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WIDE LOAD PERMITS: CLARIFY FARM EQUIPMENT EXEMPTION

House Bill 4464 as introduced First Analysis (4-29-99)

Sponsor: Rep. Michael Green
**Committee: Agriculture and Resource
Management**

THE APPARENT PROBLEM:

The Michigan Vehicle Code generally limits the maximum width of vehicles to 12 or 12½ feet (see BACKGROUND INFORMATION) and requires special permits for vehicles or loads that exceed the code's size, weight, or load limits. The vehicle code also prohibits vehicles from extending beyond the center line of a state trunk line highway except when authorized by law, and requires a special permit if the width of the vehicle makes it impossible to stay away from the center line.

The vehicle code allows a "jurisdictional authority" (that is, one of three authorities having jurisdiction over roadways, namely, the Department of Transportation, a county road commission, or a local authority that has jurisdiction over the route in question) to issue written special permits, either by the trip or annually, that allow applicants to move or operate a vehicle or combination of vehicles that exceed the code's size, weight, or load limits (or that fail to conform to the code's requirements in other ways). The special permits are issued upon receipt of a written application and when good cause can be shown. A special permit specifies the trip or trips and the date or dates for which the permit is valid, and it notes the jurisdictional authority granting the special permit, as well as any restrictions or prescriptive conditions that the authority deems necessary to protect public safety or the physical integrity of the road. An issuing authority can require a reasonable inspection fee and other security it determines to be necessary in order to compensate for damages caused by the non-conforming vehicle's movement. Public Act 80 of 1997 amended the special permit section of the vehicle code to require jurisdictional authorities to charge a \$50 fee for a special permit for a single trip, and a \$100 fee for multiple trips or for an annual permit. In the case of oversized farm machinery or

equipment, the special permit fee cannot be more than what it costs the issuing authority administratively to issue the permit.

The vehicle code, however, generally exempts farm equipment and vehicles from its requirements, and with regard to oversized vehicles, the code specifically allows a person to operate or move an "implement of husbandry" (see BACKGROUND INFORMATION) of any width on a highway as required for normal farming operations, without obtaining a special permit. The only restrictions on the operation or movement of an implement of husbandry are that (a) it must be operated or moved "in a manner so as to minimize the interruption of traffic flow" and (b) it cannot be operated or moved to the left of the center of the roadway under certain specified conditions (namely, at night; when the driver's view is obstructed by hills, curves in the road, or road structures such as bridges, viaducts, or tunnels; and when weather conditions "substantially" diminish visibility).

Reportedly, in either Lenawee or Monroe county, someone driving oversized farm equipment from a dealership to a farm received a citation from a Department of State Police Motor Carrier Division officer for operating an oversized vehicle without a special permit. Apparently, the effect of the judge's ruling in this case was that even though the vehicle in question was, apparently, farm equipment, it did not fall under the Michigan Vehicle Code exemption for farm equipment ("implements of husbandry") from special permitting requirements for oversized vehicles. At the joint request of a farm equipment dealers' association and an agricultural organization, legislation has been introduced to clarify that implements of husbandry are to be exempt from special "oversized" permitting requirements.

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THE CONTENT OF THE BILL:

The bill would amend the current language in the Michigan Vehicle Code, which says that "a person may operate or move an implement of husbandry of any width on a highway as required for normal farming operations without obtaining a special permit for an excessively wide vehicle or load," to say, instead, that a person could operate or move an implement of husbandry of any width "as required, designed, and intended for farming operations, including the movement of implements of husbandry being driven or towed and not hauled on a trailer."

