

Decision No. 33226

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Establishment of maximum or minimum, or maximum and minimum rates, rules and regulations of all common carriers as defined in the Public Utilities Act of the State of California, as amended, and all highway carriers as defined in Chapter 223, Statutes of 1935, as amended, for the transportation for compensation or hire, of any and all commodities.

Case No. 4246

ORIGINAL

In the Matter of the Establishment of maximum or minimum, or maximum and minimum rates, rules and regulations of all carriers as defined in the City Carriers' Act of the State of California (Statutes 1935, Chapter 312, as amended) for the transportation over the public highways within any city or city and county in the State of California, for compensation or hire, of any and all commodities.

Case No. 4434

BY THE COMMISSION:

ADDITIONAL APPEARANCES

Ware & Berol, by Edward M. Berol, for Ed Robinson, dba Robinson Truck Co., Samuel C. Shine, an individual, Harvey Phillips, dba Harvey Phillips Truck & Transfer, L. S. Teel Bros., Iva L. Crutcher, dba Crutcher Transfer, R. G. Knoll, dba Knoll Transportation Co.

OPINION

The above entitled proceedings were instituted by the Commission upon its own motion pursuant to provisions of the Public Utilities, Highway Carriers' and City Carriers' Acts, for the purpose, among other things, of establishing or approving just, reasonable and nondiscriminatory minimum rates for the transportation of property between points in California by common, radial

highway common, highway contract and city carriers. Heretofore, orders have been issued establishing minimum rates of statewide application for transportation of property generally, excluding only certain unmanufactured products of agriculture and certain other commodities found to require separate consideration. In addition, minimum rates have been issued in other proceedings of a similar nature, for transportation of property within certain incorporated cities or so-called "drayage areas."¹ By appropriate petitions, six highway contract carriers now seek the establishment of a revised basis of minimum rates for transportation of property used in connection with the production or filming of motion pictures. A public hearing for the receipt of evidence in this matter was held in Los Angeles before Commissioner Craemer and Examiner Gorman.

Generally speaking, the minimum rates now applicable to transportation of motion picture paraphernalia are the regular class rates. They are stated in mileage scale form, varying in volume with the classification of the article, the size of the shipment and the length of haul. Petitioners propose the substitution of a dual system of hourly and mileage rates, the applicable charge to be based upon the charge accruing under either the hourly or the mileage rates, whichever is the higher. For power units used in towing

¹ The applicable rates for this transportation were established by Decision No. 31606, as amended, in Case No. 4246, for transportation generally throughout the state; Decision No. 32504, as amended, in Case No. 4121, for transportation within the Los Angeles Drayage Area; Decision No. 28632, as amended, in Case No. 4084, for transportation within the city and county of San Francisco; Decision No. 29217, as amended, in Cases Nos. 4108 and 4109, for transportation within the East Bay Drayage Area; Decision No. 30021, as amended, in Cases Nos. 4088 Part "K", 4135 and 4139, for transportation within the San Diego Drayage Area; Decision No. 32608, as amended, in Cases Nos. 4246 and 4434, for transportation of petroleum products in tank trucks; Decision No. 32566, as amended, in Cases Nos. 4246 and 4434, for transportation of property in dump trucks; Decision No. 31924, as amended, in Case No. 4293, for transportation of livestock; and Decision No. 32325, as amended, in Cases Nos. 4086 and 4099, for transportation of used property.

motor-generator trailers owned by the shippers, an additional mileage charge over and above the charge applicable to the power unit itself is proposed. The hourly and mileage rates proposed by petitioners for trucks of different capacities, excluding drivers' wages, are shown in the following tabulation. Drivers' wages are intended to be added at the prevailing rate of pay:

Body Length (In Feet)	Normal Carrying Capacity	Hourly Rate	Mileage Rate
Not over 12	1 ton	\$1.15	\$0.15
Not over 14	2 tons	1.65	.20
Not over 18	3 tons	2.00	.25
Not over 21	5 tons	2.50	.30
3 Axle Trucks	10 tons	3.00	.35

The proposed rates for trailers are stated on a daily basis.

