

No. 1988-81

AN ACT

SB 321

Amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, further providing for the definitions of "common carrier by motor vehicle" and "contract carrier by motor vehicle"; and providing for inspection of highway crossing safety devices by railroads or carriers.

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

Section 1. The definition of "common carrier by motor vehicle" in section 102 of Title 66 of the Pennsylvania Consolidated Statutes is amended to read:

§ 102. Definitions.

Subject to additional definitions contained in subsequent provisions of this part which are applicable to specific provisions of this part, the following words and phrases when used in this part shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

* * *

"Common carrier by motor vehicle." Any common carrier who or which holds out or undertakes the transportation of passengers or property, or both, or any class of passengers or property, between points within this Commonwealth by motor vehicle for compensation, whether or not the owner or operator of such motor vehicle, or who or which provides or furnishes any motor vehicle, with or without driver, for transportation or for use in transportation of persons or property as aforesaid, and shall include common carriers by rail, water, or air, and express or forwarding public utilities insofar as such common carriers or such public utilities are engaged in such motor vehicle operations, but does not include:

(1) A lessor under a lease given on a bona fide sale of a motor vehicle where the lessor retains or assumes no responsibility for maintenance, supervision, or control of the motor vehicles so sold.

(2) Transportation of school children for school purposes or to and from [school sponsored extra curricular] *school-related* activities whether as participants or spectators, [together with chaperons who might accompany them as designated by the board of school directors not exceeding five in number] *with their chaperones*, or between their homes and Sunday school in any motor vehicle owned by the school district, private school or parochial school, or transportation of school children between their homes and school or to and from [school-sponsored extra curricular or educational] *school-related* activities whether as participants or spectators, [together with chaperons who might accompany them as designated by the board of school directors not exceeding five in number] *with their chaperones*, if the person performing the [extra curricular] *school-related* trans-

portation has a contract for the transportation of school children between their homes and school, with the private or parochial school, with the school district or jointure in which the school is located, or with a school district that is a member of a jointure in which the school is located if the jointure has no contracts with other persons for the transportation of students between their homes and school, and if the person maintains a copy of all contracts in the vehicle at all times, or children between their homes and Sunday school in any motor vehicle operated under contract with the school district, private school or parochial school. *Each school district shall adopt regulations regarding the number of chaperones to accompany students in connection with school-related activities.*

(3) Any owner or operator of a farm transporting agricultural products from, or farm supplies to, such farm, or any independent contractor or cooperative agricultural association hauling agricultural products or farm supplies exclusively for one or more owners or operators of farms.

(4) Any person or corporation who or which uses, or furnishes for use, dump trucks for the transportation of ashes, rubbish, excavated and road construction materials.

(5) Transportation of property by the owner to himself, or to purchasers directly from him, in vehicles owned and operated by the owner of such property and not otherwise used in transportation of property for compensation for others.

(6) Transportation of voting machines to and from polling places by any person or corporation for or on behalf of any political subdivision of this Commonwealth for use in any primary, general, municipal or special election.

(7) Transportation of pulpwood, chemical wood, saw logs or veneer logs from woodlots.

(8) Transportation by towing of wrecked or disabled motor vehicles.

(9) Any person or corporation who or which furnishes transportation for any injured, ill or dead person.

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Section 2. Section 2501(b) of Title 66 is amended to read:

§ 2501. Declaration of policy and definitions.

* * *

(b) Definitions.—The following words and phrases when used in this part shall have, unless the context clearly indicates otherwise, the meanings given to them in this subsection:

“Broker.” Any person or corporation not included in the term “motor carrier” and not a bona fide employee or agent of any such carrier, or group of such carriers, who or which, as principal or agent, sells or offers for sale any transportation by a motor carrier, or the furnishing, providing, or procuring of facilities therefor, or negotiates for, or holds out by solicitation, advertisement, or otherwise, as one who sells, provides, furnishes, contracts, or arranges for such transportation, or the furnishing, providing, or procuring of facilities therefor, other than as a motor carrier directly or jointly, or by arrangement with another motor carrier, and who does not assume custody as a carrier.

“Contract carrier by motor vehicle.”

(1) The term “contract carrier by motor vehicle” includes any person or corporation who or which provides or furnishes transportation of passengers or property, or both, or any class of passengers or property, between points within this Commonwealth by motor vehicle for compensation, whether or not the owner or operator of such motor vehicle, or who or which provides or furnishes, with or without drivers, any motor vehicle for such transportation, or for use in such transportation, other than as a common carrier by motor vehicle.

(2) The term “contract carrier by motor vehicle” does not include:

(i) A lessor under a lease given on a bona fide sale of a motor vehicle where the lessor retains or assumes no responsibility for maintenance, supervision or control of the motor vehicle so sold.

(ii) Any bona fide agricultural cooperative association transporting property exclusively for the members of such association on a nonprofit basis, or any independent contractor hauling exclusively for such association.

(iii) Any owner or operator of a farm transporting agricultural products from or farm supplies to such farm, or any independent contractor hauling agricultural products or farm supplies, exclusively, for one or more owners or operators of farms.

