
THE HIGHWAY TRAFFIC ACT
(C.C.S.M. c. H60)

Private and Intercorporate Transport Order

Regulation 151/87
Registered April 23, 1987

PART I

GENERAL

Definitions

1 In this regulation,

"employee" means a person who is

(a) under the control, direction and supervision of an employer in the performance of his work for the employer;

(b) paid solely by the employer for the work; and

(c) on the payroll of the employer, whereby all lawful deductions are made by the employer and the employer pays all required taxes, assessments and contributions in respect of the employee;

"lease" includes a rental agreement and any other contract or arrangement for the use of a motor vehicle;

"operating authority certificate" means authority to operate a public service vehicle under Part VIII of the Highway Traffic Act;

"private motor carrier" means a motor carrier who engages in private motor transport;

"private motor transport" means the operation by any person of a motor vehicle owned or leased by the person for the transport of property

All persons making use of this consolidation are reminded that it has no legislative sanction. Amendments have been inserted into the base regulation for convenience of reference only. The original regulation should be consulted for purposes of interpreting and applying the law. Only amending regulations which have come into force are consolidated. This regulation consolidates the following amendments: 28/89, 85/89.

(a) which has been or is to be sold, bought, produced, transformed, repaired or installed by the person if the transport is in the course of and incidental to the furtherance of the person's primary business, which is not the provision of transportation services; or

(b) which is or is to be utilized by the person in the course of and as an integral part of the person's primary business, which is not the provision of transportation services;

in good faith for a legitimate business purpose and not for the purpose of circumventing regulation.

M.R. 28/89; 85/89

PART II

PRIVATE MOTOR CARRIERS

Private motor carrier exempt

2(1) A private motor carrier, while engaged in private motor transport, is exempt from the necessity of holding an operating authority certificate, whether or not compensation is charged for the private transport, provided the private motor transport is conducted in accordance with the conditions described in section 3.

2(2) A person who leases a vehicle to a private motor carrier which vehicle is utilized solely in private motor transport operations in accordance with the conditions described in section 3 is exempt from the necessity of holding an operating authority certificate.

Conditions of exemption

3 A private motor carrier shall conduct his private motor transport operations and a person who leases a vehicle to a private motor carrier shall conduct his leasing operations in accordance with the following conditions:

(a) where the driver of a vehicle leased to a private motor carrier for a term of less than 30 days maintains any interest in the vehicle or any relationship or connection whatsoever, direct or indirect, with the lessor

(i) the driver must be an employee of the private carrier, and

(ii) the lease must be for the return trip and the vehicle must be returned to the lessor by the private motor carrier at the place that the private motor carrier first took possession of the vehicle from the lessor,

but this condition does not apply where the vehicle is leased in substitution for a disabled vehicle subject to a lease of 30 days or more;

(b) a vehicle leased to a private motor carrier must be exclusively committed to the private motor carriers' use for the term of the lease and may not be used by the lessor for his own purposes at any time during the term of the lease nor be subject to more than one lease during the same period of time;

- (c) the private motor carrier must accept, possess and exercise exclusive control over leased vehicles, including control over their dispatch, the scheduling of pick-ups and delivery, and general coordination within the private motor carriers' operation;
- (d) the private motor carrier must assume complete responsibility for the operation of all vehicles utilized in its operation, including responsibility to the public for any injury to persons or damage to property, and shall not pass such responsibility to a lessor;
- (e) the private motor carrier must remain responsible for and bear the cost of compliance with all safety and other regulatory requirements and may not pass such responsibility to the lessor;
- (f) subject to any right of action the private motor carrier may have for negligence, the private motor carrier must remain liable for loss of or damage to the property being transported, or maintain its own cargo insurance and may not look to the lessor to bear the legal liability of a carrier;
- (g) subject to clause (h), the private motor carrier must obtain a commercial truck licence in accordance with section 318 of *The Highway Traffic Act* and register any vehicle it operates in its own name as a commercial truck and in the case of a leased vehicle, the private motor carrier shall indicate the name of the lessor in the application for registration;
- (h) where the lease of a vehicle to a private motor carrier is for a term of less than 30 days, the leased vehicle may be registered in the name of the lessor provided that
- (i) where the lessor is subject to section 285 of *The Highway Traffic Act*, the vehicle must be registered as a drive yourself truck and drive yourself insurance must be maintained in respect of the vehicle, or
 - (ii) where the lessor is not subject to section 285 of *The Highway Traffic Act*, the lessor must obtain a commercial truck licence in accordance with section 318 of *The Highway Traffic Act* and the vehicle shall be registered as a commercial truck, and drive yourself insurance shall be maintained in respect of the vehicle;
- (i) if the private motor carrier registers any vehicle in another jurisdiction, that vehicle must be registered according to vehicle registration classifications that correspond to those referred to in clauses (g) and (h);
- (j) any lease of a vehicle to a private motor carrier must be in writing and be carried by the private motor carrier in the subject vehicle and be produced for inspection upon the request of a Peace Officer or Traffic Inspector;
- (k) the private motor carrier must not enter into an arrangement with another person whereby the other person performs a transportation service for the private motor carrier beyond the mere provision of vehicles and drivers for use within the private motor transport operation, unless the other person is the holder of an appropriate operating authority certificate;

