S. 876

To amend titles 23 and 49, United States Code, to modify provisions relating to the length and weight limitations for vehicles operating on Federal-aid highways, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 3, 2011

Mr. LAUTENBERG introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend titles 23 and 49, United States Code, to modify provisions relating to the length and weight limitations for vehicles operating on Federal-aid highways, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Safe Highways and Infrastructure Preservation Act”.

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SEC. 2. OPERATION OF RESTRICTED PROPERTY-CARRYING UNITS ON NATIONAL HIGHWAY SYSTEM.

(a) Definition of Restricted Property-Carrying Unit.—Section 31111(a) of title 49, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (5);

(2) by redesignating paragraph (2) as paragraph (3);

(3) by redesignating paragraph (4) as paragraph (2); and

(4) by inserting after paragraph (3) the following:

“(4) Restricted property-carrying unit.—The term ‘restricted property-carrying unit’ means any trailer, semitrailer, container, or other property-carrying unit that is longer than 53 feet.”.

(b) Prohibition on Operation of Restricted Property-Carrying Units.—

(1) In general.—Section 31111(b)(1)(C) of title 49, United States Code, is amended to read as follows:

“(C) allows operation on any segment of the National Highway System, including the Interstate System, of a restricted property-carrying unit unless
the operation is specified on the list published under subsection (h)(2);”.

(2) **Effective Date.**—The amendment made by paragraph (1) shall take effect on the date that is 270 days after the date of the enactment of this Act.

(e) **Limitations.**—Section 31111 of title 49, United States Code, is amended by adding at the end the following:

“(h) **Restricted Property-Carrying Units.**—

“(1) **Applicability of prohibition.**—

“(A) **In general.**—Notwithstanding subsection (b)(1)(C), a restricted property-carrying unit may continue to operate on a segment of the National Highway System if the operation of the unit is specified on the list published under paragraph (2).

“(B) **Applicability of State laws and regulations.**—All operations specified on the list published under paragraph (2) shall continue to be subject to all State laws, limitations, and conditions, including routing-specific, commodity-specific, and configuration-specific designations and all other restrictions, in effect as of June 1, 2008.
“(C) FIREFIGHTING UNITS.—Subsection (b)(1)(C) shall not apply to the operation of a restricted property-carrying unit that is used exclusively for firefighting.

“(2) LISTING OF RESTRICTED PROPERTY-CARRYING UNITS.—

“(A) IN GENERAL.—Not later than 60 days after the date of the enactment of this subsection, the Secretary shall initiate a proceeding to determine and publish a list of restricted property-carrying units that were—

“(i) authorized by State officials pursuant to State law as of June 1, 2008; and

“(ii) in actual and lawful operation on a regular or periodic basis (including seasonal operations) on or before June 1, 2008.

“(B) LIMITATION.—A restricted property-carrying unit may not be included on the list published under subparagraph (A) on the basis that a State law could have authorized the operation of the unit as of a prior date, by permit or otherwise.

“(C) PUBLICATION OF FINAL LIST.—Not later than 270 days after the date of the enact-
ment of this subsection, the Secretary shall publish a final list of restricted property-carrying units described in subparagraph (A).

“(D) UPDATES.—The Secretary shall update the list published under subparagraph (C) as necessary to reflect new designations made to the National Highway System.

“(3) APPLICABILITY OF PROHIBITION.—The prohibition established under subsection (b)(1)(C) shall—

“(A) apply to any new designation made to the National Highway System; and

“(B) remain in effect on those portions of the National Highway System that cease to be designated as part of the National Highway System.

“(4) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection may be construed to prevent a State from further restricting in any manner or prohibiting the operation of a restricted property-carrying unit, except that any such restriction or prohibition shall be consistent with the provisions of this subchapter.”.

(d) ENFORCEMENT.—The second sentence of section 141(a) of title 23, United States Code, is amended by
striking “section 31112” and inserting “sections 31111 and 31112”.

SEC. 3. OPERATION OF LONGER COMBINATION VEHICLES ON NATIONAL HIGHWAY SYSTEM.

