

SENATE BILL No. 1452

October 6, 2004, Introduced by Senator GILBERT and referred to the Committee on Transportation.

A bill to amend 1933 PA 254, entitled "The motor carrier act," by amending the title and sections 1, 2, and 3 of article I, sections 1, 4, 5, 6, 7, 7a, 8, 9, 10, 11, 12, 13, and 14 of article II, sections 1, 2, 4, 5, 5a, 8, 9, 10, 11, and 12 of article III, and sections 1, 2, 7, and 8 of article IV (MCL 475.1, 475.2, 475.3, 476.1, 476.4, 476.5, 476.6, 476.7, 476.7a, 476.8, 476.9, 476.10, 476.11, 476.12, 476.13, 476.14, 477.1, 477.2, 477.4, 477.5, 477.5a, 477.8, 477.9, 477.10, 477.11, 477.12, 478.1, 478.2, 478.7, and 478.8), the title and sections 1, 4, 6, 8, 9, 10, 11, 13, and 14 of article II, sections 1, 5, 8, 9, 11, and 12 of article III, and section 1 of article IV as amended by 1982 PA 399, sections 1, 2, and 3 of article I, sections 5, 7, and 7a of article II, sections 2, 4, and 5a of article III, and section 2 of article IV as amended by 1993 PA

352, section 7 of article IV as amended by 1989 PA 221, and section 8 of article IV as added by 1988 PA 369; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE

2 An act to promote safety upon ~~and conserve the use of~~
 3 public highways of the state; ~~to provide for the supervision,~~
 4 ~~regulation, and control of the use of such highways by all motor~~
 5 ~~vehicles operated by carriers of property for hire upon or over~~
 6 ~~such highways; to preserve, foster, and to regulate~~
 7 transportation ~~and permit the coordination of motor vehicle~~
 8 ~~transportation facilities; to provide for the supervision,~~
 9 ~~regulation, and control of the use of such highways~~ by all
 10 **certain** motor vehicles for hire for such purposes; to classify
 11 and regulate **certain** carriers ~~of property~~ by motor vehicles for
 12 hire upon such public highways for such purposes; to give the
 13 Michigan ~~Public Service Commission~~ **public service commission**
 14 jurisdiction and authority to prevent evasion of this act through
 15 any device or arrangement; to insure adequate transportation
 16 service; to give the commission jurisdiction and authority to
 17 fix, alter, regulate, and determine rates, fares, charges,
 18 classifications, and practices of ~~common~~ **certain** motor carriers
 19 for such purposes; to require filing with the commission of
 20 rates, fares, and charges of contract carriers and to authorize
 21 the commission to prescribe minimum rates, fares, and charges,
 22 and to require the observance thereof; to prevent unjust
 23 discrimination; to prescribe the powers and duties of said

1 (e) "For hire" means for remuneration or reward of any kind,
2 paid or promised, either directly or indirectly.

3 (f) "Motor common carrier of ~~property~~ **general commodities**"
4 means any person who holds himself or herself out to the public
5 as being engaged in the business of a for hire common carrier as
6 at the common law, either directly or through any device or
7 arrangement ~~, including but not limited to those who operate over~~
8 ~~fixed routes or within 1 mile of a fixed route or between fixed~~
9 ~~termini,~~ in the transportation by motor vehicle from place to
10 place upon or over the highways of this state, the ~~property, or~~
11 ~~any property, or any class of property~~ **general commodities** of
12 others who may choose to employ the person.

13 (g) "The public" means that ~~part or~~ portion of the general
14 public which the motor carrier is ready, able, willing, and
15 equipped to serve.

16 ~~(h) "Motor contract carrier of property" means any person~~
17 ~~providing motor vehicle transportation upon the highways of this~~
18 ~~state for a series of shipments under continuing agreement of not~~
19 ~~less than 1 year with a person which agreement provides for the~~
20 ~~assignment of motor vehicles exclusively for each such person~~
21 ~~while the vehicle is in the service of such person and which~~
22 ~~agreement is designed to meet the distinct needs of each such~~
23 ~~person. Lower rates, in and of themselves, shall not constitute~~
24 ~~a distinct need. A motor contract carrier that possesses a motor~~
25 ~~common carrier certificate of authority of that class set forth~~
26 ~~at section 5(6)(a) of article II may commingle authorized~~
27 ~~contract carrier shipments while providing common carrier service~~

