193.22 History: 1876 c. 211; R. S. 1878 s. 1864; Stats. 1898 s. 1864; 1923 c. 291 s. 3; Stats. 1923 s. 193.22; 1925 c. 265; 1929 c. 504 s. 146; 1965 c. 334.

193.24 History: 1899 c. 125 s. 1; Supl. 1906 s. 1864b, 1864c; 1923 c. 291 s. 3; Stats. 1923 s. 193.24, 193.25; 1929 c. 504 s. 148; Stats. 1929 s. 193.24.

193.27 History: 1903 c. 74 s. 1; Supl. 1906 s. 1864e; 1923 c. 291 s. 3; Stats. 1923 s. 193.27; 1929 c. 504 s. 150; 1941 c. 254.

193.29 History: 1909 c. 310; Stats. 1911 s. 1636q; 1923 c. 291 s. 3; Stats. 1923 s. 193.29; 1929 c. 504 s. 152.

193.30 History: 1919 c. 545; Stats. 1919 s. 1636q—5; 1921 c. 463; 1923 c. 291 s. 3; Stats. 1923 s. 193.30; 1929 c. 504 s. 153.

193.31 History: 1921 c. 193; Stats. 1921 s. 1636q—7; 1923 c. 291 s. 3; Stats. 1923 s. 193.31; 1929 c. 504 s. 154.

193.32 History: 1907 c. 390; Stats. 1911 s. 1636—58; 1923 c. 291 s. 3; Stats. 1923 s. 193.32; 1929 c. 504 s. 155; 1937 c. 232.

193.33 History: 1907 c. 578; 1911 c. 663 s. 367; Stats. 1911 s. 1797t—1; 1923 c. 291 s. 3; Stats. 1923 s. 193.33; 1929 c. 504 s. 156.

193.34 History: 1907 c. 578; 1911 c. 663 s. 367; Stats. 1911 s. 1797t—2; 1923 c. 291 s. 3; Stats. 1923 s. 193.34; 1929 c. 504 s. 157.

193.35 History: 1933 c. 311; Stats. 1933 s. 193.35.

193.36 History: 1907 c. 578; 1911 c. 663 s. 367; Stats. 1911 s. 1797t—4; 1923 c. 291 s. 3; Stats. 1923 s. 193.36; 1929 c. 504 s. 159.

193.37 History: 1907 c. 578; 1911 c. 663 s. 367; Stats. 1911 s. 1797t—5; 1913 c. 360; 1923 c. 291 s. 3; Stats. 1923 s. 193.37; 1929 c. 504 s. 160.

193.38 History: 1919 c. 492 s. 2; Stats. 1919 s. 1797t—6; 1923 c. 291 s. 3; Stats. 1923 s. 193.38; 1929 c. 504 s. 161.

193.39 History: 1919 c. 492 s. 2; Stats. 1919 s. 1797t—7; 1923 c. 291 s. 3; Stats. 1923 s. 193.39; 1929 c. 504 s. 162.

193.40 History: 1919 c. 492 s. 2; Stats. 1919 s. 1797t—8; 1923 c. 291 s. 3; Stats. 1923 s. 193.40; 1929 c. 504 s. 163.

193.41 History: 1919 c. 492 s. 2; Stats. 1919 s. 1797t—9; 1923 c. 291 s. 3; Stats. 1923 s. 193.41; 1929 c. 504 s. 164.

193.42 History: 1919 c. 492 s. 2; Stats. 1919 s. 1797t—10; 1923 c. 291 s. 3; Stats. 1923 s. 193.42; 1929 c. 504 s. 165.

193.43 History: 1919 c. 492 s. 2; Stats. 1919 s. 1797t—11; 1923 c. 291 s. 3; Stats. 1923 s. 193.43; 1929 c. 504 s. 166.

193.44 History: 1919 c. 492 s. 2; 1919 c. 658; Stats. 1919 s. 1797t—12; 1923 c. 291 s. 3; Stats. 1923 s. 193.44; 1929 c. 504 s. 167.

193.45 History: 1919 c. 442; 1919 c. 702 s. 71; Stats. 1919 s. 1797t—13; 1923 c. 291 s. 3; Stats. 1923 s. 193.45; 1929 c. 504 s. 168; 1961 c. 33.

