



**House
Legislative
Analysis
Section**

Manufacturer's Bank Building, 12th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

MICHIGAN STATE LAW LIBRARY

FED. MOTOR CARRIER SAFETY RULES

**Senate Bill 1067 (Substitute H-1)
First Analysis (11-29-90)**

**Sponsor: Sen. Richard D. Feßler
Senate Committee: State Affairs, Tourism, &
Transportation
House Committee: Transportation**

THE APPARENT PROBLEM:

Federal rules governing motor carrier safety are continually being updated and states are required to update their laws to be in compliance with the rules. The last time Michigan updated its Motor Carrier Safety Act was in 1984; this was done via promulgation of rules by the Motor Carrier Division of the Department of State Police. While most of the current federal rules are currently being enforced in the state, the state is required to comply its own laws with federal rules to ensure continued federal funding for transportation programs. The bill would parrot federal rules in most provisions except for those which would apply to certain situations specific to Michigan's commercial drivers and motor carriers.

THE CONTENT OF THE BILL:

The bill would amend the Motor Carrier Safety Act to adopt new federal regulations, enacted in 1990, which govern the transport of hazardous materials and provide for general motor carrier safety. The bill generally would apply to common carriers and their drivers as well as to drivers of larger vehicles (such as buses) and would, among other things, set various standards that persons would have to meet in order to drive a motor vehicle, require motor carriers to review driving records and keep files on their drivers, establish bumper and underride guard requirements, and limit a driver's hours of service. The bill would take effect April 2, 1991.

Applicability of Act, Regulations. The bill would adopt the regulations of Title 49 of the Code of Federal Regulations, which govern the transport of hazardous materials and provide for motor carrier safety, that were in force as of February 28, 1990; also, policies and procedures adopted by the U.S. Department of Transportation's federal highway administration and certain other North American standards for uniform out-of-service criteria and inspection procedures would be adopted under the bill. Except as specified, the act would apply to all employers, employees, and commercial motor vehicles that transported property or passengers. Also, federal rules entitled "Minimum Levels of Financial Responsibility for Motor Carriers" would apply to motor carriers as provided in federal regulations.

Unless otherwise specified, the act and rules promulgated under it would not apply to:

- the occasional transport of personal property by individuals not for compensation nor for commercial purposes;
- the transport of human corpses or of sick and injured persons; or
- the operation of an authorized emergency vehicle by a firefighter who had met the driver training standards of the Michigan Firefighter's Training Council.

Nothing within the act could be construed to prohibit an employer from requiring and enforcing more stringent

requirements relating to safety of operation and employee safety and health, including the use of additional safety equipment and accessories. Every motor carrier would have to be knowledgeable of and comply with the act and rules promulgated under it that were applicable to the carrier's operations, and all drivers and employees would have to be instructed in, and comply with, all applicable provisions and rules.

Driver Qualifications. A person could not drive, and a motor carrier could not require a person to drive, a motor vehicle unless the person was qualified to do so. The bill would establish qualification criteria for a driver's age, ability to read and speak the English language, ability to operate a motor vehicle, ability to secure cargo in or on the vehicle, physical qualifications, licensure, provision to his or her employer of a list of violations, status of not being disqualified due to loss of driving privileges or criminal or other offenses, road test, written examination, and employer application.

List of Former Employers. A person who applied to operate a commercial motor vehicle, as defined in the Vehicle Code, would have to submit a list of the names and addresses of the applicant's former employers for whom he or she drove a commercial motor vehicle, together with employment dates and reasons for leaving. The list would have to cover the seven years preceding the three-year period for which a list is required under federal rules.

Motor Carrier Responsibilities. At least annually, a motor carrier would be required to review a copy of the driver's record from each state in which a driver held a license during the preceding year to determine whether the driver met the minimum requirements for safe driving or was disqualified to drive a motor vehicle.

In addition, a motor carrier would have to maintain a driver qualification file for each driver it employed. The required contents of a qualification file would differ according to whether the driver had been a regularly employed driver of a motor carrier of property for a continuous period that began on or before June 10, 1984, or for a motor carrier of passengers for a continuous period that began 30 days before the bill's effective date; a regularly employed driver who was employed by a motor carrier of property after June 10, 1984, or a regularly employed driver of a motor carrier of passengers who had not been regularly employed for a continuous period that began at least 30 days before the bill's effective date; or an intermittent, casual, or occasional driver.

Failing to complete and preserve the record of duty activities required by federal regulations, or making false reports in connection with such duty activities would make the driver and/or the carrier liable to prosecution.

Motor carriers would be required to submit, upon demand, all their transportation safety-related documents for inspection or copying during regular business hours to any motor carrier office displaying a valid Michigan Department of State Police, Motor Carrier Division identification card.

Physical Qualifications. The bill would prohibit a person from driving a motor vehicle unless he or she were physically qualified to do so and, except as provided in the act, had on his or her person the original or a copy of a medical examiner's certificate that he or she was physically qualified. The driver of a commercial motor vehicle would have to be medically examined and certified if he or she had not been during the preceding 24 months or if the driver's ability to perform his or her normal duties had been impaired by a physical or mental injury or disease.

A person who was not physically qualified but was otherwise qualified could drive a motor vehicle if the Motor Carrier Division or the proposed appeal board had granted the person a waiver. The appeal board would consist of the directors of the Departments of State Police, Transportation, and the secretary of state, or those individuals' designees, as well as two representatives of the motor carrier industry chosen jointly by the three department heads and the Michigan Trucking Association. The appeal board would be required to hear and decide applications for waivers from medical requirements of the act and rules promulgated under it.

