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BILL ANALYSIS



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Senate Bill 332 (as enrolled)
Sponsor: Senator Tom Casperson
Senate Committee: Transportation
House Committee: Transportation and Infrastructure

Date Completed: 7-27-17

RATIONALE

The Motor Carrier Safety Act regulates the operation of commercial motor vehicles, including driver qualifications and physical requirements, vehicle use, inspection, and transportation; and sets penalties. However, the Act and the rules promulgated under it do not apply to a commercial motor vehicle (CMV) owned and operated by a unit of government or its employees, except as otherwise provided.

Public Act 452 of 2016, which took effect on April 5, 2017, amended the Motor Carrier Safety Act to delete an exception to the exemption described above. Previously, under the Act, a CMV owned and operated by a unit of government or its employees was subject to certain Federal regulations. The exception was removed after a situation involving a firefighter's attempt to obtain a medical certificate under the Federal regulations revealed that, while Michigan law required the firefighter to follow the regulations (in particular, the requirement that the employee obtain a medical certificate), there is a provision in the regulations that exempts transportation performed by the Federal government, a state, any political subdivision of a state, or an agency established between states. Public Act 452 of 2016 was enacted to address this inconsistency and mitigate potential concerns regarding a firefighter operating a fire truck without a medical certificate. As a result, the Federal standards no longer apply to CMVs owned and operated by a unit of government or its employees in Michigan.

Public Act 452 of 2016 has had an unforeseen consequence, however. Apparently, the Federal regulations were used commonly in collective bargaining negotiations to define minimum qualifications for drivers. The amendment has had the effect of eliminating the certification standards for governmental units, and evidently created an opportunity for drivers who do not meet the minimum qualifications to operate CMVs. Therefore, it has been suggested that further amendments to the Motor Carrier Safety Act be enacted to resolve this issue.

CONTENT

The bill would amend the Motor Carrier Safety Act to make an exception for certain Federal regulations to a provision that exempts commercial motor vehicles owned and operated by a unit of government or its employees from the Act and the rules promulgated under it; but provide that parts of those regulations would not apply to a firefighter operating a commercial motor vehicle that was necessary to firefighting or the preservation of life or property, or the execution of an emergency governmental function of a local unit of government or governmental authority.

Specifically, the exemption from the Federal regulations would not apply to the following regulations (which would make a CMV owned and operated by a unit of government or its employees subject to the regulations):

- 49 CFR 383.71(h) (which governs medical certification documentation required by a state).
- 49 CFR Part 382 (which governs controlled substances and alcohol use and testing).
- 49 CFR Parts 391, 392, and 393 (which govern the qualifications of drivers and longer combination vehicle driver instructors, the driving of commercial motor vehicles, and the parts and accessories necessary for safe operation of motor vehicles, respectively).

In addition, the bill specifies that, notwithstanding any other provision, the provisions of 49 CFR 391.41 to 391.49 (which govern physical qualifications for drivers and medical examination requirements) would not apply to a firefighter operating a commercial motor vehicle that was necessary to firefighting or the preservation of life or property, or the execution of an emergency governmental function of a local unit of government or governmental authority.

The bill would take effect 90 days after enactment.

MCL 480.15

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 reapply the same Federal regulations that were removed under Public Act 452 of 2016, but with a narrower focus. This would address the problem for governmental units that surfaced after the Act took effect, by providing minimum qualifications for drivers, and would avert a patchwork of CMV driver requirements in local units across the State.

Supporting Argument

By reenacting provisions that subjected units of government in Michigan to the Federal requirements, the bill would reinstate the medical waiver policy that existed before the changes made by Public Act 452 of 2016. When that policy was in place, physicians issued medical waivers for individual drivers with treatable conditions, and local units relied primarily on the Michigan State Police to approve or reject the waivers. Reverting to the former policy would ensure predictability by allowing governmental units to use a medical waiver procedure that is known already to them, and would remove the potential for challenges those units may face under an unknown process.

Response: Reviewing and issuing medical waivers for governmental employees is burdensome for the Michigan State Police, as resources are wasted on waivers that are not required under the Federal motor carrier safety regulations for those employees. Returning to the former policy would be a step in the wrong direction.

Opposing Argument

Surrounding states follow the Federal procedures and do not require a medical waiver for governmental employees. Michigan law should be consistent with other states for regulatory reliability. In addition, instead of applying more regulations to a subset of drivers, the State should review its medical requirements for commercial motor vehicle operators.

Response: Governmental employees who operate commercial motor vehicles, such as snowplows, often face dangerous conditions, or are first-responders to a hazardous situation. It is important to ensure that these employees are capable of operating vehicles under such circumstances.

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill would prevent possible increases in costs to the State and local governments by reinstating Federal standards for most government employees driving commercial motor vehicles, while maintaining a narrower exemption from Federal medical requirements for a firefighter operating a

CMV necessary for firefighting or the preservation of life or property, or a local government or authority in the conduct of an emergency function.

Fiscal Analyst: Elizabeth Pratt

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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.