~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 21, 2012

**H. 4761**

Introduced by Reps. Hiott, D.C. Moss, Agnew, Skelton, Frye, Spires, Owens, Atwater, Bowen, Gambrell, Corbin, Hardwick, Whitmire, Branham, Thayer, Crosby, Allison, Southard, J.R. Smith, Daning, Delleney, Harrison, Hayes, Hixon, V.S. Moss, Pitts, Putnam, Taylor, White and Hodges

S. Printed 3/21/12--H. [SEC 3/22/12 4:17 PM]

Read the first time February 9, 2012.

**THE COMMITTEE ON EDUCATION AND PUBLIC WORKS**

To whom was referred a Bill (H. 4761) to amend the Code of Laws of South Carolina, 1976, by adding Section 56‑5‑225 so as to define the term “farm truck”; by adding Section 56-5-363, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Subarticle I, Article 3, Chapter 5, Title 56 of the 1976 Code is amended by adding:

“Section 56‑5‑225. Farm truck is defined as a truck having a gross vehicle weight (GVW), gross vehicle weight rating (GVWR), gross combination weight (GCW), and gross combination weight rating (GCWR) less than 26,001 lbs, used exclusively by the owner for agricultural, horticultural, dairying, livestock, and poultry operations and includes transporting farm processed horticultural products, including soil amendments and mulches owned by the truck’s owner or another person, including first market. However, farm trucks with an empty weight of less than twenty‑six thousand and one pounds may be used for ordinary domestic purposes and general transportation, but must not be used to transport persons or property for hire. No part of this definition may be interpreted to exempt any commercial motor vehicle less than 26,001 lbs GVW/GVWR/GCW/GCWR from all or part of state laws or regulations applicable to intrastate commerce if the vehicle:

(1) transports hazardous materials requiring a placard; or

(2) is designed or used to transport sixteen or more people, including the driver.”

SECTION 2. Subarticle I, Article 3, Chapter 5, Title 56 of the 1976 Code is amended by adding:

“Section 56‑5‑363. (A) Except as provided in subsection (C), a commercial motor vehicle (CMV) operating in intrastate commerce is exempt from all state laws or regulations applicable to intrastate commerce, provided that the gross vehicle weight (GVW), gross vehicle weight rating (GVWR), gross combination weight (GCW), and gross combination weight rating (GCWR) are less than 26,001 lbs.

(B) A CMV driver operating a ‘farm truck’ as specified in Section 56‑5‑225 in intrastate commerce that is less than or equal to the GVW, GVWR, GCW and GCWR set forth in subsection (A) who does not meet the physical qualifications standards contained in 49 C. F. R. 391.41 may continue to be qualified to operate a CMV in intrastate commerce if the following conditions are met:

(1) the driver was qualified under existing State law or regulation at the time the state adopted physical qualification standards compatible with federal standards in 49 C. F. R. 391.41;

(2) the otherwise non‑qualifying medical or physical conditions has not worsened substantially; and

(3) no other non‑qualifying medical or physical condition has developed.

(C) A CMV is not exempt from Federal Motor Carrier Safety laws or regulations applicable to intrastate commerce, regardless of weigh, if the vehicle is:

(1) designed or used to transport sixteen or more passengers, including the driver; or

(2) used in the transportation of hazardous materials and is required to be placarded pursuant to 49 C. F. R. part 172, subpart F.”

SECTION 3. Section 56‑3‑670(A) of the 1976 Code, as last amended by Act 398 of 2006, is further amended to read:

“(A) For the purpose of this section, farm truck is defined as a truck, having a gross vehicle weight (GVW), gross vehicle weight (GVWR), gross combination weight (GCW), and gross combination weight rating (GWR) less than 26,001 lbs, used exclusively by the owner for agricultural, horticultural, dairying, livestock, and poultry operations and includes transporting farm processed horticultural products, including soil amendments and mulches owned by the truck’s owner or another person, including first market. However, farm trucks with an empty weight of less than seven thousand five hundred pounds may be used for ordinary domestic purposes and general transportation but must not be used to transport persons or property for hire. No part of this definition may be interpreted to exempt any commercial motor vehicle less than 26,001 lbs GVW/GVWR/GVW/GCWR from all or part of state laws or regulations applicable to intrastate commerce if the vehicle:

(1) transports hazardous materials requiring a placard; or

(2) is designed or used to transport sixteen or more people, including the driver.”

SECTION 4. Section 56‑5‑4010 of the 1976 Code is amended to read:

“Section 56‑5‑4010. (A) It ~~shall be~~ is unlawful for ~~any~~ a person to drive or move or for the owner to cause or knowingly to permit to be driven or moved on ~~any~~ a highway ~~any~~ a vehicle of a size or weight exceeding the limitations stated in this article or otherwise in violation of this article. The maximum size and weight of vehicles herein specified ~~shall be~~ is lawful throughout the State, and local authorities shall have no power or authority to alter ~~such~~ these limitations except as express authority may be granted in this article. Provided, that municipalities and their franchisees may operate combinations of vehicles of not more than four units and not more than sixty‑five feet in length on city streets within their corporate limits and the operation of ~~such~~ these combinations of units ~~shall be~~ is limited to speeds not in excess of twenty miles ~~per~~ an hour, and ~~such~~ these combination units ~~shall~~ must be equipped with brakes meeting braking requirements of Section 56‑5‑4860 and the rear vehicle ~~shall~~ must be equipped with at least one stoplight.

