

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2011**

Introduced by Senator Casperson

ENROLLED SENATE BILL No. 496

AN ACT to amend 1963 PA 181, entitled “An act to promote safety upon highways open to the public by regulating the operation of certain vehicles; to provide consistent regulation of these areas by state agencies and local units of government; to establish the qualifications of persons necessary for the safe operation of such vehicles; to establish certain violations of shippers offering certain materials for transportation; to limit the hours of service of persons engaged in operating such vehicles; to require the keeping of records of such operations; to provide penalties for the violation of this act; to prescribe the powers and duties of certain state agencies; and to repeal acts and parts of acts,” by amending sections 1a, 2d, and 5 (MCL 480.11a, 480.12d, and 480.15), section 1a as amended by 2006 PA 50, section 2d as amended by 2005 PA 177, and section 5 as amended by 2006 PA 595; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 1a. (1) This state adopts the following provisions of title 49 of the code of federal regulations on file with the office of the secretary of state, except where modified by this act:

(a) Hazardous materials regulations, being 49 CFR parts 105 through 180 except for the transportation of agricultural products for which an exception from the application of 49 CFR subchapter C and 49 CFR part 172, subparts G and H, is provided under 49 CFR 173.5, is specifically authorized if the transportation is in compliance with this act and other state law.

(b) Motor carrier safety regulations, being 49 CFR parts 40, 356, 365, 368, 371 through 373, 375, 376, 379, 382, 383, 385, 387, 390 through 393, 395 through 399 including the appendices of each part, except for the following:

(i) Except as provided in this subparagraph, where the term “United States department of transportation”, “federal motor carrier safety administration”, “federal motor carrier safety administrator”, “director”, “bureau of motor carrier safety”, “pipeline and hazardous materials administration”, or “associate administrator for hazardous materials safety” appears, it refers to the department of state police. If the term is being used for the purposes of 49 CFR part 397 as it relates to routing and movement of hazardous materials, it refers to the Michigan state transportation department.

(ii) Where “interstate” appears, it shall mean intrastate or interstate, or both, as applicable, except as specifically provided in this act.

(iii) Where “special agent of the federal motor carrier safety administration”, “administration personnel”, or “hazardous materials enforcement specialist” appears, it either means a peace officer or an enforcement member of the motor carrier division of the department of state police.

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

(v) Where MCS 64 appears, it means UD-70.

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

(2) This act does not apply to a bus operated by a public transit agency operating under any of the following:

(a) A county, city, township, or village as provided by law, or other authority incorporated under 1963 PA 55, MCL 124.351 to 124.359. Each authority and governmental agency incorporated under 1963 PA 55, MCL 124.351 to 124.359, has the exclusive jurisdiction to determine its own contemplated routes, hours of service, estimated transit vehicle miles, costs of public transportation services, and projected capital improvements or projects within its service area.

(b) An authority incorporated under the metropolitan transportation authorities act of 1967, 1967 PA 204, MCL 124.401 to 124.426, or that operates a transportation service under an interlocal agreement as that term is defined in section 2 of the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.502.

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

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

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

(3) 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 49 CFR 390.5.

Sec. 2d. (1) A person shall not operate a commercial motor vehicle unless he or she is qualified to operate that vehicle. A motor carrier shall not require or permit a person to operate a commercial motor vehicle unless that person is qualified to operate that vehicle.

(2) In the case of intrastate transportation, a person is qualified to operate a commercial motor vehicle if he or she meets all of the requirements of 49 CFR parts 383 and 391, except all of the following provisions:

(a) Except as otherwise provided in subdivision (b), the person is at least 18 years old when transporting intrastate property or passengers.

(b) The person is at least 21 years old when transporting hazardous materials in a quantity that requires the vehicle to be marked or placarded under 49 CFR parts 105 to 180.

