

HOUSE BILL No. 5494

December 12, 2001, Introduced by Rep. Gilbert and referred to the Committee on Transportation.

A bill to amend 1933 PA 254, entitled "The motor carrier act," by amending the title and sections 1, 2, and 3 of article I, sections 1, 3, 4, 5, 6, 7, 7a, 7c, 9, 10, 11, 13, and 14 of article II, sections 2 and 6 of article IV, and sections 10, 10a, and 14 of article V (MCL 475.1, 475.2, 475.3, 476.1, 476.3, 476.4, 476.5, 476.6, 476.7, 476.7a, 476.7c, 476.9, 476.10, 476.11, 476.13, 476.14, 478.2, 478.6, 479.10, 479.10a, and 479.14), the title and sections 1, 4, 6, 9, 10, 11, 13, and 14 of article II and section 10 of article V as amended by 1982 PA 399 and sections 1, 2, and 3 of article I, sections 3, 5, 7, and 7a of article II, section 2 of article IV, and sections 10a and 14 of article V as amended and section 7c of article II as added by 1993 PA 352; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

2 An act to promote safety upon and conserve the use of public
3 highways of the state; to provide for the supervision, regula-
4 tion, and control of the use of such highways by all motor vehi-
5 cles operated by CERTAIN carriers of property for hire upon or
6 over such highways; to preserve, foster, and regulate transporta-
7 tion and permit the coordination of motor vehicle transportation
8 facilities; to provide for the supervision, regulation, and con-
9 trol of the use of such highways by all motor vehicles for hire
10 for such purposes; ~~to classify and regulate carriers of property~~
11 ~~by motor vehicles for hire upon such public highways for such~~
12 ~~purposes;~~ to give the Michigan ~~Public Service Commission~~
13 PUBLIC SERVICE COMMISSION jurisdiction and authority to prevent
14 evasion of this act through any device or arrangement; to
15 ~~insure~~ ENSURE adequate transportation service; to give the com-
16 mission jurisdiction and authority to fix, alter, regulate, and
17 determine rates, fares, charges, classifications, and practices
18 of ~~common~~ CERTAIN motor carriers for such purposes; ~~to require~~
19 ~~filing with the commission of rates, fares, and charges of con-~~
20 ~~tract carriers and to authorize the commission to prescribe mini-~~
21 ~~mum rates, fares, and charges, and to require the observance~~
22 ~~thereof;~~ to prevent unjust discrimination; to prescribe the
23 powers and duties of ~~said~~ THE commission with reference there-
24 to; to provide for appeals from the orders of such commission; to
25 confer jurisdiction upon the circuit court for the county of
26 Ingham for such appeals; to provide for the levy and collection

1 of certain privilege fees and taxes for such carriers for such
2 purposes and the disposition of such fees and taxes; ~~and~~ to
3 provide for the enforcement of this act; and to prescribe penal-
4 ties for its violations.

5

ARTICLE I

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

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

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

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

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

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

25 ~~—(f) "Motor common carrier of property" means any person who~~
26 ~~holds himself or herself out to the public as being engaged in~~
27 ~~the business of a for hire common carrier as at the common law,~~

~~1 either directly or through any device or arrangement, including
2 but not limited to those who operate over fixed routes or within
3 1 mile of a fixed route or between fixed termini, in the trans-
4 portation by motor vehicle from place to place upon or over the
5 highways of this state, the property, or any property, or any
6 class of property of others who may choose to employ the person.~~

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

10 ~~(h) "Motor contract carrier of property" means any person
11 providing motor vehicle transportation upon the highways of this
12 state for a series of shipments under continuing agreement of not
13 less than 1 year with a person which agreement provides for the
14 assignment of motor vehicles exclusively for each such person
15 while the vehicle is in the service of such person and which
16 agreement is designed to meet the distinct needs of each such
17 person. Lower rates, in and of themselves, shall not constitute
18 a distinct need. A motor contract carrier that possesses a motor
19 common carrier certificate of authority of that class set forth
20 at section 5(6)(a) of article II may commingle authorized con-
21 tract carrier shipments while providing common carrier service
22 over fixed routes, without assigning any vehicle exclusively for
23 the person or persons for whom contract service is provided. A
24 motor contract carrier authorized to transport packages or arti-
25 cles weighing 70 pounds or less for 1 or more contract shippers
26 may commingle such authorized packages or articles weighing 70
27 pounds or less in the same vehicle with commodities transported~~

~~1 as a common or contract carrier, without assigning any vehicle
2 exclusively for the person or persons for whom contract service
3 is provided. A motor contract carrier authorized to transport
4 coin, currency, or food stamps for 1 or more contract shippers,
5 may commingle such authorized coin, currency, or food stamps in
6 the same vehicle with commodities transported as a common or a
7 contract carrier, without assigning any vehicle exclusively for
8 the person for whom contract service is provided.~~

9 (G) ~~(i)~~ "Motor carrier" means ~~both motor common carriers~~
10 ~~of property and motor contract carriers of property~~ A PERSON WHO
11 HOLDS HIMSELF OR HERSELF OUT TO THE PUBLIC AS BEING ENGAGED IN
12 THE BUSINESS OF A FOR HIRE COMMON CARRIER, EITHER DIRECTLY OR
13 THROUGH ANY DEVICE OR ARRANGEMENT, INCLUDING BUT NOT LIMITED TO
14 THOSE WHO OPERATE OVER FIXED ROUTES OR WITHIN 1 MILE OF A FIXED
15 ROUTE OR BETWEEN FIXED TERMINI, IN THE TRANSPORTATION OF HOUSE-
16 HOLD GOODS BY MOTOR VEHICLE FROM PLACE TO PLACE UPON OR OVER THE
17 HIGHWAYS OF THIS STATE. Motor carrier does not include a private
18 carrier.

