



# BARRIERS TO THE INTERSTATE MOVEMENT OF AGRICULTURAL PRODUCTS BY MOTOR VEHICLE IN THE ELEVEN WESTERN STATES

## T-19



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## CONTENTS

	PAGE
ACKNOWLEDGMENT .....	2
SUMMARY AND CONCLUSIONS.....	3
INTRODUCTION .....	5
PURPOSES OF STATE VEHICLE LAWS AND REGULATIONS.....	6
A. To Protect Investments in Roads and Bridges.....	6
B. To Raise Revenues for Highways and Other Purposes.....	11
C. To Equalize Tax Burdens Between Local and Outside Operators of Various Types of Business Enterprises.....	11
D. To Govern the Operation of the Itinerant Trucker.....	11
E. To Protect Life, Property, and the Public Health and Morals.....	12
F. To Discriminate Against Out-of-State Agricultural Competition.....	13
G. To Retaliate Against Obstacles Erected by Other States.....	13
THE ECONOMIC SIGNIFICANCE OF INTERSTATE BARRIERS TO TRUCKING IN WESTERN STATES.....	14
A BRIEF PRESENTATION OF THE HISTORICAL GROWTH OF TRUCKING BARRIERS....	18
SOME LEGAL ASPECTS OF STATE MOTOR VEHICLE LEGISLATION.....	20
A. Motor Vehicle Taxation.....	21
B. Sizes and Weights.....	23
C. Ports-of-Entry .....	23
D. Itinerant Truckers.....	24
E. Federal Legislation and Court Actions.....	24
SOME ASPECTS OF CURRENT PROVISIONS OF STATE LAWS AND REGULATIONS AFFECTING MOTOR VEHICLES WHICH RESTRICT INTERSTATE MOVEMENT OF WESTERN AGRICULTURAL PRODUCTS.....	25
A. Restrictions Arising from Registration Provisions.....	25
Fees .....	25
Nonresident's Reciprocity.....	28
B. Restrictions Arising from Tax Provisions.....	32
C. Restrictions Arising from Weight and Dimension Provisions.....	35
D. Restrictions Arising from Merchant Trucker Provisions.....	41
E. Restrictions Arising from Financial Responsibility Provisions.....	41
F. Restrictions Arising from Miscellaneous Provisions.....	43
G. Restrictions Arising from Nonuniformity.....	44
ECONOMIC NOTE.....	47

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## SUMMARY AND CONCLUSIONS

1. The Western Area appears to be more dependent upon motor vehicles for transportation than other areas of the United States.
2. Diversion of agricultural traffic from rail to truck has been increasing in the West as elsewhere in the United States.
3. State motor vehicle laws and regulations often seriously restrict interstate movement of agricultural commodities. They may distort the economy of a region to a greater extent than other laws and regulations, such as quarantines, which may completely prohibit interstate movement.
4. Nonuniformity of requirements and procedures between states is the most important "barrier" to interstate movement of agricultural products by motor vehicle within and from the Western Area. This is especially the case with regard to the more seasonal and highly perishable agricultural products, such as fresh fruits and vegetables.
5. Nonuniformity is most troublesome to "irregular" (routes and service) operators who provide seasonal and inter-area flexibility of motor vehicle transportation. Such flexibility is vital in the marketing of many agricultural products and helps to make unnecessary the maintenance of transportation capacity in each state sufficient to meet peak needs. More uniformity would be of general benefit to the motor carrier and agricultural industries.
6. "Irregular" operators are responsible for many of the violations of motor vehicle codes which now occur. These operators report that their violations are usually unintentional and would seldom occur if requirements and procedures were more uniform. Some type of regional information service which could be provided in a condensed form at a small outlay might aid in prevention of these violations.
7. Severely limited or complete lack of reciprocity (i.e., exemption from requirements) was reported to be the most serious "barrier" to motor transportation in two western states, Arizona and Idaho.
8. Total revenue accruing from motor vehicle taxes may be less if a state severely limits or extends no reciprocity than if it extends reciprocity more freely.

9. Motor vehicle weight and dimension limits are important factors restricting interstate movement of agricultural products by motor vehicle *from* the Western Area but *not within* that Area; Oregon possibly excepted.
10. The Federal courts have consistently upheld state regulation of interstate motor carriers if such regulation is not discriminatory and has a close relationship to highway use. This has been true even though interstate commerce has been burdened; but not if "unduly" burdened.
11. Progress has been made during the past decade in eliminating barriers to motor vehicle transportation initiated mostly during the 1930's. However, interstate movement of agricultural products by motor vehicle is still hamstrung all too frequently by unilateral actions of individual states.
12. The objectives of motor vehicle restrictions may sometimes be more political than economic. Therefore, political judgment and expediency may be more effective in the elimination of these restrictions than is economic measurement.

# BARRIERS TO THE INTERSTATE MOVEMENT OF AGRICULTURAL PRODUCTS BY MOTOR VEHICLE IN THE ELEVEN WESTERN STATES

BY J. S. HILLMAN<sup>1</sup> AND J. D. ROWELL<sup>1</sup>

## INTRODUCTION

As a remedy for some of the highway headaches of the nation a state senator from one of the western states recently wrote an article<sup>2</sup> for a popular magazine in which he called for a blanket application of a tax on the trucking industry which would be based on the weight of trucks and the distance they travel. Most truckers, in the past, have been against such proposals. They claim that taxes of this nature are not only defective in theory but are inequitable in practice, and are costly to administer. Out of this, and similar commercial controversies, have arisen problems for legal and economic analysis.

The present study is an attempt to isolate for analysis some of the areas in which there are questions as to the trade barrier effects of state motor vehicle laws and regulations. Reports No. 109 and No. 110 of the Arizona Agricultural Experiment Station, which contain summaries of state statutes and administrative promulgations as they affect interstate agricultural commodity movement in the eleven western states,<sup>3</sup> provide a basis for this study.

Many trucking regulations are designed to accomplish a socially desirable purpose. Size and weight restrictions placed on trucks are good examples. The issue as to whether such regulations constitute "trade barriers" must then revolve around two further questions.<sup>4</sup> Can other measures be devised to accomplish the same objective but at the same time to avoid, partially or wholly, the trade barrier aspects of the existing measures? If not, then do the good results of the existing measures outweigh the ill effects of the trade barriers incident to them?

In this study, a "trade barrier" is defined as any statutory or administrative measure or procedure, the effect or purpose of which is to obstruct the trucking of legitimate, healthful, and honestly described agricultural commodities from one western state to market in another state, even though the latter may not necessarily be in the West. Trade barriers in this sense include municipal ordinances and other local laws or regulations which are subordinate to state activities. And, of course, the state line is the political boundary with which we are concerned.

<sup>1</sup>Department of Agricultural Economics, Arizona Agricultural Experiment Station.

<sup>2</sup>Newberger, R. L., "Who Shall Pay for Our Roads?", *Harpers*, Vol. 205, No. 1229, October, 1952.

<sup>3</sup>Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming.

<sup>4</sup>Burtis, E. L., "The Farmer's Concern in Highway Trade Barriers" in *Tax Barriers to Trade*, a symposium held by the Tax Institute, 1941, 344 p.

## **PURPOSES OF STATE MOTOR VEHICLE LAWS AND REGULATIONS**

Without any regulation, the motor carrier industry probably never would have developed as we know it. Reasonable and proper regulation is often necessary to promote growth and stability of such industries. The principal purposes of state motor vehicle laws and regulations are as follows.

### **A. To Protect Investments in Roads and Bridges**

Much of the interstate movement by commercial motor vehicles takes place over the Federal-aid highway system. These Federal-aid roads, though built with Federal assistance are state property, and must, in most cases, be maintained entirely out of state funds. Therefore, each of the states has a definite proprietary interest in its roads and bridges.

It would appear that the western states have an even greater interest than do most other regions of the United States due to their apparently greater dependence upon motor vehicles than other forms of transportation for marketing of agricultural commodities. This is illustrated in Figures 1, 2, 3, and 4, which show areas 25 miles or more from each of several forms of public transportation which are available to agriculture.<sup>5</sup> It is seen from these figures that, with the exception of some of the Great Plains states, all other regions of the United States are covered as well or better than the Western Area. Paved highway coverage appears to be the most thorough. There are rather large areas in the West which are reached only by a paved road, if at all, by any of the forms of transportation illustrated.

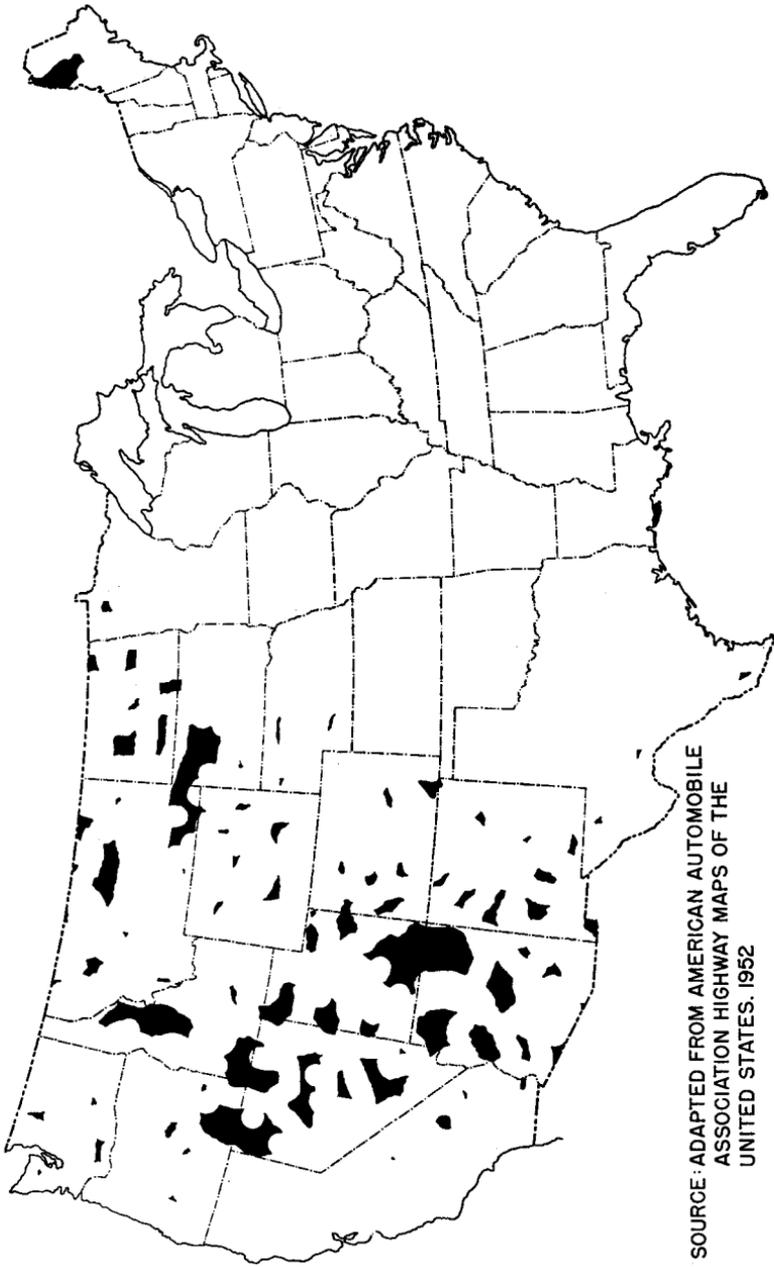
Another factor tending to indicate the relatively greater dependence of the Western Area upon motor trucks for transportation is the higher proportion of truck registrations compared to population than for the rest of the Nation. In 1950, when the eleven western states had about 13 per cent<sup>6</sup> of the population of the United States, they had about 17 per cent<sup>7</sup> of all U.S. truck registrations. Assuming that duplicate registrations (in more than one state) are about the same proportion in all parts of the United States, this would appear to indicate that the West utilizes motor trucks for transportation somewhat more than the remainder of the Nation. Also, as is indicated elsewhere in this publication, larger vehicle combinations are permitted in the West. And, because property-carrying vehicles which move frequently in interstate commerce tend to be as large or nearly as large as permissible in each area, it is likely that even more tonnage is moved in interstate commerce by motor vehicles in the West than the above comparative registration percentages indicate. (See "Restrictions Arising From Weight and Dimension Restrictions," below).

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<sup>5</sup>Individual copies of these figures may be obtained by writing to the Department of Agricultural Economics, University of Arizona, Tucson.

