

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

FOR THE

MOTOR BUS INDUSTRY

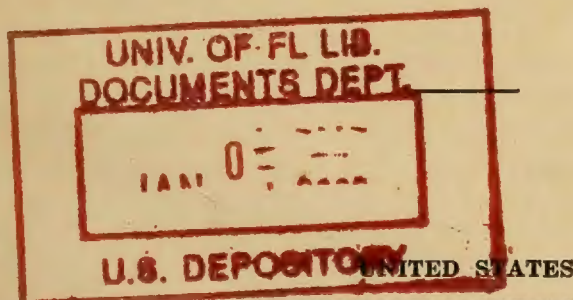
AS APPROVED ON OCTOBER 31, 1933

BY

PRESIDENT ROOSEVELT



1. Executive Order
2. Letter of Transmittal
3. Code



GOVERNMENT PRINTING OFFICE

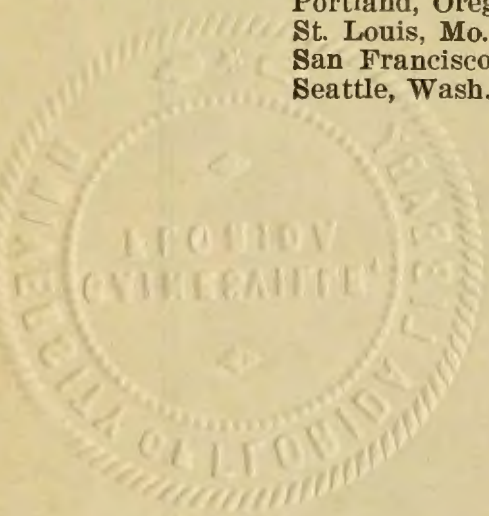
WASHINGTON : 1933

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(II)



EXECUTIVE ORDER

CODE OF FAIR COMPETITION FOR THE MOTOR BUS INDUSTRY

An application having been duly made, pursuant to and in full compliance with the provisions of title I of the National Industrial Recovery Act, approved June 16, 1933, for my approval of a Code of Fair Competition for the Motor Bus Industry, and hearings having been held thereon, and the Administrator having rendered his report containing an analysis of the said code of fair competition, together with his recommendations and findings with respect thereto, and the Administrator having found such a said code of fair competition complies in all respects with the pertinent provisions of title I of said act, and that the requirements of clauses (1) and (2) of subsection (a) of section 3 of said act have been met.

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States, pursuant to the authority vested in me by title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do adopt the findings and approve the report and recommendations of the Administrator and do order that the said code of fair competition be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
October 31 1933.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

(III)

OCTOBER 5, 1933.

The PRESIDENT,
The White House.

SIR: This is a report of the hearing on the Code of Fair Competition for the Motor Bus Industry of the United States, conducted in Washington on the 30th of August 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS OF THIS CODE AS TO WAGES AND HOURS

Maximum hours for employees are established as follows: Clerical employees—40 hours per week averaged over a period of 4 weeks. Garage, service, and maintenance employees—48 hours per week averaged over a period of 6 weeks with a maximum of 54 hours in any one week. Bus operators and ticket agents—48 hours per week averaged over a period of 6 weeks with a maximum of 54 hours in any one week provided that during any 3-month period a maximum of 54 hours is established. Watchmen and janitors, 56 hours in any one week. No employee working over 35 hours per week may be employed for more than 24 days in any 28-day period.

Minimum wage rates are established ranging from \$15.00 per week in any city of over 500,000 population to \$12.00 per week in towns of less than 2,500 population. Provision is made that rates of pay for employees whose hours of employment have been reduced by the provisions of this Code shall be increased by an equitable readjustment and that rates of pay for employees whose hours have not been so reduced shall not be decreased below those in effect for the week ending June 17, 1933.

Employment of any person under 16 years of age and of any person as a bus driver under 21 years of age is prohibited.

In recommending the approval of the hour provisions of this Code it has been necessary to recognize that passenger motor carrier transportation is a continuous public service requiring twenty-four hours per day operation seven days per week with flow of traffic reaching periodical peaks each day, week, and season in the year. Its schedules are continuously subject to interference by reason of road, weather, traffic, and other emergency conditions. Moreover, it is competitive with steam rail passenger transportation not operating under the provisions of the National Industrial Recovery Act.

