

## MOTOR VEHICLE PERMIT FEES - BACKGROUND MEMORANDUM

Section 3 of 2011 Senate Bill No. 2044 (attached as an [appendix](#)) provides for a study of motor vehicle permit fees, including overweight and overwidth permit fees charged by cities and counties. Senate Bill No. 2044 also amended North Dakota Century Code Section 39-12-02 to provide that permit fees generated by a political subdivision must be deposited in the local authority's general fund for the support of the local road system.

### BACKGROUND 2011 Legislation

During the 2009-10 interim, the Public Safety and Transportation Committee examined issues related to overweight vehicles traveling on highways in the state. The committee received information indicating overweight vehicles significantly reduce the lifespan of roadways, and heavier vehicle axles reduce pavement life. According to information provided to the committee, a 36,000-pound axle weight does 24 times as much damage to roads as an 18,000-pound axle weight, and a 20,000-pound truck axle consumes 1,000 times as much pavement life as a 2,000-pound automobile axle. While North Dakota law limits maximum gross vehicle weight on highways in this state to 105,500 pounds unless posted for 80,000 pounds, the final report of the committee stated that highways in Canada have a maximum gross vehicle weight of 138,000 pounds, highways in Montana have a maximum gross vehicle weight of 131,000 pounds, highways in South Dakota have a maximum gross vehicle weight of 129,000 pounds, and highways in Minnesota have a maximum gross vehicle weight of 80,000 pounds for raw and unprocessed product but up to 90,000 pounds with a permit.

The committee received information regarding an Attorney General opinion issued in December 2009, which addressed the ability of a county to enact an overweight vehicle ordinance. The opinion concluded a county may enact a weight restriction ordinance, issue permits under the ordinance, and retain fees for a permit issued under the ordinance. However, the Attorney General concluded a county may not retain fines generated in enforcement of a violation of a weight restriction ordinance because Sections 39-12-02, 39-12-14.1, and 39-12-20 require permit and road use fees to be remitted to the state treasury for deposit in the highway fund, which is a matter of statewide concern that may not be altered by a home rule ordinance.

The committee recommended 2011 House Bill No. 1042, which failed to pass the House of Representatives, and which would have required that extraordinary road use fee collections be deposited in the general fund of the county where the overweight

vehicle violation occurred if the violation did not occur on a state or federal highway. The bill would have provided that extraordinary road use fee collections for a violation occurring on a state or federal highway would continue to be deposited in the state highway fund. The committee also recommended Senate Bill No. 2044 to provide that a violation of an overweight vehicle permit issued under a county home rule ordinance would be considered a violation of state law. The bill was amended and passed to provide that permit fees generated by a political subdivision must be deposited in the local authority's general fund for support of the local road system. The bill further provided that for an overweight or oversize permit issued under state law, if the violation is of a permit issued by a county under a home rule ordinance or any city, including a home rule city, the statutory fee is for a violation of state law.

In addition to the bills recommended by the interim Public Safety and Transportation Committee, the Legislative Assembly in 2011 adopted four other bills relating to overweight and oversized vehicles. House Bill No. 1079 created separate weight limits for steering axles for the interstate highway system of 20,000 pounds or the axle rating established by the manufacturer, whichever is lower. House Bill No. 1082 allowed the superintendent of the Highway Patrol and the director of the Department of Transportation to enter cooperative regional permit agreements with any other state on regional operation or movement of nondivisible oversized or overweight vehicles. Senate Bill No. 2102 required extraordinary road use fees to be deposited with the State Treasurer and credited to the highway fund. House Bill No. 1254 allowed permits for overdimensional movements of vehicles that do not exceed 10 feet to travel during the day or night.

### Statutory Vehicle Size and Width Limitations

Chapter 39-12 addresses size and width restrictions for vehicles on highways in the state. Under Section 39-12-01 the director of the Department of Transportation, boards of county commissioners, and other bodies having control of roads are authorized to classify public highways and roads and establish weight and load limitations.

