



2005 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB678)

Received: 11/07/2005

Received By: agary

Wanted: As time permits

Identical to LRB:

For: Donald Friske (608) 266-7694

By/Representing: Tim Gary (aide)

This file may be shown to any legislator: NO

Drafter: agary

May Contact:

Addl. Drafters:

Subject: **Transportation - motor vehicles**

Extra Copies: **PJH**

Submit via email: YES

Requester's email: **Rep.Friske@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

changes to raw forest products permit; overweight violations; requiring raw forest products purchasers to keep records

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 11/11/2005	csicilia 11/14/2005		_____			
/1			pgreensl 11/14/2005	_____	lemery 11/14/2005	lemery 11/14/2005	
				_____	lemery 11/14/2005		
/2	agary	csicilia	chaugen	_____	mbarman	mbarman	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	11/15/2005	11/15/2005	11/15/2005 _____		11/15/2005	11/15/2005	

FE Sent For:

<END>

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/1			pgreensl 11/14/2005	_____	lemery 11/14/2005	lemery 11/14/2005	

12 gjs 11/15
05
OK
11-15
OK
PW-1/15

FE Sent For:

<END>

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Received: **11/07/2005**

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Wanted: **As time permits**

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By/Representing: **Tim Gary (aide)**

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May Contact:

Addl. Drafters:

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/?	agary	1 g 11/14/05	1/14 ps	1/14 ps			

FE Sent For:

<END>

Gary, Aaron

From: Gary, Tim
Sent: Thursday, November 10, 2005 10:24 AM
To: Gary, Aaron
Cc: Rep.Friske; Friske, Donald
Subject: AB 678 ASA 1

Substitute Amendment

To be voted on Thursday November 17, 2005

Truck Configuration & Eligibility

- 348.27 (9m) (a) 4 Raw forest products in vehicle combinations that exceed the maximum gross weight limitations under s. 348.15 (3) (c) by not more than 18,000 pounds if the vehicle combination has 6 or more axles and the gross weight imposed on the highway by the wheels of any one axle of the vehicle combination does not exceed 18,000 pounds, except that the gross weight imposed on the highway by the wheels of any steering axle on the power unit may not exceed the greater of 13,000 pounds or the manufacturer's rated capacity, but not to exceed 18,000 pounds. A permit under this subdivision is not valid on any interstate highway designated under s. 84.29 (2), any highway or bridge with a posted weight limitation that is less than the vehicle combination's gross weight, and any part of the state trunk highway system that the department has designated by rule as a route on which a permit issued under this subsection is not valid."
- Also, as to the 8% provision, this concept may be incorporated in s. 348.15 (8), which provides the method for measuring overweight, spilling over to s. 348.27 (9m), but please specifically repeat it here.

Paper Enforcement

- Currently: No paper enforcement
- Currently: Drivers are required to keep the slips
- Sub: require only the mills to retain weight scale records for 30 days
 - Allow DOT inspectors and county law enforcement to view scale records

Surcharges

- Currently: Unaddressed
- Sub: eliminate surcharges
 - Create new subsection to Chapter 348 increasing the existing fine structure **for log trucks only (who hold a license plate under 341.26 (3m))**

1st Offense

- | | |
|-----------------|------------------------------------|
| ○ < 2,000 lbs: | \$150/\$250 + (6 cents x 2,000) = |
| ○ 2,000 – 3,000 | \$150/\$250 + (8 cents x 3,000) = |
| ○ 3,001 – 4,000 | \$150/\$250 + (9 cents x 4,000) = |
| ○ 4,001 – 5,000 | \$150/\$250 + (10 cents x 5,000) = |
| ○ > 5,000 lbs: | \$150/\$250 + (11 cents x 5,001) = |

2nd Offense

- | | |
|-----------------|------------------------------------|
| ○ < 2,000 lbs: | \$150/\$250 + (6 cents x 2,000) = |
| ○ 2,000 – 3,000 | \$150/\$250 + (8 cents x 3,000) = |
| ○ 3,001 – 4,000 | \$150/\$250 + (9 cents x 4,000) = |
| ○ 4,001 – 5,000 | \$150/\$250 + (10 cents x 5,000) = |
| ○ > 5,000 lbs: | \$150/\$250 + (11 cents x 5,001) = |

3rd & Subsequent Offenses

- | | |
|-----------------|------------------------------------|
| ○ < 2,000 lbs: | \$500/\$550 + (20 cents x 2,000) = |
| ○ 2,000 – 3,000 | \$500/\$550 + (20 cents x 3,000) = |
| ○ 3,001 – 4,000 | \$500/\$550 + (21 cents x 4,000) = |
| ○ 4,001 – 5,000 | \$500/\$550 + (22 cents x 5,000) = |
| ○ > 5,000 lbs: | \$500/\$550 + (23 cents x 5,001) = |

Frozen Road Declarations

- Currently unaddressed
- Sub: sunset 5 years following enactment of the bill. Language should be included to remove references to "peeled or unpeeled forest products cut crosswise" from the frozen road provision with an effective date 5 years hence.

11 – Mile Border Permit

- Currently: Unaddressed
- Sub: Repeal this section of the Statutes by inserting language written in 1963/P1

Local Ordinance

- Currently: Unaddressed
- Sub: Allow locals to pass a County Ordinance that mirrors (identical – no more stringent, no less stringent than the State), allowing them to retain 100% of the fine

Notification

- Currently:
- Sub: For the first 4 months of 98,000 lb permit availability, no tickets may be written.

Effective Dates

- Currently: The act takes effect on the first day of the 4th month after publication
- Sub: The act takes effect 45 days after publication

Gary, Aaron

From: Gary, Aaron
Sent: Friday, November 11, 2005 11:52 AM
To: Gary, Tim
Subject: RE: Sub to AB-678

Sorry, I didn't see the other e-mail.

