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**SFA**



**BILL ANALYSIS**

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Senate Bill 554 (Substitute S-1)  
Sponsor: Senator Loren Bennett  
Committee: Natural Resources and Environmental Affairs

Date Completed: 10-7-97

## CONTENT

**The bill would create the “Hazardous Materials Transportation Act” to provide for the registration and permitting of motor carriers engaged in the transportation of hazardous materials by highway. The bill would require motor carriers to designate their “base state”, and to pay fees depending upon their base state designation. A base state other than Michigan would be the state in which a carrier had the highest number of hazardous materials miles traveled among states participating in the “uniform program”. Motor carriers required to register in Michigan would have to pay an “apportioned vehicle registration fee” based upon their percentage of transportation in this State.**

**The bill also would establish liability coverage requirements for motor carriers; create the “Hazardous Materials Transportation Permit Fund”; specify responsibilities of the Department of Environmental Quality (DEQ); provide for enforcement by the DEQ, the Department of State Police, or the Department of Natural Resources; preempt local units’ hazardous materials transportation registration or permitting programs; and provide that certain data would not be subject to public disclosure.**

“Uniform program” would mean the Uniform State Hazardous Materials Transportation Registration and Permit Program established in the report submitted under a section of Federal law (49 USC 5119). (This law required the U.S. Secretary of Transportation to establish a working group of state and local government officials for the purpose of establishing uniform forms and procedures for a state to register persons transporting hazardous material by motor vehicle in the state and to allow the transportation of hazardous material in the

state. The working group was required to submit a report of its findings and recommendations to the Secretary and various Congressional committees by November 16, 1993.)

The bill would take effect on July 1, 1998.

### Base State Designation/Fees

“Motor carrier” would refer to a person engaged in the transportation of hazardous materials by highway. “Hazardous materials” would mean “hazardous waste” as defined in Part 111 of the Natural Resources and Environmental Protection Act (NREPA) or “liquid industrial waste” as defined in Part 121 of the NREPA.

A motor carrier that had its principal place of business in Michigan would have to designate this State as its base state. A motor carrier having its principal place of business outside of Michigan would have to determine its base state designation by the highest number of hazardous materials miles traveled among the states participating in the uniform program.

A motor carrier that designated Michigan as its base state would have to register with and obtain a permit from the DEQ before transporting hazardous materials within this State. A motor carrier that designated another participating state as its base state would have to register with and obtain a permit from that state, with the appropriate fees paid for Michigan, before transporting hazardous materials in this State.

A motor carrier required to register in Michigan would have to file with the DEQ Part I of the uniform application (established under the uniform program). The motor carrier also would have to pay a \$50 administrative fee and the apportioned vehicle registration fee, calculated by the formula

in the bill (described below). A motor carrier required to obtain a permit in Michigan would have to file Part II of the uniform application with the DEQ and pay a \$500 permit review fee.

A motor carrier would have to have and maintain financial responsibility for bodily injury, property damage, or environmental damage to third parties caused by accidental occurrences arising from the carrier's hazardous materials transportation activities. The motor carrier would have to have and maintain fleet liability coverage for accidental occurrences in an amount not less than \$1 million per occurrence for hazardous wastes and \$750,000 per occurrence for liquid industrial waste. A motor carrier with fleets including only vehicles under 10,000 pounds gross vehicle weight, however, would have to have and maintain fleet liability coverage for accidental occurrences in an amount not less than \$300,000. Proof of the required domiciled fleet liability coverage would have to be provided to and maintained by the Public Service Commission (PSC) in the Department of Consumer and Industry Services, with certification of proper coverage provided to the DEQ. Demonstration of proof of the required nondomiciled fleet liability coverage would have to be provided to and maintained with the Surface Transportation Board in the Federal Highway Administration. Fleet liability coverage not included under the authority of the PSC or the Surface Transportation Board would have to be demonstrated to the DEQ 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".

Upon a motor carrier's compliance with these filing and insurance requirements, the DEQ would have to issue a notice of registration form and a permit to the motor carrier. The notice and permit would have to include a unique number for each motor carrier assigned by the Department.

