



State of Wisconsin
2011 - 2012 LEGISLATURE

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LRB-3267/12 P3
ARG:kjf:ph

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Mondays
please

Regen

1 AN ACT *to repeal* 341.10 (6) and (6m) and 341.266 (1) (c) 1.; *to renumber and*
2 *amend* 341.266 (1) (am); *to consolidate, renumber and amend* 341.266 (1)
3 (c) (intro.) and 2.; *to amend* 341.266 (2) (a), 341.266 (2) (e) 2. and 341.269 (5);
4 and *to create* 341.068 and 341.266 (1) (ag) of the statutes; **relating to:**
5 registration of motor vehicles by the Department of Transportation.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Transportation (DOT) must refuse registration of a vehicle under specified circumstances, including all of the following: 1) the applicant for registration has not paid the applicable registration fees; 2) with an exception for leased vehicles, the applicant has not been issued, and is not entitled to, a valid certificate of title for the vehicle; 3) the vehicle is exempt from registration and is not eligible for optional registration; 4) with an exception for former military vehicles eligible for a specific type of registration, the vehicle is originally designed and manufactured for off-highway operation unless the vehicle meets certain federal motor vehicle safety standards; 5) with an exception for former military vehicles eligible for a specific type of registration, the vehicle was manufactured for use in any country's military forces and does not meet federal motor vehicle safety standards; and 6) the applicant has failed to furnish information or documents required by law or by DOT under authority of law.

Under current law, as created by 2009 Wisconsin Act 135, there is a special category of vehicle registration for former military vehicles, which may be registered

but are subject to operating restrictions. Under this registration category, a "former military vehicle" is a vehicle that was manufactured for use in any country's military forces and is maintained to accurately represent its military design and markings, regardless of the vehicle's size or weight. A former military vehicle may be registered as a "historic military vehicle" if it is at least 25 years old and has been imported into the United States from another country or if it has not been imported and is of any age. DOT must issue for the vehicle special plates showing it is registered as a historic military vehicle. It is the applicant's burden to show that a vehicle is eligible for registration as a historic military vehicle. A vehicle may be registered as a historic military vehicle even if the vehicle was originally designed and manufactured for off-highway operation and does not meet federal motor vehicle safety standards. A vehicle registered as a historic military vehicle may only be used for special occasions such as display and parade purposes, including traveling to and from such events, and for necessary testing, maintenance, and storage purposes.

Also under current law, as created by 2009 Wisconsin Act 225, DOT may register specific types of former military vehicles as special interest ("collector") vehicles, which are subject to only very limited operating restrictions, most notably that they cannot be operated on the highways in January. For purposes of collector vehicle registration, the term "former military vehicle" has a different definition, and means all of the following: 1) a Pinzgauer that is at least 25 years old; 2) a Kaiser Jeep M715 that is at least 25 years old; 3) a Humvee that is at least 22 years old; and 4) a Duck that is at least 25 years old. Any of these former military vehicles may be registered as a collector vehicle even if it is originally designed and manufactured for off-highway operation and does not meet certain federal motor vehicle safety standards.

This bill requires DOT to register any motor vehicle for which DOT receives a complete and proper application, unless registration of the vehicle is specifically prohibited by statute or the vehicle is a snowmobile, all-terrain vehicle, or electric personal assistive mobility device (commonly referred to by the tradename "Segway"). The bill eliminates the statutory provision requiring DOT to refuse registration of a vehicle that was manufactured for use in any country's military forces and that does not meet federal motor vehicle safety standards. The bill also eliminates the statutory provision requiring DOT to refuse registration of a vehicle that is originally designed and manufactured for off-highway operation unless the vehicle meets certain federal motor vehicle safety standards. In addition, if DOT ~~refuses registration of a vehicle based on the grounds that the applicant for registration has failed to furnish information or documents relating to the vehicle's equipment or condition~~ the applicant for registration may have the vehicle inspected by any person authorized by DOT to conduct salvage vehicle inspections. If the inspector determines that the vehicle meets state vehicle equipment standards for the vehicle's year of original manufacture, the inspector must issue a certificate of inspection so stating and DOT must accept this certificate and register the vehicle.

This bill also changes the eligibility requirements for registering former military vehicles as collector vehicles. Instead of limiting registration to the four specific types of military vehicles listed in 1) to 4) above, the bill allows any former

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ANAL-A

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military vehicle to be registered as a collector vehicle, subject to the same requirements applicable to other collector vehicles. For purposes of collector vehicle registration, the bill defines a "former military vehicle" as a vehicle, including a motorcycle ~~or trailer~~ but excluding a tracked vehicle, that was manufactured for use in any country's military forces.

motor

This bill does not change the authorization provided in 2009 Wisconsin Act 135 to register former military vehicles under the special registration category of historic military vehicles.

