

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILLS NOS. 45 & 39

94TH GENERAL ASSEMBLY

Reported from the Committee on Transportation, February 22, 2007, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

0346S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal section 390.030, RSMo, and to enact in lieu thereof three new sections relating to motor carriers.

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

Section A. Section 390.030, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 387.075, 390.030, and 390.372, to read as follows:

387.075. 1. Notwithstanding any provision of chapter 390, RSMo, chapter 622, RSMo, or this chapter to the contrary, any common carrier that is authorized to transport household goods by a certificate issued under section 390.051, RSMo, may file one or more applications to the state highways and transportation commission for approval of rate schedules, applicable to that carrier's intrastate transportation of household goods, that authorize periodic rate adjustments outside of general rate proceedings to reflect increases and decreases in the carrier's prudently incurred costs of providing transportation of property by motor vehicle. The filing of applications by common carriers under this section shall be authorized upon the same terms and conditions as provided in section 386.266, RSMo, with reference to the filing of applications to the public service commission by an electrical, gas, or water corporation. These applications shall be made in such form, and shall contain such information, as the state highways and transportation commission reasonably may require.

2. Notwithstanding any provision of chapter 390, RSMo, chapter 622, RSMo, or this chapter to the contrary, the state highways and transportation commission shall consider and determine every

20 application filed under subsection 1 of this section, upon the same
21 terms and conditions as provided in section 386.266, RSMo, with
22 reference to the public service commission's consideration and
23 determination of applications by an electrical, gas, or water
24 corporation under that section.

25 3. In proceedings under this section, common carriers and the
26 state highways and transportation commission shall be governed by the
27 statutes and rules of practice and procedure that are applicable in
28 motor carrier proceedings under chapters 387, 390, and 622, RSMo,
29 except to the extent they are inconsistent with the requirements of this
30 section. The statutes and rules that generally govern public service
31 commission proceedings relating to electrical, gas, and water
32 corporations shall not apply in proceedings under this section.

390.030. 1. The provisions of this chapter shall not apply to:

- 2 (1) School buses;
- 3 (2) Taxicabs;
- 4 (3) Motor vehicles while being used exclusively to transport;
- 5 (a) Stocker and feeder livestock from farm to farm, or from market to
6 farm,
- 7 (b) Farm or dairy products including livestock from a farm or dairy,
- 8 (c) Agricultural limestone or fertilizer to farms,
- 9 (d) Property from farm to farm,
- 10 (e) Raw forest products from farm, or
- 11 (f) Cotton, cottonseed, and cottonseed hulls;
- 12 (4) Motor vehicles when operated under contract with the federal
13 government for carrying the United States mail and when on a trip provided in
14 the contract;
- 15 (5) Motor vehicles used solely in the distribution of newspapers from the
16 publisher to subscribers or distributors;
- 17 (6) The transportation of passengers or property performed by a carrier
18 pursuant to a contract between the carrier and the state of Missouri or any civil
19 subdivision thereof, where the transportation services are paid directly to the
20 carrier by the state of Missouri or civil subdivision;
- 21 (7) Freight-carrying motor vehicles duly registered and licensed in
22 conformity with the provisions of chapter 301, RSMo, for a gross weight of six
23 thousand pounds or less;

24 (8) The transportation of passengers or property wholly within a
25 municipality, or between contiguous municipalities, or within a commercial zone
26 as defined in section 390.020, or within a commercial zone established by the
27 division of motor carrier and railroad safety pursuant to the provisions of
28 subdivision (4) of section 390.041; provided, the exemption in this subdivision
29 shall not apply to motor carriers of persons operating to, from or between points
30 located wholly or in part in counties now or hereafter having a population of more
31 than three hundred thousand persons, where such points are not within the same
32 municipality and to motor carriers of commodities in bulk to include liquids, in
33 tank or hopper type vehicles, and in a commercial zone as defined herein or by
34 the division;

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

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

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

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

46 2. Nothing contained in this section shall be deemed to exempt the
47 vehicles of driveaway operators.

48 3. Except for the provisions of subdivision (5) of section 390.041, the
49 provisions of this chapter shall not apply to private carriers.

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

58 **5. Beginning January 1, 2008, the exemptions in subdivisions (8)**
59 **and (10) of subsection 1 of this section shall not apply to intrastate**

60 motor carriers that transport household goods.

390.372. 1. Notwithstanding any provision of law to the contrary,
2 a provision, clause, covenant, or agreement contained in, collateral to,
3 or affecting a motor carrier transportation contract that purports to
4 indemnify, defend, or hold harmless, or has the effect of indemnifying,
5 defending, or holding harmless, the promisee from or against any
6 liability for loss or damage resulting from the negligence or intentional
7 acts or omissions of the promisee is against the public policy of this
8 state and is void and unenforceable.

9 2. For the purposes of this section, the following terms shall
10 mean:

11 (1) "Motor carrier transportation contract", a contract,
12 agreement, or understanding covering:

13 (a) The transportation of property for compensation or hire by
14 the motor carrier;

15 (b) The entrance on property by the motor carrier for the
16 purpose of loading, unloading, or transporting property for
17 compensation or hire; or

18 (c) A service incidental to activity described in paragraphs (a)
19 and (b) of this subdivision, including but not limited to, storage of
20 property;

21 "Motor carrier transportation contract" shall not include the Uniform
22 Intermodal Interchange and Facilities Access Agreement administered
23 by the Intermodal Association of North America or other agreements
24 providing for the interchange, use or possession of intermodal chassis,
25 or other intermodal equipment;

26 (2) "Promisee", the promisee and any agents, employees, servants,
27 or independent contractors who are directly responsible to the
28 promisee except for motor carriers party to a motor carrier
29 transportation contract with a promisee, and such motor carrier's
30 agents, employees, servants, or independent contractors directly
31 responsible to such motor carrier.

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