

# MOTOR CARRIER ACT

## CHAPTER 286

Part	Section
1 Licences	3 - 15
2 Duties and Restrictions Imposed on Motor Carriers	16 - 20
3 Rates	21 - 29
4 Administration of Act	30 - 52
5 Offence and Penalty	53 - 57
6 Miscellaneous	58 - 65

### Interpretation

#### 1. In this Act

- “arterial highway” means any arterial highway as classified under the *Highway Act*;
- “commission” means the Motor Carrier Commission appointed under this Act;
- “Commissioner of Provincial Police” means the senior officer in British Columbia of the Royal Canadian Mounted Police during that time that police duties are carried out for the Province by the Royal Canadian Mounted Police;
- “compensation” includes any rate, remuneration or reward of any kind paid, payable or promised, or received or demanded, directly or indirectly;
- “freight” includes personal property of every description that may be conveyed on a motor vehicle or trailer, except a passenger’s personal baggage;
- “highway” includes all public streets, roads, ways, trails, lanes, bridges, trestles, ferry landings and approaches, and any other public way;
- “licence” means a licence issued under this Act;
- “licensee” means the holder of a licence;
- “limited freight vehicle” means any motor vehicle operated at any time on a highway by, for or on behalf of any person who charges or collects compensation for the transportation of freight in or on the motor vehicle, where the operation is carried on solely under a limited number of special or individual contracts or agreements and where the motor vehicle is not available for use by the general public;
- “limited passenger vehicle” means a motor vehicle, other than a public vehicle, which motor vehicle, whether available or not for use by the public, is operated at any time on a highway by, for or on behalf of any person who charges or collects compensation for the transportation of passengers in or on the motor vehicle, but does not include a taxicab operating exclusively in one municipality;
- “limited vehicle” includes a limited passenger vehicle and a limited freight vehicle;
- “minister” includes a person designated in writing by the minister;
- “motor carrier” means any person operating a public vehicle or a limited vehicle, and includes any person who is the holder of a licence;
- “motor vehicle” means any vehicle propelled otherwise than by muscular power, excepting airplanes and the cars of electric and steam railways and other vehicles running only on rails or tracks, and includes any attached trailer;
- “motor vehicle liability policy” means a certificate of insurance issued by the Insurance Corporation of British Columbia in the form, and providing insurance against perils and for amounts, as prescribed by the *Insurance (Motor Vehicle) Act* and the regulations under that Act;

- “municipality” includes an incorporated village municipality;
- “operate”, in respect of a motor vehicle, includes the driving or managing of the motor vehicle;
- “passenger” includes a passenger’s personal baggage;
- “private freight vehicle” means a motor vehicle, other than a public vehicle or a limited vehicle, that is operated at any time on a highway for the transportation of freight, and includes any motor vehicle which is operated for the
- (a) transportation of freight bona fide the property of the owner of the motor vehicle;
  - (b) transportation of freight used or subjected to a process or treatment by the owner of the motor vehicle in the course of a regular trade or occupation or established business of the owner, when the transportation is incidental to his trade, occupation or business;
  - (c) delivery or collection of freight sold or purchased, or agreed to be sold or purchased, or let on hire by the owner of the motor-vehicle, otherwise than as agent, in the course of a regular trade or established business of that owner;
- “Provincial police force” means the Royal Canadian Mounted Police during that time that police duties are carried out for the Province by the Royal Canadian Mounted Police;
- “public freight vehicle” means a motor vehicle, other than a limited freight vehicle, that is operated at any time on a highway by, for or on behalf of any person who charges or collects compensation for the transportation of freight in or on the motor vehicle;
- “public passenger vehicle” means a motor vehicle that is available for use by the public and is operated at any time on a highway over a regular route or between fixed terminating points and on a regular time schedule by, for or on behalf of any person who charges or collects compensation for the transportation of passengers in or on the motor vehicle;
- “public vehicle” includes a public passenger vehicle and a public freight vehicle;
- “rate” includes any toll, rate, fare, charge, rental or other compensation charged or made by a motor carrier or by any person on his behalf or with his consent or authority in connection with the carriage and transportation of passengers, or the carriage, shipment, transportation, care, handling or delivery of goods, or for any service incidental to the business of the motor carrier and includes any general, individual or joint toll, rate, fare, charge, rental or other compensation of any motor carrier, and any rule, regulation, practice, classification or contract of the motor carrier relating to it, and any schedule or tariff of it;
- “regular route” and “fixed terminating points” mean respectively the route over which and the points between which a motor vehicle is usually operated and, when licensed, is authorized to be operated;
- “service” includes the use and accommodation afforded by, and the equipment, property and facilities employed by, any motor carrier in connection with the operation of a motor vehicle as a public vehicle or a limited vehicle;
- “trailer” means any vehicle that is attached to a motor vehicle to be drawn or propelled by the motor vehicle;
- “transportation”, with respect to freight, includes the shipment, care, handling, storage and delivery of it.

**Exemptions**

**2.** (1) This Act does not apply to a motor vehicle operated for hire while used exclusively in carrying pupils or teachers to or from a school, except as otherwise expressly provided in section 20.

