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MI POOL NEWS

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WELCOME

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Your ASU Team:
Glen Griffin
Kristine Schreiber
Adam Wilberding



*May you all have a great 2025!
Happy New Year!*

We thought we would catch you up on some of the comings and goings of your MTP Executive Committee:

After 15 wonderful years of dedication, valuable contributions and friendship to the Executive Committee, Tom Pirnstill retired from his MTP Executive Committee position at the end of his term on 11.30.2024. Tom, thank you for all you have brought to the Pool over the years!! You will be missed!

New changes to the MTP Executive Committee are that Kelly Bales has moved into the role of Vice President and Karen Mendham has taken the Secretary position.

New members are Staci Hitts and Mary Rice.
We're looking forward to working with you!

Save the Date:

MTP's Annual Meeting will be **May 20-21st, 2025**. Please put this on your calendar, we would love to see you there! Tuesday's activities include golf or euchre. More details to come.

Referrals:

If you are aware of other systems that are having liability or physical damage insurance issues, please mention MTP and they can call Glen directly or start with MTPOnline.org.

Speaking of the website, there is an abundance of resources available to you, please check it out! You will have to create a login if you haven't already.

Thank you all for your willingness to contribute!



New FTA report shows U.S. transit ridership is on the rise

Transit agencies in the U.S. provided 6.9 billion trips in 2023, an increase of 17.3% from 2022.

Transit ridership in the U.S. continues to rise, growing by more than 17 percent from 2022 to 2023, according to a recent report from the Federal Transit Administration (FTA) on transit trends.

The report notes transit agencies provided 6.9 billion trips in 2023, an increase of 17.3 percent from 2022. Those same transit agencies moved passengers 35 billion miles, an increase of almost 17 percent from 2022. According to the report, with that year-over-year-growth, public transportation grew nearly twice as fast as domestic air travel between 2022 and 2023.

"Our nation's public transportation systems continue to punch above their weight, providing billions of trips covering billions of miles for millions of people all across our nation," said FTA Deputy Administrator Veronica Vanterpool. "This report shows an upward trend in people using transit, which provides many benefits, including less time wasted in traffic, fewer carbon emissions and better air quality."

The report notes public transportation is also a jobs generator, as in the past year, 10,000 new workers have entered the transit industry, and salaries have increased more than \$1 billion. At the end of 2023, more than 388,000 people worked in public transportation, filling jobs in operations, maintenance and administration. According to the report, the growth rate for jobs in the transit industry exceeds other occupations. Between 2022 and 2023, the number of transit jobs grew by four percent while growth in all occupations across the country was two percent for the same period.

FTA says the 2023 National Transit Summary and Trends report provides an annual snapshot of public transportation based on data submitted by 3,000 transit agencies to the National Transit Database (NTD). Reporting comes from federally supported transit systems, which report metrics regularly during the year for the report that comes out each fall.

Congress established the NTD in 1974 to support local and state planning efforts. According to FTA, the transit data offers a window into travel trends, workforce data and transit system conditions.

FTA notes the 3,000 transit providers operate all over the country, from large metropolitan regions to small urban places and rural areas. The report says that while most transit trips occur in large urban regions where transit helps manage traffic congestion and supports walkable communities, nearly a third of transit trips (28 percent) are taken in smaller urban and rural areas.

According to the report, high-capacity transit systems like light rail and bus rapid transit (BRT) increased substantially between 2013 and 2023. Transit rail miles increased by 12 percent and miles traveled via BRT increased by 44 percent, the largest increase among transit modes, reflecting the introduction of several new BRT systems.

The report notes that while transit is already an environmentally friendly way to travel, many of the U.S. transit providers are transitioning to greener propulsion systems, particularly for buses. The report, which also analyzes trends over the last decade, found that between 2013 and 2023, the number of zero-emission buses increased four-fold.

