

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2669 Session of
1994INTRODUCED BY PRESTON, PISTELLA, COWELL, BURNS, ROBINSON, ITKIN,
GIGLIOTTI, PETRONE AND OLASZ, APRIL 5, 1994AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
OCTOBER 5, 1994

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, PROVIDING FOR REGULATION OF MOTOR <—
3 CARRIERS OF PROPERTY; AND providing for the regulation of the
4 placement of public telephones in cities of the second class.

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

7 SECTION 1. SECTION 102 OF TITLE 66 OF THE PENNSYLVANIA <—
8 CONSOLIDATED STATUTES IS AMENDED BY ADDING DEFINITIONS TO READ:

9 § 102. DEFINITIONS.

10 SUBJECT TO ADDITIONAL DEFINITIONS CONTAINED IN SUBSEQUENT
11 PROVISIONS OF THIS PART WHICH ARE APPLICABLE TO SPECIFIC
12 PROVISIONS OF THIS PART, THE FOLLOWING WORDS AND PHRASES WHEN
13 USED IN THIS PART SHALL HAVE, UNLESS THE CONTEXT CLEARLY
14 INDICATES OTHERWISE, THE MEANINGS GIVEN TO THEM IN THIS SECTION:

15 * * *

16 "HOUSEHOLD GOODS."

17 (1) PERSONAL EFFECTS AND PROPERTY USED OR TO BE USED IN
18 A DWELLING WHEN A PART OF THE EQUIPMENT OR SUPPLY OF THE

1 DWELLING AND SUCH OTHER SIMILAR PROPERTY AS THE PENNSYLVANIA
2 PUBLIC UTILITY COMMISSION MAY PROVIDE BY REGULATION. THE TERM
3 DOES NOT INCLUDE PROPERTY MOVING FROM A FACTORY OR STORE,
4 EXCEPT SUCH PROPERTY AS THE HOUSEHOLDER HAS PURCHASED WITH
5 THE INTENT TO USE IN HIS DWELLING AND WHICH IS TRANSPORTED AT
6 THE REQUEST OF, AND THE TRANSPORTATION CHARGES PAID TO THE
7 CARRIER BY, THE HOUSEHOLDER.

8 (2) FURNITURE, FIXTURES, EQUIPMENT AND THE PROPERTY OF
9 STORES, OFFICES, MUSEUMS, INSTITUTIONS, HOSPITALS OR OTHER
10 ESTABLISHMENTS WHEN A PART OF THE STOCK, EQUIPMENT OR SUPPLY
11 OF SUCH STORES, OFFICES, MUSEUMS, INSTITUTIONS, HOSPITALS OR
12 OTHER ESTABLISHMENTS AND SUCH OTHER SIMILAR PROPERTY AS THE
13 COMMISSION MAY PROVIDE BY REGULATION. THE TERM DOES NOT
14 INCLUDE THE STOCK-IN-TRADE OF ANY ESTABLISHMENT, WHETHER
15 CONSIGNOR OR CONSIGNEE OTHER THAN USED FURNITURE AND USED
16 FIXTURES, EXCEPT WHEN TRANSPORTED AS INCIDENTAL TO MOVING OF
17 THE ESTABLISHMENT, OR A PORTION THEREOF, FROM ONE LOCATION TO
18 ANOTHER.

19 (3) ARTICLES, INCLUDING OBJECTS OF ART, DISPLAYS AND
20 EXHIBITS, WHICH BECAUSE OF THEIR UNUSUAL NATURE OR VALUE
21 REQUIRE SPECIALIZED HANDLING AND EQUIPMENT USUALLY EMPLOYED
22 IN MOVING HOUSEHOLD GOODS AND SUCH OTHER SIMILAR ARTICLES AS
23 THE PENNSYLVANIA PUBLIC UTILITY COMMISSION MAY PROVIDE BY
24 REGULATION. THE TERM DOES NOT INCLUDE ANY ARTICLE WHETHER
25 CRATED OR UNCRATED, WHICH DOES NOT, BECAUSE OF THE UNUSUAL
26 NATURE OR VALUE, REQUIRE THE SPECIALIZED HANDLING AND
27 EQUIPMENT USUALLY EMPLOYED IN MOVING HOUSEHOLD GOODS.

