

DIVISION COPY

Overweight Vehicles- Penalties & Permits

Report to Congress
From
The Secretary of
Transportation

An Inventory of State Practices

November 1981



U.S. Department
of Transportation
Federal Highway
Administration



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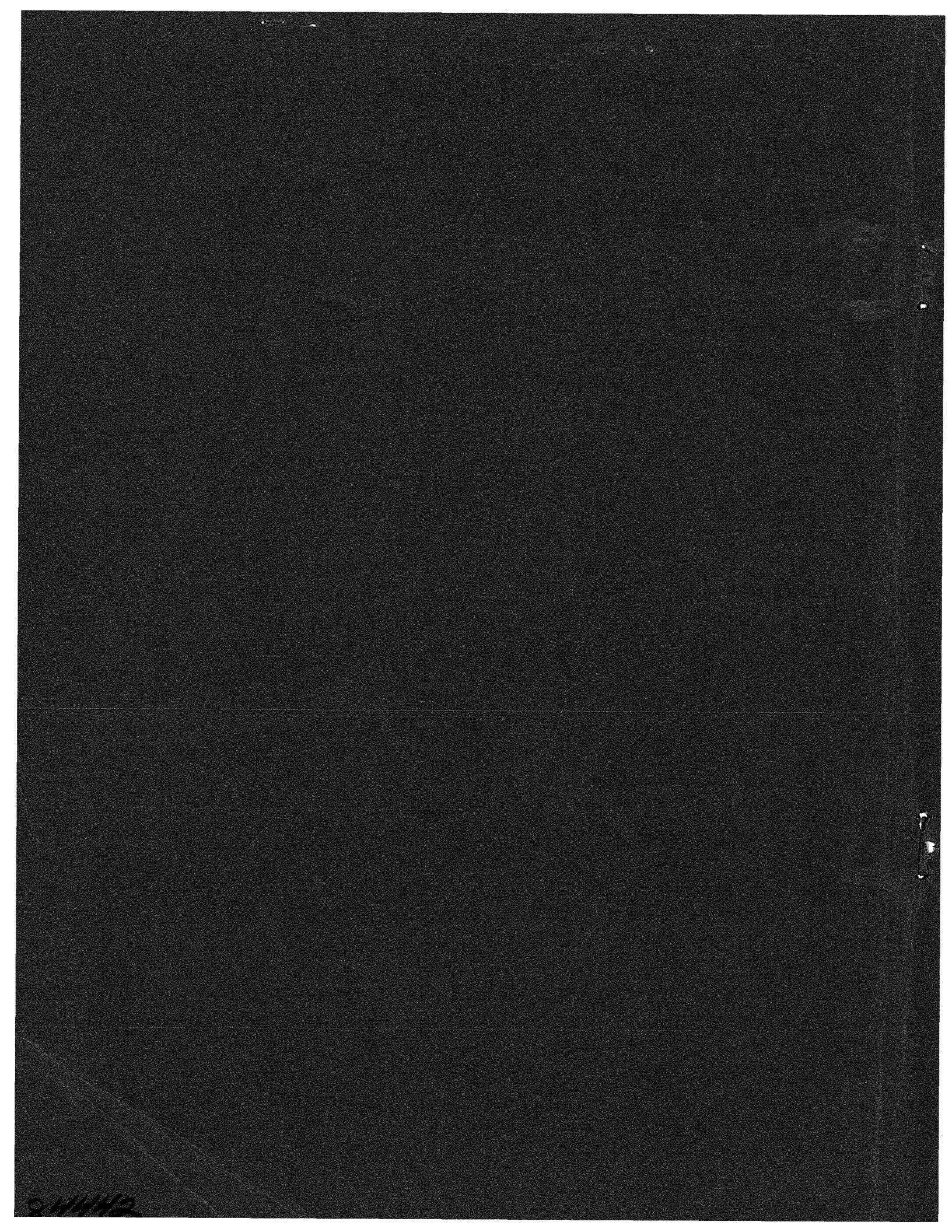


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EXECUTIVE SUMMARY

This is the third annual report submitted to the Congress pursuant to the Surface Transportation Assistance Act of 1978, Section 123. It addresses the certification submitted January 1, 1981, for the period October 1, 1979 to September 30, 1980. The most lengthy section of the three-part report contains the material devoted to the annual certification of enforcement of vehicle size and weight as required by 23 U.S.C. 141. Two other sections are devoted to updates of the annual inventory of the State laws and practices concerning permits for overweight vehicles and penalties for violations of weight laws.

All States, the District of Columbia, and Puerto Rico - 52 jurisdictions - fulfilled the statutory requirement to certify. Each certification was reviewed in detail and judgments were made as to the adequacy of the enforcement effort in each jurisdiction. Subjectively, the Federal Highway Administration (FHWA) determined that 50 of the 52 certifications indicated an acceptable enforcement program. In one instance, the State was notified that its certification was being conditionally accepted pending its implementation of certain initiatives that, collectively would ensure an effective weight enforcement program. Acceptable assurances were subsequently made. In the other instance, a meeting between State officials and FHWA representatives was held in November to work out mutually satisfactory solutions to the problems.

Taken as a whole, the annual certifications of vehicle size and weight enforcement continue to reflect effective programs. Improvements that have been modest on an individual State basis have been salutary to the program on a national basis. New weigh stations have been put into service

in a few States and several States have been constructing facilities for use of crews with portable or semi-portable scales which greatly enhance their ability to weigh trucks in an expeditious manner. There has been a noticeable effort in several States to correlate the assignments of work shifts with the volumes of truck traffic at specific enforcement sites which should help maximize the enforcement effort.

The rulemaking published in the Federal Register August 7, 1980, has been implemented in a highly successful manner. The enforcement plan that was required by the rulemaking was prepared by most States with the cooperation of the FHWA Division and Regional Offices. The process provided a forum whereby FHWA Division office personnel had to become familiar with the weight enforcement program in that State while also becoming acquainted with elements of the State government with which they previously had little or no contact while implementing the Federal-aid highway program. The process has had some long term benefits by creating continuous involvement in enforcement by FHWA personnel at the field level.

The second annual "Section 123" report - November 1980 - contained the statement that the "grandfather clause" of Section 127, Title 23 is unwieldy and archaic and makes the administration of many weight control programs difficult. The Federal-aid Highway Act of 1956, the law that established permissible axle and gross weight limits for the Interstate System, contained a provision commonly referred to as the "grandfather clause," which authorized States to allow trucks to use the Interstates if they "could be lawfully operated" with respect to weight limits in the State on July 1, 1956 - the date the Federal law took effect.

The effect of the grandfather clause has been to perpetuate nonuniformity of Interstate highway weight limits wherein 13 States have single axle limits greater than the current 20,000-pound maximum, 15 States have tandem axle limits greater than the current 34,000-pound maximum and three States have maximum gross vehicle weights greater than the current 80,000-pound maximum.

Grandfather clause problems with respect to the States' issuance of permits for overweight or overwidth units on the Interstates is much more pervasive than the axle and gross weight issues. The legal weight limits in each State on July 1, 1956, can be determined readily by referring to an appropriate law library. On the other hand, the permit policies and practices in effect on July 1, 1956, were generally administrative issuances deriving from authority granted to the State highway agency by the legislature to adopt policies and issue regulations respecting the issuance of permits for overweight-overdimension vehicles. Documentation of the administrative rules and regulations, circa 1956, is generally nonexistent which, inevitably, leads to disputes between FHWA and the States as to which permit policies and practices are grandfathered and which are not. This is an important issue because the General Accounting Office (GAO) has offered the opinion that the grandfather clause does not authorize the issuance of permits to exceed State or Federal weight ceilings merely on the basis that a State could have passed a permit law on July 1, 1956, but failed to do so. This ruling of the GAO contravenes the view held in several States that broad power to pass permit laws or authority to issue rules and regulations, though not exercised in 1956, is covered by the grandfather clause and, therefore, issuing overweight permits that were not issued in 1956 is allowable.

A few State legislatures amended their State codes by increasing the monetary penalties for conviction of violation of the weight laws. Taken as a whole, however, the systems of penalties in the several States for overweight violations, together with the judicial discretion allowed, do not constitute an effective deterrent to deliberate overloading, and in many States the truckers look upon the penalty system as merely an added cost of doing business. The most effective systems are those in which State law establishes a schedule of fines which are assessed at the point of violation. These systems are nondiscretionary insofar as the dollar amounts of fines are concerned and they relieve the court system of cases which are often considered burdensome.

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

Status of Review - Certification of Vehicle
Size and Weight Enforcement - 1980

STATE	
ALABAMA	Acceptable certification
ALASKA	Acceptable certification
ARIZONA	Minor additions necessary to certification
ARKANSAS	Acceptable certification
CALIFORNIA	Acceptable certification
COLORADO	Acceptable certification
CONNECTICUT	Review of grandfather tandem axle weight pending
DELAWARE	Acceptable certification
FLORIDA	Question re: Unloadings satisfactorily answered
GEORGIA	Question re: Unloadings satisfactorily answered
HAWAII	Continuing review of level of enforcement
IDAHO	Question re: Unloadings Satisfactorily answered
ILLINOIS	Question re: Reduced weighings satisfactorily explained
INDIANA	Question re: Unloadings satisfactorily answered
IOWA	Certification acceptable
KANSAS	Certification acceptable
KENTUCKY	Question re: Unloadings satisfactorily answered
LOUISIANA	Certification acceptable
MAINE	Continuing review of Maine's offloading policy
MARYLAND	Review of Maryland's bridge formula enforcement pending
MASSACHUSETTS	Accepted pending resolution of enforcing axle weights.
MICHIGAN	Question re: Reduced weighings satisfactorily explained.
MINNESOTA	Question re: Unloadings satisfactorily answered.
MISSISSIPPI	Question re: Unloadings satisfactorily answered.
MISSOURI	Acceptable certification
MONTANA	Adequate clarification re: single trip permits
NEBRASKA	Question re: Violations satisfactorily clarified.
NEVADA	Acceptable certification
NEW HAMPSHIRE	Letter sent to Governor re: erratic level of enforcement
NEW JERSEY	Acceptable certification
NEW MEXICO	Continuing review of policy of issuing permits
NEW YORK	Acceptable certification
NORTH CAROLINA	Continuing review of bridge formula enforcement policy.
NORTH DAKOTA	Acceptable certification
OHIO	Continuing review of enforcement in municipalities - homerule
OKLAHOMA	Acceptable certification
OREGON	Continuing review of special permit practices
PENNSYLVANIA	Acceptable certification
RHODE ISLAND	Review of degree of enforcement effort pending.
SOUTH CAROLINA	Question re: Unloadings satisfactorily answered.
SOUTH DAKOTA	Continuing review of special permit practices
TENNESSEE	Question re: Unloadings satisfactorily answered.
TEXAS	Question re: Reduced weighings satisfactorily explained.
UTAH	Apparent discrepancy in report satisfactorily explained.
VERMONT	Acceptable certification
VIRGINIA	Question re: Unloadings satisfactorily answered.
WASHINGTON	Acceptable certification
WEST VIRGINIA	Acceptable certification
WISCONSIN	Acceptable certification
WYOMING	Question re: Unloadings satisfactorily answered.
DIST. OF COL.	Acceptable certification
PUERTO RICO	Commonwealth informed program not effective
TOTAL	
FOOTNOTES	

DATE 11/24/81

COMPILED BY R.J.Powley

CHECKED BY W.F.Bauch

Introduction

This report has been prepared in fulfillment of the legislative mandate set forth in Section 123(c) of the Surface Transportation Assistance Act of 1978 (STAA), as follows:

- (c) Not later than January 1 of the second calendar year which begins after the date of enactment of this section and each calendar year thereafter the Secretary shall submit to Congress an annual report together with such recommendations as the Secretary deems necessary on (1) the latest annual inventory of State systems of penalties required by subsection (a) of this section; (2) the latest annual inventory of State systems for the issuance of special permits required by subsection (b) of this section; (3) the annual certification submitted by each State required by section 141 (b) of title 23, United States Code.

The systems of penalties referred to above are the penalties for violations of vehicle weight laws, rules and regulations on any portion of any Federal-aid system. The systems for the issuance of special permits are the permits issued pursuant to State law, rule or regulation which authorize a vehicle to exceed the weight limitation for such vehicle.

The report is divided into three sections; the first contains the review and analysis of the annual certification submitted by each State before January 1, 1981, and the second and third sections contain the update of the systems of permits and penalties, respectively.

Truck size and weight enforcement programs and related activities during the year reflected the economic situation of that 12-month period, in which State budgets, enforcement included, were under severe pressure from reduced income.

The States have reacted to the economic realities by arranging work schedules of enforcement personnel on a staggered, nonrepetitive, basis so as to present a constant threat of apprehension to deliberate violators of weight laws. Such scheduling attempted to compensate for reduction in numbers of personnel. On a nationwide basis, modest increases have been made in the numbers of the various types of weighing equipment, often phasing out older, less efficient units. Truck weigh stations are being added to the Interstate System in several States.

The activities of FHWA regarding vehicle size and weight enforcement are carried out pursuant to the requirements of Section 141, Title 23 - Enforcement of Requirements. An amended regulation implementing this law was published in the Federal Register on August 7, 1980. Each State is required by the regulation to prepare an enforcement plan for submittal to the FHWA Division Administrator. Upon acceptance by the Division Administrator, the plan then becomes the norm by which that State's annual certification of enforcement is judged for adequacy.

With this revision, FHWA personnel at the Division and Regional Office levels will become increasingly involved in oversight of the State programs. The enforcement plan in each State should address budget, personnel, and equipment capacities which will result in FHWA involvement in the monitoring of commitments set forth in the enforcement plan as well as an annual review and update of the plan.

The certifications continue to reveal problems in the implementation of the Gross Weight Formula known as the "bridge formula." Conformance with the bridge formula has been part of the Federal law since January 4, 1975, but there continues to be widespread misunderstanding, not only of the theoretical and practical reasoning underlying the requirement, but there is also considerable confusion as to how the formula can be utilized in high volume weighing.

As part of its activity during this certification year, the FHWA printed and distributed a pamphlet which sets forth an explanation of the bridge formula including the table of weights which reflect the incremental weight increases produced by increasing the number and spacing of the axles.

SECTION 1

Review of Annual Certification

A. Legal Requirement

Section 141(b) of Title 23, United States Code requires each State to certify to the Secretary before January 1 of each year that it is enforcing all State laws respecting maximum vehicle size and weight permitted on the Federal-aid primary system, the Federal-aid urban system, and the Federal-aid secondary system, including the Interstate System in accordance with Section 127 of Title 23.

Accordingly, all States, the District of Columbia, and the Commonwealth of Puerto Rico have submitted certifications and supplemental information for the current reporting period.

B. Certification Review

The certifications are submitted through normal Federal Highway Administration (FHWA) administrative channels for final review and analysis in the Washington Offices of Traffic Operations and the Chief Counsel. The Office of Traffic Operations reviews and analyzes the supplemental data which accompanies each certification and makes initial judgments and recommendations concerning the adequacy of each State's enforcement effort. The Office of Chief Counsel has primary responsibility in determining both the legal sufficiency of each certification and compliance of any amended laws or regulations with 23 U.S.C. 127.

A tabulation of the acceptability of the certifications submitted by the States is shown in chart 1 on page 5.

A State-by-State summary of certification reviews for FY 1980 and subsequent actions is contained in the section that follows.

Written findings of each certification review and analysis were prepared and transmitted through FHWA channels to the respective States. Each written commentary is divided into two parts; the first part headed "Comments" represents Washington Office observations to be relayed back to the State for information purposes. The second part, headed "Response Requested", includes requests for specific State responses or further information before a certification can be accepted.

This report discusses those questions raised by the Office of Chief Counsel concerning legal sufficiency and other issues. As a result of these legal analyses, several significant actions have been initiated. In South Dakota \$17+ million of Interstate construction funds were reserved because the State was issuing permits for divisible loads allowing vehicles to operate on the Interstate System at weights exceeding 80,000 pounds in violation of Title 23, Section 127. In an action before the State Supreme Court, the State Department of Transportation was enjoined from discontinuing the practice on the basis that it appeared to fall within the scope of the grandfather clause in Section 127. The Court also issued an Order of Mandamus which requires the State

DOT to continue issuing the special permits. On the basis of the injunction and the Order of Mandamus, the Department acceded to a State request for the release of the reserved funds with the understanding that the issue would be submitted to the Congress for ultimate resolution.

In Massachusetts, \$85+ million of Interstate construction funds were reserved on the basis that the State was not enforcing axle weights on certain classes of vehicles, and that the State was issuing special permits for divisible loads up to 99,000 pounds with a 5 percent tolerance (up to 104,000 pounds). The State has agreed to submit legislation to the State legislature which would resolve the axle weight problem by phasing out the offending practice within 5 years. In recognition of the State's willingness to come into compliance, the reserved funds were released, pending Congressional review of the special permit question.

The materials included in the main body of the report amplify the nature of the legal problems confronting the FHWA in its review and evaluation of State practices and laws. The "grandfather clause" enacted in 1956 to legalize those preexisting State laws already in excess of the adopted Federal limits, continues to complicate considerations involving State size and weight legislation. The State's actual gross, tandem, and axle vehicle weights can be established by

researching existing law as of July 1, 1956. However, the determination of existing special permit practices/policies is more difficult. These practices/policies could be administrative, legislative, by directive, by ordinance or by memorandum, often requiring extensive research, including considerations by State's Attorney General offices. This is the only area involving any administration discretion. The Federal position has been that the purpose of the "grandfather clause" was to allow the continued operation on the Interstate System of nonconforming vehicles, only to the extent allowed and under the conditions required on the established date. The purpose of the "grandfather clause" was not to allow larger vehicles to regularly and continually use the Interstate System as a routine matter on a blanket or annual basis.

On January 5, 1975, the Federal-Aid Highway Amendment was signed into law establishing a bridge formula for controlling the weight of vehicles on the Interstate System. However, this legislation provided a second grandfather clause which allowed those States having single figure Interstate gross weights, or employing gross weight formulas on the Interstate in excess of the revised Federal limits to continue with these higher limits on the Interstate. This bridge formula grandfather clause is in addition to the earlier clause of the 1956 legislation; thus States may continue to allow the operation of vehicles on the Interstate System under the provision of both grandfather clauses thereby compounding the complexity of effective enforcement and preservation of the existing Federal-Aid Highway System.

The materials included in this report illustrate the nature of Section 127 interpretation and Section 141 compliance.

1980 Size and Weight Certification Evaluation

ALABAMA

Comments

Alabama reports an increase of 47 percent in the number of vehicles weighed, and a 10 percent decrease in the number of citations issued.

Disposition

State continues to make progress in implementing a more effective size and weight enforcement program, and certification is accepted as submitted.

1980 Size and Weight Certification Evaluation

ALASKA

Comments

Alaska reports an increase of 63 percent in the number of vehicles weighed and a 38 percent increase in the number of citations issued.

Disposition

Certification is acceptable as submitted, as increased activity is an indication of State's effort towards a more effective enforcement program.



U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, D.C. 20590

JUN 4 1980

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

OFFICE OF THE ADMINISTRATOR

IN REPLY REFER TO:

HCC-20

The Honorable Jay S. Hammond
Governor of Alaska
Juneau, Alaska 99801

Dear Governor Hammond:

The State of Alaska is required to submit an annual certification that all State laws pertaining to the sizes and weights of motor vehicles are being enforced on all Federal-aid highway systems. On December 7, 1979, Alaska's certification was submitted for the period October 1, 1978, to September 30, 1979. Our review of that certification indicates that enforcement efforts in your State may be diminishing in effectiveness. The applicable law governing the certification requirement, 23 U.S.C. 141, provides for a reduction in funds in the amount of 10 percent of those funds apportioned by 23 U.S.C. 104 for any State which is found to be in noncompliance with all particulars of the certification requirement.

Although I am not considering recommending the application of the penalty for Alaska at this time, the serious reduction in the activity in your State's enforcement program may lead to the loss of Federal funding if it continues into the future. In amending the certification requirement in section 123 of the Surface Transportation Assistance Act of 1978, the Congress made it clear that strong enforcement efforts are necessary to preserve the safety and continued maintenance of the Nation's Federal-aid highways. The State of Alaska has been alerted to the importance of this provision as a previous certification of enforcement was also found to indicate the need for improvements. On February 3, 1978, the Secretary of Transportation informed the State that the certification covering the year October 1, 1976, to September 30, 1977, appeared to indicate a questionable enforcement effort.

By letter of March 17, 1978, you responded to the Secretary's concerns and informed him that Alaska was planning to increase enforcement efforts by adding staff and purchasing equipment. At the same time, you pointed out that what appeared to be a substantial decline in enforcement activity was directly related to the conclusion of

activity on the Trans-Alaska Pipeline. As you had indicated, there was a substantial increase in activity reported on the following certification, covering the period October 1, 1977, to September 30, 1978. However, this year's certification indicates that weighing activities have decreased to approximately the same level as that of the previously questioned certification.

It is our understanding that once again this decrease in activity has been attributed to the completion of the pipeline and a general decline in commercial activity. Our Division Office in Alaska reports that for a substantial part of the year there was no evident decrease in traffic volume. At the same time, the certification indicates that the Bureau of Vehicle Enforcement has been fully staffed and has increased the number of hours devoted to enforcement activity. Program refinements, such as more selective weighing procedures as used in Alaska, can result in an effective effort if implemented in a consistent manner and with the support of adequate personnel.

The Division Office of the Federal Highway Administration will provide your Bureau of Vehicle Enforcement with assistance in reviewing enforcement efforts in order to ensure that an effective program is implemented and maintained. The cooperation of your office in this effort will ensure the safety and continued preservation of the Federal-aid systems in Alaska for the use of the entire public.

Sincerely yours,

John S. Hassell, Jr.
Deputy Administrator

1980 Size and Weight Certification Evaluation

ARIZONA

Comments

Arizona reports that 23,407 overweight violations were discovered during the FY 1980 period, including "loads that had to be shifted or unloaded." A total of 3,483 citations were issued for overweight violations.

Response Requested

Division office should determine if all overweight vehicles are issued a citation in addition to off-loading or loadshifting, and does the law require all loads to be made legal before proceeding.

Disposition

Certification will be acceptable upon receipt of the necessary information.

Final Disposition

Certification is acceptable with satisfactory response from Division Office reference the State's policy of off-loading overweight vehicles.

The State's off-loading policy is as follows:

"all vehicles that are over the legal gross weight are cited and required to reduce the load to the legal limit before proceeding. Vehicles that are overweight on axles only and not over on gross weight are given the opportunity to shift or unload and if they comply, a citation is not issued."

1980 Size and Weight Certification Evaluation

ARKANSAS

Comments

Decrease of 2 percent in the number of vehicles weighed satisfactorily explained as a result of road construction in the scale area. Even with this decrease in activity, 247 more citations were issued for an increase of 3 percent.

Disposition

Certification is acceptable as submitted.

1980 Size and Weight Certification Evaluation

CALIFORNIA

Comments

California reports a decrease of 11 percent in the number of vehicles weighed, but an increase of 14 percent in the number of citations issued.

Response Requested

Division Office is requested to determine if the reduction of 466,129 vehicles weighed is the result of a more selective program, budgetary restriction, or other cause?

Disposition

Certification is acceptable as submitted.

Final Disposition

Certification acceptability reaffirmed with satisfactory response from Division Office reference the reported reduction in the number of vehicles weighed.

1980 Size and Weight Certification Evaluation

COLORADO

Comments

State reports a 3 percent decrease in the number of vehicles weighed and a 15 percent decrease in the number of citations issued. The division office may want to obtain an explanation for this reported decrease and to make sure these activities do not decrease again during the 1981 certification period. At the seminar held in Denver, the State police indicated a less than receptive attitude towards weight enforcement. Could this be the reason for the decrease in citations?

Disposition

Certification is acceptable as submitted.

1980 Size and Weight Certification Evaluation

CONNECTICUT

Comments

Connecticut reported a decrease of 1 percent in the number of vehicles weighed and a decrease of 24 percent in the number of citations issued. The Chief Counsel's Office has reviewed Bill #5394 for compliance with U.S.C. 23, Section 127, and notes that a tandem axle weight of 36,000 pounds is allowed by this law, on vehicles up to 80,000 pounds.

Response Requested

The State was notified of the requirement of Section 127 with respect to the grandfather limits by memo from Division Administrator Altobelli. However, the law as enacted contains a combination 36,000 tandem axle weight and an 80,000 gross weight. The tandem axle weight can only be authorized on those vehicles weighed up to 73,280 pounds. Over that weight, compliance with the bridge formula is required.

Disposition

Certification is conditionally accepted pending your notification to the State of violation of 23 U.S.C. 127 and resolution of this matter. The State should be informed that loss of Interstate apportionments could occur if this matter is not resolved within a reasonable time.

Final Disposition

Certification acceptable with Regional Office's response in reference to the State's enforcement of axle weights for vehicles weighing between 73,280 and 80,000 pounds.

The Connecticut Department of Transportation reported:

"In order to clarify the issue regarding the interpretation of Sec. 14-267a(b) CGS, as revised as it relates to axle weight limitations between 73,000 pounds and 80,000 pounds, the Department will introduce amending legislation for the February 1982 legislative term. It is the Department's desire to have a uniform and consistent body of law regarding weight restrictions for vehicles and trailers and you can be assured that we will utilize all our resources towards accomplishing this legislative goal."

1980 Size and Weight Certification Evaluation

DELAWARE

Comments

State reports a substantial increase in the number of vehicles reported weighed and the number of citations issued, apparently as a result of greater enforcement support and effort. The State is doing a good job in meeting commitments to increase enforcement. The Highway Department and State Police should be commended and encouraged to maintain the level of effort reflected by this certification.

Disposition

Certification is acceptable as submitted.

1980 Size and Weight Certification Evaluation

DISTRICT OF COLUMBIA

Comments

Certification report indicates a slight increase in the number of vehicles reported weighed, matching the number of vehicles weighed during the 1978 certification period. Citations issued were also above the number reported in the 1978 and 1979 certifications.

District authorities should be encouraged to continue their progress towards achieving a more active and effective enforcement program.

Disposition

Certification is acceptable as submitted.

1980 Size and Weight Certification Evaluation

FLORIDA

Comments

Florida continues to show an increase in the number of vehicles reported weighed and the number of citations issued. Division office should remind Florida authorities that the number of unloadings is required by 658.9 (b)(7) and will continue to be required in future certification reports by 657.15(e)(3)(ii). The procedure for collection of this required data should be included in division personnel's periodic field reviews. The Administrator has also notified the State that certain exempted vehicles, if using the Interstate, violate Section 127; no response has been received.

Response Requested

Division Office should determine whether State law requires that all vehicles be made legal before proceeding and how many of the 32,914 overweight vehicles were required to be off-loaded? Will the State take any action on the exempted vehicles to bring about compliance with Section 127?

Disposition

Certification will be acceptable upon receipt of the requested information.

Final Disposition

Certification accepted as originally submitted in reference to off-loading question. The question concerning the use of the Interstate System by certain exempted vehicles remains to be resolved.



DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION,
WASHINGTON, D.C. 20555

DEC 22 1950

OFFICE OF
THE ADMINISTRATOR

IN REPLY REFER TO: HCC-20

Mr. William N. Rose
Secretary
Florida Department of Transportation
605 Suwannee Street
Tallahassee, Florida 32301

Through
Mr. Rex C. Leathers
Regional Administrator
Atlanta, Georgia

Mr. P. E. Carpenter
Division Administrator
Tallahassee, Florida

Dear Mr. Rose:

The Office of Chief Counsel has reviewed the letter of September 9 from Mr. Jay W. Brown, which addressed the scope of exemptions for certain vehicles from compliance with Florida's statutory gross weight tables. Mr. Brown's letter included a memorandum prepared by Mr. H. Reynolds Sampson, General Counsel of the Florida Department of Transportation, which addressed the interpretation of the statute in question. Mr. Sampson's rationale is logical and appears to resolve the question of exemptions for the most part.

The grandfather right excluding certain vehicles from the application of the weight table appears broad enough to include dump trucks, concrete mixing trucks, fuel oil and gasoline trucks. These vehicles are exempt from application of the table, contingent upon compliance with the single figure limit prescribed by FSA section 316.540. This was the extent of the provision on July 1, 1956, the contingent date for the establishment of the grandfather right. However, the Congress has intended that the grandfather clause be strictly applied and include only the terms and conditions expressly provided. In this regard, garbage collections and disposal units were added to section 316.540 by the Laws of 1976 (c. 76-171, § 3, eff. July 1, 1977) and are not included within the grandfather exemption. For purposes of Interstate System travel, such vehicles must comply with section 127. As presently drafted, section 316.540 of the Florida statutes is broad enough to include Interstate travel and could place the State in violation of section 127 without remedial legislative or administrative action.

Sincerely yours,

John S. Hassell, Jr.
Federal Highway Administrator

1980 Size and Weight Certification Evaluation

GEORGIA

Comments

Georgia continues to increase its enforcement activity, resulting in a continued increase in the reported number of vehicles weighed and citations issued. Division office should remind Georgia authorities that the number of unloadings is required by 658.9(b)(7) and will continue to be required in future certification reports by 657.15(e)(3)(ii). The procedure for collection of this required data should be included in division personnel's periodic field reviews.

Response Requested

Division office should determine whether State law requires that all vehicles be made legal before proceeding, and how many of the 13,944 overweight vehicles were required to be off-loaded?

Disposition

Certification will be acceptable upon receipt of the requested information.

Final Disposition

Certification accepted as originally submitted, upon satisfactory response to the question of State's practice of requiring overweight vehicles to be off-loaded.

1980 Size and Weight Certification Evaluation

HAWAII

Comments

Number of vehicles weighed increased by 31 percent above the 1979 effort and the number of citations increased by 40 percent. The Administrator's letter of January 7 pointed out the need for staggered enforcement throughout the week, upgraded enforcement areas, elimination of high tolerances, and review of permit procedures. If these improvements are not implemented within a reasonable time, Hawaii's enforcement effort may once again be reviewed for sufficiency, not only with Section 141 of 23 U.S.C., but also Section 127.

Disposition

Certification is acceptable as submitted, with reminder to State of necessity for implementing January letter.



U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, D.C. 20590

JUN 4 1980

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

OFFICE OF THE ADMINISTRATOR

IN REPLY REFER TO:

HCC-20

The Honorable George R. Ariyoshi
Governor of Hawaii
Honolulu, Hawaii 96813

Dear Governor Ariyoshi:

The State of Hawaii is required to submit an annual certification that all State laws pertaining to the sizes and weights of motor vehicles are being enforced on all Federal-aid highway systems. On December 28, 1979, Hawaii's certification was submitted for the period October 1, 1978, to September 30, 1979. Our review of that certification indicates that notwithstanding the Department of Transportation's serious efforts to implement an effective enforcement program, there has not been a coordinate effort in the State to assist the Department. As a result, program effectiveness may be diminishing. The applicable law governing the certification requirement, 23 U.S.C. 141, provides for a reduction in funds in the amount of 10 percent of those funds apportioned by 23 U.S.C. 104 for any State which is found to be in noncompliance with all the particulars of the certification requirement.

Although I am not considering recommending the application of the penalty for Hawaii at this time, the questions which have arisen from the review of the current certification may lead to the loss of Federal funding if they continue unresolved on future certifications. In amending the certification requirement in section 123 of the Surface Transportation Assistance Act of 1978, the Congress made it clear that strong enforcement efforts are necessary to preserve the safety and continued maintenance of the Nation's Federal-aid highways. The State of Hawaii has been alerted to the importance of this provision as a previous certification of enforcement was found to be in noncompliance. On February 3, 1978, the Secretary of Transportation informed the State that the certification covering the year October 1, 1976, to September 30, 1977, appeared to indicate deficient enforcement efforts.

On March 10, 1978, former Federal Highway Administrator William Cox conducted an informal hearing with representatives of your State. On the basis of the results of that discussion no funds were withheld that year. However, the decision relied upon the expressions of intended improvements in Hawaii's program. The most recent certification indicates that while Dr. Ryokichi Higashionna has sought to implement an effective program, his efforts are handicapped by events beyond the control of his Department.

For example, it is critical to the success of an enforcement program that shoulder areas alongside the roadway be improved to facilitate weighing operations. The safety of the traveling public and weighing personnel mandate that vehicles subject to weighing be isolated from the traffic mainstream. The State Legislature in 1979 appropriated \$714,000 for fiscal year 1979-80 for the design and construction of enforcement sites on the major islands. However, design has been delayed due to a statewide restriction on the expenditure of funds. The need to maintain fiscal balance is an understandable goal. Nevertheless, without the expedited design and construction of shoulder improvements, vehicle weight enforcement can only be a difficult and hazardous exercise.

Further, the certification indicates that only 262 citations were issued for weight violations and 33 for size violations. However, it is our understanding that penalization of violators has been even further diluted by the inability to secure convictions for these violations in the courts. This could be the result of a number of factors indicating the need for more restrictive procedures in establishing the violation and communication with the judiciary to convey to the judges the importance of effective enforcement and the need for the imposition of penalties for violations.

In the absence of a strong financial deterrent for violations, it has been our experience that the off-loading of excess weight is an effective enforcement tool. The Department of Transportation reports that provisions for off-loading have been implemented, yet the certification states that no vehicles were off-loaded during the term of that certification. Finally, enforcement efforts are confined to once-a-week operations. The highly sporadic nature of such exercises makes it difficult to deter deliberate overloading in the absence of voluntary compliance by the hauling industry.

It is my hope that you share my concern for the implementation of an effective enforcement effort for vehicle sizes and weights in Hawaii. The Division Office of the Federal Highway Administration will provide any necessary assistance which your Department of Transportation may need in achieving this goal. The cooperation of your office in this effort will ensure the safety and continued preservation of the Federal-aid systems in Hawaii for the use of the entire public.

Sincerely yours,

John S. Hassell, Jr.
Deputy Administrator



DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, D.C. 20590

JAN 7 1981

OFFICE OF
THE ADMINISTRATOR

IN REPLY REFER TO: HCC-20

Dr. Ryokichi Higashionna
Director, Hawaii Department of
Transportation
869 Punchbowl Street
Honolulu, Hawaii 96813

Through:
Mr. Frank E. Hawley
Regional Administrator
San Francisco, California

Mr. Ralph T. Segawa
Division Administrator
Honolulu, Hawaii

Dear Dr. Higashionna:

During the week of October 22 representatives of the Offices of Traffic Operations, and the Chief Counsel and Region 9 of the Federal Highway Administration (FHWA) were in Hawaii to conduct a seminar on the implementation of the new size and weight regulations. At the same time, these individuals, together with Hawaii Division Office personnel, reviewed the draft enforcement plan and visited several weighing operations. The opportunity to meet and discuss some of their observations with you, Jim Karras, and District Engineer Chuck Schuster was an important part of this visit and assisted us in appreciating the accomplishments, as well as the difficulties faced, in implementing an effective weighing effort in Hawaii.

On the whole, the FHWA is impressed with the sincerity of your effort and the accomplishments made in your program since 1978. Mr. Larry Hao and his motor vehicle safety inspectors were forthright in discussing the program, and Mr. Joseph Malson on the island of Hawaii was most gracious in assisting our people on their visit to that island. It was the consensus conclusion that Hawaii has all the elements necessary to effectively eliminate habitual overloading not only on Oahu but also on the other islands.

As in any program, however, improvements can be made. The observations of the visiting team form the basis for the following recommendations which, if implemented, will give Hawaii a solid and continuing weight enforcement program. The most critical element in any weight enforcement program is personnel. Voluntary compliance depends upon deterrence which in turn relies on the ability to apprehend violators at any time or place. Thus, the ability to schedule and deploy knowledgeable personnel is the foundation of effective enforcement. The program in Hawaii currently relies upon the utilization of highway planning personnel, deployed in conjunction with safety inspectors. This limits operations to once a week, with adjustments depending upon other assigned duties. It is our strong feeling that your efforts to date underscore the benefits of effective enforcement and that these benefits can be consolidated by assigning personnel to fulltime weighing duties. This is particularly important on the islands of Oahu and Hawaii. The assignments of such personnel will permit scheduling and budget development (office space, supplies, secretarial assistance), as well as the return of planning personnel to regular assigned duties, with spot duty in assisting weighing operations.

The safety of weighing personnel and the traveling public is also a priority in weighing operations. In Hawaii, weighing is currently being done on the paved lanes of Interstate facilities and on the shoulders of other systems. Operations are separated from mainstream traffic by the use of traffic cones. Little or no facilities are available for proper safety inspections or corrective actions such as load-shifting or off-loading. I understand that one area is currently being developed on Oahu, with another in the preliminary design stage. I would encourage you to consider developing a paved area on H-1 in the vicinity of the Manager's Drive Separation where operations are currently conducted on the paved lane of the Interstate. Such areas are also needed on the island of Hawaii, particularly in the Hilo area, where sugar cane and construction activities are predominant.

Effective fines and penalties are needed to provide support for enforcement efforts. In this respect, a minimal fine schedule which is loosely applied by the local courts in the State can make strong enforcement nonproductive. Off-loading offers the potential to underscore the importance of compliance with the weight laws. However, off-loading depends upon the development of proper, safe facilities to conduct such operations and on the development of guidelines for use by enforcement officials. Once guidelines have been developed, uniform application of off-loading policies can begin on all islands. At the same time, the trucking industry will be placed on notice of the potential ramifications of violating the weight statutes.

The policy of tolerance has resulted in establishing de facto weight limits in excess of the prescribed statutory maximums. It is our understanding that a tolerance of 10 percent is given on all weighing by semi-portable scales before any enforcement action takes place. Title 23 U.S.C. 127 requires that the weight limit applicable to the Interstate System must be inclusive of all tolerances, unless such policy was established by law in 1960 (Hawaii's grandfather date). We can find no support for such policy under the grandfather right in Hawaii, which places the State in violation of section 127. This policy should be eliminated as expeditiously as possible. At the same time, however, continuation of a 10-percent tolerance on other systems impedes the implementation of uniform and equitable enforcement practices. With the development of weighing areas as discussed above, it is our strong feeling that there is no need for a tolerance policy of this dimension. Continuation of a 10-percent policy can result in a determination under 23 U.S.C. 141 that the State is not effectively enforcing the weight limits.

Finally, we understand that a liberal system of issuing special permits is currently being administered, particularly with respect to sugar cane hauling on the island of Hawaii. We understand and appreciate the significance of this industry to the local economy, however, we would like to point out that special permits allowing cane transporting vehicles to haul up to 115,000 pounds, in conjunction with the 10-percent tolerance policy which allows up to 37,000 pounds on a tandem axle, may be a large part of the need for the extensive maintenance outlays on the highway system outside of Hilo. We would encourage you to examine this policy, as a reading of Hawaii's administrative regulations appears to preclude the issuance of permits for divisible loads.

