

HOUSE BILL No. 4662

April 13, 1989, Introduced by Rep. Hertel and referred to the Committee on Transportation.

A bill 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

"Motor bus transportation act,"

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:

1 Section 1. The title and sections 3, 4, 5, 7, 9, 13, 17,
2 21, 23, 25, 27, 29, 33, 34, 35, and 39 of Act No. 432 of the
3 Public Acts of 1982, section 9 as amended by Act No. 84 of the
4 Public Acts of 1986 and section 34 as added by Act No. 73 of the

1 Public Acts of 1984, being sections 474.103, 474.104, 474.105,
2 474.107, 474.109, 474.113, 474.117, 474.121, 474.123, 474.125,
3 474.127, 474.129, 474.133, 474.134, 474.135, and 474.139 of the
4 Michigan Compiled Laws, are amended and sections 6, 16, 31, and
5 32 are added to read as follows:

6 Sec. 3. As used in this act:

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

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

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

13 (D) "LESSOR" MEANS A PERSON WHO LEASES A MOTOR BUS TO ANY
14 OTHER PERSON FOR THE TRANSPORTATION OF PASSENGERS FOR HIRE OVER
15 THE PUBLIC HIGHWAYS OF THIS STATE.

16 (E) ~~-(d)-~~ "Motor bus" means a self-propelled motor vehicle
17 used in the transportation of passengers and their baggage for
18 hire upon any public highway of this state with a maximum seating
19 capacity of 10 persons or more, OR 15 PERSONS OR MORE IF THE LIM-
20 OUSINE TRANSPORTATION ACT IS ENACTED INTO LAW, including the
21 driver. Motor bus does not include a self-propelled motor vehi-
22 cle having a seating capacity of 15 passengers or less ~~which~~
23 THAT is used by or on behalf of an employer to transport its
24 employees to and from their place of employment.

25 (F) ~~-(e)-~~ "Motor ~~common~~ carrier of passengers" means ~~any~~
26 A person who, either directly or through any device or
27 arrangement, holds himself or herself out to the public as

1 willing to undertake for hire to transport by motor bus OR
2 LIMOUSINE from place to place over the public highways of this
3 state persons who may choose to employ him or her for ~~such~~ THAT
4 purpose or for the purpose of transporting package express, bag-
5 gage of passengers, newspapers, or United States mail in the same
6 vehicle used to transport passengers.

7 (G) ~~(f)~~ "Person" means an individual, SOLE PROPRIETORSHIP,
8 partnership, association, corporation, OR OTHER LEGAL ENTITY, or
9 the lessee, trustee, or receiver of any of these entities; THIS
10 STATE; A CITY, VILLAGE, TOWNSHIP, OR COUNTY OF THIS STATE; THE
11 FEDERAL GOVERNMENT; OR AN EMPLOYEE, OFFICER, OR AGENT OF ANY OF
12 THESE UNITS OF GOVERNMENT.

13 (H) ~~(g)~~ "Public highway" means ~~any~~ A highway, road,
14 street, avenue, alley, or thoroughfare of any kind, or ~~any~~ A
15 bridge, tunnel, or subway used by the public.

16 (I) ~~(h)~~ "The public" means that part or portion of the
17 general public which the motor carrier is ready, able, willing,
18 and equipped to serve.

19 (J) ~~(i)~~ "Through any device or arrangement" means any and
20 all methods, means, agreements, circumstances, operations, or
21 subterfuges under which ~~any~~ A person undertakes for hire to
22 conduct, direct, control, or otherwise perform the transportation
23 of passengers by motor bus SERVICE upon the public highways of
24 this state.

