



Ohio Legislative Service Commission

Bill Analysis

Maura McClelland

H.B. 82

129th General Assembly
(As Introduced)

Reps. Grossman and Boose, J. Adams, Murray, Wachtmann, Burke, Gardner, Blessing, Carey, Hayes, Huffman, Beck, Amstutz, Stinziano, Slaby, Ruhl, Kozlowski, Henne, Uecker, Rosenberger, Stebelton, Hackett, Buchy, Young, Balderson, Martin, Brenner, Gonzales

BILL SUMMARY

- Restores an exemption, recently repealed by the Public Utilities Commission of Ohio (PUCO), from parts of the Federal Motor Carrier Safety Regulations that have been adopted by PUCO, for
 - intrastate,
 - not-for-hire,
 - private motor carriers,
 - operating motor vehicles that are under 26,001 lbs.,
 - not designed to transport 16 or more people, including the driver, and
 - that do not transport hazardous material requiring a placard under federal law.
- Grants the restored exemption also to *for-hire* private motor carriers that otherwise meet the criteria above.

CONTENT AND OPERATION

The bill restores an exemption from federal motor-carrier safety regulations that was repealed in 2008 by rule of the PUCO, for certain private motor carriers.¹ The

¹ R.C. 4923.50 to 4923.52.

repealed exemption applied to lightweight (under 26,001 lbs.), limited-passenger (under 15), intrastate motor vehicles operated by not-for-hire private motor carriers. The repealed exemption was further limited to vehicles that did not transport hazardous materials in amounts requiring a placard under federal law.² In addition to restoring the exemption, the bill also grants the restored exemption to motor vehicles operated by *for-hire* private motor carriers that otherwise match the description above. Beverage delivery trucks, farm vehicles, and recreational vehicles are examples of not-for-hire private motor carriers. Buses and large limos, couriers, and tow trucks are examples of for-hire private motor carriers.³

When it repealed the exemption from the federal safety regulations, the PUCO also repealed an exemption, for the same motor vehicles and carriers, from federal hazardous materials regulations. The PUCO stated that its actions were necessary to comply with requirements for funding under the federal Motor Carrier Safety Assistance Program (MCSAP).⁴ Under MCSAP, states can receive funding to increase motor-carrier safety.⁵ To qualify for funding, states must adopt certain federal motor-carrier safety and hazardous materials regulations.⁶

Only the exemption from the hazardous materials regulations – not the exemption from the safety regulations – was noncompliant with the MCSAP funding requirements.⁷ So, the bill restores (and extends) only the safety-regulation exemption as described above. The bill does not exempt any motor vehicles or carriers from the hazardous materials regulations.

² *In the Matter of the Amendment of Rules 4901:2-5-01 and 4901:2-5-02, and Rescission of Rules 4901:2-5-03, 4901:2-5-05, and 4901:2-5-06, Ohio Administrative Code, 07-1095-TR-ORD, Finding and Order, O.A.C. 4901:2-5-01(B), attached (March 5, 2008).*

³ Public Utilities Commission, "06. Examples of Private and For-Hire Carriers," available at <<http://www.puco.ohio.gov/PUCO/IndustryTopics/Topic.cfm?id=4544>> (last visited January 24, 2011).

⁴ *In the Matter of the Amendment of Rules 4901:2-5-01 and 4901:2-5-02, and Rescission of Rules 4901:2-5-03, 4901:2-5-05, and 4901:2-5-06, Ohio Administrative Code, 07-1095-TR-ORD, Entry at ¶ 6 (October 24, 2007).*

⁵ U.S. Department of Transportation, Federal Motor Carrier Safety Administration, "Motor Carrier Safety Assistance Program," available at <<http://www.fmcsa.dot.gov/safety-security/safety-initiatives/mcsap/mcsap.htm>> (last visited January 18, 2011).

⁶ 49 Code of Federal Regulations (C.F.R.) 350.201(a).

⁷ 49 C.F.R. 350.201 and 350.341(a).

COMMENT

The PUCO has delayed enforcement of the federal regulations that were applied to the previously exempt carriers and vehicles in 2008. Though these regulations have taken effect, the PUCO has issued an entry ordering that previously exempt carriers and drivers not be assessed a civil forfeiture or monetary penalty until January 1, 2012, except for "egregious violations of the safety regulations." The PUCO describes egregious violations as "those showing a blatant disregard for safety."⁸ Under continuing law, forfeitures, in general, may be up to \$10,000 per day of violation. A forfeiture for a violation discovered during a roadside inspection is limited to \$1,000.⁹

While the PUCO's entry delayed the assessment of fines, it did not delay the potential assessment of out-of-service declarations. But the entry directs enforcement personnel to use discretion regarding out-of-service violations. It states that carriers and drivers should not be declared out-of-service at the roadside if the vehicle may be safely moved to resolve the violation.¹⁰ The PUCO states, in its entry and on its web site, that it is involved in and will continue to pursue outreach and education to increase awareness among the industry of the newly imposed federal regulations.¹¹

HISTORY

ACTION	DATE
Introduced	02-02-11

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⁸ *In the Matter of the Commission's Review of its Rules for Safety Standards at Chapter 4901:2-5, Ohio Administrative Code, 09-223-TR-ORD, Entry at ¶ 7 (November 22, 2010).*

⁹ R.C. 4923.99(A)(1).

¹⁰ *In the Matter of the Commission's Review of its Rules for Safety Standards at Chapter 4901:2-5, Ohio Administrative Code, 09-223-TR-ORD, Entry at ¶ 8 (November 22, 2010).*

¹¹ PUCO, "New Safety Rules for Private Intrastate Non-CDL Vehicles," available at <<http://www.puco.ohio.gov/PUCO/Consumer/Information.cfm?id=10148>> (last visited January 19, 2011).