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**HOUSE BILL NO. 2319**

Offered January 14, 2009

Prefiled January 14, 2009

A *BILL to amend and reenact §§ 46.2-685, 46.2-1128, 46.2-1141, 46.2-1142, 46.2-1142.1, 46.2-1143, 46.2-1143.1, 46.2-1144, 46.2-1144.1, 46.2-1147, 46.2-1149, 46.2-1149.1, and 46.2-1149.4 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 46.2-1139.2, and to repeal § 46.2-1149.3 of the Code of Virginia, the second and third enactments of Chapter 738 of the Acts of Assembly of 2007, and the second enactment of Chapter 864 of the Acts of Assembly of 2008, relating to vehicle overweight and overload permits; fees.*

Patron—Marshall, R.G.

Referred to Committee on Transportation

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-685, 46.2-1128, 46.2-1141, 46.2-1142, 46.2-1142.1, 46.2-1143, 46.2-1143.1, 46.2-1144, 46.2-1144.1, 46.2-1147, 46.2-1149, 46.2-1149.1, and 46.2-1149.4 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-1139.2 as follows:**

§ 46.2-685. Payment of fees into special fund.

All fees collected by the Commissioner under §§ § 46.2-651, 46.2-652, and 46.2-653 shall be paid into the state treasury and set aside as a special fund to be used to meet the expenses of the Department.

§ 46.2-1128. Extensions of weight limits; fees.

The owner of any motor vehicle may obtain an extension of single axle, tandem axle, and gross weight set forth in this article by purchasing an overload permit for such vehicle. The permit shall extend the single axle weight limit of 20,000 pounds, tandem axle weight limit of 34,000 pounds, and gross weight limit based on axle spacing and number of axles on such vehicle. However, no such permit issued under this section or § 46.2-1129 shall authorize the operation of a motor vehicle whose gross weight exceeds 84,000 pounds or is more than five percent in excess of the vehicle's legal gross weight limits, whichever is the lesser, nor shall any such permit authorize any extension of the limitations provided in § 46.2-1127 for interstate highways.

Permits under this section shall be valid for one year and shall be issued according to the following fee schedule:

Percentage	Fee for Permit
1%	\$ 35
2%	75
3%	115
4%	160
5%	200.

for a fee, as established by the Commissioner. Overload permit fees shall be dedicated to and deposited into the Highway Maintenance and Operating Fund.

The Commissioner shall make the permit available to vehicles registered outside the Commonwealth under the same conditions and restrictions which are applicable to vehicles registered within the Commonwealth. The Commissioner may promulgate regulations governing such permits. Except as provided in this section and § 46.2-1129, no weights in excess of those authorized by law shall be tolerated.

Vehicles that are registered as farm use vehicles as provided in § 46.2-698 may operate as authorized under this section without a permit or the payment of any fee; provided, however, that should such vehicle violate the weight limits permitted by this section and § 46.2-1129, such vehicle shall be required to apply for and receive a permit and pay the permit fee to operate as authorized in this section.

§ 46.2-1139.2. Permits for excessive weight generally; fees.

Permits issued in accordance with this article shall be assessed overweight permit fees, except that no overweight permit fees shall apply to permits issued in accordance with §§ 46.2-1141, 46.2-1143 A and H, and 46.2-1145. Permits issued under this article shall be valid for one year and shall be issued for a fee, as established by the Commissioner. Overload permit fees shall be dedicated to and deposited into the Highway Maintenance and Operating Fund. Such overweight permit fees shall be dedicated to and deposited into the Highway Maintenance and Operating Fund.

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§ 46.2-1141. Overweight permits for containerized freight.

Permits to operate on the highways a vehicle exceeding the maximum weight specified in this title shall be granted ~~without costs~~, *subject to a fee as established by the Commissioner*, if the vehicle is hauling containerized cargo in a sealed, seagoing container bound to or from a seaport and has been or will be transported by marine shipment. In order to qualify for such a permit the contents of such seagoing container shall not be changed from the time it is loaded by the consignor or his agents to the time it is delivered to the consignee or his agents. Cargo moving in vehicles conforming to specifications shown in this section shall be considered irreducible and eligible for permits under regulations of the Commissioner.

§ 46.2-1142. Overweight permits for concrete haulers.

