

2023

## HB 189 - Amendments Regarding the Permissible Weight of Commercial Trucks

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## HIGHWAYS, BRIDGES, AND FERRIES

***Regulation of Maintenance and Use of Public Roads Generally:  
Amend Article 2 of Chapter 6 of Title 32 of the Official Code of  
Georgia Annotated, Relating to Dimensions and Weight of Vehicles  
and Loads, so as to Provide for an Allowable Variance for Weight  
Limitations upon a Vehicle or Load Hauling Certain Commodities  
within a Certain Range and Areas of the State; Provide for  
Automatic Repeal; Provide for Penalties; Authorize the  
Enforcement of Excess Vehicle Weight Violations by Local Law  
Enforcement; Provide for Related Matters; Provide for an Effective  
Date; Provide for Automatic Repeal of Certain Provisions; Repeal  
Conflicting Laws; and for Other Purposes***

CODE SECTION:	O.C.G.A. §§ 32-6-26, -27, -28, -29, -30 (amended)
BILL NUMBER:	HB 189
ACT NUMBER:	333
GEORGIA LAWS:	2023 Ga. Laws 573
EFFECTIVE DATE:	May 3, 2023
SUMMARY:	This Act amends Georgia law pertaining to the permissible weight of commercial trucks. The Act allows for increased permissible truck weights when carrying agricultural and forestry products within a 150-mile radius from the point of origin. Additionally, the law creates penalties for violations, a two-year sunset provision, and other amendments relating to enforcement.

*History**Overview*

On March 14, 2020, Governor Brian Kemp (R) signed the Public Health State of Emergency Executive Order, declaring a Public Health State of Emergency for COVID-19.<sup>1</sup> As part of that Executive Order, Governor Kemp specified that any vehicle traveling on roads maintained by the State of Georgia that is “providing disaster relief and/or preparation” or is a commercial vehicle with an issued permit, shall not exceed a “gross vehicle weight of ninety-five (95) thousand pounds.”<sup>2</sup> Federally, 23 U.S.C. § 127 specifies the allowable weight limitations for vehicles on interstate highways.<sup>3</sup> Under 49 C.F.R. § 390.23, a Governor can suspend the statute for up to thirty days in response to emergencies.<sup>4</sup> Georgia law dictates that the maximum total gross weight authorized for any vehicle and load “shall not exceed 80,000 pounds.”<sup>5</sup> Prior to the passage of House Bill (HB) 189, this weight limitation was subject to a five percent variance exception, i.e., an allowable overage of 4,000 pounds (a total gross weight of 84,000 pounds) on any public road in the state that is not an interstate highway.<sup>6</sup> This variance applied to vehicles hauling

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1. Ga. Exec. Order No. 03.14.20.01 (Mar. 14, 2020).

2. *Id.*

3. 23 U.S.C. § 127(a)(2) (2023). This statute specifies that the maximum gross weight allowed on interstate highways shall be:

[T]wenty thousand pounds carried on one axle, including enforcement tolerances, and a tandem axle weight of thirty-four thousand pounds, including enforcement tolerances and with an overall maximum gross weight, including enforcement tolerances, on a group of two or more consecutive axles produced by application of the following formula:

$$W = 500 \left( \frac{L}{N-1} + 12N + 36 \right)$$

where W equals overall gross weight on any group of two or more consecutive axles to the nearest five hundred pounds, L equals distance in feet between the extreme of any group of two or more consecutive axles, and N equals number of axles in group under consideration . . . .

*Id.*

4. 49 C.F.R. § 390.23(a)(1)(i)(A) (2021) (“[An exemption to 23 U.S.C. § 127] is effective only when . . . [a]n emergency has been declared by the President of the United States, the Governor of a State, or their authorized representatives having authority to declare emergencies . . .”).

5. O.C.G.A. § 32-6-26(c)(1)(A) (2021). This remains the maximum allowable weight after the passage of HB 189, subject to the exception in subsection (g) amended by HB 189, discussed *infra*.

6. *Id.* § 32-6-26(g).

agricultural and farm products within a radius of either 100 or 250 miles of the product's origin, depending on the product hauled.<sup>7</sup>

The Governor renewed the vehicle weight provision of the Public Health State of Emergency Executive Order monthly until he eventually terminated it on October 15, 2020.<sup>8</sup> On June 30, 2021, Governor Kemp signed a new Executive Order titled Declaration of a State of Emergency for Continued COVID-19 Economic Recovery—replacing the Public Health State of Emergency Executive Order that expired July 1, 2021.<sup>9</sup> The new Executive Order stated that Georgia was “no longer experiencing a public health emergency” and that “[d]espite the State’s success in surviving the COVID-19 pandemic, long-term negative effects of COVID-19 remain.”<sup>10</sup> In an August 30, 2021 Executive Order, Governor Kemp reintroduced the previous 95,000 pound weight allowance for vehicles providing emergency relief or preparation and commercial vehicles with the requisite permits.<sup>11</sup> Governor Kemp continued to renew the vehicle weight provision until ultimately allowing it to expire on March 11, 2023.<sup>12</sup>

