

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

594-03413-15

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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 for terms of
22 the additional members providing qualifications for
23 such members; providing for removal of members by the
24 Governor under certain circumstances; providing for
25 action by a quorum of the board; requiring the
26 Department of Transportation to provide space and
27 video conference capability at each district office to
28 enable a person requesting a hearing to appear
29 remotely before the board; requiring that the

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30 additional appointments be made by a specified date;
31 providing effective dates.
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33 Be It Enacted by the Legislature of the State of Florida:
34

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

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

57 (2) (a) Whenever an officer of the Florida Highway Patrol or
58 weight inspector of the Department of Transportation, upon

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

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

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

95 316.545 Weight and load unlawful; special fuel and motor
96 fuel tax enforcement; inspection; penalty; review.—

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

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

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

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

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

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

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

144 (f) ~~(e)~~ The review board may hold sessions and conduct
145 proceedings at any place within the state. As an alternative to

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

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

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