STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee, v ROBERT MICHAEL SHEEKS, Defendant-Appellant.	FOR PUBLICATION February 9, 2001 9:05 a.m. No. 220199 Jackson Circuit Court LC No. 99-092670-AV Updated Copy March 30, 2001

Before: O'Connell, P.J., and Zahra and B.B. MacKenzie*, JJ.

O'CONNELL, P.J.

Defendant appeals by leave granted a circuit court order affirming a district court's determination that defendant violated the ninety-six-inch width restriction provision of the Michigan Vehicle Code, MCL 257.717; MSA 9.2417. We reverse.

At the time of the proceedings below, Frank Munsell owned a farming operation that employed defendant. Munsell testified at the district court hearing that he invented a device called a "silage bagger." Munsell testified as follows regarding the silage bagger:

> It's to take the place of an upright silo . . . . The silage bagger is an alternative method of storing silage, haylage, oatlage, whatever product basically that you'd like to feed cattle. . . . It's a unit—I guess you bring it up in a conventional wagon that you'd normally be dumping into a blower that blows material into a silo. You'd bring it up to the silage bagger, dump it into the silage bagger. And there's an auger inside, and it packs it into this plastic bag, which is actually the silage bag, at a rate of, per se, a ton per lineal foot.

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* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

Munsell noted that the silage bagger must have a tractor hooked to its front end in order to operate, but that it could be towed to a destination with either a tractor or a truck.

Officer Barry Archer testified at the district court hearing that on November 9, 1998, he observed defendant driving on US-127. Archer stated that US-127 is a "green route," which permits vehicles up to 102 inches wide,[1] and that he pulled defendant over because he suspected that defendant lacked a permit for the wide equipment that he was towing. The equipment measured eleven feet, two inches wide, and Archer issued defendant a commercial law citation. Archer testified that defendant told him that he was towing a silage bagger back to Munsell's farm from another farm to which Munsell had loaned it.

MCL 257.717(1); MSA 9.2417(1) provides that the total outside width of a vehicle or its load may not exceed 96 inches. Subsection 2, MCL 257.717(2); MSA 9.2417(2), contains an exception:

> A person may operate or move an implement of husbandry of any width on a highway as required for normal farming operations without obtaining a special permit for an excessively wide vehicle or load under [MCL 257.725; MSA 9.2425]. The operation or movement of the implement of husbandry shall be in a manner so as to minimize the interruption of traffic flow. A person shall not operate or move an implement of husbandry to the left of the center of the roadway from a half hour after sunset to a half hour before sunrise, under the conditions specified in section 639, or at any time visibility is substantially diminished due to weather conditions. A person operating or moving an implement of husbandry shall follow all traffic regulations.

MCL 257.716(2); MSA 9.2416(2), provides an exception for "an implement of husbandry incidentally moved upon a highway . . . ." MCL 257.21; MSA 9.1821 defines "an implement of husbandry" as "a vehicle which is either a farm tractor, a vehicle designed to be drawn by a farm tractor or an animal, a vehicle which directly harvests farm products, or a vehicle which directly applies fertilizer, spray, or seeds to a farm field."

Defendant argued that the silage bagger was "required for normal farming operations" and "incidentally moved upon a highway," and therefore qualified under both exceptions. The district court ruled that the "normal farming operations" exception of MCL 257.717(2); MSA 9.2417(2) applied in a situation where a farmer had an operation in various locations that required him to transport his equipment from one location to another. The district court found that the facts of the case fell outside the scope of "normal farming operations" because Munsell's farm had merely loaned the equipment to another farm. The district court further held, without explanation, that the "incidentally moved upon a highway" exception contained in MCL 257.716(2); MSA 9.2416(2) did not apply. The court concluded that defendant's transportation of the silage bagger was a violation of MCL 257.717(1); MSA 9.2417(1), and ordered him to pay fines and costs in the amount of $110.

Defendant appealed this decision to the circuit court. The circuit court concluded that the statute did not contemplate movement "across the state" and that transportation of the equipment was "dangerous and extra hazardous to members of the public and should not be permitted." The circuit court affirmed the district court's ruling.

Defendant's first contention on appeal is that both lower courts erred in concluding that the silage bagger did not fall within the "normal farming operations" exception of MCL 257.717(2); MSA 9.2417(2). Resolution of this issue entails a matter of statutory interpretation and, therefore, involves a question of law that we review de novo. *Sands Appliance Services, Inc v Wilson*, 463 Mich 231, 238; 615 NW2d 241 (2000); *Casey v Henry Ford Health System*, 235 Mich App 449, 450; 597 NW2d 840 (1999). Defendant does not dispute that the silage bagger was 134 inches wide. The prosecutor concedes that the silage bagger was an implement of husbandry.

The first step in discerning the intent of the Legislature is to consider the statutory language itself. *Cherry Growers, Inc v Agricultural Marketing & Bargaining Bd*, 240 Mich App 153, 166; 610 NW2d 613 (2000). We read statutory language "according to its ordinary and generally accepted meaning." *Id*. Unless reasonable minds could differ regarding the meaning of the language, judicial construction is not warranted. *Id*.

