

# SENATE BILL No. 496

June 16, 2011, Introduced by Senator CASPERSON and referred to the Committee on Transportation.

A bill to amend 1963 PA 181, entitled "Motor carrier safety act of 1963," by amending sections 1a, 2d, and 5 (MCL 480.11a, 480.12d, and 480.15), section 1a as amended by 2006 PA 50, section 2d as amended by 2005 PA 177, and section 5 as amended by 2006 PA 595; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1a. (1) This state adopts the following provisions of  
2 title 49 of the code of federal regulations ~~—~~on file with the  
3 office of the secretary of state, except where modified by this  
4 act:

5           (a) Hazardous materials regulations, being 49 CFR parts ~~100~~  
6 105 through 180 except for the transportation of agricultural  
7 products for which an exception from the application of 49 CFR  
8 subchapter C and 49 CFR ~~subchapters G and H,~~ part 172, **SUBPARTS G**

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1 **AND H**, is provided under 49 CFR 173.5, is specifically authorized  
2 if the transportation is in compliance with this act and other  
3 state law.

4 (b) Motor carrier safety regulations, being 49 CFR parts 40,  
5 356, 365, 368, 371 through 373, 375, 376, 379, 382, **383**, 385, 387,  
6 390 through 393, 395 through 399 including the appendices of each  
7 part, except for the following:

8 (i) Except as provided in this subparagraph, where the term  
9 "United States department of transportation", "federal motor  
10 carrier safety administration", "federal motor carrier safety  
11 administrator", "director", "bureau of motor carrier safety",  
12 "pipeline and hazardous materials administration", or "associate  
13 administrator for hazardous materials safety" appears, it refers to  
14 the department of state police. If the term is being used for the  
15 purposes of 49 CFR **PART** 397 as it relates to routing and movement  
16 of hazardous materials, it refers to the Michigan state  
17 transportation department.

18 (ii) Where "interstate" appears, it shall mean intrastate or  
19 interstate, or both, as applicable, except as specifically provided  
20 in this act.

21 (iii) Where "special agent of the federal motor carrier safety  
22 administration", "administration personnel", or "hazardous  
23 materials enforcement specialist" appears, it either means a peace  
24 officer or an enforcement member of the motor carrier division of  
25 the department of state police.

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

27 (v) Where MCS 64 appears, it means UD-70.

1 (vi) Exempt intracity zones and the regulations applicable to  
2 exempt intracity zones do not apply to this act.

3 (2) This act does not apply to a bus operated by a public  
4 transit agency operating under any of the following:

5 (a) A county, city, township, or village as provided by law,  
6 or other authority incorporated under 1963 PA 55, MCL 124.351 to  
7 124.359. Each authority and governmental agency incorporated under  
8 1963 PA 55, MCL 124.351 to 124.359, has the exclusive jurisdiction  
9 to determine its own contemplated routes, hours of service,  
10 estimated transit vehicle miles, costs of public transportation  
11 services, and projected capital improvements or projects within its  
12 service area.

13 (b) An authority incorporated under the metropolitan  
14 transportation authorities act of 1967, 1967 PA 204, MCL 124.401 to  
15 124.426, or that operates a transportation service ~~pursuant to~~  
16 **UNDER** an interlocal agreement ~~under~~ **AS THAT TERM IS DEFINED IN**  
17 **SECTION 2 OF** the urban cooperation act of 1967, 1967 (Ex Sess) PA  
18 7, ~~MCL 124.501 to 124.512.~~ **MCL 124.502.**

19 (c) A contract entered into ~~pursuant to~~ **UNDER** 1967 (Ex Sess)  
20 PA 8, MCL 124.531 to 124.536, or 1951 PA 35, MCL 124.1 to 124.13.

21 (d) An authority incorporated under the public transportation  
22 authority act, 1986 PA 196, MCL 124.451 to 124.479, or a nonprofit  
23 corporation organized under the nonprofit corporation act, 1982 PA  
24 162, MCL 450.2101 to 450.3192, that provides transportation  
25 services.

26 (e) An authority financing public improvements to  
27 transportation systems under the revenue bond act of 1933, 1933 PA

1 94, MCL 141.101 to 141.140.

2 (3) As used in this act:

3 (a) "Hazardous material vehicle inspection or repair facility"  
4 means a commercial enterprise that performs inspections,  
5 certification, testing, or repairs to commercial motor vehicles  
6 transporting hazardous materials as required by 49 CFR parts ~~100~~  
7 **105** to 180 and includes motor carriers that perform the  
8 inspections, certification, testing, or repairs to vehicles owned  
9 or leased by the motor carrier.

10 (b) "Medical examiner" means that term as defined under 49 CFR  
11 390.5.

12 Sec. 2d. (1) A person shall not ~~drive~~**OPERATE** a commercial  
13 motor vehicle unless he or she is qualified to ~~drive~~**OPERATE** that  
14 vehicle. A motor carrier shall not require or permit a person to  
15 ~~drive~~**OPERATE** a commercial motor vehicle unless that person is  
16 qualified to ~~drive~~**OPERATE** that vehicle.

17 (2) In the case of intrastate transportation, a person is  
18 qualified to ~~drive~~**OPERATE** a commercial motor vehicle if he or she  
19 meets all of the requirements of 49 CFR ~~part~~**PARTS 383 AND** 391,  
20 except all of the following provisions:

21 (a) Except as otherwise provided in subdivision (b), the  
22 person is at least 18 years old when transporting intrastate  
23 property or passengers.

