



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bills 706, 707, and 708 (as enacted)
Sponsor: Senator Tom Casperson
Senate Committee: Transportation
House Committee: Transportation and Infrastructure

PUBLIC ACTS 454, 455, & 456 of 2016

Date Completed: 4-6-17

RATIONALE

Evidently, there have been incidents over the last few years suggesting conflicts between timber harvesting companies and certain local authorities regarding vehicular access to local roads. More specifically, several timber harvesting companies reported that some local authorities required the companies participating in a harvesting operation to purchase a driveway permit before they could continue to the cutting site, or that the authorities prohibited certain vehicles such as fuel trucks from going to cutting sites altogether, among other things, in an effort to restrict access on local roadways.

Because these incidents apparently were recurring, some believed that the wood product industry was being targeted by some local authorities, and that there was a lack of consistent policy regarding how local authorities work with harvesting companies that have operations in an area. It was suggested that certain statutes be amended in order to enable harvesting companies that have met all established State and local conditions to gather timber without further restrictions.

CONTENT

Senate Bill 706 amended Section 725 of the Michigan Vehicle Code, which allows jurisdictional authorities to issue special permits for noncompliant vehicles, to do the following:

- Provide that Section 725 may not be construed to allow the imposition of fees upon, or the enactment of regulations regarding, a vehicle or a combination of vehicles engaged in silvicultural operations if the vehicle or combination does not exceed the Code's size, weight, or load maximums and conforms to the Code.
- Specify that this provision does not excuse a vehicle or combination of vehicles engaged in silvicultural operations from the Code's seasonal weight restrictions.

Senate Bill 707 amended Public Act 200 of 1969, which requires permits for driveways providing direct access to a highway, to specify that "constructed or reconstructed" (for the purpose of requiring corrections to a driveway that is in violation of rules) does not include maintenance activities performed on a driveway.

Senate Bill 708 amended Public Act 283 of 1909, the county road law, to provide that a county road commission is not authorized to require a permit for an activity that is otherwise permissible under State law, and specify that a county road commission may not be held liable for the failure of a person performing work for which a permit is not required on a county road right-of-way to post a sign that warns of the work being performed.

The bills took effect on April 5, 2017.

Senate Bill 706

Section 725 of the Michigan Vehicle Code allows a jurisdictional authority, upon receiving an application and for good cause, to issue a special permit authorizing an applicant to operate upon or remove from a highway maintained by that authority a vehicle or combination of vehicles that exceeds the size, weight, or load maximum specified in the Code, or otherwise does not conform to the Code. A special permit must specify the trip or trips and the date or dates for which it is valid. The jurisdictional authority may restrict or prescribe the conditions of operation of a vehicle or vehicles, and may charge a fee as specified in Section 725.

The bill states that nothing in Section 725 may be construed to allow a jurisdictional authority to impose fees upon or enact regulations regarding a vehicle or combination of vehicles engaged in silvicultural operations (forestry) if the vehicle or combination of vehicles is not in excess of the size, weight, or load maximums specified under Chapter VI of the Code, and is otherwise in conformity with the chapter. The bill also specifies that this provision does not excuse a vehicle or combination of vehicles engaged in silvicultural operations from seasonal weight reductions described in Section 722.

("Jurisdictional authority" means the Michigan Department of Transportation, a county road commission, or a local authority having jurisdiction over a highway where a vehicle is proposed to be moved pursuant to a permit required under the Code.

Chapter VI of the Code prescribes size, weight, and load limits for vehicles on roadways throughout the State. The chapter also provides for speed limits, drunk driving, moving violations, traffic signals, accidents, rights-of-way, passing, turning, equipment, vehicle inspections, special stops, and other matters governing obedience to traffic laws.

Section 722 of the Code states that during the months of March, April, and May, the maximum axle and wheel load allowable on concrete pavements or pavements with a concrete base may not exceed certain values. The section makes exceptions to the seasonal restrictions for vehicles transporting agricultural commodities and, under certain circumstances, for public utility vehicles and vehicles delivering propane fuel to a home.)

Senate Bill 707

Public Act 200 of 1969 requires a permit from a highway authority for a "driveway" (which means "a driveway, lane, road or any other way providing vehicular access to or from the highway from or to property adjoining the highway"). A permit must be granted in conformity with rules promulgated by the highway authority, which is the Michigan Department of Transportation in the case of State trunk line highways, or the board of county road commissioners in the case of county roads. The Act requires the Department to promulgate rules necessary for the administration of the Act, and permits county boards to adopt the rules by reference or adopt their own rules.

The Act does not apply to a driveway existing on or before August 6, 1967, unless the use of the land served by the driveway is changed or expanded and that change or expansion causes the existing driveway to become a safety hazard. Under those circumstances, a driveway is considered new and is subject to the Act. In addition, a driveway that is constructed or reconstructed after the effective date of the rules issued under the Act and that is in violation of the rules must be corrected by the owner within the period of time, not less than 30 days, specified in a notice of violation sent by certified mail to the owner. If the violation is not corrected, the highway authority or its agents may perform the necessary correction and the owner must reimburse the highway authority for the reasonable cost of correction.

