

Act No. 265
Public Acts of 1995
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STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1995

Introduced by Reps. Bush, Brewer, Jellema and McBryde

ENROLLED HOUSE BILL No. 5215

AN ACT to amend the title and sections 1a, 2d, 2f, 2i, 2j, 2k, 2m, 2n, 2o, 2q, 2r, 2s, 2t, 2u, 2v, 2w, 3, 4, 6, 7, 9, 10, and 11 of Act No. 181 of the Public Acts of 1963, entitled as amended "An act to promote safety upon the public highways by regulating the operation of certain vehicles; to establish the qualifications of persons necessary for the safe operation of such vehicles; to limit the hours of service of persons engaged in operating such vehicles; to require the keeping of records of such operations; to provide for the assessment of fees; to provide penalties for the violation of this act; to prescribe the powers and duties of certain state agencies: and to repeal certain acts and parts of acts," sections 1a and 7 as amended and sections 2d, 2f, 2i, 2j, 2k, 2m, 2n, 2o, 2q, 2r, 2s, 2u, 2v, 2w, 3, and 6 as added by Act No. 339 of the Public Acts of 1990, section 2t as amended by Act No. 126 of the Public Acts of 1992, and section 4 as amended and sections 10 and 11 as added by Act No. 23 of the Public Acts of 1984, being sections 480.11a, 480.12d, 480.12f, 480.12i, 480.12j, 480.12k, 480.12m, 480.12n, 480.12o, 480.12q, 480.12r, 480.12s, 480.12t, 480.12u, 480.12v, 480.12w, 480.13, 480.14, 480.16, 480.17, 480.19, 480.20, and 480.21 of the Michigan Compiled Laws; to add sections 7c, 7d, and 12; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Section 1. The title and sections 1a, 2d, 2f, 2i, 2j, 2k, 2m, 2n, 2o, 2q, 2r, 2s, 2t, 2u, 2v, 2w, 3, 4, 6, 7, 9, 10, and 11 of Act No. 181 of the Public Acts of 1963, sections 1a and 7 as amended and sections 2d, 2f, 2i, 2j, 2k, 2m, 2n, 2o, 2q, 2r, 2s, 2u, 2v, 2w, 3, and 6 as added by Act No. 339 of the Public Acts of 1990, section 2t as amended by Act No. 126 of the Public Acts of 1992, and section 4 as amended and sections 10 and 11 as added by Act No. 23 of the Public Acts of 1984, being sections 480.11a, 480.12d, 480.12f, 480.12i, 480.12j, 480.12k, 480.12m, 480.12n, 480.12o, 480.12q, 480.12r, 480.12s, 480.12t, 480.12u, 480.12v, 480.12w, 480.13, 480.14, 480.16, 480.17, 480.19, 480.20, and 480.21 of the Michigan Compiled Laws, are amended and sections 7c, 7d, and 12 are added to read as follows:

TITLE

An act to promote safety upon the public highways by regulating the operation of certain vehicles; to provide consistent regulation of these areas by state agencies and local units of government; to establish the qualifications of persons necessary for the safe operation of such vehicles; to limit the hours of service of persons engaged in operating such vehicles; to require the keeping of records of such operations; to provide penalties for the violation of this act; to prescribe the powers and duties of certain state agencies; and to repeal certain acts and parts of acts.

Sec. 1a. (1) This state hereby adopts the following provisions of title 49 of the code of federal regulations, on file with the office of the secretary of state except where modified by this act, to provide for the safe transportation of persons and property with the intent of following the policies and procedures of the United States department of

transportation's federal highway administration as they relate to title 49 of the code of federal regulations and the north american standard uniform out of service criteria and inspection procedures:

