

HOUSE BILL No. 4852

June 1, 2005, Introduced by Reps. Casperson, Pavlov, Anderson, David Law, Moore, Gosselin, Taub, LaJoy, Nitz, Wenke and Pearce and referred to the Committee on Transportation.

A bill to amend 1963 PA 181, entitled "Motor carrier safety act of 1963," by amending the title and sections 1a, 2d, 3, 4, 5, 6, 7, 7a, 7b, 7c, 7d, 11, and 12 (MCL 480.11a, 480.12d, 480.13, 480.14, 480.15, 480.16, 480.17, 480.17a, 480.17b, 480.17c, 480.17d, 480.21, and 480.22), the title and sections 1a, 2d, 3, 4, and 6 as amended and sections 7d and 12 as added by 1995 PA 265, section 5 as added by 1998 PA 337, sections 7, 7b, and 11 as amended by 2000 PA 98, section 7a as added by 1988 PA 359, and section 7c as amended by 2004 PA 168, and by adding sections 4a, 13, 14, and 15; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to promote safety upon ~~the public~~ highways **OPEN TO**

1 **THE PUBLIC** by regulating the operation of certain vehicles; to
 2 provide consistent regulation of these areas by state agencies
 3 and local units of government; to establish the qualifications of
 4 persons necessary for the safe operation of such vehicles; **TO**
 5 **ESTABLISH CERTAIN VIOLATIONS OF SHIPPERS OFFERING CERTAIN**
 6 **MATERIALS FOR TRANSPORTATION;** to limit the hours of service of
 7 persons engaged in operating such vehicles; to require the
 8 keeping of records of such operations; to provide penalties for
 9 the violation of this act; to prescribe the powers and duties of
 10 certain state agencies; and to repeal ~~certain~~ acts and parts of
 11 acts.

12 Sec. 1a. ~~—(1)—~~ This state ~~hereby~~ adopts the following
 13 provisions of title 49 of the code of federal regulations, on
 14 file with the office of the secretary of state except where
 15 modified by this act: ~~—, to provide for the safe transportation~~
 16 ~~of persons and property with the intent of following the policies~~
 17 ~~and procedures of the United States department of~~
 18 ~~transportation's federal highway administration as they relate to~~
 19 ~~title 49 of the code of federal regulations and the north~~
 20 ~~american standard uniform out of service criteria and inspection~~
 21 ~~procedures:~~

22 (a) Hazardous materials regulations, being ~~49 C.F.R.~~ **49**
 23 **CFR** parts 100 through 180 ~~—~~ **EXCEPT FOR THE FOLLOWING:**

24 **(i) THE PROVISIONS OF 49 CFR 171.2 LIMITING THE REGULATION OF**
 25 **THE SPECIFICATION AND QUALIFICATIONS OF PACKAGING TO**
 26 **TRANSPORTATION IN COMMERCE SHALL NOT APPLY TO INTRASTATE**
 27 **TRANSPORTATION.**

(ii) THE TRANSPORTATION OF AGRICULTURAL PRODUCTS FOR WHICH AN EXCEPTION FROM THE APPLICATION OF 49 CFR SUBCHAPTER C AND 49 CFR SUBCHAPTERS G AND H, PART 172, IS PROVIDED UNDER 49 CFR 173.5, IS SPECIFICALLY AUTHORIZED IF THE TRANSPORTATION IS IN COMPLIANCE WITH THIS ACT AND OTHER STATE LAW.

(b) Motor carrier safety regulations, being ~~49 C.F.R. part~~ 49 CFR PARTS 40, 356, 365, 371 THROUGH 373, 375, 376, 379, 382, ~~part~~ 385, 387, ~~parts~~ 390 through 393, ~~parts~~ 395 through 397, and ~~part~~ 399 including **THE** appendices ~~1, D, E, and G,~~ **OF EACH PART** except for the following:

(i) Where the term "United States department of transportation", "federal ~~highway~~ **MOTOR CARRIER SAFETY** administration", "federal ~~highway~~ **MOTOR CARRIER SAFETY** administrator", "director", "bureau of motor carrier safety", "~~research and special projects~~ **"PIPELINE AND HAZARDOUS MATERIALS** administration", or "associate administrator for hazardous materials safety" appears, it refers to the department of state police.

(ii) Where "interstate" appears, it shall mean intrastate or interstate, or both, as applicable, except as ~~otherwise~~ specifically provided in this act.

(c) Where "special agent of the federal ~~highway~~ **MOTOR CARRIER SAFETY** administration", "administration personnel", or "hazardous materials enforcement specialist" appears, it either means a peace officer or an enforcement member ~~or a vehicle~~ ~~inspector~~ of the motor carrier division of the department of state police.

(d) Where MCS 63 appears, it means MC 9 and MC 9b.

(e) Where MCS 64 appears, it means ~~MC 5~~ UD-70.

(f) Exempt intracity zones and the regulations applicable to exempt intracity zones do not apply to this act.

~~———— (2) When a commercial motor vehicle is operated entirely within this state and not otherwise involved with the movement of interstate property or passengers in commerce, the definitions in this subsection apply. The definitions contained in those parts of 49 C.F.R. adopted in subsection (1)(b) apply to this act~~

~~except for the following definitions as added or modified:~~

~~———— (a) "Appeal board" means the motor carrier safety appeal board created in section 1b.~~

(2) ~~(b) "Bus"~~ **AS USED IN THIS ACT, "BUS"** means any motor vehicle designed for carrying 16 or more passengers, including the driver. Bus does not include a school bus, a bus defined and certificated under the motor bus transportation act, ~~Act No. 432 of the Public Acts of 1982, being sections 474.101 to 474.141 of the Michigan Compiled Laws~~ **1982 PA 432, MCL 474.101 TO 474.141**, or a bus operated by a public transit agency operating under any of the following:

(A) ~~(i)~~ A county, city, township, or village as provided by law, or other authority incorporated under ~~Act No. 55 of the Public Acts of 1963, being sections 124.351 to 124.359 of the Michigan Compiled Laws~~ **1963 PA 55, MCL 124.351 TO 124.359**. Each authority and governmental agency incorporated under ~~Act No. 55 of the Public Acts of 1963~~ **1963 PA 55, MCL 124.351 TO 124.359**, has the exclusive jurisdiction to determine its own contemplated

1 routes, hours of service, estimated transit vehicle miles, costs
 2 of public transportation services, and projected capital
 3 improvements or projects within its service area.

4 (B) ~~—(ii)—~~ An authority incorporated under the metropolitan
 5 transportation authorities act of 1967, ~~Act No. 204 of the~~
 6 ~~Public Acts of 1967, being sections 124.401 to 124.426 of the~~
 7 ~~Michigan Compiled Laws— 1967 PA 204, MCL 124.401 TO 124.426, or~~
 8 that operates a transportation service pursuant to an interlocal
 9 agreement under the urban cooperation act of 1967, ~~Act No. 7 of~~
 10 ~~the Public Acts of the Extra Session of 1967, being sections~~
 11 ~~124.501 to 124.512 of the Michigan Compiled Laws— 1967 (EX SESS)~~
 12 **PA 7, MCL 124.501 TO 124.512.**

13 (C) ~~—(iii)—~~ A contract entered into pursuant to ~~Act No. 8 of~~
 14 ~~the Public Acts of the Extra Session of 1967, being sections~~
 15 ~~124.531 to 124.536 of the Michigan Compiled Laws— 1967 (EX SESS)~~
 16 **PA 8, MCL 124.531 TO 124.536, or Act No. 35 of the Public Acts**
 17 ~~of 1951, being sections 124.1 to 124.13 of the Michigan Compiled~~
 18 ~~Laws— 1951 PA 35, MCL 124.1 TO 124.13.~~

19 (D) ~~—(iv)—~~ An authority incorporated under the public
 20 transportation authority act, ~~Act No. 196 of the Public Acts of~~
 21 ~~1986, being sections 124.451 to 124.479 of the Michigan Compiled~~
 22 ~~Laws— 1986 PA 196, MCL 124.451 TO 124.479, or a nonprofit~~
 23 corporation organized under the nonprofit corporation act, ~~Act~~
 24 ~~No. 162 of the Public Acts of 1982, being sections 450.2101 to~~
 25 ~~450.3192 of the Michigan Compiled Laws— 1982 PA 162, MCL 450.2101~~
 26 **TO 450.3192, that provides transportation services.**

