

**SENATE
STATE OF MINNESOTA
NINETIETH SESSION**

S.F. No. 2869

(SENATE AUTHORS: KORAN, Draheim, Newman, Lang and Carlson)

DATE	D-PG	OFFICIAL STATUS
03/01/2018	6242	Introduction and first reading Referred to Transportation Finance and Policy
03/22/2018	6930	Author added Carlson
03/29/2018	7034a	Comm report: To pass as amended
	7117	Second reading
05/09/2018	8800	Special Order
	8800	Third reading Passed
05/17/2018		Returned from House with amendment Senate concurred and repassed bill Third reading

1.1 A bill for an act

1.2 relating to transportation; modifying tariff requirements for certain motor carriers;

1.3 amending Minnesota Statutes 2016, sections 174.66; 221.036, subdivisions 1, 3;

1.4 221.122, subdivision 1; 221.161, subdivision 1, by adding a subdivision; 221.171,

1.5 subdivision 1; repealing Minnesota Statutes 2016, section 221.161, subdivisions

1.6 2, 3, 4.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2016, section 174.66, is amended to read:

1.9 **174.66 CONTINUATION OF CARRIER RULES.**

1.10 (a) Orders and directives in force, issued, or promulgated under authority of chapters

1.11 174A, 216A, 218, 219, 221, and 222 remain and continue in force and effect until repealed,

1.12 modified, or superseded by duly authorized orders or directives of the commissioner of

1.13 transportation. To the extent allowed under federal law or regulation, rules adopted under

1.14 authority of the following sections are transferred to the commissioner of transportation

1.15 and continue in force and effect until repealed, modified, or superseded by duly authorized

1.16 rules of the commissioner:

1.17 (1) section 218.041 except rules related to the form and manner of filing railroad rates,

1.18 railroad accounting rules, and safety rules;

1.19 (2) section 219.40;

1.20 (3) rules relating to rates or tariffs, or the granting, limiting, or modifying of permits

1.21 under section 221.031, subdivision 1; and

1.22 (4) ~~rules relating to rates, charges, and practices under section 221.161, subdivision 4;~~

1.23 ~~and~~

2.1 ~~(5)~~ rules relating to rates, tariffs, or the granting, limiting, or modifying of permits under
 2.2 section 221.121.

2.3 (b) The commissioner shall review the transferred rules, orders, and directives and, when
 2.4 appropriate, develop and adopt new rules, orders, or directives.

2.5 Sec. 2. Minnesota Statutes 2016, section 221.036, subdivision 1, is amended to read:

2.6 Subdivision 1. **Order.** The commissioner may issue an order requiring violations to be
 2.7 corrected and administratively assessing monetary penalties for a violation of (1) section
 2.8 221.021; (2) section 221.033, subdivision 2b; (3) section 221.171; (4) section 221.141; (5)
 2.9 a federal, state, or local law, regulation, rule, or ordinance pertaining to railroad-highway
 2.10 grade crossings; or (6) rules of the commissioner relating to the transportation of hazardous
 2.11 waste, motor carrier operations, or insurance, ~~or tariffs and accounting~~. An order must be
 2.12 issued as provided in this section.

2.13 Sec. 3. Minnesota Statutes 2016, section 221.036, subdivision 3, is amended to read:

2.14 Subd. 3. **Amount of penalty; considerations.** (a) The commissioner may issue an order
 2.15 assessing a penalty of up to \$5,000 for all violations identified during a single audit or
 2.16 investigation of (1) section 221.021¹₂, 221.141¹₂, or 221.171, or (2) rules of the commissioner
 2.17 relating to motor carrier operations; or insurance, ~~or tariffs and accounting~~, ~~identified during~~
 2.18 ~~a single inspection, audit, or investigation.~~

2.19 (b) The commissioner may issue an order assessing a penalty up to a maximum of
 2.20 \$10,000 for all violations of section 221.033, subdivision 2b, identified during a single
 2.21 inspection or audit.