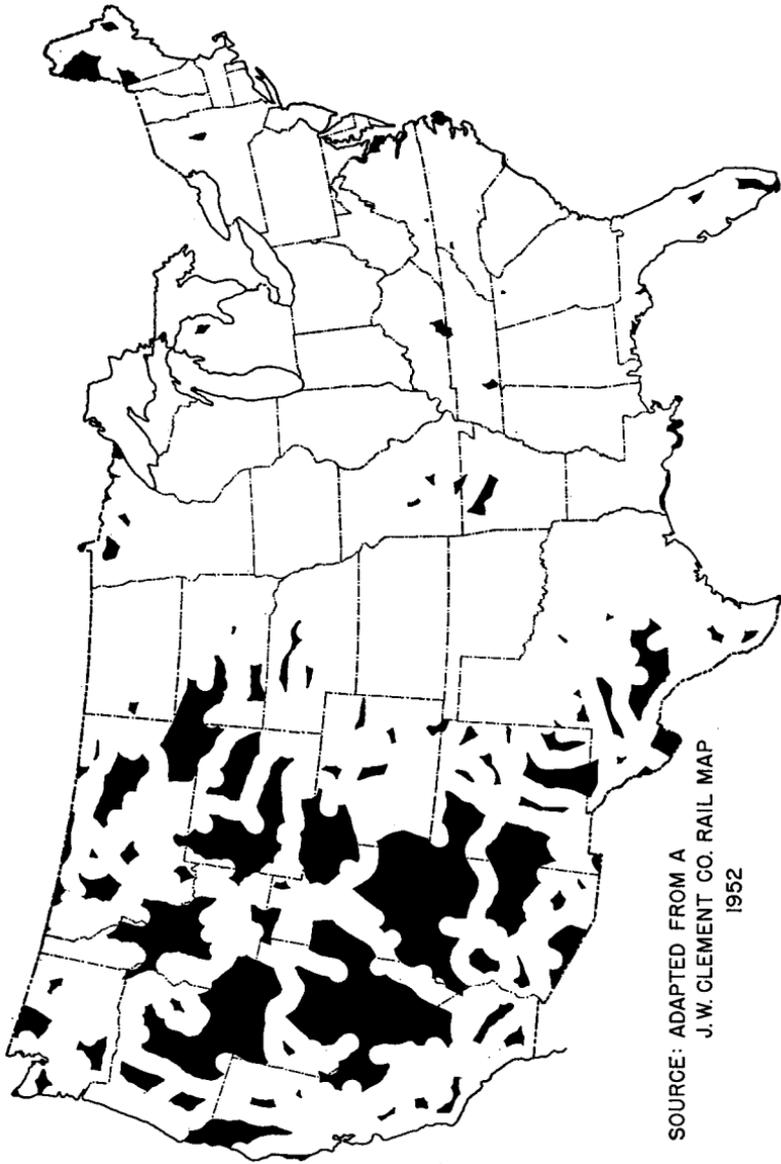
<sup>6</sup>U.S. Bureau of the Census, *Statistical Abstract of the United States: 1951* (Seventy-second edition), Washington, D.C., 1951, p. 31.

<sup>7</sup>American Trucking Associations, "American Trucking Trends: 1952," Washington, D.C., p. 2.



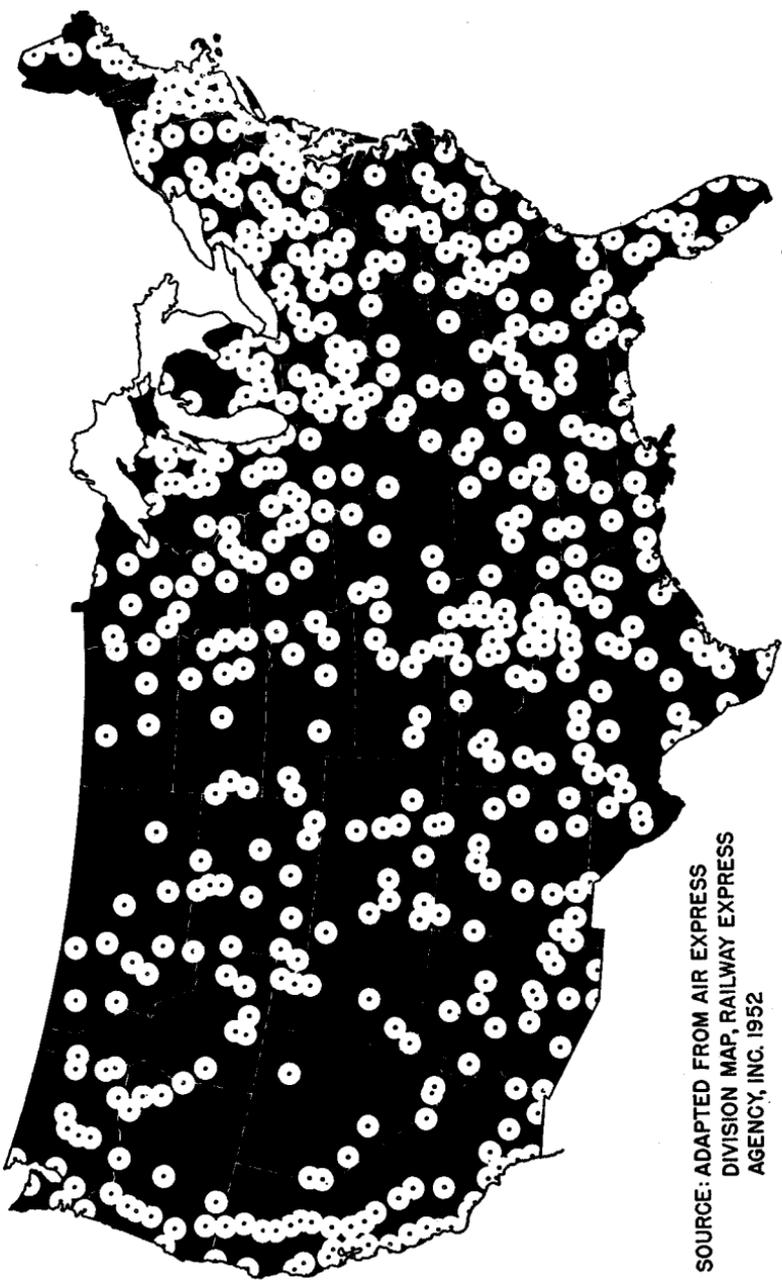
SOURCE: ADAPTED FROM AMERICAN AUTOMOBILE  
ASSOCIATION HIGHWAY MAPS OF THE  
UNITED STATES, 1952

Figure 1.—Black Areas Are 25 or More Miles from a Paved Highway.



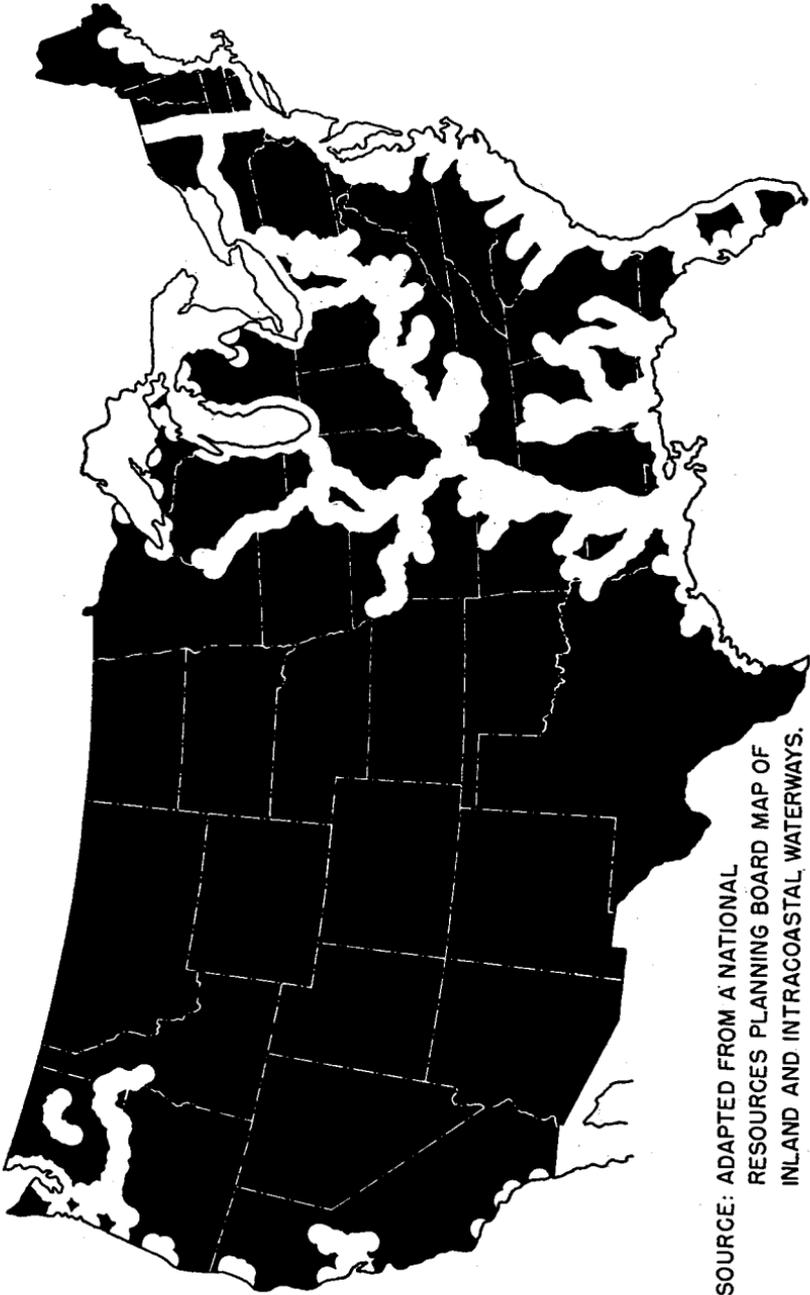
SOURCE: ADAPTED FROM A  
J. W. CLEMENT CO. RAIL MAP  
1952

Figure 2.—Black Areas Are 25 or More Miles from a Rail Line.\*  
\* Offering common carrier service.



SOURCE: ADAPTED FROM AIR EXPRESS  
DIVISION MAP, RAILWAY EXPRESS  
AGENCY, INC. 1952

Figure 3.—Black Areas Are 25 or More Miles from an Air Express Airport.\*  
\* Air freight airports are believed to be essentially the same.



SOURCE: ADAPTED FROM A NATIONAL RESOURCES PLANNING BOARD MAP OF INLAND AND INTRACOASTAL WATERWAYS. 1952

Figure 4.—Black Areas Are 25 or More Miles from an Inland or Intracoastal\* Waterway. \* Including the Atlantic Ship Canal and the Intercoastal Canal, but otherwise only ports on the coasts and on the Great Lakes.

**B. To Raise Revenues for Highways and Other Purposes**

The annual costs of providing and maintaining the extensive highway system that modern conditions demand are very large. The tax base in most of the western states is so small that the resulting yield in tax income is only a small fraction of that in more populous states. Also, the great expanses of land of low productive capacity necessitate many miles of road through areas which contribute little toward the costs of construction and maintenance of roads.

Western state highway officials say that it is the combination of both low financial ability and large financial need which requires that every cent of tax money obtainable be collected. Perhaps ports-of-entry are at least partially justified on these grounds.

In all but four<sup>8</sup> of the eleven western states amendments have been written into the state constitutions restricting or prohibiting non-highway use of road user revenues. However, in California and Washington, the amendments provide for expenditure of substantial sums of highway user revenues for nonhighway purposes.

**C. To Equalize Tax Burdens Between Local and Outside Operators of Various Types of Business Enterprises**

No matter where a business operates as a resident, it must pay taxes to the several political subdivisions of which it is a part. For this reason resident taxpaying businesses resent competition from outside sources if they believe such competition is not paying the same or equivalent taxes. Because interstate highway transportation competes with other forms of transportation and, also, because transportation is a cost to nearly every business enterprise, there are many local interests in any area which desire that out-of-state highway transporters pay all the fees and taxes necessary to equalize the burdens paid by the resident operators.

When each state collects the full annual amount of its fees and taxes from residents and nonresidents, nonresidents are faced with rapidly mounting cumulative fees as they operate in each additional state. This and other problems are discussed under "Nonresident's Reciprocity," below.

State officials have claimed that a reason for the creation of ports-of-entry is to equalize tax burdens between resident and out-of-state businesses by making sure that all fees and taxes are collected from and other laws and regulations are complied with by nonresident motor vehicles entering their states. Reasonable and proper operation of ports-of-entry does accomplish this but may also serve to insure that nonresidents are faced with the rapidly mounting cumulative fees as mentioned above as well as delaying and complicating interstate vehicular movement.

**D. To Govern the Operation of the Itinerant Trucker**

The problem of the itinerant trucker provides the best example of the general problem of interstate trade barriers. It should not be inferred, however, that barriers to the operations of itinerant truckers are the most serious trade barriers today.

The institution of the interstate itinerant trucker and the laws and regulations to govern the problems thus created first became important

<sup>8</sup>Montana, New Mexico, Utah, and Wyoming.

during the depression of the 1930's. Since then itinerant trucking, the problems which created it and which it created, have decreased in importance. This decrease is due to the many job opportunities and adequate market outlets during periods of high employment as well as to the many restrictions on such operations which are still in effect.

Restrictions upon the operations of itinerant truckers serve two purposes. First, they safeguard the public health, one of the so-called "police powers" and, second, they protect established local merchants against "unfair competition" from out-of-state. This latter protection is said to be justified on grounds of tax equalization with resident tax-paying businesses.

Insofar as these purposes are served, regulation of itinerant truckers is probably justified. If regulation of itinerant truckers goes beyond these limits, it may be excessive and unjustifiable. Licensing, bonding, or inspection requirements may virtually prohibit the entrance of itinerant truckers into some areas. Some states delegate power to pass *Green River ordinances*. These ordinances declare that the "uninvited visitation of private residences by solicitors, peddlers, hawkers, itinerant merchants, and transient vendors constitutes a nuisance punishable as a misdemeanor."

Current restrictions affecting merchant truckers in the eleven western states are discussed below under "Some Aspects of Current Provisions of State Laws and Regulations Affecting Motor Vehicles Which Restrict Interstate Movement of Western Agricultural Products."

#### **E. To Protect Life, Property, and the Public Health and Morals**

Virtually all of the authority exercised by the states over interstate commerce is founded upon the power to tax or upon one or more of the "police powers." The latter includes the powers to protect life, property, and the public health and morals.

All governmental regulation must be financed in some way. If regulation is necessary and desirable, then a tax upon the regulated industry sufficient to defray the costs of administration is probably justified. It is in those cases where taxes and license fees are in excess of those necessary to defray administrative costs or where regulation is excessive, discriminatory, or unnecessary that the power to tax may result in trade barriers.

Under the authority of the police powers there exist many state laws and regulations which cannot be judged on economic grounds alone. For example, laws and regulations having the stated purpose of insuring public health and safety cannot be judged as unjustifiable and undesirable merely because they complicate marketing and add to marketing costs. Certain practices must be observed to avoid unnecessary and repeated accidents, contamination, etc.

There is probably some question as to the wisdom of certain police power laws and regulations as they affect local and intrastate economic activity. However, this study is concerned only with interstate restrictions. There are two ways that such laws and regulations often result in restrictions to interstate trade by motor carriers; first, when the same treatment is accorded carriers from out-of-state; and

second, when different treatment is accorded to such carriers either directly or indirectly.

