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BILL



ANALYSIS

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House Bill 4358 (Substitute H-3 as reported without amendment)

Sponsor: Representative Gene DeRossett

House Committee: Transportation

Senate Committee: Transportation

Date Completed: 10-29-04

### **RATIONALE**

Under the Michigan Vehicle Code, certain vehicle combinations are prohibited from operating on a Michigan highway if they exceed 59 feet in length. Due to new features added for safety and other purposes to vehicles used by trucking companies to transport goods across the State, the length of trucks has increased. Some people suggest that the Code be updated to reflect this.

In a different matter, some people believe the way fines are assessed for trucks carrying overweight loads should be changed. Under the Code, if a vehicle's gross weight does not exceed restrictions but any axle is overweight (a misload), the court has the discretion to either assess a penalty according to a schedule, or assess a flat \$250 fee. It has been suggested that courts should be required to apply a uniform penalty for misloading.

### **CONTENT**

**The bill would amend the Michigan Vehicle Code to do the following:**

- Increase the maximum allowable length of a truck and semitrailer or trailer; a truck tractor, semitrailer, and trailer; or a truck tractor and two semitrailers.**
- Eliminate a court's discretion in imposing a fine for a truck carrying a load in excess of the Code's weight restrictions.**

The bill would take effect January 1, 2005. It is described below in further detail.

#### Maximum Length

The bill would increase from 59 feet to 65 feet the maximum allowable length for a truck and semitrailer or trailer; a truck tractor, semitrailer, and trailer; or a truck tractor and two semitrailers.

The Code specifies that a vehicle's length does not include safety and energy conservation devices; load-induced tire bulge; refrigeration or heating units; or air compressors attached to the vehicle. The bill would delete this language, and instead specify that a vehicle's length would not include devices described in 26 CFR 658.16 and 23 CFR part 658, Appendix D. Under the bill, those regulations as on file with the Secretary of State, would be adopted by reference. Further, the bill would require vehicle components not excluded by law to be included in the measurement of a vehicle's length, height, and width.

#### Overweight Fine

Under the Code, when a vehicle exceeds weight restrictions, the vehicle owner is responsible for a civil infraction and must pay a civil fine according to a schedule based on the excess load. The court has discretionary power as to the amount of the civil fine within the schedule. The court instead may impose a maximum civil fine of \$250, if the vehicle or vehicle and trailer combination did not exceed the total weight that would be lawful for each unit by a

proper distribution of the load upon the various axles supporting each unit.

The bill would eliminate the court's discretion in imposing the fine. Under the bill, if the court determined that the gross weight of the vehicle or combination of vehicles would not be lawful by a proper per-axle distribution of the load, the court would have to impose a fine according to the schedule. If the gross weight would be lawful by a proper per-axle distribution, the court would have to impose the \$250 fine. In addition, if any axle exceeded the maximum allowable axle weight by more than 4,000 pounds, the fine for that axle would have to be determined by the schedule.

Under the bill, if a vehicle were to be weighed to determine whether it was being operated in violation of the Code or a rule promulgated under it, or a substantially corresponding local ordinance, and the vehicle were equipped with lift axles that had been temporarily raised to allow the vehicle to negotiate an intersection, driveway, or other turn, the vehicle could be weighed only after the lift axles were fully lowered and were under operational pressure. (The bill would define "lift axle" as an axle on a vehicle that could be raised or lowered by mechanical means.)

MCL 257.719 et al.

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

By increasing the maximum allowable length of a truck, the bill would accommodate changes in the trucking industry. The large trucks produced today often are longer due to new features that increase stability and safety, as well as improve the trucks' ability to negotiate turns. The current length restriction can be an obstacle to trade between Michigan and other states and Canada. Car haulers, recreational vehicles, log haulers, and buses already may be longer than 59 feet; it is unfair to discriminate against the other vehicles, which constitute a vital part of the State's commercial activity.

### **Supporting Argument**

The penalty for exceeding weight restrictions is not applied uniformly statewide. Sometimes the place from which a truck departs has only a platform scale, which measures the truck's gross weight. The driver might not be aware that the load is in violation until the truck is weighed at a weigh station on a per-axle basis. A truck might be within the per-axle limit upon departure, but some materials might shift during transport, so that when the truck is weighed at a weigh station, a per-axle weight violation occurs. Some people are concerned that some courts have abused the discretion they are granted under the Code to impose a fine according to the schedule, rather than the \$250 fine, in order to generate more revenue for local governments. The fines can be excessive, especially for small, independent businesses, and can impose a significant burden on the trucking companies, which haul essential goods, promote commerce, and help keep jobs in the State. The bill would not change existing weight restrictions, but simply would ensure that courts fairly applied the penalty for what often is an unintentional violation.

### **Opposing Argument**

The bill would interfere with local control by requiring local governments to allow larger trucks on their roads and eliminating the local court's discretion in assessing penalties for overweight loads. Some local roads were not built to withstand traffic by such large vehicles. Many counties have designated roads that large trucks must travel so that neighborhoods are not disturbed and public safety is not jeopardized. Truck owners may obtain a permit from the local government if they absolutely must use narrower local roads. The bill would allow larger trucks to be operated on any road in Michigan, regardless of local regulations or desires.

Furthermore, the bill would require a court to assess the flat \$250 fine if a per-axle violation occurred but the vehicle's gross weight did not exceed the Code's limits, unless any axle was overweight by at least 4,000 pounds. The fine would be too small to be an effective deterrent to misloading, particularly for large trucking companies.

Legislative Analyst: Julie Koval

## **FISCAL IMPACT**

By increasing the maximum allowable length of certain vehicles from 59 feet to 65 feet, the bill would decrease the number of vehicles on which civil infraction fines are levied and thereby decrease civil infraction revenue received by the State and local governments.

The bill also would have an indeterminate fiscal impact on the State and local governments by eliminating judicial discretion as to the amount of civil fines assessed for vehicle weight limit violations. The fines for some violations would be increased, while the fines for others would be decreased. Currently, there are no data to suggest the amount of each type of vehicle weight limit violation. For vehicle size/weight limit violations cited under the Michigan Vehicle Code, the civil infraction revenue is earmarked to libraries. In cases of vehicle size/weight limit violations cited under a local ordinance, the civil infraction revenue is distributed 70.0% to the local jurisdiction and 30.0% to libraries.

The bill would not prevent the Governor from certifying to the Federal Highway Administration (FHWA) that the State is in compliance with Federal vehicle size and weight guidelines. This certification is required to avoid sanctions (withholding of Federal highway funding) by the FHWA.

Fiscal Analyst: Craig Thiel

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.