

2011 SENATE TRANSPORTATION

SB 2244

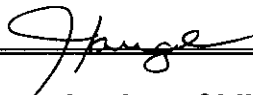
2011 SENATE STANDING COMMITTEE MINUTES

Senate Transportation Committee
Lewis and Clark Room, State Capitol

SB 2244
January 28, 2011
13611

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

The bill is intended to bring ND Law into compliance with Federal Statute in the area of intrastate exemptions for drivers of commercial motor vehicles.

Minutes:

Attached testimony

Vice Chairman Senator Oehlke opened the hearing on SB 2244 relating to operator's licenses and intrastate exemptions for drivers of commercial motor vehicles.

Senator G. Lee, District #32 introduced SB 2244. Written testimony #1

James Prochniak, Superintendent of the North Dakota Highway Patrol testified in support of SB 2244 and offered an amendment which would bring those sections into compliance with adopted federal regulations. Written testimony and amendment #2

Senator Mathern asked about the use of kilograms. He asked if that was consistent in the century code.

Colonel Prochniak replied that it was consistent but they are not changing everything to kilograms. The amendment to the bill provides language in pounds and in parentheses it refers to the kilograms.

Senator Sitte is concerned about the addition of one hour driving time. Can we do anything about this or is it a federal mandate.

Colonel Prochniak said that to come into compliance and follow that federal mandate it is in there but there is that additional two hours of rest time before they can proceed with that hour. He stated that it wasn't necessarily sixteen hour straight of driving time it is sixteen hours of on duty time.

Tom Balzer, North Dakota Motor Carriers Association testified in support of SB 2244. He said that this is a consistency change. He also elaborated on the additional hour and said that research shows that the last hour is the safest.

Senator Oehlke closed the hearing on SB 2244.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Transportation Committee
Lewis and Clark Room, State Capitol

SB 2244
February 3, 2011
13929

Conference Committee

Committee Clerk Signature *Thompson*

Explanation or reason for introduction of bill/resolution:

Minutes:

Vote

Senator Lee summarized SB 2244 and the amendment that was presented.

Senator Oehlke moved for adoption of the amendment.

Senator Sitte seconded the motion.

Roll call vote 6-0-0. Amendment adopted.

Senator Oehlke moved a **Do Pass as Amended**.

Senator Mathern seconded the motion

Roll call vote 6-0-0. **Motion passed.**

Carrier is **Senator Oehlke**.

Date: 2-3
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. _____

Senate Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senator Oehlke Seconded By Senator Sitte

Senators	Yes	No	Senators	Yes	No
Chairman Gary Lee	✓		Senator Tim Mathern	✓	
Vice Chairman Dave Oehlke	✓				
Senator Dave Nething	✓				
Senator George Nodland	✓				
Senator Margaret Sitte	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2-3
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2244

Senate Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number Prochniak Amendment

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By Senator Oehlke Seconded By Senator Mathern

Senators	Yes	No	Senators	Yes	No
Chairman Gary Lee	✓		Senator Tim Mathern	✓	
Vice Chairman Dave Oehlke	✓				
Senator Dave Nething	✓				
Senator George Nodland	✓				
Senator Margaret Sitte	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Oehlke

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2244: Transportation Committee (Sen. G. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2244 was placed on the Sixth order on the calendar.

Page 1, line 10, remove "A driver with a class D"

Page 1, remove lines 11 and 12

Page 1, line 13, remove "excess of twenty-six thousand pounds [11793.40 kilograms]."

Page 1, line 20, after the period insert "A driver with a class D license must be eighteen years of age or older to operate a combination of vehicles with a gross combination weight or a gross combination weight rating in excess of twenty-six thousand pounds [11793.40 kilograms], unless the driver is driving a farm vehicle and meets the requirements of subdivision b of subsection 3 of section 39-06-14 and subsection 3 of section 39-06.2-06."

