

1980

c 407 Public Commercial Vehicles Act

Ontario

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CHAPTER 407

Public Commercial Vehicles Act

1. In this Act,

Interpre-
tation

- (a) "Board" means the Ontario Highway Transport Board;
- (b) "commercial cartage zone" means an area designated as a commercial cartage zone by the regulations;
- (c) "commercial motor vehicle" means a commercial motor vehicle as defined in the *Highway Traffic Act*; R.S.O. 1980,
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- (d) "commercial vehicle" means,
- (i) a commercial motor vehicle or a combination of a commercial motor vehicle and trailers as defined in the *Highway Traffic Act*,
 - (ii) a dual-purpose vehicle or a combination of a dual-purpose vehicle and a trailer as defined in the *Highway Traffic Act*,
 - (iii) any other motor vehicle as defined in the *Highway Traffic Act* while drawing a trailer as defined in that Act, the combination of the motor vehicle and trailer constituting the commercial vehicle;
- (e) "compensation" includes any rate, remuneration, reimbursement or reward of any kind paid, payable or promised, or received or demanded, directly or indirectly;
- (f) "dual-purpose vehicle" means a motor vehicle, other than one commonly known as a passenger car, designed by the manufacturer for the transportation of persons and goods;
- (g) "freight forwarder" means any person not the holder of an operating licence who transports or offers

to transport or provides the transportation or offers to provide the transportation of goods on a highway for compensation and who,

- (i) assembles and consolidates or provides for assembling and consolidating shipments of such goods, and performs or provides for distributing operations with respect to such consolidated shipments, and
 - (ii) assumes responsibility for the transportation of such property from point of receipt to point of destination, and
 - (iii) utilizes a commercial motor vehicle or trailer as defined in the *Highway Traffic Act* or a dual-purpose vehicle for the whole or any part of the transportation of such goods beyond an urban zone;
- (h) "goods" includes all classes of materials, wares and merchandise, live stock and milk;
- (i) "highway" means a highway as defined in the *Highway Traffic Act*;
- (j) "licence plate" means the licence plate issued under this Act in conjunction with a vehicle licence;
- (k) "Minister" means the Minister of Transportation and Communications;
- (l) "Ministry" means the Ministry of Transportation and Communications;
- (m) "officer of the Ministry" means an officer of the Ministry designated, in writing, by the Minister to assist in the enforcement of this Act;
- (n) "owner" means a person registered under the *Highway Traffic Act* as the owner of a motor vehicle;
- (o) "operating licence" means a public commercial vehicle operating licence issued under this Act;
- (p) "prescribed" means prescribed by the regulations;
- (q) "public commercial vehicle" means a commercial motor vehicle as defined in the *Highway Traffic Act* or a dual-purpose vehicle or the combination of a commercial motor vehicle and trailer or trailers

drawn by it, operated by the holder of an operating licence;

- (r) "regulations" means the regulations made under this Act;
- (s) "tank truck vehicle" means a commercial motor vehicle, trailer or semi-trailer used for or capable of being used for the transportation of products in bulk and which contains or to which there is attached or upon which there has been placed either permanently or otherwise a closed tank or container having a capacity of 2.3 kilolitres or more;
- (t) "toll" means any fee or rate charged, levied or collected for the transportation of goods or for use of a public commercial vehicle;
- (u) "transportation" with respect to goods means the transportation, carriage, shipment, care, handling, storage or delivery thereof;
- (v) "urban zone" means an area consisting of one urban municipality and lands adjacent thereto and within a distance of five kilometres therefrom, but does not include any part of any other urban municipality;
- (w) "vehicle licence" means a public commercial vehicle licence issued under this Act. R.S.O. 1970, c. 375, s. 1; 1971, c. 50, s. 71 (1); 1972, c. 1, ss. 1, 100 (2); 1979, c. 56, s. 1.

2.—(1) No person shall operate a commercial vehicle on a highway for the transportation for compensation of goods of any other person unless, ^{Operating licence required}

- (a) pursuant to an operating licence;
- (b) the commercial vehicle bears a licence plate issued to the operator; and
- (c) the transportation is carried out in accordance with the terms and conditions of the operating licence and the vehicle licence and the provisions of this Act and the regulations. 1973, c. 166, s. 2, *part*; 1979, c. 56, s. 2 (1).

(2) Subsection (1) does not apply to prohibit the trans- ^{Exceptions} portation of,

- (a) goods within a commercial cartage zone or an urban zone;
- (b) fresh fruit or fresh vegetables grown in continental United States of America;
- (c) farm or forest produce, other than live stock or milk, that are the produce of the farm or forest from which they are being transported;
- (d) ready mixed concrete; or
- (e) domestic and municipal garbage, refuse and trash. 1979, c. 56, s. 2 (2).

Penalty

(3) Every person to whom subsection (1) applies who operates a commercial vehicle on a highway for the transportation for compensation of goods of another person without an operating licence or in contravention of the terms and conditions of his operating licence is guilty of an offence and on conviction is liable,

- (a) for a first offence, to a fine of not less than \$250 and not more than \$5,000; and
- (b) for each subsequent offence, to a fine of not less than \$500 and not more than \$5,000.

Subsequent offences

(4) Where a person who has previously been convicted of an offence mentioned in subsection (3) is convicted of the same or any other offence mentioned in subsection (3) within five years after the date of the previous conviction, the offence for which he is last convicted shall be deemed to be a subsequent offence for the purpose of clause (3) (b). 1979, c. 56, s. 2 (3).

