

PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION

1 **AN ACT** *to repeal* 348.27 (9); *to amend* 110.07 (1) (a) 3., 348.01 (2) (bt) and 348.25
2 (4) (intro.); and *to create* 25.40 (1) (in), 348.15 (9), 348.195, 348.215, 348.27
3 (9g), 814.75 (17m), 814.79 (6m) and 814.81 (7m) of the statutes; **relating to:**
4 enforcement of vehicle overweight violations by means of weight and shipping
5 records and requiring certain persons to maintain weight and shipping records,
6 annual or consecutive month permits for certain overweight or oversize
7 vehicles or vehicle combinations, creating an overweight vehicle surcharge, and
8 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, size, or load limits unless the person obtains a permit issued by the Department of Transportation (DOT) or a local authority. Any traffic officer may issue a citation for an overweight violation to a person or motor carrier arising from the operation of a vehicle in excess of applicable weight limitations.

This bill allows traffic officers to enforce vehicle weight limitations by means of weight and shipping documents, in addition to weighing vehicles as provided for under current law. The bill requires any person who ships or receives property

transported by a vehicle or combination of vehicles subject to weight limitations and who weighs the property before loading it onto or after unloading it from the vehicle or vehicle combination, or who is charged in whole or in part according to the weight of the property transported, to keep written records that include all of the following information:

1. The weight of the property transported, which must be identified on one or more dated weigh scale tickets if the person weighs the property.
2. A description of the property transported and the date that the property was loaded onto or unloaded from the vehicle or vehicle combination transporting the property.
3. The name and address of the shipper of the property transported and the origin of the shipment.
4. The total number of axles on the vehicle or vehicle combination transporting the property.
5. The vehicle registration number of the vehicle, or of the power unit of the vehicle combination, transporting the property, or another reliable means of identification of the vehicle or vehicle combination transporting the property.
6. The empty weight and registered gross weight of the vehicle or vehicle combination transporting the property and, if the loaded vehicle or vehicle combination is weighed, the gross weight of the vehicle or vehicle combination, including the weight identified on any weigh scale ticket.

This information is not required to be kept in a single document, but the aggregate of documents, which may include bills of lading, freight bills, weight tickets or certifications, and similar shipping documents, must include all of this information. All records required to be kept must be retained for at least 30 days after the last day that the property was loaded or unloaded or weighed by the person required to keep the records.

Under the bill, a traffic officer may inspect and copy any of these records without a warrant within the period that the person is required to keep the records. From these records and any other available information, the officer may calculate the gross weight of the vehicle or vehicle combination transporting the property. If the officer's calculations demonstrate that the sum of the weight of the property transported and the empty weight of the vehicle or vehicle combination transporting the property, or if the records otherwise demonstrate that the vehicle or vehicle combination's gross weight, exceeds the gross weight limitations established by law for the vehicle or vehicle combination transporting the property, the officer may, no later than 48 hours after the inspection, issue the vehicle operator or owner, or the motor carrier under whose authority the vehicle was operated, a citation for an overweight violation. The calculations of the officer to determine an overweight violation must be supplied to the operator, owner, or motor carrier receiving the citation, and these calculations, along with a copy of the records upon which the calculations are based, must also be supplied to the court in case the matter goes to trial. These calculations and the records upon which they are based are admissible as evidence. Any person required to keep and retain records who fails to keep or retain the records, fails to produce the records upon demand of a traffic officer, or

produces materially incomplete or false records, must forfeit not less than \$100 nor more than \$500.

This bill also provides state traffic patrol officers with specific authority to enter any place where the records required to be kept are stored to examine the records.

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 bill eliminates the Michigan border permit and provides that any previously issued Michigan border permit becomes invalid after the bill's effective date. The bill creates a new annual or consecutive month permit issued by DOT for oversize or overweight specially configured combination vehicles that are hauling raw forest products, or operating without a load, on any highway (Michigan–configured combination vehicles). A Michigan–configured combination vehicle permit may not be issued for a vehicle combination with a gross weight of more than 120,000 pounds and may only be issued for a vehicle combination with a gross weight of more than 80,000 pounds but not more than 120,000 pounds if the vehicle combination has at least 6 axles and the vehicle combination complies with certain per–axle weight limitations. A Michigan–configured combination vehicle permit does not authorize the operation of any vehicle combination with a gross weight of more than 80,000 pounds on an interstate highway, on any state trunk highway designated by DOT by rule as a route on which such a permit is not valid, on any highway or bridge with a posted weight limitation that is less than the vehicle combination's gross weight, or on any highway that is not a state trunk highway if a written statement of route approval from the officer in charge of maintenance of the highway has not been provided with the permit application. The bill also changes the definition of “raw forest products” to include wetlap.