- (a) Hazardous materials regulations, being 49 C.F.R. parts 100 through 180.
- (b) Motor carrier safety regulations, being 49 C.F.R. part 382, part 387, parts 390 through 393, parts 395 through 397, and part 399 including appendices 1, D, E, and G, except for the following:
 - (i) Where the term "United States department of transportation", "federal highway administration", "federal highway administrator", "director", "bureau of motor carrier safety", "research and special projects 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 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.
 - (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.
 - (b) "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, or a bus operated by a public transit agency operating under any of the following:
 - (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. Each authority and governmental agency incorporated under Act No. 55 of the Public Acts of 1963 has 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.
 - (ii) An authority incorporated under the metropolitan transportation authorities act of 1967, Act No. 204 of the Public Acts of 1967, 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, being sections 124.501 to 124.512 of the Michigan Compiled Laws.
 - (iii) 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.
 - (iv) 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.
 - (v) 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.
 - (c) "Commercial motor vehicle" means any self-propelled or towed vehicle designed or used on public highways to transport passengers or property, except for a bus exempted in subdivision (b), if the vehicle is 1 or more of the following:
 - (i) Has either a gross vehicle weight rating or an actual gross weight or gross combination weight rating or an actual gross combination weight of 10,001 or more pounds.
 - (ii) Is designed for carrying 16 or more passengers, including the driver.
 - (iii) Is used in the transportation of hazardous materials in a quantity that requires the vehicle to be marked or placarded pursuant to 49 C.F.R. parts 100 to 180.
 - (d) "Gross combination weight" or "GCW" means the combined weight of a combination of vehicles and any load on those vehicles.
 - (e) "Gross weight", "gross vehicle weight", or "GVW" means the combined weight of a motor vehicle and any load on that vehicle.

(f) "Hazardous material vehicle inspection or repair facility" is a commercial enterprise that performs inspections, certification, testing, or repairs to commercial motor vehicles transporting hazardous materials as required by 49 C.F.R. parts 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 person is qualified to drive a commercial motor vehicle if he or she meets all of the requirements of 49 C.F.R. part 391 except for the following circumstances:

(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.

Sec. 2f. Except as provided in this act, each motor carrier shall, at least once every 12 months, review a copy of the driver's record from each state in which the driver held a license during the preceding year to determine whether that driver meets minimum requirements for safe driving or is disqualified to drive a commercial motor vehicle pursuant to 49 C.F.R. 391.15. In reviewing a driving record, the motor carrier shall consider any evidence that the driver has violated applicable provisions of the federal motor carrier safety regulations and the hazardous materials regulations. The motor carrier shall also consider the driver's accident record and any evidence that the driver has violated laws governing the operation of motor vehicles, and shall give great weight to violations, such as speeding, reckless driving, and operating while under the influence of alcohol or drugs, that indicate that the driver has exhibited a disregard for the safety of the public. A note setting forth the date upon which the review was performed and the name of the person who reviewed the driving record shall be included in the driver's qualification file.

Sec. 2i. A person shall not drive a commercial motor vehicle unless he or she is physically qualified to do so and, except as provided by this act, has on his or her person the original, or a photographic copy, of a valid medical examiner's certificate that he or she is physically qualified to drive a commercial motor vehicle.

Sec. 2j. Except as provided in this act, the following persons must be medically examined and certified in accordance with 49 C.F.R. 391.43 as physically qualified to drive a commercial motor vehicle:

(a) Any person who has not been medically examined and certified as physically qualified to drive a commercial motor vehicle.

(b) Any driver who has not been medically examined and certified as qualified to drive a commercial motor vehicle during the preceding 24 months.

(c) Any driver whose ability to perform his or her normal duties has been impaired by a physical or mental injury or disease.

Sec. 2k. (1) A person who is not physically qualified to drive under 49 C.F.R. 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 the appeal board has granted a waiver to that person.

(2) An application for a waiver shall be submitted jointly by the person who seeks a waiver of his or her physical disqualification and by the motor carrier that will employ the person if the application is granted. The application shall be delivered to the headquarters of the motor carrier division of the department of state police.

(3) An application for a waiver shall contain all of the following:

(a) A description of all of the following:

- (i) The type, size, and special equipment, if any, of the vehicles the individual applicant intends to drive.
- (ii) The general area and type of roads the individual applicant intends to traverse while driving.
- (iii) The maximum distances the individual applicant intends to drive.
- (iv) The periods of time he or she will be on duty and driving.
- (v) The nature of the commodities or cargo the individual applicant intends to transport.
- (vi) The methods the applicant or any other person will use to load and secure the commodities or cargo.
- (vii) The nature and extent of the individual applicant's experience at operating commercial motor vehicles of the type he or she intends to drive.

(b) An agreement that the motor carrier will promptly file with the motor carrier division of the department of state police such reports as the division may require, including reports about all of the following which involve the individual applicant:

- (i) Driving activities.
- (ii) Accidents.
- (iii) Arrests.
- (iv) License suspensions, revocations, or withdrawals.
- (v) Convictions.