25 Sec. 4. (1) This act shall not apply to a motor ~~common~~
26 carrier of passengers ~~which~~ THAT is ~~an~~ ANY OF THE FOLLOWING:

1 (A) A COUNTY, CITY, TOWNSHIP, OR VILLAGE AS PROVIDED BY LAW,
2 OR OTHER authority INCORPORATED under Act No. 55 of the Public
3 Acts of 1963, as amended, being sections 124.351 to 124.359 of
4 the Michigan Compiled Laws. ~~—, or~~ EACH AUTHORITY AND GOVERNMENTAL
5 AGENCY INCORPORATED UNDER ACT NO. 55 OF THE PUBLIC ACTS OF
6 1963 SHALL HAVE THE EXCLUSIVE JURISDICTION TO DETERMINE THE CON-
7 TEMPLATED ROUTES, HOURS OF SERVICE, ESTIMATED TRANSIT VEHICLE
8 MILES, COSTS OF PUBLIC TRANSPORTATION SERVICES, AND PROJECTED
9 CAPITAL IMPROVEMENTS OR PROJECTS WITHIN ITS SERVICE AREA.

10 (B) AN AUTHORITY INCORPORATED UNDER the metropolitan trans-
11 portation authorities act of 1967, Act No. 204 of the Public Acts
12 of 1967, as amended, being sections 124.401 to ~~+24.425-~~ 124.426
13 of the Michigan Compiled Laws, or ~~which~~ THAT operates a trans-
14 portation service pursuant to an ~~inter-local~~ INTERLOCAL agree-
15 ment under the urban cooperation act of 1967, Act No. 7 of the
16 Public Acts of the Extra Session of 1967, as amended, being sec-
17 tions 124.501 to 124.512 of the Michigan Compiled Laws. ~~—, and~~
18 ~~which uses motor buses, facilities, or equipment funded in whole~~
19 ~~or in part with state or federal funds.~~

20 (C) A CONTRACT ENTERED INTO PURSUANT TO ACT NO. 8 OF THE
21 PUBLIC ACTS OF THE EXTRA SESSION OF 1967, BEING SECTIONS 124.531
22 TO 124.536 OF THE MICHIGAN COMPILED LAWS, OR ACT NO. 35 OF THE
23 PUBLIC ACTS OF 1951, BEING SECTIONS 124.1 TO 124.13 OF THE
24 MICHIGAN COMPILED LAWS.

25 (D) AN AUTHORITY INCORPORATED UNDER THE PUBLIC TRANSPORTA-
26 TION AUTHORITY ACT, ACT NO. 196 OF THE PUBLIC ACTS OF 1986, BEING
27 SECTIONS 124.451 TO 124.479 OF THE MICHIGAN COMPILED LAWS, OR A

1 NONPROFIT CORPORATION ORGANIZED UNDER THE NONPROFIT CORPORATION
2 ACT, ACT NO. 162 OF THE PUBLIC ACTS OF 1982, BEING SECTIONS
3 450.2101 TO 450.3192 OF THE MICHIGAN COMPILED LAWS, THAT PROVIDES
4 TRANSPORTATION SERVICES.

5 (E) AN AUTHORITY FINANCING PUBLIC IMPROVEMENTS TO TRANSPOR-
6 TATION SYSTEMS UNDER THE REVENUE BOND ACT OF 1933, ACT NO. 94 OF
7 THE PUBLIC ACTS OF 1933, BEING SECTIONS 141.101 TO 141.140 OF THE
8 MICHIGAN COMPILED LAWS.

9 (F) OPERATING ONLY SCHOOL BUSES EXCLUSIVELY FOR THE TRANS-
10 PORTATION OF SCHOOL PUPILS OR OTHERS AS PROVIDED IN THE SCHOOL
11 CODE OF 1976, ACT NO. 451 OF THE PUBLIC ACTS OF 1976, BEING SEC-
12 TIONS 380.1 TO 380.1852 OF THE MICHIGAN COMPILED LAWS, AND THAT
13 EITHER IS OWNED BY A SCHOOL DISTRICT OR, IF PRIVATELY OWNED, IS
14 TRANSPORTING SCHOOL PUPILS UNDER CONTRACT WITH A LOCAL SCHOOL
15 DISTRICT OR AN INTERMEDIATE SCHOOL DISTRICT.