Page 2, line 8, overstrike "limitations" and insert immediately thereafter "regulations"

Page 2, line 11, after "weight" insert ", gross vehicle weight rating, gross combination weight, and gross combination weight"

Page 2, line 11, after "or" insert "are"

Page 2, line 11, remove the overstrike over "~~less than twenty six~~"

Page 2, line 12, remove the overstrike over "~~thousand~~" and insert immediately thereafter "one"

Page 2, line 12, remove the overstrike over "~~pounds-~~"

Page 2, line 12, after "~~11793.40~~" insert "11797.18"

Page 2, line 12, remove the overstrike over "~~kilograms]~~"

Page 2, line 12, remove "is less than"

Page 2, line 13, remove "eleven thousand eight hundred one kilograms"

Renumber accordingly

2011 HOUSE TRANSPORTATION

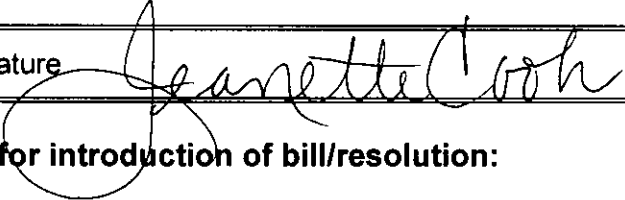
SB 2244

2011 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee
Fort Totten Room, State Capitol

SB 2244
03/03/2011
Job # 14909

Conference Committee

Committee Clerk Signature 

Explanation or reason for introduction of bill/resolution:

SB 2244 is a bill relating to operator's licenses and intrastate exemptions for drivers of commercial motor vehicles.

Minutes:

Attachment # 1-3

Senator G. Lee, District 22, spoke to introduce SB 2244 and explained that it was submitted on behalf of the Highway Patrol and is intended to bring North Dakota law into compliance with the federal statute in the areas of intrastate exemptions for drivers of commercial motor vehicles. The merger of federal and state law allows for continuing funding of safety programs under the National Highway Traffic and Safety Administration. He reviewed each section of the bill.

Chairman Ruby: In part B, it refers to triple axel, wasn't that understood as part of a combination before?

Senator G. Lee: No, I don't think so. It was intended to be there because the triple axle has gotten to be the small farm truck these days. It was intended to be separate from the combination axle.

Chairman Ruby: Is going from eight consecutive hours off duty to ten hours a federal requirement?

Senator G. Lee: Commercial drivers are limited to twelve hours of driving. So, this is to put us into compliance.

James Prochniak, Superintendent of North Dakota Highway Patrol spoke in support of SB 2244 and provided written testimony. See attachment #1.

Chairman Ruby: The way the law reads currently, you cannot get a CDL until age eighteen, is that correct?

James Prochniak: That is correct. However, with the current law and certain configurations, or the weight of the vehicle, those under eighteen may still be allowed to drive those vehicles.

Chairman Ruby: Would those vehicles not be considered a commercial vehicle until they were loaded?

James Prochniak: That is correct. This bill is tightening up that portion of code that is missing. We did make sure that this does not affect the farm industry and worked to maintain the farm exemption.

Chairman Ruby: Is that something that the federal law is concerned with, that someone under the age of eighteen are driving trucks that are heavier weights when they are loaded?

James Prochniak: It is required. This request would be to make North Dakota compliant with the federal law.

Chairman Ruby: There might be discussion that someone on a farm might be driving a truck and a trailer under the age of eighteen, where someone the same age would not be allowed to drive the same type of vehicle and trailer for a commercial business. I think that is inconsistent.

James Prochniak: I can't disagree with inconsistency. I think that we tried to accommodate the industry that is the most prevalent in our state, the ag industry.

Chairman Ruby: Clarify the section where "cumulative hours" is added. How does that add another hour of drive time?

James Prochniak: I would add another hour of on *duty* time. I am referring to a driver that may do a pre-trip or post-trip inspection. They are out of their truck and not driving. It gives them that ability to have the extra hour to perform that duty.

Chairman Ruby: By using "cumulative", can they can stop for a break or something, and it won't get counted as drive time?

James Prochniak: They can report in their log that there is a drop down, and they are taking that time off.

Representative R. Kelsch: In your testimony in Section 2 part 3 it says, "...an emergency declared by the governor" and then it adds "or by a representative of the governor authorized by law to declare an emergency." I don't see the last part of that in the bill. Are you proposing that as an amendment?

James Prochniak: It was not included in the copy you have. Either way it will accomplish what we intended. There is a process that we follow and try to stay with that. The previous wording made it sound like anyone, like a company executive, could declare the emergency.

Representative R. Kelsch: Is it the unwritten rule that the governor has the authority to designate someone else in his absence, or do we specifically need to have it in statute? It *just* says the governor.

James Prochniak: I think that we should just make sure that it is consistent with the bill that you have in front of you. When we met with the governor's office and Mr. Bernstein, they were comfortable and agreed with the language "by the governor".

