

Legislative Analysis



COMMERCIAL PASSENGER TRANSPORTATION ACT

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House Bill 5908

Sponsor: Rep. Tim Kelly

House Bill 5909

Sponsor: Rep. Robert L. Kosowski

House Bill 5912

Sponsor: Rep. Dan Lauwers

House Bill 5910

Sponsor: Rep. Peter Pettalia

House Bill 5913

Sponsor: Rep. John Kivela

House Bill 5911

Sponsor: Rep. Ray A. Franz

House Bill 5914

Sponsor: Rep. Scott Dianda

Committee: Transportation and Infrastructure
Complete to 12-1-14

A SUMMARY OF HOUSE BILLS 5908-5914 AS INTRODUCED 11-6-14

House Bill 5908 would rename the Motor Bus Transportation Act as *the Commercial Passenger Transportation Act* and provide a regulatory structure for vehicles with a seating capacity of 9 to 15 passengers, including the driver, as well as for buses with a seating capacity of over 15 passengers. Limousines with a seating capacity of 1 to 8 passengers would no longer be regulated under the act. House Bills 5909-5914 would make technical complementary amendments to various related acts in order to refer to the new act being created (as described later). All of those bills are tie-barred to House Bill 5908, meaning they could not take effect unless House Bill 5908 is enacted.

House Bill 5908

House Bill 5908 would create Commercial Passenger Transportation Act (replacing the Motor Bus Transportation Act and repealing many of its provisions), and repeal the Limousine Transportation Act. As noted, it would apply to limousines with a seating capacity of 9 to 15 passengers, including the driver, and to buses with a seating capacity of 16 or more passengers, including the driver.

Specifically, a motor carrier could not operate a limousine or bus for transportation of persons for hire, and could not operate upon a public highway without having obtained a certificate from the Michigan Department of Transportation. A motor carrier would be required to register its roster of vehicles with the department and all vehicles on the roster would have to comply with the provisions of the act.

Exemptions

As proposed, the bill would not apply to the following motor carriers:

- A county, city, township or village as provided by law or other authority incorporated under the Mass Transportation System Authorities Act.
- Any authority incorporated under the Metropolitan Transportation Authority Act or one that operates a transportation service under an interlocal agreement under the Urban Cooperation Act.
- Operating under a contract entered into under the Intergovernmental Transfers of Functions and Responsibility Act or the Urban Cooperation Act.
- An authority incorporated under the Public Transportation Authority Act.
- A regional transit authority created under the Regional Transit Authority Act.
- A non-profit corporation organized under the Nonprofit Corporation Act that provides one or both of the following: (1) services that are restricted only to registered members of the nonprofit corporation or (2) services that are funded under Public Act 51 of 1951.
- An authority financing public improvements to transportation systems under the Revenue Bond.
- A motor carrier that operates limousines only for the purpose of transporting passengers to and from funerals.
- A motor carrier that operates a motor vehicle with a seating capacity of 15 passengers or less, including the driver, that is owned or leased by an employer to transport its employees to and from work.
- A public or private school or unit of government that owns or operates a school bus; or a privately owned school bus under contract with a school district, an independent school district, or a private or charter school, when that bus is used for the transportation of pupils to and from school, school-related events as provided under the Public Transportation Act.

The Certificate

A certificate covers a motor carrier and the authorized vehicles listed on its roster. A motor carrier and at least one vehicle on its roster must remain in good standing during the time period covered by the certificate or it would be automatically revoked. To remain in good standing a motor carrier needs to do all of the following: pay all fees by the due date; maintain insurance for each authorized vehicle; and ensure that each vehicle complies with the inspection requirements.

Eligibility of Certificate Application

MDOT would consider the following in determining the eligibility of an applicant for a certificate to provide transportation service: (1) if the applicant paid the required fees; (2) if the character and condition of each limousine or bus on the roster is such that it may operate safely; (3) if the applicant has proof of insurance coverage; (4) if the applicant provided the department with details of any fixed route service to be provided in the state; and (5) if the applicant has met all other requirements in the act. The department would not issue a certificate to an applicant who does not meet the eligibility requirements.

Application for Certificate

The department could approve or deny an application for certificate within 90 days after the completed application is filed by the motor carrier. If the department denies the application it would be required to notify the applicant of the denial in writing and the reasons for the denial. An applicant could, within 30 days after the date of the denial, correct any deficiency and reapply without payment of an additional application fee.

The application for a certificate would be considered incomplete if the applicant has not complied with all applicable provisions of the act and the application requirements of the department. If the applicant fails to comply with the requirements and does not correct its non-compliance within 60 days of the application date, the application would be canceled and any fees paid would be forfeited.

Conditions for Issuing Certificate

The department would be required to issue, without hearing, a certificate to a motor carrier authorizing it to provide transportation services if the department finds the motor carrier is fit, willing, and able to provide services. The department may attach terms and conditions granted by the certificate as it deems appropriate. The department could not issue or renew a certificate to a motor carrier that owes outstanding fees.