(a) IN GENERAL.—Section 31112 of title 49, United States Code, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following:

“(f) NATIONAL HIGHWAY SYSTEM.—

“(1) IN GENERAL.—A State may not allow, on a segment of the National Highway System that is not covered under subsection (b) or (c), the operation of a commercial motor vehicle combination (except a vehicle or load that cannot be dismantled easily or divided easily and that has been issued a special permit under applicable State law) with more than 1 property-carrying unit (excluding the truck tractor) if the property-carrying units are more than—

“(A) the maximum combination trailer, semitrailer, or other type of length limitation allowed by applicable State law as of June 1, 2008; or
“(B) the length of the property-carrying units of those commercial motor vehicle combinations, by specific configuration, in actual and lawful operation on a regular or periodic basis (including continuing seasonal operation) in that State on or before June 1, 2008.

“(2) ADDITIONAL LIMITATIONS.—

“(A) APPLICABILITY OF STATE RESTRICTIONS.—

“(i) IN GENERAL.—Subject to clause (ii), a commercial motor vehicle combination that is not prohibited from operating in a State under paragraph (1) may continue to operate in that State on highways described in paragraph (1) if such operation complies with all applicable State laws, limitations, and conditions, including routing-specific and configuration-specific designations, and all other restrictions in effect in that State as of June 1, 2008.

“(ii) MINOR ADJUSTMENTS.—Subject to regulations promulgated by the Secretary under subsection (h), a State may make minor temporary and emergency adjustments to route designations and vehicle
operating restrictions in effect as of June 1, 2008, for specific safety purposes and road construction.

“(B) ADDITIONAL STATE RESTRICTIONS.—Nothing in this subsection may be construed to prevent a State from further restricting or prohibiting the operation of a commercial motor vehicle combination subject to this section, except that such a restriction or prohibition shall be consistent with this section and sections 31113(a), 31113(b), and 31114.

“(C) MINOR ADJUSTMENTS.—

“(i) IN GENERAL.—Not later than 30 days after the date on which a State makes a minor adjustment of a temporary and emergency nature in accordance with subparagraph (A)(ii) or further restricting or prohibiting the operation of a commercial motor vehicle combination in accordance with subparagraph (B), the State shall advise the Secretary of the action.

“(ii) PUBLICATION.—The Secretary shall publish a notice of an action taken by a State under clause (i) in the Federal Register.
“(3) List of State length limitations.—

“(A) State submissions.—

“(i) In general.—Not later than 60 days after the date of the enactment of this subparagraph, each State shall submit to the Secretary a complete list of State length limitations applicable to commercial motor vehicle combinations operating in the State on the highways described in paragraph (1), including the applicable State laws associated with the length limitations.

“(ii) Failure to submit.—If a State fails to submit the information required under clause (i), the Secretary shall compile and file the information on behalf of the State.

“(B) Publication of interim list.—The Secretary shall—

“(i) publish an interim list in the Federal Register consisting of all information submitted under subparagraph (A) not later than 90 days after the date of the enactment of this subparagraph;
“(ii) review for accuracy all information submitted by a State under subparagraph (A); and

“(iii) solicit and consider public comment on the accuracy of the information.

“(C) LIMITATION.—A law may not be included on the list submitted by a State or published by the Secretary merely because the law authorized, or could have authorized, by permit or otherwise, the operation of commercial motor vehicle combinations not in actual operation on a regular or periodic basis on or before June 1, 2008.

“(D) PUBLICATION OF FINAL LIST.—

“(i) IN GENERAL.—Not later than 270 days after the date of the enactment of this subparagraph, the Secretary shall publish a final version of the list described in subparagraph (B) in the Federal Register, as revised under this subparagraph or subparagraph (E).

“(ii) REVISIONS.—In publishing the final list, the Secretary shall make any revisions necessary to correct inaccuracies identified under subparagraph (B).
“(iii) Prohibition on operation.—

After the final list is published under this subparagraph, commercial motor vehicle combinations prohibited under paragraph (1) may not operate on a highway described in paragraph (1) unless included on the list.

“(E) Inaccuracies.—

“(i) In general.—On the motion of the Secretary or on request by any person (including a State), the Secretary shall review the list published under subparagraph (D).

“(ii) Determination.—If the Secretary determines that there is reason to believe a mistake was made in the accuracy of the list—

“(I) the Secretary shall begin a proceeding to determine whether a mistake was made; and

“(II) if the Secretary makes an affirmative determination under subclause (I), the Secretary shall publish the appropriate correction.”.
(b) CONFORMING AMENDMENTS.—Section 31112 of title 49, United States Code, is amended—

(1) in subsection (d)(1), by striking “subsection (g)(2) of this section” and inserting “subsection (h)(2)”; 

(2) in subsection (g), as redesignated by subsection (a)(1)—

(A) in paragraph (1), by inserting “or 127A(e)” after “127(d)”; and

(B) in paragraph (3), by inserting “(or June 1, 2008, with respect to highways described in subsection (f)(1))” after “June 2, 1991”; and

(3) in paragraph (h)(2), as redesignated by subsection (a)—

(A) by striking “Not later than June 15, 1992, the Secretary” and inserting “The Secretary”; and

(B) by striking “of this section” and inserting “or (f)”.

