

Act No. 233
Public Act of 1989
December 28, 1989
Filed by the Secretary of State
December 28, 1989

**STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1989**

Introduced by Rep. Hertel

ENROLLED HOUSE BILL No. 4662

AN ACT to amend sections 3, 4, 5, 7, 9, 13, 17, 21, 23, 25, 27, 29, 33, 34, 35, and 39 of Act No. 432 of the Public Acts of 1982, entitled "An act to regulate persons who transport passengers by motor bus; to prescribe powers and duties for the state transportation department; to impose certain fees; and to impose penalties," section 9 as amended by Act No. 84 of the Public Acts of 1986 and section 34 as added by Act No. 73 of the Public Acts of 1984, being sections 474.103, 474.104, 474.105, 474.107, 474.109, 474.113, 474.117, 474.121, 474.123, 474.125, 474.127, 474.129, 474.133, 474.134, 474.135, and 474.139 of the Michigan Compiled Laws; and to add sections 6, 16, 31, and 32.

The People of the State of Michigan enact:

Section 1. The title and sections 3, 4, 5, 7, 9, 13, 17, 21, 23, 25, 27, 29, 33, 34, 35, and 39 of Act No. 432 of the Public Acts of 1982, section 9 as amended by Act No. 84 of the Public Acts of 1986 and section 34 as added by Act No. 73 of the Public Acts of 1984, being sections 474.103, 474.104, 474.105, 474.107, 474.109, 474.113, 474.117, 474.121, 474.123, 474.125, 474.127, 474.129, 474.133, 474.134, 474.135, and 474.139 of the Michigan Compiled Laws, are amended and sections 6, 16, 31, and 32 are added to read as follows:

Sec. 3. As used in this act:

(a) "Certificate of authority" means a certificate of authority issued under the terms of this act unless the context indicates otherwise.

(b) "Department" means the state transportation department.

(c) "For hire" means for remuneration or reward of any kind, paid or promised, either directly or indirectly.

(d) "Lessor" means a person who leases a motor bus to any other person for the transportation of passengers for hire over the public highways of this state.

(e) "Motor bus" means a self-propelled motor vehicle used in the transportation of passengers and their baggage for hire upon any public highway of this state with a maximum seating capacity of 10 persons or more, or 16 persons or more if the limousine transportation act is enacted into law, including the driver. Motor bus does not include a self-propelled motor vehicle having a seating capacity of 15 passengers or less that is used by or on behalf of an employer to transport its employees to and from their place of employment.

(f) "Motor carrier of passengers" means a person who, either directly or through any device or arrangement, holds himself or herself out to the public as willing to undertake for hire to transport by motor bus from place to place over the public highways of this state persons who may choose to employ him or her for that purpose or for the purpose of transporting package express, baggage of passengers, newspapers, or United States mail in the same vehicle used to transport passengers.

(g) "Person" means an individual, sole proprietorship, partnership, association, corporation, or other legal entity, or the lessee, trustee, or receiver of any of these entities; this state; a city, village, township, or county of this state; the federal government; or an employee, officer, or agent of any of these units of government.

(h) "Public highway" means a highway, road, street, avenue, alley, or thoroughfare of any kind, or a bridge, tunnel, or subway used by the public.

(i) "The public" means that part or portion of the general public which the motor carrier is ready, able, willing, and equipped to serve.

(j) "Through any device or arrangement" means any and all methods, means, agreements, circumstances, operations, or subterfuges under which a person undertakes for hire to conduct, direct, control, or otherwise perform the transportation of passengers by motor bus service upon the public highways of this state.

Sec. 4. (1) This act shall not apply to a motor carrier of passengers that is any of the following:

(a) A county, city, township, or village as provided by law, or other authority incorporated under Act No. 55 of the Public Acts of 1963, as amended, being sections 124.351 to 124.359 of the Michigan Compiled Laws. Each authority and governmental agency incorporated under Act No. 55 of the Public Acts of 1963 shall have the exclusive jurisdiction to determine its own contemplated routes, hours of service, estimated transit vehicle miles, costs of public transportation services, and projected capital improvements or projects within its service area.

(b) An authority incorporated under the metropolitan transportation authorities act of 1967, Act No. 204 of the Public Acts of 1967, as amended, being sections 124.401 to 124.426 of the Michigan Compiled Laws, or that operates a transportation service pursuant to an interlocal agreement under the urban cooperation act of 1967, Act No. 7 of the Public Acts of the Extra Session of 1967, as amended, being sections 124.501 to 124.512 of the Michigan Compiled Laws.

(c) Operating under a contract entered into pursuant to Act No. 8 of the Public Acts of the Extra Session of 1967, being sections 124.531 to 124.536 of the Michigan Compiled Laws, or Act No. 35 of the Public Acts of 1951, being sections 124.1 to 124.13 of the Michigan Compiled Laws.

