

HOUSE BILL No. 4474

March 12, 1997, Introduced by Rep. Profit and referred to the Committee on Judiciary.

A bill to amend 1963 PA 181, entitled "Motor carrier safety act of 1963," by amending the title and sections 1a, 7, 7b, and 7c (MCL 480.11a, 480.17, 480.17b, and 480.17c), the title and sections 1a and 7 as amended and section 7c as added by 1995 PA 265 and section 7b as amended by 1990 PA 339.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

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An act to promote safety upon the public highways by regu-

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lating the operation of certain vehicles; to provide consistent

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regulation of these areas by state agencies and local units of

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government; to establish the qualifications of persons necessary

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for the safe operation of such vehicles; to limit the hours of

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service of persons engaged in operating such vehicles; to require

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the keeping of records of such operations; to provide penalties

1 AND TO PRESCRIBE REMEDIES for the violation of this act; to
2 prescribe the powers and duties of certain state agencies; and to
3 repeal ~~certain~~ acts and parts of acts.

4 Sec. 1a. (1) This state hereby adopts the following provi-
5 sions of title 49 of the ~~code of federal regulations~~ CODE OF
6 FEDERAL REGULATIONS, on file with the office of the secretary of
7 state except where modified by this act, to provide for the safe
8 transportation of persons and property with the intent of follow-
9 ing the policies and procedures of the United States department
10 of transportation's federal highway administration as they relate
11 to title 49 of the ~~code of federal regulations~~ CODE OF FEDERAL
12 REGULATIONS and the ~~north american~~ NORTH AMERICAN standard uni-
13 form out of service criteria and inspection procedures:

14 (a) Hazardous materials regulations, being 49 C.F.R. parts
15 100 through 180.

16 (b) Motor carrier safety regulations, being 49 C.F.R. PART
17 40, part 382, part 387, parts 390 through 393, parts 395 through
18 397, and part 399 including appendices ~~1,~~ D, E, and G, except
19 for the following:

20 (i) Where the term "United States department of
21 transportation", "federal highway administration", "federal high-
22 way administrator", "director", "bureau of motor carrier safety",
23 "research and special projects administration", or "associate
24 administrator for hazardous materials safety" appears, it refers
25 to the department of state police.

1 (ii) Where "interstate" appears, it shall mean intrastate or
2 interstate, or both, as applicable, except as otherwise
3 specifically provided in this act.

4 (c) Where "special agent of the federal highway
5 administration", "administration personnel", or "hazardous mate-
6 rials enforcement specialist" appears, it either means a peace
7 officer or an enforcement member or a vehicle inspector of the
8 motor carrier division of the department of state police.

9 (d) Where MCS 63 appears, it means MC 9 and MC 9b.

10 (e) Where MCS 64 appears, it means MC 5.

11 (f) Exempt intracity zones and the regulations applicable to
12 exempt intracity zones do not apply to this act.

13 (2) When a commercial motor vehicle is operated entirely
14 within this state and not otherwise involved with the movement of
15 interstate property or passengers in commerce, the definitions in
16 this subsection apply. The definitions contained in those parts
17 of 49 C.F.R. adopted in subsection (1)(b) apply to this act
18 except for the following definitions as added or modified:

19 (a) "Appeal board" means the motor carrier safety appeal
20 board created in section 1b.

21 (b) "Bus" means any motor vehicle designed for carrying 16
22 or more passengers, including the driver. Bus does not include a
23 school bus, a bus defined and certificated under the motor bus
24 transportation act, ~~Act No. 432 of the Public Acts of 1982,~~
25 ~~being sections 474.101 to 474.141 of the Michigan Compiled Laws~~
26 1982 PA 432, MCL 474.101 TO 474.141, or a bus operated by a
27 public transit agency operating under any of the following:

1 (i) A county, city, township, or village as provided by law,
2 or other authority incorporated under ~~Act No. 55 of the Public~~
3 ~~Acts of 1963, being sections 124.351 to 124.359 of the Michigan~~
4 ~~Compiled Laws~~ 1963 PA 55, MCL 124.351 TO 124.359. Each author-
5 ity and governmental agency incorporated under ~~Act No. 55 of the~~
6 ~~Public Acts of 1963~~ 1963 PA 55, MCL 124.351 TO 124.359, has the
7 exclusive jurisdiction to determine its own contemplated routes,
8 hours of service, estimated transit vehicle miles, costs of
9 public transportation services, and projected capital improve-
10 ments or projects within its service area.

