

Report on Enforcement Against Overweight Trucks

Prepared For: Governor Mark White

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## SUMMARY

### Report on Enforcement Against Overweight Trucks

#### Mission

The Department of Public Safety (DPS) is the lead state agency for enforcement of size and weight laws. Other agencies that assist in the program are the Railroad Commission (RRC)- intrastate regulation, Attorney General (AG)- legal proceedings, and State Department of Highways and Public Transportation (SDHPT)- permits, construction of facilities and system protection.

#### Strategy of Enforcement Program

The DPS utilizes the following strategy and/or facilities to enforce the size and weight laws:

- Permanent Scales
- Semi-Portable Scales
- Portable Scales
- Permanent Weight Areas
- Public and Private Scales
- Public Awareness Campaigns
- Fines and Penalties

The SDHPT operates the permit issuance procedure established by law for loads, which exceed statutory limitations, that cannot be reasonably dismantled for transport.

The RRC regulates approximately 15% of the commercial vehicles on the state highways. The regulated carriers are audited for violation of the legal weight limits.

#### Problems of Current Program and Legislation

- The economic incentive of the industry is to overload.
- Special interest groups have been exempted from the size and weight laws.
- The 2nd and 3rd offense must be tried in a backlogged county court and the statutes provide for no civil recourse.
- Inconsistencies exist between adjoining states on some state and farm-to-market roads.
- Cumbersome portable scales are issued to the 166 troopers.
- Limited number of personnel to operate permanent scales.

#### Recommendations to Strengthen Program:

Programmatic: (within existing laws)

- Review operation of permanent scales from public perception standpoint. Remove permanent buildings and signs and signs only when the scales are actually in operation.

- Upgrade portable scales with state-of-the-art equipment.
- Install modern weight-in-motion (WIM) scales in approach ramp to permanent scales, when scales are being operated, to sort trucks for static weighing.
- Ensure that shippers or consignees are consistently cited by DPS for violations.
- Temporarily reallocate DPS commissioned officers from drivers' license and motor vehicle inspection areas for special duty in order to increase manpower at the 8 permanent weigh areas. This would involve reallocation of at least 154 troopers from the 515 officers currently assigned to drivers' license and motor vehicle inspection. An additional 166 troopers would need to be reassigned from these current assignments to cover the non-permanent, temporary weighing areas. We believe this temporary reassignment is possible under the General Appropriation Act; however, it would exceed the total number (196) of commissioned officers specifically authorized by the Legislature to be assigned to truck size and weight law enforcement. To the extent that DPS could utilize non-commissioned personnel in this operation, the required reassignment of commissioned officers can be reduced by at least 80 (2 people x 8 stations x 3 shifts x 1.66 relief factor).

Legal: (within existing laws)

- Request that the AG's Office file injunction against flagrant violators.
- Request that the county attorney place a higher priority on 2nd and 3rd offense prosecutions.

Legislative: (requiring legislative action)

- Increase minimum fines to \$200.
- Add to the existing legislation a civil section to provide civil penalties and injunctive relief against flagrant violators.
- Increase permit fee for very heavy loads based on weight increment.
- Modify legislation which authorizes exemption for certain classes of vehicles, i.e. agricultural, timber, solid waste, ready mix concrete, etc.
- Raise the criminal jurisdiction of the Justice of the Peace Courts to facilitate prosecution. A constitutional amendment will be required to accomplish this recommendation.

## Report on Enforcement Against Overweight Trucks

### Mission

The lead State Agency for enforcement of size and weight laws on the State Highway System is Department of Public Safety (DPS). However, several other State Agencies assist in the size and weight enforcement program. These other agencies are the Railroad Commission (RRC), Attorney General's Office (AG) and the State Department of Highways and Public Transportation (SDHPT). The current weight limit on the majority of the state highways is 80,000 pounds.

