

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2005 ASSEMBLY BILL 678**

November 29, 2005 – Offered by Representatives FRISKE and SHERMAN.

1 **AN ACT** *to amend* 348.01 (2) (bt), 348.175, 348.21 (2) (b), 348.21 (3) (intro.),
2 348.21 (3g) (intro.), 348.22, 348.25 (2) (b), 348.27 (9) (a), 348.27 (9m) (a) 1.,
3 348.27 (9m) (a) 1. and 348.27 (9m) (b); and *to create* 348.195, 348.21 (3g),
4 348.21 (3r) and 348.27 (9m) (a) 4. of the statutes; **relating to:** annual or
5 consecutive month permits for certain overweight vehicles or vehicle
6 combinations, requiring certain persons to maintain weight records related to
7 the transportation of raw forest products, vehicle weight limitation violations,
8 and providing a penalty.

Analysis by the Legislative Reference Bureau

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.

This 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.

This 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.

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.

This 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 two cents per pound when the total excess load is not greater than 2,000 pounds to ten 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. This 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.

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

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

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

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

7 **348.175 Seasonal operation of vehicles hauling peeled or unpeeled**
8 **forest products cut crosswise or abrasives or salt for highway winter**
9 **maintenance.** The transportation of ~~peeled or unpeeled forest products cut~~
10 ~~crosswise or of~~ abrasives or salt for highway winter maintenance in excess of gross
11 weight limitations under s. 348.15 shall be permitted during the winter months
12 when the highways are so frozen that no damage may result thereto by reason of such
13 transportation. If at any time any person is so transporting such ~~products or~~
14 abrasives or salt upon a class “A” highway in such frozen condition then that person
15 may likewise use a class “B” highway without other limitation, except that chains
16 and other traction devices are prohibited on class “A” highways but such chains and
17 devices may be used in cases of necessity. The officers or agencies in charge of

1 maintenance of highways, upon determination of such frozen condition and freedom
2 of damage to such highways by transportation shall declare particular highways, or
3 highways within areas of the state as eligible for increased weight limitations. Such
4 declaration shall include the maximum weight on each axle, combination of axles
5 and the gross weight allowed. Any person transporting any such ~~product~~ abrasives
6 or salt over any highway of this state under this section is liable to the maintaining
7 authority for any damage caused to such highway. This section does not apply to the
8 national system of interstate and defense highways, except for that portion of
9 ~~USH 51 between Wausau and STH 78 and that portion of STH 78 between USH 51~~
10 ~~and the I 90/94 interchange near Portage upon their federal designation as I 39~~
11 between USH 51 and I 90/94.

12 **SECTION 3.** 348.195 of the statutes is created to read:

13 **348.195 Weight records of raw forest products purchasers.** (1) Any
14 purchaser of raw forest products transported by a vehicle or vehicle combination
15 subject to the requirements of this subchapter that generates a weight scale record
16 identifying the gross weight of the vehicle or vehicle combination or the weight of the
17 load transported by the vehicle or vehicle combination shall retain the weight scale
18 record for not less than 30 days from the date that the weight scale record is
19 generated.

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

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

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

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

5 348.21 **(2)** (b) If the load on any wheel, axle or group of axles does not exceed
6 the weight prescribed in s. 348.15 (3) or 348.16 or in a declaration issued under s.
7 348.175 by more than 2,000 pounds and if such excess can be reloaded within the
8 normal load carrying areas, on any other wheel, axle or axles, so that all wheels and
9 axles are then within the statutory limits, the operator may reload as provided in this
10 paragraph. A total of 2,000 pounds per vehicle or combination of vehicles may be
11 reloaded under this subsection. If reloading is accomplished and all axles or group
12 of axles are within the legal limits, no forfeiture may be imposed. A vehicle or
13 combination of vehicles under this subsection which is not reloaded may continue to
14 be operated upon the highway, but a forfeiture of \$50 shall be imposed for failure to
15 reload. This forfeiture shall be paid upon the basis of the citation issued by the
16 official to the court named in the citation. Failure to pay shall subject the operator
17 to the penalty in par. (a) or sub. (3) (a) or (3g). Violations under this subsection shall
18 not be considered as violations or prior convictions under par. (a) or sub. (3) ~~(a)-(b)~~
19 to (3r).

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

21 348.21 **(3)** (intro.) Any Except as provided in sub. (3g), any person violating s.
22 348.15 or 348.16 or any weight limitation posted as provided in s. 348.17 (1) or in a
23 declaration issued under s. 348.175 or authorized under s. 348.17 (3) or (4) or in an
24 overweight permit issued under s. 348.26 or 348.27 may be penalized as follows:

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

1 348.21 (3g) Any person who, while operating a vehicle combination that has
2 6 or more axles and that is transporting raw forest products, violates s. 348.15 or
3 348.16 or any weight limitation posted as provided in s. 348.17 (1) or in a declaration
4 issued under s. 348.175 or authorized under s. 348.17 (4) or in an overweight permit
5 issued under s. 348.26 or 348.27 may be penalized as follows:

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

14 (b) For the 3rd and each subsequent conviction within a 12-month period, a
15 forfeiture of not less than \$500 nor more than \$550, plus an amount equal to: 20 cents
16 for each pound of total excess load when the total excess is 3,000 pounds or less; 21
17 cents for each pound of total excess load if the excess is over 3,000 pounds and not
18 over 4,000 pounds; 22 cents for each pound of total excess load if the excess is over
19 4,000 pounds and not over 5,000 pounds; 23 cents for each pound of total excess load
20 if the excess is over 5,000 pounds.

