CHAPTER 23

Motor Vehicle Carriers

ARTICLE 1

General Provisions

**SECTION 58‑23‑10.** Definitions.

As used in Articles 1 to 11 of this chapter:

(1) The term “corporation” means a corporation, company, association or joint stock association;

(2) The term “person” means an individual, a firm or a copartnership;

(3) The term “Commission” means the Public Service Commission;

(4) The term “motor vehicle carrier” means every corporation or person, their lessees, trustees or receivers, owning, controlling, operating or managing any motor propelled vehicle, not usually operated on or over rails, used in the business of transporting persons or property for compensation over any improved public highway in this State;

(5) The term “trailer” means a vehicle equipped to carry a load and which is attached to and drawn by a motor vehicle and trailers shall be classed as motor vehicles and subject to the provisions of Articles 1 to 11 of this chapter; and

(6) The term “improved public highway” means every improved public highway in this State which is or may hereafter be declared to be a part of the State Highway System or any county highway system or a street of any city or town.

(7) The term “ridesharing” means an arrangement for the transportation of not more than fifteen persons on a nonprofit basis utilizing a motor vehicle of which operating costs and a reasonable depreciation cost for such vehicle are paid principally by those people utilizing such arrangement.

(8) The term “regulatory staff” means the executive director or the executive director and employees of the Office of Regulatory Staff.

HISTORY: 1962 Code Section 58‑1401; 1952 Code Section 58‑1401; 1942 Code Section 8507; 1932 Code Section 8507; 1925 (34) 252; 1928 (35) 1238; 1935 (39) 25; 1979 Act No. 152 Section 2, eff July 6, 1979; 2006 Act No. 318, Section 143, eff May 24, 2006.

CROSS REFERENCES

Definitions of “private carrier” and “motor carrier” for purposes of provisions relative to compliance with safety regulations, see Section 58‑23‑1110.

Motor vehicles, generally, see Section 56‑1‑15 et seq.

Regulation of common carriers, see SC Const. Art. IX, Section 1.

Library References

Automobiles 76.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 7, 111 to 124.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Carriers Section 2, Definition.

S.C. Jur. Carriers Section 5, Private Carriers.

Attorney General’s Opinions

Public Service Commissions may seek certain business records and information of business thought to be operating as motor vehicle carrier in the State. 1984 Op.Atty.Gen., No. 84‑34, p. 75 (1984 WL 159841).

NOTES OF DECISIONS

In general 1

Motor carrier 2

1. In general

Cited in Columbia v Pearman, 180 SC 296, 185 SE 747 (1936). Craig v Clearwater Mfg. Co., 189 SC 176, 200 SE 765 (1938). Beard‑Laney, Inc. v Darby, 213 SC 380, 49 SE2d 564 (1948). Daniel v Burdette, 24 F Supp 218 (1938). American Indem. Co. v Richland Oil Co., 273 F Supp 702 (D SC 1967). Petroleum Transp., Inc. v Public Serv. Comm’n, 255 SC 419, 179 SE2d 326 (1971).

Applied in Windham v Pace, 192 SC 271, 6 SE2d 270 (1939). State v Bates, 198 SC 430, 18 SE2d 346 (1941). Hutson v Herndon, 243 SC 257, 133 SE2d 753 (1963). Atlantic Coast Line R.R. v South Carolina Pub. Serv. Comm’n, 245 SC 229, 139 SE2d 911 (1965). Morse v Moore Sand & Gravel Co., 248 SC 380, 149 SE2d 907 (1966).

2. Motor carrier

At time of collision, insured tree service company’s transportation of logs to sawmill for sale was not “for compensation” so as to be excluded from coverage under automobile insurance policy pursuant to South Carolina law, where the logs collected by company incident to removing trees had been abandoned to company by owners of various properties, decision of what to do with the logs was company’s, and there was no evidence that any property owner directed company as to how to dispose of the logs or that any owner received compensation from the sale of any portion of the logs. Clinton v. American Nat. Property and Cas. Co., 2014, 25 F.Supp.3d 831. Insurance 2684

Driver of logging truck was transporting wood for timber broker such that he qualified as a “motor carrier” under South Carolina minimum insurance law, although driver held title to the logs, where driver sold logs in broker’s name for at least 10 years and knew when he was picking up the logs that he would promptly sell them in broker’s name, lumber mills paid broker rather than driver, and broker directed driver as to which mills to sell to. Bovain v. Canal Ins. (S.C. 2009) 383 S.C. 100, 678 S.E.2d 422, rehearing denied. Automobiles 76; Automobiles 90

**SECTION 58‑23‑20.** Transportation by motor vehicle for compensation regulated.

No corporation or person, his lessees, trustees, or receivers may operate a motor vehicle for the transportation of persons or property for compensation on an improved public highway in this State except in accordance with the provisions of this chapter, except where the use of a motor vehicle is incidental only to the operation, and any such operation is subject to control, supervision, and regulation by the commission in the manner provided by this chapter. The commission may not fix or approve the rates, fares, or charges for buses. Provided, however, nothing herein shall affect the commission’s jurisdiction to regulate street railway service or any successor to street railway service under Chapter 5 of Title 58.

HISTORY: 1962 Code Section 58‑1402; 1952 Code Section 58‑1402; 1942 Code Section 8508; 1932 Code Section 8508; 1925 (34) 252; 1930 (36) 1327; 1989 Act No. 184, Section 5, eff June 8, 1989.

CROSS REFERENCES

Application of this section to power of commission to fix rates, fairs, and charges, see Section 58‑23‑1010.

Limitation of actions by motor carriers for charges and against motor carriers for overcharges, see Sections 15‑3‑580, 15‑3‑590.

Local licenses for carriers good for interurban carriage, see Section 12‑23‑220.

Library References

Automobiles 59, 63.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 122 to 123, 125 to 138, 159 to 161.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Carriers Section 9, Exempt Carriers Under South Carolina Law.

S.C. Jur. Carriers Section 10, Licensing in General.

S.C. Jur. Carriers Section 15, Psc Regulation.

United States Supreme Court Annotations

Transportation, motor carriers, federal preemption of rates, routes and services regulation, tobacco shipments, state’s recipient verification requirements and deemed‑to‑know provisions, see Rowe v. New Hampshire Motor Transport Ass’n, 2008, 128 S.Ct. 989, 552 U.S. 364, 169 L.Ed.2d 933.

Attorney General’s Opinions

Public Service Commissions may seek certain business records and information of business thought to be operating as motor vehicle carrier in the State. 1984 Op.Atty.Gen., No. 84‑34, p. 75 (1984 WL 159841).

NOTES OF DECISIONS

Exceptions 1

Insurance 2

1. Exceptions

The parties’ car pooling arrangement, whereby one employee took fellow employees back and forth to work for a fixed fee, constituted a “ride share” within the exception to the Motor Vehicle Carrier Statute (Sections 58‑23‑10 et seq.). Williams v. Addison (S.C.App. 1994) 314 S.C. 35, 443 S.E.2d 582. Automobiles 76

One hauling his own products in his own motor vehicle does not come within the purview of this section [Code 1962 Section 58‑1402] and no provision for his exemption is necessary; this section applies only to those who are carriers for compensation. State v. Hicklin (S.C. 1933) 168 S.C. 440, 167 S.E. 674, affirmed 54 S.Ct. 142, 290 U.S. 169, 78 L.Ed. 247.

2. Insurance

Responsibility for providing liability coverage and responsibility for defending claims against defendants (lessor and lessee of truck), rested exclusively with lessee’s insurer, lessor’s insurer providing no coverage and owing no defense to lessee, where Public Service Commission regulations required complete assumption of responsibility by lessee, and the motor equipment lease and agreement provided that the lessee’s liability insurance would not cover tractor trailer whenever the tractor was disengaged from lessee’s trailer says, thus implying that insurance would cover tractor whenever tractor and trailer were engaged. American Interinsurance Exchange v. Hildebran (D.C.S.C. 1978) 444 F.Supp. 1248, affirmed in part, reversed in part 605 F.2d 731, certiorari denied 100 S.Ct. 1316, 445 U.S. 929, 63 L.Ed.2d 762.

Public Service Commission’s regulations requiring complete assumption of responsibility by lessee, and paragraph of lease providing that truck would be solely and exclusively under direction and control of lessee, completely absolved owner of any liability to person injured in collision during lease period. American Interinsurance Exchange v. Hildebran (D.C.S.C. 1978) 444 F.Supp. 1248, affirmed in part, reversed in part 605 F.2d 731, certiorari denied 100 S.Ct. 1316, 445 U.S. 929, 63 L.Ed.2d 762.

Driver of leased truck was covered and entitled to defense by lessee’s insurer, rather than by insurer of owner of truck because Public Service Commission regulations and lease agreement required complete assumption of responsibility by lessee. American Interinsurance Exchange v. Hildebran (D.C.S.C. 1978) 444 F.Supp. 1248, affirmed in part, reversed in part 605 F.2d 731, certiorari denied 100 S.Ct. 1316, 445 U.S. 929, 63 L.Ed.2d 762.

**SECTION 58‑23‑25.** Public Service Commission’s motor carrier regulatory authority, defined.

Nothing in this chapter, unless specifically provided, must be construed as granting authority to the Public Service Commission to regulate, approve, fix, or charge a fee on a matter of rates, prices, changes, routes, or services of a motor vehicle carrier of property, including private carriers, except certificate carriers of household goods or hazardous wastes for disposal.

HISTORY: 1995 Act No. 145, Part II, Section 51A, eff June 29, 1995.

Library References

Automobiles 59, 63.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 122 to 123, 125 to 138, 159 to 161.

**SECTION 58‑23‑30.** “For compensation” defined.

“For compensation” as used in Section 58‑23‑20 means a return in money or property for transportation of persons or property by motor vehicle over public highways, whether paid, received or realized, and shall specifically include any profit realized on the delivered price of cargo where title or ownership is temporarily vested during transit in the carrier as a subterfuge for the purpose of avoiding regulation under this chapter. Where the profit is equal to or less than the regularly established rate applicable to the transportation of property by common carriers authorized by law to transport property for compensation, such scheme or device shall be presumed to be a subterfuge for the purpose of avoiding regulation under this chapter for those other than certificated carriers within their operating authority; provided, however, nothing herein shall prohibit the vendor from delivering any purchased property to the vendee.

HISTORY: 1962 Code Section 58‑1402.1; 1972 (57) 2327.

CROSS REFERENCES

Definition of “motor carrier” for purposes of provisions relative to compliance with safety regulations, see Section 58‑23‑1110.

Library References

Automobiles 76, 78, 110.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 7, 111 to 124, 144 to 158, 187 to 189, 200, 206 to 210, 213, 303.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Carriers Section 9, Exempt Carriers Under South Carolina Law.

NOTES OF DECISIONS

In general 1

1. In general

At time of collision, insured tree service company’s transportation of logs to sawmill for sale was not “for compensation” so as to be excluded from coverage under automobile insurance policy pursuant to South Carolina law, where the logs collected by company incident to removing trees had been abandoned to company by owners of various properties, decision of what to do with the logs was company’s, and there was no evidence that any property owner directed company as to how to dispose of the logs or that any owner received compensation from the sale of any portion of the logs. Clinton v. American Nat. Property and Cas. Co., 2014, 25 F.Supp.3d 831. Insurance 2684

**SECTION 58‑23‑40.** Certificate and fee requirements.

A motor vehicle carrier shall obtain a certificate from the Office of Regulatory Staff, pursuant to the provisions of Article 3 of this chapter and pay the license fee required pursuant to Article 5 of this chapter before the motor vehicle carrier may: (1) transport persons or property for compensation on any improved public highway in this State; or (2) advertise as an operator for the transportation of persons or property for compensation on any improved public highway in this State.

HISTORY: 1962 Code Section 58‑1403; 1952 Code Section 58‑1403; 1942 Code Section 8509; 1932 Code Section 8509; 1925 (34) 252; 1930 (36) 1068; 1933 (38) 429; 2006 Act No. 318, Section 144, eff May 24, 2006; 2006 Act No. 393, Section 1, eff June 14, 2006.

CROSS REFERENCES

Penalties for violation of this section, see Section 58‑23‑80.

Library References

Automobiles 77.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 201, 206 to 210.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Carriers Section 10, Licensing in General.

NOTES OF DECISIONS

In general 1

Review 2

1. In general

Power of Commission. The Public Service Commission has authority, as defined by statute, over motor carriers operating in this State. This includes the power to issue certificates of public convenience and necessity. Petroleum Transp., Inc. v. Public Service Commission (S.C. 1971) 255 S.C. 419, 179 S.E.2d 326.

Commission’s orders have force of law. Orders of the Public Service Commission issued under the powers and authority vested in it have the force and effect of law. Petroleum Transp., Inc. v. Public Service Commission (S.C. 1971) 255 S.C. 419, 179 S.E.2d 326.

The Commission’s findings of fact are presumptively correct. Petroleum Transp., Inc. v. Public Service Commission (S.C. 1971) 255 S.C. 419, 179 S.E.2d 326.

And its orders are presumptively reasonable and valid. Petroleum Transp., Inc. v. Public Service Commission (S.C. 1971) 255 S.C. 419, 179 S.E.2d 326.

The only authority vested in the Public Service Commission to issue a certificate of public convenience and necessity is found in this chapter. McIntosh v. Whieldon (S.C. 1944) 205 S.C. 119, 30 S.E.2d 851.

2. Review

Judicial review of decisions relating to certificates of public convenience and necessity. There is no statutory authorization in this State for an appeal from decisions of the Commission relating to the issuance of certificates of public convenience and necessity to motor carriers. The absence, however, of statutory authorization for an appeal does not preclude judicial review of decisions of the Commission in such cases. Petroleum Transp., Inc. v. Public Service Commission (S.C. 1971) 255 S.C. 419, 179 S.E.2d 326.

An action instituted in the court of common pleas for Richland County by the service of a summons and complaint, in which the court was petitioned to overrule and set aside the Commission’s order denying an application for the issuance of a certificate of public convenience and necessity and to direct the Commission to issue the certificate applied for, was appropriate to bring the order of the Commission before the court for review, and the court acquired jurisdiction of the parties and the subject matter for such purpose. Petroleum Transp., Inc. v. Public Service Commission (S.C. 1971) 255 S.C. 419, 179 S.E.2d 326. Public Utilities 187

An order of the Commission will not be set aside except upon a convincing showing that it is without evidence to support it or that it embodies arbitrary or capricious action as a matter of law. Petroleum Transp., Inc. v. Public Service Commission (S.C. 1971) 255 S.C. 419, 179 S.E.2d 326.

The Supreme Court cannot substitute its judgment for that of the Commission upon a question as to which there is room for a difference of intelligent opinion. Petroleum Transp., Inc. v. Public Service Commission (S.C. 1971) 255 S.C. 419, 179 S.E.2d 326.

**SECTION 58‑23‑50.** Chapter not applicable to transportation for certain purposes.

(A) Articles 1 to 11 of this chapter do not apply to:

(1) motor vehicles used exclusively for transporting persons to and from schools, Sunday Schools, churches, or religious services, or to or from picnics or upon special prearranged excursions;

(2) the United States mail carriers operating star routes, while engaged solely in carrying mail;

(3) farmers or dairymen hauling dairy or farm products;

(4) persons transporting agricultural livestock and poultry feeds, including ingredients;

(5) other persons engaged in hauling perishable products of the farm or dairy products for hire from the farm to the first market when sold in South Carolina;

(6) lumber haulers engaged in transporting lumber from the forest to shipping points in this State;

(7) haulers engaged in transporting logs, chips, or wood residues which are subject to the South Carolina Unmanufactured Forest Products Trucking Regulations which are promulgated and adopted by the Department of Public Safety’s Transport Police Division;

(8) a vehicle engaged in hauling, towing, or transporting wrecked or damaged vehicles;

(9) vehicles used in ridesharing;

(10) single‑source lessors of vehicles and drivers who lease the motor vehicles and drivers to uncertificated motor vehicle carriers that conduct transportation of property (other than used household goods) in furtherance of and within the scope of their nontransportation primary enterprises, when the period of the lease is for thirty days or more, the lessee maintains insurance coverage for the protection of the public, a copy of the lease is carried in the motor vehicle during the period of the lease, and there is displayed on both sides of the motor vehicle a placard identifying the lessee.

(B) For the purposes of this section, perishable products of the farm include hay and straw.

(C) Articles 1 to 11 of this chapter also do not apply to Transportation Network Companies and Transportation Network Company Drivers.

HISTORY: 1962 Code Section 58‑1404; 1952 Code Section 58‑1404; 1942 Code Section 8508; 1932 Code Section 8508; 1925 (34) 252; 1930 (36) 1327; 1956 (49) 2020; 1957 (50) 551; 1962 (52) 1911; 1978 Act No. 490, eff May 5, 1978; 1979 Act No. 152 Section 3, eff July 6, 1979; 1983 Act No. 138 Section 13, eff June 15, 1983; 1985 Act No. 112, Section 1, eff May 24, 1985; 1996 Act No. 425, Section 6, eff January 1, 1996; 2015 Act No. 88 (H.3525), Section 3, eff June 24, 2015.