The enforcement against overweight trucks is the responsibility of the Department of Public Safety. The License and Weight Service of D.P.S. has authorized 196 commissioned officer which include six captains, six lieutenants, eighteen sergeants and 166 troopers. The division's primary responsibility is for enforcing weight and size laws on the State's 72,000 centerline miles of highway. This involves the enforcement against 2,764,297 trucks registered to operate in the State of Texas. The State is linked to the surrounding 4 states by 77 major highways. The attached map (attachment 1) of license and weight trooper locations depicts the wide distribution of enforcement officers. The coordination of the assigned locations of the troopers is a direct relationship to the truck traffic flow of the State (attachment 2). The License and Weight Service also serves to insure equitable payment of License and other fees imposed on operators of commercial vehicles. The service also has secondary responsibilities of enforcement of statutory regulations applicable to the transportation of persons and property for hire (Motor Carrier Act), Hazardous Materials Regulations and when the situation warrants law enforcement duties.

The RRC, through their freight rate setting authority, monitors State regulated carries for violation of gross weight limits. The AG, which is the legal counsel for the State, has instigated legal proceeding against trucking firms as well as consignors and consignees of freight, being moved in violation of State laws. The SDHPT, by State law, is responsible for issuance of oversize and overweight permits and for the construction, reconstruction, maintenance and operation of the State Highway System. Each of these Agencies have, within their authority, assisted in enforcement of vehicle size and weight laws.

In addition to these State Agencies, the Governor's Office has assisted and supported strengthening the State laws pertaining to vehicle size and weight issues. The Governor or a designee is also required to certify annual compliance to the Federal Highway Administration with the Size and Weight laws of the State. The certification is required in order to obtain the maximum federal highway funding. The ultimate responsibility for enactment of laws, as in any other state, rests with the Legislature.

### Strategy of Enforcement Program

The Department of Public Safety License and Weight Division uses the following enforcement strategy.

A. Permanent Scales

The Permanent weigh stations were the result of federal government program to have a visible weight enforcement program in the State of Texas. The eight permanent weigh scales are strategically located on the major truck traffic routes as follows:

1. Near Seguin on IH 10 (eastbound)
- 1a Near Seguin on IH 10 (westbound)
2. At Jackson/Victoria County line on US 59
3. Near Childress County on US 287
4. Near Centerville on IH 45 in Leon County
5. Near Riviera on US 77 N
6. Near San Marcos on IH 35
7. Near Bryan on SH 6

The effectiveness of the permanent stations are limited unless the by-pass routes are patrolled simultaneously. The stations are opened periodically at various times during a month and at different times of the day. The stations are operated for at least 2 hours when they open.

The permanent scales were constructed prior to the development of the semi-portable scales and the accompanying electronic technology. The permanent scale sites were constructed with federal funds and represent a significant investment. The permanent scale locations allow a trooper to check a large amount of traffic when working alone. The sites provide points where all commercial vehicles can be checked for size and weight violations with greater safety to the motoring public and to the License and Weight troopers. In the first six months of 1983, a total of 34,246 vehicles were weighed on the permanent scales.

In order to staff one permanent weigh station 24 hours a day, 7 days a week, 365 days a year and adequately patrol the by-passes, it would require 40 troopers. To provide continuous operation on all eight stations a trooper level of 320 would be required. This would be almost twice the current staffing and provide a program on a limited number of the state highways.

B. Semi-Portable Scales

The DPS, License and Weight Service has twelve (12) semi-portable scales. The scales are assigned to the existing Sergeant stations: (1) Dallas, (2) Tyler, (3) Houston, (4) Beaumont, (5) Corpus Christi, (6) San Antonio, (7) Pecos, (8) Abilene, (9) Amarillo, (10) Wichita Falls, (11) Waco, (12) Austin.

