



HOUSE BILL No. 5214

October 10, 1995, Introduced by Reps. Bush, Brewer, Jellema and McBryde and referred to the Committee on Transportation.

A bill to amend sections 1, 3b, 3c, 5a, 5c, 5d, and 5e of Act No. 207 of the Public Acts of 1941, entitled as amended "Fire prevention code," sections 1 and 5c as amended by Act No. 70 of the Public Acts of 1987, sections 3b and 5a as amended by Act No. 247 of the Public Acts of 1980, section 3c as amended by Act No. 132 of the Public Acts of 1990, and section 5d as amended by Act No. 337 of the Public Acts of 1990, being sections 29.1, 29.3b, 29.3c, 29.5a, 29.5c, 29.5d, and 29.5e of the Michigan Compiled Laws; to add section 34; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1, 3b, 3c, 5a, 5c, 5d, and 5e of Act
2 No. 207 of the Public Acts of 1941, sections 1 and 5c as amended
3 by Act No. 70 of the Public Acts of 1987, sections 3b and 5a as
4 amended by Act No. 247 of the Public Acts of 1980, section 3c as

1 amended by Act No. 132 of the Public Acts of 1990, and section 5d
2 as amended by Act No. 337 of the Public Acts of 1990, being sec-
3 tions 29.1, 29.3b, 29.3c, 29.5a, 29.5c, 29.5d, and 29.5e of the
4 Michigan Compiled Laws, are amended and section 34 is added to
5 read as follows:

6 Sec. 1. As used in this act:

7 (a) "Director" means the director of the department of state
8 police.

9 (b) "Department" means the department of state police.

10 (c) "Building" means a structure, framework, or place for
11 housing 1 or more persons and includes a tank, receptacle, or
12 container for the storage of commodities or other materials.

13 (d) "Premises" means a lot or parcel of land, exclusive of
14 buildings, and includes a parking lot, tourist camp, trailer
15 camp, airport, stockyard, junkyard, wharf, pier, and any other
16 place or enclosure, however owned, used, or occupied.

17 (e) "Fire hazard" means a building, premises, place, or
18 thing which by reason of its nature, location, occupancy, condi-
19 tion, or use may cause loss, damage, or injury to persons or
20 property by reason of fire, explosion, or action of the
21 elements.

22 (f) "Person" means an individual, partnership, corporation,
23 or voluntary association.

24 (g) "Owner" means a person with an ownership interest in
25 property, and includes a trustee, a board of trustees of proper-
26 ty, or a person having a freehold interest in property. Owner
27 does not include a lessee or mortgagee of property.

1 (h) "Organized fire department" means an organization or
2 department which provides fire suppression and other fire related
3 services within a city, village, or township and is a fire
4 department of a city, village, or township, or a fire service
5 designated by a city, village, or township, pursuant to a
6 contract. Organized fire department includes a department of
7 county employees who are responsible for fire suppression and
8 other fire related services for an airport operated by the county
9 or an agency of the county.

10 (i) "State fire marshal" means the director or an officer of
11 the department appointed by the director to implement this act.

12 (j) "Firm" means a sole proprietorship, partnership, associ-
13 ation, or corporation.

14 (k) "Vehicle" means a tank vehicle or bulk transportation
15 vehicle, excluding the tractor of a tank vehicle or bulk trans-
16 portation vehicle.

17 (l) "Hazardous material" means explosives, pyrotechnics,
18 flammable gas, flammable compressed gas, nonflammable compressed
19 gas, flammable liquid, combustible liquid, oxidizing material,
20 poisonous gas, poisonous liquid, irritating material, etiologic
21 material, radioactive material, corrosive material, or liquefied
22 petroleum gas.

23 (m) "Fire fighter" means a member of an organized fire
24 department who is responsible for fire suppression and other fire
25 related services.

26 (n) "Place of public assemblage" means a room or other space
27 in a building which room or other space can accommodate 50 or

1 more individuals, including all connected rooms and space which
2 share a common means of-entrance and egress. Place of public
3 assemblage does not include a private 1- or 2-family dwelling.

4 (o) "Fire chief" or "chief of an organized fire department"
5 means the chief operating officer of an organized fire
6 department.

7 (p) "Board" means the state fire safety board created in
8 section 3b.

9 (q) "Terminal" means a location at which an above ground
10 liquid storage tank containing a flammable liquid is located.

11 (r) "Attended terminal" means a terminal, other than a
12 remote control terminal, where an individual knowledgeable in the
13 above ground liquid storage tank filling operation is physically
14 in attendance and control during the entire delivery of a flamma-
15 ble liquid and has as his or her primary responsibility, super-
16 vising the storage tank filling operation.