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. 341.068 of the statutes is created to read:

2 **341.068 Requirement that department register vehicles; vehicle**
3 **inspections.** (1) The department shall register any motor vehicle for which the
4 department receives a complete and proper application, unless registration of the
5 vehicle is prohibited for any reason specified in s. 341.10 or the vehicle is identified
6 in ss. 341.055 to 341.058. Registration shall be appropriate to the vehicle class and
7 type and may not include any operating or special use restrictions except as
8 specifically authorized and described in this chapter.

insht 3-9

9 (2) If the department refuses registration of a vehicle based on ~~s. 341.10 (2) (a)~~
10 ~~on the grounds that the applicant for registration has failed to furnish information~~
11 ~~or documents relating to the vehicle's equipment or condition,~~ the applicant for
12 registration may have the vehicle inspected by any person authorized to conduct
13 inspections under s. 342.07. If the inspector determines that the vehicle meets
14 vehicle equipment standards under ch. 347 and rules promulgated under ch. 347 for
15 the vehicle's year of original manufacture, the inspector shall issue a certificate of
16 inspection so stating and the department shall accept this certificate and register the
17 vehicle.

1 SECTION 2. 341.10 (6) and (6m) of the statutes are repealed. ✓

2 SECTION 3. 341.266 (1) (ag) of the statutes is created to read: ✓

3 341.266 (1) (ag) "Former military vehicle" means a ^{motor} vehicle, including a
4 motorcycle or trailer but excluding a tracked vehicle, that was manufactured for use
5 in any country's military forces.

6 SECTION 4. 341.266 (1) (am) of the statutes is renumbered 341.266 (1) (d) and ✓
7 341.266 (1) (d) (intro.) and 3., as renumbered, are amended to read:

8 341.266 (1) (d) (intro.) "~~Former~~ Specially exempted former military vehicle"
9 means any of the following former military vehicles if the vehicle is at least 25 years
10 old:

11 3. A high-mobility multipurpose wheeled vehicle originally manufactured for
12 use by the U.S. military forces and commonly known by the name of "Humvee" that,
13 notwithstanding par. ~~(am)~~ (d) (intro.), is at least 22 years old.

14 SECTION 5. 341.266 (1) (c) (intro.) and 2. of the statutes are consolidated, ✓
15 renumbered 341.266 (1) (c) and amended to read:

16 341.266 (1) (c) "Special interest vehicle" means any of the following: 2. A a
17 motor vehicle, including a former military vehicle, of any age which has not been
18 ^{substantially} altered or modified from original manufacturers specifications and, because of its
19 historic interest, is being preserved by hobbyists.

20 SECTION 6. 341.266 (1) (c) 1. of the statutes is repealed. ✓

21 SECTION 7. 341.266 (2) (a) of the statutes is amended to read:

22 341.266 (2) (a) Any person who is the owner of a special interest vehicle that
23 ~~is a former military vehicle, or that is not a former military vehicle~~ and is 20 or more
24 years old at the time of making application for registration or transfer of title of the
25 vehicle, and who, unless the owner is an historical society that is exempt from federal

1 income taxes, owns, has registered in this state, and uses for regular transportation
2 at least one vehicle that has regular registration plates may upon application
3 register the vehicle as a special interest vehicle upon payment of a fee under par. (b).
4 ~~A former military vehicle may be registered under this paragraph notwithstanding~~
5 ~~s. 341.10 (6).~~ ✓

6 **SECTION 8.** 341.266 (2) (e) 2. of the statutes is amended to read:

7 341.266 (2) (e) 2. Trucks may not haul material weighing more than 500
8 pounds, not including the weight of a camper, lid or cap that is mounted on the truck
9 or the weight of any persons or pets riding within the driver's compartment, unless
10 the truck is a specially exempted former military vehicle. ✓

11 **SECTION 9.** 341.269 (5) of the statutes is amended to read:

12 341.269 (5) Unless inconsistent with this section or ~~s. 341.10 (6)~~, the provisions
13 applicable to other motor vehicles apply to vehicles registered under this section as
14 historic military vehicles.

15 **SECTION 10. Initial applicability.**

16 (1) This act first applies to applications for registration received by the
17 department of transportation on the effective date of this subsection.

18 **SECTION 11. Effective date.**

19 (1) This act takes effect on the first day of the 3rd month beginning after
20 publication.

21 (END)

1 **INSERT ANAL-A:**

(no #) vehicle requirements, including equipment or condition of the vehicle or documentation relating to the vehicle.

2 **INSERT ANAL-B:**

X The bill also modifies an eligibility requirement for registering any collector vehicle, whether it is a former military vehicle or not. Under current law, a motor vehicle, other than a former military vehicle, may only be registered as a collector vehicle if it has not been altered or modified from original manufacturers specifications. Under this bill, a motor vehicle, including a former military vehicle, may only be registered as a collector vehicle if it has not been *substantially* altered or modified from original manufacturers specifications.