28 * * *

29 "MOTOR CARRIER OF PROPERTY." A MOTOR CARRIER WHICH
30 TRANSPORTS PROPERTY OTHER THAN HOUSEHOLD GOODS.

1 * * *

2 SECTION 2. TITLE 66 IS AMENDED BY ADDING A SECTION TO READ:

3 § 105. SEVERABILITY OF SECTIONS.

4 THE PROVISIONS OF EVERY SECTION IN THIS TITLE SHALL BE DEEMED
5 SEVERABLE. IF ANY WORD, PHRASE OR PROVISION OF ANY SECTION OR
6 THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCE IS HELD
7 INVALID, THE REMAINDER OF THE SECTION AND THE APPLICATION OF
8 SUCH WORD, PHRASE OR PROVISION TO OTHER PERSONS OR CIRCUMSTANCES
9 SHALL NOT BE AFFECTED THEREBY.

10 SECTION 3. SECTION 1101 OF TITLE 66 IS AMENDED TO READ:

11 § 1101. ORGANIZATION OF PUBLIC UTILITIES AND BEGINNING OF
12 SERVICE.

13 UPON THE APPLICATION OF ANY PROPOSED PUBLIC UTILITY AND THE
14 APPROVAL OF SUCH APPLICATION BY THE COMMISSION EVIDENCED BY ITS
15 CERTIFICATE OF PUBLIC CONVENIENCE FIRST HAD AND OBTAINED, IT
16 SHALL BE LAWFUL FOR ANY SUCH PROPOSED PUBLIC UTILITY TO BEGIN TO
17 OFFER, RENDER, FURNISH, OR SUPPLY SERVICE WITHIN THIS
18 COMMONWEALTH. [THE] WITH THE EXCEPTION OF MOTOR CARRIERS OF
19 PROPERTY, THE COMMISSION'S CERTIFICATE OF PUBLIC CONVENIENCE
20 GRANTED UNDER THE AUTHORITY OF THIS SECTION SHALL INCLUDE A
21 DESCRIPTION OF THE NATURE OF THE SERVICE AND OF THE TERRITORY IN
22 WHICH IT MAY BE OFFERED, RENDERED, FURNISHED OR SUPPLIED.
23 CERTIFICATES ISSUED TO MOTOR CARRIERS OF PROPERTY UNDER THE
24 AUTHORITY OF THIS SECTION SHALL NOT LIMIT THE TERRITORY TO BE
25 SERVED OR THE NATURE OF THE PROPERTY SERVICE TO BE RENDERED.
26 CERTIFICATES ISSUED TO MOTOR CARRIERS OF PROPERTY SHALL BE
27 NONTRANSFERABLE.

28 SECTION 4. SECTION 1102 OF TITLE 66 IS AMENDED BY ADDING A
29 SUBSECTION TO READ:

30 § 1102. ENUMERATION OF ACTS REQUIRING CERTIFICATE.

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(C) MOTOR CARRIERS OF PROPERTY.--

(1) UPON THE APPLICATION OF ANY MOTOR CARRIER OF
PROPERTY AND THE APPROVAL OF SUCH APPLICATION BY THE
COMMISSION, EVIDENCED BY ITS CERTIFICATE FIRST HAD AND
OBTAINED, AND UPON COMPLIANCE WITH EXISTING LAWS, IT SHALL BE
LAWFUL FOR A MOTOR CARRIER OF PROPERTY TO PROVIDE
TRANSPORTATION OF PROPERTY FOR COMPENSATION IN INTRASTATE
COMMERCE IN THIS COMMONWEALTH.