17 (s) "Unattended terminal" means a terminal, other than a
18 remote control terminal, where an individual knowledgeable in the
19 above ground liquid storage tank filling operation is only in
20 attendance during a portion of the time when a flammable liquid
21 is being delivered or has as his or her primary responsibility, a
22 function other than supervising the storage tank filling
23 operation.

24 (t) "Remote control terminal" means a terminal where the
25 filling of the above ground liquid storage tank with a flammable
26 liquid is controlled at a remote location by the individual who
27 conveyed the flammable liquid to the terminal.

1 (u) "Pipeline" means a pipeline used to convey a flammable
2 liquid from a crude petroleum wellhead collection site to a
3 refinery or terminal or from a refinery to a terminal. A pipe-
4 line does not mean gathering lines from the wellhead to a crude
5 petroleum collection tank or piping used within a plant
6 operation.

7 (v) "Fire alarm system" means an assemblage of components
8 which indicates or provides a warning of a fire emergency,
9 installation of which is required by the state fire marshal pur-
10 suant to rules promulgated by the state fire safety board under
11 section 3c.

12 (w) "Fire suppression system" means an integrated combina-
13 tion of a fire alarm system and fire suppression equipment which,
14 as a result of predetermined temperature, rate of temperature
15 rise, products of combustion, flame, or human intervention will
16 discharge a fire extinguishing substance over a fire area,
17 installation of which is required by the state fire marshal pur-
18 suant to rules promulgated by the state fire safety board under
19 section 3c.

20 (x) "Flammable liquid" means a liquid having a flash point
21 below 100 degrees fahrenheit and having a vapor pressure not
22 exceeding 40 pounds per square inch absolute at 100 degrees
23 fahrenheit.

24 (y) "Combustible liquid" means a liquid having a flash point
25 at or above 100 degrees fahrenheit and below 200 degrees
26 fahrenheit.

1 (z) "Owner of vehicle" means either of the following:

2 (i) Any person renting or leasing a vehicle or having the
3 exclusive use of a vehicle for a period greater than 30 days.

4 (ii) A person who holds the legal title to a vehicle, or if
5 a vehicle is the subject of an agreement for the conditional sale
6 or lease of the vehicle with the right of purchase upon per-
7 formance of the conditions stated in the agreement and with an
8 immediate right of possession vested in the conditional vendee or
9 lessee, or if a mortgagor of a vehicle is entitled to possession,
10 then the conditional vendee or lessee or mortgagor shall be con-
11 sidered the owner.

12 (AA) "NONCOMMERCIAL TRANSPORTATION" MEANS THE OCCASIONAL
13 TRANSPORTATION OF PERSONAL PROPERTY BY AN INDIVIDUAL NOT FOR COM-
14 PENSATION OR IN THE FURTHERANCE OF A COMMERCIAL ENTERPRISE, AND
15 TRANSPORTATION NOT REGULATED UNDER THE MOTOR CARRIER SAFETY ACT,
16 ACT NO. 181 OF THE PUBLIC ACTS OF 1963, BEING SECTIONS 480.11 TO
17 480.21 OF THE MICHIGAN COMPILED LAWS.

18 Sec. 3b. (1) The state fire safety board is created and
19 shall consist of 16 members who are residents of this state. Of
20 the 16 members:

21 (a) Three shall be representatives of organized fire depart-
22 ments in the lower peninsula.

23 (b) One shall be a representative of organized fire depart-
24 ments in the upper peninsula.

25 (c) One shall be a representative of hospital
26 administration.

- 1 (d) One shall be a registered professional engineer.
- 2 (e) One shall be a registered architect.
- 3 (f) One shall be a representative of the nursing home
4 industry.
- 5 (g) One shall be a school board member or a school
6 administrator.
- 7 (h) One shall be a representative of the building trades.
- 8 (i) One shall be a representative of persons who own a place
9 of public assemblage.
- 10 (j) One shall be a representative of the flammable liquids
11 industry.
- 12 (k) One shall be a representative of the liquefied petroleum
13 gas industry or the flammable compressed gases industry.
- 14 (l) One shall be a representative of the chemical manufac-
15 turing industry.
- 16 (m) One shall be a licensed electrical contractor or master
17 electrician.
- 18 (n) One shall be a ~~person knowledgeable in dry cleaning~~
19 ~~equipment and installation~~ REPRESENTATIVE OF PERSONS WHO OWN
20 ADULT FOSTER CARE FACILITIES.
- 21 (2) Even if the number of board members is reduced by stat-
22 ute, each board member serving at the time of the reduction may
23 complete the balance of the board member's unexpired term. Board
24 members shall be appointed by the governor with the advice and
25 consent of the senate. The members shall have the qualifications
26 the governor considers essential to enable them to competently

1 pass upon matters pertaining to fire prevention and fire safety
2 for the establishments or facilities specified in section 3c(1).

