1954 Legislation Affecting Motor Transportation

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Recommended Citation

Catlett, George M. (1954) "1954 Legislation Affecting Motor Transportation," Kentucky Law Journal: Vol. 43 : Iss. 1 , Article 8. Available at: https://uknowledge.uky.edu/klj/vol43/iss1/8

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Prior to June 15, 1950, regulation and licensing of the for-hire motor carrier industry in Kentucky was carried out by the Division of Motor Transportation of the Department of Business Regulation. This agency also enforced the laws of Kentucky relative to for-hire motor transportation. However, the 1950 session of the General Assembly, recognizing the necessity for more adequate administration and enforcement in this growing field, created the Department of Motor Transportation and established a comprehensive Motor Carrier Act for Kentucky (K.R.S. Chapter 281). The functions and the personnel of the old Division of Motor Transportation were transferred to the newly created Department of Motor Transportation which came into existence on June 15, 1950.

A number of the provisions of the Kentucky Motor Carrier Act were refined by the 1952 session of the General Assembly to the extent that the experience of administration and the growth of the motor carrier industry in Kentucky indicated was necessary. This refinement process in the Act was carried forward by the 1954 session of the General Assembly, which also amended certain provisions of the Act to conform to certain decisions of the Kentucky Court of Appeals, which decisions had been rendered since these provisions were first enacted. It is these 1954 enactments and amendments which are the subject of this article.

Several new definitions were added to the definitive section of the Motor Carrier Act. One created and defined a commercial area for the incorporated municipalities in Kentucky, giving each such municipality a specific commercial area and providing for the automatic extension of such area upon the basis of the population of the municipality. Additionally, local

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Cartage certificates were created to authorize the operation of local irregular route common carrier service within a city or within a city and its commercial area. Airport limousine certificates were created and defined to provide a proper classification of the operating authority of a growing type of carrier service. In this latter connection, it should be noted, Kentucky is one of the pioneer states.

Appropriate transition statutes were enacted to allow the orderly conversion of existing local cartage and airport limousine operations into proper operations under the new classifications.

A for-hire "wrecker" was defined in order to make a classification in the Motor Carrier Act to conform to a decision of the Franklin Circuit Court construing the nature of an operation wherein a for-hire service of towing wrecked or disabled vehicles is performed. Such motor carrier operation had not previously been adequately classified under the existing provisions of the Act.

Clarifying amendments were enacted to the existing provisions of K.R.S. 281.605, plus a provision to exempt certain activities of petroleum dealers whereby the status of the business operations of such dealers could be made more clear as they relate to the Motor Carrier Act. Also, third structure tax exemptions were enacted into the aforementioned statute to give relief to Kentucky industries in communities who were suffering as a result of current reciprocity difficulties caused by the failure of Ohio to extend reciprocal privileges as to its third structure axle mile tax. Previously, the imposition of Kentucky gross weight taxes upon all Ohio licensed equipment operating into Kentucky was necessary, to the end that border industries and shippers suffered serious difficulties and expense.

The necessity for the payment of a $25.00 filing fee by carriers in order to accomplish minor changes and adjustments in their tariffs was dispensed with. This former requirement created a hardship upon bus and truck lines which desired to affect only slight changes in their existing tariff structures.

Amendments were enacted restricting the parties required to

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receive notice under the strict statutory notice requirements placed upon the Department, which has the duty of giving appropriate notice of hearings to be held under its jurisdiction to all interested parties. Also, a provision was enacted allowing the Department to issue certificates or permits restricted to authorized interstate commerce in Kentucky, where the transportation is of a commodity exempted by the Interstate Commerce Commission, without the necessity of a hearing and with a minimum of red tape.\(^7\)

Several technical amendments were made to the Motor Carrier Act relative to practice before the Department. These are primarily of interest only to those who are engaged in active practice before the Department.

A re-defining of a “U-Drive-It” operation was accomplished, and appropriate transition statutes enacted for the proper transfer of authority for these operators from the so-called “exemption permit” under which they previously operated to the new “U-Drive-It permit” under which they will hereafter operate.\(^8\)

A serious problem has existed in the past concerning the status of an article after it has been removed from the designated list of exempted commodities which contract carriers under Kentucky law can transport in intrastate commerce without the necessity of proving public convenience and necessity.

