

Act No. 584  
Public Acts of 2008  
Approved by the Governor  
January 15, 2009  
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**STATE OF MICHIGAN  
94TH LEGISLATURE  
REGULAR SESSION OF 2008**

Introduced by Senator Gilbert

# **ENROLLED SENATE BILL No. 1451**

AN ACT to amend 1933 PA 254, entitled "An act to promote safety upon and conserve the use of public highways of the state; to provide for the supervision, regulation, and control of the use of such highways by all motor vehicles operated by carriers of property for hire upon or over such highways; to preserve, foster, and regulate transportation and permit the coordination of motor vehicle transportation facilities; to provide for the supervision, regulation, and control of the use of such highways by all motor vehicles for hire for such purposes; to classify and regulate carriers of property by motor vehicles for hire upon such public highways for such purposes; to give the Michigan Public Service Commission jurisdiction and authority to prevent evasion of this act through any device or arrangement; to insure adequate transportation service; to give the commission jurisdiction and authority to fix, alter, regulate, and determine rates, fares, charges, classifications, and practices of common motor carriers for such purposes; to require filing with the commission of rates, fares, and charges of contract carriers and to authorize the commission to prescribe minimum rates, fares, and charges, and to require the observance thereof; to prevent unjust discrimination; to prescribe the powers and duties of said commission with reference thereto; to provide for appeals from the orders of such commission; to confer jurisdiction upon the circuit court for the county of Ingham for such appeals; to provide for the levy and collection of certain privilege fees and taxes for such carriers for such purposes and the disposition of such fees and taxes; and to provide for the enforcement of this act; and to prescribe penalties for its violations," by amending the title and section 1 of article I, sections 2, 6, and 7 of article IV, and sections 2, 8, 9, and 10 of article V (MCL 475.1, 478.2, 478.6, 478.7, 479.2, 479.8, 479.9, and 479.10), the title and section 10 of article V as amended by 1982 PA 399, section 1 of article I and section 2 of article V as amended by 2007 PA 33, section 2 of article IV as amended by 1993 PA 352, and section 7 of article IV as amended by 1989 PA 221.

*The People of the State of Michigan enact:*

## TITLE

An act to promote safety upon and conserve the use of public highways of the state; to provide for the supervision, regulation, and control of the use of such highways by all motor vehicles operated by carriers of property for hire upon or over such highways; to preserve, foster, and regulate transportation and permit the coordination of motor vehicle transportation facilities; to provide for the supervision, regulation, and control of the use of such highways by all motor vehicles for hire for such purposes; to classify and regulate carriers of property by motor vehicles for hire upon such public highways for such purposes; to give the Michigan Public Service Commission jurisdiction and authority to prevent evasion of this act through any device or arrangement; to insure adequate transportation service; to give the commission jurisdiction and authority to fix, alter, regulate, and determine rates, fares, charges, classifications, and practices of common motor carriers for such purposes; to give the commission jurisdiction and authority to require registration, conduct audits, and assess fees for motor carriers for unified carrier registration; to require filing with the commission of rates, fares, and charges of contract carriers and to authorize the commission to prescribe minimum rates,

fares, and charges, and to require the observance thereof; to prevent unjust discrimination; to prescribe the powers and duties of said commission with reference thereto; to provide for appeals from the orders of such commission; to confer jurisdiction upon the circuit court for the county of Ingham for such appeals; to provide for the levy and collection of certain privilege fees and taxes for such carriers for such purposes and the disposition of such fees and taxes; and to provide for the enforcement of this act; and to prescribe penalties for its violations.

## ARTICLE I

Sec. 1. The words and phrases used in this act shall be construed as follows, unless the context shall otherwise require:

(a) "Motor vehicle" means any automobile, truck, trailer, semitrailer, truck tractor, road tractor, or any self-propelled or motor or mechanically driven vehicle, or any vehicle in anywise attached to, connected with, or drawn by any self-propelled or motor or mechanically driven vehicle, used upon any public highway of this state for the purpose of transporting property.