According to the record, the six carriers who joined in the petition under consideration constitute practically all of the carriers who engage to any substantial extent in transporting property in connection with motion picture production work.² Movements occur usually between studios and "locations" on the one hand and supply houses or property and costume rental firms on the other hand. Testimony showed that approximately 40 per cent of the operations of these carriers for producers and studios was to "locations" and that in such movements it was not uncommon for the equipment and driver to remain at the "location" for varying lengths of time up to many weeks at one period. It was also said to be not uncommon for "locations" to be situated several hundred miles away from the Los Angeles area;

²

Ed Robinson, dba Robinson Truck Co.	17	Trucks	0	Trailers
Samuel C. Shine, an individual	20	"	3	"
Harvey Phillips, dba Harvey Phillips Truck & Transfer	15	"	4	"
L. S. Teel, dba Teel Bros.	10	"	1	Trailer
Iva L. Crutcher, dba Crutcher Transfer	5	"	0	"
R. C. Knoll, dba Knoll Transportation Co. ...	10 to 25	Units		

however, it was stated that some of the movements to these more distant points were performed by rail carriers.

A witness representing petitioners testified that to continue the use of the rates now in effect under the Commission's orders would create an undue hardship upon the shippers and carriers alike, in so far as transportation of motion picture properties was concerned. He stated that such shipments had not in the past been handled in the normal methods of handling freight; that it was not feasible to weigh and classify the shipments and adhere to other provisions of the Commission's orders; that neither the producers nor studios maintained traffic departments or had employees familiar with such work; and that bills of lading and other shipping documents as known in normal transportation transactions were not furnished. He said that it would not be practical to weigh and classify each article, as a single shipment might contain many articles ranging over a wide field of description.³

A witness for the petitioners also testified that the equipment used for this work must, to a certain extent, be specially

3

The wide variety of commodities involved are those required by the

Electrical Department, such as cables, lights, light dollies, batteries, switches, switch boxes, and numerous accessories.

"Grip" Department, such as lumber, work boxes, tools, wire, bottled water, reflectors, iron pipe, rubber hose, pumps, tents, etc.

"Prop" Department, such as make-up tables, wardrobes, chairs, household furniture, first aid kits, accessories used by actors, water, ice, livestock, harnesses, wagons, saddles, guns, ammunition, powder, old automobiles, feed for livestock, elephants, tigers, lions, airplanes, boats, tractors, farm implements, gypsum, artillery, uncooked corn flakes, groceries, etc.

Nursery Department, such as potted plants, bushes, fertilizer, garden hose, tools, ladders, sand, plaster, cement, brick, knocked down sets, chemicals, etc.

Camera Department, such as cameras and equipment, tripods, films, screens, camera booths and track, projection booths, etc.

designed and fitted, in that the power units must be provided with towing hooks at each end, and truck and trailer bodies have to be built longer than those of the usual freight vehicles of the same carrying capacity.

Testimony developed the fact that notice given the carriers when transportation equipment was desired was at times very short and that carriers desiring such business had to maintain standby equipment to render the service demanded. The record also indicates that the studios own and operate some equipment of their own with which they are able to perform a substantial amount of their transportation and that they would readily acquire more equipment if forced to weigh and classify and otherwise adhere to the rules and regulations contained in present orders.

The record shows that the vehicles required by the shippers are classified as to length of the body, number of axles and normal carrying capacity as follows:

<u>Body Length (in feet)</u>	<u>No. Axles</u>	<u>Normal Carrying Capacity</u>
Not over 12	2	1 Ton
Not over 14	2	2 Tons
Not over 18	2	3 Tons
Not over 21	2	5 Tons
---	3	10 Tons

A cost study was presented by a witness for the petitioners estimating the hourly cost for vehicles of these types to be as shown in the following table:

	One 1-Ton Truck	Four 2-Ton Trucks	Four 3-Ton Trucks	Three 5-Ton Trucks	One 10-Ton Truck
Hourly cost per unit (not including the driver's wages of \$1.05 per hour)	\$1.17	\$1.51	\$1.75	\$2.33	\$2.83

Running expense items used in the study did not reflect actual experience but were based upon the cost study presented by Senior Engineer Chesnut in hearings held in Case No. 4246, relative to the transportation of general merchandise.