The Department of Public Safety has purchased 12 vans and tandem trailers for transporting the scales to the weigh areas. DPS has recently ordered six additional scales and transport vehicles which will become operational in fiscal year 1984. The additional scales will be stationed in Hurst, Richmond, Beeville, San Angelo, Palestine and Lubbock. There are also three county owned semi-portable scale sets available to the DPS in (2) Beaumont and (1) Huntsville.

The vans purchased to transport the semi-portable scales are 3/4 ton Plymouth vans. In addition to providing transportation, these vans have been converted to serve as an office and communications center. The vans will also carry appropriate signs for directing traffic.

Each set of semi-portable scales is composed of two weighing platforms, each 11 feet in length with a total length including drive-on and exit ramps of 13 feet, 10 inches. Width of the weighing platform is thirty inches with a height of 3½ inches. The weighing capacity for each is 100,000 pounds with a five-digit electronic indicator displaying weights in 20-pound increments.

The electronic scoreboard indicator displays the digits four inches in height easily read at night or in bright sunlight. These scales may be operated by either AC or DC current and are accurate to within 1%. This accuracy is protected from radio frequency interference. These scales are designed to be easily transported to and from weighing areas by using a specially designed trailer. The trailer is equipped with an electric winch for loading and unloading the scales and is capable of being operated by one person. Each trailer is equipped with a generator for the purpose of operating the electronic scale system and providing power for lighting, loudspeaker system, and communication system.

Semi-portable scales have been incorporated into the Texas size and weight enforcement program. These scales will continue to increase the volume capabilities and are used in conjunction with the portable and permanent scales. SDHPT, through an agreement with the DPS, has constructed several weigh areas. These weigh areas are strategically located for greater coverage of the Federal Aid Highway System. The semi-portable scales are primarily used on these weigh areas in task force-type operations. To serve as a safety factor, a minimum of one mile unobstructed view in each direction is required. When weighing vehicles with the semi-portable scales in areas other than the designated weigh areas, a similar area must be selected.

The work areas must be chosen based on their safety aspects, as well as the volume of traffic. Each time the semi-portable scales are set up for operation, particular attention must be given to the safety aspects of both those involved in the weighing and checking project and the motoring public. Care must be taken to avoid soft shoulders or obstacles such as rocks which would result in inaccurate weights or damage to the scales. Signs informing traffic that the scales are in operation must be placed to allow truck traffic ample time to slow down and change lanes, if necessary, to enter the weighing area. These signs must conform to Interstate Highway System standards. It is necessary that each truck be guided onto the scales to insure proper weights and to guard against damage to scale cables.

It is necessary that a minimum of two troopers work the semi-portable scales each time they are placed in operation, thereby allowing some flexibility to pursue trucks attempting to bypass the scale and to pursue drivers without terminating the scale operation.

The scales are in operation for a minimum of two hours at any chosen weigh area allowing for an overall sampling of truck traffic volume. The number of trucks weighed and checked are recorded along with the number and type of violations detected.

The frequency of use of semi-portable scales is determined by the License and Weight supervisors who are guided by the intensity of truck traffic at the predetermined weigh areas. The optimum use of the scale is determined by need, available manpower, and budgetary restraints. In the first six months of 1983, a total of 32,245 vehicles were weighed on semi-portable scales.

### C. Portable Scales

The portable scale used by DPS is an MD 300 manufactured by General Electrodynamics Corporation of Garland, Texas. Each scale has a weight capacity of 20,000 pounds which is read in 100-pound increments. A total of 704 portable scales are available. A set of four scales are assigned to each License and Weight Trooper and carried in his assigned vehicle. This allows 40 scales distributed to the Sergeant areas to be used as spares for replacement of broken scales.

The MD 300 is a "roll over" scale as opposed to a static-type scale requiring a truck to stop on the scale. Each scale weighs 43 pounds, is 20½ inches long, 12½ inches wide including the handle, and is designed for easy loading and transporting in the trunk of an automobile.