Advertising by unlicensed persons

(5) No person shall solicit by means of advertising, or otherwise undertake to arrange the transportation of goods by means of a vehicle operated on a highway by, for or on behalf of any person who receives compensation, either directly or indirectly, for such transportation, unless the person by, for or on behalf of whom the vehicle is operated is licensed under this Act to perform the transportation that is the object of such advertising or undertaking. R.S.O. 1970, c. 375, s. 2 (4).

Hiring of unlicensed commercial vehicle

3. Where, under the provisions of this Act, a licence is required for the transportation of goods, no person shall hire, directly or indirectly, or participate in an arrangement to hire a person to transport such goods by means of a com-

mercial vehicle knowing that the person hired, by, for or on behalf of whom the commercial vehicle is operated, is not the holder of the required licence. 1979, c. 56, s. 3.

4.—(1) Subject to subsection (2), where a commercial vehicle is used for the transportation on a highway of goods that, Transportation of goods for compensation

- (a) are owned by a person other than the owner or lessee of the vehicle; and
- (b) are being transported pursuant to any arrangement or agreement between the owner or lessee of the vehicle and such other person under which the owner or lessee directly or indirectly receives compensation or consideration of any kind for the use of the vehicle,

the goods shall be deemed for the purposes of this Act to be transported in the vehicle by the owner or lessee of the vehicle, as the case may be, for compensation unless such arrangement or agreement constitutes a valid lease of the vehicle to such other person by the owner or lessee of the vehicle.

(2) An arrangement or agreement shall be deemed not to be a valid lease of a vehicle for the purposes of this Act, Lease of vehicle

- (a) unless it is in writing and sets out fully and accurately all the terms under which the vehicle is leased;
- (b) unless the lessee acquires or exercises exclusive possession and control over the vehicle under the arrangement or agreement;
- (c) where the lessor or his agent or servant engages or pays directly or indirectly the driver of the vehicle;
- (d) where the lessor or his agent or servant in any way exercises any control over the driver in the course of his employment as a driver of the vehicle;
- (e) where the lessor of the vehicle or his agent or servant in any manner whatsoever assumes any responsibility for any goods transported by the vehicle; or
- (f) where the vehicle is the subject of more than one arrangement or agreement for its use during the same period of time.

Where
vehicle
permit
transferred

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(3) An arrangement or agreement referred to in subsection (1) includes an arrangement or agreement that provides or includes a provision for the transfer of the permit issued under the *Highway Traffic Act* for a commercial vehicle to a person owning goods that are transported in the vehicle and for the subsequent retransfer of the permit to the former registered owner.

Production
of
commercial
vehicle
lease

(4) Every driver of a commercial vehicle that is under lease to the owner, consignor or consignee of the goods transported shall carry at all times while transporting the goods on a highway a true copy of the lease and shall produce it when required for inspection by a member of the Ontario Provincial Police Force or an officer of the Ministry. 1973, c. 166, s. 3.

Agents

5.—(1) No person other than a duly authorized agent of a holder of an operating licence shall carry on the business of an agent for the transportation of goods upon the highways. R.S.O. 1970, c. 375, s. 4 (1); 1979, c. 56, s. 4 (1).

Agency
authority

(2) A duly authorized agent of a holder of an operating licence shall be appointed in writing and such appointment shall be signed by the owner and shall at all times be kept posted up and displayed in a conspicuous place on the premises at which the agent conducts the agency business. R.S.O. 1970, c. 375, s. 4 (2); 1979, c. 56, s. 4 (2).

Operating
licence,
issue

6.—(1) The Minister may issue an operating licence in accordance with a certificate of public necessity and convenience issued by the Board under section 7. 1975 (2nd Sess.), c. 7, s. 1.

Rights
under
licence

(2) An operating licence authorizes the licensee to conduct upon a highway by means of a public commercial vehicle the business of transportation of goods in accordance with this Act and the regulations and the terms and conditions of the licence.

Discontinu-
ance of
trans-
portation
service

(3) The holder of an operating licence shall not discontinue any transportation service authorized under his licence until after he has given the Minister ten days written notice of his intention to do so. 1971, c. 50, s. 71 (3), *part*.

Special
authority

(4) Where the Minister is of the opinion that public necessity and convenience will be served thereby, he may grant to the holder of an operating licence a special authority that augments his operating licence to the extent set forth in the special authority, subject to the terms and conditions therein, for a period not exceeding seven days.

(5) The provisions of this Act, except sections 7 and 24, and the regulations, and the terms and conditions of the licensee's operating licence shall continue to apply during the period of validity of the special authority to the extent that they are not inconsistent therewith.

Act, etc.,
continues
to apply

(6) The Minister may delegate to a member or members of the Board his powers under subsection (4).

Delegation
by Minister

(7) Every operating licence issued by the Minister under a predecessor of this section, every certificate issued by the Board under section 6 of *The Public Commercial Vehicles Act* being chapter 375 of the Revised Statutes of Ontario, 1970 and every certificate issued before the 17th day of October, 1955, by the Ontario Municipal Board under this Act that contains a condition that refers to the City of North Bay and prohibits the transportation of goods to or from any points north of North Bay is amended by the deletion of the condition. 1979, c. 56, s. 5.

Condition
deleted

7.—(1) The Minister shall not issue an operating licence to any person unless the Board, upon the application of that person on the form provided therefor by the Ministry, has, after a hearing of the application as required by the *Ontario Highway Transport Board Act*, approved the issue of the licence to him on the ground that public necessity and convenience warrant the issue of the licence and will be served thereby, and has issued a certificate to that effect to the Minister.

