

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 503 Motor Vehicles  
**SPONSOR(S):** Jennings  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1326 (i)

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Transportation Systems (Sub)</u>	_____	<u>PUGH</u>	<u>MILLER</u>
2) <u>Transportation</u>	_____	_____	_____
3) <u>Public Safety &amp; Crime Prevention</u>	_____	_____	_____
4) <u>Finance &amp; Tax</u>	_____	_____	_____
5) <u>Transportation &amp; Econ.Dev.Apps. (Sub)</u>	_____	_____	_____
6) <u>Appropriations</u>	_____	_____	_____

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### SUMMARY ANALYSIS

Among the responsibilities of the Department of Transportation's Motor Carrier Compliance Office (MCCO) are enforcing various licensing, registration, and weight requirements for commercial motor vehicles. Overweight vehicles, and the exponential damage they do to Florida's highways and bridges, has been identified as a problem by federal and other governmental highway researchers, but attempts, at least in Florida, over the years to raise penalties have been unsuccessful.

Current law levies a \$10 fine for commercial motor vehicles that are up to 200 pounds in excess of their permitted weight, after a 10-percent tolerance is deducted. The penalty for trucks overweight in excess of 200 pounds is 5 cents per pound. For overweight trucks carrying more than their registered weight, the penalty is a 5-cents-pound fine on the difference between the weight the truck is registered to carry and the actual weight. The owners of overweight trucks operating with a registration expired more than 90 days, or with no registration, may be required to pay up to a \$1,000 fine, in addition to the cost of registration.

HB 503 extensively amends s. 316.545, F.S., to eliminate the basic 5-cents-per-pound fine for overweight commercial vehicles, and creates a multi-tiered approach that raises the penalty up to 10 cents a pound. It also requires the owners or drivers of overweight trucks operating without the correct registration, an expired registration, or no registration at all to purchase the appropriate registration and pay penalties, which are different based on the registration violation and the type of motor vehicle involved. Only in specific circumstances would truck owners or operators with overweight vehicle-registration violations also have to pay the per-pound penalty.

The bill has an indeterminate fiscal impact, because the MCCO does not yet maintain records in a manner that provides a ready comparison. An initial fiscal analysis prepared by MCCO indicated that HB 503 could generate up to \$2 million annually, but the agency is rechecking the results of that computer analysis.

HB 503 has no apparent constitutional defects, nor does it raise any mandate issues. The bill takes effect July 1, 2003.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h0503.tr.doc  
**DATE:** February 27, 2003

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. DOES THE BILL:

- |                                      |                              |  |   |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

HB 503 does not reduce government because it raises fines for the owners of commercial motor vehicles that exceed the weight limits in state law. Increasing the fines is expected to generate additional revenue for the Department of Transportation's Office of Motor Carrier Compliance.

### B. EFFECT OF PROPOSED CHANGES:

#### **Current 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.

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 were 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.

The MCCO's operating budget for FY 02-03 is \$26.3 million, with 448 positions. The office is funded through the State Transportation Trust Fund, so the sources of money financing the office's law enforcement activities are a combination of transportation revenues, such as fuel taxes and motor vehicle registration fees. Motor carrier registration fees and compliance penalties are not specifically earmarked for the MCCO's operating budget. However, included in the office's budget is a \$3 million federal highway safety grant.

In FY 01-02, the MCCO collected \$8.4 million in overweight penalties, \$2.4 million penalties for safety violations, and about \$88,000 for fuel-tax and license violations, according to the department's budget office.

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.

##### 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 320.08, F.S., establishes the registration fees for commercial motor vehicles, based on their weight and usage.

Section 316.545, F.S., establishes the weight 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. Overweight vehicles also are required to purchase the correct registration, and pay a penalty of 5-cents-per-pound on the difference between the registered weight and the actual weight.

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-pound vehicle gross weight limit, then the fine is a flat rate of \$10.

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. The most recent data available indicates that in calendar year 2001, MCCO officers wrote 50,002 citations to overweight commercial vehicles. Of that amount, 37,721 (or 75 percent) of the violators were between 1,000 and 5,000 pounds overweight.

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. OPPAGA recommended raising the fines, which were established in 1953. OPPAGA's analysis concluded that the revenues being generated by the current penalty structure 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. The report stated that some members of the trucking industry consider the penalties the "cost of doing business," because the penalties are considerably less than the cost of owning and operating additional trucks to haul the excess cargo. OPPAGA issued a follow-up report last October, reiterating its recommendations.

DOT's position continues to be that the penalties paid by the owners of overweight trucks stopped by its officers pays for the road damage caused by those specific vehicles.

### **Effect of Proposed Changes**

HB 503 proposes raising the penalties for commercial motor vehicles that are overweight and/or are operating with expired, invalid, or no registration. Impacted the most, financially, will be the owners or operators of trucks that are more than 5,000 pounds over the maximum weight allowed.