The bill states that, for this purpose, "constructed or reconstructed" does not include maintenance activities performed on a driveway, including, but not limited to, the placement of additional gravel.

Senate Bill 708

Section 19b of Public Act 283 of 1909 requires an entity constructing, operating, maintaining, or removing a facility or performing any other work within the right-of-way of a county road to obtain a permit from the county road commission that has jurisdiction over the road and the local governmental unit, if required. The section contains further provisions regarding the adoption of permit requirements and fees associated with a permit, including annual and emergency permits, and the refusal of a permit requested by a government entity.

The bill specifies that Section 19b does not authorize a county road commission to require a permit for an activity that is otherwise permissible under State law. Also, a county road commission may not be held liable for the failure of a person performing work for which a permit is not required on a county road right-of-way to post a sign that gives advance warning of the work being performed in the right-of-way.

MCL 257.725 (S.B. 706)
247.327 (S.B. 707)
224.19b (S.B. 708)

BACKGROUND

According to a 2015 United States Department of Agriculture (USDA) report, Michigan has over 20 million acres of forest land and more than 19 million acres of timberland (defined as productive, unreserved forest land). According to a Michigan Department of Natural Resources (MDNR) report on the State's forest products industries, Michigan has over 800 logging and trucking firms, about 300 primary manufacturers (sawmills, veneer mills, pulp and paper mills, and engineered board manufacturers), and more than 1,000 secondary manufacturers (companies that use lumber or products made by a primary manufacturer to make finished goods).

In addition, an MDNR report on forest products industries' contribution to the State economy stated that the industry had an economic impact of \$17.8 billion on the State, had \$518 million worth of international value-added exports, and accounted for 34,951 jobs in 2013. An MDNR Michigan primary mill survey reported that there were approximately 259 active primary mills in 2014. The compiled information from the mills that participated in the survey showed that they processed 371 million cubic feet of roundwood, which included imported wood and wood harvested from Michigan forests. ("Roundwood" is wood harvested from forests in the form of sawlogs, cabin logs, posts, poles, bolts, pulpwood, or chips.)

Also, according to U.S. census data on wood product manufacturing, in 2012 Michigan had over \$2.1 billion worth of wood product shipments and more than \$5.2 billion worth of paper product shipments (which measure the dollar value of products sold by manufacturing establishments).

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The Michigan wood product industry demands regular and timely deliveries of wood from harvesting companies throughout the year. These deliveries are critical for the industry to function properly without delays. The obstructions created by certain local authorities, however, have often delayed harvesting operations, which are already expensive undertakings that require extensive planning and risk-taking, and could cost harvesting companies additional money. Rising costs and additional difficulties are unnecessary and unacceptable, and are felt throughout the wood product industry. Although most local authorities collaborate well with the industry during harvesting operations, every authority needs to cooperate consistently in order to avoid the creation of obstacles for an industry that provides many jobs for Michigan residents. The bills will ensure more consistency in how the industry and local authorities work together.

Supporting Argument

The wood product industry was being targeted unfairly by some local authorities. Many other industries outside of the extracting industry that use similarly sized vehicles on local roadways have not experienced the same obstructions from local authorities. Harvesting companies were trying to cooperate by buying permits and laying gravel down on roads that they used, among other things. However, some local authorities continued to make it difficult for the companies by requesting more from them while allowing other industries to operate on local roads without any additional requirements. The bills will prevent unfair treatment of the wood product industry.

Supporting Argument

The ongoing issues between harvesting companies and local authorities create a negative culture that may dissuade companies from operating or participating in Michigan's wood product industry. Arauco, a Chile-based lumber processing company, started building one of the world's largest particleboard mills in Grayling in 2016. The mill is anticipated to generate around 250 full-time jobs. If obstacles continue to be created for harvesting companies, however, mills like the one in Grayling may not be built or existing operations might move. The bills are important to keep the wood product industry operating in a way that is attractive to outside investors as well as existing companies, which provide jobs to Michigan residents and contribute substantially to the economy.

Opposing Argument

While it is unacceptable for certain authorities to abuse their power and create obstacles for harvesting companies as a means to maintain transportation infrastructure, it is important to recognize how destructive the large vehicles used in harvesting operations are for local roads and that the companies usually use roads that are already in poor condition to get to a cutting site. Moreover, municipalities and local authorities do not have large-enough budgets to consistently keep roads in good condition. The State and local governments have invested a lot of money in transportation infrastructure. It is vital to protect that investment and maintain local infrastructure for safe passage. Instead of taking control away from local governments, the State should encourage the parties involved to find a solution through cooperation or alternative avenues.

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bills will have no fiscal impact on State or local government.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.