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HOUSE BILL NO. 1633

Offered January 8, 1997

Prefiled December 20, 1996

A BILL to amend and reenact § 46.2-1135 of the Code of Virginia, relating to liquidated damages for violation of weight limits.

Patron—Darner_____
Referred to Committee on Transportation**Be it enacted by the General Assembly of Virginia:****1. That § 46.2-1135 of the Code of Virginia is amended and reenacted as follows:**

§ 46.2-1135. Liquidated damages for violation of weight limits; powers of enforcement officers; forfeiture of vehicle and cargo.

A. Any person violating any weight limit as provided in this chapter or in any permit issued either by the Virginia Department of Transportation or by local authorities pursuant to this chapter shall be assessed liquidated damages. The amount of those damages shall be two cents per pound for each pound of excess weight over the prescribed limit in this article for an excess which does not exceed 5,000 pounds, five cents per pound for each pound of excess weight over the prescribed limit in this article when such excess is more than 5,000 pounds, two cents per pound for each pound of excess axle weight over the prescribed limit in any permit issued pursuant to Article 18 (§ 46.2-1139 et seq.) of this chapter when the excess is 5,000 pounds or less, five cents per pound for each pound of excess axle weight over the prescribed limit in any permit issued pursuant to Article 18 (§ 46.2-1139 et seq.) of this chapter when such excess is more than 5,000 pounds and ten cents per pound for each pound of excess gross weight over the prescribed limit in any permit issued pursuant to Article 18 (§ 46.2-1139 et seq.) of this chapter. However, whenever any vehicle does not exceed the gross weight permitted according to the table provided in § 46.2-1139 and exceeds the axle weight in this article by 2,000 pounds or less, the liquidated damages shall be assessed in the amount of one cent per pound for each pound of excess weight over the prescribed axle limit in this article. If a person has no prior violations under the motor vehicle weight laws, and the excess weight does not exceed 2,500 pounds, the general district court may waive the liquidated damages against such person. Except as provided by § 46.2-1138, such assessment shall be entered by the court or by the Department as a judgment for the Commonwealth, the entry of which shall constitute a lien upon the overweight vehicle. Except as provided by § 46.2-1138, such sums shall be paid to the Department or collected by the attorney for the Commonwealth and forwarded to the State Treasurer and allocated to the fund appropriated for the construction and maintenance of state highways.

B. If the gross weight of the vehicle exceeds lawful limits by at least ~~thirty-five~~ twenty-five percent but no more than fifty percent, the amount of the liquidated damages shall be two times the amount provided for in the foregoing provisions of this section; if the gross weight of the vehicle exceeds lawful limits by more than fifty percent, the amount of the liquidated damages shall be three times the amount provided for in the foregoing provisions of this section. The provisions of this subsection shall not apply to pickup or panel trucks.

INTRODUCED

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