3

4 **INSERT 3-9:**

(no #) vehicle requirements, including equipment or condition of the vehicle or documentation relating to the vehicle,

7

8

9

10

Gary, Aaron

From: Kolbow, Regina
Sent: Tuesday, January 31, 2012 1:31 PM
To: Gary, Aaron
Subject: RE: Draft review: LRB 11-3267/P3 Topic: Vehicle registration; former military vehicles
Attachments: SLDeptBrief001.pdf; StreetLegal001.pdf; SLtrns123.doc
 Attorney Gary,

I'm glad we both agree on the wording of 341.10(6). Our office strongly disagrees with your analysis of section 114 of the National Traffic and Safety Act of 1966. The sentence you quote specifies a manufacturers requirement for certification. It may refer to FMVSS but your emphasis is on only half of the sentence and you have used the words out of context. S114 was codified as 49 USC 30115. That section not only contains the same sentence you have quoted, it continues delineating the requirements for the certification label. The revision notes of this section show its direct relationship to s114. Specific label requirements are covered under 49CFR part 567. Neither of these sections includes any FMVSS. Those standards are specified under 49CFR part 571. WisDOTs OGC states that s114 only requires vehicles to be certified that they meet FMVSS. I have included the Departments legal brief from case TR-08-027. "The proposed decision errs because section 114 only requires vehicles to be certified that they meet motor vehicle safety standards." [pg.3] A DOT Attorney distributed to the Wisconsin Traffic Officers Association a booklet in which he specifies the meaning of 341.10(6) as the requirement of the certification label. WisDOTs analysis of 341.10 (6) states that ss114 refers to the certification label.

The Analysis of TRANS 123, *which was prepared by WisDOT*, states: "The proposed rule clarifies that the proof that a vehicle complies with FMVSS is that the vehicle displays a certification label as required by s.114 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended, or bears an FMVSS-conforming vehicle identification number (VIN)." [pg.2]

This bill originated due to DOTs interpretation of statute. As the Dept. is charged with the application of statute, their definition is what must be scrutinized. The analysis of this bill must be made in the context of which it was written. Please make the changes we requested to your analysis so that it reflects the intent of this legislation.

I hope this clarifies the department's definition of s114 as we want to conclude this matter and proceed immediately.

Sincerely,

Regina Kolbow

Office of Senator Grothman
 Room 10 South, State Capitol
 Phone: 608-266-7513
 Toll Free: 1-800-662-1227

Senator Grothman's State of the Family Report

Attachments:

Dept. brief; case TR-08-027
Excerpts; Is That Thing Steeet-Legal?
Dept.s Analysis of 41.10(6)

Hi Regina,

I have carefully reviewed the comments below, and I disagree with them. I believe the analysis is accurate as written.

Comments 1 and 3: I agree that s. 341.10 (6) does state " ... unless the vehicle meets the provisions of s. 114 of the national traffic and motor vehicle safety act of 1966, as amended," Section 114 of the National Traffic and Motor Vehicle Safety Act of 1966 in turns states, "Every manufacturer or distributor of a motor vehicle or motor vehicle equipment shall furnish to the distribituor or dealer at the time of delivery of such vehicle or equipment by

1/31/2012

such manufacturer or distributor the certification that each such vehicle or item of motor vehicle equipment conforms to all applicable Federal motor vehicle safety standards." U.S. Code Congressional and Adm. News, 89th Congress, 2nd session vol. 1 (1966) (emphasis added). I believe that the analysis is a fair and accurate characterization of s. 341.10 (6). It is also consistent with the way analyses have been written in the past. See 2009 AB-589 and AB-592 and 2009 SB-392 and SB-404.

Comment 2: Last session, Act 225 (SB-392) made changes to allow certain former military vehicles to be registered under s. 341.266 as collector vehicles. Section 4 of Act 225 added a sentence to override s. 341.10 (6) and specifically authorize the registration of these vehicles regardless of s. 341.10 (6). (This provision now appears as the last sentence is s. 341.266 (2) (a).) The analysis accurately describes this provision. Please call me when you have a chance so that we may discuss this further.

Aaron

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

From: Kolbow, Regina
Sent: Friday, January 27, 2012 8:36 PM
To: Gary, Aaron
Subject: Draft review: LRB 11-3267/P3 Topic: Vehicle registration; former military vehicles

The actual language of the bill is acceptable, however the analysis needs to be changed because of language that gives an inaccurate and unfavorable portrayal of current conditions. This must be corrected.

I have identified three problems, as below. All three problems appear to stem from an inaccurate blending of details from 341.10(6) and 341.10(6m).

PROBLEM 1

Pg. 1 Para. 1

Note: I assume #4 refers to 341.10(6), since it seems that #5 refers to 341.10(6m).

4) with an exception for former military vehicles eligible for a specific type of registration, the vehicle is originally designed and manufactured for off-highway operation unless the vehicle meets certain federal motor vehicle safety standards;

This appears to be an incorrect statement regarding 341.10(6).

341.10(6) does not make reference to FMVSS, it refers to "...Sec. 114 of the national traffic and motor vehicle safety act of 1966...". This was later codified as 49 C.F.R. PART 567 CERTIFICATION (*This is not part of FMVSS, which can be found at 49 C.F.R. PART 571*), which requires that a compliance label be affixed to a Motor Vehicle:

49 C.F.R. PART 567:

<http://law.justia.com/cfr/title49/49-6.1.2.3.32.html>

Section 1403, Pub. L. 89-563, title I, Sec. 114, Sept. 9, 1966, 80 Stat. 726, related to certification of conformity with motor vehicle safety standards and form and placement of certification. See section 30115 of Title 49.