The Commissioner and local authorities of cities and towns, in their respective jurisdictions, upon written application *and payment of permit fees as established by the Commissioner* made by the owner or operator, shall issue overweight permits for operation of certain vehicles used to haul concrete. Permits under this section shall be issued only for vehicles that are used exclusively for the mixing of concrete in transit or at a project site or for transporting necessary components in a compartmentalized vehicle to produce concrete immediately upon arrival at a project site and either have (i) four axles with more than 22 feet between the first and last axle of the vehicle or (ii) three axles. Any vehicle operating under a permit issued pursuant to this section shall have a gross weight of no more than 60,000 pounds for three-axle vehicles and 70,000 pounds for four-axle vehicles, a single axle weight of no more than 20,000 pounds, tandem axle weight of no more than 40,000 pounds, and a tri-axle grouping weight of no more than 50,000 pounds, with no single axle of such tri-axle grouping exceeding the weight permitted for a single axle. ~~Such permits shall be issued without cost.~~ Such permit shall not designate the route to be traversed nor contain restrictions or conditions not applicable to other vehicles in their general use of the highways.

Each vehicle, when loaded according to the provisions of a permit issued under this section, shall be operated at a reduced speed. The reduced speed limit is to be 10 miles per hour slower than the legal speed limit in 55, 45, and 35 miles per hour speed limit zones.

§ 46.2-1142.1. Extensions of overweight limits authorized under § 46.2-1142 for vehicles used to haul concrete; fees.

Owners or operators of vehicles used exclusively to haul concrete may apply for permits to extend the single axle weight limit of 20,000 pounds, the tandem axle weight limit of 40,000 pounds, the four-axle weight of 70,000 pounds, the tri-axle grouping weight of 50,000 pounds, and the three-axle weight of 60,000 pounds provided for in § 46.2-1142; ~~by the percentages and upon written application and payment of the permit fees established by the Commissioner. set forth in this section:~~

	Percentage	Fee for Permit
1%		\$35
2		75
3		115
4		160
5		200

Permits issued under this section shall be valid for one year from the date of issuance. No permit issued under this section shall authorize violation of any weight limitation, promulgated and posted in accordance with § 46.2-1130, applicable to bridges or culverts. Permits issued under this section shall authorize extensions of the limitation provided for in § 46.2-1128 for vehicles operating on interstate highways only to the extent that any such extension (i) is not inconsistent with federal law and (ii) will not jeopardize or require the withholding or reduction of federal transportation funding otherwise available to the Commonwealth or any of its political subdivisions.

The Commissioner shall make the permit available to vehicles registered outside the Commonwealth under the same conditions and restrictions which are applicable to vehicles registered within the Commonwealth. The Commissioner may promulgate regulations governing such permits. Except as provided in this section and § 46.2-1142, no weights in excess of those authorized by law shall be tolerated.

§ 46.2-1143. Overweight permits for coal haulers; trucks hauling gravel, sand, crushed stone, or liquids produced from gas or oil wells in certain counties; penalties.

A. The Commissioner and local authorities of cities and towns in their respective jurisdictions, upon written application by the owner or operator of vehicles used exclusively for hauling coal from a mine or other place of production to a preparation plant, loading dock, or railroad shall issue, without cost, a permit authorizing those vehicles to operate with gross weights in excess of those established in § 46.2-1126 on the conditions set forth in this section.

B. Vehicles with three axles may have a maximum gross weight, when loaded, of no more than 60,000 pounds, a single axle weight of not more than 24,000 pounds and a tandem axle weight of no

more than 45,000 pounds. Vehicles with four axles may have a maximum gross weight, when loaded, of no more than 70,000 pounds, a single axle weight of no more than 24,000 pounds, and a tri-axle weight of no more than 50,000 pounds. Vehicles with five axles having no less than 35 feet of axle space between extreme axles may have a maximum gross weight, when loaded, of no more than 90,000 pounds, a single axle weight of no more than 20,000 pounds, and a tandem axle weight of no more than 40,000 pounds. Vehicles with six axles may have a maximum gross weight, when loaded, of no more than 110,000 pounds, a single axle weight of no more than 24,000 pounds, a tandem axle weight of no more than 44,000 pounds, and a tri-axle weight of no more than 54,500 pounds.

