



WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO

2005 Assembly Bill 678	Assembly Substitute Amendment 1 as Amended by Assembly Amendments 1, 2, and 3
<i>Memo published:</i> February 1, 2006	<i>Contact:</i> Philip G. Cardis, Staff Attorney (267-0683)

ASSEMBLY SUBSTITUTE AMENDMENT 1

Assembly Substitute Amendment 1 relates to annual or consecutive month permits for certain overweight vehicles or vehicle combinations, requiring certain persons to maintain weight records related to the transportation of raw forest products, vehicle weight limitation violations, and providing a penalty.

Under **current law**, with limited exceptions, no person may operate upon a highway any vehicle or combination of vehicles that exceeds certain statutory weight limits unless the person obtains a permit issued by the Department of Transportation (DOT) or a local authority. Any state traffic patrol officer, state motor vehicle inspector, or other traffic officer may issue a citation for an overweight violation to a person or motor carrier for the operation of a vehicle in excess of applicable weight limitations.

Under **current law**, with limitations, DOT may issue an annual or consecutive month permit (a raw forest products, fruits, and vegetables permit) for the transportation of raw forest products, fruits or vegetables from field to storage or processing facilities, or bulk potatoes from storage facilities to rail loading or food processing facilities in vehicles or vehicle combinations that exceed generally applicable statutory gross weight limitations by not more than 10,000 pounds. The permit may not authorize the operation of any vehicle or vehicle combination at a maximum gross weight in excess of 90,000 pounds. A permit for the transportation of raw forest products or of fruits or vegetables is not valid on highways designated as part of the national system of interstate and defense highways except on a specified portion of I 39.

The **substitute amendment** modifies the raw forest products, fruits, and vegetables permit with respect to the transportation of raw forest products so that the current version of the permit will no longer be issued after January 1, 2011. A new version of the permit will be available on the effective date of the substitute amendment, and in the interim an applicant may apply for either version of the

permit. Under the new version of the permit, DOT may issue a raw forest products, fruits, and vegetables permit for the transportation of raw forest products in vehicle combinations that exceed generally applicable statutory gross weight limitations by not more than 18,000 pounds if the vehicle combination has six or more axles and the gross weight imposed on the highway by the wheels of any one axle of the vehicle combination does not exceed 18,000 pounds, except that the gross weight imposed on the highway by the wheels of any steering axle on the power unit may not exceed the greater of 13,000 pounds or the manufacturer's rated capacity, but not to exceed 18,000 pounds. The permit does not authorize the operation of any vehicle combination at a maximum gross weight in excess of 98,000 pounds. The permit is also not valid on interstate highways, on highways or bridges with posted weight limitations less than the vehicle combination's gross weight, and on state trunk highways that DOT has designated by rule as routes on which the permit is not valid.

The **substitute amendment** also changes the definition of "raw forest products" to include intermediary lumber.

The **substitute amendment** further requires raw forest product purchasers that generate weight scale records to retain, for not less than 30 days, any weight scale record that identifies the gross weight of, or the weight of the load transported by, the vehicle or vehicle combination transporting the raw forest products. These records must be promptly provided to any traffic officer in this state who requests them within the 30-day period during which they are required to be retained. Any person who fails to retain or produce these records as required must forfeit \$1,000.

Under **current law**, DOT may issue an annual or consecutive month permit (known as a Michigan border permit) for an oversize or overweight vehicle or combination of vehicles transporting loads over any state highway within 11 miles of the Wisconsin-Michigan state line and, if previously approved by local highway authorities, on local highways within that 11-mile area, or transporting exclusively peeled or unpeeled forest products anywhere upon USH 2 in Ashland County or Iron County if the vehicle or combination of vehicles is traveling between Wisconsin and Michigan and does not violate length or weight limitations established under Michigan law.

The **substitute amendment** limits the Michigan border permit in scope to that currently allowed for vehicles operated on USH 2 and provides that any previously issued Michigan border permit for other vehicles becomes invalid after the substitute amendment's effective date (i.e., removes the 11-mile area part of permit).

Current law provides various exceptions that allow a person to operate upon a highway a vehicle or vehicle combination that exceeds generally applicable statutory weight limitations without an overweight permit. One exception allows DOT and local highway authorities to declare certain highways under their jurisdiction as frozen and eligible for increased weight limitations, and to establish increased weight limitations on these highways, for the transportation of certain forest products or of abrasives or salt for highway winter maintenance in excess of generally applicable statutory weight limitations.

The **substitute amendment** eliminates, effective January 1, 2011, the weight limitation exception associated with a frozen road declaration with respect to vehicles transporting certain forest products.