~~1 over fixed routes, without assigning any vehicle exclusively for
2 the person or persons for whom contract service is provided. A
3 motor contract carrier authorized to transport packages or
4 articles weighing 70 pounds or less for 1 or more contract
5 shippers may commingle such authorized packages or articles
6 weighing 70 pounds or less in the same vehicle with commodities
7 transported as a common or contract carrier, without assigning
8 any vehicle exclusively for the person or persons for whom
9 contract service is provided. A motor contract carrier
10 authorized to transport coin, currency, or food stamps for 1 or
11 more contract shippers, may commingle such authorized coin,
12 currency, or food stamps in the same vehicle with commodities
13 transported as a common or a contract carrier, without assigning
14 any vehicle exclusively for the person for whom contract service
15 is provided.~~

16 (h) "Motor common carrier of household goods" means any
17 person who holds himself or herself out to the public as being
18 engaged in the business of a for hire common carrier as at the
19 common law, either directly or through any device or arrangement
20 in the transportation by motor vehicle from place to place upon
21 or over the highways of this state, household goods of others who
22 may choose to employ the person.

23 (i) "Motor carrier" means ~~both~~ motor common carriers of
24 ~~property and motor contract carriers of property~~ **general**
25 **commodities**. Motor carrier does not include a private carrier.

26 (j) "Certificate of authority" means a certificate issued to
27 a motor common carrier authorizing a transportation service that

1 serves a useful public purpose responsive to a public demand or
2 need, which certificate is issued under ~~the terms of~~ this act.

3 (k) "Permit" means the permit issued to motor contract
4 carriers under ~~the terms of~~ this act.

5 (l) "Through any device or arrangement" means ~~any and~~ all
6 methods, means, agreements, circumstances, operations, or
7 subterfuges under which any person undertakes for hire to
8 conduct, direct, control, or otherwise perform the transportation
9 by motor vehicle of property upon the public highways of this
10 state.

11 (m) "Modified procedure" means that administrative procedure
12 by which the commission may consider evidence and testimony
13 submitted in the form of verified statements in motor carrier
14 matters without the necessity for an oral hearing.

15 (n) "Occasional accommodative service" means service limited
16 to operations conducted by persons not regularly engaged in the
17 transportation business of a motor common carrier or a motor
18 contract carrier.

19 (o) "Required public purpose" means a purpose for which an
20 applicant can provide adequate, economic, safe, effective,
21 competitive, and equitable motor carrier service to satisfy a
22 demonstrated public necessity, without creating excess service.

23 (p) "Fit", as applied to a proposed motor carrier service,
24 means safe, suitable, and financially responsible as determined
25 by the commission.

26 (q) "Private carrier" means any person engaged in the
27 transportation of property by motor vehicle upon public highways

1 where the transportation is incidental to, or in furtherance of,
2 any commercial enterprise of the person, other than
3 transportation.

4 ~~(r) "General rate" means a rate applicable to 2 or more~~
5 ~~motor carriers which rate is filed pursuant to section 6b of~~
6 ~~article V.~~

7 (r) ~~(s)~~ "Base rate, fare, or charge" means that
8 nondiscounted rate, fare, or charge specified in a carrier's rate
9 schedule on file with the commission.

10 (s) ~~(t)~~ "Predatory rate" means a rate that is below its
11 fully allocated costs. As used in this subdivision, "fully
12 allocated costs" means total costs, including variable costs,
13 plus an allocation of fixed costs.

14 (t) "Household goods" means personal effects and property
15 used or to be used in a dwelling when the goods are a part of the
16 equipment or supply of the dwelling if the transportation of the
17 personal effects and property is arranged and paid for by the
18 householder. Household goods do not include property moving from
19 a factory or store unless the householder has purchased the
20 property and intends to use it in his or her dwelling and has
21 requested and paid for the transportation and goods moving from
22 the factory or store.

23 (u) "General commodities" means all property that is not
24 household goods.

25 Sec. 2. ~~It is hereby declared to be the purpose and policy~~
26 ~~of the~~ **The** legislature **intends** in enacting this law to confer
27 upon the commission the power and authority ~~and to make it its~~

~~1 duty to supervise and regulate the transportation of property by~~
~~2 motor vehicle for hire upon and over the public highways of this~~
~~3 state in all matters whether specifically mentioned herein or~~
~~4 not, so as to: (a) Relieve all future undue burdens and~~
~~5 congestion on the highways arising by reason of the use of the~~
~~6 highways by motor vehicles operated by motor carriers; (b)~~
~~7 protect and conserve the highways and protect to: (a) Protect~~
~~8 the safety and welfare of the traveling and shipping public in~~
~~9 their use of the highways; (c) promote competitive and efficient~~
~~10 transportation services; (d) (b) meet the needs of motor~~
~~11 carriers, shippers, receivers, and consumers; (e) allow a~~
~~12 variety of quality, price, and service options to meet changing~~
~~13 market demands and the diverse requirements of the shipping~~
~~14 public; (f) (c) allow the most productive use of equipment and~~
~~15 energy resources; (g) provide the opportunity for efficient and~~
~~16 well-managed motor carriers to earn adequate profits and attract~~
~~17 capital; (h) promote intermodal transportation; (i) (d) prevent~~
~~18 unjust discrimination; (j) promote greater participation by~~
~~19 minorities in the motor carrier system; (k) provide and maintain~~
~~20 service to small communities and small shippers; (l) (e) prevent~~
~~21 evasion of this act through any device or arrangement; (m) and~~
~~22 (f) promote entrepreneurship in the motor carrier industry by~~
~~23 allowing greater contract carrier economic and entry flexibility.~~
~~24 ; and (n) promote the use of jointly considered and initiated~~
~~25 rates, classifications, divisions, allowances, charges, or rules~~
~~26 of motor carriers under commission approved agreements.~~

