

A bill for an act

relating to transportation; repealing provisions relating to the filing of tariffs by household goods movers; amending Minnesota Statutes 2008, sections 221.0252, subdivision 7; 221.036, subdivisions 1, 3; 221.221, subdivision 3; 221.251, subdivision 1; Minnesota Statutes 2009 Supplement, sections 174.66; 221.026, subdivision 2; 221.031, subdivision 1; 221.122, subdivision 1; repealing Minnesota Statutes 2008, sections 221.161, subdivisions 2, 3; 221.291, subdivision 5; Minnesota Statutes 2009 Supplement, sections 221.161, subdivisions 1, 4; 221.171; Minnesota Rules, parts 7805.0300; 7805.0400.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2009 Supplement, section 174.66, is amended to read:

174.66 CONTINUATION OF CARRIER RULES.

(a) Orders and directives in force, issued, or promulgated under authority of chapters 174A, 216A, 218, 219, 221, and 222 remain and continue in force and effect until repealed, modified, or superseded by duly authorized orders or directives of the commissioner of transportation. To the extent allowed under federal law or regulation, rules adopted under authority of the following sections are transferred to the commissioner of transportation and continue in force and effect until repealed, modified, or superseded by duly authorized rules of the commissioner:

(1) section 218.041 except rules related to the form and manner of filing railroad rates, railroad accounting rules, and safety rules;

(2) section 219.40;

(3) rules relating to rates or tariffs, or the granting, limiting, or modifying of permits under section 221.031, subdivision 1;

(4) rules relating to the sale, assignment, pledge, or other transfer of a stock interest in a corporation holding authority to operate as a permit carrier as prescribed in section 221.151, subdivision 1; and

~~(5) rules relating to rates, charges, and practices under section 221.161, subdivision 4; and~~

~~(6)~~ (5) rules relating to rates, tariffs, or the granting, limiting, or modifying of permits under sections 221.121 and 221.151.

(b) The commissioner shall review the transferred rules, orders, and directives and, when appropriate, develop and adopt new rules, orders, or directives.

Sec. 2. Minnesota Statutes 2008, section 221.0252, subdivision 7, is amended to read:

Subd. 7. **Exemptions from regulation.** Notwithstanding any other law, motor carriers of passengers are exempt from sections 221.121; 221.122; 221.123; and 221.151; ~~221.161; and 221.171.~~

Sec. 3. Minnesota Statutes 2009 Supplement, section 221.026, subdivision 2, is amended to read:

Subd. 2. **Exemptions from requirements.** Notwithstanding any other law, a motor carrier of property is exempt from sections 221.021; 221.121; 221.122; 221.123; 221.131; 221.132; 221.151; ~~221.161~~; 221.172, subdivision 3; and 221.185, except as provided in subdivision 4. The exemptions in this subdivision do not apply to a motor carrier of property while transporting household goods.

Sec. 4. Minnesota Statutes 2009 Supplement, section 221.031, subdivision 1, is amended to read:

Subdivision 1. **Powers, duties, rules, filings.** (a) This subdivision applies to motor carriers engaged in intrastate commerce.

(b) The commissioner shall prescribe rules for the operation of motor carriers, including their facilities; accounts; leasing of vehicles and drivers; service; safe operation of vehicles; equipment, parts, and accessories; hours of service of drivers; driver qualifications; accident reporting; identification of vehicles; installation of safety devices; inspection, repair, and maintenance; and proper automatic speed regulators if, in the opinion of the commissioner, there is a need for the rules.

(c) The commissioner shall direct the repair and reconstruction or replacement of an inadequate or unsafe motor carrier vehicle or facility. The commissioner may require the construction and maintenance or furnishing of suitable and proper freight terminals,

passenger depots, waiting rooms, and accommodations or shelters in a city in this state or at a point on the highway traversed which the commissioner, after investigation by the department, may deem just and proper for the protection of passengers or property.

(d) The commissioner shall (1) ~~require holders of household goods mover permits to file schedules of rates and charges,~~ (2) regulate motor carriers in matters affecting the relationship between them and the traveling and shipping public, and ~~(3)~~ (2) prescribe other rules as may be necessary to carry out the provisions of this chapter.

(e) The commissioner shall enforce sections 169.781 to 169.783.

Sec. 5. Minnesota Statutes 2008, section 221.036, subdivision 1, is amended to read:

Subdivision 1. **Order.** The commissioner may issue an order requiring violations to be corrected and administratively assessing monetary penalties for a violation of (1) section 221.021; (2) section 221.033, subdivision 2b; (3) section 221.151; (4) ~~section 221.171;~~ (5) section 221.141; ~~(6)~~ (5) a federal, state, or local law, regulation, rule, or ordinance pertaining to railroad-highway grade crossings; or ~~(7)~~ (6) rules of the commissioner relating to the transportation of hazardous waste, motor carrier operations, insurance, or ~~tariffs and~~ accounting. An order must be issued as provided in this section.