Section 39-12-02 authorizes the Highway Patrol and local authorities to issue a special permit authorizing the applicant to operate or move a vehicle, mobile home, or modular unit of a size or weight exceeding the maximum specified by Chapter 39-12, upon a highway under the jurisdiction of the body granting the permit. The permit may designate the route to be traversed and may contain any other restrictions or conditions deemed necessary by the body granting the permit. Section 39-12-02

authorizes the Highway Patrol and local authorities to adopt rules governing the movement of oversize and overweight vehicles. Subsection 3 of that section requires that an appropriate charge must be made for each permit, and all funds collected by the Highway Patrol must be deposited in the state highway fund for use in the construction and maintenance of highways and operating expenses of the Department of Transportation. The Legislative Assembly, through Senate Bill No. 2044, amended subsection 3 to provide that permit fees generated by a political subdivision must be deposited in the local authority's general fund for support of the local road system.

Subsection 3 of Section 39-12-02, which establishes minimum permit fees and other allowable fees, provides:

- a. The fee for the ten percent weight exemption, harvest and wintertime, is fifty dollars per month for fees paid on a monthly basis or two hundred fifty dollars per for fees paid on a yearly basis. Unused fees paid on a monthly basis are refundable. Unused fees paid on a yearly basis are not refundable.
- b. The fee for a non-self-issuing interstate permit is ten dollars per trip or three hundred dollars per calendar year for unlimited trips.
- c. The fee for special mobile equipment is twenty-five dollars per trip.
- d. The fee for engineering is twenty-five dollars per trip.
- e. The fee for faxing a permit is five dollars.
- f. The fee for a single trip permit is twenty dollars per trip.
- g. The fee for a bridge length permit is thirty dollars per trip or one hundred fifty dollars per calendar year.
- h. The fee for a longer combination vehicle permit is one hundred dollars per month for fees paid on a monthly basis.
- i. The fee for an overwidth vehicle or load that is fourteen feet six inches [4.42 meters] or less is twenty dollars per trip or one hundred dollars per calendar year unless the vehicle is a noncommercial fish house trailer being moved by the owner, then the fee is twenty dollars per calendar year.
- j. The highway patrol may establish an online electronic permit system. If the highway patrol establishes an online electronic permit system, the highway patrol shall assess an additional fifteen dollar fee for every permit issued under this section to

be deposited into the motor carrier electronic permit transaction fund.

Section 39-12-04 establishes width, height, and length limitations for vehicles operated on highways in the state. That section provides:

1. Vehicles operated on a highway in this state may not exceed a total outside width, including load thereon, of eight feet six inches [2.59 meters]. This limitation does not apply to:
  - a. Construction and building contractors' equipment and vehicles used to move such equipment which does not exceed ten feet [3.05 meters] in width when being moved by contractors or resident carriers.
  - b. Implements of husbandry being moved by resident farmers, ranchers, governmental entities, dealers, or manufacturers between sunrise and sunset. Furthermore, the limitation does not apply to implements of husbandry being moved between sunset and sunrise by resident farmers, ranchers, governmental entities, dealers, or manufacturers on public state, county, or township highway systems other than interstate highway systems.
  - c. Hay in the stack or bale being moved along the extreme right edge of a roadway between sunrise and sunset by someone other than a commercial mover.
  - d. Commercial movement of haystacks or hay bales with vehicles designed specifically for hauling hay, commercial movement of self-propelled fertilizer spreaders and self-propelled agricultural chemical applicators, whether operating under their own power or being transported by another vehicle, commercial movement of portable grain cleaners, commercial movement of forage harvesters, and the commercial movement of hay grinders, which may be moved on the highway after obtaining a seasonal permit issued by the highway patrol. The highway patrol shall issue seasonal permits that are valid during daylight hours on any day of the week, or that are valid at all times for the movement of self-propelled fertilizer spreaders and self-propelled agricultural chemical applicators, to any commercial entity otherwise qualified under this

