



551142

LEGISLATIVE ACTION

Senate	.	House
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Floor: 1/AD/2R	.	Floor: SA1/C
04/24/2015 10:06 AM	.	04/28/2015 12:59 PM
	.	

Senator Simpson moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (1) and paragraph (a) of subsection
(2) of section 316.545, Florida Statutes, are amended to read:
316.545 Weight and load unlawful; special fuel and motor
fuel tax enforcement; inspection; penalty; review.—

(1) Any officer of the Florida Highway Patrol having reason
to believe that the weight of a vehicle and load is unlawful is
authorized to require the driver to stop and submit to a



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12 weighing of the same by means of either portable or fixed scales
13 ~~and may require that such vehicle be driven to the nearest weigh~~
14 ~~station or public scales, provided such a facility is within 5~~
15 ~~highway miles. Upon a request by the vehicle driver, the officer~~
16 ~~shall weigh the vehicle at fixed scales rather than by portable~~
17 ~~scales if such a facility is available within 5 highway miles.~~

18 Anyone who refuses to submit to such weighing obstructs an
19 officer pursuant to s. 843.02 and is guilty of a misdemeanor of
20 the first degree, punishable as provided in s. 775.082 or s.
21 775.083. Anyone who knowingly and willfully resists, obstructs,
22 or opposes a weight and safety officer while refusing to submit
23 to such weighing by resisting the officer with violence to the
24 officer's person pursuant to s. 843.01 is guilty of a felony of
25 the third degree, punishable as provided in s. 775.082, s.
26 775.083, or s. 775.084.

27 (2) (a) Whenever an officer of the Florida Highway Patrol or
28 weight inspector of the Department of Transportation, upon
29 weighing a vehicle or combination of vehicles with load,
30 determines that the axle weight or gross weight is unlawful, the
31 officer may require the driver to stop the vehicle in a suitable
32 place and remain standing until a determination can be made as
33 to the amount of weight thereon and, if overloaded, the amount
34 of penalty to be assessed as provided herein. However, any gross
35 weight over and beyond 6,000 pounds beyond the maximum herein
36 set shall be unloaded and all material so unloaded shall be
37 cared for by the owner or operator of the vehicle at the risk of
38 such owner or operator. Except as otherwise provided in this
39 chapter, to facilitate compliance with and enforcement of the
40 weight limits established in s. 316.535, weight tables published



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41 pursuant to s. 316.535(7) shall include a 10-percent scale
42 tolerance and shall thereby reflect the maximum scaled weights
43 allowed any vehicle or combination of vehicles. As used in this
44 section, scale tolerance means the allowable deviation from
45 legal weights established in s. 316.535. Notwithstanding any
46 other provision of the weight law, if a vehicle or combination
47 of vehicles does not exceed the gross, external bridge, or
48 internal bridge weight limits imposed in s. 316.535 and the
49 driver of such vehicle or combination of vehicles can comply
50 with the requirements of this chapter by shifting or equalizing
51 the load on all wheels or axles and does so when requested by
52 the proper authority, the driver shall not be held to be
53 operating in violation of said weight limits. When a driver is
54 issued a citation for exceeding the weight limits established in
55 s. 316.535 as determined by means of portable scales, the driver
56 may request to proceed to the nearest fixed scale at an official
57 weigh station or at a certified public scale for verification of
58 weight. The officer who issued the citation must escort the
59 driver at all times and must attend the reweighing. If the
60 vehicle or combination of vehicles is found to be in compliance
61 with the weight requirements of this chapter at the fixed scale,
62 the citation is void.

63 Section 2. Effective October 1, 2015, subsection (7) of
64 section 316.545, Florida Statutes, is amended to read:

65 316.545 Weight and load unlawful; special fuel and motor
66 fuel tax enforcement; inspection; penalty; review.—

67 (7) There is created within the Department of
68 Transportation the Commercial Motor Vehicle Review Board,
69 consisting of three permanent members who shall be the Secretary



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70 of ~~the Department of~~ Transportation, the executive director of
71 the Department of Highway Safety and Motor Vehicles, and the
72 Commissioner of Agriculture, or their authorized
73 representatives, and four additional members appointed pursuant
74 to paragraph (b), which may review any penalty imposed upon any
75 vehicle or person under the provisions of this chapter relating
76 to weights imposed on the highways by the axles and wheels of
77 motor vehicles, to special fuel and motor fuel tax compliance,
78 or to violations of safety regulations.