27 (E) ~~—(v)—~~ An authority financing public improvements to

1 transportation systems under the revenue bond act of 1933, ~~Act~~
2 ~~No. 94 of the Public Acts of 1933, being sections 141.101 to~~
3 ~~141.140 of the Michigan Compiled Laws 1933 PA 94, MCL 141.101 TO~~
4 ~~141.140.~~

5 ~~—— (c) "Commercial motor vehicle" means any self-propelled or~~
6 ~~towed vehicle designed or used on public highways to transport~~
7 ~~passengers or property, except for a bus exempted in subdivision~~
8 ~~(b), if the vehicle is 1 or more of the following:~~

9 ~~—— (i) Has either a gross vehicle weight rating or an actual~~
10 ~~gross weight or gross combination weight rating or an actual~~
11 ~~gross combination weight of 10,001 or more pounds.~~

12 ~~—— (ii) Is designed for carrying 16 or more passengers,~~
13 ~~including the driver.~~

14 ~~—— (iii) Is used in the transportation of hazardous materials in~~
15 ~~a quantity that requires the vehicle to be marked or placarded~~
16 ~~pursuant to 40 C.F.R. parts 100 to 180.~~

17 ~~—— (d) "Gross combination weight" or "GCW" means the combined~~
18 ~~weight of a combination of vehicles and any load on those~~
19 ~~vehicles.~~

20 ~~—— (e) "Gross weight", "gross vehicle weight", or "GVW" means~~
21 ~~the combined weight of a motor vehicle and any load on that~~
22 ~~vehicle.~~

23 ~~—— (f) "Hazardous material vehicle inspection or repair~~
24 ~~facility" is a commercial enterprise that performs inspections,~~
25 ~~certification, testing, or repairs to commercial motor vehicles~~
26 ~~transporting hazardous materials as required by 49 C.F.R. parts~~
27 ~~100 to 180 and includes motor carriers that perform the~~

~~inspections, certification, testing, or repairs to vehicles owned or leased by the motor carrier.~~

~~—— (g) "Motor carrier" means a carrier of passengers or property in a commercial motor vehicle and includes a person who owns or leases a commercial motor vehicle or that assigns employees to operate the vehicle. Motor carrier includes a motor carrier's agents, officers, and representatives, as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment and accessories.~~

Sec. 2d. (1) A person shall not drive a commercial motor vehicle unless he or she is qualified to drive that vehicle. A motor carrier shall not require or permit a person to drive a commercial motor vehicle unless that person is qualified to drive that vehicle.

(2) ~~A~~ **IN THE CASE OF INTRASTATE TRANSPORTATION, A** person is qualified to drive a commercial motor vehicle if he or she meets all of the requirements of ~~49 C.F.R.~~ **49 CFR** part 391 except ~~for~~ **ALL OF** the following ~~circumstances~~ **PROVISIONS:**

~~—— (a) In the case of intrastate transportation, meets 1 or more of the following:~~

~~—— (i) Is at least 18 years old when transporting intrastate property or passengers, except as provided in subparagraphs (ii) and (iii).~~

~~—— (ii) Is at least 16 years of age when acting as a farm vehicle driver as defined in 49 C.F.R. 390.5.~~

~~(iii) Is at least 21 years old when transporting hazardous materials in a quantity that requires the vehicle to be marked or placarded pursuant to the provisions of 49 C.F.R. parts 100 to 180. This subparagraph does not apply to a vehicle eligible for and displaying valid farm plates with a gross vehicle weight of 40,000 pounds or less if the driver is 18 years of age or over.~~

~~(b) In the case of intrastate transportation, is eligible for and displays a valid medical waiver card or grandfather rights card issued in accordance with this act.~~

(A) EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION (B), THE PERSON IS AT LEAST 18 YEARS OLD WHEN TRANSPORTING INTRASTATE PROPERTY OR PASSENGERS.

(B) THE PERSON IS AT LEAST 21 YEARS OLD WHEN TRANSPORTING HAZARDOUS MATERIALS IN A QUANTITY THAT REQUIRES THE VEHICLE TO BE MARKED OR PLACARDED UNDER 49 CFR PARTS 100 TO 180.

(C) THE PERSON IS ELIGIBLE FOR AND DISPLAYS A VALID MEDICAL WAIVER CARD, IS EXCEPTED FROM THE MEDICAL CARD PROVISIONS UNDER THIS ACT, OR DISPLAYS A GRANDFATHER RIGHTS CARD ISSUED IN ACCORDANCE WITH THIS ACT.

Sec. 3. ~~This act and the rules promulgated under this act do not apply to:~~

~~(a) A semitrailer or truck used exclusively for storage purposes.~~

~~(b) A commercial motor vehicle owned and operated by a unit of government or its employees, except as otherwise provided in this act, and except for the following parts of 49 C.F.R.: part 382, controlled substances and alcohol use and testing; part 391,~~

~~qualification of drivers; part 392, driving of motor vehicles;
and part 393, parts and accessories necessary for safe operation.~~

~~—— (c) A self-propelled implement of husbandry or a drawn
implement of husbandry if:~~

~~—— (i) The implement of husbandry is as defined by section 21 of
the Michigan vehicle code, Act No. 300 of the Public Acts of
1949, being section 257.21 of the Michigan Compiled Laws.~~

~~—— (ii) The motor vehicle hauling the implement of husbandry
does not exceed a maximum speed of 25 miles per hour if the drawn
or self-propelled implement of husbandry being drawn is not
equipped with brakes or coupling devices, or both, that meet the
standards set forth in 49 C.F.R. 393.40 adopted by this act.~~

~~—— (iii) It does not exceed any other implement or component
design maximum speed limitation.~~

(1) THE MOTOR CARRIER SAFETY APPEAL BOARD IS CREATED. THE
BOARD SHALL CONSIST OF THE DIRECTOR OF THE DEPARTMENT OF STATE
POLICE OR HIS OR HER DESIGNEE, THE SECRETARY OF STATE OR HIS OR
HER DESIGNEE, THE DIRECTOR OF THE STATE TRANSPORTATION DEPARTMENT
OR HIS OR HER DESIGNEE, AND 2 REPRESENTATIVES OF THE MOTOR
CARRIER INDUSTRY CHOSEN JOINTLY BY THESE 3 DEPARTMENT HEADS AND
THE MICHIGAN TRUCKING ASSOCIATION. THE APPEAL BOARD SHALL HEAR
AND DECIDE APPLICATIONS FOR WAIVERS FROM MEDICAL REQUIREMENTS OF
THIS ACT AND THE RULES PROMULGATED PURSUANT TO THIS ACT.

(2) A PERSON WHO IS NOT PHYSICALLY QUALIFIED TO DRIVE UNDER
49 CFR 391.41 AND WHO IS OTHERWISE QUALIFIED TO DRIVE A
COMMERCIAL MOTOR VEHICLE MAY DRIVE A COMMERCIAL MOTOR VEHICLE IF
THE MOTOR CARRIER DIVISION OF THE DEPARTMENT OF STATE POLICE OR

1 THE APPEAL BOARD HAS GRANTED A WAIVER TO THAT PERSON.

2 (3) AN APPLICATION FOR A WAIVER SHALL BE SUBMITTED JOINTLY
3 BY THE PERSON WHO SEEKS A WAIVER OF HIS OR HER PHYSICAL
4 DISQUALIFICATION AND BY THE MOTOR CARRIER THAT WILL EMPLOY THE
5 PERSON IF THE APPLICATION IS GRANTED. THE APPLICATION SHALL BE
6 DELIVERED TO THE HEADQUARTERS OF THE MOTOR CARRIER DIVISION OF
7 THE DEPARTMENT OF STATE POLICE.

8 (4) AN APPLICATION FOR A WAIVER SHALL CONTAIN ALL OF THE
9 FOLLOWING:

10 (A) A DESCRIPTION OF ALL OF THE FOLLOWING:

11 (i) THE TYPE, SIZE, AND SPECIAL EQUIPMENT, IF ANY, OF THE
12 VEHICLES THE INDIVIDUAL APPLICANT INTENDS TO DRIVE.

