

75 LSO - 608

SENATE FILE 175

SENATE FILE 115

Title: AN ACT to create W.S. 37-139.1 through 37-139.4; and to amend W.S. 37-137, 37-138, 37-139 and 37-141 relating to motor carriers; allowing joint consideration and filing of tariffs; providing for filing, publication and effective dates of tariffs and hearings on rates; granting rulemaking authority to the public service commission; and providing for powers and duties of public service commission in regulating rates and fares of common and contract motor carriers.

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fares of common and contract

Eddie Moore

Sponsored by:

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INTRODUCED

1975

STATE OF WYOMING

75LSO-608.01

SENATE FILE NO. 175

Motor carriers--filing of tariffs, etc.

Sponsored by: Senator MOORE

Eddie Moore

A BILL

for

1 AN ACT to create W.S. 37-139.1 through 37-139.4; and to
2 amend W.S. 37-137, 37-138, 37-139 and 37-141 relating to
3 motor carriers; allowing joint consideration and filing of
4 tariffs; providing for filing, publication and effective
5 dates of tariffs and hearings on rates; granting
6 rulemaking authority to the public service commission; and
7 providing for powers and duties of public service commis-
8 sion in regulating rates and fares of common and contract
9 motor carriers.

10 Be It Enacted by the Legislature of the State of Wyoming:

11 Section 1. W.S. 37-139.1 through 37-139.4 are
12 created to read:

13 37-139.1. Joint consideration of rates and filing
14 and publication of tariffs by a bureau, etc.

15 (a) Motor carriers may enter into or become parties
16 to an agreement providing for:

1 (i) Joint and collective consideration, ini-
2 tiation and proposal of rates and fares, and rules, regu-
3 lations and practices pertaining thereto; and

4 (ii) Joint and collective filing and publi-
5 cation for the carriers of tariffs containing such rates,
6 fares, rules, regulations and practices by a bureau,
7 agent, conference, committee or other organization if the
8 bureau, agent, conference, committee or other organization
9 is approved by the public service commission before it
10 files and publishes tariffs on behalf of the carriers.

11 37-139.2. Filing and publishing of tariffs. Every
12 common motor carrier shall, and a contract motor carrier
13 may, file with the public service commission, publish and
14 keep open to public inspection, in the form and manner
15 prescribed by the commission, tariffs showing all the
16 rates and fares to be charged by it for transportation of
17 persons and property in Wyoming intrastate commerce, and
18 any rules, regulations or practices affecting such rates
19 or fares. Such tariffs shall be filed and published on
20 behalf of carriers by a bureau, agent, conference, commit-
21 tee or other organization which has been approved by the
22 commission. Individual carriers may also file and publish
23 such tariffs on their own behalf, after having received

1 prior approval to do so from the commission.

2 37-139.3. Effective date of tariffs; suspension of
3 tariffs and hearings on rates.

4 (a) Tariffs containing new rates, fares, rules,
5 regulations or practices, or containing changes in rates,
6 fares, rules, regulations or practices in tariffs already
7 on file with the commission, shall be considered approved
8 by the commission and become effective thirty (30) days
9 after the new tariffs or changes are filed with the
10 commission, except:

11 (i) The commission may, for good cause, pro-
12 vide that the new or changed rates, fares, rules, regula-
13 tions or practices may go into effect within a period less
14 than thirty (30) days after filing with the commission;

15 (ii) The commission may, upon receipt of such
16 new or changed rates, fares, rules, regulations or prac-
17 tices, either on complaint or on its own initiative, con-
18 duct a hearing, after giving reasonable notice thereof,
19 concerning the propriety of such rates, fares, rules,
20 regulations or practices. Pending such hearing and the
21 decision thereon the commission may suspend the effective
22 date of the rates, fares, rules, regulations or practices
23 for no more than two (2) months beyond the time when they

1 would otherwise go into effect. After such hearing,
2 whether completed before or after the rate, fare, rule,
3 regulation or practice goes into effect, the commission
4 shall determine and establish the rates, fares, rules,
5 regulations or practices, whether those proposed in whole
6 or in part, or others in lieu thereof, which it shall find
7 just and reasonable, and may order the filing of new
8 tariffs containing such rates, fares, rules, regulations
9 and practices.

10 37-139.4. Commission may adopt rules and regula-
11 tions. The commission may make such rules and regulations
12 as it deems necessary to govern the filing and publishing
13 of tariffs and prescribing of rates and fares and rules,
14 regulations and practices as provided for in this act.

15 Section 2. W.S. 37-137, 37-138, 37-139 and 37-141
16 are amended to read:

17 37-137. Public service commission; common carriers;
18 powers and duties generally.