- subdivision. Self-propelled fertilizer spreaders and self-propelled agricultural chemical applicators operating under their own power between sunset and sunrise must display vehicle hazard warning signal lamps as described in subsection 3 of section 39-21-19.1. The seasonal permit is in lieu of registration requirements for the permit period. No seasonal permit may be issued, unless proof of financial responsibility in a minimum of three hundred thousand dollars is filed and the appropriate permit fee is paid. The seasonal permit may also be issued for hauling hay bales with vehicles or vehicle combinations other than those designed specifically for hauling haystacks. This seasonal permit, however, will not be in lieu of registration requirements. All permit fees must be deposited in the state highway distribution fund.
- e. Safety devices that the highway patrol determines are necessary for the safe and efficient operation of motor vehicles may not be included in the calculation of width.
  - f. Any nonload carrying safety appurtenance as determined by the highway patrol which extends no more than three inches [7.62 centimeters] from each side of a trailer is excluded from the measurement of trailer width. The width of a trailer is measured across the sidemost load-carrying structures, support members, and structural fasteners.
  - g. The highway patrol may adopt reasonable rules for those vehicles exempted from the width limitations as provided for in this subsection.
2. Vehicles operated on a highway in this state may not exceed a height of fourteen feet [4.27 meters], whether loaded or unloaded. This height limitation does not affect any present structure such as bridges and underpasses that are not fourteen feet [4.27 meters] in height. This limitation does not apply to vehicles that are at most fifteen feet six inches [4.72 meters] high when all of the following apply:
    - a. The vehicle is an implement of husbandry and is being moved by a resident farmer, rancher, dealer, or manufacturer.
    - b. The trip is at most sixty miles [96.56 kilometers].
    - c. The trip is between sunrise and sunset.
    - d. None of the trip is on an interstate highway.
  3. A vehicle operated on a highway in this state may not exceed the following length limitations:
    - a. A single unit vehicle with two or more axles including the load thereon may not exceed a length of fifty feet [15.24 meters].
    - b. A combination of two units including the load thereon may not exceed a length of seventy-five feet [22.86 meters].
    - c. A combination of three or four units including the load thereon may not exceed a length of seventy-five feet [22.86 meters], subject to any rules adopted by the director that are consistent with public highway safety. The rules do not apply to a three-unit combination consisting of a truck tractor and semitrailer drawing a trailer or semitrailer.
    - d. A combination of two, three, or four units including the load thereon may be operated on all four-lane divided highways and those highways in the state designated by the director and local authorities as to the highways under their respective jurisdictions and may not exceed a length of one hundred ten feet [33.53 meters], subject to any rules adopted by the director that are consistent with public highway safety.
    - e. The length of a trailer or semitrailer, including the load thereon, may not exceed fifty-three feet [16.5 meters] except that trailers and semitrailers titled and registered in North Dakota before July 1, 1987, and towed vehicles may not exceed a length of sixty feet [18.29 meters].
  4. Length limitations do not apply to:
    - a. Building moving equipment.
    - b. Emergency tow trucks towing disabled lawful combinations of vehicles to a nearby repair facility.
    - c. Vehicles and equipment owned and operated by the armed forces of the United States or the national guard of this state.
    - d. Structural material of telephone, power, and telegraph companies.
    - e. Truck-mounted haystack moving equipment, provided the equipment

- does not exceed a length of fifty-six feet [17.07 meters].
- f. A truck tractor and semitrailer or truck tractor, semitrailer, and the trailer when operated on the interstate highway system or parts of the federal aid primary system as designated by the director, only when federal law requires the exemption.
  - g. Safety and energy conservation devices and any additional length exclusive devices as determined by the highway patrol for the safe and efficient operation of commercial motor vehicles. Length exclusive devices are appurtenances at the front or rear of a commercial motor vehicle semitrailer or trailer, whose function is related to the safe and efficient operation of the semitrailer or trailer.
5. Motor homes, house cars, travel trailers, fifth-wheel travel trailers, camping trailers, and truck campers may exceed eight feet six inches [2.59 meters] in width if the excess is attributable to an appurtenance that extends beyond the body of the vehicle no more than six inches [15.24 centimeters] on either side of the vehicle. For purposes of this subsection, the term appurtenance includes a shade awning and its support hardware, and any appendage that is intended to be an integral part of a motor home, house car, travel trailer, fifth-wheel travel trailer, camping trailer, or truck camper.

