



HOUSE BILL No. 5903

May 23, 1996, Introduced by Reps. Profit, Kukuk, London and Pitoniak and referred to the Committee on Transportation.

A bill to amend the title and sections 1a, 7, 7b, and 7c of Act No. 181 of the Public Acts of 1963, entitled as amended "Motor carrier safety act of 1963," sections 1a and 7 as amended and section 7c as added by Act No. 265 of the Public Acts of 1995 and section 7b as amended by Act No. 339 of the Public Acts of 1990, being sections 480.11a, 480.17, 480.17b, and 480.17c of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 1a, 7, 7b, and 7c of Act
2 No. 181 of the Public Acts of 1963, sections 1a and 7 as amended
3 and section 7c as added by Act No. 265 of the Public Acts of 1995
4 and section 7b as amended by Act No. 339 of the Public Acts of
5 1990, being sections 480.11a, 480.17, 480.17b, and 480.17c of the
6 Michigan Compiled Laws, are amended to read as follows:

TITLE

1
2 An act to promote safety upon the public highways by regu-
3 lating the operation of certain vehicles; to provide consistent
4 regulation of these areas by state agencies and local units of
5 government; to establish the qualifications of persons necessary
6 for the safe operation of such vehicles; to limit the hours of
7 service of persons engaged in operating such vehicles; to require
8 the keeping of records of such operations; to provide penalties
9 AND TO PRESCRIBE REMEDIES for the violation of this act; to pre-
10 scribe the powers and duties of certain state agencies; and to
11 repeal ~~certain~~ acts and parts of acts.

12 Sec. 1a. (1) This state hereby adopts the following provi-
13 sions of title 49 of the ~~code of federal regulations~~ CODE OF
14 FEDERAL REGULATIONS, on file with the office of the secretary of
15 state except where modified by this act, to provide for the safe
16 transportation of persons and property with the intent of follow-
17 ing the policies and procedures of the United States department
18 of transportation's federal highway administration as they relate
19 to title 49 of the ~~code of federal regulations~~ CODE OF FEDERAL
20 REGULATIONS and the ~~north american~~ NORTH AMERICAN standard uni-
21 form out of service criteria and inspection procedures:

22 (a) Hazardous materials regulations, being 49 C.F.R. parts
23 100 through 180.

24 (b) Motor carrier safety regulations, being 49
25 C.F.R. part 382, part 387, parts 390 through 393, parts 395
26 through 397, and part 399 including appendices 1, D, E, and G,
27 except for the following:

1 (i) Where the term "United States department of
2 transportation", "federal highway administration", "federal high-
3 way administrator", "director", "bureau of motor carrier safety",
4 "research and special projects administration", or "associate
5 administrator for hazardous materials safety" appears, it refers
6 to the department of state police.

7 (ii) Where "interstate" appears, it shall mean intrastate or
8 interstate, or both, as applicable, except as otherwise specifi-
9 cally provided in this act.

10 (c) Where "special agent of the federal highway
11 administration", "administration personnel", or "hazardous mate-
12 rials enforcement specialist" appears, it either means a peace
13 officer or an enforcement member or a vehicle inspector of the
14 motor carrier division of the department of state police.

15 (d) Where MCS 63 appears, it means MC 9 and MC 9b.

16 (e) Where MCS 64 appears, it means MC 5.

17 (f) Exempt intracity zones and the regulations applicable to
18 exempt intracity zones do not apply to this act.

19 (2) When a commercial motor vehicle is operated entirely
20 within this state and not otherwise involved with the movement of
21 interstate property or passengers in commerce, the definitions in
22 this subsection apply. The definitions contained in those parts
23 of 49 C.F.R. adopted in subsection (1)(b) apply to this act
24 except for the following definitions as added or modified:

25 (a) "Appeal board" means the motor carrier safety appeal
26 board created in section 1b.

1 (b) "Bus" means any motor vehicle designed for carrying 16
2 or more passengers, including the driver. Bus does not include a
3 school bus, a bus defined and certificated under the motor bus
4 transportation act, Act No. 432 of the Public Acts of 1982, being
5 sections 474.101 to 474.141 of the Michigan Compiled Laws, or a
6 bus operated by a public transit agency operating under any of
7 the following:

8 (i) A county, city, township, or village as provided by law,
9 or other authority incorporated under Act No. 55 of the Public
10 Acts of 1963, being sections 124.351 to 124.359 of the Michigan
11 Compiled Laws. Each authority and governmental agency incorpo-
12 rated under Act No. 55 of the Public Acts of 1963 has the exclu-
13 sive jurisdiction to determine its own contemplated routes, hours
14 of service, estimated transit vehicle miles, costs of public
15 transportation services, and projected capital improvements or
16 projects within its service area.