(iv) Transportation of school children for school purposes or to and from ~~[school sponsored extra curricular]~~ *school-related* activities whether as participants or spectators, ~~[together with chaperons who might accompany them as designated by the board of school districts not exceeding five in number]~~ *with their chaperones*, or between their homes and Sunday school in any motor vehicle owned by the school district, private school or parochial school, or the transportation of school children between their homes and school or to and from ~~[school sponsored extra curricular or educational]~~ *school-related* activities whether as participants or spectators, ~~[together with chaperons who might accompany them as designated by the board of school directors not exceeding five in number]~~ *with their chaperones*, if the person performing the ~~[extra curricular]~~ *school-related* transportation has a contract for the transportation of school children between their homes and school, with the private or parochial school, with the school district or jointure in which the school is located, or with a school district that is a member of a jointure in which the school is located if the jointure has no contracts with other persons for the transportation of students between their homes and school, and if the person maintains a copy of all contracts in the vehicle at all times, or children between their homes and Sunday school in any motor vehicle operated under contract with the school district, private school or parochial school. *Each school district shall adopt regulations regarding the number of chaperones to accompany students in connection with school-related activities.*

(v) Any person or corporation who or which uses, or furnishes for use, dump trucks for the transportation of ashes, rubbish, excavated or road construction materials.

(vi) Transportation of voting machines to and from polling places by any person or corporation for or on behalf of any political subdivision of this Commonwealth for use in any primary, general or special election.

(vii) Transportation of pulpwood, chemical wood, saw logs or veneer logs from woodlots.

(viii) Transportation by towing of wrecked or disabled motor vehicles.

(ix) Any person or corporation who or which furnishes transportation for any injured, ill or dead person.

Section 3. Title 66 is amended by adding sections to read:

§ 2707. Inspection of highway crossing safety devices.

(a) General rule.—Railroads or carriers shall be required to inspect highway crossing safety devices as required by this section.

(b) Monthly inspection.—At least once a month, the railroads or carriers shall:

(1) Inspect the relays to ascertain proper condition.

(2) Open the alternating current power feed to place the installation on standby battery.

(3) Operate the crossing protection and determine that there are no burned out lamps and that the auxiliary devices such as crossing bells and no turn and second train signs are operating properly.

(4) Measure the voltage of the main batteries at the crossing while the charge is off and batteries are supplying the lighting load and record the values.

(5) Wipe off the flasher roundels and determine as far as practicable that the adjustment of focus has not been disturbed.

(6) Observe that no obstruction interferes with the gate operation or obscures views of the lamps.

(7) Restore the alternating current power and protection to normal operation and determine that all rectifiers are energized by alternating current.

(8) Measure the voltage of the main batteries and track cells while the cells are on charge and record the values.

(9) Inspect the main and track batteries at the highway location for the height of the electrolyte, tightness of connections and cleanliness.

(c) Quarterly inspection.—At least once every three months, the railroads or carriers shall:

(1) Check the actual charging current, not the rectifier output, of all batteries at highway and approach locations and record the information on the battery record card.

(2) Inspect all bond and fouling wires within the approaches to the crossing.

(d) Annual inspection.—At least annually, the railroads or carriers shall:

(1) Check the visibility and focus of signals; and check the visibility and condition of signs, including railroad advance warning signs on the highway and crossing signs or their equivalent.

(2) Check the electric gates to ascertain that when the gates start to assume the horizontal position flashing lights start to operate. Check the gates to see that they reach the full horizontal position per the manufacturer's instructions.

(3) Check the electric gates to see that the gates raise to full upright position in not less than the time required per the manufacturer's instructions.

(4) Check the number of flashes per minute and adjust per the manufacturer's instructions.

(5) Check the flashing contacts by observing that at least one lamp on each crossarm is burning when the flasher is at rest.

(6) Check the voltage at lamps after the alternating current power has been off and the flashers have operated for 12 minutes. Gate arm lamp voltages should be checked at the junction box or gate mechanism case.

(7) Take the hydrometer readings on all nickel iron and nickel cadmium cells to ascertain that the specific gravity is in accordance with the manufacturer's specifications. Values and temperature of the electrolyte shall be recorded on the battery record card.

(8) Take the specific gravity readings of the lead acid type batteries at the main and approach locations in accordance with the manufacturer's instructions before the addition of water.

(9) Where the circuit controllers are in service on outlying switches to cut out operating of crossing protection, test each circuit controller with proper obstruction between the switch point and stock rail when the switch is reversed and observe that the relay so controlled functions as intended.

(10) Check the gate arm torque adjustment in accordance with the manufacturer's instruction.

(11) Check the time delay of starting circuits.

(12) Check the time delay of cut-out circuits.

(13) Where protection is automatic using directional stick relays, check the operation for each track in each direction and, after the tests are completed, observe that the directional stick relays are deenergized.

(14) Test the grade crossing predictors, motion sensors and overlay track circuits in accordance with the manufacturer's instructions.

(e) Records.—All inspections, tests and any corrective action taken shall be recorded. A set of blueprints shall be kept at every highway crossing protection location. They shall be kept up to date and pertain to that specific location.

§ 2708. *Alternative compliance.*

Railroads or carriers shall be deemed to have complied with section 2707 (relating to inspection of highway crossing safety devices) if they are in compliance with their own standards which have been filed and approved by the Secretary of Transportation. The secretary shall approve the standards if they result in a level of safety equal to or greater than the inspection procedures contained in section 2707. In approving such standards the secretary shall consider, among other things, the technological advances in highway crossing safety devices and maintenance of such devices.

Section 4. The Pennsylvania Public Utility Commission shall adopt regulations within 90 days of the effective date of this act in order to implement this act.

Section 5. The provisions contained in sections 3 and 4 of this act shall expire on or before June 30, 1990, unless extended by statute.

Section 6. This act shall take effect in 60 days.

APPROVED—The 30th day of June, A. D. 1988.

ROBERT P. CASEY