HAZARDOUS MATERIALS TRANSPORTATION ACT

Act 138 of 1998

AN ACT to regulate the transportation of certain hazardous materials; to prescribe the powers and duties of certain state agencies and officials; and to prescribe penalties and provide remedies.

History: 1998, Act 138, Eff. Sept. 1, 1998

The People of the State of Michigan enact:

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29.471 Short title.

Sec. 1.

This act shall be known and may be cited as the "hazardous materials transportation act".

History: 1998, Act 138, Eff. Sept. 1, 1998

29.472 Definitions.

Sec. 2.

As used in this act:

(a) "Base state" means the state selected by a motor carrier according to the procedures established by the uniform program.

(b) "Base state agreement" means the agreement between participating states electing to register or permit motor carriers.

(c) "Department" means the department of environmental quality.

(d) "Fund" means the environmental pollution prevention fund created in section 11130 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11130.

(e) "Hazardous materials" means any of the following:

(i) "Hazardous waste" as that term is defined in section 11103 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11103.

(ii) "Liquid industrial by-product" as that term is defined in section 12101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.12101.

(f) "Motor carrier" means a person engaged in the transportation of hazardous materials by highway. Motor carrier includes a motor carrier's agents, officers, and representatives. Motor carrier does not include an individual operating under an exclusive lease to a motor carrier that is in compliance with this act.

(g) "Participating state" means a state electing to participate in the uniform program by entering a base state agreement.

(h) "Power unit" means a motor vehicle that provides motor power to the entire combination, or to the vehicle if a single unit.

(i) "Uniform application" means the uniform registration and permit application form established under the uniform program.

(j) "Uniform program" means the uniform state hazardous materials transportation registration and permit program established in the report submitted and amended pursuant to 49 USC 5119(b).

History: 1998, Act 138, Eff. Sept. 1, 1998 ;-- Am. 2013, Act 74, Eff. Oct. 1, 2013 ;-- Am. 2015, Act 225, Eff. Mar. 16, 2016
Compiler's Notes: For transfer of powers and duties of department of environmental quality to department of natural resources and environment, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

29.473 Motor carrier; determination of base state designation; manner; registration; permit; filing application and fee; fleet liability coverage; notice of registration form and permit; temporary permit; expiration; exemption.

Sec. 3.

(1) A motor carrier shall determine its base state designation in the following manner:

(a) A motor carrier that has its principal place of business in this state shall designate this state as its base state.

(b) A motor carrier that has its principal place of business outside of this state shall determine its base state designation by the highest number of hazardous materials miles traveled among the states participating in the uniform program.

(2) Subject to section 10, a motor carrier that designates this state as its base state pursuant to subsection (1) shall register with and obtain a permit from the department prior to transporting hazardous materials within this state. A motor carrier that designates another participating state as its base state shall register with and obtain a permit from that state, with the appropriate fees paid for this state, prior to transporting hazardous materials in this state.

(3) A motor carrier required to register in this state shall file part I of the uniform application with the department and pay an administrative fee of $50.00 and the apportioned vehicle registration fee. The amount of the registration fee shall be calculated by the formula in section 4.

(4) A motor carrier required to obtain a permit in this state shall file part II of the uniform application with the department and pay a permit review fee of $500.00.

(5) A motor carrier shall have and maintain financial responsibility for bodily injury, property damage, or environmental damage to third parties caused by accidental occurrences arising from hazardous materials transportation activities of the motor carrier. The motor carrier shall have and maintain fleet liability coverage for accidental occurrences in an amount not less than $1,000,000.00 per occurrence for hazardous materials that are hazardous wastes and $750,000.00 per occurrence for hazardous materials that are liquid industrial by-product. However, a motor carrier with fleets including only vehicles under 10,000 pounds gross vehicle weight shall have and maintain fleet liability coverage for accidental occurrences in an amount not less than $300,000.00. Proof of the required domiciled fleet liability coverage shall be provided to and maintained by the Michigan public service commission in the department of licensing and regulatory affairs, with certification of proper coverage provided to the department. Demonstration of proof of the required nondomiciled fleet liability coverage shall be provided to and maintained with the Surface Transportation Board in the United States Department of Transportation. Fleet liability coverage not included under the authority of the Michigan public service commission or the Surface Transportation Board shall be demonstrated to the department by submittal of the document entitled "endorsement for motor carrier policies of insurance for public liability under section 29 or 30 of the motor carrier act of 1980" (OMB no. 2126-0008, form MCS-90).

(6) Upon a motor carrier's compliance with subsections (3), (4), and (5), the department shall issue a notice of registration form and a permit to the motor carrier. A notice of

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registration form and a permit shall include a unique number for each motor carrier assigned by the department.

(7) A motor carrier shall maintain a copy of the notice of registration form and the permit in each power unit used to transport hazardous materials in all participating states. The notice of registration form and the permit are not transferable between motor carriers or owners. The original notice of registration form or permit shall be maintained at the motor carrier's principal place of business as noted on the registration form or permit, and shall be available for inspection during normal business hours.

