

Farmers Should Be Prepared For Local Farm Tag Checks

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some anecdotal stories of those with farm tags getting pulled over and cited, and charges subsequently dropped, by the same department, and others in the Lancaster area, where, because of the intensity of agricultural production, farm commodity hauling is relatively high.

In general, of the several police departments and agencies contacted to determine if there is a common interpretation of the farm tag law, and what enforcement policies may be, the answer seems to be: they all interpret the law as written.

However, common sense dictates that there is a difference between interpretation of a law as published in black and white, and what satisfies the judgement of an officer in a cruiser who pulls over a truck with farm tags.

The heart of the issue is this: Among all enforcement agencies charged with enforcing the same set of laws, each agency, and to some degree each officer, follows a slightly different pattern or policy (generally an unwritten set of rules) in actually carrying out that enforcement.

That is the crux of all enforcement issues — the officer makes the call. If he believes that there is just reason to suspect a violation and information is not made available to indicate otherwise, he can write the citation.

That should be no surprise, since enforcement officers are humans, and each is asked, at least to some degree, to use their judgement to determine if a law has or hasn't been broken.

Notwithstanding, the incident this week demonstrated that there is a need for some type of general advisory to those who use farm tags as to what to expect and what to do to satisfy enforcement efforts.

The incident this week involved the interpretation by a local municipal law enforcement officer (considered to be expert in traffic law according to a department peer) of the farm truck law.

Basically, the officer had cited the hay producer for illegally using his farm tags for the business of "brokering" hay.

The rig driver who was stopped and questioned by the officer (for an hour and a half, according to the driver) was not the producer or the owner of the vehicle. He was instead the producer's employee of six years.

According to the producer, his driver makes at least several trips per week to Lancaster to deliver hay.

Normally, the hay producer uses a commercially licensed truck-trailer combination to deliver the hay from some of the 20 farms he rents, or from the one he owns.

However, during one week earlier this year, the commercial truck broke down.

As a backup for just such an emergency, and to use regularly for hauling loads and equipment between farms, the producer has an older truck-trailer rig he owns that is registered with farm plates.

On the third trip to Lancaster using the farm plates to deliver a load, the driver was pulled over by a local municipal officer, and the trouble began.

According to the driver, when asked by the officer where the hay came from, he told him. Since the farm name wasn't the same as the driver's boss, the officer asked him if his boss owned the farm.

The driver said, "No."

It seems apparent, from the citations issued, and some of the statements made during a portion of hearing, that the officer suspected that the producer was not a producer at all, but a middleman attempting to evade having to purchase the more expensive commercial tags in order to ship commodities.

That is illegal.

The driver of the rig — not an expert on the farm tag law, but knowing that his employer wouldn't send him out on a job illegally — didn't know what information the officer needed to have his suspicions satisfied.

What he could have said, according to courtroom second sight, was that his employer operated the farm and the load was his boss's hay.

In the use of a farm tag, travel is restricted to: on-the-farm use; between different farms operated by the truck owner; from the farm or farms under the operation to a place of business for the sale or purchase of commodities (such as an auction), and ultimately, if the farm truck is to be used for final delivery from the place of sale, to that place.

But ownership of farmland isn't required. The farmland just has to be controlled, or "operated," by the person to whom the farm tag and truck are registered.

Apparently the officer didn't pursue his questioning efforts far enough to avoid the mistaken assumption.

He didn't issue citations immediately. In the subsequent citations and summons that were mailed, however, he also didn't provide any instructions to give him a call directly, if the facts weren't straight.

The producer said he thought that calling the officer's superiors and providing the information to them would straighten out the mess. It didn't. He said that he tried for six weeks to contact the officer, and that he was told that the officer couldn't be reached in that time.

The hay producer called the Pennsylvania Farm Bureau for advice, and was provided with copies of the law and PennDOT guidelines on interpreting the law for enforcement.

He called the Department of Transportation, which local officers use as a reference resource on the enforcement of traffic laws. He said he attempted to contact the official there to whom he was referred, though calls were never returned.

He faxed copies of the law and explanations why he was not in violation of the law. There was no acknowledgement of receipt or returned calls.

So the case went forward.

In the meantime, he was upset. Not only was he faced with ridiculous charges, but also erroneously calculated fines totalling more than \$4,000.

Even after receiving assurances from personal friends employed in law enforcement, that in their opinion the charges would be dropped, that he was in compliance, and that the local officer may be somewhat overenthusiastic in handing out citations, the producer said he felt no mental relief.

He would have to give up a day of production and travel four hours one way (a total of at least 10 hours when court time and return travel are included) in order to attend a hearing where he would have charges dismissed.

Not only would that cost him in

production and income, but his hired man would have to attend. That represented unnecessarily wasted salary and travel expenses for an employee.

He said that over the weeks and months, as he tried to understand the motivation of the officer, why the charges were not dropped even after he tried to get through to the officer's superiors, he began to view the entire situation as an incident of undue harassment, and began to develop his own suspicions about the motivations of the officer and his superiors.

That began to feed additional worry, he said.

The concern was what more would it cost him in lost business if he had to use his farm tags again to complete a long distance haul.

The incident isn't completely over, but is expected to be concluded soon.

However, it doesn't end there.

Of further concern was the fact that a Pennsylvania Department of Transportation employee attended the hearing this week, the same one the producer said he attempted to contact and send information. The employee was at the hearing acting as an expert on behalf of the law enforcement officer.

That PennDOT representative called the producer a "fool" because he couldn't provide the court with anything more than a cancelled check to the owner of the cropland he rents.

The PennDOT official also told the district justice that handshake leasing agreements were not the normal business practice — a surprise to the producer, especially since he used such an agreement last year to rent state prison land.