As you know from our earlier conversations, the Congress is concerned with the deterioration of the Federal-aid highway systems. Increasing maintenance outlays are straining local budgets and the financing of future highway construction will be under intensive review in the next session of the Congress. You have made significant progress in responding to the congressional concern through the implementation of a vigorous enforcement program. With the implementation of the above discussed improvements, Hawaii will be a leader in addressing the pressing needs of future highway management and the FHWA will provide whatever assistance you feel necessary to achieve this goal.

Sincerely yours,

John S. Hassell, Jr.
Federal Highway Administrator

1980 Size and Weight Certification Evaluation

IDAHO

Comments

Idaho reports a substantial 326 percent increase in the number of vehicles weighed with a 9 percent decrease in the number of citations issued. Division Office should remind Idaho authorities that the number of unloadings is required by 658.9(b)(7) and will continue to be required in future certification reports by 657.15(e)(3)(ii). The procedure for collection of this required data should be included in division personnel's periodic field reviews.

Response Requested

Please determine how many of the 8,981 overweight vehicles were required to be off-loaded.

Disposition

Certification will be acceptable upon receipt of the requested information.

The State reported that 3,288 of the 8,981 overweight vehicles were required to be off-loaded.

1980 Size and Weight Certification Evaluation

ILLINOIS

Comments

Illinois reported a slight decrease of 1 percent in the number of vehicles reported weighed, but shows a substantial decrease of 44 percent in the number of citations issued. Division Office should try to determine the reason for this reduction in violations.

Response Requested

Has the reduction in the number of citations occurred because of budgetary reductions, more off-loadings, or more permits issued?

Disposition

Certification is acceptable upon receipt of the requested information.

Final Disposition

Certification is accepted on basis of Division's satisfactory explanation of decrease in the number of citations issued.

The decrease in citations issued was primarily the result of Illinois Public Act 81-942, effective January 1, 1980, which changed the weight tolerance from 1000 pounds to 2000 pounds over the legal limit.

1980 Size and Weight Certification Evaluation

INDIANA

Comments

For the second consecutive year, Indiana reports a significant increase in the number of vehicles weighed and citations issued. The Division office should remind Indiana authorities that the number of off-loadings is required by 658.9(b)(7) and will continue to be required in future certification reports by 657.15(e)(3)(ii). The procedure for collection of this required data should be included in division personnel's periodic field reviews.

Response Requested

How many of the 11,369 overweight vehicles were required to be off-loaded?

Disposition

Certification will be acceptable upon receipt of missing information.

Final Disposition

Certification is acceptable with Division Office satisfactory response to question concerning State policy of requiring off-loading of overweight vehicles.

The State reported that an estimated 227 of the 11,369 overweight vehicles were required to be offloaded.

1980 Size and Weight Certification Evaluation

IOWA

Comments

Iowa reports a 12 percent decrease in the number of vehicles weighed, but issued 38 percent more citations than in 1979. It would be interesting to know if this was the result of a more selective enforcement program or if the State personnel feel there is an increased disregard for weight regulations among the trucking industry members. The Division Office should remind Iowa authorities that the number of unloadings is required in the certification report by 658.9(b)(7) and will continue to be required in the future certification reports by 657.15(e)(3)(ii). In their plan, Iowa states there were 2,156 off-loadings which we will accept as the correct number for the 1980 certification period. The procedure for collection of this required data should be included in division personnel's periodic field reviews.

Disposition

Certification is acceptable as submitted.

1980 Size and Weight Certification Evaluation

KANSAS

Comments

Kansas reported 61,155 more vehicles weighed in 1980 than in 1979, an increase of 13 percent. Citations issued dropped 2 percent.

Disposition

Certification is acceptable as submitted, as State continues to exhibit an increased effort towards achieving an effective enforcement program.

1980 Size and Weight Certification Evaluation

KENTUCKY

Comments

Kentucky reported a 14 percent increase in the number of vehicles weighed, and an increase of 8 percent in the number of citations issued. Division office should remind Kentucky authorities that the number of unloadings is required by 658.9(b)(7) and will continue to be required in the future certification reports by 657.15(e)(3)(ii). The procedure for collection of this required data should be included in division personnel's periodic field reviews.

Response Requested

How many of the 7,426 vehicles were required to be off-loaded?

Disposition

Kentucky is demonstrating an effort for improving the effectiveness of the size and weight enforcement program, and certification will be acceptable upon receipt of the requested information.

Final Disposition

Certification accepted as originally submitted, upon satisfactory response to the question of State's practice of requiring overweight vehicles to be unloaded.

1980 Size and Weight Certification Evaluation

LOUISIANA

Comments

The Regional office has addressed the problem of size and weight enforcement in the urban areas and states that this area of activity will be closely monitored and evaluated in the State's update of its initial plan, as well as the Division's initial evaluation report.

Louisiana reports a 12 percent decrease in the number of vehicles weighed but increased their number of citations issued by 121 percent.

Disposition

Certification is acceptable as submitted.

1980 Size and Weight Certification Evaluation

MAINE

Comments

Maine reported a substantial increase of 275 percent in the number of vehicles weighed and an increase of 95 percent in the number of citations issued. A negative response was requested for the 1980 certifications where appropriate for each of the required elements, including the number of off-loadings, but will be required in future certification reports by Section 657.15, first paragraph. If Maine continues not to enforce their mandatory off-loading requirement, a negative response to this effect will be required on the 1981 certification.

Disposition

State is making good progress in upgrading efforts. Certifications for 1979 and 1980 have been accepted by the FHWA Administrator based upon fulfillment of State commitment proposed at the informal hearing of August 1980 and completed in the Spring/Summer of 1981.



DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, D.C. 20590

SEP 30 1981

OFFICE OF
THE ADMINISTRATOR

IN REPLY REFER TO: HCC-20

The Honorable Joseph Brennan
Governor of Maine
Augusta, Maine 04330

Dear Governor Brennan:

I have completed my review of the status report submitted by the State of Maine on its Vehicle Size and Weight Enforcement Program, together with the recommendations of the Federal Highway Administration Division and Regional Administrators, and I have determined that the certifications of the State of Maine for fiscal years 1979 and 1980 are acceptable. I have issued a Final Order in this matter which establishes that the State of Maine has substantially complied with the recommendations arising out of an informal hearing held in Augusta on August 28, 1980. This concludes our discussions on these certifications.

I would like to express my appreciation for the cooperative attitude evidenced by your Commissioners of Transportation and Public Safety in implementing those activities which will bring about an effective enforcement program in your State. The need to preserve our highways has not lessened in the past few years, and the control of vehicles sizes and weights continues to play a large role in this effort.

It is my hope that you will continue to expand upon the initiatives developed out of these proceedings and that every effort will be made to complete the important Interstate weighing facilities proposed for York. At the same time, the provision of essential weighing areas alongside primary and other highways is necessary not only for the safety of enforcement officers and the traveling public but also to provide flexibility in the operations of enforcement personnel. Finally, the training program which the State Police instituted to familiarize troop personnel with weighing operations will offer several benefits to both the weighing effort and other operations in the future. I would encourage you to utilize such training as a routine measure in the future.

A copy of my Final Order in this matter is enclosed. I wish you every success in building upon the efforts which have been instituted to bring about effective enforcement of sizes and weights and the preservation of our Federal-aid highway systems.

Sincerely yours,

R. A. Barnhart
Federal Highway Administrator

Enclosure

FEDERAL HIGHWAY ADMINISTRATION
DEPARTMENT OF TRANSPORTATION

In the Matter of the Compliance of Maine
with Federal Laws and Regulations Providing
for the Certification of Vehicle Size and
Weight Laws on the Federal-Aid Systems

FINAL ORDER OF THE ADMINISTRATOR

This matter concerns compliance by the State of Maine with those parts of the Federal-aid Highway Amendments of 1974, P. L. 93-643, and the Surface Transportation Assistance Act of 1978, P. L. 95-599 (23 U.S.C. 141), providing for the certification of enforcement of State laws respecting maximum vehicle sizes and weights permitted on the Federal-aid systems, and specifically whether the Federal-aid highway funds apportioned to the State under 23 U.S.C. 104 should be reduced by an amount equal to 10 percent for noncompliance with these requirements.

On October 2, 1980, the Federal Highway Administrator adopted and issued the findings of the Deputy Federal Highway Administrator as a preliminary Order which conditionally accepted the certification of the State of Maine based upon the implementation of recommendations set forth in the Order. These recommendations arose out of the annual review process for the certification submitted on December 26, 1979, addressing the year beginning on October 1, 1978, and ending September 30, 1979, which culminated in an informal hearing held in Augusta, Maine, on August 28, 1980.

The recommendations included the provision of heated storage facilities for semiportable scales located in Bangor, Maine; the development of paved weighing sites adjacent to Federal-aid highways; the development and implementation of a training plan for State Police who would supplement the weighing activities of dedicated personnel; and the development of operations plans and the completion of design for weighing facilities on I-95 in York.

These recommendations were to have been acted upon by April 1981. In April, the Federal Highway Administration Division Administrator had completed a preliminary review of the State's submitted status report and at that time it appeared the State was making a good-faith effort to implement all of the recommendations set forth in the preliminary Order. Since that time, our review has indicated that the Maine State Police (MSP) have trained nine officers in size and weight enforcement. Those officers are now assigned to their respective troops and are effectively utilizing additional sets of portable scales which have been purchased and deployed by the State. Additional personnel are also expected to be assigned to size and weight operations, both as a result of staffing increases and as a result of the addition of personnel from the Maine Public Utilities Commission.

In addition, off-road weighing facilities have been constructed and utilized by the MSP with favorable results.

Finally, the State has revised the proposed advertising schedule for northbound and southbound I-95 weighing areas in the town of York from the spring of 1982 to November 1981. To accomplish this end, the Maine Department of Transportation will mobilize its project development operation and we feel that the proposed schedule is realistic. It is hoped that a November advertising date will result in useable facilities before the arrival of the 1982 summer traffic.

The State representatives responsible for the development and implementation of these recommendations are to be commended for their cooperative and forthright attitude. Commissioners Campbell and Stilphen and their respective staffs have shown that, notwithstanding the diversity of claims

upon the limited resources of the State, a commitment to the preservation of our roads and highways prevails. The spirit of cooperation between the Maine Department of Transportation and the Department of Public Safety resulted in the development of a unique initiative to train and deploy on-line State Police units as a supplement to those personnel devoted exclusively to size and weight activities. This effort will enhance size and weight activities in the future. It is our hope that this initiative will be considered in future training exercises.

The review of the schedule of recommendations has been completed and it is the finding of the Federal Highway Administration Division Administrator that progress has been made in instituting an effective size and weight enforcement program in the State of Maine. Accordingly, the certifications of the State of Maine for fiscal years 1979 and 1980 are accepted as constituting compliance with the requirements of 23 U.S.C. 141, and this matter is concluded.

Issued by:

Dated: SEP 30 1981

R. A. Barnhart

R. A. Barnhart
Federal Highway Administrator



U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, D.C. 20590

JUN 4 1980

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

OFFICE OF THE ADMINISTRATOR

IN REPLY REFER TO:

HCC-20

The Honorable Joseph E. Brennan
Governor of Maine
Augusta, Maine 04330

Dear Governor Brennan:

The State of Maine is required to submit an annual certification that all State laws pertaining to the sizes and weights of motor vehicles are being enforced on all Federal-aid primary, secondary, and urban system highways in the State, including the Interstate System, in accordance with 23 U.S.C. 127. On December 26, 1979, the certification was submitted for the period October 1, 1978, to September 30, 1979. Our review of that certification indicates that enforcement efforts in your State appear to place Maine in violation of 23 U.S.C. 141, and that Federal-aid highway funds in the amount of 10 percent of those funds apportioned pursuant to 23 U.S.C. 104 may be withheld. In accordance with the applicable regulation, 23 CFR 658.17, a final determination as to the withholding of these funds will be made not less than 45 days from receipt of this letter unless the State requests an opportunity to show cause why such a determination should not be made effective. The State may do so by requesting an informal hearing within that period of time.

In amending the applicable provision of the law in section 123 of the Surface Transportation Assistance Act of 1976, the Congress made it clear that strong enforcement efforts are necessary to preserve the safety and continued maintenance of the Nation's Federal-aid highways. The State of Maine has been alerted to the importance of this provision as a previous certification of enforcement was also found to be in noncompliance. On February 3, 1978, the Secretary of Transportation informed the State that the certification covering the year October 1, 1976, to September 30, 1977, appeared to indicate deficient enforcement efforts.

On April 18, 1978, former Federal Highway Administrator William Cox conducted an informal hearing with representatives of your State. On the basis of the results of that discussion no funds were withheld that year. However, that decision relied upon the expressions of intended improvements in Maine's program. The most recent certification evidences delay in implementing those improvements. For example, there has been no increase in activity in terms of vehicles weighed or citations issued for violations. Equipment and personnel have remained constant. In fact, it appears that should the level of manpower currently committed to your program remain constant, no improvements will be forthcoming in the future.

The Division Administrator of the Federal Highway Administration has repeatedly met with State transportation officials in order to review the program, including offers of assistance from our agency. Notwithstanding the expressions of good faith made by all parties at these meetings, a program which relies upon five State policemen using portable scales to enforce the vehicle weight laws possesses such a limited capability for weighing vehicles that there is no deterrent to deliberate overloading.

This assertion has been corroborated by observations of Federal Highway Administration personnel who report that when alerted by CB radio of weighing activity, many trucks simply park near the side of the road or at truck-stops and wait until weighing activity ceases or is relocated. Vehicles which are found to be in violation are not permitted to move forward, but this prohibition lasts only for the duration of a weighing exercise, which is often limited to only 4-5 hours.

Further, the law requires complete geographic coverage of the Federal-aid systems. Although the concentration of efforts utilizing sophisticated equipment in one location in the State may increase the numbers of vehicles weighed, the inability to effectively enforce the law throughout the State will continue to raise questions concerning the level of commitment to enforcement in Maine.

You may direct your request for an informal hearing to me and I assure you it will be given prompt attention. As the hearing will be informal, any information which you feel will be conducive to a resolution of this matter may be presented. Expressions of future improvements in the program may also be presented as an offer of settlement.

Your cooperation in improving enforcement efforts in the State of Maine will assist us in resolving the questions which have been raised by this certification and will ensure the safety and continued preservation of the Federal-aid systems.

Sincerely yours,

John S. Hassell, Jr.
Deputy Administrator

1980 Size and Weight Certification Evaluation

MARYLAND

Comments

State reports a decrease in the number of vehicles weighed due to the unavailability of one fixed scale for the entire year, and only partial use of the remaining two. The increased use of portable scales and more selective enforcement resulted in an increase in the number of citations issued for overweight vehicles. Certification report indicates that two sets of portable scales were placed in operation on July 1, 1980. It would be helpful to know how many portable scales are in each set.

State authorities should be reminded of their commitment in 1978 to improve and increase size and weight activity, and enforcement of the bridge formula. Information submitted with the certification indicates the bridge formula may not be correctly enforced. They have been alerted to the need of improved effort for several years now. It appears there is some delay in the implementation of the initial plan submitted in 1978, and authorities should be informed of the need to show improvement in effort during 1981, or compliance will be reconsidered.

Response Requested

Is the bridge formula enforced in Maryland on all axles (interior bridge), or only on the first and last axles (exterior bridge)?

Disposition

Certification will be acceptable upon receipt of the requested information.

Final Disposition

Certification acceptable with Regional Office's response to inquiry in reference to the enforcement of the Federal bridge formula. State has been informed that interior bridge formula must also be enforced and FHWA Regional Counsel will meet with State's Attorney General in an effort to resolve this enforcement problem. State has also been cautioned that continued laxness in the implementation of their 5-year plan, could result in sanction actions. FHWA Regional representatives are planning to meet with State Highway Administration officials to discuss the construction of proposed fixed scale facilities.

1980 Size and Weight Certification Evaluation

MASSACHUSETTS

Comments

Massachusetts reported an increase of 17 percent in the number of vehicles weighed and a 1 percent increase in the number of citations issued. The Division review indicates that the State has made progress in adding personnel to the program. Scales have been ordered and a design contract for truck safety inspection areas has been approved. Will these conditions show increased results in 1981? The continued low level of activity, notwithstanding these improvements, causes us concern. Further, in view of the continued arbitrary imposition of fines by the courts, off-loading is critical to a successful program. Delay in implementing an off-loading policy handicaps the enforcement effort.

Disposition

The certification will be conditionally accepted pending renewed axle weight enforcement. The failure to resolve this issue will result in a rejection of this certification and the institution of penalty procedures for a violation of Section 141. The State should be notified that unless efforts improve in the near future, Massachusetts enforcement program will be in noncompliance.

Final Disposition

The certification is accepted on the basis of State legislation which will allow the State to renew axle weight enforcement.



THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

JAN 8 1981

Mr. James F. O'Leary
Acting Secretary
Executive Office of Transportation
and Construction
Boston, Massachusetts 02108

Dear Mr. O'Leary:

Thank you for your telegram and letter concerning the interpretation of the size and weight laws of Massachusetts. You requested an extension of the 120-day period established in my letter of October 10 in which the State can come into compliance with 23 U.S.C. § 127, clarification of the statutes under which the Department of Transportation is acting, and an administrative hearing on the substantive issues involved in this matter.

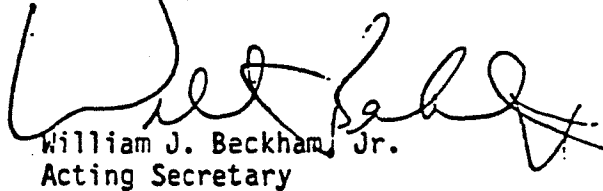
Each of these items was informally addressed at your meeting on December 10 with Federal Highway Administrator John S. Hassell, Jr. In accordance with that conversation, the Department feels that an extension of the time in which Massachusetts may come into compliance is warranted to give the Legislature an opportunity to address these matters. However, we are unable to extend the compliance period until September 1, 1981, as you requested. Notice of Interstate apportionments is given each year on July 1 to take effect on October 1. To facilitate that process, we are extending the period of time available to the State until June 1, 1981. Those funds now reserved will continue in that status during this extended time.

We made the October 10 proposed determination of noncompliance under 23 U.S.C. § 127, which requires that each State must limit the use of the Interstate System to vehicles complying with certain established maximum weights. This statute does not require an adjudication on the record after opportunity for agency hearing. The Administrative Procedure Act, 5 U.S.C. § 554, confers a right to a hearing only in cases where such a statutory requirement exists. Consequently, Massachusetts does not have a right to a hearing in this matter. Certainly, however, the great amount of correspondence on this subject and the number of meetings already held concerning it should assure the State ample opportunity to present its case, and to suggest potential solutions consonant with 23 U.S.C. § 127. In any event, the Commonwealth's rights are protected in this matter by the availability of judicial review in the Federal courts.

The regulations you ask about in your letter are not involved in this matter. Former 23 CFR § 658.17 was superseded by the new 23 CFR Part 657, and is no longer in effect. Former section 658.17, in any event, applied only to noncompliance with the certification of enforcement requirement of 23 U.S.C. § 141. Similarly, the new section 657.21 applies to enforcement actions under 23 U.S.C. § 141. While Massachusetts could be subject to an enforcement action under 23 U.S.C. § 141 and 23 CFR Part 657 on the basis of the same facts that led to my proposal to withhold the Commonwealth's Interstate apportionment under 23 U.S.C. §127, the Federal Highway Administration has not initiated such an enforcement action. For this reason, the procedure set-forth in 23 CFR § 651.21 has not been invoked.

We would like to take this opportunity to once again urge that you take prompt action to bring Massachusetts into compliance with the law to protect Federal funding.

Sincerely,

A handwritten signature in black ink, appearing to read "William J. Beckham Jr.", written in a cursive style.

William J. Beckham Jr.
Acting Secretary

Enclosure



OFFICE OF
THE ADMINISTRATOR

DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, D.C. 20590

MAY 22 1981

IN REPLY REFER TO: HCC-20

The Honorable Edward J. King
Governor of Massachusetts
Boston, Massachusetts 02133

Dear Governor King:

Thank you for your letter of May 1 concerning the matter of compliance with 23 U.S.C. 127, which establishes maximum dimensions for vehicles using the Interstate System of highways. Your restatement of the reasoning for the reservation and proposed withholding of Interstate construction funds is correct. There are two distinct violations involved: (1) the issuance of special permits to vehicles transporting divisible loads up to 104,000 pounds on a regular, systematic, and continuous basis; and (2) the non-enforcement of axle weight limitations established for the Interstate System.

Your cooperation in effecting a resolution of these violations is appreciated and I would like to assure you that an indication from your office that the State will enact legislation to come into compliance will facilitate the release of currently reserved funds. As William J. Beckham, Jr., former Acting Secretary of Transportation, indicated in his letter of January 8, a final decision on withholding was delayed until June 1 at your request. The initiation of remedial legislation on or shortly after that date will forestall any action towards withholding, and passage of such legislation within a reasonable time will secure the release of the funds. In proposing such remedial legislation, you should be aware of our concern on the issue of axle weights. Exemptions of any vehicles not specifically addressed in the 1956 law of the State cannot resolve this matter, as the axle weights are critical to the preservation of pavement life. I would like to share our reasoning for this position with you.

Section 127 was enacted into law as part of the Federal-Aid Highway Act of 1956, which first authorized the Interstate System construction. The Congress was concerned with the preservation of the Federal investment, which was established at 90 percent for the Interstate. This concern was founded in the relationship between vehicle weights and the pavements and bridges on the System. Highway pavements are designed on the basis of an anticipated service life of 20 years, which takes into account the number of axle load repetitions to which the pavement will be subjected. The basic design axle is 18,000 pounds, thus any heavier axle weights or greater number of repetitions than forecast may have a detrimental impact on service life expectations. Similarly, bridges can be subjected to undue stress if the weight impact is not controlled, which is done by establishing gross vehicle weight on the basis of a formula using the number and spacing of axles.

The standards established by the Congress in 1956 were based on the 1946 recommended policy of the American Association of State Highway and Transportation Officials (AASHTO). The weight limits were intended to be temporary pending the conclusion of a study on the issue of maximum weights which was to be undertaken by the Department of Commerce, Bureau of Public Roads, the predecessor to the

Department of Transportation, Federal Highway Administration (DOT/FHWA), in the area of highways. As certain developments in the period from 1946 to 1956 led to several States enacting higher axle or gross weight limits for their highways, the Congress sought to protect the States' rights to maintain those higher weights. The legislative history is replete with references to the ability and sovereign right of the States to establish lesser limits, or higher limits where such had been enacted as of July 1, 1956. At the same time, however, the legislative history is also quite clear that those limits actually in effect on July 1, 1956, were the maximum limits which a State could permit consistent with 23 U.S.C. 127.

There has been only one change in section 127, occasioned in 1974 by the energy shortage. In the Federal-Aid Highway Amendments of 1974, the Congress adopted the 55-m.p.h. speed limit as a permanent part of title 23 U.S.C. and, at the same time, raised the maximum weight for vehicles using the Interstate System to offset the loss of productivity which was resulting from the lower speed limit. The Department of Transportation had made several recommendations to the Congress in this area, based on the results of the earlier study required by the 1956 law (H. Doc. 354, Maximum Desirable Dimensions and Weights of Vehicles Operated on the Federal-Aid Systems). The Congress adopted the recommendations in part, but specifically rejected them in part, particularly with respect to the establishment of maximum gross weights. The 1974 Act continued the 1956 Act grandfather clause, permitting the States to establish lower limits, or higher limits to the extent such higher limits were in effect on July 1, 1956.

Every State had certain provisions providing for the issuance of special permits on July 1, 1956. In many instances, the statutory language was a general legislative grant of power enabling the State highway authority to establish the conditions by regulation for permit issuance. The position of the FHWA since 1956 is that a State cannot go beyond the explicitly established limits in the State on July 1, 1956. This position is affirmed in the legislative history of the 1956 Act.

The Congress also enacted in the 1974 Act a requirement that every State must certify annually to the Secretary that it is enforcing all State laws on all Federal-aid systems, including the Interstate System, in accordance with section 127. In a series of hearings by the House Subcommittee on Oversight of the Ways and Means Committee which was published in two volumes entitled "Impact of Truck Overloads on the Highway Trust Fund" (1978, 1979), the practices of the States in issuing special permits were criticized as being inconsistent with the express intent of the Congress. This position was further supported by the findings of the Comptroller General in a report entitled "Excessive Truck Weights: An Expensive Burden We Can No Longer Support," July 1979. The DOT/FHWA were explicitly directed to review State practices and to make determinations consistent with the findings of the Subcommittee and the Comptroller.

We have carefully reexamined this entire issue and have concluded that three separate determinations must be made to establish a grandfather right pursuant to section 127: (1) a State must have had explicit authority to issue permits for reducible loads on July 1, 1956; (2) a specific maximum weight had to be established either by law or regulation; and (3) specific authority must have existed to issue the permits in a regular manner. Failure to establish any one of the three would preclude the legality of the present permit system.

These tests are clearly grounded in the legislative history accompanying the passage of the 1956 Act, and in the AASHTO recommended policy of that time. Our examination of relevant Massachusetts law indicates that the State does not meet these tests. The Comptroller General was explicit in his report on the subject of generalized authority to issue permits. Such authority does not, per se, comply with section 127 when used to justify an expansion of State practices in existence in 1956. In this respect, I would direct your attention to the comments of Senators Kerr, Malone, and Gore in the debate on the Senate side.

I would like to note that the conclusions of the report done for the Construction Industry Council by C. E. Maguire, Inc., was of particular concern to us. That report stated as follows:

"As evidenced by the U.S. Senate and House of Representatives subcommittee proceedings in 1968 and 1969 as well as the detailed reports and research projects by Highway Research Board, Federal Highway Administration, Maryland, Kentucky, Minnesota, Illinois, Ontario, etc., a tremendous amount of effort has been expended, in order to show the effects of even small increases in vehicles weights. It is apparent, given the massive engineering data against allowing significant weight increases and the virtually nonexistent engineering data supporting such increases, that even relatively modest increases in maximum vehicular weights will require detailed research of existing roadway and bridge capacities and life expectancies in Massachusetts. Further, the significant increases desired by the construction vehicle operators will most assuredly require detailed route surveys, upgrading or posting of roads and bridges and overcoming the psychological objections which have been raised so strongly in the past against any issuances at all

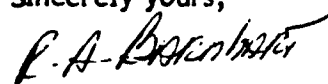
". . . . Since Massachusetts legal weight limits are already greater than AASHTO design values, any further increases should only be allowed after detailed engineering evaluations are made of this state's road and bridge systems."

We are in an era of budgetary scarcity, and inflation is eroding our highway construction dollars. Parts of our Interstate System are approaching the original design life and need substantial reconstruction. The reduction in serviceability results in part from the impact of vehicles heavier than anticipated or permitted under the law.

I feel certain that if the trucking industry understood the detrimental impacts of heavy loads on the highway, it would work with the State to voluntarily control weight in the interests not only of highway safety but also in the interests of a well-maintained highway system.

I hope this information is of assistance to you.

Sincerely yours,





OFFICE OF
THE ADMINISTRATOR

DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, D.C. 20590

22

IN REPLY REFER TO: HCC-20

The Honorable Sam M. Gibbons
Chairman, Subcommittee on Trade
Committee on Ways and Means
House of Representatives
Washington, D.C. 20515

Dear Mr. Gibbons:

The Department of Transportation is currently reserving from use the total amount of Interstate construction funds apportioned to the States of Massachusetts and South Dakota, pending a final determination on the compliance of State practices with Federal law. A final decision to withhold will result in the reapportionment of those funds. This action has been taken under the authority and requirements of 23 U.S.C. 127, which provides for certain maximum permissible weights for vehicles using the Interstate System of highways.

Section 127 was enacted into law as part of the Federal-Aid Highway Act of 1956, which first authorized the Interstate System construction. The Congress was concerned with the preservation of the Federal investment, which was established at 90 percent for the Interstate. This concern was founded in the relationship between vehicle weights and the pavements and bridges on the System. Highway pavements are designed on the basis of an anticipated service life of 20 years, which takes into account the number of axle load repetitions to which the pavement will be subjected. The basic design axle is 18,000 pounds, thus any heavier axle weights or greater number of repetitions than forecast may have a detrimental impact on service life expectations. Similarly, bridges can be subjected to undue stress if the weight impact is not controlled, which is done by establishing gross vehicle weight on the basis of a formula using the number and spacing of axles.

The standards established by the Congress in 1956 were based on the 1946 recommended policy of the American Association of State Highway and Transportation Officials (AASHTO). The weight limits were intended to be temporary pending the conclusion of a study on the issue of maximum weights which was to be undertaken by the Department of Commerce, Bureau of Public Roads, the predecessor to the Department of Transportation, Federal Highway Administration (DOT/FHWA), in the area of highways. As certain developments in the period from 1946 to 1956 led to several States enacting higher axle or gross weight limits for their highways, the Congress sought to protect the States' rights to maintain those higher weights. The legislative history is replete with references to the ability and sovereign right of the States to establish lesser limits, or higher limits where such had been enacted as of July 1, 1956. At the same time, however, the legislative history is also quite clear that those limits actually in effect on July 1, 1956, were the maximum limits which a State could permit consistent with 23 U.S.C. 127.

There has been only one change in section 127, occasioned in 1974 by the energy shortage. In the Federal-Aid Highway Amendments of 1974, the Congress adopted the 55-m.p.h. speed limit as a permanent part of title 23 U.S.C. and, at the same time, raised the maximum weight for vehicles using the Interstate System to offset the loss of productivity which was resulting from the lower speed limit. The Department of Transportation had made several recommendations to the Congress in this area, based on the results of the earlier study required by the 1956 law (H. Doc. 354, Maximum Desirable Dimensions and Weights of Vehicles Operated on the Federal-Aid Systems). The Congress adopted the recommendations in part, but specifically rejected them in part, particularly with respect to the establishment of maximum gross weights. The 1974 Act continued the 1956 Act grandfather clause, permitting the States to establish lower limits, or higher limits to the extent such higher limits were in effect on July 1, 1956.

Every State had certain provisions providing for the issuance of special permits on July 1, 1956. In many instances, the statutory language was a general legislative grant of power enabling the State highway authority to establish the conditions by regulation for permit issuance. The position of the FHWA since 1956 is that a State cannot go beyond the explicitly established limits in the State on July 1, 1956. This position is affirmed in the legislative history of the 1956 Act.

The Congress also enacted in the 1974 Act a requirement that every State must certify annually to the Secretary that it is enforcing all State laws on all Federal-aid systems, including the Interstate System, in accordance with section 127. In a series of hearings by the House Subcommittee on Oversight of the Ways and Means Committee which was published in two volumes entitled "Impact of Truck Overloads on the Highway Trust Fund" (1978, 1979), the practices of the States in issuing special permits were criticized as being inconsistent with the express intent of the Congress. This position was further supported by the findings of the Comptroller General in a report entitled "Excessive Truck Weights: An Expensive Burden We Can No Longer Support," July 1979. The DOT/FHWA were explicitly directed to review State practices and to make determinations consistent with the findings of the Subcommittee and the Comptroller.

Thus, each State's special permit practices have been under intensive review to determine if any practices, established with the knowledge of the DOT/FHWA, or otherwise, were inconsistent with the law. This review has been in addition to the normal advisory review which we perform on pending State legislation. Massachusetts and South Dakota have been under advisement since 1979-1980 and have been informed that, unless the inconsistent practices are ceased, section 127 requires the withholding of Interstate construction money. Montana and Oregon have been similarly informed and actions to reserve Interstate funds are pending. Nebraska, Colorado, and New Mexico ceased issuing permits in violation of section 127 upon notification by the FHWA. Other States in the past ceased inconsistent practices upon notification.

There are similar practices under review in a number of other States such as Utah and Nevada; Connecticut with respect to tandem axle weights; and North Carolina and New Jersey with respect to bridge formula enforcement. As you can see, the decisions taken with respect to section 127 have wide ranging impact. It is our intent to enforce the provisions of the statute to fulfill the explicit directions of the Congress and we are without discretion to mitigate the penalty provided by the law. We are in an era of

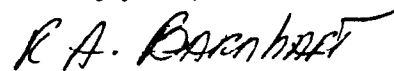
budgetary scarcity, and inflation is eroding our highway construction dollars. Parts of our Interstate System are approaching the original design life and need substantial reconstruction. The reduction in serviceability results in part from the impact of vehicles heavier than anticipated or permitted under the law.

I feel certain that if the trucking industry understood the detrimental impacts of heavy loads on the highway, it would work with the States voluntarily to control weight in the interests not only of highway safety but also in the interests of a well-maintained highway system. However, where, as in Massachusetts and other States, the laws are inconsistent with section 127, we are acting to implement the law. If the States are not in compliance within a reasonable time, I will recommend that the Secretary of Transportation withhold Interstate funds. The Secretary has previously advised Massachusetts that a final determination on withholding would be made no earlier than June 1. A final decision will be made shortly thereafter and the States will either come into compliance or lose their Interstate funding.

I hope this information is of assistance to you.

Similar letters are being sent to Representatives James J. Howard and Charles B. Rangel.

Sincerely yours,



Identical letter to:

The Honorable James J. Howard
Chairman, Committee on
Public Works and Transportation
House of Representatives
Washington, D.C. 20515

The Honorable Charles B. Rangel
Chairman, Subcommittee on Oversight
Committee on Ways and Means
House of Representatives
Washington, D.C. 20515



OFFICE OF
THE ADMINISTRATOR

DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, D.C. 20590

IN REPLY REFER TO: HCC-20

The Honorable Brian Donnelly
House of Representatives
Washington, D.C. 20515

Dear Mr. Donnelly:

This is in response to your letter of May 1 concerning possible reapportionment of Federal-aid highway funds in the State of Massachusetts.

The Department of Transportation is currently reserving from use the total amount of Interstate construction funds apportioned to the States of Massachusetts and South Dakota, pending a final determination on the compliance of State practices with Federal law. A final decision to withhold will result in the reapportionment of those funds. This action has been taken under the authority and requirements of 23 U.S.C. 127, which provides for certain maximum permissible weights for vehicles using the Interstate System of highways.

Section 127 was enacted into law as part of the Federal-Aid Highway Act of 1956, which first authorized the Interstate System construction. The Congress was concerned with the preservation of the Federal investment, which was established at 90 percent for the Interstate. This concern was founded in the relationship between vehicle weights and the pavements and bridges on the System. Highway pavements are designed on the basis of an anticipated service life of 20 years, which takes into account the number of axle load repetitions to which the pavement will be subjected. The basic design axle is 18,000 pounds, thus any heavier axle weights or greater number of repetitions than forecast may have a detrimental impact on service life expectations. Similarly, bridges can be subjected to undue stress if the weight impact is not controlled, which is done by establishing gross vehicle weight on the basis of a formula using the number and spacing of axles.

The standards established by the Congress in 1956 were based on the 1946 recommended policy of the American Association of State Highway and Transportation Officials (AASHTO). The weight limits were intended to be temporary pending the conclusion of a study on the issue of maximum weights which was to be undertaken by the Department of Commerce, Bureau of Public Roads, the predecessor to the Department of Transportation, Federal Highway Administration (DOT/FHWA), in the area of highways. As certain developments in the period from 1946 to 1956 led to several States enacting higher axle or gross weight limits for their highways, the Congress sought to protect the States' rights to maintain those higher weights. The legislative history is replete with references to the ability and sovereign right of the States to establish lesser limits, or higher limits where such had been enacted as of July 1, 1956. At the same time, however, the legislative history is also quite clear that those limits actually in effect on July 1, 1956, were the maximum limits which a State could permit consistent with 23 U.S.C. 127.

There has been only one change in section 127, occasioned in 1974 by the energy shortage. In the Federal-Aid Highway Amendments of 1974, the Congress adopted the 55-m.p.h. speed limit as a permanent part of title 23 U.S.C. and, at the same time, raised the maximum weight for vehicles using the Interstate System to offset the loss of productivity which was resulting from the lower speed limit. The Department of Transportation had made several recommendations to the Congress in this area, based on the results of the earlier study required by the 1956 law (H. Doc. 354, Maximum Desirable Dimensions and Weights of Vehicles Operated on the Federal-Aid Systems). The Congress adopted the recommendations in part, but specifically rejected them in part, particularly with respect to the establishment of maximum gross weights. The 1974 Act continued the 1956 Act grandfather clause, permitting the States to establish lower limits, or higher limits to the extent such higher limits were in effect on July 1, 1956.

Every State had certain provisions providing for the issuance of special permits on July 1, 1956. In many instances, the statutory language was a general legislative grant of power enabling the State highway authority to establish the conditions by regulation for permit issuance. The position of the FHWA since 1956 is that a State cannot go beyond the explicitly established limits in the State on July 1, 1956. This position is affirmed in the legislative history of the 1956 Act.

The Congress also enacted in the 1974 Act a requirement that every State must certify annually to the Secretary that it is enforcing all State laws on all Federal-aid systems, including the Interstate System, in accordance with section 127. In a series of hearings by the House Subcommittee on Oversight of the Ways and Means Committee which was published in two volumes entitled "Impact of Truck Overloads on the Highway Trust Fund" (1978, 1979), the practices of the States in issuing special permits were criticized as being inconsistent with the express intent of the Congress. This position was further supported by the findings of the Comptroller General in a report entitled "Excessive Truck Weights: An Expensive Burden We Can No Longer Support," July 1979. The DOT/FHWA were explicitly directed to review State practices and to make determinations consistent with the findings of the Subcommittee and the Comptroller.

Thus, each State's special permit practices have been under intensive review to determine if any practices, established with the knowledge of the DOT/FHWA, or otherwise, were inconsistent with the law. This review has been in addition to the normal advisory review which we perform on pending State legislation. Massachusetts and South Dakota have been under advisement since 1979-1980 and have been informed that, unless the inconsistent practices are ceased, section 127 requires the withholding of Interstate construction money. Montana and Oregon have been similarly informed and actions to reserve Interstate funds are pending. Nebraska, Colorado, and New Mexico ceased issuing permits in violation of section 127 upon notification by the FHWA. Other States in the past ceased inconsistent practices upon notification.

There are similar practices under review in a number of other States such as Utah and Nevada; Connecticut with respect to tandem axle weights; and North Carolina and New Jersey with respect to bridge formula enforcement. As you can see, the decisions taken with respect to section 127 have wide ranging impact. It is our intent to enforce the provisions of the statute to fulfill the explicit directions of the Congress and we are without discretion to mitigate the penalty provided by the law. We are in an era of

budgetary scarcity, and inflation is eroding our highway construction dollars. Parts of our Interstate System are approaching the original design life and need substantial reconstruction. The reduction in serviceability results in part from the impact of vehicles heavier than anticipated or permitted under the law.

