

House Bill 848

By: Representatives Taylor of the 173rd, Lumsden of the 12th, Collins of the 71st, Hitchens of the 161st, and Dunahoo of the 31st

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 5 of Chapter 2 of Title 35 and Article 2 of Chapter 6 of Title 32 of the
2 Official Code of Georgia Annotated, relating to Motor Carrier Compliance Division of the
3 Department of Public Safety and dimensions and weight of vehicles and loads, respectively,
4 so as to authorize the enforcement of excess vehicle weight violations through the use of an
5 automated vehicle weight detection system; to authorize the enforcement of excess vehicle
6 weight violations by any law enforcement official or certain employees of the Department
7 of Public Safety and local law enforcement; to provide for issuance of a permit for such
8 detection systems; to provide for issuance of citations for civil monetary penalties; to provide
9 for warning signs; to provide for definitions; to provide for consideration of evidence during
10 a hearing contesting a penalty assessed through the use of an automated vehicle weight
11 detection system; to make conforming changes; to provide for related matters; to repeal
12 conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Article 5 of Chapter 2 of Title 35 of the Official Code of Georgia Annotated, relating to
16 Motor Carrier Compliance Division of the Department of Public Safety, is amended by

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17 revising Code Section 35-2-102, relating to weight inspector positions, training, powers and
18 responsibilities, and presence of certified peace officer, as follows:

19 "35-2-102.

20 (a) The commissioner is authorized to establish a position to be known as 'weight
21 inspector' within the Motor Carrier Compliance Enforcement Section of the Department
22 of Public Safety. Weight inspectors shall be assigned to fixed scales facilities and shall not
23 be authorized to operate outside such facilities except as provided for in subsection (d) of
24 this Code section. The number of such positions shall be determined by the commissioner
25 within the limits set by available appropriations. Weight inspectors may be divided into
26 such ranks as the commissioner deems appropriate.

27 (b) The commissioner shall ensure that a weight inspector is properly trained regarding
28 laws governing commercial motor vehicle weight, registration, size, and load, including,
29 but not limited to, commercial motor vehicle provisions in Article 2 of Chapter 6 of
30 Title 32 and safety standards for commercial motor vehicles and such motor vehicle
31 components. The training required in the areas required by this subsection shall be
32 equivalent to training provided to certified officers in the Motor Carrier Compliance
33 Enforcement Section.

34 (c) A weight inspector, at the fixed scales facility, shall be authorized to:

35 (1) Enforce noncriminal provisions relating to commercial motor vehicle weight,
36 registration, size, and load and assess a civil penalty for a violation of such provisions;
37 and

38 (2) Detain a commercial motor vehicle that:

39 (A) Has a safety defect which is critical to the continued safe operation of the vehicle;

40 (B) Is being operated in violation of any criminal law; or

41 (C) Is being operated in violation of an out-of-service order as reported on the federal
42 Safety and Fitness Electronic Records data base.

43 The detention authorized by this paragraph shall be for the purpose of contacting a
44 certified member of the Motor Carrier Compliance Enforcement Section or Georgia State
45 Patrol. A certified officer shall report to the scene of a detained vehicle and take any
46 further action deemed appropriate including completing the inspection and investigation,
47 making an arrest, or bringing criminal or civil charges.

48 (d)(1) For purposes of this subsection, the term:

49 (A) 'Automated vehicle weight detection system' means a system of weight detecting
50 technology and cameras capable of determining the gross vehicle weight and individual
51 axle weights of a passing motor vehicle and producing recorded images of such vehicle
52 located outside of a fixed scales facility.

53 (B) 'Owner' means the registrant of a motor vehicle, except that such term shall not
54 include a motor vehicle rental company when a motor vehicle registered by such
55 company is being operated by another person under a rental agreement with such
56 company.

57 (C) 'Recorded images' means images of a motor vehicle license plate produced by an
58 automated vehicle weight detection system upon detection of a violation of weight
59 limitations provided for in Article 2 of Chapter 6 of Title 32. Such images shall include
60 the total gross vehicle and axle weights detected and the date and time the images were
61 taken.

62 (D) 'Third-party agent' means a person or entity that is authorized through a contract
63 with the department to provide services relating to the enforcement of vehicle weight
64 violations, operate and maintain an automated vehicle weight detection system,
65 assemble recorded images, issue citations for civil monetary penalties, and collect and
66 disburse moneys from citations issued.

