

SENATE BILL NO. 185

INTRODUCED BY SWYSGOOD
BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

IN THE SENATE

JANUARY 18, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION.
	FIRST READING.
JANUARY 27, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
	PRINTING REPORT.
JANUARY 28, 1993	SECOND READING, DO PASS.
JANUARY 29, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 47; NOES, 1.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 30, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION.
	FIRST READING.
FEBRUARY 6, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
FEBRUARY 9, 1993	SECOND READING, CONCURRED IN.
FEBRUARY 13, 1993	THIRD READING, CONCURRED IN. AYES, 90; NOES, 6.
FEBRUARY 15, 1993	RETURNED TO SENATE.

IN THE SENATE

FEBRUARY 16, 1993	RECEIVED FROM HOUSE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 SENATE BILL NO. RS
2 INTRODUCED BY Sen. [Signature]
3 BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE
6 DEPARTMENT OF TRANSPORTATION TO ISSUE TEMPORARY PERMITS TO
7 ALLOW EXCESS WEIGHT LOADS TO BE REMOVED TO A DESIGNATED
8 FACILITY BEFORE AN EXCESS WEIGHT LOAD IS REDUCED; INCREASING
9 CERTAIN FINES FOR VIOLATION OF WEIGHT LIMITS; AND AMENDING
10 SECTIONS 61-10-141, 61-10-144, AND 61-10-145, MCA."
11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 **Section 1.** Section 61-10-141, MCA, is amended to read:

14 "61-10-141. Officers authorized to weigh vehicles and
15 require removal of excessive loads -- enforcement of motor
16 carrier safety standards -- duty to obtain bills of lading
17 for agricultural seeds. (1) A peace officer, officer of the
18 highway patrol, or employee of the department of
19 transportation may weigh any vehicle regulated by 61-10-101
20 through 61-10-110, except recreational vehicles as defined
21 in 61-1-132, either by means of portable or stationary
22 scales, and may require that the vehicle be driven to the
23 nearest scales if those scales are within 2 miles. That
24 person may then require the driver to unload immediately at
25 a designated facility that portion of the load necessary to

1 decrease the weight of the vehicle to conform to the maximum
2 allowable weights specified in 61-10-101 through 61-10-110.
3 If the excess weight does not exceed 10,000 pounds, an
4 excess weight permit may be issued in accordance with
5 61-10-121. The permit authorizes the driver of the excess
6 weight load to proceed to a designated facility where the
7 load can be safely reduced to legal limits.

8 (2) Commodities and material unloaded as required by
9 this section ~~shall~~ must be cared for and ~~removed from the~~
10 ~~highway right-of-way~~ by the owner or operator of the vehicle
11 at the risk of that owner or operator. ~~The removal shall be~~
12 ~~within a reasonable time designated by the person who has~~
13 ~~completed the unloading.~~ Commodities or material unloaded as
14 required by this section may not be left on the highway
15 right-of-way.

16 (3) The department of transportation may establish,
17 maintain, and operate weigh stations, either intermittently
18 or on a continuous schedule, and may require vehicles,
19 except passenger cars and pickup trucks under 8,000 pounds
20 G.V.W. and recreational vehicles as defined in 61-1-132
21 (that are not new or used recreational vehicles traveling
22 into or through Montana for delivery to a distributor or a
23 dealer), to enter for the purpose of weighing and inspection
24 for compliance with all laws pertaining to their operation
25 and safety requirements.

(4) The department of transportation shall work with the highway patrol in the enforcement of safety standards adopted pursuant to 44-1-1005. For the purposes of the joint enforcement, the highway patrol is designated as the lead agency. The highway patrol and the department of transportation shall cooperate to assure minimum duplication and maximum coordination of enforcement effort.

(5) In order to enforce compliance with safety standards adopted pursuant to 44-1-1005, the department of transportation shall designate employees as peace officers. The designated employees must be employed in the administration of the gross vehicle weight functions of the department of transportation. Each employee designated as a peace officer may:

(a) issue citations and make arrests in connection with violations of safety standards adopted under 44-1-1005;

(b) issue summons;

(c) accept bail;

(d) serve warrants for arrest;

(e) make reasonable inspections of cargo carried by commercial motor vehicles;

(f) make reasonable safety inspections of commercial motor vehicles utilized by motor carriers; and

(g) require production of documents relating to the cargo, driver, routing, or ownership of such commercial

motor vehicles.

(6) In addition to other enforcement duties assigned under this section, an employee of the department of transportation has:

(a) the same authority to enforce provisions of the motor carriers law as that granted the public service commission under 69-12-203; and

(b) the duty to secure or make copies, or both, of all bills of lading or other evidence of delivery for shipment of agricultural seeds as defined in 80-5-120 that have been sold or are intended for sale in Montana and to forward the copies to the department of agriculture within 24 hours of the date the bill of lading was obtained."