(2) NOTHING IN THIS SECTION SHALL BE DEEMED TO REQUIRE A
MOTOR CARRIER OF PROPERTY TO OBTAIN APPROVAL PRIOR TO
DISCONTINUING SERVICE, HOWEVER NOTICE TO THE COMMISSION SHALL
BE PROVIDED IN THE EVENT A MOTOR CARRIER OF PROPERTY CEASES
OPERATIONS.

SECTION 5. SECTION 1103 OF TITLE 66 IS AMENDED TO READ:

§ 1103. PROCEDURE TO OBTAIN CERTIFICATES OF PUBLIC CONVENIENCE.

(A) GENERAL RULE.--EVERY APPLICATION FOR A CERTIFICATE OF
PUBLIC CONVENIENCE SHALL BE MADE TO THE COMMISSION IN WRITING,
BE VERIFIED BY OATH OR AFFIRMATION, AND BE IN SUCH FORM, AND
CONTAIN SUCH INFORMATION, AS THE COMMISSION MAY REQUIRE BY ITS
REGULATIONS. A CERTIFICATE OF PUBLIC CONVENIENCE SHALL BE
GRANTED BY ORDER OF THE COMMISSION, ONLY IF THE COMMISSION SHALL
FIND OR DETERMINE THAT THE GRANTING OF SUCH CERTIFICATE IS
NECESSARY OR PROPER FOR THE SERVICE, ACCOMMODATION, CONVENIENCE,
OR SAFETY OF THE PUBLIC. THE COMMISSION, IN GRANTING SUCH
CERTIFICATE, MAY IMPOSE SUCH CONDITIONS AS IT MAY DEEM TO BE
JUST AND REASONABLE. IN EVERY CASE, THE COMMISSION SHALL MAKE A
FINDING OR DETERMINATION IN WRITING, STATING WHETHER OR NOT ITS
APPROVAL IS GRANTED. ANY HOLDER OF A CERTIFICATE OF PUBLIC
CONVENIENCE, EXERCISING THE AUTHORITY CONFERRED BY SUCH

CERTIFICATE, SHALL BE DEEMED TO HAVE WAIVED ANY AND ALL
OBJECTIONS TO THE TERMS AND CONDITIONS OF SUCH CERTIFICATE.

(B) INVESTIGATIONS AND HEARINGS.--FOR THE PURPOSE OF
ENABLING THE COMMISSION TO MAKE SUCH FINDING OR DETERMINATION,
IT SHALL HOLD SUCH HEARINGS, WHICH SHALL BE PUBLIC, AND, BEFORE
OR AFTER HEARING, IT MAY MAKE SUCH INQUIRIES, PHYSICAL
EXAMINATIONS, VALUATIONS, AND INVESTIGATIONS, AND MAY REQUIRE
SUCH PLANS, SPECIFICATIONS, AND ESTIMATES OF COST, AS IT MAY
DEEM NECESSARY OR PROPER IN ENABLING IT TO REACH A FINDING OR
DETERMINATION.

(C) MOTOR CARRIERS OF PROPERTY.--

(1) CERTIFICATES FOR MOTOR CARRIERS OF PROPERTY SHALL BE
ISSUED BY THE COMMISSION UPON A DETERMINATION THAT THE MOTOR
CARRIER HAS APPROPRIATE EVIDENCE OF INSURANCE ON FILE WITH
THE COMMISSION OR HAS THE NECESSARY APPROVAL TO OPERATE AS A
SELF-INSURER, AND THAT THE MOTOR CARRIER CONFORMS OR WILL
CONFORM TO THE COMMISSION'S SAFETY REGULATIONS.

(2) FOR THE PURPOSE OF ENABLING THE COMMISSION TO MAKE
SUCH FINDING OR DETERMINATION, IT MAY MAKE SUCH INQUIRIES,
PHYSICAL EXAMINATIONS AND INVESTIGATIONS AS IT MAY DEEM
NECESSARY OR PROPER IN ENABLING IT TO REACH A FINDING OR
DETERMINATION RELATING TO SAFETY AND INSURANCE.

