

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1769 Session of 2015

INTRODUCED BY DAY, D. COSTA, KNOWLES, DeLUCA AND JOZWIAK, DECEMBER 19, 2015

AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 11, 2016

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, IN GENERAL PROVISIONS, FURTHER <--
3 PROVIDING FOR DEFINITIONS; in contract carrier by motor
4 vehicle and broker, further providing for declaration of
5 policy and definitions,, and providing for penalties; AND, IN <--
6 VIOLATIONS AND PENALTIES, FURTHER PROVIDING FOR UNAUTHORIZED
7 OPERATION BY CARRIERS AND BROKERS.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 ~~Section 1. Section 2501(b) of Title 66 of the Pennsylvania <--
11 Consolidated Statutes is amended to read:~~

12 SECTION 1. THE DEFINITION OF "COMMON CARRIER BY MOTOR <--
13 VEHICLE" IN SECTION 102 OF TITLE 66 OF THE PENNSYLVANIA
14 CONSOLIDATED STATUTES IS AMENDED TO READ:

15 § 102. DEFINITIONS.

16 SUBJECT TO ADDITIONAL DEFINITIONS CONTAINED IN SUBSEQUENT
17 PROVISIONS OF THIS PART WHICH ARE APPLICABLE TO SPECIFIC
18 PROVISIONS OF THIS PART, THE FOLLOWING WORDS AND PHRASES WHEN
19 USED IN THIS PART SHALL HAVE, UNLESS THE CONTEXT CLEARLY
20 INDICATES OTHERWISE, THE MEANINGS GIVEN TO THEM IN THIS SECTION:

1 * * *

2 "COMMON CARRIER BY MOTOR VEHICLE." AS FOLLOWS:

3 (1) ANY COMMON CARRIER WHO OR WHICH HOLDS OUT OR
4 UNDERTAKES THE TRANSPORTATION OF PASSENGERS OR PROPERTY, OR
5 BOTH, OR ANY CLASS OF PASSENGERS OR PROPERTY, BETWEEN POINTS
6 WITHIN THIS COMMONWEALTH BY MOTOR VEHICLE FOR COMPENSATION,
7 WHETHER OR NOT THE OWNER OR OPERATOR OF SUCH MOTOR VEHICLE,
8 OR WHO OR WHICH PROVIDES OR FURNISHES ANY MOTOR VEHICLE, WITH
9 OR WITHOUT DRIVER, FOR TRANSPORTATION OR FOR USE IN
10 TRANSPORTATION OF PERSONS OR PROPERTY AS AFORESAID[, AND].

11 (2) THE TERM SHALL INCLUDE [COMMON]:

12 (I) COMMON CARRIERS BY RAIL, WATER, OR AIR, AND
13 EXPRESS OR FORWARDING PUBLIC UTILITIES INSOFAR AS SUCH
14 COMMON CARRIERS OR SUCH PUBLIC UTILITIES ARE ENGAGED IN
15 SUCH MOTOR VEHICLE OPERATIONS[, BUT].

16 (II) ANY PERSON WHO PROVIDES OR FURNISHES
17 TRANSPORTATION OF HOUSEHOLD PROPERTY BETWEEN RESIDENTIAL
18 DWELLINGS WITHIN THIS COMMONWEALTH BY MOTOR VEHICLE FOR
19 COMPENSATION, OWNS OR OPERATES THE MOTOR VEHICLE AND
20 PROVIDES OR FURNISHES A DRIVER OF THE MOTOR VEHICLE WITH
21 THE TRANSPORTATION OR USE OF THE TRANSPORTATION. THE TERM
22 DOES NOT INCLUDE:

23 [(1)] (I) A LESSOR UNDER A LEASE GIVEN ON A BONA
24 FIDE SALE OF A MOTOR VEHICLE WHERE THE LESSOR RETAINS OR
25 ASSUMES NO RESPONSIBILITY FOR MAINTENANCE, SUPERVISION,
26 OR CONTROL OF THE MOTOR VEHICLES SO SOLD.

