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BILL ANALYSIS

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Senate Bill 266 (as passed by the Senate) *(as enrolled)*
Sponsor: Senator Valde Garcia
Committee: Commerce and Tourism

Date Completed: 3-12-07

RATIONALE

The Motor Carrier Act prohibits motor carriers of property from operating in Michigan without a certificate of authority or a permit from the Michigan Public Service Commission (PSC). Issues related to the PSC's regulation of carriers that move household goods have been raised. (Under the Act, a "motor common carrier", which must obtain a certificate of authority, is someone engaged in the business of for-hire transportation of property by motor vehicle. A "motor contract carrier", which must obtain a permit, is someone providing motor vehicle transportation for a series of shipments under continuing agreement of at least one year. "Motor carrier" means both motor common carriers of property and motor contract carriers of property.)

The Act does not apply to a vehicle operated entirely within a city or village in Michigan, or to a motor carrier of property whose operations extend a distance of up to eight miles beyond a city or village having a population of less than 500,000. A certificate or permit is required, however, for the operation of a vehicle of a motor carrier, except one otherwise exempt, in the transportation of property between a city with a population of 500,000 or more and a city or village located within a "commercial zone" (an eight-mile radius) of such a city, or between cities and villages within that commercial zone. (Detroit is the only city in Michigan with a population of 500,000 or more.) Consequently, motor carriers that operate within the boundaries of a city or village (other than Detroit) or within eight miles of the boundary of a city or village (except within the eight-mile zone around Detroit) are not required to obtain a certificate or permit from the PSC. Some people believe that, to ensure quality service from fit companies, all motor carriers of household goods and vehicles transporting household goods should be required to obtain a certificate or permit to operate in Michigan.

In addition, the Act requires the PSC to regulate and determine reasonable and sufficient rates, fares, charges, and classifications of motor common carriers. Since the Act does not apply to motor carriers that operate within a city or village or within eight miles of a city or village (other than Detroit and the commercial zone surrounding it), the PSC does not regulate those carriers' rates, fares, charges, and classifications. It has been suggested that, to promote price competition among movers of household goods and in recognition of the size of metropolitan areas that have grown over the years, the PSC should not regulate the rates, fares, charges, and classifications for moves of household goods involving a shipment of 40 miles or less.

CONTENT

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

-- **Apply the Act (including certification and permit requirements) to vehicles transporting household goods and motor carriers of household goods.**
-- **Prohibit the Public Service Commission from regulating and determining the rates, fares, charges, and classifications of**

"local moves" of "household goods".

-- Eliminate a requirement that the PSC consider, when issuing a certificate, certain factors that involve existing available and adequate service and whether the proposed service will create excess service inconsistent with the public interest.

-- Provide that a carrier of household goods would be liable to the person entitled to recover under a receipt or bill of lading, which the bill would require a carrier to issue for property it received for transportation.

-- Allow the PSC to require or request carriers to file annual and other reports if it considered the information necessary for the administration and/or enforcement of the Act.

-- Specify that the Act would not apply to a vehicle transporting property for or on behalf of a nonprofit charitable institution or for a house of public worship.

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

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

PSC Regulation: Household Goods

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

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

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

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

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

Carrier Reports

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

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

Carrier Liability

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

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

Criteria for Certificate

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

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

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

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

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

MCL 475.1 et al.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill would promote price competition for local moves of household goods of up to 40 miles. Rather than being regulated by the PSC and charging rates determined by the Commission, motor carriers of household goods would have to compete with one another through rates determined by the market. Carriers would have the flexibility to offer rates based on various factors for shipments of 40 miles or less. For instance, a motor carrier could offer hourly rates or charge by the weight or distance involved with a local move, and could offer specials and discounts. None of these options is currently available under the regulated rate schedules in the Detroit commercial zone or for the transportation of goods more than eight miles beyond the border of a city or village. This price competition would benefit both the moving industry and consumers, as motor carriers would have to strive to provide the best service at affordable rates in order to succeed in the market for the short-range transport of household goods.

In addition, defining a local move as one of 40 miles or less, from point of origin to point of destination, would update the Act to reflect the growth of Michigan's metropolitan areas in recent decades. While the eight-mile unregulated zone currently laid out in the Act may have covered many local household moves at one time, longer moves across large metropolitan areas are more the norm today.

Supporting Argument

The bill would benefit consumers by requiring that all motor carriers of household goods and all vehicles used in their operations obtain a certificate or permit. Currently, motor carriers that are exempt from the Act because they operate only within a city or village or within eight miles of a city or village (other than Detroit and the commercial zone surrounding it) do not have to secure a certificate or permit. This means that some companies that may not be financially fit, or may not meet safety and other operational standards established by the PSC, might offer their moving services at rates undercutting other movers that are regulated. This may result in poorer-quality service to consumers, blemishing the moving industry as a whole, and unfair competition to established motor carrier operations that meet PSC standards and provide higher-quality services. By limiting the Act's exemptions, the bill would require all household goods movers to meet the standards established by the PSC for obtaining a certificate or permit, thereby placing all of these motor carriers on an equal footing and ensuring quality service to consumers.

Supporting Argument

The bill would offer protections to consumers by spelling out a motor carrier's responsibility for lost or damaged household property. Under the bill, a carrier transporting household goods would be liable for the actual loss of or injury to property that was caused by the carrier. Further, a carrier could not specify a period of less than three months for filing a claim or less than two years for bringing a civil action to recover damages based on a claim. The requirement that a carrier issue a customer a receipt or bill of lading and the provisions laying out a carrier's liability would give consumers some recourse for damaged or lost household goods.

Supporting Argument

While requiring that all motor carriers of household goods obtain a certificate or permit from the PSC, the bill also would ease the burdens of entry into the motor carrier business and the regulation of motor carriers. The Act requires the PSC to issue to an applicant a certificate authorizing it to provide transportation as a motor common carrier of property if the Commission makes certain findings, including that the service proposed will serve a required public purpose. The bill, instead, refers to a useful public purpose, dropping consideration of whether the applicant's transportation would create excess service by endangering the ability of the present carriers to provide adequate, economical, safe, and efficient service. The bill thus would remove the PSC's authority to limit competition on the basis of a potential negative impact on existing carriers. The market, then, would be open to new motor carriers, as long as they met PSC conditions for operation dealing with financial soundness, safety, ability to comply with the Act, and the provision of a useful public purpose.

In addition, the PSC currently must require motor contract carriers to file annual and other reports and other data and may require similar reports of motor common carriers. The bill would ease the regulatory burden upon motor carriers by allowing the PSC to take those actions if it considered the information necessary for the administration and/or enforcement of the Act.

Opposing Argument

By essentially deregulating the motor carrier business for household moves of 40 miles or less, the bill could pave the way for movers to charge higher prices than allowed under PSC regulations, which currently apply to the Detroit area and to the transportation of property more than eight miles beyond cities and villages outside of the Detroit commercial zone.

Response: While the bill would prohibit the PSC from regulating the pricing of local moves of household goods up to 40 miles in distance, it is likely that this limited deregulation would increase competition and drive prices down. Since customers could be offered more pricing options, they would be able to hire a mover by the hour, distance, or weight, rather than having to pay an artificially established flat rate.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

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

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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.