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## LIABILITY: FRONT-END LOADERS

House Bill 4572 as enrolled  
Public Act 140 of 1995  
Second Analysis (6-27-95)

Sponsor: Rep. Kim Rhead  
House Committee: Insurance  
Senate Committee: Financial Services

### THE APPARENT PROBLEM:

Chapter 4 of the Michigan Vehicle Code contains provisions dealing with "owner's liability." Section 401 says,

*"The owner of a motor vehicle shall be liable for any injury occasioned by the negligent operation of the motor vehicle whether the negligence consists of the violations of the provisions of the statutes of the state or in the failure to observe such ordinary care in the operation of the motor vehicle as the rules of the common law requires. The owner shall not be liable, however, unless the motor vehicle is being driven with his or her express or implied consent or knowledge. It shall be presumed that the motor vehicle is being driven with the knowledge and consent of the owner if it is driven at the time of the injury by his or her father, mother, brother, sister, son, daughter, or other immediate member of the family."*

A 1994 Michigan Supreme Court decision (Mull v. Equitable Life) said this provision applies to a front-end loader. (The plaintiff had suffered injuries while standing in the bucket of a front-end loader while installing Christmas decorations on the outside of buildings at a mall.) The court said, in a 4-3 decision, that a front-end loader is a motor vehicle under the Michigan Vehicle Code and thus subject to the owner's liability provisions. Legislation has been introduced to exclude front-end loaders and similar industrial and construction equipment from the owner's liability statute.

### THE CONTENT OF THE BILL:

The bill would amend the Michigan Vehicle Code to exclude industrial equipment, such as a forklift, a front-end loader, or other construction equipment that is not subject to registration under the code, from the definition of "motor vehicle" for the purposes of Chapter 4 of the code, which deals with owner's liability.

The bill also contains a second section stating that "this amendatory act is curative, expressing the original intent that the term 'motor vehicle' . . . does not include industrial equipment such as a forklift, a front-end loader, or other construction equipment that is not subject to registration under this act. This amendatory act applies to all disputes currently pending within the courts as of the date of enactment of this amendatory act."

MCL 257.33

### BACKGROUND INFORMATION:

The term "motor vehicle" is defined in the Michigan Vehicle Code as "every vehicle that is self propelled." (Emphasis added) However, at the time of the court case involved here, the definition referred to "every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from over-head trolley wires, but not operated upon rails." The term "vehicle" is defined as "every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices exclusively moved by human power or used exclusively upon stationary rails or tracks and excepting a mobile home . . ." (Emphasis added) The majority in Mull v. Equitable Life said that the definitions should be understood to refer to vehicles capable of operation on a highway and not only to vehicles that are capable of lawful operation on a highway. The dissenting opinion said lawful operation should be considered a criterion in determining whether a vehicle falls under the owner's liability statute.

### FISCAL IMPLICATIONS:

The bill has no fiscal implications, according to the House Fiscal Agency. (Fiscal Note dated 5-8-95)

House Bill 4572 (6-27-95)

***ARGUMENTS:***

***For:***

The bill would essentially overturn a court decision that treats certain industrial equipment as motor vehicles for purposes of the owner's liability statute. The bill would make clear the legislature's intent that such vehicles, which are not subject to vehicle registration under the Michigan Vehicle Code, not be considered motor vehicles for purposes of the owner's liability statute.

***Response:***

The bill means, obviously, that some badly injured people will be prevented from filing lawsuits to recover damages under the owner's liability statute.

***Against:***

Some people believe that the legislature should repeal the owner's liability statute for everyone rather than singling out certain kinds of vehicles for exemptions.