### *Proponents*

The executive orders provided significant relief for both the trucking industry and Georgia agribusiness.<sup>13</sup> These businesses, such as Godfrey’s Feed in Madison, Georgia, which spoke on behalf of agricultural feed suppliers, had grown accustomed to operating under the variance and emphasized the crippling effect that ending the

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7. *Id.*

8. Ga. Exec. Order No. 10.15.20.02 (Oct. 15, 2020).

9. Ga. Exec. Order No. 06.30.21.01 (June 30, 2021).

10. *Id.* at 2.

11. Ga. Exec. Order No. 08.30.21.01 (Aug. 30, 2021).

12. Press Release, Ga. Forestry Ass’n, Executive Order Expires, Allowable Haul Weight for Log Trucks Returns to 84,000 Lbs. (Mar. 13, 2023), <https://gfagrow.org/executive-order-expires-allowable-haul-weight-for-log-trucks-returns-to-84000-lbs/> [<https://perma.cc/7G3W-BSUJ>].

13. See Video Recording of House Transportation Committee Meeting at 25 min., 53 sec. (Mar. 2, 2023) [hereinafter Third House Transportation Committee Video] (remarks by Rep. Steven Meeke (R-178th)), [https://www.youtube.com/watch?v=3OKC8uENWT0&list=PLIgKJe7\\_xdLXecyygv6UamSa2ToocislZ&index=347](https://www.youtube.com/watch?v=3OKC8uENWT0&list=PLIgKJe7_xdLXecyygv6UamSa2ToocislZ&index=347) [<https://perma.cc/G3CT-QRNF>].

variance might have on the agriculture and trucking industries.<sup>14</sup> Knowing that Governor Kemp's increased variance would lapse in March, members of the Georgia House of Representatives presented HB 189 on February 1, 2023.<sup>15</sup> By codifying the increased variance, proponents of the bill aimed to permanently enshrine the relief provided by the executive orders and allow certain industries to continue operating above the original 80,000-pound weight limit.<sup>16</sup> A higher weight limit allows tractor trailers to transport more product in fewer trips and therefore decreases transportation costs for agriculture and forestry materials.<sup>17</sup>

In response to arguments that increased truck weights would be detrimental to road safety and infrastructure, proponents of the bill presented evidence that any negative impact would be minimal.<sup>18</sup> Because the bill allows trucks to move more product per trip, proponents argued that the bill would lead to fewer trucks on state and local roads.<sup>19</sup> This reduction in commercial traffic would ultimately improve highway safety.<sup>20</sup> Additionally, parties presented evidence that the reduced frequency of trips would offset any degradation of roads caused by higher truck weights.<sup>21</sup> For legislators with an eye toward agriculture and economic development, HB 189 offered a vital boost to an industry with historically low margins and did so at very little long-term cost.<sup>22</sup>

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14. See also Video Recording of House Transportation Committee Meeting at 1 hr., 10 min., 30 sec. (Feb. 9, 2023) [hereinafter First House Transportation Committee Video] (remarks by Weyman Hunt, CEO & Owner, Godfrey's Feed), [https://www.youtube.com/watch?v=PWhPd9EkKZs&list=PLIgKJe7\\_xdLXecygv6UamSa2ToocisLZ&index=333](https://www.youtube.com/watch?v=PWhPd9EkKZs&list=PLIgKJe7_xdLXecygv6UamSa2ToocisLZ&index=333) [<https://perma.cc/M4GS-5PJB>].

15. State of Georgia Final Composite Status Sheet, HB 189, May 9, 2023; Third House Transportation Committee Video, *supra* note 13, at 25 min., 54 sec.

16. See Third House Transportation Committee Video, *supra* note 13, at 24 min., 30 sec.; see also First House Transportation Committee Video, *supra* note 14, at 34 min., 54 sec. (remarks by Rep. Steven Meeks (R-178th)) (discussing original statutory requirements).

17. See First House Transportation Committee Video, *supra* note 14, at 1 hr., 5 min., 31 sec. (remarks by Will Bentley, President, Georgia Agribusiness Council).

18. See *id.* at 1 hr., 1 min., 11 sec. (remarks by Scott Copeland, Guffin & Eleam, Inc.).

19. *Id.* at 1 hr., 6 min., 9 sec. (remarks by Will Bentley, President, Georgia Agribusiness Council).