13 (ii) THE GENERAL AREA AND TYPE OF ROADS THE INDIVIDUAL
14 APPLICANT INTENDS TO TRAVERSE WHILE DRIVING.

15 (iii) THE MAXIMUM DISTANCES THE INDIVIDUAL APPLICANT INTENDS
16 TO DRIVE.

17 (iv) THE PERIODS OF TIME HE OR SHE WILL BE ON DUTY AND
18 DRIVING.

19 (v) THE NATURE OF THE COMMODITIES OR CARGO THE INDIVIDUAL
20 APPLICANT INTENDS TO TRANSPORT.

21 (vi) THE METHODS THE APPLICANT OR ANY OTHER PERSON WILL USE
22 TO LOAD AND SECURE THE COMMODITIES OR CARGO.

23 (vii) THE NATURE AND EXTENT OF THE INDIVIDUAL APPLICANT'S
24 EXPERIENCE AT OPERATING COMMERCIAL MOTOR VEHICLES OF THE TYPE HE
25 OR SHE INTENDS TO DRIVE.

26 (B) AN AGREEMENT THAT THE MOTOR CARRIER WILL PROMPTLY FILE
27 WITH THE MOTOR CARRIER DIVISION OF THE DEPARTMENT OF STATE POLICE

1 REPORTS THAT THE DIVISION MAY REQUIRE, INCLUDING REPORTS ABOUT
2 ALL OF THE FOLLOWING THAT INVOLVE THE INDIVIDUAL APPLICANT:

3 (i) DRIVING ACTIVITIES.

4 (ii) ACCIDENTS.

5 (iii) ARRESTS.

6 (iv) LICENSE SUSPENSIONS, REVOCATIONS, OR WITHDRAWALS.

7 (v) CONVICTIONS.

8 (C) AN AGREEMENT THAT IF A WAIVER IS GRANTED, IT AUTHORIZES
9 THE INDIVIDUAL APPLICANT TO DRIVE INTRASTATE ONLY WHEN EMPLOYED
10 BY THE MOTOR CARRIER THAT JOINED IN THE INDIVIDUAL'S APPLICATION.

11 (5) AN APPLICATION FOR A WAIVER SHALL BE ACCOMPANIED BY ALL
12 OF THE FOLLOWING:

13 (A) NOT LESS THAN 2 REPORTS OF MEDICAL EXAMINATIONS,
14 CONDUCTED WITHIN THE PRECEDING 60 DAYS OF THE DATE OF THE
15 APPLICATION, PURSUANT TO 49 CFR 391.43, AT LEAST 1 OF WHICH WAS
16 CONDUCTED BY A MEDICAL EXAMINER SELECTED AND COMPENSATED BY THE
17 MOTOR CARRIER, EACH OF WHICH INCLUDES THE MEDICAL EXAMINER'S
18 OPINION CONCERNING THE INDIVIDUAL APPLICANT'S ABILITY TO OPERATE
19 SAFELY A VEHICLE OF THE TYPE THE APPLICANT INTENDS TO DRIVE.

20 (B) A COPY OF THE CERTIFICATE OF THE DRIVER'S ROAD TEST THAT
21 WAS ISSUED TO THE INDIVIDUAL APPLICANT PURSUANT TO 49 CFR 391.31
22 OR A LEGIBLE COPY OF THE LICENSE OR CERTIFICATE WHICH THE MOTOR
23 CARRIER ACCEPTS AS EQUIVALENT TO THE DRIVER'S ROAD TEST IN
24 ACCORDANCE WITH 49 CFR 391.33.

25 (C) A COPY OF THE INDIVIDUAL APPLICANT'S APPLICATION FOR
26 EMPLOYMENT MADE PURSUANT TO 49 CFR 391.21 OR THIS ACT.

27 (6) AN APPLICATION FOR A WAIVER SHALL BE SIGNED BY BOTH THE

1 INDIVIDUAL APPLICANT AND THE MOTOR CARRIER. IF THE MOTOR CARRIER
2 IS A CORPORATION, THE APPLICATION SHALL BE SIGNED BY AN OFFICER
3 OF THE CORPORATION. IF THE MOTOR CARRIER IS A PARTNERSHIP, THE
4 APPLICATION SHALL BE SIGNED BY A GENERAL PARTNER.

5 (7) THE DRIVER APPLICANT OR MOTOR CARRIER APPLICANT SHALL
6 NOT FALSIFY INFORMATION IN THE LETTER OF APPLICATION OR THE
7 RENEWAL APPLICATION.

8 (8) THE MOTOR CARRIER DIVISION OF THE DEPARTMENT OF STATE
9 POLICE MAY DENY THE APPLICATION OR MAY APPROVE THE APPLICATION,
10 IN WHOLE OR IN PART, AND ISSUE A WAIVER SUBJECT TO THE TERMS,
11 CONDITIONS, AND LIMITATIONS AS IT CONSIDERS CONSISTENT WITH
12 SAFETY AND THE PUBLIC INTEREST. A WAIVER IS VALID FOR NOT MORE
13 THAN 2 YEARS, AND A WAIVER MAY BE RENEWED UPON SUBMISSION OF A
14 NEW APPLICATION UNDER THIS ACT.

15 (9) IF THE MOTOR CARRIER DIVISION OF THE DEPARTMENT OF STATE
16 POLICE GRANTS A WAIVER, IT SHALL NOTIFY EACH APPLICANT BY A
17 LETTER, THAT SETS FORTH THE TERMS, CONDITIONS, AND LIMITATIONS OF
18 THE WAIVER. THE MOTOR CARRIER SHALL RETAIN THE LETTER OR A
19 LEGIBLE COPY OF IT AND A COPY OF THE MEDICAL WAIVER CARD IN THE
20 DRIVER'S QUALIFICATION FILE AS LONG AS THE INDIVIDUAL APPLICANT
21 IS EMPLOYED BY THAT MOTOR CARRIER AND FOR 3 YEARS THEREAFTER. THE
22 INDIVIDUAL APPLICANT SHALL HAVE THE CURRENT MEDICAL WAIVER CARD
23 IN HIS OR HER POSSESSION WHEN HE OR SHE DRIVES A COMMERCIAL MOTOR
24 VEHICLE OR IS OTHERWISE ON DUTY.

25 (10) THE MOTOR CARRIER DIVISION OF THE DEPARTMENT OF STATE
26 POLICE MAY SUSPEND A WAIVER AT ANY TIME. THE MOTOR CARRIER
27 DIVISION MAY REVOKE A WAIVER AFTER THE PERSON TO WHOM IT WAS

1 ISSUED IS GIVEN NOTICE OF THE PROPOSED REVOCATION AND A
2 REASONABLE OPPORTUNITY TO BE HEARD.

3 (11) AN APPLICANT WHO WAS DENIED IN WHOLE OR IN PART HIS OR
4 HER APPLICATION FOR A WAIVER OF PHYSICAL DEFECT UNDER THIS ACT OR
5 CONFLICT OF MEDICAL EVALUATION UNDER 49 CFR 391.47 MAY MAKE AN
6 APPEAL FOR REVIEW BY CONTACTING THE MOTOR CARRIER DIVISION.

