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BILL ANALYSIS

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Senate Fiscal Agency

Lansing, Michigan 48909

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Senate Bill 534 (as enrolled)

Senate Bill 843 (as enrolled)

Senate Bill 844 (as enrolled)

Sponsor: Senator Frederick Dillingham (Senate Bill 534)

Senator Richard D. Fessler (Senate Bills 843 & 844)

Senate Committee: State Affairs, Tourism, and Transportation

House Committee: Transportation

PUBLIC ACT 187 of 1990PUBLIC ACT 188 of 1990PUBLIC ACT 189 of 1990

Date Completed: 8-13-90

RATIONALE

Since many children must ride a bus to get to school, it is considered imperative by many that every effort be made to ensure that bus drivers are well-qualified, the buses themselves are safe, school bus stops are properly placed, and school buses and passing motorists observe sensible operating procedures. Recent tragedies in which children have been killed by passing motorists as they tried to cross the street in front of school buses, or by school bus drivers who could not see the children after they got off the bus, have helped to focus attention on how current regulations can be revised to ensure greater safety for children and others around school buses. Of continuing concern to many is whether driver qualification requirements are stringent enough, whether school bus stopping procedures are as safe as they could be, and whether nonbus vehicles, such as vans, are adequately regulated. Many have urged that existing regulations be improved and consolidated into a single act dealing with pupil transportation.

driver skills test; require that vehicles used to transport pupils meet Federal passenger protection safety standards; require bus drivers to take continuing education courses and meet certain physical requirements as established by the Superintendent of Public Instruction; require the Department of State Police to conduct background checks on applicants for school bus driver positions; create an advisory committee to advise the Department of Education on issues and topics concerning school buses and school bus safety; create new procedures for boarding and discharging passengers and using the flashing red lights to control traffic; and provide reporting requirements for incidents and accidents involving school buses.

CONTENT

Senate Bill 534 would create the "Pupil Transportation Act", incorporating many of the provisions concerning the transportation of pupils on school buses that currently are found in the School Code and Motor Vehicle Code and rules promulgated under these Codes. Further, the bill proposes new provisions to prohibit persons from operating school buses before they have passed a school bus driver training course and an on-road

Senate Bill 844 would amend the School Code to repeal provisions pertaining to the use and inspection of school buses and the State Board of Education's authority over school bus routes, and to delete the prohibition against the use of a modified school bus that uses compressed natural gas or liquefied natural gas unless the installation of the fuel system has been inspected and approved by the Department of State Police.

Senate Bill 843 would amend the Michigan Vehicle Code to delete or repeal sections of the Code that pertain to the minimum age and examination

S.B. 534, 843, & 844 (8-13-90)

requirements for school bus drivers, school bus fuel tank specifications, certain mandatory equipment for school buses, and motorists' obligations to stop for a stopped school bus. Further, the bill would:

- Provide that the Code's definition of "school transportation vehicle" would not apply to a motor vehicle used by a parent or his or her designee for the regularly scheduled transportation of the parent's children directly to and from school and home under the terms of a contract with the school.
- Prohibit a person driving a school bus from exceeding the speed of 55 miles per hour on a limited access highway or freeway.
- Require motorists to stop their vehicles at least 20 feet, rather than 10 feet, from a stopped school bus.
- State that passing a bus or failure to stop for a school bus, in violation of the Code or an ordinance that complies with the Code, would constitute a civil infraction, rather than a misdemeanor as currently provided.
- Provide that in addition to the civil fine and costs provided for a violation of the Code's requirements that motorists stop for a stopped school bus, the judge, district court referee, or district court magistrate could order the violator to perform up to 100 hours of community service at a school.
- Provide that the Code's definition of "chauffeur" would not include a person operating a motor vehicle for a volunteer program who received reimbursement only for the costs of operating the vehicle.
- Delete a provision concerning notification of stopping distances when stopping for school buses is controlled by local ordinance.

The bills are tie-barred to each other and would take effect August 15, 1990.

A more detailed summary of Senate Bill 534 follows.