19 (a) It ~~shall be~~ IS the duty of the commission to
20 supervise and regulate the operations of all common motor
21 carriers so that the safety of the highways may be pre-
22 served and a sound economic transportation structure for
23 the state maintained in such manner as shall most effec-

1 tively accomplish the objectives of the legislative
2 declaration of policy in ~~section 1 of this act~~ W.S.
3 37-132, and to that end, shall ~~fix and~~ require ALL SUCH
4 CARRIERS TO FILE WITH THE COMMISSION AND PUBLISH JUST,
5 REASONABLE AND uniform rates and fares, ~~including the~~
6 ~~minimum and maximum~~ to be charged by all such carriers for
7 various kinds or classes of service, AND JUST AND REASON-
8 ABLE RULES, REGULATIONS AND PRACTICES PERTAINING THERETO.

9 (b) The commission shall also require all such car-
10 riers to furnish and maintain adequate and sanitary trans-
11 portation facilities, and to deposit with it policies of
12 insurance companies authorized to do business in Wyoming,
13 or other adequate security, for such cargo, public liabil-
14 ity and property damage insurance as the commission ~~shall~~
15 ~~determine~~ DETERMINES will fully protect the shipping and
16 general public, and adequate security for the remittance
17 to a snipper within ten (10) days of all moneys collected
18 on a collect-on-delivery shipment before a certificate may
19 be issued. The policy of insurance, bond or proof of
20 other security shall be continuous and remain in full
21 force and effect unless and until cancelled on not less
22 than THIRTY (30) days written notice to the commission,
23 the notice to commence to run from the date it is received
24 at the office of the commission. The cancellation filed

1 with the commission shall, upon its effective date, sus-
2 pend the operating authority of the affected carrier and
3 no operations shall be conducted on any highway of the
4 state until the insurance, bond or other adequate secur-
5 ity, in the form and amount as may be required, shall have
6 become effective and approved by the commission.

7 (c) The commission shall supervise and regulate the
8 accounts of such carriers, shall require them to use and
9 carry in their motor vehicles at all times uniform bills
10 of lading (except for the name of the carrier), showing
11 all property then being transported, to deliver copies
12 thereof to both cosigner and consignee and to retain a
13 copy thereof for the inspection of the ~~state highway~~
14 ~~patrol~~ COMMISSION; shall require them to file ~~such~~ monthly
15 reports of their operations and keep and retain such
16 records for inspection by the ~~board of equalization~~
17 DEPARTMENT OF REVENUE as ~~shall be~~ deemed necessary to
18 properly administer this act.

19 37-138. Same; regulation of contract motor carriers.

20 (a) It ~~shall be~~ IS the duty of the commission to
21 regulate the operations of all contract motor carriers so
22 that the provisions of this act will be carried out and to
23 that end, it shall require such contract motor carriers to

1 provide safe and sanitary transportation facilities and to
2 deposit with it policies of insurance companies authorized
3 to do business in Wyoming or other adequate security for
4 adequate cargo, public liability and property damage
5 insurance for the protection of the public generally. The
6 policy of insurance, bond or proof of other security shall
7 be continuous and remain in full force and effect unless
8 and until cancelled on not less than THIRTY (30) days
9 written notice to the commission, the notice to commence
10 to run from the date it is received at the office of the
11 commission. The cancellation filed with the commission
12 shall, upon its effective date, suspend the operating
13 authority of the affected carrier and no operations shall
14 be conducted on any highway of the state until the insur-
15 ance, bond or other adequate security, in the form and
16 amount as may be required, shall have become effective and
17 approved by the commission. The ~~board of equalization~~
18 DEPARTMENT OF REVENUE shall require contract motor car-
19 riers to keep and retain such record for inspection by it
20 and make such monthly reports as are necessary for tax
21 information of ~~said board~~ THE DEPARTMENT.

22 (b) If the operations of any contract motor carrier
23 are in competition with the kind and class of service
24 rendered by any common motor carrier, the commission shall

1 require such contract motor carrier to charge a rate of
2 fare not less than common motor carriers are required to
3 charge UNDER TARIFFS FILED WITH AND APPROVED BY THE
4 COMMISSION, for the same service on such route. No con-
5 tract motor carrier operating in competition with any
6 common motor carrier shall give or cause any undue or
7 unreasonable advantage or preference to those whom he
8 services, as compared with the patrons of any such common
9 motor carrier or subject the patrons of any such common
10 motor carrier to any undue or unreasonable discrimination
11 or disadvantage, or by unfair competition destroy or
12 impair the service or business of any common motor carrier
13 or the integrity of the state's regulation of any such
14 service or transportation operations.