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

24 ~~(k)~~ "Permit" means ~~the permit issued to motor contract car-~~
25 ~~riers under the terms of this act.~~

26 (I) ~~(l)~~ "Through any device or arrangement" means any and
27 all methods, means, agreements, circumstances, operations, or

1 subterfuges under which any person undertakes for hire to
2 conduct, direct, control, or otherwise perform the transportation
3 by motor vehicle of ~~property~~ HOUSEHOLD GOODS upon the public
4 highways of this state.

5 (J) ~~(m)~~ "Modified procedure" means that administrative
6 procedure by which the commission may consider evidence and tes-
7 timony submitted in the form of verified statements in motor car-
8 rier matters without the necessity for an oral hearing.

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

13 (K) ~~(o)~~ "Required public purpose" means a purpose for
14 which an applicant can provide adequate, economic, safe, effec-
15 tive, competitive, and equitable motor carrier service to satisfy
16 a demonstrated public necessity, without creating excess
17 service.

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

21 (M) ~~(q)~~ "Private carrier" means any person engaged in the
22 transportation of property by motor vehicle upon public highways
23 where the transportation is incidental to, or in furtherance of,
24 any commercial enterprise of the person, other than
25 transportation.

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

4 (O) ~~(s)~~ "Base rate, fare, or charge" means that nondis-
5 counted rate, fare, or charge specified in a carrier's rate
6 schedule on file with the commission.

7 (P) ~~(t)~~ "Predatory rate" means a rate that is below its
8 fully allocated costs. As used in this subdivision, "fully allo-
9 cated costs" means total costs, including variable costs, plus an
10 allocation of fixed costs.

11 (Q) "HOUSEHOLD GOODS" MEANS:

12 (i) PERSONAL EFFECTS AND PROPERTY USED OR TO BE USED IN A
13 DWELLING WHEN A PART OF THE EQUIPMENT OR SUPPLY OF THAT DWELLING
14 EXCEPT FOR PROPERTY MOVING FROM A FACTORY OR STORE UNLESS THE
15 HOUSEHOLDER HAS PURCHASED THE PROPERTY WITH INTENT TO USE IN HIS
16 OR HER DWELLING AND THE PROPERTY IS TRANSPORTED AT THE REQUEST
17 OF, AND THE TRANSPORTATION CHARGES ARE PAID TO THE CARRIER BY,
18 THE HOUSEHOLDER.

19 (ii) FURNITURE, FIXTURES, EQUIPMENT, AND THE PROPERTY OF
20 STORES, OFFICES, MUSEUMS, INSTITUTIONS, HOSPITALS, OR OTHER
21 ESTABLISHMENTS WHEN A PART OF THE STOCK, EQUIPMENT, OR SUPPLY OF
22 THE STORES, OFFICES, MUSEUMS, INSTITUTIONS, HOSPITALS, OR OTHER
23 ESTABLISHMENTS EXCEPT FOR THE STOCK-IN-TRADE OF ANY ESTABLISH-
24 MENT, WHETHER CONSIGNOR OR CONSIGNEE, OTHER THAN USED FURNITURE
25 AND USED FIXTURES, UNLESS TRANSPORTED INCIDENTAL TO MOVING OF THE
26 ESTABLISHMENT OR A PORTION OF THE ESTABLISHMENT FROM 1 LOCATION
27 TO ANOTHER.

1 (iii) ARTICLES, INCLUDING OBJECTS OF ART, DISPLAYS, AND
2 EXHIBITS, WHICH BECAUSE OF THEIR UNUSUAL NATURE OR VALUE REQUIRE
3 THE SPECIALIZED HANDLING AND EQUIPMENT USUALLY EMPLOYED IN MOVING
4 HOUSEHOLD GOODS.

5 Sec. 2. It is hereby declared to be the purpose and policy
6 of the legislature in enacting this law to confer upon the com-
7 mission the power and authority and to make it its duty to super-
8 vise and regulate the transportation of property by CERTAIN motor
9 ~~vehicle~~ VEHICLES for hire upon and over the public highways of
10 this state in all matters whether specifically mentioned herein
11 or not, so as to: (a) Relieve all future undue burdens and con-
12 gestion on the highways arising by reason of the use of the high-
13 ways by motor vehicles operated by motor carriers; (b) protect
14 and conserve the highways and protect the safety and welfare of
15 the traveling and shipping public in their use of the highways;
16 (c) promote competitive and efficient transportation services;
17 (d) meet the needs of motor carriers, shippers, receivers, and
18 consumers; (e) allow a variety of quality, price, and service
19 options to meet changing market demands and the diverse require-
20 ments of the shipping public; (f) allow the most productive use
21 of equipment and energy resources; (g) provide the opportunity
22 for efficient and well-managed motor carriers to earn adequate
23 profits and attract capital; (h) promote intermodal transporta-
24 tion; (i) prevent unjust discrimination; (j) promote greater par-
25 ticipation by minorities in the motor carrier system; (k) provide
26 and maintain service to small communities and small shippers;
27 ~~(l)~~ AND prevent evasion of this act through any device or

