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HOUSE BILL NO. 936

Offered January 9, 2002

Prefiled January 9, 2002

A BILL to amend and reenact § 46.2-1131 of the Code of Virginia and to amend the Code of Virginia by adding in Article 17 of Chapter 10 of Title 46.2 a section numbered 46.2-1138.3, relating to penalties for violations of vehicle weight limits; forwarding of certain records to Department of Motor Vehicles.

Patron—Morgan

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-1131 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding in Article 17 of Chapter 10 of Title 46.2 a section numbered 46.2-1138.3 as follows:

§ 46.2-1131. Penalty for violation of weight limits; record of conviction, etc., to be forwarded to Department.

Any person violating any weight limit as provided in this chapter or any permit issued by either the Department of Transportation or by local authorities pursuant to this article shall be subject to a civil penalty of twenty-five dollars and a processing fee of twenty dollars 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.

The court or the clerk of the court where such matter is heard shall forward to the Department of Motor Vehicles a record or abstract of all convictions of violations of weight limits established in this chapter or any permit issued under Article 18 (§ 46.2-1139 et seq.) of this chapter.

The penalties, damages, and fees specified in this section shall be in addition to any other liability ~~which~~ that 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.

§ 46.2-1138.3. Additional penalties for repeat violations.

In addition to any other penalty, liquidated damages, processing fee, or any provided for in this article, any vehicle in violation of any weight limit established in this article or any weight limit contained in any permit issued under Article 18 (§ 46.2-1139 et seq.) of this chapter, the court shall impose a civil penalty of \$1,000 for a second offense within a twelve-month period, \$5,000 for a third offense within a twelve-month period, and \$10,000 for a fourth or subsequent offense within a twelve-month period. If it can be shown by clear and convincing evidence that the operator of the vehicle himself requested the overweight load, the court shall assess such additional penalty against the operator of the vehicle. However, absent such clear and convincing evidence, the court, in its discretion, may impose such additional penalty on the operator of the vehicle, the owner or lessee of the vehicle, or the owner or consignor of the good being shipped, as the interests of justice may appear.

All civil penalties collected under the provisions of this section shall be paid into the Literary Fund.

The penalties specified in this section shall be in addition to any other liability that 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.

INTRODUCED

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