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 BILL ANALYSIS

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Senate Bill 1451 (as introduced 7-24-08)
Sponsor: Senator Jud Gilbert, II
Committee: Transportation

(as enacted)

Date Completed: 9-9-08

CONTENT

The bill would amend the Motor Carrier Act to incorporate references to the Federal Unified Carrier Registration Act (described under BACKGROUND below), and do the following:

- **Revise the title of the Motor Carrier Act to give the Public Service Commission (PSC) jurisdiction and authority to require registration, conduct audits, and assess fees for motor carriers for unified carrier registration.**
- **Revise registration fees and requirements.**
- **Revise the allocation of fees collected under the Act.**
- **Limit certain provisions to intrastate-only motor carriers of property and motor carriers of household goods.**
- **Allow the PSC to delegate decision-making authority to an employee of the Commission staff in modified procedure.**

Article I (General Definitions & Purpose)

Under the Act, "modified procedure" means that administrative procedure by which the PSC may consider evidence and testimony submitted in the form of verified statements in motor carrier matters without the necessity for an oral hearing. Under the bill, the PSC could delegate decision-making authority to an employee of the Commission staff, so that decisions in modified procedure could be issued under the employee's signature without a formal Commission order.

Article IV (Fees)

In addition to the license fees or taxes otherwise imposed upon motor carriers, Article IV assesses against each motor carrier, for the administration of the Act, an annual fee of \$100 for each self-propelled motor vehicle operated by or on behalf of the motor carrier, except as otherwise provided. The fee is only \$50 if the motor carrier begins operation of the vehicle after June 30 and has not paid a fee for that vehicle previously. After payment of the applicable fee, or the \$50 fee paid for a vehicle used for the transportation of household goods, a replacement identification must be issued if a motor carrier seeks to begin operating a motor vehicle in place of another motor vehicle not leased to the motor carrier by an owner operator for which a fee was paid, and surrenders the identification allocated to the vehicle by the PSC, accompanied by a fee of \$10.

Under the bill, these provisions would apply to a self-propelled intrastate motor vehicle. "Intrastate motor vehicle" would mean a motor vehicle that is operated by an intrastate-only motor carrier of property or a motor carrier that uses the vehicle to transport household goods on an intrastate basis. "Intrastate-only motor carrier of property" would mean a motor carrier of property that is not a UCR (unified carrier registration) motor carrier. "Unified carrier registration motor carrier" would mean a person who is required to pay fees and file information under the Unified Carrier Registration Act (UCRA).

The bill would delete a provision establishing for all other replacement vehicles a \$25 fee for each complete or partial calendar year quarter remaining in the year as of the date the replacement vehicle is to begin operating upon surrender of the identification allocated to the motor carrier by the PSC.

Currently, a motor carrier licensed in Michigan must pay an annual fee of \$100 for each vehicle it operates that is registered in Michigan and operating entirely in interstate commerce. A motor carrier must pay a fee of only \$50 for each motor vehicle operated by or on behalf of the motor carrier if it begins operation of the vehicle after June 30 and has not paid a fee for that vehicle previously. The bill would delete these provisions.

The Motor Carrier Act prohibits a motor carrier from operating any motor vehicle on Michigan highways, except as otherwise provided, while any of the fees remain unpaid. The bill would delete a provision prohibiting the PSC from extending the time of payment or permitting the operation while the delinquency continues.

The bill also would delete a provision requiring the PSC to cooperate with other state departments involved with the registration of commercial motor vehicles (CMVs) to implement a system under which CMV owners or drivers can obtain registration plates, decals, or tabs and pay the required fees at a single designated location, rather than at multiple locations.

Currently, all money received under the Act must be placed to the credit of the PSC. The Legislature must appropriate the money to the PSC and the Motor Vehicle Highway Fund in the proportions it determines. Under the bill, the Legislature would have to appropriate the money to the PSC and the Michigan Department of State Police, rather than the Fund, in a manner that was consistent with the requirement of the UCRA that a state demonstrate that it uses an amount at least equal to the revenue derived from its participation in the Unified Carrier Registration Agreement (UCRA) for motor carrier safety programs, enforcement, and the administration of the Uniform Carrier Registration Plan and Agreement.

"Unified carrier registration agreement" would mean the interstate agreement developed under the Unified Carrier Registration Plan governing the collection and distribution of registration and financial responsibility information provided and fees paid by UCR motor carriers, motor private carriers, brokers, freight forwarders, and leasing companies under the Unified Carrier Registration Act. "Unified carrier registration plan" would mean the organization of state, Federal, and industry representatives responsible for developing, implementing, and administering the UCR Agreement.

Currently, a motor carrier may not engage in the interstate or foreign transportation of property for compensation without first registering with the PSC and paying the required registration and vehicle fees. Under the bill, instead, a UCR motor carrier, motor private carrier, broker, freight forwarder, leasing company, or other person subject to the requirements of the UCRA could not conduct operations or otherwise provide transportation services in Michigan without first having registered under, and met the obligations imposed by, the UCR Plan and Agreement.

