

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 741 Session of
1989

INTRODUCED BY SAURMAN, J. L. WRIGHT, COLAIZZO, TRELLO, PERZEL,
MAIALE, HAYDEN, BUNT, VEON, REBER, HAGARTY, WOGAN, FARMER,
DEMPSEY, E. Z. TAYLOR, FOX, CORNELL, BELARDI, MELIO,
GIGLIOTTI AND HECKLER, MARCH 13, 1989

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, MARCH 13, 1989

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, requiring passenger brokers to furnish
3 security insuring financial responsibility in carrying out
4 contracts and agreements.

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

7 Section 1. Sections 2501 and 2505 of Title 66 of the
8 Pennsylvania Consolidated Statutes are amended to read:

9 § 2501. Declaration of policy and definitions.

10 (a) Declaration of policy.--It is hereby declared to be the
11 policy of the General Assembly to regulate in this part the
12 service of common carriers by motor vehicle and forwarders in
13 such manner as to recognize and preserve the inherent advantages
14 of, and foster sound economic conditions in such service, and
15 among such carriers and forwarders in the public interest; to
16 promote safe, adequate, economical, and efficient service by
17 common carriers by motor vehicle and forwarders, and just and
18 reasonable rates therefor, without unjust discrimination, and

1 unfair or destructive practices; to improve the relations
2 between, and coordinate the service and regulation of, common
3 carriers by motor vehicle, forwarders, and other carriers; to
4 develop and preserve a safe highway transportation system
5 properly adapted to the needs of the commerce of this
6 Commonwealth and insure its availability between all points of
7 production and markets of this Commonwealth. It is hereby found
8 as a fact, after due investigation and deliberation, that the
9 service of common carriers by motor vehicle, forwarders,
10 contract carriers by motor vehicle, and brokers, including the
11 procurement and provision of motor vehicles and other facilities
12 for the safe transportation of passengers or property over the
13 highways, are so closely interwoven and interdependent, and so
14 directly affect each other, that in order effectively to
15 regulate such common carriers by motor vehicle and forwarders,
16 and to provide a proper and safe highway transportation system
17 in the public interest, it is necessary to regulate the service
18 of such contract carriers by motor vehicle and brokers,
19 including the procurement and provision of motor vehicles and
20 other facilities for the safe transportation of passengers or
21 property over the highways, in the manner set forth in this
22 chapter. It is also found as a fact, after due investigation and
23 deliberation, that it is necessary to protect the traveling
24 public from fraud by requiring all passenger brokers operating
25 in this Commonwealth to furnish security to insure the
26 transportation of passengers by motor vehicle, air, water or
27 rail in accordance with contracts, agreements and arrangements
28 therefor.

29 (b) Definitions.--The following words and phrases when used
30 in this part shall have, unless the context clearly indicates

1 otherwise, the meanings given to them in this subsection:

2 "Broker." [Any person or corporation not included in the
3 term "motor carrier" and not a bona fide employee or agent of
4 any such carrier, or group of such carriers, who or which, as
5 principal or agent, sells or offers for sale any transportation
6 by a motor carrier, or the furnishing, providing, or procuring
7 of facilities therefor, or negotiates for, or holds out by
8 solicitation, advertisement, or otherwise, as one who sells,
9 provides, furnishes, contracts, or arranges for such
10 transportation, or the furnishing, providing, or procuring of
11 facilities therefor, other than as a motor carrier directly or
12 jointly, or by arrangement with another motor carrier, and who
13 does not assume custody as a carrier.] Any person or corporation
14 that is an intrastate property broker or an intrastate passenger
15 broker. The term does not include any person or corporation that
16 is an interstate and foreign passenger broker except as
17 otherwise expressly provided in this part.

18 "Contract carrier by motor vehicle."

19 (1) The term "contract carrier by motor vehicle"
20 includes any person or corporation who or which provides or
21 furnishes transportation of passengers or property, or both,
22 or any class of passengers or property, between points within
23 this Commonwealth by motor vehicle for compensation, whether
24 or not the owner or operator of such motor vehicle, or who or
25 which provides or furnishes, with or without drivers, any
26 motor vehicle for such transportation, or for use in such
27 transportation, other than as a common carrier by motor
28 vehicle.

