

2005 Assembly Bill 678

Date of enactment: **March 21, 2006**

Date of publication*: **April 4, 2006**

2005 WISCONSIN ACT 167

AN ACT *to amend* 348.01 (2) (bt), 348.175, 348.21 (2) (b), 348.21 (3) (intro.), 348.21 (3g) (intro.), 348.22, 348.25 (2) (b), 348.27 (9m) (a) 1., 348.27 (9m) (a) 1. and 348.27 (9m) (b); and *to create* 348.195, 348.21 (3g), 348.21 (3r) and 348.27 (9m) (a) 4. of the statutes; **relating 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.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 348.01 (2) (bt) of the statutes is amended to read:

348.01 (2) (bt) "Raw forest products" means logs, pilings, posts, poles, cordwood products, wood chips, sawdust, pulpwood, intermediary lumber, fuel wood and Christmas trees not altered by a manufacturing process off the land, sawmill or factory from which they are taken.

SECTION 2. 348.175 of the statutes is amended to read:

348.175 Seasonal operation of vehicles hauling peeled or unpeeled forest products cut crosswise or abrasives or salt for highway winter maintenance. The transportation of ~~peeled or unpeeled forest products cut crosswise or~~ abrasives or salt for highway winter maintenance in excess of gross weight limitations under s. 348.15 shall be permitted during the winter months when the highways are so frozen that no damage may result thereto by reason of such transportation. If at any time any person is so transporting such ~~products or~~ abrasives or salt upon a class "A" highway in such frozen condition then that person may likewise use a class "B" high-

way without other limitation, except that chains and other traction devices are prohibited on class "A" highways but such chains and devices may be used in cases of necessity. The officers or agencies in charge of maintenance of highways, upon determination of such frozen condition and freedom of damage to such highways by transportation shall declare particular highways, or highways within areas of the state as eligible for increased weight limitations. Such declaration shall include the maximum weight on each axle, combination of axles and the gross weight allowed. Any person transporting any such ~~product~~ abrasives or salt over any highway of this state under this section is liable to the maintaining authority for any damage caused to such highway. This section does not apply to the national system of interstate and defense highways, except for that portion of USH 51 between Wausau and STH 78 and that portion of STH 78 between USH 51 and the I 90/94 interchange near Portage upon their federal designation as I 39 between USH 51 and I 90/94.

SECTION 3. 348.195 of the statutes is created to read:
348.195 Weight records of raw forest products purchasers. (1) Any purchaser of raw forest products transported by a vehicle or vehicle combination subject to the requirements of this subchapter that generates a

* Section 991.11, WISCONSIN STATUTES 2003-04 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

weight scale record identifying the gross weight of the vehicle or vehicle combination or the weight of the load transported by the vehicle or vehicle combination shall retain the weight scale record for not less than 30 days from the date that the weight scale record is generated.

(2) Upon demand by any traffic officer in this state within the 30-day period specified in sub. (1), any person required to retain records under sub. (1) shall promptly provide such records to the requesting officer.

(3) For purposes of this section, a true, accurate, and legible copy of any weight scale record may be substituted for, and shall be given the effect of, an original.

(4) Any person required to retain records under sub. (1) or to produce records under sub. (2) who fails to retain or produce such records shall forfeit \$1,000. Each violation constitutes a separate offense.

(5) In any prosecution of a person for transporting raw forest products in violation of the requirements of this subchapter, the records required to be retained under sub. (1) and produced under sub. (2) may be relevant evidence under s. 904.01 and admissible under s. 904.06.

SECTION 4. 348.21 (2) (b) of the statutes is amended to read:

348.21 (2) (b) If the load on any wheel, axle or group of axles does not exceed the weight prescribed in s. 348.15 (3) or 348.16 or in a declaration issued under s. 348.175 by more than 2,000 pounds and if 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 statutory limits, the operator may reload as provided in this paragraph. A total of 2,000 pounds per vehicle or combination of vehicles may be reloaded under this subsection. If reloading is accomplished and all axles or group of axles are within the legal limits, no forfeiture may be imposed. A vehicle or combination of vehicles under this subsection which is not reloaded may continue to be operated upon the highway, but a forfeiture of \$50 shall be imposed for failure to reload. 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) or (3g). Violations under this subsection shall not be considered as violations or prior convictions under par. (a) or sub. (3) ~~(a) or (b) to (3r)~~.

SECTION 5. 348.21 (3) (intro.) of the statutes is amended to read:

348.21 (3) (intro.) Any Except as provided in sub. (3g), any person violating s. 348.15 or 348.16 or any weight limitation posted as provided in s. 348.17 (1) or in a declaration issued under s. 348.175 or authorized under s. 348.17 (3) or (4) or in an overweight permit issued under s. 348.26 or 348.27 may be penalized as follows:

SECTION 6. 348.21 (3g) of the statutes is created to read:

348.21 (3g) Any person who, while operating a vehicle combination that has 6 or more axles and that is transporting raw forest products, violates s. 348.15 or 348.16 or any weight limitation posted as provided in s. 348.17 (1) or in a declaration issued under s. 348.175 or authorized under s. 348.17 (4) or in an overweight permit issued under s. 348.26 or 348.27 may be penalized as follows:

(a) For a first conviction or a 2nd conviction within a 12-month period, a forfeiture of not less than \$150 nor more than \$250 plus an amount equal to: 6 cents for each pound of total excess load when the total excess is less than 2,000 pounds; 8 cents for each pound of total excess load if the excess is 2,000 pounds or more and not over 3,000 pounds; 9 cents for each pound of total excess load if the excess is over 3,000 pounds and not over 4,000 pounds; 10 cents for each pound of total excess load if the excess is over 4,000 pounds and not over 5,000 pounds; 11 cents for each pound of total excess load if the excess is over 5,000 pounds.