The Act requires a motor carrier operating in Michigan under authority granted by the Interstate Commerce Commission to file and maintain a record of that authority with the PSC. A motor carrier may not operate within Michigan without first complying with this requirement. The bill would delete these provisions.

The Act prohibits a motor carrier from engaging in the interstate transportation of property within Michigan pursuant to exemptions from economic regulation permitted under the Interstate Commerce Act without PSC approval of an application for the registration of exempt operations. The bill would delete this provision.

The bill also would delete provisions establishing a \$10 annual fee for each interstate or foreign motor carrier vehicle operated in Michigan and licensed in another state or Canadian province, and allowing the PSC to enter into a reciprocal agreement with a state or province that does not charge vehicles licensed in Michigan economic regulatory fees or taxes and waive the required fee.

Currently, at least 90% of the fees collected in excess of \$1.4 million annually must be deposited in the Truck Safety Fund. Under the bill, instead, at least \$750,000 or 10% of the collected fees, whichever was greater, would have to be deposited in the Fund. (The Truck Safety Fund is administered by the Office of Highway Safety Planning within the Michigan Department of State Police, and its expenditures are controlled by the Michigan Truck Safety Commission. Authorized expenditures of Fund money include the establishment of truck driver safety education programs, grants for research and demonstration projects, special transportation enforcement team operations, and investigating, performing data collection and analysis, and making recommendations on truck accidents within the State.)

The bill would define "broker", "freight forwarder", and "motor private carrier" as those terms are defined under 49 USC 13102. "Leasing company" would have the same definition as in 49 USC 14504a.

(Under Section 13102, "broker" means a person, other than a motor carrier or an employee or agent of a motor carrier, that as a principal or agent sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, transportation by motor carrier for compensation. "Freight forwarder" means a person holding itself out to the general public (other than as a pipeline, rail, motor, or water carrier) to provide transportation of property for compensation and in the ordinary course of its business assembles and consolidates, or provides for assembling and consolidating, shipments and performs or provides for break-bulk and distribution operations of the shipment; assumes responsibility for the transportation from the place of receipt to the place of destination; and uses for any part of the transportation a carrier subject to jurisdiction under Subtitle IV (Interstate Transportation) of Title 49 of the U.S. Code. "Motor private carrier" means a person, other than a motor carrier, transporting property by CMV when the transportation is as provided in Section 13501 of Title 49; the person is the owner, lessee, or bailee of the property being transported; and the property is being transported for sale, lease, rent, or bailment or to further a commercial enterprise.

(Section 13501 pertains to transportation by motor carrier and the procurement of that transportation, to the extent that passengers, property, or both, are transported between a place in a state and a place in another state; between a place in a state and another place in the same state through another state; between a place in the U.S. and a place in a U.S. territory or possession to the extent the transportation is in the U.S.; between a place in the U.S. and another place in the U.S. through a foreign country to the extent the transportation is in the U.S.; or between a place in the U.S. and a place in a foreign country to the extent the transportation is in the U.S.; and in a reservation under the exclusive jurisdiction of the U.S. or on a public highway.)

Under Section 14504a, "leasing company" means a lessor that is engaged in the business of leasing or renting for compensation motor vehicles without drivers to a motor carrier, motor private carrier, or freight forwarder.)

Article V (Policy of State, Exemptions, Limitations, General Regulations & Procedures; Penalties)

The Act does not apply to any of the following:

- A vehicle, other than a vehicle transporting household goods, operated entirely within a city or village of this State; or a motor carrier of property, other than a motor carrier of household goods, whose operations do not extend more than eight miles beyond the boundary of a city or village with a population of less than 500,000, if the origin and destination of the property being transported is within an eight-mile radius of the city or village.
- A vehicle owned or operated by the State or the U.S., or by a State or Federal corporation, agency, or instrumentality.
- A vehicle owned or operated by an incorporated city, village, or school district, or by a county or township in the State or by a corporation, agency, or instrumentality of the State, for governmental purposes.
- A vehicle used exclusively for carrying U.S. mail.
- A vehicle used for the transportation of farm products, including livestock, when

transported by other than the owner, from the farm to the market in the raw state, or used for the transportation of milk from the farm to milk stations, or trucks owned by a farmer bearing a licensed farm truck, when being used by the farmer in hauling farm produce, livestock, or farm equipment, and supplies for other farmers for remuneration in kind or in labor, but not for money.

- A vehicle used for the transportation of fruits, eggs, poultry, fish and seafood, grain, vegetables, seeds, nursery stock, horticultural products, and sugar beets in the raw state.
- A vehicle used for occasional accommodative service, including seasonal transportation of perishable commodities, even though the cost of the service and seasonal transportation may be paid the by the accommodated person.
- A dump truck with up to four axles or any dump vehicle moving directly to and from a public highway, airport, or railroad or bridge construction site, when used for the transportation of sand, gravel, slag, stone, limestone, crushed stone, marl, pebbles, cinders, bituminous aggregates, asphalt, blacktop, dirt, or fill material, or any dump vehicle transporting commodities generally transported in the vehicle operating within an eight-mile radius of a city with a population of at least 500,000 and all cities or villages of which any part is located within the eight-mile radius.
- A vehicle used to transport a vehicle that is disabled temporarily from a point within an eight-mile radius of a city with a population of at least 500,000 and all cities or villages of which any part is located within the eight-mile radius, to another point within that radius.
- A vehicle used for the transportation of pulpwood, logs, wood chips, bark, and sawdust when the vehicle is being used to move the commodities from a forest, woodlot, cutting site, sawmill, or chipping site to a market or railroad siding of up to a 140-mile radius from the place where the vehicle is loaded.
- A vehicle with a manufacturer's rating of up to 1.5 tons capacity or the equivalent gross vehicle weight rating used for the transportation of newspapers.
- A vehicle towing a disabled motor vehicle from the location at which it was disabled