67 (2) The commissioner shall be authorized to apply for a permit from the Department of
68 Transportation for the operation of automated vehicle weight detection systems by weight
69 inspectors or by third-party agents. The Department of Transportation shall establish by

70 rule and regulation the procedure for approval of such permits, provided that such permit
71 for an automated vehicle weight detection system on a route other than a state route shall
72 require approval from the local governing authority.

73 (3) Automated vehicle weight detection systems may be used to detect a violation of
74 weight limitations provided for in Article 2 of Chapter 6 of Title 32. Any violation
75 detected by an automated vehicle weight detection system shall be punished by a civil
76 monetary penalty pursuant to the requirements of this Code section and in the amount set
77 forth in Code Section 32-6-27. A weight inspector or third-party agent thereof shall send
78 the following by first-class mail addressed to the owner of any vehicle detected by an
79 automated vehicle weight detection system as violating the vehicle weight limitations
80 provided for in Article 2 of Chapter 6 of Title 32, not later than ten days after obtaining
81 the name and address of such owner from the Department of Revenue:

82 (A) A citation for the alleged violation, which shall include the date and time of the
83 alleged violation, the location the alleged violation was detected, the amount of the civil
84 monetary penalty imposed, and the date by which the civil monetary penalty shall be
85 paid;

86 (B) A copy of the recorded image which shows the motor vehicle involved in the
87 alleged violation;

88 (C) A copy of a certificate sworn to or affirmed by a certified peace officer employed
89 by the department stating that, based upon inspection of recorded images and the data
90 provided by an automated vehicle weight detection system, the owner's motor vehicle
91 was operated in violation of the vehicle weight limitations provided for in Article 2 of
92 Chapter 6 of Title 32 and that such operation was not otherwise authorized by law; and

93 (D) Information advising the owner of the motor vehicle of the manner in which
94 liability as alleged in the citation may be contested as provided for in Code
95 Section 32-6-27.

96 (4) The department shall erect signs warning of the use of an automated vehicle weight
97 detection system. Such signs shall be at least 24 by 30 inches in area, shall be visible
98 plainly from every lane of traffic, shall be viewable in all traffic conditions, and shall not
99 be placed in such a manner that the view of such sign is subject to being obstructed by
100 any other vehicle. Such signs shall be placed 500 feet from the placement of an
101 automated vehicle weight detection system.

102 (5) An automated vehicle weight detection system shall initiate diagnostic testing on the
103 system's accuracy at least once every 30 days. The weight inspector or third-party agent
104 thereof operating an automated vehicle weight detection system shall maintain a record
105 for the device which attests to the performance of such testing. Such record shall be
106 admissible in any proceeding for a violation issued pursuant to this subsection.

107 (6) A violation for which a civil monetary penalty is imposed pursuant to this subsection
108 shall not be considered a moving traffic violation for the purposes of points assessment
109 under Code Section 40-5-57. Such violation shall be considered noncriminal and shall
110 not be considered a conviction or be made part of the operating record of the person upon
111 whom such liability is imposed. Such liability shall not be considered for purposes of
112 motor vehicle insurance coverage.

113 (e) At all times while a weight inspector is on duty, there shall be a supervisor over the
114 weight inspector also on duty who shall be a certified peace officer."

115 **SECTION 2.**

116 Article 2 of Chapter 6 of Title 32 of the Official Code of Georgia Annotated, relating to
117 dimensions and weight of vehicles and loads, is amended in Code Section 32-6-27, relating
118 to enforcement of load limitations, by revising paragraph (3) of subsection (a),
119 subsection (a.1), and subsection (c) as follows:

120 "(3) Any vehicle that utilizes idle reduction technology shall have any penalty for violating
121 Code Section 32-6-26, except for subsections (f) and (h), calculated by reducing from the

122 actual gross weight, single axle weight, tandem axle weight, or the allowed weight on any
123 group of two or more axles the manufacturer's certified weight of the idle reducing
124 technology or 550 pounds, whichever is less. The operator of the vehicle shall present
125 written certification from the manufacturer specifying the weight of the idle reducing
126 technology and demonstrate that the idle reducing technology is fully functional at all times
127 when so requested by any law enforcement officer or employee of the Department of
128 Public Safety. If a violation has been detected by an automated vehicle weight detection
129 system pursuant to Code Section 35-2-102, the owner or operator may present such written
130 certification as evidence in an administrative hearing requested pursuant to this Code
131 section."