Effect of Amendment

2015 Act No. 88, Section 3, added (C).

CROSS REFERENCES

Further exemptions, see Sections 58‑23‑60, 58‑23‑70.

Library References

Automobiles 78, 110.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 144 to 158, 187 to 189, 200, 206 to 210, 213, 303.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Carriers Section 9, Exempt Carriers Under South Carolina Law.

NOTES OF DECISIONS

In general 1

Constitutional issues 2

1. In general

The parties’ car pooling arrangement, whereby one employee took fellow employees back and forth to work for a fixed fee, constituted a “ride share” within the exception to the Motor Vehicle Carrier Statute (Sections 58‑23‑10 et seq.). Williams v. Addison (S.C.App. 1994) 314 S.C. 35, 443 S.E.2d 582. Automobiles 76

Exemption of farmers or dairymen hauling farm or dairy products is applicable only to those principally engaged in farming or dairying. State v. Hicklin (S.C. 1933) 168 S.C. 440, 167 S.E. 674, affirmed 54 S.Ct. 142, 290 U.S. 169, 78 L.Ed. 247. Automobiles 78

2. Constitutional issues

Constitutionality. This section [Code 1962 Section 58‑1404] does not unfairly discriminate and it is therefore constitutional. State v. Hicklin (S.C. 1933) 168 S.C. 440, 167 S.E. 674, affirmed 54 S.Ct. 142, 290 U.S. 169, 78 L.Ed. 247.

**SECTION 58‑23‑60.** Chapter not applicable to business within certain areas.

Nothing in Articles 1 to 11 of this chapter applies to motor vehicles:

(1) carrying on the business of transporting passengers or property within the limits of a municipality in this state;

(2) transporting passengers to or from state institutions located in Richland County;

(3) transporting passengers within a distance of ten miles from the limits of municipalities in Chester and Lancaster counties when substantially all of the passengers are workers in industrial plants, eighty percent of the production of which is for defense materials;

(4) having a seating capacity of twenty or more passengers which are operated within ten miles from the limits of a municipality with a population of seventy thousand or more inhabitants, according to the United States Census for 1940, by an electric utility company which regularly provides transportation service within the municipality itself. This item does not permit the substantial duplication of a franchise or license in effect at the time service is undertaken by the electric utility company; or

(5) used by a county to transport passengers or property.

HISTORY: 1962 Code Section 58‑1501; 1952 Code Section 58‑1501; 1942 Code Sections 8510, 8522; 1932 Code Sections 8510, 8522; 1925 (34) 252; 1930 (36) 1068; 1935 (39) 349; 1939 (41) 376; 1942 (42) 1478; 1943 (43) 262; 1944 (43) 1270; 1983 Act No. 138 Section 12, eff June 15, 1983; 1990 Act No. 487, Section 1, eff May 29, 1990.

Library References

Automobiles 62, 78, 110.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 39 to 40, 135 to 136, 144 to 158, 187 to 189, 200, 206 to 210, 213, 303.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Carriers Section 9, Exempt Carriers Under South Carolina Law.

**SECTION 58‑23‑70.** Chapter not applicable to occasional trip.

Nothing contained in Articles 1 to 11 of this chapter shall be construed to prevent the use or hiring of any motor vehicle for the purpose of making some particular trip when the owner of such vehicle does not make such transportation a business.

HISTORY: 1962 Code Section 58‑1405; 1952 Code Section 58‑1405; 1942 Code Section 8522; 1932 Code Section 8522; 1925 (34) 252; 1935 (39) 349; 1939 (41) 376.

Library References

Automobiles 110.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 144 to 158.

NOTES OF DECISIONS

In general 1

1. In general

Motor carrier operating under a certificate is permitted to hire a motor vehicle to make some particular trip, and such motor vehicle is operated by the motor carrier under the certificate issued it by the Public Service Commission and such hired vehicle is not required to be licensed for such service. Brownlee v. Charleston Motor Exp. Co. (S.C. 1939) 189 S.C. 204, 200 S.E. 819. Automobiles 78

**SECTION 58‑23‑80.** Penalties.

(A) Unless otherwise provided in this section, an officer, agent, or employee of a corporation and any other person who wilfully violates or fails to comply with or who procures, aids, or abets in the violation of any provision of Articles 1 through 12 of this chapter or who fails to obey, observe, or comply with any lawful order, decision, regulation, direction, demand, or requirement of the commission or the Office of Regulatory Staff or any part or provision thereof is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than one hundred dollars or imprisoned for not less than ten days nor more than thirty days.

(B) An officer, agent, or employee of a corporation or any other person operating as a passenger carrier who violates or who aids and abets in the violation of the provisions of Section 58‑23‑40 is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars for a first offense, not less than five hundred dollars for a second offense, and for third and subsequent offenses not less than one thousand dollars or imprisoned for a term not to exceed thirty days, or both. A violation must not be charged more than once for any single load.

(C) An officer, agent, or employee of a corporation or any other person operating as a carrier of household goods or as a carrier of hazardous waste for disposal who violates or who aids and abets in the violation of the provisions of the certification and registration requirements provided pursuant to Section 58‑23‑40 is guilty of a misdemeanor and, upon conviction, must be fined as provided in Section 58‑23‑590(E). A violation must not be charged more than once for any single load.

(D) An officer, agent, or employee of a corporation or any other person advertising as a passenger carrier who violates or who aids and abets in the violation of the provisions of Section 58‑23‑40 is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars for a first offense, not less than five hundred dollars for a second offense, and for third and subsequent offenses not less than one thousand dollars. A violation must not be charged more than once for any single load.

(E) An officer, agent, or employee of a corporation or any other person advertising as a carrier of household goods or hazardous waste for disposal who violates or who aids and abets in the violation of the provisions of the certification and registration requirements provided pursuant to Section 58‑23‑40 is guilty of a misdemeanor and, upon conviction, must be fined as provided in Section 58‑23‑590(E). A violation must not be charged more than once for any single load.

HISTORY: 1962 Code Section 58‑1406; 1952 Code Section 58‑1406; 1942 Code Sections 8512, 8520; 1932 Code Sections 8512, 8520; 1925 (34) 252; 1930 (36) 1068, 1100; 1937 (40) 222, 595; 1938 (40) 1915; 1982 Act No. 371, Section 1, eff May 25, 1982; 1985 Act No. 26, Section 2, eff March 19, 1985; 1996 Act No. 439, Section 1, eff June 4, 1996; 2006 Act No. 393, Section 2, eff June 14, 2006.

CROSS REFERENCES

Enforcement of motor vehicle carrier laws and related laws by inspectors of law enforcement department, see Section 58‑3‑310 et seq.

Motor carriers, inspection of vehicles, books, records, etc., see S.C. Code of Regulations R. 103‑233.

Registration of operations by for‑hire interstate motor carriers of property exempt from economic regulation by the Federal Highway Administration, violations, see S.C. Code of Regulations R. 38‑444.

Single state, registration system for interstate motor carriers operating for hire, violations, see S.C. Code of Regulations R. 38‑436.

Library References

Automobiles 324.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 1504 to 1505, 1508 to 1510, 1659, 1728 to 1731, 1750 to 1751.

Attorney General’s Opinions

Imposition of sentence. It is mandatory that the sentence imposed by a magistrate under this section [Code 1962 Section 58‑1406] be at least to the extent of the minimum penalties provided, and no portion thereof can be waived or suspended by a magistrate. 1965‑66 Op.Atty.Gen., No 2153, p 284 (1966 WL 8603).

**SECTION 58‑23‑100.** Transfer of property pending suit shall be invalid.

During the pendency of an action for damage against the holder of a certificate issued pursuant to Article 3 of this chapter any transfer of the property of such certificate holder shall be held to be invalid.

HISTORY: 1962 Code Section 58‑1472; 1952 Code Section 58‑1472; 1942 Code Section 8524; 1932 Code Section 8524; 1925 (34) 252.

Library References

Carriers 309.1.

Westlaw Topic No. 70.

C.J.S. Carriers Section 587.

**SECTION 58‑23‑110.** Motor carrier transportation contracts; definition; hold harmless provisions; exception.

(A) Notwithstanding another provision of law, a provision, clause, covenant, or agreement contained in, collateral to, or affecting a motor carrier transportation contract that purports to indemnify, defend, or hold harmless, or has the effect of indemnifying, defending, or holding harmless, the contract’s promisee from or against any liability for loss or damage resulting from the negligence or intentional acts or omissions of the contract’s promisee, or any agents, employees, servants, or independent contractors who are directly responsible to the contract’s promisee, is against the public policy of this State and is unenforceable.

(B) As used in this section “motor carrier transportation contract” means a contract, agreement, or understanding covering:

(1) the transportation of property for compensation or hire by the motor carrier;

(2) the entrance on property by the motor carrier for the purpose of loading, unloading, or transporting property for compensation or for hire; or

(3) a service incidental to activity described in items (1) or (2) including, but not limited to, storage of property.

(C) Nothing contained in this section affects a provision, clause, covenant, or agreement where the motor carrier indemnifies or holds harmless the contract’s promisee against liability for damages to the extent that the damages were caused by and resulting from the negligence of the motor carrier, its agents, employees, servants, or independent contractors who are directly responsible to the motor carrier.

(D) Notwithstanding the other provisions contained in this section, a “ motor carrier transportation contract” shall not include the Uniform Intermodal Interchange and Facilities Access Agreement administered by the Intermodal Association of North America, as that agreement may be amended by the Intermodal Interchange Executive Committee.

HISTORY: 2005 Act No. 35, Section 1, eff upon approval (became law without the Governor’s signature on April 19, 2005).

Library References

Carriers 147, 307(4).

Westlaw Topic No. 70.

C.J.S. Carriers Sections 444 to 445, 448 to 449, 584 to 586.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Carriers Section 51, Limitation of Liability.

ARTICLE 3

Issuance and Revocation of Certificates

**SECTION 58‑23‑210.** Classes of certificates; application and hearing.

The Office of Regulatory Staff, upon order of the commission, may issue six classes of certificates as are mentioned in Section 58‑23‑40 after application therefor has been made in writing by the owner of the vehicles upon blanks provided by the commission and after such hearing as the commission may consider proper. The commission must hear any objections by any person or corporation who may be affected by the issuance of a certificate by the Office of Regulatory Staff. The six classes of certificates shall be respectively designated certificate A, certificate B, certificate C, certificate D, certificate E, and certificate F.

HISTORY: 1962 Code Section 58‑1411; 1952 Code Section 58‑1411; 1942 Code Section 8509; 1932 Code Section 8509; 1925 (34) 252; 1930 (36) 1068; 1933 (38) 429; 2006 Act No. 318, Section 145, eff May 24, 2006.

CROSS REFERENCES

Use of motor carrier registration fees to fund State Transport Police Division, see Section 23‑6‑185.

Library References

Automobiles 82, 104.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 200, 202 to 205, 223 to 239, 252 to 257, 278 to 279, 281, 294 to 296, 303.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Carriers Section 11, Classes of Certificates.

NOTES OF DECISIONS

In general 1

1. In general

Specific findings to support grant of certificate. There is no law requiring the Commission to make specific findings of the elements necessary to support the grant of a certificate. However, the Supreme Court indicated that it would be better practice for the Commission to make such specific and definite findings upon the evidence as will enable the court to determine whether the general finding should stand. E. L. Long Motor Lines, Inc. v. South Carolina Public Service Commission (S.C. 1958) 233 S.C. 67, 103 S.E.2d 762.

Commission order granting or amending certificate is presumptively valid and will not be set aside by court except upon a convincing showing that it is without evidence to support it, or that it embodies arbitrary or capricious action as a matter of law. E. L. Long Motor Lines, Inc. v. South Carolina Public Service Commission (S.C. 1958) 233 S.C. 67, 103 S.E.2d 762.

Order amending certificate so as to authorize carrier to haul additional materials held reasonable and sustained by evidence. E. L. Long Motor Lines, Inc. v. South Carolina Public Service Commission (S.C. 1958) 233 S.C. 67, 103 S.E.2d 762.

**SECTION 58‑23‑220.** Class A certificates.

The Office of Regulatory Staff, upon order of the commission, may issue a certificate A in the following cases:

(1) to an applicant to operate in territory already served by any certificate holder under this chapter or any common carrier when the public convenience and necessity in such territory are not already being reasonably served by some other certificate holder or common carrier, provided such applicant propose to operate on a fixed schedule and to comply with the other provisions contained in Articles 1 to 11 of this chapter and the rules and regulations which may be made by the commission respecting holders of this class of certificates; and

(2) to an applicant for a certificate to operate upon a regular schedule in a territory not already served by the holder of a certificate A, when public convenience and necessity in such territory are not being reasonably served by a certificate holder under this chapter or a common carrier; provided, that when a certificate A is issued to an applicant over territory which is being served at the time such certificate is granted by the holder of a certificate B, the right of the applicant to operate under certificate A shall not begin until the expiration of the then license year of the holder of the certificate B and the holder of a certificate B shall be preferred in granting a certificate A over the route unless in the judgment of the commission it would not be in the interest of the public service.

In either case the existence of a railroad or other motor vehicle carrier in the territory sought to be served by the applicant shall not be considered by the commission as good cause for refusing the application.

HISTORY: 1962 Code Section 58‑1412; 1952 Code Section 58‑1412; 1942 Code Section 8510; 1932 Code Section 8510; 1925 (34) 252; 1930 (36) 1068; 2006 Act No. 318, Section 145, eff May 24, 2006.

CROSS REFERENCES

Use of motor carrier registration fees to fund State Transport Police Division, see Section 23‑6‑185.

Library References

Automobiles 87, 104.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 202 to 205, 218 to 221, 286, 294 to 296.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Carriers Section 11, Classes of Certificates.

NOTES OF DECISIONS

In general 1

1. In general

The Commission has the power to transfer a certificate pursuant to the regulations adopted by such Commission whenever in its opinion this course would be in the public interest. Beard‑Laney, Inc. v. Darby (S.C. 1948) 213 S.C. 380, 49 S.E.2d 564.

Discretion of Commission. The Supreme Court will not interfere with the discretion exercised by the State Highway Commission in issuing a certificate for a transportation company under this section [Code 1962 Section 58‑1412], unless such discretion is abused. Trescot Transfer Co. v. Sawyer (S.C. 1927) 138 S.C. 337, 136 S.E. 481. Automobiles 84

**SECTION 58‑23‑230.** Class B certificates.

The Office of Regulatory Staff, upon order of the commission, may issue a certificate B when the applicant does not propose to operate regularly upon a fixed schedule or route, but only desires to operate over a particular route or routes which are not already served by the holder of a certificate A, but will operate in instances when by his solicitation or otherwise he has procured passengers to be transported over the route or routes designated in his application. In ordering the issuance of a certificate B, the commission may consider the public convenience and necessity and whether the territory proposed to be served is already served by a carrier. If the public convenience and necessity require the issuance of more than one certificate B over such route or routes, the commission may order the issuance of an additional certificate B, but the certificate may be revoked by order of the commission at the end of any license year as to any particular route or routes, if prior to the expiration of the year the commission has ordered the issuance of a certificate A over the route.

HISTORY: 1962 Code Section 58‑1413; 1952 Code Section 58‑1413; 1942 Code Section 8510; 1932 Code Section 8510; 1925 (34) 252; 1930 (36) 1068; 2006 Act No. 318, Section 145, eff May 24, 2006.

CROSS REFERENCES

Use of motor carrier registration fees to fund State Transport Police Division, see Section 23‑6‑185.

Library References

Automobiles 87, 104.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 202 to 205, 218 to 221, 286, 294 to 296.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Carriers Section 11, Classes of Certificates.

**SECTION 58‑23‑240.** Class C certificates.

The Office of Regulatory Staff, upon order of the commission, may issue a certificate C to any applicant who does not propose in any way to solicit the transportation of persons over improved public highways outside of the corporate limits of any city or town or to operate upon a regular schedule, but who is privately employed for a specific trip and who will not solicit or receive patronage along the route. But those operators may solicit passengers (a) for destination within the corporate limits of any city or town wherein such passengers are solicited, (b) within a radius of two miles of the corporate limits of the city or town in which they are licensed to do business, and (c) upon such highways as are not served by a holder of an A or B certificate.

HISTORY: 1962 Code Section 58‑1414; 1952 Code Section 58‑1414; 1942 Code Section 8510; 1932 Code Section 8510; 1925 (34) 252; 1930 (36) 1068; 2006 Act No. 318, Section 145, eff May 24, 2006.

CROSS REFERENCES

Use of motor carrier registration fees to fund State Transport Police Division, see Section 23‑6‑185.

Library References

Automobiles 87, 104.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 202 to 205, 218 to 221, 286, 294 to 296.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Carriers Section 11, Classes of Certificates.

**SECTION 58‑23‑250.** Class D certificates.

The Office of Regulatory Staff, upon order of the commission, may issue a certificate D for property‑carrying vehicles which will operate upon regular routes and schedules over such highways.

HISTORY: 1962 Code Section 58‑1415; 1952 Code Section 58‑1415; 1942 Code Section 8510; 1932 Code Section 8510; 1925 (34) 252; 1930 (36) 1068; 2006 Act No. 318, Section 145, eff May 24, 2006.

