

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation and Economic Development Appropriations Committee

BILL: CS/SB 210

INTRODUCER: Transportation Committee and Senators Baker and Oelrich

SUBJECT: Commercial Motor Vehicles/Maximum Weight Limits

DATE: April 20, 2009 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hansson	Meyer	TR	Fav/CS
2.	Carey	Noble	TA	Favorable
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

In conformance with federal requirements, s. 316.535, F.S., establishes maximum allowable vehicle weight limits effectively prohibiting any vehicle from exceeding 80,000 pounds. Section 316.545, F.S., provides penalties for exceeding the maximum allowable vehicle weight limit. The federal Energy Policy Act of 2005 gives an exemption for the maximum weight limit on certain vehicles to compensate for weight increases that result from the installation of idle-reduction technologies. However, this federal exemption does not preempt state law. This bill implements the federal exemption. This bill has no fiscal impact.

This bill substantially amends s. 316.545, F.S.

I. Present Situation:

Auxiliary Power Units

Section 316.302, F.S., provides a person who operates a commercial motor vehicle may not drive more than 12 hours following 10 consecutive hours off duty or for any period after the end of the 16th hour after coming on duty following 10 consecutive hours off duty. Due to these statutory requirements, truck drivers have long off-hour rest periods, which they often spend inside the cab

of their trucks. Cab power is essential in order to control the temperature inside the cab and keep the drivers comfortable during the long rest periods.

The most common way drivers power their cabs is to idle, which means to continuously operate the vehicle's main drive engine while the vehicle is stopped. Idling functions to keep the fuel and engine warm; helps to keep the driver alert; mask out noises and smells; and provides safety. While idling helps keep the driver comfortable, it has a negative economic and environmental impact. Idling requires a great deal of fuel, increases emissions of greenhouse gases and other pollutants (which contribute to smog formation), and it generates a great deal of noise.

As an alternative power source for trucks, idling reduction technology has been explored and Auxiliary Power Units (APUs) were developed. An APU is a portable, truck-mounted system that can provide climate control and power for trucks without idling. Most APUs are small diesel engines with their own cooling and heating systems, generator or alternator system and air conditioning compressor, mounted to a frame rail. The benefits of APUs are numerous and include:

- Providing heating and cooling
- Generating enough electricity to power laptop computers, televisions, and microwaves
- Reducing fuel consumption, by using about half of the fuel as regular diesel-engine idling
- Improving air quality
- Reducing emissions of carbon dioxide and other pollutants
- Reducing maintenance, parts wear on the engine and oil change intervals
- Reducing operating expenses for fleet and truck owners by decreasing both fuel and maintenance, allowing operators to conserve fuel when fuel is at a high price
- Low cost of installation and maintenance for the APU units, themselves

However, while APUs provide great advantages, they add weight to the vehicle. Thus, vehicles must carry less revenue-producing cargo weight in order to compensate for the weight the APU adds to the vehicle, or risk violating state and federal maximum weight limits.

Florida Law

Section 315.535, F.S., provides the overall gross weight of any vehicle or combination of vehicles may not exceed 80,000 pounds, including all enforcement tolerances. Except as provided within the section, no vehicle or combination of vehicles exceeding the gross weights specified shall be permitted to travel on the public highways within the state.

Section 315.545, F.S., provides penalties for vehicles that exceed the maximum allowable weight limit. All vehicles that exceed the maximum weight limits are presumed to have damaged the highways of the state and are subject to economic sanctions.

Both s. 315.535, F.S., and s. 315.545, F.S., are silent on the issue of idle-reduction technology. These sections do not provide a maximum weight exemption for any vehicles that have installed an anti-idling device, such as an APU.

Federal Law

On August 8, 2005, President Bush signed into law the Energy Policy Act of 2005 (Energy Policy Act). Section 756 of the Energy Policy Act, "Idle Reduction and Energy Conservation Deployment Program," amended Title 23 USC 127(a) to allow for a national 400-pound exemption on the maximum weight limit on the interstate system for the additional weight of idling reduction technology on heavy-duty vehicles. The maximum weight for commercial vehicles on the federal highway system is 80,000 pounds. Thus, the exemption allows for 400 pounds in addition to the 80,000-pound maximum weight limit.

