

Resolution 10-09

County of St. Clair Ordinance COMMERCIAL MOTOR CARRIER SAFETY

An Ordinance establishing safety regulations for operation of commercial vehicles on roadways in St. Clair County consistent with the provisions of Michigan's Motor Carrier Safety Act, MCL 480.11, et. seq. Be it ordained by the Board of County Commissioners of the County of St. Clair, Michigan:

Section 1. Motor Carrier Safety Ordinance.

This Ordinance shall be known as the St. Clair County Commercial Motor Carrier Safety Ordinance. This Ordinance is adopted pursuant to the authority granted pursuant to the Michigan Motor Carrier Safety Act, MCL 480.11 et. seq. (the "Act"). All provisions herein are designed to be consistent with the Act and/or rules promulgated pursuant to the Act. Specifically, this Ordinance shall not be construed to be more permissive than the Act, more restrictive than the Act, require more action, equipment, or permits than the Act, or prevent or obstruct compliance with the Act. Unless otherwise provided for herein, words and phrases used in this Ordinance shall have the same meaning as used in the Act and/or rules promulgated pursuant to the Act. Except as otherwise provided herein or in the Act, this Ordinance shall apply to motor vehicles operating in St. Clair County.

Section 2. Adoption of federal regulations; exceptions; definitions; enforcement.

(1) St. Clair County adopts all federal regulations adopted by the Act, subject to the limitations and exceptions provided for in the Act. For purposes of this Ordinance, references in the Act to the State of Michigan Department of State Police shall mean the St. Clair County Sheriff Department.

(2) This Ordinance does not apply to a bus operated by a public transit agency operating under any of the following:

(a) A county, city, township, or village as provided by law, or other authority incorporated under 1963 PA 55, MCL 124.351 to 124.359.

(b) An authority incorporated under the metropolitan transportation authorities act of 1967, 1967 PA 204, MCL 124.401 to 124.426, or that operates a transportation service pursuant to an interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(c) A contract entered into pursuant to 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536, or 1951 PA 35, MCL 124.1 to 124.13.

(d) An authority incorporated under the public transportation authority act, 1986 PA 196, MCL 124.451 to 124.479, or a nonprofit corporation organized under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, that provides transportation services.

(e) An authority financing public improvements to transportation systems under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

(3) This Ordinance shall be enforced by an officer(s) of the St. Clair County Sheriff Department who satisfies all the requirements contained herein. Said officer(s) shall be referred to herein as the Enforcement Officer(s). An Enforcement Officer must meet all criteria for classification as a motor carrier enforcement officer, pursuant to the Act. An Enforcement Officer must have training equal to the minimum training requirements, including any annual training updates, established by the department of state police for an officer of the motor carrier division of the department of state police.

Section 3. Trailers or trailer-vehicle combinations; surge brakes equipment for intrastate operation.

Trailers with a gross vehicle weight or gross vehicle weight rating of 15,000 pounds or less or trailer-vehicle combinations with an actual gross vehicle weight or a gross vehicle weight rating of 26,000 pounds or less may be equipped with surge brakes for intrastate operation as allowed by the Act.

Section 4. Intrastate transportation; exceptions; applicability to farm vehicle driver, public utility driver, government-owned commercial motor vehicle, certain combination of vehicles, and buses; motor vehicle engaged in seasonal construction-related activities; definitions.

(1) For intrastate transportation, the provisions of this Ordinance do not apply to a self-propelled implement of husbandry or an implement of husbandry being drawn by a farm tractor or another implement of husbandry.

(2) The requirements of 49 CFR part 395 do not apply to any driver of a public utility service vehicle when being used in cases of emergency, as defined by the Act.

(3) A commercial motor vehicle constructed and maintained so that the body chassis or other parts of the vehicle afford the rear end protection required by 49 CFR 393.86 is in compliance with that section.

(4) This Ordinance does not apply to a commercial motor vehicle owned and operated by a unit of government or its employees, except for the following parts of 49 CFR:

(a) Part 382.

