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HOUSE BILL NO. 1457
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Transportation
on _____)
(Patron Prior to Substitute—Delegate Morefield)

A BILL to amend and reenact §§ 46.2-1131 and 46.2-1143 of the Code of Virginia, relating to vehicle weight limits; violations; owner of commercial motor vehicle hauling coal.

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1131 and 46.2-1143 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-1131. Penalty for violation of weight limits.

A. Any person violating any weight limit as provided in this chapter or any permit issued by the Department or its designee or by local authorities pursuant to this article shall be subject to a civil penalty of \$25 and a processing fee of \$20 in addition to any liquidated damages and weighing fees imposed by this article. Upon collection by the Department, except as provided in § 46.2-1138, civil penalties shall be paid to the Literary Fund, but processing fees shall be paid to the state treasury and, beginning July 1, 1990, shall be set aside as a special fund to be used to meet the expenses of the Department of Motor Vehicles. In addition, liquidated damages and weighing fees shall be distributed as provided in §§ 46.2-1135 and 46.2-1137, respectively, except as provided in § 46.2-1138.

B. The penalties, damages, and fees specified in this section shall be in addition to any other liability which may be legally fixed against the owner, operator, or other person charged with the weight violation for damage to a highway or bridge attributable to such weight violation.

C. *For any violation described in subsection A in which the overweight vehicle is eligible for a permit pursuant to subsection A of § 46.2-1143 and such vehicle is operating without such a permit, the owner of such vehicle shall be the person charged with such weight violation.*

§ 46.2-1143. Overweight permits for coal haulers; trucks hauling gravel, sand, asphalt, crushed stone, or liquids produced from gas or oil wells in certain counties; penalties.

A. The Commissioner upon written application by the owner or operator of vehicles used exclusively for hauling coal or coal byproducts from a mine or other place of production to a preparation plant, electricity-generation facility, loading dock, or railroad shall issue, without a fee, a permit authorizing those vehicles to operate with gross weights in excess of those established in § 46.2-1126 on the conditions set forth in this section.

32 B. Vehicles with three axles may have a maximum gross weight, when loaded, of no more than 60,000
33 pounds, a single axle weight of not more than 24,000 pounds and a tandem axle weight of no more than
34 45,000 pounds. Vehicles with four axles may have a maximum gross weight, when loaded, of no more than
35 70,000 pounds, a single axle weight of no more than 24,000 pounds, and a tri-axle weight of no more than
36 50,000 pounds. Vehicles with five axles having no less than 35 feet of axle space between extreme axles may
37 have a maximum gross weight, when loaded, of no more than 90,000 pounds, a single axle weight of no more
38 than 20,000 pounds, and a tandem axle weight of no more than 40,000 pounds. Vehicles with six axles may
39 have a maximum gross weight, when loaded, of no more than 110,000 pounds, a single axle weight of no
40 more than 24,000 pounds, a tandem axle weight of no more than 44,000 pounds, and a tri-axle weight of no
41 more than 54,500 pounds.

42 C. No load of any vehicle operating under a permit issued according to this section shall rise above the top
43 of the bed of such vehicle, not including extensions of the bed. Three-axle vehicles shall not carry loads in
44 excess of the maximum bed size in cubic feet for such vehicle which shall be computed by a formula of
45 60,000 pounds minus the weight of the empty truck divided by the average weight of coal. For the purposes
46 of this section, the average weight of coal shall be 52 pounds per cubic foot. Four-axle vehicles shall not
47 carry loads in excess of the maximum bed size for such vehicle which shall be computed by a formula of
48 70,000 pounds minus the weight of the truck empty divided by the average weight of coal. Five-axle vehicles
49 shall not carry loads in excess of the maximum bed size for such vehicle, which shall be computed by a
50 formula of 90,000 pounds minus the weight of the truck empty divided by the average weight of coal. Six-
51 axle vehicles shall not carry loads in excess of the maximum bed size for such vehicle, which shall be
52 computed by a formula of 110,000 pounds minus the weight of the truck empty divided by the average
53 weight of coal.