20. *Id.* at 1 hr., 3 min., 54 sec. (remarks by Scott Copeland, Guffin & Eleam, Inc.).

21. *Id.* at 56 min., 45 sec. (remarks by Mike Giles, President, Georgia Poultry Federation).

22. See *id.* at 1 hr., 11 min., 45 sec. (remarks by Weyman Hunt, CEO & Owner, Godfrey's Feed).

*Opponents and Concerns*

HB 189, however, was not without controversy, causing the bill to face many obstacles on its path to the Governor's desk. Upon its assignment to the House Transportation Committee, the bill underwent a nearly six-hour committee meeting.<sup>23</sup> The bill was also repeatedly recommitted by the House Rules Committee and underwent a total of three Transportation Committee meetings to amend the bill.<sup>24</sup> The concerns raised by opponents to HB 189 primarily centered on two issues: (1) the added costs of the inevitable wear and tear on the roads from the heavier weights and the bill's lack of funding to address those consequences; and (2) the dangers that heavier trucks may pose to others on Georgia's roads.<sup>25</sup> Representative Darlene Taylor (R-173rd) voiced concerns about the bill in the House Transportation Committee meetings and during the floor debate on March 6, 2023.<sup>26</sup> Addressing the effect on Georgia's roads, she noted the disparity of the impact across urban and rural areas: "The irony of this is, too many of the votes came from the urban areas and you can't even take these heavy trucks on the interstate . . . . It doesn't really affect their roads because they're not allowed on those big highways anyway."<sup>27</sup> More than one hundred local government leaders agreed, culminating in mayors, county commissioners, chiefs of police, and council members signing

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23. See generally First House Committee Transportation Video, *supra* note 14.

24. State of Georgia Final Composite Status Sheet, HB 189, May 9, 2023; Georgia General Assembly, HB 189, Bill Tracking [hereinafter HB 189, Bill Tracking], <https://www.legis.ga.gov/legislation/63881> [<https://perma.cc/DE4W-5RC6>].

25. See, e.g., Third House Transportation Committee Video, *supra* note 13, at 27 min., 49 sec. (remarks by Rep. Teri Anulewicz (D-42nd)) ("I'm still concerned that the fiscal reality is that the fiscal repercussions of this bill are going to be such that we are going to be putting Georgia at risk of setting aside the progress that we've made, because we know that there are going to be added costs for maintenance for our roads.").

26. Video Recording of House Proceedings at 2 hr., 4 min., 22 sec. (Mar. 6, 2023) [hereinafter House Floor Debate Video] (remarks by Rep. Darlene Taylor (R-173rd)), <https://www.youtube.com/watch?v=mTIKFivd6AE&t=1840s> [<https://perma.cc/HT2W-JM9G>]; First House Transportation Committee Video, *supra* note 14, at 2 hr., 51 min., 55 sec. and 5 hr., 46 min., 28 sec. (remarks by Rep. Darlene Taylor (R-173rd)).

27. Telephone Interview with Rep. Darlene Taylor (R-173rd) (May 24, 2023) [hereinafter Taylor Interview] (on file with the Georgia State University Law Review).

a petition coordinated by the Coalition Against Bigger Trucks.<sup>28</sup> The petition cited United States Department of Transportation and Georgia Department of Transportation statistics that detail the ongoing rise in traffic fatalities involving commercial vehicles and the poor condition of state and county roads that would bear an even greater burden than federally funded interstate highways.<sup>29</sup>

During the House floor debate, Representative Taylor also spoke about the physical danger that the bill could pose:

[The Georgia Department of Transportation and the Department of Public Safety] both have said this is an unsafe bill and it's not good for our state. Georgia already has the fourth highest rate in the nation in motor carrier fatalities. Yes, it may be all carriers, but that's still a high number. Are we going for number one? What price are we willing to pay to carry a few more logs on a truck, a few more bales of cotton? We're better than that. Get real. We all know it'll not be fewer trucks, but just heavier ones.<sup>30</sup>

Indeed, during the first House Transportation Committee meeting, officers from the Georgia Department of Public Safety Motor Carrier Compliance Division described the effects that weight has on braking distances:

A typical tractor trailer weighs about 80,000 pounds. Most passenger vehicles are 3,000 to 4,000 pounds. Okay. A 4,000-pound vehicle traveling at 65 miles an hour takes about 316 feet to stop. That's equivalent to one football field.

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28. Stanley Dunlap, *Georgia House Panel Rolls with Bill to Allow Bigger Rigs on State, Local Roads Despite Safety and Damage Worries*, GA. RECORDER (Feb. 9, 2023, 10:11 PM), <https://georgiarecorder.com/2023/02/09/georgia-house-panel-rolls-with-bill-to-allow-bigger-rigs-on-state-local-roads-despite-safety-and-damage-worries/> [https://perma.cc/5CUK-MDFS].