Then the bill will be silent on this, as current law completely covers the drafting instructions (as described below).

Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Gary, Tim
Sent: Friday, November 11, 2005 11:49 AM
To: Gary, Aaron
Subject: RE: Sub to AB-678

We are only interested in county ordinances.

<< Message: RE: Sub to AB-678 >>

From: Gary, Aaron
Sent: Friday, November 11, 2005 11:20 AM
To: Gary, Tim
Subject: RE: Sub to AB-678

Tim,

If it helps, here is the analysis I've (temporarily) drafted on current law related to the ordinance:

"Under current law, fines and forfeitures collected as a result of convictions for state traffic offenses are divided between the collecting local government and the state. Generally, 50 percent of all fines and forfeitures for state traffic offenses is deposited in the common school fund, but a different allocation, involving the deposit of 40 percent of all fines or forfeitures in the transportation fund and ten percent in the common school fund, is made for offenses related to the size, weight, and load of vehicles.

Current law allows any city, village, town or county to enact and enforce ordinances that strictly conform to state traffic laws that are punishable by a forfeiture, including offenses related to the size, weight, and load of vehicles. Under one provision of current law, revenues from forfeitures imposed by any court for the violation of any municipal or county ordinance must be paid to the municipality or county. Under another provision of current law, all forfeitures recovered for the violation of a municipal ordinance must generally be paid into the municipality's treasury for the use of the municipality, except that, if the ordinance violation is for an offense related to the size, weight, and load of vehicles and the offense occurs on the state trunk highway system or on a highway over which the municipality does not have primary maintenance responsibility, only the first \$150 of the forfeiture is retained by the municipality and the remainder of the forfeiture amount is deposited into the state's transportation fund.

This bill"

If you are interested only in county ordinances, no statutory change is needed in the bill.

Aaron

Gary, Aaron

From: Gary, Tim
Sent: Friday, November 11, 2005 10:16 AM
To: 'Aaron Gary'
Subject: RE: Sub to AB-678

Representative Friske only wants to allow counties to pass the local ordinance ... no cities, villages or towns.

-----Original Message-----

From: Aaron Gary [mailto:aaronrgary@yahoo.com]
Sent: Thursday, November 10, 2005 10:59 PM
To: Gary, Tim
Cc: Gary, Aaron
Subject: Sub to AB-678

Tim,
On the local ordinance part, did you want the sub to cover only county ordinances? Or municipal ordinances too? (It says "county" but the preceding "locals" made me wonder if you intended it to be broader.)

Also, did you want this ordinance provision to apply to all overweight violations, or just to those overweight violations within the general scope of the rest of the sub?

(Please use "reply all" so it goes to work e-mail.)

Thanks. Aaron

Yahoo! Mail - PC Magazine Editors' Choice 2005 <http://mail.yahoo.com>

Gary, Aaron

From: Gary, Tim
Sent: Friday, November 11, 2005 9:30 AM
To: Gary, Aaron
Subject: RE: AB 678 ASA 1

Friske wants a minimum fine, for fewer than 2000 lbs violations to be no less than \$150 and no more than \$250 in addition to 6 cents per pound. The judge can set the first part and the second part will be determined by the violator when he/she sets the raw forest product on the truck. Add them together for the final fine (I believe this is similar to the format in current law in section 348.21 (3) (b) 1 & 2.

From: Gary, Aaron
Sent: Thursday, November 10, 2005 5:16 PM
To: Gary, Tim
Subject: RE: AB 678 ASA 1

Tim,

With regard to the forfeiture chart, I am uncertain how you want the additional amount calculated. For example, by "6 cents x 2,000" for overages of less than 2,000, do you mean this additional amount is 6 cents multiplied by the *actual* amount of the excess load, or do you mean that this additional amount is always a fixed amount (that is, 6 cents x 2,000, or \$120) regardless of whether the vehicle is overweight by 500 pounds, 1500 pounds or 1900 pounds. (If it is the latter, I will just use the fixed amounts in the stats.)

Thanks. Aaron

Aaron R. Gary
 Legislative Attorney
 Legislative Reference Bureau
 608.261.6926 (voice)
 608.264.6948 (fax)
 aaron.gary@legis.state.wi.us

From: Gary, Tim
Sent: Thursday, November 10, 2005 10:24 AM
To: Gary, Aaron
Cc: Rep.Friske; Friske, Donald
Subject: AB 678 ASA 1

Substitute Amendment

To be voted on Thursday November 17, 2005

Truck Configuration & Eligibility

- 348.27 (9m) (a) 4 Raw forest products in vehicle combinations that exceed the maximum gross weight limitations under s. 348.15 (3) (c) by not more than 18,000 pounds if the vehicle combination has 6 or more axles and the gross weight imposed on the highway by the wheels of any one axle of the vehicle combination does not exceed 18,000 pounds, except that the gross weight imposed on the highway by the wheels of any steering axle on the power unit may not exceed the greater of 13,000 pounds or the manufacturer's rated capacity, but not to exceed

11/11/2005

Gary, Aaron

From: Gary, Tim
Sent: Thursday, November 10, 2005 1:48 PM
To: Gary, Aaron
Subject: RE: AB 678 ASA 1

No, inspection of records has to be made available immediately upon request.

From: Gary, Aaron
Sent: Thursday, November 10, 2005 1:40 PM
To: Gary, Tim
Subject: RE: AB 678 ASA 1

Tim,

I'll add the language below, but it could be rather broad in some circumstances given the definition of raw forest products (however, most people buying x-mas trees, fire wood, etc. won't have a weigh scale ticket in the first place). Also, as to the weight scale tickets, do you want to give these purchasers 10 days to produce the tickets to a traffic officer, and provide a forfeiture of up to \$1,000 if they do not, similar to what is in AB-678, p. 4, lines 7-9 and 13-15?