The report also shows a significant increase in improving accessibility for people with disabilities. In 2023, nearly 84 percent of the U.S.'s transit stations were considered fully accessible per the Americans with Disabilities Act, which includes stations that feature modifications such as platforms for level boarding and ramps. The 84 percent is an increase of 4.6 percent during the past decade.

This interesting article was featured in Mass Transit Magazine and is available on [masstransitmag.com](https://www.masstransitmag.com)



MTP Risk Management

Adam Wilberding

Collision Prevention: How Effective Vision Strategies and Rock 'n' Roll Improve Defensive Driving

Driving a public bus, whether in the hustle and bustle of an urban community or the wide expanses of a rural community, requires constant vigilance. Two critical components of safe, defensive driving are vision and body positioning. As many of us know, TAPTCO (Transit and Paratransit Company) and Smith System both teach drivers to harness their central and peripheral vision, while also using the "Rock 'n' Roll" technique to overcome blind spots and other visibility challenges. Let's explore these concepts and see why they're especially important for bus drivers.

1. The Two Types of Vision: Central and Peripheral Central Vision

Central vision (approximately 3% of vision) is responsible for seeing detail directly in front of you. It allows you to read signs, focus on traffic signals, and gauge distances between vehicles. When you look down the road to judge speed or decide when to brake, you're using central vision. Because it's your most precise form of sight, it only covers a small part of your overall field of view.

Peripheral Vision

Peripheral vision (approximately 180% of vision) picks up everything outside the focus of your central vision. It's sensitive to three things: light, motion, and color. It's crucial for detecting side hazards, such as a pedestrian stepping off the curb or a cyclist in a lane next to you. While it lacks the sharpness of central vision, peripheral vision is often your first alert to unexpected movement. This is especially valuable for scanning crowded city streets or monitoring farmland roads where animals may dart across unexpectedly.

2. What Is TAPTCO's Rock 'n' Roll Technique?

"Rock 'n' Roll" is a straightforward, proactive method of increasing visibility:

- **Rock** – Lean forward or backward to see around structural obstructions, such as pillars or mirrors.
 - **Roll** – Move your head or upper body side-to-side to check blind spots and hidden angles.
- For bus drivers, who operate larger vehicles with significant blind spots, Rock 'n' Roll can be vital. Physically shifting in your seat helps you see beyond the immediate areas your mirrors cover, reducing the risk of missing a motorist, pedestrian, or cyclist.

3. Importance for Bus Drivers

Urban Environment Challenges

- **Heavy Congestion:** Buses in cities frequently deal with dense traffic, narrow lanes, and a high volume of pedestrians. Here, peripheral vision helps you spot joggers weaving between cars or shoppers stepping off a curb. Central vision helps you as you read signage or react to stoplights and brake lights.
- **Frequent Stops:** Urban routes often involve numerous bus stops. Rock 'n' Roll enables you to scan for passengers waiting at the curb, bicycles overtaking on the right, or vehicles speeding to merge. A quick movement of your head and body can prevent a sudden collision or a close call.

Rural Community Challenges

- **Wide Open Roads:** In rural areas, traffic may be lighter, but speeds can be higher, and hazards like wildlife crossing the road can appear suddenly. Peripheral vision helps you pick up movement from the side, such as a deer emerging from the woods.
- **Fewer Street Lights:** With darker roads at night, Rock 'n' Roll becomes even more important for spotting oncoming vehicles without visible headlights, farm equipment entering from side roads, or pedestrians walking along poorly lit shoulders.
- **Longer Distances Between Stops:** You might assume an empty road is clear, but a subtle shift in your seat might reveal an oncoming vehicle just out of sight.

4. Integrating Vision and Rock 'n' Roll into Defensive Driving

• Aim Your Eyes Ahead

Use central vision to look down the road, anticipate traffic flow, and plan stops in advance. Keep your eyes moving periodically to engage peripheral vision, capturing potential hazards in surrounding lanes or shoulders.