Definitions

The bill would retain the definitions for different types of school buses that are in the Motor Vehicle Code and rules promulgated under the Code but would add the following definitions:

- "School" would apply to both public and nonpublic schools.
- "Nonpublic school" would mean a private, denominational or parochial school.
- "Public school" would mean a local or intermediate school district or local act school district.
- "Pupil transportation vehicle" would mean any vehicle other than a school bus used to transport pupils to or from school or school-related events. The term would not include a vehicle operated by a municipally owned transportation system or by a carrier certified by the State Transportation Department.

Regulation of Public Transportation

The bill specifies that the State Board of Education would be responsible for regulating pupil transportation, and would require the Department of State Police in cooperation with the Board, to promulgate rules for safety specifications and operational procedures for school buses and pupil transportation vehicles.

Passenger Protection Standards

The bill provides that each vehicle used to transport passengers to or from school and school-related events would have to meet the passenger protection Federal motor vehicle safety standards applicable to that vehicle. Vehicles would have until October 1, 1997, to comply with these requirements and any vehicles that did not meet the minimum safety standards could not be purchased after October 1, 1993. Vehicles used by parents to transport their children to and from school and school-related events would be exempt from this requirement.

Vehicle Equipment

Many of the bill's provisions concerning mandatory equipment for school buses would

be the same as current requirements, except that:

- Certain provisions such as those pertaining to safety glass also would apply to pupil transportation vehicles.
- The flashing red lights and stop lights requirements would apply to school buses manufactured before October 1, 1990, that had not been retrofitted to meet the bill's requirement that new school buses purchased after October 1, 1990, use an eight-light system.
- The bill would require a school bus or pupil transportation vehicle to be equipped in a "manner that the driver, in a normal seated position, either by direct vision or by use of an indirect vision mirror system, shall be able to observe objects on the roadway in front of and beside the vehicle located inside a continuously visible rectangular area having a length defined as the length of the vehicle plus not less than 18 feet in front of the vehicle and a width defined as the width of the vehicle plus not less than 2 feet on either side of the vehicle".

The bill would provide detailed specifications for the mirror system. The Vehicle Code requires only that the mirror be located on either side of the vehicle so that the driver by looking in the mirror can see the road from the front bumper forward to the point where direct observation is possible.

Annual Inspections

The bill's provisions concerning the annual inspections of school buses parallel current law except that pupil transportation vehicles also would be subject to inspection. Further, the bill provides that inspection of a school bus or pupil transportation vehicle could be accomplished at any time and location and as frequently as the Department of State Police considered necessary for passenger safety. A bus or vehicle could be rejected for further use if it did not meet the requirements of the bill. If a bus or vehicle were determined to be safe for operation but in unsatisfactory condition, a grace period of up to 60 days could be granted to effect a specific repair. An unsafe vehicle would have to bear a red sticker on its windshield until the condition was corrected.

A safe but unsatisfactory vehicle would have to bear a yellow sticker.

On-Road Driver Skills Test

The Department would be required to administer an on-road driver skills test that the Department and the School Bus Safety Advisory Committee (that would be created by the bill) would be required to develop. The test would have to be conducted by an examiner not employed by the same agency or school of the driver being tested. The test would have to be administered to each school bus and pupil transportation vehicle driver who met the minimum threshold for a required safety evaluation as established by the Department and the School Bus Safety Advisory Committee and approved by the State Board of Education. The test would have to be given within 30 days after a driver met the established minimum threshold.

If recommended by the School Bus Safety Advisory Committee and approved by the State Board of Education, each school bus and pupil transportation vehicle driver would have to take an on-road driving skills test within each four-year period that the person was assigned to drive a school bus or pupil transportation vehicle. A school could require all of its school bus and pupil transportation vehicle drivers to take the on-road driving test.

A driver who failed to complete the on-road test successfully would not be permitted to drive a school bus or pupil transportation vehicle used for the regularly scheduled transportation of passengers to and from school and home. A driver who failed the test would be allowed to retake it under guidelines developed by the Department and the School Bus Safety Advisory Committee and approved by the State Board of Education.

