

act shall not be construed as a repeal of Chapter 155 of the Session Laws of 1933 or any other similar enactment.

§ 2. AMENDMENT.] That Section 8 of Chapter 165 of the Session Laws of 1939 be amended and re-enacted to read as follows:

§ 8. Every law and all provisions thereof now in force insofar as inconsistent with the provisions of this act, are hereby suspended until July 1, 1943. No extension of the period for redemption, nor any postponement of sale judgment on execution shall be ordered or allowed under this act which would have the effect of extending the period of redemption or enforcement of judgment beyond July 1, 1943.

§ 3. EMERGENCY.] This act is declared to be an emergency measure and shall take effect from and after its passage and approval.

Approved March 17, 1941.

MOTOR VEHICLES

CHAPTER 191

S. B. No. 50—(Committee on Tax & Tax Laws)

ONE CENT GASOLINE TAX

An Act Assessing and levying from July 1, 1941, to July 1, 1943, on all licensed dealers of motor vehicle fuels, a special additional license tax of one cent per gallon on motor vehicle fuels used or sold by them in addition to all other taxes now imposed upon them; appropriating the proceeds of such special tax on the State Highway fund for specific purposes; making all provisions of Initiated Measure approved June 30, 1926, and amendments thereto and known as the "Motor Vehicle Fuel Tax Law", other than division of proceeds between the State and Counties and other than for costs of administration and collection and other than penalties for violation applicable to said special license tax; providing for exemption of motor vehicle fuels sold and used for agricultural and industrial purposes; and fixing fines and penalties for the violation of the provisions of this Act.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. There is hereby imposed, beginning the first day of July, 1941, and ending the 30th day of June, 1943, on dealers in motor vehicle fuels, a special motor vehicle fuel license tax of one cent per gallon on all motor vehicle fuels used and sold in the State

of North Dakota; which tax shall be separate and apart from and in addition to any license tax or other tax imposed upon or applicable to motor vehicle fuels or dealers therein under the laws of this State, and said additional one cent per gallon tax shall be in addition to and over and above the three cent tax now imposed and assessed by the Initiated Measure approved June 30, 1926, and amendments thereof and Acts supplementary thereto, known as "Motor Vehicle Fuel Tax Law", provided however, that said additional one cent per gallon tax shall not be imposed upon or applicable to motor vehicle fuels sold in this State to be used solely for agricultural and industrial purposes and said motor vehicle fuels so sold to be used solely for agricultural and industrial purposes shall be tax exempt as is provided by Chapter 147 of the 1939 Session Laws of the State of North Dakota.

§ 2. Said additional one cent per gallon tax shall be paid by every dealer in motor vehicle fuels as defined and provided in the said Initiated Measure approved June 30, 1926, and the amendments thereto and said additional one cent per gallon tax shall be paid in the manner, at the times, and to the officer specified in said Initiated Measure and amendments thereto and all definitions of terms and methods of procedure for assessment and collection and other general provisions by context applicable hereto now contained and provided in said Initiated Measure and amendments thereto shall apply and hereby are made applicable to the special license tax imposed under the terms and provisions of this Act.

§ 3. The proceeds of said special license tax of one cent per gallon is hereby appropriated and shall be allocated and transferred to the State Highway Fund as created by statute and shall be expended for such purposes only as are provided in the statute creating said State Highway Fund as may come within the purview and restrictions of the Acts of Congress and amendments thereto granting regular and secondary Federal Aid road funds for the construction and repair of federal, state and feeder highways within this State and the total proceeds of the tax herein imposed shall be covered in said State Highway Fund without any deductions for administrative and collection costs or other deductions whatsoever.

§ 4. Every dealer paying the additional one cent per gallon special motor vehicle fuel license tax herein imposed or being liable for the payment thereof shall be entitled to charge and collect the sum of one cent per gallon on such motor vehicle fuels sold by him as a part of the selling price thereof.