Original Annual Certificate

An applicant for an original annual certificate would be required to pay the department a filing fee of \$300 and a fee of \$50 times the number of limousines or \$100 times the number of buses to be used by the applicant to provide transportation for hire under the act. The applicant would have to submit its roster to the department at the time of payment.

Renewal

A certificate issued under the act expires on March 1 of each year. No later than the last day of February each year, a motor carrier that holds a certificate would need to pay the department an annual fee equal to \$50 times the number of limousines and \$100 times the number of buses. The motor carrier would be required to submit its roster to the department at the time of payment. The department may require a carrier submit additional documentation as part of the annual renewal process to ensure compliance with the act.

Additional Vehicles

A motor carrier who holds a certificate that wishes to have additional limousines or buses authorized under its certificate between annual renewal periods would need to pay the department a fee of \$50 times the number of limousines being added to its roster and \$100 times the number of buses being added to its roster. The motor carrier must ensure that each limousine or bus added to the roster complies with all requirements.

Certificate Revocation

The certificate of a motor carrier that does not comply with the act would be automatically revoked on March 1, and the carrier would need to apply for and be issued a new certificate before resuming service.

Emergency Certificate

The department could grant an emergency certificate to a motor carrier if there is an urgent need as defined in the act. An emergency certificate granted by the department, unless suspended or revoked for good cause, would be valid for the time specified by the department. The department could waive any or all fees or other requirements for a certificate granted under this section.

Liability Insurance Requirement

An applicant must acquire the following liability insurance coverage for acts or omissions of the applicant as a motor carrier.

- For limousines: bodily injury and property damage liability insurance with a minimum combined single limit of \$1.5 million for all persons injured or for property damage.
- For buses: bodily injury and property damage liability insurance with a minimum combined single limit of \$5 million for all persons injured or for property damage.
- Personal protection and property protection insurance as required by the No-Fault Act within the Insurance Code.

A motor carrier would need to maintain the insurance coverage cited above as a condition of maintaining an issued certificate. For each authorized seasonal vehicle, a motor carrier must maintain insurance coverage during the approved seasonal period. The requirements would be waived if an applicant obtains a certificate of self-insurance from the director of the Department of Insurance and Financial Services.

If a motor carrier cancels insurance covered required under the act for any reason, or if the coverage level falls below the levels specified in the act, the certificate issued to that motor carrier would be automatically revoked.

A motor carrier must ensure that its insurance carrier notifies the Department of Transportation of its insurance coverage on a form issued by the department. The issued form would need to contain at a minimum the motor carrier's legal name, coverage dates, and name of the insurance carrier. The department could not accept a form from an agent of an insurance carrier. The motor carrier must also ensure that its insurance carrier notifies the department of any cancellation or laps in insurance coverage.

Carrier's Name on Each Roster Vehicle

Each limousine and bus on a motor carrier's roster would be required to display its legal name or assumed name as listed on the application for authority or official request for name change as submitted to the department, and the primary telephone number on both sides of the limousine or bus in a color in sharp contrast to the background color and in a

size that is visible from a distance of at least 50 feet. The display would need to meet federal vehicle identification requirements.

Return to Roster of Previously Removed Bus or Limo

A motor carrier requesting a limousine or bus be placed back on the roster after having which been previously removed at the request of the motor carrier or by action of the department would need to pay a re-instatement fee of \$100 in addition to the annual renewal fee for that limousine or bus

Inspections

Beginning July 1, 2015, all of the following must be satisfied for an **inspection of a limousine** to be a valid inspection: (1) it is conducted no later than 12 months after the last valid inspection report was filed with the department; (2) it meets department specifications and standards; (3) the inspection was conducted at a department-approved motor vehicle repair facility by a properly certified mechanic certifying that the limousine passed the inspection by signing a department inspection report; and (3) the motor carrier files the report with the department no later than 12 months after the date on the last valid inspection received by the department.

Beginning July 1, 2015, for an **inspection of a bus** to be a valid inspection, all the following need to be satisfied: (1) an inspection has been scheduled at department's convenience; (2) the inspector of the bus indicates on a department inspection report that the bus passed the inspection before the expiration of the previous inspection; and (3) if the inspection is of a seasonal bus, it occurred no earlier than 30 days before the beginning of the approved seasonal period for that bus.

Under the bill, a limousine or bus that does not pass a valid inspection could not be operated over public highways and the motor carrier would need to remove it from its roster.

An inspection conducted under the Motor Bus Transportation Act or the Limousine Transportation Act before July 1, 2015, would be considered a valid inspection.

No Valid Inspection: Penalties

A motor carrier is subject to the following penalties for each **limousine** that does not have a valid inspection.

