

HB 1071

2009

1                                   A bill to be entitled  
 2           An act relating to commercial motor vehicles; amending s.  
 3           316.545, F.S.; increasing the penalties that are imposed  
 4           for operating a commercial vehicle that is overloaded;  
 5           amending s. 316.302, F.S.; reducing the number of hours  
 6           that a driver may operate a commercial motor vehicle in  
 7           intrastate commerce which is not transporting certain  
 8           amounts of hazardous materials; increasing the penalty for  
 9           falsification of time records; providing an effective  
 10          date.

11  
 12 Be It Enacted by the Legislature of the State of Florida:

13  
 14           Section 1. Subsections (2) and (3) of section 316.545,  
 15 Florida Statutes, are amended to read:

16           316.545 Weight and load unlawful; special fuel and motor  
 17 fuel tax enforcement; inspection; penalty; review.--

18           (2) (a) Whenever an officer, upon weighing a vehicle or  
 19 combination of vehicles with load, determines that the axle  
 20 weight or gross weight is unlawful, the officer may require the  
 21 driver to stop the vehicle in a suitable place and remain  
 22 standing until a determination can be made as to the amount of  
 23 weight thereon and, if overloaded, the amount of penalty to be  
 24 assessed as provided herein. However, any gross weight over and  
 25 beyond 6,000 pounds beyond the maximum herein set shall be  
 26 unloaded and all material so unloaded shall be cared for by the  
 27 owner or operator of the vehicle at the risk of such owner or  
 28 operator. Except as otherwise provided in this chapter, to

29 facilitate compliance with and enforcement of the weight limits  
 30 established in s. 316.535, weight tables published pursuant to  
 31 s. 316.535(7) shall include a 10-percent scale tolerance and  
 32 shall thereby reflect the maximum scaled weights allowed any  
 33 vehicle or combination of vehicles. As used in this section,  
 34 scale tolerance means the allowable deviation from legal weights  
 35 established in s. 316.535. Notwithstanding any other provision  
 36 of the weight law, if a vehicle or combination of vehicles does  
 37 not exceed the gross, external bridge, or internal bridge weight  
 38 limits imposed in s. 316.535 and the driver of such vehicle or  
 39 combination of vehicles can comply with the requirements of this  
 40 chapter by shifting or equalizing the load on all wheels or  
 41 axles and does so when requested by the proper authority, the  
 42 driver shall not be held to be operating in violation of said  
 43 weight limits.

44 (b) The officer shall inspect the license plate or  
 45 registration certificate of the commercial vehicle, as defined  
 46 in s. 316.003(66), to determine if its gross weight is in  
 47 compliance with the declared gross vehicle weight. If its gross  
 48 weight exceeds the declared weight, the penalty shall be 40 ~~5~~  
 49 cents per pound on the difference between such weights, and the  
 50 penalty shall increase by an additional 40 cents per pound for  
 51 each subsequent violation within 12 months. In those cases when  
 52 the commercial vehicle, as defined in s. 316.003(66), is being  
 53 operated over the highways of the state with an expired  
 54 registration or with no registration from this or any other  
 55 jurisdiction or is not registered under the applicable  
 56 provisions of chapter 320, the penalty herein shall apply on the

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57 | basis of 40 ~~5~~ cents per pound on that scaled weight which  
58 | exceeds 35,000 pounds on laden truck tractor-semitrailer  
59 | combinations or tandem trailer truck combinations, 10,000 pounds  
60 | on laden straight trucks or straight truck-trailer combinations,  
61 | or 10,000 pounds on any unladen commercial motor vehicle, and  
62 | the penalty shall increase by an additional 40 cents per pound  
63 | for each subsequent violation within 12 months. If the license  
64 | plate or registration has not been expired for more than 90  
65 | days, the penalty imposed under this paragraph may not exceed  
66 | \$1,000. In the case of special mobile equipment as defined in s.  
67 | 316.003(48), which qualifies for the license tax provided for in  
68 | s. 320.08(5)(b), being operated on the highways of the state  
69 | with an expired registration or otherwise not properly  
70 | registered under the applicable provisions of chapter 320, a  
71 | penalty of \$75 shall apply in addition to any other penalty  
72 | which may apply in accordance with this chapter. A vehicle found  
73 | in violation of this section may be detained until the owner or  
74 | operator produces evidence that the vehicle has been properly  
75 | registered. Any costs incurred by the retention of the vehicle  
76 | shall be the sole responsibility of the owner. A person who has  
77 | been assessed a penalty pursuant to this paragraph for failure  
78 | to have a valid vehicle registration certificate pursuant to the  
79 | provisions of chapter 320 is not subject to the delinquent fee  
80 | authorized in s. 320.07 if such person obtains a valid  
81 | registration certificate within 10 working days after such  
82 | penalty was assessed.

