

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997
4
5 By: Representative Kidd

A Bill

HOUSE BILL 1699

For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE §23-13-217 TO CLARIFY SUCH
10 SECTION OF THE CODE REGARDING THE ENFORCEMENT OF SAFETY OF
11 OPERATION AND EQUIPMENT REGULATIONS OF THE ARKANSAS STATE
12 HIGHWAY COMMISSION FOR INTRASTATE AND INTERSTATE
13 OPERATIONS OF MOTOR VEHICLES AND THE OPERATORS OF SUCH
14 VEHICLES; TO AMEND ARKANSAS CODE §27-35-210 TO ALLOW THE
15 STATE HIGHWAY COMMISSION TO ISSUE PERMITS FOR SPECIAL
16 CARGOES INVOLVING TWO OR MORE CONSECUTIVE MOVEMENTS WITHIN
17 SIX CONSECUTIVE DAYS IF LIMITED TO TWO CONTIGUOUS
18 COUNTIES; AND FOR OTHER PURPOSES."

Subtitle

21 "TO AMEND ARKANSAS CODE §§23-13-217 AND
22 27-35-210 REGARDING THE ENFORCEMENT OF
23 SAFETY OF OPERATION AND EQUIPMENT
24 REGULATIONS FOR MOTOR CARRIERS AND THE
25 ISSUANCE OF PERMITS FOR SPECIAL
26 CARGOES."

28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

30 SECTION 1. Arkansas Code Annotated § 23-13-217 is hereby amended to
31 read as follows:

32 "23-13-217. Enforcement Officers.

33 (a) The ~~Arkansas Transportation Commission~~ State Highway Commission
34 shall name and designate enforcement officers charged with the duty of
35 policing and enforcing the provisions of this subchapter.

36 (b) The enforcement officers shall have authority to enforce § 27-50-

1 308 and the Omnibus DWI Act of 1983, § 5-65-101 et seq., and shall have
2 authority to make arrests for violation of any of the provisions of this
3 subchapter, orders, rules, and regulations of the commission and to serve any
4 notice, order, or subpoena issued by any court, the commission, its secretary,
5 or any employee authorized to issue same, and to this end shall have full
6 authority, with jurisdiction within the entire State of Arkansas.

7 (c)(1) For the purpose of determining whether any motor vehicle or the
8 operator of that vehicle is in compliance with the rules and regulations of
9 the Commission with respect to safety of operations and equipment, provided
10 such operator is engaged in intrastate or interstate movements on the
11 highways, roads and streets of this state and such operator or vehicle is
12 subject to such rules and regulations, the enforcement officers shall be
13 authorized to require the operator thereof to stop, exhibit, and submit for
14 inspection all documents required to be carried in that vehicle, or by that
15 operator, pursuant to such regulations, regarding the operator or operators of
16 that vehicle, including, but not limited to, the operator or driver's duty
17 status or hours of service records, as well as all records required to be
18 carried by such regulations concerning that vehicle. Additionally, such
19 officers shall be authorized to require the operator to submit the vehicle for
20 a safety inspection pursuant to such rules and regulations, if deemed
21 necessary by such officers.

22 (2) In the event that the operator does not produce sufficient or
23 adequate documents regarding his or her operation of the vehicle in
24 conformance with such rules and regulations, or is determined by such officers
25 to be out of compliance with such rules and regulations, in addition to any
26 other action that may be taken by such officers pursuant to the provisions of
27 this subchapter, such officers shall be authorized to immediately place that
28 operator out of service in accordance with such rules and regulations.

29 (3) In the event the operator does not produce sufficient or
30 adequate documents regarding the vehicle in conformance with such rules and
31 regulations; the vehicle is determined by such officers to be out of
32 compliance with such rules and regulations; if the operator refuses to submit
33 the vehicle to a safety inspection in conformance with such rules and
34 regulations; or if the officer or officers determine the vehicle is unsafe for
35 further operation following a safety inspection in accordance with such rules
36 and regulations, in addition to any other action that may be taken by such

1 officers pursuant to this subchapter, the officers shall be authorized to
 2 immediately place that vehicle out of service in conformance with such rules
 3 and regulations.

