



**House
Legislative
Analysis
Section**

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House Bill 5591 as enrolled
Second Analysis (8-3-90)

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Sponsor: Rep. Keith Muxlow
House Committee: Transportation Mich. State Law Library
Senate Committee: State Affairs, Tourism, &
Transportation

THE APPARENT PROBLEM:

The Vehicle Code generally requires that vehicles carrying a load that is not completely enclosed be covered with firmly secured canvas or a similar covering to prevent materials from escaping while a vehicle is moving; this provision applies differently to farmers who transport certain types of goods. Public Act 354 of 1988 specifies that a farmer whose vehicle allows hay or straw to escape while moving is not subject to penalties under the act. This provision recognizes that hay and straw, primarily used to protect food products in transport, do not present a great danger to other vehicles if it escapes from a vehicle. Apparently, however, some drivers of farm-related vehicles have recently been ticketed when certain types of "product residue" — i.e. dust, chafe, or water from corn, for instance — leaked or blew from a farmer's vehicle. Some people feel the penalty exemption should also apply when residue such as this escapes from a farmer's vehicle while transporting produce or other related goods.

The act also requires persons who drive larger vehicles (generally, commercial truckers) to obtain a specific "vehicle group designation" and indorsement depending on the size and type of vehicle driven. Farmers who drive vehicles weighing 13 tons or less — that have farm registration plates and are used for farm transport purposes within 150 miles of the farm — generally are exempt from these licensing requirements. In fact, federal law permits states to provide farmers, regardless of the size of a vehicle driven, a total exemption from vehicle group designation licensing requirements when only farm-related goods are transported. Some people feel the code's licensing provisions should be revised to exempt persons from the vehicle group designation driving test requirement who drive a legal-sized farm-related vehicle that was not used for commercial trucking purposes, had farm registration plates, was operated by the farmer or a relative or employee of the farmer, and was operated within 150 miles of the farm. Under this proposal, two new vehicle group designations would be created (F and G) and farm-related drivers would only have to pass a knowledge test, and pay a \$10 fee, to obtain one of these types of licenses if a vehicle driven otherwise required a group A or B indorsement. These provisions would apply differently, however, when the transport of hazardous materials was involved.

And finally, Public Act 280 of 1989 includes a provision defining a "school transportation vehicle" (generally, a vehicle that holds fewer than 16 passengers and that is used for transporting people to or from school), and requires drivers of these vehicles to meet licensing standards similar to those required for school bus drivers. Some feel an exemption from this definition should be given to vehicles "used by a parent or a parent's designee" for

transporting passengers to and from certain school related events if such transportation is made under a contract with the school. Further, some feel the act should specify a deadline when the new licensing requirements would have to be met, and should provide a clause to "grandfather in" those who were properly licensed before the new requirements took effect.

THE CONTENT OF THE BILL:

The bill would amend the Vehicle Code to provide an exemption from the tarp covering requirement for farmers in certain instances, to revise the conditions under which a person driving a farm vehicle would be exempt from certain licensing requirements, to create two new vehicle group designations (F and G) that would have to be obtained by such drivers, to provide a corresponding fee for this license, and to provide a licensing deadline and "grandfather" clause for persons required to be licensed to drive a "school transportation vehicle."

Exemption from Tarp Requirements. The act generally prohibits a person from driving a vehicle which is so constructed or loaded that its contents escape from the vehicle while it is moving, and requires such vehicles to be safely covered to prevent such release of materials. The bill specifies that this provision would not apply to a vehicle transporting agricultural or horticultural products when hay, straw, silage, or residue from a product (but not including the product itself), or when material such as water used to preserve and handle such products while in transport, escaped from a vehicle in an amount that did not interfere with other traffic on a highway.

Licensing Requirements for Farm-Related Drivers. The act now exempts from the vehicle group designation licensing requirements a "farmer" who drives certain types of vehicles which 1) have a farm registration plate, 2) do not have a gross vehicle weight rating (GVWR) of more than 26,001 pounds, and 3) which are used to tow a trailer or semitrailer for agricultural purposes within 150 miles of the farm. The bill would revise this to specify that — except for the requirement of a knowledge test in order to obtain the appropriate vehicle group designation and indorsement, and except when hazardous materials were carried using a vehicle weighing over 26,001 pounds, in which case both a knowledge test and a driving skills test would be required — the vehicle group designation and indorsement licensing requirements would not apply to the driver of a vehicle if the following were true:

- The vehicle was controlled and operated by the farmer;
- The vehicle was used to transport agricultural products, farm machinery, farm supplies, or a combination of these, to or from a farm;
- The vehicle was not used in the operation of a common or contract motor carrier;

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- The vehicle was operated within 150 miles of the farm; and
- The vehicle had farm registration plates.

Under the bill, "farmer" would include an employee or family member of the farmer if a vehicle in question was controlled by the farmer and the bill's other requirements were met.

Group F, G Vehicle Designation. A driver or operator of a vehicle that had farm registration plates which normally required a group A vehicle designation would have to procure a group F vehicle designation. And, a driver of a vehicle with farm registration plates which otherwise required a group B designation would have to obtain a group G designation. (A group A designation is required to drive a vehicle towing another vehicle with a GVWR over 10,000 pounds; also, a group B designation is required before operating a single vehicle or a combination of vehicles with a GVWR over 26,000 pounds when the vehicle being towed does not have a GVWR over 10,000 pounds.) A person subject to these licensing requirements would have to pay a vehicle group designation fee of \$10. Also, a driver of a vehicle with a farm registration plate would still be subject to provisions regarding license nonissuance, suspension, or revocation when certain violations of the act occurred.