To adopt a schedule of less hours at this time would undoubtedly result in a great hardship to the Industry. As a step toward the realization of a shorter hour week, the Industry is required under the Code to study ways and means of still further improving working conditions and to present the results of its study to the Administrator by May 1, 1934.

ECONOMIC EFFECT OF CODE

Under the recommended Code, the Motor Bus Industry will re-employ 12,586 additional wage earners or about 18 percent according to an estimate made by the Division of Economic Research and Planning. This will increase the annual pay roll of the Industry by \$15,152,000 or about 18 percent.

The Motor Bus Industry has suffered not only from the depression but also from its disadvantageous competitive position with other passenger carriers. The taxes of its principal competitor, the railroad, have increased but 25 percent since 1919 as contrasted with a 500 percent increase in the case of the Motor Bus Industry. The annual tax per bus was \$859 in 1932, an increase of \$523 per bus since 1925.

In view of these considerations it is believed that if this Industry is to share impartially in business recovery, the provisions of this Code are all that can be reasonably expected at this time.

FINDINGS

The Administrator finds that:

(a) The Code as recommended complies in all respects with the pertinent provisions of Title 1 of the Act, including, without limitation, subsection (a) of Section 7, and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein, and is truly representative of the Motor Bus Industry; and that

(c) The Code as recommended is not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them, and will tend to effectuate the policy of Title I of the National Industrial Recovery Act.

From evidence adduced during this hearing and from recommendations and reports of the various Advisory Boards, it is believed that this Code as now proposed and revised is satisfactory to this Industry, labor, the public, and this Administration. It is recommended, therefore, that this Code, as herewith submitted, be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION FOR THE MOTOR BUS INDUSTRY

ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are established as a Code of Fair Competition for the Motor Bus Industry, and shall be the standard of fair competition for the Motor Bus Industry.

ARTICLE II—DEFINITIONS

1. The term "Industry" as used herein includes all facilities for transportation of persons, or of persons and package express, excess baggage, newspapers, or United States mail by "passenger motor carrier" and the performance of all service and the transaction of all business incident thereto; provided, however, that nothing in this definition shall include:

(a) Motor vehicles employed solely in transporting school children and teachers to and from school.

(b) Taxi cabs or other motor vehicles performing a similar service having a capacity of not more than six (6) passengers and not operated on a regular route or between fixed termini.

(c) Motor vehicles owned or operated by or on behalf of hotels and used exclusively for the transportation of hotel patrons between hotels and local railroads or other common-carrier stations.

(d) Transportation subject to the Code of Fair Competition for the Transit Industry, which is defined to include the following:

"1. Electric railways and trolley bus lines transporting passengers by electric car or trolley bus; provided that electric railways engaged in both intra and interstate commerce may operate either the intrastate or interstate portions of their business, or both, under this Code unless prevented by Federal law.

"2. Automotive busses transporting passengers solely within State lines, except when engaged in interstate commerce.

"3. Automotive busses transporting passengers in interstate commerce or in both intrastate and interstate commerce where such operations are conducted entirely within a single metropolitan area or within a group of municipalities when the transportation service is essentially urban or suburban in character.

"4. The performance of all service and the transaction of all business incident to the operation of the foregoing facilities.

"(a) No new bus route or bus line or extensions to existing bus routes or lines shall be established in interstate commerce without also complying with the licensing and rate provisions of any Code of Fair Competition adopted for the Motor Bus Industry relating thereto;

“(b) The agency set up by the provisions Article VI, A-4 hereof, shall have jurisdiction to hear and finally decide all disputes in regard to a specific route or line being or not being engaged in interstate commerce beyond the limitation provided for in paragraph 3 of this Article.”

2. The term “passenger motor carrier”, as used herein, includes any individual, firm, corporation, copartnership, or other person their lessees, trustees, or receivers, transporting, or offering or proposing to transport, by motor vehicle for compensation in the Motor Bus Industry, either on a fixed-fare or share-expense basis, persons, or persons and package express, excess baggage, newspapers, or United States mail over the public highways of the United States.

3. The term “motor carrier transportation agent” as used herein includes any person who acts as agent in the furnishing of transportation by any passenger motor carrier, irrespective of whether such agent is otherwise employed by such passenger motor carrier or whether such agent is an individual, firm, corporation, co-partnership, trustee, or other person, or whether such agent sells or negotiates the sale of, or otherwise for a commission, fee, or tip, acts as an intermediary in the sale of passenger transportation in the Industry.