83 | (c) Weight limits established and posted for a road or  
84 | bridge pursuant to s. 316.555 and weight limits specified in

85 special permits issued pursuant to s. 316.550 shall be deemed to  
 86 include all allowable tolerances. In those cases when a vehicle  
 87 or combination of vehicles exceeds the weight limits established  
 88 and posted for a road or bridge pursuant to s. 316.555, or  
 89 exceeds the weight limits permitted in a special permit issued  
 90 pursuant to s. 316.550, the penalty shall be 40 ~~5~~ cents per  
 91 pound on the difference between the scale weight of the vehicle  
 92 and the weight limits for such posted road or bridge or  
 93 permitted in such special permit, and the penalty shall increase  
 94 by an additional 40 cents per pound for each subsequent  
 95 violation within 12 months. However, if a special permit is  
 96 declared invalid in accordance with rules promulgated pursuant  
 97 to s. 316.550, the penalties imposed in subsection (3) shall  
 98 apply to those weights which exceed the limits established in s.  
 99 316.535.

100 (3) Any person who violates the overloading provisions of  
 101 this chapter shall be conclusively presumed to have damaged the  
 102 highways of this state by reason of such overloading, which  
 103 damage is hereby fixed as follows:

104 (a) When the excess weight is 200 pounds or less than the  
 105 maximum herein provided, the penalty shall be \$10;

106 (b) Forty ~~Five~~ cents per pound for each pound of weight in  
 107 excess of the maximum herein provided when the excess weight  
 108 exceeds 200 pounds, and the penalty shall increase by an  
 109 additional 40 cents per pound for each subsequent violation  
 110 within 12 months. However, whenever the gross weight of the  
 111 vehicle or combination of vehicles does not exceed the maximum  
 112 allowable gross weight, the maximum fine for the first 600

113 pounds of unlawful axle weight shall be \$10;

114 (c) An apportioned motor vehicle, as defined in s. 320.01,  
 115 operating on the highways of this state without being properly  
 116 licensed and registered shall be subject to the penalties as  
 117 herein provided; and

118 (d) Vehicles operating on the highways of this state from  
 119 nonmember International Registration Plan jurisdictions which  
 120 are not in compliance with the provisions of s. 316.605 shall be  
 121 subject to the penalties as herein provided.

122 Section 2. Paragraphs (b) and (c) of subsection (2) of  
 123 section 316.302, Florida Statutes, are amended to read:

124 316.302 Commercial motor vehicles; safety regulations;  
 125 transporters and shippers of hazardous materials; enforcement.--

126 (2)

127 (b) Except as provided in 49 C.F.R. s. 395.1, a person who  
 128 operates a commercial motor vehicle solely in intrastate  
 129 commerce not transporting any hazardous material in amounts that  
 130 require placarding pursuant to 49 C.F.R. part 172 may not drive:

131 1. More than 11 ~~12~~ hours following 10 consecutive hours  
 132 off duty; or

133 2. For any period after the end of the 14th ~~16th~~ hour  
 134 after coming on duty following 10 consecutive hours off duty.

135  
 136 The provisions of this paragraph do not apply to drivers of  
 137 utility service vehicles as defined in 49 C.F.R. s. 395.2.

138 (c) Except as provided in 49 C.F.R. s. 395.1, a person who  
 139 operates a commercial motor vehicle solely in intrastate  
 140 commerce not transporting any hazardous material in amounts that

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141 require placarding pursuant to 49 C.F.R. part 172 may not drive  
142 after having been on duty more than 60 ~~70~~ hours in any period of  
143 7 consecutive days or more than 70 ~~80~~ hours in any period of 8  
144 consecutive days if the motor carrier operates every day of the  
145 week. Thirty-four consecutive hours off duty shall constitute  
146 the end of any such period of 7 or 8 consecutive days. This  
147 weekly limit does not apply to a person who operates a  
148 commercial motor vehicle solely within this state while  
149 transporting, during harvest periods, any unprocessed  
150 agricultural products or unprocessed food or fiber that is  
151 subject to seasonal harvesting from place of harvest to the  
152 first place of processing or storage or from place of harvest  
153 directly to market or while transporting livestock, livestock  
154 feed, or farm supplies directly related to growing or harvesting  
155 agricultural products. Upon request of the Department of  
156 Transportation, motor carriers shall furnish time records or  
157 other written verification to that department so that the  
158 Department of Transportation can determine compliance with this  
159 subsection. These time records must be furnished to the  
160 Department of Transportation within 2 days after receipt of that  
161 department's request. Falsification of such information is  
162 subject to a civil penalty not to exceed \$750 ~~\$100~~. The  
163 provisions of this paragraph do not apply to drivers of utility  
164 service vehicles as defined in 49 C.F.R. s. 395.2.

165 Section 3. This act shall take effect July 1, 2009.