Motorcycle Group Ride

Motorcycle group ride. “Motorcycle group ride” means a group of at least 100 individuals riding motorcycles as part of an organized event and where at least one motorcycle road guard will be used to perform traffic control.

A. following a route plan;
B. will interrupt or delay traffic at one or more intersections for longer than 15 minutes; and
C. requires a motorcycle road guard to act as a flagger and perform traffic control.

A group ride is defined as an organized gathering hosted (or sponsored) by a business, charity or other organization which is promoted via print and/or electronic media with the intent of gathering two or more motorcyclists for a ride on a set course and/or mapped destination.

Route plan.

Motorcycle insurance - http://www.mymra.com/
Example for discussion purposes

Size: 250 motorcycles
Route: Depart in Moorhead; arrive in St. Cloud via US Hwy 10, or TH/CSAH
# of statutory or home rule charter cities to notify: approximately 17
Cities of first class: None

Consider roadway and types of intersections:
- Divided highway? Two-lane?
- 4-way stops? Traffic lights?

Consider group size and relative impact on traffic?
- Are there (MnDOT) guidelines a road guard can use to determine how long an intersection will be shut down? (Based on number of motorcycles in ride)

At what point does a road guard need to contact MnDOT?
- Despite authority in §169.06 to stop and hold vehicles in place, what factors (ie - source of authority) require that a road guard notify/contact MnDOT to apply for a right-of-way permit?

Suggested definition by AC member (Chris Hawver):

“A group ride is defined as an organized gathering hosted (or sponsored) by a business, charity or other organization which is promoted via print and/or electronic media with the intent of gathering two or more motorcyclists for a ride on a set course and/or mapped destination.”

Revised:

Motorcycle group ride. “Motorcycle group ride” means a gathering that is sponsored by a business or charitable organization in which at least 100 motorcyclists are riding and following a route plan.

1. May need to find alternate word for “gathering”
2. Using “business or charitable organization” in definition:
   - may alleviate insurance issues since any business or nonprofit would likely have insurance for this purpose
   - may exclude other types of allowable rides
3. “100” is an estimate. We expect revisions to this number and there may also be a maximum number.
4. “Route plan”
   • Notification of cities is a statutory requirement for a road guard and the concept or method of doing so seems important to maintain in any definition of a group ride.
   • Rules will not prescribe what is contained in a route plan, only that a document identifying the route of the group ride be used to notifying cities of the first and home rule or statutory cities.

**Route plan.** “Route plan” means a document that is prepared by a motorcycle road guard and is used to provide notice under Minnesota Statutes, section 169.06, subdivision 4.

A route plan must include the following information:

A. departure location and arrival location;
B. all roadways to be traveled on and all alternate roadways to be traveled on;
C. all intersections on every roadway to be traveled on and all alternate intersections on every alternate roadway to be traveled;
D. estimated time of group ride;
E. estimated time at each intersection; and
F. number of motorcyclists riding in the group ride.

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From AC member (Kevin Heap):

This is a simple list of various events called a “group ride”. Here is my opinion of whether it would qualify for a road guard escort:

**Small Group Events:**

- Least organized – the weekend bunch of riding friends (somewhere between 2 and 20 bikes) that get together on the spur of the moment or with maybe a couple days notice. Odds are they don’t have a definite route if they even have a definite destination in mind. No way this meets any of the prerequisites in the guidelines of the bill.

- Local Chapter Dinner Rides – These are also smaller groups (10 to 20 bikes) that meet on a preplanned schedule with preplanned routes to the destinations. There is a wide variety of riding experience in these groups. At 4 way stop signs or when part of the group is caught at a traffic light, usually several cars get into the mix and often the bike that ends up leading the group stuck at the light might not know the route or the destination. In this case they may take chances they shouldn’t to catch up again. As often, the cars that get into the group either tailgate the bikes or get nervous about being surrounded by “bikers” and lag far behind causing an even bigger gap. Since the routes are known far in advance, the leaders could notify the local authorities or the ride and route. Due to the
relatively small size, the traffic stoppage would be minimal if road guards were
employed. This group ride could possible meet the requirements of the bill and the need
for road guards.

**Large Group Events:**

- **Rally Parades** – these can be large groups and usually ride at slow speed on a
  predetermined route. It will generally be contained in one city or town and should have
  contacted the local authorities for a parade permit if needed. In this case, there might be
  law enforcement escort or control at intersections. If not, this is a good example of a ride
  where road guards are a good idea.