132 "(a.1)(1)(A) The Department of Public Safety is and local law enforcement are
133 authorized to issue a citation to the owner or operator of any vehicle in violation of a
134 maximum weight limit on a county road which is a designated local truck route under
135 subsection (f) of Code Section 32-6-26 and for which signs have been placed and
136 maintained as required under paragraph (2) of subsection (c) of Code Section 32-6-50
137 when such violation has been observed in person by a law enforcement officer of the
138 department or by a local law enforcement officer or has been detected through the use
139 of an automated vehicle weight detection system in compliance with the conditions of
140 Code Section 35-2-102.

141 (B) The Department of Public Safety is and local law enforcement are authorized to
142 issue a warning to the owner or operator of any vehicle in violation of a maximum
143 weight limit on a county road which is a designated local truck route under
144 subsection (f) of Code Section 32-6-26 but for which signs have not been placed or
145 maintained as required under paragraph (2) of subsection (c) of Code Section 32-6-50
146 upon the first such violation and to issue a citation to such owner or operator for a
147 subsequent such violation.

148 (2)(A) The Department of Public Safety ~~is~~ and local law enforcement are authorized
149 to issue a citation to the owner or operator of any vehicle in violation of a maximum
150 weight limit on a bridge for which signs have been placed and maintained as required
151 under paragraph (3) of Code Section 32-4-41 or subsection (a.1) of Code Section
152 32-4-91 when such violation has been observed in person by a law enforcement officer
153 of the department or by a local law enforcement officer or has been detected through
154 the use of an automated vehicle weight detection system in compliance with the
155 conditions of Code Section 35-2-102.

156 (B) The Department of Public Safety ~~is~~ and local law enforcement are authorized to
157 issue a warning to the owner or operator of any vehicle in violation of a maximum
158 weight limit on a bridge but for which signs have not been placed or maintained as
159 required under paragraph (3) of Code Section 32-4-41 or subsection (a.1) of Code
160 Section 32-4-91 upon the first such violation and to issue a citation to such owner or
161 operator for a subsequent such violation."

162 "(c)(1) Within 30 days after the issuance of the citation, whether issued in person or
163 through the use of an automated vehicle weight detection system in compliance with the
164 conditions of Code Section 35-2-102, the owner or operator of any offending vehicle
165 shall pay the amount of the assessment to the Department of Public Safety or request an
166 administrative determination of the amount and validity of the assessment.

167 (2) The right to an administrative determination of the amount and validity of the
168 assessment shall be granted only to the owner or operator of an offending vehicle.

169 (3) The party requesting an administrative determination of the amount and validity of
170 the assessment shall deposit the amount of the assessment with the Department of Public
171 Safety, within the time permitted to request such determination, before the determination
172 will be granted. In the event the assessment is determined to be erroneous, the
173 Department of Public Safety shall make prompt refund of any overpayment after receipt
174 of a final decision making such determination.

175 (4) If an administrative hearing is requested, it shall be held in accordance with
176 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' and the rules and
177 regulations of the Department of Public Safety. The scope of any such hearing shall be
178 limited to a determination of:

179 (A) The weight of the offending vehicle;

180 (B) The maximum weight allowed by law on the roadway upon which the offending
181 vehicle was operated; ~~and~~

182 (C) Whether the operator had in his or her actual possession a valid oversize or
183 overweight permit issued by the Department of Transportation allowing the vehicle to
184 operate in excess of the maximum weight otherwise allowed by law on the roadway
185 upon which the offending vehicle was operated; and

186 (D) If the citation was issued through the use of an automated vehicle weight detection
187 system:

188 (i) The consideration of evidence of written certification from the manufacturer of
189 idle reducing technology specifying the weight of the idle reducing technology and
190 demonstrating that the idle reducing technology was fully functional at the time the
191 citation was issued;

192 (ii) The required warning signs were adequately posted; and

193 (iii) Such system was properly functioning at the time of the citation, as evidenced
194 by a sworn statement of the automated vehicle weight detection system operator.