7 Sec. 4. ~~(1) The department of state police may promulgate~~
8 ~~rules and regulations reasonably necessary to the accomplishment~~
9 ~~of the purpose of this act.~~

10 ~~———— (2) The administrative rules promulgated pursuant to the~~
11 ~~authority granted under subsection (1) that were filed with the~~
12 ~~secretary of state on June 22, 1984 and any subsequent revision~~
13 ~~to those rules are hereby rescinded on the effective date of the~~
14 ~~amendatory act that added this subsection.~~

15 (1) THE PROVISIONS OF THIS ACT AND 49 CFR 391.21 RELATING TO
16 APPLICATIONS FOR EMPLOYMENT, 49 CFR 391.23 RELATING TO
17 INVESTIGATIONS AND INQUIRIES, AND 49 CFR 391.31 AND CFR 391.33
18 RELATING TO ROAD TESTS DO NOT APPLY TO A DRIVER WHO HAS BEEN A
19 REGULARLY EMPLOYED DRIVER OF AN INTRASTATE MOTOR CARRIER OF
20 PROPERTY FOR A CONTINUOUS PERIOD WHICH BEGAN ON OR BEFORE JUNE
21 10, 1984, AS LONG AS HE OR SHE CONTINUES TO BE A REGULARLY
22 EMPLOYED DRIVER OF THAT MOTOR CARRIER OR TO A DRIVER WHO HAS BEEN
23 A REGULARLY EMPLOYED DRIVER OF AN INTRASTATE MOTOR CARRIER OF
24 PASSENGERS FOR A CONTINUOUS PERIOD WHICH BEGAN ON OR BEFORE MARCH
25 3, 1991, AS LONG AS HE OR SHE CONTINUED TO BE A REGULARLY
26 EMPLOYED DRIVER OF THAT MOTOR CARRIER. SUCH A DRIVER IS QUALIFIED
27 TO DRIVE A COMMERCIAL MOTOR VEHICLE IF HE OR SHE FULFILLS THE

1 REQUIREMENTS OF SECTION 2D(2).

2 (2) THE PROVISIONS IN THIS ACT PERTAINING TO AN INTRASTATE
3 DRIVER'S MEDICAL QUALIFICATIONS DO NOT APPLY TO ANY DRIVER WHO:

4 (A) HAS BEEN A REGULARLY EMPLOYED DRIVER OF THE MOTOR
5 CARRIER FOR A CONTINUOUS PERIOD THAT BEGAN ON OR BEFORE JUNE 10,
6 1984.

7 (B) HAS CONTINUED TO BE A REGULARLY EMPLOYED DRIVER OF THAT
8 MOTOR CARRIER.

9 (C) IS OTHERWISE QUALIFIED TO DRIVE A COMMERCIAL MOTOR
10 VEHICLE UNDER THIS ACT.

11 (D) HAS MADE APPLICATION TO THE APPEAL BOARD CLAIMING
12 GRANDFATHERING RIGHTS.

13 (E) HAS RECEIVED A GRANDFATHER RIGHTS CARD FROM THE MOTOR
14 CARRIER DIVISION OF THE DEPARTMENT OF STATE POLICE. THE
15 GRANDFATHER RIGHTS CARD SHALL BE CARRIED AT ALL TIMES ON THE
16 PERSON OF THE DRIVER WHILE HE OR SHE IS OPERATING A COMMERCIAL
17 MOTOR VEHICLE. THE ORIGINAL GRANDFATHER RIGHTS APPLICATION FORM
18 OR A LEGIBLE COPY OF IT WILL BE RETAINED IN THE DRIVER'S
19 QUALIFICATION FILE IN ACCORDANCE WITH THIS ACT.

20 (3) NOTWITHSTANDING SUBSECTION (2), THE PROVISIONS OF THIS
21 ACT PERTAINING TO RANDOM, REASONABLE CAUSE, AND POSTACCIDENT DRUG
22 AND ALCOHOL TESTING APPLY TO ALL DRIVERS AS REQUIRED BY 49 CFR
23 PART 382 GRANTED GRANDFATHER RIGHTS UNDER THIS SECTION.

24 (4) GRANDFATHER RIGHTS SHALL REMAIN VALID UNTIL DECEMBER 31,
25 2014.

26 (5) THE EXEMPTION FROM MEDICAL QUALIFICATION UNDER THIS
27 SECTION APPLIES ONLY TO PREEXISTING CONDITIONS BEFORE JANUARY 1,

1 1996. ANY MEDICAL CONDITION THAT WOULD NORMALLY DISQUALIFY A
2 DRIVER UNDER THIS ACT AUTOMATICALLY VOIDS ANY GRANDFATHER RIGHTS.
3 ANY DRIVER WHO DEVELOPS A NORMALLY DISQUALIFYING MEDICAL
4 CONDITION OR VIOLATES ANY PROVISION OF SUBSECTION (2) OF THIS
5 SECTION AFTER BEING ISSUED A GRANDFATHER CARD MUST RETURN THE
6 GRANDFATHER CARD TO THE MOTOR CARRIER DIVISION OF THE DEPARTMENT
7 OF STATE POLICE AND APPLY FOR A MEDICAL WAIVER AS PROVIDED IN
8 THIS ACT.

9 (6) A MOTOR CARRIER SHALL MAINTAIN THE ORIGINAL OR A LEGIBLE
10 COPY OF THE GRANDFATHER CARD ISSUED UNDER THIS ACT IN THE FILE OF
11 EACH DRIVER THAT HAS BEEN ISSUED ONE.

12 SEC. 4A. THE DEPARTMENT IS NOT AUTHORIZED TO ISSUE NEW
13 GRANDFATHER CARDS UNDER SECTION 5 AFTER THE EFFECTIVE DATE OF THE
14 AMENDATORY ACT THAT ADDED THIS SECTION.

15 Sec. 5. ~~The transportation of agricultural products for~~
16 ~~which an exception is provided by 49 C.F.R. 173.5 from the~~
17 ~~application of subchapter C of title 49 of the code of federal~~
18 ~~regulations, or from the application of subparts C and H of part~~
19 ~~172 of title 49 of the code of federal regulations, is~~
20 ~~specifically authorized if in compliance with this act and other~~
21 ~~state law.~~

22 (1) IN THE CASE OF INTRASTATE TRANSPORTATION, THE PROVISIONS
23 OF 49 CFR 391.21 RELATING TO APPLICATION FOR EMPLOYMENT, 49 CFR
24 391.23 RELATING TO INVESTIGATIONS AND INQUIRIES, 49 CFR 391.31
25 RELATING TO ROAD TESTS, 49 CFR PART 395 RELATING TO HOURS OF
26 SERVICE, 49 CFR 391.41 TO 391.45 TO THE EXTENT THAT THEY REQUIRE
27 A DRIVER TO BE MEDICALLY QUALIFIED OR EXAMINED AND TO HAVE A

1 MEDICAL EXAMINER'S CERTIFICATE ON HIS OR HER PERSON AND THE
2 PROVISIONS OF THIS ACT RELATING TO FILES AND RECORDS DO NOT APPLY
3 TO A FARM VEHICLE DRIVER AS DEFINED IN 49 CFR 390.5.

4 (2) FOR INTRASTATE TRANSPORTATION, THE PROVISIONS OF THIS
5 ACT DO NOT APPLY TO A SELF-PROPELLED IMPLEMENT OF HUSBANDRY OR A
6 DRAWN IMPLEMENT OF HUSBANDRY IF:

7 (A) THE IMPLEMENT OF HUSBANDRY IS AS DEFINED IN SECTION 21
8 OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.21.

9 (B) THE MOTOR VEHICLE OR FARM TRACTOR HAULING THE IMPLEMENT
10 OF HUSBANDRY DOES NOT EXCEED A MAXIMUM SPEED OF 25 MILES PER
11 HOUR.

12 (C) IT DOES NOT EXCEED ANY OTHER IMPLEMENT OR COMPONENT
13 DESIGN MAXIMUM SPEED LIMITATION.

14 (3) THE PROVISIONS OF THIS ACT RELATED TO DRIVER
15 QUALIFICATIONS DO NOT APPLY TO PUBLIC UTILITY, TELEPHONE, AND
16 CABLE TELEVISION COMPANY SERVICE EMPLOYEES IF THOSE EMPLOYEES ARE
17 NOT OTHERWISE BEING USED AS A REGULARLY EMPLOYED DRIVER AND ARE
18 NOT OPERATING A VEHICLE THAT MEETS THE DEFINITION OF A COMMERCIAL
19 MOTOR VEHICLE IN 49 CFR PART 383.

20 (4) THE REQUIREMENTS OF 49 CFR PART 395 DO NOT APPLY TO ANY
21 DRIVER OF A PUBLIC UTILITY SERVICE VEHICLE WHEN BEING USED IN
22 CASES OF EMERGENCY. AS USED IN THIS SUBSECTION, "EMERGENCY" MEANS
23 ANY INSTANCE OF LOSS OF PUBLIC UTILITY SERVICE DUE TO AN
24 UNFORESEEN CIRCUMSTANCE, A NATURAL DISASTER, OR AN ACT OF GOD. A
25 DECLARATION OF EMERGENCY BY A PUBLIC OFFICIAL IS NOT REQUIRED TO
26 CONSTITUTE AN EMERGENCY UNDER THIS SUBSECTION.

