



Chapter: Traffic Enforcement and Crash Investigation
Subject: 06-25 – Railroad Enforcement
Effective: March 14, 2024
Supersedes: Official Order 06-25, dated April 19, 2022
Distribution: Department Members

PURPOSE: This Order establishes department policy related to railroad enforcement.

06-25-1 ENFORCEMENT POLICY FOR RAILROAD LAW

In an effort to reduce railroad related crashes and increase public awareness to the seriousness of this problem, violations involving railroad safety shall be strictly enforced. Railroad grade crossing violations shall be submitted on a Uniform Law Citation, UD-008 or MC-008.

A. Heavy Equipment

- (1) Any damage to a crossing by a person operating a caterpillar tractor, steam shovel, derrick, roller, boiler, machinery, or other equipment that has an operating speed of less than 5 miles-per-hour due to its size, shall be reported immediately to the appropriate railroad by the investigating enforcement member.

06-25-2 PARKING VIOLATIONS

Parking violations issued either to the registered owner of the vehicle, or the operator of the vehicle, pursuant to [MCL 257.675c](#), shall be submitted on a Uniform Law Citation, UD-008 or MC-008.

06-25-3 TRESPASSING VIOLATIONS ON RAILROAD RIGHT-OF-WAY

A. ORVs and Snowmobiles [MCL 324.81133\(m\)](#) and [MCL 324.82126\(i\)](#)

Enforcement of the above statutes shall be strictly enforced. Trespassing violations shall be submitted on a Uniform Law Citation, UD-008, in accordance with local policy, or in the case of a juvenile, according to procedure manual related to investigating incidents involving juveniles.

B. Other Motor Vehicles and Pedestrians [MCL 462.273](#)

Enforcement of the above statute shall be strictly enforced. All trespassing violations shall be submitted on a Uniform Law Citation, UD-008, in accordance with local policy, or a juvenile apprehension report if the violator is a juvenile.

06-25-4 TRAIN VIOLATIONS**A. Obstruction of Traffic**

Enforcement members should be aware that [MCL 462.391](#), which prohibited trains from blocking a street or highway under certain circumstances, is unenforceable because it has been held to be preempted by the federal regulations. [CSX Transp., Inc. v. City of Plymouth](#), 283 F.3d 812 (6th Cir. (Mich.) 2002). Therefore, enforcement members shall not take enforcement action on trains obstructing traffic.

B. Operating a Train Under the Influence

An enforcement member seeking to enforce alcohol or drug related offenses against an employee of the railroad under any circumstances involving a rail-related incident shall first consult with their local prosecutor and do so jointly with the involved railroad police authority.

(1) Chemical test procedures – [MCL 462.359](#)

- a. Do not read Chemical Test Advice of Rights.
- b. Miranda rights shall be read to the arrested person prior to requesting a chemical test.
- c. The enforcement member chooses the type of test to be given.
- d. The arrested person shall be advised that if they refuse the request of the enforcement member to take a chemical test, a test shall not be given without a court order.
- e. A person who takes a chemical test shall be given a reasonable opportunity to have a person of their own choosing administer one of the chemical tests described within a reasonable time after their detention. The arrested person shall be informed that after taking a test administered at the request of an enforcement member, they have the right to demand that a person of their own choosing administer one of the tests provided for in this section, that the results of the test shall be admissible and shall be considered with other competent evidence in determining the innocence or guilt of the defendant, and that the arrested person shall be responsible for obtaining a chemical analysis of the test sample.
- f. A written report shall be forwarded by the enforcement member to the United States Department of Transportation, which shall state:
 - i. That the enforcement member had reasonable grounds to believe that the person had committed a crime (OWI, Per Se, or Impaired), and
 - ii. The results of the test.

(2) Chemical test refusal – [MCL 462.363](#)

- a. If the chemical test is refused, a written report shall be forwarded by the enforcement member to the United States Department of Transportation. The report shall state that the enforcement member had reasonable grounds to believe that:
 - i. The person had committed a crime described in [MCL 462.361](#),

- ii. That the person had refused to submit to the test on the request of the enforcement member, and
 - iii. The person had been advised of the consequences of the refusal.
 - b. The enforcement member should request a search warrant for the person's blood per local prosecutor policy.
- (3) Deceased operator – [MCL 462.359\(10\)](#)
- a. If, after a crash, the operator of a train involved in the crash is deceased, a sample of the decedent's blood shall be withdrawn by the medical examiner or attending personnel of the medical facility in a manner directed by the medical examiner for the purpose of determining blood alcohol content, or the presence of a controlled substance, or both.
 - b. In the absence of railroad police or authorities, the investigating enforcement member shall inform the medical examiner that two samples of blood need to be withdrawn: one to be submitted to the Michigan Department of State Police using the standard alcohol specimen collection kit, and the other to be submitted to the Federal Railroad Administration in a specimen kit provided by the involved railroad, pursuant to [49 CFR 219.207](#).

(4) Enforcement

Violations shall be written on a Uniform Law Citation, UD-008, and a warrant sought through normal procedures. Local prosecutor policy shall be adhered to in lieu of this section. To make an arrest, the following procedures have been established:

- a. Determine who was operating the train.
- b. Perform standard sobriety tests.
- c. A preliminary breath test may be administered, but a refusal is not a violation.
- d. Lodge the offender in the county where the offense occurred or turn the offender over to their supervisor or the investigating railroad authorities.
- e. Interim bond shall not be taken.

06-25-5 DERAILMENT AND LOAD SPILLAGE

- A. All non-passenger trains have the potential of carrying hazardous materials. In any derailment or crash situation, enforcement members should approach and handle the scene in accordance with hazardous materials, first responder awareness training. The following procedures should be used:
- (1) Contact the involved carrier at the [carrier's emergency telephone number](#) as soon as possible to determine if hazardous materials are involved.
 - (2) Contact the train crew as soon as possible if it can be done safely.
 - (3) The enforcement member should look for hazardous materials placards on the rail cars.
 - (4) The scene should be secured to prevent access by the public.

- B. For all incidents involving hazardous materials, members shall immediately contact the Operations Section at 517-241-8000, and the Department of Natural Resources pollution emergency alert system at 800-292-4706.

DIRECTOR

Annual Review Responsibility: Field Operations Bureau

Accreditation Standards: CALEA TBD