

June 2010

OVERWEIGHT VEHICLE ENFORCEMENT FEES AND EXTRAORDINARY ROAD USE FEES

This memorandum provides information regarding the collection of fees by the Highway Patrol from the enforcement of vehicle weight laws, including the collection of extraordinary road use fees.

OVERWEIGHT VEHICLES - ENFORCEMENT FEES

North Dakota Century Code Chapter 39-12 provides for the regulation of motor vehicle weight, height, and width. The chapter allows state and local authorities to classify highways for weight and load capacities and to issue permits for vehicles that exceed the size and weight limits. Section 39-12-05 details vehicle weight limitations on the interstate roadway system while Section 39-12-05.3 details vehicle weight limitations on roadways other than the interstate roadway system. Attached as [Appendix A](#) is a copy of the sections.

The owner or operator of a vehicle operating without a permit as specified by Chapter 39-12 is to be assessed a fee of \$100. All other violations of Chapter 39-12 require the owner to be assessed a \$20 fee. Fees collected from violating these provisions are deposited in the common schools trust fund. The table below details the collection of enforcement fees by the Highway Patrol for vehicles that violated overweight vehicle permits as provided in Sections 39-12-05 and 39-12-05.3:

Highway Patrol Overweight Vehicle Enforcement Fees		
	2007-09 Biennium	2009-11 Biennium (Through April 2010)
Number of citations issued by Highway Patrol	79	104
Fees assessed by Highway Patrol	\$1,580	\$2,080

OVERWEIGHT VEHICLES - EXTRAORDINARY USE FEES

Chapter 39-12 provides for the ability of a county state's attorney to file a civil complaint for the purpose of collecting an extraordinary road use fee against the owner of an overweight vehicle which has been operated on a roadway. A vehicle found to have been moved or used upon a roadway that exceeds weight limitations may be impounded by a peace officer. Once impounded, the county state's attorney may file a civil complaint on behalf of the authority having jurisdiction of the road where the violation occurred. However, prior to a complaint being issued, the owner or driver of the overweight vehicle may voluntarily pay the extraordinary road use fee. If the fee is not voluntarily paid, a cash bond in the amount of the extraordinary road use fee and any other costs must be posted to allow the impounded vehicle to be released and the complaint is then heard in district court.

The collection of extraordinary road use fees must be remitted to the State Treasurer to be credited to the state highway fund. The amount of extraordinary road use fees charged to an overweight vehicle varies based on a schedule included in Section 39-12-17. If the extraordinary road use fee is not paid by the owner of a vehicle, the vehicle may be confiscated and sold at a public sale. The table below details the collection of overweight vehicle extraordinary road use fees resulting from enforcement actions by the Highway Patrol:

Overweight Vehicle Extraordinary Road Use Fee Collections Resulting From Highway Patrol Enforcement Actions		
	2007-09 Biennium	2009-11 Biennium (Through April 2010)
Number of violations	1,665	653
Fees collected	\$997,340	\$442,390

The process outlined in statute for filing a civil complaint against the owner of an overweight vehicle is attached as [Appendix B](#).

ATTACH:2