27 [(2)] (II) TRANSPORTATION OF SCHOOL CHILDREN FOR
28 SCHOOL PURPOSES OR TO AND FROM SCHOOL-RELATED ACTIVITIES
29 WHETHER AS PARTICIPANTS OR SPECTATORS, WITH THEIR
30 CHAPERONES, OR BETWEEN THEIR HOMES AND SUNDAY SCHOOL IN

1 ANY MOTOR VEHICLE OWNED BY THE SCHOOL DISTRICT, PRIVATE
2 SCHOOL OR PAROCHIAL SCHOOL, OR TRANSPORTATION OF SCHOOL
3 CHILDREN BETWEEN THEIR HOMES AND SCHOOL OR TO AND FROM
4 SCHOOL-RELATED ACTIVITIES WHETHER AS PARTICIPANTS OR
5 SPECTATORS, WITH THEIR CHAPERONES, IF THE PERSON
6 PERFORMING THE SCHOOL-RELATED TRANSPORTATION HAS A
7 CONTRACT FOR THE TRANSPORTATION OF SCHOOL CHILDREN
8 BETWEEN THEIR HOMES AND SCHOOL, WITH THE PRIVATE OR
9 PAROCHIAL SCHOOL, WITH THE SCHOOL DISTRICT OR JOINTURE IN
10 WHICH THE SCHOOL IS LOCATED, OR WITH A SCHOOL DISTRICT
11 THAT IS A MEMBER OF A JOINTURE IN WHICH THE SCHOOL IS
12 LOCATED IF THE JOINTURE HAS NO CONTRACTS WITH OTHER
13 PERSONS FOR THE TRANSPORTATION OF STUDENTS BETWEEN THEIR
14 HOMES AND SCHOOL, AND IF THE PERSON MAINTAINS A COPY OF
15 ALL CONTRACTS IN THE VEHICLE AT ALL TIMES, OR CHILDREN
16 BETWEEN THEIR HOMES AND SUNDAY SCHOOL IN ANY MOTOR
17 VEHICLE OPERATED UNDER CONTRACT WITH THE SCHOOL DISTRICT,
18 PRIVATE SCHOOL OR PAROCHIAL SCHOOL. EACH SCHOOL DISTRICT
19 SHALL ADOPT REGULATIONS REGARDING THE NUMBER OF
20 CHAPERONES TO ACCOMPANY STUDENTS IN CONNECTION WITH
21 SCHOOL-RELATED ACTIVITIES.

22 [(3)] (III) ANY OWNER OR OPERATOR OF A FARM
23 TRANSPORTING AGRICULTURAL PRODUCTS FROM, OR FARM SUPPLIES
24 TO, SUCH FARM, OR ANY INDEPENDENT CONTRACTOR OR
25 COOPERATIVE AGRICULTURAL ASSOCIATION HAULING AGRICULTURAL
26 PRODUCTS OR FARM SUPPLIES EXCLUSIVELY FOR ONE OR MORE
27 OWNERS OR OPERATORS OF FARMS.

28 [(4)] (IV) ANY PERSON OR CORPORATION WHO OR WHICH
29 USES, OR FURNISHES FOR USE, DUMP TRUCKS FOR THE
30 TRANSPORTATION OF ASHES, RUBBISH, EXCAVATED AND ROAD

1 CONSTRUCTION MATERIALS. THIS PARAGRAPH DOES NOT INCLUDE
2 THE USE OR FURNISHING OF FIVE-AXLE TRACTOR TRAILERS.

3 [(5)] (V) TRANSPORTATION OF PROPERTY BY THE OWNER TO
4 HIMSELF, OR TO PURCHASERS DIRECTLY FROM HIM, IN VEHICLES
5 OWNED AND OPERATED BY THE OWNER OF SUCH PROPERTY AND NOT
6 OTHERWISE USED IN TRANSPORTATION OF PROPERTY FOR
7 COMPENSATION FOR OTHERS.

8 [(6)] (VI) TRANSPORTATION OF VOTING MACHINES TO AND
9 FROM POLLING PLACES BY ANY PERSON OR CORPORATION FOR OR
10 ON BEHALF OF ANY POLITICAL SUBDIVISION OF THIS
11 COMMONWEALTH FOR USE IN ANY PRIMARY, GENERAL, MUNICIPAL
12 OR SPECIAL ELECTION.