(8) Prior to entering the state, a motor carrier may obtain a temporary permit in lieu of a notice of registration form and a permit. The temporary permit expires 10 days after issuance, and the fee for a temporary permit is $100.00.

(9) A motor carrier transporting liquid industrial by-product generated on or from property or equipment in which he or she owns an interest is exempt from registration and permitting as required in this act, but remains subject to all other provisions of part 121 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.12101 to 324.12118, or any other applicable act or part.

History: 1998, Act 138, Eff. Sept. 1, 1998 ;-- Am. 2015, Act 225, Eff. Mar. 16, 2016

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29.474 Vehicle registration fee; calculation.

Sec. 4.

The apportioned vehicle registration fee required under section 3 shall be equal to the percentage of transportation in this state multiplied by the percentage of all hazardous materials transportation, multiplied by the total number of power units operated, multiplied by a per-vehicle fee of $50.00, and shall be calculated as follows:

(a) A motor carrier shall determine its percentage of transportation in this state by dividing the number of miles traveled in this state under the international registration plan during the previous year by the number of miles it traveled nationwide under the international registration plan. If a motor carrier operated only in this state, its percentage is 100%. If a motor carrier is not registered in the international registration plan, the motor carrier shall calculate the number of miles traveled using the method in the international registration plan. If a motor carrier operates more than 1 fleet under the international registration plan, the motor carrier may calculate each fleet's contribution to the motor carrier's total fee separately. A motor carrier who operated in another state under a reciprocal agreement with that state shall include the miles operated under the agreement as miles traveled in this state in calculating mileage under this section.

(b) A motor carrier shall determine its percentage of hazardous materials transportation using either of the following:

(i) For less than truckload shipments, it must divide the weight of all of the motor carrier's hazardous materials shipments transported during the previous year by the total weight of all shipments transported during the same year.

(ii) For truckload shipments, it must divide the total number of hazardous materials shipments during the previous year by the total number of all shipments transported during the same year.

(c) A motor carrier shall select the midpoint of the 10% range that most closely approximates the motor carrier's calculation of its hazardous materials transportation business, under either option in subdivision (b).

(d) A motor carrier may use data from its most recent complete fiscal year or the most recent calendar year in calculating the percentage required under this section.

History: 1998, Act 138, Eff. Sept. 1, 1998

29.475 Collection and disposition of registration and permit fees; transfer of fund balance.

Sec. 5.

The registration and permit fees collected under this act shall be deposited into the fund. Any balance in the hazardous materials transportation permit fund on October 1, 2013 shall not lapse to the general fund but shall be transferred to the fund and the hazardous materials transportation permit fund shall be closed.

History: 1998, Act 138, Eff. Sept. 1, 1998 ;-- Am. 2013, Act 74, Eff. Oct. 1, 2013

29.476 Agreements with federal agencies, national repository, or other states; reciprocal registration and permitting coordination; payments; development of forms, applications, and software.

Sec. 6.

(1) The department may enter into agreements with federal agencies, a national repository, or other participating states as needed to allow for the reciprocal registration and permitting of motor carriers. The agreements may include procedures for determining base states, the collection and distribution of fees, dispute resolution, the exchange of information for reporting and enforcement, and other provisions necessary to administer this act and the uniform program.

(2) The department shall confer with the department of state with the intent of coordinating the registration and permitting required under this act with other permitting and registration programs.

(3) The department, and, if appropriate under subsection (2), the department of state, may make payments to agencies of other participating states in the uniform program, for the purposes of reimbursement of apportioned registration permit fees.

(4) The department may develop the necessary forms, applications, and software required to implement this act.

History: 1998, Act 138, Eff. Sept. 1, 1998

29.477 Inspection or examination of motor vehicle or facility; reproduction of evidentiary material; enforcement; compliance; violation; penalty; deposit of collected fines.

Sec. 7.

(1) The department or the department of state police may inspect or examine any motor vehicle or facility operated by a motor carrier, or conduct investigations, audits, or compliance reviews as necessary to determine compliance with this act and the uniform program, or to determine eligibility for registration or permitting under this act and the uniform program.

(2) The department or the department of state police may inspect and electronically reproduce any papers, books, records, documents, or other evidentiary material necessary to

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determine if a motor carrier is complying with this act and the uniform program, or to determine eligibility for registration or permitting under this act and the uniform program.

(3) The department, the department of state police, a local law enforcement agency, or the department of natural resources may enforce this act.

(4) Motor carriers under the jurisdiction of this act shall comply with all applicable provisions of the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.22, and all applicable provisions of the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, as well as any other applicable requirements of law.

(5) A person who violates this act is responsible for a state civil infraction and shall be fined not more than $2,500.00. Fines collected pursuant to this act shall be deposited into the fund.

