

# THE POOL CUE

Volume X, Issue 3 July 2004

## MICHIGAN COUNTY ROAD COMMISSION SELF-INSURANCE POOL

### MCRCSIP MISSION STATEMENT

**“The Mission of the Michigan County Road Commission Self-Insurance Pool is to administer a self-insurance program and to assist members with risk management efforts.”**

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### MCRCSIP 20<sup>th</sup> ANNUAL MEETING July 21-22, 2004 Shanty Creek Resort – Bellaire

**It’s not too late!** If you have not already registered for our annual membership meeting and wish to do so, please call 1-800-842-4971 or go to our web site, [www.mcrcsip.org](http://www.mcrcsip.org) and register on-line.

#### **“If You’re Looking for Loyalty, Hire a Dog!”**

Mary M. Grover, of M. M. Grover Consulting, Traverse City, Michigan, will be conducting our workshop on Wednesday, July 21, beginning at 1:00 p.m. She will be examining the rules we play (and work) by as adults which often vary by generation. However, public officials, whether elected or appointed, have a special duty to understand and play by certain ethical rules in order to earn and keep the trust of those whom they serve. This workshop will explore generational differences and how these differences can affect ethical perspectives. The audience will identify different generational experiences and perspectives; participate in discussions around ethical

scenarios; and examine the question, “Can ethics be the tie that binds in a time of age and value diversity in the workplace? **We hope that you will join us and find out.**

A buffet luncheon will be served from 11:30 – 12:30, prior to the start of the program.

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### MUSKEGON COUNTY ROAD COMMISSION 13<sup>TH</sup> ANNUAL SAFETY CONFERENCE

First Aid \* Traffic Control  
Chain Saw \* CPR \* Work Zone  
And Much More ...

**August 4, 5, & 6, 2004**  
**Muskegon Harbor**  
**Holiday Inn**

#### **Questions?**

Please call or email James Stibitz (231-788-7223) [jstibitz@muskegoncountyroads.org](mailto:jstibitz@muskegoncountyroads.org) or Bruce Gasaway (231-788-7280) [bgasaway@muskegoncountyroads.org](mailto:bgasaway@muskegoncountyroads.org) at the Muskegon County Road Commission.

#### **INSIDE THE CUE**

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## DISTRACTED DRIVING

Driving while distracted continues to be a serious problem, not recognized or understood by most drivers. Statistics show that thousands of accidents occur each year, killing and seriously injuring hundreds of drivers and their passengers. Until we recognize the cause of distracted driving and implement effective preventive measures, accident statistics are not likely to change for the better.

### Distracted Driving Quiz (Circle your best answer)

- According to the National Highway Traffic Safety Administration, what % of serious accidents in the U.S. is caused by distracted driving?  
a. 5-10% b. 20-30% c. 40-50% d. 60-70%
- Based on the findings of an insurance company survey, which of these distractions is the least common?  
a. cell phone usage b. radio tuning  
c. eating/drinking d. reading/writing
- Which activity was the cause of more U.S. traffic accidents last year?  
a. smoking b. eating/drinking
- A vehicle traveling 65 mph covers how many feet per second?  
a. 15 ft b. 35 ft c. 65 ft d. 95 ft
- How far has the average vehicle traveled down the highway in the time it takes to change a music CD?  
a. under 5 yds b. over 100 yds  
c. over 150 yds d. over 200 yds
- Which of the following is not a sign of distracted driving?  
a. excess speed b. frequent braking  
c. slow speed d. tailgating
- Under normal weather conditions, what is the suggested safe distance for a 65-ft truck to maintain from a distracted driver?

- a. 6.5 seconds      b. 350 ft  
c. four truck lengths      d. 55 miles

- What is the best policy to follow for avoiding distracted driving?  
a. pull over and stop to perform activities  
b. prepare for distractions in advance

**The answers can be found on page 5 of this newsletter.**

To help your drivers understand the seriousness of distracted driving, we have listed twelve typical activities, common to most drivers. Each distraction listed below, can easily contribute to a vehicle accident. Circle the best answer for each question, and then add up the points at the bottom for each column.

DRIVER ACTIVITY	5 Points	2 Points	0 Points
Tune a radio?	Often	Seldom	Never
Insert or replace a CD or Cassette?	Often	Seldom	Never
Adjust climate controls?	Often	Seldom	Never
Eat a snack or a meal?	Often	Seldom	Never
Drink a beverage?	Often	Seldom	Never
Take an extended look (5-10) seconds at objects/persons outside the vehicle?	Often	Seldom	Never
Read or write something?	Often	Seldom	Never
Consult, fold or unfold a map?	Often	Seldom	Never
Remove something from a storage bin or glove compartment?	Often	Seldom	Never
Answer/Place a cell phone call?	Often	Seldom	Never
Turn toward a passenger during a conversation?	Often	Seldom	Never
Comb your hair or apply makeup?	Often	Seldom	Never
<b>SUB-TOTAL POINTS</b>			

**TOTAL POINTS** \_\_\_\_\_

*Continued on page 3....*

The following point system was established to estimate the likelihood you could be in a distracted driving accident sometime in the future.

**0 points** = Not likely to be involved in a distracted driving accident caused by your distracted behavior. Great job!

**2 – 20 points** = Strong potential for an accident if distractive behavior is not changed! Good candidate for MCRCSIP “Distracted Driver” training!

**20+ points** = High potential for an accident and time may soon be running out! Re-evaluate your driving behavior immediately. Excellent candidate for the MCRCSIP “Distracted Driver” training.

**NOTE:** When another distracted driver is approaching from the opposite direction, the odds can more than double that an accident will occur. Understand that all drivers can directly or indirectly benefit from “Distracted Driver” training. Please contact MCRCSIP Loss Control to schedule this important program for your employees.

