

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2597 Session of  
1978

INTRODUCED BY DOMBROWSKI, JUNE 21, 1978

REFERRED TO COMMITTEE ON TRANSPORTATION, JUNE 21, 1978

AN ACT

1 Amending the act of May 28, 1937 (P.L.1053, No.286), entitled  
2 "An act relating to the regulation of public utilities;  
3 defining as public utilities certain corporations, companies,  
4 associations, and persons; providing for the regulation of  
5 public utilities, including, to a limited extent,  
6 municipalities engaging in public utility business, by  
7 prescribing, defining, and limiting their duties, powers, and  
8 liabilities, and regulating the exercise, surrender or  
9 abandonment of their powers, privileges, and franchises;  
10 defining and regulating contract carriers by motor vehicle  
11 and brokers in order to regulate effectively common carriers  
12 by motor vehicle; conferring upon the Pennsylvania Public  
13 Utility Commission the power and duty of supervising and  
14 regulating persons, associations, companies, and  
15 corporations, including, to a limited extent, municipal  
16 corporations subject to this act, and administering the  
17 provisions of this act; authorizing the commission to fix  
18 temporary rates; placing the burden of proof on public  
19 utilities to sustain their rates and certain other matters;  
20 authorizing a permissive or mandatory sliding scale method of  
21 regulating rates; providing for the supervision of financial  
22 and contractual relations between public utilities and  
23 affiliated interests, and supervision and regulation of  
24 accounts and securities or obligations issued, assumed, or  
25 kept by persons, associations, companies, corporations or  
26 municipal corporations subject to this act; conferring upon  
27 the commission power to vary, reform, or revise certain  
28 contracts; conferring upon the commission the exclusive power  
29 to regulate or order the construction, alteration,  
30 relocation, protection, or abolition of crossings of  
31 facilities of public utilities, and of such facilities by or  
32 over public highways, to appropriate property for the  
33 construction or improvement of such crossings, and to award  
34 or apportion resultant costs and damages; authorizing owners  
35 of such property to sue the Commonwealth for such damages;

1 providing for ejectment proceedings in connection with the  
2 appropriation of property for crossings; conferring upon the  
3 commission power to control and regulate budgets of public  
4 utilities; imposing upon persons, associations, companies,  
5 and corporations (except municipal corporations) subject to  
6 regulation, the cost of administering this act; prescribing  
7 and regulating practice and procedure before the commission  
8 and procedure for review by the courts of commission action;  
9 giving the court of common pleas of Dauphin County exclusive  
10 original jurisdiction over certain proceedings; prescribing  
11 penalties, fines, and imprisonment for violations of the  
12 provisions of this act and regulations and orders of the  
13 commission, and the procedure for enforcing such fines and  
14 penalties; and repealing legislation supplied and superseded  
15 by or inconsistent with this act," redefining "Common Carrier  
16 by Motor Vehicle," "Contract Carrier by Motor Vehicle" and  
17 "Public Utility" to exclude certain taxicabs and certain  
18 cities of the third class.

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

21 Section 1. Clauses (6), (7) and (17) of section 2, act of  
22 May 28, 1937 (P.L.1053, No.286), known as the "Public Utility  
23 Law," clauses (6) and (7) amended July 23, 1965 (P.L.244,  
24 No.139) and clause (17) amended October 7, 1976 (P.L.1057,  
25 No.215), are amended to read:

26 Section 2. Definitions.--The following words, terms and  
27 phrases shall have the meanings ascribed to them in this  
28 section, unless the context clearly indicates otherwise:

29 \* \* \*

30 (6) "Common Carrier by Motor Vehicle" means any common  
31 carrier who or which holds out or undertakes the transportation  
32 of passengers or property, or both, or any class of passengers  
33 or property, between points within this Commonwealth by motor  
34 vehicle for compensation, whether or not the owner or operator  
35 of such motor vehicle, or who or which provides or furnishes any  
36 motor vehicle, with or without driver, for transportation or for  
37 use in transportation of persons or property as aforesaid, and  
38 shall include common carriers by rail, water, or air, and

