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BILL ANALYSIS



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Senate Bill 392 (as introduced 6-11-15)
Sponsor: Senator Rick Jones
Committee: Regulatory Reform

Date Completed: 10-19-16

CONTENT

The bill would amend the Motor Bus Transportation Act to do the following:

- Rename the Act the "Commercial Passenger Transportation Act".
- Include limousines under the Act.
- Revise the list of motor carriers that are exempt from the Act.
- Require a motor carrier to register its roster with the Michigan Department of Transportation (MDOT).
- Specify that a certificate would cover a motor carrier and the authorized vehicles listed on the roster of the motor carrier, and require at least one vehicle on a roster to remain in good standing during the time period covered by the certificate.
- Prohibit MDOT from issuing a certificate to a motor carrier or renewing a certificate if the motor carrier owed outstanding fees to MDOT.
- Revise the criteria under which MDOT must determine the eligibility of an applicant for a certificate.
- Create insurance requirements for limousines, and require a motor carrier to list MDOT as an additional insured party on all required insurance policies.
- Require each limousine and bus on a motor carrier's roster to display certain information on both sides according to certain specifications.
- Require a motor carrier to ensure that a limousine or bus passed a valid inspection to maintain authorized status.
- Provide further requirements regarding an inspection of a limousine or bus.
- Prescribe penalties for each limousine or bus that did not have a valid inspection.
- Allow MDOT to conduct a review of a motor vehicle repair facility to determine if it could, or was currently, conducting limousine inspections according to MDOT specifications and standards.
- Require a motor carrier to maintain a copy of a current valid inspection report on board each limousine and bus at all times, and allow an MDOT safety inspector to inspect a limousine or bus in certain situations.
- Allow MDOT to waive inspection and renewal requirements for a limousine or bus that was not used in the State for a motor carrier located outside of the State if certain criteria were met.
- Require a motor carrier to obtain an MDOT decal before operating a limousine or bus over State public highways.
- Increase the per-vehicle fee payable for an original certificate of authority and for a renewal, and for the authorization of additional vehicles.
- Allow MDOT to waive fees or other requirements when granting an emergency certificate, and exempt a special event of statewide significance from the Act.
- Revise provisions regarding a motor carrier's discontinuation of services.

-- Specify that the Act would not prohibit a county, city, township, authority, or village from adopting rules, ordinances, or resolutions that were more restrictive than the provisions of the Act.

The bill also would repeal certain sections of the Act regarding requirements for a lessor to inform a person leasing a bus for the transportation of passengers for hire about the requirements of the Act; application deadlines; filing fees; the ability of a motor carrier to request that it receive a certificate that includes the authority to transport newspapers, baggage of passengers, package express, or U.S. mail; and the adoption of certain Federal regulations.

The bill would replace the term "motor carrier of passengers" with "motor carrier", and would define that term as a person who, either directly or through any device or arrangement, holds himself or herself out to the public as willing to transport passengers for hire by limousine or bus over public highways in Michigan.

"Bus" would mean a motor vehicle with a seating capacity of 16 or more passengers, including the driver, that is used in the transportation of passengers and their baggage for hire upon any public highway of the State. Except as otherwise provided, the definition would include a school bus.

"Limousine" would mean a motor vehicle with a seating capacity of nine to 15 passengers, including the driver, that is used in the transportation of passengers for hire.

Application of the Act

The Act regulates people who transport passengers by motor bus. It prohibits a motor carrier of passengers from operating on a public highway in Michigan without first obtaining a certificate of authority from MDOT. The Act prescribes the process of acquiring a certificate, and requires applicants to pay certain application and renewal fees for each bus to be used by the carrier to provide transportation for hire.

The Act does not apply to a motor carrier of passengers that is any of the following:

- A county, city, township, or village as provided by law, or other authority incorporated under Public Act 55 of 1963 (which governs mass transportation system authorities).
- An authority incorporated under the Metropolitan Transportation Authorities Act or that operates a transportation service pursuant to an interlocal agreement under the Urban Cooperation Act.
- Operating under a contract entered into under Public Act 8 of the Extra Session of 1967, (which governs intergovernmental transfers of functions) or Public Act 35 of 1951 (which governs intergovernmental contracts between municipal corporations).
- An authority incorporated under the Public Transportation Authority Act.
- An authority financing public improvements to transportation systems under the Revenue Bond Act.
- A nonprofit corporation organized under the Nonprofit Corporation Act.

