

Commercial Motor Vehicle

Enforcement Quarterly



Captain's Corner

Captain Robert R. Powers, Jr.

After one of the nicest Michigan summers in years, Fall is finally upon us. As we all know only too well, with Fall comes shorter daylight, inclement weather, and hazardous driving conditions. Despite record high gasoline prices, our highways remain congested and the trucks are everywhere. For those of us dedicated to promoting traffic safety this is indeed a busy and important time of the year.

This Fall will bring us a new generation of Motor Carrier Officers. Twenty new officers will graduate from the 15th Motor Carrier Recruit School on November 4.

With the completion of this recruit school near, we have begun the recruiting and selection process for the 16th Motor Carrier Recruit School that will begin on October 8, 2006. If you or anyone you know are interested in a career as a Motor Carrier Officer, please contact Sergeant Hines at 517-336-6284 for more information.

I am pleased to announce that the Motor Carrier Division has received a special grant from the Federal Motor Carrier Safety Administration (FMCSA) to fund the issuance of USDOT numbers to intrastate motor carriers. This grant requires a 20 percent match which will be funded by the Michigan Truck Safety Commission. This program will enable the collection and analysis of citation, crash, and inspection data on intrastate carriers, which in turn will provide data upon which commercial vehicle enforcement and safety programs can be built or expanded. The Motor Carrier Division plans to begin this program early in 2006.

In closing I want to remind you that applications are now being accepted for the Michigan Association of Chiefs of Police (MACP) award for Excellence in Commercial Vehicle Safety for 2005. Local law enforcement agencies, sheriff departments and state police posts are all eligible for that award, valued at \$6,000. For more information and to download an application please go to the MACP website at www.michiganpolicechiefs.org. The entry deadline is January 6, 2006.

Have a safe, happy, and prosperous holiday season.

November 2005

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Changes to Part 393

Inspections

FMCSA issued a final rule on August 15, 2005, making numerous general amendments to Parts and Accessories. The rule took effect on **September 14, 2005**. Below is a synopsis of most of the major changes. It is strongly recommended that readers review the entire rule.

Many of the changes bring the FMCSR into line with the Federal Motor Vehicle Safety Standards developed by USDOT/NHTSA.

Section 390.5, Driveaway-towaway operation definition has been amended to mean one of the following circumstances where a vehicle is being transported:

1. between a vehicle manufacturer's facilities;
2. between a vehicle manufacturer and a dealership or a purchaser;
3. between a dealership or other entity selling or leasing the vehicle, and a purchaser or lessee;
4. to a motor carrier's terminal or repair facility for the repair of disabling damage following a crash;
5. to a motor carrier's terminal or repair facility for repairs associated with the failure of a vehicle component or system;
6. by means of a saddle mount or tow bar.

Section 393.5 – new definitions for various brake systems and other components, as well as for the term boat trailer.

Section 393.9 – FMCSA incorporated into this section an interpretation that only those lights that are required to be present must be operable. Additional lamps that are inoperable do not constitute a violation.

Section 393.11 – Boat trailers over 80" in width are exempted from both front and rear clearance lights. FMCSA removed a sentence in footnote 4 that required side marker lamps to be visible in the rearview mirror. Footnote 5 is amended to clarify that converter dollies only need one stop/tail light. Footnotes 9 and 10 are amended to remove the requirement for a lamp on projecting loads during daylight hours.

Section 393.40 – The section for required brakes has been completely revised, but generally, if the vehicle is maintained according to the FMVSS at time of manufacture, it should be in compliance.

Section 393.41 – parking brakes – revised to clarify that all self-propelled CMVs must have parking brakes.

Section 393.42 – the exception for trailers with a GVWR under 3,000 lbs. from having brakes on all wheels has been amended. The term GVWR is being replaced with gross weight." To be eligible for the exception now, a trailer must have a gross weight of 3,000 lbs. or less, in addition to the 40% "tongue weight" limitation. The tongue weight determination is also based on gross weight, not GVWR.

Section 393.43 – FMCSA must now explicitly states that the tractor protection device operate when the air pressure on the towing vehicle is between 20 –45 psi. FMCSA also amends the regulations to specify that all brakes must apply automatically upon breakaway, except for trailers with more than 2 axles.

Section 393.48 is amended to exempt unladen converter dollies from having operative brakes, provided they were manufactured prior to March 1, 1988. House moving dollies and similar vehicles used to move extremely large loads are also exempted from brakes.

* * * * *

Act 181/432/300 Legislation

Special Edition

Because of recent legislation amending Act 181, Act 300, and Act 432, a Size and Weight article is not included in this edition. This article offers a brief overview of the changes, but readers are cautioned to obtain official copies of the legislation (<http://www.legislature.mi.gov/>) and review them thoroughly.

All three bills were tie-barred together and have an effective date of October 20, 2005.

