



Ontario Highway Traffic Act R.S.O. 1990, c. H.8 & Winter Maintenance Operations

Stephen Sinclair, Fleet Safety & Compliance, City of Kitchener

Performing efficient winter road maintenance operations while at the same time maintaining compliance with the Ontario Highway Traffic Act (HTA) and mitigating liability risks may present municipalities with some unique challenges. New traffic calming measures, Vision Zero initiatives, bicycle lanes, multi-modal pathways, increased expectations of rate payers, risk management responsibilities, etc. may further compound those challenges.

Convictions for moving violations may significantly impact CVOR Safety Violation Rates and account for 40% of the overall score. Typically, two to five (2-5) CVOR Demerit Points are applied for each conviction, with another two to four (2 - 4) CVOR Demerit Points applied should a Motor Vehicle Collision (MVC) occur.

Your Municipal Equipment & Operations Association (MEOA) Safety, Training & Compliance Committee members regularly discuss practical applications of the Act and supporting Regulations with the various enforcement authorities, Ministry of Transportation (MTO), Ontario Provincial Police (OPP), Waterloo Region Police Service (WRPS), etc..

Listed below are our Interpretations to some of the frequently asked questions raised by our members regarding the HTA and winter maintenance operations.

The MEOA encourages all its members to submit any questions or request for interpretations pertaining to the Ontario Highway Traffic Act to admin@meoa.org.

We will consult with our network of safety professionals and respond as quickly as possible.

Non-standard maneuvers

Road maintenance and snow clearing operations typically require that a municipal driver periodically participate in what may be considered non-standard maneuvers by other motorists. These maneuvers, although permitted under the HTA, may only be executed if the maneuver 'may be done in safety'.

Should a MVC occur, the vehicle participating in the non-standard maneuver will most likely be assigned fault/liability.

At any time, should the use of a non-standard or high-risk maneuver be necessary to conduct winter maintenance operations, it is recommended that a Risk Assessment be conducted.

A risk assessment will consider;:

- Direction of approach, or
- Use of different vehicle/equipment, or
- Multi-vehicle/echelon plowing operations, or
- Time of day, or
- Multi-pass strategies
- Risk mitigation

Results of any risk assessment should be documented and approved by the appropriate authority.

This may not only assist in reducing risk but may also become an integral component of a defense in the case of a violation or civil action.

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Emergency vehicle

Other than police, fire, or ambulance services, most municipal vehicles typically fall under the 'road service' category. Amber or blue intermittent flashing lights on municipal vehicles do not qualify them as 'emergency vehicles' and are therefore not entitled to any regulatory exemption extended to 'emergency vehicles' under the HTA.

"road service vehicle" means a vehicle while it is being used for highway maintenance purposes by or on behalf of a municipality or other authority with jurisdiction and control of the highway; ("véhicule de la voirie")

"emergency vehicle" means,

'an ambulance, fire department vehicle, police department vehicle or public utility emergency vehicle,' R.S.O. 1990 c. H.8, s. 158(11),

'on which a siren is continuously sounding and from which intermittent flashes of red light or red and blue light are visible in all directions,' R.S.O. 1990, c. H.8, s. 144(1), or

'a tow truck with its lamp producing intermittent flashes of amber light that is stopped on the highway' R.S.O. 199, c. H.8, s. 159(2).

Flashing blue light

"snow plow" means a road service vehicle that requires a lamp in accordance with subsection 62 (31).

Blue flashing lights must be displayed if plowing, salting, de-icing, or applying abrasives, but may not be displayed if not actively plowing, salting, de-icing or applying abrasives.

No person shall, while operating a road service vehicle on a highway, plow, salt or de-ice the highway or apply chemicals or abrasives to the highway for snow or ice control unless the road service vehicle is equipped with a lamp producing intermittent flashes of blue light visible for a distance of 150 metres from all directions. R.S.O. 1990, c. H.8, s.62(31)

No person shall operate a lamp that produces intermittent flashes of blue light on a highway except,

(a) a person operating a road service vehicle in the circumstances described in subsection (31);' R.S.O. 1990, c. H.8, s. 62(32)(a)

Overtaking a snow plow

Restrictions to other motorists around snow plows apply only when echelon plowing operations exist.

