



Senate Fiscal Agency
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BILL**ANALYSIS**

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Senate Bill 396 (Substitute S-5 as reported)
Sponsor: Senator Tom Casperson
Committee: Transportation

Date Completed: 10-30-18

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. Specifically, some have argued that certain local authorities target the timber industry to try and restrict its access on local roadways. Public Acts 454, 455, and 456 of 2016 amended State law to address some of these issues, namely local authorities requiring timber harvesting companies participating in harvesting operations to purchase a driveway permit before they could continue to a cutting site, or prohibiting specific vehicles from going to a site altogether.

Nevertheless, some believe that those bills were only the first step in addressing the reported conflict between local governments and the timber industry. Some contend that there continues to be a lack of consistent policy regarding how local authorities work with harvesting companies operating within their jurisdiction. It has been suggested that the Michigan Vehicle Code be amended to specify that certain provisions of the Vehicle Code would not apply to vehicles associated with forest products or harvesting, and to establish other requirements for local governments and entities operating forest equipment.

CONTENT

The bill would amend the Michigan Vehicle Code to do the following:

- **Specify that a provision limiting the total outside width of a vehicle or the load to 96 inches would not apply to a vehicle transporting forest products while traveling on a county road.**
- **Specify that the Code's provisions pertaining to height restrictions and normal length maximums for certain vehicles would not apply to a vehicle transporting forest products while traveling on a county road.**
- **Allow a person to operate a pneumatic tired forestry vehicle or a forestry harvest vehicle for a distance of no more than 20 miles on a highway if that vehicle were equipped with a slow-moving vehicle emblem and a flashing strobe light, and if the vehicle were unladen.**
- **Exempt a person hauling forestry equipment from seasonal reductions to the loading maximums and gross vehicle weight requirement of the Code if the person who picked up or delivered the forestry equipment notified the county road commission for roads under its authority at least 48 hours before the pickup or delivery of the pickup or delivery.**
- **Require the Michigan Department of Transportation and each local authority with highways and streets under its jurisdiction to which seasonal restrictions apply to post certain information on all roads subject to the seasonal road restrictions that intersected roads that were not subject to seasonal road restrictions at least 48 hours before the date the seasonal restrictions began.**

- **Create an exception to the seasonal load restrictions for a vehicle transporting forest products or forest or forest harvestry equipment on an unpaved road, and allow a county road commission to require such a vehicle to obtain a bond based on miles traveled.**
- **Allow a jurisdictional authority to issue a special permit authorizing the highway operation of a vehicle that was delivering new or used machinery as part of a sale of that machinery, and charge a special permit fee that did not exceed \$25.**

The bill would take effect 90 days after its enactment.

Vehicle Transporting Forest Products; Height and Length Maximums

Section 719 of the Code prohibits a vehicle unloaded or with load from exceeding a height of 13 feet six inches. The owner of a vehicle that collides with a lawfully-established bridge or viaduct is liable for all damage and injury resulting from a collision caused by the height of the vehicle, whether the clearance of the bridge or viaduct is posted or not.

Section 719 also prescribes normal length maximums for certain vehicles. All combinations of vehicles under Section 719 must employ connecting assemblies and lighting devices that are in compliance with the Motor Carrier Safety Act.

A person who violates Section 719 is responsible for a civil infraction, and the owner of the vehicle may be charged with a violation.

The bill states that Section 719 would not apply to a vehicle transporting forest products while that vehicle was traveling on a county road.

Seasonal Maximum Axle Load Restrictions

The Code prescribes maximum axle loads and gross vehicle weights for various configurations of vehicles. During the months of March, April, and May, the maximum axle load allowable on concrete pavements or pavements with a concrete base must be reduced by 25% from the specified maximum load, and by 35% on all other types of roads. The seasonal reductions to the loading maximums and gross vehicle weight requirements do not apply to a person hauling agricultural commodities if the person who picks or delivers the commodities notifies the county road commission for roads under its authority at least 48 hours before the pickup or delivery of the time and location of the pickup or delivery. Under the bill, the exception also would apply to a person hauling forestry equipment if the person who picked up or delivered the equipment notified the county road commission for roads under its authority not less than 48 hours before the pickup or delivery. The seasonal reductions would not apply to a vehicle transporting forest products on a county road.