(l) a private motor carrier must not engage in any motor transport but private motor transport unless the private motor carrier obtains an appropriate operating authority certificate or is otherwise exempt from the necessity of doing so.

M.R. 85/89

PART III

INTERCORPORATE TRANSPORT

Definition of intercorporate transport

4 In this Part, "**intercorporate transport**" means the transport of property by a holder of an intercorporate exemption certificate for an affiliated corporation named on the holder's intercorporate exemption certificate, the transportation of which by the affiliated corporation would constitute private motor transport.

Definition of "affiliated"

5(1) For the purpose of this Part, a corporation is affiliated to another corporation if one of them is the subsidiary of the other, if both are subsidiaries of the same corporation, or if each is controlled by the same individual or corporation.

5(2) For the purpose of subsection (1), a corporation is a subsidiary of another corporation if

(a) it is controlled by

(i) the other corporation,

(ii) the other corporation and one or more corporations each of which is controlled by that other corporation, or

(iii) two or more corporations each of which is controlled by the other corporation; or

(b) it is a subsidiary of a corporation that is the other corporation's subsidiary.

5(3) For the purpose of subsections (1) and (2), a corporation is controlled by an individual corporation or group of corporations if

(a) voting securities of the corporation carrying more than 50 percent of the votes for the election of director are held, otherwise than by way of security only, by or for the benefit of the other corporation or group of corporations; and

(b) the votes carried by the securities referred to in clause (a) are entitled, if exercised, to elect a majority of the members of the board of directors of the corporation.

Intercorporate exemption

6 The holder of an intercorporate exemption certificate shall be exempt from the necessity of holding an operating authority certificate while engaged in intercorporate transport in accordance with the conditions described in section 8.

Applications for exemption certificates

7(1) Application for an intercorporate exemption certificate shall be submitted to the Document Control Officer in such form and containing such information as the Board may prescribe.

7(2) Where the Board finds that the applicant is affiliated to a corporation shown on the application and is satisfied that the applicant will comply with the conditions described in section 8, it may grant an intercorporate exemption certificate to the applicant naming thereon the affiliated corporation.

Conditions of intercorporate exemption

8 An intercorporate exemption certificate shall be subject to, and a holder thereof must comply with, the following conditions:

(a) intercorporate transport must be conducted by the holder of an intercorporate exemption certificate in accordance with the conditions described in section 3, as if the holder was engaged in private motor transport;

(b) the holder of an intercorporate exemption certificate must ensure

(i) the intercorporate exemption certificate or a copy thereof, and

(ii) a shipping document signed by the consignor of the goods transported showing the name of the consignor, the name and address of the consignee, the originating point and the destination of the shipment and the particulars of the goods comprising the shipment,

is carried in any vehicle by which the holder performs intercorporate transport and the driver of the vehicle must surrender them for inspection on the demand of a peace officer or inspector;

(c) the holder must notify the Board of any change in the facts set out in the intercorporate exemption certificate within 15 days after the change in circumstances;

(d) the intercorporate exemption certificate shall be renewed annually.

Board may revoke, etc.

9 The Board may, for cause, revoke, amend or suspend an intercorporate exemption certificate.

PART IV

Coming into force

10(1) This Regulation, except Part III, comes into force on, from and after the date one week after the date it is published in *The Manitoba Gazette*.

10(2) Part III of this Regulation comes into force on September 1, 1987.

April 15, 1987

THE MANITOBA MOTOR TRANSPORT BOARD:

Donald S. Norquay
Chairman

Leonard G. Olijnek
Secretary

The Queen's Printer
for the Province of Manitoba