Approval
of Board

R.S.O. 1980.
c. 338

(2) Subject to subsections (3), (5) and (8), the Board may, in a certificate issued by it under this section, having regard to the requirements of public necessity and convenience,

Certificate

- (a) prescribe terms and conditions to govern the transportation of goods by public commercial vehicles pursuant to the licence;
- (b) approve the conferring by the licence of special, exclusive or limited rights with respect to the operation of public commercial vehicles and with respect to any highway or highways or portions thereof described in the certificate; and
- (c) prescribe that a licence expire at the end of a specified term, upon a specified day or upon the occurrence of a specified event. 1979, c. 56, s. 6 (1), *part.*

(3) The Board, in a certificate issued by it under this section pertaining to the transportation, other than by a tank truck vehicle, of,

Issue of
certificate
of approval
referring to
region of
operation
and number
of vehicles

(a) sand, gravel, earth, crushed or uncut rock and stone, asphalt mixes, slag and rubble; and

(b) salt, calcium chloride, a mixture of sand and salt, and asphalt mixes directly to highway construction or maintenance sites or to stock piles for further use on highway construction or maintenance sites,

having regard to the requirements of public necessity and convenience,

(c) shall approve the conferring by the licence of rights with respect to the operation of public commercial vehicles in terms of,

(i) a region or regions as prescribed by the regulations hereunder and not otherwise geographically, and

(ii) the maximum number of vehicles which may be operated; and

(d) shall not limit the rights conferred by the licence to the operation of public commercial vehicles for the transportation of materials of specific consignors or consignees. 1975 (2nd Sess.), c. 7, s. 2 (3), *part*.

Meaning
of public
necessity
and
convenience
for purposes
of subs. (1)

(4) Where the application referred to in subsection (1) is for an operating licence for only the transportation of goods through the Province of Ontario, public necessity and convenience shall be deemed to have been established for the purposes of that subsection upon the applicant filing with the Board evidence satisfactory to the Board that the applicant holds appropriate operating licences issued by the provinces where the transportation by the applicant will originate and terminate. 1979, c. 56, s. 6 (2).

Lumber
products

(5) The Board, in a certificate issued by it under this section pertaining to the transportation of logs, timber, rough or dressed lumber, laminated lumber, laminated wood blocks, wooden ties and poles, plywood, particle board, waferboard, fibreboard, veneer, bark, woodchips, shavings, sawdust and wood flour, having regard to the requirements of public necessity and convenience,

(a) shall approve the conferring by the licence of rights with respect to the operation of public commercial vehicles in terms of,

- (i) transportation commencing within a region or regions as prescribed by the regulations and not otherwise geographically, and
- (ii) the maximum number of vehicles which may be operated; and

(b) shall not limit the rights conferred by the licence to the operation of public commercial vehicles for the transportation of materials of specific consignors or consignees. 1979, c. 56, s. 6 (3).

(6) An application for a probationary operating licence or licences may be made to the Board by a person who has not been the holder of an operating licence at any time between the 30th day of September, 1974 and the 1st day of October, 1976, other than a Class F, FS or R operating licence as prescribed in the regulations. 1979, c. 56, s. 6 (4), *part*; 1979, c. 97, s. 1 (1).

Applicants
who operated
between
September 30,
1974 and
October 1,
1976

(7) In support of an application made under subsection (6), the person making the application shall submit to the Board evidence showing,

Evidence in
support of
application

- (a) that, from the 1st day of October, 1974 to the 30th day of September, 1976, the applicant operated on a continuing basis one or more commercial vehicles transporting goods for compensation where the operation was not restricted to urban zones;
- (b) the number of commercial vehicles operated by the applicant;
- (c) a description of goods carried and names of the consignors of the goods;
- (d) the points of origin and destination of the goods described under clause (c);
- (e) that persons named in clause (c) support the application;
- (f) that the applicant is financially capable of continuing to provide such transportation services in accordance with this Act and the regulations and of meeting his financial responsibilities to the persons mentioned in clause (e); and
- (g) that the applicant was on the date of the application carrying on the business of transporting for com-

pensation goods of another person where the operation was not restricted to urban zones.

Issuance of
certificate

(8) The Board, upon hearing an application made under subsection (6) and being satisfied with regard only to the evidence submitted under subsection (7), shall issue a certificate or certificates consistent with such evidence approving the issue of a probationary licence or licences, which certificate or certificates shall state the maximum number of commercial vehicles that may be operated.

Issuance of
licence

(9) Notwithstanding subsection (1) and subject to subsection (12), where the Board has issued a certificate or certificates under subsection (8), the Minister shall issue a probationary licence or licences in accordance with the certificate or certificates containing such terms and conditions as set out in the certificate or certificates. 1979, c. 56, s. 6 (4), *part*.

Time
limit for
application
under subs.
(6)

(10) An application under subsection (6) shall be made not later than 180 days after the 31st day of August, 1979. 1979, c. 56, s. 6 (4), *part*; 1979, c. 97, s. 1 (2).

Applicant
to file
tariff

(11) An applicant under subsection (6) shall file with his application a tariff of tolls showing all the rates and charges for the transportation of goods in respect of which the transportation is proposed to be provided or offered by the applicant.

Requirements
prior to
issue of
licence

(12) Before a licence is issued by the Minister pursuant to a certificate issued by the Board under subsection (8), the applicant shall file with the Ministry, for each motor vehicle that he proposes to operate under the licence, a safety standards certificate issued under the *Highway Traffic Act* not more than thirty days before the date of filing.

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Validity of
probationary
operating
licence

(13) A probationary operating licence issued under subsection (9) expires,

(a) upon the Board revoking its certificate under subsection (14); or

(b) where the Board issues a new certificate under subsection (14),

(i) upon the Minister issuing an operating licence under subsection (1) pursuant to the certificate, or

(ii) upon the expiration of three months after the issuance of the new certificate,

whichever first occurs.

