

Act No. 70
Public Acts of 1987
Approved by the Governor
June 27, 1987
Filed with the Secretary of State
June 29, 1987

**STATE OF MICHIGAN
84TH LEGISLATURE
REGULAR SESSION OF 1987**

Introduced by Reps. Spaniola, Hertel, DeMars and Rocca

ENROLLED HOUSE BILL No. 4489

AN ACT to amend sections 1, 5b, 5c, 5d, and 5g of Act No. 207 of the Public Acts of 1941, entitled as amended "An act to provide for the prevention of fires and the protection of persons and property from exposure to the dangers of fire or explosion; to authorize the investigation of fires and the discovery of crime or other offenses in relation thereto; to require the razing, repair, or alteration of buildings, and the clearing and improvement of premises which constitute a fire hazard or a menace to the peace, security, or safety of persons or property; to control the construction, use, and occupancy of those buildings and premises for fire safety purposes; to provide for the certification of fire inspectors and the delegation of certain powers to those certified fire inspectors; to provide for the regulation of the storage and transportation of hazardous material; to provide for the issuance of certificates; to prohibit the use of certain fire extinguishers and fire extinguishing agents; to provide immunity from liability for certain persons; to provide for the administration of this act and prescribe procedure for the enforcement of its provisions; to fix penalties for violation of this act; to provide for the promulgation of rules; to provide for the assessment of fees; and to repeal certain acts and parts of acts," section 1 as amended by Act No. 144 of the Public Acts of 1982, sections 5b, 5c, and 5g as amended by Act No. 247 of the Public Acts of 1980, and section 5d as amended by Act No. 205 of the Public Acts of 1982, being sections 29.1, 29.5b, 29.5c, 29.5d, and 29.5g of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 1, 5b, 5c, 5d, and 5g of Act No. 207 of the Public Acts of 1941, section 1 as amended by Act No. 144 of the Public Acts of 1982, sections 5b, 5c, and 5g as amended by Act No. 247 of the Public Acts of 1980, and section 5d as amended by Act No. 205 of the Public Acts of 1982, being sections 29.1, 29.5b, 29.5c, 29.5d, and 29.5g of the Michigan Compiled Laws, are amended to read as follows:

Sec. 1. As used in this act:

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

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

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

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

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

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

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

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

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

(j) "Firm" means a sole proprietorship, partnership, association, or corporation.

(k) "Vehicle" means a tank vehicle or bulk transportation vehicle, excluding the tractor of a tank vehicle or bulk transportation vehicle.

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

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

(n) "Place of public assemblage" means a room or other space in a building which room or other space can accommodate 50 or more individuals, including all connected rooms and space which share a common means of entrance and egress. Place of public assemblage does not include a private 1- or 2-family dwelling.

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

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

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

(r) "Attended terminal" means a terminal, other than a remote control terminal, where an individual knowledgeable in the above ground liquid storage tank filling operation is physically in attendance and control during the entire delivery of a flammable liquid and has as his or her primary responsibility, supervising the storage tank filling operation.

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

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

(u) "Pipeline" means a pipeline used to convey a flammable liquid from a crude petroleum wellhead collection site to a refinery or terminal or from a refinery to a terminal. A pipeline does not mean gathering lines from the wellhead to a crude petroleum collection tank or piping used within a plant operation.

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

(w) "Fire suppression system" means an integrated combination of a fire alarm system and fire suppression equipment which, as a result of predetermined temperature, rate of temperature rise, products of combustion, flame, or human intervention will discharge a fire extinguishing substance over a fire area, installation of which is required by the state fire marshal pursuant to rules promulgated by the state fire safety board under section 3c.

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

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

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

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

(ii) A person who holds the legal title to a vehicle, or if a vehicle is the subject of an agreement for the conditional sale or lease of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor shall be considered the owner.

Sec. 5b. Each vehicle designed or used for the transportation of hazardous material in this state shall not be operated without first being certified by the state fire marshal. The state fire marshal shall determine compliance with the rules provided for in this act before issuing a certificate. The state fire marshal annually shall conduct random inspections of vehicles that transport hazardous material in this state and are designed or used for the transportation of hazardous material to assure compliance with this act and the rules promulgated under this act. A person who owns a truck tractor pulling a semitrailer and trailer combination that transports a hazardous material shall arrange for a semiannual inspection of that vehicle by the state fire marshal.

