

CHAPTER 189. HAULING IN EXCESS OF POSTED WEIGHT LIMIT

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Authority

The provisions of this Chapter 189 issued under the Vehicle Code, 75 Pa.C.S. §§ 4902(f) and 6103, unless otherwise noted.

Source

The provisions of this Chapter 189 adopted March 27, 1981, effective March 28, 1981, 11 Pa.B. 1102, unless otherwise noted.

Cross References

This chapter cited in 67 Pa. Code § 190.1 (relating to purpose); and 67 Pa. Code § 190.5 (relating to revocation of Letter of Local Determination).

§ 189.1. Scope; authority.

(a) This chapter regulates the use of highways posted with weight restrictions authorized under 75 Pa.C.S. § 4902 by vehicles and combinations having a gross weight in excess of the posted weight limit, and applies to both State highways and highways under the jurisdiction of local authorities.

(b) This chapter is promulgated under authority of 75 Pa.C.S. §§ 4902 and 6103.

(c) The provisions of this chapter apply to bridges located on posted highways but do not apply to bridges posted independently of highways.

§ 189.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Excess maintenance—Maintenance or restoration or both (but not betterment) of a posted highway in excess of normal maintenance, caused by use of over-posted-weight vehicles.

Local traffic—The following shall be regarded as local traffic for the purposes of § 189.3 (relating to local traffic):

- (1) Emergency vehicles.
- (2) School buses.
- (3) Vehicles and combinations of governmental agencies and utilities or their contractors engaged in construction or maintenance on a posted highway or in a location which can be reached only via a posted highway.

(4) Vehicles and combinations going to or coming from a residence, commercial establishment, or farm located on a posted highway or which can be reached only via a posted highway.

Normal maintenance—The usual and typical activities necessary to maintain the roadway, shoulders and drainage facilities in the state of repair existing at the date of the inspection prescribed in § 189.4(f)(1) (relating to use under permit).

Over-posted-weight vehicle—A vehicle or combination having a gross weight in excess of a posted weight limit.

Posted highway—A highway having a posted weight limit.

Posted weight limit—A restricted weight limit posted on a highway under authority of 75 Pa.C.S. § 4902.

Posting authority—The Department, as to State designated highways and local authorities, as to all other streets and highways.

Cross References

This section cited in 67 Pa. Code § 190.3 (relating to local traffic and Letters of Local Determination).

§ 189.3. Local traffic.

(a) *General rule.* Over-posted-weight local traffic may exceed posted weight limits unless the posting authority determines that an over-posted-weight vehicle or vehicles being driven to or from a particular destination or destinations are likely to damage the highway.

(b) *Vehicles determined likely to damage highway.* If the posting authority determines that one or more over-posted-weight vehicles are likely to damage the highway, the posting authority will so notify the registrants of the over-posted-weight vehicles or owners of the destination or destinations, or both, and will also notify State and local police. After 2 business days following delivery of the notice, or after 5 days following mailing of the notice, such over-posted-weight vehicles shall not exceed the posted weight limits except in accordance with the provisions of § 189.4 (relating to use under permit).

(c) *Proof of local traffic status.* The following types of documents will constitute evidence that a vehicle is local traffic:

(1) A bill of lading, shipping order or similar document which shows a destination on the posted highway.

(2) Certification by the permittee or an official of a permittee company on the company letterhead describing the local traffic nature of the activity which the vehicle is engaged in.

Cross References

This section cited in 67 Pa. Code § 189.2 (relating to definitions); 67 Pa. Code § 189.4 (relating to use under permit); 67 Pa. Code § 190.3 (relating to local traffic and Letters of Local Determination); 67 Pa. Code § 190.4 (relating to use of Letters of Local Determination); and 67 Pa. Code § 190.5 (relating to revocation of Letter of Local Determination).

§ 189.4. Use under permit.

(a) *General rule.* No over-posted-weight vehicle, except local traffic authorized under § 189.3(a) (relating to local traffic), shall be driven on a posted highway with a gross weight in excess of the posted weight limit unless the posting authority has issued a permit for the vehicle or vehicles in accordance with this section.

(b) *Types of permits.* Types of permits shall include the following:

(1) A Type 1 permit authorizes use of a particular posted highway or portion thereof by an over-posted-weight vehicle. It is valid only when carried in the over-posted-weight vehicle.

(2) A Type 2 permit authorizes use of a particular posted highway or portion thereof by any number of over-posted-weight vehicles being driven to or from a common destination.

(i) Documents of the type set forth in § 189.3(c) (relating to local traffic) will constitute evidence of the destination of a vehicle.

(ii) A Type 2 permit will be issued only upon request of the permittee and if the posting authority determines that it is not feasible to issue a Type 1 permit for each vehicle, for example, most over-posted-weight vehicles hauling to and from the place of business of the permittee belong to or are hauling under contract with customers or suppliers of the permittee.

(3) A Type 3 permit authorizes use of a number of specified posted highways or portions thereof by an over-posted-weight vehicle.

(i) A Type 3 permit is valid only when carried in the over-posted-weight vehicle.

