

STORAGE NAME: h0623.fpr.doc

DATE: February 24, 2002

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
FISCAL POLICY & RESOURCES
ANALYSIS**

BILL #: HB 623

RELATING TO: Vehicle weight

SPONSOR(S): Representative(s) Jennings

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) TRANSPORTATION YEAS 9 NAYS 1
- (2) FISCAL POLICY & RESOURCES
- (3) COUNCIL FOR READY INFRASTRUCTURE
- (4)
- (5)

I. SUMMARY:

Among the provisions in Chapter 316, F.S., are the responsibilities of the Department of Transportation's Motor Carrier Compliance Office (MCCO), and various licensing, registration, and weight requirements for commercial vehicles. Overweight vehicles, and the exponential damage they do to Florida's highways and bridges, has long been identified as a problem, but attempts over the years to raise penalties have been unsuccessful.

HB 623 extensively amends s. 316.545, F.S., to eliminate the basic 5-cents-per-pound fine for overweight commercial vehicles, and creates a three-tiered fine approach to penalize multiple offenders.

The bill has an indeterminate fiscal impact, because the MCCO says it cannot, with its current data collection and retrieval systems, identify multiple offenders of the state's truck weight laws.

HB 623 takes effect July 1, 2002.

NOTE: The House Transportation Committee at its February 20, 2002, meeting adopted a strike-everything-after-the-enacting clause amendment, then voted to report the bill as favorable. The amendment is traveling separately. See "VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES" below for more details.

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain.

B. PRESENT SITUATION:

Responsibilities of DOT's Motor Carrier Compliance Office

Pursuant to chapters 207 and 316, F.S., the Department of Transportation's Motor Carrier Compliance Office (MCCO) enforces state and federal laws and rules regulating the safety of commercial motor vehicles and their drivers, and the weight and size of commercial vehicles operating on the state's highways.

The MCCO officers patrolling Florida's highways perform vehicle safety inspections; determine whether commercial drivers are appropriately licensed, are not under the influence of drugs or alcohol, have maintained required logbooks of their hours of service, and are not operating their vehicles in an unsafe manner; and visit truck and bus terminals to examine company vehicles and records. In the course of performing these duties, MCCO officers also check to see that other commercial motor vehicle-related laws, such as registration and fuel taxes are complied with. This program helps to ensure that trucks and buses operating in Florida are mechanically sound, are licensed, do not exceed size and weight limits, and that vehicle operators are properly qualified, licensed, and driving their vehicles in a safe manner.

Key MCCO tasks are enforcing truck weight and size limits. MCCO's non-sworn weight inspectors weigh trucks and check truck registrations at 21 fixed-scale stations located along Florida's major highways. MCCO sworn officers use portable scales to weigh trucks when the trucks do not pass fixed scale stations or when drivers deliberately avoid weighing at the fixed scale stations.

Weight limits are established to prevent heavy trucks from causing unreasonable damage to highway systems in order to protect the public's investment in these roadways. Drivers determined to be in violation of weight and size limits must either have a valid surety bond on file with DOT, or pay MCCO staff the penalty before proceeding on the highway.

Vehicle weight laws

Section 316.535, F.S., specifies weight limits for commercial vehicles based on distances between axles, but establishes a maximum gross weight of 80,000 pounds, including any enforcement "tolerances."

Section 316.545, F.S., establishes the tolerance at 10 percent of axle weight. For example, if the maximum axle load of a certain commercial vehicle is 20,000 pounds, the vehicle's actual axle weight can be up to 22,000 pounds because of the tolerance. The general penalty for overweight vehicles is 5 cents per pound for every pound the vehicle is overweight – after the 10-percent "tolerance" is subtracted.

There are two exceptions to the 5-cents-per-pound penalty. First, when the excess weight is 200 pounds or less, the fine is a flat rate of \$10. Second, if a vehicle is 600 pounds over the state's axle limits, but does not exceed the 80,000 gross weight limit, then the fine is a flat rate of \$10. In calendar year 2000, the overweight penalties generated nearly \$8.2 million.

Finally, s. 316.550, F.S., allows DOT to sell "special" or "blanket" permits to commercial truckers who know they likely will carry loads in excess of the statutory limits. This permit fee cannot exceed \$500. Loads that exceed the permit limit also are subject to the 5-cents-per-pound fine.

Based on MCCO ticket records, the greatest number of tickets is written for weight violations between 1,000 and 5,000 pounds over the limit. DOT's current data-collection system does not track the type of loads that most frequently exceed weight limits.

Fines from the MCCO's weight and safety enforcement activities, as well as a \$5 surcharge on commercial motor vehicle tags, are deposited into the State Transportation Trust Fund. These revenues help offset the cost of the MCCO's weight and safety operations.

During FY 99-00, the program collected \$8.6 million in penalties for vehicle weight violations, \$2.4 million for safety violations, and \$278,000 for fuel tax and license violations. The MCCO's annual budget is around \$25 million. DOT supplements the difference between the MCCO's dedicated funding sources and the MCCO's operating needs with general transportation revenues.

