

HOUSE BILL No. 5542

February 8, 2018, Introduced by Reps. Runestad, Lucido, Greimel, Inman, Howell, Vaupel, Reilly, Hornberger, Johnson, Hernandez, Bellino, Ellison, LaGrand, Robinson, Dianda and Howrylak and referred to the Committee on Transportation and Infrastructure.

A bill to amend 1963 PA 181, entitled
"Motor carrier safety act of 1963,"
by amending sections 1a and 14 (MCL 480.11a and 480.24), section 1a
as amended by 2012 PA 231 and section 14 as added by 2005 PA 177.

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 office
3 of the secretary of state, except where modified by this act:

4 (a) Hazardous materials regulations ~~7, being~~ **UNDER** 49 CFR parts
5 105 through 180 except for the transportation of agricultural
6 products for which an exception from the application of ~~49 CFR~~
7 subchapter C **OF CHAPTER I OF SUBTITLE B OF TITLE 49 OF THE CODE OF**

1 **FEDERAL REGULATIONS** and 49 CFR part 172, subparts G and H, is
2 provided under 49 CFR 173.5, is specifically authorized if the
3 transportation is in compliance with this act and other state law.

4 (b) Motor carrier safety regulations ~~, being~~ **UNDER** 49 CFR
5 parts 40, 356, 365, 368, 371 through 373, 375, 376, 379, 382, 383,
6 385, 387, 390 through 393, 395 through 399 including the appendices
7 of each 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 means 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 under an
16 interlocal agreement as that term is defined in section 2 of the
17 urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.502.

18 (c) A contract entered into under 1967 (Ex Sess) PA 8, MCL
19 124.531 to 124.536, or 1951 PA 35, MCL 124.1 to 124.13.

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

25 (e) An authority financing public improvements to
26 transportation systems under the revenue bond act of 1933, 1933 PA
27 94, MCL 141.101 to 141.140.

(3) Except as otherwise provided in this subsection, subsection (1)(b) and sections 5(8) and 6(1) do not apply to a vehicle that is not a commercial motor vehicle as defined in 49 CFR 383.5 and that is operated in intrastate commerce as defined in 49 CFR 390.5. A vehicle to which subsection (1)(b) does not apply under this subsection remains subject to 49 CFR parts 391 through 393.

(4) As used in this act:

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

(b) "Medical examiner" means that term as defined ~~under~~ **IN** 49 CFR 390.5.

(C) "STATE CIVIL INFRACTION" MEANS THAT TERM AS DEFINED IN SECTION 113 OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.113.

Sec. 14. ~~(1)~~—A state civil infraction shall be enforced in the manner provided for enforcement of state civil infractions in chapter 88 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8801 to 600.8835.

~~(2) When a person who is not a resident of this state is stopped for a state civil infraction under this act or any rule under this act, the police officer making the stop shall take~~

~~security for the nonresident's appearance in court. The person stopped may recognize to the officer or to the court for his or her appearance by leaving with the officer or court a guaranteed appearance certificate or a sum of money not to exceed \$100.00.~~

~~—— (3) If a magistrate is available for an immediate appearance, upon demand of the person stopped, the officer immediately shall take the nonresident driver before the magistrate to answer to the state civil infraction alleged. If the nonresident defendant requests a hearing, the hearing shall be scheduled and the defendant shall leave with the court the guaranteed appearance certificate or deposit as security for appearance at the scheduled informal or formal hearing.~~

~~—— (4) The officer receiving a guaranteed appearance certificate or deposit of money shall give a receipt to the person stopped for the guaranteed appearance certificate or the money deposited together with the written citation.~~

~~—— (5) At or before the completion of his or her tour of duty, a police officer taking a certificate or deposit of money shall deliver the certificate or deposit of money and the citation either to the court named in the citation or to the police chief or person authorized by the police chief to receive certificates or deposits. The police chief or person authorized by the police chief shall deposit the certificate or the money deposited and the citation with the court. Failure to deliver the money deposited shall be embezzlement of public money.~~

~~—— (6) If the person who posts a certificate or deposit fails to appear as required in the citation or fails to appear for a~~

~~scheduled informal or formal hearing, the court having jurisdiction and venue over the civil infraction shall enter a default judgment against the person, and the guaranteed appearance certificate or money deposited shall be forfeited and applied to any civil fine or costs ordered.~~

~~—— (7) For purposes of this section, "guaranteed appearance certificate" means a card or certificate containing a printed statement that a surety company authorized to do business in this state guarantees the appearance of the person whose signature appears on the card or certificate and that the company, if the person fails to appear in court at the time of a scheduled informal or formal hearing or to pay any fine or costs imposed, will pay any fine, costs, or bond forfeiture imposed on the person in a total amount not to exceed \$200.00.~~

~~—— (8) As used in this act, "state civil infraction" means that term as defined in section 113(1)(a) of the revised judicature act of 1961, 1961 PA 236, MCL 600.113.~~

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.