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

23 348.21 (3g) (intro.) Any person who, while operating a vehicle combination that
24 has 6 or more axles and that is transporting raw forest products, violates s. 348.15
25 or 348.16 or any weight limitation posted as provided in s. 348.17 (1) or in a

1 ~~declaration issued under s. 348.175 or~~ authorized under s. 348.17 (4) or in an
2 overweight permit issued under s. 348.26 or 348.27 may be penalized as follows:

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

4 348.21 (3r) In determining the number of prior convictions for purposes of
5 subs. (3) and (3g), the court shall include convictions under both subsections.

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

7 **348.22 Courts to report weight violation convictions.** Whenever any
8 owner or operator is convicted of violating ss. 348.15 to 348.17 or any local ordinance
9 in conformity with ss. 348.15 to 348.17 or any ordinance enacted under s. 349.15 (3),
10 the clerk of the court in which the conviction occurred, or the judge or municipal
11 judge, if the court has no clerk, shall, within 48 hours after the conviction, forward
12 a record of conviction to the department. Forfeiture of bail or appearance money or
13 payment of a fine is a conviction within the meaning of this section.

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

15 348.25 (2) (b) If an overweight permit has been obtained under s. 348.26 or
16 348.27, and the vehicle exceeds the weight stated in the permit, any overweight
17 violation shall be computed on the basis of the weight authorized in the permit. The
18 amount of the forfeiture for overweight violations determined under this paragraph
19 shall be calculated as provided in s. 348.21 (3) to (3r). This paragraph does not apply
20 if any other conditions of an overweight permit are violated.

21 **SECTION 11.** 348.27 (9) (a) of the statutes is amended to read:

22 348.27 (9) (a) The department may issue an annual or consecutive month
23 ~~permits for the transportation on a vehicle or combination of vehicles of loads~~
24 ~~exceeding statutory length or weight limitations over any class of highway for a~~
25 ~~distance not to exceed 11 miles from the Michigan–Wisconsin state line, except that~~

1 permit for a vehicle or combination of vehicles exceeding statutory length or weight
2 limitations transporting exclusively peeled or unpeeled forest products cut crosswise
3 ~~may operate under such a permit~~ operating anywhere upon USH 2 in Iron County
4 or Ashland County if the vehicle or combination of vehicles is traveling between this
5 state and Michigan and does not violate length or weight limitations established, as
6 of April 28, 2004, under Michigan law. ~~If the roads desired to be used by the~~
7 ~~applicants involve streets or highways other than those within the state trunk~~
8 ~~highway system, the application shall be accompanied by a written statement of~~
9 ~~route approval by the officer in charge of maintenance of the other highway.~~

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

11 348.27 **(9m)** (a) 1. Raw forest products or of fruits or vegetables from field to
12 storage or processing facilities in vehicles or vehicle combinations that exceed the
13 maximum gross weight limitations under s. 348.15 (3) (c) by not more than 10,000
14 pounds. A permit under this subdivision is not valid on highways designated as part
15 of the national system of interstate and defense highways, except on I 39 between
16 STH 29 south of Wausau and the I 90/94 interchange near Portage in Marathon,
17 Portage, Waushara, Marquette and Columbia counties. No permit authorizing the
18 transportation of raw forest products issued under this subdivision is valid after
19 January 1, 2011.

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

22 348.27 **(9m)** (a) 1. ~~Raw forest products or of fruits~~ Fruits or vegetables from
23 field to storage or processing facilities in vehicles or vehicle combinations that exceed
24 the maximum gross weight limitations under s. 348.15 (3) (c) by not more than 10,000
25 pounds. A permit under this subdivision is not valid on highways designated as part

1 of the national system of interstate and defense highways, except on I 39 between
2 STH 29 south of Wausau and the I 90/94 interchange near Portage in Marathon,
3 Portage, Waushara, Marquette and Columbia counties. ~~No permit authorizing the~~
4 ~~transportation of raw forest products issued under this subdivision is valid after~~
5 ~~January 1, 2011.~~

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

7 348.27 **(9m)** (a) 4. Raw forest products in vehicle combinations that exceed the
8 maximum gross weight limitations under s. 348.15 (3) (c) by not more than 18,000
9 pounds if the vehicle combination has 6 or more axles and the gross weight imposed
10 on the highway by the wheels of any one axle of the vehicle combination does not
11 exceed 18,000 pounds, except that the gross weight imposed on the highway by the
12 wheels of any steering axle on the power unit may not exceed the greater of 13,000
13 pounds or the manufacturer's rated capacity, but not to exceed 18,000 pounds.
14 Notwithstanding s. 348.15 (8), any axle of a vehicle combination that does not impose
15 on the highway at least 8 percent of the gross weight of the vehicle combination may
16 not be counted as an axle for the purposes of this subdivision. A permit under this
17 subdivision is not valid on any interstate highway designated under s. 84.29 (2), any
18 highway or bridge with a posted weight limitation that is less than the vehicle
19 combination's gross weight, and any part of the state trunk highway system that the
20 department has designated by rule as a route on which a permit issued under this
21 subsection is not valid.

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

23 348.27 **(9m)** (b) A permit issued under par. (a) 1. to 3. does not authorize the
24 operation of any vehicle or vehicle combination at a maximum gross weight in excess

1 of 90,000 pounds. A permit issued under par. (a) 4. does not authorize the operation
2 of any vehicle combination at a maximum gross weight in excess of 98,000 pounds.

3 **SECTION 16. Nonstatutory provisions.**

4 (1) No permit issued under section 348.27 (9), 2003 stats., for operation of a
5 vehicle other than on USH 2 is valid after the effective date of this subsection.

6 **SECTION 17. Initial applicability.**

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

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

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

15 (END)