CHAPTER 166

An Act to amend
The Public Commercial Vehicles Act

Assented to December 17th, 1973
Session Prorogued March 5th, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 1 of The Public Commercial Vehicles Act, being a 1 amended chapter 375 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1971, chapter 50, section 71, is further amended by adding thereto the following clause:

(ab) "commercial vehicle” means a commercial motor vehicle as defined in The Highway Traffic Act R.S.O. 1870, c. 292, and includes a trailer as defined in that Act and a dual purpose vehicle.

(2) Clause k of the said section 1 is repealed and the following substituted therefor:

(k) "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, for which a vehicle licence has been issued under this Act.

2. Subsections 1 and 2 of section 2 of the said Act are repealed and the following substituted therefor:

(1) No person shall operate a commercial vehicle on a highway for the transportation for compensation of goods required of any other person unless,

(a) pursuant to an operating licence;

(b) a vehicle licence has been issued in respect of the commercial vehicle; 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.

Exceptions

(2) Subsection 1 does not apply to,

(a) the transportation of goods within an urban zone; or

(b) the transportation by a commercial vehicle from a farm or forest of goods other than live stock or milk that are the products of such farm or forest.

s. 3. re-enacted

3. Section 3 of the said Act is repealed and the following substituted therefor:

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

(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,

(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.

(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.

(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.

4. Section 11 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed.

5.—(1) Subsection 1 of section 12 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is amended by striking out "public" in the fifth line.

(2) Subsection 2 of the said section 12 is amended by striking out "public" in the first line and in the eighth line.

6. Section 12e of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor:

12e.—(1) The Minister, upon receipt of,

(a) a certificate of public necessity and convenience issued by the Board pursuant to section 12f; and

(b) payment of the prescribed fee,

shall issue a freight forwarder’s licence in accordance with the certificate issued by the Board.
(2) Subject to subsection 3, a freight forwarder’s licence may be renewed by the Minister upon application by the holder of the licence.

(3) A freight forwarder’s licence that is in force immediately before the coming into force of this section 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.

7. Section 12f of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor:

12f. The Minister shall not issue a freight forwarder’s licence to any person unless the Board, upon the application of that person in the prescribed form, 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.

8. Clause a of section 12h of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is amended by striking out “clause b of subsection 1 of section 12e” in the third and fourth lines and inserting in lieu thereof “this Act or the regulations”.

9. Clause c of subsection 1 of section 12f of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is amended by striking out “to refuse to issue a freight forwarder’s licence under section 12e or” in the first and second lines.

10. Section 15b of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is repealed and the following substituted therefor:

15b.—(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.

(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,

(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 memoranda thereof,

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.

11. Section 15c of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is amended by adding thereto the following subsections:

(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, 1971, which Part applies to such inquiry as if it were an inquiry under that Act.

(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.

(5) Where a provincial judge 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 provincial judge may, whether or not an inspection has been made or attempted under clause a of subsection 3, 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 sun-
rise and sunset unless the provincial judge, 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 a of subsection 3 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.

(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.

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

12. Section 16 of the said Act is amended by striking out "$200", s. 16, amended, in the fourth line and inserting in lieu thereof "$1,000".

13. Clause f of section 18 of the said Act is amended by inserting after "persons" in the third line "or classes of persons".


15. This Act may be cited as The Public Commercial Vehicles Short title Amendment Act, 1973.