- **Escort Rides** - These are may have short notice but would have a planned route and
  purpose. A reasonable time to notify the various town authorities need to be established
  in order to qualify these rides to use road guards.

- **Large Events not a Parade** – There are several annual events that gather large groups.
  The routes and destinations are planned in advance, but the riders are loosely organized
  and may not travel in one large bunch, but may consist of several larger groups. In this
  case, it might be difficult to use road guards as each group would need its own set and the
  groups can change and vary along the way.

- **Large Charity Events** – these are much like parades and would follow the same issues
  of using local law enforcement if available or providing their own road guards.

I am sure left out several other examples, but at least here are some thought to begin with.
Liability: Insurance Requirement

Although liability concerns were raised generally during legislative testimony on the motorcycle road guard proposal, these concerns were not fully articulated. Since nothing specific was mentioned, there was presumably no need to consider the scope of the rulemaking authority to ensure that DPS could incorporate provisions in its rulemaking to mitigate and/or address these concerns.

In an effort to address “liability issues”, I looked to the insurance industry for guidance and/or advice. Bob Johnson, with the Insurance Federation of Minnesota, relayed the following to me:

The scope of motorcycle insurance coverage, for injuries or damage, is for the ownership, maintenance, and use of a motorcycle while driving. The issue of flagging or “road guarding” is a pivotal point to which an insurer would ask, “Do flagging duties arrive from ownership, maintenance or use?” The answer is no, and so the coverage would not extend to injuries or damage sustained while acting as a road guard.

Because this legislation is new and technically not effective until the rules are adopted, there is no specific insurance product currently available. Mack Backlund testified to the fact that ABATE of MN’s general liability policy would cover an ABATE-sponsored ride. In a conversation with Mack, he stated that the policy would also cover the road guard if the road guard was part of the ABATE ride. So, for road guards riding with organizations that have a general liability insurance policy, this is less of a concern.

When I asked about the options for an individual road guard (who is not covered under an organization’s policy), Bob Johnson speculated perhaps an umbrella policy (of a person’s homeowner policy) could provide coverage. However, the underlying question is the extent to which an insurer will extend coverage under such a policy for traffic-related duties. Just how independent of the base policy can the insured action(s) be? In this case, it is unknown. Bob was going to look into this further but may not come up with anything definitive.

Despite the preceding information and any forthcoming answer, we always have to return to the question of rulemaking authority. Even if there was an insurance product that a road guard could purchase, would the requirement fall within the scope of the rulemaking authority? Previously, I stated that this was “yes/unclear” because it seemed to hinge on this notion/requirement of liability. However, my position on this matter now is that requiring someone to purchase an insurance product (which may or may not be available) does exceed the scope of rulemaking authority to “establish qualifications and requirements for a person to obtain a motorcycle road guard certificate.”

Decision

The only mention of insurance in the rules is (and will be) the requirement that a motorcycle road guard maintain vehicle insurance pursuant to Minnesota Statutes, section 169.791.

Additional issues relating to liability

When lawmakers were discussing liability, what other issues might they have envisioned as being included in administrative rules? I would appreciate any additional input on issues relating to liability to ensure that we haven’t overlooked anything.
7422.0200 MOTORCYCLE ROAD GUARD: AUTHORITY; RESTRICTIONS.

Subpart 1. Statutory authority. A motorcycle road guard who is certified by the commissioner is authorized under Minnesota Statutes, section 169.06, subdivision 4 and successor requirements, to:

A. stop and hold vehicles in place until it is safe for vehicles to proceed;

B. act as a flagger escorting a motorcycle group ride; and

C. direct operators of motorcycles within a motorcycle group ride or other vehicle traffic, notwithstanding any contrary indication of a traffic-control device, including stop signs or traffic-control signals; and must:

D. obtain consent from the chief of police, or the chief’s designee, of any city of the first class through which the group is proceeding; and

E. notify each statutory or home rule charter city through which the motorcycle group is proceeding.

Subpart 2. Restrictions. In order for a motorcycle road guard to escort a motorcycle group ride, the motorcycle group ride must be an organized gathering of at least 20 motorcycles that:

A. is sponsored by an entity, in which the entity must, upon request of law enforcement or the commissioner, demonstrate proof of liability insurance coverage for all participants of the motorcycle group ride;

B. is following a route in accordance with the notification provided under Minnesota Statutes, section 169.06, subdivision 4;

C. is riding only in daytime; and

D. complies with the temporary traffic control zone layout provisions of the Minnesota Manual on Uniform Traffic Control Devices, authorized under Minnesota Statutes, section 169.06, subdivision 4, by not interrupting intersection traffic for more than 15 minutes in one direction.

