700, 386.020, 387.020, 387.240, 387.270, 387.280, 387.290, 387.340, 389.005, 389.300, 389.310, 389.610, 389.612, 389.614, 389.615, 389.780, 389.795,

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

389.810, 389.890, 389.895, 389.900, 389.920, 389.945, 389.991, 389.992, 389.993, 389.997, 389.998, 389.1005, 389.1010, 390.106, 390.146, 390.161, 390.176, 390.250, 390.340, 390.350, 391.070, 447.080, 621.015, 622.020, 622.040, 622.045, 622.050, 622.055, 622.057, 622.430, 622.440, 622.510, 622.550, 622.600, 622.602, 622.604, 622.606, 622.608, 622.610, 622.612, 622.618 and 622.620, RSMo, section 622.010 as enacted in house committee substitute for senate bill no. 780, eighty-eighth general assembly, second regular session and section 622.010 as enacted in house committee substitute for house bill no. 991, eighty-eighth general assembly, second regular session, and to enact in lieu thereof two hundred thirty-seven new sections relating to compliance with the directives of executive order number 02-03, signed by the governor February 7, 2002, with penalty provisions and an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 142.617, 142.830, 260.278, 260.385, 301.041, 301.265, 301.266, 301.267, 301.271, 301.275, 301.277, 304.200, 324.703, 324.706, 324.709, 324.712, 324.715, 324.718, 324.721, 324.724, 324.727, 324.730, 324.733, 324.736, 324.739, 324.742, 324.745, 387.010, 387.030, 387.040, 387.050, 387.060, 387.070, 387.080, 387.100, 387.110, 387.120, 387.130, 387.150, 387.180, 387.190, 387.200, 387.205, 387.207, 387.210, 387.300, 387.310, 387.320, 390.011, 390.020, 390.030, 390.041, 390.045, 390.051, 390.061, 390.062, 390.063, 390.066, 390.071, 390.081, 390.101, 390.111, 390.116, 390.121, 390.126, 390.128, 390.136, 390.138, 390.141, 390.150, 390.151, 390.156, 390.171, 390.201, 390.260, 390.270, 390.280, 390.290, 390.300, 390.310, 390.320, 390.330, 622.015, 622.027, 622.030, 622.035, 622.090, 622.095, 622.100, 622.110, 622.115, 622.120, 622.130, 622.140, 622.150, 622.160, 622.170, 622.190, 622.200, 622.210, 622.220, 622.230, 622.240, 622.250, 622.260, 622.290, 622.300, 622.310, 622.320, 622.330, 622.340, 622.350, 622.360, 622.370, 622.380, 622.390, 622.400, 622.410, 622.420, 622.450, 622.460, 622.470, 622.480, 622.490, 622.500, 622.520, 622.530, 622.540, 622.615 and 622.617, RSMo, are transferred and sections 32.028, 144.030, 260.203, 260.270, 260.370, 260.375, 260.380, 260.390, 260.395, 260.420, 260.425, 260.430, 301.030, 301.057, 301.058, 301.059, 301.067, 301.090, 301.121, 301.130, 301.273, 301.279, 301.442, 302.756, 303.026, 303.350, 304.030, 304.170, 304.180, 304.230, 304.235, 304.240, 307.350, 311.390, 311.400, 311.420, 311.440, 311.450, 324.700, 386.020, 387.020, 387.240, 387.270, 387.280, 387.290, 387.340, 389.005, 389.300, 389.310, 389.610, 389.612, 389.614, 389.615, 389.780, 389.795, 389.810, 389.890, 389.895, 389.900, 389.920, 389.945, 389.991, 389.992, 389.993, 389.997, 389.998, 389.1005, 389.1010, 390.106, 390.146, 390.161, 390.176, 390.250, 390.340, 390.350, 391.070, 447.080, 621.015, 622.020, 622.040, 622.045, 622.050, 622.055, 622.057, 622.430, 622.440, 622.510, 622.550, 622.600, 622.602, 622.604, 622.606, 622.608, 622.610, 622.612, 622.618 and 622.620, RSMo, section 622.010 as enacted in house committee substitute for senate bill no. 780, eighty-eighth general assembly, second regular

session and section 622.010 as enacted in house committee substitute for house bill no. 991, eighty-eighth general assembly, second regular session, are repealed and two hundred thirty-seven new sections enacted in lieu thereof, to be known as sections 32.028, 144.030, 260.203, 260.270, 260.370, 260.375, 260.380, 260.390, 260.395, 260.420, 260.425, 260.430, 301.030, 301.057, 301.058, 301.059, 301.067, 301.090, 301.121, 301.130, 301.442, 302.756, 302.761, 303.026, 303.350, 304.030, 304.170, 304.180, 304.230, 304.235, 304.240, 307.350, 308.005, 308.010, 308.020, 308.030, 308.040, 308.050, 308.060, 308.070, 308.080, 308.090, 308.100, 308.110, 308.120, 308.130, 308.200, 308.210, 308.220, 308.230, 308.240, 308.250, 308.260, 308.270, 308.280, 308.290, 308.300, 308.305, 308.310, 308.320, 308.330, 308.340, 308.350, 308.360, 308.370, 308.375, 308.380, 308.390, 308.400, 308.405, 308.410, 308.415, 308.425, 308.427, 308.430, 308.435, 308.440, 308.445, 308.450, 308.452, 308.453, 308.455, 308.457, 308.458, 308.460, 308.462, 308.465, 308.467, 308.469, 308.470, 308.472, 308.475, 308.477, 308.479, 308.480, 308.490, 308.492, 308.495, 308.500, 308.505, 308.510, 308.515, 308.520, 308.525, 308.530, 308.535, 308.540, 308.545, 308.550, 308.560, 308.565, 308.570, 308.575, 308.600, 308.605, 308.610, 308.615, 308.620, 308.622, 308.625, 308.630, 308.635, 308.640, 308.645, 308.650, 308.655, 308.660, 308.665, 308.670, 308.700, 308.800, 308.805, 308.810, 308.815, 308.820, 308.825, 308.830, 308.835, 308.840, 308.845, 308.850, 308.855, 308.860, 308.865, 308.870, 308.875, 308.880, 308.885, 308.890, 308.895, 308.900, 308.905, 308.910, 308.915, 308.920, 308.925, 308.935, 308.940, 308.945, 308.950, 308.955, 308.960, 308.965, 308.970, 308.975, 308.980, 308.985, 308.987, 308.990, 308.995, 308.997, 311.390, 311.400, 311.420, 311.440, 311.450, 386.020, 389.005, 389.011, 389.015, 389.021, 389.023, 389.025, 389.031, 389.035, 389.041, 389.045, 389.051, 389.055, 389.065, 389.071, 389.075, 389.081, 389.085, 389.091, 389.095, 389.101, 389.105, 389.111, 389.115, 389.121, 389.125, 389.141, 389.145, 389.151, 389.155, 389.161, 389.165, 389.195, 389.201, 389.211, 389.221, 389.231, 389.241, 389.251, 389.300, 389.310, 389.610, 389.612, 389.614, 389.615, 389.780, 389.795, 389.895, 389.920, 389.945, 389.991, 389.992, 389.993, 389.997, 389.998, 389.1005, 389.1010, 391.070, 447.080, 621.015 and 621.040, to read as follows:

32.028. 1. There is hereby created a department of revenue in charge of a director appointed by the governor, by and with the advice and consent of the senate. The department shall collect all taxes and fees payable to the state as provided by law.

2. The powers, duties and functions of the department of revenue, chapter 32, RSMo and others, are transferred by type I transfer to the department of revenue. All powers, duties and function of the collector of revenue are transferred to the director of the department by type I transfer and the position of collector of revenue is abolished.

3. The powers, duties and functions of the state tax commission, chapter 138, RSMo and others, are transferred by type III transfer to the department of revenue.

4. All of the powers, duties and functions of the state tax commission relating to

administration of the corporation franchise tax chapter 152, RSMo and others, are transferred by type I transfer to the department of revenue; provided, however, that the provision of section 138.430, RSMo relating to appeals from decisions of the director of revenue shall apply to these taxes.

[5. All the powers, duties and functions of the highway reciprocity commission, chapter 301, RSMo, are transferred by type II transfer to the department of revenue.]

144.030. 1. There is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and any other state of the United States, or between this state and any foreign country, and any retail sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws of the United States of America, and such retail sales of tangible personal property which the general assembly of the state of Missouri is prohibited from taxing or further taxing by the constitution of this state.

2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.745 and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.745:

(1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of such excise tax is refunded pursuant to section 142.584, RSMo; or upon the sale at retail of fuel to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at retail; economic poisons registered pursuant to the provisions of the Missouri pesticide registration law (sections 281.220 to 281.310, RSMo) which are to be used in connection with the growth or production of crops, fruit trees or orchards applied before, during, or after planting, the crop of which when harvested will be sold at retail or will be converted into foodstuffs which are to be sold ultimately in processed form at retail;

(2) Materials, manufactured goods, machinery and parts which when used in manufacturing, processing, compounding, mining, producing or fabricating become a component part or ingredient of the new personal property resulting from such manufacturing, processing, compounding, mining, producing or fabricating and which new personal property is intended to be sold ultimately for final use or consumption; and materials, including without limitation, gases and manufactured goods, including without limitation, slagging materials and firebrick, which

are ultimately consumed in the manufacturing process by blending, reacting or interacting with or by becoming, in whole or in part, component parts or ingredients of steel products intended to be sold ultimately for final use or consumption;

(3) Materials, replacement parts and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock or aircraft engaged as common carriers of persons or property;

(4) Replacement machinery, equipment, and parts and the materials and supplies solely required for the installation or construction of such replacement machinery, equipment, and parts, used directly in manufacturing, mining, fabricating or producing a product which is intended to be sold ultimately for final use or consumption; and machinery and equipment, and the materials and supplies required solely for the operation, installation or construction of such machinery and equipment, purchased and used to establish new, or to replace or expand existing, material recovery processing plants in this state. For the purposes of this subdivision, a "material recovery processing plant" means a facility which converts recovered materials into a new product, or a different form which is used in producing a new product, and shall include a facility or equipment which is used exclusively for the collection of recovered materials for delivery to a material recovery processing plant but shall not include motor vehicles used on highways. For purposes of this section, the terms "motor vehicle" and "highway" shall have the same meaning pursuant to section 301.010, RSMo;

(5) Machinery and equipment, and parts and the materials and supplies solely required for the installation or construction of such machinery and equipment, purchased and used to establish new or to expand existing manufacturing, mining or fabricating plants in the state if such machinery and equipment is used directly in manufacturing, mining or fabricating a product which is intended to be sold ultimately for final use or consumption;

(6) Tangible personal property which is used exclusively in the manufacturing, processing, modification or assembling of products sold to the United States government or to any agency of the United States government;

(7) Animals or poultry used for breeding or feeding purposes;

(8) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and other machinery, equipment, replacement parts and supplies used in producing newspapers published for dissemination of news to the general public;

(9) The rentals of films, records or any type of sound or picture transcriptions for public commercial display;

(10) Pumping machinery and equipment used to propel products delivered by pipelines engaged as common carriers;

(11) Railroad rolling stock for use in transporting persons or property in interstate commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or more

or trailers used by common carriers, as defined in section [390.020] **308.020**, RSMo, solely in the transportation of persons or property in interstate commerce **pursuant to operating authority lawfully registered with the division of motor carrier services within the department of transportation, in compliance with the provisions of sections 308.600 to 308.699, RSMo;**

(12) Electrical energy used in the actual primary manufacture, processing, compounding, mining or producing of a product, or electrical energy used in the actual secondary processing or fabricating of the product, or a material recovery processing plant as defined in subdivision (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical energy so used exceeds ten percent of the total cost of production, either primary or secondary, exclusive of the cost of electrical energy so used or if the raw materials used in such processing contain at least twenty-five percent recovered materials as defined in section 260.200, RSMo. For purposes of this subdivision, "processing" means any mode of treatment, act or series of acts performed upon materials to transform and reduce them to a different state or thing, including treatment necessary to maintain or preserve such processing by the producer at the production facility;

(13) Anodes which are used or consumed in manufacturing, processing, compounding, mining, producing or fabricating and which have a useful life of less than one year;

(14) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring air pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the air conservation commission which may uphold or reverse such action;

(15) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring water pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the Missouri clean water commission which may uphold or reverse such action;

(16) Tangible personal property purchased by a rural water district;

(17) All amounts paid or charged for admission or participation or other fees paid by or other charges to individuals in or for any place of amusement, entertainment or recreation, games or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a municipality or other political subdivision where all the proceeds derived therefrom benefit the municipality or other political subdivision and do not inure to any private person, firm, or corporation;

(18) All sales of insulin and prosthetic or orthopedic devices as defined on January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically including hearing aids and hearing aid supplies and all sales of drugs which may be legally dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to administer those items, including samples and materials used to manufacture samples which may be dispensed by a practitioner authorized to dispense such samples and all sales of medical oxygen, home respiratory equipment and accessories, hospital beds and accessories and ambulatory aids, all sales of manual and powered wheelchairs, stairway lifts, Braille writers, electronic Braille equipment and, if purchased by or on behalf of a person with one or more physical or mental disabilities to enable them to function more independently, all sales of scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and augmentative communication devices, and items used solely to modify motor vehicles to permit the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or nonprescription drugs to individuals with disabilities;

(19) All sales made by or to religious and charitable organizations and institutions in their religious, charitable or educational functions and activities and all sales made by or to all elementary and secondary schools operated at public expense in their educational functions and activities;

(20) All sales of aircraft to common carriers for storage or for use in interstate commerce and all sales made by or to not-for-profit civic, social, service or fraternal organizations, including fraternal organizations which have been declared tax exempt organizations pursuant to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, solely in their civic or charitable functions and activities and all sales made to eleemosynary and penal institutions and industries of the state, and all sales made to any private not-for-profit institution of higher education not otherwise excluded pursuant to subdivision (19) of this subsection or any institution of higher education supported by public funds, and all sales made to a state relief agency in the exercise of relief functions and activities;

(21) All ticket sales made by benevolent, scientific and educational associations which are formed to foster, encourage, and promote progress and improvement in the science of agriculture and in the raising and breeding of animals, and by nonprofit summer theater organizations if such organizations are exempt from federal tax pursuant to the provisions of the Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any fair conducted by a county agricultural and mechanical society organized and operated pursuant to sections 262.290 to 262.530, RSMo;

(22) All sales made to any private not-for-profit elementary or secondary school, all sales of feed additives, medications or vaccines administered to livestock or poultry in the production

of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber, all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying agricultural crops, and all sales of farm machinery, other than airplanes, motor vehicles and trailers. As used in this subdivision, the term "feed additives" means tangible personal property which, when mixed with feed for livestock or poultry, is to be used in the feeding of livestock or poultry. As used in this subdivision, the term "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark the application of pesticides and herbicides for the production of crops, livestock or poultry. As used in this subdivision, the term "farm machinery" means new or used farm tractors and such other new or used farm machinery and equipment and repair or replacement parts thereon and lubricants used exclusively for such farm machinery and equipment and one-half of each purchaser's purchase of diesel fuel therefor which is:

- (a) Used exclusively for agricultural purposes;
- (b) Used on land owned or leased for the purpose of producing farm products; and
- (c) Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail;

(23) Except as otherwise provided in section 144.032, all sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil for domestic use and in any city not within a county, all sales of metered or unmetered water service for domestic use;

(a) "Domestic use" means that portion of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not within a county, metered or unmetered water service, which an individual occupant of a residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility service through a single or master meter for residential apartments or condominiums, including service for common areas and facilities and vacant units, shall be deemed to be for domestic use. Each seller shall establish and maintain a system whereby individual purchases are determined as exempt or nonexempt;

(b) Regulated utility sellers shall determine whether individual purchases are exempt or nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file with and approved by the Missouri public service commission. Sales and purchases made pursuant to the rate classification "residential" and sales to and purchases made by or on behalf of the occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, shall be considered as sales made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales

tax upon the entire amount of purchases classified as nondomestic use. The seller's utility service rate classification and the provision of service thereunder shall be conclusive as to whether or not the utility must charge sales tax;

(c) Each person making domestic use purchases of services or property and who uses any portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day of the fourth month following the year of purchase, and without assessment, notice or demand, file a return and pay sales tax on that portion of nondomestic purchases. Each person making nondomestic purchases of services or property and who uses any portion of the services or property so purchased for domestic use, and each person making domestic purchases on behalf of occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, under a nonresidential utility service rate classification may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for credit or refund to the director of revenue and the director shall give credit or make refund for taxes paid on the domestic use portion of the purchase. The person making such purchases on behalf of occupants of residential apartments or condominiums shall have standing to apply to the director of revenue for such credit or refund;

(24) All sales of handicraft items made by the seller or the seller's spouse if the seller or the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such sales do not constitute a majority of the annual gross income of the seller;

(25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of revenue shall promulgate rules pursuant to chapter 536, RSMo, to eliminate all state and local sales taxes on such excise taxes;

(26) Sales of fuel consumed or used in the operation of ships, barges, or waterborne vessels which are used primarily in or for the transportation of property or cargo, or the conveyance of persons for hire, on navigable rivers bordering on or located in part in this state, if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such river;

(27) All sales made to an interstate compact agency created pursuant to sections 70.370 to 70.430, RSMo, or sections 238.010 to 238.100, RSMo, in the exercise of the functions and activities of such agency as provided pursuant to the compact;

(28) Computers, computer software and computer security systems purchased for use by architectural or engineering firms headquartered in this state. For the purposes of this subdivision, "headquartered in this state" means the office for the administrative management of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

(29) All livestock sales when either the seller is engaged in the growing, producing or

feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering or leasing of such livestock;

(30) All sales of barges which are to be used primarily in the transportation of property or cargo on interstate waterways;

(31) Electrical energy or gas, whether natural, artificial or propane, which is ultimately consumed in connection with the manufacturing of cellular glass products;

(32) Notwithstanding other provisions of law to the contrary, all sales of pesticides or herbicides used in the production of crops, aquaculture, livestock or poultry;

(33) Tangible personal property purchased for use or consumption directly or exclusively in the research and development of prescription pharmaceuticals consumed by humans or animals;

(34) All sales of grain bins for storage of grain for resale;

(35) All sales of feed which are developed for and used in the feeding of pets owned by a commercial breeder when such sales are made to a commercial breeder, as defined in section 273.325, RSMo, and licensed pursuant to sections 273.325 to 273.357, RSMo;

(36) All purchases by a contractor on behalf of an entity located in another state, provided that the entity is authorized to issue a certificate of exemption for purchases to a contractor under the provisions of that state's laws. For purposes of this subdivision, the term "certificate of exemption" shall mean any document evidencing that the entity is exempt from sales and use taxes on purchases pursuant to the laws of the state in which the entity is located. Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's exemption certificate as evidence of the exemption. If the exemption certificate issued by the exempt entity to the contractor is later determined by the director of revenue to be invalid for any reason and the contractor has accepted the certificate in good faith, neither the contractor or the exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result of use of the invalid exemption certificate. Materials shall be exempt from all state and local sales and use taxes when purchased by a contractor for the purpose of fabricating tangible personal property which is used in fulfilling a contract for the purpose of constructing, repairing or remodeling facilities for the following:

(a) An exempt entity located in this state, if the entity is one of those entities able to issue project exemption certificates in accordance with the provisions of section 144.062; or

(b) An exempt entity located outside the state if the exempt entity is authorized to issue an exemption certificate to contractors in accordance with the provisions of that state's law and the applicable provisions of this section;

(37) Tangible personal property purchased for use or consumption directly or exclusively in research or experimentation activities performed by life science companies and so certified as such by the director of the department of economic development or the director's designees; except

that, the total amount of exemptions certified pursuant to this section shall not exceed one million three hundred thousand dollars in state and local taxes per fiscal year. For purposes of this subdivision, the term "life science companies" means companies whose primary research activities are in agriculture, pharmaceuticals, biomedical or food ingredients, and whose North American Industry Classification System (NAICS) Codes fall under industry 541710 (biotech research or development laboratories), 621511 (medical laboratories) or 541940 (veterinary services). The exemption provided by this subdivision shall expire on June 30, 2003.

3. The department of revenue shall verify the eligibility of every person who claims the exemption pursuant to subdivision (3) or subdivision (11) of subsection 2 of this section, or both subdivisions, with reference to motor vehicles used by or engaged as common carriers, through inquiries to the division of motor carrier services established pursuant to chapter 308, RSMo.

260.203. 1. Any infectious waste transferred from the premises of the generator shall be taken to an infectious waste processing facility that holds a valid permit issued by the department, or a hospital as defined in section 197.020, RSMo.

2. No infectious waste shall be placed into a solid waste disposal area except as otherwise provided for in sections 260.200 to 260.245 unless it has been treated or rendered innocuous by a permitted infectious waste processing facility as provided in sections 260.200 to 260.245, or by a hospital as defined in section 197.020, RSMo, by autoclaving, incineration, chemical disinfection, or other methods of treatment approved by the department. The department of health and senior services shall promulgate rules covering the handling and treatment of infectious waste by hospitals as defined in section 197.020, RSMo, and such rules shall be consistent with the rules of the department under sections 260.200 to 260.245, and shall be effective no later than January 1, 1989.

3. [All such wastes, when transported off the premises of the generator shall be packaged and transported as provided by rule under sections 260.200 to 260.245, except that hospitals and small quantity generators as defined by the department under this section may transport infectious waste to a hospital for treatment, an infectious waste processing facility for treatment or to a central collection point using their employees and vehicles as long as they meet all other requirements of sections 260.200 to 260.245 and the rules and regulations promulgated under sections 260.200 to 260.245.

4.] The department of health and senior services shall provide for a registration process for all hospitals pursuant to the provisions of sections 260.200 to 260.245 and section 192.005, RSMo. The process shall include a completed and signed application on forms provided by the department of health and senior services. The forms shall contain the following:

(1) A statement certifying that the applicant understands and will comply with the applicable requirements of sections 260.200 to 260.245; and

(2) Other requirements established by the department of health and senior services.

[5.] **4.** Registrations shall be renewed annually.

[6.] **5.** Unless otherwise provided for in sections 260.200 to 260.245, any person who treats infectious waste to the specifications of the department of natural resources or the department of health and senior services, and who proposes to dispose of the residue thereof in a sanitary landfill shall properly identify the waste and shall certify to the transporter and the sanitary landfill operator that the waste has been rendered innocuous and may be legally placed in a sanitary landfill pursuant to the provisions of this section. Persons found to be in violation of this subsection shall be guilty of a class A misdemeanor.

[7.] **6.** Facilities permitted to treat infectious waste shall adhere to an operation plan for the handling and treatment of infectious waste approved by the department of natural resources as provided by rule, and hospitals, as defined in section 197.020, RSMo, allowed to treat infectious waste shall adhere to an operation plan for the handling and treatment of infectious waste approved by the department of health and senior services as provided by rule. The plan shall include, but not be limited to, methods of handling and treating the waste, protection of employees and the public and the maximum amount of waste which may be handled per month. Approval for acceptance of infectious waste may be withdrawn for noncompliance with the operation plan. No permitted infectious waste treatment facility shall operate unless it has a solid waste technician trained in the handling of infectious waste on site during any treatment process. Such operator shall meet the requirements established by the department pursuant to section 260.205.

[8.] **7.** Any [transporter or] generator who delivers infectious waste to an infectious waste processing facility, except small quantity generators and hospitals located in Missouri and defined in section 197.020, RSMo, shall pay a fee of two dollars for each ton of infectious waste so delivered. Such fees shall be collected by the infectious waste processing facility accepting the waste and transmitted to the department. The department shall promptly transmit funds collected under this section to the director of the department of revenue for deposit in the solid waste management fund. Moneys, upon appropriation, shall be used to help pay for the administrative costs associated with infectious waste management. Any transporter or generator who transports infectious waste for more than three hundred miles for management in Missouri shall pay, in addition to the charges above, an additional charge equal to ten percent of the gross charge charged by the processing facility for the management of such waste. Such fees shall be collected by the infectious waste processing facility accepting the waste and transmitted to the department which shall promptly transmit such fees to the department of revenue for deposit in the general revenue fund.

[9.] **8.** Hospitals defined in chapter 197, RSMo, and located in Missouri, may manage infectious waste generated on the premises by autoclaving, incineration, chemical disinfection or

other methods of treatment approved by the department of health and senior services. Such hospitals may also treat infectious waste produced by small quantity generators and other hospitals located in Missouri upon the approval of the department of natural resources and the department of health and senior services. Failure of either department to respond by issuing a certification to accept infectious waste in writing to a hospital which has filed in writing to both departments a notice of intent to treat waste from another hospital within ninety days constitutes approval of the treatment. All hospitals licensed by the state of Missouri pursuant to chapter 197, RSMo, are exempt from all taxes or fees imposed pursuant to sections 260.350 to 260.480, provided that no more than twenty-five percent, by weight, of the infectious waste managed by such hospitals is produced by other generators which are not owned or operated by the hospital.

[10.] **9.** Persons generating one hundred kilograms or less of infectious waste per month are exempt from the provisions of this section except that the department of health and senior services shall specify by rule, in accordance with section 192.005, RSMo, infectious waste that shall be rendered innocuous regardless of quantity. Any person who disposes of waste exempt from the provisions of this act in a sanitary landfill shall certify to the transporter or the sanitary landfill operator that the waste has been handled in a manner consistent with the law and may be legally placed in a sanitary landfill. Rules promulgated by the department of natural resources and the department of health and senior services pursuant to this subsection shall be effective no later than July 1, 1989. Persons found to be in violation of this subsection shall be guilty of a class A misdemeanor.

[11.] **10.** A generator of infectious waste who operates single or multiple site research facilities for research and experimental activities as defined in section 174 of the 1986 Internal Revenue Code, who generates such waste as a part of research and experimentation activities, and who manages such waste on site, shall not be required to obtain an infectious waste processing facility permit under this section to manage infectious waste. The generator may accept infectious waste from other sites of the parent research company located in Missouri but shall not accept infectious waste from other sources and shall comply with all other requirements and provisions of sections 260.200 to 260.245, and the rules and regulations promulgated thereunder. The University of Missouri Ellis Fischel Cancer Center and the other facilities of the University of Missouri-Columbia shall be considered a multiple site research facility for the purposes of this section.

[12. Nothing in this section shall prohibit the transportation of infectious or hazardous waste from the state of Missouri for management in another state.]

[13.] **11.** The department of natural resources shall establish, by rule, inspection fees to be paid to the department by owners or operators of commercial infectious waste incinerators. The fees shall not exceed the costs of the inspections and shall not exceed ten thousand dollars per year for a facility. Funds derived from these inspection fees shall be used

for the purpose of funding the inspection of commercial infectious waste incinerators.

[14.] **12.** All owners or operators of commercial infectious waste incinerators shall pay the fees, established by the department by rule, for inspections conducted by the department pursuant to this section.

[15.] **13.** There is hereby created the "Infectious Waste Incinerator Inspection Fund". All funds received from infectious waste incinerator inspection fees shall be paid to the director of the department of revenue and deposited in the state treasury to the credit of the infectious waste incinerator inspection fund. Moneys from such fund shall be used by the department of natural resources for conducting inspections at commercial infectious waste incinerators.

[16.] **14.** The department shall furnish to the person, firm or corporation operating the commercial infectious waste facility a complete, full and detailed accounting of the cost of the department's inspection of the facility each time the facility is inspected within thirty days after the inspection is commenced. Failure to do so shall require the department to refund the inspection fee.

260.270. 1. (1) It shall be unlawful for any person to haul for commercial profit, collect, process, or dispose of waste tires in the state except as provided in this section. [This section shall not be construed to prohibit used or waste tires from being hauled to a lawfully operated facility in another state.] Waste tires shall be collected at a waste tire site, waste tire processing facility, waste tire end-user facility, or a waste tire collection center. A violation of this subdivision shall be a class C misdemeanor for the first violation. A second and each subsequent violation shall be a class A misdemeanor. A third and each subsequent violation, in addition to other penalties authorized by law, may be punishable by a fine not to exceed five thousand dollars and restitution may be ordered by the court.

(2) A person shall not maintain a waste tire site unless the site is permitted by the department of natural resources for the proper and temporary storage of waste tires or the site is an integral part of the person's permitted waste tire processing facility or registered waste tire end-user facility. No new waste tire sites shall be permitted by the department after August 28, 1997, unless they are located at permitted waste tire processing facilities or registered waste tire end-user facilities. A person who maintained a waste tire site on or before August 28, 1997, shall not accept any quantity of additional waste tires at such site after August 28, 1997, unless the site is an integral part of the person's waste tire processing or end-user facility, or unless the person who maintains such site can verify that a quantity of waste tires at least equal to the number of additional waste tires received was shipped to a waste tire processing or end-user facility within thirty days after receipt of such additional waste tires.

(3) A person shall not operate a waste tire processing facility unless the facility is permitted by the department. A person shall not maintain a waste tire end-user facility unless the facility is registered by the department. The inventory of unprocessed waste tires on the

premises of a waste tire processing or end-user facility shall not exceed the estimated inventory that can be processed or used in six months of normal and continuous operation. This estimate shall be based on the volume of tires processed or used by the facility in the last year or the manufacturer's estimated capacity of the processing or end-user equipment. This estimate may be increased from time to time when new equipment is obtained by the owner of the facility, and shall be reduced if equipment used previously is removed from active use. The inventory of processed waste tires on the premises of a waste tire processing or end-user facility shall not exceed two times the permitted inventory of an equivalent volume of unprocessed waste tires.

(4) Any person selling new, used, or remanufactured tires at retail shall accept, at the point of transfer, in a quantity equal to the number of tires sold, used or waste tires from customers, if offered by such customers. Any person accepting used or waste tires may charge a reasonable fee reflecting the cost of proper management of any waste tires accepted; except that the fee shall not exceed two dollars per waste tire for any tire designed for a wheel of a diameter of sixteen inches or less and which tire is required to be accepted on a one-for-one basis at the time of a retail sale pursuant to this subdivision. All tire retailers or other businesses that generate waste tires shall use a waste tire hauler permitted by the [department] **division of motor carrier services within the department of transportation**, except that businesses that generate or accept waste tires in the normal course of business may haul such waste tires without a permit, if such hauling is performed without any consideration and such business maintains records on the waste tires hauled as required by sections 260.270 to 260.276 **and sections 308.300 to 308.399, RSMo.** Retailers shall not be liable for illegal disposal of waste tires after such waste tires are delivered to a waste tire hauler **permitted by the division of motor carrier services, or a** waste tire collection center, waste tire site, waste tire processing facility or waste tire end-user facility if such entity is permitted by the department of natural resources.

(5) It shall be unlawful for any person to transport waste tires for consideration within the state [without a permit] **unless permitted as waste tire hauler by the division of motor carrier services pursuant to sections 308.300 to 308.399, RSMo.**

(6) Waste tires may not be deposited in a landfill unless the tires have been cut, chipped or shredded.

2. Within six months after August 28, 1990, owners and operators of any waste tire site shall provide the department of natural resources with information concerning the site's location, size, and approximate number of waste tires that have been accumulated at the site and shall initiate steps to comply with sections 260.270 to 260.276.

3. The department of natural resources shall promulgate rules and regulations pertaining to collection, storage and processing [and transportation] of waste tires and such rules and regulations shall include:

(1) Methods of collection, storage and processing of waste tires. Such methods shall consider the general location of waste tires being stored with regard to property boundaries and buildings, pest control, accessibility by fire-fighting equipment, and other considerations as they relate to public health and safety;

(2) Procedures for permit application and permit fees for waste tire sites [and commercial waste tire haulers], and by January 1, 1996, procedures for permitting of waste tire processing facilities and registration of waste tire end-user facilities. The only purpose of such registration shall be to provide information for the documentation of waste tire handling as described in subdivision (5) of this subsection, and registration shall not impose any additional requirements on the owner of a waste tire end-user facility;

(3) Requirements for performance bonds or other forms of financial assurance for waste tire sites;

(4) Exemptions from the requirements of sections 260.270 to 260.276; and

(5) By January 1, 1996, requirements for record-keeping procedures for retailers and other businesses that generate waste tires, [waste tire haulers,] waste tire collection centers, waste tire sites, waste tire processing facilities, and waste tire end-user facilities. Required record keeping shall include the source and number or weight of tires received and the destination and number of tires or weight of tires or tire pieces shipped or otherwise disposed of and such records shall be maintained for at least three years following the end of the calendar year of such activity. Detailed record keeping shall not be required where any charitable, fraternal, or other nonprofit organization conducts a program which results in the voluntary cleanup of land or water resources or the turning in of waste tires.

4. Permit fees for waste tire sites [and commercial waste tire haulers] shall be established by rule and shall not exceed the cost of administering sections 260.270 to 260.275. Permit fees shall be deposited into an appropriate subaccount of the solid waste management fund.

5. The department shall:

(1) Encourage the voluntary establishment of waste tire collection centers at retail tire selling businesses and waste tire processing facilities; and

(2) Investigate, locate and document existing sites where tires have been or currently are being accumulated, and initiate efforts to bring these sites into compliance with rules and regulations promulgated pursuant to the provisions of sections 260.270 to 260.276.

6. Any person licensed as an auto dismantler and salvage dealer under chapter 301, RSMo, may without further license, permit or payment of fee, store but shall not bury on his property, up to five hundred waste tires that have been chipped, cut or shredded, if such tires are only from vehicles acquired by him, and such tires are stored in accordance with the rules and regulations adopted by the department pursuant to this section. Any tire retailer or wholesaler may hold more than five hundred waste tires for a period not to exceed thirty days

without being permitted as a waste tire site, if such tires are stored in a manner which protects human health and the environment pursuant to regulations adopted by the department.

7. Notwithstanding any other provisions of sections 260.270 to 260.276, a person who leases or owns real property may use waste tires for soil erosion abatement and drainage purposes in accordance with procedures approved by the department, or to secure covers over silage, hay, straw or agricultural products.

8. The department of transportation shall, beginning July 1, 1991, undertake, as part of its currently scheduled highway improvement projects, demonstration projects using recovered rubber from waste tires as surfacing material, structural material, subbase material and fill, consistent with standard engineering practices. The department shall evaluate the efficacy of using recovered rubber in highway improvements, and shall encourage the modification of road construction specifications, when possible, for the use of recovered rubber in highway improvement projects.

9. The director may request a prosecuting attorney to institute a prosecution for any violation of this section. In addition, the prosecutor of any county or circuit attorney of any city not within a county may, by information or indictment, institute a prosecution for any violation of this section.

260.370. 1. Where proven technology is available and the economic impact is reasonable, pursuant to rules and regulations promulgated by the commission, the hazardous waste management commission shall encourage that every effort is made to effectively treat, recycle, detoxify, incinerate or otherwise treat hazardous waste to be disposed of in the state of Missouri in order that such wastes are not disposed of in a manner which is hazardous to the public health and the environment. Where proven technology is available with respect to a specific hazardous waste and the economic impact is reasonable, pursuant to rules and regulations promulgated by the commission, the hazardous waste management commission shall direct that disposal of the specific hazardous wastes using land filling as the primary method is prohibited.

2. The hazardous waste management commission shall, by rules and regulations, categorize hazardous waste by taking into account toxicity, persistence and degradability in nature, potential for accumulation in tissue, and other related factors such as flammability, corrosiveness and other hazardous characteristics. The commission shall by rules and regulations further establish within each category the wastes which may or may not be disposed of through alternative hazardous waste management technologies including, but not limited to, treatment facilities, incinerators, landfills, landfarms, storage facilities, surface impoundments, recycling, reuse and reduction. The commission shall specify, by rule and regulation, the frequency of inspection for each method of hazardous waste management and for the different waste categories at hazardous waste management sites. The inspection may be daily when the hazardous waste management commission deems it necessary. The hazardous waste

management commission shall specify, by rule, fees to be paid to the department by owners or operators of hazardous waste facilities who have obtained, or are required to obtain, a hazardous waste facility permit and who accept, on a commercial basis for remuneration, hazardous waste from off-site sources, but not including wastes generated by the same person at other sites located in Missouri or within a metropolitan statistical area located partially in Missouri and owned or operated by the same person and transferred to the hazardous waste facility, for treatment, storage or disposal, for inspections conducted by the department to determine compliance with sections 260.350 to 260.430 and the regulations promulgated thereunder. Funds derived from these inspection fees shall be used for the purpose of funding the inspection of hazardous waste facilities, as specified in subsection 3 of section 260.391. Such fees shall not exceed twelve thousand dollars per year per facility and the commission shall establish a graduated fee scale based on the volume of hazardous waste accepted with reduced fees for facilities accepting smaller volumes of hazardous waste. The department shall furnish, upon request, to the person, firm or corporation operating the hazardous waste facility a complete, full and detailed accounting of the cost of the department's inspections of the facility for the twelve-month period immediately preceding the request within forty-five days after receipt of the request. Failure to provide the accounting within forty-five days shall require the department to refund the inspection fee paid during the twelve-month-time period.

3. In addition to any other powers vested in it by law, the commission shall have the following powers:

(1) From time to time adopt, amend or repeal, after due notice and public hearing, standards, rules and regulations to implement, enforce and carry out the provisions of sections 260.350 to 260.430 and any required of this state by any federal hazardous waste management act and as the commission may deem necessary to provide for the safe management of hazardous wastes to protect the health of humans and the environment. In implementing this subsection, the commission shall consider the variations within this state in climate, geology, population density, quantities and types of hazardous wastes generated, availability of hazardous waste facilities and such other factors as may be relevant to the safe management of hazardous wastes. Within two years after September 28, 1977, the commission shall adopt rules and regulations including the following:

(a) Rules and regulations establishing criteria and a listing for the determination of whether any waste or combination of wastes is hazardous for the purposes of sections 260.350 to 260.430, taking into account toxicity, persistence and degradability in nature, potential for accumulation in tissue, and other related factors such as flammability, corrosiveness and other hazardous characteristics;

(b) Rules and regulations for the storage, treatment and disposal of hazardous wastes;

(c) Rules and regulations for the [transportation,] containerization and labeling of

hazardous wastes, which shall be consistent with those issued by the [Missouri public service commission] **United States Department of Transportation pursuant to Title 49 of the Code of Federal Regulations, as such regulations have been and may periodically be amended;**

(d) Rules and regulations establishing standards for the issuance, modification, suspension, revocation or denial of such licenses and permits as are consistent with the purposes of sections 260.350 to 260.430;

(e) Rules and regulations establishing standards and procedures for the safe operation and maintenance of hazardous waste facilities in order to protect the health of humans and other living organisms;

(f) Rules and regulations listing those wastes or combinations of wastes, for which criteria have been established under paragraph (a) of this subdivision and which are not compatible and which may not be stored or disposed of together;

(g) Rules and regulations establishing procedures and requirements for the reporting of the generation, storage, transportation, treatment or disposal of hazardous wastes;

(2) Adopt and publish, after notice as required by the provisions of chapter 536, RSMo, pertaining to administrative rulemaking, and public hearing, a state hazardous waste management plan to provide for the safe and effective management of hazardous wastes within this state. This plan shall be adopted within two years after September 28, 1977, and revised at least once every five years thereafter;

(3) Hold hearings, issue notices of hearings and subpoenas requiring the attendance of witnesses and the production of evidence, administer oaths and take testimony as the commission deems necessary to accomplish the purposes of sections 260.350 to 260.430 or as required by any federal hazardous waste management act. Unless otherwise specified in sections 260.350 to 260.430, any of these powers may be exercised on behalf of the commission by any members thereof or a hearing officer designated by it;

(4) Grant individual variances in accordance with the provisions of sections 260.350 to 260.430;

(5) Make such orders as are necessary to implement, enforce and effectuate the powers, duties and purposes of sections 260.350 to 260.430.

4. No rule or portion of a rule promulgated under the authority of sections 260.350 to 260.480 and sections 260.565 to 260.575 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

260.375. The department shall:

(1) Exercise general supervision of the administration and enforcement of sections 260.350 to 260.430 and all standards, rules and regulations, orders or license and permit terms and conditions adopted or issued pursuant to sections 260.350 to 260.430;

(2) Develop and implement programs to achieve goals and objectives set by the state hazardous waste management plan;

(3) Retain, employ, provide for and compensate, within appropriations available therefor, such consultants, assistants, deputies, clerks and other employees on a full- or part-time basis as may be necessary to carry out the provisions of sections 260.350 to 260.430 and prescribe the times at which they shall be appointed and their powers and duties;

(4) Budget and receive duly appropriated moneys for expenditures to carry out the provisions of sections 260.350 to 260.430;

(5) Accept, receive and administer grants or other funds or gifts from public and private agencies including the federal government for the purpose of carrying out any of the functions of sections 260.350 to 260.430. Funds received by the department pursuant to this section shall be deposited with the state treasurer and held and disbursed by him or her in accordance with the appropriations of the general assembly;

(6) Provide the commission all necessary support the commission may require to carry out its powers and duties including, but not limited to: keeping of records of all meetings; notification, at the direction of the chairman of the commission, of the members of the commission of the time, place and purpose of each meeting by written notice; drafting, for consideration of the commission, a state hazardous waste management plan and standards, rules and regulations necessary to carry out the purposes of sections 260.350 to 260.430; and investigation of petitions for variances and complaints made to the commission and submission of recommendations thereto;

(7) Collect and maintain, and require any person to collect and maintain, such records and information of hazardous waste generation, storage, [transportation,] resource recovery, treatment and disposal in this state, including quantities and types imported and exported across the borders of this state and install, calibrate and maintain and require any person to install, calibrate and maintain such monitoring equipment or methods, and make reports consistent with the purposes of sections 260.350 to 260.430;

(8) Secure necessary scientific, technical, administrative and operational services, including laboratory facilities, by contract or otherwise;

(9) Develop facts and make inspections and investigations, including gathering of samples and performing of tests and analyses, consistent with the purposes of sections 260.350 to 260.430, and in connection therewith, to enter or authorize any representative of the department to enter, at all reasonable times, in or upon any private or public property for any purpose required by sections 260.350 to 260.430 or any federal hazardous waste management act. Such entry may be for the purpose, without limitation, of developing or implementing standards, rules and regulations, orders or license or permit terms and conditions, of inspecting or investigating any records required to be kept by sections 260.350 to 260.430 or any license or permit issued pursuant to sections 260.350 to 260.430 or any hazardous waste management practice which the

department or commission believes violates sections 260.350 to 260.430, or any standard, rule or regulation, order or license or permit term or condition adopted or issued pursuant to sections 260.350 to 260.430, or otherwise endangers the health of humans or the environment, or the site of any suspected violation of sections 260.350 to 260.430, or any standard, rule or regulation, order, or license or permit term or condition adopted or issued pursuant to sections 260.350 to 260.430. The results of any such investigation shall be reduced to writing and shall be furnished to the owner or operator of the property. No person shall refuse entry or access requested for the purpose of inspection pursuant to this subdivision to an authorized representative of the department or commission who presents appropriate credentials, nor obstruct or hamper the representative in carrying out the inspection. A suitably restricted search warrant, upon a showing of probable cause in writing and upon oath, shall be issued by any judge or associate circuit judge having jurisdiction to any such representative for the purpose of enabling the representative to make such inspection;

(10) Require each hazardous waste generator located within this state and each hazardous waste generator located outside of this state before utilizing any hazardous waste facility in this state to file a registration report containing such information as the commission by regulation may specify relating to types and quantities of hazardous waste generated and methods of hazardous waste management, and to meet all other requirements placed upon hazardous waste generators by sections 260.350 to 260.430 and the standards, rules and regulations and orders adopted or issued pursuant to sections 260.350 to 260.430;

(11) [Require each hazardous waste transporter operating in this state to obtain a license and to meet all applicable requirements of sections 260.350 to 260.430 and the standards, rules and regulations, orders and license terms and conditions adopted or issued pursuant to sections 260.350 to 260.430;

(12) Require each hazardous waste facility owner and operator to obtain a permit for each such facility and to meet all applicable requirements of sections 260.350 to 260.430 and the standards, rules and regulations, orders and permit terms and conditions adopted or issued pursuant to sections 260.350 to 260.430;

[(13)] (12) Issue, continue in effect, revoke, modify or deny in accordance with the standards, rules and regulations[, hazardous waste transporter licenses and] hazardous waste facility permits;

[(14)] (13) Encourage voluntary cooperation by persons or affected groups to achieve the purposes of sections 260.350 to 260.430;

[(15)] (14) Enter such order or determination as may be necessary to effectuate the provisions of sections 260.350 to 260.430 and the standards, rules and regulations, and license and permit terms and conditions adopted or issued pursuant to sections 260.350 to 260.430;

[(16)] (15) Enter such order or cause to be instituted in a court of competent jurisdiction

such legal proceedings as may be necessary in a situation of imminent hazard, as prescribed in section 260.420;

[(17)] **(16)** Settle or compromise as it may deem advantageous to the state, with the approval of the commission, any suit undertaken by the commission for recovery of any penalty or for compelling compliance with any provision of sections 260.350 to 260.430 or any standard, rule or regulation, order, or license or permit term or condition adopted or issued pursuant to sections 260.350 to 260.430;

[(18)] **(17)** Advise, consult and cooperate with other agencies of the state, the federal government, other states and interstate agencies and with affected groups, political subdivisions and industries in furtherance of the purposes of sections 260.350 to 260.430 and, upon request, consult with persons subject to sections 260.350 to 260.430 on the proper measures necessary to comply with the requirements of sections 260.350 to 260.430 and rules and regulations adopted pursuant to sections 260.350 to 260.430;

[(19)] **(18)** Encourage, coordinate, participate in or conduct studies, investigations, research and demonstrations relating to hazardous waste management as it may deem advisable and necessary for the discharge of its duties pursuant to sections 260.350 to 260.430;

[(20)] **(19)** Represent the state of Missouri in all matters pertaining to interstate hazardous waste management including the negotiation of interstate compacts or agreements;

[(21)] **(20)** Arrange for the establishment, staffing, operation and maintenance of collection stations, within appropriations or other funding available therefor, for householders, farmers and other exempted persons as provided in section 260.380;

[(22)] **(21)** Collect and disseminate information relating to hazardous waste management;

[(23)] **(22)** Conduct education and training programs on hazardous waste problems and management;

[(24)] **(23)** Encourage and facilitate public participation in the development, revision and implementation of the state hazardous waste program;

[(25)] **(24)** Encourage waste reduction, resource recovery, exchange and energy conservation in hazardous waste management;

[(26)] **(25)** Exercise all powers necessary to carry out the provisions of sections 260.350 to 260.430, assure that the state of Missouri complies with any federal hazardous waste management act and retains maximum control thereunder, and receives all desired federal grants, aid and other benefits;

[(27)] **(26)** Present to the public, at a public meeting, and to the governor and the members of the general assembly, an annual report on the status of the state hazardous waste program;

[(28)] **(27)** Develop comprehensive plans and programs to aid in the establishment of hazardous waste disposal sites as needed within the various geographical areas of the state

within a reasonable period of time;

[(29)] **(28)** Control, abate or clean up any hazardous waste placed into or on the land in a manner which endangers or is reasonably likely to endanger the health of humans or the environment and, in aid thereof, may cause to be filed by the attorney general or a prosecuting attorney, a suit seeking mandatory or prohibitory injunctive relief or such other relief as may be appropriate. The department shall also take such action as is necessary to recover all costs associated with the cleanup of any hazardous waste from the person responsible for the waste. All money received shall be deposited in the hazardous waste fund created in section 260.391;

[(30)] **(29)** Oversee any corrective action work undertaken pursuant to sections 260.350 to 260.430 and rules promulgated pursuant to sections 260.350 to 260.430 to investigate, monitor, or clean up releases of hazardous waste or hazardous constituents to the environment at hazardous waste facilities. The department shall review the technical and regulatory aspects of corrective action plans, reports, documents, and associated field activities, and attest to their accuracy and adequacy. Owners or operators of hazardous waste facilities performing corrective actions shall pay to the department all reasonable costs, as determined by the commission, incurred by the department pursuant to this subdivision. All such funds remitted by owners or operators of hazardous waste facilities performing corrective actions shall be deposited in the hazardous waste fund created in section 260.391.

260.380. 1. After six months from the effective date of the standards, rules and regulations adopted by the commission pursuant to section 260.370, hazardous waste generators shall:

(1) Promptly file and maintain with the department, on registration forms it provides for this purpose, information on hazardous waste generation and management as specified by rules and regulations, and the hazardous waste generator may provide such information in a single registration form for all hazardous waste generation sites owned or operated by the hazardous waste generator or may register each hazardous waste generation site separately for the purposes of subdivision (10) of this subsection. Hazardous waste generators shall pay a one hundred dollar registration fee upon initial registration, and a one hundred dollar registration renewal fee annually thereafter to maintain an active registration. Such fees shall be deposited in the hazardous waste fund created in section 260.391;

(2) Containerize and label all hazardous wastes as specified by standards, rules and regulations;

(3) Segregate all hazardous wastes from all nonhazardous wastes and from noncompatible wastes, materials and other potential hazards as specified by standards, rules and regulations;

(4) Provide safe storage and handling, including spill protection, as specified by standards, rules and regulations, for all hazardous wastes from the time of their generation to

the time of their removal from the site of generation;

(5) Unless provided otherwise in the rules and regulations, utilize only a hazardous waste transporter holding a license pursuant to sections [260.350 to 260.430] **308.300 to 308.399, RSMo**, for the removal of all hazardous wastes from the premises where they were generated;

(6) Unless provided otherwise in the rules and regulations **of this department or the division of motor carrier services within the department of transportation, pursuant to chapter 308, RSMo**, provide a separate manifest to the transporter for each load of hazardous waste transported from the premises where it was generated. The generator shall specify the destination of such load on the manifest. The manner in which the manifest shall be completed, signed and filed with the department **or the division of motor carrier services** shall be in accordance with **those** rules and regulations;

(7) Utilize for treatment, resource recovery, disposal or storage of all hazardous wastes, only a hazardous waste facility authorized to operate pursuant to sections 260.350 to 260.430 or the federal Resource Conservation and Recovery Act, or a state hazardous waste management program authorized pursuant to the federal Resource Conservation and Recovery Act, or any facility exempted from the permit required pursuant to section 260.395;

(8) Collect and maintain such records, perform such monitoring or analyses, and submit such reports on any hazardous waste generated, its transportation and final disposition, as specified in sections 260.350 to 260.430 and rules and regulations adopted pursuant to sections 260.350 to 260.430;

(9) Make available to the department upon request samples of waste and all records relating to hazardous waste generation and management for inspection and copying and allow the department to make unhampered inspections at any reasonable time of hazardous waste generation and management facilities located on the generator's property and hazardous waste generation and management practices carried out on the generator's property;

(10) Pay annually, on or before January first of each year, effective January 1, 1982, a fee to the state of Missouri to be placed in the hazardous waste fund to be used solely for the administrative costs of the program. The fee shall not exceed one dollar per ton of hazardous waste registered with the department as specified in subdivision (1) of this subsection for the twelve-month period ending June thirtieth of the previous year. The amount of the fee shall be established annually by the commission by rule or regulation. However, the fee shall not exceed ten thousand dollars per generator per year and no fee shall be imposed upon any generator who registers less than ten tons of hazardous waste annually with the department;

(a) All moneys payable pursuant to the provisions of this subdivision shall be promptly transmitted to the department of revenue, which shall deposit the same in the state treasury to the credit of the hazardous waste fund created in section 260.391;

(b) The hazardous waste management commission shall establish and submit to the

department of revenue procedures relating to the collection of the fees authorized by this subdivision. Such procedures shall include, but not be limited to, necessary records identifying the quantities of hazardous waste registered, the form and submission of reports to accompany the payment of fees, the time and manner of payment of fees, which shall not be more often than quarterly.

2. Exempted from the requirements of this section are individual householders and farmers who generate only small quantities of hazardous waste and any person the commission determines generates only small quantities of hazardous waste on an infrequent basis, except that:

(1) Householders, farmers and exempted persons shall manage all hazardous wastes they may generate in a manner so as not to adversely affect the health of humans, or pose a threat to the environment, or create a public nuisance; and

(2) The department may determine that a specific quantity of a specific hazardous waste requires special management. Upon such determination and after public notice by press release or advertisement thereof, including instructions for handling and delivery, generators exempted pursuant to this subsection shall deliver, but without a manifest or the requirement to use a licensed hazardous waste transporter, such waste to:

(a) Any storage, treatment or disposal site authorized to operate pursuant to sections 260.350 to 260.430 or the federal Resource Conservation and Recovery Act, or a state hazardous waste management program authorized pursuant to the federal Resource Conservation and Recovery Act which the department designates for this purpose; or

(b) A collection station or vehicle which the department may arrange for and designate for this purpose.

260.390. 1. After six months from the effective date of the standards, rules and regulations adopted by the commission pursuant to section 260.370, hazardous waste facility owners or operators shall:

(1) Not construct, substantially alter or operate, including all postclosure activities and operations specified in the rules and regulations, a hazardous waste facility without first obtaining a hazardous waste facility permit from the department as specified in section 260.395;

(2) Operate the facility according to the standards, rules and regulations adopted under sections 260.350 to 260.430 and all terms and conditions of the permit;

(3) Unless otherwise provided in sections 260.350 to 260.430 or the rules and regulations adopted hereunder, accept delivery of hazardous waste only if delivery is by a hazardous waste transporter holding a license under sections [260.350 to 260.430] **308.300 to 308.399, RSMo**, the shipment is accompanied by a manifest properly completed by both the generator and transporter and their facility is the destination indicated by the generator on the manifest. Exempted from the requirements of this subsection are deliveries, when directed by

the department, from householders, farmers and other persons exempted from generator responsibilities under provisions of section 260.380 and deliveries made in emergency situations as specified in sections 260.350 to 260.550 or the rules and regulations adopted hereunder. For such exempted deliveries they shall make a record of any waste accepted, its type, quantity, origin and the identity of the person making the delivery and promptly report this information to the department;

(4) Complete, sign and file the facility operator portion of the manifest as specified in rules and regulations adopted under sections 260.350 to 260.430;

(5) Whenever final disposition is to be achieved at another hazardous waste or exempted facility, initiate a new manifest and comply with the other responsibilities of generators specified in sections 260.350 to 260.430 and in rules and regulations and terms and conditions of their permit adopted or issued hereunder;

(6) Collect and maintain such records, submit such reports and perform such monitoring as specified in sections 260.350 to 260.430 and in rules and regulations and terms and conditions of their permit adopted or issued hereunder;

(7) Make available to the department, upon request, samples of wastes received and all records, for inspection and copying, relating to hazardous waste management and allow the department to make unhampered inspections at any reasonable time of all facilities and equipment.

2. All hazardous waste landfills shall collect, on behalf of the state from each hazardous waste generator or transporter, a tax equal to two percent of the gross charges and fees charged such generator for disposal at the landfill site to be placed in the hazardous waste fund to be used solely for the administration of sections 260.350 to 260.430. The tax shall be accounted for separately on the statement of charges and fees made to the hazardous waste generator and shall be collected at the time of the collection of such charges and fees. All moneys payable under the provisions of this subsection shall be promptly transmitted to the department of revenue, which shall daily deposit the same in the state treasury to the credit of the hazardous waste fund. The hazardous waste management commission shall establish and submit to the department of revenue procedures relating to the collection of the taxes authorized by this subsection. Such procedures shall include, but not be limited to, necessary records identifying the quantities of hazardous waste received, the form and submission of reports to accompany the payment of taxes, the time and manner of payment of taxes, which shall not be more often than quarterly.

3. The owner or operator of a hazardous waste disposal facility must close that facility upon termination of its operation, and shall after closure of the facility provide for protection during a postclosure care period, in accordance with the requirements of the commission, including the funds necessary for same. Protection shall include, but not be limited to,

monitoring and maintenance subject to the rules and regulations of the hazardous waste management commission. The owner or operator shall maintain a hazardous waste facility permit for the postclosure care period. The operator and the state may enter into an agreement consistent with the rules and regulations of the hazardous waste management commission where the state may accept deed to, and monitor and maintain the site.

4. All owners or operators of hazardous waste facilities who have obtained, or are required to obtain, a hazardous waste facility permit from the department and who accept, on a commercial basis for remuneration, hazardous waste from off-site sources, but not including wastes generated by the same person at other sites located in Missouri or within a metropolitan statistical area located partially in Missouri and owned or operated by the same person and transferred to the hazardous waste facility, for treatment, storage or disposal, shall pay fees for inspections conducted by the department to determine compliance with sections 260.350 to 260.430 and the rules promulgated thereunder. Hazardous waste facility inspection fees shall be specified by the hazardous waste management commission by rule. The inspection fees shall be used by the department as specified in subsection 3 of section 260.391.

260.395. 1. [After six months from the effective date of the standards, rules and regulations adopted by the commission pursuant to section 260.370, it shall be unlawful for any person to transport any hazardous waste in this state without first obtaining a hazardous waste transporter license. Any person transporting hazardous waste in this state shall file an application for a license pursuant to this subsection which shall:

(1) Be submitted on a form provided for this purpose by the department and shall furnish the department with such equipment identification and data as may be necessary to demonstrate to the satisfaction of the department that equipment engaged in such transportation of hazardous waste, and other equipment as designated in rules and regulations pursuant to sections 260.350 to 260.430, is adequate to provide protection of the health of humans and the environment and to comply with the provisions of any federal hazardous waste management act and sections 260.350 to 260.430 and the standards, rules and regulations adopted pursuant to sections 260.350 to 260.430. If approved by the department, this demonstration of protection may be satisfied by providing certification that the equipment so identified meets and will be operated in accordance with the rules and regulations of the Missouri public service commission and the federal Department of Transportation for the transportation of the types of hazardous materials for which it will be used;

(2) Include, as specified by rules and regulations, demonstration of financial responsibility, including, but not limited to, guarantees, liability insurance, posting of bond or any combination thereof which shall be related to the number of units, types and sizes of equipment to be used in the transport of hazardous waste by the applicant;

(3) Include, as specified in rules and regulations, a fee payable to the state of Missouri

which shall consist of an annual application fee, plus an annual use fee based upon tonnage, mileage or a combination of tonnage and mileage. The fees established pursuant to this subdivision shall be set to generate, as nearly as is practicable, six hundred thousand dollars annually. No fee shall be collected pursuant to this subdivision from railroads that pay a fee pursuant to subsection 19 of this section. Fees collected pursuant to this subdivision shall be deposited in the hazardous waste fund created pursuant to section 260.391.

