

1 State of Arkansas  
2 80th General Assembly  
3 Regular Session, 1995  
4 By: Senator Fitch

# A Bill

SENATE BILL 605

## For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE §§ 27-35-103(a),  
9 27-35-107(a), AND 27-35-109 FOR THE PURPOSES OF CLARIFYING  
10 THOSE LAWS; TO AMEND ARKANSAS CODE § 27-35-202 TO PROVIDE  
11 MORE APPROPRIATE PENALTIES TO BE PAID BY THOSE PERSONS  
12 VIOLATING THE VEHICLE WEIGHT LIMITATION LAWS; TO AMEND  
13 ARKANSAS CODE § 27-35-203 TO CORRECT MISPRISIONS AND TO  
14 PROHIBIT THE OPERATION OF VEHICLES IN THIS STATE EXCEEDING  
15 CERTAIN AXLE LOAD LIMITATIONS ON THE FEDERAL INTERSTATE  
16 HIGHWAYS; TO DECLARE AN EMERGENCY; AND FOR OTHER  
17 PURPOSES."

## Subtitle

19 "AN ACT TO STRENGTHEN THE PROVISIONS OF  
20 LAW REGARDING THE ENFORCEMENT OF VEHICLE  
21 SIZE AND LOAD LIMITATIONS."  
22

23  
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25  
26 SECTION 1. Subsection (a) of Arkansas Code § 27-35-103 is amended to  
27 read as follows:

28 "(a) The maximum size and weight of vehicles specified in this chapter  
29 shall be lawful throughout this State, and local authorities shall have no  
30 power or authority to alter these limitations, except as provided in this  
31 chapter."  
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33 SECTION 2. Subsection (a) of Arkansas Code § 27-35-107 is amended to  
34 read as follows:

35 "(a)(1) Upon registering any vehicle under the laws of this State,

1 which vehicle is designed and used primarily for the transportation of  
2 property or for the transportation of ten (10) or more persons, the  
3 commissioner may require such information and may make such investigation or  
4 test as necessary to enable him to determine whether the vehicle may safely  
5 be operated upon the highways in compliance with all the provisions of this  
6 chapter.

7           (2) He shall register every such vehicle for a permissible gross  
8 weight not exceeding the limitation set forth in this chapter.

9           (3) Every such vehicle shall be equipped with brakes as required  
10 in §§ 27-37-501 and 27-37-502."

11

12           SECTION 3. Arkansas Code § 27-35-109 is amended to read as follows:

13           "27-35-109. Liability for damage to highway or structure.

14           (a) Any person driving any vehicle, object, or contrivance upon any  
15 highway or highway structure shall be liable for all damage which the highway  
16 or structure may sustain as a result of any careless, negligent, or illegal  
17 operation, driving, or moving of that vehicle, object, or contrivance, or as  
18 a result of operation, driving, or moving any vehicle, object, or contrivance  
19 of excessive width or weighing in excess of the maximum weight in this  
20 chapter, even though authorized by a special permit issued as provided in  
21 § 27-35-210.

22           (b) Any person driving any vehicle, object, or contrivance upon any  
23 highway shall be liable for all damages to structures spanning the highway,  
24 or a part of the highway, by reason of load heights in excess of that which  
25 the structure will permit, when the clearance height of the structure is  
26 posted, and in any event where the height of the vehicle and load is in  
27 excess of thirteen feet, six inches (13\_ 6").

28           (c) Whenever the driver is not the owner of the vehicle, object, or  
29 contrivance, but is operating, driving, or moving it with the express or  
30 implied permission of the owner, then the owner and driver shall be jointly  
31 and severally liable for any damage.

32           (d) Damage may be recovered in a civil action brought by the  
33 authorities in control of the highway or highway structure."

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35           SECTION 4. Arkansas Code § 27-35-202 is amended to read as follows:

1 "27-35-202. Penalties for overweight vehicles.