<http://uscode.house.gov/download/pls/15C38.txt>

This inaccurate reference has caused this statute to be misquoted, and to be misapplied, as the DOT has done to Motor Vehicles. It is assumed that "off-highway" vehicles would not bear a FMVSS-compliance label, since they were not designed to meet FMVSS standards. However, while a certification label can indicate compliance, the lack of a certification label does not (and cannot) prove non-compliance. This inherent inaccuracy is a perfect example of why 341.10(6) must be repealed - it is unclear and inaccurate.

This sentence should be edited to read:

4) with an exception for former military vehicles eligible for a specific type of registration, the vehicle is originally designed and manufactured for off-highway operation unless the vehicle **bares the federal certification label.**

PROBLEM 2

Pg. 2 Para. 2

Any of these former military vehicles may be registered as a collector vehicle even if it is originally designed and manufactured for off-highway operation and does not meet certain federal motor vehicle safety standards. This sentence improperly infers that these four former military vehicles referred to were originally designed and manufactured for off-highway operation. The only suggestion that they are "off-highway" vehicles is provided by WisDOT's current interpretation of 341.10(6), which bases such determination on a lack of FMVSS-compliance label.

This sentence is problematic, and should be deleted.

PROBLEM 3

Pg. 2 Para. 3

The bill also eliminates the statutory provision requiring DOT to refuse registration of a vehicle that is originally designed and manufactured for off-highway operation unless the vehicle meets certain federal motor vehicle safety standards.

This sentence is inaccurately written, and again misquotes 341.10(6), which does not refer to FMVSS, as discussed above.

This sentence should be edited to read:

The bill also eliminates the statutory provision requiring DOT to refuse registration of a vehicle that is originally designed and manufactured for off-highway operation unless the vehicle bares the federal certification label.

Sincerely,

Regina Kolbow

Office of Senator Grothman
Room 10 South, State Capitol
Phone: 608-266-7513
Toll Free: 1-800-662-1227

Senator Grothman's State of the Family Report

*All communications are subject to open records under Chapter 19, Wis. Stats.

From: LRB.Legal

Sent: Thu 1/5/2012 2:40 PM

To: Sen.Grothman

Subject: Draft review: LRB 11-3267/P3 Topic: Vehicle registration; former military vehicles

Following is the PDF version of draft LRB 11-3267/P3.

BEFORE THE
STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS

In the Matter of an Appeal Regarding a
Cancelled Title and License Plates on a
Vehicle Owned by Paul Underwood by
the Department of Transportation

Case No. TR-08-0027

DEPARTMENT'S BRIEF OBJECTING TO PROPOSED DECISION

The Department partially OBJECTS to the proposed decision. The Department does not object to the portion of the proposed decision overturning the Department's action affecting the vehicle title. The Department does object to the portion of the proposed decision relating to the vehicle's registration. That part of the decision rests on a mistaken reading of federal law. This mistake is crucial to the proposed decision and affects the outcome of what must be proved, whether it was proved, and who bears the burden of proof. Because only short post-hearing statements were requested and filed, the Department did not express the legal arguments and statutes as clearly or fully as it should have.

The Proposed Decision is mistaken on federal law

The Department agrees that, "The critical issue in this matter is whether Mr. Underwood's Pinzgauer meets the provision of s. 114 of the national traffic and motor vehicle safety act of 1966" (Proposed Decision, page 4). This issue is critical because the Department cannot register Underwood's Pinzgauer (and must cancel that registration) unless it meets that condition

341.10 Grounds for refusing registration. The department shall refuse registration of a vehicle under any of the following circumstances:

341.10(6) The vehicle is originally designed and manufactured for off-highway operation unless the vehicle meets the provisions of s. 114 of the national traffic and motor vehicle safety act of 1966, as amended, except as otherwise authorized by the statutes. (emphasis added)

After correctly stating the critical issue, the proposed decision veers off course by misreading section 114 as requiring more than just a certification that the motor vehicle meets safety standards:

"The phrase "meets the provisions of s. 114 of the national traffic and motor vehicle safety act of 1966, as amended" refers to whether the motor vehicle meets national motor vehicle safety standards (NMVSS)" (Proposed Decision, page 2)

That is not what section 114 says or means.

Section 114 of the Motor Vehicle Safety Act of 1966 is codified at 49 USC 30115 (80 Stats 718, 726-27; P.L. 89-563, Sept. 9, 1966). The Department requested the Division of Hearings and Appeals ("Division") to take judicial notice of that law in its Witnesses and Exhibits list (and submitted it in exhibit P48 as footnote i), so the federal law is in the record. Section 114, as amended, provides in full:

Sec. 30115. Certification of compliance

(a) In General.--A manufacturer or distributor of a motor vehicle or motor vehicle equipment shall certify to the distributor or dealer at delivery that the vehicle or equipment complies with applicable motor vehicle safety standards prescribed under this chapter. A person may not issue the certificate if, in exercising reasonable care, the person has reason to know the certificate is false or misleading in a material respect. Certification of a vehicle must be shown by a label or tag permanently fixed to the vehicle. Certification of equipment may be shown by a label or tag on the equipment or on the outside of the container in which the equipment is delivered.