§ 5. Any dealer, person or association of persons, firm or corporation violating any provisions of this Act, or any person, firm or corporation who makes any false statement in any statement or report required by this Act, or who shall fail or neglect to pay the one cent per gallon additional special motor vehicle fuel license tax

herein imposed, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than Five Hundred and no/100 (\$500.00) Dollars or be imprisoned in the County jail for not more than ninety (90) days, or by both such fine and imprisonment.

§ 6. The provisions of this Act are severable, and if any of its provisions shall be held unconstitutional, the decisions of the Court shall not affect or impair any of the remaining provisions of this Act. It is hereby declared, as of Legislative intent, that this Act would have been adopted had such unconstitutional provision not been included therein. It is hereby further declared, as of Legislative intent, to levy a special motor vehicle fuel license tax in the sum of one cent per gallon which shall be separate and apart from and in addition to any license tax or other tax imposed upon or applicable to motor vehicle fuels or dealers therein and to allocate the proceeds of such tax.

Approved February 21, 1941.

CHAPTER 192

H. B. No. 100—(Fleck and Jennings)

EXEMPTIONS FROM AUTOMOBILE REGISTRATION FOR NON RESIDENTS IN MILITARY SERVICE

An Act Exempting members of the United States military service stationed in North Dakota, who are permanent residents of reciprocating States, from automobile registration requirements; repealing all Acts and parts of Acts in conflict herewith and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. A non-resident passenger automobile owner who is a member of the military service of the United States and who is stationed within the territorial limits of the State of North Dakota shall not be required to register such automobile in this State until the expiration of the license year for which such automobile is registered in the home State of such person, provided however, that such exemption from registering the automobiles of persons in the military service of the United States shall extend only to persons who are permanent residents of States that extend privileges and exemptions from registering automobiles to residents of North Dakota who are in the military service of the United States and who are temporary residents of such reciprocating States.

§ 2. The Governor is hereby authorized and directed to execute for and in the name of the State of North Dakota any and

all reciprocal agreements with other States necessary to effectuate the intents and purposes of this Act.

§ 3. All Acts and parts of Acts in conflict herewith are hereby repealed.

§ 4. This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved February 20, 1941.

CHAPTER 193

H. B. No. 194—(Wambheim and Nelson of Morton)

REGULATION OF USED MOTOR VEHICLES BY DEALERS

An Act to amend and re-enact Chapter 169, Session Laws of 1937, Regulating the Business of Selling Used Motor Vehicles by Resident and Non-resident Dealers in the State of North Dakota, and Motor Vehicles Acquired from Non-resident Owners; Requiring the Registration of all used Motor Vehicles Brought into this State for the Purpose of Sale to be Registered with the Motor Vehicle Registrar; Requiring all such dealers to Execute and Deliver to each Purchaser a bond indemnifying the Purchaser Against Failure of Title, Breach of Warranty or Fraudulent Misrepresentation; Requiring the Delivery of Certificate of Title; Providing Penalties for the Violation of this Act, and Repealing Section 14 of Chapter 180, Session Laws of 1927.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Chapter 169, Session Laws of 1937 be and the same are hereby amended to read as follows:

§ 1. Every dealer in used, or second hand motor vehicles who is a resident or a non-resident of this state, and every person, firm or corporation who brings any used or second hand motor vehicles into this State for the purpose of sale or resale except as a trade-in on a new motor vehicle or another used motor vehicle, shall on or before sale and delivery of said motor vehicle in the limits of the State of North Dakota become a licensed dealer as required for dealers in passenger automobiles or automobile trucks under the provisions of Sub-section G of Section 25, Chapter 186 of the 1931 Session Laws, and register such motor vehicle with the Motor Vehicle Registrar on a form to be provided by him, and under such rules and regulations as may be promulgated by him from time to time, and shall before said used or second hand car is put on a used car lot for sale or offered for sale, or sold, execute a surety bond, executed by a responsible Fidelity Company authorized to do busi-