3 (3) Each member shall be appointed for a term of 3 years.
4 Continued absence of a member from regular or special meetings of
5 the board renders the member subject to immediate removal by the
6 governor.

7 (4) A majority of the members appointed to and serving on
8 the board constitutes a quorum. Affirmative votes of at least a
9 majority of the members appointed to and serving on the board
10 shall be required to pass upon any question, action, or business
11 of the board, except that a hearing of a contested case may be
12 conducted in the presence of 3 board members who, after hearing
13 the facts and considering the evidence and testimony, shall rec-
14 ommend the action the board should take.

15 (5) Annually the board shall elect a chairperson from its
16 members, and shall hold at least 6 regular meetings a year.
17 Special meetings may be called by the chairperson, or upon writ-
18 ten request of 5 board members. Meetings shall be held at a
19 location designated by the chairperson.

20 (6) The business which the board may perform shall be con-
21 ducted at a public meeting of the board held in compliance with
22 THE OPEN MEETINGS ACT, Act No. 267 of the Public Acts of 1976,
23 ~~as amended,~~ being sections 15.261 to 15.275 of the Michigan
24 Compiled Laws. Public notice of the time, date, and place of the
25 meeting shall be given in the manner required by Act No. 267 of
26 the Public Acts of 1976. ~~, as amended.~~

1 (7) Each member of the board shall receive per diem
2 compensation as the legislature prescribes, and shall be entitled
3 to actual and necessary expenses incurred in the performance of
4 duty. The legislature shall appropriate sufficient money for the
5 board to conduct its business and discharge its
6 responsibilities.

7 (8) The board shall keep minutes of its proceedings, showing
8 the vote of each member on each proposition or question, or indi-
9 cating if a member is absent or fails to vote. A record of board
10 action and business shall be made and maintained.

11 (9) Except as provided in subsections (10) and (11), a writ-
12 ing prepared, owned, or used which is in the possession of, or
13 retained by the board, department, its agents or others in the
14 performance of an official function shall be made available to
15 the public in compliance with THE FREEDOM OF INFORMATION ACT, Act
16 No. 442 of the Public Acts of 1976, ~~as amended,~~ being sections
17 15.231 to 15.246 of the Michigan Compiled Laws.

18 (10) A person regulated under this act may designate a
19 report or other information furnished to or obtained by the
20 department, its agents, or others as being only for the confiden-
21 tial use of the department, its agents, or others in the per-
22 formance of an official function. If the department, its agents,
23 or others receive a request for a public record under section 5
24 of Act No. 442 of the Public Acts of 1976, ~~as amended,~~ being
25 section 15.235 of the Michigan Compiled Laws, which public record
26 includes either information designated as confidential or
27 information obtained under section 4 of this act, the department,

1 its agents, or others shall notify the regulated person. The
2 person regulated under this act shall have 30 days after the
3 receipt of the notice to demonstrate to the department, its
4 agents, or others, that either the information designated as con-
5 fidential or information obtained under section 4 of this act,
6 constitutes a trade secret or confidential business information
7 which, if disclosed, may cause a competitive disadvantage. The
8 department, its agents or others shall grant the request for the
9 information unless the person regulated under this act has made a
10 satisfactory demonstration to the department, its agents, or
11 others that the information, if disclosed, may cause a competi-
12 tive disadvantage. If a dispute occurs between the person regu-
13 lated and the person requesting information under Act No. 442 of
14 the Public Acts of 1976, ~~as amended,~~ the fire safety board
15 shall make a final decision to grant or deny the request.

16 (11) Nothing in this act shall be construed to EITHER pre-
17 vent the use of records or information by the department in com-
18 piling or publishing reports, analyses or summaries relating to
19 general conditions for the prevention of fire, ~~nor shall any~~
20 ~~thing in this act prevent~~ OR the use of any record or other
21 information for the purposes of administration or enforcement of
22 any federal, state, or local fire prevention laws. However, a
23 report, analysis, summary, or use shall not directly or indi-
24 rectly publicly reveal information otherwise confidential under
25 this section.

26 (12) The board may maintain an office, hire employees,
27 either full or part time as necessary, and purchase, rent, or

1 lease equipment and supplies considered essential to the proper
2 discharge of its responsibilities.

