

SENATE BILL NO. 554

June 4, 1997, Introduced by Senator BENNETT and referred to the Committee on Natural Resources and Environmental Affairs.

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

10 (d) "Hazardous materials" means materials as defined in
11 parts 100 to 180 of title 49 of the code of federal regulations

1 100-180, state-designated hazardous wastes that have been filed
2 by this state with the national repository under the uniform pro-
3 gram, and hazardous waste regulated under part 111 of the natural
4 resources and environmental protection act, 1994 PA 451, MCL
5 324.11101 to 324.11152.

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

12 (f) "Participating state" means a state electing to partici-
13 pate in the uniform program by entering a base state agreement.

14 (g) "Power unit" means a motor vehicle that provides motor
15 power to the entire combination, or to the vehicle if a single
16 unit.

17 (h) "Uniform application" means the uniform registration and
18 permit application form established under the uniform program.

19 (i) "Uniform program" means the uniform state hazardous
20 materials transportation registration and permit program estab-
21 lished in the report submitted and amended pursuant to 49
22 U.S.C. 5119(b).

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

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

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

5 (2) A motor carrier that designates this state as its base
6 state pursuant to subsection (1) shall register with and obtain a
7 permit from the department prior to transporting hazardous mate-
8 rials within this state. A motor carrier that designates another
9 participating state as its base state shall register with and
10 obtain a permit from that state, with the appropriate fees paid
11 for this state, prior to transporting hazardous materials in this
12 state.

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

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

21 (5) Upon a motor carrier's compliance with subsections (3)
22 and (4), the department shall issue a notice of registration form
23 and a permit to the motor carrier. A notice of registration form
24 and a permit shall include a unique number for each motor carrier
25 assigned by the department.

26 (6) A motor carrier shall maintain a copy of the notice of
27 registration form and the permit in each power unit used to

1 transport hazardous materials in all participating states. The
2 notice of registration form and the permit are not transferable
3 between motor carriers or owners. The original notice of regis-
4 tration form or permit shall be maintained at the motor carrier's
5 principal place of business as noted on the registration form or
6 permit, and shall be available for inspection during normal busi-
7 ness hours.

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

12 Sec. 4. (1) The apportioned vehicle registration fee
13 required under section 3 shall be equal to the percentage of
14 transportation in this state multiplied by the percentage of all
15 hazardous materials transportation, multiplied by the total
16 number of power units operated, multiplied by a per-vehicle fee
17 of \$50.00, and shall be calculated as follows:

18 (a) A motor carrier shall determine its percentage of trans-
19 portation in this state by dividing the number of miles traveled
20 in this state under the international registration plan during
21 the previous year by the number of miles it traveled nationwide
22 under the international registration plan. If a motor carrier
23 operated only in this state, its percentage is 100%. If a motor
24 carrier is not registered in the international registration plan,
25 the motor carrier shall calculate the number of miles traveled
26 using the method in the international registration plan. If a
27 motor carrier operates more than 1 fleet under the international

1 registration plan, the motor carrier may calculate each fleet's
2 contribution to the motor carrier's total fee separately. A
3 motor carrier who operated in another state under a reciprocal
4 agreement with that state shall include the miles operated under
5 the agreement as miles traveled in this state in calculating
6 mileage under this section.

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

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

13 (ii) For truckload shipments, it must divide the total
14 number of hazardous materials shipments during the previous year
15 by the total number of all shipments transported during the same
16 year.

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

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

24 (2) The hazardous materials transportation permit fund is
25 created in the state treasury. The state treasurer may receive
26 money or other assets from any source for deposit into the fund.
27 The registration and permit fees collected under this act shall

1 be deposited into the hazardous materials transportation permit
2 fund. The state treasurer shall direct the investment of the
3 fund. The state treasurer shall credit to the fund interest and
4 earnings from investment. Money remaining in the fund at the
5 close of the fiscal year shall remain in the fund and shall not
6 revert into the general fund.

7 (3) The department shall expend money from the fund, upon
8 appropriation, for the implementation of this act. In addition,
9 funds not expended for the implementation of this act may be uti-
10 lized for emergency response, training, and other activities
11 related to hazardous materials transportation safety that are
12 initiated by the department.

13 Sec. 5. (1) The department may enter into agreements with
14 federal agencies, a national repository, or other participating
15 states as needed to allow for the reciprocal registration and
16 permitting of motor carriers. The agreements may include proce-
17 dures for determining base states, the collection and distribu-
18 tion of fees, dispute resolution, the exchange of information for
19 reporting and enforcement, and other provisions necessary to
20 administer this act and the uniform program.

21 (2) The department shall confer with the department of state
22 with the intent of coordinating the registration and permitting
23 required under this act with other permitting and registration
24 programs.

