

Commercial Motor Vehicle

Enforcement Quarterly



Captain's Corner

Michigan crash statistics for 2002 have been released with both good and bad news on the commercial vehicle front. First, the good news. The total number of crashes involving a CMV decreased from 17,692 in 2001 to 16,789 last year, a reduction of 5 percent. Even better news is that the number of CMV involved injury crashes fell by a huge 31 percent, from 3,090 in 2001 to 2,133 in 2002.

Now for the bad news. Fatal crashes involving a CMV rose last year to 132. This represents an 8 percent increase when compared to the 122 fatal crashes in 2001. While this increase is most unwelcome, the number of fatal crashes in 2002 is still well below the last ten-year average of 144 fatal CMV crashes each year. Nationally, CMV fatal crashes decreased by 3.5 percent last year.

I recently attended a U.S. Department of Transportation Leadership Conference in Lexington, Kentucky, where Undersecretary of Transportation, Michael Jackson, stated that the goal of USDOT is to reduce the number of fatalities that occur each year on our nation's highways by 41 percent by the year 2008. Last year, 42,850 persons lost their lives on our nation's highways. Thus, our five-year goal is to save 9,000 lives annually.

How can such dramatic change occur? It can only take place through cooperative efforts and by making traffic safety a priority of every law enforcement agency. In this regard I need your help! We only have 120 Motor Carrier Officers statewide, with many of them concentrated near our scale sites. Not every post or county has an officer assigned. If we are to achieve further reductions in CMV crashes, all patrol officers must recognize and embrace CMV enforcement as an important part of their daily enforcement activities.

New programs and regulations can also help to enhance safety on our highways. Three such initiatives are being implemented. First, the Federal Motor Carrier Safety Administration's New Entrant Program which will require all new motor carriers engaging in interstate commerce to undergo a safety audit within their first 18 months of operation. The idea is to help ensure new motor carriers get off on the right foot and establish sound practices early on.

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Normal and Designated Weights

In the last edition, we discussed Special Designated Highways and the weights allowed on those roads, most notably the Bridge Formula. In this Quarterly, we'll discuss the normal loading maximums and designated loading maximums, except for tandem-tandem vehicles.

Subsection 257.722(6) is Michigan's maximum wheel load law. This provision states that for enforcement purposes, the tire manufacturer's rated size will be used. Whenever an officer is determining legal weights by tire size, the officer must use the manufactured rated width, not the measured width. This subsection also states that the maximum wheel load allowed on any one tire is 700 lbs. per inch of tire width.

Therefore, a tire rated at 10" in width would be allowed 7,000 lbs. Assuming its companion on the other side is the same width, the axle would be allowed a maximum of 14,000 lbs. With dual tires of the same size, the weight would double, except that it is limited by other provisions of the section, depending upon axle spacings. Generally, rated tire size is only a factor on steering axles.

The phrase "spacing between axles" is defined in Section 257.61 ("Axle" is defined in Section 257.3). Axle spacing is determined by measuring the distance from axle center to axle center. An accurate tape measure is a necessity.

Subsections (1), (2), and (3) of Section 257.722 set the maximum weights for normal and designated roads. Remember, the agency that has jurisdiction over the road must officially "designate" the road for it to receive anything more than normal weights.

Subsection (1), the normal loading maximum, allows the following, provided it does not exceed the maximum wheel load (257.722(6)):

- If the axles are less than 3'6" apart, each axle is allowed 9,000 lbs. maximum
- If the axles are more than 3'6" apart, but less than 9' apart, each axle is allowed 13,000 lbs. maximum
- If the axles are more than 9' apart, each axle is allowed 18,000 lbs. maximum

Michigan has no weight tolerances, so any amount of overage is in violation. Also, the law does not specify what the weight is allowed for axles that are exactly 3'6" or 9' apart. It is Motor

Carrier Division policy to provide the higher weights to axles that are exactly at the break point.