2 (a)(1) Any operator found violating the provisions of this subchapter  
3 or any owner, principal, employer, lessor, lessee, agent, or officer of any  
4 firm or corporation who permits an operator to violate these provisions shall  
5 be guilty of a misdemeanor.

6 (2)(A) Upon first conviction, an offender shall be punished by a  
7 fine of not more than one hundred dollars (\$100);

8 (B) For a second conviction within one (1) year, an  
9 offender shall be punished by a fine of not more than two hundred dollars  
10 (\$200); and

11 (C) For a third conviction and each successive conviction  
12 within one (1) year, an offender shall be punished by a fine of not more than  
13 five hundred dollars (\$500).

14 (b)(1) If the weight of the vehicle and load exceeds the maximum as  
15 prescribed by this subchapter or the gross weight as provided by a special  
16 permit, the operator or any owner, principal, employer, lessor, lessee,  
17 agent, or officer of any firm or corporation who permits such operator to  
18 exceed the weight load provided in this subchapter or as provided by a  
19 special permit shall, in addition, pay a penalty to be computed as follows:

20 (A) Overweight one thousand pounds (1,000 lbs) or less, a  
21 minimum penalty of ten dollars (\$10.00) or a maximum penalty of not more than  
22 two cents (2¢) per pound of excess weight;

23 (B) Overweight more than one thousand pounds (1,000 lbs)  
24 and not more than two thousand pounds (2,000 lbs), a minimum penalty of one  
25 cent (1¢) per pound of excess weight, or a maximum penalty of three cents  
26 (3¢) per pound of excess weight;

27 (C) Overweight more than two thousand pounds (2,000 lbs)  
28 and not more than three thousand pounds (3,000 lbs), a minimum penalty of two  
29 cents (2¢) per pound of excess weight, or a maximum penalty of four cents  
30 (4¢) per pound of excess weight;

31 (D) Overweight more than three thousand pounds (3,000  
32 lbs), and not more than four thousand pounds (4,000 lbs), a minimum penalty  
33 of three cents (3¢) per pound of excess weight, or a maximum penalty of five  
34 cents (5¢) per pound for each pound of excess weight;

35 (E) Overweight more than four thousand pounds (4,000 lbs)

1 and not more than ten thousand pounds (10,000 lbs), a minimum penalty of four  
2 cents (4¢) per pound of excess weight, or a maximum penalty of six cents (6¢)  
3 per pound for each pound of excess weight;

4 (F) Overweight more than ten thousand pounds (10,000 lbs),  
5 a minimum penalty of eight cents (8¢) per pound of excess weight, or a  
6 maximum penalty of ten cents (10¢) per pound of excess weight for the first  
7 offense during a calendar year; a minimum penalty of thirteen cents (13¢) per  
8 pound of excess weight, or a maximum penalty of fifteen cents (15¢) per pound  
9 of excess weight for the second offense during a calendar year; and a minimum  
10 penalty of eighteen cents (18¢) per pound of excess weight, or a maximum  
11 penalty of twenty cents (20¢) per pound of excess weight for the third and  
12 subsequent offense or offenses during a calendar year.

13 (2) Where the operator of an overloaded truck is found to have  
14 willfully avoided being weighed at a weigh station in this State, the penalty  
15 shall be computed by doubling the otherwise appropriate penalty set out in  
16 subdivision (b)(1) of this section.

17 (c)(1) All fines and penalties shall be collected as provided by law.

18 (2) All penalties collected shall immediately be transmitted by  
19 the authority collecting them to the Treasurer of State.

20 (3) It shall be mandatory and not within the discretion of the  
21 court to assess the penalty provided for.

22 (d) When any vehicle is found to exceed any weight limitation imposed  
23 by this subchapter or the gross weight provided by special permit, the  
24 vehicle shall be stopped at a suitable place and remain standing until the  
25 overweight shall have been removed or an additional permit obtained as  
26 provided in this subchapter."

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28 SECTION 5. Subsection (c) of Arkansas Code § 27-35-203 is amended to  
29 read as follows:

30 "(c) MAXIMUM WEIGHT ON FRONT/STEERING AXLE.

