

2011 DRAFTING REQUEST

Bill

Received: 09/03/2010

Received By: agary

Wanted: As time permits

Companion to LRB:

For: Administration-Budget

By/Representing: Byrnes

May Contact:

Drafter: agary

Subject: Transportation - motor vehicles

Addl. Drafters:

Extra Copies: EVM

Submit via email: YES

Requester's email:

Carbon copy (CC:) to: aaron.gary@legis.wisconsin.gov

Pre Topic:

DOA:.....Byrnes, BB0069 -

Topic:

PRISM implementation; changes to IRP credential denial and suspension

Instructions:

See attached

Requester changed to DOA.

ANG 10/4

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 09/09/2010	nnatzke 09/21/2010		_____			State
/P1	agary		mduchek 09/22/2010	_____	cduerst 09/22/2010		

FE Sent For:

<END>

2011-13 Budget Bill Statutory Language Drafting Request

- Topic: PRISM Implementation – Changes to IRP credential denial and suspension statutes
- Tracking Code: BB0069
- SBO team: Tax, Transportation and Government Operations
- SBO analyst: Tyler Byrnes
 - Phone: 266-1039
 - Email: tyler.byrnes@wisconsin.gov
- Agency acronym: DOT
- Agency number: 395
- Priority (Low, Medium, High): *Medium*

Intent: Change statutes to allow the department to deny or suspend IRP credentials if a carrier has been issued an out-of-service order by the Federal Motor Carrier Safety Administration. See attached for details.

**Department of Transportation
2011-13 Biennial Budget Request
STATUTORY MODIFICATIONS**

DIN NUMBER:

TOPIC: PRISM Implementation

DESCRIPTION OF CHANGE:

PRISM is intended to improve highway safety by holding motor carriers responsible for safe vehicle operation. The program uses the International Registration Plan (IRP) as an operating framework. Motor carriers that have been identified as having a high occurrence of safety violations and do not improve their fitness record through the Motor Carrier Safety Improvement Process can be issued a federal out-of-service order by the Federal Motor Carrier Safety Administration (FMCSA) and have their IRP credentials suspended or revoked, making it impossible for the carrier to participate in interstate travel until the safety problems have been corrected.

Current law does not allow the Department to deny or suspend IRP credentials if a carrier has been issued out-of-service by FMCSA for safety violations. To fully implement PRISM, the following statutory changes are needed:

- Create a subsection under s. 341.10, Wis. Stats., to allow the Department to refuse registration for an applicant that has identified a motor carrier with a federal out-of-service notice for safety violations as the carrier responsible for vehicle safety.
- Amend s. 341.41(7), Wis. Stats., to allow the Department to deny a 72-hour trip permit application of any motor vehicle for which the motor carrier identified on the permit application as the motor carrier responsible for safety of the vehicle has been issued a federal out-of-service order for unsatisfactory safety compliance.
- Create a subsection under s. 341.63, Wis. Stats., to allow the Department to suspend the registration of each motor vehicle that has identified a motor carrier with a federal out-of-service order for unsatisfactory safety compliance as being responsible for the vehicle's safety.
- Create a subsection under s. 341.63, Wis. Stats., to allow the Department to, in addition to ordering the return of registration plates, seize and destroy the registration plates of any motor vehicle that has identified a motor carrier with a federal out-of-service order for unsatisfactory safety compliance as being responsible for the vehicle's safety.
- Create a subsection under s. 341.405, Wis. Stats., that allows a vehicle with refused or suspended IRP credentials for having identified a motor carrier with a federal out-of-service order for safety performance as being responsible for the vehicle's safety to remain registered under any registration category, other than IRP, for which the motor vehicle qualifies.

- Amend s. 343.44(1)(c), Wis. Stats., to prohibit the operation of a commercial motor vehicle for which the motor carrier identified as responsible for safety has been issued a federal out-of-service order for unsatisfactory safety compliance while the federal out-of-service order is in effect.

JUSTIFICATION:

In 2008, the Department formally signed a letter of intent to FMCSA to participate in PRISM. FMCSA approved the Department's implementation plan in May 2009. To complete the implementation plan, the Department must have the ability suspend and deny IRP credentials for commercial motor vehicles that are operated by a motor carrier that has been placed out-of-service by FMCSA for unsatisfactory safety performance.

Forty-seven states have committed to participating in PRISM. It has been shown to target high-risk carriers and encourage these carriers to make improvements to their safety performance or risk sanctions. This has produced major safety, economic, and productivity benefits for participating states.

If the Department is not able to fully implement PRISM, \$900,750 in federal grant funding received in FFY 08 and FFY 10 may have to be repaid.