(B) The Transport Police Division of the Department of Public Safety has exclusive authority in this State for enforcement of the commercial motor vehicle carrier laws, which include Federal Motor Carrier Safety Regulations, Hazardous Material Regulations, and size and weight laws and regulations.”

SECTION 5. Section 56‑5‑4150 of the 1976 Code is amended to read:

“Section 56‑5‑4150. (A) The Department of Motor Vehicles upon registering a vehicle, under the laws of this State, which is designed and used primarily for the transportation of property or for the transportation of ten or more persons, may require information and may make investigation or tests necessary to enable it to determine whether the vehicle may be operated safely upon the highways in accordance with all the provisions of this chapter. The department may register the vehicle for a load capacity which, added to the empty or unloaded weight of the vehicle, will result in a permissible gross weight not exceeding the limitations set forth in this chapter. It is unlawful for a person to operate a vehicle or combination of vehicles with a load capacity in excess of that for which it is registered by the department or in excess of the limitations set forth in this chapter. A person making application for a ‘farm truck’ license shall declare in the form prescribed by the department the true unloaded or empty weight of the vehicle and shall stencil or mark in a conspicuous place on the left side of the vehicle the true unloaded or empty weight if the unloaded or empty weight is over five thousand pounds. A ‘farm truck’ operating solely in intrastate commerce and otherwise specified in Section 56‑5‑225 is not required to have the name of the registered owner, lessor, or lessee stenciled or otherwise marked on the vehicle.

(B) A private motor truck or truck tractor of more than twenty‑six thousand pounds gross weight and a for‑hire motor truck or truck tractor must have the name of the registered owner or lessor on the side clearly distinguishable at a distance of fifty feet. These provisions do not apply to two‑axle straight trucks hauling raw farm and forestry products. ~~A~~ Except as provided in subsection (A) concerning certain ‘farm trucks’, a truck operating pursuant to the federal motor carrier safety regulations ~~may~~ must operate with the owner’s, lessor’s, or lessee’s name as required.”

SECTION 6. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

PHILLIP D. OWENS for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected))

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

See Below

**EXPLANATION OF IMPACT:**

The Department of Motor Vehicles and the Department of Public Safety indicate that this bill will have no fiscal impact on the General Fund of the State. The Department of Motor Vehicles does state that this bill will prevent the agency from applying and being awarded Federal Grants in the amount of $134,000 for FY 2011-12 and any future federal funds relating to the Commercial Driver’s License programs. The loss of federal funds used to support operating expenses for the CDL program will cause DMV to use existing funds from other programs.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56‑5‑225 SO AS TO DEFINE THE TERM “FARM TRUCK”; BY ADDING SECTION 56‑5‑363 SO AS TO PROVIDE THAT CERTAIN COMMERCIAL MOTOR VEHICLES AND FARM TRUCKS ARE EXEMPT FROM CERTAIN FEDERAL MOTOR CARRIER SAFETY LAWS AND REGULATIONS; TO AMEND SECTION 56‑3‑670, AS AMENDED, RELATING TO FEES FOR FARM TRUCK LICENSES, SO AS TO REVISE THE WEIGHT REQUIREMENTS FOR FARM TRUCKS THAT MAY BE USED FOR DOMESTIC PURPOSES AND GENERAL TRANSPORTATION BUT MAY NOT BE USED TO TRANSPORT PERSONS OR PROPERTY FOR HIRE; TO AMEND SECTION 56‑5‑4010, RELATING TO SIZE, WEIGHT, AND SPEED LIMITATIONS PLACED ON CERTAIN VEHICLES, SO AS TO PROVIDE THAT THE TRANSPORT POLICE DIVISION HAS THE EXCLUSIVE AUTHORITY TO ENFORCE THE COMMERCIAL MOTOR VEHICLE CARRIER LAWS; AND TO AMEND SECTION 56‑5‑4150, RELATING TO THE REGISTRATION OF CERTAIN VEHICLES, SO AS TO PROVIDE THAT CERTAIN “FARM TRUCKS” ARE NOT REQUIRED TO HAVE THE NAME OF THE REGISTERED OWNER, LESSOR, OR LESSEE MARKED ON THE VEHICLE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Subarticle I, Article 3, Chapter 5, Title 56 of the 1976 Code is amended by adding:

“Section 56‑5‑225. Farm truck is defined as a truck used exclusively by the owner for agricultural, horticultural, dairying, livestock, and poultry operations and includes transporting farm processed horticultural products, including soil amendments and mulches owned by the truck’s owner or another person, including first market. However, farm trucks with an empty weight of less than twenty‑six thousand and one pounds may be used for ordinary domestic purposes and general transportation, but must not be used to transport persons or property for hire.”