79 (a) The Secretary of ~~the Department of~~ Transportation or
80 his or her authorized representative shall be the chair of the
81 review board.

82 (b) The Governor shall appoint one member from the road
83 construction industry, one member from the trucking industry,
84 and one member with a general business or legal background. The
85 Commissioner of Agriculture shall appoint one member from the
86 agriculture industry. Each member appointed under this paragraph
87 must be a registered voter and resident of the state and must
88 possess business experience in the private sector. Members
89 appointed pursuant to this paragraph shall each serve a 2-year
90 term. A vacancy occurring during the term of a member appointed
91 under this paragraph shall be filled only for the remainder of
92 the unexpired term. Members of the board appointed under this
93 paragraph may be removed from office by the Governor for
94 misconduct, malfeasance, misfeasance, or nonfeasance in office
95 ~~Each permanent member of the review board may designate one~~
96 ~~additional person to be a member of the review board.~~

97 (c) Each member, before entering upon his or her official
98 duties, shall take and subscribe to an oath before an official



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99 authorized by law to administer oaths that he or she will
100 honestly, faithfully, and impartially perform the duties
101 devolving upon him or her in office as a member of the review
102 board and that he or she will not neglect any duties imposed
103 upon him or her by s. 316.3025, s. 316.550, or this section ~~The~~
104 ~~review board may execute its responsibilities by meeting as a~~
105 ~~single group or as subgroups consisting of one authorized~~
106 ~~representative of each permanent member.~~

107 (d) The chair of the review board is responsible for the
108 administrative functions of the review board.

109 (e) Four members of the board constitute a quorum, and the
110 vote of four members shall be necessary for any action taken by
111 the board. A vacancy on the board does not impair the right of a
112 quorum of the board to exercise all of the rights and perform
113 all of the duties of the board.

114 (f) ~~(e)~~ The review board may hold sessions and conduct
115 proceedings at any place within the state. As an alternative to
116 physical appearance, and in addition to any other method of
117 appearance authorized by rule, the Department of Transportation
118 shall provide space and video conference capability at each
119 district office to enable a person requesting a hearing to
120 appear remotely before the board, regardless of the physical
121 location of the board proceeding.

122 Section 3. The appointment of additional members to the
123 Commercial Motor Vehicle Review Board in accordance with the
124 changes made by this act to s. 316.545, Florida Statutes, shall
125 be made by September 1, 2015, for terms beginning October 1,
126 2015.

127 Section 4. Except as otherwise expressly provided in this



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128 act, this act shall take effect July 1, 2015.

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131 ===== T I T L E A M E N D M E N T =====

132 And the title is amended as follows:

133 Delete everything before the enacting clause

134 and insert:

135 A bill to be entitled

136 An act relating to the Commercial Motor Vehicle Review

137 Board; amending s. 316.545, F.S.; deleting a provision

138 authorizing any officer of the Florida Highway Patrol

139 to require that a vehicle be driven to the nearest

140 weigh station or public scales under certain

141 circumstances; deleting a provision requiring the

142 officer to weigh the vehicle at fixed scales rather

143 than by portable scales upon a request by the vehicle

144 driver under certain circumstances; authorizing a

145 driver to request to proceed to the nearest fixed

146 scale at an official weigh station or a certified

147 public scale when he or she is issued a citation for

148 exceeding weight limits; requiring the officer issuing

149 the citation to escort the driver and attend the

150 reweighing; voiding the citation if the vehicle or

151 combination of vehicles is found to be in compliance

152 with certain weight requirements; revising the

153 membership of the board; providing for appointment of

154 additional members by the Governor and the

155 Commissioner of Agriculture; providing for terms of

156 the additional members providing qualifications for



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157 such members; providing for removal of members by the
158 Governor under certain circumstances; providing for
159 action by a quorum of the board; requiring the
160 Department of Transportation to provide space and
161 video conference capability at each district office to
162 enable a person requesting a hearing to appear
163 remotely before the board; requiring that the
164 additional appointments be made by a specified date;
165 providing effective dates.
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