By restrictions due to the same treatment is meant that "non-residents" are required to conform to the same requirements as are "residents." This is the problem already mentioned of nonuniformity and cumulative piling-up of requirements, fees, and taxes between states. Each additional state into which a truck operates has its own motor vehicle laws and regulations<sup>9</sup>, many of which are different.

The out-of-state truck operator is confronted with the problem of conforming to an additional group of requirements and fees. These may not differ greatly from resident requirements. However, they probably differ in at least a few respects and are in addition to the requirements of the state from which he just came. As one truck operator put it: "Every state has at least some little thing different."

An example of restrictions which arise due to different treatment, at least in practice, of nonresidents as compared to residents occurs when nonresident truckers are held from proceeding to destination until certain or all of the requirements have been met. In the case of perishable agricultural commodities this has caused serious damage to or complete loss of entire loads as well as delay, confusion, and expense.

#### **F. To Discriminate Against Out-of-State Agricultural Competition**

The purposes of legislative acts and administrative rules and regulations are often stated in formal or informal introductions. Such purposes as stated are usually unassailable ones based upon the taxing power or the "police powers." Sometimes the stated objective of an act or of regulations is to promote the development of a particular industry within a state. However, even this type of implied discrimination is the exception rather than the rule. Never do provisions of state laws and regulations have as their stated purpose any sort of purposeful discrimination against out-of-state competition.

In spite of the virtual lack of stated or implied discrimination, many laws, rules, and regulations do result in discrimination against out-of-state agricultural competition. Probably the largest single source of such actual discrimination in the motor vehicle field is non-uniformity of size, weight, tax, and other provisions of motor vehicle codes and administrative procedures.

#### **G. To Retaliate Against Obstacles Erected by Other States**

Restrictions imposed by one state in retaliation against action taken by another are the most deplorable of all. Such restrictions may be placed in effect upon short notice and may victimize innocent parties as well as those against whom the retaliation is intended. Under any circumstances, the mere desire to retaliate against some other governmental authority is probably the worst reason for which a restriction can be imposed.

<sup>9</sup>Hillman, J. S., and Rowell, J. D., Reports: No. 109, *A Summary of Laws Relating to the Interstate Movement of Agricultural Products in the Eleven Western States*, May, 1952; 105 p.; and No. 110, *A Summary of Administrative Rules and Regulations Relating to the Interstate Movement of Agricultural Products in the Eleven Western States*, February, 1953, 107 p. Both of these Reports were published by the Arizona Agricultural Experiment Station, Tucson, Arizona.

The most typical examples of this type of obstacle to motor vehicle movement occurred during the 1930's. At that time several states had laws calling for the setting up of ports-of-entry if and when a certain number of bordering states had ports in operation. At the present time retaliatory actions of this sort are almost nonexistent.

Quite recently, however, Oregon retaliated against Idaho's cancellation of all reciprocity agreements by patrolling the Idaho boundaries on New Year's Day, 1952, to enforce registration of any Idaho trucks that might come into Oregon.

### **THE ECONOMIC SIGNIFICANCE OF INTERSTATE BARRIERS AFFECTING TRUCKING IN WESTERN AGRICULTURE**

The principal interest that farmers both as producers and consumers have in the transportation system revolves around several general factors: their ability to reach markets at which to buy and sell goods; the timing of shipments of farm products and purchases of farm supplies in accordance with their needs relative to market conditions; the preservation of commodities during shipment; and the rates, charges, and other direct and indirect costs of transportation. Until the 1930's the chief concern of agriculture was with railway transportation. During the past two decades, however, trucking has become of great importance in the transportation industry, especially in agriculture.

It is well known that trucks have been moving a larger and larger proportion of agricultural business in recent years. When 1950 receipts of selected commodities trucked to some of the principal markets are compared with those of pre-World War II, it is seen that relative truck volume has increased considerably. The West is no exception to this trend. Furthermore, comparing 1941 and 1950, the apparent diversion of traffic from the railroads to trucks was high.

The over-all capacity of the trucking industry has increased rapidly. As an indication of this increase, on January 1, 1950, 7,692,569 private and commercial trucks were registered in the United States as compared to 4,590,386 at the same date in 1941.

During this same period the number of trucks on farms immediately available for hauling farm products has more than doubled. Preliminary estimates by the Bureau of Agricultural Economics indicate an increase from 1,095,000 to 2,200,000.<sup>10</sup>

It is unofficially estimated<sup>11</sup> that there are in operation today some three to four times as many refrigerated-type or insulated-type truck and trailer units as there were just before World War II.

The rapid growth in highway transportation of agricultural products is evidence of the speed, utility, adaptability, flexibility, efficiency and economy of motor trucks to this type of hauling. This is particularly true for relatively short hauls for all commodities, and for greater distances for commodities classed as highly perishable. What

<sup>10</sup>*The Marketing and Transportation Situation* (processed), Bureau of Agricultural Economics, United States Department of Agriculture, October, 1950, p. 25.

<sup>11</sup>*Ibid.*

is not so evident is the mass of legislation and administrative regulations that has grown up around the trucking industry. States have passed legislation under their police, taxing, and proprietary powers that have in some instances become serious burdens to interstate commerce. As is pointed out in another section, under the police power a state may regulate the size, weight, and equipment of motor vehicles. In addition under the taxing power, most states have enacted legislation calling for registration or licensing fees, fuel taxes, mileage taxes, gross receipts taxes, and others. Municipalities have also exercised their delegated authorities to regulate and to tax motor vehicles, especially out-of-state trucks. Finally, under the inspection<sup>12</sup> power, some states have set up quarantines to prevent the flow of plant and animal products unless carefully examined. Vehicle and cargo inspections are also made under this power.

Because trucking has become so important in the transportation of agricultural products, western farmers have become aware that there exist other important transportation problems in addition to those involving freight rates and railroad policy. This holds especially for shipments that originate and terminate in the West. Only in a few instances in the past decade have rails gained agricultural traffic at the expense of trucks when measured by unloads or receipts in major western markets. One such instance where interregional competition has manifested itself has been in the cheese industry. Cheese produced in California and other western states has given way to Midwest cheese, the major portion of which is still transported by rail.

But in the majority of instances the picture has been reversed, mainly because population increases have made it possible for more of the products of western agriculture to be consumed within the region. Shorter distances to market have worked to the advantage of the truck. The nature of the products, for example, perishability, and necessity for rapid movement, have also favored trucking of many agricultural products to market.

Tables 1a, 1b, 1c, and 1d compare rail and truck unloads as reported in the two major terminal markets of Los Angeles and San Francisco for four selected agricultural commodities in the years 1941 and 1950. These tables give some indication of how far reaching has been the intraregional<sup>13</sup> diversion from rail to truck. In the case of agricultural commodities the production of which is near the principal areas of consumption, transportation is almost completely dominated by the motor truck, and has been for some years.

These data emphasize the increasing importance of trucking in the transportation industry. Any regulation or taxation policy which affects the trucker of agricultural products will directly or indirectly affect producers or handlers of those products. Hence, the mass of legislation which relates to highway use and truck regulations is becoming of great concern to farmers and farm groups.

<sup>12</sup>Art. 1, Sec. 10, Clause 2 of the Constitution.

<sup>13</sup>In cases where commodities originated outside the region, e. g., midwestern eggs, the term intraregional has no bearing on this study.

TABLE 1a.—APPLES: 1941 AND 1950 RAIL AND TRUCK UNLOADS IN THE LOS ANGELES AND SAN FRANCISCO MARKETS<sup>a</sup>

Market	1941		1950 <sup>b</sup>	
	No. cars	Per cent	No. cars	Per cent
Los Angeles				
Rail	972	28	893	20
Truck	2,498	72	3,603	80
San Francisco				
Rail	447	50	80	9
Truck	439	50	783	91

<sup>a</sup>Limmer, E. Transportation of Selected Agricultural Commodities to Leading Markets by Rail and Motor Truck, 1939-50, Bureau of Agricultural Economics Report, June, 1951.

<sup>b</sup>Preliminary.

TABLE 1b.—GRAPEFRUIT: 1941 AND 1950 RAIL AND TRUCK UNLOADS IN THE LOS ANGELES AND SAN FRANCISCO MARKETS<sup>a</sup>

Market	1941		1950 <sup>b</sup>	
	No. cars	Per cent	No. cars	Per cent
Los Angeles				
Rail	163	8	46	2
Truck	2,000	92	1,926	98
San Francisco				
Rail	167	31	94	19
Truck	378	69	407	81

<sup>a</sup>Limmer, E., *op. cit.*

<sup>b</sup>Preliminary.

TABLE 1c.—POTATOES: 1941 AND 1950 RAIL AND TRUCK UNLOADS IN THE LOS ANGELES AND SAN FRANCISCO MARKETS<sup>a</sup>

Market	1941		1950 <sup>b</sup>	
	No. cars	Per cent	No. cars	Per cent
Los Angeles				
Rail	3,637	38	3,829	27
Truck	5,822	62	10,158	73
San Francisco				
Rail	2,538	72	1,781	63
Truck	1,005	28	1,026	37

<sup>a</sup>Limmer, E., *op. cit.*

<sup>b</sup>Preliminary.

TABLE 1d.—SHELL EGGS: 1941 AND 1950 RAIL AND TRUCK UNLOADS IN THE LOS ANGELES AND SAN FRANCISCO MARKETS<sup>a</sup>

Market	1941		1950 <sup>b</sup>	
	No. cars	Per cent	No. cars	Per cent
Los Angeles				
Rail	85	7	30	2
Truck	1,089	93	1,412	98
San Francisco				
Rail	132	13	61	6
Truck	864	87	937	94

<sup>a</sup>Limmer, E., *op. cit.*

<sup>b</sup>Preliminary.

Farmers are interested in barriers to trucking because such barriers increase the transfer costs<sup>14</sup> of farm commodities. These in turn result in a larger margin between the farmer and the consumer.

Transportation agencies (including truckers) and market middlemen cannot always be expected to assume the added cost of a regulation or tax imposed upon them. Neither can the retailer always be expected to pass along the tax, license, or fee to the consumer in form of a price mark-up. Hence, the producer will at times feel the direct incidence of these taxes or other levies. The economic consequence of such legislative or administrative activity could be a reduction in the percentage of the consumer's dollar that is received by the farmer.

Even though specific measurements of the various regulations and taxes have not been attempted in this study, it is believed that the information presented will "point up" some of the problems now constituting motor vehicle trade barriers affecting western agriculture. Let us take, for example, any state, which, through legislative or administrative effort, places what seems to be an undue economic burden on interstate carriers. What general economic conclusions can be drawn?

First, there is little doubt that the citizenry of a state is due the protection from excessive abuse of a sound highway safety code. With the increasing motor vehicle traffic this is of great importance. However, could not a great many unnecessary costs be eliminated through a more uniform vehicle code which deals with subjects including aspects of administration, registration, licensing, civil liability, safety responsibility, rules of the road, traffic signals and markings, and speed? Some attempts have been made to secure more uniformity but trucker's costs of operation still run high in order that they may be able to meet requirements of all the states.

Second, taxes, licenses, fees and various regulatory requirements add to production costs. These costs have increased primarily because of increased highway costs. However, some states are diverting funds which have been collected for highway purposes into other state agency channels. These high costs of interstate operation restrict the geographical mobility of agricultural commodities via truck. And intrastate transfer costs in the state with high taxes and fees, or strict regulations are higher than would otherwise be the case.

Third, to the extent that these higher transfer costs increase the mark-up on consumer goods, they may result in decreased consumption of these goods. And, while the state revenue take may increase and the truckers profits remain unaffected, producers' profits may be reduced considerably. Hence, in an immediate sense consumers and producers may both be adversely affected.

Fourth, contrary to the expectations of legislators and highway officials, the net revenue produced by increased taxes, stricter regulations and failure to give reciprocal treatment may be less than that produced with lower taxes, fewer regulations and a harmonious reci-

<sup>14</sup>Transfer costs include not only the costs of transportation but other items of cost as well. For example, inspection fees incident to transfer and other costs which are not a result of payment for the use of certain productive factors fall in the latter category.

procity. This may be the case particularly where out-of-state trucks only are held rigorously to the law. It is even more true of states which are easily by-passed. These states lose in volume of truck movement, thus losing on revenue collected. Auxiliary transportation facilities also suffer from this type of legislation. Two examples may be cited as relating to this matter. (As to how revenue has been affected in these instances, there is little quantitative evidence.) One example is the lack-of-reciprocity situation which exists with regard to motor vehicle taxes in Arizona and Idaho. Another is the nine-cent-per-gallon state gasoline tax which existed for a short time in the state of Louisiana.

Fifth, although motor vehicle taxes and regulations are not intended to be prohibitive as are some quarantines or health measures, their effects on regional resource allocation may be even more disastrous. Because trucking is so intimately linked with the welfare of farmer and consumer in the Western Region, a discriminatory tax law or administrative edict affecting motor vehicles may be of much greater importance than quarantines or inspection rulings on some relatively insignificant plants or agricultural commodities. The regional effects of motor vehicle barriers, therefore, are probably more important than state or local effects. On the other hand, the incidence of prohibitive measures may not be as far reaching, geographically nor economically, and their impact may be felt primarily in the protected and restricted areas. Their primary effect may be the introduction of monopoly profits in certain areas of the agricultural economy, but unless the income from the industry affected constitutes a large share of the total income of the area and unless the restriction is complete, these effects may be small relative to motor vehicle barriers.

One final conclusion which needs to be made about taxes, regulations, fees, etc., is that inasmuch as they are not always applied with an economic motive, economic judgment is not always the most important consideration in their removal. In other words, the ends of motor vehicle restrictions may be sometimes more political than economic. Political expediency is, therefore, in these instances, far more significant in their actual removal than is economic measurement.

