

# Commercial Motor Vehicle

## Enforcement Quarterly



### Captain's Corner

by: Captain Robert R. Powers, Jr.

I am pleased to announce the winners of the Michigan Association of Chiefs of Police (MACP) 2004 Award for Excellence in Commercial Vehicle Safety. The following agencies were honored at the MACP mid-winter conference on February 3. In addition to receiving a commemorative plaque, each of the winners also received police equipment valued at \$6,000.

**AGENCY CLASS**

- 1 - 10 Officers
- 11 - 25 Officers
- 36 + Officers
- Sheriff Department
- State Police

**WINNING AGENCY**

- Pinckney Police
- Huron Township
- Dearborn Police Department
- Oakland County
- Adrian Post

Congratulations to these agencies for their dedication and outstanding efforts in promoting Commercial Vehicle Safety in Michigan.

Implementation of the U.S. PatriotAct continues to move forward. All new applicants for a HazMat endorsement on their commercial drivers license (CDL) must now pass a criminal background check by the U.S. Department of Justice. Beginning in May, all CDL HazMat renewals and transfers from another state will also require a fingerprint background check.

In case you were not aware, this publication is funded through a grant from the Michigan Truck Safety Commission (MTSC). The eleven member commission is responsible for promoting truck safety in Michigan through administration of the Michigan Truck Safety Fund. In addition to the State Police Motor Carrier Division, the Michigan Center for Truck Safety (MCTS) is a major recipient of funding from the MTSC.

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The MCTS delivers truck educational programs for truck drivers, trucking companies, and the motoring public. The MCTS operates a toll-free information hotline and also maintains an up-to-date website. The MCTS is an excellent source of free information pertaining to truck safety. You may access the MCTS at:

Toll Free Hotline – 1-800-682-4682 (Lansing)  
Or 1-800-469-7364 (Escanaba)

Website – [www.truckingsafety.org](http://www.truckingsafety.org)

I wish everyone a safe and enjoyable summer.

### **Height Law and Bridge Hits**

Height is one of Michigan's easier size laws to understand. There are only two height limitations: For all vehicles other than mobile homes, the total height of vehicle and load is 13'6" (Section 257.719(1)). For mobile homes, the total height allowed is 12'6" (257.719a(1)).

The most common problem with height is bridge hits. Sometimes these incidents result in spectacular pictures, but they can be tragic. A few years ago several school children were killed when an overhead walkway collapsed because of a bridge hit.

Section 257.719(1) clearly states that the owner of a vehicle that collides with a lawfully established bridge or viaduct is liable for all damage and injury resulting from that collision.

The Michigan Department of Transportation (MDOT) takes bridge collisions very seriously, and when the owner of the vehicle is identified, takes civil action to pay for the repairs.

MDOT even has a web site dedicated to identifying the locations and statistical information on bridge hits ([www.michigan.gov/mdot](http://www.michigan.gov/mdot), click on "trucker services," then scroll to the bottom of the page to "Frequent Bridge/Truck Collision Sites.") Broken out by MDOT regions, the web site shows the location of those bridges that have the highest number of collisions.

MDOT offers the following recommendations to trucking companies and drivers:

- The MDOT Truck Operators Map includes a list of bridges with clearance of less than 14'. This map should be reviewed prior to moving overheight loads.
- A permit is required for any vehicle with a height in excess of 13'6". It is the applicant's responsibility to submit a route to MDOT that allows for the necessary clearance. MDOT does not verify routes for height clearance.
- It is the permit holder's responsibility to check the route for height clearance and overhead obstructions **prior** to the movement.
- Drivers should check every load to ensure that any equipment being transported is properly secured and reduced to its minimum size for travel, and is within the height law limitations.



*Don't let this happen to you!*

## IRP Plates

In 1973, the International Registration Plan was formed as an informal organization. Prior to that time, many states only had reciprocity with neighboring states for commercial plates. Few, if any states, recognized the commercial plates from all the other continental states. This meant that drivers had to have several license plates on their power unit, so they could legally travel across the country.

Michigan joined the IRP in 1985. The IRP organization provided a method for the states to accept the registration fees for other states and forward those fees to that state. This allows trucking companies and drivers to purchase only one license plate in their home state, and pay mileage in all the various states they wish to operate. This is known as "apportionment" and the plates are termed "apportioned registration."

All the states except Alaska and Hawaii are members of IRP, as well as all of the Canadian provinces. Michigan has adopted the requirements of the IRP for registration in the Motor Vehicle Code at Section 257.801g. This section requires owners of trucks, truck tractors, and road tractors that are engaged in interstate commerce to register with IRP. It also allows the Secretary of State to issue a 45-day temporary permit.

Under the IRP, an owner of the following commercial vehicles must apportion register:

- Units with a power unit having two axles and a gross vehicle weight or registered gross vehicle weight in excess of 26,000 pounds;
- Units with a power unit having three or more axles, regardless of weight; or
- Units used in combination, when the weight of the combination exceeds 26,000 pounds gross vehicle weight.

Commercial vehicles under the above thresholds may choose to register with IRP. IRP requirements do not apply to vehicles that are used for personal transportation or otherwise not in commerce.

