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SENATE BILL 6406

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State of Washington

54th Legislature

1996 Regular Session

By Senators Owen, Prince, Prentice and Wood; by request of Department of Transportation

Read first time 01/15/96. Referred to Committee on Transportation.

1 AN ACT Relating to vehicle size and load regulation; amending RCW  
2 46.44.096 and 46.44.105; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 46.44.096 and 1993 c 102 s 6 are each amended to read  
5 as follows:

6 In determining fees according to RCW 46.44.0941, mileage on state  
7 primary and secondary highways shall be determined from the planning  
8 survey records of the department of transportation, and the gross  
9 weight of the vehicle or vehicles, including load, shall be declared by  
10 the applicant. Overweight on which fees shall be paid will be gross  
11 loadings in excess of loadings authorized by law or axle loadings in  
12 excess of loadings authorized by law, whichever is the greater. Loads  
13 which are overweight and oversize shall be charged the fee for the  
14 overweight permit without additional fees being assessed for the  
15 oversize features.

16 Special permits issued under RCW 46.44.047, 46.44.0941, or  
17 46.44.095, may be obtained from offices of the department of  
18 transportation, ports of entry, or other agents appointed by the  
19 department.

1 The department may appoint agents for the purposes of selling  
2 special motor vehicle permits, temporary additional tonnage permits,  
3 and log tolerance permits. Agents so appointed may retain three  
4 dollars and fifty cents for each permit sold to defray expenses  
5 incurred in handling and selling the permits. If the fee is collected  
6 by the department of transportation, the department shall certify the  
7 fee so collected to the state treasurer for deposit to the credit of  
8 the motor vehicle fund.

9 The department may select a third party contractor, by means of  
10 competitive bid, to perform the department's permit issuance function,  
11 as provided under RCW 46.44.090. Factors the department shall  
12 consider, but is not limited to, in the selection of a third party  
13 contractor are economic benefit to both the department and the motor  
14 carrier industry, and enhancement of the overall level of permit  
15 service. For purposes of this section, "third party contractor" means  
16 a business entity that is authorized by the department to issue special  
17 permits. The transportation commission may adopt rules specifying the  
18 criteria that a business entity must meet in order to qualify as a  
19 third party contractor under this section.

20 Fees established in RCW 46.44.0941 shall be paid to the political  
21 body issuing the permit if the entire movement is to be confined to  
22 roads, streets, or highways for which that political body is  
23 responsible. When a movement involves a combination of state highways,  
24 county roads, and/or city streets the fee shall be paid to the state  
25 department of transportation. When a movement is confined within the  
26 city limits of a city or town upon city streets, including routes of  
27 state highways on city streets, all fees shall be paid to the city or  
28 town involved. A permit will not be required from city or town  
29 authorities for a move involving a combination of city or town streets  
30 and state highways when the move through a city or town is being  
31 confined to the route of the state highway. When a move involves a  
32 combination of county roads and city streets the fee shall be paid to  
33 the county authorities, but the fee shall not be collected nor the  
34 county permit issued until valid permits are presented showing that the  
35 city or town authorities approve of the move in question. When the  
36 movement involves only county roads the fees collected shall be paid to  
37 the county involved. Fees established shall be paid to the political  
38 body issuing the permit if the entire use of the vehicle during the

1 period covered by the permit shall be confined to the roads, streets,  
2 or highways for which that political body is responsible.

3 **Sec. 2.** RCW 46.44.105 and 1993 c 403 s 4 are each amended to read  
4 as follows:

5 (1) Violation of any of the provisions of ((RCW 46.44.041,  
6 46.44.042, 46.44.047, 46.44.090, 46.44.091, and 46.44.095, or failure  
7 to obtain a permit as provided by RCW 46.44.090 and 46.44.095, or  
8 misrepresentation of the size or weight of any load or failure to  
9 follow the requirements and conditions of a permit issued hereunder))  
10 this chapter is a traffic infraction, and upon the first finding  
11 thereof shall be assessed a basic penalty of not less than fifty  
12 dollars; and upon a second finding thereof shall be assessed a basic  
13 penalty of not less than seventy-five dollars; and upon a third or  
14 subsequent finding shall be assessed a basic penalty of not less than  
15 one hundred dollars.