2. If the department determines the application conforms to the provisions of any federal hazardous waste management act and sections 260.350 to 260.430 and the standards, rules and regulations adopted pursuant to sections 260.350 to 260.430, it shall issue the hazardous waste transporter license with such terms and conditions as it deems necessary to protect the health of humans and the environment. The department shall act within ninety days after receipt of the application. If the department denies the license, it shall issue a report to the applicant stating the reason for denial of the license.

3. A license may be suspended or revoked whenever the department determines that the equipment is or has been operated in violation of any provision of sections 260.350 to 260.430 or any standard, rule or regulation, order, or license term or condition adopted or issued pursuant to sections 260.350 to 260.430, poses a threat to the health of humans or the environment, or is creating a public nuisance.

4. Whenever a license is issued, renewed, denied, suspended or revoked by the department, any aggrieved person, by petition filed with the department within thirty days of the decision, may appeal such decision and shall be entitled to a hearing as provided in section 260.400.

5. A license shall be issued for a period of one year and shall be renewed upon proper application by the holder and a determination by the department that the applicant is in compliance with all provisions of sections 260.350 to 260.430 and all standards, rules and regulations, orders and license terms and conditions adopted or issued pursuant to sections 260.350 to 260.430.

6. A license is not required for the transport of any hazardous waste on the premises where it is generated or onto contiguous property owned by the generator thereof, or for those persons exempted in section 260.380. Nothing in this subsection shall be interpreted to preclude the department from inspecting unlicensed hazardous waste transporting equipment and to require that it be adequate to provide protection for the health of humans and the environment.

7.] After six months from the effective date of the standards, rules and regulations adopted by the commission pursuant to section 260.370, it shall be unlawful for any person to construct, substantially alter or operate, including postclosure activities and operations specified in the rules and regulations, a hazardous waste facility without first obtaining a hazardous waste facility permit for such construction, alteration or operation from the department. Such person

must submit to the department at least ninety days prior to submitting a permit application a letter of intent to construct, substantially alter or operate any hazardous waste disposal facility. The person must file an application within one hundred eighty days of the filing of a letter of intent unless granted an extension by the commission. The department shall publish such letter of intent as specified in section 493.050, RSMo, within ten days of receipt of such letter. The letter shall be published once each week for four weeks in the county where the hazardous waste disposal facility is proposed. Once such letter is submitted, all conditions for the permit application evaluation purposes in existence as of the date of submission shall be deemed frozen, in that no subsequent action by any person to change such conditions in an attempt to thwart a fair and impartial decision on the application for a permit shall be allowed as grounds for denial of the permit. Any person before constructing, substantially altering or operating a hazardous waste facility in this state shall file an application for a permit which shall:

(1) Be submitted on a form provided for this purpose by the department and shall furnish the department with plans, specifications and such other data as may be necessary to demonstrate to the satisfaction of the department that such facility does or will provide adequate protection of the health of humans and the environment and does or will comply with the provisions of any federal hazardous waste management act and sections 260.350 to 260.430 and the standards, rules and regulations adopted pursuant to sections 260.350 to 260.430;

(2) Include plans, designs, engineering reports and relevant data for construction, alteration or operation of a hazardous waste facility, to be submitted to the department by a registered professional engineer licensed by this state;

(3) Include, as specified by rules and regulations, demonstration of financial responsibility, including, but not limited to, guarantees, liability insurance, posting of bond or any combination thereof, which shall be related to type and size of facility;

(4) Include such environmental and geologic information, assessments and studies as required by the rules and regulations of the commission;

(5) Submit with the application for a hazardous waste disposal or treatment facility a profile of the environmental and economic characteristics of the area as required by the commission, including the extent of air pollution and groundwater contamination; and a profile of the health characteristics of the area which identifies all serious illness, the rate of which exceeds the state average for such illness, which might be attributable to environmental contamination;

(6) Include a fee payable to the state of Missouri which shall not exceed one thousand dollars, which shall cover the first year of the permit, if issued, but which is not refundable. If the permit is issued for more than one year, a fee equal in amount to the first year's fee shall be paid to the state of Missouri prior to issuance of the permit for each year the permit is to be in effect beyond the first year;

(7) The department shall supervise any field work undertaken to collect geologic and engineering data for submission with the application. The state geologist and departmental engineers shall review the geologic and engineering plans, respectively, and attest to their accuracy and adequacy. The applicant shall pay all reasonable costs, as determined by the commission, incurred by the department pursuant to this subsection.

[8.] 2. (1) Prior to issuing or renewing a hazardous waste facility permit, the department shall issue public notice by press release or advertisement and shall notify all record owners of adjoining property by mail directed to the last known address, and the village, town or city, if any, and the county in which the hazardous waste facility is located; and, upon request, shall hold a public hearing after public notice as required in this subsection at a location convenient to the area affected by the issuance of the permit.

(2) Prior to issuing, reviewing every five years as required in subsection **[12] 6** of this section, or renewing a hazardous waste disposal facility permit the department shall issue public notice by press release and advertisement and shall notify all record owners of property, within one mile of the outer boundaries of the site, by mail directed to the last known address; and shall hold a public hearing after public notice as required in this subsection at a location convenient to the area affected by the issuance of the permit.

[9.] 3. If the department determines that the application conforms to the provisions of any federal hazardous waste management act and sections 260.350 to 260.430 and the standards, rules and regulations adopted pursuant to sections 260.350 to 260.430, it shall issue the hazardous waste facility permit, with such terms and conditions and require such testing and construction supervision as it deems necessary to protect the health of humans or the environment. The department shall act within one hundred and eighty days after receipt of the application. If the department denies the permit, it shall issue a report to the applicant stating the reason for denial of a permit.

[10.] 4. A permit may be suspended or revoked whenever the department determines that the hazardous waste facility is, or has been, operated in violation of any provision of sections 260.350 to 260.430 or any standard, rule or regulation, order or permit term or condition adopted or issued pursuant to sections 260.350 to 260.430, poses a threat to the health of humans or the environment or is creating a public nuisance.

[11.] 5. Whenever a permit is issued, renewed, denied, suspended or revoked by the department, any aggrieved person, by petition filed with the department within thirty days of the decision, may appeal such decision and shall be entitled to a hearing as provided in section 260.400.

[12.] 6. A permit shall be issued for a fixed term, which shall not exceed ten years in the case of any land disposal facility, storage facility, incinerator, or other treatment facility. Each permit for a land disposal facility shall be reviewed five years after the date of its issuance or

reissuance and shall be modified as necessary to assure that the facility continues to comply with the currently applicable requirements of federal and state law. Nothing in this subsection shall preclude the department from reviewing and modifying a permit at any time during its term. Review of any application for a permit renewal shall consider improvements in the state of control and measurement technology as well as changes in applicable regulations. Each permit issued pursuant to this section shall contain such terms and conditions as the department determines necessary to protect human health and the environment, and upon proper application by the holder and a determination by the department that the applicant is in compliance with all provisions of sections 260.350 to 260.430 and all standards, rules and regulations, orders and permit terms and conditions adopted or issued pursuant to sections 260.350 to 260.430.

[13.] 7. A hazardous waste facility permit is not required for:

(1) On-site storage of hazardous wastes where such storage is exempted by the commission by rule or regulation; however, such storage must conform to the provisions of any federal hazardous waste management act and sections 260.350 to 260.430 and the applicable standards, rules and regulations adopted pursuant to sections 260.350 to 260.430 and any other applicable hazardous materials storage and spill-prevention requirements provided by law;

(2) A publicly owned treatment works which has an operating permit pursuant to section 644.051, RSMo, and is in compliance with that permit;

(3) A resource recovery facility which the department certifies uses hazardous waste as a supplement to, or substitute for, nonwaste material, and that the sole purpose of the facility is manufacture of a product rather than treatment or disposal of hazardous wastes;

(4) That portion of a facility engaged in hazardous waste resource recovery, when the facility is engaged in both resource recovery and hazardous waste treatment or disposal, provided the owner or operator can demonstrate to the department's satisfaction and the department finds that such portion is not intended and is not used for hazardous waste treatment or disposal.

[14.] 8. Facilities exempted pursuant to subsection **[13] 7** of this section must comply with the provisions of subdivisions (3) to (7) of section 260.390 and such other requirements, to be specified by rules and regulations, as are necessary to comply with any federal hazardous waste management act or regulations hereunder. Generators who use such an exempted facility shall keep records of hazardous wastes transported, except by legal flow through sewer lines, to the facility and submit such records to the department in accordance with the provisions of section 260.380 and the standards, rules and regulations adopted pursuant to sections 260.350 to 260.430. Any person, before constructing, altering or operating a resource recovery facility in this state shall file an application for a certification. Such application shall include:

(1) Plans, designs, engineering reports and other relevant information as specified by rule that demonstrate that the facility is designed and will operate in a manner protective of human health and the environment; and

(2) An application fee of not more than five hundred dollars for a facility that recovers waste generated at the same facility or an application fee of not more than one thousand dollars for a facility that recovers waste generated at off-site sources. Such fees shall be deposited in the hazardous waste fund created in section 260.391.

The department shall review such application for conformance with applicable laws, rules and standard engineering principles and practices. The applicant shall pay to the department all reasonable costs, as determined by the commission, incurred by the department pursuant to this subsection. All such funds shall be deposited in the hazardous waste fund created in section 260.391.

[15.] **9.** The owner or operator of any hazardous waste facility in existence on September 28, 1977, who has achieved federal interim status pursuant to 42 U.S.C. 6925(e), and who has submitted to the department Part A of the federal facility permit application, may continue to receive and manage hazardous wastes in the manner as specified in the Part A application, and in accordance with federal interim status requirements, until completion of the administrative disposition of a permit application submitted pursuant to sections 260.350 to 260.430. The department may at any time require submission of, or the owner or operator may at any time voluntarily submit, a complete application for a permit pursuant to sections 260.350 to 260.430 and commission regulations. The authority to operate pursuant to this subsection shall cease one hundred eighty days after the department has notified an owner or operator that an application for permit pursuant to sections 260.350 to 260.430 must be submitted, unless within such time the owner or operator submits a completed application therefor. Upon submission of a complete application, the authority to operate pursuant to this subsection shall continue for such reasonable time as is required to complete the administrative disposition of the permit application. If a facility loses its federal interim status, or the Environmental Protection Agency requires the owner or operator to submit Part B of the federal application, the department shall notify the owner or operator that an application for a permit must be submitted pursuant to this subsection. In addition to compliance with the federal interim status requirements, the commission shall have the authority to adopt regulations requiring persons operating pursuant to this subsection to meet additional state interim status requirements.

[16.] **10.** A license or permit shall not be issued to any person who is determined by the department to habitually engage in or to have habitually engaged in hazardous waste management practices which pose a threat to the health of humans or the environment or who is determined by the department to habitually violate or to have habitually violated the requirements of the Missouri solid or hazardous waste laws, the solid or hazardous waste laws of other states or federal laws pertaining to hazardous waste. Nor shall a license or permit be issued to any person who has been adjudged in contempt of any court order enforcing the provisions of the Missouri solid or hazardous waste laws, the solid or hazardous waste laws of

other states or federal laws pertaining to hazardous waste or who has offered, in person or through an agent, any inducement, including any discussion of potential employment opportunities, to any employee of the department when such person has an application for a permit pending or a permit under review. For the purposes of this subsection, the term "person" shall include any officer or management employee of the applicant, or any officer or management employee of any corporation or business which owns an interest in the applicant, or any officer or management employee of any business which is owned either wholly or in part by any person, corporation, or business which owns an interest in the applicant.

[17.] **11.** No person, otherwise qualified pursuant to sections 260.350 to 260.430 for a license to transport hazardous wastes or for a permit to construct, substantially alter or operate a hazardous waste facility, shall be denied such license or permit on the basis of a lack of need for such transport service or such facility because of the existence of other services or facilities capable of meeting that need; except that permits for hazardous waste facilities may be denied on determination made by the department that the financial resources of the persons applying are such that the continued operation of the sites in accordance with sections 260.350 to 260.430 cannot be reasonably assured or on determination made by the department that the probable volume of business is insufficient to ensure and maintain the solvency of then existing permitted hazardous waste facilities.

[18.] **12.** All hazardous waste landfills constructed after October 31, 1980, shall have a leachate collection system. The rules and regulations of the commission shall treat and protect all aquifers to the same level of protection. The provisions of this subsection shall not apply to the disposal of tailings and slag resulting from mining, milling and primary smelting operations.

[19. Any railroad corporation as defined in section 388.010, RSMo, that transports any hazardous waste as defined in section 260.360 or any hazardous substance as defined in section 260.500 shall pay an annual fee of three hundred fifty dollars. Fees collected pursuant to this subsection shall be deposited in the hazardous waste fund created in section 260.391.]

260.420. 1. From September 28, 1977, and notwithstanding any other provision of sections 260.350 to 260.430 or any other law to the contrary, upon receipt of information that any activity subject to sections 260.350 to 260.430 may present an imminent hazard, by placing or allowing escape of any hazardous waste into the environment or exposure of people to such waste which may be cause of death, disabling personal injury, serious acute or chronic disease, or serious environmental harm, the department director or the commission may take action necessary to protect the health of humans and the environment from such hazard. The action the department director, commission or the designee of the commission may take includes, but is not limited to:

(1) Issuing an order directing the hazardous waste generator, [transporter,] facility operator or any other person who is the custodian or has control of the waste, which constitutes

such hazard, **except a hazardous waste transporter subject to the provisions of chapter 308, RSMo**, to eliminate such hazard. Such action may include, with respect to a site or facility, permanent or temporary cessation of operation;

(2) Issuing an order directing a permitted commercial hazardous waste facility to treat, store or dispose of any waste cleaned up in accordance with this section;

(3) Acquiring by purchase, donation, agreement or condemnation any lands, or rights in lands, sites, objects, or facilities necessary to protect the health of humans and the environment in accordance with sections 260.350 to 260.550 only after it is proven cost effective and all other options have been exhausted by the commission. In the event any property is condemned, then the procedures and assessment of damages shall be in accordance with chapter 523, RSMo;

(4) Selling or leasing any property that has been cleaned up in accordance with sections 260.350 to 260.550 so as to no longer constitute a threat to the health of people or to the environment. The proceeds of such sales or leases shall be deposited in the hazardous waste remedial fund created in section 260.480; and

(5) Causing to be filed by the attorney general or a prosecuting attorney in the name of the people of the state of Missouri, suit for a temporary restraining order, temporary injunction or permanent injunction which action shall be given precedence over all other matters pending in the circuit courts.

2. In any civil action brought pursuant to this section in which a temporary restraining order or temporary injunction is sought, there must be allegations of the types of injury or harm specified in these imminent hazard provisions; it shall be necessary to allege and prove at the proceeding that irreparable damage will occur and that the remedy at law is inadequate, and the temporary restraining order or temporary injunction shall not issue without such allegations and without such proof.

3. This section shall not apply to any alleged imminent hazard that is covered by the federal Occupational Safety and Health Act, so long as the hazardous waste is contained on the site so covered. This subsection shall not prevent the department from taking action necessary to prevent escape of the hazardous waste from such site.

260.425. 1. It is unlawful for any person to cause or permit any acts or hazardous waste management practices which violate sections 260.350 to 260.430 or any standard, rule or regulation, order or license or permit term or condition adopted or issued hereunder. In the event the commission or the department determines that any provision of sections 260.350 to 260.430 or any standard, rule or regulation, order or determination, or license or permit term or condition adopted or issued hereunder by the commission or the department, or any filing requirement under sections 260.350 to 260.430 or any provision which this state is required to enforce under any federal hazardous waste management act, is being, was, or is in imminent danger of being

violated, the commission or department may, in addition to other remedies under sections 260.350 to 260.430, cause to have instituted a civil action in any court of competent jurisdiction for injunctive relief to prevent any such violation or further violation or for the assessment of a civil penalty not to exceed ten thousand dollars per day for each day, or part thereof, the violation occurred and continues to occur, or both, as the court deems proper. A civil monetary penalty under this section shall not be assessed for a violation where an administrative penalty was assessed under section 260.412. The commission or the department may request either the attorney general or a prosecuting attorney to bring any action authorized in this section in the name of the people of the state of Missouri. Suit may be brought in any county where the defendant's principal place of business is located or was located at the time the violation occurred, or has or may cause injury or threat to the health of humans or the environment. Any offer of settlement to resolve a civil penalty under this section shall be in writing, shall state that an action for imposition of a civil penalty may be initiated by the attorney general or a prosecuting attorney representing the department under authority of this section, and shall identify any dollar amount as an offer of settlement which shall be negotiated in good faith through conference, conciliation and persuasion.

2. Moneys received pursuant to this section which are not required by article IX, section 7, of the constitution to be distributed to schools shall be deposited in the hazardous waste fund created in section 260.391.

3. Any person who knowingly:

(1) ~~Transports any hazardous waste to a facility which is not authorized to receive such waste pursuant to sections 260.350 to 260.430 or permits or causes any other hazardous waste transportation practice in violation of any provision of sections 260.350 to 260.430;~~

~~(2) Treats, stores or disposes of any hazardous waste either:~~

~~(a) Without authorization to do so pursuant to sections 260.350 to 260.430; or~~

~~(b) In knowing violation of any material condition or requirement of such authorization;~~

or

~~(c) In violation of any provision of sections 260.350 to 260.430;~~

~~[(3)] (2) Makes any false material statement, representation or certification in any application, label, permit, record, report, manifest or other document filed, maintained, or required to be maintained under sections 260.350 to 260.430;~~

~~[(4)] (3) Falsifies, tampers with, or renders inaccurate any monitoring device or result therefrom used, filed, maintained, or required to be maintained under sections 260.350 to 260.430;~~

~~[(5)] (4) Generates, treats, stores, transports, disposes of or otherwise handles any hazardous waste, and who in connection therewith knowingly destroys, alters or conceals any record required to be maintained pursuant to sections 260.350 to 260.430; or~~

[(6)] (5) Owns, maintains or operates any hazardous waste disposal facility in a manner which permits any acts or hazardous waste management practices in violation of sections 260.350 to 260.430, shall, upon conviction, be punished by a fine of not less than twenty-five hundred dollars nor more than twenty-five thousand dollars for each day of violation, or by confinement in the county jail for not more than one year, or by both such fine and confinement. Second and successive convictions for violation of this section shall be punished by a fine of not less than five thousand dollars nor more than fifty thousand dollars for each day of violation, or by imprisonment for not less than ten years, or by both such fine and imprisonment.

4. Whenever the director or his designee observes or has reason to believe any such person is violating or has violated the provisions of sections 260.350 to 260.430 relating to hazardous waste facilities, the director or his designee may request the sheriff or deputy sheriff of the county where the hazardous waste facility is located, or any law enforcement officer otherwise authorized by law to issue a summons, to make investigation. If the officer views any violation of sections 260.350 to 260.430 or has probable cause to believe any violation of sections 260.350 to 260.430 is occurring or has occurred, he shall issue to the owner or operator a summons, in lieu of arrest, which shall state the nature of any alleged violations and shall command the owner or operator to appear in circuit court, associate division, at a stated time and place in answer thereto. If the owner or operator shall fail to appear as commanded by the summons, a warrant of arrest shall be issued.

5. [In addition to the authority granted to it under chapter 43, RSMo, the Missouri state highway patrol, any of its officers, or any other law enforcement officer, who has probable cause to believe that such a violation of sections 260.350 to 260.430 has been committed may detain any equipment involved in the violation and arrest the person controlling or operating such equipment. Any such officer shall also notify the department or the Missouri public service commission as soon as practicable, which shall, in addition, take whatever civil action they determine is necessary to correct or eliminate such violation or any threat to the health of humans or the environment. It shall be the duty of the Missouri state highway patrol as it pertains to highway use, and all other officers of the state of Missouri charged with enforcement of criminal law, to further the purposes of sections 260.350 to 260.430 and to render and furnish to the department when requested all information and assistance in their possession and in their power.

6.] The liabilities which shall be imposed pursuant to any provision of sections 260.350 to 260.430 upon persons violating the provisions of sections 260.350 to 260.430 or any standard, rule or regulation, or license or permit term or condition adopted or issued hereunder shall not be imposed for any violation caused by a strike or an act of God, war, riot or other catastrophe.

[7.] 6. No provision of sections 260.350 to 260.430 shall be construed to limit any action at law or in equity from being brought by any person or political subdivision aggrieved by any

violation of sections 260.350 to 260.430 nor shall any provision be construed to prohibit any person from exercising otherwise existing rights to suppress nuisances.

260.430. 1. Information obtained under sections 260.350 to 260.430 or any rule or regulation, order or license or permit term or condition adopted or issued hereunder, or any investigation authorized thereby, shall be available to the public unless nondisclosure is requested in writing including justification to the satisfaction of the director that such information constitutes trade secrets or information which is entitled to confidential treatment in order to protect any plan, process, tool, mechanism or compound which is known only to the person claiming confidential treatment and where confidential treatment is necessary to protect such person's trade, business or manufacturing process, where such nondisclosure will not result in an unreasonable threat to the health of humans or other living organisms and disclosure is not required under any federal hazardous waste management act. If the director finds the information does not warrant confidential treatment, the person shall be notified by registered mail. The information may be released to the public after thirty days of receipt of the notice from the director unless the person obtains a restraining order prohibiting disclosure. Any action by the director concerning confidential treatment may be appealed to the hazardous waste management commission which may uphold or reverse such action. Any member of the commission or employee of the department, for a period of two years after the termination of such relationship, who is convicted of willful disclosure or conspiracy to disclose trade secrets or information which is entitled to such confidential treatment to any person other than one entitled to the information under sections 260.350 to 260.430 is guilty of a misdemeanor and, upon conviction, shall be punished by fine of not more than one thousand dollars.

2. No action, ordinance or law, with the exception of local option on location, of any county, city, town, village or other political subdivision of this state shall operate to prevent the location or operation of a hazardous waste facility [or transporter] holding a current hazardous waste facility permit [or transporter license] issued hereunder within its boundaries. Nothing in this subsection shall, however, prevent any such political subdivision from challenging a facility's [or transporter's] compliance with sections 260.350 to 260.430 or any rule or regulation, order or permit or license term or condition adopted or issued hereunder. No hazardous waste disposal facility established after September 28, 1977, shall be located within one-fourth mile of any permanent, occupied residential dwelling house completed prior to the receipt by the department of a letter of intent for such hazardous waste disposal facility without the written consent of the owner of such residential house. All hazardous waste disposal facilities shall have a minimum three-hundred-foot buffer zone between the property line of the facility and the permitted area. The provisions of this subsection shall not apply to overburden, rocks, tailings, slag, residue or other wastes resulting from mining, milling and smelting.

3. All pending applicants for the development of a hazardous waste disposal facility shall

meet all requirements of this act.

301.030. 1. The director **of revenue** shall provide for the retention of license plates by the owners of motor vehicles, other than commercial motor vehicles, and shall establish a system of registration on a monthly series basis to distribute the work of registering motor vehicles as uniformly as practicable throughout the twelve months of the calendar year. For the purpose of assigning license plate numbers, each type of motor vehicle shall be considered a separate class. Commencing July 1, 1949, motor vehicles, other than commercial motor vehicles, shall be registered for a period of twelve consecutive calendar months. There are established twelve registration periods, each of which shall start on the first day of each calendar month of the year and shall end on the last date of the twelfth month from the date of beginning.

2. Motor vehicles, other than commercial motor vehicles, operated for the first time upon the public highways of this state, to and including the fifteenth day of any given month, shall be subject to registration and payment of a fee for the twelve-month period commencing the first day of the month of such operation; motor vehicles, other than commercial motor vehicles, operated for the first time on the public highways of this state after the fifteenth day of any given month shall be subject to registration and payment of a fee for the twelve-month period commencing the first day of the next following calendar month.

3. All commercial motor vehicles and trailers, except those licensed under section 301.035 and those operated under agreements as provided for in [sections 301.271 to 301.279] **chapter 308, RSMo**, shall be registered either on a calendar year basis or on a prorated basis as provided in this section. The fees for commercial motor vehicles, trailers, semitrailers, and driveaway vehicles, other than those to be operated under agreements as provided for in [sections 301.271 to 301.279] **chapter 308, RSMo**, shall be payable not later than the last day of February of each year, except when such vehicle is licensed between April first and July first the fee shall be three-fourths the annual fee, when licensed between July first and October first the fee shall be one-half the annual fee and when licensed on or after October first the fee shall be one-fourth the annual fee. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Local commercial motor vehicle license plates shall also be so stamped, marked or designed as to indicate they are to be used only on local commercial motor vehicles and, in addition to such stamp, mark or design, the letter "F" shall also be displayed on local commercial motor vehicle license plates issued to motor vehicles used for farm or farming transportation operations as defined in section 301.010 in the manner prescribed by the advisory committee established in section 301.129. In addition, all commercial motor vehicle license plates shall be so stamped or marked with a letter, figure or other emblem as to indicate the gross weight for which issued.

4. The director shall, upon application, issue registration and license plates for nine

thousand pounds gross weight for property-carrying commercial motor vehicles referred to herein, upon payment of the fees prescribed for twelve thousand pounds gross weight as provided in section 301.057.

301.057. The annual registration fee for property-carrying commercial motor vehicles **registered pursuant to this chapter or section 308.620, RSMo, but** not including property-carrying local commercial motor vehicles, or land improvement contractors' commercial motor vehicles, based on gross weight is:

6,000 pounds and under	\$ 25.50
6,001 pounds to 9,000 pounds	38.00
9,001 pounds to 12,000 pounds	38.00
12,001 pounds to 18,000 pounds	63.00
18,001 pounds to 24,000 pounds	100.50
24,001 pounds to 26,000 pounds	127.00
26,001 pounds to 30,000 pounds	180.00
30,001 pounds to 36,000 pounds	275.50
36,001 pounds to 42,000 pounds	413.00
42,001 pounds to 48,000 pounds	550.50
48,001 pounds to 54,000 pounds	688.00
54,001 pounds to 60,010 pounds	825.50
60,011 pounds to 66,000 pounds	1,100.50
66,001 pounds to 73,280 pounds	1,375.50
73,281 pounds to 78,000 pounds	1,650.50
78,001 pounds to 80,000 pounds	1,719.50

301.058. [1.] The annual registration fee for property-carrying local commercial motor vehicles, other than a land improvement contractors' commercial motor vehicles, based on gross weight is:

6,000 pounds and under	15.50
6,001 pounds to 12,000 pounds	18.00
12,001 pounds to 18,000 pounds	20.50
18,001 pounds to 24,000 pounds	27.50
24,001 pounds to 26,000 pounds	33.50
26,001 pounds to 30,000 pounds	45.50
30,001 pounds to 36,000 pounds	67.50
36,001 pounds to 42,000 pounds	100.50
42,001 pounds to 48,000 pounds	135.50
48,001 pounds to 54,000 pounds	170.50
54,001 pounds to 60,010 pounds	200.50

60,011 pounds to 66,000 pounds	270.50
66,001 pounds to 72,000 pounds	335.50
72,001 pounds to 80,000 pounds	350.50

[2. Any person found to have improperly registered a motor vehicle in excess of fifty-four thousand pounds when he or she was not entitled to shall be required to purchase the proper license plates and, in addition to all other penalties provided by law, shall be subject to the annual registration fee for the full calendar year for the vehicle's gross weight as prescribed in section 301.057.]

301.059. The annual registration fee for passenger-carrying commercial motor vehicles **registered pursuant to this chapter or section 308.620, RSMo**, (not including passenger-carrying local commercial motor vehicles, school buses or local transit buses) based on seating capacity is:

10 passengers or less	\$ 100.50
11 to 18 passengers	180.50
19 to 25 passengers	250.50
26 to 29 passengers	290.50
30 to 33 passengers	330.50
34 to 37 passengers	370.50
38 to 41 passengers	410.50
42 [to 45] or more passengers	450.50

301.067. 1. For each trailer or semitrailer there shall be paid an annual fee of seven dollars fifty cents, and in addition thereto such permit fee authorized by law against trailers used in combination with tractors operated under the supervision of the motor carrier [and railroad safety] **services** division of the department of [economic development] **transportation**. The fees for tractors used in any combination with trailers or semitrailers or both trailers and semitrailers (other than on passenger-carrying trailers or semitrailers) shall be computed on the total gross weight of the vehicles in the combination with load.

2. Any trailer or semitrailer may at the option of the registrant be registered for a period of three years upon payment of a registration fee of twenty-two dollars and fifty cents.

3. Any trailer or semitrailer **registered pursuant to this chapter or chapter 308, RSMo**, which is operated coupled to a towing vehicle by a fifth wheel and kingpin assembly or by a trailer converter dolly may, at the option of the registrant, be registered permanently upon the payment of a registration fee of fifty-two dollars and fifty cents. The permanent plate and registration fee is vehicle specific. The plate and the registration fee paid is nontransferable and nonrefundable, except those covered under the provisions of section 301.442.

301.090. All fees for the registration of motor vehicles, trailers, certificates of title and motorcycles provided for [herein] **in this chapter and in section 308.620, RSMo, and all**

amounts due to this state under the International Fuel Tax Agreement, shall be collected by the director of revenue **or the division of motor carrier services within the department of transportation**, and deposited with the state treasurer to the credit of the state highway department fund.

301.121. [1.] When the owner of a commercial motor vehicle registered in excess of fifty-four thousand pounds returns the license plates to the director of revenue as provided in section 301.120, but not for a license suspension or revocation, the owner shall receive a refund or credit of any pro rata amount to be determined by the calendar quarters remaining before expiration of the license plates. Such refund or credit shall be granted based upon the date the license plates are surrendered to the director of revenue. Any credit or refund may be applied toward any subsequent application for a Missouri registration only if a commercial motor vehicle. Any refunded portion of a registration fee which was distributed according to the provisions of article IV, section 30(b) of the Constitution of Missouri shall be refunded proportionately from state, city and county funds.

[2. When the owner of a commercial motor vehicle registered in excess of fifty-four thousand pounds returns the license plate or plates to the appropriate official in the state where the license plate for the commercial motor vehicle was issued, a refund or credit shall be issued by the director of revenue as provided in subsection 1 of this section. If the refund is to come from moneys previously transferred to another state by this state as a result of a reciprocity agreement, such refund by the director of revenue may only be made upon return of such moneys from that state to the director. If such moneys are not returned by that state, such refund will not be made.]

301.130. 1. **Except as otherwise provided pursuant to sections 308.620 to 308.655, RSMo**, the director of revenue, upon receipt of a proper application for registration, required fees and any other information which may be required by law, shall issue to the applicant a certificate of registration in such manner and form as the director of revenue may prescribe and a set of license plates, or other evidence of registration, as provided [herein] **in this section. Unless otherwise provided by law, each license plate or set of license plates [shall bear] issued, renewed or replaced on or after January 1, 1997, shall contain the following:**

- (1) The name or abbreviated name of this state[.];
- (2) The words "SHOW-ME STATE"[.];
- (3) The month and year in which the registration shall expire[, and];
- (4) An arrangement of numbers or letters, or both, as shall be assigned from year to year by the director of revenue; **and**

(5) **Fully reflective material with a common color scheme and design for each type of license plate issued under this chapter, which shall be designated by an**

advisory committee established in section 301.129.

The license plates shall be clearly visible at night, and shall be aesthetically attractive. Except as otherwise provided in this section, in addition to all other fees required by law, applicants for registration of vehicles with license plates that expire between January 1, 1997, and December 31, 1997, applicants for registration of trailers or semitrailers with license plates that expire between January 1, 1997, and December 31, 1999, and applicants for registration of vehicles that are to be issued new license plates shall pay an additional fee of up to two dollars and twenty-five cents, based on the actual cost of the reissuance, to cover the cost of the fully reflective plates required by this subsection. Notwithstanding the provisions of subsection 3 of section 301.067 to the contrary, every license plate for a trailer or semitrailer which is permanently registered under subsection 3 of section 301.067 shall be returned to the director of revenue between January 1, 1997, and December 31, 1997, and a license plate which conforms to the provisions of this subsection issued as a replacement plate upon the payment of a one dollar and fifteen cent fee per plate prescribed by this subdivision. The additional fee, based on the actual cost, prescribed by this subdivision shall only be one dollar and fifteen cents for issuance of one new plate for vehicles requiring only one license plate pursuant to subsection 5 or 7 of this section. The additional fee of two dollars and twenty-five cents prescribed in this subsection shall not be charged to persons receiving special license plates issued pursuant to section 301.073 or 301.443. The department of revenue shall adopt a program whereby all motor vehicle registrations renewed on or after January 1, 1997, will have replacement reflective plates issued for such registration prior to January 1, 2000. Special plates for qualified disabled veterans will have the "DISABLED VETERAN" wording on the license plates in preference to the words "SHOW-ME STATE" and special plates for members of the national guard will have the "NATIONAL GUARD" wording in preference to the words "SHOW-ME STATE". **Veterans' plates shall have a white background with a blue and red configuration at the discretion of the advisory committee established in section 301.129.**

2. The arrangement of letters and numbers of license plates shall be uniform throughout each classification of registration.

3. [The background of all license plates, or the letters and numerals thereof, shall be coated with a material which will reflect the lights of other vehicles. The nature and specifications of this material shall be determined after a public hearing by the director of revenue, director of prison industries, and superintendent of the state highway patrol, and shall meet the standards established by the state transportation department.] **The competitive bidding process used to select a vendor for the material to manufacture the license**

plates shall consider the aesthetic appearance of the plates and the reflective illumination capability for safety reasons. The advisory committee established in section 301.129 shall adopt specifications for all reflective material. The competitive bidding request for proposal shall contain a deduction in the amount of twenty-eight cents per plate from the cost of the reflective sheeting. The committee may select graphic designs or any of the plate processes approved on January 1, 1997.

4. Figures on license plates, except those which may be used to designate gross weights for which commercial motor vehicles are registered, shall [not be less than three inches in height and the strokes thereof not less than five-sixteenths of an inch in width] **be of a size set by the advisory committee established in section 301.129.** In the case of motorcycles [and], motortricycles **and trailers that are pulled by motorcycles or motortricycles**, the letters and figures shall be [not less than one inch in height and the strokes thereof one-eighth of an inch in width] **of a size set by the advisory committee.** The [director] **advisory committee** may provide for the arrangement of the numbers in groups or otherwise, and for other distinguishing marks on the plates.

5. All property-carrying commercial motor vehicles to be registered at a gross weight in excess of twelve thousand pounds, all passenger-carrying commercial motor vehicles, local transit buses, school buses, trailers, semitrailers, motorcycles, motortricycles, motorscooters and driveaway vehicles shall be registered with the director of revenue as provided for in subsection 3 of section 301.030, **or if applicable, shall register with the division of motor carrier services pursuant to sections 308.620, RSMo,** but only one license plate shall be issued for each such vehicle, **except as provided in this subsection. The applicant for registration of any property-carrying commercial motor vehicle to be registered at a gross weight in excess of twelve thousand pounds or passenger-carrying commercial motor vehicle may request and be issued two license plates for such vehicle, and if such plates are issued, the director of revenue may assess and collect an additional charge from the applicant in an amount not to exceed the fee prescribed for personalized license plates in subsection 1 of section 301.144.**

6. The plates issued to manufacturers and dealers shall bear the letter "D" preceding the number, and the [director] **advisory committee** may [place] **require the placement** upon the plates other letters or marks to distinguish commercial motor vehicles and trailers and other types of motor vehicles.

7. No motor vehicle or trailer shall be operated on any highway of this state unless it shall have displayed thereon the license plate or set of license plates issued by the director of revenue and authorized by section 301.140, **or if applicable, shall register with the division of motor carrier services pursuant to section 308.620, RSMo.** Each such plate shall be securely fastened to the motor vehicle in a manner so that all parts thereof shall be plainly

visible and reasonably clean so that the reflective qualities thereof are not impaired. License plates shall be fastened to all motor vehicles except trucks, tractors, truck tractors or truck-tractors licensed in excess of twelve thousand pounds on the front and rear of such vehicles not less than eight nor more than forty-eight inches above the ground, with the letters and numbers thereon right side up. The license plates on trailers, motorcycles, motortricycles and motorscooters shall be displayed on the rear of such vehicles, with the letters and numbers thereon right side up. The license plate on trucks, tractors, truck tractors or truck-tractors licensed in excess of twelve thousand pounds shall be displayed on the front of such vehicles not less than eight nor more than forty-eight inches above the ground, with the letters and numbers thereon right side up, **or if two plates are issued for the vehicle pursuant to subsection 5 of this section, displayed in the same manner on the front and rear of such vehicles.** The license plate or plates authorized by section 301.140, when properly attached, shall be prima facie evidence that the required fees have been paid.

8. (1) The director of revenue shall issue annually a tab or set of tabs as evidence of the annual payment of registration fees and the current registration of a vehicle in lieu of the set of plates; except that the director shall annually issue a new license plate or set of plates as provided in this section for vehicles registered pursuant to subsection 2 of section 301.277, commercial motor vehicles in excess of twelve thousand pounds, trailers, buses and dealers].

(2) The vehicle owner to whom a tab or set of tabs is issued shall affix and display such tab or tabs [on the middle] **in the designated area** of the license plate, no more than one per plate.

(3) A tab or set of tabs issued by the director when attached to a vehicle in the prescribed manner shall be prima facie evidence that the registration fee for such vehicle has been paid.

(4) Except as provided in subdivision (1) of this subsection, the director of revenue shall issue plates for a period of at least five years.

(5) For those commercial motor vehicles and trailers registered pursuant to section [301.041] **308.655, RSMo**, the plate issued by the director of [revenue] **the division of motor carrier services within the department of transportation** shall be a permanent nonexpiring license plate for which no tabs shall be issued. Nothing in this section shall relieve the owner of any vehicle permanently registered pursuant to this section from the obligation to pay the annual registration fee due for the vehicle. The permanent nonexpiring license plate shall be returned to the director of [revenue] **the division of motor carrier services** upon the sale or disposal of the vehicle by the owner to whom the permanent nonexpiring license plate is issued, or the plate may be transferred to a replacement commercial motor vehicle when the owner files a supplemental application with the [Missouri highway reciprocity commission] **division of motor carrier services** for the registration of such replacement commercial motor vehicle. Upon payment of the annual registration fee, the director of [revenue] **the division of**

motor carrier services shall issue a certificate of registration, **cab card** or other suitable evidence of payment of the annual fee, and such evidence of payment shall be carried at all times in the vehicle for which it is issued.

(6) Upon the sale or disposal of any vehicle permanently registered under this section, or upon the termination of a lease of any such vehicle, the permanent nonexpiring plate issued for such vehicle shall be returned to the director **of the division of motor carrier services** and shall not be valid for operation of such vehicle, or the plate may be transferred to a replacement vehicle when the owner files a supplemental application with the [Missouri highway reciprocity commission] **division of motor carrier services** for the registration of such replacement vehicle. If a vehicle which is permanently registered under this section is sold, wrecked or otherwise disposed of, or the lease terminated, the registrant shall be given credit for any unused portion of the annual registration fee when the vehicle is replaced by the purchase or lease of another vehicle during the registration year.

9. The director of revenue, **and if applicable, the director of the division of motor carrier services**, may prescribe rules and regulations for the effective administration of this section.

10. Any rule or portion of a rule promulgated pursuant to this section may be suspended by the joint committee on administrative rules if after hearing thereon the committee finds that such rule or portion of the rule is beyond or contrary to the statutory authority of the agency which promulgated the rule, or is inconsistent with the legislative intent of the authorizing statute. The general assembly may reinstate such rule by concurrent resolution signed by the governor. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

301.442. Whenever a business is sold by the owner thereof and as part of the sale the ownership of one or more commercial motor vehicles is transferred, or whenever an individual or partnership transfers ownership of a business and commercial motor vehicles owned by him or them to a corporation substantially owned by him or them in a nontaxable transfer under the provisions of the United States Internal Revenue Code, the original owner of any such vehicles may transfer the registration plates issued **pursuant to chapters 301 or 308, RSMo**, for such vehicles to the new owner who, upon notification to the director of revenue of the sale or transfer of ownership of the business and transfer of the registration plates, may use those registration plates for the remainder of the current registration period as if he, they, or it had originally purchased the plates. The director may prescribe the necessary forms for use in making the notification and may require that the notification be made under oath.

302.756. 1. Notwithstanding any other provision of law to the contrary, any driver who violates or fails to comply with an out-of-service order is subject to a civil penalty of one thousand

dollars, in addition to disqualification as provided by law. Any civil penalty established in this section shall not become effective and enforced until October 1, 1996.

2. Any employer who violates an out-of-service order, or who knowingly requires or permits a driver to violate or fail to comply with an out-of-service order, is subject to a civil penalty of two thousand five hundred dollars.

3. The [general] **chief** counsel to the division of motor carrier [and railroad safety] **services** within the department of [economic development] **transportation** shall bring an action in accordance with the procedures under section [390.156] **308.975**, RSMo, to recover a civil penalty under this section against a driver who violates or fails to comply with an out-of-service order, or against an employer who violates an out-of-service order or knowingly requires or permits a driver to violate or fail to comply with an out-of-service order, or both.

4. In addition to any other remedies under this section, actions under this section may be brought against a driver or employer who violates or fails to comply with an out-of-service order with reference to a motor vehicle or combination of motor vehicles used in intrastate commerce which has a capacity of more than five passengers, excluding the driver.

[390.066.] **302.761**. 1. Each person who applies for employment as a driver of a commercial motor vehicle shall provide the employer at the time of the application with information of previous employment as a commercial motor vehicle driver, as prescribed by the Secretary of Transportation of the United States, for the ten years preceding the date of application.

2. Each employer shall require the information specified in subsection 1 of this section and advise the applicant of the purpose of such information as prescribed by the Secretary of Transportation of the United States.

3. No employer or shipper shall knowingly allow, permit, or authorize a driver to drive a commercial motor vehicle in the United States during any period in which the driver has a driver's license suspended, revoked, or canceled by a state, has lost the privilege to drive a commercial motor vehicle in a state, or has been disqualified from driving a commercial motor vehicle or is subject to an out-of-service order in any state, or in which the driver has more than one driver's license. Any employer or shipper in violation of this subsection may be convicted of a violation thereof and shall be guilty of a class A misdemeanor. [The Missouri division of motor carrier and railroad safety shall annually perform financial audits and surveys of a representative number of common carriers of commodities in bulk in dump trucks to determine and set the minimum rate or charge reasonably required and necessary for these carriers to maintain their equipment in a safe condition, to reasonably compensate drivers, so they may meet and comply with state and federal requirements for safety, and to allow these carriers to reasonably pay their other necessary operating expenses including all required taxes, licenses and insurance. The provisions of this subsection relating to minimum rates shall not apply to

common carriers transporting bulk commodities in dump trucks on any shipment weighing forty thousand pounds or more which is transported seventy-five miles or more from the point of origin of the shipment. On shipments exempted from prescribed minimum rates under this subsection, common carriers shall be subject to all other applicable laws, rules, regulations, and orders and decisions of the division, including those relating to prescribed maximum rates. Notwithstanding any other provision of law to the contrary, common carriers transporting shipments exempted from prescribed minimum rates under this subsection shall not be required to file and publish schedules showing the rates and charges for such transportation.]

303.026. 1. The director shall inform each owner who registers a motor vehicle of the following:

(1) The existence of the requirement that every motor vehicle owner in the state must maintain his financial responsibility;

(2) The requirement that every motor vehicle owner show an insurance identification card, or a copy thereof, or other proof of financial responsibility at the time of vehicle registration; this notice shall be given at least thirty days prior to the month for renewal and shall be shown in bold, colored print;

(3) The penalties which apply to violations of the requirement to maintain financial responsibility;

(4) The benefits of maintaining coverages in excess of those which are required;

(5) The director's authority to conduct samples of Missouri motor vehicle owners to ensure compliance.

2. No motor vehicle owner shall be issued registration for a vehicle unless the owner, or his authorized agent, signs an affidavit provided by the director of revenue at the time of registration of the vehicle certifying that such owner has and will maintain, during the period of registration, financial responsibility with respect to each motor vehicle that is owned, licensed or operated on the streets or highways. The affidavit need not be notarized, but it shall be acknowledged by the person processing the form. The affidavit shall state clearly and in bold print the following: "Any false affidavit is a crime under section 575.050 of Missouri law.". In addition, every motor vehicle owner shall show proof of such financial responsibility by presenting his or her insurance identification card, as described in section 303.024, or a copy thereof, or some other proof of financial responsibility in the form prescribed by the director of revenue at the time of registration unless such owner registers his vehicle in conjunction with a reciprocity agreement entered into by the Missouri [highway reciprocity commission pursuant to sections 301.271 to 301.279] **division of motor carrier services pursuant to the provisions of chapter 308**, RSMo, or unless the owner insures the vehicle according to the requirements of the division of motor carrier [and railroad safety] **services** pursuant to section [390.126] **308.260**, RSMo.

3. To ensure compliance with this chapter, the director may utilize a variety of sampling techniques including but not limited to random samples of registrations subject to this section, uniform traffic tickets, insurance information provided to the director at the time of motor vehicle registration, and persons who during the preceding year have received a disposition of court-ordered supervision or suspension. The director may verify the financial responsibility of any person sampled or reported.

(1) Beginning January 1, 2001, the director may require such information, as in his or her discretion is necessary to enforce the requirements of subdivision (1) of subsection 1 of this section, to be submitted from the person's insurer or insurance company. When requested by the director of revenue, all licensed insurance companies in this state which sell private passenger (noncommercial) motor vehicle insurance policies shall report information regarding the issuance, nonrenewal and cancellation of such policies to the director, excluding policies issued to owners of fleet or rental vehicles or issued on vehicles that are insured pursuant to a commercial line policy. Such information shall be reported electronically in a format as prescribed by the director of the department of revenue by rule except that such rule shall provide for an exemption from electronic reporting for insurers with a statistically insignificant number of policies in force.

(2) The director may require the data described in subsection 2 of section 303.412 to be reported by insurance companies and require reporting periods of at least once per month. When required by the director of revenue, each insurance company shall provide to the department a record of each policy issued, canceled, terminated or revoked during the period since the previous report. Nothing in this section shall prohibit insurance companies from reporting more frequently than once per month.

(3) The director may use reports described in subdivision (1) of this subsection for sampling purposes as provided in this section.

4. Information provided to the department by an insurance company for use in accordance with this section is the property of the insurer and is not subject to disclosure pursuant to chapter 610, RSMo. Such information may be utilized by the department for enforcement of this chapter but may not be disclosed except that the department shall disclose whether an individual is maintaining the required insurance coverage upon request of the following individuals and agencies only:

- (1) The individual;
- (2) The parent or legal guardian of an individual if the individual is an unemancipated minor;
- (3) The legal guardian of the individual if the individual is legally incapacitated;
- (4) Any person who has power of attorney from the individual;
- (5) Any person who submits a notarized release from the individual that is dated no more than ninety days before the request is made;

(6) Any person claiming loss or injury in a motor vehicle accident in which the individual is involved;

(7) The office of the state auditor, for the purpose of conducting any audit authorized by law.

5. The director, after consultation with the working group as provided for in section 303.406, may adopt any rules and regulations necessary to carry out the provisions of subdivisions (1) through (3) of subsection 3 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

6. Any person or agency who knowingly discloses information received from insurance companies pursuant to this section for any purpose, or to a person, other than those authorized in this section is guilty of a class A misdemeanor. No insurer shall be liable to any person for performing its duties pursuant to this section unless and to the extent the insurer commits a willful and wanton act of omission.

7. The department of revenue shall notify the department of insurance of any insurer who violates any provisions of this section. The department of insurance may, against any insurer who knowingly fails to comply with this section, assess an administrative penalty up to five hundred dollars per day of noncompliance. The department of insurance may excuse the administrative penalty if an assessed insurer provides acceptable proof that such insurer's noncompliance was inadvertent, accidental or the result of excusable neglect. The penalty provisions of this section shall become effective six months after the rule issued pursuant to subsections 3 and 5 of this section is published in the code of state regulations.

8. To verify that financial responsibility is being maintained, the director shall notify the owner or operator of the need to provide, within fifteen days, proof of the existence of the required financial responsibility. The request shall require the owner or the operator to state whether or not the motor vehicle was insured on the verification date stated in the director's request. The request may include but not be limited to a statement of the names and addresses of insurers, policy numbers and expiration date of insurance coverage. Failure to provide such information shall result in the suspension of the registration of the owner's motor vehicle, and where applicable, the owner's or the operator's driving privilege, for failing to meet such requirements, as is provided in this chapter.

303.350. Notwithstanding anything else herein contained, this chapter shall not apply

with respect to any motor vehicle owned by the United States, the state of Missouri, or any political subdivision of this state, or any municipality therein, nor shall this chapter apply to any common carrier or contract carrier whose operations are subject to the jurisdiction of and are regulated by the [interstate commerce commission] **Federal Motor Carrier Safety Administration** or the [public service commission of] Missouri **division of motor carrier services**, or by regulatory ordinances of the municipalities served by such common or contract carrier, and which shall have satisfied any applicable requirements concerning bond, insurance or proof of financial responsibility imposed by the regulatory authority having jurisdiction over the carrier's operations.

304.030. Every motor vehicle transporting passengers, for hire, every school bus, and every motor vehicle transporting high explosives, or poisonous or compressed inflammable gases, and every motor vehicle used for the transportation of inflammable or corrosive liquids in bulk, whether loaded or empty, shall, upon approaching any railroad grade crossing, other than a crossing that is specifically exempted from the stopping requirement by order of the [division of motor carrier and railroad safety of the] department of [economic development] **transportation**, be brought to a full stop within fifty feet, but not less than fifteen feet, from the nearest rail of such railroad grade crossing, and shall not proceed until due caution has been taken to ascertain that the course is clear, except that such full stop shall not be required at a streetcar crossing within a business or residence district, nor at a railroad grade crossing [protected by a watchman] **at which a flagger** or traffic officer on duty [or by a traffic control signal (not railroad flashing signal)] **is** giving positive indication to approaching vehicles to proceed, nor when the [division of motor carrier and railroad safety] **department of transportation** has ordered the placement of an exempt sign **or a track out of service sign** at the crossing.

304.170. 1. No vehicle operated upon the highways of this state shall have a width, including load, in excess of ninety-six inches, except clearance lights, rearview mirrors or other accessories required by federal, state or city law or regulation; except that, vehicles having a width, including load, not in excess of one hundred two inches, exclusive of clearance lights, rearview mirrors or other accessories required by law or regulations, may be operated on the interstate highways and such other highways as may be designated by the highways and transportation commission for the operation of such vehicles plus a distance not to exceed ten miles from such interstate or designated highway. Provided however, a recreational vehicle as defined in section 700.010, RSMo, may exceed the foregoing width limits if the appurtenances on such recreational vehicle extend no further than the rearview mirrors. Such mirrors may only extend the distance necessary to provide the required field of view before the appurtenances were attached.

2. No vehicle operated upon the interstate highway system or upon any route designated by the chief engineer of the state transportation department shall have a height, including load,

in excess of fourteen feet. On all other highways, no vehicle shall have a height, including load, in excess of thirteen and one-half feet, except that any vehicle or combination of vehicles transporting automobiles or other motor vehicles may have a height, including load, of not more than fourteen feet.

3. No single motor vehicle operated upon the highways of this state shall have a length, including load, in excess of forty-five feet, except as otherwise provided in this section.

4. No bus, recreational motor vehicle or trackless trolley coach operated upon the highways of this state shall have a length in excess of forty-five feet, except that such vehicles may exceed the forty-five feet length when such excess length is caused by the projection of a front safety bumper or a rear safety bumper or both. Such safety bumper shall not cause the length of the bus or recreational motor vehicle to exceed the forty-five feet length limit by more than one foot in the front and one foot in the rear. The term "safety bumper" means any device which may be fitted on an existing bumper or which replaces the bumper and is so constructed, treated, or manufactured that it absorbs energy upon impact.

5. No combination of truck-tractor and semitrailer or truck-tractor equipped with dromedary and semitrailer operated upon the highways of this state shall have a length, including load, in excess of sixty feet; except that in order to comply with the provisions of Title 23 of the United States Code (Public Law 97-424), no combination of truck-tractor and semitrailer or truck-tractor equipped with dromedary and semitrailer operated upon the interstate highway system of this state shall have an overall length, including load, in excess of the length of the truck-tractor plus the semitrailer or truck-tractor equipped with dromedary and semitrailer, the length of such semitrailer shall not exceed fifty-three feet.

6. In order to comply with the provisions of Title 23 of the United States Code (Public Law 97-424), no combination of truck-tractor, semitrailer and trailer operated upon the interstate highway system of this state shall have an overall length, including load, in excess of the length of the truck-tractor plus the semitrailer and trailer, neither of which semitrailer or trailer shall exceed twenty-eight feet in length, except that any existing semitrailer or trailer up to twenty-eight and one-half feet in length actually and lawfully operated on December 1, 1982, within a sixty-five foot overall length limit in any state, may continue to be operated upon the interstate highways of this state. On those primary highways not designated by the state highways and transportation commission as provided in subsection 10 of this section, no combination of truck-tractor, semitrailer and trailer shall have an overall length, including load, in excess of sixty-five feet; provided, however, the state highways and transportation commission may designate additional routes for such sixty-five foot combinations.

7. Automobile transporters, boat transporters, truck-trailer boat transporter combinations, stinger-steered combination automobile transporters and stinger-steered combination boat transporters having a length not in excess of seventy-five feet may be operated on the interstate

highways of this state and such other highways as may be designated by the highways and transportation commission for the operation of such vehicles plus a distance not to exceed ten miles from such interstate or designated highway. All length provisions regarding automobile or boat transporters, truck-trailer boat transporter combinations and stinger-steered combinations shall include a semitrailer length not to exceed fifty-three feet and are exclusive of front and rear overhang, which shall be no greater than a three-foot front overhang and no greater than a four-foot rear overhang.

8. Driveaway saddlemount combinations having a length not in excess of seventy-five feet may be operated on the interstate highways of this state and such other highways as may be designated by the highways and transportation commission for the operation of such vehicles plus a distance not to exceed ten miles from such interstate or designated highway. Saddlemount combinations must comply with the safety requirements of Section 393.71 of Title 49 of the Code of Federal Regulations and may contain no more than three saddlemounted vehicles and one fullmount.

9. No truck-tractor semitrailer-semitrailer combination vehicles operated upon the interstate and designated primary highway system of this state shall have a semitrailer length in excess of twenty-eight feet or twenty-eight and one-half feet if the semitrailer was in actual and lawful operation in any state on December 1, 1982, operating in a truck-tractor semitrailer-semitrailer combination. The B-train assembly is excluded from the measurement of semitrailer length when used between the first and second semitrailer of a truck-tractor semitrailer-semitrailer combination, except that when there is no semitrailer mounted to the B-train assembly, it shall be included in the length measurement of the semitrailer.

10. The highways and transportation commission is authorized to designate routes on the state highway system other than the interstate system over which those combinations of vehicles of the lengths specified in subsections 5, 6, 7, 8 and 9 of this section may be operated. Combinations of vehicles operated under the provisions of subsections 5, 6, 7, 8 and 9 of this section may be operated at a distance not to exceed ten miles from the interstate system and such routes as designated under the provisions of this subsection.

11. Except as provided in subsections 5, 6, 7, 8, 9 and 10 of this section, no other combination of vehicles operated upon the primary or interstate highways of this state plus a distance of ten miles from a primary or interstate highway shall have an overall length, unladen or with load, in excess of sixty-five feet or in excess of fifty-five feet on any other highway, except the state highways and transportation commission may designate additional routes for use by sixty-five foot combinations, seventy-five foot stinger-steered combinations or seventy-five foot saddlemount combinations. Any vehicle or combination of vehicles transporting automobiles, boats or other motor vehicles may carry a load which extends no more than three feet beyond the front and four feet beyond the rear of the transporting vehicle or combination of vehicles.

12. (1) Except as hereinafter provided, these restrictions shall not apply to agricultural implements operating occasionally on the highways for short distances, or to self-propelled hay-hauling equipment or to implements of husbandry, or to the movement of farm products as defined in section 400.9-109, RSMo, or to vehicles temporarily transporting agricultural implements or implements of husbandry or roadmaking machinery, or road materials or towing for repair purposes vehicles that have become disabled upon the highways; or to implement dealers delivering or moving farm machinery for repairs on any state highway other than the interstate system.

(2) Implements of husbandry and vehicles transporting such machinery or equipment and the movement of farm products as defined in section 400.9-109, RSMo, may be operated occasionally for short distances on state highways when operated between the hours of sunrise and sunset by a driver licensed as an operator or chauffeur.