Under **current law**, any person violating generally applicable statutory weight limitations, lower special posted weight limitations, or higher weight limitations associated with a frozen road declaration or with an agricultural or energy emergency or included in an overweight permit is subject to specified penalties, depending on the severity of the overweight violation. The penalties generally apply not only to the operator but also to the owner of the violating vehicle and to the motor carrier under whose authority the vehicle is operated. If the overweight vehicle or vehicle combination exceeds by more than 1,000 pounds the applicable weight limitation, the total forfeiture is calculated according to a schedule that increases the amount of the forfeiture based on the number of pounds by which the vehicle or vehicle combination exceeds the maximum allowable weight (total excess load). For a first conviction, the overweight violation may result in a forfeiture of not less than \$50 nor more than \$200, plus an escalating amount calculated from the schedule based upon the total excess load. For a second and each subsequent conviction within a 12-month period, the overweight violation may result in a forfeiture of not less than \$100 nor more than \$300, plus an escalating amount calculated from the schedule ranging from 2 cents per pound when the total excess load is not greater than 2,000 pounds to 10 cents per pound when the total excess load exceeds 5,000 pounds.

This **substitute amendment** creates a special category of penalty, similar in structure to existing penalties but different in amount, applicable to overweight violations committed during the operation of a vehicle combination that has six or more axles and that is transporting raw forest products. The substitute amendment increases the forfeitures for these offenses. For a first conviction or a second conviction within a 12-month period, the amount of the forfeiture is not less than \$150 nor more than \$250, plus an amount per pound for each pound of total excess load ranging from 6 cents per pound when the total excess load is less than 2,000 pounds to 11 cents per pound when the total excess load exceeds 5,000 pounds. For the third and each subsequent conviction within a 12-month period, the amount of the forfeiture is not less than \$500 nor more than \$550, plus an amount per pound for each pound of total excess load ranging from 20 cents per pound when the total excess load is 3,000 pounds or less to 23 cents per pound when the total excess load exceeds 5,000 pounds.

Under **current law**, upon conviction of a person for an overweight violation in any court, the court must forward a record of the conviction to DOT. The **substitute amendment** clarifies that the record of conviction must be forwarded regardless of whether the conviction is for violation of a state statute or a local ordinance in conformity with a state statute.

Assembly Amendment 1 to Assembly Substitute Amendment 1

Assembly Amendment 1 to Assembly Substitute Amendment 1 deletes the “limited” Michigan border permit that was established in the substitute amendment and retains current law regarding the Michigan border permit currently issued by DOT. Presently, DOT may issue an annual or consecutive month permit for an oversize or overweight vehicle or combination of vehicles transporting loads over any state highway within 11 miles of the Wisconsin-Michigan state line and, if previously approved by local highway authorities, on local highways within that 11-mile area, or transporting exclusively peeled or unpeeled forest products anywhere upon USH 2 in Ashland County or Iron County if the vehicle or combination of vehicles is traveling between Wisconsin and Michigan and does not violate length or weight limitations established under Michigan law.

Assembly Amendment 2 to Assembly Substitute Amendment 1

Assembly Amendment 2 to Assembly Substitute Amendment 1 clarifies for evidentiary purposes that with paper enforcement (i.e., weight records) of weight violations as described in the substitute amendment, a court still has discretion to determine whether the weight records satisfy the standard for admissibility under s. 904.06 (whether they show “habit or routine practice”). Typically, if the record is considered to show “habit or routine practice,” then it is admissible for that purpose.

Assembly Amendment 3 to Assembly Substitute Amendment 1

Assembly Amendment 3 to Assembly Substitute Amendment 1 requires the Joint Legislative Council to conduct a comprehensive study that reviews the system of motor vehicle weight limits on the state’s highways and bridges. The study shall include the issues and interrelationships between economic impacts, truck configurations, expected compliance levels and enforcement constraints, and impacts on the public infrastructure, operational, and safety issues. The Joint Legislative Council shall convene a committee to conduct the study, and representatives of local government, the Department of Transportation, the trucking industry, the raw forest products industry, and agricultural producers shall be invited to serve on the committee. The Joint Legislative Council shall report its findings, conclusions, and recommendations to the Legislature in the manner provided under s. 13.172 (2) of the statutes by January 1, 2007.

Legislative History

On January 26, 2006, the Assembly Committee on Transportation recommended adoption of Assembly Substitute Amendment 1, as amended by Assembly Amendments 1 and 2, by a vote of Ayes, 15; Noes, 0, and recommended passage of the bill, as amended, by a vote of Ayes, 15; Noes, 0.

On January 31, 2006, the Assembly adopted Assembly Substitute Amendment 1, as amended by Assembly Amendments 1, 2, and 3, by a voice vote, and passed the bill, as amended, by a vote of Ayes, 71; Noes, 25.

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