
SENATE BILL 5938

State of Washington

53rd Legislature

1993 Regular Session

By Senators Loveland and Winsley

Read first time 03/01/93. Referred to Committee on Transportation.

1 AN ACT Relating to commercial motor vehicles; adding new sections
2 to chapter 46.44 RCW; adding new sections to chapter 46.32 RCW; adding
3 a new section to chapter 46.37 RCW; adding a new section to chapter
4 46.48 RCW; prescribing penalties; and providing an effective date.

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

6 NEW SECTION. **Sec. 1.** Unless the context clearly requires
7 otherwise, the definitions in this section apply throughout this
8 chapter.

9 (1) "Document" includes a bill of lading, freight bill, weight
10 certification, or other similar document.

11 (2) A document evidencing the receipt of goods issued by the person
12 consigning the goods for shipment or a person engaged in the business
13 of transporting or forwarding goods, that states a gross weight of the
14 vehicle and load or the weight of the load when combined with the empty
15 weight of the vehicle that is in excess of the prescribed maximum
16 weight limitation permitted by this chapter, is "relevant evidence"
17 that the weight of the vehicle and load is unlawful. For the purposes
18 of this section and sections 3 and 4 of this act, a document required
19 to be kept under section 3 of this act indicating a unit of measure

1 that, when converted to weight and combined with the weight of the
2 empty vehicle, indicates a gross weight in excess of the prescribed
3 maximum weight limitation permitted by this chapter is "relevant
4 evidence" that the weight of the vehicle and load is unlawful. This
5 subsection does not limit the introduction of other competent evidence
6 bearing upon the question of whether or not there is a violation of the
7 prescribed maximum weight limitations permitted under this chapter.

8 NEW SECTION. **Sec. 2.** (1) The chief of the state patrol may adopt
9 rules necessary to carry out the enforcement of this chapter. The
10 chief may conduct investigations, make reports, issue subpoenas,
11 conduct hearings, require the productions of relevant documents,
12 records, and property, and take depositions. The legislative
13 transportation committee shall conduct oversight review.

14 (2) Only officers of the state patrol are authorized to enforce
15 violations of this chapter through the civil penalty process.

16 NEW SECTION. **Sec. 3.** (1) The owner or lessee of a vehicle that is
17 operated in violation of this chapter or a shipper who ships or tenders
18 goods for shipment in a single truck or combination vehicle that is in
19 violation of this chapter is liable for a civil penalty according to
20 the penalties set forth in this chapter. A penalty imposed upon a
21 defendant under this subsection may not exceed the penalty prescribed
22 under this chapter.

23 (2) An owner, lessee, or shipper charged with violating this
24 chapter has the right to a hearing before a person appointed by the
25 chief of the state patrol. An owner, lessee, or shipper who is
26 determined by the chief of the state patrol, after reasonable notice
27 and opportunity for a fair and impartial hearing held in accordance
28 with the administrative procedure act, chapter 34.05 RCW, to have
29 committed an act that is a violation of this chapter, or adopted rules
30 as provided in this chapter, is subject to a civil penalty not to
31 exceed the amount set by this chapter.

32 (3) The appeal of a decision of the hearing officer must be to the
33 superior court of Thurston county.

34 (4) A penalty imposed under this section must be deposited into the
35 highway maintenance fund.

36 (a) To enforce the collection of a civil penalty levied after due
37 process upon any owner, lessee, or shipper determined by the chief of

1 the state patrol to have committed an act that is a violation of this
2 chapter, or adopted rules as provided in this chapter, the chief may:

3 (i) Order the removal of the offending vehicle's license tag if the
4 registration is from this state;

5 (ii) Seize a vehicle not registered within the state that is owned
6 by the company in violation; or

7 (iii) Order the cancellation of the international registration plan
8 of the vehicle owned by the company in violation.

9 (b) The chief may enforce (a) of this subsection as follows:

10 (i) The removal of a vehicle's license tag shall be completed and,
11 upon remittance of the levied penalty, reinstated in a manner
12 consistent with the procedures required by the department;

13 (ii) If the company fails to remit a levied civil penalty within
14 ninety days subsequent to the seizure of a vehicle as authorized in
15 this section, the state patrol shall collect the penalty in a manner
16 consistent with applicable law pertaining to the sale of seized
17 property;

18 (iii) The cancellation of the international registration plan must
19 be completed and, upon remittance of the levied penalty, reinstated in
20 a manner consistent with the procedures required by the department; and

21 (iv) The prevailing party in an action commenced under this section
22 is entitled to reasonable costs incurred in the action.

23 NEW SECTION. **Sec. 4.** (1) A person who weighs goods before or
24 after unloading or a person who loads or unloads goods on the basis of
25 liquid volume measure shall keep a written record of the origin,
26 weight, and composition of a shipment, the date of loading or receipt,
27 the name and address of the shipper, the total number of axles on the
28 vehicle or combination of vehicles, and the registration number of the
29 power unit or some other means of identification by which the shipment
30 was transported. The record must be retained for thirty days and must
31 be open to inspection and copying by a state patrol officer, upon
32 demand. A search warrant is not required to inspect or copy the
33 record.