Under the Code, the Michigan Department of Transportation and each local authority with highways and streets under its jurisdiction to which seasonal restrictions apply must post all of the following information on the homepage of its website or, if a local authority does not have a website, then on the website of a statewide road association of which it is a member:

- The dates when the seasonal restrictions are in effect.
- The names of the highways and streets and portions of highways and streets to which the seasonal restrictions apply.

The bill would require those entities to post the information at least 48 hours before the date the seasonal restrictions began, and would require the information to be posted on all roads subject to seasonal road restrictions that intersected roads that were not subject to seasonal road restrictions.

Bond Requirement

The bill specifies that the seasonal weight reductions would not apply to a vehicle transporting forest products or forest harvesting equipment on an unpaved road. When the seasonal reductions were in effect, a county road commission could require the vehicle to obtain a bond in an amount up to \$2,000 per mile for each mile of unpaved road under the jurisdiction of that county traveled upon by that vehicle. A person transporting the products or equipment could use a lowboy semitrailer to transport equipment when the seasonal reductions were in effect.

Special Permits

Section 725 of the Code contains provisions regarding the issuance of a special permit by a jurisdictional authority to operate on or remove from a highway maintained by that authority a vehicle or combination of vehicles that are of a size, weight, or load exceeding the specified maximums, or otherwise are not in conformity with the Code. A jurisdictional authority may issue a special permit, and charge a fee that does not exceed the administrative costs incurred, authorizing the operation of the following on a highway:

- Traction engines or tractors having movable tracks with transverse corrugations on the periphery of those moveable tracks on farm tractors.
- Other farm machinery otherwise prohibited under Chapter 6 (Obedience to and Effect of Traffic Laws) of the Code.
- A vehicle of a size or weight otherwise prohibited under Chapter 6 that is hauling farm machinery to or from a farm.

The bill would prohibit the fee from exceeding \$25, and would include in that list a vehicle that was delivering new or used machinery as part of a sale of that machinery. This would apply regardless of whether seasonal weight restrictions were applicable.

The bill also specifies that none of the seasonal weight restriction provisions would affect the validity of a permit issued under Section 725.

MCL 257.717 et al.

BACKGROUND

According to a 2015 United States Department of Agriculture (USDA) report, Michigan has over 20 million acres of forest land. The Michigan Department of Natural Resources (DNR) reports that 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, a 2017 DNR report on forest products industries' contribution to the State economy stated that the industry had total contributions of \$21.2 billion in output, \$5.5 billion in labor income, \$8.0 billion in value added, and accounted for over 99,000 jobs. A DNR 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 forest product industry is an important part of the Michigan economy and demands regular and timely deliveries of wood from harvesting companies throughout the year. These deliveries are critical for the industry to function properly and without delays. The obstructions and inconsistent local policies between jurisdictions, however, often have delayed or restricted harvesting operations. Harvesting operations are already expensive undertakings that require extensive planning and risk-taking, and any delays could cost harvesting companies additional money. Rising costs and additional difficulties are unnecessary and burdensome for the wood product industry. Although many 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. Harvesting operations should not have to depend on whether the local jurisdiction has an accommodating authority that is amenable to timber operations. The bill would ensure more consistency in how the industry and local authorities work together.

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, soon will begin operating a \$400.0 million particleboard plant that will employ 200 people in Grayling, Michigan. The mill will require the timber industry to supply much more timber. If problems persist between timber extracting companies and local governments the Arauco mill, as well as other current or prospective businesses in the wood product industry, may not be as profitable and may consider Michigan a poor place for business. The bill would keep the industry operating in a way that was efficient, profitable, and attractive to current businesses in the industry and outside investors.