13. As used in this chapter the term "implements of husbandry" means all self-propelled machinery operated at speeds of less than thirty miles per hour, specifically designed for, or especially adapted to be capable of, incidental over-the-road and primary offroad usage and used exclusively for the application of commercial plant food materials or agricultural chemicals, and not specifically designed or intended for transportation of such chemicals and materials. No implement of husbandry may exceed a width of eleven feet, six inches.

14. The purpose of this section is to permit a single trip per day by the implement of husbandry from the source of supply to a given farm.

15. Sludge disposal units may be operated on all state highways other than the interstate system **only when authorized by permits issued by the division of motor carrier services as provided by sections 308.800 to 308.899, RSMo.** [Such units shall not exceed one hundred thirty-eight inches in width and may be equipped with over-width tires. Such units shall observe all axle weight limits. The chief engineer of the state transportation department shall issue special permits for the movement of such disposal units and may by such permits restrict the movements to specified routes, days and hours.]

304.180. 1. No vehicle or combination of vehicles shall be moved or operated on any highway in this state having a greater weight than twenty thousand pounds on one axle, no combination of vehicles operated by transporters of general freight over regular routes as defined in section [390.020] **308.020**, RSMo, shall be moved or operated on any highway of this state having a greater weight than the vehicle manufacturer's rating on a steering axle with the maximum weight not to exceed twelve thousand pounds on a steering axle, and no vehicle shall be moved or operated on any state highway of this state having a greater weight than thirty-four thousand pounds on any tandem axle; the term "tandem axle" shall mean a group of two or more axles, arranged one behind another, the distance between the extremes of which is more than forty inches and not more than ninety-six inches apart.

2. An "axle load" is defined as the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes forty inches apart, extending across the full width of the vehicle.

3. Subject to the limit upon the weight imposed upon a highway of this state through any one axle or on any tandem axle, the total gross weight with load imposed by any group of two or more consecutive axles of any vehicle or combination of vehicles shall not exceed the maximum load in pounds as set forth in the following table:

Distance in feet between the extremes
of any group of two or more consecutive
axles, measured to the nearest foot,
except where indicated otherwise

feet	Maximum load in pounds				
	2 axles	3 axles	4 axles	5 axles	6 axles
4	34,000				
5	34,000				
6	34,000				
7	34,000				
8	34,000	34,000			
More than 8	38,000	42,000			
9	39,000	42,500			
10	40,000	43,500			
11	40,000	44,000			
12	40,000	45,000	50,000		
13	40,000	45,500	50,500		
14	40,000	46,500	51,500		
15	40,000	47,000	52,000		
16	40,000	48,000	52,500	58,000	
17	40,000	48,500	53,500	58,500	
18	40,000	49,500	54,000	59,000	
19	40,000	50,000	54,500	60,000	
20	40,000	51,000	55,500	60,500	66,000
21	40,000	51,500	56,000	61,000	66,500
22	40,000	52,500	56,500	61,500	67,000
23	40,000	53,000	57,500	62,500	68,000
24	40,000	54,000	58,000	63,000	68,500
25	40,000	54,500	58,500	63,500	69,000
26	40,000	55,500	59,500	64,000	69,500

27	40,000	56,000	60,000	65,000	70,000
28	40,000	57,000	60,500	65,500	71,000
29	40,000	57,500	61,500	66,000	71,500
30	40,000	58,500	62,000	66,500	72,000
31	40,000	59,000	62,500	67,500	72,500
32	40,000	60,000	63,500	68,000	73,000
33	40,000	60,000	64,000	68,500	74,000
34	40,000	60,000	64,500	69,000	74,500
35	40,000	60,000	65,500	70,000	75,000
36		60,000	66,000	70,500	75,500
37		60,000	66,500	71,000	76,000
38		60,000	67,500	72,000	77,000
39		60,000	68,000	72,500	77,500
40		60,000	68,500	73,000	78,000
41		60,000	69,500	73,500	78,500
42		60,000	70,000	74,000	79,000
43		60,000	70,500	75,000	80,000
44		60,000	71,500	75,500	80,000
45		60,000	72,000	76,000	80,000
46		60,000	72,500	76,500	80,000
47		60,000	73,500	77,500	80,000
48		60,000	74,000	78,000	80,000
49		60,000	74,500	78,500	80,000
50		60,000	75,500	79,000	80,000
51		60,000	76,000	80,000	80,000
52		60,000	76,500	80,000	80,000
53		60,000	77,500	80,000	80,000
54		60,000	78,000	80,000	80,000
55		60,000	78,500	80,000	80,000
56		60,000	79,500	80,000	80,000
57		60,000	80,000	80,000	80,000

Notwithstanding the above table, two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each if the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more.

4. Whenever the state highways and transportation commission finds that any state highway bridge in the state is in such a condition that use of such bridge by vehicles of the weights specified in subsection 3 of this section will endanger the bridge, or the users of the

bridge, the commission may establish maximum weight limits and speed limits for vehicles using such bridge. The governing body of any city or county may grant authority by act or ordinance to the state highways and transportation commission to enact the limitations established in this section on those roadways within the purview of such city or county. Notice of the weight limits and speed limits established by the commission shall be given by posting signs at a conspicuous place at each end of any such bridge.

5. Nothing in this section shall be construed as permitting lawful axle loads, tandem axle loads or gross loads in excess of those permitted under the provisions of Section 127 of Title 23 of the United States Code.

6. Notwithstanding the weight limitations contained in this section, any vehicle or combination of vehicles operating on highways other than the interstate highway system may exceed single axle, tandem axle and gross weight limitations in an amount not to exceed two thousand pounds. However, total gross weight shall not exceed eighty thousand pounds.

[7. Notwithstanding any provision of this section to the contrary, the department of transportation shall issue a single-use special permit, or upon request of the owner of the truck or equipment, shall issue an annual permit, for the transporting of any concrete pump truck or well-drillers' equipment. The department of transportation shall set fees for the issuance of permits pursuant to this subsection. Notwithstanding the provisions of section 301.133, RSMo, concrete pump trucks or well-drillers' equipment may be operated on state-maintained roads and highways at any time on any day.]

304.230. 1. It shall be the duty of the sheriff of each county or city to see that the provisions of sections 304.170 to 304.230 are enforced, and any peace officer or police officer of any county or city or any highway patrol officer shall have the power to arrest on sight or upon a warrant any person found violating or having violated the provisions of such sections.

2. The sheriff or any peace officer or any highway patrol officer is hereby given the power to stop any such conveyance or vehicle as above described upon the public highway for the purpose of determining whether such vehicle is loaded in excess of the provisions of sections 304.170 to 304.230, and if he or she finds such vehicle loaded in violation of the provisions thereof he or she shall have a right at that time and place to cause the excess load to be removed from such vehicle; and provided further, that any regularly employed maintenance **worker** of the department of transportation shall have the right and authority in any part of this state to stop any such conveyance or vehicle upon the public highway for the purpose of determining whether such vehicle is loaded in excess of the provisions of sections 304.170 to 304.230, and if he or she finds such vehicle loaded in violation of the provisions thereof, he or she shall have the right at that time and place to cause the excess load to be removed from such vehicle. When only an axle or a tandem axle group of a vehicle is overloaded, the operator shall be permitted to shift the load, if this will not overload some other axle or axles, without being

charged with a violation; provided, however, the privilege of shifting the weight without being charged with a violation shall not extend to or include vehicles while traveling on the federal interstate system of highways. When only an axle or tandem axle group of the vehicle traveling on the federal interstate system of highways is overloaded and a court authorized to enforce the provisions of sections 304.170 to 304.230 finds that the overloading was due to the inadvertent shifting of the load changing axle weights in transit through no fault of the operator of the vehicle and that the load thereafter had been shifted so that no axle had been overloaded, then the court may find that no violation has been committed. The operator of any vehicle shall be permitted to back up and reweigh, or to turn around and weigh from the opposite direction. Any operator whose vehicle is weighed and found to be within five percent of any legal limit may request and receive a weight ticket, memorandum or statement showing the weight or weights on each axle or any combinations of axles. Once a vehicle is found to be within the limits of section 304.180 after having been weighed on any state scale and there is no evidence that any cargo or fuel has been added, no violation shall occur, but a presumption shall exist that cargo or fuel has been added if upon reweighing on another state scale the total gross weight exceeds the applicable limits of section 304.180 or 304.190. The highways and transportation commission of this state may deputize and appoint any number of their regularly employed maintenance **[men] workers** to enforce the provisions of such sections, and the maintenance **[men] workers** delegated and appointed in this section shall report to the proper officers any violations of sections 304.170 to 304.230 for prosecution by such proper officers.

3. The superintendent of the Missouri state highway patrol may assign qualified persons who are not highway patrol officers to supervise or operate permanent or portable weigh stations used in the enforcement of commercial vehicle laws. These persons shall be designated as commercial vehicle inspectors and have limited police powers:

(1) To issue uniform traffic tickets at a permanent or portable weigh station for violations of rules and regulations of the division of motor carrier **[and railroad safety] services** of the department of **[economic development] transportation** and department of public safety, and laws, rules, and regulations pertaining to commercial motor vehicles and trailers and related to size, weight, fuel tax, registration, equipment, driver requirements, transportation of hazardous materials and operators' or chauffeurs' licenses, and the provisions of **chapter 308, RSMo, and** sections 303.024 and 303.025, RSMo;

(2) To require the operator of any commercial vehicle to stop and submit to a vehicle and driver inspection to determine compliance with commercial vehicle laws, rules, and regulations, the provisions of sections 303.024 and 303.025, RSMo, and to submit to a cargo inspection when reasonable grounds exist to cause belief that a vehicle is transporting hazardous materials as defined by Title 49 of the Code of Federal Regulations;

(3) To make arrests for violation of subdivisions (1) and (2) of this

subsection. Commercial vehicle inspectors shall not have the authority to exercise the powers granted in subdivisions (1), (2) and (3) of this subsection until they have successfully completed training approved by the superintendent of the Missouri state highway patrol; nor shall they have the right as peace officers to bear arms.

4. The superintendent of the Missouri state highway patrol may appoint qualified persons, who are not members of the highway patrol, designated as commercial vehicle enforcement officers, with the powers:

(1) To issue uniform traffic tickets for violations of laws, rules and regulations pertaining to commercial vehicles, trailers, special mobile equipment and drivers of such vehicles, and the provisions of sections 303.024 and 303.025, RSMo;

(2) To require the operator of any commercial vehicle to stop and submit to a vehicle and driver inspection to determine compliance with commercial vehicle laws, rules, and regulations, compliance with the provisions of sections 303.024 and 303.025, RSMo, and to submit to a cargo inspection when reasonable grounds exist to cause belief that a vehicle is transporting hazardous materials as defined by Title 49 of the Code of Federal Regulations;

(3) To make arrests upon warrants and for violations of subdivisions (1) and (2) of this subsection. Commercial vehicle enforcement officers shall not have the authority to exercise the powers granted in subdivisions (1), (2) and (3) of this subsection until they have successfully completed training approved by the superintendent of the Missouri state highway patrol. Commercial vehicle enforcement officers shall have the right as peace officers to bear arms.

5. Any additional employees needed for the implementation of this section shall be hired in conformity with the provisions of the federal fair employment and antidiscrimination acts.

6. Any part of this section which shall be construed to be in conflict with the axle or tandem axle load limits permitted by the Federal-Aid Highway Act, Section 127 of Title 23 of the United States Code (Public Law 85-767, 85th Congress) shall be null, void and of no effect.

304.235. All commercial motor vehicles shall be required to stop at an official weigh station, or to be identified through automated means approved by this state and determined to be in compliance without the necessity of stopping, except those licensed for a gross weight of not more than eighteen thousand pounds shall not be required to stop or to be identified unless so directed by a peace officer or a commercial motor vehicle enforcement officer or inspector. The provisions of sections 32.057 and 32.091, RSMo, which govern confidentiality and prohibit the release of information shall not apply to commercial motor vehicle enforcement officers or their licensees in the performance of their duties at weigh stations. Any person who does not stop at a weigh station or who otherwise improperly evades stopping at the weigh station [and who is later determined not to be in compliance with the provisions of this chapter governing weigh limits] may be punished pursuant to section 304.570.

304.240. Any person, firm, corporation, partnership or association violating any of the provisions of sections 304.170 to 304.230 **or section 308.700, RSMo**, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than five dollars or by confinement in a county jail for not more than twelve months, or by both the fine and confinement; provided, however, that where load limits as defined in sections 304.180 to 304.220 have been violated, the fine shall be two cents for each pound of excess weight up to and including five hundred, and five cents for each pound of excess weight above five hundred and not exceeding one thousand, and ten cents for each pound in excess weight above one thousand; provided that, when any vehicle is being operated under a special permit as provided in section [304.200] **308.700, RSMo**, the term "excess weight" means only weight in excess of the amount permitted in the permit as issued. The court may, in its discretion, cause to be impounded the motor vehicle operated by any person violating the provisions of this section until such time as the fine and cost assessed by the court under this section is paid.

307.350. 1. The owner of every motor vehicle as defined in section 301.010, RSMo, which is required to be registered in this state, except:

(1) New motor vehicles which have not been previously titled and registered, for the two-year period following their model year of manufacture;

(2) Those motor vehicles which are engaged in interstate commerce and are proportionately registered in this state with the Missouri [highway reciprocity commission] **division of motor carrier services within the department of transportation**, although the owner may request that such vehicle be inspected by an official inspection station, and a peace officer may stop and inspect such vehicles to determine whether the mechanical condition is in compliance with the safety regulations established by the United States Department of Transportation; and

(3) Historic motor vehicles registered pursuant to section 301.131, RSMo; shall submit such vehicles to a biennial inspection of their mechanism and equipment in accordance with the provisions of sections 307.350 to 307.390 and obtain a certificate of inspection and approval and a sticker, seal, or other device from a duly authorized official inspection station. The inspection, except the inspection of school buses which shall be made at the time provided in section 307.375, shall be made at the time prescribed in the rules and regulations issued by the superintendent of the Missouri state highway patrol; but the inspection of a vehicle shall not be made more than sixty days prior to the date of application for registration or within sixty days of when a vehicle's registration is transferred. Any vehicle manufactured as an even-numbered model year vehicle shall be inspected and approved pursuant to the safety inspection program established pursuant to sections 307.350 to 307.390 in each even-numbered calendar year and any such vehicle manufactured as an odd-numbered model year vehicle shall be inspected and approved pursuant to sections 307.350 to 307.390 in

each odd-numbered year. The certificate of inspection and approval shall be a sticker, seal, or other device or combination thereof, as the superintendent of the Missouri state highway patrol prescribes by regulation and shall be displayed upon the motor vehicle or trailer as prescribed by the regulations established by him. The replacement of certificates of inspection and approval which are lost or destroyed shall be made by the superintendent of the Missouri state highway patrol under regulations prescribed by him.

2. For the purpose of obtaining an inspection only, it shall be lawful to operate a vehicle over the most direct route between the owner's usual place of residence and an inspection station of such owner's choice, notwithstanding the fact that the vehicle does not have a current state registration license. It shall also be lawful to operate such a vehicle from an inspection station to another place where repairs may be made and to return the vehicle to the inspection station notwithstanding the absence of a current state registration license.

3. No person whose motor vehicle was duly inspected and approved as provided in this section shall be required to have the same motor vehicle again inspected and approved for the sole reason that such person wishes to obtain a set of any special personalized license plates available pursuant to section 301.144, RSMo, or a set of any license plates available pursuant to section 301.142, RSMo, prior to the expiration date of such motor vehicle's current registration.

4. Notwithstanding the provisions of section 307.390, violation of this section shall be deemed an infraction.

308.005. A division of motor carrier services is hereby established within the department of transportation.

308.010. 1. The division shall have responsibility, as provided in this act, for the administration and enforcement of:

(1) Licensing, supervising and regulating motor carriers and the transportation of passengers, household goods and other property, hazardous waste and waste tires in intrastate or interstate commerce, or both, by motor vehicles within this state;

(2) Compliance by motor carriers and motor private carriers with applicable requirements relating to safety and hazardous materials transportation, within the terminals of motor carriers of passengers or property, and wherever they possess, transport or deliver hazardous waste or waste tires;

(3) Collecting and regulating amounts payable to the state from interstate motor carriers in accordance with the provisions of the International Fuel Tax Agreement, and any successor or similar agreements;

(4) Registering and regulating interstate commercial motor vehicles operated upon the highways of this state, in accordance with the provisions of the International Registration Plan, and any successor or similar agreements;

(5) Permitting the transportation of over dimension or overweight motor

vehicles or loads that exceed the maximum weights or dimensions otherwise allowed upon the public highways within the jurisdiction of the state highways and transportation commission, upon routes approved by the state department of transportation or exempted by law; and

(6) Licensing intrastate house movers.

2. The division shall be organized to carry out all powers, duties and functions relating to intrastate and interstate transportation previously performed by:

(1) The division of motor carrier and railroad safety within the department of economic development, and all officers or employees of that division, except as otherwise provided in subsection 3 of this section, and in sections 389.015, RSMo, and section 621.017, RSMo;

(2) The department of natural resources, and all officers or employees of that division, relating to the transportation of hazardous waste and waste tires by motor vehicles operating within the state;

(3) The highway reciprocity commission within the department of revenue, and all officers or employees of that commission; and the director of revenue's powers, duties and functions relating to the highway reciprocity commission; and

(4) The motor carrier services unit within the traffic engineering division of the department of transportation, relating to the special permitting of operations on state highways of motor vehicles or loads that exceed the maximum length, width, height or weight limits established by law or by the department of transportation.

3. Except as otherwise provided in this chapter, all the powers, duties and functions described in subsection 2 of this section are hereby transferred to the division of motor carrier services within the department of transportation by type II transfer, as defined in the omnibus state reorganization act of 1974, and the preceding agencies and officers shall no longer be responsible for those powers, duties and functions. All the powers, duties and functions of the administrative law judges of the division of motor carrier and railroad safety, as amended by the provisions of this act, are hereby transferred to the administrative hearing commission within the state office of administration. Administrative law judges transferred pursuant to this section shall have time of service as administrative law judges under section 622.020, RSMo, count as creditable service under section 621.015, RSMo, for the purposes of sections 287.812 and 287.815, RSMo. All the powers, duties and functions of the division of motor carrier and railroad safety relating to railroads, street railroads, light rail and other common carriers as defined in section 389.021, RSMo, are transferred to the department of transportation, as provided in section 389.005, RSMo. The division of motor carrier and railroad safety and the highway reciprocity

commission are abolished.

4. Within the limits of appropriations made, the division shall employ all necessary personnel to accomplish the purposes set forth in this chapter. Except as otherwise provided in this act, personnel previously employed by the division of motor carrier and railroad safety, the highway reciprocity commission and the motor carrier services unit within the traffic engineering division of the department of transportation, shall be transferred to the division of motor carrier services, but the department of natural resources shall not be required to transfer any personnel pursuant to this section. Administrative law judges and paralegals assigned to the administrative law judge section of the division of motor carrier and railroad safety are hereby transferred to the administrative hearing commission, in accordance with section 621.040, RSMo. All railroad safety personnel of the division of motor carrier and railroad safety are transferred to the department of transportation, as provided in section 389.015, RSMo.

5. Credentials issued by the transferring agencies or officials before the effective date of this act shall remain in force or expire as provided by law. As the successor to the transferring agencies and officers, the division or department may:

(1) Conduct audits, investigations and other activities authorized by this chapter, to promote and enforce compliance, discover noncompliance and prosecute violations by motor carriers and other persons within the division's jurisdiction, relating to any requirements applicable to those persons under any provisions of this chapter, or any former laws, rules and orders then in effect, whether the noncompliance occurred before or after the effective date of this act;

(2) Suspend, revoke, cancel and refrain from issuing any credentials to a motor carrier or other person because of the carrier's or person's noncompliance with any requirements applicable under any provisions of this chapter, or any former laws, rules and orders then in effect, whether the noncompliance occurred before or after the effective date of this act;

(3) Continue to enforce the rules and orders of the transferring agencies relating to their powers, duties and functions transferred pursuant to this section, and those rules and orders shall be construed as referring to the division in lieu of the transferring agency. Except to the extent that compliance with those rules and orders is incompatible with the provisions of this chapter, all motor carriers and other persons subject to those rules and orders shall continue to comply with them until the division supersedes, rescinds or otherwise terminates those rules and orders.

6. The division of motor carrier services may allow motor carriers subject to its authority to prepay any license, permit, registration or other credential fees,

amounts payable pursuant to the International Fuel Tax Agreement or International Registration Plan, or other fees payable or expected to become payable to the division into escrow accounts, which shall be held and administered by the division only in furtherance of the provisions of this chapter.

7. Notwithstanding any provision of law to the contrary, on and after the effective date of this section all surety bonds, cash bonds, certificates of deposit, letters of credit, drafts, checks or other financial instruments payable to:

(1) The highway reciprocity commission or the department of revenue pursuant to former section 301.041, RSMo, or pursuant to the International Fuel Tax Agreement;

(2) The solid waste management commission or the department of natural resources pursuant to former section 260.278, RSMo; or

(3) Any other agency or official whose powers, duties or functions are transferred pursuant to this section, shall be payable instead to the division of motor carrier services.

[390.020.] 308.020. 1. As used in this chapter, unless the **term is specifically defined elsewhere in this chapter or the** context clearly requires otherwise, the **following** words and terms mean:

(1) ["Agricultural commodities in bulk", commodities conforming to the meaning of "commodities in bulk" as defined in this section, which are agricultural, horticultural, viticultural or forest products or any other products which are grown or produced on a farm or in a forest, and which have not undergone processing at any time since movement from the farm or forest, or processed or unprocessed grain, feed, feed ingredients, or forest products] "Authorized motor carrier", a person who is entitled, pursuant to a motor carrier authority as defined in this section, to engage in the transportation by motor vehicle for hire or compensation in intrastate commerce on the public highways in this state of:

(a) Passengers in charter services;

(b) Passengers other than in charter service, only if the authorized motor carrier is a not-for-profit corporation, and the transportation of passengers other than in charter service is restricted as described in subdivision (3) of subsection 5 of section 308.240; and

(c) Property except household goods. The term "authorized motor carrier" is included within the term "motor carrier" as defined in this section;

(2) "Certificate", a written document authorizing a common carrier to engage in intrastate commerce and issued under the provisions of this chapter;

(3) "Charter service", the transportation of a group of persons who, pursuant to a common purpose and at a fixed charge for the vehicle, have acquired the exclusive use of a

passenger-carrying motor vehicle to travel together as a group from a point of origin to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the chartering group after having left the place of origin;

(4) **"City", any incorporated city, town or village;**

(5) "Commercial zone", unless otherwise increased pursuant to the provisions of subdivision [(4)] (5) of section [390.041] **308.050**, any municipality within this state together with that territory either within or without the state of Missouri, extending one mile beyond the corporate limits of such municipality and one additional mile for each fifty thousand inhabitants or portion thereof; however, any commercial zone of a city not within a county shall extend eighteen miles beyond that city's corporate limits and shall also extend throughout any first class charter county which adjoins that zone;

[(5) "Commodities in bulk", commodities, which are fungible, flowable, capable of being poured or dumped, tendered for transportation unpackaged, incapable of being counted, but are weighed or measured by volume and which conform to the shape of the vehicle transporting them;]

(6) "Common carrier", any person which holds itself out to the general public to engage in the transportation by motor vehicle of passengers or property for hire or compensation upon the public highways and airlines engaged in intrastate commerce;

(7) "Contract carrier", any person under individual contracts or agreements which engage in transportation by motor vehicles of passenger or property for hire or compensation **in commerce** upon the public highways;

(8) ["Corporate family", a group of corporations consisting of a parent corporation and all subsidiaries in which the parent corporation owns directly or indirectly a one hundred percent interest] **"Corporation", includes a corporation, company, association, limited liability company, limited liability partnership and joint stock association or company;**

(9) **"Credential", includes any license, certificate, permit, registration, receipt, cab card, telegram or other written authorization issued to a motor carrier by the division;**

(10) **"Department", the department of transportation;**

(11) **"Director", the director of the department of transportation or any person allowed or authorized by the director to act on his or her behalf;**

(12) "Division", the division **or unit** of motor carrier [and railroad safety] **services** of the department of [economic development] **transportation;**

(13) **"Division staff", all personnel of the division;**

[(10)] (14) "Driveaway operator", any motor carrier who moves any commercial motor vehicle or assembled automobile singly under its own power or in any other combination of two or more vehicles under the power of one of said vehicles upon any public highway for the

purpose of delivery for sale or for delivery either before or after sale;

[(11) "Dump truck", any open-top vehicle, including dump trailers, and those trailers commonly referred to as hopper trailers and/or belly dump trailers, that discharges its load by tipping or opening the body in such a manner that the load is ejected or dumped by gravity but does not include tank or other closed-top vehicles, or vehicles that discharge cargo by means of an auger, conveyor belt, air pressure, pump or other mechanical means;]

(15) "Elderly", any person who is sixty years of age or older;

(16) "Handicapped", any person having a physical or mental condition, either permanent or temporary, which would substantially impair the person's ability to operate or utilize available transportation;

(17) "House", a dwelling or other structure intended for human habitat in excess of fourteen feet in width. A house does not include a manufactured home as defined in section 700.010, RSMo, or a modular unit;

[(12)] **(18) "Household goods", personal effects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling; new or used furniture; store or office furniture or fixtures; equipment of museums, institutions, hospitals and other establishments; and articles, which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods;**

(19) "Housemover", a person engaged in the business of moving houses on public roads or highways of this state;

(20) "Housemoving", engaging in the business of moving houses on public roads or highways of this state;

(21) "Infectious waste", waste in quantities and characteristics as determined by the state department of natural resources by rule, including the following wastes known or suspected to be contaminated surgical wastes, pathological wastes, other wastes from surgery and autopsy, contaminated laboratory wastes, sharps, dialysis unit wastes, discarded biologicals known or suspected to be infectious, and antineoplastic chemotherapeutic materials; provided, however, that infectious waste does not mean waste treated to department of natural resources specifications;

[(13)] **(22) "Interstate commerce", commerce between a point in this state and a point outside this state, or between points outside this state when such commerce moves through this state whether such commerce moves wholly by motor vehicle or partly by motor vehicle and partly by any other regulated means of transportation where the commodity does not come to rest or change its identity during the movement;**

[(14)] **(23) "Intrastate commerce", commerce moving wholly between points within this state, whether such commerce moves wholly by motor vehicle or partly by motor vehicle and partly by any other means of transportation;**

[(15)] **(24)** "Irregular route", the course or line of travel to be used by a motor carrier's vehicle when not restricted to any specific route or routes within the area the motor carrier is authorized to serve;

[(16)] "Less-than-truckload lots", lots of freight, other than a truckload lot, being transported on the motor vehicle at one time;]

(25) "Line", includes route;

(26) "License", a credential issued pursuant to the provisions of this chapter which includes regulatory licenses issued pursuant to section 308.280, housemover licenses issued pursuant to section 308.500, hazardous waste transporter licenses issued pursuant to section 308.330, IFTA licenses issued pursuant to section 308.660, and apportioned license plates and cab cards issued pursuant to section 308.620;

[(17)] "Mobile home", house trailers, cabin trailers, bungalow trailers, mobile homes and any other transportable building unit designed to be used for residential, commercial, industrial or recreational purposes, including special equipment, wheels, tires, axles, springs, racks, undercarriages and undersupports used or useful in connection with the transportation of mobile homes when transported as part of the transportation of mobile homes;

[(18)] **(27)** "Motor carrier" or **"carrier"**, any person engaged in the transportation of property or passengers, or both, [for compensation or hire,] **in commerce, or hazardous waste or waste tires**, over the public roads of this state by motor vehicle. The term includes both common and contract carriers **by motor vehicle for hire or compensation, authorized motor carriers, private carriers, private motor carriers and motor private carriers, as those terms are defined in this section, and "motor carrier" as defined in parts 350 to 399 of Title 49, Code of Federal Regulations.**

(a) Subject to the exceptions provided in section 260.300, RSMo, the term "motor carrier" also includes transporters of hazardous waste or waste tires by any vehicle or mode of transportation, irrespective of whether the vehicle is a motor vehicle;

(b) As used in sections 308.600 to 308.699, the term "motor carrier" also includes any person who is subject to the reporting requirements of the International Registration Plan or the International Fuel Tax Agreement, or both;

(28) "Motor carrier authority", a credential issued by the division pursuant to sections 308.200 to 308.299 which identifies a person as an authorized motor carrier as defined in this section, and authorizes that person to engage in the transportation by motor vehicle for hire or compensation in intrastate commerce on the public highways in this state of:

(a) Passengers in charter service;

(b) Passengers other than in charter service, only if the authorized motor carrier is a not-for-profit corporation, and the transportation of passengers other

than in charter service is restricted as described in subdivision (3) of subsection 5 of section 308.240; and

(c) Property except household goods;

[(19)] **(29)** "Motor vehicle", any [vehicle,] truck, truck-tractor, trailer, or semitrailer, [motor bus] **motorized dolly, automobile, bus, van, minivan** or any self-propelled vehicle used upon the highways of the state in the transportation of property [or], passengers, **hazardous waste or waste tires, including any motor vehicle as defined in section 301.010, RSMo;**

[(20)] "Party", any person admitted as a party to a division proceeding or seeking and entitled as a matter of right to admission to a division proceeding;]

[(21)] **(30)** "Permit", a [permit issued under the provisions of this chapter to a contract carrier to engage in intrastate or interstate commerce or to a common carrier to engage in interstate commerce] **credential issued pursuant to the provisions of this chapter to a contract carrier to engage in intrastate or interstate commerce, or to a common carrier to engage in interstate commerce; to authorize a person to transport waste tires; or to authorize a person to transport overdimension or overweight vehicles or loads upon public highways within this state;**

[(22)] **(31)** "Person", any individual or other legal entity, whether such entity is a proprietorship, partnership, **public or private** corporation, company, association or joint-stock association, **institution, city, county, other political subdivision, authority, state agency or institution, or federal agency or institution, or any other legal entity whatever which is recognized by law as the subject of rights and duties;** including the partners, officers, employees, and agents of the person, as well as any trustees, assignees, receivers, or personal representatives of the person;

[(23)] **(32)** "Private carrier", **"private motor carrier" and "motor private carrier"**, any person engaged in the transportation of property or passengers by motor vehicle upon public highways, but not as a common or contract carrier by motor vehicle; and includes any person who transports property by motor vehicle where such transportation is incidental to or in furtherance of his commercial enterprises;

(33) "Property", everything that has exchangeable value, including waste when transported for reuse, recycling or reclamation;

[(24)] **(34)** "Public highway", every public street, road, highway or thoroughfare of any kind used by the public, whether actually dedicated to the public;

(35) "Rate", every individual or joint rate, fare, toll, charge, reconsigning charge, rental or other compensation of any corporation, person or common carrier or any schedule or tariff thereof;

[(25)] **(36)** "Regular route", a specific and determined course to be traveled by a motor

carrier's vehicle rendering service to, from or between various points or localities in this state;

(37) "Service", includes not only the use and accommodations afforded consumers or patrons, but also any product or commodity furnished by any corporation, person or carrier and the plant, equipment apparatus, appliances, property and facilities employed by any corporation, person or carrier in performing any service or in furnishing any product or commodity and devoted to the public purposes of such corporation, person or carrier, and to the use and accommodation of consumers or patrons;

[(26)] **(38) "School bus", any motor vehicle while being used solely to transport students formally enrolled in a preschool, elementary or high school, junior college, college or university, technical or trade school to or from school or to transport students to or from any place for educational purposes or school purposes with the express approval of the school board or other governing body of the school authorizing the movement;**

[(27)] **(39) "Taxicab", any motor vehicle performing a bona fide for hire taxicab service [having a capacity of not more than five passengers, exclusive of] designed or used to transport not more than six passengers, including the driver, and not operated on a regular route or between fixed termini;**

(40) "Tire", a continuous solid or pneumatic rubber covering encircling the wheel of any self-propelled vehicle not operated exclusively upon tracts, or a trailer as defined in chapter 301, RSMo, except farm tractors and farm implements owned and operated by a family farm or family farm corporation as defined in section 350.010, RSMo;

(41) "Transportation of persons", includes every service in connection with or incidental to the safety, comfort or convenience of the person transported and the receipt, carriage and delivery of such person and the person's baggage;

(42) "Transportation of property", includes any service in connection with the receiving, delivery, elevation, transfer in transit, ventilation, refrigeration, storage and handling of the property transported;

(43) "Terminal", a station, depot, freight handling facility, loading dock, shipping or receiving bay, any facility for loading or unloading passengers or property to or from motor vehicles, pipelines, tanks or railroad cars, or any other facility owned, operated, leased or continuously occupied by a motor carrier, any premises or facility where a motor carrier stops a motor vehicle for inspection, repair, maintenance or to load, unload or discharge passengers or property, a reasonable area immediately adjacent to any designated stop along the route traveled by any passenger-carrying motor carrier, and parking lots or parking areas adjacent to a terminal;

[(28) "Truckload lot", a lot or lots of freight tendered to a carrier by one consignor or one consignee for delivery at the direction of the consignor or consignee with the lot or lots being the only lot or lots transported on the motor vehicle at any one time.]

(44) "Urbanized area", an area so designated by the United States Bureau of Census as provided pursuant to section 5302 of Title 49, United States Code, as amended, and which has a population of more than fifty thousand persons;

(45) "Waste tire", a tire that is no longer suitable for its original intended purpose because of wear, damage or defect.

2. Except as otherwise defined in this chapter, the words and terms defined in section 142.800, RSMo, section 301.010, RSMo, and section 304.001, RSMo, shall have the same meaning whenever used in this chapter.

3. Except as otherwise defined in this chapter, the words and terms defined in sections 260.200, 260.360 and 260.500, RSMo, shall have the same meaning whenever used in this chapter with reference to the transportation of hazardous waste or waste tires.

[390.011.] **308.030.** It is hereby declared that the legislation contained in this chapter is enacted for the following purposes:

- (1) To promote safe, adequate, economical and efficient transportation;
- (2) To promote the most productive use of equipment and energy resources; [and]
- (3) To collect the fees and taxes properly due to the state from motor carriers relating to their registration and operation of commercial motor vehicles; and**
- (4) To conserve the interests and convenience of the public.**

No right, privilege, **credential** or permit granted or obtained under or by virtue of the provisions of this chapter shall ever be construed as a vested right, privilege, **credential** or permit; and the general assembly retains full legislative power over, concerning and pertaining to the subject or subjects legislated upon in this chapter and the power and right to alter, amend or repeal any provision of this chapter at its pleasure.

[622.090.] **308.040.** The jurisdiction, supervision, powers and duties of the motor carrier [and railroad] safety division herein created and established shall extend under this chapter:

- (1) [To all railroads within this state, and to all transportation of persons or property thereon, and to the person or corporation owning, leasing, operating or controlling the same, and to every person, corporation and entity that offers for transportation by railroad within this state hazardous or toxic materials as defined under the laws of this state or of the United States;
- (2) To all street railroads within this state, and to all transportation of persons or property thereon, and to the person or corporation owning, leasing, operating or controlling the street railroad;
- (3) To the extent authorized in section 389.1005, RSMo, to the operation of light rail, as

defined in section 386.020, RSMo, located wholly or in part within this state, and to all transportation of persons and their baggage on light rail within this state;

(4) To such portion of the lines of any other railroad, light rail or street railroad as lie within this state, and to the person, corporation or entity owning, leasing, operating or controlling the same, so far as concerns the construction, maintenance, equipment, terminal facilities and local transportation facilities and local transportation of persons or property within this state;

(5) To all motor carriers[, railroad corporations, and street railroad corporations] operating or doing business within this state;

[(6)] **(2)** To all persons, corporations or partnerships engaged in the transportation of property or freight within the state; and

[(7)] **(3)** To all corporations and persons whatsoever subject to the provisions of [chapters 387, 388, 389, 390, and 391, RSMo, and] this chapter.

[390.041.] **308.050.** The division of motor carrier [and railroad safety] **services** is hereby vested with power and authority:

(1) To license, supervise and regulate every [common or contract] **motor** carrier in this state **and to issue credentials as provided in this chapter;**

(2) With reference to common carriers of passengers or household goods, or both, to make, fix or approve just and reasonable minimum, maximum, or minimum and maximum rates, fares and charges thereof; to make, fix or approve just and reasonable classifications, rules and regulations pertaining to rates, fares and charges thereof; by general order or otherwise, to establish reasonable requirements with respect to adequate and continuous service, uniform systems of accounts, records and reports, preservation of records; and to supervise and regulate every common or contract carrier in these and all other matters affecting their relationship with the public;

[(2)] **(3)** To inquire, for purposes of administration of the provisions of this chapter, into the management of the business of motor carriers, and into the management of the business of persons controlling, controlled by, or under common control with, motor carriers to the extent that the business of such persons is related to the management of the business of one or more motor carriers, and the division may require from such motor carriers or persons such information as the division deems necessary to carry out the provisions of this chapter;

[(3)] **(4)** To establish just and reasonable classifications of types of carriers included in the term "common carriers" as the special nature of the services performed by such carriers shall require; including a separate classification for operations in vehicles licensed for a gross weight of nine thousand pounds or less; and by general order or otherwise, establish such just and reasonable rules, regulations and requirements, consistent with the provisions of this chapter to be observed by carriers so classified or grouped, as the division deems necessary or desirable in the public interest;

[(4)] (5) To define, but not reduce, by general order or otherwise, after hearing, the limits of a commercial zone contiguous or adjacent to any point or municipality, giving due regard in defining the commercial zone to that area which is adjacent to and commercially a part of the point or municipality;

[(5)] (6) To enforce wholly within terminals the rules and regulations promulgated by the director of the department of public safety under section 307.400, RSMo, as they apply to motor vehicles **and drivers**.

[622.120.] **308.060.** Each [administrative law judge and each] person appointed to office or employment by the [governor or by the] division shall, before entering upon the duties of such person's office or employment, take and subscribe to an oath or affirmation to support the Constitution of the United States and of this state, and to faithfully and honestly discharge the duties of such office. No person shall be eligible to appointment or shall hold [the office of administrative law judge, or be appointed by the division, or hold] any office or position under the division, who holds any official relation to any common carrier, [railroad corporation, street railroad corporation, transportation of freight or property company,] carrier, corporation or person subject to any of the provisions of this chapter [or chapter 387, 388, 389, 390 or 391, RSMo], or who owns stocks or bonds therein, or who has any pecuniary interest therein.

[390.045.] **308.070.** 1. Duly authorized enforcement personnel of the division may stop commercial motor vehicles when there is a probable cause that the operator has violated, or is violating, any part of this chapter, or the rules promulgated by the division [of motor carrier and railroad safety]. Enforcement personnel may detain the vehicle and operator for a reasonable period of time to determine if in fact the commercial motor vehicle is in violation of this chapter or the rules promulgated by the division. Information obtained during a stop may be used [to file a complaint with the director of the division through the general counsel of the division of motor carrier and railroad safety with an administrative law judge to ascertain the legality of the commercial motor vehicle operation] **by the division to carry out any authorized enforcement activities, and may be used by the state in any civil or criminal proceeding.**

2. Vehicles operated by division [of motor carrier and railroad safety] enforcement personnel shall be considered emergency vehicles as defined in section 304.022, RSMo. Enforcement personnel of the division [of motor carrier and railroad safety] shall not have the right to bear firearms **while performing their duties of employment.** [Enforcement personnel shall be required to complete one hundred twenty hours of basic law enforcement training as required of peace officers as specified in chapter 590, RSMo.] **The division shall by rule adopt reasonable training requirements for its enforcement personnel to prepare them for their actual duties of employment; this training may include, but need not require any, basic law enforcement training as required of peace officers as specified**

in chapter 590, RSMo.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

[622.130.] **308.080.** 1. Every [administrative law judge and every] person employed or appointed to office by the division is hereby forbidden and prohibited to solicit, suggest, request or recommend, directly or indirectly, to any common carrier or other person subject to the supervision of the division, or to any officer, attorney, agent or employee thereof, the appointment of any person to any office, place, position or employment. Every such person or entity and every officer, attorney, agent and employee thereof, is hereby forbidden and prohibited to offer to any [administrative law judge or to any] person employed by the division any office, place, appointment or position, or to offer or give to any [administrative law judge or to any] person employed or appointed to office by the division any free pass or transportation or any reduction in fare to which the public generally is not entitled or free carriage for property or any present, gift, entertainment or gratuity of any kind.

2. If any [administrative law judge or any] person employed or appointed to office by the division violates any provision of this section, such person shall be removed from the office. Every [administrative law judge and every] person employed or appointed to office by the division shall be and be deemed to be a public officer.

3. If any common carrier or other person subject to the supervision of the division violates any provision of this section, it shall be liable to the state of Missouri in a civil action in any court of competent jurisdiction for the assessment of a civil penalty not to exceed twenty thousand dollars. The penalty provided in this subsection shall be in addition to any other penalty provided for violation of the provisions of this chapter. The **division's chief counsel or the** attorney general shall bring the action authorized in this subsection. The action may be brought in any county where the defendant's principal place of business is located or where the violation occurred, or where the registered agent is located. The penalty assessed under the provisions of this subsection shall be paid into the state treasury to the credit of the public school fund.

4. Any officer, agent or employee of the division or of any carrier who violates any provision of this section is guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment.

[390.151.] **308.090.** No provision in [sections 390.011 to 390.176] **this chapter** shall be so construed as to deprive any county or municipality within this state of the right of police control over the use of its public highways, or the state highways and transportation commission of the right of police control over the use of the state highways.

[390.063. 1. As used in this chapter, the following terms mean:

(1) "Elderly", any person who is sixty years of age or older;

(2) "Handicapped", any person having a physical or mental condition, either permanent or temporary, which would substantially impair ability to operate or utilize available transportation; and

(3) "Urbanized area", an area so designated by the United States Bureau of Census as provided under section 12(c)(11) of the Urban Mass Transportation Act of 1964, as amended, and which has a population of more than fifty thousand persons.

2. Notwithstanding any provisions of this chapter to the contrary, the division shall issue a certificate or permit in accordance with the provisions of this section to a not-for-profit corporation seeking to transport by motor vehicle, as a common carrier or contract carrier in intrastate commerce, exclusively passengers other than in charter service who are:

(1) Elderly;

(2) Handicapped;

(3) Preschool disadvantaged children transported for the purpose of participating in a federal Head Start program; or

(4) Transported in areas other than urbanized areas as defined in this section, for which the motor carrier is authorized to be subsidized or reimbursed under section 18 of the Urban Mass Transportation Act of 1964, as amended, section 1614 of Title 49, United States Code, with federal funds administered by the Missouri transportation department, except that priority shall be given to serving passengers who are elderly, handicapped or preschool disadvantaged children under the certificate or permit issued under this section.

3. A not-for-profit corporation seeking a certificate or permit under this section shall make a written application to the division, in the form and containing the information which the division shall require by rule. The application shall include at least a complete description of the routes or territory to be served, and a list of the equipment to be used by the applicant in providing the proposed service. If the division finds that an applicant seeking to transport passengers as described in subsection 2 of this section is willing and able to properly perform the service proposed and to conform to the applicable provisions of this chapter, and the applicable rules and orders of the division, a certificate or permit authorizing such transportation shall be issued. The division may, by rule, make reasonable requirements to prevent the unauthorized transportation of passengers other than as described in subsection 2 of this section, by motor carriers to whom a certificate or permit is issued under this section.

4. The division shall not have jurisdiction over the rates charged by motor carriers for the transportation of passengers as described in subsection 2 of this section and provided under the authority of a certificate or permit issued under this section. Such motor carriers shall not be required to file with the division or publish tariff schedules setting forth their rates and charges for such transportation.

5. The provisions of section 390.136 shall not apply to motor vehicles exclusively used to transport passengers as described in subsection 2 of this section under the authority of a certificate or permit issued under this section.

6. Notwithstanding any provisions of subsection 3 of section 390.030 to the contrary,] **308.100.** It is unlawful for any person to operate any motor vehicle [having a capacity of more than five passengers, exclusive of] **designed or used to transport more than six passengers, including** the driver, in intrastate commerce or operate any **commercial** motor vehicle [designed to transport more than fifteen passengers, including the driver], **as defined in parts 379 to 399 of Title 49, Code of Federal Regulations,** in interstate commerce, unless the vehicle is equipped and operated as required by parts [390] **379** through [397] **399,** Title 49, Code of Federal Regulations, as those regulations have been and may periodically be amended. Those regulations are hereby made applicable to all passenger-carrying motor vehicles [having a capacity of more than five passengers, exclusive of] **designed or used to transport more than six passengers, including** the driver, when operated in intrastate commerce, and to all **commercial** motor vehicles [designed to transport more than fifteen passengers, including the driver,] **as defined in parts 379 to 399, Title 49, Code of Federal Regulations,** when operated in interstate commerce, and the division shall have power and authority to enforce those regulations wholly within terminals, as they apply to those motor vehicles and drivers.

[390.201.] **308.110. 1.** Subject to any exceptions which are applicable under section 307.400, RSMo, [or subsection 6 of section 390.063,] the officers and commercial motor vehicle inspectors of the state highway patrol, the enforcement personnel of the division of motor carrier [and railroad safety] **services,** and other authorized peace officers of this state and any civil subdivision of this state, may enforce any of the provisions of Parts [350] **379** through 399 of Title 49, Code of Federal Regulations, as those regulations have been and may periodically be amended, as they apply to motor vehicles and drivers operating in interstate or intrastate commerce within this state; except that the enforcement personnel of the division of motor carrier [and railroad safety] **services** shall be authorized to enforce those regulations wholly within the terminals of motor carriers and private carriers by motor vehicle.

2. Whenever any provision of parts 100 to 199 or parts 379 to 399 of Title 49, Code of Federal Regulations, is made applicable by the provisions of this chapter to a motor carrier, motor vehicle or driver with reference to intrastate or interstate

transportation within this state, unless the state statute clearly indicates otherwise:

(1) The term "special agent" or any other inspector authorized by the federal regulation, or any similar term as used in the federal regulation shall include the division's enforcement personnel when acting pursuant to the provisions of this chapter;

(2) The terms "Federal Motor Carrier Safety Administration", "FMCSA", "service center", "Federal Highway Administration", "FHWA", "administration", "office of motor carriers", or similar terms used in the federal regulation shall be deemed to include the division of motor carrier services, acting within the authority of this chapter;

(3) The terms "Secretary of Transportation", "Secretary", "Federal Motor Carrier Safety Administrator", "Federal Highway Administrator", "Administrator", "Assistant Administrator", "Chief Safety Officer", "Regional Director" or similar terms used in the federal regulation shall be deemed to include the director when acting pursuant to the provisions of this chapter. Whenever the provisions of part 385 of Title 49, Code of Federal Regulations, are applicable with reference to motor carriers, motor vehicles or drivers providing intrastate transportation, the director may determine, issue and change safety ratings to motor carriers, and may conduct administrative reviews of safety ratings. Any requests for administrative reviews of or changes in those safety ratings shall be filed with the division, and shall be determined by order of the director.

[622.240. 1.] **308.120.** The division may, [after a hearing had upon its own motion or upon complaint,] by general or special orders, rules or regulations, or otherwise, require every person, corporation, and carrier to maintain and operate its line, plant, system, equipment, apparatus[, tracks] and premises in such manner as to promote and safeguard the health and safety of its employees, passengers, customers, and the public. The division may prescribe, among other things, the installation, use, maintenance and operation of appropriate safety and other devices or appliances. The division may waive the requirements for notice [and hearing] and provide for expeditious issuance of an order in any case in which the division determines that the failure to do so would result in the likelihood of imminent threat of serious harm to life or property, except that the division shall include in such an order an opportunity for hearing **by the administrative hearing commission** as soon as practicable after the issuance of such order.

[2. No person, partnership, firm or corporation shall set up, install, operate or cause to be operated, upon the person's or its premises, any sign or light commonly known as "red neon" or any other kind of red signs, along, adjacent to or in line of vision of any main line track of a railroad in this state, except the same be shaded or shielded, so as to prevent them from being observed from the line of vision, as viewed from an approaching locomotive cab, or where they

may cause confusion to the men in the locomotive cab, thereby endangering the safe and efficient operating of such train or locomotive. The division shall inspect such confusing signs, upon complaint, and determine if such sign or signs are confusing or dangerous, and advise the owner or operator of their findings and prescribe an adequate shield therefor.]

308.130. 1. Notwithstanding any other provision of law to the contrary, any driver who violates or fails to comply with an out-of-service order, as defined in section 302.700, RSMo, or any requirements of section 302.761, RSMo, is subject to a civil penalty of one thousand dollars, in addition to disqualification as provided by law.

2. Any employer who violates an out-of-service order, or who knowingly requires or permits a driver to violate or fail to comply with an out-of-service order, or any requirements of section 302.761, RSMo, is subject to a civil penalty of two thousand five hundred dollars.

3. The chief counsel to the division of motor carrier safety within the department of transportation shall bring an action in accordance with the procedures pursuant to section 308.825, to recover a civil penalty under this section against a driver who violates or fails to comply with an out-of-service order, or any requirements of section 302.761, RSMo, or against an employer who violates an out-of-service order or knowingly requires or permits a driver to violate or fail to comply with an out-of-service order, or any requirements of section 302.761, RSMo, or both.

4. In addition to any other remedies under this section, actions under this section may be brought against a driver or employer who violates or fails to comply with an out-of-service order with reference to a motor vehicle or combination of motor vehicles used in intrastate commerce which is designed or used to transport more than six passengers, including the driver.

5. The provisions of this section shall not apply to any person exempted by the provisions of section 302.775, RSMo, as that section has been or may hereafter be amended.

[390.030.] **308.200. 1. The provisions of sections 308.200 to 308.299, sections 308.400 to 308.499 and sections 308.610 and 308.615 of this chapter shall not apply to:**

- (1) School buses;
- (2) Taxicabs;
- (3) Motor vehicles while being used exclusively to transport:
 - (a) Stocker and feeder livestock from farm to farm, or from market to farm,
 - (b) Farm or dairy products including livestock from a farm or dairy,
 - (c) Agricultural limestone or fertilizer to farms,

- (d) Property from farm to farm,
- (e) Raw forest products from farm, or
- (f) Cotton, cottonseed, and cottonseed hulls;

(4) Motor vehicles when operated under contract with the federal government for carrying the United States mail and when on a trip provided in the contract;

(5) Motor vehicles used solely in the distribution of newspapers from the publisher to subscribers or distributors;

(6) The transportation of passengers or property performed by a carrier pursuant to a contract between the carrier and the state of Missouri or any civil subdivision thereof, where the transportation services are paid directly to the carrier by the state of Missouri or civil subdivision;

(7) Freight-carrying motor vehicles duly registered and licensed in conformity with the provisions of chapter 301, RSMo, for a gross weight of six thousand pounds or less;

(8) **[The] Motor vehicles exclusively engaged in the** transportation of passengers or property:

(a) Wholly within a municipality [, or];

(b) Between contiguous municipalities, **except as provided in subsection 5 of this section;** or

(c) Wholly within a commercial zone as defined in section [390.020] **308.020**, or [within a commercial zone] **as** established by the division [of motor carrier and railroad safety] pursuant to the provisions of subdivision [(4) of section 390.041; provided, the exemption in this subdivision shall not apply to motor carriers of persons operating to, from or between points located wholly or in part in counties now or hereafter having a population of more than three hundred thousand persons, where such points are not within the same municipality and to motor carriers of commodities in bulk to include liquids, in tank or hopper type vehicles, and in a commercial zone as defined herein or by the division] **(5) of section 308.050, except as provided in subsection 5 of this section;**

(9) Street railroads and public utilities [other than common carriers] as defined in section 386.020, RSMo;

(10) Motor vehicles whose operations in the state of Missouri are interstate in character and are limited exclusively to a municipality and its commercial zone;

(11) Motor vehicles, commonly known as tow trucks or wreckers, designed and exclusively used in the business of towing or otherwise rendering assistance to abandoned, disabled or wrecked vehicles;

(12) Motor vehicles while being used solely by a group of employees to commute to and from their place or places of employment, except that the motor vehicle must be driven by a member of the group.

2. Nothing contained in this section shall be deemed to exempt the vehicles of driveway

operators.

3. [Except for the provisions of subdivision (5) of section 390.041,] The provisions of **sections 308.200 to 308.299, sections 308.400 to 308.599 and section 308.600** of this chapter shall not apply to private carriers.

4. No agency of state government nor any county or municipality or their agencies shall discriminate against any motor carrier or private carrier or deny any such carrier operating a motor vehicle public access to any building, facility or area owned by or operated for the public unless such discrimination or denial is based solely on reasonable vehicle size or weight considerations. The provisions of this subsection shall only apply in cities not within a county and first class counties with a charter form of government which adjoin any city not within a county.

5. Paragraphs (b) and (c) of subdivision (8) of subsection 1 of this section shall not exempt vehicles engaged in either:

(1) The transportation of passengers to, from or between a place within any county having a population of more than three hundred thousand persons; or

(2) The transportation of commodities in bulk, including liquids, in tank or hopper type vehicles.

[390.260. 1.] **308.210.** The division shall neither enforce any law nor make or enforce any rule or order relating to the prices, routes or services of [registered property carriers] **authorized motor carriers** or of common carriers or contract carriers of property for hire or compensation by motor vehicle in intrastate commerce on the public highways in this state, except with reference to the transportation of household goods or passengers or as expressly authorized [in sections 390.250 to 390.350] **by law.**

[2. Except as preempted by section 601 of the Federal Aviation Administration Authorization Act of 1994, the powers, duties and functions of the division with reference to motor vehicles or common carriers pursuant to the provisions of this chapter and chapters 386, 387 and 622, RSMo, that are not inconsistent with the provisions of sections 390.250 to 390.350, are hereby made applicable to the division with reference to registered property carriers, including the division's power to enforce only within terminals the rules and regulations promulgated by the director of the department of public safety pursuant to section 307.400, RSMo, as they apply to motor vehicles.

3. The provisions of sections 390.051, 390.061, 390.062, 390.081, and 390.111 shall not apply to the transportation of property in intrastate commerce, except with reference to household goods as defined in section 390.250.]

[390.280.] **308.220.** 1. [Certificates or permits, or both, which were issued before January 1, 1995, and which authorized a person to transport any property in intrastate commerce by motor vehicle as a common carrier or contract carrier, or both, are void, except that

to the extent such certificates or permits, or portions thereof, authorized a person to transport household goods over irregular routes or passengers in intrastate commerce, or any property or passengers in interstate commerce, those certificates or permits, or portions thereof, are exempt from the provisions of this subsection.

2. Persons who owned certificates or permits, or both, that were in active status with the division on December 31, 1994, and persons to whom the division issued certificates and permits after December 31, 1994, pursuant to emergency rules adopted by the division, are deemed to be qualified as registered property carriers, unless the person's certificate or permit has been suspended, revoked or transferred to another person as provided by law. A person deemed qualified pursuant to this subsection is not required to file an application pursuant to section 390.290 to continue providing intrastate transportation as a registered property carrier, but rather, upon such person's compliance with the licensing and insurance requirements of the division the person is deemed to have a property carrier registration in force as required pursuant to section 390.270, authorizing the person to transport property except household goods in intrastate commerce on the public highways, unless the person's property carrier registration is suspended, revoked or transferred to another person as provided by law. Within a reasonable time after August 28, 1996, the division shall issue property carrier registrations to all persons who are deemed to be qualified as registered property carriers and deemed to have property carrier registrations in force pursuant to this subsection.

3.] This section applies to every person to whom the division of motor carrier and railroad safety previously issued a property carrier registration authorizing intrastate transportation of property except household goods pursuant to former chapter 390 or 622, RSMo, a certificate or permit authorizing intrastate transportation as a common or contract carrier of passengers in charter service pursuant to former section 390.051 or 390.061, RSMo, or a certificate or permit issued pursuant to section 390.063, RSMo, authorizing a not-for-profit corporation to provide intrastate transportation as a common or contract carrier of certain described passengers other than in charter service, if the person is in active standing as a motor carrier with the division of motor carrier and railroad safety on the effective date of this section. Each person so authorized shall be deemed qualified to operate in intrastate commerce as a registered motor carrier without having to file an application pursuant to section 308.240. Within a reasonable time after the effective date of this section, the division shall issue a motor carrier registration to each person deemed qualified as a registered motor carrier pursuant to this subsection. Until the division supersedes the person's previous operating authority by issuing a motor carrier registration to that person, the person may continue to operate in intrastate commerce pursuant to its existing intrastate operating authority, and shall be deemed to be a registered motor carrier

while engaged in those operations, except when the person's intrastate operating authority is suspended, revoked or transferred to another person as provided by law.

2. Notwithstanding any provision of this section to the contrary, this section shall not be construed as authorizing any person to transport any hazardous material as designated in Title 49, Code of Federal Regulations, except hazardous materials which that person was expressly authorized to transport in intrastate commerce within this state on [August 28, 1996] **the effective date of this section**. A person may file an application for [property carrier registration] **the effective date of this section** pursuant to [section 390.290] **this chapter** to transport additional hazardous materials. Nothing in this section shall be construed to conflict with chapter 260, RSMo, or of relieving an applicant of any duty to obtain a license pursuant to chapter 260, RSMo.

[390.270.] **308.230**. Except as otherwise provided in section [390.030] **308.200, 308.405 and 308.410**, no person shall engage in the business of transporting **passengers or** property, except household goods, by motor vehicle for hire or compensation in intrastate commerce on any public highway in this state, unless there is in force with respect to that person a [property carrier registration] **motor carrier authority** issued by the division pursuant to the provisions of sections [390.260 to 390.350] **308.200 to 308.299**, which authorizes such transportation.