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Act 300, amended by Act 179

- Creates Section 257.321g, which moves the HM endorsement violations from Act 181 to Act 300.
 - Deletes Section 257.714a, mudflaps, which is moved to Act 181.
 - Deletes Section 257.714b, fuel systems, which conflicted with the FMCSR.
 - Amended Section 257.723, identification requirements:
 - o Now applies to “commercial vehicles” (as defined in 257.7) single or combination, GVWR/actual gross, over 5,000 lbs., and all wreckers.
 - o Vehicles in compliance with Section 390.21 of the FMCSR shall be deemed in compliance with 257.723.
 - o The farm/manufacturer plate exemption only applies to vehicles under 10,000 lbs.
 - Section 257.724(5) – language identifying what vehicles are required to cross the scales is clarified:
 - o Commercial vehicles (as defined in 257.7) with other vehicles or trailers in combination;
 - o A truck or truck tractor, single or in combination;
 - o Any special mobile equipment.
 - Section 257.724(7) – dumping load to avoid a weigh is now a violation of the “refuse to weigh” provision.
- Sec. 4 – Grandfather Cards. (4) All cards expire December 31, 2014.
 - Sec. 4a – MCD can no longer issue grandfather cards, effective October 20, 2005.
 - Sec. 5 – Exemptions:
 - o (1) Farm Vehicle Driver – no change.
 - o (2) Implement Exemption – restricted to implements and farm tractors as power unit.
 - o (3) Utility drivers – restricted to non-CDL vehicles.
 - o (4) Rear End protection exemption – language for trailers over 50’ removed.
 - o (6) Government vehicles – no changes.
 - o (7) Surge Brakes – 26K or less for combination, no HM placards or 16 or more passenger vehicles.
 - o (8) School buses and Act 432 buses – no changes.
 - o (9) “Public Utility” defined.
 - o (10) “Implement of husbandry” and “farm tractor” defined (as in Act 300).
 - Sec. 6 – editorial changes.
 - Sec. 7 – (3) added for OOS orders.
 - Sec. 7a – authority to promulgate rules.
 - Sec. 7b – \$500, state civil infraction.
 - Sec. 7c – editorial changes.
 - Sec. 7d – editorial changes.
 - Sec. 8, 9, 10 – no changes.
 - Sec. 11 – editorial changes.
 - Sec. 12 – editorial, violation to overfill HM container.
 - Sec. 13 – HM restricted routes, state civil infraction.
 - Sec. 14 – bond/bond card provisions.
 - Sec. 15 – Mudflaps, moved from 257.714a
 - Removed from Act 181:
 - o Mechanics exemption (480.12r).
 - o HOS exemptions for specific industries (480.12v and 12w).

Act 181, amended by Act 177

- Title of Act amended to include authority over HM shippers.
- Sec. 11a – added Parts 40, 356, 365, 368, 371-373, 375, 376, 379, 385 and all appendices
- All intrastate definitions removed (including CMV), except for HM inspection/testing facility.
- Sec. 2d – Driver Qualifications:
 - o 16 year old farm provision removed.
 - o 18 year old HM farm (40K) provision removed.
 - o Now all drivers intrastate must be 18, interstate 21, HM placards (intra or inter) must be 21.
- Sec. 3 – Appeal Board/Medical Waiver provisions.

Act 432, amended by Act 178

Act 432, which is administered by the Michigan Department of Transportation, regulates for-hire passenger carriers. The Act adopts the FMCSR into state law, and has been amended to include Part 365, which regulates carriers based in Mexico. USDOT required the states to adopt Part 365 as part of the implementation of NAFTA.

Wrecker Apportioned Plates

Motor Vehicle Code

In 1994, legislation was passed to allow wreckers to purchase “wrecker” plates in lieu of EGVW plates, which was discussed in the April 2003 edition of the *CMV Enforcement Quarterly*.

The wrecker plate, per Section 257.79c, restricts the use of the wrecker to no more than 2 vehicles (and cannot use a fifth wheel device or a trailer). Wreckers towing/transporting more than two vehicles must purchase an EGVW plate.

For interstate transportation, certain vehicles must obtain an apportioned (IRP) plate. To identify what fees have been paid on an IRP plate, the Secretary of State created two wrecker codes to differentiate between the fees paid for a wrecker and those paid for EGVW.

Officers must be sure to review the IRP cab card on a wrecker closely to see what code is indicated. Under the box marked “Type,” a “WK” code indicates the fees have been paid to tow/transport more than 2 vehicles (EGVW fees). A “WR” code indicates the fees have been paid to tow/transport no more than 2 vehicles (wrecker fees).