The License and Weight Service is authorized 166 uniformed troopers who use the portable scales. The troopers are strategically stationed based on commercial vehicle registration data and commercial vehicle traffic counts.

Each trooper is assigned to work a five-day week. The scheduling of the trooper's days off and night hours to be worked assures coverage seven days a week. Over 20% of the hours worked are night hours.

Troopers' schedules take into consideration such things as the type of commodities being transported in the assigned area, time of transportation (day or night), and the routes being used.

The portable scales are utilized in conjunction with permanent-type scales to apprehend those violators attempting to bypass the permanent scales, as well as selective enforcement.

The portable scales weigh one axle or group of axles at a time. After each group of axles is weighed the bridge formula is applied to determine the extent overweight and the amount of the cargo to be unloaded.

The scales are easily moved by hand. A wide shoulder of the road may allow enough room to properly weigh a vehicle when no pull off or weigh area is available. The scales may be operated by a single trooper working alone, although the scales are also utilized in a "task force" operation with several troopers checking vehicles at one location.

The trooper normally stops at a well-suited place and flags in the commercial vehicles. If trucks attempt to turn or bypass his operation, he is mobile and free to load the scales in the patrol car and pursue.

In the first six months of 1983, a total of 46,761 vehicles were weighed by portable scales.

#### D. Permanent Weigh Areas

In addition to the Permanent scales, the following list of permanent weigh areas are strategically located across Texas. Permanent weigh areas provide a safe area for a DPS trooper to weigh (semi-portable and portable) and inspect trucks off the highway.

8. West of Sherman on US-82 (Grayson County)
9. Near Livingston on US-59 (Polk County)
10. Near Beasley on US-59 (Fort Bend County)
11. Near Huntsville on IH-45 (Walker County)
12. South of Dallas on IH-45 (Dallas County)
13. Near Weslaco on US-83 (Hidalgo County)
14. South of Port Lavaca on SH-35 (Calhoun County)
15. South of Falfurrias on US-281 (Brooks County)
16. Near Three Rivers on IH-37 (Live Oak County)
17. North of Big Spring on US-87 (Howard County)
18. North of San Angelo on US-87 (Tom Green County)
19. North of Odessa on US-385 (Ector County)
20. West of Cross Plains on SH-36 (Callahan County)
21. Near Van Horn on IH-10 (Culberson County)
22. Near Slaton on US-84 (Lubbock County)
23. West of Iowa Park on US-287 (Wichita County)
24. South of Dumas on US-287 (Moore County)
25. East of Hereford on US-60 (Deaf Smith County)
26. East of Weatherford on IH-20 (Parker County)
27. Near Temple on SH-36 (Bell County)
28. Near Edinburg on US-281 (Hidalgo County)
29. West of Mount Pleasant on IH-30 (Titus County)
30. West of El Paso on IH-10 (El Paso County, Eastbound)
31. Near Spring on IH-45 (Harris County)
32. Near Cypress on US-290 (Harris County)
33. East of Cleveland on SH-321 (Liberty County)
34. Near Taylor on US-79 (Williamson County)
35. East of Waco on SH-6 (McLennan County)
36. Near Joshua on SH-174 (Johnson County)
37. East of Beeville on US-59 (Bee County)

#### E. Public and Private Permanent Scales

Texas laws authorize troopers to require a vehicle believed to be overweight to be driven to the nearest available scale for weighing. Public and private permanent scales are used in numerous locations in the State. The scales are not generally located on the major highway system and cannot be used to hold major truck checks. These scales are used by the troopers to weigh commercial vehicles for accuracy checks and as a convenience to the truckers. The majority of these scales are located and used on the secondary highways.



#### F. Public Awareness

In attempt to gain public awareness as to the size and weight problems on Texas highways several television stations have been contacted by DPS. These stations have filmed the operation of the new semi-portable scales. DPS, Safety Education Service, has held programs on radio and television to make the public more aware of size and weight enforcement.

