

Commercial Motor Vehicle Enforcement Quarterly

February 2007



Captain's Corner

Captain Robert R. Powers, Jr.

Raw poultry hanging from the roof inside the cargo area of a straight truck, juices dripping onto open boxes of produce below. The outside temperature on this sunny afternoon is 80 degrees, while the temperature inside the fly infested cargo box is 70 degrees plus. Juices from the rotting raw food is dripping out onto the pavement from under the rear cargo box doors. This truckload of rotting food is destined for a restaurant in your community.

This scene was encountered many times this past summer on Michigan roadways by Michigan State Police Motor Carrier Officers.

During 2006, 22 cases of illegal and unsafe food transport were interdicted on Michigan highways. The majority of cases involved oriental food products; however, Italian, Mexican and other cuisines were also found rotting as they were transported along Michigan highways.

Besides the obvious cases where officers actually saw and smelled the evidence of unsafe food transport, what other indicators were present? No refrigeration unit, reefer unit turned off or not working, and the less obvious, a working reefer unit that was not set at the correct temperature.

In response to these incidents of unsafe food transport, the Michigan State Police Motor Carrier Division and the Michigan Department of Agriculture, Food and Dairy Division joined forces to attack the problem. This partnership began with cross training. Motor carrier officers provided commercial vehicle operations awareness training to food safety regulation agents, who in turn trained motor carrier officers in various food safety topics including safe storage temperatures for various food products and acceptable packaging practices.

Motor carrier officers and food safety regulation agents then developed several cooperative enforcement efforts that were conducted primarily along the I-94 corridor and by-pass routes between Chicago and Detroit. In September (2006) enforcement officers from the Illinois State Police, Indiana State Police, and the Ohio State Highway Patrol joined the interdiction effort during a three-day enforcement blitz, with five truckloads of spoiled food taken off the roadway. During a similar multi-state operation earlier in the year, troopers from Michigan, Indiana and Illinois confiscated six shipments of spoiled food.

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The cooperative efforts between law enforcement and agriculture officials involved surveillance at weigh stations, teaming up on road patrol, and sharing of intelligence regarding food transport.

Illegal and unsafe transportation of food products usually has a nexus to other safety, security, and criminal matters. Many drivers do not speak English, they do not have proper credentials and they are in non-compliance with the hours-of-service regulations. Food products are often used to disguise illegal drug shipments. Cases in point: 30 kilos of 99 percent pure cocaine seized in a truckload of pistachio nuts on I-69 near the Canadian border, and 220 pounds of marijuana concealed in a semi load of watermelons being transported from Tucson to Detroit on I-94.

Commercial vehicle inspectors are a front line of defense against this pervasive and serious threat to public health. Don't ignore the fact that tainted and unsafe food is probably moving through your jurisdiction. Roadside officers need to recognize the threat, look beyond the stop, and take action. Law enforcement leaders need to support the roadside activities, provide training, and establish synergistic partnerships with agriculture officials and other law enforcement officials.

For more information about safe and secure food transport, go to <http://www.fsis.usda.gov/oa/topics/biosecurity.html>.

The next time you are enjoying a meal out, ask yourself, "did this food get here in a safe, secure, and sanitary way?" Asking that question will provide the motivation to take action and make a difference.

Inspections

New Statutes

The Inspection discussion is preempted this quarter by a very busy lame duck session in the Michigan Legislature. There was a rush of bills in the last few weeks that was particularly intensive with the change in party leadership. Below is a discussion of the truck-related legislation that was passed by the Legislature and has been signed by the Governor:

- **Wrecker Permits, Act 509 PA 2006:** This bill amended Section 257.716 regarding wrecker permits. If the size and weight limitations of Act 300 are exceeded, the wrecker must be designed for such towing operations, equipped with the necessary lights specified in Section 257.698, and capable of utilizing the lighting and braking systems of the towed vehicle.

For a **single** disabled vehicle, a Section 257.725 permit must be obtained from MDOT. There is **no** mileage restriction for a single disabled vehicle permit.

For a **combination** of disabled vehicles, a Section 257.725 permit must be obtained from MDOT. The 25 mile (southern lower MI) and 50 mile (northern lower MI and the UP) radius restrictions are still in place. New language has been included that clarifies that the permit is valid for the entire distance, and the wrecker operator **may** choose to remove the disabled vehicles from the roadway at any point of his or her choosing within that distance.

MDOT is to provide a list of roads that wreckers may not operate on under these permits, unless the disabled vehicle(s) is on that road.

- **Fuel Tax, Public Act 449 of 2006:** Section 8 of Act 119 PA 1980, the Motor Carrier Fuel Tax Act, was amended to remove the liability of vehicle lessees under the Act for leased CMVs.

- **Compressed Gas Containers, Acts 504 and 505 PA 2006:** These bills amended Act 241 PA 1959, a little known statute that regulates the handling (not transportation) of compressed gas containers. These bills were designed to address the problem of LPG dealers stealing propane and residential storage tanks from one another.

Act 504 amended Section 429.112 of the Act, prohibiting the transfer of propane gas out of or into a stationary container without the written authorization of the owner of the container, unless the transfer complies with rules promulgated by the Michigan Department of Environmental Quality. It also requires stationary LPG tanks to be marked "...in plainly legible characters with the name, initials, mark, or other device of the owner," and prohibits a person from covering up, erasing, removing, or concealing the owner's mark.