Section 2. Section 61-10-144, MCA, is amended to read:

"61-10-144. Violation of standards -- tolerance. (1) It is a misdemeanor for a person, firm, or corporation to violate any provision of 61-10-101 through 61-10-110.

(2) However, the operator of a vehicle or combination of vehicles may move over the highways to the first open state scale, permanent or portable, without incurring the excess weight penalties set forth in 61-10-145 if the total gross weight of the vehicle or combination of vehicles does not exceed allowable total gross weight limitations by more than 5%, or 7% if the vehicle or combination of vehicles is transporting livestock, and if the weight carried by any

1 axle or combination of axles does not exceed the allowable
 2 axle weight limitations by more than 5%, or 7% if the
 3 vehicle or combination of vehicles is transporting
 4 livestock. In the event the vehicle or combination of
 5 vehicles is not in excess of the allowable total gross or
 6 axle weight limitations by more than 5%, or 7% if the
 7 vehicle or combination of vehicles is transporting
 8 livestock, the department may issue a single trip permit for
 9 the fee of \$10 for allowing said the vehicle or combination
 10 of vehicles to move over the highways to the first facility
 11 where its load can be safely adjusted or to its destination.
 12 Violations of total gross or axle weight limitations in
 13 excess of 5%, or 7% if the vehicle or combination of
 14 vehicles is transporting livestock, are subject to the fines
 15 provided in 61-10-145, and all loads in excess of 5% of the
 16 total gross or axle weight limitations, or 7% if the vehicle
 17 or combination of vehicles is transporting livestock;

18 (a) must may be required to be adjusted or reduced to
 19 conform to the size and weight limitations before the
 20 vehicle or combination of vehicles is moved from the point
 21 of weighing; or

22 (b) may be issued a permit as authorized by 61-10-141.

23 (3) An operator of a vehicle or combination of vehicles
 24 subject to the provisions of 61-10-107(4) may move over a
 25 highway, except any highway which that is part of the

1 federal-aid interstate system, within a 50-mile radius of
 2 the harvested field to the point of first unloading without
 3 incurring the excess weight penalties set forth in 61-10-145
 4 if the total gross weight of the vehicle or combination of
 5 vehicles does not exceed allowable weight limitations by
 6 more than 20% per axle, but the maximum load per inch of
 7 tire width may not exceed 670 pounds. The vehicle or
 8 combination of vehicles may not exceed 40 miles per hour. No
 9 A single trip permit as required in subsection (2) ~~shall--be~~
 10 is not applicable to such the vehicle or combination of
 11 vehicles. When such a vehicle or combination of vehicles
 12 violates any of the provisions of this subsection, the fine
 13 or penalty imposed ~~shall--apply~~ applies to that portion of
 14 the load above the legal limit."

15 **Section 3.** Section 61-10-145, MCA, is amended to read:

16 "61-10-145. Penalties. (1) A person, firm, or
 17 corporation convicted of violating 61-10-101 through
 18 61-10-110 shall be punished by a fine of not less than \$30
 19 or more than \$100. A person, firm, or corporation convicted
 20 of operating a motor vehicle upon the public highways of
 21 this state with weight upon a wheel, axle, or group of axles
 22 greater than the maximum permitted by 61-10-101 through
 23 61-10-110 shall be fined, in addition to other penalties
 24 provided by law for the offense, the following amounts:

25 (a) \$30 for any excess weight up to and including 2,000

1 pounds;

2 (b) ~~\$50~~ \$75 for any excess weight more than 2,000

3 pounds and less than 4,001 pounds;

4 (c) ~~\$70~~ \$125 for any excess weight more than 4,000

5 pounds and less than 6,001 pounds;

6 (d) ~~\$100~~ \$175 for any excess weight more than 6,000

7 pounds and less than 8,001 pounds;

8 (e) ~~\$160~~ \$250 for any excess weight more than 8,000

9 pounds and less than 10,001 pounds;

10 (f) ~~\$220~~ \$275 for any excess weight more than 10,000

11 pounds and less than 12,001 pounds;

12 (g) \$300 for any excess weight more than 12,000 pounds

13 and less than 14,001 pounds;

14 (h) \$400 for any excess weight more than 14,000 pounds

15 and less than 16,001 pounds;

16 (i) \$500 for any excess weight more than 16,000 pounds

17 and less than 18,001 pounds;

18 (j) \$600 for any excess weight more than 18,000 pounds

19 and less than 20,001 pounds;

20 (k) \$1,000 for any excess weight more than 20,000

21 pounds and less than 25,001 pounds;

22 (l) \$2,000 for any excess weight more than 25,000

23 pounds.