#### G. Penalties

The operators of overweight and/or oversize vehicles are cited to Justice of the Peace Court. The State Legislature sets the penalty for overweight and/or oversize violations cited in Justice Court as a Class "C" misdemeanor. Conviction of first offense carries a penalty of not less than \$100.00 nor more than \$150.00. For a second conviction within one year of the first offense, the fine ranges from a minimum of \$150.00 to a maximum of \$250.00, or imprisonment for a period of 60 days or both fine and imprisonment. Second and third offenses are classified as a Class "B" misdemeanor and are filed in County Court. A third conviction within one year of the second offense carries a penalty of not less than \$200.00 nor more than \$500.00 or imprisonment in the county jail for not more than 6 months or both fine and imprisonment. The penalties were increased by the 68th Legislature to be effective 9/1/83. The previous first offense penalty was a minimum of \$25.00 and a maximum of \$200.00. The average fine calculated for the 12 month period ending 9/30/83 was \$42.53.

Legislation passed in the 68th legislative session effective 9/1/83 permits citing the shippers for loading or causing a vehicle to be overloaded by more than 15% of the legal weight limit.

A program instituted to alleviate the problem of losing trooper's time on the road and prevent driver delay is the Cash Bond procedure. Under this program a violator may elect to waive his immediate appearance before the Justice of the Peace by posting a Cash Bond with the arresting officer. A stamped preaddressed envelope is used. The violator signs an appearance bond and places the amount of bond set by the judge in the U.S. mail. The violator then has 10 days to appear before the judge or the bond is forfeited.

It should be noted that the ability of the Department of Public Safety to have weight and size violations made part of the drivers license record was repealed by a recent legislative session.

Of the 50 states, the District of Columbia and Puerto Rico 9 states administratively collect fines, 43 states utilize a judicial process (Texas is in the judicial category). In 27 states judicial discretion is authorized in setting the fine (Texas is in this category). 40 states base the fine structure on the amount overloaded (minimum amount and x amount per pound overweight or a fixed amount for incremental brackets overweight). The vehicles with higher loads are thus fined accordingly, which serves as a disincentive to overload.

## H. Load Shifting and Unloading

The Texas Laws state that a vehicle, axle, or group of axles may exceed the maximum allowed weight by 5 percent (5%) before being required to unload. It is the policy to off-load or shift cargo weighing in excess of 5 percent (5%) of the maximum allowed for that vehicle, axle, or set of axles.

The DPS weighed 213,408 commercial vehicles during the 12 month period ending 9/30/83, of which 25,080 vehicles were required to shift loads.

Timber harvested in the forest and agricultural products loaded in the field are exempt from load shifting and unloading penalties.

The SDHPT operates the following permit procedures:

### I. Permits

Texas laws provides that the State Department of Highways and Public Transportation may issue permits for movement of superheavy or oversize equipment for the transportation of such commodities which cannot be reasonably dismantled over the state highways. The SDHPT has developed policies concerning maximum weights for tire widths, axles, axle groups and dimensions for movement of commodities which cannot be reasonably dismantled.

The Department has 199 permit offices over the State with more than 200 permit clerks. Most of the offices have only a part time permit clerk since the number of permits issued does not require full time clerks. However, a few offices have as many as five permit clerks to handle the volume of permits.

The two types of permits generally issued are:

1. Single-Trip Permits - The majority of permits issued are single-trip permits over a designated route. If the commodity being transported is both oversize and overweight a single permit covers the size and weight. The cost of the single trip is \$20.00.
2. Thirty Day Permits - Thirty day time permits are issued for transportation of certain oversize equipment or commodities within a specified area of the State. To be eligible for these permits the commodities are limited to those listed in the booklet on permits.