MCL 257.717

BACKGROUND INFORMATION:

Vehicle widths. Section 717 of the Michigan Vehicle Code limits the total outside width of a vehicle (or the load on a vehicle) to 96 inches (12 feet), with the following exceptions:

** The load of a vehicle hauling concrete pipe, agricultural products, or unprocessed logs, pulpwood, or wood bolts can be up to 108 inches (13 feet) wide; and

** A bus, motor home, or vehicle equipped with pneumatic tires can be up to 102 inches (12½ feet) wide (though, in the case of vehicles equipped with pneumatic tires, this width applies only to the distance from the outside of one wheel and tire to the outside of the opposite wheel and tire; the body of such a vehicle can be no more than 96 inches wide);

In addition, the vehicle code allows certain "jurisdictional agencies" (namely, the director of the Department of Transportation, county road commissions, and local authorities) to designate highways under their jurisdiction as a highway on which someone can operate a vehicle or vehicle combination which is up to 102 inches (12½ feet) wide, and allows the agency making the designation to require the vehicle's owner or lessee to obtain a permit before operating the extra-wide vehicle.

"Implement of husbandry" is defined in the code as "a vehicle which is either a farm tractor, a vehicle designed to be drawn by a farm tractor or an animal, a vehicle which directly harvests farm products, or a vehicle which directly applies fertilizer, spray, or seeds to a farm field." (MCL 257.21)

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have no fiscal implications. (4-26-99)

ARGUMENTS:

For:

Regardless of the actual details of the Lenawee or Monroe county case, the Michigan Vehicle Code's exemption for oversized farm equipment needs to be clarified to allow such equipment to be driven from a dealership to a farm without the driver being ticketed for driving an oversized vehicle without a special permit. The vehicle code currently doesn't require a special permit for the operation of oversized "implements of husbandry" when the implement of husbandry is being operated "as required for normal farming operations," and it seems obvious that driving an oversized piece of farm equipment from a dealership to a farm should fall under this exemption. The bill would do this, eliminating entirely the reference to "normal" farming operations and instead exempting implements of husbandry of any width if the implement of husbandry were being operated or moved not only as required for farming operations, but also as "designed" and as "intended" for farming operations.

Against:

The bill would exempt anyone -- whether a farmer, an equipment dealer, or anyone else -- from having to get a special permit to drive oversized farm equipment from, say, a dealership to a farm, when perhaps only actual farmers should be exempted from the vehicle code's special permitting requirements for oversized vehicles. In the first place, the vehicle code exemption applies to a "person," which the code defines as "every natural person, firm, copartnership, association, or corporation and their legal successors." Thus, the bill might allow dealers, for example, to drive oversized farm equipment not only from a dealership to a farm but from one dealership to another -- or anywhere else -- without any limitations on the distance that could be driven and without any notification requirements to any authority having jurisdiction over the roadway or roadways used. Since farm equipment dealers already can get special permits to move oversized equipment for a nominal sum (and since, presumably, such permits fees can be written off as a cost of doing business), it would seem unnecessary to include dealers under the bill's special permit exemption. More generally, since the vehicle

code doesn't restrict oversized farm equipment from blocking traffic (the code requires only that the movement of such equipment must "minimize the interruption of traffic flow"), it would seem a good idea to have dealers and any other non-farmers get special permits to move such equipment, since the authority responsible for the roadway then would know when such equipment was going to be moved and could take steps to plan for possible traffic interference accordingly. Finally, special permits also allow authorities issuing the permits to require security in order to pay for any damage caused to the roadway by the oversized equipment. As farm equipment continues to grow in size and weight, the potential for damage to the roadway, including the shoulders of roads (which are not meant for heavy loads) would seem to be increasingly likely. While it is important to continue to facilitate the conduct of agriculture, a very important industry in the state, it also is important to balance this facilitation with the protection of the public use of roadways and the physical integrity of the roads as well.

Response:

Although the vehicle code does not define "farming operations" (much less "normal farming operations"), it could be argued that dealers would still have to get permits to drive oversized farm equipment from one dealership to another, since a dealer-to-dealer transfer wouldn't seem, on the face of it, to fall under "farming operations." However, the vehicle code could be amended to clarify this and other cases by adding a definition of "farming operations" if this were seen as a potential problem.

POSITIONS:

Michigan Farm Bureau supports the bill. (4-27-99)

The Ohio-Michigan Dealers Equipment Association supports the bill. (4-27-99)

Analyst: S. Ekstrom

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.