(c) An agreement that if a waiver is granted, it authorizes the individual applicant to drive intrastate only when employed by the motor carrier that joined in the individual's application.

(4) An application for a waiver shall be accompanied by all of the following:

(a) Not less than 2 reports of medical examinations, conducted within the preceding 60 days of the date of the application, pursuant to 49 C.F.R. 391.43, at least 1 of which was conducted by a medical examiner selected and compensated by the motor carrier, each of which includes the medical examiner's opinion concerning the individual applicant's ability to operate safely a vehicle of the type the applicant intends to drive.

(b) A copy of the certificate of driver's road test that was issued to the individual applicant pursuant to 49 C.F.R. 391.31.

(c) A copy of the individual applicant's application for employment made pursuant to 49 C.F.R. 391.21 or this act.

(5) An application for a waiver shall be signed by both the individual applicant and the motor carrier. If the motor carrier is a corporation, the application shall be signed by an officer of the corporation. If the motor carrier is a partnership, the application shall be signed by a general partner.

(6) The driver applicant or motor carrier applicant shall not falsify information in the letter of application or the renewal application.

(7) The motor carrier division of the department of state police may deny the application or may approve the application, in whole or in part, and issue a waiver subject to the terms, conditions, and limitations as it considers consistent with safety and the public interest. A waiver is valid for not more than 2 years, and a waiver may be renewed upon submission of a new application under this act.

(8) If the motor carrier division of the department of state police grants a waiver, it shall notify each applicant by a letter that sets forth the terms, conditions, and limitations of the waiver. The motor carrier shall retain the letter or a legible copy of it in the driver's qualification file as long as the individual applicant is employed by that motor carrier and for 3 years thereafter. The individual applicant shall have the letter or a legible copy of it in his or her possession when he or she drives a commercial motor vehicle or is otherwise on duty.

(9) The motor carrier division of the department of state police may suspend a waiver at any time. The motor carrier division may revoke a waiver after the person to whom it was issued is given notice of the proposed revocation and a reasonable opportunity to be heard.

Sec. 2m. (1) The qualification file for an intrastate driver who has been a "regularly employed driver" as defined in 49 C.F.R. 390.5 of a motor carrier of property for a continuous period which began on or before June 10, 1984 and the file for a driver who has been a regularly employed driver of a motor carrier of passengers for a continuous period which began on or before March 3, 1991 shall include all of the following:

(a) The original, or a legible copy, of the medical examiner's certificate issued pursuant to 49 C.F.R. 391.43 and the letter granting a waiver of physical disqualification issued pursuant to section 2k if required or the motor carrier division form MC-25 granting a medical waiver for claiming grandfather rights required by section 2n.

(b) The note relating to the annual review of the driver's driving record required by section 2f.

(c) The records of violations required by 49 C.F.R. 391.27 and a copy of the driver's record from each state in which he or she held a license during the preceding year.

(d) A legible copy of the driver's appropriate license.

(e) Any other matter which relates to the driver's qualification or ability to drive a commercial motor vehicle safely.

(2) The qualification file for a regularly employed driver who was employed by a motor carrier of property after June 10, 1984 and a regularly employed driver of a motor carrier of passengers who has not been regularly employed by the motor carrier for a continuous period which began on or before March 3, 1991 shall include all of the following:

(a) The documents specified in subsection (1).

(b) The driver's application for employment completed in accordance with 49 C.F.R. 391.21 or this act.

(c) The responses of state agencies and past employers to the motor carrier's inquiries concerning the driver's driving record and employment in accordance with 49 C.F.R. 391.23.

(d) The original or a legible copy of the driver's road test and the certificate of driver's road test issued to the driver in accordance with 49 C.F.R. 391.31 or this act, or a legible copy of the license or certificate which the motor carrier accepts as equivalent to the driver's road test in accordance with 49 C.F.R. 391.33.

(3) The qualification file for an intermittent, casual, or occasional driver shall include all of the following:

(a) The original or a legible copy of the medical examiner's certificate required by 49 C.F.R. 391.43 or this act and the letter granting a waiver of a physical disqualification issued pursuant to 49 C.F.R. 391.49 or this act if required.

(b) The original or a legible copy of the driver's road test and the certificate of driver's road test issued to the driver in accordance with 49 C.F.R. 391.31 or this act, or a legible copy of the license or certificate which the motor carrier accepted as equivalent to the road test in accordance with 49 C.F.R. 391.33.

