

2009 DRAFTING REQUEST

Bill

Received: **01/13/2009**

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **Kitty Rhoades (608) 266-1526**

By/Representing: **Kevin Moore**

This file may be shown to any legislator: **NO**

Drafter: **agary**

May Contact:

Addl. Drafters: **rryan**

Subject: **Transportation - driver licenses
Transportation - traffic laws**

Extra Copies: **EVM, RLR**

Submit via email: **YES**

Requester's email: **Rep.Rhoades@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Electronic access to operator's license and identification card photographs through TIME system

Instructions:

Redraft 2007 AB-639 (LRB-0948/2)

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 01/14/2009	csicilia 01/27/2009		_____			S&L
/1			rschluet 01/27/2009	_____	mbarman 01/27/2009		S&L
/2	agary 02/17/2009	csicilia 02/17/2009	jfrantze 02/17/2009	_____	sbasford 02/17/2009	sbasford 03/12/2009	

FE Sent For: @ intro.

<END>

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/1			rschluet 01/27/2009	_____	mbarman 01/27/2009		

FE Sent For:

1/2 cjs 2/17/09

2/17/09
J. Selb
<END>

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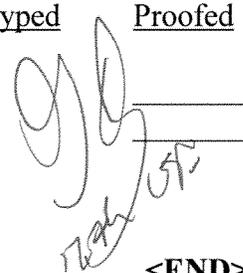
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/?	agary	1 cjs 1/27 09					

FE Sent For:

<END>

Wanted by 1/27 - 1477/1
LRB-0948/2
ARG&RLR:jdf

9
2007 ASSEMBLY BILL 639

D-NOTE

Amend
SA
stat comp ✓

1/14
XMNR
y's

December 21, 2007 - Introduced by Representatives RHOADES, BALLWEG, HAHN, HRAYCHUCK, LEMAHIEU, MONTGOMERY, MUSSER, PETROWSKI, SEIDEL, SHERIDAN, VOS and A. OTT, cosponsored by Senators LASSA, DARLING, HARSDFORF, OLSEN, ROESSLER and SCHULTZ. Referred to Committee on Transportation.

Gen Cat

1 AN ACT to amend 343.237 (2); and to create 165.8287 of the statutes; relating
2 to: electronic access by law enforcement agencies to photographs on motor
3 vehicle operators licenses and identification cards.

Analysis by the Legislative Reference Bureau

With limited exceptions, current law requires the Department of Transportation (DOT) to take a photograph of all applicants for an operator's license or identification card. DOT may keep copies of the photographs for its own use but generally must keep the photographs confidential. However, DOT may release a photograph to the individual whose photograph was taken. In addition, DOT may release a copy of a photograph taken on or after September 1, 1997, to a Wisconsin law enforcement agency, a federal law enforcement agency, or a law enforcement agency of another state upon written request of the agency if certain conditions are satisfied. These conditions generally require that the photograph be requested for specified law enforcement purposes and that certain measures be taken to guard against further disclosure of the photograph.

Also under current law, the Department of Justice (DOJ) administers a transaction information for the management of enforcement (TIME) system that provides law enforcement agencies with access to certain information.

This bill requires DOT to make available to DOJ, in a digital format, any photograph taken of an operator's license or identification card applicant that is maintained by DOT. The bill requires DOJ to provide for electronic access by Wisconsin law enforcement agencies, federal law enforcement agencies, and law

ASSEMBLY BILL 639

enforcement agencies of other states operator's license and identification card photographs for the administration of criminal justice and for traffic enforcement. Access to these photographs must be available electronically through the TIME system if the law enforcement agency submits an electronic request satisfying certain conditions. Provisions of current law establishing measures that must be taken to guard against further disclosure of photographs provided to law enforcement agencies also apply to photographs obtained electronically through the TIME system. DOJ and DOT must ensure that, upon submission by law enforcement agencies of electronic requests meeting the requirements under the bill, electronic access to photographs is promptly available to these requesting agencies.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 165.8287 of the statutes is created to read:

165.8287 Transaction information for management of enforcement system; department of transportation photographs. (1) In this section:

(a) "Administration of criminal justice" has the meaning given in 28 CFR 20.3

(b).

