

**Department of Legislative Services**  
Maryland General Assembly  
2011 Session

**FISCAL AND POLICY NOTE**

Senate Bill 739

(Senator Edwards)

Judicial Proceedings

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**Vehicle Laws - Exceptional Milk Hauling Permit - Repeal of Sunset Provision**

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This bill repeals the September 30, 2011 termination date of Chapter 404 of 2007. Thus, the bill makes permanent the authorization, under Chapter 404, for the State Highway Administration (SHA) to issue an exceptional milk hauling permit valid in certain counties for a combination of vehicles that (1) carries raw liquid milk loaded from bulk liquid milk storage tanks at one or more farm locations; and (2) meets specified axle configurations. An exceptional milk hauling permit is subject to confiscation and revocation if the terms of the permit are violated.

The bill takes effect July 1, 2011.

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**Fiscal Summary**

**State Effect:** Transportation Trust Fund (TTF) revenues may increase negligibly beginning in FY 2012 due to the collection of permit fees authorized by the bill. General fund revenues may decrease negligibly beginning in FY 2012 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 to the extent that the permitting system authorized by the bill prevents additional deterioration of road surfaces.

**Small Business Effect:** Potential meaningful benefit to small business milk hauling companies to the extent these companies utilize the permits under the bill's authorization.

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## Analysis

**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, similar to the one for milk, can be obtained for transporting forestry products in two counties in Western Maryland and five counties on the Eastern Shore.

Under an exceptional milk hauling permit authorized pursuant to Chapter 404, 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 semi-annual inspection.

A permit is valid in Allegany, Anne Arundel, Baltimore, Carroll, Frederick, Garrett, Howard, Montgomery, Prince George's, and Washington counties.

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 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 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 not specifically addressed under Chapter 404.

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 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.

**Background:** Chapter 404 required SHA and the Department of State Police (DSP) to report to the General Assembly by December 1, 2009, on the use and enforcement of exceptional milk hauling permits. 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.

**State Fiscal Effect:** The bill maintains current law relating to the issuance of exceptional milk hauling permits. However, since no permits have been issued to date, if milk hauling firms begin to participate in the permit program, then TTF permit fee revenues increase; the current permit fee is \$500. Moreover, 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 2009 report submitted by SHA, the DSP Commercial Vehicle Enforcement Division continues to cite milk hauling violators on a regular basis.

**Small Business Effect:** Small businesses would likely have to add another axle to meet the requirements for an exceptional milk hauling permit – at an estimated cost of \$5,000 per vehicle. Even so, the milk hauling permit pilot was designed to benefit milk 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. As noted in the report by SHA and DSP, if the termination date of the program were extended, then outreach efforts would continue in order to attract participation in the program.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

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