

**§ 62-262.1. Certificates of authority for passenger operations by bus companies.**

(a) Except as provided in G.S. 62-260, 62-262 and 62-265, no person shall engage in the transportation of passengers in intrastate commerce by motor vehicle without having applied for and obtained a certificate authorizing those operations from the Commission. It shall be unlawful for any person to knowingly or willfully operate in intrastate commerce in a manner contrary to the provisions of this Article or to the rules and regulations of the Commission. No certificate shall be amended to enlarge, or in any manner extend, the scope of operations of a bus company without complying with the provisions of this section.

(b) Any bus company desiring a certificate of authority to operate in intrastate commerce in this State over fixed routes, or to enlarge or in any manner extend the scope of its fixed route operations previously granted by the Commission, may do so by filing a verified application with the Commission and by paying the filing fee established by G.S. 62-300.

(c) The Commission shall issue a certificate of authority to an applicant for the transportation of passengers over a fixed route or to enlarge or extend authority previously granted, if the Commission finds that the applicant is fit, willing and able to provide the transportation to be authorized by the certificate and to comply with the provisions of this Chapter, unless the Commission finds, on the basis of evidence presented by any person objecting to the issuance of the certificate, that the transportation to be authorized is not consistent with the public interest.

(d) In making any findings relating to public interest under subsection (c) of this section, the Commission shall consider, to the extent applicable, (i) the transportation policy of this State as it relates to bus companies under G.S. 62-259.1 and this Chapter; (ii) the value of competition to the traveling and shipping public; (iii) the effect of issuance of the certificate on bus company service to small communities; and (iv) whether issuance of the certificate would impair the ability of any other fixed route carrier of passengers to provide a substantial portion of its fixed route passenger service, except that diversion of revenue or traffic from a fixed route carrier of passengers, alone, shall not be sufficient to support a finding that issuance of the certificate would impair the ability of the carrier to provide a substantial portion of its fixed route passenger service.

(e) Within 10 days after the filing of an application, the applicant shall provide notice to be given as required by Commission rule. If no protest, raising material issues of fact to the granting of the application, is filed with the Commission within 30 days after the notice is given, the Commission may, upon review of the record and without a hearing, issue its certificate of authority granting the requested operating authority, if it is satisfied that the applicant meets the requirements set forth in subsection (c) of this section.

(f) If protests are filed raising material issues of fact to the granting of the application, the Commission shall set the application for hearing, as soon as possible, and cause notice to be given as provided by its rules. At the hearing, the only issues for consideration are those set forth in subsections (c) and (d) of this section. The Commission shall issue its final order not later than 180 days after the application is filed.

(g) Any bus company authorized to transport passengers in intrastate commerce over fixed routes in this State and which in fact provides that service may, without filing a new application or paying further fees: (i) transport newspapers, express parcels or United States mail over the fixed routes on which it provides passenger transportation; (ii) provide charter operations to all points in the State; and (iii) transport charter passengers in the same motor vehicles with fixed route passengers.

(h) Any bus company seeking a certificate to engage solely in charter operations within the State, or to enlarge or in any manner extend the scope of its charter operations previously granted by the Commission, may obtain one by (i) filing a verified application for the authority with the Commission; (ii) paying the applicable filing fee as prescribed by G.S. 62-300; and (iii) demonstrating that it is fit, willing and able to perform the proposed charter operations.

(i) Within 10 days after filing of an application for charter operations, the applicant shall provide notice as required by Commission rule or regulation. If no protests to the granting of the application, raising material issues of fact, are received by the Commission within 30 days after the notice is given, the Commission shall issue its certificate granting the requested authority unless it determines that the applicant is unfit, unwilling or unable to perform the proposed operations. In the event of this determination, or if protests to the proposed operation raising material issues of fact are received, the Commission shall set the application for hearing, as soon as possible, and provide notice to be given as provided by its rules and shall issue its final order within 180 days after application is filed. At the hearing, the only issue for consideration shall be whether the applicant is fit, willing and able to perform the proposed charter operations and the issue of need shall not be considered. On the issue of its fitness, willingness and ability to perform the proposed charter operations, the applicant in its application and at any hearing shall present evidence from which the Commission may find that: (i) the applicant has sufficient assets to perform properly the proposed operations; (ii) the operation will be conducted only with properly qualified drivers; (iii) the applicant will maintain safe, clean and attractive buses and equipment; (iv) the applicant will maintain insurance for the protection of the public as provided in this Chapter; (v) the applicant has sufficient equipment to conduct the proposed operation; and (vi) the applicant will observe all applicable laws, rules and regulations of this State.

(j) Any bus company authorized and engaged solely in charter operations shall not be required to transport passengers over a fixed route in this State as an incidence to its charter operations. (1985, c. 676, s. 20.)