

No. 775, A.]

[Published July 8, 1931.]

**CHAPTER 454.**

AN ACT to renumber section 194.03 to be subsection (1) of said section; to create subsection (6) of section 20.51, subsection (2) of section 194.03, and section 194.16; and to amend subsections (1), (2), (3), (5), (6), (7), (7a), and (8) of section 76.54 and section 194.11 of the statutes, relating to the taxation of auto transportation companies and motor vehicle hauling companies, and providing a penalty.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. Section 194.03 of the statutes is renumbered to be subsection (1) of said section.

SECTION 2. A new subsection is added to each of sections 20.51 and 194.03, and a new section is added to the statutes to read: (20.51) (6) Annually, such sums as may be necessary for the administration of sections 76.54 and 194.16.

(194.03) (2) It shall be the duty of the railroad commission to enforce the provisions of sections 76.54 and 194.16 in respect to the collections of ton mile taxes as therein provided and to that end the railroad commission may appoint agents or inspectors to make investigations and to report such violations to the railroad commission. Such agents or inspectors shall be charged with the duty of assisting police or traffic officers in detecting and punishing violations of said act. Every inspector so appointed shall receive a compensation to be fixed by the railroad commission in accordance with the civil service law of the state, and such agents or inspectors in the discharge of their duties shall have full authority to enter any garage, factory or other place where motor vehicles, trailers or semitrailers are stored or parked, or to stop same while en route at any time, to examine motor vehicles, trailers and semitrailers and permit cards, and in the discharge of their duties shall have the powers of sheriffs.

194.16 (1) As used in this section, the term "motor vehicle hauling company" means every person, firm or corporation or their lessees, trustees or receivers, owning, controlling, managing or operating any motor vehicle, trailer or semitrailer upon a public highway in this state, including operations between any points within this state and/or through the state, for the purpose of

moving, hauling or transporting goods, wares, merchandise or other property for hire or consideration of any kind, under oral, written, express or implied contract, or without hire or consideration or for or as incidental to the business of the owner or operator, excepting the following:

(a) Motor vehicles in single units, or in combinations with other motor vehicles or trailers or semitrailers where the aggregate weight of such units or combinations does not exceed three tons;

(b) Motor vehicles, trailers or semitrailers owned or operated by the state or any political subdivision thereof;

(c) Motor vehicles, trailers or semitrailers used or operated exclusively in transporting or delivering dairy or other farm products between the point of production and the primary market;

(d) Motor vehicles, trailers and semitrailers operated within the limits of an incorporated village or city;

(e) Auto transportation companies as defined in subsection (6) of section 194.01.

(f) If any of the exemptions provided for by paragraphs (a) to (e) inclusive of this subsection shall be held invalid and unconstitutional by any court of competent jurisdiction the class or classes held to be invalidly exempted shall forthwith become subject to the duties imposed by this act as if no exemption had been provided for. Such declaration of invalidity as to any of the foregoing exempted classes shall not affect the validity of any other provisions of this act and all such provisions are hereby declared to be severable.

(2) No motor vehicle hauling company shall use or operate any motor vehicle, trailer or semitrailer over any public highway in this state without first obtaining a permit therefor from the railroad commission.

(3) Application for permit shall be made upon a blank prescribed and furnished by the commission which shall contain the name of the applicant, its principal office or place of business, a complete description of the motor vehicles, trailers or semitrailers which the applicant proposes to operate, including the weight and licensed carrying capacity of each motor vehicle and of any trailer or semitrailer to be used in connection therewith. The application shall be verified by the person, member of such firm, or officer of such corporation, as the case may be, or of their lessees, trustees or

receivers, and shall contain such other information as may be required by the commission. Every application for a permit shall be accompanied by a fee of five dollars for each vehicle for the operation of which authority is sought. Prior to February first of each year, every holder of a permit shall also pay to the commission an annual fee of five dollars for each vehicle for the operation of which a permit is in force. Such fees collected under this section shall be paid into the general fund of the state. Upon the filing of such application the commission shall, if such application is in proper form and contains the information required, issue a permit authorizing the applicant to operate a motor vehicle, trailer or semitrailer of the capacity stated in such permit upon the public highways of this state. Such permits shall be numbered serially by the commission and it shall be the duty of every motor vehicle hauling company to mark plainly and in a permanent manner each vehicle, a permit for which is granted, by painting or securely fastening in a conspicuous place upon the sides of such vehicle the words "R. R. Comm. of Wis. Permit No. " so that all vehicles claimed to be operated under the provisions of these statutes may be readily identified. Such permits shall not be transferable.

