
SUBSTITUTE SENATE BILL 6398

State of Washington **59th Legislature** **2006 Regular Session**

By Senate Committee on Transportation (originally sponsored by
Senator Jacobsen)

READ FIRST TIME 02/07/06.

1 AN ACT Relating to peak commute period travel restrictions on size,
2 weight, and load vehicle permits; amending RCW 46.44.090 and 46.44.105;
3 and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 46.44.090 and 2001 c 262 s 1 are each amended to read
6 as follows:

7 The department of transportation, pursuant to rules adopted by the
8 transportation commission with respect to state highways, and local
9 authorities, with respect to public highways under their jurisdiction,
10 may, upon application in writing and good cause being shown therefor,
11 issue a special permit in writing, or electronically, authorizing the
12 applicant to operate or move a vehicle or combination of vehicles of a
13 size, weight of vehicle, or load exceeding the maximum set forth in RCW
14 46.44.010, 46.44.020, 46.44.030, 46.44.034, and 46.44.041 upon any
15 public highway under the jurisdiction of the authority granting such
16 permit and for the maintenance of which such authority is responsible.
17 Except as provided in rules adopted by the department, no vehicle
18 required to have a special permit under this chapter is allowed on
19 public highways in urban areas during peak commute periods.

1 **Sec. 2.** RCW 46.44.105 and 2002 c 254 s 1 are each amended to read
2 as follows:

3 (1) Violation of any of the provisions of this chapter is a traffic
4 infraction, and upon the first finding thereof shall be assessed a
5 basic penalty of not less than fifty dollars; and upon a second finding
6 thereof shall be assessed a basic penalty of not less than seventy-five
7 dollars; and upon a third or subsequent finding shall be assessed a
8 basic penalty of not less than one hundred dollars.

9 (2) In addition to the penalties imposed in subsection (1) of this
10 section, any person violating RCW 46.44.041, 46.44.042, 46.44.047,
11 46.44.090, 46.44.091, or 46.44.095 shall be assessed a penalty for each
12 pound overweight, as follows:

13 (a) One pound through four thousand pounds overweight is three
14 cents for each pound;

15 (b) Four thousand one pounds through ten thousand pounds overweight
16 is one hundred twenty dollars plus twelve cents per pound for each
17 additional pound over four thousand pounds overweight;

18 (c) Ten thousand one pounds through fifteen thousand pounds
19 overweight is eight hundred forty dollars plus sixteen cents per pound
20 for each additional pound over ten thousand pounds overweight;

21 (d) Fifteen thousand one pounds through twenty thousand pounds
22 overweight is one thousand six hundred forty dollars plus twenty cents
23 per pound for each additional pound over fifteen thousand pounds
24 overweight;

25 (e) Twenty thousand one pounds and more is two thousand six hundred
26 forty dollars plus thirty cents per pound for each additional pound
27 over twenty thousand pounds overweight.

28 Upon a first violation in any calendar year, the court may suspend
29 the penalty for five hundred pounds of excess weight for each axle on
30 any vehicle or combination of vehicles, not to exceed a two thousand
31 pound suspension. In no case may the basic penalty assessed in
32 subsection (1) of this section or the additional penalty assessed in
33 subsection (2) of this section, except as provided for the first
34 violation, be suspended.

35 (3) In addition to the penalties imposed in subsections (1) and (2)
36 of this section, any person in violation of any peak commute period
37 travel restrictions, adopted by rule by the department, on a permit

1 issued under this chapter shall be assessed a penalty of one thousand
2 dollars.

3 (4) In addition to the penalties imposed in subsections (1) and (2)
4 of this section, any person who fails to obtain a required permit that
5 includes peak commute period travel restrictions, adopted by rule by
6 the department, and travels on a state highway in violation of any peak
7 commute period travel restrictions shall be assessed a penalty of one
8 thousand dollars.

9 (5) Whenever any vehicle or combination of vehicles is involved in
10 two violations of RCW 46.44.041, 46.44.042, 46.44.047, 46.44.090,
11 46.44.091, or 46.44.095 during any twelve-month period, the court may
12 suspend the certificate of license registration of the vehicle or
13 combination of vehicles for not less than thirty days. Upon a third or
14 succeeding violation in any twelve-month period, the court shall
15 suspend the certificate of license registration for not less than
16 thirty days. Whenever the certificate of license registration is
17 suspended, the court shall secure such certificate and immediately
18 forward the same to the director with information concerning the
19 suspension.

20 ~~((+4))~~ (6) Any person found to have violated any posted
21 limitations of a highway or section of highway shall be assessed a
22 monetary penalty of not less than one hundred and fifty dollars, and
23 the court shall in addition thereto upon second violation within a
24 twelve-month period involving the same power unit, suspend the
25 certificate of license registration for not less than thirty days.