[390.290.] **308.240**. 1. Every application for a [property carrier registration] **motor carrier authority** pursuant to sections [390.250 to 390.350] **308.200 to 308.299** shall be completed and filed in the form and manner prescribed by rule of the division, shall be verified by the applicant under penalty of perjury and shall not be filed by the division until it has received the following:

(1) A certificate of insurance or surety bond executed by the applicant's insurer or surety, or order of the division approving self-insurance by the applicant, which certifies that the applicant is covered against personal injury and property damage liability, except damage to property transported as cargo by the applicant, resulting from negligent motor vehicle operations by the applicant in this state, which is completed and filed in the prescribed form, manner and amount and is approved by the division in accordance with rules of the division pursuant to section [390.126] **308.260**;

(2) A license fee application showing the number and type of vehicle licenses requested by the applicant for each motor vehicle to be operated in intrastate commerce in this state under the requested property carrier registration during the year for which the application is made, together with payment of the aggregate license fees payable with reference to those motor vehicles, which is completed, filed and paid in the form and manner prescribed by rule of the division pursuant to [section 390.136] **sections 308.280 and 308.290**; **except that the division shall not require any regulatory license fee or license fee application pursuant to this section of any not-for-profit corporation, if its application for motor carrier**

registration seeks only authority to transport passengers other than in charter service in intrastate commerce, and is restricted as provided in subdivision (3) of subsection 5 of this section; and

(3) Information required by rule of the division relating to the applicant's compliance and willingness to comply with any laws, rules, regulations or orders relating to registration, licensing, liability insurance or safety, and applicable to the applicant's motor vehicles, drivers or operations by motor vehicle, including any state or federal laws, rules, regulations or orders relating to the transportation of any hazardous material as designated in Title 49, Code of Federal Regulations.

2. [One of the division's administrative law judges] **The division need not file, and if filed, the division may dismiss without a hearing:**

(1) Any application for a motor carrier registration on behalf of any person, including an officer or director of any organization, of whom the division has been previously denied an application for operating authority within six months before filing the subsequent application;

(2) Any application offered for filing or filed with the division that is incomplete, defective or otherwise not in compliance with this chapter and the applicable rules and orders of the division.

3. The division shall delay any final decision of the application until the division staff has investigated the applicant's qualifications and filed a report on its investigation. This may include educational contacts, compliance reviews and follow-up visits to the carrier's terminals, witness interviews and any discovery procedures authorized by law or by the division's rules or orders. Division staff shall file this report within a reasonable time.

4. The director shall determine without a hearing, on the basis of the information filed by the applicant, evidence submitted by the division staff, and any other information received by the division and filed of record in the case, whether the applicant is in compliance and willing to comply with the laws, rules, regulations and orders relating to registration, licensing, liability insurance, safety and hazardous materials, which are applicable to the applicant's motor vehicles, drivers or operations as [a registered property carrier by motor vehicle. If the administrative law judge determines that the applicant is qualified, the application shall be granted and a property carrier registration shall be issued without a hearing. If the administrative law judge determines that the information on record concerning the applicant's qualifications is not adequate to finally determine the application, the division may investigate the applicant's qualifications more thoroughly before the administrative law judge makes a final determination of the application. If the administrative law judge or the division staff opposes the issuance of a property carrier registration, then a hearing shall be held, not more than twenty days after a request for hearing by the applicant, to determine the merits of the application and

whether a property carrier registration shall be issued] **an authorized motor carrier. The division's final order shall either dismiss, grant or deny the application. An aggrieved applicant may apply to the administrative hearing commission to review the director's order as provided by law.** The administrative [law judge] **hearing commission** shall determine [the] **its review of the** application not more than forty-five days after the close of the hearing[, or else the application shall be approved].

[3.] **5.** The division shall not restrict the [property carrier registration] **motor carrier authority** with reference to any specific **passengers**, commodities, routes or service, except that the division shall restrict [the applicant's property] **every motor** carrier registration against the transportation of:

(1) Household goods[, and shall further restrict against];

(2) Any hazardous material as designated in Title 49, Code of Federal Regulations, if the division finds that the applicant has not shown it is qualified to safely transport that hazardous material in compliance with all registration, liability insurance and safety requirements applicable to the transportation of that hazardous material pursuant to Title 49, Code of Federal Regulations; **and**

(3) **Any passengers other than in charter service; except that a motor carrier registration may, if transportation of passengers other than in charter service, exclusively for passengers that are:**

(a) Elderly;

(b) Handicapped;

(c) **Preschool disadvantaged children transported for the purpose of participating in a federal Head Start program; or**

(d) **Transported in areas other than urbanized areas as defined in section 308.020 for which the motor carrier is authorized to be subsidized or reimbursed pursuant to section 5311 of Title 49, United States Code, as that section has been or may hereafter be amended, with federal funds administered by the Missouri department of transportation.**

Not-for-profit corporations granted authority pursuant to this section to transport passengers other than in charter service shall give priority to serving passengers who are elderly, handicapped or preschool disadvantaged children. The division shall not have jurisdiction over the rates charged by not-for-profit corporations for the transportation of passengers other than in charter service exclusively as described in this subdivision; and registered motor carriers shall not be required to file with the division or publish tariff schedules setting forth their rates and charges for that transportation.

[390.300.] **308.250.** 1. A [property carrier registration] **motor carrier authority,**

including any **property carrier registration**, certificate or permit[, or both,] which pursuant to section [390.280] **308.220** is deemed to identify [a registered property] **an authorized motor carrier**, may be transferred in its entirety by the [registered property] **authorized motor carrier** to whom it was issued, but only if the transfer is approved by the division as provided in this section. The division shall approve the transfer of the [property carrier registration] **motor carrier authority** if the following requirements are met:

(1) The transfer application is joined in by both the [registered property] **authorized motor carrier** or its authorized representative and the proposed transferee or its authorized representative;

(2) The transfer application is filed in the form and manner prescribed by rule of the division; and

(3) The division finds that the transferee is in all respects qualified as required of an applicant for a new [property carrier registration] **motor carrier authority** pursuant to section [390.290] **308.240**.

2. Upon approval of the transfer of a [property carrier registration] **motor carrier authority** pursuant to subsection 1 of this section, the division shall transfer the [property carrier registration] **motor carrier authority** in its entirety, except that the division shall restrict the transferee's [property carrier registration] **motor carrier authority** against the transportation of any hazardous material formerly authorized under the [property carrier registration] **motor carrier authority** if the division finds that the transferee has not shown it is qualified to safely transport that hazardous material in compliance with all registration, liability insurance and safety requirements applicable to the transportation of that hazardous material pursuant to Title 49, Code of Federal Regulations. The transferee may file a separate application for [property carrier registration] **motor carrier authority** pursuant to section [390.290] **308.240** to transport additional hazardous materials.

[390.126.] **308.260**. 1. No motor carrier shall operate any motor vehicle on any public highway in this state until after such carrier shall have filed with, and same has been approved by the division, a certificate of any insurance carrier duly authorized to do business in this state certifying that there is in effect a liability insurance policy or bond in some reliable insurance company or association or other insurer satisfactory to the division and authorized to transact insurance business in this state, in such forms and upon such conditions as the division may deem necessary adequately to protect the interests of the public in the use of the public highways and with due regard to the number of persons and amount of property transported, which liability insurance shall bind the obligors thereunder to make compensation for injuries to persons and loss of or damage to property resulting from the negligent operation of such motor carrier; provided, that any motor carrier who shall furnish annually to the division, and at such other times as may be required, satisfactory proof and evidence of such carrier's financial ability to

properly protect the interests of the public and pay compensation for injuries to persons and loss or damage to property, on account of or arising out of negligent operation of such carrier's business, shall not be required to furnish liability insurance policy or bond therefor.

2. No other or additional policies, bonds or licenses than those prescribed in this chapter shall be required of any motor carrier to which the provisions of this chapter apply by any city, town or other subdivision of the state; provided, that this section shall not be so construed as to interfere with the right of any county, city or other civil subdivision of the state, to levy and collect any property tax to which such motor carrier is liable under the general revenue laws of this state within such county, city or other civil subdivision wherein the property of such motor carrier may be subject to assessment and taxation.

[390.128.] **308.270.** 1. To assist motor carriers in certifying their motor vehicle financial responsibility as required pursuant to this chapter [and chapter 622, RSMo,] the division [of motor carrier and railroad safety within the state department of economic development] shall provide by rule for the electronic filing by insurance companies of certificates of insurance required by section [390.126, RSMo] **308.260.** The division may provide by rule for the confirmation of coverage by insurance companies authorized to do business in the state through national clearinghouses or private databases. The division may provide by rule for the acceptance of proof of insurance from insurance companies located outside of the state.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

[390.136.] **308.280.** 1. No motor carrier, except as provided in section [390.030] **308.200,** shall operate any motor vehicle unless such vehicle shall be accompanied by an annual or seventy-two-hour license issued by the [motor carrier and railroad safety] division [of the department of economic development provided]; **except** that when a motor carrier uses a truck-tractor for pulling trailers or semitrailers, such motor carrier may elect to license either the truck-tractor, trailer or semitrailer. [The fee for each such annual license shall be ten dollars and shall be due and payable on or before the last day of February of each calendar year. Such annual license shall be issued after October first of each year in such form and shall be used pursuant to such reasonable rules and regulations as the division of motor carrier and railroad safety may, by general order or otherwise, prescribe.] **No person shall use these regulatory licenses except in conformity with this chapter and the applicable rules and orders of**

the division.

2. The fee for each annual regulatory license shall be ten dollars per vehicle, which shall be due and payable before the first day of January of the year for which the license is issued. Annual licenses shall be effective from January first of the year for which they are issued, or if issued after January first, they are effective from the date issued to December thirty-first of that year. The division shall begin issuing annual licenses on August first in each year for the next succeeding calendar year, but this shall not preclude the division from continuing to issue the current year's licenses as needed for the remainder of the current year.

3. Any annual **regulatory** license issued to a motor carrier for use in driveway operations, as defined in this [section] **chapter**, shall be issued to such motor carrier without reference to any particular vehicle and may be used interchangeably by the holder thereof on any motor vehicle or combinations thereof moving in driveway operations under [such] **that** carrier's **motor carrier registration**, certificate or permit.

[3.] **4.** In case of emergency, temporary, unusual or a peak demand for transportation, additional vehicles as described in subsection 1 of this section may be operated upon issuance by the division of a seventy-two-hour license for each vehicle so operated. The license fee for each such additional vehicle shall be the sum of five dollars for each seventy-two consecutive hours, or any portion thereof. Such licenses shall be issued in such form and shall be used pursuant to such reasonable rules and regulations as the division may, by general order or otherwise, prescribe. No such additional vehicle which has been licensed pursuant to this subsection shall be operated without being accompanied by such license.

[4.] **5.** The division, upon the issuance of such license or licenses provided for in this section, [shall notify the director of revenue, who] shall receive the license fee or fees and immediately deposit the same [with the state treasurer in] **to the credit of** the state highway department fund except when an agreement has been negotiated with another jurisdiction whereby prepayment is not required. In such cases, the term of the agreement shall prevail.

[5.] **6.** Any person operating as a motor carrier who violates or fails to comply with any of the provisions of this section shall be adjudged guilty of a **class C** misdemeanor [and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars].

[6.] **7.** The provisions of this section shall become effective for the [1989] **2003** registration year, and the regulatory **license** fee may be paid at any state weigh station.

[390.138.] **308.290.** 1. In the event of the mutilation or destruction of an annual license issued by the division **pursuant to section 308.280**, the lawful holder thereof may file with the [motor carrier and railroad safety] division an affidavit showing such fact and shall, on the surrender of that portion of the mutilated, damaged or worn license on which is imprinted the serial number, and the payment of a fee of one dollar, obtain a duplicate or replacement of such

license under such rules and regulations as the division may prescribe.

2. Whenever a law enforcement officer observes an annual license issued by the [motor carrier and railroad safety] division to be in such condition as to hinder or make difficult identification of same, [he] **the officer** shall notify the division and instruct the owner to apply for a duplicate or replacement. If the owner has not made application within fifteen days, the division may cancel such license and notify the owner and such cancellation shall remain in force until the application has been filed.

308.300. Exempted from the provisions of sections 308.300 to 308.399 are:

(1) Radioactive wastes regulated under section 2011, et seq., of Title 42 of United States Code;

(2) Emissions to the air subject to regulation of and which are regulated by the Missouri air conservation commission pursuant to chapter 643, RSMo;

(3) Discharges to the waters of this state pursuant to a permit issued by the Missouri clean water commission pursuant to chapter 204, RSMo;

(4) Fluids injected or returned into subsurface formations in connection with oil or gas operations regulated by the Missouri oil and gas council pursuant to chapter 259, RSMo;

(5) Mining wastes used in reclamation of mined lands pursuant to a permit issued by the Missouri land reclamation commission pursuant to chapter 444, RSMo.

308.305. 1. Any infectious waste transferred from the premises of the generator shall be taken to an infectious waste processing facility that holds a valid permit issued by the department, or a hospital as defined in section 197.020, RSMo.

2. All infectious wastes, when transported off the premises of the generator shall be packaged and transported as provided by division rule, except that hospitals and small quantity generators as defined by the department of natural resources under section 260.203, RSMo, may transport infectious waste to a hospital for treatment, an infectious waste processing facility for treatment or to a central collection point using their employees and vehicles as long as they meet all other requirements of sections 260.200 to 260.245, RSMo, and the rules and regulations promulgated pursuant to sections 260.200 to 260.245, RSMo.

3. Any transporter who delivers infectious waste to an infectious waste processing facility, except small quantity generators and hospitals located in Missouri and defined in section 197.020, RSMo, shall pay a fee of two dollars for each ton of infectious waste so delivered. Such fees shall be collected by the infectious waste processing facility accepting the waste and transmitted to the department of natural resources, which shall promptly transmit these funds for deposit in the solid waste management fund. These moneys, upon appropriation, shall be used to help pay for

the administrative costs associated with infectious waste management. Any transporter who transports infectious waste for more than three hundred miles for management in Missouri shall pay, in addition to the charges above, an additional charge equal to ten percent of the gross charge charged by the processing facility for the management of such waste. Such fees shall be collected by the infectious waste processing facility accepting the waste and transmitted to the department of natural resources, which shall promptly transmit these additional funds for deposit in the state's general revenue fund.

4. Nothing in this section shall prohibit the transportation of infectious or hazardous waste from the state of Missouri for management in another state.

308.310. 1. It shall be unlawful for any person to haul waste tires for consideration in the state except as provided in this section. A violation of this subsection shall be a class C misdemeanor for the first violation. A second and each subsequent violation shall be a class A misdemeanor. A third and each subsequent violation, in addition to other penalties authorized by law, may be punishable by a fine not to exceed five thousand dollars and restitution may be ordered by the court.

2. All tire retailers or other businesses that generate waste tires shall use a waste tire hauler permitted by the division, except that businesses that generate or accept waste tires in the normal course of business may haul such waste tires without a permit, if such hauling is performed without any consideration and such business maintains records on the waste tires hauled as required by sections 308.300 to 308.399. Retailers shall not be liable for illegal disposal of waste tires after such waste tires are delivered to a waste tire site, waste tire processing facility or waste tire end-user facility if such entity is registered or permitted by the department of natural resources, or to a waste tire hauler permitted by the division of motor carrier services, or to a waste tire collection center as defined in section 260.200, RSMo.

3. It shall be unlawful for any person to transport waste tires for consideration within the state unless permitted as a waste tire hauler by the division pursuant to sections 308.310.

4. The division shall promulgate rules and regulations pertaining to the transportation of waste tires. These rules and regulations shall include:

- (1) Procedures for permit application and permit fees for waste tire haulers;**
- (2) Requirements for performance bonds or other forms of financial assurance for waste tire haulers;**
- (3) Exemptions from the requirements of sections 308.310, when permitting is not needed to protect the public; and**
- (4) Requirements for record-keeping procedures for waste tire**

haulers. Required record-keeping shall include the origin, source and number or weight of tires received, and the destination and number of tires or weight of tires or tire pieces shipped or otherwise disposed of, the consideration received for the transportation, and such records shall be maintained for at least three years following the end of the calendar year of such activity.

5. Permit fees for waste tire haulers shall be established by rule and shall not exceed the cost of administering sections 308.300 to 308.399. Permit fees shall be deposited into an appropriate subaccount of the solid waste management fund, and may be appropriated to the division to pay the expenses of administering the waste tire hauler permitting program.

6. The director may request a prosecuting attorney to institute a prosecution for any violation of this section. In addition, the prosecutor of any county or circuit attorney of any city not within a county may, by information or indictment, institute a prosecution for any violation of this section.

7. It is unlawful for any person to:

(1) Except as otherwise provided, transport waste tires in violation of the rules or orders of the division, or in such a manner as to create a public nuisance or adversely affect the public health; or

(2) Refuse entry or access, requested for purposes of inspecting any facilities, premises, equipment or vehicles owned or occupied by waste tire haulers, or other locations where waste tires are, or the division reasonably suspects waste tires are, processed, located, or disposed of, to any agent or employee of the department who presents appropriate credentials, or to hinder the agent or employee in carrying out the inspection. A suitably restricted search warrant, upon a showing of probable cause in writing and upon oath, shall be issued by any circuit or associate circuit judge having jurisdiction to any such agent or employee for the purpose of enabling him to make such inspection.

8. Information obtained from waste tires or hazardous waste transported in violation of any provision of sections 308.300 to 308.399, shall be a rebuttable presumption that the person so identified committed the violation of sections 308.300 to 308.399. If the operator or passenger of any vehicle is witnessed by a peace officer or employee of the department of natural resources or of this division to have violated any provisions of sections 308.300 to 308.399, and the identity of the operator is not determined or otherwise apparent, it shall be a rebuttable presumption that the person in whose name such vehicle is registered committed the violation.

9. Persons who knowingly haul waste tires to an unpermitted site or a site not approved by the department of natural resources shall be liable for cleanup costs and

any damage to third parties caused by the dumping or disposing of waste tires.

[260.278.] **308.320.** 1. A person who has, within the preceding twenty-four months, been found guilty or pleaded guilty to a violation of section 260.270, **RSMo, or sections 308.300 to 308.399, or any rule adopted pursuant to those sections**, which involves the transport of waste tires **or hazardous waste** may not be granted a permit to transport waste tires **or hazardous waste transporter license** unless the person seeking the permit has provided to the department a performance bond or letter of credit as provided under this section.

2. The bond or letter shall be conditioned upon faithful compliance with the terms and conditions of the permit and section 260.270, **RSMo, and sections 308.300 to 308.399, and all rules adopted pursuant to those sections** and shall be in the amount of ten thousand dollars.

3. Such performance bond, placed on file with the [department] **division**, shall be in one of the following forms:

(1) A performance bond, payable to the [department] **division** and issued by an institution authorized to issue such bonds in this state; or

(2) An irrevocable letter of credit, **as defined in section 400.5-103, RSMo**, issued in favor of and payable to the department **of natural resources** from a commercial bank or [savings and loan] **financial institution** having an office in the state of Missouri.

4. Upon a determination by the department **of natural resources that a person has violated section 260.270, RSMo, or a determination by the division** that a person has violated the terms and conditions of the permit or section 260.270, **RSMo, or sections 308.300 to 308.399, or any rule adopted pursuant to those sections**, the [department] **division** shall notify the person that the bond or letter of credit shall be forfeited and the moneys placed in an appropriate subaccount of the solid waste management fund, created under section 260.330, **RSMo**, for remedial action.

5. The department **of natural resources** shall expend whatever portion of the bond or letter of credit necessary to conduct resource recovery or nuisance abatement activities to alleviate any condition resulting from [a] **the carrier's violation of section 260.270, RSMo, or sections 308.300 to 308.399, or any rule adopted pursuant to those sections**, or the terms and conditions of a permit.

6. [The requirement for] A person **required** to provide a performance bond or a letter of credit [under] **pursuant to** this section [shall cease] **may apply to the division for a termination of the performance bond or letter of credit requirement** for that person after two consecutive years in which the person has not been found guilty or pleaded guilty to a violation of section 260.270, **RSMo, or sections 308.300 to 308.399, or any rule adopted pursuant to those sections**.

7. **Upon request by the division, the state highway patrol shall cooperate in**

providing criminal background checks in furtherance of this section.

308.330. 1. It shall be unlawful for any person to transport any hazardous waste in this state without first obtaining a hazardous waste transporter license. Any person transporting hazardous waste in this state shall file an application for a license pursuant to this subsection which shall:

(1) Be submitted on a form provided for this purpose by the division and shall furnish the division with such equipment identification and data as may be necessary to demonstrate to the satisfaction of the division that equipment engaged in such transportation of hazardous waste is adequate to provide protection of the health of humans and the environment and to comply with the provisions of any federal hazardous waste management act, and sections 308.300 to 308.399 and any standards or rules adopted pursuant to those sections. The applicant shall provide certification that the equipment so identified complies and will be operated in accordance with the rules and regulations of the division and the federal Department of Transportation for the transportation of the types of hazardous materials for which it will be used;

(2) Include, as specified by the division's rules, demonstration of financial responsibility, including, but not limited to, guarantees, liability insurance, posting of bond or any combination thereof which shall be related to the number of units, types and sizes of equipment to be used in the transport of hazardous waste by the applicant;

(3) Include, as specified in the division's rules, a fee payable to the state of Missouri which shall consist of an annual application fee, plus an annual use fee based upon tonnage, mileage or a combination of tonnage and mileage. The fees established pursuant to this subdivision shall be set to generate, as nearly as is practicable, six hundred thousand dollars annually. No fee shall be collected pursuant to this subdivision from railroads that pay a fee pursuant to section 389.023, RSMo. Fees collected pursuant to this subdivision shall be deposited in the hazardous waste fund created pursuant to section 260.391, RSMo.

2. If the division determines that the application conforms to the provisions of any applicable federal hazardous waste management act, sections 308.300 to 308.399, and any rules adopted pursuant to those sections, it shall issue the hazardous waste transporter license with such terms and conditions as it deems necessary to protect the health of humans and the environment. The division shall act within ninety days after receipt of the application. If the division denies the license, it shall issue a report to the applicant stating the reason for denial of the license.

3. A license may be suspended or revoked whenever the division determines that the equipment or operation poses a threat to the health of humans or the

environment, is creating a public nuisance, or is or has been operated in violation of any provision of sections 308.300 to 308.399, and any rules adopted pursuant to those sections.

4. Whenever a license is issued, renewed, denied, suspended or revoked by the division, any aggrieved person, by petition filed with the administrative hearing commission within thirty days of the decision, may appeal such decision and shall be entitled to a hearing as provided in section 621.040, RSMo.

5. A license shall be issued for a period of one year and shall be renewed upon proper application by the holder and a determination by the division that the applicant is in compliance with all provisions of sections 308.300 to 308.399 and all rules, orders and license terms and conditions adopted or issued pursuant to sections 308.300 to 308.399.

6. A license from the division of motor carrier services is not required for the transport of any hazardous waste on the premises where it is generated or onto contiguous property owned by the generator thereof, or for those persons exempted in section 260.380, RSMo. Nothing in this subsection shall be interpreted to preclude the department from inspecting unlicensed hazardous waste transporting equipment and to require that it be adequate to provide protection for the health of humans and the environment.

308.340. 1. The division shall not issue any hazardous waste transporter license to any person under the authority of sections 308.300 to 308.399, if such person has had:

(1) Three or more convictions, which convictions occurred after July 9, 1990, and within any five-year period within the courts of the United States or of any state except Missouri; or

(2) Two or more convictions within a Missouri court after July 9, 1990, and within any five-year period, for any crimes or criminal acts, an element of which involves restraint of trade, price-fixing, intimidation of the customers of any person or for engaging in any other acts which may have the effect of restraining or limiting competition concerning activities regulated under this chapter or similar laws of other states or the federal government.

2. Notwithstanding the provisions of subsection 1 of this chapter to the contrary, convictions for violations by entities purchased or acquired by an applicant or licensee which occurred prior to the purchase or acquisition shall not be included pursuant to subsection 1. For the purpose of this section, the term "person" shall include any business organization or entity, successor corporation, partnership or subsidiary of any business organization or entity, and the owners and officers thereof,

or the entity submitting the application.

3. The director shall suspend, revoke or not renew the hazardous waste transporter license of any person issued pursuant to sections 308.300 to 308.399, if such person has had two or more convictions in any court of the United States or of any state other than Missouri or two or more convictions within a Missouri court for crimes as specified herein if such conviction occurred after July 9, 1990, and within any five-year period.

4. Any person applying for a hazardous waste transporter license under sections 308.300 to 308.399 shall notify the director of any conviction for any act which would have the effect of limiting competition. Any person with a hazardous waste transporter license shall notify the director of the division of any such conviction within thirty days of the conviction or plea. Failure to notify the director is a class D felony and subject to a fine of one thousand dollars per day for each day unreported.

5. After a period of five years after a hazardous waste transporter license has been revoked under the provisions of this section, the person, firm or corporation affected may apply to the division for rehabilitation and reinstatement. The division shall adopt rules and regulations for rehabilitation and reinstatement, which may impose special conditions on the applicant's hazardous waste transporter license for a period which shall not exceed five years.

6. Upon request by the division, the state highway patrol shall cooperate in providing criminal background checks in furtherance of this section.

[260.385. After six months from the effective date of the standards, rules and regulations adopted by the commission pursuant to section 260.370,] **308.350.** Hazardous waste transporters shall:

(1) Not transport any hazardous waste in this state without first obtaining a hazardous waste transporter license from the [department] **division** as specified in [section 260.395] **sections 308.300 to 308.399;**

(2) Use and operate equipment which has been approved by the [department] **division** and follow procedures, when transporting hazardous wastes, which meet all applicable state and federal regulations and standards for the transportation of hazardous materials and all applicable standards, rules and regulations adopted under sections [260.350 to 260.430] **308.300 to 308.399** and all terms and conditions of their license;

(3) Unless otherwise provided in sections [260.350 to 260.430] **308.300 to 308.399** or the rules [and regulations] adopted hereunder, accept only shipments of hazardous waste that are accompanied by a manifest, provided by the generator, that has been completed and signed by the generator in accordance with the rules and regulations adopted under sections 260.350 to

260.430, **RSMo**;

(4) Complete, sign and file the transporter portion of the manifest as specified in rules and regulations adopted under sections [260.350 to 260.430] **308.300 to 308.399**;

(5) Deliver hazardous waste and the accompanying manifest only to the destination specified by the generator on the manifest, which destination must be a hazardous waste facility holding a permit under sections 260.350 to 260.430, **RSMo**, or the federal Resource Conservation and Recovery Act, or a state hazardous waste management program authorized under the federal Resource Conservation and Recovery Act, or a resource recovery or other facility exempted from the permit requirement, and in accordance with provisions which apply under section [260.395] **308.330** and rules and regulations adopted hereunder;

(6) Collect and maintain such records and submit such reports as specified in sections [260.350 to 260.430] **308.300 to 308.399** and in rules and regulations and terms and conditions of their license adopted or issued hereunder;

(7) Make available to the [department] **division** upon request made during transportation, samples of wastes transported and all records relating to hazardous waste transportation, for inspection and copying, and allow the [department] **division** to make unhampered inspections at any reasonable time of all facilities and equipment.

308.360. The division shall:

(1) Require each hazardous waste transporter operating in this state to obtain a license and to meet all applicable requirements of this chapter, and the rules, orders and license terms and conditions adopted or issued pursuant to this chapter;

(2) Require licensed hazardous waste transporters to collect and maintain such records and information of hazardous waste transportation in this state, including quantities and types imported and exported across the borders of this state, consistent with the purposes of sections 308.300 to 308.399;

(3) Develop facts and make inspections and investigations, including gathering of samples, and obtaining tests and analyses thereof, consistent with the purposes of this chapter. The division may enter, or authorize any representative of the division to enter, at all reasonable times, in or upon any private or public property for any purpose required by this chapter. Such entry may be for the purpose, without limitation, of developing or implementing rules, orders or license or permit terms and conditions, of inspecting or investigating any records required to be kept by this chapter or any license or permit issued pursuant to this chapter. No person shall refuse entry or access requested for the purpose of inspection pursuant to this subdivision to an authorized representative of the division who presents appropriate credentials, nor obstruct or hamper the representative in carrying out the inspection. A suitably restricted search warrant, upon a showing of probable cause in writing and

upon oath, shall be issued by any judge having jurisdiction to any such representative for the purpose of enabling the representative to make such inspection;

(4) Require each hazardous waste transporter operating in this state to obtain a license and to meet all applicable requirements of this chapter and the rules, orders and license terms and conditions adopted or issued pursuant to this chapter;

(5) Issue, continue in effect, revoke, modify or deny in accordance with the division's rules, hazardous waste transporter licenses;

(6) Settle or compromise any suit undertaken by the division for recovery of any penalty or for compelling compliance with any provision of this chapter, or any rule, order, or license or permit term or condition adopted or issued pursuant to this chapter;

(7) Advise, consult and cooperate with the hazardous waste management commission within the department of natural resources and other agencies of the state, the federal government, other states and interstate agencies, and with affected groups, political subdivisions and industries, in furtherance of the purposes of chapter 260, RSMo, and this chapter and, upon request, consult with persons subject to sections 308.300 to 308.399 on the proper measures necessary to comply with the requirements of sections 308.300 to 308.399 and rules adopted pursuant to sections 308.300 to 308.399;

(8) Represent the state of Missouri in all matters pertaining to interstate hazardous waste transportation including the negotiation of interstate compacts or agreements;

(9) Exercise all powers necessary to carry out the provisions of sections 308.300 to 308.399 and, in coordination with the state department of natural resources, assure that the state of Missouri complies with any federal hazardous waste management act and retains maximum control thereunder, and receives all desired federal grants, aid and other benefits;

(10) Cooperate with the department of natural resources in its oversight of any corrective action work undertaken pursuant to chapter 260, RSMo, and rules promulgated pursuant to chapter 260, RSMo, to investigate, monitor, or prevent releases of hazardous waste or hazardous constituents to the environment by hazardous waste transporters;

(11) Establish, by rule, procedures and requirements for the transportation of hazardous wastes, and for reporting the transportation of hazardous wastes, which shall be consistent with the applicable regulations issued by the United States Department of Transportation pursuant to Title 49 of the Code of Federal Regulations, as such regulations have been and may periodically be amended.

308.370. 1. Notwithstanding any other provision of law to the contrary, upon receipt of information that any activity subject to sections 308.300 to 308.399, may present an imminent hazard, by placing or allowing escape of any hazardous waste into the environment or exposure of people to such waste which may be cause of death, disabling personal injury, serious acute or chronic disease, or serious environmental harm, the director may take action necessary to protect the health of humans and the environment from such hazard. The action the director, or the designee of the director may take includes, but is not limited to:

(1) Issuing orders directing any hazardous waste transporter who is the custodian or has control of the waste, which constitutes such hazard, to eliminate such hazard. Such action may include permanent or temporary cessation of operation;

(2) Directing the division's chief counsel to commence and prosecute actions for temporary restraining orders, temporary injunctions or permanent injunctions, which action shall be given precedence over all other matters pending in the circuit courts.

2. In any civil action brought pursuant to this section in which a temporary restraining order or temporary injunction is sought, there must be allegations of the types of injury or harm specified in these imminent hazard provisions; it shall be necessary to allege and prove at the proceeding that irreparable damage will occur and that the remedy at law is inadequate, and the temporary restraining order or temporary injunction shall not issue without such allegations and without such proof. This subsection shall not be construed as precluding, nor as applicable to, any proceedings for injunctive relief authorized pursuant to any other provisions of this chapter.

308.375. Licenses and permits issued under sections 308.300 to 308.399, may be suspended, revoked or modified if obtained in violation of those sections or by misrepresentation or failing to fully disclose all relevant facts, or when required to prevent violations of any provision of sections 308.300 to 308.399, or any rule, order or license or permit term or condition adopted or issued hereunder, or to protect the health of humans and other living organisms, when such action is required by a change in conditions or the existence of a condition which requires either a temporary or permanent change in the licensed or permitted hazardous waste transportation practices, subject to the right of appeal as set forth in section 621.017, RSMo.

308.380. 1. It is unlawful for any person to cause or permit any acts or hazardous waste transportation which violate any provision of sections 308.300 to

308.399, or the provisions of any rule, order or license or permit term or condition adopted or issued under those sections. If the division determines that any of those provisions, or any provision which this state is required to enforce under any federal hazardous waste management act relating to hazardous materials transportation, is being, was, or is in imminent danger of being violated, the division may, in addition to other remedies under this chapter, institute a civil action in any court of competent jurisdiction for injunctive relief to prevent any such violation or further violation or for the assessment of a civil penalty not to exceed ten thousand dollars per day for each day, or part thereof, the violation occurred and continues to occur, or both, as the court deems proper. A civil monetary penalty under this section shall not be assessed for a violation where an administrative penalty was assessed pursuant to section 308.1045. Suit may be brought in any county where the defendant's principal place of business is located or was located at the time the violation occurred, or has or may cause injury or threat to the health of humans or the environment.

2. Any person who knowingly:

(1) Transports any hazardous waste to a facility which is not authorized to receive such waste pursuant to sections 260.350 to 260.430, RSMo, or permits or causes any other hazardous waste transportation practice in violation of any provision of sections 308.300 to 308.399;

(2) Makes any false material statement, representation or certification in any application, label, permit, record, report, manifest or other document filed, maintained, or required to be maintained under chapter 308;

(3) Falsifies, tampers with, or renders inaccurate any monitoring device or result therefrom used, filed, maintained, or required to be maintained in relation to any commercial motor vehicle, or transportation by motor vehicle, pursuant to the federal Hazardous Materials Regulations in Title 49, Code of Federal Regulations, as those regulations have been and periodically may be amended; or

(4) Transports any hazardous waste, and who in connection therewith knowingly destroys, alters or conceals any record required to be maintained pursuant to sections 260.350 to 260.430, RSMo, or this chapter, or the federal Hazardous Materials Regulations in Title 49, Code of Federal Regulations, as those regulations have been and periodically may be amended, shall, upon conviction, be punished by a fine of not less than two thousand five hundred dollars nor more than twenty-five thousand dollars for each day of violation, or by confinement in the county jail for not more than one year, or by both such fine and confinement. Second and successive convictions for violation of this section shall be punished by a fine of not less than five thousand dollars nor more than fifty thousand dollars for each day of violation,

or by imprisonment for not less than ten years, or by both such fine and imprisonment. If any more stringent sanction or punishment is applicable to a violation pursuant to Title 49, Code of Federal Regulations, then any person who commits the violation shall be subject to the more stringent sanction or punishment.

3. In addition to the authority granted to it under chapter 43, RSMo, the Missouri state highway patrol, any of its officers, or any other law enforcement officer, who has probable cause to believe that a violation of sections 308.300 to 308.399 has been committed shall detain any equipment involved in the violation and arrest the person controlling or operating such equipment. Any such officer shall also notify the division of motor carrier services as soon as practicable, which shall, in addition, take whatever civil action they determine is necessary to correct or eliminate such violation or any threat to the health of humans or the environment. It shall be the duty of the Missouri state highway patrol as it pertains to highway use, and all other officers of the state of Missouri charged with enforcement of criminal law, to further the purposes of this chapter and to render and furnish to the division when requested all information and assistance in their possession and in their power.

4. No provision of sections 308.300 to 308.399 shall be construed to limit any action at law or in equity from being brought by any person or political subdivision aggrieved by any violation of sections 308.300 to 308.399, nor shall any provision be construed to prohibit any person from exercising otherwise existing rights to suppress nuisances.

308.390. No action, ordinance or law, with the exception of local option on location, of any county, city, town, village or other political subdivision of this state shall operate to prevent the location or operation of a hazardous waste transporter holding a current hazardous waste transporter license issued under this chapter within its boundaries. Nothing in this subsection shall, however, prevent any political subdivision from challenging a transporter's compliance with sections 308.300 to 308.399, or any rule, order or permit or license term or condition adopted or issued under these sections.

[387.010.] **308.400.** The provisions of [this chapter] sections 308.400 to 308.499 shall apply to the transportation of passengers or household goods from one point to another within this state[, and to] by any motor carrier, as defined in section [390.020, RSMo,] **308.020, and to motor carriers** performing such service[. The provisions of this chapter shall not apply to railroad corporations or street railroad corporations, except to the extent they engage in business as motor carriers of passengers or household goods], **except with reference to the transportation of passengers by not-for-profit corporations exclusively as authorized pursuant to subdivision (3) of subsection 5 of section 308.240, other than in charter**

service.

[390.051.] **308.405.** 1. Except as otherwise provided in section [390.030] **308.200 and subdivision (3) of subsection 5 of section 308.240**, no person shall engage in the business of a common carrier **transporting passengers other than in charter service or household goods** in intrastate commerce on any public highway in this state unless there is in force with respect to such carrier a **common carrier** certificate issued by the division authorizing such operations.

2. Application for a **common carrier** certificate shall be made in writing to the division, **verified under oath or penalty of perjury**, and shall contain such information as the division shall, by rule, require and shall include:

(1) Full information concerning the ownership, financial condition of applicant, equipment to be used and a statement listing the physical equipment of applicant and the reasonable value thereof;

(2) The complete route or routes over which the applicant desires to operate, or territory to be served;

(3) The proposed rates, schedule or schedules, or timetable of the applicant.

3. [Except as provided for in subsection 4 of this section, if the division finds that an applicant seeking to transport general and specialized commodities in truckload lots, agricultural commodities in bulk in dump trucks or passengers in charter service is fit, willing and able to properly perform the service proposed and to conform to the provisions of this chapter and the requirements, rules and regulations of the division established thereunder, a certificate therefor shall be issued.] **Upon the filing of an application pursuant to this section, the division shall publish notice of the application and proceed as provided by section 308.425, except as otherwise provided by this subsection.**

(1) Before or after the publication of notice, the division shall dismiss without a hearing:

(a) Any application for substantially the same common carrier authority that has been previously denied within six months of filing the subsequent application; and

(b) Any application offered for filing or filed with the division that is incomplete, defective or otherwise not in compliance with this chapter and the applicable rules and orders of the division.

(2) The division and administrative hearing commission shall delay any final decision of the application until the division staff has investigated the applicant's qualifications and filed a report on its investigation. This may include educational contacts, compliance reviews and follow-up visits to the carrier's terminals, witness interviews and any discovery procedures authorized by law or by the division's rules or orders. Division staff shall file this report within a reasonable time.

- [4. If the division finds that an applicant seeking to transport:
- (1) General and specialized commodities in less-than-truckload lots;
 - (2) Commodities in bulk in dump trucks, other than agricultural commodities in bulk in dump trucks, as defined in section 390.020;
 - (3) Mobile homes;
 - (4) Household goods;
 - (5) Passengers other than in charter service;
 - (6) Gasoline, fuel oil or liquefied petroleum gas;
 - (7) Boats;]

4. Each applicant for a common carrier certificate must prove that it is fit, willing and able to properly perform the service proposed, and to conform to the provisions of this chapter and the requirement, rules and regulations of the division, and that the service proposed will serve a useful present or future public purpose[, a certificate therefor specifying the service authorized shall be issued, unless the division finds on the basis of]; **but the application shall be denied if** evidence presented by persons objecting to the issuance of a certificate **establishes** that the transportation to be authorized by the certificate will be inconsistent with the public convenience and necessity.

5. In making findings under subsection 4 of this section, the division **and, if applicable, the administrative hearing commission** shall consider the testimony of the applicant, the proposed users of the service contemplated by the applicant, and any other relevant testimony or evidence, and [the division] shall consider, and to the extent applicable, make findings on at least the following:

- (1) The transportation policy of section [390.011] **308.030**; and
- (2) The criteria set forth in this subsection.

In cases where persons object to the issuance of a certificate, the diversion of revenue or traffic from existing carriers shall be considered.

6. The division **and administrative hearing commission** shall streamline and simplify to the maximum extent practicable the process for issuance of certificates to which the provisions of this section apply.

[7. The division shall dismiss on its motion any application for substantially the same common or contract authority that has been previously denied within six months of filing the subsequent application.]

[390.061] **308.410**. 1. Except as otherwise provided in section [390.030] **308.200 and subdivision (3) of subsection 5 of section 308.240**, no person shall engage in the business of a contract carrier **transporting passengers other than in charter service or household goods** in intrastate commerce on any public highway in this state unless there is in force with respect to such carrier a **contract carrier** permit issued by the division [of motor carrier and

railroad safety] authorizing such operations.

2. Applications for such permits shall be made to the division in writing, **verified under oath or penalty of perjury**, and shall contain such information as the division shall, by rule, require and shall include:

(1) Full information concerning the ownership, financial condition of applicant, equipment to be used and a statement listing the physical equipment of applicant and the reasonable value thereof;

(2) The complete route or routes over which the applicant desires to operate, or territory to be served;

(3) A complete copy of all original transportation contracts to be performed pursuant to the permit. Each contract shall:

(a) Be made by and between the applicant and the consignor, consignee, or other contracting party who will actually control the selection of the carrier and the routing of shipments or transportation provided under the contract, rather than any intermediaries;

(b) Express material, bilateral obligations on each party, including the shipper's or contracting party's obligation to tender to the carrier a definite or minimum quantity of freight to be carried or passenger service to be performed by the contract carrier during the term of the contract; and

(c) Specify an expiration date, or provide for cancellation by either contracting party upon not less than thirty days' notice to the other contracting party and to the division.

3. [If the division shall find that the applicant is seeking to transport general and specialized commodities in truckload lots, agricultural commodities in bulk, or passengers in charter service, and is fit, willing and able to properly perform the service proposed and to conform to the provisions of this chapter and the requirements, rules and regulations of the division thereunder, a permit therefor shall be issued.] **Upon the filing of an application pursuant to this section, the division shall publish notice of the application and proceed as provided by section 308.425, except as otherwise provided by this subsection.**

(1) Before or after the publication of notice, the division shall dismiss without a hearing:

(a) Any application for substantially the same contract carrier authority that has been previously denied within six months of filing the subsequent application; and

(b) Any application offered for filing or filed with the division that is incomplete, defective or otherwise not in compliance with this chapter and the applicable rules and orders of the division.

(2) The division and administrative hearing commission shall delay any final decision of the application until the division staff has investigated the applicant's qualifications and filed a report on its investigation. This may include educational contacts, compliance reviews and follow-up visits to the carrier's terminals, witness interviews, and any discovery procedures authorized by law or by the division's rules or orders. Division staff shall file this report within a reasonable time.

4. [If the division finds that an applicant seeking to transport commodities or passengers as described in subsection 4 of section 390.051] **Each applicant for a contract carrier permit must prove that it** is fit, willing and able to properly perform the service proposed, and to conform to the provisions of this chapter and the requirements, rules and regulations of the division, and that the service proposed will serve a useful present or future purpose[, a permit therefor specifying the service authorized shall be issued, unless the division finds on the basis of]; **but the application shall be denied if** evidence presented by persons objecting to the issuance of a permit **establishes** that the transportation to be authorized by the permit will be inconsistent with the public convenience and necessity.

5. Any permit issued under this section shall specify the service to be rendered, the contracting parties, and the points or area to be served.

6. The division will not have jurisdiction over contract rates. [A copy of the original contract must be filed with the division prior to issuance of a permit.] In the event the applicant chooses not to disclose contract rates in the application, the contract shall contain in lieu of rates a specific provision which incorporates by reference a schedule of rates, in writing, to be effective between carrier and shipper. Current contracts and rate schedules must be maintained by the carrier and contracting shippers. [A contract permit, authorizing the transportation of commodities or passengers other than as described in subsection 4 of section 390.051, may be amended to include additional contracting parties by the filing of said contracts with the division and acknowledgment by the division.]

[390.062] **308.415.** 1. **Except as otherwise provided in subsection 3 of sections 308.405 and 308.410,** the division, upon the filing of an application for a certificate under [subsection 4 of section 390.051] **section 308.405,** a permit under [subsection 4 of section 390.061] **section 308.410,** or the institution of a proceeding involving rate relief, except as provided in section [390.081] **308.420,** shall cause notice thereof to be published and served by the mailing of a notice register showing the name and address of the party filing the pleading, the name and address of the attorney, the division's docket number and a concise statement of the issues contained therein. Any interested party may obtain a copy of the pleading upon request to the director of the division.

2. Within fifteen days of the publication of an application, or other proceeding, any interested party may file a motion to intervene specifically setting forth its interest therein,

including a [statement of its authority] **copy of its common carrier certificate or contract carrier permit**, and **confirmation** that it is providing service thereunder. **Every motion to intervene shall be verified by the interested party under oath or penalty of perjury.**

3. If the proceeding is unopposed **by any intervening motor carrier**, the division may, in its discretion, [take evidence by verified statement, and] **determine the application** without hearing or other proceedings [issue its]. **The division's final order shall either dismiss, grant or deny the application, based on the evidence contained in the application, the division staff's report, and any other relevant evidence filed on the record by the applicant or division staff. The order shall specify any service that it authorizes the carrier to perform.**

4. If the proceeding is opposed, the division shall [assign] **transfer the matter to the administrative hearing commission** for hearing to be held no later than forty-five days after [filing] **the division gives notice of the transfer to the applicant and all intervenors**, unless an applicant requests or consents to a continuance[, or]. In the alternative, **the commission** may require the parties to adduce the evidence by verified statement and assign the matter for hearing to resolve factual conflicts. **Every corporation, limited liability company, unincorporated association and governmental entity that appears as a party in the proceedings before the administrative hearing commission shall be represented by a licensed attorney. The division shall always have standing to appear as a party in the proceedings before the administrative hearing commission.**

5. **In making its findings, the administrative hearing commission shall consider the record as filed with the division, the testimony of the applicant, the proposed users of the service contemplated by the applicant, the division staff, and any other relevant testimony or evidence. The commission shall consider and, to the extent applicable, make findings on at least the following:**

- (1) The transportation policy of section 308.030;**
- (2) The applicable criteria set forth in section 308.405 or section 308.410, and this section; and**
- (3) In cases where persons object to the issuance of a certificate, the diversion of revenue or traffic from existing carriers.**

[5.] **6.** The [division] **commission** shall issue its final order granting or denying the relief sought in whole or in part within ninety days after the submission of final arguments or else stand approved.

[6.] **7.** In the event the [division] **commission** shall designate an application as one of a complex nature requiring a substantial record, the [division] **commission** may, upon making such written finding, extend the period of time for issuing a decision an additional thirty days.

[390.081] **308.425.** 1. In order to provide motor carrier service for which there is an

immediate and urgent need **to transport passengers or household goods** from, to or between a point or points or within a territory having no carrier service deemed capable of meeting such need, the division [of motor carrier and railroad safety] shall, pending the filing **and determination** of an application for a **common carrier** certificate [under section 390.051 or 390.061] **pursuant to section 308.405, or for a contract carrier permit pursuant to section 308.410**, without a hearing or other proceeding, grant temporary authority for a period not exceeding ninety days for such service by a common carrier or contract carrier, as the case may be. The issuance of such temporary authority shall create no presumption that corresponding permanent authority will be granted therefor.

2. Such temporary authority shall be granted only upon the payment of such fees and compliance with such rules, regulations and requirements as the division shall, by general order establish for the administration of this section, and transportation service rendered under such authority shall be subject to all applicable provisions of this chapter and to the rules, regulations and requirements of the division established thereunder, that are not in conflict with this section.

3. Upon the filing of a renewal application conforming to the division's requirements, the division may grant temporary authority for an additional period of not more than ninety days, if the division finds that an immediate and urgent need for transportation service, as previously determined pursuant to subsection 1 of this section, continues to exist and will go unmet without the renewal of the applicant's temporary authority.

[390.150] **308.427.** 1. Every intrastate common or contract carrier of household goods or passengers shall submit once a year to the division on or before April fifteenth a financial statement for the year ending December thirty-first preceding stating only the assets and liabilities of the carrier.

2. The division shall determine the form of the financial statement and a blank form will be furnished by the agency to each intrastate common or contract carrier of household goods or passengers.

3. The division may also require such corporations or persons to file additional statistical information covering a period and time as determined by the agency; may notify the corporation or person to amend a defective or believed to be erroneous financial statement; or may extend the filing of such statement for a period not exceeding sixty days.

4. [Each motor carrier of passengers or property shall keep its books and records as prescribed by the division. These records, as well as records of affiliates, entities under common control or any other related parties, shall be subject to inspection at any time by the division or its authorized representatives.

5.] If any intrastate common or contract carrier of household goods or passengers shall fail to make and file the financial statement within the time specified above or within the time

extended by the division, or shall fail to provide additional statistical information when required, or if any motor carrier of passengers or property shall fail to maintain adequate records, the division may suspend the certificate, permit or property carrier registration, upon notice to the motor carrier or seek penalties. The penalties recovered shall be deposited to the credit of the public school fund of the state.

[390.101] **308.430.** No common carrier authorized under the provisions of [this chapter] **sections 308.400 to 308.499** to operate within the state of Missouri shall abandon, discontinue, or fail to provide any service established or authorized to be established under the provisions of [this chapter] **those sections**, unless such action is authorized by the division [of motor carrier and railroad safety].

[390.111] **308.435.** 1. In the event a motor carrier, to which a **common carrier** certificate or **contract carrier** permit shall have been issued under the provisions of [this chapter] **sections 308.400 to 308.499**, shall sell, transfer, or assign the business, rights or assets of such motor carrier, or any part thereof, and such motor carrier and the purchaser thereof shall make proper application to the division in writing, containing such information as shall be prescribed by the division by general order with respect to the transfer of **such** certificates or permits, the division shall transfer such original certificate or permit issued to such motor carrier, or the part so sold to such purchaser, if the division shall determine that the purchaser is in all respects qualified under the provisions of [this chapter] **sections 308.400 to 308.499** to conduct the business of a motor carrier within the meaning of the provisions of this chapter, and upon the transfer of such certificate or permit it shall be effective in like manner as though originally issued to such purchaser[; provided, however, the division shall not be required to transfer from a certificate authorizing the transportation of general commodities or freight, any portion of such certificate authorizing the transportation of a part of such general commodities or freight over the same route or within the same territory, unless the division shall further determine, after hearing upon due notice, that such transfer is consistent with the public interest]. **However, the division shall not transfer all or any portion of a house mover license.**

2. When there is a consolidation of one or more certificates as the result of a transfer of operating rights, and when the division shall find that any through service made possible thereby will be beneficial to the public, such through service may be authorized.

[390.116.] **308.440.** 1. Common carriers of [property] **household goods** may establish reasonable through routes and joint rates, charges and classifications with other such carriers or with common carriers by railroad or express; and common carriers of passengers may establish reasonable through routes and joint rates, fares or charges with other such carriers or with common carriers by railroad. In case of such joint rates, fares, charges or classifications, it shall be the duty of the carriers, parties thereto, to establish just and reasonable regulations and practices in connection therewith, and just, reasonable and equitable divisions thereof as between

the carriers participating therein which shall not unduly prefer or prejudice any of such participating carriers.

2. The division may, whenever deemed by it to be necessary or desirable in the public interest, after hearing, upon complaint or upon its own motion, order the establishment of just and reasonable through routes and joint rates, fares, charges, regulations or practices, applicable to the transportation of passengers or property by common carriers.

[390.121.] **308.445.** Whenever, after hearing, upon complaint or in an investigation on its own motion, the division shall be of the opinion that any individual or joint rate, fare or charge, demanded, charged or collected by any common carrier **of passengers or household goods** by motor vehicle or by any common carrier **of passengers or household goods** by motor vehicle in conjunction with any common carrier by railroad or express, for transportation; or any classification, rule, regulation or practice whatsoever of such carrier or carriers affecting such rate, fare or charge or the value of the service thereunder, is or will be unjust or unreasonable, unjustly discriminatory, unduly preferential or unduly prejudicial, it shall determine and prescribe the lawful rate, fare or charge or maximum or minimum, or maximum and minimum rates, fares or charges thereafter to be observed, or the lawful classifications, rules, regulations or practices thereafter to be made effective.

[387.030.] **308.450.** Every corporation, person or motor carrier [performing a service designated in section 387.010] **engaged in the transportation of passengers or household goods** shall furnish, with respect thereto, such service and facilities as shall be safe and adequate and in all respects just and reasonable. All charges made or demanded by any such corporation, person or motor carrier for the transportation of passengers or household goods or for any service rendered or to be rendered in connection therewith, as defined in section [386.020, RSMo] **308.020**, shall be just and reasonable and not more than allowed by law or by order or decision of the division [of motor carrier and railroad safety] and made as authorized by this chapter. Every unjust or unreasonable charge made or demanded for any such service or transportation of passengers or household goods or in connection therewith or in excess of that allowed by law or by order or decision of the division is prohibited.

[387.040.] **308.452.** No motor carrier subject to the provisions of [this chapter] **sections 308.400 to 308.499** shall engage or participate in the transportation of passengers or household goods, between points within this state, until its schedules of rates, fares and charges shall have been filed and published in accordance with the provisions of [this chapter] **sections 308.400 to 308.499**. Any motor carrier, which shall undertake to perform any service or furnish any product or commodity unless or until the rates, tolls, fares, charges, classifications and rules and regulations relating thereto, applicable to such service, product or commodity, have been filed with the division of motor carrier [and railroad safety] **services** and published in accordance with the provisions of [this chapter] **sections 308.400 to 308.499**, shall be subject to forfeiture

to the state pursuant to the provisions of sections [390.156 to 390.176, RSMo] **308.800 to 308.1099.**

[387.050.] **308.453.** 1. Every motor carrier shall file with the division [of motor carrier and railroad safety] and shall print and keep open to public inspection schedules showing the rates, fares and charges for the transportation of passengers and household goods within this state between each point upon its route and all other points thereon and between each point upon its route and all points upon every route leased, operated or controlled by it and between each point on its route or upon any route leased, operated or controlled by it and all points upon the route of any other motor carrier, whenever a through route and joint rate shall have been established or ordered between any two such points. If no joint rate over a through route has been established, the several carriers in such through route shall file, print and keep open to public inspection, as aforesaid, the separately established rates, fares and charges applied to the through transportation.

2. The schedules printed as aforesaid shall plainly state the places between which household goods and passengers will be carried, and shall also contain the classification of passengers or household goods in force, and shall also state separately all terminal charges, storage charges, icing charges and all other charges which the division may require to be stated, all privileges or facilities granted or allowed, and any rules or regulations which may in any way change, affect or determine any part or the aggregate of such aforesaid rates, fares and charges, or the value of the service rendered to the passenger, shipper or consignee.

3. Such schedules shall be plainly printed in large type, and a copy thereof shall be kept by every such carrier readily accessible to and for convenient inspection by the public in every station or office of such carrier where passengers or household goods are respectively received for transportation, when such station or office is in charge of an agent, and in every station or office of such carrier where passenger tickets for transportation or tickets covering bills of lading or receipts for household goods are issued. All or any of such schedules kept as aforesaid shall be immediately produced by such carrier for inspection upon the demand of any person.

4. A notice printed in bold type and stating that such schedules are on file with the agent and open to inspection by any person and that the agent will assist any such person to determine from such schedules any transportation rates or fares or rules or regulations which are in force shall be kept posted by the carrier in two public and conspicuous places in every such station or office.

5. The form of every such schedule shall be prescribed by the division.

6. The division shall have power, from time to time, in its discretion, to determine and prescribe by order such changes in the form of such schedules as may be found expedient, and to modify the requirements of this section in respect to publishing, posting and filing of schedules either in particular instances or by general order applicable to special or peculiar circumstances

or conditions.

[387.060.] **308.455.** 1. It shall be the duty of every motor carrier **of passengers or household goods** doing an intrastate business within this state, upon written request therefor, by any person who is a bona fide prospective **passenger or** shipper or receiver of household goods or who has a bona fide interest therein, made upon any general or local freight or station agent of such carrier, by any person, firm or corporation, to furnish and give a written statement of the rate or charge applicable to a described **passenger trip or** shipment between stated points or places in this state under the schedule or tariffs to which such carrier is a party, within a reasonable time; and if such carrier shall refuse or omit to give such statement within a reasonable time, or shall misstate in writing the applicable rate, and if the person, firm or corporation making such request suffers in consequence of such refusal or omission or in consequence of the misstatement of the rate, either through making the **passenger trip or** shipment over a route for which the proper rate is higher than the rate over another available route, or through entering into any sale, purchase or contract whereunder such person, firm or corporation obligates himself, themselves or itself, or becomes obligated to make **such passenger trip** or receive such shipment of household goods at his, their or its cost, then the said carrier shall be liable pursuant to the provisions of sections [390.156 to 390.176, RSMo] **308.800 to 308.1099**, and be recovered in a civil action by the division of motor carrier [and railroad safety] **services**, and shall also be liable to the person, firm or corporation injured as aforesaid for the amount of such injury, together with six percent interest thereon from the date of such injury, and with a reasonable attorney's fee; provided, that no such liability shall be discharged by such carrier unless the same be approved by the division as being free from any attempt or purpose to evade any other law of this state; and provided further, that, if during the course of any action upon such liability to the person injured, it shall appear to the satisfaction of the court or jury trying any such cause, that the parties have combined or agreed to obtain or allow any undue advantage or rebate or preference to such injured person, upon a finding to that effect, such cause shall be dismissed and the dismissal and finding reported by said court to the division. Such dismissal shall be taken and deemed a final judgment, and appeal may be taken therefrom or from any other judgment in any such cause the same as in other civil cases.

2. No carrier making any settlement or payment upon the approval of the division or pursuant to a judgment or order of court under this section shall be liable for any penalty or forfeiture or subject to any prosecution under any other law of this state on account of the said payment or settlement.