(3) A CERTIFICATE MAY NOT BE DENIED TO A MOTOR CARRIER
OF PROPERTY WITHOUT SPECIFIC ADVERSE FINDINGS RELATING TO
INSURANCE AND/OR SAFETY. A HEARING, WHICH SHALL BE PUBLIC,
MAY BE HELD ON SUCH FINDINGS AT THE REQUEST OF A MOTOR
CARRIER OF PROPERTY WHO IS DENIED A CERTIFICATE UNDER THIS
SECTION. THE COMMISSION MAY, IN ITS DISCRETION, DIRECT THAT
HEARINGS BE HELD IN SPECIFIC CASES IF ISSUES OF SAFETY OR
INSURANCE ARE PRESENT WITH REGARD TO A SPECIFIC APPLICANT.

1 [(C)] (D) TAXICABS.--

2 (1) A CERTIFICATE OF PUBLIC CONVENIENCE TO PROVIDE
3 TAXICAB SERVICE WITHIN CITIES OF THE FIRST CLASS SHALL BE
4 GRANTED BY ORDER OF THE COMMISSION WITHOUT PROOF OF THE NEED
5 FOR THE SERVICE IF THE COMMISSION FINDS OR DETERMINES THAT
6 THE APPLICANT IS CAPABLE OF PROVIDING DEPENDABLE TAXICAB
7 SERVICE TO THE PUBLIC ACCORDING TO THE RULES AND REGULATIONS
8 OF THE COMMISSION.

9 (2) THE COMMISSION IS AUTHORIZED TO ISSUE A MAXIMUM OF
10 1,600 CERTIFICATES OF PUBLIC CONVENIENCE FOR TAXI SERVICE IN
11 ANY CITY OF THE FIRST CLASS UPON THE EFFECTIVE DATE OF THIS
12 AMENDATORY ACT. UPON THE SECOND YEAR OF THE EFFECTIVE DATE OF
13 THIS AMENDATORY ACT, THE COMMISSION SHALL INSTITUTE A FORMAL
14 INVESTIGATION ON THE FUTURE NEED FOR TAXI SERVICE IN ANY CITY
15 OF THE FIRST CLASS. THE COMMISSION SHALL REPORT TO THE SENATE
16 AND HOUSE CONSUMER AFFAIRS COMMITTEES ITS FINDINGS,
17 CONCLUSIONS AND RECOMMENDATIONS.

18 (3) IT IS HEREBY DECLARED TO BE THE POLICY OF THE
19 GENERAL ASSEMBLY TO REGULATE THE PROVISION OF TAXICAB SERVICE
20 WITHIN CITIES OF THE FIRST CLASS IN SUCH A MANNER THAT ANY
21 CERTIFICATE OF PUBLIC CONVENIENCE HEREINAFTER GRANTED BY
22 ORDER OF THE COMMISSION SHALL, IN ADDITION TO ANY OTHER
23 CONDITIONS IMPOSED BY THE COMMISSION, REQUIRE THAT AT LEAST
24 40% OF SUCH TRIPS OF SUCH TAXICAB SERVICE SHALL BE DERIVED
25 FROM SUCH SERVICE PROVIDED TO AND FROM POINTS WITHIN SPECIFIC
26 GEOGRAPHICAL AREAS TO BE DETERMINED BY THE COMMISSION AS
27 BEING IN THE PUBLIC INTEREST. THE COMMISSION SHALL HAVE THE
28 POWER TO RESCIND OR REVOKE ANY CERTIFICATE OF PUBLIC
29 CONVENIENCE GRANTED TO ANY EXISTING HOLDER OR ANY NEW
30 RECIPIENT FOR THE OPERATION OF TAXICABS WITHIN A CITY OF THE

1 FIRST CLASS WHENEVER IT IS SHOWN THAT THE HOLDER OF THE
2 CERTIFICATE IS NOT OPERATING THE TAXICABS ON AN AVERAGE OF
3 50% OF THE TIME OVER ANY CONSECUTIVE THREE-MONTH PERIOD.