27 Sec. 3. (1) To enable the provisions of service for which

1 there is an immediate and urgent need to a point or points or
2 within a territory having no motor common carrier **of household**
3 **goods** service capable of meeting that need, the commission may,
4 upon a proper application, in its discretion and without hearings
5 or other proceedings, grant temporary authority for that service
6 by a motor common carrier **of household goods** by motor vehicle.
7 The temporary authority, unless suspended or revoked for good
8 cause, shall be valid until the commission has made a
9 determination to grant or deny permanent authority. If, after a
10 hearing, permanent authority is granted, then ~~corresponding~~
11 temporary authority may be continued until the permanent
12 authority becomes effective. The grant of temporary authority
13 does not create a presumption that ~~corresponding~~ permanent
14 authority will be granted. ~~thereafter.~~

15 (2) The commission may, upon a proper application which shall
16 include specific definition of permit sought, in its discretion
17 and without hearings or other proceedings, grant a temporary
18 permit for that service by a motor contract carrier **of household**
19 **goods** by motor vehicle. A temporary permit shall be granted, at
20 the request of an applicant, in all cases, except when a safety
21 or fitness related protest has been filed, which protest ~~must~~
22 **shall** include specific allegations necessary to state a prima
23 facie case and reasonably inform the commission and the applicant
24 of the nature of the allegations, with specific reference to the
25 **relevant** section or sections of all related statutes, rules,
26 orders, and tariffs. The temporary permit, unless suspended or
27 revoked for good cause, shall be valid until the commission has

1 made a decision to grant or deny a permanent permit. The grant
2 of a temporary permit creates no presumption that a
3 ~~corresponding~~ permanent permit will be granted. ~~thereafter.~~

4 (3) Pending the determination of an application filed with
5 the commission for approval of a consolidation or merger of the
6 properties of 2 or more motor carriers **of household goods**, the
7 commission may, in its discretion and without a hearing or other
8 proceedings, grant temporary approval, for a period not exceeding
9 60 days, of the operation of the motor carrier **of household goods**
10 properties sought to be acquired by the person proposing in the
11 pending application to acquire the properties, if it appears that
12 failure to grant the temporary approval may result in destruction
13 of or injury to the motor carrier properties sought to be
14 acquired, or to interfere substantially with their future
15 usefulness in the performance of adequate and continuous service
16 to the public.

17 (4) Transportation service rendered under temporary authority
18 ~~shall be~~ **is** subject to ~~all applicable provisions of~~ this act
19 and to the rules of the commission.

20 ARTICLE II

21 Sec. 1. A motor common carrier of ~~property~~ **household**
22 **goods** shall not operate any motor vehicle for the transportation
23 of ~~property for hire~~ **household goods** on any public highway in
24 this state except in accordance with the provisions of this act.
25 A motor common carrier of ~~property~~ **household goods** shall not
26 operate upon any public highway without first having obtained
27 from the commission a certificate of authority.

1 Sec. 4. Upon the filing of an application for a certificate
2 of authority to operate as a motor common carrier **of household**
3 **goods**, the commission shall cause notice of the filing of the
4 application to be published in a biweekly information bulletin.
5 The commission may schedule a hearing on the application or
6 proceed under modified procedure. If a hearing is scheduled,
7 notice shall be given in the same manner as the notice of filing
8 of an application.

9 Sec. 5. (1) Except as provided in this section, the
10 commission shall issue a certificate of authority to an applicant
11 authorizing that it provide transportation subject to the
12 jurisdiction of the commission under this article as a motor
13 common carrier of ~~property~~ **household goods** if the commission
14 finds all of the following:

15 (a) The character and condition of the vehicles proposed to
16 be operated by the applicant is such that they may be operated
17 safely upon the public highways.

18 (b) That the applicant is fit, willing, and able to provide
19 the transportation to be authorized by the certificate and to
20 comply with this act and rules and regulations of the
21 commission.