Section 39-12-05 establishes weight restrictions for vehicles traveling on the interstate highway system. That section prohibits the operation on the interstate highway system in this state any vehicle:

1. With a single axle that carries a gross weight in excess of twenty thousand pounds [9071.85 kilograms] or a wheel load over ten thousand pounds [4535.92 kilograms]. A wheel may not carry a gross weight over five hundred fifty pounds [249.48 kilograms] for each inch [2.54 centimeters] of tire width except that such limits may not be applied to tires on the steering axle. Steering axle weights are limited to twenty thousand pounds [9071.85 kilograms] or the axle rating established by the manufacturer, whichever is lower. Axles spaced forty inches [101.60 centimeters] apart or less are considered as one axle and, on axles spaced over forty inches [101.60 centimeters] and under eight feet [2.44 meters] apart, the axle load may not

exceed seventeen thousand pounds [7711.07 kilograms] per axle. The wheel load, in any instance, may not exceed one-half the allowable axle load. Spacing between axles is measured from axle center to axle center.

2. Subject to the limitations imposed by subsection 1 on tires, wheel, and axle loads, the gross weight of which exceeds that determined by the formula of:

$$W=500\left(\frac{L^N}{N-1} + 12N + 36\right)$$

where W equals maximum weight in pounds carried on any group of more than one axle; L equals distance in feet between the extremes of any group of consecutive axles; and N equals number of axles in the group under consideration, except that two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds [15422.14 kilograms] each, providing the overall distance between the first and last axles of the consecutive sets of tandem axles is at least thirty-six feet [10.97 meters]. The gross weight may not exceed eighty thousand pounds [36287.39 kilograms].

Section 39-12-05.3 establishes weight limitations for vehicles on highways other than the interstate highway system. That section provides:

1. A person may not operate on a highway that is not part of the interstate system any vehicle with a single axle that carries a gross weight in excess of twenty thousand pounds [9071.85 kilograms] or a wheel load over ten thousand pounds [4535.92 kilograms]. A wheel may not carry a gross weight over five hundred fifty pounds [249.48 kilograms] for each inch [2.54 centimeters] of tire width. Axles spaced forty inches [101.60 centimeters] apart or less are considered as one axle. On axles spaced over forty inches [101.60 centimeters] and under eight feet [2.44 meters] apart, the axle load may not exceed nineteen thousand pounds [8618.26 kilograms] per axle, with a maximum of thirty-four thousand pounds [15422.14 kilograms] gross weight on a tandem axle and a maximum of forty-eight thousand pounds [21772.32 kilograms] gross weight on any grouping of three or more axles. The wheel load, in any instance, may not exceed one-half the allowable axle load. Spacing between axles is measured from axle center to axle center.
2. Subject to the limitations imposed by subsection 1 on tires, wheel, and axle loads, a person may not operate on a

highway that is not part of the interstate system any vehicle the gross weight of which exceeds that determined by the formula of:

$$W=500\left(\frac{L^N}{N-1} + 12N + 36\right)$$

where W equals the maximum gross weight in pounds on any vehicle or combination of vehicles; L equals distance in feet between the two extreme axles of any vehicle or combination of vehicles; and N equals the number of axles of any vehicle or combination of vehicles under consideration. The gross weight on state highways may not exceed one hundred five thousand five hundred pounds [47854.00 kilograms] unless otherwise posted and on all other highways the gross weight may not exceed eighty thousand pounds [36287.39 kilograms] unless designated by local authorities for highways under their jurisdiction for gross weights not to exceed one hundred five thousand five hundred pounds [47854.00 kilograms]. Local authorities are encouraged to assess all roads under their jurisdiction and designate the roads for the appropriate weight limits allowed under this subsection.