3. The division may require from any person, firm or corporation any information deemed by the division necessary to the determination of the question whether it shall give its approval to any such claim, and if the same be refused by the injured person, may decline said claim, and it shall not be sued upon thereafter; if such information be refused or request therefor be evaded

or the search for information by the division be made difficult by the carrier, the division shall endorse such fact on said claim and it shall thereafter support an action as if approved by the division.

[387.070.] **308.457.** Unless the division [of motor carrier and railroad safety] otherwise orders, no change shall be made in any rate, fare or charge, or joint rate, fare or charge, which shall have been filed and published by a motor carrier **of passengers or household goods** in compliance with the requirements of [this chapter] **sections 308.400 to 308.499**, except after thirty days' notice to the division and publication for thirty days as required by [this chapter] **sections 308.400 to 308.499**, which shall plainly state the changes proposed to be made in the schedule then in force, and the time when the changed rate, fare or charge will go into effect [and]. All proposed changes shall be shown by printing, filing and publishing new schedules or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection. The division, for good cause shown, may allow changes in **such** rates without requiring the thirty days' notice and publication herein provided for, by duly filing and publishing in such manner as it may direct an order specifying the change so made and the time when it shall take effect; all such changes shall be immediately indicated upon its schedules by the motor carrier.

[387.080.] **308.458.** 1. The names of the several carriers which are parties to any joint tariff shall be specified therein, and each of the parties thereto, other than the one filing the same, shall file with the division [of motor carrier and railroad safety] such evidence of concurrence therein or acceptance thereof as may be required or approved by the division; and where such evidence of concurrence or acceptance is filed, it shall not be necessary for the carriers filing the same also to file copies of the tariffs in which they are named as parties.

2. Every motor carrier shall file with the division sworn copies of every contract, agreement or arrangement with any other motor carrier or motor carriers relating in any way to the transportation of passengers or [property] **household goods**.

[387.100.] **308.460.** 1. No motor carrier shall charge, demand, collect or receive a greater or less or different compensation for transportation of passengers or household goods, or for any service in connection therewith, than the rates, fares and charges applicable to such transportation as specified in its schedules filed and in effect at the time.

2. No motor carrier shall, directly or indirectly, by any special rate, rebate, drawback or other device or method, charge, demand, collect or receive from any person or corporation a greater or less or different compensation for any service rendered or to be rendered in the transportation of passengers or household goods, except as authorized in [this chapter] **sections 308.400 to 308.499**, than it charges, demands, collects or receives from any other person or corporation for doing a like and contemporaneous service in the transportation of a like kind of traffic under the same or substantially similar circumstances and conditions.

[387.110.] **308.462.** 1. No motor carrier **of passengers or household goods** shall make or give any undue or unreasonable preference or advantage to any person or corporation or to any locality or to any particular description of traffic in any respect whatsoever, or subject any particular person or corporation or locality or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

2. Notwithstanding any other provision of law to the contrary, no common carrier of household goods shall use any schedule of rates or charges, or both, for the transportation of household goods within this state which divides this state into territorial rate areas. Any schedule of rates or charges, or both, which divides, or attempts to divide, this state into territorial rate areas is unjust, unreasonable, and invalid.

[387.120.] **308.465.** No motor carrier of passengers or household goods shall directly or indirectly issue or give any free ticket, free pass or free transportation for any passenger or household goods between points in this state, except that, in accordance with the requirements of [this chapter] **sections 308.400 to 308.499**, and unless prohibited by order of the division, a motor carrier may provide in its lawful tariff schedules for the transportation of passengers or household goods free of charge, or at discounted or reduced rates to, from or for the account of the following:

(1) Any charitable institution or organization which is duly organized and registered with the office of the Missouri secretary of state as a religious or charitable association pursuant to chapter 352, RSMo, or as a general not-for-profit corporation pursuant to chapter 355, RSMo, or any nonprofit, charitable institution or organization organized or registered pursuant to the laws of any state or the United States;

(2) Any employee, officer or director of the motor carrier, or any relative within the second degree of consanguinity or affinity of any employee, officer or director of the motor carrier;

(3) Any location or person while transporting passengers or household goods for the exclusive purpose of providing relief in case of any general emergency or disaster.

[387.130.] **308.467.** No motor carrier or any officer or agent thereof or any person acting for or employed by it, shall assist, suffer or permit any person or corporation to obtain transportation for any passenger or household goods between points within this state at less than the rates then established and in force in accordance with the schedules filed and published in accordance with the provisions of [this chapter] **sections 308.400 to 308.499**, by means of false billing, false classification, false weight or weighing, or false report of weight, or by any other device or means. No person, corporation, or any officer, agent or employee of a corporation, who shall deliver household goods for transportation within this state to a motor carrier, shall seek to obtain or obtain such transportation for such household goods at less than the rates then established and in force therefor, as aforesaid, by false billing, false or incorrect classification, false weight or weighing, false representation of the contents of a package, or false report or

statement of weight, or by any other device or means, whether with or without the consent or connivance of the motor carrier, or any of its officers, agents or employees.

[387.150.] **308.469.** No motor carrier shall enter into or become a party to any combination, contract, agreement or understanding, written or oral, express or implied, to prevent by any arrangement, or by change of arrangement of time schedule, by carriage or by any other means or device whatsoever the carriage of household goods from being continuous from the place of shipment to the place of destination. No breakage of bulk, stoppage or interruption of carriage made by any motor carrier shall prevent the carriage of household goods from being treated as one continuous carriage from the place of shipment to the place of destination. Nor shall any such breakage of bulk, stoppage or interruption of carriage be made or permitted by any motor carrier except it be done in good faith for a necessary purpose without intention to avoid or unnecessarily interrupt or delay the continuous carriage of such household goods or to evade any of the provisions of law, of this chapter, or of any order or decision of the division [of motor carrier and railroad safety].

[387.180.] **308.470.** 1. Every motor carrier shall, upon demand, issue either a receipt or bill of lading for all household goods delivered to it for transportation. No contract, stipulation or clause in any receipt or bill of lading shall exempt or be held to exempt any motor carrier from any liability for loss, damage or injury caused by it to household goods from the time of its delivery for transportation until the same shall have been received at its destination and a reasonable time shall have elapsed after notice to consignee of such arrival to permit of the removal of such property.

2. Every motor carrier shall be liable for all loss, damage or injury to household goods caused by delay in transit due to negligence while the same is being carried by it, but in any action to recover for damages sustained by delay in transit the burden of proof shall be upon the defendant to show that such delay was not due to negligence.

3. Every motor carrier shall be liable for loss, damage and injury to household goods carried as baggage up to the full value and regardless of the character thereof, but the value in excess of one hundred and fifty dollars shall be stated upon delivery to the carrier, and a written receipt stating the value shall be issued by the carrier, who may make a reasonable charge for the assumption of such liability in excess of one hundred and fifty dollars and for the carriage of baggage exceeding one hundred and fifty pounds in weight upon a single ticket. Nothing in this section shall deprive any holder of such receipt or bill of lading of any remedy or right of action which the holder has under existing laws.

[387.190.] **308.472.** 1. Whenever the division [of motor carrier and railroad safety] shall be of the opinion, after [a hearing had upon its own motion or upon complaint,] **conducting audits of the affected motor carriers, or otherwise gathering pertinent information as authorized by law**, that the rates, fares or charges demanded, exacted, charged or collected by

any motor carrier for the transportation of persons or [household goods] **equipment and other property** within the state, or that the regulations or practices of such motor carrier affecting such rates are unjust, unreasonable, unjustly discriminatory or unduly preferential, or in any wise in violation of any provisions of law, or that the maximum rates, fares or charges, chargeable by any such motor carrier are insufficient to yield reasonable compensation for the service rendered, and are unjust and unreasonable, the division shall, with due regard, among other things, to a reasonable average return upon the value of the household goods actually used in the public service and to the necessity of making reservation out of income for surplus and contingencies, determine the just and reasonable rates, fares and charges to be thereafter observed and in force as the maximum to be charged for the service to be performed, notwithstanding that a higher rate, fare or charge has been heretofore authorized by statute, and shall fix the same by order to be served upon all motor carriers by whom such rates, fares and charges are thereafter to be observed.

2. Whenever the division shall be of the opinion, after [a hearing had upon its own motion or upon complaint,] **conducting audits of the affected motor carriers, or otherwise gathering pertinent information as authorized by law**, that the rates, fares or charges demanded, exacted, charged or collected by any motor carrier **of passengers** for excursion, school or family commutation, commutation passenger tickets, half-fare tickets for the transportation of children under twelve years of age, or any other form of reduced rate tickets for the transportation of persons within the state, or joint interchangeable mileage tickets, with special privileges as to the amount of free baggage that may be carried under mileage tickets of one thousand miles or more within the state, or [that] the regulations or practices of such motor carrier affecting such rates are unjust, unreasonable, unjustly discriminatory or unduly preferential, or in any wise in violation of any provision of law, or that the maximum rates, fares or charges collected or charged for any of such forms of reduced fare passenger transportation tickets by any such motor carrier are insufficient to yield reasonable compensation for the service rendered, and are unjust and unreasonable, the division shall, with due regard, among other things, to a reasonable average return upon the value of the household goods actually used in the public service and to the necessity of making reservation out of income for surplus and contingencies, determine the just and reasonable rates, fares and charges to be thereafter observed and enforced as the maximum to be charged for such mileage, excursion, school or family commutation, half-fare or any other form of reduced fare tickets for the transportation of persons, or joint interchangeable mileage tickets with special privileges as aforesaid, and shall order the sale and use thereof to be restored, of any of the kinds of tickets herein specified or any other form of reduced rate ticket for the transportation of persons within the state and shall determine and prescribe the reasonable and just rates, fares and charges to be thereafter observed and enforced as the maximum to be charged for any such form of ticket or tickets for

the transportation of persons within this state, all of which laws fixing such rates, fares and charges or requiring the restoration of, sale and use of any of such forms of ticket or tickets, shall be by order to be served upon all motor carriers by whom such rates, fares and charges or restoration of, sale or use of, such ticket or tickets are thereafter to be observed.

3. Whenever the division shall be of the opinion, after [a hearing had upon its own motion or upon complaint,] **conducting audits of the affected motor carriers, or otherwise gathering pertinent information as authorized by law**, that the regulations, practices, equipment, appliances or service of any such motor carrier in respect to transportation of persons or household goods within this state are unjust, unreasonable, unsafe, improper or inadequate, the division shall determine the just, reasonable, safe, adequate and proper regulations, practices, equipment, appliances and service thereafter to be in force, to be observed and to be used in such transportation of persons and household goods and so fix and prescribe the same by order to be served upon every motor carrier to be bound thereby; and thereafter it shall be the duty of every motor carrier to observe and obey each and every requirement of every such order so served upon it, and to do everything necessary or proper in order to secure absolute compliance with and observance of every such order by all of its officers, agents and employees.

4. The division shall have power to require, by order, any two or more motor carriers, whose lines, owned, operated, controlled or leased, form a continuous or connecting line of transportation by transfer of household goods or passengers at connecting points, to establish through rates and joint rates, fares and charges for the transportation of passengers and household goods within the state as the division may, by its order, designate[; and in case such ~~if~~ **the required** through rates[,] and joint rates ~~[be]~~ **are** not established by the motor carriers named in any such order within the time therein specified, the division shall establish just and reasonable rates, fares and charges, to be charged for such through transportation, and declare the portions thereof to which each motor carrier affected thereby shall be entitled and the manner in which the same shall be paid and secured[; and]. The division shall also have power in the same proceeding, or in a separate proceeding involving any rates, fares or charges, to prescribe joint rates and fares and charges as the maximum to be exacted for the transportation by them of passengers and household goods within the state, and to require [such] **the** motor carriers affected thereby to make within a specified time an agreement between them as to the portion of such joint rates, fares or charges to which each of them shall be entitled[; and in case such agreement be not so made]. **If those carriers cannot reach an agreement acceptable to the division** within the time so specified the division may declare by supplemental order the portion thereof to which each motor carrier affected thereby shall be entitled and the manner in which the same shall be paid and secured[; such]. **The** supplemental order shall take effect as part of the original order from the time such supplemental order shall become effective.

[387.200.] **308.475. 1.** Whenever there shall be filed with the division of motor carrier

[and railroad safety] **services** by any motor carrier any **tariff** schedule stating a new individual or joint rate, fare or charge, or any new individual or joint classification, or any new individual or joint regulation or practice affecting any rate, fare or charge **for the transportation of passengers or household goods**, the division shall have, and it is hereby given, authority, [either upon complaint or upon its own initiative without complaint at once, and if it so orders without answer or other formal pleading by the interested carrier or carriers, but] upon reasonable notice **to the affected carrier or carriers**, to [enter upon a hearing, concerning] **issue orders determining** the propriety of such rate, fare, charge, classification, regulation or practice; and [pending such hearing and the decision thereon] the [division] **director**, upon filing with such schedule and delivering to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, fare, charge, classification, regulation or practice, but not for a longer period than one hundred and twenty days beyond the time when such rate, fare, charge, classification, regulation or practice, would otherwise go into effect[.];

2. Upon application by any party aggrieved by the division's rate order pursuant to this section, not later than thirty days after the issuance of that order, the administrative hearing commission shall review the division's order, and after full hearing, whether completed before or after the rate, fare, charge, classification, regulation or practice goes into effect, the [division] **commission** may make such order in reference to such rate, fare, charge, classification, regulation or practice as would be proper in a proceeding initiated after the rate, fare, charge, classification, regulation or practice had become effective; provided, that if any such hearing cannot be concluded within the period of suspension, as stated in this section, the division may, in its discretion, extend the time of suspension for a further period not exceeding six months.

3. At any hearing involving a rate increased or a rate sought to be increased after August 28, 1996, the burden of proof to show that the increased rate or proposed increased rate is just and reasonable shall be upon the motor carrier, and the [division] **commission** shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible.

[387.205.] **308.477.** The division shall ascertain, determine and, **by rules or orders**, fix for each motor carrier of passengers or household goods suitable and convenient standard commercial units of service, product or commodity, which units shall be lawful units for the purposes of this chapter.

[387.207.] **308.479.** All rates, tolls, charges, schedules and joint rates fixed by **order of** the division with reference to the transportation of passengers or household goods by motor carrier shall be in force and shall be prima facie lawful, and all regulations, practices and services prescribed by the division shall be in force and shall be prima facie lawful and reasonable until

found otherwise in a [suit brought for that purpose pursuant to the provisions of] **proceeding for review of that order as provided in** this chapter.

[387.210.] **308.480.** 1. If in the judgment of the division [of motor carrier and railroad safety], additional terminals or terminal facilities, stations or any other property, construction, apparatus, equipment, facilities or device for use by any motor carrier in connection with the transportation of passengers or household goods ought reasonably to be provided, or any repairs or improvements to or changes in any thereof in use ought reasonably to be made, or any additions or changes in construction should reasonably be made thereto in order to promote the security or convenience of the public or employees, or in order to secure adequate service or facilities for the transportation of passengers or [property] **household goods**, the division shall, [after a hearing, either on its own motion or after complaint] **upon reasonable notice to the affected motor carrier or carriers**, make and serve an order directing such repairs, improvements, changes or additions to be made within a reasonable time and in a manner to be specified [therein, and] **in the order**. Every motor carrier is hereby required and directed to make all repairs, improvements, changes and additions required of it by any order of the division served upon it.

2. If any repairs, improvements, changes or additions which the division has determined to order require joint action by two or more [of said corporations] **motor carriers**, the division shall, before entry and service of **its** order, notify [the said corporations] **those motor carriers** that such repairs, improvements, changes or additions will be required and that the same shall be made at their joint cost[, and thereupon the said corporations]. **Then the motor carriers** shall have thirty days or such longer time as the division may grant within which to agree upon the part or division of cost of such repairs, improvements, changes or additions which each shall bear. If at the expiration of such time such [corporations] **carriers** shall fail to file with the division a statement that an agreement has been made for a division or apportionment of such repairs, improvements, changes or additions, the division shall have authority, after [further hearing] **requiring the carriers to file any additional information requested by the division**, to fix in its order the proportion of such cost or expense to be borne by each [corporation] **carrier**, and the manner in which the same shall be paid and secured.

[387.300.] **308.490.** 1. The division [of motor carrier and railroad safety] shall have the power to ascertain the value of the property of every motor carrier **of passengers or household goods** in this state and every fact which in its judgment may or does have any bearing on such value. The division shall have power to make revaluations from time to time and to ascertain all new construction, extensions and additions to the property of [every] **these** motor [carrier] **carriers**.

2. For the purpose of ascertaining the matters and things specified in this section concerning the value of the property of motor carriers the division may [cause a hearing or

hearings to be held at such time or times or place or places as the division may designate. Before any hearing is had, the] **conduct audits of the affected motor carriers, and may require them, and their officers, directors and other representatives, to file any additional information requested by the division. Before issuing these orders, the** division shall give the motor carrier affected thereby at least thirty days' written notice[, specifying the time and place of such hearing, and such notice shall be sufficient to authorize the division to inquire into] **of the division's intent to determine** the matters designated in this section, but this provision shall not prevent the division from making any preliminary examination or investigation into the matters herein referred to, or from inquiring into such matters in any other investigation or hearing. All motor carriers affected shall be entitled to [be heard and to introduce] **file evidence [at such hearing or hearings] relating to the value of their property, which the division shall consider.** The division is empowered to resort to any other source of information available which information shall be [offered in evidence on such hearing. The evidence introduced at such a hearing or at such hearings shall be reduced to writing and certified under the seal of the division] **filed on the record of the proceeding.**

3. The division shall make and file its findings of fact in writing upon all matters concerning which evidence shall have been introduced before it which in its judgment have bearing on the value of the property of the motor carrier affected. Such findings shall be subject to review by **the administrative hearing commission, and thereafter by** any circuit court of this state in the same manner and within the same time as other orders and decisions of the division. The findings of the division so made and filed, when properly certified under the seal of the division, shall be admissible in evidence in any action, proceeding or hearing before the division, **the commission** or any court in which the division, the state or any officer, department or institution thereof, or any county, city, municipality or other body politic and the motor carrier affected may be interested, whether arising under the provisions of this chapter or otherwise, and such findings when so introduced shall be conclusive evidence of the acts therein stated as of the date therein stated under conditions then existing, and such facts can only be controverted by showing a subsequent change in conditions bearing upon the facts therein determined.

4. The division may from time to time cause further [hearings] **audits** and investigations to be had for the purpose of making revaluations or ascertaining the value of any betterments, improvements, additions or extensions made by any motor carrier subsequent to any prior hearing or investigation, and may examine into all matters which may change, modify or affect any findings of fact previously made, and may at such time make findings of fact supplementary to those theretofore made. [Such hearings] **These supplementary findings** shall be had upon the same notice and be conducted in the same manner, and the findings so made shall have the same force and effect as is provided herein for such original notice, [hearing] **proceedings** and findings; provided, that such findings made at such supplemental [hearings] **audits** or

investigations shall be considered in connection with and as a part of the original findings except insofar as such supplemental findings shall change or modify the findings made [at] **during** the original [hearing] **proceedings** or investigation.

[387.310.] **308.492.** 1. The division [of motor carrier and railroad safety] may, whenever it deems advisable, establish a system of accounts to be used by motor carriers which are subject to its supervision, or may classify the [said corporations and other] **motor** carriers and prescribe a system of accounts for each class, and may prescribe the manner in which such accounts shall be kept. It may also, in its discretion, prescribe the forms of accounts, records and memoranda to be kept by [such corporations] **motor carriers**, including the accounts, records and memoranda of the movement of traffic, as well as the receipts and expenditures of moneys. Notice of alterations by the division in the required method or form of keeping a system of accounts shall be given to [such persons or corporations] **the affected motor carriers** by the division at least six months before the same are to take effect.

2. The division shall at all times have access to all accounts, records and memoranda kept by motor carriers, and may designate any of its officers or employees, who shall thereupon have authority under the order of the division to inspect and examine, **audit and copy** any and all accounts, records and memoranda kept by [such corporations] **these entities**.

3. The division may, after [hearing] **reasonable notice to the affected motor carriers**, prescribe by order the accounts in which particular outlays and receipts shall be entered, charged or credited. Whenever the division has prescribed the form of accounts, records and memoranda to be kept by [such corporations] **these entities**, it shall be unlawful for them to keep any other accounts, records or memoranda than those so prescribed, or those prescribed by or under the authority of the United States.

4. Any employee or agent of the division who divulges any fact or information which may come to the employee's or agent's knowledge during the course of any [such] **audit**, inspection or examination except insofar as the employee or agent may be directed by the division or by a court, or authorized by law, shall be guilty of a misdemeanor.

[387.320.] **308.495.** The division [of motor carrier and railroad safety] shall have power, after [hearing] **reasonable notice to the affected motor carriers**, to require any or all motor carriers **of passengers or household goods** to carry a proper and adequate depreciation account in accordance with such rules, regulations and forms of account as the division may prescribe. The division may, from time to time, ascertain and determine and by order fix the proper and adequate rates of depreciation of the several classes of property of such corporation, person or public utility. Each motor carrier shall conform its depreciation accounts to the rates so ascertained, determined and fixed, and shall set aside the moneys so provided for out of earnings and carry the same in a depreciation fund and expend such fund only for such purposes and under such rules and regulations, both as to original expenditure and subsequent

replacement as the division may prescribe. The income from investments of moneys in such fund shall likewise be carried in such fund.

[324.703.] **308.500.** All persons who engage in the business of housemoving on the roads and highways of this state shall be licensed by the division of motor carrier [and railroad safety] **services.**

[324.706.] **308.505.** The division shall issue licenses to applicants meeting the following conditions:

(1) The applicant must be at least [eighteen] **twenty-one** years of age, possess a valid **class A** commercial driver's license and have at least twenty-four months' experience in moving houses;

(2) The applicant must furnish proof that all of the vehicles to be used in the movement of houses have met the requirements of sections 307.350 to 307.400, RSMo, or its equivalent pertaining to the inspection of motor vehicles;

(3) The applicant must exhibit his federal employer's identification number; and

(4) The applicant must pay an annual license fee of one hundred dollars. All moneys received for housemover licenses shall be paid to and collected by the division of motor carrier [and railroad safety] **services** and transmitted to the director of revenue and deposited in the state treasury to the credit of the state highways and transportation fund as established in section 226.200, RSMo.

[324.709.] **308.510.** A **housemover** license issued pursuant to sections [324.700 to 327.742] **308.500 to 308.599** shall be effective for a period of one year from the date of issuance and shall be renewable on an annual basis.

[324.712.] **308.515.** 1. No **housemover** license shall be issued or renewed unless the applicant files with the division a certificate or certificates of insurance from an insurance company or companies authorized to do business in this state. The applicant must demonstrate that he or she has:

(1) Motor vehicle insurance for bodily injury to or death of one or more persons in any one accident and for injury or destruction of property of others in any one accident with minimum coverage [of] **in an amount established by the division by rule, but not less than** five hundred thousand dollars;

(2) Comprehensive general liability insurance with [a] minimum coverage [of] **in an amount established by the division by rule, but not less than** two million dollars, including coverage of operations on state streets and highways that are not covered by motor vehicle insurance; and

(3) Workers' compensation insurance that complies with chapter 287, RSMo, for all employees.

2. The certificate or certificates shall provide for continuous coverage during the effective

period of the license issued pursuant to this section. At the time the certificate is filed, the applicant shall also file with the division a current list of all motor vehicles covered by the certificate. The applicant shall file amendments to the list within fifteen days of any changes.

3. An insurance company issuing any insurance policy required by this section shall notify the division of any of the following events at least thirty days before its occurrence:

- (1) Cancellation of the policy;
- (2) Nonrenewal of the policy by the company; or
- (3) Any change in the policy.

4. In addition to all coverages required by this section, the applicant shall file with the division a copy of either:

(1) A bond or other acceptable surety providing coverage in the amount of fifty thousand dollars for the benefit of a person contracting with the housemover to move that person's house for all claims for property damage arising from the movement of a house; or

(2) A policy of cargo insurance in the amount of one hundred thousand dollars.

[324.715.] 308.520. 1. Persons licensed as housemovers shall also be required to secure a special permit, as provided for pursuant to section **[304.200, RSMo] 308.700**, from the **[chief engineer of the department of transportation] division** for every move undertaken on the state highway system. The permit shall be issued by the **[chief engineer] division** if the **[chief engineer] division** determines that the applicant:

- (1) Is properly licensed pursuant to sections **[324.700 to 324.745] 308.500 to 308.599**;
- (2) Has furnished the surety bond or policy of cargo insurance required by subsection 4 of section **[324.712] 304.515**; and
- (3) Is complying with such other regulations as required by the division **[of motor carrier and railroad safety]**.

2. A **housemover** license shall not be required for individuals moving their own houses from or to property owned individually by those persons; however, a special permit will be required for all moves.

3. Licensed housemovers shall furnish one rear escort vehicle on interstate and other divided highways. Licensed housemovers shall provide two escorts on all multilane and two-lane highways, one in front and one rear.

[324.718.] 308.525. 1. Application for a special permit to move a house must be made to the **[chief engineer of the department of transportation] division** at least two **[days] weeks** prior to the date of the move. For good cause shown, this time may be waived by the chief engineer.

2. A travel plan shall accompany the application for the special permit. The travel plan will show the proposed route, the time estimated for each segment of the move, and a plan to handle traffic so that no one delay to other highway users shall exceed twenty minutes. The

chief engineer shall review the travel plan and if the route cannot accommodate the move due to roadway weight limits, bridge size or weight limits, or will cause undue interruption of traffic flow, the special permit shall not be issued.

3. The applicant may submit alternate plans if desired until an acceptable route is determined. If the width of the house to be relocated is more than thirty-six feet, or if no acceptable travel plan has been filed, and the denial of the permit would cause a hardship, the application and travel plan may be submitted to the [chief engineer] **division** on appeal. After reviewing the route and travel plan, the [chief engineer] **division** may in [his or her] **its** discretion issue the permit after considering the practical physical limitations of the route, the nature and purpose of the move, the size and weight of the house, the distance the house is to be moved, and the safety and convenience of the traveling public. A surety bond in the amount to cover the cost of any damage to the pavement, structures, bridges, roadway or other damages that may occur may be required if deemed necessary by the [chief engineer] **division**.

[324.721.] **308.530.** All obstructions, including traffic signals, signs, and utility lines will be removed immediately prior to and replaced immediately after the move at the expense of the housemover, provided that arrangements for and approval from the owner are obtained.

[324.724.] **308.535. In case of emergency only,** irrespective of the route shown on the special permit, an alternate route [will be followed:

- (1)] if directed by a peace officer[;
- (2) If directed by a uniformed officer assigned to a weighing station to follow a route to a weighing device; or
- (3) If the specified route is ~~officially~~ detoured. Should a detour be encountered, the driver shall check with the department of transportation prior to proceeding] **or by the chief engineer of the state department of transportation.**

[324.727.] **308.540.** The house to be transported will not be loaded, unloaded, nor parked, day or night, on a highway right-of-way without specific permission from the director.

[324.730.] **308.545.** ~~Copy~~ No move will be made when atmospheric conditions render visibility lower than safe for travel. Moves will not be made when highways are covered with snow or ice, or at any time travel conditions are considered unsafe by the director or highway patrol or other law enforcement officers having jurisdiction.

[324.733.] **308.550.** The [permit may be voided] **division, a peace officer or a commercial motor vehicle enforcement officer or inspector may void a permit issued pursuant to section 308.700,** if any conditions of the permit are violated, **or if any person misrepresented any information on the application to obtain a license or permit, or altered or fraudulently obtained a license or permit, or used a license or permit without lawful authorization.** [Upon any violation,] **If the permit is voided, it must be surrendered to the division or the officer, and the housemover shall obtain [and] a new**

permit [obtained] before proceeding. [Misrepresentation of information on an application to obtain a license, fraudulently obtaining a permit, alteration of a permit, or unauthorized use of a permit will render the permit void.]

[324.736.] **308.560.** All moves on streets on the municipal system of streets shall comply with local ordinances. The officer in charge of the maintenance of streets of any municipality may issue permits for the use of the streets by housemovers within the limits of such municipalities.

[324.739.] **308.565.** The speed of moves will be that which is reasonable and prudent for the load, considering weight and bulk, under conditions existing at the time.

[324.742.] **308.570.** Any person violating sections [324.700 to 324.745] **308.500 to 308.599** or the regulations of the division or department of transportation shall be guilty of a class A misdemeanor.

[324.745.] **308.575.** 1. [If any provisions of sections 324.700 to 324.745, or if the application of such provisions to any person or circumstance shall be held invalid, the remainder of this section and the application of such provision of sections 324.700 to 324.745 other than those as to which it is held valid, shall not be affected thereby.

2.] Nothing in sections [324.700 to 324.745] **308.500 to 308.599** shall be construed to limit, modify or supercede the standards governing the intrastate or interstate movement of property pursuant to 49 U.S.C. 14501 or 49 U.S.C. 14504.

[3.] **2.** The provisions of sections [324.700 to 324.745] **308.500 to 308.599** shall not apply to housemovers engaged in the interstate movement of houses. Those engaged in the interstate movement of houses, however, shall comply with all applicable provisions of federal and state law with respect to the movement of such property.

[622.095.] **308.600.** 1. In addition to its other powers, the division of motor carrier [and railroad safety] **services** may negotiate and enter into fair and equitable cooperative agreements or contracts with [other states] **any state or province**, the District of Columbia, territories and possessions of the United States, foreign countries, and any of their officials, agents or instrumentalities, to promote cooperative action and mutual assistance between the participating jurisdictions with regard to the uniform administration, **participation** and registration[,] through a single base jurisdiction for each registrant, [of interstate commerce commission] **in:**

(1) The International Fuel Tax Agreement;

(2) Apportioned motor vehicle registration pursuant to the International Registration Plan;

(3) Federal Motor Carrier Safety Administration operating authority; and

(4) Exempt operations by motor vehicles operated in interstate commerce.

2. Notwithstanding any other provision of law to the contrary, and in accordance with the provisions of such agreements or contracts between participating jurisdictions, **and with**

applicable provisions of federal law and regulations; the division may:

(1) Delegate to other participating jurisdictions the authority and responsibility to collect and pay over to the division [statutory] registration, administration or license fees **and amounts due pursuant to the International Fuel Tax Agreement;** to receive, approve and maintain the required proof of public liability insurance coverage; to receive, process, maintain and transmit **motor carrier and motor vehicle** registration information and documentation; to issue [evidence of proper registration in lieu of interstate permits under section 390.071, RSMo; to issue motor vehicle licenses or identifiers in lieu of annual licenses under section 390.136, RSMo; and to] suspend or revoke any [approval, registration, license or identifier] **credential** referred to in this [section] **chapter**, as agents on behalf of the division with regard to motor vehicle operations by persons having a base jurisdiction other than this state;

(2) Assume the authority and responsibility on behalf of other jurisdictions participating in such agreements [or] contracts **or federal programs**, to collect and direct the department of revenue to pay over to the appropriate jurisdictions [statutory] registration, administration or license fees **and amounts due pursuant to the International Fuel Tax Agreement**, and to perform all other activities described in subdivision (1) of this subsection, on its own behalf or as an agent on behalf of other participating jurisdictions, with regard to motor vehicle operations in interstate commerce by persons having this state as their base jurisdiction;

(3) Establish or modify dates for the payment of fees and the issuance of [annual motor vehicle licenses or identifiers] **credentials** in conformity with such agreements or contracts, **federal laws or regulations**, notwithstanding any provisions of [section 390.136, RSMo,] **this chapter** to the contrary; and

(4) Modify, cancel or terminate any of the agreements or contracts, **or the state's participation in federal programs.**

[2. Notwithstanding the provisions of section 390.136, RSMo, statutory] **3.** Registration, administration or license fees **and other amounts** collected by the division on behalf of other jurisdictions under [such agreements or contracts] **this chapter** are hereby designated as "nonstate funds" within the meaning of section 15, article IV, Constitution of Missouri, and shall be immediately transmitted to the department of revenue of the state for deposit to the credit of a special fund which is hereby created and designated as the "[Base State Registration] **Interstate Carrier Holding Fund**", **which is the successor to the base state registration fund.** The division shall [not less frequently than once each month] direct the payment of, and the director of revenue shall pay, the fees so collected to the appropriate other jurisdictions, **in accordance with such agreements, contracts or federal programs.** All **interest and other** income derived from the investment of the [base state registration] **interstate carrier holding** fund by the director of revenue shall be credited to the highway department fund.

[3.] **4.** "Base jurisdiction", as used in this section, means the jurisdiction participating in

[such] **those** agreements or contracts where the registrant has its principal place of business, **as those terms are defined in those agreements or contracts.**

[4.] **5.** Every person who has [properly registered his interstate commerce commission operating authority or exempt operations with his] **proper credentials issued by the person's** base jurisdiction and maintains such [registration] **credentials** in force in accordance with such agreements or contracts [is authorized to] **or federal programs may** operate in interstate commerce within this state any motor vehicle which is accompanied by [a] valid [annual license or identifier] **credentials** issued by [his] **the person's** base jurisdiction in accordance with such agreements [or], contracts **or federal programs**, notwithstanding any provision of section [390.071, 390.126 or 390.136, RSMo,] **this chapter** or rules of the division to the contrary.

[622.150.] **308.605.** The division may engage in any conferences with officials of any and all other states and the District of Columbia, territories and possessions of the United States and foreign countries **or provinces** for the purpose of promoting, entering into, and establishing fair and equitable reciprocal agreements or arrangements that in the judgment of the division are proper, expedient, fair, and equitable and in the interest of the state of Missouri and the citizens thereof to the end that any motor carrier of passengers or property which operates motor vehicles and trailers into, out of, or through this state as a for-hire motor carrier and which has paid all regulatory fees required by the state, District of Columbia, territory or possession of the United States or foreign country **or province** where the motor vehicles and trailers are duly licensed or registered pursuant to an agreement or arrangement entered into by the [Missouri highway reciprocity commission] **division pursuant to section 308.655**, or if no such agreement or arrangement has been entered into, where the owner is a resident, shall not be required to pay fees prescribed in section [390.136, RSMo] **308.280**; but the provisions of this section shall be operative as to a motor vehicle and trailer duly licensed or registered in a state, District of Columbia, territory or possession of the United States or foreign country **or province** pursuant to an agreement or arrangement entered into by the [Missouri highway reciprocity commission] **division pursuant to section 308.655**, and if no such agreement or arrangement has been entered into, where the owner is a resident, upon which all regulatory fees have been paid, when operated for hire in Missouri only to the extent that, under the laws of the state, District of Columbia, territory or possession of the United States or foreign country **or province**, wherein such motor vehicle and trailer are registered like exemptions are granted motor vehicles and trailers duly licensed or registered in Missouri which may be conducting similar motor carrier operations for hire in such other state, District of Columbia, territory or possession of the United States, or foreign country **or province.**

[390.071.] **308.610.** 1. No person shall engage in the business of a motor carrier in interstate commerce on any public highway in this state, **transporting passengers or property as authorized by the Federal Motor Carrier Safety Administration or any**

successor to that agency, unless there is in force with respect to such carrier a **federally-authorized interstate** permit issued by the division of motor carrier [and railroad] safety authorizing such operations.

2. Upon application to the division in writing, containing such information as the division may by rule require, accompanied by a copy of applicant's **motor carrier registration**, certificate of public convenience and necessity or permit issued by the [Interstate Commerce Commission] **Federal Motor Carrier Safety Administration or any successor to that agency**, the filing of such liability insurance policy or bond and other formal documents as the division shall by rule require, the division, if it finds applicant qualified, shall, with or without hearing, issue a permit authorizing the proposed interstate operations **pursuant to the federal agency authorization**.

3. **Notwithstanding any provision of this chapter to the contrary, if any federal law or regulation, whether enacted before or after this section, supplements or preempts any requirement of this section or chapter, then the division shall continue to register interstate motor carriers in conformity with this chapter, as supplemented or preempted by the requirements and powers pursuant to that federal law or regulation.**

308.615. 1. No person shall engage in the business of a motor carrier in interstate commerce on any public highway in this state, transporting passengers or property exempted from registration with the Federal Motor Carrier Safety Administration, or any successor to that agency unless there is in force with respect to such carrier an interstate exempt permit issued by the division of motor carrier services authorizing such operations.

2. Upon application to the division in writing, containing such information as the division may by rule require, accompanied by the filing of such liability insurance policy or bond and other formal documents as the division shall by rule require, the division, if it finds the applicant qualified, shall, with or without hearing, issue a permit authorizing the proposed interstate exempt operations.

[301.041.] **308.620. 1.** All commercial motor vehicles and trailers registered pursuant to this section or to be operated under agreements as provided for in [sections 301.271 to 301.279] **section 308.655** shall be registered annually.

2. An application for renewal registration pursuant to this section shall be made with all required documents on or before October first of each year. Renewal applications received after October first shall be assessed a penalty of one hundred dollars. The director or his or her designee may waive the penalty pursuant to this subsection for good cause.

3. Fees for commercial motor vehicles and trailers renewed pursuant to this section shall be paid no later than December first of each year except for payments made on an installment

basis as provided in subsection 4 of this section. Renewal application fees not paid by December first shall be assessed a penalty of fifty dollars per vehicle, but in no case shall such penalty exceed one hundred fifty dollars per application. The director or his or her designee may, for good cause, waive or reduce any penalties assessed pursuant to this subsection.

4. Any owner of a commercial motor vehicle or trailer operated pursuant to this section or agreements provided in [sections 301.271 to 301.279] **section 308.655** may elect to pay the Missouri portion of the annual registration fee in two equal installments, except that no such installment shall be less than one hundred dollars. The first installment shall be payable on or before December first, and the second installment shall be payable on or before June first of that registration year. Every owner electing to pay on an installment basis shall file with the director [of the department of revenue], on or before December first, a surety bond, certificate of deposit or irrevocable letter of credit as defined in section 400.5-103, RSMo, to guarantee the payment of the second installment. The bond or certificate or letter of credit shall be in an amount equal to the payment guaranteed.

5. If a new application for registration of a commercial vehicle or trailer is made other than as specified in subsection 1 of this section, the registration fee shall be prorated as follows:

(1) For applications made between April first and June thirtieth, the applicant shall pay three-fourths of the annual registration fee;

(2) For applications made between July first and September thirtieth, the applicant shall pay one-half of the annual registration fee; and

(3) For applications made after October first of the current registration year, the applicant shall pay one-fourth of the annual registration fee.

6. Any applicant who fails to timely renew his or her registration with all required documents pursuant to this section or who fails to timely pay any fees and penalties owed pursuant to this section shall not be issued a temporary registration for a motor vehicle or a trailer issued pursuant to this section or under agreements as provided for in sections [301.271 and 301.279] **308.600 to 308.699**. Nothing in this section shall prohibit the issuance of temporary registration credentials for additions to the registrant's fleet subsequent to renewal.

7. The applicant for registration pursuant to this section shall affix the registration plate issued by the director to the front of the vehicle in accordance with the provisions of section 301.130, **RSMo**. Any vehicle required to be registered pursuant to this section shall display the plate issued to that vehicle no later than December thirty-first of each year. Failure to display the registration plates required by this section shall constitute a class A misdemeanor.

8. The director [of revenue] may prescribe rules and regulations for the effective administration of this section.

9. Any current registration or plate for which all fees have been paid for a commercial trailer previously issued pursuant to agreements provided for in **former** sections **301.041**,

301.271 and 301.277, **RSMo**, shall remain valid even if such agreements no longer require apportionment of such trailers under such agreements, and such trailers may continue to be registered pursuant to this section.

10. Notwithstanding any other law to the contrary, the [highway reciprocity commission] **division** shall have the authority pursuant to this chapter to issue permanent and temporary registrations on commercial trailers whether or not the registration is issued pursuant to agreements as provided in [sections 301.271 to 301.279] **section 308.655**. The provisions of subsection 1 of section 301.190, **RSMo**, shall not apply to registrations issued pursuant to this subsection, provided the carrier or person to whom the registration is issued has at least one tractor as defined in section 301.010, **RSMo**, registered with the state of Missouri pursuant to this section.

11. Commercial trailer plates issued pursuant to this section shall in all other respects conform to and have the same requirements as those issued pursuant to subsection 3 of section 301.067, **RSMo**. Such plates may contain the legend "[HRC TLR] COMM TRL" in preference to the words "SHOW-ME STATE".

12. The license plate or plates authorized by this section, when properly attached to the vehicle, together with the cab card issued therefor when carried upon the vehicle, shall be prima facie evidence that the required fees have been paid.

308.622. Any person found to have improperly registered a motor vehicle in excess of fifty-four thousand pounds when the person was not entitled to shall be required to purchase the proper license plates and, in addition to all other penalties provided by law, shall be subject to the annual registration fee for the full calendar year for the vehicle's gross weight as prescribed in section 301.057, RSMo.

308.625. 1. When the owner of a motor vehicle registered pursuant to section 308.620 moves the vehicle to another state, the owner shall return the license plates to the director within ninety days or upon the expiration of the period or reciprocity granted by the new state of residence; or if the owner of a motor vehicle ceases to operate the vehicle in Missouri, the owner shall return the license plates to the director within ninety days.

2. When the owner of a commercial motor vehicle registered in excess of fifty-four thousand pounds returns the license plates to the director as provided in subsection 1 of this section, but not for a license suspension or revocation, the owner shall receive a refund or credit of any pro rata amount to be determined by the calendar quarters remaining before expiration of the license plates, subject to the extent of any appropriations made for this purpose. Such refund or credit shall be granted based upon the date the license plates are surrendered to the director. Any credit or refund may be applied toward any subsequent application for a Missouri

registration only if applicable to a commercial motor vehicle. Any refunded portion of a registration fee that was distributed according to the provisions of article IV, section 30(b) of the Constitution of Missouri, shall be refunded proportionately from state, city and county funds.

3. When the owner of a commercial motor vehicle registered in excess of fifty-four thousand pounds returns the license plate or plates to the appropriate official in the state where the license plate for the commercial motor vehicle was issued, a refund or credit may be issued by the director of revenue as provided in subsection 2 of this section. If the refund is to come from moneys previously transferred to another state by this state as a result of a reciprocity agreement, such refund by the director of revenue may only be made upon return of such moneys from that state to the director. If such moneys are not returned by that state, such refund will not be made.

[301.265.] **308.630.** 1. The owner of any motor vehicle or, in the event the motor vehicle is legally operated by someone other than the owner, then the operator thereof, which is duly and legally registered in some other jurisdiction but which cannot legally be operated on Missouri highways under the provisions of section [301.271] **308.645**, or under the provisions of any applicable agreement duly entered into by the [Missouri highway reciprocity commission] **division**, which is operated on the highways of this state only occasionally by such owner or operator, may in lieu of the payment of the registration fee for such vehicle, obtain a trip permit from the [department of revenue] **division** authorizing the operation of such vehicle on the highways of this state for a period of not to exceed seventy-two hours. The trip permit is valid for use by any owner or operator who uses the vehicle during the seventy-two hour period. The fee for such trip permit shall be ten dollars and shall be collected by the [department of revenue] **division** and deposited with the state treasurer to the credit of the state highway department fund except when an agreement has been negotiated with another jurisdiction whereby prepayment is not required. In such cases, the terms of the agreement shall prevail. When such trip permit fee has been paid on a motor vehicle, no registration or fee shall be required for a trailer or semitrailer duly and legally registered in any jurisdiction and propelled by such motor vehicle. The [director of revenue] **division** shall prescribe rules and regulations to effectuate the purpose of this section. Application for such trip permits shall be made on a form prescribed by and shall contain such information as may be required by the [director of revenue] **division**.

2. The requirements of Missouri law as to title of motor vehicles shall not be applicable to vehicles operated under such trip permits.

3. Any owner or operator who desires to use a trip permit for the operation of his vehicle shall secure such permit and the same must be in full force and effect before the vehicle enters or commences its trip in the state of Missouri.

4. Operators who fail to obtain such permit before the vehicle enters or commences its

trip in this state are subject to arrest and must obtain such permit before proceeding. The permits shall be made available at official highway weight stations.

5. The purchase of a ten dollar trip permit shall allow such operator to haul the maximum weight allowed by [statute] **section 301.057, RSMo.**

6. Such permits may be sold in advance of the date of their use in such quantities as the director [of revenue] shall determine.

[301.266.] **308.635.** 1. The owner of any motor vehicle which was duly and legally proportionally registered in Missouri with the [highway reciprocity commission] **division**, but which cannot legally be operated on Missouri highways because of lease cancellation, may, in lieu of the payment of other registration fee for such vehicle and upon proof of ownership, obtain a hunter's permit from the [department of revenue] **division**. Such permit shall authorize the operation of the vehicle on the highways of this state and the highways of all member jurisdictions of the international registration plan for a period not to exceed thirty days. Any vehicle operated under a hunter's permit issued in accordance with this section shall only be operated while empty and shall only be operated for the purpose of securing a new lease agreement under which proper registration may be obtained. No vehicle may be operated on the highways of this state when the registration of such vehicle has been canceled, unless the vehicle owner shall have been issued a hunter's permit for such vehicle. Operation of any vehicle without proper registration or a hunter's permit shall constitute a class A misdemeanor. No owner operating such a vehicle without proper registration or a hunter's permit shall be allowed to operate the vehicle until he has purchased a hunter's permit or otherwise obtained proper registration.

2. Application for a hunter's permit shall be made upon forms prescribed by the director. Application shall be made to the [highway reciprocity commission] **division**. The applicant shall provide proof acceptable to the [commission] **division**, that he has surrendered all plates, cab cards and other evidence of previous registration to the previous registrant before a permit under this section may be issued. The fee for a hunter's permit shall be twenty-five dollars and shall be collected by the [department of revenue] **division** and deposited with the state treasurer to the credit of the state highway department fund. When such fee has been paid, no other registration fee shall be required for any trailer or semitrailer which is being towed by such vehicle.

3. Notwithstanding any provisions of law to the contrary, a vehicle operated on a hunter's permit shall not be subject to the laws of this state relating to motor vehicle titles during the time of operation on such permit.

4. Nothing contained in this section shall be construed to change the vehicle owner's duty to timely file any necessary fuel reports and to pay any fuel taxes owed to the state of Missouri, **or as required by the International Fuel Tax Agreement.**

5. The director [of revenue] may prescribe rules and regulations for the effective administration of this section.

[301.267.] **308.640.** 1. The owner of any motor vehicle, or in the event the motor vehicle is legally operated by someone other than the owner, then the operator thereof, may obtain the permits required by sections [142.422, 301.265 and 390.136, RSMo,] **308.620, 308.660 and 308.280** from the [Missouri highway reciprocity commission] **division**. The [commission] **division** shall issue a single permit authorizing the operation of such vehicle on the highways of this state for a period of not to exceed seventy-two hours. The fee for such trip permit shall be twenty-five dollars and shall be collected by the [department of revenue] **division** and deposited with the state treasurer to the credit of the state highway department fund except when an agreement has been negotiated with another jurisdiction whereby prepayment is not required. In such cases, the terms of agreement shall prevail.

2. [The] **Except as provided in subsection 1 of this section, all** requirements of [sections 142.422, 301.265, and 390.136, RSMo, concerning trip permits] **this chapter,** shall apply to the operation of the vehicle under this section.

[301.271.] **308.645.** 1. Unless otherwise provided by duly executed agreements entered into pursuant to sections [301.271 to 301.279] **308.600 to 308.699,** a nonresident owner, owning any motor vehicle which has been duly registered for the current year in the state, District of Columbia, territory or possession of the United States, foreign country **or province** or other place of which the owner is a resident, and which at all times when operated in this state has displayed upon it the number plate issued for the vehicle in the place of residence of such owner, **and a currently valid cab card,** may operate or permit the operation of such vehicle within this state without registering such vehicle or paying any such registration fee to this state[:]. But the provisions of this subsection shall be operative to allow such owner to operate or permit the operation of such vehicle owned by a nonresident of this state only to the extent that under the laws of the state, District of Columbia, territory or possession of the United States, foreign country or other place of residence of the nonresident owner, substantially equivalent exemptions are granted to residents of Missouri for the operation of vehicles duly registered in Missouri.

2. Unless otherwise provided by duly executed agreements entered into pursuant to sections [301.271 to 301.279] **308.600 to 308.699,** trailers registered in any jurisdiction may be operated in combination with any motor vehicle properly registered in accordance with sections [301.271 to 301.279] **308.600 to 308.699.**

[301.275.] **308.650.** The [commission] **division** may require such reports from owners and operators of motor vehicles as may be useful to assist the [commission] **division** in performing its duties [under sections 301.271 to 301.279] **pursuant to this chapter.** Such reports shall furnish such information as may be required by the [commission] **division** and shall cover such periods and be made at such time or times as the [commission] **division** may direct

and shall be in the form prescribed by the [commission] **division** and shall be verified by the person making such report or by the president, vice president, secretary or other responsible officer or employee of a corporation or association or by a partner or a responsible employee of a partnership. The [commission] **division** may make or direct the making of such investigations within or without the state, as may be necessary for the performance of its duties under [sections 301.271 to 301.279] **this chapter**. If any owner or operator of motor vehicles shall file any false report or give false information called for or required [under sections 301.271 to 301.279] **pursuant to this chapter**, the [commission] **division** shall have power to suspend or revoke any or all reciprocity as to such owner or operator. The [commission] **division** may make and promulgate such rules and regulations as may be necessary to effectively carry out its duties [under sections 301.271 to 301.279] **pursuant to this chapter**.

[301.277.] **308.655**. 1. The [commission] **division** may negotiate and enter into reciprocal agreements or arrangements with other states, the District of Columbia, territories and possessions of the United States, and foreign countries **and provinces, such as the International Registration Plan** as follows:

(1) To exempt, either wholly or partially, under such terms, conditions and restrictions as it deems proper, motor vehicles and trailers licensed in other states, the District of Columbia, territories and possessions of the United States, and foreign countries [or political subdivisions thereof] **and provinces** wherein the owner is a resident, from any or all registration fees, as provided by law, but any exemption afforded hereunder shall be extended to owners whose vehicles are duly licensed in the state **or province** of their residence only to the extent that substantially equivalent exemptions are extended by that state **or province** to vehicles which are duly licensed in this state.

(2) If any state **or province** permits or requires the licensing of fleets of motor vehicles and trailers or combinations thereof operated in interstate or combined interstate and intrastate commerce and payment of license taxes and other fixed fees thereon on an apportionment basis commensurate with and determined by the miles traveled on and the use made of said state's **or province's** highways or any other equitable basis of apportionment, and exempts equipment registered in other states **or provinces** under such apportionment basis from its own registration and other fixed fees, then [said Missouri highway reciprocity commission] **the division** may by agreement adopt such exemptions with respect to motor vehicles and trailers, which agreement may, under such terms, conditions and restrictions as the [commission] **division** deems proper, provide that owners and operators of motor vehicles and trailers operated in interstate or combined interstate and intrastate commerce in Missouri shall be required to pay registration and other fees on an apportionment basis commensurate with and determined by the miles traveled on and the use made of Missouri highways, or any other equitable basis of apportionment, and shall provide a fair and equitable formula for apportionment whereby there shall be registered

in Missouri and the Missouri registration fees paid and applied to a proper proportion of said motor vehicles and trailers operated in the fleet.

(3) Such agreements may authorize the granting of reciprocal privileges to an owner for vehicles which are not licensed in the state, District of Columbia, territory or possession of the United States, foreign country, or other place of such owner's residence when such owner maintains a bona fide place of business in a state, District of Columbia, territory or possession of the United States, foreign country or other place other than his residence and such vehicle is in fact based at such a place of business and is principally operated into and out of such a place of business as a terminal of its operation and such vehicle is duly licensed in the state, District of Columbia, territory or possession of the United States, foreign country, or other place where such place of business is located. Before reciprocal privileges are granted to an owner under such agreement authorized by this subsection, the [commission] **division** may, under such conditions and terms as it deems advisable, require such owner to apply for a basing point permit which, among other things, shall name the state, District of Columbia, territory or possession of the United States, foreign country, or other place in which such vehicle is to be licensed.

2. Any agreement entered into by the [commission] **division** shall require that the operator of any vehicle for which reciprocal privileges are claimed must have in his possession a valid and legal registration certificate or other evidence of proper registration issued for such vehicle by the state or other jurisdiction in which it is registered. **Any existing reciprocity agreements made pursuant to this section, or former section 301.277, RSMo, shall remain in full force and effect, and shall be administered by the division of motor carrier services.**

3. Notwithstanding section 301.090, **RSMo**, fees collected by the [commission] **division** which are subject to prorating under this section shall be immediately transmitted to the treasurer of the state for deposit to the credit of the state highway department fund except that part of such fees to be paid to other states under a reciprocal agreement shall be placed in a special fund designated a "reciprocity fund." The [commission] **division** shall [not less frequently than once each month] direct the payment of, and the treasurer shall pay, the reciprocal fees to the appropriate state or states, **in accordance with the terms of such agreements.** All income derived from the investment of the "reciprocity fund" by the treasurer shall be credited to the highway department fund.

4. Notwithstanding any other provision of law, no reciprocity shall be granted under any statute or agreement for the operation of any commercial motor vehicle within the state of Missouri solely in intrastate commerce, but all vehicles so engaged must be duly registered and licensed in the state of Missouri.

5. This act shall not be construed as terminating the state's participation in any reciprocity agreement in which the state was participating before January 1,

2003.

[142.617.] **308.660.** The director [of revenue] may **negotiate and** enter into reciprocity agreements on behalf of the state of Missouri with authorized representatives of other states, **the District of Columbia, territories and possessions of the United States, and foreign countries and provinces, such as the International Fuel Tax Agreement**, for the collection and refund of interstate fuel taxes levied pursuant to **chapter 142, RSMo, or this chapter, or both. Any existing reciprocity agreements made pursuant to this section, or former section 142.617, RSMo, shall remain in full force and effect, and shall be administered by the division of motor carrier services.** The director may adopt rules pursuant to this chapter to implement the agreement for collection and refund of interstate fuel taxes and other fuel tax agreements. The reporting requirements, as provided in the agreement, shall take precedence over the reporting requirements provided in this chapter. Where the agreement and this chapter address the same matters, the provisions of the agreement shall take precedence. A current copy of the agreement shall be maintained by the [department of revenue] **division. The provisions of chapter 142, RSMo, which are not inconsistent with the provisions of this chapter, shall apply to the administration of this section.**

[142.830.] **308.665.** 1. It is unlawful for any person [to act as an interstate motor fuel user without being licensed as such unless the motor fuel user is licensed under a reciprocity agreement] **to operate in this state a commercial motor vehicle subject to the requirements of the International Fuel Tax Agreement without possessing either a valid International Fuel Tax Agreement license or a single trip permit issued by the division pursuant to this section.**

2. However, as to a motor vehicle operated in this state in the course of interstate traffic by an unlicensed interstate motor fuel user, a single trip motor fuel tax permit authorizing operation of such vehicle for a single trip through the state, or from a point on the border of this state to a point within and return to the border may be issued upon proper application and in a manner prescribed by the director. Any person found to have not purchased a trip permit when so required shall immediately purchase such permit. The fee for each permit shall be ten dollars, and the permit shall be valid for a period of seventy-two hours. Permits shall be made available at official highway weigh stations.

[2.] **3.** A single trip permit shall be issued for each vehicle for which application is made, and the application fee for such permit shall apply only to the vehicle for which the permit is issued. A trip permit shall not be issued to anyone whose license is currently in a revoked status. Evidence of the issuance of such trip permit or in the alternative the payment and civil penalty thereof shall be furnished to the director, his agents, appointees or any officer of the Missouri state highway patrol upon demand.

308.670. Each person applying for a license as provided for in this chapter shall

apply upon a form prepared and furnished by the director. The application shall be subscribed to by the person and shall contain the information as the director may reasonably require for the administration of this chapter, including the applicant's federal identification number.

[304.200.] **308.700.** 1. The [chief engineer of the state department of transportation] **division of motor carrier services**, for good cause shown and when the public safety or public interest so justifies, shall issue special permits for vehicles or equipment exceeding the limitations on width, length, height and weight herein specified, or which are unable to maintain minimum speed limits. [Such] **The division shall issue those** permits [shall be issued] only for a single trip or for a definite period, not beyond the date of expiration of the vehicle registration, and shall designate the highways and bridges which may be used pursuant to the authority of such permit.

2. The [chief engineer of the state department of transportation] **division** shall upon proper application and at no charge issue a special permit to any person allowing the movement on state and federal highways of farm products between sunset and sunrise not in excess of fourteen feet in width. Special permits allowing movement of oversize loads of farm products shall allow for movement between sunset and sunrise, subject to appropriate requirements for safety lighting on the load, appropriate limits on load dimensions and appropriate consideration of high traffic density between sunset and sunrise on the route to be traveled. [The chief engineer may also issue upon proper application a special permit to any person allowing the movement on the state and federal highways of vehicles hauling lumber products and earth-moving equipment not in excess of fourteen feet in width. The chief engineer may also issue upon proper application a special permit to any person allowing the movement on the state and federal highways of concrete pump trucks or well-drillers equipment.] For the purposes of this section, "farm products" shall have the same meaning as provided in section 400.9-109, RSMo.

3. **The division shall make** rules and regulations for the issuance of special permits [shall be prescribed by the state highways and transportation commission and filed with the secretary of state]. No rule or portion of a rule promulgated pursuant to the authority of [section 304.010 and] this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. **Rules promulgated by the division relating to length, width, height and weight for the special permitting of vehicles and loads shall not become effective without written approval by the state highways and transportation commission.**

4. The officer in charge of the maintenance of the streets of any municipality may issue such permits for the use of the streets by such vehicles within the limits of such municipalities.