- If a motor carrier *files the inspection report later than 12 months* after the date of the last valid inspection but the department verifies that the inspection was conducted prior to the expiration of the last inspection, the motor carrier would be required pay a \$100 fee for each late inspection report. The department could revoke the certificate of a motor carrier that does not pay an assessed fee within 30 days after assessment.
- If a motor carrier *fails to obtain a valid inspection before the expiration* of the last inspection, the following penalties would be assessed: between 1 and 30 days late, \$100; between 31 and 60 days late, \$250; 61 or more days late \$500.

A motor carrier would be subject to all the following penalties for each **bus** that does not have a valid inspection:

- A late fee of \$500 for each late inspection. The fee would be in addition to any fee assessed under the act. The department could waive the fee if the late inspection was primarily caused by the schedule of the safety inspector. T
- A re-inspection fee according to the following schedule until the vehicle passes inspection or is permanently removed from service: for a first re-inspection, \$100; a second re-inspection \$200; a third re-inspection \$300, a fourth re-inspection \$400 and revocation of authority; for a fifth and subsequent re-inspection \$500.

Instead of an inspection by the department, an applicant for a certificate or renewal could provide evidence of a current year limousine or bus inspection by a state, district, or local municipality that has standards comparable to federal motor carrier safety periodic inspection standards and that has been approved by the department.

Motor Vehicle Repair Facility Review

The department could conduct a review of a motor vehicle repair facility to determine if the facility is capable of conducting limousine inspection according to department specifications and standards. If the department finds that a motor vehicle repair facility is not conducting limousine inspections according to its specifications, it could decline to accept inspections from that facility as valid inspections.

Inspection Report in Each Vehicle

A motor carrier would need to keep, at all times, a copy of a current valid inspection report on board each limousine or bus and the report would need to be available for review on demand by an authorized federal, state or local official.

Departmental Inspections

If the department has reasonable cause to believe that a limousine or bus is unsafe or has not been inspected as required, a department safety inspector could inspect the limousine or bus. If the either are not in compliance, the department could require the motor carrier to place the vehicle out of service until all violations have been corrected or eliminated.

Decal

Upon satisfactory completion of a valid inspection and payment of all required fees by the motor carrier, the department would issue a decal indicating the expiration date of the inspection for that limousine or bus.

A decal issued under the act is the property of the state. A motor carrier could not use a limousine or bus displaying an expired decal to provide for-hire passenger service. A motor carrier could not operate a limousine or bus over public highways if that limousine or bus does not have a properly displayed current decal issued by the department.

The department could require a motor carrier to return a decal if the limousine or bus on which the decal was displayed is removed from the motor carrier's roster. A motor carrier that fails to return a decal within 30 days after requested by the department would be required to pay at \$50 fee.

Waiver of Inspection: Out-of-State Carriers

The department could waive the inspection and renewal requirements for a limousine or a bus that is not being used in Michigan for a motor carrier located outside of Michigan if the carrier submits a roster that indicates which vehicles will be used exclusively outside of the state for at least one year. The roster would need to be submitted before the affected vehicle ceases to comply with the act. The motor carrier could put the limousine or bus back into service after one year by submitting a revised roster and complying with all other provisions in the act.

Discontinuation of Service

A motor carrier holding a certificate for regular route service would need to notify the department in writing if it plans to discontinue all or a portion of its service under its certificate. Within 10 days after notifying the department, the carrier would be required to publish notice of the discontinuation of service on a day for two different days in a newspaper as specified under the act. Anyone opposing the discontinuation of service would need to file a written notice of protest with the department. If the discontinuation of service is not opposed, the motor carrier could immediately discontinue the service. If the discontinuation is opposed within 20 days after receiving the letter of opposition, the department may conduct a hearing on the proposed discontinuation. The department would be required to submit a recommendation to a motor carrier within 90 days after receiving a notice of discontinuation. If the department does not issue a final recommendation within 90 days after the last publication, the applicant may discontinue service described in the notification.

Under the bill, a motor carrier authorized to provide regular route service under the act must not abandon or discontinue service without the notification described above. If a motor carrier discontinues service for more than 10 days without notifying the department, the certificate issued to that carrier would be automatically revoked without further action by the department.

Local Option

The act would not prohibit a county, city, township, authority, or village from adopting rules, or an ordinance or resolution more restrictive than the provisions of this act.

Related Bills

House Bills 5909-5914 would make technical complementary amendments to various related acts in order to make proper references to the new act being created.

House Bill 5909 would amend the Metropolitan Transportation Authorities Act of 1967.

House Bill 5910 would amend the Regional Transit Authority Act.

House Bill 5911 would amend the Motor Carrier Fuel Tax Act.

House Bill 5912 would amend the Pupil Transportation Act.

House Bill 5913 would amend Public Act 341 of 2012 (an act to authorize transit service providers to fingerprint certain individuals to obtain criminal history record information).

House Bill 5914 would amend the Motor Carrier Safety Act.

FISCAL IMPACT:

A fiscal analysis is in process.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.