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 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 a vehicle overweight violation. The amount of the surcharge is

equal to 20 percent of the amount of the forfeiture for the overweight violation. The money collected from the surcharge is deposited in the transportation fund.

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.** 110.07 (1) (a) 3. of the statutes is amended to read:

6 110.07 (1) (a) 3. Have authority to enter any place where vehicles subject to this
7 chapter, ss. 167.31 (2) (b) to (d) and 287.81 and chs. 194, 218 and 341 to 350, and
8 records required to be kept under s. 348.195 (1). are stored or parked at any time to
9 examine such vehicles or records, or to stop such vehicles while en route at any time
10 upon the public highways to examine the same and make arrests for all violations
11 thereof.

12 **SECTION 3.** 348.01 (2) (bt) of the statutes is amended to read:

13 348.01 (2) (bt) “Raw forest products” means logs, pilings, posts, poles, cordwood
14 products, wood chips, sawdust, wetlap, pulpwood, fuel wood and Christmas trees not
15 altered by a manufacturing process off the land, sawmill or factory from which they
16 are taken.

17 **SECTION 4.** 348.15 (9) of the statutes is created to read:

1 348.15 **(9)** (a) Notwithstanding sub. (5), any traffic officer may conduct an
2 inspection authorized under s. 348.195 (2) of records required to be kept and retained
3 under s. 348.195 (1) within 30 days immediately following the last day that property
4 was loaded or unloaded or weighed by the person required to keep the records. From
5 these records and any other available information, the officer may calculate the gross
6 weight of the vehicle or vehicle combination transporting the property. If the officer's
7 calculations demonstrate that the sum of the weight of the property transported and
8 the empty weight of the vehicle or vehicle combination transporting the property, or
9 the records otherwise demonstrate that the vehicle or vehicle combination's gross
10 weight, exceeds the gross weight limitations specified by this subchapter for the
11 vehicle or vehicle combination transporting the property, the officer may, no later
12 than 48 hours after the inspection, issue the vehicle operator or owner, or the motor
13 carrier under whose authority the vehicle was operated, a citation for an overweight
14 violation.

15 (b) A citation under par. (a) may be served in person upon the operator, owner,
16 or motor carrier anywhere in this state or by mailing a copy to the operator, owner,
17 or motor carrier's last-known address as indicated in the records of the department.
18 The venue for prosecution may be any county in which the alleged overweight
19 violation occurred.

20 (c) In all cases where an overweight citation is issued under this subsection, the
21 calculations of the traffic officer to determine an overweight violation shall be
22 supplied to the operator, owner, or motor carrier receiving the citation, and these
23 calculations, along with a copy of the records upon which the calculations are based,
24 shall also be supplied to the court in case the matter goes to trial. These calculations
25 and the records shall be admissible as evidence.

1 **SECTION 5.** 348.195 of the statutes is created to read:

2 **348.195 Enforcement of weight limitations by weight and shipping**

3 **records. (1)** (a) Any person who ships or receives property transported by a vehicle
4 or combination of vehicles subject to the requirements of this subchapter and who
5 weighs the property before loading it onto or after unloading it from the vehicle or
6 vehicle combination, or who is charged in whole or in part according to the weight
7 of the property transported, shall keep written records that include all of the
8 following information:

9 1. The weight of the property transported, which shall be identified on one or
10 more dated weigh scale tickets if the person weighs the property.

11 2. A description of the property transported and the date that the property was
12 loaded onto or unloaded from the vehicle or vehicle combination transporting the
13 property.

14 3. The name and address of the shipper of the property transported and the
15 origin of the shipment.

16 4. The total number of axles on the vehicle or vehicle combination transporting
17 the property.

18 5. The vehicle registration number of the vehicle, or of the power unit of the
19 vehicle combination, transporting the property, or another reliable means of
20 identification of the vehicle or vehicle combination transporting the property.

21 6. The empty weight and registered gross weight of the vehicle or vehicle
22 combination transporting the property and, if the loaded vehicle or vehicle
23 combination is weighed, the gross weight of the vehicle or vehicle combination,
24 including the weight identified on any weigh scale ticket.

1 (b) The information required to be kept under par. (a) is not required to be kept
2 in a single document, but the aggregate of documents, which may include bills of
3 lading, freight bills, weight tickets or certifications, and similar shipping documents,
4 shall include all information specified in par. (a). For purposes of this section, a true,
5 accurate, and legible copy of any document shall be given the effect of an original.

6 (c) All records required to be kept under par. (a) shall be retained for not less
7 than 30 days immediately following the last day that the property was loaded or
8 unloaded or weighed by the person required to keep the records.