IRP has a very useful web site at <http://www.aamva.org/IRP/>. Items of note under the side bar entitled "jurisdictional information" near the bottom of the page are:

- A link to "Cab Cards." This link has a sample cab card for all member jurisdictions.
- A link to "Restricted Plates." This link has a list of all the specialty plates (e.g., farm plates) that a state may offer and includes a short description of what those restrictions are.
- A link to "Wreckers," which is a list of the provisions of the member jurisdictions regarding wrecker plates.

When examining cab cards, officers should read through the list of states, locate "Michigan" and check to see if a weight is entered. If the space is all zeros, it means the owner has not paid the fees to operate in Michigan, and the vehicle does not have a valid license plate for Michigan.

In addition, Michigan has signed a Uniform Reciprocity Agreement (URA) for non-IRP vehicles with five other jurisdictions – Indiana, Maine, Maryland, Pennsylvania, and Wisconsin.

This agreement grants vehicles registered in those states that are not subject to IRP full reciprocity. Vehicles included are:

- Passenger cars and non-commercial vehicles properly registered in their home state;
- Vehicles operated by government agencies, schools, religious or tax exempt charitable organizations;
- Vehicles owned by dealers and manufacturers, that are part of stock available for sale; and
- For interstate transportation only, commercial vehicles not subject to IRP, chartered buses, and vehicles with restricted plates.



## Safety Chains

A 2003 Michigan Court of Appeals decision (*People v. Lord*), that was refused review by the Michigan Supreme Court, highlights some important differences between the Michigan Vehicle Code (MVC) and the Federal Motor Carrier Safety Regulations (FMCSR) as adopted by Act 181.

This case involved a dump truck and ball-hitch trailer with a backhoe. While in operation, the trailer became disconnected and struck a passenger car traveling in the other direction, causing two fatalities. Although there were other numerous equipment defects, the case centered on the apparent absence of safety chains for the ball-hitch trailer. The defendant alleged that he had secured the trailer with a single cable. The decision centers around three major points that we will discuss:

### Semi trailer vs. Full trailer

What is the difference between a semi trailer and full trailer?

A full trailer (or trailer, see Section 257.73 (MVC) and 390.5(FMCSR)) is a vehicle, other than a pole trailer, and so constructed where none of the trailer weight rests on the power unit. The most common example of a full trailer is the pup trailer on a set of doubles that is employing a converter dolly.

A semi trailer (see 257.59 (MVC) and 390.5(FMCSR)) is a vehicle, other than a pole trailer, that is designed and constructed so that some of its weight is transferred to the power unit. Snowmobile/ATV trailers fall under this definition. Note that there is nothing in the definition of a semi trailer that requires the use of a fifth wheel device. A semi trailer can have any type of connecting mechanism.



Full Trailers

### Applicability of the FMCSR vs. the MVC

One of the arguments the defendant made in this case was that the Motor Vehicle Code did not apply to his operation because his vehicle met the definition of a commercial motor vehicle under Act 181 and its adoption of the FMCSR. It should be noted that this was an intrastate movement.

This is an important distinction because the FMCSR and the MVC differ in their requirements of safety chains:

- The FMCSR only requires safety chains on full trailers (Section 393.70(d)). Semi-trailers, regardless of the type of connecting mechanism used, are not required to have safety chains.
- When safety chains are required, the FMCSR allows the use of a single "bridle" chain, with certain restrictions (Section 393.70(d)(6)).

Section 257.721(3) of the MVC, however, states that "(T)he vehicle or trailer shall also be connected...by suitable safety chains or devices..." There is a provision in this subsection to allow the use of single bridle chains for implements of husbandry under 10,000 lbs. gross weight or gross weight rating.

Unfortunately, the issue of the applicability of two possibly conflicting state laws was not fully addressed, since the Court found the issue was not applicable since the attorneys for both parties had previously agreed to apply Section 257.721 only.

### Definition of "Vehicle" in Section 257.721(3)

The defendant also argued that since his vehicle included a semi trailer, and semi trailers are not specifically mentioned in Section 257.721(3), then the safety chain requirement did not apply to his operation. Additionally, he argued that the title to the section referred to passenger cars, so his commercial vehicle was exempt.

The Court held that the word "vehicle" as used in that subsection, and defined in Section 257.59 does in fact include semi trailers, and that titles added to sections of law are not part of the law and are not to be given the weight of law but should be considered informational.

The end result of the decision in this case is that in Michigan, any ball-hitch semi trailer or any full trailer must have two safety chains or the bridle chain arrangement.

While the language of Section 257.721(3) could technically be extended to fifth wheel or gooseneck semi trailers, the FMCSR, as adopted into state law, exempts these vehicles from safety chains. To prevent interference with interstate commerce, it is the policy of the Motor Carrier Division to not apply Section 257.721(3) to vehicles that use fifth wheel or gooseneck connecting devices.

Another important point regarding this case is that the defendant argued that because he had previously received a Michigan State Police Motor Carrier Division inspection form, his vehicle was therefore in compliance with the law and the inspection form created an ambiguity in the law. The Court held that the inspection "...form does not have the force of law and could not vary the terms of a statutory provision..." In essence, the Court said that inspection forms do not waive a driver or owner's responsibility to ensure their vehicle is in compliance with the law.

#### Reminder Box

- Act 511 of 2004 was discussed in the last issue of the *Quarterly*. This legislation changed the width of all trailers and semitrailers on all roads to 102". It should be noted that this legislation took immediate effect as of January 3, 2005.