1 arrangement. ~~;~~ ~~(m) promote entrepreneurship in the motor carrier~~
2 ~~industry by allowing greater contract carrier economic and entry~~
3 ~~flexibility;~~ and ~~(n) promote the use of jointly considered and~~
4 ~~initiated rates, classifications, divisions, allowances, charges,~~
5 ~~or rules of motor carriers under commission approved agreements.~~

6 Sec. 3. (1) To enable the provisions of service for which
7 there is an immediate and urgent need to a point or points or
8 within a territory having no motor ~~common~~ carrier service
9 capable of meeting that need, the commission may, upon a proper
10 application, in its discretion and without hearings or other pro-
11 ceedings, grant temporary authority for that service by a motor
12 ~~common~~ carrier. ~~by motor vehicle.~~ The temporary authority,
13 unless suspended or revoked for good cause, shall be valid until
14 the commission has made a determination to grant or deny per-
15 manent authority. If after hearing permanent authority is grant-
16 ed, then corresponding temporary authority may be continued until
17 the permanent authority becomes effective. The grant of tempo-
18 rary authority does not create a presumption that corresponding
19 permanent authority will be granted thereafter.

20 (2) The commission may, upon a proper application which
21 shall include specific definition of permit sought, in its dis-
22 cretion and without hearings or other proceedings, grant a tempo-
23 rary permit for that service by a motor ~~contract~~ carrier. ~~by~~
24 ~~motor vehicle.~~ A temporary permit shall be granted, at the
25 request of an applicant, in all cases, except when a safety or
26 fitness related protest has been filed, which protest must
27 include specific allegations necessary to state a prima facie

1 case and reasonably inform the commission and the applicant of
2 the nature of the allegations, with specific reference to the
3 section or sections of all related statutes, rules, orders, and
4 tariffs. The temporary permit, unless suspended or revoked for
5 good cause, shall be valid until the commission has made a deci-
6 sion to grant or deny a permanent permit. The grant of a tempo-
7 rary permit creates no presumption that a corresponding permanent
8 permit will be granted thereafter.

9 (3) Pending the determination of an application filed with
10 the commission for approval of a consolidation or merger of the
11 properties of 2 or more motor carriers, the commission may, in
12 its discretion and without hearing or other proceedings, grant
13 temporary approval, for a period not exceeding 60 days, of the
14 operation of the motor carrier properties sought to be acquired
15 by the person proposing in the pending application to acquire the
16 properties, if it appears that failure to grant the temporary
17 approval may result in destruction of or injury to the motor car-
18 rier properties sought to be acquired ~~—~~ or ~~to~~ interfere sub-
19 stantially with their future usefulness in the performance of
20 adequate and continuous service to the public.

21 (4) Transportation service rendered under temporary author-
22 ity shall be subject to all applicable provisions of this act and
23 to the rules of the commission.

24 ARTICLE II

25 Sec. 1. A motor ~~common~~ carrier ~~of property~~ shall not
26 operate any motor vehicle for the transportation of property for
27 hire on any public highway in this state except in accordance

1 with ~~the provisions of~~ this act. A motor ~~common~~ carrier ~~of~~
2 ~~property~~ shall not operate upon any public highway without first
3 having obtained from the commission a certificate of authority.

4 Sec. 3. An application for a certificate of authority shall
5 be in writing, verified by affidavit, stating the experience of
6 the applicant as a motor carrier, if any, the ownership and con-
7 dition of the equipment and physical property of the applicant
8 proposed to be used, that the vehicles of the applicant have
9 passed an inspection within the immediately preceding 12 months
10 pursuant to the requirements of the motor carrier safety act,
11 ~~Act No. 181 of the Public Acts of 1963, being sections 480.11 to~~
12 ~~480.21 of the Michigan Compiled Laws~~ 1963 PA 181, MCL 480.11 TO
13 480.22, and 49 C.F.R. part 396, the support by shippers or
14 receivers for the proposed service, AND the relation of the pro-
15 posed service to the required public purpose to be served, and
16 shall contain other information as the commission requires. The
17 commission may request supplemental information from an applicant
18 regarding accident records and citations issued to the applicant
19 or drivers of the applicant within the immediately preceding 12
20 months when that information is considered necessary to make
21 findings regarding the fitness of the applicant. Each applica-
22 tion shall be accompanied by the required fees, proof of insur-
23 ance before operations are commenced, and all other things
24 required by law and the rules of the commission.

25 Sec. 4. Upon the filing of an application for a certificate
26 of authority to operate as a motor ~~common~~ carrier, the
27 commission shall cause notice of the filing of the application to

1 be published in a biweekly information bulletin. The commission
2 may schedule a hearing on the application or proceed under modi-
3 fied procedure. If a hearing is scheduled, notice shall be given
4 in the same manner as the notice of filing of an application.

5 Sec. 5. (1) Except as provided in this section, the commis-
6 sion shall issue a certificate of authority to an applicant
7 authorizing that it provide transportation subject to the juris-
8 diction of the commission under this article as a motor ~~common~~
9 carrier ~~of property~~ if the commission finds all of the
10 following:

11 (a) The character and condition of the vehicles proposed to
12 be operated by the applicant is such that they may be operated
13 safely upon the public highways.