Aaron R. Gary
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Legislative Reference Bureau
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608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Gary, Tim
Sent: Thursday, November 10, 2005 1:23 PM
To: Gary, Aaron
Cc: Friske, Donald
Subject: RE: AB 678 ASA 1

Aaron,

I showed this to Friske and he had the following to say
"A purchaser of raw forest products that generates a weight scale record"

Also, I made a mistake below; please ignore the **Notification** section below.
Finally, please ensure the US Hwy 2 exemption remains in place as we eliminate the rest of the 11 mile Border Permit.

Tim

From: Gary, Aaron
Sent: Thursday, November 10, 2005 12:16 PM
To: Gary, Tim

11/10/2005

Subject: RE: AB 678 ASA 1

Tim,

On the paper enforcement, how do you want me to refer to the mill? I'm not exactly sure what mills you want to cover, but some potential options for terms would be: paper mill; pulp or paper mill; lumber mill; timber mill; log or timber mill; mill that processes raw forest products. (I know some of these are different things but I'm not exactly sure what is intended to be covered.) Does one of these terms best fit your intent, or if not, could you provide language?

Also, I am assuming that you want to keep in the sub the change in definition of "raw forest products" at p. 3, lines 5-9 of AB-678.

Thanks. Aaron

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 608.264.6948 (fax)
 aaron.gary@legis.state.wi.us

From: Gary, Tim
Sent: Thursday, November 10, 2005 10:24 AM
To: Gary, Aaron
Cc: Rep.Friske; Friske, Donald
Subject: AB 678 ASA 1

Substitute Amendment

To be voted on Thursday November 17, 2005

- **Truck Configuration & Eligibility**
 - 348.27 (9m) (a) 4 Raw forest products in vehicle combinations that exceed the maximum gross weight limitations under s. 348.15 (3) (c) by not more than 18,000 pounds if the vehicle combination has 6 or more axles and the gross weight imposed on the highway by the wheels of any one axle of the vehicle combination does not exceed 18,000 pounds, except that the gross weight imposed on the highway by the wheels of any steering axle on the power unit may not exceed the greater of 13,000 pounds or the manufacturer's rated capacity, but not to exceed 18,000 pounds. A permit under this subdivision is not valid on any interstate highway designated under s. 84.29 (2), any highway or bridge with a posted weight limitation that is less than the vehicle combination's gross weight, and any part of the state trunk highway system that the department has designated by rule as a route on which a permit issued under this subsection is not valid."
 - Also, as to the 8% provision, this concept may be incorporated in s. 348.15 (8), which provides the method for measuring overweight, spilling over to s. 348.27 (9m), but please specifically repeat it here.
- **Paper Enforcement**
 - Currently: No paper enforcement
 - Currently: Drivers are required to keep the slips
 - Sub: require only the mills to retain weight scale records for 30 days
 - Allow DOT inspectors and county law enforcement to view scale records
- **Surcharges**
 - Currently: Unaddressed
 - Sub: eliminate surcharges
 - Create new subsection to Chapter 348 increasing the existing fine structure **for log**

Gary, Aaron

From: Gary, Tim
Sent: Thursday, November 10, 2005 11:23 AM
To: Gary, Aaron
Subject: RE: AB 678 ASA 1

If I am reading this correctly: p. 6 line 3-12 ends the current overload permit system?

Yes we want to end the current overload permit system after 5 years, the average length of life for a standard truck.

Yes we want to change this from truck drivers to mills.

Feel free to call on me for any further clarifications ... Don and I are BOTH here for you today So please feel welcome to take advantage of us.

Tim

From: Gary, Aaron
Sent: Thursday, November 10, 2005 11:15 AM
To: Gary, Tim
Subject: RE: AB 678 ASA 1

Tim,

As always, I'll probably have a few clarification questions along the way. Just to be sure:

1. You want to keep the treatment at p. 6, lines 3-12 of AB-678, right?
2. You want to eliminate weight record retention for drivers at p. 4, lines 1-6 of AB-678, but instead require scale records from the mills, right?

Thanks. Aaron

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To: Gary, Aaron
Cc: Rep.Friske; Friske, Donald
Subject: AB 678 ASA 1

Substitute Amendment

To be voted on Thursday November 17, 2005

Truck Configuration & Eligibility

- o 348.27 (9m) (a) 4 Raw forest products in vehicle combinations that exceed the maximum gross

11/10/2005

11/2/05

file w/Tim

• Nov. 17 :

- configuration
- DOT to inspect slips held by paper mills
- eliminate surcharges & create special forfeiture structure for log trucks only
- sunset frozen road declaration issue
- sub

Gary, Aaron

From: Gary, Aaron
Sent: Wednesday, September 07, 2005 4:48 PM
To: Gary, Tim
Subject: RE: 05-3402/P1

Tim,

If you still want to do the surcharge changes as described below, I think the following might work.

The surcharge provision at p. 5, lines 9 to 16 of LRB-3402/1 could be replaced with the following:

348.25

(2) (a) Except as provided in par. (b), the clerk of the circuit court shall collect and transmit to the county treasurer the amount of the overweight vehicle surcharge under sub. (1), and the county treasurer shall disburse the amount to the county or municipality employing the law enforcement officer who issued the citation for the violation, except that if the citation for the violation was issued by an officer of the state traffic patrol or a state motor vehicle inspector, the amount shall be transmitted as provided in s. 59.40 (2) (m), and the county treasurer shall then pay this amount to the secretary of administration as provided in s. 59.25 (3) (f) 2.