27 (5) AN ASPHALT HAULING VEHICLE THAT IS REQUIRED TO BE

1 EQUIPPED WITH AN UNDERRIDE GUARD UNDER 49 CFR 393.86 SHALL BE
2 EXEMPT FROM THAT REQUIREMENT IF THE UNDERRIDE GUARD PREVENTS THE
3 VEHICLE FROM BEING ATTACHED TO AN ASPHALT PAVING MACHINE. AS USED
4 IN THIS SUBSECTION, ASPHALT HAULING VEHICLE MEANS A COMMERCIAL
5 MOTOR VEHICLE, TRAILER, OR SEMITRAILER SPECIFICALLY DESIGNED FOR
6 ATTACHMENT TO ASPHALT PAVING MACHINES AND WHICH IS USED FOR
7 HAULING ASPHALT PAVING MATERIALS.

8 (6) A COMMERCIAL MOTOR VEHICLE CONSTRUCTED AND MAINTAINED SO
9 THAT THE BODY CHASSIS OR OTHER PARTS OF THE VEHICLE AFFORD THE
10 REAR END PROTECTION REQUIRED BY 49 CFR 393.86 IS IN COMPLIANCE
11 WITH THAT SECTION.

12 (7) THIS ACT AND THE RULES PROMULGATED UNDER THIS ACT DO NOT
13 APPLY TO A COMMERCIAL MOTOR VEHICLE OWNED AND OPERATED BY A UNIT
14 OF GOVERNMENT OR ITS EMPLOYEES, EXCEPT AS OTHERWISE PROVIDED BY
15 THIS ACT, AND EXCEPT FOR ALL OF THE FOLLOWING PARTS OF 49 CFR:

16 (A) PART 382.

17 (B) PART 391

18 (C) PART 392.

19 (D) PART 393.

20 (8) A COMBINATION OF VEHICLES WITH AN ACTUAL COMBINATION
21 GROSS VEHICLE WEIGHT OR A GROSS COMBINATION WEIGHT RATING OF
22 26,000 POUNDS OR LESS, PROVIDED THE TRAILER OR SEMITRAILER HAS AN
23 ACTUAL GROSS VEHICLE WEIGHT OR GROSS VEHICLE WEIGHT RATING OF
24 15,000 POUNDS OR LESS, MAY BE EQUIPPED WITH SURGE BRAKES FOR
25 INTRASTATE OPERATION AS ALLOWED BY SECTION 705(1)(C) OF THE
26 MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.705. VEHICLES OF ANY
27 SIZE THAT ARE TRANSPORTING HAZARDOUS MATERIALS IN AN AMOUNT THAT

1 REQUIRES PLACARDING OR VEHICLES THAT ARE DESIGNED TO TRANSPORT
2 MORE THAN 8 PASSENGERS, INCLUDING THE DRIVER, ARE PROHIBITED FROM
3 BEING EQUIPPED WITH SURGE BRAKES FOR INTRASTATE OPERATION.

4 (9) THIS ACT AND THE RULES PROMULGATED UNDER THIS ACT DO NOT
5 APPLY TO A SCHOOL BUS AS DEFINED IN THE PUPIL TRANSPORTATION ACT,
6 1990 PA 187, MCL 257.1801 TO 257.1877, OR A BUS DEFINED AND
7 CERTIFICATED UNDER THE MOTOR BUS TRANSPORTATION ACT, 1982 PA 432,
8 MCL 474.101 TO 474.141.

9 (10) AS USED IN SUBSECTIONS (3) AND (4), "PUBLIC UTILITY"
10 MEANS A PERSON OR CORPORATION OPERATING EQUIPMENT OR FACILITIES
11 FOR PRODUCING, GENERATING, TRANSMITTING, DELIVERING, OR
12 FURNISHING GAS OR ELECTRICITY FOR THE PRODUCTION OF LIGHT, HEAT,
13 OR POWER FOR THE PUBLIC FOR COMPENSATION.

14 Sec. 6. (1) Motor carriers shall submit, upon demand, all
15 their transportation safety related documents, such as all
16 records and information pertaining to any accident, drivers'
17 records of duty status, bills of lading, shipping records, driver
18 time and payroll records, driver qualification records, vehicle
19 maintenance records, and equipment for inspection or copying
20 during regular business hours to any **ENFORCEMENT MEMBER OF THE**
21 motor carrier ~~officer~~ **DIVISION** displaying a valid Michigan
22 department of state police, motor carrier division identification
23 card.

24 (2) Hazardous materials vehicle inspection and repair
25 facilities shall submit, upon demand, all their transportation
26 safety related documents as required by this act, such as
27 hazardous materials tank certification and repair documents, and

1 annual inspection certification documents to any **ENFORCEMENT**
 2 **MEMBER OF THE** motor carrier ~~officer~~ **DIVISION** displaying a valid
 3 Michigan department of state police motor carrier division
 4 identification card.

5 ~~—— (3) The following is a facsimile of the motor carrier~~
 6 ~~division identification card:~~

7		Michigan
8		State Police
9		This is to certify that
10		<u>(rank and name)</u>
11		Whose photograph appears
12		hereon is a member of the
13		Michigan State Police and
14	Photo	is vested with the
15		authority of a motor
16		carrier enforcement
17		officer as prescribed by
18		law.
19		
20	Not valid after	(signature)
21	(date)	Director

22 (3) ~~(4)~~ A **MOTOR** carrier OR A **HAZARDOUS MATERIAL VEHICLE**
 23 **INSPECTION OR REPAIR FACILITY** operating within this state with
 24 main offices in another state or province shall submit all
 25 transportation safety related documents as outlined in subsection
 26 (1) for inspection and copying within 10 working days after
 27 receiving formal notification requesting the documents.

28 (4) ~~(5)~~ An ~~officer~~ **ENFORCEMENT MEMBER** of the motor

1 carrier division of the department of state police displaying
2 valid identification may, without a warrant, require the cargo
3 carrying portion of a vehicle to be opened for inspection of the
4 cargo, any object within that portion of the vehicle, or the
5 interior of the vehicle **INCLUDING THE CAB PORTION** or any
6 compartment within the interior of the vehicle. **IF A COMMERCIAL**
7 **MOTOR VEHICLE IS INSPECTED BY BREAKING THE LOAD SEAL, THEN THE**
8 **ENFORCEMENT MEMBER SHALL GIVE TO THE DRIVER A SIGNED RECEIPT OF**
9 **INSPECTION AND THE ENFORCEMENT MEMBER SHALL BE RESPONSIBLE FOR**
10 **APPLYING A STATE OF MICHIGAN SEAL.**

11 Sec. 7. (1) Except as provided in sections 7b, 7c, and 7d,
12 any person, driver, or ~~operator~~ **MOTOR CARRIER AS DEFINED BY 49**
13 **CFR 390.5** who violates this act or a rule promulgated under this
14 act, or ~~an owner or user of a bus, truck, truck tractor, or~~
15 ~~trailer, or certain other motor vehicles or an officer or agent~~
16 ~~of an individual, partnership, corporation, or association or~~
17 ~~their lessees or receivers appointed by a court that is the owner~~
18 ~~or user of a vehicle, who requires or permits the driver or~~
19 ~~operator to operate or drive a bus, truck, truck tractor, or~~
20 ~~trailer, or certain other motor vehicles in violation of~~ **PERMITS**
21 **OR REQUIRES ANY PERSON TO VIOLATE** this act or a rule promulgated
22 under this act, is responsible for a **STATE** civil infraction and
23 may be ordered to pay a fine of not more than \$250.00 for each
24 violation. **SECTION 907(A) OF THE MICHIGAN VEHICLE CODE, 1949 PA**
25 **300, MCL 257.907, DOES NOT APPLY TO THIS ACT.**

26 (2) A peace officer or an ~~officer~~ **ENFORCEMENT MEMBER** of
27 the motor carrier division of the department of state police,