Glenn Jackson, Director of the Drivers License Division at the North Dakota Department of Transportation, spoke to support SB 2244 and provided testimony and a copy of the amendment. See attachment #2 and #3.

Representative Gruchalla: I wasn't aware that if you are towing a vehicle with a farm tractor, that there was a weight restriction.

Glenn Jackson: There is no restriction when towing with a tractor. But in this section, it is not the farm tractor part the part we are changing. It adds in the part that says a truck towing a trailer and the combination thereof up to 26,000 pounds.

Representative Weisz: The original language basically states that whatever the farm tractor is towing is exempt.

Representative Onstad: Do you need a Class D license to drive a tractor on a highway?

Glenn Jackson: No, you do not. But a truck towing a trailer the combination of which adds up to more than 26,000 pounds, you do need a Class D license.

Glenn Jackson: In the current law, the reference to the tractor is already there. We are not touching that aspect of it. The point of this amendment is to clarify the second half of that sentence, because we have individuals who come in with a large pickup truck and are pulling a large trailer. They want to know if they can have a 10,000 pound truck and pull a 16,000 pound trailer. The answer is yes. If they have a 16,000 pound truck and pull a 16,000 pound trailer, the answer is no. 26,000 pounds is the maximum total gross combined weight.

Chairman Ruby: Your amendment would start on line 15?

Glenn Jackson: It starts on line 13. From our perspective we took out what was confusing language. It already says that on the back of a Class D license.

Chairman Ruby: Have we already been following the federal requirements about changing the hours off duty from eight to ten?

James Prochniak: We have been following those federal regulations at this time, but it has not been placed into state law. The federal regulations have been in place at least five years.

Tom Balzer, North Dakota Motor Carriers: We support SB 2244 to keep North Dakota compliant with the federal regulations. The FMCSA passed the new hours of service rule in 2005. It has been in court for quite awhile. They actually just reissued the hours of service rule. What we have in this bill is the current one. If it will change, is under debate and will end up in court. The American Trucking Association already has the law suit filed, even though the decision hasn't been made. This bill is current practice, and probably will be for quite awhile. If it changes, we will be back again to modify it.

Chairman Ruby: Is the current proposal to change it to less than twelve hours?

Tom Balzer: When the FMCSA issued the proposed rule didn't specify the hours. They gave two options: keeping it the same or reducing it back down. There is, in the industry's opinion, very significant empirical data that supports the fact that the additional hour of drive time has no impact on safety whatsoever. In fact, it is looked at as one of the safer hours. That is what the argument is going to be. The FMCSA did not make a decision, but we believe that they will try to reduce it down to eleven hours of drive time.

Mike Rud, Executive Director of the North Dakota Propane Gas Association and the President of the North Dakota Petroleum Marketers, spoke to support SB 2244 and to be in compliance with the federal regulations.

There was no further support for SB 2244.
There was no opposition to SB 2244.
There was no further testimony for SB 2244.

The hearing on SB 2244 was closed.

Representative R. Kelsch moved the amendment.
Representative Owens seconded the motion.
A voice vote was taken.
The motion carried.

Representative R. Kelsch moved a DO PASS as amended on SB 2244.
Representative Owens seconded the motion.

Representative Owens: Referring to the issue about the Governor in emergencies. By saying "the Governor", we are restricting it to the Governor, not anyone else? I also have to ask how this affects 2107, where we are giving the Adjutant General certain powers under emergency situations.

Chairman Ruby: I don't know.

Representative Owens: If the intent is to limit it to just the Governor, then that is fine.

James Prochniak: This amendment is *just for* an "hours of service waiver". It is not for a disaster declaration, an evacuation, or anything else. If the Governor is out of the state, then the Lt. Governor would make the decision.

House Transportation Committee

SB 2244

038/03/2011

Page 5

A roll call vote was taken on SB 2244. Aye 13 Nay 1 Absent 0

The motion carried.