Sec. 6. Minnesota Statutes 2008, section 221.036, subdivision 3, is amended to read:

Subd. 3. **Amount of penalty; considerations.** (a) The commissioner may issue an order assessing a penalty of up to \$5,000 for all violations of section 221.021; 221.141; ~~or 221.151; or 221.171,~~ or rules of the commissioner relating to motor carrier operations, insurance, or ~~tariffs and~~ accounting, identified during a single inspection, audit, or investigation.

(b) The commissioner may issue an order assessing a penalty up to a maximum of \$10,000 for all violations of section 221.033, subdivision 2b, identified during a single inspection or audit.

(c) In determining the amount of a penalty, the commissioner shall consider:

(1) the willfulness of the violation;

(2) the gravity of the violation, including damage to humans, animals, air, water, land, or other natural resources of the state;

(3) the history of past violations, including the similarity of the most recent violation and the violation to be penalized, the time elapsed since the last violation, the number of previous violations, and the response of the person to the most recent violation identified;

(4) the economic benefit gained by the person by allowing or committing the violation; and

H.F. No. 2804, as introduced - 86th Legislative Session (2009-2010) [10-4511]

(5) other factors as justice may require, if the commissioner specifically identifies the additional factors in the commissioner's order.

(d) The commissioner shall assess a penalty in accordance with Code of Federal Regulations, title 49, section 383.53, against:

(1) a driver who is convicted of a violation of an out-of-service order;

(2) an employer who knowingly allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order; or

(3) an employer who knowingly allows or requires an employee to operate a commercial motor vehicle in violation of a federal, state, or local law or regulation pertaining to railroad-highway grade crossings.

Sec. 7. Minnesota Statutes 2009 Supplement, section 221.122, subdivision 1, is amended to read:

Subdivision 1. **Registration, insurance, and filing requirements.** (a) An order issued by the commissioner which grants a certificate or permit must contain a service date.

(b) The person to whom the order granting the certificate or permit is issued shall do the following within 45 days from the service date of the order:

(1) register vehicles which will be used to provide transportation under the permit or certificate with the commissioner and pay the vehicle registration fees required by law; and

(2) file and maintain insurance or bond as required by section 221.141 and rules of the commissioner; and

~~(3) file rates and tariffs as required by section 221.161 and rules of the commissioner.~~

Sec. 8. Minnesota Statutes 2008, section 221.221, subdivision 3, is amended to read:

Subd. 3. **Delegated powers.** Representatives of the department to whom authority has been delegated by the commissioner for the purpose of enforcing sections 169.781 to 169.783 ~~and 221.171~~ and the rules, orders, or directives of the commissioner adopted or issued under those sections, and for no other purpose, shall have the powers conferred by law upon police officers. The representatives of the department have the power to inspect records, logs, freight bills, bills of lading, or other documents which may provide evidence to determine compliance with sections 169.781 to 169.783 ~~and 221.171~~.

Sec. 9. Minnesota Statutes 2008, section 221.251, subdivision 1, is amended to read:

Subdivision 1. **Refund within 90 days.** Charges for freight, baggage, or express collected by a motor carrier over what the carrier is entitled to receive ~~under the law~~

H.F. No. 2804, as introduced - 86th Legislative Session (2009-2010) [10-4511]

5.1 ~~tariff or classification~~ must be refunded by the carrier within 90 days after a claim is filed,
5.2 provided that a claim is filed as provided in this section.

5.3 Sec. 10. **REPEALER.**

5.4 (a) Minnesota Statutes 2008, sections 221.161, subdivisions 2 and 3; and 221.291,
5.5 subdivision 5, are repealed.

5.6 (b) Minnesota Statutes 2009 Supplement, sections 221.161, subdivisions 1 and 4;
5.7 and 221.171, are repealed.

5.8 (c) Minnesota Rules, parts 7805.0300; and 7805.0400, are repealed.