(b) "Public highway" means any public highway, road, street, avenue, alley, or thoroughfare of any kind, or any bridge, tunnel, or subway used by the public.

(c) "Commission" means the Michigan public service commission.

(d) "Person" means any individual, partnership, association, or corporation, and their lessees, trustees, or receivers appointed by any court.

(e) "For hire" means for remuneration or reward of any kind, paid or promised, either directly or indirectly.

(f) "Motor common carrier of property" means any person who holds himself or herself out to the public as being engaged in the business of a for hire common carrier as at the common law, either directly or through any device or arrangement, including but not limited to those who operate over fixed routes or within 1 mile of a fixed route or between fixed termini, in the transportation by motor vehicle from place to place upon or over the highways of this state, the property, or any property, or any class of property of others who may choose to employ the person.

(g) "The public" means that part or portion of the general public which the motor carrier is ready, able, willing, and equipped to serve.

(h) "Motor contract carrier of property" means any person providing motor vehicle transportation upon the highways of this state for a series of shipments under continuing agreement of not less than 1 year with a person which agreement provides for the assignment of motor vehicles exclusively for each such person while the vehicle is in the service of such person and which agreement is designed to meet the distinct needs of each such person. Lower rates, in and of themselves, shall not constitute a distinct need. A motor contract carrier that possesses a motor common carrier certificate of authority of that class set forth at section 5(6)(a) of article II may commingle authorized contract carrier shipments while providing common carrier service over fixed routes, without assigning any vehicle exclusively for the person or persons for whom contract service is provided. A motor contract carrier authorized to transport packages or articles weighing 70 pounds or less for 1 or more contract shippers may commingle such authorized packages or articles weighing 70 pounds or less in the same vehicle with commodities transported as a common or contract carrier, without assigning any vehicle exclusively for the person or persons for whom contract service is provided. A motor contract carrier authorized to transport coin, currency, or food stamps for 1 or more contract shippers, may commingle such authorized coin, currency, or food stamps in the same vehicle with commodities transported as a common or a contract carrier, without assigning any vehicle exclusively for the person for whom contract service is provided.

(i) "Motor carrier" means both motor common carriers of property and motor contract carriers of property. Motor carrier does not include any person engaged in the transportation of property by motor vehicle upon public highways where the transportation is incidental to, or in furtherance of, any commercial enterprise of the person, other than transportation.

(j) "Certificate of authority" means a certificate issued to a motor common carrier authorizing a transportation service that serves a useful public purpose responsive to a public demand or need, which certificate is issued under the terms of this act.

(k) "Permit" means the permit issued to motor contract carriers under the terms of this act.

(l) "Through any device or arrangement" means any and all methods, means, agreements, circumstances, operations, or subterfuges under which any person undertakes for hire to conduct, direct, control, or otherwise perform the transportation by motor vehicle of property upon the public highways of this state.

(m) "Modified procedure" means that administrative procedure by which the commission may consider evidence and testimony submitted in the form of verified statements in motor carrier matters without the necessity for an oral hearing. The commission may delegate decision-making authority to an employee of the commission staff, so that decisions in modified procedure may be issued under the signature of the employee without a formal commission order.

(n) "Occasional accommodative service" means service limited to operations conducted by persons not regularly engaged in the transportation business of a motor common carrier or a motor contract carrier.

(o) "Useful public purpose" means a purpose for which an applicant can provide adequate, economic, safe, effective, competitive, and equitable motor carrier service to satisfy a demonstrated public need.

(p) "Fit", as applied to a proposed motor carrier service, means safe, suitable, and financially responsible as determined by the commission.

(q) "General rate" means a rate applicable to 2 or more motor carriers which rate is filed pursuant to section 6b of article V.

(r) "Base rate, fare, or charge" means that nondiscounted rate, fare, or charge specified in a carrier's rate schedule on file with the commission.

(s) "Predatory rate" means a rate that is below its fully allocated costs. As used in this subdivision, "fully allocated costs" means total costs, including variable costs, plus an allocation of fixed costs.