15 37-139. Deviation from approved rates or fares. It
16 ~~shall be~~ IS unlawful for any common MOTOR carrier to
17 charge a greater or less rate or fare than that ~~as fixed~~
18 CONTAINED IN THE TARIFFS OF SUCH MOTOR CARRIER THEN FILED
19 AND PUBLISHED and approved by the commission IN THE MANNER
20 PRESCRIBED IN THIS ACT, or for any other motor carrier,
21 when rates or fares to be charged by motor carriers have
22 been ~~fixed~~ FILED WITH AND APPROVED by the commission by
23 virtue hereof, to charge, demand, receive or collect any
24 less rate or fare than that ~~as fixed~~ FILED WITH AND

1 APPROVED by the commission or by any device, scheme or
2 subterfuge rebate any part of all of ~~said~~ THE rate.

3 37-141. Alteration of route; hearings. No route
4 fixed by the commission by a certificate or permit shall
5 be changed except by order of the commission after a hear-
6 ing held for that purpose, at which hearing all interested
7 parties have been given notice as required for hearings on
8 applications. ~~; provided, however, in the matter of the~~
9 ~~commission fixing rates or fares, the commission shall~~
10 ~~hold hearings upon receipt of written protest and no rates~~
11 ~~so fixed by the commission shall take effect until twenty~~
12 ~~(20) days after notification of publication. Nothing con-~~
13 ~~tained herein shall preclude the commission from insti-~~
14 ~~tuting any rate hearings on its own motion.~~

15 Section 3. This act is effective ninety (90) days
16 after adjournment of the session of the legislature at
17 which it was enacted.

18 (END)

Wyoming Statutes relating to motor
carrier rates and charges.

37-131. Definitions. Parts (n) (1) and (n) (2). Defines regular and irregular route common motor carriers and provides that contract motor carrier permits shall be issued and that their rates shall in no case be less than those charged by an irregular route common carrier hauling the same commodities or transporting persons in charter and special operations.

37-137. Common Carriers. Commission fix and require uniform rates and fares, including the minimum and maximum to be charged by all such carriers for various kinds or classes of service.

37-138. Contract motor carriers. Commission regulate same and require any contract motor carrier in competition with the kind and class of service rendered by any common motor carrier to charge a rate of fare not less than common motor carriers are required to charge.

37-139. Rates or Fares Set by Commission. "It shall be unlawful for any common carrier to charge a greater or less rate of fare than that as fixed and approved by the Commission, or for any other motor carrier, when rates or fares to be charged by motor carriers have been fixed by the Commission by virtue hereof, to charge, demand, receive or collect any less rate or fare than that as fixed by the Commission or by any device, scheme or subterfuge rebate any part or all of said rate".

37-141. Alteration of Rate or Route. Provides that the PSC hold a hearing upon receipt of written protest and rates so fixed by the Commission shall not take effect until after 20 days after notification of publication. Commission can institute rate hearings on its own motion.

Senate File 175

Adds four (4) new Sections, i.e., 37-139.1 thru 37-139.4.

Comment. It appears no change is necessary in 37-131. A change is proposed in 37-139 covered elsewhere herein.

37-139.1. Would allow motor carriers by agreement to: (1) jointly and collectively consider, initiate and propose rates, fares etc.; and (2) jointly and collectively file and publish tariffs by a bureau, agent, conference, committee or other organization approved by the Commission.

Comment. Would require Commission rules or criteria to govern filing of tariffs and approval of a bureau, agent, etc.

37-139.2. Filing of tariffs. Provides every common motor carrier shall file a tariff. Question. Is it mandatory to an inactive common motor carrier? Question. Can a common carrier perform the service if he does not have a tariff on file? Question. Applicable only to common motor carriers defined in 37-131?

Provides contract motor carriers may file a tariff. Comment. Appears to be permissive in that a contract motor carrier may or may not file a

tariff. Question. What does he use if he doesn't file a tariff? (However, 37-139 proposed provides any carrier other than a common motor carrier cannot charge less than that filed with and approved by the Commission). Question. Does it allow all contract motor carriers to file a tariff, i.e., even those that have permits for other than defined irregular route common motor carrier commodities?

Comment. Would require rules governing filing for contract motor carriers - possibly different than for common motor carriers. Comment. Does allow individuals to file their own tariffs after PSC approval of the individual. Question. Can the individual file different rates or must they be the same as other common motor carriers have on file?

