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## FARM IMPLEMENT TRANSPORT PERMITS

**Senate Bill 694 (Substitute H-1)  
First Analysis (12-11-02)**

**Sponsor: Sen. George A. McManus  
House Committee: Transportation  
Senate Committee: Farming,  
Agribusiness and Food Systems**

### ***THE APPARENT PROBLEM:***

The Department of Transportation and county road agencies adopt permitting processes to allow the transport of occasional loads that are over-wide and over-weight. These special use permits are available in order to accommodate farmers who must move heavy equipment that is used to harvest and then to haul crops or products to markets, sometimes using farm implements and equipment that violate the norms because of their width and weight.

The special use permitting process is regulated by the U.S. Department of Transportation, following federal laws and rules. For example, federal law provides that “[a] state *may* grant a special use permit to a commercial motor vehicle that is more than 102 inches in width,” 49 USC 31112(c). A spokesperson for the department has noted that permits are, by their nature, exceptional and discretionary measures. A state *may* allow permits. The Senate has passed legislation that would require the department to issue such permits. However, a law stating that the Michigan Department of Transportation *shall* issue an annual permit to a farm implement dealer would (1) remove the discretionary element required by federal law, and (2) assign all discretion about vehicle or cargo width to a private non-governmental entity.

In order to allow for special use permits, and to ensure that they are available on Saturdays during the farmer’s work week, legislation has been introduced.

### ***THE CONTENT OF THE BILL:***

The bill would amend the Michigan Vehicle Code to allow the Department of Transportation to issue an annual permit authorizing a farm implement dealer to transport (by truck, truck tractor semi-trailer, or trailer) upon a state highway during daylight hours, including Saturday, farm machinery or implements of a greater width or height than authorized, if the

transportation is otherwise permitted under rules that are promulgated under section 716 that do not conflict with this section. [Currently under the law, the department is allowed to issue the permits (and does so). Historically the special use permits were not available for use on Saturdays.]

MCL 257.725a

### ***HOUSE COMMITTEE ACTION:***

The House Transportation Committee adopted Substitute H-1 for Senate Bill 694. The substitute is different from the Senate-passed version of the bill in two ways. First, the granting of special use permits would be left to the discretion of the department and the local road agency, as is now the case under the law, and in keeping with federal law and rules. The Senate-passed version of the bill would have required the granting of a special use permit. Second, the substitute would make the special use permits available on Saturdays, rather than Saturday and Sunday as was proposed in the Senate-passed version of the bill.

### ***BACKGROUND INFORMATION:***

During committee testimony, a spokesperson for the County Road Association of Michigan reported that the county road agencies have recently updated their special permit processes throughout the state. Special use permits are now available on Saturdays. Further, the association has arranged a meeting of interested parties and the Federal Highway Administration, in order to explain the new local permitting processes, and to propose changes in the federal rules.

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**FISCAL IMPLICATIONS:**

According to the House Fiscal Agency, the bill would not have any impact on state or local revenue. (12-11-02)

**ARGUMENTS:****For:**

The substitute bill adopted by the House Transportation committee is good policy since it would retain the department's, and also the local road agencies', discretionary power to grant special use permits. Had the special use permits been required, as proposed in the Senate-passed version of the bill, then the department would have been in violation of federal law and regulations. That change in the law would have limited the governor's ability to certify to the Federal Highway Administration that the state was in compliance with the size and weight limitations of Section 658 of the Title 23 of the Code of Federal Regulations (23 CFR). Annual certifications of compliance are required by 23 CFR Section 657, and the state is subject to federal sanctions for non-compliance, including withholding of federal funds. In this instance the Federal Highway Administration estimated that the amount of the sanction could have ranged from \$65 million to \$100 million per year.

**POSITIONS:**

The Department of Transportation supports the H-1 substitute. (12-11-02)

The County Road Association of Michigan supports the bill. (12-11-02)

The Michigan Agribusiness Association supports the bill. (12-11-02)

A representative of the Ohio-Michigan Equipment Dealers Association testified in support of the bill. (12-11-02)

The Michigan Farm Bureau supports the bill. (12-11-02)

Analyst: J. Hunault

■ 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.