Representative Weisz will carry SB 2244.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2244

#3

Page 1, line 12, after "and" insert "may operate"

Page 1, line 13, overstrike ", semitrailer, or farm trailer when the gross weight of the trailer, semitrailer,"

Page 1, line 14, overstrike "or farm trailer, not including the weight of the towing vehicle, does not exceed"

Page 1, line 15, overstrike "sixteen thousand pounds [7257.48 kilograms]" and insert "in excess of ten thousand pounds [4535.92 kilograms] provided the combined weight does not exceed twenty-six thousand pounds [11793.40 kilograms] gross combination weight rating"

Renumber accordingly

Date: 3-3-11

Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2244

House TRANSPORTATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By Ra Kelsch Seconded By Owens

Representatives	Yes	No	Representatives	Yes	No
Chairman Ruby			Representative Delmore		
Vice Chairman Weiler			Representative Gruchalla		
Representative Frantsvog			Representative Hogan		
Representative Heller			Representative Onstad		
Representative R. Kelsch					
Representative Louser					
Representative Owens					
Representative Sukut					
Representative Vigasaa					
Representative Weisz					

Voice Vote
Motion Carried

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Slonyfackson's amendment. Attach. #3

VIC
3/3/11

March 3, 2011

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2244

Page 1, line 12, after "and" insert "may operate"

Page 1, line 13, overstrike ", semitrailer, or farm trailer when the gross weight of the trailer, semitrailer,"

Page 1, overstrike line 14

Page 1, line 15, overstrike "sixteen thousand pounds [7257.48 kilograms]" and insert immediately thereafter "in excess of ten thousand pounds [4535.92 kilograms] provided the combined weight does not exceed twenty-six thousand pounds [1193.40 kilograms] gross combination weight rating"

Renumber accordingly

Date: 3/3/11

Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2244

House TRANSPORTATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By R. Kelsch Seconded By Owens

Representatives	Yes	No	Representatives	Yes	No
Chairman Ruby	X		Representative Delmore	X	
Vice Chairman Weiler		X	Representative Gruchalla	X	
Representative Frantsvog	X		Representative Hogan	X	
Representative Heller	X		Representative Onstad	X	
Representative R. Kelsch	X				
Representative Louser	X				
Representative Owens	X				
Representative Sukut	X				
Representative Vigasaa	X				
Representative Weisz	X				

Total (Yes) 13 No 1

Absent Ø

Floor Assignment R. Weisz

If the vote is on an amendment, briefly indicate intent.

REPORT OF STANDING COMMITTEE

SB 2244, as engrossed: Transportation Committee (Rep. Ruby, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (13 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2244 was placed on the Sixth order on the calendar.

Page 1, line 12, after "and" insert "may operate"

Page 1, line 13, overstrike ", semitrailer, or farm trailer when the gross weight of the trailer, semitrailer,"

Page 1, overstrike line 14

Page 1, line 15, overstrike "sixteen thousand pounds [7257.48 kilograms]" and insert immediately thereafter "in excess of ten thousand pounds [4535.92 kilograms] provided the combined weight does not exceed twenty-six thousand pounds [1193.40 kilograms] gross combination weight rating"

Renumber accordingly

2011 TESTIMONY

SB 2244

#1

SB 2244 – Relates To Operator’s Licenses & Intrastate Exemptions For Drivers Of Commercial Motor Vehicles.

Transportation – Lewis & Clark Room – 10:15 AM, 1/28/11

Good Morning Mr. Chairman and Committee Members. I am Gary A. Lee, State Senator representing District 22.

SB 2244 is submitted on behalf of the Highway Patrol. It is intended to bring ND Law into compliance with Federal Statute in the area of intrastate exemptions for drivers of commercial motor vehicles. The merger of Federal & State laws allows for continued funding for safety programs under the National Highway Traffic & Safety Administration.

Section 1:

- a. would state that a class D licensed driver is required to be at least 18 in order to drive a combination vehicle >26,000 pounds.
- b. Includes the triple axle truck as a vehicle that can be driven with a class D license.

Section 2:

- 1.
 - b. a driver transporting hazardous materials or a vehicle used to transport 16 or more people is required to meet the hours of service limitations.
- 2. the section effectively outlines that a commercial driver is limited to 12 hours per day of over the road driving.
- 3. clarifies that the Governor has the authority to declare a state of emergency. CMV drivers are exempt from hours of service limitations during that emergency period.

That is the essence of the Bill. Agency Staff will bring out more detail included in SB 2244.

Thank You!

**Testimony – Senate Bill 2244
Senate Transportation Committee
Submitted by
James Prochniak, NDHP**

January 28, 2011

Good morning, Mr. Chairman, and members of the Senate Transportation Committee. My name is James Prochniak, Superintendent of the North Dakota Highway Patrol. Prior to my testimony I would like to identify the amendments to the original submission.

As you are aware the North Dakota Highway Patrol enforces federal motor carrier regulations under the authority of state statute 39-03-09.