(2) The commission may by regulation or order, with the approval of the Lieutenant Governor in Council, exempt any person or motor vehicle or class of person or motor vehicle from the application of any provision of this Act, or may limit or vary the application of it in any manner, and the exemption, limitation or variation is of the same force and effect as if set out in this Act.

RS1960-252-3.

**PART 1****Licence required**

**3.** Except as exempted under this Act, no person shall operate or cause or permit to be operated a motor vehicle on any highway in the Province as a public passenger vehicle, a public freight vehicle, a limited passenger vehicle or a limited freight vehicle unless he or the person for or on whose behalf the motor vehicle is operated holds a subsisting licence authorizing the operation of that motor vehicle in the manner and for the purposes in or for which it is operated and unless he is insured under a valid and subsisting motor vehicle liability policy, or gives to the Motor Carrier Commission proof of financial responsibility, in the manner prescribed under section 97 of the *Motor Vehicle Act* and the regulations under that Act.

RS1960-252-5; 1973-6-64.

**Application for licence**

**4.** Every application for a licence shall be made to the commission on a form approved by the commission, and shall be accompanied by information the commission requires and by the fees prescribed by the regulations.

RS1960-252-6.

**Granting of licence**

**5.** (1) On receipt of an application for a licence and of the required information and the proper fees, and after investigation the commission thinks proper, the commission may grant the licence, in whole or in part, or may refuse the licence.

(2) On an application for a licence, the commission may take into consideration, among other matters,

- (a) any objection to the application for the licence made by any person already providing transport facilities, whether by highway, water, air or rail, on the routes or between the places which the applicant intends to serve on the ground that suitable facilities are or, if the licence were issued, would be in excess of requirements, or on the ground that any of the conditions of any other licence held by the applicant have not been complied with;
- (b) the general effect on other transport services and any public interest which may be affected by the issue of the licence;
- (c) the quality and permanence of the service to be offered by the applicant, and the fitness, willingness and ability of the applicant to provide proper service.

(3) In granting any licence, the commission may attach to the licence terms and conditions it thinks proper, including

- (a) with respect to public vehicles, a statement of the area, district or territory that may be served; the points at which or the area, district or territory in which passengers or freight may be taken on or discharged; the route or routes over which and the points between which the public vehicle may be operated and the intermediate and off route points that may be served by it; and, with respect to public freight vehicles, the kind or class of freight that may be transported, and the person or persons for whom freight may be transported;
- (b) with respect to limited passenger vehicles, the class or classes of transportation service that may be given; a provision that individual fares shall not be charged; the terminal point or points from which the motor vehicle may be operated; the routes which may be followed; the area, district or territory which may be served; and the points at which or the area, district or territory in which passengers may be taken on or discharged;
- (c) with respect to limited freight vehicles, the kind of freight that may be transported; the person or persons for whom freight may be transported; and the route or routes that may be followed or the area, district or territory that may be served.

(4) The commission has power to determine as a question of fact whether any motor vehicle is being or is to be operated as a public passenger vehicle, limited passenger vehicle, public freight vehicle, limited freight vehicle or private freight vehicle.

(5) When the commission grants a licence for a motor vehicle, the minister may issue to the licensee licence plates to be affixed to and displayed on the motor vehicle.

(6) Licence plates shall be of the design prescribed by the regulations and remain the property of the Crown.

RS1960-252-7; 1973-29-174A.

### **Term of licence**

**6.** (1) Every licence shall, unless cancelled or unless an earlier date is fixed by the commission and stated in the licence, expire on the last day of February next following the date on which it is expressed to take effect or from which it is renewed.

(2) A licence may, with the approval of the commission, be renewed by the minister in a manner and on payment of fees as prescribed by the regulations.

RS1960-252-8; 1973-29-174B.

### **Transfer of licences**

**7.** No licence shall be assigned or transferred except with the approval of the commission, and subject to payment of the prescribed fee and to conditions the commission imposes.

RS1960-252-9.

### **Exclusive rights**

**8.** No licence shall be deemed to confer any perpetual or exclusive right.

RS1960-252-10.

**Amendment, suspension and cancellation of licences**

**9.** (1) The commission may at any time amend or suspend any licence, and may, after a hearing, cancel any licence.

(2) Without limiting the generality of subsection (1), the commission may amend, suspend or cancel any licence for

- (a) noncompliance by the licensee with any of the terms of the licence, or with this Act or the regulations or any order of the commission;
- (b) failure of the licensee to exercise any of the rights and privileges granted in the licence or to provide adequate and efficient service;
- (c) conviction of the licensee in any court for any offence against this Act or the *Criminal Code* (Canada);
- (d) suspension or cancellation of a motor vehicle liability policy.

(3) If, under this section, the licence of a motor carrier is suspended for a period not exceeding 10 days, the commission may, after considering the possible effect of the suspension on innocent third parties and the financial burden on the carrier, fix as an alternative to the suspension a pecuniary penalty in the sum of \$100 for each day during which, but for this alternative, the suspension would be in effect.