13 [(7)] (VII) TRANSPORTATION OF PULPWOOD, CHEMICAL
14 WOOD, SAW LOGS OR VENEER LOGS FROM WOODLOTS.

15 [(8)] (VIII) TRANSPORTATION BY TOWING OF WRECKED OR
16 DISABLED MOTOR VEHICLES.

17 [(9)] (IX) ANY PERSON OR CORPORATION WHO OR WHICH
18 FURNISHES TRANSPORTATION FOR ANY INJURED, ILL OR DEAD
19 PERSON.

20 (X) A MOTOR CARRIER WHEN THE MOTOR CARRIER PROVIDES
21 TRANSPORTATION OF HOUSEHOLD GOODS IN CONTAINERS OR
22 TRAILERS THAT ARE ENTIRELY PACKED, LOADED, UNLOADED OR
23 UNPACKED BY AN INDIVIDUAL OTHER THAN AN EMPLOYEE OR AGENT
24 OF THE MOTOR CARRIER.

25 * * *

26 SECTION 2. SECTIONS 2501(B) AND 3310 OF TITLE 66 ARE AMENDED
27 TO READ:

28 § 2501. Declaration of policy and definitions.

29 * * *

30 (b) Definitions.--The following words and phrases when used

1 in this part shall have, unless the context clearly indicates
2 otherwise, the meanings given to them in this subsection:

3 "Broker." Any person or corporation not included in the term
4 "motor carrier" and not a bona fide employee or agent of any
5 such carrier, or group of such carriers, who or which, as
6 principal or agent, sells or offers for sale any transportation
7 by a motor carrier, or the furnishing, providing, or procuring
8 of facilities therefor, or negotiates for, or holds out by
9 solicitation, advertisement, or otherwise, as one who sells,
10 provides, furnishes, contracts, or arranges for such
11 transportation, or the furnishing, providing, or procuring of
12 facilities therefor, other than as a motor carrier directly or
13 jointly, or by arrangement with another motor carrier, and who
14 does not assume custody as a carrier.

15 "Contract carrier by motor vehicle."

16 (1) The term "contract carrier by motor vehicle"
17 includes [any]:

18 (i) Any person or corporation who or which provides
19 or furnishes transportation of passengers or property, or
20 both, or any class of passengers or property, between
21 points within this Commonwealth by motor vehicle for
22 compensation, whether or not the owner or operator of
23 such motor vehicle, or who or which provides or
24 furnishes, with or without drivers, any motor vehicle for
25 such transportation, or for use in such transportation,
26 other than as a common carrier by motor vehicle.

27 (ii) Any person or corporation that provides or
28 furnishes transportation of household property between
29 residential dwellings within this Commonwealth by motor
30 vehicle for compensation, owns or operates the motor

1 vehicle and provides or furnishes a driver of the motor
2 vehicle with the transportation or use of the
3 transportation.

4 (2) The term "contract carrier by motor vehicle" does
5 not include:

6 (i) A lessor under a lease given on a bona fide sale
7 of a motor vehicle where the lessor retains or assumes no
8 responsibility for maintenance, supervision or control of
9 the motor vehicle so sold.

10 (ii) Any bona fide agricultural cooperative
11 association transporting property exclusively for the
12 members of such association on a nonprofit basis, or any
13 independent contractor hauling exclusively for such
14 association.

15 (iii) Any owner or operator of a farm transporting
16 agricultural products from or farm supplies to such farm,
17 or any independent contractor hauling agricultural
18 products or farm supplies, exclusively, for one or more
19 owners or operators of farms.

20 (iv) Transportation of school children for school
21 purposes or to and from school-related activities whether
22 as participants or spectators, with their chaperones, or
23 between their homes and Sunday school in any motor
24 vehicle owned by the school district, private school or
25 parochial school, or the transportation of school
26 children between their homes and school or to and from
27 school-related activities whether as participants or
28 spectators, with their chaperones, if the person
29 performing the school-related transportation has a
30 contract for the transportation of school children

1 between their homes and school, with the private or
2 parochial school, with the school district or jointure in
3 which the school is located, or with a school district
4 that is a member of a jointure in which the school is
5 located if the jointure has no contracts with other
6 persons for the transportation of students between their
7 homes and school, and if the person maintains a copy of
8 all contracts in the vehicle at all times, or children
9 between their homes and Sunday school in any motor
10 vehicle operated under contract with the school district,
11 private school or parochial school. Each school district
12 shall adopt regulations regarding the number of
13 chaperones to accompany students in connection with
14 school-related activities.

