

CHAPTER 21

(SB 23)

AN ACT relating to the transportation of household goods.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 281.624 is amended to read as follows:

- (1) The term "household goods certificate" means a certificate granting authority to operate as an irregular route common carrier transporting personal effects and property used or to be used in a dwelling, when a part of the equipment or supply of the dwelling, and similar property if the transportation of the effects or property is:
 - (a) Arranged and paid for by the householder, including transportation of property from a factory or store when the property is purchased by the householder with intent to use in his or her dwelling; or
 - (b) Arranged and paid for by another party.
- (2) *A household goods certificate shall be issued to any qualified applicant, authorizing operation covered by the application, if the applicant conforms to the provisions of this chapter and the requirements of the administrative regulations promulgated pursuant to this chapter.*
- (3) The department, in granting a motor carrier authority under KRS 281.630(1), shall have the right to designate the situs of the motor carrier's office and terminal facilities from which the carrier may operate. A designation shall not deny the motor carrier the use of its offices and terminal facilities in existence at the time of the grant of the authority. Any subsequent change of situs or additional situs shall only be granted after application by the motor carrier to the department in the same manner as other applications made under *this section* ~~{KRS 281.625}~~.
- (4) *The Transportation Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A to establish requirements and to set forth standards for household goods carriers, including but not limited to the:*
 - (a) *Determination of weights;*
 - (b) *Establishment of rates for accessorial services;*
 - (c) *Types of discounts prohibited;*
 - (d) *Prohibition against a carrier acting as an agent for another carrier;*
 - (e) *Insurance provisions;*
 - (f) *Information required on a receipt or bill of lading;*
 - (g) *Information required on a freight bill;*
 - (h) *Liability of carriers;*
 - (i) *Estimation of charges;*
 - (j) *Absorption or advancement of dock charges;*
 - (k) *Information for prospective shippers;*
 - (l) *Minimum weight shipments; and*
 - (m) *Filing of tariffs.*

➔Section 2. KRS 281.625 is amended to read as follows:

- (1) (a) *Except for applications involving a household goods certificate*, upon the filing of an application for a certificate or permit or for amendment or for sale, transfer, or lease, or for change in route, or for abandonment of a certificate or permit, the department shall, within a reasonable time, fix the time and place for a hearing.
- (b) A person who intends to file an application under paragraph (a) of this subsection shall publish notice of the application in accordance with KRS 281.6251.

- (2) ***Except as provided in subsection (8) of this section***, if a protest is filed, the department shall hold an administrative hearing on the application. The department, in its discretion, may hold a hearing if no protest is filed. Hearings conducted under this section shall be conducted in accordance with KRS Chapter 13B. Any person having interest in the subject matter may, in accordance with the regulations prescribed therefor, file a protest to the granting, in whole or in part, of the application.
- (3) If the application is for a nonprofit bus certificate and no protest is filed, the department may grant the certificate without a hearing, provided the provisions of subsection (3) of KRS 281.630 or KRS 281.801 are met.
- (4) The department may, if the application is solely for rights previously granted by the Interstate Commerce Commission, dispense with the holding of a hearing.
- (5) Persons engaged in the transportation in interstate commerce in Kentucky of any commodity exempted by the Interstate Commerce Commission from regulation shall be subject to the same Kentucky requirements and regulations as if the persons were transporting commodities not exempted by the Interstate Commerce Commission, except that in lieu of filing or registering with the department a certificate of public convenience and necessity as issued by the Interstate Commerce Commission, the persons shall apply to the department for a permit or certificate restricted to interstate commerce and the permit or certificate may be issued without a hearing.
- (6) If an applicant has been granted an irregular route common carrier certificate by the Interstate Commerce Commission, the department may grant an irregular route common carrier certificate restricted to operation in interstate commerce, and on the granting of same, it shall notify the Department of Revenue of the applicant's operation.
- (7) The department may grant a permit, upon application, to operate a U-drive-it without the holding of a hearing.
- (8) ***The provisions of subsection (2) of this section shall not apply to an applicant for a household goods certificate. The department shall grant a household goods certificate to an applicant who meets the requirements of Section 1 of this Act.***