### **A BRIEF PRESENTATION OF THE HISTORICAL GROWTH OF TRUCKING BARRIERS**

Prior to World War I, legislative and administrative barriers to interstate trucking were practically nonexistent. This was, of course, primarily due to the virtual nonexistence of interstate freight movement by motor vehicle. The largest "barrier" to such movement at this time was the lack of adequate hard surfaced roads outside of large metropolitan areas. In 1904 there were only 150,000<sup>15</sup> miles of improved roads in the United States. By 1945 this mileage had reached 1,100,000<sup>16</sup> and is probably slightly more today.

<sup>15</sup>*Highway Motor Transportation*, Report of Subcommittee on Motor Transport of the Railroad Committee for the Study of Transportation, Association of American Railroads, August, 1945, p. xix.

<sup>16</sup>*Ibid.*

Another very real "barrier" was the early motor truck itself. In 1904, the first year for which a record of truck registrations is available, only 700<sup>17</sup> were registered. And these early motor trucks with their hard rubber tires, slow operation, inadequate capacities and relative inefficiency gave little indication of developments to follow. By 1951 there were approximately 8,623,000<sup>18</sup> trucks registered in the United States. And the modern truck is a highly developed piece of machinery. It is a flexible and adaptable tool on the transportation scene today.

Motor vehicle laws and regulations were few prior to World War I due largely to the lack of need for regulation of this then infant and almost insignificant industry.

As interest in the "Good Roads" movement in the 1920's gradually resulted in actual physical improvements in roads and highways, interstate shipments by motor vehicle increased. The states, which have a proprietary interest in their roads and have always had to maintain them, began placing limitations upon sizes and weights of motor vehicles during this period. The states were justified in doing so to minimize costs of highway repairs and to promote highway safety. However, these limitations may also serve to protect home markets from legitimate out-of-state competition either intentionally or, more commonly, by hamstringing interstate truck movement with cumulative fees, taxes, and nonuniform requirements in general.

As the depression of 1930's deepened, all of the states were faced with the dual problem of declining tax revenues and greater demands for public expenditures for relief and other purposes. They were also pressed by agitation from local interests for protection from outside competition. It is little wonder that under these circumstances many high taxes and restrictions were placed upon motor vehicle transportation. Indeed, it was during the decade of the 1930's that the interstate trade barrier problem first became significant and received widespread publicity and attention. This was especially the case in regard to motor vehicles.

In 1931, motor vehicle "border wars" occurred at some state boundaries. These unfortunate incidents continued spasmodically for several years. In 1935, Kansas established ports-of-entry on her borders. This action quickly led to establishment of ports-of-entry in many other states; often merely for retaliation. By 1937, the public had become seriously concerned about the rise of trade barriers.

In 1938, a number of individuals and organizations began study of the problems. The Marketing Laws Survey of the Works Progress Administration began compilation and analysis of state laws which created or tended to create trade barriers among the states, including motor vehicle laws. The United States Department of Agriculture published its report entitled "Barriers to Internal Trade in Farm Products" in 1939. In the years immediately preceding World War II several agencies both public and private sponsored national and regional conferences on interstate trade barriers.

<sup>17</sup>"American Trucking Trends, 1952," American Trucking Associations, Washington, D.C., p. 1.

<sup>18</sup>Ibid. Note: Does not include 377,823 publicly owned trucks.

Before actual assumption of hostilities late in 1941, the defense effort had brought about action on the part of the President, many state governors, and others to eliminate impediments to rearmament, including motor vehicle barriers. After the war began, governors of all states pledged that they would relax size and weight restrictions in their states for the duration of the war. Most fees and taxes remained. But due to the large volume of business during the war, most motor vehicle carriers were able to pay the required charges out of their larger gross revenues. And users of highway transportation were able to pay the rates charged by carriers.

The pent-up demand for consumer goods which existed at the end of World War II made for quick reconversion to large-scale production of such goods. The high level of business activity made market outlets readily available until the Korean action began in mid-1950. Then the large military build-up which followed bolstered the economy still further. So from the beginning of the defense effort prior to World War II through 1952-53, there has been little agitation for increased "barrier" legislation.

There were some efforts, mostly in the late '30's and early '40's, to eliminate or make uniform certain requirements. Some progress was made. However, in 1953, many of the barrier laws and regulations which date back to the depressed period of the early 1930's were still "on the books" along with others either older or newer. And some barriers exist today, though dormant due to nonenforcement, etc. These types of barriers have been labeled "potential" restrictions to trade. Even though this is a somewhat discouraging record of improvement, the post-war years have not seen many new barriers enacted by the states.

At the present time interstate movement of agricultural commodities by motor vehicle is regulated, taxed, restricted and otherwise hindered all to frequently by unilateral actions of state legislatures and administrative agencies. But business activity continues at sufficiently high levels so that most motor carriers and other highway users are relatively prosperous, and can afford to pay the fees and taxes charged, either directly or through higher rates charged for transportation services.

Should depressed times return, the objectionable features of the barrier laws and regulations still in existence would again become more apparent. There would probably also be agitation once more for new barrier legislation. Therefore, it would appear that prosperous times are the time to rid ourselves of "interstate trade barriers" in the motor vehicle field as elsewhere.

### **SOME LEGAL ASPECTS OF STATE MOTOR VEHICLE LEGISLATION**

Article 1, Section 8, Clause 3<sup>19</sup> of the Constitution provides one of the principal bases on which Congress has built the authority to

<sup>19</sup>The Congress shall have the power to regulate commerce with foreign nations, and among the several states, and with the Indian tribes.

prohibit discrimination in interstate trade in the United States.<sup>20</sup> For a century after the ratification of the Constitution, Chief Justice Marshall's interpretation of the Commerce Clause was recognized as pre-eminent and all decisions were made on a basis of that precedent. The essence of the Marshallian interpretation was that production and exchange on a national scale constitute a single process, all of which Congress may regulate.

Toward the end of the nineteenth century, however, because of the increasing complexity of the marketing process, there arose a recognized need for Congressional intervention in order to facilitate legitimate exchange through the medium of positive legislation. The jurisdiction of the courts, the power of Congress and the rights of the states all became somewhat blurred when trade barrier issues arose and out of this emerged a "no-man's land" with respect to interstate commercial policy. In this no-man's land the seeds of interstate trade restrictions were planted, and they grew blossoming to full maturity during the depression decade of 1930-40.

Legislation on motor vehicles, which began only after the turn of the century, soon became a frequent obstacle to interstate vehicle movement. By exercising their powers to tax and police, the states were able to place indirect burdens on interstate commerce. As the motor transport industry grew, with it grew the attendant problems of highway financing and vehicle regulation. Restrictions on agricultural commodity movement were inevitable consequences of these growing taxing and regulatory policies. And, it has been said:

In the examination of the problem, it must be remembered that in many cases when state action demonstrably offends the Commerce Clause of the Constitution the ordinary scope of case-by-case privately financed litigation is too slow a process to give satisfactory relief; Federal [court] action is called for to aid in the elimination of the offending statutes or administrative practices.<sup>21</sup>

#### A. Motor Vehicle Taxation

The extent to which states are permitted to tax out-of-state motor vehicles has been the subject of much legal controversy. Argument on this subject began prior to entry of the United States into World War I. In the test cases of *Hendrik v Maryland*<sup>22</sup> and *Kane v New Jersey*<sup>23</sup> the courts approved small, nondiscriminatory license and registration fees. Fees were graduated according to horsepower and the decisions upholding these forms of taxation rested primarily on the assumption that they were reasonable in light of the services rendered by the taxing states.

<sup>20</sup>Other relevant Constitutional statements are: (a) *Article I, Section 9, Clause 5*—No tax or duty shall be laid on articles exported from any state; (b) *Article I, Section 10, Clause 2*—No state shall, without the consent of Congress, lay any imposts or duties on imports or exports except what may be absolutely necessary for executing its inspection laws; and (c) *Article X (Amendment)*—The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states, respectively, or to the people.

<sup>21</sup>Exhibit No. 2427-A, "Legal Aspects of Trade Barriers and Some Possible Remedies," T.N.E.C. Hearings, Part 29, March 18-23, 1940, p. 16180. The word in brackets is that of the authors.

<sup>22</sup>235 U.S. 610 (1915)

<sup>23</sup>242 U.S. 160 (1916)

In the intervening years since these original cases were tested in the Supreme Court and lower Federal courts, the courts, when testing the validity of flat fees, have more or less formally adhered to the principle that fee be a reasonable charge for the use of the highways.

When determining the consistency of a fee within this principle, the Supreme Court has used a system of presumptions which were set forth clearly in the case of *Interstate Transit Co. v Lindsey*<sup>24</sup>:

As such a charge is a direct burden on interstate commerce, the tax cannot be sustained unless it appears affirmatively in some way that it is levied only as a compensation for the use of the highways or to defray the expense of regulating motor traffic. . . . Where it is shown that the tax is so imposed, it will be sustained unless the taxpayer shows that it bears no reasonable relation to . . . the use of the highways or is discriminatory.

A similar stand was taken prior to this in the decision of *Sprout v City of South Bend*<sup>25</sup>. Through the years since these decisions, (1) the ability or obligation of the state to make a tax "appear affirmatively" levied as a compensation for highway use, and (2) the ability or obligation of the taxpayer to disprove any connection between the tax and highway use, have not always been clearly defined and easily obtainable objectives for those involved in court decisions.

More recent decisions<sup>26</sup> seem to confirm the principle set forth in the *Interstate Transit Co.* and *Sprout* cases.

However, for the most part, it would seem that the Supreme Court is committed to a policy which makes possible the levy of any type of fee or graduated fee consistent with the Due Process Clause of the Constitution, provided only that the law being enacted specifies that receipts are to be devoted to the maintenance and policing of the highways<sup>27</sup>. In fact, those who are familiar with the problem know that the interstate carrier often pays either more or less for the use he makes of the public roads than does the intrastate carrier. And, because of the increasing difficulty of any single litigant in proving that he is paying a fair fee for the use of the roads, Federal intervention may be demanded.

Other taxes on the interstate movement of motor vehicles have not caused so much litigation as the flat fees. Perhaps this is a result of the Supreme Court's attitude in all cases where there is stated connection between the tax and highway use. Fuel taxes are not easily made discriminatory, because of the difficulty in evading them and because of the close relationship the taxes bear to highway use. Mileage taxes have been consistently upheld. Gross receipts and ton-mile taxes have likewise been upheld insofar as the taxes are not discriminatory of intrastate trucking and if their relation to highway finance is established.

#### **B. Sizes and Weights**

Under the police power the states have been given almost com-

<sup>24</sup>283 U.S. 183 (1931)

<sup>25</sup>277 U.S. 163 (1928)

<sup>26</sup>*Morf v. Bingaman*, 298 U.S. 407 (1936); *Ingles v Morf*, 300 U.S. 290 (1937); and *Dixie Ohio Express Co. v State Revenue Commission of Ga.*, 306 U.S. 72 (1939).

<sup>27</sup>See: *Aero-Mayflower Transit Co. v Board of Railroad Commissioners*, 332 U.S. 495 (1947); *Capitol Greyhound Lines v Brice*, 339 U.S. 542; and *Bode v Barrett*, decided February 9, 1953.

plete liberty to regulate the sizes and weights of trucks moving in interstate as well as intrastate commerce. The Supreme Court has repeatedly ruled that such regulations, if applied to intrastate and interstate commerce alike, without discrimination, are valid in the absence of national legislation, even though they burden interstate commerce — but not unduly. Test cases related to this aspect of motor transport regulations are *South Carolina Highway Dept. v Barnwell Brothers*<sup>28</sup> and *Maurer v Hamilton*<sup>29</sup>.

The judiciary, however, has steadfastly adhered to the doctrine that Congress has full power to remove any discriminations against or unreasonable obstructions to, interstate commerce.<sup>30</sup> The theory has been upheld that the Federal power to remove obstacles to the free flow of interstate trade is superior to state powers, even those powers which pertain to the welfare of a state's citizens. Furthermore, the Federal government has consistently favored a policy of free domestic commerce.

In the *South Carolina Highway Department* case the Supreme Court said:

Congress in the exercise of its plenary power to regulate interstate commerce, may determine whether the burden on it by State regulation, otherwise permissible, are too great, and may, by legislation designed to secure uniformity or in other respects to protect the national interest in the commerce, curtail to some extent the States' regulatory power.<sup>31</sup>

Recently Congress has been inclined to act in order to make more uniform the sizes, weights and permissible loads of motor vehicles moving in interstate commerce. A bill<sup>32</sup> was introduced in the Senate of the United States in 1952 to amend the Interstate Commerce Act to limit the sizes and weights of motor vehicles moving interstate. Provision was made to exempt vehicles from the limitations in special cases deemed vital by the Interstate Commerce Commission.

Even though it appears likely that Congress has the power under the Commerce Clause to regulate sizes and weights of motor vehicles, this power is subject to certain legal limitations. These qualifications of Federal authority stem from state sovereignty, state ownership of the public highways, and from the responsibility of the states for the construction (though often with Federal aid) and maintenance of a road system adapted to their economic and social needs<sup>33</sup>.

### C. Ports-of-Entry

There has been no trend of precedential ruling by the Supreme Court on the constitutionality of whether an interstate carrier can be stopped at a state line and prohibited from entry until certain taxes and fees are paid. However, here is a strong presumption that the payment of a tax on motor vehicles cannot be made a prerequisite to

<sup>28</sup>303 U.S. 177 (1938)

<sup>29</sup>309 U.S. 598 (1940)

<sup>30</sup>*Interstate Trade Barriers Affecting Motor-Vehicle Transportation*, Document No. 81, 79th Congress, September 1944, p. 67.

<sup>31</sup>*South Carolina Highway Dept. v Barnell Brothers*, *Ibid.*

<sup>32</sup>S. 2363, 82nd Congress, 2d Session, January 10, 1952; introduced by Senators Johnson of Colorado and Bricker of Ohio. The bill did not become a law.