29 (2) The term "contract carrier by motor vehicle" does
30 not include:

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

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

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

15 (iv) Transportation of school children for school
16 purposes or to and from school-related activities whether
17 as participants or spectators, with their chaperones, or
18 between their homes and Sunday school in any motor
19 vehicle owned by the school district, private school or
20 parochial school, or the transportation of school
21 children between their homes and school or to and from
22 school-related activities whether as participants or
23 spectators, with their chaperones, if the person
24 performing the school-related transportation has a
25 contract for the transportation of school children
26 between their homes and school, with the private or
27 parochial school, with the school district or jointure in
28 which the school is located, or with a school district
29 that is a member of a jointure in which the school is
30 located if the jointure has no contracts with other

1 persons for the transportation of students between their
2 homes and school, and if the person maintains a copy of
3 all contracts in the vehicle at all times, or children
4 between their homes and Sunday school in any motor
5 vehicle operated under contract with the school district,
6 private school or parochial school. Each school district
7 shall adopt regulations regarding the number of
8 chaperones to accompany students in connection with
9 school-related activities.

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

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

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

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

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

24 "Interstate and foreign passenger broker." Any person or
25 corporation not an interstate or foreign carrier of passengers
26 by motor vehicle, air, water or rail, and not a bona fide
27 employee or agent of any such carrier, or group of such
28 carriers, who or which, as principal or agent, sells or offers
29 for sale in Pennsylvania any interstate or foreign
30 transportation of passengers by such carrier, or the furnishing,

providing or procuring of facilities therefor, or negotiates in
Pennsylvania for, or holds out in Pennsylvania 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 carrier directly or jointly, or by arrangement with
another carrier, and who receives partial or full payment in
advance for such passenger transportation.

"Intrastate passenger broker." Any person or corporation not
included in the term "common carrier" or the term "contract
carrier by motor vehicle," 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
of passengers by such 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 such a carrier directly or
jointly, or by arrangement with another such carrier.

"Intrastate property 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 of property 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

1 motor carrier directly or jointly, or by arrangement with
2 another motor carrier, and who does not assume custody as a
3 carrier.

4 § 2505. Licenses and financial responsibility required of
5 brokers.

6 (a) General rule.--No person or corporation shall engage in
7 the business of [a] an intrastate property broker or an
8 intrastate passenger broker in this Commonwealth unless such
9 person holds a brokerage license issued by the commission. No
10 such person or corporation, by virtue of a brokerage license,
11 shall render service as a [motor] common carrier or as a
12 contract carrier by motor vehicle unless he holds a certificate
13 of public convenience or permit, as the case may be. It shall be
14 unlawful for any broker to employ any [motor] common carrier or
15 any contract carrier by motor vehicle who or which is not the
16 lawful holder of an effective certificate of public convenience
17 or permit.

18 (b) License application and issuance.--Every application for
19 a brokerage license shall be made to the commission in writing,
20 be verified by oath or affirmation, and shall be in such form
21 and contain such information as the commission may, by its
22 regulations, require. A brokerage license shall be issued to any
23 qualified applicant therefor, authorizing the whole or any part
24 of the service covered by the application, if it is found that
25 the applicant is fit, willing and able properly to perform the
26 service proposed and to conform to the provisions of this part
27 and the lawful orders and regulations of the commission
28 thereunder, and that the proposed service, to the extent
29 authorized by the license, will be consistent with the public
30 interest and the policy declared in section 2501 (relating to

1 declaration of policy and definitions); otherwise such
2 application shall be denied.

3 (c) Regulation and bond.--The commission shall prescribe
4 reasonable regulations to be observed by any intrastate
5 passenger broker or intrastate property broker for the
6 protection of passengers or property transported [by motor
7 vehicle, and no brokerage license shall be issued or remain in
8 force unless the holder thereof]. No person or corporation shall
9 operate in Pennsylvania as an intrastate passenger broker, an
10 intrastate property broker or an interstate and foreign
11 passenger broker unless such person shall have furnished a bond
12 or other security approved by the commission, in such form and
13 amount as will insure the financial responsibility of the broker
14 and the transportation of passengers or property in accordance
15 with contracts, agreements or arrangements therefor.

16 (d) Transferability of permits and licenses.--Any permit or
17 brokerage license issued under this chapter may be transferred
18 pursuant to such regulations as the commission may prescribe.

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