1 upon ~~reasonable~~ **PROBABLE** cause to believe that a motor vehicle
2 is being operated in violation of this act or a rule promulgated
3 under this act, may stop the motor vehicle and inspect the motor
4 vehicle. If a violation is found, the officer may issue a notice
5 to appear for that violation. ~~If a motor vehicle is inspected by~~
6 ~~breaking the load seal, then the peace officer shall give to the~~
7 ~~driver a signed receipt of inspection and the peace officer shall~~
8 ~~be responsible for reapplying a Michigan department of~~
9 ~~transportation seal.~~

10 (3) AN ENFORCEMENT MEMBER OF THE MOTOR CARRIER DIVISION OF
11 THE DEPARTMENT OF STATE POLICE, UPON NOTIFICATION OF A VALID OUT-
12 OF-SERVICE ORDER UPON A MOTOR CARRIER ISSUED BY THE UNITED STATES
13 DEPARTMENT OF TRANSPORTATION, BY A STATE OR A POLITICAL
14 SUBDIVISION OF A STATE, BY THE CANADIAN OR MEXICAN GOVERNMENT, OR
15 BY THE GOVERNMENT OF A PROVINCE OF CANADA, MAY STOP AND DETAIN
16 ANY VEHICLE OPERATED BY THE MOTOR CARRIER AND PLACE THE VEHICLE
17 AND DRIVER OUT OF SERVICE PURSUANT TO THE ORDER. A DRIVER OR
18 MOTOR CARRIER OPERATING A VEHICLE IN VIOLATION OF AN OUT-OF-
19 SERVICE ORDER IS GUILTY OF A STATE CIVIL INFRACTION PUNISHABLE BY
20 A FINE OF NOT MORE THAN \$500.00. SECTION 907(9) OF THE MICHIGAN
21 VEHICLE CODE, 1949 PA 300, MCL 257.907, DOES NOT APPLY TO THIS
22 ACT.

23 Sec. 7a. ~~(1) By December 31, 1989, the truck safety~~
24 ~~commission shall make recommendations to the legislature with~~
25 ~~respect to an accident report form regarding accidents involving~~
26 ~~commercial motor vehicles.~~

27 ~~—— (2) As used in this section, "commercial motor vehicle"~~

~~means that term as defined in section 7a of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.7a of the Michigan Compiled Laws.~~ **THE DEPARTMENT OF STATE POLICE MAY PROMULGATE RULES NECESSARY TO THE ACCOMPLISHMENT OF THE PURPOSE OF THIS ACT. THE ADMINISTRATIVE RULES PROMULGATED AND FILED WITH THE SECRETARY OF STATE ON JUNE 22, 1984 AND ANY SUBSEQUENT REVISIONS TO THOSE RULES WERE RESCINDED EFFECTIVE JANUARY 1, 1996 BY 1995 PA 265.**

Sec. 7b. (1) A driver, **PERSON**, or ~~operator or an owner or user of any bus, truck, truck tractor, or trailer, or certain other motor vehicles or any officer or agent of an individual, partnership, corporation, or association or their lessees or receivers appointed by any court that is the owner or user of any vehicle,~~ **MOTOR CARRIER AS DEFINED BY 49 CFR 390.5 WHO OPERATES OR** who requires or permits the driver ~~or operator~~ to operate a **COMMERCIAL MOTOR** vehicle with a serious safety defect **IN VIOLATION OF THIS ACT OR A RULE PROMULGATED UNDER THIS ACT** is ~~subject to~~ **RESPONSIBLE FOR** a **STATE** civil ~~fine~~ **INFRACTION** of not more than ~~\$300.00~~ **\$500.00** for each violation. A fine ordered to be paid by the district court under this subsection shall be paid to the county treasurer and applied for library purposes as provided by law. A fine ordered to be paid by a municipal court shall be paid to the treasurer of the political subdivision whose ordinance is violated. **SECTION 907(9) OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.907, DOES NOT APPLY TO THIS ACT.**

(2) As used in this section, "serious safety defect" means a

1 violation of this act or a rule promulgated pursuant to this act
 2 relative to brakes, tires, steering, coupling devices,
 3 headlights, taillights, brake lights, and turn signals that
 4 results in the vehicle being placed out of service.

5 Sec. 7c. (1) A driver ~~or operator or an owner or user of a~~
 6 ~~bus, truck, truck tractor, or trailer, or certain other motor~~
 7 ~~vehicles, or an officer or agent of an individual, partnership,~~
 8 ~~corporation, or association, or their lessees or receiver~~
 9 ~~appointed by a court that is the owner or user of a vehicle, who~~
 10 **OPERATES OR WHO** requires or permits ~~the driver or operator~~ **A**
 11 **PERSON** to operate ~~or drive a bus, truck, truck tractor, or~~
 12 ~~trailer, or certain other~~ **A COMMERCIAL** motor ~~vehicles, that~~
 13 ~~violates~~ **VEHICLE IN VIOLATION OF** this act or a rule promulgated
 14 under this act **RELATED TO THE TRANSPORTATION OF HAZARDOUS**
 15 **MATERIALS** if the vehicle is transporting a package required to be
 16 marked or labeled under 49 CFR parts 100 to 180 — is
 17 responsible for a state civil infraction and may be ordered to
 18 pay a fine of not more than \$500.00 for each violation. **SECTION**
 19 **907(A) OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.907,**
 20 **DOES NOT APPLY TO THIS ACT.**

21 ~~—— (2) A motor carrier shall not transport, or require, permit,~~
 22 ~~or allow to be transported, hazardous material for which a~~
 23 ~~placard is required under 49 CFR parts 100 to 199, in a vehicle~~
 24 ~~identified in subsection (1) if the person that is transporting~~
 25 ~~the hazardous material does not have a hazardous material~~
 26 ~~endorsement on his or her operator's or chauffeur's license. A~~
 27 ~~motor carrier that violates this section is guilty of a~~

~~1 misdemeanor punishable by imprisonment for not more than 1 year~~
~~2 or a fine of not more than \$500.00, or both, for each violation.~~

3 (2) ~~-(3)-~~ A person or entity identified in subsection (1)
 4 ~~or (2)-~~ who knowingly or willfully violates this act or a rule
 5 promulgated under this act is, upon conviction, guilty of a
 6 misdemeanor punishable by imprisonment for not more than 1 year
 7 or a fine of not more than \$500.00, or both, for each violation.

8 (3) ~~-(4)-~~ A person or entity identified in subsection (1)
 9 ~~or (2)-~~ who causes injury or death during a violation of this
 10 act, while a vehicle identified in subsection (1) that is
 11 transporting a package required to be marked or labeled under 49
 12 CFR parts 100 to 180 is used, is, upon conviction, guilty of a
 13 misdemeanor punishable by imprisonment for not more than 1 year
 14 or a fine of not more than \$500.00, or both, for each violation.

15 (4) ~~-(5)-~~ An officer, employee, owner, or agent of an
 16 individual, partnership, corporation, or association, or their
 17 lessees or receiver appointed by a court that is the owner or
 18 user of any hazardous materials vehicle inspection or repair
 19 facility that violates a section of this act, or a rule
 20 promulgated under this act, related to the transportation of
 21 hazardous materials, is guilty of a misdemeanor punishable as
 22 prescribed in this section.

23 Sec. 7d. (1) As used in this section:

24 (a) "Immediate destination" means the next scheduled stop of
 25 a commercial motor vehicle already in motion where the cargo on
 26 board can be safely secured.

27 (b) "Motor carrier division" means the motor carrier

1 division of the department of state police.

2 (c) "Person" means an individual, driver, or employee or a
3 firm, motor carrier, lessee, lessor, association, partnership, or
4 corporation, and their affiliated or related successors, that
5 undertakes to control, direct, conduct, or otherwise perform
6 transportation by commercial motor vehicle upon the public
7 highways of this state.

8 (d) "Shut down order" means a court order issued to a motor
9 carrier upon proof shown of unreasonable risk or an imminent
10 hazard.

11 (e) "Unreasonable risk or an imminent hazard" shall be
12 defined as any condition of commercial motor vehicle, employee,
13 or commercial motor vehicle operation which creates, causes, or
14 compounds the substantial likelihood that death, serious illness,
15 or severe personal injury may occur if not discontinued
16 immediately.

