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Short Title: Oversize/Overweight Vehicle Changes.-AB

(Public)

Sponsors:

Referred to:

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.

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

4 (b) Storage; Liability. – When necessary, an officer who detains a vehicle under
5 this section may have the vehicle stored. The motor carrier under whose authority the
6 vehicle is being operated or the owner of a vehicle that is detained or stored under this
7 section is responsible for the care of any property being hauled by the vehicle and for
8 any storage charges. The State shall not be liable for damage to the vehicle or loss of the
9 property being hauled."

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

11 "**§ 20-117. Flag or light at end of load.**

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

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

21 "(e) Penalties. –

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

1 penalty shall be assessed on the number of pounds by which the
2 axle-group weight exceeds the limit set in subdivision (b)(3), as
3 follows: for the first 2,000 pounds or any part thereof, two cents (2¢)
4 per pound; for the next 3,000 pounds or any part thereof, four cents
5 (4¢) per pound; for each pound in excess of 5,000 pounds, ten cents
6 (10¢) per pound. Tolerance pounds in excess of the limit set in
7 subdivision (b)(3) are subject to the penalty if the vehicle exceeds the
8 tolerance allowed in subsection (h) of this section. These penalties
9 apply separately to each axle-group weight limit violated.

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

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

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

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

23 "**§ 20-119. Special permits for vehicles of excessive ~~size, size or weight; weight, or~~**
24 **~~number of units; fees.~~**

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

39 (b) Upon the issuance of a special permit for an oversize or overweight vehicle
40 by the Department of Transportation in accordance with this section, the applicant shall
41 pay to the Department for a single trip permit a fee of twelve dollars (\$12.00) for each
42 dimension over lawful dimensions, including height, length, width, and weight up to
43 132,000 pounds. For overweight vehicles, the applicant shall pay to the Department for

1 a single trip permit in addition to the fee imposed by the previous sentence a fee of three
 2 dollars (\$3.00) per 1,000 pounds over 132,000 pounds.

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

5 Commodity:	Annual Fee:
6 Annual Permit to Move House Trailers	\$200.00
7 Annual Permit to Move Other Commodities	\$100.00

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

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

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

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

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

- 26 (1) A fine of five hundred dollars (\$500.00) for any of the following:
 27 operating without the issuance of a permit, moving a load off the route
 28 specified in the permit, falsifying information to obtain a permit,
 29 failing to comply with dimension restrictions of a permit, or failing to
 30 comply with ~~escort vehicle requirements~~ the number of properly
 31 certified escort vehicles required.
- 32 (2) A fine of two hundred fifty dollars (\$250.00) for moving loads beyond
 33 the distance allowances of an annual permit covering the movement of
 34 house trailers from the retailer's premises or for operating in violation
 35 of time of travel restrictions.
- 36 (3) A fine of one hundred dollars (\$100.00) for any other violation of the
 37 permit conditions or requirements imposed by applicable regulations.

38 The Department of Transportation may refuse to issue additional permits or suspend
 39 existing permits if there are repeated violations of subdivision (1) or (2) of this
 40 subsection. In addition to the penalties provided by this subsection, a civil penalty in
 41 accordance with G.S. 20-118(e)(1) and (3) may be assessed if a vehicle is operating
 42 without the issuance of a required permit, operating off permitted route of travel,
 43 operating without the proper number of certified escorts as determined by the actual
 44 loaded weight of the vehicle combination, fails to comply with travel restrictions of the

1 permit, or operating with improper license. Fees assessed for permit violations under
2 this subsection shall not exceed a maximum of twenty-five thousand dollars (\$25,000).

3 (e) It is the intent of the General Assembly that the permit fees provided in
4 G.S. 20-119 shall be adjusted periodically to assure that the revenue generated by the
5 fees is equal to the cost to the Department of administering the Oversize/Overweight
6 Permit Unit Program within the Division of Highways. At least every two years, the
7 Department shall review and compare the revenue generated by the permit fees and the
8 cost of administering the program, and shall report to the Joint Legislative
9 Transportation Oversight Committee created in G.S.120-70.50 its recommendations for
10 adjustments to the permit fees to bring the revenues and the costs into alignment.

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

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

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

37 **SECTION 5.** This act becomes effective October 1, 2005.