16 (2) A MOTOR CARRIER OF PASSENGERS EXEMPT UNDER
17 SUBSECTION (1) SHALL OPERATE UNDER THE REQUIREMENTS OF THIS ACT
18 WHEN OPERATING OUTSIDE OF THE POLITICAL SUBDIVISIONS PERMITTED BY
19 THE AUTHORIZING STATUTE OR THE CONTRACT REQUIRED BY THE AUTHORIZ-
20 ING STATUTE.

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

1 SEC. 6. A LESSOR SHALL BE REQUIRED TO INFORM ANY PERSON
2 LEASING A MOTOR BUS FOR THE TRANSPORTATION OF PASSENGERS FOR HIRE
3 OF THE REQUIREMENTS OF THIS ACT ON THE MOTOR VEHICLE LEASE
4 AGREEMENT.

5 Sec. 7. The department shall issue without a hearing a cer-
6 tificate of authority to a motor ~~common~~ carrier of passengers
7 authorizing that carrier to provide transportation services
8 subject to the jurisdiction of the department under this act, if
9 the department finds pursuant to section 9(1) that the carrier is
10 fit, willing, and able to provide the transportation service
11 authorized by the certificate of authority and to comply with
12 this act, and if the applicant presents evidence of the acquisi-
13 tion of personal injury protection and property damage liability
14 insurance as required by section 9(2). The department may attach
15 to the exercise of the privilege granted by a certificate of
16 authority ~~such~~ terms or conditions as the department considers
17 appropriate.

18 Sec. 9. (1) In determining the fitness, willingness, and
19 ability of an applicant for a certificate of authority to provide
20 transportation service, the department shall consider all of the
21 following BEFORE THE ISSUANCE OF THE ORIGINAL CERTIFICATE OF
22 AUTHORITY:

23 (a) The applicant's safety record.

24 (b) The character and condition of ~~the~~ EACH motor ~~buses~~
25 BUS proposed to be operated by the applicant and presentation of
26 competent evidence that they may be operated safely upon the
27 public highways. A MOTOR BUS THAT DOES NOT PASS THE REQUIRED

1 DEPARTMENTAL SAFETY INSPECTION SHALL NOT BE OPERATED OVER THE
2 PUBLIC HIGHWAYS OF THIS STATE.

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

7 (2) An applicant shall acquire the following insurance cov-
8 erage of liability for acts or omissions of the applicant as a
9 motor ~~common~~ carrier of passengers:

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

13 (b) Personal protection insurance and property protection
14 insurance as required by sections 3101 to 3179 of the insurance
15 code of 1956, Act No. 218 of the Public Acts of 1956, being sec-
16 tions 500.3101 to 500.3179 of the Michigan Compiled Laws.

17 A motor common carrier of passengers shall maintain the insurance
18 described in this subsection as a condition of maintaining a cer-
19 tificate of authority issued under this act.

20 Sec. 13. An applicant for an original certificate of
21 authority shall pay to the department a filing fee of \$300.00 AND
22 A FEE OF \$25.00 TIMES THE NUMBER OF MOTOR BUSES TO BE USED BY THE
23 CARRIER TO PROVIDE TRANSPORTATION FOR HIRE.

24 SEC. 16. (1) EACH MOTOR CARRIER OF PASSENGERS WHO HOLDS A
25 CERTIFICATE OF AUTHORITY ISSUED UNDER THIS ACT SHALL PERMIT THE
26 DEPARTMENT TO INSPECT EACH MOTOR BUS ONCE ANNUALLY, OR MORE

1 FREQUENTLY IF NECESSARY TO DETERMINE THE CURRENT CHARACTER AND
2 CONDITION OF THE MOTOR BUS.

3 (2) EACH MOTOR BUS OPERATED BY THE MOTOR CARRIER OF PASSEN-
4 GERS UNDER ITS CERTIFICATE OF AUTHORITY SHALL PASS THE SAFETY
5 INSPECTION WHICH MEETS THE DEPARTMENT'S SPECIFICATIONS FOR SAFE
6 OPERATING CHARACTER AND CONDITION FOR THE RENEWAL OF CERTIFICATE.