29. Letter from Georgia Local Government Leaders to Members of the Georgia General Assembly (Feb. 5, 2023), <http://www.cabt.org/wp-content/uploads/2023/02/GA-Joint-Letter-FINAL-2-5-23.pdf> [https://perma.cc/UB8Q-PVRQ].

30. House Floor Debate Video, *supra* note 26, at 2 hr., 9 min., 15 sec. (remarks by Rep. Darlene Taylor (R-173rd)).

And all this is in ideal conditions . . . . A fully loaded commercial vehicle stopping or traveling at 65 miles an hour attempting to do the same thing is going to take 525 feet. It's going to take approximately two football fields . . . . It's going to take two football fields to get stopped under ideal conditions. That is the key takeaway I want each of you to understand.<sup>31</sup>

The officers also expressed concerns regarding both their ability to enforce the new limits due to staffing shortages as well as the increase in fatal crashes involving commercial vehicles over the past year—a fifteen percent increase involving commercial vehicles resulting in fifty-two truck driver and eleven passenger fatalities in 2022.<sup>32</sup> Despite these concerns and vocal opposition, the support for legislative action to aid the agricultural and timber businesses was sufficient to achieve the votes necessary for the bill's passage in the Georgia General Assembly.<sup>33</sup>

### *Bill Tracking of HB 189*

#### *Consideration and Passage by the House*

Representative Steven Meeks (R-178th) sponsored HB 189 in the House with Representative James Burchett (R-176th), Representative John Corbett (R-174th), Representative Spencer Frye (D-122nd), Representative Robert Dickey (R-145th), and Representative Patty Bentley (D-150th) cosponsoring.<sup>34</sup> The bill was placed in the House hopper on February 1, 2023, and the House first read it on February 2,

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31. First House Transportation Committee Video, *supra* note 14, at 3 hr., 44 min., 38 sec. (remarks by Major Andrew Montgomery, Georgia Department of Public Safety Motor Carrier Compliance Division).

32. Dunlap, *supra* note 28.

33. State of Georgia Final Composite Status Sheet, HB 189, May 9, 2023.

34. HB 189, Bill Tracking, *supra* note 24.

2023.<sup>35</sup> On the same day, the House committed the bill to the House Transportation Committee.<sup>36</sup>

The House read the bill for a second time on February 6, 2023, and the Transportation Committee discussed the bill in a meeting on February 9, 2023.<sup>37</sup> In that six-hour meeting, the Transportation Committee heard from a variety of organizations and industries both in support and in opposition of the bill.<sup>38</sup> Proponents of the bill pointed to the economic benefit the bill would provide the agriculture industry and the greater economy, while opponents expressed concerns related to safety and public sector costs.<sup>39</sup> After the meeting, the Transportation Committee voted to advance the bill and favorably reported HB 189 by substitute on February 13, 2023.<sup>40</sup>

However, on February 16, 2023, the House Rules Committee recommitted the bill to the Transportation Committee.<sup>41</sup> One week later, on February 23, 2023, the Transportation Committee favorably reported the bill by substitute for a second time.<sup>42</sup> The substitute limited the bill's scope to trucks carrying agriculture and forestry products and adjusted the formula for calculating truck weight.<sup>43</sup> Even after these adjustments, however, the Rules Committee again recommitted the bill to the Transportation Committee for further evaluation on February 28, 2023.<sup>44</sup> This attempt proved successful. The Transportation Committee favorably reported the bill by substitute

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35. State of Georgia Final Composite Status Sheet, HB 189, May 9, 2023; HB 189, Bill Tracking, *supra* note 24.

36. State of Georgia Final Composite Status Sheet, HB 189, May 9, 2023; HB 189, Bill Tracking, *supra* note 24.

37. State of Georgia Final Composite Status Sheet, HB 189, May 9, 2023; HB 189, Bill Tracking, *supra* note 24; *see generally* First House Transportation Committee Video, *supra* note 14.

38. Dunlap, *supra* note 28.

39. *See generally* First House Transportation Committee Video, *supra* note 14.

40. *Id.* at 5 hr., 53 min. (remarks by Rep. Rick Jasperse (R-11th)); State of Georgia Final Composite Status Sheet, HB 189, May 9, 2023.

41. State of Georgia Final Composite Status Sheet, HB 189, May 9, 2023.

42. *Id.*; HB 189, Bill Tracking, *supra* note 24.