2011 DRAFTING REQUEST

Bill

Received: **09/03/2010**

Received By: **agary**

Wanted: **As time permits**

Companion to LRB:

For: **Transportation**

By/Representing: **Anna Richter**

May Contact:

Drafter: **agary**

Subject: **Transportation - motor vehicles**

Addl. Drafters:

Extra Copies: **EVM**

Submit via email: **YES**

Requester's email: **anna.richter@dot.wi.gov**

Carbon copy (CC:) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Performance and Registration Information System Management (PRISM)

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 09/09/2010	nmatzke 09/21/2010		_____			State
/P1			mduchek 09/22/2010	_____	cduerst 09/22/2010		

FE Sent For:

<END>

2011 DRAFTING REQUEST

Bill

Received: 09/03/2010

Received By: agary

Wanted: As time permits

Companion to LRB:

For: Transportation

By/Representing: Anna Richter

May Contact:

Drafter: agary

Subject: Transportation - motor vehicles

Addl. Drafters:

Extra Copies: EVM

Submit via email: YES

Requester's email: anna.richter@dot.wi.gov

Carbon copy (CC:) to: aaron.gary@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Performance and Registration Information System Management (PRISM)

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>
1?	agary	1/P1 nwn 9/14	MA 9/21	DP			

FE Sent For:

<END>

Gary, Aaron

From: Richter, Anna - DOT [Anna.Richter@dot.wi.gov]
Sent: Tuesday, September 07, 2010 10:32 AM
To: Gary, Aaron; Mueller, Eric
Cc: Nilsen, Paul - DOT
Subject: PRISM-2009 LRB Draft 0179/2

Attachments: NB-1113-05.docx; sPRISM.docx

Hi Aaron and Eric,

We submitted a request to have statutory language drafted for Performance and Registration Information System Management (PRISM) as part of our non budget legislative package. The original 2009 LRB 0179/2 draft was correct, so I'm hoping this is just a case of putting on the new forms.

We will now be including this initiative as part of our biennial budget submission on September 15th. Is it possible to switch this to a budget request and have it drafted as such? I don't know if there's a different heading or template...but I know our time for requesting budget drafts is quickly coming to an end!

Thanks!
Anna



NB-1113-05.docx
(16 KB)



sPRISM.docx (19
KB)

LEGISLATIVE BUDGET/NON-BUDGET PROPOSAL

Wisconsin Department of Transportation

2011-2013 BIENNIUM

DT1586 6/2010

Instructions: Complete this form for any budget/non-budget legislative initiative for which a Division requests the Secretary's Office (SO) approval. Check the budget box only if the proposal has a fiscal impact on department expenditures or revenue. This form must be signed by the Division Administrator(s). Include this form with your budget submittal materials or return one completed copy to the Office of Policy, Budget & Finance (OPBF), Attention: Paul Hammer. The form is available in the department forms catalog on dotnet.

Short Title of Topic Performance and Registration Information Systems Management (PRISM): registration sanctions to keep unsafe carriers off the highways			
Type of Proposal <input type="checkbox"/> Budget <input checked="" type="checkbox"/> Non-Budget	OGC OFFICE USE ONLY "T" Number Assigned		"B" Number Assigned "NB" Number Assigned 1113-05
Date Submitted July 8, 2010	Division(s) Motor Vehicles, State Patrol		
OPBF Contact Person Anna Richter	Area Code - Telephone Number 608-267-7304		
Lead Division Contact Person Carson Frazier	Area Code - Telephone Number 608-266-7857		
OGC Contact Person Paul Nilsen	Area Code - Telephone Number 608-261-0126		
Define Problem Precisely Federal motor carrier safety laws encourage uniformity among states to sanction motor carriers that have deficient federal motor carrier safety records. The Federal Motor Carrier Safety Administration offers incentives to states to comply with the PRISM program, to refuse vehicle registration to motor carriers with deficient federal safety records. The objective is for carriers to maintain properly safe vehicles at all times -- for the safety of the travelling public. Wisconsin DOT believes participation in PRISM is good public policy. Currently, Wisconsin statutes do not provide for vehicle registration sanctions to carriers that have deficient federal safety records. This request is to enact such statutory language.			
Description of Proposed Change Amend statutes to authorize Wisconsin Department of Transportation to enforce federal sanctions against vehicles owned by a motor carrier that has been ordered out-of-service for safety violations, and to suspend interstate registration and refuse interstate operation for such vehicles. The language in 2009 LRB-0179/2 is correct.			
Justification for Change This initiative is important to highway safety. A company (separate from a vehicle or driver) is ordered out-of-service for safety reasons due to widespread safety faults throughout the company in its trucking operations. It is the company that applies for and obtains vehicle registration ("license plates" and temporary registrations) credentials, not the driver or vehicle itself. This initiative provides that DMV suspend and deny issuance of those credentials to actual companies that have received an out-of-service order. When the carrier has corrected the safety problems that led to the out-of-service order, then DMV will reinstate or issue the credentials. This initiative applies only to vehicles operated under the International Registration Plan (IRP), or a 72-hour trip permit for a vehicle from another state to operate in Wisconsin. This proposal has no effect on intrastate ("base-plate") registration. Therefore, a vehicle that has its IRP registration suspended or refused under PRISM and this proposal may be registered for intrastate Wisconsin registration. Although it is an ultimate federal goal that PRISM also apply to intrastate commercial vehicle operation, Wisconsin DOT has no plans at this time to apply PRISM to intrastate carriers.			
Describe any legislative history and related statutory language 2009 LRB-0179/2 is correctly drafted			

(Division Administrator Signature)

(Date)

**Department of Transportation
2011-13 Biennial Budget Request
STATUTORY MODIFICATIONS**

DIN NUMBER:

TOPIC: Performance and Registration Information System Management (PRISM) Program

DESCRIPTION OF CHANGE:

PRISM is intended to improve highway safety by holding motor carriers responsible for safe vehicle operation. The program uses the International Registration Plan (IRP) as an operating framework. Motor carriers that have been identified as having a high occurrence of safety violations and do not improve their fitness record through the Motor Carrier Safety Improvement Process can be issued a federal out-of-service order by the Federal Motor Carrier Safety Administration (FMCSA) and have their IRP credentials suspended or revoked, making it impossible for the carrier to participate in interstate travel until the safety problems have been corrected.