24 (2) If a motor vehicle is equipped with a retractable

25 axle that is not fully extended and carrying its

1 proportionate share of the load while the motor vehicle is

2 operated upon the highways of this state, the weight

3 penalties in subsection (1) apply to all weight over the

4 legal maximum allowed by the fixed axles regardless of

5 whether the axle is extended at the time of weighing. In

6 addition to the penalties in subsection (1), the owner or

7 operator shall be fined \$100 for failure to have the

8 retractable axle fully extended while the gross weight of

9 the vehicle exceeds the legal maximum allowed by the fixed

10 axles.

11 (3) A complaint filed and a summons or notice to appear

12 issued pertaining to a violation of the gross weight

13 regulations in 61-10-101 through 61-10-110 must specify the

14 amount of the overweight excess weight that the defendant is

15 alleged to have had upon the vehicle or combination of

16 vehicles.

17 (4) The penalties in subsection (1) do not apply to an

18 operator who fails to secure a special permit as provided

19 for in 61-10-107(3) if the vehicle or combination of

20 vehicles is not overweight with ~~such--a~~ that permit. The

21 failure to obtain the special permit is punishable under

22 61-10-146 and under this section as provided in 61-10-146,

23 and the operator is required to purchase the permit. If the

24 vehicle or combination of vehicles exceeds the weight

25 limitations allowed by special permit and the operator fails

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1 to obtain a permit under 61-10-107(3), the penalties of
2 subsection (1) apply to the weight exceeding 80,000 pounds.

3 (5) It is a misdemeanor, punishable as provided in
4 46-18-212, for a person, firm, or corporation to violate any
5 of the provisions of 61-10-123, 61-10-141, or 61-10-142."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0185, as introduced.

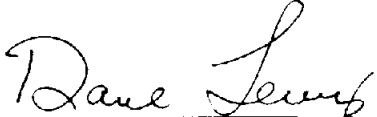
DESCRIPTION OF PROPOSED LEGISLATION:

An act authorizing the Department of Transportation to issue temporary permits to allow excess weight loads to be removed to a designated facility before an excess weight load is reduced; increasing certain fines for violation of weight limits.

ASSUMPTIONS:

1. Number of overweight citations issued in FY92 was 2,538. Based on number of overweight citations issued in FY92, permits would be issued for 2,538 vehicles at the current \$10 permit fee, resulting in an increase of \$25,380 in permit fees.
2. The average increase in fines would be \$60. The number of citations would not decrease.
3. Based on FY92 number of citations for overweight and using the \$60 average increase in fines, total revenues derived from fines would increase \$152,280.
4. Fine revenue of \$152,280 is distributed in accordance with Section 3-10-601 MCA, 50% to the state treasurer and 50% to the county general fund.
5. 3-10-601(4), MCA states the state treasurer shall distribute revenue from fines as follows:
 - a. 27.88% to the state general fund
 - b. 9.09% to the fish and game account in the state special revenue fund
 - c. 11.76% to the state highway account in the state special revenue fund
 - d. 33.86% to the traffic education account in the state special revenue fund
 - e. 0.57% to the Department of Livestock account in the state special revenue fund
 - f. 15.90% to crime victims compensation account in the state special revenue fund
 - g. 0.94% to the Department of Family Services special revenue account for the battered spouses and domestic violence grant program

FISCAL IMPACT: (continued)

 1-22-93

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1/23/93

CHARLES SWYSGOOD, PRIMARY SPONSOR DATE

Fiscal Note for SB0185, as introduced.

SB 185

Fiscal Note Request, SB0185, as introduced
Form BD-15 page 2
(continued)

FISCAL IMPACT:

Revenue:

	<u>FY '94</u>			<u>FY '95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
General Fund	0	21,228	21,228	0	21,228	21,228
Vehicle Licenses/Permits (02)	0	34,334	34,334	0	34,334	34,334
Fish and Game (02)	0	6,921	6,921	0	6,921	6,921
Traffic Education (02)	0	25,781	25,781	0	25,781	25,781
Livestock (02)	0	434	434	0	434	434
Crime Victims Compensation (02)	0	12,106	12,106	0	12,106	12,106
Domestic Violence Grant (02)	<u>0</u>	<u>716</u>	<u>716</u>	<u>0</u>	<u>716</u>	<u>716</u>
Total	0	101,520	101,520	0	101,520	101,520

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Under 3-10-601 MCA, counties would receive an additional \$76,140 in general fund revenue.