193.46 History: 1919 c. 442; 1919 c. 702 s. 71; Stats. 1919 s. 1797t—13; 1923 c. 291 s. 3; Stats. 1923 s. 193.45; 1929 c. 504 s. 168; Stats. 1929 s. 193.46.

CHAPTER 194.

Motor Vehicle Transportation Act.

Revisor's Note, 1939: Section 110.03 (5) (created by chapter 410, Laws 1939) transfers to the Motor Vehicle Department "all powers, duties and functions vested in the public service commission by virtue of chapter 194, excepting" specified provisions; and section 110.08 commands the revisor of statutes "to make the necessary changes in the language of the statutes so as to indicate the transfers provided in section 110.03." The revisor has done that to the best of his ability. In every instance that he has made any change in the language he has called attention to the change by citing section 110.08 at the end of the section, either in the history of the section (brackets) or in a "revisor's note." The changes of language have been limited to substituting "motor vehicle department" or "department" for "public service commission" or for "commission." Section 194.38 is compiled from 194.18 (1), (8) and 194.36 (1), (3). The introduction to 194.38 is necessarily new.

194.01 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.01; 1937 c. 288; 1939 c. 525; 1947 c. 605; 1961 c. 35; 1965 c. 418; 1969 c. 336 s. 176; 1969 c. 500 s. 30 (3) (g).

Legislative Council Note, 1961: This eliminates "two-wheeled" so as to permit the use of four-wheeled or tandem axle trailers when used with an automobile. This change will clarify the application of 194.44 (2) which relates to lessors of vehicles. [Bill 33-S]

An agent selling and delivering products for an oil company under a bulk station agent's employment contract, who is not required to furnish any delivery equipment, is not a "carrier," notwithstanding the cost of operation is deducted from the agent's compensation. An agent whose employment contract required him to provide a truck chassis necessary for the sale and delivery of the company's products and provided for compensation by salary and commissions is not a "contract motor carrier." The oil company employing him is a "private motor carrier" and not required to obtain a permit to operate. Standard Oil Co. v. Public Service Comm. 217 W 563, 259 NW 598.

A partnership organized for the sole purpose of hauling milk for hire is a contract motor carrier within the meaning of the terms defined in 194.01, Stats. 1945, and is subject to 194.34, notwithstanding its contract of carriage is limited to members of the partnership. 36 Atty. Gen. 110.

A municipality hiring a motor truck without a driver is a private motor carrier under definitions provided by 194.01 (5), (11) and (14). Persons leasing a truck with driver to a municipality are contract motor carriers. 194.05 (1) does not provide exceptions in the above cases. 36 Atty. Gen. 486.

194.02 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.02; 1939 c. 410 s. 2 (110.08); 1943 c. 78; 1945 c. 557; 1969 c. 500 s. 30 (3) (g).

On exercises of police power see notes to sec. 1, art. I; on legislative power generally and on delegation of power see notes to sec. 1, art. IV; and on the public service commission see notes to various sections of ch. 195.

The power of the motor vehicle department under 194.02, Stats. 1945, to regulate school busses in the interests of public safety is not limited to the regulation of school busses operated under contract with school districts. Verbeten v. Huettl, 253 W 510, 34 NW (2d) 803.

The paramount goal sought to be attained by the regulation of motor carriers authorized by 194.02, Stats. 1951, is that of providing adequate motor-transportation service to meet the public needs, and any other objective is secondary. Motor Transport Co. v. Public Service Comm. 263 W 31, 56 NW (2d) 548.

The motor vehicle transportation act, ch. 194, Stats. 1951, as applied to for-hire transportation of property by motor carrier, is a whole and complete statutory plan of regulation, which has completely supplanted, and which does not permit of, any common-law concepts of such for-hire transportation. There is no inherent right to use a public highway in the conduct of the business of a common carrier for private gain without the consent of the state. 42 Atty. Gen. 79.

194.03 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.03; 1937 c. 288; 1939 c. 410 s. 2 (110.08); 1943 c. 78; 1951 c. 261 s. 10; 1953 c. 281; 1969 c. 500 s. 30 (3) (g).

Applications for amendments to certificates and licenses, and payment of filing fees, are required under 194.03, 194.04, and 194.20, Stats. 1955, from interstate motor carriers which have been authorized by the interstate commerce commission to extend their routes outside of Wisconsin or to transport additional commodities. 44 Atty. Gen. 210.