(b) Certification Label.--In the case of the certification label affixed by an intermediate or final stage manufacturer of a motor vehicle built in more than 1 stage, each intermediate or final stage manufacturer shall certify with respect to each applicable Federal motor vehicle safety standard--

(1) that it has complied with the specifications set forth in the compliance documentation provided by the incomplete motor vehicle manufacturer in accordance with regulations prescribed by the Secretary; or

(2) that it has elected to assume responsibility for compliance with that standard. If the intermediate or final stage manufacturer elects to assume responsibility for compliance with the standard covered by the documentation provided by an incomplete motor vehicle manufacturer, the intermediate or final stage manufacturer shall notify the incomplete motor vehicle manufacturer in writing within a reasonable time of affixing the certification label. A violation of this subsection shall not be subject to a civil penalty under section 30165.

(Emphasis added)

(Pub. L. 103-272, Sec. 1(e), July 5, 1994, 108 Stat. 947; Pub. L. 106-414, Sec. 9, Nov. 1, 2000, 114 Stat. 1805.)

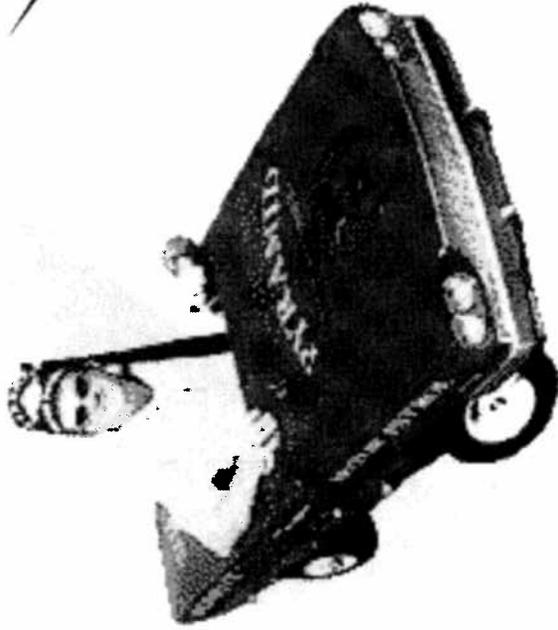
Historical and Revision Notes

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
30115.....	15:1397(a)(1)(C), (E) (related to 15:1403).	Sept. 9, 1966, Pub. L. 89-563, Sec. 108(a)(1)(C), (E) (related to Sec. 114), 80 Stat. 722; Oct. 27, 1974, Pub. L. 93-492, Sec. 103(a)(1)(A), (2)(B), 88 Stat. 1477, 1478, 15:1403. Sept. 9, 1966, Pub. L. 89-563, Sec. 114, 80 Stat. 726.

It is clear from reading section 114 that a vehicle "meets the provisions of s. 114" only if the proper party certifies that the vehicle meets the national motor vehicle safety standards ("NMVSS") and affixes proof of that certification to the vehicle. The proposed decision errs because section 114 only requires vehicles to be *certified* that they meet motor vehicle safety standards. There is no reason for the Division to apply those standards in order to determine whether a Pinzgauer "meets the provisions of s. 114". The lack of a certification label alone is sufficient proof that a vehicle does not meet the provisions of section 114.

To answer the critical issue of whether Mr. Underwood's Pinzgauer meets the provisions of s. 114, the Division must determine only whether the vehicle bears the manufacturer's certification label required by that section. The record of evidence shows (and it is undisputed) that Underwood's Pinzgauer is not so certified. Mr. Underwood testified that his Pinzgauer was not manufacturer-certified as meeting NMVSS. He testified that he was unaware of any Pinzgauer being manufacturer-certified as meeting NMVSS (except to offer an anecdote that one Mr. Eliasson in another state owns one Eliasson claims is 'federalized', whatever that means). Mr. Underwood testified that he was unaware of any importer certifying that a Pinzgauer meets NMVSS. The only possible conclusion is that Underwood's Pinzgauer does not "meet the provisions of s. 114"

Is That Thing Street-Legal? Non-Traditional Vehicles on the Road



Paul E. Hansen
Assistant General Counsel
Wisconsin

Wisconsin Traffic Safety
March 9, 2010

Division

No cert label = no license plate

- 341.10 Grounds for refusing registration. The department shall refuse registration of a vehicle under any of the following circumstances:

(6) The vehicle is **originally designed and manufactured for off-highway operation**... (unless the vehicle bears FMVSS cert label)

**ORDER OF THE STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION
ADOPTING RULES**

The Wisconsin Department of Transportation adopts an order creating ch. TRANS 123, relating to registration of non-standard vehicles.

Analysis Prepared by the Wisconsin Department of Transportation

Statutes interpreted: s. 341.10(6), Stats.

Statutory authority: "Grounds for refusing registration," s. 341.10(6), Stats.; "When registration to be suspended," s. 341.63, Stats.; "Cancellation of title or registration," s. 342.255, Stats.; "Application for registration," s. 341.08(2)(e), Stats.