(b) If a forfeiture is imposed by a municipal court, the court shall transmit to the treasurer of the city or village the amount of the overweight vehicle surcharge under sub. (1), and the treasurer of the city or village shall disburse the amount to the county or municipality employing the law enforcement officer who issued the citation for the violation, except that if the citation for the violation was issued by an officer of the state traffic patrol or a state motor vehicle inspector, the amount shall be transmitted as provided in s. 66.0114 (1) (bm), and the treasurer shall then pay this amount to the secretary of administration as provided in s. 66.0114 (1) (bm).

Then two new provisions could be created in the bill (substitute amendment) as follows:

Section #. 59.25 (3) (fm) of the statutes is created to read:

59.25 (3) (fm) Disburse to counties and municipalities, as provided under s. 348.215 (2) (a), moneys received for overweight vehicle surcharges, for deposit in the treasury of each such county or municipality in a segregated account used for transportation purposes.

Section #. 66.0114 (3) (d) of the statutes is created to read:

66.0114 (3) (d) The treasurer of a city or village shall disburse to counties and municipalities, as provided under s. 348.215 (2) (b), moneys received for overweight vehicle surcharges, for deposit in the treasury of each such county or municipality in a segregated account used for transportation purposes.

I think this might achieve the effect you describe in your e-mail below. I'm not sure how local governments would feel about administering it or whether they might have a suggestion for a more efficient way of doing it.

In working on this surcharge issue, it has come to my attention that there are some anomolous provisions related to forfeiture proceeds for overweight violations. Basically all traffic violations are treated the same, except that overweight violations seem to kind of have their own rules. I believe there are some internal inconsistencies in the statutes with regard to how these forfeiture proceeds are treated (and some of these provisions seem to be unconstitutional but to my knowledge have never been challenged). The bottom line is, however, in situations where local governments typically get to retain funds for traffic violations, certain exceptions direct these funds to the state transportation fund rather than the local government where the violation is an overweight violation. You can probably get better information on "actual practice" from the courts or DOT than from me, but I can provide you with the info I have if you want. Just let me know.

11/11/2005

Aaron

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From: Gary, Tim
Sent: Friday, September 02, 2005 11:42 AM
To: Hurley, Peggy
Subject:

I sent this copy back to the bill drafter with the following instructions:

Page 4 Line 25 ... \$500

Page 5 Line 3 ... \$750

Page 5 Line 6 ... \$1000

Page 6 Line 20 ... 9 feet

Page 6 Line 23 ... 48 inches

The surcharge needs to be directed to the government commencing the enforcement action ...

- State Patrol: surcharge goes to the State transportation fund
- County Sheriff: surcharge goes to the County transportation fund
- City/Village Police: surcharge goes to the city/village transportation fund

Tim

Gary, Aaron

From: Gary, Aaron
Sent: Wednesday, November 02, 2005 11:38 AM
To: Gary, Tim
Subject: RE: Follow up re AB-678

Tim, Yes, this is the e-mail I was referring to. On the configuration, I think that making this change (underlined) to bill Section 7 would solve the problem:

Section 7. 348.27 (9m) (a) 4. of the statutes is created to read:

"348.27 (9m) (a) 4. Raw forest products in vehicle combinations that exceed the maximum gross weight limitations under s. 348.15 (3) (c) by not more than 18,000 pounds if the vehicle combination has 6 or more axles at least 3 of which are on a trailer or semitrailer or at least 3 of which are on the power unit if at least one of these power unit axles has multiple wheels supporting each end of this axle and this axle either lifts or steers, the gross weight imposed on the highway by the wheels of any one axle of the vehicle combination does not exceed 18,000 pounds, and there is a distance of at least 9 feet between the foremost steering axle and the foremost axle of the drive axle on the power unit, at least 25 feet between the rearmost axle of the drive axle on the power unit and the foremost axle on the trailer or semitrailer, and at least 48 inches between any two consecutive axles of each tandem axle on the trailer or semitrailer. A permit under this subdivision is not valid on any interstate highway designated under s. 84.29 (2), any highway or bridge with a posted weight limitation that is less than the vehicle combination's gross weight, and any part of the state trunk highway system that the department has designated by rule as a route on which a permit issued under this subsection is not valid."

Also, the five-year phase out of the existing raw forest products permit makes the drafting of that provision a little more complicated than usual. In retrospect, I would like to make a nonsubstantive change in the sub to improve the drafting of the five-year phase out in s. 348.27 (9m) (a) 1.

Aaron R. Gary
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Gary, Aaron

From: Gary, Aaron
Sent: Wednesday, September 07, 2005 4:48 PM
To: Gary, Tim
Subject: RE: 05-3402/P1

Tim,

If you still want to do the surcharge changes as described below, I think the following might work.

The surcharge provision at p. 5, lines 9 to 16 of LRB-3402/1 could be replaced with the following:

348.25

(2) (a) Except as provided in par. (b), the clerk of the circuit court shall collect and transmit to the county treasurer the amount of the overweight vehicle surcharge under sub. (1), and the county treasurer shall disburse the amount to the county or municipality employing the law enforcement officer who issued the citation for the violation, except that if the citation for the violation was issued by an officer of the state traffic patrol or a state motor vehicle inspector, the amount shall be transmitted as provided in s. 59.40 (2) (m), and the county treasurer shall then pay this amount to the secretary of administration as provided in s. 59.25 (3) (f) 2.

(b) If a forfeiture is imposed by a municipal court, the court shall transmit to the treasurer of the city or village the amount of the overweight vehicle surcharge under sub. (1), and the treasurer of the city or village shall disburse the amount to the county or municipality employing the law enforcement officer who issued the citation for the violation, except that if the citation for the violation was issued by an officer of the state traffic patrol or a state motor vehicle inspector, the amount shall be transmitted as provided in s. 66.0114 (1) (bm), and the treasurer shall then pay this amount to the secretary of administration as provided in s. 66.0114 (1) (bm).