195 (5) Any person who has exhausted all administrative remedies available within the
196 Department of Public Safety and who is aggrieved by a final order of the Department of
197 Public Safety is entitled to judicial review in accordance with Chapter 13 of Title 50.

198 (6) If a party requests an administrative determination of the amount and validity of the
199 assessment and fails to appear without first obtaining permission from the administrative
200 law judge or does not withdraw the request in writing no less than five days in advance
201 of a scheduled hearing, the party shall be deemed in default and the citation shall be

202 affirmed by operation of law. The party shall be deemed to owe the sum of \$75.00 in
203 addition to the amount due on the citation, which sum shall represent hearing costs."

204 **SECTION 3.**

205 Said article is further amended in Code Section 32-6-28, relating to permits for excess weight
206 and dimensions, by revising paragraph (3) of subsection (a) as follows:

207 "(3) Every such permit shall be carried in the vehicle or combination of vehicles to which
208 it refers and shall be open to inspection by any local law enforcement officer or any
209 police officer, state trooper, or authorized agent of the department."

210 **SECTION 4.**

211 Said article is further amended by revising Code Section 32-6-29, relating to responsibility
212 of the Department of Transportation and responsibility of the Department of Public Safety,
213 as follows:

214 "32-6-29.

215 (a) The Department of Transportation shall be responsible for rules and regulations
216 relating to size and weight limits and issuance of permits under this article.

217 (b) The Department of Transportation shall not, however, employ any law enforcement
218 officers or agents except as may be specifically authorized by other laws. Law
219 enforcement responsibility for enforcement of this article shall be in the Department of
220 Public Safety and with any local law enforcement officer authorized to enforce laws
221 relating to motor vehicles and traffic upon the road or bridge on which a vehicle is
222 traveling."

223 **SECTION 5.**

224 Said article is further amended by revising Code Section 32-6-30, relating to stopping
225 vehicles for purposes of weighing, measuring, or inspecting, reports of violations, and refusal
226 to stop, as follows:

227 "32-6-30.

228 (a)(1) Any law enforcement ~~officer~~ official or employee of the Department of Public
229 Safety to whom law enforcement authority has been designated who observes a motor
230 vehicle being operated upon a public road of the state and who has reason to believe that:

231 ~~(1)(A)~~ Any provision of this article is being violated;

232 ~~(2)(B)~~ The vehicle is improperly licensed in violation of Code Sections 40-2-150
233 through 40-2-162; or

234 ~~(3)(C)~~ A fuel tax registration card is not being carried or that a proper distinguishing
235 identification marker is not affixed to the vehicle in violation of Code Section 48-9-39
236 ~~is~~ shall be authorized to stop such vehicle and weigh, measure, or inspect the same.

237 Violations of such licensing or fuel tax registration and identification requirements shall
238 be reported to the Department of Revenue.

239 (2) Any law enforcement officer who observes a motor vehicle being operated upon a
240 public road within the jurisdiction where he or she has authority to enforce the motor
241 vehicle and traffic laws who has reason to believe the vehicle weight limitations of this
242 article have been violated shall be authorized to stop such vehicle and weigh, measure,
243 or inspect the same.

244 (b)(1) If the operator of the vehicle shall refuse to stop upon proper order as directed by
245 a person authorized by subsection (a) of this Code section to stop, weigh, measure, or
246 inspect the vehicle or its load, the operator shall be guilty of a misdemeanor and, upon
247 conviction thereof, shall be punished by a fine not to exceed \$200.00. The operator shall
248 have the right to post an appropriate bond, which shall not exceed \$400.00, when any law
249 enforcement officer or employee or law enforcement official of the Department of Public

250 Safety authorized to enforce this article apprehends said operator for any violation of this
251 article.

252 (2) In addition, the operator's driver's license or nonresident's driving privilege may be
253 suspended for a period of not more than 90 days by the Department of Driver Services
254 upon satisfactory proof of said refusal to stop or drive the vehicle upon the scales. Each
255 person who shall apply for a Georgia driver's license, or for nonresident driving
256 privileges, or for a renewal of same thereby consents to stop such vehicle for inspection
257 or to drive such vehicle upon scales whenever so ordered by a law enforcement ~~official~~
258 officer or authorized employee or law enforcement official of the Department of Public
259 Safety."

260

SECTION 6.

261 All laws and parts of laws in conflict with this Act are repealed.