22 (c) On the basis of evidence presented, that the service
23 proposed will serve a required public purpose, unless the
24 commission finds that the transportation to be authorized by the
25 certificate would create excess service by endangering the
26 ability of the present carriers to provide adequate, economical,
27 safe, and efficient service.

1 (d) That the service proposed is consistent with the
2 transportation policy set forth in section 2 of article I.

3 (2) In making a finding under subsection (1), the commission
4 shall consider and, to the extent applicable, make findings on at
5 least all of the following:

6 (a) The transportation policy set forth in section 2 of
7 article I.

8 (b) The existing available and adequate service in relation
9 to the character and volume of available traffic.

10 (c) Whether the service proposed will create excess service
11 inconsistent with the public interest. The commission shall not
12 find diversion of revenue or traffic from an existing motor
13 carrier to be in and of itself inconsistent with the public
14 interest.

15 (d) The character of the bond or insurance proposed to be
16 given to insure the protection of the public.

17 (e) Whether the applicant is fit, willing, and able to
18 provide service commensurate with the extent of the certificate
19 sought.

20 (3) A motor carrier **of household goods** may not protest an
21 application to provide transportation filed under this section
22 unless all of the following requirements are met:

23 (a) The protest is filed with the commission not later than
24 20 days following publication of the notice of the filing of the
25 application in the biweekly bulletin.

26 (b) The motor carrier **of household goods** possesses a
27 certificate of authority or permit authorizing it to handle, in

1 whole or in part, the traffic for which an application is made.

2 (c) The motor carrier **of household goods** is willing and able
3 to provide service that meets the reasonable needs of the
4 shippers involved.

5 (d) The motor carrier **of household goods** has performed
6 service within the scope of the application during the previous
7 12-month period.

8 (4) The commission may grant leave to intervene to a person
9 other than a motor carrier **of household goods** or an applicant for
10 a certificate of authority or permit upon a showing of other
11 interests that are consistent with the transportation policy set
12 forth in section 2 of article I. A petition to intervene shall
13 not be granted unless filed with the commission not later than 20
14 days following publication of the notice of the filing of the
15 application in the biweekly bulletin except for good cause
16 shown.

17 (5) Any motor carrier **of household goods** having timely filed
18 a protest or any intervenor having timely filed a petition to
19 intervene may participate in person or by counsel, cross-examine
20 witnesses, and offer testimony in support of, or in opposition
21 to, the grant of a certificate of authority.

22 (6) Certificates of authority issued to motor common carriers
23 of ~~property~~ **household goods** under this act shall be of 3
24 classes:

25 (a) Certificates issued to motor carriers **of household goods**
26 as may be operating over fixed routes or within 1 mile of a fixed
27 route or between fixed termini.

1 (b) Certificates issued to motor carriers **of household goods**
2 providing a transportation service within an 8-mile radius of a
3 city having a population of 500,000 or more and including each
4 city or village, a part of which is located within the 8-mile
5 radius.

6 (c) Certificates issued to all other motor common carriers of
7 ~~property~~ **household goods**.

8 (7) The burden of proof shall be on the protestant to meet
9 the requirement of subsection (2)(c).

10 Sec. 6. All motor common carriers of ~~property~~ **household**
11 **goods** subject to this act — shall, before engaging in business,
12 print and file with the commission and keep open to public
13 inspection in its principal place of business and have available
14 upon request, schedules showing all rates, fares, and charges for
15 transportation of property between different points on its route,
16 and also between points on its own route and on the route of any
17 other motor common carrier **of household goods** when a through
18 route and joint rate have been established. When the commission
19 grants a new authority to a motor common carrier **of household**
20 **goods**, that carrier shall not charge a predatory rate. A
21 predatory rate is a rate found to be below its fully allocated
22 cost by the Michigan public service commission. The commission
23 shall make this determination prior to the issuance of a
24 certificate and commencement of operations. If a joint rate over
25 the through route has not been established, the ~~several~~ motor
26 carriers **of household goods, subject to the joint rate**, shall
27 file, print, and keep open for public inspection as described in

1 this section, the separately established rates, fares, and
2 charges applied to the through transportation, and shall
3 ~~likewise~~ **also** print, file, and keep open to the public
4 inspection all other charges, privileges, or rules ~~which in~~
5 ~~anywise~~ **that** change, affect, or determine any part of the rates,
6 fares, charges, or the value of the service, and other
7 information ~~as~~ **that is** required by the commission in its
8 rules. In addition, a motor carrier **of household goods** shall
9 keep ~~the~~ **its** facilities ~~of the motor carrier~~ open to public
10 inspection. A motor common carrier **of household goods** shall not
11 receive or accept any person or property for transportation upon
12 the highways until **the motor common carrier of household goods is**
13 in compliance with the requirements of this section.