7 Sec. 17. (1) Each motor ~~common~~ carrier of passengers who
8 holds a certificate of authority issued under this act shall pay
9 to the department an annual renewal fee equal to ~~\$20.00~~ \$25.00
10 times the number of motor buses used exclusively by the carrier
11 to provide transportation of passengers for hire AND THAT MEET
12 THE ANNUAL RENEWAL INSPECTION REQUIREMENTS OF SECTION 16. AN
13 ANNUAL RENEWAL FEE OF \$500.00 SHALL BE PAID FOR ANY MOTOR BUS NOT
14 MEETING THE ANNUAL RENEWAL INSPECTION REQUIREMENT OF SECTION 16.

15 (2) A MOTOR CARRIER OF PASSENGERS WHO HOLDS A CERTIFICATE OF
16 AUTHORITY ISSUED UNDER THIS ACT TO PROVIDE TRANSPORTATION FOR
17 HIRE SHALL PAY TO THE DEPARTMENT A FEE OF \$25.00 PER MOTOR BUS
18 FOR EACH NEW MOTOR BUS PURCHASED FOR THE CURRENT YEAR INSPECTION
19 REQUIRED BY SECTION 16.

20 (3) ALL CERTIFICATES GRANTED BY THE DEPARTMENT TERMINATE ON
21 THE LAST DAY OF FEBRUARY OF EACH YEAR UNLESS RENEWED ON OR BEFORE
22 THAT DATE WITH PAYMENT OF THE FEE PRESCRIBED BY SUBSECTION (1).
23 THE CERTIFICATE OF ANY MOTOR CARRIER OF PASSENGERS WHO IS DELIN-
24 QUENT IN PAYMENT OF FEES REQUIRED TO BE PAID BY THIS SECTION IS
25 CANCELED AND REVOKED ON OR AFTER MARCH 1 OF THE YEAR FOR WHICH
26 RENEWAL SHOULD HAVE BEEN MADE PURSUANT TO THE REQUIREMENTS OF
27 THIS SECTION, AND THE MOTOR CARRIER OF PASSENGERS SHALL BE

1 PROHIBITED FROM OPERATING ANY OF ITS VEHICLES UPON OR OVER THE
2 HIGHWAYS OF THIS STATE. ALL PRIVILEGES GRANTED THE MOTOR CARRIER
3 OF PASSENGERS UNDER THE EXPIRING CERTIFICATE SHALL CEASE.

4 Sec. 21. Upon request of a motor ~~common~~ carrier of pas-
5 sengers, a certificate of authority THAT IS issued to the motor
6 ~~common~~ carrier of passengers shall include authority to trans-
7 port newspapers, baggage of passengers, package express, or
8 United States mail in the same motor bus with the passengers and,
9 in addition, shall include authority to transport in a separate
10 motor vehicle baggage of passengers and package express having a
11 prior or subsequent movement by motor bus.

12 Sec. 23. If there is an immediate and urgent need for the
13 transportation of passengers to a point or between points within
14 this state, the department may grant upon a proper application
15 temporary authority for ~~such~~ THAT service by a ~~motor common~~
16 ~~carrier of passengers~~ PERSON having a certificate of authority
17 or by an applicant for a certificate of authority. ~~Any~~ A tem-
18 porary authority granted by the department under this section,
19 unless suspended or revoked for good cause, shall be valid for
20 the time which the department specifies, but ~~in no event for a~~
21 ~~period exceeding~~ NOT TO EXCEED 90 days.