43. Video Recording of House Transportation Committee Meeting at 14 min., 4 sec. (Feb. 22, 2023) [hereinafter Second House Transportation Committee Meeting] (remarks by Rep. Steven Meeks (R-178th)),

[https://www.youtube.com/watch?v=nqBR8A3TQcU&list=PLIgKJe7\\_xdLXecygv6UamSa2ToocisIZ&index=334](https://www.youtube.com/watch?v=nqBR8A3TQcU&list=PLIgKJe7_xdLXecygv6UamSa2ToocisIZ&index=334) [https://perma.cc/FSF7-7QZU].

44. State of Georgia Final Composite Status Sheet, HB 189, May 9, 2023.

on March 6, 2023.<sup>45</sup> This version reduced the allowed variance from twelve percent to ten percent and increased penalties for violations.<sup>46</sup> Later that day, the bill proceeded to the House floor for a third reading, and the bill passed by a close vote of 93 to 81.<sup>47</sup>

### *Consideration and Passage by the Senate*

Representative Russ Goodman (R-8th) sponsored the bill in the Senate.<sup>48</sup> The Senate first read the bill on March 7, 2023.<sup>49</sup> After reading the bill, the Senate committed the bill to the Senate Transportation Committee.<sup>50</sup> The Committee favorably reported the bill by substitute on March 21, 2023.<sup>51</sup> This substitute made several substantive changes to the bill, such as increasing penalties, reducing the geographic area where the variance would be applicable, and clarifying the role of local law enforcement.<sup>52</sup> The Senate read HB 189 for a second time on the same day.<sup>53</sup> On March 23, 2023, the Senate read the bill a third time and passed the bill by a large margin—44 to 5.<sup>54</sup>

### *Disagreement, Conference Committee, and Final Passage*

The House of Representatives disagreed with the Senate substitute on March 27, 2023, due to the extensive changes the Senate imposed on the bill.<sup>55</sup> After both chambers insisted on their respective positions on March 29, 2023, a Conference Committee was appointed with the

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45. *Id.*

46. Third House Transportation Committee Video, *supra* note 13, at 24 min., 23 sec.

47. State of Georgia Final Composite Status Sheet, HB 189, May 9, 2023; Georgia House of Representatives Voting Record, HB 189, #213 (Mar. 6, 2023).

48. HB 189, Bill Tracking, *supra* note 24.

49. State of Georgia Final Composite Status Sheet, HB 189, May 9, 2023.

50. *Id.*

51. *Id.*

52. Video Recording of Senate Transportation Committee Meeting at 7 min., 29 sec. (Mar. 20, 2023) [hereinafter Senate Transportation Committee Video] (remarks by Sen. Steve Gooch (R-51st)), [https://www.youtube.com/watch?v=Ju2zyqO\\_6Wk&t=287s](https://www.youtube.com/watch?v=Ju2zyqO_6Wk&t=287s) [<https://perma.cc/Y5VY-52VM>].

53. State of Georgia Final Composite Status Sheet, HB 189, May 9, 2023.

54. *Id.*; Georgia Senate Voting Record, HB 189, #279 (Mar. 23, 2023).

55. State of Georgia Final Composite Status Sheet, HB 189, May 9, 2023.

hope of reaching a compromise.<sup>56</sup> Later that day, the Conference Committee reached a solution that included the House's preferences for extending the sunset provision for an additional year, reducing fines for violations, and increasing the geographic radius of applicability, and also provided for the Senate's requirement of enforcement procedures.<sup>57</sup> On the same evening, both chambers adopted the report of the Conference Committee.<sup>58</sup> The House passed the bill by a vote of 95 to 75, while the Senate passed the bill by a vote of 37 to 16.<sup>59</sup>

### *The Act*

The Act amends Code sections 32-6-26 through 32-6-30.<sup>60</sup> Chapter 6 of Title 32, Regulation of Maintenance and Use of Public Roads Generally, prescribes weights of vehicles and loads.<sup>61</sup> The Act increases the allowable weights under that Chapter for trucks carrying goods of certain industries and provides for the enforcement of these weight limitations.<sup>62</sup> A primary purpose of the Act was to ensure that the Georgia trucking and agriculture industries are not placed at a competitive disadvantage compared to industries in other states with statutorily higher weight variances.<sup>63</sup>

### *Section 1*

The Act adds a new paragraph to subsection (g) of Code section 32-6-26.<sup>64</sup> This subsection provides exceptions to the prescribed truck

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56. *Id.*

57. *Id.*; see also HB 189, as passed Senate, 2023 Ga. Gen. Assemb.

58. State of Georgia Final Composite Status Sheet, HB 189, May 9, 2023.

59. Georgia House of Representatives Voting Record, HB 189, #388 (Mar. 20, 2023); Georgia Senate Voting Record, HB 189, #404 (Mar. 30, 2023).