14 Sec. 7. (1) All rates, fares, and charges made by any motor
15 common carrier **of household goods** shall be just and reasonable,
16 and shall not be unjustly discriminatory, prejudicial, or
17 preferential. Contract motor carrier rates, fares, and charges
18 made by common motor carriers **of household goods** holding both
19 common carrier and contract carrier authority shall not be
20 considered by the commission to be unjustly discriminatory,
21 prejudicial, or preferential in determining compliance with this
22 section. Existing carriers will be permitted to meet competitive
23 rates without further justification to the commission. The
24 commission shall take into account reasonable estimated or
25 foreseeable future costs in determining whether rates, fares, and
26 charges meet the requirements of this subsection.

27 (2) A motor common carrier **of household goods** shall not

1 charge, demand, collect, or receive a greater or less or
2 different remuneration for the transportation of property, or for
3 any service in connection therewith, than the rates, fares, and
4 charges which have been legally established and filed with the
5 commission.

6 (3) A motor common carrier **of household goods** shall not
7 refund or remit in any manner or by any device any portion of the
8 rates, fares, and charges required to be collected by the tariffs
9 on file with the commission or ordered by the commission.

10 (4) Nothing in this act shall prohibit a carrier from
11 operating both as a motor common carrier **of household goods** and a
12 motor contract carrier.

13 Sec. 7a. (1) Notwithstanding any other provision of this
14 act, the commission may not investigate, suspend, revise, or
15 revoke any rate, fare, or charge proposed by a motor common
16 carrier **of household goods** on the grounds that the rate, fare, or
17 charge is unreasonable on the basis that it is too high or too
18 low if all the following requirements are met:

19 (a) The motor carrier **of household goods** notifies the
20 commission that it wishes to have the rate, fare, or charge
21 considered pursuant to this section.

22 (b) The rate, fare, or charge is the product of independent
23 action on the part of the motor carrier **of household goods**
24 proposing the rate, fare, or charge.

25 (c) The aggregate of increases and reductions in any such
26 rate, fare, or charge is not more than 20% above or below the
27 base rate, fare, or charge in effect 1 year before the effective

1 date of the proposed rate, fare, or charge.

2 (2) A motor common carrier **of household goods** may not protest
3 a rate, fare, or charge proposed under this section.

4 Sec. 8. A person, whether motor carrier **of household goods**,
5 shipper, or consignee, or any officer, employee, agent, or
6 representative of a motor carrier **of household goods**, shipper, or
7 consignee, who knowingly offers, grants, or gives, or solicits,
8 accepts, or receives any rebate, concession, or discrimination in
9 violation of this act, or who, by means of any false statement or
10 representation, or by the use of any false or fictitious bill,
11 bill of lading, receipt, voucher, roll, account, claim,
12 certificate, affidavit, deposition, lease, or bill of sale, or by
13 any other means or device, knowingly and ~~wilfully~~ **willfully**
14 assists, suffers, or permits a person to obtain transportation of
15 property subject to this article for less than the applicable
16 rate, fare, or charge, or who knowingly and ~~wilfully~~ **willfully**,
17 by any means, fraudulently seeks to evade or defeat rules as
18 promulgated under this act for motor common carriers, is guilty
19 of a misdemeanor — punishable by a fine of not more than
20 \$500.00, or imprisonment for not more than 6 months, or both.

21 Sec. 9. If a motor common carrier **of household goods** does
22 or causes or permits to be done any act or thing in this act **that**
23 **is** prohibited or declared to be unlawful, or omits to do any act
24 or thing required to be done by the motor common carrier **of**
25 **household goods** under this act or under any lawful order made by
26 the commission, the motor common carrier **of household goods** is
27 liable to the person, firm, or corporation injured to the extent

1 of the actual amount of damages sustained in consequence of the
2 violation. A recovery as provided in this section ~~shall~~ **does**
3 not affect a recovery by the state of the penalty prescribed for
4 the violation.

5 Sec. 10. The commission shall ~~supervise and regulate all~~
6 ~~motor common carriers of property and~~ regulate and determine
7 reasonable and sufficient rates, fares, charges, and
8 classifications; regulate the facilities, accounts, service, and
9 safety of operations of each motor common carrier **of household**
10 **goods**. To insure adequate transportation service to the
11 territory traversed by the motor common carriers **of household**
12 **goods**, the commission may require the coordination of the service
13 and schedules of competing motor common carriers **of household**
14 **goods**; require the filing of annual and other reports, tariffs,
15 schedules, and other data by the motor common carriers **of**
16 **household goods**; supervise and regulate motor common carriers **of**
17 **household goods** in all matters affecting the relation between the
18 motor carriers **of household goods**, and the public and between
19 motor carriers **of household goods**; and promulgate rules for the
20 purpose of promoting safety upon the highways and the
21 conservation of their use to the end that the provisions of this
22 act may be ~~fully and~~ completely carried out. The commission,
23 by general order or otherwise, shall promulgate rules in
24 conformity with this act applicable to all motor common carriers
25 **of household goods**, and to do all things necessary to ~~carry out~~
26 **implement** and enforce this act.

