

as may be necessary to decrease the gross weight to the maximum allowed by the provisions of this chapter.

39-12-08. Penalty for violation of chapter. A person operating a motor vehicle or the owner of the motor vehicle being operated without a permit as specified in this chapter must be assessed a fee of one hundred dollars. Any person violating any other provision of this chapter, for which a specific penalty is not provided, must be assessed a fee of twenty dollars. Violating the conditions of any permit type automatically voids the permit.

39-12-09. Unlawful to violate provisions governing size, weight, or construction of vehicles - Size and weight specified in this chapter lawful through state - Penalty. It is unlawful for any person to drive or move, or for the owner to cause or knowingly to permit to be driven or moved, on any highway, any vehicle or vehicles which are not constructed as required in this chapter nor according to the rules and regulations of the director adopted pursuant to the provisions of this chapter. The maximum size and weight of vehicles specified in this chapter are lawful throughout this state, except as they may be limited by virtue of specifications made pursuant to the other provisions of this chapter. Any person who violates any of the provisions of this section must be assessed a fee of twenty dollars.

39-12-10. Flag or light to be displayed at end of load. Repealed by S.L. 1963, ch. 283, § 20.

39-12-11. Impounding overweight vehicle. Any vehicle found to have been moved or used upon any highway, street, or road in this state at a weight exceeding the limitations as specified in any order, ordinance, or resolution issued under section 39-12-03 or as limited by section 39-12-05 may be impounded by any peace officer and taken to a warehouse or garage for storage.

39-12-12. Impounding receipt - Information. A receipt must be given by the officer impounding the vehicle, to the driver or person in charge of such vehicle. Such receipt must identify as nearly as possible, the owner of the vehicle and cargo, the driver or person in charge of such vehicle, the cargo, the place the vehicle is to be stored during impoundment, the weight of the loaded vehicle and the name and address of the impounding officer. Information as to the owner of the vehicle and cargo must be obtained from the driver or person in charge of the vehicle.

39-12-13. Impounding notice - Perishables. The impounding officer shall notify the owner or owners, if they can be found, by wire or telephone, of the impoundment and the charges involved. If the cargo consists of perishables, the impounding officer shall use reasonable diligence in assisting the operator or owner in finding suitable storage facilities for such perishables, but all risk of loss or damage to such perishables must be upon the owner, operator, or lessee of such vehicle.

39-12-14. Civil complaint. The state's attorney of the county where such vehicles are impounded, shall, if no settlement is made under section 39-12-14.1, immediately prepare and file a civil complaint on behalf of the authority having jurisdiction of the road whereon the violation occurred, for the purpose of recovering charges for the extraordinary use of the highways, streets, or roads of this state.

39-12-14.1. Voluntary settlement of extraordinary road use fee charges. Before the complaint is issued pursuant to section 39-12-14, the owner, or the owner's driver or agent, may voluntarily pay the amount of the extraordinary road use fee, or may provide proof of surety coverage to ensure payment of the extraordinary road use fee, provided under section 39-12-17, plus any towing or storage costs. Any settlement, whether made by the owner, or the owner's driver or agent, must be presumed to be of a voluntary nature. A peace officer or a peace officer's designee is authorized to receive the settlement payment on behalf of the authority having jurisdiction of the road whereon the violation occurred. The extraordinary road use fees must be remitted to the state treasurer to be credited to the highway fund.

39-12-15. Mailing complaint. A copy of the complaint must be served upon the driver or person in charge of the vehicle and a copy must be sent by registered or certified mail to the owner of the vehicle, if the address of such owner is known.

39-12-16. Cash bond - Holding. Unless a cash bond is furnished in an amount sufficient to cover the charges for extraordinary use of highways, streets, and roads, as provided in section 39-12-18, together with the costs which may be collectible under any subsequent settlement made pursuant to section 39-12-14.1, said vehicle must be held until a trial of the case can be had before the district court.

39-12-17. Trial - Charges. At the trial of the action, the court shall hear testimony concerning the facts and if it is found that such vehicle or vehicles were moved upon the highways, streets, or roads of this state at a weight in excess of the limitations imposed under the provisions of section 39-12-03 or as limited by the provisions of section 39-12-05, charges for the extraordinary use of the highways, streets, or roads must be assessed as follows:

1. The storage charges and costs of the action must be assessed; and
2. An additional charge must be assessed as follows:

1 to 1,000 pounds [.45 to 453.59 kilograms] of excess weight = \$20

1,001 to 2,000 pounds [454.05 to 907.18 kilograms] of excess weight = \$40

2,001 to 3,000 pounds [907.64 to 1360.78 kilograms] of excess weight = \$60

3,001 to 4,000 pounds [1361.23 to 1814.37 kilograms] of excess weight = \$140

4,001 to 5,000 pounds [1814.82 to 2267.96 kilograms] of excess weight = \$220

5,001 to 6,000 pounds [2268.41 to 2721.55 kilograms] of excess weight = \$305

6,001 to 7,000 pounds [2722.01 to 3175.14 kilograms] of excess weight = \$380

7,001 to 8,000 pounds [3175.60 to 3628.74 kilograms] of excess weight = \$495

8,001 to 9,000 pounds [3629.19 to 4082.33 kilograms] of excess weight = \$575

9,001 to 10,000 pounds [4082.78 to 4535.92 kilograms] of excess weight = \$655

10,001 to 11,000 pounds [4536.37 to 4989.51 kilograms] of excess weight = \$1,100