Current law does not allow the Department to deny or suspend IRP credentials if a carrier has been issued out-of-service by FMCSA for safety violations. To fully implement PRISM, the following statutory changes are needed:

- Create a subsection under s. 341.10, Wis. Stats. to allow the Department to refuse registration for an applicant that has identified a motor carrier with a federal out-of-service notice for safety violations as the carrier responsible for vehicle safety.
- Amend s. 341.41(7), Wis. Stats., to allow the Department to deny a 72-hour trip permit application for any motor vehicle for which the motor carrier identified on the permit application as the motor carrier responsible for safety of the vehicle has been issued a federal out-of-service order for unsatisfactory safety compliance.
- Create a subsection under s. 341.63, Wis. Stats., to allow the Department to suspend the registration of each motor vehicle that has identified a motor carrier with a federal out-of-service order for unsatisfactory safety compliance as being responsible for the vehicle's safety.
- Create a subsection under s. 341.63, Wis. Stats., to allow the Department to, in addition to ordering the return of registration plates, seize and destroy the registration plates of any motor vehicle that has identified a motor carrier with a federal out-of-service order for unsatisfactory safety compliance as being responsible for the vehicle's safety.
- Create a subsection under s. 341.405, Wis. Stats., that allows a vehicle with refused or suspended IRP credentials for having identified a motor carrier with a federal out-of-service order for safety performance as being responsible for the vehicle's safety to still be registered under any registration category, other than IRP, for which the motor vehicle qualifies.
- Amend s. 343.44(1)(c), Wis. Stats., to prohibit the operation of a commercial motor vehicle for which the motor carrier identified as responsible for safety has been issued a federal out-of-service order for unsatisfactory safety compliance while the federal out-of-service order is in effect.

JUSTIFICATION:

In 2008 the Department formally signed a letter of intent to participate in PRISM. In May 2009 FMCSA approved the Department's implementation plan. To complete the implementation plan, the Department

must have the ability suspend and deny IRP credentials for commercial motor vehicles that are operated by a motor carrier that has been placed out-of-service by FMCSA for unsatisfactory safety performance.

47 states have committed to participating in PRISM. It has been shown to target high-risk carriers and encourage these carriers to make improvements to their safety performance or risk sanctions. This has produced major safety, economic, and productivity benefits for participating states.

If the Department is not able to fully implement PRISM, \$900,750 in federal grant funding received in FFY 08 and FFY 10 will have to be repaid.



State of Wisconsin
2009 - 2010 LEGISLATURE

in 9/9

LRB-007912

ARG:MK:jf

nwn

CMNR

PWF

2009 BILL

Agency Budget Draft -
in budget form

SAV
X-refV

TRANSPORTATION
DRIVERS AND Motor Vehicles
(B) + (CS)

Regen.

- 1 AN ACT to renumber 341.63 (3); to amend 341.41 (7), 343.315 (2) (h) and 343.44
- 2 (1) (c); to repeal and recreate 343.315 (2) (h) and 343.44 (1) (c); and to create
- 3 340.01 (18j), 341.10 (16), 341.10 (17), 341.405 (3m), 341.63 (1) (f), 341.63 (1m),
- 4 341.63 (1r) and 341.63 (3) (b) of the statutes; relating to: motor vehicle
- 5 registration under the International Registration Plan and commercial motor
- 6 vehicle out-of-service violations.

Analysis by the Legislative Reference Bureau

Under current law, ~~the Department of Transportation~~ DOT must refuse, or suspend, registration of a vehicle for certain specified reasons. Current law also requires DOT, subject to certain conditions, to implement the International Registration Plan (IRP). The IRP is a registration reciprocity agreement among various jurisdictions, including states and Canadian provinces, providing for apportionment by these jurisdictions of the vehicle registration fees of motor carriers operating in more than one jurisdiction.

This bill requires DOT to refuse registration of a vehicle if the applicant applies for IRP registration and the applicant identifies as the motor carrier responsible for vehicle safety a motor carrier that is subject to a federal out-of-service order for unsatisfactory safety compliance, based upon notice received by DOT. For motor vehicles already registered with DOT under the IRP, if DOT receives notice that a motor carrier has been issued a federal out-of-service order for unsatisfactory safety

BILL

* compliance, DOT must suspend the registration of each motor vehicle for which this motor carrier is identified on the vehicle's registration application as the motor carrier responsible for vehicle safety. DOT must also refuse or suspend registration for a vehicle that has been identified by the Federal Motor Carrier Safety Administration as having been assigned for safety to a motor carrier whose business is operated, managed, or otherwise controlled or affiliated with a person that has been issued a federal out-of-service order for unsatisfactory safety compliance. The bill also allows DOT to refuse or suspend registration of a vehicle if DOT determines that the motor carrier identified on the motor vehicle's registration application as the motor carrier responsible for vehicle safety is the same or substantially the same business, or that elements of the motor carrier operation are the same or substantially the same business elements, as a motor carrier that has been issued a federal out-of-service order for unsatisfactory safety compliance. If DOT refuses or suspends registration of a motor vehicle under the IRP for any of these reasons, the motor vehicle may still be registered under any registration category, other than the IRP, for which the motor vehicle qualifies. If DOT suspends registration of a motor vehicle under the IRP for any of these reasons, DOT must reinstate the vehicle's registration when the reason for the suspension has been removed and applicable reinstatement fees are paid.

under
the
IRP
use 2x

The bill allows DOT to seize and destroy vehicle registration plates if the vehicle is registered under the IRP of this state or another state and the motor carrier identified on the vehicle's registration application as the motor carrier responsible for vehicle safety has been issued a federal out-of-service order for unsatisfactory safety compliance.

