



2005 ASSEMBLY BILL 678

September 20, 2005 - Introduced by Representatives FRISKE, SHERMAN, GARD, GRONEMUS, AINSWORTH, PETROWSKI, MURSAU, HAHN, MUSSEY, ALBERS, LEMAHIEU, M. WILLIAMS, WOOD, SUDER, GUNDERSON and PETTIS, cosponsored by Senators ZIEN, BROWN, SCHULTZ, KANAVAS, LEIBHAM, GROTHMAN and JAUCH. Referred to Committee on Transportation.

1 **AN ACT to amend** 348.01 (2) (bt), 348.22, 348.27 (9m) (a) 1. and 348.27 (9m) (b);
2 **and to create** 25.40 (1) (in), 348.195, 348.215, 348.27 (9m) (a) 4., 814.75 (17m),
3 814.79 (6m) and 814.81 (7m) of the statutes; **relating to:** annual or consecutive
4 month permits for certain overweight vehicles or vehicle combinations,
5 creating an overweight vehicle surcharge, requiring certain motor carriers to
6 maintain weight records, 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

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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 bill 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 shortly after the effective date of the bill, 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 all of the following apply:

1. The vehicle combination has six or more axles, at least three of which are on a trailer or semitrailer or, if at least one of the three axles has multiple wheels supporting each end of the axle and the axle either lifts or steers, are on the power unit.

2. The gross weight imposed on the highway by the wheels of any one axle of the vehicle combination does not exceed 18,000 pounds.

3. There is a distance of at least 9 feet between the foremost steering axle and the foremost axle of the drive axle on the power unit, at least 25 feet between the rearmost axle of the drive axle on the power unit and the foremost axle on the trailer or semitrailer, and at least 48 inches between any two consecutive axles of each tandem axle on the trailer or semitrailer.

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 bill also changes the definition of "raw forest products" to include intermediary lumber.

The bill further requires raw forest product transporters to retain, for not less than 30 days from the date of receipt, any weight ticket, weight certification, or other document 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 provided, within ten days of the request, to any prosecutor 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.

Current law imposes various surcharges against persons who violate certain laws; these surcharges must be paid in addition to any fine or forfeiture imposed and in addition to any other surcharge imposed. For example, current law imposes a railroad crossing improvement surcharge on persons convicted of violating certain traffic laws relating to railroad crossings, a truck driver education surcharge on

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persons convicted of violating certain traffic laws while operating a commercial motor vehicle, and a driver improvement surcharge on persons convicted of violating certain laws relating to driving while intoxicated. With limited exceptions, a person convicted of a state or local traffic law violation must also pay other surcharges of general applicability.

This bill creates an overweight vehicle surcharge that must be imposed on any person convicted of any overweight violation committed while transporting raw forest products. The amount of the surcharge ranges from \$250 to \$750, depending on how many times the person has been previously convicted of overweight violations committed while transporting raw forest products within a preceding 24-month period. The money collected from the surcharge is deposited into the transportation fund.

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 bill 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.

Because this bill concerns an exception to the vehicle weight limits specified in ch. 348, stats., the Department of Transportation, as required by law, will prepare a report to be printed as an appendix to this bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 25.40 (1) (in) of the statutes is created to read:

2 25.40 (1) (in) All moneys forwarded by treasurers from overweight vehicle
3 surcharges imposed under s. 348.215, as provided in ss. 59.25 (3) (f) 2. and 66.0114
4 (1) (bm).

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

6 348.01 (2) (bt) "Raw forest products" means logs, pilings, posts, poles, cordwood
7 products, wood chips, sawdust, pulpwood, intermediary lumber, fuel wood and
8 Christmas trees not altered by a manufacturing process off the land, sawmill or
9 factory from which they are taken.

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

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1 **348.195 Weight records of raw forest products transporters.** (1) Any
2 person transporting raw forest products by a vehicle or vehicle combination subject
3 to the requirements of this subchapter shall retain, for not less than 30 days from the
4 date of receipt, any weight ticket, weight certification, or other document that
5 identifies the gross weight of the vehicle or vehicle combination or the weight of the
6 load transported by the vehicle or vehicle combination.

7 (2) Upon demand by any prosecutor in this state within the 30-day period
8 specified in sub. (1), any person required to retain records under sub. (1) shall provide
9 such records to the requesting prosecutor within 10 days of the request.

10 (3) For purposes of this section, a true, accurate, and legible copy of any weight
11 ticket, weight certification, or other document may be substituted for, and shall be
12 given the effect of, an original.

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

16 **SECTION 4.** 348.215 of the statutes is created to read:

17 **348.215 Overweight vehicle surcharge.** (1) (a) In this section, “violation”
18 means an overweight violation under this subchapter or under a local ordinance in
19 conformity with this subchapter or enacted under s. 349.15 (3) committed while
20 transporting raw forest products.

21 (b) If a court imposes a forfeiture for a violation, the court shall also impose
22 under ch. 814 an overweight vehicle surcharge in the following amount:

23 1. If the person has not been convicted of another violation committed within
24 the 24-month period immediately preceding the date of the violation for which the
25 forfeiture is imposed, \$250.