(b) For the 3rd and each subsequent conviction within a 12-month period, a forfeiture of not less than \$500 nor more than \$550, plus an amount equal to: 20 cents for each pound of total excess load when the total excess is 3,000 pounds or less; 21 cents for each pound of total excess load if the excess is over 3,000 pounds and not over 4,000 pounds; 22 cents for each pound of total excess load if the excess is over 4,000 pounds and not over 5,000 pounds; 23 cents for each pound of total excess load if the excess is over 5,000 pounds.

SECTION 7. 348.21 (3g) (intro.) of the statutes, as created by 2005 Wisconsin Act ... (this act), is amended to read:

348.21 (3g) (intro.) Any person who, while operating a vehicle combination that has 6 or more axles and that is transporting raw forest products, violates s. 348.15 or 348.16 or any weight limitation posted as provided in s. 348.17 (1) or ~~in a declaration issued under s. 348.175 or~~ authorized under s. 348.17 (4) or in an overweight permit issued under s. 348.26 or 348.27 may be penalized as follows:

SECTION 8. 348.21 (3r) of the statutes is created to read:

348.21 (3r) In determining the number of prior convictions for purposes of subs. (3) and (3g), the court shall include convictions under both subsections.

SECTION 9. 348.22 of the statutes is amended to read:

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 local ordinance in conformity with ss. 348.15 to 348.17 or any ordinance enacted under s. 349.15 (3), the clerk of the court in which the conviction occurred, or the judge or municipal judge, if the court has no clerk, shall, within 48 hours after the conviction, forward a record of conviction to the department. Forfeiture of bail or appearance money or payment

of a fine is a conviction within the meaning of this section.

SECTION 10. 348.25 (2) (b) of the statutes is amended to read:

348.25 (2) (b) If an overweight permit has been obtained under s. 348.26 or 348.27, and the vehicle exceeds the weight stated in the permit, any overweight violation shall be computed on the basis of the weight authorized in the permit. The amount of the forfeiture for overweight violations determined under this paragraph shall be calculated as provided in s. 348.21 (3) to (3r). This paragraph does not apply if any other conditions of an overweight permit are violated.

SECTION 12. 348.27 (9m) (a) 1. of the statutes is amended to read:

348.27 (9m) (a) 1. Raw forest products or of fruits or vegetables from field to storage or processing facilities in vehicles or vehicle combinations that exceed the maximum gross weight limitations under s. 348.15 (3) (c) by not more than 10,000 pounds. A permit under this subdivision is not valid on highways designated as part of the national system of interstate and defense highways, except on I 39 between STH 29 south of Wausau and the I 90/94 interchange near Portage in Marathon, Portage, Waushara, Marquette and Columbia counties. No permit authorizing the transportation of raw forest products issued under this subdivision is valid after January 1, 2011.

SECTION 13. 348.27 (9m) (a) 1. of the statutes, as affected by 2005 Wisconsin Act (this act), is amended to read:

348.27 (9m) (a) 1. ~~Raw forest products or of fruits~~ Fruits or vegetables from field to storage or processing facilities in vehicles or vehicle combinations that exceed the maximum gross weight limitations under s. 348.15 (3) (c) by not more than 10,000 pounds. A permit under this subdivision is not valid on highways designated as part of the national system of interstate and defense highways, except on I 39 between STH 29 south of Wausau and the I 90/94 interchange near Portage in Marathon, Portage, Waushara, Marquette and Columbia counties. ~~No permit authorizing the transportation of raw forest products issued under this subdivision is valid after January 1, 2011.~~

SECTION 14. 348.27 (9m) (a) 4. of the statutes is created to read:

348.27 (9m) (a) 4. Raw forest products in vehicle combinations that exceed the maximum gross weight limitations under s. 348.15 (3) (c) by not more than 18,000 pounds if the vehicle combination has 6 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. Notwithstanding s. 348.15 (8), any axle of a vehicle combination that does not impose on the highway at least 8 percent of the gross weight of the vehicle combination may not be counted as an axle for the purposes of this subdivision. A permit under this subdivision is not valid on any interstate highway designated under s. 84.29 (2), any highway or bridge with a posted weight limitation that is less than the vehicle combination's gross weight, and any part of the state trunk highway system that the department has designated by rule as a route on which a permit issued under this subsection is not valid.

SECTION 15. 348.27 (9m) (b) of the statutes is amended to read:

348.27 (9m) (b) A permit issued under par. (a) 1. to 3. does not authorize the operation of any vehicle or vehicle combination at a maximum gross weight in excess of 90,000 pounds. A permit issued under par. (a) 4. does not authorize the operation of any vehicle combination at a maximum gross weight in excess of 98,000 pounds.

SECTION 16. Nonstatutory provisions.

(2) The joint legislative council shall conduct a comprehensive study to review 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 section 13.172 (2) of the statutes by January 1, 2007.

SECTION 17. Initial applicability.

(1) This act first applies to motor vehicles operated on, and violations committed on, the effective date of this subsection, but does not preclude the counting of other violations as prior violations for purposes of sentencing a person.

SECTION 18. Effective dates. This act takes effect on the 45th day beginning after publication, except as follows:

(1) The treatment of sections 348.175 and 348.27 (9m) (a) 1. (by SECTION 13) of the statutes and the amendment of section 348.21 (3g) (intro.) of the statutes take effect on January 1, 2011.