SECTION 3. Subsections (1), (2), (3), (5), (6), (7), (7a) and (8) of section 76.54 and section 194.11 of the statutes are amended to read: (76.54) (1) Every auto transportation company as defined by section 194.01 *and every motor vehicle hauling company as defined in section 194.16* shall keep a daily record upon forms prescribed and supplied by the commission for the operation of all motor vehicles, including trailers *and semitrailers*, under chapter 194. On or before the fifteenth day of \* \* \* *April, 1932*, and quarterly thereafter, such auto transportation company *and such motor vehicle hauling company* shall certify under oath, upon forms prescribed and furnished by the commission, a summary of such daily records for the preceding quarter year ending on the last day of the preceding month, which shall show the total ton miles of operation, exclusive of that within the limits of cities and villages, in each county in which motor vehicles, *trailers or semitrailers* were operated and the grand total ton miles of operation, both passenger and freight, performed by \* \* \* *the said auto transportation company and motor vehicle hauling company* during

such quarter year, exclusive of that within the limits of cities and villages, and such other information as the commission may require. *Such reports in respect to interstate operation shall show the ton mileage within this state.* The daily records shall be filed with the commission and preserved for a period of at least five years, and thereafter until permission for their destruction shall be given by the commission; but in every case these records shall be preserved by the commission until they have been compared with the annual summaries filed with it.

(2) The commission shall thereupon compute and levy a tax upon such auto transportation company *and motor vehicle hauling company, which tax is hereby declared to be a compensation for the use of the public highways and their maintenance and repair* \* \* \* *and shall be levied and collected quarterly on the first day of each January, April, July and October in addition to all other fees and taxes imposed upon such company and upon the motor vehicles, trailers or semitrailers operated by it, and such tax shall be computed by the commission upon the following basis:* \* \* \* *For motor vehicles with all pneumatic tires, operated for the transportation of passengers, one mill per ton mile of operation within this state, outside the corporate limits of cities and villages; for motor vehicles, trailers or semitrailers with all pneumatic tires, operated for the transportation of freight, one mill per ton mile of operation if the aggregate weight does not exceed seven tons; one and one-eighth mills per ton mile of operation if the aggregate weight exceeds seven tons and does not exceed eight tons; one and one-quarter mills per ton mile of operation if the aggregate weight exceeds eight tons and does not exceed nine tons; one and three-eighths mills per ton mile of operation if the aggregate weight exceeds nine tons and does not exceed ten tons; one and one-half mills per ton mile of operation if the aggregate weight exceeds ten tons and does not exceed eleven tons; one and five-eighths mills per ton mile of operation if the aggregate weight exceeds eleven tons and does not exceed twelve tons; one and three-quarters mills per ton mile of operation if the aggregate weight exceeds twelve tons and does not exceed thirteen tons; one and seven-eighths mills per ton mile of operation if the aggregate weight exceeds thirteen tons and does not exceed fourteen tons; two mills per ton mile of operation if the*

*aggregate weight is over fourteen tons, within this state, and/or through the state, outside the corporate limits of cities and villages; for such vehicles having two or more solid rubber tires operated for the transportation of passengers, two mills per ton mile of operation within this state outside the corporate limits of cities and villages; and for such vehicles having two or more solid rubber tires operated for the transportation of freight, twice the amount fixed for vehicles with pneumatic tires per ton mile of operation within this state outside the corporate limits of cities and villages.*

(3) The ton miles of operation for freight carrying motor vehicles shall be computed as follows: The \* \* \* *licensed* capacity of each motor vehicle, \* \* \* *trailer and semitrailer*, in pounds shall be added to the weight of the *motor vehicle trailer or semitrailer* in pounds. This sum shall be multiplied by the number of miles the vehicle is operated and the amount thus obtained divided by two thousand.