11,001 to 12,000 pounds [4989.97 to 5443.10 kilograms] of excess weight = \$1,200

12,001 to 13,000 pounds [5443.56 to 5896.70 kilograms] of excess weight = \$1,300

13,001 to 14,000 pounds [5897.15 to 6350.29 kilograms] of excess weight = \$1,680

14,001 to 15,000 pounds [6350.74 to 6803.88 kilograms] of excess weight = \$1,800

15,001 to 16,000 pounds [6804.33 to 7257.47 kilograms] of excess weight = \$1,920

16,001 to 17,000 pounds [7257.93 to 7711.06 kilograms] of excess weight = \$2,550

17,001 to 18,000 pounds [7711.52 to 8164.66 kilograms] of excess weight = \$2,700

18,001 to 19,000 pounds [8165.11 to 8618.25 kilograms] of excess weight = \$2,850

19,001 to 20,000 pounds [8618.70 to 9071.84 kilograms] of excess weight = \$3,000

20,001 to 21,000 pounds [9072.29 to 9525.43 kilograms] of excess weight = \$4,200

21,001 to 22,000 pounds [9525.89 to 9979.02 kilograms] of excess weight = \$4,400

22,001 to 23,000 pounds [9979.48 to 10432.62 kilograms] of excess weight = \$4,600

23,001 to 24,000 pounds [10433.07 to 10886.21 kilograms] of excess weight = \$4,800

24,001 to 25,000 pounds [10886.66 to 11339.80 kilograms] of excess weight = \$5,000

25,001 to 26,000 pounds [11340.25 to 11793.40 kilograms] of excess weight = \$5,200

26,001 to 27,000 pounds [11793.86 to 12246.99 kilograms] of excess weight = \$5,400

27,001 to 28,000 pounds [12247.45 to 12700.59 kilograms] of excess weight = \$5,600

28,001 to 29,000 pounds [12701.04 to 13154.18 kilograms] of excess weight = \$5,800

29,001 to 30,000 pounds [13154.63 to 13607.77 kilograms] of excess weight = \$6,000

An additional charge of \$200 for every 1,000-pound [453.59-kilogram] increase over 30,000 pounds [13607.77 kilograms] consistent with the above formula.

39-12-18. Payment of charges - Confiscation - Sale. If the charges and costs as provided in section 39-12-17 are not paid immediately from a cash bond previously posted or other cash payment, the judge shall order the vehicle confiscated and sold by the sheriff of the county at a public sale to the highest bidder and the proceeds applied to the payment of the charges and costs assessed under the provisions of sections 39-12-11 through 39-12-22.

39-12-19. Payment - Effect. The payment of charges may not be construed as a payment for the future use of highways, streets, or roads by vehicles carrying excess loads.

39-12-20. Proceeds of sale - Continuing appropriation. The proceeds of sale must be deposited with the state treasurer. The state treasurer shall deposit in the highway fund an amount equal to the amount of the charges assessed pursuant to section 39-12-17 after paying the costs to the county. An amount equal to the costs of the proceedings, including attorney's and witness fees and costs, is appropriated on a continuing basis out of the funds collected to the

county in which the prosecution took place for the purpose of defraying the costs of prosecution. The balance of the proceeds of any sale after the payment of costs and charges is appropriated on a continuing basis out of the funds collected to be paid to the person entitled thereto as determined by the court or must be deposited with the clerk of court for such payment.

39-12-21. Penalty. Any driver of a vehicle who refuses to stop and submit the vehicle and load to a weighing when directed to do so by any police officer or any agent of this state having police powers relating to motor vehicles is guilty of a class B misdemeanor.

39-12-22. Permissible loads - Exceptions. When any motor truck, truck tractor, or trailer is operated upon the public highways of this state carrying a load in excess of the maximum prescribed under the provisions of sections 39-12-03 and 39-12-05 or other maximum weight limitations prescribed by law, the load must be reduced or shifted to within such maximum limitations before being permitted to operate on any public highway of this state; provided, however, that any such vehicle carrying a load of livestock is exempt from the limitations prescribed in section 39-12-05, relating to the carrying capacity of any wheel, tire, axle, or group of axles when excessive weight is caused by a shifting of the weight of the livestock. All material unloaded as required by this section must be cared for by the owner or operator of such vehicle at the risk of such owner or operator.

39-12-23. Governor's order authorizing excess limits. The governor of this state is hereby authorized, by order of general application, to permit and prescribe definite excess limitations as to size and weight for the operation of motor vehicles in emergencies and to meet unusual conditions for the general welfare of the public.

The operation of such vehicles, in accordance with the governor's order, does not constitute a violation of the statutes relative to limitations on sizes and weights.