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## Quick Question

11 messages

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**Mark Bos** <mbos@miottawa.org>  
Reply-To: madcm@googlegroups.com  
To: "madcm@googlegroups.com" <madcm@googlegroups.com>

Wed, May 23, 2018 at 9:29 AM

A vehicle is towing another vehicle down a public street.

The driver of the vehicle towing has a valid ops.

The person behind the wheel of the vehicle being towed is Suspended.

I say the person being towed does not need an ops.

Any input.

Thanks

Mark



Mark Bos  
Magistrate  
58<sup>th</sup> District Court  
mbos@miottawa.org

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**Ginger Sulisz** <gsulisz@houghtoncounty.net>  
Reply-To: madcm@googlegroups.com  
To: madcm@googlegroups.com

Wed, May 23, 2018 at 9:44 AM

I agree with you. His vehicle is more or less not being "operated" by him

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Ginger W. Sulisz  
97th District Court-Houghton  
Court Administrator/Magistrate

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**Milroy, Michael** <michael.milroy@kentcountymi.gov>  
Reply-To: madcm@googlegroups.com  
To: "madcm@googlegroups.com" <madcm@googlegroups.com>

Wed, May 23, 2018 at 9:55 AM

I agree. Even though the person behind the wheel has exercised actual influence on the machinery of the automobile (e.g., steering), the person has not put the vehicle in motion or in a position posing significant risk of causing a collision. I do not see this person as operating the motor vehicle on these facts.

Milroy

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**From:** madcm@googlegroups.com <madcm@googlegroups.com> **On Behalf Of** Mark Bos  
**Sent:** Wednesday, May 23, 2018 9:29 AM  
**To:** madcm@googlegroups.com  
**Subject:** Quick Question

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**Steven Brunink** <steven.brunink@grcourt.org>  
Reply-To: madcm@googlegroups.com  
To: "madcm@googlegroups.com" <madcm@googlegroups.com>

Wed, May 23, 2018 at 9:59 AM

Mark,

MCL 257.35a, defines "operating" as "being in actual physical control of a vehicle." If the second driver is steering, and applying the breaks, he/she is in my opinion "operating" said vehicle.

My 2 cents.

Steve Brunink, 61st DC

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**From:** madcm@googlegroups.com <madcm@googlegroups.com> on behalf of Ginger Sulisz <gsulisz@houghtoncounty.net>  
**Sent:** Wednesday, May 23, 2018 9:44 AM  
**To:** madcm@googlegroups.com  
**Subject:** Re: Quick Question

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**James Brennan** <jamesbrennanlaw64@gmail.com>  
Reply-To: madcm@googlegroups.com  
To: Jonathan Morse <madcm@googlegroups.com>

Wed, May 23, 2018 at 10:07 AM

Thanks Steve. It's really important to check the statute but using my discretion I would rule the towed driver wasn't operating but a captive of the towing driver (merely steering). However, there's a police officer in my jurisdiction that looks to ensure that the towing law is followed regarding safety straps, lights, ect. The improper towing would apply to the towing driver. Have a great day. Brennan

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Mark Bos  
Magistrate  
58<sup>th</sup> District Court  
mbos@miottawa.org

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**Matt Friedrich** <matt.friedrich@sbcglobal.net>  
Reply-To: madcm@googlegroups.com  
To: "madcm@googlegroups.com" <madcm@googlegroups.com>

Wed, May 23, 2018 at 10:11 AM

I was thinking the same thing. Why even have someone in the second vehicle if they don't have to "control" it in some form or fashion? Could a 12 year old legally do what the person in second vehicle was doing?

The counter argument is that the second vehicle was not running and was at the mercy of the first car/driver. So is that the type of "actual physical control" of the vehicle which is contemplated by the statute? Also, I believe a motor vehicle is something that is "self propelled." Arguably, the second car was not being self propelled under these facts.

As an aside, where was the car being towed from and to? Was the person without an Ops driving the towed vehicle at some point prior to the tow?

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**Sandra Straus** <sstraus@isabellacounty.org>  
Reply-To: madcm@googlegroups.com  
To: madcm@googlegroups.com

Wed, May 23, 2018 at 10:22 AM

We have had a couple of these cases in the past. I recall the most recent involved an accident the towed vehicle caused. While "operating" the vehicle being towed he didn't stop soon enough to avoid hitting the towing vehicle.

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**From:** madcm@googlegroups.com [mailto:madcm@googlegroups.com] **On Behalf Of** Steven Brunink  
**Sent:** Wednesday, May 23, 2018 9:59 AM

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**Wiewiora, John** <WiewioraJo@co.muskegon.mi.us>  
Reply-To: madcm@googlegroups.com  
To: "madcm@googlegroups.com" <madcm@googlegroups.com>

Wed, May 23, 2018 at 10:30 AM

Our prosecutor's office has brought charges in a similar case before. If it is a "hard tow"—meaning the tow truck is in complete control because the back vehicle is hitched up and the rear vehicle has no way to affect steering or braking—then merely sitting in the rear vehicle is not operating it. But if it is a "soft tow"—meaning the rear vehicle needs someone in it to steer and/or brake—then it is being operated on the roadway and is subject to all laws in regard to operating a vehicle on the road. Keep in mind that in the latter example, things done by the driver in the rear vehicle will affect movement not only of his vehicle but the towing vehicle.

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**From:** madcm@googlegroups.com [mailto:madcm@googlegroups.com] **On Behalf Of** Sandra Straus  
**Sent:** Wednesday, May 23, 2018 10:23 AM  
**To:** madcm@googlegroups.com  
**Subject:** RE: Quick Question

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**Millmore, Laura** <Laura.Millmore@lansingmi.gov>  
Reply-To: madcm@googlegroups.com  
To: "madcm@googlegroups.com" <madcm@googlegroups.com>

Wed, May 23, 2018 at 10:32 AM

I think John has a great response. Towing in a "soft tow" is dangerous and would require someone to operate the motor vehicle.

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**From:** madcm@googlegroups.com [mailto:madcm@googlegroups.com] **On Behalf Of** Wiewiora, John  
**Sent:** Wednesday, May 23, 2018 10:30 AM

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**james brennan** <jamesbrennanlaw64@gmail.com>  
Reply-To: madcm@googlegroups.com  
To: Jonathan Morse <madcm@googlegroups.com>

Wed, May 23, 2018 at 6:23 PM

I am wrong. Got to work looked it up and discovered John is right.

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**Karen Moore** <moorek@clareco.net>  
Reply-To: madcm@googlegroups.com  
To: "madcm@googlegroups.com" <madcm@googlegroups.com>

Wed, May 23, 2018 at 9:27 PM

Though if the car being towed is in complete control of the car being driven (hard tow) what's the need to have anyone in the rear car (and is that even legal to allow)? It's certainly not safe.

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**From:** madcm@googlegroups.com <madcm@googlegroups.com> on behalf of Wiewiora, John  
<WiewioraJo@co.muskegon.mi.us>  
**Sent:** Wednesday, May 23, 2018 10:30:28 AM

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