Public Law 86-615

AN ACT

July 12, 1960
[S. 1509]

To amend the Interstate Commerce Act, as amended, to provide "grandfather" rights for certain motor carriers and freight forwarders operating in interstate or foreign commerce within Alaska and between Alaska and the other States of the United States, and for certain water carriers operating within Alaska, to provide "grandfather" rights for certain freight forwarders operating between Hawaii and the other States of the United States, and for other purposes.

Interstate Commerce Act, amendment.
49 Stat. 551.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 206(a) of the Interstate Commerce Act, as amended (49 U.S.C. 306(a)), is amended by adding at the end thereof the following new paragraphs:

"(4) Subject to the provisions of section 210, any common carrier by motor vehicle which, on the date this paragraph takes effect, is the holder of a certificate or certificates described in paragraph (2) of this subsection or issued under paragraph (3) of this subsection or section 207(a), authorizing transportation by motor vehicle between places in the United States of passengers or property in commerce between the United States and the Territory of Alaska, and on August 26, 1958, it or its predecessor in interest was engaged in the transportation of passengers or property as a common carrier by motor vehicle between places in the United States and places in Alaska, and such operations have been continued since that time (or if engaged in furnishing seasonal service only, was engaged in such operations in the year 1958 during the season ordinarily covered by its operations, and such operations have not been discontinued), except in either instance as to interruptions of service over which the carrier or its predecessor in interest had no control, shall be issued a certificate authorizing transportation to or from the points or areas in Alaska served by it, from or to all points in the other States of the United States designated in the above-mentioned certificate or certificates held by the carrier, of passengers or the class or classes of commodities specified therein, to the extent that under the said certificate or certificates the carrier, prior to the date of admission of Alaska into the Union, was authorized to perform within the States all transportation required for through motor vehicle transportation by the carrier to or from places in the Territory of Alaska, without requiring further proof that public convenience and necessity will be served thereby and without further proceedings, if application for such certificate is made to the Commission as provided herein on or before December 31, 1960. Pending the determination of such application, the continuance of such operations without a certificate shall be lawful. Applications for certificates under this paragraph shall be made in writing to the Commission and shall be in such form and contain such information and be accompanied by proof of service upon such interested parties as shall be required by the Commission.

49 USC 307.

49 USC 310.

"(5) Subject to the provisions of section 210, if any person (or his predecessor in interest) was in operation on August 26, 1958, over any route or routes, or in any area or areas, as a common carrier engaged in the transportation in interstate or foreign commerce of passengers or property by motor vehicle between places in the Territory of Alaska, and has so operated in Alaska since that time (or if engaged in furnishing seasonal service only, was engaged in such operation in the year 1958 during the season ordinarily covered by its operations, and such operations have not been discontinued), except in either instance as to interruptions of service over which such person or his predecessor in interest had no control, a certificate shall be issued authorizing such

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operations without requiring further proof that public convenience and necessity will be served thereby, and without further proceeding, if application for such certificate is made as provided herein on or before December 31, 1960: *Provided, however*, That common carriers of passengers by motor vehicle shall as a condition precedent to the establishment of rights hereunder show compliance with the applicable acts of the Territory of Alaska, and the rules and regulations of the Alaska Bus Commission. Pending the determination of any such application the continuance of such operation without a certificate shall be lawful. Applications for certificates under this paragraph shall be made to the Commission in writing, and in such form, contain such information, and be accompanied by proof of service upon such interested parties as the Commission shall require."

SEC. 2. Section 209(a) of the Interstate Commerce Act, as amended (49 U.S.C. 309(a)), is amended by adding at the end thereof the following new paragraphs:

"(4) Subject to the provisions of section 210, any contract carrier by motor vehicle which, on the date this paragraph takes effect, is the holder of a permit or permits described in paragraph (2) of this subsection or issued under paragraph (3) of this subsection or under section 209(b), authorizing transportation by motor vehicle between places in the United States of passengers or property in commerce between the United States and the Territory of Alaska, and on August 26, 1958, it or its predecessor in interest was engaged in the transportation of passengers or property as a contract carrier by motor vehicle between places in the United States and places in Alaska, and such operations have been continued since that time (or if engaged in the furnishing of seasonal service only, was engaged in such operations in the year 1958 during the season ordinarily covered by its operations, and such operations have not been discontinued), except in either instance as to interruptions of service over which the carrier or its predecessor in interest had no control, shall be issued a permit authorizing transportation to or from the points or areas in Alaska served by it, from or to all points in the other States of the United States designated in the above-mentioned permit or permits held by the carrier, of passengers or the class or classes of commodities specified therein, to the extent that under the said permit or permits the carrier, prior to the date of admission of Alaska into the Union, was authorized to perform within the United States all transportation required for through motor vehicle transportation by the carrier to or from places in the Territory of Alaska, without further proceedings, if application for such permit is made to the Commission as provided herein on or before December 31, 1960. Pending the determination of such application, the continuance of such operation without a permit shall be lawful. Applications for permits under this paragraph shall be made in writing to the Commission and shall be in such form and contain such information and be accompanied by proof of service upon such interested parties as shall be required by the Commission. 49 USC 310.

