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FISCAL IMPACT REPORT

SPONSOR Smith DATE TYPED 02/1/2005 HB _____

SHORT TITLE Increase Commercial Vehicle Penalties SB 280/aSFC

ANALYST Moser

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			See Narrative		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates Appropriation in the General Appropriation Act
Relates to Appropriation in the General Appropriation Act

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
	Unknown – See notes in Fiscal Implications	Unknown – See notes in Fiscal Implications	Recurring	State Road Fund
	Unknown – See notes in Fiscal Implications	Unknown – See notes in Fiscal Implications	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Public Safety (DPS)

Department of Transportation (DOT)

SUMMARY

Synopsis of SFC Amendment

The amendments adopted by the Senate Finance Committee add “(5) saddle mounts” to the ve-

ehicles considered specialized equipment that may exceed an overall length of sixty-five feet, increase the penalty assessment for failure to register motor carrier to \$300.00 from \$100.00, and reduce to \$50.00 from the proposed \$300.00 the penalty for failure to carry tax identification permit.

Synopsis of Bill

Senate Bill 280 would allow commercial motor carrier vehicles that are not in compliance with the weight distance tax to be detained until that tax is paid. The current penalty for failure to register a commercial vehicle (misdemeanor - \$100 to \$500 and/or up to 90 days) is extended to apply to failure to stop at ports-of-entry. The fine (penalty assessment) for failure to stop at ports-of-entry is increased for multiple offenders from \$100 to be \$250 for a second offense and \$500 for a third or subsequent offense.

Fines for *oversize* vehicles would be doubled. Fines for *overweight* vehicles (applicable to “divisible loads” where it is possible to avoid an overweight situation) would be doubled. Fines for operating without an oversize-overweight permit (applicable to loads that are not divisible) are increased from \$50 to \$100 for a first offense, \$250 for a second offense, and \$500 for a third or subsequent offense. The fine for failure to carry a weight distance tax identification permit is increased from \$50 to \$300. New penalty assessment categories are added to coordinate with recent changes in federal rules regarding the number of hours a commercial driver may be on duty, and revised federal requirements related to driver log books.

An exception to current vehicle length limits is proposed for a bus operating on the national network of highways, and state law is changed to conform to federal law regarding the length of automobile and boat transports, beverage semitrailers, and munitions carriers using dromedary equipment.

Numerous technical changes are made to change references to the tax identification “~~card~~” to be the tax identification “permit”, and to update statute for past recompilation revisions.

Significant Issues

- State fiscal analysts and others familiar with the weight distance tax have increasingly observed that compliance with that tax declined following a 2001 revision to the way tax identification permits were issued. During the 2003 Special Session, HB-15 proposed a revision to tax identification permits, requiring vehicle-specific permits be issued. HB-15 also increased the rate of the weight distance tax as part of the funding package for Governor Richardson’s Investment Partnership (GRIP) transportation infrastructure initiative. Revenue analysts thought long and hard about the wisdom of increasing a tax program that was already experiencing compliance problems, but in the end two facts were compelling. First, the tax was long overdue for tax rate maintenance, and second, the fact that the revenue was sorely needed to address the damage to the state’s infrastructure caused by the heavy vehicle transportation industry. This bill proposes significant revisions designed to encourage tax compliance and regulatory compliance, and to allow motor carrier regulatory officials (the Motor Transportation Division of the Department of Public Safety in particular) to assist the Taxation and Revenue Department in furthering tax compliance efforts.

- The majority of firms operating heavy trucks are conscientious taxpayers operating in a very competitive, highly regulated, cost-conscious environment. The fact that there appears to be a substantial degree of tax evasion by a portion of the industry creates a “level playing field” problem for the conscientious segment of the industry. Every effort the state can make to further universal compliance with tax laws and obligations serves to keep the playing field more level in this competitive industry. This bill provides many of the tools that are needed to promote tax and regulatory compliance.
- Recent advances in the technological tools available to the Motor Transportation Division now allow the identification of delinquent or noncompliant taxpayers. The current problem is: *what can MTD do when it recognizes a tax compliance problem?* The current answer is: *not much*. The Taxation and Revenue Department is charged with administration of the tax, but MTD who has the only significant contact with the industry has no current authority to take action for noncompliance with tax obligations. This bill provides MTD with a very effective tool to assist with and promote tax compliance.

PERFORMANCE IMPLICATIONS

From DOT’s point of view, the performance criteria for MTD should involve not only regulation of heavy vehicle safety issues, but collection of revenue for the State Road Fund. If the penalties for tax evasion and regulatory noncompliance are not sufficiently motivating to the taxpayer, it makes MTD’s job that much harder. The increase in penalties associated with avoiding ports-of-entry or traveling without an appropriate oversize-overweight permit, should promote MTD’s effectiveness in its mission.

FISCAL IMPLICATIONS

State Road Fund: The bill would be expected to have a significant eventual positive impact on weight distance tax compliance. However, since the degree of current noncompliance is not known it is difficult to forecast the weight distance tax impact. Also, other recent changes in law (particularly the vehicle specific tax identification permit required under 2003 Special Session, Chapter 3 [HB-15]) is expected to enhance revenue at some point. It is difficult to attribute a particular revenue impact to a specific proposal, since this bill and other initiatives all work together for the overall improvement in administration of the tax. Overall, an improvement in weight distance tax revenue in the \$5 million to \$10 million range may be conservative. Improvement in overweight permit fees and the newly-implemented ton-mile tax revenue is not estimable due to a lack of data at this time.

State General Fund: The Motor Transportation Division has not supplied historical information to DOT on the number of Penalty Assessment citations issued for the various offenses included in the bill. MTD did suggest that about 770 citations per year are issued for overweight vehicles (presumably of the type that are overweight with a “divisible load”). DOT is unable to estimate the positive fiscal impact on the State General Fund from the proposed increases in certain Penalty Assessment fees.

Aside from the positive fiscal impact to the general fund associated with increased penalty assessment fees, the likely affect this bill would have on weight distance tax and overweight permit fees compliance is of utmost importance to DOT.

ADMINISTRATIVE IMPLICATIONS

MTD will need to provide training to port-of-entry and other field staff regarding tax issues, procedural changes, and perhaps some new situations that may require a “judgement call”. MTD staff should also be reminded that their mission will now include an expanded focus on tax compliance.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None

OTHER SUBSTANTIVE ISSUES

- The provision in Section 1 allowing a vehicle be detained until tax is paid should prove to be an extremely effective one. As MTD is aware, it will also require careful administration. However, once a few trucks are validly detained for noncompliance with tax obligations, it is likely word would spread through the trucking community that “*you better not get busted for nonpayment of taxes in New Mexico!*”

ALTERNATIVES

In the absence of provisions similar to those proposed in this bill, continued and increasing problems with weight distance tax and overweight permit fee compliance by a segment of the taxpayer population would be expected.

EM/lg:yr