14 (b) That the applicant is fit, willing, and able to provide
15 the transportation to be authorized by the certificate and to
16 comply with this act and rules and regulations of the
17 commission.

18 (c) On the basis of evidence presented, that the service
19 proposed will serve a required public purpose, unless the commis-
20 sion finds that the transportation to be authorized by the cer-
21 tificate would create excess service by endangering the ability
22 of the present carriers to provide adequate, economical, safe,
23 and efficient service.

24 (d) That the service proposed is consistent with the trans-
25 portation policy set forth in section 2 of article I.

1 (2) In making a finding under subsection (1), the commission
2 shall consider and, to the extent applicable, make findings on at
3 least all of the following:

4 (a) The transportation policy set forth in section 2 of
5 article I.

6 (b) The existing available and adequate service in relation
7 to the character and volume of available traffic.

8 (c) Whether the service proposed will create excess service
9 inconsistent with the public interest. The commission shall not
10 find diversion of revenue or traffic from an existing motor car-
11 rier to be in and of itself inconsistent with the public
12 interest.

13 (d) The character of the bond or insurance proposed to be
14 given to ~~insure~~ ENSURE the protection of the public.

15 (e) Whether the applicant is fit, willing, and able to pro-
16 vide service commensurate with the extent of the certificate
17 sought.

18 (3) A motor carrier may not protest an application to pro-
19 vide transportation filed under this section unless all of the
20 following requirements are met:

21 (a) The protest is filed with the commission not later than
22 20 days following publication of the notice of the filing of the
23 application in the biweekly bulletin.

24 (b) The motor carrier possesses a certificate of authority
25 or permit authorizing it to handle, in whole or in part, the
26 traffic for which an application is made.

1 (c) The motor carrier is willing and able to provide service
2 that meets the reasonable needs of the shippers involved.

3 (d) The motor carrier has performed service within the scope
4 of the application during the previous 12-month period.

5 (4) The commission may grant leave to intervene to a person
6 other than a motor carrier or an applicant for a certificate of
7 authority or permit upon a showing of other interests that are
8 consistent with the transportation policy set forth in section 2
9 of article I. A petition to intervene shall not be granted
10 unless filed with the commission not later than 20 days following
11 publication of the notice of the filing of the application in the
12 biweekly bulletin except for good cause shown.

13 (5) Any motor carrier having timely filed a protest or any
14 intervenor having timely filed a petition to intervene may par-
15 ticipate in person or by counsel, cross-examine witnesses, and
16 offer testimony in support of, or in opposition to, the grant of
17 a certificate of authority.

18 (6) Certificates of authority issued to motor ~~common~~ car-
19 riers ~~of property~~ under this act shall be of 3 classes:

20 (a) Certificates issued to motor carriers as may be operat-
21 ing over fixed routes or within 1 mile of a fixed route or
22 between fixed termini.

23 (b) Certificates issued to motor carriers providing a trans-
24 portation service within an 8-mile radius of a city having a pop-
25 ulation of 500,000 or more and including each city or village, a
26 part of which is located within the 8-mile radius.

1 (c) Certificates issued to all other motor ~~common~~
2 carriers. ~~of property.~~

3 (7) The burden of proof shall be on the protestant to meet
4 the requirement of subsection (2)(c).

5 Sec. 6. All motor ~~common~~ carriers ~~of property~~ subject
6 to this act ~~,~~ shall, before engaging in business, print and
7 file with the commission and keep open to public inspection in
8 its principal place of business and have available upon request,
9 schedules showing all rates, fares, and charges for transporta-
10 tion of property between different points on its route ~~,~~ and
11 also between points on its own route and on the route of any
12 other motor ~~common~~ carrier when a through route and joint rate
13 have been established. When the commission grants a new author-
14 ity to a motor ~~common~~ carrier, that carrier shall not charge a
15 predatory rate. A predatory rate is a rate found to be below its
16 fully allocated cost by the ~~Michigan public service~~
17 commission. The commission shall make this determination ~~prior~~
18 ~~to~~ BEFORE the issuance of a certificate and commencement of
19 operations. If a joint rate over the through route has not been
20 established, the several motor carriers shall file, print, and
21 keep open for public inspection as described in this section ~~,~~
22 the separately established rates, fares, and charges applied to
23 the through transportation, and shall likewise print, file, and
24 keep open to the public inspection all other charges, privileges,
25 or rules which in anywise change, affect, or determine any part
26 of the rates, fares, charges, or the value of the service, and
27 other information as required by the commission in its rules. In

1 addition, a motor carrier shall keep the facilities of the motor
2 carrier open to public inspection. A motor ~~common~~ carrier
3 shall not receive or accept any person or property for transpor-
4 tation upon the highways until in compliance with the require-
5 ments of this section.

6 Sec. 7. (1) All rates, fares, and charges made by ~~any~~ A
7 motor ~~common~~ carrier shall be just and reasonable ~~,~~ and shall
8 not be unjustly discriminatory, prejudicial, or preferential.
9 ~~Contract motor carrier rates, fares, and charges made by common~~
10 ~~motor carriers holding both common carrier and contract carrier~~
11 ~~authority shall not be considered by the commission to be~~
12 ~~unjustly discriminatory, prejudicial, or preferential in deter-~~
13 ~~mining compliance with this section.~~ Existing carriers will be
14 permitted to meet competitive rates without further justification
15 to the commission. The commission shall take into account rea-
16 sonable estimated or foreseeable future costs in determining
17 whether rates, fares, and charges meet the requirements of this
18 subsection.