60. See 2023 Ga. Laws 573, §§ 1–7, at 573–78 (codified at O.C.G.A. §§ 32-6-26 to -30 (2023)).

61. §§ 32-6-26 to -30.

62. 2023 Ga. Laws 573, §§ 1–2, at 573–76 (codified at §§ 32-6-26 to -27).

63. Electronic Mail Interview with Earl Ehrhart, Managing Director, Freeman Mathis Decisions, & Trey Paris, Senior Director, Freeman Mathis Decisions (July 12, 2023) [hereinafter Ehrhart & Paris Interview] (on file with the Georgia State University Law Review). Ehrhart and Paris represent the Georgia Forestry Association. *Id.*

64. 2023 Ga. Laws 573, § 1, at 573.

weight limits on Georgia public roads.<sup>65</sup> The amendment to subsection (g) changes the permitted five percent variance on an 80,000-pound load (a variance of up to 84,000 pounds) to a ten percent variance (up to 88,000 pounds) for the following permitted products: (1) forest products hauled from the forest to the first point of marketing or processing; (2) live poultry or cotton hauled from a farm to a processing plant; (3) feed hauled from a feed mill to a farm; and (4) poultry waste hauled from the point of origin to a farm.<sup>66</sup> These exceptions apply only to loads hauled outside of the nonattainment area to a final destination within a 150-mile radius of the product's origin.<sup>67</sup> The nonattainment area is defined in Code section 32-9-11 as "counties currently having or previously deemed to have excess levels of ozone, carbon monoxide, or particulate matter in violation of the standards in the federal Clean Air Act," which includes the counties of Cherokee, Clayton, Coweta, Cobb, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale.<sup>68</sup> Finally, this provision expires on July 1, 2025, through a sunset provision.<sup>69</sup>

### *Section 2*

For Code section 32-6-27, the material amendments of the Act revise subsections (a) and (a.1).<sup>70</sup> Subsection (a) of the Code section presumes that any overweight vehicle has damaged public roads and bridges and imposes a fine to recompense the state.<sup>71</sup> The Act updates the fines for excess weight violations, based upon either the total gross weight of the vehicle, the weight on any individual axle, or the weight on any individual tandem axle without a lift axle.<sup>72</sup> The fine is dependent on the severity of the violation. For violations where the total gross weight of the vehicle is below 93,000 pounds, a fine of five cents per excess pound is imposed; for violations between 93,000 and

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65. See § 32-6-26(g).

66. 2023 Ga. Laws 573, § 1, at 573.

67. *Id.*

68. O.C.G.A. § 32-9-11(a)(2) (2018); Senate Transportation Committee Video, *supra* note 52, at 11 min., 46 sec. (remarks by Sen. Greg Dolezal (R-27th)).

69. 2023 Ga. Laws 573, § 1, at 573 (codified at § 32-6-26).

70. 2023 Ga. Laws 573, § 2, at 573.

71. O.C.G.A. § 32-6-27(a) (2023).

72. 2023 Ga. Laws 573, § 2, at 573–74.

100,000 pounds, ten cents per excess pound is imposed; and for violations equal to or greater than 100,000 pounds, the fine is fifteen cents per pound for all excess weight over the limitation.<sup>73</sup>

Subsection (a.1) authorizes local law enforcement to issue citations and warnings to drivers in violation of the truck weight limits and posted bridge weight limits, as long as those bridges are within the local officer's county or municipal road system.<sup>74</sup>

### *Section 3*

The Act amends Code section 32-6-28 to specify that any local law enforcement official may inspect the required nonexempt product permits for overweight loads.<sup>75</sup> Previously, the language of the Code section specified that only police officers, state troopers, or agents of the Georgia Department of Transportation may conduct such inspection.<sup>76</sup> This provision of the Act thus expands the group of individuals who may inspect permits to any local law enforcement official, such as sheriffs' deputies.<sup>77</sup>

### *Section 4*

Regarding the enforcement provision within Code section 32-6-29, the Act expands responsibility to local law enforcement officers "authorized to enforce laws relating to motor vehicles and traffic upon the road or bridge on which a vehicle is traveling."<sup>78</sup> Prior to the Act, the only law enforcement agency with responsibility for enforcing truck weight variances was the Department of Public Safety.<sup>79</sup> Under Section 4, enforcement obligations are now shared between the Department of Public Safety and local law enforcement officers who are authorized to police roadways in their jurisdiction.<sup>80</sup>

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73. § 32-6-27(a)(1).

74. *Id.* § 32-6-27(a.1).

75. 2023 Ga. Laws 573, § 3, at 576.

76. O.C.G.A. § 32-6-28(a)(3) (2022).

77. 2023 Ga. Laws 573, § 3, at 576.

78. *Id.* (codified at O.C.G.A. § 32-6-29 (2023)).