➔Section 3. KRS 281.630 is amended to read as follows:

- (1) A certificate of public convenience and necessity for the transportation of persons~~[or household goods]~~ shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operation covered by the application, if it is found that the applicant is fit, willing, and able properly to perform the service proposed and to conform to the provisions of this chapter and the requirements and the administrative regulations of the department promulgated thereunder, and further that the existing transportation service is inadequate, and that the proposed service, to the extent to be authorized by the certificate, is or will be required by the present or future public convenience and necessity, and that the proposed operation, to the extent authorized by the certificate, will be consistent with the public interest and the transportation policy declared in this chapter; otherwise the application shall be denied, provided, however, that nothing in this section shall be construed so as to require the department to give, to any existing carrier authorized to render service to, from or between any point on the route proposed to be served by the applicant, any notice regarding the quality or quantity of its service to, from or between these points or to require the department to give to an existing carrier any opportunity to improve its existing service or to render the service found to be needed before the issuance of a certificate to the applicant.
- (2) In granting a certificate of public convenience and necessity, the order, among other things, shall specify the route or routes of service and territory to be served, if applicable, provided that where the certificate to be granted specifies a route or routes or portion of a route or routes common to a certificate or certificates authorizing the same type of operation held by the applicant, all the certificates shall constitute but a single operating authority over that portion of the route or routes common to the certificates. The order granting a certificate shall not limit the number of vehicles to be operated by the motor carrier except that, in the granting of a certificate for the operation of taxicabs, the order shall specify the maximum number of taxicabs to be operated thereunder.
- (3) A nonprofit bus certificate shall be issued to any qualified applicant therefor authorizing in whole or in part the operations covered by the application if it appears from the application and any hearing held thereon that the applicant is fit, willing, and able properly to render the proposed service and to conform to the applicable provisions of this chapter and the administrative regulations of the department promulgated thereunder, that the proposed service, to the extent authorized by the certificate, will not unreasonably compete with or divert business from any authorized carrier of passengers then adequately serving the same area, and further that the

proposed operation, to the extent authorized by the certificate, will serve the public interest; otherwise the application shall be denied. If no protest to the application is filed, it shall be taken to mean that no unreasonable competition or diversion will occur, and the commissioner may, if satisfied from the application that the applicant is a fit one and that the proposed operation will serve the public interest, issue a nonprofit bus certificate without a hearing.

- (4) A carrier shall be entitled to have issued to it by the department as many certificates, and of appropriate types, as will cover its entire authorized operation.
- (5) A permit for the transportation of persons shall be granted to any qualified applicant therefor authorizing in whole or in part the operations covered by the application, if it appears from the application and the hearing held thereon that the applicant is fit, willing, and able properly to perform the service of a contract carrier by motor vehicle and to conform to the provisions of this chapter and the lawful requirements and the administrative regulations of the department promulgated thereunder, and that the proposed operation to the extent authorized by the permit will be consistent with the public interest and the transportation policy declared in this chapter, and that it will not unreasonably impair the efficient public service of any authorized common carrier then adequately serving the same territory, and if it further appears that the existing transportation service is inadequate, and that it appears that the proposed service is needed; otherwise the application shall be denied. The department shall specify in the permit the business of the contract carrier covered thereby and the scope thereof, and shall attach to it at the time of issuance, and from time to time thereafter, any reasonable terms, conditions, and limitations consistent with the character of the holder as a contract carrier as are necessary to carry out, with respect to the operations of the carrier, the requirements established by the department.
- (6) Amendment or change of route or abandonment of a certificate or permit shall be granted upon the same basis that an original certificate or permit is granted.
- (7) A certificate of compliance for the transportation of property except household goods shall be issued to any qualified applicant therefor, authorizing operation covered by the application, if it is found that the applicant conforms to the provisions of this chapter and the requirements and the administrative regulations of the department thereunder.
- (8) Any ~~household goods or~~ passenger certificate or permit, or portion thereof, where applicable, may be sold, assigned, leased, or transferred, after a hearing and notice to interested parties as provided for in KRS 281.625 and subject to terms, conditions, and modifications as the department shall find to be just and reasonable, provided the transferee is fit, willing, and able to render the proposed service and the proposed transaction, subject to the terms, conditions, and modifications as the department may impose, will not be against the public interest, and provided further that the commissioner may approve the sale and transfer of a certificate or permit, or portion thereof, without a hearing if, after due notice of the proposed sale or transfer is given to all interested parties in accordance with the administrative regulations of the department, no protest is filed to the proposed sale or transfer and the commissioner believes that it will be in the public interest.
- (9) For the purpose of this section, a transfer of the controlling stock of a corporation owning a certificate or permit may be considered a transfer of a certificate or permit.
- (10) Upon the consummation of a merger or consolidation of motor carriers as effected under the provisions of KRS Chapter 271B, the surviving or new corporation, as the case may be, shall own and possess all of the certificates, permits, authorizations, licenses, rights, privileges, franchises, and properties owned or possessed by each of such motor carriers; and if the merger or consolidation is set aside, the certificates, permits, authorizations, licenses, rights, privileges, franchises, and properties acquired by the surviving or new corporation through the merger or consolidation shall become revested in the corporation from which acquired, unless disposed of, subject to any indebtedness and liens as may be equitable, and all other properties of the surviving or new corporation shall become vested in the constituent corporation in a manner as may be fair and equitable.
- (11) (a) Notwithstanding the provisions of subsection (4) of this section, where a motor carrier has been granted two (2) or more certificates or permits authorizing the same type of operation over a route or routes or a portion of a route or routes common to two (2) or more of the certificates or permits, the carrier shall be deemed to possess only one (1) operating authority over that portion of the routes common to the certificates or permits.