4 ~~——(c)~~ (d) The enforcement officers, upon reasonable belief that any motor
 5 vehicle is being operated in violation of any other provisions of this
 6 subchapter, shall be authorized to require the driver thereof to stop and
 7 exhibit the registration certificate issued for such vehicle; to submit to
 8 such enforcement officer for inspection any and all bills of lading, waybills,
 9 invoices, or other evidences of the character of the lading being transported
 10 in such vehicle; and to permit such officer to inspect the contents of the
 11 vehicle for the purpose of comparing the contents with bills of lading,
 12 waybills, invoices, or other evidence of ownership or of transportation for
 13 compensation.

14 ~~——(d)~~ (e) It shall be the further duty of such enforcement officers to
 15 impound any books, papers, bills of lading, waybills, and invoices which would
 16 indicate the transportation service being performed is in violation of this
 17 subchapter, subject to the further orders of the court having jurisdiction
 18 over the alleged violation."
 19

20 SECTION 2. Arkansas Code Annotated § 27-35-210 is hereby amended to
 21 read as follows:

22 "27-35-210. Permits for special cargoes.

23 (a)(1)(A) The State Highway Commission, with respect to highways under
 24 its jurisdiction, and local authorities, with respect to highways under their
 25 jurisdiction, may, in their discretion and as provided in this section, upon
 26 receipt of application made in person or by telephone, telegraph, or in
 27 writing and upon good cause being shown therefor, issue a special permit in
 28 writing to applicants desiring to transport cargoes of such nature that the
 29 cargo cannot readily be taken apart, separated, dismembered, or otherwise
 30 reduced in size or weight.

31 (B)(i) The permit shall authorize the applicant to operate
 32 or move a vehicle, or combination of vehicles, of a size or weight of vehicle
 33 or load exceeding the maximum specified in this subchapter, or otherwise not
 34 in conformity with the provisions of this subchapter, upon any highway under
 35 the jurisdiction of the agency granting such permit and for the maintenance of
 36 which the agency is responsible.

1 (ii) No vehicle, or combination of vehicles, with a
 2 multi-unit or otherwise reducible overload may be issued a special permit as
 3 provided in this section.

4 (iii) The State Highway Commission may delegate to
 5 other state agencies the authority given in this section to issue special
 6 permits.

7 (2)(A) It shall not be necessary to obtain a permit nor shall it
 8 be unlawful to move any vehicle or machinery in excess of the maximum width
 9 prescribed in § 27-35-206 used for normal farm purposes only, such as, but not
 10 limited to, hay harvesting equipment, plows, tractors, bulldozers, combines,
 11 etc., where:

12 (i) It is hauled on a vehicle licensed as a natural
 13 resources vehicle; or

14 (ii) The vehicle or machinery is being transported by
 15 a farm machinery equipment dealer or repairman in making a delivery of new or
 16 used equipment or machinery to the farm of the purchaser; or

17 (iii) The vehicle or machinery is being used in making
 18 a pick up and delivery of such farm machinery or equipment from the farm to a
 19 shop of a farm equipment dealer or repairman for repairs and return to the
 20 farm; and

21 (iv) The movement is performed during daylight hours
 22 within a radius of fifty (50) miles of the point of origin thereof and no part
 23 of the movement is upon any highway designated and known as a part of the
 24 national system of interstate and defense highways or any fully controlled
 25 access highway facility.

26 (B) It shall not be unlawful nor shall it be necessary to
 27 obtain a special permit to transport round bales of hay upon any public
 28 highway or road that is not a fully controlled highway or road if the load
 29 does not exceed twelve feet (12') in width.

30 (b)(1)(A) No application shall include nor shall any permit be issued
 31 for more than a single continuous movement or operation by one (1) vehicle.

32 (B) An application may include a request for, and a permit
 33 may be issued for, two (2) or more consecutive movements or operations by a
 34 vehicle, all of which shall be executed or performed within six (6)
 35 consecutive days and which must be limited to ~~one (1) county~~ two (2)
 36 contiguous counties within the state, which counties must be specified at the

1 time of application.