I feel certain that if the trucking industry understood the detrimental impacts of heavy loads on the highway, it would work with the States voluntarily to control weight in the interests not only of highway safety but also in the interests of a well-maintained highway system. However, where, as in Massachusetts and other States, the laws are inconsistent with section 127, we are acting to implement the law. If the States are not in compliance within a reasonable time, I will recommend that the Secretary of Transportation withhold Interstate funds. The Secretary has previously advised Massachusetts that a final determination on withholding would be made no earlier than June 1. A final decision will be made shortly thereafter and the States will either come into compliance or lose their Interstate funding.

I hope this information is of assistance to you.

Sincerely yours,

E. A. Braenhaet



DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, D.C. 20590

OCT 16 1981

OFFICE OF
THE ADMINISTRATOR

IN REPLY REFER TO:

HCC-20

Mr. James F. Carlin
Secretary, Executive Office of
Transportation and Construction
One Ashburton Place
Boston, Massachusetts 02108

Dear Mr. Carlin:

Thank you for your letter of August 27 to Chief Counsel Donald Ivers, enclosing a proposed amendment to M.G.L. Chapter 90 section 19A. In establishing enforcement parity with respect to the axle weight limitation provision by eliminating the priority status presently invested in the bridge formula clause, the Commonwealth will take a significant step in the direction of compliance with 23 U.S.C. 127. However, as discussions at the staff level have indicated, the open-ended nature of the draft exemption language still provides an unacceptable loophole which can be rectified by further amending this provision to provide a time-certain phase-out period for the exemption. We feel that a 5-year period from date of enactment constitutes an equitable compromise on this important point which will permit the affected industries to plan for the future and at the same time allow enforcement officials to continue the enforcement initiative instituted in 1979.

I would also like to call your attention to one other difficulty with the proposed legislation which has been revealed in our current review. As you know, Massachusetts has provided for a single axle weight of 22,400 pounds since prior to 1956. This is a recognized grandfather right on all vehicles included within the federally established limits between 1956 and 1974, the date of enactment of the Federal-Aid Highway Amendments of 1974. The maximum gross weight for such vehicles on the Interstate System was 73,280 pounds.

In enacting the Federal-Aid Highway Amendments of 1974, the Congress not only raised axle and gross weights, but also adopted the "bridge formula." In an effort to retain equity and not force States with higher single or tandem axle weights to roll back weight limits to the stricter incremental limits of the 1974 Act, the Congress reaffirmed the grandfather right to higher single and tandem axle weights for those vehicles then legal on the Interstate System. However, you should be aware that on those vehicles above 73,280 pounds, application of the bridge formula is required.

I hope this information is of assistance to you.

Sincerely yours,

R. A. Barnhart
Federal Highway Administrator

1980 Size and Weight Certification Evaluation

MICHIGAN

Comments

Michigan reports a decrease of 15 percent (305,642 fewer vehicles) in the number of vehicles weighed, but a 3 percent increase in the number of citations issued. Since Michigan is a demonstration State and is receiving additional Federal funds for equipment and personnel, it would appear its total enforcement effort should continue to increase in all categories.

The Chief Counsel's office questions the State's position that it has no maximum weight limit, and will request additional clarification of the Michigan statutes. State should also be alerted to possible conflict with Federal regulations. Chief Counsel's office will prepare an appropriate letter to the State.

Response Requested

Division office should determine the reason for the substantial reduction in the number of vehicles reported weighed by the demonstration State.

Disposition

Certification will be acceptable upon satisfactory response to the question in reference to the reduction of activity.

Final Disposition

Certification acceptable per Region's report as follows:

"The reason for the (substantial) 15 percent reduction in the number of vehicles reported weighed in Michigan is primarily the result of a combination of three circumstances. First, because of the state of the economy, the actual truck count on Michigan highways is down considerably, especially those hauling steel and auto parts. Secondly, the merger of carriers in the State has also had an effect on the overall truck count. Finally, even though Michigan is a demonstration State and a number of their weighing facilities are open on a 24-hour basis, each time that a safety check is made on a a vehicle at these sites, unless there is another person present, the safety inspector cannot be counting vehicles weighed during that time. A safety inspection generally takes about 1/2 hour, thus a number of vehicles are missed (count) even though they pass over the scales. During that time scales are usully set heavy and only vehicles that are substantially overweight are identified and counted."

1980 Size and Weight Certification Evaluation

MINNESOTA

Comments

Minnesota reports an increase of 39 percent in the number of vehicles weighed and a 10 percent increase in the number of citations issued, but no mention of any vehicles being required to off-load or unload. A negative response, if appropriate, was requested for the 1980 certification, but will be required on future reports by Section 657.15, first paragraph. The procedure for collection of this required data should be included in division personnel's periodic field reviews.

Response Requested

How many of the 6,144 overweight vehicles were required to be off-loaded?

Disposition

Certification will be acceptable upon receipt of the requested information.

Final Disposition

Certification is acceptable with State's satisfactory explanation of the policy of off-loading of overweight vehicles. However, Division Office should review the fine and penalty schedules, and the enforcement plan, to assure the effectiveness of enforcement in the State.

The State reported its policy as follows:

"The Minnesota State Patrol did not record the number "off-loadings" that were required as a result of enforcement weighing during 1980. In response to your request for this information, changes in the Patrol Management Informatin System will be implemented to provide data on the number of "off-loadings" in the future.

The Minnesota Statutes governing the movement of overweight vehicles, technically prevent the further movement of a vehicle rather than requiring "off-loading" of all excess weight. In this respect, often a redistribution of the load or changes in the "settings" of the axles or fifth wheel, etc. can be made to comply with the maximum legal weight limits.

In those instances where an overweight condition cannot be corrected without "off-loading" often a more specialized truck tractor can be utilized to meet the maximum legal weight limits without "off-loading."

The "off-loading" of overweight vehicles is usually a costly, time-consuming and sometimes dangerous operation which most operators avoid if at all possible. In view of this fact, the total number of actual "off-loadings" of overweight vehicles required in Minnesota during 1980 is very negligible."

1980 Size and Weight Certification Evaluation

MISSISSIPPI

Comments

Mississippi reports a fairly substantial reduction of 15 percent (779,816) in the number of vehicles weighed, and a decrease of 30 percent (3,743) in citations issued. The certification fails to mention any incidents of off-loading or unloading as required by Section 658.9(b)(7). A negative response if appropriate, was requested for the 1980 certification, but will be required in future reports by Section 657.15, first paragraph. The procedure for the collection of this required data should be included in division personnel's periodic field reviews.

Response Requested

Division should determine if the reduction in activity was the result of a problem, reduction of truck traffic, change in accounting and recordkeeping procedures, or budgetary reductions. Also, how many of the 8,850 overweight vehicles were required to off-load? In view of the State's unique procedure for assessments, it may be necessary to report the number of violations reported on fixed scales, which are given assessments and allowed to continue, in addition to the number of apprehended by portable scales, which we assume are subject to off-loading.

Disposition

Certification will be acceptable upon receipt of requested information.

Final Disposition

Certification is acceptable with Division Office's satisfactory explanation as to State's policy and procedures in requiring overloaded vehicles to be off-loaded and recordkeeping practices. The Division reported:

"We have been informed by the State that the reduction in the number of vehicles weighed was not a result of any lessening of enforcement activity but due to improved recordkeeping.

Due to changes in the administration of the State's enforcement program, the number of unloadings involved in the citations cannot be accurately determined. The current administration requires all violators to off-load or, if possible, load shift before continuing. Records of these activities are now being kept."

1980 Size and Weight Certification Evaluation

MISSOURI

Comments

Missouri reports an increase of 3 percent in the number of vehicles weighed and a substantial increase of 111 percent in the number of citations issued. Division office should require Mr. Hunter to use the prescribed certification statement in future reports (See Section 657.15(c)).

Disposition

Certification is acceptable as submitted. State should be encouraged to continue its good efforts towards achieving an even more effective enforcement program.

1980 Size and Weight Certification Evaluation

MONTANA

Comments

Montana reported an increase of 17 percent in the number of vehicles weighed, and a substantial increase of 117 percent in the number of citations issued. Chief Counsel's Office does not agree with Montana's contention that it has bridge formula grandfather rights as a result of the Anderson case. This matter is currently under review.

Response Requested

Do any of the 8,385 overweight single trip special permits include 105,000 pound permits?

Disposition

Certification will be conditionally accepted pending clarification of the permit question.

Final Disposition

The State's certification is accepted for 1980 but should be cautioned that the Chief Counsel's Office does not agree with their interpretation that they have bridge formula grandfather rights as a result of the Anderson case. This matter is continuing under review. We also acknowledge that the State has been notified that no tolerance above 80,000 pounds can be granted on the Interstate System.



THE SECRETARY OF TRANSPORTATION

WASHINGTON D C 20590

The Honorable Ted Schwinden
Governor of Montana
Helena, Montana 59620

MA

Dear Governor Schwinden:

Thank you for your letter of February 13 concerning the notification by the Federal Highway Administration (FHWA) that the State of Montana is not in compliance with 23 U.S.C. 127, which establishes maximum vehicle weights and widths on the Interstate System. Montana is issuing special permits to vehicles transporting up to 105,000 pounds and the practice of routinely issuing such permits has been determined to be legalization of higher weight limits than those provided by the Congress.

As you have pointed out, the law recognizes legitimate grandfather rights; that is those rights which were specifically authorized by State law or regulation on July 1, 1956. The FHWA does not seek to change the provisions of section 127, nor to invalidate any legitimate enfranchisement of any State. However, the Congress has been increasingly concerned with the impact of heavy vehicle movements on the Interstate System and the States' compliance with provisions of the law. As you may know, the FHWA did challenge the practice of Montana in issuing special permits in 1973-1974, but as a result of the foreign source petroleum embargo and congressional consideration of the size and weight provisions at that time, some temporary liberalization was allowed to permit the States to establish future policies and to move agricultural products to market.

The Department proposed to the Congress in 1974 that the very framework of the plan used in Montana be placed in section 127, that is, control of the axle weights and axle spacing. The Congress accepted part of the proposal, but rejected part in placing a specific maximum weight limit of 80,000 pounds in the law. The language of the law and the actions of the Congress in rejecting the Department's proposal speak more clearly to congressional intent than any individual colloquy by either Senators or Representatives.

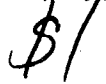
The Department has been subjected to severe criticism for condoning the expansion of the law which several States have attempted through utilization of liberal special permit practices. The Subcommittee on Oversight of the Committee on Ways and Means of the House of Representatives published two volumes of hearings on this topic in 1978-1979, entitled "Impact of Truck Overloads On the Highway Trust Fund." These hearings laid the foundation for changes in the Surface Transportation Assistance Act of 1978, P.L. 95-599, which required stronger enforcement by both the Federal and State Governments.

the practice of issuing permits in the manner authorized in Montana and other States was examined by the Comptroller General of the United States and, in a report issued in July 1979, "Excessive Truck Weight: An Expensive Burden We Can No Longer Support," the Comptroller reported to the Congress that State opinions supporting permit practices based on broad authority to issue permits in 1956 were not sufficient to justify such a practice. The report stated, "The grandfather clause, in our opinion, does not authorize the issuance of permits to exceed State, or Federal weight ceilings merely on the basis that a State could have passed a permit law on July 1, 1956, but failed to do so." It is the use of permits to raise the weight limits in a de facto manner, specifically contrary to the congressional language, which is at issue here.

The Congress has instructed the Department to review the impacts and benefits involving vehicle weights and two studies currently underway within the Department, the Cost Allocation Study and the Uniformity Study, will furnish the basis for future recommendations to the Congress.

I hope this information is of assistance to you.

Sincerely,

A handwritten signature in dark ink, appearing to be the initials 'S/P' or similar, written in a cursive style.



THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

MAR 11 1981

The Honorable Max Baucus
United States Senate
Washington, D.C. 20510

Dear Senator Baucus:

Thank you for your letter of February 9 regarding the possible withholding of Federal-aid highway Interstate apportionments to Montana because of an infringement of 23 U.S.C. 127, which provides for maximum vehicle sizes and weights on the Interstate System. Montana is currently issuing special permits on a routine basis to vehicles using the Interstate System with weights up to 105,000 pounds.

In 1974, the Administration proposed a raise in the prevailing weight limit at that time of 73,280 pounds, to permit the States to establish their own upper weight limits, provided that the axle weight limits and spacing were controlled, and provided a length limit was also enacted. This proposal was made in response to the needs of commerce, particularly in view of the petroleum embargo of 1973 and the continuing abandonment of railroads throughout the Nation. In enacting a weight limit of 80,000 pounds, the Congress specifically rejected the Administration's proposal.

The only exceptions permitted by the Congress are those legitimate higher weights authorized on July 1, 1956, by law or regulation. The law does not provide the Department of Transportation with administrative discretion to raise the weight limit or to require those States with limits below 80,000 pounds to raise them to a uniform weight. For example, in the recent fuel shortage in the summer of 1979, the Executive Branch was unable to respond to rising prices or fuel scarcity by compelling a uniform maximum weight. Further, the practice of the States in seeking to raise weight limits through the use of special permits or other exclusionary provisions was criticized in a recent Comptroller General's report to the Congress, "Excessive Truck Weights: An Expensive Burden We Can No Longer Support" (July 1979).

As a result of the limitations in the law, we are currently examining the entire question of vehicle sizes and weights in relation to highway system needs. Until such time as the law is changed, the Department must advise the States of the need to comply with the provisions of title 23, United States Code.

Sincerely,

A handwritten signature, possibly "JF", is written below the word "Sincerely,".



THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

The Honorable Ron Marlenee
House of Representatives
Washington, D.C. 20515

MAR 19 1981

Dear Mr. Marlenee:

Thank you for your letter of February 18 concerning the potential loss of Federal-aid highway funds to the State of Montana for the issuance of special permits authorizing vehicles to use the Interstate System of highways with weight above 80,000 pounds.

Your letter discusses the applicable statutory provision, 23 U.S.C. 127, and some of the legislative history highlights which occurred during the colloquy on the Federal-Aid Highway Amendments of 1974, P.L. 93-643 (January 4, 1975), at which time the weight limits were raised from 73,280 pounds to 80,000 pounds. As you have been furnished with a copy of the Memorandum of Law on this subject, you are familiar with the position of the Federal Highway Administration on this matter. The context in which the weight limit was raised in 1974 is significant.

At that time, the Administration proposed to the Congress that the States be permitted to establish weight limits in exactly the manner Montana and other States are now doing, by controlling the axle weights and the spacing of the axles. However, the Congress amended the Administration proposal and placed a weight limit of 80,000 pounds in the law. The so-called "grandfather clause" which had been placed in the law in 1956 remained unaffected. But that provision did not enfranchise the States to exceed the law at that time and it is clear from an examination of not only the legislative history of section 127 but also from related materials that the Congress did not intend to create an indefinite and uncontrollable system of changing weight limits, in the absence of the careful deliberation of the Congress.

This position has been reaffirmed by the Comptroller General of the United States in a recent report, "Excessive Truck Weights: An Expensive Burden We Can No Longer Support (July 1979)." In that report, the Comptroller General states that the grandfather clause does not authorize the issuance of permits to exceed State or Federal weight ceilings merely on the basis that a State could have passed a permit law on July 1, 1956, but failed to do so.

The Congress has directed the Department to reexamine the entire question of costs and benefits related to the establishment of vehicle weights and two studies on these issues are nearing completion. The cost allocation

study required by section 306 of the Surface Transportation Assistance Act of 1978, P.L. 95-599, and the uniformity study required by section 161 of that Act are nearing completion and will furnish the basis for recommendations at that time.

I hope this information is of assistance to you.

Sincerely,





THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

AUG 31 1981

The Honorable Pat Williams
House of Representatives
Washington, D.C. 20515

Dear Mr. Williams:

Thank you for your letter concerning Montana's compliance with 23 U.S.C. 127. You have requested an update on significant developments and decisions involving the permitting of vehicles over 80,000 pounds on the Interstate System. Your March 31 letter was not received by the Department.

As you know, the Federal Highway Administration has been reviewing all State laws and regulations, particularly those involving special permits for use of the Interstate System. This review is the result in part of the normal administration of 23 U.S.C. 127 and in part of the recommendations of the Comptroller General, who issued a report in July 1979 entitled "Excessive Truck Weight: An Expensive Burden We Can No Longer Support." The conclusions of that report were that the States are allowing vehicles in excess of the specified limits of section 127 to use the Interstate System.

There are a variety of laws throughout the States which could place a State in violation of section 127. The issuance of permits for divisible loads in excess of 80,000 pounds without requiring compliance with the bridge formula, the issuance of permits on the basis of bridge formula requirements, the issuance of permits for higher gross weights but with lower axle weights, and the issuance of permits for both higher gross and higher axle weights all present potential conflict situations. The interpretations of legality must be made on the basis of the "grandfather clause" in section 127, which conditions legality on the existence of State law or regulation as of July 1, 1956.

The grandfather clause relies on State laws which are more than 25 years old. Their legislative background and factual implementation is often obscure. It is our interpretation that the Congress wanted to provide reasonable and foreseeable limits and, at the same time, provide for those vehicles then using the highways. Theoretical extrapolations of vehicles which could have used but did not use the highways were not within the intent of the Congress. In those instances, such as failure to require or enforce the bridge formula or where higher axle weights are permitted, enforcement will be vigorously pursued. In other, less clear situations, such as the issuance of permits on the basis of the bridge formula, notification of a violation will not result in the present withholding of funds.

Accordingly, Montana has been provided with a Memorandum of Law which concludes that the issuance of permits to vehicles in excess of 80,000 pounds appears to conflict with section 127 (copy enclosed). However, no funding will be affected because the Department is completing two studies, the uniformity and the cost allocation studies, which will furnish the basis for recommendations to the Congress on needed changes in the size and weight laws. The Congress has indicated that it intends to review this issue during the next session and it is our belief that the Congress is the proper forum for settlement of controversies and questions involving ambiguous size and weight laws. It is our intention to cooperate with the Congress in this undertaking.

In the interim, I would request that all the States continue to use diligence in the issuance of permits for the good of our highway system.

I hope this information is of assistance to you.

Sincerely,

15/ Krew Lewis

Enclosure

1980 Size and Weight Certification Evaluation

NEBRASKA

Comments

Nebraska reported a 4 percent increase in the number of vehicles weighed, with a slight reduction of 1 percent in the number of citations issued. State reports a total of 15,308 weight violations which include citations, assessments, unloadings, or arrests. Section 658.9(b)(7) requires "The separate numbers of citations, assessments, unloadings, or arrests, for size and for weight violations respectively." This same information will be required in future certifications by Section 657.15(e)(3)(ii). The procedure for collection of this required data should be included in division personnel's periodic field reviews.

Pursuant to your review comments and discussions held here in Washington, you should review the matter of permits under rule 5A with the State to eliminate arbitrary application and limit permits to agriculture commodity movement only. If necessary, the Office of Chief Counsel will assist you in this matter.

Response Requested

Division should determine the required stratification for the 15,308 overweight violations and the 1,042 oversize violations.

Disposition

Certification will be acceptable upon receipt of the requested information.

Final Disposition

Certification acceptable with satisfactory explanation from State on question of stratification of overweight and oversize violations.

The State should be reminded that it must report the separate number of unloadings in addition to the total number of citations issued.

1980 Size and Weight Certification Evaluation

NEVADA

Comments

Nevada reports a substantial 78 percent increase in the number of vehicles weighed and an almost 100 percent increase in the number of citations issued. State authorities should be encouraged to continue their progress in the administration of the size and weight enforcement efforts.

Disposition

Certification is acceptable as submitted, as Nevada continues to give evidence of striving for a more effective program.

1980 Size and Weight Certification Evaluation

NEW HAMPSHIRE

Comments

New Hampshire reports a decrease of 59 percent in the number of vehicles weighed and a decrease of 36 percent in the number of citations issued. Division explanation of scale malfunctions and reconstruction indicate that enforcement effort is acceptable for this year. However, the erratic enforcement over the past few years and possibility of extended disrepair of scales warrant a letter of caution from the FHWA Administrator. No funds are at issue, but the State will be made aware of the need to review commitment to effective enforcement.

Disposition

Certification is acceptable with division explanation of the reason for reduced activity. The State reported as follows:

"For the better part of the year, the fixed platform scales on Interstate 93 in Windham suffered from mechanical breakdown which prevented both scales from being operated, one because of mechanical malfunction and one because it could not be certified as accurate. State Troopers and Safety Inspectors assigned to these locations were required to weigh with portable scales, a much slower process which greatly reduced the number of vehicles weighed and measured per hour on this busy north-south highway in 1980, as well as adversely affecting the statewide totals. In analyzing the situation, we discovered that both the State Police and the special weigh detail of Safety Inspectors reported similar percentage declines in the numbers of vehicles weighed and the number of violations as opposed to the previous year, and that despite a declining volume of truck traffic nationwide due to the current economic slowdown, a factor which is testified to by the decline in diesel fuel tax revenues from commercial vehicles during the past 12 months, the State Police and Safety Inspectors visually checked more commercial vehicles than in any previous year. Therefore, the inescapable conclusion is that the reduction in volume of vehicles weighed was caused by the mechanical malfunction of these scales on the State's primary route for through trucking.

The Department of Public Works and Highways, which is responsible for maintaining the platform scales, conducted an in-depth engineering evaluation of these two scales, and determined that they required major repairs involving a considerable financial investment. Detailed specifications were drawn and bids were let by summer, but the earliest the repairs could be completed was December 1980, well beyond the period covered by this certification.

However, the necessary repairs are now nearly completed and these two scales will be pending certification and should be in operation during January 1981. Evaluation of the Lebanon scales on Interstate 89 are now underway, and the Department of Safety and the Department of Public Works and Highways are currently discussing plans to refurbish or upgrade these scales, which have been susceptible to excessive downtime during the past year as well."

1980 Size and Weight Certification Evaluation

NEW JERSEY

Comments

New Jersey reported an increase of 74 percent in the number of vehicles weighed and an increase of over 100 percent in the number of citations issued. State is apparently making a sincere effort to increase the volume of its activity each year.

Disposition

Certification is accepted as submitted, as State is giving evidence of its striving to achieve a more effective size and weight program.

1980 Size and Weight Certification Evaluation

NEW MEXICO

Comments

New Mexico reported an increase of 1 percent in the number of vehicles weighed, but increased by 38 percent the number of citations issued. Division office is aware of and is addressing the requirement of obtaining accurate counts for the number of vehicles weighed and the number of vehicles required to be unloaded because of excessive size or weight.

Total number of citations issued in proportion to the number of vehicles weighed seems unreasonably low. The question of counting visually checked vehicles as having been weighed has been raised in the past by the Chief Counsel's Office. There is also a question of the State issuing permits to discovered overweight vehicles, in lieu of citations or requiring vehicle to be off-loaded, resulting in the unusually low number of citations issued.

The practice of issuing special permits for divisible loads remains unresolved. Is the State issuing permits for divisible loads? Why has the Commission refused to clarify their regulation with respect to the Interstate? Continuation of this irresolution increases likelihood of a further review of compliance with Section 127.

Response Requested

Division Office should determine State's exact policy of issuing permits to overweight vehicles in lieu of citations and/or off loadings. Also determine how State obtains an accurate record of the number of vehicles weighed. Finally, State should be informed of the need to comply with Section 127 on the issue of permits, particularly in view of the already high legal weight limit in the State.

Disposition

Certification acceptance will be determined upon receipt of the requested information.

Final Disposition

FHWA Officials will meet with the State to determine what steps should be taken to bring the State into compliance. Further action will be dependent upon the outcome of the meeting.



THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

MAR 6 1981

The Honorable Dan Berry
Chairman, New Mexico House
Transportation Committee
New Mexico House of Representatives
Santa Fe, New Mexico 88231

Dear Mr. Berry:

Thank you for your letter of February 16 concerning the issuance of multi-trip special permits for the movement of overweight vehicles on the Interstate System highways in New Mexico. The States have the right and the authority to issue special permits for the movement of vehicles on State highways, conditioned upon compliance with the limits established by the Congress for the Interstate System in 23 U.S.C. 127.

Section 127 does provide authority for the States to legalize weights in excess of those specified in that section if the higher weights were authorized by State law or regulation on July 1, 1956. In New Mexico, weights of up to 86,400 pounds were authorized on public highways on that date and they remain legal and in compliance with section 127. There were also provisions in State law at that time for the issuance of special permits under certain restricted conditions, including a limitation to issuance on a single trip basis only.

The legislative history of section 127 makes it clear that limits which vary from the congressionally established limits are permissible, but are restricted to the exact requirements of the law in 1956. These exceptions cannot be expanded or increased and remain in compliance with section 127. The use of special permits must not become a device for circumventing the provisions of the law, and as the Comptroller General reported to the Congress in a recent report, "Excessive Truck Weight: An Expensive Burden We Can No Longer Support (July 1979)," the States have expanded the weights permitted by section 127 through liberalization of tolerance, variance and permit laws.

The position of the Federal Highway Administration was forwarded to the State on July 13, 1979, and I am enclosing a copy of that letter. The Congress has directed the Department to reexamine the question of costs and benefits in connection with weight limits and two studies required by the Surface Transportation Assistance Act of 1978, P.L. 95-599, sections 506 (Cost Allocation) and 161 (Uniformity), are nearing completion. Those studies will furnish the basis for making recommendations to the Congress on these issues.

I hope this information is of assistance to you.

Sincerely,

Enclosure



THE SECRETARY OF TRANSPORTATION

WASHINGTON D.C. 20590

30

The Honorable Dan C. Berry
Chairman, New Mexico House
Transportation Committee
New Mexico House of Representatives
Santa Fe, New Mexico 88231

Dear Mr. Berry:

Thank you for your most recent letter concerning the issuance of special permits in New Mexico. I share your frustration in what appears to be a time-consuming process in responding to real-world needs. However, as I attempted to point out in my response to your earlier letter, the executive branch is constrained by the law, particularly in those areas where the Congress has been clear as to its intended application.

In this case, section 127 of 23 U.S.C. does not provide any discretionary authority for the Department to unilaterally change the maximum weight or width provisions. The Congress sought to put into place foreseeable maximum limits in 1956, and in 1974 when the law was changed in response to energy conservation needs, the Congress again reaffirmed its desire for foreseeable limits. Congressional policy was clearly manifest in the rejection of an administration proposal which would have permitted the States more flexibility to respond to the needs which you have mentioned in your letter. On the other hand, the safety and maintenance of the Interstate System will be a major concern of the Congress and the Department over the next decade.

We are nearing the completion of the two important studies which I mentioned in my previous letter, and we feel that the Congress should have the results of these studies in making a determination to change or maintain the current requirements of the law.

Sincerely,

Norman Lewis

August 28, 1981

HRP-NM

Mr. Ruben Miera
Secretary, New Mexico
Transportation Department
P. O. Box 1028
Santa Fe, New Mexico 87503

Dear Mr. Miera:

As you will recall, our letter of January 27, 1981 approved the initial Vehicle Weight Enforcement Management Plan subject to improvement in an update, to be completed by October 1, 1981. A copy of the January letter is attached for your reference. We are writing at this time in the interest of assisting your office in the preparation of the update.

We have attempted to list, in the attachment, those areas which are considered most critical and those areas where questions have been raised in the past. We believe it is in the best interest of the Department to avoid any sanctions and provide clear direction in the update plan. The more obvious changes reflecting revisions in policy, procedures, staffing and budget should be included in the updated plan.

We look forward to working with you and assisting you in documenting your enforcement activity. Attached for your use is a memorandum from our Washington office dated May 1, 1981. This memo highlights the areas to be addressed in the plan and provides a checklist for evaluation.

Sincerely yours,

Anthony L. Alonso

**Items to Be Addressed in the Update of the
New Mexico Vehicle Weight Enforcement Management Plan**

- 1. Actual counts of vehicles weighed and vehicles unloaded has not in the past been provided in Certification submissions. The plan update should address efforts or intentions regarding this inconsistency with the Federal regulations.**
- 2. The Highway Commission Policy Number 59 regarding issuance of multiple trip permits, which apparently has been adopted by the Motor Transportation Department, is unclear as to its interpretation. The policy statement should be clarified.**
- 3. Efforts to assure proper enforcement of the multiple trip permits should be included in the update. The plan should specifically identify procedures to be used to limit the use of these permits, once obtained, to non-Interstate routes.**
- 4. Procedures and/or policy regarding repeat offenders should be included. If use has been made of computer-based data or other identifying mechanisms, describe what efforts are being made to discourage repetitious violations. If such activity is planned, the update should describe anticipated efforts.**
- 5. The guidelines to be used in the development of enforcement plans list a section on short, medium, and long term goals. The current plan needs to be expanded to address these goals.**
- 6. Also, the guidelines contain a section on provision for annual review and update of the vehicle size and weight enforcement plan. Since this was not included in this plan, it should be addressed in the first update.**
- 7. The subject of off-loading has received considerable attention since the initial plan approval. The update should expand and clarify policy regarding off-loading actually required, the potential for off-loading as a means of penalty in lieu of a citation and the potential for obtaining a permit in lieu of off-loading.**
- 8. Enforcement of the "Bridge Formula" has also received additional attention recently. The update should address present bridge formula enforcement and plans for modification to these policies and activities.**

(More)

9. Questions have been raised regarding the effectiveness of the limited number of MTD enforcement personnel. The plan update should address the strengths of the enforcement personnel levels and any potential for changes that could affect enforcement.
10. It has come to our attention that during the past year MTD has experienced difficulties with scale maintenance. If this is a significant problem area affecting the number of vehicles weighed, the problem and proposed solutions should be addressed in the update.
11. Some subject areas continue to be the source of questions regarding the legality of policies or procedures. Perhaps a legal review of the policies and procedures included in the Management Plan would be appropriate. For example, has a review been made as to the legality of Highway Commission establishment of policies affecting departments other than the Highway Department and does Policy No. 59 conform to state and federal statutes? If such a review is undertaken or planned, the update of the plan should reflect your findings or intentions.

1980 Size and Weight Certification

NEW YORK

Comments

New York reported an increase of 8 percent in the number of vehicles weighed and an increase of 18 percent in the number of citations issued.

Disposition

Certification is acceptable as submitted, as New York appears to be making an effort towards a more effective size and weight enforcement program.

1980 Size and Weight Certification Evaluation

NORTH CAROLINA

Comments

North Carolina reports an increase of 12 percent in the number of vehicles weighed, and an increase of 10 percent in the number of citations issued. The Chief Counsel's Office questions the State's claimed exemption from enforcing the bridge formula and this question is still under review. In 1974, the State appeared to have certain tandem axle grandfather rights on vehicles weighing up to 73,280 pounds, but no gross weight rights above that.

Disposition

Certification is accepted as submitted, but final decision on enforcing the bridge formula is still pending.

1980 Size and Weight Certification Evaluation

NORTH DAKOTA

Comments

North Dakota reported a 2 percent increase in the number of vehicles weighed, and an increase of 50 percent in the number of citations issued. The question of special permits is under continual review by the Office of Chief Counsel. Ron Marshall should be commended for a thorough review analysis of the enforcement effort.

Disposition

State has systematically increased the level of its activity over the past 4 years in attempting to achieve a more effective size and weight enforcement program. Certification is acceptable as submitted.

1980 Size and Weight Certification Evaluation

OHIO

Comments

Ohio reports a decrease of 2 percent in the number of vehicles weighed, but an increase of 7 percent in the number of citations issued. Chief Counsel's Office has expressed concern over the validity of Ohio's certification since they have reported over 3,000 miles of urban Interstate routes, with no apparent size and weight enforcement activity.

Response Requested

Division Office should pursue the matter of urban enforcement with the State to determine what remedial action can be taken.

Disposition

Certification will be accepted as submitted with the understanding that future certifications will more adequately address the urban problems.

Final Disposition

Certification is acceptable per Region's memorandum of April 29, 1981, to Division, pointing out the need to adequately address the enforcement in urban areas in 1981 certification, with the accumulation of any weight enforcement activities existing in these areas.



DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, D.C. 20590

SEP 25 1981

OFFICE OF
THE ADMINISTRATOR

IN REPLY REFER TO: HCC-20

David L. Weir, P.E.
Director
Ohio Department of Transportation
25 South Front Street
Columbus, Ohio 43216

Dear Mr. Weir:

Thank you for your letter of September 16 concerning the application of 23 U.S.C. 127 and the issuance of special permits on the Interstate System in and around the Port of Toledo. As you know, section 127 is premised on operative State law and, for this reason, it is very difficult for the Federal Highway Administration (FHWA) to make a determination on the application of State law as of July 1, 1956, on the basis of statutory language alone.

In seeking to provide for equitable treatment under the law, the Congress in 1956 grandfathered those State laws permitting vehicle weights or widths in excess of the specified maximums of section 127. We have interpreted that grandfather right to extend to the issuance of special permits, so long as the identical terms and conditions existing at that time have been met. It appears to us that the Ohio Revised Code, § 4513.34, which provided for special permits, would authorize the operation of a vehicle or combination of vehicles of a size or weight exceeding statutory maximums for single or round trips, or in special circumstances for a certain period of time. That section also provided the Director with authority to issue or prescribe conditions of operation and require a bond or other security.

Before we can ascertain if any proposed permit scheme involving divisible loads would be consistent with section 127, we would need answers to two pertinent questions: (1) Did Ohio interpret this provision to provide for permits for divisible loads and on July 1, 1956, were such permits issued? and (2) If the permits were in fact issued, what terms and conditions applied? The basic substantiation of a grandfather right is, therefore, a matter of interpretation of State law and we would be willing to review a legal interpretation prepared by the Ohio Department of Transportation Chief Counsel or the Ohio Attorney General. The opinion of the highest legal officer of the State or of the highest court in the State would, of course, expedite resolution of this matter.

In determining the appropriate documentation for a position on grandfather rights, you should be aware of the findings of the Comptroller General issued in the 1979 report entitled "Excessive Truck Weight: An Expensive Burden We Can No Longer Support." In that report, the Comptroller stated:

Some State opinions seemed to base current permit practices on the general authority of State Legislatures to pass permit laws or on general language in their 1956 laws that authorized the issuance of rules and regulations governing highway use The grandfather clause . . . does not authorize the issuance of permits to exceed State or Federal weight ceilings merely on the basis that a State could have passed a permit law on July 1, 1956, but failed to do so.

We are reviewing the materials left with us by Messrs. David Turner and Dale Fallat on their recent visit to the office and we will expedite a response to any materials which you care to submit along the lines suggested above to clarify Ohio's grandfather rights.

I hope this information is of assistance to you.

Sincerely yours,

R. A. Barnhart
Federal Highway Administrator

cc: Mr. Ed Schulte
Director of Legislation & Research
Toledo Area Chamber of Commerce
218 N. Huron Street
Toledo, Ohio 42604

1980 Size and Weight Certification Evaluation

OKLAHOMA

Comments

Oklahoma reported a decrease of 10 percent in the number of vehicles weighed and a decrease of 30 percent in the number of citations issued. The cause of this decrease in activity is explained in the Division Office's cover memorandum of December 31, 1980. State authorities should be encouraged to provide a stand-by system for high volume weighing in the event of the loss of a regular high volume facility.

Disposition

Certification is acceptable as submitted.

1980 Size and Weight Certification Evaluation

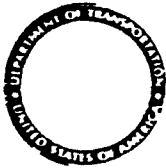
OREGON

Comments

Oregon reported an increase of 7 percent in the number of vehicles weighed and a 3 percent increase in the number of citations issued. As you know, Rule 42 is under review by the Chief Counsel (See Administrator's letter of December 29, 1980).

Disposition

Certification is acceptable as submitted. Chief Counsel's office is preparing a memorandum of law with reference to the State's practice of issuing special permits.



DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, D.C. 20590

DEC 5 1980

OFFICE OF
THE ADMINISTRATOR

IN REPLY REFER TO HCC-20

Mr. F. B. Klaboe
Director
Department of Transportation
Department of Transportation Building
Salem, Oregon 97310

Through:
Mr. Eldon Green
Regional Administrator
Portland, Oregon

Mr. Glen L. Green
Division Administrator
Salem, Oregon

Dear Mr. Klaboe:

Thank you for your responsiveness to the concerns expressed during our review of Oregon's 1979 certification over changes made in the size and weight laws by H.B. 2058, which amended ORS 483.528. As you may know, the Subcommittee on Oversight of the House Ways and Means Committee and the Government Accounting Office (GAO) have been critical of the State's administration of special permits and of the Federal Highway Administration (FHWA) stewardship of 23 U.S.C. 127. One of the significant areas of concern has been the issuance of special permits for divisible loads particularly on an annual or blanket basis.

The increasing attention which is being devoted to the management of our Nation's highway resources has led to an intensive review by the FHWA of State practices in the permit area. In the past year, we have reviewed such practices in New Mexico, Colorado, Nebraska, Massachusetts, Montana, and South Dakota and have found that there is a widespread practice of permitting vehicles with loads in excess of 80,000 pounds to use the Interstate System under authority of special permits. In virtually each case there is a permit requirement that such oversized vehicles meet the requirements of the bridge formula and maintain certain axle weights. These are salutary requirements from an engineering standpoint, however, as you may recollect, when the FHWA advanced this position before the Congress in 1974, it was specifically rejected. The Congress at that time chose to retain some restrictions on the ultimate size of vehicles by requiring that the States permit no more than 80,000 pounds on any vehicle using the Interstate System, unless a State possessed the legal authority to permit higher weights on July 1, 1956.

Therefore, we have reviewed Oregon's law with respect to establishing whether any such grandfather right exists. In this respect, we appreciate the legal review furnished by Attorney General James M. Brown.

On July 1, 1956, Oregon law, ORS 483.528 authorized the issuance of a single trip written permit for the movement over the highways of the State of a vehicle of a weight, size, or description exceeding that permitted under ORS 483.502 to 483.526. It is the extent of the authority granted under this section to issue permits for divisible loads and to issue such permits in a manner which constitutes the regular, routine, and systematic usage of the Interstate System which is being reviewed here.

The inclusion of broad, general language applicable to the permit issuing practice has been relied upon in several States as providing sufficient justification for the inauguration of permit practices which may not have been in existence on July 1, 1956. The GAO in its report "Excessive Truck Weight: An Expensive Burden We Can No Longer Support," was critical of such arguments. The GAO pointed out to the Congress that it was the FHWA's obligation to closely review such opinions, since the grandfather clause would only authorize permits for trucks that could in fact have been lawfully operated under permit or otherwise within the State in 1956. The GAO further stated that the grandfather clause does not authorize the issuance of permits to exceed State or Federal weight ceilings merely on the basis that a State could have passed a permit law on July 1, 1956, but failed to do so.

It has been the consistent position of the FHWA that the purpose of special permits was to allow the continued operation of vehicles on the Interstate System only to the same extent and under the same conditions as lawful prior to July 1, 1956. The purpose was not to permit larger and heavier vehicles to regularly and continually use the Interstate System as a matter of course on a blanket and annual basis. The permit procedure is legitimate when covering unusual, infrequent and nonrecurring special circumstances on a one-trip, individual permit authority.