The bill would delete a statement that each authority and governmental agency incorporated under Public Act 55 of 1963 has exclusive jurisdiction to determine its own contemplated routes, hours of service, estimated transit vehicle miles, costs of public transportation services, and projects capital improvements or projects within its service area.

The bill also would refer to a nonprofit corporation as defined by Sections 501(c)(3), (4), (19), or (23) of the Internal Revenue Code that provides one or both of the following transportation services:

- Services that are restricted only to registered members of the nonprofit corporation.
- Services that are funded under the Michigan Transportation Fund law.

In addition, the bill would exempt the following from the Act:

- A regional transit authority created under the Regional Transit Authority Act.
- A motor carrier that operates limousines only for the purpose of transporting passengers to and from funerals.
- A motor carrier that operates a motor vehicle with a seating capacity of 15 passengers or less, including the driver, that is owned or leased by or on behalf of an employer to transport its employees to and from their place of employment.
- A public or private school or a governmental unit that owns or operates a school bus, or a privately owned school bus that is under contract with a school district, an independent school district, or a private or charter school, when that bus is used solely for the transportation of pupils to or from school, school-related events, or other uses as provided under the Pupil Transportation Act.

Certificate Application & "Good Standing"

Under the bill, an application for a certificate would not be complete unless the applicant had complied with all applicable provisions of the Act and with the application requirements of MDOT. If an applicant failed to comply with the application requirements and failed to correct its noncompliance within 60 days after the initial application date, the application would have to be cancelled and any application fees paid by the applicant would be forfeited.

A certificate would cover a motor carrier and the authorized vehicles listed on the roster of the motor carrier. A motor carrier and at least one vehicle on its roster would have to remain in "good standing" during the time period covered by the certificate or the certificate would automatically be revoked. To remain in good standing, a motor carrier would have to do the following:

- Submit an accurate roster to MDOT and notify the Department of any changes to it.
- Pay all fees by the due date.
- Maintain insurance for each authorized vehicle on the roster.
- Ensure that each authorized vehicle on the roster complied with the inspection requirements of the Act.

The bill would define "roster" as a list of limousines or buses to be operated for hire by a motor carrier that is certified or seeking certification under the Act, indicating all of the following information:

- The vehicle identification number, make, model, fleet number, and year of each vehicle.
- The beginning and ending dates of service for each seasonal vehicle.

Eligibility Determination

Under the Act, in determining the fitness, willingness, and ability of an applicant for a certificate of authority to provide transportation service, MDOT must consider all of the following:

- The applicant's safety record.
- The character and condition of each motor bus and whether it may be operated safely upon public highways based on an inspection conducted under the Act.
- The applicant's financial ability to provide continuous insurance coverage as required under the Act and to have adequate financial resources in order to pay for damage claims against the applicant.

Under the bill, instead, in determining the eligibility of an applicant for a certificate to provide transportation service, MDOT would have to consider all of the following:

- Whether the applicant had paid the required fees under the Act.
- Whether the character and condition of each limousine or bus on the applicant's roster were such that it could be operated safely upon a public highway based on an inspection conducted in accordance with the Act.
- Whether the applicant had proof of insurance coverage as required by the Act.
- Whether the applicant had provided MDOT with details of any fixed route service that the applicant would provide in the State, if applicable.
- Whether the applicant had met all other requirements of the Act.

The Department could not issue a certificate to an applicant that did not meet the eligibility requirements listed above. Additionally, MDOT could not issue a certificate to a motor carrier or renew a motor carrier's certificate if the carrier owed outstanding fees to MDOT.

Insurance Requirements

Under the Act, an applicant must acquire the following liability insurance coverage for acts or omissions of the applicant as a motor carrier of passengers:

- Bodily injury and property damage liability insurance with a minimum combined single limit of \$5.0 million for all people injured or for property damage.
- Personal protection insurance and property protection insurance as required under Chapter 31 of the Insurance Code.