On a highway on which the speed limit is 80 kilometres per hour or more and which is divided into clearly marked lanes for traffic, no person shall, while travelling in a direction that has two or more such lanes, overtake a snow plow that is travelling in echelon with another plow or plows unless the lane of travel that is used by the overtaking vehicle to overtake the snow plow is entirely clear of any part of the snow plow, including any part of an attachment or the plow blade. R.R.O. 1990, c. H.8, s.148(1)

Although regulations specifically reference highways with posted speed limits of over 80kph, the regulation may be referenced in determining fault &/or liability should a MVC occur on a roadway with a lower posted speed limit.

Covering of Loads

Sand, salt or abrasive loads must be covered while in transit.

During December, January, February & March, loads need not be covered if actively applying sand, salt or abrasives (diminishing load) provided they do not extend above the top of the vehicle.

Subject to subsection (2), where a commercial motor vehicle or a combination of a commercial motor vehicle and trailer or trailers is being operated on a highway and is carrying a load that is,

(a) sand, gravel, crushed stone, slag, salt or any mixture thereof, where such substances are in the form of particles of up to 1 ½ inches in diameter;

the portion of the load that is not enclosed by the vehicle or load container shall be covered with a covering that is made of tarpaulin, canvas, netting or other material capable of confining the load within the vehicle container or load container. R.R.O. 1990, Reg. 577, s. 2 (1).

Subsection (1) does not apply where the commercial motor vehicle or the combination of a commercial motor vehicle and trailer or trailers is being operated,

(a) in the course of applying sand, salt, a mixture of sand and salt or any similar substance to the highway for the purpose of winter highway maintenance;

in the course of carrying sand, gravel, crushed stone, slag, salt or any mixture thereof in December, January, February or March where the highest point of the load does not extend above the top of the vehicle container or load container, and the perimeters of the load are not less than twelve inches beneath the top of the vehicle container or load container;

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Turning at intersections

Turns are typically made from a marked, designated lane, or;

- Right turns, from the right most lane, or from the lane immediately to the left of the right curb or edge of roadway.
- Left turns, from the lane immediately to the right of the centre line.

and must be completed in the equivalent lane of the intersecting highway. R.S.O. 1990, c. H.8, s.141

A number of exceptions are made available to road service, long, combination and over dimensional vehicles, provided the turn may be done in safety.

Where a marked, designated turn lane is present, the immediately adjacent lane normally intended for through traffic shall be considered the approach lane.

Right turn at intersection

Road service vehicles may, where a designated turn lane exists, make a right turn from an approach lane, provided the turn may be done so in safety.

A driver of a road service vehicle entering an intersection within a lane other than one described in subsection (2) or (3) may make a right turn from the approach lane if the turn can be safely made. R.S.O. 1990, c. H.8, s. 141 (4).

Long or combination vehicles may, if required, temporarily occupy part of an adjacent or approach lane to make a right turn, provided if it may be done so in safety.

Where, because of the length of a vehicle or combination of vehicles, a turn cannot be made within the confines of the lanes referred to in subsection (2), (3), (6) or (7), a driver, when making such a turn, is not in contravention of any such subsection if he or she complies with the applicable provision as closely as practicable. R.S.O. 1990, c. H.8, s. 141 (9).

It is recommended that a portion of the turning vehicle(s) remain in the right most or designated turn lane to prevent approaching vehicles from legally passing to the right of the turning vehicle.

Where it is found necessary to completely vacate/abandon, even temporarily, the right most or designated turn lane it is recommended that service vehicles be operated in tandem/echelon to effectively 'block' or prevent approaching traffic from passing to the right in an unoccupied lane.

If it believed impractical to do so, a risk assessment is recommended.

The driver of a motor vehicle may overtake and pass to the right of another vehicle only where the movement can be made in safety and, R.S.O. 1990, c. H.8, s. 150 (1).

- Note:
1. Where a marked bicycle lane exists, the bicycle lane marking typically becomes broken on approach to the intersection. Turning vehicles should look, signal and when clear, occupy the bicycle lane as near the right curb as practical, preventing cyclists from passing to the inside.
 2. Where a marked cycle track exists, typically separated from vehicular traffic, vehicles may not cross/occupy the cycle track to turn right. The cycle track is to be considered a through lane and turning vehicles must yield right of way before crossing the cycle track.

Left turn at intersection

Road service vehicles may continue straight through an intersection from a marked, designated left-turn lane, provided it may be done in safety.