It appears clear to us that prior to 1960, the permit authority in Oregon was limited to issuance for a single trip only. This position is substantiated by the Highway Department's own interpretation of that time which is corroborated by an opinion of the Attorney General of 1949, which limits the issuance of such permits to cover the overweight features of a single item for one movement only. This information was provided in a rough draft of the Legislative Highway Interim Committee Report dealing with the subject of transportation permits issued by the Oregon State Highway Department. This report was prepared for use by the Committee in considering legislative changes in 1961.

At the same time, we recognize that where permits were permitted on a single trip basis, administrative mechanisms which would reduce paperwork would not constitute an extension of authority where it would not increase the number and types of oversize vehicles. But the provisions of H.B. 2058 do extend such authority because the permits would be applicable to a new combination of vehicles and divisible loads.

The matter is even more certain on the question of divisible permits. In the opinion of your own Department Counsel in 1961, the Oregon law of 1956 speaks in the singular. We are of the opinion that this interpretation is correct and that the issuance of special permits for reducible loads is not warranted.

The intent of the Federal Highway Administration is to bring about compliance with the law. We are in the process of preparing a Memorandum of Law on these issues which will set forth the legislative history of 23 U.S.C. 127

and the full considerations relied upon in arriving at this conclusion. The issuance of permits for vehicles carrying weights above 80,000 pounds, which are reducible in nature, will constitute a violation of section 127 if issued in such a manner as to permit the regular, routine and systematic use of the Interstate by such vehicles.

Sincerely yours,

John S. Hassell, Jr.
Federal Highway Administrator



DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, D.C. 20590

DEC 29 1980

OFFICE OF
THE ADMINISTRATOR

IN REPLY REFER TO HCC-20

The Honorable James A. McClure
United States Senate
Washington, D.C. 20510

Dear Senator McClure:

Thank you for your letter of November 12 concerning Oregon's proposed issuance of special permits authorizing the operation of triple trailer combination vehicles with a gross weight of 105,000 pounds on the Interstate System. The Federal Highway Administration (FHWA) is concerned with the use of the Interstate System by vehicles with a weight in excess of 80,000 pounds, particularly when authorized by special permits in a manner which constitutes the regular, routine and systematic usage of the System.

This concern originates in the administration of 23 U.S.C. 127, which establishes maximum weights and widths for vehicles using the Interstate System. It is not per se a question of length and the State of Oregon may, as may any other State, authorize combination vehicles which do not exceed the maximum axle or gross weights set forth in section 127.

Section 127 states, in pertinent part, that:

No funds authorized to be appropriated for any fiscal year under section 108(b) of the Federal-Aid Highway Act of 1956 shall be apportioned to any State within the boundaries of which the Interstate System may lawfully be used by vehicles . . . with an overall gross weight on a group of two or more consecutive axles produced by application of the following formula:

$$W = 500 (LN/N-1 + 12N + 36)$$

Provided, That such overall gross weights may not exceed eighty thousand pounds

There is also a grandfather clause provision in the law which does authorize those weights which were legal in the States on July 1, 1956.

We have reviewed the laws of Oregon and conclude that no grandfather right can be established which would authorize the State to use special permits in the manner under consideration.

Further, in 1974 the Department of Transportation proposed the enactment of legislation which would authorize the States to establish weight limits on the basis of the framework under consideration in Oregon. Specifically, it was the Department's recommendation that no gross weight be established, but that weight be controlled by application of the bridge formula and a length limit. This recommendation was only partially accepted by the Congress with the inclusion of the express proviso limiting gross weight to 80,000 pounds.

On December 5 I wrote to the Director of the Oregon Department of Transportation informing him of the conclusion of our review. I am enclosing a copy of that letter for your review.

Sincerely yours,

John S. Hassell, Jr.
Federal Highway Administrator

1980 Size and Weight Certification Evaluation

PENNSYLVANIA

Comments

Pennsylvania reported an increase of 145 percent in the number of vehicles weighed and an increase of 143 percent in the number of citations issued. This increased activity indicates a positive attitude towards the size and weight enforcement program, and State should be commended for their enforcement effort. State should also be commended on the preparation of a thorough certification. The information supplied on the new law has answered all our questions and the 127 compliance issue is now resolved.

Disposition

Certification indicates the effort put forth to achieve a more effective program and is accepted as submitted. Please inform the State that the information submitted in connection with our previous questions on the new law are satisfactory and this issue is resolved.



OFFICE OF
THE ADMINISTRATOR

DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, D.C. 20590

MAY 11 1981

IN REPLY REFER TO:
HCC-20

The Honorable James M. Burd
12th District
Pennsylvania House of Representatives
Harrisburg, Pennsylvania 17120

Dear Mr. Burd:

Thank you for your letter of April 22 to Secretary of Transportation Drew Lewis concerning legislation which you have introduced at the State level to benefit small construction companies in Pennsylvania. We are sending identical responses to Representatives Petrarca and Lewis. Your bill would amend Title 75 of the Pennsylvania Consolidated Statutes to permit the lawful operation to four-axle construction vehicles not exceeding the gross weight of 73,280 pounds on any highway in the State regardless of the maximum axle weight provisions of the law.

The Federal involvement in the size and weight of vehicles originates in the provisions of 23 U.S.C. 127, which establishes maximum permissible axle and gross weights for vehicles using the Interstate System of Highways. Section 127 provides that no funds shall be apportioned for Interstate construction to any State which permits vehicles to operate on the Interstate System with a single axle in excess of 20,000 pounds, a tandem axle in excess of 34,000 pounds or a gross weight in excess of 80,000 pounds computed on the basis of the bridge formula, unless the State permitted a higher weight on July 1, 1956.

Control of the weight on the individual axles is necessary to prevent the premature reduction in service life of a highway pavement, which is designed on the basis of single axle load repetitions, among other factors. The basic design consideration is an 18,000 pound single axle load and the service life expectations are computed in terms of equivalent axle loads. This means that a highway pavement will last 20 years if subjected to the design axle number of loads; however, excess loading (above 18,000 pounds) or a frequency of axles over the design number will use up service life sooner. Thus, as you can see, the condition of the pavement is influenced by the weight carried on a vehicle's axles.

Pennsylvania has a grandfather right by virtue of its laws in 1956, which allows vehicles with single axles of 22,400 pounds, which exceeds the currently permitted 20,000 pound limit of section 127. At the time the Federal law was amended in 1974 to permit a raise in the weight from 18,000 to 20,000 pounds, there were foreseeable impacts resulting in decreasing service life which appear to have been realized.

The future of Federal involvement will be in upgrading, reconstruction, and maintaining our major highway systems, particularly the Interstate System. Because of the serious impact on highway pavement, it is unlikely the Congress would agree to further increases in the single axle weight. With respect to the loss of local industry, Pennsylvania has one of the highest axle weight entitlements in the country and it is unlikely that any economies can be realized in other States. To our knowledge, only Massachusetts, Maryland, and Delaware in the northeast area permit higher weight on three- or four-axle construction vehicles and these practices are currently under review to ensure compliance with the Federal law.

Several studies underway in the Department tend to support the concept of uniformity and it is likely that the differences among State laws will narrow in the future. As drafted, your bill would place Pennsylvania in violation of section 127 if applicable to Interstate highways and there is no discretion in the Federal law to permit a waiver or variance.

I hope this information is of assistance to you.

Sincerely yours,

R. A. Barnhart
Federal Highway Administrator

Identical letter to:
The Honorable Joseph Petrarca
55th District

The Honorable Marilyn Lewis
147th District

1980 Size and Weight Certification Evaluation

PUERTO RICO

Comments

Puerto Rico reports a decrease of 15 percent in the number of vehicles weighed and a decrease of 69 percent in the number of citations issued. This indicates a lack of effective enforcement and that no progress has been made since our letter of 1978.

Disposition

The Commonwealth will be informed of the apparent lack of effective enforcement and will be provided with an opportunity to show cause why Federal funds should not be withheld.

Final Disposition

The Regional Administrator discussed the size and weight program during a mid-June visit to Puerto Rico. The Division Administrator submitted a recommendation to conditionally accept the 1980 Certification contingent on a continuing demonstration of increased and effective enforcement activity. The Division Administrator's recommendation was accepted.



Commonwealth of Puerto Rico
DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS
HIGHWAY AUTHORITY
P. O. Box 41269, Minillas Station Santurce, Puerto Rico 00940

Dr. Rafael Faría
Secretary

June 11, 1981

Eng. Juan O. Cruz Cay
Division Administrator
Federal Highway Administration
Federico Degetau Federal Bldg.
and US Courthouse
Room 150, Carlos Chardón St.
Hato Rey, Puerto Rico 00918

Subject: Vehicle Size and Weight
Enforcement Plan

Dear Mr. Cruz Cay:

Reference is made to your letter dated June 2, 1981 regarding Vehicle Size and Weight Enforcement Plan for Puerto Rico. All your recommendations are being considered by our designated staff and will be included in the revised version of the Enforcement Plan for Fiscal Year 1981-82.

As you know, it is the strict policy of this administration to fully support all state and federal regulations that have a direct bearing on the preservation of our highway system. This is evidenced by the measures taken by the department during FY 1980-81 aimed at strengthening the Vehicle Size and Weight Enforcement Plan for a more effective implementation. The most important measures are listed below and will be fully detailed in the revised version of the plan that will be submitted to your office in the near future:

1. Eng. Reinaldo Figueroa, Director of the Traffic Area, Directorate of Public Works, was designated Enforcement Officer responsible for the coordination of all operational Size and Weight activities on the Island. At present he is actively involved, together with Eng. Luis M. Castro from the Planning Area, in the revision of the Enforcement Plan and in conducting a training program for all related field personnel.
2. Dr. Rolando García Pacheco, Advisor to the Secretary, has been assigned the supervision of the Size and Weight Enforcement Plan. One of his main responsibilities is the organization of an inter-agency

Eng. Juan O. Cruz Cay
Subject: Vehicle Size and Weight
Enforcement Plan
June 11, 1981

task force to evaluate the study on the Economic Implications of the Proposed Trucking Regulations, that was prepared for the Puerto Rico Highway Authority by Clapp and Mayne, Inc; and to revise the draft of the proposed Vehicle Size and Weight Regulations for Puerto Rico.

3. Several meetings were held with Col. Desiderio Cartagena, Superintendent of the Police Department, to request full collaboration in implementing all activities of the Enforcement Plan. Col. Fernando Vázquez Gely, Transit Coordinator, Puerto Rico Police Department, was designated to assist us in this endeavor.

4. Various consulting firms have been requested to submit proposals to improve automated operations of the Bureau of Motor Vehicles. One such improvement will be to include size and weight restrictions on motor vehicle licenses.

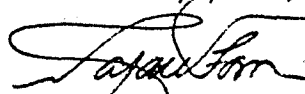
5. A reevaluation of conditions and location of the size and weight station is being conducted. As a result, the station at PR-52, Km. 90.5, was relocated to a safer and more convenient site near Juana Díaz Toll Plaza. In addition, we have increased the number of size and weight enforcement sessions that were proposed in the original plan.

6. Quotations for the purchases of the semi-portable scales have been obtained and provisions are being made for their acquisition with funds approved for FY 1981-82.

We intend to discuss this matter with Mr. John G. Bestgen, Regional Administrator, during his visit to Puerto Rico next week. It is also our intention to keep your office informed of all activities related to this program through quarterly reports.

We are confident that the above mentioned actions have effectively strengthened the implementation of the Enforcement Plan. If additional information is needed, please do not hesitate to call on us.

Cordially yours,



Rafael Faría



U.S. Department
of Transportation

**Federal Highway
Administration**

Memorandum

Subject: Puerto Rico - Vehicle Size and
Weight Enforcement

Date: July 9, 1981

From: John G. Bestgen
Regional Administrator
Albany, New York

Reply to
Attn. of: HTO-01

HTO-33 To: Mr. Marshall Jacks, Jr., Director
Office of Traffic Operations
Washington, D. C.

Secretary of Transportation Rafael Faria has prepared the attached June 11, 1981 letter to the Puerto Rico Division Office responding to recommendations brought to his attention during discussions on updating the Commonwealth's Size and Weight Enforcement Plan for FY 1982. Interaction between the Division and the Puerto Rico Department of Transportation and Public Works on Size and Weight Enforcement was also brought about by the observations made during a joint Division and Regional Office review of activities in March and by the Comment and Disposition statements addressed to Puerto Rico in the attachments to Associate Administrator Morgan's March 25, 1981 memorandum evaluating the 1980 Certifications.

The Division Office has presented a very thorough assessment of the situation in Puerto Rico in their attached June 30, 1981 memorandum. We believe the two most critical concerns with the Size and Weight program in Puerto Rico are the following:

1. The lack of a clearly defined regulation on size and weight limits.
2. The degree of effective enforcement actually being conducted.

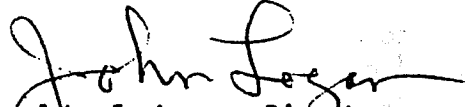
As the Division points out, the first issue has proven to be very controversial and sensitive. The Commonwealth has commissioned studies to investigate the impact of potential size and weight regulation. While no new regulations have yet been established from this effort, we cannot criticize their approach to the problem.

Consequently, the effectiveness of their enforcement must be based upon the regulations in effect. Despite the discouraging conclusions drawn from our review in March, the proposals made in Secretary Faria's letter and the Division's indication that enforcement activity has since increased are positive and encouraging signs. Based upon these recent actions, we concur with the Division's recommendation that a notification to show cause would not be productive at this time. We recommend that the 1980 Certification be conditionally accepted contingent on a continuing demonstration of increased

- more -

and effective enforcement activity and on a satisfactory implementation of the six measures listed in Secretary Faria's letter which are to be included in the updated FY 1982 Enforcement Plan to be approved by October 1, 1981.

As the Division suggests, we believe the Commonwealth should be informed of the importance of fulfilling these conditions and of our intent to monitor their actions in both areas between now and the submission of the FY 1981 Certification.


John I. Logan, Director
Office of Traffic Operations

Attachment

1980 Size and Weight Certification Evaluation

RHODE ISLAND

Comments

Rhode Island reports an increase of 4 percent in the number of vehicles weighed and a 183 percent increase in the number of citations issued. However, the number of man-hours expended towards the weight enforcement effort increased 90 percent, to 2,989 hours. On the basis of a 40-hour week, 50 weeks per year, this is a yearly average of only 272 hours for each of the 11 State police assigned to the truck squad, or 5½ hours per week. The question arises if this degree of enforcement is sufficient for an effective program, particularly when it is realized that nearly one quarter of the total enforcement activity was conducted within a single month.

In reviewing the State's enforcement plan, the question of expanded enforcement should be adequately addressed. The acceptance of next years certification should be determined by the adherence to a reasonable expansion of operations in compliance with State's plan.

Disposition

Certification is acceptable contingent upon adequate resolution of enforcement effort in State's plan.

1980 Size and Weight Certification Evaluation

SOUTH CAROLINA

Comments

South Carolina reported a decrease of 10 percent in the number of vehicles weighed, but an increase of 2 percent in the number of citations issued. State failed to indicate if any of the overweight vehicles were required to be unloaded. A negative response, if appropriate, was requested for all elements of the certification, but will be required in future reports by Section 657.15, first paragraph. The procedure for collection of this required data should be included in division personnel's periodic field reviews.

Response Requested

Division should determine how many of the 8,538 overweight vehicles were unloaded as required by Section 658.9(b)(7). This same information will be required on all future reports by Section 657.15(e)(3)(ii).

Disposition

Certification is acceptable upon receipt of the missing information.

Final Disposition

Certification accepted as originally submitted, upon satisfactory response to the question of State's practice of requiring overweight vehicles to be unloaded.

1980 Size and Weight Certification Evaluation

SOUTH DAKOTA

Comments

South Dakota reports an increase of 37 percent in the number of vehicles weighed and a 190 percent increase in the number of citations issued. Special permits problem continues. State failed to indicate how many of the 2,276 overweight vehicles (excluding livestock) were unloaded, as required by Section 658.9(b)(7). This same information will be required on all future certification reports under Section 657.15(e)(3)(ii). The procedure for collection of this required data should be included in division personnel's periodic field reviews.

Response Requested

Division should determine how many of the overweight vehicles (excluding livestock) were required to be unloaded.

Disposition

Certification is acceptable upon receipt of the missing information, but the question of special permits is still under review.

Final Disposition

Certification is acceptable with Region's response to the number of vehicles unloaded and/or load shifted, but with the understanding that South Dakota must maintain an accurate record of the number of vehicles required to be unloaded as mandated by 23 CFR 657.15(e)(3)(ii).

Reserved funds were released on the basis of State Supreme Court Order of Mandamus and pending congressional review of the issue of special permits.



DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, D.C. 20590

22

OFFICE OF
THE ADMINISTRATOR

IN REPLY REFER TO: HCC-20

The Honorable Sam M. Gibbons
Chairman, Subcommittee on Trade
Committee on Ways and Means
House of Representatives
Washington, D.C. 20515

Dear Mr. Gibbons:

The Department of Transportation is currently reserving from use the total amount of Interstate construction funds apportioned to the States of Massachusetts and South Dakota, pending a final determination on the compliance of State practices with Federal law. A final decision to withhold will result in the reapportionment of those funds. This action has been taken under the authority and requirements of 23 U.S.C. 127, which provides for certain maximum permissible weights for vehicles using the Interstate System of highways.

Section 127 was enacted into law as part of the Federal-Aid Highway Act of 1956, which first authorized the Interstate System construction. The Congress was concerned with the preservation of the Federal investment, which was established at 90 percent for the Interstate. This concern was founded in the relationship between vehicle weights and the pavements and bridges on the System. Highway pavements are designed on the basis of an anticipated service life of 20 years, which takes into account the number of axle load repetitions to which the pavement will be subjected. The basic design axle is 18,000 pounds, thus any heavier axle weights or greater number of repetitions than forecast may have a detrimental impact on service life expectations. Similarly, bridges can be subjected to undue stress if the weight impact is not controlled, which is done by establishing gross vehicle weight on the basis of a formula using the number and spacing of axles.

The standards established by the Congress in 1956 were based on the 1946 recommended policy of the American Association of State Highway and Transportation Officials (AASHTO). The weight limits were intended to be temporary pending the conclusion of a study on the issue of maximum weights which was to be undertaken by the Department of Commerce, Bureau of Public Roads, the predecessor to the Department of Transportation, Federal Highway Administration (DOT/FHWA), in the area of highways. As certain developments in the period from 1946 to 1956 led to several States enacting higher axle or gross weight limits for their highways, the Congress sought to protect the States' rights to maintain those higher weights. The legislative history is replete with references to the ability and sovereign right of the States to establish lesser limits, or higher limits where such had been enacted as of July 1, 1956. At the same time, however, the legislative history is also quite clear that those limits actually in effect on July 1, 1956, were the maximum limits which a State could permit consistent with 23 U.S.C. 127.

There has been only one change in section 127, occasioned in 1974 by the energy shortage. In the Federal-Aid Highway Amendments of 1974, the Congress adopted the 55-m.p.h. speed limit as a permanent part of title 23 U.S.C. and, at the same time, raised the maximum weight for vehicles using the Interstate System to offset the loss of productivity which was resulting from the lower speed limit. The Department of Transportation had made several recommendations to the Congress in this area, based on the results of the earlier study required by the 1956 law (H. Doc. 354, Maximum Desirable Dimensions and Weights of Vehicles Operated on the Federal-Aid Systems). The Congress adopted the recommendations in part, but specifically rejected them in part, particularly with respect to the establishment of maximum gross weights. The 1974 Act continued the 1956 Act grandfather clause, permitting the States to establish lower limits, or higher limits to the extent such higher limits were in effect on July 1, 1956.

Every State had certain provisions providing for the issuance of special permits on July 1, 1956. In many instances, the statutory language was a general legislative grant of power enabling the State highway authority to establish the conditions by regulation for permit issuance. The position of the FHWA since 1956 is that a State cannot go beyond the explicitly established limits in the State on July 1, 1956. This position is affirmed in the legislative history of the 1956 Act.

The Congress also enacted in the 1974 Act a requirement that every State must certify annually to the Secretary that it is enforcing all State laws on all Federal-aid systems, including the Interstate System, in accordance with section 127. In a series of hearings by the House Subcommittee on Oversight of the Ways and Means Committee which was published in two volumes entitled "Impact of Truck Overloads on the Highway Trust Fund" (1978, 1979), the practices of the States in issuing special permits were criticized as being inconsistent with the express intent of the Congress. This position was further supported by the findings of the Comptroller General in a report entitled "Excessive Truck Weights: An Expensive Burden We Can No Longer Support," July 1979. The DOT/FHWA were explicitly directed to review State practices and to make determinations consistent with the findings of the Subcommittee and the Comptroller.

Thus, each State's special permit practices have been under intensive review to determine if any practices, established with the knowledge of the DOT/FHWA, or otherwise, were inconsistent with the law. This review has been in addition to the normal advisory review which we perform on pending State legislation. Massachusetts and South Dakota have been under advisement since 1979-1980 and have been informed that, unless the inconsistent practices are ceased, section 127 requires the withholding of Interstate construction money. Montana and Oregon have been similarly informed and actions to reserve Interstate funds are pending. Nebraska, Colorado, and New Mexico ceased issuing permits in violation of section 127 upon notification by the FHWA. Other States in the past ceased inconsistent practices upon notification.

There are similar practices under review in a number of other States such as Utah and Nevada; Connecticut with respect to tandem axle weights; and North Carolina and New Jersey with respect to bridge formula enforcement. As you can see, the decisions taken with respect to section 127 have wide ranging impact. It is our intent to enforce the provisions of the statute to fulfill the explicit directions of the Congress and we are without discretion to mitigate the penalty provided by the law. We are in an era of

budgetary scarcity, and inflation is eroding our highway construction dollars. Parts of our Interstate System are approaching the original design life and need substantial reconstruction. The reduction in serviceability results in part from the impact of vehicles heavier than anticipated or permitted under the law.

I feel certain that if the trucking industry understood the detrimental impacts of heavy loads on the highway, it would work with the States voluntarily to control weight in the interests not only of highway safety but also in the interests of a well-maintained highway system. However, where, as in Massachusetts and other States, the laws are inconsistent with section 127, we are acting to implement the law. If the States are not in compliance within a reasonable time, I will recommend that the Secretary of Transportation withhold Interstate funds. The Secretary has previously advised Massachusetts that a final determination on withholding would be made no earlier than June 1. A final decision will be made shortly thereafter and the States will either come into compliance or lose their Interstate funding.

I hope this information is of assistance to you.

Similar letters are being sent to Representatives James J. Howard and Charles B. Rangel.

Sincerely yours,

R. A. BARNHART

Identical letter to:
The Honorable James J. Howard
Chairman, Committee on
Public Works and Transportation
House of Representatives
Washington, D.C. 20515

The Honorable Charles B. Rangel
Chairman, Subcommittee on Oversight
Committee on Ways and Means
House of Representatives
Washington, D.C. 20515



THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

FEB 20 1981

The Honorable William J. Janklow
Governor of South Dakota
Pierre, South Dakota 57501

Dear Governor Janklow:

Thank you for your letter requesting an extension of time prior to our making a final decision on the withholding of Federal-aid highway Interstate funds, currently reserved because of an infringement of 23 U.S.C. 127 dealing with maximum weights on the Interstate System. Your request is based on your appeal to the Supreme Court of South Dakota in the case of South Dakota Trucking Association, et al. v. South Dakota Department of Transportation, et al. We understand the Supreme Court is expediting the appeal in this matter which has been placed on the Court's March 1981 calendar.

We agree these circumstances warrant an extension. No final decision will be made prior to June 1. We will also consider a further extension if necessary at that time. However, in view of the Notice of Interstate Apportionment which is issued each year on July 1, we would like to resolve this matter without affecting next year's funding. Funds presently reserved will continue in that status until a final decision has been made.

You have also requested dismissal of this matter if the Congress acts to change those provisions which are at issue. Should such an event occur, the reserved funds will be released immediately.

Sincerely,

A handwritten signature in cursive script, appearing to read "Darrell M. Trent".

Darrell M. Trent
Acting Secretary



THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

MAR 9 1981

The Honorable James Abdnor
United States Senate
Washington, D.C. 20510

Dear Senator Abdnor:

Thank you for your letter concerning an extension of time prior to our making a final decision on the withholding of Federal-aid highway Interstate funds from South Dakota, currently reserved because of an infringement of 23 U.S.C. 127 dealing with maximum vehicle weights on the Interstate System. We have been informed by Governor Janklow that a part of this issue is under consideration in the State Supreme Court, which is expediting the State's appeal.

We are notifying Governor Janklow that these circumstances warrant an extension. No final decision will be made prior to June 1. We will also consider a further extension if necessary at that time. However, in view of the Notice of Interstate Apportionment which is issued each year on July 1, we would like to resolve this matter without affecting next year's funding. Funds presently reserved will continue in that status until a final decision has been made.

Sincerely,

A handwritten signature, likely of the Secretary of Transportation, is written below the word "Sincerely,".



OFFICE OF
THE ADMINISTRATOR

DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, D.C. 20590

JUL 27 1981

IN REPLY REFER TO: HCC-20

The Honorable William J. Janklow
Governor of South Dakota
Pierre, South Dakota 57501

Dear Governor Janklow:

Pursuant to Secretary of Transportation Drew Lewis' letter to you of June 3, we have completed our review of the State Supreme Court decision in the case of South Dakota Trucking Assn. v. South Dakota Department of Transportation. On the basis of that decision we are recommending that the Secretary release the Interstate construction funds currently being reserved.

This decision is predicated upon the nature of the continuing injunction issued by the Court and not on the basis of the substantive findings of the Court in its consideration of Federal law. We feel that the Congress of the United States remains the best forum for resolving questions of interpretation or applicability of the Federal law and we intend to cooperate with the Congress in a complete review of title 23 U.S.C. 127 upon the completion of the uniformity and cost allocation studies.

In the interim, I would urge you to exercise continuing diligence in the issuance of special permits to vehicles exceeding the limits authorized by the Congress for the Interstate System and to continue to implement improvements in the enforcement of sizes and weights on all Federal-aid highways in your State.

Sincerely yours,

/s/ R. Q. Barnhart

1980 Size and Weight Certification Evaluation

TENNESSEE

Comments

Tennessee reported an increase of 52 percent in the number of vehicles weighed and an increase of 152 percent in the number of citations issued. The State failed to indicate if any of the overweight vehicles were required to off-load. A negative response was requested for the 1980 certification, but will be required in future certification reports by Section 657.15, first paragraph. The procedure for collection of this required data should be included in division personnel's periodic field reviews.

Response Requested

Division should determine how many of the 52,156 overweight vehicles were unloaded as required by Section 658.9(b)(7). This same information will be required on all future certification reports by Section 657.15(e)(3)(ii).

Disposition

Certification is acceptable upon receipt of the missing information.

Final Disposition

Certification accepted as originally submitted, upon satisfactory response to the question of State's practice of requiring overweight vehicles to be unloaded.



DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, D.C. 20590

AUG 10 1961

OFFICE OF
THE ADMINISTRATOR

IN REPLY REFER TO:

HCC-20

The Honorable Lamar Alexander
Governor of Tennessee
Nashville, Tennessee 37219

Dear Governor Alexander:

On July 31, you signed into law Tennessee Senate Bill No. 1440, which would amend your State's size and weight statutes to provide certain exemptions from the applicable limits for vehicles transporting certain natural resources.

As you know, 23 U.S.C. 127 establishes maximum weight limits for vehicles using the Interstate System of highways. Those limits, which include axle restrictions as well as a gross weight limit based upon application of the so-called bridge formula, are necessary to protect our highway pavements and bridges from premature reductions in service life. The Congress considers such controls to be of a serious nature and has prohibited by law the apportionment of Interstate construction funds to any State found in violation of Section 127.

I am aware of the sustained effort in Tennessee over the past 3 years to address the problems involved in controlling the weights of vehicles on your State highways. The upgrading of fines and penalties will provide a significant deterrent to deliberate overloading in the future, and the augmentation of your enforcement personnel by the addition of new equipment will bring the message to deliberate overloaders that legal hauling is necessary.

I am also aware of the interim nature of this legislation and, upon receipt of your written assurances that you will utilize the resources of your office to bring Tennessee's law into compliance with Section 127, I will not recommend any immediate sanctions to the Secretary of Transportation. However, you should be aware that failure to achieve compliance with Section 127 will leave me no alternative than to recommend withholding of Tennessee's Interstate construction funds.

If I or my staff can be of any assistance to you in this matter, please call.

Sincerely yours,

R. A. Barnhart
Federal Highway Administrator

1980 Size and Weight Certification Evaluation

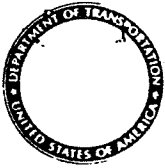
TEXAS

Comments

Texas reports a 53 percent decrease in the number of vehicles weighed and a 7 percent decrease in the number of citations issued. Division Office has been requested to determine the cause of the apparent decrease in enforcement activity.

Disposition

Certification is acceptable upon receipt of satisfactory explanation of decreased activity.



DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, D.C. 20590

JUN 23 1981

OFFICE OF
THE ADMINISTRATOR

IN REPLY REFER TO: HCC-20

The Honorable Bill Clements
Governor of Texas
Austin, Texas 78711

Dear Governor Clements:

On October 9, 1979, former Federal Highway Administrator Karl S. Bowers forwarded to you the Final Decision of the Administrator in the Matter of the Compliance of Texas with Federal Laws and Regulations Providing for the Certification of Vehicle Size and Weight Laws on the Federal-aid Systems (copy enclosed). That Decision found Texas to be in compliance with the Federal law, 23 U.S.C. 141, on the basis of the expression of good faith intent by the State to remedy the impediments to an effective enforcement effort created by certain statutory deficiencies.

The most significant actions which needed corrective legislation were the statutory preclusion from enforcement of size and weight laws by the Department of Public Safety within the municipal boundaries of urban areas and a weak penalty structure which has not acted as a deterrent to deliberate overloading. As these issues needed legislative modification for resolution, the Federal Highway Administration agreed to await the current session of the Texas Legislature.

It is my understanding that the Legislature has now adjourned without taking action on either of these two important measures. I also understand that you are considering convening a special session in July and that size and weight legislation would have to be placed on the agenda for any further consideration during the special session.

As you know, the control of vehicle weight is an essential factor in preventing the premature reduction of pavement service life. The Congress has indicated the high priority which it places on this function through the enactment and oversight of sections 127 and 141 of 23 U.S.C. and in its weight amendments to the Surface Transportation Assistance Act of 1978. The Comptroller General, in a report issued in 1979, entitled "Excessive Truck Weight: An Expensive Burden We Can No Longer Support," was particularly critical of enforcement practices in urban areas and specifically referred to highway conditions and overloading practices in Houston as an example of needed improvements. That same report also pointed to the need for and effectiveness of adequate fines and penalties and specifically stated that the effectiveness of State weight enforcement programs depends largely on the severity of fines.

I would like to take this opportunity to urge you to place size and weight legislation on the agenda for the special session of the Legislature. Failure to address these important issues will place the State in violation of the previous Decision and will result in the unacceptability of Texas' next size and weight certification which must be submitted by law prior to January 1, 1982.

If the Federal Highway Administration can be of assistance to you in this matter, please let me know.

Sincerely yours,

R. A. Barnhart
Federal Highway Administrator

1980 Size and Weight Certification Evaluation

UTAH

Comments

Utah reported an increase of 85 percent in the number of vehicles weighed and an 11 percent increase in the number of citations issued. During the September 1980 size and weight seminar conducted in Denver, State personnel indicated that available data reflected a decrease in activity in both categories.

Response Requested

Division should verify the accuracy of the reported vehicles weighed and citations issued, in view of the expected decrease in these activities.

Disposition

Certification is accepted contingent upon satisfactory verification of reported enforcement activity.

Final Disposition

Certification is acceptable with clarification from Region as to the number of vehicles weighed and the number of citations issued. However, State should be informed that accurate count of vehicles weighed and citations issued must be recorded to comply with 23 CFR 657.15.

1980 Size and Weight Certification Evaluation

VERMONT

Comments

Vermont reports an increase of 20 percent in the number of vehicles weighed, but an 11 percent decrease in the number of citations issued.

Disposition

Certification is acceptable as submitted.

1980 Size and Weight Certification Evaluation

VIRGINIA

Comments

Virginia reported a decrease of 4 percent in the number of vehicles weighed but increased the number of citations issued by 10 percent. State failed to indicate if any of the overweight vehicles were required to off-load. A negative response, where appropriate, was requested for the 1980 certifications, but will be required on future certification reports by Section 657.15, first paragraph. The procedure for collection of this required data should be included in division personnel's periodic field reviews.

Response Requested

Division should determine how many of the 19,812 overweight vehicles were required to be off-loaded as required by Section 658.9(b)(7). This same information will be required on future certification reports by Section 657.15(e)(3)(ii).

Disposition

Certification will be acceptable upon receipt of the missing information.

Final Disposition

Certification is acceptable with receipt of explanation from the Division Office on the question of off-loadings. The Division reports that off-loading of overweight vehicles is optional under Virginia law at the discretion of the officer issuing the summons.

1980 Size and Weight Certification Evaluation

WASHINGTON

Comments

Washington reports a 4 percent decrease in the number of vehicles weighed and a decrease of 22 percent in the number of citations issued.

Disposition

Certification is acceptable as submitted.

1980 Size and Weight Certification Evaluation

WEST VIRGINIA

Comments

West Virginia reported an increase of 17 percent in the number of vehicles weighed, and an increase of 95 percent in the number of citations issued.

Disposition

Certification is acceptable as submitted.

1980 Size and Weight Certification Evaluation

WISCONSIN

Comments

Wisconsin reports an increase of 14 percent in the number of vehicles weighed and an increase of 42 percent in the number of citations issued.

Disposition

Certification is acceptable as submitted.

1980 Size and Weight Certification Evaluation

WYOMING

Comments

Wyoming reported an increase of 85 percent in the number of vehicles weighed, and a 24 percent increase in the number of citations issued. State failed to indicate how many overweight vehicles were required to off-load. A negative response where appropriate was requested for the 1980 certifications, but will be required on future certification reports by Section 657.15, first paragraph. The procedure for collection of this required data should be included in division personnel's periodic field reviews.

Response Requested

Division should determine how many of the 1,052 overweight vehicles were off-loaded, as required by Section 658.9(b)(7). This same information will be required on future certification reports under Section 657.15(e)(3)(ii).

Disposition

Certification will be acceptable upon receipt of the missing information.

Final Disposition

Certification is acceptable with clarification from Region that "All of the 1052 overweight vehicles were required to either off-load, shift the load, or secure a special overweight permit if the load was nondivisible."

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

1980 Certification Summary 10/1/79 - 9/30/80

STATE	NEW LAW	FIXED SCALES	PORT. SCALES	VEHICLES WEIGHED	CITATIONS			PERMITS		
					OVER WEIGHT	OVER SIZE	OFF LOADING	OVER WEIGHT	OVER SIZE	OVERWEIGHT & OVERSIZE
ALABAMA	NO	0	88	44,117	4821	-	715	628	24,285	7052
ALASKA	NO	10	48	45,479	1186	-	1037	179	-	3960
ARIZONA	YES	15	20	1,199,512	3483	250	-	9742	48,897	-
ARKANSAS	NO	18	70	3,766,370	8359	-	21334	27216	67,425	-
CALIFORNIA	YES	49	321	3,971,372	56014	11598	-	46299	106,712	-
COLORADO	NO	26	10	1,951,168	4821	745	7357	23431	53,300	-
CONNECTICUT	YES	3	20	133,842	2795	1160	52	19174	38,028	-
DELAWARE	NO	1	4	49,927	1282	20	8	416	19,972	4511
DIST. OF COL.	YES	2	12	2,239	1971	-	-	773	-	202
FLORIDA	NO	22	142	4,166,145	32914	1915	-	30564	78,003	-
GEORGIA	YES	26	416	847,059	13944	4064	-	13813	66,640	-
HAWAII	YES	0	10	16,254	336	30	418	77	1,743	4289
IDAHO	NO	26	28	755,600	8981	213	-	12001	22,594	-
ILLINOIS	YES	33	0	6,305,705	24000	1375	77000	52637	78,868	-
INDIANA	NO	23	172	1,383,517	11369	3899	-	12986	92,861	24817
IOWA	YES	37	75	618,600	20564	9584	-	14541	28,344	-
KANSAS	YES	7	54	527,227	4863	399	554	962	49,573	15520
KENTUCKY	YES	15	316	735,449	7426	771	-	-	-	-
LOUISIANA	NO	12	192	4,114,857	20836	1731	21739	85826	204,986	-
MAINE	NO	0	72	44,031	2087	778	-	132	13,041	4290
MARYLAND	YES	2	90	121,226	7560	10203	977	23292	43,673	-
MASSACHUSETTS	NO	0	70	15,380	1736	21	88	10294	19,462	-
MICHIGAN	YES	17	162	1,735,997	1166	1764	1161	559	57,176	22653
MINNESOTA	YES	8	11	477,432	6144	574	-	23858	98	-
MISSISSIPPI	YES	40	80	4,327,589	8850	-	-	1685	46,184	17138
MISSOURI	NO	41	90	2,837,756	20953	13326	28159	-	-	-
MONTANA	NO	36	34	536,880	7016	2697	12338	8387	36,173	5717
NEBRASKA	YES	15	9	1,277,531	15308	1042	-	3141	30,199	5211
NEVADA	NO	2	22	29,925	698	264	526	3832	10,610	-
NEW HAMPSHIRE	NO	4	220	4,608	765	105	290	1004	9,860	2915
NEW JERSEY	NO	4	93	116,502	13954	3241	6046	3604	55,206	-
NEW MEXICO	YES	19	18	3,226,122	3301	211	-	6992	41,100	1479
NEW YORK	YES	0	172	177,624	16142	2242	78	1218	33,799	10662
NORTH CAROLINA	NO	22	348	4,750,819	15486	1265	1504	-	36,714	15344
NORTH DAKOTA	NO	12	96	1,047,203	2751	55	2705	20022	28,001	15543
OHIO	NO	23	192	4,035,659	10332	1417	10332	3155	64,936	32339
OKLAHOMA	YES	14	178	485,153	9443	1944	895	7442	137,285	14973
OREGON	YES	66	78	1,472,561	59019	3214	2054	9673	20,251	21991
PENNSYLVANIA	YES	3	117	107,988	4682	2088	-	45078	163,200	-
RHODE ISLAND	NO	0	12	2,511	121	49	-	27	2,262	742
SOUTH CAROLINA	YES	9	66	376,157	8538	1526	-	753	21,628	16935
SOUTH DAKOTA	YES	8	0	82,145	4171	147	-	4347	27,672	-
TENNESSEE	YES	13	185	4,951,619	52156	20238	-	1162	59,908	16597
TEXAS	NO	4	326	242,152	35621	6481	22131	6137	105,924	353682
UTAH	NO	11	40	944,727	6000	1143	4843	45937	37,678	-
VERMONT	NO	4	64	25,879	1302	140	178	732	4,939	1195
VIRGINIA	NO	72	114	7,306,237	19812	2314	-	6509	32,471	12480
WASHINGTON	NO	64	146	1,721,506	9447	3126	2796	20835	41,396	31294
WEST VIRGINIA	NO	2	90	252,959	3703	3202	-	19609	122,752	-
WISCONSIN	YES	24	110	1,142,626	6120	1107	6120	762	43,368	22098
WYOMING	YES	27	0	42,290	1052	-	-	39115	-	75
PUERTO RICO	NO	0	43	2,639	168	23	-	10	15	34

SECTION II

INVENTORY OF SYSTEM OF PERMITS FOR OVERWEIGHT VEHICLES

Paragraph number 3, page 9, of the November 1980 report to Congress from the Secretary of Transportation on "Overweight Vehicle Penalties and Permits - an Inventory of State Practices," stated that the States' current practices of permits for overweight vehicles would be up-dated in 1981.