APPROVED BY COMMITTEE
ON HIGHWAYS & TRANSPORTATION

INTRODUCED BY Sen. Snow BILL NO. 15
BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE DEPARTMENT OF TRANSPORTATION TO ISSUE TEMPORARY PERMITS TO ALLOW EXCESS WEIGHT LOADS TO BE REMOVED TO A DESIGNATED FACILITY BEFORE AN EXCESS WEIGHT LOAD IS REDUCED; INCREASING CERTAIN FINES FOR VIOLATION OF WEIGHT LIMITS; AND AMENDING SECTIONS 61-10-141, 61-10-144, AND 61-10-145, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-10-141, MCA, is amended to read:

"61-10-141. Officers authorized to weigh vehicles and require removal of excessive loads -- enforcement of motor carrier safety standards -- duty to obtain bills of lading for agricultural seeds. (1) A peace officer, officer of the highway patrol, or employee of the department of transportation may weigh any vehicle regulated by 61-10-101 through 61-10-110, except recreational vehicles as defined in 61-1-132, either by means of portable or stationary scales, and may require that the vehicle be driven to the nearest scales if those scales are within 2 miles. That person may then require the driver to unload immediately at a designated facility that portion of the load necessary to

decrease the weight of the vehicle to conform to the maximum allowable weights specified in 61-10-101 through 61-10-110. If the excess weight does not exceed 10,000 pounds, an excess weight permit may be issued in accordance with 61-10-121. The permit authorizes the driver of the excess weight load to proceed to a designated facility where the load can be safely reduced to legal limits.

(2) Commodities and material unloaded as required by this section ~~shall must~~ be cared for ~~and--removed--from--the~~ highway-right-of-way by the owner or operator of the vehicle at the risk of that owner or operator. ~~The-removal--shall--be~~ ~~within-a-reasonable-time-designated-by-the--person--who--has~~ ~~compelled-the-unloading.~~ Commodities or material unloaded as required by this section may not be left on the highway right-of-way.

(3) The department of transportation may establish, maintain, and operate weigh stations, either intermittently or on a continuous schedule, and may require vehicles, except passenger cars and pickup trucks under 8,000 pounds G.V.W. and recreational vehicles as defined in 61-1-132 (that are not new or used recreational vehicles traveling into or through Montana for delivery to a distributor or a dealer), to enter for the purpose of weighing and inspection for compliance with all laws pertaining to their operation and safety requirements.

(4) The department of transportation shall work with the highway patrol in the enforcement of safety standards adopted pursuant to 44-1-1005. For the purposes of the joint enforcement, the highway patrol is designated as the lead agency. The highway patrol and the department of transportation shall cooperate to assure minimum duplication and maximum coordination of enforcement effort.

(5) In order to enforce compliance with safety standards adopted pursuant to 44-1-1005, the department of transportation shall designate employees as peace officers. The designated employees must be employed in the administration of the gross vehicle weight functions of the department of transportation. Each employee designated as a peace officer may:

(a) issue citations and make arrests in connection with violations of safety standards adopted under 44-1-1005;

(b) issue summons;

(c) accept bail;

(d) serve warrants for arrest;

(e) make reasonable inspections of cargo carried by commercial motor vehicles;

(f) make reasonable safety inspections of commercial motor vehicles utilized by motor carriers; and

(g) require production of documents relating to the cargo, driver, routing, or ownership of such commercial

motor vehicles.

(6) In addition to other enforcement duties assigned under this section, an employee of the department of transportation has:

(a) the same authority to enforce provisions of the motor carriers law as that granted the public service commission under 69-12-203; and

(b) the duty to secure or make copies, or both, of all bills of lading or other evidence of delivery for shipment of agricultural seeds as defined in 80-5-120 that have been sold or are intended for sale in Montana and to forward the copies to the department of agriculture within 24 hours of the date the bill of lading was obtained."

Section 2. Section 61-10-144, MCA, is amended to read:

"61-10-144. Violation of standards -- tolerance. (1) It is a misdemeanor for a person, firm, or corporation to violate any provision of 61-10-101 through 61-10-110.

(2) However, the operator of a vehicle or combination of vehicles may move over the highways to the first open state scale, permanent or portable, without incurring the excess weight penalties set forth in 61-10-145 if the total gross weight of the vehicle or combination of vehicles does not exceed allowable total gross weight limitations by more than 5%, or 7% if the vehicle or combination of vehicles is transporting livestock, and if the weight carried by any

1 axle or combination of axles does not exceed the allowable
 2 axle weight limitations by more than 5%, or 7% if the
 3 vehicle or combination of vehicles is transporting
 4 livestock. In the event the vehicle or combination of
 5 vehicles is not in excess of the allowable total gross or
 6 axle weight limitations by more than 5%, or 7% if the
 7 vehicle or combination of vehicles is transporting
 8 livestock, the department may issue a single trip permit for
 9 the fee of \$10 for allowing ~~said~~ the vehicle or combination
 10 of vehicles to move over the highways to the first facility
 11 where its load can be safely adjusted or to its destination.
 12 Violations of total gross or axle weight limitations in
 13 excess of 5%, or 7% if the vehicle or combination of
 14 vehicles is transporting livestock, are subject to the fines
 15 provided in 61-10-145, and all loads in excess of 5% of the
 16 total gross or axle weight limitations, or 7% if the vehicle
 17 or combination of vehicles is transporting livestock;

18 (a) ~~must~~ may be required to be adjusted or reduced to
 19 conform to the size and weight limitations before the
 20 vehicle or combination of vehicles is moved from the point
 21 of weighing; or

22 (b) may be issued a permit as authorized by 61-10-141.