History: 1998, Act 138, Eff. Sept. 1, 1998
Compiler's Notes: For transfer of powers and duties of department of natural resources to department of natural resources and environment, and abolishment of department of natural resources, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

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29.478 Validity of registration; application for renewal; fee; annual certification of compliance; notice of change in name, principal place of business, or business telephone number.

Sec. 8.

(1) A registration issued under this act is valid for 1 year from the date a notice of registration form is issued and a permit issued under this act is valid for 3 years from the date issued or until a motor carrier fails to renew its registration, whichever occurs first. Application for renewal of a registration or permit shall be made at least 90 days prior to expiration. The fee for renewal shall be the same for an original registration or permit.

(2) A motor carrier with a valid permit shall annually certify that its current operations are not substantially different from its operations on the date the motor carrier obtained its permit and shall annually certify its compliance with all applicable laws and regulations in its application for renewal. Failure to comply with the certifications in part II of the uniform program is prohibited.

(3) A motor carrier whose name, principal place of business, or business telephone number has changed during the time a notice of registration or permit is effective shall notify the department of the change by submitting an amended registration or permit statement no later than 30 days after the change. Upon receipt, the department shall issue an amended notice of registration form or permit. The department shall not charge a fee for a change made under this subsection.

History: 1998, Act 138, Eff. Sept. 1, 1998

29.479 Suspension or revocation of registration or permit; denial of application for registration or permit; conditions; actions of department; notice to motor carrier; written request for contested case hearing; reinstatement; issuance.

Sec. 9.

(1) The department shall immediately suspend or revoke a registration or permit, or deny an application for a registration or permit, upon determination of any of the following conditions:

(a) The motor carrier made a materially false or misleading statement in an application.

(b) The motor carrier's operation consists of 1 or more serious or repeated violations of the laws of this state.

(c) The motor carrier has been issued an unsatisfactory rating under the motor carrier rating system developed by the United States department of transportation.

(d) The motor carrier is under a current out of service order issued pursuant to the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.22, or an out of service order issued by the United States department of transportation.

(e) The motor carrier does not maintain the appropriate level of financial liability coverage mandated by the laws of this state.

(2) If the department determines that any of the conditions of subsection (1)(a) through (e) exist, the department shall do 1 of the following, as appropriate:

(a) Suspend or revoke a notice of registration or permit previously issued under this act.

(b) Suspend or revoke the hazardous materials transportation operations in this state by a motor carrier operating under a registration or permit issued by another participating state.

(c) Deny an application for registration or permit by a motor carrier.

(3) Upon revocation, suspension, or application denial, the department shall notify the motor carrier, in writing, by certified mail, of the reasons for suspension, revocation, or application denial, and indicate the steps necessary for reinstatement. In the case of a suspension, the department shall also indicate the date by which compliance is required prior to a revocation being issued. The department shall also indicate the steps provided for appeal of the suspension, revocation, or application denial.

(4) Upon notification of suspension, revocation, or application denial, a motor carrier may submit a written request for a contested case hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, with the department, by certified mail, within 10 days of receipt of the notice of suspension, revocation, or application denial. A contested case hearing shall be scheduled within 30 days of the receipt of the request for a contested case hearing, and shall be held in the city of Lansing.

(5) The department may reinstate a notice of registration form or permit that was suspended pursuant to this section if the department is satisfied that the violations causing the suspension have been corrected and the motor carrier's operations have changed sufficiently to prevent further occurrences of the violations.

(6) The department may issue a notice of registration form or permit that was previously denied to a motor carrier if the department is satisfied that the violations causing the denial have been corrected and the motor carrier's operations have changed sufficiently to prevent further occurrences of the violations.

History: 1998, Act 138, Eff. Sept. 1, 1998

29.480 Preemption of local programs; motor vehicles not subject to act; completion of uniform application; information as private data; release of information.

Sec. 10.

(1) This act preempts and supersedes hazardous materials transportation registration or permitting programs administered by any city, village, township, county, or other political subdivision of this state.

(2) Motor vehicles owned and operated by a local, state, or federal government, or any other political subdivision, are not subject to this act.

(3) A motor carrier that holds a valid permit in compliance with part 111 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11101 to 324.11152, on

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the effective date of this act, shall, upon expiration of that permit, submit a completed uniform application to the department.

(4) The following data submitted on a uniform application pursuant to this act are private data and not subject to the provisions of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246:

(a) Information related to a motor carrier's customers and service provided to specific customers.

(b) Financial balance sheet and income statement data.

(c) Ownership and debt liability data.

(d) Information related to a motor carrier's parent companies, affiliates, and subsidiaries.

(5) Notwithstanding subsection (4), for the purposes of administering the uniform program, the department may release any information on individuals or motor carriers to the United States department of transportation, any other participating state or state agency, or to the national repository established under the uniform program.

History: 1998, Act 138, Eff. Sept. 1, 1998

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