The bill would retain these requirements, but would apply the first requirement to buses. For limousines, an applicant would have to acquire bodily injury and property damage liability insurance with a minimum combined single limit of \$1.5 million for all people injured or for property damage.

A motor carrier would have to maintain the insurance coverage described in the bill as a condition of maintaining a certificate issued under the Act. For each authorized seasonal vehicle, a motor carrier would have to maintain the insurance coverage described in the bill during the approved seasonal period.

The insurance requirements would be waived if an applicant qualified for and obtained a certificate of self-insurance from the Commissioner of the Office of Financial and Insurance Services under Section 3101d of the Insurance Code. (That section allows a person to qualify as a self-insurer if more than 25 motor vehicles are registered in the person's name.)

Except as otherwise provided in the Act, if a motor carrier canceled the required insurance coverage for any reason or if the coverage level fell below the required levels, the certificate issued to the motor carrier would be automatically revoked.

A motor carrier would have to list MDOT as an additional insured party on all insurance policies required under the Act to ensure that MDOT was notified of all activities related to the policy, including cancellation and replacement.

Motor Carrier Display Requirements

The bill would require each limousine and bus on a motor carrier's roster to display its legal name or assumed name as listed on its application for authority or official request for name change as submitted to MDOT, and primary telephone number on both sides of the limousine or bus in a color and size specified by the bill.

Safety Inspection

Under the Act, each motor carrier of passengers who holds a certificate of authority issued under the Act must permit MDOT to inspect each motor bus once annually, or more frequently if necessary to determine the current character and condition of the motor bus. Each motor bus operated by the motor carrier of passengers under its certificate of authority must pass the safety inspection that meets MDOT's specifications for safe operating character and condition for the renewal of certificate. The bill would delete these provisions.

Instead, the bill states that, to maintain authorized status for a limousine or bus, a motor carrier would have to ensure that the limousine or bus passed a valid inspection as provided under the bill and that the condition of the limousine or bus was maintained between inspections.

For an inspection of a limousine to be valid, all of the following would have to be satisfied:

- The inspection was conducted by the end of the month in which the inspection for that limousine expired.
- The inspection met MDOT specifications and standards.
- The inspection was conducted at a MDOT-approved motor vehicle repair facility by a properly certified mechanic who certified that the limousine passed the inspection by signing an MDOT inspection report, or the inspection was conducted by an MDOT safety inspector.
- The motor carrier filed the MDOT inspection report with MDOT by the end of the month in which the inspection for that limousine expired.

For an inspection of a bus to be valid, all of the following would have to be satisfied:

- An inspection had been scheduled at MDOT's convenience.
- The inspector indicated on an inspection report prepared by MDOT that the bus had passed the inspection before the previous inspection expired.
- If the inspection were of a seasonal bus, the inspection occurred at least 30 days before the beginning of the approved seasonal period for that bus.

Under the Act, a motor bus that does not pass a required MDOT inspection may not be operated over the public highways in Michigan. Under the bill, a limousine or bus that did not have a valid inspection could not be operated over the Michigan public highways, and the motor carrier would have to remove the limousine or bus from its roster.

Safety Inspection Penalties: Limousines

Under the bill, a motor carrier would be subject to penalties for each limousine that did not have a valid inspection. If a motor carrier filed the required inspection report later than the end of the month in which the inspection for that limousine expired, but MDOT verified that the inspection was conducted before the expiration of the last valid inspection, the motor carrier would have to pay a fee of \$100 for each late inspection report. The Department would have to revoke the certification of a motor carrier that did not pay the fee within 30 days after its assessment. The filing date of an inspection report would be the postmark if the report were sent by mail, or the transmittal date if the report were sent by electronic means.

If a motor carrier failed to obtain a valid inspection before the expiration of the last valid inspection, the following penalties would have to be assessed by MDOT:

- If the inspection were conducted between one and 30 days late, \$250.
- If the inspection were conducted 31 or more days late, \$500.

