

CHAPTER 642

S.B. No. 820

An Act relating to the definition of the terms 'motor carrier' and 'contract carrier'; amending Subsection (1), Section 1a, Chapter 314, Acts of the 41st Legislature, Regular Session, 1929, as amended (Article 911b, Vernon's Texas Civil Statutes).

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subsection (1), Section 1a, Chapter 314, Acts of the 41st Legislature, Regular Session, 1929, as amended (Article 911b, Vernon's Texas Civil Statutes), is amended to read as follows:

“(1) Provided, however, that the term ‘Motor Carrier’ and the term ‘Contract Carrier’ as defined in the preceding Section shall not be held to include:

“(a) Any person having a regular, separate, fixed, and established place of business, other than a transportation business, where goods, wares, and merchandise are kept in stock and are primarily and regularly bought from the public or sold to the public or manufactured or processed by such person in the ordinary course of the mercantile, manufacturing, or processing business, and who, merely incidental to the operation of such business, transports over the highways of this state such goods of which such person is the bona fide owner by means of a motor vehicle of which such person is the bona fide owner; nor

“(b) Any person transporting farm implements, livestock, livestock feedstuffs, dairy products, horticultural products, floral products, agricultural products, timber in its natural state, or wool and mohair of which such person is the bona fide owner on a vehicle of which he is the bona fide owner to and from the area of production and to and from the market or place of storage thereof; provided, however, if such person (other than a transportation company) has in his possession under a bona fide consignment contract livestock, wool, mohair, milk and cream, fresh fruits and vegetables, or timber in its natural state under contract, as an incident to a separate, fixed, and established business conducted by him the said possession shall be deemed ownership under this Act;

“(c) Where merely incidental to a regular, separate, fixed, and established business, other than a transportation business, the transportation of employees, petroleum products, and incidental supplies used or sold in connection with the wholesale or retail sale of such petroleum products from the refinery or place of production or place of storage to the place of storage or place of sale and distribution to the ultimate consumer, in a motor vehicle owned and used exclusively by the marketer or refiner, or owned in whole or in part and used exclusively by the bona fide consignee or agent of such single marketer or refiner; as well as where merely incidental to a regular, separate, fixed, and established business, other than a transportation business, the transportation of petroleum, employees, material, supplies, and equipment for use in the departments of the petroleum business by the bona fide owner thereof in a vehicle of which he is the bona fide owner; bona fide consignee or agent as used herein being hereby defined and construed, for the purpose of this Act, to mean a person under contract with a single principal to distribute petroleum products in a limited territory and only for such single principal; nor

“(d) Any utility company using its own equipment transporting its own property over the highways;

“(e) Any person transporting fresh iced fish or shellfish from a coastal production-landing point to an initial packing or freezing plant located not more than seventy-five miles inland from the coast of Texas, regardless of the distance of such initial packing or freezing plant from the coastal production-landing point, and regardless of whether or not such person owns said fish or shellfish; provided, however, that such person shall have first filed with the Railroad Commission of Texas certificates of insurance covering each motor vehicle to be used in such

transportation with public liability and property damage insurance in the amounts required by the Commission for motor vehicles subject to its regulation;

“(f) Any person transporting fresh vegetables, fresh fruits, or flax straw from the place where produced agriculturally and harvested to a point where the fresh fruits, vegetables, or flax straw are first processed, including but not limited to packing plants, canning plants, freezing plants and fiber or straw processing plants and regardless of whether or not such person owns said fresh fruits, fresh vegetables, or flax straw, provided such transportation does not exceed a total of seventy-five (75) miles in distance, except such transportation between points in the counties of Kinney, Uvalde, Maverick, Zavala, Dimmit, Webb, Zapata, Starr, Hidalgo, Cameron and Willacy, Texas; provided, however, that such person shall have first filed with the Railroad Commission of Texas certificates of insurance covering each motor vehicle to be used in such transportation with public liability and property damage insurance in the amounts required by the Commission for motor vehicles subject to its regulations;

“(g) *The transportation by motor vehicle for compensation by a member of a corporate family, as hereinafter defined, for other members of such corporate family of property (1) which one member of the corporate family leases for use in its primary business, or (2) of which one member of the corporate family is, or will become upon delivery, the bona fide owner, manufacturer, or producer, and which is produced, manufactured, or distributed as part of such corporate family member's primary business, other than a transportation business. Provided, however, that before engaging in the transportation, the parent corporation shall file with the Railroad Commission of Texas: (i) certificates of insurance covering each motor vehicle to be used in the transportation with public liability and property damage insurance in the amounts required by the Commission for motor vehicles subject to its regulation; and (ii) a notice of intent to provide the transportation together with a list of the subsidiaries involved and an affidavit that the parent corporation owns directly or indirectly a 100 percent interest in each of the participating subsidiaries. The notice required by this section shall be in a form prescribed by the Commission, and a copy of the notice shall be carried in the cab of all vehicles conducting the transportation. In this subsection, 'corporate family' means a group of corporations consisting of a parent corporation and all subsidiaries in which the parent corporation owns directly or indirectly a 100 percent interest. Any corporation electing to engage in the transportation authorized hereunder shall be deemed to have given its consent to allow authorized employees or representatives of the Commission to inspect the books and records of all members of the corporate family engaging in such transportation for the sole purpose of insuring that all exempt transportation provided other members of the corporate family is in strict conformity with the provisions hereof.*”

SECTION 2. This Act applies only to a transportation occurring on or after its effective date. A transportation occurring before the effective date of this Act is governed by the law in effect when the transportation occurred, and that law is continued in effect for that purpose.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on April 2, 1985, by the following vote: Yeas 31, Nays 0; passed the House on May 21, 1985, by the following vote: Yeas 136, Nays 0, four present not voting.

Approved: June 14, 1985

Effective: Immediately