Under current law, DOT may issue to nonresident owners or operators of vehicles not required to be registered in this state trip permits authorizing vehicle operation in this state for a 72-hour period. This bill prohibits DOT from issuing these trip permits for any motor vehicle for which the motor carrier identified on the permit application as the motor carrier responsible for safety of the vehicle has been issued a federal out-of-service order for unsatisfactory safety compliance.

Current law prohibits a person from operating a commercial motor vehicle while the person or the commercial motor vehicle is ordered out-of-service under state or federal law. A person is disqualified from operating a commercial motor vehicle for a specified time period if the person is convicted of operating a commercial motor vehicle while the operator or vehicle is ordered out-of-service under state or federal law.

This bill prohibits a person from operating a commercial motor vehicle for which the motor carrier identified on the motor vehicle's registration application as the motor carrier responsible for vehicle safety has been issued a federal out-of-service order for unsatisfactory safety compliance, while this federal out-of-service order is in effect. A person who violates this prohibition is disqualified from operating a commercial motor vehicle for the same time periods applicable to other out-of-service violations.

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For further information see the *state* 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:

1 **SECTION 1.** 340.01^{18j} (18j) of the statutes is created to read:

2 340.01 **(18j)** “Federal out-of-service order for unsatisfactory safety
3 compliance” means an out-of-service order issued by the federal motor carrier safety
4 administration under 49 CFR 385.13 (a), 385.105 (b), 385.111 (a) or (c), 385.325 (c),
5 385.337 (b), 386.72 (b) (2), 386.83 (a) (1), or 386.84 (a) (1).

6 **SECTION 2.** 341.10¹⁶ (16) of the statutes is created to read:

7 341.10 **(16)** The applicant has applied for registration under the international
8 registration plan specified in s. 341.405 and, in the registration application, the
9 applicant has identified as the motor carrier responsible for the safety of the motor
10 vehicle to be registered a motor carrier for which the department has received notice
11 that the motor carrier is subject to a federal out-of-service order for unsatisfactory
12 safety compliance. This subsection does not prohibit the applicant from registering
13 the motor vehicle under any applicable provision of this chapter other than s.
14 341.405.

15 **SECTION 3.** 341.10¹⁷ (17) of the statutes is created to read:

16 341.10 **(17)** The applicant has applied for registration under the international
17 registration plan specified in s. 341.405 and the motor vehicle for which application
18 is made has been identified by the federal motor carrier safety administration as
19 having been assigned for safety to a motor carrier whose business is operated,
20 managed, or otherwise controlled or affiliated with a person that has been issued a
21 federal out-of-service order for unsatisfactory safety compliance. This subsection

BILL

par if an application for registration
- 4 - is refused under
s. 341.10 (16) or
(17)

LRB-0179/2
ARG:bjk:jf
SECTION 3

1 does not prohibit the applicant from registering the motor vehicle under any
2 applicable provision of this chapter other than s. 341.405.

3 **SECTION 4.** 341.405 (3m) of the statutes is created to read:

4 341.405 (3m) (a) If the registration of a motor vehicle registered under this
5 section is ~~refused or~~ suspended under s. 341.63 (1) (f), (1m), or (1r), the motor vehicle
6 may be registered, subject to all applicable requirements and fees, under any
7 applicable provision of this chapter other than this section.

8 (b) All of the following apply to a person who registers a motor vehicle under
9 another applicable provision of this chapter as described in par. (a):

10 1. The person is not entitled to credit for any registration fee previously paid
11 to register the motor vehicle under this section.

12 2. If the motor vehicle's registration under this section is reinstated after this
13 registration period has expired, in renewing the motor vehicle's registration under
14 this section the person is entitled to credit for the registration fee paid to register the
15 motor vehicle as described in par. (a), calculated based upon the unused portion of
16 that registration period.

17 (c) Notwithstanding s. 341.10 (16) and (17), the department may refuse
18 registration of a motor vehicle under this section if the department determines that
19 the motor carrier identified on the motor vehicle's registration application as the
20 motor carrier responsible for safety of the vehicle is the same or substantially the
21 same business, or that elements of the motor carrier operation are the same or
22 substantially the same business elements, as a motor carrier that has been issued
23 a federal out-of-service order for unsatisfactory safety compliance.