Then two new provisions could be created in the bill (substitute amendment) as follows:

Section #. 59.25 (3) (fm) of the statutes is created to read:

59.25 (3) (fm) Disburse to counties and municipalities, as provided under s. 348.215 (2) (a), moneys received for overweight vehicle surcharges, for deposit in the treasury of each such county or municipality in a segregated account used for transportation purposes.

Section #. 66.0114 (3) (d) of the statutes is created to read:

66.0114 (3) (d) The treasurer of a city or village shall disburse to counties and municipalities, as provided under s. 348.215 (2) (b), moneys received for overweight vehicle surcharges, for deposit in the treasury of each such county or municipality in a segregated account used for transportation purposes.

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↓ 59.25 (3) (j), (k), (L)
66.0114 (3) (c)
ch. 778 provision? (local keep \$) → 778.105

09/07/2005

Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
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608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Gary, Tim
Sent: Friday, September 02, 2005 11:42 AM
To: Hurley, Peggy
Subject:

I sent this copy back to the bill drafter with the following instructions:

Page 4 Line 25 ... \$500

Page 5 Line 3 ... \$750

Page 5 Line 6 ... \$1000

Page 6 Line 20 ... 9 feet

Page 6 Line 23 ... 48 inches

The surcharge needs to be directed to the government commencing the enforcement action ...

- o State Patrol: surcharge goes to the State transportation fund
- o County Sheriff: surcharge goes to the County transportation fund
- o City/Village Police: surcharge goes to the city/village transportation fund

Tim

Gary, Aaron

From: Gary, Aaron
Sent: Wednesday, November 09, 2005 10:58 AM
To: Gary, Tim
Subject: RE: Truck Weight

Tim,

Here is the new created s. 348.27 (9m) (a) 4. based upon the description in your e-mail below - it replaces the provision in SB-678 starting at p. 6, line 14.

"348.27 (9m) (a) 4. Raw forest products in vehicle combinations that exceed the maximum gross weight limitations under s. 348.15 (3) (c) by not more than 18,000 pounds if the vehicle combination has 6 or more axles and the gross weight imposed on the highway by the wheels of any one axle of the vehicle combination does not exceed 18,000 pounds, except that the gross weight imposed on the highway by the wheels of any steering axle on the power unit may not exceed the greater of 13,000 pounds or the manufacturer's rated capacity, but not to exceed 18,000 pounds. A permit under this subdivision is not valid on any interstate highway designated under s. 84.29 (2), any highway or bridge with a posted weight limitation that is less than the vehicle combination's gross weight, and any part of the state trunk highway system that the department has designated by rule as a route on which a permit issued under this subsection is not valid."

As to item 2. of the e-mail below: The 42" provision is already included in current law. The definition of axle itself in s. 348.01 (2) (a) incorporates this concept, so no change is needed to the statute. Also, as to the 8% provision, this concept is also incorporated in s. 348.15 (8), which provides the method for measuring overweight, and I believe this would spill over to s. 348.27 (9m), but I can specifically repeat it here if you want. As to item 3., the statutes do not include a specific configuration requirement for existing permits under s. 348.27 (9m), so no such language would be needed in this new provision (see s. 348.27 (9m)) - so general rules should apply and no need for treatment in this newly created provision.

Does the replacement provision above work for you?

Also, I am having minor surgery and will be out of the office next Wed. to Fri., 11/16 to 11/18, so if you're still wanting a complete sub by 11/17 I will need complete instructions soon.

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
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608.264.6948 (fax)
aaron.gary@legis.state.wi.us

-----Original Message-----

From: Gary, Tim
Sent: Monday, November 07, 2005 11:12 AM
To: Gary, Aaron
Subject: FW: Truck Weight
Importance: High

Aaron,

The description on the configuration you provided me last week will need to be revised. Please find the three changes listed here:

1. Vehicles in combination must have at least six axles with a maximum of 13,000 lbs. for steering axles of a truck or tractor, or, the manufacturers rated capacity of any one axle if greater, but not to exceed 18,000lbs.
2. Any axle must impose at least 8% of the gross weight to be counted as an axle. Axles must be at least 42" apart to be considered an individual axle. The gross weight imposed on the highway by the wheels of any one axle may not exceed 18,000lbs.
3. The distance in feet between axles shall follow current axle configurations of combination vehicles as stated Under

Permits Issued Pursuant to S. 348.27 (9m) Wis. Stats.

Tim Gary

-----Original Message-----

From: JHoppe@packagingcorp.com [mailto:JHoppe@packagingcorp.com]

Sent: Friday, September 30, 2005 7:12 AM

To: Rep.Friske

Cc: gr8lks@ez-net.com; lloydg@kretzlumber.com; gustafson@wipapercouncil.org; wennigan@chartermi.net; tomklimek@gbonline.com; mikek@kretzlumber.com; pluedeman@earthlink.net; schienebeck@centurytel.net; oconnor@chorus.net

Subject: Fw: Truch Weight

Rep. Friske,

Attached is an email from Henry Schienebeck, Master Logger (WPLA and TPA member) from Butternut, WI who has been working closely on the truck weight bill.

Gunnar Bergerson, Henry and myself met in Wausau on Monday to review AB 678 and have been in contact with Jennifer concerning axle configuration language. Jennifer suggested we put together the changes we would like to see in the bill and those are in the attachment.

Thank you again for your support on this issue.

Jim Hoppe
PCA Tomahawk Mill
jhoppe@packagingcorp.com
715-453-2131 ext. 380

----- Forwarded by Jim Hoppe/TOM/PackagingCorp on 09/30/2005 07:06 AM -----

"Laurie Schienebeck" To: <JHoppe@packagingcorp.com>, <mikek@kretzlumber.com>, "O'Connor <schienebeck@cent Communications" <oconnor@chorus.net>, <gr8lks@ez-net.com>
urytel.net" cc:
Subject: Fw: Truch Weight
09/29/2005 08:37
PM

----- Original Message -----

From: Laurie Schienebeck

To: Wayne Hamann

Sent: Thursday, September 29, 2005 8:26 PM

Subject: Truch Weight

Wayne, Jim, Gunner, Mike

Here are the changes.