The Railroad Commission uses the following enforcement strategy:

### J. Regulatory Enforcement

The Railroad Commission (RRC) regulates all intrastate motor carriers operating for hire moving any and all commodities when their operation encompasses at least two incorporated cities. This represents approximately 15% of the vehicles currently registered for operation on Texas highways. Each of these vehicles is required by the terms of the carriers operating certificates or licenses to comply with all applicable laws of the state. The Railroad Commission is empowered to revoke, cancel or suspend any certificate when operations conducted thereunder are in violation of state laws or Railroad Commission regulations.

As an ongoing practice, the Railroad Commission monitors carrier operations with an audit and enforcement staff of 25 people. The auditing staff became involved with size and weight enforcement in March 1979, at which time auditors conducted a number of special investigations into operations of sand and gravel carriers throughout the state. As a result of those investigations, the Railroad Commission ordered seven carriers to "show cause" why their certificates should not be cancelled or suspended for violations of the Texas Weight Law. In those hearings, all seven carriers were placed on probation for a period of nine months.

The auditing staff has since incorporated the examination of carriers' weight tickets into the routine examination of all carrier records, regardless of commodities hauled. Where a carrier's loads are found to be substantially or consistently above the maximum lawful weight, appropriate action is taken. This may include a letter to the carrier warning that future violations will result in a "show cause" action, a personal conference with the carrier in Austin to discuss violations or a "show cause" hearing.

It should be pointed out that the audit performed by the Railroad Commission of records of carriers is to determine the need for their changing the rates prescribed by the Railroad Commission. In examining the way in which the price is set by weight, the relationship that the load had to the legal weight limit can be determined.

Future plans include a continual monitoring of certified carriers' activities for compliance with the Texas Weight Laws. Routine audits of all carriers approximately every 20 months are planned but more frequent audits will be performed on a specific need basis. The Department of Public Safety now furnishes and will continue to furnish data on overweight citations written by them on certified carriers. If a carrier receives over three such citations in one month, a special audit will be conducted on that carrier.

This program has and is anticipated to be effective in reduction of overloaded trucks of certified carriers.

#### Problems with Current Program and Legislation

- A. The economics of the trucking industry correlates to the volume transported from point-to-point. The trucking industry contracts by volume causing the financial gain to be directly tied to the weight of the load. Trucking companies who are experiencing difficult economic times are forced to overload to prevent bankruptcy. The most flagrant violators of the size and weight laws according to DPS are the grain haulers, gravel trucks, loggers and oil field related equipment trucks.
- B. Special interest groups have succeeded in having legislation passed which exempted certain classes of trucks from the weight and size restrictions. The timber industry, agriculture, manufactured housing, well drillers and solid waste haulers are among those receiving special exemptions.
- C. The current fine structure and the classification as Class B misdemeanor requires the prosecution for the 2nd and 3rd offense to be filed in the county court. The county courts are usually back-logged and the weight

and size violators are not a high priority. The statutes have no provisions for civil recourse.

- D. Non-uniformity of weight laws on some state and farm-to-market highways of adjoining states encourages truckers entering Texas from a state with higher load limits to carry their higher weights into or through the state.
- E. The portable scales are obsolete in terms of state-of-the-art technology features. The operation and weight of the individual scales limit their effectiveness in terms of numbers of trucks that can be weighed on them in a given time period. The technology is at least 20 years old and does not incorporate modern electronic technology and calculation capabilities to insure accurate measurement and ease the manual operation requirements on the individual troopers.
- F. The operations of the permanent scales are limited by the number of personnel required to insure effectiveness of the operations, i.e. operate the site and cover the by-passes.
- G. There appears to be minimal communication between the State Department of Highways and Public Transportation and the Department of Public Safety of both statistical data and actual incidents of overweight vehicles attempting to deliver materials to job sites. The State Department of Highways and Public Transportation has 6 data gathering sites strategically located which weigh truck traffic for a sample period. The results of this sample are not routinely transmitted to the DPS in order to aid them in operational strategies. The State Department of Highways and Public Transportation also has a policy of not accepting overloaded trucks at job sites. Statistical data by district, job site, warehouse, trucker, and supplier is not routinely communicated to DPS for pattern analysis.
- H. Recent voluntary cooperation by the grain elevators to refuse to compensate truckers for grain loads greater than the legal limit has proved ineffective. Truckers have circumvented this obstacle by transferring the overload to a waiting truck outside of town, after having traveled hundreds of miles.
- I. The injunctions against flagrant violators have been minimum due to the low priority placed on the legal action and the difficulty in proving damage to the highway system under the Tort Claims Act.