(ii) A Type 3 permit is issued only if the posting authority determines that damage to the posted highway covered by the permit will be minimal because of the limited number of moves by over-posted-weight vehicles and short term use of the highways anticipated by the permittee.

(c) *Excess maintenance agreement.* Issuance of a permit to exceed a posted weight limit or limits will be conditioned on the agreement by the permittee to accept financial responsibility for excess maintenance of the posted highway or portion thereof to be used by the permittee. The agreement may provide for the work to be performed by the posting authority or its contractor or by the permittee or its contractor, except that in the case of a self-bonded agreement, the Department will require that all work be performed by the permittee or its contractor.

(d) *Security.* Except as provided in paragraph (4), the permittee shall be required to provide security in favor of the posting authority to assure compliance with the maintenance-reconstruction agreement.

(1) *Amount of security.* Amount of security shall be as follows:

(i) *Type 1 and Type 2 permits.* Type 1 and Type 2 permits shall include:

(A) \$6,000 per linear mile for unpaved highways to be maintained at a level consistent with the type of highway.

(B) \$12,500 per linear mile for paved highways to be maintained at a level consistent with the type of highway.

(C) \$50,000 per linear mile for any highway which the posting authority allows to be maintained below a level consistent with the type of highway.

(ii) *Type 3 permits.* \$10,000 for each county or municipality covered by the permit.

(iii) *Schedule of bonding amounts.* The Department will from time to time, but not more often than annually, publish a revised schedule of bonding amounts based on increased or decreased maintenance costs.

(2) *Form of security.* The security may be in the form of a performance bond with surety by a company authorized to do business in the Commonwealth; or, at the option of the permittee, in the form of a certified or cashier's check, bank account, or irrevocable letter of credit in favor of the posting authority; or in some other form of security acceptable to the posting authority.

(3) *Additional security.* When the amount of damage in excess of normal maintenance to a posted highway is estimated by the posting authority to constitute 75% or more of the amount of the security, the posting authority may require the highway to be maintained or reconstructed within 30 days unless the permittee agrees to provide such additional security as the posting authority shall determine.

(4) *Self-bonding.* The posting authority may authorize self-bonding if it determines, on the basis of the financial ability of the permittee, that it is unlikely that the posting authority will be unable to collect a judgment rendered against the permittee for failure to comply with the maintenance agreement.

(i) The posting authority may require corporate officers and stockholders and their spouses to execute a self-bond, if the financial ability of a corporation is insufficient in itself to justify self-bonding.

(ii) The posting authority may require the permittee to execute liens on real or personal property, or both, as a condition for authorizing self-bonding.

(iii) In order to be considered for self-bonding by the Department, a permittee shall file Contractor's Financial Statement, Department Form CS 4300, Part 1. The financial statement shall be updated annually, and within 30 days of any Department request for an update.

(e) *Multiple permittees.* Multiple permittees shall conform with the following:

- (1) *Agreement to share excess maintenance responsibility.* If two or more persons wish to obtain Type 1 or Type 2 permits to operate over-posted-weight vehicles on the same posted highway or portion thereof, they may agree among themselves as to their relative responsibility for the cost of excess maintenance and the posting authority will enter into agreements and accept security on the basis of the agreed shares.
- (2) *Determination by posting authority.* If multiple applicants for Type 1 or Type 2 permits cannot agree on their relative responsibility, the posting authority will determine their relative shares, and will enter into agreements with and accept security from any person agreeing to such determination.
- (3) *Subsequent permit applicants.* Paragraphs (1) and (2) shall apply even if one or more persons have already entered into a Type 1 or Type 2 permit agreement and posted security when another person expresses the desire to obtain a Type 1 or Type 2 permit to operate over-posted-weight vehicles on the same posted highway.
- (f) *Determination of highway condition.* Determination of highway condition shall consist of the following:
- (1) *Inspection.* Representatives of the posting authority and of the permittee or permittees will make an onsite inspection of the posted highway immediately before issuance of each permit in order to determine its condition.
- (2) *Reinspection.* The posted highway will be reinspected:
- (i) Upon issuance of any new permit.
- (ii) From time to time as the posting authority determines repairs may be required.
- (iii) Upon termination of any permit, in order to determine the amount of damage for which the permittee or permittees are responsible.
- (3) *Type 3 permits.* Before and after using a Type 3 permit on any posted highway specified in the permit, the representatives of the permittee and the posting authority will make an onsite inspection to determine the relative condition of the highway before and after the use and to assess any excess maintenance caused by the permittee.
- (4) *Notification of inspections and reinspections.* All Type 1 and Type 2 permittees on a posted highway or portion thereof will be notified of all inspections and reinspections on the highway or portion, and may participate in the inspections and reinspections.
- (5) *Inspection costs.* The inspection costs of the posting authority shall be paid by the permittee or permittees. Inspection costs related to a county wide or municipality wide—Type 3—permit will be paid solely by the Type 3 permittee.
- (g) *Administrative fee.* The Department will charge a \$15 administrative fee for issuance of each Type 3 permit. Local authorities may charge an administrative fee of no more than \$15 for issuance of each Type 3 permit.

Cross References

This section cited in 67 Pa. Code § 189.2 (relating to definitions); and 67 Pa. Code § 189.3 (relating to local traffic).

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