17 (ii) An authority incorporated under the metropolitan trans-
18 portation authorities act of 1967, Act No. 204 of the Public Acts
19 of 1967, being sections 124.401 to 124.426 of the Michigan
20 Compiled Laws, or that operates a transportation service pursuant
21 to an interlocal agreement under the urban cooperation act of
22 1967, Act No. 7 of the Public Acts of the Extra Session of 1967,
23 being sections 124.501 to 124.512 of the Michigan Compiled Laws.

24 (iii) A contract entered into pursuant to Act No. 8 of the
25 Public Acts of the Extra Session of 1967, being sections 124.531
26 to 124.536 of the Michigan Compiled Laws, or Act No. 35 of the

1 Public Acts of 1951, being sections 124.1 to 124.13 of the
2 Michigan Compiled Laws.

3 (iv) An authority incorporated under the public transporta-
4 tion authority act, Act No. 196 of the Public Acts of 1986, being
5 sections 124.451 to 124.479 of the Michigan Compiled Laws, or a
6 nonprofit corporation organized under the nonprofit corporation
7 act, Act No. 162 of the Public Acts of 1982, being sections
8 450.2101 to 450.3192 of the Michigan Compiled Laws, that provides
9 transportation services.

10 (v) An authority financing public improvements to transpor-
11 tation systems under the revenue bond act of 1933, Act No. 94 of
12 the Public Acts of 1933, being sections 141.101 to 141.140 of the
13 Michigan Compiled Laws.

14 (C) "CIVIL INFRACTION" MEANS AN ACT OR OMISSION PROHIBITED
15 BY LAW WHICH IS NOT A CRIME AS DEFINED IN SECTION 5 OF THE
16 MICHIGAN PENAL CODE, ACT NO. 328 OF THE PUBLIC ACTS OF 1931,
17 BEING SECTION 750.5 OF THE MICHIGAN COMPILED LAWS, AND FOR WHICH
18 CIVIL SANCTIONS MAY BE ORDERED.

19 (D) ~~(c)~~ "Commercial motor vehicle" means any
20 self-propelled or towed vehicle designed or used on public high-
21 ways to transport passengers or property, except for a bus
22 exempted in subdivision (b), if the vehicle is 1 or more of the
23 following:

24 (i) Has either a gross vehicle weight rating or an actual
25 gross weight or gross combination weight rating or an actual
26 gross combination weight of 10,001 or more pounds.

1 (ii) Is designed for carrying 16 or more passengers,
2 including the driver.

3 (iii) Is used in the transportation of hazardous materials
4 in a quantity that requires the vehicle to be marked or placarded
5 pursuant to 49 C.F.R. parts 100 to 180.

6 (E) ~~(d)~~ "Gross combination weight" or "GCW" means the com-
7 bined weight of a combination of vehicles and any load on those
8 vehicles.

9 (F) ~~(e)~~ "Gross weight", "gross vehicle weight", or "GVW"
10 means the combined weight of a motor vehicle and any load on that
11 vehicle.

12 (G) ~~(f)~~ "Hazardous material vehicle inspection or repair
13 facility" is a commercial enterprise that performs inspections,
14 certification, testing, or repairs to commercial motor vehicles
15 transporting hazardous materials as required by 49 C.F.R. parts
16 100 to 180 and includes motor carriers that perform the inspec-
17 tions, certification, testing, or repairs to vehicles owned or
18 leased by the motor carrier.

19 (H) ~~(g)~~ "Motor carrier" means a carrier of passengers or
20 property in a commercial motor vehicle and includes a person who
21 owns or leases a commercial motor vehicle or that assigns employ-
22 ees to operate the vehicle. Motor carrier includes a motor
23 carrier's agents, officers, and representatives, as well as
24 employees responsible for hiring, supervising, training, assign-
25 ing, or dispatching of drivers and employees concerned with the
26 installation, inspection, and maintenance of motor vehicle
27 equipment and accessories.

