

By the Committee on Transportation; and Senator Simpson

596-02196-15

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1                                   A bill to be entitled  
2       An act relating to the Commercial Motor Vehicle Review  
3       Board; amending s. 316.545, F.S.; deleting a provision  
4       authorizing any officer of the Florida Highway Patrol  
5       to require that a vehicle be driven to the nearest  
6       weigh station or public scales under certain  
7       circumstances; deleting a provision requiring the  
8       officer to weigh the vehicle at fixed scales rather  
9       than by portable scales upon a request by the vehicle  
10      driver under certain circumstances; authorizing a  
11      driver to request to proceed to the nearest fixed  
12      scale at an official weigh station or a certified  
13      public scale when he or she is issued a citation for  
14      exceeding weight limits; requiring the officer issuing  
15      the citation to escort the driver and attend the  
16      reweighing; voiding the citation if the vehicle or  
17      combination of vehicles is found to be in compliance  
18      with certain weight requirements; revising the  
19      membership of the board; providing for appointment of  
20      additional members by the Governor and the  
21      Commissioner of Agriculture; providing qualifications  
22      for such members; providing for terms of the  
23      additional members; providing for removal of members  
24      by the Governor under certain circumstances; requiring  
25      each member to take an oath subject to certain  
26      requirements; providing for action by a quorum of the  
27      board; requiring the Department of Transportation to  
28      provide space and video conference capability at each  
29      district office to enable a person requesting a

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30 hearing to appear remotely before the board; requiring  
31 that the additional appointments be made by a  
32 specified date; providing effective dates.  
33

34 Be It Enacted by the Legislature of the State of Florida:  
35

36 Section 1. Subsection (1) and paragraph (a) of subsection  
37 (2) of section 316.545, Florida Statutes, are amended to read:  
38 316.545 Weight and load unlawful; special fuel and motor  
39 fuel tax enforcement; inspection; penalty; review.—

40 (1) Any officer of the Florida Highway Patrol having reason  
41 to believe that the weight of a vehicle and load is unlawful is  
42 authorized to require the driver to stop and submit to a  
43 weighing of the same by means of either portable or fixed scales  
44 ~~and may require that such vehicle be driven to the nearest weigh~~  
45 ~~station or public scales, provided such a facility is within 5~~  
46 ~~highway miles. Upon a request by the vehicle driver, the officer~~  
47 ~~shall weigh the vehicle at fixed scales rather than by portable~~  
48 ~~scales if such a facility is available within 5 highway miles.~~  
49 Anyone who refuses to submit to such weighing obstructs an  
50 officer pursuant to s. 843.02 and is guilty of a misdemeanor of  
51 the first degree, punishable as provided in s. 775.082 or s.  
52 775.083. Anyone who knowingly and willfully resists, obstructs,  
53 or opposes a weight and safety officer while refusing to submit  
54 to such weighing by resisting the officer with violence to the  
55 officer's person pursuant to s. 843.01 is guilty of a felony of  
56 the third degree, punishable as provided in s. 775.082, s.  
57 775.083, or s. 775.084.

58 (2) (a) Whenever an officer of the Florida Highway Patrol or

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59 weight inspector of the Department of Transportation, upon  
60 weighing a vehicle or combination of vehicles with load,  
61 determines that the axle weight or gross weight is unlawful, the  
62 officer may require the driver to stop the vehicle in a suitable  
63 place and remain standing until a determination can be made as  
64 to the amount of weight thereon and, if overloaded, the amount  
65 of penalty to be assessed as provided herein. However, any gross  
66 weight over and beyond 6,000 pounds beyond the maximum herein  
67 set shall be unloaded and all material so unloaded shall be  
68 cared for by the owner or operator of the vehicle at the risk of  
69 such owner or operator. Except as otherwise provided in this  
70 chapter, to facilitate compliance with and enforcement of the  
71 weight limits established in s. 316.535, weight tables published  
72 pursuant to s. 316.535(7) shall include a 10-percent scale  
73 tolerance and shall thereby reflect the maximum scaled weights  
74 allowed any vehicle or combination of vehicles. As used in this  
75 section, scale tolerance means the allowable deviation from  
76 legal weights established in s. 316.535. Notwithstanding any  
77 other provision of the weight law, if a vehicle or combination  
78 of vehicles does not exceed the gross, external bridge, or  
79 internal bridge weight limits imposed in s. 316.535 and the  
80 driver of such vehicle or combination of vehicles can comply  
81 with the requirements of this chapter by shifting or equalizing  
82 the load on all wheels or axles and does so when requested by  
83 the proper authority, the driver shall not be held to be  
84 operating in violation of said weight limits. When a driver is  
85 issued a citation for exceeding the weight limits established in  
86 s. 316.535 as determined by means of portable scales, the driver  
87 may request to proceed to the nearest fixed scale at an official