ness in the State of North Dakota, to be approved by the Registrar for the use and benefit of the purchaser and his vendees, conditions to pay all loss, damages, and expenses that may be sustained by the purchaser or vendee, that may be occasioned by reason of the failure of the title of such vendor or by reason of any fraudulent misrepresentation or breach of warranty as to freedom from liens, quality, condition, use or value of the motor vehicle being sold. Said bond shall be in the full amount of the sale price of each such motor vehicle but in no event to exceed the sum of One Thousand (\$1,000.00) Dollars, shall be effective for one year, and shall be filed with the Motor Vehicle Registrar by the vendor. The vendor shall pay to the Motor Vehicle Registrar a fee of one (\$1.00) Dollar as required by law for the transfer of the title of each said motor vehicle, and a further fee of Five (\$5.00) Dollars for each bond so filed and approved, which sums shall be paid into the State Treasury to the credit of the State Highway Fund.

§ 2. Every person, firm or corporation upon the sale and delivery of any used, or second hand, motor vehicle shall within 24 hours thereof deliver to the vendee, a certificate of title indorsed according to law.

§ 3. No action, nor right of action to recover any such motor vehicle, or any part of the selling price thereof, shall be maintained in the Courts of this State by any such dealer or vendor, his successors or assigns, in any case wherein such dealer or vendor shall have failed to comply with the terms and provisions of this Act, and in addition thereto such dealer or vendor, upon conviction of the violation of any of the provisions of this Act shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than One Hundred (\$100.00) Dollars and not more than Five Hundred (\$500.00) Dollars, or by imprisonment for not less than thirty days or more than six months, or by both such fine and imprisonment.

§ 4. The term "dealer" and "vendor" herein used shall be construed to include every individual, partnership, corporation or trust whose business in whole or in part is that of selling used motor vehicles and shall be construed to include every agent, representative or consignee of such dealer as defined above, except that no agent, representative or consignee of such dealer or vendor shall be required to make and file said bond herein provided for if such dealer or vendor for whom such agent, representative or consignee acts has complied with the provisions of this Act.

§ 5. If any Section or part of a Section of this act shall for any reason be adjudged by any Court of competent jurisdiction to be invalid and unconstitutional, such unconstitutionality shall not affect, impair, or invalidate the remainder of this Act, and the Legislature hereby states that they would have passed the remainder of

said Act if it had known that such part or parts thereof would be declared unconstitutional.

§ 6. Section 14 of Chapter 180, Session Laws of 1927, is hereby repealed.

Approved March 20, 1941.

CHAPTER 194

H. B. No. 165—(Falconer, Ireland and Erickson of Divide)

MOTOR VEHICLES, SIZE AND LOADS; REGISTRATION FEES; LICENSES FOR HOUSE TRAILERS

An Act to amend and re-enact Section 36 of Chapter 162 of the Session Laws of North Dakota for the year 1927 as amended by Chapter 190 of the Session Laws of North Dakota for the year 1931, as amended by Chapter 163 of the Session Laws of North Dakota for the year 1933 as amended by Chapter 185 of the Session Laws of North Dakota for the year 1935, prescribing and relating to the size of motor vehicles and loads of motor vehicles upon the highways; and amending and re-enacting subdivision (b) of Section 25 of Chapter 186 of the Session Laws of North Dakota for the year 1931 as amended by Chapter 161 of the Session Laws of North Dakota for the year 1933, providing for registration fees for trucks on a gross weight basis; providing a license for house trailers and lights or reflectors for all trailers; regulating the designation and display of plates and the issuance of and payment for "In Transit" permits.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 1 of Chapter 285 (185) of the Session Laws for the year 1935, be and the same is hereby amended and re-enacted to read as follows:

(a) VEHICLE SIZE, LOADS.] No vehicle shall exceed a total outside width, including load thereon, of eight (8) feet excepting that this limitation shall not apply to contractor's equipment nor to implements of husbandry temporarily propelled or moved upon the highways of this state between sunrise and sunset.

(b) No vehicle loaded or unloaded shall exceed a height of twelve feet, six inches (12', 6").