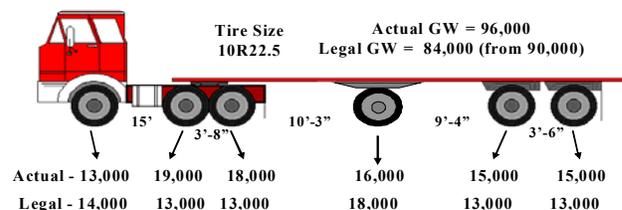
Section 257.676 defines "tandem axle" and 257.67a defines "tandem axles assembly." Both of these terms use the same measurement, requiring two axles spaced more than 3'6" and less than 9' apart. The definitions differ in that "tandem axle assembly" requires a connecting mechanism that attempts to distribute the weight equally between the two axles. Because of the difficulty in determining this provision, Motor Carrier Division policy uses the two terms interchangeably.

Subsections (2) and (3) of Section 257.722 set the maximums for designated roads. They state:

"When normal loading is in effect, the state transportation department, or a local authority with respect to highways under its jurisdiction, may designate certain highways, or sections of those highways, where bridges and road surfaces are adequate for heavier loading, and revise a designation as needed, on which the maximum tandem axle assembly loading shall not exceed 16,000 pounds for any axle of the assembly, if there is no other axle within 9 feet of any axle of the assembly."

"(3) On a legal combination of vehicles, only 1 tandem axle assembly shall be permitted on the designated highways at the gross permissible weight of 16,000 pounds per axle, if there is no other axle within 9 feet of any other axle of the assembly, and if no other tandem axle assembly in the combination of vehicles exceeds a gross weight of 13,000 pounds per axle."

An example of the qualifying provision in Subsection (3) is offered below:



Because both tandems exceed 13,000 lbs. each, neither tandem is eligible for the 16,000 lbs. provision. If the back tandem had weights of 13,000 lbs. or less each, then the front tandem could receive 16,000 lbs. each. Also, note that the law does not specify which tandem is provided the 16,000 lbs. provision. Either tandem could receive it. It is Motor Carrier Division policy to give the 16,000 lbs. provision to the tandem that would receive the most benefit from it.

Bus Regulations

School Buses

The Pupil Transportation Act (Act 187 of 1990) regulates the use and standards of school buses. There are some things that CMV officers should be aware of.

Section 257.1833(2) prohibits a bus, other than a school bus, from being painted in whole or in part, the colors and design specified for school buses. The only exception is when school buses are used in seasonal agricultural transportation. This means that if someone buys a used school bus for personal or commercial use, it must be repainted. Specifically, the color "national school bus chrome yellow" is prohibited.

Sections 257.1865 and 1867 allow public schools to contract to non-profit organizations, other government agencies, or for retired, disabled, or senior citizens for non-pupil transportation using school buses. These operations are subject to the Federal Motor Carrier Safety Regulations (FMCSR) through the Michigan Motor Bus Transportation Act (Act 432 of 1982, 474.101-141).

Officers should be alert to school bus operations in the summer time, particularly if all or most of the passengers are adults. Typically, this indicates a contract operation, and therefore is subject to the Federal Motor Carrier Safety Regulations (FMCSR) as a motor carrier of passengers.

Motor Carriers of Passengers

Under the FMCSR, contract school bus operations, as well as buses operated by churches, non-profit groups, and by businesses for employee transportation, are considered Private Motor Carriers of Passengers (PMCP). Attached is a flyer that explains the PMCP requirements.

Buses offering private transportation are subject to the FMCSR through the

Michigan Motor Carrier Safety Act (Act 181 of 1963). For-hire passenger transportation is not subject to Act 181 (see definition of "bus" in Section 480-11a(2)(b)), but is subject to the FMCSR through the Michigan Motor Bus Transportation Act (Act 432 of 1982, 474.101-141).

For vehicles fewer than 16 passengers engaged in for-hire transportation, the Michigan Limousine Transportation Act applies (Act 271 of 1990, 257.1901-1939). This Act does not adopt the FMCSR. Both the Limousine Transportation Act and the Motor Bus Transportation Act certification programs are administered by the Michigan Department of Transportation.

Farm/Special Farm/Milk/Log Plates

Michigan provides registration plates to certain agricultural industries at reduced fees (compared to EGVW plates). This article will examine the requirements of those registrations.