79. O.C.G.A. § 32-6-29(b) (2022).

80. *Id.*; 2023 Ga. Laws 573, § 4, at 576.

*Section 5*

Code section 32-6-30 elaborates on enforcement procedures, and the Act changes who can make decisions relating to such enforcement of permissible truck weights.<sup>81</sup> Subsections (a)(1), (b)(1), and (b)(2) of Section 5 authorize any law enforcement official of the Department of Public Safety who makes certain observations to stop, weigh, measure, or inspect a vehicle.<sup>82</sup> This provision includes law enforcement officials of the Department of Public Safety as their roles relate to drivers refusing the stop or refusing to weigh their vehicles.<sup>83</sup> Previously, such actions could only be conducted by law enforcement “officers” or employees of the Department of the Public Safety.<sup>84</sup> Section 5 also expands the group of individuals authorized to make such stops.<sup>85</sup> The Act provides that, in addition to the Department of Public Safety, any law enforcement official who has been properly trained on vehicle weights can stop a vehicle operating in their jurisdiction if they reasonably believe the vehicle is violating weight limitations.<sup>86</sup>

*Section 6*

In addition to standard language about when the Act will go into effect, Section 6 extends the July 1, 2025 sunset provision to the sections allowing for the enforcement of truck weight limits by local law enforcement officers.<sup>87</sup> Barring future legislative action, the enforcement of weight variances by local law enforcement authorized under the Act will expire after two years, alongside the increased variances.<sup>88</sup>

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81. 2023 Ga. Laws 573, § 5, at 576.

82. *Id.* at 577.

83. *Id.*

84. O.C.G.A § 32-6-30(a) (2022).

85. 2023 Ga. Laws 573, § 5, at 577.

86. *Id.*

87. 2023 Ga. Laws 573, § 6, at 577–78.

88. *Id.*

*Analysis*

The General Assembly's intent in creating the Act was, in part, to protect the trucking, forestry, and agriculture industries from the expiration of the Governor's Executive Order.<sup>89</sup> However, another intent of the General Assembly was to ensure that Georgia remains highly competitive as a leading state for business and the most productive harvester of timber in the country.<sup>90</sup> The Act aimed to meet these goals while balancing infrastructure and safety concerns.

*Keeping Georgia Competitive*

Indeed, the Act creates an advantageous business environment for these industries, comparable with Georgia's neighboring states.<sup>91</sup> Alabama and South Carolina both provide exemptions from their truck weight limit laws for certain industries, including exemptions from overweight permit requirements.<sup>92</sup> North Carolina permits a weight variance up to 90,000 pounds for agricultural, livestock, and timber products within 150 miles of the point of origin.<sup>93</sup> And, Tennessee permits a ten percent weight variance (up to 88,000 pounds) for farm products, machinery, solid waste, and various geological products.<sup>94</sup> Florida, however, requires permits for all overweight vehicles, except for perishable food crops, but only in cases where the Governor declares a state of emergency.<sup>95</sup> These various laws show the extent to which state legislatures deviate from federally prescribed weight limits allowed on federal highways, from allowing variances as a percentage of total gross vehicle weight (or axle), to exempting whole industries from state weight limit laws.

Proponents of the Act argued that failing to codify increased truck weights would do considerable harm to Georgia businesses, inevitably

89. Ehrhart & Paris Interview, *supra* note 63.

90. *Id.*

91. See First House Committee Transportation Video, *supra* note 14, at 58 min., 22 sec. (remarks by Mike Giles, President, Georgia Poultry Federation).

92. ALA. CODE § 32-9-29(g) (LexisNexis 2023) (exempting “[f]arm and agricultural commodities and equipment”); S.C. CODE ANN. § 56-5-4020(A) (2023) (exempting timber and soil improvement products).

93. N.C. GEN. STAT. § 20-118(c)(12)(a)(1)-(7) (2023).

94. TENN. CODE ANN. § 55-7-203(b)(7) (2023).

95. FLA. STAT. ANN. §§ 316.550(1), 316.565(1) (LexisNexis 2023).

passing increased shipping costs on to consumers.<sup>96</sup> Georgia produces more timber than any state in the country, and timber “accounts for ten percent of all cargo moved in the state.”<sup>97</sup> Therefore, the forestry industry heavily engaged in legislative discussions. Former Georgia House Minority Whip Earl Ehrhart, representing the Georgia Forestry Association, emphasized that the forestry industry has faced rising insurance, fuel, and labor costs, making the Act vital to ensuring the industry remains economically viable in Georgia.<sup>98</sup>

