

COMMISSION POSITION

Recommendations for Statutory Change

The Commission has recommended consistently that changes be made in the existing laws to allow it more control over the carriers exempt from its regulation. It is responsible for enforcing the safety and hours of service regulations of the Interstate Commerce Act even as to exempt haulers such as cooperatives,⁴⁵ and has urged legislative action that would provide some means for determining the operation of exempt carriers in order to enforce compliance with these applicable regulations.⁴⁶ In response to such requests, bills were introduced into Congress in 1957⁴⁷ which would have required the yearly filing of a short statement identifying the carrier and its activities by all carriers exempt from regulation but subject to the safety provisions of the Act.

The recommended amendment would not require the filing of complicated or elaborate reports. It is only necessary that we be kept informed respecting the identity of such carriers, their location, and the number of vehicles owned or operated. This could be accomplished through the simple expedient of mailing a postcard once a year.⁴⁸

Each bill died in committee.⁴⁹

In 1961, the Commission changed its position. Rather than requiring the mere registration of carriers as it had done previously, it sought to gain substantive regulatory control over the exempt haulers. The Commission found that organizations were often claiming exempt status for themselves as cooperatives, even though they were clearly not qualified for exemption. This practice siphoned off a substantial amount of revenue from goods that would otherwise be transported by carriers subject to Commission regulation. Further, even when these unqualified exempt carriers were identified, the Commission was unable to overcome the "presumption of eligibility" which each carrier claiming exemption possessed.⁵⁰

Bills were introduced in two separate Congressional sessions.⁵¹ These bills, if enacted, would have required that in order to obtain an exemption, cooperatives claiming exempt status would be required to apply for and receive a certificate of exemption issued from the Commission, attesting to their inclusion within the Agricultural Marketing Act definition. Again the bills died in committee.⁵² In the presentation of one of the bills⁵³ it was stated that

[w]hile the number of groups and organizations claiming exemptions as agricultural cooperatives has grown considerably in the last 10-15 years, the Commission is not presently equipped with authority effective enough to weed out those which are not entitled to the exemption or to prevent other such persons from commencing operations. . . .

It is not the purpose of the proposed measure to interfere in any way with the legitimate operations of bonafide agricultural cooperatives under the exemption provided in the Interstate Commerce Act. It is, however, designed to enable the Commission to cope more effectively with groups and organizations using this exemption as a device to engage in unlawful transportation activities.⁵⁴

It is justifiable to infer that, due to its history of inaction concerning the statutes proposed in this field, Congress does not wish to answer the pleas of the Commission with remedial legislation aimed at ameliorating the existing situation. For whatever reasons, Congress is unwilling to change the inherently ambiguous nature of the agricultural cooperative exemption. This refusal forces the Commission to act within its limited scope in attempting to regularize the carriers claiming its benefit.

⁴⁵ 49 U.S.C. § 303(b) (1964).

⁴⁶ 69 ICC ANN. REP. 129 (1955). The same recommendation is made in 70 ICC ANN. REP. 165 (1956) and 71 ICC ANN. REP. 139 (1957).

⁴⁷ S. 1490, 85th Cong., 1st Sess. (1957); H.R. 5664, 85th Cong., 1st Sess. (1957).

⁴⁸ 71 ICC ANN. REP. 139-40 (1957).

⁴⁹ CCH 1957-1958 CONG. INDEX 3555, 5570.

⁵⁰ 75 ICC ANN. REP. 184 (1961). The same recommendation is made in 76 ICC ANN. REP. 201 (1962), 77 ICC ANN. REP. 19 (1963), and 78 ICC ANN. REP. 76-77 (1964).

⁵¹ S. 677, 88th Cong., 1st Sess. (1963); H.R. 3770, 88th Cong., 1st Sess. (1963); S. 1729, 89th Cong., 1st Sess. (1965); H.R. 5400, 89th Cong., 1st Sess. (1965).

⁵² CCH 1963-1964 CONG. INDEX 3547, 5565; CCH 1965-1966 CONG. INDEX 3552, 5566.

⁵³ S. 1729, 89th Cong., 1st Sess. (1965).

⁵⁴ 111 CONG. REC. 7064-65 (1965) (remarks of Senator Magnuson, Chairman of the Commerce Committee, in which this measure died).