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BILL ANALYSIS

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Senate Bill 266 (as introduced 2-22-07)  
Sponsor: Senator Valde Garcia  
Committee: Commerce and Tourism

Date Completed: 3-6-07

## **CONTENT**

**The bill would amend the Motor Carrier Act to do all of the following:**

- Prohibit the Michigan Public Service Commission (PSC) from regulating and determining rates, fares, charges, and classifications, or require the filing of tariffs and schedules, for a "local move" of "household goods".**
- Allow the PSC to require or request carriers to file annual and other reports if it considered the information necessary for the administration and/or enforcement of the Act.**
- Provide that certain requirements regarding rates, fares, and charges would not apply to local moves of household goods.**
- Specify that certain exceptions from the Act would not apply to the transport of household goods.**
- Specify that the Act would not apply to a vehicle transporting property for or on behalf of a nonprofit charitable institution or for a house of public worship.**
- Provide that a carrier of household goods would be liable to the person entitled to recover under a receipt or bill of lading, which the bill would require a carrier to issue for property it received for transportation.**
- Replace "required public purpose" with "useful public purpose" as a criterion the PSC must consider when issuing a certificate to provide transportation as a common motor carrier of property.**

"Local move" would mean a household goods shipment of 40 miles or less, from point of origin to point of destination, as determined by actual miles traveled by the motor carrier and verifiable by odometer reading or mileage guide in general public use.

"Household goods" would mean personal effects and property used or to be used in a dwelling when a part of the equipment or supply of that dwelling. Household goods would not include property moving from a factory or store, except property the householder purchased with intent to use in his or her dwelling and that is transported at the householder's request, for which the carrier's transportation charges are paid by that householder.

### PSC Regulation: Household Goods

The Act requires the PSC to supervise and regulate all motor common carriers of property, regulate and determine reasonable and sufficient rates, fares, charges, and classifications, and regulate the facilities, accounts, service, and safety of operations of each motor common carrier. Under the bill, in the exercise of that jurisdiction, the PSC could not regulate and determine reasonable and sufficient rates, fares, charges, and classifications, or require the filing of tariffs and schedules, for local moves of household goods.

The Act requires each motor common carrier of property, before engaging in business, to print and file with the PSC and keep open to public inspection in its principal place of business and have available upon request, schedules showing all rates, fares, and charges for transportation of property. A carrier may not charge a predatory rate (a rate found by the PSC to be below the carrier's fully allocated cost). In addition, all rates, fares and charges made by a motor common carrier must be just and reasonable, and may not be unjustly discriminatory, prejudicial, or preferential. A motor common carrier may not charge, demand, collect, or receive a greater or less or different remuneration for the transportation of property, or for any service in connection with that transportation, than the rates, fares, and charges that have been legally established and filed with the PSC. A motor common carrier may not refund or remit any portion of the rates, fares, and charges required to be collected by the tariffs on file with or ordered by the PSC. Under the bill, these provisions would not apply to local moves of household goods.

The Act specifies that it does not apply to a vehicle operated entirely within a city or village of this State. Under the bill, the Act would not apply to such a vehicle, other than one transporting household goods.

The Act also does not apply to a motor carrier of property whose operations extend not more than eight miles beyond the boundary of a city or village having a population of less than 500,000, if the origin and destination of the transported property are within an eight-mile radius of the city or village. Under the bill, the Act would not apply to such a motor carrier of property, other than a motor carrier of household goods.

Currently, notwithstanding these provisions (regarding application of the Act), a certificate or permit is required for the operation of a vehicle of a motor carrier, other than a vehicle listed as exempt, in the transportation of property between a city with a population of 500,000 or more and a city or village located within the commercial zone (an eight-mile radius) of a city with a population of 500,000 or more, or between cities or villages within that zone. Under the bill, this requirement would apply to a vehicle of a motor carrier, including a vehicle transporting household goods, under these circumstances.

#### Carrier Reports

The Act authorizes the PSC to take certain actions in order to ensure adequate transportation service to the territory traversed by motor common carriers. Among other things, the PSC may require motor common carriers to file annual and other reports, tariffs, schedules, and other data. The bill would allow this action where the PSC considered that information necessary for the administration and/or enforcement of the Act.

Under the Act, the PSC must require motor contract carriers to file annual and other reports and other data. The bill specifies, instead, that the PSC could request the filing of annual reports, and other reports in specific cases, where the PSC considered that information to be necessary for the administration and/or enforcement of the Act.

#### Carrier Liability

Under the bill, a carrier providing transportation of household goods subject to the Act's jurisdiction would have to issue a receipt or bill of lading for property it received for transportation. The carrier, as well as any other carrier that delivered the property and provided transportation of household goods subject to the Act's jurisdiction, would be liable to the person entitled to recover under the receipt or bill of lading. The liability imposed under the bill would be for the actual loss or injury to the property caused by the carrier over whose line or route the property was transported in Michigan and would apply to property reconsigned or diverted by a tariff under the Act. Failure to issue a receipt or bill of lading would not affect the carrier's liability.

A carrier could not provide, by rule, contract, or otherwise, a period of less than three months for filing a claim against it under these liability provisions, and it could not provide a period of less than two years for bringing a civil action against it. The period for bringing a civil action would be computed from the date the carrier gave a claimant written notice that the carrier had disallowed any part of the claim specified in the notice. An offer of compromise would not constitute a disallowance of any part of the claim unless the carrier, in writing, informed the claimant that part of the claim was disallowed and provided reasons for the disallowance. Communications received from a carrier's insurer would not constitute a disallowance of any part of the claim unless the insurer, in writing, informed the claimant that the part of the claim was disallowed, provided reason for the disallowance, and informed the claimant that the insurer was acting on behalf of the carrier.

### Useful Public Purpose

Under the Act, the PSC must issue a certificate of authority to an applicant, authorizing it to provide transportation, subject to the PSC's jurisdiction, as a common motor carrier of property, if the PSC makes certain findings. These include a finding that, on the basis of evidence presented, the service proposed will serve a "required public purpose", unless the PSC finds that the transportation to be authorized by the certificate would create excess service by endangering the ability of the present carriers to provide adequate, economical, safe, and efficient service. Under the bill, the PSC would have to find on the basis of evidence presented, that the service proposed would serve a "useful public purpose".

In making a finding under these provisions, the PSC must consider and, to the extent applicable, make findings on a number of factors. The bill would delete both of the following from the factors:

- The existing available and adequate service in relation to the character and volume of available traffic.
- Whether the service proposed will create excess service inconsistent with the public interest. The PSC may not find diversion of revenue or traffic from an existing motor carrier to be in and of itself inconsistent with the public interest.

The Act defines "required public purpose" as a purpose for which an applicant can provide adequate, economic, safe, effective, competitive, and equitable motor carrier service to satisfy a demonstrated public necessity, without creating excess service.

The bill instead would define "useful public purpose" as a purpose for which an applicant can provide adequate, economic, safe, effective, competitive, and equitable motor carrier service to satisfy a demonstrated public need.

MCL 475.1 et al.

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The bill would require that all trucks used for moving household goods be registered with the Public Service Commission within the Department of Labor and Economic Growth (DLEG) and pay a \$50 annual fee. The PSC estimates that the revenue from this fee currently is \$50,000 annually. The PSC estimates that the bill would increase revenue by \$50,000 to \$100,000, bringing total revenue to approximately \$100,000 to \$150,000 per year. These fees are received by the Public Service Commission. Motor carrier fee revenue not appropriated to DLEG is transferred to the Department of State Police.

Fiscal Analyst: Elizabeth Pratt/Maria Tyszkiewicz

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.