3. The gross weight limitations in subsections 1 and 2 do not apply to equipment the director and the state highway patrol approve for exemption. The exemption may not exceed one hundred five thousand five hundred pounds [47854.00 kilograms]. For every vehicle approved for exemption the highway patrol shall issue a nontransferable permit valid for one year. The highway patrol may charge an administrative fee for the permit.
  4. The director, and local authorities, as to the highways under their respective jurisdictions, may issue permits authorizing a specific motor vehicle to exceed the weight limitations stated in subsections 1 and 2 by ten percent. The permits may not provide for a gross weight in excess of one hundred five thousand five hundred pounds [47854.00 kilograms]. The permits must provide only for the movement of agricultural products from the field of harvest to the point of initial storage site, and for the collection and transport of solid wastes, during the period from July fifteenth to December first, and for the general movement of products during the period from December first to March seventh.
- The appropriate jurisdictional authority shall establish an appropriate fee for the permits and direct how they shall be issued. The highway patrol shall issue the permits authorized by the director.
5. The director, and local authorities, as to highways under their respective jurisdictions, may issue permits authorizing all vehicles carrying potatoes or sugar beets to exceed weight limitations stated in subsections 1 and 2 by ten percent during the period from July fifteenth to December first. The permits may not provide for a gross weight in excess of one hundred five thousand five hundred pounds [47854.00 kilograms]. The appropriate jurisdictional authority shall establish an appropriate fee for the permits and direct how they shall be issued. The highway patrol shall issue the permits authorized by the director.
  6. The gross weight limitations in subsections 1 and 2 do not apply to movement of a self-propelled fertilizer spreader if the weight of a single axle does not exceed twenty-two thousand pounds [9973.03 kilograms] and does not exceed five hundred fifty pounds [249.48 kilograms] for each inch [2.54 centimeters] of tire width. The gross weight limitations in subsections 1 and 2 do not apply to movement of a self-propelled agricultural chemical applicator if the weight of a single axle does not exceed twenty-two thousand pounds [9973.03 kilograms] and does not exceed five hundred fifty pounds [249.48 kilograms] for each inch [2.54 centimeters] of tire width. The highway patrol shall issue a seasonal permit for the commercial movement of vehicles exempted by this subsection. The seasonal permit issued under this subsection or under subdivision d of subsection 1 of section 39-12-04 entitles an individual with the permit to operate a vehicle as allowed by either of these provisions. A seasonal permit issued under this subsection is subject to the requirements of subdivision d of subsection 1 of section 39-12-04.
  7. The weight limitations in subsections 1 and 2 do not apply to equipment the director and the state highway patrol approve for exemption but the weight limitations in section 39-12-05 do apply to that equipment. For every vehicle approved for exemption, the highway patrol shall issue a nontransferable bridge length permit valid for a single trip or a calendar year.

Section 39-12-06 prohibits the operation on a highway of a motor vehicle carrying any load beyond the lines of the left fenders of the vehicle nor extending more than 12 inches beyond the line of the fenders on the right side of the vehicle unless permitted by Section 39-12-04.

Section 39-12-08 provides that the penalty for operating an overweight or oversized vehicle without a permit is a fee of \$100. The penalty for any other violation for which a specific penalty is not provided is a fee of \$20. The section, as amended by Senate Bill No. 2044 also provides that for a permit allowed under Chapter 39-12, if the violation is of a permit issued by a county under a home rule ordinance or any city, including a home rule city, the statutory fee is for a violation of state law in an amount provided by Section 39-12-08. Pursuant to Section 29-27-02.1, unless otherwise provided by law, all statutory fees, fines, forfeitures, and pecuniary penalties prescribed for a violation of state laws are to be deposited in the common schools trust fund.

Chapter 39-12 also provides procedures of impoundment of overweight vehicles. Section 39-12-11 states that a vehicle found to have been moved or used upon any highway, street, or road in this state at a weight exceeding the limitations as specified in any order, ordinance, or resolution issued under Section 39-12-03 or as limited by Section 39-12-05 may be impounded by any peace officer and taken to a warehouse or garage for storage. Under Section 39-12-14, the state's attorney of the county in which a vehicle is impounded is required to file a civil complaint on behalf of the authority having jurisdiction of the road on which a violation occurred, for the purpose of recovering charges for the extraordinary use of the highway. However, Section 39-12-14.1 provides that before a complaint is issued, the owner, or the owner's driver or agent, may voluntarily pay the amount of the extraordinary road use fee, or may provide proof of surety coverage to ensure payment of the extraordinary road use fee, provided under section 39-12-17, plus any towing or storage costs. The extraordinary road use fees must be deposited with the State Treasurer to be credited to the highway fund.