SEC. 4. TERMINATION OF DETERMINATIONS OF GRANDFATHERED RIGHTS.

(a) IN GENERAL.—Section 127 of title 23, United States Code, is amended by adding at the end the following:

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“(i) **GRANDFATHERED RIGHTS.**—

“(1) **DEFINITION OF INTERSTATE WEIGHT LIMIT.**—In this subsection and in section 127A, the term ‘Interstate weight limit’ means the 80,000-pound gross vehicle weight limitation, the 20,000-pound single axle weight limitation (including enforcement tolerances), the 34,000-pound tandem axle weight limitation (including enforcement tolerances), and the overall maximum gross weight (including enforcement tolerances) limitation on a group of 2 or more consecutive axles produced by application of the formula under subsection (a)(2).

“(2) **LIMITATION.**—Beginning 270 days after the date of the enactment of this subsection, a State may not allow, on a segment of the Interstate System, the operation of a vehicle or combination (other than a longer combination vehicle) exceeding an Interstate weight limit unless the operation is specified on the list published under paragraph (3).

“(3) **LIST OF VEHICLES AND COMBINATIONS.**—

“(A) **PROCEEDING.**—Not later than 60 days after the date of the enactment of this subsection, the Secretary shall initiate a proceeding to determine and publish a list of vehicles and combinations (other than longer com-
bination vehicles) otherwise exceeding an Inter-
state weight limit that the Department of
Transportation, any other Federal agency, or a
State has determined, on or before June 1,
2008, could have been or could be lawfully oper-
ated within the State—

“(i) on July 1, 1956;

“(ii) in the case of the overall gross
weight of any group of 2 or more consecu-
tive axles, on January 4, 1975; or

“(iii) under a special rule applicable
to a State under subsection (a).

“(B) LIMITATIONS.—

“(i) ACTUAL AND LAWFUL OPER-
ATIONS REQUIRED.—An operation of a ve-
hicle or combination may be included on
the list published under subparagraph (A)
only if the vehicle or combination was in
actual and lawful operation in the State on
a regular or periodic basis on or before
June 1, 2008.

“(ii) STATE AUTHORITY NOT SUFFI-
cient.—An operation of a vehicle or com-
bination may not be included on the list
published under subparagraph (A) on the
basis that a State law could have authorized the operation of the vehicle or combination as of a prior date by permit or otherwise.

“(C) Publication of final list.—Not later than 270 days after the date of the enactment of this subsection, the Secretary shall publish a final list of vehicles and combinations described in subparagraph (A).

“(4) Limitation on effect of subsection.—

“(A) In general.—Except as provided in subparagraph (B), nothing in this subsection may be construed to prevent a State from reducing the gross vehicle weight limitation, the single and tandem axle weight limitations, or the overall maximum gross weight on a group of 2 or more consecutive axles applicable to portions of the Interstate System in the State for operations on the list published under paragraph (3)(C).

“(B) Limitation.—A reduction described in subparagraph (A) may not result in a limitation that is less than an Interstate weight limit.
“(5) APPLICABILITY OF EXISTING REQUIREMENTS.—All vehicles and combinations included on the list published under paragraph (3) shall be subject to all routing-specific, commodity-specific, and weight-specific designations in effect in a State as of June 1, 2008.”.

(b) CONFORMING AMENDMENT.—Section 127(a)(4) of title 23, United States Code, is amended by striking “the State determines”.

SEC. 5. NONDIVISIBLE LOAD PROCEEDING.

Section 127 of title 23, United States Code, as amended by section 4, is further amended by adding at the end the following:

“(j) NONDIVISIBLE LOADS.—

“(1) STATEMENT OF POLICY.—The purpose of this subsection is to promote conformity with Interstate weight limits to preserve publicly funded infrastructure and protect motorists by limiting maximum vehicle weight on key portions of the Federal-aid highway system.

“(2) PROCEEDING.—Not later than 60 days after the date of the enactment of this subsection, the Secretary shall initiate a proceeding to define the term ‘vehicles and loads that cannot be easily
dismantled or divided’ as used in subsection (a) and section 31112 of title 49.