The cost study introduced by petitioners represented the experience of one operator, namely, Knoll Transportation Company, which operator also engages in other types of transportation work. To apply the costs to the specific portion of the carrier's operations which was performed on behalf of the studios, certain assumptions were made as to the items of fuel, lubrication, tires and repairs, overhead expense, the number of miles traveled and the number of hours the equipment was operated. Testimony of other carrier witnesses indicated that the operations of this one carrier were representative of those of the other petitioners and that the character of the work was similar for all operators.

This cost study did not develop the unit cost per mile; however, calculations using the data in it develop the following costs per mile:

	One 1-Ton Truck	Four 2-Ton Trucks	Four 3-Ton Trucks	Three 4-Ton Trucks	One 10-Ton Truck
Cost per Truck Mile (in cents)	16.8	15.1	17.4	23.4	28.3

The following tabulation shows the comparison of the rates used in 1937, those being charged at present and those here proposed.

Truck Body Length	Normal Carrying Capacity	HOURLY RATE (In Dollars)			MILEAGE RATES (In Cents per Mile)		
		1937	Today	Pro- posed	1937	Today	Pro- posed
Not over 12'	1 ton	1.15	1.00	1.15	15	12	15
Not over 14'	2 tons	1.65	1.40	1.65	20	15	20
Not over 18'	3 tons	2.15	1.60	2.00	25	20	25
Not over 21'	5 tons	2.65	1.80	2.50	30	25	30
3 Axle Trucks	10 tons	3.00	2.00	3.00	40	30	35

The daily rates proposed for trailers, the record shows, are the going rates for such vehicles established by trailer manufacturers when renting to commercial carriers and industries, and are as follows:

TRAILERS		
Type	Number of Axles	Rate Per Day of 24 Hours
Full	3	900
Full	2	650
Dollies	1	500
Horse	2	300

The production of motion pictures is one of the major industries of the state, one upon which many persons both directly and indirectly depend for livelihood, and while located in the southern part of the state, the transportation operations may be statewide in scope. The record shows that in many respects the existing rate structures in effect under the Commission's orders governing the movements involved in these proceedings are unsatisfactory. The practice over several years has been to base charges for the transportation of property for the studios on hourly rates. The record shows that difficulty is experienced in applying the present rates for such operations, due principally to the cost and unfeasibility of weighing and classifying the various commodities.

By relating the cost data of record with the proposed hourly rates, as shown in the following tabulation, it is indicated that with the exception of the smaller size unit, the proposed hourly rates alone produce revenue more than the costs involved.

Body Length (In Feet)	Number of Axles	Cost Per Hour	Proposed Rate (1) Per Hour	Percentage Ratio
Not over 12	2	1.17	1.15	- 1.7
Not over 14	2	1.51	1.65	+ 8.5
Not over 18	2	1.74	2.00	+ 13.0
Not over 21	2	2.33	2.50	+ 6.8
--	3	2.83	3.00	+ 5.7

(1) Mileage charge to apply when higher.

The exhibit covering the operating costs appears to include all of the items of expense involved in the operations of the carriers involved, including both short and long hauls, together with all other operating costs encountered during the period of time of the cost study. By employing the use factor shown in the cost study, minimum rates per hour predicated upon these hourly costs should be fully compensatory under normal circumstances. It seems unnecessary, therefore, to provide rates based upon the mileage traveled to supplement the hourly rates. It likewise seems unnecessary to provide rates of a greater volume when the motor vehicle is engaged in pulling a full trailer, whether such trailer is furnished by the carrier or the shipper.

The petitioners propose rates based upon the size of the equipment used, describing the vehicle by "normal carrying capacity," "length of body" and "number of axles." The term "normal carrying capacity" is difficult to determine correctly as the manufacturer's rating may be different from that determined by the carrier, particularly when certain structural and power transmission changes have been made on the vehicle after it has left the factory. Because of the indefinite meaning of the term and the difficulty anticipated in policing, reference to carrying capacity of the equipment will be omitted in defining the types of equipment upon which the rates herein established will apply.

The record contains very little regarding the use of the motor vehicle unit consisting of a tractor and semi-trailer. The popularity, and economy under certain conditions, of this unit in other fields of transportation prompts us to provide rates for the sizes of such units more adaptable to the transportation of property involved herein.

