

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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**HOUSE BILL 669\***  
**Committee Substitute Favorable 4/28/05**

Short Title: Oversize/Overweight Vehicle Changes.-AB

(Public)

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Sponsors:

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Referred to:

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March 16, 2005

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW CONCERNING OVERSIZE AND OVERWEIGHT  
VEHICLES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G. S. 20-96 reads as rewritten:

**"§ 20-96. Detaining property-hauling vehicles or vehicles regulated by the Motor Carrier Safety Regulation Unit until fines or penalties and taxes are collected.**

(a) Authority to Detain Vehicles. – A law enforcement officer may seize and detain the following property-hauling vehicles operating on the highways of the State:

- (1) A property-hauling vehicle with an overload in violation of G.S. 20-88(k) and G.S. 20-118.
- (2) A property-hauling vehicle that does not have a proper registration plate as required under G.S. 20-118.3.
- (3) A property-hauling vehicle that is owned by a person liable for any overload penalties or assessments due and unpaid for more than 30 days.
- (4) A property-hauling vehicle that is owned by a person liable for any taxes or penalties under Article 36B of Chapter 105 of the General Statutes.
- (5) Any commercial vehicle operating under the authority of a motor carrier when the motor carrier has been assessed a fine pursuant to G.S. 20-17.7 and that fine has not been paid.
- (6) A property-hauling vehicle operating in violation of G.S. 20-119.

The officer may detain the vehicle until the delinquent fines or penalties and taxes are paid and, in the case of a vehicle that does not have the proper registration plate, until the proper registration plate is secured.

(b) Storage; Liability. – When necessary, an officer who detains a vehicle under this section may have the vehicle stored. The motor carrier under whose authority the

1 vehicle is being operated or the owner of a vehicle that is detained or stored under this  
2 section is responsible for the care of any property being hauled by the vehicle and for  
3 any storage charges. The State shall not be liable for damage to the vehicle or loss of the  
4 property being hauled."

5 **SECTION 2.** G.S. 20-117 reads as rewritten:

6 "**§ 20-117. Flag or light at end of load.**

7 Whenever the load on any vehicle shall extend more than four feet beyond the rear  
8 of the bed or body thereof, there shall be displayed at the end of such load, in such  
9 position as to be clearly visible at all times from the rear of such load, a red or orange  
10 flag not less than 12 inches both in length and width, except that from sunset to sunrise  
11 there shall be displayed at the end of any such load a red or amber light plainly visible  
12 under normal atmospheric conditions at least 200 feet from the rear of such vehicle. At  
13 no time shall a load extend more than 14 feet beyond the rear of the bed or body of the  
14 vehicle, with the exception of vehicles transporting forestry products."

15 **SECTION 3.** G.S. 20-118(e) reads as rewritten:

16 "(e) Penalties. –

- 17 (1) Except as provided in subdivision (2) of this subsection, for each  
18 violation of the single-axle or tandem-axle weight limits set in  
19 subdivision (b)(1), (b)(2), or (b)(4) of this section or axle weights  
20 authorized by special permit according to G.S. 20-119(a), the  
21 Department of ~~Transportation~~ Crime Control and Public Safety shall  
22 assess a civil penalty against the owner or registrant of the vehicle in  
23 accordance with the following schedule: for the first 1,000 pounds or  
24 any part thereof, four cents (4¢) per pound; for the next 1,000 pounds  
25 or any part thereof, six cents (6¢) per pound; and for each additional  
26 pound, ten cents (10¢) per pound. These penalties apply separately to  
27 each weight limit violated. In all cases of violation of the weight  
28 limitation, the penalty shall be computed and assessed on each pound  
29 of weight in excess of the maximum permitted.
- 30 (2) The penalty for a violation of the single-axle or tandem-axle weight  
31 limits by a vehicle that is transporting an item listed in subdivision  
32 (c)(5) of this section is one-half of the amount it would otherwise be  
33 under subdivision (1) of this subsection.
- 34 (3) If an axle-group weight of a vehicle exceeds the weight limit set in  
35 subdivision (b)(3) of this section plus any tolerance allowed in  
36 subsection (h) of this section or axle-group weights or gross weights  
37 authorized by special permit under G.S. 20-119(a), the Department of  
38 ~~Transportation~~ Crime Control and Public Safety shall assess a civil  
39 penalty against the owner or registrant of the motor vehicle. The  
40 penalty shall be assessed on the number of pounds by which the  
41 axle-group weight exceeds the limit set in subdivision (b)(3), as  
42 follows: for the first 2,000 pounds or any part thereof, two cents (2¢)  
43 per pound; for the next 3,000 pounds or any part thereof, four cents  
44 (4¢) per pound; for each pound in excess of 5,000 pounds, ten cents