Licensing Requirements

The bill's provisions concerning licensing requirements would be the same as current requirements in the Motor Vehicle Code except that the bill would update the mandatory license and indorsement requirements, and apply them not only to school bus drivers but also to those persons who operate "pupil transportation vehicles used for the regularly

scheduled transportation of passengers to and from school and home".

In addition, the bill would require the Secretary of State to note on the person's license each conviction, civil infraction determination, or other moving violation or accident that the person had while operating a school bus. The Legislature would be required to appropriate the funds necessary to implement the on-road driver skills test and the entry level course and continuing education requirements. By January 1, 1991, the Department of Education would be required to report to the Legislature the cost of implementing these requirements.

Educational Requirements

The bill would expand the Motor Vehicle Code's educational requirements for school bus drivers to specify that a driver would have to have enrolled in an entry level school bus safety education course or successfully complete such a course within the immediately preceding two years. The entry level course would have to be available to the driver within 90 days of enrollment. Enrollment certificates would expire 10 days after the end of the entry level course in which the driver was enrolled, and second enrollment certificates could not be issued. Further, the bill would require drivers to take a six-hour continuing education course.

Anyone in charge of school bus operations at a school would have to have passed successfully the introductory school bus safety education course, and at least six hours of continuing education every two years.

The bill specifies that the cost of any course instruction and the base rate of compensation of the driver would have to be reimbursed by the State on an equal basis for public and nonpublic schools as provided for by the Department of Education. Attendance by a person at an entry level course, a continuing education course, or an on-road driver skills test would be considered compensable work time by the school and the person would have to be paid at not less than his or her base rate as determined by the individual contract of employment or contractual rate as negotiated between the school and the person's collective bargaining representative.

A school would be required to provide instruction and training for its drivers on any new procedures required by the bill not more than 30 days after the effective date of the bill.

Driver Qualifications

The bill would expand the Vehicle Code's current list of qualifications for school bus drivers to include the requirement that all regular and substitute drivers meet annual physical requirements as authorized by the Superintendent of Public Instruction. (Currently, physical examinations are required every five years.) The driver would have to be examined by a licensed physician and would be required to present the physician's certificate to the employer. If an employer had reason to believe that a driver was not physically qualified to drive, he or she could require a physical examination for that driver at more frequent intervals. The employer, however, would have to indicate in writing the physical impairment for which the driver was to be examined, and would be entitled only to that portion of the examination results that pertained to that impairment. The employer would be required to pay for any examinations he or she requested.

Further, the bill would require that, in addition to a copy of the driver's physician's certificate that is currently required, copies of the Department of Education (driver course) certification, driver's license, certificate of road test application for employment, and any other information relating to driver qualification or ability to drive a school bus or pupil transportation vehicle safety, be maintained in the office of the driver's employer.

A school would be required to submit transportation safety-related documents, such as driver qualification records, and vehicle maintenance records on request for inspection and copying to motor carrier officers or vehicle inspectors of the Department of State Police.

Criminal Background Check

Upon receiving an application from a person for the position of school bus driver or pupil transportation vehicle driver, a school would be required to request from the Department of State Police a background check to determine

whether the person was convicted of any of the following offenses: criminal sexual conduct in any degree, assault with intent to commit criminal sexual conduct, felonious assault on a child, child abuse, cruelty, torture or indecent exposure involving a child, or a violation of provisions in the Michigan Penal Code concerning child sexually abusive activity or material.

Use of Liquor/Controlled Substances

Smoking on a school bus or pupil transportation vehicle would be prohibited within one hour before use of the vehicle by pupils. Further, the possession or consumption of liquor or a controlled substance on a school bus or pupil transportation vehicle would be prohibited.