3 Sec. 3c. (1) The board shall promulgate rules pertaining to
4 fire safety requirements for the construction, operation, or
5 maintenance of all of the following:

6 (a) Schools and dormitories, including state supported
7 schools, colleges, and universities and school, college, and uni-
8 versity dormitories.

9 (b) Buildings for which the state is the lessee or which are
10 owned by the state.

11 (c) A health facility or agency as defined in section 20106
12 of the public health code, Act No. 368 of the Public Acts of
13 1978, ~~as amended,~~ being section 333.20106 of the Michigan
14 Compiled Laws.

15 (d) Places of public assemblage.

16 (e) Penal facilities as described in section 62 of Act
17 No. 232 of the Public Acts of 1953, ~~as amended,~~ being section
18 791.262 of the Michigan Compiled Laws.

19 (f) Dry cleaning establishments using flammable liquids.

20 (g) Mental ~~hospitals, psychiatric hospitals, and psychiat-~~
21 ~~ric units as defined~~ FACILITIES AS DESCRIBED in section 135 of
22 the mental health code, Act No. 258 of the Public Acts of 1974,
23 being section 330.1135 of the Michigan Compiled Laws.

24 (2) The board shall promulgate rules for the storage,
25 NONCOMMERCIAL transportation, and handling of hazardous
26 ~~material~~ MATERIALS and for the implementation of this act.

1 (3) Rules promulgated pursuant to this act shall be
2 consistent with recognized good practice as evidenced by
3 standards adopted by nationally recognized authorities in the
4 field of fire protection. Experiences identified in the
5 department's fire incidents reports may be considered by the
6 board as a qualified basis for review of rules promulgated and
7 promulgation of rules pursuant to this act.

8 (4) The state fire safety board, pursuant to the administra-
9 tive procedures act of 1969, Act No. 306 of the Public Acts of
10 1969, ~~as amended,~~ being sections 24.201 to 24.328 of the
11 Michigan Compiled Laws, shall submit the initial rules to the
12 joint committee on administrative rules not later than
13 October 28, 1982 for the certification of a firm which does any
14 of the following:

15 (a) Installs, modifies, or documents the installation or
16 modification of a required fire suppression system.

17 (b) Documents the installation or modification of a required
18 fire alarm system.

19 (c) Performs testing, servicing, inspections, or maintenance
20 which has not been exempted by the rules promulgated by the board
21 on required fire alarm systems or required fire suppression
22 systems.

23 (d) Submits a drawing, print, or sketch of a required fire
24 alarm system or required fire suppression system to the state
25 fire marshal for approval pursuant to section 29, except an
26 architect or professional engineer licensed under article 20 of
27 the occupational code, Act No. 299 of the Public Acts of 1980,

1 ~~as amended,~~ being sections 339.2001 to 339.2014 of the Michigan
2 Compiled Laws.

3 (5) The state fire marshal shall not be required to consider
4 fire safety rules other than those provided for in this act and
5 in Act No. 306 of the Public Acts of 1937, ~~as amended,~~ being
6 sections 388.851 to 388.855a of the Michigan Compiled Laws.

7 (6) A person may request a variation of the application of a
8 rule promulgated pursuant to this act by applying to the state
9 fire marshal. The state fire marshal may make a variation upon a
10 finding that the variation does not result in a hazard to life or
11 property. The finding shall be transmitted to the person
12 requesting the variation and shall be entered into the records of
13 the department. If the variation requested concerns a building,
14 the finding shall also be transmitted to the governing body of
15 the city, village, or township in which the building is located.

16 (7) The entire board, except as provided in section 3b(4),
17 shall act as a hearing body in accordance with Act No. 306 of the
18 Public Acts of 1969, ~~as amended,~~ to review and render decisions
19 on a contested case, a rule specified in this act, or a ruling of
20 the state fire marshal in the marshal's interpretation or appli-
21 cation of the rules. After a hearing, the board may vary the
22 application of a rule or may modify the ruling or interpretation
23 of the state fire marshal if the enforcement of the ruling or
24 interpretation would do manifest injustice and would be contrary
25 to the spirit and purpose of the rules or the public interest.

26 (8) A decision of the board to vary the application of a
27 rule, or to modify or change a ruling of the state fire marshal,

1 shall specify in what manner the variation, modification, or
2 change is made, the conditions upon which it is made, and the
3 reasons for the variation, modification, or change.

