

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0265

HOUSE ENGROSSED NO. **SB59** - 3/4/99

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.

Introduced by: The Committee on Transportation at the request of the Department of Transportation

1 FOR AN ACT ENTITLED, An Act to authorize the examination and use of certain vehicle
2 weigh scale tickets in the enforcement of vehicle weight restrictions, to revise certain
3 provisions regarding penalties for violations of such restrictions, and to require satisfactory
4 overweight vehicle enforcement programs in each county.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

6 Section 1. That chapter 32-22 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 The Department of Transportation may inspect any scale tickets issued by any weigh scale
9 operator for a vehicle being used in connection with the construction, repair, or maintenance of
10 a public highway pursuant to a contract administered by the Department of Transportation for
11 compliance with the weight limitations imposed by this chapter. The Department of
12 Transportation shall report any offender to the Department of Commerce and Regulation.

13 Section 2. That § 32-2-8.1 be amended to read as follows:

14 32-2-8.1. Arrest powers for motor carrier inspectors employed by the Division of Highway
15 Patrol are limited to violations of chapters 10-47A, 32-5, 32-9, 32-10, 32-12, 32-22, 49-28, and
16 49-28A and §§ 50-4-13 to 50-4-17, inclusive, and § 32-33-17, and the rules governing operation

1 of motor carriers. Motor carrier inspectors who have been given such limited arrest powers are
2 not considered "law enforcement officers" for the purposes of § 23-3-27.

3 Section 3. That chapter 32-22 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 Any county highway superintendent or municipal street superintendent may inspect any scale
6 ticket issued by any weight scale operator for a vehicle being used in connection with removal
7 of construction aggregate from a county-permitted gravel pit or for the construction, repair, or
8 maintenance of a public highway pursuant to a contract administered by a county, township, or
9 municipality for compliance with the weight limitations imposed by this chapter. Any violation
10 shall be reported to the Department of Commerce and Regulation.

11 Section 4. That § 32-22-55 be amended to read as follows:

12 32-22-55. Any person who is convicted of the offense of operating a motor vehicle upon the
13 public highways of this state with weight upon any wheel, axle, or groups of axles or upon more
14 than one thereof greater than the maximum permitted by §§ 32-22-2 to 32-22-33, inclusive,
15 32-22-47 and 32-22-48 shall be fined in addition to, and not in substitution for, any other
16 penalties now provided by law for such offense in the following amounts:

17 In an amount equal to five cents per pound for each pound of such excess or combined
18 excess weight over one thousand pounds if such excess is three thousand pounds or less.

19 In an amount equal to ~~ten~~ fifteen cents per pound for each pound of such excess or combined
20 excess weight if such excess exceeds three thousand pounds and is four thousand pounds or less.

21 In an amount equal to ~~fifteen~~ twenty-two and one-half cents per pound for each pound of
22 such excess or combined excess weight if such excess exceeds four thousand pounds and is five
23 thousand pounds or less.

24 In an amount equal to ~~twenty-five~~ thirty-seven and one-half cents per pound for each pound
25 of such excess or combined excess weight if such excess is more than five thousand pounds.

1 The fine schedule in this section is assessed at a single rate according to the cents per pound
2 penalty for the highest weight violation.

3 Section 5. That § 32-22-56 be amended to read as follows:

4 32-22-56. In any case where the motor vehicle is absolutely overweight beyond ~~the greatest~~
5 ~~permissible compensation plate weights for a vehicle of its class~~ ten thousand pounds, the pounds
6 by which the vehicle is so overweight ~~may~~ shall be assessed at double the penalties prescribed
7 in § 32-22-55.

8 Section 6. The secretary of the Department of Transportation shall, not less than semi-
9 annually, review the performance of each county's program of overweight vehicle enforcement
10 and shall certify a list of those counties whose enforcement programs are unsatisfactory. In
11 reviewing each county's enforcement program, the secretary shall consider the following factors:

- 12 (1) Whether the county has requested that the Division of Highway Patrol assist in the
13 enforcement of that county's spring or other posted load limits;
- 14 (2) The diligence of that county in enforcing in court to the fullest extent possible all fines
15 authorized by chapter 32-22 without plea bargaining or reducing statutory fines or
16 civil penalties;
- 17 (3) The effort of local law enforcement agencies to enforce chapter 32-22 on the roads
18 of that county; and
- 19 (4) Such other factors as the secretary may deem appropriate after consultation with the
20 state associations for county sheriffs, county commissioners, state's attorneys, and
21 county highway superintendents and with the Division of Highway Patrol.

22 The secretary may not find any county's program to be unsatisfactory unless the secretary has
23 given the county a written specification of the county's program deficiencies at least thirty days
24 before the unsatisfactory certification.

25 For any county whose overweight vehicle enforcement program is certified by the secretary

1 as unsatisfactory, the secretary may withhold or suspend for a period of one hundred eighty days
2 all or any portion of any transfer of federal surface transportation funds and state funds otherwise
3 authorized by § 32-11-35 to be distributed to such county. The Department of Revenue shall
4 cooperate with the secretary in the administration of this section.

1 **BILL HISTORY**

2 1/12/99 First read in Senate and referred to Transportation. S.J. 26

3 1/21/99 Scheduled for Committee hearing on this date.

4 1/28/99 Scheduled for Committee hearing on this date.

5 2/11/99 Scheduled for Committee hearing on this date.

6 2/11/99 Transportation Deferred to another day.

7 2/16/99 Scheduled for Committee hearing on this date.

8 2/18/99 Transportation Hog Housed.

9 2/18/99 Scheduled for Committee hearing on this date.

10 2/18/99 Transportation Do Pass Amended, Passed, AYES 4, NAYS 3. S.J. 536

11 2/19/99 Motion to Amend, Passed. S.J. 597

12 2/19/99 Motion to Amend, Passed. S.J. 597

13 2/19/99 Senate Do Pass Amended, Passed, AYES 30, NAYS 3. S.J. 597

14 2/22/99 First read in House and referred to State Affairs. H.J. 691

15 2/26/99 Scheduled for Committee hearing on this date.

16 3/1/99 Scheduled for Committee hearing on this date.

17 3/1/99 State Affairs Do Pass Amended, Passed, AYES 9, NAYS 4. H.J. 838