37-139.3, Part (a). Provides that new or changed rates, etc. shall be considered approved by the Commission and they become effective in 30 days except as provided in Parts (i) and (ii) covered below. Question. Can the Commission require justification to be submitted with the new or changed rate, etc.? Comment. No provision on how shippers are informed or noticed of new or changed rates, etc. by the carrier, bureau, agent, etc.

Part (i). Would allow Commission to approve new or changed rates, etc. on less than 30 days filing. (Same question on justification and comment on noticing the public - see above).

Part (ii). Allows Commission to set matter for hearing upon complaint or own motion and provides reasonable notice (by the Commission?). Question. Is notice to be by the Commission or whom, at whose expense and how?

Pending hearing the Commission can suspend for no more than 2 months beyond the filed effective date. Question. Is 2 months sufficient time in which to hold hearing and write order? Comment. Insufficient time to dispose of. Proposed rate might go into effect temporarily until Commission decision is made which might change the rate, etc. It appears 6 months is more reasonable (ICC can suspend for 7 months on interstate rates). Comment. If Commission decision is contrary to that filed the carriers would have to file tariffs in compliance with the Commission's decision which at that time puts the Commission in the position of fixing the rate or rates, etc.

Overall question. Can the Commission reject a filing, suspend and investigate a filing, or investigate only?

37-139.4, Commission adopt rules. Comment. Possibly this section gives Commission all authority needed to promulgate rules necessary to answer the various questions herein and resolve areas of uncertainty.

37-137, Part (a). Change to allow filing of just, reasonable and uniform rates and fares, etc. by common motor carriers. Question. Does uniform mean only one rate or rates with statewide application? Or, can there be different rates filed by various common motor carriers? Comment. Interpretation of the word uniform is necessary (See also filing by individuals since an individual may chose to file a different or lower rate than a group of carriers). Question. Can the right of the individual be denied?

Question. Can the Commission require regular route common motor carriers to maintain through rates and joint routes as published at present in Tariff 1-B? Comment. Through rates and joint routes are essential in regular route general commodity or property certificates. Example: liquor from Cheyenne to Pinedale involving Salt Creek and Milne (presently rated on a through rate from Cheyenne to Pinedale with routing via Salt Creek to Rock Springs and Milne beyond).

Part (c). Allows inspection by the Commission (in lieu of highway patrol).

37-138, Part (b). Requires the Commission to see that a contract motor carrier charges a rate or fare not less than that filed in common motor carrier tariffs.

37-139. Statute applicable to the carriers. It is amended by providing the common motor carriers must charge according to their tariffs on file and that any other motor carrier must not charge, demand, receive or collect any less rate or fare than that filed with and approved by the Commission. Comment. Contract motor carriers couldn't charge less than the common motor carrier rates on file. Question. Same as previous, i.e., can common carriers of the same commodity file different rates?

37-141. Deletes the Commission from (1) fixing rates, (2) holding of hearing upon protest, (3) 20 day's notice and (4) investigation on own motion. Comment. Commission can essentially fix rates when a hearing has been held and on its own initiative conduct a hearing under 37-139.3 (a) (ii).

Section 3. Effective date 90 days after adjournment. Comment. Insufficient time because rules must be promulgated, heard and filed with Secretary of State, etc. Required time no less than 6 months.

General comments. Areas of concern are:

1. Rejection of tariffs. Can they be rejected on a technicality?
2. Justification. Can justification be required when filed and if not justified automatically rejected?
3. Power of Commission - possible alternatives: (a) accept, (b) reject, (c) investigate only, (d) investigate and suspend, and (e) suspend and set for hearing.
4. Notification of tariff filings by carriers and hearing notices.
5. Copies of tariffs to shippers and other interested parties. Will they be available and at what cost?
6. Participation in rate making and hearings by contract motor carriers. Will this be allowed?
7. Is it the intent that the rates be the same statewide for each category of regular route common motor carriers (two) and for each category of irregular route common motor carriers (six) and if so how can they be uniform when individuals, bureaus, agents, etc. file tariffs without the Commission prescribing the level?

Other:

Enforcement. Probably remain about the same, including personnel, except that more time may be involved because of a greater number of tariffs.

Office. No appreciable change unless all contract carriers are allowed to file tariffs. This might require more filing space. Present personnel could probably handle the change.

Tariff receipts. Commission would lose tariff revenues of about \$3,900.00 annually.

Expenses. Tariff printing costs would be eliminated and mailing reduced. Tariff cost to carriers and shippers would increase considerably over the \$3.00 per tariff charged annually by the Commission.

February 5, 1975

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3. Power of Commission - possible alternatives: (a) accept, (b) reject, (c) investigate only, (d) investigate and suspend, and (e) suspend and set for hearing.
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