27 Sec. 11. The commission shall authorize motor common

1 **goods** shall not operate any motor vehicle for the transportation
2 of property for hire on any public highway in this state, except
3 in accordance with this act. A motor contract carrier of
4 ~~property~~ **household goods** shall not operate within this state
5 without first having obtained from the commission a permit for
6 the operation.

7 Sec. 2. (1) The commission, upon the filing of an
8 application for a permit to operate as a motor contract carrier
9 **of household goods**, shall ascertain and determine, under ~~those~~
10 ~~reasonable~~ rules ~~as~~ it promulgates, all of the following:

11 (a) Whether the character of business to be done by the
12 applicant strictly conforms with the definition of a motor
13 contract carrier **of household goods**.

14 (b) That ~~the character and condition of the~~ vehicles
15 proposed to be operated by the applicant ~~is such that they~~ may
16 be operated safely upon the public highways.

17 (c) The effect that denying the permit would have on the
18 shippers of the applicant for the permit.

19 (2) Unless the commission determines that the character of
20 business to be done does not strictly conform with the definition
21 of a motor contract carrier **of household goods**; the
22 transportation to be provided under the permit is ~~or will be~~
23 inconsistent with the transportation policy set forth in section
24 2 of article I; that the applicant is unfit; or that the vehicles
25 of the applicant may not be operated safely upon the public
26 highways, the application shall be granted, in whole or in part,
27 and a permit issued upon lawful terms and conditions ~~as~~ **that**

1 the commission imposes, and subject to ~~the~~ rules promulgated by
2 the commission, for ~~the~~ whole or ~~for only the~~ partial
3 exercise of the privilege sought.

4 Sec. 4. An application for a permit shall be in writing,
5 verified by affidavit, stating the experience of the applicant as
6 a motor carrier **of household goods**, if any, the ownership and
7 condition of the equipment and physical property of the applicant
8 proposed to be used, that the vehicles of the applicant have
9 passed an inspection within the immediately preceding 12 months
10 pursuant to the requirements of the motor carrier safety act,
11 ~~Act No. 181 of the Public Acts of 1963, being sections 480.11 to~~
12 ~~480.21 of the Michigan Compiled Laws 1963 PA 181, MCL 480.11 to~~
13 **480.21**, and 49 C.F.R. part 396, the support by shippers or
14 receivers for the proposed service, the manner in which the
15 proposed service strictly conforms to the definition of contract
16 carriage, and shall contain other information ~~as~~ **that** the
17 commission requires. The commission may request supplemental
18 information from an applicant regarding accident records and
19 citations issued to the applicant or drivers of the applicant
20 within the immediately preceding 12 months, when such information
21 is considered necessary to make findings regarding the fitness of
22 the applicant. Each application shall be accompanied by the
23 required fees and all other things required by law and the rules
24 of the commission.

25 Sec. 5. Upon the filing of an application for a permit to
26 operate as a motor contract carrier **of household goods**, the
27 commission shall cause notice of the filing of the application to

1 be published in a biweekly information bulletin. The commission
2 may schedule a hearing on the application or proceed under
3 modified procedure. If a hearing is scheduled, notice shall be
4 given in the same manner as the notice of the filing of any
5 application. A motor **contract carrier of household goods** may not
6 commence operations under authority granted to it by the
7 commission for at least 20 days after issuance of the order, nor
8 before a permit has been issued.

9 Sec. 5a. (1) A motor **contract carrier of household goods**
10 may not protest an application to provide transportation under
11 this section unless all of the following requirements are met:

12 (a) The protest is filed with the commission not later than
13 20 days following publication of the notice of the filing of the
14 application in the biweekly bulletin.

15 (b) The motor **contract carrier of household goods** possesses a
16 permit or certificate of authority authorizing it to handle, in
17 whole or in part, the traffic for which an application is made.

18 (c) The motor **contract carrier of household goods** is willing
19 and able to provide service that meets the reasonable needs of
20 the shippers involved.

21 (d) The motor **contract carrier of household goods** has
22 performed service within the scope of the application during the
23 previous 12-month period.

24 (2) The commission may grant leave to intervene to a person
25 other than a motor **contract carrier of household goods** or an
26 applicant for a certificate of authority upon a showing of other
27 interests that are consistent with the transportation policy set

1 forth in section 2 of article I. A petition to intervene will
2 not be granted unless filed with the commission not later than 20
3 days following publication of the notice of the filing of the
4 application in the biweekly bulletin except for good cause
5 shown.