194.04 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.04; 1935 c. 116, 316; 1937 c. 251, 288, 339; 1939 c. 103, 499; 1939 c. 410 s. 2 (110.08), 3; 1941 c. 49 s. 96; 1941 c. 276; 1943 c. 78, 439; 1945 c. 56, 358, 505; 1947 c. 551; 1951 c. 319 s. 216; 1951 c. 712; 1953 c. 394, 488, 631; 1955 c. 10, 452, 526, 652; 1957 c.260 s. 31; 1957 c. 610, 638; 1959 c. 359; 1961 c. 290; 1965 c. 341, 416, 430; 1967 c. 98; 1969 c. 461; 1969 c. 500 s. 30 (3) (g), (i).

The public service commission may issue permits to nonresident private motor carriers and such permits may be issued for foreign-owned vehicles for hire, even though they make only one trip into the state per year. 24 Atty. Gen. 743.

The word "assignment" as used in 194.04 (1) (b), Stats. 1945, does not include a mortgage or lease of a common motor carrier certificate. 34 Atty. Gen. 328.

The addition of a new general partner to a partnership holding a license under 194.34, Stats. 1947, requires approval of assignment of the license and payment of a fee under 194.04. The withdrawal of a general partner from such a partnership requires similar approval and payment if the business is to be carried on beyond the period necessary for winding up. 36 Atty. Gen. 643.

194.05 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.05; 1939 c. 62, 369, 525; 1943 c. 78.

194.05, Stats. 1949, as applied to typical situations involving carriage of mail in private trucks, was construed in 40 Atty. Gen. 66.

194.06 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.06.

194.07 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.07; 1943 c. 78.

194.08 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.08; 1969 c. 500 s. 30 (2) (e).

194.09 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.09; 1939 c. 410 s. 2 (110.08); 1969 c. 500 s. 30 (3) (g).

194.10 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.10; 1939 c. 410 s. 2 (110.08); 1947 c. 143; 1951 c. 521; 1957 c. 84; 1957 c. 260 s. 32; 1957 c. 674; 1959 c. 562; 1969 c. 500 s. 30 (3) (d), (e), (g), (h).

Legislative Council Note, 1957: Two changes have been made in this section to correspond to changes made in the service of process statutes in the vehicle code: (1) It has been made clear that the notice of injury required by s. 330.19 (5) can be served upon nonresident motorists by service upon the motor vehicle commissioner and (2) it has been made clear that one extra copy of the process papers should be served so that the commissioner can have one copy for his records. For further explanation, see the Note to s. 345.09 created by SECTION 1 of this bill. [Bill 99-S]

Jurisdiction by implied consent. O'Melia, 29 MLR 31.

194.11 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.11; 1939 c. 410 s. 2 (110.08); 1943 c. 78; 1969 c. 500 s. 30 (3) (g).

194.13 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.13; 1939 c. 410 s. 2 (110.08); 1943 c. 375 s. 72.

194.14 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.14; 1939 c. 410 s. 2 (110.08); 1943 c. 78; 1945 c. 33; 1947 c. 448; 1949 c. 166; 1969 c. 500 s. 30 (3) (g).

Under 194.14 (2) and 227.12, Stats. 1945, the summation of the record by the person who heard the testimony is made practically equivalent to a finding of the public service commission unless set aside by the commission on exceptions made by one of the parties. Where such exceptions are made, the commission must examine the record sufficiently to ascertain whether they are well taken and, if it finds that they are, must modify the summation accordingly. Since the circuit court is limited by 227.20 to a review of the action of the commission, the court is not required to make an original examination of the evidence or to re-examine the entire record or to summarize the evidence. Gateway City Transfer Co. v. Public Service Comm. 253 W 397, 34 NW (2d) 238.

See note to 195.20, citing Chicago & M. E. R. Co. v. Public Service Comm. 254 W 551, 37 NW (2d) 42.

194.15 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.15; 1939 c. 410 s. 2 (110.08); 1943 c. 78; 1969 c. 276; 1969 c. 500 s. 30 (3) (g).

194.16 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.16; 1943 c. 78; 1953 c. 320 s. 10; 1957 c. 260 s. 33.

194.17 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.17; 1939 c. 410 s. 2 (110.08); 1959 c. 434; 1963 c. 95; 1969 c. 500 s. 30 (3) (g).