“(3) List of Commodities.—

“(A) In General.—The definition developed under subparagraph (A) shall include a list of commodities (or classes or types of commodities) that do not qualify as nondivisible loads.

“(B) Limitation.—The list of commodities developed under paragraph (2) shall not be interpreted to be a comprehensive list of commodities that do not qualify as nondivisible loads.

“(4) Regulations.—The Secretary shall—

“(A) promulgate final regulations setting forth the determination of the Secretary made under paragraph (2) not later than 270 days after the date of enactment of this subsection; and

“(B) update such regulations, as necessary.

“(5) Applicability.—Regulations promulgated under paragraph (4) shall apply to all vehicles and loads operating on the National Highway System.
“(6) State requirements.—A State may establish any requirement that is not inconsistent with regulations promulgated under paragraph (4).”.

SEC. 6. WAIVERS OF WEIGHT LIMITATIONS DURING PERIODS OF NATIONAL EMERGENCY.

Section 127 of title 23, United States Code, as amended by sections 4 and 5, is further amended by adding at the end the following:

“(k) Waivers During Periods of National Emergency.—

“(1) In general.—Notwithstanding any other provision of this section or section 127A, the Secretary, in consultation with the Secretary of Defense, may waive or limit the application of any vehicle weight limit established under this section or section 127A with respect to a highway route during a period of national emergency in order to respond to the effects of the national emergency.

“(2) Applicability.—Emergency limits established under paragraph (1) shall preempt any inconsistent State vehicle weight limits.”.

SEC. 7. VEHICLE WEIGHT LIMITATIONS—NATIONAL HIGHWAY SYSTEM.

(a) In general.—Chapter 1 of title 23, United States Code, is amended—
(1) in section 127(d)(4), by inserting “and in section 127A” after “this section”; and

(2) by inserting after section 127 the following:

“§127A. Vehicle weight limitations—National Highway System

“(a) Non-Interstate Highways on National Highway System.—

“(1) In general.—Beginning 270 days after the date of the enactment of this section, any Interstate weight limit that applies to vehicles and combinations (other than longer combination vehicles) operating on the Interstate System in a State under section 127 shall apply to vehicles and combinations (other than longer combination vehicles) operating on non-Interstate segments of the National Highway System in the State unless the segments are subject to lower State weight limits as provided for under subsection (d).

“(2) Existing highways.—

“(A) In general.—Notwithstanding paragraph (1), in the case of a non-Interstate segment of the National Highway System that is open to traffic on June 1, 2008, a State may allow the operation of any vehicle or combination (other than a longer combination vehicle)
on the segment that the Secretary determines under subsection (b) could have been lawfully operated on the segment on June 1, 2008.

“(B) APPLICABILITY OF STATE LAWS.—All operations described in subparagraph (A) shall continue to be subject to all State laws, limitations, and conditions, including routing-specific, commodity-specific, and configuration-specific designations and all other restrictions, in effect as of June 1, 2008.

“(3) NEW HIGHWAYS.—Subject to subsection (d)(1), the gross vehicle weight limitations and axle loading limitations applicable to all vehicles and combinations (other than longer combination vehicles) on a non-Interstate segment of the National Highway System that was not open to traffic on June 1, 2008, shall be the Interstate weight limit.

“(b) LISTING OF VEHICLES AND COMBINATIONS.—

“(1) IN GENERAL.—The Secretary shall initiate a proceeding to determine and publish a list of vehicles and combinations (other than longer combination vehicles), otherwise exceeding an Interstate weight limit, that could be lawfully operated on a non-Interstate segment of the National Highway System on June 1, 2008.
“(2) REQUIREMENTS.—In publishing a list of vehicles and combinations under paragraph (1), the Secretary shall identify—

“(A) the gross vehicle weight limitations and axle loading limitations in each State applicable, as of June 1, 2008, to vehicles and combinations (other than longer combination vehicles) on non-Interstate segments of the National Highway System; and

“(B) operations of vehicles and combinations (other than longer combination vehicles), exceeding State gross vehicle weight limitations and axle loading limitations identified under subparagraph (A), that were in actual and lawful operation on a regular or periodic basis (including seasonal operations) as of June 1, 2008.

“(3) LIMITATION.—An operation of a vehicle or combination may not be included on the list published under paragraph (1) on the basis that a State law (including a regulation) could have authorized the operation on a prior date by permit or otherwise.