(b) "Federal law enforcement agency" has the meaning given in s. 343.237 (1)

(ag).

(c) "Law enforcement agency of another state" has the meaning given in s.

343.237 (1) (ar).

(d) "Wisconsin law enforcement agency" has the meaning given in s. 175.46 (1)

(f).

Upon electronic request,
(2) The department of transportation shall make available to the department

of justice, in a digital format, any photograph taken of an applicant under s. 343.14

(3) or 343.50 (4) that is maintained by the department of transportation. The

department of transportation shall make a photographic record available to the

ASSEMBLY BILL 639

1 department of justice upon electronic request. Updated photographs shall be
2 available to the department of justice within 30 days of photograph capture.

3 (3) (a) The department of justice shall, through the transaction information for
4 the management of enforcement system or another similar system operated by the
5 department of justice, provide Wisconsin law enforcement agencies, federal law
6 enforcement agencies, and law enforcement agencies of other states with electronic
7 access to any photograph specified in sub. (2) for the administration of criminal
8 justice and for traffic enforcement. Access to these photographs shall be available
9 electronically if the law enforcement agency submits an electronic request bearing
10 an electronic certification or other indicator of authenticity and, for an electronic
11 request made by a law enforcement agency of another state, the purpose of
12 administration of criminal justice or traffic enforcement is satisfied and the
13 electronic request includes an electronic signature or verification of the person
14 making the request, and a certification that the request is made for

15 (b) Any photograph electronically available under this subsection shall contain
16 the notation: "This photograph is subject to the requirements and restrictions of
17 section 165.8287 of the Wisconsin Statutes. The photograph shall not be used for any
18 purpose other than the administration of criminal justice or traffic enforcement.
19 Secondary dissemination is prohibited and the photograph shall be destroyed when
20 no longer necessary for the purpose requested. The photograph shall not be used as
21 part of a photo lineup or photo array."

22 (c) The provisions of s. 343.237 (5), (8), (9), and (10) shall apply to any
23 photograph obtained electronically by a law enforcement agency under this
24 subsection. Any photograph obtained electronically by a law enforcement agency
25 under this subsection may not be used for a photo lineup or photo array. For purposes

ASSEMBLY BILL 639

SECTION 1

1 of this paragraph, any digital photograph obtained electronically by a law
2 enforcement agency under this subsection shall be considered a copy of a photograph
3 obtained under s. 343.237 (3) or (4) with respect to s. 343.237 (5), (8), (9), and (10).

4 (d) The department of justice shall maintain a record, which may be electronic,
5 of each request by a law enforcement agency for a photograph under this subsection
6 and of the response to the request. Except as provided in par. (c) and s. 343.237 (9),
7 the department of justice may not disclose any record or other information
8 concerning or relating to the request to any person other than a court, district
9 attorney, county corporation counsel, city, village, or town attorney, law enforcement
10 agency, the applicant under s. 343.14 (3) or 343.50 (4), or, if the applicant is under
11 18 years of age, his or her parent or guardian.

12 (e) The department of justice and the department of transportation shall
13 ensure that, upon submission by law enforcement agencies of electronic requests
14 meeting the requirements under this subsection, access to photographs under this
15 subsection is promptly available to these requesting agencies.

16 **SECTION 2.** 343.237 (2) of the statutes is amended to read:

17 343.237 (2) Any photograph taken of an applicant under s. 343.14 (3) or 343.50
18 (4), and any fingerprint taken of an applicant under s. 343.12 (6) (b), may be
19 maintained by the department and, except as provided in this section and s.
20 165.8287, shall be kept confidential. Except as provided in this section and s.
21 165.8287, the department may release a photograph or fingerprint only to the person
22 whose photograph or fingerprint was taken.

23 **SECTION 3. Effective date.**

*insert
4-22*

ASSEMBLY BILL 639

1
2
3

(1) This act takes effect on the first day of the 7th month beginning after publication.

d

(END)

D-N

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1477/lins
ARG:.....

