

2 **SB 5138** - H COMM AMD **Adopted March 7, 2002**
3 By Committee on Transportation

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "**Sec. 1.** RCW 46.44.105 and 1999 c 23 s 1 are each amended to read
8 as follows:

9 (1) Violation of any of the provisions of this chapter is a traffic
10 infraction, and upon the first finding thereof shall be assessed a
11 basic penalty of not less than fifty dollars; and upon a second finding
12 thereof shall be assessed a basic penalty of not less than seventy-five
13 dollars; and upon a third or subsequent finding shall be assessed a
14 basic penalty of not less than one hundred dollars.

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

19 (a) One pound through four thousand pounds overweight is three
20 cents for each pound;

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

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

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

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

34 Upon a first violation in any calendar year, the court may suspend
35 the penalty for five hundred pounds of excess weight for each axle on
36 any vehicle or combination of vehicles, not to exceed a two thousand

1 pound suspension. In no case may the basic penalty assessed in
2 subsection (1) of this section or the additional penalty assessed in
3 subsection (2) of this section, except as provided for the first
4 violation, be suspended.

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

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

22 (5) It is unlawful for the driver of a vehicle to fail or refuse to
23 stop and submit the vehicle and load to a weighing, or to fail or
24 refuse, when directed by an officer upon a weighing of the vehicle to
25 stop the vehicle and otherwise comply with the provisions of this
26 section. It is unlawful for a driver of a commercial motor vehicle as
27 defined in RCW 46.32.005, other than the driver of a bus as defined in
28 RCW 46.32.005(2) or a vehicle with a gross vehicle or combination
29 weight not over sixteen thousand pounds and not transporting hazardous
30 materials in accordance with RCW 46.32.005(3), to fail or refuse to
31 stop at a weighing station when proper traffic control signs indicate
32 scales are open. However, unladen tow trucks regardless of weight and
33 farm vehicles carrying farm produce with a gross vehicle or combination
34 weight not over twenty-six thousand pounds may fail or refuse to stop
35 at a weighing station when proper traffic control signs indicate scales
36 are open.

37 Any police officer is authorized to require the driver of any
38 vehicle or combination of vehicles to stop and submit to a weighing
39 either by means of a portable or stationary scale and may require that

1 the vehicle be driven to the nearest public scale. Whenever a police
2 officer, upon weighing a vehicle and load, determines that the weight
3 is unlawful, the officer may require the driver to stop the vehicle in
4 a suitable location and remain standing until such portion of the load
5 is removed as may be necessary to reduce the gross weight of the
6 vehicle to the limit permitted by law. If the vehicle is loaded with
7 grain or other perishable commodities, the driver shall be permitted to
8 proceed without removing any of the load, unless the gross weight of
9 the vehicle and load exceeds by more than ten percent the limit
10 permitted by this chapter. The owner or operator of the vehicle shall
11 care for all materials unloaded at the risk of the owner or operator.

12 Any vehicle whose driver or owner represents that the vehicle is
13 disabled or otherwise unable to proceed to a weighing location shall
14 have its load sealed or otherwise marked by any police officer. The
15 owner or driver shall be directed that upon completion of repairs, the
16 vehicle shall submit to weighing with the load and markings and/or seal
17 intact and undisturbed. Failure to report for weighing, appearing for
18 weighing with the seal broken or the markings disturbed, or removal of
19 any cargo prior to weighing is unlawful. Any person so convicted shall
20 be fined one thousand dollars, and in addition the certificate of
21 license registration shall be suspended for not less than thirty days.

22 (6) Any other provision of law to the contrary notwithstanding,
23 district courts having venue have concurrent jurisdiction with the
24 superior courts for the imposition of any penalties authorized under
25 this section.

26 (7) For the purpose of determining additional penalties as provided
27 by subsection (2) of this section, "overweight" means the poundage in
28 excess of the maximum allowable gross weight or axle/axle grouping
29 weight prescribed by RCW 46.44.041, 46.44.042, 46.44.047, 46.44.091,
30 and 46.44.095.

31 (8) The penalties provided in subsections (1) and (2) of this
32 section shall be remitted as provided in chapter 3.62 RCW or RCW
33 10.82.070. For the purpose of computing the basic penalties and
34 additional penalties to be imposed under subsections (1) and (2) of
35 this section, the convictions shall be on the same vehicle or
36 combination of vehicles within a twelve-month period under the same
37 ownership.

38 (9) Any state patrol officer or any weight control officer who
39 finds any person operating a vehicle or a combination of vehicles in

1 violation of the conditions of a permit issued under RCW 46.44.047,
2 46.44.090, and 46.44.095 may confiscate the permit and forward it to
3 the state department of transportation which may return it to the
4 permittee or revoke, cancel, or suspend it without refund. The
5 department of transportation shall keep a record of all action taken
6 upon permits so confiscated, and if a permit is returned to the
7 permittee the action taken by the department of transportation shall be
8 endorsed thereon. Any permittee whose permit is suspended or revoked
9 may upon request receive a hearing before the department of
10 transportation or person designated by that department. After the
11 hearing the department of transportation may reinstate any permit or
12 revise its previous action.

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

17 Upon the third finding within a calendar year of a violation of the
18 requirements and conditions of a permit issued under RCW 46.44.095, the
19 permit shall be canceled, and the canceled permit shall be immediately
20 transmitted by the court or the arresting officer to the department of
21 transportation. The vehicle covered by the canceled permit is not
22 eligible for a new permit for a period of thirty days.

23 (10) For the purposes of determining gross weights the actual scale
24 weight taken by the arresting officer is prima facie evidence of the
25 total gross weight.

26 (11) It is a traffic infraction to direct the loading of a vehicle
27 with knowledge that it violates the requirements in RCW 46.44.041,
28 46.44.042, 46.44.047, 46.44.090, 46.44.091, or 46.44.095 and that it is
29 to be operated on the public highways of this state.

30 (12) The chief of the state patrol, with the advice of the
31 department, may adopt reasonable rules to aid in the enforcement of
32 this section."

EFFECT: Restores the 16,000 pound weight limit for trucks that may fail to stop at an open weighing station except that the weight is increased for two types of vehicles: (1) Tow trucks without a tow regardless of weight and (2) farm vehicles carrying farm produce that weigh 26,000 pounds or less are no longer required to stop at open weigh stations.

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