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HOUSE BILL 1805

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State of Washington                      52nd Legislature                      1991 Regular Session

By Representatives R. Meyers, R. Fisher and Cooper.

Read first time February 11, 1991.      Referred to Committee on  
Transportation.

1            AN ACT Relating to enforcement of commercial vehicle weight limits;  
2 amending RCW 46.44.105; creating new sections; prescribing penalties;  
3 making appropriations; providing an expiration date; providing an  
4 effective date; and declaring an emergency.

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

6            NEW SECTION.    **Sec. 1.**            It is the intent of the legislature that  
7 more functional criteria for siting of truck weighing stations be used  
8 rather than merely considering the distance from one weigh station to  
9 the next. Consideration should be given to the number of overweight  
10 containers moving over public roads to and from port facilities and  
11 locating weighing facilities at primary origins and destinations of  
12 trucks.

13            NEW SECTION.    **Sec. 2.**            From May 1, to November 1, 1991, the  
14 Washington state patrol, in cooperation with the trucking and shipping

1 industries, the state department of transportation, the Seattle and  
2 Tacoma port authorities, the state transportation plan's freight  
3 mobility subcommittee, and other interested parties shall enter into a  
4 six-month pilot project aimed at identifying to what extent the problem  
5 of highway damage can be attributed to the movement of overweight  
6 containers coming into and leaving ports within the state of  
7 Washington. The focus of this project will be to identify the  
8 following:

9 (1) The percentage of containers, when loaded on trucks, that  
10 exceed the legal load limitations for our state highways;

11 (2) The number of containers that are legally overweight but can be  
12 transported in a legal fashion with the proper truck configuration;

13 (3) The number of containers that are overweight but could be  
14 transported in a legal fashion if the amount of the product they  
15 contain is reduced.

16 NEW SECTION. **Sec. 3.** To collect data for the pilot project,  
17 the Washington state patrol shall weigh trucks carrying containers to  
18 and from the ports of Tacoma and Seattle for the period from May 1st  
19 through October 31st, 1991.

20 State patrol employees shall operate the scales. In those  
21 instances where an illegal load is identified, no citation will be  
22 issued. The operators transporting overweight loads will be advised of  
23 the penalties for transporting the load on public highways.

24 NEW SECTION. **Sec. 4.** During the pilot project, the state patrol  
25 shall:

26 (1) Periodically meet with representatives of the trucking and  
27 shipping industries, the state department of transportation, the ports  
28 of Seattle and Tacoma, the state transportation plan's freight mobility

1 subcommittee, and other interested parties to review the data collected  
2 and discuss possible recommendations for consideration by the  
3 legislative transportation committee;

4 (2) Contact the responsible California and Oregon state agencies  
5 that are responsible for truck weight enforcement in an attempt to  
6 address the issue on a regional basis; and

7 (3) Periodically submit written progress reports to the legislative  
8 transportation committee on data collection, recommendations, and  
9 regional cooperation.

10 The state patrol shall submit a final report to the legislative  
11 transportation committee by December 15, 1991.

12 **Sec. 5.** RCW 46.44.105 and 1990 c 217 s 1 are each amended to read  
13 as follows:

14 (1) Violation of any of the provisions of RCW 46.44.041, 46.44.042,  
15 46.44.047, 46.44.090, 46.44.091, and 46.44.095, or failure to obtain a  
16 permit as provided by RCW 46.44.090 and 46.44.095, or misrepresentation  
17 of the size or weight of any load or failure to follow the requirements  
18 and conditions of a permit issued hereunder is a traffic infraction,  
19 and upon the first finding thereof shall be assessed a basic penalty of  
20 not less than (~~(fifty)~~) one hundred dollars; and upon a second finding  
21 thereof shall be assessed a basic penalty of not less than (~~(seventy-~~  
22 ~~five)~~) one hundred fifty dollars; and upon a third or subsequent  
23 finding shall be assessed a basic penalty of not less than (~~(one)~~) two  
24 hundred dollars.