A motor carrier would have to 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. ("Power unit" would mean a motor vehicle that provided motor power to the entire combination, or to the vehicle if a single unit.) The notice and permit would not be transferable between motor carriers or owners. The original notice or permit would have to be maintained at the motor carrier's principal place of business and be available for inspection during normal business hours.

Before entering the State, a motor carrier could obtain a 10-day temporary permit in lieu of a notice of registration form and a permit. The fee for the temporary permit would be \$100.

A motor carrier transporting liquid industrial waste generated on or from property or equipment in which the carrier owned an interest would be exempt from registration and permitting as required in the bill, but would remain subject to all other provisions of Part 121 of the NREPA.

#### Apportioned Registration Fee

The apportioned vehicle registration fee would have to 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, and would have to be calculated as described below.

A motor carrier would have to determine its percentage of transportation in this State by dividing the number of miles traveled in Michigan under the International Registration Plan (IRP) during the previous year by the number of miles it traveled nationwide under the IRP. If a motor carrier operated only in this State, its percentage would be 100%. If a motor carrier were not registered in the IRP, it would have to calculate the number of miles traveled using the method in the Plan. If a motor carrier operated more than one fleet under the IRP, it could calculate each fleet's contribution to the motor carrier's total fee separately. A motor carrier that operated in another state under a reciprocal agreement with that state would have to include the miles operated under the agreement as miles traveled in Michigan in calculating mileage under these provisions.

A motor carrier would have to determine its percentage of hazardous materials transportation using either of the following:

- For less than truckload shipments, it would have to divide the weight of all of the carrier's hazardous materials shipments transported during the previous year by the total weight of all shipments transported during the same year.
- For truckload shipments, it would have to divide the total number of hazardous materials shipments during the previous year by the total number of all shipments transported during the same year.

Under either of those options, the motor carrier would have to select the midpoint of the 10% range that most closely approximated the carrier's calculation of its hazardous materials transportation business.

A motor carrier could use data from its most recent complete fiscal year or the most recent calendar year in calculating the percentage required under these provisions.

#### Permit Fund

The Hazardous Materials Transportation Permit Fund would be created in the State Treasury. The registration and permit fees collected under the bill would have to be deposited into the Fund, and the State Treasurer could receive money or other assets from any source for deposit into the Fund. The State Treasurer would have to direct the investment of the Fund, and credit to it all interest and earnings from investment. Money remaining in the Fund at the close of the fiscal year would remain in the Fund.

The DEQ would have to spend money from the Fund, upon appropriation, for the implementation of the bill. In addition, funds not spent for implementation could be used for emergency response, training, and other activities related to hazardous materials transportation safety that were initiated by the DEQ.

#### Registration & Permitting Agreements

The DEQ could 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 could 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 the bill and the uniform

program.

The DEQ would have to confer with the Department of State with the intent of coordinating the registration and permitting required under the bill with other permitting and registration programs. The DEQ and, if appropriate, the Department of State could make payments to agencies of other participating states in the uniform program, for the purpose of reimbursement of apportioned registration permit fees.

The DEQ could develop the necessary forms, applications, and software required to implement the bill.

#### Inspection/Enforcement

The DEQ or the Department of State Police could 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 the bill and the uniform program, or to determine eligibility for registration or permitting under the bill and the uniform program.

The DEQ or the State Police also could inspect and electronically reproduce any papers, books, records, documents, or other evidentiary material necessary to determine if a motor carrier was complying with the bill and the uniform program, or to determine eligibility for registration or permitting.

The DEQ, the State Police, or the Department of Natural Resources could enforce the bill.

Motor carriers under the jurisdiction of the bill would have to comply with all applicable provisions of the Motor Carrier Safety Act, all applicable provisions of the NREPA, and any other applicable requirements of law.

A person who violated the bill would be responsible for a State civil infraction and would have to be fined up to \$2,500. Fines would have to be deposited in the Hazardous Materials Transportation Permit Fund.

#### Renewal

A registration issued under the bill would be valid for one year from the date a notice of registration form was issued and a permit would be valid for three years from the date issued or until a motor carrier failed to renew its registration, whichever occurred first. Application for renewal of a registration or permit would have to be made at

least 90 days before expiration. The renewal fee would be the same as the fee for an original registration or permit.