19 (2) A motor ~~common~~ carrier shall not charge, demand, col-
20 lect, or receive a greater or less or different remuneration for
21 the transportation of property, or for any service in connection
22 therewith, than the rates, fares, and charges which have been
23 legally established and filed with the commission.

24 (3) A motor ~~common~~ carrier shall not refund or remit in
25 any manner or by any device any portion of the rates, fares, and
26 charges required to be collected by the tariffs on file with the
27 commission or ordered by the commission.

1 ~~(4) Nothing in this act shall prohibit a carrier from~~
2 ~~operating both as a motor common carrier and a motor contract~~
3 ~~carrier.~~

4 Sec. 7a. (1) Notwithstanding any other provision of this
5 act, the commission may not investigate, suspend, revise, or
6 revoke any rate, fare, or charge proposed by a motor ~~common~~
7 carrier on the grounds that the rate, fare, or charge is unrea-
8 sonable on the basis that it is too high or too low if all the
9 following requirements are met:

10 (a) The motor carrier notifies the commission that it wishes
11 to have the rate, fare, or charge considered pursuant to this
12 section.

13 (b) The rate, fare, or charge is the product of independent
14 action on the part of the motor carrier proposing the rate, fare,
15 or charge.

16 (c) The aggregate of increases and reductions in ~~any such~~
17 A rate, fare, or charge is not more than 20% above or below the
18 base rate, fare, or charge in effect 1 year before the effective
19 date of the proposed rate, fare, or charge.

20 (2) A motor ~~common~~ carrier may not protest a rate, fare,
21 or charge proposed under this section.

22 Sec. 7c. (1) Subject to subsection (2), a motor ~~common~~
23 carrier ~~providing transportation of household goods subject to~~
24 ~~the jurisdiction of the commission~~ may, subject to the provi-
25 sions of this article, including the general tariff requirements
26 of section 6 of this article, establish a rate ~~for the~~
27 ~~transportation of household goods~~ which is based on the

1 carrier's written, binding estimate of charges for providing
2 ~~such~~ THAT transportation, which the shippers will be required
3 to pay for the services included in the estimate.

4 (2) A rate established under this section shall be available
5 on a nonpreferential basis to shippers and shall not result in
6 charges to shippers which are predatory.

7 (3) Binding estimates shall be furnished in writing to the
8 shipper or other person responsible for payment of the freight
9 charges and a copy of each such estimate shall be retained by the
10 carrier as an addendum to the bill of lading. All such estimates
11 shall clearly indicate on their face that the estimate is binding
12 on the carrier and that the charges shown are the charges that
13 will be assessed for the services identified in the estimate.
14 Binding estimates shall clearly describe the shipment and all
15 services to be provided.

16 (4) Motor ~~common~~ carriers ~~engaged in the transportation~~
17 ~~of household goods~~ may provide nonbinding estimates of the
18 approximate costs that will be assessed for the transportation of
19 such shipments. Nonbinding estimates shall be reasonably
20 accurate. Estimates of approximate costs shall not be binding on
21 the carriers providing such estimates. The final charges on
22 shipments moved on nonbinding estimates shall be those appearing
23 in the carriers' tariffs applicable to the transportation.
24 Nonbinding estimates, if provided, shall be furnished without
25 charge and in writing to the shipper or other person responsible
26 for payment of the freight charges. A copy of each such estimate
27 shall be retained by the carrier as an addendum to the bill of

1 lading. All such estimates shall clearly indicate on the face of
2 the estimate that the estimate is not binding on the carrier and
3 that the charges shown are the approximate charges that will be
4 assessed for the services identified in the estimate. Nonbinding
5 estimates shall clearly describe the shipment and all services to
6 be provided.

7 (5) Motor ~~common~~ carriers furnishing nonbinding estimates
8 shall enter the estimated charges on the bill of lading.

9 (6) At time of delivery of a collect on delivery shipment,
10 except when the shipment is delivered to a warehouse for storage
11 at the request of the shipper, on which a nonbinding estimate of
12 the approximate costs has been furnished by the carrier pursuant
13 to subsection (4), the shipper may request delivery of the ship-
14 ment upon payment, in a form acceptable to the carrier, of an
15 amount not exceeding 110% of the estimated charges. Upon request
16 of the shipper, the carrier shall relinquish possession of the
17 shipment upon payment of not more than 110% of the estimated
18 charges and shall defer demand for the payment of the balance of
19 any remaining charges for a period of 30 days following the date
20 of delivery.

21 Sec. 9. If a motor ~~common~~ carrier does or causes or per-
22 mits to be done any act or thing in this act prohibited or
23 declared to be unlawful —, or omits to do any act or thing
24 required to be done by the motor ~~common~~ carrier under this act
25 or under any lawful order made by the commission, the motor
26 ~~common~~ carrier is liable to the person, firm, or corporation
27 injured to the extent of the actual amount of damages sustained

1 in consequence of the violation. A recovery as provided in this
2 section shall not affect a recovery by the state of the penalty
3 prescribed for the violation.