23 (3) An operator of a vehicle or combination of vehicles
 24 subject to the provisions of 61-10-107(4) may move over a
 25 highway, except any highway which that is part of the

1 federal-aid interstate system, within a 50-mile radius of
 2 the harvested field to the point of first unloading without
 3 incurring the excess weight penalties set forth in 61-10-145
 4 if the total gross weight of the vehicle or combination of
 5 vehicles does not exceed allowable weight limitations by
 6 more than 20% per axle, but the maximum load per inch of
 7 tire width may not exceed 670 pounds. The vehicle or
 8 combination of vehicles may not exceed 40 miles per hour. No
 9 A single trip permit as required in subsection (2) ~~shall--be~~
 10 is not applicable to such the vehicle or combination of
 11 vehicles. When such a vehicle or combination of vehicles
 12 violates any of the provisions of this subsection, the fine
 13 or penalty imposed ~~shall-apply~~ applies to that portion of
 14 the load above the legal limit."

15 **Section 3.** Section 61-10-145, MCA, is amended to read:

16 "61-10-145. Penalties. (1) A person, firm, or
 17 corporation convicted of violating 61-10-101 through
 18 61-10-110 shall be punished by a fine of not less than \$30
 19 or more than \$100. A person, firm, or corporation convicted
 20 of operating a motor vehicle upon the public highways of
 21 this state with weight upon a wheel, axle, or group of axles
 22 greater than the maximum permitted by 61-10-101 through
 23 61-10-110 shall be fined, in addition to other penalties
 24 provided by law for the offense, the following amounts:

25 (a) \$30 for any excess weight up to and including 2,000

1 pounds;

2 (b) ~~\$50~~ \$75 for any excess weight more than 2,000

3 pounds and less than 4,001 pounds;

4 (c) ~~\$70~~ \$125 for any excess weight more than 4,000

5 pounds and less than 6,001 pounds;

6 (d) ~~\$100~~ \$175 for any excess weight more than 6,000

7 pounds and less than 8,001 pounds;

8 (e) ~~\$160~~ \$250 for any excess weight more than 8,000

9 pounds and less than 10,001 pounds;

10 (f) ~~\$220~~ \$275 for any excess weight more than 10,000

11 pounds and less than 12,001 pounds;

12 (g) \$300 for any excess weight more than 12,000 pounds

13 and less than 14,001 pounds;

14 (h) \$400 for any excess weight more than 14,000 pounds

15 and less than 16,001 pounds;

16 (i) \$500 for any excess weight more than 16,000 pounds

17 and less than 18,001 pounds;

18 (j) \$600 for any excess weight more than 18,000 pounds

19 and less than 20,001 pounds;

20 (k) \$1,000 for any excess weight more than 20,000

21 pounds and less than 25,001 pounds;

22 (l) \$2,000 for any excess weight more than 25,000

23 pounds.

24 (2) If a motor vehicle is equipped with a retractable

25 axle that is not fully extended and carrying its

1 proportionate share of the load while the motor vehicle is

2 operated upon the highways of this state, the weight

3 penalties in subsection (1) apply to all weight over the

4 legal maximum allowed by the fixed axles regardless of

5 whether the axle is extended at the time of weighing. In

6 addition to the penalties in subsection (1), the owner or

7 operator shall be fined \$100 for failure to have the

8 retractable axle fully extended while the gross weight of

9 the vehicle exceeds the legal maximum allowed by the fixed

10 axles.

11 (3) A complaint filed and a summons or notice to appear

12 issued pertaining to a violation of the gross weight

13 regulations in 61-10-101 through 61-10-110 must specify the

14 amount of the overweight excess weight that the defendant is

15 alleged to have had upon the vehicle or combination of

16 vehicles.

17 (4) The penalties in subsection (1) do not apply to an

18 operator who fails to secure a special permit as provided

19 for in 61-10-107(3) if the vehicle or combination of

20 vehicles is not overweight with such--a that permit. The

21 failure to obtain the special permit is punishable under

22 61-10-146 and under this section as provided in 61-10-146,

23 and the operator is required to purchase the permit. If the

24 vehicle or combination of vehicles exceeds the weight

25 limitations allowed by special permit and the operator fails

1 to obtain a permit under 61-10-107(3), the penalties of
2 subsection (1) apply to the weight exceeding 80,000 pounds.

3 (5) It is a misdemeanor, punishable as provided in
4 46-18-212, for a person, firm, or corporation to violate any
5 of the provisions of 61-10-123, 61-10-141, or 61-10-142."