Each year, a motor carrier with a valid permit would have to certify that its current operations were not substantially different from its operations on the date the carrier obtained its permit, and would have to certify its compliance with all applicable laws and regulations in its application for renewal. Failure to comply with the certification in Part II of the uniform program would be prohibited.

A motor carrier whose name, principal place of business, or business telephone number had changed during the time a notice of registration or permit was effective would have to submit to the DEQ an amended registration or permit statement within 30 days of the change. Upon receiving the statement and without charging a fee, the Department would have to issue an amended notice of registration form or permit.

#### Revocation/Suspension/Denial

The DEQ immediately would have to suspend or revoke a registration or permit, or deny an application for a registration or permit upon the determination of any of the following conditions:

- The motor carrier made a materially false or misleading statement in an application.
- The motor carrier's operation consisted of one or more serious or repeated violations of the laws of this State.
- The motor carrier had been issued an unsatisfactory rating under the motor carrier rating system developed by the U.S. Department of Transportation.
- The motor carrier was under a current out-of-service order issued under the Motor Carrier Safety Act, or an out-of-service order issued by the U.S. Department of Transportation.
- The motor carrier did not maintain the appropriate level of financial liability coverage mandated by the laws of this State.

If the DEQ determined that any of those conditions existed, the Department would have to do one of the following, as appropriate:

- Suspend or revoke a notice of registration or permit previously issued under the bill.
- 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.

- Deny an application for registration or permit by a motor carrier.

Upon revocation, suspension, or application denial, the DEQ would have to notify the motor carrier, by certified mail, of the reasons for that action, and indicate the steps necessary for reinstatement. In the case of a suspension, the DEQ would have to indicate the date by which compliance was required before a revocation would be issued. The Department also would have to indicate the steps provided for appeal of the suspension, revocation, or denial.

Within 10 days of receiving the notice of suspension, revocation, or application denial, the motor carrier could submit a request for a contested case hearing with the DEQ, by certified mail. A hearing would have to be scheduled within 30 days of the receipt of the request, and would have to be held in Lansing.

The DEQ could reinstate a notice of registration form or permit that was suspended, or issue a notice of registration form or permit that was previously denied, if the Department were satisfied that the violations causing the suspension or denial had been corrected and the motor carrier's operations had changed sufficiently to prevent further occurrences of the violations.

#### Scope of Act/Release of Information

The bill would preempt and supersede hazardous materials transportation registration or permitting programs administered or enforced by any city, village, township, county, or other political subdivision of the State. Motor vehicles owned and operated by a local, state, or Federal government, or any other political subdivision, would not be subject to the bill.

A motor carrier that held a valid permit in compliance with Part 111 (Hazardous Waste Management) of the NREPA on the bill's effective date, would be required to submit a completed uniform application to the DEQ upon the expiration of that permit.

The following data submitted on a uniform application under the bill would be private data and not subject to the Freedom of Information Act:

- Information related to a motor carrier's customers and service provided to specific

- customers.
- Financial balance sheet and income statement data.
  - Ownership and debt liability data.
  - Information related to a motor carrier's parent companies, affiliates, and subsidiaries.

For the purposes of administering the uniform program, however, the DEQ could release any information on individuals or motor carriers to the U.S. Department of Transportation, any other participating state or state agency, or the national repository established under the uniform program.

Legislative Analyst: S. Lowe

### **FISCAL IMPACT**

#### Department of Environmental Quality

The bill would establish a new “uniform program” that, according to the Department of Environmental Quality, is anticipated to generate between \$180,000 and \$220,000 per year from an “apportioned vehicle registration fee”. This revenue would be used to implement the uniform application process.

#### Department of State Police

The Department of State Police could incur additional costs under the bill should the Department use its authority to inspect, investigate, and enforce the regulations established in the bill. It is unclear whether the Department of Environmental Quality would provide to the State Police funds generated by the bill to assist with the State Police enforcement costs, though the bill does provide for Fund revenue to be used for implementation of the proposed act.

Fiscal Analyst: G. Cutler  
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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.