REMINDER BOX

◆ *Cargo securement for sod: The last Quarterly discussed the securement of sod. One reader brought up the requirement of Section 393.112, adjustability of tiedowns, and noted that the use of bungee cords would be a violation of this section as well.*

◆ *As a condition of grant funding, USDOT/FMCSA requires personnel to conduct LEIN checks of CDL drivers during traffic stops. MSP/MCD strongly encourages all officers to routinely file check all CDL drivers. Recently, a truck driver operating on a suspended CDL was involved in a fatal crash in Maine. Two days previously, the same driver had been inspected and issued a citation in New York, but apparently no driver license check was conducted.*

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Below are samples of each code on a Michigan IRP cab card:

“WK”

MICHIGAN APPORTIONED REGISTRATION CAB CARD					The vehicle described has been proportionally registered between the State of Michigan and the jurisdictions shown below.	
Owner (Lessee) TEST					Plate Number: RD9187 Expires Dec: 09/30/2005	
Household Carrier Service Representative					AB 021772 AL 048000 AR 048000 AZ 048000	
Unit Number	Year	Make	Type	Feet	BC 021772 CA 048000 CO 048000 CT 048000	
9	2000	FORD	WK	D	DC 048000 DE 048000 FL 048000 GA 048000	
Vehicle Identification Number 15634982576532459			Gross Vehicle Weight 48000			IA 048000 ID 048000 IL 048000 IN 048000
Unit Gross Weight 15500	County Code 23	Tax Number RD9187		KS 048000 KY 048000 LA 048000 MA 048000		
MI Weight Fee 17.03	Misc. Fee 0.00	MI Total Fee 17.03	Date Registered 10/01/04			
Account Number Operator (Lessee) 99996-01-000					ME 021772 MD 048000 NE 048000 MI 048000	
SAMPLE					MS 048000 MO 048000 NB 048000 NC 048000	
					NB 021772 NJ 048000 ND 048000 NH 048000	
					NI 048000 NV 048000 NY 048000 OH 048000	
FEE TEST					OK 048000 OR 021772 OS 048000 PA 048000	
7064 CROWNER DR					PE 021772 QC 000003 RI 048000 SC 048000	
LANSING MI 48918					SD 048000 SK 021772 TN 048000 TX 048000	
SAMPLE					UT 048000 VA 048000 VT 048000 WA 048000	
					WI 048000 WV 048000 WY 048000 ** *****	
					** ***** ** ***** ** ***** ** *****	
MICHIGAN DEPARTMENT OF STATE					2005	
<small>Authority granted under Act No. 134 (PA 1982) No jurisdictions are to be listed after the row of asterisks or card is invalid. This card must be carried in the vehicle to which it is issued or be subject to confiscation. Credits are not valid.</small>					OS WGT8 IN LBS, CAN WGT8 IN KGS	
					2005-230	

“WR”

MICHIGAN APPORTIONED REGISTRATION CAB CARD					The vehicle described has been proportionally registered between the State of Michigan and the jurisdictions shown below.	
Owner (Lessee) FEE TEST					Plate Number: RD9186 Expires Dec: 09/30/2005	
Household Carrier Service Representative					AB 021772 AL 048000 AR 048000 AZ 048000	
Unit Number	Year	Make	Type	Feet	BC 021772 CA 048000 CO 048000 CT 048000	
5	1998	FORD	WR	D	DC 048000 DE 048000 FL 048000 GA 048000	
Vehicle Identification Number 123456789ABCDEFH			Gross Vehicle Weight 15500			IA 048000 ID 048000 IL 048000 IN 048000
Unit Gross Weight 15500	County Code 23	Tax Number RD9186		KS 048000 KY 048000 LA 048000 MA 048000		
MI Weight Fee 3.39	Misc. Fee 0.00	MI Total Fee 3.39	Date Registered 10/01/04			
Account Number Operator (Lessee) 99996-01-000					ME 021772 MD 048000 MI 048000	
SAMPLE					MS 048000 MO 048000 NB 048000 NC 048000	
					NH 048000 NJ 048000 NL 021772 NM 048000	
					NI 048000 NV 048000 NY 048000 OH 048000	
FEE TEST					OK 048000 OR 021772 OS 048000 PA 048000	
7064 CROWNER DR					PE 021772 QC 000003 RI 048000 SC 048000	
LANSING MI 48918					SD 048000 SK 021772 TN 048000 TX 048000	
SAMPLE					UT 048000 VA 048000 VT 048000 WA 048000	
					WI 048000 WV 048000 WY 048000 ** *****	
					** ***** ** ***** ** ***** ** *****	
MICHIGAN DEPARTMENT OF STATE					2005	
<small>Authority granted under Act No. 134 (PA 1982) No jurisdictions are to be listed after the row of asterisks or card is invalid. This card must be carried in the vehicle to which it is issued or be subject to confiscation. Credits are not valid.</small>					US WGT8 IN LBS, CAN WGT8 IN KGS	
					2005-230	

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