In 1998, the Office of Program Policy Analysis and Government Accountability (OPPAGA) issued Report 98-86 about the MCCO and its overweight vehicle enforcement program, and recommended raising the fines, which were established in 1953. OPPAGA recommended raising the fines because its analysis indicated the revenues currently being generated were not defraying DOT's costs to resurface roads damaged by overweight trucks, nor were they punitive enough to deter truckers from continually overloading their vehicles. OPPAGA issued a follow-up report last October, reiterating its recommendations.

C. EFFECT OF PROPOSED CHANGES:

HB 623 amends s. 316.545, F.S., to delete the current 5-cents-per-pound penalty for overweight commercial trucks and the two \$10 penalties. The bill replaces the existing penalties with a graduated scale of fines:

First Violation:

- Up to 500 pounds.....\$35 flat rate
- 501 to 1,000 pounds..... 0.07 per pound
- 1,001 to 2,000 pounds.....0.10 per pound
- 2,001 to 5,000 pounds.....0.16 per pound
- 5,001 to 10,000 pounds.....0.31 per pound
- More than 10,000 pounds.....0.56 per pound

Second Violation Within 1 Year:

- Up to 500 pounds.....\$50 flat rate
- 501 to 1,000 pounds..... 0.10 per pound

- 1,001 to 2,000 pounds..... 0.16 per pound
- 2,001 to 5,000 pounds..... 0.31 per pound
- More than 5,000 pounds..... 0.56 per pound

Third Violation Within 1 Year:

- Up to 500 pounds.....\$80 flat rate
- 501 to 1,000 pounds..... 0.16 per pound
- 1,001 to 2,000 pounds..... 0.31 per pound
- More than 2,000 pounds..... 0.56 per pound

HB 623 does not change the “special” or “blanket” permit provided for in s. 316.550, F.S. Nor does it change the 10-percent tolerance threshold.

The bill also deletes a provision limiting to \$1,000 the penalty imposed on overweight trucks with license plates or registrations that expired fewer than 90 days prior to being cited.

MCCO staff has indicated HB 623 will be difficult to enforce because of internal record keeping problems.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 316.545, F.S., to delete most of the overweight vehicle penalties. Creates a tiered fine system for multiple offenders. Makes technical corrections.

Section 2: Specifies this act shall take effect July 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate. See “D. FISCAL COMMENTS” below.

2. Expenditures:

Indeterminate. See “D. FISCAL COMMENTS” below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. See “D. FISCAL COMMENTS” below.

D. FISCAL COMMENTS:

MCCO staff has indicated it can not accurately determine the fiscal impact of HB 623 for several reasons. The agency says it is difficult to determine multiple offenders of truck size and weight limits because: commercial haulers frequently change ownership; the MCCO officers can't access the data easily from DOT computers; and what data is available may not be in a format that can be downloaded.

The agency did run several computer-model scenarios to help gauge the potential revenue impacts of HB 623, but to do so, had to make assumptions not entirely based in fact, because of the lack of supporting data.

However, all parties involved in HB 623 agree that passage of the bill would generate more revenue for the MCCO, and create more expenses for those in the trucking industry who violate the vehicle weight laws and their customers (to the extent the violators can pass the costs along to their customers).

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

HB 623 does not require counties or municipalities to spend funds or to take action that requires the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

HB 623 does not reduce the revenue-raising authority of counties and municipalities.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

HB 623 does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

HB 623 does not raise any apparent constitutional issues.

B. RULE-MAKING AUTHORITY:

DOT appears to have sufficient existing rulemaking authority to implement HB 623.

C. OTHER COMMENTS:

By the Committee on Transportation: The sponsor of HB 623 has been working with the trucking and other affected industries to craft compromise language. A strike-everything-after-the-enacting clause amendment will be offered which tries to address some of the industries' concerns.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

At its February 20, 2002, meeting, the House Transportation Committee adopted without objection a strike-everything-after-the-enacting clause amendment to HB 623 offered by the bill's sponsor. Key elements of the amendment are:

- As in the original bill, deleted are the basic 5-cents-per-pound overweight fine in law and the minimum flat-rate fine of \$10 for the first 200 pounds overweight.
- The new threshold flat-rate fine is \$15 for trucks up to 500 pounds overweight. For each pound from 501 to 6,000, the fine is 5 cents; from 6,001 to 10,000 pounds overweight, the fine is 7½ cents per pound; and for 10,000 pounds and over, the fine is 10 cents per pound.

For example, the owner of a truck that is 6,100 pounds overweight would be penalized \$457.50, which is 6,100 pounds multiplied by 7.5 cents per pound.

- The amendment also requires truck owners to obtain the correct registration for their overweight trucks; and if their registration has been expired more than 90 days or has never been registered in Florida, the penalty is double the license fee and may be in addition to any other penalties that may apply under chapter 316, F.S.
- If a special permit is declared invalid in accordance with rules on trip or blanket permits, the penalties imposed shall not exceed \$3,000, which shall apply to trucks that exceed the weight limits.

The committee then voted 9-1 in favor of the bill. The amendment is traveling with the bill.

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION :

Prepared by:

Joyce Pugh

Staff Director:

Phillip B. Miller

AS REVISED BY THE COMMITTEE ON FISCAL POLICY & RESOURCES:

Prepared by:

Douglas Pile

Staff Director:

Lynne Overton