24 **SECTION 5.** 341.41 (7) of the statutes is amended to read:

BILL

1 ✓ 341.41 (7) Except as to foreign owned vehicles required by s. 341.07 to be
2 registered in this state, vehicles owned or operated by a nonresident in interstate or
3 intrastate movement may be qualified by advance purchase of a trip permit which
4 authorizes operation for a 72-hour period when the vehicle is not eligible for
5 reciprocal privileges. Unless waived by the secretary, the fee for the trip permit shall
6 be not less than \$15. The secretary may, upon determining that a special
7 transportation need exists, waive the fee for the trip permit. The secretary shall
8 make rules and regulations for the issuance and use of the permits. No permit may
9 be issued under this subsection for any motor vehicle for which the motor carrier
10 identified on the permit application as the motor carrier responsible for safety of the
11 vehicle has been issued a federal out-of-service order for unsatisfactory safety
12 compliance.✓

13 SECTION 6. 341.63 (1) (f) of the statutes is created to read:

14 ✓ 341.63 (1) (f) ✓ The motor vehicle is registered under the international
15 registration plan specified in s. 341.405 ✓ and the motor vehicle has been identified by
16 the federal motor carrier safety administration as having been assigned for safety
17 to a motor carrier whose business is operated, managed, or otherwise controlled or
18 affiliated with a person that has been issued a federal out-of-service order for
19 unsatisfactory safety compliance. ✓

20 SECTION 7. 341.63 (1m) of the statutes is created to read:

21 ✓ 341.63 (1m) ✓ Upon receiving notice that a motor carrier has been issued a
22 federal out-of-service order for unsatisfactory safety compliance, the department ✓
23 shall suspend the registration of each motor vehicle to which all of the following
24 apply: ✓

BILL**SECTION 7**

1 (a) The motor carrier is identified on the motor vehicle's registration
2 application as the motor carrier responsible for the safety of the vehicle.✓

3 (b) The motor vehicle is registered under the international registration plan
4 specified in s. 341.405.✓

5 \ **SECTION 8.** ~~341.63~~ (1r) of the statutes is created to read:

6 341.63 (1r)✓ The department may suspend the registration of a motor vehicle
7 registered under the international registration plan specified in s. 341.405✓ if the
8 department determines that the motor carrier identified on the motor vehicle's
9 registration application as the motor carrier responsible for safety of the vehicle is
10 the same or substantially the same business, or that elements of the motor carrier
11 operation are the same or substantially the same business elements, as a motor
12 carrier that has been issued a federal out-of-service order for unsatisfactory safety
13 compliance.✓

14 **SECTION 9.** ~~341.63~~ (3) of the statutes is renumbered 341.63 (3) (a).✓

15 **SECTION 10.** ~~341.63~~ (3) (b) of the statutes is created to read:

16 341.63 (3)✓ (b) In addition to or in lieu of ordering the return of registration
17 plates under par. (a)✓, the department may seize and destroy the registration plates
18 of any motor vehicle for which all of the following apply:

19 1. The motor carrier identified on the motor vehicle's registration application
20 as the motor carrier responsible for safety of the vehicle has been issued a federal
21 out-of-service order for unsatisfactory safety compliance.✓

22 2. The motor vehicle is registered under the international registration plan
23 specified in s. 341.405✓ or under a similar international registration plan under the
24 law of another jurisdiction.✓

25 **SECTION 11.** ~~343.315~~ (2) (h) of the statutes is amended to read:

BILL

1 343.315 (2) (h) Except as provided in par. (i), a person is disqualified for a period
2 of 90 days from operating a commercial motor vehicle if convicted of an
3 out-of-service violation, or one year if convicted of 2 out-of-service violations, or 3
4 years if convicted of 3 or more out-of-service violations, arising from separate
5 occurrences committed within a 10-year period while driving or operating a
6 commercial motor vehicle. A disqualification under this paragraph shall be in
7 addition to any penalty imposed under s. 343.44. In this paragraph, "out-of-service
8 violation" means violating s. 343.44 (1) (c) by operating a commercial motor vehicle
9 while the operator or vehicle is ordered out-of-service under state or federal law.

10 **SECTION 12.** 343.315 (2) (h) of the statutes, as affected by 2009 Wisconsin Acts
11 28 and (this act), is repealed and recreated to read:

12 343.315 (2) (h) Except as provided in par. (i), a person shall be disqualified for
13 a period of 90 days from operating a commercial motor vehicle if convicted of an
14 out-of-service violation, or 2 years if convicted of 2 out-of-service violations, or 3
15 years if convicted of 3 or more out-of-service violations, arising from separate
16 occurrences committed within a 10-year period while operating a commercial motor
17 vehicle. A disqualification under this paragraph shall be in addition to any penalty
18 imposed under s. 343.44. In this paragraph, "out-of-service violation" means
19 violating s. 343.44 (1) (c) or a law of another jurisdiction for an offense therein which,
20 if committed in this state, would have been a violation of s. 343.44 (1) (c), if the
21 operator holds a commercial driver license or is required to hold a commercial driver
22 license to operate the commercial motor vehicle.

23 **SECTION 13.** 343.44 (1) (c) of the statutes is amended to read:

24 343.44 (1) (c) *Operating while ordered out-of-service.* No person may operate
25 a commercial motor vehicle while the person or the commercial motor vehicle is

Insert
7-1

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SECTION 13

1 ~~ordered out-of-service under state or federal law. No person may operate a~~
 2 ~~commercial motor vehicle for which the motor carrier identified on the motor~~
 3 ~~vehicle's registration application as the motor carrier responsible for safety of the~~
 4 ~~vehicle has been issued a federal out-of-service order for unsatisfactory safety~~
 5 ~~compliance, while this federal out-of-service order is in effect.~~

6 **SECTION 14.** 343.44 (1) (c) of the statutes, as affected by 2009 Wisconsin Acts
 7 28 and (this act), is repealed and recreated to read:

8 343.44 (1) (c) *Operating while ordered out-of-service.* No person may operate
 9 a commercial motor vehicle while the person or the commercial motor vehicle is
 10 ordered out-of-service under the law of this state or another jurisdiction or under
 11 federal law. No person may operate a commercial motor vehicle for which the motor
 12 carrier identified on the motor vehicle's registration application as the motor carrier
 13 responsible for safety of the vehicle has been issued a federal out-of-service order
 14 for unsatisfactory safety compliance, while this federal out-of-service order is in
 15 effect.

