MISSISSIPPI LEGISLATURE REGULAR SESSION 2017

By: Representative Steverson To: Transportation

HOUSE BILL NO. 1021

AN ACT TO AMEND SECTIONS 77-7-7, 77-7-21, 77-7-23, 77-7-55, 77-7-115, 77-7-119, 77-7-125, 77-7-127, 77-7-333, 77-7-335, 77-7-337 AND SECTION 77-7-339, MISSISSIPPI CODE OF 1972, WHICH ARE MOTOR CARRIER LAWS, TO REFLECT THE PRIOR TRANSFER OF THE DUTIES OF THE PUBLIC SERVICE COMMISSION TO THE MISSISSIPPI TRANSPORTATION COMMISSION; TO AMEND SECTIONS 77-9-5, 77-9-119, 77-9-489 AND 77-9-605, MISSISSIPPI CODE OF 1972, TO CONFORM TO SUCH PRIOR TRANSFER OF DUTIES; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 77-7-7, Mississippi Code of 1972, is amended as follows:

77-7-7. Whenever used in this chapter unless expressly stated otherwise:

(a) The term "person" means individual, firm, copartnership, corporation, company, association or joint-stock association, and includes any trustee, receiver, assignee or personal representative thereof.

(b) The term "commission" means the *** * *** Mississippi Transportation Commission.

(c) The term "highway" means every public highway or place of whatever nature open to the use of the public for

purposes of vehicle travel in this state, including the streets and alleys in towns and cities.

(d) The term "motor vehicle" and "vehicle" means any vehicle, machine, tractor, trailer or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property; such term, however, does not include any vehicle, locomotive or car operated exclusively on a rail or rails.

(e) The term "common carrier by motor vehicle" means any person who or which undertakes, whether directly or by a lease or any other arrangement, to transport passengers or household goods.

(f) The term "contract carrier by motor vehicle" means any person, not included under subsection (e) of this section, who or which, under special and individual contracts or agreements, and whether directly or by a lease or any other arrangement, transports passengers or household goods.

(g) The term "restricted motor carrier" means all carriers of property, except household goods, by motor vehicle for compensation.

(h) The "services" and "transportation" to which this chapter applies include all vehicles operated by, for or in the interest of any motor carrier irrespective of ownership or contract, express or implied, together with all facilities and property operated or controlled by any such carrier or carriers

and used in the transportation of passengers or property or in the performance of any service in connection therewith.

(i) The term "certificate" means a certificate of public convenience and necessity issued by the commission to common carriers by motor vehicle and restricted common carriers by motor vehicle under this chapter.

(j) The term "permit" means a permit issued by the commission to contract carriers by motor vehicle under this chapter.

(k) The term "interstate permit" means a permit issued under the terms of this chapter to the holder of a certificate of public convenience and necessity, a permit, or other operating authority from the *** * *** U.S. Department of Transportation.

(l) The term "owner" or "operator" and "owner and operator" means any individual, firm, copartnership, corporation, company, association or joint-stock association, and includes any trustee, receiver, assignee or personal representative thereof, to whom or to which a certificate of convenience and necessity or permit or interstate permit has been issued by the *** * *** commission.

(m) The term "vanpooling" means a nonprofit arrangement entered into to provide for the transportation of persons to and from their places of employment utilizing a motor vehicle manufactured primarily for the transporting of not less than eight (8) nor more than fifteen (15) people, and where the costs of

operating said vehicle, including reasonable vehicle depreciation costs, are paid for by those people utilizing such arrangement.

(n) The term "gross vehicle weight rating (GVWR)" means the value specified by the manufacturer as the loaded weight of a single motor vehicle.

(o) The term "gross combination weight rating (GCWR)" means the value specified by the manufacturer as the loaded weight of a combination (articulated) motor vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon.

SECTION 2. Section 77-7-21, Mississippi Code of 1972, is amended as follows:

77-7-21. No restricted motor carrier not exempted in this chapter shall engage in intrastate operation on any highway within the state unless such carrier is in compliance with the requirements of the laws and regulations of the *** * *** commission.

SECTION 3. Section 77-7-23, Mississippi Code of 1972, is amended as follows:

77-7-23. The *** * *** commission shall promulgate rules, regulations and procedures for the regulation of minimum amounts of financial responsibility relating to insurance requirements and self-insurance authorization, safety of operations and appointment of agents of service of process for restricted motor carriers.

SECTION 4. Section 77-7-55, Mississippi Code of 1972, is amended as follows:

77-7-55. Upon the filing of an application for a certificate of convenience and necessity, the applicant shall deposit with the commission as a fee, the sum of Fifty Dollars ($50.00), and for the transfer, sale, assignment or lease of such certificate, the sum of Fifty Dollars ($50.00), and for the issuance of a duplicate certificate, the sum of Two Dollars ($2.00).

Upon the filing of an application for a permit as a contract carrier, the applicant shall deposit with the commission as a fee for the issuance thereof, the sum of Fifty Dollars ($50.00), and for the issuance of a duplicate permit, the sum of Two Dollars ($2.00).