4 Sec. 10. The commission shall supervise and regulate all
5 motor ~~common~~ carriers ~~of property~~ and regulate and determine
6 reasonable and sufficient rates, fares, charges, and classifica-
7 tions; regulate the facilities, accounts, service, and safety of
8 operations of each motor ~~common~~ carrier. To ~~insure~~ ENSURE
9 adequate transportation service to the territory traversed by the
10 motor ~~common~~ carriers, the commission may require the coordina-
11 tion of the service and schedules of competing motor ~~common~~
12 carriers; require the filing of annual and other reports, tar-
13 iffs, schedules, and other data by the motor ~~common~~ carriers;
14 supervise and regulate motor ~~common~~ carriers in all matters
15 affecting the relation between the motor carriers, and the public
16 and between motor carriers; and promulgate rules for the purpose
17 of promoting safety upon the highways and the conservation of
18 their use to the end that the provisions of this act may be fully
19 and completely carried out. The commission, by general order or
20 otherwise, shall promulgate rules in conformity with this act
21 applicable to all motor ~~common~~ carriers ~~,~~ and ~~to~~ do all
22 things necessary to carry out and enforce this act.

23 Sec. 11. The commission shall authorize motor ~~common~~ car-
24 riers ~~of property~~ to interchange equipment and furnish through
25 service under general rules or special orders reasonably safe-
26 guarding equipment and the use of equipment whenever the public
27 interest will be served thereby.

1 ~~paid for a vehicle used for the transportation of household~~
2 ~~goods~~ if a motor carrier seeks to begin operating a
3 self-propelled motor vehicle in place of another motor vehicle
4 not leased to the motor carrier by an owner operator for which a
5 fee was paid and surrenders the identification allocated to the
6 motor vehicle by the commission, accompanied by a fee of \$10.00,
7 a replacement identification shall be issued. If the owner oper-
8 ator replaces a vehicle while it is still leased to the same
9 motor carrier to whom it was leased when the identification was
10 issued, the replacement identification fee shall be \$10.00. For
11 all other replacement vehicles, the fee shall be \$25.00 for each
12 complete or partial calendar year quarter remaining in the year
13 as of the date the replacement vehicle is to begin operating upon
14 surrender of the identification allocated to the motor carrier by
15 the commission. ~~For each truck or tractor used exclusively for~~
16 ~~the transportation of household goods as defined by the commis-~~
17 ~~sion, the annual fee shall be \$50.00.~~

18 (2) A motor carrier licensed in this state shall pay an
19 annual fee of ~~-\$100.00-~~ \$50.00 for each vehicle operated by the
20 motor carrier which is registered in this state and operating
21 entirely in interstate commerce. A motor carrier shall pay a fee
22 of only ~~-\$50.00-~~ \$25.00 for each self-propelled motor vehicle
23 operated by or on behalf of the motor carrier if the motor car-
24 rier begins operation of the vehicle after June 30 and has not
25 previously paid a fee under this subsection for that vehicle.

26 (3) The commission may issue a temporary 72-hour permit for
27 the operation of a vehicle subject to rules and conditions of the

1 commission at a fee of \$10.00, which is in place of any other fee
2 otherwise required under this section. The commission shall
3 reserve the authority to deny or curtail the use of temporary
4 permits authorized by this section.

5 (4) A motor carrier shall not operate any motor vehicle upon
6 or over the highways of this state, except as otherwise provided
7 in this act, while any of the fees imposed by this act remain
8 unpaid. The commission is prohibited from extending the time of
9 payment or permitting the operation while the delinquency
10 continues.

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

14 (6) The commission shall cooperate with other state depart-
15 ments involved with the registration of commercial motor vehicles
16 to implement a system whereby owners or drivers of commercial
17 motor vehicles can obtain registration plates, decals, or tabs
18 and pay the required fees at a single designated location, rather
19 than at multiple locations.

20 Sec. 6. All ~~moneys~~ MONEY received under the provisions of
21 this act shall be placed to the credit of the commission. The
22 legislature shall appropriate such ~~moneys~~ MONEY to the commis-
23 sion and the ~~motor vehicle highway~~ MICHIGAN TRANSPORTATION fund
24 in such proportions as the legislature may determine.

25 ARTICLE V

26 Sec. 10. (1) All certificates or permits granted hereunder
27 shall be made to terminate as of December 31 of the calendar year

1 during which the certificate or permit is issued. All motor
2 carriers shall make application for the renewal of their certifi-
3 cates or permits not before October 1 and not later than December
4 1 of the year in which their current certificate or permit
5 expires. Certificate and permit holders not making application
6 by December 1 shall be advised by the commission and given the
7 opportunity to file their applications on or before December 31
8 on payment of a penalty of \$50.00. The renewal application shall
9 be accompanied with the required fees, proof of insurance, and
10 all other things required to be filed with the commission by law
11 or by the rules and orders of the commission.

12 (2) The certificate or permit of any motor carrier who is
13 delinquent in the payment of the earned fees required by this act
14 to be paid at the time of ~~any~~ renewal ~~thereof shall be deemed~~
15 IS canceled and terminated, on ~~and after~~ January 1 of the year
16 for which application should have been made under the require-
17 ments of this section. ~~, and the~~ THE motor carrier ~~shall be~~
18 IS prohibited from operating any of its vehicles upon or over the
19 highways of this state and all privileges granted it under its
20 expiring certificate or permit shall cease.