This problem and the existing uncertainty was remedied by the enactment of specific statutory provisions upon this point. These also fix the right of carriers engaged in the transporting of such commodities if and when they are removed from the exempted list.\(^9\)

Administration of the Motor Carrier Act by the Department since its creation indicated the need for a strengthening of its citation powers. Previously, the Department had power only to cite operators for violations of Kentucky laws and regulations relative to the operation of motor vehicles. Thus, a carrier could engage in the illicit trafficking in liquor, and be beyond the Department’s enforcement powers. Therefore, the citation powers of the Department were broadened so that it might proceed.

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\(^7\) Ky. Rev. Stat. 281.625.

\(^8\) Ky. Rev. Stat. 281.010 (18); 281.665 (6).

against a carrier for the violation of any of the laws of Kentucky, whether it be for the violation of motor vehicle laws or any other laws.\textsuperscript{10}

Minor amendments were enacted in regard to the filing of tariffs and the notice which is to be given of the pendency of such action. Since motor carrier tariffs are of a highly technical nature, attention is merely called to these changes for information purposes.

A refinement in the language of the statutory sections dealing with appeals which are prosecuted from the Department to the Courts was accomplished for the purpose of bringing these statute sections into conformance with the opinions of the Kentucky Court of Appeals. Previously, the ambiguous language of certain of these sections created a controversy requiring settlement by that Court. The ambiguity was therefore written out of the statute, bringing it into complete agreement and conformance with the opinions of the Court.\textsuperscript{11}

To remove any possibility of question as to the power of the Department to promulgate and enforce appropriate and proper regulations over the operation of charter bus service, a specific, empowering statute, setting forth established standards was enacted upon this subject.\textsuperscript{12}

In order to remove uncertainty and questions concerning the extent of service which could be rendered by a regular route common carrier truck company in the cities upon its routes, a statute was created dealing with the construction to be given to the existing certificates of these types of carriers. The need for this type of statute was becoming more and more necessary with the continued development and industrial growth of many of our cities. The statute is so worded as to not deprive any existing carrier of service rights held by it.\textsuperscript{13}

The statutory minimums of public liability, property damage and cargo insurance required of for-hire motor carriers by K.R.S. 281.655, were increased in order to provide more adequate protection to the general citizenry. More teeth were put into the insurance statutes by a provision to the effect that a carrier’s right

\textsuperscript{10} KY. Rev. Stat. 281.670.
\textsuperscript{11} KY. Rev. Stat. 281.780; 281.785.
\textsuperscript{12} KY. Rev. Stat. 281.616.
\textsuperscript{13} KY. Rev. Stat. 281.617.
to operate upon Kentucky highways ceases, if and when its required minimum insurance requirements are cancelled or not forthcoming. Specific statutory power was granted to the law enforcement officers of the Department to require an immediate cessation of a carrier’s operations in the event it fails to maintain these insurance minimums, and authority is granted to these officers to require the carrier’s immediate surrender of all license plates and other evidences of a right to act as a motor carrier.\textsuperscript{14}

The observations above constitute a general summation of the changes effected in the Kentucky Motor Carrier Act by our last legislative session, with two exceptions. These two exceptions deal with highway use taxes. The first of these is a decrease in the highway use seat taxes required of for-hire bus operators. This was necessary because of the perilous financial condition of this industry, and is based upon an exhaustive analysis of the problem.\textsuperscript{15} The second tax matter deals with a transfer of the functions of taxing “U-Drive-It” trucks from the Revenue Department to the Department of Motor Transportation, and an increase in these taxes to the point where they are equal to those paid by the common and contract carrier companies. This was occasioned by the previously existing tax differential and the increased highway use made by the “U-Drive-It” operators.\textsuperscript{16}

The 1954 Motor Carrier Act legislation was designed and enacted to remove questions, inequities, and difficulties which arose because of the creation of a new act administered by a new Department dealing with a relatively new industry, one regulated in Kentucky only from the most recent times. It is designed to enable a more speedy and just administration by the Department of the matters under its jurisdiction, and was based upon actual experience and a proven need.

\footnotesize{\textsuperscript{14} Ky. Rev. Stat. 281.655; 281.656.  
\textsuperscript{15} Ky. Rev. Stat. 281.815.  
\textsuperscript{16} Ky. Rev. Stat. 281.613.}