All of the fees provided for by this section shall be paid by the commission into the State Treasury to be there placed in the special fund designated *** * *** by the commission. The fees herein provided for respecting applications for certificates, permits and for the approval of sale, transfer, lease or assignment may not be returned to an applicant after the application has been processed.

SECTION 5. Section 77-7-115, Mississippi Code of 1972, is amended as follows:

77-7-115. On or before January 1 of each year, or prior to commencement of business, every holder of a certificate of convenience and necessity or permit or interstate authority issued by the *** * *** U.S. Department of Transportation upon whom the fee

is levied by Section 77-7-119, shall pay to the * * * commission of this state an amount equal to the fees imposed in the section for each vehicle operated within this state.

SECTION 6. Section 77-7-119, Mississippi Code of 1972, is amended as follows:

77-7-119. (1) It shall be unlawful for any holder of a certificate of public convenience and necessity or permit, issued in accordance with this chapter, to operate over the highways of this state unless there shall be accompanying each vehicle so operated a receipt which shall have been procured from the * * * commission as herein required. The receipts shall bear necessary numbers and identification markings which, in the opinion of the * * * commission, are necessary to carry out the provisions of this section. The receipts required hereby shall be obtained by each operator liable therefor for each vehicle used in the conduct of his business in this state. The * * * commission shall collect a fee of Ten Dollars ($10.00) for each receipt issued by the commission, and the Ten Dollar ($10.00) fee shall not be prorated monthly.

(2) It shall be unlawful for any holder of authority from the * * * U.S. Department of Transportation to operate over the highways of this state unless such carrier has paid a fee of Ten Dollars ($10.00) for each vehicle operated in or through the State of Mississippi pursuant to the * * * U.S. Department of Transportation's single state insurance registration.

(3) The * * * commission is authorized to promulgate all rules and regulations necessary to enable this state to participate in the single state insurance registration system for motor carriers authorized by Section 4005 of the Intermodal Surface Transportation Efficiency Act of 1991, P.L. No. 102-240, 105 Stat. 1914 (1991), codified at 49 U.S.C.A. Section 11506 (West Supp. 1992), and by applicable rules and regulations of the * * * U.S. Department of Transportation and any amendments thereto.

SECTION 7. Section 77-7-125, Mississippi Code of 1972, is amended as follows:

77-7-125. The * * * commission shall have the sole and complete power and authority to issue registration receipts to owners and operators required to have the receipts.

SECTION 8. Section 77-7-127, Mississippi Code of 1972, is amended as follows:

77-7-127. All funds collected by the * * * commission under the provisions of this chapter shall be deposited in the State Treasury to the credit of the * * * commission's regulation fund for use by the * * * commission for the administration and enforcement of the laws of this state relative to the inspection, control and supervision of the business, equipment, service or accounts of motor carriers subject to this chapter.

From and after July 1, 2016, the expenses of this agency shall be defrayed by appropriation from the State General Fund and

all user charges and fees authorized under this section shall be deposited into the State General Fund as authorized by law.

From and after July 1, 2016, no state agency shall charge another state agency a fee, assessment, rent or other charge for services or resources received by authority of this section.

SECTION 9. Section 77-7-333, Mississippi Code of 1972, is amended as follows:

77-7-333. After selection, the chief enforcement officer and the inspectors shall go through thirty (30) days of intensive instruction of the laws of this state pertaining to the *** * *** Mississippi Department of Transportation *** * *** and the Department of Public Safety, together with rules and regulations of all these departments, and the laws of this state pertaining to arrest. The expenses of attending such school shall be paid out of the *** * *** commission's regulation fund *** * *** on presentation of paid bills for travel and subsistence to the secretary of the commission.

From and after July 1, 2016, the expenses of this agency shall be defrayed by appropriation from the State General Fund and all user charges and fees authorized under this section shall be deposited into the State General Fund as authorized by law.

From and after July 1, 2016, no state agency shall charge another state agency a fee, assessment, rent or other charge for services or resources received by authority of this section.

SECTION 10. Section 77-7-335, Mississippi Code of 1972, is amended as follows:

77-7-335. (1) All inspectors on duty shall wear uniforms, shall have the right to bear arms, and shall have the authority to make arrests and hold and impound any vehicle and the contents thereof which is being operated in violation of this chapter or the commission's rules, regulations or general orders promulgated thereunder.

(2) All inspectors shall have the authority to enforce all of the laws, rules and regulations of the * * * commission upon all highways in the state and the rights-of-way of such highways and other properties as defined in Section 77-7-261; except that if any person commits an offense in violation of this chapter or the rules and regulations of this commission upon a highway in the state and be pursued by a member or inspector of the * * * commission, such member may pursue and apprehend such offender upon any of the highways in this state, or to any other place to which such offender may flee.

