

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

SESSION LAW 1998-128
HOUSE BILL 1094

AN ACT TO REPEAL OBSOLETE OR PREEMPTED PROVISIONS OF THE
GENERAL STATUTES AFFECTING RAILROADS, TO RECODIFY CERTAIN
RAILROAD STATUTES, AND TO MAKE CONFORMING CHANGES AND
CLARIFYING CHANGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-3(6) reads as rewritten:

"(6) 'Common carrier' means any ~~person~~person, other than a carrier by rail, which holds itself out to the general public to engage in transportation of persons or household goods for compensation, including transportation by ~~train~~, bus, truck, boat or other conveyance, except as exempted in G.S. 62-260."

Section 2. G.S. 62-3(22) reads as rewritten:

"(22) 'Private carrier' means any ~~person~~person, other than a carrier by rail, not included in the definitions of common carrier, which transports in intrastate commerce in its own vehicle or vehicles property of which such person is the owner, lessee, or bailee, when such transportation is for the purpose of sale, lease, rent, or bailment, or when such transportation is purely an incidental adjunct to some other established private business owned and operated by such person other than the transportation of household goods for compensation."

Section 3. G.S. 62-3(23)a. reads as rewritten:

"(23) a. 'Public utility' means a person, whether organized under the laws of this State or under the laws of any other state or country, now or hereafter owning or operating in this State equipment or facilities for:

1. Producing, generating, transmitting, delivering or furnishing electricity, piped gas, steam or any other like agency for the production of light, heat or power to or for the public for compensation; provided, however, that the term 'public utility' shall not include persons who construct or operate an electric generating facility, the primary purpose of which facility is for such person's own use and not for the primary purpose of producing

- electricity, heat, or steam for sale to or for the public for compensation;
2. Diverting, developing, pumping, impounding, distributing or furnishing water to or for the public for compensation, or operating a public sewerage system for compensation; provided, however, that the term 'public utility' shall not include any person or company whose sole operation consists of selling water to less than 15 residential customers, except that any person or company which constructs a water system in a subdivision with plans for 15 or more lots and which holds itself out by contracts or other means at the time of said construction to serve an area containing more than 15 residential building lots shall be a public utility at the time of such planning or holding out to serve such 15 or more building lots, without regard to the number of actual customers connected;
 3. Transporting persons or household goods by street, suburban or interurban bus ~~or railways~~ for the public for compensation;
 4. Transporting persons or household goods by ~~railways or motor vehicles,~~ vehicles or any other form of transportation for the public for compensation, except motor carriers exempted in G.S. 62-260, ~~and except carriers by rail, and~~ carriers by air;
 5. Transporting or conveying gas, crude oil or other fluid substance by pipeline for the public for compensation;
 6. Conveying or transmitting messages or communications by telephone or telegraph, or any other means of transmission, where such service is offered to the public for compensation."

Section 4. G.S. 62-133(h) is repealed.

Section 5. G.S. 62-150 reads as rewritten:

"§ 62-150. Ticket may be refused intoxicated person; penalty for prohibited entry.

The ticket agent of any common carrier of passengers shall at all times have power to refuse to sell a ticket to any person applying for the same who may at the time be intoxicated. The ~~conductor,~~ driver or other person in charge of any conveyance for the use of the traveling public shall at all times have power to prevent any intoxicated person from entering such conveyance. If any intoxicated person, after being forbidden by the ~~conductor,~~ driver or other person having charge of any such conveyance for the use of the traveling public, shall enter such conveyance, he shall be guilty of a Class 1 misdemeanor."

Section 6. G.S. 62-151 reads as rewritten:

"§ 62-151. Passenger refusing to pay fare or violating rules may be ejected.

If any passenger shall refuse to pay his fare, or be or become intoxicated, or violate the rules of a common carrier, it shall be lawful for the ~~conductor or driver of the train or bus,~~ bus or other conveyance, and servants of the carrier, on stopping the conveyance, to put him and his baggage out of the conveyance, using no unnecessary force."

Section 7. G.S. 62-152.1(a)(2) reads as rewritten:

"(2) For purposes of this section, ~~carriers by rail are carriers of the same class,~~ carriers by motor vehicles are carriers of the same class, carriers by pipeline are carriers of the same class, carriers by water are carriers of the same class, carriers by air are carriers of the same class, and freight forwarders are carriers of the same class."