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88 weigh station or at a certified public scale for verification of  
89 weight. The officer who issued the citation must escort the  
90 driver at all times and must attend the reweighing. If the  
91 vehicle or combination of vehicles is found to be in compliance  
92 with the weight requirements of this chapter at the fixed scale,  
93 the citation is void.

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

96 316.545 Weight and load unlawful; special fuel and motor  
97 fuel tax enforcement; inspection; penalty; review.—

98 (7) There is created within the Department of  
99 Transportation the Commercial Motor Vehicle Review Board,  
100 consisting of three permanent members who shall be the Secretary  
101 of ~~the Department of~~ Transportation, the executive director of  
102 the Department of Highway Safety and Motor Vehicles, and the  
103 Commissioner of Agriculture, or their authorized  
104 representatives, and four additional members appointed pursuant  
105 to paragraph (b), which may review any penalty imposed upon any  
106 vehicle or person under the provisions of this chapter relating  
107 to weights imposed on the highways by the axles and wheels of  
108 motor vehicles, to special fuel and motor fuel tax compliance,  
109 or to violations of safety regulations.

110 (a) The Secretary of ~~the Department of~~ Transportation or  
111 his or her authorized representative shall be the chair of the  
112 review board.

113 (b) The Governor shall appoint one member from the road  
114 construction industry, one member from the trucking industry,  
115 and one member with a general business or legal background. The  
116 Commissioner of Agriculture shall appoint one member from the

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117 agriculture industry. Each member appointed under this paragraph  
118 must be a registered voter and citizen of the state and must  
119 possess business experience in the private sector. Members  
120 appointed pursuant to this paragraph shall each serve a 2-year  
121 term. A vacancy occurring during the term of a member appointed  
122 under this paragraph shall be filled only for the remainder of  
123 the unexpired term. Members of the board appointed under this  
124 paragraph may be removed from office by the Governor for  
125 misconduct, malfeasance, misfeasance, or nonfeasance in office  
126 ~~Each permanent member of the review board may designate one~~  
127 ~~additional person to be a member of the review board.~~

128 (c) Each member, before entering upon his or her official  
129 duties, shall take and subscribe to an oath before an official  
130 authorized by law to administer oaths that he or she will  
131 honestly, faithfully, and impartially perform the duties  
132 devolving upon him or her in office as a member of the review  
133 board and that he or she will not neglect the duties imposed  
134 upon him or her by s. 316.3025, s. 316.516, s. 316.550, or this  
135 ~~section The review board may execute its responsibilities by~~  
136 ~~meeting as a single group or as subgroups consisting of one~~  
137 ~~authorized representative of each permanent member.~~

138 (d) The chair of the review board is responsible for the  
139 administrative functions of the review board.

140 (e) Four members of the board shall constitute a quorum,  
141 and the vote of four members shall be necessary for any action  
142 taken by the board. A vacancy on the board shall not impair the  
143 right of a quorum of the board to exercise all of the rights and  
144 perform all of the duties of the board.

145 (f) ~~(e)~~ The review board may hold sessions and conduct

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146 proceedings at any place within the state. As an alternative to  
147 physical appearance, and in addition to any other method of  
148 appearance authorized by rule, the Department of Transportation  
149 shall provide space and video conference capability at each  
150 district office to enable a person requesting a hearing to  
151 appear remotely before the board, regardless of the physical  
152 location of the board proceeding.

153 Section 3. The appointment of additional members to the  
154 Commercial Motor Vehicle Review Board in accordance with the  
155 changes made by this act to s. 316.545, Florida Statutes, shall  
156 be made by September 1, 2015, for terms beginning October 1,  
157 2015.

158 Section 4. Except as otherwise expressly provided in this  
159 act, this act shall take effect July 1, 2015.