

2017 Regular Session

SENATE BILL NO. 50

BY SENATOR MORRISH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ROADS/HIGHWAYS. Provides relative to motor carriers and common carrier certificates or contract carrier permits by the LPSC. (gov sig)

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AN ACT

To amend and reenact R.S. 3:4672(D), R.S. 45:162(5)(d) and (9), 164(A), (B), and (C), and R.S. 47:602(E)(2), and to enact R.S. 45:164(F), relative to motor carriers; to provide relative to common carrier certificates or contract carrier permits issued to certain motor carriers by the Louisiana Public Service Commission; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 3:4672(D) is hereby amended and reenacted to read as follows:

§4672. Measuring devices; calibration of vehicle tanks; application of Subpart; removal or change of markings unlawful; certificate of calibration

\* \* \*

D. The provisions of this Subpart are not applicable to carriers-for-hire operating under valid ~~permits or certificates of convenience or necessity~~ **common carrier certificates or contract carrier permits** issued by the Louisiana Public Service Commission and not engaged in transporting gasoline, motor fuel, or any other petroleum products for the purpose of sale, use, or consumption within this state, and persons operating motor busses under franchises or licenses issued by

1 municipalities.

2 \* \* \*

3 Section 2. R.S. 45:162(5)(d) and (9) and 164(A), (B), and (C) are hereby amended  
4 and reenacted and R.S. 45:164(F) is hereby enacted to read as follows:

5 §162. Definitions

6 The following words and phrases when used in this Chapter shall have the  
7 meanings ascribed to them in this Section except where a different meaning is  
8 expressly stated or clearly indicated by the context.

9 \* \* \*

10 (5)(a) \* \* \*

11 (d) All ~~certificates of public convenience and necessity~~ **common carrier**  
12 **certificates and contract carrier permits** now issued and validly outstanding for  
13 common carriers defined herein shall continue in full force and effect until the  
14 further orders of the commission. Those portions of certificates of public  
15 convenience and necessity issued and validly outstanding prior to January 1, 1995,  
16 which are subject to the preemption as provided by Section 601 of the Federal  
17 Aviation Administration Act of 1994 are null and void and shall have no continuing  
18 value.

19 \* \* \*

20 (9) "Department" means the Department of ~~Highways~~ **Transportation and**  
21 **Development.**

22 \* \* \*

23 §164. Common carrier's certificate; contract carrier's permit

24 A. ~~Except as provided by Subsection C of this Section, no~~ **No** motor carrier;  
25 ~~as defined in R.S. 45:162,~~ **of waste** shall operate as a ~~common carrier~~ without first  
26 having obtained from the commission a ~~certificate of public convenience and~~  
27 ~~necessity~~ **common carrier certificate or contract carrier permit**, which shall be  
28 issued only after a written application made and filed, a public hearing, due notice  
29 given ~~to applicant and all competing common carriers,~~ and a finding by the

1           commission that ~~public convenience and necessity require the issuance of the~~  
2           ~~applicant is fit to receive~~ a certificate. No new or additional certificate shall be  
3           granted over a route where there is an existing certificate, unless it be clearly shown  
4           that the public convenience and necessity would be materially promoted thereby. No  
5           such certificate to operate as a motor carrier of passengers shall be issued to an  
6           applicant which uses or will use any vehicle with a reconstructed title as provided in  
7           R.S. 32:707 or an equivalent title issued pursuant to the laws of another state in the  
8           operation of such business.

9           B. Except as provided by Subsection C of this Section, no motor carrier shall  
10          operate as a contract carrier without having had a public hearing and obtained from  
11          the commission a permit to do so, which permit shall not be issued unless in the  
12          public interest and until the applicant shall have complied with the requirements of  
13          R.S. 45:161 through 172. An applicant applying for a common carrier certificate,  
14          contract carrier permit, or expansion of authority granted in an existing  
15          certificate or permit authorizing the transportation of waste, as defined in R.S.  
16          45:162, shall prove fitness in a hearing before an administrative law judge or  
17          hearing officer by proving all of the following:

18                 (1) The applicant holds, or is capable of acquiring, an insurance policy  
19                 that complies with commission rules.

20                 (2) The applicant has the financial ability to provide the transportation  
21                 of waste for disposal in a safe and efficient manner.

22                 (3) The applicant holds, or is capable of acquiring, all the necessary  
23                 authorizations required by any and all regulatory authorities for the  
24                 transportation of waste for disposal.

25                 (4) The applicant holds, or is capable or acquiring for use, equipment  
26                 and man power to provide transportation services in a safe and efficient  
27                 manner.

28                 (5) The applicant has in place, or is capable of establishing, a safety  
29                 program necessary for the safe and efficient transportation of waste for

1 **disposal.**

2 C. Wrecker and towing services, passenger carrying vehicles, household  
3 goods movers, and motor carriers of salt water utilized in oil well exploration and  
4 production shall not be required to ~~prove public convenience and necessity~~ **comply**  
5 **with Subsection B of this Section** when applying for a common carrier certificate  
6 or contract carrier permit.