This section contains the updated information concerning the inventory of practices for issuance of overweight permits as reported by the States in their most recent certification of size and weight enforcement. Paragraph 658.9(b)(1) of the Code of Federal Regulations requires each certification to contain: "A copy of any State law or regulation pertaining to vehicles sizes and weights adopted since the State's last certification;"

The pages that follow contain copies of the material submitted by the several States in response to 23 CFR 658.9(b)(1).

Sec. 22. Section 1 of public act 79-188 is repealed and the following is substituted in lieu thereof:

(a) A vehicle or combination of vehicle and trailer or semi-trailer or any other object may be operated upon any highway or bridge, subject to the provisions of section 13a-151 of the general statutes, provided such vehicle or combination of vehicle and trailer or semi-trailer or other object meets all the applicable requirements of this section or has been granted a permit under section 14-270 of the general statutes.

Sec. 27. Section 14-270 of the general statutes, as amended by section 8 of public act 79-188, is repealed and the following is substituted in lieu thereof:

(a) The commissioner of transportation or other authority having charge of the repair or maintenance of any highway or bridge is authorized, to grant permits for transporting vehicles or combinations of vehicles or vehicles and load, or other objects not conforming to the provisions of sections 14-98, 14-282, 14-284, 14-285 and section 1 of [this act] PUBLIC ACT 79-188; but, in the case of motor vehicles, only the commissioner of transportation shall be authorized to issue such permits. Such permits shall be written, and may limit the highways or bridges which may be used, the time of such use and the maximum rate of speed at which such vehicles or objects may be operated, and may contain any other condition considered necessary by the authority granting the same, provided the department of transportation shall not suffer any loss of revenue granted or to be granted from any agency or department of the federal government for the federal interstate highway system or any other highway system.

(b) Any permit issued in respect to any vehicle or combination of vehicles or vehicle and trailer on account of its excessive weight shall be limited to the gross weight shown or to be shown on the registration certificate.

(c) Any permit issued under this section shall be retained in the possession of the operator of the vehicle or combination of vehicles or vehicle and trailer for which such permit was issued, except that a telegraphic confirmation of the existence of such permit or the use of the special number plates described in section 14-24 shall be sufficient to fulfill the requirements of this section.

(d) (1) THE OWNER OF ANY VEHICLE REGISTERED IN THE STATE MAY PAY EITHER A FEE OF FIFTEEN DOLLARS FOR EACH PERMIT ISSUED FOR SUCH VEHICLE UNDER THIS SECTION OR AN ANNUAL FEE FOR SUCH VEHICLE IN AN AMOUNT EQUAL TO THIRTY PER CENT OF THE REGISTRATION FEE FOR SUCH VEHICLE, PAYABLE TO THE DEPARTMENT OF TRANSPORTATION. (2) THE OWNER OF ANY VEHICLE REGISTERED IN A STATE OTHER THAN CONNECTICUT SHALL PAY A FEE OF FIFTEEN DOLLARS FOR EACH PERMIT ISSUED UNDER THIS SECTION. (3) AN ADDITIONAL FEE OF TWO DOLLARS SHALL BE CHARGED FOR EACH PERMIT ISSUED UNDER THIS SECTION AND TRANSMITTED VIA TRANSCIEVER OR FACSIMILE EQUIPMENT.

[(d)] (e) Any person who violates the provisions of any permit issued under this section shall be deemed to have no permit.

GEORGIA

CHAPTER 95-A-9, REGULATIONS OF PUBLIC ROADS
ARTICLE VIII, SIZE, WEIGHT AND LOAD

95A-961 Permits for excess weight and dimensions

(a) General

The commissioner or the official of the department designated by the commissioner may, in his discretion, upon application in writing and good cause being shown therefore, issue a permit in writing authorizing the applicant to operate or move upon the State's public roads a motor vehicle or combination of vehicles and loads whose weight, width, length, or height, or combination thereof, exceeds the maximum limit specified by law: Provided, that the load transported by such vehicle or vehicles is of such nature that it is a unit which cannot be readily dismantled or separated, and further provided that no permit shall be issued to any vehicle whose operation upon the public roads of this State threatens to unduly damage a road or any appurtenance thereto, except that aforesaid dismantling limitation shall not apply to loads of cotton, tobacco, concrete pipe, and plywood that do not exceed a width of nine feet and which are not moved on part of the National System of Interstate and Defense Highways: Provided, further, vehicles transporting portable buildings on roads not a part of the National System of Interstate and Defense Highways, regardless of whether the nature of such buildings is such that can be readily dismantled or separated, may exceed the lengths and widths established herein provided that a special permit for such purposes has been issued as provided herein: and Provided, further, that no such special permit shall be issued for a load exceeding 12 feet in width.

Permits may be issued on application to the department to persons, firms or corporations without specifying license plate numbers in order that such permits which are issued on an annual basis may be interchanged from vehicle to vehicle. The department is hereby authorized to promulgate reasonable rules and regulations which are necessary or desirable governing the issuance of such permits: Provided

such rules and regulations are not in conflict with the provisions of this Title and other provisions of law.

Every such permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer or State trooper or authorized agent of the department.

The application for any such permit shall specifically describe the type of permit applied for, as said types of permits are described in subsection (c), and the application for a single trip permit in addition shall describe the points of departure and destination.

The commissioner or the official of the department designated by the commissioner is authorized to withhold such permit, or, if such permit is issued, to establish seasonal or other time limitation within which the vehicles described may be operated on the public road indicated, or otherwise to limit or prescribe conditions of operation of such vehicle, when necessary to assure against undue damage to the road foundation, surfaces or bridge structures, and require such undertaking or other security as may be deemed necessary to compensate the State for any injury to any roadway or bridge structure.

For just cause, including, but not limited to, repeated and consistent past violations, the commissioner or an official of the department designated by the commissioner, may refuse to issue, or may cancel, suspend, or revoke the permit of an applicant or permittee. In addition, anytime the restrictions or conditions within which a permitted vehicle must be operated are violated, the permit may be immediately declared null and void.

(b) Duration and limits of permits

(1) Annual. The commissioner or the official of the department designated by the commissioner, may pursuant to the provisions of this Section issue an annual permit which shall permit a vehicle to be operated on the public roads of this State for 12 months from the date the permit is issued even though the vehicle or its load exceed the maximum limits specified in this Article:

Provided, except as specified in subsection (c), that an annual permit shall not authorize the operation of a vehicle (a) whose total gross weight exceeds 100,000 pounds; (b) whose single axle weight exceeds 25,000 pounds; (c) whose total length exceeds 75 feet; (d) whose total width exceeds 96 inches or whose load width exceeds 144 inches; or (e) whose height exceeds 14 feet, six inches, provided however that an annual permit to operate a vehicle which exceeds a height of 13 feet and six inches shall be issued only on condition of payment of an indemnity bond or proof of insurance protection for \$300,000, said bond or insurance protection conditioned for payment to the department to be held in trust for the benefit of the owners of bridges and appurtenances thereto, traffic signals, signs or other highway structures damaged by a vehicle operating under authority of such overheight permit. The liability under the bond or insurance certificate shall be absolute and shall not depend on proof of negligence or fault on the part of the permittee, his agents, or operators.

(2) Single trip. The commissioner may issue a single trip permit,

pursuant to the provisions of this section, to any vehicle.

(c) Fees

The department may promulgate rules and regulations concerning the issuance of permits and charge a fee for the issuance thereof as follows:

(1) Annual. Charges for the issuance of annual permits shall be as follows:

(a) For portable buildings and boats and any vehicle or combination of vehicles, except a vehicle or combination of vehicles having a trailer or combination of trailers with sidewalls or roof, which has transported portable buildings may, after depositing any said load, return unloaded to its point of origin even though the unloaded vehicles exceed the 60-foot limitation provided for herein, up to and including 12 feet wide, 75 feet long, \$100: Provided, that the unloaded vehicles referred to in this paragraph may not be operated on the National System of Interstate and Defense Highways;

(b) For heavy equipment:

(i) Overweight, overlength, or overwidth, \$100

(ii) Overheight (any equipment), \$50

A tractor and trailer (low boy type) may, after depositing a load referred to in this subsection return to its point of origin even though the unloaded tractor and trailer (low boy type) may exceed the 60-foot limitation provided for herein up to and including 12 feet wide, 75 feet long: Provided, that the unloaded tractor and trailer (low boy type) referred to in this Paragraph may not be operated on the National System of Interstate and Defense Highways.

(c) For loads of concrete pipe, cotton and plywood not to exceed nine feet wide, \$100: Provided that such loads may not be operated on the National System of Interstate and Defense Highways.

(d) For the annual permits authorized by section 95A-958(b)(1) for vehicles exceeding 75 feet in length, \$100;

(e) For mobile homes, modular homes, and sectional houses, and any vehicle or combination of vehicles, except a vehicle or combination of vehicles having a trailer or combination of trailers with sidewalls or roof, which has transported modular homes or sectional houses may, after depositing any said load, return unloaded to its point of origin even though the unloaded vehicles exceed the limitations provided for herein, up to and including 10 feet wide and 75 feet long, \$100: Provided, that the unloaded vehicles referred to in this subparagraph may not be operated on the National System of Interstate and Defense Highways;

(f) For mobile homes, modular homes, and sectional houses, and any vehicle or combination of vehicles, except a vehicle or combination of vehicles having a trailer or combination of trailers with sidewalls or roof, which has transported modular homes and sectional houses may, after depositing any said load, return unloaded to its point of origin even though the unloaded vehicles exceed the limitations provided for herein, from 10 feet wide up to and including 12 feet wide, 85 feet long, \$250: Provided, that the movements made under the authority of these annual permits shall be authorized only on those routes specified as part of an approved route

system; Provided further, that the mobile homes, modular homes and sectional houses referred to in this subparagraph, regardless of the length of the towing vehicles, shall not exceed a length of 70 feet from the center of the hitch ball cup to the rearmost part of the load; and provided further, that the unloaded vehicles referred to in this subparagraph may not be operated on the National System of Interstate and Defense Highways.

(g) For the annual permits authorized by section 95A-958(a) for trailers which are over 45 feet in length, \$10.

(2) Three months. The charges for the issuance of three months permits for loads of tobacco not to exceed nine feet wide shall be \$25: Provided that such loads may not be operated on the National System of Interstate and Defense Highways.

(3) Single trip. Charges for the issuance of single trip permits shall be as follows:

(a) Portable buildings and boats:

(i) Up to and including 12 feet wide, 75 feet long, \$10

(ii) Boats in excess of 12 feet wide, \$20

(iii) Portable buildings in excess of 75 feet long, \$20

(b) Heavy equipment:

(i) Over on only one of the following limitations: Weight, length, height, width, \$5

(ii) Over more than one of the above limitations, \$10

(c) Miscellaneous:

(i) Houses, \$20

(ii) Off-the-road equipment, \$5

(iii) Timber, structural members, poles and piling over 75 feet long, \$5

(iv) Other oversized loads not herein specified, \$20

(v) Other overheight loads not herein specified, \$5

Notwithstanding any provision of sections 92-3501 through 92-3503 and 92-3601 through 92-3604, as amended, to the contrary, all fees collected in accordance with this section shall be paid to the treasurer of the department to help defray the expenses of enforcing the limitations set forth in this Article and to be used for public road maintenance purposes in addition to any sums appropriate therefor to the department.

(d) Mobile homes, modular homes, and sectional houses;

(i) Up to and including 12 feet wide and the maximum lengths allowed, \$10

(ii) For double-wides up to and including a 12 foot wide box and a one foot roof overhang, when being towed with the roof overhang against the right-hand shoulder of the road away from the centerline, and up to the maximum lengths allowed, \$15

(iii) In excess of 12 feet wide up to and including 14 feet wide and the maximum lengths allowed, \$50; provided further that, notwithstanding any other provisions of this Code section, any vehicle transporting or towing a mobile home, modular home or sectional house in excess of 144 inches wide shall yield the right-of-way to all approaching vehicles so that one-half of the roadway shall be available to vehicles approaching and passing from the opposite direction. Whenever four or more vehicles over-take and

follow a mobile home, modular home or sectional house in excess of 144 inches wide the vehicle transporting or towing the mobile home, modular home or sectional house shall pull the mobile home, modular home or sectional house as far to the right as possible at the first reasonable location, stopping if necessary, and shall allow the vehicles following the mobile home, modular home, or sectional house to pass safely. Any person who violates the provisions of this subparagraph shall be guilty of a misdemeanor and shall be fined not less than \$100 and the permits authorized in this section for vehicles wider than 144 inches shall be suspended for 90 days. Upon a second conviction within two years, the fine shall be not less than \$150 and the suspension of the permit for vehicles wider than 144 inches shall be for 190 days. Upon a third conviction within two years, the fine shall be not less than \$300 and the permits for vehicles wider than 144 inches shall be suspended for one year. Any Officer authorized to enforce the traffic laws of this State shall be empowered to enforce the provisions of this subparagraph. The department is authorized to promulgate rules and regulations necessary to enforce the suspension of permits authorized in this section.

(Acts 1973, pp. 947, 1100; 1974, pp. 1422, 1436; 1975, p. 400; 1979, pp. 439, 442-444; 1980, pp. 576, 579, eff. March 20, 1980.)

Editorial Note

Acts 1979, pp. 439, 442-444, added the second sentence to the last paragraph of subsection (a), added "except as specified in subsection (c) in the second paragraph of subsection (b)(1), rewrote subsection (c)(1)(f), rewrote subsection (c)(3)(a), and added subsection (c)(3)(d).

Acts 1980, pp. 576, 579, substituted "60" for the former "55" in subsections (c)(1)(a) and (c)(1)(b) and added subsection (c)(1)(g).

ANNOTATIONS

Cited. Op. Atty. Gen. U77-33; Op. Atty. Gen. 80-9.

95A-961.1 Trip permits authorizing the load width of a vehicle transporting a mobile home to extend up to and including 168 inches

(Based upon Acts 1977, pp. 321, 322; 1978, p. 1565. Repealed by Acts 1979, pp. 439, 445, eff. April 1, 1979.)

Notes of Decisions Under Former Law

Modular homes

Section does not authorize movement of 14-foot wide "modular homes" and "sectional houses" upon Georgia highways. Op. Atty. Gen. U77-33.

672-2-.02 General Restrictions on Issuance of Permits. Amended.

(5) No permit shall be issued for off-the-road equipment which exceeds 25,000 pounds on any one axle. Off-the-road equipment with axle loads of not more than 25,000 pounds nor less than 20,840 pounds will be routed by the Office of Permits and Enforcement and limited to a ten mile radius from the point where the trip originates.

672-2-.08 Application for Permits. Amended.

(1) Address of Office of Permits and Enforcement. Written applications should be addressed to the Office of Permits and Enforcement, State Department of Transportation, 940 Virginia Avenue, Building One, Hapeville, Georgia 30354. (Telephone—Area Code 404, 656-5428).

(2) Procedure:

(a) Single trip permit, application for. An application for a single trip permit may be made by telephone, by letter, or in person, giving the applicable information required. The permit fee shall be transmitted to the Office of Permits and Enforcement, State Department of Transportation, prior to the issuance of the permit. Such payment may be made by company check, cash, money order, or by certified or cashier's check. A personal check will not be accepted. Checks and money orders shall be made payable to the order of the Department of Transportation, State of Georgia.

(b) Single trip permit, issuance of. The Office of Permits and Enforcement, as requested in the application, may use any of the following methods to transmit a single trip permit to the applicant: facsimile transmission, mail, Western Union Telegram, presentation in person.

(c) Annual permit. An application for an annual permit shall be made on the prescribed application form (Figure #1)*. The application shall be signed and notarized. Upon approval of the application and payment of the required fee, the Office of Permits and Enforcement shall issue the permit by mail or present it to the applicant, as requested by the applicant. The manner of payment for annual permit fees shall be as prescribed for single trip permit fees.

Authority Ga. L. 1973, pp. 947, 1100, as amended (Ga. Code of Public Transportation, § 96A-961); Ga. L. 1973, pp. 947, 962. (Ga. Code of Public Transportation, § 96A-303); Ga. L. 1977, p. 221. Administrative History. Original Rule entitled "Application for Permits" was filed on August 9, 1973; effective August 29, 1973. Amended: Emergency Rule 672-2-0.2-.08 was filed and effective on July 1, 1977, to remain in effect for a period of 180 days or until the adoption of a permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency. Said Emergency Rule repealed subparagraph (2)(a) and adopted a new subparagraph (2)(a). Amended: Emergency Rule repealed: paragraph (1), subparagraph (2)(a), and Figure #1 repealed and a new paragraph (1), subparagraph (2)(a), and Figure #1 adopted. Filed August 10, 1977; effective August 30, 1977.

*See Page 18.07.

August 13, 1980 (Revised)

672-2-.09 Revocation, Suspension of, Denial for Application or Renewal of Permits. Amended.

(1) Authority to revoke, suspend, or deny permits. The Chief of the Office of Permits and Enforcement, State Department of Transportation, is hereby designated by the Commissioner of said Department as the official authorized to refuse, cancel, suspend, or revoke the permit requested by an applicant or issued to a permittee.

(2) Reasons for justifying revocation, suspension, or denial of permit. Permits may be revoked, suspended, or denied for just cause, including but not limited to any one of the following reasons:

(a) Repeated past violations by the permittee or applicant, of a relatively minor nature;

(b) A single, but aggravated violation;

(c) A material misrepresentation made by the applicant for a permit;

(d) Failure to make payment in full for an overweight assessment citation issued by the Department; or

(e) Any other facts indicating that the applicant or permittee is a poor risk with regard to the safety of the traveling public or damage to public roads and bridges of Georgia.

HOUSE FILE 747

AN ACT
RELATING TO THE LENGTH, WEIGHT, AND ANNUAL REGISTRATION FEES
OF VEHICLES AND COMBINATIONS OF VEHICLES AND PROVIDING
PENALTIES FOR VIOLATIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Sec. 12. The department shall issue permits for the period beginning fifteen days following the effective date of this Act to December 31, 1980 to interstate and intrastate carriers that apply for registration authority at a weight higher than the current registered gross weight. The department shall assess a prorated fee from the schedule of fees set forth in section five (5) of this Act. Permit fees shall be payable on an annual basis. A minimum fee of ten dollars shall be collected by the department. Trucks, motor trucks, and truck tractors registered under the provisions of section three hundred twenty-one point one hundred twenty-two (321.122) of the Code on the effective date of this Act shall not be eligible to reregister under section three hundred twenty-one point one hundred twenty-one (321.121) of the Code during the 1980 registration year. The commission shall adopt temporary rules as are necessary to implement the provisions of this Act as it relates to revised registrations in 1980 and temporary rules adopted for this purpose are not rules as defined in section seventeen A point two (17A.2), subsection seven (7), of the Code and shall not be subject to chapter seventeen A (17A) of the Code.

Title 24

Vehicle Laws-Size, Weight, and Load; Highway
Preservation

Subtitle 1. Size, Weight and Load

§ 24-112. Permits for excess size and weight.

(b) *Overweight vehicles.* — (1) The State Highway Administration may issue a permit allowing an overweight vehicle to use the highways in this State.

(2) For each permit issued under this subsection, the State Highway Administration shall charge a fee of:

(i) \$15 for the first 45 tons (90,000 pounds) or less of gross weight of the vehicle; and

(ii) \$2 for each additional ton (2,000 pounds) or part of a ton in excess of 45 tons.

(1977, ch. 355.)

Effect of amendment. — Chapter 355, Acts 1977, effective July 1, 1977, substituted "\$2" for "\$5" at the beginning of paragraph (ii) in sub-subsection (2) of subsection (b).

As the other subsections were not affected by the amendment, they are not set forth above.

Subtitle 2. Regulation of Use of Highways.

Part 5

Weight and Size Limitations

66-7-413. Permits for excessive size and weight; special notification required on movement of mobile homes.

A. The motor transportation division and local highway authorities may, in their discretion, upon application in writing and good cause being shown, issue a special permit in writing authorizing the applicant to operate or move a vehicle or load of a size or weight exceeding the maximum specified in Sections 66-7-401 through 66-7-416 NMSA 1978 on any highway under the jurisdiction of the state highway commission or local authorities. Except for the movement of mobile homes, a permit may be granted, in cases of emergency, for the transportation of loads on a certain unit or combination of equipment for a specified period of time not to exceed one year, and the permit shall contain the route or routes to be traversed, the type of load or loads to be transported and any other restrictions or conditions deemed necessary by the body granting the permit. In every other case, the permit shall be issued for a single trip and may designate the route to be traversed and contain any other restriction or conditions deemed necessary by the body granting the permit. Every permit shall be carried in the vehicle to which it refers and shall be opened for inspection to any peace officer, and it is a misdemeanor for any person to violate any of the conditions or terms of the special permit.

B. The motor transportation division shall charge and collect, when the movement consists of houses and buildings of a width of twenty feet or greater, for a distance of five miles or more, the sum of one hundred fifty dollars (\$150) a day or fraction thereof, to defray the cost of state or local police escort. The permit issued and the fee charged shall be based upon the entire movement at one time requiring police escort and not upon the number of vehicles involved.

C. The motor transportation division shall promulgate regulations in accordance with the State Rules Act [14-3-24, 14-3-25, 14-4-1 to 14-4-9 NMSA 1978] pertaining to safety practices, liability insurance and equipment for escort vehicles provided by the motor carrier himself and for escort vehicles provided by a private business in this state.

(1) If a motor carrier provides his own escort vehicles and personnel, the motor transportation division shall not charge an escort fee, but shall provide the motor carrier escort personnel with a copy of applicable regulations and shall inspect the escort vehicles for the safety equipment required by the regulations. If the escort vehicles and personnel meet the requirements set forth in the regulations and if the motor carrier holds a valid certificate of public convenience and necessity or permit, as applicable, issued pursuant to Chapter 65, Article 2 NMSA 1978, the motor transportation division shall issue the special permit.

(2) If the escort service is a private business, the business shall have applied to the state corporation commission for and been issued a permit or certificate to operate as a contract or common motor carrier pursuant to Chapter 65, Article 2 NMSA 1978. The state corporation commission shall supply copies of applicable regulations to the business by mail, and shall supply additional copies upon request. If the escort vehicles and personnel meet the requirements set forth in the regulations and if the escort service holds a certificate, the special permit shall be issued and the motor transportation division shall not charge an escort fee.

(3) The movement of vehicles upon the highways of this state requiring a special permit and required to use an escort of the type noted in Paragraphs (1) and (2) of this subsection is subject to motor transportation division authority and inspection at all times.

(4) The highway department shall conduct engineering investigations and engineering inspections to determine which four-lane highways are safe for the operation or movement of mobile homes without an escort. After making such determination, the highway department shall hold public hearings in the area of the state affected by such

determination, after which it may adopt regulations designating those four-lane highways as being safe for the operation or movement of mobile homes without an escort. If any portion of such a four-lane highway lies within the boundaries of a municipality, the highway department, after obtaining the approval of the municipal governing body, shall include such portions in their regulations.

D. Except for the movement of mobile homes, special permits may be issued for a single vehicle or combination of vehicles by the motor transportation division for a period not to exceed one year for a fee of sixty dollars (\$60.00). The permits may allow excessive height, length and width for a vehicle or combination of vehicles or load thereon, and may include a provision for excessive weight if the operation is to be within the vicinity of a municipality.

E. Special permits for a single trip for a vehicle or combination of vehicles or load thereon of excessive weight, width, length and height may be issued for a single vehicle for a fee of fifteen dollars (\$15.00).

F. If the vehicle for which a permit is issued under this section is a mobile home, the motor transportation division or local highway authority issuing the permit shall furnish the following information to the property tax division which shall then forward the information:

(1) to the county assessor of any county from which a mobile home is being moved, the date the permit was issued, the location being moved from, the location being moved to if within the same county, the name of the owner of the mobile home and the identification and registration numbers of the mobile home;

(2) to the county assessor of any county in the state to which a mobile home is being moved, the date the permit was issued, the location being moved from, the location being moved to, the name of the owner of the mobile home and the registration and identification numbers of the mobile home; and

(3) to the owner of a mobile home having a destination in the state, notification that the information required in Paragraphs (1) and (2) of this subsection is being given to the respective county assessors and that mobile homes are subject to property taxation.

G. Except as provided in Subsection H of this section, if the movement of a mobile home originates in the state, no permit shall be issued under Subsection F of this section until the owner of the mobile home or his authorized agent obtains and presents to the division proof that a certificate has been issued by the county assessor or treasurer of the county in which the mobile home movement originates showing that either:

(1) all property taxes due or to become due on the mobile home for the current tax year or any past tax years have been paid except for mobile homes located on an Indian reservation; or

(2) no liability for property taxes on the mobile home exists for the current tax year or any past tax years except for mobile homes located on an Indian reservation.

H. The movement of a mobile home from the lot or business location of a mobile home dealer to its destination designated by an owner-purchaser is not subject to the requirements of Subsection G of this section if the mobile home movement originates from the lot or business location of the dealer and was part of his inventory prior to the sale to the owner-purchaser; however, the movement of a mobile home by a dealer or his authorized agent as a result of a sale or trade-in from a nondealer owner is subject to the requirements of Subsection G of this section whether the destination is the business location of a dealer or some other destination.

History: 1953 Comp., § 64-7-413, enacted by Laws 1975, ch. 35, § 484; 1980, ch. 61, § 1.

The 1980 amendment substituted "one hundred fifty dollars (\$150)" for "fifty dollars (\$50.00)" near the middle of the first sentence of Subsection B, substituted "sixty dollars (\$60.00)" for "twenty dollars (\$20.00)" at the end of the first sentence of Subsection D, deleted the former third sentence of Subsection D, relating to a limitation on the excessive weight

provision, substituted "fifteen dollars (\$15.00)" for "five dollars (\$5.00)" at the end of Subsection E, substituted "home" for "homes" near the beginning of Subsection F(2), inserted "except for mobile homes located on an Indian reservation" near the end of Subsection G(1) and added "except for mobile homes located on an Indian reservation" at the end of Subsection G(2).

Permit Rule No. 43 - This rule was adopted by the Oregon Transportation Commission on April 16, 1980. It establishes an experimental, self-issuing permit program. You will find the rule to be self-explanatory. We consider the program a success. Eighty-two Oregon-based firms are using it and in the first five and one-half months, there have been over 4,000 permits issued.

PERMIT RULE NO. 43

PERMANENT ADMINISTRATIVE RULE

Administrative Rule to Govern Telephonic
Application and Self-Issuance of Permits for the
Movement of Oversize/Overweight Vehicles and Loads

I. Scope - Oregon Laws 1979, Chapter 664 (Senate Bill 975) authorizes the establishment of an experimental program for issuing permits for the movement of oversize/overweight vehicles and loads. The purpose of this rule is to establish such a program, with the intent of saving time, travel, and energy by simplifying and expediting the process of permit application and issuance.

II. Self-Issuing Permit

- A. The program established under these rules shall entail the use of a self-issuing permit. The applicant will possess a blank permit form and shall perform his own permit issuance by entering upon the form data and particulars furnished him by phone from a permit clerk located in one of several different state offices.
- B. Blank permits, in a form to be developed by the Highway Division Permit Unit, may be purchased by the applicant from the Highway Division, Permit Unit office located in Salem. The purchase price for each blank permit form shall be the \$3 fee required under ORS 483.502(3).

III. Application for Permit

- A. The applicant may telephone any one of the following permit issuing offices.

1. Highway Division, Permit Office, North Portland (Jantzen Beach), phone: 283-5706

Adopted by Transportation Commission
Date <u>April 16, 1980</u>
Effective Date <u>April 17, 1980</u>

2. Motor Vehicles Division, Permit Office, East Portland
(Glisan Street), phone: 238-8257
 3. Highway Division, Permit Unit, Salem, phone: 378-2568
 4. Highway Division, District Office, Eugene, phone:
686-7614
 5. Public Utility Commissioner Office, Farewell Bend Port
of Entry, phone: 869-2293
 6. Public Utility Commissioner Office, Klamath Falls Port
of Entry, phone: 883-7191
 7. Public Utility Commissioner Office, Ashland Port of
Entry, phone: 482-5141
- B. The foregoing list of offices may be added to or revised as necessary to best serve the permit issuing program as determined by the State Highway Engineer.
- C. When telephone contact between the applicant and permit office clerk is established, the permit clerk will complete a permit application form based upon information furnished by the applicant. The application form shall be in a form to be developed by the Highway Division Permit Unit.
- D. A Permit Unit representative shall determine if it is appropriate to issue the requested permit. In making that determination, the details of the application shall be compared against applicable rules and statutes pertaining to oversize/overweight vehicle or load movement. It is anticipated that, in many cases, it will be possible to inform the applicant during the initial telephone conversation whether the permit is granted. In some cases, however, the dimensions and weights presented may be such that further investigation is necessary and then a subsequent

Issuance of Permit

- A. When the permit clerk has determined it is appropriate to issue the requested permit, the clerk will inform the applicant of the terms and conditions of the permit. The applicant shall, at that time, enter these details upon his blank permit form, which form was previously acquired as explained under foregoing item II. The applicant shall furnish the preprinted number of his permit form to the permit clerk. The clerk shall enter this number upon the completed application form for identification and future reference purposes.
- B. When the applicant has entered upon his permit form the terms and conditions furnished by the permit clerk, the applicant shall be considered as having a valid permit.
- C. The permit form will consist of an original and two copies. The original is to be carried by the driver of the vehicle described in the permit as provided under ORS 493.530. The two copies are to be mailed within five days to the State Highway Division, Permit Unit, P. O. Box 14030, Salem, 97310.

V. Limitations of Permits

- A. Permits shall authorize only single trip movements.
- B. Approved routes are to be only those state highways as are designated in the permit. Separate permission must be obtained for travel over county roads, city streets or any other road not under Department of Transportation supervision.
- C. At the State Highway Engineer's discretion, the permit issuance may be limited to only those motor carriers, firms, or individuals domiciled or who maintain an office in Oregon.

D. Unused permits in the possession of applicants may be recalled at the discretion of the State Highway Engineer. Refund of permit fee for unused permits or replacement by like and kind permits will be made as determined by the State Highway Engineer.

VI. Permit Cancellation

A. The cancellation authority granted under ORS 483.528 shall apply to and govern the cancellation of permits issued under this program. Copies of permits, self-issued under these rules, may be compared against details of the application as provided by the applicant under item IV.

B. The State Highway Engineer may in his discretion terminate a permittee's eligibility to apply for additional permits under this program. Such termination shall be for a time period determined by the Engineer. In making these determinations, the State Highway Engineer shall consider the following criteria:

1. Whether the violation or violations are knowing, reckless, or merely negligent;
2. Whether multiple violations of the provisions of self-issuing permits have been committed by the applicant;
3. The magnitude of the violation or violations;
4. The extent of the threat of danger to the public or damage to private and/or public property posed by the violation or violations.

Should the State Highway Engineer decide that termination of eligibility for self-issuing permits is warranted, the State Highway Engineer shall so notify the applicant by certified

mail. The applicant shall have 60 days from the date of receipt of the notice to request a hearing. If no hearing is requested, the applicant's eligibility shall be terminated on the 61st day. Upon timely receipt of a request for hearing, the termination of eligibility shall be stayed pending a hearing, and the State Highway Engineer or his designated representative shall conduct a hearing pursuant to ORS 183.413 through 183.470.

VII. Recognizing that this program is of an experimental nature, the rules set forth herein may be rescinded, revised, amended, or added to at any time by the State Highway Engineer as he may consider necessary to experiment with the program to ensure its success.

VIII. This rule was adopted by the Oregon Transportation Commission on April 16, 1980. A certified copy thereof was filed with the Secretary of State on April 17, 1980.

67 Pa. Code, CHAPTER 51
MOVEMENT OF OVERSIZE AND
OVERWEIGHT VEHICLES AND LOADS

Section 51.8. Permit Application Procedure. Paragraph (5) (ii) is amended to require a permittee desiring to carry a load in excess of 27,000 pounds on an axle to provide security satisfactory to the Department.

REGULATION 51.8 - PERMIT APPLICATION PROCEDURE

Permit applications may be made to the district or county office having jurisdiction over the point of origin or the point of destination in the Commonwealth. Applications shall be properly completed.

- (1) Applications to district offices may be made in person or by mail, telegraph (wire), telephone, TWX, telefacsimile or any other method approved by the Department. TWX applications shall be prepared with the Department's permit application tape, which is available from the central permit office upon request.

- (i) Applications made in person or by mail:
 - (A) Shall be on form M-936A and signed by the applicant or his agent.
 - (B) Shall be accompanied by a certified check or money order from persons not registered with the Department, payable to the Department, in the appropriate amount, as set forth in chapter 19, subchapter C of the act and regulation 51.9 (company checks are acceptable only from registered persons).
- (ii) Applications made by telegraph (wire), telephone, TWX or any other method approved by the Department:
 - (A) Shall be accepted only from registered persons.
 - (B) Shall be followed by a company check, certified check or money order, payable to the Department, in the prescribed amount within ten days after the permittee receives the permit (Form M-936P) or supplement (Form M-945S).
 - (C) Shall contain the following information:
 - (I) name and mailing address of the registered person and his registration identification number (name shall be as set forth on the registration card;
 - (II) type of load and type of equipment, specifying number of axles on each unit;
 - (III) point of origin and destination in and through Pennsylvania;
 - (IV) beginning and ending dates of movement;
 - (V) proposed route of movement in Pennsylvania;
 - (VI) total number of miles that will be traveled on state highways, not including the Pennsylvania Turnpike;
 - (VII) total fees, as set forth in chapter 19, subchapter C of the act and regulation 51.9;
 - (VIII) overall size, including width and height in inches and length in feet of the vehicle, or combination of vehicles, including any load carried thereon;
 - (IX) gross weight and registered gross weight;
 - (X) license number and the state of registration of transporting or drawing vehicle; or if no license is required, the manufacturer's serial number;
 - (XI) license number and state of registration of drawn vehicle; or if no license is required, the manufacturer's serial number;
 - (XII) name of insurance carrier, policy number, amount and effective period of coverage, unless a registration agreement for special hauling permits is in effect, and
 - (XIII) where, and the method by which, the permit should be transmitted.
 - (D) Telephone applications must be confirmed by filing form M-936A within ten days. Telephone applications will not be accepted if the permit is to be picked up in person.

- (2) Applications to county offices:
- (i) shall be made in person
 - (ii) on form M-936A, and
 - (iii) accompanied by a certified check or money order from persons not registered with the Department. (Company checks are acceptable only from registered persons).
- (3) Information provided in applications must be accurate. Section 4904 of the Crimes Code of December 6, 1972, (P.L. 1482, No.334)(18 Pa. C.S. section 4904), makes it a misdemeanor for a person to mislead a public servant in performing an official function by making any written false statement which the person does not believe to be true. Supplements will not be issued to correct errors contained in submitted applications.
- (4) The following conditions shall apply to excessively oversized or overweight movements:
- (i) When the gross weight of a combination exceeds 150,000 pounds, a completed supplemental application (Form M-936AS) shall be submitted to the issuing engineering district with the completed application (Form M-936A).
 - (ii) When any single-axle weight of a motor vehicle exceeds 30,000 pounds, a completed supplemental application (Form M-936AS) shall be submitted to the issuing engineering district with the completed application (Form M-936A), unless a completed supplemental application for the motor vehicle and routes is on file with the Department.
 - (iii) At least 30 days prior to the anticipated move date of a super load, the applicant shall submit a completed application (Form M-936A) and supplemental application (Form M-936AS) together with written justification to the central permit office. Written justification shall include the following:
 - (A) detailed routing, including city streets and township roads, if any;
 - (B) a signed statement from the manufacturer that the object cannot be manufactured in smaller sections, documented with engineering drawings;
 - (C) signed statements from other transportation companies - that is, air, water, rail - that they are unable to accommodate such a move over all or any part of the course, when requested by the central permit office;
 - (D) written approvals from all cities through which the proposed movement will pass; and
 - (E) the total number of similar objects to be moved within the next year.

Manufacturers should obtain preliminary approval prior to manufacturing a super load.

(5) (i) Special hauling permits will not be issued for a combination which, when operated upon a highway, has a gross weight exceeding the following:

<u>Combination of Vehicles</u>	<u>Maximum Gross Weight In Pounds</u>
Two-axle truck tractor & single-axle semitrailer	69,000
Two-axle truck tractor & two-axle semitrailer	73,280
Three-axle truck tractor & single-axle semitrailer	73,280
Two-axle truck & two-axle trailer	73,280
Two-axle truck tractor & three-axle semitrailer	95,000
Three-axle truck tractor & two-axle semitrailer	123,000
Three-axle truck tractor & three-axle semitrailer	150,000
Three-axle truck tractor & four-axle semitrailer	177,000
Four-axle truck tractor & two-axle semitrailer	150,000
Four-axle truck tractor & three-axle semitrailer	177,000
Four-axle truck tractor & four-axle semitrailer	204,000

(ii) No combination shall, when operated upon a highway, have a weight upon any axle in excess of 27,000 pounds, except in the case of overweight super loads for which the applicant provides security satisfactory to the Department in accordance with section 4962 of the act.

(iii) When any single-axle weight of a motor vehicle exceeds 50,000 pounds, the motor vehicle must be hauled.

(iv) All axles except front steering axles shall have at least four wheels and tires.