6 (3) Any motor **contract carrier of household goods** having
7 timely filed a protest or any intervenor having timely filed a
8 petition to intervene may participate in person or by counsel,
9 cross-examine witnesses, and offer testimony in support of, or in
10 opposition to, the grant of the permit.

11 Sec. 8. A person, whether a motor **contract carrier of**
12 **household goods**, shipper, or consignee, or any officer, employee,
13 agent, or representative of a motor **contract carrier of household**
14 **goods**, shipper, or consignee, who knowingly offers, grants, or
15 gives, or solicits, accepts, or receives any rebate, concession,
16 or discrimination in violation of this act, or who, by means of
17 any false statement or representation, or by the use of any false
18 ~~or fictitious~~ bill, bill of lading, receipt, voucher, roll,
19 account, claim, certificate, affidavit, deposition, lease, or
20 bill of sale, or by any other means or device, knowingly and
21 ~~wilfully~~ **willfully** assists ~~—, suffers,~~ or permits a person to
22 obtain transportation of property subject to this article for
23 less than the applicable rate, fare, or charge, or who knowingly
24 and ~~wilfully~~ **willfully**, by any means, fraudulently seeks to
25 evade or defeat rules as promulgated under this act for motor
26 contract carriers **of household goods**, is guilty of a misdemeanor
27 ~~—~~ punishable by a fine of not more than \$500.00, or

1 imprisonment for not more than 6 months, or both.

2 Sec. 9. If a motor contract carrier **of household goods**
3 does, ~~or~~ causes, or permits to be done any act or thing in this
4 act **that is** prohibited, ~~or declared to be unlawful,~~ or omits to
5 do any act or thing required to be done under this act or under
6 any lawful order made under this act by the commission, the
7 carrier is liable to the person, firm, or corporation injured to
8 the extent of the actual ~~amount of~~ damages sustained in
9 consequence of the violation. A recovery as provided in this
10 section shall not affect a recovery by the state of the penalty
11 prescribed for the violation.

12 Sec. 10. ~~Interstate carriers.~~ This act shall apply to
13 persons and motor vehicles engaged in interstate commerce, except
14 only insofar as it may be inconsistent with, or shall contravene,
15 the constitution or the laws of the United States.

16 Sec. 11. Each motor contract carrier of ~~property or~~
17 ~~passengers who~~ **household goods that** ceases operations or
18 abandons its rights under the permit issued shall notify the
19 commission within 30 days of the cessation or abandonment.

20 Sec. 12. In case of emergency or unusual temporary demands
21 for transportation, the fees for additional motor propelled or
22 drawn vehicles for limited periods and the circumstances and
23 regulations under which they may be permitted to be operated,
24 used, or employed by any motor contract carrier **of household**
25 **goods** shall be prescribed and fixed by general rule or temporary
26 order of the commission, any provisions of this act to the
27 contrary notwithstanding.

ARTICLE IV

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Sec. 1. Each application filed with the commission for a certificate of authority or for a permit ~~—, as—~~ required by this act ~~—,~~ shall be accompanied by a fee of \$100.00 **if the application is from a motor carrier of household goods or a motor contract carrier of household goods.** Each application filed with the commission for the renewal of a certificate or permit shall be accompanied by a fee of \$50.00 for the administration of this act, which fee shall be in addition to all other fees, and shall be retained by the commission and deposited with the state treasurer, whether or not the certificate or permit or the renewal of the certificate or permit is granted.

Sec. 2. (1) In addition to the license fees or taxes otherwise imposed upon motor carriers **of household goods,** there shall be assessed against and collected from each motor carrier **of household goods** for the administration of this act, an annual fee of \$100.00 for each self-propelled motor vehicle operated by or on behalf of the motor carrier, except as otherwise provided in this subsection. A motor carrier **of household goods** shall pay a fee of only \$50.00 for each self-propelled motor vehicle operated by or on behalf of the motor carrier **of household goods,** if the motor carrier **of household goods** begins operation of the vehicle after June 30 and has not previously paid a fee under this subsection for that vehicle. After payment of the \$100.00 annual fee for a motor vehicle, or the \$50.00 fee paid for a vehicle operated after June 30, or the \$50.00 fee paid for a vehicle used for the transportation of household goods if a motor

1 carrier of household goods seeks to begin operating a
2 self-propelled motor vehicle in place of another motor vehicle
3 not leased to the motor carrier of household goods by an owner
4 operator for which a fee was paid and surrenders the
5 identification allocated to the motor vehicle by the commission,
6 accompanied by a fee of \$10.00, a replacement identification
7 shall be issued. If the owner operator replaces a vehicle while
8 it is still leased to the same motor carrier of household goods
9 to whom it was leased when the identification was issued, the
10 replacement identification fee shall be \$10.00. For all other
11 replacement vehicles, the fee shall be \$25.00 for each complete
12 or partial calendar year quarter remaining in the year as of the
13 date the replacement vehicle is to begin operating upon surrender
14 of the identification allocated to the motor carrier of household
15 goods by the commission. For each truck or tractor used
16 exclusively for the transportation of household goods as defined
17 by the commission, the annual fee shall be \$50.00.