21 (3) ~~In case any~~ IF AN applicant for renewal of a certifi-
22 cate or a permit fails, otherwise than in the payment of fees, to
23 comply in all respects with ~~the law~~ THIS ACT and the rules of
24 the commission in connection with the filing of the application
25 for renewal, the commission immediately shall give specific writ-
26 ten notice of that failure to the applicant and shall require in
27 the notice that the applicant correct the matter specified within

1 10 days after the notice. Upon the failure of the applicant to
 2 make the correction within the time, or in case of the failure to
 3 accompany the application with the required filing fee, the cer-
 4 tificate or permit of the applicant shall be revoked without
 5 ~~any~~ FURTHER action ~~whatever upon the part~~ of the commission.

6 (4) Except as in this section otherwise provided, the provi-
 7 sions in this act voiding a certificate or a permit for cause
 8 shall be self-executing and shall not require any affirmative act
 9 on the part of the commission, and the commission is expressly
 10 prohibited from extending ~~and shall not have any power to~~
 11 ~~extend~~ the privilege or permit ~~nor to~~ OR allow the carrier to
 12 engage in any operation over the public highway. ~~In no case~~
 13 ~~shall the~~ THE revocation of any certificate or a permit DOES NOT
 14 release any motor carrier from liability for accrued fees.

15 (5) Upon full compliance with the requirements with respect
 16 to the filing of the application, the certificate or permit shall
 17 issue for the succeeding calendar year, subject to all the provi-
 18 sions of this act.

19 (6) The holder of a certificate or permit under this act may
 20 add equipment at any time, but when adding equipment subject to a
 21 privilege fee prescribed by this act, the holder of a certificate
 22 or permit shall file an ex parte application in the form as the
 23 commission requires and pay for each unit of equipment added, the
 24 fee prescribed in section 2 of article IV. A notice of hearing
 25 on the application shall not be required and a public hearing
 26 shall not be held thereon. ~~When the holder of any certificate~~
 27 ~~or permit, excepting a certificate or permit that authorizes the~~

~~1 transportation of household goods while such household goods are
2 being transported, by lease, contract, or any arrangement other
3 than outright purchase, augments his or her equipment, the lease,
4 contract, or arrangement shall be in writing and of such a char-
5 acter so as to vest in the holder exclusive possession and con-
6 trol of the vehicle under the lease or arrangement for the entire
7 term of the lease or arrangement. Any operation of the vehicle
8 shall be conducted under the exclusive supervision, direction,
9 and control of the holder.~~

10 (7) A certificated or permitted unit of equipment may be
11 withdrawn from service at any time by surrendering to the commis-
12 sion the identification allocated to the unit at the time it was
13 certificated or permitted.

14 Sec. 10a. ~~(1) The lease, contract, or arrangement under
15 which a holder augments his or her equipment shall specify the
16 period for which the equipment is to be operated, which shall not
17 be less than 30 days, and shall include a provision that the
18 vehicle has, within the immediately preceding 12 months, passed
19 an inspection pursuant to the requirements of the motor carrier
20 safety act, Act No. 181 of the Public Acts of 1963, being sec-
21 tions 480.11 to 480.21 of the Michigan Compiled Laws, and 49
22 C.F.R. part 396.~~

23 (1) ~~(2)~~ The lease, contract, or arrangement UNDER WHICH A
24 HOLDER AUGMENTS HIS OR HER EQUIPMENT shall specify the compensa-
25 tion to be paid by the lessee or party to the contract or
26 arrangement for the rental or use of the equipment.

1 (2) ~~-(3)-~~ The lease, contract, or arrangement shall specify
2 the time and date or the circumstance on which the contract,
3 lease, or other arrangement begins ~~—~~ and the time or circum-
4 stance on which it ends.

5 (3) ~~-(4)-~~ The lease, contract, or arrangement shall vest in
6 the holder of the vehicle exclusive possession and control of the
7 vehicle for the entire term of the lease, contract, or
8 arrangement.

9 (4) ~~-(5)-~~ The lease, contract, or arrangement shall provide
10 that any operation of the vehicle shall be conducted under the
11 exclusive supervision, direction, and control of the holder.

12 (5) ~~-(6)-~~ The lease, contract, or arrangement shall provide
13 that the vehicle, at all times, while being operated under the
14 lease, contract, or arrangement, shall be operated only by per-
15 sons who are employees of the holder who stand in relation to the
16 holder as employee to employer.

17 (6) ~~-(7)-~~ The lease, contract, or arrangement shall be in
18 the manner, form, and further content as the commission by rule
19 provides.

20 (7) ~~-(8)-~~ The lease, contract, or arrangement shall be exe-
21 cuted in quadruplicate; the original shall be filed with the
22 commission. One copy shall be retained by the authorized motor
23 carrier in whose service the equipment is to be operated, 1 copy
24 shall be retained by the owner of the equipment, and 1 copy shall
25 be carried on the equipment specified in the lease, contract, or
26 arrangement during the entire period of the contract, lease, or
27 other arrangement.

1 (8) ~~(9)~~ Nothing in this section shall apply to the
 2 interchange with other certificated motor ~~common~~ carriers or
 3 the multiple certification of motor carrier equipment when spe-
 4 cific approval and authority to interchange the equipment has
 5 been or is granted by the commission.