(b) Part 391.

(c) Part 392.

(d) Part 393.

(5) A combination of vehicles with an actual combination gross vehicle weight or a gross combination weight rating of 26,000 pounds or less, provided the trailer or semitrailer has an actual gross vehicle weight or gross vehicle weight rating of 15,000 pounds or less, may be

equipped with surge brakes for intrastate operation as allowed by the Act. Vehicles of any size that are transporting hazardous materials in an amount that requires placarding or vehicles that are designed to transport more than 8 passengers, including the driver, are prohibited from being equipped with surge brakes for intrastate operation.

(6) This Ordinance does not apply to a school bus as defined in the pupil transportation act, 1990 PA 187, MCL 257.1801 to 257.1877, or a bus defined and certificated under the motor bus transportation act, 1982 PA 432, MCL 474.101 to 474.141.

(7) A motor carrier operating entirely in intrastate commerce solely within Michigan shall not permit or require a driver of a commercial motor vehicle engaged in seasonal construction-related activities, regardless of the number of motor carriers using the driver's services, to do either of the following:

(a) Drive for any period after having been on duty 70 hours in any 7 consecutive days or having been on duty 80 hours in any period of 8 consecutive days.

(b) Drive more than 12 hours or be on duty more than 16 hours in any day.

Section 5. Inspection of cargo.

An Enforcement Officer may, without a warrant, require the cargo carrying portion of a vehicle to be opened for inspection of the cargo, any object within that portion of the vehicle, or the interior of the vehicle or any compartment within the interior of the vehicle. If a commercial motor vehicle is inspected by breaking the load seal, then the Enforcement Officer shall give to the driver a signed receipt of inspection and the Enforcement Officer shall be responsible for applying a state of Michigan seal.

Section 6. Violation of act or rules; penalty.

(1) Except as otherwise provided herein, any person, driver, or motor carrier as defined by the Act, who violates this Ordinance is responsible for a municipal civil infraction and may be ordered to pay a fine of not more than \$250.00 for each violation.

(2) An Enforcement Officer, upon probable cause to believe that a motor vehicle is being operated in violation of this Ordinance may stop the motor vehicle and inspect the motor vehicle. If a violation is found, the Enforcement Officer may issue a notice to appear for that violation.

(3) An Enforcement Officer, upon notification of a valid out-of-service order upon a motor carrier issued by the United States department of transportation, by a state or a political subdivision of a state, by the Canadian or Mexican government, or by the government of a province of Canada, may stop and detain any vehicle operated by the motor carrier and place the vehicle and driver out of service pursuant to the order. A driver or motor carrier operating a vehicle in violation of an out-of-service order is responsible for a municipal civil infraction and shall be assessed a fine of not more than \$500.00

Section 7. Penalties; "serious safety defect" defined.

(1) A driver, person, or motor carrier as defined by the Act who operates or who requires or permits the driver to operate a commercial motor vehicle with a serious safety defect in violation of this Ordinance is responsible for a municipal civil infraction and shall be assessed a fine of not more than \$500.00 for each violation.

(2) The fine for operating a vehicle with a serious safety defect ordered to be paid pursuant to this Ordinance shall be paid to the county treasurer and shall be allocated as follows:

(a) Seventy percent to St. Clair County.

(b) Thirty percent for library purposes as provided by the Act.

(3) Subsection (2) does not apply to a fine ordered to be paid for a case in which the citation is dismissed pursuant to subsection (4).

(4) The owner or operator of a commercial motor vehicle shall not be issued more than 1 citation for each violation of the Act, this Ordinance, or provision of Michigan's Motor Vehicle Code regulating the operation of a commercial motor vehicle and substantially corresponding to a provision of sections 683 to 725a of the Michigan vehicle code, 1949 PA 300, MCL 257.683 to 257.725a, within a 24-hour period. If the owner or operator of a commercial motor vehicle is issued a citation by a township, city, village, county or State for an equipment violation that does not result in the vehicle being placed out of service, the court shall dismiss the citation if the owner or operator of that commercial motor vehicle provides written proof to the court within 14 days after the citation is issued showing that the defective equipment indicated in the citation has been repaired.

