

FIRST REGULAR SESSION

# SENATE BILL NO. 497

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR MAYER.

Read 1st time March 1, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

1897S.011

## AN ACT

To repeal section 304.230, RSMo, and to enact in lieu thereof one new section relating to the Missouri highway safety enforcement division, with a penalty provision.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 304.230, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.230, to read as follows:

304.230. 1. It shall be the duty of the sheriff of each county or city to see that the provisions of sections 304.170 to 304.230 are enforced, and any peace officer or police officer of any county or city or any highway patrol officer shall have the power to arrest on sight or upon a warrant any person found violating or having violated the provisions of such sections.

2. The sheriff or any peace officer or any highway [patrol] **safety enforcement** officer is hereby given the power to stop any such conveyance or vehicle as above described upon the public highway for the purpose of determining whether such vehicle is loaded in excess of the provisions of sections 304.170 to 304.230, and if he or she finds such vehicle loaded in violation of the provisions thereof he or she shall have a right at that time and place to cause the excess load to be removed from such vehicle; and provided further, that any regularly employed maintenance man of the department of transportation shall have the right and authority in any part of this state to stop any such conveyance or vehicle upon the public highway for the purpose of determining whether such vehicle is loaded in excess of the provisions of sections 304.170 to 304.230, and if he or she finds such vehicle loaded in violation of the provisions thereof, he or she shall have the right at that time and place to cause the excess load to be removed from such vehicle. When only an axle or a tandem axle group of a vehicle is overloaded, the operator shall be permitted to shift the load, if this will not overload some other axle or axles, without being charged with a violation; provided, however, the privilege of shifting the weight without being charged with a violation shall not

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

extend to or include vehicles while traveling on the federal interstate system of highways. When only an axle or tandem axle group of the vehicle traveling on the federal interstate system of highways is overloaded and a court authorized to enforce the provisions of sections 304.170 to 304.230 finds that the overloading was due to the inadvertent shifting of the load changing axle weights in transit through no fault of the operator of the vehicle and that the load thereafter had been shifted so that no axle had been overloaded, then the court may find that no violation has been committed. The operator of any vehicle shall be permitted to back up and reweigh, or to turn around and weigh from the opposite direction. Any operator whose vehicle is weighed and found to be within five percent of any legal limit may request and receive a weight ticket, memorandum or statement showing the weight or weights on each axle or any combinations of axles. Once a vehicle is found to be within the limits of section 304.180 after having been weighed on any state scale and there is no evidence that any cargo or fuel has been added, no violation shall occur, but a presumption shall exist that cargo or fuel has been added if upon reweighing on another state scale the total gross weight exceeds the applicable limits of section 304.180 or 304.190. The highways and transportation commission of this state may deputize and appoint any number of their regularly employed maintenance men to enforce the provisions of such sections, and the maintenance men delegated and appointed in this section shall report to the proper officers any violations of sections 304.170 to 304.230 for prosecution by such proper officers.

3. [The superintendent of the Missouri state highway patrol may assign qualified persons who are not highway patrol officers to supervise or operate permanent or portable weigh stations used in the enforcement of commercial vehicle laws. These persons shall be designated as commercial vehicle inspectors and have limited police powers:

(1) To issue uniform traffic tickets at a permanent or portable weigh station for violations of rules and regulations of the division of motor carrier and railroad safety of the department of economic development and department of public safety, and laws, rules, and regulations pertaining to commercial motor vehicles and trailers and related to size, weight, fuel tax, registration, equipment, driver requirements, transportation of hazardous materials and operators' or chauffeurs' licenses, and the provisions of sections 303.024 and 303.025, RSMo;

(2) To require the operator of any commercial vehicle to stop and submit to a vehicle and driver inspection to determine compliance with commercial vehicle laws, rules, and regulations, the provisions of sections 303.024 and 303.025, RSMo, and to submit to a cargo inspection when reasonable grounds exist to cause belief that a vehicle is transporting hazardous materials as defined by Title 49 of the Code of Federal Regulations;

(3) To make arrests for violation of subdivisions (1) and (2) of this subsection. Commercial vehicle inspectors shall not have the authority to exercise the powers granted in subdivisions (1), (2) and (3) of this subsection until they have successfully

completed training approved by the superintendent of the Missouri state highway patrol; nor shall they have the right as peace officers to bear arms.

