

CHAPTER 2015-103

Committee Substitute for House Bill No. 145

An act relating to the Commercial Motor Vehicle Review Board; amending s. 316.545, F.S.; deleting a provision authorizing any officer of the Florida Highway Patrol to require that a vehicle be driven to the nearest weigh station or public scales under certain circumstances; deleting a provision requiring the officer to weigh the vehicle at fixed scales rather than by portable scales upon a request by the vehicle driver under certain circumstances; authorizing a driver to request to proceed to the nearest fixed scale at an official weigh station or a certified public scale when he or she is issued a citation for exceeding weight limits; requiring the officer issuing the citation to escort the driver and attend the reweighing; voiding the citation if the vehicle or combination of vehicles is found to be in compliance with certain weight requirements; revising the membership of the board; providing for appointment of additional members by the Governor and the Commissioner of Agriculture; providing for terms of the additional members providing qualifications for such members; providing for removal of members by the Governor under certain circumstances; providing for action by a quorum of the board; requiring the Department of Transportation to provide space and video conference capability at each district office to enable a person requesting a hearing to appear remotely before the board; requiring that the additional appointments be made by a specified date; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) and paragraph (a) of subsection (2) of section 316.545, Florida Statutes, are amended to read:

316.545 Weight and load unlawful; special fuel and motor fuel tax enforcement; inspection; penalty; review.—

(1) Any officer of the Florida Highway Patrol having reason to believe that the weight of a vehicle and load is unlawful is authorized to require the driver to stop and submit to a weighing of the same by means of either portable or fixed scales and may require that such vehicle be driven to the nearest weigh station or public scales, provided such a facility is within 5 highway miles. Upon a request by the vehicle driver, the officer shall weigh the vehicle at fixed scales rather than by portable scales if such a facility is available within 5 highway miles. Anyone who refuses to submit to such weighing obstructs an officer pursuant to s. 843.02 and is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Anyone who knowingly and willfully resists, obstructs, or opposes a weight and safety officer while refusing to submit to such weighing by resisting the officer with violence to the officer's person pursuant to s. 843.01 is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2)(a) Whenever an officer of the Florida Highway Patrol or weight inspector of the Department of Transportation, upon weighing a vehicle or combination of vehicles with load, determines that the axle weight or gross weight is unlawful, the officer may require the driver to stop the vehicle in a suitable place and remain standing until a determination can be made as to the amount of weight thereon and, if overloaded, the amount of penalty to be assessed as provided herein. However, any gross weight over and beyond 6,000 pounds beyond the maximum herein set shall be unloaded and all material so unloaded shall be cared for by the owner or operator of the vehicle at the risk of such owner or operator. Except as otherwise provided in this chapter, to facilitate compliance with and enforcement of the weight limits established in s. 316.535, weight tables published pursuant to s. 316.535(7) shall include a 10-percent scale tolerance and shall thereby reflect the maximum scaled weights allowed any vehicle or combination of vehicles. As used in this section, scale tolerance means the allowable deviation from legal weights established in s. 316.535. Notwithstanding any other provision of the weight law, if a vehicle or combination of vehicles does not exceed the gross, external bridge, or internal bridge weight limits imposed in s. 316.535 and the driver of such vehicle or combination of vehicles can comply with the requirements of this chapter by shifting or equalizing the load on all wheels or axles and does so when requested by the proper authority, the driver shall not be held to be operating in violation of said weight limits. When a driver is issued a citation for exceeding the weight limits established in s. 316.535 as determined by means of portable scales, the driver may request to proceed to the nearest fixed scale at an official weigh station or at a certified public scale for verification of weight. The officer who issued the citation must escort the driver at all times and must attend the reweighing. If the vehicle or combination of vehicles is found to be in compliance with the weight requirements of this chapter at the fixed scale, the citation is void.

Section 2. Effective October 1, 2015, subsection (7) of section 316.545, Florida Statutes, is amended to read:

316.545 Weight and load unlawful; special fuel and motor fuel tax enforcement; inspection; penalty; review.—

(7) There is created within the Department of Transportation the Commercial Motor Vehicle Review Board, consisting of three permanent members who shall be the Secretary of the Department of Transportation, the executive director of the Department of Highway Safety and Motor Vehicles, and the Commissioner of Agriculture, or their authorized representatives, and four additional members appointed pursuant to paragraph (b), which may review any penalty imposed upon any vehicle or person under the provisions of this chapter relating to weights imposed on the highways by the axles and wheels of motor vehicles, to special fuel and motor fuel tax compliance, or to violations of safety regulations.

(a) The Secretary of the ~~Department of~~ Transportation or his or her authorized representative shall be the chair of the review board.

(b) The Governor shall appoint one member from the road construction industry, one member from the trucking industry, and one member with a general business or legal background. The Commissioner of Agriculture shall appoint one member from the agriculture industry. Each member appointed under this paragraph must be a registered voter and resident of the state and must possess business experience in the private sector. Members appointed pursuant to this paragraph shall each serve a 2-year term. A vacancy occurring during the term of a member appointed under this paragraph shall be filled only for the remainder of the unexpired term. Members of the board appointed under this paragraph may be removed from office by the Governor for misconduct, malfeasance, misfeasance, or nonfeasance in office. Each permanent member of the review board may designate one additional person to be a member of the review board.

(c) Each member, before entering upon his or her official duties, shall take and subscribe to an oath before an official authorized by law to administer oaths that he or she will honestly, faithfully, and impartially perform the duties devolving upon him or her in office as a member of the review board and that he or she will not neglect any duties imposed upon him or her by s. 316.3025, s. 316.550, or this section. The review board may execute its responsibilities by meeting as a single group or as subgroups consisting of one authorized representative of each permanent member.

(d) The chair of the review board is responsible for the administrative functions of the review board.

(e) Four members of the board constitute a quorum, and the vote of four members shall be necessary for any action taken by the board. A vacancy on the board does not impair the right of a quorum of the board to exercise all of the rights and perform all of the duties of the board.

~~(f)~~(e) The review board may hold sessions and conduct proceedings at any place within the state. As an alternative to physical appearance, and in addition to any other method of appearance authorized by rule, the Department of Transportation shall provide space and video conference capability at each district office to enable a person requesting a hearing to appear remotely before the board, regardless of the physical location of the board proceeding.

Section 3. The appointment of additional members to the Commercial Motor Vehicle Review Board in accordance with the changes made by this act to s. 316.545, Florida Statutes, shall be made by September 1, 2015, for terms beginning October 1, 2015.

Section 4. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2015.

Approved by the Governor June 10, 2015.

Filed in Office Secretary of State June 10, 2015.