Explanation of agency authority: Current law prohibits the Department of Transportation from registering for on-road use any motor vehicle that is "originally designed and manufactured for off-highway operation" unless the vehicle bears a label on which the manufacturer certifies that the vehicle meets federal standards for on-road vehicles. Current law also requires the Department to suspend registration if it discovers that the registrant does not or cannot register the vehicle properly, and to cancel registration and title if it discovered that law prohibits the issuance or possession of a title or registration. Current law does not specify how to determine whether a vehicle is "originally designed and manufactured for off-highway operation." Federal law states that any vehicle made for on-road use in this country after 1967 must meet federal equipment standards. The Department applied that policy to conclude that a vehicle "originally designed and manufactured for off-highway operation" after 1967 is any vehicle that was not made for on-road use in this country. Federal law allows importation of vehicles originally made for foreign markets if the vehicle meets U.S. on-road standards, or is a model deemed to be "substantially similar" to vehicle models made for sale in this country, or is more than 25 years old at the time of importation. This rule making is intended to harmonize state law regarding registration for on-road use with the federal law requiring that vehicles meet U.S. on-road standards, except that this rule making does not adopt the federal exception for imported vehicles made after 1967 that are more than 25 years old.

Related statute or rule: "Motor Vehicle Safety," 49 USC 30101-30170 (2006); "Importing motor vehicles capable of complying with standards," 49 USC 30141 (2006); "Prohibitions on manufacturing, selling, and importing noncomplying motor vehicles and equipment," 49 USC 30112 (2006); "Certification of compliance," 49 USC 30115; "Federal motor vehicle safety standards" 49 CFR 571 (2008); "Certification," 49 CFR 567 (2008).

Plain language analysis: This rule making creates ch. Trans 123, relating to grounds for the Department to refuse vehicle registration. Section 341.10(6), Stats., refers to a vehicle "originally designed and manufactured for off-highway operation."

This proposed rule clarifies that the Department's registration or refusal of registration conforms to the National Highway Traffic Safety Administration (NHTSA) regulations implementing Federal Motor Vehicle Safety Standards (FMVSS). In 1967, Congress declared a need to reduce traffic accidents and deaths and injuries resulting from traffic accidents and found it necessary to prescribe motor vehicle safety standards for motor vehicles and motor vehicle equipment in interstate commerce. The FMVSS were established in response.

NHTSA defines a "motor vehicle" as a vehicle that uses the public highways on a necessary and recurring basis and can exceed 20 miles per hour. The proposed rule defines "off-road vehicle" as a motor vehicle under Ch. 340, Stats., that does not meet the definition of "motor vehicle" under federal law.

The proposed rule states that the Department shall register any vehicle that was manufactured before 1968. The vehicle may be subject to equipment requirements under Ch. 347, Stats., and registration requirements under s. 341.268, Stats., regarding homemade and replica vehicles.

The proposed rule clarifies that the proof that a vehicle complies with FMVSS is that the vehicle displays a certification label as required by s. 114 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended, or bears an FMVSS-conforming vehicle identification number (VIN). A vehicle manufactured for the non-U.S. market may be registered if it meets one of three certification methods to show that it complies with FMVSS.

The proposed rule establishes that an off-road vehicle with a model year 1968 or newer will be registered only if the vehicle displays a certification label that indicates the vehicle is certified by the manufacturer as meeting Federal Motor Vehicle Safety Standards, or if the manufacturer or importer certifies in one of three other methods that the vehicle complies with FMVSS.

The proposed rule requires the Department to cancel registrations initially made after the rule takes effect if the registration application contained incorrect or false information. The rule "grandfathers" in vehicles currently registered and allows them to continue to be registered until the vehicle is transferred to a new owner.



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-3267/PP PY
ARG:kjf:ph

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D-Note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

only changes are pp. 1 & 2

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insert ANAL-1

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Under current law, as created by 2009 Wisconsin Act 135, there is a special category of vehicle registration for former military vehicles, which may be registered

but are subject to operating restrictions. Under this registration category, a "former military vehicle" is a vehicle that was manufactured for use in any country's military forces and is maintained to accurately represent its military design and markings, regardless of the vehicle's size or weight. A former military vehicle may be registered as a "historic military vehicle" if it is at least 25 years old and has been imported into the United States from another country or if it has not been imported and is of any age. DOT must issue for the vehicle special plates showing it is registered as a historic military vehicle. It is the applicant's burden to show that a vehicle is eligible for registration as a historic military vehicle. A vehicle may be registered as a historic military vehicle even if the vehicle was originally designed and manufactured for off-highway operation and does not meet federal motor vehicle safety standards. A vehicle registered as a historic military vehicle may only be used for special occasions such as display and parade purposes, including traveling to and from such events, and for necessary testing, maintenance, and storage purposes.

Also under current law, as created by 2009 Wisconsin Act 225, DOT may register specific types of former military vehicles as special interest ("collector") vehicles, which are subject to only very limited operating restrictions, most notably that they cannot be operated on the highways in January. For purposes of collector vehicle registration, the term "former military vehicle" has a different definition, and means all of the following: 1) a Pinzgauer that is at least 25 years old; 2) a Kaiser Jeep M715 that is at least 25 years old; 3) a Humvee that is at least 22 years old; and 4) a Duck that is at least 25 years old. Any of these former military vehicles may be registered as a collector vehicle even if it is originally designed and manufactured for off-highway operation and does not meet certain federal motor vehicle safety standards.

