

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 484
94TH GENERAL ASSEMBLY

Reported from the Committee on Transportation, April 5, 2007, with recommendation that the Senate Committee Substitute do pass.

1721S.04C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal section 304.230, RSMo, and to enact in lieu thereof three new sections relating to commercial motor vehicles, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 304.230, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 301.037, 304.230, and 304.232, to read as follows:

301.037. In addition to submitting a personal property tax receipt, proof of financial responsibility, a heavy highway vehicle use tax receipt, and any other documents or information which may be required by law, the owner of a commercial motor vehicle with a licensed gross weight over fifty thousand pounds shall, prior to obtaining or renewing the plates for such vehicle, submit proof in a manner satisfactory to the director, that the vehicle is registered with the motor carrier division of the department of transportation. An owner may demonstrate proof of registration by submitting a copy of his or her U.S. Department of Transportation number or a lease paper showing that the vehicle is leased by another registered motor carrier. Any owner of a vehicle described in this section that is not required by law to be registered with the motor carrier division of the department of transportation shall attest under penalty of perjury to such fact on the application.

304.230. 1. It shall be the duty of the sheriff of each county or city to see that the provisions of sections 304.170 to 304.230 are enforced, and any peace officer or police officer of any county or city or any highway patrol officer shall

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

4 have the power to arrest on sight or upon a warrant any person found violating
5 or having violated the provisions of such sections. **Beginning January 1, 2008,**
6 **only law enforcement officers that have been certified by the Missouri**
7 **state highway patrol under section 304.232, members of the Missouri**
8 **state highway patrol, regularly employed maintenance men of the**
9 **department of transportation, or commercial vehicle enforcement**
10 **officers appointed under subsection 4 of this section shall have the**
11 **authority to conduct random roadside examinations or inspections to**
12 **determine compliance with sections 304.170 to 304.230, and only such**
13 **officers shall have the authority, with or without probable cause to**
14 **believe that the size or weight is in excess of that permitted by sections**
15 **304.170 to 304.230, to require the driver, operator, owner, lessee, or**
16 **bailee, to stop, drive, or otherwise move to a location to determine**
17 **compliance with sections 304.170 to 304.230. Notwithstanding the**
18 **provisions of this subsection, a law enforcement officer not certified**
19 **under section 304.232, may stop a vehicle that has a visible external**
20 **safety defect relating to the enforcement of the provisions of sections**
21 **304.170 to 304.230 that could cause immediate harm to the traveling**
22 **public. In the course of a stop, the law enforcement officer shall**
23 **identify to the driver the defect that caused the stop. If the vehicle**
24 **passes a comprehensive roadside inspection, the law enforcement**
25 **officer, state highway patrolman, or other authorized person may issue**
26 **the operator, driver, owner, lessee, or bailee of such vehicle a**
27 **Commercial Vehicle Safety Alliance inspection decal to be affixed to the**
28 **vehicle in a manner prescribed by the superintendent. Once issued, the**
29 **Commercial Vehicle Safety Alliance decal shall be valid for a period not**
30 **to exceed three consecutive months and shall exempt such vehicle from**
31 **further inspection during such period. However, nothing shall exempt**
32 **the operator from subjecting such vehicle to an examination or**
33 **inspection if the vehicle has a visible external safety defect relating to**
34 **the enforcement of sections 304.170 to 304.230, or the law enforcement**
35 **officer stopping such vehicle has probable cause to believe that the size**
36 **or weight of the vehicle is in excess of that permitted by sections**
37 **304.170 to 304.230. The superintendent of the Missouri state highway**
38 **patrol shall promulgate rules and regulations relating to the issuance,**
39 **display, and use of the Commercial Vehicle Safety Alliance decal. Any**
40 **rule or portion of a rule, as that term is defined in section 536.010,**
41 **RSMo, that is created under the authority delegated in this section**

42 **shall become effective only if it complies with and is subject to all of**
43 **the provisions of chapter 536, RSMo, and, if applicable, section 536.028,**
44 **RSMo. This section and chapter 536, RSMo, are nonseverable and if any**
45 **of the powers vested with the general assembly pursuant to chapter**
46 **536, RSMo, to review, to delay the effective date, or to disapprove and**
47 **annul a rule are subsequently held unconstitutional, then the grant of**
48 **rulemaking authority and any rule proposed or adopted after August**
49 **28, 2007, shall be invalid and void.**