CROSS REFERENCES

Use of motor carrier registration fees to fund State Transport Police Division, see Section 23‑6‑185.

Library References

Automobiles 87, 104.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 202 to 205, 218 to 221, 286, 294 to 296.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Carriers Section 11, Classes of Certificates.

**SECTION 58‑23‑260.** Class E certificates.

The Office of Regulatory Staff, upon order of the commission, may issue a certificate E for the property‑carrying vehicles which will not operate upon any particular route or schedule.

HISTORY: 1962 Code Section 58‑1416; 1952 Code Section 58‑1416; 1942 Code Section 8510; 1932 Code Section 8510; 1925 (34) 252; 1930 (36) 1068; 2006 Act No. 318, Section 145, eff May 24, 2006.

CROSS REFERENCES

Use of motor carrier registration fees to fund State Transport Police Division, see Section 23‑6‑185.

Library References

Automobiles 87, 104.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 202 to 205, 218 to 221, 286, 294 to 296.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Carriers Section 11, Classes of Certificates.

**SECTION 58‑23‑270.** Class F certificates.

The Office of Regulatory Staff, upon order of the commission, may issue a certificate F to any person or corporation who proposes to engage in the business commonly known as contract hauling of freight or property when such applicant does not propose to operate upon a regular schedule or over a regular route or to solicit or receive patronage along the route.

HISTORY: 1962 Code Section 58‑1417; 1952 Code Section 58‑1417; 1942 Code Section 8510; 1932 Code Section 8510; 1925 (34) 252; 1930 (36) 1068; 1978 Act No. 412, eff March 6, 1978; 2006 Act No. 318, Section 145, eff May 24, 2006.

CROSS REFERENCES

Use of motor carrier registration fees to fund State Transport Police Division, see Section 23‑6‑185.

Library References

Automobiles 87, 104.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 202 to 205, 218 to 221, 286, 294 to 296.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Carriers Section 11, Classes of Certificates.

**SECTION 58‑23‑280.** Provisions governing class A and C certificates shall apply to D and E certificates.

The provisions of this chapter governing the granting of certificates A and C apply to certificates D and E.

HISTORY: 1962 Code Section 58‑1418; 1952 Code Section 58‑1418; 1942 Code Section 8510; 1932 Code Section 8510; 1925 (34) 252; 1930 (36) 1068; 2006 Act No. 318, Section 145, eff May 24, 2006.

CROSS REFERENCES

Use of motor carrier registration fees to fund State Transport Police Division, see Section 23‑6‑185.

Library References

Automobiles 87, 104.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 202 to 205, 218 to 221, 286, 294 to 296.

**SECTION 58‑23‑290.** Partial A, B and D certificates.

In ordering the issuance of a certificate A, B, or D the commission may order the issuance of a certificate for partial exercise only of the privileges sought, but without alteration of the license charges fixed thereon.

HISTORY: 1962 Code Section 58‑1419; 1952 Code Section 58‑1419; 1942 Code Section 8510; 1932 Code Section 8510; 1925 (34) 252; 1930 (36) 1068; 2006 Act No. 318, Section 145, eff May 24, 2006.

CROSS REFERENCES

Use of motor carrier registration fees to fund State Transport Police Division, see Section 23‑6‑185.

Library References

Automobiles 87, 104.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 202 to 205, 218 to 221, 286, 294 to 296.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Carriers Section 11, Classes of Certificates.

**SECTION 58‑23‑300.** Publication of notice of hearings on applications for class A, B or D certificates.

The applicant for a class A, B, or D certificate of public convenience and necessity shall have a notice of the hearing on the application published in one newspaper of each county into or through which the proposed service would operate, at least fifteen days before the date of the hearing, such notice to be in the form prescribed by the commission, and an affidavit of the publisher of such newspaper giving the date of publication of such notice shall be filed with the commission by the applicant at the beginning of the hearing or prior thereto.

HISTORY: 1962 Code Section 58‑1420; 1952 Code Section 58‑1420; 1942 Code Section 8509; 1932 Code Section 8509; 1925 (34) 252; 1930 (36) 1068; 1933 (38) 429; 2006 Act No. 318, Section 145, eff May 24, 2006.

Library References

Automobiles 82.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 200, 223 to 239, 252 to 257, 278 to 279, 281, 303.

**SECTION 58‑23‑310.** Certain applicants granted certificates as matter of right.

The commission must order the issuance of a certificate as a matter of right when it appears that the applicant was operating in good faith on or before June 8, 1925, but was not operating immediately prior thereto or on that date because of impassable roads.

HISTORY: 1962 Code Section 58‑1421; 1952 Code Section 58‑1421; 1942 Code Section 8509; 1932 Code Section 8509; 1925 (34) 252; 1930 (36) 1068; 1933 (38) 429; 2006 Act No. 318, Section 145, eff May 24, 2006.

Library References

Automobiles 78, 82.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 187 to 189, 200, 206 to 210, 213, 223 to 239, 252 to 257, 278 to 279, 281, 303.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Carriers Section 10, Licensing in General.

**SECTION 58‑23‑320.** Suspension, revocation, alteration or amendment of certificates; appeal.

The commission may, after a hearing, order the suspension, revocation, alteration, or amendment of any certificate issued pursuant to Articles 1 through 11 of this chapter, if it is proved that the holder of the certificate wilfully made any misrepresentation of a material fact in obtaining his certificate or wilfully violated or refused to observe the laws of this State touching motor vehicle carriers or wilfully violated any of the terms of his certificate or of the commission’s proper orders, rules, or regulations. But the holder of the certificate has the right of appeal to any court of competent jurisdiction. The commission must not be a party to any appeal.

HISTORY: 1962 Code Section 58‑1422; 1952 Code Section 58‑1422; 1942 Code Section 8518; 1932 Code Section 8518; 1925 (34) 252; 2006 Act No. 318, Section 145, eff May 24, 2006.

Library References

Automobiles 106.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 262 to 266, 299 to 302.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Carriers Section 14, Revocation of a License.

LAW REVIEW AND JOURNAL COMMENTARIES

Amending of Certificate of Public Convenience. 25 S.C. L. Rev. 319.

**SECTION 58‑23‑330.** Grounds for issuance or denial of certificate.

An applicant applying for a certificate or applying to amend a certificate to operate as a motor vehicle common carrier may be approved upon a showing based on criteria established by the commission that the applicant is fit, willing, and able to perform appropriately the proposed service. If an intervenor shows or if the commission determines that the public convenience and necessity is being served already, the commission may deny the application. If the commission approves the issuance of a restricted certificate to operate, the reason for the restriction must be justified in writing.

If an application is denied, another application may not be made until at least six months have elapsed since the date of the denial.

HISTORY: 1983 Act No. 138 Section 18, eff March 1, 1984; 1988 Act No. 525, Section 2, eff May 18, 1988; 1989 Act No. 184, Section 6, eff June 8, 1989; 2006 Act No. 318, Section 145, eff May 24, 2006.

Library References

Automobiles 78, 79, 83.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 187 to 189, 200, 206 to 237, 276, 303.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Carriers Section 10, Licensing in General.

NOTES OF DECISIONS

In general 1

Review 2

1. In general

In an administrative proceeding to determine whether a certificate of public convenience and necessity to transport household goods as a regulated motor carrier should issue, an intervenor was not required to produce public witnesses as evidence that convenience and necessity were already being served. Welch Moving and Storage Co., Inc. v. Public Service Com’n of South Carolina (S.C.App. 1989) 297 S.C. 378, 377 S.E.2d 133, reversed 301 S.C. 259, 391 S.E.2d 556. Automobiles 83

If the adequacy of existing service to meet the public convenience and necessity is in issue, Section 58‑23‑330 requires an intervener to prove the affirmative; it does not require that the applicant must prove the negative. Nor does it shift the burden of showing public convenience and necessity to the applicant simply because someone has intervened to oppose the application. Anderson Armored Car Service, Inc. v. South Carolina Public Service Com’n (S.C.App. 1988) 295 S.C. 148, 367 S.E.2d 444.

2. Review

Circuit Court exceeded its scope of review by overturning Public Service Commission’s finding that intervenors, to an application for a certificate to render motor freight service over irregular routes within the state, had failed to show that, with the exception of petroleum and petroleum products, the public convenience and necessity was already being served; even though a determination different from that of the Commission could have been reached based on the evidence before it, this would not justify setting aside the Commission’s finding and the action of the Circuit Court amounted to a substitution of judicial discretion for that of the Commission, which required reversal. Central Transport, Inc. v. South Carolina Public Service Commission (S.C. 1986) 289 S.C. 267, 346 S.E.2d 25.

**SECTION 58‑23‑340.** Alienation or lease of certificates issued after July 1, 1983.

Notwithstanding custom or usage or any regulation, or other provision of law, it is unlawful for any person to sell, lease, or otherwise transfer a certificate of public convenience and necessity issued or authorized to be issued after July 1, 1983, under the provisions of Chapter 23 of Title 58 for money, goods, services, or any other thing of value. A certificate may be transferred incident to the sale or lease of property or assets owned or used by a regulated motor carrier, provided the approval of the commission for the transfer of the certificate is first obtained and that the certificate itself is not transferred for value or utilized to enhance the value of other property transferred. Nothing herein shall effect the sale, lease, or otherwise transfer of a certificate of public convenience and necessity issued prior to July 1, 1983.

HISTORY: 1983 Act No. 138 Section 19, eff June 15, 1983; 2006 Act No. 318, Section 145, eff May 24, 2006.

Library References

Automobiles 105.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 202, 245 to 249, 297 to 298.

ARTICLE 5

Annual Applications and License Fees

**SECTION 58‑23‑510.** Applications for annual licenses.

Every motor vehicle carrier which shall operate in this State shall, as soon as such certificate is issued and annually on or before each succeeding January first as long as such certificate remains in force, present it, with any changes which have been ordered by the commission, to the Office of Regulatory Staff and make an application in writing to the Office of Regulatory Staff for registration and license as prescribed in Chapter 3 of Title 56 for owners of motor vehicles generally.

HISTORY: 1962 Code Section 58‑1431; 1952 Code Section 58‑1431; 1942 Code Section 8512; 1932 Code Section 8512; 1925 (34) 252; 1930 (36) 1068; 1938 (40) 1915; 2006 Act No. 318, Section 146, eff May 24, 2006.

CROSS REFERENCES

Use of motor carrier registration fees to fund State Transport Police Division, see Section 23‑6‑185.

Library References

Automobiles 82.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 200, 223 to 239, 252 to 257, 278 to 279, 281, 303.

NOTES OF DECISIONS

In general 1

1. In general

An ordinance requiring an automobile operator’s license is not in conflict with the State law on the same subject. State v. Perry (S.C. 1927) 138 S.C. 329, 136 S.E. 314. Automobiles 137; Municipal Corporations 592(1)

**SECTION 58‑23‑520.** Information which shall be furnished in applications for class A and B certificates.

In such application, beside the other matters by law prescribed, the applicant for a certificate A or B for passenger vehicles shall state the following:

(1) The seating capacity of the vehicle;

(2) The route on which the motor vehicle is to be used;

(3) Whether reserve or substitute vehicles are maintained by the applicant to be used only in emergencies and if so the number of such reserve and substitute vehicles and a complete description of each;

(4) The length of route in miles on improved public highways in this State;

(5) The weight of the vehicle when empty; and

(6) The schedule under which the vehicle shall operate during the ensuing year.

But an applicant for a certificate B will not be required to furnish a schedule with this application.

HISTORY: 1962 Code Section 58‑1432; 1952 Code Section 58‑1432; 1942 Code Section 8512; 1932 Code Section 8512; 1925 (34) 252; 1930 (36) 1068; 1938 (40) 1915.

Library References

Automobiles 82.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 200, 223 to 239, 252 to 257, 278 to 279, 281, 303.

**SECTION 58‑23‑530.** License fees for class A certificate holders having twenty or more vehicles.

The following annual fees must be paid to the Office of Regulatory Staff by each holder of a certificate A which has twenty or more vehicles for each motor vehicle of the holder:

A motor vehicle weighing, including carrying capacity, less than seven thousand pounds if equipped with solid tires or less than thirteen thousand pounds if equipped with pneumatic tires, one‑fiftieth of a cent per each passenger seat multiplied by the total number of miles that the application shows will be traveled over the improved public highways of this State by the motor vehicle during the year for which the license is issued.

A motor vehicle weighing, including carrying capacity, over seven thousand pounds if equipped with solid tires or over thirteen thousand pounds if equipped with pneumatic tires, one‑fortieth of a cent per each passenger seat multiplied by the total number of miles that the application shows will be traveled over improved public highways of the State by the motor vehicle during the year for which the license is issued.

But the minimum fee for vehicles licensed hereunder is as follows: For a vehicle of not over seven passenger capacity, thirty dollars; for a vehicle of over seven and not over twelve passenger capacity, forty dollars; for a vehicle of over twelve and not over seventeen passenger capacity, fifty dollars; for a vehicle of over seventeen and not over twenty‑two passenger capacity, sixty dollars; for a vehicle of over twenty‑two and not over twenty‑seven passenger capacity, seventy‑five dollars; and for a vehicle over twenty‑seven passenger capacity, ninety dollars.

HISTORY: 1962 Code Section 58‑1433; 1952 Code Section 58‑1433; 1942 Code Section 8512; 1932 Code Section 8512; 1925 (34) 252; 1930 (36) 1068; 1938 (40) 1915; 1983 Act No. 138 Section 23, eff July 1, 1983; 2006 Act No. 318, Section 147, eff May 24, 2006.

CROSS REFERENCES

Use of motor carrier registration fees to fund State Transport Police Division, see Section 23‑6‑185.

Library References

Automobiles 98.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 307, 310 to 313.

**SECTION 58‑23‑540.** Computation of carrying weight of passenger vehicles.

The carrying capacity weight of all passenger vehicles shall be computed upon a basis of one hundred and fifty pounds per passenger seat.

HISTORY: 1962 Code Section 58‑1434; 1952 Code Section 58‑1434; 1942 Code Section 8512; 1932 Code Section 8512; 1925 (34) 252; 1930 (36) 1068; 1938 (40) 1915.

Library References

Automobiles 98.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 307, 310 to 313.

**SECTION 58‑23‑550.** License fees for class B certificate holders having twenty or more vehicles.

A holder of a certificate B which has twenty or more vehicles shall annually pay for each vehicle to the Office of Regulatory Staff for a license to operate as holder under the certificate the same amount as required of holders of certificate A, except that in computing the amount to be paid for a license the applicant must estimate the number of miles which each vehicle will travel during the period for which the license is issued. The minimum amount of the estimate is twenty‑five thousand miles.

HISTORY: 1962 Code Section 58‑1435; 1952 Code Section 58‑1435; 1942 Code Section 8512; 1932 Code Section 8512; 1925 (34) 252; 1930 (36) 1068; 1938 (40) 1915; 1983 Act No. 138 Section 23, eff July 1, 1983; 2006 Act No. 318, Section 148, eff May 24, 2006.

CROSS REFERENCES

Use of motor carrier registration fees to fund State Transport Police Division, see Section 23‑6‑185.

Library References

Automobiles 98.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 307, 310 to 313.

**SECTION 58‑23‑560.** License fees for class A, B, or C certificate holders having less than twenty vehicles.

A holder of a certificate A, B, or C with less than twenty vehicles must semiannually on or before January first and July first of each year pay to the Office of Regulatory Staff the following fees: for vehicles weighing not more than two thousand pounds, seven dollars and fifty cents; and for vehicles weighing in excess of two thousand pounds, seven dollars and fifty cents for the first two thousand pounds and two dollars and fifty cents additional for each additional five hundred pounds or part thereof of weight, except that the total license fee may not exceed fifty dollars per vehicle semiannually.

HISTORY: 1962 Code Section 58‑1436; 1952 Code Section 58‑1436; 1942 Code Section 8512; 1932 Code Section 8512; 1925 (34) 252; 1930 (36) 1068; 1938 (40) 1915; 1983 Act No. 138 Section 23, eff July 1, 1983; 2006 Act No. 318, Section 149, eff May 24, 2006.

CROSS REFERENCES

Use of motor carrier registration fees to fund State Transport Police Division, see Section 23‑6‑185.

Library References

Automobiles 98.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 307, 310 to 313.

**SECTION 58‑23‑570.** Information which shall be furnished in application for class D certificate.

In an application for a certificate D the applicant shall state, besides the other matters by law provided:

(1) The carrying capacity as given by the manufacturer of the motor vehicle;

(2) The route on which the motor vehicle is to be used;

(3) Whether reserve or substitute cars are maintained by the applicant to be used only in emergencies and, if so, the number of such reserve and substitute cars and a complete description of each;

(4) The length of the route in miles on improved public highways in this State;

(5) The weight of the vehicle when empty; and

(6) The schedule under which the vehicle shall operate during the ensuing year.

HISTORY: 1962 Code Section 58‑1437; 1952 Code Section 58‑1437; 1942 Code Section 8512; 1932 Code Section 8512; 1925 (34) 252; 1930 (36) 1068; 1938 (40) 1915.

Library References

Automobiles 82.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 200, 223 to 239, 252 to 257, 278 to 279, 281, 303.