Recommendations to Strengthen Enforcement:

- A. Programmatic (within existing laws) - The programmatic solutions involve changes of tactics, strategies or redirection of resources.
  - 1. Review operation of both the permanent scales and the permanent weigh areas from the public perception viewpoint. Remove permanent buildings and signs and use signs only when the scales are actually in operation. The change in tactical operations should result in a

significant increase in public perception of the enforcement program.

2. Replace portable scales with the state-of-the-art weighing device. The DPS has recently requested information from all known manufacturers of portable axle weighing scales. The electronic scales are lighter and easier to handle making it easier for the troopers to weigh trucks. The estimated cost for a set of four scales is \$12,800 each or \$2.1 million to replace 166 sets of portable scales.
3. Install Weigh-in-Motion (WIM) scales in approach ramps, when the scales are in operation, to the permanent scales to sort trucks for static weighing. The WIM will be tested under the direction of the UT Civil Engineering Department by establishing a reliable data base of truck weights at various speeds. The project is funded under a grant from the Department of Highways and Public Transportation and will be a joint effort between the Department and the Department of Public Safety at the Seguin permanent weigh station.

The DPS should consider pilot testing of the WIM concept on a permanent scale weigh area by obtaining the State Department of Highways and Public Transportation WIM equipment on a loan basis.

4. The State Department of Highways and Public Transportation currently has 6 WIM sites on the main highways to gather statistical data. The sites are as follows:

North of Lubbock on IH-27 - Northbound  
West of Seguin on IH-10 - Westbound  
East of Junction and IH-10 - Eastbound  
West of Sweetwater on IH-20 - Westbound  
South of Nacogdoches on US-59 - Southbound  
West of Wichita Falls on US-287 - Westbound

Communication of this data to the Department of Public Safety in order to provide data on weights, speed and volume of truck traffic may be beneficial to trooper assignments and task force efforts.

The SDH&PT may also want to coordinate with the DPS concerning job site data on overloaded vehicles. A pilot program coordinated with DPS to apprehend weight law violations and to ascertain that the state is receiving the amount of materials being reflected on the bill of lading on the job sites may prove beneficial to both agencies.

5. Insure that troopers and DPS districts are consistently citing the shippers in accordance with the provisions of the law.
6. Modify citation system to inform and cite shippers, if a consistent pattern exists, of violations that are attributed to the shipments that totally originate with them and are below the "prima facie" evidence protection percentage of 15%.

7. Increase manpower to provide a greater coverage of Texas highways. Establish a minimum number of highway miles and truck volumes that each trooper is responsible for. Temporarily reallocate DPS commissioned officers from drivers' license and motor vehicle inspection areas for special duty in order to increase manpower at the 8 permanent weigh areas. This would include reallocation of at least 154 troopers from the 515 officers currently assigned to drivers' license and motor vehicle inspection. An additional 166 troopers would need to be reassigned from these current assignments to cover the non-permanent, temporary weighing areas. We believe this temporary reassignment is possible under the General Appropriation Act; however, it would exceed the total number (196) of commissioned officers specifically authorized by the Legislature to be assigned to truck and size and weight law enforcement. To the extent that DPS could utilize non-commissioned personnel in this operation, the required reassignment of commissioned officers can be reduced by at least 80 (2 people x 8 stations x 3 shifts x 1.66 relief factor).