C. No load of any vehicle operating under a permit issued according to this section shall rise above the top of the bed of such vehicle, not including extensions of the bed. Three-axle vehicles shall not carry loads in excess of the maximum bed size in cubic feet for such vehicle which shall be computed by a formula of 60,000 pounds minus the weight of the empty truck divided by the average weight of coal. For the purposes of this section, the average weight of coal shall be 52 pounds per cubic foot. Four-axle vehicles shall not carry loads in excess of the maximum bed size for such vehicle which shall be computed by a formula of 70,000 pounds minus the weight of the truck empty divided by the average weight of coal. Five-axle vehicles shall not carry loads in excess of the maximum bed size for such vehicle, which shall be computed by a formula of 90,000 pounds minus the weight of the truck empty divided by the average weight of coal. Six-axle vehicles shall not carry loads in excess of the maximum bed size for such vehicle, which shall be computed by a formula of 110,000 pounds minus the weight of the truck empty divided by the average weight of coal.

D. For the purposes of this section, the term bed shall mean that part of the vehicle used to haul coal. Bed size shall be measured by its interior dimensions with volume expressed in cubic feet. In order to ensure compliance with this section by visual inspection, if the actual bed size of the vehicle exceeds the maximum as provided above, the owner or operator shall be required to paint a horizontal line two inches wide on the sides of the outside of the bed of the vehicle, clearly visible to indicate the uppermost limit of the maximum bed size applicable to the vehicle as provided in this section. In addition, one hole two inches high and six inches long on each side of the bed shall be cut in the center of the bed and at the top of the painted line. Any vehicle in violation of this section shall subject the vehicle's owner or operator or both to a penalty of \$250 for a first offense, \$500 for a second offense within a 12-month period, and \$1,000 and revocation of the permit for a third offense within a 12-month period from the first offense.

E. If the bed of any vehicle is enlarged beyond the maximum bed size for which its permit was granted, or if the line or holes required are altered so that the vehicle exceeds the bed size for which its permit was granted, the owner, operator, or both shall be subject to a penalty of \$1,000 for each offense and revocation of the permit. Upon revocation, a permit shall not be reissued for six months. The penalties provided in this section shall be in lieu of those imposed under § 46.2-1135.

F. For any vehicle with a valid permit issued pursuant to the conditions required by this section, when carrying loads which do not rise above the top of the bed or the line indicating the bed's maximum size, if applicable, it shall be, in the absence of proof to the contrary, prima facie evidence that the load is within the applicable weight limits. If any vehicle is stopped by enforcement officials for carrying a load rising above the top of the bed or the line indicating the bed's maximum size, the operator of the vehicle shall be permitted to shift his load within the bed to determine whether the load can be contained in the bed without rising above its top or above the line.

G. No such permit shall be valid for the operation of any such vehicle for a distance of more than 85 miles within the Commonwealth of Virginia from the preparation plant, loading dock, or railroad.

~~Until July 1, 2009, in~~ In counties that impose a severance tax on coal and gases as authorized by § 58.1-3712, the *Commissioner, upon written application and payment of permit fees established by the Commissioner, shall issue to the owner or operator a permit authorizing the operation on the highway at weight limits prescribed in subsection B of this section shall also apply to* of trucks hauling gravel, sand, or crushed stone no more than 50 miles from origin to destination. Nothing contained in this subsection shall authorize any extension of weight limits provided in § 46.2-1127 for operation on interstate highways. Any weight violation hauling sand, gravel, or crushed stone under this subsection shall be subject to the penalties authorized by § 46.2-1135.

H. In counties that impose a severance tax on coal and gases as authorized by § 58.1-3712, the weight limits prescribed in subsection B shall also apply to motor vehicles hauling liquids produced from a gas or oil well and water used for drilling and completion of a gas or oil well no more than 50 miles from origin to destination. Nothing contained in this subsection shall authorize any extension of weight limits provided in § 46.2-1127 for operation on interstate highways. Any weight violation involving hauling liquids produced from a gas or oil well and water used for drilling and completion of a gas or oil well under this subsection shall be subject to the penalties authorized by § 46.2-1135.

§ 46.2-1143.1. Overweight permits for haulers of excavated material.