**SECTION 58‑23‑590.** Carriers of household goods and hazardous waste for disposal; regulation; Office of Compliance; fees.

(A) The commission must promulgate regulations necessary to control entry and certification standards, set rates and charges, and establish enforcement procedures and powers to govern the operations of carriers of household goods and hazardous waste for disposal.

(B) The Office of Regulatory Staff is authorized to establish an Office of Compliance to carry out its responsibilities and may assess the carriers of household goods and hazardous waste for disposal fees necessary to fund this office and to carry out its responsibilities.

(C) The Office of Regulatory Staff must issue a common carrier certificate or contract carrier permit of public convenience and necessity, upon order of the commission, if the applicant proves to the commission that:

(1) it is fit, willing, and able to properly perform the proposed service and comply with the provisions of this chapter and the commission’s regulations; and

(2) the proposed service, to the extent to be authorized by the certificate or permit, is required by the present public convenience and necessity.

The commission shall adopt regulations that provide criteria for establishing that the applicant is fit, willing, and able, and criteria for establishing that the applicant must meet the requirement of public convenience and necessity. The determination that the proposed service is required by the public, convenience and necessity must be made by the commission on a case‑by‑case basis.

(D) A carrier of household goods, before operating in an exempt zone provided in Section 58‑23‑60 in this State, must obtain a certificate of fit, willing, and able from the Office of Regulatory Staff upon order of the commission. The Office of Regulatory Staff may establish an annual registration requirement and set a fee for this registration which is comparable to and is calculated by using the same methodology applied to holders of certificates of public convenience and necessity.

(E) The Office of Regulatory Staff is authorized to employ necessary personnel to administer and enforce the provisions of this chapter as they apply to carriers of household goods and hazardous waste for disposal. A carrier operating in violation of a provision of Articles 1 through 12 of this chapter is guilty of a misdemeanor and, upon conviction, must pay penalties provided in Section 58‑23‑80. A fine of one thousand dollars is imposed on the violators of the certification and registration requirements. Seventy‑five percent of this fine must be remitted to the Office of Regulatory Staff to be used for the operation of the Office of Compliance. Magistrates have jurisdiction over contested violations of this section and are prohibited from suspending or reducing the penalties.

HISTORY: 1962 Code Section 58‑1439; 1952 Code Section 58‑1439; 1942 Code Section 8512; 1932 Code Section 8512; 1925 (34) 252; 1930 (36) 1068; 1938 (40) 1915; 1959 (51) 391; 1962 (52) 2160; 1963 (53) 95; 1964 (53) 1803; 1995 Act No. 145, Part II, Section 51C, eff June 29, 1995; 2006 Act No. 318, Section 150, eff May 24, 2006.

CROSS REFERENCES

Use of motor carrier registration fees to fund State Transport Police Division, see Section 23‑6‑185.

Library References

Automobiles 77, 78.

Environmental Law 368.

Westlaw Topic Nos. 48A, 149E.

C.J.S. Motor Vehicles Sections 187 to 189, 200 to 201, 206 to 210, 213, 303.

NOTES OF DECISIONS

In general 1

1. In general

The fees under this section [Code 1962 Section 58‑1439] are reasonable as to amount, and do not constitute an undue burden on interstate commerce. State v. Hicklin (S.C. 1933) 168 S.C. 440, 167 S.E. 674, affirmed 54 S.Ct. 142, 290 U.S. 169, 78 L.Ed. 247.

**SECTION 58‑23‑600.** Time for payment of fees.

The fees prescribed in this article may be paid semiannually in advance on or before January first and July first of each year. Provided, that fees for D, E and F certificates may be paid on an annual basis on or before July first of each year.

HISTORY: 1962 Code Section 58‑1440; 1952 Code Section 58‑1440; 1942 Code Section 8512; 1932 Code Section 8512; 1925 (34) 252; 1930 (36) 1068; 1938 (40) 1915; 1965 (54) 327.

Library References

Automobiles 100.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 307, 314 to 315.

**SECTION 58‑23‑610.** Fees shall not be refunded for period when license not used; exception.

No portion of a license fee paid as aforesaid will be refunded for any part of the year during which the license is not used except that when any carrier is prohibited from operating over his route by virtue of the closing of any road by the State, county, city or town authorities, there shall be a proper readjustment and credit given such operator proportionately for such unused portion of his license, unless a passable detour is provided.

HISTORY: 1962 Code Section 58‑1441; 1952 Code Section 58‑1441; 1942 Code Section 8513; 1932 Code Section 8513; 1925 (34) 252.

Library References

Automobiles 102.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 307, 316.

**SECTION 58‑23‑620.** Situations in which local fees may or may not be imposed.

Section effective until January 1, 2019. See, also, section 58‑23‑620 effective January 1, 2019.

No city, town, or county in this State shall impose a license fee or license tax upon a holder of a certificate A or a certificate B, and no city, town, or county shall impose a license fee or license tax on the holder of a certificate E or a certificate F, Certificate of Compliance, or a common or contract motor carrier of property, except the city or town of such carrier’s residence or the location of his principal place of business. However, the fee required of a holder of a certificate C is in addition to any license tax or license fee charged by a municipality.

HISTORY: 1962 Code Section 58‑1442; 1952 Code Section 58‑1442; 1942 Code Section 8512; 1932 Code Section 8512; 1925 (34) 252; 1930 (36) 1068; 1938 (40) 1915; 1995 Act No. 145, Part II, Section 51D, eff June 29, 1995.

**SECTION 58‑23‑620.** Situations in which local fees may or may not be imposed.

Section effective January 1, 2019. See, also, section 58‑23‑620 effective until January 1, 2019.

(A) A municipality or county in this State may not impose a license fee or license tax upon a holder of a certificate A or a certificate B, and a municipality or county may not impose a license fee or license tax on the holder of a certificate E or a certificate F, Certificate of Compliance, or a common or contract motor carrier of property, except the municipality of the carrier’s residence or the location of the carrier’s principal place of business. However, the fee required of a holder of a certificate C is in addition to any license tax or license fee charged by a municipality.

(B) If a municipality or county imposes a license fee or license tax pursuant to subsection (A), the fee or tax in the case of any certificate holder or common or contract motor carrier of property which operates its vehicles both within and without this State, must be apportioned in the ratio that the miles traveled by the vehicles operated by the certificate holder in this State bears to miles traveled by those vehicles in all states.

HISTORY: 1962 Code Section 58‑1442; 1952 Code Section 58‑1442; 1942 Code Section 8512; 1932 Code Section 8512; 1925 (34) 252; 1930 (36) 1068; 1938 (40) 1915; 1995 Act No. 145, Part II, Section 51D, eff June 29, 1995; 2017 Act No. 40 (H.3516), Section 8.H, eff January 1, 2019.

Editor’s Note

2017 Act No. 40, Sections 8.L, 8.M, provide as follows:

“L. (1) Notwithstanding any provision to the contrary within this SECTION, a person who registers a vehicle for use in this State pursuant to Article 23, Chapter 37, Title 12, as amended by this act, must register his vehicle during calendar year 2019 and is required to pay the road fees calculated based on the fair market value of the vehicle as specified in Sections 12‑37‑2820 and 12‑37‑2850 at the time the vehicle’s registration fees are paid.

“(2) Notwithstanding the provisions in Section 12‑37‑2865(B) and (C), as contained in this SECTION, to the contrary, during calendar year 2019, the first four hundred thousand dollars of fee revenue collected pursuant to Section 12‑37‑2865 must be retained by the Department of Motor Vehicles to defray programming costs.

“(3) The initial millage required by Section 12‑37‑2850 must be calculated on or before June 1, 2018.

“M. This SECTION takes effect January 1, 2019, except that the Department of Revenue, in consultation with the Revenue and Fiscal Affairs Office, shall calculate the millage to be used to calculate the road use fee provided in Section 12‑37‑2850 by July 1, 2018.”

Effect of Amendment

2017 Act No. 40, Section 8.H, rewrote the section, apportioning certain license fees and taxes.

Library References

Automobiles 62, 97.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 39 to 40, 135 to 136, 307 to 309.

Attorney General’s Opinions

Only the city or town of the towing company’s residence or the location of its principal place of business is authorized to impose a license fee or license tax pursuant to this section. SC Op.Atty.Gen. (Jan. 10, 2008) 2008 WL 317743.

Section 58‑23‑620 of the South Carolina Code of Laws precludes the imposition by a county of its business license tax upon the holders of Class E or F Certificates issued such businesses by the Public Service Commission under authority of Section 58‑23‑510, et seq. 1989 Op Atty Gen, No. 89‑130, p 354.

**SECTION 58‑23‑630.** Distribution of license fees.

All license fees for the operation of motor vehicles for hire collected by the Office of Regulatory Staff pursuant to the provisions of this article must be deposited in the State Treasury and there shall be transferred from such collections to the general fund of the State so much as is estimated to cover the costs of administration and collection of such fees.

HISTORY: 1962 Code Section 58‑1443; 1952 Code Section 58‑1443; 1942 Code Section 8517; 1932 Code Section 8517; 1925 (34) 252; 1935 (39) 25; 1938 (50) 1915; 1941 (42) 227; 1944 (43) 1168; 1964 (53) 2104; 1985 Act No. 201, Part II, Section 6C, eff June 20, 1985; 2006 Act No. 318, Section 151, eff May 24, 2006.

CROSS REFERENCES

Use of motor carrier registration fees to fund State Transport Police Division, see Section 23‑6‑185.

Library References

Automobiles 101.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 307, 317.

NOTES OF DECISIONS

Constitutional issues 1

1. Constitutional issues

Payment into general fund constitutional. This section [Code 1962 Section 58‑1443] directing the payment of the net proceeds of fees by the Public Service Commission to the State Treasurer to be credited to the general fund of the State does not violate SC Const, Art 10, Sections 2 and 3, Art 1, Section 8, nor Art 1, Section 10 of the Federal Constitution. State ex rel. Brown v. Bates (S.C. 1941) 198 S.C. 430, 18 S.E.2d 346.

In statute regulating motor carriers, license fees required of contract carriers and based on carrying capacity held not undue burden on interstate commerce. Code 1942, Sections 8512, 8517; Const.U.S. art. 1, Section 8, cl. 3, and Amends. 5, 14. State v. Hicklin (S.C. 1933) 168 S.C. 440, 167 S.E. 674.

In statute regulating motor carriers, license fees required of contract carriers and based on carrying capacity held reasonable as to amount. Code 1942, Sections 8512, 8517. State v. Hicklin (S.C. 1933) 168 S.C. 440, 167 S.E. 674.

ARTICLE 9

Insurance or Bond

**SECTION 58‑23‑910.** Insurance, bond, or certificate of self‑insurance required of certificate holders generally.

The commission shall, in ordering the issuance of a certificate, require the applicant to procure and file with the Office of Regulatory Staff either liability and property damage insurance, a surety bond with some casualty or surety company authorized to do business in this State, or a certificate of self‑insurance as provided by Section 56‑9‑60 on all motor vehicles to be used in the service in that amount as the commission may determine, insuring or indemnifying passengers or cargo and the public receiving personal injury by reason of any act of negligence and for damage to property of any person other than the assured. The policy, bond, or certificate of self‑insurance must contain those conditions, provisions, and limitations as the commission may prescribe and must be kept in full force and effect and failure to do so is cause for the revocation of the certificate.

HISTORY: 1962 Code Section 58‑1481; 1952 Code Section 58‑1481; 1942 Code Section 8511; 1932 Code Section 8511; 1925 (34) 252; 1930 (36) 1327; 1931 (37) 145; 1935 (39) 25; 1944 (43) 1343; 1988 Act No. 525, Section 1, eff May 18, 1988; 2006 Act No. 318, Section 152, eff May 24, 2006.

Library References

Automobiles 88.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 287 to 293.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Carriers Section 42, Motor Vehicle Carriers.

NOTES OF DECISIONS

In general 1

Direct action by injured party against insurer 3

Federal court 6

Insurer not liable if owner not liable 5

Joinder 4

Purpose 2

1. In general

Cited in Hicks v Hicklin, 183 SC 275, 190 SE 922 (1937). Bryant v Blue Bird Cab Co., 202 SC 456, 25 SE2d 489 (1943). Daniel v Tower Trucking Co., 205 SC 333, 32 SE2d 5 (1944). Lucas v Garrett, 208 SC 292, 38 SE2d 18 (1946). Lucas v Garrett, 209 SC 521, 41 SE2d 212 (1947). American Indem. Co. v Richland Oil Co., 273 F Supp 702 (D SC 1967). Weeks v Friday, 255 SC 447, 179 SE2d 909 (1971).

Stated in Continental Casualty Co. v Padgett, 123 F Supp 847 (1954), reversed in 219 F2d 133 (1955). Huckabee Transport Corp. v Western Assur. Co., of Toronto, Canada, 238 SC 565, 121 SE2d 105 (1961).

Leased vehicles covered. Where carrier had blanket insurance coverage as provided for by this section [Code 1962 Section 58‑1481] such insurance covered vehicles leased by such carrier. American Fidelity & Cas. Co. of Richmond, Va. v. Zurich General Acc. & Liability Ins. Co., 1947, 70 F.Supp. 613.

Period of motor carrier’s liability insurance policy did not begin at pre‑printed time listed on certificate of insurance that was filed with the Public Service Commission (PSC); although the certificate listed 12:01 a.m. as the beginning of the policy, the insurer bound coverage later that day, and the certificate thus contained a scrivener’s error subsequently amended by the insurer. Canal Ins. Co. v. Caldwell (S.C.App. 1999) 338 S.C. 1, 524 S.E.2d 416, rehearing denied, certiorari denied. Insurance 1887(3); Insurance 2647

Effect of this section [Code 1962 Section 58‑1481] and Rule 57 as parts of insurance contract. Rule 57 (Motor Vehicles Transporting Persons and Property), by which the amount of the required insurance is determined, provides for the endorsement of the policy, in which endorsement the various limits of liability are set forth. Thus, this section [Code 1962 Section 58‑1481] and Rule 57 doubly become parts of the contract of insurance and effectually reduce the face amount of it for the purposes of Code 1962 Section 10‑702. Dobson v. American Indem. Co. (S.C. 1955) 227 S.C. 307, 87 S.E.2d 869.

Liability of applicant for actionable negligence. The giving of insurance does not in anywise relieve the common carrier himself from full liability for his actionable negligence resulting in personal injury or damage to property. McCrae v. McCoy (S.C. 1949) 214 S.C. 343, 52 S.E.2d 403.

Quoted in Kelly v. Driggers (S.C. 1949) 214 S.C. 237, 51 S.E.2d 764.

Applied in Martin v. One Chevrolet Truck (S.C. 1945) 207 S.C. 87, 34 S.E.2d 474.

Cargo insurance not required. In the case of private carriers, or contract carriers, the provisions of this section [Code 1962 Section 58‑1481] extend no further than to require such carriers to execute an indemnity bond. It was not the intent of the legislature to require contract carriers to obtain and carry cargo insurance. State v. Hicklin (S.C. 1933) 168 S.C. 440, 167 S.E. 674, affirmed 54 S.Ct. 142, 290 U.S. 169, 78 L.Ed. 247.

This is a public act and every citizen is presumed to have knowledge of it. Benn v. Camel City Coach Co. (S.C. 1931) 162 S.C. 44, 160 S.E. 135. Evidence 65

2. Purpose

Purpose of statute. The manifest purpose of the statute is the protection of passengers and members of the public who may be injured by negligence of bus operators, and a policy issued for such purpose must be construed most strongly against the insurer. Ott v. American Fidelity & Cas. Co. (S.C. 1931) 161 S.C. 314, 159 S.E. 635, 76 A.L.R. 4.

A policy under this section [Code 1962 Section 58‑1481] is intended, not to evade, but to effectuate the purposes of the statute in compliance with which it was filed. Ott v. American Fidelity & Cas. Co. (S.C. 1931) 161 S.C. 314, 159 S.E. 635, 76 A.L.R. 4.

3. Direct action by injured party against insurer

Where willfulness is not alleged, the person injured has the beneficial interest in the policy and is entitled to sue thereon. Leppard v. Jordan’s Truck Line, 1953, 110 F.Supp. 811. Insurance 3457

No right exists under statute or common law for third party to maintain action solely against insurer. Major v. National Indem. Co. (S.C. 1976) 267 S.C. 517, 229 S.E.2d 849.

Policies filed are liability rather than indemnity policies. This section [Code 1962 Section 58‑1481] requires the filing with the Public Service Commission of liability and property damage insurance “insuring or indemnifying” passengers receiving personal injuries by any act of negligence. Under this statutory requirement the court has held that the policies filed are liability rather than indemnity policies. Watts v. Baker (S.C. 1958) 233 S.C. 446, 105 S.E.2d 605.

And injured party has a direct right of action thereon. Watts v. Baker (S.C. 1958) 233 S.C. 446, 105 S.E.2d 605.

The terms of an insurance policy issued in accordance with the provisions of this section [Code 1962 Section 58‑1481] created a direct obligation by the insurer to the shipper, and the shipper could maintain an action directly against the insurer for any loss suffered. McIntosh v. Whieldon (S.C. 1944) 205 S.C. 119, 30 S.E.2d 851.

