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SENATE BILL 5138

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State of Washington

57th Legislature

2001 Regular Session

By Senators Morton, Hochstatter, Benton, Oke, Stevens, McCaslin, Honeyford, Swecker, Sheahan, Johnson, Zarelli, Hale and Rossi

Read first time 01/12/2001. Referred to Committee on Transportation.

1 AN ACT Relating to vehicles exempt from stopping at weighing  
2 stations; and amending RCW 46.44.105.

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

4 **Sec. 1.** RCW 46.44.105 and 1999 c 23 s 1 are each amended to read  
5 as follows:

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

12 (2) In addition to the penalties imposed in subsection (1) of this  
13 section, any person violating RCW 46.44.041, 46.44.042, 46.44.047,  
14 46.44.090, 46.44.091, or 46.44.095 shall be assessed a penalty for each  
15 pound overweight, as follows:

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

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

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

7 (d) Fifteen thousand one pounds through twenty thousand pounds  
8 overweight is one thousand six hundred forty dollars plus twenty cents  
9 per pound for each additional pound over fifteen thousand pounds  
10 overweight;

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

14 Upon a first violation in any calendar year, the court may suspend  
15 the penalty for five hundred pounds of excess weight for each axle on  
16 any vehicle or combination of vehicles, not to exceed a two thousand  
17 pound suspension. In no case may the basic penalty assessed in  
18 subsection (1) of this section or the additional penalty assessed in  
19 subsection (2) of this section, except as provided for the first  
20 violation, be suspended.

21 (3) Whenever any vehicle or combination of vehicles is involved in  
22 two violations of RCW 46.44.041, 46.44.042, 46.44.047, 46.44.090,  
23 46.44.091, or 46.44.095 during any twelve-month period, the court may  
24 suspend the certificate of license registration of the vehicle or  
25 combination of vehicles for not less than thirty days. Upon a third or  
26 succeeding violation in any twelve-month period, the court shall  
27 suspend the certificate of license registration for not less than  
28 thirty days. Whenever the certificate of license registration is  
29 suspended, the court shall secure such certificate and immediately  
30 forward the same to the director with information concerning the  
31 suspension.

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

38 (5) It is unlawful for the driver of a vehicle to fail or refuse to  
39 stop and submit the vehicle and load to a weighing, or to fail or

1 refuse, when directed by an officer upon a weighing of the vehicle to  
2 stop the vehicle and otherwise comply with the provisions of this  
3 section. It is unlawful for a driver of a commercial motor vehicle as  
4 defined in RCW 46.32.005, other than the driver of a bus as defined in  
5 RCW 46.32.005(2) or a vehicle with a gross vehicle or combination  
6 weight not over (~~sixteen~~) twenty-six thousand pounds and not  
7 transporting hazardous materials in accordance with RCW 46.32.005(3),  
8 to fail or refuse to stop at a weighing station when proper traffic  
9 control signs indicate scales are open.

10 Any police officer is authorized to require the driver of any  
11 vehicle or combination of vehicles to stop and submit to a weighing  
12 either by means of a portable or stationary scale and may require that  
13 the vehicle be driven to the nearest public scale. Whenever a police  
14 officer, upon weighing a vehicle and load, determines that the weight  
15 is unlawful, the officer may require the driver to stop the vehicle in  
16 a suitable location and remain standing until such portion of the load  
17 is removed as may be necessary to reduce the gross weight of the  
18 vehicle to the limit permitted by law. If the vehicle is loaded with  
19 grain or other perishable commodities, the driver shall be permitted to  
20 proceed without removing any of the load, unless the gross weight of  
21 the vehicle and load exceeds by more than ten percent the limit  
22 permitted by this chapter. The owner or operator of the vehicle shall  
23 care for all materials unloaded at the risk of the owner or operator.

24 Any vehicle whose driver or owner represents that the vehicle is  
25 disabled or otherwise unable to proceed to a weighing location shall  
26 have its load sealed or otherwise marked by any police officer. The  
27 owner or driver shall be directed that upon completion of repairs, the  
28 vehicle shall submit to weighing with the load and markings and/or seal  
29 intact and undisturbed. Failure to report for weighing, appearing for  
30 weighing with the seal broken or the markings disturbed, or removal of  
31 any cargo prior to weighing is unlawful. Any person so convicted shall  
32 be fined one thousand dollars, and in addition the certificate of  
33 license registration shall be suspended for not less than thirty days.

34 (6) Any other provision of law to the contrary notwithstanding,  
35 district courts having venue have concurrent jurisdiction with the  
36 superior courts for the imposition of any penalties authorized under  
37 this section.

38 (7) For the purpose of determining additional penalties as provided  
39 by subsection (2) of this section, "overweight" means the poundage in

1 excess of the maximum allowable gross weight or axle/axle grouping  
2 weight prescribed by RCW 46.44.041, 46.44.042, 46.44.047, 46.44.091,  
3 and 46.44.095.

4 (8) The penalties provided in subsections (1) and (2) of this  
5 section shall be remitted as provided in chapter 3.62 RCW or RCW  
6 10.82.070. For the purpose of computing the basic penalties and  
7 additional penalties to be imposed under subsections (1) and (2) of  
8 this section, the convictions shall be on the same vehicle or  
9 combination of vehicles within a twelve-month period under the same  
10 ownership.

11 (9) Any state patrol officer or any weight control officer who  
12 finds any person operating a vehicle or a combination of vehicles in  
13 violation of the conditions of a permit issued under RCW 46.44.047,  
14 46.44.090, and 46.44.095 may confiscate the permit and forward it to  
15 the state department of transportation which may return it to the  
16 permittee or revoke, cancel, or suspend it without refund. The  
17 department of transportation shall keep a record of all action taken  
18 upon permits so confiscated, and if a permit is returned to the  
19 permittee the action taken by the department of transportation shall be  
20 endorsed thereon. Any permittee whose permit is suspended or revoked  
21 may upon request receive a hearing before the department of  
22 transportation or person designated by that department. After the  
23 hearing the department of transportation may reinstate any permit or  
24 revise its previous action.

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

29 Upon the third finding within a calendar year of a violation of the  
30 requirements and conditions of a permit issued under RCW 46.44.095, the  
31 permit shall be canceled, and the canceled permit shall be immediately  
32 transmitted by the court or the arresting officer to the department of  
33 transportation. The vehicle covered by the canceled permit is not  
34 eligible for a new permit for a period of thirty days.

35 (10) For the purposes of determining gross weights the actual scale  
36 weight taken by the arresting officer is prima facie evidence of the  
37 total gross weight.

38 (11) It is a traffic infraction to direct the loading of a vehicle  
39 with knowledge that it violates the requirements in RCW 46.44.041,

1 46.44.042, 46.44.047, 46.44.090, 46.44.091, or 46.44.095 and that it is  
2 to be operated on the public highways of this state.

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

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