

REPRINT

**SUBSTITUTE FOR
SENATE BILL NO. 554**

(As Passed the Senate October 29, 1997)

A bill to regulate the transportation of certain hazardous materials; to prescribe the powers and duties of certain state agencies and officials; and to prescribe penalties and provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "hazardous materials transportation act".

3 Sec. 2. As used in this act:

4 (a) "Base state" means the state selected by a motor carrier
5 according to the procedures established by the uniform program.

6 (b) "Base state agreement" means the agreement between par-
7 ticipating states electing to register or permit motor carriers.

8 (c) "Department" means the department of environmental
9 quality.

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1 (d) "Fund" means the hazardous materials transportation
2 permit fund created in section 5.

3 (e) "Hazardous materials" means any of the following:

4 (i) "Hazardous waste" as that term is defined in part 111 of
5 the natural resources and environmental protection act, 1994
6 PA 451, MCL 324.11101 to 324.11152.

7 (ii) "Liquid industrial waste" as that term is defined in
8 part 121 of the natural resources and environmental protection
9 act, 1994 PA 451, MCL 324.12101 to 324.12118.

10 (f) "Motor carrier" means a person engaged in the transpor-
11 tation of hazardous materials by highway. Motor carrier includes
12 a motor carrier's agents, officers, and representatives. Motor
13 carrier does not include an individual operating under an exclu-
14 sive lease to a motor carrier that is in compliance with this
15 act.

16 (g) "Participating state" means a state electing to partici-
17 pate in the uniform program by entering a base state agreement.

18 (h) "Power unit" means a motor vehicle that provides motor
19 power to the entire combination, or to the vehicle if a single
20 unit.

21 (i) "Uniform application" means the uniform registration and
22 permit application form established under the uniform program.

23 (j) "Uniform program" means the uniform state hazardous
24 materials transportation registration and permit program estab-
25 lished in the report submitted and amended pursuant to 49
26 U.S.C. 5119(b).

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1 Sec. 3. (1) A motor carrier shall determine its base state
2 designation in the following manner:

3 (a) A motor carrier that has its principal place of business
4 in this state shall designate this state as its base state.

5 (b) A motor carrier that has its principal place of business
6 outside of this state shall determine its base state designation
7 by the highest number of hazardous materials miles traveled among
8 the states participating in the uniform program.

9 (2) Subject to section 10, a motor carrier that designates
10 this state as its base state pursuant to subsection (1) shall
11 register with and obtain a permit from the department prior to
12 transporting hazardous materials within this state. A motor car-
13 rier that designates another participating state as its base
14 state shall register with and obtain a permit from that state,
15 with the appropriate fees paid for this state, prior to trans-
16 porting hazardous materials in this state.

17 (3) A motor carrier required to register in this state shall
18 file part I of the uniform application with the department and
19 pay an administrative fee of \$50.00 and the apportioned vehicle
20 registration fee. The amount of the registration fee shall be
21 calculated by the formula in section 4.

22 (4) A motor carrier required to obtain a permit in this
23 state shall file part II of the uniform application with the
24 department and pay a permit review fee of \$500.00.

25 (5) A motor carrier shall have and maintain financial
26 responsibility for bodily injury, property damage, or
27 environmental damage to third parties caused by accidental

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1 occurrences arising from hazardous materials transportation
2 activities of the motor carrier. The motor carrier shall have
3 and maintain fleet liability coverage for accidental occurrences
4 in an amount not less than \$1,000,000.00 per occurrence for haz-
5 arduous materials that are hazardous wastes and \$750,000.00 per
6 occurrence for hazardous materials that are liquid industrial
7 waste. However, a motor carrier with fleets including only vehi-
8 cles under 10,000 pounds gross vehicle weight shall have and
9 maintain fleet liability coverage for accidental occurrences in
10 an amount not less than \$300,000.00. Proof of the required domi-
11 ciled fleet liability coverage shall be provided to and main-
12 tained by the public service commission in the department of con-
13 sumer and industry services, with certification of proper cover-
14 age provided to the department. Demonstration of proof of the
15 required nondomiciled fleet liability coverage shall be provided
16 to and maintained with the surface transportation board in the
17 federal highway administration. Fleet liability coverage not
18 included under the authority of the public service commission or
19 the surface transportation board shall be demonstrated to the
20 department by submittal of the document entitled "endorsement for
21 motor carrier policies of insurance for public liability under
22 section 29 or 30 of the motor carrier act of 1980" (OMB
23 no. 2125-0074, form MCS-90).