A driver of a road service vehicle entering an intersection within a left-turn lane may leave the intersection without turning to the left if the movement can be safely made. R.S.O. 1990, c. H.8, s. 141 (8).

It is recommended a portion of the road service vehicle remain in the approach lane preventing vehicles from legally passing to the right of the service vehicle proceeding straight through the intersection.

No specific provisions are made enabling a road service vehicle to turn left from any lane other than a designated left turn lane or the lane immediately to the right of the centre line.

Long or combination vehicles should be able to complete left turns pursuant to the regulation.

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Driving to the left of centre

To effectively clear snow from the centre of roadway or cul-de-sacs, it may be necessary for plow blades or entire vehicles to periodically cross into the lanes of oncoming traffic.

No vehicle shall be driven or operated to the left of the centre of a roadway designed for one or more lanes of traffic in each direction, R.S.O. 1990, c. H.8, s.149(1)

Subsection (1) does not apply, to a road service vehicle where precautions are taken to eliminate the hazard; R.S.O. 1990, c. H.8, s.149(2)(b)

Where it may not be practical to turn out, allowing the oncoming vehicle one-half of the roadway, it is recommended to come to a stop. Should a MVC occur, fault &/or liability is typically applied to the vehicle which came into contact with a stopped vehicle.

Every person in charge of a vehicle on a highway meeting another vehicle shall turn out to the right from the centre of the roadway, allowing the other vehicle one-half of the roadway free.' R.S.O. 1990, c. H.8, s. 148 (1).

' . . . the driver finds it impracticable to turn out, he or she shall immediately stop, . . . ' R.S.O. 1990, c. H.8, s. 148(7)

U-turns

U-turns are permitted at any location other than;

- where prohibited by a legal sign, or
- upon or within 150 meters of a curve, or
- upon or within 30 meters of a railway crossing, or
- within 150 meters of a bridge, tunnel or viaduct, or
- near a crest, grade or any location where the vehicle cannot be seen by another vehicle approaching within 150 meters.

R.S.O. 1990, c. H.8, s. 143.

Driving off roadway prohibited

Road service vehicles may be driven on the shoulder.

No driver of a motor vehicle shall overtake and pass another vehicle by driving off the roadway. R.S.O. 1990, c. H.8, s. 150 (2).

Subsection (2) does not apply to,
(e) a road service vehicle;

Where safety is not jeopardized, clauses (1) (b) and (c) do not apply to road service vehicles and clause (1) (c) does not apply to road-building machines or apparatus while engaged in the construction of a highway. R.S.O. 1990, c. H.8, s. 154 (2).

Slow vehicles to travel on right side

Any vehicle travelling upon a roadway at less than the normal speed of traffic at that time and place shall, where practicable, be driven in the right-hand lane then available for traffic or as close as practicable to the right hand curb or edge of the roadway. R.S.O. 1990, c. H.8, s. 147 (1).

Subsection (1) does not apply to a driver of a,
(c) road service vehicle;

Backing prohibited, speed limit over 80 k.p.h.

No driver of a vehicle shall back the vehicle upon the roadway or shoulder of any highway divided by a median strip on which the speed limit is in excess of 80 kilometres per hour. R.S.O. 1990, c. H.8, s. 157 (1)

Subsection (1) does not apply to,
(d) a road service vehicle, if the movement is made in safety; or

Parking on a roadway

No person shall park, stand or stop a vehicle on a roadway,' R.S.O. 1990, c. H.8, s. 170 (1).

Subsection (1) does not apply to a road service vehicle that is parked, standing or stopped safely. R.S.O. 1990, c. H.8, s. 170 (4).

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Hours of service (HOS)

All drivers of commercial motor vehicles having a gross weight or registered gross weight in excess of 4500kgs are subject to Commercial Motor Vehicle, Driving Rules R.S.O. 1990, c, H.8, s. 190(2) and R.R.O. 555/06 Hours of Service regulations.

Municipal drivers who typically do not operate outside of a 160km radius from their home terminal are not exempt from the regulation but may maintain a hours of service record instead of a record of duty status.

If a driver, in accordance with subsection (1), is not required to keep a record of duty status for a day, the operator shall keep a record for the day showing, O. Reg. 555/06 s. 23(3)

- (a) the date, the driver's name and the location at which the driver starts and ends the day;
- (b) the cycle that the driver is following;
- (c) the hour at which each duty status starts and ends and the total number of hours spent in each duty status; and
- (d) the number of hours of on-duty time and the number of hours of off-duty time that the driver accumulated each day during the 14 days immediately before the start of the day, for which the driver was exempt from this Regulation and not required to keep a record of duty status. O. Reg. 715/21, s. 11 (1).

