

THE MOTOR CARRIER ACT (EXCERPT)

Act 254 of 1933

ARTICLE III

MOTOR CARRIERS OF HOUSEHOLD GOODS

477.1 Operation of motor vehicle by motor carrier of household goods; certificate of authority.

Sec. 1. A motor carrier of household goods shall not operate any motor vehicle for the transportation of property for hire on any public highway in this state except in accordance with this act. A motor carrier of household goods shall not operate within this state without first having obtained from the commission a certificate of authority for the operation.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 477.1;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 2014, Act 493, Eff. Apr. 1, 2015.

477.2 Certificate of authority; application; determination by commission; issuance.

Sec. 2. The commission, upon the filing of an application by a motor carrier of household goods for a certificate of authority, shall ascertain and determine, under rules promulgated by the commission, whether to issue the certificate of authority.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 477.2;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 1993, Act 352, Imd. Eff. Jan. 13, 1994;—Am. 2014, Act 493, Eff. Apr. 1, 2015.

477.3 Repealed. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

Compiler's note: The repealed section pertained to the character of operation proposed by common or contract motor carrier.

477.4 Application for certificate of authority; form; contents; fees; proof of insurance; failure of applicant to comply with application instructions.

Sec. 4. (1) An application for a certificate of authority shall be on a form prescribed by the commission and signed by the owner or an officer of the applicant, stating the ownership and condition of the equipment and physical property of the applicant proposed to be used, that the vehicles of the applicant have passed an inspection within the immediately preceding 12 months, and shall contain other information as the commission requires. The commission may request supplemental information from an applicant regarding accident records and citations issued to the applicant or drivers of the applicant, if that information is considered necessary to make findings regarding the fitness of the applicant. Each application shall be accompanied by the required fees, proof of insurance before operations are commenced, and all other things required by law and the rules of the commission.

(2) The commission may reject, dismiss, or deny an application if the applicant fails to comply with instructions on the application form described in subsection (1).

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 477.4;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 1993, Act 352, Imd. Eff. Jan. 13, 1994;—Am. 2014, Act 493, Eff. Apr. 1, 2015.

477.4a Issuance of certificate of authority; findings.

Sec. 4a. The commission shall issue a certificate of authority to an applicant authorizing it to provide transportation as a motor carrier of household goods, subject to the jurisdiction of the commission, if the commission finds all of the following:

(a) The character and condition of the vehicles proposed to be operated by the applicant is such that they may be operated safely upon the public highways.

(b) The applicant is fit, willing, and able to provide the transportation to be authorized by the certificate of authority and to comply with this act and rules and regulations of the commission.

(c) The service proposed is consistent with the transportation policy set forth in section 2 of article I.

(d) The applicant has the required insurance in place to insure the protection of the public.

History: Add. 2014, Act 493, Eff. Apr. 1, 2015.

477.5 Rates, fares, and charges; printing and filing schedules; availability; predatory rate prohibited; compliance with section; inapplicability of section to local move.

Sec. 5. (1) Except as otherwise provided in subsection (4), before engaging in business, a motor carrier of household goods subject to this act shall print and file with the commission and have available upon request schedules showing all rates, fares, and charges for transportation of household goods, and shall keep its facilities and the schedules described in this subsection open for public inspection.

(2) A motor carrier of household goods that obtains a certificate of authority under this act shall not charge a predatory rate. The commission shall determine whether a motor carrier of household goods charges a predatory rate before issuing a certificate of authority and before the motor carrier of household goods commences operations. As used in this subsection, "predatory rate" is a rate found by the commission to be below its fully allocated cost.

(3) A motor carrier of household goods shall not receive or accept any person or property for transportation upon the highways of this state until it has complied with this section.

(4) This section does not apply to a local move.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 477.5;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 2014, Act 493, Eff. Apr. 1, 2015.

477.5a Repealed. 2014, Act 493, Eff. Apr. 1, 2015.

Compiler's note: The repealed section pertained to protesting application to provide transportation.

477.6 Submission of contract to commission; approval; disclosure; determination of predatory filings; filing statement of charges with commission; inapplicability of section to local move.

Sec. 6. (1) A motor carrier of household goods operating under a contract with a manufacturer, store, or any other organization shall submit the contract to the commission for approval. A member of the commission, or a clerk, officer, or employee of this state shall not divulge or make known, in any manner whatsoever not provided by this section, to any person the rate filings of a motor carrier of household goods unless a complaint has been brought by order of the commission against a motor carrier of household goods alleging that a rate of the motor carrier of household goods or practice or rule of the motor carrier of household goods related to the rate or value of service under that rate is predatory. Rate filings of a motor carrier of household goods operating under a contract with a manufacturer, store, or any other organization are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, unless a complaint has been brought by order of the commission under this section. The commission shall review all rate filings to determine if they are predatory. If the commission finds that a rate of a motor carrier of household goods or practice or rule of a motor carrier of household goods related to the rate or the value of service under that rate is predatory, the commission shall prescribe the minimum rate, practice, or rule. In making a predatory rate determination and when prescribing a minimum rate, practice, or rule related to a rate for a motor carrier of household goods, the commission shall consider all of the following:

- (a) All revenues and costs associated with 1 specific contract or appendix to that contract.
- (b) The effect of a prescribed minimum rate, practice, or rule on the movement of traffic by that carrier.
- (c) Other matters as the commission considers necessary.