24 (6) Upon a motor carrier's compliance with subsections (3),
25 (4), and (5), the department shall issue a notice of registration
26 form and a permit to the motor carrier. A notice of registration

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1 form and a permit shall include a unique number for each motor
2 carrier assigned by the department.

3 (7) A motor carrier shall maintain a copy of the notice of
4 registration form and the permit in each power unit used to
5 transport hazardous materials in all participating states. The
6 notice of registration form and the permit are not transferable
7 between motor carriers or owners. The original notice of regis-
8 tration form or permit shall be maintained at the motor carrier's
9 principal place of business as noted on the registration form or
10 permit, and shall be available for inspection during normal busi-
11 ness hours.

12 (8) Prior to entering the state, a motor carrier may obtain
13 a temporary permit in lieu of a notice of registration form and a
14 permit. The temporary permit shall expire 10 days after issu-
15 ance, and the fee for a temporary permit shall be \$100.00.

16 (9) A motor carrier transporting liquid industrial waste
17 generated on or from property or equipment in which he or she
18 owns an interest is exempt from registration and permitting as
19 required in this act, but remains subject to all other provisions
20 of part 121 of the natural resources and environmental protection
21 act, 1994 PA 451, MCL 324.12101 to 324.12118, or any other appli-
22 cable act or part.

23 Sec. 4. The apportioned vehicle registration fee required
24 under section 3 shall be equal to the percentage of transporta-
25 tion in this state multiplied by the percentage of all hazardous
26 materials transportation, multiplied by the total number of power

1 units operated, multiplied by a per-vehicle fee of \$50.00, and
2 shall be calculated as follows:

3 (a) A motor carrier shall determine its percentage of trans-
4 portation in this state by dividing the number of miles traveled
5 in this state under the international registration plan during
6 the previous year by the number of miles it traveled nationwide
7 under the international registration plan. If a motor carrier
8 operated only in this state, its percentage is 100%. If a motor
9 carrier is not registered in the international registration plan,
10 the motor carrier shall calculate the number of miles traveled
11 using the method in the international registration plan. If a
12 motor carrier operates more than 1 fleet under the international
13 registration plan, the motor carrier may calculate each fleet's
14 contribution to the motor carrier's total fee separately. A
15 motor carrier who operated in another state under a reciprocal
16 agreement with that state shall include the miles operated under
17 the agreement as miles traveled in this state in calculating
18 mileage under this section.

19 (b) A motor carrier shall determine its percentage of haz-
20 ardous materials transportation using either of the following:

21 (i) For less than truckload shipments, it must divide the
22 weight of all of the motor carrier's hazardous materials ship-
23 ments transported during the previous year by the total weight of
24 all shipments transported during the same year.

25 (ii) For truckload shipments, it must divide the total
26 number of hazardous materials shipments during the previous year

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1 by the total number of all shipments transported during the same
2 year.

3 (c) A motor carrier shall select the midpoint of the 10%
4 range that most closely approximates the motor carrier's calcula-
5 tion of its hazardous materials transportation business, under
6 either option in subdivision (b).

7 (d) A motor carrier may use data from its most recent com-
8 plete fiscal year or the most recent calendar year in calculating
9 the percentage required under this section.

10 Sec. 5. (1) The hazardous materials transportation permit
11 fund is created in the state treasury.

12 (2) The state treasurer shall direct the investment of the
13 fund. The state treasurer may receive money or other assets from
14 any source for deposit into the fund. The state treasurer shall
15 credit to the fund interest and earnings from investment. Money
16 remaining in the fund at the close of the fiscal year shall
17 remain in the fund and shall not revert into the general fund.