1 Sec. 7. (1) Except as provided in sections 7b, 7c, and 7d,
2 any PERSON, driver, or operator who violates this act or a rule
3 promulgated under this act, or any owner or user of any bus,
4 truck, truck tractor, or trailer, or certain other motor vehicles
5 or any officer or agent of any individual, partnership, corpora-
6 tion, or association or their lessees or receivers appointed by
7 any court which is the owner or user of any vehicle, who requires
8 or permits the driver or operator to operate or drive any bus,
9 truck, truck tractor, or trailer, or certain other motor vehicles
10 in violation of this act or a rule promulgated under this act, is
11 ~~guilty of a misdemeanor~~ RESPONSIBLE FOR A CIVIL INFRACTION AND
12 MAY BE ASSESSED A CIVIL FINE OF NOT MORE THAN \$250.00 for each
13 violation. ~~punishable by imprisonment for not more than 90 days~~
14 ~~or a fine of not more than \$100.00, or both.~~

15 (2) A peace officer or an officer of the motor carrier divi-
16 sion of the department of state police, upon reasonable cause to
17 believe that a motor vehicle is being operated in violation of
18 this act or a rule promulgated pursuant to this act, may stop the
19 motor vehicle and inspect the motor vehicle. If a violation is
20 found, the officer may issue a notice to appear for that
21 violation. If a motor vehicle is inspected by breaking the load
22 seal, then the peace officer shall give to the driver a signed
23 receipt of inspection and the peace officer shall be responsible
24 for reapplying a Michigan department of transportation seal.

25 (3) A CIVIL FINE ORDERED UNDER THIS SECTION AND SECTION 7B
26 SHALL BE EXCLUSIVELY APPLIED TO THE SUPPORT OF PUBLIC LIBRARIES
27 AND COUNTY LAW LIBRARIES IN THE SAME MANNER AS IS PROVIDED BY LAW

1 FOR PENAL FINES ASSESSED AND COLLECTED FOR VIOLATION OF A PENAL
2 LAW OF THE STATE IN ORDER TO MAINTAIN A CONTINUED SOURCE OF REVE-
3 NUE FOR PUBLIC LIBRARIES WHICH PREVIOUSLY RECEIVED PENAL FINES
4 FOR MISDEMEANOR VIOLATIONS OF THIS SECTION AND SECTION 7B WHICH
5 ARE NOW CIVIL INFRACTIONS.

6 Sec. 7b. (1) A driver or operator or an owner or user of
7 any bus, truck, truck tractor, or trailer, or certain other motor
8 vehicles or any officer or agent of an individual, partnership,
9 corporation, or association or their lessees or receivers
10 appointed by any court that is the owner or user of any vehicle,
11 who requires or permits the driver or operator to operate a vehi-
12 cle with a serious safety defect is subject to a fine of not more
13 than \$300.00 for each violation.

14 (2) FOR PURPOSES OF THIS ACT, A VIOLATION THAT IS A CIVIL
15 INFRACTION SHALL BE ADJUDICATED IN THE SAME MANNER AS CIVIL
16 INFRACTIONS ARE ADJUDICATED IN THE MICHIGAN VEHICLE CODE, ACT
17 NO. 300 OF THE PUBLIC ACTS OF 1949, BEING SECTIONS 257.1 TO
18 257.923 OF THE MICHIGAN COMPILED LAWS, EXCEPT AS OTHERWISE PRO-
19 VIDED BY THIS ACT.

20 (3) ANY POLICE OFFICER OR MOTOR CARRIER OFFICER OF THE
21 DEPARTMENT OF STATE POLICE WHO HAS REASON TO BELIEVE THAT THE
22 DRIVER OF A VEHICLE IS OPERATING THE VEHICLE IN VIOLATION OF THIS
23 ACT MAY REQUIRE THE DRIVER OF THE VEHICLE TO STOP, AND THE OFFI-
24 CER MAY INVESTIGATE. IF AFTER INVESTIGATION THE OFFICER DETER-
25 MINES THERE IS A VIOLATION OF THIS ACT, THE OFFICER MAY TEMPORAR-
26 ILY DETAIN THE DRIVER OF THE VEHICLE FOR PURPOSES OF MAKING A
27 RECORD OR VEHICLE CHECK AND ISSUE A CITATION TO THE DRIVER, MOTOR

1 CARRIER, OR OTHER PERSON. UPON COMPLETION OF AN AUDIT OR
2 INVESTIGATION OF A MOTOR CARRIER OR OTHER PERSON, A MOTOR CARRIER
3 OFFICER OF THE DEPARTMENT OF STATE POLICE WHO HAS REASON TO
4 BELIEVE THAT A VIOLATION OF THIS ACT OCCURRED MAY ISSUE A
5 CITATION TO A MOTOR CARRIER OR OTHER PERSON FOR A VIOLATION OF
6 THIS ACT.