2 (2)(A)(i) Upon application and the payment of an annual fee of one
 3 hundred dollars (\$100), the Director of State Highways and Transportation
 4 shall issue a special permit for the movement of a crane exceeding the length
 5 as provided in § 27-35-208, moved on pneumatic tires within a radius of
 6 thirty-five (35) miles of a point of origin of such movement, for a period of
 7 one (1) year from the date of the issuance of the permit.

8 (ii) The Director may issue a special permit for a
 9 maximum load overhang beyond the front of a vehicle, which load exceeds the
 10 maximum provided in § 27-35-106, but not exceeding five feet (5), for a
 11 vehicle equipped with pneumatic tires and utilized exclusively for the
 12 movements of cranes for a period of not more than one (1) year, upon
 13 application containing satisfactory proof that the vehicle is utilized solely
 14 for such movements.

15 (B)(i) Upon application and the payment of an annual fee,
 16 the Director of State Highways and Transportation shall issue a special permit
 17 for the movement of a vehicle of special design utilized exclusively for the
 18 drilling of water wells exceeding the length as provided in § 27-35-208, moved
 19 on pneumatic tires, for a period of one (1) year from the date of issuance of
 20 the permit.

21 (ii) For annual movements within a radius of thirty-
 22 five (35) miles of a point of origin of such movements, the annual fee shall
 23 be one hundred dollars (\$100).

24 (iii) For annual movements exceeding such thirty-five-
 25 mile radius, the annual fee shall be three hundred dollars (\$300).

26 (C) The permits authorized by this subsection may contain
 27 limitations on speed of operation and routes of operation as the director may
 28 deem necessary for safety to the traveling public.

29 (3) The permits authorized by this subsection for the overlength
 30 vehicle or vehicles shall not affect the other requirements of this section
 31 that special permits be obtained for vehicles exceeding other maximum size and
 32 weight limitations imposed by law.

33 (c) The application for any permit shall specifically describe:

- 34 (1) The vehicle and load to be operated or moved;
- 35 (2) The origination and destination of the vehicle and load;
- 36 (3) The approximate dates within which the operation or movement

1 is to be completed; and

2 (4) The particular highways for which a permit to operate is
3 requested.

4 (d) Any agency authorized in this section to issue such special permits
5 is authorized:

6 (1) To issue or withhold such permit at its sole discretion, but
7 its action in withholding a permit must be based upon the condition and state
8 of repair of the highway involved, the ability of the highways to carry the
9 overweight or oversize vehicle, or upon danger to the traveling public from
10 the standpoint of safety;

11 (2) To establish seasonal or other time limitations within which
12 the vehicles described may be operated on the highways indicated;

13 (3) To otherwise limit or prescribe conditions of operation of
14 such vehicles when necessary to assure against damage to the road foundation,
15 surfaces, or structures; and

16 (4) To require such bond or other security as may be deemed
17 necessary by the agency to compensate for any injury to any roadway or road
18 structure arising out of the operation under such permit.

19 (e) A charge of twelve dollars (\$12.00) shall be made for each special
20 permit. In addition, for each ton or major fraction thereof to be hauled in
21 excess of the lawful weight and load for that vehicle, or combination of
22 vehicles, charges shall be made for such as follows:

23	On Each Ton, Per Ton or
24 Mileage to Be Traveled is:	Fraction Thereof
25 Not more than 100 miles	\$ 8.00
26 101 miles to 150 miles, inclusive	10.00
27 151 miles to 200 miles, inclusive	12.00
28 201 miles to 250 miles, inclusive	14.00
29 Over 251 miles	16.00

30 (f)(1) Each permit shall be carried in the vehicle to which it refers
31 and shall be open to inspection by any police officer or authorized agent of
32 any authority granting the permit.

33 (2) No person shall violate any of the terms or conditions of the
34 special permit.