(c) No vehicle, including the load thereon, shall exceed a length of thirty-five (35) feet. No combination of vehicles including the load thereon, shall exceed a length of forty (40) feet. No more than two units shall be used in a combination. A tractor truck and semi-trailer shall be considered as two units. The provision hereof shall not apply to carriage of equipment of the Army or the

defense forces of the United States Government or the National Guard of the State of North Dakota; structural material of the telephone, power and telegraph companies which necessarily must be transported on the highways on account of the location of their lines adjacent to said highways. Other structural material which otherwise could not be transported over the highways of this state on account of the provision of this act, may be transported upon obtaining a temporary permit from the highway commissioner, or from any employee designated by the said highway commissioner for said purposes, upon showing of reasonable necessity and that the transporting of such structural material will not damage the highways to be used.

(d) No motor vehicle which carries any load extending more than three (3) feet beyond the front thereof and no passenger vehicle which carries any load extending beyond the lines of the left fender of such vehicle, nor extending more than twelve (12) inches beyond the line of the fenders on the right side thereof, shall be operated upon the highways.

(e) No single axle shall carry a gross weight in excess of 18,000 pounds nor a wheel load to exceed 9,000 pounds. No wheel shall carry a gross weight in excess of 550 pounds for each inch of tire width. Provided, that the gross weight of any single vehicle shall in no event exceed 35,000 pounds and the gross weight of any combination of vehicles shall in no event exceed 40,000 pounds. Provided further, that axels spaced forty (40) inches apart or less, shall be considered as one (1) axle; provided further, that for axles spaced over forty (40) inches and under eight (8) feet, the axle load shall not exceed 14,000 pounds per axle. The wheel load, in any instance, shall not exceed one-half the allowable axle load. Spacing between axles shall be measured from axle center to axle center. Gross weight shall be defined as the total of the unloaded weight of vehicle, or combination of vehicles and the load carried thereon.

(f) All applicants for registration shall state on the application required by the Registrar of Motor Vehicles, the size or sizes of tires used on each vehicle so registered.

§ 2. AMENDMENT.] That subdivision B of Section 25 of Chapter 186 of Session Laws of North Dakota for 1931 as amended by Chapter 161 of the Session Laws for the year 1933, be and the same is hereby amended and re-enacted to read as follows:

(b) (1) Every motor truck or combination of truck or trailer operating on the highways of this state shall have paid thereon one of the following schedules of registration fees to be determined as hereinafter set out:

SCHEDULE A

Gross Weight in Pounds	License Fees
4,000, and under -----	\$20
6,000 -----	25
8,000 -----	30
10,000 -----	35
12,000 -----	40
14,000 -----	45
16,000 -----	50
17,000 -----	55
18,000 -----	60
20,000 -----	65
22,000 -----	70
24,000 -----	75
26,000 -----	80
28,000 -----	85
30,000 -----	100
32,000 -----	125
34,000 -----	150
36,000 -----	180
38,000 -----	210
40,000 -----	250

SCHEDULE B

Gross Weight in Pounds	License Fee
4,000 lbs. and under -----	\$13.50
6,000 -----	16.00
8,000 -----	18.50
10,000 -----	21.00
12,000 -----	23.50
14,000 -----	26.00
16,000 -----	28.50
18,000 -----	31.00
20,000 -----	34.00
22,000 -----	37.00
24,000 -----	40.00

Provided that for registrations under Schedule B of gross weights over 24,000 pounds, the fee schedule of Schedule A shall be applied.

(b) (2) The above schedules shall apply to the first year in which the vehicle is licensed. The registration fee for years subsequent to the year in which the vehicle is first licensed, shall be the basic fee or major fraction thereof, as herein determined, less ten per cent of the basic fee for each successive year until the tax equals \$5.00 for vehicles licensed under Schedule B, and until the tax equals seventy per cent of the original basic fee for vehicles licensed under Schedule A, which shall be the annual fee thereafter; provided further, that those vehicles which in 1941 were licensed for less

than \$5.00 shall be reduced ten per cent per year of its original basic fee until it reaches a minimum of \$3.00, which will be the annual fee thereafter.

(b) (3) All motor vehicles to be registered pursuant to the provisions of this act and used for the first time upon the highways of this state after July 1, shall be entitled to a fifty per cent reduction of that year's fee for such vehicle; and all such motor vehicles used for the first time upon the highways of this state after October 1, shall be entitled to a seventy-five per cent reduction of that year's fee for such vehicle; provided, that the Registrar is satisfied with the proof given as to such fact.