<sup>33</sup>See *Interstate Trade Barriers Affecting Motor Vehicle Transportation*, *op. cit.*, for elaboration of these qualifications.

entry. And cases concerning this matter have been related to validity of the tax rather than the method of collection or enforcement.<sup>34</sup>

#### D. Itinerant Truckers

The legal or constitutional status of many laws under this category is not clearly defined by court decisions. Taylor, Burtis, and Waugh<sup>35</sup> pointed out that:

The constitutionality of the various laws that give preference to certain merchant-truckers seems to depend largely on the kind of preference granted.

Under certain circumstances legislation favoring the grower-trucker or the local produce deliverer may be valid.<sup>36</sup> Yet in most instances legislative favoritism and undue discriminatory preference toward local produce has been declared illegal<sup>37</sup> and laws placing direct burdens on peddling have often been struck down. But a new decisional trend seems to have taken place after the *Green River Case*<sup>38</sup> of the early thirties. Only time and legal opinion will tell how far the interstate peddler of farm products can go in the direct selling process in the West, as well as elsewhere.

#### E. Federal Legislation and Court Action

Although this study does not concern the status of Federal jurisdiction *per se*, three recent important Federal actions may be mentioned. The first concerns the controversy over agricultural exemptions. Senate Bill 2357, 81st Congress, if it had been passed as introduced, would have restricted sharply the benefits accruing to farmers and certain carriers under the agricultural exemptions provisions in Part II of the Interstate Commerce Act. Instead, however, Congress reaffirmed its approval of existing law under which trucks hauling only unmanufactured agricultural commodities, livestock and fish (plus certain other classes of interstate transportation) in interstate commerce for hire are not subject to regulation by the Federal government except ICC safety provisions.

The second action came also in the form of a Senate Bill — No. 2363, which would have established maximum dimensions and weight limits for motor vehicles operating subject to the Interstate Commerce Act. Although this Bill did not become law, it may be taken as an indication that further attempts will be made to pass Federal legislation in the field of size and weight regulation on trucks moving in interstate commerce.

Third, and perhaps the most far-reaching action by a Federal agency in the field of trucking was the decision by the Supreme Court on January 12, 1953<sup>39</sup> upholding some rulings by the Interstate

<sup>34</sup>*Ibid.*, for various citations.

<sup>35</sup>*Barriers to Internal Trade in Farm Products*, B.A.E., U.S.D.A., March 1939, p. 63.

<sup>36</sup>*American Sugar Refining Co. v Louisiana*, 179 U.S. 89 (1900).

<sup>37</sup>For example see: *Webber v Virginia*, 103 U.S. 344 (1880).

<sup>38</sup>*Fuller Brush Co. v Town of Green River* (Wyoming), 60 F (2d) 613 (D. Wyo. 1932).

<sup>39</sup>*The Secretary of Agriculture of the United States, Eastern Motor Express, Inc., et. al. and American Trucking Associations, Inc., et. al. v The United States of America and Interstate Commerce Commission, et. al.*, Nos. 36, 25, and 35 U.S. Supreme Court, October Term, 1952.

Commerce Commission on the leasing of private vehicles by common carriers. The essence of these rulings is that they abolish "trip-leasing."

"Trip-leasing" is the short term leasing of a vehicles usually for just one-way between two points. It is of greatest interest to this study in that, in many instances, by such leasing arrangements the return of a vehicles to an area of seasonal agricultural production is facilitated. That is, a truck can carry produce to market and be returned to the agricultural shipping area loaded and at a profit by being trip-leased to a shipper who has some goods to be shipped in or near there. This promotes flexibility in transportation and reduces transportation costs for agriculture, the "trip-lessee," and the "trip-lessor."

The decision by the Supreme Court mentioned above upholds rulings by the Interstate Commerce Commission which, in part say: (1) the life of said contracts between operators and authorized carriers must exceed thirty days; (2) the contract must be in writing; and (3) the contracts must vest exclusive possession of and responsibility for, the equipment in the authorized carriers during the rental.

This decision now places the problem in the hands of Congress. The Interstate Commerce Act may be amended by Congress to permit trip-leasing. Whether this will be done remains to be seen.

## **SOME ASPECTS OF CURRENT PROVISIONS OF STATE LAWS AND REGULATIONS AFFECTING MOTOR VEHICLES WHICH RESTRICT INTERSTATE MOVEMENT OF WESTERN AGRICULTURAL PRODUCTS**

### **A. Restrictions Arising From Registration Provisions**

#### **Fees**

Among the eleven western states there are no two which have closely similar registration provisions. In the West the most prevalent method for determining the weight fees associated with registration is on the basis of the unladen or net weight of a vehicle or combination. Seven of the eleven states use this method, though the actual charges vary considerably between those states. Montana and Washington base registration fees on gross or maximum loaded weight. Colorado uses rated capacity. Idaho has only a small registration fee as such and also collects mileage fees based upon type of operations, gross weight, and type of fuel used.

Several states actually have very small true registration fees, but the above mentioned weight fees are generally regarded as being part of registration in those states. In Wyoming vehicles must be registered in a county as well as in the state. These county fees are based upon a decreasing percentage of the factory price each year. Several states also impose excise taxes which are generally regarded as being part of registration.

TABLE 2.—FIRST STRUCTURE MOTOR VEHICLE REGISTRATION AND WEIGHT FEES FOR THREE SELECTED TRUCKS AND COMBINATIONS, ELEVEN WESTERN STATES, JANUARY 1, 1953

Truck or Combination	Arizona	California	Colorado	Idaho	Montana	Nevada	New Mexico	Oregon	Utah	Washington	Wyoming
3 axle truck and 2 axle semi-trailer	a \$259.50	d \$237.00	g h \$140.00	i j \$44.50	l m \$306.25	p \$94.50	s \$171.00	v \$147.00	y \$240.00	w x y \$536.50	v cc \$130.00
For hire—Diesel Net weight—tractor 12,000 lb. semi-trailer 9,000 lb. Gross weight—60,000 lb. "Factory," rated capacity of trailer 9.25 tons Tractor—10 ton class											
3 axle truck and 2 axle full trailer	b \$312.00	e \$347.00	h \$245.00	i j \$44.50	n \$225.50	q \$126.00	t \$342.00	v \$196.00	y \$495.00	y z aa \$745.25	v cc \$200.00
For hire—Diesel Net weight—truck 16,000 lb. trailer 12,000 lb. Gross weight—68,000 lb. "Factory," rated capacity truck 8 tons trailer 12 tons For Livestock Hauling Only											
2 axle private farm truck	c \$45.75	f \$46.00	h \$17.50	k \$75.50	o \$25.00	r \$29.25	u \$79.50	v \$32.50	y \$50.00	y bb \$131.50	v cc \$30.00
Not for hire—gasoline Net weight—6500 lb. "Factory," rated capacity—2 tons Gross warranty—16,000 lb. Max. gross weight 24,000 lb.											

includes \$252.50 in unladen weight fees, plus \$7 in basic registration fees, Basic registration \$4 after July 1.  
includes \$305 in unladen weight fees plus \$7 in basic registration fees, Basic registration \$4 after July 1.

- cIncludes \$42.25 in unladen weight fees plus \$3.50 basic registration fees. Basic registration \$2 after July 1.
- dIncludes \$225 in weight fees plus \$12 in basic registration fees. Also motor vehicle license fees (2% of market value as determined by the Department of Motor Vehicles) must be paid.
- eIncludes \$335 in weight fees plus \$12 in basic registration fees. Also motor vehicle license fees (2% of market value as determined by the Department of Motor Vehicles) must be paid.
- fIncludes basic registration fee of \$6 plus \$40 weight fee. Also motor vehicle license fee (2% of market value as determined by the Department of Motor Vehicles) must be paid.
- gAssumes 50-50 split of rated capacity between tractor and semi-trailer.
- hAlso "specific ownership" tax must be paid. Rate varies from 3% of 70% of factory list price the first year down to 3% of 15% of factory list price the 3rd year and then on down to \$1.50 minimum. This tax is subject to reciprocity.
- iIncludes \$20 deposit for truck and \$20 deposit for semi-trailer or trailer plus \$2.50 license plate fee for truck and \$2.00 license plate fee for semi-trailer or trailer. The deposit fees may be applied against mileage fees.
- jDoes not include mileage fees (See Table 5).
- kIncludes \$73 flat fee plus \$2.50 license plate fee.
- lIncludes \$252.25 in Use Fees plus \$20 in basic registration fees. Vehicles exclusively used for hauling livestock pay 60% of Use Fees.
- mAssumes a 50-50 split of load between tractor and semi-trailer.
- nIncludes \$205.50 in Use Fees plus \$20 in basic registration fees. If not used exclusively for hauling livestock Use Fees would be \$342.50. That is, for exclusively livestock hauling, Use Fees are 60% of regular fees.
- oIncludes \$15 registration fee plus \$10 gross weight fee.
- pDoes not include \$377.50 license fee. (See Table 5.)
- qDoes not include \$534 license fee. (See Table 5.)
- rDoes not include \$119.75 license fee. (See Table 5.)
- sWhen registered at least two years (otherwise \$199) and used exclusively for transportation purposes as a common or contract carrier and either a permit or a certificate is held with the State Highway Commission. If no permit or certificate is held, registration would be \$171 (or \$199) plus 3 cents per mile Port of Entry Tax. Vehicles transporting agricultural produce exclusively are exempt from the Port of Entry Tax.
- tWhen registered at least two years (otherwise \$418). Also see "s" above. Reciprocity is granted motor vehicles used in grazing livestock in New Mexico.
- uWhen registered at least two years (otherwise \$108). Vehicles transporting not for hire may elect to pay the Port of Entry Tax or register and pay fees to the Bureau of Revenue. Vehicles transporting agricultural produce exclusively are exempt from the Port of Entry Tax, or taxes in lieu of it. Reciprocity is granted to motor vehicles used in Grazing Livestock in New Mexico.
- vFlat registration fee for a vehicle (or like combination) of indicated light (net) weight.
- wTractor 28,000 gross weight, trailer 32,000 gross weight.
- xIncludes \$522.50 in capacity fees plus \$10 in basic registration fees, \$1 in filing fees, and special fees of \$1 on the semi-trailer and \$2 on the tractor. Capacity fees for the tractor are increased by 25% because it is propelled by other than gasoline.
- yDoes not include Excise Tax, 1½% of fair market value.
- zTruck 34,000 gross weight, trailer 34,000 gross weight.
- aaIncludes \$731.25 in capacity fees plus \$10 in basic registration fees, \$1 in filing fees and special fees of \$1 on the trailer and \$2 on the truck. Capacity fees for the truck are increased by 25% because it is propelled by other than gasoline.
- bbIncludes \$125 capacity fee plus \$5 basic registration fee, 50 cent filing fee, and a special fee of \$1.
- ccDoes not include county registration fees. Vehicles must be registered in one county in Wyoming whether or not domicile of owner is in Wyoming.

Table 2 shows registration fees for three selected trucks and combinations as of January 1, 1953, for the eleven western states. It is believed that the truck and combinations selected are fairly representative of motor vehicles which move the bulk of agricultural products interstate in the West. Table 3 shows corresponding first structure miscellaneous provisions.

The restrictions which arise due to registration provisions are of two kinds. First, there are restrictions caused by requirement of a large payment or full payment from an operator who will not "use" his registration enough to justify such an expenditure either due to infrequent or seasonal operations or unforeseen circumstances. Second, there are restrictions caused by the cumulative expenses and confusion caused an operator who must fully register all of his equipment in each of the several states through which he operates. For each of these kinds of restrictions there are partial solutions in many states. Short term registration is satisfactory for some seasonal operations. Reciprocity or its equivalent helps to relieve the burden of cumulative registrations in some other cases.

### **Nonresident's Reciprocity**

The question of how to tax and regulate interstate highway traffic has long been a problem. The Western Highway Institute says this is a result of "(1) the general absence of uniform laws in the motor vehicle field, (2) the critical or indifferent attitude of some state legislators and administrative officials toward nonresident vehicles, (3) pressure from competing transportation agencies to place as many barriers as possible in the path of long-haul truck or bus, (4) the desire to shield resident truck owners from possible out-of-state competition, and (5) the contrary desire to expedite the transportation of home products to out-of-state markets."<sup>40</sup>

When each state collects all of its fees and taxes from residents and nonresidents alike, nonresidents are faced with rapidly mounting cumulative fees as they operate in each additional state. Actual mileage and operations may be comparable with certain intrastate operations, but registration fees are more numerous and costly for interstate operations. Figure 5 gives visual evidence of the effects of lack of reciprocity. It shows the front of a truck virtually covered with license plates.

Reciprocity is supposed to help relieve this cumulative burden by making unnecessary the duplicate payment of certain fees. However, reciprocity is permissive and seldom extends to fees other than basic registration and associated weight fees even where reciprocal arrangements exist.

The problems encountered in achieving actual working reciprocity are twofold. First, some state officials say that the need for highway revenues is so great in their states that they cannot afford to extend reciprocity freely, if at all. Second, the diversity both as to type and

<sup>40</sup>*Interstate Fleet Reciprocity and Proration*, Technical Bulletin Series, No. 4, Western Highway Institute, San Francisco, Calif., October 10, 1950, p. 1.

