

SECOND REGULAR SESSION

SENATE BILL NO. 470

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR DIXON.

Pre-filed December 1, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

4430S.011

AN ACT

To repeal sections 387.040, 387.050, 387.080, 387.110, 387.207, 390.051, 390.061, 390.116, and 390.280, RSMo, and to enact in lieu thereof thirteen new sections relating to motor carrier transportation regulated by the state highways and transportation commission.

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

Section A. Sections 387.040, 387.050, 387.080, 387.110, 387.207, 390.051, 2 390.061, 390.116, and 390.280, RSMo, are repealed and thirteen new sections 3 enacted in lieu thereof, to be known as sections 387.040, 387.050, 387.080, 4 387.110, 387.137, 387.139, 387.207, 387.355, 390.051, 390.054, 390.061, 390.116, 5 and 390.280, to read as follows:

387.040. 1. No motor carrier subject to the provisions of this chapter shall 2 engage or participate in the transportation of passengers [or household goods], 3 between points within this state, until its schedules of rates, fares and charges 4 shall have been filed **with the state highways and transportation** 5 **commission** and published in accordance with the provisions of this 6 chapter. Any motor carrier, which shall undertake to perform any service or 7 furnish any product or commodity unless or until the rates, tolls, fares, charges, 8 classifications and rules and regulations relating thereto, applicable to such 9 service, product or commodity, have been filed with the highways and 10 transportation commission and published in accordance with the provisions of 11 this chapter, shall be subject to forfeiture to the state pursuant to the provisions 12 of sections 390.156 to 390.176.

13 2. [Notwithstanding subsection 1 of this section, a motor carrier shall not 14 be required to file its schedules of rates, fares, and charges for shipments of

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

15 household goods that are transported wholly or exclusively within a commercial
16 zone as defined in 390.020 or within a commercial zone established by the
17 highways and transportation commission pursuant to the provisions of
18 subdivision (4) of section 390.041.] **Notwithstanding any provision of this**
19 **chapter or chapter 390 to the contrary, a motor carrier transporting**
20 **household goods in intrastate commerce shall not be required to file its**
21 **schedule of rates, fares, and charges with the state highways and**
22 **transportation commission. In lieu of filing its schedules of rates, fares,**
23 **charges, rules, or tolls with the state highways and transportation**
24 **commission, a motor carrier transporting household goods in intrastate**
25 **commerce shall maintain and publish its schedules of rates, fares,**
26 **charges, rules, and tolls in every station or office as described in**
27 **subsection 3 of section 387.050 and such rates shall be available for**
28 **inspection by the state highways and transportation commission,**
29 **shippers, and the public upon request. Any motor carrier transporting**
30 **household goods in intrastate commerce that fails to comply with the**
31 **provisions of this subsection shall be subject to forfeiture to the state**
32 **pursuant to the provisions of sections 390.156 to 390.176.**

387.050. 1. Every motor carrier shall file with the [division of motor
2 carrier and railroad safety] **state highways and transportation commission**
3 and shall print and keep open to public inspection schedules showing the rates,
4 fares and charges for the transportation of passengers and household goods
5 within this state between each point upon its route and all other points thereon
6 and between each point upon its route and all points upon every route leased,
7 operated or controlled by it and between each point on its route or upon any route
8 leased, operated or controlled by it and all points upon the route of any other
9 motor carrier, whenever a through route and joint rate shall have been
10 established or ordered between any two such points. If no joint rate over a
11 through route has been established, the several carriers in such through route
12 shall file, print and keep open to public inspection, as aforesaid, the separately
13 established rates, fares and charges applied to the through
14 transportation. **Beginning August 28, 2012, motor carriers shall not be**
15 **required to file their schedules showing the rates, fares, rules, and**
16 **charges for the transportation of household goods within this state but**
17 **shall print and keep open for public inspection such schedules in**
18 **accordance with this section and section 387.040.**

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

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

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

42 5. The form of every such schedule shall be prescribed by the [division]
43 **state highways and transportation commission**.

44 6. The [division] **state highways and transportation commission**
45 shall have power, from time to time, in its discretion, to determine and prescribe
46 by order such changes in the form of such schedules as may be found expedient,
47 and to modify the requirements of this section in respect to publishing, posting
48 and filing of schedules either in particular instances or by general order
49 applicable to special or peculiar circumstances or conditions.