• Rock 'n' Roll Routine

Check Intersections: When approaching an intersection or stop sign, rock forward to see around mirrors or pillars, then roll side to side to ensure no cross-traffic is obscured.

Before Lane Changes: Perform a quick "roll" to confirm your blind spot is clear, particularly crucial in busy city environments and on rural highways.

At Bus Stops: Lean forward to look around your doorframe or mirror to detect anyone stepping off the curb at the last moment.

- **Mirror Use and Adjustments**

Proper mirror positioning is essential, but mirrors alone won't eliminate blind spots. Combine frequent mirror checks with Rock 'n' Roll maneuvers to cover a larger field of view. Check a mirror every 5-8 seconds to stay updated.

- **Maintain Situational Awareness**

Keep scanning sidewalks, side roads, and other areas within your peripheral vision. Recognize that central vision provides detail, but peripheral vision is your "early warning system" against sudden movement.

Safe bus operation hinges on a blend of what you see and how you look for it. By understanding and applying TAPTCO's Rock 'n' Roll technique, alongside effective use of both central and peripheral vision, drivers can significantly reduce their risk of collisions, whether navigating busy downtown avenues or long country highways.

A brief shift or lean might seem like a minor action, yet it can reveal hazards hidden by the bus's structure. Paired with a proactive scanning routine, these small movements play a big role in preventing accidents. Regardless of where you drive—a packed city block or a winding rural road—mastering Rock 'n' Roll and maximizing the use of both central and peripheral vision will help ensure a safer, smoother ride for everyone on board and around you. Stay focused, stay safe.

2025 Risk Management Committee Meetings

Please consider attending one or more of the Risk Management Subcommittee meetings scheduled in 2025, which start at 9:00am and end by 10:30am:

- 1/7/25
- 3/4/25
- 5/6/25
- 7/8/25
- 9/2/25
- 11/4/25

Both in-person and ZOOM attendance options are available. Your input helps to develop future risk management programming. We value your input; we want your input!



Legal Update on Premise Liability

by David Klevorn

Murphy & Spagnuolo, P.C.

Happy New Year, MTP members!

At a recent MTP meeting, our office was asked to discuss the potential legal obligations of transit members for maintenance and snow removal from bus stops, shelters, and transportation centers given recent changes in premise liability law in Michigan.

As a reminder and hopefully a helpful resource, our law firm also gave a PowerPoint presentation on the general topic of premise liability changes at the 2024 MTP annual meeting. The slides to that PowerPoint can be found in the "Member Only Materials" section of MTP's website.

Michigan's longstanding law, up until July 2023, was that a landowner had no duty to protect those on the premises from injuries caused by conditions on the land that were "open and obvious" (i.e., if an average person with ordinary intelligence would be able to discover the danger and risk presented upon "casual inspection" of the condition, then the premises owner could not be held liable as there was no duty on their part). This often was used in Michigan to apply to snow and ice conditions or cracks in the sidewalk. If the condition was visible, it was up to each individual to look at their surroundings and take care of their own safety. If someone filed a lawsuit for a slip and fall, we often got these cases dismissed at an early stage in the lawsuit through summary disposition because, legally, there was no obligation to protect the person from the condition.

The longstanding law above changed with the Michigan Supreme Court's decision in *Kandil-Elsayed v. F & E Oil, Inc.*, 512 Mich. 95 (2023), which has led to a change in the legal analysis of an open and obvious condition and a rash of new premise liability cases that might never have been brought under the previous case law. The Kandil case held that whether a condition is open and obvious did not change the duty of a landowner. Instead, the analysis of whether a condition is open and obvious should be included in the analysis of comparative fault. Landowners are now generally required to take reasonable steps to protect people on their property (including at bus stops and shelters).

However, courts will also consider the injured individual's responsibility to take reasonable care for their own safety. If the condition is open and obvious, it may increase the individual's share of fault, reducing the damages they can recover. Ultimately, the court will assign a percentage of fault to each party based on their contribution to the incident.