"(5) Subject to the provisions of section 210, if any person (or his predecessor in interest) was in operation on August 26, 1958, over any route or routes, or in any area or areas, as a contract carrier engaged in the transportation in interstate or foreign commerce of passengers or property by motor vehicle between places in the Territory of Alaska, and has so operated in Alaska since that time (or if engaged in furnishing seasonal service only, was engaged in such operations in the year 1958 during the season ordinarily covered by its operations and such operations have not been discontinued), except in either instance as to interruptions of service over which such person or his predecessor in interest had no control, a permit shall be

issued authorizing such operations without further proceedings, if application for such permit is made as provided herein on or before December 31, 1960. Pending the determination of any such application, the continuance of such operation without a permit shall be lawful. Applications for permits under this paragraph shall be made to the Commission in writing, and in such form, contain such information, and be accompanied by proof of service upon such interested parties as the Commission shall require."

SEC. 3. Paragraph (10) of section 203(a) of the Interstate Commerce Act, as amended (49 U.S.C. 303(a)(10)), is amended by changing the period at the end thereof to a colon and by adding the following: "*Provided*, That to the extent that such transportation in 'interstate commerce' between points in Alaska and points in other States is performed within a foreign country, the application of this part shall not include any requirement as to conduct in such foreign country which is in conflict with a requirement of such foreign country, but shall include as a condition to engaging in such operations within the jurisdiction of the United States, the observance, as to the entire service, of the requirements of this part with respect to rates, fares, charges, and practices pertaining to such transportation."

SEC. 4. Section 309(a) of the Interstate Commerce Act, as amended (49 U.S.C. 909(a)), is amended by changing the period at the end of the last sentence thereof to a colon and by adding the following new proviso: "*Provided further*, That, subject to the provisions of section 310, if any person (or his predecessor in interest) was in operation on August 26, 1958, over any inland waterway, other than the high seas, as a common carrier by water, in interstate or foreign commerce, between points in the Territory of Alaska, and has so operated in Alaska since that time (or if engaged in furnishing seasonal service only, was engaged in such operations in the year 1958 during the season ordinarily covered by its operations, and such operations have not been discontinued), except in either instance as to interruptions of service over which such person or his predecessor in interest had no control, a certificate shall be issued authorizing such operations without requiring further proof that public convenience and necessity will be served thereby, and without further proceedings, if application for such certificate is made as provided herein on or before December 31, 1960. Pending the determination of any such application, the continuance of such operations without a certificate shall be lawful. Applications for certificates under this proviso shall be filed with the Commission in writing, and in such form, contain such information, and be accompanied by proof of service upon such interested parties as the Commission shall require."

SEC. 5. Section 309(f) of the Interstate Commerce Act, as amended (49 U.S.C. 909(f)), is amended by changing the period at the end of the last sentence thereof to a colon and by adding the following new proviso: "*Provided further*, That, subject to the provisions of section 310, if any person (or his predecessor in interest) was in operation on August 26, 1958, over any inland waterway, other than the high seas, as a contract carrier by water, in interstate or foreign commerce, between points in the Territory of Alaska, and has so operated in Alaska since that time (or if engaged in furnishing seasonal service only, was engaged in such operations in the year 1958 during the season ordinarily covered by its operations, and such operations have not been discontinued), except in either instance as to interruptions of service over which such person or his predecessor in interest had no control, a permit shall be issued authorizing such operations, without further proceedings, if application for such permit is made as provided herein before December 31, 1960. Pending the determination of such appli-

cation, the continuance of such operations without a permit shall be lawful. Applications for permits under this proviso shall be filed with the Commission in writing, and in such form, contain such information, and be accompanied by proof of service upon such interested parties as the Commission shall require."