387.080. 1. The names of the several carriers which are parties to any
2 joint tariff shall be specified therein, and each of the parties thereto, other than
3 the one filing the same, shall file with the [division of motor carrier and railroad
4 safety] **state highways and transportation commission** such evidence of
5 concurrence therein or acceptance thereof as may be required or approved by the

6 [division] **state highways and transportation commission**; and where such
7 evidence of concurrence or acceptance is filed, it shall not be necessary for the
8 carriers filing the same also to file copies of the tariffs in which they are named
9 as parties. **The provisions of this subsection shall not apply to motor**
10 **carriers of household goods. Carriers of household goods participating**
11 **in through routes or interline service shall publish joint tariffs and**
12 **evidence of concurrence or acceptance thereof or individual tariffs for**
13 **each participating carrier in accordance with sections 387.040 and**
14 **387.050.**

15 2. Every motor carrier shall file with the [division] **state highways and**
16 **transportation commission** sworn copies of every contract, agreement or
17 arrangement with any other motor carrier or motor carriers relating in any way
18 to the transportation of passengers [or property].

19 3. **Motor carriers of household goods are prohibited from**
20 **participation in any joint tariff pursuant to the provisions of this**
21 **chapter, except that this subsection shall not prohibit joint tariffs**
22 **relating to joint rates for household goods transportation over any**
23 **through routes or by interline service performed by two or more**
24 **separate motor carriers.**

387.110. [1.] No motor carrier shall make or give any undue or
2 unreasonable preference or advantage to any person or corporation or to any
3 locality or to any particular description of traffic in any respect whatsoever, or
4 subject any particular person or corporation or locality or any particular
5 description of traffic, to any undue or unreasonable prejudice or disadvantage in
6 any respect whatsoever.

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

387.137. **The state highways and transportation commission shall**
2 **establish consumer protection requirements for motor carriers**
3 **transporting household goods in intrastate commerce and establish a**
4 **system for filing, logging, and responding to consumer complaints.**

387.139. 1. **The division of motor carrier services shall keep an**

2 information file about each complaint filed with it regarding the
3 movement of household goods in intrastate commerce. The division of
4 motor carrier service's information file shall be kept current and
5 contain a record for each complaint of:

- 6 (1) All persons contacted in relation to the complaint;
- 7 (2) A summary of findings in response to the complaint;
- 8 (3) An explanation of the reason for a complaint that is
9 dismissed; and
- 10 (4) Any other relevant information.

11 2. If a written complaint is filed with the division that is within
12 the division's jurisdiction, the division, at least as frequently as
13 quarterly and until final disposition of the complaint, shall notify the
14 complainant of the status of the complaint unless the notice would
15 jeopardize an ongoing investigation.

16 3. The state highways and transportation commission shall adopt
17 by rule a form to standardize information concerning complaints made
18 to the division of motor carrier services regarding the transportation
19 of household goods. The commission shall prescribe by rule
20 information to be provided to a person when the person files a
21 complaint with the division of motor carrier services.

22 4. The state highways and transportation commission shall
23 promulgate rules and regulations for the implementation and
24 administration of this section. Any rule or portion of a rule, as that
25 term is defined in section 536.010 that is created under the authority
26 delegated in this section shall become effective only if it complies with
27 and is subject to all of the provisions of chapter 536, and, if applicable,
28 section 536.028. This section and chapter 536 are nonseverable and if
29 any of the powers vested with the general assembly pursuant to chapter
30 536, to review, to delay the effective date, or to disapprove and annul
31 a rule are subsequently held unconstitutional, then the grant of
32 rulemaking authority and any rule proposed or adopted after August
33 28, 2012, shall be invalid and void.

387.207. 1. All rates, tolls, charges, schedules and joint rates fixed by the
2 [division] state highways and transportation commission with reference to
3 the transportation of passengers [or household goods] by motor carrier shall be
4 in force and shall be prima facie lawful, and all regulations, practices and
5 services prescribed by the [division] commission shall be in force and shall be

6 prima facie lawful and reasonable until found otherwise in a suit brought for that
7 purpose pursuant to the provisions of this chapter.