2.22 (c) In determining the amount of a penalty, the commissioner shall consider:

2.23 (1) the willfulness of the violation;

2.24 (2) the gravity of the violation, including damage to humans, animals, air, water, land,
 2.25 or other natural resources of the state;

2.26 (3) the history of past violations, including the similarity of the most recent violation
 2.27 and the violation to be penalized, the time elapsed since the last violation, the number of
 2.28 previous violations, and the response of the person to the most recent violation identified;

2.29 (4) the economic benefit gained by the person by allowing or committing the violation;
 2.30 and

3.1 (5) other factors as justice may require, if the commissioner specifically identifies the
3.2 additional factors in the commissioner's order.

3.3 (d) The commissioner shall assess a penalty in accordance with Code of Federal
3.4 Regulations, title 49, section 383.53, against:

3.5 (1) a driver who is convicted of a violation of an out-of-service order;

3.6 (2) an employer who knowingly allows or requires an employee to operate a commercial
3.7 motor vehicle in violation of an out-of-service order; or

3.8 (3) an employer who knowingly allows or requires an employee to operate a commercial
3.9 motor vehicle in violation of a federal, state, or local law or regulation pertaining to
3.10 railroad-highway grade crossings.

3.11 Sec. 4. Minnesota Statutes 2016, section 221.122, subdivision 1, is amended to read:

3.12 Subdivision 1. **Registration, insurance, and filing requirements.** (a) An order issued
3.13 by the commissioner which grants a certificate or permit must contain a service date.

3.14 (b) The person to whom the order granting the certificate or permit is issued shall do
3.15 the following within 45 days from the service date of the order:

3.16 (1) register vehicles which will be used to provide transportation under the permit or
3.17 certificate with the commissioner and pay the vehicle registration fees required by law; and

3.18 (2) file and maintain insurance or bond as required by section 221.141 and rules of the
3.19 commissioner; and

3.20 ~~(3) file rates and tariffs as required by section 221.161 and rules of the commissioner.~~

3.21 Sec. 5. Minnesota Statutes 2016, section 221.161, subdivision 1, is amended to read:

3.22 Subdivision 1. ~~Filing; hearing upon commissioner initiative~~ Tariff maintenance and
3.23 contents. A household goods ~~carrier mover~~ carrier shall ~~file and maintain with the commissioner~~
3.24 a tariff showing rates and charges for transporting household goods. ~~Tariffs must be prepared~~
3.25 ~~and filed in accordance with the rules of the commissioner. When tariffs are filed in~~
3.26 ~~accordance with the rules and accepted by the commissioner, the filing constitutes notice~~
3.27 ~~to the public and interested parties of the contents of the tariffs. The commissioner shall not~~
3.28 ~~accept for filing tariffs that are unjust, unreasonable, unjustly discriminatory, unduly~~
3.29 ~~preferential or prejudicial, or otherwise in violation of this section or rules adopted under~~
3.30 ~~this section. If the tariffs appear to be unjust, unreasonable, unjustly discriminatory, unduly~~
3.31 ~~preferential or prejudicial, or otherwise in violation of this section or rules adopted under~~

4.1 ~~this section, after notification and investigation by the department, the commissioner may~~
 4.2 ~~suspend and postpone the effective date of the tariffs and assign the tariffs for hearing upon~~
 4.3 ~~notice to the household goods carrier filing the proposed tariffs and to other interested~~
 4.4 ~~parties, including users of the service and competitive carriers by motor vehicle and rail.~~
 4.5 ~~At the hearing, the burden of proof is on the household goods carrier filing the proposed~~
 4.6 ~~tariff to sustain the validity of the proposed schedule of rates and charges. The tariffs and~~
 4.7 ~~subsequent supplements to them or reissues of them must state the effective date, which~~
 4.8 ~~may not be less than ten days following the date of filing, unless the period of time is reduced~~
 4.9 ~~by special permission of the commissioner. A household goods mover must prepare a tariff~~
 4.10 ~~under this section in accordance with Code of Federal Regulations, title 49, part 1310.3,~~
 4.11 ~~which is incorporated by reference.~~

4.12 Sec. 6. Minnesota Statutes 2016, section 221.161, is amended by adding a subdivision to
 4.13 read:

4.14 Subd. 5. **Tariff availability.** (a) A household goods mover subject to this section must
 4.15 maintain all of its effective tariffs at its principal place of business and at each of its terminal
 4.16 locations, and must make the tariffs available to the public for inspection at all times the
 4.17 household goods mover is open for business. Any publication referred to in a tariff must be
 4.18 maintained with that tariff.

