

No. 2017-77

AN ACT

SB 458

Amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, in general provisions, further providing for definitions; in contract carrier by motor vehicle and broker, further providing for declaration of policy and definitions; and, in violations and penalties, further providing for unauthorized operation by carriers and brokers.

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, amended November 4, 2016 (P.L.1222, No.164), 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." *As follows:*

(1) 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**].

(2) *The term includes:*

(i) *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**].

(ii) *A person that holds itself out to provide or furnish transportation of household property between residential dwellings within this Commonwealth by motor vehicle for compensation, owns or operates the motor vehicle and provides or furnishes a driver of the motor vehicle with the transportation.*

(3) *The term does not include:*

[(1)] (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 vehicles so sold.

[(2)] (ii) Transportation of school children for school purposes or to and from school-related activities whether as participants or spectators, 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-related activities whether as participants or spectators, with their chaperones, if the person performing the 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.

[(3)] (iii) 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)] (iv) 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. This paragraph does not include the use or furnishing of five-axle tractor trailers.

[(5)] (v) 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)] (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, municipal or special election.

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

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

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

[(10)] (x) A person or entity that is any of the following:

[(i)] (A) A transportation network company.

[(ii)] (B) A transportation network company driver.

(xi) *A motor carrier when the motor carrier provides transportation of household goods in containers or trailers that are entirely packed, loaded, unloaded or unpacked by an individual other than an employee or agent of the motor carrier.*

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Section 2. Section 2501(b) of Title 66, amended November 4, 2016 (P.L.1222, No.164), 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. The term does not include a transportation network company or a transportation network company driver.

"Contract carrier by motor vehicle."

(1) The term "contract carrier by motor vehicle" includes **[any]**:

(i) *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.

(ii) *Any person or corporation that holds itself out to provide or furnish transportation of household property between residential dwellings within this Commonwealth by motor vehicle for compensation, owns or operates the motor vehicle and provides or furnishes a driver of the motor vehicle with the transportation or use of the transportation.*

(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-related activities whether as participants or spectators, 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-related activities whether as participants or spectators, with their chaperones, if the person performing the 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.

(x) A transportation network company or a transportation network company driver.

(xi) A motor carrier when the motor carrier provides transportation of household goods in containers or trailers that are entirely packed, loaded, unloaded or unpacked by an individual other than an employee or agent of the motor carrier.

Section 3. Section 3310 of Title 66 is amended to read:

§ 3310. Unauthorized operation by carriers and brokers.

(a) General rule.—Any person or corporation operating as a motor carrier or as a common carrier by airplane, and any operator or employee of such carrier, and any person or corporation operating as a broker, without a certificate of public convenience, permit or license, authorizing the service performed, as required by this part, shall be guilty of a summary offense, and any subsequent offense by such person or corporation shall constitute a misdemeanor of the third degree.

(b) Transportation of household property violations.—***Any person or corporation operating as a common carrier under paragraph (2)(ii) of the definition of "common carrier by motor vehicle" in section 102 (relating to definitions) or contract carrier by motor vehicle under paragraph (1)(ii) of***

the definition of "contract carrier by motor vehicle" in section 2501(b) (relating to declaration of policy and definitions) in violation of this title shall be ordered to pay an administrative penalty as prescribed in subsection (c).

(c) Penalties.—

(1) The amount of the administrative penalty under subsection (b) shall be \$5,000 for a first violation and \$10,000 for a second or subsequent violation.

(2) In addition to the penalty imposed under paragraph (1), a person or corporation under subsection (b) may also be subject to the following:

(i) Suspension of registration under 75 Pa.C.S. § 1375 (relating to suspension of registration of unapproved carriers).

(ii) Confiscation and impoundment of vehicle. A sheriff, upon an order issued by the court and having jurisdiction over the property, is empowered to confiscate and impound vehicles which have been used to provide common carrier by motor vehicle service or contract carrier by motor vehicle service in violation of subsection (b) or commission regulations. The process for the disposition of impounded vehicles shall be as set forth under 75 Pa.C.S. § 6310 (relating to disposition of impounded vehicles, combinations and loads).

(d) Deposit of costs, fines and proceeds of forfeitures.—Notwithstanding section 3315 (relating to disposition of fines and penalties), all costs and fines collected and penalties recovered under subsection (c) shall be deposited into the General Fund and shall be deemed an augmentation to any appropriation to the commission. All amounts appropriated to the commission under this section shall be used to administer and enforce this chapter and commission regulations applicable to motor carriers.

Section 4. This act shall take effect in 60 days.

APPROVED—The 22nd day of December, A.D. 2017

TOM WOLF