

§ 62-112. Effective date, suspension and revocation of franchises; dormant motor carrier franchises.

(a) Franchises shall be effective from the date issued unless otherwise specified therein, and shall remain in effect until terminated under the terms thereof, or until suspended or revoked as herein provided.

(b) Any franchise may be suspended or revoked, in whole or in part, in the discretion of the Commission, upon application of the holder thereof; or, after notice and hearing, may be suspended or revoked, in whole or in part, upon complaint, or upon the Commission's own initiative, for wilful failure to comply with any provision of this Chapter, or with any lawful order, rule, or regulation of the Commission promulgated thereunder, or with any term, condition or limitation of such franchise; provided, however, that any such franchise may be suspended by the Commission upon notice to the holder or lessee thereof without a hearing for any one or more of the following causes:

- (1) For failure to provide and keep in force at all times security, bond, insurance or self-insurance for the protection of the public as required in G.S. 62-268 of this Chapter.
- (2) For failure to file and keep on file with the Commission applicable tariffs or schedules of rates as required in this Chapter.
- (3) For failure to pay any gross receipts, use or privilege taxes due the State of North Carolina within 30 days after demand in writing from the agency of the State authorized by law to collect the same; provided, that this subdivision shall not apply to instances in which there is a bona fide controversy as to tax liability.
- (4) For failure for a period of 60 days after execution to pay any final judgment rendered by a court of competent jurisdiction against any holder or lessee of a franchise for any debt or claim specified in G.S. 62-111(b) and (c).
- (5) For failure to begin operations as authorized by the Commission within the time specified by order of the Commission, or for suspension of authorized operations for a period of 30 days without the written consent of the Commission, save in the case of involuntary failure or suspension brought about by compulsion upon the franchise holder or lessee.

(c) The failure of a common carrier of passengers or household goods by motor vehicles to perform any transportation for compensation under the authority of its certificate for a period of 30 consecutive days shall be prima facie evidence that said franchise is dormant and the public convenience and necessity is no longer served by such common carrier certificate. Upon finding after notice and hearing that no such service has been performed for a period of 30 days the Commission is authorized to find that the franchise is dormant and to cancel the certificate of such common carrier. The Commission in its discretion may give consideration in such finding to other factors affecting the performance of such service, including seasonal requirements of the passengers or commodities authorized to be transported, the efforts of the carrier to make its services known to the public, the equipment and other facilities maintained by the carrier for performance of such service, and the means by which such carrier holds itself out to perform such service. A proceeding may be brought under this section by the Commission on its own motion or upon the complaint of any shipper or any other carrier. The franchise of a motor carrier may be canceled under the provisions of this section in any proceeding to sell or transfer or otherwise change control of said franchise brought under the provisions of G.S. 62-111, upon finding of dormancy as provided in this section. Any motor carrier who has obtained authority to suspend operations under the provisions of G.S. 62-112(b)(5) and the rules of the Utilities Commission issued thereunder shall not be subject to

cancellation of its franchise under this section during the time such suspension of operations is authorized. In determining whether such carrier has made reasonable efforts to perform service under said franchise the Commission may in its discretion give consideration to disabilities of the carrier including death of the owner and physical disabilities.

(d) This section shall be applicable to bus companies. (1947, c. 1008, s. 23; 1949, c. 1132, s. 21; 1963, c. 1165, s. 1; 1967, c. 1201; 1985, c. 676, s. 12; 1995, c. 523, s. 3.)