SEC. 6. Section 410 (a) of the Interstate Commerce Act, as amended (49 U.S.C. 1010 (a)), is amended by inserting the figure "(1)" immediately after subsection designation "(a)" and by adding the following new paragraphs:

"(2) Subject to the provisions of the last sentence of subsection (c) of this section, if any person (or his predecessor in interest) was engaged in service on August 26, 1958, between places in the Territory of Alaska and places in the United States, and between places in the Territory of Alaska which service either would have been subject to this part or which, in conjunction with the services of other carriers, resulted in the transportation of property between such places whether or not all of such transportation would have been service subject to this part, and has so operated since that time (or if engaged in furnishing seasonal service only, was engaged in such operations in the year 1958 during the season ordinarily covered by its operations, and such operations have not been discontinued), except in either instance as to interruptions of service over which such person or his predecessor in interest had no control, a permit shall be issued authorizing such operations without further proceedings if application for such permit is made as provided herein on or before December 31, 1960. Pending the determination of any such application, the continuance of such operations without a permit shall be lawful. Applications for permits under this paragraph shall be filed with the Commission in writing, and in such form, contain such information, and be accompanied by proof of service upon such interested parties as the Commission shall require.

"(3) Subject to the provisions of the last sentence of subsection (c) of this section, if any person (or his predecessor in interest) was engaged in service on June 27, 1959, between places in the Territory of Hawaii and places in the United States, and between places in the Territory of Hawaii, which service either would have been subject to this part or which, in conjunction with the services of other carriers, resulted in the transportation of property between such places whether or not all of such transportation would have been service subject to this part, and has so operated since that time (or if engaged in furnishing seasonal service only, was engaged in such operations in the year 1959 during the season ordinarily covered by its operations, and such operations have not been discontinued), except in either instance as to interruptions of service over which such person or his predecessor in interest had no control, a permit shall be issued authorizing such operations without further proceedings if application for such permit is made as provided herein on or before December 31, 1960. Pending the determination of any such application, the continuance of such operations without a permit shall be lawful. Applications for permits under this paragraph shall be filed with the Commission in writing, and in such form, contain such information, and be accompanied by proof of service upon such interested parties as the Commission shall require."

SEC. 7. Section 418 of the Interstate Commerce Act, as amended (49 U.S.C. 1018), is amended by striking the word "or" in the last clause thereof, by changing the period at the end thereof to a semicolon, and by adding the following: "the Alaska Railroad; common carriers by water operating between Alaskan ports, and between those ports and other ports in the United States or common

carriers by water operating between Hawaiian ports, and between those ports and other ports in the United States."

62 Stat. 386. 49 USC 903.

SEC. 8. Section 303(e) of the Interstate Commerce Act is amended by adding a new subsection 3 to read as follows:

"(3) Notwithstanding any other provision of this Act, any common carrier by motor vehicle which was engaged also in operations between the United States and Alaska as a common carrier by water subject to regulation by the Federal Maritime Board under the Shipping Act of 1916, as amended, and the Intercoastal Shipping Act of 1933, as amended, prior to January 3, 1959, and has so operated since that time, shall as to such operations, remain subject to the jurisdiction of the Federal Maritime Board."

46 USC 842. 46 USC 848.

Approved July 12, 1960.

Public Law 86-616

July 12, 1960 [S. 1795]

AN ACT

Relating to the promotion and separation of certain officers of the regular components of the armed forces.

Armed Forces. Officer promotion and separation. 70A Stat. 181. Army.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 335 of title 10, United States Code, is amended—

(1) by adding the following new sentence at the end of section 3297(d): "Notwithstanding any other provision of law, a board that is to recommend officers for promotion whom it considers to be the best qualified may recommend only those officers whom it also considers to be fully qualified.";

(2) by amending the last sentence of section 3300(c) to read as follows: "However, the number prescribed by the Secretary for recommendation must be at least 80 percent of those listed for consideration for the first time."; and

(3) by amending section 3303(d)(3) by striking out the words "the date he would have been retired under section 3913 of this title if he were eligible" and inserting the words "such date as may be requested by him and approved under regulations to be prescribed by the Secretary of the Army, but not later than the first day of the seventh calendar month after the Secretary approves the report of that board" in place thereof.

SEC. 2. (a) Chapter 359 of title 10, United States Code, is amended to read as follows:

"CHAPTER 359.—SEPARATION FROM REGULAR ARMY FOR SUBSTANDARD PERFORMANCE OF DUTY

"Sec.
"3781. Selection boards: composition; duties.
"3782. Boards of inquiry: composition; duties.
"3783. Boards of review: composition; duties.
"3784. Removal of officer: action by Secretary of the Army upon recommendation.
"3785. Rights and procedures.
"3786. Officer considered for removal: voluntary retirement or honorable discharge; severance benefits.
"3787. Officers eligible to serve on boards.

"§ 3781. Selection boards: composition; duties

"The Secretary of the Army may at any time convene a board of officers to review the record of any commissioned officer on the active list of the Regular Army to determine whether he shall be required, because his performance of duty has fallen below standards prescribed by the Secretary, to show cause for his retention on the active list.