25 (2) In addition to the penalties imposed in subsection (1) of this  
26 section, any person violating RCW 46.44.041, 46.44.042, 46.44.047,  
27 46.44.090, 46.44.091, or 46.44.095 shall be assessed (~~(three)~~) six  
28 cents for each pound of excess weight. Upon a first violation in any  
29 calendar year, the court may suspend the penalty for five hundred

1 pounds of excess weight for each axle on any vehicle or combination of  
2 vehicles, not to exceed a two thousand pound suspension. In no case  
3 may the basic penalty assessed in subsection (1) of this section be  
4 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~~) sixty days. Upon  
10 a third or succeeding violation in any twelve-month period, the court  
11 shall suspend the certificate of license registration for not less than  
12 (~~thirty~~) sixty days. Whenever the certificate of license  
13 registration is suspended, the court shall secure such certificate and  
14 immediately forward (~~the same~~) it to the director with information  
15 concerning the 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~~) three hundred (~~and fifty~~) dollars, and the  
19 court shall in addition thereto upon second violation within a twelve-  
20 month period involving the same power unit, suspend the certificate of  
21 license registration for not less than (~~thirty~~) sixty days.

22 (5) Any police officer is authorized to require the driver of any  
23 vehicle or combination of vehicles to stop and submit to a weighing  
24 either by means of a portable or stationary scale and may require that  
25 the vehicle be driven to the nearest public scale. Whenever a police  
26 officer, upon weighing a vehicle and load, determines that the weight  
27 is unlawful, the officer may require the driver to stop the vehicle in  
28 a suitable location and remain standing until such portion of the load  
29 is removed as may be necessary to reduce the gross weight of the  
30 vehicle to the limit permitted by law.

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

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

16 (7) For the purpose of determining additional penalties as provided  
17 by subsection (2) of this section, "excess weight" means the poundage  
18 in excess of the maximum gross weight prescribed by RCW 46.44.041 and  
19 46.44.042 plus the weights allowed by RCW 46.44.047, 46.44.091, and  
20 46.44.095.

21 (8) The penalties provided in subsections (1) and (2) of this  
22 section shall be remitted as provided in chapter 3.62 RCW or RCW  
23 10.82.070. For the purpose of computing the basic penalties and  
24 additional penalties to be imposed under the provisions of subsections  
25 (1) and (2) of this section the convictions shall be on the same  
26 vehicle or combination of vehicles within a twelve-month period under  
27 the same ownership.

28 (9) Any state patrol officer or any weight control officer who  
29 finds any person operating a vehicle or a combination of vehicles in  
30 violation of the conditions of a permit issued under RCW 46.44.047,

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

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

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

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

4 NEW SECTION. **Sec. 6.** The sum of two million seven hundred  
5 ninety thousand dollars, or as much thereof as may be necessary, is  
6 appropriated to the Washington state patrol from the state patrol  
7 highway account of the motor vehicle fund for the biennium ending June  
8 30, 1993, for the construction and operation of a twenty-four hour  
9 internal port of entry at Cle Elum.

10 NEW SECTION. **Sec. 7.** The sum of two million five hundred  
11 sixty-six thousand dollars, or as much thereof as may be necessary, is  
12 appropriated to the Washington state patrol from the state patrol  
13 highway account of the motor vehicle fund for the biennium ending June  
14 30, 1993, to increase current staffing levels in commercial vehicle  
15 enforcement.

16 NEW SECTION. **Sec. 8.** The sum of seven hundred ten thousand  
17 dollars, or as much thereof as may be necessary, is appropriated to the  
18 Washington state patrol from the state patrol highway account of the  
19 motor vehicle fund for the biennium ending June 30, 1993, for the  
20 purchase of portable scales to aid in the prevention of highway  
21 deterioration.

22 NEW SECTION. **Sec. 9.** This act may be known as the Commercial  
23 Vehicle Enforcement Act.

24 NEW SECTION. **Sec. 10.** Sections 1 through 4 of this act shall  
25 expire December 31, 1991.

1        NEW SECTION.    **Sec. 11.**        This act is necessary for the immediate  
2 preservation of the public peace, health, or safety, or support of the  
3 state government and its existing public institutions, and shall take  
4 effect May 1, 1991.