17 (2) Upon determination that the continued operation of
18 commercial motor vehicles by a person upon the highways of this
19 state poses an unreasonable risk or an imminent hazard to the
20 public safety, the motor carrier division shall issue a
21 compliance order. The order may direct a person to make certain
22 changes, repairs, or alterations to the person's vehicles or
23 operations, to comply with the laws of this state. In making an
24 order, restrictions shall not be imposed on any employee or
25 person beyond that required to abate the hazard. Any vehicle or
26 driver operating during the specified time period of the order
27 shall be in compliance with all applicable laws and rules.

1 (3) A compliance order shall include the name and address of
2 the person and the chief operating officer of the person, the
3 reason or reasons for the order, and the requirements or
4 conditions that must be met for rescission of the order. The
5 order shall also include a statement that the person has ~~30 days~~
6 **A SET TIME LIMIT** to comply with the order. If the ~~30-day~~ **SET**
7 time limit expires and the person is not in compliance with the
8 order, the motor carrier division may seek a shut down order from
9 a circuit court. **THE MOTOR CARRIER DIVISION SHALL SET THE TIME**
10 **LIMIT FOR COMPLIANCE WITH THE COMPLIANCE ORDER TO BE NOT LESS**
11 **THAN 30 DAYS AND NOT MORE THAN 180 DAYS.**

12 (4) Upon petition to the circuit court having jurisdiction
13 by the motor carrier division, the court may issue a shut down
14 order. The order shall direct a vehicle or vehicles or employee
15 or employees out of service from further operations, or shall
16 direct a person to cease all or part of the person's commercial
17 motor vehicle operation. In making such an order, restrictions
18 shall not be imposed on any employee or person beyond that
19 required to abate the hazard.

20 (5) A shut down order shall include the name and address of
21 the person and the chief operating officer of the person, the
22 reason or reasons for the order, the requirements or conditions
23 that must be met for rescission of the order, and a statement of
24 the right to appeal.

25 (6) An order to any person to cease all or part of its
26 operation shall not prevent vehicles in transit at the time the
27 order is served from proceeding to their immediate destinations,

1 unless that vehicle or person is specifically ordered out of
 2 service. However, vehicles and drivers proceeding to their
 3 immediate destination shall be subject to compliance upon
 4 arrival.

5 (7) A person who fails to comply with a shut down order is
 6 guilty of a misdemeanor, punishable by a fine of not more than
 7 \$1,000.00 for each violation, or by imprisonment for not more
 8 than 90 days, or both. A person or vehicle found operating on the
 9 highways of this state while under a shut down order shall be
 10 immediately stopped, and impounded or arrested. The owner or
 11 lessee of the vehicle shall be responsible for any costs incurred
 12 during impoundment. The vehicle shall be released upon the
 13 court's determination that the order has been complied with.

14 Sec. 11. (1) A township, city, village, ~~or~~ county, **OR**
 15 **ANOTHER STATE AGENCY** shall not adopt or enforce an ordinance or
 16 resolution that is inconsistent with this act or any rule
 17 promulgated pursuant to this act. **AS USED IN THIS SECTION,**
 18 **"INCONSISTENT" MEANS A RULE OR ORDINANCE THAT IS MORE PERMISSIVE**
 19 **THAN THIS ACT, THAT IS MORE RESTRICTIVE THAN THIS ACT, THAT WOULD**
 20 **REQUIRE MORE ACTION, EQUIPMENT, OR PERMITS THAN THIS ACT WOULD**
 21 **REQUIRE, OR THAT PREVENTS OR OBSTRUCTS COMPLIANCE WITH THIS ACT.**

22 ~~—— (2) A state agency shall not promulgate rules inconsistent~~
 23 ~~with this act. This subsection does not apply to rules~~
 24 ~~promulgated under the fire prevention code, 1941 PA 207, MCL 29.1~~
 25 ~~to 29.34, by the state fire safety board with respect to the~~
 26 ~~transportation of liquefied petroleum gas.~~

27 (2) ~~—(3)—~~ The fine for operating a vehicle with a serious

1 safety defect ordered to be paid under an ordinance or resolution
2 adopted by a township, city, village, or county that is
3 consistent with section 7b shall be paid to the county treasurer
4 and shall be allocated as follows:

5 (a) Seventy percent to the township, city, village, or
6 county in which the citation is issued.

7 (b) Thirty percent for library purposes as provided by law.

8 (3) ~~-(4)-~~ Subsection ~~-(3)-~~ (2) does not apply to a ~~civil~~
9 fine ordered to be paid for a case in which the citation is
10 dismissed pursuant to subsection ~~-(5)-~~ (4).

11 (4) ~~-(5)-~~ The owner or operator of a commercial motor
12 vehicle shall not be issued more than 1 citation for each
13 violation of a code or ordinance regulating the operation of a
14 commercial motor vehicle and substantially corresponding to a
15 provision of sections 683 to 725a of the Michigan vehicle code,
16 1949 PA 300, MCL 257.683 to 257.725a, within a 24-hour period. If
17 the owner or operator of a commercial motor vehicle is issued a
18 citation by a township, city, village, or county for an equipment
19 violation that does not result in the vehicle being placed out of
20 service, the court shall dismiss the citation if the owner or
21 operator of that commercial motor vehicle provides written proof
22 to the court within 14 days after the citation is issued showing
23 that the defective equipment indicated in the citation has been
24 repaired.

25 ~~—— (6) In order to be classified as a motor carrier enforcement~~
26 ~~officer, a police officer must have training equal to the minimum~~
27 ~~training requirements, including any annual training updates,~~

~~established by the department of state police for an officer of the motor carrier division of the department of state police. A police officer who has received training equal to these minimum training requirements before the effective date of this section is considered a motor carrier enforcement officer for purposes of this act.~~

~~———— (7) As used in this section, "inconsistent" means a rule or ordinance that is more permissive than the provisions of this act, or is more restrictive, or requires more action, equipment, or permits, or prevents or obstructs compliance with the provisions of this act.~~

Sec. 12. (1) Except as provided in subsection (2), a person, driver, owner, carrier, lessee, or lessor shall not transfer or allow to be transferred a hazardous material from a cargo tank, portable tank, or any other container to any cargo tank, portable tank, fuel tank, or any other container on a highway, road, street, or alley within this state.

(2) Subsection (1) does not apply to the following transfer situations:

(a) Fueling machinery or equipment for construction, farm, and maintenance use.

(b) Fueling emergency vehicles.

(c) Under emergency conditions, ~~if the~~ **A** transfer ~~is~~ **MAY BE** made ~~in a safe manner. The~~ **PROVIDED IT IS APPROVED BY THE** local fire chief, the state fire marshal, or a hazardous materials ~~officer~~ **INVESTIGATOR** of the motor carrier division of the department of state police ~~may prohibit a transfer~~ pursuant

1 to their respective authority under the fire prevention code,
2 ~~Act No. 207 of the Public Acts of 1941, being sections 29.1 to~~
3 ~~29.33 of the Michigan Compiled Laws 1941 PA 207, MCL 29.1 TO~~
4 29.34.

5 (3) A PERSON SHALL NOT OVERFILL A CONTAINER, INCLUDING A
6 STORAGE TANK, DURING A TRANSFER OF A HAZARDOUS MATERIAL FROM OR
7 INTO A VEHICLE, SO THAT HAZARDOUS MATERIAL IS RELEASED FROM THE
8 PACKAGE OR CONTAINER.

9 (4) THE PENALTY FOR VIOLATING THIS SECTION SHALL BE AS
10 PRESCRIBED IN SECTION 7C.

11 SEC. 13. (1) A PERSON, DRIVER, OWNER, CARRIER, LESSEE, OR
12 LESSOR SHALL NOT TRANSPORT OR ALLOW TO BE TRANSPORTED A VEHICLE
13 CARRYING HAZARDOUS MATERIALS IN AN AMOUNT REQUIRED TO BE
14 PLACARDED UNDER TITLE 49 OF THE CODE OF FEDERAL REGULATIONS INTO
15 OR THROUGH A TUNNEL.

16 (2) A PERSON, DRIVER, OWNER, CARRIER, LESSEE, OR LESSOR
17 SHALL NOT TRANSPORT OR ALLOW TO BE TRANSPORTED A VEHICLE CARRYING
18 HAZARDOUS MATERIALS ACROSS A BRIDGE IN VIOLATION OF A RESTRICTION
19 OR PROHIBITION SET BY A RECOGNIZED BRIDGE AUTHORITY OR THE BRIDGE
20 OWNER.