4 (4) THE COMMISSION SHALL HAVE THE AUTHORITY TO GRANT
5 IMMEDIATE TEMPORARY CERTIFICATES OF PUBLIC CONVENIENCE FOR
6 TAXICAB SERVICE IN CITIES OF THE FIRST CLASS. SUCH TEMPORARY
7 CERTIFICATES ARE SUBJECT TO FURTHER INVESTIGATION BEFORE A
8 PERMANENT CERTIFICATE SHALL BE GRANTED BY THE COMMISSION.

9 (5) (DELETED BY AMENDMENT).

10 (6) A MINIMUM OF 5% OF ALL CERTIFICATES OF PUBLIC
11 CONVENIENCE ISSUED UNDER THIS SUBSECTION IN CITIES OF THE
12 FIRST CLASS SHALL BE ISSUED TO MINORITY PERSONS OR TO
13 CORPORATIONS IN WHICH 51% OR MORE OF THE VOTING SHARES OR
14 INTEREST IN THE CORPORATION IS HELD BY MINORITY INDIVIDUALS.
15 FOR PURPOSES OF THIS PARAGRAPH, "MINORITY" SHALL DESCRIBE ONE
16 WHO IS BLACK, PUERTO RICAN, HISPANIC, AMERICAN INDIAN,
17 ESKIMO, ALEUT OR ORIENTAL.

18 (7) THE TRANSFER OF A CERTIFICATE OF PUBLIC CONVENIENCE,
19 BY ANY MEANS OR DEVICE, SHALL BE SUBJECT TO THE PRIOR
20 APPROVAL OF THE COMMISSION WHICH MAY, IN ITS SOLE OR PECULIAR
21 DISCRETION AS IT DEEMS APPROPRIATE, ATTACH SUCH CONDITIONS,
22 INCLUDING THE APPROPRIATE ALLOCATION OF PROCEEDS, AS IT MAY
23 FIND TO BE NECESSARY OR PROPER.

24 (8) (DELETED BY AMENDMENT).

25 [(D)] (E) TEMPORARY AUTHORITY.--EXCEPT DURING THE THREAT OR
26 EXISTENCE OF A LABOR DISPUTE, THE COMMISSION UNDER SUCH
27 REGULATIONS AS IT SHALL PRESCRIBE MAY, WITHOUT HEARING, IN
28 PROPER CASES, CONSIDER AND APPROVE APPLICATIONS FOR CERTIFICATES
29 OF PUBLIC CONVENIENCE, AND IN EMERGENCIES GRANT TEMPORARY
30 CERTIFICATES UNDER THIS CHAPTER, PENDING ACTION ON PERMANENT

CERTIFICATES; BUT NO APPLICATIONS SHALL BE DENIED WITHOUT RIGHT OF HEARING THEREON BEING TENDERED TO THE APPLICANT.

[(E) ARMORED VEHICLES.--A CERTIFICATE OF PUBLIC CONVENIENCE TO PROVIDE THE TRANSPORTATION OF PROPERTY OF UNUSUAL VALUE, INCLUDING MONEY AND SECURITIES, IN ARMORED VEHICLES SHALL BE GRANTED BY ORDER OF THE COMMISSION UPON APPLICATION. SUCH CARRIERS MUST CONFORM TO THE RULES AND REGULATIONS OF THE COMMISSION.]

SECTION 6. TITLE 66 IS AMENDED BY ADDING A SECTION TO READ:
§ 1328. MOTOR CARRIERS OF PROPERTY.

THE PROVISIONS OF THIS CHAPTER DO NOT APPLY TO THE TRANSPORTATION OF PROPERTY RENDERED BY MOTOR CARRIERS OF PROPERTY.

SECTION 7. SECTION 1501 OF TITLE 66 IS AMENDED TO READ:
§ 1501. CHARACTER OF SERVICE AND FACILITIES.