4 (9) If a local school board has passed a resolution calling
5 for an election on the question of the issuance of bonds for the
6 construction, remodeling, or addition to a school, which election
7 was held not later than September 28, 1989, which approved issu-
8 ance of the bonds and which construction was reasonably antici-
9 pated to have begun not later than June 30, 1990, then the con-
10 struction, remodeling, or addition to that school is exempt from
11 the rules promulgated by the fire safety board entitled "schools,
12 colleges, and universities", being R 29.301 to R 29.321 of the
13 Michigan administrative code, that were filed with the Secretary
14 of State on July 14, 1989 and became effective on July 29, 1989.
15 The construction, remodeling, or addition to that school is, how-
16 ever, subject to the standards contained in rules promulgated by
17 the fire safety board entitled "school fire safety", being the
18 former R 29.1 to R 29.298 of the Michigan administrative code.
19 This subsection does not prevent the construction, remodeling, or
20 addition of a school from complying with R 29.301 to R 29.321 of
21 the Michigan administrative code.

22 Sec. 5a. (1) The state fire marshal, the chief of an orga-
23 nized fire department or police department, a peace officer, or a
24 fire fighter in uniform, which fire fighter is acting under the
25 orders and directions of the local fire chief, may inspect a
26 vehicle transporting a hazardous material. ~~IF~~ EXCEPT AS
27 OTHERWISE PROVIDED IN SUBSECTION (3), IF upon inspection a

1 vehicle is found to be in violation of the rules with respect to
2 safety equipment, the state fire marshal or the inspecting chief,
3 fire fighter, or peace officer shall attach to the vehicle a
4 notice identifying the vehicle and stating that it is condemned
5 against further use in the transportation of hazardous material,
6 and listing the violations found. If the vehicle is en route to
7 a destination where its load is to be delivered, the state fire
8 marshal, chief, fire fighter, or peace officer, except as other-
9 wise provided in this act, shall allow the vehicle to proceed to
10 make deliveries after which the vehicle shall be returned to its
11 base or customary place of maintenance and repair or taken to a
12 suitable place for repair. If, upon inspection, a vehicle while
13 en route to a delivery destination is found to be in a condition
14 such that further operation under normal road and traffic condi-
15 tions is likely to result in spillage of hazardous material, the
16 state fire marshal, chief, fire fighter, or peace officer shall
17 cause the vehicle to be impounded. The vehicle shall be
18 impounded at a suitable place where the hazardous material being
19 transported can be unloaded with reasonable safety, and until the
20 unloading is accomplished and arrangements are made to return the
21 vehicle with reasonable safety to its base or customary place of
22 maintenance and repair, or to move the vehicle to a suitable
23 place of repair. If, upon inspection, the braking, lighting,
24 steering, coupling, sounding, or other devices on a vehicle are
25 found to be in a condition such that the vehicle cannot be oper-
26 ated by a prudent operator without undue risk of accident, the
27 state fire marshal, chief, fire fighter, or peace officer shall

1 cause the vehicle to be impounded at a suitable place until the
2 necessary repairs are made.

3 (2) Except as provided for in this act, a vehicle condemned
4 pursuant to this act shall not again be used in transporting haz-
5 ardous material until released as provided for in this section.
6 Upon being returned to its base or customary place of maintenance
7 and repair, or to a suitable place of repair, the condemned vehi-
8 cle may be impounded there upon order of the state fire marshal
9 until the conditions for which the condemnation was issued have
10 been corrected. However, the state fire marshal may authorize
11 the temporary release of the condemned vehicle for a reasonable
12 time as may be needed to procure parts or appurtenances necessary
13 for correction of the conditions for which condemnation was
14 issued. Upon correction of the conditions, the state fire
15 marshal, chief of an organized fire department or police depart-
16 ment, a peace officer, or a fire fighter in uniform, which fire
17 fighter is acting under a chief's direction, shall be notified
18 and shall reinspect the vehicle. The state fire marshal, chief,
19 peace officer, or fire fighter shall release the vehicle, if upon
20 reinspection, the vehicle is found to be in compliance with this
21 act and the rules promulgated pursuant to this act, and if rea-
22 sonable impounding expenses have been paid by the owner of the
23 vehicle. A person inspecting a vehicle pursuant to this act
24 shall notify the state fire marshal under rules promulgated under
25 this act, of the circumstances and conditions of each violation,
26 condemnation, impounding, and release.