8 **2. All rates, tolls, charges, schedules, and joint rates published**
9 **in accordance with subsection 3 of section 387.050 with reference to the**
10 **transportation of household goods by motor carrier shall be in force**
11 **and shall be prima facie lawful, and all regulations, practices and**
12 **services prescribed by the state highways and transportation**
13 **commission shall be in force and shall be prima facie lawful and**
14 **reasonable until found otherwise in a suit brought for that purpose**
15 **pursuant to the provisions of this chapter.**

387.355. On August 28, 2012, all rate orders issued by the state
2 **highways and transportation commission or its predecessors affecting**
3 **the transportation of household goods by common carriers in intrastate**
4 **commerce, pursuant to the authority of any of the provisions in this**
5 **chapter or chapter 390, shall be vacated and set aside, but only to the**
6 **extent that those rate orders require or prescribe any minimum rates,**
7 **maximum rates, or minimum-and-maximum rates for the transportation**
8 **of household goods by common carriers in intrastate commerce. This**
9 **section shall not vacate or set aside any other requirements or**
10 **provisions contained in those rate orders.**

 390.051. 1. Except as otherwise provided in section 390.030, no person
2 shall engage in the business of a common carrier **of household goods or**
3 **passengers** in intrastate commerce on any public highway in this state unless
4 there is in force with respect to such carrier a certificate issued by the [division]
5 **state highways and transportation commission** authorizing such operations.

6 2. Application for a certificate shall be made in writing to the [division]
7 **state highways and transportation commission** and shall contain such
8 information as the [division] **state highways and transportation**
9 **commission** shall, by rule, require and shall include:

10 (1) Full information concerning the ownership, financial [condition]
11 **status of applicant through the submission of documentation describing**
12 **assets, liabilities, and capital**, equipment to be used and a statement listing
13 the physical equipment of applicant and the reasonable value thereof;

14 (2) The complete route or routes over which the applicant desires to
15 operate, or territory to be served; **except that the state highways and**
16 **transportation commission shall not restrict any certificate or permit**

17 **authorizing the transportation of household goods or passengers with**
18 **reference to any route or routes; except that the state highways and**
19 **transportation commission shall restrict the applicant's registration**
20 **against the transportation of any hazardous material as designated in**
21 **Title 49, Code of Federal Regulations, if the state highways and**
22 **transportation commission finds that the applicant has not shown it is**
23 **qualified to safely transport that hazardous material in compliance**
24 **with all registration, liability insurance, and safety requirements**
25 **applicable to the transportation of that hazardous material pursuant**
26 **to Title 49, Code of Federal Regulations;**

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

29 3. [Except as provided for in subsection 4 of this section, if the division]
30 **If the state highways and transportation commission** finds that an
31 applicant seeking to transport [general and specialized commodities in truckload
32 lots, agricultural commodities in bulk in dump trucks] **household goods** or
33 passengers [in charter service] is fit, willing and able to properly perform the
34 service proposed and to conform to the provisions of this chapter and the
35 requirements, rules and regulations of the [division] **state highways and**
36 **transportation commission** established thereunder, a certificate therefor shall
37 be issued.

38 4. [If the division finds that an applicant seeking to transport:

- 39 (1) General and specialized commodities in less-than-truckload lots;
40 (2) Commodities in bulk in dump trucks, other than agricultural
41 commodities in bulk in dump trucks, as defined in section 390.020;
42 (3) Mobile homes;
43 (4) Household goods;
44 (5) Passengers other than in charter service;
45 (6) Gasoline, fuel oil or liquefied petroleum gas;
46 (7) Boats; is fit, willing and able to properly perform the service proposed,

47 and to conform to the provisions of this chapter and the requirement, rules and
48 regulations of the division, and that the service proposed will serve a useful
49 present or future public purpose, a certificate therefor specifying the service
50 authorized shall be issued, unless the division finds on the basis of evidence
51 presented by persons objecting to the issuance of a certificate that the
52 transportation to be authorized by the certificate will be inconsistent with the

53 public convenience and necessity.

54 5. In making findings under subsection 4 of this section, the division shall
55 consider the testimony of the applicant, the proposed users of the service
56 contemplated by the applicant, and any other relevant testimony or evidence, and
57 the division shall consider, and to the extent applicable, make findings on at least
58 the following:

59 (1) The transportation policy of section 390.011; and

60 (2) The criteria set forth in this subsection. In cases where persons object
61 to the issuance of a certificate, the diversion of revenue or traffic from existing
62 carriers shall be considered.