24 (b) The person is at least 21 years old when transporting  
25 hazardous materials in a quantity that requires the vehicle to be  
26 marked or placarded under 49 CFR parts ~~100~~**105** to 180.

27 (c) The person is eligible for and displays a valid medical

1 waiver card, is excepted from the medical waiver card provisions  
2 under this act, or, **UNTIL DECEMBER 31, 2014**, displays a grandfather  
3 rights card issued in accordance with this act.

4       Sec. 5. (1) In the case of intrastate transportation, the  
5 provisions of 49 CFR 391.21 relating to application for employment,  
6 49 CFR 391.23 relating to investigations and inquiries, 49 CFR  
7 391.31 relating to road tests, 49 CFR part 395 relating to hours of  
8 service, 49 CFR **383.71 AND** 391.41 to 391.45 to the extent that they  
9 require a driver to be medically qualified or examined and to have  
10 a medical examiner's certificate on his or her person, and the  
11 provisions of this act relating to files and records do not apply  
12 to a farm vehicle driver as defined in 49 CFR 390.5.

13       (2) For intrastate transportation, the provisions of this act  
14 do not apply to a self-propelled implement of husbandry or an  
15 implement of husbandry being drawn by a farm tractor or another  
16 implement of husbandry.

17       (3) The provisions of this act related to driver  
18 qualifications do not apply to public utility, telephone, and cable  
19 television company service employees if those employees are not  
20 otherwise being used as a regularly employed driver and are not  
21 operating a vehicle that meets the definition of a commercial motor  
22 vehicle in 49 CFR part 383.

23       (4) The requirements of 49 CFR part 395 do not apply to any  
24 driver of a public utility service vehicle when being used in cases  
25 of emergency. As used in this subsection, "emergency" means any  
26 instance of loss of public utility service due to an unforeseen  
27 circumstance, a natural disaster, or an act of God. A declaration

1 of emergency by a public official is not required to constitute an  
2 emergency under this subsection.

3 (5) A commercial motor vehicle constructed and maintained so  
4 that the body chassis or other parts of the vehicle afford the rear  
5 end protection required by 49 CFR 393.86 is in compliance with that  
6 section.

7 (6) This act and the rules promulgated under this act do not  
8 apply to a commercial motor vehicle owned and operated by a unit of  
9 government or its employees, except as otherwise provided by this  
10 act, and except for **49 CFR 383.71(H) AND** all of ~~the following parts~~  
11 ~~of 49 CFR~~ **+PARTS 382, 391, 392, AND 393.**

12 ~~—— (a) Part 382.~~

13 ~~—— (b) Part 391.~~

14 ~~—— (c) Part 392.~~

15 ~~—— (d) Part 393.~~

16 (7) A combination of vehicles with an actual combination gross  
17 vehicle weight or a gross combination weight rating of 26,000  
18 pounds or less, ~~provided IF~~ the trailer or semitrailer has an  
19 actual gross vehicle weight or gross vehicle weight rating of  
20 15,000 pounds or less, may be equipped with surge brakes for  
21 intrastate operation as allowed by section 705(1)(c) of the  
22 Michigan vehicle code, 1949 PA 300, MCL 257.705. Vehicles of any  
23 size that are transporting hazardous materials in an amount that  
24 requires placarding or vehicles that are designed to transport more  
25 than 8 passengers, including the driver, ~~are prohibited from being~~  
26 **SHALL NOT BE** equipped with surge brakes for intrastate operation.

27 (8) This act and the rules promulgated under this act do not

1 apply to a school bus as defined in **SECTION 7 OF** the pupil  
 2 transportation act, 1990 PA 187, ~~MCL 257.1801 to 257.1877~~, ~~MCL~~  
 3 ~~257.1807~~, or a bus defined, and ~~certificated~~ **FOR WHICH A**  
 4 **CERTIFICATE OF AUTHORITY WAS ISSUED**, under the motor bus  
 5 transportation act, 1982 PA 432, MCL 474.101 to 474.141.

6 (9) A motor carrier operating entirely in intrastate commerce  
 7 solely within Michigan shall not permit or require a ~~driver~~ **AN**  
 8 **OPERATOR** of a commercial motor vehicle engaged in seasonal  
 9 construction-related activities, regardless of the number of motor  
 10 carriers using the ~~driver's~~ **OPERATOR'S** services, to do either of  
 11 the following:

12 (a) ~~Drive~~ **OPERATE** for any period after having been on duty 70  
 13 hours in any 7 consecutive days or having been on duty 80 hours in  
 14 any period of 8 consecutive days.

15 (b) ~~Drive~~ **OPERATE** more than 12 hours or be on duty more than  
 16 16 hours in any day.

17 (10) As used in subsections (3) and (4), "public utility"  
 18 means a person or corporation operating equipment or facilities for  
 19 producing, generating, transmitting, delivering, or furnishing gas  
 20 or electricity for the production of light, heat, or power for the  
 21 public for compensation.

22 (11) As used in this section:

23 (a) "Implement of husbandry" means that term as defined in  
 24 section 21 of the Michigan vehicle code, 1949 PA 300, MCL 257.21.

25 (b) "Farm tractor" means that term as defined in section 16 of  
 26 the Michigan vehicle code, 1949 PA 300, MCL 257.16.

27 Enacting section 1. Sections 4 and 4a of the motor carrier

1 safety act of 1963, 1963 PA 181, MCL 480.14 and 480.14a, are  
2 repealed effective December 31, 2014.

3 Enacting section 2. This amendatory act does not take effect  
4 unless Senate Bill No. 495

5 of the 96th Legislature is enacted into law.