Safety Inspection Penalties: Buses

A motor carrier would be subject to penalties for each bus that did not have a valid inspection. A motor carrier would have to be assessed a fee of \$250 for each inspection that was conducted between one and 30 days late, and a fee of \$500 for each inspection that was conducted 31 or more days late. The fee would be in addition to any other assessed reinspection fee. The Department could waive the fee if the late inspection were primarily caused by the schedule of the safety inspector. A vehicle that failed an inspection would be subject to the late inspection fees.

The motor carrier also would have to be assessed a reinspection fee according to the following schedule until the vehicle passed an inspection or was permanently removed from service:

- For a first reinspection, \$100.
- For a second reinspection, \$200.
- For a third reinspection, \$300.
- For a fourth reinspection, \$400 and revocation of authority.
- For a fifth and subsequent reinspection, \$500.

A motor carrier that was assessed a reinspection fee would have to pay the fee before MDOT conducted the reinspection on the vehicle for which the fee was assessed.

Alternative Inspection

Under the Act, instead of an inspection by MDOT, an applicant for a certificate of authority or a renewal of a certificate may provide evidence of a current year motor bus inspection by a state, district, or province that has standards comparable to the Federal Motor Carrier Safety Periodic Inspection Standards. The Department must issue a list of the states, districts, or provinces that have standards comparable to the Federal standards promulgated under 49 C.F.R. Part 396.

Under the bill, instead of an inspection by MDOT, an applicant for a certificate or a renewal of a certificate could provide evidence of a current year limousine or bus inspection by a state, district, province, or local municipality that had standards comparable to the Federal Motor Carrier Safety Periodic Inspection Standards and that had been approved by MDOT. The Department could issue a list of the states, districts, provinces, and local municipalities that had standards comparable to the Federal standards promulgated under 49 C.F.R. Part 396.

Additional Inspection Provisions

The bill would permit MDOT to conduct a review of a motor vehicle repair facility to determine if it was capable of conducting or was currently conducting limousine inspections according to MDOT specifications and standards. If MDOT found that a motor vehicle repair facility was not conducting limousine inspections according to its specifications and standards, it could decline to accept inspections from that facility as valid inspections.

A motor carrier would have to maintain a copy of a current valid inspection report on board each limousine or bus at all times, and the report would have to be made available for review upon demand by an authorized Federal, State, or local official.

If MDOT had reasonable cause to believe that a limousine or bus was unsafe for operation or had not been inspected as required by the Act or rules promulgated under it, an MDOT safety inspector could inspect the limousine or bus. If the vehicle were not in compliance with the Act, MDOT could require the motor carrier to place the vehicle out of service until all violations had been corrected or eliminated.

The Department could waive the inspection and renewal requirements for a limousine or a bus that was not being used in the State for a motor carrier that was located outside of the State if the motor carrier submitted a roster that indicated which of its vehicles would be used exclusively outside of the State for at least one year. The roster would have to be submitted before the affected vehicle ceased to comply with the Act. The motor carrier could put the limousine or bus back into service in the State after at least one year by submitting a revised roster and complying with all other provisions under the Act.

MDOT Decal

Upon satisfactory completion of a valid inspection of a limousine or bus and payment of all required fees by the motor carrier, MDOT would have to issue a decal indicating the expiration date of the inspection for that limousine or bus. A decal would be property of the State. A motor carrier could not use a limousine or bus displaying an expired decal to provide for-hire passenger service. A motor carrier could not operate a limousine or bus over Michigan public highways if that vehicle did not have a properly displayed current decal issued by MDOT.

The Department could require a motor carrier to return a decal to it if the limousine or bus upon which that decal were displayed was removed from the motor carrier's roster by MDOT or the motor carrier. A motor carrier that failed to return a decal within 30 days after a request by MDOT would have to pay a \$50 fee.

Original Annual & Renewal Certificate Fees

Under the Act, an applicant for an original certificate of authority must pay to MDOT a filing fee of \$300 and a fee of \$25 times the number of motor buses to be used by the carrier to provide transportation for hire. The bill would retain the \$300 filing fee and require an applicant to pay a fee of \$50 times the number of limousines or buses to be used by the applicant to provide transportation for hire.