11 (ii) An authority incorporated under the metropolitan trans-
12 portation authorities act of 1967, ~~Act No. 204 of the Public~~
13 ~~Acts of 1967, being sections 124.401 to 124.426 of the Michigan~~
14 ~~Compiled Laws~~ 1967 PA 204, MCL 124.401 TO 124.426, or that oper-
15 ates a transportation service pursuant to an interlocal agreement
16 under the urban cooperation act of 1967, ~~Act No. 7 of the Public~~
17 ~~Acts of the Extra Session of 1967, being sections 124.501 to~~
18 ~~124.512 of the Michigan Compiled Laws~~ 1967 (EX SESS) PA 7, MCL
19 124.501 TO 124.512.

20 (iii) A contract entered into pursuant to ~~Act No. 8 of the~~
21 ~~Public Acts of the Extra Session of 1967, being sections 124.531~~
22 ~~to 124.536 of the Michigan Compiled Laws~~ 1967 (EX SESS) PA 8,
23 MCL 124.531 TO 124.536, or ~~Act No. 35 of the Public Acts of~~
24 ~~1951, being sections 124.1 to 124.13 of the Michigan Compiled~~
25 ~~Laws~~ 1951 PA 35, MCL 124.1 TO 124.13.

26 (iv) An authority incorporated under the public
27 transportation authority act, ~~Act No. 196 of the Public Acts of~~

1 ~~1986, being sections 124.451 to 124.479 of the Michigan Compiled~~
2 ~~Laws~~ 1986 PA 196, MCL 124.451 TO 124.479, or a nonprofit corpo-
3 ration organized under the nonprofit corporation act, ~~Act~~
4 ~~No. 162 of the Public Acts of 1982, being sections 450.2101 to~~
5 ~~450.3192 of the Michigan Compiled Laws~~ 1982 PA 162, MCL 450.2101
6 TO 450.3192, that provides transportation services.

7 (v) An authority financing public improvements to transpor-
8 tation systems under the revenue bond act of 1933, ~~Act No. 94 of~~
9 ~~the Public Acts of 1933, being sections 141.101 to 141.140 of the~~
10 ~~Michigan Compiled Laws~~ 1933 PA 94, MCL 141.101 TO 141.140.

11 (C) "CIVIL INFRACTION" MEANS AN ACT OR OMISSION PROHIBITED
12 BY LAW WHICH IS NOT A CRIME AS DEFINED IN SECTION 5 OF THE
13 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.5, AND FOR WHICH CIVIL
14 SANCTIONS MAY BE ORDERED.

15 (D) ~~(c)~~ "Commercial motor vehicle" means any
16 self-propelled or towed vehicle designed or used on public high-
17 ways to transport passengers or property, except for a bus
18 exempted in subdivision (b), if the vehicle is 1 or more of the
19 following:

20 (i) Has either a gross vehicle weight rating or an actual
21 gross weight or gross combination weight rating or an actual
22 gross combination weight of 10,001 or more pounds.

23 (ii) Is designed for carrying 16 or more passengers, includ-
24 ing the driver.

25 (iii) Is used in the transportation of hazardous materials
26 in a quantity that requires the vehicle to be marked or placarded
27 pursuant to 49 C.F.R. parts 100 to 180.

1 (E) ~~(d)~~ "Gross combination weight" or "GCW" means the
2 combined weight of a combination of vehicles and any load on
3 those vehicles.

4 (F) ~~(e)~~ "Gross weight", "gross vehicle weight", or "GVW"
5 means the combined weight of a motor vehicle and any load on that
6 vehicle.

7 (G) ~~(f)~~ "Hazardous material vehicle inspection or repair
8 facility" is a commercial enterprise that performs inspections,
9 certification, testing, or repairs to commercial motor vehicles
10 transporting hazardous materials as required by 49 C.F.R. parts
11 100 to 180 and includes motor carriers that perform the inspec-
12 tions, certification, testing, or repairs to vehicles owned or
13 leased by the motor carrier.

14 (H) ~~(g)~~ "Motor carrier" means a carrier of passengers or
15 property in a commercial motor vehicle and includes a person who
16 owns or leases a commercial motor vehicle or that assigns employ-
17 ees to operate the vehicle. Motor carrier includes a motor
18 carrier's agents, officers, and representatives, as well as
19 employees responsible for hiring, supervising, training, assign-
20 ing, or dispatching of drivers and employees concerned with the
21 installation, inspection, and maintenance of motor vehicle equip-
22 ment and accessories.