Failure to notify insurer. Insured’s failure to notify liability insurer of accident, even though required by policy, held not to deprive injured party of right of action against insurer. Ott v. American Fidelity & Cas. Co. (S.C. 1931) 161 S.C. 314, 159 S.E. 635, 76 A.L.R. 4. Insurance 3169

4. Joinder

Indemnity company may be joined with the insured in an action for personal injury due to the negligence of the insured, if the contract of insurance be one to answer for liability incurred by the insured, and not for its loss, where the parties in interest and the damages recoverable are the same. Benn v Camel City Coach Co., 162 SC 44, 160 SE 135 (1931), interpreting Piper v American Fidelity & Cas. Co., 157 SC 106, 154 SE 106 (1930). Leppard v Jordan’s Truck Line, 110 F Supp 811 (1953).

The law of South Carolina is clear that the insurance companies cannot be joined in an action on policies issued pursuant to this section [Code 1962 Section 58‑1481] if the damages sought are punitive. Leppard v. Jordan’s Truck Line, 1953, 110 F.Supp. 811.

The insured and the insurance company may be joined as parties defendant, pursuant to Code 1962 Section 10‑702, in actions by third persons based upon the negligence of the insured. Watts v. Baker (S.C. 1958) 233 S.C. 446, 105 S.E.2d 605.

This section [Code 1962 Section 58‑1481] gives the public such an interest in the contract of insurance that upon damage to person or property by the negligence of the common carrier, an action can be brought by the person so damaged and the common carrier and its insurance company can be joined as defendants where it is alleged that the loss arose only from the negligence of the carrier. Massey v. War Emergency Co‑op. Ass’n (S.C. 1946) 209 S.C. 292, 39 S.E.2d 907.

Both causes of action relating to property damage and personal injury may be joined in the same complaint against both principal and surety, and Code 1962 Section 10‑702 does not modify this practice. Piedmont Fire Ins. Co. v. Burlington Truckers (S.C. 1945) 205 S.C. 489, 32 S.E.2d 755.

This statute becomes a part of the liability insurance contract and therefore insurer may be joined with carrier as defendant in passenger’s action for injuries, though policy prohibits action against insurer until after judgment against insured. Thompson v. Bass (S.C. 1932) 167 S.C. 345, 166 S.E. 346. Action 50(4.1)

Bus company and surety on statutory indemnity bond covering bus company’s liability held properly joined as defendants in action for personal injuries based on negligence only. Benn v. Camel City Coach Co. (S.C. 1931) 162 S.C. 44, 160 S.E. 135. Action 50(4.1)

But not when due to willfulness of insured. Bus company and surety on statutory indemnity bond cannot be properly joined as defendants in action for personal injuries, seeking punitive damages based on former’s negligent, willful, and wanton acts. Benn v. Camel City Coach Co. (S.C. 1931) 162 S.C. 44, 160 S.E. 135. Action 50(4.1)

5. Insurer not liable if owner not liable

The contention that the insurance or bond required by this section [Code 1962 Section 58‑1481] should cover not only acts of negligence of the owner and his agents but any act of negligence by anyone operating the motor vehicle was held unsound. The insurer cannot be held liable when the owner is not. Holder v. Haynes (S.C. 1940) 193 S.C. 176, 7 S.E.2d 833.

6. Federal court

An action brought on the surety bond herein required can be removed to a Federal court where all other jurisdictional requirements are present. Fail v. American Fidelity & Cas. Co. of Richmond, Va., 1947, 74 F.Supp. 904.

**SECTION 58‑23‑920.** Insurance required of owners of motor vehicles transporting goods for hire.

The owner or owners of all motor vehicles transporting goods of any kind for hire on the roads of this State are hereby required as a condition precedent for using the highways of this State to carry with some reputable insurance company liability insurance and property damage insurance in such sums as the Public Service Commission may determine. Any person or corporation violating the terms of this provision shall be fined in an amount of not less than one hundred dollars or not more than five hundred dollars for the first offense and an amount of not less than five hundred dollars or not more than two thousand dollars for each subsequent offense or shall suffer imprisonment of a term of not less than thirty days or not more than one year for the first offense and for not less than six months or not more than three years for each subsequent offense. This section is cumulative and does not repeal any other provisions of this Code relating to this subject.

HISTORY: 1962 Code Section 58‑1482; 1952 Code Section 58‑1482; 1949 (46) 466.

CROSS REFERENCES

Inapplicability of this section to baggage of passengers, see Section 58‑23‑1050.

Library References

Automobiles 88.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 287 to 293.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Carriers Section 42, Motor Vehicle Carriers.

LAW REVIEW AND JOURNAL COMMENTARIES

1978 Survey: Insurance: Insurance procedure; Direct action against insurer. 29 S.C. L. Rev. 146.

NOTES OF DECISIONS

In general 1

1. In general

Driver of leased truck was covered and entitled to defense by lessee’s insurer, rather than by insurer of owner of truck, because Public Service Commission regulations and lease agreement required complete assumption of responsibility by lessee. American Interinsurance Exchange v. Hildebran (D.C.S.C. 1978) 444 F.Supp. 1248, affirmed in part, reversed in part 605 F.2d 731, certiorari denied 100 S.Ct. 1316, 445 U.S. 929, 63 L.Ed.2d 762.

Covenants not to sue entered into between plaintiffs and lessee of truck involved in accident are binding only between parties who executed them, and do not relieve lessee’s insurer of duty under policy to defend any insured, including driver who was driving with permission of and acting in scope of employment with lessee. American Interinsurance Exchange v. Hildebran (D.C.S.C. 1978) 444 F.Supp. 1248, affirmed in part, reversed in part 605 F.2d 731, certiorari denied 100 S.Ct. 1316, 445 U.S. 929, 63 L.Ed.2d 762. Release 37

Public Service Commission’s regulations requiring complete assumption of responsibility by lessee, and paragraph of lease providing that truck would be solely and exclusively under direction and control of lessee, completely absolved owner of any liability to person injured in collision during lease period. American Interinsurance Exchange v. Hildebran (D.C.S.C. 1978) 444 F.Supp. 1248, affirmed in part, reversed in part 605 F.2d 731, certiorari denied 100 S.Ct. 1316, 445 U.S. 929, 63 L.Ed.2d 762.

Responsibility for providing liability coverage and responsibility for defending claims against defendants (lessor and lessee of truck), rested exclusively with lessee’s insurer, lessor’s insurer providing no coverage and owing no defense to lessee, where Public Service Commission regulations required complete assumption of responsibility by lessee, and the motor equipment lease and agreement provided that the lessee’s liability insurance would not cover tractor trailer whenever the tractor was disengaged from lessee’s trailer, thus implying that insurance would cover tractor whenever tractor and trailer were engaged. American Interinsurance Exchange v. Hildebran (D.C.S.C. 1978) 444 F.Supp. 1248, affirmed in part, reversed in part 605 F.2d 731, certiorari denied 100 S.Ct. 1316, 445 U.S. 929, 63 L.Ed.2d 762.

**SECTION 58‑23‑930.** Insurance not required of owners of certain motor vehicles subject to Interstate Commerce Commission.

No owner of a motor vehicle using such vehicle as part of a terminal service in connection with the business of transporting goods by rail shall be required to carry liability or property damage insurance on such motor vehicle if such business of such owner is under the jurisdiction of the Interstate Commerce Commission and if the Interstate Commerce Commission has required and does require such owner to set up insurance reserves covering liability resulting from the conduct of such business, including liability arising out of and in connection with the operation of such motor vehicle and if such insurance reserves have been and are actually so set up.

The owner of such a motor vehicle shall attach inside of the cab of such vehicle in a conspicuous place a certificate signed by such owner, or his duly authorized representative, setting forth that the business of such owner is under the jurisdiction of the Interstate Commerce Commission and that such Commission has required and does require such owner to set up insurance reserves.

HISTORY: 1962 Code Section 58‑1483; 1952 Code Section 58‑1483; 1942 Code Section 8530‑2; 1939 (41) 185.

Library References

Automobiles 90.

Westlaw Topic No. 48A.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Carriers Section 42, Motor Vehicle Carriers.

ARTICLE 11

Rights and Duties Generally

**SECTION 58‑23‑1010.** General regulatory powers of commission.

(A) The commission shall regulate every motor carrier in this State and fix or approve the rates, fares, charges, classifications, and regulations pertaining to each motor carrier, except as provided in Section 58‑23‑20. The rates once established remain in effect until such time when the commission determines the rates are unreasonable. The commission may approve joint rates, local rates, and rate agreements between two or more motor carriers relating to rates, classifications, allowances, and charges agreed to and published by individuals, firms, corporations, or the South Carolina Tariff Bureau. Any of these agreements when approved by the commission are not in violation of Section 39‑3‑10.

(B) As to holders of a certificate C, the commission shall fix a maximum rate only.

HISTORY: 1962 Code Section 58‑1461; 1952 Code Section 58‑1461; 1942 Code Section 8516; 1932 Code Section 8516; 1925 (34) 252; 1977 Act No. 116; 1989 Act No. 184, Section 7, eff June 8, 1989; 2006 Act No. 318, Section 153, eff May 24, 2006.

CROSS REFERENCES

Limitation of actions by motor carriers for charges and against motor carriers for overcharges, see Sections 15‑3‑580, 15‑3‑590.

Rules and regulations promulgated under authority of this section, see S.C. Code of Regulations R. 103‑6 et seq.

Library References

Automobiles 63, 121.

Carriers 12(0.5).

Westlaw Topic Nos. 48A, 70.

C.J.S. Motor Vehicles Sections 130 to 138, 178.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Carriers Section 15, Psc Regulation.

NOTES OF DECISIONS

In general 1

1. In general

In determining the fairness and reasonableness of rates for motor carrier services, the Public Service Commission utilizes the operating ratio index; an operating ratio is derived by dividing a carrier’s operating expenses by the operating revenues. Hamm v. South Carolina Public Service Com’n (S.C. 1986) 289 S.C. 22, 344 S.E.2d 600.

The determination of a fair operating margin, or a fair operating ratio, for motor carrier services is peculiarly within the province of the Public Service Commission and cannot be set aside in the absence of a showing that it is unsupported by the substantial evidence in the record. Hamm v. South Carolina Public Service Com’n (S.C. 1986) 289 S.C. 22, 344 S.E.2d 600.

The Public Service Commission has a statutory authority to fix or approve rates of motor carriers. Hamm v. South Carolina Public Service Com’n (S.C. 1986) 289 S.C. 22, 344 S.E.2d 600.

Finding of the Public Service Commission that the grant of an 8 percent rate increase sought by motor carriers would provide the carriers with an appropriate operating ratio of 93.7 percent, where supported by substantial evidence, would not be overturned by the court. Hamm v. South Carolina Public Service Com’n (S.C. 1986) 289 S.C. 22, 344 S.E.2d 600.

The Commission has the power to transfer a certificate of public convenience and necessity of a motor carrier pursuant to the regulations adopted by such Commission whenever in its opinion this course would be in the public interest. Beard‑Laney, Inc. v. Darby (S.C. 1948) 213 S.C. 380, 49 S.E.2d 564.

Limiting liability for baggage. This section [Code 1962 Section 58‑1461] does not repeal Code 1962 Section 58‑571 relating to the liability of common carriers, and the Commission had no right to adopt a rule hereunder, limiting the carrier’s liability as to baggage to fifty dollars. Kirby v. Carolina Stages (S.C. 1946) 209 S.C. 326, 40 S.E.2d 165.

That statute regulating motor carriers authorized Railroad Commission to fix rates held not to entitle private contract carriers to attack statute as unconstitutional, where commission never exercised such power as to them. Code 1942, Section 8516; U.S.C.A. Const.Amends. 5, 14; Const.S.C. art. 1, Section 5. State v. Hicklin (S.C. 1933) 168 S.C. 440, 167 S.E. 674.

**SECTION 58‑23‑1020.** Certain routes or schedules shall not be changed without permit from Commission.

No motor vehicle carrier holding a certificate A, B or D shall change the route or schedule of his motor vehicle during any year for which a license has been issued without procuring a permit in writing from the Commission before the route is changed.

HISTORY: 1962 Code Section 58‑1462; 1952 Code Section 58‑1462; 1942 Code Section 8513; 1932 Code Section 8513; 1925 (34) 252.

Library References

Automobiles 111, 114.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 130 to 134, 175 to 176, 179.

**SECTION 58‑23‑1030.** Occasional detours; use of substitute or reserve vehicles in emergencies.

Nothing in this chapter shall be construed to prevent a motor vehicle carrier from making occasional detours from his regular route or from replacing in an emergency any such vehicle by a substitute vehicle in order to maintain an approved schedule, or from operating temporarily in an emergency, reserve vehicles on its route for the public accommodation.

HISTORY: 1962 Code Section 58‑1463; 1952 Code Section 58‑1463; 1942 Code Section 8513; 1932 Code Section 8513; 1925 (34) 252.

Library References

Automobiles 111, 115.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 43 to 45, 130 to 134, 175 to 176, 179.

**SECTION 58‑23‑1040.** Carriers liable for baggage only when checked.

Motor carriers shall be responsible for loss or damage to baggage only when such baggage has been checked with the operator of the vehicle.

HISTORY: 1962 Code Section 58‑1464; 1952 Code Section 58‑1464; 1942 Code Section 8511; 1932 Code Section 8511; 1925 (34) 252; 1930 (36) 1327; 1931 (37) 145; 1935 (39) 25.

Library References

Carriers 397.

Westlaw Topic No. 70.

C.J.S. Carriers Sections 610, 613 to 620.

NOTES OF DECISIONS

In general 1

1. In general

This section [Code 1962 Section 58‑1464] is not applicable in an action to recover upon a contract of transportation in interstate commerce. Payne v. Atlantic Greyhound Bus Lines (S.C. 1936) 182 S.C. 58, 188 S.E. 426.

**SECTION 58‑23‑1050.** Certain statutory provisions not applicable to baggage.

The provisions of Articles 1 to 11 of this chapter as to motor vehicles carrying property shall not apply to the baggage of passengers transported by holders of certificates A, B or C.

HISTORY: 1962 Code Section 58‑1465; 1952 Code Section 58‑1465; 1942 Code Section 8512; 1932 Code Section 8512; 1925 (34) 252; 1930 (36) 1068; 1938 (40) 1915.

Library References

Carriers 387.

Westlaw Topic No. 70.

C.J.S. Carriers Sections 608 to 610, 616.

**SECTION 58‑23‑1060.** Commission may require establishment of bus stations.

The Commission may require motor bus operators to establish suitable bus stations in cities or towns in this State of two thousand or more inhabitants when, in the discretion of the Commission, such establishment shall be deemed a necessity and convenience to the traveling public.

HISTORY: 1962 Code Section 58‑1466; 1952 Code Section 58‑1466; 1942 Code Section 8528; 1932 Code Section 8528; 1930 (36) 1281; 1935 (39) 25.

Library References

Automobiles 113.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Section 177.

**SECTION 58‑23‑1070.** Promulgation of rules and regulations as to vehicles for hire at resorts.

The Commission may promulgate such rules and regulations as it finds necessary and expedient relating to the issuing of licenses for motor vehicles used for hire, either for express or passengers or both, when operated at beach and summer resorts in this State.

HISTORY: 1962 Code Section 58‑1467; 1952 Code Section 58‑1467; 1942 Code Section 8529; 1932 Code Section 8529; 1929 (36) 247; 1935 (39) 25.

Library References

Automobiles 63, 110.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 130 to 138, 144 to 158.

**SECTION 58‑23‑1080.** Special plates or markers for carriers.

The Office of Regulatory Staff, upon the presentation of a certificate from the Office of Regulatory Staff authorizing the motor vehicle carrier to operate and upon payment of the proper license, must furnish the motor vehicle carrier with a distinguishing plate or marker, which, in addition to the other matters otherwise provided by law to be placed thereon, shall bear the letter stating the class under which the motor vehicle shall operate, such as A, B, C, D, E, or F.

HISTORY: 1962 Code Section 58‑1468; 1952 Code Section 58‑1468; 1942 Code Section 8515; 1932 Code Section 8515; 1925 (34) 252; 1930 (36) 1327; 1935 (39) 25; 2006 Act No. 318, Section 154, eff May 24, 2006.

Library References

Automobiles 86.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Section 282.

**SECTION 58‑23‑1090.** Special markers for reserve or substitute passenger vehicles.

When any reserve or substitute vehicle maintained by a motor carrier holding a certificate D, or a certificate A or a certificate B for passenger vehicles, to be used only in emergencies, is in use it must be designated by a special marker to be furnished by the Office of Regulatory Staff.

HISTORY: 1962 Code Section 58‑1469; 1952 Code Section 58‑1469; 1942 Code Section 8512; 1932 Code Section 8512; 1925 (34) 252; 1930 (36) 1068; 1938 (40) 1915; 2006 Act No. 318, Section 155, eff May 24, 2006.

Library References

Automobiles 86.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Section 282.

ARTICLE 12

Safety Regulations

**SECTION 58‑23‑1110.** Definitions.

As used in this article:

(1) The term “corporation” means a corporation, company, association, or joint stock association.