1 (3) NOTWITHSTANDING SUBSECTIONS (1) AND (2), AN OFFICIAL
2 NAMED IN SUBSECTION (1) INSPECTING A COMMERCIAL MOTOR VEHICLE
3 UNDER THE AUTHORITY OF THIS SECTION SHALL AFFIX NOTICES, AND
4 PLACE VEHICLES AND DRIVERS OUT OF SERVICE, ONLY AS PROVIDED UNDER
5 THE MOTOR CARRIER SAFETY ACT, ACT NO. 181 OF THE PUBLIC ACTS OF
6 1963, BEING SECTIONS 480.11 TO 480.21 OF THE MICHIGAN COMPILED
7 LAWS, AND AS PROVIDED UNDER THE OUT OF SERVICE CRITERIA ISSUED
8 UNDER THE AUTHORITY OF THE COMMERCIAL VEHICLE SAFETY ALLIANCE.
9 AS USED IN THIS SUBSECTION, "COMMERCIAL MOTOR VEHICLE" MEANS THAT
10 TERM AS DEFINED IN ACT NO. 181 OF THE PUBLIC ACTS OF 1963.

11 Sec. 5c. (1) A firm or person shall not establish or main-
12 tain 1 or more of the following without obtaining a certificate
13 from the state fire marshal:

14 (a) A flammable compressed gas or liquefied petroleum gas
15 container filling location.

16 (b) An aboveground flammable compressed gas or liquefied
17 petroleum gas storage location which has a tank with a water
18 capacity of more than 2,000 gallons or has 2 or more tanks with
19 an aggregate water capacity of more than 4,000 gallons.

20 (c) An aboveground storage location for a flammable liquid
21 or combustible liquid, which storage location has an individual
22 tank storage capacity of more than ~~1,000~~ 1,100 gallons. Crude
23 petroleum collection tanks that receive crude petroleum directly
24 from a wellhead and are certified by the state fire marshal may
25 be maintained without further inspection by the state fire
26 marshal, except as the state fire marshal may consider necessary
27 to assure compliance with this act.

1 (2) The state fire marshal may require that persons or firms
2 obtain approval from the state fire marshal before the installa-
3 tion of an aboveground storage tank for flammable or combustible
4 liquids having an individual tank storage capacity of ~~+1,000-~~
5 1,100 gallons or less. However, this requirement does not apply
6 to farm location storage tanks of ~~+1,000-~~ 1,100 gallons or less
7 capacity used for storing motor fuel for noncommercial purposes
8 or heating oil for consumptive use on the premises where stored.

9 Sec. 5d. (1) ~~The certificate specified in section 5b shall~~
10 ~~be issued by the state fire marshal after the initial inspection~~
11 ~~of a vehicle or the examination following the revocation of the~~
12 ~~certificate for a vehicle. The certificate shall be issued after~~
13 ~~the state fire marshal determines that the vehicle is in satis-~~
14 ~~factory compliance with this act.~~ The certificates specified in
15 section 5c shall be issued every 3 years by the state fire
16 marshal after the state fire marshal determines by an inspection
17 that the firm location is in satisfactory compliance with this
18 act. The board may authorize a firm specified in section 5c to
19 conduct inspections required in this section after application to
20 the state fire marshal and payment of an annual fee of
21 \$1,000.00. Upon annual determination by the state fire marshal
22 that the firm is in satisfactory compliance with this act, the
23 state fire marshal may recommend to the board that the authoriza-
24 tion be given. This authorization may be revoked by the board
25 for cause. Firms authorized to conduct inspections required in
26 this section shall be exempt from the fees provided in
27 subsections (2), ~~and (3)~~ EXCEPT FOR THE \$203.00 PER TANK FEE

1 REQUIRED TO BE SUBMITTED WITH THE INSTALLATION APPLICATION TO THE
2 STATE FIRE MARSHAL. The state fire marshal may review procedures
3 utilized by the firm to assure compliance with ~~the~~ THIS act.

4 (2) Each firm required to be certified under section 5c
5 shall submit an installation application to the state fire
6 marshal according to rules promulgated under this act. Each firm
7 shall pay a fee of \$203.00 per tank. This fee shall be submitted
8 with the installation application to the state fire marshal. The
9 state fire marshal shall not approve an installation application
10 unless this fee has been paid ~~7~~ as required in this
11 subsection. Payment of this fee shall waive the first annual
12 storage tank fee required in this subsection. ~~Except as pro-~~
13 ~~vided in subsection (3), the~~ THE owner of a firm specified in
14 section 5c ~~or the owner of a vehicle described in section 5b-~~
15 shall pay an annual fee of ~~\$35.00~~ \$61.50 for each ~~vehicle, and~~
16 ~~\$15.00 for each~~ tank located at each storage or filling location
17 specified in section 5c. Fees required by this subsection shall
18 be paid before the issuance of a certificate ~~when the vehicle~~
19 ~~specified in section 5b is used at any time during the state~~
20 ~~fiscal year for the transportation of hazardous material, or~~
21 when storage tanks operated by firms described in section 5c are
22 used and until such tanks are closed or removed, and notification
23 of the closure or removal is received by the state fire marshal.
24 OWNERS OF FIRMS DESCRIBED IN SECTION 5C SHALL NOTIFY THE STATE
25 FIRE MARSHAL OF THE CLOSURE OR REMOVAL OF STORAGE TANKS WITHIN 30
26 DAYS AFTER CLOSURE OR REMOVAL ON A FORM PROVIDED BY THE STATE