15 (v) Any person or corporation who or which uses, or
16 furnishes for use, dump trucks for the transportation of
17 ashes, rubbish, excavated or road construction materials.

18 (vi) Transportation of voting machines to and from
19 polling places by any person or corporation for or on
20 behalf of any political subdivision of this Commonwealth
21 for use in any primary, general or special election.

22 (vii) Transportation of pulpwood, chemical wood, saw
23 logs or veneer logs from woodlots.

24 (viii) Transportation by towing of wrecked or
25 disabled motor vehicles.

26 (ix) Any person or corporation who or which
27 furnishes transportation for any injured, ill or dead
28 person.

29 ~~Section 2. Title 66 is amended by adding a section to read: <--~~

30 ~~§ 2510. Penalties.~~

1 ~~(a) Offense defined. A person that operates as a contract~~
2 ~~carrier by motor vehicle under paragraph (1)(ii) of the~~
3 ~~definition of "contract carrier by motor vehicle" in section~~
4 ~~2501(b) (relating to declaration of policy and definitions) in~~
5 ~~violation of this chapter commits an offense.~~

6 ~~(b) Grading. A person convicted under subsection (a)~~
7 ~~commits a misdemeanor of the third degree and shall, upon~~
8 ~~conviction, be sentenced to pay a fine of \$5,000 for a first~~
9 ~~offense and \$10,000 for a second or subsequent offense.~~

10 ~~(c) Other penalties. In addition to the fine imposed under~~
11 ~~subsection (b), a person convicted under subsection (a) may also~~
12 ~~be subject to the following:~~

13 ~~(1) Suspension of registration under 75 Pa.C.S. § 1375~~
14 ~~(relating to suspension of registration of unapproved~~
15 ~~carriers).~~

16 ~~(2) Confiscation and impoundment of vehicle. A sheriff,~~
17 ~~upon an order issued by the court having jurisdiction over~~
18 ~~the property, is empowered to confiscate and impound vehicles~~
19 ~~which have been used to provide contract carrier by motor~~
20 ~~vehicle service in violation of this section or commission~~
21 ~~regulations. The process for the disposition of impounded~~
22 ~~vehicles as set forth under 75 Pa.C.S. § 6310 (relating to~~
23 ~~disposition of impounded vehicles, combinations and loads).~~

24 ~~(d) Deposit of costs, fines and proceeds of forfeitures.~~
25 ~~Notwithstanding section 3315 (relating to disposition of fines~~
26 ~~and penalties), all costs and fines collected and penalties~~
27 ~~recovered under this section shall be deposited into the General~~
28 ~~Fund and shall be deemed an augmentation to any appropriation to~~
29 ~~the commission. All amounts appropriated to the commission under~~
30 ~~this section shall be used to administer and enforce this~~

1 ~~chapter and commission regulations applicable to motor carriers.~~

2 (X) A MOTOR CARRIER WHEN THE MOTOR CARRIER PROVIDES <--
3 TRANSPORTATION OF HOUSEHOLD GOODS IN CONTAINERS OR
4 TRAILERS THAT ARE ENTIRELY PACKED, LOADED, UNLOADED OR
5 UNPACKED BY AN INDIVIDUAL OTHER THAN AN EMPLOYEE OR AGENT
6 OF THE MOTOR CARRIER.

7 § 3310. UNAUTHORIZED OPERATION BY CARRIERS AND BROKERS.