16 (2) In addition to the penalties imposed in subsection (1) of this  
17 section, any person violating RCW 46.44.041, 46.44.042, 46.44.047,  
18 46.44.090, 46.44.091, or 46.44.095 shall be assessed a penalty for each  
19 pound overweight, as follows:

20 (a) One pound through four thousand pounds overweight is three  
21 cents for each pound ((of excess weight))i

22 (b) Four thousand one pounds through ten thousand pounds overweight  
23 is one hundred twenty dollars plus twelve cents per pound for each  
24 additional pound over four thousand pounds overweight;

25 (c) Ten thousand one pounds through fifteen thousand pounds  
26 overweight is eight hundred forty dollars plus sixteen cents per pound  
27 for each additional pound over ten thousand pounds overweight;

28 (d) Fifteen thousand one pounds through twenty thousand pounds  
29 overweight is one thousand six hundred forty dollars plus twenty cents  
30 per pound for each additional pound over fifteen thousand pounds  
31 overweight;

32 (e) Twenty thousand one pounds and more is two thousand six hundred  
33 forty dollars plus thirty cents per pound for each additional pound  
34 over twenty thousand pounds overweight.

35 Upon a first violation in any calendar year, the court may suspend  
36 the penalty for five hundred pounds of excess weight for each axle on  
37 any vehicle or combination of vehicles, not to exceed a two thousand  
38 pound suspension. In no case may the basic penalty assessed in

1 subsection (1) of this section or the additional penalty assessed in  
2 subsection (2) of this section, except as provided for the first  
3 violation, be suspended.

4 (3) Whenever any vehicle or combination of vehicles is involved in  
5 two violations of RCW 46.44.041, 46.44.042, 46.44.047, 46.44.090,  
6 46.44.091, or 46.44.095 during any twelve-month period, the court may  
7 suspend the certificate of license registration of the vehicle or  
8 combination of vehicles for not less than thirty days. Upon a third or  
9 succeeding violation in any twelve-month period, the court shall  
10 suspend the certificate of license registration for not less than  
11 thirty days. Whenever the certificate of license registration is  
12 suspended, the court shall secure such certificate and immediately  
13 forward the same to the director with information concerning the  
14 suspension.

15 (4) Any person found to have violated any posted limitations of a  
16 highway or section of highway shall be assessed a monetary penalty of  
17 not less than one hundred and fifty dollars, and the court shall in  
18 addition thereto upon second violation within a twelve-month period  
19 involving the same power unit, suspend the certificate of license  
20 registration for not less than thirty days.

21 (5) It is unlawful for the driver of a vehicle to fail or refuse to  
22 stop and submit the vehicle and load to a weighing, or to fail or  
23 refuse, when directed by an officer upon a weighing of the vehicle to  
24 stop the vehicle and otherwise comply with the provisions of this  
25 section. It is unlawful for a driver of a commercial motor vehicle as  
26 defined in RCW 46.32.005, other than the driver of a bus as defined in  
27 RCW 46.32.005(2), to fail or refuse to stop at a weighing station when  
28 proper traffic control signs indicate scales are open.

29 Any police officer is authorized to require the driver of any  
30 vehicle or combination of vehicles to stop and submit to a weighing  
31 either by means of a portable or stationary scale and may require that  
32 the vehicle be driven to the nearest public scale. Whenever a police  
33 officer, upon weighing a vehicle and load, determines that the weight  
34 is unlawful, the officer may require the driver to stop the vehicle in  
35 a suitable location and remain standing until such portion of the load  
36 is removed as may be necessary to reduce the gross weight of the  
37 vehicle to the limit permitted by law. If the vehicle is loaded with  
38 grain or other perishable commodities, the driver shall be permitted to  
39 proceed without removing any of the load, unless the gross weight of

1 the vehicle and load exceeds by more than ten percent the limit  
2 permitted by this chapter. The owner or operator of the vehicle shall  
3 care for all materials unloaded at the risk of the owner or operator.