RS1960-252-11; 1961-41-2; 1973-6-69.

**Display of licence**

**10.** (1) Every licensee shall display and preserve the licence issued in respect of a vehicle on the vehicle in a manner conveniently seen by the public in the case of a public passenger vehicle and a limited passenger vehicle, and by any person authorized by or under section 62 in the case of any other licensed vehicle.

(2) Where conditions are attached to any licence, the licensee shall preserve and carry them on the vehicle and have them available at all times for the inspection of any person authorized by or under this Act.

RS1960-252-12.

**Display of licence plates**

**11.** (1) Every holder of a licence for a motor vehicle shall, in the manner prescribed by the regulations, affix and display on the motor vehicle throughout the term of the licence, the licence plates, if any, issued under section 5 (5).

(2) When any licensee withdraws from service, or disposes of a motor vehicle for which he holds a subsisting licence, he shall at once report that fact to the commission in writing and, unless he has previously obtained other directions from the commission, he shall at once remove the licence plates from the motor vehicle and return them to the commission or to an officer or constable of the Provincial police.

(3) Every officer or constable of the Provincial police or of the police force of any municipality may seize any licence plate if he finds it detached from a motor vehicle or trailer, or displayed on a motor vehicle or trailer other than the one in respect of which it was issued, or if the commission has suspended or cancelled the licence, or if the title or interest of the licensee in the licensed vehicle has been transferred, and may hold it pending the receipt of instructions from the Commissioner of Provincial Police as to its disposal.

(4) Subsection (3) applies in respect of licence plates and motor vehicles whether on a highway or elsewhere, and for the purpose of subsection (3) any officer or

constable may enter without warrant the land or premises of any person on or in which there is a motor vehicle.

RS1960-252-13.

### **Capacity markers**

**12.** Every holder of a licence for a passenger vehicle shall clearly mark in a conspicuous place on both sides of the vehicle in figures or letters not less than 25 mm in height the maximum number of passengers that may be carried under the terms of the licence. No person shall operate on a highway a passenger vehicle for which a licence is required unless it is marked as required by this section.

RS1960-252-14, 1961-41-3, 1977-53-1

### **Operation in conformity with law**

**13.** Every licensee shall operate his licensed vehicle and conduct his business in conformity with the licence and the conditions of the licence, and with this Act and the regulations and orders of the commission.

RS1960-252-15

### **Operation of licensed vehicle as private freight vehicle**

**14.** Unless otherwise provided in the conditions of licence, a licence for the operation of a public freight vehicle or a limited freight vehicle entitles the holder to operate or cause or permit to be operated on his behalf the licensed vehicle as a private freight vehicle, if the public service is not adversely affected by the operation.

RS1960-252-16

### **Municipal licences**

**15.** (1) Notwithstanding any Act, no person who operates a private vehicle in a municipality on arterial highways only is required to hold a licence in respect of that vehicle under a bylaw of the municipality.

(2) Notwithstanding any Act, no person who operates a public vehicle or limited vehicle in a municipality on arterial highways only is required to hold a licence in respect of that vehicle under a bylaw of the municipality if the vehicle is licensed under this Act and is operated in the municipality in accordance with the licence under this Act.

RS1960-252-17

## **PART 2**

### **Duty to furnish information**

**16.** (1) Every motor carrier and every person who owns or operates a private freight vehicle shall furnish to the commission all information required by it and shall make specific answers to all questions submitted by the commission.

(2) Every motor carrier and every person who owns or operates a private freight vehicle who receives from the commission any form of return with directions to fill it out shall properly fill it out and answer fully and correctly each question propounded in it, and shall deliver it to the commission within the time prescribed.

(3) When required by the commission, every motor carrier shall deliver to the commission all documents, books, accounts, papers, and records in his possession or

control in any way relating to his property or service or affecting his business, or verified copies of them; and shall deliver to the commission complete inventories of his property in a form the commission directs.

RS1960-252-18

#### **Duty to furnish adequate service**

**17.** Every motor carrier shall maintain his property and equipment in a condition to enable him to furnish, and shall furnish, according to his powers and within the limits of the capacity of his vehicles, service to all persons in all respects adequate, safe, efficient, just and reasonable.

RS1960-252-19

#### **Extensions of service**

**18.** When after a hearing the commission finds that an extension by any motor carrier of his existing service would be in the public interest and would, in the judgment of the commission, furnish sufficient business to justify the making of the extension, and, in the opinion of the commission, the financial condition of the motor carrier reasonably warrants the capital expenditure required in making the extension, the commission may order the motor carrier to extend his service as the commission thinks reasonable and expedient.

RS1960-252-20

#### **Employees to be notified of regulations and orders**

**19.** (1) On receipt by a motor carrier of a regulation or order of the commission, he shall at once communicate it to each of his officers and employees affected by it by delivering to that officer or employee a copy of it, or by posting up a copy in a conspicuous position in a place where the duties of the officer or employee are performed.

(2) Every motor carrier shall do all things necessary to secure observance by his officers, agents and employees of this Act and of the regulations and orders of the commission.

