



## Overweight Trucks

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Has your company received a ticket for an overweight vehicle lately? If so, Foster Swift can help. Overweight trucks in Michigan are subject to fines calculated according to the amount of weight in excess of a per axle limit, according to a statutory formula. These fines can often result in charges exceeding several thousand dollars. Continued violations could result in impoundments of vehicles.

The Michigan statute that addresses weight restrictions provides that a police officer may stop a vehicle and submit it to a weighing by either portable or stationary scales approved and sealed by the Department of Agriculture as a legal weighing device. The police officer may require that the vehicle be driven to the nearest weighing station to determine the weight. If the vehicle is found to be overweight, a judge or magistrate may order the owner or operator of the vehicle post a bond and the amount of the fines and costs before a hearing can be scheduled.

The statute provides that an owner, operator, or driver of a vehicle shall pay a civil fine in an amount equal to three cents per pound for each pound of excess weight over a thousand pounds, six cents per pound of excess weight when the excess is over two thousand pounds, nine cents per pound for each pound of excess weight when the excess is over three thousand pounds, twelve cents per pound for each pound of excess weight when the excess is over four thousand pounds, fifteen cents per pound for each pound of excess weight when the excess is over five thousand pounds, and twenty cents per pound for each pound of excess weight when the excess is over ten thousand pounds. The excess weight is calculated on a per axle basis.

The court has discretion in imposing a fine if a determination has been made that a vehicle was misloaded. If the court determines that a misload in one or more axles exists by four thousand pounds or less, the court may impose a misload fine of \$200 per axle. However, not more than three individual axles can be used to calculate the fine.

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Courts also have discretion when assessing fines on vehicles equipped with lift axles. Under this provision, the axle weight requirements do not apply to a vehicle equipped with lift axles during the period in which axles are raised in negotiating an intersection, driveway, or other turn and until the lift axles are fully engaged after the period of time or the distance necessary to negotiate that intersection, driveway or other turn. There are no specific measurements which set forth the distance necessary to negotiate a intersection, driveway or other turn. As such, enforcement is based upon what the officer determines to be reasonable at the time of the stop.

Attorneys at Foster Swift can assist you in the defense of these citations. If you need such assistance or would like to discuss this matter further, please feel free to contact us.