21 (3) A PERSON, DRIVER, OWNER, CARRIER, LESSEE, OR LESSOR
22 SHALL NOT TRANSPORT OR ALLOW TO BE TRANSPORTED A VEHICLE CARRYING
23 ANY AMOUNT OF A CLASS 1, DIVISION 2.1, OR CLASS 3 MATERIAL, OR
24 ANY MATERIAL CLASSIFIED AS A POISON INHALATION HAZARD, AS DEFINED
25 BY TITLE 49 OF THE CODE OF FEDERAL REGULATIONS, ON:

26 (A) STATE ROUTE M-10 FROM 8 MILE ROAD TO WYOMING ROAD, AND
27 FROM HOWARD STREET TO WOODWARD AVENUE.

1 (B) INTERSTATE ROUTE I-696 FROM STATE ROUTE M-10 TO
2 INTERSTATE ROUTE I-75.

3 (C) ON STATE ROUTE M-59, 1.1 MILE FROM EITHER DIRECTION OF
4 THE MOUND ROAD EXIT.

5 (4) THE PENALTY FOR VIOLATING THIS SECTION SHALL BE AS
6 PRESCRIBED IN SECTION 7C.

7 SEC. 14. (1) A STATE CIVIL INFRACTION SHALL BE ENFORCED IN
8 THE MANNER PROVIDED FOR ENFORCEMENT OF STATE CIVIL INFRACTIONS IN
9 CHAPTER 88 OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236,
10 MCL 600.8801 TO 600.8835.

11 (2) WHEN A PERSON WHO IS NOT A RESIDENT OF THIS STATE IS
12 STOPPED FOR A STATE CIVIL INFRACTION UNDER THIS ACT OR ANY RULE
13 UNDER THIS ACT, THE POLICE OFFICER MAKING THE STOP SHALL TAKE
14 SECURITY FOR THE NONRESIDENT'S APPEARANCE IN COURT. THE PERSON
15 STOPPED MAY RECOGNIZE TO THE OFFICER OR TO THE COURT FOR HIS OR
16 HER APPEARANCE BY LEAVING WITH THE OFFICER OR COURT A GUARANTEED
17 APPEARANCE CERTIFICATE OR A SUM OF MONEY NOT TO EXCEED \$100.00.

18 (3) IF A MAGISTRATE IS AVAILABLE FOR AN IMMEDIATE
19 APPEARANCE, UPON DEMAND OF THE PERSON STOPPED, THE OFFICER
20 IMMEDIATELY SHALL TAKE THE NONRESIDENT DRIVER BEFORE THE
21 MAGISTRATE TO ANSWER TO THE STATE CIVIL INFRACTION ALLEGED. IF
22 THE NONRESIDENT DEFENDANT REQUESTS A FORMAL HEARING, THE HEARING
23 SHALL BE SCHEDULED AND THE DEFENDANT SHALL LEAVE WITH THE COURT
24 THE GUARANTEED APPEARANCE CERTIFICATE OR DEPOSIT AS SECURITY FOR
25 APPEARANCE AT THE SCHEDULED FORMAL HEARING.

26 (4) THE OFFICER RECEIVING A GUARANTEED APPEARANCE
27 CERTIFICATE OR DEPOSIT OF MONEY SHALL GIVE A RECEIPT TO THE

1 PERSON STOPPED FOR THE GUARANTEED APPEARANCE CERTIFICATE OR THE
2 MONEY DEPOSITED TOGETHER WITH THE WRITTEN CITATION.

3 (5) AT OR BEFORE THE COMPLETION OF HIS OR HER TOUR OF DUTY,
4 A POLICE OFFICER TAKING A CERTIFICATE OR DEPOSIT OF MONEY SHALL
5 DELIVER THE CERTIFICATE OR DEPOSIT OF MONEY AND THE CITATION
6 EITHER TO THE COURT NAMED IN THE CITATION OR TO THE POLICE CHIEF
7 OR PERSON AUTHORIZED BY THE POLICE CHIEF TO RECEIVE CERTIFICATES
8 OR DEPOSITS. THE POLICE CHIEF OR PERSON AUTHORIZED BY THE POLICE
9 CHIEF SHALL DEPOSIT THE CERTIFICATE OR THE MONEY DEPOSITED AND
10 THE CITATION WITH THE COURT. FAILURE TO DELIVER THE MONEY
11 DEPOSITED SHALL BE EMBEZZLEMENT OF PUBLIC MONEY.

12 (6) IF THE PERSON WHO POSTS A CERTIFICATE OR DEPOSIT FAILS
13 TO APPEAR AS REQUIRED IN THE CITATION OR FAILS TO APPEAR FOR A
14 SCHEDULED FORMAL HEARING, THE COURT HAVING JURISDICTION AND VENUE
15 OVER THE CIVIL INFRACTION SHALL ENTER A DEFAULT JUDGMENT AGAINST
16 THE PERSON, AND THE GUARANTEED APPEARANCE CERTIFICATE OR MONEY
17 DEPOSITED SHALL BE FORFEITED AND APPLIED TO ANY CIVIL FINE OR
18 COSTS ORDERED.

19 (7) FOR PURPOSES OF THIS SECTION, "GUARANTEED APPEARANCE
20 CERTIFICATE" MEANS A CARD OR CERTIFICATE CONTAINING A PRINTED
21 STATEMENT THAT A SURETY COMPANY AUTHORIZED TO DO BUSINESS IN THIS
22 STATE GUARANTEES THE APPEARANCE OF THE PERSON WHOSE SIGNATURE
23 APPEARS ON THE CARD OR CERTIFICATE AND THAT THE COMPANY, IF THE
24 PERSON FAILS TO APPEAR IN COURT AT THE TIME OF A SCHEDULED
25 INFORMAL OR FORMAL HEARING OR TO PAY ANY FINE OR COSTS IMPOSED,
26 WILL PAY ANY FINE, COSTS, OR BOND FORFEITURE IMPOSED ON THE
27 PERSON IN A TOTAL AMOUNT NOT TO EXCEED \$200.00.

(8) AS USED IN THIS ACT, "STATE CIVIL INFRACTION" MEANS THAT TERM AS DEFINED IN SECTION 113(1)(A) OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.113.

SEC. 15. A TRUCK, TRUCK TRACTOR, TRAILER, SEMITRAILER, OR ANY COMBINATION OF THESE, WHEN USED ON A HIGHWAY, SHALL BE CONSTRUCTED, EQUIPPED, OR OPERATED TO PREVENT WATER OR OTHER ROAD SURFACE SUBSTANCES FROM BEING THROWN FROM THE REAR WHEELS OF THE VEHICLE OR COMBINATION AT TANGENTS EXCEEDING 22-1/2 DEGREES MEASURED FROM THE ROAD SURFACE. IF A FLAP TYPE DEVICE IS USED, IT SHALL NOT HAVE ATTACHED ANY TYPE OF LAMP, BREAKABLE REFLECTIVE MATERIAL, OR REFLECTING BUTTONS NOR MAY THE DEVICE EXTEND BEYOND THE MAXIMUM WIDTH OF THE VEHICLE OR COMBINATION.

Enacting section 1. The following sections of the motor carrier safety act of 1963, 1963 PA 181, are repealed:

(a) MCL 480.11b.

(b) MCL 480.12a.

(c) MCL 480.12b.

(d) MCL 480.12c.

(e) MCL 480.12g.

(f) MCL 480.12h.

(g) MCL 480.12i.

(h) MCL 480.12j.

(i) MCL 480.12k.

(j) MCL 480.12l.

(k) MCL 480.12m.

(l) MCL 480.12n.

(m) MCL 480.12o.

1 (n) MCL 480.12p.

2 (o) MCL 480.12q.

3 (p) MCL 480.12r.

4 (q) MCL 480.12s.

5 (r) MCL 480.12t.

6 (s) MCL 480.12u.

7 (t) MCL 480.12v.

8 (u) MCL 480.12w.

9 Enacting section 2. This amendatory act does not take effect
10 unless Senate Bill No. _____ or House Bill No. 4858(request no.
11 02889'05) of the 93rd Legislature is enacted into law.