35 (g) It shall be the duty of the respective agencies authorized in this
36 section:

1 (1) To issue the permits provided for in this section;

2 (2) To collect the fees therefor at the time of the issuance of
3 the permits, except that any applicant may furnish a corporate surety bond
4 guaranteeing the payment of fees for such permits as may be issued during any
5 period of time, in accordance with the rules and regulations promulgated by
6 the issuing agency; and

7 (3) To transmit the fees to the Treasurer of State to be credited
8 to the State Highway and Transportation Department Fund.

9 (h) No fee shall be charged to any federal, state, county, or municipal
10 governmental agency for any permit issued under the provisions of this section
11 when the vehicle involved is public property and the proposed movement is on
12 official business.

13 (i)(1) The State Highway Commission is hereby authorized to issue
14 permits for the movement of any overweight mobile construction vehicle or
15 equipment upon highways under the commission's jurisdiction, provided that
16 such vehicle or equipment is equipped with pneumatic tires and has been
17 reduced in size and weight until further reduction is impractical.

18 (2) A charge of twelve dollars (\$12.00) shall be made for each
19 such special permit. In addition, for each ton or major fraction thereof to be
20 hauled in excess of the lawful weight and load for that vehicle or equipment,
21 charges shall be made for such as follows:

22				On Any
23				
24	Additional			
25		On First 5	On Next 5	Tonnage,
26		Tons, Per Ton	Tons, Per Ton	Per Ton or
27		or Fraction	or Fraction	Fraction
28		Thereof	Thereof	Thereof
29	Mileage to Be Traveled Is:			
30	Not more than 100 miles	\$1.25	\$2.50	\$3.75
31	101 miles to 150 miles, inclusive	2.00	3.50	5.00
32	151 miles to 200 miles, inclusive	2.50	4.50	6.25
33	201 miles to 250 miles, inclusive	3.25	5.50	7.50
34	Over 251 miles	3.75	6.25	8.75

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36 SECTION 3. All provisions of this act of a general and permanent nature

1 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
2 Revision Commission shall incorporate the same in the Code.

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4 SECTION 4. If any provision of this act or the application thereof to
5 any person or circumstance is held invalid, such invalidity shall not affect
6 other provisions or applications of the act which can be given effect without
7 the invalid provision or application, and to this end the provisions of this
8 act are declared to be severable.

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10 SECTION 5. All laws and parts of laws in conflict with this act are
11 hereby repealed.

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13 SECTION 6. It is hereby found and determined by the General Assembly
14 that confusion and disagreement have arisen regarding the enforcement of the
15 safety of operation and equipment regulations of the State Highway Commission
16 with regard to the presentation of certain documents by operators of heavy
17 commercial vehicles and the authority of the enforcement officers of the
18 Commission to place out of service drivers who have either refused to present
19 the required documents or have exceeded the maximum amount of driving time,
20 without any type of rest, in violation of such rules and regulations and,
21 consequently, unless placed out of service at that time, creating an extreme
22 safety hazard to the traveling public; and that it is the purpose of this act
23 to clarify the law to insure that this safety hazard is prevented and that
24 until this act becomes effective such confusion may continue to arise.
25 Additionally, it is hereby found and determined by the General Assembly that
26 the owners and operators of certain types of equipment, which equipment is
27 moved on the highways under special permit from the State Highway Commission
28 generally in a limited number of counties for special uses, are frequently
29 unable to cross county lines, even for a short distance, without procuring an
30 additional permit from that Commission; that there are times when this has
31 created a hardship to the welfare of the citizens of the state, particularly
32 after the onset of severe storms or other disaster; that until this act
33 becomes effective such hardship will continue to exist and it is the intent of
34 this act to abate such hardships. It is further found and determined by the
35 General Assembly that only by the immediate effectiveness of this act may such
36 problems be solved or abated. Therefore an emergency is declared to exist

1 and this act being immediately necessary for the preservation of the public
2 peace, health and safety shall become effective on the date of its approval by
3 the Governor. If the bill is neither approved nor vetoed by the Governor, it
4 shall become effective on the expiration of the period of time during which
5 the Governor may veto the bill. If the bill is vetoed by the Governor and the
6 veto is overridden, it shall become effective on the date the last house
7 overrides the veto.

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