

LAWS OF DELAWARE  
VOLUME 83  
CHAPTER 155  
151st GENERAL ASSEMBLY  
FORMERLY  
SENATE BILL NO. 159

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO SIZE AND WEIGHT OF VEHICLES AND LOADS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 4513, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4513. ~~Vehicle height~~ Truck monitoring system.

(a) Definitions. As used in this section:

(6) “Recorded image” means an image recorded by a ~~vehicle height~~ truck monitoring system and includes any of the following:

(7) ~~As used in this section, “road:”~~ “Road” means an open way for motor vehicles, and includes all of the following:

(8) “~~Vehicle height~~ Truck monitoring system” means a device ~~with 1 or more motor vehicle sensors that is capable of producing a recorded image of a motor vehicle whose height exceeds a limit imposed under this title.~~ that is capable of producing a recorded image of a motor vehicle for identification of the vehicle type.

(b) Purpose. This section establishes the authority for the State or its counties or municipalities to use a ~~vehicle height~~ truck monitoring system to assist in the enforcement of ~~applicable state, county, and municipal law regarding motor vehicle size, including under Chapter 45 and § 4505~~ of this title. This section does not establish a new violation.

(c) Applicability.

(1) This section does not apply to any of the following:

- a. An emergency vehicle.
- b. An authorized state vehicle or snow plow.
- c. A school bus.
- d. A vehicle for which an owner, an employee of an owner, or a driver provides proof ~~that it is being used to make a delivery of lawful use of a restricted roadway.~~
- e. A recreational vehicle.

(2) An employer, not the employer’s employee, is liable under this section if a violation under this section occurs while an employee is using, for the purposes of employment, a vehicle that the employer owns.

(d) Initial implementation; responsible authority. A ~~vehicle height~~ truck monitoring system may be installed or used to record images of a motor vehicle traveling on a road in this State after the requirements of paragraph (d)(1) of this section and, if applicable, paragraph (d)(3) of this section, have been met.

(1) By August 15, 2020, the Department of Transportation shall do both of the following:

- a. Identify roads in this State as potential candidates for the placement of ~~vehicle height~~ truck monitoring systems.

(2) After the requirements of paragraph (d)(1) of this section have been met, the Secretary of the Department of Safety and Homeland Security may approve and install a ~~vehicle height monitoring system to be used on a road maintained by the State.~~ truck monitoring system. The Secretary of the Department of Safety and Homeland Security may consult with the Department of Transportation for best practices in installing a truck monitoring system.

(3) A county or municipality may install and use a ~~vehicle height~~ truck monitoring system ~~on a road maintained by the county or municipality~~ after all of the following requirements have been met:

- a. Paragraph (d)(1) of this section.
- b. The county or municipality adopts an ordinance authorizing the use of a ~~vehicle height~~ truck monitoring system at a location identified as a potential candidate under paragraph (d)(1) of this section.
- c. The county or municipality publishes notice of each ~~vehicle height~~ truck monitoring system location in a newspaper of general circulation in the area in which the ~~vehicle height~~ truck monitoring system will be installed or used.

d. All signs stating restrictions on the presence of certain motor vehicles during certain times approaching and within the segment of road on which the ~~vehicle height truck~~ monitoring system is located meet all of the following criteria:

2. Indicate that a ~~vehicle height truck~~ monitoring system is in use.

(4) The county or municipality that adopts an ordinance to authorize the use of a truck monitoring system is responsible for paying or obtaining funds for payment of the installation, use, maintenance, or other costs associated with the truck monitoring system that the county or municipality authorized. The Community Transportation Fund may be used to pay for a truck monitoring system.

(e) Vendor selection. The Department of Safety and Homeland Security shall utilize a supporting vendor to provide ~~vehicle height truck~~ monitoring systems for the State, counties, and municipalities. The system vendor must be selected through an open competitive procurement process which allows for the government and taxpayer to benefit from improved quality at lower pricing. To assure integrity and propriety, a person involved in the administration or enforcement of the ~~vehicle height truck~~ monitoring system may not own any interest or equity in the vendor used.

(f) ~~Vehicle height Truck~~ monitoring system requirements and maintenance; daily set-up log.