Section 39-12-17 sets forth the charges that must be assessed as extraordinary road fees. That section provides that in addition to storage costs and the costs of the action, the following fees must be assessed:

- 1 to 1,000 pounds [.45 to 453.59 kilograms] of excess weight = \$20
- 1,001 to 2,000 pounds [454.05 to 907.18 kilograms] of excess weight = \$40
- 2,001 to 3,000 pounds [907.64 to 1360.78 kilograms] of excess weight = \$60
- 3,001 to 4,000 pounds [1361.23 to 1814.37 kilograms] of excess weight = \$140
- 4,001 to 5,000 pounds [1814.82 to 2267.96 kilograms] of excess weight = \$220

5,001 to 6,000 pounds [2268.41 to 2721.55 kilograms] of excess weight = \$305

6,001 to 7,000 pounds [2722.01 to 3175.14 kilograms] of excess weight = \$380

7,001 to 8,000 pounds [3175.60 to 3628.74 kilograms] of excess weight = \$495

8,001 to 9,000 pounds [3629.19 to 4082.33 kilograms] of excess weight = \$575

9,001 to 10,000 pounds [4082.78 to 4535.92 kilograms] of excess weight = \$655

10,001 to 11,000 pounds [4536.37 to 4989.51 kilograms] of excess weight = \$1,100

11,001 to 12,000 pounds [4989.97 to 5443.10 kilograms] of excess weight = \$1,200

12,001 to 13,000 pounds [5443.56 to 5896.70 kilograms] of excess weight = \$1,300

13,001 to 14,000 pounds [5897.15 to 6350.29 kilograms] of excess weight = \$1,680

14,001 to 15,000 pounds [6350.74 to 6803.88 kilograms] of excess weight = \$1,800

15,001 to 16,000 pounds [6804.33 to 7257.47 kilograms] of excess weight = \$1,920

16,001 to 17,000 pounds [7257.93 to 7711.06 kilograms] of excess weight = \$2,550

17,001 to 18,000 pounds [7711.52 to 8164.66 kilograms] of excess weight = \$2,700

18,001 to 19,000 pounds [8165.11 to 8618.25 kilograms] of excess weight = \$2,850

19,001 to 20,000 pounds [8618.70 to 9071.84 kilograms] of excess weight = \$3,000

20,001 to 21,000 pounds [9072.29 to 9525.43 kilograms] of excess weight = \$4,200

21,001 to 22,000 pounds [9525.89 to 9979.02 kilograms] of excess weight = \$4,400

22,001 to 23,000 pounds [9979.48 to 10432.62 kilograms] of excess weight = \$4,600

23,001 to 24,000 pounds [10433.07 to 10886.21 kilograms] of excess weight = \$4,800

24,001 to 25,000 pounds [10886.66 to 11339.80 kilograms] of excess weight = \$5,000

25,001 to 26,000 pounds [11340.25 to 11793.40 kilograms] of excess weight = \$5,200

26,001 to 27,000 pounds [11793.86 to 12246.99 kilograms] of excess weight = \$5,400

27,001 to 28,000 pounds [12247.45 to 12700.59 kilograms] of excess weight = \$5,600

28,001 to 29,000 pounds [12701.04 to 13154.18 kilograms] of excess weight = \$5,800

29,001 to 30,000 pounds [13154.63 to 13607.77 kilograms] of excess weight = \$6,000

An additional charge of \$200 for every 1,000-pound [453.59-kilogram] increase over 30,000 pounds [13607.77 kilograms] consistent with the above formula.

Section 39-12-18 requires a judge to order the confiscation of the vehicle if the charges and costs as provided in Section 39-12-17 are not paid immediately from a cash bond previously posted or other cash payment, and the vehicle may be sold by the sheriff of the county at a public sale to the highest bidder with

the proceeds applied to the payment of the charges and costs assessed.

Section 39-12-20 provides the proceeds of sale must be deposited with the State Treasurer, and the State Treasurer is required to deposit in the highway fund an amount equal to the amount of the charges assessed under Section 39-12-17 after paying the costs to the county.

### **SUGGESTED STUDY APPROACH**

The commission may request representatives of the Department of Transportation, the Highway Patrol, and cities and counties to provide additional information regarding the issuance of permits under Chapter 39-12 and the number of vehicles operating with oversize and overweight permits. The commission may desire to examine the cost of permits and the fees and penalties imposed to determine whether those amounts are adequate to compensate for the damage done to highways by oversized vehicles and the cost of enforcement of size and weight limitations.

ATTACH:1