In the farming community, such business practices are considered to be common, despite the PennDOT official's statement to the district justice.

It is true that some financial and legal experts and consultants have been advising farmers not to continue conducting business agree-

ments without specific, detailed documentation, but there is much evidence that the farming community still relies on respect of another's word and expressed intent, not his fine print.

The PennDOT official presented an opinion that the farmer should have all his leases in writing, and that proof of that should be easily available at all times in the truck.

The PennDOT official also talked about investigating the farmer's tax records, and checking with the Department of Revenue to see if an audit would better determine if the farm in question is or is not being leased by the producer.

In the meantime, John Bell, legal counsel with the Pennsylvania Farm Bureau, said that sentiment expressed by the PennDOT representative, if in fact accurate, concerned him, because it smacks of assumed guilt and forcing someone to prove their innocence instead of it being assumed, which is supposedly the higher law.

"This flies in the face of what is the law with respect to evidence and burdens of proof," Bell said. "I feel very strongly about that statement."

"... If a farmer is using a vehicle in a manner consistent with the interpretations (of PennDOT) he should not be burdened with having to prove that he is in fact authorized to operate the vehicle.

"It is the burden of the prosecution, not the farmer, to prove whether his truck is being operated illegally."

The PFB does provide its members with a brochure outlining the farm tag laws and restrictions.

For example, some local enforcement agents may be under a mistaken belief that there is some distance restriction on a farm truck.

(There actually are travel distance restrictions of a 150-mile radius of the farm, based on the driver's license limitations and weight of vehicle. However, with a commercial driver's license appli-

icable to the weight of a rig with farm tags, there is no distance restriction.)

While the producer in this case could have paid the fine and continued his operation, knowing that his commercial rig was coming back into service soon enough, he said the more he thought about it, the more it angered him.

He said a recent television program reminded him of his duty as a citizen of the United States, that the constitution is to be upheld against all enemies, foreign and domestic. The constitution guarantees that all are to be assumed to be innocent until proven guilty.

However, as a pragmatic matter, it seems that it may well serve those who operate and lease farmland, as most do today, and who use farm tags on vehicles, to secure and keep with them at all times some evidence that a load of hay came from rented ground under control of the producer who holds the farm tag.

Also, it seems equally pragmatic to keep a copy of the law in the vehicle, and to make sure that an inquiring officer is provided all the facts of ownership and operational control of truck and commodity that should satisfy the conditions of the law.

According to PennDOT's community relations coordinator Ann Patterson, she couldn't comment on statements made by the agency's representative in court.

Patterson also would not comment on whether the gist of the statements made by the agency representative actually represented agency policy, or whether it is common practice for PennDOT agents to attend local hearings in support of law enforcement agents.

However, Patterson did provide what she said was a complete copy of PennDOT's advisory interpretations of the allowable uses of a vehicle with farm plates. (See sidebar story, PennDOT Provides Interpretations.)

PennDOT Provides Interpretations Of Farm Vehicle Laws

HARRISBURG (Dauphin Co.) — Since Sept. 15, 1994, the Pennsylvania Department of Transportation has had revised guidelines established for use by law enforcement and judicial officials to help them interpret the state laws covering the use of farm vehicle plates.

While not addressing recent comments made by a PennDOT representative to enforcement and judicial officials that went beyond the guidelines listed here, those who use farm plates on their vehicles should be aware not only of the law, but how it is being interpreted.

In addition to the following interpretations by PennDOT of the state Vehicle Code Title 75, Section 1344, which applies to the operation of farm vehicles (bold face words were added for emphasis), there is also a toll-free telephone number farmers can use to attempt to reach PennDOT, if there are questions regarding the uses of the plates. The number is 800-932-4600.

Use Of Farm Vehicle Plates (revised)

This is issued by the Pennsylvania Department of Transportation for the purpose of interpreting the provisions of Section 1344 (a) of the Vehicle

Code relative to the operation of vehicles registered under farm vehicle registrations. It is the intent of this document that the interpretations expressed herein be applied by the Department (PennDOT) and by law enforcement and judicial officials, pursuant to determinations of uses of farm registered vehicles that are permitted and prohibited under Section 1344 (a).

A. In order for a registered farm vehicle to be lawfully operated under Section 1344 (a), one of the following conditions must exist:

1. The vehicle registrant must own the farm from which the farm registered vehicle will be operated; or
2. The vehicle registrant must operate the farm from which the farm registered vehicle will be operated.

B. A registered farm vehicle shall be authorized to be operated:

1. Within any farm owned or operated by the vehicle registrant;
2. On highways between parts of one farm owned or operated by the vehicle registrant;
3. On highways between any of two or more farms owned or operated by the vehicle registrant;
4. On highways between any farm owned or occupied by the vehicle registrant and a place of business, pro-

vided that the operation of the vehicle is for the purpose of buying or selling agricultural commodities or supplies.

A registered farm vehicle may also be operated on highways between a place of business at which the commodity is sold by the vehicle registrant, an employee of the vehicle registrant, or an auctioneer, and the place of delivery, if delivery is made using the same vehicle of the registrant which transported the commodities to the place of business.

5. On highways between any farm owned or operated by the vehicle registrant and any of the following locations:

- a. a driver examination point;
- b. a vehicle inspection station;
- c. a commercial or noncommercial vehicle repair or service facility.

C. For the purpose of determining whether or not compliance with the applicable requirements of paragraph (b) (4) have been met:

1. A "place of business" shall include other farms owned or operated by persons other than the vehicle registrant; commercial businesses engaged in buying, selling or marketing agricultural commodities or supplies; and any premises for disposal of any waste or residual materials resulting from the use of agricultural supply or production of any agricultural com-

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