(14) The Board shall, not less than one year after the date of issue of a probationary operating licence issued under subsection (9) and as soon after the expiration of the one year as is convenient to the Board, review the certificate with respect to the licence and shall revoke the certificate or issue a new certificate approving the issue of an operating licence. 1979, c. 56, s. 6 (4), *part*; 1979, c. 97, s. 1 (3).

Review by
Board

8. Where a certificate issued by the Board under section 7 is revoked or amended, the operating licence issued as a result of that certificate shall be revoked or amended accordingly, and the revocation or amendment of the licence shall be effective on the fifth day after the day notice of the revocation or amendment is mailed by registered mail addressed to the licensee at his last known address. 1979, c. 56, s. 7.

Where
certificate
revoked or
amended

9.—(1) No operating licence shall be transferred without the approval of the Minister, in writing, obtained on application on the form provided therefor by the Ministry and payment of the prescribed fee. 1971, c. 50, s. 71 (5), *part*; 1979, c. 56, s. 8 (1).

Transfer of
licence

(2) No probationary operating licence issued pursuant to an application under subsection 7 (6) is transferable. 1979, c. 56, s. 8 (2).

Probationary
licence not
transferable

(3) The Minister shall refer an application for approval of the transfer of an operating licence to the Board, and the Board shall hold a hearing as required by the *Ontario Highway Transport Board Act* and shall report to the Minister whether or not the public necessity and convenience served by the transportation service carried on under the licence will be prejudiced by the transfer of the licence. 1971, c. 50, s. 71 (5), *part*; 1979, c. 56, s. 8 (3).

Reference
to Board

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(4) The Minister, the proposed transferor and transferee and such other persons as the Board may specify are parties to the proceedings under this section.

Parties

(5) The Minister shall consider a report made by the Board to him under this section and may thereafter approve or refuse to approve the transfer and the Minister shall give reasons for his decision to the other parties to the proceedings.

Decision
of Minister

(6) The Minister may require the directors of a corporation that is the holder of an operating licence to report to the Board any issue or transfer of shares of its capital stock and where the Board finds, after a hearing, that the number of shares so issued or transferred affects the *de facto* control of the operations of the corporation such issue or transfer

Issue or
transfer of
shares of
corporation

shall be deemed to constitute a transfer of all operating licences held by such corporation and, unless the transfer is approved, such operating licences shall terminate. 1971, c. 50, s. 71 (5), *part*.

Review of
terms of
licence

10. The Minister may at any time refer an operating licence to the Board with a recommendation that the terms and conditions of the licence be reviewed having regard to the requirements of public necessity and convenience and the Board shall, after a hearing of the reference as required by the *Ontario Highway Transport Board Act*, report thereon to the Minister, and the Minister may confirm, amend or cancel the terms and conditions of the licence and shall give reasons for his decision to the licensee. 1971, c. 50, s. 71 (5), *part*.

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Expiry of
licence

11.—(1) An operating licence for which a day for expiry has not been fixed expires on the 1st day of July in each year or on the expiry of all vehicle licences issued pursuant to the operating licence unless before such date or such expiry, as the case may be, the holder of the operating licence has applied for and acquired one or more vehicle licences for the period immediately following such date or such expiry, as the case may be. 1979, c. 56, s. 9 (1).

Operating
licence
renewed on
acquisition
of vehicle
licences

(2) Where the holder of an operating licence has acquired vehicle licences in accordance with subsection (1), his operating licence is deemed to be renewed for the period for which the vehicle licences are issued. 1971, c. 50, s. 71 (5), *part*.

Where
subss. (1) and
(2) do not
apply

(3) Subsections (1) and (2) do not apply to an operating licence that by its terms expires at the end of a specified term, upon a specified day or upon the occurrence of a specified event. 1979, c. 56, s. 9 (2).

Suspension
or cancel-
lation of
operating
licence

12. Subject to section 23, the Minister may suspend or cancel an operating licence,

- (a) where the licensee fails to begin to provide transportation services in accordance with the licence within thirty days after the issue of the licence, or within such further period as is specified in the licence;
- (b) where the licensee fails for a continuous period of thirty days to provide transportation services in accordance with the licence;
- (c) where the past conduct of the applicant or licensee or, where the applicant or licensee is a corporation, of its officers or directors affords reasonable grounds for belief that the transportation service will not be

operated in accordance with the law and with honesty and integrity;

(d) where the licensee is financially incapable of providing or continuing to provide transportation services in accordance with this Act and the regulations or the terms and conditions of the licence or of meeting his financial responsibilities to persons using such services;

(e) where the licensee or any person under his control and direction contravenes this Act or the *Highway Traffic Act* or the regulations hereunder or thereunder or the terms and conditions of the licence and such contravention affords reasonable grounds for believing that the transportation services required by the licence will not be carried on in accordance with the requirements of such Acts or regulations or such terms and conditions; or

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(f) where the licence was issued under subsection 7 (1), as a result of the application of subsection 7 (4), and the licensee ceases to hold any appropriate operating licence referred to in subsection 7 (4). 1971, c. 50, s. 71, (5), *part*; 1979, c. 56, s. 10.

13.—(1) A commercial cartage zone may be designated by the Minister from time to time in accordance with the recommendations of the Board.

Designation
of
commercial
cartage zones

(2) Where the Minister proposes to designate a commercial cartage zone or to vary the boundaries of a commercial cartage zone, he shall refer the proposal to the Board and the Board shall hold a public hearing and report thereon to the Minister with its recommendations.

Referral
to Board

(3) The Minister may, following receipt of the report and recommendations of the Board under subsection (2), require the Board to hold a new public hearing of the whole or any part of the proposal and to report thereon to the Minister with its recommendations.