5. In order to transport manufactured homes, as defined in section 700.010, RSMo, on

the roads, highways, bridges and other thoroughfares within this state, only the applicable permits required by this section shall be obtained.

6. Notwithstanding any provision of section 304.180, RSMo, to the contrary, the division may issue a single-use special permit, or upon request of the owner of the truck or equipment, may issue an annual permit, for the transporting of any concrete pump truck dwell-drillers' equipment. The division shall set fees for the issuance of permits pursuant to this subsection. Notwithstanding the provisions of section 301.133, RSMo, concrete pump trucks or well-drillers' equipment may be operated on state maintained roads and highways at any time on any day.

7. The division may issue special permits authorizing the movement of sludge disposal units on all state highways other than the interstate system, if those units do not exceed one hundred thirty-eight inches in width. Sludge disposal units may be equipped with over-width tires, but shall comply with all axle weight limits required by law. The division may restrict the movements of sludge disposal units authorized by those permits to specified routes, days and hours.

[622.170.] **308.800.** The division may **allow or** authorize any [person employed by it] **employee** to do or perform any act, matter or thing which the division **or director** is authorized by this chapter to do or perform, except that no order, rule or regulation of any person employed by the division shall be binding on any carrier or any person unless expressly authorized or approved by the division.

[622.027.] **308.805.** The [division] director with the approval of the department director shall make all rules necessary to perform the duties and responsibilities assigned to the division. [The administrative law judges, acting together, shall make all necessary rules required to establish procedures of practice before them.] All rules by the [division] director [or the administrative law judges] shall be made in accordance with the provisions of this section and chapter 536, RSMo. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of [section 536.024] **chapter 536**, RSMo.

[622.520.] **308.810.** A substantial compliance **by the division** with the requirements of this chapter **or any reciprocity agreement** shall be sufficient to give effect to all the rules, orders, acts and regulations of the division, and they shall not be declared inoperative, illegal or void for any omission of a technical nature in respect thereto. The provisions of this chapter shall be liberally construed with a view to the public welfare, efficient transportation services and substantial justice between patrons and carriers.

[622.140.] **308.815.** 1. The division may confer in person, or by correspondence, by attending conventions, or in any other way, with the members of any [railroad,] transportation, public utility, public service commission, or similar division of other states and the United States

of America, or any official, agency or instrumentality thereof, on any matter relating to the performance of its duties.

2. The division may enter into and establish fair and equitable cooperative agreements or contracts with or act as an agent or licensee for the United States of America, or any official, agency or instrumentality thereof, or any railroad, transportation, public utility, public service commission, or similar division of other states, that are proper, expedient, fair and equitable and in the interest of the state of Missouri and the citizens thereof, for the purpose of carrying out its duties [under] **pursuant to** this chapter [with reference to railroads or street railroads, as limited and supplemented by section 622.110], and to that end the division may receive and disburse any contributions, grants or other financial assistance as a result of or pursuant to such agreements or contracts. Any contributions, grants or other financial assistance so received shall be deposited in the [railroad expense] **highways and transportation department** fund established in section [622.015] **226.200, RSMo**, and appropriated for the purposes for which they are received.

3. The division may joint investigations, hold joint hearings within or without the state, and issue joint or concurrent orders in conjunction or concurrence with any railroad, transportation, public utility, public service commission, or similar division, of other states or the United States of America, or any official, agency or any instrumentality thereof, except that in the holding of such investigations or hearings, or in the making of such orders, the division shall function under agreements or contracts between states or under the concurrent power of states to regulate interstate commerce, or as an agent of the United States of America, or any official, agency or instrumentality thereof, or otherwise.

[622.030.] **308.820.** 1. [The administrative law judges shall assume all the duties concerning transportation activities heretofore imposed upon the commissioners of the public service commission in their quasi-judicial capacity and function. All ministerial duties shall be performed by the division, and the administrative law judges shall not be responsible for those activities. The administrative law judges shall hear and decide all matters concerning transportation activities which the public service commission or public service commissioners would have been required to hear and decide in a quasi-judicial capacity.] **The provisions of subsections 2, 3, 4 and 5 of section 621.045, RSMo, shall not apply to proceedings originating with or involving the division of motor carrier services. In proceedings before the administrative hearing commission pursuant to this chapter or section 621.040, RSMo, the commission may stay the effect of the division's orders or decisions only upon application of the party adverse to the division. Judicial review of orders of the administrative hearing commission in cases involving this division shall be as provided in section 621.189, RSMo.**

2. [Each administrative law judge may exercise all powers granted to the division without

the concurrence of any other administrative law judge, except with respect to the rulemaking powers, in which all administrative law judges must concur. The method of assignment of petitions, appeals or other cases may be determined by rule or other agreement between the administrative law judges.] Except as provided in section [622.035] **621.040, RSMo, or this chapter**, all hearings before the administrative [law judges] **hearing commission pursuant to this chapter** shall be governed by rules adopted by [them] **the commission, which shall not be inconsistent with any provision of this chapter**. In all investigations, inquiries or hearings before the division or the administrative [law judges] **hearing commission**, neither the administrative [law judges] **hearing commission** nor the division shall be bound by technical rules of evidence. No formality in any proceeding nor in the manner of taking testimony before the division or an administrative [law judges] **hearing commission** shall invalidate any order, decision, rule or regulation made, approved or confirmed by the division or administrative [law judges] **hearing commission**.

3. The division may charge a reasonable docket fee as may be set by rule to be paid upon the filing of any petition, application, complaint, or other request for relief or authority by any party other than the division staff. All such docket fees shall be paid to the [state director of revenue] **division** at the time of the filing of any such petition, application, complaint or other request for relief or authority, and the same shall be deposited [by the state director of revenue] in the highway fund of the state of Missouri.

[390.141.] **308.825**. The orders and decisions of the division on the matters covered by the provisions of this chapter shall be reduced to writing and a copy thereof, duly certified, shall be served on the motor carrier affected thereby through the United States mail, and such order and decision shall become operative and effective within thirty days after such service, unless otherwise ordered by the division, **or otherwise required by the provisions of a reciprocity agreement**, and such motor carrier shall carry the provisions of said order into effect unless said order is enjoined or set aside in a court of proper jurisdiction.

[390.320.] **308.830**. Notwithstanding any provisions of section 516.103, RSMo, to the contrary, in all collateral actions or proceedings the orders and decisions of the division which have become final shall be conclusive, and shall be admissible as evidence of the facts found and the determinations made by the division in all subsequent actions or proceedings to enforce division orders or decisions, whether by penalty, forfeiture, mandamus, injunctive relief or otherwise.

[622.410.] **308.835**. 1. Every order of the division shall be served upon every person or corporation to be affected thereby, either by personal delivery of a certified copy thereof, or by mailing a certified copy thereof, in a sealed package with postage prepaid, to the person to be affected thereby, or, in the case of a corporation, to any officer or agent thereof upon whom a summons may be served in accordance with the provisions of the code of civil procedure.

2. It shall be the duty of every person and corporation to immediately notify the division, in writing, of the receipt of the certified copy of every order so served, and in the case of a corporation such notification must be signed and acknowledged by a person or officer duly authorized by the corporation to admit such service. Within a time specified in the order of the division every person and corporation upon whom it is served must if so required in the order notify the division in like manner whether the terms of the order are accepted and will be obeyed.

3. Every order or decision of the division shall of its own force take effect and become operative thirty days after the service thereof, except as otherwise provided **in the order or decision**, and shall continue in force either for a period which may be designated therein or until changed or abrogated by the division, unless such order be unauthorized by this law or any other law or be in violation of a provision of the constitution of the state or of the United States.

4. The provisions of this section shall not apply to the extent that any reciprocity agreement authorizes or requires different procedures for notice and effective dates. Where the agreement and this chapter address the same matters, the provisions of the agreement shall take precedence.

[622.350.] **308.840.** In all trials, actions, suits and proceedings arising under the provisions of this chapter or growing out of the exercise of the authority and powers granted in this chapter to the division, the burden of proof shall be upon the party adverse to the division or seeking to set aside any determination, requirement, direction or order of the division, to show by clear and satisfactory evidence that the determination, requirement, direction or order of the division complained of is unreasonable or unlawful as the case may be.

[622.420.] **308.845.** 1. After an order or decision has been made by the division, any carrier, corporation or person interested therein may apply for a [rehearing] **reconsideration** in respect to any matter determined therein, and the division shall [grant and hold such rehearing] **reconsider its order or decision**, if in its judgment sufficient reason therefor be made to appear. If a [rehearing] **reconsideration** shall be granted the same shall be determined by the division within thirty days after the same shall be finally submitted.

2. **Notwithstanding any provision of law to the contrary**, no cause or action arising out of any order or decision of the division shall accrue in **the administrative hearing commission or in** any court to any carrier, corporation or person unless that party shall have made, before the effective date of such order or decision, application to the division for a [rehearing] **reconsideration of that order or decision**. Such application shall set forth specifically the ground or grounds on which the applicant considers said order or decision to be unlawful, unjust or unreasonable. The applicant shall not in **the administrative hearing commission or in** any court urge or rely on any ground not so set forth in its application for [rehearing] **reconsideration**.

3. An application for a [rehearing] **reconsideration** shall not excuse any carrier, corporation or person from complying with or obeying any order or decision or any requirement of an order or decision of the division, or operate in any manner to stay or postpone the enforcement thereof except as the division may by order direct.

4. If, after a [rehearing and a consideration] **reconsideration** of the facts, including those arising since the making of the order or decision, the division shall be of the opinion that the original order or decision or any part thereof is in any respect unjust or unwarranted, or should be changed, the division may abrogate, change or modify the same. An order made after any such [rehearing] **reconsideration**, abrogating, changing or modifying the original order or decision shall have the same force and effect as an original order or decision but shall not affect any right or the enforcement of any right arising from or by virtue of the original order or decision.

[622.035. Except by agreement of all parties, a full and complete record shall be made of all proceedings before an administrative law judge on any formal hearing had, and all testimony shall be taken down by a reporter appointed by the division, and the parties shall be entitled to be heard in person or by attorney.] **308.850. 1. Any party aggrieved by an administratively final order or decision of the division pursuant to this chapter, after application for reconsideration pursuant to section 308.070, may apply to the administrative hearing commission for administrative review of the director's order or decision, as provided in section 621.040, RSMo. No person shall have a right to judicial review of any order or decision of the division until after having exhausted all administrative remedies, including administrative review by the commission.**

2. Upon the granting of an application for a writ of review or certiorari to review any order or decision of the division or [an] **the** administrative [law judge] **hearing commission**, the reviewing court shall direct the applicant to certify a copy of the transcript of such testimony, together with all exhibits or copies thereof introduced and all information secured by the division or [an] **the** administrative [law judge] **hearing commission** on its own initiative and considered by it in rendering its order or decision, and of the pleadings, record and proceedings in the cause, which shall constitute the record[]; provided, that on review of an order or decision, the parties to the action may stipulate that a certain question or questions alone and a specified portion only of the evidence shall be certified to the circuit court for its judgment, whereupon such stipulation and the question or questions and the evidence therein specified shall constitute the record on review], **unless the parties agree to a stipulation of the facts.**

[622.450.] **308.855. 1.** [The division and any party who has participated in the division proceeding which produced the order or decision may, after the entry of judgment in the circuit court in any action in review, prosecute an appeal to a court having appellate jurisdiction in this state. Such appeal shall be prosecuted as appeals from judgment of the circuit court in civil cases

except as otherwise provided in this chapter. The original transcript of the record and testimony and exhibits, certified to by the division and filed in the circuit court in any action to review an order or decision of the division, together with a transcript of the proceedings in the circuit court, shall constitute the record on appeal to the supreme court or any court of appeals.] **No court or agency in this state, except the administrative hearing commission to the extent herein specified and the supreme court or the court of appeals on appeal, shall have jurisdiction to review, reverse, correct or annul any order to decision of the division, or to suspend or delay the executing or operation thereof, or to enjoin, restrain or interfere with the division in the performance of its official duties.**

2. Where an appeal is taken to the supreme court or the court of appeals, the cause shall, on the return of the papers to the supreme court or court of appeals, be immediately placed on the docket of the then pending term by the clerk of the court and shall be assigned and brought to a hearing in the same manner as other causes on the then pending term docket, but shall have precedence over all civil causes of a different nature pending in the court.

[3. The circuit court may in its discretion suspend its judgment pending the hearing in the supreme court or court of appeals on appeal, upon the filing of a bond by the carrier, corporation or person with good and sufficient security conditioned as provided for bonds upon actions for review and by further complying with all terms and conditions of this law for the suspension of any order or decision of the division pending the hearing or review in the circuit court.

4. The general laws relating to appeals to the supreme court and the court of appeals in this state shall, so far as applicable and not in conflict with the provisions of this chapter, apply to appeals taken under the provisions of this chapter.]

[622.460.] **308.860.** In all collateral actions or proceedings the orders and decisions of the division, **or the administrative hearing commission pursuant to the provisions of this chapter and section 621.040, RSMo**, which have become final shall be conclusive, and shall be admissible as evidence of the facts found and the determination made by the division **or commission** in all subsequent actions or proceedings to enforce the decision of the division **or commission**, whether by penalty, forfeiture, mandamus, injunctive relief or otherwise.

[622.210. 1.] **308.865.** Every order, authorization [or certificate] **and credential** issued or approved by the division under any provision of this chapter shall be in writing and entered on the records of the division. Any such order, authorization or [certificate] **credential**, or any part thereof, or a copy of the record of any such order, authorization or [certificate,] **credential, officially** certified by [an administrative law judge or by the secretary of] the [division] director [under the seal of the division] to be a true copy of the original order, authorization, certificate or entry, may be recorded in the office of the recorder of any county or city, in which is located the principal office and place of business of any corporation, person or carrier affected thereby,

or in which is situated any property of any such corporation, person or carrier, and such record shall impart notice of its provisions to all persons. [A] **An official** certificate [under the seal] of the division that any such order, authorization or certificate has not been modified, stayed, suspended or revoked may also be recorded in the same offices in the same manner and with the same effect.

[2. Every common carrier which engages in intrastate commerce within this state shall make available to the division within this state all accounts, records, memoranda, books and papers carried in pursuance of the requirements of law.]

[622.220.] **308.870.** Copies of all official documents and orders filed or deposited according to law in the office of the division, **officially** certified by [an administrative law judge or by] the [division] director to be true copies of the originals, [under the official seal of the division], shall be **admissible as** evidence [in like manner as the originals] **in all courts of this state and in all administrative proceedings. A certificate by the director under the official seal of the division that, after diligent search of the division's records, no record of a specified type or description can be found, shall likewise be admissible as evidence that no record of the specified type or description has been filed with or is otherwise possessed by the division.**

[622.230.] **308.875.** 1. **The division may charge fees for copying its records that shall not exceed the actual cost of document search and duplication.** No fees shall be charged or collected for copies of papers, records or official documents furnished to public officers for use in their official capacity, [or for the annual reports of the division in the ordinary course of distribution,] but the division may fix reasonable charges for publications issued under its authority. All fees charged and collected under this section shall be paid, at least once each month, accompanied by a detailed statement thereof, to the state director of revenue.

2. All fees collected pursuant to this section shall be deposited to the credit of the fund of the division from which the expenses of furnishing the copies listed in this section are paid and shall be used by the division to offset such expenses.

308.880. **The director of the division may destroy by burning, or otherwise dispose of such records, financial statements and such public documents which shall at the time of destruction or disposal have been on file in the office of the division for a period of four years or longer and which are determined by the director of the division to be obsolete or of no further public use or value, except such records and documents as may at the time be known by the director of the division to be the subject of litigation or dispute, or if a reciprocity agreement requires retention for a longer period.**

[622.370.] **308.885.** 1. At the request of the division's [general] **chief** counsel and upon good cause shown by the counsel the division shall require or on its own initiative the division

may require, by order served upon any corporation or person in the manner provided for the service of orders, the production within this state at such time and place as it may designate, of any books, accounts, papers or records kept by said corporation or person in any office or place within or without this state, or, at [its] **the division's** option, verified copies in lieu thereof, so that an examination thereof may be made by the [general] **chief** counsel when the order is issued at the counsel's request or by the division or under its direction.

2. It shall be the duty of every public officer, without exacting or receiving charge or fee of any kind, to furnish to the division, upon application, a certified copy of any document or part thereof, on file in the office of such officer, and no public officer shall be entitled to receive from the division or its authorized employees any fee for entering, filing, docketing or recording any document required or authorized by law to be filed with the office of such officer.

308.890. 1. Each motor carrier of passengers or property shall keep its books and records as prescribed by the division. These records, as well as records of affiliates, entities under common control or any other related parties, shall be subject to inspection at any time by the division or its authorized representatives.

2. Every motor carrier which operates within this state shall make available to the division within this state all accounts, records, memoranda, books and papers carried in pursuance of the requirements of law.

[622.190.] **308.895. 1.** The division may, whenever it deems advisable, establish a system of accounts to be used by [railroad and street railroad corporations or other common] **motor** carriers which are subject to its supervision, or may classify [the said corporations and other] **these** carriers and prescribe a system of accounts for each class, and may prescribe the manner in which such accounts shall be kept. It may also, in its discretion, prescribe the forms of accounts, records and memoranda to be kept by [such corporations] **these carriers**, including the accounts, records and memoranda of the movement of traffic, as well as the receipts and expenditures of moneys. Notice of alterations by the division in the required method or form of keeping a system of accounts shall be given to such persons or corporations by the division at least six months before the same are to take effect. The system of accounts established by the division and the forms of accounts, records and memoranda prescribed by it as provided above shall conform in the case of [railroad corporations as nearly as may be to those from time to time established and prescribed by the Interstate Commerce Commission under the provisions of the act of Congress entitled "An Act to Regulate Commerce", approved February 4, 1887, and the acts amendatory thereof or supplementary thereto] **interstate motor carriers as nearly as practicable to those prescribed for such carriers by the Federal Motor Carrier Safety Administration, or its successor federal agency.**

2. The division shall at all times have access to all accounts, records and memoranda kept

by [railroad and street railroad corporations or other common] **motor** carriers and may designate any of its officers or employees, who shall thereupon have authority under the order of the division to inspect and examine any and all accounts, records and memoranda kept by such [corporations] **carriers**.

[622.250.] **308.900.** 1. The division shall have the general supervision of all [common] **motor** carriers and shall examine the same and keep informed as to the safety, adequacy, and security afforded by their service, and their compliance with all provisions of law, orders and decisions of the division.

2. The division may, through its authorized **auditors**, inspectors or employees, enter in and upon and inspect the property, equipment, tracks and facilities of any common carrier, and may for such inspection purposes ride upon any [locomotive or train] **motor vehicle** while in service[, and for good cause shown may have upon reasonable notice the use of an inspection locomotive, special locomotive, inspection car or high-rail vehicle for a physical inspection].

3. **Authorized employees of the division** [and each administrative law judge] may **audit**, examine, **inspect and copy** all books, contracts, records, documents and papers of any person or corporation subject to its supervision, which are pertinent to the exercise of the division's authority pursuant to this chapter or chapters [387, 388, 389, 390 and 391] **142, 301, 302, 304 and 307**, RSMo, upon notice given by any [administrative law judge or] employee of the division[, and]. The person so notified shall allow access to these records by [the administrative law judge and] any authorized employee of the division. [After the division has given notice, if the person shall fail or refuse to allow access in accordance with this section,] The division may by subpoena duces tecum compel production [thereof] **of all such records**. In lieu of requiring production of originals by subpoena duces tecum, the division [or any administrative law judge] may require sworn **or verified** copies of any such books, records, documents, contracts and papers or parts thereof to be filed with it.

[390.330.] **308.905.** 1. Notwithstanding any provisions of [section 386.480] **chapter 610**, RSMo, to the contrary, no information furnished to the division by a motor carrier, corporation or person, including the division staff, except such matters as are specifically required to be open to public inspection by the provisions of this chapter [and chapter 386, 387 or 622, RSMo,] shall be open to public inspection or made public except on order of the [division] director or **when filed** by [an administrative law judge] **the division** in the course of a **court or administrative** hearing or proceeding. Any officer or employee of the division who, in violation of the provisions of this section, divulges any such information is guilty of a misdemeanor.

2. The director shall not order that any records or information closed to public disclosure pursuant to section 32.057 or 32.091, RSMo, be made public or open to public inspection.

[622.340.] **308.910.** 1. [At the time fixed for any hearing before the division or an

administrative law judge, or the time to which the same may have been continued, the complainant and the carrier, corporation or person which is the subject of the complaint, and such carriers, corporations and persons as the division may allow to intervene, shall be entitled to be heard and to introduce evidence.] The division [shall] **may, in the course of any investigation by it**, issue process to enforce the attendance of all necessary witnesses.

2. Whenever an investigation shall be made by the division, it [shall be its duty, to] **may** make a report in writing in respect thereto, which [shall] **may** state the conclusions of the division, together with its decision, order or requirement in the premises. The division [or any administrative law judge] or any party may, in any investigation or hearing [before] **involving** the division, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the circuit courts of this state and to that end may compel the attendance of witnesses and the production of books, waybills, documents, papers, memoranda and accounts. Witnesses whose depositions are taken as provided in this section and the officer taking the same shall severally be entitled to the same fees as are paid for like services in the circuit courts of this state.

[3. If an order cannot, in the judgment of the division, be complied with within thirty days, the division may grant and prescribe such additional time as in its judgment is reasonably necessary to comply with the order, and may, on application and for good cause shown, extend the time for compliance fixed in its order.

4. A full and complete record shall be made of all proceedings before the division or any administrative law judge on any formal hearing had, and all testimony shall be taken down by a reporter appointed by the division, and the parties shall be entitled to be heard in person or by attorney. Preparation of a printed transcript may be waived by unanimous consent of all the parties.]

[622.360.] **308.915.** 1. All subpoenas shall be signed and issued by an administrative [law judge] **hearing commissioner in cases pending before the commission pursuant to section 621.040, RSMo**, or by the director of the division **in all other matters**, and shall extend to all parts of the state[, and]. **Subpoenas** may be served by any person authorized to serve process of courts of record or by any person of full age designated for that purpose by the division or by an administrative [law judge] **hearing commissioner, and notwithstanding that the division may be a party to the proceedings, authorized personnel of the division may serve any subpoenas.** [The person executing any such process shall receive the fees now prescribed by law for similar services in civil cases in the circuit courts in this state, and shall be paid in the same manner as provided herein for the payment of the fees of the witnesses.] Each witness who shall appear before the division or an administrative [law judge] **hearing commissioner** by order of the division or an administrative [law judge] **hearing commissioner** shall receive for attendance the fees and mileage now provided for witnesses in

civil cases in the circuit courts of this state[, which shall be audited and paid by the state in the same manner as other expenses of the division are audited and paid, upon the presentation of proper vouchers sworn to by such witnesses and approved by the division], **except as otherwise provided in subsection 2 of this section.**

2. Whenever a subpoena is issued at the instance of a complainant, respondent, or other party to any proceeding [before] **involving** the division, the cost of service thereof and the fee of the witness shall be borne by the party at whose instance the witness is summoned. Any witness subpoenaed except one whose fees and mileage may be paid from the funds of the division may, at the time of service, demand the fee to which the witness is entitled for travel to and from the place at which the witness is required to appear, and one day's attendance. If such witness demands such fees at the time of service, and they are not at that time paid or tendered, the witness shall not be required to attend before the division or an administrative [law judge] **hearing commissioner**, as directed in the subpoena. No witness furnished with free transportation shall receive mileage for the distance such witness may have traveled on such free transportation.

[3. It shall be the duty of every public officer, without exacting or receiving charge or fee of any kind, to furnish to the division, upon application, a certified copy of any document or part thereof, on file in the office of such officer, and no public officer shall be entitled to receive from the division or the public counsel any fee for entering, filing, docketing or recording any document required or authorized by law to be filed with the office of such officer.]

[622.380.] **308.920.** If a person subpoenaed to appear before the division or **before** an administrative [law judge] **hearing commissioner in a case pursuant to section 621.040, RSMo**, fails to obey the command of such subpoena, without reasonable cause, or if a person in attendance upon the division or an administrative [law judge] **hearing commissioner** shall, without a reasonable cause, refuse to be sworn or to be examined, or answer a question, or to produce a book or paper when ordered to do so by the division or an administrative [law judge] **hearing commissioner**, or to subscribe or swear to the person's deposition after it has been correctly produced in writing, such person shall be deemed guilty of a misdemeanor, and be punished by a fine of not less than one hundred dollars nor more than one thousand dollars or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment, and may be prosecuted therefor in any court of competent jurisdiction; and in case of a continuing violation each day's continuance thereof shall be and be deemed to be a separate and distinct offense.

[622.390.] **308.925.** No person shall be excused from testifying or from producing any books or papers in any investigation or inquiry by or upon any hearing before the division or any administrative [law judge] **hearing commissioner in a case pursuant to section 621.040, RSMo**, when ordered to do so by the division **or the commissioner**, upon the grounds

that the testimony or evidence, books or documents required of the person may tend to incriminate such person or subject such person to penalty or forfeiture, but no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which the person shall have been examined while under oath, and shall under oath have testified or produced documentary evidence, except that no person so testifying shall be exempt from prosecution or punishment for any perjury committed by the person in the person's testimony. Nothing contained in this section is intended to give, or shall be construed as in any manner giving unto any corporation immunity of any kind.

[622.470.] **308.935.** Any person who shall willfully make any false entry in the accounts, books of account, **credentials**, records or memoranda kept by any carrier, corporation or person governed by the provisions of this chapter, or who shall willfully destroy, mutilate, alter or by any other means or device falsify the record of any such account, book of accounts, **credentials**, record or memoranda, or who shall willfully neglect or fail to make full, true and correct entries of such account, book of accounts, **credentials**, record or memoranda of all facts and transactions appertaining to the business of such carriers, corporations or persons, or who shall falsely make any statement required to be made to the division, [for which a penalty has not been provided,] shall be deemed guilty of a felony, and upon conviction shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars, or by imprisonment for not less than two years nor more than five years, or by both such fine and imprisonment, except that the division may, in its discretion, issue orders specifying such operating, accounting or financial papers, records, books, blanks, tickets, stubs or documents, of carriers which may after a reasonable time be destroyed, and prescribing the length of time such books, papers or documents shall be preserved.

308.940. 1. The division shall investigate each applicant for a license pursuant to this chapter. No license shall be issued if the director determines that any one of the following exists:

- (1) The application is not filed in good faith;**
- (2) The person is not the real party in interest;**
- (3) The license of the real party in interest has been revoked for cause;**
- (4) Where such application is filed by a person who managed, operated, owned or controlled, directly or indirectly, a business which held a license pursuant to this chapter which business is indebted to this state for any tax, penalties or interest accruing hereunder;**
- (5) Where such application is filed by a business that is managed, operated or controlled, directly or indirectly, by any person who held a license pursuant to this chapter who is indebted to this state for any tax, penalties or interest accruing hereunder;**

(6) Where such application is filed by a business that is managed, operated, owned or controlled, directly or indirectly, by any person who managed, operated, owned or controlled, directly or indirectly, a business licensed pursuant to this chapter which is indebted to this state for any tax, penalties or interest accruing hereunder;

(7) Any good cause the director may determine;

(8) The applicant has a prior conviction for motor fuel tax evasion.

2. Applicants, including corporate officers, partners and individuals, for a license issued by the director may be required to submit their fingerprints to the director at the time of application. Officers of publicly held corporations and their subsidiaries shall be exempt from this fingerprinting provision. Persons who possessed licenses issued under a predecessor statute continuously for three years prior to January 1, 1999, shall also be exempt from this provision. Fingerprints required by this section must be submitted on forms prescribed by the director. The director may forward to the Federal Bureau of Investigation or any other agency for processing all fingerprints submitted by license applicants. The receiving agency shall issue its findings to the director. The director or another state agency may maintain a file of fingerprints.

[622.260.] **308.945.** 1. The division may, of its own motion, investigate or make inquiry, in a manner to be determined by it, as to any act or thing done or omitted to be done by any [common] **motor** carrier subject to its supervision[, and]. The division shall make such inquiry in regard to any act or thing done or omitted to be done by any such carrier, person or corporation in violation of any provision of law or in violation of any order or decision of the division **in such manner and by such means as it shall deem proper, and take such action within its powers as the facts justify.**

2. [Complaints may be made to the division by any person or corporation aggrieved, by petition or complaint, in writing, setting forth anything or act done or omitted to be done by any common carrier in violation, or claimed to be in violation, of any provision of law or of the terms and conditions of its franchise or charter or of any order or decision of the division. Upon the presentation of such a complaint the division shall cause a copy thereof to be forwarded to the carrier, person or corporation complained of, which may be accompanied by an order, directed to such carrier, person or corporation, requiring that the matters complained of be satisfied, or that the charges be answered in writing within a time to be specified by the division. If the carrier, person or corporation complained of shall make reparation for any injury alleged and shall cease to commit, or to permit, the violation of law, franchise, order or decision charged in the complaint, and shall notify the division of that fact before the time allowed for answer, the division need take no further action on the charges. If, however, the charges contained in such petition be not

thus satisfied, and it shall appear to the division that there are reasonable grounds therefor, it shall investigate such charges in such manner and by such means as it shall deem proper, and take such action within its powers as the facts justify.

3. Whenever the division shall investigate any matter complained of by any person or corporation aggrieved by any act or omission of a common carrier under this section, it shall be its duty, within sixty days after final submission, to make and file an order either dismissing the petition or complaint or directing the carrier, person or corporation complained of to satisfy the cause of complaint in whole or to the extent which the division may specify and require.] **Service in all hearings, investigations and proceedings pending before the division may be made upon any person upon whom summons may be served in accordance with the provisions of the code of civil procedure of this state, and may be made personally or by mailing in a sealed envelope with postage prepaid. The division or any of its employees in their official capacity may serve process and other notices in all cases before the division and all cases in which the division or any employee of the division acting in an official capacity is a party.**

[390.310. Notwithstanding any provisions of section 390.106, to the contrary,] **308.950. 1.** The division at any time, for good cause, may suspend a certificate, permit [or property], **license, motor carrier registration or other credentials previously issued by the division with or without a hearing**, and after hearing upon at least ten days' notice to the person to whom the division has issued the [certificate, permit or property carrier registration authorizing any intrastate transportation of passengers or property by motor vehicle] **credentials**, may revoke, alter or amend any such [certificate, permit or property carrier registration] **credentials** upon a finding that the person has failed to comply with any applicable provisions of [sections 390.250 to 390.350, or chapter 386, 387, 389 or 622, RSMo, or] **this chapter or any state or federal safety rules, regulations or orders [which] that** may be enforced by the division. Revocation of [a certificate, permit or property carrier registration] **credentials** shall not become effective less than thirty days after issuance of an order of revocation by the division.

2. The provisions of this section shall not apply to the extent that any reciprocity agreement authorizes or requires different procedures for notice, hearing and effective dates. Where the agreement and this chapter address the same matters, the provisions of the agreement shall take precedence.

[390.171.] **308.955.** Every owner, officer, agent or employee of any motor carrier, and every other person, who violates or fails to comply with or who procures, aids or abets in the violation of any provision of this chapter, or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement of the division, or who procures, aids or abets any person in his failure to obey, observe or comply with any such order, decision,

rule, direction, demand or regulation thereof is guilty of a **class C** misdemeanor, **unless a more stringent punishment is specifically provided by law. Except as otherwise specifically provided by law, officers or employees of the state highway patrol and other peace officers may enforce any of the provisions of this chapter.**

[622.480.] **308.960.** 1. Any carrier, corporation or person which violates or fails to comply with any provision of the constitution of this state or of this or any other law, or which fails, omits or neglects to obey, observe or comply with any order, decision, decree, rule, direction, demand or requirement, or any part or provision thereof, of the division **or the administrative hearing commission** in a case in which a penalty has not been provided for such carrier, corporation or person, is subject to a penalty. **Unless otherwise specifically provided by this chapter, the penalty shall be in the amount** of not less than one hundred dollars nor more than two thousand dollars for each offense.

2. Every violation of the provisions of this or any other law or of any order, decision, decree, rule, direction, demand or requirement of the division **or commission**, or any part or portion thereof, by any carrier, corporation or person is a separate and distinct offense, and in case of a continuing violation each day's continuance thereof shall be and be deemed to be a separate and distinct offense.

3. In construing and enforcing the provisions of this chapter relating to penalties, the **division may deem the** act, omission or failure of any officer, agent or employee of any **motor** carrier[, corporation or person,] acting within the scope of official duties of employment, [shall in every case be and be deemed] to be the act, omission or failure of [such] **the motor** carrier[, corporation or person] **or the officer, agent or employee, or both.**

[622.490.] **308.965.** Every officer, agent or employee of any carrier, corporation or person who violates or fails to comply with, or who procures, aids or abets any violation by any carrier, corporation or person of any provision of the constitution of this state or of this or any other law, or who fails to obey, observe or comply with any order, decision, decree, rule, direction, demand or requirement, or any part or provision thereof, of the division **or the administrative hearing commission**, or who procures, aids or abets any carrier, corporation or person in their or its failure to obey, observe and comply with any such order, decision, decree, rule, direction, demand or requirement, or any part or provision thereof, in a case in which a penalty has not been provided for such officer, agent or employee, is guilty of a misdemeanor and is punishable by a fine not exceeding one thousand dollars, or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment. **Each of these persons is liable to suit by the division's chief counsel for the recovery of civil penalties pursuant to section 308.830, or injunctive relief or mandamus pursuant to section 308.910, or both.**

[622.500.] **308.970.** All penalties accruing under this chapter shall be cumulative of each other, and the suit for the recovery of one penalty shall not be a bar to or affect the recovery of

any other penalty or forfeiture or be a bar to any original prosecution against any carrier, corporation or person, or any officer, director, agent or employee thereof.

[390.156.] **308.975.** An action to recover a penalty or a forfeiture under this chapter or to enforce the powers of the division under this or any other law may be brought in any circuit court in this state in the name of the state of Missouri and shall be commenced and prosecuted to final judgment by the [general] **chief** counsel to the division. **Notwithstanding any provision of law to the contrary, no administrative complaint or hearing shall be required before commencing and prosecuting any action pursuant to this section, and no court fees, sheriff's fees or other costs shall be payable by the division in any such action.** In any such action all **unpaid taxes, fees**, penalties and forfeitures incurred up to the time of commencing the same may be sued for and recovered therein, and the commencement of an action to recover [a] **any unpaid tax, fee**, penalty or forfeiture shall not be, or be held to be, a waiver of the right to recover any other **unpaid tax, fee**, penalty or forfeiture[;]. If the defendant in such action shall prove that during any portion of the time for which it is sought to recover penalties or forfeitures for a violation of an order or decision of the division, the defendant was actually and in good faith prosecuting a suit to review such order or decision in the manner as provided in this chapter, the court shall remit the penalties or forfeitures incurred during the pendency of such proceeding. All moneys recovered as a penalty or forfeiture shall be paid to the public school fund of the state. Any such action may be compromised or discontinued on application of the division upon such terms as the court shall approve and order.

[622.290.] **308.980.** 1. Whenever the [division] **director** shall be of the opinion that a carrier, person or corporation is failing or omitting or about to fail or omit to do anything required of it by law or by order or decision of the division, or is doing anything or about to do anything or permitting anything or about to permit anything to be done, contrary to or in violation of law or of any order or decision of the division, [it shall] **the director may** direct the [general] **chief** counsel to the division to commence an action or proceeding in any circuit court of the state of Missouri in the name of the [division] **state** for the purpose of having such violations or threatened violations stopped and prevented either by mandamus or injunctions. **Notwithstanding any provision of law to the contrary, no administrative complaint or hearing shall be required before commencing and prosecuting any action pursuant to this section, and no court fees, sheriff's fees or other costs shall be payable by the division in any such action.** The division's [general] **chief** counsel shall thereupon begin such action or proceeding by a petition to such court alleging the violation complained of and praying for appropriate relief by way of mandamus or injunction. Such relief shall not be limited to permanent forms of mandamus and injunction, but shall include all available forms of injunction and mandamus, including temporary restraining orders, preliminary injunctions, permanent injunctions, preliminary orders of mandamus, and permanent orders of

mandamus.

2. It shall thereupon be the duty of the court to specify the time, not exceeding thirty days after service of a copy of the petition, within which the carrier, person, or corporation complained of, must answer the petition in cases where an answer is contemplated by Missouri Rules of Court. In case of default in answer or after answer, the court shall immediately inquire into the facts and circumstances in such manner as the court shall direct without other or formal pleadings, and without respect to any technical requirement.

3. Such other persons or corporations as the court shall deem necessary or proper to join as parties in order to make its order, judgment or writs effective may be joined as parties upon application of the division's [general] **chief** counsel.

4. The final judgment in any such action or proceeding shall either dismiss the action or proceeding or direct that a writ of mandamus or an injunction, or both, issue as prayed for in the petition or in such modified or other form as the court may determine will afford appropriate relief.

[622.320.] **308.985.** 1. [Complaint] **Actions to recover penalties or forfeitures pursuant to section 308.830, or for injunctive relief or mandamus pursuant to section 308.910** may be made by the division of its own motion, or **pursuant to section 308.927** by any corporation or person, chamber of commerce, board of trade, or any civic, commercial, mercantile, traffic, agricultural or manufacturing association or organization, or any body politic or municipal corporation, by **filing a** petition [or complaint in writing,] **in any circuit court** setting forth any act or thing done or omitted to be done by any carrier, corporation or person, including any rule, regulation or charge established or fixed by or for any carrier, corporation or person in violation, or claimed to be in violation, of any provision of law, or of any rule or order or decision of the division.

2. All matters upon which [complaint] **petition** may be founded may be joined in one hearing, and no motion shall be entertained against a [complaint] **petition** for misjoinder of causes of action or grievances or misjoinder or nonjoinder of parties, and in any review by the courts of orders or decisions of the division the same rule shall apply with regard to the joinder of causes and parties as provided in this section.

3. The division **and the courts** shall not be required to dismiss any [complaint] **petition** because of the absence of direct damage to the complainant. Upon the filing of a [complaint] **petition, unless otherwise requested by** the division, **the clerk of the court** shall cause a copy thereof to be served upon the carrier, corporation or person which is the subject of the [complaint] **petition**.

4. [Service in all hearings, investigations and proceedings pending before the division may be made upon any person upon whom summons may be served in accordance with the provisions of the code of civil procedure of this state, and may be made personally or by mailing

in a sealed envelope with postage prepaid, except that] The division or any of its employees in their official capacity may serve process and other notices in all cases [before the division or] in which the division [staff] **or any employee of the division acting in an official capacity** is a party.

5. The [division] **court** shall fix the time when and the place where a hearing will be had upon the complaint and shall serve notice thereof, not less than [ten] **twenty** days before the time set for such hearing, unless the [division] **court** shall find that [the public necessity] **justice** requires that such hearing be held at an earlier date.

[622.330.] **308.987.** Any carrier, corporation or person may [complain] **file a petition in circuit court** on any of the grounds upon which complaints are allowed to be filed by [other parties, and] the **division pursuant to sections 308.830 or 308.910. The petitioner shall prosecute the action pursuant to the** same procedure [shall be adopted and followed] as in [other] cases **pursuant to section 308.925**, except that **a true copy of the [complaint may] petition must first** be served upon [any parties designated by] the division **before service upon any defendants. The division may elect to intervene and shall have standing to intervene as a party in any such action.**

[622.530.] **308.990. 1.** In case a [common] **motor** carrier shall do, cause to be done or permit to be done any act, matter or thing prohibited, forbidden or declared to be unlawful, or shall omit to do any act, matter or thing required to be done by this chapter or by any order or decision of the division **or administrative hearing commission pursuant to this chapter**, [such common] **the motor** carrier shall be liable to the persons or corporations affected thereby for all loss, damage or injury caused thereby or resulting therefrom, and in case of recovery, if the court shall find that such act or omission was willful, it may in its discretion fix a reasonable counsel or attorney's fee, which fee shall be taxed and collected as part of the costs in the caseAn action to recover for such loss, damage or injury may be brought in any court of competent jurisdiction by any such person or corporation.

2. Any person adversely affected in fact by any violation of this chapter or of any rule or regulation made pursuant to this chapter by a motor carrier, may sue the motor carrier for injunctive relief against such violation. The prevailing party in any such action for injunctive relief shall be awarded costs and reasonable attorneys' fees.

[622.540. That] **308.995.** No contract, receipt, rule, notice or regulation shall exempt any [railway company, or corporation, express company or corporation or any other] **person**, company, corporation or [common] **motor** carrier, engaged in the transportation of persons or property, from the liability of a common carrier, or carrier of passengers, which would exist had no contract, receipt, rule, notice or regulation been made or entered into.

308.997. 1. In addition to any other remedy provided by law, upon a determination by the director that any provision of sections 308.300 to 308.399, or any

order or rule made pursuant to this chapter, or a term or condition of any permit has been violated, the director may issue an order assessing an administrative penalty upon the violator pursuant to this section. An administrative penalty shall not be imposed until the division has sought to resolve the violations through a conference with the violator. If the violation is resolved pursuant to a conference, no administrative penalty shall be assessed unless the violation has caused or has the potential to cause a risk to human health or to the environment, or has caused or has potential to cause pollution, or was knowingly committed, or is defined by the United States Environmental Protection Agency as other than minor. Any order assessing an administrative penalty shall state that an administrative penalty is being assessed under this section and that the person subject to the penalty may appeal as provided by law. Any such order that fails to state the statute under which the penalty is being sought, the manner of collection or rights of appeal shall result in the state's waiving any right to collection of the penalty.

2. The division shall promulgate rules and regulations for the assessment of administrative penalties. The amount of the administrative penalty assessed per day of violation for each violation under this section shall not exceed the amount of the civil penalty specified in section 308.960. Such rules shall reflect the criteria used for the administrative penalty matrix as provided for in the Resource Conservation and Recovery Act, 42 U.S.C. 6928(a), Section 3008(a), if applicable, and the harm or potential harm which the violation causes, or may cause, the violator's previous compliance record, and any other factors which the division may reasonably deem relevant. An administrative penalty shall be paid within sixty days from the date of issuance of the order assessing the penalty. Any person subject to an administrative penalty may apply for administrative review by the administrative hearing commission in the manner provided by section 308.617. Any proceeding for review pending before the commission will stay the due date of such administrative penalty until the commission's decision on review becomes effective. Any person who fails to pay an administrative penalty by the final due date shall be liable to the state for a surcharge of fifteen percent of the penalty plus ten percent per annum on any amounts owed. Any administrative penalty paid pursuant to this section shall be handled in accordance with section 7 of article IX of the Missouri Constitution. An action may be brought in the appropriate circuit court to collect any unpaid administrative penalty, and for attorney's fees and costs incurred directly in the collection thereof.

3. Any administrative penalty must be assessed within two years following the division's initial discovery of such alleged violation.

4. Any final order imposing an administrative penalty is subject to judicial review upon the filing of a petition pursuant to section 621.017, RSMo, by any person subject to the administrative penalty.

5. The state may elect to assess an administrative penalty pursuant to this section, or in lieu thereof, to request that the division's chief counsel file an appropriate legal action seeking a civil penalty in the appropriate circuit court.

311.390. 1. Every railroad, express or transportation company, or other common carrier or contract hauler, shall, when requested, furnish to the supervisor of liquor control, **the division of motor carrier services within the department of transportation, the department of transportation or any authorized employee thereof**, a duplicate bill of lading or receipt, showing the name of the consignor and consignee, date, place received, destination and quantity of intoxicating liquors, received by them for shipment to any point within this state. Upon failure to comply with the provisions herein, [said] **the** railroad, express or transportation company, or other common carrier or contract hauler, shall forfeit and pay to the state of Missouri the sum of **two hundred fifty** dollars for each and every failure, to be recovered in any court of competent jurisdiction. **Each day's continuance in failing to comply with this section shall constitute an additional violation.**

2. The supervisor of liquor control, **director of the department of transportation** and the director of revenue are each hereby authorized and empowered to call upon the prosecuting attorneys of the respective counties or the circuit attorneys or the attorney general to bring any proceeding hereunder on the relation of the supervisor of liquor control or the director of revenue, as the case may be, to the use of the state of Missouri. The penalties collected shall be disposed of as provided by section 7, article IX, of the Constitution of Missouri, and section 171.010, RSMo.

3. If any motor carrier shall fail to comply with subsection 1 of this section when requested by authorized personnel of the division of motor carrier services, then that division may take action against the motor carrier for violating this section, or both, in the same manner as provided in sections 308.900 to 308.1199, RSMo, for violation of any provision of chapter 308, RSMo.

4. If any railroad shall fail to comply with subsection 1 of this section when requested by authorized personnel of the department of transportation, then the department may take action against the motor carrier for violating this section, or both, in the same manner as provided in chapter 389, RSMo, for a violation of any provision of that chapter.

311.400. Any railroad or [express company] **motor carrier** doing business in this state shall have the right to sell unclaimed or refused shipments of intoxicating liquor in the same manner that such railroad or [express company] **motor carrier** is or may be hereafter

authorized to sell other unclaimed or refused property under the laws of this state, and no license or permit shall be required of such railroad or [express company] **motor carrier** for such sale of such unclaimed or refused intoxicating liquor.

311.420. 1. No person, except carriers regulated by the motor carrier [and railroad safety] **services** division of the department of [economic development under chapters 387, 389 and 390] **transportation pursuant to chapter 308**, RSMo, shall transport into, within, or through the state of Missouri any intoxicating liquors in quantities larger than five gallons unless such person holds a valid license or permit from the supervisor of liquor control of the state of Missouri to do so. For such license, there shall be paid to the director of revenue the sum of ten dollars per annum. Application for such license shall be made to the supervisor of liquor control of the state of Missouri and each applicant shall submit with his application a bond in the penal sum of one thousand dollars with sufficient surety to be approved by the supervisor of liquor control, conditioned that he will not violate any provisions of the liquor control laws of this state or any regulation promulgated under such liquor control laws, and any violation of such condition shall work a forfeiture of such bond to the state of Missouri. The license year shall end on June thirtieth, and the applicant shall pay as many twelfths as there are months, with each part of a month being counted as a month, remaining from the date of the license to the next succeeding July first. The supervisor of liquor control may issue single transaction licenses, for which there shall be paid to the director of revenue the sum of five dollars, and, if the value of the liquor to be transported exceeds one hundred dollars, the permit shall not be issued until the bond provided for above in this section is given to the state. No such transporter's license shall be required of any person licensed by the supervisor of liquor control whose licensed premises are located in the state of Missouri, nor shall it be necessary to procure a license to transport liquor purchased from a retail liquor dealer duly licensed by the supervisor of liquor control of the state of Missouri. No license or permit shall be required to transport industrial alcohol.

2. The qualifications prescribed for the issuance of other licenses by the provisions of the liquor control law shall not apply to licenses issued under this section, but no license shall be issued to any person who is not of good moral character or who has been convicted since the ratification of the twenty-first amendment to the Constitution of the United States of the violation of any law applicable to the manufacture or sale of intoxicating liquor, nor to any person who has had a license from the supervisor of liquor control revoked. If applicant is a corporation, the managing officer thereof must possess the qualifications prescribed in this section.

311.440. 1. Every person transporting liquor within, into, or through the state of Missouri shall, upon demand, supply the supervisor of liquor control and any of his agents or any peace officer of the state of Missouri **or any enforcement personnel of the division of motor**

carrier services within the department of transportation, or within the department of transportation, with evidence that a liquor transporter's license has been issued to him by the supervisor of liquor control of the state of Missouri.

2. If any person transporting liquor shall fail to comply with this section when requested by enforcement personnel of the division of motor carrier services, then that division may take action against that person, or its employer, or both, for violating this section, in the same manner as provided in sections 308.900 to 308.1199, RSMo, for violation by a motor carrier of any provision of chapter 308, RSMo.

3. If any railroad shall fail to comply with subsection 1 of this section when requested by authorized personnel of the department of transportation, then the department may take action against the motor carrier for violating this section, or both, in the same manner as provided in chapter 389, RSMo, for a violation of any provision of that chapter.

311.450. **1.** Any alcoholic liquors in excess of one hundred gallons being transported into, within, or through the state of Missouri shall be accompanied at all times during transportation by a bill of lading or other memorandum of shipment, showing an exact description of the alcoholic liquors being transported, the name and address of the consignor, the name and address of the consignee, the route to be traveled by such vehicle while in Missouri, and the vehicle transporting such liquors shall not vary from such route. Such bill of lading or memorandum shall be shown to the supervisor of liquor control or any peace officer of this state **or any enforcement personnel of the division of motor carrier services within the department of transportation** upon demand. The name of the consignor on any such bill of lading or other memorandum of shipment shall be the name of the true consignor of the alcoholic beverages being transported and such consignor shall only be a person who has the legal right to make such shipment. The name of the consignee on such bill of lading or memorandum of shipment shall be the true consignee of the alcoholic beverages being transported and who has previously authorized in writing the shipment of the alcoholic beverages being transported and who has a legal right to receive such beverages at the point of destination shown on the bill of lading or other memorandum of shipment.

2. If any person transporting liquor shall fail to comply with this section when requested by enforcement personnel of the division of motor carrier services, then that division may take action against that person, or its employer, or both, for violating this section, in the same manner as provided in sections 308.900 to 308.1199, RSMo, for violation by a motor carrier of any provision of chapter 308, RSMo.

386.020. As used in this chapter, the following words and phrases mean:

(1) "Alternative local exchange telecommunications company", a local exchange telecommunications company certified by the commission to provide basic or nonbasic local

telecommunications service or switched exchange access service, or any combination of such services, in a specific geographic area subsequent to December 31, 1995;

(2) "Alternative operator services company", any certificated interexchange telecommunications company which receives more than forty percent of its annual Missouri intrastate telecommunications service revenues from the provision of operator services pursuant to operator services contracts with traffic aggregators;

(3) "Basic interexchange telecommunications service", includes, at a minimum, two-way switched voice service between points in different local calling scopes as determined by the commission and shall include other services as determined by the commission by rule upon periodic review and update;

(4) "Basic local telecommunications service", two-way switched voice service within a local calling scope as determined by the commission comprised of any of the following services and their recurring and nonrecurring charges:

(a) Multiparty, single line, including installation, touchtone dialing, and any applicable mileage or zone charges;

(b) Assistance programs for installation of, or access to, basic local telecommunications services for qualifying economically disadvantaged or disabled customers or both, including, but not limited to, lifeline services and link-up Missouri services for low-income customers or dual-party relay service for the hearing impaired and speech impaired;

(c) Access to local emergency services including, but not limited to, 911 service established by local authorities;

(d) Access to basic local operator services;

(e) Access to basic local directory assistance;

(f) Standard intercept service;

(g) Equal access to interexchange carriers consistent with rules and regulations of the Federal Communications Commission;

(h) One standard white pages directory listing.