Supporting Argument

Wood product mills often operate throughout the entirety of the year. However, county restrictions may prohibit or reduce wood product transport or access to some timber sites. By exempting a vehicle transporting forest products or forest or forest harvestry equipment on an unpaved road from the seasonal restrictions, among other things, the bill would create additional opportunities to transport wood products to mills and other locations throughout the State.

Opposing Argument

It is important to recognize how destructive large vehicles used in harvesting operations and wood product transport 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 sufficient budgets to keep roads in good condition on a consistent basis. The State and local governments have invested significant money in transportation infrastructure. It is vital to protect that investment and maintain local infrastructure for safe passage. Local governments know their roads best and make educated decisions on whether it is safe for a vehicle to use a road, and consider temperature, terrain, and weather when making that decision. Instead of taking control away from local governments, the State should encourage the parties involved to find a solution through cooperation or alternative avenues. Both the County Road Association and the Great Lakes Timber Professionals Association have published suggestions for compromise between wood product companies and local governments that should be explored before enacting the bill.

Opposing Argument

The State provides counties additional money to aid in the safe and efficient collection and transport of forest raw materials under the Transportation Economic Development Fund (Category E - Forest Roads). According to the Fund's Annual Report for Fiscal Year 2017, 47 counties each received a portion of the \$5.0 million allocated for the purpose described above. The same report

states that \$6.9 million was spent on projects related to forest road maintenance and repair in 2016. Counties already have difficulty affording the maintenance of primary roads. If enacted, the bill would increase the number of opportunities for a company to extract or transport wood products, creating further traffic on forest roads. The State should consider increasing the amount appropriated to local governments for the purpose described above so that those roads can be maintained appropriately. Otherwise, counties would have to bear the brunt of the increased wear and tear on this infrastructure.

Response: The bill would allow a county to require a company transporting wood products to acquire a bond based on the miles it traveled to mitigate the county's expenses in the event that the road was damaged.

Opposing Argument

Many people who live adjacent to unpaved roads depend on those roads to drive to the grocery store, doctor's office, or social events. If a timber-extracting company were operating on the road, a person could lose his or her ability to travel, or the congestion on the road could make it difficult for emergency services to reach his or her home. The bill could exacerbate poor road conditions and threaten public safety without further safeguards.

Opposing Argument

The bond amount suggested in the bill could be inadequate to cover damages or administrative costs associated with roads that need maintenance or repairs following their use by wood product companies. Furthermore, by creating a special exemption for the wood product industry, the bill would create inequality among industries that often use large and heavy equipment on county roads, such as the home building industry.

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill could have a minor negative fiscal impact on the Department of Transportation.

The bill would have an indefinite impact on counties with gravel roads used by the forestry industry. If forestry vehicles operating on gravel roads were exempt from the seasonal weight restrictions, rural counties with an active forestry industry could see accelerated wear on those roads. Depending upon the severity of that erosion, repair costs for counties could range from a few thousand dollars to tens of thousands of dollars. It also is likely that the counties would be unable to plan for these additional costs. Although the bill includes language that would allow county road commissions to require a \$2,000 bond per mile traveled by unrestricted forestry vehicles, the bill does not include language outlining the consequences for nonpayment of this bond.

The bill would exempt width, height, weight, and combination restrictions for vehicles transporting forest products on county roads. The bill also would exempt an oversized vehicle's owner from liability if that vehicle were transporting forest products on a county road and it collided with and damaged a lawfully-established bridge or viaduct. The costs for bridge or viaduct repair for damage caused by such a vehicle likely would be covered by the county in which the bridge or viaduct was located.

Lastly, the bill would require the State and local jurisdictions to post signs on roads subject to seasonal restrictions at least 48 hours before those restrictions went into effect. Currently, those notices are required only to be posted online. Signage costs for the Department can vary. For example, as of 2014, speed limit sign replacement costs were \$730 per mile on freeways and \$63 per mile on nonfreeways. The proposed requirements relate to the placement of signage of seasonal load restrictions, not speed limit signage. It is not known how much new signage placement the bill would require for the Department or local units of government.

Fiscal Analyst: Michael Siracuse

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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.