Under the Act, each motor carrier of passengers who holds a certificate of authority must pay to MDOT an annual renewal fee equal to \$25 times the number of motor buses that are used exclusively by the carrier to provide transportation of passengers for hire and that meet the annual renewal inspection requirements. The bill would require a renewal fee of \$50 times the number of limousines and buses subject to the Act. A motor carrier would have to submit its roster to MDOT at the time of payment. The Department could require a carrier to submit additional documentation as part of the annual renewal process to ensure compliance with the Act.

Currently, an annual renewal fee of \$500 must be paid for any motor bus not meeting the annual renewal inspection requirement. The bill would delete this provision.

Under the Act, a motor carrier of passengers who holds a certificate of authority to provide transportation for hire must pay to MDOT a fee of \$25 per motor bus for each additional motor bus acquired during the year for the purpose of the current year inspection required by the Act. Under the bill a motor carrier that held a certificate issued under the bill that wished to have additional limousines or buses authorized under its certificate between annual renewal periods would have to pay to MDOT a fee of \$50 times the number of limousines or buses being added to its roster. The motor carrier would have to submit its updated roster to MDOT at the time of payment. A motor carrier would have to ensure that each vehicle added to a roster complied with all requirements of the Act.

A motor carrier that requested to reinstate on its roster a limousine or bus that was previously removed from its roster upon request of the motor carrier or by action of MDOT would have to pay a reinstatement fee of \$100 in addition to all other fees required under the Act.

The certificate of a motor carrier that did not comply with these provisions regarding fees would have to be automatically revoked on March 1, and the motor carrier would have to apply for and be issued a new certificate before resuming service.

Emergency Permit

Under the Act, if there is an immediate and urgent need for the transportation of passengers to a point or between points within the State, MDOT may grant upon a proper application temporary authority for that service by a person having a certificate of authority or by an applicant for a certificate of authority. A temporary authority, unless suspended or revoked for good cause, is valid for the time that MDOT specifies, not to exceed 90 days. The bill would refer to the temporary authority as an "emergency certificate". Additionally, the bill would delete the 90-day limit on an emergency certificate, and would allow MDOT to waive any or all fees or other requirements of the Act for an emergency certificate. The Department also could exempt a special event of statewide significance from the Act with prior approval.

Discontinuation of Services

Currently, a motor carrier of passengers holding a certificate of authority for regular route service between points within Michigan may apply to discontinue all or a portion of its service under its certificate of authority by filing a written application with MDOT, paying the fees described in the Act, and within 10 days after filing the application, publishing notice of the application in a newspaper of general circulation according to a schedule described in the Act. The Act provides for additional procedures and scenarios under which an authority may be discontinued.

The bill would delete these provisions. The bill would require a motor carrier holding a certificate for regular route service between points within the State to notify MDOT in writing at least 60 days before it planned to discontinue all or a portion of its service under its certificate. Within 10 days after notifying MDOT, the carrier would have to post notice of the discontinuation of service on its website and in all ticketing locations.

Local Regulation

The bill states that the Act would not prohibit a county, city, township, authority, or village from adopting rules or an ordinance or resolution that was more restrictive than the provisions of the Act. If an ordinance or resolution required a vehicle safety inspection, the county, city, township, authority, or village that adopted the ordinance or resolution would have to use the vehicle safety inspection form provided by MDOT.

MCL 474.101 et al.

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill would have an indeterminate, yet minimally positive, impact on State revenue and costs. No direct local impact is anticipated.

The bill would add limousines with a seating capacity of nine to 15 passengers to a regulatory structure already in place for buses, which would continue to be defined by a seating capacity of 16 or more. Because limousines have already been regulated under the Limousine Transportation Act, the Department's regulatory responsibilities regarding limousines and buses would remain, largely, unchanged.

Initial certification fees (\$300) for limousines and buses would not change. Annual certification renewal fees for both classifications of motor carrier would increase from \$25 to \$50. The bill also would introduce a staggered reinspection fee schedule to replace the existing flat fee of

\$25, which would help offset the administrative costs associated with multiple departmental inspections. The revised fees would better offset the existing administrative costs for limousine and bus regulation.

The bill would not affect taxis, which are regulated at the local level.

Fiscal Analyst: Michael Siracuse

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.