REGULATION 51.10 - GENERAL CONDITIONS

The following conditions shall apply to permits issued under these regulations, where applicable:

- (1) No movement shall be started until a permit therefor has been issued. The driver shall carry the permit and a copy of section 51.10 in the permitted vehicle and shall have same available for inspection by any police officer or representative of the Department.
- (2) The permit shall not supersede any lesser weight limit posted on a bridge or highway under authority of section 4902 of the act; however, the permittee may apply to the Department or local authorities, whichever is responsible for the posting, for a permit to exceed the posted weight. Such permits are conditioned upon execution of a surety bond by the permittee to cover the cost of repairs which may be necessitated by the movement.
- (3) The granting of a permit shall not be considered as a guarantee of the sufficiency of any highway or structure thereon for the load authorized.
- (4) The permittee shall comply with all applicable statutes, ordinances, rules and regulations of the Commonwealth and any political subdivision thereof, unless specifically exempted by the permit or its supplement.
- (5)
 - (i) The permit authorizes movement only on those highways specified in the permit which are under the jurisdiction of the Department.
 - (ii) The permit is not valid for any movement on the Pennsylvania Turnpike. For Turnpike Commission approval, call 717-939-9551.
 - (iii) Permission must be obtained from local authorities for the use of local roads and streets, which are listed in brackets or parentheses on the permit.
- (6) Movement under the permit is restricted from sunset to sunrise, unless otherwise provided in the act or in these regulations. Movement is also restricted during unfavorable weather conditions and road conditions. For the purpose of these regulations, unfavorable weather conditions and road conditions shall include:
 - (i) Snow covered highways (until pavement has been plowed full width), icy pavements (until highway has been cindered or salted); or
 - (ii) Driving rain, fog, snow storm, or other weather conditions which restrict visibility to less than 500 feet; or
 - (iii) Winds sufficient to cause the wheels of the (semi) trailer to deflect more than six inches from the path of the drawing vehicle's wheels.

- (7) (i) Movement under the permit is not authorized on Saturday afternoon, Sundays, holidays, days preceding or following holidays and such other periods before or after holidays as may be established from time to time, except movement essential to the national defense, or when authorized by the central permit office or in an emergency requiring immediate movement for protection of life or property (see section 51.12 of this title). For the purpose of this paragraph, the following are considered holidays:
- New Year's Day
 - Memorial Day
 - Independence Day
 - Labor Day
 - Thanksgiving Day
 - Christmas Day
- (ii) In addition to the above restrictions, if the vehicle and load, if any, exceed ten feet in width or 85 feet in length:
- (A) no movement is permitted at any time on Saturday;
 - (B) movement (other than super loads) in urbanized or congested areas is authorized only Monday through Friday from sunrise to 7:30 a.m. and 9 a.m. to 4 p.m. Urbanized area maps are available upon request.
 - (C) movement of super loads in urbanized areas is authorized only Monday through Friday from 3:00 a.m. to sunrise. Such movements shall not be permitted unless the permitted vehicle and load are well lighted on all sides so as to be clearly visible from 1000 feet in all directions.
- (iii) Movement of mobilehomes, modular units, or boats in excess of 12 feet in width, but not exceeding 14 feet in width, is permitted only Monday through Friday, from 9 a.m. to 4 p.m.
- (iv) Permitted oversize vehicles shall not use the Fort Pitt, Squirrel Hill or Liberty tunnels in Allegheny County except from 9 a.m. to 4 p.m.
- (v) Permitted vehicles shall not travel on Traffic Route 209 in Monroe and Pike Counties between Interstate 80 and the Pennsylvania - New York boundary line from May 1 thru September 30, except local deliveries.
- (8) The permit shall be automatically invalidated by the violation of any condition specified therein, by violation of these regulations or by the giving of false information on the application for the permit. Any such violation or falsification will also be grounds for refusal to issue permits on future applications.

(9) Unless otherwise provided in the act or in these regulations, the permit is valid only for five days and for a single trip in one direction between the two points designated. The permit does not authorize a return trip unless requested and specifically indicated on the permit.

(10) The permittee shall pay any claim for personal injury or property damage arising out of his operation under the permit for which he shall be determined to be legally responsible; and shall indemnify and hold harmless the Commonwealth and any Department, officer and employee thereof from any claim against them arising out of such operations.

(11) The permittee shall repair at his own expense and to the satisfaction of the Department any damage to highways or structures which may occur in connection with operations under the permit.

(12) (i) An escort by uniformed Pennsylvania State Police or local police is required in the following instances:
(A) total widths in excess of 15 feet;
(B) super loads;
(C) while any provision of the act is being contravened.
(ii) An escort by Department personnel may also be required if conditions warrant.

(13) If the overall size of the vehicle, or combination of vehicles, including the load or loads carried thereon, if any, exceeds 13 feet in width, 15 feet in height or 85 feet in length or if the gross weight requires that the permitted vehicle travel over structures at reduced speeds:

(i) Highways with less than four lanes. -

(A) A pilot car shall precede the permitted vehicle when operating on highways having less than four lanes.

(B) When specified in the permit, a pilot car shall also follow the permitted vehicle when operating on such highways having lanes less than 12 feet in width where the district office determines that hazardous roadway conditions exist.

(C) A pilot car shall follow the permitted vehicle when operating on such highways when accompanied by a police escort, regardless of the highway lane width.

(ii) Highways with four or more lanes. - A pilot car shall follow the permitted vehicle when operating on highways having four or more lanes.

(iii) The permitted vehicle shall be routed over the safest routes rather than the shortest routes, and, wherever possible, shall be confined to multi-lane highways, with travel on two-lane highways restricted to the most direct route to a multi-lane highway.

(iv) Pilot cars shall maintain visual and radio contact with the permitted truck or truck tractor during movement, except for intermittent interruptions which may be caused by terrain or atmospheric conditions.

(v) When the overall height exceeds 15 feet, all affected utility companies shall be notified by the permittee at least 24 hours prior to any travel of the permitted vehicle on state highways.

(14) Whenever the rear running lights, stop lights, turn signals or hazard warning lights required by the act are obstructed by the load on a vehicle or by a towed vehicle or its load, lighting equipment shall be displayed on the rear of the towed vehicle or load equivalent to the obstructed lights or signals.

(15) (i) Clean signs at least six feet wide by at least one foot high lettered in black on yellow background, containing the words "OVERSIZE LOAD" in letters at least ten inches high, shall be mounted on the front bumper of the permitted vehicle and on the rear of the permitted vehicle or load.

(ii) When a pilot car convoy is required in accordance with section 51.10(13), one such sign shall be mounted on the front bumper of the pilot car which precedes the permitted vehicle, and one such sign shall be mounted on the rear of the pilot car which follows the permitted vehicle.

(iii) When the load has been removed and the vehicle is no longer oversize or overweight, all "OVERSIZE LOAD" signs shall be removed or covered.

(16) All points of excessive size (width, length and height) shall be marked with clean, plain red flags, not less than 12 inches both in length and width.

(17) The applicant shall attach to the permit a certification that the lighting, brakes, tires, steering mechanism and coupling device for all units used in connection with the permit were checked within ten days prior to the date of issuance thereof and are in good condition and safe for travel on the highways. This certification is not required for those units which display a valid official inspection sticker.

(18) Except for military convoys, a permitted oversize vehicle shall not travel within 500 feet of another permitted oversize vehicle traveling in the same direction.

§ 56-5-4170. Permits for excess size and weight.

(a) The department with respect to the highways under its jurisdiction, subject to the conditions prescribed in subsection (b), may, in their discretion upon application in writing and good cause being shown therefor to the effect that it is in the public interest, issue special permits in writing authorizing the applicants to operate or move vehicles or combinations of vehicles of a size and weight of vehicle or load exceeding the maximum specified in this article or otherwise not in conformity with the provisions of this article upon any highway under the jurisdiction of the authority issuing such permit. The application for any such permit shall specifically describe the vehicle and load to be operated or moved and the particular highways for which a permit so to operate is requested. Every such permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer or authorized agent of any authority granting such permit, and no person shall violate any of the terms or conditions of such special permit. The department shall charge a fee of five dollars for each permit issued, and fees collected by the department pursuant to this provision shall be placed in the State Highway Fund and used for defraying the cost of issuing and administering such permits, and for other highway purposes.

(b) The department may exercise its discretion in issuing permits for the movement of all types of vehicles which exceed the legal size and weight limits; *provided* that:

- (1) The load carried thereon cannot be readily disassembled,
- (2) The department may limit or prescribe conditions of operation of such vehicles, and
- (3) The department may require such insurance or other security as it deems necessary, and *provided further*
- (4) Such movements are made so as not to damage the highways nor unduly interfere with highway traffic.

The following are general provisions applicable to all vehicles and trailers pulling loads: *applicable to an oversize and overweight*

(1) The granting of a permit shall not constitute a waiver of any license requirements imposed by the State of South Carolina;

(2) The granting of a permit does not waive any liability or responsibility of the applicant which might accrue for any property damage, including damage to the highways, or for personal injuries;

(3) The granting of a permit does not exempt the applicant from compliance with any ordinances, rules and regulations of any city or town;

(4) Before granting any permit, the department, at its discretion, may require the vehicle owner or operator to furnish a certificate showing the amount of public liability and property damage insurance carried;

(5) All vehicles shall meet the requirements of all applicable laws and regulations;

(6) Overwidth loads or mobile homes shall be moved over sections of highways selected by the department;

(7) The department will determine the speeds permitted loads are to operate under;

(8) The driver shall remove the towing vehicle along with the load or mobile home from the traveled way to allow any closely following traffic (five vehicles maximum) to pass and proceed.

Applications for overweight and oversize permits shall be submitted on forms provided by the department and shall include all the necessary information required.

Each application shall be accompanied by the permit fee before it can be issued. The permit fee accompanying any application that is rejected will be returned to the person or company named within the application.

Special oversize and overweight trip permits for movement of vehicles or combinations of vehicles with individual loads thereon in excess of the maximum sizes and weights allowed must receive special consideration by and have prior approval of the department prior to any part of the move to be undertaken.

In all cases, the department reserves the right to recall or not issue permits in accordance with the above limitations if there is an abuse of the permit or such permit would cause an unnecessary amount of disruption in the normal traffic flow.

(c) Notwithstanding the exemptions from the provisions of this article provided in § 56-5-4020, the owner of vehicles or combinations of vehicles used to transport and spread soil improvement products exempted therein from load and size limitations shall obtain an annual special permit from the department which prescribes such limitations on the exemption as the department may determine necessary. The fee for such annual permits shall be five dollars with all such fees used as prescribed for other fees collected under this section.

(d) The detailed implementation of this section shall not be deemed to have general applicability to the public as prescribed in Act 671 of 1976 and additional procedures established by the Department of Highways and Public Transportation for such implementation shall be exempt from the requirement of General Assembly approval required by that act when such procedures are established in accordance with the provisions of this section.

HISTORY: 1962 Code § 46-667; 1952 Code § 46-667; 1949 (46) 466; 1956 (49) 1689; 1962 (52) 1975; 1975 (59) 209; 1977 (60) 59.

Editor's Note —

"Department of Highways and Public Transportation" has been substituted for "Highway Department" in this section pursuant to § 11 of 1977 Act No. 82 [1977 (69) 140]. See § 57-1-10.

Act No. 671 of 1976, referred to in subsection (d) of this section, was repealed by § 2 of Article II of 1977 Act No. 176 [1977 (60) 391]. For present provisions as to subject matter of repealed act, see § 1-23-10 et. seq.

Effect of Amendment —

The 1977 amendment, effective April 5, 1977, rewrote this section.

Cross References —

As to fee for house trailers permitted to move under this section, see § 56-3-710.

As to restriction on combinations of vehicles over 55 feet long to movement during daylight hours, see § 56-5-4070.

Research and Practice References —

7 Am Jur 2d, Automobiles and Highway Traffic § 165.

ALR and L Ed Annotations —

Power to limit weight of vehicle or its load with respect to use of street or highway. 75 ALR2d 376.

Automobiles: construction and operation of statutes or regulations restricting the weight of motor vehicles or their loads. 45 ALR3d 503.

Liability for damage to highway or bridge caused by size or weight of motor vehicle or load. 53 ALR3d 1035.

RULES OF THE
DEPARTMENT OF TRANSPORTATION
DIVISION OF HIGHWAYS

70:01:04:17. Issuing authority on certain overweight vehicles -- Interstate -- Other state highways. Single-trip permits for overweight loads of 120,000 pounds or under, on six axles on the interstate highway system may be issued by any permit-issuing authority except county treasurers. All overweight permits on the state highway system, all permits for 120,000 pounds or over on the interstate system, and all overweight permits issued by county treasurers may be issued only after approval of routes by the state highway maintenance office, district highway offices, or Sioux Falls highway office is obtained.

Source: 7 SDR 1, effective July 20, 1980.

General Authority: SDCL 32-22-42.

Law Implemented: SDCL 32-22-42.

CHAPTER II
SIZE, WEIGHT AND LOAD

55-11-205. Special permits for moving vehicles of excess weight or size — Reduction of weight and size regulations — Signs indicating. — (a) The commissioner of transportation shall have the authority to grant special permits for the movements of freight motor vehicles carrying gross weights in excess of the gross weights set forth in § 55-11-203, or dimensions in excess of the dimensions set forth in §§ 55-11-201 and 55-11-202, and shall charge a fee of five dollars (\$5.00) for the issuance of a permit for each movement. Such fee provisions shall not apply to farm tractors or farm machinery moving on any highway. It shall not be necessary to obtain a permit, nor shall it be unlawful to move any vehicle or machinery in excess of the maximum width prescribed in § 55-11-202 hereof, used for normal farm purposes only where the same is hauled on a farm truck as defined in § 55-1-119, or such vehicle or machinery is being transported by a farm machinery equipment dealer or repairman in making a delivery thereof of new or used equipment or machinery to the farm of the purchaser thereof, or in making a pickup and delivery of such farm machinery or equipment from the farm to a shop of a farm equipment dealer or repairman for repairs and return to the farm, and such movement is performed during daylight hours within a radius of fifty (50) miles of the point of origin thereof and no part of such movement is upon any highway designated and known as a part of the national system of interstate and defense highways or any fully controlled access highway facility. No fee authorized by this section shall be charged for the issuance or renewal of such special permits to any retail electric service owned by a municipality or electric cooperative corporation, or to any telephone company or to contractors when they are moving utility poles doing work for such utilities. Upon compliance with the appropriate rules and regulations, such electric services, telephone companies, and their contractors when they are moving utility poles may be issued special permits for stated periods not exceeding one (1) year. All fees received shall be paid into the state treasury and placed in the highway fund for the administration of this duty. The commissioner of transportation shall have the authority to reduce the maximum gross weight of freight motor vehicles operating over lateral highways and secondary roads where through weakness

of structure in either the surface of or the bridges over such lateral highways or secondary roads, the maximum loads provided by law, in the opinion of the commissioner, injure or damage such roads or bridges. The appropriate county officials shall have the same authority as to county roads.

(b) The commissioner of transportation shall at each bridge and on each lateral highway or secondary road post signs indicating the maximum gross weight permitted thereon; and it shall be unlawful to operate any freight motor vehicle thereon with a gross weight in excess of such posted weight limit and any person violating said rules and regulations of the commissioner of transportation upon such secondary or lateral roads shall be punished as in case of the commission of a misdemeanor.

(c) The commissioner of safety shall, with the approval of the governor, provide means and prescribe rules and regulations governing the weighing of freight motor vehicles as herein defined, which rules and regulations may make allowances for differentials in weight due to weather conditions.

(d) The commissioner of transportation shall prescribe by orders of general application, rules and regulations for the issuance and/or renewal of such special permits for stated periods not exceeding one (1) year, for the transportation of such oversize, overweight, or overlength articles or commodities as cannot be reasonably dismantled or conveniently transported otherwise, and for the operation of such superheavy or overweight motor trucks, semitrailers and trailers, whose gross weight, including load, height, width, or length, may exceed the limits prescribed herein, or which in other respects fail to comply with the requirements of the Code, as may be reasonably necessary for the transportation of such oversize, overweight, or overlength articles or commodities as cannot be reasonably dismantled or conveniently transported otherwise.

(e) Said permits shall be issued and may be renewed only upon such terms and conditions, in the interest of public safety and the preservation of the highways, as are prescribed in said general rules and regulations promulgated by such orders of the commissioner.

(f) Said rules and regulations so prescribed by the commissioner shall require, as a condition of the issuance of such permits, that an applicant shall agree to and give bond with surety (unless an applicant shall by sworn statement furnish satisfactory proof of his solvency to the authority issuing the permit) to indemnify the state and/or counties thereof, against damages to roads, or bridges, resulting from the use thereof by the applicant. Each such permit and bond, if the commissioner so authorizes, may cover more than one motor vehicle operated by the same applicant. The operation of motor trucks, tractors, semitrailers or trailers, in accordance with the terms of any such permit shall not constitute a violation of this part, provided the operator thereof shall have said permit, or a copy thereof, authenticated as the commissioner may require, in his possession. The operation of any motor truck, semitrailer or trailer, in violation of the terms of such permit, shall constitute a violation of law punishable under § 55-11-206.

(g) The authority issuing such permits shall have the right to revoke the same at any time in the event that in the use of the same the holder of such permit shall abuse the privilege given thereby, or otherwise make wrongful use of the same. The authorized county authorities (as well as the commissioner) may issue permits, but always consistently with said rules and regulations, prescribed by the commissioner, for movements over any and all roads (except city streets) within the limits of the county for which they are acting. [Acts 1933, ch. 35, § 8; 1939, ch. 105, § 7; 1941, ch. 84, § 4; 1945, ch. 164, § 4; mod. C. Supp. 1950, § 2715.4 (Williams, §§ 1166.34, 2715.8); Acts 1953, ch. 7, § 1; impl. am. Acts 1959, ch. 9, § 3; Acts 1976 (Adj. S.), ch. 592, §§ 1-5; 1977, ch. 96, § 1; 1977, ch. 195, § 1; T.C.A. (orig. ed.), § 59-1111.]

Section to Section References. This section is referred to in §§ 54-2-111, 55-11-203, 55-11-206.

Law Reviews. Constitutional Law — 1959 Tennessee Survey (Elvin E. Overton), 12 Vand. L. Rev. 1096.

Taxation — Federal Income Tax — Deductibility as Business Expense of Fines and Penalties for Violation of State Truck-Weight Limitation, 24 Tenn. L. Rev. 1055.

NOTES TO DECISIONS

1. Delegation of Responsibility.

The mover of a house trailer under a permit that required flagging across bridges where the roadway was 20 feet or less was responsible for damage resulting from the act of a local

flagman engaged by him in prematurely discontinuing his flagging and leaving the scene. *Coursey v. Morgan Driveway, Inc.*, 366 F.2d 504 (6th Cir. 1966).

Collateral References. Violation of regulation governing size or weight of motor vehicles, or combinations of vehicles and loads,

on the highway as basis of liability for personal injury, death, or damage to private property. 21 A.L.R.3d 989.

ARTICLE 10. SIZE AND WEIGHT LIMITS

§ 31-5-1004. Special permits for overweight and oversize vehicles; designation of certain highways to carry overweight and oversize vehicles; suit to collect compensatory fees.

(c)

(vi) When an application for an oversize single trip permit is made and the permit is issued, the fee is seven dollars and fifty cents (\$7.50). Should any single vehicle including load exceed the dimensions of seventy (70) feet in length or fifteen (15) feet in width or fifteen (15) feet in height and any combination of vehicles, including load exceeding ninety (90) feet in length or the above width or height, an additional charge shall be paid on excess of the above limitation computed at the rate of two cents (\$.02) for each foot or fraction thereof for each mile traveled on the highways. In no case shall the total charge for an oversize permit exceed twenty-five dollars (\$25.00);

(viii) In addition to the permits authorized in this act, the superintendent may issue to applicants for excessive weight and excessive size, permits to be completed by the applicant when the applicant has vehicles to be operated upon state highways in excess of the legal weight and size. Nothing in this section shall be construed as prohibiting a permitted vehicle from being used to transport loads of legal size, or oversize loads of a size less than the actual size of the permitted vehicle, or loads of legal weight or overweight loads weighing less than the permitted vehicle was designed to transport. The fee for the permit is that established in paragraphs (vi) and (vii) of this subsection. The superintendent is authorized to make rules and regulations as to the terms and conditions of the permits.

(Laws 1979, ch. 19, § 1; ch. 108, § 1.)

The 1979 amendments. — The first 1979 amendment, in paragraph (viii) of subsection (c), inserted the second sentence, and substituted "the" for "such" preceding "applicant" in the first sentence, "the" for "said" preceding "permit" and "paragraphs (vi) and (vii) of this subsection" for "section 4, paragraphs (v) and (vi) of this act" in the third sentence and "the"

for "such" preceding "permits" in the last sentence.

The second 1979 amendment substituted "seventy (70)" for "sixty (60)" and "ninety (90)" for "eighty (80)" and inserted "or" preceding "fraction" in the second sentence of paragraph (vi) of subsection (c).

Only part of section set out. — As the rest of

SECTION III

INVENTORY OF SYSTEM OF PENALTIES FOR VIOLATION OF WEIGHT LAWS

Section 123 of the Surface Transportation Assistance Act of 1978 requires that the Secretary of Transportation, in consultation with each State, shall inventory the existing system of penalties for violations of vehicle weight laws on any portion of the Federal-aid system in each State. Before January 1 of each calendar year, the Secretary shall submit to Congress a report on the latest annual inventory of State system of penalties.

On page 9 of the November 1980, Section 123 Report the statement was made to the effect that the information relating to penalties for overweight vehicles as contained in the November 1979 report needed to be verified and corrected in many instances. The material in the succeeding pages of this section are the result of the updating effort.

The best and latest information concerning overweight penalties in each State was compiled and sent through channels to the several States for verification or correction, as appropriate, with space provided for an endorsement as of a June 30 cut-off date. Also in the endorsement section, the question was asked if the penalty system is administrative or judicial and whether the fines are mandatory or judicial discretion is authorized. Thus the tabulation contained in the following pages represents a best effort to obtain and list current information.

At the beginning of this section is a summary of all the States showing the fines and penalties for overweight vehicles. Also, shown in tabular form, for each State is whether the penalty system is administrative (9 States) or judicial (43 States) and whether the fines are mandatory (27 States) or judicial discretion is authorized (25 States). The 52 "States" consist of the 50 States, the District of Columbia and Puerto Rico.

FINES AND PENALTIES FOR OVERWEIGHT VEHICLES

STATE	Note: This data is digested from volumes of complex laws and regulations. It is impossible to list all details. Final authority rests with the texts of the laws and regulations involved.	PENALTY SYSTEM			FINES
		ADMINISTRATIVE	JUDICIAL	MANDATORY	JUDICIAL DISCRETION AUTHORIZED
ALABAMA	\$100-\$500; may get 30-60 days in jail		X		X
ALASKA	5¢/lb. of O.W.		X	X	
ARIZONA	Minimum of \$30-\$280 according to table; Maximum \$300		X	X	
ARKANSAS	1st off-maximum \$100; 2nd off within a year maximum \$200; 3rd \$500. Minimum of \$10 or a maximum of 2¢/lb. for 1,000 lbs. or less O.W.; maximum of 3¢/lb. for more than 1,000 or less than 2,000 lbs. O.W.; maximum of 4¢/lb. for more than 2,000 or less than 3,000 lbs. O.W.; maximum of 5¢/lb. for more than 3,000 lbs. O.W.		X		X
CALIFORNIA	Amount of O.W. (\$10 - \$1,000)		X	X	
COLORADO	\$15 plus \$5 per each 1,000 lbs. in excess O.W.	X		X	
CONNECTICUT	\$50 + \$3/100# if actual weight does not exceed 73,000#; \$5/100# if actual weight exceeds 73,000# + 10 percent assessment of preceding fine for court costs.		X		X
DELAWARE	\$.02/lb. for first 5,000#; \$.05/lb. thereafter.		X		X
DISTRICT OF COLUMBIA	\$100 for the first 5,000 lbs. O.W. plus \$6/100 lb. in excess of 5,000 lbs. O.W.	X		X	
FLORIDA	\$5 minimum; 5¢/lb. for all excess weight over 100#; however, when the maximum allowable gross weight is not exceeded, the maximum fine for the first 1,000 lbs. of unlawful axle weight is \$10.	X		X	
GEORGIA	0.8¢/lb. for first 1,000 lbs. O.W.; + 1.5¢/lb. for next 2,000 lbs. + 3¢/lb. for next 2,000#; + 4¢/lb. for next 3,000 lbs.; + 5¢/lb. for all excess weight over 8,000 lbs.		X	X	
HAWAII	\$25 minimum to \$500 maximum in accordance with schedule.		X		X
IDAHO	1/2¢/lb. for 1-2,000 lbs.; 3/4¢/lb. for 2,001-4,000 lbs.; 1¢/lb. for 4,001-10,000 lbs. and \$125 for 10,001 and over.		X		X
ILLINOIS	6¢/lb. for 2001-3000 lbs., 8¢/lb. for 3001-4000 lbs., 10¢/lb. for 4001-5000 lbs., and 12¢/lb. for 5001 lbs., and over.	X		X	
INDIANA	Not more than \$500 for up to 5,000 lbs., it being a defense that the total of all excesses is less than 1,000 lbs.; not more than \$1,000 for more than 5,000 but not more than 10,000 lbs.; not more than \$10,000 for more than 10,000 lbs.		X		X

FINES AND PENALTIES FOR OVERWEIGHT VEHICLES

STATE	Note: This data is digested from volumes of complex laws and regulations. It is impossible to list all details. Final authority rests with the texts of the laws and regulations involved.	PENALTY SYSTEM		FINES	
		ADMINISTRATIVE	JUDICIAL	MANDATORY	JUDICIAL DISCRETION AUTHORIZED
IOWA	0-1,000 lbs., \$10 plus ½¢/lb.; 1,001-2,000 lbs., \$15 plus ½¢/pound; 2,001-3,000 lbs., \$80 plus 3¢/lb.; 3,001-4,000 lbs., \$100 plus 4¢/lb.; 4,001-5,000 lbs., \$150 plus 5¢/lb.; 5,001-6,000 lbs., \$200 plus 7¢/lb.; over 6,000 lbs., \$200 plus 10¢/lb.		X	X	
KANSAS	0-1,000 lbs., \$25; 1,001-2,000 lbs., 3¢/lb.; 2,001-5,000 lbs., 5¢/lb.; 5,001-7,500 lbs., 7¢/lb.; over 7,500 lbs., 10¢/lb.; second violation within 2 years, 1½ times applicable amount; third violation within 2 years, 2 times applicable amount; fourth and succeeding violation within 2 years, 2½ times the applicable amount.		X		X
KENTUCKY	\$60 minimum to \$500 maximum; 2¢/lb. for 0-2,000 lbs.; 3¢/lb. for 2,001-3,000 lbs.; 5¢/lb. for 3,001-4,000 lbs.; 7¢/lb. for 4,001-5000 lbs.; 9¢/lb. over 5,000 lbs.		X	X	
LOUISIANA	2¢/lb. gross and 1¢/lb. axle only for 0-3,000 lbs.; 3¢/lb. gross and 1.5¢/lb. axle only for 3,001-5000 lbs.; 4¢/lb. gross and 2¢/lb. axle only for 5,001-10,000 lbs.; \$100 plus 5¢/lb. gross and axle only for over 10,000 lbs. The greater fine is assessed.	X		X	
MAINE	\$10-\$100 in \$10 increment for 1 percent - 10 percent O.W.; \$120-\$500 in \$20 increment for 11 percent - 30 percent O.W.; \$525-\$750 in \$25 increment for 31 percent - 40 percent O.W.; \$800-950 in \$50 increment for 41 percent - 44 percent O.W.; \$1,000 for 45 percent or greater.		X	X	
MARYLAND	\$50/1,000 lbs., \$500 maximum		X	X	
MASSACHUSETTS	\$30/1,000 lb. for the first 10,000 lbs. O.W.; \$60/1,000 lbs. thereafter; for irreducible load \$10/1,000 lb. maximum \$500.		X	X	
MICHIGAN	2¢/lb. for 1,001-2,000 lbs.; 4¢/lb. for 2,001-3,000 lbs.; 6¢/lb. for 3,001-4,000 lbs.; 8¢/lb. for 4,001-5,000 lbs.; 10¢/lb. for over 5,000 lb.		X		X
MINNESOTA	1¢/lb. for up to 3,000 lb.; 5¢/lb. for 3,001-4,000 lb.; 15¢/lb. for 4,001-6,000 lb.; 30¢/lb. for over 6,000 lb.		X		X
MISSISSIPPI	5¢/1,000 lbs. O.W. times miles traveled (50 miles minimum) plus 500 percent.	X		X	
MISSOURI	2¢/lb. for first 500 lbs. O.W.; + 5¢/lb. for next 500 lbs.; +10¢/lb. thereafter.		X	X	

FINES AND PENALTIES FOR OVERWEIGHT VEHICLES

STATE	Note: This data is digested from volumes of complex laws and regulations. It is impossible to list all details. Final authority rests with the texts of the laws and regulations involved.	PENALTY SYSTEM			FINES
		ADMINISTRATIVE	JUDICIAL	MANDATORY	JUDICIAL DISCRETION AUTHORIZED
MONTANA	\$15 minimum to \$1,000 maximum (for excess weight of 1 lb. to over 25,000 lbs., respectively, in accordance with schedule).		X		X
NEBRASKA	\$25 gross and axle(s) for 5 percent or less O.W.; \$100 gross and \$75 axle(s) for 5-10 percent O.W.; \$200 gross and \$150 axle(s) for 10-15 percent O.W.; and \$350 gross and \$225 axle(s) for 15-20 percent O.W.; \$600 gross and \$300 axle(s) for 20-25 percent O.W.; \$1,000 gross and \$500 axle(s) for for over 25 percent O.W.		X		X
NEVADA	\$20 for excess weight of 2,000 lbs. to maximum fine of \$500 and/or 6 months in jail for excess weight over 12,000 lbs.		X	X	
NEW HAMPSHIRE	Not more than \$100 for a first offense nor more than \$250 for for a subsequent offense within a calendar year.		X		X
NEW JERSEY	\$50 minimum; graduated.		X	X	
NEW MEXICO	\$25 for 1,000-3,000 lbs. O.W.; \$40 for 3,001-4,000 lbs. O.W.; \$75 for 4,001-5,000 lbs. O.W.; \$125 for 5,001-6,000 lbs. O.W.; \$200 for 6,001-7,000 lbs. O.W.; \$275 for 7,001-8,000 lbs. O.W.; \$350 for 8,001-9,000 lbs. O.W.; \$425 for 9,001-10,000 lbs. O.W.; and \$500 over 10,000 lbs.		X		X
NEW YORK	\$200-500 or imprisonment for more than 30 days, or by both fine and imprisonment for the first offense. \$500-1,000 or imprisonment up to 60 days, or by both fine and imprisonment for the second offense. The preceding applies to gross overweight. The above would be the same for axle weights and the bridge formula except for the dollar amounts, which would be \$100-\$250 and \$250-500, respectively.		X		X
NORTH CAROLINA	Axle weights are: 2¢/lb. for 1,000-2,000 lb. O.W.; 3¢/lb. for 2,000-3,000 lb. O.W.; 5¢/lb. for excess over 3,000 lb. O.W. Gross weights are: 1¢/lb. for first 2,000 lb. O.W.; 2¢/lb. for the next 3,000 lb. O.W.; 5¢/lb. for excess over 5,000 lb. O.W.	X		X	
NORTH DAKOTA	1¢/lb. when up to 3,000 lbs. O.W.; 4¢/lb. for 3,000-5,000 lbs. O.W.; 8¢/lb. when over 5,000 lbs.		X	X	
OHIO	\$25 for 0-2,000 lbs. O.W.; \$25 for 2,001-5,000# O.W. plus \$1/100# O.W.; \$25 for 5,001-10,000 lbs. O.W. plus \$2/100# O.W. or imprisoned not more than 30 days or both; \$25 in excess of 10,000 lbs. O.W. plus \$3/100# O.W., or imprisoned not more than 30 days, or both. Gross load O.W. shall be minimum of \$100.		X		X

FINES AND PENALTIES FOR OVERWEIGHT VEHICLES

STATE	Note: This data is digested from volumes of complex laws and regulations. It is impossible to list all details. Final authority rests with the texts of the laws and regulations involved.	PENALTY SYSTEM		FINES	
		ADMINISTRATIVE	JUDICIAL	MANDATORY	JUDICIAL DISCRETION AUTHORIZED
OKLAHOMA	\$50-\$200 or in jail not more than 30 days or both for first offense; second offense within 1 year is \$100-\$200 w/similar jail term. Third offense if within 1 year of second offense is \$250-\$500 fine and/or jail term of not more than 6 months.		X		X
OREGON	\$2 for 750 lbs. or less O.W.; minimum of \$15 for 751-1,500 lbs. O.W.; not more than 1¢/lb. for 1,501-2,500 lbs. O.W.; not more than 2¢/lb. for 2,501-5,000 lbs. O.W.; not more than 7¢/lb. for more than 5,000 lbs., or jail for not more than 30 days, or both.		X		X
PENNSYLVANIA	\$75 for up to 3,000 lbs. gross O.W. plus \$75 for each additional 500 lbs.; gross O.W. fine is doubled for single vehicle if over 73,280 lbs. and for combination if over 80,000 lbs. \$100 for up to 2,000 lb. axle O.W. plus \$100 for each additional 500 lbs.		X	X	
PUERTO RICO	Minimum of \$25 with maximum of \$50.		X	X	
RHODE ISLAND	\$50/1,000 lbs., \$500 maximum	X			X
SOUTH CAROLINA	1¢ per lb. for the first 7,500 lbs. O.W., 2¢ per lb. for the next 3,000 lbs. O.W., 3¢ per lb. for the next 4,500 lbs. O.W., 5¢ per lb. for each lb. in excess of 15,000 lbs.	X		X	
SOUTH DAKOTA	3¢/lb. for 1,000 lbs. - 2,000 lbs. O.W.; 5¢/lb. for 2,000-3,000 lbs.; 6¢/lb. for 3,000-4,000 lbs.; 8¢/lb. for 4,000 lbs. - 5,000 lbs.; 10¢/lb. for over 5,000 lbs.		X	X	
TENNESSEE	\$25 minimum; \$500 maximum.		X		X
TEXAS	\$25 minimum, \$200 maximum for 1st offense; 2nd offense within 1 year, minimum of \$50 to maximum of \$200 and/or jail for 60 days; 3rd offense within a year, minimum of \$100 to maximum of \$500 and/or jail for 6 months.		X		X
UTAH	\$50.00 plus 1¢ per lb. of excess weight.		X		X
VERMONT	\$5/1,000 lbs. for the first 5,000 lbs.; \$10/1,000 lbs. for 5,001-10,000 lbs.; \$15/1,000 lbs. for 10,001-15,000 lbs.; \$300 for more than 15,000 lbs. O.W.		X		X
VIRGINIA	2¢/lb. up to 5,000 lbs. gross O.W.; 5¢/lb. over 5,000 lbs. gross O.W.; 1¢/lb. for 0-2,000 lbs. axle O.W.; 2¢/lb. for 2,000-5,000 lb. axle O.W.; 5¢/lb. over 5,000 lb. axle O.W. In addition, a fine not to exceed \$100.00 shall be assessed.		X	X	

FINES AND PENALTIES FOR OVERWEIGHT VEHICLES

STATE	Note: This data is digested from volumes of complex laws and regulations. It is impossible to list all details. Final authority rests with the texts of the laws and regulations involved.	PENALTY SYSTEM		FINES	
		ADMINISTRATIVE	JUDICIAL	MANDATORY	JUDICIAL DISCRETION AUTHORIZED
WASHINGTON	1st offense not less than \$50, 2nd offense not less than \$75, 3rd offense not less than \$100 plus 3¢/lb. O.W. for all offenses.		X	X	
WEST VIRGINIA	\$20 for 1-4,000 lbs. O.W.; \$25 for 4,000-5,000 lbs. O.W.; \$60 + \$10/1,000 lb. over 6,000 lbs. for 5,001-10,000 lb.; \$165 + \$15/1,000 lbs. over 11,000 lbs. for 10,001-15,000 lb. O.W.; \$320 + \$20/1,000 lbs. over 16,000 lbs. for 15,001-20,000 lbs. O.W.; \$525 + \$25/1,000 lbs. over 21,000 lbs. for 20,001 - 25,000 lb. O.W.; \$780 + \$30/1,000 lbs. over 26,000 lbs. for 25,001-30,000 lbs. O.W.; \$1,200 + \$200/1,000 lbs. over 40,000 lb. for 30,001-50,000 lbs. O.W.; \$1600 for 50,001 lbs. and over O.W.		X		X
WISCONSIN	1st offense \$50-\$200 plus 1¢/lb. up to 2,000 lbs.; 2¢/lb. for 2,001-3,000 lbs.; 3¢/lb. for 3,001-4,000 lbs.; 5¢/lb. for 4,001 lbs. - 5,000 lbs. O.W.; 7¢/lb. for over 5,000 lbs.; 2nd offense within 12-month period \$100-\$300 plus 2¢/lb. up to 2,000 lbs.; 4¢/lb. for 2,001-3,000 lbs.; 6¢/lb. for 3,001-4,000 lbs.; 8¢/lb. for 4,001-5,000 lbs.; 10¢/lb. for over 5,000 lbs.		X	X	
WYOMING	First offense - \$100 maximum; Second offense - \$200 maximum; Third and subsequent offenses - \$500 maximum and/or up to 30 days imprisonment.		X		X
TOTAL		9	43	27	25

ALABAMA

Fines and Penalties for Overweight Vehicles

\$100-\$500; may get 30 to 60 days in jail.

Endorsement as of June 30, 1981:

Penalty system - judicial

Fines - judicial discretion authorized



STATE OF ALABAMA
HIGHWAY DEPARTMENT

MONTGOMERY, ALABAMA 36130

FOR JAMES
GOVERNOR

September 8, 1981

BOBBY J. KEMP
HIGHWAY DIRECTOR

Mr. L. N. MacDonald
Division Administrator
U. S. Department of Transportation
Federal Highway Administration
441 High Street
Montgomery, Alabama 36104

Re: HRP-AL
Fines and Penalties for
Overweight Vehicles

Dear Mr. MacDonald:

This is in reply to your letter of August 31, 1981, regarding the referenced subject.

The following is an excerpt from State Law.

The operation of any truck, semitrailer truck or trailer in violation of any section of this chapter or of the terms of any permit issued under this chapter, shall constitute a misdemeanor, and the owner thereof, if such violation was with his knowledge or consent, and the operator thereof shall, on conviction, be fined not less than \$100.00 nor more than \$500.00 and may also be imprisoned or sentenced to hard labor for the county for not less than 30 days nor more than 60 days.

The penalty system is judicial. Upon conviction the fine is set at the judge's discretion at not less than \$100.00 and not more than \$500.00.

Yours very truly,

T. L. Cain
Maintenance Engineer

PB:dr

ALASKA

Fines and Penalties for Overweight Vehicles

5¢/lb. of.O.W.