22 Sec. 25. Upon application and the filing of a \$25.00 fee,
23 the department may grant a motor ~~common~~ carrier of passengers
24 holding a certificate of authority under this act ~~an extension~~
25 A CHANGE TO THAT CERTIFICATE of authority, ~~for regular route~~
26 ~~service between points within this state or for charter service~~

1 ~~within this state,~~ if the department determines that the carrier
2 has met the requirements of section 9.

3 Sec. 27. (1) A motor ~~common~~ carrier of passengers holding
4 a certificate of authority for regular route service between
5 points within this state ~~or for charter service within this~~
6 ~~state~~ may apply to discontinue all or a portion of its service
7 under this certificate of authority by filing written application
8 with the department, PAYMENT OF THE FEES DESCRIBED IN SECTION 25,
9 and within 10 days ~~thereafter by publishing~~ AFTER FILING THE
10 APPLICATION PUBLISH notice of the application once a day for 2
11 different days in a newspaper of general circulation published in
12 ~~the county seat of~~ each county to which the service proposed to
13 be discontinued extends. Within 20 days after the last date of
14 publication, any person opposing the application shall file writ-
15 ten notice of protest with the department. If the application is
16 not opposed, the motor ~~common~~ carrier of passengers holding a
17 certificate of authority may immediately discontinue the
18 service. If the application is opposed, the department, ~~shall~~
19 within 20 days, MAY conduct a hearing on the application,
20 ~~providing~~ WITH at least 10 days' notice to all interested
21 parties.

22 (2) The department shall grant an application for authority
23 to discontinue if the applicant demonstrates that intrastate rev-
24 enue per mile derived from the route or routes proposed to be
25 discontinued is less than the fully allocated cost per mile
26 including depreciation. If the department's final determination
27 on the application is not issued within 90 days after the last

1 date of publication, the applicant may discontinue the service
2 described in the application.

3 (3) A MOTOR CARRIER OF PASSENGERS HOLDING A CERTIFICATE OF
4 AUTHORITY FOR SERVICE WITHIN THIS STATE OTHER THAN REGULAR ROUTE
5 SERVICE MAY APPLY TO DISCONTINUE ALL OR A PORTION OF ITS SERVICE
6 UNDER THIS CERTIFICATE OF AUTHORITY BY FILING WRITTEN APPLICATION
7 WITH THE DEPARTMENT AND PAYMENT OF THE FEES AS DESCRIBED IN
8 SECTION 25.

9 Sec. 29. (1) A motor ~~common~~ carrier of passengers autho-
10 rized to provide ~~a~~ transportation service under this act shall
11 not abandon or discontinue ~~any~~ A service established under this
12 act without the approval of the department, except, IF
13 APPLICABLE, as provided in section 27(2). If a motor ~~common~~
14 carrier of passengers discontinues service for more than 10 days
15 without the previous approval of the department authorizing the
16 discontinuance, the certificate of authority issued to that car-
17 rier shall be considered revoked without any further action upon
18 the part of the department.

19 (2) IF THE INSURANCE COVERAGE REQUIRED UNDER THIS ACT IS
20 CANCELED FOR ANY REASON, THE CERTIFICATE OF AUTHORITY ISSUED TO
21 THAT CARRIER SHALL BE CONSIDERED REVOKED WITHOUT ANY FURTHER
22 ACTION BY THE DEPARTMENT.

23 SEC. 31. THE FOLLOWING FEDERAL MOTOR CARRIER SAFETY REGULA-
24 TIONS ADOPTED BY THE UNITED STATES DEPARTMENT OF TRANSPORTATION
25 AND IN EFFECT ON THE EFFECTIVE DATE OF THIS SECTION ARE ADOPTED
26 BY THE DEPARTMENT AND SHALL BE ENFORCED IN RELATION TO MOTOR
27 CARRIERS OF PASSENGERS:

1 (A) 49 C. F. R. PART 390, FEDERAL MOTOR CARRIER SAFETY
2 REGULATIONS GENERAL, EXCEPT 390.17 AND 390.40.