(c) The driver's name, social security number, and a legible copy of the driver's appropriate license.

(d) Any other matter which relates to the driver's qualifications or ability to operate a commercial motor vehicle safely.

(4) A carrier's qualification file for a driver who is regularly employed by another motor carrier, and who is employed by the carrier in accordance with 49 C.F.R. 391.65, shall include a copy of a certificate issued by the regularly employing carrier in accordance with 49 C.F.R. 391.65(a)(2) stating that the driver is fully qualified to drive a commercial motor vehicle.

(5) Driver qualification files and records will be maintained and retained in accordance with the following:

(a) Each driver's qualification file shall be kept at the motor carrier's principal place of business for as long as a driver is employed by that motor carrier and for 3 years thereafter.

(b) The following records may be removed from a driver's qualification file after 3 years from date of execution:

(i) The medical examination and the medical examiner's certificate, or photographic copies, of the driver's physical qualification to drive a commercial motor vehicle as required by 49 C.F.R. 391.43 or 391.64.

(ii) The record of violations submitted by the driver required by 49 C.F.R. 391.27 and the driving record from the applicable state agency as required by subsection (1)(c).

(iii) The note relating to the annual review of the driver's driving record as required by section 2f.

Sec. 2n. (1) The provisions of this act and 49 C.F.R. 391.21 relating to applications for employment, 49 C.F.R. 391.23 relating to investigations and inquiries, and 49 C.F.R. 391.31 relating to road tests do not apply to a driver who has been a regularly employed driver of an intrastate motor carrier of property for a continuous period which began on or before June 10, 1984, as long as he or she continues to be a regularly employed driver of that motor carrier. Such a driver is qualified to drive a commercial motor vehicle if he or she fulfills the requirements of section 2d(2).

(2) The provisions in this act pertaining to an intrastate driver's medical qualifications do not apply to any driver who:

(a) Has been a regularly employed driver of the motor carrier for a continuous period which began on or before June 10, 1984.

(b) Has continued to be a regularly employed driver of that motor carrier.

(c) Is otherwise qualified to drive a commercial motor vehicle under section 2d.

(d) Has made application to the appeal board claiming grandfathering rights.

(e) Has received a waiver of medical qualification from the motor carrier division of the department of state police. The "medical waiver - grandfather rights" card, motor carrier division form number MC-22, shall be carried at all times on the person of the driver while he or she is operating a commercial motor vehicle. The original "medical waiver - grandfather rights", motor carrier division form number MC-25, will be retained in the driver's qualification file in accordance with section 2m.

(3) Notwithstanding subsection (2), the provisions of this act pertaining to random, reasonable cause, and postaccident drug testing apply to all drivers granted grandfathering rights under this section.

(4) Grandfather rights shall remain valid until December 31, 2032.

(5) The exemption from medical qualifications under this section applies only to preexisting conditions before the effective date of the amendatory act that added this subsection. Any medical condition that would normally disqualify a driver under this act automatically voids any grandfather rights. Any driver who develops a normally disqualifying medical condition after being issued a grandfather card must return the grandfather card to the appeal board and apply for a medical waiver as provided in section 2k.

Sec. 2o. (1) The provisions of 49 C.F.R. 391.21 relating to applications for employment, 49 C.F.R. 391.23 relating to investigations and inquiries, and 49 C.F.R. 391.31 relating to road tests do not apply to a driver who has been a regularly employed driver of an intrastate motor carrier of passengers for a continuous period which began on or before March 3, 1991, as long as he or she continued to be a regularly employed driver of that motor carrier. Such a driver is qualified to drive a bus if he or she fulfills the requirements of section 2d(2) relating to qualifications of drivers.

(2) The provisions of this act pertaining to an intrastate driver's medical qualifications do not apply to a bus driver who:

(a) Has been a regularly employed driver of the motor carrier for a continuous period which began on or before March 3, 1991.

(b) Has continued to be a regularly employed driver of that motor carrier.

(c) Is otherwise qualified to drive a bus under section 2d.

(d) Has made application to the motor carrier division of the department of state police claiming grandfathering rights.

