

STATE OF MICHIGAN  
COURT OF APPEALS

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UNIVERSAL AM-CAN, LTD.,

UNPUBLISHED  
October 14, 1997

Plaintiff-Appellee,

v

No. 192145  
Ingham Circuit Court  
LC No. 94-078925 AW

ATTORNEY GENERAL,

Defendant-Appellant,

and

MICHIGAN PUBLIC SERVICE COMMISSION,

Defendant-Appellee.

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Before: Markman, P.J., and McDonald and Fitzgerald, JJ.

PER CURIAM.

The Attorney General appeals a January 2, 1996 order which granted plaintiff summary disposition on count V of plaintiff's complaint. The circuit court determined that §10a(6) of the Michigan Motor Carrier Act, MCL 479.10a(6); MSA 22.575(1)(6), was preempted by § 601 of the Federal Aviation Administration Authorization Act of 1994, PL 103-305, which took effect January 1, 1995. 49 USC 11501(h).

Section 601 of the federal legislation broadly preempts state economic regulation "related to a price, route, or service of any motor carrier. . . ." The breadth of the federal legislation was discussed in *In re Federal Preemption of Provisions of the Motor Carrier Act*, 223 Mich App 288; \_\_\_ NW2d \_\_\_ (1997), lv pending. Although the federal legislation is broad, it does not preempt the entire Motor Carrier Act. 223 Mich at 300-302. Among other things the federal legislation does not restrict state safety regulation. 49 USC §11501(h)(2). The circuit court determined that MCL 479.10a(6); MSA 22.575(1)(6) constituted economic regulation, because it constituted regulation of a carrier's price, route or service, rather than a safety regulation as argued by the Attorney General.

MCL 479.10a(6); MSA 22.575(1)(6) provides that leased equipment is to be operated by employees. This provision has the effect of preventing independent contractors from operating leased equipment. The Attorney General's position was rejected by this Court in *In re Federal Preemption of Provisions of the Motor Carrier Act*, 223 Mich App 288, 307-310; \_\_\_ NW2d \_\_\_ (1997), lv applied for. We agree with the reasoning and decision of the majority of the panel in *In re Motor Carrier Act*, *supra* pp 307-310 that the leasing provision at issue is primarily economic regulation which relates to price, route or service. The arguments that the provision is safety related are not persuasive. We note that our decision is consistent with the PSC's view of the same issue in its case T-1273.

Affirmed. No costs because a question of public significance is presented.

/s/ Stephen J. Markman

/s/ Gary R. McDonald