(1) ~~A vehicle height monitoring system must adhere to the motor vehicle size limits imposed by state, county, or municipal law. [Repealed.]~~

(2) ~~A daily log must be maintained for each vehicle height monitoring system installed and in use in this State. The Secretary of the Department of Public Safety and Homeland Security shall designate a vehicle height monitoring system technician to fulfill the requirements of paragraph (f)(3)a. of this section for a vehicle height monitoring system installed on a state maintained road truck monitoring system. A county or municipality that has adopted an ordinance to install a vehicle height truck monitoring system shall designate a vehicle height truck monitoring system technician to fulfill the requirements of paragraph (f)(3)a. of this section for a vehicle height truck monitoring system installed on a road maintained by the county or municipality. system.~~

(3) A ~~vehicle height truck~~ monitoring system technician shall do all of the following:

a. Fill out and sign a daily set-up log for each ~~vehicle height truck~~ monitoring system to which the ~~vehicle height truck~~ monitoring system technician is assigned. The log must do all of the following:

1. Include a statement that the technician successfully performed the manufacturer-specified self-test of the ~~vehicle height truck~~ monitoring system before producing a recorded image.

(g) ~~Violation criteria. For a violation to occur, a motor vehicle must exceed a size limitation under this chapter or county or municipal law. [Repealed.]~~

(h) Civil penalty. Unless a law-enforcement officer issued a citation to the owner or driver of the motor vehicle at the time of the violation, the owner or driver is subject to a civil penalty if a ~~vehicle height truck~~ monitoring system captures the owner's motor vehicle while violating state, county, or municipal law restricting the presence of certain vehicles at certain times. A civil penalty under this subsection may not exceed any of the following:

(i) Issuance of citation; contents; duty of recipient. The State, county, or municipality, whichever applies, shall, within 30 days of the violation, mail a notice of violation to the owner of a motor vehicle that was captured on a ~~vehicle height truck~~ monitoring system while violating a state, county, or municipal law restricting the presence of certain vehicles at certain times. The notice of violation must include all of the following:

(j) Evidence; witnesses.

(1) A certificate alleging that a violation of a state, county, or municipal law restricting the presence of a certain motor vehicle during a certain time occurred and that the requirements under subsections (d) and (f) of this section have been met and affirmed by a duly authorized law-enforcement officer based on inspection of a recorded image produced by a ~~vehicle height truck~~ monitoring system is both of the following:

b. Admissible in a proceeding alleging a violation under this section without the presence or testimony of the ~~vehicle height truck~~ monitoring system technician.

(2) A recorded image from a ~~vehicle height truck~~ monitoring system is evidence of a violation only if the image shows all of the following:

(3) If an owner or driver who received a notice of violation under this section desires the ~~vehicle-height truck~~ monitoring system technician to be present and testify at trial, the owner or driver shall notify the court and the State, county, or municipality, whichever issued the notice of violation, in writing no later than 20 days before trial.

(k) Defenses.

(1) The court may consider in defense of a violation either of the following:

a. Subject to paragraph (k)(2) of this section, that the motor vehicle or the registration plates of the motor vehicle were stolen before the violation occurred and were not under the control or possession of the owner, an employee of the owner, or the driver at the time of the violation.

b. Subject to paragraph (k)(2) of this section, presence on the road was required to complete a local service, including trash removal. It is the driver's or owner's burden to prove that presence on the road was required to complete a local service.

c. Any other issue or evidence that the court deems pertinent.

(2) To ~~demonstration~~ demonstrate a defense under paragraph (k)(1) of this section, the owner or driver must submit proof that a police report regarding the stolen motor vehicle or registration plates was filed in a timely manner.

(n) Administration and processing of citations.

(1) The ~~State or a county or municipality~~ that installed the truck monitoring system, or a contractor designated by the ~~State or a county or municipality~~, shall administer and process civil citations issued under this section in coordination with the court.

(2) If a contractor operates a ~~vehicle-height truck~~ monitoring system on behalf of the ~~State or a county or municipality~~, the contractor's fee may not be contingent on the number of citations issued or paid.

Approved September 15, 2021