TABLE 3.—MISCELLANEOUS FIRST STRUCTURE MOTOR VEHICLE PROVISIONS, ELEVEN WESTERN STATES, JANUARY 1, 1953

Miscellaneous First Structure Provision	Arizona	California	Colorado	Idaho	Montana	Nevada	New Mexico	Oregon	Utah	Washington	Wyoming
Reciprocity of registration	a	c	c	b	k	c	n	c	c	c	s
Single trip permits	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Fees	a	d	No	j	l	m	o	\$5	p q	r	\$2.50
Other	Monthly	Monthly	g	j	None	None	None	None	None	None	None
	None	\$3 f	None	None	None	None	None	None	None	None	None

aUp to 3 months' registration is allowed in any year upon payment of 1/10 of annual registration and unladen weight fees for each month so operated. Only one such permit may be obtained per registration year.

bApplies only to unladen weight fees. The \$3.50 basic registration fee is reduced to \$2 after July 1.

cIf the state in which the vehicle is registered grants like exemptions to vehicles registered in this state.

dFor each vehicle so operated.

eFrom month same become due. Applies only to motor vehicle license fees; other fees are not prorated.

fService fee.

gAfter May 1, 25% off; after October 1, 75% off.

hOnly small basic registration fees are subject to reciprocity. (See Table 2.)

iPer piece of equipment. Good for 72 hours.

jVehicles registered according to Schedule A. (gasoline propelled property carriers not exceeding 26,000 lb. gross weight) are given a 50% reduction after July 1. Minimum fee: trailers and semi-trailers, \$1; other vehicles, \$5.

kMontana Registrar of Motor Vehicles may enter into reciprocal agreements with any state when laws of said state extend the same privilege to motor vehicles registered in Montana.

lEach trip of 400 miles or less, \$6; over 400 miles, \$10. These fees are applicable to each vehicle.

mFee, 5% of annual license fee, minimum \$3.

nUp to 4 days per trip to vehicles registered in states which grant like exemptions to vehicles registered in New Mexico. If used exclusively for transportation of livestock, lumber, farm or dairy products from place of production to market or similar return trips, nonresident vehicles need not be registered in New Mexico.

oNo fee, but a single trip permit must be obtained if neither a permit or certificate from the New Mexico Corporation Commission is held. In addition regular vehicle registration fees and Port of Entry Tax fees must be paid if said permit or certificate is not held.

pThree months' registration may be obtained for 30% of annual registration fee. Trailer or semi-trailer pulled by a Utah registered tractor excepted.

qFee, 3% of annual registration fee, minimum \$2.50 per vehicle unit. Good for 96 hours. In lieu of a temporary permit, mileage fees on declared gross weight from 1/2 cent to 1 1/2 cents per mile may be paid.

rBasic fee, \$5 plus 1/12 annual capacity fee.

sTo vehicles, including the following registered in contiguous states (if such contiguous states grant similar exemptions): Trucks and combinations used by a farmer or rancher in transporting his produce from place of production to market and in transporting his own supplies on the return trip; trucks of gross unladen weight of 3,500 pounds or less; trucks and combinations (but not common carriers).



Figure 5.—Visual evidence of lack of reciprocity — many license plates indicate registration in many states.

rate of motor vehicle fees and taxes hampers working out of reciprocal agreements.

There are two reasons why the total highway user revenue accruing to a state may be less with severely limited or no reciprocity. The first reason is immediate and in the "short run." Motor vehicles from out-of-state avoid states with little or no reciprocity whenever possible unless operations are expected to be sufficient to justify payment of all required fees, keeping of records, etc. The other reason requires more circuitous reasoning and lies in the "long-run." Inadequate reciprocity increases costs of transportation and so makes an area where this condition exists a somewhat more costly place in which to do business than it otherwise would be. In a highly competitive economy this may be a significant factor in increasing unit costs, and so in reducing business volume, highway use, and highway user revenues in a state with little or no reciprocity.

The diversity and nonuniformity of methods of computing registration charges, i.e., gross weight, net weight, and rated capacity, and

the different rates make it difficult to find closely comparable fees to match for reciprocal purposes. Differences in types and rates of third structure taxes are even greater. It is this problem of matching "duplicate" charges that often makes actual granting of reciprocal concessions difficult. One highway organization has described this problem in these words:

It is next to impossible, as many administrators have found, to match up benefits between states which have a basic tax structure of a registration fee graduated according to weight and a fuel tax, and other states which have, in addition, a third-structure tax, either on a mileage, ton-mile, gross receipts, or a flat capacity basis.<sup>41</sup>

Lack of reciprocity results in added inflexibility in the trucking operation. Some states have avoided some of this inflexibility by creation of reciprocity commissions which are empowered to work out exchange of equal or like privileges. These commissions may enter into agreements with other states which set forth the conditions and extent of reciprocity. But, even where these commissions exist, reciprocal agreements which result rarely extend beyond registration and related weight fees.

Another practical problem which hinders actual working reciprocity is the existence of the so-called "bridge state." A bridge state is a nonterminal state with no large center of population and, consequently, few interstate truck operators domiciled within its borders. Most states require registration of all vehicles in the owners' state of domicile. When a bridge state grants reciprocity to a state in which many interstate truck operators are domiciled, a disproportionate number of vehicles may enter the bridge state without paying the reciprocated fees in relation to the number of vehicles from the bridge state which enter the other state without paying these fees. That is, equal privileges may be exchanged, but the relative advantages gained may be far from equal.

Attempts have been made by interested parties to work out practicable solutions to these problems of reciprocity and at the same time assure each state its fair share of highway user revenues from interstate operations. One of these plans would proportion fleet registrations according to relative mileage traveled in each state. Interstate fleet proration on such a basis assures that all states collect their fair share from registration of interstate fleets and it relieves fleet operators of multiple registrations. The states of Idaho, Oregon, and Washington have tried such a proration scheme. It is said to have met with approval and success.<sup>42</sup>

Interstate proration of fleet registrations seems to be a possible solution to some of the practical problems of reciprocity for fleet operators. But what if no fleet is involved? What about small operators? According to one party contacted during this study "it is almost impossible for the small trucker to pay full fees in each state and it (lack of reciprocity) has discouraged many small operators." The same party went on to say that "the general public is not yet educated

<sup>41</sup>Ibid, p. 3.

<sup>42</sup>Ibid, p. 6.

to the value of these small truckers . . ." He cited an example of two *small* truckers who carried 1,250,000 pounds of meat into two neighboring states in a recent year. The same situation also exists in regard to certain contract operations regardless of size, especially short-term operations.

And from the standpoint of neighboring states, what concessions can be made to them as a direct offset for registration fees foregone in extending reciprocity to such operators from other states? Partial registration of the same piece of equipment in several states seems improbable and cumbersome if not practically impossible on a fair basis.

Next to Idaho, which has cancelled all reciprocity agreements, Arizona has the least adequate reciprocity of the eleven western states. Arizona extends reciprocity only to nonresident owners domiciled in an adjoining state within 25 miles of the Arizona border and under certain other specified conditions. One large produce house contacted during this study described the problems created by this virtual lack of reciprocity in Arizona in this way:

Reciprocity inadequacies and registration requirements and fees are restricting free flow of fruits and vegetables from Arizona to points of destination in the other western states. Considerable trucking is done by the exempt agricultural haulers whose tonnage from Arizona does not warrant, nor justify payment of the present license fees. To move this traffic, therefore, it is necessary to have this traffic trucked from Arizona into California by an Arizona licensed truck and then make transfer to equipment properly licensed for reciprocal movement to the other states.

Where reciprocity is severely limited, it appears to constitute the most serious "barrier" to interstate motor transport today according to persons in the industry contacted during this study. At least this seems to be true for certain types of operations. The effects of lack of reciprocity in Idaho were described in the following words:

Lack of reciprocity is the major item in this state today. Losses are relatively few, but the smaller operators just cannot stand the full burden of full licensing in each individual state. They will eventually be put entirely out of business which, in my opinion, is not good for the over-all economy of the State of Idaho, nor the bordering states.

Sometimes a trucker desires to make only one or an occasional trip into a given state in a year. For this purpose many states make available a one-trip permit for a few dollars. One state in the West, Washington, requires a payment of the basic registration fee of \$5 per unit plus 1/12 of the annual capacity fee. By the time these and other fees are paid, it is reported that fees may total as much as \$135 to \$150 for a large truck combination. Requirements such as these may result in much confusion and waste as the following example illustrates.

In the autumn of 1952, a carrier backed his truck up to the dock of one of the shippers in Yakima, Washington, to take a load of apples destined to Minnesota. After he was three-fourths loaded, an employee for the Washington Public Service Commission drove up to check his papers, and told him that he must purchase a permit. Rather than make such a purchase, he asked the shipper for permission to unload the fruit from his truck, and he drove away and out of the state empty.

#### **B. Restrictions Arising From Tax Provisions**

The largest sums collected from highway users in most states are those resulting from fuel and special taxes. Within a state, fuel

taxes on gasoline and other propellants, such as Diesel oil, butane, and propane, are usually at the same rate per gallon or power potential equivalent. One state in the West, Wyoming, collects one cent more per gallon on gasoline than on other fuels. Effective January 1, 1952, the use fuel tax on Diesel oil, etc., in Idaho was repealed in favor of higher mileage fees for vehicles using fuel other than gasoline. Previously the use fuel rate had been the same as the rate for gasoline. Truckers report that it is necessary to keep elaborate records of fuel use in many states to avoid double taxation. Table 4 shows fuel tax rates (often called second structure taxes) as of January 1, 1953, for the eleven western states.

Special taxes paid by highway users are often designated as third structure taxes. They include gross receipts taxes and numerous types of capacity and weight fees. The latter types mentioned are often based partially upon mileage. Also included in the third structure category are operating authority and other fees which are supposedly levied to provide recompense for official services. If these are sufficiently large the revenue function may be predominant. Then such charges cease to be "fees" and, at least in part, actually become "taxes." Table 5 shows third structure fees and tax rates as of January 1, 1953, for the eleven western states.

Of all the third structure taxes now in existence, two are almost universally condemned by highway carriers. These are ton-mile levies and gross receipts taxes. Trucking interests claim that ton-mile and related third structure taxes are objectionable in practice and founded on fallacious reasoning as to what good highway use tax structure should be. Truckers say that other taxes, such as real estate taxes, are not differentiated according to use between commercial and private holdings and that the same principle should apply to highway use. They also object to the complexities and high costs of administration. On the other hand, "it is well known from engineering facts that both miles traveled and weight carried are important functions of highway use and in the aggregate are closely related to investment and maintenance requirements."<sup>43</sup>

Established reputable highway carriers seem to object to gross receipts taxes most of all because of evasion by illegal operators. The rate of tax is usually higher for common and contract carriers than for private carriers if there is any tax on private operators at all. Illicit operations of a common or contract nature are carried on under the guise of private operations to evade this tax. Apparently the extent of such illegal operations is large.

Probably some of the third structure taxes are inequitable as to their relative effects on interstate and intrastate operations as well as in revenue produced. The wide range in total motor-carrier tax receipts<sup>44</sup> which are not necessarily in proportion to relative

<sup>43</sup>Nelson, Dr. James D., *Taxing Washington's Motor Vehicles Equitably for Highway Services*, a report submitted to the joint fact-finding committee on highways, streets, and bridges of the State of Washington, September 23, 1950, p. 16.

<sup>44</sup>Brisbine, Dawes E., and Fisher, W. Yule, *The Ton-Mile Tax and Related "Third Structure" Taxes*, National Highway Users Conference, Inc., 938 National Press Bldg., Washington, D.C., December 1, 1950, Appendix A.

TABLE 4.—SECOND STRUCTURE MOTOR VEHICLE TAXES, ELEVEN WESTERN STATES, JANUARY 1, 1953

Second structure tax	Arizona		California		Colorado		Idaho		Montana		Nevada		New Mexico		Oregon		Utah		Washington		Wyoming	
Gasoline tax, c per gal.	5	4½	6a	6b	6c	5½ <sup>e</sup>	6f	6	6g	6	6½	6	6	6	6	6	6	6	6	6	6	6
Use Fuel tax, c per gal.*	5	4½	6	Nonec	6	5½	6	6	6	6	5½	6	6	6	6	6	6	6	6	6	6	6

\*Or power potential equivalent.

<sup>a</sup>Two cents of this tax expire June 30, 1953.

<sup>b</sup>Sufficient gasoline must be purchased in Idaho for operations in Idaho; otherwise mileage tax is computed by using the higher rates for vehicles propelled by other than gasoline.

<sup>c</sup>Effective January 1, 1952, the Use Fuel Tax Act was repealed in favor of higher mileage taxes for vehicles propelled by other than gasoline. (See Table 5.)

<sup>d</sup>This rate will be effective until anticipation debentures are retired (not later than 1956).

<sup>e</sup>One and one-half cents of this tax expire June 30, 1953.

<sup>f</sup>This rate will decrease to 5 cents on retirement of certain highway debentures. Also municipal taxes up to 1 cent per gallon must be paid.

<sup>g</sup>Commercial vehicles using fuel other than gasoline are required to pay higher transportation (mileage) taxes than gasoline-using vehicles, but are exempt from the Use Fuel Tax. (See Table 5.)

economic size or highway mileage of the states would seem to indicate the latter. However, states, having found a lucrative source of income in such taxes, are hesitant in doing anything which may reduce these revenues.

### C. Restrictions Arising From Weight and Dimension Provisions

In years past, weight and dimension restrictions were serious impediments to the interstate movement of large motor vehicles and combinations in all parts of the United States including the West. At the present writing (March, 1953) most of the western states' limitations coincide with or exceed the recommendations of the American Association of State Highway Officials regarding dimensions. Oregon is the only state in the West with any dimension limits below AASHO recommendations. This is not to imply that dimension limits are virtually uniform throughout the West. Differences still exist between neighboring states due to variations, although mostly above AASHO recommendations. Some states grant special exemptions to certain agricultural products, e. g., greater width limits for loose hay in California.

Somewhat more variation exists in gross weight limits in the Western Area than in dimension limits. On the average, though, the most liberal weight limits in the entire United States are found in the Western Region. The State of Washington has the lowest practical gross weight limits for some relatively small trucks and combinations, which probably are not of much importance in interstate movement. But except for these, the weight limits in the Western Area are as high or higher than generally permitted elsewhere in the country. Higher axle load limits in some states, especially in the East, permit greater gross weight on equipment with few axles. Permits for oversize and overweight are available in each of the western states except Nevada. However, regular Nevada size and weight limits are generally the most liberal of any western state. A few states grant special exemptions or higher weight limits to certain agricultural movement, e. g., 20 per cent overload allowed without permit for livestock or agricultural products of New Mexico in New Mexico.

