

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

House Bill 103

(Delegate Haddaway-Riccio, *et al.*)

Environmental Matters

Judicial Proceedings

Vehicle Laws - Exceptional Hauling Permits - Farm Products

This bill repeals the exceptional hauling permits for milk and forestry products available for certain vehicles in specified counties and replaces them with a statewide exceptional hauling permit for all “farm products” under essentially the same parameters. Thus, the State Highway Administration (SHA) may issue an exceptional hauling permit for a combination of vehicles that (1) carries only farm products that are loaded in fields or other off-highway locations; and (2) meets specified axle configurations. An exceptional hauling permit is subject to confiscation and revocation if the terms of the permit are violated.

The bill takes effect June 1, 2011.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) revenues may increase minimally beginning in FY 2011, which reflects the June 1, 2011 effective date, due to the collection of permit fees authorized by the bill. General fund revenues may decrease minimally beginning in FY 2011 due to the collection of fewer fines for overweight hauling vehicles than would be collected in the absence of the bill. In addition, fewer TTF expenditures may be required for system preservation and maintenance, thereby allowing a greater amount to be used for the expansion or improvement to the extent that the bill results in fewer road maintenance needs under the bill’s enhanced control of vehicle weight limits. Potential negligible increase in TTF and federal fund expenditures for safety inspections and permit enforcement.

Local Effect: Potential decrease in local government road maintenance expenditures beginning in FY 2011 due to fewer road repair needs on State highways.

Small Business Effect: Potential meaningful benefit to small businesses engaged in the hauling of large loads of farm products.

Analysis

Bill Summary: The bill defines “farm product” broadly, with reference to an existing definition in the Agriculture Article, to mean any agricultural, horticultural, vegetable, or fruit product of the soil, including livestock, meats, marine food products, poultry, eggs, dairy products, wool, hides, feathers, nuts, honey, and every product of farm, forest, orchard, garden or water, but does not include canned, frozen, dried, or pickled products.

The bill authorizes issuance of both annual permits for \$250 and 30-day permits for \$30.

Current Law: Vehicles and combinations of vehicles must meet specified weight limits, based on the number of axles in the combination of vehicles and the distance between the axles. The maximum weight load for a vehicle or combination of vehicles is generally 80,000 pounds gross weight, and a vehicle or combination of vehicles must have at least five axles in order to carry 80,000 pounds. An exceptional hauling permit can be obtained for transporting forestry products in two counties in Western Maryland and five counties on the Eastern Shore. An exceptional milk hauling permit can be obtained that is valid in Allegany, Anne Arundel, Baltimore, Carroll, Frederick, Garrett, Howard, Montgomery, Prince George’s, and Washington counties.

Under an exceptional hauling permit, a combination of vehicles must have an axle configuration of six axles or more and a front-to-rear centerline axle spacing of at least 50 feet. A vehicle must also comply with a maximum weight limit of 87,000 pounds gross combination weight. These vehicles must comply with other specified weight limits and meet other specified conditions, including passing a semiannual inspection.

Specified records may be requested by the State Highway Administrator or the administrator’s designee from the holder of a permit, a facility that receives forestry products or raw liquid milk delivered under a permit, or from a producer of raw liquid milk having product transported under a permit. Failure to provide the records may result in suspension of the permit or the prohibition of a vehicle from picking up raw liquid milk from the producer or delivering forestry products or raw liquid milk to a noncompliant facility under a permit.

An operator of such permitted vehicles may not (1) violate specified highway and other restrictions; (2) operate on the Interstate Highway System; or (3) fail to comply with the terms and conditions of the permit. In addition, a holder of a permit is not exempt from any applicable State or federal motor carrier requirements.

The fee for an exceptional hauling permit is \$500 for a new permit as well as its annual renewal, payable to SHA. The fee for reinstatement of a permit after it has been revoked is \$1,000 for the first violation and \$5,000 for a second or subsequent violation within the prior 24 months.

SHA may stop issuing and renewing forestry product exceptional hauling permits if the administrator determines that their use is detrimental to the State highway system. However, any such decision must be promptly reported to the General Assembly.

The authorization to issue exceptional milk hauling permits terminates September 1, 2011.

Background:

Forestry Product – Exceptional Hauling Permits

Chapter 409 of 2006 was enacted in response to concerns that trucks bearing forest products were allowed to carry loads of up to 88,000 pounds in West Virginia and Pennsylvania but a lower weight limit was in place in Maryland. Chapter 409 allowed heavier loads to be hauled in Allegany and Garrett counties, but only with a sixth axle to help redistribute the load and an appropriate permit.