(t) "Household goods" means 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 do not include property moving from a factory or store, except such property as the householder has purchased with intent to use in his or her dwelling and that is transported at the request of the householder, the carrier's transportation charges for which are paid by that householder.

(u) "Local move" means 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.

(v) "Intrastate-only motor carrier of property" means a motor carrier of property that is not a UCR motor carrier.

(w) "Intrastate motor vehicle" means a motor vehicle that is operated by 1 of the following:

(i) An intrastate-only motor carrier of property.

(ii) A motor carrier that uses the motor vehicle to transport household goods on an intrastate basis.

(x) "UCR motor carrier" means a person that is required to pay fees and file information under section 4305 of the federal unified carrier registration act of 2005, 49 USC 14504a.

(y) "Unified carrier registration agreement" means 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 section 4305 of the federal unified carrier registration act of 2005, 49 USC 14504a.

(z) "Unified carrier registration plan" means the organization of state, federal, and industry representatives responsible for developing, implementing, and administering the unified carrier registration agreement under section 4305 of the federal unified carrier registration act of 2005, 49 USC 14504a.

(aa) "Broker" means that term as defined in 49 USC 13102.

(bb) "Freight forwarder" means that term as defined in 49 USC 13102.

(cc) "Motor private carrier" means that term as defined in 49 USC 13102.

(dd) "Commercial motor vehicle" means that term as defined in 49 USC 14504a.

(ee) "Leasing company" means that term as defined in 49 USC 14504a.

#### ARTICLE IV

Sec. 2. (1) In addition to the license fees or taxes otherwise imposed upon motor carriers, there shall be assessed against and collected from each motor carrier for the administration of this act, an annual fee of \$100.00 for each self-propelled intrastate motor vehicle operated by or on behalf of the motor carrier, except as otherwise provided in this subsection. A motor carrier shall pay a fee of only \$50.00 for each self-propelled intrastate motor vehicle operated by or on behalf of the motor carrier, if the motor carrier begins operation of the vehicle after June 30 and has not previously paid a fee under this subsection for that vehicle. After payment of the \$100.00 annual fee for an intrastate motor vehicle, or the \$50.00 fee paid for a vehicle operated after June 30, or the \$50.00 fee paid for a vehicle used for the transportation of household goods if a motor carrier seeks to begin operating a self-propelled intrastate 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 motor vehicle by the commission, accompanied by a fee of \$10.00, a replacement identification shall be issued. If the owner operator replaces a vehicle while it is still leased to the same motor carrier to whom it was leased when the identification was issued, the replacement identification fee shall be \$10.00. For each truck or tractor used exclusively for the transportation of household goods as defined by the commission, the annual fee shall be \$50.00.

(2) The commission may issue a temporary 72-hour permit for the operation of a vehicle subject to rules and conditions of the commission at a fee of \$10.00, which is in place of any other fee otherwise required under this section. The commission shall reserve the authority to deny or curtail the use of temporary permits authorized by this section.

(3) A motor carrier shall not operate any motor vehicle upon or over the highways of this state, except as otherwise provided in this act, while any of the fees imposed by this act remain unpaid.

(4) Motor carriers subject to this act shall not be required to pay the fee on operations of vehicles within the area described in section 2(1)(a) of article V.

Sec. 6. All money received under the provisions of this act shall be placed to the credit of the commission. The legislature shall appropriate such money to the commission and the department of state police in a manner that is consistent with the requirement of section 4305 of the unified carrier registration act of 2005, 49 USC 14504a, 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 for motor carrier safety programs, enforcement, and the administration of the uniform carrier registration plan and agreement.

Sec. 7. (1) A UCR motor carrier, motor private carrier, broker, freight forwarder, leasing company, or other person subject to the requirements of section 4305 of the federal unified carrier registration act of 2005, 49 USC 14504a, shall not conduct operations or otherwise provide transportation services in this state without first having registered under, and met the obligations imposed by, the unified carrier registration plan and agreement.

(2) Not less than \$750,000.00 or 10% of the fees collected pursuant to this section, whichever is greater, shall be deposited in the truck safety fund established in section 25 of 1951 PA 51, MCL 247.675.