-End-

1 SENATE BILL NO. 15
 2 INTRODUCED BY Sen. [Signature]
 3 BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE
 6 DEPARTMENT OF TRANSPORTATION TO ISSUE TEMPORARY PERMITS TO
 7 ALLOW EXCESS WEIGHT LOADS TO BE REMOVED TO A DESIGNATED
 8 FACILITY BEFORE AN EXCESS WEIGHT LOAD IS REDUCED; INCREASING
 9 CERTAIN FINES FOR VIOLATION OF WEIGHT LIMITS; AND AMENDING
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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 **Section 1.** Section 61-10-141, MCA, is amended to read:

14 "61-10-141. Officers authorized to weigh vehicles and
 15 require removal of excessive loads -- enforcement of motor
 16 carrier safety standards -- duty to obtain bills of lading
 17 for agricultural seeds. (1) A peace officer, officer of the
 18 highway patrol, or employee of the department of
 19 transportation may weigh any vehicle regulated by 61-10-101
 20 through 61-10-110, except recreational vehicles as defined
 21 in 61-1-132, either by means of portable or stationary
 22 scales, and may require that the vehicle be driven to the
 23 nearest scales if those scales are within 2 miles. That
 24 person may then require the driver to unload immediately at
 25 a designated facility that portion of the load necessary to

1 decrease the weight of the vehicle to conform to the maximum
 2 allowable weights specified in 61-10-101 through 61-10-110.
 3 If the excess weight does not exceed 10,000 pounds, an
 4 excess weight permit may be issued in accordance with
 5 61-10-121. The permit authorizes the driver of the excess
 6 weight load to proceed to a designated facility where the
 7 load can be safely reduced to legal limits.

8 (2) Commodities and material unloaded as required by
 9 this section shall must be cared for and--removed--from--the
 10 highway-right-of-way by the owner or operator of the vehicle
 11 at the risk of that owner or operator. The-removal-shall-be
 12 within-a-reasonable-time-designated-by-the--person--who--has
 13 compelled-the-unloading; Commodities or material unloaded as
 14 required by this section may not be left on the highway
 15 right-of-way.

16 (3) The department of transportation may establish,
 17 maintain, and operate weigh stations, either intermittently
 18 or on a continuous schedule, and may require vehicles,
 19 except passenger cars and pickup trucks under 8,000 pounds
 20 G.V.W. and recreational vehicles as defined in 61-1-132
 21 (that are not new or used recreational vehicles traveling
 22 into or through Montana for delivery to a distributor or a
 23 dealer), to enter for the purpose of weighing and inspection
 24 for compliance with all laws pertaining to their operation
 25 and safety requirements.

(4) The department of transportation shall work with the highway patrol in the enforcement of safety standards adopted pursuant to 44-1-1005. For the purposes of the joint enforcement, the highway patrol is designated as the lead agency. The highway patrol and the department of transportation shall cooperate to assure minimum duplication and maximum coordination of enforcement effort.

(5) In order to enforce compliance with safety standards adopted pursuant to 44-1-1005, the department of transportation shall designate employees as peace officers. The designated employees must be employed in the administration of the gross vehicle weight functions of the department of transportation. Each employee designated as a peace officer may:

(a) issue citations and make arrests in connection with violations of safety standards adopted under 44-1-1005;

(b) issue summons;

(c) accept bail;

(d) serve warrants for arrest;

(e) make reasonable inspections of cargo carried by commercial motor vehicles;

(f) make reasonable safety inspections of commercial motor vehicles utilized by motor carriers; and

(g) require production of documents relating to the cargo, driver, routing, or ownership of such commercial

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(6) In addition to other enforcement duties assigned under this section, an employee of the department of transportation has:

(a) the same authority to enforce provisions of the motor carriers law as that granted the public service commission under 69-12-203; and

(b) the duty to secure or make copies, or both, of all bills of lading or other evidence of delivery for shipment of agricultural seeds as defined in 80-5-120 that have been sold or are intended for sale in Montana and to forward the copies to the department of agriculture within 24 hours of the date the bill of lading was obtained."

Section 2. Section 61-10-144, MCA, is amended to read:

"61-10-144. Violation of standards -- tolerance. (1) It is a misdemeanor for a person, firm, or corporation to violate any provision of 61-10-101 through 61-10-110.