1 express or forwarding public utilities in so far as such common  
2 carriers or such public utilities are engaged in such motor  
3 vehicle operations, but shall not include (a) a lessor under a  
4 lease given on a bona fide sale of a motor vehicle where the  
5 lessor retains or assumes no responsibility for maintenance,  
6 supervision, or control of the motor vehicles so sold; or (b)  
7 transportation of school children for school purposes or to and  
8 from school sponsored extra curricular activities whether as  
9 participants or spectators, together with chaperons who might  
10 accompany them as designated by the board of school directors  
11 not exceeding five in number, or between their homes and Sunday  
12 school in any motor vehicle owned by the school district,  
13 private school or parochial school, or transportation of school  
14 children between their homes and school or to and from school  
15 sponsored extra curricular or educational activities whether as  
16 participants or spectators, together with chaperons who might  
17 accompany them as designated by the board of school directors  
18 not exceeding five in number, if the person performing the extra  
19 curricular transportation has a contract for the transportation  
20 of school children between their homes and school, with the  
21 private or parochial school, with the school district or  
22 jointure in which the school is located, or with a school  
23 district that is a member of a jointure in which the school is  
24 located if the jointure has no contracts with other persons for  
25 the transportation of students between their homes and school,  
26 and if the person maintains a copy of all contracts in the  
27 vehicle at all times, or children between their homes and Sunday  
28 school in any motor vehicle operated under contract with the  
29 school district, private school or parochial school; or (c) any  
30 owner or operator of a farm transporting agricultural products

1 from, or farm supplies to, such farm, or any independent  
2 contractor or cooperative agricultural association hauling  
3 agricultural products or farm supplies exclusively for one or  
4 more owners or operators of farms; (d) any person or corporation  
5 who or which uses, or furnishes for use, dump trucks for the  
6 transportation of ashes, rubbish, excavated and road  
7 construction materials; (e) transportation of property by the  
8 owner to himself, or to purchasers directly from him, in  
9 vehicles owned and operated by the owner of such property and  
10 not otherwise used in transportation of property for  
11 compensation for others; (f) transportation of voting machines  
12 to and from polling places by any person or corporation for or  
13 on behalf of any political subdivision of this Commonwealth for  
14 use in any primary, general or special election; (g)  
15 transportation of pulpwood, chemical wood, saw logs or veneer  
16 logs from woodlots; (h) transportation by towing of wrecked or  
17 disabled motor vehicles; [or] (i) any person or corporation who  
18 or which furnishes transportation for any injured, ill or dead  
19 person; or (j) transportation of persons by taxicabs within the  
20 limits and areas immediately adjacent thereto of any city of the  
21 third class which has adopted an optional plan of government  
22 under the act of April 13, 1972 (P.L.184, No.62), known as the  
23 "Home Rule Charter and Optional Plans Law," and which regulates  
24 and licenses taxicabs.

25 (7) "Contract Carrier by Motor Vehicle" means any person or  
26 corporation who or which provides or furnishes transportation of  
27 passengers or property, or both, or any class of passengers or  
28 property, between points within this Commonwealth by motor  
29 vehicle for compensation, whether or not the owner or operator  
30 of such motor vehicle, or who or which provides or furnishes,