The hourly rates authorized will be exclusive of the drivers' wages, and will provide for the addition of drivers' wages at the prevailing rates. The record was clear that the volume of the wages paid the drivers may vary from time to time and that the studios and producers would maintain the level of wages specified by agreements with the carriers.

FINDINGS

Upon consideration of all the evidence of record, we find:

1. That the rates, charges, accessorial charges, rules and regulations set forth in Appendix "A" of the order herein are and will be for the future the just, reasonable and nondiscriminatory minimum rates, charges, and accessorial charges to be assessed, charged and collected, and the just, reasonable and nondiscriminatory rules and regulations to be observed in applying such rates, charges and accessorial charges by all radial highway common carriers, highway contract carriers and city carriers, when agreement is entered into as provided in Item No. 50 of said Appendix "A".

2. That the rates, rules and regulations set forth in said Appendix "A" should apply only for the transportation of property as described in Item No. 40 thereof, when shipped by or consigned to a person, firm or corporation engaged in the production of motion pictures as a business; only when said transportation is from or to a motion picture studio, or from or to a site which is being used or which has been selected for use in connection with the production of motion pictures; and only when agreement is entered into as pro-

vided in Item No. 50 of said Appendix "A".

3. That when agreement is entered into as provided in Item No. 50 of said Appendix "A", every radial highway common carrier, highway contract carrier and city carrier should be required to issue a shipping document for each shipment received for transportation, showing thereon the names of the shipper and consignee, the size and description of the equipment, the rate and charge assessed and such information respecting each of the factors entering into the computation of the charge as may be necessary to verify the lawfulness of such rate and charge under the provisions of said Appendix "A"; that a copy of such shipping document should be retained and preserved by the carrier for reference and subject to the Commission's inspection for a period of not less than three (3) years from the date of its issuance; and that the form of shipping document set forth in Appendix "B" of the order herein will be suitable and proper.

4. That when agreement is entered into as provided in Item No. 50 of said Appendix "A", no radial highway common carrier, highway contract carrier or city carrier should be permitted to quote, assess, charge, collect, or observe rates, rules, regulations or accessorial charges in a unit of measurement different from that in which the rates provided in said Appendix "A" as minimum for the same transportation or accessorial charges are stated.

The following order will so provide:

O R D E R

An adjourned public hearing having been had in the above entitled proceedings and based upon the evidence received relative to the transportation of property for producers of motion pictures and motion picture studios and upon the conclusions and findings contained in the preceding opinion,

IT IS HEREBY ORDERED,

1. That the rates, charges, accessorial charges, rules

and regulations set forth in Appendix "A", which by this reference is incorporated in and made a part of this order, be and they are hereby established and approved effective thirty (30) days after the effective date hereof as the just, reasonable and nondiscriminatory minimum rates, charges and accessorial charges to be assessed, charged and collected and the rules and regulations to be observed by any and all radial highway common carriers and highway contract carriers, as defined in the Highway Carriers' Act, and by any and all carriers, as defined in the City Carriers' Act, for the transportation of the property and between the points for which rates and charges are provided in said Appendix "A" hereto, and for accessorial services rendered incident thereto, when agreement is entered into as provided in Item No. 50 of said Appendix "A".

2. That all radial highway common carriers and highway contract carriers, as defined in the Highway Carriers' Act, and all carriers as defined in the City Carriers' Act, be and they are hereby ordered and directed to cease and desist thirty (30) days after the effective date of this order, and thereafter abstain from assessing, charging or collecting rates, charges, or accessorial charges lower in volume or effect than those set forth in said Appendix "A" hereto, and from observing rules or regulations lower in volume or effect than those set forth or referred to therein, in instances when agreement is entered into as provided in Item No. 50 of said Appendix "A".

3. That all radial highway common carriers and highway contract carriers as defined in the Highway Carriers' Act, and all carriers as defined in the City Carriers' Act, be and they are hereby ordered and directed to cease and desist thirty (30) days after the effective date of this order and thereafter abstain from quoting, assessing, charging, collecting rates or accessorial charges upon a unit of measurement different from that in which the rates and charges herein established as minimum are stated, in instances when agree-

ment is entered into as provided in Item No. 50 of Appendix "A".