Idem

(4) A commercial cartage zone shall not exceed one regional municipality, county or district.

Limitation

(5) In determining whether to recommend the designation of a commercial cartage zone, the Board shall consider whether public necessity and convenience will be served thereby by taking into account the impact on the users of for hire

Matters
for Board
to consider

transportation services within the area under consideration and on the providers of such services and, in considering the impact on the providers of such services, the Board will take into account the impact on those operating exclusively within areas of the proposed zone to which this Act does not apply and those holding operating licences under this Act who would be affected thereby. 1979, c. 56, s. 11.

Issue of
vehicle
licence

14.—(1) Subject to section 17, the holder of an operating licence is entitled, upon application to the Minister on the form provided therefor by the Ministry and payment of the prescribed fee, to be issued vehicle licences by the Minister. 1979, c. 56, s. 12 (1).

Limit
on vehicle
licences

(2) Notwithstanding subsection (1), the holder of an operating licence is not entitled to be issued or to hold more vehicle licences than he has commercial vehicles registered in his name or leased in accordance with this Act and the regulations. 1979, c. 56, s. 12 (2).

Vehicle
licence

15.—(1) A vehicle licence authorizes the holder to operate a vehicle on which a licence plate is displayed as a public commercial vehicle providing the transportation designated in his operating licence.

Expiry of
licence

(2) A vehicle licence expires at the end of the last day of the period for which the licence was issued.

Display of
licence
plate

(3) Subject to subsection (4), a licence plate shall not be displayed on a commercial motor vehicle unless the vehicle licence was issued for that vehicle.

Where
subs. (3) does
not apply

(4) Subsection (3) does not apply if,

- (a) the holder of the vehicle licence is within a class of licensees prescribed for the purposes of this subsection;
- (b) the commercial motor vehicle is within a class of motor vehicles prescribed for the purposes of this subsection; or
- (c) the operating licence under the authority of which the vehicle licence was issued is within a class prescribed for the purposes of this subsection.

Regulations

(5) For the purposes of subsection (4), the Lieutenant Governor in Council may make regulations prescribing,

- (a) classes of holders of operating licences;

(b) classes of commercial motor vehicles;

(c) classes of operating licences. 1979, c. 56, s. 13.

16.—(1) The Minister may in a vehicle licence fix the tonnage that may be carried in the vehicle under the licence and no vehicle shall at any time carry more tonnage than is fixed by the licence. 1971, c. 50, s. 71 (6), *part*.

(2) No person shall operate a public commercial vehicle on a highway unless there is attached thereto, and exposed in a conspicuous position, a licence plate issued by the Minister to the operator of that vehicle showing the number of the vehicle licence issued for the current year.

(3) Where a licence plate is exposed on a commercial vehicle, the holder of the operating licence under the authority of which that licence plate and corresponding vehicle licence was issued shall be deemed to be the operator of that vehicle for the purposes of this Act unless the licence plate was exposed thereon without his consent, the burden of proof of which shall be on the licensee.

(4) No holder of an operating licence shall operate a public commercial vehicle unless he is the registered owner of the vehicle under the *Highway Traffic Act* or he has entered into an agreement for a lease of the vehicle in accordance with this Act and the regulations. 1979, c. 56, s. 14.

17. Subject to section 23, the Minister may refuse to issue or may cancel a vehicle licence if the applicant or licensee is not, or ceases to be, the holder of an operating licence or ceases to comply with subsection 14 (2). 1979, c. 56, s. 15.

18.—(1) No person shall carry on business as a freight forwarder unless he is the holder of a freight forwarder's licence under this Act.

(2) No holder of a freight forwarder's licence shall transport goods upon a highway beyond an urban zone except in a vehicle operated by the holder of an operating licence issued pursuant to this Act, the terms of which operating licence authorize the holder to perform the transportation.

(3) No freight forwarder's licence shall be issued to the holder of an operating licence. 1971, c. 50, s. 71 (6), *part*.

19.—(1) The Minister, upon receipt of,

Tonnage

Licence plate

Holder of operating licence deemed to be operator

Ownership of vehicle

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Refusal to issue or cancellation of vehicle licence

Freight forwarder's licence required

Restrictions on transportation of goods beyond urban zone

Issue to holder of operating licence prohibited

Issuance of freight forwarder's licence

(a) a certificate of public necessity and convenience issued by the Board pursuant to section 20; and

(b) payment of the prescribed fee,

shall issue a freight forwarder's licence in accordance with the certificate issued by the Board.

Renewal

(2) Subject to subsection (3), a freight forwarder's licence may be renewed by the Minister upon application by the holder of the licence.

Transitional

(3) A freight forwarder's licence that is in force immediately before the 31st day of January, 1974 shall not be renewed until the Board upon the application of the licensee has, after a hearing of the application, approved the renewal of the licence on the ground that public necessity and convenience warrant the renewal of the licence and will be served thereby and has issued a certificate to that effect to the Minister, and the Board, having regard to the requirements of public necessity and convenience, may prescribe in the certificate terms and conditions to govern the freight forwarding business of the applicant. 1973, c. 166, s. 6.

Approval of Board

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c. 338

20. The Minister shall not issue a freight forwarder's licence to any person unless the Board, upon the application of that person on the form provided therefor by the Ministry, has, after a hearing of the application in accordance with the *Ontario Highway Transport Board Act*, approved the issuance of the licence to him on the ground that public necessity and convenience warrant the issuance of the licence and will be served thereby and has issued a certificate to that effect to the Minister, and the Board, having regard to the requirements of public necessity and convenience, may prescribe in the certificate terms and conditions to govern the freight forwarding business. 1973, c. 166, s. 7; 1979, c. 56, s. 16.