34 (2) A record kept and maintained under subsection (1) of this
35 section that shows that a vehicle has exceeded a gross weight limit
36 imposed under this chapter is relevant evidence of a violation of this
37 chapter. This subsection does not limit the introduction of other
38 competent evidence bearing upon the question of whether or not there is

1 a violation of the prescribed maximum weight limitation permitted by
2 this chapter.

3 (3) A person who fails to keep, maintain, or open for inspection
4 and copying, the document as required under subsection (1) of this
5 section shall be assessed a penalty of not more than one thousand
6 dollars for each occurrence. A person who does not accurately record
7 the information required to be contained in those documents under
8 subsection (1) of this section shall be assessed a penalty of not more
9 than one thousand dollars.

10 NEW SECTION. **Sec. 5.** A new section is added to chapter 46.32 RCW
11 to read as follows:

12 (1) The chief of the state patrol may adopt rules necessary to
13 carry out the provisions and intent of sections 5, 6, 7, and 8 of this
14 act. The chief may conduct investigations, make reports, issue
15 subpoenas, conduct hearings, require the productions of relevant
16 documents, records, and property, and take depositions. The
17 legislative transportation committee shall conduct oversight review.

18 (2) Only officers of the state patrol are authorized to enforce
19 violations of this chapter or chapter 46.37 or 46.48 RCW through the
20 civil penalty process.

21 (3) Enforcement of violations of this chapter or chapter 46.37 or
22 46.48 RCW under the civil penalty process by state patrol officers may
23 only be on commercial motor vehicles as defined in chapter . . . (HB
24 1129), Laws of 1993.

25 NEW SECTION. **Sec. 6.** A new section is added to chapter 46.32 RCW
26 to read as follows:

27 (1) An owner, lessee, or shipper charged with violating this
28 chapter or chapter 46.37 or 46.48 RCW has the right to a hearing held
29 in accordance with the administrative procedure act, chapter 34.05 RCW.
30 An owner, lessee, or shipper who is determined by the chief of the
31 state patrol, after reasonable notice and opportunity for a fair and
32 impartial hearing held in accordance with the administrative procedure
33 act, chapter 34.05 RCW, to have committed an act that is a violation of
34 this chapter or chapter 46.37 or 46.48 RCW, or adopted rules as
35 provided in this chapter or chapter 46.37 or 46.48 RCW, is subject to
36 a civil penalty not to exceed the amount set by the chief of the state

1 patrol. The appeal of a decision of the hearing officer must be to the
2 superior court of Thurston county.

3 (2) To enforce the collection of a civil penalty levied after due
4 process upon any owner, lessee, or shipper determined by the due
5 process upon any owner, lessee, or shipper determined by the chief of
6 the state patrol to have committed an act that is a violation of this
7 chapter or chapter 46.37 or 46.48 RCW, or adopted rules as provided in
8 this chapter or chapter 46.37 or 46.48 RCW, the chief may:

9 (a) Order the removal of the offending vehicle's license tag if the
10 registration is from this state;

11 (b) Seize a vehicle not registered within the state that is owned
12 by the person or company in violation; or

13 (c) Order the cancellation of the international registration plan
14 of the vehicle owned by the company in violation.

15 (3) The chief shall enforce subsection (1) of this section as
16 follows:

17 (a) The removal of a vehicle's license tag must be completed and,
18 upon remittance of the levied penalty, reinstated in a manner
19 consistent with the procedures required by the department;

20 (b) If the company fails to remit a levied civil penalty within
21 ninety days subsequent to the seizure of a vehicle as authorized in
22 this section, the state patrol shall collect the penalty in a manner
23 consistent with applicable law pertaining to the sale of seized
24 property; and

25 (c) The cancellation of the international registration plan shall
26 be completed and, upon remittance of the levied penalty, reinstated in
27 a manner consistent with the procedures required by the department of
28 licensing.

29 (4) A penalty imposed under this section must be deposited into the
30 highway maintenance fund.

31 (5) The prevailing party in an action commenced under this section
32 is entitled to reasonable costs incurred in the action.

33 NEW SECTION. **Sec. 7.** A new section is added to chapter 46.37 RCW
34 to read as follows:

35 Sections 5 and 6 of this act apply to this chapter.

36 NEW SECTION. **Sec. 8.** A new section is added to chapter 46.48 RCW
37 to read as follows:

1 Sections 5 and 6 of this act apply to this chapter.

2 NEW SECTION. **Sec. 9.** Sections 1 through 4 of this act are each
3 added to chapter 46.44 RCW.

4 NEW SECTION. **Sec. 10.** This act takes effect July 1, 1994.

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