

LEGISLATIVE BILL 438

Approved by the Governor January 31, 1974

Introduced by Waldron, 42

AN ACT to amend sections 75-304.01 and 75-311, Revised Statutes Supplement, 1972, relating to the Public Service Commission; to provide an exception to the rate jurisdiction of the commission; to provide for the revocation of certificates or permits because of insufficient operations; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 75-304.01, Revised Statutes Supplement, 1972, be amended to read as follows:

75-304.01. The commission shall prescribe minimum rates, fares and charges for contract carriers. No reduction shall be made in any such charge, either directly or by means of any change in any rule, regulation or practice affecting such charge or the value of service thereunder, except after ten days' notice of the proposed change filed in the form and manner provided for common carrier rate changes. Such notice shall plainly state the change proposed to be made and the time when such change will take effect. No such carrier shall demand, charge or collect less compensation for such transportation than the charges to be made by common carriers for the same transportation in accordance with Chapter 75, article 3, as affected by any rule, regulation or practice so filed, or as may be prescribed by the commission, and it shall be unlawful for any such carrier to charge less than the rates, fares and charges approved by the State-Railway Public Service Commission; provided, that nothing in this section shall require common or contract carriers by motor vehicle of bullion, currency, jewels, checks, and valuables to file tariffs or contracts identifying the security provisions which are required for the protection of such valuables; and provided further, that the rates charged by common carriers and contract carriers of audit and accounting media, business records, cash letters, checks, data processing media and microfilm for financial institutions shall not be governed or controlled by any of the provisions of Chapter 75 prescribing or establishing rates and charges and contract carriers of such products shall not be required to maintain contracts on file with the commission.

Sec. 2. That section 75-311, Revised Statutes Supplement, 1972, be amended to read as follows:

75-311. A certificate shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if it is found after notice and hearing that the applicant is fit, willing, and able properly to perform the service proposed, and to conform to the provisions of sections 75-301 to 75-322.01 and the requirements, rules, and regulations of the commission thereunder and that the proposed service, to the extent to be authorized by the certificate, whether regular or irregular, passenger or property, is or will be required by the present or future public convenience and necessity; otherwise such application shall be denied. A permit shall be issued to any qualified applicant therefor, authorizing in whole or in part the operations covered by the application, if it appears after notice and hearing from the application or from any hearing held thereon that the applicant is fit, willing, and able properly to perform the service of a contract carrier by motor vehicle, and to conform to the provisions of sections 75-301 to 75-322.01 and the lawful requirements, rules and regulations of the commission thereunder, and that the proposed operation, to the extent authorized by the permit, will be consistent with the public interest by providing services designed to meet the distinct needs of each individual customer or a specifically designated class of customers as defined in subdivision (10) of section 75-302. Otherwise, such application shall be denied. No person shall at the same time hold a certificate as a common carrier and a permit as a contract carrier authorizing operation for the transportation of property by motor vehicles over the same route or within the same territory, unless for good cause--shown the commission shall find that it is consistent such certificate and permit may be held consistently with the public interest and with the policy declared in section 75-301. After the issuance of a certificate or permit, the commission shall review the annual reports of all common or contract carriers filed with the commission to determine if there are insufficient operations in the transportation of regulated commodities to justify the commission's finding that such common or contract carrier has willfully failed to perform transportation under the provisions of sections 75-301 to 75-322 and rules and regulations promulgated thereunder. If the commission determines that there is such insufficiency of operations, then the commission shall commence proceedings under the provisions of section 75-315 to revoke the certificate or permit involved.

Sec. 3. That original sections 75-304.01 and 75-311, Revised Statutes Supplement, 1972, are repealed.

Sec. 4. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.