31 (1) The maximum weight imposed on the highway by the  
32 front/steering axle(s) of a vehicle shall not exceed twelve thousand pounds  
33 (12,000 lbs). A front/steering axle, for the purposes of this subsection,  
34 shall be defined as an axle attached to the front of the vehicle and which is  
35 utilized to steer the vehicle on a given path or direction.

1           (2)(A) The Director of Highways and Transportation may issue  
2 special permits for a maximum single front/steering axle weight not to exceed  
3 eighteen thousand pounds (18,000 lbs) and a maximum tandem front/steering  
4 axle weight of not to exceed thirty-two thousand pounds (32,000 lbs) for  
5 vehicles of special design, equipment, or construction, engaged in occasional  
6 or specialized heavy hauling such as, but not limited to, hauling of heavy  
7 machinery, commodities which require specialized equipment, oil or gas field  
8 equipment, or similar equipment, for a period of not more than one (1) year,  
9 upon application containing satisfactory proof that the vehicles are used  
10 solely for the above purposes.

11           (B) Permits may contain such limitations as the director  
12 may deem necessary for safety, including, but not limited to, speed of  
13 operation.

14           (3) The permits authorized under this subsection shall apply  
15 only to the front/steering axle and shall not affect the requirement of  
16 § 27-35-210 that special permits be obtained for vehicles exceeding other  
17 maximum size or weight limitations imposed in this subchapter."  
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19           SECTION 6. Subsection (i) of Arkansas Code § 27-35-203 is amended to  
20 read as follows:

21           "(i)(1) Vehicles, or combinations of vehicles, with five (5) axles  
22 hauling sand, gravel, rock, or crushed stone and vehicles or combinations of  
23 vehicles with five (5) axles hauling unfinished and unprocessed farm  
24 products, forest products, or other products of the soil shall be exempt from  
25 the federal bridge formula found in subsection (e) of this section on  
26 noninterstate highways in this State.

27           (2) Vehicles, or combinations of vehicles, with five (5) axles  
28 hauling sand, gravel, rock, or crushed stone shall comply with a tandem axle  
29 limit of thirty-four thousand pounds (34,000 lbs) and a single axle limit of  
30 twenty thousand pounds (20,000 lbs). Vehicles, or combinations of vehicles,  
31 with five (5) axles hauling unfinished and unprocessed farm products, forest  
32 products, or other products of the soil shall comply with a tandem axle limit  
33 of thirty-six thousand five hundred pounds (36,500 lbs) and a single axle  
34 limit of twenty thousand pounds (20,000 lbs), provided, no tandem axle shall  
35 exceed thirty-four thousand pounds (34,000 lbs) while operated on the federal

1 interstate highways of this State.

2           (3) No vehicle, or combination of vehicles, meeting all of the  
3 requirements of this subsection, shall be allowed any variance on overall  
4 gross weight or axle weight while operating on the federal interstate  
5 highways."

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7           SECTION 7. All provisions of this Act of a general and permanent  
8 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
9 Code Revision Commission shall incorporate the same in the Code.

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11           SECTION 8. If any provision of this Act or the application thereof to  
12 any person or circumstance is held invalid, such invalidity shall not affect  
13 other provisions or applications of the Act which can be given effect without  
14 the invalid provision or application, and to this end the provisions of this  
15 Act are declared to be severable.

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17           SECTION 9. All laws and parts of laws in conflict with this Act are  
18 hereby repealed.

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20           SECTION 10. Emergency. It is hereby found and determined by the  
21 Eightieth General Assembly of the State of Arkansas that the current  
22 provisions of Arkansas law providing for penalties for overweight violations  
23 are wholly inadequate as a deterrent to unlawful movements of overweight  
24 vehicles and that only by the immediate implementation of new penalties by  
25 this act may this problem be solved. Therefore, an emergency is hereby  
26 declared to exist, and this act being necessary for the immediate  
27 preservation of the public peace, health, and safety, shall be in full force  
28 and effect from and after its passage and approval.

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