4.19 (b) Upon request, a household goods mover must provide copies of tariffs, specific tariff
 4.20 provisions, or tariff subscriptions to the commissioner or any interested person.

4.21 Sec. 7. Minnesota Statutes 2016, section 221.171, subdivision 1, is amended to read:

4.22 ~~Subdivision 1. **Compensation fixed by schedule on file.** No~~ A household goods carrier
 4.23 ~~shall~~ mover must not charge or receive a greater, lesser, or different compensation for the
 4.24 ~~transportation of persons or property or for related service, provided~~ than the rates and
 4.25 ~~charges named in the carrier's schedule on file and in effect with the commissioner including~~
 4.26 ~~any rate fixed by the commissioner specified in the tariff under section 221.161; nor shall.~~
 4.27 A household goods carrier mover must not refund or remit in any manner or by any device,
 4.28 directly or indirectly, the rates and charges required to be collected by the carrier mover
 4.29 under the carrier's mover's schedules or under the rates, if any, fixed by the commissioner.

4.30 Sec. 8. **REPEALER.**

4.31 Minnesota Statutes 2016, section 221.161, subdivisions 2, 3, and 4, are repealed.

221.161 SCHEDULE OF RATES AND CHARGES.

Subd. 2. **Hearing upon complaint.** Tariffs, supplements, and reissues must be prepared and filed in accordance with rules of the commissioner. Rates or charges, including pickup charges named therein, are subject to complaint to the commissioner by an interested party. The commissioner, after investigation by the department, by order on not less than ten days' notice, may assign the complaint for hearing, and if at the hearing, the complainant submits facts and evidence sufficient to establish proof that the rates or charges complained of are excessive or noncompensatory, the commissioner may order the rates or charges canceled, and require the filing of alternative and reasonable rates and charges, the reasonable level of which at that time must be indicated by the commissioner in the order.

Subd. 3. **Hearing upon petition by another carrier.** Upon the filing of a tariff or subsequent supplement or reissue, any other carrier has the right to petition the commissioner to suspend it from taking effect until opportunity is had for a hearing on the reasonableness of the rates or charges, and the commissioner may suspend the rates or charges if in its judgment the rates or charges complained of are so unreasonably low as to create destructive competitive practices among or jeopardize the economic position of competing carriers. In determining whether the rates or charges are excessive or noncompensatory, the commissioner shall include in consideration, among other things, the reasonable cost of the services rendered for the transportation, including a reasonable return on the money invested in the business and an adequate sum for maintenance and depreciation of the property used.

Subd. 4. **Hearing on merits of rates and charges.** The commissioner, (1) after a suspension and hearing upon a schedule of rates and charges, or upon complaint, or upon the commissioner's own initiative, either in extension of an existing complaint or without a complaint whatever, (2) after department investigation and petition, (3) upon notice to the permit carrier or tariff agent proposing, maintaining, or charging a schedule of rates and charges on a single group of related commodities, and (4) upon notice to the users of the service and competitive carriers by motor vehicle and rail, may assign for hearing the schedule of rates and charges proposed, maintained, or charged by any or all permit carriers. Upon a finding, after a hearing, that the schedule of rates and charges are unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial or otherwise in violation of this section, the commissioner may prescribe minimum rates and charges and the rates, rules, and practices thereafter to be maintained and applied by the permit carrier or tariff agent. In the hearing the burden of proof is upon the permit carrier or tariff agent whose schedules of rates and charges are under investigation to show that the schedules are not below a minimum reasonable level or are not noncompensatory.