

Legislative Analysis



RATE APPROVAL OF CARRIERS BY WATER BY MICHIGAN STATE POLICE

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House Bill 4807 (H-1) as reported from committee
Sponsor: Rep. Dan Lauwers
Committee: Transportation and Infrastructure
Complete to 10-26-17

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY:

House Bill 4807 would amend the Carriers by Water Act to codify existing oversight by the Michigan Department of State Police (MSP) and to describe the process whereby the MSP would approve or reject rates, fares, charges, or tariffs for carriers by water who primarily transport vehicles between two state highways.

FISCAL IMPACT:

The bill would have an indeterminate, yet likely minor fiscal impact on the MSP. This bill could create minor administrative costs for the Regulatory and Credentialing Section, within the Commercial Vehicle Enforcement Division, resulting from the requirement to compare and set the rates, fares, charges, or tariffs of carriers by water that transport motor vehicles directly between two highways. The Commercial Vehicle Regulation line item within the MSP budget, which supports the Regulatory and Credentialing Section, is funded primarily through motor carrier fees, which are unlikely to be affected by this bill.

THE APPARENT PROBLEM:

This bill is understood to impact only Champion's Auto Ferry, which runs between Algonac and Harson's Island. The proposed provision regarding rate approval would apply only to carriers that primarily transport vehicles directly between two state highways. According to committee testimony, the two Michigan ferry services that fall under that description are Champion's Auto Ferry and the ferry companies serving Mackinac Island. The Act currently states that pricing oversight by the MSP does not apply when a ferry company is operating within a municipality under an agreement with that municipality; the Mackinac Island ferries fall under that provision.

According to committee testimony, the proposed legislation would replace the existing metric for assessing rate increases—which applies to utilities—with a reasonableness standard that would more accurately reflect the function of the ferry service.

THE CONTENT OF THE BILL:

As written, the Act currently requires several administrative tasks of the Public Utilities Commission (PUC) regarding carriers by water, including reviewing and, when necessary,

setting new rates, fares, charges, and tariffs; examining and auditing the carriers' accounts; making all necessary rules and regulations; and investigating complaints against carriers.

However, the Public Utilities Commission no longer exists,¹ and the MSP has been administering the program since 2015.² The bill would reflect that practice in statute.

Additionally, the bill would require the MSP to make a decision on all filed rates, fares, and charges within 30 days of the date they are filed.

The bill would also add a section to the Act describing the considerations in determining reasonable rates for carriers primarily transporting vehicles between two state highways. It would provide that the MSP would compare a proposed rate, fare, charge, or tariff to those charged by comparable carriers by water. The MSP would determine the reasonable after-tax profit based on the most recent data from the federal Bureau of Labor Statistics for NAICS 483114 (the North American Industry Classification System section number for Coastal and Great Lakes Passenger Transportation).

If the rate is lower than that charged by comparable carriers, the MSP would automatically approve the rate and may not audit that carrier. If the rate is more than those charged by comparable carriers, the MSP may approve the rate if, based on justification submitted by the carrier, it finds the rate reasonable. If the MSP determines that the rate is not reasonable, the bill would require the MSP to meet with the carrier and explain the reasons for that determination within 15 days.

Finally, the bill would provide that any carrier by water that meets the criteria of this new section would be considered an instrumentality of the state. (An instrumentality is an organization created by or pursuant to state statute and operated for public purposes.)

The bill would take effect 90 days after enactment.

MCL 460.201 et al., and proposed MCL 460.207

POSITIONS:

A representative of Champion's Auto Ferry testified in support of the bill. (10-17-17)

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Fiscal Analyst: Kent Dell

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

¹ It was abolished in 1939, with its duties transferred to the Michigan Public Service Commission (MPSC), which falls under the authority of the Michigan Department of Licensing and Regulatory Affairs (LARA).

² Executive Order 10 of 2015 transferred authority for the Carriers by Water Act, as well as the Motor Carrier Act and Motor Carrier Safety Act, from MPSC/LARA to the MSP.

https://www.michigan.gov/documents/snyder/EO_2015-10_484513_7.pdf