Boarding and Discharging Pupils/Use of Red Lights

The Motor Vehicle Code currently requires a school bus to be equipped with flashing red lights that may be actuated by the driver only when the bus is stopped or stopping on a highway. The bill specifies that a school bus driver could actuate alternately flashing lights only when the school bus was stopped or stopping on a highway or private road for the purpose of receiving or discharging pupils in the manner provided in the bill. A school bus driver could not actuate the alternately flashing lights when operating on a public highway or private road and transporting passengers primarily other than school pupils. Further, the driver of a school bus, while operating upon the public highways or private roadways open to the public would have to receive or discharge pupils from the bus in the following manner:

- If pupils were required to cross the roadway, the driver of a school bus equipped with red and amber alternately flashing lights or only the alternately flashing red lights would have to activate the amber lights or hazard warning lights not less than 200 feet before the stop, park the bus as far off the right side of the roadway or private road as possible, deactivate the amber flashing lights or hazard warning lights, and activate the alternately flashing red lights while receiving or discharging

pupils. Before resuming motion, the driver would have to deactivate the lights and allow congested traffic to disperse where practicable. The deactivation of the lights would be the signal for stopped traffic to proceed.

- If the pupils were not required to cross the roadway and if the bus could be pulled off the roadway or private road or the road had adequate width for the school bus to be pulled off to the far right of the roadway or private road leaving the normal traffic flow unobstructed, the driver would have to activate the hazard warning lights not less than 200 feet before the stop and continue to display the lights until the process of receiving or discharging passengers had been completed. Before resuming motion, the driver would have to deactivate the lights. The driver of a school bus could use this procedure only at stops where the school administrator had approved its use. If the hazard warning light option were not used, the driver would have to use the appropriate procedure for stopping for passengers as if pupils were required to cross the roadway.
- The distance of not less than 200 feet required for light activation would have to be measured on the roadway or private road on which the stop was made for receiving or discharging pupils.

The bill also specifies that passengers crossing the road upon being discharged from a school bus would have to cross in front of the stopped school bus. If a school district authorized its school bus drivers to signal pupils to cross in front of the stopped school bus, the signal would have to be uniform throughout the school district.

Further, the bill would prohibit the driver of a school bus from stopping the bus for the purpose of receiving or discharging pupils in the following instances:

- Within 200 feet of a public highway or roadway intersection unless the stop were approved by the school administrator because it was the safest alternative available.
- Upon a limited access highway or

freeway, or upon any other highway or roadway that contained a construction barrier that impeded vehicular traffic if the pupils were required to cross the highway or roadway.

- Upon a highway or roadway constructed or designed to permit three or more separate lanes of vehicular traffic in either direction if the pupils were required to cross the highway or roadway.

The driver of a school bus would be prohibited from stopping the bus for the purpose of receiving or discharging pupils unless the bus were clearly and continuously visible in its stopped position to approaching vehicles on that highway or roadway for not less than 400 feet.

The bill also states that a school could provide instruction on proper school bus etiquette that could include, but would not be limited to, boarding and leaving the bus, evacuation of the bus in an emergency, and road-crossing procedures and the correct hand signal in the district, if any. If a school used school bus drivers for this instruction, the State Board could reimburse the school for this training.

Rail Crossings

The bill's provisions concerning the actions school bus drivers would have to take when approaching, stopping at, and crossing railroad tracks would be the same as current provisions in the Motor Vehicle Code except that the driver would have to stop the school bus at least 15 feet, rather than 10 feet, from the nearest rail; activate hazard warning lights; turn off all interior switches including fans, heaters and radios; open the passenger door and driver-side window; and listen and look in both directions for an approaching train and signals indicating the approach of a train.

Pupils Only on a School Bus

Like current law, the bill would permit only pupils, teachers, chaperons, persons enrolled in a school-sponsored preschool program and other authorized personnel to ride the bus while pupils were being transported to and from schools. The authorized personnel, however, would have to be authorized by the school,

rather than the local board of education as is currently provided.

Speed Limit

The bill specifically would prohibit a person driving a school bus from exceeding the speed limits established for school buses in the Michigan Vehicle Code. (Currently, the limit is 50 miles per hour, but under Senate Bill 843, the limit would be increased to 55 miles per hour on a limited access highway or freeway.)