4 Any vehicle whose driver or owner represents that the vehicle is  
5 disabled or otherwise unable to proceed to a weighing location shall  
6 have its load sealed or otherwise marked by any police officer. The  
7 owner or driver shall be directed that upon completion of repairs, the  
8 vehicle shall submit to weighing with the load and markings and/or seal  
9 intact and undisturbed. Failure to report for weighing, appearing for  
10 weighing with the seal broken or the markings disturbed, or removal of  
11 any cargo prior to weighing is unlawful. Any person so convicted shall  
12 be fined (~~(five hundred)~~) one thousand dollars, and in addition the  
13 certificate of license registration shall be suspended for not less  
14 than thirty days.

15 (6) Any other provision of law to the contrary notwithstanding,  
16 district courts having venue have concurrent jurisdiction with the  
17 superior courts for the imposition of any penalties authorized under  
18 this section.

19 (7) For the purpose of determining additional penalties as provided  
20 by subsection (2) of this section, "~~(excess weight)~~ overweight" means  
21 the poundage in excess of the maximum allowable gross weight or  
22 axle/axle grouping weight prescribed by RCW 46.44.041 ~~((and))~~,  
23 46.44.042 ~~((plus the weights allowed by RCW))~~, 46.44.047, 46.44.091,  
24 and 46.44.095.

25 (8) The penalties provided in subsections (1) and (2) of this  
26 section shall be remitted as provided in chapter 3.62 RCW or RCW  
27 10.82.070. For the purpose of computing the basic penalties and  
28 additional penalties to be imposed under ~~((the provisions of))~~  
29 subsections (1) and (2) of this section, the convictions shall be on  
30 the same vehicle or combination of vehicles within a twelve-month  
31 period under the same ownership.

32 (9) Any state patrol officer or any weight control officer who  
33 finds any person operating a vehicle or a combination of vehicles in  
34 violation of the conditions of a permit issued under RCW 46.44.047,  
35 46.44.090, and 46.44.095 may confiscate the permit and forward it to  
36 the state department of transportation which may return it to the  
37 permittee or revoke, cancel, or suspend it without refund. The  
38 department of transportation shall keep a record of all action taken  
39 upon permits so confiscated, and if a permit is returned to the

1 permittee the action taken by the department of transportation shall be  
2 endorsed thereon. Any permittee whose permit is suspended or revoked  
3 may upon request receive a hearing before the department of  
4 transportation or person designated by that department. After the  
5 hearing the department of transportation may reinstate any permit or  
6 revise its previous action.

7 Every permit issued as provided for in this chapter shall be  
8 carried in the vehicle or combination of vehicles to which it refers  
9 and shall be open to inspection by any law enforcement officer or  
10 authorized agent of any authority granting such a permit.

11 Upon the third finding within a calendar year of a violation of the  
12 requirements and conditions of a permit issued under RCW 46.44.095 (~~as~~  
13 ~~now or hereafter amended~~), the permit shall be canceled, and the  
14 canceled permit shall be immediately transmitted by the court or the  
15 arresting officer to the department of transportation. The vehicle  
16 covered by the canceled permit is not eligible for a new permit for a  
17 period of thirty days.

18 (10) For the purposes of determining gross weights the actual scale  
19 weight taken by the arresting officer is prima facie evidence of the  
20 total gross weight.

21 (11) It is a traffic infraction to direct the loading of a vehicle  
22 with knowledge that it violates the requirements in RCW 46.44.041,  
23 46.44.042, 46.44.047, 46.44.090, 46.44.091, or 46.44.095 and that it is  
24 to be operated on the public highways of this state.

25 (12) The chief of the state patrol, with the advice of the  
26 department, may adopt reasonable rules to aid in the enforcement of  
27 this section.

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