1999 PA 63, effective June 17, 1999, amended the statutory provision containing the "normal farming operations" exception. The amendment broadened the exception to include all implements of husbandry that are "required, designed, and intended for farming operations." MCL 257.717(2); MSA 9.2417(2). Defendant contends that the amendment makes clear that the legislative intent behind the section was to provide a broad exemption for implements of husbandry.

Absent an express or implied indication that the Legislature intended otherwise, statutes are presumed to operate prospectively. *Allstate Ins Co v Faulhaber*, 157 Mich App 164, 166; 403 NW2d 527 (1987). However, an amendment may apply retroactively where the Legislature enacts an amendment to clarify an existing statute and to resolve a controversy regarding its meaning. *Adrian School Dist v Michigan Pubic School Employees' Retirement System*, 458 Mich 326, 337; 582 NW2d 767 (1998); *Faulhaber*, *supra* at 167; 1A Singer, Sutherland Statutory Construction (5th ed), § 22.34, p 297.

The preamendment version of the statute exempted implements of husbandry that were required for "normal farming operations," but the statute did not define "normal" or "normal farming operations." In the amendment, our Legislature deleted the word "normal" and replaced

it with the phrase "required, designed, and intended." In addition, we note the following portions of the accompanying legislative analysis:

> The vehicle code, however, generally exempts farm equipment and vehicles from its requirements, and with regard to oversized vehicles, the code specifically allows a person to operate or move an "implement of husbandry" . . . of any width on a highway as required for normal farming operations, without obtaining a special permit . . . .
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> Reportedly, in either Lenawee or Monroe county, someone driving oversized farm equipment from a dealership to a farm received a citation from a Department of State Police Motor Carrier Division officer for operating an oversized vehicle without a special permit. Apparently, the effect of the judge's ruling in this case was that even though the vehicle in question was, apparently, farm equipment, it did not fall under the Michigan Vehicle Code exemption for farm equipment ("implements of husbandry") from special permitting requirements for oversized vehicles. At the joint request of a farm equipment dealers' association and an agricultural organization, *legislation has been introduced to clarify that implements of husbandry are to be exempt* from special "oversized" permitting requirements. [House Legislative Analysis, HB 4464, April 29, 1999 (emphasis added).]

This legislative analysis supports defendant's contention that the amendment was intended to clarify the exemption. In light of the specific amendment language, and according the legislative analysis some weight, we conclude that the amendment indicates a legislative intent to clarify, rather than substantively alter, the existing statutory provision.[2] Accordingly, we apply the language contained in the present version of MCL 257.717(2); MSA 9.2417(2).

The prosecutor's contention, both below and on appeal, is that defendant's employer was engaged in a "rental business." Our review of the record revealed no support for the prosecutor's contention, at least with respect to the silage bagger. Further, the undisputed testimony from defendant's employer indicates that the silage bagger was "required, designed, and intended" for farming operations. Munsell testified that he invented the silage bagger specifically for use in his farming operations. Therefore, the conclusion of the lower courts that defendant did not fall

within the implement of husbandry exception of MCL 257.717(2); MSA 9.2417(2) were erroneous as a matter of law.

Because we conclude that defendant did qualify for the exemption contained in MCL 257.717(2); MSA 9.2417(2), a review of defendant's remaining issues is unnecessary.

Reversed. We do not retain jurisdiction.

B.B. MacKenzie, J., concurred.

/s/ Peter D. O'Connell
/s/ Barbara B. MacKenzie

[1] MCL 257.717(7); MSA 9.2417(7) provides that the director of the state transportation department, a county road commission, or local authority may designate certain highways to allow vehicles up to 102 inches in width.

[2] In addition, as part of the arguments in favor of the amendment, the legislative analysis stated:

> Regardless of the actual details of the Lenawee or Monroe county case, *the Michigan Vehicle Code's exemption for oversized farm equipment needs to be clarified* to allow such equipment to be driven from a dealership to a farm without the driver being ticketed for driving an oversized vehicle without a special permit. The vehicle code currently doesn't require a special permit for the operation of oversized "implements of husbandry" when the implement of husbandry is being operated "as required for normal farming operations," *and it seems obvious that driving an oversized piece of farm equipment from a dealership to a farm should fall under this exemption.* The bill would do this, eliminating entirely the reference to "normal" farming operations and instead exempting implements of husbandry of any width if the implement of husbandry were being operated or moved not only as required for farming operations, but also as "designed" and as "intended" for farming operations. [Legislative Analysis, *supra* (emphasis added).]

This language further supports our conclusion that the Legislature intended for the amendment to clarify the then existing statute. We note that this analysis indicates that at least part of the reason for the clarification was to permit a purchaser of farm equipment to take it home from the dealership without a special permit. However, no language limiting the application of the section to trips between a dealership and the purchaser's farm is contained in the relevant statutory sections.