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1 2. If the person has been convicted of one violation committed within the
2 24-month period immediately preceding the date of the violation for which the
3 forfeiture is imposed, \$500.

4 3. If the person has been convicted of 2 or more violations committed within the
5 24-month period immediately preceding the date of the violation for which the
6 forfeiture is imposed, \$750.

7 (c) If multiple offenses are involved, the court shall impose an overweight
8 vehicle surcharge upon each forfeiture imposed.

9 **(2)** (a) Except as provided in par. (b), the clerk of the circuit court shall collect
10 and transmit the amount of the overweight vehicle surcharge under sub. (1) to the
11 county treasurer as provided in s. 59.40 (2) (m). The county treasurer shall then pay
12 this amount to the secretary of administration as provided in s. 59.25 (3) (f) 2.

13 (b) If a forfeiture is imposed by a municipal court, the court shall transmit the
14 amount of the overweight vehicle surcharge under sub. (1) to the treasurer of the city
15 or village as provided in s. 66.0114 (1) (bm) and the treasurer shall then pay this
16 amount to the secretary of administration as provided in s. 66.0114 (1) (bm).

17 (c) The secretary of administration shall deposit all amounts received under
18 this subsection into the transportation fund.

19 **SECTION 5.** 348.22 of the statutes is amended to read:

20 **348.22 Courts to report weight violation convictions.** Whenever any
21 owner or operator is convicted of violating ss. 348.15 to 348.17 or any local ordinance
22 in conformity with ss. 348.15 to 348.17 or any ordinance enacted under s. 349.15 (3),
23 the clerk of the court in which the conviction occurred, or the judge or municipal
24 judge, if the court has no clerk, shall, within 48 hours after the conviction, forward

ASSEMBLY BILL 678**SECTION 5**

1 a record of conviction to the department. Forfeiture of bail or appearance money or
2 payment of a fine is a conviction within the meaning of this section.

3 **SECTION 6.** 348.27 (9m) (a) 1. of the statutes is amended to read:

4 348.27 **(9m)** (a) 1. ~~Raw forest products or of fruits~~ Fruits or vegetables from
5 field to storage or processing facilities in vehicles or vehicle combinations that exceed
6 the maximum gross weight limitations under s. 348.15 (3) (c) by not more than 10,000
7 pounds. A permit under this subdivision is not valid on highways designated as part
8 of the national system of interstate and defense highways, except on I 39 between
9 STH 29 south of Wausau and the I 90/94 interchange near Portage in Marathon,
10 Portage, Waushara, Marquette and Columbia counties. No permit authorizing the
11 transportation of raw forest products issued under this subdivision is valid after
12 January 1, 2011.

13 **SECTION 7.** 348.27 (9m) (a) 4. of the statutes is created to read:

14 348.27 **(9m)** (a) 4. Raw forest products in vehicle combinations that exceed the
15 maximum gross weight limitations under s. 348.15 (3) (c) by not more than 18,000
16 pounds if the vehicle combination has 6 or more axles at least 3 of which are on a
17 trailer or semitrailer or, if at least one of the 3 axles has multiple wheels supporting
18 each end of the axle and the axle either lifts or steers, are on the power unit, the gross
19 weight imposed on the highway by the wheels of any one axle of the vehicle
20 combination does not exceed 18,000 pounds, and there is a distance of at least 9 feet
21 between the foremost steering axle and the foremost axle of the drive axle on the
22 power unit, at least 25 feet between the rearmost axle of the drive axle on the power
23 unit and the foremost axle on the trailer or semitrailer, and at least 48 inches
24 between any two consecutive axles of each tandem axle on the trailer or semitrailer.
25 A permit under this subdivision is not valid on any interstate highway designated

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1 under s. 84.29 (2), any highway or bridge with a posted weight limitation that is less
2 than the vehicle combination's gross weight, and any part of the state trunk highway
3 system that the department has designated by rule as a route on which a permit
4 issued under this subsection is not valid.

5 **SECTION 8.** 348.27 (9m) (b) of the statutes is amended to read:

6 348.27 **(9m)** (b) A permit issued under par. (a) 1. to 3. does not authorize the
7 operation of any vehicle or vehicle combination at a maximum gross weight in excess
8 of 90,000 pounds. A permit issued under par. (a) 4. does not authorize the operation
9 of any vehicle combination at a maximum gross weight in excess of 98,000 pounds.

10 **SECTION 9.** 814.75 (17m) of the statutes is created to read:

11 814.75 **(17m)** The overweight vehicle surcharge under s. 348.215.

12 **SECTION 10.** 814.79 (6m) of the statutes is created to read:

13 814.79 **(6m)** The overweight vehicle surcharge under s. 348.215.

14 **SECTION 11.** 814.81 (7m) of the statutes is created to read:

15 814.81 **(7m)** The overweight vehicle surcharge under s. 348.215.

16 **SECTION 12. Initial applicability.**

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

20 **SECTION 13. Effective dates.** This act takes effect on the first day of the 4th
21 month beginning after publication, except as follows:

22 (1) The treatment of section 348.27 (9m) (a) 1. of the statutes takes effect on
23 January 1, 2011.

24

(END)