4. The term “employee” as used herein shall include any person, except ticket brokers and commission agents, engaged in any phase of the Industry, in any capacity, receiving compensation, irrespective of the method of payment of his compensation, or of his interest otherwise in said Industry.

5. This Code shall become effective upon the second Monday after this Code shall have been approved by the President of the United States.

6. Population, for the purposes of this Code, shall be determined by reference to the 1930 Federal Census.

7. The terms “President”, “Act”, and “Administrator” as used herein shall mean, respectively, the President of the United States, the National Industrial Recovery Act, and the Administrator of said Act.

ARTICLE III—HOURS

1. The following employees shall not work or be permitted to work in excess of the following hours:

(a) Clerical employees and employees not specifically designated hereafter in this Article—forty (40) hours per week averaged over a period of any four (4) weeks.

(b) Garage, service, and maintenance employees—forty-eight (48) hours per week averaged over a period of six (6) weeks with a maximum of fifty-four (54) hours in any one week.

(c) Bus operators and ticket agents—forty-eight (48) hours per week averaged over a period of six (6) weeks with a maximum of fifty-four (54) hours in any one week for any nine (9) months in any twelve (12) months period. For the remaining three (3) months of such twelve (12) months period forty-eight (48) hours per week with an allowance not to exceed six (6) hours per week.

(d) Watchmen and janitors—fifty-six (56) hours in any one week. This group not to exceed five (5) percent of the employees of any passenger motor carrier.

(e) No employee working over thirty-five (35) hours per week shall be employed for more than twenty-four (24) days in any twenty-eight (28) day period.

(f) The provisions of this Article shall not apply to persons employed in a managerial, executive, or supervisory capacity, porters, or emergency crews during periods of emergency caused by storms, floods, accidents, or other causes beyond the control of passenger motor carriers.

2. Regulations as to hours of service and wages for porters shall be formulated by the Motor Bus Code Authority for the approval of the Administrator within ninety (90) days after the effective date.

3. It shall be the duty of the Motor Bus Code Authority as hereinafter described to study ways and means of improving operating and working conditions and to report the results of its study to the Administrator prior to May 1, 1934.

ARTICLE IV—MINIMUM WAGES

1. (a) No employee in the Industry other than porters shall be paid at less than the rate of \$15.00 per week in any city of over 500,000 population, or in the immediate trade area of such city; nor less than at the rate of \$14.50 per week in any city of between 250,000 and 500,000 population or in the immediate trade area of such city; nor less than at the rate of \$14.00 per week in any city of between 2,500 and 250,000 population or in the immediate trade area of such city; nor less than at the rate of \$12.00 per week in towns of less than 2,500 population;

(b) It is agreed that paragraph (a) establishes a minimum rate of pay, regardless of whether the employee is compensated on the basis of time rate, mileage rate, or piecework performance.

2. The rates of pay of employees whose hours of employment have been reduced by the provisions of this Code shall be increased by an equitable readjustment and the rates of pay of employees whose hours have not been reduced shall not be decreased, as a result of this Code, below those in effect in the week ending June 17, 1933.

3. Nothing in this Article shall interfere with wage agreements in which wage rates are established higher than those established herein.

ARTICLE V—CHILD LABOR

No passenger motor carrier shall employ a motor-bus driver under twenty-one (21) years of age or any other person under the age of sixteen (16) years.

ARTICLE VI—ADMINISTRATION AND TRADE PRACTICES

To further effectuate the policies of the Act a Motor Bus Code Authority is set up to cooperate with the Administrator in the administration of this Code.

1. The organization of the Motor Bus Code Authority shall be as follows:

(a) The Motor Bus Code Authority shall consist of seven (7) voting members, one of which shall at all times be the President of the National Association of Motor Bus Operators and one of which shall at all times be the Secretary of said Association. The Administrator may appoint not more than three (3) nonvoting members, in which may be included representation for employees.

(b) Of the remaining five (5) voting members, three (3) shall be chosen by those members of the Board of Directors of the National Association of Motor Bus Operators who under the By-Laws of the Association represent the eleven (11) designated geographical districts of the United States. The other two (2) voting members shall be elected from among operating representatives of passenger motor carriers not holding membership in the Association, who are entitled to participate in the selection of the Code Authority.

The method of selection of such members shall be subject to the approval of the Administrator.