Endorsement as of June 30, 1981:

The penalty system is judicial and the fine schedule is mandatory. The 5¢/lb. penalty is specified in law.

W. Chappell, Jr.
8/31/81

ARIZONA

Fines and Penalties for Overweight Vehicles

Minimum \$30 to \$280 according to table; Maximum \$300

Endorsement as of June 30, 1981:

Stephe G. Bunk 9/1/81

Penalty system - judicial
Fines - mandatory

ARKANSAS

Fines and Penalties for Overweight Vehicles

1st off-maximum \$100; 2nd off within a year-maximum \$200, 3rd \$500

Endorsement as of June 30, 1981:

Above is correct with the following added:

Minimum of \$10 or a maximum of 2¢/lb. for 1,000 lbs. or less
O.W.; maximum of 3¢/lb. for more than 1,000 or less than
2,000 lbs. O.W.; maximum of 4¢/lb. for more than 2,000 lbs.
or less than 3,000 lbs. O.W.; maximum of 5¢/lb. for more than
3,000 lbs. O.W.

Penalty system - judicial

Fines - judicial discretion authorized.

UNITED STATES GOVERNMENT

Memorandum

DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

DATE: September 2, 1981

SUBJECT: Fines and Penalties for
Overweight Vehicles

In reply refer to: HRP-AR

FROM : Little Rock, Arkansas
Planning and Research Program Manager

TO : Mr. Daniel Dake
Associate Regional Administrator
for Engineering and Operations
HTO-06 Fort Worth, Texas

A	I	To	INIT
		HRA	
		DRA	
		HRC	
		HCR	
		HAD	
		HEO	
		HPP	
		HMC	

Your memorandum of August 25, 1981, requested information about the overweight fines and penalties in effect on June 30, 1981. The following is provided since the attachment to your memorandum concerning Arkansas was incomplete.

When a vehicle is found to be overweight, the operator is usually required to post a bond with the local court. The bond consists of three parts: estimated court costs, the applicable fine, and the applicable penalty. In more detail, these are as follow:

- a. court costs - a judicial system with judicial discretion
- b. fine - an administrative system with judicial discretion. The first offense is punishable by a fine of not more than \$100, the second offense within a year is punishable by a fine of not more than \$200, and the third and successive offenses within a year are punishable by a fine of not more than \$500.
- c. penalty - an administrative system with judicial discretion

overweight 1,000 pounds or less: minimum penalty of \$10 or a maximum of not more than 2 cents per pound of excess weight

overweight more than 1,000 pounds but less than 2,000 pounds: a penalty of not more than 3 cents per pound of excess weight

overweight more than 2,000 pounds but less than 3,000 pounds: a penalty of not more than 4 cents per pound of excess weight

overweight more than 3,000 pounds: a penalty of not more than 5 cents per pound of excess weight.

The schedule of fines and penalties is established by the Arkansas General Assembly and published in the Arkansas Motor Vehicle and Traffic Laws and State Highway Commission Regulations. Section 75-819 of the 1977 edition is still valid.


W. K. Perry

CALIFORNIA

Fines and Penalties for Overweight Vehicles

Amount of O.W. (\$10-\$1,000)

Endorsement as of June 30, 1981:

Cesar C. Rubio 7/1/81

Penalty system - judicial
Fines - mandatory

COLORADO

Fines and Penalties for Overweight Vehicles

\$15 plus \$5 per each 1,000 lbs. in excess O.W.

Endorsement as of June 30, 1981:

Donald J. Kemmerer

Name

Program Dev Engineer

Title

Penalty System:
(please check one)

Administrative

X

Judicial

Fines:
(please check one)

Mandatory

X

Judicial Discretion Authorized _____

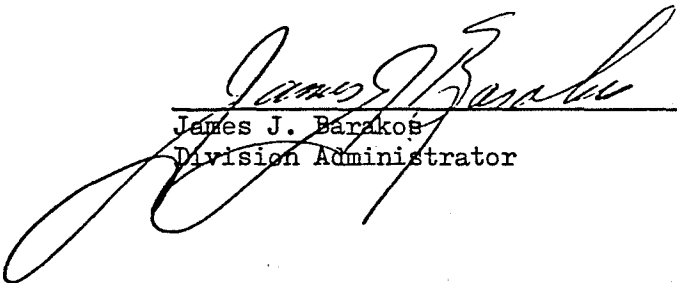
CONNECTICUT

Fines and Penalties for Overweight Vehicles

\$ 50+	{ \$3/100# if actual weight does not exceed 73,000#. \$5/100# if actual weight exceeds 73,000#. }	+10 percent assessment of preceding fine for court costs.
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Endorsement as of June 30, 1981:

The Connecticut penalty system is judicial. A judicial discretion is authorized for the fines.



James J. Barakos
Division Administrator

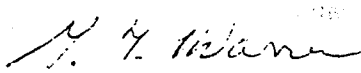
DELAWARE

Fines and Penalties for Overweight Vehicles

\$.02/lb. for first 5,000#; \$.05/lb. thereafter.

Endorsement as of June 30, 1981:

The above is accurate and has been verified with the
Delaware State Police.

 9/30/81
P&R Engineer
Delaware Division (FHWA)

The following answers the questions raised by the Washington Office in your memorandum of August 18, 1981:

1. The penalty system is judicial.
2. The fines are discretionary.

DISTRICT OF COLUMBIA

Fines and Penalties for Overweight Vehicles

\$100

Endorsement as of June 30, 1981:

The above is corrected to read as follows:

\$100 for the first 5,000 lbs. O.W. plus \$6/100 lb. in excess of
5,000 lbs. O.W.

Penalty system - administrative
Fines - mandatory


DISTRICT OF COLUMBIA

Fines and Penalties for Overweight Vehicles

\$100

Endorsement as of June 30, 1981:

Attached is a copy of a final rulemaking which increased the penalties in the District of Columbia to \$100 for the first 5,000 lbs. over limit, plus \$6 per 100 lbs. in excess of 5000 lbs. over limit. The penalty system is essentially administrative, as violation has been decriminalized, and is classed as a moving violation. Hearing Examiners at D.C. DOT are authorized to use discretion in the setting of fines over \$100 (\$100 is a mandatory fine), although adherence to the fine schedule is the general practice. This information has been confirmed during field review of operations and discussion with D.C. DOT Bureau of Design, Engineering, and Research personnel.


Michael L. Halladay
Planning and Research Engineer
District of Columbia Division, FHWA

DEPARTMENT OF TRANSPORTATION

NOTICE OF FINAL RULEMAKING
DIRECTOR'S ORDER NO. 80-91

The Director of the District of Columbia Department of Transportation, under the authority of Section 105(a)(1) of the D. C. Traffic Adjudication Act of 1978, D. C. Law No. 2-104, D. C. Code §40-1105(a) (Non-Cum. Supp. VI, 1979), which empowers the Mayor to modify the schedule of fines by order, and in Section 3 of the Mayor's Order No. 79-32, 25 DCR 8218 (1979), which delegates the Mayor's authority to revise the schedule of fines to the Director of Transportation, gives notice of the adoption of the following revision to the fine schedule for vehicle overweight infractions which amends the Rules and Regulations for the Administrative Adjudication of Parking and Certain Moving Traffic Violations.

FINAL RULEMAKING ACTION WAS TAKEN ON DECEMBER 10, 1980.

A Notice of Proposed Rulemaking was published in the D. C. Register on August 22, 1980, 27 DCR 3690-3691, for Director's Order No. 80-91 which shall amend Article III, Section 3.03(b) under the heading Moving Infractions. The only comments received came from the Bureau of Traffic Adjudication within the Department. That Bureau is unable to assess and keep records of fines in other than whole dollar amounts. Accordingly, the fine schedule as revised in the Notice of Proposed Rulemaking is hereby modified as follows:

"Weight Regulation Violation

- | | |
|--|--|
| (1) up to 5,000 pounds over the legal and permitted limit | \$100. |
| (2) in excess of 5,000 pounds over the legal and permitted level | \$100. plus
\$6. for each
additional 100
pounds in excess
of 5,000 pounds" |

This is substantially the exact fine amount as revised in the Notice of Proposed Rulemaking, but is a modified schedule for assessment based on accounting requirements.

This rule will become effective upon publication of this notice in the D. C. Register.

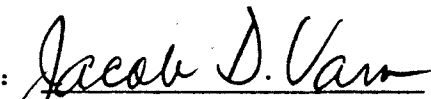
FLORIDA

Fines and Penalties for Overweight Vehicles

\$5 minimum; 5¢/lb. for all excess weight over 100#; however, when the maximum allowable gross weight is not exceeded, the maximum fine for the first 1,000 lbs. of unlawful axle weight is \$10.00.

Endorsement as of June 30, 1981:

By:


Jacob D. Varn
Secretary

Florida Department of Transportation

Penalty system - administrative
Fines - mandatory

GEORGIA

Fines and Penalties for Overweight Vehicles

0.8¢/lb. for first 1,000 lbs. O.W.; + 1.5¢/lb. for next 2,000 lbs. + 3¢/lb. for next 2,000#; + 4¢/lb. for next 3,000 lbs.; + 5¢/lb. for all excess weight over 8,000 lbs.

Endorsement as of June 30, 1981:

Assessments shown are correct per our law, the penalty system is judicial and the fines are mandatory, however, the individual is given a right to a hearing and also an Administrative Review.



Department of Transportation

State of Georgia

No. 2 Capitol Square

Atlanta, Georgia 30334

THOMAS D. MORELAND
COMMISSIONER
STATE HIGHWAY ENGINEER
EMORY C. PARRISH
DEPUTY COMMISSIONER

HAL RIVES
ASST. STATE HIGHWAY ENGINEER
DANIEL O. KELLY
TREASURER

September 02, 1981

Mr. Marshall Jacks, Jr., Director
Office of Traffic Operations, Attn: HT033
Federal Highway Administration
Washington, D.C.

Dear Mr. Jacks:

Attached hereto, from the State of Georgia is the update concerning the fines and penalties for overweight vehicles in accordance with Federal Highway Administration memorandum dated August 26, 1981.

If additional information is needed which was not provided on the attachment, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Ken Copeland", is written over the typed name.

M. Ken Copeland, Chief
Office of Permits and Enforcement

MKC/bw
Attachment

HAWAII

Fines and Penalties for Overweight Vehicles

\$25 minimum to \$500 maximum in accordance with schedule.

Endorsement as of June 30, 1981:

1. Above dollar amounts are correct.
2. Judicial penalty system
3. Judicial discretion used in fines

IDAHO

Fines and Penalties for Overweight Vehicles

\$10 plus $\frac{1}{2}$ ¢/lb. for 1-2,000 lbs.; $\frac{3}{4}$ ¢/lb. for 2,001-4,000 lbs;
1¢/lb. for 4,001-10,000 lbs. and \$125 for 10,001 and over.

Endorsement as of June 30, 1981:

The above is correct except for the "\$10 plus," which should be omitted.

Penalty system - judicial
Fines - judicial discretion authorized.

STATE OF IDAHO

JOHN V EVANS
GOVERNOR
IDAHO TRANSPORTATION BOARD
CARL C MOORE - CHAIRMAN
LLOYD F. BARRON - VICE CHAIRMAN
ROY I. STROSCHEIN - MEMBER
DARRELL V MANNING
DIRECTOR



TRANSPORTATION DEPARTMENT

P.O. BOX 7129

BOISE, IDAHO 83707

September 16, 1981

Mr. John J. Hegmann
Division Transportation Planner
U.S. Dept. of Transportation
Federal Highway Administration
3010 West State Street
Boise, ID 83703


RE: Fines and Penalties for Overweight Vehicles

Dear Mr. Hegmann:

In response to your request, I am enclosing a copy of an Order of the Supreme Court of the State of Idaho amending Rules as to recommended bail bond schedules effective July 1, 1981. This schedule is advisory only.

Idaho Code §49-909 provides for a maximum fine of \$100 or 30 days imprisonment for violation of vehicle weight laws. The penalty system in the State of Idaho is judicial in nature and fines or other penalties are discretionary.

Sincerely yours,


ROBERT L. TRABERT
Chief Legal Counsel

db

Enc.



SAFE TRANSPORTATION MEANS PROGRESS

EQUAL OPPORTUNITY EMPLOYER

In the Supreme Court of the State of Idaho

IN RE: AMENDMENT OF THE)
 MISDEMEANOR CRIMINAL RULES,) ORDER AMENDING RULES
 (M. C. R.))

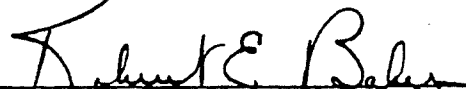
IT IS HEREBY ORDERED THAT, The Supreme Court Bail Bond Schedule contained in Misdemeanor Criminal Rule 13(b) be, and the same hereby is, AMENDED as follows:

(1) MOTOR VEHICLE OFFENSES:

(D) Weight Limit Offenses:

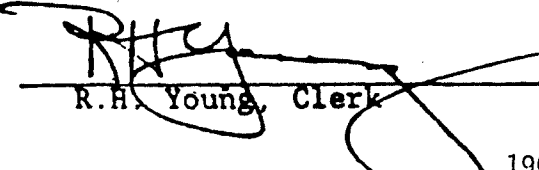
<u>Idaho Code</u>	<u>Offense</u>	<u>Bail Bond</u>
Overweight Violations		
49-132	Exceeding gross weight registration	50.00
49-901	Exceeding weight limit --	10.00 <u>11.50</u>
	bridge and axle	per pound
through	Per pound over:	bond
	1-2,000 lbs. - 1/2 cent lb.	
	2,001-4,000 lbs. - 3/4 cent lb.	
49-909	4,001-10,000 lbs. - 1 cent lb.	
	10,001 and over - \$125.00	

IT IS FURTHER ORDERED that this order and this amendment shall be effective on the 1st day of July, 1981.



 Robert E. Bakes, Chief Justice

ATTEST:



 R.H. Young, Clerk

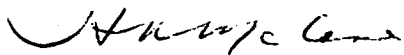
ILLINOIS

Fines and Penalties for Overweight Vehicles

6¢/lb. for 2001-3000 lbs., 8¢/lb. for 3001-4000 lbs.,
10¢/lb. for 4001-5000 lbs., and 12¢/lb. for 5001 lbs.
and over.

Endorsement as of June 30, 1981:

1. Fines and penalties as stated are correct.
2. Penalties are administrative. However, those charged with violation of weight laws may request court hearing.
3. Fines are mandatory.



H. R. McLane
Planning and Research Engineer

INDIANA

Fines and Penalties for Overweight Vehicles

Endorsement as of June 30, 1981:

Not more than \$500 for up to 5,000 lbs., it being a defense that the total of all excesses is less than 1,000 lbs.; not more than \$1,000 for more than 5,000 but not more than 10,000 lbs.; not more than \$10,000 for more than 10,000 lbs.

The fines are judicial.

Judicial discretion is authorized.

IOWA

Fines and Penalties for Overweight Vehicles

\$1 to \$6/100 lbs. O.W. based on percent O.W.

Endorsement as of June 30, 1981:

The above was in effect until April 1980; after that date, the following applies for overweights:

0 to 1,000 pounds, \$10 plus $\frac{1}{2}$ ¢/pound;
1,001 to 2,000 pounds, \$15 plus $\frac{1}{2}$ ¢/pound;
2,001 to 3,000 pounds, \$80 plus 3¢/pound;
3,001 to 4,000 pounds, \$100 plus 4¢/pound;
4,001 to 5,000 pounds, \$150 plus 5¢/pound;
5,001 to 6,000 pounds, \$200 plus 7¢/pound;
over 6,000 pounds, \$200 plus 10¢/pound.

Penalty system - judicial
Fines - mandatory

DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

UNITED STATES GOVERNMENT

memorandum

Subject: Fines and Penalties for
Overweight Vehicles

Date: September 1, 1981

From: Division Administrator
Ames, Iowa

Reply to HRP-IA
Attn. of:

To: Mr. Don Vosburgh
Regional Counsel
Kansas City, Missouri

HRC-07

Attached are two copies of the Iowa "Schedule of Fines for Overloads on Axles" in response to your August 25, 1981, memorandum. This is the present fine schedule that went into effect April 1980 when the maximum gross weight was increased to 80,000 pounds. The fine and penalties data attached to the Washington Office August 18, 1981, memorandum was in effect prior to April 1980.

The fine schedule is mandatory and set by law in the Code of Iowa, Section 321.463 (see attached). However, I understand that in some cases, the courts have reduced the fines. The Iowa Department of Transportation (Iowa DOT) has objected to these reductions.


Edward J. Finn

Planning & Research Engineer

Attachments

cc: Colonel Lewis Marsh, Motor Vehicle Enforcement, Iowa DOT

SCHEDULE OF FINES FOR OVERLOADS ON AXLES

Section 321.463

Single Axles - Legal Weight 20,000 lbs.

Data Code	Pounds Over	Fines
247	0 To 1000	\$10 plus ½¢ per pound
248	1001 To 2000	\$15 plus ½¢ per pound
249	2001 To 3000	\$80 plus 3¢ per pound
250	3001 To 4000	\$100 plus 4¢ per pound
251	4001 To 5000	\$150 plus 5¢ per pound
252	5001 To 6000	\$200 plus 7¢ per pound
253	6001 +	\$200 plus 10¢ per pound

Tandem Axles With 40" to 7' Spacing Legal Weight - 34,000 lbs.

Data Code	Pounds Over	Fines
254	0 To 1000	\$10 plus ½¢ per pound
255	1001 To 2000	\$15 plus ½¢ per pound
256	2001 To 3000	\$80 plus 3¢ per pound
257	3001 To 4000	\$100 plus 4¢ per pound
258	4001 To 5000	\$150 plus 5¢ per pound
259	5001 To 6000	\$200 plus 7¢ per pound
260	6001 +	\$200 plus 10¢ per pound

Group Axles

Data Code	Pounds Over	Fines
261	0 To 1000	\$10 plus ½¢ per pound
262	1001 To 2000	\$15 plus ½¢ per pound
263	2001 To 3000	\$80 plus 3¢ per pound
264	3001 To 4000	\$100 plus 4¢ per pound
265	4001 To 5000	\$150 plus 5¢ per pound
266	5001 To 6000	\$200 plus 7¢ per pound
267	6001 +	\$200 plus 10¢ per pound

Gross Weight = ½ of the fine rate schedule for axle, tandem axles, and groups of axles weight violations.

Data Code	Pounds Over	Fines
268	0 To 1000	½ of \$10 plus ½¢ per pound
269	1001 To 2000	½ of \$15 plus ½¢ per pound
270	2001 To 3000	½ of \$80 plus 3¢ per pound
271	3001 To 4000	½ of \$100 plus 4¢ per pound
272	4001 To 5000	½ of \$150 plus 5¢ per pound
273	5001 To 6000	½ of \$200 plus 7¢ per pound
274	6001 +	½ of \$200 plus 10¢ per pound

MOTOR VEHICLES AND LAW OF ROAD, §321.464

be so fastened as to be capable of holding the towed vehicle should the principal connection for any reason fail.

The connection between a truck tractor and a semi-trailer with a gross weight of three thousand pounds or more shall be of a type approved by the director, and the commissioner is hereby given authority to approve or disapprove such types of connection submitted to him. [C39, §5035.11; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, §321.462]
 Referred to in §321E.1, 805.8

321.463 Maximum gross weight. An axle may be divided into two or more parts, except that all parts in the same vertical transverse plane shall be considered as one axle.

The gross weight on any one axle of a vehicle, or of a combination of vehicles, operated on the highways of this state, shall not exceed twenty thousand pounds on an axle equipped with pneumatic tires, and shall not exceed fourteen thousand pounds on an axle equipped with solid rubber tires. The gross weight on any tandem axle of a vehicle, or any combination of vehicles, shall not exceed thirty-four thousand pounds on an axle equipped with pneumatic tires.

A group of two or more consecutive axles of any vehicle or combination of vehicles, shall not carry a load in pounds in excess of the overall gross weight determined by application of the following formula: W equals $500(LN/N-1 12N 36)$ where W equals the overall gross weight on any group of two or more consecutive axles to the nearest five hundred pounds, L equals the distance in feet, rounded to the nearest whole foot, between the extreme of any group of two or more consecutive axles, and N equals the number of axles in the group under consideration, except that two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more.

The maximum gross weight shall not exceed eighty thousand pounds.

The weight on any one axle, including a tandem axle, of a vehicle which is transporting livestock on highways not part of the interstate system may exceed the legal maximum weight given in this chapter providing that the gross weight on any particular group of axles on such vehicle does not exceed the gross weight allowable under this chapter for such groups of axles.

A person who operates a vehicle in violation of the provisions of this section, and an owner, or any other person, employing or otherwise directing the operator of a vehicle, who requires or knowingly permits the operation of a vehicle in violation of the provisions of this section shall be fined according to the following schedule:

AXLE, TANDEM AXLE, AND GROUP OF AXLES WEIGHT VIOLATIONS	
Pounds Overloaded	Amount of Fine
Up to and including 1,000 pounds	\$10 plus one-half cent per pound

Pounds Overloaded	Amount of Fine
Up to and including 1,000 pounds	\$10 plus one-half cent per pound <i>stated twice</i>
Over 1,000 pounds to and including 2,000 pounds	\$15 plus one-half cent per pound
Over 2,000 pounds to and including 3,000 pounds	\$80 plus three cents per pound
Over 3,000 pounds to and including 4,000 pounds	\$100 plus four cents per pound
Over 4,000 pounds to and including 5,000 pounds	\$200 plus seven cents per pound
Over 5,000 pounds to and including 6,000 pounds	\$200 plus ten cents per pound

← 2,000 A, 600 pounds including 500 pounds
#150 plus 5¢/lb

Fines for gross weight violations for vehicles or combinations of vehicles shall be assessed at one-half of the fine rate schedule for axle, tandem axle, and groups of axles weight violations.

The amount of the fine to be assessed shall be computed on the difference between the actual weight and the maximum legal weight specified in this section by applying the appropriate rate in the preceding schedule for the total amount of overload.

The schedule of fines may be assessed in addition to any other penalties provided for in this chapter.

Overloads on axles and tandem axles and overloads on groups of axles or on an entire vehicle or combination of vehicles shall be considered as separate violations of the provisions of this section.

A person who issues or executes, or causes to be issued or executed, a bill of lading, manifest, or shipping document of any kind which states a false weight of the cargo set forth on such bill, manifest, or document, which is less than the actual weight of the cargo, shall, upon conviction, be guilty of a simple misdemeanor. [C24, 27, 31, 35, §5065; C39, §5035.12; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, §321.463; 68GA, ch 1100, §11]

Referred to in §312.2, 321.1, 321.452, 321.459, 321.473, 321E.1, 321E.7, 321E.8, 321E.9, 321E.16, 321E.17, 321E.29, 805.8

321.464 Investigation as to safety. The director upon registering any vehicle under the laws of this state which vehicle is designed and used primarily for the transportation of property or for the transportation of ten or more persons, may require such information and may make such investigation or test as necessary to enable him to determine whether such vehicle may safely be operated upon the highways in compliance with all the provisions of this chapter. He shall register every such vehicle for a permissible gross weight not exceeding the limitations set forth in this chapter. Every such vehicle shall meet the following requirements:

1. It shall be equipped with brakes as required in sections 321.430 and 321.431.

2. Every motor vehicle to be operated outside of business and residence districts shall have motive power adequate to propel at a reasonable speed such vehicle and any load thereon or to be drawn thereby. [C39, §5035.13; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, §321.464]

Referred to in §321E.1

KANSAS

Fines and Penalties for Overweight Vehicles

\$500 maximum or 30 days in jail.

Endorsement as of June 30, 1981:

The above was in effect until the 1980 session of the Kansas Legislature adopted the following for overweights:

0-1,000 pounds, \$25; 1,001-2,000 pounds, 3¢/pound; 2,001-5,000 pounds, 5¢/pound; 5,001-7,500 pounds, 7¢/pound; over 7,500 pounds, 10¢/pound; second violation within 2 years, 1½ times applicable amount; third violation within 2 years, 2 times applicable amount; fourth and succeeding violation within 2 years, 2½ times the applicable amount.

Penalty system - judicial

Fines - judicial discretion authorized.

KANSAS DEPARTMENT OF TRANSPORTATION

STATE OFFICE BUILDING—TOPEKA, KANSAS 66612



JOHN B. KEMP, Secretary of Transportation

JOHN CARLIN, Governor

August 31, 1981

Mr. Robert W. Morrissey
Division Administrator
Federal Highway Administration
444 S.E. Quincy
Topeka, KS 66683

Dear Mr. Morrissey:

This letter is in reply to your letter of August 28, 1981, regarding fines and penalties for overweight vehicles.

Attached is a Xerox copy of K.S.A. 8-1901 which was adopted by the 1980 session of the Kansas Legislature.

The penalty system for overweight vehicles is judicial and the court does have discretion regarding the final disposition of the charges.

Sincerely,

Robert Haley

Robert Haley, Director
Division of Administration

Article 19.—SIZE, WEIGHT AND LOAD OF VEHICLES

8-1901. Penalties for violation of size and weight laws; exceptions for certain vehicles. (a) It shall be unlawful for any person to drive or move or for the owner or lessee to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles of a size or weight exceeding the limitations stated in article 19 of chapter 8 of Kansas Statutes Annotated or otherwise in violation of this article, and the maximum size and weight of vehicles herein specified shall be lawful throughout this state; and local authorities shall have no power or authority to alter said limitations except as express authority may be granted in this article.

(b) Any person violating any of the provisions of article 19 of chapter 8 of the Kansas Statutes Annotated, except for the provisions of K.S.A. 8-1908 and K.S.A. 1980 Supp. 8-1909, shall, upon conviction thereof, be fined in an amount not to exceed five hundred dollars (\$500).

(c) Any person violating any of the provisions of K.S.A. 8-1908 or K.S.A. 1980 Supp. 8-1909, shall, upon a first conviction thereof, be fined the applicable following amount from one, but not both of the following schedules for moving a gross vehicle or combination of vehicles weight in excess of the lawful maximum gross weight for such vehicle or combination of vehicles or for any axle or tandem axles thereof:

Gross Weight of Vehicle or Combination

For each violation of any gross weight limitation of a vehicle or combination of vehicles, an amount equal to the amount determined by applying the following schedule for each pound in excess of the lawful limit:

<i>Pounds Overweight</i>	<i>Rate of Fine</i>
up to 1000	\$25.00
1001 to 2000	3¢ per pound
2001 to 5000	5¢ per pound
5001 to 7500	7¢ per pound
7501 and over	10¢ per pound

Gross Weight on Any Axle or Tandem Axle

For each violation of any gross weight limitation on any axle or tandem axles, an amount equal to the amount determined by applying the following schedule for each pound in excess of the lawful gross weight:

<i>Pounds Overweight</i>	<i>Rate of Fine</i>
up to 1000	\$25.00
1001 to 2000	3¢ per pound
2001 to 5000	5¢ per pound
5001 to 7500	7¢ per pound
7501 and over	10¢ per pound

For a second violation of this subsection (c), within two years after a prior conviction of this subsection, such person, upon conviction shall be fined one and one-half times the applicable amount from one, but not both, of the above schedules. For a third violation of this subsection (c) within two years, after two prior convictions of this subsection, such person, upon conviction shall be fined two times the applicable above amount from one, but not both, of the above schedules. For a fourth and each succeeding violation of this subsection (c) within two years after three prior convictions of this subsection, such person, upon conviction shall be fined two and one-half times the applicable above amount from one, but not both, of the above schedules.

(d) It shall be unlawful for any person to cause or knowingly permit the owner or lessee of any vehicle or combination of vehicles to be loaded with gross weight of such vehicle or combination of vehicles exceeding any limitation stated in article 19 of chapter 8 of Kansas Statutes Annotated, if at the time and place of such loading there is available a stationary scale, the accuracy of which is certified in accordance with law.

(e) Except as otherwise specifically provided in this act, the provisions of article 19 of chapter 8 of Kansas Statutes Annotated governing size, weight and load shall not apply to fire apparatus, road machinery, farm tractors or to implements of husbandry temporarily moved upon a highway, or to a vehicle operated under the terms of a currently valid special permit issued in accordance with K.S.A. 8-1911 and any amendments thereto.

History: K.S.A. 8-1901; L. 1980, ch. 44, § 1; Jan. 1, 1980.

Revisor's Note:

Section published herein not effective until Jan. 1, 1981.

KENTUCKY

Fines and Penalties for Overweight Vehicles

\$60 minimum to \$500 maximum; 2¢/lb. for 0-2,000lbs.; 3¢/lb. for 2,001-3,000 lbs.; 5¢/lb. for 3,001-4,000 lbs.; 7¢/lb. for 4,001-5000 lbs.; 9¢/lb. over 5,000 lbs.

Endorsement as of June 30, 1981:

Penalty system - judicial
Fines - mandatory



COMMONWEALTH OF KENTUCKY
KENTUCKY STATE POLICE
FRANKFORT 40601

OFFICE OF THE COMMISSIONER

M E M O R A N D U M

TO: Mr. Bennie Maffet
Federal Safety Standards Coordinator

FROM: Major L. E. Fentress
Legal Officer


DATE: September 2, 1981

SUBJECT: Fines and Penalties for Overweight Vehicles

The attached fine schedule for overweight vehicles is accurate as of June 30, 1981. Additional questions in the memorandum from Gordon Brooks are:

- (1) Is the penalty system administrative or judicial? (It is judicial.)
- (2) Are the fines mandatory or discretionary? (The fines are mandatory if fines are imposed, but the judge, in his discretion, may suspend the sentence.)

If you need further information, please contact me.


Major L. E. Fentress
Legal Officer

LEF:erc

Attachment

LOUISIANA

Fines and Penalties for Overweight Vehicles

2¢/lb. gross & 1¢/lb. axle only for 0-3,000 lbs.; 3¢/lb. gross & 1.5¢/lb. axle only for 3,001-5000 lbs.; 4¢/lb. gross & 2¢/lb. axle only for 5,001-10,000 lbs.; \$100 plus 5¢/lb. gross & axle only for over 10,000 lbs. The greater fine is assessed.

Endorsement as of June 30, 1981:

Administrative: ✓

Mandatory: ✓

No Change: ✓

E. Foreman
8-14-81

MAINE

Fines and Penalties for Overweight Vehicles

\$10-\$100 in \$10 increment for 1 percent-10 percent O.W.;
\$120-\$500 in \$20 increment for 11 percent-30 percent O.W.;
\$525-\$750 in \$25 increment for 31 percent-40 percent O.W.;
\$800-\$950 in \$50 increment for 41 percent-44 percent O.W.;
\$1,000 for 45 percent or greater.

Endorsement as of June 30, 1981:

1. Fine structure is correct.
2. Penalty system is judicial.
3. Fines are mandatory. However, a portion of the fines are being suspended in the Aroostook County District Court.

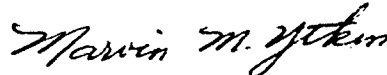
MARYLAND

Fines and Penalties for Overweight Vehicles

\$50/1,000 lbs., \$500 maximum.

Endorsement as of June 30, 1981:

The above is accurate and has been verified with the Assistant to the Director of Administration in the Maryland State Highway Administration.



Marvin M. Ytkin
Planning & Research Engineer
Maryland Division, FHWA

The following answers the questions raised by the Regional Office in a memorandum dated September 28, 1981:

- A. The penalty system is judicial.
- B. The fines are not discretionary. Fines are assessed based on actual overweight amounts in almost all cases. On conviction for a violation, no fine may be suspended or reduced. A credit may be given for an accumulation of cinders, snow or ice.

Fines and Penalties for
Overweight Vehicles

October 1, 1981

Emil Elinsky
Division Administrator
Baltimore, Maryland

HRP-MD

HTO-33

Director, Office of Traffic Operations
Washington, D.C.

In accordance with your August 18, 1981 memorandum to all Regional Federal Highway Administrators, we have reviewed the data concerning the fines and penalties for overweight vehicles in Maryland. As requested, we have attached our endorsement of the data as to its correctness as of June 30, 1981.

By: Marvin M. Ytkin
Planning & Research Engineer

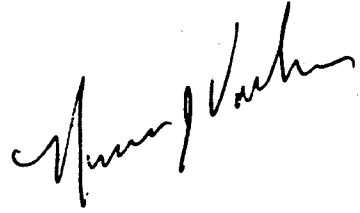
Attachment

MASSACHUSETTS

Fines and Penalties for Overweight Vehicles

\$30/1,000 lb. for the first 10,000 lbs. O.W.; \$60/1,000 lbs. thereafter; for irreducible load \$10/1,000 lb. maximum \$500.

Endorsement as of June 30, 1981:

A handwritten signature in cursive script, likely of a government official, is written over the text of the endorsement.

1. The penalty system is judicial.
2. The fines are mandatory.

MICHIGAN

Fines and Penalties for Overweight Vehicles

2¢/lb. for 1,001-2,000 lbs.; 4¢/lb. for 2,001-3,000 lbs.;
6¢/lb. for 3,001-4,000 lbs.; 8¢/lb. for 4,001-5,000 lbs.;
10¢/lb. for over 5,000 lb.

Endorsement as of June 30, 1981:

1. Penalties are correct.
2. Penalty is judicial.
3. Fines are judicial discretion.

Cole Chinski

MINNESOTA

Fines and Penalties for Overweight Vehicles

1¢/lb for up to 3,000 lb.; 5¢/lb. for 3,001 - 4,000 lb.;
15¢/lb. for 4,001 - 6,000 lb.; 30¢/lb. for over 6,000 lb.

The penalty system is judicial and judicial discretion is authorized.

Endorsement as of June 30, 1981:

A handwritten signature in black ink, appearing to read "John P. ...", is written over a horizontal line. The signature is stylized and cursive.

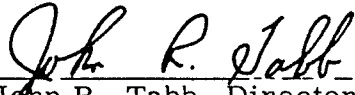
MISSISSIPPI

Fines and Penalties for Overweight Vehicles

5¢/1,000 lbs. O.W. times miles traveled (50 miles minimum)
plus 500 percent.

Endorsement as of June 30, 1981:

The penalty is correct as of the endorsement date. The attached penalty system will become effective November 1, 1981. The penalty is administrative and mandatory under both systems.



John R. Tabb, Director
Mississippi State Highway Department
September 3, 1981

<u>AMOUNT IN EXCESS OF LEGAL AXLE OR HIGHWAY WEIGHT LIMITS IN POUNDS</u>	<u>PENALTY</u>
<u>1 to 999</u>	<u>\$10.00 minimum penalty</u>
<u>1,000 to 1,999</u>	<u>1¢ per pound in excess of legal limit</u>
<u>2,000 to 2,999</u>	<u>2¢ per pound in excess of legal limit</u>
<u>3,000 to 3,999</u>	<u>3¢ per pound in excess of legal limit</u>
<u>4,000 to 4,999</u>	<u>4¢ per pound in excess of legal limit</u>
<u>5,000 to 5,999</u>	<u>5¢ per pound in excess of legal limit</u>
<u>6,000 to 6,999</u>	<u>6¢ per pound in excess of legal limit</u>
<u>7,000 to 7,999</u>	<u>7¢ per pound in excess of legal limit</u>
<u>8,000 to 8,999</u>	<u>8¢ per pound in excess of legal limit</u>
<u>9,000 to 9,999</u>	<u>9¢ per pound in excess of legal limit</u>
<u>10,000 to 10,999</u>	<u>10¢ per pound in excess of legal limit</u>
<u>11,000 or more</u>	<u>11¢ per pound in excess of legal limit</u>

In instances where both the legal highway gross weight limit and the legal axle load weight limit(s) are exceeded, the fine that shall be levied shall be either the penalty amount for the excess vehicle gross weight or the total of the penalty amounts of all overloaded axles whichever is the larger amount.

M I S S O U R I

Fines and Penalties for Overweight Vehicles

2¢/lb. for first 500 lbs. O.W.; + 5¢/lb. for next 500 lbs.; +
10¢/lb. thereafter.

Endorsement as of June 30, 1981:

The above fines and penalties are judicial as specified by
State statute and are mandatory and must be assessed where the
court finds as a matter of fact the overweight violation occurred
as charged.



Robert N. Hunter
Chief Engineer

JAY B. DILLINGHAM, *Chairman*
Rm. 926, Livestock Exchange Bldg.
1600 Genesee
Kansas City 64102

ROY W. JORDAN, *Vice Chairman*
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Hannibal 63401

CARL E. YATES, *Member*
1436 South Glenstone
Springfield 65804

EUGENE J. FELDHAUSEN, *Member*
Suite 430
10920 Ambassador Drive
Kansas City 64153

MISSOURI
HIGHWAY AND TRANSPORTATION COMMISSION



ROBERT N. HUNTER, *Chief Engineer*

BRUCE A. RING, *Chief Counsel*

L. V. MCLAUGHLIN, *Ass't. Chief Engineer*

MRS. MARI ANN WINTERS, *Secretary*

P. O. Box 270
Jefferson City, Missouri 65102
Telephone (314) 751-2551

September 1, 1981

MAINTENANCE AND TRAFFIC
Size and Weight Enforcement
Fines and Penalties for Overweight Vehicles

Mr. Gerald J. Reihsen
Division Administrator
Federal Highway Administration
P. O. Box 1787
Jefferson City, Missouri 65102

Dear Mr. Reihsen:

In reply to your letter of August 27, 1981, we are attaching two copies of information on fines and penalties for overweight vehicles.

Very truly yours,

A handwritten signature in cursive script that reads "Robert N. Hunter".

Chief Engineer

MONTANA

Fines and Penalties for Overweight Vehicles

\$15 minimum to \$1,000 maximum (for excess weight of 1 lb. to over 25,000 lbs., respectively, in accordance with schedule).

Endorsement as of June 30, 1981:

"Discussed on phone w/Don Copley, Admin. G.V.W. 9/8/81"

WS Dunbar
Name

Proj Dev Engr FHVA
Title

Penalty System:
(please check one)

Administrative _____

Judicial X

Fines:
(please check one)

Mandatory _____

Judicial Discretion Authorized X

NEBRASKA

Fines and Penalties for Overweight Vehicles

\$25 gross & axle (s) for 5 percent or less O.W.; \$100 gross &
\$75 axle (s) for 5-10 percent O.W.; \$200 gross & \$150 axle (s)
for 10-15 percent O.W.; \$350 gross & \$225 axle (s) for 15-20 percent
O.W.; \$600 gross & \$300 axle (s) for 20 -25 percent O.W.;
\$1,000 gross & \$500 axle (s) for over 25 percent O.W.

