



## Court of Appeals Interprets Overweight Truck Law

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For the first time since the legislature amended the overweight truck law in Michigan in 2006, the Court of Appeals issued a ruling interpreting the proper manner in which to weigh a vehicle that had its axles raised in order to negotiate a turn. In *People v Boucha*, (Case No. 289197, August 31, 2010), the Court of Appeals reversed a Circuit Court Order affirming a District Court's decision finding a trucking company responsible for operating an overweight vehicle. In the case, the trucking company was hauling a load of pine chips on a two lane highway in Roscommon County. The driver had three of his trailer axles raised for approximately two miles in order to negotiate a series of curves. After completing these curves, the driver lowered his axles. The investigating police officer stopped the truck and ordered the driver to raise the axles in the position that they were in when traveling on the curves in the roadway, which caused the vehicle to be overweight.

The Court of Appeals, after discussing the relevant overweight statute, MCL 257.724a which allows a driver to raise his axles in order to negotiate an intersection, driveway, or other turn, concluded that since it was necessary for the driver to raise the axle in order to turn the vehicle to negotiate the changes in the roadway, the officer "should have weighed Defendant with the axles down". The Court concluded that, "in light of the fact that Defendant weighed the vehicle with the axles raised during the curves, contrary to MCL 257.724a(2), Defendant's citation is invalid and must be dismissed.

This decision is consistent with the Michigan statute which requires that when a vehicle equipped with lift axles that have been raised to allow the vehicle to negotiate an intersection, driveway or other turn, the vehicle should be weighed only after the lift axles have been fully lowered and are under operational pressure.

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### **PRACTICE AREAS**

Transportation Law

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### **NEWS**

Governor Granholm appoints Paul J. Millenbach to Michigan Truck Safety Commission, July 8, 2010