7 \* \* \*

8 **F. No such certificate to operate as a motor carrier of passengers shall**  
9 **be issued to an applicant which uses or will use any vehicle with a reconstructed**  
10 **title as provided in R.S. 32:707 or an equivalent title issued pursuant to the laws**  
11 **of another state in the operation of such business.**

12 Section 3. R.S. 47:602(E)(2) is hereby amended and reenacted to read as follows:

13 §602. Determination of taxable capital

14 \* \* \*

15 E. Deduction for members of certain controlled groups.

16 \* \* \*

17 (2) For purposes of this Subsection, "controlled group" is defined to be a  
18 group of affiliated corporations at least one of which is regulated by the Louisiana  
19 Public Service Commission and holds a ~~certificate of public convenience and~~  
20 ~~necessity~~ **common carrier certificate or contract carrier permit** issued by the  
21 Louisiana Public Service Commission to provide local exchange telephone service  
22 and other members of which are engaged in providing telephone, cellular,  
23 microwave, paging, data-transmission, or other telecommunications services and  
24 includes subsidiary, brother-sister, or tier corporations engaged in the sale,  
25 manufacture, maintenance, financing, or installation of equipment to facilitate the  
26 providing of telephone and other related services, and the capital stock of which, to  
27 an extent of at least eighty percent, is owned by another member of the controlled  
28 group. This Subsection shall not apply to any corporation primarily engaged in  
29 activity unrelated to the telecommunications services referred to in the Subsection.

\* \* \*

Section 4. This Act shall apply to all applications pending on the effective date. Any restrictive language in any existing common carrier certificate of waste or any contract carrier permit of waste that prevents the carrier from applying for expanded authority for any period of time is null and void.

Section 5. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Sharon F. Lyles.

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## DIGEST

SB 50 Original

2017 Regular Session

Morrish

Present law creates the Commission of Weights and Measures in the Dept. of Agriculture and Forestry and gives the commissioner the authority for registration of weights, measures, and weighing and measuring devices in the distribution, handling, or sale of petroleum products and makes its provisions inapplicable to carriers-for-hire operating under valid permits or certificates of convenience or necessity issued by the Louisiana Public Service Commission (LPSC) and not engaged in transporting petroleum products for sale, use, or consumption in this state, and persons operating motor busses under franchises or licenses issued by municipalities.

Proposed law retains present law but changes terminology from "permits or certificates of convenience or necessity" to "common carrier certificates or contract carrier permits".

Present law defines "motor carriers" to include both a common carrier by motor vehicle and a contract carrier by motor vehicle, which transports household goods, passengers, waste intrastate, or any other classification of carriers created by law which transports household goods, passengers, or waste intrastate for compensation or hire, including tow trucks, but not including contract carriers by bus, except that a contract carrier by bus is considered a "motor carrier" subject to the control and jurisdiction of the LPSC for purposes of R.S. 45:173 and 1177.

Present law requires motor carriers as defined in present law to obtain a certificate of public convenience and necessity from the LPSC before operating as a common carrier, which requires an application, public hearing, and a finding of public convenience and necessity.

Present law (R.S. 45:162(20)) defines "waste" to mean "non-hazardous oilfield waste", "non-hazardous industrial solid waste", and "hazardous waste".

Present law excludes wrecker and towing services, passenger carrying vehicles, household goods movers, and motor carriers of salt water utilized in oil well exploration and production from requirement to prove public convenience and necessity when applying for a common carrier certificate or contract carrier permit.

Proposed law changes present law from "motor carrier" to "motor carrier of waste" and "permits or certificate of public convenience and necessity" to "common carrier certificate or contract carrier permits".

Proposed law requires a "motor carrier of waste" applicant for a common carrier certificate, contract carrier permit, or expansion of authority granted in an existing certificate or permit authorizing the transportation of waste to prove fitness in a hearing before an administrative law judge or hearing officer by proving the following:

- (1) The applicant holds, or is capable of acquiring, an insurance policy that complies with commission rules.
- (2) The applicant has the financial ability to provide the transportation of waste for disposal in a safe and efficient manner.
- (3) The applicant holds, or is capable of acquiring, all the necessary authorizations required by any and all regulatory authorities for the transportation of waste for disposal.
- (4) The applicant holds, or is capable of acquiring for use, equipment and man power to provide transportation services in a safe and efficient manner.
- (5) The applicant has in place, or is capable of establishing, a safety program necessary for the safe and efficient transportation of waste for disposal.

Present law prohibits issuance of a certificate to operate as a motor carrier of passengers to an applicant which uses or will use any vehicle with a reconstructed title as provided in R.S. 32:707 or an equivalent title issued under the laws of another state in operation of such business.

Proposed law retains present law.

Proposed law applies to all pending applications and declares null and void any restrictive language in existing common carrier certificates of waste or contract carrier permits of waste that would prevent the carrier from applying for expanded authority for any period of time.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 3:4672(D), R.S. 45:162(5)(d) and (9), 164(A), (B), and (C), and R.S. 47:602(E)(2); adds R.S. 45:164(F))