180 The Commissioner and local authorities of cities and towns, in their respective jurisdictions, upon  
181 written application made by the owner or operator *and payment of permit fees established by the*  
182 *Commissioner*, shall issue overweight permits for operation of certain vehicles hauling excavated  
183 material from construction-related land-clearing operations. Permits shall be issued under this section  
184 only for vehicles that have either (i) four axles with more than 22 feet between the first and last axle of  
185 the vehicle or (ii) three axles. Any vehicle operating under a permit issued pursuant to this section shall  
186 have a gross weight of no more than 60,000 pounds for three-axle vehicles and 70,000 pounds for  
187 four-axle vehicles, a single axle weight of no more than 20,000 pounds, tandem axle weight of no more  
188 than 40,000 pounds, and a tri-axle grouping weight of no more than 50,000 pounds, with no single axle  
189 of such tri-axle grouping exceeding the weight permitted for a single axle. ~~Such permits shall be issued~~  
190 ~~without cost.~~

191 No permit issued under this section shall authorize the operation of any vehicle hauling excavated  
192 material for a distance of more than 25 miles from the land-clearing operation. However, such permit  
193 shall not designate the route to be traversed nor contain restrictions or conditions not applicable to other  
194 vehicles in their general use of the highways. Each vehicle, when loaded according to the provisions of  
195 a permit issued under this section, shall be operated at a reduced speed of 10 miles per hour slower than  
196 the legal speed limit in 55, 45, and 35 miles per hour speed limit zones.

197 For purposes of this section, the term "excavated material" shall mean natural earth materials, which  
198 includes stumps, brush, leaves, soil, and rocks, removed by any mechanized means.

199 § 46.2-1144. Overweight permits for solid waste haulers.

200 The Commissioner, upon written application *and payment of permit fees set by the Commissioner* by  
201 the owner or operator of vehicles used exclusively for hauling solid waste other than hazardous waste,  
202 shall issue without cost a permit authorizing the operation on the highway of such vehicles at gross  
203 weights in excess of those set forth in § 46.2-1126.

204 No permit issued under this section shall authorize a single axle weight of more than 20,000 pounds  
205 or a tandem axle weight of more than 40,000 pounds. No such permit shall be issued for a total gross  
206 weight in excess of 40,000 pounds for a two-axle vehicle, or of more than 60,000 pounds for a  
207 three-axle vehicle. Such permit shall be obtained annually at the time the vehicle is registered. The  
208 Commissioner shall promulgate regulations governing such permits.

209 No such permit shall authorize the operation of any vehicle enumerated in this section beyond the  
210 boundary of the county or city where it is principally garaged or for a distance of more than 25 miles  
211 from the place where it is principally garaged, whichever is greater. However, the permit shall not  
212 designate the route to be traversed nor contain restrictions or conditions not applicable to other vehicles  
213 in their general use of the highways. Each vehicle, when loaded according to the provisions of a permit  
214 issued under this section, shall be operated at a reduced speed of 10 miles per hour slower than the  
215 legal speed limit in 55, 45, and 35 miles per hour speed limit zones.

216 For the purposes of this section, the terms "solid waste" and "hazardous waste" shall have the  
217 meanings provided in § 10.1-1400.

218 § 46.2-1144.1. Overweight permits for tank wagons.

219 The Commissioner, upon written application and payment of a fee, *established by the Commissioner*,  
220 by the owner of tank wagon vehicles as defined in § 58.1-2201, shall issue overweight permits for  
221 operation of said vehicles.

222 ~~The overweight permit fees shall be based on a fee schedule established by the Commonwealth~~  
223 ~~Transportation Commissioner. Such fees shall be dedicated to and deposited into the Highway~~  
224 ~~Maintenance and Operating Fund.~~

225 ~~The Commissioner may also assess a separate application fee for applications pursuant to this section~~  
226 ~~that covers the administrative expenses of the Department. Funds from the application fee are to be~~  
227 ~~designated as specified in § 46.2-1149.3.~~

228 No permit issued under this section shall authorize a single axle weight of more than 24,000 pounds  
229 and a total gross weight in excess of 40,000 pounds. Permits issued under this section shall be valid for  
230 one year from the date of issuance. No permit issued under this section shall authorize violation of any  
231 weight limitation, promulgated and posted in accordance with § 46.2-1130, applicable to bridges or  
232 culverts. This permit shall not be combined with any other overweight permit or extension of weight  
233 limits.