(b) (4) For motor vehicles, or for any lawful combinations of motor vehicles used for the transportation of property, the registration and license fee shall be based upon the gross weight of such motor vehicle or combination of vehicles. The minimum gross weight for which such motor vehicles or combination of motor vehicles can be licensed shall be double the unloaded weight of such motor vehicle or such combination of vehicles and, subject to such minimum, the owner of any motor vehicles or combination of vehicles shall in his application for license, set out the gross weight for which he desires license. Such licensed weight shall be stenciled on both sides of the truck or tractor truck, as the case may be, in letters and figures not less than two inches in height, as follows: N. D. Legal Gross Wt. (here follows figures designating the licensed weight in pounds). The tare, or unloaded weight, of each truck, tractor truck, semi-trailer or full trailer, shall be stenciled upon both sides of each unit in letters and figures not less than one inch in height.

(b) (5) It shall be unlawful to operate any motor vehicle or combination of motor vehicles upon the highways of this state when the gross weight exceeds the gross weight for which the vehicle or combination of vehicles was licensed.

(b) (6) Gross weight shall be defined as the total of the unloaded weight of the vehicle, or combination of vehicles, and the load carried thereon.

(b) (7) Motor vehicles which operate exclusively within the corporate or recognized limits of any city or village, or within two miles thereof, shall be licensed on double the unloaded weight of such vehicle.

(b) (8) Any owner of a motor vehicle who has licensed such vehicle under Schedule B or any gross weight limitations may change such registration to Schedule A and/or to a higher gross weight limitation by the payment of the difference between fee required for the new registration and the fee paid for the registration under which time the vehicle is being operated, and provided further, that if such owner makes application for such change of registration sub-

sequent to July 1 of any year, he shall pay fifty per cent of the additional increase in license fees and after October 1 of any year, twenty-five per cent of such increase.

(b) (9) It shall be unlawful for any person to haul on the highways of this state a house trailer without displaying a license plate, to be issued by and under such regulations as determined by the Registrar, for which a fee shall be charged in the sum of \$5.00, unless licensed in another state.

(b) (10) All house trailers and other trailers shall be equipped with approved reflectors not less than three (3) inches in diameter or tail lights and it shall be unlawful to transport or operate such trailer without such equipment.

(e) (1) Motor vehicles which are used by the owner of such vehicle for the transportation of farm or agricultural products of such owner from the farm where such products are produced or grown to the market, or the transportation of goods of the owner of such vehicle from the market to the farm of such owner; and motor vehicles which are used for the transportation of any and all property between the farms and the usual local trading places of the person for whom such transportation is performed or between farms locally; and motor vehicles which operate exclusively within the corporate limits of any city or village, or within two miles thereof; shall pay the registration fees provided for in Schedule B herein. All other trucks, including commercial and non-commercial trucks, and excluding vehicles for the transportation of passengers, shall pay the license fees provided for in Schedule A herein.

(e) (2) The Registrar of motor vehicles may design and issue a distinctive type of license plate for each classification of motor vehicle, as he may determine.

(e) (3) Motor vehicles, or combinations of motor vehicles, licensed under the statutes of this state shall at all times display one plate upon the front of such vehicles, or combination of vehicles, and while operated on the highways of this state, one license plate on the rear of such vehicles, or combination of vehicles, in the manner determined by the Registrar of motor vehicles.

(e) (4) It shall be unlawful to transport or tow but not to operate any motor vehicle upon the highways of this state for the purpose of resale without an "in transit" permit to be issued by the Registrar upon the payment of \$2.00 for each such motor vehicle so transported or towed.

Approved March 20, 1941.