(2) However, the operator of a vehicle or combination of vehicles may move over the highways to the first open state scale, permanent or portable, without incurring the excess weight penalties set forth in 61-10-145 if the total gross weight of the vehicle or combination of vehicles does not exceed allowable total gross weight limitations by more than 5%, or 7% if the vehicle or combination of vehicles is transporting livestock, and if the weight carried by any

1 axle or combination of axles does not exceed the allowable
 2 axle weight limitations by more than 5%, or 7% if the
 3 vehicle or combination of vehicles is transporting
 4 livestock. In the event the vehicle or combination of
 5 vehicles is not in excess of the allowable total gross or
 6 axle weight limitations by more than 5%, or 7% if the
 7 vehicle or combination of vehicles is transporting
 8 livestock, the department may issue a single trip permit for
 9 the fee of \$10 for allowing ~~said~~ the vehicle or combination
 10 of vehicles to move over the highways to the first facility
 11 where its load can be safely adjusted or to its destination.
 12 Violations of total gross or axle weight limitations in
 13 excess of 5%, or 7% if the vehicle or combination of
 14 vehicles is transporting livestock, are subject to the fines
 15 provided in 61-10-145, and all loads in excess of 5% of the
 16 total gross or axle weight limitations, or 7% if the vehicle
 17 or combination of vehicles is transporting livestock;

18 (a) ~~must~~ may be required to be adjusted or reduced to
 19 conform to the size and weight limitations before the
 20 vehicle or combination of vehicles is moved from the point
 21 of weighing; or

22 (b) may be issued a permit as authorized by 61-10-141.

23 (3) An operator of a vehicle or combination of vehicles
 24 subject to the provisions of 61-10-107(4) may move over a
 25 highway, except any highway which that is part of the

1 federal-aid interstate system, within a 50-mile radius of
 2 the harvested field to the point of first unloading without
 3 incurring the excess weight penalties set forth in 61-10-145
 4 if the total gross weight of the vehicle or combination of
 5 vehicles does not exceed allowable weight limitations by
 6 more than 20% per axle, but the maximum load per inch of
 7 tire width may not exceed 670 pounds. The vehicle or
 8 combination of vehicles may not exceed 40 miles per hour. No
 9 A single trip permit as required in subsection (2) ~~shall--be~~
 10 is not applicable to such the vehicle or combination of
 11 vehicles. When such a vehicle or combination of vehicles
 12 violates any of the provisions of this subsection, the fine
 13 or penalty imposed ~~shall-apply~~ applies to that portion of
 14 the load above the legal limit."

15 **Section 3.** Section 61-10-145, MCA, is amended to read:

16 "61-10-145. Penalties. (1) A person, firm, or
 17 corporation convicted of violating 61-10-101 through
 18 61-10-110 shall be punished by a fine of not less than \$30
 19 or more than \$100. A person, firm, or corporation convicted
 20 of operating a motor vehicle upon the public highways of
 21 this state with weight upon a wheel, axle, or group of axles
 22 greater than the maximum permitted by 61-10-101 through
 23 61-10-110 shall be fined, in addition to other penalties
 24 provided by law for the offense, the following amounts:

25 (a) \$30 for any excess weight up to and including 2,000

1 pounds;

2 (b) \$50 \$75 for any excess weight more than 2,000

3 pounds and less than 4,001 pounds;

4 (c) \$70 \$125 for any excess weight more than 4,000

5 pounds and less than 6,001 pounds;

6 (d) \$100 \$175 for any excess weight more than 6,000

7 pounds and less than 8,001 pounds;

8 (e) \$160 \$250 for any excess weight more than 8,000

9 pounds and less than 10,001 pounds;

10 (f) \$220 \$275 for any excess weight more than 10,000

11 pounds and less than 12,001 pounds;

12 (g) \$300 for any excess weight more than 12,000 pounds

13 and less than 14,001 pounds;

14 (h) \$400 for any excess weight more than 14,000 pounds

15 and less than 16,001 pounds;

16 (i) \$500 for any excess weight more than 16,000 pounds

17 and less than 18,001 pounds;

18 (j) \$600 for any excess weight more than 18,000 pounds

19 and less than 20,001 pounds;

20 (k) \$1,000 for any excess weight more than 20,000

21 pounds and less than 25,001 pounds;

22 (l) \$2,000 for any excess weight more than 25,000

23 pounds.

24 (2) If a motor vehicle is equipped with a retractable

25 axle that is not fully extended and carrying its

1 proportionate share of the load while the motor vehicle is

2 operated upon the highways of this state, the weight

3 penalties in subsection (1) apply to all weight over the

4 legal maximum allowed by the fixed axles regardless of

5 whether the axle is extended at the time of weighing. In

6 addition to the penalties in subsection (1), the owner or

7 operator shall be fined \$100 for failure to have the

8 retractable axle fully extended while the gross weight of

9 the vehicle exceeds the legal maximum allowed by the fixed

10 axles.

11 (3) A complaint filed and a summons or notice to appear

12 issued pertaining to a violation of the gross weight

13 regulations in 61-10-101 through 61-10-110 must specify the

14 amount of the overweight excess weight that the defendant is

15 alleged to have had upon the vehicle or combination of

16 vehicles.