(b) The department is authorized to recall any certificates and to reissue one or more certificates covering the exact authority.

(12) Hearings conducted under authority of this section shall be conducted in the same manner as provided in KRS 281.625.

➔Section 4. KRS 281.620 is amended to read as follows:

- (1) Every applicant for a certificate or permit or for amendment or transfer or sale or change in route or abandonment of a certificate or permit shall apply for same to the department in such form and the application shall contain such matters as the department may prescribe.
- (2) For the filing of such application the department shall receive a fee of twenty-five dollars (\$25), *except for the filing of an application for a household goods certificate, for which the department shall receive a fee of two hundred fifty dollars (\$250).*

➔Section 5. KRS 281.650 is amended to read as follows:

- (1) Every certificate or permit shall be renewed before January 1 of each year. Application for renewal shall be in such form as the department may require.
- (2) No motor vehicle shall be operated after January 1 of each year unless the requisite fee as hereinafter provided for is paid.
- (3) A certificate or permit not renewed within one (1) calendar year after renewal date shall automatically become null and void and cannot be reinstated. Nothing herein contained shall prohibit the filing of a new application.
- (4) The department shall not renew any certificate or permit if such certificate or permit has been revoked, or if suspended, during the period of suspension. A certificate or permit shall not be considered as revoked or suspended when an appeal is pending in the Franklin Circuit Court or in the Court of Appeals from an order of revocation or suspension until said appeal has been decided by the courts.
- (5) For the renewal of any intrastate certificate or permit the department shall receive a fee of twenty-five dollars (\$25), *except for the renewal of a household goods certificate, for which the department shall receive a fee of two hundred fifty dollars (\$250).*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

- (1) *A person granted a household goods certificate under the provisions of Section 1 of this Act shall obtain and retain for a period of at least three (3) years a criminal background check of each employee whose duties may require contact with the public or entry into a private residence or storage facility for the purpose of providing or facilitating the transportation of household goods.*
- (2) *A household goods certificate holder shall not employ any person to perform any of the duties outlined in subsection (1) of this section if that person has been convicted of any of the following offenses:*
 - (a) *A Class A felony;*
 - (b) *A Class B felony; or*
 - (c) *A sex crime as defined in KRS 17.500.*
- (3) *Criminal background checks under this section shall be:*
 - (a) *Performed at the expense of the household goods certificate holder;*
 - (b) *Completed prior to the employment of an applicant; and*
 - (c) *Completed using an entity from an approved list issued by the cabinet.*
- (4) *The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A to implement the provisions of this section.*

Signed by Governor April 2, 2014.