221.161 SCHEDULE OF RATES AND CHARGES.

Subdivision 1. **Filing; hearing upon board initiative.** A household goods carrier shall file and maintain with the commissioner a tariff showing rates and charges for transporting household goods. Tariffs must be prepared and filed in accordance with the rules of the commissioner. When tariffs are filed in accordance with the rules and accepted by the commissioner, the filing constitutes notice to the public and interested parties of the contents of the tariffs. The commissioner shall not accept for filing tariffs that are unjust, unreasonable, unjustly discriminatory, unduly preferential or prejudicial, or otherwise in violation of this section or rules adopted under this section. If the tariffs appear to be unjust, unreasonable, unjustly discriminatory, unduly preferential or prejudicial, or otherwise in violation of this section or rules adopted under this section, after notification and investigation by the department, the commissioner may suspend and postpone the effective date of the tariffs and assign the tariffs for hearing upon notice to the household goods carrier filing the proposed tariffs and to other interested parties, including users of the service and competitive carriers by motor vehicle and rail. At the hearing, the burden of proof is on the household goods carrier filing the proposed tariff to sustain the validity of the proposed schedule of rates and charges. The tariffs and subsequent supplements to them or reissues of them must state the effective date, which may not be less than ten days following the date of filing, unless the period of time is reduced by special permission of the commissioner.

Subd. 2. **Hearing upon complaint.** Tariffs, supplements, and reissues must be prepared and filed in accordance with rules of the commissioner. Rates or charges, including pickup charges named therein, are subject to complaint to the commissioner by an interested party. The commissioner, after investigation by the department, by order on not less than ten days' notice, may assign the complaint for hearing, and if at the hearing, the complainant submits facts and evidence sufficient to establish proof that the rates or charges complained of are excessive or noncompensatory, the commissioner may order the rates or charges canceled, and require the filing of alternative and reasonable rates and charges, the reasonable level of which at that time must be indicated by the commissioner in the order.

Subd. 3. **Hearing upon petition by another carrier.** Upon the filing of a tariff or subsequent supplement or reissue, any other carrier has the right to petition the commissioner to suspend it from taking effect until opportunity is had for a hearing on the reasonableness of the rates or charges, and the commissioner may suspend the rates or charges if in its judgment the rates or charges complained of are so unreasonably low as to create destructive competitive practices among or jeopardize the economic position of competing carriers. In determining whether the rates or charges are excessive or noncompensatory, the commissioner shall include in consideration, among other things, the reasonable cost of the services rendered for the transportation, including a reasonable return on the money invested in the business and an adequate sum for maintenance and depreciation of the property used.

Subd. 4. **Hearing on merits of rates and charges.** The commissioner, (1) after a suspension and hearing upon a schedule of rates and charges, or upon complaint, or upon the commissioner's own initiative, either in extension of an existing complaint or without a complaint whatever, (2) after department investigation and petition, (3) upon notice to the permit carrier or tariff agent proposing, maintaining, or charging a schedule of rates and charges on a single group of related commodities, and (4) upon notice to the users of the service and competitive carriers by motor vehicle and rail, may assign for hearing the schedule of rates and charges proposed, maintained, or charged by any or all permit carriers. Upon a finding, after a hearing, that the schedule of rates and charges are unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial or otherwise in violation of this section, the commissioner may prescribe minimum rates and charges and the rates, rules, and practices thereafter to be maintained and applied by the permit carrier or tariff agent. In the hearing the burden of proof is upon the permit carrier or tariff agent whose schedules of rates and charges are under investigation to show that the schedules are not below a minimum reasonable level or are not noncompensatory.

221.171 COMPENSATION OF HOUSEHOLD GOODS CARRIER FIXED.

Subdivision 1. **Compensation fixed by schedule on file.** No household goods carrier shall charge or receive a greater, lesser, or different compensation for the transportation of persons or property or for related service, than the rates and charges named in the carrier's schedule on file and in effect with the commissioner including any rate fixed by the commissioner under section 221.161; nor shall a household goods carrier refund or remit in any manner or by any

APPENDIX

Repealed Minnesota Statutes: 10-4511

device, directly or indirectly, the rates and charges required to be collected by the carrier under the carrier's schedules or under the rates, if any, fixed by the commissioner.

Subd. 2. **Exemptions.** (a) A person engaged in the transportation of household goods for the federal government or an agency of the federal government or the transportation of household goods for the state government or an agency of the state government where competitive bids are required by law is exempt from subdivision 1.

(b) A person engaged in the transportation of household goods at the request of a nonprofit charitable organization that qualifies for tax exemption under section 501(c)(3) of the Internal Revenue Code is exempt from subdivision 1 when the transportation is in furtherance of the organization's charitable purpose. A person engaged in the transportation of household goods for a charitable organization may conduct the transportation statewide.

221.291 VIOLATIONS, MISDEMEANORS.

Subd. 5. **Variation of compensation rate.** A person who knowingly offers, grants, gives, solicits, accepts, or receives a rebate, concession, or discrimination in violation of a provision of this chapter, or who by any means knowingly assists, requires, or permits a person to obtain or provide transportation of persons or property for a greater or lesser or different compensation than that approved by order of the commissioner, or in the case of permit carriers than that filed with the commissioner, is guilty of a misdemeanor and upon conviction shall be fined not less than \$200.