In accordance with the requirements of Chapter 409 of 2006, SHA submitted a report to the General Assembly in December 2008 on the use and enforcement of the recently authorized exceptional hauling permits. SHA, in consultation with the Department of State Police (DSP), discussed the partial success in bringing forestry product hauling companies into compliance with the new permitting system. Compliance is necessary in order to (1) reduce the deterioration of road surfaces from overweight hauling vehicles; (2) increase highway safety; and (3) determine to what extent economic benefits accrued to those compliant companies. However, it was noted that a significant level of illegal hauling continued, largely due to a lack of capital available to finance the vehicle retrofits required for compliance with the permits. Nevertheless, SHA recommended repealing the termination provision to allow the pilot project to continue as a permanent program. Additionally, SHA recommended that discussions begin with federal transportation authorities to give the permits application on the Interstate Highway System, thereby attracting additional compliance. Chapter 263 of 2009 repealed the termination date for Chapter 409 of 2006, thereby making the Forestry product exceptional hauling permit program permanent.

Milk – Exceptional Hauling Permits

Chapter 404 of 2007 required SHA and DSP to report to the General Assembly by December 1, 2009, on the use and enforcement of exceptional milk hauling permits authorized under that Act. According to the report, the exceptional hauling permit represented a compromise solution to persistent noncompliance by milk haulers that exceed highway weight limits. The report noted that milk haulers make a calculated business decision to disregard the weight limit laws by choosing to pay any overweight vehicle penalties rather than alter hauling operations at a greater cost. The threat by one milk transporter to cease service in Maryland resulted in the legislation that became Chapter 404.

SHA testified in favor of establishing the exceptional hauling permit pilot program under Chapter 404 due to its ability to reduce highway infrastructure damage, improve highway safety, increase compliance with State and federal law, and increase the weight limits for milk haulers in a controlled and regulated manner. Despite the many perceived advantages of the permit pilot, SHA noted that, as of the date of publication of the report, not a single hauling permit had been issued. Law enforcement has also continued to find persistent noncompliance with the highway weight limits. Nevertheless, SHA and DSP recommended extending the pilot program or making it permanent, while they continued outreach efforts to the milk hauling industry to promote the mutual benefits of the permit program.

The report notes that milk haulers would enjoy the greater weight limit as well as less stringent and costly oversight by law enforcement. In addition to the reduction in penalties and in time that haulers must spend demonstrating compliance with the weight limits, the haulers could also benefit significantly from a reduction in lost milk product. When an overweight vehicle is found by law enforcement, it must reduce a portion of that load to comply with the limit; however, due to food safety regulations, dumping any milk may require dumping the entire shipment.

Highway System Preservation

One of SHA's primary "managing for results" goals is to maintain a quality highway system. One measure of system preservation is the percentage of roadway mileage that does not have an acceptable ride quality as presented to the Federal Highway Administration. The level of unacceptable ride quality had been decreasing steadily from 16.6% in calendar 2005 to a low of 14% in 2008, before increasing to 15.6% in 2009. The goal was to maintain this level below 16% in 2010, which may be complicated by construction cost inflation and the State's cost containment efforts. Highway

maintenance expenditures have decreased from \$56.37 million in fiscal 2007 to \$43.58 million in 2010.

State Fiscal Effect: The bill maintains current law relating to the issuance of exceptional milk and forestry product hauling permits, and then expands the applicability of such permits to all combinations of vehicles carrying all other farm products. Only one exceptional hauling permit has been issued to date. Thus, even though the bill reduces exceptional hauling permit annual fees from \$500 to \$250, TTF permit fees are likely to increase, if only minimally as significantly more vehicles are eligible to acquire permits. Moreover, the bill establishes 30-day permits with a fee of \$30, which may result in even greater TTF revenues to the extent that there is significant demand for the additional flexibility offered by 30-day permits.

To the extent that hauling firms begin to operate under the permit system, general fund revenues decrease minimally due to the resulting loss in collection of overweight hauling vehicle penalties. For example, according to the December 2008 report on forestry product hauling permits and the December 2009 report on milk hauling permits submitted by SHA, the DSP Commercial Vehicle Enforcement Division continues to cite hauling violators on a regular basis. In a one-day enforcement initiative in September 2008, DSP assessed fines totaling \$6,736 to 16 vehicle owners.

Due to the new Automated Hauling Permit System, SHA can handle enforcement of the permits issued under the bill with existing resources.

Small Business Effect: Small businesses would likely have to add another axle to meet the requirements for an exceptional hauling permit – at an estimated cost of several thousand dollars per vehicle. Even so, the exceptional hauling permit programs were designed to benefit haulers. SHA stated in its report that each permitted truck would incur fewer penalties, benefit from greater loads, experience less time involved with regulators and law enforcement, and bear a lesser burden from lost product associated with enforcement actions. Presumably, the lack of participation and realization of these benefits may be the result of a lack of awareness of the program. SHA advises that it will continue its outreach to haulers, as well as efforts to advocate for a change in federal law to allow exceptional hauling permits to be used on the Interstate Highway System, which SHA believes would significantly enhance the attractiveness of exceptional hauling permits.

Additional Information

Prior Introductions: None.

Cross File: SB 19 (Senator Colburn) - Judicial Proceedings.

Information Source(s): Maryland Department of Transportation, Department of State Police, Department of Legislative Services

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