*See “entity” (defined term) in 7422.0100. “Entity” means a firm, corporation, association, limited liability company, partnership, limited liability partnership, nonprofit organization, or other business, religious, or charitable organization. (See MS, 12.03, subd. 4e)
**Add “daytime” as a defined term in 7422.0100 by referencing MS 169.011, Subd. 22. Daytime. For the purposes of regulating the operation of a motor vehicle, “daytime” means the time from one-half hour before sunrise to one-half hour after sunset.**

*From Thomas Streiff (MnDOT) in e-mail dated 11/01/2012:*

“I believe we have raised the issue MNDOT desires to issue Permit for events on state highway were the event would exceed 15 minutes for stopping traffic, need to provide an alternate detour for the state highway, or control an intersection to integrate an event with traffic so that event is not stopping traffic to exceed 15 minutes.”

*From Terry Condon (MnDOT) in e-mail dated 7/11/2012:*

“It appears the law was created for temporary road/intersection closures. As long as they do not hold traffic longer than 15 minutes, they would meet MnDOT’s requirements as laid out in the 2011 Temporary Traffic Control Zone Layouts hand book. If it was greater than 15 minutes, they would need to either:

1.) halt their event and allow the Trunk Highway traffic (county, city, etc.) to proceed until “clear”; or
2.) meet with the regulating roadway authority and set-up a temporary traffic control plan, detour, etc.; which would then require a MnDOT permit (if used on a Trunk Highway).

If things ever got bothersome and/or controversial, we could still fall upon State Statute 169.04 which (as Dave stated) allows Road Authorities to exercise reasonable regulation to traffic and other assemblages on Trunk Highways. In addition, 160.2715 (a)(1), stipulating it is unlawful to “obstruct any highway” (taken slightly out of context though) would hopefully be used (if needed) in alignment and correspondence with the new 171.60, to make certain the event is up-front and will initially run safely and correctly.”

*(Where is the 15-minute threshold authorized mentioned in the previous e-mails?)*

*From Dave Seykora (MnDOT) in -email dated 7/11/2012:*

“There are a couple statutes that may apply to this circumstance. First, Section 160.2715(a)(1) makes it unlawful to "obstruct any highway . . ." This is generally used in connection with physical obstructions such as dirt or snow, but it could be interpreted to include gatherings of people that block other traffic from using the highway.

The second is Section 169.04, a copy of which is attached. This section says that the other provisions in chapter 169 do not prevent road authorities from exercising reasonable regulation of traffic and other assemblages on highways. The rules that DPS is tasked with implementing should give appropriate consideration to this statute.”
Use of Right-of-Way Involving Road Closure

Examples of road closures include parades, races, filming, etc.

**Freeways, Expressways and High Speed Two Lane Two-Way Highways** - Closures should not be allowed.

**Low Speed Roads** - Closures may be allowed at the discretion of the District Office subject to the following criteria:
1. Closures shall not be allowed during peak traffic periods unless authorized by the District Traffic Engineer.
2. If the right-of-way is located within a city, requests shall be made through the offices of or by the city.
3. A plan for traffic control and documentation of the means to implement it should be submitted. An adequate detour route shall be provided. Motorists shall be guided through the detour by signs, traffic control personnel, law enforcement personnel or a combination of the three. Signs, if used, shall be in accordance with the Minnesota Manual on Uniform Traffic Control Devices (MN MUTCD).
4. Detour signing, advance notices and publications are the responsibility of the requester. Mn/DOT should review, comment on, and approve the plan. Upon request, Mn/DOT may provide assistance in the form of traffic control devices, signs and/or labor. The requester should be billed for the actual costs incurred by Mn/DOT.
5. All road closures should be coordinated with the State Patrol and the local law enforcement agency.
6. Festivals with a long history of occurrence and no traffic mobility or safety problems in the past should be allowed to continue. If a new traffic mobility or safety problem arises, it should immediately be brought to the attention of the event sponsor, local municipality, and enforcement agencies to be addressed. If no solution can be found, the organizations shall jointly agree to revise the location of the festival.
7. Denials of permits for road closures may be appealed to the Commissioner of Transportation by the requester.