Expiry of licence

21. A freight forwarder's licence expires on the 31st day of December in the year in which it was issued. 1971, c. 50, s. 71 (6), *part*.

Suspension and cancellation of licence

22. Subject to section 23, the Minister may suspend or cancel a freight forwarder's licence,

(a) where the licensee fails to maintain in force a policy of insurance or bond that meets the requirements of this Act or the regulations; or

(b) where the licensee or any person under his control and direction contravenes this Act or the regulations or the terms and conditions of the licence

and such contravention or failure affords reasonable grounds for believing that the business of a freight forwarder will not be carried on in accordance with the requirements of this Act and the regulations and the terms and conditions of the licence. 1971, c. 50, s. 71 (6), *part*; 1973, c. 166, s. 8.

23.—(1) Where the Minister proposes,

Notice of
proposal to
cancel, etc.,
hearing

- (a) to suspend or cancel an operating licence under section 12;
- (b) to refuse to issue or to cancel a vehicle licence under section 17; or
- (c) to suspend or cancel a freight forwarder's licence under section 22,

he shall cause notice of his proposal together with written reasons therefor to be served on the applicant or licensee informing him that he has a right to a hearing by the Board if he mails or delivers, within fifteen days after service on him of the notice from the Minister, notice in writing requiring a hearing to the Minister and the Board, and the applicant or licensee may so require such a hearing. 1971, c. 50, s. 71 (6), *part*; 1973, c. 166, s. 9.

(2) Where an applicant or licensee,

Where
hearing
required
or not
required

- (a) does not give notice in accordance with subsection (1) requiring a hearing by the Board, the Minister may forthwith refuse to issue or may suspend or cancel the licence; or
- (b) gives notice in accordance with subsection (1) requiring a hearing by the Board, the Minister shall refer the matter to the Board for a hearing.

(3) The Minister may cause a notice under subsection (1) to be served personally or by registered mail addressed to the applicant or licensee at his address last known to the Minister and, where notice is served by registered mail, the notice shall be deemed to have been served on the third day after the day of mailing unless the person on whom notice is being served establishes to the Board that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

Service
of notice

(4) The Board, on application of an applicant or licensee, may extend the time for giving notice requiring a hearing

Extension of
time for
giving
notice by
applicant

under subsection (1), either before or after expiration of the time fixed therein, where the Board is satisfied that there are *prima facie* grounds for granting relief to the applicant or licensee pursuant to a hearing and that there are reasonable grounds for applying for the extension, and may give such directions as the Board considers proper consequent upon the extension.

Parties
to hearing

(5) The Minister, the applicant or licensee and such other persons as the Board may specify are parties to a hearing under this section.

Notice of
hearing

(6) Notice of a hearing under this section shall afford to the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of his licence.

Examination
of docu-
mentary
evidence

(7) The Minister shall afford to the applicant or licensee, or his representative, an opportunity to examine before the hearing any written or documentary evidence that will be introduced or any report the contents of which will be given in evidence at the hearing.

Report to
Minister

(8) The Board shall, after a hearing under this section, make a report to the Minister, which shall set out its findings of fact and conclusions of law and its recommendations as to the issue, suspension or cancellation of the licence to which it relates.

Decision of
Minister

(9) After considering a report of the Board under this section, the Minister may carry out the proposal or refrain from carrying out the proposal to which it relates and shall give reasons for his decision to the applicant or licensee. 1971, c. 50, s. 71 (6), *part*.

Tariff of
tolls to
be filed
with Board

24.—(1) Except as provided in the regulations, each holder of an operating licence or of a freight forwarder's licence shall, on payment of the prescribed fee, file with the Board a tariff of tolls showing all the rates or charges for the transportation of goods to and from points in respect of which the transportation is provided or offered by the licensee or by arrangement with any other licensee or any other carrier.

Charging
of tolls

(2) No holder of an operating licence or freight forwarder's licence shall charge a toll that is not contained in, and in accordance with, the tariff filed by him under subsection (1). 1971, c. 50, s. 71 (6), *part*.

25. A tariff of tolls shall be filed in a form satisfactory to the Board and published and maintained available to the public. 1979, c. 56, s. 17. Form and publication of tariff

26.—(1) A licensee who has filed a tariff of tolls with the Board may file with the Board an amendment to the tariff but, subject to subsection (2), such amendment shall not become effective until the expiry of thirty days from the date the amendment was filed. Amendment to tariff

(2) The Board, upon the application of a licensee who has filed an amendment to his tariff of tolls under this section, may fix the effective date of the amendment on a specified date prior to the expiry of thirty days from the date the amendment was filed. 1971, c. 50, s. 71 (6), *part*. Effective date

27.—(1) Except as provided in the regulations, every holder of an operating licence or of a freight forwarder's licence shall issue a bill of lading to the person delivering or releasing goods to the licensee for transportation for compensation. 1971, c. 50, s. 71 (6), *part*. Bill of lading, issue of

(2) A bill of lading shall contain such information as may be prescribed by regulation together with an acknowledgment of receipt by the carrier or the freight forwarder of the goods therein described indicating whether the goods were received in apparent good order and condition and an undertaking to carry the goods for delivery to the consignee or the person entitled to receive the goods and shall be signed in full by, or on behalf of, the issuing carrier or issuing freight forwarder and by the consignor as accepting the terms and conditions contained, or deemed to be contained, therein. Contents

(3) A signed copy of the bill of lading shall be retained by the consignor and by the carrier. Signed copy to be retained

(4) Every driver operating a public commercial vehicle shall carry on each trip a copy of the bill of lading and shall produce it when required for inspection by a member of the Ontario Provincial Police Force or an officer of the Ministry. Copy of bill of lading to be carried by driver

(5) Where a carrier is transporting goods on behalf of a freight forwarder, the driver transporting the goods by public commercial vehicle shall carry on each trip a copy of the bill of lading issued by the freight forwarder and shall produce it when required for inspection by a member of the Ontario Provincial Police Force or an officer of the Ministry. Idem

(6) Notwithstanding subsections (4) and (5), a carrier's waybill, containing such information as may be prescribed by Carrier's waybill carried in lieu of bill of lading

regulation, may be carried by any driver operating a public commercial vehicle or transporting goods on behalf of a freight forwarder and may be produced in lieu of a bill of lading when such is required for inspection by a member of the Ontario Provincial Police Force or an officer of the Ministry.