8 (A) GENERAL RULE.--ANY PERSON OR CORPORATION OPERATING AS A
9 MOTOR CARRIER OR AS A COMMON CARRIER BY AIRPLANE, AND ANY
10 OPERATOR OR EMPLOYEE OF SUCH CARRIER, AND ANY PERSON OR
11 CORPORATION OPERATING AS A BROKER, WITHOUT A CERTIFICATE OF
12 PUBLIC CONVENIENCE, PERMIT OR LICENSE, AUTHORIZING THE SERVICE
13 PERFORMED, AS REQUIRED BY THIS PART, SHALL BE GUILTY OF A
14 SUMMARY OFFENSE, AND ANY SUBSEQUENT OFFENSE BY SUCH PERSON OR
15 CORPORATION SHALL CONSTITUTE A MISDEMEANOR OF THE THIRD DEGREE.

16 (B) TRANSPORTATION OF HOUSEHOLD PROPERTY VIOLATIONS.--ANY
17 PERSON OR CORPORATION OPERATING AS A COMMON CARRIER UNDER
18 PARAGRAPH (2) (II) OF THE DEFINITION OF "COMMON CARRIER BY MOTOR
19 VEHICLE" IN SECTION 102 (RELATING TO DEFINITIONS) OR CONTRACT
20 CARRIER BY MOTOR VEHICLE UNDER PARAGRAPH (1) (II) OF THE
21 DEFINITION OF "CONTRACT CARRIER BY MOTOR VEHICLE" IN SECTION
22 2501(B) (RELATING TO DECLARATION OF POLICY AND DEFINITIONS) IN
23 VIOLATION OF THIS TITLE COMMITS AN OFFENSE.

24 (C) SENTENCING.--

25 (1) A PERSON CONVICTED UNDER SUBSECTION (B) COMMITS A
26 MISDEMEANOR OF THE THIRD DEGREE AND SHALL, UPON CONVICTION,
27 BE SENTENCED TO PAY A FINE OF \$5,000 FOR A FIRST OFFENSE AND
28 \$10,000 FOR A SECOND OR SUBSEQUENT OFFENSE.

29 (2) IN ADDITION TO THE PENALTY IMPOSED UNDER PARAGRAPH
30 (1), A PERSON CONVICTED UNDER SUBSECTION (B) MAY ALSO BE

1 SUBJECT TO THE FOLLOWING:

2 (I) SUSPENSION OF REGISTRATION UNDER 75 PA.C.S. §
3 1375 (RELATING TO SUSPENSION OF REGISTRATION OF
4 UNAPPROVED CARRIERS).

5 (II) CONFISCATION AND IMPOUNDMENT OF VEHICLE. A
6 SHERIFF, UPON AN ORDER ISSUED BY THE COURT AND HAVING
7 JURISDICTION OVER THE PROPERTY, IS EMPOWERED TO
8 CONFISCATE AND IMPOUND VEHICLES WHICH HAVE BEEN USED TO
9 PROVIDE COMMON CARRIER BY MOTOR VEHICLE SERVICE OR
10 CONTRACT CARRIER BY MOTOR VEHICLE SERVICE IN VIOLATION OF
11 SUBSECTION (B) OR COMMISSION REGULATIONS. THE PROCESS FOR
12 THE DISPOSITION OF IMPOUNDED VEHICLES SHALL BE AS SET
13 FORTH UNDER 75 PA.C.S. § 6310 (RELATING TO DISPOSITION OF
14 IMPOUNDED VEHICLES, COMBINATIONS AND LOADS).

15 (D) DEPOSIT OF COSTS, FINES AND PROCEEDS OF FORFEITURES.--
16 NOTWITHSTANDING SECTION 3315 (RELATING TO DISPOSITION OF FINES
17 AND PENALTIES), ALL COSTS AND FINES COLLECTED AND PENALTIES
18 RECOVERED UNDER SUBSECTION (C) SHALL BE DEPOSITED INTO THE
19 GENERAL FUND AND SHALL BE DEEMED AN AUGMENTATION TO ANY
20 APPROPRIATION TO THE COMMISSION. ALL AMOUNTS APPROPRIATED TO THE
21 COMMISSION UNDER THIS SECTION SHALL BE USED TO ADMINISTER AND
22 ENFORCE THIS CHAPTER AND COMMISSION REGULATIONS APPLICABLE TO
23 MOTOR CARRIERS.

24 Section 3. This act shall take effect in 60 days.