

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**

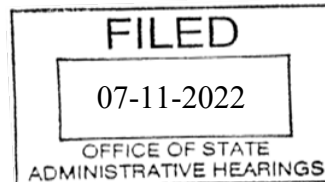
BUILDERS SUPPLY LOGISTICS LLC,
Petitioner,

v.

DEPARTMENT OF PUBLIC SAFETY,
Respondent.

Docket No.: 2225393
2225393-OSAH-DPS-OWOS-60-
Woodard

Agency Reference No.: OW-0045930



FINAL DECISION

I. Introduction

The Petitioner requested a hearing pursuant to O.C.G.A. § 32-6-27 after the Respondent issued a citation (Citation No. OW-0045930) to Petitioner's driver on February 7, 2022 for causing an overweight vehicle and/or load to be operated, on a public road of this state. The hearing took place on June 24, 2022 by telephone before the undersigned administrative law judge. After considering all of the admissible evidence and the arguments of the parties, the Respondent's action is **AFFIRMED** for the reasons stated below.

II. Findings of Fact

1. On February 7, 2022, Petitioner's driver Christopher John Brown was operating a tractor-trailer carrying a load of building materials on Interstate 20 eastbound in Douglas County, Georgia.
2. Brown stopped at the weigh station operated by Respondent, and the vehicle and load were measured by Weight Inspector Jody Rutledge using the station's static scales.
3. A weight of 77,340 was measured for the vehicle and load. A weight of 36,700 was measured for tandem drive axles # 2 and 3, which have a center-to-center distance measured at 4 feet, 4 inches.
4. The certification produced by Respondent show the scales used to weigh the vehicle were calibrated and in good working order.
5. The operator of the vehicle was afforded an opportunity to manually shift the load, but did not correct the weight violation.
6. The operator of the vehicle did not present a valid overweight permit issued by the Georgia Department of Transportation (GDOT).
7. The Respondent issued an overweight assessment citation in the amount of \$135.00 because the tandem axle group exceeded the weight limit of 34,000 pounds by 2,700 pounds. The civil penalty was calculated at \$0.05 per pound.
8. Petitioner paid the penalty and requested a hearing. Petitioner produced a weight certificate from a Certified Automated Truck Scale ("CAT Scale") located at Love's Country Store in Heflin, Alabama, prepared and printed the day the citation was issued. The CAT Scale indicates the drive axle tandem was measured at 32,880 pounds. The overall weight for the vehicle and load was 77,160 pounds. The CAT Scale printout includes what appears to be a weighmaster certification stamp, but the copy provided by Petitioner to the Court is difficult to read. Petitioner also produced a weight slip from RaceTrac which is dated the same day as the citation. The RaceTrac document shows a measured weight for the drive axle of 32,800 pounds. Although this document indicates it is a "Public

weighmasters certificate of weight & measure,” there is not a seal or other certification affixed to the document to show that the scales were properly calibrated.

III. Conclusions of Law

The Respondent bears the burden of proof in this matter. Ga. Comp. R. & Regs. 616-1-2-.07(1). The standard of proof is a preponderance of the evidence. Ga. Comp. R. & Regs. 616-1-2-.21(4). The Respondent met its burden and proved the following:


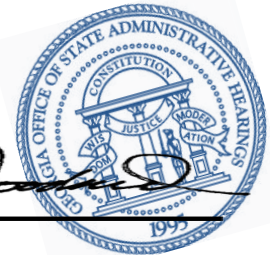
1. Respondent produced a certification for the static scale which shows how the calibration was performed. This certification was properly documented and carries much higher evidentiary weight than the CAT Scale ticket and RaceTrac document produced by Petitioner.
2. Respondent met its burden of proof to show Petitioner caused a vehicle or load with a weight that exceeded state limits for a tandem axle to be operated on a public road of this state. O.C.G.A. §§ 32-6-20, -26, -27. Damage to the road is presumed. O.C.G.A. § 32-6-7(a)(1).
3. The vehicle’s excess weight was not authorized by a valid overweight permit issued by the Georgia Department of Transportation (GDOT). O.C.G.A. § 32-6-28.
4. Respondent calculated the amount of the overweight assessment citation in accordance with the schedule provided in O.C.G.A. § 32-6-27.

Accordingly, the Respondent’s issuance of the overweight assessment citation was proper. O.C.G.A. § 32-6-27.

IV. Decision

IT IS HEREBY ORDERED that the Respondent’s issuance of overweight assessment citation number OW-0045930 is **AFFIRMED**.

SO ORDERED, this 11th day of July, 2022.



M. Patrick Woodard
Administrative Law Judge