Some agricultural products produced in the West must be quickly moved great distances to market because of their perishable nature. For example, large volumes of fresh fruits and vegetables produced in the West must be moved quickly from 1 to 3,000 miles to market. Because of the rapid, flexible, and specialized service which can be provided by motor vehicles, a large proportion of such movement is done by motor vehicle. The U.S. Department of Agriculture has estimated that in 1949 between 40 and 50 per cent of total shipments of fresh fruits and vegetables was moved to market by truck.<sup>45</sup> Problems of weight and dimension limits are encountered in the interstate marketing of western produced agricultural products, but mostly to movement from the Western Area.

<sup>45</sup>Kitchen, C. W., Statement before the subcommittee on Domestic Land and Water Transportation of the Senate Interstate and Foreign Commerce Committee pursuant to Senate Resolution 50, July 25, 1950, p. 4.

TABLE 5.—THIRD STRUCTURE MOTOR VEHICLE TAXES AND FEES FOR PROPERTY CARRIERS, ELEVEN WESTERN STATES, JANUARY 1, 1953

	Arizona	California	Colorado	Idaho	Montana	Nevada	New Mexico	Oregon	Utah	Washington	Wyoming
Third structure tax or fee											
Mileage tax	None	None	2 mills	j	None	None	1½ to 1½ c p	s	v	None	1 to 2 mills
Gross receipts tax	a 2½%	c 3%	None	None	2%	None	2%	None	2%	1½%	None
Operating authority— Interstate											
Common carriers	b \$25	d \$50	f i \$20	k \$12.50	m \$15	n o \$377.50	q r \$90	t \$25	w \$25	z \$25	cc \$5
Contract carriers	b \$25	d \$50	g j \$5	k \$12.50	m \$15	n o \$534.00	q \$50	t \$25	v w \$25	z \$25	cc \$2.50
Private carriers	None	None	None	None	None	n o \$119.75	None	None	None	None	cc \$2.50
Identification plate fee, per vehicle	\$2	None	None	None	None	None	None	u \$2.50	y	aa \$3	\$2.50

a Private carriers exempt. Interstate receipts are taxed in proportion to Arizona mileage.

b For filing or transfer. Renewal fee, \$5. Lease application fee, \$2. Also \$2 advertising fee must be paid.

c One third of weight fee allowed as annual credit, but not to exceed 3% exclusive of payments to subhaulers. Subhaulers may be refunded up to 1/3 of registration fees not to exceed 3% of taxable gross receipts. License fee, \$5. Interstate receipts prorated. Private carriers exempt. (Also see Operating Authority.)

d For application, transfer, or encumbrance of a certificate; plus \$1 per quarter and ¼% tax on gross receipts. Fee for each application to sell, mortgage, assign, transfer or otherwise encumber a permit, \$25.

e Per revenue ton mile. Cash deposit required in amounts of \$10 to \$2000, but not less than 1½ times estimated monthly tax.

f Includes \$15 application fee and \$5 issuance fee.

g Operation under specific contracts. Known in Colorado as "Private" carriers.

h Operation in furtherance of private commercial enterprise in owner's own or leased vehicles. Known in Colorado as "Commercial" carriers.

i Fee to transfer either a certificate or a permit, \$5.

All vehicles over 26,000 pounds gross weight must pay mileage fees based upon gross weight, type of operations (property or passenger), type of fuel used, and mileage operated in Idaho. The rates vary from 10.38 mills per mile for gasoline propelled property carrying vehicles of 26,001 pounds to 25.7 mills per mile for vehicles propelled by other than gasoline, and weighing 36,000 pounds. Over 36,000 pounds the fee is the rate for 36,000 pounds plus 0.38 mills per mile for each additional ton or fraction over 36,000 pounds. Gasoline propelled property carrying vehicles with gross weight not exceeding 26,000 pounds pay flat fees and gasoline taxes instead of mileage taxes. Annual reports of mileage operated in Idaho by each vehicle must be filed for mileage tax purposes and also a deposit of \$20 per vehicle must be made. Mileage fees may be credited against this deposit. (Also see Table 2.)

kTransfer or assignment fee, \$5. Duplicate permit fee, \$3.

lAnnually, quarterly  $\frac{1}{2}$ %. Annual minimum, \$30 per common carrier vehicle. This tax is based on all revenue beginning and ending within Montana and a proportion (based on mileage traveled) of revenue from business passing through, into or out of Montana.

mDoes not include certificate fee, \$2.

nNo fee for certificate and special plates, but the special license fees listed must be paid.

oThese are not operating fees as such, but rather are special license fees which must be paid.

pPer mile (if carrier holds a permit or certificate with the New Mexico Corporation Commission). Every trailer and semi-trailer is considered as a separate vehicle. If the tractor carries no load other than trailer or semi-trailer, the mileage tax applies only to trailer or semi-trailer. When the carrier holds neither a permit or certificate with the Commission a single trip permit and registration and Port of Entry Taxes must be paid. Port of Entry Tax rate— $1\frac{1}{2}$  cents to 3 cents per mile depending upon gross weight. Exclusively agricultural carriers are exempt from taxation.

qIf neither a permit or certificate is held with the Commission the following fees must be paid in lieu of all other fees: Vehicle registration fees as required of residents; Port of Entry Tax on gross weight of vehicle and cargo at rate of  $1\frac{1}{2}$  cents to 3 cents per mile, depending upon such gross weight; and a single-trip certificate must be obtained.

rIncludes interstate common carrier certificate of registration fee, \$40. Transfer of lease fee, \$25.

sCommon, contract, and private carriers are required to pay a transportation (mileage) tax based upon gross ton-mileage operated in Oregon, with rates varying according to the type of motor fuel used. Gasoline propelled vehicles pay 1.5 to 48 mills per mile, plus  $2\frac{1}{2}$  mills per ton or fraction over 76,000 lbs. declared combined weight. Gasoline propelled vehicles over 18,000 lbs. declared combined weight may pay \$35 to \$140 flat fee in lieu of mileage fees. Nongasoline propelled vehicles pay 5.5 to 68 mills per mile, plus 3 mills per ton or fraction over 76,000 lbs. declared combined weight. Nongasoline propelled vehicles up to 18,000 lbs. may pay \$125 to \$290 flat fee in lieu of mileage fees. Flat fees are not available to vehicles over 18,000 lbs. declared combined weight, either gasoline or nongasoline propelled. Flat fees may be paid quarterly.

tIf public hearing is required, otherwise no fee. These fees are subject to reciprocity, however, interstate operators enjoying such reciprocity must obtain operating authority permits (no fee) and pay the Transportation (mileage) Tax.

uOn issuance only. Temporary or single trip sticker, fee \$1. Operation not to exceed 10 days.

vMileage fees of  $\frac{1}{2}$  cent to  $1\frac{1}{2}$  cents per mile (depending upon gross weight) may be paid in lieu of single trip permit fees. (See Table 3.)

wSee Table 3, Single Trip Permit.

xNo fee but permit must be obtained.

yCommon and contract carriers; private carriers, 25 cent fee payable once only.

zValid until cancelled.

aaPer truck annually plus fee of \$7 to \$22 on each truck, trailer, or semi-trailer depending upon gross weight.

bbPer ton mile on unladen weight. Motor vehicles over 4000 lbs. unladen weight, 1 mill. Trailers, 2 mills. Semi-trailers,  $1\frac{1}{2}$  mills. Motor vehicles using fuel other than gasoline pay 1 mill plus 4 cents per gallon of fuel used. Motor vehicles, 4000 lbs. or less unladen weight, \$5 annually or 50 cents monthly.

ccIssuance and renewal fee.

Immediately as large heavy combinations move out of the Western Area they encounter substantially lower weight and dimension limits. Of all dimension limits, length limits are the most restrictive. For example, each of the western states allows lengths up to at least 60 feet for largest legal combinations.<sup>46</sup> (See Figure 6—Note: Blocked-in squares indicate maximum length in each state). These liberal length limits are in striking contrast to those in the remainder of the United States. Eighteen of the states outside of the western eleven restrict overall length to 45 feet. And the states are so arranged geographically as to make it impossible to truck into most of the large population centers of the Midwest, South, and East without going through one or more of these "45-foot" states. Actually only four states outside of the eleven western states allow any combinations to exceed 50 feet in length without special permit.

Similar situations exist with regard to other vehicle dimensions and especially to gross weights (see Figure 7). Of the eleven western states only Oregon restricts maximum gross weight for the tractor semi-trailer in Figure 7 to less than 68,000 pounds. Oregon allows only 60,000 pounds. However, in the other thirty-seven states and the District of Columbia the *average* maximum gross weight is only 58,947 pounds. This is about 1,000 pounds less than the lowest state in the West and about 14,000 pounds less than the average for the West.

The liberal limits which prevail in the West are not generally permitted elsewhere. Therefore the size of individual shipments of agricultural products from the West by motor vehicle are limited to the lowest limits of any state through which the shipment passes.

A freight broker contacted during this study offered the following "horrible example" of difficulties encountered by western trucks in midwestern states:

In July, 1951, a trucker loaded in California with oranges and grapefruit, destined to Omaha, Nebraska. He passed the port-of-entry at the border of Nebraska about noon of the third day, where he bought a temporary permit from a State employee which would allow him to run through the State of Nebraska. When he reached a point about fifty miles from Omaha, four miles east of Central City, Nebraska, he was stopped by a State Patrolman who ordered him back to Central City because he was overlength and overheight. He was also overweight, but he was not charged with overweight because they did not have a scale on which to weigh him. They ordered him to transfer the cargo to the other trucks for transportation into Omaha. He says that there was \$800 due him, but he got nothing for the transportation, that the truckers who took over the cargo collected all the freight. He was taken into court and given a fine of \$120, and ordered to ship his truck out of the State on a flat car. Needless to say, this truck owner never made another trip to Omaha.

<sup>46</sup>Only under special permit in Oregon. Ordinary maximum length limit in Oregon is 50 feet.

Figure 6.—Maximum Legal Length for the Largest Motor Vehicle Combinations, 48 States and the District of Columbia, January 1, 1953.

FEET	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	FEET
NR																																						NR	
85																																						85	
65																																						65	
60†																																					60†		
55																																					55		
50																																					50		
45																																					45		
40																																					40		
35																																					35		

NR — No restriction.

† Recommended lowest maximum by the American Association of State Highway Officials.

\* Under special permit only.

Source: Adapted from data of the National Highway Users Conference, effective January 1, 1953.



There is still progress to be made before absolute uniformity of size and weight limits is an accomplished fact in the West. And this assumes that absolute uniformity is possible and desirable, which may not be true. Even so, at the present time motor vehicle weight and dimension limits appear to be among the less important factors restricting the interstate movement of agricultural products *within the Western Area*, Oregon possibly excepted. It is the movement *from the Western Area* by motor vehicle that weight and dimension limits seriously restrict.

It is not the purpose of this study to judge the soundness of the size and weight limits of any state. It is believed, however, that attention should be given to the problem just discussed by state highway officials and other interested parties of all sections of the country with the purpose of achieving greater uniformity of weight and dimension limits between the West and other parts of the Nation.

#### **D. Restrictions Arising From Merchant Trucker Provisions**

As pointed out elsewhere in this report, most of the restrictions with which this report concerns itself were fostered by and grew out of the depressed condition of the 1930's and that since then little change has taken place either toward greater or lesser restrictions. This is especially the case with regard to merchant trucker provisions.

More variation exists in merchant trucker provisions from state to state in the West than in most other types of restrictions affecting interstate movement of agricultural products by motor vehicle. This is largely because nine of the eleven western states require or allow counties to license or require a bond or deposit. One state empowers the council of any town or city to regulate and license transient merchants. Such county or city requirements may be in addition to and duplicate state requirements.

Table 6 presents the major features of merchant trucker licensing and bonding requirements in the eleven western states as of January 1, 1953.

Although many fees, taxes and requirements are placed upon merchant truckers, there is not a great deal of agitation either to have the present provisions done away with or to add more restrictions. Probably the main reason is that operations of merchant truckers tend to contract during periods of high employment such as the last decade. There are ample market outlets through regular channels for products and ample job opportunities exist without resorting to merchant trucker operations on a large scale. Of course, the restrictions which still exist are also significant deterrents in some states.

#### **E. Restrictions Arising From Financial Responsibility Provisions**

"Adequate" insurance or other security for public liability, and property damage is required to be provided by common, contract, and private carriers. Amounts per accident deemed "adequate" for common and contract carriers vary more from state to state in the West than do comparable amounts required of private carriers. Amounts for the latter in the West are \$5,000 for death or injury to one person,

TABLE 6.—MERCHANT TRUCKER LICENSING AND BONDING PROVISIONS, ELEVEN WESTERN STATES, JANUARY 1, 1953

	(One operator unassisted with two axle truck)			
	License Fee or Tax		Bond or Deposit*	
	County	State	County	State
Arizona	\$200			
California <sup>E</sup>		\$20		
Colorado	125			
Idaho	300		\$500	
Montana		100		\$1,000
Nevada	100 <sup>b</sup>			
New Mexico	300	25		
Oregon <sup>E</sup>	100		100	
Utah	c			
Washington	300		500	
Wyoming <sup>a</sup>	200	10	500 <sup>d</sup>	500

<sup>a</sup>Council of any city or town is empowered to regulate and license transient merchants.

<sup>b</sup>Per month or fraction.

<sup>c</sup>County commissioners may license, tax, etc. Actual fees not set out.

<sup>d</sup>First year only. Deemed to be a resident after first year.

<sup>e</sup>To be returned subject to deductions for fines, etc.

<sup>E</sup>Calif., Exemptions include (1) transporter who has no interest in goods transported; (2) Farmer transporting own produce.

<sup>E</sup>Oregon, Exemptions (1) Selling of agricultural products by the producer thereof; (2) Peddling of any agricultural products produced in Oregon.