(d) An authority incorporated under the public transportation authority act, Act No. 196 of the Public Acts of 1986, being sections 124.451 to 124.479 of the Michigan Compiled Laws, or a nonprofit corporation organized under the nonprofit corporation act, Act No. 162 of the Public Acts of 1982, being sections 450.2101 to 450.3192 of the Michigan Compiled Laws, that provides transportation services.

(e) An authority financing public improvements to transportation systems under the revenue bond act of 1933, Act No. 94 of the Public Acts of 1933, being sections 141.101 to 141.140 of the Michigan Compiled Laws.

(2) A motor carrier of passengers exempt under subsection (1) shall operate under the requirements of this act when operating outside of the political subdivisions permitted by the authorizing statute or the contract required by the authorizing statute.

Sec. 5. A motor carrier of passengers shall not operate a motor bus for the transportation of persons for hire on a public highway in this state except in accordance with this act. A motor carrier of passengers shall not operate upon a public highway without first having obtained from the department a certificate of authority.

Sec. 6. A lessor shall be required to inform any person leasing a motor bus for the transportation of passengers for hire of the requirements of this act on a motor vehicle lease agreement.

Sec. 7. The department shall issue without a hearing a certificate of authority to a motor carrier of passengers authorizing that carrier to provide transportation services subject to the jurisdiction of the department under this act, if the department finds pursuant to section 9(1) that the carrier is fit, willing, and able to provide the transportation service authorized by the certificate of authority and to comply with this act, and if the applicant presents evidence of the acquisition of personal injury protection and property damage liability insurance as required by section 9(2). The department may attach to the exercise of the privilege granted by a certificate of authority terms or conditions as the department considers appropriate.

Sec. 9. (1) In determining the fitness, willingness, and ability of an applicant for a certificate of authority to provide transportation service, the department shall consider all of the following before the issuance of the original certificate of authority:

(a) The applicant's safety record.

(b) The character and condition of each motor bus is such that it may be operated safely upon the public highways based on an inspection conducted by the department required pursuant to section 16.

(c) The applicant's financial ability to provide continuous insurance coverage as required by subsection (2) or (3) and to have adequate financial resources in order to pay for damage claims against the applicant.

(2) An applicant shall acquire the following insurance coverage of liability for acts or omissions of the applicant as a motor carrier of passengers:

(a) Bodily injury and property damage liability insurance with a minimum combined single limit of \$5,000,000.00 for all persons injured or for property damage.

(b) Personal protection insurance and property protection insurance as required by sections 3101 to 3179 of the insurance code of 1956, Act No. 218 of the Public Acts of 1956, being sections 500.3101 to 500.3179 of the Michigan Compiled Laws. A motor common carrier of passengers shall maintain the insurance described in this subsection as a condition of maintaining a certificate of authority issued under this act.

(3) An applicant that does not satisfy both subsections (1) and (2) shall not be issued a certificate of authority to provide transportation service under this act.

Sec. 13. An applicant for an original certificate of authority shall pay to the department a filing fee of \$300.00 and a fee of \$25.00 times the number of motor buses to be used by the carrier to provide transportation for hire.

Sec. 16. (1) Each motor carrier of passengers who holds a certificate of authority issued under this act shall permit the department to inspect each motor bus once annually, or more frequently if necessary to determine the current character and condition of the motor bus.

(2) Each motor bus operated by the motor carrier of passengers under its certificate of authority shall pass the safety inspection which meets the department's specifications for safe operating character and condition for the renewal of certificate.

(3) A motor bus that does not pass a required departmental inspection under this section shall not be operated over the public highways of this state.

Sec. 17. (1) Each motor carrier of passengers who holds a certificate of authority issued under this act shall pay to the department an annual renewal fee equal to \$25.00 times the number of motor buses used exclusively by the carrier to provide transportation of passengers for hire and that meet the annual renewal inspection requirements of section 16. An annual renewal fee of \$500.00 shall be paid for any motor bus not meeting the annual renewal inspection requirement of section 16.

(2) A motor carrier of passengers who holds a certificate of authority issued under this act to provide transportation for hire shall pay to the department a fee of \$25.00 per motor bus for each additional motor bus acquired during the year for the purpose of the current year inspection required by section 16.

(3) All certificates granted by the department terminate on the last day of February of each year unless renewed on or before that date with payment of the fee prescribed by subsection (1). The certificate of any motor carrier of passengers who is delinquent in payment of fees required to be paid by this section is canceled and revoked on or after March 1 of the year for which renewal should have been made pursuant to the requirements of this section, and the motor carrier of passengers shall be prohibited from operating any of its vehicles upon or over the highways of this state. All privileges granted the motor carrier of passengers under the expiring certificate shall cease.