(c) The person is eligible for and displays a valid medical waiver card, is excepted from the medical waiver card provisions under this act, or, until December 31, 2014, displays a grandfather rights card issued in accordance with this act.

Sec. 5. (1) In the case of intrastate transportation, the provisions of 49 CFR 391.21 relating to application for employment, 49 CFR 391.23 relating to investigations and inquiries, 49 CFR 391.31 relating to road tests, 49 CFR part 395 relating to hours of service, 49 CFR 383.71 and 391.41 to 391.45 to the extent that they require a driver to be medically qualified or examined and to have a medical examiner's certificate on his or her person, and the provisions of this act relating to files and records do not apply to a farm vehicle driver as defined in 49 CFR 390.5.

(2) For intrastate transportation, the provisions of this act do not apply to a self-propelled implement of husbandry or an implement of husbandry being drawn by a farm tractor or another implement of husbandry.

(3) The provisions of this act related to driver qualifications do not apply to public utility, telephone, and cable television company service employees if those employees are not otherwise being used as a regularly employed driver and are not operating a vehicle that meets the definition of a commercial motor vehicle in 49 CFR part 383.

(4) The requirements of 49 CFR part 395 do not apply to any driver of a public utility service vehicle when being used in cases of emergency. As used in this subsection, "emergency" means any instance of loss of public utility service due to an unforeseen circumstance, a natural disaster, or an act of God. A declaration of emergency by a public official is not required to constitute an emergency under this subsection.

(5) This act and the rules promulgated under this act do not apply to a commercial motor vehicle owned and operated by a unit of government or its employees, except as otherwise provided by this act, and except for 49 CFR 383.71(h) and all of 49 CFR parts 382, 391, 392, and 393.

(6) A combination of vehicles with an actual combination gross vehicle weight or a gross combination weight rating of 26,000 pounds or less, if the trailer or semitrailer has an actual gross vehicle weight or gross vehicle weight rating of 15,000 pounds or less, may be equipped with surge brakes for intrastate operation as allowed by section 705(1)(c) of the Michigan vehicle code, 1949 PA 300, MCL 257.705. Vehicles of any size that are transporting hazardous materials in an

amount that requires placarding or vehicles that are designed to transport more than 8 passengers, including the driver, shall not be equipped with surge brakes for intrastate operation.

(7) Except for the purpose of granting a waiver in accordance with section 53 of the pupil transportation act, 1990 PA 187, MCL 257.1853, this act and the rules promulgated under this act do not apply to a school bus as defined in section 7 of the pupil transportation act, 1990 PA 187, MCL 257.1807, or a bus defined, and for which a certificate of authority was issued, under the motor bus transportation act, 1982 PA 432, MCL 474.101 to 474.141.

(8) A motor carrier operating entirely in intrastate commerce solely within Michigan shall not permit or require an operator of a commercial motor vehicle engaged in seasonal construction-related activities, regardless of the number of motor carriers using the operator's services, to do either of the following:

(a) Operate for any period after having been on duty 70 hours in any 7 consecutive days or having been on duty 80 hours in any period of 8 consecutive days.

(b) Operate more than 12 hours or be on duty more than 16 hours in any day.

(9) As used in subsections (3) and (4), "public utility" means a person or corporation operating equipment or facilities for producing, generating, transmitting, delivering, or furnishing gas or electricity for the production of light, heat, or power for the public for compensation.

(10) As used in this section:

(a) "Implement of husbandry" means that term as defined in section 21 of the Michigan vehicle code, 1949 PA 300, MCL 257.21.

(b) "Farm tractor" means that term as defined in section 16 of the Michigan vehicle code, 1949 PA 300, MCL 257.16.

Enacting section 1. Sections 4 and 4a of the motor carrier safety act of 1963, 1963 PA 181, MCL 480.14 and 480.14a, are repealed effective December 31, 2014.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 495 of the 96th Legislature is enacted into law.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Ray E. Randall

Clerk of the House of Representatives

Approved

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Governor