to another location or a vehicle towing a motor vehicle involved in an accident from the location of the accident to another location.

- A vehicle used in the transportation of livestock, poultry feed, chemicals, pesticides, and fertilizers on movements directly to a farm for use in agricultural production.
- A vehicle used for the transportation of property for compensation provided by a person who is a member of a corporate family for other members of the corporate family, if certain conditions are met.
- A vehicle transporting animal and poultry feed or feed ingredients to sites of agricultural production or to a business enterprise engaged in the sale to agricultural producers of goods used in agricultural production.
- A vehicle transporting recyclable materials to or from a resource recovery facility.
- A vehicle transporting property for, or on behalf of, a nonprofit charitable institution or for a house of public worship.

Under the bill, the Act would not apply to these vehicles except as provided in Article IV.

Currently, the PSC must furnish proper and sufficient identification for each vehicle authorized to operate under the terms of the Act, in addition to the regular registration or license plates required by law. Under the bill, the PSC would have to furnish proper and sufficient identification for each vehicle that an intrastate-only motor carrier of property was authorized to operate or that a motor carrier was authorized to operate for transporting household goods under the Act, in addition to the required regular plates.

The Act gives the PSC the full power and authority to make insurance or bond requirements under uniform regulations as it deems necessary to protect adequately the interests of the public. The bill would delete the reference to uniform regulations, and instead authorize and require the PSC to make insurance and bond requirements for intrastate-only motor carriers of property and motor carriers of household goods.

Under the Act, all certificates or permits must be made to terminate as of December

31 of the calendar year during which they are issued. All motor carriers must apply for the renewal of their certificates or permits between October 1 and December 1 of the year in which their current certificates or permits expire. Certificate and permit holders who do not apply by December 1 must be advised by the PSC and given the opportunity to file their applications by December 31 on payment of a \$50 penalty. The renewal application must be accompanied by the required fees, proof of insurance, and all other things required to be filed by law or PSC rules and orders. Under the bill, these provisions would apply to intrastate-only motor carriers of property and motor carriers transporting household goods.

Under the Act, the certificate or permit of any motor carrier who is delinquent in the payment of the earned fees required to be paid at the time of a renewal is deemed canceled and terminated, on and after January 1 of the year for which application should have been made, and the motor carrier is prohibited from operating any of its vehicles on Michigan highways and all privileges granted under the expiring certificate or permit cease. Under the bill, these provisions would apply to intrastate-only motor carriers of property and motor carriers transporting household goods. Upon expiration, an intrastate-only motor carrier of property would be prohibited from operating any vehicles, and a motor carrier authorized to transport household goods would be prohibited from operating any vehicle to transport household goods or engage in any other service subject to renewal of the certificate.

MCL 475.1 et al.

BACKGROUND

The Unified Carrier Registration Act of 2005 was enacted as part of the Federal highway reauthorization bill known as the Safe, Accountable, Flexible, Efficient Transportation Equity Act, A Legacy for Users (SAFETEA-LU). The Act contains the Uniform Carrier Registration Agreement (UCRA).

The UCRA is designed to replace the Single State Registration System (SSRS) for motor carriers. The SSRS applied only to regulated for-hire motor carriers, while the UCRA

requires all motor carriers required to register with the U.S. Department of Transportation, including private, for-hire, and exempt carriers, as well as brokers, freight forwarders, and leasing companies, to pay fees. Exclusively intrastate motor carriers are not subject to UCRA, unless a participating state chooses to extend UCRA requirements to its intrastate carriers.

The fees collected by a participating state in excess of the revenue to which the state is entitled under the UCRA are to be forwarded to a depository for distribution to other participating states. Each participating state will collect UCRA fees from the carriers based with it for the program. The state will retain those collections until it has satisfied its UCRA revenue entitlement, after which it will transfer additional collections to the depository.

When a state files its UCRA administration plan with the U.S. Secretary of Transportation, the state must demonstrate that it will spend an amount equal to its UCRA entitlement on motor carrier safety programs, enforcement, or administrative expenses.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would implement the Unified Carrier Registration Agreement, the motor carrier regulation plan developed pursuant to the Unified Carrier Registration Act of 2005. If Michigan does not come into compliance with UCRA, the State could lose its share of interstate motor carrier fees, which is approximately \$7.5 million annually. These funds are used currently for the Michigan Public Service Commission's cost of administering motor carrier registration and for enforcement and safety programs conducted by the Michigan State Police.

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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.