RS1960-252-21

#### **Stopping of motor vehicle at railway crossings**

**20.** (1) If on a highway at a grade crossing of an intersecting railway there is a sign displaying the word "stop", either alone or accompanied by other words, the driver of every motor vehicle operated as a public vehicle, limited vehicle or private freight vehicle on that highway shall, before proceeding to cross the railway and while at a distance of not more than 6 m from it, bring the motor vehicle to a full stop.

(2) Subsection (1) shall apply, with the necessary changes and so far as possible, in respect of every motor vehicle operated for hire and used in carrying pupils or teachers to or from school.

RS1960-252-22, 1977-53-1

### PART 3

#### Application of Part

**21.** This Part applies to every motor carrier operating a public vehicle or limited vehicle and to every applicant for a licence authorizing the operation of a public vehicle or limited vehicle. In this Part, the term “motor carrier” includes those classes of persons.

RS1960-252-23

#### Schedules of rates to be filed

**22.** Every motor carrier shall file with the commission, in accordance with this Act and the orders and regulations of the commission, schedules showing all rates charged, collected or enforced, or to be charged, collected or enforced by him, except where the rates have been fixed by the commission.

RS1960-252-24

#### Adherence to schedules

**23.** (1) No motor carrier, or any person acting on his behalf, shall charge, demand, collect or receive any rate for any service except under and in accordance with this Act and the regulations and orders of the commission; nor shall any person charge, demand, collect, or receive any rate under any schedule or portion disallowed by the commission.

(2) No motor carrier, or any person acting on his behalf, shall, without the consent of the commission, directly or indirectly, by any device, or in any way charge, demand, collect or receive from any person a greater, less or different compensation for any service rendered or to be rendered by the motor carrier than that set out in the rates prescribed by the commission, or, if no rates have been prescribed by the commission, in the schedules of the motor carrier applicable to it and filed in the manner provided in this Act, nor shall any person without the consent of the commission receive or accept from any motor carrier, or any person acting on behalf of a motor carrier, any service for a compensation greater or less than, or different from, that prescribed.

RS1960-252-25

#### Amendment of schedules

**24.** No time or rate schedule in force may be amended, supplemented or superseded by a new schedule without the consent of the commission, and in granting any consent under this section the commission may attach terms it thinks proper.

RS1960-252-26

#### Disallowance and suspension of rates

**25.** The commission may disallow or suspend any schedule of rates or any portion that it considers to be unjust or unreasonable or contrary to this Act or the regulations, and may require the motor carrier within a prescribed time to substitute rates satisfactory to the commission in place of them or may prescribe other rates in place of the rates disallowed.

RS1960-252-27



**Commission may prescribe rates**

**26.** For the purpose of establishing just and uniform charges, the commission may prescribe the rates to be charged by any motor carrier, and those rates then supersede the rates contained in any schedule filed by the motor carrier.

RS1960-252-28.

**Discrimination prohibited**

**27.** No motor carrier shall make, demand or receive any unduly discriminatory or unduly preferential rate for any service furnished by him in the Province, or any rate otherwise in violation of law. No motor carrier shall, as to rates or service, subject any person or locality, or any particular description of traffic, to any undue prejudice or disadvantage, or extend to any person any form of agreement or any facility or privilege, except as are regularly and uniformly extended to all persons in accordance with the powers of the motor carrier and within the limits of the capacity of his vehicles, under substantially similar circumstances and conditions.

RS1960-252-29.

**Commission may determine question of discrimination**

**28.** The commission may determine as questions of fact whether or not traffic is or has been carried under substantially similar circumstances and conditions and whether there has in any case been unjust discrimination or undue or unreasonable preference or advantage or prejudice or disadvantage within the meaning of this Act, and the commission is the sole judge of these questions.

RS1960-252-30.

**Burden of proof**

**29.** Whenever it is shown that any motor carrier charges one person or class of persons, or the persons in any district, lower rates for the same or similar service than he charges to other persons or classes of persons, or to the persons in another district, or makes any difference in treatment in respect of those persons, the burden of proving that the lower rate or difference in treatment does not amount to an undue preference or an unjust discrimination lies on the motor carrier.

RS1960-252-31.

**PART 4****Administration**

**30.** (1) The minister is charged with the administration of this Act.

(2) Officers and employees required for this Act may be employed under the *Public Service Act*.

1973-29-175.

**Constitution of Motor Carrier Commission**

**31.** (1) The commission known as the Motor Carrier Commission is continued. The commission shall consist of not more than 3 persons appointed by the Lieutenant Governor in Council who hold office during pleasure.

(2) Without limiting the power, authority or jurisdiction conferred by this Act, all powers, authority and jurisdiction that are vested in the British Columbia Energy Commission by the *Energy Act* in respect of energy utilities as defined in that Act are vested in the commission in respect of motor carriers, except as otherwise provided in this Act.

(3) Sections 3 (3), (4), (5), (6), (7) and (8), 5, 6, 10, 13 and 16 of the *Energy Act* apply to the commission under this Act.