## ARTICLE V

Sec. 2. (1) Except as provided in section 7 of article IV, this act does not apply to any of the following:

(a) A vehicle, other than a vehicle transporting household goods, operated entirely within a city or village of this state; or to a motor carrier of property, other than a motor carrier of household goods, whose operations may extend a distance of not more than 8 miles beyond the boundary of a city or village having a population of less than 500,000, if the origin and destination of the property being transported is within an 8-mile radius of the city or village. The territory within the external corporate limits of a city, even though it includes and embraces the area of 1 or more separately organized and existing cities, shall be considered a single city. Notwithstanding any other provision of this subdivision, a certificate or permit issued under this act is required for the operation of a vehicle of a motor carrier, including a vehicle transporting household goods, other than a vehicle exempted under subdivisions (b) to (q), in the transportation of property between a city having a population of 500,000 or more and a city or village located within the commercial zone of a city having a population of 500,000 or more, or between cities or villages within that commercial zone. As used in this subdivision, "commercial zone" means the area within an 8-mile radius of a city having a population of 500,000 or more and includes all cities and villages, any part of which are located within that 8-mile radius.

(b) A vehicle owned or operated by the state or the United States, or by a state or federal corporation, agency, or instrumentality.

(c) 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.

(d) A vehicle used exclusively for carrying United States mail.

(e) 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 farm truck license issued under section 801(1)(c) of the Michigan vehicle code, 1949 PA 300, MCL 257.801, 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.

(f) A vehicle used for the transportation of fruits, eggs, poultry, fish and seafood, grain, vegetables, seeds, nursery stock, horticultural products, and sugar beets. This subdivision shall not exempt a vehicle transporting the commodities described in this subdivision in other than the raw state.

(g) A vehicle used for occasional accommodative service including seasonal transportation of perishable commodities even though the cost of the accommodative service and seasonal transportation of perishable commodities may be paid by the person accommodated.

(h) A dump truck having not more than 4 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 dump vehicle operating within an 8-mile radius of a city having a population of 500,000 or more and including all other cities or villages, any part of which is located within the 8-mile radius.

(i) A vehicle used to transport a vehicle that is temporarily disabled from a point within an 8-mile radius of a city having a population of 500,000 or more and including all other cities or villages, any part of which is located within the 8-mile radius to another point within that radius.

(j) 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 not more than a 140-mile radius from the place where the vehicle is loaded.

(k) A vehicle having a manufacturer's rating of not more than 1-1/2 tons capacity or the equivalent gross vehicle weight rating used for the transportation of newspapers.

(l) 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.

(m) 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.

(n) 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 all of the following conditions are met:

(i) The parent corporation notifies the commission annually of its intent or the intent of 1 of its subsidiaries to provide the transportation.

(ii) The notice described in subparagraph (i) contains a list of participating subsidiaries and an affidavit that the parent corporation owns directly or indirectly a 100% interest in each of the subsidiaries.

(iii) The notice described in subparagraph (i) is accompanied by a fee of \$100.00.

(iv) The commission publishes the notice described in subparagraph (i) in the biweekly bulletin.

(v) A copy of the notice described in subparagraph (i) is carried in the cab of all vehicles conducting the transportation.

(o) 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.

(p) A vehicle transporting recyclable materials to or from a resource recovery facility. The terms "recyclable materials" and "resource recovery facility" have the meanings attributed to these terms in part 115 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11501 to 324.11550, except that the term recyclable materials does not include industrial scrap metal. This subdivision shall not be construed to exempt from this act a vehicle transporting new products.

(q) A vehicle transporting property for, or on behalf of, a nonprofit charitable institution or for a house of public worship.

(2) As used in subsection (1)(n), "corporate family" means a group of corporations consisting of a parent corporation and all subsidiaries in which the parent corporation owns directly or indirectly a 100% interest.

(3) None of the exemptions in this section, where applicable, apply to a vehicle entering this state from another state, foreign country, or subdivision of a state or foreign country that does not extend similar exemptions to vehicles from this state entering the state, foreign country, or subdivision.