26 ~~((+5))~~ (7) It is unlawful for the driver of a vehicle to fail or
27 refuse to stop and submit the vehicle and load to a weighing, or to
28 fail or refuse, when directed by an officer upon a weighing of the
29 vehicle to stop the vehicle and otherwise comply with the provisions of
30 this section. It is unlawful for a driver of a commercial motor
31 vehicle as defined in RCW 46.32.005, other than the driver of a bus as
32 defined in RCW 46.32.005(2) or a vehicle with a gross vehicle or
33 combination weight not over sixteen thousand pounds and not
34 transporting hazardous materials in accordance with RCW 46.32.005(3),
35 to fail or refuse to stop at a weighing station when proper traffic
36 control signs indicate scales are open. However, unladen tow trucks
37 regardless of weight and farm vehicles carrying farm produce with a

1 gross vehicle or combination weight not over twenty-six thousand pounds
2 may fail or refuse to stop at a weighing station when proper traffic
3 control signs indicate scales are open.

4 Any police officer is authorized to require the driver of any
5 vehicle or combination of vehicles to stop and submit to a weighing
6 either by means of a portable or stationary scale and may require that
7 the vehicle be driven to the nearest public scale. Whenever a police
8 officer, upon weighing a vehicle and load, determines that the weight
9 is unlawful, the officer may require the driver to stop the vehicle in
10 a suitable location and remain standing until such portion of the load
11 is removed as may be necessary to reduce the gross weight of the
12 vehicle to the limit permitted by law. If the vehicle is loaded with
13 grain or other perishable commodities, the driver shall be permitted to
14 proceed without removing any of the load, unless the gross weight of
15 the vehicle and load exceeds by more than ten percent the limit
16 permitted by this chapter. The owner or operator of the vehicle shall
17 care for all materials unloaded at the risk of the owner or operator.

18 Any vehicle whose driver or owner represents that the vehicle is
19 disabled or otherwise unable to proceed to a weighing location shall
20 have its load sealed or otherwise marked by any police officer. The
21 owner or driver shall be directed that upon completion of repairs, the
22 vehicle shall submit to weighing with the load and markings and/or seal
23 intact and undisturbed. Failure to report for weighing, appearing for
24 weighing with the seal broken or the markings disturbed, or removal of
25 any cargo prior to weighing is unlawful. Any person so convicted shall
26 be fined one thousand dollars, and in addition the certificate of
27 license registration shall be suspended for not less than thirty days.

28 ~~((+6+))~~ (8) Any other provision of law to the contrary
29 notwithstanding, district courts having venue have concurrent
30 jurisdiction with the superior courts for the imposition of any
31 penalties authorized under this section.

32 ~~((+7+))~~ (9) For the purpose of determining additional penalties as
33 provided by subsection (2) of this section, "overweight" means the
34 poundage in excess of the maximum allowable gross weight or axle/axle
35 grouping weight prescribed by RCW 46.44.041, 46.44.042, 46.44.047,
36 46.44.091, and 46.44.095.

37 ~~((+8+))~~ (10) The penalties provided in subsections (1) and (2) of
38 this section shall be remitted as provided in chapter 3.62 RCW or RCW

1 10.82.070. For the purpose of computing the basic penalties and
2 additional penalties to be imposed under subsections (1) and (2) of
3 this section, the convictions shall be on the same vehicle or
4 combination of vehicles within a twelve-month period under the same
5 ownership.

6 ~~((9))~~ (11) Any state patrol officer or any weight control officer
7 who finds any person operating a vehicle or a combination of vehicles
8 in violation of the conditions of a permit issued under RCW 46.44.047,
9 46.44.090, and 46.44.095 may confiscate the permit and forward it to
10 the state department of transportation which may return it to the
11 permittee or revoke, cancel, or suspend it without refund. The
12 department of transportation shall keep a record of all action taken
13 upon permits so confiscated, and if a permit is returned to the
14 permittee the action taken by the department of transportation shall be
15 endorsed thereon. Any permittee whose permit is suspended or revoked
16 may upon request receive a hearing before the department of
17 transportation or person designated by that department. After the
18 hearing the department of transportation may reinstate any permit or
19 revise its previous action.

20 Every permit issued as provided for in this chapter shall be
21 carried in the vehicle or combination of vehicles to which it refers
22 and shall be open to inspection by any law enforcement officer or
23 authorized agent of any authority granting such a permit.

24 Upon the third finding within a calendar year of a violation of the
25 requirements and conditions of a permit issued under RCW 46.44.095, the
26 permit shall be canceled, and the canceled permit shall be immediately
27 transmitted by the court or the arresting officer to the department of
28 transportation. The vehicle covered by the canceled permit is not
29 eligible for a new permit for a period of thirty days.

30 ~~((10))~~ (12) For the purposes of determining gross weights the
31 actual scale weight taken by the arresting officer is prima facie
32 evidence of the total gross weight.

33 ~~((11))~~ (13) It is a traffic infraction to direct the loading of
34 a vehicle with knowledge that it violates the requirements in RCW
35 46.44.041, 46.44.042, 46.44.047, 46.44.090, 46.44.091, or 46.44.095 and
36 that it is to be operated on the public highways of this state.

37 ~~((12))~~ (14) The chief of the state patrol, with the advice of the

1 department, may adopt reasonable rules to aid in the enforcement of
2 this section.

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