(A) GENERAL RULE.--EVERY PUBLIC UTILITY SHALL FURNISH AND MAINTAIN ADEQUATE, EFFICIENT, SAFE, AND REASONABLE SERVICE AND FACILITIES, AND SHALL MAKE ALL SUCH REPAIRS, CHANGES, ALTERATIONS, SUBSTITUTIONS, EXTENSIONS, AND IMPROVEMENTS IN OR TO SUCH SERVICE AND FACILITIES AS SHALL BE NECESSARY OR PROPER FOR THE ACCOMMODATION, CONVENIENCE, AND SAFETY OF ITS PATRONS, EMPLOYEES, AND THE PUBLIC. SUCH SERVICE ALSO SHALL BE REASONABLY CONTINUOUS AND WITHOUT UNREASONABLE INTERRUPTIONS OR DELAY. SUCH SERVICE AND FACILITIES SHALL BE IN CONFORMITY WITH THE REGULATIONS AND ORDERS OF THE COMMISSION. SUBJECT TO THE PROVISIONS OF THIS PART AND THE REGULATIONS OR ORDERS OF THE COMMISSION, EVERY PUBLIC UTILITY MAY HAVE REASONABLE RULES AND REGULATIONS GOVERNING THE CONDITIONS UNDER WHICH IT SHALL BE REQUIRED TO RENDER SERVICE. ANY PUBLIC UTILITY SERVICE BEING FURNISHED OR RENDERED BY A MUNICIPAL CORPORATION BEYOND ITS

1 CORPORATE LIMITS SHALL BE SUBJECT TO REGULATION AND CONTROL BY
2 THE COMMISSION AS TO SERVICE AND EXTENSIONS, WITH THE SAME FORCE
3 AND IN LIKE MANNER AS IF SUCH SERVICE WERE RENDERED BY A PUBLIC
4 UTILITY. THE COMMISSION SHALL HAVE SOLE AND EXCLUSIVE
5 JURISDICTION TO PROMULGATE RULES AND REGULATIONS FOR THE
6 ALLOCATION OF NATURAL OR ARTIFICIAL GAS SUPPLY BY A PUBLIC
7 UTILITY.

8 (B) MOTOR CARRIERS OF PROPERTY.--EVERY MOTOR CARRIER OF
9 PROPERTY SHALL FURNISH AND MAINTAIN SAFE OPERATIONS, EQUIPMENT
10 AND FACILITIES, AND SHALL MAKE ALL SUCH REPAIRS, CHANGES,
11 ALTERATIONS, SUBSTITUTIONS AND IMPROVEMENTS IN OR TO SUCH
12 OPERATIONS, EQUIPMENT AND FACILITIES AS SHALL BE NECESSARY OR
13 PROPER FOR THE SAFETY OF ITS PATRONS, EMPLOYEES AND THE PUBLIC.
14 SUCH OPERATIONS, EQUIPMENT AND FACILITIES SHALL BE IN CONFORMITY
15 WITH THE REGULATIONS AND ORDERS OF THE COMMISSION RELATING TO
16 SAFETY AND INSURANCE.

17 Section ~~±~~ 8. Title 66 ~~of the Pennsylvania Consolidated~~ <—
18 ~~Statutes~~ is amended by adding a section to read:
19 § 2916. Authority of cities of the second class.

20 A city of the second class shall have the power to enact and
21 enforce a local ordinance regulating the placement and
22 maintenance of public telephones on city sidewalks. This
23 ordinance may require that applicants obtain a permit from the
24 city for the placement of a public telephone and may contain
25 provisions relating to fees, the renewal of permits and the
26 suspension or revocation of permits. A city of the second class
27 shall have the power to enact and enforce local ordinances
28 regulating the conversion of public telephones to one-way
29 outgoing service only. Conversions of public telephones to one-
30 way outgoing service only shall not be subject to the

1 requirements set forth in the commission's regulations relating
2 to conversion of public telephones to one-way outgoing service.
3 In all other respects, a city of the second class shall be
4 subject to and shall not pass local ordinances inconsistent with
5 the rules and regulations of the commission.

6 Section 2 9. This act shall take effect immediately.

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