16 LPS: PLS.
 chg. comp.

SECTION 15. Initial applicability.

ⓑ 9348 ✓
 ⓑ Transportation

17 (1) The treatment of sections 341.10 (16) ✓ and (17) ✓ and 341.63 (1) (f) ✓ and (1m) ✓
 18 of the statutes first applies with respect to notices ✓ or identifications ✓ received by the
 19 department of transportation on the effective date of this subsection. ✓

20 (2) The treatment of sections 341.405 (3m) (c) ✓, 341.41 (7) ✓, and 341.63 (1r) ✓ of the
 21 statutes first applies to applications ✓ received by the department of transportation on
 22 the effective date of this subsection. ✓

23 (3) The treatment of sections 343.315 (2) (h) ✓ and 343.44 (1) (c) ✓ of the statutes
 24 first applies to violations committed on the effective date of this subsection, ✓ but does

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1 not preclude the counting of other violations as prior violations for purposes of
2 administrative action by the department of transportation or sentencing by a court. ✓

3 ~~SECTION 16. Effective dates. This act takes effect on the day after publication,
4 except as follows:~~

5 (1) The repeal and recreation of sections 343.315 (2) (h) and 343.44 (1) (c) of the
6 statutes takes effect on January 1, 2010, or on the day after publication, whichever
7 is later.

8 (END)

(#) The treatment of section 341.63 (3) (b) of the statutes first applies with respect to federal out-of-service orders issued on the effective date of this subsection. ✓

1 **INSERT 7-1:**

2 **SECTION 1.** 343.315 (2) (h) of the statutes is amended to read:

3 343.315 (2) (h) Except as provided in par. (i), a person shall be disqualified for
4 a period of 90 days from operating a commercial motor vehicle if convicted of an
5 out-of-service violation, or 2 years if convicted of 2 out-of-service violations, or 3
6 years if convicted of 3 or more out-of-service violations, arising from separate
7 occurrences committed within a 10-year period while operating a commercial motor
8 vehicle. A disqualification under this paragraph shall be in addition to any penalty
9 imposed under s. 343.44. In this paragraph, "out-of-service violation" means
10 violating s. 343.44 (1) (c) or a law of another jurisdiction for an offense therein which,
11 if committed in this state, would have been a violation of s. 343.44 (1) (c), ~~by operating~~
12 ~~a commercial motor vehicle while the operator or vehicle is ordered out-of-service~~
13 ~~under the law of this state or another jurisdiction or under federal law,~~ if the operator
14 holds a commercial driver license or is required to hold a commercial driver license
15 to operate the commercial motor vehicle.✓

16 History: 1989 a. 105; 1991 a. 39, 277; 1995 a. 113, 448; 1997 a. 84, 258; 1999 a. 85, 140; 2001 a. 38, 109; 2003 a. 33, 97; 2007 a. 20; 2009 a. 28, 103; s. 13.92 (2) (i).

17 **SECTION 2.** 343.44 (1) (c) of the statutes is amended to read:

18 343.44 (1) (c) *Operating while ordered out-of-service.* No person may operate
19 a commercial motor vehicle while the person or the commercial motor vehicle is
20 ordered out-of-service under the law of this state or another jurisdiction or under
21 federal law. No person may operate a commercial motor vehicle for which the motor
22 carrier identified on the motor vehicle's registration application as the motor carrier
23 responsible for safety of the vehicle has been issued a federal out-of-service order

1 for unsatisfactory safety compliance, while this federal out-of-service order is in
2 effect. ✓

History: 1971 c. 164 s. 83; 1971 c. 280, 307; 1973 c. 90; 1977 c. 29 s. 1654 (7) (a); 1977 c. 165, 272; 1979 c. 221; 1981 c. 20; 1983 a. 535; 1989 a. 12, 105, 336; 1991 a. 39, 64, 189, 277; 1995 a. 113; 1997 a. 84; 1999 a. 9, 32, 143; 2003 a. 33; 2005 a. 25, 254, 412; 2009 a. 28.



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-0040/P1
ARG:nwn:md

DOA:.....Byrnes, BB0069 - PRISM implementation; changes to IRP
credential denial and suspension

FOR 2011-13 BUDGET — NOT READY FOR INTRODUCTION

1 **AN ACT** *to renumber* 341.63 (3); *to amend* 341.41 (7), 343.315 (2) (h) and 343.44
2 (1) (c); and *to create* 340.01 (18j), 341.10 (16), 341.10 (17), 341.405 (3m), 341.63
3 (1) (f), 341.63 (1m), 341.63 (1r) and 341.63 (3) (b) of the statutes; **relating to:**
4 motor vehicle registration under the International Registration Plan and
5 commercial motor vehicle out-of-service violations.

Analysis by the Legislative Reference Bureau

TRANSPORTATION

DRIVERS AND MOTOR VEHICLES

Under current law, DOT must refuse, or suspend, registration of a vehicle for certain specified reasons. Current law also requires DOT, subject to certain conditions, to implement the International Registration Plan (IRP). The IRP is a registration reciprocity agreement among various jurisdictions, including states and Canadian provinces, providing for apportionment by these jurisdictions of the vehicle registration fees of motor carriers operating in more than one jurisdiction.

