

Legislative Analysis



PUPIL TRANSPORTATION ACT UPDATE

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House Bill 5494 (Substitute H-1)

Sponsor: Rep. Phil Pavlov

Committee: Transportation

First Analysis (1-25-06)

BRIEF SUMMARY: The bill would bring the law concerning bus transportation for school students into conformity with federal laws and rules, as well as with the Michigan Vehicle Code.

FISCAL IMPACT: The fiscal impact is indeterminate since it is not known how much individual school districts will have to spend concerning these changes and how much extra time and resources State Police school bus inspectors will need to implement the changes.

THE APPARENT PROBLEM:

Under Michigan law, public school districts are not required to transport regular education students by bus; however, most do. (There is a requirement that special education students be transported.) In Michigan, school bus transportation programs are regulated by the Michigan Department of Education, which has appointed a Pupil Transportation Advisory Committee to guide its work. In addition, school bus inspections are governed by the Michigan State Police.

There are about 17,800 school buses in the state. Customarily, the buses are part of bus fleets that are operated by public school districts to transport enrolled students between the schools and their homes, and to school-related activities. Here in Michigan, more than 850,000 students are transported over 10 million miles, annually.

Each school bus is inspected annually by the Motor Carrier Division of the Michigan State Police. The division employs a team of 13 officers, each of whom is trained to administer a 198-point safety inspection during a walk-through exam that takes about one hour. Vehicles that have been inspected are identified with a windshield sticker.

Michigan school bus drivers have exemplary safety records. There has not been a student passenger fatality since 1989. However, there are occasional pedestrian fatalities near the bus—generally the fault of drivers in other motor vehicles. For example, one pedestrian fatality occurred between 1987 and 1997; two pedestrian fatalities occurred in 2000, and a single fatality in 2003. The drivers complete a school bus driver safety education program, using a department-approved curriculum. Beginning and continuing education courses are offered at regional training agencies throughout the year.

The act that regulates school buses and their drivers—known as the Pupil Transportation Act—has become outdated.

THE CONTENT OF THE BILL:

House Bill 5494 (H-1) would update the Pupil Transportation Act (MCL 257.1805 et al.) to bring the law concerning bus transportation for school students into conformity with federal laws and rules, as well as with the Michigan Vehicle Code. In addition, the bill would repeal four sections of the current act. The bill is identical to Senate Bill 932, which will be taken up in the Senate. A more detailed description of the bill follows.

In Michigan, the State Board of Education regulates school bus transportation. The board does so under the Pupil Transportation Act, originally enacted in 1990. The law regulates the equipment, maintenance, operation, and use of school buses; prescribes the qualifications of school bus drivers; establishes the powers and duties of certain state and local governmental agencies; creates an advisory committee in the Department of Education; and sets penalties for violations of the act.

Vehicles Subject to the Act. Under the law, no vehicle other than a school bus with a seating capacity of 11 or more passengers (including the driver) can be used to transport students to or from school or school-related events. The bill would retain this provision, and remove a provision that now extends the act to commercial motor vehicles operated by a carrier certified by the state transportation department, or to a bus operated by a public transit agency or authority, if they are used primarily to transport students to or from school or school-related events, or to transport students along a route where the students are required to cross the roadway. The bill clarifies that the act would not apply to a vehicle operated by a public transit agency or authority nor to any vehicle that was not a school bus, or owned or contracted for by a school.

The law allows a school to contract with a licensed motor carrier for a motor bus to be used for occasional transportation of students to or from school-related events. House Bill 5494 would retain this provision, but prohibit a school from directly operating a motor bus for the use of student transportation. Further, a motor carrier certified by the state transportation department could not use a motor bus primarily to transport students to and from school. However, any written authorization given by the Department of Education for use of a motor bus for the regular transport of students to and from school in effect before the effective date of this legislation would remain in effect for the time it was authorized. The bill specifies that a motor bus built to school bus specifications that comply with the applicable federal motor vehicle safety standards must also comply with the requirements of the act.

Vehicle Size Specifications. Under the law, a type I school bus must have an outside body width of not more than 96 inches and an outside overall length of not more than 40 feet. The bill would allow for a larger bus having an outside body width of not more than 102 inches and an outside overall length of not more than 45 feet. Further, the law currently requires that a type II school bus have an outside body width of not more than

96 inches and an inside height of not less than 60 inches. Under the bill, a type II school bus could have an outside body width of not more than 102 inches. House Bill 5495 also would require the floor, aisle and stepwell of a bus to be covered with a slip-resistant surface.