1 Vehicles in combination must have at least six axles with a maximum of 13,000 lbs. for steering axles of a truck or tractor, or, the manufacturers rated capacity of any one axle if greater, but not to exceed 18,000lbs.

2 Any axle must impose at least 8% of the gross weight to be counted as an

axle.

Axles must be at least 42" apart to be considered an individual axle.

The gross weight imposed on the highway by the wheels of any one axle do not exceed 18,000lbs.

3 The distance in feet between axles shall follow current axle configurations of combination vehicles as stated Under Permits Issued Pursuant to S. 348.27 (9m) Wis. Stats.

Gary, Aaron

From: Gary, Aaron
Sent: Thursday, September 29, 2005 11:45 AM
To: Western, Jennifer
Cc: Gary, Tim; Friske, Donald
Subject: RE: Follow up re AB-678

Jennifer,

Sorry to be a pest - If the intent was to cover configuration C, I think that substituting the following language at p. 6, lines 16 to 18 would do the trick:

"pounds if the vehicle combination has 6 or more axles at least 3 of which are on a trailer or semitrailer or at least 3 of which are on the power unit if at least one of these power unit axles has multiple wheels supporting each end of this axle and this axle either lifts or steers,"

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From: Gary, Aaron
Sent: Thursday, September 29, 2005 11:35 AM
To: Western, Jennifer
Cc: Gary, Tim; Friske, Donald
Subject: RE: Follow up re AB-678

One more thing: Was this modification intended to cover configuration C?

Aaron R. Gary
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From: Gary, Aaron
Sent: Thursday, September 29, 2005 11:25 AM
To: Western, Jennifer
Cc: Gary, Tim; Friske, Donald
Subject: Follow up re AB-678

09/29/2005

Jennifer,

Following up on our conversation yesterday, I have spent more time trying to sort through the language in AB-678 p. 6, lines 16-18. My sincere apologies - I believe the language I drafted does not work.

Prior versions of the drafting included configuration language as follows:

"if the vehicle combination has 6 or more axles at least 3 of which are on a trailer or semitrailer"

In my telephone conference with Rep. Friske and Tim on July 20, I was asked to modify this provision to also allow a 3rd axle on the power unit if the axle is dual wheel and lifts or steers. I added this provision in redrafting to LRB-3402 (now AB-678) without realizing the complication it caused with respect to the existing language, as described below.

Without the modification, the original quoted language above would allow a vehicle combination that includes 3 wheels on the trailer and 3 wheels on the power unit, without any other qualification or restriction on the power unit. (Implicitly, if the combination has 6 axles total, and 3 are on the trailer, then 3 axles can be on the truck/power unit.) If the intent is to allow 3 axles on the power unit, then the language I have drafted in AB-678 is duplicative and confusing, and we should go back to simply having the original language above. If the intent, however, is to impose restrictions in created s. 348.27 (9m) (a) 4. whenever there is a power unit with 3 axles, I will need to rework this provision. Finally, if the provision is intended to be an exception to the requirement of at least 6 axles on the truck-trailer combination, I will also need to rework the provision.

Again, I apologize for my oversight. If you can describe what you are trying to accomplish, I can draft something to correct the problem. Thank you. Aaron

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Gary, Aaron

From: Gary, Aaron
Sent: Wednesday, September 28, 2005 9:50 AM
To: Western, Jennifer
Cc: Gary, Tim
Subject: FW: 05-3402/P1

Jenny,

Here's the other relevant e-mail. If you want me to start working on a sub, please let me know - the more advance notice I have the better. Thanks. Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Gary, Tim
Sent: Tuesday, September 06, 2005 4:51 PM
To: Gary, Aaron
Subject: RE: 05-3402/P1

The weight scale slips just have to be kept, as is currently laid out in our /P1 draft. You need not add the 6 month retention provision until the Substitute Amendment draft.

From: Gary, Aaron
Sent: Tuesday, September 06, 2005 4:48 PM
To: Gary, Tim
Subject: RE: 05-3402/P1

Tim,

On your second paragraph, yes, we could do this. The surcharge provisions of the draft wouldn't change. We would just create a mechanism to get the money back to the local governments. This can certainly be done, and the details would have to be fleshed out as we proceeded. Probably it would work best as an amendment of the GTA provisions in ch. 86.

On your third paragraph, I'm not sure if this means that you do want item 3. of my e-mail or if the draft is what you want w/o item 3. (i.e., drop item 3.) Can you clarify whether you want me to add item 3. or not. Thanks.
Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)

09/29/2005

608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Gary, Tim
Sent: Tuesday, September 06, 2005 4:36 PM
To: Gary, Aaron
Subject: RE: 05-3402/P1

Aaron,

Since we are jacketing LRB 3402/P1 into 3402/1 with the changes of the length configuration, let's leave all other provisions for Assembly Substitute Amendment 1 to LRB 3402/1.

For the surcharge, could we require all surcharges to be deposited into the Transportation Fund, the local government to provide the DOT with the names and numbers of cases enforced within their jurisdiction by their personnel, and finally require DOT to automatically add the surcharges on top of their road aid payments?

The weight scale slips provision meets our request.

We do not want to address the evidentiary issues.

From: Gary, Aaron
Sent: Tuesday, September 06, 2005 3:29 PM
To: Gary, Tim
Subject: RE: 05-3402/P1

Tim,

Based upon my notes, the following represents the final "package" of changes.

1. Making the dollar/length changes described below in this e-mail. You had previously given me this information and these had already been made back in August.