Legal Update on Premise Liability

by David Klevorn

Murphy & Spagnuolo, P.C.

While there remains ongoing debate as to the legal ins-and-outs of how the open and obvious doctrine is treated for premise liability lawsuits, the most important thing to keep in mind is that premise owners owe “a duty to exercise reasonable care to protect [invitees] from an unreasonable risk of harm caused by a dangerous condition of the land.” Applied to snow and ice, Michigan’s Supreme Court has held that such a duty “will require that reasonable measures be taken within a reasonable time after an accumulation of ice and snow to diminish the hazard of the injury to the invitee.”

Case law is still bearing out what exactly constitutes “reasonable” both in measures and time for these cases, but we can draw some conclusions from the cases that have been decided in the past year under the new Kandil standard.

For example, a recent court of appeals found that liability might exist when the premises owner had not arranged for a snow removal contractor to come until more than an hour after the landowners’ business was open to the public and snow and ice accumulation was present since the prior day. see *Vacaj v Allstate Ins. Co.* (2023). Similarly, in a recent slip and fall case outside of a hotel, testimony that a failure to put salt down the morning of a snowfall which allowed the sidewalk to “re-freeze” was found to create a question of fact that had to go to the jury on whether the defendant landowner took appropriate measures to reduce the hazard posed by the ice. see *Taylor v Soo Hotels* (2024).

The appellate cases decided since Kandil have been largely plaintiff-friendly. In fact, one of the only cases where summary disposition dismissal was found for the defendant premises owner in a snow-and-ice accumulation case post-Kandil involved testimony that the defendant premises owner was actively shoveling and salting the area where the plaintiff slipped and fell at the exact time that plaintiff fell. See *Hassen v Hopson* (2024).

All that to say – this area of law is still developing, and as Justice Viviano cautioned in his dissent in Kandil, the new standards imposed by Kandil dictate that property owners and possessors may now need find a way to shovel, salt, and clear their properties of snow and ice soon after every snowstorm or be exposed to liability for a lawsuit. How soon is practical and “reasonable” is going a case-by-case basis.



Legal Update on Premise Liability

by David Klevorn
Murphy & Spagnuolo, P.C.

While there are no hard-and-fast, bright line rules, below are some potential things transit authorities can do to improve their chances in a slip and fall incident because of ice and snow post-*Kandil*:

- **Have a winter weather policy** (i.e., a plan to shovel, salt, and clear areas as soon as possible when winter weather occurs). This policy should address whom will be responsible for what, which areas, at what times, etc.)
- **Keep logs or other records to document snowfall and snow removal efforts** – this goes to showing what “reasonable measures” were taken “within a reasonable time” and potentially give the premise owners a valid defense to premise liability claims. And, if there is an incident, we recommend having someone go to the location as soon as possible
- **Be aware of and know the areas you are responsible for.** As Michigan law only imposes liability to premise owners who have “possession and control” over the area in question. Check your leases and other land agreements to be clear on your obligations.
- **Review your leases/contracts.** It is important to know what your premises obligations are. This is especially true if your contracts include indemnification clauses that can protect you and shift the liability, burden, and cost for defending premise liability cases to your snow removal contractor. This can also help outline clear expectations of what is contractually required of any snow removal contractors or potentially require that third-party vendors include your transit agency as an additional named insured on any of its insurance policies.
- **Consider bus stop/shelter agreements** for any bus stops or shelters which are placed on the premises of another to clearly define obligations for maintaining the area.

Conclusion

We recommend that transit entities review their winter weather policies, maintain thorough records, verify the areas they are responsible for regarding snow removal, review existing contracts, and consider updating agreements to better protect their transit authority in the event of an incident. If you have any specific questions in applying the above, we encourage you to seek legal counsel accordingly.

The general information provided in the above article in no way constitutes legal advice as every situation is different. MTP members should consult with their attorneys for specific guidance.