6 ~~(10) The provisions of subsection (1) shall not apply to or~~
 7 ~~be required of or between movers of household goods, when the~~
 8 ~~equipment is used to transport household goods as defined by the~~
 9 ~~commission.~~

10 Sec. 14. (1) Upon complaint in writing by any person, firm,
 11 corporation, OR association, ~~mercantile, agricultural or manu-~~
 12 ~~facturing society,~~ or by any body politic, municipal organiza-
 13 tion, ~~common carrier,~~ or motor carrier, that any of the motor
 14 ~~common~~ carrier rates, fares, charges, or classifications ~~,~~ or
 15 any joint rate or rates of any motor ~~common~~ carrier are ~~,~~ in
 16 any respect unreasonable or unjustly discriminatory or otherwise
 17 in violation of this act, ~~or~~ that any practice whatsoever
 18 affecting the transportation of property by any ~~such~~ motor
 19 ~~common~~ carrier or any service in connection therewith is in any
 20 respect unreasonable or unjustly discriminatory, ~~or~~ that any
 21 service of ~~such~~ A motor ~~common~~ carrier is inadequate, or that
 22 this act or any order, rule, or practice established by the com-
 23 mission applicable to the motor ~~common~~ carrier, or motor
 24 ~~common~~ carrier charges filed with the commission by the motor
 25 ~~common~~ carrier, in any respect ~~has been~~ WAS violated or devi-
 26 ated from ~~,~~ or is being violated or deviated from by such motor
 27 ~~common carrier; or upon a complaint against any motor contract~~

1 ~~carrier that this act or any order, rule, or practice established~~
2 ~~by the commission applicable to the motor contract carrier has~~
3 ~~been violated or deviated from, or is being violated or deviated~~
4 ~~from~~ BY THE MOTOR CARRIER, the commission shall notify the par-
5 ties complained of that complaint has been made ~~,~~ and shall
6 furnish a copy of the complaint with the notice, and 20 days
7 after the notice has been given, the commission may proceed to
8 investigate the complaint as provided in this section. ~~Only the~~
9 ~~commission, on its motion, may bring a complaint against a con-~~
10 ~~tract carrier for predatory rates, practices, or rules pursuant~~
11 ~~to section 6(2) of article III.~~ Before proceeding to make the
12 investigation, the commission shall give the motor carrier and
13 the complainants at least 10 days' notice of the time and place
14 when and where the matters will be considered and determined, and
15 the parties shall be entitled to be heard and shall have process
16 to enforce the attendance of witnesses. If upon investigation of
17 a motor ~~common~~ carrier, any matters complained of are found to
18 be in violation of this act, the commission shall determine and
19 by order fix and order substituted ~~therefor~~ the practice, serv-
20 ice, or charges as shall conform to this act and the rules of the
21 commission applicable to the motor ~~common~~ carrier. ~~If upon~~
22 ~~investigation of a motor contract carrier, any matters complained~~
23 ~~of are found to be in violation of this act, the commission shall~~
24 ~~determine and by order fix and order substituted therefor the~~
25 ~~practice, service, or minimum rate as shall conform to this act~~
26 ~~and the rules of the commission applicable to the motor contract~~
27 ~~carrier.~~ The order shall further provide that the parties

1 complained of shall cease and desist from the violation and
2 conform to the terms of the order. The commission shall cause a
3 certified copy of each order to be delivered to the parties
4 affected thereby, which order shall of its own force take effect
5 and become operative 20 days after the service of the order. All
6 motor ~~common~~ carriers to which the order applies shall on or
7 before the date when the order becomes effective ~~,~~ make changes
8 in schedules on file as shall be necessary to ~~make the same~~
9 conform to the order. ~~All motor contract carriers to which the~~
10 ~~order applies shall, on or before the date the order becomes~~
11 ~~effective, conform their practice, service, or minimum rate to~~
12 ~~the order.~~ Certified copies of all other orders of the commis-
13 sion shall be delivered to the parties affected in like manner
14 ~~,~~ and, unless otherwise prescribed in this act, shall take
15 effect within the time thereafter as the commission prescribes.

16 (2) When the commission believes that any provision in this
17 act or any rule or order of the commission made in pursuance of
18 this act ~~,~~ has been or is being violated, or that any charges
19 have been made or collected or service performed in violation
20 thereof, and that an investigation ~~relating thereto~~ should be
21 made, the commission may on its own motion or on the application
22 of anyone investigate the suspected violation. Before making the
23 investigation, the commission shall present to the parties
24 alleged to be guilty of the violations a statement in writing
25 setting forth the matters to be investigated. Thereafter, on 10
26 days' notice to the parties of the time and place of the
27 investigation, the commission may proceed to investigate the

1 matters complained of in the same manner ~~—~~ and make like
2 orders, as if the investigation had been made upon complaint. An
3 investigation, inquiry, or hearing which the commission has power
4 to undertake or to hold may be undertaken or held by or before
5 any commissioner or any employee of the commission when so
6 directed by the commission or its chairperson. The commissioner
7 or employee shall submit findings of fact and conclusions of law
8 to the commission. If the findings of fact and conclusions of
9 law are approved and confirmed by the commission and ordered
10 filed in its office, they shall be the decision and the order of
11 the commission. All investigations, inquiries, or hearings of a
12 commissioner or an employee are considered as the investigation,
13 inquiry, and hearing of the commission.

14 Enacting section 1. Section 5 of article I, article III,
15 sections 1 and 8 of article IV, and section 14a of article V of
16 the motor carrier act, 1933 PA 254, MCL 475.5, 477.1 to 477.12,
17 478.1 and 478.8, and 479.14a, are repealed.