50 2. [The sheriff or] Any peace officer **certified under section 304.232**
51 or any highway patrol officer is hereby given the power to stop any such
52 conveyance or vehicle as above described upon the public highway for the purpose
53 of determining whether such vehicle is loaded in excess of the provisions of
54 sections 304.170 to 304.230, and if he or she finds such vehicle loaded in violation
55 of the provisions thereof he or she shall have a right at that time and place to
56 cause the excess load to be removed from such vehicle; and provided further, that
57 any regularly employed maintenance man of the department of transportation
58 shall have the right and authority in any part of this state to stop any such
59 conveyance or vehicle upon the public highway for the purpose of determining
60 whether such vehicle is loaded in excess of the provisions of sections 304.170 to
61 304.230, and if he or she finds such vehicle loaded in violation of the provisions
62 thereof, he or she shall have the right at that time and place to cause the excess
63 load to be removed from such vehicle. When only an axle or a tandem axle group
64 of a vehicle is overloaded, the operator shall be permitted to shift the load, if this
65 will not overload some other axle or axles, without being charged with a violation;
66 provided, however, the privilege of shifting the weight without being charged with
67 a violation shall not extend to or include vehicles while traveling on the federal
68 interstate system of highways. When only an axle or tandem axle group of the
69 vehicle traveling on the federal interstate system of highways is overloaded and
70 a court authorized to enforce the provisions of sections 304.170 to 304.230 finds
71 that the overloading was due to the inadvertent shifting of the load changing axle
72 weights in transit through no fault of the operator of the vehicle and that the load
73 thereafter had been shifted so that no axle had been overloaded, then the court
74 may find that no violation has been committed. The operator of any vehicle shall
75 be permitted to back up and reweigh, or to turn around and weigh from the
76 opposite direction. Any operator whose vehicle is weighed and found to be within
77 five percent of any legal limit may request and receive a weight ticket,
78 memorandum or statement showing the weight or weights on each axle or any
79 combinations of axles. Once a vehicle is found to be within the limits of section

80 304.180 after having been weighed on any state scale and there is no evidence
81 that any cargo or fuel has been added, no violation shall occur, but a presumption
82 shall exist that cargo or fuel has been added if upon reweighing on another state
83 scale the total gross weight exceeds the applicable limits of section 304.180 or
84 304.190. The highways and transportation commission of this state may deputize
85 and appoint any number of their regularly employed maintenance men to enforce
86 the provisions of such sections, and the maintenance men delegated and
87 appointed in this section shall report to the proper officers any violations of
88 sections 304.170 to 304.230 for prosecution by such proper officers.

89 3. The superintendent of the Missouri state highway patrol may assign
90 qualified persons who are not highway patrol officers to supervise or operate
91 permanent or portable weigh stations used in the enforcement of commercial
92 vehicle laws. These persons shall be designated as commercial vehicle inspectors
93 and have limited police powers:

94 (1) To issue uniform traffic tickets at a permanent or portable weigh
95 station for violations of rules and regulations of the division of motor carrier and
96 railroad safety of the department of economic development and department of
97 public safety, and laws, rules, and regulations pertaining to commercial motor
98 vehicles and trailers and related to size, weight, fuel tax, registration, equipment,
99 driver requirements, transportation of hazardous materials and operators' or
100 chauffeurs' licenses, and the provisions of sections 303.024 and 303.025, RSMo;

101 (2) To require the operator of any commercial vehicle to stop and submit
102 to a vehicle and driver inspection to determine compliance with commercial
103 vehicle laws, rules, and regulations, the provisions of sections 303.024 and
104 303.025, RSMo, and to submit to a cargo inspection when reasonable grounds
105 exist to cause belief that a vehicle is transporting hazardous materials as defined
106 by Title 49 of the Code of Federal Regulations;

107 (3) To make arrests for violation of subdivisions (1) and (2) of this
108 subsection. Commercial vehicle inspectors shall not have the authority to
109 exercise the powers granted in subdivisions (1), (2) and (3) of this subsection until
110 they have successfully completed training approved by the superintendent of the
111 Missouri state highway patrol; nor shall they have the right as peace officers to
112 bear arms.

113 4. The superintendent of the Missouri state highway patrol may appoint
114 qualified persons, who are not members of the highway patrol, designated as
115 commercial vehicle enforcement officers, with the powers:

116 (1) To issue uniform traffic tickets for violations of laws, rules and
117 regulations pertaining to commercial vehicles, trailers, special mobile equipment

118 and drivers of such vehicles, and the provisions of sections 303.024 and 303.025,
119 RSMo;

120 (2) To require the operator of any commercial vehicle to stop and submit
121 to a vehicle and driver inspection to determine compliance with commercial
122 vehicle laws, rules, and regulations, compliance with the provisions of sections
123 303.024 and 303.025, RSMo, and to submit to a cargo inspection when reasonable
124 grounds exist to cause belief that a vehicle is transporting hazardous materials
125 as defined by Title 49 of the Code of Federal Regulations;

126 (3) To make arrests upon warrants and for violations of subdivisions (1)
127 and (2) of this subsection. Commercial vehicle enforcement officers shall not have
128 the authority to exercise the powers granted in subdivisions (1), (2) and (3) of this
129 subsection until they have successfully completed training approved by the
130 superintendent of the Missouri state highway patrol. Commercial vehicle
131 enforcement officers shall have the right as peace officers to bear arms.