(e) Has received a waiver of medical qualification from the motor carrier division of the department of state police. The medical waiver grandfather rights card, motor carrier division form number MC-22, shall be carried at all times on the person of the driver while he or she is operating a motor vehicle under the applicability of these rules. The original medical waiver grandfather rights, motor carrier division form MC-25, will be retained in the driver qualification file in accordance with section 2n.

(3) Notwithstanding subsection (2), the provisions of this act pertaining to random, reasonable cause, and postaccident drug testing apply to all drivers granted grandfathering rights under this section.

(4) Grandfather rights shall remain valid until December 31, 2032.

(5) The exemption from medical qualifications under this section applies only to preexisting conditions before the effective date of the amendatory act that added this subsection. Any medical condition that would normally disqualify a driver under this act automatically voids any grandfather rights. Any driver who develops a normally disqualifying medical condition after being issued a grandfather card must return the grandfather card to the appeal board.

(6) The provisions of 49 C.F.R., section 391.68, excepting private motor carriers of passengers (nonbusiness) from certain federal regulations shall apply also to motor carriers of passengers (nonbusiness) operating wholly within this state.

Sec. 2q. The provisions of 49 C.F.R. 391.21 relating to application for employment, 49 C.F.R. 391.23 relating to investigations and inquiries, 49 C.F.R. 391.31 relating to road tests, 49 C.F.R. 391.41 to 391.45 to the extent that they require a driver to be medically qualified or examined and to have a medical examiner's certificate on his or her person, and section 2 relating to the maintenance of files and records do not apply to a farm vehicle driver as defined in 49 C.F.R. 390.5.

Sec. 2r. The provisions of this act, except 49 C.F.R. part 382, do not apply to a mechanic who services motor carrier equipment during the intrastate operation of this equipment when all of the following conditions are met:

(a) The vehicle or combinations are not being used to transport passengers or property or any for hire or compensated transportation including paid haulage when the units are empty.

(b) The mechanic is not otherwise being used as a regularly employed driver.

(c) The mechanic is test driving a loaded commercial motor vehicle within 10 miles of the repair facility.

Sec. 2s. This act does not apply to utility, telephone, and cable television company service employees if those employees:

(a) Are not otherwise being used as a regularly employed driver.

(b) Are not used to operate a bus or a commercial motor vehicle, except a motor home, having a gross vehicle weight rating or a gross combination weight rating of 26,001 or more pounds, a motor vehicle towing a vehicle with a gross vehicle weight rating of more than 10,000 pounds, or a motor vehicle carrying hazardous material and on which is required to be posted a placard as defined and required under 49 C.F.R. parts 100 to 180.

Sec. 2t. (1) In addition to the requirements of 49 C.F.R. 393.86, a truck tractor and semitrailer combination with a semitrailer length longer than 50 feet whose frame or body extends more than 36 inches beyond the rear of its rear axle and is more than 30 inches above the roadway shall not be operated on the highways of this state unless equipped with an underride guard on the extreme rear of the frame or body. The underride guard shall meet the following requirements:

(a) Provide a continuous horizontal beam having a maximum ground clearance of 22 inches, as measured with the vehicle empty and on level ground.

(b) Extend to within 4 inches of the lateral extremities of the trailer on both left and right sides.

(c) Be substantially constructed and firmly attached.

(2) An asphalt hauling vehicle that is required to be equipped with an underride guard under this section shall be exempt from that requirement of this section if the underride guard prevents the vehicle from being attached to an asphalt paving machine. As used in this section, "asphalt hauling vehicle" means a motor vehicle, trailer, or semitrailer specifically designed for attachment to asphalt paving machines and which is used for hauling asphalt paving materials.

(3) A commercial motor vehicle constructed and maintained so that the body chassis or other parts of the vehicle afford the rear end protection contemplated by this section is in compliance with this section.

Sec. 2u. The rules in 49 C.F.R. part 395 apply to all drivers of commercial motor vehicles as defined in section 1a except:

(a) Farm vehicle drivers as defined in 49 C.F.R. 390.5.

(b) Any driver of a public utility service vehicle when being used in cases of emergency. As used in this subdivision, "emergency" means any instance of loss of public utility service due to an unforeseen circumstance, a natural disaster, or an act of God. A declaration of emergency by a public official is not required to constitute an emergency under this subdivision.

Sec. 2v. (1) A motor carrier shall not permit or require a driver of a commercial motor vehicle, regardless of the number of motor carriers using the driver's services, to drive for any period after having been on duty 60 hours in any 7 consecutive days if the employing motor carrier does not operate every day in the week, or having been on duty 70 hours in any period of 8 consecutive days if the employing motor carrier operates commercial motor vehicles every day of the week.