Act 505 amended Section 429.113 of the Act, making each container possessed in violation a separate offense and allowing for civil action by the storage tank's owner for transfer violations of Section 429.112.

- **In-Transit Plates, Act 516 PA 2006:** This bill amended Section 257.226a(6), which authorizes SOS to issue what is known as the in-transit/repair plate, although the statute does not use that term. The statute was amended to allow the plate to be used "...to legally pick up or deliver a commercial motor vehicle being driven to a facility to undergo aftermarket modification..." Note that the use of the term "commercial motor vehicle" limits this

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provision to those vehicles that meet that definition in Section 257.7a, which is the CDL threshold. As a reminder, below are the other operations that can use the in-transit/repair plate, which have remained unchanged:

- ◆ "To legally pick up or deliver a vehicle not required to be titled under this act (Act 300);"
- ◆ "To repair or service a vehicle;"
- ◆ To persons defined as boat dealers under the Natural Resources and Environmental Protection Act (Section 324.80101), for the purpose of delivering a vessel or trailer to a customer to or from a boat show or exposition; or
- ◆ To transport vehicles for sale to and from auto auctions (257.226a(7)).

- Hours of Service Exemption, Act 595 PA 2006: This bill added an Hours of Service (HOS) exemption to Section 480.15 for "seasonal construction-related activities." In 2005, Michigan was required to remove a HOS exemption for the construction industry that had been in existence since 1991, due to USDOT/FMCSA compatibility requirements. This new exemption is compatible with USDOT/FMCSA regulations.

The exemption has been placed in subsection (9), and allows an intrastate driver engaged in seasonal construction-related activities to be on duty no more than 70 hours in 7 consecutive days or 80 hours in 8 consecutive days. It also states a driver under this provision cannot drive more than 12 hours or be on duty more than 16 hours in any day. Unlike the old exemption, this new provision does not restrict the driver to a 100 air mile radius.

An existing provision defining "public utilities" was moved to subsection (10), and an existing provision defining "farm tractor" and "implement of husbandry" was moved to subsection (11).

See the Size and Weight Section for an amendment to Michigan's weight statute.

Size and Weight

New Frost Law Permit Provisions

A bill was passed by the Legislature in December that amended Section 257.722. It provided frost law permit provisions for public utilities.

Act 658 PA 2006

This Act amended Section 257.722 by inserting a new subsection (6), adding a frost law permit provision on local roads for public utilities. All the subsections from subsection (6) on have been renumbered.

The language in subsection (5) has been changed and now this subsection provides the frost law permit provisions for county roads only for agricultural commodities.

The new subsection (6) utilizes much the same language as found in (5) for agricultural commodities. It states that public utilities that are regulated by the Michigan Public Service Commission (MPSC) or subcontractors to a public utility regulated by the MPSC can operate on local roads at special designated weights during frost restrictions to perform "electrical emergency public utility work." There are two distinctions:

- Emergency Public Utility Work (defined in subsection (13)): Allows public utilities to operate on county roads during frost laws without a permit, provided the utility notify the county road commission "as soon as practical" and vehicle speed on frost law roads is not to exceed 35 mph.
- Non-emergency Public Utility Work: The utility must apply for an annual permit from the county road commission prior to the implementation of frost restrictions. The permit must include the dates it is valid, a unique number for each vehicle covered by the permit, a requirement that travel on frost restricted roads be "minimized and only utilized when necessary to perform work", and that non-restricted roads are to be used whenever possible. The county road commission can require prior notification of utilities operating on restricted roads, and may deny access.

The insertion of the new subsection has moved all the existing subsections up:

Subsection (7) is now the provision regarding the rated tire size.

Subsection (8) is now the frost law provision, with a reference to the exceptions of agricultural commodities, and public utilities.

Subsection (9) is now the frost law permit provision for milk haulers.

Subsection (10) is now the provision for MDOT or the county road commission to suspend or implement weight provisions on specific roads.

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Subsection (11) is now the provision that states axles may be weighed together for an average individual axle weight or weighed separately and added together for a group axle weight.

Subsection (12) is now the Bridge Formula provision.

Subsection (13) is the definitions for the section. The agricultural commodities definition remains unchanged. Two new definitions are added:

- “Emergency Public Utility Work means work performed to restore public utility service or to eliminate a danger to the public to a natural disaster, an act of God, or an emergency situation, whether or not a public official has declared an emergency.”
- “Seasonal Load Limits” means a reduction of maximum allowable loads due to seasonal road conditions as provided under this section.”

Reminders

- Effective January 1, 2007, interstate motor carriers will not be required to display a MPSC decal or SSRS registration, **except** that an interstate HouseHold Goods (HHG) motor carrier making an **intrastate** movement will require an MPSC decal. Other than HouseHold Goods movements, MPSC decals are only required for **100% intrastate for-hire motor carriers** that do not have USDOT interstate operating authority.
- Effective January 1, 2007, Secretary of State will begin issuing IRP plates with a new background. The new plate has a white background and blue letters, and is reflective, rust-resistant, tamper-proof, and easy to read. The plate series will be RA00000 – RZ99999. Plates will be replaced at expiration, so expect to see both plates until February 29, 2008.