Basic local telecommunications service does not include optional toll free calling outside a local calling scope but within a community of interest, available for an additional monthly fee or the offering or provision of basic local telecommunications service at private shared-tenant service locations;

(5) "Cable television service", the one-way transmission to subscribers of video programming or other programming service and the subscriber interaction, if any, which is required for the selection of such video programming or other programming service;

(6) "Carrier of last resort", any telecommunications company which is obligated to offer basic local telecommunications service to all customers who request service in a geographic area defined by the commission and cannot abandon this obligation without approval from the

commission;

(7) "Commission", the "Public Service Commission" hereby created;

(8) "Commissioner", one of the members of the commission;

(9) "Competitive telecommunications company", a telecommunications company which has been classified as such by the commission pursuant to section 392.361, RSMo;

(10) "Competitive telecommunications service", a telecommunications service which has been classified as such by the commission pursuant to section 392.361, RSMo, or which has become a competitive telecommunications service pursuant to section 392.370, RSMo;

(11) "Corporation" includes a corporation, company, association and joint stock association or company;

(12) "Customer-owned pay telephone", a privately owned telecommunications device that is not owned, leased or otherwise controlled by a local exchange telecommunications company and which provides telecommunications services for a use fee to the general public;

(13) "Effective competition" shall be determined by the commission based on:

(a) The extent to which services are available from alternative providers in the relevant market;

(b) The extent to which the services of alternative providers are functionally equivalent or substitutable at comparable rates, terms and conditions;

(c) The extent to which the purposes and policies of chapter 392, RSMo, including the reasonableness of rates, as set out in section 392.185, RSMo, are being advanced;

(d) Existing economic or regulatory barriers to entry; and

(e) Any other factors deemed relevant by the commission and necessary to implement the purposes and policies of chapter 392, RSMo;

(14) "Electric plant" includes all real estate, fixtures and personal property operated, controlled, owned, used or to be used for or in connection with or to facilitate the generation, transmission, distribution, sale or furnishing of electricity for light, heat or power; and any conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light, heat or power;

(15) "Electrical corporation" includes every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, other than a railroad, light rail or street railroad corporation generating electricity solely for railroad, light rail or street railroad purposes or for the use of its tenants and not for sale to others, owning, operating, controlling or managing any electric plant except where electricity is generated or distributed by the producer solely on or through private property for railroad, light rail or street railroad purposes or for its own use or the use of its tenants and not for sale to others;

(16) "Exchange", a geographical area for the administration of telecommunications

services, established and described by the tariff of a telecommunications company providing basic local telecommunications service;

(17) "Exchange access service", a service provided by a local exchange telecommunications company which enables a telecommunications company or other customer to enter and exit the local exchange telecommunications network in order to originate or terminate interexchange telecommunications service;

(18) "Gas corporation" includes every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating, controlling or managing any gas plant operating for public use under privilege, license or franchise now or hereafter granted by the state or any political subdivision, county or municipality thereof;

(19) "Gas plant" includes all real estate, fixtures and personal property owned, operated, controlled, used or to be used for or in connection with or to facilitate the manufacture, distribution, sale or furnishing of gas, natural or manufactured, for light, heat or power;

(20) "Heating company" includes every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers, appointed by any court whatsoever, owning, operating, managing or controlling any plant or property for manufacturing and distributing and selling, for distribution, or distributing hot or cold water, steam or currents of hot or cold air for motive power, heating, cooking, or for any public use or service, in any city, town or village in this state; provided, that no agency or authority created by or operated pursuant to an interstate compact established pursuant to section 70.370, RSMo, shall be a heating company or subject to regulation by the commission;

(21) "High-cost area", a geographic area, which shall follow exchange boundaries and be no smaller than an exchange nor larger than a local calling scope, where the cost of providing basic local telecommunications service as determined by the commission, giving due regard to recovery of an appropriate share of joint and common costs as well as those costs related to carrier of last resort obligations, exceeds the rate for basic local telecommunications service found reasonable by the commission;

(22) "Incumbent local exchange telecommunications company", a local exchange telecommunications company authorized to provide basic local telecommunications service in a specific geographic area as of December 31, 1995, or a successor in interest to such a company;

(23) "Interexchange telecommunications company", any company engaged in the provision of interexchange telecommunications service;

(24) "Interexchange telecommunications service", telecommunications service between points in two or more exchanges;

(25) "InterLATA", interexchange telecommunications service between points in different local access and transportation areas;

(26) "IntraLATA", interexchange telecommunications service between points within the same local access and transportation area;

(27) ["Light rail" includes every rail transportation system in which one or more rail vehicles are propelled electrically by overhead catenary wire upon tracks located substantially within an urban area and are operated exclusively in the transportation of passengers and their baggage, and including all bridges, tunnels, equipment, switches, spurs, tracks, stations, used in connection with the operation of light rail;

(28)] "Line" includes route;

[(29)] **(28)** "Local access and transportation area" or "LATA", contiguous geographic area approved by the U.S. District Court for the District of Columbia in *United States v. Western Electric*, Civil Action No. 82-0192 that defines the permissible areas of operations for the Bell Operating companies;

[(30)] **(29)** "Local exchange telecommunications company", any company engaged in the provision of local exchange telecommunications service. A local exchange telecommunications company shall be considered a "large local exchange telecommunications company" if it has at least one hundred thousand access lines in Missouri and a "small local exchange telecommunications company" if it has less than one hundred thousand access lines in Missouri;

[(31)] **(30)** "Local exchange telecommunications service", telecommunications service between points within an exchange;

[(32)] **(31)** "Long-run incremental cost", the change in total costs of the company of producing an increment of output in the long run when the company uses least cost technology, and excluding any costs that, in the long run, are not brought into existence as a direct result of the increment of output. The relevant increment of output shall be the level of output necessary to satisfy total current demand levels for the service in question, or, for new services, demand levels that can be demonstrably anticipated;

[(33)] **(32)** "Municipality" includes a city, village or town;

[(34)] **(33)** "Nonbasic telecommunications services" shall be all regulated telecommunications services other than basic local and exchange access telecommunications services, and shall include the services identified in paragraphs (d) and (e) of subdivision (4) of this section. Any retail telecommunications service offered for the first time after August 28, 1996, shall be classified as a nonbasic telecommunications service, including any new service which does not replace an existing service;

[(35)] **(34)** "Noncompetitive telecommunications company", a telecommunications company other than a competitive telecommunications company or a transitionally competitive telecommunications company;

[(36)] **(35)** "Noncompetitive telecommunications service", a telecommunications service other than a competitive or transitionally competitive telecommunications service;

[(37)] **(36)** "Operator services", operator-assisted interexchange telecommunications service by means of either human or automated call intervention and includes, but is not limited to, billing or completion of calling card, collect, person-to-person, station-to-station or third number billed calls;

[(38)] **(37)** "Operator services contract", any agreement between a traffic aggregator and a certificated interexchange telecommunications company to provide operator services at a traffic aggregator location;

[(39)] **(38)** "Person" includes an individual, and a firm or copartnership;

[(40)] **(39)** "Private shared tenant services" includes the provision of telecommunications and information management services and equipment within a user group located in discrete private premises as authorized by the commission by a commercial-shared services provider or by a user association, through privately owned customer premises equipment and associated data processing and information management services and includes the provision of connections to the facilities of local exchange telecommunications companies and to interexchange telecommunications companies;

[(41)] **(40)** "Private telecommunications system", a telecommunications system controlled by a person or corporation for the sole and exclusive use of such person, corporation or legal or corporate affiliate thereof;

[(42)] **(41)** "Public utility" includes every pipeline corporation, gas corporation, electrical corporation, telecommunications company, water corporation, heat or refrigerating corporation, and sewer corporation, as these terms are defined in this section, and each thereof is hereby declared to be a public utility and to be subject to the jurisdiction, control and regulation of the commission and to the provisions of this chapter;

[(43)] "Railroad" includes every railroad and railway, other than street railroad or light rail, by whatsoever power operated for public use in the conveyance of persons or property for compensation, with all bridges, ferries, tunnels, equipment, switches, spurs, tracks, stations, real estate and terminal facilities of every kind used, operated, controlled or owned by or in connection with any such railroad;

(44) "Railroad corporation" includes every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, holding, operating, controlling or managing any railroad or railway as defined in this section, or any cars or other equipment used thereon or in connection therewith;

(45)] **(42)** "Rate", every individual or joint rate, fare, toll, charge, reconsigning charge, switching charge, rental or other compensation of any corporation, person or public utility, or any two or more such individual or joint rates, fares, tolls, charges, reconsigning charges, switching charges, rentals or other compensations of any corporation, person or public utility or any

schedule or tariff thereof;

[(46)] **(43)** "Resale of telecommunications service", the offering or providing of telecommunications service primarily through the use of services or facilities owned or provided by a separate telecommunications company, but does not include the offering or providing of private shared tenant services;

[(47)] **(44)** "Service" includes not only the use and accommodations afforded consumers or patrons, but also any product or commodity furnished by any corporation, person or public utility and the plant, equipment, apparatus, appliances, property and facilities employed by any corporation, person or public utility in performing any service or in furnishing any product or commodity and devoted to the public purposes of such corporation, person or public utility, and to the use and accommodation of consumers or patrons;

[(48)] **(45)** "Sewer corporation" includes every corporation, company, association, joint stock company or association, partnership or person, their lessees, trustees or receivers appointed by any court, owning, operating, controlling or managing any sewer system, plant or property, for the collection, carriage, treatment, or disposal of sewage anywhere within the state for gain, except that the term shall not include sewer systems with fewer than twenty-five outlets;

[(49)] **(46)** "Sewer system" includes all pipes, pumps, canals, lagoons, plants, structures and appliances, and all other real estate, fixtures and personal property, owned, operated, controlled or managed in connection with or to facilitate the collection, carriage, treatment and disposal of sewage for municipal, domestic or other beneficial or necessary purpose;

[(50)] "Street railroad" includes every railroad by whatsoever type of power operated, and all extensions and branches thereof and supplementary facilities thereto by whatsoever type of vehicle operated, for public use in the conveyance of persons or property for compensation, mainly providing local transportation service upon the streets, highways and public places in a municipality, or in and adjacent to a municipality, and including all cars, buses and other rolling stock, equipment, switches, spurs, tracks, poles, wires, conduits, cables, subways, tunnels, stations, terminals and real estate of every kind used, operated or owned in connection therewith but this term shall not include light rail as defined in this section; and the term "street railroad" when used in this chapter, shall also include all motor bus and trolley bus lines and routes and similar local transportation facilities, and the rolling stock and other equipment thereof and the appurtenances thereto, when operated as a part of a street railroad or trolley bus local transportation system, or in conjunction therewith or supplementary thereto, but such term shall not include a railroad constituting or used as part of a trunk line railroad system and any street railroad as defined above which shall be converted wholly to motor bus operation shall nevertheless continue to be included within the term "street railroad" as used herein;

[(51)] **(47)** "Telecommunications company" includes telephone corporations as that term is used in the statutes of this state and every corporation, company, association, joint stock

company or association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating, controlling or managing any facilities used to provide telecommunications service for hire, sale or resale within this state;

[(52)] (48) "Telecommunications facilities" includes lines, conduits, ducts, poles, wires, cables, crossarms, receivers, transmitters, instruments, machines, appliances and all devices, real estate, easements, apparatus, property and routes used, operated, controlled or owned by any telecommunications company to facilitate the provision of telecommunications service;

[(53)] (49) "Telecommunications service", the transmission of information by wire, radio, optical cable, electronic impulses, or other similar means. As used in this definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. Telecommunications service does not include:

(a) The rent, sale, lease, or exchange for other value received of customer premises equipment except for customer premises equipment owned by a telephone company certificated or otherwise authorized to provide telephone service prior to September 28, 1987, and provided under tariff or in inventory on January 1, 1983, which must be detariffed no later than December 31, 1987, and thereafter the provision of which shall not be a telecommunications service, and except for customer premises equipment owned or provided by a telecommunications company and used for answering 911 or emergency calls;

(b) Answering services and paging services;

(c) The offering of radio communication services and facilities when such services and facilities are provided under a license granted by the Federal Communications Commission under the commercial mobile radio services rules and regulations;

(d) Services provided by a hospital, hotel, motel, or other similar business whose principal service is the provision of temporary lodging through the owning or operating of message switching or billing equipment solely for the purpose of providing at a charge telecommunications services to its temporary patients or guests;

(e) Services provided by a private telecommunications system;

(f) Cable television service;

(g) The installation and maintenance of inside wire within a customer's premises;

(h) Electronic publishing services; or

(i) Services provided pursuant to a broadcast radio or television license issued by the Federal Communications Commission;

[(54)] (50) "Telephone cooperative", every corporation defined as a telecommunications company in this section, in which at least ninety percent of those persons and corporations subscribing to receive local telecommunications service from the corporation own at least ninety percent of the corporation's outstanding and issued capital stock and in which no subscriber owns more than two shares of the corporation's outstanding and issued capital stock;

[(55)] (51) "Traffic aggregator", any person, firm, partnership or corporation which furnishes a telephone for use by the public and includes, but is not limited to, telephones located in rooms, offices and similar locations in hotels, motels, hospitals, colleges, universities, airports and public or customer-owned pay telephone locations, whether or not coin operated;

[(56)] (52) "Transitionally competitive telecommunications company", an interexchange telecommunications company which provides any noncompetitive or transitionally competitive telecommunications service, except for an interexchange telecommunications company which provides only noncompetitive telecommunications service;

[(57)] (53) "Transitionally competitive telecommunications service", a telecommunications service offered by a noncompetitive or transitionally competitive telecommunications company and classified as transitionally competitive by the commission pursuant to section 392.361 or 392.370, RSMo;

[(58)] (54) "Water corporation" includes every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees, or receivers appointed by any court whatsoever, owning, operating, controlling or managing any plant or property, dam or water supply, canal, or power station, distributing or selling for distribution, or selling or supplying for gain any water;

[(59)] (55) "Water system" includes all reservoirs, tunnels, shafts, dams, dikes, headgates, pipes, flumes, canals, structures and appliances, and all other real estate, fixtures and personal property, owned, operated, controlled or managed in connection with or to facilitate the diversion, development, storage, supply, distribution, sale, furnishing or carriage of water for municipal, domestic or other beneficial use.

389.005. [The term "division", as used in this chapter, means the division of motor carrier and railroad safety within the department of economic development, unless such use is clearly contrary to the context.] **1. A railroad safety unit is hereby established within the department of transportation. The unit shall be organized so as to assume all regulatory and supervisory powers, duties and functions previously performed by the division of motor carrier and railroad safety within the department of economic development relating to railroad, light rail, and street railroad transportation activities within the state. Except as otherwise provided in this act, all the powers, duties and functions of the division of motor carrier and railroad safety relating to rail transportation activities, including that division's powers, duties and functions as provided in this chapter and chapters 388, 391 and 622, RSMo, are hereby transferred to the department of transportation by type II transfer as set forth in the reorganization act of 1974. Administrative law judges and paralegals assigned to the administrative law judge section of the division of motor carrier and railroad safety are transferred to the administrative hearing commission, in accordance with section**

308.010, RSMo, and section 621.040, RSMo. All railroad safety personnel of the division of motor carrier and railroad safety are hereby transferred to the department of transportation.

2. The department director shall serve as the head of the department's rail transportation activities. Except as otherwise provided by this law, the director may employ and assign personnel, enter into contracts, collect revenues and other funds, expend appropriated funds, issue notices, orders, credentials, subpoenas and other documents, grant or deny applications filed with the department pursuant to this chapter or chapter 391, RSMo, conduct investigations and inspections, enforce requirements, authorize the department's counsel to prosecute enforcement actions in state and federal courts and administrative agencies, determine and settle cases and other disputes within the department's jurisdiction or involving the department's rail transportation activities, and carry out any other actions authorized by law on behalf of the department. The director shall make all rules necessary to perform the duties and responsibilities assigned to the department, in accordance with the provisions of this chapter. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

3. The director may authorize any person employed by the department to do or perform any act, matter or thing which the department is authorized by this chapter to do or perform.

4. The director, after considering all documents filed of record and other relevant evidence, shall issue orders deciding all applications, petitions and motions for relief filed with the department pursuant to this chapter and chapter 391, RSMo. Any party aggrieved by an administratively final order or decision of the director may apply to the administrative hearing commission for administrative review of the director's order or decision, as provided in section 621.040, RSMo. No person shall have a right to judicial review of any order or decision of the department until after having exhausted all administrative remedies, including administrative review by the commission.

[622.100.] **389.011.** As used in this chapter and as used in chapters [387,] 388, 389[, 390] and 391, RSMo, when not in conflict with a specific definition in any such chapter, **and as**

used in chapter 621, RSMo, when applicable to cases involving the department of transportation relating to railroad transportation, the following words and phrases mean:

(1) **"Commission", the administrative hearing commission within the office of administration;**

(2) "Common carrier", includes [every motor carrier, as defined in section 390.020, RSMo, and] all railroad corporations, **light rail**, street railroad corporations, **railway** express companies, [freight companies, freightline companies,] and every corporation, company, association, and partnership, of every kind, and every person, their lessees, trustees, or receivers appointed by any court whatsoever, owning, holding, operating, controlling or managing any such agency for public use in the conveyance of persons or property **by rail** within this state;

[(2)] (3) "Corporation" includes a corporation, company, association, limited liability company, limited liability partnership and joint stock association or company;

[(3)] "Division", the division of motor carrier and railroad safety within] (4) **"Department", the department of [economic development] transportation;**

[(4)] (5) "[Division] **Department staff**", all personnel of the [division, except those individuals assigned to the administrative law judge section] **department of transportation while assigned to matters affecting railroads;**

[(5)] "Express corporation" includes every person, their lessees, trustees or receivers appointed by any court whatsoever, engaged in or transacting the business of transporting any freight, merchandise or other property for compensation on the line of any common carrier within this state;]

(6) **"Light rail", includes every rail transportation system in which one or more rail vehicles are propelled electrically by overhead catenary wire upon tracks located substantially within an urban area and are operated exclusively in the transportation of passengers and their baggage, and including all bridges, tunnels, equipment, switches, spurs, tracks and stations used in connection with the operation of light rail;**

(7) "Line" includes route;

[(7)] (8) "Municipality" includes a city, village or town;

[(8)] (9) "Person" includes an individual, corporation, governmental entity, and a firm or partnership;

[(9)] (10) "Railroad" includes every railroad and railway, other than street railroad, by whatsoever power operated for public use in the conveyance of persons or property for compensation, with all bridges, ferries, tunnels, equipment, switches, spurs, tracks, stations, real estate and terminal facilities of every kind used, operated, controlled or owned by or in connection with any such railroad;

[(10)] (11) "Railroad corporation" includes every person, their lessees, trustees or

receivers owning, holding, operating, controlling or managing any railroad or railway or any cars or other equipment used thereon or in connection therewith;

[(11) "Rate", every individual or joint rate, fare, toll, charge, reconsigning charge, rental or other compensation of any corporation, person or common carrier or any schedule or tariff thereof;]

(12) **"Railway express company", includes every person, their lessees, trustees or receivers appointed by any court whatsoever, engaged in or transacting the business of transporting any freight, merchandise or other property for compensation within this state on the line of any common carrier, as defined in this section;**

(13) "Service" includes not only the use and accommodations afforded consumers or patrons, but also any product or commodity furnished by any corporation, person or carrier and the plant, equipment, apparatus, appliances, property and facilities employed by any corporation, person or carrier in performing any service or in furnishing any product or commodity and devoted to the public purposes of such corporation, person or carrier, and to the use and accommodation of consumers or patrons;

[(13)] (14) "Street railroad" includes every railroad by whatsoever type of power operated, and all extensions and branches thereof and supplementary facilities thereto for public use in the conveyance of persons or property for compensation, mainly providing local transportation service upon the streets, highways and public places in a municipality, or in and adjacent to a municipality, and including all cars, buses and other rolling stock, equipment, switches, spurs, tracks, poles, wires, conduits, cables, subways, tunnels, stations, terminals and real estate of every kind used, operated or owned in connection therewith; and the term "street railroad" when used in this chapter, shall also include all motor bus and trolley bus lines and routes and similar local transportation facilities, and the rolling stock and other equipment thereof and the appurtenances thereto, when operated as a part of a street railroad or trolley bus local transportation system, or in conjunction therewith or supplementary thereto, but such term shall not include a railroad constituting or used as part of a trunk line railroad system and any street railroad as defined in this section which shall be converted wholly to motor bus operation shall nevertheless continue to be included within the term "street railroad" as used herein;

[(14)] (15) "Street railroad corporation" includes every person, their lessees, trustees or receivers, owning, holding, operating, controlling or managing any street railroad as herein defined; and any such street railroad, and all of its cars, buses, other equipment, instrumentalities, property and operations, shall be governed by and subject to the provisions of this chapter applicable to street railroads and street railroad corporations and not by the provisions applicable to other types of railroads;

[(15)] (16) "Transportation of persons" includes every service in connection with or incidental to the safety, comfort or convenience of the person transported and the receipt,

carriage and delivery of such person and the person's baggage;

[16] (17) "Transportation of property" includes any service in connection with the receiving, delivery, elevation, transfer in transit, ventilation, refrigeration, storage, and handling of the property transported.

389.015. The jurisdiction, supervision, powers and duties of the department as herein created and established shall extend under this chapter and chapters 388 and 391, RSMo:

(1) To all railroads within this state, and to all transportation of persons or property thereon, and to the person or corporation owning, leasing, operating or controlling the same, and to every person, corporation and entity that offers for transportation by railroad within this state hazardous or toxic materials as defined under the laws of this state or of the United States;

(2) To all street railroads within this state, and to all transportation of persons or property thereon, and to the person or corporation owning, leasing, operating or controlling the street railroad;

(3) To the extent authorized in section 389.1005 to the operation of light rail located wholly or in part within this state, and to all transportation of persons and their baggage on light rail within this state;

(4) To such portion of the lines of any other railroad, light rail or street railroad as lie within this state, and to the person, corporation or entity owning, leasing, operating or controlling the same, so far as concerns the construction, maintenance, equipment, terminal facilities and local transportation facilities and local transportation of persons or property within this state;

(5) To all railroad corporations, and street railroad corporations operating or doing business within this state;

(6) To all persons, corporations or partnerships engaged in the transportation of property or freight by rail within the state; and

(7) To all corporations and persons whatsoever subject to the provisions of chapters 388, 389 and 391, RSMo, and this chapter.

[622.015. The division shall be organized so as to assume all regulatory and supervisory powers, duties and functions heretofore performed by the public service commission relating to transportation activities within the state. All the powers, duties and functions of the public service commission relating to such activities are hereby transferred to this division by type II transfer as set forth in the reorganization act of 1974.] **389.021.** Assessments made for the expenses of railroad, **light rail and street railroad** regulation, as required by law, shall be paid into the "Railroad Expense Fund", a special fund which is hereby established in the state treasury. The fund shall be applicable to appropriation of the general assembly and shall be

devoted solely to the payment of expenditures incurred by the [division] **department** and attributable to the regulation of railroads, **light rail and street railroad**. Any amount remaining in the special fund at the end of any fiscal year shall not revert to the general revenue fund. [All powers, duties and functions of the public service commission relating to common carriers generally, chapter 387, RSMo, railroad corporations, chapters 388 and 389, RSMo, motor carriers and express companies, chapter 390, RSMo, street railroads, chapter 391, RSMo, and other statutes relevant to transportation activities are transferred to the motor carrier and railroad safety division of the department of economic development and that division is the successor to the public service commission for the purposes of those chapters. Except as otherwise provided herein, the provisions of chapter 386, RSMo, that relate to the powers and duties of the public service commission and the procedure before the public service commission and the courts are hereby made applicable to the motor carrier and railroad safety division. Definitions contained in those chapters shall continue and shall be applied by the motor carrier and railroad safety division as they have been applied prior to July 1, 1985, until changed by law. Wherever the word "commission" is used, the word "division" shall be substituted therefor. Wherever the word "commissioner" is used, the words "administrative law judge" shall be substituted therefor.]

389.023. Any railroad corporation as defined in section 388.010, RSMo, that transports any hazardous waste as defined in section 260.360, RSMo, or any hazardous substance as defined in section 260.500, RSMo, shall pay an annual fee of three hundred fifty dollars. Fees collected pursuant to this section shall be deposited in the hazardous waste fund created in section 260.391, RSMo.

389.025. 1. In all investigations, inquiries or hearings, neither the department nor the commission shall be bound by technical rules of evidence. No formality in any proceeding nor in the manner of taking testimony before the department or commission shall invalidate any order, decision, rule or regulation made, approved or confirmed by the department or commission.

2. The department and the commission each may charge a reasonable docket fee as may be set by rule to be paid upon the filing of any petition, application, complaint, or other request for relief or authority by any party other than the department staff. All such docket fees shall be paid to the state director of revenue at the time of the filing of any such petition, application, complaint or other request for relief or authority, and the same shall be deposited by the state director of revenue in the railroad expense fund of the state of Missouri.

389.031. Upon the granting of an application for a writ of review or certiorari to review any order or decision of the department or of the commission in cases involving the department, the reviewing court shall direct the applicant to certify a copy of the transcript of such testimony, together with all exhibits or copies thereof

introduced and all information secured by the department or an administrative law judge on its own initiative and considered by it in rendering its order or decision, and of the pleadings, record and proceedings in the cause, which shall constitute the record; provided, that on review of an order or decision, the parties to the action may stipulate that a certain question or questions alone and a specified portion only of the evidence shall be certified to the circuit court for its judgment, whereupon such stipulation and the question or questions and the evidence therein specified shall constitute the record on review.

[622.110.] **389.035.** No provisions of this chapter or chapter [387,] 388[, 389, 390] or 391, RSMo, except when specifically so stated, shall apply to or be construed to apply to commerce with foreign nations or commerce among the several states of this union, except insofar as the same may be permitted under the provisions of the Constitution of the United States and the acts of Congress.

[622.115.] **389.041.** The director of the [division] **department** may destroy by burning, or otherwise dispose of such records, financial statements and such public documents which shall at the time of destruction or disposal have been on file in the office of the [division] **department** for a period of [five] **three** years or longer and which are determined by the director of the [division] **department** to be obsolete or of no further public use or value, except such records and documents as may at the time be known by the director of the [division] **department** to be the subject of litigation or dispute.

389.045. Each person appointed to office or employment by the department director shall, before entering upon the duties of such person's office or employment, take and subscribe to an oath or affirmation to support the Constitution of the United States and of this state, and to faithfully and honestly discharge the duties of such office. No person shall be eligible to appointment or shall hold any office or position under the department, who holds any official relation to any common carrier or other company, carrier, corporation or person subject to any of the provisions of this chapter or chapter 388 or 391, RSMo, or who owns stocks or bonds therein, or who has any pecuniary interest therein.

389.051. 1. Every person employed or appointed to office by the department is hereby forbidden and prohibited to solicit, suggest, request or recommend, directly or indirectly, to any common carrier or other person subject to the supervision of the department, or to any officer, attorney, agent or employee thereof, the appointment of any person to any office, place, position or employment. Every such person or entity and every officer, attorney, agent and employee thereof, is hereby forbidden and prohibited to offer to any person employed by the department any office, place, appointment or position, or to offer or give to any person employed or appointed to

office by the department any free pass or transportation or any reduction in fare to which the public generally is not entitled or free carriage for property or any present, gift, entertainment or gratuity of any kind.

2. If any person employed or appointed to office by the department violates any provision of this section, such person shall be removed from the office. Every person employed or appointed to office by the department shall be and be deemed to be a public officer.

3. If any common carrier or other person subject to the supervision of the department violates any provision of this section, it shall be liable to the state of Missouri in a civil action in any court of competent jurisdiction for the assessment of a civil penalty not to exceed twenty thousand dollars. The penalty provided in this subsection shall be in addition to any other penalty provided for violation of the provisions of this chapter. The attorney general or the department's counsel shall bring the action authorized in this subsection. The action may be brought in any county where the defendant's principal place of business is located or where the violation occurred, or where the registered agent is located. The penalty assessed under the provisions of this subsection shall be paid into the state treasury to the credit of the public school fund.

4. Any officer, agent or employee of the department or of any carrier who violates any provision of this section is guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment.

389.055. 1. The department may confer in person, or by correspondence, by attending conventions, or in any other way, with the members of any railroad, transportation, public utility, public service commission, or similar department of other states and the United States of America, or any official, agency or instrumentality thereof, on any matter relating to the performance of its duties.

2. The department may enter into and establish fair and equitable cooperative agreements or contracts with or act as an agent or licensee for the United States of America, or any official, agency or instrumentality thereof, or any railroad, transportation, public utility, public service commission, or similar department of other states, that are proper, expedient, fair and equitable and in the interest of the state of Missouri and the citizens thereof, for the purpose of carrying out its duties under this chapter with reference to railroads or street railroads, as limited and supplemented by section 389.035 and to that end the department may receive and disburse any contributions, grants or other financial assistance as a result of or pursuant to such agreements or contracts. Any contributions, grants or other

financial assistance so received shall be deposited in the railroad expense fund established in section 389.015 and appropriated for the purposes for which they are received.

3. The department may make joint investigations, hold joint hearings within or without the state, and issue joint or concurrent orders in conjunction or concurrence with any railroad, transportation, public utility, public service commission, or similar department, of other states or the United States of America, or any official, agency or any instrumentality thereof, except that in the holding of such investigations or hearings, or in the making of such orders, the department shall function under agreements or contracts between states or under the concurrent power of states to regulate interstate commerce, or as an agent of the United States of America, or any official, agency or instrumentality thereof, or otherwise.

[622.160.] **389.065.** Whenever any carrier has a controversy with another carrier or person and all the parties to such controversy agree in writing to submit such controversy to the [division] **department** as arbitrator, the [division] **department** shall act as such arbitrator, and after due notice to all parties interested shall proceed to hear such controversy, and their award shall be final. Parties may appear in person or by attorney before such arbitrator.

389.071. 1. The department may, whenever it deems advisable, establish a system of accounts to be used by railroad and street railroad corporations or other common carriers which are subject to its supervision, or may classify the said corporations and other carriers and prescribe a system of accounts for each class, and may prescribe the manner in which such accounts shall be kept. It may also, in its discretion, prescribe the forms of accounts, records and memoranda to be kept by such corporations, including the accounts, records and memoranda of the movement of traffic, as well as the receipts and expenditures of moneys. Notice of alterations by the department in the required method or form of keeping a system of accounts shall be given to such persons or corporations by the department at least six months before the same are to take effect. The system of accounts established by the department and the forms of accounts, records and memoranda prescribed by it as provided above shall conform in the case of railroad corporations as nearly as may be to those from time to time established and prescribed by the provisions of the act of Congress entitled "An Act to Regulate Commerce", approved February 4, 1887, and the acts amendatory thereof or supplementary thereto.

2. The department shall at all times have access to all accounts, records and memoranda kept by railroad and street railroad corporations or other common carriers and may designate any of its officers or employees, who shall thereupon have authority under the order of the department to inspect and examine any and all

accounts, records and memoranda kept by such corporations.

[622.200.] **389.075.** 1. Every railroad and street railroad shall file an annual report with the [division of motor carrier and railroad safety] **department**, verified by the oath of the president, treasurer, general manager or receiver, if any, of such corporation, or by the person required to file the same. The verification shall be made by said official holding office at the time of the filing of the said report, and if not made upon the knowledge of the person verifying the same shall set forth the sources of the person's information and the grounds of such person's belief as to any matters not stated to be verified upon the person's knowledge.

2. The [division] **department** shall prescribe the form of such reports and the character of the information to be contained therein, and may from time to time make such changes and such conditions in regard to form and contents thereof as it may deem proper, and on or before June thirtieth in each year shall furnish a blank form for such annual reports to every such corporation and person.

3. The [division] **department** may require such report to contain information in relation to rates or regulations concerning fares or freights, agreements or contracts affecting the same, so far as such rates or regulations pertain to transportation within this state.

4. When the report of any such corporation or person is defective, or believed to be erroneous, the [division] **department** shall notify the corporation or person to amend the same within a time prescribed by the [division] **department**.

5. The originals of the reports, subscribed and sworn to as prescribed by law, shall be preserved in the office of the [division] **department**.

6. The [division] **department** may also require such corporations and persons to file periodic reports in the form, covering the period and at the time prescribed by the [division] **department**. The [division] **department** may require of any such corporation or person specific answers to questions upon which the [division] **department** may need information.

7. The annual report required to be filed by a common carrier corporation shall be so filed on or before the thirtieth day of September in each year. The [division] **department** may extend the time for making and filing such report for a period not exceeding sixty days.

8. If such corporation or person shall fail to make and file the annual report within the time above specified or within the time extended by the [division] **department**, or shall fail to amend such report within such reasonable time as may be prescribed by the [division] **department**, or shall fail to make specific answer to any question, or shall fail to make the periodic reports when required by the [division] **department** as herein provided, within the time and in the form prescribed by the [division] **department** for the making and filing of any such report or answer, such corporation or person shall forfeit to the state the sum of one hundred dollars for each and every day it shall continue to be in default with respect to such annual report, amendment, answer or periodic report. Such forfeiture shall be recovered in an action

brought by the [division] **department** in the name of the state of Missouri. The amount recovered in any action shall be promptly transmitted to the state director of revenue and deposited by the director to the credit of the public school fund of the state.

389.081. 1. Every order, authorization or certificate issued or approved by the department under any provision of this chapter shall be in writing and entered on the records of the department. Any such order, authorization or certificate, or any part thereof, or a copy of the record of any such order, authorization or certificate, certified by the director under the seal of the department to be a true copy of the original order, authorization, certificate or entry, may be recorded in the office of the recorder of any county or city, in which is located the principal office and place of business of any corporation, person or carrier affected thereby, or in which is situated any property of any such corporation, person or carrier, and such record shall impart notice of its provisions to all persons. A certificate under the seal of the department that any such order, authorization or certificate has not been modified, stayed, suspended or revoked may also be recorded in the same offices in the same manner and with the same effect, and shall also be admissible as evidence in any agency or court irrespective of any objections as to form, or that such copies are unsworn, hearsay or not the best evidence.

2. Every common carrier which engages in intrastate commerce within this state shall make available to the department within this state all accounts, records, memoranda, books and papers carried in pursuance of the requirements of law.

389.085. Copies of all official documents and orders filed or deposited according to law in the office of the department, certified by the director to be true copies of the originals, under the official seal of the department, shall be evidence in like manner as the originals. If, after the department has conducted a diligent search of its records, no documents or orders of a specific type or description can be found, then the director may issue a certificate of no record, under the official seal of the department, which shall be prima facie evidence that no documents or orders of that specific type or description exist within the records of the department. Copies and certificates of no record, when certified and sealed in this manner, shall be admissible as evidence in any agency or court irrespective of any objections as to form, or that such copies are unsworn, hearsay or not the best evidence.

389.091. 1. No fees shall be charged or collected for copies of papers, records or official documents furnished by the department to public officers for use in their official capacity, but the department may fix reasonable charges for publications issued under its authority. All fees charged and collected under this section shall be paid, at least once each month, accompanied by a detailed statement thereof, to the

state director of revenue.

2. All fees collected pursuant to this section shall be deposited to the credit of the fund of the department from which the expenses of furnishing the copies listed in this section are paid and shall be used by the department to offset such expenses.

389.095. 1. The department may, after a hearing had upon its own motion or upon complaint, by general or special orders, rules or regulations, or otherwise, require every person, corporation and common carrier to maintain and operate its line, plant, system, equipment, apparatus, tracks and premises in such manner as to promote and safeguard the health and safety of its employees, passengers, customers, and the public. The department may prescribe, among other things, the installation, use, maintenance and operation of appropriate safety and other devices or appliances. The department may avoid the applicable requirements for notice and hearing and provide for expeditious issuance of an order in any case in which the department determines that the failure to do so would result in the likelihood of imminent threat of serious harm to life or property, except that the department shall include in such an order a notice of any aggrieved party's immediate opportunity to apply for hearing to the administrative hearing commission.

2. No person, partnership, firm or corporation shall set up, install, operate or cause to be operated, upon the person's or its premises, any sign or light commonly known as "red neon" or any other kind of red signs, along, adjacent to or in line of vision of any main line track of a railroad in this state, except the same be shaded or shielded, so as to prevent them from being observed from the line of vision, as viewed from an approaching locomotive cab, or where they may cause confusion to the men in the locomotive cab, thereby endangering the safe and efficient operating of such train or locomotive. The department shall inspect such confusing signs, upon complaint, and determine if such sign or signs are confusing or dangerous, and advise the owner or operator of their findings and prescribe an adequate shield therefor.

389.101. 1. The department shall have the general supervision of all common carriers and shall examine the same and keep informed as to the safety, adequacy, and security afforded by their service, and their compliance with all provisions of law, orders and decisions of the department.

2. The department may, through its authorized inspectors or employees, enter in and upon and inspect the property, equipment, tracks and facilities of any common carrier, and may for such inspection purposes ride upon any locomotive or train while in service, and for good cause shown may have upon reasonable notice the use of an inspection locomotive, special locomotive, inspection car or high-rail vehicle for a physical inspection.

3. Authorized employees of the department may examine all books, contracts, records, documents and papers of any person or corporation subject to its supervision, which are pertinent to the exercise of the department's authority pursuant to this chapter or chapters 388 and 391, RSMo, upon notice given by any employee of the department, and the person so notified shall allow access to these records by any authorized employee of the department. After the department has given notice, if the person shall fail or refuse to allow access in accordance with this section, the department may by subpoena duces tecum compel production thereof. In lieu of requiring production of originals by subpoena duces tecum, the department may require sworn copies of any such books, records, documents, contracts and papers or parts thereof to be filed with it.

389.105. 1. The department may, of its own motion, investigate or make inquiry, in a manner to be determined by it, as to any act or thing done or omitted to be done by any common carrier or other person or corporation subject to its supervision, and the department shall make such inquiry in regard to any act or thing done or omitted to be done by any such carrier, person or corporation in violation of any provision of law or in violation of any order or decision of the department.

2. Complaints may be made to the department by any person or corporation aggrieved, by petition or complaint, in writing, setting forth anything or act done or omitted to be done by any common carrier in violation, or claimed to be in violation, of any provision of law or of the terms and conditions of its franchise or charter or of any order or decision of the department. Upon the presentation of such a complaint the department shall cause a copy thereof to be forwarded to the carrier, person or corporation complained of, which may be accompanied by an order, directed to such carrier, person or corporation, requiring that the matters complained of be satisfied, or that the charges be answered in writing within a time to be specified by the department. If the carrier, person or corporation complained of shall make reparation for any injury alleged and shall cease to commit, or to permit, the violation of law, franchise, order or decision charged in the complaint, and shall notify the department of that fact before the time allowed for answer, the department need take no further action on the charges. If, however, the charges contained in such petition be not thus satisfied, and it shall appear to the department that there are reasonable grounds therefor, it shall investigate such charges in such manner and by such means as it shall deem proper, and take such action within its powers as the facts justify.

3. Whenever the department shall investigate any matter complained of by any person or corporation aggrieved by any act or omission of a common carrier under

this section, it shall be its duty, within sixty days after final submission, to make and file an order either dismissing the petition or complaint or directing the carrier, person or corporation complained of to satisfy the cause of complaint in whole or to the extent which the department may specify and require.

389.111. 1. Whenever the department shall be of the opinion that a common carrier, person or corporation is failing or omitting or about to fail or omit to do anything required of it by law or by order or decision of the state, or is doing anything or about to do anything or permitting anything or about to permit anything to be done, contrary to or in violation of law or of any order or decision of the department, it shall direct the chief counsel to the department to commence an action or proceeding in any circuit court of the state of Missouri in the name of the department for the purpose of having such violations or threatened violations stopped and prevented either by mandamus or injunctions. The department's chief counsel shall thereupon begin such action or proceeding by a petition to such court alleging the violation complained of and praying for appropriate relief by way of mandamus or injunction. Such relief shall not be limited to permanent forms of mandamus and injunction, but shall include all available forms of injunction and mandamus, including temporary restraining orders, preliminary injunctions, permanent injunctions, preliminary orders of mandamus, and permanent orders of mandamus.

2. It shall thereupon be the duty of the court to specify the time, not exceeding thirty days after service of a copy of the petition, within which the carrier, person, or corporation complained of, must answer the petition in cases where an answer is contemplated by Missouri Rules of Court. In case of default in answer or after answer, the court shall immediately inquire into the facts and circumstances in such manner as the court shall direct without other or formal pleadings, and without respect to any technical requirement.

3. Such other persons or corporations as the court shall deem necessary or proper to join as parties in order to make its order, judgment or writs effective may be joined as parties upon application of the department's chief counsel.

4. The final judgment in any such action or proceeding shall either dismiss the action or proceeding or direct that a writ of mandamus or an injunction, or both, issue as prayed for in the petition or in such modified or other form as the court may determine will afford appropriate relief.

[622.300.] **389.115. 1.** The [division] department shall, prior to the beginning of each fiscal year beginning with the fiscal year commencing on July 1, [1997] **2002**, make an estimate of the expenses to be incurred by it during such fiscal year reasonably attributable to the regulation of railroads, railroad corporations, street railroads and street railroad corporations, as

provided in chapters [386, 387,] 388[, 389,] and 391, RSMo, and this chapter, and shall also separately estimate the amount of these expenses which are:

- (1) Directly attributable to the regulation of railroads and railroad corporations;
- (2) Directly attributable to the regulation of street railroads and street railroad corporations; and
- (3) Not directly attributable to either of these groups.

2. The [division] **department** shall allocate to each of these groups of entities the estimated expenses directly attributable to the regulation of that group and an amount equal to such proportion of the estimated expenses not directly attributable to either group as the gross intrastate operating revenues of all entities within that group during the preceding calendar year bears to the total gross intrastate operating revenues of all railroads, railroad corporations, street railroads and street railroad corporations during that year. The [division] **department** shall then assess the amounts allocated, subject to adjustment as herein provided, to the entities within each group, in proportion to their respective gross intrastate operating revenues during the preceding calendar year, except that:

- (1) The total amount assessed to all such entities shall not exceed three percent of the total gross intrastate operating revenues of all railroads, railroad corporations, street railroads and street railroad corporations within this state; and

- (2) These assessments shall be adjusted in a manner as to provide that:

- (a) The assessment for each railroad corporation or street railroad corporation which has less than fifty route miles of track within this state shall be not less than one hundred dollars nor more than five hundred dollars per year;

- (b) The assessment for each railroad corporation or street railroad corporation which has not less than fifty route miles nor more than one hundred route miles of track within the state shall be not less than one thousand dollars per year;

- (c) The assessment for each railroad corporation or street railroad corporation which has more than one hundred route miles of track within the state shall be not less than five thousand dollars per year.

3. The [division] **department** shall send a written statement of this assessment to each railroad corporation and street railroad corporation on or before July first, by first class mail with postage prepaid, and the amount assessed to each entity shall be paid by it to the director of revenue in full on or before July fifteenth next following the date of mailing of the statement; except that any railroad corporation or street railroad corporation may pay its assessment in four equal installments not later than the following dates next following the date of mailing of the statement: July fifteenth, October fifteenth, January fifteenth and April fifteenth. The director of revenue shall remit such payments to the state treasurer.

4. The state treasurer shall credit such payments to the railroad expense fund

established pursuant to section [622.015] **389.021**, which fund shall be devoted solely to the payment of expenditures actually incurred by the [division] **department** and attributable to its regulation of railroads, railroad corporations, street railroads and street railroad corporations. Any amount remaining in such special fund at the end of any fiscal year shall not revert to the general revenue fund, but shall be applicable by appropriation of the general assembly to the payment of these expenditures of the [division] **department** in the succeeding fiscal year and shall be applied by the [division] **department** to the reduction of the amount to be assessed to such entities in such succeeding fiscal year. A reduction shall be allocated to each of these groups of entities in proportion to the respective gross intrastate operating revenues of the respective groups during the preceding calendar year.

5. In order to enable the [division] **department** to make the allocations and assessments provided for in this section, each railroad, railroad corporation, street railroad and street railroad corporation which owns or operates any track within this state shall file with the [division] **department**, within ten days after August 28, 1996, and thereafter on or before March thirty-first of each year, a statement under oath showing its gross intrastate operating revenues for the preceding calendar year, and if any of these entities shall fail to file such statement within the time prescribed in this section, the [division] **department** shall estimate such revenues, which estimate shall be binding on such entity for the purposes of this section.

[6. Nothing in this section shall be construed to apply to motor carriers under chapter 390, RSMo, and the expenses of the division attributable to the regulation and oversight of motor carriers shall not be included in the expenses of the division for the purposes of this section.]

[622.310.] **389.121**. 1. All formal proceedings of the [division] **department** and all documents and records filed in the official records of those proceedings shall be public records, **unless otherwise provided by this chapter.**

2. The [division] **department** shall conduct a hearing and take testimony relative to any pending legislation with respect to any person, corporation or matter within the jurisdiction of the [division] **department**, if requested to do so by the general assembly or by either house thereof or by the governor, and shall report its conclusions to the general assembly, or to the governor if the request was made by the governor. The [division] **department** may also recommend the enactment of such legislation with respect to any matter within its jurisdiction as it deems wise or necessary in the public interest.

389.125. 1. At the time fixed for any hearing before the commission, or the time to which the same may have been continued, the department staff or other complainant and the carrier, corporation or person which is the subject of the

complaint, and such carriers, corporations and persons as the commission may allow to intervene, shall be entitled to be heard and to introduce evidence. The commission shall issue process to enforce the attendance of all necessary witnesses.

2. The department or any party may, in any investigation or hearing, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for depositions in civil actions in the circuit courts of this state and to that end may compel the attendance of witnesses and the production of books, waybills, documents, papers, memoranda and accounts. Witnesses whose depositions are taken as provided in this section and the officer taking the same shall severally be entitled to the same fees as are paid for like services in the circuit courts of this state.

3. If the commission determines that its order cannot be complied with within thirty days, the commission may grant and prescribe such additional time as in its judgment is reasonably necessary to comply with the order, and may, on application and for good cause shown, extend the time for compliance fixed in its order.

4. A full and complete record shall be made of all proceedings before the commission on any formal hearing had, and all testimony shall be taken down by a reporter appointed by the commission, and the parties shall be entitled to be heard in person or by attorney. Preparation of a printed transcript may be waived by unanimous consent of all the parties.

389.141. In all trials, actions, suits and proceedings arising under the provisions of this chapter or growing out of the exercise of the authority and powers granted in this chapter to the department, the burden of proof shall be upon the party adverse to the department or seeking to set aside any determination, requirement, direction or order of the department, to show by clear and satisfactory evidence that the determination, requirement, direction or order of the department complained of is unreasonable or unlawful as the case may be.

389.145. 1. All subpoenas shall be signed and issued by a commissioner or by the director of the department, and shall extend to all parts of the state, and may be served by any person authorized to serve process of courts of record or by any person of full age designated for that purpose by the department or by the commission. The person executing any such process shall receive the fees now prescribed by law for similar services in civil cases in the circuit courts in this state, and shall be paid in the same manner as provided herein for the payment of the fees of the witnesses. Each witness who shall appear in conformity with an order of the department or the commission shall receive for attendance the fees and mileage now provided for witnesses in civil cases in the circuit courts of this state, which shall be

audited and paid by the state in the same manner as other expenses of the department are audited and paid, upon the presentation of proper vouchers sworn to by such witnesses and approved by the department.

2. Whenever a subpoena is issued at the instance of a complainant, respondent, or other party to any proceeding before the department or commission, the cost of service thereof and the fee of the witness shall be borne by the party at whose instance the witness is summoned. Any witness subpoenaed except one whose fees and mileage may be paid from the funds of the department may, at the time of service, demand the fee to which the witness is entitled for travel to and from the place at which the witness is required to appear, and one day's attendance. If such witness demands such fees at the time of service, and they are not at that time paid or tendered, the witness shall not be required to attend before the department or commission, as directed in the subpoena. No witness furnished with free transportation shall receive mileage for the distance such witness may have traveled on such free transportation.

3. It shall be the duty of every public officer, without exacting or receiving charge or fee of any kind, to furnish to the department, upon application, a certified copy of any document or part thereof, on file in the office of such officer, and no public officer shall be entitled to receive from the department any fee for entering, filing, docketing or recording any document required or authorized by law to be filed with the office of such officer, or any fees or mileage for service of process at the request of the department.

389.151. At the request of the department's chief counsel and upon good cause shown by the counsel the department shall require or on its own initiative the department may require, by order served upon any corporation or person in the manner provided for the service of orders, the production within this state at such time and place as it may designate, of any books, accounts, papers or records kept by said corporation or person in any office or place within or without this state, or, at its option, verified copies in lieu thereof, so that an examination thereof may be made by the chief counsel when the order is issued at the counsel's request or by the department or under its direction.

389.155. If a person subpoenaed to appear before the department or the commission fails to obey the command of such subpoena, without reasonable cause, or if a person in attendance upon the department or the commission shall, without a reasonable cause, refuse to be sworn or to be examined, or answer a question, or to produce a book or paper when ordered to do so by the department or the commission, or to subscribe or swear to the person's deposition after it has been correctly produced

in writing, such person shall be deemed guilty of a misdemeanor, and be punished by a fine of not less than one hundred dollars nor more than two thousand dollars or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment, and may be prosecuted therefor in any court of competent jurisdiction; and in case of a continuing violation each day's continuance thereof shall be and be deemed to be a separate and distinct offense.

389.161. No person shall be excused from testifying or from producing any books or papers in any investigation or inquiry by or upon any hearing before the department or the commission, when ordered to do so by the department or commission, upon the grounds that the testimony or evidence, books or documents required of the person may tend to incriminate such person or subject such person to penalty or forfeiture, but no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which the person shall have been examined while under oath, and shall under oath have testified or produced documentary evidence, except that no person so testifying shall be exempt from prosecution or punishment for any perjury committed by the person in the person's testimony. Nothing contained in this section is intended to give, or shall be construed as in any manner giving unto any corporation immunity of any kind.

[622.400.] **389.165.** No information furnished to the [division] **department** or the [division] **department** staff by a carrier, corporation or person, except such matters as are specifically required to be open to public inspection by the provisions of this chapter, shall be open to public inspection or made public except on order of the [division] **department** or by [an administrative law judge] **the commission** in the course of a hearing or proceeding. Any officer or employee of the [division] **department or commission** who, in violation of the provisions of this section, divulges any such information shall be guilty of a misdemeanor.

389.195. In all collateral actions or proceedings the orders and decisions of the department or the commission which have become final shall be conclusive, and shall be admissible as evidence of the facts found and the determination made by the department in all subsequent actions or proceedings to enforce the decision of the department, whether by penalty, forfeiture, mandamus, injunctive relief or otherwise.

389.201. Any person who shall willfully make any false entry in the accounts, books of account, records or memoranda kept by any carrier, corporation or person governed by the provisions of this chapter, or who shall willfully destroy, mutilate, alter or by any other means or device falsify the record of any such account, book of accounts, record or memoranda, or who shall willfully neglect or fail to make full, true and correct entries of such account, book of accounts, record or memoranda of all

facts and transactions appertaining to the business of such carriers, corporations or persons, or who shall falsely make any statement required to be made to the department or commission, for which a penalty has not been provided, shall be deemed guilty of a felony, and upon conviction shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars, or by imprisonment for not less than two years nor more than five years, or by both such fine and imprisonment, except that the department may, in its discretion, issue orders specifying such operating, accounting or financial papers, records, books, blanks, tickets, stubs or documents, of carriers which may after a reasonable time be destroyed, and prescribing the length of time such books, papers or documents shall be preserved.

389.211. A substantial compliance with the requirements of this chapter shall be sufficient to give effect to all the rules, orders, acts and regulations of the department, and they shall not be declared inoperative, illegal or void for any omission of a technical nature in respect thereto. The provisions of this chapter shall be liberally construed with a view to the public welfare, efficient transportation services and substantial justice between patrons and carriers.

389.221. In case a common carrier shall do, cause to be done or permit to be done any act, matter or thing prohibited, forbidden or declared to be unlawful, or shall omit to do any act, matter or thing required to be done by this chapter or by any order or decision of the department or commission, such common carrier shall be liable to the persons or corporations affected thereby for all loss, damage or injury caused thereby or resulting therefrom, and in case of recovery, if the court shall find that such act or omission was willful, it may in its discretion fix a reasonable counsel or attorney's fee, which fee shall be taxed and collected as part of the costs in the case. An action to recover for such loss, damage or injury may be brought in any court of competent jurisdiction by any such person or corporation.

389.231. That no contract, receipt, rule, notice or regulation shall exempt any railway company, or corporation, express company or corporation or any other company, corporation or common carrier as defined in this chapter, engaged in the transportation of persons or property, from the liability of a common carrier, or carrier of passengers, which would exist had no contract, receipt, rule, notice or regulation been made or entered into.

[622.615.] **389.241.** Notwithstanding any provisions of section 516.103, RSMo, to the contrary, in all collateral actions or proceedings the orders and decisions of the [division] **department** which have become final shall be conclusive, and shall be admissible as evidence of the facts found and the determinations made by the [division] **department** in all subsequent actions or proceedings to enforce [division] **department** orders or decisions, whether by penalty,

forfeiture, mandamus, injunctive relief or otherwise.

[622.617.] **389.251.** Notwithstanding any provisions of [section 386.480, RSMo,] **law** to the contrary, no information furnished to the [division] **department** by a [motor] **common** carrier, corporation or person, including the [division] **department** staff, except such matters as are specifically required to be open to public inspection by the provisions of chapter [386, 387 or 390] **388 or 391**, RSMo, or this chapter, shall be open to public inspection or made public except on order of the [division] director or by [an administrative law judge] **the commission** in the course of a hearing or proceeding. Any officer or employee of the [division] **department or commission** who, in violation of the provisions of this section, divulges any such information is guilty of a misdemeanor.

389.300. 1. Every railroad corporation organized or doing business under the laws of this state, or by the authority thereof, shall receive and deliver all grain or other freight consigned to its care for transportation at the crossings and junctions of all other railroads, canals and navigable rivers; and shall, at all cities and at all towns along the line of their railroad having a population of two hundred inhabitants or more, construct and maintain switches and freight houses for the receipt and delivery of grain and other freight that may be tendered to such railroad for transportation; and shall stop at least one train daily thereat to receive and unload freight. And whenever in the opinion of the [motor carrier and railroad safety division of the] department of [economic development] **transportation** of this state the amount of business is such as to require the same, such railroad, after due notice from [such motor carrier and railroad safety division of] the department [of economic development] to do so, shall maintain a freight agent at such station for the purpose of receiving and delivering freight.

2. Any railroad corporation failing or refusing to comply with the provisions of this section, after thirty days' notice given, shall be adjudged guilty of a misdemeanor and shall be fined in the sum of ten dollars, to be recovered by indictment or information in any court having jurisdiction thereof, and each day that said railroad corporation shall so fail or refuse to comply with the provisions of this section after the expiration of thirty days after such notice, shall constitute a separate offense.

389.310. 1. Whenever any railroad corporation shall fail, neglect or refuse to furnish, within a reasonable time after demand of a station agent, sufficient cars to supply any party desiring to ship property, then such party shall have the right to furnish cars, which shall be switched and hauled to their destination without unreasonable delay or discrimination in any manner between such cars and cars belonging to the corporation or any other person.

2. Any party furnishing cars as aforesaid shall pay to the railroad corporation a reasonable compensation for the service rendered, and in case an agreement cannot be reached as to such compensation, the [motor carrier and railroad safety division of the] department [of economic development] shall fix the same, and when such compensation has been so fixed, it

shall be prima facie evidence that the same is reasonable.

3. Any railroad company failing or refusing to transport and return the cars furnished by said party or corporation mentioned in this section, shall pay to the party or corporation aggrieved the sum of five hundred dollars for each and every such offense, together with a reasonable attorney's fee, to be recovered by civil action in any court of competent jurisdiction, and every day of such refusal on the part of any railroad company to transport and return such cars as aforesaid after demand is made, shall be deemed a separate offense.

389.610. 1. No public road, highway or street shall be constructed across the track of any railroad corporation, nor shall the track of any railroad corporation be constructed across a public road, highway or street, nor shall the track of any railroad corporation be constructed across the track of any other railroad or street railroad corporation at grade nor shall the track of a street railroad corporation be constructed across the tracks of a railroad corporation at grade, without having first secured the permission of the [division of motor carrier and railroad safety] **department of transportation**, except that this subsection shall not apply to the replacement of lawfully existing tracks. The [division] **department** shall have the right to refuse its permission or to grant it upon such terms and conditions as it may prescribe.

2. Every railroad corporation shall construct and maintain good and sufficient crossings and crosswalks where its railroad crosses public roads, highways, streets or sidewalks now or hereafter to be opened.

3. The [division of motor carrier and railroad safety] **department** shall make and enforce reasonable rules and regulations pertaining to the construction and maintenance of all public grade crossings. These rules and regulations shall establish minimum standards for:

- (1) The materials to be used in the crossing surface;
- (2) The length and width of the crossing;
- (3) The approach grades;
- (4) The party or parties responsible for maintenance of the approaches and the crossing surfaces.

4. The [division] **department** shall have the exclusive power to determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation, maintenance, apportionment of expenses, use and warning devices of each crossing of a public road, street or highway by a railroad or street railroad, and of one railroad or street railroad by another railroad or street railroad. In order to facilitate such determinations, the [division] **department** may adopt pertinent provisions of The Manual on Uniform Traffic Control Devices for Streets and Highways or other national standards.

5. The [division] **department** shall have the exclusive power to alter or abolish any crossing, at grade or otherwise, of a railroad or street railroad by a public road, highway or street whenever the [division] **department** finds that public necessity will not be adversely affected

and public safety will be promoted by so altering or abolishing such crossing, and to require, where, in its judgment it would be practicable, a separation of grades at any crossing heretofore or hereafter established, and to prescribe the terms upon which such separation shall be made.

6. The [division] **department** shall have the exclusive power to prescribe the proportion in which the expense of the construction, installation, alteration or abolition of such crossings, the separation of grades, and the continued maintenance thereof, shall be divided between the railroad, street railroad, and the state, county, municipality or other public authority in interest.

7. Any agreement entered into after October 13, 1963, between a railroad or street railroad and the state, county, municipality or other public authority in interest, as to the apportionment of any cost mentioned in this section shall be final and binding upon the filing with the [division] **department** of an executed copy of such agreement. If such parties are unable to agree upon the apportionment of the cost, the [division] **department** shall apportion the cost among the parties according to the benefits accruing to each. In determining such benefits, the [division] **department** shall consider all relevant factors including volume, speed and type of vehicular traffic, volume, speed and type of train traffic, and advantages to the public and to such railroad or street railroad resulting from the elimination of delays and the reduction of hazard at the crossing.

8. Upon application of any person, firm or corporation, the [division] **department** shall determine if an existing private crossing has become or a proposed private crossing will become utilized by the public to the extent that it is necessary to protect or promote the public safety. The [division] **department** shall consider all relevant factors including but not limited to volume, speed, and type of vehicular traffic, and volume, speed, and type of train traffic. If it be determined that it is necessary to protect and promote the public safety, the [division] **department** shall prescribe the nature and type of crossing protection or warning device for such crossing, the cost of which shall be apportioned by the [division] **department** among the parties according to the benefits accruing to each. In the event such crossing protection or warning device as prescribed by the [division] **department** is not installed, maintained or operated, the crossing shall be closed to the public.

389.612. 1. The owner of a motor vehicle shall pay a railroad crossing safety fee of twenty-five cents when such person registers or renews the registration of a motor vehicle. All revenue collected by the director of revenue **and by the department of transportation** pursuant to this section shall be deposited in the state treasury to the credit of the state highways and transportation department fund in an account to be known as the "Grade Crossing Safety Account", which is hereby created.

2. Funds from the grade crossing safety account shall be used for installation, construction or reconstruction of automatic signals or other safety devices or other safety improvements at crossings of railroads and public roads, streets or highways. That portion of the

costs proportioned to the state, county, municipality or other public authority in interest, for installation, construction or reconstruction of automatic signals or other safety devices or other safety improvements at crossings of railroads and public roads, streets or highways which the [division of motor carrier and railroad safety] **department** orders pursuant to section 389.610 shall be paid out of the grade crossing safety account, except that when any part of such costs can be paid from funds available under any federal program or the Federal-Aid Highway Act such part shall not be paid from the grade crossing safety account. No more than ninety percent of the cost of improving any grade crossing shall be paid out of the grade crossing safety account. The [division] **department** shall, in cooperation with other governmental agencies of the state, determine if any portion of the cost can be paid from funds available pursuant to any federal program or the Federal-Aid Highway Act. The [division] **department** may order the payment of the amount determined pursuant to section 389.610 to the person, firm, or corporation entitled thereto from the grade crossing safety account. Notwithstanding any other provision of this section to the contrary, the [division of motor carrier and railroad safety within the] department of [economic development] **transportation** may expend annually out of the grade crossing safety account an amount not greater than one hundred thousand dollars of the total annual receipts deposited in the state treasury to the credit of such account to pay for administrative expenses of the [division] **department** incurred in carrying out the [division] **department's** railroad grade crossing closure program. The provisions of this section shall not limit or enlarge the [division] **department's** expenditures out of the grade crossing safety account for any other purposes or the [division] **department's** expenditures out of any other account or fund.

3. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the grade crossing safety account shall not be transferred and placed to the credit of the state road fund until the amount in the account at the end of the biennium exceeds two times the amount encumbered from the account to carry out the purposes of this section in the preceding fiscal year. The amount, if any, in the account which shall be transferred to the credit of the state road fund shall be that amount in the account which exceeds two times the amount encumbered from the account to carry out the purposes of this section in the preceding fiscal year.

389.614. Railroad warning devices which are installed or maintained by order or by rule of the [division of motor carrier and railroad safety] **department** are presumed to be adequate and appropriate warning devices for the crossing. All railroads shall continue to exercise reasonable care at railroad crossings for the safety of the members of the public using the crossing.

389.615. [The division of motor carrier and railroad safety shall conduct a study to establish priorities for grade crossing closures and a plan for implementing grade crossing

closures. The study is to be completed by January 1, 1994, and is not to be paid for from the grade crossing safety account.] To promote the safety of railroad tracks at crossings, the [division] **department** may employ additional track safety specialists, subject to appropriations, or available federal or private funding.

389.780. 1. A railroad corporation, upon the application of any shipper tendering traffic for transportation, shall construct, maintain and operate upon reasonable terms a switch connection or connections with a lateral line of railroad or private sidetrack owned, operated or controlled by such shipper, and shall, upon the application of any shipper, provide upon its own property a sidetrack and switch connection with its line of railroad, whenever such sidetrack and switch connection is reasonably practicable, can be put in with safety and the business therefor is sufficient to justify the same.

2. If any railroad corporation shall fail to install or operate any such switch connection with a lateral line of railroad or any such sidetrack and switch connection as aforesaid, after written application therefor has been made to it, any corporation or person interested may present the facts to the [division of motor carrier and railroad safety] **department** by written petition, and the [division] **department** shall investigate the matter stated in such petition, and give such hearing thereon as it may deem necessary or proper. If the [division] **department** be of opinion that it is safe and practicable to have a connection, substantially as prayed for, established or maintained, and that the business to be done thereon justifies the construction and maintenance thereof, it shall make an order directing the construction and establishment thereof, specifying the reasonable compensation to be paid for the construction, establishment and maintenance thereof, and may in like manner upon the application of the railroad corporation order the discontinuance of such switch connection.

389.795. In cases in which the [motor carrier and railroad safety division of the] department [of economic development] finds the same to be practical and necessary for safety of railroad employees, bridges and trestles, over and upon which railroad trains are operated, shall include as a part thereof, safe and suitable walkway and handrail on one side only of such bridge or trestle, and such handrail shall be located at the outer edge of said walkway and shall provide a clearance of not less than eight feet, six inches, from the center line of the nearest track, measured at right angles thereto.

389.895. 1. It shall be unlawful for any person, firm, company, corporation, operating a railroad as a common carrier in this state, to hereafter build and put into operation, any car used as a caboose which does not conform to the requirements of this section.