Section 8. G.S. 62-190(a) reads as rewritten:

"(a) Any pipeline company transporting or conveying natural gas, gasoline, crude oil, coal in suspension, or other fluid substances by pipeline for the public for compensation, and incorporated under the laws of the State, or foreign corporations domesticated under the laws of North Carolina, may exercise the right of eminent domain under the provisions of the Chapter, Eminent Domain, and for the purpose of constructing and maintaining its pipelines and other works shall have all the rights and powers given ~~railroads and~~ other corporations by this Chapter and acts amendatory thereof. Nothing herein shall prohibit any such pipeline company granted the right of eminent domain under the laws of this State from extending its pipelines from within this State into another state for the purpose of transporting natural gas or coal in suspension into this State, nor to prohibit any such pipeline company from conveying or transporting natural gas, gasoline, crude oil, coal in suspension, or other fluid substances from within this State into another state. All such pipeline companies shall be deemed public utilities and shall be subject to regulation under the provisions of this Chapter."

Section 9. G.S. 62-200(b) reads as rewritten:

"(b) Any common carrier violating any of the provisions of this section shall forfeit to the party aggrieved the sum of ~~fifteen dollars (\$15.00) for the first day and two dollars (\$2.00) for each succeeding day of such unlawful detention or neglect where such shipment is made in carload lots, and in less quantities there shall be a forfeiture in like manner of ten dollars (\$10.00) for the first day and one dollar (\$1.00) for each succeeding day,~~ day of such unlawful detention or neglect, but the forfeiture shall not be collected for a period exceeding 30 days."

Section 10. G.S. 62-300(a) reads as rewritten:

"(a) The Commission shall receive and collect the following fees and charges in accordance with the classification of utilities as provided in rules and regulations of the Commission, and no others:

- (1) Twenty-five dollars (\$25.00) with each notice of appeal to the Court of Appeals or the Supreme Court, and with each notice of application for a writ of certiorari.
- (2) With each application for a new certificate for motor ~~and rail~~ carrier rights, the fee shall be two hundred fifty dollars (\$250.00) when filed by Class 1 motor ~~and rail~~ carriers, one hundred dollars (\$100.00) when

filed by Class 2 motor ~~and rail~~ carriers, and twenty-five dollars (\$25.00) when filed by Class 3 motor ~~and rail~~ carriers, and twenty-five dollars (\$25.00) as filing fee for any amendment thereto so as to extend or enlarge the scope of operations thereunder, and twenty-five dollars (\$25.00) for each broker who applies for a brokerage license under the provisions of this Chapter.

- (3) With each application for a general increase in rates, fares and charges and for each filing of a tariff which seeks general increases in rates, fares and charges, the fee will be five hundred dollars (\$500.00) for Class A utilities and Class 1 motor ~~and rail~~ carriers, two hundred fifty dollars (\$250.00) for Class B utilities and Class 2 motor ~~and rail~~ carriers, one hundred dollars (\$100.00) for Class C utilities and twenty-five dollars (\$25.00) for Class D utilities and Class 3 motor ~~and rail~~ carriers; provided that in the case of an application or tariff for a general increase in rates filed by a tariff agent for more than one carrier, the applicable fee shall be the highest fee prescribed for any motor carrier included in the application or tariff. This fee shall not apply to applications for adjustments in particular rates, fares, or charges for the purpose of eliminating inequities, preferences or discriminations or to applications to adjust rates and charges based solely on the increased cost of fuel used in the generation or production of electric power.
- (4) One hundred dollars (\$100.00) with each application by motor carrier of passengers for the abandonment or permanent or temporary discontinuance of transportation service previously authorized in a certificate.
- ~~(4a) Two hundred fifty dollars (\$250.00) with each application for discontinuance of train service, or for a change in or discontinuance of station facilities.~~
- (5) With each application for a certificate of public convenience and necessity or for any amendment thereto so as to extend or enlarge the scope of operations thereunder, the fee shall be two hundred fifty dollars (\$250.00) for Class A utilities, one hundred dollars (\$100.00) for Class B utilities, and twenty-five dollars (\$25.00) for Class C and D utilities and twenty-five dollars (\$25.00) for any other person seeking a certificate of public convenience and necessity.
- (5a) With each application by a bus company for an original certificate of authority or for any amendment thereto or to an existing certificate of public convenience and necessity so as to extend or enlarge the scope of operations thereunder the fee shall be two hundred fifty dollars (\$250.00).
- (6) With each application for approval of the issuance of securities or for the approval of any sale, lease, hypothecation, lien, or other transfer of any household goods or operating rights of any carrier or public utility

over which the Commission has jurisdiction, the fee shall be two hundred fifty dollars (\$250.00) for Class A utilities and Class 1 motor ~~and rail~~ carriers, one hundred dollars (\$100.00) for Class B utilities and Class 2 motor ~~and rail~~ carriers, and twenty-five dollars (\$25.00) for Class C and D utilities and Class 3 motor ~~and rail~~ carriers; provided, that in the case of sales, leases and transfers between two or more carriers or utilities, the applicable fee shall be the highest fee prescribed for any party to the transaction.