(2) A motor carrier of household goods shall not receive or accept property for transportation upon the highways until it has filed the statement of charges with the commission.

(3) This section does not apply to a local move.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 477.6;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 1993, Act 352, Imd. Eff. Jan. 13, 1994;—Am. 2007, Act 33, Imd. Eff. July 10, 2007;—Am. 2014, Act 493, Eff. Apr. 1, 2015.

477.7 Rate, fare, or charge as just and reasonable; unjust discrimination, prejudice, or preference prohibited; remuneration; limitation; refund or remittance; other contract; inapplicability of section to local move.

Sec. 7. (1) A rate, fare, or charge made by a motor carrier of household goods shall be just and reasonable and shall not be unjustly discriminatory, prejudicial, or preferential. A rate, fare, or charge made by a motor carrier of household goods under a contract with a manufacturer, store, or other entity shall not be considered unjustly discriminatory, prejudicial, or preferential in determining whether a motor carrier of household goods has complied with this subsection.

(2) A motor carrier of household goods shall not charge, demand, collect, or receive remuneration for the transportation of household goods or any service connected with the transportation of household goods that is greater than, less than, or different from the rates, fares, and charges that have been legally established and filed with the commission.

(3) A motor carrier of household goods shall not refund or remit in any manner or by any device a portion of the rates, fares, or charges that are required to be collected by the tariffs on file with the commission or ordered by the commission.

(4) This article does not prohibit a motor carrier of household goods from having an approved certificate of authority to operate as a motor carrier of household goods or as a motor carrier of household goods under a

contract with a manufacturer, store, or any other entity, or as a general commodities carrier.

(5) This section does not apply to a local move.

History: Add. 2014, Act 493, Eff. Apr. 1, 2015.

Compiler's note: Former MCL 477.7, which pertained to prohibited unfair competition, was repealed by Act 399 of 1982, Imd. Eff. Dec. 28, 1982.

477.7a Investigation, suspension, revision, or revocation prohibited; grounds; protest prohibited.

Sec. 7a. (1) Notwithstanding any other provision of this act, the commission shall not investigate, suspend, revise, or revoke a rate, fare, or charge proposed by a motor carrier of household goods on the grounds that the rate, fare, or charge is unreasonably high or low if all of the following requirements are met:

(a) The motor carrier of household goods notifies the commission that it wishes the commission to consider the rate, fare, or charge under this section.

(b) The rate, fare, or charge is the product of independent action on the part of the motor carrier of household goods proposing the rate, fare, or charge.

(c) The aggregate of increases and reductions in the rate, fare, or charge is not more than 20% above or below the base rate, fare, or charge in effect 1 year before the effective date of the proposed rate, fare, or charge.

(2) A motor carrier of household goods may not protest a rate, fare, or charge proposed by that motor carrier of household goods under this section.

History: Add. 2014, Act 493, Eff. Apr. 1, 2015.

477.7b Statewide and local moves; nonbinding estimate of transportation cost; collect on delivery shipment; payment; deferring payment of balance of remaining charges.

Sec. 7b. (1) A motor carrier of household goods that transports household goods in both statewide and local moves shall provide a nonbinding estimate of the approximate cost of the transportation. A nonbinding estimate described in this subsection shall be reasonably accurate and is not binding on the motor carrier of household goods. For a move of greater than 40 miles, the final charge for a shipment for which a nonbinding estimate has been prepared under this subsection shall be that appearing in the motor carrier of household goods tariffs applicable to the transportation. A motor carrier of household goods shall furnish a nonbinding estimate without charge and in writing to the shipper or other person responsible for payment of the freight charges. For a move of household goods, the motor carrier of household goods shall retain a copy of the nonbinding estimate as an addendum to the bill of lading. A motor carrier of household goods shall clearly indicate on the face of a nonbinding estimate prepared under this subsection that the estimate is nonbinding and that the charges shown are the approximate charges that will be assessed for the services identified in the estimate, and shall clearly describe the shipment and all services to be provided.

(2) A motor carrier of household goods furnishing a nonbinding estimate under subsection (1) shall enter the estimated charges on the bill of lading.

(3) At the time of delivery of a collect on delivery shipment for which a motor carrier of household goods has furnished a nonbinding estimate under subsection (1), the shipper may request delivery of the shipment upon payment in a form acceptable to the motor carrier of household goods of an amount not exceeding 110% of the estimated charges. Upon request of the shipper, the motor carrier of household goods shall relinquish possession of the shipment upon payment of not more than 110% of the estimated charges and shall defer a demand for payment of the balance of any remaining charges for a period of 30 days after the date of delivery. This subsection does not apply to a shipment that is delivered to a warehouse for storage at the request of a shipper. Notwithstanding any other provision of this section, a motor carrier of household goods may collect payment in excess of 110% of the estimated charges if payment is tendered by the shipper within 30 days after the date of delivery.