2. Wherever glass or glazing materials are used in partitions, doors, windows, or wind deflectors, it shall be of the safety glass type. For the purpose of this subsection, safety glass is any type of glass or glazing material so manufactured, fabricated, treated or combined with other materials as to reduce, in comparison with ordinary sheet glass or plate glass, the likelihood of

injury to persons by objects, other external sources, or by glass or glazing material when the same is cracked or broken.

3. This section shall not apply to a caboose operated wholly within yard limits.

4. The [motor carrier and railroad safety division of the] department of [economic development of Missouri] transportation shall be empowered to enforce the foregoing subsections and prosecute any violation thereof.

389.920. Every corporation, lessee, owner, operator or receiver or other person owning or operating a railroad in the state of Missouri shall provide and maintain in a plainly marked accessible location on all passenger train cars, cabooses, [each locomotive unit capable of independent operation] and all motorized on-track work equipment used in railroad operations, which weigh in excess of four hundred pounds, a first aid kit conforming to such requirements as the [division] **department** may, by rule, prescribe.

389.945. 1. The [motor carrier and railroad safety division of the] department [of economic development of Missouri] shall make and enforce reasonable safety rules and regulations relating to motor vehicles designed for highway use and used by common carriers by rail to transport employees, tools and supplies, to and from their places of employment or during the course of their employment. These rules and regulations shall establish minimum standards:

(1) For the construction and mechanical equipment of a motor vehicle;

(2) For the loading and carrying of tools, supplies, and employees; the transportation of gasoline, or other inflammable materials and explosives;

(3) For the safety of employees in a motor vehicle, where gang size will not permit all employees to ride in driver's cab, adequate seating facilities, heating facilities and communication between cab and rear compartment and means of retaining tools and supplies within the motor vehicle;

(4) The rules and regulations shall apply only to vehicles acquired after the effective date of the rules and regulations. In case of an emergency, vehicles not complying with the rules and regulations may be used.

2. Before formulating such rules and regulations, the [division of motor carrier and railroad safety] **department** shall conduct hearings and invite participation of interested groups. These groups may make suggestions relating to the minimum standards to be embodied in the rules and regulations. The [division] **department** shall consider the suggestions prior to the issuance of any rules and regulations.

3. The [division] **department** may amend the rules and regulations at any time upon its own motion or upon complaint by an individual or group, in the same manner as it adopts other rules and regulations.

4. The [division] **department** may, in enforcing the rules and regulations, inspect any motor vehicle to which these rules apply. Upon request, the superintendent of the Missouri state

highway patrol shall assist the [division] **department** in these inspections.

5. Violation by the owner of a motor vehicle of any rule or regulation or any amendment thereto promulgated pursuant to this section or any order issued by the [division] **department** under this section, or willful failure to comply with such an order, is a misdemeanor, and upon conviction thereof, the owner shall be sentenced to undergo imprisonment for not more than one year, or to pay a fine not exceeding five hundred dollars or both.

389.991. The following words used in sections 389.991 to 389.995 shall mean:

(1) "Bridges", structures supporting the track or tracks over a waterway, highway, ravine or railroad;

(2) "Carrier", any common carrier by rail;

(3) ["Division"] "**Department**", the [motor carrier and railroad safety division of the] department of [economic development] **transportation**;

(4) "Roadbed", culverts, tunnels, cuts and fills on which or through which the tracks are located;

(5) "Tracks", rails and fastenings, ties, crossings-at-grade, both railroad and highway, switches and their appurtenances but not including signal equipment.

389.992. **Except as preempted by federal law or regulations**, the [division of motor carrier and railroad safety] **department** shall make and enforce reasonable rules and regulations establishing minimum standards of track, bridge and roadbed inspection:

(1) For track, bridge and roadbed used by passenger trains or freight trains;

(2) For the qualifications of the inspector;

(3) For the frequency of inspection and territory to be covered;

(4) For method of inspection, including items requiring special attention;

(5) Action to be taken when defects are found.

389.993. 1. Before formulating such rules and regulations, the [division of motor carrier and railroad safety] **department** shall conduct hearings and invite participation of interested groups. These groups may make suggestions relating to the minimum standards to be embodied in the rules and regulations. Any rules and regulations formulated shall not be in conflict with federal standards on the same subject matter, except as permitted under the Federal Railroad Safety Act of 1970, or any amendments thereto.

2. The [division] **department** may amend the rules and regulations at any time upon its own motion or upon complaint by an individual or group, in the same manner as it adopts other rules and regulations.

389.997. 1. It shall be unlawful for any person, firm, company or corporation operating a railroad as a common carrier in this state, while transporting freight for compensation or hire, to place immediately ahead of an occupied caboose or immediately behind an occupied locomotive, a flat car on which are placed loads that might shift or move or bulkhead type flat car that is

loaded above the top edge of the car or beyond the sides, or a gondola type car loaded above the edge, with pipe, lumber or poles, or with freight or machinery which might shift or move and which the [motor carrier and railroad safety division of the] department [of economic development] finds, after hearing, to be an unreasonable risk to the safety and well-being of the employees.

2. This section shall not apply to yard switching movements.

3. The [motor carrier and railroad safety division of the] department [of economic development of the state of Missouri] shall enforce this section and prosecute any violation thereof, as provided for in section 386.570, RSMo.

389.998. 1. Any corporation or person who violates or fails to comply with any provisions of this chapter is subject to a civil penalty or forfeiture of not less than one hundred dollars nor more than two thousand dollars for each offense. **The director may authorize** an action to recover a penalty or forfeiture under this chapter **or chapter 388 or 391, RSMo**, or to enforce the powers of the [division under this chapter] **department pursuant to any of these chapters, which** may be brought in any circuit court in this state in the name of the state of Missouri and shall be commenced and prosecuted to final judgment by the [general] **chief** counsel to the [division] **department. Notwithstanding any provision of law to the contrary, no administrative complaint or hearing shall be required before commencing and prosecuting any action pursuant to this section, and no court fees, sheriff's fees or other costs shall be payable by the department in any such action.** In any such action all penalties or forfeitures incurred up to the time of commencing the same may be sued for and recovered therein, and the commencement of an action to recover a penalty or forfeiture shall not be, or be held to be, a waiver of the right to recover any other penalty or forfeiture. If the defendant in such action shall prove that during any portion of the time for which it is sought to recover penalties or forfeitures for a violation of an order or decision of the [division] **department**, the defendant was actually and in good faith prosecuting a suit to review such order or decision in the manner as provided in **this** chapter [622, RSMo], the court shall remit the penalties or forfeitures incurred during the pendency of such proceeding. All moneys recovered as a penalty or forfeiture shall be paid to the public school fund of the state. Any such action may be compromised or discontinued on application of the [division] **department** upon such terms as the court shall approve and order.

2. Every violation of the provisions of this or any other law or of any order, decision, decree, rule, direction, demand or requirement of the [division] **department**, or any part or portion thereof, by any corporation or person is a separate and distinct offense, and in case of a continuing violation of each day's continuance thereof shall be and be deemed to be a separate and distinct offense.

3. In construing and enforcing the provisions of this chapter relating to penalties or

forfeitures, the act, omission or failure of any officer, agent or employee of any corporation or person acting within the scope of his official duties of employment, shall [in every case be and] **also** be deemed to be the act, omission or failure of such corporation or person.

4. All penalties or forfeitures accruing under the provisions of this chapter shall be cumulative of each other, and any action for the recovery of one such penalty or forfeiture shall not be a bar to or affect the recovery of any other penalty or forfeiture.

389.1005. 1. Except as otherwise provided in this subsection or in subsection 2 of this section, the [division of motor carrier and railroad safety] **department** shall, after hearing, adopt, in accordance with section [622.027] **308.805**, RSMo, and enforce rules relating to the safe operation, maintenance and use of light rail, and the construction of light rail-highway crossings. The [division] **department** of transportation shall examine the manner in which light rail property and services are safely conducted and operated. The [division] **department** shall examine compliance with all the provisions of law, orders and decisions of the [division] **department** regarding the safe operation of light rail, except that if the United States has enacted a law, or any officer or agency of the United States has adopted any rule, regulation, order, decision or standard covering the subject matter of the [division] **department**'s rules relating to the safe operation, maintenance and use of light rail and the construction of light rail highway crossings, then compliance with that statute, regulation, order, decision or standard satisfies the duty of compliance with the law, rule, regulation, order or decision of the [division] **department** covering that subject matter. [The provisions of chapter 386, RSMo, relating to the powers and duties of the public service commission and the procedure before the public service commission and the courts, as well as the provisions of section 622.030, RSMo, are hereby made applicable to the division of motor carrier and railroad safety with regard to the safe operation of light rail as provided in this subsection.]

2. The [division of motor carrier and railroad safety] **department** shall not examine any individual or joint rate, fare, toll, charge, or other compensation of any person or any two or more persons or any schedule or tariff setting fares or rates for light rail or the hours of service, frequency, use and accommodations afforded customers or patrons of light rail or products or commodities furnished in connection with the operation of light rail.

3. The [division] **department** may contract with the bi-state development agency created by section 70.370, RSMo, for safety consultation pursuant to the [division] **department**'s duties created by this section. Any moneys paid pursuant to this subsection shall be deposited in the light rail safety fund created in section 389.1010.

4. **The department shall, prior to the beginning of each fiscal year, make an estimate of the expenses to be incurred by it during that fiscal year reasonably attributable to the regulation of light rail, as provided in this chapter, and shall assess each light rail located wholly or in part within this state a portion of these**

estimated expenses, in proportion to their respective total operated train miles during the preceding calendar year. The [division] **department** shall render a statement of such assessment to each light rail operator on or before July first and the amount so assessed to each light rail operator shall be paid by it to the director of revenue in full on or before July fifteenth immediately following the rendition of such statement, except that any such light rail operator may pay such assessment in four equal installments not later than the following dates immediately following the rendition of such statement, by making payments on July fifteenth, October fifteenth, January fifteenth and April fifteenth. The director of revenue shall remit such payments to the state treasurer.

5. The state treasurer shall credit such payments to the railroad expense fund established under section [622.015, RSMo] **389.015**. Notwithstanding any [provisions of section 622.015, RSMo,] **provision of law** to the contrary, that portion of the railroad expense fund received from light rail assessments pursuant to this section shall be devoted solely to the payment of expenditures incurred by the [division of motor carrier and railroad safety within the department of economic development and] **department of transportation** attributable to the regulation of light rail.

6. In order to enable the [division] **department** to make the assessments provided for in this section, each light rail operator shall file with the [division] **department**, within ten days after August 28, 1996, and thereafter on or before March thirty-first of each year, a statement under oath showing its total operated train miles for the preceding calendar year, and if any light rail operator shall fail to file such a statement within such time, the [division] **department** shall estimate such miles which estimate shall be binding on such light rail operator for the purpose of this section.

389.1010. Any moneys received by the [division of motor carrier and railroad safety of the] department of [economic development] **transportation** pursuant to subsection 3 of section 389.1005 shall be deposited in the state treasury to the credit of the "Light Rail Safety Fund" which is hereby created. The account shall be administered by the director of the [division of motor carrier and railroad safety] **department**. When appropriated the moneys in the fund shall be used solely for the purpose of paying the costs of its duties pursuant to section 389.1005. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the light rail safety fund at the end of any biennium shall not be transferred to the credit of the general revenue fund.

391.070. 1. Whenever the [division of motor carrier and railroad safety] **department** shall be of the opinion, after a hearing had upon its own motion or upon complaint, that the practices and service and the rules and regulations affecting the same of any street railroad corporation are, as to transportation upon the street surface railroads of said corporation by use of transfers given to each passenger paying one single fare, unjust and unreasonable either as

to persons transported upon such street surface railroads or as to any such street railroad corporation, the division shall determine and prescribe by order the just and reasonable service and rules and regulations affecting the same thereafter to be maintained and observed by said street railroad corporation:

(1) As to the distance over which a passenger shall by such transfer be transported by it upon said street surface railroads for a single fare;

(2) The number of successive transfers to be given by it to a passenger paying one single fare for transportation over said street surface railroads; and

(3) As to the prompt use by each passenger of such transfer given him for one single fare paid by him in making his continuous trip over said street surface railroads.

2. And it shall thereupon be the duty of every such street railroad corporation to obey each requirement of every such order served upon it and do everything necessary and proper in order to secure compliance with and observance of every such order by all of its officers, agents and employees.

3. Until and except as the [motor carrier and railroad safety division of the] department of [economic development] **transportation** shall otherwise prescribe as to any street railroad corporation or corporations pursuant to the provisions of this chapter, every street surface railroad corporation entering into a contract with another such corporation shall carry or permit any other party thereto to carry between any two points on the railroads or portion thereof embraced in such contract any passenger desiring to make one continuous trip between such points for one single fare, not higher than the fare lawfully chargeable by either of such corporations for an adult passenger. Every such corporation shall, upon demand, and without extra charge, give to each passenger paying one single fare a transfer entitling such passenger to one continuous trip to any point or portion of any railroad embraced in such contract, to the end that public convenience may be promoted by the operation of the railroads embraced in such contract substantially as a single railroad with a single rate of fare.

4. For every refusal to comply with the requirements of subsection 3, the corporation so refusing shall forfeit one hundred dollars, fifty dollars of which shall be paid to the aggrieved party and fifty dollars paid to the public school fund of the state. The provisions of subsection 3 shall only apply to railroads wholly within the limits of any one incorporated city or village.

447.080. If no person call for said goods, merchandise or other property, within sixty days from the receipt thereof, and pay freight and charges thereon, it shall be lawful for such carrier, commission merchant or warehouseman to sell such goods, merchandise or other property, or so much thereof at auction, to the highest bidder, as will pay said freight and charges, first having given twenty days' notice of the time and place of sale to the owner, consignee or consignor, when known, and by advertisement in a daily paper, or if in a weekly paper, four weeks, published where such sale is to take place; and if any surplus be left after paying freight,

storage, cost of advertising and all other just and reasonable charges, the same shall be paid over to the rightful owner of said property at any time thereafter, upon demand being made therefor, within sixty days; provided, however, that any common carrier may sell such goods, merchandise, or other property in accordance with the provisions of the bill of lading applicable thereto[, where the form of bill of lading used has been duly filed with the public service commission of Missouri].

621.015. The "Administrative Hearing Commission" is assigned to the office of administration. It shall consist of no more than [three] **six** commissioners. The commissioners shall be appointed by the governor with the advice and consent of the senate. The term of each commissioner shall be for six years, **beginning on the date of appointment**, and **continuing** until [his] **that commissioner's** successor is appointed, qualified and sworn. The commissioners shall be attorneys at law admitted to practice before the supreme court of Missouri, but shall not practice law during their term of office. Each commissioner shall receive annual compensation of fifty-one thousand dollars plus any salary adjustment provided pursuant to section 105.005, RSMo. Each commissioner shall also be entitled to actual and necessary expenses in the performance of his duties. The office of the administrative hearing commission shall be located in the City of Jefferson and it may employ necessary clerical assistance, compensation and expenses of the commissioners to be paid from appropriations from general revenue made for that purpose.

621.040. 1. After the effective date of section 308.010, RSMo, all individuals authorized on that date as administrative law judges of the division of motor carrier and railroad safety within the department of economic development shall be commissioners of the administrative hearing commission within the office of administration, and shall serve out the unexpired remainder of their terms as commissioners. They shall have the same powers, duties, functions and compensation as provided by law for the other commissioners, and after the expiration of their terms they may be reappointed in the same manner as other commissioners.

2. Notwithstanding any provision of law to the contrary, after the effective date of this section, a party in any of the cases described in this subsection shall be entitled to an administrative hearing only as provided in this section. When authorized pursuant to this section, the administrative hearing commission shall have jurisdiction to conduct hearings, make findings of fact and conclusions of law, and issue orders determining the following types of cases:

(1) Administrative review of orders issued by the director of the division of motor carrier services that:

- (a) Assign a conditional or unsatisfactory safety rating to any motor carrier;**
- (b) Deny a motor carrier's request to change a previous unsatisfactory or conditional safety rating to a satisfactory safety rating, based upon corrective action;**

- (c) Place a motor carrier out of service;**
- (d) Dismiss or deny any application filed with the division; or**
- (e) Suspend any motor carrier's certificate, permit, license, registration, credential, tariff schedule or time schedule;**

(2) Administrative review of any orders issued by the director of the department of transportation, pursuant to the provisions of chapters 389 or 391, RSMo;

(3) Applications filed with the division of motor carrier services seeking the issuance or amendment of a certificate or contract carrier permit authorizing a motor carrier to transport passengers other than in charter service, or household goods, for hire or compensation in intrastate commerce, when either:

(a) A common carrier authorized by the division to transport passengers other than in charter service, or household goods, whichever is pertinent to the application, has timely filed a motion to intervene in opposition to an application for a common carrier certificate or contract carrier permit; or

(b) A contract carrier authorized by the division to transport passengers other than in charter service, or household goods, whichever is pertinent to the application, for the same contracting party or shipper that the applicant proposes to serve as a contract carrier, has timely filed a motion to intervene in opposition to an application for a contract carrier permit;

(4) Applications filed with the division of motor carrier services seeking rate relief, relating to the transportation of passengers or household goods, in which any interested person has timely filed a motion to intervene in opposition to the requested relief.

3. In cases subject to the jurisdiction of the administrative hearing commission as provided in subsection 2 of this section, any person requesting an administrative hearing, or that person's authorized representative, shall file a signed, original motion for administrative hearing with the administrative hearing commission. The movant shall serve a true copy of the motion upon the director of the department of transportation and every other party of record in the underlying agency proceeding before filing the motion with the commission, and shall file a certificate of service with the commission simultaneous with the filing of the original motion. The timely filing and service of the motion for administrative hearing and certificate of service as required by this section are jurisdictional. If a motion for administrative hearing and certificate of service in conformity with this section are not received by the commission's office within the period prescribed by this subsection, the commission's jurisdiction is waived. Every motion for administrative hearing shall specify the order number or case number assigned by the division to the matter on which a hearing is

requested, and shall be filed with the commission not later than:

(1) Thirty days after the date of mailing of the administrative order of which the requester seeks review, in cases pursuant to subdivisions (1) or (2) of subsection 2 of this section. These motions for administrative hearing shall identify every alleged error in the underlying order, and shall state with particularity every legal and factual ground on the basis of which the movant asserts that the underlying order has erred; or

(2) Fifteen days after the date when notice of the application is published by the division of motor carrier services, in cases pursuant to subdivisions (3) or (4) of subsection 2 of this section.

4. When a motion for administrative hearing is timely filed with the commission pursuant to this section, the commission shall immediately serve written notice to the director of the department of transportation and to all parties of record in the underlying proceedings. Within thirty days after the service of the commission's notice, the department of transportation and any other parties of record in the underlying proceeding shall file a responsive pleading or motion with the commission, and thereafter may participate as a party in the case before the commission.

5. Not less than thirty days after the commission serves the notice as required in subsection 4 of this section, the commission may:

(1) Dismiss the case on any of these grounds:

(a) Lack of jurisdiction;

(b) Failure of the movant to comply with any requirements of this section or the rules of the commission adopted pursuant to this section;

(c) Failure of the movant, after lawful notice, timely to appear and participate in any deposition, prehearing conference, or hearing scheduled in the case;

(d) Movant's own request to dismiss; or

(e) By consent of all parties of record in the commission's case;

(2) Determine all or any part of the case without a hearing, based upon:

(a) A stipulation, consent order, or other agreement between all parties of record;

(b) A motion by any party of record for a determination by default, or determination on the pleadings, or for summary determination, pursuant to rules of the commission which shall authorize such dispositions on terms comparable to default judgment, judgment on the pleadings, or summary judgment in actions before the circuit courts of this state.

6. Except when the commission disposes of a proceeding pursuant to subsection 5 of this section, the commission shall proceed with discovery, prehearing

motions, prehearing conferences, notice and conduct of hearings, submission of briefs, and issuance of decisions, as provided in relevant provisions of chapters 308, 389 or 391, RSMo, and any provisions of chapter 621, RSMo, and the commission's rules, which are not inconsistent with the relevant provisions of chapters 308, 389 or 391, RSMo.

7. Whenever the commission concludes that the underlying agency order is lawful and reasonable, it shall issue an order affirming the underlying order. If the commission concludes that the underlying order is unlawful, or is not reasonably supported by substantial and competent evidence upon the whole record, it shall issue its order vacating the underlying order. If the commission vacates an underlying order that had either denied or dismissed an application for motor carrier operating authority, then without further hearing or proceedings, within thirty days the division of motor carrier services shall issue an order granting such operating authority as the department determines is justified upon the whole record before the commission.

8. Any party of record, including the division, may appeal all or any part of the commission's final order, as provided in section 621.189.

[301.273. 1. There is hereby created a "Missouri Highway Reciprocity Commission" to be composed of the governor, the attorney general, the director of the division of motor carrier and railroad safety in the department of economic development, the director of revenue, the superintendent of the Missouri state highway patrol and the director of the department of transportation, and any member may designate a qualified employee to act for and in the member's stead on the commission. The designation shall be made in writing filed with the commission and may be revoked at any time by the designating official. The commission shall elect from its members a chairperson and such other officers as it deems necessary, fix its times and places of meeting and determine its own procedure. The commission is hereby authorized to appoint a secretary, who shall have charge of the office of the commission and shall be the custodian of the records of the commission, and such other employees as shall be necessary to properly perform the duties of the commission and shall fix the compensation of such secretary and other employees within the amount appropriated by the general assembly.

2. The commission shall keep written records of the minutes of all meetings which shall be kept, together with copies of all agreements entered into and rules and regulations promulgated by the commission, in the office of the secretary of the commission. Such records shall be public records of the state of Missouri and shall be open to public inspection. All rules and regulations promulgated by the commission shall be filed in the office of the secretary of state and shall take effect and become operative

not sooner than ten days after they are so filed.]

[301.279. The commission shall cooperate with the public service commission in the matter of negotiating and entering into reciprocal agreements as provided for under sections 301.271 to 301.279 and as provided for by section 386.220, RSMo, but the provisions and agreements as to reciprocity concerning motor vehicle registration shall be separate and distinct from and not governed by any provisions or agreements as to reciprocity concerning public service commission fees and charges.]

[324.700. As used in sections 324.700 to 324.745, unless the context provides otherwise, the following terms shall mean:

- (1) "Division", the division of motor carrier and railroad safety;
- (2) "House", a dwelling or other structure intended for human habitat in excess of fourteen feet in width. A house does not include a manufactured home as defined in section 700.010, RSMo, or a modular unit;
- (3) "Housemover", a person actively engaged on a full-time basis in the intrastate movement of houses on public roads and highways of this state;
- (4) "Housemoving", engaging actively and directly on a full-time basis in the intrastate movement of houses on public roads and highways of this state;
- (5) "Person", an individual, corporation, partnership, association or any other business entity.]

[387.020. The provisions of sections 390.020 and 622.100, RSMo, defining words, phrases and terms shall apply to and determine the meaning of all such words, phrases or terms as used in sections 387.010 to 387.340.]

[387.240. The power of motor carriers to issue stocks, and bonds, notes and other evidences of indebtedness and to create liens upon their property situated in this state is a special privilege, the right of supervision, regulation, restriction, and control of which is and shall continue to be vested in the state, and such power shall be exercised as provided by law and under such rules and regulations as the division of motor carrier and railroad safety may prescribe.]

[387.270. 1. A motor carrier organized or existing, or hereafter incorporated, under or by virtue of the laws of the state of Missouri, may issue stocks, bonds, notes or other evidences of indebtedness payable at periods of more than twelve months after the date thereof, when necessary for the acquisition of property, the construction, completion, extension or improvement of its facilities, or for the improvement or maintenance of its service, or for the discharge or lawful refunding of its obligations, or for the reimbursement of moneys actually expended from income, or from any other moneys in the treasury of the corporation not secured by or obtained from the issue of stocks, bonds, notes or other evidence of indebtedness of such corporation, within five years next prior

to the filing of an application with the division of motor carrier and railroad safety for the required authorization, for any of the aforesaid purposes except maintenance of service and except replacements in cases where the applicant shall have kept its accounts and vouchers of such expenditure in such manner as to enable the division to ascertain the amount of moneys so expended and the purposes for which such expenditure was made; provided, and not otherwise, that there shall have been secured from the division an order authorizing such issue, and the amount thereof, and stating the purposes to which the issue or proceeds thereof are to be applied, and that, in the opinion of the division, the money, property or labor to be procured or paid for by the issue of such stocks, bonds, notes or other evidence of indebtedness is or has been reasonably required for the purposes specified in the order, and that except as otherwise permitted in the order in the case of bonds, notes and other evidence of indebtedness, such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

2. For the purpose of enabling it to determine whether it should issue such an order, the division shall make such inquiry or investigation, hold such hearings and examine such witnesses, books, papers, documents or contracts as it may deem of importance in enabling it to reach a determination. Such corporation shall not without the consent of the division apply said issue or any proceeds thereof to any purpose not specified in such order.

3. Such motor carrier may issue notes, for proper corporate purposes and not in violation of any provision of this chapter, or any other law, payable at periods of not more than twelve months without such consent, but no such notes shall, in whole or in part, directly or indirectly, be refunded, by any issue of stock or bonds or by any evidence of indebtedness running for more than twelve months without the consent of the division; provided, however, that the division shall have no power to authorize the capitalization of any franchise to be a corporation or to authorize the capitalization of any franchise or the right to own, operate or enjoy any franchise whatsoever in excess of the amount (exclusive of any tax or annual charge) actually paid to the state or to a political subdivision thereof as the consideration for the grant of such franchise or right; nor shall the capital stock of a corporation formed by the merger or consolidation of two or more other corporations, exceed the sum of the capital stock of the corporation so consolidated, at the par value thereof, or such sum and any additional sum actually paid in cash; nor shall any contract for consolidation or lease be capitalized in the stock of any corporation whatever; nor shall any corporation hereafter issue any bonds against or as a lien upon any contract for consolidation or merger.】

[387.280. 1. No motor carrier governed by the provisions of this chapter shall issue any stock, bonds, notes or other evidence of indebtedness, for money, property or

services, either directly or indirectly, nor shall it receive any money, property or services in payment of the same, either directly or indirectly, until there shall have been recorded upon the books of such corporation or person the certificate of the division of motor carrier and railroad safety herein provided for.

2. No motor carrier governed by the provisions of this chapter shall declare any stock, bond or scrip dividend or divide the proceeds of the same of any stock, bond or scrip among its stockholders unless authorized by the division so to do.]

[387.290. 1. The division of motor carrier and railroad safety shall have the power to require motor carriers to account for the disposition of the proceeds of all sales of stocks, bonds, notes and other evidences of indebtedness in such form and detail as it may deem advisable and to establish such rules and regulations as it may deem reasonable and necessary to insure the disposition of such proceeds for the purpose or purposes specified in its order.

2. All stock, and every bond, note or evidence of indebtedness, of a motor carrier issued without an order of the division authorizing the same then in effect shall be void, and likewise all stock, and every bond, note or other evidence of indebtedness, of a motor carrier issued with the authorization of the division, but not conforming in its provisions to the provisions, if any, which it is required by the order of authorization of the division to contain, shall be void; but no failure in any other respect to comply with the terms or conditions of the order of authorization of the division shall render void any stock, or any bond, note or other evidence of indebtedness, except as to a corporation or person taking the same otherwise than in good faith and for value and without actual notice.

3. Every motor carrier, which directly or indirectly issues or causes to be issued, any stock or stock certificates, or bond, note or other evidence of indebtedness, in nonconformity with the order of the division authorizing the same, or contrary to the provisions of this chapter, or of the constitution of the state, or which applies the proceeds from the sale thereof, or any part thereof, to any purpose other than the purpose or purposes specified in the division's order, as herein provided, or to any purpose specified in the division's order in excess of the amount in said order authorized for such purpose, is subject to a penalty of not less than five hundred dollars nor more than twenty thousand dollars for each offense.

4. Every officer, agent or employee of a motor carrier, and every other person who knowingly authorizes, directs, aids in, issues or executes, or causes to be issued or executed, any stock, or bond, note or other evidence of indebtedness, in nonconformity with the order of the division authorizing the same, or contrary to the provisions of this chapter, or of the constitution of this state, or who, in any proceeding before the division, knowingly makes any false statement or representation, or with knowledge of its falsity

files or causes to be filed with the division any false statement or representation which said statement or representation so made, filed or caused to be filed may tend in any way to influence the division to make an order authorizing the issue of any stock, or any bond, note or other evidence of indebtedness, or which results in procuring from the division the making of any such order, or who, with knowledge that any false statement or representation was made to the division in any proceeding, tending in any way to influence the division to make such order, issues or executes or negotiates, or causes to be issued, executed or negotiated any such stock, or bond, note or other evidence of indebtedness, or who directly or indirectly, knowingly applies, or causes or assists to be applied the proceeds or any part thereof, from the sale of any stock, or bond, note or other evidence of indebtedness, to any purpose not specified in the division's order, or to any purpose specified in the division's order in excess of the amount authorized for such purpose, or who, with knowledge that any stock, or bond, note or other evidence of indebtedness, has been issued or executed in violation of any of the provisions of this chapter, negotiates, or causes the same to be negotiated, shall be deemed guilty of a felony, and upon conviction, shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars, or by imprisonment for not less than two years nor more than five years, or by both such fine and imprisonment.

5. No provision of this chapter, and no deed or act done or performed under or in connection therewith, shall be held or construed to obligate the state of Missouri to pay or guarantee, in any manner whatsoever, any stock, or bond, note or other evidence of indebtedness, authorized, issued or executed under the provisions of this chapter.

6. All stocks, and every bond, note or other evidence of indebtedness issued by any motor carrier after this chapter takes effect, upon the authority of any articles of incorporation or amendments thereto or vote of the stockholders or directors filed, taken or had, or other proceedings taken or had, previous to the taking effect of this chapter, shall be void, unless an order of the division authorizing the issue of such stock, or bonds, notes, or other evidences of indebtedness shall have been obtained from the division prior to such issue. The division may by its order impose such condition or conditions as it may deem reasonable and necessary.]

[387.340. Reorganizations of motor carriers shall be subject to the supervision and control of the division of motor carrier and railroad safety and no such reorganization shall be had without the authorization of the division. Upon all such reorganizations the amount of capitalization, including therein all stocks and bonds and other evidence of indebtedness, shall be such as is authorized by the division which, in making its determination, shall not exceed the fair value of the property involved, taking into consideration its original cost of construction, duplication costs, present condition, earning

power at reasonable rates and all other relevant matters and any additional sum or sums as shall be actually paid in cash; provided, however, that the division may make due allowance for discount of bonds. Any reorganization agreement before it becomes effective shall be amended so that the amount of capitalization shall conform to the amount authorized by the division. The division may by its order impose such condition or conditions as it may deem reasonable and necessary.]

[389.810. From and after the first day of January, 1908, it shall be unlawful for any person, persons, partnership or corporation, operating any line of railroad, in whole or in part, within this state, either as owner, lessee or receiver, for the purpose of moving freight or passengers between points wholly within this state, to use upon such line of railroad any locomotive or engine to move such train of cars over such railroad without having such locomotive or engine equipped with power drive wheel brakes and fully and properly equipped with air brake appliances so that the engineer operating such locomotive or engine shall have the means of fully and completely controlling the air brakes on the cars attached to said locomotive and engine without recourse to hand brakes, except in cases of emergency.]

[389.890. It shall be unlawful for any person, firm or corporation, operating a steam railroad within the state, after the first day of August, 1913, to use or permit to be used any locomotive engine within the state of Missouri, unless such locomotive engine shall be equipped with a seat on each side of the cab thereof, which seats shall consist of a series of spiral, coil or elastic springs, on the top of which shall be constructed a padding or cushion consisting of leather or a suitable substitute thereof, stuffed or packed with hair, moss or other suitable material commonly used for such purpose, which said seat, including the springs thereof, shall not be greater than six nor less than four inches in thickness.]

[389.900. That all companies, corporations, lessees, owners, operators or receivers of any railroad or railway company operating a railroad or railway in whole or in part in this state, are hereby required to equip, maintain and use upon every locomotive being operated in road service in this state in the nighttime an electric headlight of fifteen hundred candle power brilliancy, measured with the aid of a reflector, and classification signals not less than six candle power; provided, that nothing in this law shall be so construed as to prevent a locomotive engine whose headlight has become defective while on the road from proceeding to the most convenient terminal or division point where the necessary facilities exist for remedying such defect, but nothing in this law shall relieve any such company, corporation, lessee, owner, operator or receiver of any railroad or railway company of any liability for injury or damage to persons or property, or for the death of any person, caused by proceeding with an engine having such defective

headlight; and provided further, that the provisions of this law shall not apply to independent lines of railroad less than seventy-five miles in length; and provided further, that the provisions of this law shall not apply during the first ninety days of a strike of the particular employees whose duties are to repair and maintain electric headlights.]

[390.106. The division of motor carrier and railroad safety may at any time, for good cause, suspend, and upon at least ten days' notice to the holder of any certificate or permit, and after hearing, revoke, alter or amend any such certificate or permit upon a finding:

- (1) That the motor carrier has abandoned service;
- (2) That the motor carrier does not give reasonable service based upon public demand;
- (3) That the motor carrier is not financially fit to continue service; or
- (4) That the motor carrier has failed to comply with the provisions of this chapter

and the requirements, rules and regulations of the division of motor carrier and railroad safety.

However, such motor carrier shall be given a reasonable time, in the discretion of the division, not less, however, than thirty days, to comply with any orders issued by the division pertaining thereto.]

[390.146. The provisions of chapters 386 and 387, RSMo, that are not inconsistent with the provisions of sections 390.011 to 390.176 are hereby made applicable to motor carriers.]

[390.161. All penalties accruing under sections 390.011 to 390.176 shall be cumulative of each other, and the suit for the recovery of one penalty shall not be a bar to or affect the recovery of any other penalty or forfeiture or be a bar to any original prosecution against any motor carrier, or any officer, director, agent or employee thereof.]

[390.176. 1. Any person operating as a motor carrier who violates or fails to comply with any provision of the Constitution of this state or of this or any other law, or which fails, omits or neglects to obey, observe or comply with any order, decision, decree, rule, direction, demand or requirement, or any part or provision thereof, of the division is subject to a penalty of not less than one hundred dollars nor more than two thousand dollars for each offense.

2. Every violation of the provisions of this or any other law or of any order, decision, decree, rule, direction, demand or requirement of the division, or any part or portion thereof, by any person operating as a motor carrier is a separate and distinct offense, and in case of continuing violation each day's continuance thereof shall be and be deemed to be a separate and distinct offense.

3. In construing and enforcing the provisions of this chapter relating to penalties,

the act, omission or failure of any officer, agent or employee of any person operating as a motor carrier acting within the scope of his official duties of employment, shall in every case be and be deemed to be the act, omission or failure of such person.]

[390.250. 1. As used in sections 390.250 to 390.350, the following terms mean:

(1) "Division", the division of motor carrier and railroad safety within the department of economic development of this state, which, after June 30, 1997, is known as the division of motor carrier and railroad safety;

(2) "Household goods", personal effects and property used or to be used in a dwelling when part of the equipment or supplies of such dwelling and similar property, if the transportation of such effects or property, is either arranged and paid for by the householder, including transportation of property from a factory or store when the property is purchased by the householder with intent to use in his or her dwelling, or arranged and paid for by another party. The term "household goods" shall not include personal property which when tendered to a motor carrier is crated or otherwise packaged to make it suitable for transportation by motor carriers of general commodities, freight or property;

(3) "Property carrier registration", a document issued by the division pursuant to sections 390.250 to 390.350 which identifies a person as a registered property carrier and qualifies that person to engage in the transportation by motor vehicle of property except household goods for hire or compensation in intrastate commerce on the public highways in this state;

(4) "Registered property carrier", a person who is entitled pursuant to subdivision (3) of this subsection to engage in the transportation by motor vehicle of property, except household goods, for hire or compensation in intrastate commerce on the public highways in this state. This term is included within the term "common carrier" as defined in section 390.020.

2. Notwithstanding any provisions of section 390.020, or chapter 622, RSMo, to the contrary, the provisions of this section which define words shall also apply to and determine the meaning of all words used in this chapter and chapter 622, RSMo. Except as otherwise provided in this section, or when the context clearly requires otherwise, the provisions of section 390.020, and chapter 622, RSMo, which define words shall also apply to and determine the meaning of words used in sections 390.250 to 390.350.]

[390.340. Notwithstanding any provisions of section 390.136, to the contrary, beginning with the first calendar year after August 28, 1996, the annual licenses required pursuant to section 390.136, with reference to motor vehicles operated by motor carriers shall be effective from January first to December thirty-first of the year for which they are issued, and the annual license fees for each calendar year shall be due and

payable on or before the thirty-first day of December in the year immediately preceding the year for which they are issued. The division shall begin issuing the annual licenses on August first of each year for the succeeding calendar year, but this shall not preclude the division from continuing to issue the current year's licenses as needed for the remainder of the current calendar year.]

[390.350. 1. Notwithstanding any provisions of section 390.045, to the contrary, the division shall by rule adopt reasonable training requirements for its enforcement personnel to prepare them for their actual duties of employment; this training need not require any basic law enforcement training as required of peace officers as specified in chapter 590, RSMo.

2. No rule or portion of a rule promulgated pursuant to the authority of sections 390.250 to 390.350 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.]

[622.010. A "Division of Motor Carrier and Railroad Safety" is hereby established within the department of economic development. The division shall be headed by a director, nominated by the department director and appointed by the governor with the advice and consent of the senate. The director shall be the chief administrative officer of the division.]

[622.010. A "Transportation Division" is hereby established within the department of economic development. Effective on July 1, 1997, the name "Transportation Division" shall be changed to the "Division of Motor Carrier and Railroad Safety". The division shall be headed by a director, nominated by the department director and appointed by the governor with the advice and consent of the senate. The director shall be the chief administrative officer of the division.]

[622.020. 1. Three administrative law judges shall also be appointed for the division. They shall be nominated by the department director and appointed by the governor with the advice and consent of the senate. Each shall be appointed for a term of six years, except of those first appointed, one shall be appointed for a term of four years, and one for a term of two years. Each shall be an attorney-at-law admitted to practice before the supreme court of Missouri, and while serving in this capacity as an administrative law judge shall not otherwise practice law during his term of office. Not more than two of the administrative law judges shall be members of the same political party.

2. Administrative law judges shall be compensated at the same rate as administrative hearing commissioners are compensated, and they shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.]

[622.040. The provisions of sections 622.010 to 622.059 and 680.307, RSMo, shall

not apply to any case presently pending before the Missouri public service commission in which any evidence has been submitted either to the public service commission or to the administrative law judge or hearing examiner; or to any pending case in which the public service commission has ordered an investigation into rate charges and the results of the investigation have been filed with the commission. In such cases the public service commission shall decide such cases under the procedures in effect prior to July 1, 1985.]

[622.045. The director of the department of economic development is expressly authorized to organize the division to accomplish the purposes set forth by the provisions of sections 622.010 to 622.059 and 680.307, RSMo, and within the limit of appropriations made therefor shall employ all necessary personnel to accomplish those purposes. Personnel previously employed by the public service commission may be transferred to this division.]

[622.050. Nothing herein shall be construed as limiting any power, authority, jurisdiction, duty or responsibility of the public service commission under chapter 386, RSMo, or any other statute as to the regulation of public utilities, utility safety and any other nontransportation matters remaining with the public service commission after July 1, 1985.]

[622.055. 1. A "Transportation Development Commission" is hereby established. It shall consist of five senators appointed by the president pro tem of the senate, five representatives appointed by the speaker of the house of representatives, and five persons, not less than one of whom shall be an intrastate certificated carrier, not less than one of whom shall be associated with a railroad industry, and not less than one of whom shall be a shipper, appointed by the director of the department of economic development.

2. The commission shall meet and organize by electing one legislative member as chairman and another legislative member as vice chairman. The commission shall meet as often as necessary to carry out its duties at such places as may be convenient for this purpose.

3. Members shall not receive any compensation for the performance of their duties, but all shall be reimbursed for actual and necessary expenses incurred in the performance of those duties, the legislative members from the contingent funds of their respective houses, and the public members from funds appropriated to the department of economic development.]

[622.057. The transportation development commission shall study the implementation of the provisions of sections 622.010 to 622.059 and section 680.307, RSMo, and shall make recommendations therefor to the motor carrier and railroad safety division and the department director. It shall also consider any other appropriate matter relating to the operation of the motor carrier and railroad safety division and the

development and regulation of transportation activities within this state. It shall consider the need for new or changed laws or regulations relating to the development and regulation of transportation activities, and shall from time to time make recommendations to the governor and the general assembly in connection therewith to the end that the development of transportation entities and facilities will enhance the economic development of the state.]

[622.430. Within thirty days after the application for a rehearing is denied, or, if the application is granted, then within thirty days after the rendition of the decision on rehearing, the applicant may apply to the circuit court of the county where the hearing was held or in which the division has its principal office for a writ of certiorari or review for the purpose of having the reasonableness or lawfulness of the original order or decision or the order or decision on rehearing inquired into or determined. The writ shall be made returnable not later than thirty days after the date of the issuance thereof, and shall direct the applicant to certify the division's record in the case to the court in conformity with any applicable court rules. On the return day the cause shall be heard by the circuit court, unless for a good cause shown the same be continued. No new or additional evidence may be introduced upon the hearing in the circuit court but the cause shall be heard by the court without the intervention of a jury on the evidence and exhibits introduced before the division and certified to by it. The division and each party to the action or proceeding before the division shall have the right to appear in the review proceedings. Upon the hearing the circuit court shall enter judgment either affirming or setting aside the order of the division under review. In case the order is reversed by reason of the division failing to receive testimony properly proffered, the court shall remand the cause to the division, with instructions to receive the testimony so proffered and rejected, and enter a new order based upon the evidence already taken, and such as it is directed to receive. The court may, in its discretion, remand any cause which is reversed by it to the division for further action. No court in this state, except the circuit courts to the extent herein specified and the supreme court or the court of appeals on appeal, shall have jurisdiction to review, reverse, correct or annul any order or decision of the division or to suspend or delay the executing or operation thereof, or to enjoin, restrain or interfere with the division in the performance of its official duties. The circuit courts of this state shall always be deemed open for the trial of suits brought to review the orders and decisions of the division as provided by law and the same shall be tried and determined as suits in equity.]

[622.440. 1. The pendency of a writ of review shall not of itself stay or suspend the operation of the order or decision of the division, but during the pendency of such writ, the circuit court in its discretion may stay or suspend, in whole or in part, the

operation of the division's order or decision. No order so staying or suspending an order or decision of the division shall be made by any circuit court otherwise than on three days' notice and after hearing, and if the order or decision of the division is suspended the same shall contain a specific finding based upon evidence submitted to the court and identified by reference thereto, that great or irreparable damage would otherwise result to the petitioner and specifying the nature of the damage. In case the order or decision of the division is stayed or suspended, the order or judgment of the court shall not become effective until a suspending bond shall first have been executed and filed with, and approved by, the circuit court, payable to the state of Missouri, and sufficient in amount and security to secure the prompt payment, by the party petitioning for the review, of all damages caused by the delay in the enforcement of the order or decision of the division, and in cases involving rates for the transportation of passengers or household goods by motor vehicle, the prompt payment of all moneys which any person or corporation may be compelled to pay, pending the review proceedings, for transportation, transmission, product, commodity or service in excess of the charges fixed by the order or decision of the division, in case such order or decision is sustained.

2. The circuit court, in case it stays or suspends the order or decision of the division in any manner affecting rates, fares, tolls, rentals, charges or classifications, shall also by order direct the carrier, corporation or person affected to pay into court, from time to time, there to be impounded until the final decision of the case, or into some bank or trust company paying interest on deposits, under such conditions as the court may prescribe, all sums of money which it may collect from any carrier, corporation or person in excess of the sum such carrier, corporation or person would have been compelled to pay if the order or decision of the division had not been stayed or suspended.

3. In case any circuit court stays or suspends any order or decision of the division lowering any rate, fare, toll, rental, charge or classification, in cases involving rates for the transportation of passengers or household goods by motor vehicle, upon the execution and approval of such suspending bond, shall forthwith require the corporation or person affected, under penalty of the immediate enforcement of the order or decision of the division, pending the review and notwithstanding the suspending order, to keep such accounts, verified by oath, as may, in the judgment of the court, suffice to show the amounts being charged or received by such carrier, corporation or person, pending the review, in excess of the charges allowed by the order or decision of the division, together with the names and addresses of the carriers, corporations and persons to whom overcharges will be refundable in case the charges made by the carrier, corporation or person, pending the review, be not sustained by the circuit court, except that street railroad corporations shall not be required to keep a record of the names and addresses

of such persons paying such overcharge of fares, but such street railroad corporations shall give to such persons printed receipts showing such overcharges of fares, the form of such printed receipts to be approved by the division.

4. The court may, from time to time, require a party petitioning for a review to give additional security on, or to increase, the suspending bond, whenever in the opinion of the court the same may be necessary to secure the prompt payment of damages or overcharges.

5. Upon the decision of the circuit court, all moneys which the carrier, corporation or person may have collected pending the appeal, in excess of those authorized by such decision, together with interest, in case the court ordered the deposit of such moneys in a bank or trust company, shall be promptly paid to the carriers, corporations or persons entitled thereto, in such manner and through such methods of distribution as may be prescribed by the court, unless an appeal be granted such carrier, corporation or person, as provided in this section.]

[622.510. An action to recover a penalty or a forfeiture under this chapter or to enforce the powers of the division under this or any other law may be brought in any circuit court in this state in the name of the state of Missouri and shall be commenced and prosecuted to final judgment by the general counsel to the division. No filing or docket fee shall be required of the general counsel. In any such action all penalties and forfeitures incurred up to the time of commencing the same may be sued for and recovered therein, and the commencement of an action to recover a penalty or forfeiture shall not be, or be held to be, a waiver of the right to recover any other penalty or forfeiture; if the defendant in such action shall prove that during any portion of the time for which it is sought to recover penalties or forfeitures for a violation of an order or decision of the division the defendant was actually and in good faith prosecuting a suit to review such order or decision in the manner as provided in this chapter, the court shall remit the penalties or forfeitures incurred during the pendency of such proceeding. All moneys recovered as a penalty or forfeiture shall be paid to the public school fund of the state. Any such action may be compromised or discontinued on application of the division upon such terms as the court shall approve and order.]

[622.550. Subject to any exceptions which are applicable under section 307.400, RSMo, or subsection 6 of section 390.063, RSMo, the officers and commercial motor vehicle inspectors of the state highway patrol, the enforcement personnel of the division of motor carrier and railroad safety, and other authorized peace officers of this state and any civil subdivision of this state, may enforce any of the provisions of Parts 350 through 399 of Title 49, Code of Federal Regulations, as those regulations have been and may periodically be amended, as they apply to motor vehicles and drivers operating in

interstate or intrastate commerce within this state; except that the enforcement personnel of the division of motor carrier and railroad safety shall be authorized to enforce those regulations only within the terminals of motor carriers and private carriers by motor vehicle.]

[622.600. 1. As used in sections 622.600 to 622.620, the following terms mean:

(1) "Division", the division of transportation within the department of economic development of this state, which, after June 30, 1997, is known as the "division of motor carrier and railroad safety";

(2) "Household goods", personal effects and property used or to be used in a dwelling when part of the equipment or supplies of such dwelling and similar property, if the transportation of such effects or property, is either arranged and paid for by the householder, including transportation of property from a factory or store when the property is purchased by the householder with intent to use in his or her dwelling, or arranged and paid for by another party. The term "household goods" shall not include personal property which when tendered to a motor carrier is crated or otherwise packaged to make it suitable for transportation by motor carriers of general commodities, freight or property;

(3) "Property carrier registration", a document issued by the division pursuant to sections 622.600 to 622.620 which identifies a person as a registered property carrier and qualifies that person to engage in the transportation by motor vehicle of property except household goods for hire or compensation in intrastate commerce on the public highways in this state;

(4) "Registered property carrier", a person who is entitled pursuant to subdivision (3) of this subsection to engage in the transportation by motor vehicle of property, except household goods, for hire or compensation in intrastate commerce on the public highways in this state. This term is included within the term "common carrier" as defined in section 390.020, RSMo.

2. Notwithstanding any provisions of section 390.020, RSMo, or this chapter, to the contrary, the provisions of this section which define words shall also apply to and determine the meaning of all words used in chapter 390, RSMo, and this chapter. Except as otherwise provided in this section, or when the context clearly requires otherwise, the provisions of section 390.020, RSMo, and this chapter, which define words shall also apply to and determine the meaning of words used in sections 622.600 to 622.620.]

[622.602. 1. The division shall neither enforce any law nor make or enforce any rule or order relating to the prices, routes or services of registered property carriers or of common carriers or contract carriers of property for hire or compensation by motor vehicle in intrastate commerce on the public highways in this state, except with reference to the

transportation of household goods or passengers or as expressly authorized in sections 622.600 to 622.620.

2. Except as preempted by section 601 of the Federal Aviation Administration Authorization Act of 1994, the powers, duties and functions of the division with reference to motor vehicles or common carriers pursuant to the provisions of chapters 386, 387, 390, RSMo, and this chapter, that are not inconsistent with the provisions of sections 622.600 to 622.620, are hereby made applicable to the division with reference to registered property carriers, including the division's power to enforce only within terminals the rules and regulations promulgated by the director of the department of public safety pursuant to section 307.400, RSMo, as they apply to motor vehicles.

3. The provisions of sections 390.051, 390.061, 390.062, 390.081, and 390.111, RSMo, shall not apply to the transportation of property in intrastate commerce, except with reference to household goods as defined in section 622.600.]

[622.604. Except as otherwise provided in section 390.030, RSMo, no person shall engage in the business of transporting property, except household goods, by motor vehicle for hire or compensation in intrastate commerce on any public highway in this state, unless there is in force with respect to that person a property carrier registration issued by the division pursuant to the provisions of sections 622.600 to 622.620, which authorizes such transportation.]

[622.606. 1. Certificates or permits, or both, which were issued before January 1, 1995, and which authorized a person to transport any property in intrastate commerce by motor vehicle as a common carrier or contract carrier, or both, are void, except that to the extent such certificates or permits, or portions thereof, authorized a person to transport household goods over irregular routes or passengers in intrastate commerce, or any property or passengers in interstate commerce, those certificates or permits, or portions thereof, are exempt from the provisions of this subsection.

2. Persons who owned certificates or permits, or both, that were in active status with the division on December 31, 1994, and persons to whom the division issued certificates and permits after December 31, 1994, pursuant to emergency rules adopted by the division, are deemed to be qualified as registered property carriers, unless the person's certificate or permit has been suspended, revoked or transferred to another person as provided by law. A person deemed qualified pursuant to this subsection is not required to file an application pursuant to section 622.608 to continue providing intrastate transportation as a registered property carrier, but rather, upon such person's compliance with the licensing and insurance requirements of the division the person is deemed to have a property carrier registration in force as required pursuant to section 622.604, authorizing the person to transport property except household goods in intrastate

commerce on the public highways, unless the person's property carrier registration is suspended, revoked or transferred to another person as provided by law. Within a reasonable time after August 28, 1996, the division shall issue property carrier registrations to all persons who are deemed to be qualified as registered property carriers and deemed to have property carrier registrations in force pursuant to this subsection.

3. Notwithstanding any provision of this section to the contrary, this section shall not be construed as authorizing any person to transport any hazardous material as designated in Title 49, Code of Federal Regulations, except hazardous materials which that person was expressly authorized to transport in intrastate commerce within this state on August 28, 1996. A person may file an application for property carrier registration pursuant to section 622.608 to transport additional hazardous materials. Nothing in this section shall be construed to conflict with chapter 260, RSMo, or of relieving an applicant of any duty to obtain a license pursuant to chapter 260, RSMo.]

[622.608. 1. Every application for a property carrier registration pursuant to sections 622.600 to 622.620 shall be completed and filed in the form and manner prescribed by rule of the division, shall be verified by the applicant under penalty of perjury and shall not be filed by the division until it has received the following:

(1) A certificate of insurance or surety bond executed by the applicant's insurer or surety, or order of the division approving self- insurance by the applicant, which certifies that the applicant is covered against personal injury and property damage liability, except damage to property transported as cargo by the applicant, resulting from negligent motor vehicle operations by the applicant in this state, which is completed and filed in the prescribed form, manner and amount and is approved by the division in accordance with rules of the division pursuant to section 390.126, RSMo;

(2) A license fee application showing the number and type of vehicle licenses requested by the applicant for each motor vehicle to be operated in intrastate commerce in this state under the requested property carrier registration during the year for which the application is made, together with payment of the aggregate license fees payable with reference to those motor vehicles, which is completed, filed and paid in the form and manner prescribed by rule of the division pursuant to section 390.136, RSMo; and

(3) Information required by rule of the division relating to the applicant's compliance and willingness to comply with any laws, rules, regulations or orders relating to registration, licensing, liability insurance or safety, and applicable to the applicant's motor vehicles, drivers or operations by motor vehicle, including any state or federal laws, rules, regulations or orders relating to the transportation of any hazardous material as designated in Title 49, Code of Federal Regulations.

2. One of the division's administrative law judges shall determine on the basis of

the information filed by the applicant, evidence submitted by the division staff, and any other information received by the division and filed of record in the case, whether the applicant is in compliance and willing to comply with the laws, rules, regulations and orders relating to registration, licensing, liability insurance, safety and hazardous materials, which are applicable to the applicant's motor vehicles, drivers or operations as a registered property carrier by motor vehicle. If the administrative law judge determines that the applicant is qualified, the application shall be granted and a property carrier registration shall be issued without a hearing. If the administrative law judge determines that the information on record concerning the applicant's qualifications is not adequate to finally determine the application, the division may investigate the applicant's qualifications more thoroughly before the administrative law judge makes a final determination of the application. If the administrative law judge or the division staff opposes the issuance of a property carrier registration, then a hearing shall be held, not more than twenty days after a request for hearing by the applicant, to determine the merits of the application and whether a property carrier registration shall be issued. The administrative law judge shall determine the application not more than forty-five days after the close of the hearing, or else the application shall be approved.

3. The division shall not restrict the property carrier registration with reference to any specific commodities, routes or service, except that the division shall restrict the applicant's property carrier registration against the transportation of household goods, and shall further restrict against any hazardous material as designated in Title 49, Code of Federal Regulations, if the division finds that the applicant has not shown it is qualified to safely transport that hazardous material in compliance with all registration, liability insurance and safety requirements applicable to the transportation of that hazardous material pursuant to Title 49, Code of Federal Regulations.]

[622.610. 1. A property carrier registration, including any certificate or permit, or both, which pursuant to section 622.606 is deemed to identify a registered property carrier, may be transferred in its entirety by the registered property carrier to whom it was issued, but only if the transfer is approved by the division as provided in this section. The division shall approve the transfer of the property carrier registration if the following requirements are met:

(1) The transfer application is joined in by both the registered property carrier or its authorized representative and the proposed transferee or its authorized representative;

(2) The transfer application is filed in the form and manner prescribed by rule of the division; and

(3) The division finds that the transferee is in all respects qualified as required of an applicant for a new property carrier registration pursuant to section 622.608.

2. Upon approval of the transfer of a property carrier registration pursuant to subsection 1 of this section, the division shall transfer the property carrier registration in its entirety, except that the division shall restrict the transferee's property carrier registration against the transportation of any hazardous material formerly authorized under the property carrier registration if the division finds that the transferee has not shown it is qualified to safely transport that hazardous material in compliance with all registration, liability insurance and safety requirements applicable to the transportation of that hazardous material pursuant to Title 49, Code of Federal Regulations. The transferee may file a separate application for property carrier registration pursuant to section 622.608 to transport additional hazardous materials.]

[622.612. Notwithstanding any provisions of section 390.106, RSMo, to the contrary, the division at any time, for good cause, may suspend a certificate, permit or property carrier registration, and after hearing upon at least ten days' notice to the person to whom the division has issued the certificate, permit or property carrier registration authorizing any intrastate transportation of passengers or property by motor vehicle, may revoke, alter or amend any such certificate, permit or property carrier registration upon a finding that the person has failed to comply with any applicable provisions of sections 622.600 to 622.620, or chapter 386, 387 or 389, RSMo, or this chapter, or any safety rules, regulations or orders which may be enforced by the division. Revocation of a certificate, permit or property carrier registration shall not become effective less than thirty days after issuance of an order of revocation by the division.]

[622.618. Notwithstanding any provisions of section 390.136, RSMo, to the contrary, beginning with the first calendar year after August 28, 1996, the annual licenses required pursuant to section 390.136, RSMo, with reference to motor vehicles operated by motor carriers shall be effective from January first to December thirty-first of the year for which they are issued, and the annual license fees for each calendar year shall be due and payable on or before the thirty-first day of December in the year immediately preceding the year for which they are issued. The division shall begin issuing the annual licenses on August first of each year for the succeeding calendar year, but this shall not preclude the division from continuing to issue the current year's licenses as needed for the remainder of the current calendar year.]

[622.620. 1. Notwithstanding any provisions of section 390.045, RSMo, to the contrary, the division shall by rule adopt reasonable training requirements for its enforcement personnel to prepare them for their actual duties of employment; this training need not require any basic law enforcement training as required of peace officers as specified in chapter 590, RSMo.

2. No rule or portion of a rule promulgated pursuant to the authority of sections 622.600 to 622.620 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.]

Section B. Because of the need to ensure safe and efficient administration of commercial motor vehicles within this state, this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and this act shall be in full force and effect upon its passage and approval, or July 1, 2002, whichever later occurs.

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