\$10,000 for death or injury to two or more persons, and \$1,000 for property damage in any one accident (except Nevada requires \$5,000 for property damage). (See Table 7.) Exact amounts of insurance or other security required to be provided by common and contract carriers are not specified by many states. The form and amount is determined by the Public Utilities Commission or its equivalent in most western states. Such requirements as are designated are usually double or more the requirements for private operators. In addition, cargo insurance or security is required of common and contract carriers by most states in the same manner and form, i.e., Public Utilities Commission determination.

An objection that some truckers have regarding insurance is that certain states do not allow trucks to proceed to destination until the insurance which a carrier holds has been OK'd both as to adequacy and whether legal in such state. It is reported that Oregon holds trucks at highway stations until these and other matters are cleared by the truck driver. Regular carriers know about this and make advance arrangements. Small operators often don't or cannot make advance arrangements in time when a load is available. One small operator reported that he doesn't operate through Oregon because of this and other difficulties and that he would "detour" many miles to avoid Oregon.

But it is not so much differences between state requirements that common and contract carriers object to as it is the lower requirements for private carriers and most of all the frequent evasion by private carriers of all financial responsibility requirements. It would appear that purposeful evasion of legal requirements can never be justified.

TABLE 7.—PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE OR SECURITY REQUIREMENTS, ELEVEN WESTERN STATES, JANUARY 1, 1953

	Private Carriers, per Accident			Common or Contract Carriers, per Accident		
	One death or injury	Two or more		One death or injury	Two or more	
		deaths or injury	Property damage		deaths or injury	Property damage
Arizona	\$5,000	\$10,000	\$1,000	a	a	a
California	5,000	10,000	1,000	\$15,000	\$30,000	\$10,000
Colorado	5,000	10,000	1,000	b	b	b
Idaho	5,000	10,000	1,000	5,000	c	1,000
Montana	5,000	10,000	1,000	d	d	d
Nevada	5,000	10,000	5,000	e	e	e
New Mexico	5,000	10,000	1,000	10,000	20,000	1,000
Oregon	5,000	10,000	1,000	f	f	f
Utah	5,000	10,000	1,000	g	g	g
Washington	5,000	10,000	1,000	h	h	h
Wyoming	5,000	10,000	1,000	i	i	i

a\$10,000 for one vehicle, \$5000 for each additional vehicle, maximum of \$100,000 for any number of vehicles.

bForm and amount as the Colorado Public Utilities Commission may require.

cAmounts as the Idaho Public Utilities Commission may require.

dForm and amounts as the Montana Board of Railroad Commissioners may require.

eBonds or insurance in amounts the Nevada Public Service Commission may deem just and reasonable.

fForm and amounts as the Oregon Public Utilities Commission may require.

gInsurance or bond in amounts specified by the Utah Public Service Commission.

hInsurance or security upon such terms and conditions as determined by the Washington Public Service Commission.

iAdequate insurance or security as the Wyoming Highway Commission shall determine will fully protect the public.

#### F. Restrictions Arising From Miscellaneous Provisions

Miscellaneous provisions with which motor carriers must comply include equipment requirements and markings, certain aspects of plant and animal quarantines and brand inspections, maintenance of certain records and accounts, and other requirements in some states.

Each of the western states has adopted or otherwise made large portions of its equipment requirements in substantial agreement with Part III (Parts and Accessories Necessary for Safe Operation), Interstate Commerce Commission Motor Carrier Safety Regulations (Revised Edition).

In many states slight departures have been made from the text of the Federal Regulations. Some conflicts still remain between state statutes and regulations on the one hand and the I.C.C. regulations on the other. Gradually these are being ironed out. Often this has been accomplished by instructions to enforcement officials, thus in practice eliminating conflict between statutes and regulations.

Although there are not as yet supporting judicial decisions, it appears that practical uniformity as to equipment requirements is being achieved for interstate common and contract carriers.

There remains a field wherein lack of uniformity can burden the operator between states, (for example, vehicles not subject to Federal regulation). There is also an area on conflict as to certain equipment devices, such as directional signaling devices, not required by the I.C.C. but which numerous states do require.

Many of the conflicts arising will have to wait eventual solutions by the courts. In many instances the states grant reciprocity (i.e., exemption from the requirements) to out-of-state operators, either by statutes or by agreement. The operator can usually ascertain the existence and the extent of such reciprocal

privileges by communicating with the motor vehicle authorities of his home state or of the state into which he intends to operate.<sup>47</sup>

Not uncommonly carriers are charged with the responsibility of seeing that required inspections are made and certificates obtained as required by quarantine and brand inspection laws. With these provisions, as with many others, it is not so much a question of their necessity and desirability which irk carriers as it is the worry, bother, delay and associated increases in costs which some of them do not regard as rightfully the transporter's responsibilities.

Anything which further complicates paper work or necessitates keeping of more records and accounts is sure to be unpopular with motor carriers. As previously pointed out, motor carriers must keep records of their gross operations for various tax purposes. They must keep records of fuel purchases and mileage for fuel tax purposes. Sometimes records must be kept for certain commodities carried and various states require other periodic, annual, or special reports. Such reports and records, etc., are largely in addition to the regular business records which any carrier must keep for its own day-to-day operations. A different set of records may be required for each state. The average trucker engaged in operations, such as interstate livestock hauling, may find the many sets of elaborate records are too complicated for him to keep without extra clerical help. This may be out of the question for certain operators, especially small ones.

#### **G. Restrictions Arising From Nonuniformity**

Nonuniformity of requirements and procedures has been touched upon in each of the specific sources of restrictions just discussed. When all the phases of nonuniformity are considered as a group, they constitute what the authors believe to be the most important "barrier" to the interstate movement on agricultural products within and from the West of any of the factors considered in this publication. However, many of the established carriers contacted seemed to have become so accustomed to these difficulties that they did not report nonuniformity as being a major problem. Why, then, is nonuniformity considered to be the major problem of interest to this study?

The answer to this question lies largely in the characteristics of different types of motor carriers, i.e., "regular" (routes and service) and "irregular," and their adaptability to the scattered, seasonal, and otherwise irregular and specialized nature of much agricultural marketing, especially the more perishable commodities. Certificated carriers do not seem to be well adapted to the marketing of such commodities as the following quotation relating to fresh fruits and vegetables indicates:

The transportation requirements for marketing fresh fruits and vegetables are not comparable with those for marketing fish and other commodities. The production of fresh fruits and vegetables is widely scattered. There are hundreds of shipping points and many are not readily accessible to certificated common carriers. There are also many hundreds of market outlets, and many are not served by certificated common carriers. While there are certain areas to which fresh fruits and vegetables are transported satisfactorily by certificated carriers,

<sup>47</sup>*Equipment Requirements for Motor Vehicles*, Motor Vehicle Law Reporting Service No. 3, National Highway Users Conference, Inc., 938 National Press Bldg., Washington, D.C., p. 5.

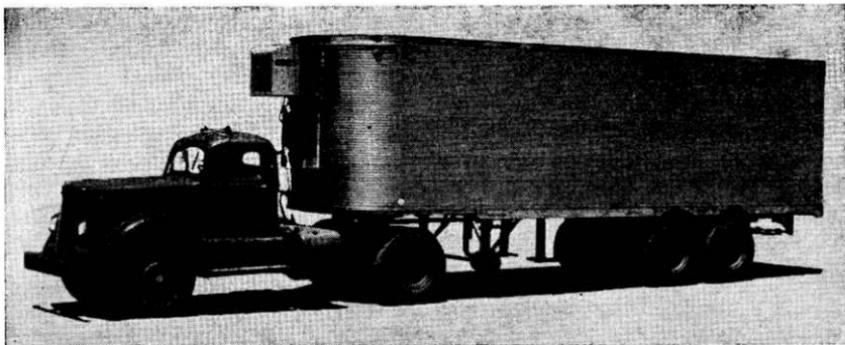


Figure 8.—A typical refrigerated tractor-semi-trailer combination used to transport agricultural perishables.

it is our opinion that on the whole certificated common carriers are not greatly interested in developing the large-scale movement of fresh fruits and vegetables as a primary source of revenue.<sup>48</sup>

The type of carrier well adapted to transportation needs as just described is the "irregular" carrier, both private and contract. These operators provide flexibility needed to avoid maintenance of excess transportation capacity in any area to meet peak needs and at the same time provide flexibility of route and of pick-up and delivery along with rapid and individualized service so important in the marketing of seasonal agricultural commodities, especially perishables. Figure 8 shows a typical refrigerated tractor, semi-trailer combination used to transport such perishables. These operators report that it is practically impossible for them to keep abreast of all the requirements of all the states as jobs develop and take them into different states. Some appreciation of this problem was developed by the authors in working up the 1st, 2nd, and 3rd structure charges which appear in this report.

Because the "irregular" type of carrier tends to be relatively small and lacking effective group organization, his pleas for greater uniformity of requirements receive little attention and publicity. The membership of most trucking associations is composed largely of "established common and contract carriers" running fairly regular routes and schedules. It was pointed out above that such carriers do not seem to consider nonuniformity of requirements and procedures between states of primary importance, at least as affecting their operations. And this is probably the case regarding their regular operations through the same states year after year. Therefore, there is no well organized effort by trucking interests at this time to achieve greater uniformity. Greater uniformity would benefit the motor carrier industry as a whole, though probably so-called "irregular" operators would benefit more than "regular" operators. The importance of "irregular" operators to agriculture, their adaptability to, and their economic efficiency in marketing of seasonal agricultural commodities are the reasons for the emphasis here.

<sup>48</sup>Kitchen, C. W., *op. cit.*, p. 3.

That "irregular" operators have violated many laws cannot be denied. Lack of proper regulation and enforcement has allowed carriers permitted by law to transport only exempt agricultural commodities to operate more or less at will in many areas hauling all types of traffic irrespective of the legal limitations. There is no intention here to condone any violation of laws, especially willful violations such as these. However, irregular operators also violate laws frequently and often unintentionally due to nonuniformities. From talks with such truckers it would appear that not nearly as many violations would occur if requirements and procedures were more uniform.

It is realized that complete uniformity of motor vehicle laws and regulations between states is not practicable. Factors such as different costs of building and maintaining roads, volume and type of traffic, weather conditions, etc., in different states preclude the possibility of absolutely uniform requirements. But it would appear that if there were a sincere desire to achieve more uniformity, much could be achieved on both regional and national bases.

To be more specific, it does not appear necessary for so many different taxes to be levied on motor vehicles by different states and in so many different ways. The important things are the revenues accruing to each state and that taxes are collected in an equitable manner from highway users. If some practicable plan were worked out for administration, the same tax or taxes could be levied in each state and in the same manner with the same forms, etc. Only the rates would need to vary.

Currently there is a plan based upon this general principle which has been developed by the National Association of Tax Administrators and endorsed with modifications by the Council of State Governments.<sup>49</sup> This plan would have interstate motor carriers pay a mileage tax in each state so designed and at such rates as would eliminate many of the present nonuniformities. It would, also, result in substantially the same payments per mile from each interstate highway user and the same revenue per mile accruing to each state as from comparable intrastate operations. The plan is probably not perfect and, as of this writing, has been opposed in a statement of position by a Conference of Presidents and Managers of the Motor Transport Associations of the eleven western states.<sup>50</sup> This statement included the following:

" . . . we are aware that the plan under study may contain the initial framework for the solution of some immediate problems . . ." but, "We are agreed that the plan, as proposed, violates certain fundamentals of our industry's historic position."

Listed among these violations were: (1) abandonment of the principles of reciprocity and proration; (2) segregation of segments of the industry for special tax treatment; and others.

<sup>49</sup>"A Practical Program to Improve Taxation of Interstate Highway Use," A Resolution Adopted by the National Association of Tax Administrators, Twentieth Annual Conference, Asheville, North Carolina, June 11, 1952, p. 36 .

<sup>50</sup>Assembled at Phoenix Arizona, December 10, 1952.

Regardless of the outcome of the above plan, its proposal is encouraging. It indicates that work is being done to simplify and make more uniform the motor vehicle taxes encountered in interstate commerce.

A positive approach to the general problem on nonuniformity should be taken by all motor carriers and all state and national motor vehicle officials. Farmers and farm organizations should take an active part also. Programs which result should have equitable effects industry wide and nation-wide. The programs should also be fair to all parties and capable of easy, inexpensive and thorough administration and enforcement. As the authors see it, nonuniformity of requirements and procedures between states is the most important cause of restrictions to the interstate movement of agricultural products by motor vehicle within and from the eleven western states.

### ECONOMIC NOTE

It is necessary to point out that, while trade barrier activity constitutes a portion of what is commonly known as the "market margin," the farmer's share of the consumer's dollar is not entirely dependent on this margin. True, the farmer's share is a function of whatever happens between producer and consumer, but his share of the retail dollar is also a function of the *retail value* of the product he is selling. And retail value of agricultural commodities is dependent upon general conditions of income and employment.

The demand for a product at retail need not be related to the demand for "marketing services" of which market margins are a direct function. *But the important point for the present analysis is to point out that the portion of agricultural market margins taken up by trade barrier activity need have no specific demand function.* Because of this, it is difficult to relate the economics of barrier legislation to other economic phenomena such as transportation charges, which are a payment for productive services, and retail value of farm products. That there is a "barrier margin" resulting from various restrictions and taxes on truckers, there can be little doubt. Extraeconomic influences, however, are often more significant in determining their direction and extent than are purely economic influences.

As was pointed out on page 17, "trade barriers," because they increase transfer costs on commodities, may result in decreased consumption of these commodities. However, the increased transfer costs may not effect either revenue taken in by a state or the profits of truckers. Because of demand elasticity considerations, though, the profits of agricultural producers may be reduced. Therefore, the possibility that both producers and consumers of an agricultural product will be penalized simultaneously by the erection of a trade obstacle is not a unique economic phenomenon. This is obviously the normal case in the situation where the commodities discriminated against (by, say, a tax or fee on truckers) are being largely consumed by low income families, and where the demand for the commodities at the producer level is relatively elastic.