4. That when agreement is entered into as provided in Item No. 50 of said Appendix "A" all radial highway common carriers and highway contract carriers subject to the Highway Carriers' Act, and all carriers subject to the City Carriers' Act, be and they are and each of them is hereby ordered and directed to issue a shipping document for each shipment received for transportation, showing thereon the names of the shipper and consignee, the size and description of equipment, the rate and charge assessed, and such other information respecting each of the factors entering into the computation of the charge as may be necessary to verify the lawfulness of such rate and charge under the provisions of said Appendix "A"; and shall retain and preserve a copy of said shipping document, subject to the Commission's inspection, for a period of not less than three (3) years from the date of its issuance; that the form of shipping document set forth in Appendix "B" hereto will be suitable and proper.

5. That the minimum rates, rules or regulations contained in Appendix "A" of this order shall supersede those contained in other outstanding orders of the Commission in these and in other proceedings, with the exception of those contained in Decision No. 32566, as amended, in Cases Nos. 4246 and 4434, and Decision No. 32608, as amended, in Cases Nos. 4246 and 4434, whenever agreement is entered into as provided in Item No. 50 of said Appendix "A".

6. That the Commission shall have and it does hereby retain jurisdiction of these proceedings for the purpose of altering or amending the rates, charges, rules and regulations hereby established or prescribed, and for the purpose of establishing or approving such other just, reasonable and nondiscriminatory maximum or minimum or maximum and minimum rates, charges, classifications, rules and regulations to be charged, collected, and ob-

served by radial highway common carriers and highway contract carriers, subject to the Highway Carriers' Act, and all carriers subject to the City Carriers' Act, both for transportation service hereinabove described and for such other transportation and accessorial service as may from time to time appear proper in the light of other or further evidence received herein and for the purpose of establishing and prescribing such rates as will provide an equality of transportation rates for the transportation of commodities here involved between all competing agencies of transportation.

The effective date of this order shall be twenty (20) days from this date.

Dated at San Francisco, California, this 18th day of June, 1940.

Ray L. King
Frank J. Decker
Robert J. Decker
H. B. Decker

Commissioners

Appendix "A" of Decision No. _____ in Case No. 4246 and Case No. 4434, naming minimum rates and rules and regulations for the transportation of property from or to motion picture studios or location sites, by radial highway common carriers, highway contract carriers and city carriers.