Sec. 21. Upon request of a motor carrier of passengers, a certificate of authority that is issued to the motor carrier of passengers shall include authority to transport newspapers, baggage of passengers, package express, or United States mail in the same motor bus with the passengers and, in addition, shall include authority to transport in a separate motor vehicle baggage of passengers and package express having a prior or subsequent movement by motor bus.

Sec. 23. If there is an immediate and urgent need for the transportation of passengers to a point or between points within this state, the department 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 granted by the department under this section, unless suspended or revoked for good cause, shall be valid for the time which the department specifies, but not to exceed 90 days.

Sec. 25. Upon application and the filing of a \$25.00 fee, the department may grant a motor carrier of passengers holding a certificate of authority under this act a change to that certificate of authority, if the department determines that the carrier has met the requirements of section 9.

Sec. 27. (1) A motor carrier of passengers holding a certificate of authority for regular route service between points within this state may apply to discontinue all or a portion of its service under this certificate of authority by filing written application with the department, payment of the fees described in section 25, and within 10 days after filing the application publish notice of the application once a day for 2 different days in a newspaper of general circulation published in each county to which the service proposed to be discontinued extends. Within 20 days after the last date of publication, any person opposing the application shall file written notice of protest

with the department. If the application is not opposed, the motor carrier of passengers holding a certificate of authority may immediately discontinue the service. If the application is opposed, the department, within 20 days, may conduct a hearing on the application, with at least 10 days' notice to all interested parties.

(2) The department shall grant an application for authority to discontinue if the applicant demonstrates that intrastate revenue per mile derived from the route or routes proposed to be discontinued is less than the fully allocated cost per mile including depreciation. If the department's final determination on the application is not issued within 90 days after the last date of publication, the applicant may discontinue the service described in the application.

(3) A motor carrier of passengers holding a certificate of authority for service within this state other than regular route service may apply to discontinue all or a portion of its service under this certificate of authority by filing written application with the department and payment of the fees as described in section 25.

Sec. 29. (1) A motor carrier of passengers authorized to provide transportation service under this act shall not abandon or discontinue a service established under this act without the approval of the department, except, if applicable, as provided in section 27(2). If a motor carrier of passengers discontinues service for more than 10 days without the previous approval of the department authorizing the discontinuance, the certificate of authority issued to that carrier shall be considered revoked without any further action upon the part of the department.

(2) If the insurance coverage required under this act is canceled for any reason, the certificate of authority issued to that carrier shall be considered revoked without any further action by the department.

Sec. 31. The following federal motor carrier safety regulations adopted by the United States department of transportation and in effect on the effective date of this section are adopted by the department and shall be enforced in relation to motor carriers of passengers:

- (a) 49 C. F. R. part 390, federal motor carrier safety regulations general, except 390.17 and 390.40.
- (b) 49 C. F. R. part 391, qualifications of drivers, except 391.11 (b) (1).
- (c) 49 C. F. R. part 392, driving of motor vehicles, except 392.16.
- (d) 49 C. F. R. part 393, parts and accessories necessary for safe operations.
- (e) 49 C. F. R. part 395, hours of service of drivers.
- (f) 49 C. F. R. part 396, inspection, repair and maintenance.

Sec. 32. The department may use any and all available legal and equitable remedies of a civil nature to enforce this act, an order issued, or a rule promulgated pursuant to this act. The department may employ such experts, assistants, inspectors, and other personnel as may be necessary subject to civil service rules, to enable it to administer and enforce this act. An employee of the department shall not ask or receive any fee from a person for the taking of acknowledgments or any other service. State and local police officers shall enforce this act and the rules promulgated pursuant to this act. A peace officer may arrest, on sight or upon warrant, any person found violating or having violated a provision of this act or a rule promulgated pursuant to this act. The attorney general of the state and the prosecuting attorneys of the counties of this state shall prosecute all violations of this act. When this act is violated, the offense may be prosecuted in any jurisdiction in or through which a motor bus implicated was present at the time of the violation.

Sec. 33. A person subject to this act who operates a passenger service without obtaining a certificate of authority required under this act or without meeting the insurance requirements provided in this act shall be subject to a fine of not more than \$500.00. Each violation constitutes a separate offense.

Sec. 34. A motor carrier of passengers, or an officer or agent of a motor carrier of passengers, who requires or permits a driver or operator to drive or operate a motor bus in violation of this act, or a rule promulgated under this act, is guilty of a misdemeanor, punishable by a fine of not more than \$500.00, or by imprisonment for not more than 90 days, or both.

Sec. 35. The department may alter, suspend, or revoke a certificate of authority issued under this act if the department determines in a contested case hearing held pursuant to chapter 4 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.271 to 24.287 of the Michigan Compiled Laws, that a person to whom a certificate of authority has been issued has willfully violated or refused to comply with this act.

Sec. 39. The department may promulgate rules to implement this act pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved

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Governor.