

By the Committees on Governmental Oversight and Accountability;
and Transportation; and Senator Simpson

585-02712-15

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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.; providing for an
4 appeal to the board for an excess weight citation
5 under certain circumstances; providing for citation
6 revocation by the board; revising the membership of
7 the board; providing for appointment of additional
8 members by the Governor and the Commissioner of
9 Agriculture; providing for terms of the additional
10 members; providing qualifications for such members;
11 providing for removal of members by the Governor under
12 certain circumstances; providing for action by a
13 quorum of the board; requiring the Department of
14 Transportation to provide space and video conference
15 capability at each district office to enable a person
16 requesting a hearing to appear remotely before the
17 board; requiring that the additional appointments be
18 made by a specified date; providing effective dates.

19
20 Be It Enacted by the Legislature of the State of Florida:

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22 Section 1. Paragraph (a) of subsection (2) of section
23 316.545, Florida Statutes, is amended to read:

24 316.545 Weight and load unlawful; special fuel and motor
25 fuel tax enforcement; inspection; penalty; review.—

26 (2) (a) Whenever an officer of the Florida Highway Patrol or
27 weight inspector of the Department of Transportation, upon
28 weighing a vehicle or combination of vehicles with load,
29 determines that the axle weight or gross weight is unlawful, the

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30 officer may require the driver to stop the vehicle in a suitable
31 place and remain standing until a determination can be made as
32 to the amount of weight thereon and, if overloaded, the amount
33 of penalty to be assessed as provided herein. However, any gross
34 weight over and beyond 6,000 pounds beyond the maximum herein
35 set shall be unloaded and all material so unloaded shall be
36 cared for by the owner or operator of the vehicle at the risk of
37 such owner or operator. Except as otherwise provided in this
38 chapter, to facilitate compliance with and enforcement of the
39 weight limits established in s. 316.535, weight tables published
40 pursuant to s. 316.535(7) shall include a 10-percent scale
41 tolerance and shall thereby reflect the maximum scaled weights
42 allowed any vehicle or combination of vehicles. As used in this
43 section, scale tolerance means the allowable deviation from
44 legal weights established in s. 316.535. Notwithstanding any
45 other provision of the weight law, if a vehicle or combination
46 of vehicles does not exceed the gross, external bridge, or
47 internal bridge weight limits imposed in s. 316.535 and the
48 driver of such vehicle or combination of vehicles can comply
49 with the requirements of this chapter by shifting or equalizing
50 the load on all wheels or axles and does so when requested by
51 the proper authority, the driver shall not be held to be
52 operating in violation of said weight limits. When a driver is
53 issued a citation for exceeding weight limits established in s.
54 316.535 determined by means of portable scales, the driver may
55 proceed to the next weigh station or public scales for
56 verification of weight. If the vehicle is found to be in
57 compliance with the weight requirements of this chapter at the
58 fixed scale, the driver may submit by United States mail both

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59 the portable scale citation and certified scale ticket to the
60 Commercial Motor Vehicle Review Board for revocation of the
61 citation.

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

64 316.545 Weight and load unlawful; special fuel and motor
65 fuel tax enforcement; inspection; penalty; review.—

66 (7) There is created within the Department of
67 Transportation the Commercial Motor Vehicle Review Board,
68 consisting of three permanent members who shall be the Secretary
69 of ~~the Department of~~ Transportation, the executive director of
70 the Department of Highway Safety and Motor Vehicles, and the
71 Commissioner of Agriculture, or their authorized
72 representatives, and four additional members appointed pursuant
73 to paragraph (b), which may review any penalty imposed upon any
74 vehicle or person under the provisions of this chapter relating
75 to weights imposed on the highways by the axles and wheels of
76 motor vehicles, to special fuel and motor fuel tax compliance,
77 or to violations of safety regulations.

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

81 (b) The Governor shall appoint one member from the road
82 construction industry, one member from the trucking industry,
83 and one member with a general business or legal background. The
84 Commissioner of Agriculture shall appoint one member from the
85 agriculture industry. Each member appointed under this paragraph
86 must be a registered voter and resident of the state and must
87 possess business experience in the private sector. Members

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88 appointed pursuant to this paragraph shall each serve a 2-year
89 term. A vacancy occurring during the term of a member appointed
90 under this paragraph shall be filled only for the remainder of
91 the unexpired term. Members of the board appointed under this
92 paragraph may be removed from office by the Governor for
93 misconduct, malfeasance, misfeasance, or nonfeasance in office
94 ~~Each permanent member of the review board may designate one~~
95 ~~additional person to be a member of the review board.~~

96 (c) Each member, before entering upon his or her official
97 duties, shall take and subscribe to an oath before an official
98 authorized by law to administer oaths that he or she will
99 honestly, faithfully, and impartially perform the duties
100 devolving upon him or her in office as a member of the review
101 board and that he or she will not neglect any duties imposed
102 upon him or her by s. 316.3025, s. 316.550, or this section ~~The~~
103 ~~review board may execute its responsibilities by meeting as a~~
104 ~~single group or as subgroups consisting of one authorized~~
105 ~~representative of each permanent member.~~

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

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

113 (f) ~~(e)~~ The review board may hold sessions and conduct
114 proceedings at any place within the state. As an alternative to
115 physical appearance, and in addition to any other method of
116 appearance authorized by rule, the Department of Transportation

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117 shall provide space and video conference capability at each
118 district office to enable a person requesting a hearing to
119 appear remotely before the board, regardless of the physical
120 location of the board proceeding.

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

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

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