

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 Committee

BILL: SB 640

INTRODUCER: Senator Bennett

SUBJECT: Fire-fighting Equipment - Exemptions

DATE: February 16, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichin	Spalla	TR	Pre-meeting
2.	_____	_____	CA	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill exempts certain motor vehicles used by a fire department from the height, width, weight, length, and load restrictions provisions of ch. 316, Florida Statutes. The bill additionally exempts such motor vehicles when being operated by a manufacturer or sales organization for the purpose of sale, demonstration, exhibit, or delivery to a fire department.

This bill creates an unnumbered section of the Florida Statutes.

II. Present Situation:

Federal law¹ and s. 316.535(5), F.S., require the overall gross weight of any vehicle or combination of vehicles may not exceed 80,000 pounds, including all enforcement tolerances, for both the Interstate and non-interstate highway system. Generally, the rate of damage to roads and bridges increases as vehicle weight increases resulting in higher maintenance and replacement costs and potentially creating unsafe conditions. For practical and safety reasons, maximum legal vehicle weight limits are established for all public roads and bridges. Except as provided, no vehicle or combination of vehicles exceeding the gross weights specified shall be permitted to travel on the public highways within the state.

The maximum vehicle weights published by the Department of Transportation (FDOT, department) allow compliant vehicles to travel most public highways of the state without causing excessive road damage or bridge failures. However, some roads and bridges have lower weight

¹ 23 CFR 658.17(b): “The maximum gross vehicle weight shall be 80,000 pounds except where lower gross vehicle weight is dictated by the bridge formula.”

limits due to their age, condition, or design. These facilities have *posted* weight limits, *i.e.*, their lower weight limits are identified through signage at the facility.² Vehicles exceeding the maximum weight limits on a facility, including posted facilities, are presumed to damage the highways of the state and are subject to fines³.

Gross vehicle weight (GVW) is the total weight of a vehicle or combination of vehicles and any cargo carried by the vehicle or combination of vehicles. Federal regulations and s. 316.535, F.S., provide maximum allowable GVW limits for public roads and bridges in Florida. Legal GVW may not, without a special permit, exceed 80,000 pounds for both the Interstate and non-interstate highway system. However, in some cases, a vehicle's GVW limit will be lower.

Federal law (see 23 CFR 658.17(h)) and s. 316.550, F.S., authorize the FDOT or local authority to issue special permits authorizing the applicant to operate or move a *nondivisible load* of a size or weight exceeding the maximum specified, or otherwise not in conformity, upon any highway. The permit must describe the vehicle or vehicles and load to be operated or moved and the highways for which the permit is requested.

Section 316.550(4)(a), F.S., authorizes the department or local authority to issue permits allowing commercial vehicles not exceeding the weight limits of s. 316.535(5), F.S., plus the scale tolerance provided in s. 316.545(2), F.S., to operate on non-interstate highways on designated routes specified in the permit. These permits do not take into consideration whether the load is divisible. The designated route must avoid any bridge which the department determines cannot safely accommodate vehicles with a gross vehicle weight authorized in s. 316.550(4)(a), F.S. Since the provisions of s. 316.550(4)(a), F.S., directly conflict with federal law described above as to the divisibility of loads, the provisions are limited to non-interstate highways to avoid the potential for a 10% annual reduction in federal highway funding.⁴

Federal law (23 CFR 658.5) authorizes states to issue special permits in accordance with state law for the carriage of nondivisible loads on Interstate highways and to issue special permits to other vehicles exceeding the federal maximum weight limits.

Federal law (see 49 CFR 658.5) exempts the operation of fire trucks and rescue vehicles while involved in emergency and related operations from general applicability of height, width, weight, length, and load restrictions. Additionally, FDOT exempts governmental entities from fee requirements for special permits, but only when being operated for non-commercial purposes; *i.e.*, governmentally owned vehicles engaged in the non-commercial purpose of responding to an emergency. (14-26.0009 F.A.C.) Motor Carrier Compliance officers take no enforcement action

² FDOT, *Commercial Motor Vehicle Manual*, p. 14 <http://www.dot.state.fl.us/mcco/downloads/TruckingManual%20-%206th%20Edition%202006%20english.pdf>

³ Similarly, FDOT posts warning signs when overhead clearance is less than the standard 14 feet, six inches. Operators of vehicles exceeding the standard or posted height which damage the overhead object may be liable for damages to people and property.

⁴ 23 CFR 657.19: "If a State fails to certify as required by this regulation or if the Secretary determines that a State is not adequately enforcing all State laws respecting maximum vehicle sizes and weights on the Interstate System and those routes which, prior to October 1, 1991, were designated as part of the Federal-aid primary, Federal-aid secondary or Federal-aid urban systems, notwithstanding the State's certification, the Federal-aid funds for the National Highway System apportioned to the State for the next fiscal year shall be reduced by an amount equal to 10 percent of the amount which would otherwise be apportioned to the State under 23 U.S.C. 104, and/or by the amount required pursuant to 23 U.S.C. 127."

against such vehicles when responding to emergencies but do require overweight and/or overdimensional permits to otherwise operate on state owned roadways.

III. Effect of Proposed Changes:

The bill exempts any motor vehicle and attached apparatus that is designed for use and used by a fire department, independent special fire control district, or volunteer fire department from the provisions of ch. 316, F. S., relating to height, width, weight, length, and load restrictions for motor vehicles. The bill additionally exempts any such motor vehicle and attached apparatus being operated by a manufacturer or sales organization for the purpose of sale, demonstration, exhibit, or delivery to a fire department, independent special fire control district, or volunteer fire department from those provisions.

Other Potential Implications:

Since federal law already provides an exemption from height, width, weight, length, and load restrictions for emergency-response equipment used during the course of an emergency, the bill has little to no impact with respect to emergency response. However, the provisions' exemptions also apply when such motor vehicle and attached apparatus is being operated by a manufacturer or sales organization for the purpose of sale, demonstration, exhibit, or delivery. In such instances, the vehicle is being operated in commerce or in the course of a commercial activity and federal law explicitly makes no exception for such commercial operation for this type of vehicle manufacturer or for any other. Thus, the bill would be in direct conflict with federal law and would subject the state to a potentially severe financial penalty. Further, this bill would provide a competitive advantage to a subset of the vehicle manufacturing industry, and would allow presumed damage to the State's highways and bridges to occur without recourse.

According to FDOT, the primary reason for requiring overweight/overdimensional permits is safety. Such restrictions help to ensure protection against highway damage, sideswipes, bridge collapses, and overhead bridge strikes. The bill does not exclude bridges posted for weight or height limitations from its applicability. As a result, a manufacturer or sales organization – perhaps with no or outdated knowledge of local infrastructure conditions – is free to travel any route and cross over or under any bridge without regard to the vehicle's weight or height, nor a posted bridge's weight or height limit. Thus, the potential for damage, injury, and death is increased.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Manufacturers of fire-fighting and emergency response vehicles would receive a positive but indeterminate benefit from the bill.

C. Government Sector Impact:

According to FDOT, in addition to the cost of repairing potential and presumed damage to highways and bridges, failure to comply with applicable federal rules and regulations relating to the operation of commercial motor vehicles would subject FDOT to a penalty of up to 10% of annual federal highway funding, which would equal approximately \$145 million per year.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.