

068829232

HOUSE BILL NO. 1357

Offered January 11, 2006

Prefiled January 11, 2006

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

Patron—Bell

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.

A. Any person violating any weight limit as provided in this chapter or in any permit issued pursuant to Article 18 (§ 46.2-1139 et seq.) of this chapter by the Department or its designee or by local authorities pursuant to this chapter shall be assessed liquidated damages. The amount of those damages shall be:

| Excess weight over the prescribed or permitted axle weight limits | Assessed amount per pound limit | Excess weight over the prescribed gross weight | Assessed amount per pound |
|---|--|--|---------------------------------|
|---|--|--|---------------------------------|

| | | | |
|------------------------|---------------|------------------------|---------------|
| 4,000 pounds or less | 1, per pound | 4,000 pounds or less | 1, per pound |
| 4,001 to 8,000 pounds | 10, per pound | 4,001 to 8,000 pounds | 5, per pound |
| 8,001 to 12,000 pounds | 20, per pound | 8,001 to 12,000 pounds | 10, per pound |
| 12,001 pounds or more | 30, per pound | 12,001 pounds or more | 15, per pound |

All gross permit violations shall be assessed \$.20 per pound over the permitted weight limit.

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, *in cases where violators were cited for violation of state law*, 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; *however, in cases where violators were cited for violation of a local ordinance, such sums shall be paid to the county, city, or town whose ordinance was violated.*

B. If the gross weight of the vehicle exceeds lawful limits by at least 25 percent but no more than 50 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 50 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

HB1357