1973-29-175

### **Offices of commission**

**32.** The commission may maintain offices at the City of Vancouver and at other places in the Province it thinks necessary for the proper administration of this Act.

RS1960-252-33

### **Appropriation**

**33.** (1) All money necessary to pay the salaries of the officers and employees of the commission and to meet the expenses necessarily incurred in the administration of this Act shall, in the absence of a vote of the Legislature for that purpose, be paid from the consolidated revenue fund.

(2) All fees and costs paid to the commission shall, when received, be paid by the commission to the Ministry of Finance.

RS1960-252-34

### **Annual report**

**34.** The commission shall, on or before July 1 in each year, make a report for the preceding licence year to the Lieutenant Governor in Council showing

- (a) the number of the licences of the various classes issued during the year and the revenue derived from them;
- (b) summaries of the more important findings, decisions and orders of the commission;
- (c) other matters as appear to the commission to be of public interest in connection with the administration of this Act;
- (d) matters the Lieutenant Governor in Council directs.

RS1960-252-35

### **Information not to be divulged**

**35.** Every officer and every employee of the commission shall keep secret all information coming to his knowledge during the course of any inspection, examination or investigation of any return, account, record, memorandum, book or paper of any motor carrier, except in so far as his public duty requires him to report on or take official action regarding the affairs of the motor carrier, or except in so far as he may be authorized by the commission to publish or make known the information.

RS1960-252-36

### **General supervision of motor carriers**

**36.** (1) It is the duty of the commission to regulate motor carriers with the objects of promoting adequate and efficient service and reasonable and just charges for it, and of promoting safety on the public highways, and of fostering sound economic

conditions in the transportation business in the Province, and the commission may make investigations, inquiries, regulations and orders it thinks necessary for the carrying out of those objects.

(2) Where the object is to promote safety on the public highways, the commission may include the owners and operators of private freight vehicles within the scope of investigations, inquiries, regulations and orders made under this section.

(3) Without limiting the generality of subsection (1), the commission may make regulations and orders governing

- (a) procedure on all applications, proceedings and matters coming before the commission;
- (b) classification of motor vehicles operated by motor carriers;
- (c) the maximum number of passengers or the maximum weight of freight, or both, which may be carried by public vehicles and limited vehicles;
- (d) classification and form of licences, the terms on which and the manner in which they shall be issued and renewed, the conditions and restrictions to which they shall be subject, and the issue of duplicates of such licences in the event of loss or destruction of the originals;
- (e) transfer, renewal or assignment of licences;
- (f) licence plates;
- (g) conditions to be contained in and to become part of all agreements entered into by licensees in respect of their services or in respect of any class of service;
- (h) safety, protection, comfort and convenience of the persons availing themselves of the services of motor carriers;
- (i) conduct of drivers and passengers;
- (j) obligations of motor carriers to the public in respect of the acceptance and carriage of passengers or freight;
- (k) classification of freight;
- (l) financial responsibility of motor carriers which may be in addition to any motor vehicle liability policy or financial responsibility required under the *Motor Vehicle Act* or the regulations under that Act;
- (m) time schedules of motor carriers;
- (n) routes over which and the area in which motor carriers may operate;
- (o) rates to be charged by motor carriers and their publication and the prohibition of the carrying of passengers or freight on licensed vehicles without charge;
- (p) hours of work of drivers of motor vehicles operated as public or limited vehicles;
- (q) inspection of public vehicles, limited vehicles and private freight vehicles, and of their operation;
- (r) bills of lading;
- (s) restrictions as to use of public vehicles and limited vehicles;
- (t) the carrying of passengers on freight vehicles and the carrying of freight on passenger vehicles;
- (u) the speed and equipment of public vehicles and limited vehicles;
- (v) methods of accounting and the keeping of records of the operations of motor carriers;
- (w) the furnishing to the commission by motor carriers of reports of finances, accidents and operations generally;

- (x) temporary permits authorizing seasonal or emergency or occasional operation of motor vehicles as public vehicles or limited vehicles;
- (y) solicitation of business by or on behalf of motor carriers by advertising or otherwise;
- (z) conduct of the business of transportation agents and transportation brokers in relation to motor vehicles;
- (aa) delegation by the commission of any of its powers and duties to any member or officer of the commission.

(4) This section shall not be deemed to authorize the commission to fix the speed at which any motor vehicle may be driven at a rate higher than that fixed by any other Act of the Legislature or any bylaw of a municipality.

(5) No regulation made under this section is valid or has any force or effect until it has been approved by the Lieutenant Governor in Council.

RS1960-252-37; 1973-6-70.

### **Fees**

**37.** For the purposes of this Act, the commission may by regulation fix the fees to be taken for the use of Her Majesty for licences or for any other matter within the jurisdiction of the commission, but no such regulation is valid or has any force or effect until it has been approved by the Lieutenant Governor in Council.

RS1960-252-38.