History: Add. 2014, Act 493, Eff. Apr. 1, 2015.

477.8 Prohibited conduct; penalty.

Sec. 8. A person, whether motor carrier, shipper, or consignee, or any officer, employee, agent, or representative of a motor carrier, shipper, or consignee, who knowingly offers, grants, or gives, or solicits, accepts, or receives any rebate, concession, or discrimination in violation of this act, or who, by means of any false statement or representation, or by the use of any false or fictitious bill, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, deposition, lease, or bill of sale, or by any other means or device, knowingly and wilfully assists, suffers, or permits a person to obtain transportation of property subject to this article for less than the applicable rate, fare, or charge, or who knowingly and wilfully, by any means,

fraudulently seeks to evade or defeat rules as promulgated under this act for motor contract carriers, is guilty of a misdemeanor, punishable by a fine of not more than \$500.00, or imprisonment for not more than 6 months, or both.

History: 1933, Act 254, Eff. Oct. 17, 1933;—Am. 1945, Act 264, Eff. Sept. 6, 1945;—CL 1948, 477.8;—Am. 1959, Act 114, Eff. Mar. 19, 1960;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

477.9 Liability of motor carrier of household goods; limitation; recovery.

Sec. 9. (1) If a motor carrier of household goods does or causes or permits to be done any act or thing in this act prohibited or declared to be unlawful, or omits to do any act or thing required to be done under this act or under any lawful order made under this act by the commission, the carrier is liable to the person, firm, or corporation injured to the extent of the actual amount of damages sustained in consequence of the violation, except when liability of the carrier is limited to a value established by written agreement between the carrier and the shipper.

(2) Unless the liability of a motor carrier of household goods is limited as provided in subsection (1), the maximum liability of a motor carrier of household goods for household goods that are lost, damaged, destroyed, or otherwise not delivered to their final destination is equal to the replacement value of those goods, not to exceed a maximum of the declared value of the shipment and the applicable tariff.

(3) A recovery as provided in this section does not affect a recovery by this state of the penalty prescribed for the violation.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 477.9;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 2014, Act 493, Eff. Apr. 1, 2015.

477.9a Powers and duties of commission.

Sec. 9a. (1) Except as provided in subsection (3), the commission shall do all of the following:

- (a) Supervise and regulate all motor carriers of household goods.
- (b) Regulate and determine reasonable and sufficient rates, fares, charges, and classifications.
- (c) Regulate the service and safety of operations of each motor carrier of household goods.

(2) Except as provided in subsection (3), the commission may do all of the following:

(a) Require the filing of annual and other reports, tariffs, schedules, and other data by motor carriers of household goods if that information is necessary for the administration or enforcement of this act.

(b) Supervise and regulate motor carriers of household goods in all matters affecting the relation between motor carriers of household goods and the public, and between motor carriers of household goods.

(c) Promulgate rules to promote safety on the highways of this state.

(d) By general order or otherwise, promulgate rules in conformity with this act applicable to all motor carriers of household goods.

(e) Do all things necessary to carry out and enforce this act.

(3) The commission shall not regulate or determine reasonable and sufficient rates, fares, charges, or classifications, or require the filing of tariffs and schedules, for local moves.

History: Add. 2014, Act 493, Eff. Apr. 1, 2015.

477.10 Interstate commerce.

Sec. 10. Interstate carriers. This act shall apply to persons and motor vehicles engaged in interstate commerce, except only insofar as it may be inconsistent with, or shall contravene, the constitution or the laws of the United States.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 477.10.

477.11 Cessation of operations or abandonment of rights under authority; written notice; revocation.

Sec. 11. Each motor carrier of household goods that ceases operations or abandons its rights under the authority issued shall notify the commission in writing in accordance with the rules of the commission within 30 days of the cessation or abandonment. The commission may, after notice and a hearing, revoke a certificate of authority under which service is discontinued for more than 30 days without the previous order of the commission authorizing the discontinuance.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 477.11;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 2014, Act 493, Eff. Apr. 1, 2015.

477.12 Emergency temporary authority; issuance; manner of filing application.

Sec. 12. An emergency temporary authority may be issued to a motor carrier of household goods for a time specified by the commission but not to exceed 60 days, to authorize transportation service for which there is

an actual and immediate emergency. An application filed under this section does not require filing fees and may be made in person, in writing, by telephone, or by electronic mail. All of the following apply to an emergency temporary authority issued under this section:

(a) The commission shall determine the tariff requirements for an emergency temporary authority under this section.

(b) The commission may revoke an emergency temporary authority if it determines that the transportation service is no longer required or for other good cause.

(c) A grant of emergency temporary authority does not establish a presumption that the commission will grant permanent authority to provide transportation in a subsequent application.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 477.12;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 2014, Act 493, Eff. Apr. 1, 2015.