(2) The term “person” means an individual, a firm, or a partnership.

(3) The term “commission” means the Public Service Commission of South Carolina.

(4) The term “private carrier” means every corporation or person, their lessees, trustees, or receivers, owning, controlling, operating, or managing any motor propelled vehicle used in transporting persons or property over any improved public highway in this State, which private carriers are not included in the term motor vehicle carrier as defined in Section 58‑23‑10.

(5) The term “motor carrier” means every corporation or person, their lessees, trustees, or receivers, owning, controlling, operating, or managing any motor propelled vehicle used in transporting persons or property over any improved public highway in this State, whether or not for compensation, as defined by Section 58‑23‑30 and includes, but is not limited to, motor vehicle carriers as defined in Section 58‑23‑10 and private carriers.

(6) The term “trailer” means a vehicle equipped to carry a load and which is attached to and drawn by a motor vehicle. Trailers are classed as motor vehicles and subject to the provisions of this article.

(7) The term “improved public highway” means every improved public highway in this State which is or may hereafter be declared to be a part of the state highway system or any county highway system or a street of any city or town.

(8) The term “regulatory staff” means the executive director or the executive director and employees of the Office of Regulatory Staff.

HISTORY: 1985 Act No. 26, Section 1, eff March 19, 1985; 2006 Act No. 318, Section 156, eff May 24, 2006.

Library References

Automobiles 76, 110.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 7, 111 to 124, 144 to 158.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Carriers Section 5, Private Carriers.

**SECTION 58‑23‑1120.** Compliance by motor carriers.

Each for‑hire motor carrier of household goods or hazardous waste for disposal must comply with orders and regulations prescribed by the Public Service Commission. The Office of Regulatory Staff may employ the necessary law enforcement personnel to enforce the provisions which apply to holders of certificates A, B, C, and certificates E and F of Public Convenience and Necessity.

The Department of Public Safety may promulgate regulations to ensure the safe operation of motor carriers. The Transport Police Division of the Department of Public Safety has exclusive authority in this State for enforcement of the commercial motor vehicle carrier laws, which include Federal Motor Carrier Safety Regulations, Hazardous Material Regulations, and size and weight laws and regulations.

HISTORY: 1985 Act No. 26, Section 1, eff March 19, 1985; 1995 Act No. 145, Part II, Section 51G, eff June 29, 1995; 2006 Act No. 318, Section 156, eff May 24, 2006.

CROSS REFERENCES

Registration of operations by for‑hire interstate motor carriers of property exempt from economic regulation by the Federal Highway Administration, violations, see S.C. Code of Regulations R. 38‑444.

Single state, registration system for interstate motor carriers operating for hire, violations, see S.C. Code of Regulations R. 38‑436.

Library References

Automobiles 109, 115.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 43 to 45, 114, 175.

**SECTION 58‑23‑1130.** Rulemaking by Commission.

The commission may make those regulations not inconsistent with law as may be proper in the exercise of its powers or for the performance of its duties under this article.

HISTORY: 1985 Act No. 26, Section 1, eff March 19, 1985; 2006 Act No. 318, Section 156, eff May 24, 2006.

Library References

Automobiles 63, 109.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 114, 130 to 138, 175.

**SECTION 58‑23‑1140.** Exclusion of transporters of farm or forest products.

The Public Service Commission and the Office of Regulatory Staff have no jurisdiction for safety purposes over persons engaged in transporting farm products or forest products from the farm to the first market.

HISTORY: 1985 Act No. 26, Section 1, eff March 19, 1985; 2006 Act No. 318, Section 156, eff May 24, 2006.

Library References

Automobiles 110.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 144 to 158.

ARTICLE 13

Taxis in Counties

**SECTION 58‑23‑1210.** Licensing of taxis by governing body of a county or city.

The governing body of a county or city may license taxis only in the county or city where the taxi principally is operated at the time of application for a license. The owner of a taxi or his agent annually during the month of July shall register the taxi with the governing body of the county or city and shall obtain from the governing body an application for the license. Upon presentation of the application, properly completed, to the governing body of the county or city and payment to the governing body of a license fee of two dollars, the governing body shall issue a license card or plate which must bear a number, indicate that the vehicle is a taxi, identify it by make, model, number, and the name of the owner, and show the year for which the license is issued. The license card or plate must be affixed in the vehicle at a place and in a manner as to be seen readily.

HISTORY: 1962 Code Section 58‑1511; 1952 Code Section 58‑1511; 1948 (45) 2061; 1990 Act No. 563, Section 1, eff June 11, 1990.

CROSS REFERENCES

Revocation of driver’s license for six months upon conviction of violating this section, see Section 56‑1‑290.

Transportation of alcoholic beverage in taxi being illegal, see Section 61‑6‑4030.

Library References

Automobiles 77, 82, 86.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 200 to 201, 206 to 210, 223 to 239, 252 to 257, 278 to 279, 281 to 282, 303.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Automobiles and Other Motor Vehicles Section 21, Revocation of License.

S.C. Jur. Carriers Section 42, Motor Vehicle Carriers.

LAW REVIEW AND JOURNAL COMMENTARIES

Transportation network companies: How should South Carolina adjust its regulatory framework? Emily Dobson, 66 S.C. L. Rev. 701 (Summer 2015).

**SECTION 58‑23‑1215.** Exception to meaning of operating a taxi.

A person who provides transportation services in a private passenger motor vehicle or van for a specific group of people to a specific destination over a continuing period of time, where these transportation services are not available to the general public, is not considered to be operating a taxi within the meaning of this article.

HISTORY: 1990 Act No. 563, Section 2, eff June 11, 1990.

Library References

Automobiles 78.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 187 to 189, 200, 206 to 210, 213, 303.

**SECTION 58‑23‑1220.** Liability insurance.

Before the issuance of any such license card or plate, the owner of the taxi shall procure and file with the governing body of the county a liability insurance policy, together with a receipt showing the payment of the premium therefor, issued by a good and responsible insurance company to be approved by the governing body of the county, the company being one authorized to do business in this State and in possession of a certificate issued by the Department of Insurance. The amount of such liability insurance for each car shall be as follows: An amount not less than five thousand dollars for personal injury and an amount not less than one thousand dollars for property damage in any one accident. Such policy of insurance may be in the form of a separate policy for each taxi or may be in the form of a fleet policy covering all taxis operated by such owner if such policy shall provide for the same amount of liability for each taxi operated. A stipulation shall be made providing that no such policy above required may be canceled until the expiration of five days after notice of intended cancellation has been given in writing to the governing body of the county by registered mail or personal delivery of such notice.

HISTORY: 1962 Code Section 58‑1512; 1952 Code Section 58‑1512; 1948 (45) 2061; 1949 (46) 406; 1993 Act No. 181, Section 1565, eff July 1, 1993.

Library References

Automobiles 88.

Insurance 1929(13).

Westlaw Topic Nos. 48A, 217.

C.J.S. Motor Vehicles Sections 287 to 293.

**SECTION 58‑23‑1230.** Bond may be filed in lieu of insurance.

In lieu of an insurance policy as required by Section 58‑23‑1220 a bond or bonds may be filed with the governing body of the county in the sum of not less than five thousand dollars for personal injuries and one thousand dollars for property damages in any one accident, such bond or bonds to be given by the owner of the taxi with good and sufficient surety providing for the payment of any damages or injuries that may result in the operation of the taxi on substantially the same terms and conditions as the usual liability insurance policy. The surety on any such bonds as may be as follows: (a) cash deposited with the governing body of the county, (b) bonds of this State, or the United States of a face value equal to the amount of the surety bond or (c) any responsible surety or bonding company licensed to transact business in the State and in such county. The form and sureties on the bond and all matters incidental to the filing thereof shall be approved by the governing body of the county.

HISTORY: 1962 Code Section 58‑1513; 1952 Code Section 58‑1513; 1948 (45) 2061.

Library References

Automobiles 92, 93.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Section 289.

**SECTION 58‑23‑1240.** “Taxi” plate; certificate of insurance.

The owner of a taxi must obtain and cause to be affixed at all times to the rear of the taxi in a conspicuous place a metal plate or sticker, the dimensions of which must be approved by the city where the taxi principally operates, which shall have on it the words “Taxi”, and be of substantially similar design but a different color from the state license plate.

The owner of a taxi that qualifies as a self‑insurer, pursuant to Section 56‑9‑60, must issue to each operator of the taxi a certificate of insurance. The operator of the taxi must maintain a copy of the certificate of insurance in the taxi while it is in operation.

HISTORY: 1962 Code Section 58‑1514; 1952 Code Section 58‑1514; 1948 (45) 2061; 2006 Act No. 241, Section 2, eff March 15, 2006.

Library References

Automobiles 86.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Section 282.

**SECTION 58‑23‑1250.** Name of owner and rates shall be posted in taxi.

All persons driving, operating or controlling taxis shall post therein, in a conspicuous place where it may be easily and conveniently read by any passenger, a card upon which shall be printed in plain legible type the name of the owner of such taxi and the rates charged by the taxi.

HISTORY: 1962 Code Section 58‑1515; 1952 Code Section 58‑1515; 1948 (45) 2061.

Library References

Automobiles 111, 121.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 130 to 134, 175 to 176, 178 to 179.

**SECTION 58‑23‑1260.** Driver identification card shall be posted in taxi and copy furnished to police.

The owner of any such taxi shall display in plain view of anyone entering such vehicle a card of such size and design as may be designated by the governing body of the county which shall be signed by the owner of the vehicle and shall state the name, address, sex, color and age of the driver operating the vehicle and a photograph of the driver shall be affixed to such card. A copy of such card with the photograph shall be furnished to the chief of police of such county for the files of the police department. Copies of such card, in duplicate, as above set out shall be provided for each person who may be assigned to the driving of the taxi and the card of the respective driver shall always be displayed in the taxi as above provided.

HISTORY: 1962 Code Section 58‑1516; 1952 Code Section 58‑1516; 1948 (45) 2061.

Library References

Automobiles 111.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 130 to 134, 175 to 176, 179.

**SECTION 58‑23‑1270.** Qualifications of drivers.

In such counties, operators, chauffeurs and other persons driving a commercial public taxi for hire shall be at least eighteen years of age and of good moral character and shall have no physical defects or handicaps which would hinder their safe operation of a vehicle under any driving conditions.

HISTORY: 1962 Code Section 58‑1517; 1952 Code Section 58‑1517; 1948 (45) 2061.

Library References

Automobiles 116, 131.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 111 to 123.

**SECTION 58‑23‑1280.** Solicitation of passengers.

It shall be unlawful for operators of vehicles for hire to solicit fares or passengers except within five feet of the vehicle which they operate and in no case shall one driver interfere between another driver and his passengers.

HISTORY: 1962 Code Section 58‑1518; 1952 Code Section 58‑1518; 1948 (45) 2061.

Library References

Automobiles 111.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 130 to 134, 175 to 176, 179.

**SECTION 58‑23‑1290.** Vehicles shall answer calls in order received.

All public vehicles for hire shall respond promptly to calls in the order in which they are received.

HISTORY: 1962 Code Section 58‑1519; 1952 Code Section 58‑1519; 1948 (45) 2061.

Library References

Automobiles 111.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 130 to 134, 175 to 176, 179.

**SECTION 58‑23‑1300.** Occupancy of vehicle when answering call.

When answering a call a public vehicle for hire shall contain no one other than the driver except with the permission of the person so calling.

HISTORY: 1962 Code Section 58‑1520; 1952 Code Section 58‑1520; 1948 (45) 2061; 1962 (52) 2205.

Library References

Automobiles 111.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 130 to 134, 175 to 176, 179.

**SECTION 58‑23‑1310.** Drivers shall not take possession of baggage without consent of owner.

No driver of any such taxi or other person shall lay hold upon or take possession of any trunk, baggage or other article belonging to any traveler or person without the consent of the owner of such trunk, baggage or other article.

HISTORY: 1962 Code Section 58‑1521; 1952 Code Section 58‑1521; 1948 (45) 2061.

Library References

Automobiles 111.

Carriers 387.

Westlaw Topic Nos. 48A, 70.

C.J.S. Carriers Sections 608 to 610, 616.

C.J.S. Motor Vehicles Sections 130 to 134, 175 to 176, 179.

**SECTION 58‑23‑1320.** Use of taxi for prostitution or lewd act or transporting person to place for such purpose.

It shall be unlawful for the driver of any such taxi to permit any person to occupy or use such taxi for the purpose of prostitution or for any other lewd or indecent act, knowing or having reasonable cause to know that it is being used or is to be used for any such purpose, or to direct, take or transport or offer or agree to take or transport any person to any building or place knowing or having reasonable cause to know that the purpose of such directing, taking or transporting is prostitution or any other lewd or indecent act.

HISTORY: 1962 Code Section 58‑1522; 1952 Code Section 58‑1522; 1948 (45) 2061.

Library References

Automobiles 111.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 130 to 134, 175 to 176, 179.

**SECTION 58‑23‑1330.** Taxi shall not transport persons with contagious disease.

No owner, driver or other person having charge of a public vehicle for hire shall knowingly receive or permit to be placed or conveyed in any manner on or upon any such taxi any person sick or infected with smallpox or any other contagious disease. The body of any person who has died of smallpox or any other contagious disease shall be removed in a licensed hearse and in no other conveyance.

HISTORY: 1962 Code Section 58‑1523; 1952 Code Section 58‑1523; 1948 (45) 2061.

Library References

Automobiles 111.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 130 to 134, 175 to 176, 179.

**SECTION 58‑23‑1340.** Vehicles shall be kept clean.

All vehicles for hire shall be kept clean, neat and orderly.

HISTORY: 1962 Code Section 58‑1524; 1952 Code Section 58‑1524; 1948 (45) 2061.

Library References

Automobiles 115.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 43 to 45.

**SECTION 58‑23‑1350.** Vehicles shall not be used for sleeping or certain other purposes.

Drivers shall not permit such taxis to be used as sleeping quarters or lounging places or for the unnecessary gathering of persons other than passengers.

HISTORY: 1962 Code Section 58‑1525; 1952 Code Section 58‑1525; 1948 (45) 2061.

Library References

Automobiles 111.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 130 to 134, 175 to 176, 179.

**SECTION 58‑23‑1360.** Transfer of license upon replacement of vehicle.

In the event that any public taxi for which a license shall have been issued shall be permanently replaced by another car the owner shall within twenty‑four hours after such replacement report it to the governing body of such county giving the necessary information to identify the taxi for which the license was issued and the taxi replacing it and such other information as the governing body may require and thereupon such license shall be transferred on the register of the governing body to the replacing car and be cancelled as to the replaced car if all the other provisions of this article shall be complied with.

HISTORY: 1962 Code Section 58‑1526; 1952 Code Section 58‑1526; 1948 (45) 2061.

Library References

Automobiles 105.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 202, 245 to 249, 297 to 298.

**SECTION 58‑23‑1370.** Revocation of driver’s license.

The operation of any such taxi shall be constantly under the surveillance of the governing body of the county, which shall refuse permission to operate such taxi and revoke the license of any driver when in its judgment the driver’s physical condition or record for violation of traffic or other ordinances or laws indicates that he is an unfit operator of such taxi.

HISTORY: 1962 Code Section 58‑1527; 1952 Code Section 58‑1527; 1948 (45) 2061.

Library References

Automobiles 106, 144.1(1).

Westlaw Topic No. 48A.

C.J.S. Constitutional Law Sections 2093 to 2094.

C.J.S. Motor Vehicles Sections 262 to 266, 299 to 302, 353 to 356, 359 to 362, 364 to 369, 371 to 373, 387 to 390.

**SECTION 58‑23‑1380.** Surrender of taxi license when insurance or bond cancelled.

In the event of cancellation of the policy of insurance or bond required under the provisions of this article, then the license card or plate to be displayed in the taxi and also the metal plates to be affixed to the taxi shall become null and void and shall immediately be surrendered by the owner of the taxi to the chief of police of such county and the operation of the taxi after the cancellation of such insurance or bond or the failure to surrender such plates shall be a violation of this article.

HISTORY: 1962 Code Section 58‑1528; 1952 Code Section 58‑1528; 1948 (45) 2061.

Library References

Automobiles 90, 106.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 262 to 266, 299 to 302.

**SECTION 58‑23‑1390.** Revocation of taxi license.

Should the owner or operator of a taxi permit the taxi to be operated without such license affixed as required by Section 58‑23‑1210 or by any person not duly qualified as provided in this article or should such owner or operator permit such taxi to be used for any purpose other than that of a public conveyance, the chief of police of such county may with the approval of the governing body of such county revoke the license of such taxi and require the surrender of the license card or plate.

HISTORY: 1962 Code Section 58‑1529; 1952 Code Section 58‑1529; 1948 (45) 2061.

Library References

Automobiles 106.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 262 to 266, 299 to 302.

**SECTION 58‑23‑1400.** Fee for reinstatement of insurance or bond.

When any such policy of insurance or bond lapses by cancellation or for any other reason or when notice of intention to cause a lapse has been given by the surety or bondsman and such notice has been recorded on the records of the county police department, such notice shall be withdrawn and such policy of insurance or bond shall be reinstated only after payment to the governing body of the county the sum of three dollars for entries and change of records.