23 Sec. 7. (1) Except as provided in sections 7b, 7c, and 7d,
24 any PERSON, driver, or operator who violates this act or a rule
25 promulgated under this act, or any owner or user of any bus,
26 truck, truck tractor, or trailer, or certain other motor vehicles
27 or any officer or agent of any individual, partnership,

1 corporation, or association or their lessees or receivers
2 appointed by any court which is the owner or user of any vehicle,
3 who requires or permits the driver or operator to operate or
4 drive any bus, truck, truck tractor, or trailer, or certain other
5 motor vehicles in violation of this act or a rule promulgated
6 under this act, is ~~guilty of a misdemeanor~~ RESPONSIBLE FOR A
7 CIVIL INFRACTION AND MAY BE ASSESSED A CIVIL FINE OF NOT MORE
8 THAN \$250.00 for each violation. ~~punishable by imprisonment for~~
9 ~~not more than 90 days or a fine of not more than \$100.00, or~~
10 ~~both.~~

11 (2) A peace officer or an officer of the motor carrier divi-
12 sion of the department of state police, upon reasonable cause to
13 believe that a motor vehicle is being operated in violation of
14 this act or a rule promulgated pursuant to this act, may stop the
15 motor vehicle and inspect the motor vehicle. If a violation is
16 found, the officer may issue a notice to appear for that
17 violation. If a motor vehicle is inspected by breaking the load
18 seal, then the peace officer shall give to the driver a signed
19 receipt of inspection and the peace officer shall be responsible
20 for reapplying a Michigan department of transportation seal.

21 (3) A CIVIL FINE ORDERED UNDER THIS SECTION AND SECTION 7B
22 SHALL BE EXCLUSIVELY APPLIED TO THE SUPPORT OF PUBLIC LIBRARIES
23 AND COUNTY LAW LIBRARIES IN THE SAME MANNER AS IS PROVIDED BY LAW
24 FOR PENAL FINES ASSESSED AND COLLECTED FOR VIOLATION OF A PENAL
25 LAW OF THE STATE IN ORDER TO MAINTAIN A CONTINUED SOURCE OF REVE-
26 NUE FOR PUBLIC LIBRARIES WHICH PREVIOUSLY RECEIVED PENAL FINES

1 FOR MISDEMEANOR VIOLATIONS OF THIS SECTION AND SECTION 7B WHICH
2 ARE NOW CIVIL INFRACTIONS.

3 Sec. 7b. (1) A driver or operator or an owner or user of
4 any bus, truck, truck tractor, or trailer, or certain other motor
5 vehicles or any officer or agent of an individual, partnership,
6 corporation, or association or their lessees or receivers
7 appointed by any court that is the owner or user of any vehicle,
8 who requires or permits the driver or operator to operate a vehi-
9 cle with a serious safety defect is subject to a CIVIL fine of
10 not more than \$300.00 for each violation.

11 (2) FOR PURPOSES OF THIS ACT, A VIOLATION THAT IS A CIVIL
12 INFRACTION SHALL BE ADJUDICATED IN THE SAME MANNER AS CIVIL
13 INFRACTIONS ARE ADJUDICATED IN THE MICHIGAN VEHICLE CODE, 1949 PA
14 300, MCL 257.1 TO 257.923, EXCEPT AS OTHERWISE PROVIDED BY THIS
15 ACT.

16 (3) ANY POLICE OFFICER OR MOTOR CARRIER OFFICER OF THE
17 DEPARTMENT OF STATE POLICE WHO HAS REASON TO BELIEVE THAT THE
18 DRIVER OF A VEHICLE IS OPERATING THE VEHICLE IN VIOLATION OF THIS
19 ACT MAY REQUIRE THE DRIVER OF THE VEHICLE TO STOP, AND THE OFFI-
20 CER MAY INVESTIGATE. IF AFTER INVESTIGATION THE OFFICER DETER-
21 MINES THERE IS A VIOLATION OF THIS ACT, THE OFFICER MAY TEMPORAR-
22 ILY DETAIN THE DRIVER OF THE VEHICLE FOR PURPOSES OF MAKING A
23 RECORD OR VEHICLE CHECK AND ISSUE A CITATION TO THE DRIVER, MOTOR
24 CARRIER, OR OTHER PERSON. UPON COMPLETION OF AN AUDIT OR INVES-
25 TIGATION OF A MOTOR CARRIER OR OTHER PERSON, A MOTOR CARRIER
26 OFFICER OF THE DEPARTMENT OF STATE POLICE WHO HAS REASON TO
27 BELIEVE THAT A VIOLATION OF THIS ACT OCCURRED MAY ISSUE A