132 5. Any additional employees needed for the implementation of this section
133 shall be hired in conformity with the provisions of the federal fair employment
134 and antidiscrimination acts.

135 6. Any part of this section which shall be construed to be in conflict with
136 the axle or tandem axle load limits permitted by the Federal-Aid Highway Act,
137 Section 127 of Title 23 of the United States Code (Public Law 85-767, 85th
138 Congress) shall be null, void and of no effect.

**304.232. 1. The Missouri state highway patrol shall establish
2 procedures for the certification of municipal police officers, sheriffs,
3 deputy sheriffs, and other law enforcement officials that enforce
4 sections 304.170 to 304.230.**

**5 2. The certification procedures established by the Missouri state
6 highway patrol shall include, but not be limited to:**

7 (1) Initial and maintenance of certification, to include:

8 (a) Training;

**9 (b) Recurring training, to be conducted minimally on an annual
10 basis;**

11 (c) Testing; and

**12 (d) On-the-job experience under the supervision of a certified
13 law enforcement official or field training officer;**

**14 (2) Delineation of roles and responsibilities within the specific
15 agency, as well as the coordination with the Missouri state highway
16 patrol;**

17 (3) Data collection and maintenance and upload to state

18 information systems;

19 (4) Computer hardware, software, and communications systems
20 shall be compatible with those of the Missouri state highway patrol;

21 (5) Prescribed use of forms and other official documents related
22 to the certification;

23 (6) Fine and sanction structure that is similar to that of the
24 Missouri state highway patrol; and

25 (7) Disposition of moneys generated by fines.

26 3. The certification procedures shall meet the requirements of
27 the memorandum of understanding between the state of Missouri and
28 the Commercial Vehicle Safety Alliance or any successor organization.

29 4. The commercial motor vehicle safety enforcement and
30 inspection activities of all law enforcement officials of a political
31 subdivision of the state of Missouri shall conform to the memorandum
32 of understanding between the state of Missouri and the Commercial
33 Vehicle Safety Alliance, as appropriate.

34 5. Commercial motor vehicle safety data collection, management,
35 and distribution by law enforcement officials of a political subdivision
36 as described in subsection 11 of this section shall support the
37 information systems of the Missouri state highway patrol.

38 6. The Missouri state highway patrol shall establish reasonable
39 fees sufficient to recover from a political subdivision as described in
40 subsection 11 of this section the cost of training, recurring training,
41 data collection and management, certifying, and additional
42 administrative functions for law enforcement officials certified under
43 this section. The Missouri state highway patrol may apply for any
44 applicable reimbursement or incentive funds that may be available
45 under the motor carrier safety assistance program to fund the
46 certification training program outlined in this section.

47 7. The agencies for which law enforcement officials certified
48 under this section work for shall, to the extent practicable, adhere to
49 the same Motor Carrier Safety Assistance Program requirements under
50 49 Code of Federal Regulations Part 350 of the Federal Motor Carrier
51 Safety Regulations.

52 8. The agencies for which law enforcement officials certified
53 under this section work for shall be subject to periodic program
54 reviews and, at the discretion of the Missouri state highway patrol, be
55 required to submit a commercial vehicle safety plan that is consistent

56 with and incorporated into the statewide enforcement plan.

57 9. Beginning January 1, 2008, no local law enforcement officer
58 may conduct a random commercial motor vehicle roadside inspection
59 to determine compliance with the provisions of sections 304.170 to
60 304.230 unless the law enforcement officer has satisfactorily completed,
61 as a part of his or her training, the basic course of instruction
62 developed by the Commercial Vehicle Safety Alliance and has been
63 certified by the Missouri state highway patrol under this section. Law
64 enforcement officers authorized to enforce the provisions of sections
65 304.170 to 304.230 shall annually receive in-service training related to
66 commercial motor vehicle operations, including but not limited to
67 training in current federal motor carrier safety regulations, safety
68 inspection procedures, and out-of-service criteria. The annual training
69 requirements shall be designated and specified by the superintendent
70 of the highway patrol.

71 10. The superintendent of the state highway patrol shall
72 promulgate rules and regulations necessary to administer the
73 certification procedures and any other provisions of this section. Any
74 rule or portion of a rule, as that term is defined in section 536.010,
75 RSMo, that is created under the authority delegated in this section
76 shall become effective only if it complies with and is subject to all of
77 the provisions of chapter 536, RSMo, and, if applicable, section 536.028,
78 RSMo. This section and chapter 536, RSMo, are nonseverable and if any
79 of the powers vested with the general assembly pursuant to chapter
80 536, RSMo, to review, to delay the effective date, or to disapprove and
81 annul a rule are subsequently held unconstitutional, then the grant of
82 rulemaking authority and any rule proposed or adopted after August
83 28, 2007, shall be invalid and void.

✓