Hours of service Exemption

Some events thought to be 'an emergency' to a municipality, may be considered merely urgent by the Ministry of Transportation and the Superior Court of Justice.

A vehicle operated by or on behalf of a municipality, road authority or public utility while responding to a situation or impending situation that constitutes an imminent danger, though not one of major proportions, to life, property or the environment, whether caused by forces of nature, an accident, an intentional act or otherwise. O. Reg 555/06 s. 3(1)(4.1)

Should a municipality declare a 'significant weather event', R.R.O. 239/02 Minimum Maintenance Standards for Municipal Highways subsections 4.1, 4.3, 5.1, 16.4 & 16.5 provides road maintenance operations additional time to bring roadways, bicycle lanes and sidewalks up to minimum standards, negating the need for a driver to operate more than the regulated HOS hours.

"Significant weather events' should only be declared by the documented authority or designate.

The following circumstances may qualify for an Hours of Service Exemption under s. 3(1)(4.1) by the Ministry of Transportation &/or Superior Court of Justice.

1. A Community Emergency has been declared by the mayor, council or designate,
OR
 A Department General Manager, Director, or Division Manager determines the situation to be an imminent danger to life, property or the environment as,
 Natural Gas release/containment
 Waste Water release/containment
 Dangerous Goods release/containment
 Potable Water release/containment.
- a. MUST meet 1 of the following circumstances to be eligible for an HOS exemption under s. 3(1)(4.1)
Check which applies
 Loss of potable water supply to a hospital, palliative, chronic, or long term care facility, or
 Could result in imminent danger/significant damage to infrastructure, or
 Could result in imminent danger/significant damage to a dwelling or public structure.
2. No other staff member(s) with the appropriate licence and available CVOR DRIVING hours is available within the operating area, department and/or division, regardless of labour affiliation.

The following circumstances are specifically excluded from qualifying for an Hours of Service exemption under s. 3(1)(4.1)

- a) A Significant Weather Event (SWE) O. Reg. 239/02 Minimum Maintenance Standards for Municipal Highways, or
- b) Local bylaws, or
- c) Temporary disruptions to water, gas, electrical services, etc. to residents, or
- d) Urgency to clear roadways or hydro corridors, or

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- e) Restoration of sites as a result of work conducted under section 1. Once the leak, breach, or release is stopped/contained, any additional work does not qualify for an exemption under s. 3(1)(4.1).

Traffic control signals/stop sign

No exemptions to regulations are available to municipal road service vehicles, snow plows, etc..

Every driver or street car operator approaching a stop sign at an intersection, shall stop his or her vehicle or street car at a marked stop line or, if none, then immediately before entering the nearest crosswalk or, if none, then immediately before entering the intersection; R.S.O. 1990, c. H.8, s. 136 (1)(a).

Every driver approaching a traffic control signal showing a circular amber indication and facing the indication shall stop his or her vehicle if he or she can do so safely, otherwise he or she may proceed with caution. R.S.O. 1990, c. H.8, s. 144 (15).

Every driver approaching a traffic control signal showing a circular red indication and facing the indication shall stop his or her vehicle and shall not proceed until a green indication is shown. R.S.O. 1990, c. H.8, s. 144 (18).

Despite subsection (18) and subject to subsection (14), a driver, after stopping his or her vehicle and yielding the right of way to traffic lawfully approaching so closely that to proceed would constitute an immediate hazard, may,

(a) turn to the right; or

(b) turn to the left from a one-way street into a one-way street,

without a green indication being shown. R.S.O. 1990, c. H.8, s. 144 (19).

One-way traffic

No exemptions to regulations are available to municipal road service vehicles, snow plows, etc..

Where a highway has been designated for the use of one-way traffic only and official signs have been erected accordingly, vehicles and street cars shall be driven only in the direction so designated.' R.S.O. 1990, c. H.8, s. 153.

Signs to be obeyed

No exemptions to regulations are available to municipal road service vehicles, snow plows, etc..

Every driver or operator of a vehicle or street car shall obey the instructions or directions indicated on any sign so erected.' R.S.O. 1990, c. H.8, s. 182 (2).