(2) This section shall not apply to the following drivers if their total driving time does not exceed 40 hours in any period of 7 consecutive days:

(a) Any driver-salesperson.

(b) Any driver delivering home heating fuel from the months of October through April in a commercial motor vehicle of less than 40,000 pounds gross vehicle weight.

(c) Any driver involved with the pickup or delivery of crude oil products during the time when weight limitations are imposed due to seasonal climatic changes.

(d) Any driver of a commercial motor vehicle engaged in seasonal construction related activities within a 100-air mile radius of the normal work reporting location.

(e) Any driver of a commercial motor vehicle which is being used in the delivery of beverages to retail businesses.

Sec. 2w. The 12 consecutive hours on duty requirement contained in 49 C.F.R. 395.8 (L)(1)(ii) shall not apply to intrastate drivers of commercial motor vehicles described in section 2v(2)(b), (d), and (e) who return to the work reporting location, and are released from work within 15 consecutive hours of being on duty.

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.

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

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

Sec. 6. (1) Motor carriers shall submit, upon demand, all their transportation safety related documents, such as all records and information pertaining to any accident, drivers' records of duty status, bills of lading, shipping records, driver time and payroll records, driver qualification records, vehicle maintenance records, and equipment for inspection or copying during regular business hours to any motor carrier officer displaying a valid Michigan department of state police, motor carrier division identification card.

(2) Hazardous materials vehicle inspection and repair facilities shall submit, upon demand, all their transportation safety related documents as required by this act, such as hazardous materials tank certification and repair documents, and annual inspection certification documents to any motor carrier officer displaying a valid Michigan department of state police motor carrier division identification card.

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

	Michigan State Police
	This is to certify that (rank and name)
	Whose photograph appears hereon is a member of the Michigan State Police and
Photo	is vested with the authority of a motor carrier enforcement officer as prescribed by law.
Not valid after (date)	(signature) Director

(4) A carrier operating within this state with main offices in another state or province shall submit all transportation safety related documents as outlined in subsection (1) for inspection and copying within 10 working days after receiving formal notification requesting the documents.

(5) An officer of the motor carrier division of the department of state police displaying valid identification may, without a warrant, require the cargo carrying portion of a vehicle to be opened for inspection of the cargo, any object within that portion of the vehicle, or the interior of the vehicle or any compartment within the interior of the vehicle.

Sec. 7. (1) Except as provided in sections 7b, 7c, and 7d, any driver or operator who violates this act or a rule promulgated under this act, or any owner or user of any bus, truck, truck tractor, or trailer, or certain other motor vehicles or any officer or agent of any individual, partnership, corporation, or association or their lessees or receivers appointed by any court which is the owner or user of any vehicle, who requires or permits the driver or operator to operate or drive any bus, truck, truck tractor, or trailer, or certain other motor vehicles in violation of this act or a rule promulgated under this act, is guilty of a misdemeanor for each violation punishable by imprisonment for not more than 90 days or a fine of not more than \$100.00, or both.

(2) A peace officer or an officer of the motor carrier division of the department of state police, upon reasonable cause to believe that a motor vehicle is being operated in violation of this act or a rule promulgated pursuant to this act, may stop the motor vehicle and inspect the motor vehicle. If a violation is found, the officer may issue a notice to appear for that violation. If a motor vehicle is inspected by breaking the load seal, then the peace officer shall give to the driver a signed receipt of inspection and the peace officer shall be responsible for reapplying a Michigan department of transportation seal.

Sec. 7c. (1) A driver 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 receiver appointed by any court that is the owner or user of any vehicle, who requires or permits the driver or operator to operate or drive any bus, truck, truck tractor, or trailer, or certain other motor vehicles, that violates this act or a rule promulgated under this act if the vehicle is transporting a package required to be marked or labeled under 49

C.F.R. parts 100 to 180, upon conviction, is punishable by a fine of not more than \$500.00 for each violation, or by imprisonment for not more than 90 days, or both.

(2) Any officer, employee, owner or agent of an individual, partnership, corporation, or association, or their lessees or receiver appointed by any court that is the owner or user of any hazardous materials vehicle inspection or repair facility that violates a section of this act, or a rule promulgated under this act, related to the transportation of hazardous materials, is guilty of a misdemeanor punishable as prescribed in this section.