This bill requires DOT to refuse registration of a vehicle if the applicant applies for IRP registration and the applicant identifies as the motor carrier responsible for vehicle safety a motor carrier that is subject to a federal out-of-service order for

unsatisfactory safety compliance, based upon notice received by DOT. For motor vehicles already registered with DOT under the IRP, if DOT receives notice that a motor carrier has been issued a federal out-of-service order for unsatisfactory safety compliance, DOT must suspend the registration of each motor vehicle for which this motor carrier is identified on the vehicle's registration application as the motor carrier responsible for vehicle safety. DOT must also refuse or suspend registration under the IRP for a vehicle that has been identified by the Federal Motor Carrier Safety Administration as having been assigned for safety to a motor carrier whose business is operated, managed, or otherwise controlled or affiliated with a person that has been issued a federal out-of-service order for unsatisfactory safety compliance. The bill also allows DOT to refuse or suspend registration of a vehicle under the IRP if DOT determines that the motor carrier identified on the motor vehicle's registration application as the motor carrier responsible for vehicle safety is the same or substantially the same business, or that elements of the motor carrier operation are the same or substantially the same business elements, as a motor carrier that has been issued a federal out-of-service order for unsatisfactory safety compliance. If DOT refuses or suspends registration of a motor vehicle under the IRP for any of these reasons, the motor vehicle may still be registered under any registration category, other than the IRP, for which the motor vehicle qualifies. If DOT suspends registration of a motor vehicle under the IRP for any of these reasons, DOT must reinstate the vehicle's registration when the reason for the suspension has been removed and applicable reinstatement fees are paid.

The bill allows DOT to seize and destroy vehicle registration plates if the vehicle is registered under the IRP of this state or another state and the motor carrier identified on the vehicle's registration application as the motor carrier responsible for vehicle safety has been issued a federal out-of-service order for unsatisfactory safety compliance.

Under current law, DOT may issue to nonresident owners or operators of vehicles not required to be registered in this state trip permits authorizing vehicle operation in this state for a 72-hour period. This bill prohibits DOT from issuing these trip permits for any motor vehicle for which the motor carrier identified on the permit application as the motor carrier responsible for safety of the vehicle has been issued a federal out-of-service order for unsatisfactory safety compliance.

Current law prohibits a person from operating a commercial motor vehicle while the person or the commercial motor vehicle is ordered out-of-service under state or federal law. A person is disqualified from operating a commercial motor vehicle for a specified time period if the person is convicted of operating a commercial motor vehicle while the operator or vehicle is ordered out-of-service under state or federal law.

This bill prohibits a person from operating a commercial motor vehicle for which the motor carrier identified on the motor vehicle's registration application as the motor carrier responsible for vehicle safety has been issued a federal out-of-service order for unsatisfactory safety compliance, while this federal out-of-service order is in effect. A person who violates this prohibition is

disqualified from operating a commercial motor vehicle for the same time periods applicable to other out-of-service violations.

For further information see the *state* 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:

1 **SECTION 1.** 340.01 (18j) of the statutes is created to read:

2 340.01 **(18j)** “Federal out-of-service order for unsatisfactory safety
3 compliance” means an out-of-service order issued by the federal motor carrier safety
4 administration under 49 CFR 385.13 (a), 385.105 (b), 385.111 (a) or (c), 385.325 (c),
5 385.337 (b), 386.72 (b) (2), 386.83 (a) (1), or 386.84 (a) (1).

6 **SECTION 2.** 341.10 (16) of the statutes is created to read:

7 341.10 **(16)** The applicant has applied for registration under the international
8 registration plan specified in s. 341.405 and, in the registration application, the
9 applicant has identified as the motor carrier responsible for the safety of the motor
10 vehicle to be registered a motor carrier for which the department has received notice
11 that the motor carrier is subject to a federal out-of-service order for unsatisfactory
12 safety compliance. This subsection does not prohibit the applicant from registering
13 the motor vehicle under any applicable provision of this chapter other than s.
14 341.405.

15 **SECTION 3.** 341.10 (17) of the statutes is created to read:

16 341.10 **(17)** The applicant has applied for registration under the international
17 registration plan specified in s. 341.405 and the motor vehicle for which application
18 is made has been identified by the federal motor carrier safety administration as
19 having been assigned for safety to a motor carrier whose business is operated,
20 managed, or otherwise controlled or affiliated with a person that has been issued a

1 federal out-of-service order for unsatisfactory safety compliance. This subsection
2 does not prohibit the applicant from registering the motor vehicle under any
3 applicable provision of this chapter other than s. 341.405.

4 **SECTION 4.** 341.405 (3m) of the statutes is created to read:

5 341.405 **(3m)** (a) If the registration of a motor vehicle registered under this
6 section is suspended under s. 341.63 (1) (f), (1m), or (1r), or if an application for
7 registration is refused under s. 341.10 (16) or (17), the motor vehicle may be
8 registered, subject to all applicable requirements and fees, under any applicable
9 provision of this chapter other than this section.

10 (b) All of the following apply to a person who registers a motor vehicle under
11 another applicable provision of this chapter as described in par. (a):

12 1. The person is not entitled to credit for any registration fee previously paid
13 to register the motor vehicle under this section.

14 2. If the motor vehicle's registration under this section is reinstated after this
15 registration period has expired, in renewing the motor vehicle's registration under
16 this section the person is entitled to credit for the registration fee paid to register the
17 motor vehicle as described in par. (a), calculated based upon the unused portion of
18 that registration period.