Item No.	RULES AND REGULATIONS
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10	<p style="text-align: center;">DEFINITION OF TECHNICAL TERMS</p> <p>(a) CARRIER means a radial highway common carrier or a highway contract carrier, as defined in the Highway Carriers' Act (Chapter 223, Statutes of 1935, as amended), or a carrier, as defined in the City Carriers' Act (Chapter 312, Statutes of 1935, as amended).</p> <p>(b) MOTOR VEHICLE means a self-propelled motor truck or combination of tractor and semi-trailer operating over the public highways.</p> <p>(c) POINT OF ORIGIN means the precise location at which property is physically delivered by the consignor or his agent into the custody of the carrier for transportation.</p> <p>(d) POINT OF DESTINATION means the precise location at which property is tendered for physical delivery into the custody of the consignee or his agent.</p> <p>(e) RATE includes charge, rules and regulations governing, and the accessorial charges applying in connection therewith.</p>
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20	<p style="text-align: center;">APPLICATION OF APPENDIX-CARRIERS</p> <p>Rates provided in this appendix are minimum rates, established pursuant to the Highway Carriers' Act (Chapter 223, Statutes of 1935, as amended), and the City Carriers' Act (Chapter 312, Statutes of 1935, as amended). They apply for transportation of property by radial highway common carriers and highway contract carriers, as defined in said Highway Carriers' Act, and by carriers as defined in said City Carriers' Act.</p>
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30	<p style="text-align: center;">APPLICATION OF APPENDIX -TERRITORIAL</p> <p>Rates in this appendix apply for transportation between all points within the State of California.</p>
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40	<p style="text-align: center;">APPLICATION OF APPENDIX-COMMODITIES</p> <p>Subject to the provisions of Item No. 50, rates in this appendix apply for the transportation of all commodities when shipped by or consigned to a person, firm or corporation engaged in the production of motion pictures as a business, when the transportation is from or to a motion picture studio or from or to a site which is being used or which has been selected for use in connection with motion picture production, except</p> <p>(a) Commodities transported in dump trucks, for which rates are provided in City Carriers' Tariff No. 6 and Highway Carriers' Tariff No. 7 (Appendix "A" of Decision No. 32566, as amended, in Case No. 4246 and Case No. 4434); and</p> <p>(b) Commodities transported in bulk in tank trucks, tank trailers, tank semi-trailers or a combination of such vehicles.</p>
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Item No.	RULES AND REGULATIONS (Continued)
50	<p style="text-align: center;">AGREEMENT TO TRANSPORT PROPERTY UNDER EQUIPMENT RATES</p> <p>Rates in this appendix apply only when the shipper, consignee or other party responsible for payment of transportation charges so elects by executing a written agreement, in duplicate, with the carrier before transportation commences. Said agreement shall be in substantially the following form and shall cover shipments for a period not to exceed 30 days. In the event the transportation is for a period in excess of 30 days, a new agreement shall be executed to cover each additional 30-day period. A copy of the executed agreement shall be retained and preserved by the carrier, subject to the Commission's inspection, for a period of not less than three (3) years from the date of issuance.</p> <p style="text-align: right;">Date _____</p> <p>In accordance with the provisions of Item No. 40 of Appendix _____ to Decision _____ in Cases Nos. 4246 and 4434, I hereby elect to have _____ (Identify Transaction) transported by _____ (Name Carrier) from _____ (Point of Origin) to _____ (Point of Destination) under the rates and provisions of said appendix for the following period of time:</p> <p>From _____ (Date) To _____ (Date)</p> <p>Shipper _____ Name in Full By _____ Name in Full</p> <p>Confirmed: Carrier _____ Name in Full By _____ Name in Full</p>
60	<p style="text-align: center;">COMPUTATION OF CHARGES</p> <p>Freight charges shall be determined by combining rates shown in Item No. 80 and the wage rates of drivers and helpers. The wage rates of drivers and helpers shall be the prevailing wage rates for this type of service.</p>
70	<p style="text-align: center;">COMPUTATION OF TIME</p> <p>Rates shall be computed for the same period of time for which the wages of the driver or drivers of motor vehicle equipment are based.</p>

Item No.	RATES (In Cents)					
	TYPE OF EQUIPMENT					
80	MOTOR VEHICLES		TRAILERS			
	(1) Length in Feet		(2) Rate Per Hour	Type	Number of Axles	(3) Rate Per Day of 24 Hours
Over	But Not Over					
	0	12	120	Full	3	900
	12	14	150	Full	2	650
	14	18	175	Dollies	1	500
	18	21	235	Horse	2	300
	21		285			
	Minimum Charge		1 hour	Minimum Charge		1 day
Rates are subject to the addition of charges provided in Item No. 60.						
<p>(1) Length shall be measured from the head board of the body to the tailgate and will be the lineal floor measurement. It will not include the tailgate or space over the cab.</p> <p>(2) Motor Vehicles equipped with more than two axles will be subject to a rate of 285 cents per hour regardless of length of vehicle.</p> <p>(3) Trailer rates apply only when attached to or drawn by motor vehicle equipment.</p>						

APPENDIX "B"

SHIPPING ORDER AND FREIGHT BILL

FOR TRANSPORTATION OF PROPERTY FROM OR TO
MOTION PICTURE STUDIOS OR LOCATION SITES.

Date _____ Freight Bill No. _____

Name of Carrier _____
Name of carrier must be same as shown on permit

Name of Shipper _____

Address of Shipper _____

Name of Consignee _____

Address of Consignee _____

Property Transported: From _____ To _____

MOTOR VEHICLE	TRAILER
No. _____	No. _____
Length of Body _____	Type of Trailer _____
No. of Axles _____	No. of Axles _____

Time in hours used for computing Driver's Wages	Vehicle Rate	Vehicle Charge	Driver's Wage Rate	Driver's Wages	Helper's Wage Rate	Helper's Wages	* Total Charges
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

* Sum of Columns 3, 5 and 7

Driver's Signature _____