63 6.] The [division] **state highways and transportation commission**
64 shall streamline and simplify to the maximum extent practicable the process for
65 issuance of certificates to which the provisions of this section apply.

66 [7.] 5. The [division] **state highways and transportation**
67 **commission** shall dismiss on its motion any application for substantially the
68 same common [or contract] authority that has been previously denied within six
69 months of filing the subsequent application.

390.054. Beginning August 28, 2012, and continuing thereafter, no
2 **certificate or permit to transport household goods in intrastate**
3 **commerce shall be issued or renewed unless the applicant demonstrates**
4 **that the applicant has workers' compensation insurance coverage that**
5 **complies with chapter 287, for all employees. If any household goods**
6 **carrier subject to the provisions of this chapter or chapter 387 is found**
7 **by the division of workers' compensation to be out of compliance with**
8 **chapter 287, the division shall report such fact to the state highways**
9 **and transportation commission. The commission shall suspend the**
10 **household goods carrier's certificate or permit pursuant to section**
11 **390.106 until such time the carrier demonstrates that it has procured**
12 **workers' compensation insurance coverage that complies with chapter**
13 **287.**

390.061. 1. Except as otherwise provided in section 390.030, no person
2 shall engage in the business of a contract carrier **of household goods or**
3 **passengers** in intrastate commerce on any public highway in this state unless
4 there is in force with respect to such carrier a permit issued by the [division of
5 motor carrier and railroad safety] **state highways and transportation**
6 **commission** authorizing such operations.

7 2. Applications for such permits shall be made to the [division] **state**
8 **highways and transportation commission** in writing and shall contain such
9 information as the [division] **state highways and transportation**
10 **commission** shall, by rule, require and shall include:

11 (1) Full information concerning the ownership, financial [condition]
12 **status** of applicant **through the submission of documentation describing**
13 **assets, liabilities, and capital**, equipment to be used and a statement listing
14 the physical equipment of applicant and the reasonable value thereof;

15 (2) The complete route or routes over which the applicant desires to
16 operate, or territory to be served; **except that the state highways and**
17 **transportation commission shall not restrict any certificate or permit**
18 **authorizing the transportation of household goods or passengers with**
19 **reference to any route or routes; except that the state highways and**
20 **transportation commission shall restrict the applicant's registration**
21 **against the transportation of any hazardous material as designated in**
22 **Title 49, Code of Federal Regulations, if the state highways and**
23 **transportation commission finds that the applicant has not shown it is**
24 **qualified to safely transport that hazardous material in compliance**
25 **with all registration, liability insurance, and safety requirements**
26 **applicable to the transportation of that hazardous material pursuant**
27 **to Title 49, Code of Federal Regulations.**

28 3. If the [division] **state highways and transportation commission**
29 shall find that the applicant is seeking to transport [general and specialized
30 commodities in truckload lots, agricultural commodities in bulk.] **household**
31 **goods** or passengers [in charter service], and is fit, willing and able to properly
32 perform the service proposed and to conform to the provisions of this chapter and
33 the requirements, rules and regulations of the [division] **state highways and**
34 **transportation commission** thereunder, a permit therefor shall be issued.

35 4. [If the division finds that an applicant seeking to transport
36 commodities or passengers as described in subsection 4 of section 390.051 is fit,
37 willing and able to properly perform the service proposed, and to conform to the
38 provisions of this chapter and the requirements, rules and regulations of the
39 division, and that the service proposed will serve a useful present or future
40 purpose, a permit therefor specifying the service authorized shall be issued,
41 unless the division finds on the basis of evidence presented by persons objecting
42 to the issuance of a permit that the transportation to be authorized by the permit

43 will be inconsistent with the public convenience and necessity.