1 CITATION TO A MOTOR CARRIER OR OTHER PERSON FOR A VIOLATION OF
2 THIS ACT.

3 (4) IF ANY DRIVER, OWNER, OPERATOR, OR USER OF ANY BUS,
4 TRUCK, TRUCK-TRACTOR, TRAILER, SEMI-TRAILER, OR ANY OTHER VEHI-
5 CLE, OR ANY OFFICERS, OR AGENTS OF ANY INDIVIDUAL, PARTNERSHIP,
6 CORPORATION, OR ASSOCIATION OR THEIR LESSEES OR RECEIVERS
7 APPOINTED BY ANY COURT THAT IS THE OWNER OR USER OF SUCH VEHICLES
8 FAILS TO APPEAR AS REQUIRED IN THE CITATION OR FOR A SCHEDULED
9 FORMAL HEARING, THE COURT HAVING JURISDICTION AND VENUE OVER THE
10 CIVIL INFRACTION SHALL ISSUE AN ORDER FOR IMPOUNDMENT OF ANY
11 EQUIPMENT OWNED OR LEASED TO THE DEFENDANT. IF THE VEHICLE IS
12 IMPOUNDED, THE TOWING AND STORAGE COSTS OF THE VEHICLE, AND THE
13 CARE OR PRESERVATION OF THE LOAD IN THE VEHICLE SHALL BE THE
14 DEFENDANT'S RESPONSIBILITY. VEHICLES IMPOUNDED SHALL BE SUBJECT
15 TO A LIEN IN THE AMOUNT OF THE FINE AND COSTS INCURRED UNDER THIS
16 SUBSECTION, SUBJECT TO A VALID LIEN OF PRIOR RECORD. IF THE FINE
17 AND COSTS ARE NOT PAID WITHIN 90 DAYS AFTER IMPOUNDMENT, THEN
18 FOLLOWING A HEARING BEFORE THE JUDGE OR MAGISTRATE WHO IMPOSED
19 THE FINE AND COSTS, THE JUDGE OR MAGISTRATE SHALL CERTIFY THE
20 UNPAID JUDGMENT TO THE PROSECUTING ATTORNEY OF THE COUNTY IN
21 WHICH THE VIOLATION OCCURRED. THE PROSECUTING ATTORNEY SHALL
22 ENFORCE THE LIEN BY FORECLOSURE SALE IN ACCORDANCE WITH THE PRO-
23 CEDURE AUTHORIZED BY LAW FOR CHATTEL MORTGAGE FORECLOSURES.

24 (5) ~~-(2)-~~ As used in this section, "serious safety defect"
25 means a violation of this act or a rule promulgated pursuant to
26 this act relative to brakes, tires, steering, coupling devices,

1 headlights, taillights, brake lights, and turn signals that
2 results in the vehicle being placed out of service.

3 Sec. 7c. (1) A driver or operator or an owner or user of
4 any bus, truck, truck tractor, or trailer, or certain other motor
5 vehicles, or any officer or agent of an individual, partnership,
6 corporation, or association, or their lessees or receiver
7 appointed by any court that is the owner or user of any vehicle,
8 who requires or permits the driver or operator to operate or
9 drive any bus, truck, truck tractor, or trailer, or certain other
10 motor vehicles, that violates this act or a rule promulgated
11 under this act if the vehicle is transporting a package required
12 to be marked or labeled under 49 C.F.R. parts 100 to 180, upon
13 conviction, is punishable by a CIVIL fine of not more than
14 \$500.00 for each violation. ~~, or by imprisonment for not more~~
15 ~~than 90 days, or both.~~

16 (2) Any officer, employee, owner or agent of an individual,
17 partnership, corporation, or association, or their lessees or
18 receiver appointed by any court that is the owner or user of any
19 hazardous materials vehicle inspection or repair facility that
20 violates a section of this act, or a rule promulgated under this
21 act, related to the transportation of hazardous materials, is
22 guilty of a misdemeanor punishable as prescribed in this
23 section.