3 (B) 49 C. F. R. PART 391, QUALIFICATIONS OF DRIVERS, EXCEPT
4 391.11 (b) (1).

5 (C) 49 C. F. R. PART 392, DRIVING OF MOTOR VEHICLES, EXCEPT
6 392.16.

7 (D) 49 C. F. R. PART 393, PARTS AND ACCESSORIES NECESSARY
8 FOR SAFE OPERATIONS.

9 (E) 49 C. F. R. PART 395, HOURS OF SERVICE OF DRIVERS.

10 (F) 49 C. F. R. PART 396, INSPECTION, REPAIR AND
11 MAINTENANCE.

12 SEC. 32. THE DEPARTMENT MAY USE ANY AND ALL AVAILABLE LEGAL
13 AND EQUITABLE REMEDIES OF A CIVIL NATURE TO ENFORCE THIS ACT, AN
14 ORDER ISSUED, OR A RULE PROMULGATED PURSUANT TO THIS ACT. THE
15 DEPARTMENT MAY EMPLOY SUCH EXPERTS, ASSISTANTS, INSPECTORS, AND
16 OTHER PERSONNEL AS MAY BE NECESSARY SUBJECT TO CIVIL SERVICE
17 RULES, TO ENABLE IT TO ADMINISTER AND ENFORCE THIS ACT. AN
18 EMPLOYEE OF THE DEPARTMENT SHALL NOT ASK OR RECEIVE ANY FEE FROM
19 A PERSON FOR THE TAKING OF ACKNOWLEDGMENTS OR ANY OTHER SERVICE.
20 STATE AND LOCAL POLICE OFFICERS SHALL ENFORCE THIS ACT AND THE
21 RULES PROMULGATED PURSUANT TO THIS ACT. A PEACE OFFICER SHALL
22 ARREST, ON SIGHT OR UPON WARRANT, ANY PERSON FOUND VIOLATING OR
23 HAVING VIOLATED A PROVISION OF THIS ACT OR A RULE PROMULGATED
24 PURSUANT TO THIS ACT. THE ATTORNEY GENERAL OF THE STATE AND THE
25 PROSECUTING ATTORNEYS OF THE COUNTIES OF THIS STATE SHALL PROSE-
26 CUTE ALL VIOLATIONS OF THIS ACT. WHEN THIS ACT IS VIOLATED, THE

1 OFFENSE MAY BE PROSECUTED IN ANY JURISDICTION IN OR THROUGH WHICH
2 A MOTOR BUS IMPLICATED WAS PRESENT AT THE TIME OF THE VIOLATION.

3 Sec. 33. ~~Every motor common carrier of passengers~~ A
4 PERSON subject to this act who operates a passenger service with-
5 out obtaining a certificate of authority required under this act
6 or without meeting the insurance requirements provided in this
7 act shall be subject to a fine of not more than \$500.00. Each
8 violation constitutes a separate offense.

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

16 Sec. 35. The department may alter, suspend, or revoke a
17 certificate of authority issued under this act if the department
18 determines in a contested case hearing held pursuant to chapter 4
19 of the administrative procedures act of 1969, Act No. 306 of the
20 Public Acts of 1969, as amended, being sections 24.271 to 24.287
21 of the Michigan Compiled Laws, that a ~~motor common carrier of~~
22 ~~passengers~~ PERSON to whom a certificate of authority has been
23 issued has ~~wilfully~~ WILLFULLY violated or refused to comply
24 with this act.

25 Sec. 39. The department may promulgate rules to implement
26 this act pursuant to THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
27 Act No. 306 of the Public Acts of 1969, as amended, being

1 sections 24.201 to ~~24.315~~ 24.328 of the Michigan Compiled
2 Laws.