194.18 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.02 (a), (c), 194.03 (6), 194.18; 1939 c. 410 s. 2 (110.08), 3; Stats. 1939 s. 194.18; 1953 c. 281, 631.

A statement of the public service commission that 194.18 and 194.23, Stats. 1947, do not set up a presumption in favor of competition was not a holding that such statutes create a presumption against competition between common motor carriers, nor an assertion that the commission favored monopoly or indulged in a presumption in favor of it, and did not indicate that the commission's denial of an application of a common motor carrier for authority to render additional services by its truck lines was based on an erroneous view of the law. The refusal to grant a second certificate of convenience and necessity does not offend either the constitution or a valid statute enacted under it, even if such refusal results in the route being served by a single common motor carrier, as against a contention that the order of the public service commission in this case, based on the standards prescribed by said sections leaves one common motor carrier with an exclusive franchise to transact transportation service between certain points and creates a monopoly contrary to law. Gateway City Transfer Co. v. Public Service Comm. 253 W 397, 34 NW (2d) 238.

See note to 194.23, citing Safe Way Motor Coach Co. v. Two Rivers, 256 W 35, 39 NW (2d) 847.

An ordinance of the town in which Milwaukee county's airport is located, so far as purporting to regulate the operations of limousines by a cab company licensed by the city of Milwaukee and engaged in carrying airline passengers between the city of Milwaukee and the airport under a permit from the public service commission authorizing such cab company to operate limousines interurban between the city and the airport, violates 194.18, Stats. 1949. Milwaukee County v. Lake, 259 W 208, 47 NW 87.

Ch. 194 was designed to prevent imprudent, wasteful and unnecessary duplication of service, but thereunder, and acting within the bounds of the legislative standards set forth therein, it is for the public service commission, rather than the court, to say what public convenience and necessity require and whether these will be better served by licensing an additional carrier than by permitting those already licensed to expand their facilities. Motor Transport Co. v. Public Service Comm. 263 W 31, 56 NW (2d) 548.

An order of the public service commission requiring an extension of bus service along a certain route, to be complied with by the bus company on a certain date, and on the installation of a "Slow" or other caution sign with flashing light on the west side of a certain highway at a suitable distance north of an intersecting highway, and on the completion of paving on a certain portion of the route, is not void for indefiniteness or uncertainty. Madison Bus Co. v. Public Service Comm. 264 W 12, 58 NW (2d) 463.

See note to 195.05, citing Milwaukee & S. T. Corp. v. Public Service Comm. 268 W 573, 68 NW (2d) 552.

194.19 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.19; 1939 c. 410 s. 2 (110.08); 1943 c. 420.

194.20 History: 1937 c. 288 s. 3; Stats. 1937 s. 194.03 (3); 1939 c. 410 s. 2 (110.08); Stats. 1939 s. 194.20; 1943 c. 78; 1953 c. 281, 631; 1957 c. 523; 1969 c. 169.

See note to 194.03, citing 44 Atty. Gen. 210.

194.21 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.21; 1943 c. 478; 1951 c. 712; 1961 c. 35.

194.22 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.22; 1957 c. 602.

194.225 History: 1961 c. 35; Stats. 1961 s. 194.225.

Legislative Council Note, 1961: This section is comparable to 192.42. There is no such specific provision presently applicable in chapter 194. [Bill 33-S]

194.23 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.23; 1937 c. 288; 1945 c. 557; 1947 c. 448; 1951 c. 712.

By the adoption of ch. 546, Laws 1915, the state assumed jurisdiction over street transportation by motor vehicles similar to that afforded by street railways, and all questions are submitted for determination to the railroad commission, but subject to review the same as the commission's other orders. Such determinations are controlling as against any conflicting municipal regulations. Vanderwerken v. Superior, 179 W 638, 192 NW 60.

The words "public convenience and necessity," are not words of precise legal content but, in the light of decided cases, they can be properly applied in a given case when the basic ultimate facts are found. Clintonville Transfer Line v. Public Service Comm. 248 W 59, 21 NW (2d) 5.

Hearings before the public service commission under the statutes relating to common motor carriers are not to be treated as civil actions, but such hearings are legislative in character and, while they are quasi-judicial because of fact-finding powers of the commission, they nevertheless operate in the legislative field. Gateway City Transfer Co. v. Public Service Comm. 253 W 397, 34 NW (2d) 238.