*insert
ANAL - B*

This bill requires DOT to register any motor vehicle for which DOT receives a complete and proper application, unless registration of the vehicle is specifically prohibited by statute or the vehicle is a snowmobile, all-terrain vehicle, or electric personal assistive mobility device (commonly referred to by the tradename "Segway"). The bill eliminates the statutory provision requiring DOT to refuse registration of a vehicle that was manufactured for use in any country's military forces and that does not meet federal motor vehicle safety standards. The bill also eliminates the statutory provision requiring DOT to refuse registration of a vehicle that is originally designed and manufactured for off-highway operation unless the vehicle meets ~~certain federal motor vehicle safety standards~~. In addition, if DOT refuses registration of a vehicle based on vehicle requirements, including equipment or condition of the vehicle or documentation relating to the vehicle, the applicant for registration may have the vehicle inspected by any person authorized by DOT to conduct salvage vehicle inspections. If the inspector determines that the vehicle meets state vehicle equipment standards for the vehicle's year of original manufacture, the inspector must issue a certificate of inspection so stating and DOT must accept this certificate and register the vehicle.

This bill also changes the eligibility requirements for registering former military vehicles as collector vehicles. Instead of limiting registration to the four specific types of military vehicles listed in 1) to 4) above, the bill allows any former

military vehicle to be registered as a collector vehicle, subject to the same requirements applicable to other collector vehicles. For purposes of collector vehicle registration, the bill defines a "former military vehicle" as a motor vehicle, including a motorcycle but excluding a tracked vehicle, that was manufactured for use in any country's military forces.

The bill also modifies an eligibility requirement for registering any collector vehicle, whether it is a former military vehicle or not. Under current law, a motor vehicle, other than a former military vehicle, may only be registered as a collector vehicle if it has not been altered or modified from original manufacturers specifications. Under this bill, a motor vehicle, including a former military vehicle, may only be registered as a collector vehicle if it has not been *substantially* altered or modified from original manufacturers specifications.

This bill does not change the authorization provided in 2009 Wisconsin Act 135 to register former military vehicles under the special registration category of historic military vehicles.

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.** 341.068 of the statutes is created to read:

2 **341.068 Requirement that department register vehicles; vehicle**
3 **inspections.** (1) The department shall register any motor vehicle for which the
4 department receives a complete and proper application, unless registration of the
5 vehicle is prohibited for any reason specified in s. 341.10 or the vehicle is identified
6 in ss. 341.055 to 341.058. Registration shall be appropriate to the vehicle class and
7 type and may not include any operating or special use restrictions except as
8 specifically authorized and described in this chapter.

9 (2) If the department refuses registration of a vehicle based on vehicle
10 requirements, including equipment or condition of the vehicle or documentation
11 relating to the vehicle, the applicant for registration may have the vehicle inspected
12 by any person authorized to conduct inspections under s. 342.07. If the inspector
13 determines that the vehicle meets vehicle equipment standards under ch. 347 and

1 rules promulgated under ch. 347 for the vehicle's year of original manufacture, the
2 inspector shall issue a certificate of inspection so stating and the department shall
3 accept this certificate and register the vehicle.

4 **SECTION 2.** 341.10 (6) and (6m) of the statutes are repealed.

5 **SECTION 3.** 341.266 (1) (ag) of the statutes is created to read:

6 341.266 (1) (ag) "Former military vehicle" means a motor vehicle, including a
7 motorcycle but excluding a tracked vehicle, that was manufactured for use in any
8 country's military forces.

9 **SECTION 4.** 341.266 (1) (am) of the statutes is renumbered 341.266 (1) (d) and
10 341.266 (1) (d) (intro.) and 3., as renumbered, are amended to read:

11 341.266 (1) (d) (intro.) "~~Former~~ Specially exempted former military vehicle"
12 means any of the following former military vehicles if the vehicle is at least 25 years
13 old:

14 3. A high-mobility multipurpose wheeled vehicle originally manufactured for
15 use by the U.S. military forces and commonly known by the name of "Humvee" that,
16 notwithstanding par. ~~(am)~~ (d) (intro.), is at least 22 years old.

17 **SECTION 5.** 341.266 (1) (c) (intro.) and 2. of the statutes are consolidated,
18 renumbered 341.266 (1) (c) and amended to read:

19 341.266 (1) (c) "Special interest vehicle" means ~~any of the following:~~ ~~2. A~~ a
20 motor vehicle, including a former military vehicle, of any age which has not been
21 substantially altered or modified from original manufacturers specifications and,
22 because of its historic interest, is being preserved by hobbyists.

23 **SECTION 6.** 341.266 (1) (c) 1. of the statutes is repealed.