CHAPTER 195

H. B. No. 44—(Committee on Appropriations)

MOTOR VEHICLE FUEL TAX ACT OF 1941

An Act Transferring the administration of the Motor Vehicle Fuel Tax Laws and the collection of Motor Vehicle Fuel Taxes from the State Auditor to the State Tax Commissioner, together with the administration of licensing Sellers and Buyers of tax exempt Motor Vehicle Fuel and the granting of refunds of Motor Vehicle Fuel Taxes as provided by the Initiated Measure of June 30, 1926, with amendments thereto, and Chapter 147, Laws of 1939 and Chapter 170, Laws of 1939, pertaining to Motor Vehicle Fuel Taxes, and transferring all the rights, powers and duties now placed in the State Auditor and the State Auditor's Department under the laws to the State Tax Commissioner, together with the files, records, equipment and supplies pertaining thereto, and repealing all Acts and parts of Acts in conflict therewith.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. All of the rights, powers and duties formerly possessed by the State Auditor and the State Auditor's Department under the Initiated Measure of June 30, 1926, with amendments thereto, relating to motor vehicle fuel tax laws, the collection of taxes, the licensing of purchasers and dealers, the administration of refunds and all of the rights, powers and duties formerly possessed by the State Auditor and the State Auditor's Department in the administration of Chapter 147, Laws of 1939 and Chapter 170, Laws of 1939, are hereby transferred to the State Tax Commissioner who, from the effective date of this Act, shall assume the administration of such laws relative to the collection of motor vehicle fuel taxes, the licensing of purchasers and sellers of tax exempt motor vehicle fuel, the granting of refunds and all other rights and duties under said laws.

Whenever the officer designated in said laws as the State Auditor shall be granted any power or charged with the performance of any duty in connection with the enforcement and administration of any laws heretofore specified, or any acts amendatory thereto, said power so vested in said State Auditor shall be vested in the State Tax Commissioner, and said State Tax Commissioner and his assistants shall perform all of the duties required by said laws to be performed by said State Auditor or the State Auditor's Department.

§ 2. All of the files and records in the State Auditor's Office, pertaining to the administration of the motor vehicle fuel tax laws, together with all equipment and supplies pertaining thereto, shall be transferred from the State Auditor's Office to the office of the State Tax Commissioner.

§ 3. All Acts and parts of Acts in conflict herewith are hereby repealed.

Approved February 15, 1941.

CHAPTER 196

S. B. No. 182—(Streibel, Wog, and Olson of Mountrail)

REGULATION MOTOR VEHICLE TRANSPORTATION, FEES

An Act Amending and reenacting Section 25 of Chapter 164 of the Session Laws of 1933, providing for the collection of certificate and permit fees and providing for an identification tag fee from carriers by motor vehicle, except passenger common carriers who pay the seat tax under Chapter 180 of the Session Laws of 1935.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 25 of Chapter 164 of the Session Laws of 1933, be and the same is hereby amended and reenacted to read as follows:

§ 25. (a) Every common motor carrier and every contract carrier of property and/or passengers now operating, or which shall hereafter operate as such common or contract carrier in this state, shall at the time of making application for certificate of public convenience and necessity, or permit, and annually thereafter, on or before April 15th of each calendar year, pay a fee of not less than \$15.00, nor more than \$150.00, to be fixed by the Commission in each instance.

Miscellaneous fees shall be as follows:

Application for transfer of certificate of public convenience and necessity, or permit-----	\$10.00
Application for the mortgaging of a certificate of public convenience and necessity -----	5.00
Application for the issuance of a duplicate certificate of public convenience and necessity -----	3.00
Copy of all records of the Commission pertaining to auto transportation companies, per 100 words or portion thereof---	.15

(b) Every motor carrier who under the statutes of this state must register with or secure a permit or certificate of public convenience and necessity from the Public Service Commission, except common carriers of passengers who pay the motor bus seat tax provided for under the provisions of Chapter 180 of the Session Laws of 1935, shall at the time of securing such certificate or permit, and annually thereafter on or before April 15th of each calendar year, secure from the Commission an identification tag for each motor vehicle operated within this state, which shall be in the form, color combination, lettering and numbering as provided by said Commission; provided, however, that the identification tag for each type of carrier licensed by the Commission shall be identified in a different manner from that of each other type of carrier. That the Public Service Commission shall collect a fee of \$15.00 for each

such identification tag. It shall be unlawful for any motor carrier to operate within this state without such identification tag attached to each vehicle owned and/or operated by such carrier. That the said identification plate shall be secured from the Registrar of Motor Vehicles upon request from the Public Service Commission and mailed to the applicant therefor by the Registrar of Motor Vehicles, provided that the identification tag fee herein provided for shall be in lieu of the additional fee of \$25.00 required of motor trucks used for commercial freighting by the provisions of Chapter 180 of the Session Laws of 1935.