(5) The commission shall compute the resultant tax and shall levy the same and report such levy to the state treasurer, who shall thereupon, by registered letter, notify the person attesting the annual report of such auto transportation company, *and an officer of the motor vehicle hauling company*, the amount of the levy, together with the number of ton miles computed for each motor vehicle, *trailer or semitrailer*, and the rate of taxation therefor, and such auto transportation company *or motor vehicle hauling company* shall have thirty days after the mailing of such notice within which to pay said tax to the state treasurer.

(6) If any auto transportation company *or motor vehicle hauling company* shall fail *or refuse* to make \* \* \* *any* report required of it by this section, *or makes any material misstatement in any such report, the tax due under subsection (5) shall be increased twenty-five per cent, and such increased tax shall be in addition to any other penalty provided by law, and* the commission shall proceed, upon the best information it may be able to obtain, to make a statement for such company of all of the facts which should have been so reported, and shall notify such company by registered letter of its action in that behalf. It shall thereupon proceed to make the computation and levy for such company and

notify the state treasurer in the same manner as is provided in the last preceding subsection.

(7) All taxes remaining unpaid after thirty days after the mailing of the registered letter notifying the company \* \* \* as to the tax, shall draw interest at the rate of fifteen per cent per annum, and upon failure to pay the same the attorney-general shall proceed by action, in the name of the state, against such company to collect the same together with interest and the costs of the suit. Such taxes shall be a first lien upon the motor vehicles, *trailers and semitrailers* against which the same are levied, prior to all other liens, debts, claims or demands whatsoever. Such lien may be enforced in such action which may be brought in the circuit court for the county of Dane or in any other court of competent jurisdiction in the county in which the property so taxed is located. The place of the trial of said action shall not be changed from the county in which such action is commenced, except upon consent of the parties.

(7a) It shall be unlawful for any auto transportation company or *motor vehicle hauling company* to operate any motor vehicle, *trailer or semitrailer* under any certificate or permit issued pursuant to chapter 194 while delinquent in the payment of any part of taxes due under this section or of interest due thereon. In the event that an action is instituted under subsection (7) of this section for the recovery of such delinquent taxes and interest, the court may issue an injunctive order, without requiring bond, enjoining and restraining the defendant from operating any motor vehicle under a certificate or permit issued pursuant to chapter 194.

(8) Any such auto transportation company or *motor vehicle hauling company* claiming to be aggrieved by the levy of a tax upon its property, pursuant to this section, may bring an action to have the same reviewed by the circuit court of Dane county in the manner and with the effect provided by subsections (3) and (4) of section 76.43.

194.11 (1) Every application for a certificate shall be accompanied by a filing fee of twenty-five dollars, together with an additional fee of forty dollars for each motor vehicle *and five dollars for each trailer or semitrailer* for the operation of which authority is sought. If the application for certificate shall be

denied, such additional fee of forty dollars for each motor vehicle *and five dollars for each trailer or semitrailer* accompanying the application shall be refunded to the applicant. Every holder of a certificate shall also pay to the commission an annual fee of forty dollars for each motor vehicle *and five dollars for each trailer and semitrailer* for the operation of which a permit is in force, which fee shall accompany the annual report prescribed in section 194.07. Such annual report shall not be accepted by the commission unless accompanied by such fee. Such fee shall be paid into the state treasury and are reappropriated as provided in subsection (5) of section 20.51.

(2) No such auto transportation company shall operate any such motor vehicle, *trailer or semitrailer* within or through any city or village unless and until the consent of such city or village to the proposed routes be first obtained, and any city or village, either as a condition to such consent or approval or otherwise, may require reasonable compensation for the repair and maintenance of pavements and bridges and compensation for the regulation of street traffic, and for any further expense occasioned by the operation of such motor vehicles, \* \* \* *trailers or semitrailers*. No action by any city or village under this subsection shall be subject to review by the railroad commission. But the compensation to be required by any such city or village for interurban service shall not exceed in amount the tax which would result by applying to actual operation in such city or village the rates prescribed in subsection (2) of section 76.54 of the statutes.

SECTION 4. This act shall take effect January 1, 1932.

Approved July 3, 1931.

No. 785, A.]

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## CHAPTER 455.

AN ACT to amend subsection (2) of section 20.07, section 20.205 and subsection (2) of section 70.58 (as created by chapter 4, laws of 1931); and to create subsections (5) and (6) of section 59.98 of the statutes, relating to state aid for county or town forest reserves and forest crop lands, and making appropriations. *The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*