24 **SECTION 7.** 341.266 (2) (a) of the statutes is amended to read:

1 341.266 (2) (a) Any person who is the owner of a special interest vehicle that
2 ~~is a former military vehicle, or that is not a former military vehicle~~ and is 20 or more
3 years old at the time of making application for registration or transfer of title of the
4 vehicle, and who, unless the owner is an historical society that is exempt from federal
5 income taxes, owns, has registered in this state, and uses for regular transportation
6 at least one vehicle that has regular registration plates may upon application
7 register the vehicle as a special interest vehicle upon payment of a fee under par. (b).
8 ~~A former military vehicle may be registered under this paragraph notwithstanding~~
9 ~~s. 341.10 (6).~~

10 **SECTION 8.** 341.266 (2) (e) 2. [✓] of the statutes is amended to read:

11 341.266 (2) (e) 2. Trucks may not haul material weighing more than 500
12 pounds, not including the weight of a camper, lid or cap that is mounted on the truck
13 or the weight of any persons or pets riding within the driver's compartment, unless
14 the truck is a specially exempted former military vehicle. [✓]

15 **SECTION 9.** 341.269 (5) of the statutes is amended to read:

16 341.269 (5) Unless inconsistent with this section ~~or s. 341.10 (6)~~, the provisions
17 applicable to other motor vehicles apply to vehicles registered under this section as
18 historic military vehicles.

19 **SECTION 10. Initial applicability.**

20 (1) This act first applies to applications for registration received by the
21 department of transportation on the effective date of this subsection.

22 **SECTION 11. Effective date.**

23 (1) This act takes effect on the first day of the 3rd month beginning after
24 publication.

25 (END)

D-Note

2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3267/P4ins
ARG:.....

1

2

INSERT ANAL-A:

(no #) the provisions of a certain section of the National Traffic and Motor Vehicle
Safety Act of 1966, as amended

3

4

INSERT ANAL-B:

(no #) the provisions of a certain section of the National Traffic and Motor Vehicle
Safety Act of 1966, as amended

5

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

LRB-3267/P4dn

ARG:...

kgf

Date

ATTN: Regina Kolbow

The attached draft does not make any changes to the text of the bill and makes three changes to the analysis in the locations requested. This draft eliminates the sentence requested to be removed and modifies the other two sentences to track the statutory language.

If this draft meets with your approval, please let me know and I will convert it to an introducible "/1."

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

**DRAFTER'S NOTE
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LRB-3267/P4dn
ARG:kjf:jm

February 1, 2012

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State of Wisconsin
2011 - 2012 LEGISLATURE

in
2/3



LRB-3267/11

ARG:kjf/jm

TODAY

Stay RMR

2/3 the Rachel - wants /1

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

No changes

SA

Refer

1 AN ACT *to repeal* 341.10 (6) and (6m) and 341.266 (1) (c) 1.; *to renumber and*
 2 *amend* 341.266 (1) (am); *to consolidate, renumber and amend* 341.266 (1)
 3 (c) (intro.) and 2.; *to amend* 341.266 (2) (a), 341.266 (2) (e) 2. and 341.269 (5);
 4 and *to create* 341.068 and 341.266 (1) (ag) of the statutes; **relating to:**
 5 registration of motor vehicles by the Department of Transportation.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Transportation (DOT) must refuse registration of a vehicle under specified circumstances, including all of the following: 1) the applicant for registration has not paid the applicable registration fees; 2) with an exception for leased vehicles, the applicant has not been issued, and is not entitled to, a valid certificate of title for the vehicle; 3) the vehicle is exempt from registration and is not eligible for optional registration; 4) with an exception for former military vehicles eligible for a specific type of registration, the vehicle is originally designed and manufactured for off-highway operation unless the vehicle meets the provisions of a certain section of the National Traffic and Motor Vehicle Safety Act of 1966, as amended; 5) with an exception for former military vehicles eligible for a specific type of registration, the vehicle was manufactured for use in any country's military forces and does not meet federal motor vehicle safety standards; and 6) the applicant has failed to furnish information or documents required by law or by DOT under authority of law.

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but are subject to operating restrictions. Under this registration category, a "former military vehicle" is a vehicle that was manufactured for use in any country's military forces and is maintained to accurately represent its military design and markings, regardless of the vehicle's size or weight. A former military vehicle may be registered as a "historic military vehicle" if it is at least 25 years old and has been imported into the United States from another country or if it has not been imported and is of any age. DOT must issue for the vehicle special plates showing it is registered as a historic military vehicle. It is the applicant's burden to show that a vehicle is eligible for registration as a historic military vehicle. A vehicle may be registered as a historic military vehicle even if the vehicle was originally designed and manufactured for off-highway operation and does not meet federal motor vehicle safety standards. A vehicle registered as a historic military vehicle may only be used for special occasions such as display and parade purposes, including traveling to and from such events, and for necessary testing, maintenance, and storage purposes.

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22 publication.

23 (END)

Godwin, Gigi

From: Kolbow, Regina
Sent: Tuesday, February 07, 2012 2:39 PM
To: LRB.Legal
Subject: Draft Review: LRB 11-3267/1 Topic: Vehicle registration; former military vehicles

Please Jacket LRB 11-3267/1 for the SENATE.