Under 194.18, 194.23, and 194.27 (1), Stats. 1945, the public service commission has authority to issue a certificate to a common motor carrier authorizing service between points in one municipality to points in another, with the restriction that there may be no transfer of lading between vehicles for the purpose of pickup and delivery service. Motor Transport Co. v. Public Service Comm. 253 W 497, 34 NW (2d) 787.

An order authorizing a company to establish a motorbus service which would be in competition with an existing streetcar service over a certain street and viaduct in Milwaukee did not grant a motor-carrier certificate, where the company already had a certificate as a

common motor carrier giving service within the city, and did not grant an amendment, where the order did not involve the establishment or abandonment of service at any city or village but involved only a change of routes within the limits of the city; hence the requirements in this section as to a finding of public convenience and necessity and of taking into consideration existing transportation facilities in the territory in granting a certificate or an amendment did not apply. Chicago & M. E. R. Co. v. Public Service Comm. 254 W 551, 37 NW (2d) 42.

The power delegated to the public service commission by ch. 194, Stats. 1947, is a power to act throughout the state. 194.18 (1), vesting the commission with the power to designate the public highways as routes over which common motor carriers may or may not operate, and 194.23 (1), providing that no person shall operate any motor vehicle as a common carrier except in accordance with the terms and conditions of a certificate issued by the commission, is mandatory and, considered with related provisions, confers on the commission, as a state agency acting for the state throughout its boundaries, the exclusive power to designate routes for common motor carriers. Safe Way Motor Coach Co. v. Two Rivers, 256 W 35, 39 NW (2d) 847.

See note to 194.25, citing Clintonville Transfer Line v. Public Service Comm. 258 W 570, 46 NW (2d) 741.

A certain statement in the opinion of the public service commission, when considered in the light of other language in the opinion, was not the equivalent of a finding that the service of carrier M., already operating over the same route and opposing this application, was adequate for public needs. Findings of the commission that the proposed operations are in the public interest and required by public convenience and necessity because there is reasonable need for such service and there is no showing that efficient public service by any other motor carrier will be unduly interfered with, were based on prescribed legislative standards, and were supported by substantial evidence in view of the entire record, so as to warrant the granting of a certificate, as against objection by carrier M. Motor Transport Co. v. Public Service Comm. 263 W 31, 56 NW (2d) 548.

See note to 194.25, citing Albrent Freight and Storage Co. v. Public Service Comm. 263 W 119, 56 NW (2d) 846.

If a common motor carrier has freight destined for delivery outside its authority but within that of another carrier, it may arrange for such delivery by the other connecting carrier, and such connecting service is known as joint-line service. When the carriage is performed by a single agent who possesses a single authority to complete it from collection to delivery of the freight, it is known as single-line service. West Shore Express, Inc. v. Public Service Comm. 264 W 65, 58 NW (2d) 407.

One of the qualifications of 194.23 (1), which confers legislative discretion upon the public service commission to grant or deny a certificate of authority to a motor vehicle common carrier in conformity with public convenience and necessity, requires the commission, in making such a determination, to take into consideration existing transportation facilities in the territory proposed to be served. Robertson Transport. Co. v. Public Service Comm. 39 W (2d) 653, 159 NW (2d) 636.

194.24 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.24; 1957 c. 523; 1969 c. 500 s. 30 (3) (c).

194.25 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.25; 1937 c. 288; 1947 c. 196; 1951 c. 712.

The public service commission must approve an assignment of a certificate of a common motor carrier if the same is not against the public interest, which is the requirement prescribed by 194.25 (2), Stats. 1949, and the commission cannot impose an additional requirement by a rule providing that, if a certificate of an intrastate common motor carrier is to be assigned to another like carrier operating a connecting route and it is proposed to operate the combined systems as a single through route, the application must be supported by evidence that public convenience and necessity require the through service; but if it is proposed to link up the 2 routes and operate a single-line service, thereby creating new operating rights, it is necessary for such assignee to file an application for an amendment to its certificate, pursuant to 194.23, and then to establish public convenience and necessity, as required by that section. Clintonville Transfer Line v. Public Service Comm. 258 W 570, 46 NW (2d) 741.