19 (c) Notwithstanding s. 341.10 (16) and (17), the department may refuse
20 registration of a motor vehicle under this section if the department determines that
21 the motor carrier identified on the motor vehicle's registration application as the
22 motor carrier responsible for safety of the vehicle is the same or substantially the
23 same business, or that elements of the motor carrier operation are the same or
24 substantially the same business elements, as a motor carrier that has been issued
25 a federal out-of-service order for unsatisfactory safety compliance.

1 **SECTION 5.** 341.41 (7) of the statutes is amended to read:

2 341.41 (7) Except as to foreign owned vehicles required by s. 341.07 to be
3 registered in this state, vehicles owned or operated by a nonresident in interstate or
4 intrastate movement may be qualified by advance purchase of a trip permit which
5 authorizes operation for a 72-hour period when the vehicle is not eligible for
6 reciprocal privileges. Unless waived by the secretary, the fee for the trip permit shall
7 be not less than \$15. The secretary may, upon determining that a special
8 transportation need exists, waive the fee for the trip permit. The secretary shall
9 make rules and regulations for the issuance and use of the permits. No permit may
10 be issued under this subsection for any motor vehicle for which the motor carrier
11 identified on the permit application as the motor carrier responsible for safety of the
12 vehicle has been issued a federal out-of-service order for unsatisfactory safety
13 compliance.

14 **SECTION 6.** 341.63 (1) (f) of the statutes is created to read:

15 341.63 (1) (f) The motor vehicle is registered under the international
16 registration plan specified in s. 341.405 and the motor vehicle has been identified by
17 the federal motor carrier safety administration as having been assigned for safety
18 to a motor carrier whose business is operated, managed, or otherwise controlled or
19 affiliated with a person that has been issued a federal out-of-service order for
20 unsatisfactory safety compliance.

21 **SECTION 7.** 341.63 (1m) of the statutes is created to read:

22 341.63 (1m) Upon receiving notice that a motor carrier has been issued a
23 federal out-of-service order for unsatisfactory safety compliance, the department
24 shall suspend the registration of each motor vehicle to which all of the following
25 apply:

1 (a) The motor carrier is identified on the motor vehicle's registration
2 application as the motor carrier responsible for the safety of the vehicle.

3 (b) The motor vehicle is registered under the international registration plan
4 specified in s. 341.405.

5 **SECTION 8.** 341.63 (1r) of the statutes is created to read:

6 341.63 (1r) The department may suspend the registration of a motor vehicle
7 registered under the international registration plan specified in s. 341.405 if the
8 department determines that the motor carrier identified on the motor vehicle's
9 registration application as the motor carrier responsible for safety of the vehicle is
10 the same or substantially the same business, or that elements of the motor carrier
11 operation are the same or substantially the same business elements, as a motor
12 carrier that has been issued a federal out-of-service order for unsatisfactory safety
13 compliance.

14 **SECTION 9.** 341.63 (3) of the statutes is renumbered 341.63 (3) (a).

15 **SECTION 10.** 341.63 (3) (b) of the statutes is created to read:

16 341.63 (3) (b) In addition to or in lieu of ordering the return of registration
17 plates under par. (a), the department may seize and destroy the registration plates
18 of any motor vehicle for which all of the following apply:

19 1. The motor carrier identified on the motor vehicle's registration application
20 as the motor carrier responsible for safety of the vehicle has been issued a federal
21 out-of-service order for unsatisfactory safety compliance.

22 2. The motor vehicle is registered under the international registration plan
23 specified in s. 341.405 or under a similar international registration plan under the
24 law of another jurisdiction.

25 **SECTION 11.** 343.315 (2) (h) of the statutes is amended to read:

1 343.315 (2) (h) Except as provided in par. (i), a person shall be disqualified for
2 a period of 90 days from operating a commercial motor vehicle if convicted of an
3 out-of-service violation, or 2 years if convicted of 2 out-of-service violations, or 3
4 years if convicted of 3 or more out-of-service violations, arising from separate
5 occurrences committed within a 10-year period while operating a commercial motor
6 vehicle. A disqualification under this paragraph shall be in addition to any penalty
7 imposed under s. 343.44. In this paragraph, “out-of-service violation” means
8 violating s. 343.44 (1) (c) or a law of another jurisdiction for an offense therein which,
9 if committed in this state, would have been a violation of s. 343.44 (1) (c), ~~by operating~~
10 ~~a commercial motor vehicle while the operator or vehicle is ordered out-of-service~~
11 ~~under the law of this state or another jurisdiction or under federal law~~, if the operator
12 holds a commercial driver license or is required to hold a commercial driver license
13 to operate the commercial motor vehicle.

14 **SECTION 12.** 343.44 (1) (c) of the statutes is amended to read:

15 343.44 (1) (c) *Operating while ordered out-of-service.* No person may operate
16 a commercial motor vehicle while the person or the commercial motor vehicle is
17 ordered out-of-service under the law of this state or another jurisdiction or under
18 federal law. No person may operate a commercial motor vehicle for which the motor
19 carrier identified on the motor vehicle’s registration application as the motor carrier
20 responsible for safety of the vehicle has been issued a federal out-of-service order
21 for unsatisfactory safety compliance, while this federal out-of-service order is in
22 effect.

23 **SECTION 9348. Initial applicability; Transportation.**