B. Legal (within existing laws) - The legal solution involves both the local and state level systems.

1. Seek the commitment of the Attorney General's office to file the injunctions against flagrant weight limitation violators or the threat of injunctions. The filing would come under the Tort Claim Act and the State must provide evidence of damage in the case. In the past this has been very difficult.
2. Encourage County Attorney's to place a higher priority on weight violations and prosecute the 2nd and 3rd offense to the maximum extent possible.

C. Legislature (requiring legislative action) - The following legislative changes should be made in order to make the enforcement program as effective as possible within the framework of limited manpower.

1. Increase minimum fines to insure an economic disincentive to overload vehicles. The minimum should be at least \$200. Increase overweight fines from \$150 maximum to \$1,000 maximum for 1st offense overweight violations. The impact of this action would result in:
  - a) A constitutional amendment to increase jurisdiction of the Justice of the Peace Courts would be required.
  - b) Caseload assignment would increase Justice of the Peace Court activity and relieve congestion in county courts-at-law for size and weight violations.
  - c) Increase in fines for size and weight violation may be inequitable compared to other offenses within the same class of misdemeanors. This may require further review and possible modification to the penal code.

2. Add to the existing legislation a civil section to provide civil penalties and injunctive relief against flagrant violators. The civil sanctions should specifically permit impoundment of the vehicle to aid in enforcement against out of state shippers. The following schedule of penalties by weight increment and distance traveled over the state's highways should be incorporated into the law. This should be modeled after the Art. 9116, Section 16(b) V.A.C.S., Motor Carrier Act.

The following civil fine structure should be imposed on flagrant violators for each citation. The structure considers both excess weight and distance traveled with the excess weight.

If the excess weight is:	<u>Minimum</u>
a. 501-1,500	\$200.00
1,501-2,000	300.00
2,001-2,500	400.00
2,501-3,000	500.00
3,001-3,500	600.00
3,501-4,000	700.00
4,001-4,500	800.00
4,501-4,750	900.00
4,751 and over	1,000.00
b. <u>Amount in excess of weight limit</u>	
1-999	1¢ per mile
1,000-1,999	2¢ per mile
2,000-2,999	3¢ per mile
3,000-3,999	4¢ per mile
4,000 and over	5¢ per mile

3. Repeal legislation which exempts manufactured housing from the Motor Vehicles laws, in order to help insure the safety of the motoring public.
4. Reduce "prima facie" evidence overload protection of the shippers from 15% to 5%.
5. Increase permit fee for very heavy loads based on weight increment. The current system does not compensate the highway department for relative damage based on loading factor and distance of travel.

The SDHPT has initiated a major review and assessment of the permit process being utilized statewide. The report is scheduled for completion in the Spring, 1984, and will include both department procedural changes and recommended legislative changes.

6. Repeal legislation which authorizes exemption for certain classes of vehicles i.e. agricultural, timber, solid waste, ready mix concrete, etc. Establish an overload protection of 15%, a minimum miles of travel and a requirement to shift or off load the materials above

purchase permits to control routing and aid enforcement strategy efforts.

7. Request that Speaker Lewis include the review of the enforcement program against overweight trucks as a charge for interim study by the House Committee on Transportation.

David Cain, D-Dallas, Chairman  
Al Edwards, D-Houston, Vice Chairman  
Lanny Hall, D-Ft. Worth, CBO  
Jimmy Mankins, D-Kilgore  
Thomas D. DeLay, R-Sugarland  
Al Luna, D-Houston  
Clint Hackney, D-Houston  
Charles Finnell, D-Holliday  
Edward M. Emmett, R-Kingwood

8. The Texas Motor Transportation Association indicated informally that they would support legislation that served to increase the enforcement against overweight trucks. The overloading of trucks provides an unfair competitive advantage to the violators of the laws.



## Acknowledgement

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