(10¢) per pound. Tolerance pounds in excess of the limit set in subdivision (b)(3) are subject to the penalty if the vehicle exceeds the tolerance allowed in subsection (h) of this section. These penalties apply separately to each axle-group weight limit violated.

(4) The penalty for a violation of an axle-group weight limit by a vehicle that is transporting an item listed in subdivision (c)(5) of this section is one-half of the amount it would otherwise be under subdivision (3) of this subsection.

(5) A violation of a weight limit in this section or of a permitted weight under G.S. 20-119 is not punishable under G.S. 20-176.

(6) The penalty for violating the gross weight or axle-group weight by a dump truck or dump trailer vehicle transporting bulk soil, bulk rock, sand, sand rock, or asphalt millings intrastate from a site that does not have a certified scale for weighing the vehicle is one-half of the amount it otherwise would be under subdivisions (1) and (3) of this subsection."

**SECTION 4.** G.S. 20-119 reads as rewritten:

**"§ 20-119. Special permits for vehicles of excessive ~~size, size or weight; weight, or number of units; fees.~~**

(a) The Department of Transportation may, in ~~their~~its discretion, upon application, for good cause being shown therefor, issue a special permit in writing authorizing the applicant to operate or move a vehicle of a size or weight ~~or number of units~~ exceeding a maximum specified in this Article upon any highway under the jurisdiction and for the maintenance of which the body granting the permit is responsible. However, the Department is not authorized to issue any permit to operate or move over the State highways twin trailers, commonly referred to as double bottom trailers. Every such permit shall be carried in the vehicle to which it refers and shall be open to inspection by any peace officer. The authorities in any incorporated city or town may grant permits in writing and for good cause shown, authorizing the applicant to move a vehicle over the streets of such city or town, the size or weight exceeding the maximum expressed in this Article. The Department of Transportation shall issue rules to implement this ~~section.~~section, ~~but no rule shall provide that the permits issued pursuant to this section may be invalidated by law enforcement personnel.~~

(b) Upon the issuance of a special permit for an oversize or overweight vehicle by the Department of Transportation in accordance with this section, the applicant shall pay to the Department for a single trip permit a fee of twelve dollars (\$12.00) for each dimension over lawful dimensions, including height, length, width, and weight up to 132,000 pounds. For overweight vehicles, the applicant shall pay to the Department for a single trip permit in addition to the fee imposed by the previous sentence a fee of three dollars (\$3.00) per 1,000 pounds over 132,000 pounds.

Upon the issuance of an annual permit for a single vehicle, the applicant shall pay a fee in accordance with the following schedule:

Commodity:	Annual Fee:
Annual Permit to Move House Trailers	\$200.00

1 Annual Permit to Move Other Commodities \$100.00

2 In addition to the fees set out in this subsection, applications for permits that require  
3 an engineering study for pavement or structures or other special conditions or  
4 considerations shall be accompanied by a nonrefundable application fee of one hundred  
5 dollars (\$100.00).

6 This subsection does not apply to farm equipment or machinery being used at the  
7 time for agricultural purposes, nor to the moving of a house as provided for by the  
8 license and permit requirements of Article 16 of this Chapter. Fees will not be assessed  
9 for permits for oversize and overweight vehicles issued to any agency of the United  
10 States Government or the State of North Carolina, its agencies, institutions,  
11 subdivisions, or municipalities if the vehicle is registered in the name of the agency.

12 (b1) Neither the Department nor the Board may require review or renewal of  
13 annual permits, with or without fee, more than once per calendar year.