1 FIRE MARSHAL. Storage tanks that receive crude petroleum directly
2 from a wellhead are exempt from fees under this section.

3 ~~(3) Notwithstanding subsection (2), the annual fee is~~
4 ~~\$95.00 for each vehicle described in section 5b, and the annual~~
5 ~~fee is \$61.50 for each tank located at each storage or filling~~
6 ~~location specified in section 5c. Crude petroleum collection~~
7 ~~tanks that receive crude petroleum directly from a wellhead are~~
8 ~~exempt from fees specified in subsection (2) and this~~
9 ~~subsection.~~

10 (3) ~~(4)~~ Beginning October 1, 1990, a local unit of govern-
11 ment shall not enact or enforce a provision of an ordinance that
12 requires a permit, license, approval, inspection, or the payment
13 of a fee or tax for the installation, use, closure, or removal of
14 an aboveground storage tank system.

15 (4) ~~(5)~~ The fees specified in ~~subsections (2) and (3),~~
16 ~~SUBSECTION (2) shall be collected and deposited as follows: (a)~~
17 ~~Storage tank installation application fees and annual storage~~
18 ~~tank fees shall be deposited~~ into the hazardous materials stor-
19 age tank regulatory enforcement fund created in subsection ~~(6)~~
20 (5). ~~(b) Annual and semiannual vehicle fees shall be deposited~~
21 ~~into the hazardous materials transportation regulatory enforce-~~
22 ~~ment fund created in subsection (6).~~

23 (5) ~~(6)~~ The hazardous materials storage tank regulatory
24 enforcement fund ~~, and the hazardous materials transportation~~
25 ~~regulatory enforcement fund are~~ IS created in the state
26 treasury. ~~Each~~ THE fund may receive money as provided in this
27 act and as otherwise provided by law. The state treasurer shall

1 direct the investment of ~~each~~ THE fund. Interest and earnings
2 of ~~each~~ THE fund shall be credited to ~~that~~ THE fund. Money
3 in ~~each~~ THE fund at the close of the fiscal year shall remain
4 in ~~that~~ THE fund and shall not revert to the general fund.
5 Money in ~~each~~ THE fund shall be used only by the department to
6 enforce this act and the rules promulgated under this act per-
7 taining to the delivery, dispensing, NONCOMMERCIAL transporta-
8 tion, or storage of hazardous materials. If at the close of any
9 fiscal year the amount of money in ~~either~~ THE fund exceeds
10 \$1,000,000.00, the department shall not collect a fee for the
11 following year for ~~that~~ THE fund from existing storage tank
12 systems. ~~or existing vehicles.~~ After the fee has been suspended
13 under this subsection, it shall only be reinstated if at the
14 close of any succeeding fiscal year, the amount of money in the
15 fund is less than \$250,000.00. The department of treasury shall,
16 before November 1 of each year, notify the department of the bal-
17 ance in the fund at the close of the preceding fiscal year.

18 Sec. 5e. Upon a finding of noncompliance with this act, or
19 rules promulgated pursuant to this act, the state fire marshal
20 may revoke or deny the renewal of a certificate and order the
21 firm required to be certified to cease all or part of its opera-
22 tion ~~or prohibit a vehicle required to be certified from being~~
23 ~~operated in this state,~~ until THE FIRM IS in compliance.

24 SEC. 34. (1) EACH VEHICLE TRANSPORTING FLAMMABLE LIQUIDS,
25 COMBUSTIBLE LIQUIDS, OR LIQUEFIED PETROLEUM GAS, IN BULK, IN THIS
26 STATE, SHALL NOT BE OPERATED WITHOUT ANNUAL CERTIFICATION BY THE
27 MOTOR CARRIER DIVISION OF THE DEPARTMENT. A TRUCK CARRYING A

1 CARGO TANK WITH A CAPACITY OF LESS THAN 300 GALLONS AND ENGAGED
2 IN AGRICULTURAL OR HORTICULTURAL OPERATIONS IS NOT REQUIRED TO BE
3 CERTIFIED.