18 (3) The registration and permit fees collected under this
19 act shall be deposited into the fund.

20 (4) The department shall expend money from the fund, upon
21 appropriation, for the implementation of this act. In addition,
22 funds not expended for the implementation of this act may be uti-
23 lized for emergency response, training, and other activities
24 related to hazardous materials transportation safety that are
25 initiated by the department.

26 Sec. 6. (1) The department may enter into agreements with
27 federal agencies, a national repository, or other participating

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1 states as needed to allow for the reciprocal registration and
2 permitting of motor carriers. The agreements may include proce-
3 dures for determining base states, the collection and distribu-
4 tion of fees, dispute resolution, the exchange of information for
5 reporting and enforcement, and other provisions necessary to
6 administer this act and the uniform program.

7 (2) The department shall confer with the department of state
8 with the intent of coordinating the registration and permitting
9 required under this act with other permitting and registration
10 programs.

11 (3) The department, and, if appropriate under subsection
12 (2), the department of state, may make payments to agencies of
13 other participating states in the uniform program, for the pur-
14 poses of reimbursement of apportioned registration permit fees.

15 (4) The department may develop the necessary forms, applica-
16 tions, and software required to implement this act.

17 Sec. 7. (1) The department or the department of state
18 police may inspect or examine any motor vehicle or facility oper-
19 ated by a motor carrier, or conduct investigations, audits, or
20 compliance reviews as necessary to determine compliance with this
21 act and the uniform program, or to determine eligibility for reg-
22 istration or permitting under this act and the uniform program.

23 (2) The department or the department of state police may
24 inspect and electronically reproduce any papers, books, records,
25 documents, or other evidentiary material necessary to determine
26 if a motor carrier is complying with this act and the uniform

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1 program, or to determine eligibility for registration or
2 permitting under this act and the uniform program.

3 (3) The department, the department of state police, a local
4 law enforcement agency, or the
5 department of natural resources may enforce this act.

6 (4) Motor carriers under the jurisdiction of this act shall
7 comply with all applicable provisions of the motor carrier safety
8 act of 1963, 1963 PA 181, MCL 480.11 to 480.22, and all applica-
9 ble provisions of the natural resources and environmental protec-
10 tion act, 1994 PA 451, MCL 324.101 to 324.90106, as well as any
11 other applicable requirements of law.

12 (5) A person who violates this act is responsible for a
13 state civil infraction and shall be fined not more than
14 \$2,500.00. Fines collected pursuant to this act shall be depos-
15 ited into the fund.

16 Sec. 8. (1) A registration issued under this act is valid
17 for 1 year from the date a notice of registration form is issued
18 and a permit issued under this act is valid for 3 years from the
19 date issued or until a motor carrier fails to renew its registra-
20 tion, whichever occurs first. Application for renewal of a reg-
21 istration or permit shall be made at least 90 days prior to
22 expiration. The fee for renewal shall be the same for an origi-
23 nal registration or permit.

24 (2) A motor carrier with a valid permit shall annually cer-
25 tify that its current operations are not substantially different
26 from its operations on the date the motor carrier obtained its
27 permit and shall annually certify its compliance with all
applicable laws and regulations in its application for renewal.

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1 Failure to comply with the certifications in part II of the
2 uniform program is prohibited.

3 (3) A motor carrier whose name, principal place of business,
4 or business telephone number has changed during the time a notice
5 of registration or permit is effective shall notify the depart-
6 ment of the change by submitting an amended registration or
7 permit statement no later than 30 days after the change. Upon
8 receipt, the department shall issue an amended notice of regis-
9 tration form or permit. The department shall not charge a fee
10 for a change made under this subsection.

11 Sec. 9. (1) The department shall immediately suspend or
12 revoke a registration or permit, or deny an application for a
13 registration or permit, upon determination of any of the follow-
14 ing conditions:

15 (a) The motor carrier made a materially false or misleading
16 statement in an application.