Vehicle Design and Equipment. Currently the law sets specifications for the emergency exits on type I and type II school buses. A locking device cannot be attached to the emergency door unless it meets five criteria, one of which is that the device be approved by the Department of State Police. House Bill 5495 would eliminate that criterion.

The bill specifies that all baggage, articles, equipment, or medical supplies not held by individual passengers be secured in a manner that assures unrestricted access to all exits by all occupants; does not restrict the driver's ability to operate the bus; and protects all occupants against injury resulting from falling or displacement of the baggage and equipment. Under the bill, oxygen cylinders secured to a wheelchair must be considered to be in compliance with this subsection, provided they do not impede access to any exit. In addition, radio speakers cannot be closer than three seat positions behind the driver (although this subsection would not apply to radio speakers for two-way communication devices). The requirements regarding a school bus's windshield wipers and washers would have to meet federal rules.

Under the bill, the specific size of the continuously visible rectangular area outside the bus that must be visible to the driver would be eliminated, and instead the school bus would have to comply with visibility and equipment requirements under federal rules. Further, the size of interior mirrors would have to comply with federal rules. Currently the fire extinguishers on a bus must be approved by the Department of State Police. Under the bill, this requirement would be eliminated.

Under the law, a school bus must be equipped with a first aid kit, containing certain supplies. The law prohibits antiseptics and burn ointments, except as required by the state transportation department. This prohibition would be eliminated under the bill.

Currently the law allows a school bus to be equipped with a flashing, oscillating, or rotating light mounted on the roof of the bus about six feet from the rear of the vehicle. The bill specifies that if a school bus is so equipped, the driver would not be required to use it. The law also requires that buses be painted chrome yellow; specifies that the color of the bumper, body trim, wheels, and lettering be black; and that wheel rims be gray, black, or natural. House Bill 5495 would retain these provisions, and also allow the wheel rims to be painted white. The bill also would allow the roof of a school bus to be white or yellow, however, no part of a school bus could be white below the drip rail above the side windows.

The law also specifies that the words appearing on a school bus be black. Under the bill, the letters would have to be permanently affixed in black letters at least six inches high, and the name of the school district (or contractor) would have to appear on both the front and back of the bus. The words "school bus" would have to be permanently affixed on

the front and back of the bus between the overhead flashers in black letters that are at least eight inches high. The outside of a school bus could not have any other lettering, symbol, marking, or advertising, except that animal pictures, cartoon figures, and similar insignia could be affixed in a temporary manner near the entrance door, but not closer than the second window, to assist in identifying the bus route. A unique identification number could be permanently affixed on the upper corners of the back, front, or sides of the bus. A contractor would have to display a USDOT number, as required by federal rules and regulation. Wording for the school bus roof and door emergency exits found on both the inside and outside of the bus also would have to comply with the motor vehicle safety standards found in federal rules. However, the bill provides for two types of vehicles that would be exempt from these requirements: a multifunctional school activity bus and a motor carrier certified by the state transportation department using a motor bus for school-related event transportation.

Inspection Provisions. Under the law, the Department of State Police inspects school buses annually (or more frequently if defects are found). House Bill 5494 would retain this provision. Currently, a person having control over the operation of a school bus is prohibited from operating, or permitting others to operate, a school bus which has not been inspected. The bill would retain this provision, and include, in addition to a "person," a "school" or "school bus owner." A school bus that is modified after manufacture to use compressed natural gas cannot be used to transport students unless the installation of the fuel system has been inspected and passed by the Department of State Police.

Currently the law prohibits a modified school bus which uses liquefied petroleum gas from being used to transport pupils unless the installation of the fuel system has been inspected and approved as safe by the Department of State Police. The bill would eliminate this provision.

Any public or private entity that owns or uses a school bus for student transportation must identify itself to the Department of State Police so that an inspection can be scheduled. All vehicles that are intended for use must be identified. Those that are not identified would be rejected and affixed with a red sticker. The bill specifies that the Department of State Police can prohibit the placement and use of any device or equipment on a school bus that presents a safety hazard to the students, driver, or motorists during the loading, unloading, or transportation of students.

House Bill 5494 specifies that a school, before establishing a contract with a company for school bus services, require the company to verify, in writing, that the buses used by the contractor have been inspected by the Department of State Police and have passed that inspection. The school must specify in a written contract that the contractor will not use any school buses that have not been inspected, or have failed inspection, and that a violation of the contract provision would result in revocation of the contract. The contract must also specify that the contractor submit, in writing, the inspection results of its entire bus fleet within 30 days after completion of the inspection. Finally, school

officials must identify to the Department of State Police, all of the contractors they are using.