Opponents of the bill fear that laws in neighboring states demonstrate how high Georgia’s own legislature might eventually raise truck weight limits.<sup>99</sup> By 2025, Georgia’s timber and agricultural industries will have been operating trucks in excess of 80,000 pounds for five years. Thus, there will be incentive to continue, match, or even lead neighboring states in providing liberal limits, rather than allow the sunset provision to reset industry conditions to 2019 levels.<sup>100</sup> In fact, the agriculture and forestry industries have indicated that the sunset provision presents a challenge which will require further action to make the increase permanent and carry their legislative victory into the future.<sup>101</sup>

### *Continuing Safety and Infrastructure Concerns*

Some parties, primarily government entities, remain concerned that the Act’s repercussions will include increased roadway accidents and highway and bridge deterioration.<sup>102</sup> To address these safety concerns, the Act includes a new tiered penalty system to punish aggressive offenders and deter future violations of the variance.<sup>103</sup> Additionally, the Act provides for a nonattainment area around Atlanta that requires trucks to adhere to the old weight limitation of 84,000 pounds in the

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96. Ehrhart & Paris Interview, *supra* note 63.

97. *Id.*

98. *Id.*

99. Taylor Interview, *supra* note 27 (“I don’t think [the current variance will] stop here. I think that it will continue to increase.”).

100. See Ehrhart & Paris Interview, *supra* note 63.

101. *Id.*

102. Dunlap, *supra* note 28.

103. Ehrhart & Paris Interview, *supra* note 63.

state's most populous counties.<sup>104</sup> Notably, the bill allowed for only a ten percent variance, as opposed to the originally proposed twelve and a half percent variance, to ease concerns over excessive truck weights on state roads.<sup>105</sup> On the other hand, even with a more aggressive fine structure built into the Act, the underlying problem of the danger of heavier trucks traversing state roads remains unsolved; in July 2023, state officials reported that more than 700 Georgia bridges will not be able to handle the weight variance and will need updated signs.<sup>106</sup> Fines may deter trucking businesses from extreme violations, but the 8,000-pound increase alone is enough to lengthen braking distances considerably, as the Public Safety Motor Carrier Compliance Division described in its report to the House Transportation Committee.<sup>107</sup> In an industry already suffering from a fifteen percent increase in trucker fatalities in the past year alone, a sustained variance in weight tonnage could present further deadly consequences.<sup>108</sup> A legal solution to this issue is not readily apparent, other than a return to the *status quo ante*, a solution that directly undermines the stated purpose of the bill.

Nonetheless, with regard to the fears of infrastructure damage, supporters of the bill point to the last three years as evidence that the Georgia Department of Transportation's concerns are unfounded.<sup>109</sup> While the Governor's Executive Order was in effect, supporters insist, "there were no demonstrable issues with Georgia bridges" as a result of the increased variance nor have they seen any detriment to the condition of bridges in surrounding states with higher truck weights.<sup>110</sup> Ultimately, many legislators felt the Act was economically crucial to

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104. *Id.*; 2023 Ga. Laws 573, § 1, at 573; O.C.G.A. § 32-9-11 (2022).

105. Third House Transportation Committee Video, *supra* note 13, at 24 min., 23 sec.; Ehrhart & Paris Interview, *supra* note 63.

106. *More Than 700 Georgia Bridges Can't Handle Heavier Trucks Allowed by New Law, Officials Say*, ASSOCIATED PRESS (July 19, 2023, 6:41 PM), <https://apnews.com/article/georgia-heavy-trucks-weight-limits-bridges-815fb0754daa919fb0d1b6fdad42c882#:~:text=The%20tally%20includes%20306%20state,incluing%20logs%20and%20farm%20products> [<https://perma.cc/Q4SD-Z8D5>].

107. First House Transportation Committee Video, *supra* note 14, at 3 hr., 44 min., 38 sec. (remarks by Major Andrew Montgomery, Georgia Department of Public Safety Motor Carrier Compliance Division).

108. Dunlap, *supra* note 28.

109. Ehrhart & Paris Interview, *supra* note 63.

110. *Id.*

their constituents, which outweighed the concerns state agencies expressed.<sup>111</sup>

### *Conclusion*

Three years have elapsed since Governor Brian Kemp (R) first issued an executive order increasing Georgia's truck weight limits in the midst of the COVID-19 crisis.<sup>112</sup> Despite controversy and agency pushback, the Georgia legislature delivered the Act to codify these weight limits, albeit in a more limited form, to support the state's agriculture and trucking industries. The future, and consequences, of Georgia's new truck weight limits remains to be seen. As the controversy continues, the 2025 session will see the legislature return to wrestle with the safety of Georgia's citizens and the needs of Georgia's economy and infrastructure.

*John Evan Laughter & Todd P. Stephenson*

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111. *Id.*

112. Ga. Exec. Order No. 03.14.20.01 (Mar. 14, 2020).

