

No. 1978-294

AN ACT

HB 1731

Amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, further providing for hearings and appeals not involving rate determination matters, and for the regulation of speedometers and speed recorders.

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

Section 1. Sections 331(b) and 2705(d) of Title 66, act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes, added July 1, 1978 (No.116), are amended and section 332 is amended by adding subsections to read:

§ 331. Powers of commission and administrative law judges.

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(b) **[Powers] *Assignment of proceedings; powers*** of chairman.—**[The commission may authorize the chairman to:]** *All on-the-record proceedings shall be referred to an administrative law judge for decision except that in those proceedings involving a rate determination, safety matters, rulemaking procedures, unprotested applications or matters covered by section 335(a)(1) (relating to initial decisions), the commission may authorize the chairman to assign cases as provided in paragraphs (2) and (3); and, in addition, the commission may authorize the chairman to:*

(1) Designate the time and place for the conducting of investigations, inquiries and hearings.

(2) Assign cases to a commissioner or commissioners for hearing, investigation, inquiry, study or other similar purposes.

(3) Assign cases to special agents or administrative law judges for the taking and receiving of evidence.

(4) Direct and designate officers and employees of the commission to make investigations, inspections, inquiries, studies and other like assignments for reports to the commission.

(5) Be responsible through the secretary for specifically enumerated daily administrative operations of the commission.

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§ 332. Procedures in general.

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(g) ***Decision of administrative law judge.***—***In all on-the-record proceedings referred to an administrative law judge under section 331(b) (relating to powers of commission and administrative law judges), hearings shall be commenced by the administrative law judge within 90 days after the proceeding is initiated, and he shall render a decision within 90 days after the record is closed, unless the commission for good cause by order allows an extension not to exceed an additional 90 days.***

(h) Exceptions and appeal procedure.—Any party to a proceeding referred to an administrative law judge under section 331(b) may file exceptions to the decision of the administrative law judge within 15 days after such decision is issued, in a form and manner to be prescribed by the commission. The administrative law judge shall rule upon such exceptions within 30 days after filing. Any party to the proceeding may appeal to the commission from the ruling of the administrative law judge on the exceptions within 15 days after such ruling is issued. If no exceptions are filed or if no appeal is taken from the ruling on the exceptions within 15 days after any such decision or ruling is issued, the decision or ruling shall become final, without further commission action, unless two or more commissioners within 15 days after the decision or ruling on the exceptions request that the commission review the decision and make such other order, within 90 days of such request, as it shall determine. Prosecutory counsel of the Law Bureau shall be deemed to have automatic standing as a party to such proceeding and may file exceptions to any decision of the administrative law judge under this subsection.

§ 2705. Speedometers and speed recorders.

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(d) Schedule of regulated locomotives.—Each railroad affected by the provisions of this section shall maintain at a designated location a list or schedule of the locomotives referred to in this section. It shall set forth, along with other information, the date that the device or devices referred to in subsection (a) were calibrated and found to be functioning in accordance with the provisions of this section. It shall advise the commission as to such location. In the event of an accident during the operation of a locomotive or in the event of a disciplinary proceeding in which a railroad employee is charged with excessive speed, the record required by this section showing the speed at the time and place involved shall be retained by the railroad, at a location made known to the Public Utility Commission, [for a period of six months after said accident or disciplinary proceeding.] until permission to destroy them has been granted by the commission or otherwise permitted in accordance with a rule, regulation or order of the commission. In any disciplinary proceeding in which a railroad employee is charged with excessive speed in the operation of a locomotive equipped with a speed recorder the railroad may not introduce other evidence of such speed unless the record has been retained in compliance with this subsection.

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Section 2. This act shall take effect in 60 days.

APPROVED—The 26th day of November, A. D. 1978.

MILTON J. SHAPP