(5) As used in this section, "serious safety defect" means a violation of this Ordinance relative to brakes, tires, steering, coupling devices, headlights, taillights, brake lights, and turn signals that results in the vehicle being placed out of service.

Section 8. Transporting package relating to hazardous material required to be marked or labeled; violation; penalty; owner or user of hazardous materials vehicle inspection or repair facility; violation as misdemeanor.

(1) A person who operates or who requires or permits a person to operate a commercial motor vehicle in violation of this Ordinance related to the transportation of hazardous materials if the vehicle is transporting a package required to be marked or labeled under 49 CFR parts 100 to 180 is responsible for a municipal civil infraction and may be ordered to pay a fine of not more than \$500.00 for each violation.

(2) A person or entity identified in subsection (1) who causes injury or death during a violation of this Ordinance while a vehicle identified in subsection (1) that is transporting a package required to be marked or labeled under 49 CFR parts 100 to 180 is used, is, upon conviction, guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$500.00, or both, for each violation.

(3) An officer, employee, owner, or agent of an individual, partnership, corporation, or association, or their lessees or receiver appointed by a court that is the owner or user of any hazardous materials vehicle inspection or repair facility that violates a section of this Ordinance is guilty of a misdemeanor punishable as prescribed in this section.

Section 9. Vehicle combination transporting combustible liquid; requirements; information required to be on file; retention and transfer of information; applicability of requirements in subsections (2) and (3); transport of flammable liquids, gases, or compressed gases.

(1) A truck tractor pulling a semitrailer and a trailer, or pulling 2 semitrailers, shall not transport a combustible liquid unless the vehicle combination meets the following requirements:

(a) Is equipped with a device that restricts the horizontal and vertical rotation of the dolly assemblage of the vehicle combination in a manner that maintains the longitudinal tracking of the dolly and semitrailer in a truck tractor, semitrailer, and trailer combination, or the dolly and the truck in a truck and trailer combination. This device shall be welded to the vehicle in a workmanlike manner, and the efficiency of a weld shall not be less than 85% of the mechanical properties of the adjacent metal in the chassis.

(b) Is equipped with stops in the spring hangers of each semitrailer and trailer in the vehicle combination in a manner that improves the stability of the vehicle combination by reducing the free play of the leaf spring suspension to a maximum of 3/4 of an inch when the spring passes from tension to compression.

(2) The owner of the semitrailer or trailer to which the device described in subsection (1) is attached shall keep on file in their principal place of business the following information:

- (a) Specifications and plans of the device.
- (b) Name of the manufacturer of the device.
- (c) Date of installation of the device.
- (d) An individual manufacturer identification number which is stamped or permanently affixed to the device.

Section 10. Transfer of hazardous material; prohibitions; exceptions; overfilling container; violation; penalty.

(1) Except as provided in subsection (2), a person, driver, owner, carrier, lessee, or lessor shall not transfer or allow to be transferred a hazardous material from a cargo tank,

portable tank, or any other container to any cargo tank, portable tank, fuel tank, or any other container on a highway, road, street, or alley in this County.

(2) Subsection (1) does not apply to the following transfer situations:

(a) Fueling machinery or equipment for construction, farm, and maintenance use.

(b) Fueling emergency vehicles.

(c) Under emergency conditions, a transfer may be made provided it is approved by the local fire chief, the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, or a hazardous materials investigator of the motor carrier division of the department of state police pursuant to their respective authority under the fire prevention code, 1941 PA 207, MCL 29.1 to 29.34.

(3) A person shall not overfill a container, including a storage tank, during a transfer of a hazardous material from or into a vehicle, so that hazardous material is released from the package or container.

(4) The penalty for violating this section is as prescribed in section 7c.