- (7) Ten dollars (\$10.00) with each application, petition, or complaint not embraced in (2) through (6) of this section, wherein such application, petition, or complaint seeks affirmative relief against a carrier or public utility over which the Commission has jurisdiction. This fee shall not apply to applications for adjustments in particular rates, fares or charges for the purpose of eliminating inequities, preferences or discriminations; nor shall this fee apply to applications, petitions, or complaints made by any county, city or town; nor shall this fee apply to applications or petitions made by individuals seeking service or relief from a public utility.
- (8) Repealed by Session Laws 1985, c. 454, s. 18.
- (9) One dollar (\$1.00) for each page (8 1/2 x 11 inches) of transcript of testimony, but not less than five dollars (\$5.00) for any such transcript.
- (10) Twenty cents (20¢) for each page of copies of papers, orders, certificates or other records, but not less than one dollar (\$1.00) for any such order or record, plus five dollars (\$5.00) for formal certification of any such paper, order or record.
- (11), (12) Repealed by Session Laws 1985, c. 454, s. 18.
- (13) Two hundred fifty dollars (\$250.00) with each application for a certificate of public convenience and necessity to construct a transmission line.
- (14) Twenty-five dollars (\$25.00) with each filing by a person otherwise exempt from Commission regulation under Public Law 103-305 to participate in standard transportation practices as set out by the Commission.
- (15) One hundred dollars (\$100.00) for each application for exemption filed by nonprofit and consumer-owned water or sewer utilities pursuant to G.S. 62-110.5."

Section 11. G.S. 160A-195 is repealed.

Section 12. Chapter 14 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 61.

"Trains and Railroads.

"§ 14-460. Riding on train unlawfully.

If any person, with the intention of being transported free in violation of law, rides or attempts to ride on top of any car, coach, engine, or tender, on any railroad in this

State, or on the drawheads between cars, or under cars, on truss rods, or trucks, or in any freight car, or on a platform of any baggage car, express car, or mail car on any train, he shall be guilty of a Class 3 misdemeanor.

"§ 14-461. Unauthorized manufacture or sale of switch-lock keys a misdemeanor.

It shall be unlawful for any person to make, manufacture, sell, or give away to any other person any duplicate key to any lock used by any railroad company in this State on its switches or switch tracks, except upon the written order of that officer of such railroad company whose duty it is to distribute and issue switch-lock keys to the employees of such railroad company. Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor."

Section 13. G.S. 62-152, 62-192, 62-207, 62-221, 62-222, 62-227, 62-228, 62-229, 62-230, 62-231, 62-232, 62-233, 62-234, 62-238, 62-238.1, 62-239, 62-241, 62-242, 62-243, 62-244, 62-245, 62-246, and 62-247 are repealed.

Section 14. Article 11 of Chapter 62 of the General Statutes, as amended by Section 13 of this act, G.S. 62-220, 62-223, 62-224, 62-225, 62-226, 62-237, and 62-240, is recodified as Article 15 of Chapter 136 of the General Statutes, G.S. 136-190 through G.S. 136-196.

Section 15. G.S. 62-237, recodified as G.S. 136-195 by Section 14 of this act, reads as rewritten:

"§ 136-195. To regulate crossings and to abolish grade crossings.

The ~~Commission~~ Department may require the raising or lowering of any tracks or roadway at any grade crossing in a road or street not forming a link in or part of the State highway system and designate who shall pay for the same by partitioning the cost of said work and the maintenance of such crossing among the railroads and municipalities interested in accordance with the formula provided for grade crossing alterations or eliminations on the State highway system in G.S. 136-20(b)."

Section 16. Article 15 of Chapter 136 of the General Statutes, as enacted by this act, is amended by adding two new sections to read:

"§ 136-197. Ticket may be refused intoxicated person; penalty for prohibited entry.

The ticket agent of a passenger train shall at all times have the power to refuse to sell a ticket to a person wanting to purchase a ticket who may at the time be intoxicated. The conductor in charge of the train shall at all times have the power to prevent an intoxicated person from boarding the train. An intoxicated person who boards a train after being forbidden by the conductor to do so is guilty of a Class 1 misdemeanor.

"§ 136-198. Passenger refusing to pay fare or violating rules may be ejected.

If a passenger shall refuse to pay the fare, be or become intoxicated, or violate the rules of a passenger train, it shall be lawful for the conductor of the train to stop the train at any station or at any regular stop, and to put the passenger and the passenger's baggage out of the train, using no unnecessary force."

Section 17. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of August, 1998.

s/ Dennis A. Wicker

President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 3:40 p.m. this 4th day of September, 1998