54 D. For the purposes of this section, "bed" means that part of the vehicle used to haul coal. Bed size shall
55 be based on its interior dimensions, which may be determined by measuring the exterior of the bed, with
56 volume expressed in cubic feet. In order to ensure compliance with this section by visual inspection, if the
57 actual bed size of the vehicle exceeds the maximum as provided above, the owner or operator shall be
58 required to paint a horizontal line two inches wide on the sides of the outside of the bed of the vehicle, clearly
59 visible to indicate the uppermost limit of the maximum bed size applicable to the vehicle as provided in this
60 section. In addition, one hole two inches high and six inches long on each side of the bed shall be cut in the

61 center of the bed and at the top of the painted line.

62 *E.* Any vehicle in violation of this section shall subject the vehicle's owner ~~or operator or both~~ to a penalty
63 of \$250 for a first offense, \$500 for a second offense within a 12-month period, and \$1,000 and revocation of
64 the permit for a third offense within a 12-month period from the first offense.

65 ~~E.~~ *F.* If the bed of any vehicle is enlarged beyond the maximum bed size for which its permit was granted,
66 or if the line or holes required are altered so that the vehicle exceeds the bed size for which its permit was
67 granted, the owner, ~~operator, or both~~ shall be subject to a penalty of \$1,000 for each offense and revocation of
68 the permit. Upon revocation, a permit shall not be reissued for six months. The penalties provided in this
69 section shall be in lieu of those imposed under § 46.2-1135.

70 ~~F.~~ *G.* For any vehicle with a valid permit issued pursuant to the conditions required by this section, when
71 carrying loads which do not rise above the top of the bed or the line indicating the bed's maximum size, if
72 applicable, it shall be, in the absence of proof to the contrary, prima facie evidence that the load is within the
73 applicable weight limits. If any vehicle is stopped by enforcement officials for carrying a load rising above
74 the top of the bed or the line indicating the bed's maximum size, the operator of the vehicle shall be permitted
75 to shift his load within the bed to determine whether the load can be contained in the bed without rising above
76 its top or above the line.

77 ~~G.~~ *H.* No such permit shall be valid for the operation of any such vehicle for a distance of more than 85
78 miles within the Commonwealth of Virginia from the preparation plant, loading dock, or railroad.

79 ~~H.~~ *I.* In counties that impose a severance tax on gases as authorized by § 58.1-3712 or a severance license
80 tax on coal producers as authorized by § 58.1-3741, the Commissioner, upon written application by the owner
81 or operator of vehicles used exclusively for hauling gravel, sand, asphalt, or crushed stone no more than 50
82 miles from origin to destination, shall issue a permit authorizing those vehicles to operate with the weight
83 limits prescribed in subsection B. Nothing contained in this subsection shall authorize any extension of
84 weight limits provided in § 46.2-1127 for operation on interstate highways. ~~Any~~ *Notwithstanding the*
85 *provisions of subsections E and F, any weight violation hauling sand, gravel, asphalt, or crushed stone under*
86 *this subsection shall be subject to the penalties authorized by § 46.2-1135.*

87 The fee for a permit issued under this subsection shall be \$70, to be allocated as follows: (i) \$65 to the
88 Highway Maintenance and Operating Fund established pursuant to § 33.2-1530, with a portion equal to the
89 percentage of the Commonwealth's total lane miles represented by the lane miles eligible for maintenance
90 payments pursuant to §§ 33.2-319 and 33.2-366 being redistributed on the basis of lane miles to the
91 applicable localities pursuant to §§ 33.2-319 and 33.2-366, to be used to assist in funding needed highway

92 pavement and bridge maintenance and rehabilitation and (ii) a \$5 administrative fee to the Department.

93 *F. J.* In counties that impose a severance tax on gases as authorized by § 58.1-3712 or a severance license
94 tax on coal producers as authorized by § 58.1-3741, the weight limits prescribed in subsection B shall also
95 apply to motor vehicles hauling liquids produced from a gas or oil well and water used for drilling and
96 completion of a gas or oil well no more than 50 miles from origin to destination. Nothing contained in this
97 subsection shall authorize any extension of weight limits provided in § 46.2-1127 for operation on interstate
98 highways. ~~Any~~ *Notwithstanding the provisions of subsections E and F, any weight violation involving*
99 hauling liquids produced from a gas or oil well and water used for drilling and completion of a gas or oil well
100 under this subsection shall be subject to the penalties authorized by § 46.2-1135.