(c) For the purpose of carrying out the provisions of this act there is hereby created in the State Treasury a state fund to be known as the "Auto Transportation Fund." All fees collected by the Commission, as herein provided, shall be paid into the State Treasury monthly and shall be credited to the said "Auto Transportation Fund" to the use of the Commission and shall be paid out upon proper voucher and audit by the State Auditing Board and used only for the expenses of said Commission in administering and enforcing the provisions of this act in the regulation and supervision of the carriage of property and passengers by motor vehicle.

Approved March 17, 1941.

CHAPTER 197

S. B. No. 119—(Streibel, Wog, Isaak and Olson of Mountrail.)

REGULATION MOTOR VEHICLE TRANSPORTATION, COMMON CARRIERS

An Act Amending and re-enacting Section 2 of Article II, Chapter 164 of the Session Laws of 1933 providing for the supervision and regulation of the transportation of persons and property for compensation over any public highway by motor propelled vehicles; defining and classifying transportation by motor propelled vehicles affected hereby; providing safety and sanitary regulations for the operation of motor propelled vehicles used for the purpose of transporting persons and property for compensation over any public highway; providing for the supervision and regulation thereof by the Board of Railroad Commissioners of the State of North Dakota; providing for the enforcement of the provisions of this Act and for penalties for the violation thereof.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

Section 2 of Article II of Chapter 164 of the Session Laws of 1933 be amended and re-enacted to read as follows:

§ 2. (a) The term "common motor carrier of property", when used in this act, shall mean any person who holds himself out

to the public as willing to undertake for hire to transport by motor vehicle from place to place the property of others who may choose to employ him. Those common motor carriers operating between fixed termini, over fixed routes on schedule time, shall be designated as class "A" common carriers. Those carriers operating over irregular routes, not on schedule time, at the will and command of the shipper shall be designated as "special" common motor carriers.

Class "A" common motor carriers shall transport, within their authority, commodities in any quantity or quantities offered them for shipment.

"Special" common motor carriers may transport commodities within their authority in any quantity or quantities but only from or to that territory or zone for which they have heretofore proved, or may hereafter prove, public convenience and necessity, or such territory or zone as may be found by the Commission to be convenient and necessary to the public or in the public interest; provided, that no "special" motor carrier shall transport shipments in lots less-than-truckloads, as defined, and under the conditions and rules set, by the Commission, between two or more points served by class "A" carriers whether within or without such zone, except under express authority of the Commission to be granted in cases of undue circuitry via two or more connecting class "A" carriers; and, provided further, that "special" motor carriers may transport household goods, emigrant moveables, or other special commodities, or general commodities in truckloads as defined by the Commission, from or to points not in such zone, or between points on class "A" routes, by the authority of and under the conditions and rules set by the Commission; and, provided further, that any "special" motor carrier may, with the approval of, and under the conditions and rules set by the Commission, by tariff publication, specify minimum shipments which such carrier shall be obliged to carry; and, provided further, that the rates and tariffs prescribed by the Commission shall be uniform for similar service for all classes of carriers affected by this act, and, provided further, that it shall be unlawful for any common carrier to transport any shipment in violation of this act or his authority as conferred by the Commission.

(b) The term "common motor carrier of passengers", when used in this act, shall mean any person who holds himself out to the public as willing to undertake for hire to transport by motor vehicle from place to place persons who may choose to employ him.

(c) The transportation for more than one consignor, or to more than three consignees, by any motor carrier shall be prima facie evidence that such motor carrier is operating as a common carrier.

Approved March 17, 1941.