17 (b) The motor carrier's operation consists of 1 or more
18 serious or repeated violations of the laws of this state.

19 (c) The motor carrier has been issued an unsatisfactory
20 rating under the motor carrier rating system developed by the
21 United States department of transportation.

22 (d) The motor carrier is under a current out of service
23 order issued pursuant to the motor carrier safety act of 1963,
24 1963 PA 181, MCL 480.11 to 480.22, or an out of service order
25 issued by the United States department of transportation.

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1 (e) The motor carrier does not maintain the appropriate
2 level of financial liability coverage mandated by the laws of
3 this state.

4 (2) If the department determines that any of the conditions
5 of subsection (1)(a) through (e) exist, the department shall do 1
6 of the following, as appropriate:

7 (a) Suspend or revoke a notice of registration or permit
8 previously issued under this act.

9 (b) Suspend or revoke the hazardous materials transportation
10 operations in this state by a motor carrier operating under a
11 registration or permit issued by another participating state.

12 (c) Deny an application for registration or permit by a
13 motor carrier.

14 (3) Upon revocation, suspension, or application denial, the
15 department shall notify the motor carrier, in writing, by certi-
16 fied mail, of the reasons for suspension, revocation, or applica-
17 tion denial, and indicate the steps necessary for reinstatement.
18 In the case of a suspension, the department shall also indicate
19 the date by which compliance is required prior to a revocation
20 being issued. The department shall also indicate the steps pro-
21 vided for appeal of the suspension, revocation, or application
22 denial.

23 (4) Upon notification of suspension, revocation, or applica-
24 tion denial, a motor carrier may submit a written request for a
25 contested case hearing pursuant to the administrative procedures
26 act of 1969, 1969 PA 306, MCL 24.201 to 24.328, with the
27 department, by certified mail, within 10 days of receipt of the

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1 notice of suspension, revocation, or application denial. A
2 contested case hearing shall be scheduled within 30 days of the
3 receipt of the request for a contested case hearing, and shall be
4 held in the city of Lansing.

5 (5) The department may reinstate a notice of registration
6 form or permit that was suspended pursuant to this section if the
7 department is satisfied that the violations causing the suspen-
8 sion have been corrected and the motor carrier's operations have
9 changed sufficiently to prevent further occurrences of the
10 violations.

11 (6) The department may issue a notice of registration form
12 or permit that was previously denied to a motor carrier if the
13 department is satisfied that the violations causing the denial
14 have been corrected and the motor carrier's operations have
15 changed sufficiently to prevent further occurrences of the
16 violations.

17 Sec. 10. (1) This act preempts and supersedes hazardous
18 materials transportation registration or permitting programs
19 administered or enforced by any city, village, township, county,
20 or other political subdivision of this state.

21 (2) Motor vehicles owned and operated by a local, state, or
22 federal government, or any other political subdivision, are not
23 subject to this act.

24 (3) A motor carrier that holds a valid permit in compliance
25 with part 111 of the natural resources and environmental protec-
26 tion act, 1994 PA 451, MCL 324.11101 to 324.11152, on the
27 effective date of this act, shall, upon expiration of that

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1 permit, submit a completed uniform application to the
2 department.

3 (4) The following data submitted on a uniform application
4 pursuant to this act are private data and not subject to the pro-
5 visions of the freedom of information act, 1976 PA 442, MCL
6 15.231 to 15.246:

7 (a) Information related to a motor carrier's customers and
8 service provided to specific customers.

9 (b) Financial balance sheet and income statement data.

10 (c) Ownership and debt liability data.

11 (d) Information related to a motor carrier's parent com-
12 panies, affiliates, and subsidiaries.

13 (5) Notwithstanding subsection (4), for the purposes of
14 administering the uniform program, the department may release any
15 information on individuals or motor carriers to the United States
16 department of transportation, any other participating state or
17 state agency, or to the national repository established under the
18 uniform program.

19 Enacting section 1. This act takes effect [September] 1, 1998.