1 **INSERT 4-22:**

2 **SECTION 1.** 343.237 (2) of the statutes, as affected by 2007 Wisconsin Act 20 and
3 2009 Wisconsin Act ... (this act), is repealed and recreated to read:

4 343.237 (2) Any photograph taken of an applicant under s. 343.14 (3) or 343.50
5 (4), and any fingerprint taken of an applicant under s. 343.12 (6) (b), may be
6 maintained by the department and, except as provided in this section and s.
7 165.8287, shall be kept confidential. Except as provided in this section and s.
8 165.8287, the department may release a photograph or fingerprint only to the person
9 whose photograph or fingerprint was taken or to the driver licensing agency of
10 another jurisdiction.

History: 1997 a. 119, 237; 2001 a. 41; 2003 a. 36, 280; 2007 a. 20, 27.

11 **SECTION 2. Effective dates.** This act takes effect on the first day of the 7th
12 month beginning after publication, except as follows:

13 (1) The repeal and recreation of sections 343.237 (2) of the statutes takes effect
14 on the first day of the 7th month beginning after publication, or on the date on which
15 the creation of section 343.165 of the statutes by 2007 Wisconsin Act 20 takes effect,
16 whichever is later.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1477/1dn

ARG:f:....

egj

ATTN: Kevin Moore

As indicated by e-mail, the attached redraft of 2007 AB-639 includes a few stylistic changes.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1477/1dn
ARG:cjs:rs

January 27, 2009

ATTN: Kevin Moore

As indicated by e-mail, the attached redraft of 2007 AB-639 includes a few stylistic changes.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
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STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

2/17

Kevin - Rhoades

1477/1 →

l. change
p. 13 "of the person" → "of the aging"

4-4 : for a minimum of 12 months

- keep fit for a year then can purge

wants it today



TODAY
if possible

RMR

stays
in
2/17

D-note

2009 BILL

Refer Cat

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BILL

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5 (b).

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13 available to the department of justice, in a digital format, any photograph taken of
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BILL

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9 electronically if the law enforcement agency submits an electronic request bearing
10 an electronic certification or other indicator of authenticity. For an electronic request
11 made by a law enforcement agency of another state, the electronic certification or
12 other indicator of authenticity shall include an electronic signature or verification
13 of the ~~person~~^{agency} making the request and a certification that the request is made for the
14 purpose of administration of criminal justice or traffic enforcement.

15 (b) Any photograph electronically available under this subsection shall contain
16 the notation: "This photograph is subject to the requirements and restrictions of
17 section 165.8287 of the Wisconsin Statutes. The photograph shall not be used for any
18 purpose other than the administration of criminal justice or traffic enforcement.
19 Secondary dissemination is prohibited and the photograph shall be destroyed when
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21 part of a photo lineup or photo array."

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BILL**SECTION 1**

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8 or relating to the request to any person other than a court, district attorney, county
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23 **SECTION 3.** 343.237 (2) of the statutes, as affected by 2007 Wisconsin Act 20 and
24 2009 Wisconsin Act (this act), is repealed and recreated to read:

Met
4-11

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1477/2ins
ARG:.....

1

2

INSERT 4-11:

3

(no P) Records maintained under this paragraph shall be maintained for at least 12
4 months.

4

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1477/2dn

ARG:/:....

gjs

ATTN: Kevin Moore

I have made the requested changes. Regarding the change at p. 3, line 13³ of the /1 version, in the third sentence of par. (a), it seems to me that the change makes this part of the sentence largely redundant of the immediately preceding sentence. While there is a slight difference between the two sentences on the issue of certification, I believe that as a practical matter the sentences, with this change, essentially say the same thing. In addition, the first sentence of par. (a) requires that access to the photographs be "for the administration of criminal justice and for traffic enforcement." Accordingly, one could argue that the entire third sentence of par. (a) is now unnecessary and could be removed.

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LRB-1477/2dn
ARG:cjs:jf

February 17, 2009

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E-mail: aaron.gary@legis.wisconsin.gov

Parisi, Lori

From: Moore, Kevin
Sent: Wednesday, March 11, 2009 2:50 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-1477/2 Topic: Electronic access to operator's license and identification card photographs through TIME system

Please Jacket LRB 09-1477/2 for the ASSEMBLY.