

By Senator Fasano

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

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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
57 basis of 40 ~~5~~ cents per pound on that scaled weight which
58 exceeds 35,000 pounds on laden truck tractor-semitrailer

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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

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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

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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 off
132 duty; or

133 2. For any period after the end of the 14th ~~16th~~ hour after
134 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
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

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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.