The public service commission's approval of an assignment to carrier A, of the certificate of authority of connecting carrier B, was proper, but the commission's findings that a grant of additional authority for unification of operations, so as to provide a single-line service, were not supported by substantial evidence in view of the entire record. The commission's finding, that a saving in operating costs would be effected by carrier A if single-line service was permitted, was not sufficient in itself to support the commission's ultimate finding that unification was required by public convenience and necessity. Albrent Freight & Storage Co. v. Public Service Comm. 263 W 119, 56 NW (2d) 846.

Where approval is sought for the assignment of the authority of one carrier to a carrier with a connecting line, and the applicant informs the public service commission that it will maintain the former joint-line service between the 2 routes, the commission, even though of the opinion that a single carrier cannot joint-line with itself, may not on that ground treat the application as one for an amendment to the applicant's existing certificate so as to confer new operating rights, and the commission in such case may not deny approval for lack of proof by the applicant of elements which the statutes do not require when assignments, not amendments, of authority are under consideration; but if such applicant, on receiving approval of the assignment, does conduct single-line operation, the commission has the same power to interfere that it has when any carrier operates outside its authority. West Shore Express, Inc. v. Public Service Comm. 264 W 65, 58 NW (2d) 407.

This section does not prevent sale of a contract motor carrier license by a trustee in bankruptcy, subject to approval of the public

service commission. Barutha v. Prentice, 189 F (2d) 29.

196.39 is inapplicable to an order of the public service commission entered under 194.25 (2), with respect to which the commission has a single determinative function and with respect to which parties have fully executed contracts made pursuant to a prior determination of the commission. 29 Atty. Gen. 101.

194.26 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.26; 1937 c. 288; 1951 c. 712.

194.27 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.27; 1937 c. 288.

See note to 194.23, citing Motor Transport Co. v. Public Service Comm. 253 W 497, 34 NW (2d)787.

194.28 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.28; 1937 c. 288; 1947 c. 197.

194.29 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.29.

Service orders cannot take the place of managerial initiative which is fostered by competition, so the public service commission may determine whether or not competition will best serve the public need for additional common-motor-carrier service, provided that the granting of a new certificate of authority in order to insure such competition does not violate any of the legislative standards imposed by ch. 194. Motor Transport Co. v. Public Service Comm. 263 W 31, 56 NW (2d) 548.

194.30 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.30.

194.31 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.31; 1939 c. 410 s. 2 (110.08); 1957 c. 523; 1969 c. 500 s. 30 (3) (c), (h).

194.32 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.32; 1945 c. 385; 1951 c. 650; 1955 c. 624; 1969 c. 480.

194.33 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.33; 1939 c. 410 s. 2 (110.08); 1957 c. 663; 1969 c. 500 s. 30 (3) (g).

194.33, Stats. 1947, confers on a city a power which is subordinate to the exclusive authority conferred on the public service commission by 194.18 (2) to designate routes, and does not confer on a city the power to nullify an order of the commission designating the routes over which a common motor carrier may operate within the city. An ordinance which attempts to change such designated routes is void as a usurpation of power conferred solely on the commission. Safe Way Motor Coach Co. v. Two Rivers, 256 W 35, 39 NW (2d) 847.

194.34 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.34; 1937 c. 288; 1941 c. 215, 281; 1943 c. 78; 1945 c. 290; 1959 c. 586.

If there is a reasonable need apparent for the use of the service offered by an applicant for a contract motor carrier license, and if a common carrier is not unduly interfered with nor the public highways unduly burdened, a case of "convenience and necessity," entitling the applicant to a license, exists. United Parcel Service v. Public Service Comm. 240 W 603, 4 NW (2d) 138; Farmers Co-op. E. U.S. Asso. v. Public Service Comm. 245 W 143, 13 NW (2d) 507.

On the distinction between private and public contract carriers see B. D. C. Corp. v. Public Service Comm. 23 W (2d) 260, 127 NW (2d) 409.

194.34 (1), which provides that an application for a contract license shall be granted or denied as the public interest may require upon a finding of public convenience and necessity (taking into consideration all existing transportation facilities in the territory), is neither to be interpreted as a legislative commitment to competition as the best guarantor of adequate carrier service nor as a mandate for monopoly as the best assurance thereof. Priebe v. Public Service Comm. 38 W (2d) 635, 157 NW (2d) 600.