1 with or without drivers, any motor vehicle for such  
2 transportation, or for use in such transportation, other than as  
3 a common carrier by motor vehicle, but shall not include (a) a  
4 lessor under a lease given on a bona fide sale of a motor  
5 vehicle where the lessor retains or assumes no responsibility  
6 for maintenance, supervision or control of the motor vehicle so  
7 sold; or (b) any bona fide agricultural cooperative association  
8 transporting property exclusively for the members of such  
9 association on a nonprofit basis, or any independent contractor  
10 hauling exclusively for such association; or (c) any owner or  
11 operator of a farm transporting agricultural products from or  
12 farm supplies to such farm, or any independent contractor  
13 hauling agricultural products or farm supplies, exclusively, for  
14 one or more owners or operators of farms; (d) transportation of  
15 school children for school purposes or to and from school  
16 sponsored extra curricular activities whether as participants or  
17 spectators, together with chaperons who might accompany them as  
18 designated by the board of school districts not exceeding five  
19 in number, or between their homes and Sunday school in any motor  
20 vehicle owned by the school district, private school or  
21 parochial school, or the transportation of school children  
22 between their homes and school or to and from school sponsored  
23 extra curricular or educational activities whether as  
24 participants or spectators, together with chaperons who might  
25 accompany them as designated by the board of school directors  
26 not exceeding five in number, if the person performing the extra  
27 curricular transportation has a contract for the transportation  
28 of school children between their homes and school, with the  
29 private or parochial school, with the school district or  
30 jointure in which the school is located, or with a school

1 district that is a member of a jointure in which the school is  
2 located if the jointure has no contracts with other persons for  
3 the transportation of students between their homes and school,  
4 and if the person maintains a copy of all contracts in the  
5 vehicle at all times, or children between their homes and Sunday  
6 school in any motor vehicle operated under contract with the  
7 school district, private school or parochial school; or (e) any  
8 person or corporation who or which uses, or furnishes for use,  
9 dump trucks for the transportation of ashes, rubbish, excavated  
10 or road construction materials; or (f) transportation of voting  
11 machines to and from polling places by any person or corporation  
12 for or on behalf of any political subdivision of this  
13 Commonwealth for use in any primary, general or special  
14 election; (g) transportation of pulpwood, chemical wood, saw  
15 logs or veneer logs from woodlots; (h) transportation by towing  
16 of wrecked or disabled motor vehicles; [or] (i) any person or  
17 corporation who or which furnishes transportation for any  
18 injured, ill or dead person; or (j) transportation of persons by  
19 taxicabs within the limits and areas immediately adjacent  
20 thereto of any city of the third class which has adopted an  
21 optional plan of government under the act of April 13, 1972  
22 (P.L.184, No.62), known as the "Home Rule Charter and Optional  
23 Plans Law," and which regulates and licenses taxicabs.

24 \* \* \*

25 (17) "Public Utility" means persons or corporations now or  
26 hereafter owning or operating in this Commonwealth equipment, or  
27 facilities for:

28 (a) Producing, generating, transmitting, distributing or  
29 furnishing natural or artificial gas, electricity, or steam for  
30 the production of light, heat, or power to or for the public for

1 compensation;

2 (b) Diverting, developing, pumping, impounding,  
3 distributing, or furnishing water to or for the public for  
4 compensation;

5 (c) Transporting passengers or property as a common carrier;

6 (d) Use as a canal, turnpike, tunnel, bridge, wharf, and the  
7 like for the public for compensation;

8 (e) Transporting or conveying natural or artificial gas,  
9 crude oil, gasoline, or petroleum products, materials for  
10 refrigeration, or oxygen or nitrogen, or other fluid substance,  
11 by pipe line or conduit, for the public for compensation;

12 (f) Conveying or transmitting messages or communications by  
13 telephone or telegraph or domestic public land mobile radio  
14 service including, but not limited to, point-to-point microwave  
15 radio service for the public for compensation;

16 (g) Sewage collection, treatment, or disposal for the public  
17 for compensation.

18 The term "Public Utility" shall not include (a) any person or  
19 corporation, not otherwise a public utility, who or which  
20 furnishes service only to himself or itself; or (b) any bona  
21 fide cooperative association which furnishes service only to its  
22 stockholders or members on a nonprofit basis; or (c) any  
23 producer of natural gas not engaged in distributing such gas  
24 directly to the public for compensation; or any city of the  
25 third class which has adopted an optional plan of government  
26 under the act of April 13, 1972 (P.L.180, No.62), known as the  
27 "Home Rule Charter and Optional Plans Law," and which regulates  
28 and licenses taxicabs operating within the limits of such city  
29 and areas immediately adjacent thereto.

30 \* \* \*

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