An application for a waiver would have to be submitted jointly by the person and the motor carrier that would employ the person. The bill describes the information that an application would have to contain and the documents that would have to accompany it, including at least two reports of medical examinations that contained the examiner's opinion concerning the individual's ability to operate the motor vehicle safely.

The Motor Carrier Division could deny the application, or approve it in whole or in part, and issue a waiver subject to the terms and limitations the division considered consistent with safety and the public interest. The division also could suspend or revoke a waiver. A waiver would be valid for up to two years and could be renewed upon submission of a new application. An applicant who was denied a waiver in whole or in part could make an appeal for review by contacting the division.

Exclusions. The bill specifies that the act and federal regulations relating to applications for employment, investigations and inquiries, road tests, and written examinations would not apply to a driver who had been a regularly employed driver of an intrastate motor carrier of property for a continuous period that began on or before June 10, 1984, as long as he or she continued to be a regularly employed driver of that motor carrier. Those federal regulations also would not apply to someone who had been a regularly employed driver of an intrastate motor carrier of passengers for a continuous period that began at least 30 days before the bill's effective date, as long as he or she continued to be a regularly employed driver of that motor carrier. Further, to the extent that those regulations require a driver to be medically qualified or examined, the regulations and the section of the act relating to the maintenance of files and records would not apply to a driver of a vehicle eligible for and displaying a farm registration plate.

Provisions of the act pertaining to an intrastate driver's medical qualifications would not apply to the driver of a commercial motor vehicle who had been a regularly employed driver of the motor carrier for a continuous period that began at least 30 days

before the bill's effective date, who had received a waiver from the Motor Carrier Division, and who met other criteria.

Federal regulations pertaining to the investigation of a driver's past employment would not apply to a person who became a driver for a motor carrier after being a full-time employee of the carrier for at least three years before becoming a driver.

The act would not apply to a mechanic who services motor carrier equipment during the intrastate operation of the equipment when the vehicle or combinations were not being used to transport passengers or property or any for-hire or compensated transportation, and when the mechanic was not otherwise being used as a regularly employed driver. The act and federal regulations would not apply to certain utility, telephone, and cable television company service employees.

Hours of Service. The bill specifies that the federal regulations pertaining to hours of service would apply to all drivers of commercial motor vehicles except farm vehicle drivers; mechanics; utility, telephone, and cable television company service employees; and any driver of a public utility service vehicle being used in cases of emergency.

The bill would prohibit a motor carrier from permitting or requiring a commercial motor vehicle driver, regardless of the number of motor carriers using the driver's services, to drive for any period after having been on duty 60 hours in any seven consecutive days if the motor carrier did not operate every day in the week, or after having been on duty 70 hours in any period of eight consecutive days if the carrier operated motor vehicles every day of the week. This provision would not apply to the following drivers if their total driving time did not exceed 40 hours in any period of seven consecutive days: a driver-salesperson; a driver delivering home heating fuel between October and April in a vehicle of less than 40,000 pounds of gross vehicle weight; a driver involved with the pickup or delivery of crude oil products during the time when weight limitations were imposed due to seasonal climatic changes; a driver of a vehicle engaged in seasonal construction-related activities within a 100-mile radius of the normal work reporting location; and a driver of a motor vehicle delivering beverages to retail businesses. (Drivers delivering beverages to retailers would also be exempt from certain reporting requirements.)

Bumpers/Underride Guards. A motor vehicle, except a truck tractor, pole trailer, vehicle engaged in driveaway-towaway operations, and truck tractor and semitrailer combination manufactured after December 31, 1952, that was constructed so that the body or the chassis assembly had a clearance at the rear end of more than 30 inches from the ground when empty, would have to be provided with bumpers or similar devices so that certain specified conditions were met.

A truck tractor and semitrailer combination with a semitrailer length exceeding 50 feet, whose frame or body extended more than 36 inches beyond the rear of its rear axle and was more than 30 inches above the roadway, could not be operated unless it were equipped with an underride guard on the extreme rear of the frame or body. The underride guard would have to meet specified requirements.

MCL 480.11a et al.

HOUSE COMMITTEE ACTION:

The House Committee on Transportation adopted a substitute for the bill which would exempt drivers who deliver beverages from provisions which limit the number of driving hours allowed

during any given week. Also, the House substitute would exempt intrastate beverage delivery drivers from having to report their hours to their working base after 12 consecutive hours of work if they were to be released from duty after 15 consecutive hours of work.

FISCAL IMPLICATIONS:

According to the Department of Transportation, the bill would not affect state or local budget expenditures. (11-28-90)

ARGUMENTS:

For:

The bill simply would bring the state's Motor Carrier Safety Act into line with current federal rules and, thus, would ensure that Michigan continues to receive necessary federal funding for transportation. The act was last updated in 1984 when the Department of State Police promulgated rules that adopted federal provisions. Because this process is time-consuming and somewhat costly, it was suggested that legislation be used to accomplish this purpose. Except for provisions intended to accommodate problems specific to Michigan's commercial drivers, the bill generally follows federal rules and has the support of trucking groups and the Motor Carrier Division of the Department of State Police.

POSITIONS:

The Department of State Police supports the bill. (11-28-90)

The Michigan Beer and Wine Wholesalers Association supports the bill. (11-28-90)

The Michigan Motor Bus Association supports the bill. (11-28-90)

The Department of Transportation supports the concept of the bill. (11-28-90)

A representative of the Michigan Trucking Association testified in support of the bill. (11-27-90)