The knowledge and driving skills test that would be required under the bill would not apply to a person operating a truck with a farm registration plate and transporting certain farm crops, fertilizer, seed or spray (as specified elsewhere in the act), and that had a GVWR of not more than 70,000 pounds. However, a driver of a vehicle with a GVWR of more than 26,000 pounds carrying hazardous materials and required to be marked according to federal rules would be subject to testing requirements. In addition, the secretary of state would have to waive the driving skills test for a person who operated a vehicle that had farm registration plates unless the vehicle had a GVWR of more than 26,000 pounds and was used to carry hazardous materials.

School Transportation Vehicle Drivers. A person who drives a "school transportation vehicle" currently must meet licensing standards required for school bus drivers under the act (generally, a group C vehicle designation and a passenger vehicle indorsement is required). The bill specifies that a person employed on or before March 15, 1990 would have until August 15, 1990 to comply with the act's physical and driver competency requirements for drivers of these vehicles. However, a licensee who held a chauffeur's license issued before January 1, 1990 could drive one of these vehicles without having met the act's new licensing requirements until his or her present license expired. Under the bill, if a parent or a parent's designee used a vehicle to transport children to and from school-related events under contract with the school, the vehicle would not be considered a school transportation vehicle.

MCL 257.312e and 257.720

FISCAL IMPLICATIONS:

According to the Department of State, the bill would have budgetary implications for the department although the amount cannot be determined. The department would have costs in developing a framework under which drivers of certain farm vehicles would be exempt from licensing requirements relative to vehicle group designation and

indorsement; the department would also have costs in developing the two new vehicle group designations. Also, the amount of revenue loss from any exemptions would depend on the number of persons who would qualify for exemption under the bill. (8-3-90)

ARGUMENTS:

For:

Persons who transport farm-related goods, especially grain and other products that tend to have "residue" — i.e. dust, silage, water, or the like — mixed with the product have reportedly been ticketed recently when residue was seen leaking or otherwise escaping from the moving vehicle. Public Act 354 of 1988 recognizes the small danger that leaking hay or straw presents to other motorists when it escapes from a farmer's moving vehicle. Grain residue that escapes from farmer's vehicles, likewise, does not pose a significant hazard to other drivers and a farmer should not be penalized when this happens. Agricultural or horticultural products themselves, however, could not be allowed to escape from a farmer's moving vehicle.

Against:

Blowing or leaking dust, silage, or water from a moving farm vehicle could be dangerous if large amounts were involved. Especially at higher speeds, blowing chafe or dust could reduce visibility for a motorist following behind.

Response: The situation which this portion of the bill addresses generally involves slow-moving farm vehicles transporting newly-harvested grains and other products to and from storage areas. Such driving situations pose few traffic hazards for other drivers.

For:

Most transporters of farm-related goods should not be required to take both written and driving tests annually for purposes of the vehicle group designations and indorsements. Although some of the vehicles driven may be large tractor-trailer trucks (semi-trucks), the routes traveled by farm product transporters using "straight trucks" — which transport goods primarily from the field to storage — during harvest or other special times of the year are limited and in mostly rural areas. Federal laws, in fact, permit states to exempt farm-related drivers from most vehicle group designation licensing requirements. The federal exemption recognizes the lower accident rate that exists among agricultural haulers. Also, farmers apparently find it difficult to ensure that all of their drivers during any given harvest season are properly licensed, and many farmers question the need for such rigorous testing anyway. Farm transporters would have to meet the bill's conditions, though, to receive the exemption. Further, the bill would create two new vehicle group designations for farm-related drivers — which would require at least a "knowledge" test, although a driving test would be required for hazardous materials transporters, for persons who met the bill's requirements. The test would have a corresponding fee of \$10 to help the Department of State administer the new testing requirements.

Response: According to a Department of State spokesman, the bill's provisions that would exempt farm-related drivers and provide for new licensing requirements for these drivers are poorly written and would be difficult to implement. This apparently occurred in the rush to get legislation enacted that would address these concerns. At

the department's request, sponsors of this bill have agreed to amend another bill (Senate Bill 705) to achieve the intent of this bill, and thereby ensure that such provisions could be adequately implemented and administered by the department.

Against:

Truck safety provisions enacted within the last two years could be weakened by the bill as it would exempt a person from the driving skills test required for people who drive large vehicles. While its true that federal laws provide for farm transporter exemptions, Michigan laws relative to truck sizes that can be operated differ substantially from most other states. It would be possible under the current version of the bill, for instance, for a person who qualified as a farm transporter and who drives an 80 ton truck to be exempt from the driving skills test. And even though farm transporters would be limited to a radius of 150 miles from the farm, nothing within the bill would prevent a person from driving a larger vehicle on busy, high-speed freeways.

For:

By exempting a vehicle used by a parent or a parent's designee to transport children, on a contractual basis with the school, to or from "school-related events" from the definition of a "school transportation vehicle," the bill would clarify that this definition — and the act's requirements for licensure — are meant to apply only to those who are paid to transport passengers on a "regularly scheduled" basis to and from school itself. And apparently, Public Act 280 of 1989, which implemented the licensure requirements for drivers of this type of school vehicle, inadvertently failed to designate a date when such licensing requirements would have to be met. The act also failed to provide a "grandfather" clause for driver's under the former licensing framework whose chauffeur's license has not yet expired: under the bill, such drivers could continue to drive using their current license until it expired, at which time they would fall under the act's new licensing requirements.