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**5% DAMAGES REDUCTION CAP FOR  
PLAINTIFF’S FAILURE TO USE SEATBELT  
DOES NOT APPLY TO CLAIMS MADE  
AGAINST ROAD COMMISSIONS UNDER THE  
HIGHWAY EXCEPTION**

Jon D. Vander Ploeg  
Attorney, Appellate Specialist  
Smith Haughey Rice & Roegge, PC

On June 30, 2004, the Michigan Supreme Court announced its long awaited decision in *Mann v St. Clair County Road Commission*. The issue before the Court was whether the safety belt statute’s 5% cap on the reduction of damages, MCL 257.710e(6), applies when suit is brought against a county road commission under the Highway Exception to Governmental Immunity. The Court held, in a 5-2 decision, that it does not.

The safety belt statute provides that a plaintiff’s damages arising out of the ownership, maintenance, or operation of a motor vehicle can be reduced by no more than 5% for the plaintiff’s failure to wear a safety belt. The Court held that since the language of this provision mimics the language used in the No-Fault Act, the Legislature meant the 5% damage reduction cap to apply only to No-Fault cases. Consequently, road commissions may now plead and prove a plaintiff’s full measure for comparative fault for seatbelt non-use, with damages reduced accordingly.

The decision is an important one and will affect many pending and future claims against road commissions. In *Mann*, for example, the plaintiffs claim rather severe injuries, but the road commission’s expert will testify their injuries would have been relatively minor had they been wearing their seatbelts. If the safety belt statute’s damage limitation applied, as plaintiffs claimed, their total damages could have been reduced by only 5%. Without the limitation, however, they might bear the greatest portion of responsibility for their injuries. Accordingly, should they prove any liability on the part of the Road Commission, their own fault for seatbelt non-use could substantially, if not wholly, reduce their damage awards.

With this holding by the Supreme Court, a defendant road commission must determine, first, whether plaintiff was wearing his or her seatbelt. Second, if he or she was not wearing a seatbelt, the important question that follows is this – to what extent are the plaintiff’s injuries attributable to his or her seatbelt non-use? Where the defense can show that plaintiff was not wearing a seatbelt, and that seatbelt use would have avoided a substantial portion of his or her injuries, any judgment against the road commission must have a substantial reduction off the full measure of damages.

## CDL MEDICAL QUALIFICATION INFORMATION

Mike Shultz  
MCRCSIP Assistant Administrator  
Director of Loss Control/Training

Recently, MCRCSIP members have asked questions regarding the federal motor carrier requirements to obtain and maintain certain medical information for CDL licensed drivers. With the assistance of Investigator Craig Theodore, we obtained some useful information. If you have specific questions or concerns, please feel free to call Investigator Theodore (Motor Carrier Division of Michigan State Police) at 1-616-647-0811.

As you know, in order to drive a commercial motor vehicle, a CDL licensed driver must be physically qualified. If the driver meets the physical qualifications detailed in CFR 391.41, the medical examiner shall provide him/her with a medical examiner's certificate.

The driver must carry this certificate (original or copy) at all times while operating a commercial motor vehicle. The certificate (original or copy) must be also maintained in the driver's qualification file.

A motor carrier (the employer) must maintain a driver qualification file for each driver it employs. This file, which can be combined with the driver's personnel file, is to include the following for each regularly employed driver:

- \* Application for employment;
- \* Commercial motor vehicle record for every state in which the driver held a license or permit;
- \* Previous employer information;
- \* Road test form and certificate (a license or certificate accepted in lieu of a road test);
- \* Medical examiner's certificate (original or copy);

- \* Any letter granting a waiver of a physical disqualification;
- \* Annual review of driving record;
- \* List of violations; and
- \* Any other matter relating to a driver's qualifications or ability to drive a commercial motor vehicle safely.

Records pertaining to a driver's alcohol and controlled substances test results must be kept in a driver's file in accordance with the requirements of CFR 382.401 as appropriate.

**NOTE:** Although maintained by many road commissions, the medical examination report "For Commercial Driver Fitness Determination" is not required to be maintained under current state or federal law. It is acceptable for the individual driver or medical examiner to maintain the report.

Finally, driver qualification files must be kept for as long as the driver is employed and for three years after that. A motor carrier may keep the files at the motor carrier's principal place of business, a regional office, or a driver work-reporting location, as long as they can be made available for a DOT inspection within 48 hours after a request is made.

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### QUIZ ANSWERS

(From Distracted Driving Quiz Page 2)

1. b   2. a   3. b   4. d  
5. c   6. b   7. a   8. a

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**REMINDER!**

We're Here For You – Guaranteed

We cover your liability. If you feel you have a problem,  
please call us.

**1-800-842-4971**

For additional copies of the "Pool Cue" please call or  
e.mail Janet Wise or Kay Newberry.

**NOTICE!**

Cambridge Integrated Services has a  
**24-HOUR EMERGENCY PAGER NUMBER**  
for reporting serious accidents that need  
*immediate attention* after hours.

Please call **1-800-209-8349** and a Cambridge  
Investigator will respond to your call ASAP.

**Michigan County Road Commission  
Self-Insurance Pool  
P.O. Box 14119  
Lansing, Michigan 48901**

**MCRCSIP BOARD MEETING SCHEDULE**

July 21-22 Annual Meeting	Shanty Creek Bellaire
August 12-13	Franklin Inn Houghton
October 14-15	Lakewood Shores Oscoda

Meetings are open to all members and are moved around the State in order to be as convenient and accessible as possible to those wishing to attend.

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