HISTORY: 1962 Code Section 58‑1530; 1952 Code Section 58‑1530; 1948 (45) 2061.

Library References

Automobiles 89.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 287 to 288.

**SECTION 58‑23‑1410.** Penalties.

The violation of any of the provisions of this article shall be a misdemeanor, punishable by a fine not exceeding one hundred dollars, or imprisonment not exceeding thirty days.

HISTORY: 1962 Code Section 58‑1531; 1952 Code Section 58‑1531; 1948 (45) 2061.

Library References

Automobiles 108, 324, 326.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 41 to 42, 304, 306, 1504 to 1505, 1508 to 1510, 1628 to 1638, 1659, 1728 to 1731, 1748, 1750 to 1751.

ARTICLE 16

Transportation Network Company Act

**SECTION 58‑23‑1610.** Definitions.

For purposes of this article:

(1) “Transportation Network Company” or “TNC” means a person, corporation, partnership, sole proprietorship, or other entity operating in this State that uses a digital network, platform, or Internet‑enabled application to connect a passenger to a transportation network driver for the purpose of providing transportation for compensation using a vehicle. A transportation network company does not include transportation services provided pursuant to Articles 1 through 15, Chapter 23, Title 58, or arranging nonemergency medical transportation for individuals qualifying for Medicaid or Medicare pursuant to a contract with the State or a managed care organization.

(2) “Personal vehicle” means a vehicle that is used by a transportation network company driver in connection with providing a prearranged ride and is:

(a) owned, leased, or otherwise authorized for use by the transportation network company driver; and

(b) not a taxi, charter bus, charter limousine, or for‑hire vehicle.

(3) “Digital network” means any Internet‑enabled application, software, website, or system offered or used by a TNC that enables the prearrangement of rides with transportation network company drivers.

(4) “Transportation Network Company driver” or “TNC driver” means a person who uses a vehicle to provide transportation service for passengers matched through a transportation network company’s digital network.

(5) “Transportation Network Company insurance” or “TNC insurance” means an insurance policy that specifically covers a driver’s use of a vehicle in connection with a transportation network company’s digital network, platform, or Internet‑enabled application.

(6) “Transportation Network Company passenger” or “TNC passenger” means a person for whom transportation is provided through a transportation network company’s digital network. This includes a person for whom arrangements for transportation services using the transportation network company’s digital network was arranged by someone other than the passenger.

(7) “Transportation Network Company service” or “TNC service” means a period of time when a transportation network company driver accepts a request arranged through the transportation network company’s digital network and proceeds to the passenger location, continues while the transportation network company driver transports a requesting passenger in the transportation network company vehicle, and ends when the last requesting passenger exits the transportation network company vehicle.

(8) “Transportation Network Company vehicle” or “TNC vehicle” means a vehicle that is used by a TNC driver that has met the requirements of this article and has been approved by the TNC to provide transportation service arranged through a transportation network company digital platform. It must not have a manufacturer’s rated seating capacity of more than eight passengers, including the driver.

(9) “Prearranged ride” means the provision of transportation by a transportation network company driver to a transportation network company rider, beginning when a driver accepts a ride requested by a rider through a digital network controlled by a transportation network company, continuing while the driver transports a requesting rider, and ending when the last requesting rider departs from the personal vehicle. A prearranged ride does not include shared expense carpool or vanpool arrangements, or transportation provided using a taxi, limousine, or other for‑hire vehicle pursuant to a Class C certificate issued by the South Carolina Public Service Commission or pursuant to a license issued by the governing body of a county or city. A prearranged ride does not include services provided pursuant to Articles 1 through 15, Chapter 23, Title 58 or arranging nonemergency medical transportation for individuals qualifying for Medicaid or Medicare pursuant to a contract with the State or a managed care organization.

(10) “Transportation Network Company rider” or “rider” means an individual or individuals who use a transportation network company’s digital network to connect with a transportation network driver who provides prearranged rides to the rider in the driver’s personal vehicle between points chosen by the rider.

HISTORY: 2015 Act No. 88 (H.3525), Section 1, eff June 24, 2015.

RESEARCH REFERENCES

Treatises and Practice Aids

76 Causes of Action 2d 477, Cause of Action for Liability of Ride‑Sharing Services.

**SECTION 58‑23‑1620.** Compliance with article before operation as TNC; application; issuance of TNC permit; request for contested case.

(A) Before a person, corporation, partnership, sole proprietorship, or other entity that uses a digital network, platform, or Internet‑enabled application to provide transportation for compensation using a personal vehicle commences to advertise or operate in South Carolina as a TNC, that entity shall comply with the requirements set forth within this article and hold a valid TNC permit issued by the Office of Regulatory Staff.

(B) That entity shall submit an application to the Office of Regulatory Staff and provide information that the Office of Regulatory Staff requires.

(C) In performing its responsibilities under this article, the Office of Regulatory Staff must balance the interest of the State in promoting innovative, safe, and cost‑effective transportation services with an appropriate level of safety protections for TNC passengers and the general public.

(D) An application must be accompanied by information required by the Office of Regulatory Staff, which may condition its approval on terms that it determines to be just and reasonable to advance the goals of this article.

(E) Upon review of the application and a finding that the applicant is fit, willing, and able to conduct business pursuant to the provisions of this article, the Office of Regulatory Staff shall approve the application and issue the entity a TNC permit. A person or entity operating a TNC in South Carolina as of the effective date of this article may continue to operate for a period of sixty days following the effective date of this article so as to permit the person or entity to obtain a permit from the Office of Regulatory Staff pursuant to this section.

(F) An aggrieved person with standing may file a request for a contested case of a decision of the Office of Regulatory Staff with the Public Service Commission within thirty days of the decision.

HISTORY: 2015 Act No. 88 (H.3525), Section 1, eff June 24, 2015.

**SECTION 58‑23‑1625.** Exclusion of insurance coverage while driver logged on digital network or providing prearranged ride; claims coverage investigation.

(A) Insurers that write automobile insurance in the State may exclude any and all coverage afforded under the owner’s insurance policy for any loss or injury that occurs while a TNC driver is logged on a TNC’s digital network or while the driver provides a prearranged ride. This right to exclude all coverage may apply to any coverage included in an automobile insurance policy including, but not limited to:

(1) liability coverage for bodily injury and property damage;

(2) uninsured and underinsured motorist coverage;

(3) medical payments coverage;

(4) comprehensive physical damage coverage; and

(5) collision physical damage coverage.

(B) The exclusions apply notwithstanding any requirement under Sections 56‑9‑10 through 56‑9‑630. Nothing in this section implies or requires that a personal automobile insurance policy provide coverage while the transportation network driver is logged on the TNC’s digital network, while the driver is engaged in a prearranged ride or while the driver otherwise uses a personal vehicle to transport passengers for compensation. Nothing may be considered to preclude an automobile insurer from providing coverage for the TNC driver’s personal vehicle, if it chooses to do so by contract or endorsement.

(C) Automobile insurers that exclude coverage as permitted in subsections (A) and (B) have no duty to defend or indemnify any claim expressly excluded by those subsections. Nothing in this article may be considered to invalidate or limit an exclusion contained in a policy. An automobile insurer that defends or indemnifies a claim against a driver that is excluded under the terms of its policy as permitted in subsections (A) and (B) has a right of contribution against other insurers that provide automobile insurance to the same driver in satisfaction of the coverage requirements of Section 58‑23‑1630 at the time of loss.

(D) In a claims coverage investigation, TNC’s and any automobile insurer potentially providing coverage under Section 58‑23‑1630 shall cooperate to facilitate the exchange of relevant information with directly involved parties and any automobile insurer of the TNC driver if applicable, including the precise times that a driver logged on and off of the TNC’s digital network in the twelve‑hour period immediately preceding and in the twelve‑hour period immediately following the accident and disclose to one another a clear description of the coverage, exclusions, and limits provided under any automobile insurance maintained under Section 58‑23‑1630.

HISTORY: 2015 Act No. 88 (H.3525), Section 1, eff June 24, 2015.

**SECTION 58‑23‑1630.** Primary automobile insurance; proof of coverage.

(A) A TNC driver or TNC on the driver’s behalf shall maintain primary automobile insurance that recognizes that the driver is a TNC driver or otherwise uses a personal vehicle to transport riders for compensation and covers the driver:

(1) while the driver is logged on the TNC’s digital network; or

(2) while the driver is engaged in a prearranged ride.

(B) The following automobile insurance requirements apply while a participating TNC driver is logged on the TNC’s digital network and is available to receive transportation requests but is not engaged in a prearranged ride:

(1) primary automobile liability insurance in the amount of at least fifty thousand dollars for death and bodily injury per person, at least one hundred thousand dollars for death and bodily injury per incident, and at least fifty thousand dollars for property damage;

(2) uninsured motorist coverage as required by Section 38‑77‑150; and

(3) the coverage requirements of this subsection may be satisfied by automobile insurance maintained by the TNC driver, automobile insurance maintained by the TNC, or both.

(C) The following automobile insurance requirements apply while a TNC driver is engaged in a prearranged ride:

(1) primary automobile liability insurance that provides at least one million dollars for death, bodily injury, and property damage;

(2) uninsured motorist coverage as required by Section 38‑77‑150; and

(3) the coverage requirements of this subsection may be satisfied by automobile insurance maintained by the TNC driver, automobile insurance maintained by the TNC, or both.

(D) If insurance maintained by the TNC driver in subsections (B) or (C) has lapsed or does not provide the required coverage, insurance maintained by a TNC must provide the coverage required by this section beginning with the first dollar of a claim and has the duty to defend such claim.

(E) Coverage under an automobile insurance policy maintained by the TNC may not be dependent upon a personal automobile insurer first denying a claim nor may a personal automobile insurer be required to first deny the claim.

(F) Insurance required by this section may be placed with an authorized insurer or with an eligible surplus lines insurer pursuant to Section 38‑45‑90.

(G) Insurance satisfying the requirements of this section may be considered to satisfy the financial responsibility requirements for a motor vehicle pursuant to Sections 56‑9‑10 through 56‑9‑630.

(H) A TNC driver shall carry proof of coverage satisfying subsections (B) and (C) at all times during use of a vehicle in connection with a TNC’s digital network. In the event of an accident, a TNC driver shall provide this insurance coverage to the directly interested parties, automobile insurers, and the investigating police officers, upon request, pursuant to Section 56‑10‑225. Upon such request, a TNC driver shall also disclose to directly interested parties, automobile insurers, and the investigating police officers, whether he was logged on the TNC’s digital network or on a prearranged ride at the time of an accident.

(I) If a TNC’s insurer pays a claim covered under comprehensive coverage or collision coverage, the TNC shall cause its insurer to issue the payment directly to the business repairing the vehicle or jointly to the owner of the vehicle and the primary lienholder on the covered vehicle. The Office of Regulatory Staff shall not assess any fines as a result of a violation of this subsection.

HISTORY: 2015 Act No. 88 (H.3525), Section 1, eff June 24, 2015.

CROSS REFERENCES

Exclusion of insurance coverage while driver logged on digital network or providing prearranged ride, claims coverage investigation, see Section 58‑23‑1625.

**SECTION 58‑23‑1635.** Insurance disclosure.

(A) Before TNC drivers are allowed to accept a request for a prearranged ride on the TNC’s digital network, the TNC shall disclose to the drivers, in writing, the following information:

(1) the insurance coverage, including the types of coverage and the limits for each coverage, that the TNC provides while the TNC driver uses a personal vehicle in connection with a TNC’s digital network;

(2) depending on its terms, that the TNC driver’s personal automobile insurance policy may not provide any coverage while the driver is logged onto the TNC’s digital network and is available to receive a transportation request or is engaged in a prearranged ride; and

(3) if the vehicle to be used to provide TNC services has a lien against it, the driver has a duty to notify the lienholder that the driver will be using the vehicle for transportation services that may violate the terms of the contract with the lienholder. The driver must disclose to the lender all insurance coverage information provided to the driver by the TNC pursuant to this section. The TNC must provide a standardized form for TNC drivers to use for such notice to the lienholder. The form may be provided to the driver by the TNC in a digital format. The TNC driver must maintain evidence that notice has been sent to the lien holder as well as wait seven days prior to commencing driving in connection with a TNC.

(B) Nothing in this chapter limits the right of a lender or secured party on a driver’s vehicle to require a driver to maintain comprehensive and collision damage coverage for a driver’s vehicle or to show evidence of that coverage to the lender or secured party that would cover the period when the driver is logged on to the transportation network carrier’s digital network regardless of whether the driver is engaged in a prearranged ride. If the driver fails to maintain the required comprehensive and collision coverage or to show evidence to the lender or secured party of the coverage upon reasonable request by the lender or secured party, the lender or secured party may fully enforce all provisions contained in the loan agreement with the borrower.

HISTORY: 2015 Act No. 88 (H.3525), Section 1, eff June 24, 2015.

**SECTION 58‑23‑1640.** Safety inspection of TNC vehicle.

(A) The TNC driver shall have a certified mechanic licensed in South Carolina conduct a safety inspection of a TNC vehicle within thirty days of the vehicle first providing TNC services.

(B) The TNC shall not permit a TNC driver to provide TNC services if the TNC vehicle does not pass a certified mechanics inspection as identified in this article.

(C) The TNC driver shall have periodic safety inspections of the TNC vehicle performed at intervals of at least once each year.

(D) The TNC shall maintain documentation of a TNC vehicle inspection for a period of three years.

(E) The vehicle inspection shall include an inspection of:

(1) foot brakes;

(2) emergency brakes;

(3) steering mechanism;

(4) windshield;

(5) rear window and other glass;

(6) windshield wipers;

(7) headlights;

(8) tail lights;

(9) turn indicator lights;

(10) stop lights;

(11) front seat adjustment mechanism;

(12) door capability to open, close, lock, and unlock;

(13) horn;

(14) speedometer;

(15) bumpers;

(16) muffler and exhaust system;

(17) tire condition including tread depth;

(18) interior and exterior rearview mirrors; and

(19) safety belts.

(F) A TNC vehicle must display a consistent and distinctive signage or emblem, which must be known as a trade dress, at all times when the TNC driver is active on the TNC digital platform or providing TNC service. The trade dress used by the TNC must be approved by the Office of Regulatory Staff before its use and:

(1) must be readable during daylight hours at a distance of fifty feet;

(2) must be reflective, illuminated, or otherwise patently visible so as to be seen in darkness; and

(3) may be magnetic or removable in nature.

(G) The Office of Regulatory Staff may conduct inspections of TNC vehicles.

(H) The vehicle inspection records must be provided to the Office of Regulatory Staff by the TNC upon request.

HISTORY: 2015 Act No. 88 (H.3525), Section 1, eff June 24, 2015.

**SECTION 58‑23‑1650.** Driver qualification requirements; documentation; inspections of records; disclosures.

(A) The TNC shall obtain certain background and qualification information from a TNC driver before the TNC driver is approved by the TNC to provide TNC services.

(B) The TNC driver qualification information shall include:

(1) a valid driver’s license issued by the South Carolina Department of Motor Vehicles or the current state of residence for the driver;

(2) verification that the driver is twenty‑one years of age or older;

(3) a certified copy of the driver’s ten year driving record issued by the South Carolina Department of Motor Vehicles and a record from the department of motor vehicles or equivalent agency of the state where the driver has been domiciled for that period;

(4) conduct, or have a third party conduct, a local and national criminal background check for each applicant that must include:

(a) a multistate and multijurisdictional criminal records locator or other similar commercial nationwide database with validation (primary source search); and

(b) national sex offender registry database search; and

(5) proof of automobile liability insurance in the name of the TNC driver which meets the requirements of Section 38‑77‑140.

(C) The TNC shall verify the TNC driver meets all of the driver qualification requirements in this section at intervals of at least one each year.

(D) The TNC shall maintain documentation of initial and annual verification of TNC driver qualifications for a period of three years.

(E) The Office of Regulatory Staff may conduct inspections of TNC driver qualification records.

(F) The TNC shall not permit a TNC driver to provide TNC services who:

(1) does not meet the TNC driver qualifications listed in subsections (B) and (C);

(2) is registered or required to be registered as a sex offender with the South Carolina Law Enforcement Division or the National Sex Offender Registry;

(3) has been convicted within the past ten years of driving under the influence of drugs or alcohol, driving with an unlawful alcohol concentration, fraud, use of a motor vehicle to commit a felony, a felony crime involving property damage, theft and crimes defined as violent pursuant to Section 16‑1‑60; or

(4) is under the influence of drugs or alcohol. Nothing in this section may be construed to require drug testing by a TNC of a TNC driver.

(G) Before a TNC driver is allowed to provide a TNC service, the TNC must disclose to the TNC driver that the:

(1) automobile liability insurance that the TNC provides while the TNC driver is engaged in TNC service or logged into the TNC digital network;

(2) TNC driver’s automobile liability insurance may not provide coverage while the TNC driver is engaged in TNC service or logged into the TNC digital network;

(3) provision of TNC services may violate the terms of a contract or financing agreement with a lienholder; and

(4) provision of TNC services may have financial consequences related to personal income tax and personal property tax liabilities.