### **Use of streets in municipalities**

**38.** Where a dispute arises between a motor carrier and a municipality as to the use by the motor carrier of any highway, or where any bylaw of a municipality interferes with the operation of any licensed vehicle of a motor carrier on any highway in a municipality, the dispute may be referred to the commission by either the motor carrier or the municipality, and the commission may by order, after a hearing, permit the use of the highway by the motor carrier, on terms and conditions it thinks proper.

RS1960-252-39.

### **Hearing of complaints**

**39.** The commission has full jurisdiction to inquire into, hear and determine any application by or on behalf of any person complaining that any motor carrier or other person has

- (a) failed to do any act, matter or thing required to be done by this Act or by any regulation, order or direction made under it; or
- (b) done or is doing any act, matter or thing contrary to this Act or to any regulation, order or direction made under it.

RS1960-252-40.

### **Findings of commission conclusive in certain cases**

**40.** The finding or determination of the commission on any question of fact within its jurisdiction is in all matters or proceedings arising under this Act binding and conclusive on all persons and in all courts.

RS1960-252-41.

**Power of commission to act on its own motion**

**41.** Of its own motion the commission may inquire into, hear and determine any matter or thing which under this Act it may inquire into, hear or determine on application or complaint, and in that case the commission has the same powers as on application or complaint are vested in it by this Act.

RS1960-252-42.

**Hearing**

**42.** Where an application is made to the commission under this Act, the commission has, unless it is expressly provided in this Act that there shall be a hearing, power to determine whether a hearing or inquiry shall or shall not be had, and generally whether any action on the part of the commission shall or shall not be taken on that application.

RS1960-252-43.

**Notice of hearing**

**43.** (1) Where a hearing is to be held, the commission shall give notice of the hearing in a manner and to persons it thinks proper. Except as provided in subsection (2), no act of the commission shall be questioned or held invalid on the ground that insufficient notice has been given or that notice has not been given to any person.

(2) Where a hearing is held in respect of the cancellation of any licence, notice of the time and place of the hearing shall be given to the licensee, either by personal delivery or by a registered letter addressed to the licensee at his last known address, according to the records of the commission.

RS1960-252-44.

**Continuing jurisdiction**

**44.** Where power or authority is vested in the commission under this Act, the commission may exercise that power or authority as occasion requires; and may at any time alter, suspend or revoke any regulation, order, decision or direction made by it, and make others; but where by sections 2, 36 and 37 the exercise of any power or authority is subject to the approval of the Lieutenant Governor in Council, the similar approval is required in respect of the exercise of that power or authority under this section.

RS1960-252-45.

**General powers not limited by specific enumeration**

**45.** The enumeration in this Act of any specific power or authority given to the commission shall not be held to exclude or limit any power or authority otherwise conferred on the commission in this or any other Act.

RS1960-252-46.

**Application of powers of commission**

**46.** The powers vested in the commission by this Act apply notwithstanding that the subject matter in respect of which the powers are exercisable is the subject matter of any agreement or statute; and apply in respect of service and rates whether fixed by or the subject of any agreement or statute or otherwise; and where the service or rates are

fixed by or are the subject of an agreement, apply whether the agreement is incorporated in or ratified or made binding by any general or special Act or otherwise.

RS1960-252-47.

### **Substantial compliance with Act sufficient**

**47.** A substantial compliance with the requirements of this Act is sufficient to give effect to all the orders, rules, regulations and acts of the commission, and none of them shall be declared inoperative, illegal or void for want of form or for any error or omission of a technical or clerical nature.

RS1960-252-48.

### **Application of orders**

**48.** (1) The commission, in making any regulation or order under this Act, may make it apply to all cases, or to any particular case or class of case, or to any particular district, or to any person or service.

(2) The commission may exempt any person or service from the operation of any regulation or order made under this Act for a time the commission thinks expedient.

RS1960-252-49.

### **Partial and other relief**

**49.** On an application under this Act, the commission may make an order granting the whole or part only of the relief applied for, or may grant further or other relief in addition to or in substitution for that applied for, as to the commission seems just and proper, as fully in all respects as if the application had been for that partial, further or other relief.

RS1960-252-50.

### **Commencement of orders**

**50.** (1) Every regulation of general application made under this Act shall be published in the Gazette and comes into operation one week after the date of publication, unless otherwise provided in the regulation.

(2) Every other regulation and every order made under this Act comes into operation on the date of it, unless the commission, in its discretion, otherwise provides.

RS1960-252-51.

### **Terms and conditions of orders**

**51.** The commission may attach to any order terms and conditions it thinks proper.

RS1960-252-52.