Carrier's
responsibility

(7) Where any shipment of goods is carried on more than one vehicle, the carrier shall ensure that every part of the shipment is accompanied by a copy of the bill of lading or by a waybill mentioned in subsection (6). 1979, c. 56, s. 19.

Insurance

28. Every person licensed under this Act shall provide or effect and carry such insurance or bond as is prescribed by the regulations. R.S.O. 1970, c. 375, s. 13.

Certificate
of insurance

29.—(1) Every insurer who has issued a policy of insurance in accordance with section 28 shall issue a certificate thereof which shall be filed with the Minister.

Effect of
certificate

(2) Such certificate shall be deemed to be a conclusive admission by the insurer that the policy has been issued and is in accordance with the terms of the certificate.

Notice of
cancellation
or expiry of
insurance

(3) Every insurer shall notify the Minister in writing of the cancellation or expiry of any policy for which a certificate has been issued, at least thirty days before the effective date of the cancellation or expiry, and in the absence of such notice of cancellation or expiry the policy remains in full force and effect. R.S.O. 1970, c. 375, s. 14.

Cancellation
of expiry
of bond

30. A bond issued in accordance with section 28 shall not be cancelled or expire except after thirty days written notice to the Minister, but not after the happening of an injury or damage secured by the bond as to such accident, injury or damage, and the bond shall be filed with the Minister. R.S.O. 1970, c. 375, s. 15.

Vehicle
licence, etc.,
to be
carried by
driver

31. Every driver of a public commercial vehicle on a highway shall carry or keep in a readily accessible place in the vehicle, the vehicle licence corresponding to the licence plate exposed on the vehicle together with a copy of the conditions set out in the operating licence under which the vehicle is being operated, which documents shall be produced upon the demand of a member of the Ontario Provincial Police Force or an officer of the Ministry. 1979, c. 56, s. 20.

Stopping
of vehicle for
examination

32.—(1) A member of the Ontario Provincial Police Force or an officer of the Ministry may, for the purpose of an examination in accordance with subsection (2), direct, by

signals or otherwise, the driver of any commercial vehicle that is being driven on a highway to stop, and the driver upon being so directed shall stop the vehicle.

(2) A member of the Ontario Provincial Police Force or an officer of the Ministry may at any time examine any commercial vehicle, its contents and equipment for the purpose of ascertaining whether this Act and the regulations are being complied with in the operation of the vehicle, and the driver or other person in control of the vehicle shall assist in the examination of it, its contents and equipment. 1973, c. 166, s. 10, *part*.

Examination
of vehicle,
etc.

(3) Where a commercial vehicle examined under this section contains goods that are being transported, the person conducting the examination may, in addition to any documents required to be produced under the *Highway Traffic Act*, require the driver or other person in charge of the vehicle to produce all documents in his possession or in the vehicle relating to the operation of the vehicle and the transportation and ownership of the goods, including, if any,

Production of
documents

R.S.O. 1980,
c. 198

- (a) the vehicle licence;
- (b) a copy of the conditions of the operating licence under which the vehicle is operated;
- (c) a copy of any lease under which it is being operated;
and
- (d) copies of any bills of lading or waybills,

and to furnish any information that he has relating to the details of the trip on which the goods are being transported and the ownership of the goods. 1973, c. 166, s. 10, *part*; 1979, c. 56, s. 21.

33.—(1) An officer of the Ministry may at any reasonable time examine all books, records and documents of the holder of an operating licence relating to the business of operating public commercial vehicles or of the holder of a freight forwarder's licence relating to his business as a freight forwarder for the purpose of ensuring that the provisions of this Act and the regulations are being complied with and such officer may, for the purposes of such examination, upon producing his designation as an officer, enter at any reasonable time the business premises of the holder. 1971, c. 50, s. 71 (7), *part*; 1972, c. 1, s. 1; 1979, c. 56, s. 22.

Examination
of records,
etc., of
holder of
operating
licence, etc.

Appointment
of
investigators

(2) In addition to any other action taken under this Act, where the Minister believes on reasonable and probable grounds that any person has contravened any of the provisions of this Act or the regulations, the Minister may appoint one or more persons to make an investigation to ascertain whether such a contravention has occurred and the person appointed shall report the result of his investigation to the Minister.

Examination
of records,
etc.

(3) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may,

- (a) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents and things relevant to the subject-matter of the investigation; and
- (b) inquire into negotiations and transactions made by or on behalf of or in relation to such person relating to the transportation of goods or the use of commercial vehicles or that are otherwise relevant to the subject-matter of the investigation,

and for the purpose of the inquiry, the person making the investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

R.S.O. 1980,
c. 411

Idem

(4) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.