(3) All inspectors shall have the authority to aid and assist any law enforcement officer whose life or safety is in jeopardy and may arrest without warrant any fugitive from justice who has escaped or who is using the highways in the state in an attempt to flee. With the approval of the commission or its designee, inspectors of the * * * commission may assist other law enforcement agencies in searching for convicted felons who have escaped or for alleged felons where there is probable cause to

believe that the person being sought committed the felony and a felony had actually been committed.

(4) Upon request of the Mississippi Highway Patrol, a sheriff of any county or the chief of police of any community and with the consent of the commission, all inspectors have the authority to assist in traffic control during time of natural disasters, such as hurricanes, tornados or floods.

(5) Nothing in this section shall be construed as granting the *** * *** commission general police powers.

SECTION 11. Section 77-7-337, Mississippi Code of 1972, is amended as follows:

77-7-337. The commission is hereby authorized and empowered to purchase all necessary equipment to enforce the provisions of this chapter, and to pay for the same out of the *** * *** commission's regulation fund. *** * ***

From and after July 1, 2016, the expenses of this agency shall be defrayed by appropriation from the State General Fund and all user charges and fees authorized under this section shall be deposited into the State General Fund as authorized by law.

From and after July 1, 2016, no state agency shall charge another state agency a fee, assessment, rent or other charge for services or resources received by authority of this section.

SECTION 12. Section 77-7-339, Mississippi Code of 1972, is amended as follows:

77-7-339. The salary of the chief enforcement officer and the inspectors, and the reasonable and necessary expenses of such employees and the administration of the duties imposed on the commission by this chapter, shall be paid out of the special fund in the State Treasury designated as the * * * commission's regulation fund, * * * upon requisition and warrants in the same manner provided by law for the disbursements of appropriations for the commission. An itemized account shall be kept of all receipts and expenditures and shall be reported to the Legislature by the commission.

From and after July 1, 2016, the expenses of this agency shall be defrayed by appropriation from the State General Fund and all user charges and fees authorized under this section shall be deposited into the State General Fund as authorized by law.

From and after July 1, 2016, no state agency shall charge another state agency a fee, assessment, rent or other charge for services or resources received by authority of this section.

SECTION 13. Section 77-9-5, Mississippi Code of 1972, is amended as follows:

77-9-5. (1) The term "railroad" as used in this chapter, includes and applies to every person, firm, association of persons, and company, whether incorporated or not, who or which shall own or operate a railroad as a common carrier.

(2) The term "company" as used in this chapter, embraces and applies to every person, firm, association of persons, and

company, whether incorporated or not, who or which shall own or operate a telegraph or telephone line, or do an express or sleeping car business.

(3) The term "commission," as used in this chapter, means the Mississippi Transportation Commission.

SECTION 14. Section 77-9-119, Mississippi Code of 1972, is amended as follows:

77-9-119. Any railroad company organized and existing under the laws of this state and which is subject to the Interstate Commerce Commission Termination Act of 1995 shall have power to consolidate with any other railroad company, organized under the laws of this or any other state, and shall have power to purchase or lease the railroad, franchises, and properties of any other railroad company organized under the laws of this state, and to purchase and hold the capital stock or a part thereof of any other railroad company organized under the laws of this or any other state, wherever any such action has first been permitted by an act or acts of Congress and an order or orders of the *** * *** U.S. Department of Transportation of the United States and of the *** * *** commission. In the event of consolidation, the consolidated company shall become thereby a domestic corporation of the State of Mississippi.

Any railroad company organized and existing under the laws of this state and which is subject to the Interstate Commerce Commission Termination Act of 1995 shall have the power to merge

with any other railroad company organized under the laws of this or any other state pursuant to the Mississippi Business Corporation Act.

SECTION 15. Section 77-9-489, Mississippi Code of 1972, is amended as follows:

77-9-489. The salaries of all employees authorized to enforce the provisions of the railroad laws, and the reasonable and necessary expenses of such employees, shall be paid out of the special fund in the State Treasury designated as the *** * *** commission's regulation fund upon the requisition and warrant in the manner provided by law. An itemized account shall be kept of all receipts and expenditures and reported to the Legislature by the commission.

From and after July 1, 2016, the expenses of this agency shall be defrayed by appropriation from the State General Fund and all user charges and fees authorized under this section shall be deposited into the State General Fund as authorized by law.

From and after July 1, 2016, no state agency shall charge another state agency a fee, assessment, rent or other charge for services or resources received by authority of this section.

SECTION 16. Section 77-9-605, Mississippi Code of 1972, is amended as follows:

77-9-605. Every express company shall establish and maintain offices for the transaction of business with the public in its capacity as a common carrier, at each city, town, and village

convenient to its routes, if, in the opinion of the *** * *** commission, the public convenience and necessity requires it. An office once established shall not be discontinued without the consent of the commission, which has authority to require such a company to establish and maintain offices.

SECTION 17. This act shall take effect and be in force from and after its passage.

ST: Motor carriers; conform code sections to reflect prior transfer of duties of the PSC to the Mississippi Transportation Commission.