Drayage companies holding contract motor carrier licenses issued by the public service commission, under 194.34, Stats. 1951, may not legally furnish truck-tractors or road tractors to certificated common motor carriers for pickup and delivery or any other use by the latter; and may not hitch and pull trailers or semi-trailers permitted under a common motor carrier certificate with their own permitted tractors for for-hire transportation of property. 42 Atty. Gen. 79.

194.35 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.35; 1957 c. 523; 1969 c. 500 s. 30 (3) (c).

194.355 History: 1951 c. 712; Stats. 1951 s. 194.355; 1957 c. 260 s. 34.

194.36 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.36; 1937 c. 288; 1939 c. 410 s. 2 (110.08); 1953 c. 61; 1959 c. 586.

The power and authority of the public service commission to regulate contract motor carriers must be found within the statutes, and distinctions fixed by the statutes between classes of motor carriers must be followed. One of the purposes of the motor vehicle transportation act is to protect the common carrier from the contract motor carrier, and unfair competition as between common and contract carrier is sought to be eliminated, but no consideration is given to other contract carriers with respect to competition by the contract carrier seeking a license, and as between contract carriers competition is to be permitted when it can reasonably exist. United Parcel Service v. Public Service Comm. 240 W 603, 4 NW (2d) 138.

194.37 History: 1939 c. 410 s. 2; Stats. 1939 s. 194.37; 1951 c. 319 s. 217; Stats. 1951 s. 194.37, 194.38 (5); 1953 c. 61 s. 114; 1953 c. 488; Stats. 1953 s. 194.37; 1955 c. 10; 1957 c. 672; 1961 c. 316, 646; 1965 c. 163; 1969 c. 500 s. 30 (3) (c).

194.38 History: 1933 c. 488; Stats. 1933 s. 194.18 (1), (8), 194.36 (1), (2); 1939 c. 410 s. 2 (110.08); Stats. 1939 s. 194.38; 1951 c. 319 s. 217; 1953 c. 61 s. 114; 1953 c. 488; 1969 c. 500 s. 30 (3) (g).

The motor vehicle transportation act does not authorize the public service commission to fix hours of service of drivers of private carriers. Gardner Baking Co. v. Public Service Comm. 224 W 588, 271 NW 833.

194.41 History: 1933 c. 488 s. 3; Stats. 1933

s. 194.41; 1937 c. 288; 1939 c. 410 s. 2 (110.08); 1955 c. 35, 316, 652; 1957 c. 260 s. 35; 1969 c. 55, 312; 1969 c. 500 s. 30 (3) (g).

The "no-action clause" of the liability bond or policy of a common carrier of passengers did not conflict with the provisions of 194.41, Stats. 1929, requiring such bond and making the insurance carrier directly liable thereon for all damages that may be recovered against the operator of the vehicle; the statute is construed, under the rule that the court may look to the legislative history to ascertain legislative intent if the language is doubtful or ambiguous, as not intended to permit a plaintiff to join the insurance carrier as a party defendant contrary to the provisions of its contract with the insured. Polzin v. Wachtl, 209 W 289, 245 NW 182.

A truck may be released from a fleet policy but a truck so released cannot be operated again until there is a new undertaking given. Madden v. Reeve, 230 W 468, 283 NW 319.

By reason of 194.41 (1), as to a liability policy on a truck or other motor vehicle of a contract motor carrier, provisions in such a policy, issued after the enactment of the statute, limiting the coverage to accidents occurring while the truck was used for the purposes stated in the declarations, were superseded and ineffective. Rusch v. Mielke, 234 W 380, 291 NW 300.

The provisions that the insurance policy or other undertaking required of a contract motor carrier "shall provide that the indemnitor shall be directly liable for * * * all damages for injuries to persons * * * that may be recovered against the owner or operator of each such motor vehicle by reason of the negligent use or operation thereof," governed over an exclusion clause contained in such a policy, and made the policy cover as to injuries sustained by cherry pickers while being transported for hire in a truck of the carrier, although such use of the truck was not within the terms of the carrier's permit and was excluded from coverage by the exclusion clause in the policy. Bentley v. Fayas, 253 W 531, 34 NW (2d) 675.

194.41, Stats. 1947, deals strictly with public-liability insurance, not with collision insurance, and is intended to protect users of the highway against damage from an insured with whom they have no relationship; it does not prohibit in such a policy a clause excluding liability on the part of the insurer for injury to property "owned by, rented to, in charge of, or transported by, the insured," and under such clause the insurer is not liable for damage to a tractor leased to the insured trucker, and damaged in a collision while being operated by the insured. Faust v. Dawes, 257 W 353, 43 NW (2d) 365.

