

Before You Just Pay An Overweight Citation, There Are a Few Things You Should Know

By Angela N. Rainey, Esq., Marcello & Kivisto, LLC

Your driver just received an overweight citation. There are a few things you should think about.

First, determine under which section of the vehicle code your driver was cited. Different vehicle code sections will have different elements that the Commonwealth must prove and different consequences if found guilty. For instance, if the violation is cited under 75 Pa.C.S.A. §4941(a), the fine will be automatically doubled.

Second, find out from your driver how the vehicle was weighed. Where there any issues that arose during the weighing that may create doubt as to the accuracy of the scales? Did the officer properly weigh the vehicle? I recently handled a case where the officer who weighed the vehicle improperly included the weight of a tree chipper that was attached to the truck.

Also, verify with your driver that the vehicle was actually weighed. In a recent case I handled in Clearfield County, the trooper who issued the citation did not actually weigh the vehicle to determine the vehicle's weight. One of the elements that must be established to prove

an overweight case is the actual weight of the vehicle. Without weighing the vehicle the Commonwealth cannot establish the actual weight of the vehicle, let alone do so "beyond a reasonable doubt" as they are required.

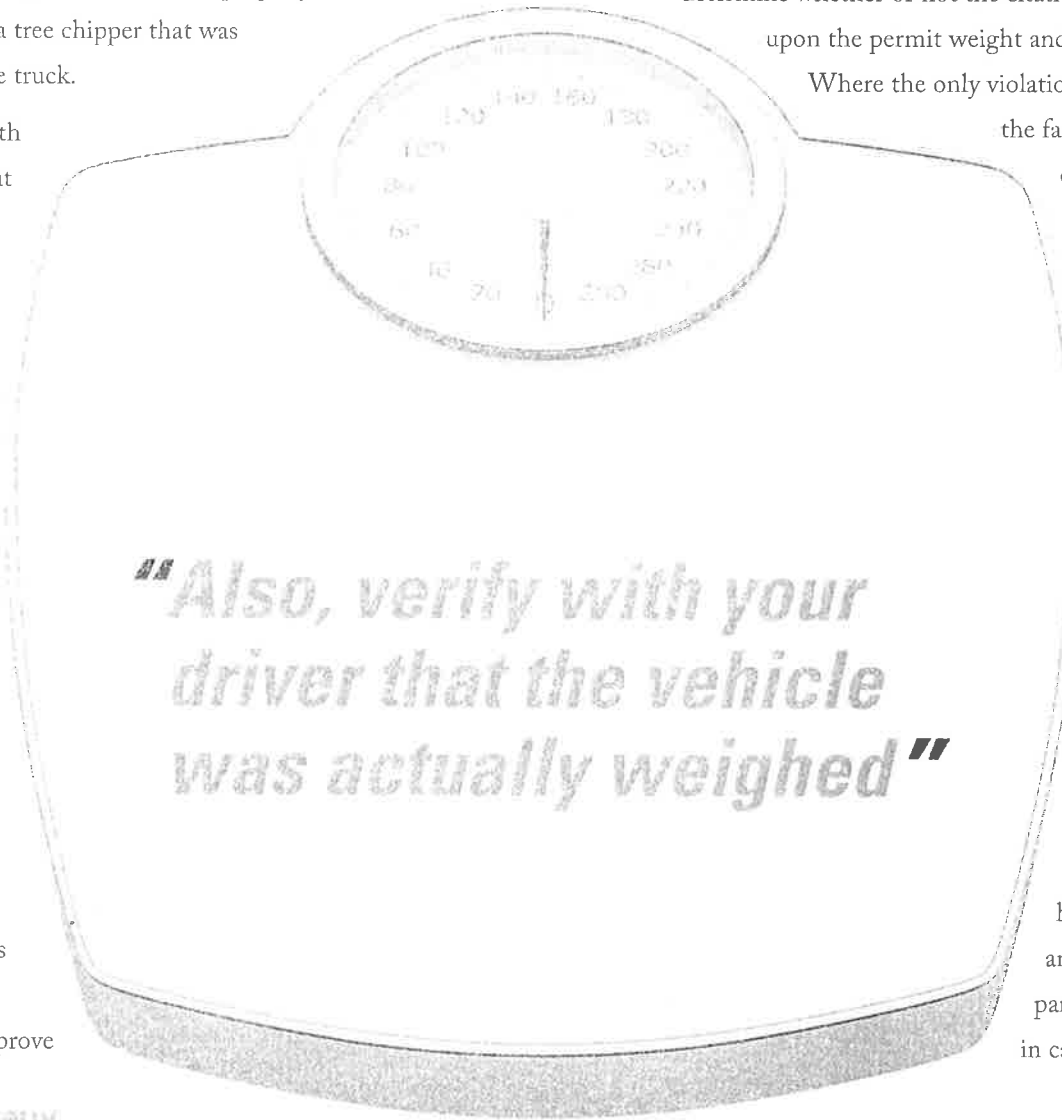
Third, make sure that the fine amount was calculated correctly. I have represented clients in several cases where the fine for the overweight citation was not properly calculated. If the statute that the Defendant was cited under does not provide the fine amount, then 75 Pa.C.S.A. §4945 provides the formula for calculating the fine of an overweight citation. It is imperative that before you plead guilty and pay the fine amount you verify that the fine amount is proper.

Fourth, if your vehicle was traveling pursuant to a permit, determine whether or not the citation was issued based upon the permit weight and/or the legal weight.

Where the only violation to a permit is the fact the vehicle was

overweight, the Pennsylvania Code indicates that the greater of the permitted weight and/or the legal weight should be used when determining how overweight the vehicle was.

Fifth, consider retaining an attorney to review the citation and/or handle the hearing. At a hearing, an attorney can be particularly beneficial in cases in which the



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officer does not prove all of the necessary facts for its case and can articulate why judgment should be entered for the defendant.

The defense of an overweight citation begins immediately. Starting with these questions can provide a good idea of the potential of your defense.

Another good defense to an overweight citation is prevention and—avoid having the expense in time and money of having to deal with the ticket in the first place. If your truck is traveling pursuant to a permit stress the importance of following the conditions of the permit to your drivers. Conditions of the permit will be found on the permit itself, and more conditions are also provided for in the Pennsylvania Code.

Not only will a violation of a permit condition allow the permit to be revoked, but in some instances it may permit the officer to disregard the permitted weight and use the legal weight resulting in an increased overweight citation. For instance if a driver is found traveling off route, the permitted weight is no longer

applicable when determining the overweight fine amount.

Drivers should also be careful to avoid roads and bridges with weight limit signs posted. A driver need not have intended to violate the weight limit restriction in order to be found guilty of operating a vehicle on a weight restricted road, meaning the driver does not see the weight restriction sign in order to be found guilty. However, hopefully by diligently watching for weight restriction signs and with advanced route planning a driver may avoid any unintended overweight citations.

Any time an overweight citation is received or any other traffic citation, the driver and company should consider what could have been done in order to avoid the citation. Is there anything that could have prevented the facts giving rise to the citation? i.e. following a condition of the permit, observing weight limit signs, properly weighing a vehicle prior to applying for a permit. With careful consideration, hopefully future citations may be avoided. 