Senate Bill 2244 with its changes in language to 39-06-14 and 39-32-02 modify state law language in an effort to bring those sections into compliance with adopted federal regulations.

Section 1 Amendments under 39-06-14 subsection 3.

a. This subdivision language would incorporate the adopted federal regulations stating all drivers of CMV's must be 18 years old to operate intrastate. It should be noted this change would not affect the current farm exemption and still allows compliance with current adopted federal regulations.

Title 49 CFR 350.341: Age of CMV driver—All CMV drivers must be at least 18 years of age.

b. Under this subdivision, language was added to include triple-axle motor vehicle.

- Triple-axle trucks fall under the exemptions but they were not included in state law. This is an important addition to include for the farm industry.

Section 2 Amendments under 39-32-02 subsections 1, 2, and 3.

1.b. The proposed changes will keep North Dakota compliant with current adopted federal regulations for exemptions under 26,000 lbs. for interstate commerce. (Title 49 CFR 350.341)

A State may exempt a CMV from all or part of its laws or regulations applicable to intrastate commerce, provided that neither the GVW, GVWR, GCW, nor GCWR of the vehicle equals or exceeds 11,797.18kg (26,001 lbs.). However, a State may not exempt a CMV from such laws or regulations if the vehicle:

- Transports hazardous materials requiring a placard.
- Is designed or used to transport 16 or more people, including the driver.

2.a. Currently, the adopted hours of service (HOS) intrastate regulations require that a driver needs to have 10 hours off duty between each on duty period vs. the previous eight hour language (CFR 395.3).

The change resembles wording that states, "More than twelve cumulative hours following eight ten consecutive hours off duty."

2.b. Current law states that an interstate driver may not drive after 15 hours of coming on duty. The proposed change would again keep North Dakota regulations current with adopted federal regulations by allowing intrastate drivers to be on duty for 16 hours before being required to take 10 hours off duty.

For any period after the end of the sixteenth hour having been after coming on duty more than ~~_____~~ fifteen hours following ten consecutive hours off duty.

3. This proposed change would make language consistent with the current procedure that is actually followed under this section. Currently, the Governor's office will receive a request for an "hours of service" waiver. When granted, a mass notification to the affected industry is generated, coordination with affected agencies is conducted, and proper emergency declaration is drafted. The modification removes language indicating the employer must declare and document the emergency.

Hours of service limitations do not apply to an intrastate driver ~~when transporting property or passengers operating a commercial vehicle to provide emergency relief during a declared~~ an emergency declared by the governor or by a representative of the governor authorized by law to declare an emergency

Mr. Chairman, members of the committee, this concludes my testimony. I would be happy to answer any questions you may have.

|

**Testimony – Senate Bill 2244
House Transportation Committee
Submitted by
James Prochniak, NDHP**

March 3, 2011

Good morning, Mr. Chairman, and members of the House Transportation Committee. My name is James Prochniak, Superintendent of the North Dakota Highway Patrol.

As you are aware the North Dakota Highway Patrol enforces federal motor carrier regulations under the authority of state statute 39-03-09.

Senate Bill 2244 with its changes in language to 39-06-14 and 39-32-02 modify state law language in an effort to bring those sections into compliance with adopted federal regulations.

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- Transports hazardous materials requiring a placard.
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2.b. Current law states that an interstate driver may not drive after 15 hours of coming on duty. The proposed change would again keep North Dakota regulations current with adopted federal regulations by allowing intrastate drivers to be on duty for 16 hours before being required to take 10 hours off duty.

For any period after the end of the sixteenth hour after coming on duty following ten consecutive hours off duty.

3. This proposed change would make language consistent with the current procedure that is actually followed under this section. Currently, the Governor's office will receive a request for an "hours of service" waiver. When granted, a mass notification to the affected industry is generated, coordination with affected agencies is conducted, and proper emergency declaration is drafted. The modification removes language indicating the employer must declare and document the emergency.

Hours of service limitations do not apply to an intrastate driver operating a commercial vehicle to provide emergency relief during an emergency declared by the governor or by a representative of the governor authorized by law to declare an emergency

Mr. Chairman, members of the committee, this concludes my testimony. I would be happy to answer any questions you may have.