18 (2) A motor carrier of household goods licensed in this state
19 shall pay an annual fee of \$100.00 for each vehicle operated by
20 the motor carrier of household goods which is registered in this
21 state and operating entirely in interstate commerce. A motor
22 carrier of household goods shall pay a fee of only \$50.00 for
23 each self-propelled motor vehicle operated by or on behalf of the
24 motor carrier of household goods if the motor carrier of
25 household goods begins operation of the vehicle after June 30 and
26 has not previously paid a fee under this subsection for that
27 vehicle.

1 (3) The commission may issue a temporary 72-hour permit for
2 the operation of a vehicle **by a motor carrier of household goods**
3 subject to rules and conditions of the commission at a fee of
4 \$10.00, which is in place of any other fee otherwise required
5 under this section. The commission shall reserve the authority
6 to deny or curtail the use of temporary permits authorized by
7 this section.

8 (4) A motor carrier **of household goods** shall not operate any
9 motor vehicle upon or over the highways of this state, except as
10 otherwise provided in this act, while any of the fees imposed by
11 this act remain unpaid. The commission is prohibited from
12 extending the time of payment or permitting the operation while
13 the delinquency continues.

14 (5) Motor carriers **of household goods** subject to this act
15 shall not be required to pay the fee on operations of vehicles
16 within the area described in section 2(1)(a) of article V.

17 (6) The commission shall cooperate with other state
18 departments involved with the registration of commercial motor
19 vehicles to implement a system whereby owners or drivers of
20 commercial motor vehicles can obtain registration plates, decals,
21 or tabs and pay the required fees at a single designated
22 location, rather than at multiple locations.

23 Sec. 7. (1) A motor carrier **of household goods** shall not
24 engage in the interstate or foreign transportation of property
25 for compensation without first having registered with the
26 commission and paid the required registration and vehicle fees.

27 (2) A motor carrier **of household goods** operating in this

1 state under authority granted by the interstate commerce
2 commission pursuant to section 10922 of subchapter II of chapter
3 109 of subtitle IV of title 49 of the United States ~~code~~ **Code**,
4 49 U.S.C. 10922, shall file and maintain a record of that
5 authority with the commission. A motor carrier **of household**
6 **goods** shall not operate within this state without first complying
7 with this subsection.

8 (3) A motor carrier **of household goods** shall not engage in
9 the interstate transportation of property within this state
10 pursuant to exemptions from economic regulation permitted under
11 the interstate commerce act, under subtitle IV of title 49 of the
12 United States ~~code~~ **Code**, 49 U.S.C. 10101 to 11917, without the
13 approval by the commission of an application for the registration
14 of the exempt operations.

15 (4) The annual fee levied on each interstate or foreign
16 ~~motor carrier~~ vehicle operated **by a motor carrier of household**
17 **goods** in this state and licensed in another state or province of
18 Canada shall be \$10.00. The commission may enter into a
19 reciprocal agreement with a state or province of Canada that does
20 not charge vehicles licensed in this state economic regulatory
21 fees or taxes and may waive the fee required under this
22 subsection.

23 (5) Of the fees collected pursuant to this section, not less
24 than 90% of those fees collected in excess of \$1,400,000.00
25 annually shall be deposited in the truck safety fund established
26 in section 25 of ~~Act No. 51 of the Public Acts of 1951, being~~
27 ~~section 247.675 of the Michigan Compiled Laws~~ **1951 PA 51, MCL**

1 247.675.

2 Sec. 8. The increase in the annual fee from \$50.00 to
3 \$100.00 in section 2 of this article provided by ~~Act No. 347 of~~
4 ~~the Public Acts of 1988~~ **1988 PA 347** for a motor carrier licensed
5 in this state and the new registration procedure instituted in
6 section 7 of this article by ~~Act No. 347 of the Public Acts of~~
7 ~~1988~~ **1988 PA 347** shall take effect January 1, 1990. **Beginning**
8 **October 1, 2003, no fee or fee increase shall be charged to a**
9 **motor carrier of general commodities.**

10 Enacting section 1. Sections 7b and 7c of article II and
11 sections 4 and 6b of article IV of the motor carrier act, 1933 PA
12 254, MCL 476.7b, 476.7c, 479.4, and 479.6b, are repealed.