17 (4) The penalties in subsection (1) do not apply to an

18 operator who fails to secure a special permit as provided

19 for in 61-10-107(3) if the vehicle or combination of

20 vehicles is not overweight with such--a that permit. The

21 failure to obtain the special permit is punishable under

22 61-10-146 and under this section as provided in 61-10-146,

23 and the operator is required to purchase the permit. If the

24 vehicle or combination of vehicles exceeds the weight

25 limitations allowed by special permit and the operator fails

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1 to obtain a permit under 61-10-107(3), the penalties of
2 subsection (1) apply to the weight exceeding 80,000 pounds.

3 (5) It is a misdemeanor, punishable as provided in
4 46-18-212, for a person, firm, or corporation to violate any
5 of the provisions of 61-10-123, 61-10-141, or 61-10-142."

-End-

SENATE BILL NO. 185

INTRODUCED BY SWYSGOOD

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE DEPARTMENT OF TRANSPORTATION TO ISSUE TEMPORARY PERMITS TO ALLOW EXCESS WEIGHT LOADS TO BE REMOVED TO A DESIGNATED FACILITY BEFORE AN EXCESS WEIGHT LOAD IS REDUCED; INCREASING CERTAIN FINES FOR VIOLATION OF WEIGHT LIMITS; AND AMENDING SECTIONS 61-10-141, 61-10-144, AND 61-10-145, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-10-141, MCA, is amended to read:

"61-10-141. Officers authorized to weigh vehicles and require removal of excessive loads -- enforcement of motor carrier safety standards -- duty to obtain bills of lading for agricultural seeds. (1) A peace officer, officer of the highway patrol, or employee of the department of transportation may weigh any vehicle regulated by 61-10-101 through 61-10-110, except recreational vehicles as defined in 61-1-132, either by means of portable or stationary scales, and may require that the vehicle be driven to the nearest scales if those scales are within 2 miles. That person may then require the driver to unload immediately at a designated facility that portion of the load necessary to

decrease the weight of the vehicle to conform to the maximum allowable weights specified in 61-10-101 through 61-10-110. If the excess weight does not exceed 10,000 pounds, an excess weight permit may be issued in accordance with 61-10-121. The permit authorizes the driver of the excess weight load to proceed to a designated facility where the load can be safely reduced to legal limits.

(2) Commodities and material unloaded as required by this section ~~shall~~ must be cared for and ~~removed from the highway right-of-way~~ by the owner or operator of the vehicle at the risk of that owner or operator. ~~The removal shall be within a reasonable time designated by the person who has compelled the unloading.~~ Commodities or material unloaded as required by this section may not be left on the highway right-of-way.

(3) The department of transportation may establish, maintain, and operate weigh stations, either intermittently or on a continuous schedule, and may require vehicles, except passenger cars and pickup trucks under 8,000 pounds G.V.W. and recreational vehicles as defined in 61-1-132 (that are not new or used recreational vehicles traveling into or through Montana for delivery to a distributor or a dealer), to enter for the purpose of weighing and inspection for compliance with all laws pertaining to their operation and safety requirements.

(4) The department of transportation shall work with the highway patrol in the enforcement of safety standards adopted pursuant to 44-1-1005. For the purposes of the joint enforcement, the highway patrol is designated as the lead agency. The highway patrol and the department of transportation shall cooperate to assure minimum duplication and maximum coordination of enforcement effort.

(5) In order to enforce compliance with safety standards adopted pursuant to 44-1-1005, the department of transportation shall designate employees as peace officers. The designated employees must be employed in the administration of the gross vehicle weight functions of the department of transportation. Each employee designated as a peace officer may:

(a) issue citations and make arrests in connection with violations of safety standards adopted under 44-1-1005;

(b) issue summons;

(c) accept bail;

(d) serve warrants for arrest;

(e) make reasonable inspections of cargo carried by commercial motor vehicles;

(f) make reasonable safety inspections of commercial motor vehicles utilized by motor carriers; and

(g) require production of documents relating to the cargo, driver, routing, or ownership of such commercial

motor vehicles.

(6) In addition to other enforcement duties assigned under this section, an employee of the department of transportation has:

(a) the same authority to enforce provisions of the motor carriers law as that granted the public service commission under 69-12-203; and

(b) the duty to secure or make copies, or both, of all bills of lading or other evidence of delivery for shipment of agricultural seeds as defined in 80-5-120 that have been sold or are intended for sale in Montana and to forward the copies to the department of agriculture within 24 hours of the date the bill of lading was obtained."

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 8 livestock, the department may issue a single trip permit for
 9 the fee of \$10 for allowing said the vehicle or combination
 10 of vehicles to move over the highways to the first facility
 11 where its load can be safely adjusted or to its destination.
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4 legal maximum allowed by the fixed axles regardless of

5 whether the axle is extended at the time of weighing. In

6 addition to the penalties in subsection (1), the owner or

7 operator shall be fined \$100 for failure to have the

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22 61-10-146 and under this section as provided in 61-10-146,

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-End-