25 (3) The department, and, if appropriate under subsection
26 (2), the department of state, may make payments to agencies of
27 other participating states in the uniform program, for the

1 purposes of reimbursement of apportioned registration permit
2 fees.

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

5 Sec. 6. (1) The department or the department of state
6 police may inspect or examine any motor vehicle or facility oper-
7 ated by a motor carrier, or conduct investigations, audits, or
8 compliance reviews as necessary to determine compliance with this
9 act and the uniform program, or to determine eligibility for reg-
10 istration or permitting under this act and the uniform program.

11 (2) The department or the department of state police may
12 inspect and electronically reproduce any papers, books, records,
13 documents, or other evidentiary material necessary to determine
14 if a motor carrier is complying with this act and the uniform
15 program, or to determine eligibility for registration or permit-
16 ting under this act and the uniform program.

17 (3) The department, the department of state police, or the
18 department of natural resources may enforce this act.

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

25 (5) A person who violates this act is responsible for a
26 state civil infraction and shall be fined not more than

1 \$2,500.00. Fines collected pursuant to this act shall be
2 deposited in the hazardous materials transportation permit fund.

3 Sec. 7. (1) A registration issued under this act is valid
4 for 1 year from the date a notice of registration form is issued
5 and a permit issued under this act is valid for 3 years from the
6 date issued or until a motor carrier fails to renew its registra-
7 tion, whichever occurs first. Application for renewal of a reg-
8 istration or permit shall be made at least 90 days prior to
9 expiration. The fee for renewal shall be the same for an origi-
10 nal registration or permit.

11 (2) A motor carrier with a valid permit shall annually cer-
12 tify that its current operations are not substantially different
13 from its operations on the date the motor carrier obtained its
14 permit and shall annually certify its compliance with all appli-
15 cable laws and regulations in its application for renewal.
16 Failure to comply with the certifications in part II of the uni-
17 form program is prohibited.

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

26 Sec. 8. (1) The department shall immediately suspend or
27 revoke a registration or permit, or deny an application for a

1 registration or permit, upon determination of any of the
2 following conditions:

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

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

7 (c) The motor carrier has been issued an unsatisfactory
8 rating under the motor carrier rating system developed by the
9 United States department of transportation.

10 (d) The motor carrier is under a current out of service
11 order issued pursuant to the motor carrier safety act of 1963,
12 1963 PA 181, MCL 480.11 to 480.22, or an out of service order
13 issued by the United States department of transportation.

14 (e) The motor carrier does not maintain the appropriate
15 level of financial liability coverage mandated by the laws of
16 this state.

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

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

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

25 (c) Deny an application for registration or permit by a
26 motor carrier.

1 (3) Upon revocation, suspension, or application denial, the
2 department shall notify the motor carrier, in writing, by
3 certified mail, of the reasons for suspension, revocation, or
4 application denial, and indicate the steps necessary for
5 reinstatement. In the case of a suspension, the department shall
6 also indicate the date by which compliance is required prior to a
7 revocation being issued. The department shall also indicate the
8 steps provided for appeal of the suspension, revocation, or
9 application denial.

10 (4) Upon notification of suspension, revocation, or applica-
11 tion denial, a motor carrier may submit a written request for a
12 hearing with the department, by certified mail, within 10 days of
13 receipt of the notice of suspension, revocation, or application
14 denial. A hearing shall be scheduled within 30 days of the
15 receipt of the request for a hearing, and shall be held in the
16 city of Lansing.

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

23 (6) The department may issue a notice of registration form
24 or permit that was previously denied to a motor carrier if the
25 department is satisfied that the violations causing the denial
26 have been corrected and the motor carrier's operations have

1 changed sufficiently to prevent further occurrences of the
2 violations.

3 Sec. 9. (1) This act preempts and supersedes hazardous
4 materials transportation registration or permitting programs
5 administered or enforced by any city, township, county, or other
6 political subdivision of this state.

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

10 (3) A motor carrier that holds a valid permit in compliance
11 with part 111 of the natural resources and environmental protec-
12 tion act, 1994 PA 451, MCL 324.11101 to 324.11152, on the effec-
13 tive date of this act, shall, upon expiration of that permit,
14 submit a completed uniform application to the department.

15 (4) The following data submitted on a uniform application
16 pursuant to this act are private data and not subject to the pro-
17 visions of the freedom of information act, 1976 PA 442, MCL
18 15.231 to 15.246:

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

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

22 (c) Ownership and debt liability data.

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

25 (5) Notwithstanding subsection (4), for the purposes of
26 administering the uniform program, the department may release any
27 information on individuals or motor carriers to the United States

1 department of transportation, any other participating state or
2 state agency, or to the national repository established under the
3 uniform program.