4 (2) THE MOTOR CARRIER DIVISION OF THE DEPARTMENT SHALL
5 DETERMINE COMPLIANCE WITH THIS ACT BY CONDUCTING AN ANNUAL
6 INSPECTION BEFORE CERTIFYING THE VEHICLE.

7 (3) EACH VEHICLE CERTIFIED UNDER THIS SECTION SHALL BEAR AN
8 IDENTIFICATION NUMBER AS ASSIGNED BY THE MOTOR CARRIER DIVISION
9 OF THE DEPARTMENT. THE MOTOR CARRIER DIVISION SHALL PRESCRIBE
10 THE SIZE, COLOR, DESIGN, AND PLACEMENT OF THE IDENTIFICATION
11 NUMBER. THE OWNER OF EACH VEHICLE CERTIFIED UNDER THIS SECTION
12 SHALL PROVIDE INFORMATION RELATIVE TO CERTIFICATION, AS REQUIRED
13 BY THE MOTOR CARRIER DIVISION.

14 (4) THE ANNUAL FEE FOR CERTIFICATION IS \$95.00 FOR EACH
15 VEHICLE DESCRIBED IN THIS SECTION. FEES REQUIRED UNDER THIS SUB-
16 SECTION SHALL BE PAID BY THE OWNER OF THE VEHICLE BEFORE THE
17 ISSUANCE OF A CERTIFICATE WHEN THE VEHICLE SPECIFIED IN THIS SEC-
18 TION IS USED AT ANY TIME DURING THE STATE FISCAL YEAR TO TRANS-
19 PORT A FLAMMABLE LIQUID, COMBUSTIBLE LIQUID, OR LIQUEFIED PETRO-
20 LEUM GAS IN BULK.

21 (5) UPON A FINDING OF NONCOMPLIANCE WITH THIS ACT, THE MOTOR
22 CARRIER DIVISION MAY REVOKE OR DENY THE RENEWAL OF A CERTIFICATE
23 AND PROHIBIT THE OWNER OF A VEHICLE REQUIRED TO BE CERTIFIED FROM
24 BEING OPERATED IN THIS STATE.

25 (6) FEES RECEIVED UNDER THIS SECTION SHALL BE DEPOSITED IN
26 THE HAZARDOUS MATERIALS TRANSPORTATION REGULATORY ENFORCEMENT
27 FUND. INTEREST AND EARNINGS SHALL BE CREDITED TO THE FUND.

1 MONEY IN THE FUND AT THE END OF THE FISCAL YEAR SHALL REMAIN IN
2 THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND. MONEY IN THE
3 FUND SHALL BE USED BY THE MOTOR CARRIER DIVISION FOR ENFORCEMENT
4 OF THIS ACT. IF AT THE CLOSE OF ANY FISCAL YEAR THE AMOUNT OF
5 MONEY IN THE FUND EXCEEDS \$1,000,000.00, THE DIVISION SHALL NOT
6 COLLECT A FEE FOR THE FOLLOWING YEAR FOR THE FUND FROM EXISTING
7 VEHICLES. AFTER THE FEE HAS BEEN SUSPENDED UNDER THIS SUBSEC-
8 TION, IT SHALL ONLY BE REINSTATED IF, AT THE CLOSE OF ANY SUC-
9 CEEDING FISCAL YEAR, THE AMOUNT OF MONEY IN THE FUND IS LESS THAN
10 \$250,000.00. THE DEPARTMENT OF TREASURY SHALL, BEFORE NOVEMBER 1
11 OF EACH YEAR, NOTIFY THE DEPARTMENT OF THE BALANCE IN THE FUND AT
12 THE CLOSE OF A PRECEDING FISCAL YEAR.

13 (7) SUBSECTIONS (1) THROUGH (6) APPLY UNTIL OCTOBER 1,
14 1996.

15 (8) THE OWNER OR THE LESSEE OF A VEHICLE DISPLAYING A
16 MICHIGAN STATE POLICE CERTIFICATION DECAL SHALL REMOVE THE DECAL
17 FROM THE VEHICLE BY JANUARY 1, 1997. FAILURE TO REMOVE A
18 MICHIGAN STATE POLICE CERTIFICATION DECAL FROM A VEHICLE BY
19 JANUARY 1, 1997 IS A MISDEMEANOR.

20 Section 2. Sections 5b and 5f of Act No. 207 of the Public
21 Acts of 1941, being sections 29.5b and 29.5f of the Michigan
22 Compiled Laws, are repealed.