Specifically, the bill raises the threshold flat-rate fine to \$15 for commercial motor vehicles that are up to 500 pounds overweight. The penalty then escalates to a per-pound fine plus the \$15 flat fee for trucks that are grossly overweight. According to the bill:

- When a truck's excess weight is more than 500 pounds and up to 6,000 pounds over the maximum allowed, the penalty is \$15 plus 5 cents per pound of the excess weight over 500 pounds.
- When the excess weight is more than 6,000 pounds and up to \$10,000 pounds, the penalty is \$15 plus 7.5 cents per pound for the excess weight over 500 pounds.
- When the excess weight is more than 10,000 pounds, the penalty is \$15 plus 10 cents per pound for all the weight over 500 pounds.

For example, the owner of a truck that is 5,000 pounds overweight would be penalized \$240, which is \$15 plus 4,500 pounds multiplied by 5 cents per pound. Under current law, the penalty is \$250, or 5,000 pounds multiplied by 5 cents per pound.

The owner of a truck that is 10,000 pounds overweight would be penalized \$965, which is \$15 plus 9,500 pounds multiplied by 10 cents per pound. Under current law, the penalty is \$500, or 10,000 pounds multiplied by 5 cents per pound.

HB 503 also specifically requires truck owners to obtain the correct registration for their overweight trucks, "apportioned vehicles" as defined in s. 320.01(25), F.S., and vehicles with foreign registrations, clarifying an interpretation of existing law. The bill also includes these provisions:

- If the vehicle's registration does not match its weight, or the vehicle's registration is less than 90 days out-of-date, then the penalty is the difference between the cost of the original registration and the correct registration. There is no per-pound penalty for being overweight.

Under this proposal, if a commercial motor vehicle is registered for a maximum weight of 55,000 pounds, but is found by a motor carrier compliance officer to be 20,000 pounds overweight, the truck owner or operator would have to pay the difference between the \$678 heavy-truck registration for a 55,000-pound truck and \$979 for a 75,000-plus-pound truck, or \$301. The owner also would have to purchase the correct registration.

- If the registration has been expired more than 90 days or the vehicle has never been registered in Florida, the penalty is double the registration fee. There is no per-pound penalty.

If a 55,000-pound truck was pulled over and found to be operating with a registration that had expired six months ago, the penalty would be \$1,356, or double the \$678 registration fee. Also, the owner would have to purchase the correct registration.

- Vehicles operating under special restrictions and eligible for the reduced registration rates as haulers of forestry or certain agricultural products, haulers of well-drilling and other special equipment, or certain classifications of types of wreckers, have a different penalty. Such vehicles that are operating with an expired registration or are otherwise improperly registered shall be subject to a penalty of twice the amount of the reduced license fee, instead of the current \$75 penalty. They also may be subject to any other penalties, such as the per-pound weight penalties, that apply under chapter 316, Florida Statutes.

So, the owner or operator of a truck registered under s. 320.08(4)(m), F.S., to haul forestry products would be charged, at a minimum, \$480 if it were found to be operating with an expired registration, or twice the usual \$240 registration fee.

- If a truck operating with a special permit exceeds posted weight limits on roads or bridges, or exceeds the weight limits listed in the permit, the owner or operator is charged a penalty based on the proposed per-pound fines. However, if the special permit under which the truck is operating is declared invalid, the penalty imposed shall not exceed \$3,000. Special permits, pursuant to s. 316.550, F.S., allow vehicles to operate overweight or carry over-sized loads to specific destinations.

HB 503's sponsor filed a similar bill during the 2002 Legislative Session, which ultimately did not pass.

#### C. SECTION DIRECTORY:

Section 1: Amends s. 316.545, F.S. Eliminates the current penalty of 5 cents per pound for every pound a commercial motor vehicle is overweight, and the \$10 penalty for such vehicles that are no more than 200 pounds overweight. Specifies a series of different penalties, depending on whether the commercial motor vehicle is simply overweight, or also is operating with an expired or improper license, or no license. Additionally creates a three-tiered table of per-pound penalties.

Section 2: Provides for an effective date of July 1, 2003.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

Indeterminate. See "D. Fiscal Comments" below.

#### 2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate, but it is likely that owners of commercial motor vehicles that operate overweight and are in violation of certain truck registration requirements will pay more in penalties if cited by the MCCO. However, violators of some truck registration requirements may pay less than specified in current law, because they wouldn't be subject to the per-pound penalty even though the vehicles are overweight.

### D. FISCAL COMMENTS:

MCCO is trying to develop a data-retrieval system to determine the fiscal impact of proposed changes to overweight truck penalties. An initial fiscal estimate prepared by the MCCO for HB 503 indicates that realigning and raising the per-pound overweight penalties as proposed may generate \$1.6 million to \$2 million in additional revenue for FDOT, based on the changes in the per-pound overweight penalty structure.

There is no fiscal estimate on how revenues would be impacted by the proposed changes in the penalties for overweight vehicles with registration problems.

The MCCO continues to fine-tune its citation database in order to develop a fiscal analysis for HB 503.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. HB 503 does not affect municipal or county government.

#### 2. Other:

HB 503 raises no other apparent constitutional issues.

### B. RULE-MAKING AUTHORITY:

DOT has sufficient rulemaking authority to implement the provisions of HB 503.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Florida Trucking Association opposes the per-pound penalty increase proposed in HB 503. DOT has not taken an official position on the bill.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**