2. The surcharge change described below in this e-mail. This will be rather complicated; it is very unconventional. I believe I will have to structure it to basically have two or three different surcharges, each applying to its own "entity," in order to direct these funds as you describe. In addition, I will need clarification on where the funds are going. I don't believe local governments have a "transportation fund" as the state does. I believe most if not all counties are required to have a "county road and bridge fund" (although I think it may sometimes be referred to as a "highway fund"). There is no reference in the statutes to a required "transportation fund," "highway fund," or "county road and bridge fund" for municipalities, although all municipalities receiving state GTA must keep these aids in a segregated account. We should either get some guidance from local governments or the DOT on exactly how counties and cities/villages hold their highways funds before writing a term into the statutes, or we should use a more generic term, such as requiring the surcharge receipts to be "deposited in a segregated account used for transportation purposes." Do you have any feedback on this?

3. You instructed me to modify the requirement related to retaining weight tickets to incorporate the comment in the "/P1" drafter's note (on p. 2, first paragraph, last sentence - expanding requirement to retain weight ticket so any weight ticket within 30 days before a violation would be retained for 6 months rather than 30 days - so it would still be around for the prosecutor to obtain more than 30 days later).

4. On Aug. 23 and 24, we discussed the evidentiary issue of using prior weight tickets in proceedings for subsequent violations. I expressed my view that such weight tickets are useful only for sentencing purposes and are generally inadmissible in the guilt phase, and you advised that this was not your intent for the draft. I believe you were going to look into the issue further. I assume that you received further legal opinions that satisfied any concerns you may have or that for other reasons the draft is acceptable to you on this issue. In any event, I am assuming that no modification to the draft on this issue is necessary and that this component of the draft should remain in and remain as is.

5. Per follow up after initial discussion, no change needed on issue of single vehicle vs. vehicle combination -

09/29/2005

draft OK as is.

I think that's everything. Since you are jacketing LRB-3402/1, I assume you are trying to introduce it today. So do you want these further changes made in a simple amendment or a substitute amendment? Thanks. Aaron

Aaron R. Gary
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608.264.6948 (fax)
aaron.gary@legis.state.wi.us

Gary, Aaron

From: Gary, Aaron
Sent: Wednesday, September 28, 2005 9:47 AM
To: Western, Jennifer
Cc: Gary, Tim
Subject: FW: 05-3402/P1

Jenny,

The items in Tim's e-mail below were the items he had discussed with me of possibly putting into a sub to AB-678. Part of my response is attached. I will send the other part by separate e-mail. As we discussed this morning, I was told to keep all of this on hold and I have not actually received a drafting request for a sub.

Call if you have any questions. Aaron

Aaron R. Gary
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 608.261.6926 (voice)
 608.264.6948 (fax)
 aaron.gary@legis.state.wi.us

From: Gary, Aaron
Sent: Wednesday, September 07, 2005 4:48 PM
To: Gary, Tim
Subject: RE: 05-3402/P1

Tim,

If you still want to do the surcharge changes as described below, I think the following might work.

The surcharge provision at p. 5, lines 9 to 16 of LRB-3402/1 could be replaced with the following:

348.25

(2) (a) Except as provided in par. (b), the clerk of the circuit court shall collect and transmit to the county treasurer the amount of the overweight vehicle surcharge under sub. (1), and the county treasurer shall disburse the amount to the county or municipality employing the law enforcement officer who issued the citation for the violation, except that if the citation for the violation was issued by an officer of the state traffic patrol or a state motor vehicle inspector, the amount shall be transmitted as provided in s. 59.40 (2) (m), and the county treasurer shall then pay this amount to the secretary of administration as provided in s. 59.25 (3) (f) 2.

(b) If a forfeiture is imposed by a municipal court, the court shall transmit to the treasurer of the city or village the amount of the overweight vehicle surcharge under sub. (1), and the treasurer of the city or village shall disburse the amount to the county or municipality employing the law enforcement officer who issued the citation for the violation, except that if the citation for the violation was issued by an officer of the state traffic patrol or a state motor vehicle inspector, the amount shall be transmitted as provided in s. 66.0114 (1) (bm), and the treasurer shall then pay this amount to the secretary of administration as provided in s. 66.0114 (1) (bm).

Then two new provisions could be created in the bill (substitute amendment) as follows:

09/29/2005

Section #. 59.25 (3) (fm) of the statutes is created to read:

59.25 (3) (fm) Disburse to counties and municipalities, as provided under s. 348.215 (2) (a), moneys received for overweight vehicle surcharges, for deposit in the treasury of each such county or municipality in a segregated account used for transportation purposes.

Section #. 66.0114 (3) (d) of the statutes is created to read:

66.0114 (3) (d) The treasurer of a city or village shall disburse to counties and municipalities, as provided under s. 348.215 (2) (b), moneys received for overweight vehicle surcharges, for deposit in the treasury of each such county or municipality in a segregated account used for transportation purposes.

I think this might achieve the effect you describe in your e-mail below. I'm not sure how local governments would feel about administering it or whether they might have a suggestion for a more efficient way of doing it.

In working on this surcharge issue, it has come to my attention that there are some anomolous provisions related to forfeiture proceeds for overweight violations. Basically all traffic violations are treated the same, except that overweight violations seem to kind of have their own rules. I believe there are some internal inconsistencies in the statutes with regard to how these forfeiture proceeds are treated (and some of these provisions seem to be unconstitutional but to my knowledge have never been challenged). The bottom line is, however, in situations where local governments typically get to retain funds for traffic violations, certain exceptions direct these funds to the state transportation fund rather than the local government where the violation is an overweight violation. You can probably get better information on "actual practice" from the courts or DOT than from me, but I can provide you with the info I have if you want. Just let me know.