Farm Plates

Subsection 257.801(1)(c) allows a truck or truck/road tractor owned by a farmer to display farm plates provided:

- It is used exclusively in connection with a farming operation, including transporting livestock or farm equipment for other farmers for remuneration in kind or in labor, but not for money; or
- It is used for the transportation of the farmer and the farmer's family, and not used for hire.

While the terms "farming" and "farmer" are not defined in the Motor Vehicle Code, there have been several court cases and at least one Attorney's General opinion on this issue. The courts have generally held that there must be some "cultivation of the soil"

or "the production of raw food...and includes the production of poultry or livestock."

Attorney General Opinion No. 3506 stated that a "farming operation includes farming, tillage of the soil, dairy farming, ranching, production or raising of crops, poultry or livestock..." The terms "farming" and "farmer" are subject to interpretation by local courts, but based on the above, MCD believes that a farm plate is inappropriate for landscaping operations.

The transportation of live plants to a retail outlet would be a legitimate use of the farm plate, provided it is in furtherance of a farming or horticultural operation. Also, a farmer can use a farm-plated vehicle for personal recreational use.

Special Farm Plates

Special Farm plates are identified by the letter "F" in the middle of the registration number. As these plates are only \$20 for a year, their use is very restricted.

Section 257.802(9) states that a special farm plate may be used on a truck or truck/road tractor exclusively for:

- Gratuitously transporting farm crops or livestock bedding (defined in subsection (b) as straw, sawdust, or sand) between the field where produced and the place of storage;
- Feed (defined in subsection (a) as hay or silage) from on-farm storage to an on-farm feeding site; OR
- Fertilizer, seed, or spray material from the farm location to the field.

Any other use of this plate is illegal.

Log Plates

Log plates are addressed in Subsection 257.801(1)(d). The law provides that the truck or truck/road tractor must be owned by a wood harvester and used exclusively in connection

with the wood harvesting operation. A wood harvester is "...the person or persons hauling and transporting raw materials in the form produced at the harvest site. As used in this subdivision, "wood-harvesting operations" does not include the transportation of processed lumber, Christmas trees, or processed firewood for a profit making venture."

Generally speaking, a company that offers tree-trimming (not harvesting) services would not be eligible for a log plate. Those companies that do harvest the entire tree, even on residential property, would be eligible for log plates.

Milk Plates

As of March 27, 2000, milk transporters are permitted to purchase registration plates at the Farm/Log plate rate, provided the vehicle is "...used exclusively to haul milk from the farm to the first point of delivery..." (Subsection 257.801(1)(d)). The Secretary of State used the Farm/Log stickers until Milk stickers became available, so some of these vehicles may display Farm/Log stickers.

For any agricultural operation operating on a restricted plate, officers should ask detailed questions about how the registration plate is being used before taking enforcement action. Also, local courts vary on their interpretation of the statute language.

REMINDERS

- **Intrastate USDOT Numbers:** There have been some reports that Michigan requires carriers that never leave the state of Michigan to obtain a USDOT number. While USDOT and Michigan are discussing this issue, there is no requirement for Michigan-only carriers to obtain a USDOT Number. USDOT now has a system in place to issue USDOT Numbers to intrastate carriers. However, Michigan is currently not mandating intrastate carriers to register or obtain a number.
- Be sure to fill out the CMV Quarterly Survey included with this newsletter! We really need your input, and the **first 70 survey responses** will receive a **free pocket edition** of the Federal Motor Carrier Safety Regulations!

Captain's Corner continued:

The second new development is the recent release of an interim final rule by FMCSA on Hours of Service. The new hours of service regulations represents the first re-write of this rule since 1939, and takes effect on January 4, 2003. The new hours of service regulations have been adopted into state law by reference and will apply to both interstate and intrastate operations in Michigan. Look for an article on hours of service in the October newsletter.

FMCSA and the Transportation Security Administration (TSA) has announced the requirements for background checks for holders of a commercial drivers license (CDL) with a hazmat endorsement. The goal of this initiative is to help prevent both domestic and foreign terrorists from gaining access to a CMV carrying a hazardous materials.

Details involving these programs may be found on the internet at www.fmcsa.dot.gov.

In closing I want to once again encourage you to become actively involved in the drive to make our highways safer, especially with regard to large trucks. If we can help you to help us, please don't hesitate to let us know.

Have a safe and enjoyable summer!