14 (c) Nothing in this section shall require the Department of Transportation to issue  
15 any permit for any load.

16 (d) For each violation of any of the terms or conditions of a special permit issued  
17 or where a permit is required but not obtained under this section the Department of  
18 Transportation- Crime Control and Public Safety may assess a separate civil penalty for  
19 each violation against the registered owner of the vehicle as follows:

20 (1) A fine of five hundred dollars (\$500.00) for any of the following:  
21 operating without the issuance of a permit, moving a load off the route  
22 specified in the permit, falsifying information to obtain a permit,  
23 failing to comply with dimension restrictions of a permit, or failing to  
24 comply with ~~escort vehicle requirements~~the number of properly  
25 certified escort vehicles required.

26 (2) A fine of two hundred fifty dollars (\$250.00) for moving loads beyond  
27 the distance allowances of an annual permit covering the movement of  
28 house trailers from the retailer's premises or for operating in violation  
29 of time of travel restrictions.

30 (3) A fine of one hundred dollars (\$100.00) for any other violation of the  
31 permit conditions or requirements imposed by applicable regulations.

32 The Department of Transportation may refuse to issue additional permits or suspend  
33 existing permits if there are repeated violations of subdivision (1) or (2) of this  
34 subsection. In addition to the penalties provided by this subsection, a civil penalty in  
35 accordance with G.S. 20-118(e)(1) and (3) may be assessed if a vehicle is operating  
36 without the issuance of a required permit, operating off permitted route of travel,  
37 operating without the proper number of certified escorts, fails to comply with travel  
38 restrictions of the permit or operating with improper license. Fees assessed for permit  
39 violations under this subsection shall not exceed a maximum of twenty-five thousand  
40 dollars (\$25,000).

41 (e) It is the intent of the General Assembly that the permit fees provided in  
42 G.S. 20-119 shall be adjusted periodically to assure that the revenue generated by the  
43 fees is equal to the cost to the Department of administering the Oversize/Overweight  
44 Permit Unit Program within the Division of Highways. At least every two years, the

1 Department shall review and compare the revenue generated by the permit fees and the  
2 cost of administering the program, and shall report to the Joint Legislative  
3 Transportation Oversight Committee created in G.S.120-70.50 its recommendations for  
4 adjustments to the permit fees to bring the revenues and the costs into alignment.

5 (f) The Department of Transportation shall issue rules to establish an escort  
6 driver training and certification program for escort vehicles accompanying  
7 oversize/overweight loads. Any driver operating a vehicle escorting an  
8 oversize/overweight load shall meet any training requirements and obtain certification  
9 under the rules issued pursuant to this subsection. These rules may provide for  
10 reciprocity with other states having similar escort certification programs. Certification  
11 credentials for the driver of an escort vehicle shall be carried in the vehicle and be  
12 readily available for inspection by law enforcement personnel. The escort and training  
13 certification requirements of this subsection shall not apply to the transportation of  
14 agricultural machinery until October 1, 2004. The Department of Transportation shall  
15 develop and implement an in-house training program for agricultural machinery escorts  
16 by September 1, 2004.

17 (g) The Department of Transportation shall issue annual overwidth permits for  
18 vehicles carrying agricultural equipment or machinery from the dealer to the farm or  
19 from the farm to the dealer that do not exceed 14 feet in width. These permits shall be  
20 valid for unlimited movement without escorts on all State highways where the  
21 overwidth vehicles do not exceed posted bridge and load limits.

22 (h) No law enforcement officer shall issue a citation to a person for a violation of  
23 this section if the officer is able to determine by electronic means that the person has a  
24 permit valid at the time of the violation but does not have the permit in his or her  
25 possession. Any person issued a citation pursuant to this section who does not have the  
26 permit in his or her possession at the time of the issuance of the citation shall not be  
27 responsible for a violation, and the Department of Crime Control and Public Safety may  
28 not impose any fines under this section if the person submits evidence to the  
29 Department of the existence of a permit valid at the time of the violation within 30 days  
30 of the date of the violation."

31 **SECTION 5.** This act becomes effective July 1, 2005.