Aaron

Aaron R. Gary
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 608.261.6926 (voice)
 608.264.6948 (fax)
 aaron.gary@legis.state.wi.us

From: Gary, Tim
Sent: Friday, September 02, 2005 11:42 AM
To: Hurley, Peggy
Subject:

I sent this copy back to the bill drafter with the following instructions:

Page 4 Line 25 ... \$500

Page 5 Line 3 ... \$750

Page 5 Line 6 ... \$1000

Page 6 Line 20 ... 9 feet

Page 6 Line 23 ... 48 inches

The surcharge needs to be directed to the government commencing the enforcement action ...

- o State Patrol: surcharge goes to the State transportation fund
- o County Sheriff: surcharge goes to the County transportation fund
- o City/Village Police: surcharge goes to the city/village transportation fund

Tim

09/29/2005

Gary, Aaron

From: Gary, Tim
Sent: Tuesday, September 06, 2005 4:51 PM
To: Gary, Aaron
Subject: RE: 05-3402/P1

The weight scale slips just have to be kept, as is currently laid out in our /P1 draft. You need not add the 6 month retention provision until the Substitute Amendment draft.

From: Gary, Aaron
Sent: Tuesday, September 06, 2005 4:48 PM
To: Gary, Tim
Subject: RE: 05-3402/P1

Tim,

On your second paragraph, yes, we could do this. The surcharge provisions of the draft wouldn't change. We would just create a mechanism to get the money back to the local governments. This can certainly be done, and the details would have to be fleshed out as we proceeded. Probably it would work best as an amendment of the GTA provisions in ch. 86.

On your third paragraph, I'm not sure if this means that you do want item 3. of my e-mail or if the draft is what you want w/o item 3. (i.e., drop item 3.) Can you clarify whether you want me to add item 3. or not. Thanks.
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From: Gary, Tim
Sent: Tuesday, September 06, 2005 4:36 PM
To: Gary, Aaron
Subject: RE: 05-3402/P1

Aaron,

Since we are jacketing LRB 3402/P1 into 3402/1 with the changes of the length configuration, let's leave all other provisions for Assembly Substitute Amendment 1 to LRB 3402/1.

For the surcharge, could we require all surcharges to be deposited into the Transportation Fund, the local government to provide the DOT with the names and numbers of cases enforced within their jurisdiction by their personnel, and finally require DOT to automatically add the surcharges on top of their road aid payments?

The weight scale slips provision meets our request.

We do not want to address the evidentiary issues.

09/06/2005

From: Gary, Aaron
Sent: Tuesday, September 06, 2005 3:29 PM
To: Gary, Tim
Subject: RE: 05-3402/P1

Tim,

Based upon my notes, the following represents the final "package" of changes.

1. Making the dollar/length changes described below in this e-mail. You had previously given me this information and these had already been made back in August.

2. The surcharge change described below in this e-mail. This will be rather complicated; it is very unconventional. I believe I will have to structure it to basically have two or three different surcharges, each applying to its own "entity," in order to direct these funds as you describe. In addition, I will need clarification on where the funds are going. I don't believe local governments have a "transportation fund" as the state does. I believe most if not all counties are required to have a "county road and bridge fund" (although I think it may sometimes be referred to as a "highway fund"). There is no reference in the statutes to a required "transportation fund," "highway fund," or "county road and bridge fund" for municipalities, although all municipalities receiving state GTA must keep these aids in a segregated account. We should either get some guidance from local governments or the DOT on exactly how counties and cities/villages hold their highways funds before writing a term into the statutes, or we should use a more generic term, such as requiring the surcharge receipts to be "deposited in a segregated account used for transportation purposes." Do you have any feedback on this?

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5. Per follow up after initial discussion, no change needed on issue of single vehicle vs. vehicle combination - draft OK as is.

I think that's everything. Since you are jacketing LRB-3402/1, I assume you are trying to introduce it today. So do you want these further changes made in a simple amendment or a substitute amendment? Thanks. Aaron

Aaron R. Gary
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09/06/2005

Gary, Aaron

From: Gary, Aaron
Sent: Thursday, August 25, 2005 1:21 PM
To: Gary, Tim
Subject: RE: overweight vehicles - evidence issue

Tim, Sorry, but I need to follow up on another issue. From the beginning, the bill has been drafted to apply only to vehicle combinations, not single vehicles. In response to my drafter's note, in our follow up conversation yesterday, you indicated that the bill also needs to cover single vehicles. In the diagram you provided when we met on July 21, the bill would definitely not cover either of the single vehicles shown (configurations E and F). To the extent you want these covered, I will need you to provide me with configuration specifications and will have to significantly revise this portion of the existing draft. (Another option would be to allow single vehicles to continue to operate under the present permit instead of providing a sunset date for that permit.) Call if you have any questions. Aaron

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From: Gary, Aaron
Sent: Thursday, August 25, 2005 10:52 AM
To: Gary, Tim
Subject: RE: overweight vehicles - evidence issue

Tim,

I realized that the other issue we left hanging was the surcharge issue. Under the current draft, the surcharge always goes into the state's transportation fund, regardless of who writes the citation (state patrol or local law enforcement).

I meant to copy the evidence statute into my last e-mail - it is below.

Aaron R. Gary
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904.04(2)

(2) Other crimes, wrongs, or acts. Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that the person acted in conformity therewith. This subsection does not exclude the evidence when offered for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

08/25/2005

From: Gary, Aaron
Sent: Wednesday, August 24, 2005 3:46 PM
To: Gary, Tim
Subject: overweight vehicles - evidence issue

Hi Tim,

As we discussed, the general rule is that prior violations are not admissible to prove guilt. See s. 904.04 (2). There are exceptions noted in this provision which I don't think would be applicable but you may want to confer with a prosecutor in this issue. Aaron

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