7 (4) IF ANY DRIVER, OWNER, OPERATOR, OR USER OF ANY BUS,
8 TRUCK, TRUCK-TRACTOR, TRAILER, SEMI-TRAILER, OR ANY OTHER VEHI-
9 CLE, OR ANY OFFICERS, OR AGENTS OF ANY INDIVIDUAL, PARTNERSHIP,
10 CORPORATION, OR ASSOCIATION OR THEIR LESSEES OR RECEIVERS
11 APPOINTED BY ANY COURT THAT IS THE OWNER OR USER OF SUCH VEHICLES
12 FAILS TO APPEAR AS REQUIRED IN THE CITATION OR FOR A SCHEDULED
13 FORMAL HEARING, THE COURT HAVING JURISDICTION AND VENUE OVER THE
14 CIVIL INFRACTION SHALL ISSUE AN ORDER FOR IMPOUNDMENT OF ANY
15 EQUIPMENT OWNED OR LEASED TO THE DEFENDANT. IF THE VEHICLE IS
16 IMPOUNDED, THE TOWING AND STORAGE COSTS OF THE VEHICLE, AND THE
17 CARE OR PRESERVATION OF THE LOAD IN THE VEHICLE SHALL BE THE
18 DEFENDANT'S RESPONSIBILITY. VEHICLES IMPOUNDED SHALL BE SUBJECT
19 TO A LIEN IN THE AMOUNT OF THE FINE AND COSTS INCURRED UNDER THIS
20 SUBSECTION, SUBJECT TO A VALID LIEN OF PRIOR RECORD. IF THE FINE
21 AND COSTS ARE NOT PAID WITHIN 90 DAYS AFTER IMPOUNDMENT, THEN
22 FOLLOWING A HEARING BEFORE THE JUDGE OR MAGISTRATE WHO IMPOSED
23 THE FINE AND COSTS, THE JUDGE OR MAGISTRATE SHALL CERTIFY THE
24 UNPAID JUDGMENT TO THE PROSECUTING ATTORNEY OF THE COUNTY IN
25 WHICH THE VIOLATION OCCURRED. THE PROSECUTING ATTORNEY SHALL
26 ENFORCE THE LIEN BY FORECLOSURE SALE IN ACCORDANCE WITH THE
27 PROCEDURE AUTHORIZED BY LAW FOR CHATTEL MORTGAGE FORECLOSURES.

1 (5) ~~(2)~~ As used in this section, "serious safety defect"
2 means a violation of this act or a rule promulgated pursuant to
3 this act relative to brakes, tires, steering, coupling devices,
4 headlights, taillights, brake lights, and turn signals that
5 results in the vehicle being placed out of service.

6 Sec. 7c. (1) A driver or operator or an owner or user of
7 any bus, truck, truck tractor, or trailer, or certain other motor
8 vehicles, or any officer or agent of an individual, partnership,
9 corporation, or association, or their lessees or receiver
10 appointed by any court that is the owner or user of any vehicle,
11 who requires or permits the driver or operator to operate or
12 drive any bus, truck, truck tractor, or trailer, or certain other
13 motor vehicles, that violates this act or a rule promulgated
14 under this act if the vehicle is transporting a package required
15 to be marked or labeled under 49 C.F.R. parts 100 to 180, upon
16 conviction, is punishable by a CIVIL fine of not more than
17 \$500.00 for each violation. ~~, or by imprisonment for not more~~
18 ~~than 90 days, or both.~~

19 (2) Any officer, employee, owner or agent of an individual,
20 partnership, corporation, or association, or their lessees or
21 receiver appointed by any court that is the owner or user of any
22 hazardous materials vehicle inspection or repair facility that
23 violates a section of this act, or a rule promulgated under this
24 act, related to the transportation of hazardous materials, is
25 guilty of a misdemeanor punishable as prescribed in this
26 section.