Traveling for Repairs. Under the law, a school bus that is determined by a state police official to be unsafe for further operation cannot be used. House Bill 5494 would retain this provision. However, the bill specifies that a school bus could be transported to a maintenance facility for repair if the school bus driver provided written proof of destination to a state police official upon request.

Safety Sticker. Currently under the law, a school bus that is considered to be in satisfactory condition after inspection by the state police has a passing sticker affixed to its windshield. House Bill 5494 would retain this provision. However, under the bill, the owner of a school bus would be required to remove or destroy the sticker before selling the school bus. Under the bill, the display of a pass sticker on a vehicle other than a school bus would be a civil infraction, and all stickers would be the property of the Department of State Police.

Bus Driver Licensing. Currently under the law, a person cannot operate a school bus without a valid chauffeur's license, the appropriate vehicle group designation, and a passenger vehicle indorsement. House Bill 5494 would retain these provisions and also require a school bus indorsement as required under the Michigan Vehicle Code. The bill specifies that a person with a commercial driver license not operate a school bus and that a school, school bus owner, or lessee not allow a person with a commercial driver license to operate a school bus, unless the operation would be in compliance with the drug and alcohol testing regulations under federal rules.

House Bill 5494 requires that a commercial driver license skills test be administered by a state-authorized commercial driver license examiner to a school bus driver who has had one or more of the following: a) a driver license or commercial driver license suspended, revoked, or canceled; b) been disqualified from operating a commercial motor vehicle; c) been convicted of any of the disqualifying offenses listed in federal rules while operating a commercial motor vehicle or any offense in a noncommercial motor vehicle that would be a disqualifying condition under federal rules if committed in a commercial motor vehicle; d) more than one conviction of any of the serious traffic violations defined in federal rules, while operating a commercial motor vehicle within the last three years; e) been convicted of any motor vehicle traffic violation that resulted in an accident while operating a commercial motor vehicle; and f) been disqualified from operating a school bus. The bill specifies that a driver who was required to take a test would be prohibited from operating a school bus without passing the test. The commercial driver license skills test would have to be conducted by an examiner not employed or under contract with the same agency or school of the driver being tested.

Supervisor Training. Currently under the law, the person in charge of school bus operations at a school must, at a minimum, have successfully completed an introductory school bus safety education course and must subsequently also complete at least six hours of continuing education every two years. House Bill 5494 retains these provisions, but

requires that the person in charge of school bus operations complete the beginning school bus driver training program, and do so in his or her first year of serving as the person in charge of bus operations.

Discharging Students. The law currently describes in considerable detail the manner in which a bus driver is required to discharge student riders when they reach their destinations along the roadside. House Bill 5494 would retain all of these provisions. In addition, the bill specifies that for purposes of this act, a school bus is "clearly and continuously visible" if approaching traffic is able to see the entire width of the front and back of a school bus from a horizontal line tangent with the top of the vehicle's front and rear bumpers to a horizontal line tangent with the vehicle's most forward and rearward roofline, for the entire 400-foot sight line to the school bus with no obstruction of the area for the entire 400-foot sight line to the school bus in its stopped position.

Advisory Committee. The Department of Education has established an advisory committee to offer recommendations concerning school buses and school bus safety, as required under the law. The advisory board's composition is specified in the law, to ensure that the advisory board represents all interested and knowledgeable parties. One of the groups having an appointed member on the board is Buses United for Safety. Under House Bill 5494, that group is replaced with the Training Agency Association of Michigan.

Violations. Currently under the law, a person who violates the Pupil Transportation Act is guilty of a misdemeanor, unless that violation is declared to be a felony or a civil infraction. Under House Bill 5484, a person who violated the act would be responsible for a state civil infraction and be assessed a fine of not more than \$500, unless the violation was a felony.

Definitions. The bill would eliminate the following terms and their definitions: "modified school bus," "pupil transportation vehicle," "rehabilitated school bus," "school transportation vehicle," and "type I premium school bus."

ARGUMENTS:

For:

This bill should be enacted into law in order to better ensure student safety. A three-year review that involved all stakeholders, including parents, members of the Pupil Transportation Advisory Committee, the Department of Education, the Michigan State Police, the Michigan Association of Pupil Transportation, the Michigan School Business Association, the Office of the Secretary of State, and the Michigan Department of Transportation has produced recommended changes to the Pupil Transportation Act that would clarify its language and ensure its compliance with federal laws and rules, as well as with the Michigan Vehicle Code. These recommendations are embodied in House Bill 5494 (H-1).

POSITIONS:

The Pupil Transportation Advisory Committee supports the bill. (1-24-06)

The Michigan State Police support the bill. (1-24-06)

The Michigan Department of Education supports the bill. (1-24-06)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.