4. The superintendent of the Missouri state highway patrol may appoint qualified persons, who are not members of the highway patrol, designated as commercial vehicle enforcement officers, with the powers:

(1) To issue uniform traffic tickets for violations of laws, rules and regulations pertaining to commercial vehicles, trailers, special mobile equipment and drivers of such vehicles, and the provisions of sections 303.024 and 303.025, RSMo;

(2) To require the operator of any commercial vehicle to stop and submit to a vehicle and driver inspection to determine compliance with commercial vehicle laws, rules, and regulations, compliance with the provisions of sections 303.024 and 303.025, RSMo, and to submit to a cargo inspection when reasonable grounds exist to cause belief that a vehicle is transporting hazardous materials as defined by Title 49 of the Code of Federal Regulations;

(3) To make arrests upon warrants and for violations of subdivisions (1) and (2) of this subsection. Commercial vehicle enforcement officers shall not have the authority to exercise the powers granted in subdivisions (1), (2) and (3) of this subsection until they have successfully completed training approved by the superintendent of the Missouri state highway patrol. Commercial vehicle enforcement officers shall have the right as peace officers to bear arms.] **The director of the department of public safety may appoint qualified persons designated as Missouri highway safety officers with the primary responsibility to enforce the laws, rules, and regulations pertaining to commercial vehicles, trailers, special mobile equipment, and the operators or owners of such vehicles. Missouri highway safety enforcement officers shall be officers of the state of Missouri and shall have full power and authority as now or hereafter vested in certified peace officers under chapter 590, RSMo, to enforce all laws of the state. Missouri highway and safety enforcement officers shall also have additional authority as follows:**

(1) **To require the operator of any commercial vehicle to stop and submit to a vehicle and driver inspection to determine compliance with commercial vehicle laws, rules, and regulations, and shall have the right to enter in or upon commercial vehicles and break cargo seals in order to perform inspections or investigations on the public highways, at motor carrier terminal or other facilities, to assure compliance with safety and hazardous materials regulations under Title 49 of the Code of Federal Regulations and any laws, rules, or regulations pertaining to homeland security;**

(2) **To place vehicles and drivers out of service in accordance with the North American Standard Out of Service Criteria and the right of search and seizure upon the public highways, at motor carrier terminals, or other facilities;**

**(3) To make arrests for violations not committed in the safety enforcement officer's presence and apply for and serve search warrants, provided the sheriff of the county in which the warrant is to be served, or his or her designee, shall be notified upon application for the search warrant. An operator of any vehicle who fails to obey a reasonable request of a Missouri highway safety enforcement officer shall be guilty of a misdemeanor. Missouri highway safety enforcement officers shall not have the authority to exercise the powers granted in this subsection until such officers complete training approved by the director of the department of public safety under chapter 590, RSMo, and take and subscribe to an oath of office to support and defend the constitution of the United States and of the state of Missouri, and to faithfully demean themselves as a Missouri highway safety enforcement officer.**

**4. The director of the department of public safety, subject to appropriations, may appoint as many Missouri highway safety enforcement officers as deemed necessary to perform assigned duties and shall establish an equitable pay plan and military rank structure for Missouri highway safety enforcement officers based on rank and length of service as compared to other peace officers of the state of Missouri.**

**5. There is hereby created in the state treasury the "Commercial Vehicle Enforcement Fund", which shall consist of money derived from three percent of all fees collected by the state of Missouri from the operation of commercial vehicles in the state. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for Missouri highway safety officers to provide training, equipment, vehicles, and any other items necessary for the enforcement of commercial vehicle laws. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.**

**[5.] 6. Any additional employees needed for the implementation of this section shall be hired in conformity with the provisions of the federal fair employment and antidiscrimination acts.**

**[6.] 7. Any part of this section which shall be construed to be in conflict with the axle or tandem axle load limits permitted by the Federal-Aid Highway Act, Section 127 of Title 23 of the United States Code (Public Law 85-767, 85th Congress) shall be null, void and of no effect.**

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