(c) Any trade or industrial association participating in the selection or activities of the Motor Bus Code Authority shall at all times comply with the following requirements: (1) It shall impose no inequitable restrictions on membership. (2) It shall not violate any rule or regulation prescribed by the President of the United States under this Act, or any other provision of the National Industrial Recovery Act. (3) It shall submit to the Administrator true copies of its Articles of Association, Bylaws, regulations, and any amendments when made thereto, and such other information as to membership, organization and activities as the Administrator may require from time to time to effectuate the policies of this Act.

(d) The Administrator shall provide such hearings as he may deem proper for those claiming the right to be represented on the Code Authority, and thereafter may change the method of selection and the organizations selecting the members of the Motor Bus Code Authority, in order that it shall be truly representative of the Industry.

(e) An appeal from any action by the Code Authority affecting the rights of any employer or any employee may be taken to the Administrator.

(f) Hereafter only employers assenting to this Code shall be entitled to participate in the selection of the Code Authority and to share the benefits of its activities as hereinafter set forth.

(g) The Motor Bus Code Authority shall, as soon as possible after the approval of this Code, appoint two (2) individuals who shall, jointly with two (2) individuals appointed by the Transit Code Authority, hear and finally determine any question that may be referred to it by the Motor Bus Code Authority as to whether any individual bus operation defined in Section 1 of Article II of this Code shall be included under this Code. In case the joint board fails or refuses to decide within ten (10) days any question submitted, the matter shall be referred to the Administrator for final disposition.

2. The Motor Bus Code Authority shall have the following duties and powers to the extent permitted by the Act, and subject to review by the Administrator:

(a) To elect officers and assign to them such duties as it may consider advisable, and to provide rules for the selection of its mem-

bers by the National Association of Motor Bus Operators and representatives of other passenger motor carriers entitled to participate therein, and for its continuance as the administrative agency of this Code, in accordance with the terms of the Act and the principles herein set forth.

(b) To provide for administration and enforcement of the provisions of this Code.

(c) To require periodical reports from the members of the Industry with respect to revenues, expenses, and other charges, wages, hours of labor, conditions of employment, number of employees, and other matters pertinent to the purposes of this Code, in order that the President may be kept informed with respect to the observance thereof; and to furnish to government agencies such statistical information as the Administrator may deem necessary for the purpose recited in Section 3 (a) of the Act.

(d) To recommend to the Administrator within thirty (30) days a uniform system of accounting for the Industry which upon his approval shall be used in furnishing the aforesaid reports.

(e) To cooperate with the Administrator in regulating the use of the N.R.A. insignia by passenger motor carriers in the Industry who assent to this Code, so long as they conform to its provisions.

(f) To coordinate the administration of this Code with such other Codes, if any, as may be related to the Industry, or any subdivision thereof, with a view to promoting joint and harmonious action upon matters of common interest.

(g) To secure an equitable and proportionate payment of the expense of maintaining the Motor Bus Code Authority and its activities from those passenger motor carriers accepting the benefits of the activities of the Motor Bus Code Authority, or otherwise assenting to this Code.

(h) To delegate to such trade associations and other agencies as it deems proper the carrying out of any of its activities herein, and to pay such agencies the cost thereof; provided, that such agencies shall at all times be subject to and comply with the provisions of this Code, and provided that nothing in this Section shall relieve the Motor Bus Code Authority of its duties or responsibilities under this Code.

(i) To initiate, consider, and submit proposals for amendments and modifications of this Code, which, upon approval by the Administrator after such hearings as he may prescribe, shall be incorporated herein with the same force and effect as if originally made a part hereof.

ARTICLE VII—TRADE PRACTICES

1. *Registration of passenger motor carriers.*—(a) Each passenger motor carrier shall within thirty (30) days after the approval of this Code register its operations by filing a statement with the Motor Bus Code Authority setting forth the routes over which it is operating.

(b) Passenger motor carriers establishing any new motor bus operation or extending any motor bus operation after the date of the approval of their Code shall secure therefore a certificate of convenience and necessity, or permit, from each and every State in

which such operation is conducted, authorized intrastate transportation along the route or routes of such new operation, or extension of existing operation. Such new route, or extension of existing route shall be registered by submitting and filing with the Motor Bus Code Authority within fifteen (15) days after the institution of service thereon the following:

- (1) A description of such route or routes.
- (2) A certified copy of a certificate of convenience and necessity, or permit, issued by the State or States as herein provided.
- (3) Evidence of compliance with such other conditions as the Administrator shall upon recommendation of the Motor Bus Code Authority establish.