Reporting of Accidents

The bill would require schools to report to the Department of Education each incident that resulted in a fire on a school bus or pupil transportation vehicle, each school bus or pupil transportation vehicle accident that resulted in property damage of \$500 or more, and each school bus or pupil transportation vehicle accident that resulted in personal injuries to passengers, pedestrians, or drivers. The Department would have to compile a summary report of the data on the incidents and accidents and return to each school a copy of the report with any recommendations for change. The bill specifies, however, that these provisions could not be construed to eliminate, modify or restrict any of the rights or collective bargaining agreements that school employees have under the Public Employment Relations Act.

School Bus Safety Advisory Committee

The Department of Education would be required to establish an advisory committee to advise the Department on issues and topics concerning school buses and school bus safety. The advisory committee would consist of a member from each of the following departments or organizations:

- The Department of Education.
- The Department of State Police.
- The State Transportation Department.
- The Department of State.
- The Michigan Association for Pupil Transportation.
- The Michigan Association of School Business Officials.
- The Michigan Association of School Administrators.

- Buses United for Safety.
- Nonpublic schools.
- The Michigan Education Association.
- The Michigan Association of School Boards.
- Other organizations representing school bus drivers that the Department considered appropriate.
- Any other organizations or groups the Department considered necessary.

The advisory committee would have to include members representing bus drivers and supervisors in rural areas, suburban areas, and cities in the Lower and Upper Peninsulas. The committee would be responsible for assisting the Department in the development of continuing education courses for school bus drivers and supervisors, any modifications to the introductory school bus safety course, the program to evaluate driving skills and on-road procedural performance skills of each school bus driver, and the minimum threshold for a required safety evaluation, which could include, but would not be limited to, number of points on a driving record, operating impaired or under the influence of alcohol, at-fault accidents, or violations of safety procedures, for requiring drivers to take the on-road driver skills test. Further, the advisory committee would assist the Department in updating physical examination requirements as necessary to comply with changes in Federal and State law or rules.

By August 15, 1991, the advisory committee would be required to complete and present to the State Board of Education, along with its recommendations, a study of the feasibility, safety, and fiscal implications of requiring school bus and pupil transportation vehicle drivers to take the on-road driver skills test within each four-year period a driver was assigned to drive a school bus or pupil transportation vehicle.

By October 1, 1991, the advisory committee would have to complete and present to the Legislature a study of the feasibility, safety, and fiscal impact of an all-right-hand drop procedure for boarding and discharging passengers from a school bus.

By January 1, 1992, the advisory committee would have to complete and present to the

Legislature a study of the feasibility, safety, and fiscal implications of using transit-style school buses exclusively. The study would have to include, but would not be limited to, an estimate of the current number of transit-style school buses and other school bus types, the cost differential between the types based on passenger capacity, the accident rate for 1989 on transit and nontransit-style school buses, and the estimated annual savings if the frequency and severity of personal injuries and property damages were reduced by the use of transit-style school buses.

Operational Agreements

The bill generally would retain the School Code's provisions concerning:

- The use of school buses by senior citizens and retired or disabled persons, except that nonprofit organizations also would be allowed to use the buses. "Nonprofit organization" would apply to nonprofit corporations, corporations to which the Nonprofit Corporation Act applies, and any group, society, organization, or association organized to carry out any lawful purpose not involving pecuniary profit or gain for its officers, trustees, or members.
- The contractual use of school buses by Federal, State, and local units of government, except that a contract would have to comply with any joint stipulations of the school and school bus drivers including, but not limited to, any collective bargaining agreements in force or, if no collective bargaining agreement existed, agreement with the designated bargaining agent.
- The use of the buses to transport persons to school-sponsored events. The bill, however, specifies that the school, rather than the board of the school district, would make the decisions concerning the use of the buses under these provisions. Further, the bill would allow school buses to be used to transport persons other than pupils to school-sponsored events and fees to be charged for the transportation. Pupils of the school would have to be given first priority for any transportation provided by the school. The School Code provides only

the board of a school district may collect a fee for transporting pupils in grades K-12 to or from nonmandatory and noncredit events sponsored by the school district.