Sec. 8. The commission shall furnish proper and sufficient identification for each vehicle that an intrastate-only motor carrier of property is authorized to operate or that a motor carrier is authorized to operate for transporting household goods under this act, in addition to the regular registration or license plates required by law. The commission is authorized to remove and take custody of any identification found attached to a motor vehicle for which it was not issued, or when the holder of the identification has made or is making unlawful use thereof.

Sec. 9. Insurance and bond requirements. The commission shall have full power and authority to make and shall make such insurance or bond requirements for intrastate-only motor carriers of property and motor carriers of household goods as it may deem necessary adequately to protect the interests of the public.

Sec. 10. (1) All certificates or permits granted to intrastate-only motor carriers of property and motor carriers transporting household goods shall be made to terminate as of December 31 of the calendar year during which the certificate or permit is issued. All intrastate-only motor carriers of property and motor carriers transporting household goods shall make application for the renewal of their certificates or permits not before October 1 and not later than December 1 of the year in which their current certificate or permit expires. Certificate and permit holders not making application by December 1 shall be advised by the commission and given the opportunity to file their applications on or before December 31 on payment of a penalty of \$50.00. The renewal application shall be accompanied with the required fees, proof of insurance, and all other things required to be filed with the commission by law or by the rules and orders of the commission.

(2) The certificate or permit of any intrastate-only motor carrier of property or motor carrier transporting household goods who is delinquent in the payment of the earned fees required by this act to be paid at the time of any renewal thereof shall be deemed canceled and terminated, on and after January 1 of the year for which application should have been made under the requirements of this section. Upon expiration, an intrastate-only motor carrier of property shall be prohibited from operating any of its vehicles, and a motor carrier authorized to transport household goods shall be prohibited from operating any vehicle to transport household goods or engage in any other service subject to renewal of the certificate, upon or over the highways of this state. All privileges granted under the expiring certificate or permit shall cease.

(3) In case any applicant for renewal of a certificate or a permit fails, otherwise than in the payment of fees, to comply in all respects with the law and the rules of the commission in connection with the filing of the application for renewal, the commission immediately shall give specific written notice of that failure to the applicant and shall require in the notice that the applicant correct the matter specified within 10 days after the notice. Upon the failure of the applicant to make the correction within the time, or in case of the failure to accompany the application with the required filing fee, the certificate or permit of the applicant shall be revoked without any action whatever upon the part of the commission.

(4) Except as in this section otherwise provided, the provisions in this act voiding a certificate or a permit for cause shall be self-executing and shall not require any affirmative act on the part of the commission, and the commission is expressly prohibited from extending and shall not have any power to extend the privilege or permit nor to allow the carrier to engage in any operation over the public highway. In no case shall the revocation of any certificate or a permit release any motor carrier from liability for accrued fees.

(5) Upon full compliance with the requirements with respect to the filing of the application, the certificate or permit shall issue for the succeeding calendar year, subject to all the provisions of this act.

(6) The holder of a certificate or permit under this act may add equipment at any time, but when adding equipment subject to a privilege fee prescribed by this act, the holder shall file an ex parte application in the form as the commission requires and pay for each unit of equipment added, the fee prescribed in section 2 of article IV. A notice of hearing on the application shall not be required and a public hearing shall not be held thereon. When the holder of any certificate or permit, excepting a certificate or permit that authorizes the transportation of household goods while such household goods are being transported, by lease, contract, or any arrangement other than outright purchase, augments his or her equipment, the lease, contract, or arrangement shall be in writing and of such a character so as to vest in the holder exclusive possession and control of the vehicle under the lease or arrangement for the entire term of the lease or arrangement. Any operation of the vehicle shall be conducted under the exclusive supervision, direction, and control of the holder.

(7) A certificated or permitted unit of equipment may be withdrawn from service at any time by surrendering to the commission the identification allocated to the unit at the time it was certificated or permitted.

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate

*Richard J. Brown*

Clerk of the House of Representatives

Approved .....

.....  
Governor