**HOUSE TRANSPORTATION COMMITTEE
March 3, 2011, 11:00 AM ; Fort Totten Room**

**North Dakota Department of Transportation
Glenn Jackson, Director, Drivers License Division**

SB 2244

Good morning, Mr. Chairman and members of the committee. I'm Glenn Jackson, Director of the Drivers License Division at the North Dakota Department of Transportation. Thank you for giving me the opportunity to present information to you today.

Senate Bill 2244 clarifies intrastate exemptions for drivers of commercial vehicles. All of these changes are satisfactory for the department. However, after review of the engrossed bill as amended and passed in the Senate, the department would like to modify one sentence in section 1 that we overlooked previously in the bill. This sentence deals with clarification of the 26,000 lb limitation.

Currently the sentence reads, "A driver with a class D license may operate a farm tractor towing another vehicle having a gross weight in excess of ten thousand pounds [4535.92 kilograms], and a truck towing a trailer, semitrailer, or farm trailer when the gross weight of the trailer, semitrailer, or farm trailer, not including the weight of the towing vehicle, does not exceed sixteen thousand pounds [7257.48 kilograms]."

We propose to simplify this by changing it to read, "A driver with a class D license may operate a farm tractor towing another vehicle having a gross weight in excess of ten thousand pounds [4535.92 kilograms], and may operate a truck towing a trailer, in excess of 10,000 pounds (4535.92 kilograms) provided the combined weight does not exceed 26,000 (11793.40 kilograms) pounds gross combination weight rating."

We receive multiple requests to clarify what can be towed and how much weight of trailers, etc., and this phraseology would clarify the requirement.

Thank you Mr. Chairman, I would be happy to answer any questions.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2244

#3

Page 1, line 12, after "and" insert "may operate"

Page 1, line 13, overstrike ", semitrailer, or farm trailer when the gross weight of the trailer, semitrailer,"

Page 1, line 14, overstrike "or farm trailer, not including the weight of the towing vehicle, does not exceed"

Page 1, line 15, overstrike "sixteen thousand pounds [7257.48 kilograms]" and insert "in excess of ten thousand pounds [4535.92 kilograms] provided the combined weight does not exceed twenty-six thousand pounds [11793.40 kilograms] gross combination weight rating"

Renumber accordingly

Part 395.3: Maximum driving time for property-carrying vehicles.



- Overview
- Federal Regulations**
 - All
 - Driver
 - Vehicle
 - Company
 - FMCSA Hazmat
 - Regulatory Guidance
- Rulemakings and Notices**
 - Final Rules
 - Interim Final Rules
 - Proposed Rules
 - Notices
- Topics of Interest**
 - HOS Proposed Rule Summary of Changes
 - Hours of Service (HOS)
 - Hours of Service (HOS) Listening Sessions
 - Hazardous Materials
 - Intermodal Equipment Providers (IEP)
 - New Entrant Safety Assurance
 - Medical Program
 - Medical Expert Panels
 - NAFTA Rules
 - Drug & Alcohol Testing

Search for

Examples: Medical Form, 391.53, 391

- * All Regulations
- * Part 395

< 395.2

395.5 >

§395.3 Maximum driving time for property-carrying vehicles.

Subject to the exceptions and exemptions in §395.1:

(a) No motor carrier shall permit or require any driver used by it to drive a property-carrying commercial motor vehicle, nor shall any such driver drive a property-carrying commercial motor vehicle:

(a)(1) More than 11 cumulative hours following 10 consecutive hours off-duty; or

(a)(2) For any period after the end of the 14th hour after coming on duty following 10 consecutive hours off duty, except when a property-carrying driver complies with the provisions of §395.1(o) or §395.1(e)(2).

(b) No motor carrier shall permit or require a driver of a property-carrying commercial motor vehicle to drive, nor shall any driver drive a property-carrying commercial motor vehicle, regardless of the number of motor carriers using the driver's services, for any period after —

(b)(1) Having been on duty 60 hours in any period of 7 consecutive days if the employing motor carrier does not operate commercial motor vehicles every day of the week; or

(b)(2) Having been on duty 70 hours in any period of 8 consecutive days if the employing motor carrier operates commercial motor vehicles every day of the week.

(c)(1) Any period of 7 consecutive days may end with the beginning of any off-duty period of 34 or more consecutive hours; or

(c)(2) Any period of 8 consecutive days may end with the beginning of any off-duty period of 34 or more consecutive hours.