### **Appeals**

**52.** (1) Any person who thinks himself aggrieved by

- (a) any regulation or order made by the commission, whether the regulation be general in its application or applicable only to a particular class or to an individual;
- (b) the granting of a licence or the refusal to grant a licence under this Act;
- (c) the attachment of terms or conditions to any licence issued under this Act;

- (d) the amendment, suspension or cancellation of any licence issued under this Act;
  - (e) the fixing of any rate or schedule of rates under this Act;
  - (f) the determination of any question of fact made by the commission
- has a right of appeal to the Lieutenant Governor in Council.
- (2) The appeal lies notwithstanding that the matter in respect of which the appeal is taken has been approved by the Lieutenant Governor in Council.
- (3) No appeal shall be brought after 30 days from the date of the matter in respect of which the appeal is taken; that is to say, from the date
- (a) of the making of the regulation or order;
  - (b) of the granting of or refusal to grant the licence;
  - (c) when terms or conditions are attached to the licence;
  - (d) when the licence is amended, suspended or cancelled;
  - (e) when the rate or schedule of rates is fixed; or
  - (f) on which the question of fact is determined by the commission, as the case may be.
- (4) The person appealing shall give notice of his intention to appeal to the Lieutenant Governor in Council by serving a copy on the Provincial Secretary and on the commission, and in each case service shall be made before the expiry of the period of 30 days aforesaid.
- (5) The Lieutenant Governor in Council may determine the procedure to be followed in any appeal and may determine what persons, if any, are to be notified of the appeal and all persons notified shall be entitled to be heard.
- (6) On the hearing of an appeal the Lieutenant Governor in Council may confirm the decision, order, rule or regulation appealed from or may reverse, alter or vary them, or may make such order as to him seems just.
- (7) Except as provided in this section, the provisions of the *Energy Act* as to appeals on questions of jurisdiction and law shall apply to regulations, orders and decisions made by the commission under this Act.

RS1960-252-54; 1973-29-177.

## PART 5

### Penalty

**53.** Every person who commits an offence against this Act or who violates a provision of this Act or of any regulation or order of the commission, or who refuses or neglects to observe or perform any duty or obligation created or imposed by this Act or by any regulation or order of the commission is liable on conviction, for a first offence, to a penalty of not less than \$10 and not more than \$250, and for a subsequent offence to a penalty of not less than \$30 and not more than \$500. Each day's continuance of any violation, refusal or neglect constitutes a new and distinct offence.

RS1960-252-55.

### Specific offences

- 54.** Every person commits an offence against this Act who
- (a) makes any return or furnishes any information to the commission which is false in any particular;

- (b) fails or refuses to prepare and furnish to the commission, within the time and in the manner and form required by the commission, any information in his possession or under his control required by the commission under this Act or the regulations;
- (c) on demand, fails or refuses to exhibit to the commission or any person authorized to examine it, any book, paper, account, record or memorandum in his possession or under his control;
- (d) wilfully obstructs or interferes with any member, officer or employee of the commission, or any other person in the exercise of the rights conferred or duties imposed by or under this Act or the regulations or orders of the commission;
- (e) knowingly solicits, accepts or receives, directly or indirectly, any rebate, concession or discrimination in respect of any service where that service is furnished or received in violation of this Act or the regulations or orders of the commission;
- (f) being an officer or employee of the commission, or a person having access to or knowledge of any return made to the commission, or of any information procured or evidence taken under this Act other than at a public inquiry or hearing, and who, without the authority of the commission first obtained, publishes or makes known any information, having obtained the information or knowing it to have been derived from that return, information or evidence; or
- (g) being the holder of a licence in respect of a motor vehicle, operates the motor vehicle in contravention of the licence or any of the conditions attached to it.

RS1960-252-56.

#### **Liability for act or omission of employee**

**55.** In construing and enforcing this Act, or any regulation, order or direction of the commission, the act, omission or failure of any officer, agent or person acting for or employed by a motor carrier shall, if within the scope of his employment, be also deemed in every case the act, omission or failure of the motor carrier.

RS1960-252-57.

#### **Other liabilities not affected**

**56.** Nothing in this Act shall have the effect to release or waive any right of action by the commission or by any person for any right, penalty or forfeiture which has arisen, or which arises, under any law of the Province. No penalty enforceable under this Act is a bar to or shall affect the recovery for any right, or shall affect or bar any action at law or prosecution against any motor carrier or against the directors, officers, agents or employees of any motor carrier.

RS1960-252-58.

#### **Burden of proof**

**57.** In any prosecution under this Act in respect of the operation of a motor vehicle in the transportation of any passenger or freight, proof of the fact that any passenger or freight was being transported by the motor vehicle on a highway is proof, in the absence of evidence to the contrary, that the passenger or freight was being



transported for compensation, and the burden is on the defendant in all cases of proving that the motor vehicle operated is of a class or was being operated in a manner different from that alleged in the prosecution.

RS1960-252-59.

## PART 6

### Approval of franchise

**58.** (1) No privilege, concession or franchise granted by any municipality to any person in respect of his operation of a public passenger vehicle other than a municipal licence for one year or less is valid unless approved by the commission.

(2) The commission shall not give its approval unless, after a hearing, it determines that the privilege, concession or franchise proposed to be granted is necessary for the public convenience and properly conserves the public interest.

(3) The commission, in giving its approval, may impose conditions as to the duration and termination of the privilege, concession or franchise, or as to equipment, maintenance, rates or service, as the public convenience and interest reasonably require.

RS1960-252-60.