In addition, the bill would allow a school to contract with a Federal, State, or local unit of government or an authorized government subcontractor for the use of a school bus to transport persons if all of the following conditions existed:

- The bus was not being used for school purposes.
- The persons were being transported to or from a government-sponsored or -operated activity.
- The bus was not being used to transport freight, goods, or merchandise other than that carried on the laps of the passengers.
- Other suitable or economical transportation was not available.
- A subcontractor had written evidence of the contract with the governmental agency authorizing the subcontractor to spend funds for the transportation for which the bus was requested.

The bus would have to be returned in adequate time to be checked and serviced properly for its scheduled route assignment.

Bus Rehabilitation

The bill states that the cost of purchasing pupil transportation vehicles and school buses and the rehabilitation of school buses to extend the period of usefulness would have to conform with the rules promulgated by the Department of Education to provide State aid to eligible school districts for the purchase of pupil transportation vehicles and school buses and the cost of rehabilitation.

Penalties and Violations

A violation of the bill would constitute a misdemeanor, unless the violation were declared by the bill or other State law to be a felony or a civil infraction.

Unless another penalty were provided in the bill or by State law, a person convicted of a

misdemeanor for violating the bill could be punished by a fine of not more than \$500, or by imprisonment for not more than three months, or both.

The bill also would grant motor carrier officers appointed by the Director of the Department of State Police all the powers conferred upon peace officers by the general laws of the State to enforce the bill and the rules promulgated under it.

MCL 257.6 et al. (Senate Bill 843)
380.1341 (Senate Bill 844)

FISCAL IMPACT

This bill would result in indeterminate costs to local and intermediate school districts that would be reimbursable by the State. The costs are indeterminate as the number of buses that would be affected and amount of maintenance that would be required are not known. It is, anticipated, however, that costs would be several million dollars per year. Also, the bill would require the State to develop an on-road driver skills test for each bus driver over a four-year period, which would cost about \$25,000 to develop, and about \$50 per driver to administer. There are about 16,000 drivers so the cost would be about \$200,000 per year (16,000 drivers/4 years x \$50 = \$200,000/year).

ARGUMENTS

Supporting Argument

The legislation would improve school bus safety by requiring more thorough and frequent examinations of drivers' skills, knowledge, and physical health. Coupled with stronger educational requirements, especially for continuing education, these requirements would help to ensure that new drivers were competent, and experienced drivers remained so. Various safety provisions, notably the requirement for annual State Police vehicle inspections, would be extended to apply to nonbus vans and other vehicles used to transport pupils. Vehicles, such as certain vans, for which there are no Federal passenger safety standards, would be barred from transporting schoolchildren. Changes that would be made in the type and location of equipment on school buses and pupil transportation vehicles, such as the proposed

mirror system, would help reduce the number of incidences in which bus drivers hit children simply because they cannot see them. Statewide uniformity on the use and observance of a school bus's flashing red lights would be achieved; further, adoption of the eight-light system would bring Michigan into uniformity with the 48 other states that have adopted it, and would promote motorist awareness of and compliance with school bus traffic rules. Various stopping distances would be increased, thus increasing the margin of safety for schoolchildren using buses. Many aspects of the law on school buses, now scattered throughout various statutes, Attorney General opinions, and rules, would be consolidated into one comprehensive act, thus simplifying enforcement and increasing compliance.

Opposing Argument

Many aspects of the legislation have been criticized. Perhaps foremost among the criticisms is the legislation's potential cost in relation to its likely effectiveness. By one estimate, expenses for road tests alone could run to \$400,000 per year; these costs, together with those for equipment, State inspections, and data collection, are expected to total several million dollars per year. Such costs argue strongly against legislation that could fall far short of truly effective safety reform by its failure to require an all right-hand drop procedure, require the use of left-side stop arms, or establish a truly uniform use of school bus warning lights.

Further, much of Senate Bill 534, especially its equipment requirements, is of a specificity more appropriate to rules, rather than statute. In addition, those provisions contain a number of changes from the rules from which they are drawn; some of those changes may be matters of dispute. Many matters relative to school bus safety would remain in statutes outside of the proposed Pupil Transportation Act; rather than simplify matters, Senate Bill 534 could complicate them.

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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.