An insurer of the lessee of a truck owned by a partnership and driven by one of the partners, whose policy covers the driver pursuant to 194.41 (1), cannot recover the amount it pays to a third party for the driver's negligence from either the driver or the partnership. Miller v. Kujak, 4 W (2d) 80, 90 NW (2d) 137.

An employe of the insured may recover for injuries received while a passenger in the truck. The policy may not limit coverage as to him. Peterson v. Schmude, 23 W (2d) 9, 126 NW (2d) 500.

Where endorsement upon an automobile liability policy clearly expresses the insurer's intent to afford coverage to a motor carrier, the addition to said endorsement of ambiguous language relating to contingencies under which the insured may in turn be liable to the insurer, but which does not in any manner alter or change the insurer's liability to third persons, does not render the endorsement unacceptable for filing in the motor vehicle department. 42 Atty. Gen. 57.

194.42 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.42; 1939 c. 410 s. 2 (110.08); 1955 c. 660; 1969 c. 500 s. 30 (3) (g), (i).

194.43 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.43; 1937 c. 288; 1939 c. 410 s. 2 (110.08); 1969 c. 500 s. 30 (3) (g).

194.44 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.44; 1937 c. 288; 1939 c. 396; 1939 c. 410 s. 2 (110.08); 1943 c. 78; 1955 c. 452; 1957 c. 260 s. 36; 1959 c. 587; 1969 c. 500 s. 30 (3) (g).

The provisions of 194.44 (2), Stats. 1947, do not apply to a "private motor carrier" as defined by 194.01 (14). 36 Atty. Gen. 510.

194.46 History: 1933 c. 488 s. 3; Stats. 1933 s. 194.46; 1937 c. 288; 1943 c. 78; 1947 c. 565; 1959 c. 587.

194.51 History: 1953 c. 602; Stats. 1953 s. 194.51; 1955 c. 10; 1959 c. 659 s. 79.

CHAPTER 195.

Public Service Commission; Regulation of Railroads, Street Railways, Interurban Railways and Express and Telegraph Companies.

195.01 History: 1905 c. 362 s. 1; Supl. 1906 s. 1797—1; 1907 c. 582; 1907 c. 676 s. 18; 1911 c. 663 s. 337; 1913 c. 772 s. 101, 102; 1917 c. 108; 1919 c. 93 s. 30, 31; 1919 c. 362 s. 19, 28, 32; 1921 c. 590 s. 25; 1923 c. 291 s. 3; Stats. 1923 s. 195.01; 1925 c. 268; 1929 c. 465 s. 3; 1929 c. 504 s. 171; 1929 c. 529 s. 7; 1931 c. 45 s. 1; 1931 c. 183 s. 2; 1937 c. 9; Spl. S. 1937 c. 9; 1939 c. 413; 1943 c. 275 s. 48; 1945 c. 201; 1951 c. 33; 1951 c. 97 s. 43; 1951 c. 247, 712; 1957 c. 97, 263; 1959 c. 659 s. 72; 1963 c. 225; 1965 c. 587; 1969 c. 276.

195.02 History: 1905 c. 362 s. 2; Supl. 1906 s. 1797—2; 1907 c. 582; 1907 c. 676 s. 18; 1911 c. 663 s. 337; 1913 c. 211; 1923 c. 291 s. 3; Stats. 1923 s. 195.02; 1929 c. 504 s. 172; 1933 c. 366.

195.03 History: 1907 c. 499; 1909 c. 248; 1911 c. 663 s. 365; Stats. 1911 s. 1797m—73, 1797m—109; 1923 c. 291 s. 3; Stats. 1923 s. 195.49, 195.79; 1929 c. 504 s. 173, 306, 307; Stats. 1929 s. 195.03; 1943 c. 375 s. 73; 1957 c. 523; 1969 c. 276.

On equality, inherent rights, and exercises of police power see notes to sec. 1, art. I; on legislative power generally and on delegation of power see notes to sec. 1, art. IV; on judicial power generally see notes to sec. 2, art. VII; and on securities of public service corporations see notes to various sections of ch. 184.

The railroad commission is an administrative body empowered to investigate and determine the existence of certain facts. When