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ADOPT REVISIONS TO FEDERAL MOTOR CARRIER SAFETY REGULATIONS FOR BUSES

House Bill 4734 as enrolled
Public Act 129 of 2001
Third Analysis (10-10-01)

Sponsor: Rep. Judson Gilbert
House Committee: Transportation
Senate Committee: Transportation and
Tourism

THE APPARENT PROBLEM:

There are 200 domestic bus companies in Michigan. These resident carriers transport passengers and goods on 1,500 licensed vehicles. The regulation of the resident carriers, as well as the regulation of non-resident carriers, is the responsibility of the Michigan Department of Transportation. However, the rules that set the standards for regulation of the buses are set by the U.S. Department of Transportation under title 49 of the Code of Federal Regulation (49 C.F.R.).

Occasionally the U.S. Department of Transportation revises the rules regarding bus safety, and it has been customary for the state legislature to amend the state Motor Bus Safety Act by reference every three years, in order to update its provisions and ensure that they are in line with federal regulations. When the state updates its rules to comply with the federal standards, federal funds for bus safety inspections are made available to the department. For example, during fiscal year 2000-2001, the legislature has appropriated \$148,000 in federal funds to pay for 750 to 800 random and unannounced bus inspections, as well as 25 compliance reviews that entail comprehensive management and safety audits of bus companies. (These federal funds receive a 20 percent match from the state Comprehensive Transportation Fund.)

The Motor Bus Transportation Act was last updated in 1996, and its triennial update is overdue. Since the last update, one new part of 49 C.F.R., Part 374 concerning the federal credentialing (or licensing) of each vehicle and all companies, has been added. Further, three appendices to 49 C.F.R. have been removed and reserved for future use by the U.S. Department of Transportation. See *BACKGROUND INFORMATION* below.

In order to avoid the need for the legislature to continually update the law, and yet to ensure both ongoing compliance with all federal rules and uninterrupted federal funding, legislation has been proposed to allow the department to file all rule changes with the Office of the Secretary of State as they are received, and then to enforce those rules upon filing.

THE CONTENT OF THE BILL:

House Bill 4734 would amend the Motor Bus Transportation Act to make certain revisions to the references to federal motor carrier safety regulations. Under the law, the state adopts provisions of title 49 of the Code of Federal Regulation (49 C.F.R.) by reference, with the intent of following the policies and procedures of the United States Department of Transportation. This bill would update those references, and also revise the exceptions. Further, the bill would allow for perpetual filing and enforcement of federal bus regulations.

Under the law, the state has adopted 49 C.F.R. part 382, part 387, parts 390 through 393, parts 395 through 397, and part 399 including appendices C, D, E, B and G, as of January 1, 1996. The bill would eliminate the clause "as of January 1, 1996", so that in the future all state-adopted provisions would be those on file with the Office of the Secretary of State, except where modified by the act.

Further and under the bill, the state would retain its adoption of parts 382, 387, 390-393, and 395-397, as well as appendices B and G. However, the bill would eliminate adoption of part 399, as well as appendices C, D, and E. Appendices C, D, and E have been "removed and reserved" by the U.S. Department of Transportation, and consequently reference to them would be deleted in the state

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statute. [Part 399 of 49 C.F.R. pertains to employee safety and health standards for getting in and out of trucks. Consequently, reference to part 399 concerning trucks would be removed in this act since it governs the regulations of buses. Within Title 49 C.F.R., the Federal Motor Carrier Safety Regulations, the portion concerning buses is regulated by the Department of Transportation, while the portion concerning commercial trucks is regulated by the Department of State Police.]

Further, the bill would add part 374 which specifies the regulations pertaining to federal credentialing (or licensing) of each bus and all bus companies.

In addition, when certain terms appear in the Code of Federal Regulation, current state law specifies that they are to be construed as referring to the state transportation department. The terms that are currently so construed are: United States Department of Transportation, Federal Highway Administration, federal highway administrator, director, and Bureau of Motor Carrier Safety. House Bill 4734 would add two terms: Office of Motor Carrier Safety, and Federal Motor Carrier Safety Administration.

Further, where the term “interstate” appears in the regulations, the state law specifies that it means intrastate or interstate, or both as applicable. House Bill 4734 would retain this definition but add the condition: except as otherwise specifically provided in the act.

Finally, where the terms “special agent of the federal highway administration,” or “administration personnel” appear in the regulations, the state law specifies that they be construed to mean a peace officer or an enforcement member or a commercial vehicle safety inspector of the state transportation department. House Bill 4734 would retain this definition and add two terms that also should be so construed: special agent of the Office of Motor Carrier Safety, and special agent of the Federal Motor Carrier Safety Administration.

MCL 474.131

BACKGROUND INFORMATION:

According to the Department of Transportation, the parts of Title 49 C.F.R. that are specified in House Bill 4734 are as follows:

- * Part 374 – Bus regulations pertaining to federal credentialing of each vehicle and companies

- * Part 382 – Controlled substances, alcohol use and testing

- * Part 387 – Minimum levels of financial responsibility for motor carriers

- * Part 390 – Federal motor carrier safety regulations

- * Part 391 – Qualifications of drivers

- * Part 392 – Driving of commercial motor vehicles

- * Part 393 – Parts and accessories necessary for safe operation

- * Part 395 – Hours of service of drivers

- * Part 396 – Inspection, repair and maintenance

- * Part 397 – Transportation of hazardous materials, driving and parking rules

- * Part 399 – Employee safety and health standards for getting in and out of trucks; handrails; steps

- * Appendix B – Special agents

- * Appendix G – Minimum periodic inspection standards

FISCAL IMPLICATIONS:

The House Fiscal Agency notes that failure to revise the Motor Bus Transportation Act to comply with the requirements of Title 49 of the Code of Federal Regulations could result in the loss of a federal Motor Carrier Safety Assistance Program grant of approximately \$150,000. Failure to enact House Bill 4734 would result in reduced state revenue. (5-25-01)

The Senate Fiscal Agency notes in addition that the grant of \$150,000 pays for 1.5 positions for random and unannounced inspections. The federal funds are matched with 20 percent in state restricted revenue from the Comprehensive Transportation Fund. Further, the agency notes that the state could lose \$6.2 million in federal funding to the Michigan State Police that is used for truck and bus inspections, if the legislature fails to enact changes in state law to comply with federal regulations. (9-28-01)

ARGUMENTS:***For:***

The bill would make several changes in the Motor Bus Transportation Act that have been requested by the Michigan Department of Transportation. Federal regulations have been revised in recent years, and Michigan must act to re-adopt the new rules or possibly risk federal traffic safety funds that are used for bus vehicle and bus company inspections. In order to ensure ongoing compliance with federal rules and regulations and avoid the risk of lost funds, it makes sense to allow perpetual filing and enforcement of new federal regulations, and this legislation would enable that kind of system in the future.

Analyst: J. Hunault

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