SECTION 2. Subarticle I, Article 3, Chapter 5, Title 56 of the 1976 Code is amended by adding:

“Section 56‑5‑363. (A) Except as provided in subsection (C), a commercial motor vehicle (CMV) operating in intrastate commerce is exempt from all Federal Motor Carrier Safety laws or regulations applicable to intrastate commerce, provided that the gross vehicle weight (GVW), gross vehicle weight rating (GVWR), gross combination weight (GCW), and gross combination weight rating (GCWR) are less than 11,801 kg (26,001 lbs.).

(B) A CMV driver operating a ‘farm truck’ as specified in Section 56‑3‑670 in intrastate commerce that is equal to or exceeds the GVW, GVWR, GCW and GCWR set forth in subsection (A) is exempt from the physical qualification standards in 49 C.F.R. 391.41, including a requirement to obtain a special medical card, or certification. An intrastate farm truck driver is not exempt by this section from an affirmative duty to disclose to the Department of Motor Vehicles if he receives a qualified medical diagnosis as having, or having developed, a nonqualifying medical or physical condition as provided in 49 C.F.R. 391.41.

(C) A CMV is not exempt from Federal Motor Carrier Safety laws or regulations applicable to intrastate commerce, regardless of weight, if the vehicle is:

(1) designed or used to transport sixteen or more passengers, including the driver; or

(2) used in the transportation of hazardous materials and is required to be placarded pursuant to 49 C.F.R. part 172, subpart F.”

SECTION 3. Section 56‑3‑670(A) of the 1976 Code, as last amended by Act 398 of 2006, is further amended to read:

“(A) For the purpose of this section, farm truck is defined as a truck used exclusively by the owner for agricultural, horticultural, dairying, livestock, and poultry operations and includes transporting farm processed horticultural products, including soil amendments and mulches owned by the truck’s owner or another person, including first market. However, farm trucks with an empty weight of less than ~~seven thousand five hundred~~ twenty‑six thousand and one pounds may be used for ordinary domestic purposes and general transportation but must not be used to transport persons or property for hire.”

SECTION 4. Section 56‑5‑4010 of the 1976 Code is amended to read:

“Section 56‑5‑4010. (A) It ~~shall be~~ is unlawful for ~~any~~ a person to drive or move or for the owner to cause or knowingly to permit to be driven or moved on ~~any~~ a highway ~~any~~ a vehicle of a size or weight exceeding the limitations stated in this article or otherwise in violation of this article. The maximum size and weight of vehicles herein specified ~~shall be~~ is lawful throughout the State, and local authorities shall have no power or authority to alter ~~such~~ these limitations except as express authority may be granted in this article. Provided, that municipalities and their franchisees may operate combinations of vehicles of not more than four units and not more than sixty‑five feet in length on city streets within their corporate limits and the operation of ~~such~~ these combinations of units ~~shall be~~ is limited to speeds not in excess of twenty miles ~~per~~ an hour, and ~~such~~ these combination units ~~shall~~ must be equipped with brakes meeting braking requirements of Section 56‑5‑4860 and the rear vehicle ~~shall~~ must be equipped with at least one stoplight.

(B) The Transport Police Division of the Department of Public Safety has exclusive authority in this State for enforcement of the commercial motor vehicle carrier laws, which include Federal Motor Carrier Safety Regulations, Hazardous Material Regulations, and size and weight laws and regulations.”

SECTION 5. Section 56‑5‑4150 of the 1976 Code is amended to read:

“Section 56‑5‑4150. (A) The Department of Motor Vehicles upon registering a vehicle, under the laws of this State, which is designed and used primarily for the transportation of property or for the transportation of ten or more persons, may require information and may make investigation or tests necessary to enable it to determine whether the vehicle may be operated safely upon the highways in accordance with all the provisions of this chapter. The department may register the vehicle for a load capacity which, added to the empty or unloaded weight of the vehicle, will result in a permissible gross weight not exceeding the limitations set forth in this chapter. It is unlawful for a person to operate a vehicle or combination of vehicles with a load capacity in excess of that for which it is registered by the department or in excess of the limitations set forth in this chapter. A person making application for a ‘farm truck’ license shall declare in the form prescribed by the department the true unloaded or empty weight of the vehicle and shall stencil or mark in a conspicuous place on the left side of the vehicle the true unloaded or empty weight if the unloaded or empty weight is over five thousand pounds. A ‘farm truck’ operating solely intrastate and otherwise specified in Section 56‑5‑225 is not required to have the name of the registered owner, lessor, or lessee stenciled or otherwise marked on the vehicle.

(B) A private motor truck or truck tractor of more than twenty‑six thousand pounds gross weight and a for‑hire motor truck or truck tractor must have the name of the registered owner or lessor on the side clearly distinguishable at a distance of fifty feet. These provisions do not apply to two‑axle straight trucks hauling raw farm and forestry products. ~~A~~ Except as provided in subsection (A) concerning certain ‘farm trucks’, a truck operating pursuant to the federal motor carrier safety regulations may operate with the owner’s, lessor’s, or lessee’s name as required.”

SECTION 6. This act takes effect upon approval by the Governor.

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