9 **(2)** Any person required to retain records under sub. (1) shall, upon demand
10 by any traffic officer, make such records available for inspection and copying, and a
11 traffic officer shall be entitled to inspect and copy such records without a warrant
12 within 30 days immediately following the last day that the property was loaded or
13 unloaded or weighed by the person required to keep the records.

14 **(3)** Any person required to keep and retain records under sub. (1) who fails to
15 keep or retain such records, fails to produce such records upon demand of a traffic
16 officer, or produces materially incomplete or false records, shall forfeit not less than
17 \$100 nor more than \$500. Each violation constitutes a separate offense.

18 **SECTION 6.** 348.215 of the statutes is created to read:

19 **348.215 Overweight vehicle surcharge. (1)** If a court imposes a forfeiture
20 for any overweight violation under this subchapter or a local ordinance enacted
21 under s. 349.15 (3), the court shall also impose under ch. 814 an overweight vehicle
22 surcharge equal to 20 percent of the amount of the forfeiture. If multiple offenses are
23 involved, the court shall impose an overweight vehicle surcharge upon each
24 forfeiture imposed.

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

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

9 (c) The secretary of administration shall deposit all amounts received under
10 this subsection in the transportation fund.

11 **SECTION 7.** 348.25 (4) (intro.) of the statutes is amended to read:

12 348.25 **(4)** (intro.) Except as provided under s. 348.26 (5), (6), or (7) or 348.27
13 (3m), ~~(9)~~ **(9g)**, (9m), (9r), (9t), (10), (12), or (13), permits shall be issued only for the
14 transporting of a single article or vehicle which exceeds statutory size, weight or load
15 limitations and which cannot reasonably be divided or reduced to comply with
16 statutory size, weight or load limitations, except that:

17 **SECTION 8.** 348.27 (9) of the statutes is repealed.

18 **SECTION 9.** 348.27 (9g) of the statutes is created to read:

19 348.27 **(9g)** MICHIGAN-CONFIGURED COMBINATION VEHICLES TRANSPORTING RAW
20 FOREST PRODUCTS. (a) Subject to par. (b), the department may issue annual or
21 consecutive month permits for vehicle combinations that exceed statutory length or
22 weight limitations and that are transporting exclusively raw forest products, or
23 operating without a load, over any class of highway. A permit issued under this
24 subsection does not authorize the operation of any vehicle combination at a gross
25 weight in excess of 120,000 pounds and, for a vehicle combination with a gross weight

1 in excess of 80,000 pounds, is subject to the limitations under pars. (b) and (c). If the
2 roads desired to be used by an applicant involve a highway other than those within
3 the state trunk highway system, the application shall be accompanied by a written
4 statement of route approval by the officer in charge of maintenance of the other
5 highway.

6 (b) 1. No permit may be issued under this subsection for any vehicle
7 combination with a gross weight in excess of 80,000 pounds unless the vehicle
8 combination has at least 6 axles and the vehicle combination complies with the
9 weight limitations specified in subd. 2. Notwithstanding s. 348.15 (3), (5), and (5r),
10 for purposes of this subsection, the vehicle combination gross weight may be
11 determined by calculating the sum of the weights imposed on the highway by each
12 axle of the vehicle combination, and axles less than 6 feet apart may be weighed as
13 one unit and the per axle weight calculated by dividing the gross weight imposed on
14 the highway by the unit by the number of axles in the unit.

15 2. Notwithstanding s. 348.15 (3) and (5r), the gross weight imposed on the
16 highway by the wheels of any one axle of a vehicle combination with a gross weight
17 in excess of 80,000 pounds operating under a permit under this subsection may not
18 exceed:

19 a. If the axle is 9 feet or more from the nearest consecutive axle, 18,000 pounds.

20 b. If the axle is 3.5 feet or more but less than 9 feet from the nearest consecutive
21 axle, 13,000 pounds.

22 c. If the axle is less than 3.5 feet from the nearest consecutive axle, 9,000
23 pounds.

1 (c) A permit issued under this subsection does not authorize operation of a
2 vehicle combination with a gross weight in excess of 80,000 pounds on any of the
3 following:

4 1. Any interstate highway designated under s. 84.29 (2).

5 2. Any part of the state trunk highway system that the department has
6 designated by rule as a route on which a permit issued under this subsection is not
7 valid.

8 3. Any highway or bridge with a posted weight limitation that is less than the
9 vehicle combination's gross weight, as determined under s. 348.15 (5).

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

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

12 **SECTION 11.** 814.79 (6m) of the statutes is created to read:

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

14 **SECTION 12.** 814.81 (7m) of the statutes is created to read:

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

16 **SECTION 13. Nonstatutory provisions.**

17 (1) No permit issued under section 348.27 (9), 2003 stats., is valid after the
18 effective date of this subsection.

19 **SECTION 14. Initial applicability.**

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

23 **SECTION 15. Effective date.**