Issuance
of order

(5) Where a justice of the peace is satisfied, upon an *ex parte* application by the person making an investigation under this section,

- (a) that the investigation has been ordered and that such person has been appointed to make it; and
- (b) that there are reasonable grounds for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation,

the justice of the peace may, whether or not an inspection has been made or attempted under clause (3) (a), issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the justice of the peace, by the order, authorizes the person making the investigation to make the search at night.

(6) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause (3) (a) or under subsection (5) relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents shall be promptly thereafter returned to the person whose affairs are being investigated. Removal of documents

(7) Any copy made as provided in subsection (6) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents. Copies

(8) The Minister may appoint any expert to assist in examining books, papers, documents or things examined under clause (3) (a) or under subsection (5). 1973, c. 166, s. 11. Appointment of examiners

34. Each person employed in the administration of this Act, including any person making an examination under section 33, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties or employment or on an examination under section 33 and shall not communicate any such matters to any other person except, Matters confidential

- (a) as may be required in connection with the administration of this Act and the regulations or any proceeding under this Act or the regulations; or
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates. 1971, c. 50, s. 71 (7), *part.*

35. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction, where a penalty for the contravention is not otherwise provided Penalty

for herein, is liable to a fine of not less than \$150 and not more than \$1,500. 1979, c. 56, s. 23.

Consent to
prosecutions

36. No prosecution shall be instituted under this Act without the consent of a member of the Ontario Provincial Police Force or of an officer of the Ministry designated by the Minister to assist in the enforcement of this Act. R.S.O. 1970, c. 375, s. 17; 1972, c. 1, s. 1.

Regulations

37.—(1) The Lieutenant Governor in Council may make regulations,

1. prescribing classes of licences and the forms of licences;
2. prescribing fees and the basis for computing fees, and respecting payment thereof;
3. exempting any person or the holder of any class or type of operating licence from the payment of fees respecting the transfer of an operating licence;
4. prescribing terms and conditions to which licences shall be subject;
5. requiring any person to whom an operating licence is issued to produce a safety standards certificate respecting any or all vehicles operated under such licence, and prescribing the form and content of a safety standards certificate;
6. fixing the form, amount, nature, class, terms and conditions of insurance or bond that shall be provided and carried by persons or classes of persons licensed under this Act;
7. prescribing the terms and conditions of cancellation, expiry, renewal, extension and notice of cancellation respecting such insurance or bonds;
8. governing the filing of bonds and certificates of insurance;
9. respecting the publication, filing and posting of tariffs of tolls, and the payment of tolls;
10. prescribing the form and contents of a waybill;
11. prescribing, regulating and limiting the hours of labour of drivers of public commercial vehicles;

12. prescribing the qualifications of drivers of public commercial vehicles;
13. prescribing equipment to be carried by public commercial vehicles and the condition and location in which the equipment shall be kept;
14. prescribing the method of bookkeeping or accounting to be used and the returns or statements to be filed by persons licensed under this Act;
15. prescribing the method of handling cash on delivery shipments and the collection and remittance of cash on delivery funds;
16. prescribing the form and contents of, and information to be contained in, bills of lading issued by holders of licences issued under this Act and exempting any class of holder from any or all of the prescribed requirements;
17. prescribing the information to be marked on articles covered by a bill of lading issued by holders of licences issued under this Act and exempting any class of holder from any prescribed provision;
18. prescribing conditions deemed to be a part of every contract for the transportation of goods for compensation to which this Act applies;
19. providing for the delegation to an officer of the Ministry of such of the powers and duties of the Minister as may be considered necessary;
20. providing for the temporary exemption from any of the provisions of this Act or the regulations of such public commercial vehicles carrying goods into, out of, or through Ontario or such persons operating such vehicles as he may designate upon such terms, limitations and conditions as he may prescribe;
21. prescribing regions within the boundaries of which goods may be transported by public commercial vehicles pursuant to an operating licence;
22. governing the issue and renewal of operating licences and classes of operating licences;
23. prescribing the qualifications of applicants for and holders of operating licences or any class or classes of operating licences;

24. exempting holders of any class or classes of operating licences from any of the provisions of section 24 or 27;
25. prescribing terms which shall be incorporated into all leases referred to in subsection 16 (4);
26. prescribing procedures for the filing and obtaining of approval of leases for the purposes of subsection 16 (4);
27. prescribing regions in which the transportation of goods may be commenced by public commercial vehicles pursuant to an operating licence;
28. respecting any matter or thing that is required or permitted to be regulated or prescribed under this Act. R.S.O. 1970, c. 375, s. 18; 1971, c. 50, s. 71 (9-11); 1972, c. 1, s. 1; 1973, c. 166, s. 13; 1975 (2nd Sess.), c. 7, s. 3; 1979, c. 56, s. 24; 1979, c. 97, s. 2 (1, 2).

Regulations
may be
limited
in scope

(2) Any regulation made under subsection (1) may be limited to any class of licence holder or carrier or to any class of licence holder or carrier while transporting a specified commodity. 1979, c. 97, s. 2 (3).

Policy
statements

38.—(1) The Lieutenant Governor in Council may by order from time to time issue policy statements setting out matters to be considered by the Board when determining questions of public necessity and convenience and the Board shall take such matters into consideration together with such other matters as the Board considers appropriate where the hearing or review is commenced after the policy statement is gazetted.

Publication

(2) An order made under subsection (1) shall be published in *The Ontario Gazette*. 1979, c. 56, s. 25, *part*.

Investigation
directed by
Minister

39.—(1) The Minister may direct the Board to examine and investigate such matters relating to transportation policy as are referred to it by the Minister and the Board shall report thereon to the Minister.

Hearings
by Board

(2) For the purposes of subsection (1), the Board may hold such hearings as it considers necessary. 1979, c. 56, s. 25, *part*.