[57 FR 33649, July 30, 1992, as amended at 60 FR 38748, July 28, 1995; 68 FR 22516, April 28, 2003; 70 FR 50071, Aug. 25, 2005; 72 FR 71270, Dec. 17, 2007]

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Part 350.341: What specific variances from the FMCSRs are allowed for State laws and regulations governing motor carriers, CMV drivers, and CMVs engaged in intrastate commerce and not subject to Federal jurisdiction?



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§350.341 What specific variances from the FMCSRs are allowed for State laws and regulations governing motor carriers, CMV drivers, and CMVs engaged in intrastate commerce and not subject to Federal jurisdiction?

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(a) A State may exempt a CMV from all or part of its laws or regulations applicable to intrastate commerce, provided that neither the GVW, GVWR, GCW, nor GCWR of the vehicle equals or exceeds 11,801 kg (26,001 lbs.). However, a State may not exempt a CMV from such laws or regulations if the vehicle:

- (a)(1) Transports hazardous materials requiring a placard.
- (a)(2) Is designed or used to transport 16 or more people, including the driver.
- (b) State laws and regulations applicable to intrastate commerce may not grant exemptions based upon the type of transportation being performed (e.g., for-hire, private, etc.).
- (c) A State may retain those exemptions from its motor carrier safety laws and regulations that were in effect before April, 1988, are still in effect, and apply to specific industries operating in intrastate commerce.
- (d) State laws and regulations applicable to intrastate commerce must not include exemptions based upon the distance a motor carrier or driver operates from the work reporting location. This prohibition does not apply to those exemptions already contained in the FMCSRs nor to the extension of the mileage radius exemption contained in 49 CFR 395.1(e) from 100 to 150 miles.
- (e) Hours of service—State hours-of-service limitations applied to intrastate transportation may vary to the extent of allowing the following:
 - (e)(1) A 12-hour driving limit, provided driving a CMV after having been on duty more than 16 hours is prohibited.
 - (e)(2) Driving prohibitions for drivers who have been on duty 70 hours in 7 consecutive days or 80 hours in 8 consecutive days.
- (f) Age of CMV driver—All CMV drivers must be at least 18 years of age.
- (g) Grandfather clauses—States may provide grandfather clauses in their rules and regulations if such exemptions are uniform or in substantial harmony with the FMCSRs and provide an orderly transition to full regulatory adoption at a later date.
- (h) Driver qualifications:
 - (h)(1) Intrastate drivers who do not meet the physical qualification standards in 49 CFR 391.41 may continue to be qualified to operate a CMV in intrastate commerce if the following three conditions are met:
 - (h)(1)(i) The driver was qualified under existing State law or regulation at the time the State adopted physical qualification standards compatible with the Federal standards in 49 CFR 391.41.
 - (h)(1)(ii) The otherwise non-qualifying medical or physical condition has not substantially worsened.
 - (h)(1)(iii) No other non-qualifying medical or physical condition has developed.
 - (h)(2) The State may adopt or continue programs granting variances to intrastate drivers with medical or physical conditions that would otherwise be non-qualifying under the State's equivalent of 49 CFR 391.41 if the variances are based upon sound medical judgment combined with appropriate performance standards ensuring no adverse affect on safety.

[65 FR 15108, Mar. 21, 2000]

NORTH DAKOTA HIGHWAY PATROL
PROPOSED AMENDMENTS TO SENATE BILL 2244

Page 1, line 10, remove "A driver with a class D"

Page 1, remove lines 11 through 12

Page 1, line 13, remove "excess of twenty-six thousand pounds [11793.40 kilograms]."

Page 1, line 20, after the period insert "A driver with a class D license must be eighteen years of age or older to operate a combination of vehicles with a gross combination weight or a gross combination weight rating in excess of twenty-six thousand pounds [11793.40 kilograms], unless the driver is driving a farm vehicle and meets the requirements of subdivision b of subsection 3 of section 39-06-14 and subsection 3 of section 39-06.2-06."

Page 2, line 8, overstrike "limitations" and insert immediately thereafter "regulations"

Page 2, line 11, after "weight" insert ", gross vehicle weight rating, gross combination weight, and gross combination weight", after "or" insert "are", remove the overstrike on "less than twenty-six"

Page 2, line 12, remove the overstrike on "thousand" and insert immediately thereafter "one", remove the overstrike on "pounds", remove the overstrike on "{", after "41,793.40" insert "11797.18", remove the overstrike on "kilograms", and remove "is less than"

Page 2, line 13, remove "eleven thousand eight hundred one kilograms"

ReNUMBER Accordingly