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

46 [6.] **5.** The [division] **state highways and transportation**
47 **commission** will not have jurisdiction over contract rates. A copy of the original
48 contract must be filed with the [division] **state highways and transportation**
49 **commission** prior to issuance of a permit. In the event the applicant chooses not
50 to disclose contract rates in the application, the contract shall contain in lieu of
51 rates a specific provision which incorporates by reference a schedule of rates, in
52 writing, to be effective between carrier and shipper. Current contracts and rate
53 schedules must be maintained by the carrier and contracting shippers. A contract
54 permit, authorizing the transportation of [commodities] **household goods** or
55 passengers [other than as described in subsection 4 of section 390.051], may be
56 amended to include additional contracting parties by the filing of said contracts
57 with the [division] **state highways and transportation commission** and
58 acknowledgment by the [division] **state highways and transportation**
59 **commission**.

 390.116. 1. Common carriers of [property] **household goods** may
2 establish reasonable through routes **or interline service** and joint rates,
3 charges and classifications with other such carriers or with common carriers by
4 railroad or express; and common carriers of passengers may establish reasonable
5 through routes and joint rates, fares or charges with other such carriers or with
6 common carriers by railroad. In case of such joint rates, fares, charges or
7 classifications, it shall be the duty of the **participating** carriers[, parties
8 thereto,] to establish just and reasonable regulations and practices in connection
9 therewith, and just, reasonable and equitable divisions thereof as between the
10 carriers participating therein which shall not unduly prefer or prejudice any of
11 such participating carriers **and shall not result in any rate, fare, charge,**
12 **classification, regulation, or practice that is unjust or unreasonable to**
13 **the shipper or receiver of the household goods. Carriers of household**
14 **goods participating in through routes or interline service shall publish**
15 **joint tariffs and evidence of concurrence or acceptance thereof, in**
16 **accordance with section 387.080, or individual tariffs for each**
17 **participating carrier, which shall set forth the joint or individual rates,**
18 **fares, charges, classifications, regulations, practices, and division of**
19 **rates applicable to such through routes or interline service, all in**

20 **accordance with the applicable provisions in chapter 387.**

21 2. The [division] **state highways and transportation commission**
22 may, whenever deemed by it to be necessary or desirable in the public interest,
23 after hearing, upon complaint or upon its own motion, order the establishment
24 of just and reasonable through routes and joint rates, fares, charges, regulations
25 or practices, applicable to the transportation of passengers [or property] by
26 common carriers.

 390.280. 1. Certificates or permits, or both, which were issued before
2 January 1, 1995, and which authorized a person to transport any property in
3 intrastate commerce by motor vehicle as a common carrier or contract carrier, or
4 both, are void, except that to the extent such certificates or permits, or portions
5 thereof, authorized a person to transport household goods over irregular routes
6 or passengers in intrastate commerce, or any property or passengers in interstate
7 commerce, those certificates or permits, or portions thereof, are exempt from the
8 provisions of this subsection.

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

27 3. Notwithstanding any provision of this section to the contrary, this
28 section shall not be construed as authorizing any person to transport any
29 hazardous material as designated in Title 49, Code of Federal Regulations, except

30 hazardous materials which that person was expressly authorized to transport in
31 intrastate commerce within this state on August 28, 1996. A person may file an
32 application for property carrier registration pursuant to section 390.290 to
33 transport additional hazardous materials. Nothing in this section shall be
34 construed to conflict with chapter 260, or of relieving an applicant of any duty to
35 obtain a license pursuant to chapter 260.

36 **4. Notwithstanding any provision of the law to the contrary, any**
37 **geographic restriction or provision limiting the carrier's scope of**
38 **authority to particular routes within this state contained in a**
39 **certificate or permit, or both, authorizing the transportation of**
40 **household goods in intrastate commerce, which was issued prior to**
41 **August 28, 2012, and any similar provision contained in a carrier's tariff**
42 **schedule filed prior to such date, shall be deemed void. In lieu of the**
43 **geographic restrictions expressed in such certificates, permits, or tariff**
44 **schedules, a motor carrier shall be authorized to provide intrastate**
45 **transportation of household goods between all points and destinations**
46 **within the state until such time the certificates, permits, and tariff**
47 **schedules are reissued or amended to reflect the motor carrier's**
48 **statewide operating authority. Nothing contained in the provisions of**
49 **sections 390.051 to 390.116 shall be construed to exempt or to alter the**
50 **obligation of compliance by carriers transporting passengers point-to-**
51 **point within the jurisdiction described in section 67.1802 from the**
52 **provisions of sections 67.1800 to 67.1822.**

✓

Copy