Section 11. Transporting hazardous materials in amount requiring placard on publicly maintained route; prohibition; violation; penalty.

(1) A person, driver, owner, carrier, lessee, or lessor shall not transport or allow to be transported a vehicle carrying hazardous materials in an amount required to be placarded under title 49 of the code of federal regulations on a publicly maintained route as identified on the national hazardous materials route registry as determined by the department of transportation under title 49 CFR.

(2) The penalty for violating this section shall be as prescribed in section 7c.

Section 12. Enforcement of municipal civil infraction.

(1) Municipal civil infractions for violations of this Ordinance shall be enforced in the manner provided for enforcement of municipal civil infractions in chapter 87 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8701 to 600.8735.

(2) When a person who is not a resident of this state is stopped for a violation of this Ordinance which constitutes a municipal civil infraction, the Enforcement Officer making the stop shall take security for the nonresident's appearance in court. The person stopped may recognize to the Enforcement Officer or to the court for his or her appearance by leaving with the Enforcement Officer or court a guaranteed appearance certificate or a sum of money not to exceed \$100.00.

(3) If a magistrate is available for an immediate appearance, upon demand of the person stopped, the Enforcement Officer immediately shall take the nonresident driver before the magistrate to answer to the municipal civil infraction alleged. If the nonresident defendant requests a hearing, the hearing shall be scheduled and the defendant shall leave with the court the guaranteed appearance certificate or deposit as security for appearance at the scheduled informal or formal hearing.

(4) The Enforcement Officer receiving a guaranteed appearance certificate or deposit of money shall give a receipt to the person stopped for the guaranteed appearance certificate or the money deposited together with the written citation.

(5) At or before the completion of his or her tour of duty, the Enforcement Officer taking a certificate or deposit of money shall deliver the certificate or deposit of money and the citation either to the court named in the citation or to the person authorized by the Sheriff of St. Clair County to receive certificates or deposits. The person authorized by the Sheriff of St. Clair County shall deposit the certificate or the money deposited and the citation with the court.

(6) If the person who posts a certificate or deposit fails to appear as required in the citation or fails to appear for a scheduled informal or formal hearing, the court having jurisdiction and venue over the civil infraction shall enter a default judgment against the person, and the guaranteed appearance certificate or money deposited shall be forfeited and applied to any civil fine or costs ordered.

(7) For purposes of this section, "guaranteed appearance certificate" means a card or certificate containing a printed statement that a surety company authorized to do business in this state guarantees the appearance of the person whose signature appears on the card or certificate and that the company, if the person fails to appear in court at the time of a scheduled informal or formal hearing or to pay any fine or costs imposed, will pay any fine, costs, or bond forfeiture imposed on the person in a total amount not to exceed \$200.00.

Section 13. Prevention of water or road surface substances being thrown from rear wheels.

A truck, truck tractor, trailer, semitrailer, or any combination of these, when used on a highway, shall be constructed, equipped, or operated to prevent water or other road surface substances from being thrown from the rear wheels of the vehicle or combination at tangents exceeding 22-1/2 degrees measured from the road surface. If a flap type device is used, it shall not have attached any type of lamp, breakable reflective material, or reflecting buttons nor may the device extend beyond the maximum width of the vehicle or combination.

Section 14. Enforcement of the Act.

Nothing in this Ordinance shall diminish the right of the St. Clair County Sherriff Department to enforce any provisions of the Act

Section 15. Severability.


The phrases, sentences, sections and provisions of this Ordinance are severable; if any portion of this Ordinance is found to be unconstitutional or otherwise unenforceable, the remaining sections of the Ordinance shall remain in full force and effect.

Section 16. Repeal.

All other Ordinances, parts of Ordinances or amendments to such Ordinances which conflict with this Ordinance are repealed to the extent of such conflict.

This Ordinance was adopted by the St. Clair County Board of Commissioners on _____, 2010 and shall be effective when published in a newspaper of general circulation in the County.

Reviewed and approved by:



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