HISTORY: 2015 Act No. 88 (H.3525), Section 1, eff June 24, 2015.

**SECTION 58‑23‑1660.** Standards.

(A) A TNC operating in this State shall comply with the following standards:

(1) A TNC driver shall not provide TNC services or otherwise operate as a passenger vehicle for hire unless a TNC has matched the TNC driver to the TNC passenger through the digital network. A TNC driver shall not solicit or accept passenger rides on‑demand or through a “street hail”. All payment for TNC services must be made through the digital network and the TNC driver shall not accept cash payments.

(2) A TNC shall make available to prospective TNC passengers and TNC drivers the method by which the TNC calculates fares or the applicable rates being charged and an option to receive an estimated fare. If the rates vary from those identified in the application to the Office of Regulatory Staff, the TNC must provide the revised rates to the passenger on the digital network.

(3) A TNC shall provide the TNC passenger with an electronic receipt upon completion of the TNC service. The receipt must document the:

(a) point of origin;

(b) point of destination;

(c) total duration and distance;

(d) total fare/rate paid, including base fare and additional charges incurred for distance or duration; and

(e) TNC driver’s first name.

(4) A TNC driver shall display an identification badge including his photograph, first name, personal vehicle make and model, and personal vehicle license plate number. This information may be displayed to the TNC passenger through the TNC digital network.

(5) A TNC driver shall at all times carry in the TNC vehicle proof of the automobile liability insurance required of this article.

(6) A TNC shall provide customer support on its digital network, website, or both, for TNC passenger inquiries or complaints and shall respond promptly to all TNC passenger inquiries or complaints.

(7) A TNC shall not discriminate against TNC passengers on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, or age.

(8) A TNC shall provide TNC services in compliance with all applicable laws for providing services to persons with physical and mental disabilities. Service animals and mobility equipment must be permitted to accompany a TNC passenger.

(9) A TNC shall provide TNC passengers an opportunity to indicate whether they require a wheelchair‑accessible vehicle. If a TNC cannot arrange wheelchair‑accessible TNC service in any instance, it shall direct the TNC passenger to an alternate provider of wheelchair‑accessible service, if available.

(10) A TNC driver shall take the most direct route to the destination unless the TNC passenger has consented to an alternate route.

(11) A TNC driver may refuse to transport a TNC passenger if the TNC passenger is acting in an unlawful, disorderly or endangering manner.

HISTORY: 2015 Act No. 88 (H.3525), Section 1, eff June 24, 2015.

**SECTION 58‑23‑1670.** Records and documentation; information requests; confidentiality of information.

(A) A TNC shall maintain a record of all TNC services provided in South Carolina for a period of three years from the date of the TNC service. The records shall include:

(1) the time at which a TNC driver logs into the digital network;

(2) the time and place of commencement of TNC service;

(3) the address of delivery of the TNC passenger;

(4) the amount of fare charged to the TNC passengers; and

(5) any inquiry or complaint of the TNC passenger, the date of the inquiry or complaint, and the resolution of the inquiry or complaint.

(B) A TNC shall maintain documentation of each TNC vehicle inspection for a period of three years.

(C) The TNC shall maintain documentation of initial and annual verification of TNC driver qualifications for a period of three years.

(D) The TNC shall provide, upon the request of the Office of Regulatory Staff, any factual information regarding TNC drivers, TNC passengers, and TNC services so as to investigate complaints arising under this article. This information must be provided to the Office of Regulatory Staff within a reasonable time period.

(E) A TNC shall not disclose a TNC driver or passenger’s personally identifiable information to a third party unless the:

(1) TNC driver or TNC passenger consents;

(2) disclosure is required by legal obligation; or

(3) disclosure is required to investigate violations of the TNC driver or TNC passenger terms of use.

HISTORY: 2015 Act No. 88 (H.3525), Section 1, eff June 24, 2015.

**SECTION 58‑23‑1680.** Enforcement of article; penalties; revocation of permit; request for contested case; investigations.

(A) A certified South Carolina law enforcement officer is authorized to enforce the requirements of this article.

(B) An officer, agent, or employee of a TNC or TNC driver who fails to comply with any requirement contained in this article must be assessed a civil penalty of not less than one hundred dollars for a first violation, not less than five hundred dollars for a second violation, and not less than one thousand dollars for a third violation and subsequent violations. Seventy‑five percent of the penalties collected under this section must be remitted to the Office of Regulatory Staff to be used for enforcement operations. Magistrates have jurisdiction over contested violations of this section and are prohibited from suspending or reducing the penalties.

(C) The Office of Regulatory Staff may revoke a TNC permit if the TNC has made misrepresentation of a material fact in obtaining the TNC permit or, in the opinion of the Office of Regulatory Staff, has failed to comply with the requirements in this article.

(D) An aggrieved person with standing may file a request for a contested case of a decision of the Office of Regulatory Staff with the Public Service Commission of South Carolina within thirty days of the decision.

(E) Concerning potential violations of this article, TNC’s and their officers, agents, employees, or customers are subject to the investigatory powers provided in Sections 58‑4‑50 and 58‑4‑55 to the Office of Regulatory Staff.

(F) The Office of Regulatory Staff is authorized to require regular updating of information required from a TNC under this article.

HISTORY: 2015 Act No. 88 (H.3525), Section 1, eff June 24, 2015.

CROSS REFERENCES

Local assessment fee, records, confidentiality of information, GIS file available for public use, see Section 58‑23‑1700.

**SECTION 58‑23‑1690.** Fees.

(A) The Office of Regulatory Staff may assess each TNC an annual fee in an amount necessary to permit the Office of Regulatory Staff to carry out the requirements of this article.

(B) The annual assessment of fees will be pursuant to Section 58‑4‑60(B).

HISTORY: 2015 Act No. 88 (H.3525), Section 1, eff June 24, 2015.

CROSS REFERENCES

Expenses to be borne by regulated utilities, assessment and collection, see Section 58‑4‑60.

**SECTION 58‑23‑1700.** Local assessment fee; records; confidentiality of information; GIS file available for public use.

(A) For the purposes of this section:

(1) “Gross trip fare” means the sum of the base fare charge, distance charge, and time charge for the complete trip at rates published on the TNC’s website.

(2) “Local assessment fee” means one percent of the gross trip fare.

(3) “Municipality” means a city or town issued a certificate of incorporation, or township created by act of the General Assembly.

(B) A TNC shall collect a local assessment fee on behalf of a TNC driver who accepts a request for a prearranged ride made through the TNC’s digital network for all prearranged rides that originate in the State.

(C) Using the Geographic Information System (GIS) data made available by the Revenue and Fiscal Affairs Office pursuant to subsection (I), a TNC shall determine whether each prearranged trip occurred within the incorporated boundaries of a municipality, or outside of the incorporated boundaries of a municipality and within the boundaries of a county of this State.

(D) No later than thirty days after the end of a calendar quarter, a TNC shall submit to the Office of Regulatory Staff:

(1) the total local assessment fees collected by a TNC on behalf of the TNC drivers;

(2) for trips that originated in a municipality, a report listing the percentage of the gross trip fare that originated in each municipality during the reporting period; and

(3) for trips that originated outside a municipality, a report listing the percentage of the gross trip fare that originated outside a municipality during the reporting period.

(E) The funds collected pursuant to this section are not general fund revenue of the State and must be kept by the State Treasurer in a distinct and separate unbudgeted Trust & Agency fund and apart from the general fund. These funds are to be administered by the Office of Regulatory Staff pursuant to this section and expended only for the purposes provided in this chapter.

(F)(1) The Office of Regulatory Staff shall retain an amount of one percent of the local assessment fee collected under subsection (D)(1) to cover the expenses borne by the Office of Regulatory Staff derived from:

(a) regulation of TNC’s; and

(b) collection, remittance, and distribution of local assessment fees pursuant to this section.

(2) Within sixty days of the end of the calendar quarter, the Office of Regulatory Staff shall distribute the remaining portion of the total local assessment fees collected under subsection (D)(1), minus the amount retained pursuant to subsection (F)(1), to each municipality where a trip originated during the reporting period and, for trips that originated outside a municipality, to each county where a trip originated during the reporting period. The distribution to each municipality or county must be proportionate to the percentage of the gross trip fare that originated in each municipality or county.

(G)(1) To ensure that the TNC has remitted the correct local assessment fee and has accurately reported the percentages attributable to municipalities and counties pursuant to subsection (D), upon request of the municipality, the Office of Regulatory Staff may inspect the necessary records at a TNC’s place of business or a mutually agreed upon location. This inspection may not be conducted more than once a year.

(2) At least forty‑five days before the Office of Regulatory Staff conducts an inspection of records pursuant to item (1), the Office of Regulatory Staff shall notify the Municipal Association of South Carolina (MASC) or its successor organization of its intent to conduct an inspection and the date of the planned inspection.

(3) MASC may request that a TNC that is subject to inspection under item (1) engage an independent third party auditor to verify that the local assessment to municipalities has been properly accounted for and distributed. At least thirty days before the scheduled audit, MASC must submit this request in writing to the Office of Regulatory Staff and the TNC subject to the audit.

(a) The TNC that is subject to the audit shall engage the independent third party auditor, which must be selected at the sole discretion of the TNC, and bear all costs associated with the third party audit. The independent third party auditor must be:

(i) a certified public accounting firm licensed in the State; and

(ii) qualified to perform engagements in accordance with Generally Accepted Government Auditing Standards (GAGAS).

(b) The TNC shall provide MASC with a copy of the third party audit report within fifteen days of completion, which shall in no event, occur later than ninety days after receipt of MASC’s written request. The audit report must disclose the amount of any underpayments or overpayments to municipalities and counties.

(c) A person employed by or formerly employed by MASC who discloses to a third party any information that the TNC marked in the audit report as confidential must be assessed civil penalties as contained in Section 58‑23‑1680 unless the individual obtained the TNC’s written consent prior to disclosure. Nothing in this section must be construed to restrict MASC from disclosing any overpayment or underpayment with the impacted municipalities or counties.

(4) In the event that a TNC submits a report to the ORS that is subsequently determined to be inaccurate, thereby leading to an underpayment or overpayment of a municipality’s or county’s local assessment fee, the Office of Regulatory Staff shall correct the underpayment and overpayment by offsetting the amount of the underpayment or overpayment in subsequent local assessment fee distributions. In the event a TNC remits an assessment fee to the Office of Regulatory Staff that is determined to constitute an underpayment of the total assessment fee required by this article, the Transportation Network Company shall, within thirty days of receiving notification of the determination, remit the balance owed to the Office of Regulatory Staff. A TNC that submits a report containing an inaccuracy or remits an assessment fee that constitutes an underpayment that is determined by the Office of Regulatory Staff to be the result of an intentional misrepresentation must be assessed damages that are no less than three times the amount of the underpayment or resultant underpayment to the municipality or county impacted.

(H) Any records maintained by a TNC pursuant to this section that are obtained by the Office of Regulatory Staff, a public body as defined by Section 30‑4‑20(a), or any records that incorporate information from records maintained pursuant to this section, must not be subject to disclosure under the Freedom of Information Act as provided for in Chapter 4, Title 30, or any other provision of law.

(I) The Office of Regulatory Staff may not disclose records or information provided by a TNC unless disclosure is required by a subpoena or court order. If a disclosure is required, the Office of Regulatory Staff shall promptly notify the TNC prior to the disclosure. Nothing in this section may be construed to restrict the Office of Regulatory Staff from disclosing any overpayment or underpayment with the impacted municipalities or counties.

(J) To ensure proper distribution of the local assessment fee pursuant to subsection (D)(2), the Revenue and Fiscal Affairs Office shall prepare and make available for public use a GIS file showing the state’s county and municipal boundaries. This file must be updated on a quarterly basis, and published on the Revenue and Fiscal Affairs Office’s website. In addition to the requirements of Section 5‑3‑90, municipalities shall provide annexation information to the Revenue and Fiscal Affairs Office within thirty days after the annexation is complete. Such information shall include a written description of the boundary, along with a map or plat which clearly defines the new territory added.

(K) This section takes effect ninety days after the effective date of this article.

HISTORY: 2015 Act No. 88 (H.3525), Section 1, eff September 22, 2015.

Editor’s Note

2015 Act No. 88, Section 4, provides as follows:

“SECTION 4. Except as provided in Section 58‑23‑1700(K), as contained in Section 1, the provisions of this act take effect upon approval by the Governor.”

CROSS REFERENCES

Expenses to be borne by regulated utilities, assessment and collection, see Section 58‑4‑60.

Freedom of Information Act, see Section 30‑4‑10 et seq.

Law governing TNC’s and TNC drivers, see Section 58‑23‑1710.

**SECTION 58‑23‑1710.** Law governing TNC’s and TNC drivers.

(A) Except as otherwise provided in this chapter, TNC’s and TNC drivers are governed exclusively by this article and by any regulations promulgated by the Office of Regulatory Staff consistent with this article. TNC drivers remain subject to all local ordinances outside the scope of this article, whether directly or indirectly impacting the delivery of TNC driver services including, but not limited to, parking and traffic regulations that are not inconsistent with the provisions of this article.

(B) Political subdivisions are prohibited from imposing a tax on a TNC, a TNC driver, or a vehicle used by a TNC driver, including a business license tax, where the tax is assessed in connection with prearranged rides in the State. Nothing in this article may be construed to restrict a municipality from collecting a business license tax from a TNC located within its boundaries if the tax is limited to receipts or revenue that is not subject to a local assessment fee pursuant to Section 58‑23‑1700 or a business license tax.

(C) In order for a TNC and a TNC driver to provide prearranged rides on airport property, the TNC must comply with Federal Aviation Administration regulations and airport regulations relating to:

(1) payment of reasonable fees to operate at the airport, agreed to by the TNC and each individual airport, not based on a per‑passenger, per‑driver, or per‑vehicle basis; and

(2) designating locations for staging, pick‑ups, drop‑offs, and other similar locations.

HISTORY: 2015 Act No. 88 (H.3525), Section 1, eff June 24, 2015.

**SECTION 58‑23‑1720.** Construction with federal law.

The provisions contained in this article do not preempt any federal regulation relating to the provision of transportation services at any facility regulated by the United States Federal Aviation Administration.

HISTORY: 2015 Act No. 88 (H.3525), Section 1, eff June 24, 2015.

RESEARCH REFERENCES

Treatises and Practice Aids

76 Causes of Action 2d 477, Cause of Action for Liability of Ride‑Sharing Services.

ARTICLE 17

Public Transportation Passenger Rights

**SECTION 58‑23‑1810.** Short title.

This article may be cited as the Public Transportation Passenger Rights Act.

HISTORY: 1986 Act No. 405, eff May 12, 1986.

**SECTION 58‑23‑1820.** Definitions.

For purposes of this article:

(a) “passenger” means any individual served by a public transportation provider including charter bus activities;

(b) “bus” means any passenger bus or other motor vehicle having a seating capacity of not less than ten passengers operated by a public transportation provider for the purpose of carrying passengers, including charter passengers;

(c) “public transportation” is as defined in item (10) of Section 58‑25‑20;

(d) “public transportation provider” means any operator who offers or delivers public transportation;

(e) “public transportation vehicle” means any configuration of equipment for the purpose of providing public transportation.

HISTORY: 1986 Act No. 405, eff May 12, 1986.

Library References

Carriers 237.1.

Westlaw Topic No. 70.

C.J.S. Carriers Sections 507 to 508.

**SECTION 58‑23‑1830.** General prohibitions; persons who may be refused transportation; violations and penalties.

(a) It is unlawful for any passenger to commit any of the following acts in a bus or any other public transportation vehicle:

(1) discard litter, except into receptacles designated for that purpose;

(2) play any radio, cassette, cartridge, tape player, or similar device unless controlled by the operator, unless the device is connected to an earphone that limits the sound to the hearing of the individual user;

(3) carry or possess any weapon, explosives, acids, other dangerous articles, or live animals, except for a seeing eye dog or a hearing ear dog properly harnessed and accompanied by its owner, small animals properly packaged, or weapons carried by or animals used by a law enforcement official;

(4) obstruct, hinder, interfere with, or otherwise disrupt or disturb the operation or operator of a public transportation vehicle;

(5) board a public transportation bus through the rear exit door, unless so directed by an employee or agent of the carrier;

(6) use profane, indecent, or obscene language or actions on a public transportation vehicle, or conduct himself in a boisterous fashion while on a public transportation vehicle.

(b) Intoxicated persons may be excluded from riding in any public transportation vehicle by the vehicle’s driver or operator.

(c) The driver of any public transportation vehicle may refuse to transport any person who insists on boarding the vehicle in a manner that will obviously violate any of the above provisions.

(d) Any person violating the provisions of subsection (a) of this section is guilty of a misdemeanor, and upon conviction for a first offense must be imprisoned for not more than thirty days or fined not more than two hundred dollars, for a second offense, imprisoned for not more than sixty days or fined not more than five hundred dollars, or both, and for a third or subsequent offense, imprisoned for not more than ninety days or fined not more than one thousand dollars, or both.

HISTORY: 1986 Act No. 405, eff May 12, 1986.

Library References

Carriers 22, 236(1.1).

Westlaw Topic No. 70.

C.J.S. Carriers Sections 320, 333, 493.