“(4) PUBLICATION OF FINAL LIST.—Not later than 270 days after the date of the enactment of this section, the Secretary shall publish a final list
of vehicles and combinations described in paragraph (1).

“(5) UPDATES.—The Secretary shall update the list published under paragraph (4) as necessary to reflect new designations made to the National Highway System.

“(c) APPLICABILITY OF LIMITATIONS.—The limitations established under subsection (a) shall—

“(1) apply to any new designation made to the National Highway System; and

“(2) remain in effect on those non-Interstate highways that cease to be designated as part of the National Highway System.

“(d) LIMITATIONS ON STATUTORY CONSTRUCTION.—

“(1) STATE ENFORCEMENT OF MORE RESTRICTIVE WEIGHT LIMITS.—Nothing in this section may be construed to prevent a State from maintaining or imposing a weight limitation that is more restrictive than the Interstate weight limit on vehicles or combinations (other than longer combination vehicles) operating on a non-Interstate segment of the National Highway System.

“(2) STATE ACTIONS TO REDUCE WEIGHT LIMITS.—Nothing in this section may be construed to
prevent a State from reducing the gross vehicle
weight limitation, single or tandem axle weight limi-
tations, or the overall maximum gross weight on 2
or more consecutive axles of the State on any non-
Interstate segment of the National Highway System.

“(e) LONGER COMBINATION VEHICLES.—

“(1) Prohibition.—

“(A) In general.—Beginning 270 days
after the date of the enactment of this section,
a longer combination vehicle may continue to
operate on a non-Interstate segment of the Na-
tional Highway System only if the operation of
the longer combination vehicle configuration
type was—

“(i) authorized by State officials pur-
suant to State law (including a regulation)
as of June 1, 2008; and

“(ii) in actual and lawful operation on
a regular or periodic basis (including sea-
sonal operations) on or before June 1,
2008.

“(B) Applicability of state laws.—All
operations described in subparagraph (A) shall
continue to be subject to all State laws, limita-
tions, and conditions, including routing-specific,
commodity-specific, and configuration-specific
designations and all other restrictions, in effect
as of June 1, 2008.

“(2) LISTING OF VEHICLES AND COMBINA-
TIONS.—

“(A) IN GENERAL.—Not later than 60
days after the date of enactment of this section,
the Secretary shall initiate a proceeding to de-
termine and publish a list of longer combination
vehicles that could be lawfully operated on non-
Interstate segments of the National Highway
System as of June 1, 2008.

“(B) LIMITATION.—A longer combination
vehicle may not be included on the list pub-
lished under subparagraph (A) on the basis
that a State law (including a regulation) could
have authorized the operation of the vehicle on
a prior date by permit or otherwise.

“(C) PUBLICATION OF FINAL LIST.—Not
later than 270 days after the date of enactment
of this section, the Secretary shall publish a
final list of longer combination vehicles de-
scribed in subparagraph (A).

“(D) UPDATES.—The Secretary shall up-
date the list published under subparagraph (C)
as necessary to reflect new designations made
to the National Highway System.

“(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection may be construed
to prevent a State from further restricting in any
manner or prohibiting the operation of a longer com-
bination vehicle, except that any such restriction or
prohibition shall be consistent with section 127 of
this title and sections 31112 through 31114 of title
49.

“(f) MODEL SCHEDULE OF FINES.—

“(1) IN GENERAL.—The Secretary, in consulta-
tion with the States, shall establish a model schedule
of fines to be assessed for violations of this section.

“(2) PURPOSES.—The purposes of the schedule
of fines shall be—

“(A) to ensure that fines are sufficient to
deter violations of this section; and

“(B) to permit States to recover costs asso-
ciated with damage caused to the National
Highway System by the operation of vehicles.

“(3) ADOPTION BY STATES.—The Secretary
shall encourage States to adopt the schedule of
fines.”.
(b) ENFORCEMENT OF REQUIREMENTS.—Section 141(a) of title 23, United States Code, is amended by striking “the Federal-aid primary system, the Federal-aid urban system, and the Federal-aid secondary system, including the Interstate System in accordance with section 127 of this title” and inserting “the National Highway System, including the Interstate System, in accordance with sections 127 and 127A”.

(e) CONFORMING AMENDMENT.—The chapter analysis for title 23, United States Code, is amended by inserting after the item relating to section 127 the following:

“127A. Vehicle weight limitations—National Highway System.”.