234 § 46.2-1147. Permits for excessive size and weight for articulated buses.

235 The Commissioner and local authorities of cities and towns in their respective jurisdictions, upon  
236 written application *and payment of permit fees established by the Commissioner* by the owner or  
237 operator of passenger buses having three or more axles consisting of two sections joined together by an  
238 articulated joint with the trailer being equipped with a mechanically steered rear axle, and having a gross  
239 weight of no more than 60,000 pounds, a single axle weight of no more than 25,000 pounds, and a  
240 width of no more than 102 inches, shall issue to such owner or operator, ~~without cost~~, a written permit  
241 authorizing the operation of such vehicles on the highways.

§ 46.2-1149. Unladen, oversize and overweight, rubber-tired, self-propelled haulers and loaders; permits; engineering analysis; costs.

The Commissioner and local authorities of cities and towns in their respective jurisdictions, upon written application *and payment of permit fees and other costs established by the Commissioner* by the owner or operator of any empty, oversize and overweight, rubber-tired, self-propelled hauler or loader used in the construction and coal mining industries, may issue to such owner or operator a permit authorizing operation upon the highways of such equipment with gross empty weights in excess of those established in §§ 46.2-1122 through 46.2-1127 and sizes in excess of those established in §§ 46.2-1105 through 46.2-1108. The permits shall be issued only after an engineering analysis of a proposed routing has been conducted by the Virginia Department of Transportation or local authorities of counties, cities, and towns in their respective jurisdictions to assess the ability of the roadway and bridges to be traversed to sustain the vehicles' size and weight. Costs shall be assessed against the applicant to cover engineering analysis.

No permit issued under this section shall be valid for the operation of the equipment for a distance of more than 35 miles.

§ 46.2-1149.1. Excess tandem axle weight permits for cotton module haulers.

The Commissioner, upon application ~~made~~ *and payment of permit fees established by the Commissioner* by the owner or operator of vehicles used exclusively to transport seed cotton modules, shall issue ~~without cost~~ a permit authorizing the operation on the highway of such vehicles, from September 1 through December 31 of each year, at tandem axle weights in excess of that authorized in § 46.2-1125. The Commissioner shall promulgate regulations governing such permits. Such permits shall allow the vehicles to have tandem axle weights of no more than 44,000 pounds. No permit issued under this section shall authorize a single axle weight in excess of that authorized in § 46.2-1124 or a gross weight in excess of 56,000 pounds.

§ 46.2-1149.4. Overweight permits for specialized mobile equipment.

The Commissioner and local authorities of cities and towns, in their respective jurisdictions, upon written application ~~made~~ *and payment of permit fees established by the Commissioner* by the owner or operator, shall issue ~~without cost~~ an overweight permit for the operation of specialized mobile equipment. Any vehicle operating under a permit issued pursuant to this section shall have a gross weight of no more than 64,000 pounds, a single axle weight of no more than 20,000 pounds, and a tandem axle weight of no more than 44,000 pounds. Such permit shall not designate the route to be traversed nor contain restrictions or conditions not applicable to other vehicles in their general use of the highways.

For purposes of this section, "specialized mobile equipment" means a self-propelled motor vehicle manufactured for the specific purpose of supporting well-drilling machinery on the job site and whose movement on any highway is incidental to the purpose for which it was designed and manufactured.

**2. That the Commissioner of the Department of Motor Vehicles, in establishing the amount of fees authorized by this act, shall be guided by the recommendations contained in "A Review of the Current Overweight Permit Fee Structure in Virginia (HB 1511)," issued by the Virginia Transportation Research Council in November 2008; provided that any fees so established by the Commissioner shall be no less than 40 percent of those recommended by the Council until July 1, 2010; no less than 50 percent of those recommended by the Council from July 1, 2010, until July 1, 2011; and at least 65 percent of those recommended by the Council on and after July 1, 2011; and provided further that the amount of any such fee shall be reduced by the amount of any coal or gas severance tax, imposed on cargoes hauled by the vehicle to which the permit applies, pursuant to the provisions of § 58.1-3712 of the Code of Virginia.**

**3. That § 46.2-1149.3 of the Code of Virginia, the second and third enactments of Chapter 738 of the Acts of Assembly of 2007, and the second enactment of Chapter 864 of the Acts of Assembly of 2008 are repealed.**