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

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

(b) "Motor carrier division" means the motor carrier division of the department of state police.

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

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

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

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

(3) A compliance order shall include the name and address of the person and the chief operating officer of the person, the reason or reasons for the order, and the requirements or conditions that must be met for rescission of the order. The order shall also include a statement that the person has 30 days to comply with the order. If the 30-day time limit expires and the person is not in compliance with the order, the motor carrier division may seek a shut down order from a circuit court.

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

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

(6) An order to any person to cease all or part of its operation shall not prevent vehicles in transit at the time the order is served from proceeding to their immediate destinations, unless that vehicle or person is specifically ordered out of service. However, vehicles and drivers proceeding to their immediate destination shall be subject to compliance upon arrival.

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

Sec. 9. (1) Immediately following any of the following occurrences involving the transportation of hazardous materials, the owner, driver, or lessee, or representative of the owner, driver, or lessee, shall notify the motor carrier division of the department of state police and the organized fire department of the area in which the incident occurred of the known details regarding the incident:

(a) A person is killed.

(b) A person is hospitalized due to an injury.

(c) A person is hospitalized due to hazardous material contamination or exposure.

(d) There is an unintentional release of hazardous materials that affects highway transportation safety or is caused, or believed to be caused, by a violation of this act or a rule promulgated under this act.

(2) For the purposes of this section, “notify the motor carrier division of the department of state police” includes contacting the local state police post, the operations section of the department of state police, or the motor carrier division headquarters by telephone, facsimile machine, or other means.

Sec. 10. (1) A truck tractor pulling a semitrailer and a trailer, or pulling 2 semitrailers, shall not transport a combustible liquid unless the vehicle combination meets the following requirements:

(a) Is equipped with a device that restricts the horizontal and vertical rotation of the dolly assemblage of the vehicle combination in a manner that maintains the longitudinal tracking of the dolly and semitrailer in a truck tractor, semitrailer, and trailer combination, or the dolly and the truck in a truck and trailer combination. This device shall be welded to the vehicle in a workmanlike manner, and the efficiency of a weld shall not be less than 85% of the mechanical properties of the adjacent metal in the chassis.

(b) Is equipped with stops in the spring hangers of each semitrailer and trailer in the vehicle combination in a manner that improves the stability of the vehicle combination by reducing the free play of the leaf spring suspension to a maximum of 3/4 of an inch when the spring passes from tension to compression.

(2) The owner of the semitrailer or trailer to which the device described in subsection (1) is attached shall keep on file in their principal place of business the following information:

- (a) Specifications and plans of the device.
- (b) Name of the manufacturer of the device.
- (c) Date of installation of the device.

(d) An individual manufacturer identification number which is stamped or permanently affixed to the device.

(3) The information required in subsection (2) shall be kept by the vehicle’s owner and shall be transferred to the new owner if the vehicle is sold, or may be destroyed if the vehicle is retired from service or scrapped.

(4) The requirements specified in subsections (2) and (3) apply to devices affixed to vehicles on or after the effective date of the amendatory act that added this subsection.

(5) Commercial motor vehicles used to transport flammable liquids, flammable gases, or compressed flammable gases shall also comply with section 722a of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.722a of the Michigan Compiled Laws.

Sec. 11. (1) A township, city, village, or county shall not adopt or enforce an ordinance or resolution that is inconsistent with this act or any rule promulgated pursuant to this act.

(2) A state agency shall not promulgate rules inconsistent with this act. This subsection does not apply to rules promulgated under the fire prevention code, Act No. 207 of the Public Acts of 1941, being sections 29.1 to 29.33 of the Michigan Compiled Laws, by the state fire safety board with respect to the transportation of liquefied petroleum gas.

(3) 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 transfer is made in a safe manner. The local fire chief, the state fire marshal, or a hazardous materials officer of the motor carrier division of the department of state police may prohibit a transfer pursuant to their respective authority under the fire prevention code, Act No. 207 of the Public Acts of 1941, being sections 29.1 to 29.33 of the Michigan Compiled Laws.

Section 2. Sections 2g, 2h, and 5 of Act No. 181 of the Public Acts of 1963, being sections 480.12g, 480.12h, and 480.15 of the Michigan Compiled Laws, are repealed.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.