Each certified vehicle, whether empty or not, shall bear identification as assigned by the state fire marshal. The assigned identification shall be of a size and color and shall be posted in locations as designated by the state fire marshal. The identification assigned shall reflect the certified vehicle's vehicle identification number, the classification of the material being transported, and the firm's location at which the vehicle is maintained. Each vehicle of new ownership or newly manufactured vehicle shall be inspected by the state fire marshal and upon approval be issued the required identification before transporting hazardous material. Each owner of a vehicle required to be certified under this section shall provide information relative to certification, as required by the state fire marshal. A firm that is transporting a hazardous material other than a petroleum product in this state, upon request of the state fire marshal, shall provide the state fire marshal with the name of the firm, the name of the hazardous material transported, the anticipated routes of transportation, and a telephone number at which the firm may be contacted in case of an emergency involving the hazardous material. The state fire marshal shall maintain current data as is necessary for providing information to enforcement agencies for the handling of emergencies involving hazardous material.

Sec. 5c. (1) A firm or person shall not establish or maintain 1 or more of the following without obtaining a certificate from the state fire marshal:

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

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

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

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

Sec. 5d. (1) The certificate specified in section 5b shall be issued by the state fire marshal after the initial inspection of a vehicle or the examination following the revocation of the certificate for a vehicle. The certificates shall be issued after the state fire marshal has determined that the vehicle is in satisfactory compliance with this act. The certificates specified in section 5c shall be issued every 3 years by the state fire marshal after the state fire marshal has determined by an inspection that the firm location is in satisfactory compliance with this act. The board may authorize a firm specified in section 5c to conduct inspections required in this section after application to the state fire marshal and payment of an annual fee of \$1,000.00. Upon annual determination by the state fire marshal that the firm is in satisfactory compliance with this act, the

state fire marshal may recommend to the board that the authorization be given. This authorization may be revoked by the board for cause. Firms authorized to conduct inspections required in this section shall be exempt from the fees provided in subsections (2), (3), and (4). The state fire marshal may review procedures utilized by the firm to assure compliance with the act.

(2) Except as provided in subsection (4), the owner of a firm specified in section 5c or the owner of a vehicle described in section 5b shall pay an annual fee of \$35.00 for each vehicle, as adjusted by subsection (3), and \$15.00 for each tank located at each storage or filling location specified in section 5c, as adjusted by subsection (3). Fees required by this subsection shall be paid before the issuance of a certificate if the firm described in section 5c or the vehicle specified in section 5b is used at any time during the state fiscal year for the storage, handling, or transportation of hazardous material.

(3) Beginning October 1, 1985, the fees provided in subsection (2) shall be adjusted each year pursuant to the annual average percentage increase or decrease in the Detroit consumer price index—all items. The adjustment shall be made by multiplying the annual average percentage increase or decrease in the Detroit consumer price index for the prior calendar year by the current fee as adjusted by this subsection. The resultant product shall be added to the current fee as adjusted by this subsection and then rounded off to the nearest half dollar which shall be the new fee. However, if there is a material change in the list of items which constitute the Detroit consumer price index—all items, the fees shall remain at the level provided for immediately preceding the material change.

(4) Notwithstanding subsections (2) and (3), until October 1, 1990, the annual fee is \$70.00 for each vehicle described in section 5b, except that the fee for a truck tractor pulling a semitrailer and trailer combination that transports a hazardous material shall be \$70.00 semiannually, and the annual fee is \$30.00 for each tank located at each storage or filling location specified in section 5c. Crude petroleum collection tanks that receive crude petroleum directly from a wellhead are exempt from fees specified in subsection (2) and this subsection.

(5) The fees specified in subsection (2), as adjusted by subsection (3), shall be collected and deposited in the general fund of this state.

Sec. 5g. Immediately following a fire, explosion, spill, leak, accident, or related occurrence which involves the transportation, storage, handling, sale, use, or processing of hazardous material by a firm, person, or vehicle, the owner of the firm or vehicle or the person and the chief of the first police department or organized fire department upon the scene of the incident shall notify the state fire marshal and the organized fire department of the area in which the incident occurred of the known details regarding the incident.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.