(c) The Administrator, on his own initiative or on the recommendation of the Code Authority, may grant exemptions as to the requirements for the submission of a certificate of convenience and necessity, or permit, in any State in which such certificate or permit is not required, or in any case in which the refusal of any such certificate or permit by any State has been clearly unreasonable and worked undue hardship.

2. *Tariffs*.—(a) Every passenger motor carrier shall within twenty (20) days after the approval of this Code publish tariffs of rates, fares, and charges for the transportation of persons and for services between all points on its lines by filing five (5) copies thereof with the Motor Bus Code Authority at its office in Washington, D.C., as agent for the Administration. Thereafter, no passenger motor carrier or motor carrier transportation agent shall charge or demand or collect, or receive a greater or less or different, compensation for the transportation of persons or for any service in connection therewith, between the points named in such tariffs than the rates, fares, or charges stated in the published tariffs of such passenger motor carrier, nor extend to any person any privilege or facilities except such as are specified in such tariffs.

(b) Any passenger motor carrier may at any time file with the Motor Bus Code Authority five (5) copies of any changes, amendments, or supplements to its tariffs which shall, unless otherwise provided by the Motor Bus Code Authority with the approval of the Administrator, become effective as such changes, amendments, or supplements may provide, and have the same force and effect as the original schedules filed.

3. *Bonds or Insurance*.—Passenger motor carriers shall comply, as to interstate commerce, with the lawful regulations of the States through which they operate pertaining to bonds or insurance or liability protection required for passenger motor carriers engaged in intrastate commerce, for the payment of any final judgment recovered against such motor carriers on account of the death of or injury to persons or loss of or damage to property resulting from the operation, maintenance, or use of motor vehicles employed by such carriers. The Administrator, on the recommendation of the Code Authority and after such hearing as he may deem proper, may make such modifications and impose such other conditions and requirements in respect to providing bonds, insurance, or liability protection by any passenger motor carriers as he shall deem proper to carry out the intention of these provisions.

4. *Motor Carrier Transportation Agent.*—After forty-five (45) days from the approval of this Code, no motor carrier transportation agent shall sell transportation furnished by a passenger motor carrier unless such passenger motor carrier is registered with the Motor Bus Code Authority as hereinabove provided.

5. *Ticket Sales Commissions.*—Unless otherwise approved by the Motor Bus Code Authority, no passenger motor carrier or motor carrier transportation agent, where the latter deals through sub-agents or ticket brokers, shall pay to any other passenger motor carrier, commission agent, ticket broker, or connecting carrier, directly or indirectly, through subsidy or otherwise, a sum in excess of ten (10) percent of the amount of the ticket sales made by such agent, broker, or carrier as compensation for sales of transportation by passenger motor carriers.

6. *Free Transportation.*—No passenger motor carrier shall issue free or reduced-rate transportation to employees of another carrier except when a request therefore has been placed through the general offices of such other carrier.

7. *Interline Settlements.*—Settlements on interline reclaims shall be within thirty (30) days from the date billing is received.

ARTICLE VIII—GENERAL

(1) (a) Employees shall have the right to organize and bargain collectively, through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives, or in self-organization, or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) No employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing.

(c) Passenger motor carriers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

(2) This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provision of Subsection (b) of Section 10 of the Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under Title I of said Act and specifically, but without limitation, to the right of the President to cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

(3) Violation by any passenger motor carrier or motor carrier transportation agent, as herein defined, of any provision of this Code shall be considered an unfair method of competition, and offenders shall be subject to the penalties imposed by the Act.

(4) Full recognition is accorded the effect of the State laws that regulate intrastate business, and it is neither the intent nor purpose of this Code to abrogate, change, or modify the effect of any State law in respect to any passenger motor carrier business which shall be strictly intrastate in character.

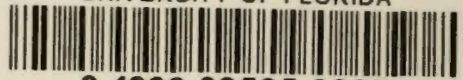
(5) Nothing in this Code shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, or oppress, or discriminate against small enterprises.

(6) Within each State this Code shall not supersede any laws of such State imposing more stringent requirements on passenger motor carriers, regulating the age of employees, wages, hours of work, health, fire, or general working conditions than under this Code.

(7) Each employer shall post in a conspicuous place in each office and garage a copy of this Code noting thereon that the labor provisions are set forth in Section 4 of Article II, Articles III, IV, V, Paragraph (e) of Section I of Article VI, and Sections 1, 6, and 7 of Article VIII.



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