### Recovery under guarantee bond

**59.** Any consignor who is entitled to recover from any motor carrier any sum the payment of which is guaranteed by virtue of a guarantee bond required to be taken out by the motor carrier under this Act or regulations is, notwithstanding that he is not a party to the bond, entitled to recover under it the part to which he may be entitled, to be determined as provided in section 60, and the right is not prejudiced by

- (a) assignment, waiver, surrender or cancellation of the bond, or of any interest in it, made, caused or suffered by a motor carrier after the happening of the event giving rise to any claim under the bond;
- (b) violation of the *Criminal Code* (Canada) or of any law of any province, state or country by the motor carrier or his employee or agent.

RS1960-252-61.

### Payment into court under bond

**60.** (1) In the event that a consignor becomes entitled under the bond and notifies the guarantor party of his claim, the guarantor party shall notify the commission and shall pay the face value of the bond into court to abide the direction of the court, and, subject to this Act, Rule 58 of the Supreme Court Rules applies. The guarantor party shall with payment file with the court particulars of all claims under the bond of which it has had notice and of any defence against liability which it may have, and on payment into court stands discharged from further liability under it and is entitled to be paid the sum that may remain after all proper claims have been paid in accordance with the direction of the court.

(2) Where new bonds have been issued by the same guarantor party on the expiry of previous bonds, all bonds shall be deemed to be one continuing bond, and the maximum amount for which the guarantor party is liable is the face value of the bond last issued on the expiry of a previous bond.

RS1960-252-62; 1976-33-97.

**Soliciting of business by unlicensed persons**

**61.** (1) No person other than the holder of a licence for the operation of a public or limited vehicle, or his agent authorized in writing, shall without the consent of the commission

- (a) sell or offer to sell transportation of persons or tickets for transportation, or sell or offer to sell transportation of freight;
- (b) by advertising or otherwise solicit the transportation of passengers or freight; or
- (c) operate, control or manage a travel bureau or place for the sale of tickets or for soliciting or advertising the transportation of passengers or freight,

where that transportation is in the Province and is to be in whole or in part by means of a motor vehicle.

(2) No person having the control or management of any newspaper shall permit to be published in that newspaper any advertisement soliciting or requesting the transportation of passengers or freight by motor vehicle for compensation, unless the transportation is to be by means of a public or limited vehicle that is either exempted from the licensing provisions of this Act or is operated by the holder of a licence.

RS1960-252-63

**Power to search motor vehicles**

**62.** (1) Any officer or constable of the Provincial police force, or any person authorized by the commission, may without a warrant search a motor vehicle on a highway for ascertaining whether this Act and the regulations and orders of the commission are being complied with in the operation of that motor vehicle, and for that purpose may require the driver of the motor vehicle to stop the motor vehicle and to permit of the search being made.

(2) Every driver or other person in charge of a motor vehicle on a highway who is required by an officer or constable of the Provincial police force, or by any person authorized by the commission, by signals or otherwise, to stop the motor vehicle or to permit it to be searched for the purposes of this section, and who refuses or fails to stop the motor vehicle or to permit it to be searched, commits an offence against this Act.

RS1960-252-64

**This Act in addition to other Acts**

**63.** The provisions, regulations and orders made by or under this Act shall be in addition to those made by or under the *Highway Act* or the *Motor Vehicle Act*, and nothing in this Act exempts any person or motor vehicle from the *Highway Act* or the *Motor Vehicle Act*, or of the regulations made under either of those Acts.

RS1960-252-65

**Application of Act**

**64.** (1) This Act applies only to motor carriers and other persons who are subject to the legislative authority of the Province; except that in the case of a motor carrier who furnishes a class of service in respect of which he is not subject to the legislative authority of the Province, nothing in this section makes this Act inapplicable to him in respect of another class of service furnished, in respect of which he is subject to the legislative authority of the Province.

(2) The purpose and intent of the Legislature is to confine the provisions of this Act within the competence of the Legislature, and all the provisions of it shall be construed so as to give effect to this purpose and intent.

(3) If any clause, sentence, paragraph, subsection, section or part of this Act is for any reason held or found to be beyond the powers of the Province, that clause, sentence, paragraph, subsection, section or part shall be read distributively, and all other clauses, sentences, paragraphs, subsections, sections and parts of this Act shall stand and be valid and operative, and shall have the same effect as if the clause, sentence, paragraph, subsection, section or part of this Act had dealt with such matters exclusively. The remaining provisions and sections of this Act shall not be deemed inoperative or constitutionally invalid but shall stand and be valid and operative, and shall have the same effect as if they had been originally enacted as separate and independent enactments and as the only provisions of this Act.

RS1960-252-66.

### Transition

**65.** A certificate, order, approval, rule, regulation, endorsement or decision made under this Act by the Public Utilities Commission established under the *Public Utilities Act*, repealed by the *Energy Act*, in force on the date the *Energy Act* comes into force, continues in full force and effect until it expires, or is suspended, cancelled, repealed or amended, and shall be deemed to be made by the commission under this Act. A filing, return or report made on or before that date to the Public Utilities Commission under this Act is deemed to have been made to the commission under this Act.

1973-29-178.