In order to be eligible for the exemption, the operator of the vehicle must be able to prove by demonstration or certification that: (1) the idle reduction technology is fully functional at all times and (2) the 400-pound gross weight increase is not used for any purpose other than the use of idle reduction technology. This certification must be available to law enforcement officers if the vehicle is found in violation of applicable weight laws.

A memo from the Federal Highway Administration's Size and Weight Division indicates the exemption in s. 756 of the Energy Policy Act is not a mandate and does not preempt state regulations or compel states to grant the increased weight tolerance. Thus, federal law allows for the waiver of 400 pounds, but does not require it. Each state may determine whether they will honor the exemption. Thus far, approximately 22 states allow the 400-pound APU exemption.¹

II. Effect of Proposed Changes:

This bill amends s. 316.545, F.S., to provide for an increase in the vehicle's maximum gross vehicle weight of up to 400 pounds to compensate for the additional weight of APUs installed, thus implementing s. 756 of the federal Energy Policy Act in Florida. The bill will create greater uniformity between federal and state law, which is especially important for truck drivers doing interstate business and would also assist regulatory officials by preventing enforcement ambiguities that could cause problems for drivers during inspections.

If a vehicle is found to be overweight, but is equipped with idle-reduction technology, then the penalty will be calculated by reducing the actual gross vehicle weight or the internal bridge weight by the certified weight of the idle-reduction technology, or 400 pounds, whichever is less. The 400 pound exemption will not be assessed on axle weight. The Florida Department of Transportation cannot increase the axle weight because Florida was grandfathered in at 22,000 pounds. Florida is already over the federally allowed 20,000 pounds. Furthermore, each qualifying vehicle will not get an automatic exemption of 400 pounds by virtue of having an installed anti-idling device, unless the actual weight of the anti-idling device is 400 pounds or more. The weight limit exemption will depend on the certified weight of the anti-idling device.

¹ A federal survey dated July, 2008, revealed the following results: 22 states allow the 400-pound APU exemption: Arkansas, Idaho, Indiana, Iowa, Kansas, Maryland, Minnesota, Missouri, Mississippi, Montana, Nevada, New Mexico, New York, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Texas, Utah, Washington, and Wisconsin. 11 states do NOT allow the 400-pound APU exemption: Alabama, California, Colorado, Florida, Georgia, Kentucky, Maine, North Carolina, Ohio, Rhode Island, and Wyoming. The remaining 17 states are not yet accounted for in the survey.

The bill has two proof requirements identical to those found in the federal law. If drivers are questioned by a law enforcement or regulatory officer, the driver must: (1) prove the unit is fully functional at all times and (2) present written certification of the weight of the idle-reduction technology.

The bill excludes vehicles described in s. 316.535(6), F.S., from qualifying for the 400 pound exemption. These vehicles, typically called straight trucks, include: dump trucks; concrete mixing trucks; trucks engaged in waste collection and disposal; and fuel oil and gasoline trucks designed and constructed for special type work. These vehicles typically do not carry idle-reduction equipment and the addition of 400 pounds would exceed the weight limit on state and local bridges.

III. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

IV. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill provides the ability for vehicles equipped with an APU to transport full cargo loads.

C. Government Sector Impact:

Minimal, negligible impact due to reprogramming of computer systems at weigh stations that calculate overweight limits and changes in enforcement and training for law enforcement and regulatory officers.

V. Technical Deficiencies:

None.

VI. Related Issues:

None.

VII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

The Transportation Committee adopted a committee substitute on February 19, 2009 which provides for the following:

- Prohibits from the exemption straight trucks as defined in Florida statutes, which include dump trucks and concrete mixing trucks.
- Allows for a 400 pound exemption on gross vehicle weight or internal bridge weight only, and not an exemption on axle weight.
- Places the language in a new subsection (c) of s. 316.545, F.S.

B. Amendments:

None.