Endorsement as of June 30, 1981:

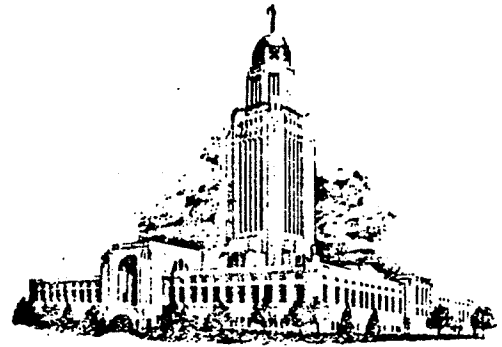
Penalty system - judicial

Fines - judicial discretion authorized

State of Nebraska

CHARLES THONE, GOVERNOR

DEPARTMENT OF ROADS
DIRECTOR-STATE ENGINEER
DAVID O. COOLIDGE



August 31, 1981

Mr. R. H. Hogrefe
Division Administrator
Federal Highway Administration
Federal Building, Room 487
100 Centennial Mall North
Lincoln, Nebraska 68508

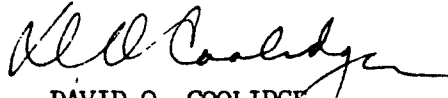
Dear Mr. Hogrefe:

We have reviewed the schedule of Nebraska's fines and penalties for overweight vehicles.

The schedule listed is correct, however, it should be noted that these are the maximum values allowed by law. There is also an additional \$12 court cost with each case.

The penalty system is judicial with discretion by the court authority.

Very truly yours,


DAVID O. COOLIDGE
Director-State Engineer

DOC:AHD:j

hay or loose fodder when the width including said load is greater than 96 inches so long as the width of said vehicle without said load does not exceed said 96 inches. Provided further, that a motor bus which has an overall length, inclusive of front and rear bumpers, in excess of 35 feet, but not in excess of 40 feet and the load on any axle not in excess of the limits provided in RSA 263:61, may be operated on the highways of this state. 5-19-79

263:69 Penalty for Exceeding Permitted Size and Weight. Any person who shall operate or cause to be operated on the highways of this state a vehicle whose height, size or weight is in excess of that herein prescribed shall be guilty of a violation and notwithstanding the provisions of RSA 625:9, V, shall be fined not more than \$100 for a first offense nor more than \$250 for a subsequent offense within a calendar year. 6

263:76 Provisions. Any person operating any motor vehicle transporting any explosives as a cargo or part of a cargo upon a public highway shall at all times comply with the following provisions:

I. Blasting caps, blasting caps with safety fuses, blasting caps with metal clad mild detonating fuse, and electric blasting caps may be transported with other explosives in the same vehicle only in accordance with such regulations as may be adopted by the director of the division of state police in accordance with RSA 158:9-f.

II. Every vehicle used for transporting explosive materials and certain oxidizing materials shall be marked in accordance with such regulations as may be adopted by the director of the division of state police in accordance with RSA 158:9-f.

III. Fire Precautions.

(a). Each motor vehicle used for transporting explosive materials shall be equipped with 2 fire extinguishers having a combined rating of at least 2-A, 10 B:C as defined in national fire protection association standards. Such extinguishers shall be filled, ready for immediate use, and located near the driver's seat.

NEW JERSEY

Fines and Penalties for Overweight Vehicles

\$50 minimum; graduated.

Endorsement as of June 30, 1981:

Correction to Fine Structure

\$0.02 per pound if excess weight is 10,000 pounds or less

\$0.03 per pound if excess weight exceeds 10,000 pounds

\$50.00 minimum fine

Penalty system is judicial.

Fines are mandatory.


For the Division Administrator

NEW MEXICO

Fines and Penalties for Overweight Vehicles

\$25 for 1,000 to 3,000 lbs. O.W.;—\$40 for 3,001 to 4,000 lbs. O.W.;
\$75 for 4,001 to 5,000 lbs. O.W.;—\$125 for 5,001 to 6,000 lbs. O.W.;
\$200 for 6,001 to 7,000 lbs. O.W.;—\$275 for 7,001 to 8,000 lbs. O.W.;
\$350 for 8,001 to 9,000 lbs. O.W.;—\$425 for 9,001 to 10,000 lbs. O.W.;
and \$500 over 10,000 lbs.

Endorsement as of June 30, 1981:

The above schedule of fines is correct and is preceded in state law by the statement: "In all cases of violations of weight limitations, the penalties shall be assessed and imposed with the following schedule:"

It is our understanding, however, that municipal judges use discretion in levying fines and may actually levy fines of smaller amounts. Further, violators are, according to state law, required to off-load that portion of the load creating an excess of the legal limit. Again, discretion is used in the field to account for available secure storage facilities, type of load and degree of violation.

Elmore H. Dean
for Division Administrator

NEW YORK

Fines and Penalties for Overweight Vehicles

\$200-500 or imprisonment for not more than 30 days, or by both fine and imprisonment for the first offense. \$500-1,000 or imprisonment up to 60 days, or by both fine and imprisonment for the second offense.

Endorsement as of June 30, 1981:

1. The above data is correct for violation of the 80,000 pound maximum vehicle weight.

For other violations, including size, single and tandem axle maximum weights, and bridge formula, the fines and penalties are:

\$100-250 or imprisonment for not more than 30 days, or by both fine and imprisonment for the first offense.

\$250-500 or imprisonment for not more than 60 days, or by both fine and imprisonment for the second or subsequent offense.

2. The penalty system is judicial.
3. Judicial discretion is authorized within the limits prescribed, in other words, the first figure is a minimum and the last figure is the maximum fine.

F.H. Platt

F.H. Platt
District Engineer
New York Division
August 31, 1981

NORTH CAROLINA

Fines and Penalties for Overweight Vehicles

2¢/lb. for 1,000 to 2,000 lb. O.W.; 3¢/lb. for 2,000 to 3,000 lb. O.W.; 5¢/lb. for excess over 3,000 lb. O.W.

Endorsement as of June 30, 1981:

Above fines applied to violations of axle weights. The fines^p for violations of gross weights were as follows:

1¢/lb. for first 2,000 lb. O.W.; 2¢/lb. for the next 3,000 lb. O. W.;
5¢/lb. for excess over 5,000 lb. O. W.

These penalties were in effect until July 1, 1981, at which time the penalties were raised to the following values:

Axle weight violations - 4¢/lb. for 1,000 to 2,000 lb. O. W.; 6¢/lb. for 2,000 to 3,000 lb. O.W.; 10¢/lb. for excess over 3,000 lb. O.W.

Gross weight violations - 2¢/lb. for first 2,000 lb. O.W.; 4¢/lb. for the next 3,000 lb. O.W.; 10¢/lb. over 5,000 lb. O.W.

The penalty system is administrative and the fines are mandatory.

NORTH DAKOTA

Fines and Penalties for Overweight Vehicles

1¢/lb. when up to 3,000 lbs. O.W.; 4¢/lb. for 3,000-5,000 lbs. O.W.; 8¢/lb. when over 5,000 lbs.

Endorsement as of June 30, 1981:

T. J. Magrin
Name

Director - Truck Regulation
Title

Penalty System:
(please check one)

Administrative _____
Judicial- X (or settled administratively)

Fines:
(please check one) see below

Mandatory- X
Judicial Discretion Authorized _____

Note: As of July 1981 - new law requires 10¢ for each pound over 10,000# and 20¢ of each pound over 20,000#; see attached copy.

T. J. Magrin
39-16.1-07

MOTOR VEHICLES

1-12-17. Trial — Charges. At the trial of the action, the court shall hear testimony concerning the facts and if it is found that such vehicle or vehicles were used upon the highways, streets, or roads of this state at a weight in excess of limitations imposed under the provisions of section 39-12-03 or as limited by provisions of section 39-12-05, charges for the extraordinary use of the highways, streets, or roads shall be assessed as follows:
The storage charges and costs of the action shall be assessed; and
An additional charge shall be assessed as follows:
a. One cent per pound [453.59 grams] for each pound [453.59 grams] of weight in excess of the legal limit, up to three thousand pounds [1360.77 kilograms] of excess weight;

- b. Four cents per pound [453.59 grams] for each pound [453.59 grams] which exceeds the legal limit by over three thousand [1360.77 kilograms] but is less than five thousand pounds [2267.96 kilograms] of excess.
- c. Eight cents per pound [453.59 grams] for each pound [453.59 grams] which exceeds the legal limit by over five thousand pounds [2267.96 kilograms], but is not more than ten thousand pounds [4535.92 kilograms].
- d. Ten cents per pound [453.59 grams] for each pound [453.49 grams] which exceeds the legal limit by over ten thousand pounds [4535.92 kilograms] but is less than twenty thousand pounds [9071.84 kilograms] of excess weight; and
- e. Twenty cents per pound [453.59 grams] for each pound [453.59 grams] which exceeds the legal limit by more than twenty thousand pounds [9071.84 kilograms].

OREGON

Fines and Penalties for Overweight Vehicles

\$2 for 750 lbs. or less O.W.; minimum of \$15 for 751 to 1,500 lbs. O.W.; not more than 1¢/lb. for 1,501 to 2,500 lbs. O.W.; not more than 2¢/lb. for 2,501 to 5,000 lbs. O.W.; not more than 7¢/lb. for more than 5,000 lbs., or jail for not more than 30 days, or both.

Endorsement as of June 30, 1981:

Above is correct as of 6/30/81. Penalty system is judicial with judicial discretion allowed.

However, the 1981 Legislature passed SB 11 which changes the above fines/penalties effective November 1, 1981. Attached is a copy of SB 11. Judicial penalty system remains the same.

OREGON LEGISLATIVE ASSEMBLY--1981 Regular Session

Enrolled
Senate Bill 11

PRINTED PURSUANT TO ORS 171.130 by order of the President of the Senate in conformance with
presession filing rules, indicating neither advocacy nor opposition on the part of the President (at request
of Senate Interim Task Force on Regulation of the Motor Carrier Industry)

CHAPTER.....105.....

AN ACT

Relating to vehicles; amending ORS 483.996.

Be It Enacted by the People of the State of Oregon:

Section 1. ORS 483.996 is amended to read:

483.996. (1) Violation by any driver, chauffeur or owner of any vehicle or combination of vehicles of the weight provisions of ORS 483.506, 483.512 or 483.516, or of any permit issued under ORS 483.528 for vehicles described in ORS 483.527, or of any resolution adopted pursuant to ORS 483.525, is punishable, upon conviction, [*by imprisonment or*] by a fine based upon the excess weight by which any gross weight exceeds the applicable gross weight authorized in such provisions, permit or resolution, as follows. If the excess weight is:

(a) [*Seven hundred fifty*] One thousand pounds or less by a fine of \$2. No additional bail shall be required if the fine is paid on or before the appearance date set out in the citation.

(b) More than [*750*] 1,000 pounds, but not in excess of [*1,500*] 2,000 pounds, by a fine of not less than \$15.

(c) More than [*1,500*] 2,000 pounds, but not in excess of [*2,500*] 3,000 pounds, by a fine of not more than one cent per pound for each pound of the excess weight.

(d) More than [*2,500*] 3,000 pounds, but not in excess of 5,000 pounds, by a fine of not more than two cents per pound for each pound of the excess weight.

(e) More than 5,000 pounds by a fine of not more than seven cents per pound for each pound of the excess weight. [, *or by imprisonment in the county or municipal jail for not more than 30 days, or both.*]

(f) More than 7,500 pounds by a fine of not less than seven cents nor more than 10 cents for each pound of the excess weight.

(2) Violation by any driver, chauffeur or owner of any vehicle or combination of vehicles of the weight provisions of any permit issued under ORS 483.528, other than for vehicles described in ORS 483.527, is punishable, upon conviction, by a fine of not more than \$100 plus [*five*] 10 cents per pound for each pound by which any gross weight exceeds the applicable gross weight authorized by the permit. [, *or by imprisonment in the county or municipal jail for not more than 30 days, or both.*]

(3) If a person charged with a violation of the weight provisions of any permit issued under ORS 483.528, other than for vehicles described in ORS 483.527, produces in court a second valid permit authorizing a gross weight equal to or greater than the actual gross weight of the vehicle, combination of vehicles, axle, tandem

axles, or group of axles upon which the citation was based, the *[five]* 10 cents per pound penalty shall be waived by the court, and the fine shall be not more than \$100.

Approved by the Governor May 13, 1981.

Filed in the office of Secretary of State May 14, 1981.

PENNSYLVANIA

Fines and Penalties for Overweight Vehicles

\$150 for up to 3,000 lbs. gross O.W. plus \$150 for each additional 500 lbs.; \$100 for up to 2,000 lb. axle O.W. plus \$100 for each additional 500 lbs.

Endorsement as of June 30, 1981:

This information has been reviewed with Mr. Harold Knisley, Pa.DOT's Assistant Division Chief, Traffic Operations Division, in charge of the State's Weights and Permits Section. The basic fine for gross overweights are \$75.00 for up to 3,000 lbs. plus \$75.00 for each additional 500 lbs. or part thereof over the lesser of the maximum gross weight or registered gross weight. The fine is doubled to \$150.00 if a vehicle's gross weight exceeds 73,280 lbs. or a combination exceeds 80,000 lbs. The axle weight figures are correct.

The penalty system is judicial in that conviction is necessary and all fines are handled through the magistrate.

The fines are mandatory at the magistrate level, but may be adjusted at the county court level.

Pertinent portions of the State's vehicle code are attached.

 10/6/81

Robert A. Hall
Supervisory Community Planner
Pennsylvania Division, FHWA

(iv) that has remained on private property without the consent of the owner or person in control of the property for more than 48 hours.

(2) Vehicles and equipment used or to be used in construction or in the operation or maintenance of public utility facilities, which are left in a manner which does not interfere with the normal movement of traffic, shall not be considered to be abandoned.

"Alley." A street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic.

"Antique motor vehicle." A motor vehicle, but not a reproduction thereof, manufactured more than 25 years prior to the current year which has been maintained in or restored to a condition which is substantially in conformance with manufacturer specifications.

"Articulated bus." A bus designed to transport passengers and on which passengers are authorized to be transported, consisting of two or more units or sections permanently assembled in tandem by flexible connections which permit passenger movement throughout the length of the bus.

"Authorized vehicle." A vehicle or type of vehicle, other than an emergency vehicle, for which special operating or equipment privileges are given by law or regulation of the department based on design and utility for work within a highway.

"Bus." A motor vehicle designed for carrying more than ten passengers, exclusive of the driver, and used for the transportation of persons and a motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

"Business district." The territory contiguous to and including a highway when within any 600 feet along the highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, railroad stations and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway.

"Classic motor vehicle." A self-propelled vehicle, but not a reproduction thereof, manufactured more than ten years prior to the current year and, because of discontinued production and limited availability, determined by the department to be a model or make of significant value to collectors or exhibitors and which has been maintained in or restored to a condition which is substantially in conformity with manufacturer specifications and appearance.

"Combination." Two or more vehicles physically interconnected in tandem.

"Court." Includes (when exercising criminal or quasi-criminal jurisdiction pursuant to 42 Pa.C.S. § 1515 (relating to jurisdiction and venue)) a district justice.

"Crosswalk."

(1) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the

"Traffic-control signal." A device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

"Trafficway." The entire width between property lines or other boundary lines of every way or place of which any part is open to the public for purposes of vehicular travel as a matter of right or custom.

"Trailer." A vehicle designed to be towed by a motor vehicle.

"Truck." A motor vehicle designed, used or maintained primarily for the transportation of property.

"Truck-camper." A structure designed, used or maintained primarily to be loaded or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office or commercial space.

"Truck tractor." A motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

"Urban district." The territory contiguous to and including any street which is built up with structures devoted to business, industry or dwelling houses situated at intervals of less than 100 feet for a distance of a quarter of a mile or more.

"Urban mass transportation system." A person holding a certificate of the Public Utility Commission or a municipality authority, port authority or transportation authority established under the laws of this Commonwealth that transports persons on schedule over fixed routes and derives over 80% of their intrastate scheduled revenue from scheduled operations within the county in which they have their principal place of business, or contiguous counties.

"Valueless except for junk." A vehicle which is inoperable or unable to meet the vehicle equipment and inspection standards under Part IV (relating to vehicle characteristics) to the extent that the cost of repairs would exceed the value of the repaired vehicle. The term does not include a vehicle which would qualify as an antique or classic vehicle except for its lack of restoration or maintenance.

"Vehicle." Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices used exclusively upon rails or tracks.

"Vehicle identification number." A combination of numerals or letters or both which the manufacturer assigns to a vehicle for identification purposes, or, in the absence of a manufacturer-assigned number, which the department assigns to a vehicle for identification purposes.

"Wrecker." A motor vehicle designed or constructed and used for the towing of abandoned or disabled vehicles.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days; June 6, 1979, P.L.39, No.12, eff. imd.; June 18, 1980, No.67, eff. imd.; June 18, 1980, No.68, eff. 60 days)

1980 Amendments. Act 67 added the def. of "mass transit vehicle" and Act 68 added the def. of "motor carrier vehicle."

1979 Amendment. Act 12 added the def. of "articulated bus."

1978 Amendment. Act 53 added the defs. of "court," "district justice" and "general rule" and amended the def. of "issuing authority."

does not permit loads to exceed the maximum limits set forth in section 4923 (relating to length of vehicles).

§ 4925. Width of projecting loads on passenger vehicles.

(a) **General rule.**—No passenger-type vehicle shall be operated on any highway with a load extending beyond the left side of the vehicle nor extending more than 12 inches beyond the right side of the vehicle.

(b) **Exception.**—This section does not apply to emergency vehicles.

SUBCHAPTER C

MAXIMUM WEIGHTS OF VEHICLES

Sec.

4941. Maximum gross weight of vehicles.

4942. Registered gross weight.

4943. Maximum axle weight of vehicles.

4944. Maximum wheel load.

4945. Penalties for exceeding maximum weights.

4946. Impoundment of vehicles for nonpayment of overweight fines.

4947. Disposition of impounded vehicles and loads.

4948. Maximum weight and seating capacity of buses.

Cross References. Subchapter C is referred to in sections 4961, 4982 of this title.

§ 4941. Maximum gross weight of vehicles.

(a) **General rule.**—No vehicle shall, when operated upon a highway, have a gross weight exceeding 73,280 pounds, and no combination driven upon a highway shall have a gross weight exceeding the lesser of 80,000 pounds, including all enforcement tolerances, or the applicable weight set forth in subsection (b).

(b) **Combination of vehicles.**—No combination shall, when operated upon a highway, have a gross weight exceeding the following:

Combination of Vehicles	Maximum Gross Weight In Pounds
Two-axle truck tractor & single-axle semitrailer	50,000
Two-axle truck tractor & two-axle semitrailer	60,000
Three-axle truck tractor & single-axle semitrailer	60,000
Two-axle truck & two-axle trailer	62,000

(June 18, 1980, No. 68, eff. 60 days)

1980 Amendment. Act 68 amended subsec. (a).

Cross References. Section 4941 is referred to in sections 4945, 4961 of this title.

§ 4942. Registered gross weight.

(a) **Single vehicle limits.**—No vehicle registered as a truck, a combination or a trailer shall be operated with a gross weight in excess of its registered gross weight.

(b) **Truck towing trailer.**—No vehicle registered as a truck shall be

operated with a gross weight, exclusive of any trailer being towed, in excess of its registered gross weight as a truck.

(c) **Combination.**—No combination containing a trailer having a registered gross weight in excess of 10,000 pounds shall be operated with a gross weight in excess of the registered gross weight of the truck or truck tractor for a combination.

Cross References. Section 4942 is referred to in section 4945 of this title.

§ 4943. Maximum axle weight of vehicles.

(a) **General rule.**—Except as provided in subsection (b), no vehicle or combination driven upon a highway shall have a weight upon any axle in excess of the lesser of the manufacturer's rated axle capacity or the following applicable weight:

Maximum Axle Weight in Pounds Upon:		
If the Center-to-Center Distance Between the Nearest Adjacent Axles is:	One of Two Adjacent Axles	Other of Two Adjacent Axles
Under 6 feet	18,000	18,000
6 to 8 feet	18,000	22,400
Over 8 feet	22,400	22,400

(b) **Vehicles and combinations with five or more axles.**—No vehicle or combination with five or more axles driven on a highway shall have a weight upon any axle in excess of the manufacturer's rated axle capacity, nor shall the overall gross weight on any group of two or more consecutive axles on combinations with an overall gross weight in excess of 73,280 pounds exceed that produced by application of the following formula:

$$W = 500 \left(\frac{LN}{N-1} + (12N + 36) \right)$$

Where W = overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds, L = distance in feet between the extreme of any group of two or more consecutive axles and N = number of axles in group under consideration, except that two consecutive pairs of axles may carry a gross load of 34,000 pounds each, provided the overall distance between the first and last axles of such consecutive pairs of axles is 36 feet or more.

(c) **Gross weight.**—No vehicle or combination shall be driven with a gross weight in excess of the sum of the allowable axle weights as set forth in this section, nor shall any vehicle or combination be driven with a gross weight in excess of the sum of the manufacturer's rated axle capacities.

(d) **Location of front axle of semitrailer.**—No semitrailer, originally in this Commonwealth on or after September 1, 1963, and having two or more axles, shall be operated upon a highway unless the foremost axle of

the semitrailer is at least 12 feet from the rearmost axle of the towing vehicle.

(June 18, 1980, No.68, eff. 60 days)

Cross References. Section 4943 is referred to in section 4945 of this title.

§ 4944. Maximum wheel load.

No motor vehicle or combination shall, when operated upon a highway, have a weight upon any one wheel in excess of 800 pounds for each nominal inch of width of tire on the wheel.

(June 18, 1980, No.68, eff. 60 days)

Cross References. Section 4944 is referred to in section 4945 of this title.

§ 4945. Penalties for exceeding maximum weights.

(a) Gross weight violations.—

(1) Any person driving a vehicle or combination upon a highway exceeding the maximum gross weight allowed by section 4941 (relating to maximum gross weight of vehicles) or the registered gross weight allowed by section 4942 (relating to registered gross weight), whichever is less, is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of \$75 plus \$75 for each 500 pounds, or part thereof, in excess of 3,000 pounds over the maximum gross weight or the registered gross weight.

(2) If the gross weight of any vehicle or combination exceeds the applicable gross weight allowed under section 4941(a), the fine imposed under this subsection shall be doubled.

(b) Axle weight violation.—Subject to the provisions of section 4982(c) (relating to reducing or readjusting loads of vehicles), any person operating a vehicle or combination with a weight on an axle or pair of axles exceeding the maximum axle weights allowed by section 4943 (relating to maximum axle weight of vehicles) is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of \$100 plus \$100 for each 500 pounds, or part thereof, in excess of 2,000 pounds over the maximum axle weight allowed.

(c) Wheel weight violation.—Any person operating a vehicle or combination upon a highway exceeding the maximum wheel weight allowed by section 4944 (relating to maximum wheel load) is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of \$100 plus \$100 for each 200 pounds, or part thereof, in excess of 200 pounds over the maximum wheel weight allowed.

(d) Concurrent violations.—In any case in which there are concurrent violations of more than one of the sections or subsections of this subchapter prescribing maximum weights, the only penalty imposed shall be for violation of that section or subsection which produces the greatest fine.

(June 18, 1980, No.68, eff. 60 days)

1980 Amendment. Act 68 amended subsec. (a).

Cross References. Section 4945 is referred to in section 4946 of this title.

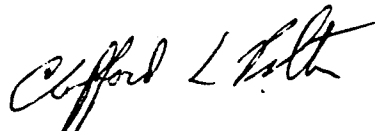
PUERTO RICO

Fines and Penalties for Overweight Vehicles

Minimum of \$25 with maximum of \$50.

Endorsement as of June 30, 1981:

1. An interagency task force is presently reviewing the State's size and weight regulations including the penalty measures.
2. The penalty system is judicial. (Law No. 141 of June 30, 1975 as amended).
3. The fines are mandatory.



Clifford L. Pelton
Assistant Division Administrator

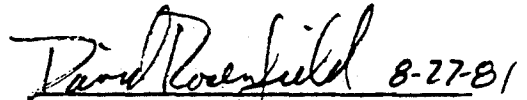
RHODE ISLAND

Fines and Penalties for Overweight Vehicles

\$50/1,000 lbs., \$500 maximum.

Endorsement as of June 30, 1981:

The above is accurate and has been verified with the Assistant
Director of the Administrative Adjudication Division in the
Rhode Island Department of Transportation


David Rosenfield 8-27-81
Transportation Planner
Rhode Island Division, FHWA

The following answers the questions raised by the Regional Office in a memo-
randum dated August 25, 1981:

- A. The penalty system is administrative.
- B. The fines are discretionary but in fact , fines are assessed based
on actual overweight amounts in almost all cases.

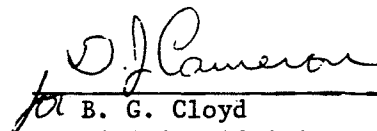
SOUTH CAROLINA

Fines and Penalties for Overweight Vehicles

1¢ per lb. for the first 7,500 lbs. O.W., 2¢ per lb. for the next 3,000 lbs. O.W., 3¢ per lb. for the next 4,500 lbs. O.W., 5¢ per lb. for each lb. in excess of 15,000 lbs.

Endorsement as of June 30, 1981:

- This Penalty system is a mandatory/administrative system. The civil assessments made under this system are paid to the South Carolina Department of Highways and Public Transportation.
- There is also a judicial/criminal system which provides a maximum penalty of \$100.00 or imprisonment for not more than 30 days per citation. These funds are retained by the counties in which the violation occurs. Judicial discretion is exercised in applying these penalties.


for B. G. Cloyd
Division Administrator
Federal Highway Administration
September 1, 1981

SOUTH DAKOTA

Fines and Penalties for Overweight Vehicles

3¢/lb. for 1,000 lbs.-2,000 lbs. O.W.; 5¢/lb. for 2,000-3,000 lbs.; 6¢/lb. for 3,000-4,000 lbs.; 8¢/lb. for 4,000 lbs.-5,000 lbs.; 10¢/lb. for over 5,000 lbs.

Endorsement as of June 30, 1981:

Sgt. Arnold A. Krueger

Name

Staff Assistant
Title S.D. Highway Patrol

Penalty Systems:
(please check one)

Administrative

Judicial X

Fines:
(please check one)

Mandatory X

Judicial Discretion Authorized

TENNESSEE

Fines and Penalties for Overweight Vehicles

\$25 minimum; \$500 maximum.

Endorsement as of June 30, 1981:

\$25 minimum; \$500 maximum
Judicial system; Amount of fine based on judicial
discretion.

New size and weight law effective July 1, 1981, changed penalty
provisions as follows:

Judicial (no change): \$25 minimum; \$500 maximum
Amount of fine based on judicial discretion.

Administrative (new): Mandatory overweight tax
collected by enforcement officer determined by:

3 cents per pound for overweight up to
3 percent of maximum allowable weight,
and 5 cents per pound for overweight
in excess of 3 percent of maximum
allowable weight.

UTAH

Fines and Penalties for Overweight Vehicles

\$50.00 plus 1¢ per lb. of excess weight.

Endorsement as of June 30, 1981:

Robert A. Chaney
Name

Assistant to the Director
Title

Penalty Systems:
(please check one)

Administrative
Judicial

Fines:
(please check one)

Mandatory
Judicial Discretion Authorized

VERMONT

Fines and Penalties for Overweight Vehicles

\$5/1,000 lbs. for the first 5,000 lbs.; \$10/1,000 lbs. for 5,001-10,000 lbs.; \$15/1,000 lbs. for 10,001-15,000 lbs.; \$300 for more than 15,000 lbs. O.W.

Endorsement as of June 30, 1981:

Stephen J. Baluch

for David B. Kelley, Division Administrator

Penalty system - judicial
Fines - judicial discretion authorized

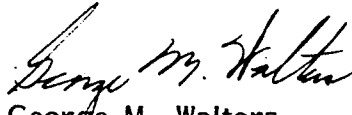
VIRGINIA

Fines and Penalties for Overweight Vehicles

2¢/lb. up to 5,000 lbs. gross O.W.; 5¢/lb. over 5,000 lbs. gross O.W.;
1¢/lb. for 0-2,000 lbs. axle O.W.; 2¢/lb. for 2,000-5,000 lbs. axle O.W.;
5¢/lb. over 5,000 lb. axle O.W. In addition, a fine not to exceed \$100.00
shall be assessed.

Endorsement as of June 30, 1981:

This is to verify that the above listing of fines and liquidated
damages is accurate and corresponds to the statutory provisions set
forth in the Code of Virginia (1950), as amended, as of June 30, 1981.


George M. Walters
Secretary of Transportation
Ninth Street Office Building
Richmond, Virginia 23219

- A. The Penalty System is judicial.
- B. All fines and liquidated damages are mandatory, except when
overweight violations do not exceed 2500 pounds on first offense,
in which case judicial discretion is permitted.



COMMONWEALTH of VIRGINIA

Office of the Governor

Richmond 23219

October 12, 1981

George M. Walters
Secretary of Transportation

Mr. Paul F. Chamberlain
Division Administrator
Federal Highway Administration
P. O. Box 10045
Richmond, Virginia 23240-0045

Dear Mr. Chamberlain:

This is in reference to your letter of September 30, 1981 regarding the necessity of the Secretary of Transportation to submit to Congress a report on the latest annual inventory of state systems of penalties as defined in Section 123 of the Surface Transportation Act of 1978.

The information presented in your correspondence is correct and I am providing the necessary endorsement of Virginia's fines and penalties for overweight vehicles as of June 30, 1981.

I trust this will be satisfactory, but should you require additional information or have any questions, please do not hesitate to advise.

Sincerely,

A handwritten signature in cursive script that reads "George M. Walters".

George M. Walters

GMW:fbd
Attachment

cc:
Commissioner Harold C. King

WASHINGTON

Fines and Penalties for Overweight Vehicles

1st offense not less than \$50, 2nd offense not less than \$75, 3rd offense not less than \$100 plus 3¢/lb. O.W. for all offenses.

Endorsement as of June 30, 1981:

The above fines and penalties are established in the State's statutes as a traffic infraction and, as such, are classed as a civil offense. The law does provide, "That upon a first violation in any calendar year, the court may suspend the penalty for five hundred pounds of excess weight for each axle on any vehicle or combination of vehicles, not to exceed a two thousand pound suspension." In no case shall the basic penalty assessed be suspended (i.e., the first offense of not less than \$50).

Penalty system - judicial
Fines - mandatory


WEST VIRGINIA

Fines and Penalties for Overweight Vehicles

\$20 for 1-4,000 lbs. O.W.; \$25 for 4,000-5,000 lbs. O.W.; \$60 + \$10/1,000 lb. over 6,000 lbs. for 5,001-10,000 lb.; \$165 + \$15/1,000 lbs. over 11,000 lbs. for 10,001 to 15,000 lb. O.W.; \$320 + \$20/1,000 lbs. over 16,000 lbs. for 15,001 to 20,000 lbs. O.W.; \$525 + \$25/1,000 lbs. over 21,000 lbs. for 20,001 to 25,000 lb. O.W.; \$780 + \$30/1,000 lbs. over 26,000lbs. for 25,001 to 30,000 lbs. O.W.; \$1,200 + \$200/1,000 lbs. over 40,000 lb. for 30,001 to 50,000 lbs. O.W.; \$1600 for 50,001 lbs. and over O.W.

Endorsement as of June 30, 1981:

The above is accurate and has been verified with the State Weight Enforcement Officer in the West Virginia Department of Highways


David G. Reilly
Planning & Research Engineer
West Virginia Division, FHWA

The following answers the questions raised by the August 18 memorandum from Director, Office of Traffic Operations to Regional Federal Highway Administrators:

- A. The penalty system is judicial.
- B. The fines are technically discretionary but are almost always assessed according to the schedule.

WISCONSIN

Fines and Penalties for Overweight Vehicles

~~1st offense \$50-\$200 plus 1¢/lb. up to 2,000 lbs.; 2¢/lb. for 2,001-3,000 lbs.; 3¢/lb. for 3,001-4,000 lbs.; 5¢/lb. for 4,001 lbs.-5,000 lbs. O.W.; 7¢/lb. for over 5,000 lbs. 2nd offense within 12-month period \$100-\$300 plus 2¢/lb. up to 2,000 lbs.; 4¢/lb. for 2,001-3,000 lbs.; 6¢/lb. for 3,001-4,000 lbs.; 8¢/lb. for 4,001-5,000 lbs.; 10¢/lb. for over 5,000 lbs.~~

Endorsement as of June 30, 1981:

First Offense: \$50 to \$200 plus

1¢/lb of total excess load when the total excess is 2000 lbs or less
2¢/lb of total excess load when the total excess is over 2000 lbs and not over 3000 lbs.
3¢/lb of total excess load when the total excess is over 3000 lbs and not over 4000 lbs.
5¢/lb of total excess load when the total excess is over 4000 lbs and not over 5000 lbs.
7¢/lb of total excess load when the total excess is over 5000 lbs.

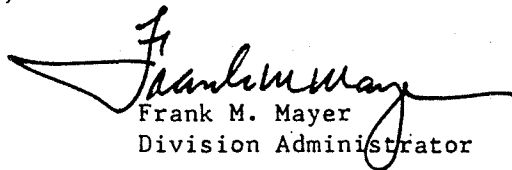
Second Offense within 12 month period: \$100 to \$300 plus

2¢/lb of total excess load when the total excess is 2000 lbs or less
4¢/lb of total excess load when the total excess is over 2000 lbs and not over 3000 lbs.
6¢/lb of total excess load when the total excess is over 3000 lbs and not over 4000 lbs.
8¢/lb of total excess load when the total excess is over 4000 lbs and not over 5000 lbs.
10¢/lb of total excess load when the total excess is over 5000 lbs.

If the excess load on an axle or group of axles is less than 1,001 pounds, and the load can be reloaded within tolerated limits so that all axles and groups are within legal limits, the vehicle is ordered reloaded and fined \$10. A violation under this section is not considered as a prior conviction for determining offenses within 12 month periods.

The penalty for overweight in Wisconsin is determined by a judicial system and the fines are mandatory.

Endorsement as of June 30, 1981:


Frank M. Mayer
Division Administrator

tractor and trailer or semitrailer, shall accept service of a summons on behalf of such person or owner.

History: 1977 c. 29 ss. 1487i, 1654 (9) (d).

348.21 Penalty for violating weight limitations. (1) Any person violating s. 348.185 may be required to forfeit not less than \$10 nor more than \$20 upon the first conviction and not less than \$25 nor more than \$50 upon the 2nd and each subsequent conviction within one year.

(2) (a) Any person who violates s. 348.17 (2) or 348.19 (3) may be required to forfeit not less than \$50 nor more than \$100 upon the first conviction and, upon the 2nd or each subsequent conviction within a 12-month period, may be required to forfeit not less than \$100 nor more than \$200.

(b) If the load on any wheel axle or group of axles does not exceed the weight prescribed in s. 348.15 (3) (a), (b) or (c) or 348.16 by more than 1,000 pounds and provided such excess can be reloaded within the normal load carrying areas, on any other wheel axle or axles, so that all wheels and axles are then within the tolerated limits, the official shall direct the operator to reload. If such reloading is accomplished and all axles or group of axles are within the legal limits, a forfeiture of \$10 shall be imposed. This forfeiture shall be paid upon the basis of the citation issued by the official to the court named in the citation. Failure to pay shall subject the operator to the penalty in par. (a) or sub. (3) (a). Violations under this section shall not be considered as violations or prior convictions under par. (a), sub. (3) (a) or (b).

(3) Any person violating s. 348.15 or 348.16 or any weight limitation posted as provided in s. 348.17 (1) may be penalized as follows:

(a) If the weight exceeds by 1,000 pounds or less the maximum set forth in s. 348.15 (3) or 348.16 or posted as provided in s. 348.17 (1), a forfeiture of not less than \$50 nor more than \$100 upon the first conviction and, upon the 2nd and each subsequent conviction within a 12-month period, a forfeiture of not less than \$100 nor more than \$200.

(b) If the weight exceeds by more than 1,000 pounds the maximum set forth in s. 348.15 (3) or 348.16 or posted as provided in s. 348.17 (1), the forfeiture shall be computed according to the following schedule and, in the case of violation of s. 348.175, shall be computed on the basis of the weight stated in the permit, and in the case of violation of s. 348.15 (3) (b) 2 shall be computed on the basis of the weights stated in that paragraph:

1. For the first conviction, a forfeiture of not less than \$50 nor more than \$200 plus an amount equal to: 1 cent for each pound of total

excess load when the total excess is not over 2,000 pounds; 2 cents for each pound of total excess load if the excess is over 2,000 pounds and not over 3,000 pounds; 3 cents for each pound of total excess load if the excess is over 3,000 pounds and not over 4,000 pounds; 5 cents for each pound of total excess load if the excess is over 4,000 pounds and not over 5,000 pounds; 7 cents for each pound of total excess load if the excess is over 5,000 pounds.

2. For the 2nd and each subsequent conviction within a 12-month period, a forfeiture of not less than \$100 nor more than \$300, plus an amount equal to: 2 cents for each pound of total excess load when the total excess is not over 2,000 pounds; 4 cents for each pound of total excess load if the excess is over 2,000 pounds and not over 3,000 pounds; 6 cents for each pound of total excess load if the excess is over 3,000 pounds and not over 4,000 pounds; 8 cents for each pound of total excess load if the excess is over 4,000 pounds and not over 5,000 pounds; 10 cents for each pound of total excess load if the excess is over 5,000 pounds.

(4) For the purpose of determining a repetitive violator, receipt of a certificate of conviction by the department is prima facie evidence of conviction. In determining whether a 2nd or subsequent conviction has occurred within a given 12-month period, either the original judgment of conviction in justice or trial court or the affirmance of the judgment by an appellate court, if such judgment has been affirmed, may be counted. This method of counting is authorized to effectively reach the repetitive violator and to prevent misuse of the right of appeal for the purpose of forestalling imposition of the penalties provided by this section. Forfeiture of deposit or payment of a forfeiture is a conviction within the meaning of this section.

History: 1971 c. 164 s. 83; 1971 c. 278, 307; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a).

348.22 Courts to report weight violation convictions. Whenever any owner or operator is convicted of violating ss. 348.15 to 348.17 or any ordinance enacted pursuant to s. 349.15 (3), the clerk of the court in which such conviction occurred, or the judge, justice or magistrate if the court has no clerk, shall, within 48 hours after the conviction, forward a certificate thereof to the department upon a suitable form to be devised and furnished by the department. Forfeiture of bail or appearance money or payment of a fine is a conviction within the meaning of this section.

History: 1971 c. 164 s. 83; 1977 c. 29 s. 1654 (7) (a).

WYOMING

Fines and Penalties for Overweight Vehicles

First offense-\$100 maximum; Second offense-\$200 Maximum;
Third and subsequent offenses-\$500 maximum and/or up to 30 days
imprisonment.

Endorsement as of June 30, 1981:

H. J. Doyle
Name

Motor Carrier Officer
Title

Penalty Systems:
(please check one)

Administrative _____
Judicial ✓

Fines:
(please check one)

Mandatory _____
Judicial Discretion Authorized ✓

9
6

6
11

