

2013 DRAFTING REQUEST

Bill

Received: **8/22/2013** Received By: **agary**
Wanted: **As time permits** Same as LRB:
For: **Dale Kooyenga (608) 266-9180** By/Representing: **Bill Neville**
May Contact: Drafter: **agary**
Subject: **Transportation - driver licenses** Addl. Drafters:
Extra Copies: **EVM**

Submit via email: **YES**
Requester's email: **Rep.Kooyenga@legis.wisconsin.gov**
Carbon copy (CC) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Contracts for driver improvement courses; forwarding conviction records to DOT

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 9/23/2013			_____			
/P1	agary 10/3/2013	kfollett 9/27/2013	jfrantze 9/27/2013	_____	lparisi 9/27/2013		State S&L
/1		kfollett 10/3/2013	jfrantze 10/4/2013	_____	sbasford 10/4/2013	rose 2/7/2014	State S&L

FE Sent For:

02-07-2014
(1/1")

see
attached

<END>

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11/5/13
10/13
[Handwritten signatures and initials]
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/?	agary	1P/15f 9/27		9/27			

FE Sent For:

<END>

Gary, Aaron

From: Rep. Kooyenga
Sent: Thursday, August 22, 2013 9:30 AM
To: Gary, Aaron
Subject: Legislation Draft Request

Aaron,

Rep Kooyenga would like to draft legislation dealing with driver safety training. I have attached some language that pertains to the bill. If you have any questions please give me a call.



DriverImprovem...

Bill Neville
Research Assistant
Office of State Representative Dale Kooyenga
14th Assembly District
321 East, State Capitol
608-266-9180

8/22
He from Bill - left VM

- driver improvement program
- set points knocked off if you complete the program

MODEL DRIVER IMPROVEMENT PROGRAM LANGUAGE

(1) Under this section, a person convicted of a non-criminal minor traffic violation shall be eligible to attend a basic driver improvement program which upon successful completion shall result in deferred adjudication of the violation, provided however, the violator has paid the fine associated with the citation and any additional fees imposed by the court. A violator shall have 60 days from the date on the citation to complete a basic driver improvement course for deferred adjudication.

(2) The department shall develop the basic driver improvement curriculum requirements which shall consist of not less than 6 hours of instruction. The curriculum shall include course content designed to promote safety, driver awareness, crash avoidance techniques, and other criteria to improve driver performance from a safety viewpoint, including promoting motorcyclist, bicyclist, and pedestrian safety and risk factors resulting from driver attitude and irresponsible driver behaviors, such as speeding, running red lights and stop signs, and using electronic devices while driving.

(3) A court shall inform an individual, who is eligible under subsection (1), of their option to attend a basic driver improvement course. Upon notice of a hearing date, the court shall provide the individual the location of the basic driver improvement course, and inform the individual of the manner and time within which the individual is required to attend and complete a basic driver improvement course to qualify for deferred adjudication. This may be accomplished by providing an internet website link in addition to a toll free phone number to the department or its contracted vendor.

(4) An individual is not eligible to take a basic driver improvement course if any of the following apply:

(a) The violation occurred while the individual was operating a commercial motor vehicle or was licensed as a commercial driver while operating a noncommercial motor vehicle at the time of the offense.

(b) The violation is a criminal offense.

(c) The violation is a violation for which 4 or more points may be assessed under section XXX.

(d) The violation is a violation of section XXX, XXX, or XXX.

(e) The individual was cited for more than 1 moving violation arising from the same incident.

(f) The individual's license was suspended under section XXX in connection with the violation.

(g) The individual successfully completed a basic driver improvement course for an eligible violation within the previous 18 months.

(h) The individual's operator's or chauffeur's license is restricted, suspended, or revoked, or the individual was not issued an operator's or chauffeur's license.

(5) The individual is not eligible to take a driver improvement course for a second or subsequent violation an individual receives within the 60-day period allowed under subsection (1).

(6) The department shall maintain a computerized database of individuals who have successfully completed a basic driver improvement course.

(7) The database maintained under subsection (6) shall only be used for determining eligibility under subsections (3), (4) and (5). The department shall only make the information contained in the database available to a contracted vendor under subsection (8). Information in this database concerning an individual shall be maintained for the life of that individual.

(8) The department may contract with a third party course vendor for the development, delivery and administration of the basic driver improvement program and the statewide eligibility database. A qualified course vendor must:

(a) Provide evidence that the successful completion of its basic driver improvement course is effective in reducing collisions, moving violations, or both for students completing its course. The department may require a contracted vendor to conduct ongoing effectiveness studies on each of the course delivery modalities employed by the vendor in this state. The department shall make all of the following information available to the contracted vendor for that purpose, subject to applicable state and federal laws governing the release of information: The number and type of moving violations committed by individuals after successfully completing a basic driver improvement course under this section in comparison to the number and type of moving violations committed by individuals who have not taken a basic driver improvement course.

(b) Develop and maintain the statewide eligibility database.

(c) Provide the basic driver improvement course through in person instruction or alternative delivery methods of instruction, including internet and video-based delivery.

(d) Electronically submit DIP completion data directly to the courts.

(9) An individual shall be charged a fee of not more than \$100.00 by a contracted course vendor to participate in a basic driver improvement course and, if applicable, to obtain a certificate in a form as approved by the department demonstrating that he or she successfully completed the course. A contracted course vendor shall remit a portion of the fee, as determined annually by the department, to cover the costs of implementing and administering this program.

(10) Fees remitted to the department under subsection (9) by a contracted course vendor shall be credited to the basic driver improvement course fund created under subsection (11).

(11) The basic driver improvement course fund is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. The department shall be the administrator of the fund for auditing purposes. The department shall expend money from the fund, upon appropriation, only to pay the costs of administering this section.

SALIENT POINTS:

- The role of the department is to develop curriculum criteria and to contract with a course vendor.
- Course vendor shall develop and maintain the statewide eligibility database.
- Courts notify violators of the option to participate in the driver improvement program (DIP).
- Course vendor shall electronically report successful completions directly to individual courts.
- Violators have 60 days from the date of the citation to complete the DIP.
- The only compensation paid to course vendor is the enrollment fee paid directly to the vendor by persons enrolling in the DIP.
- Course vendor submits a portion of the fee to the department to offset administrative costs.
- An individual is only eligible to participate in a DIP once every 18 months.
- Persons cited for major/criminal violations are not eligible to participate.
- Persons holding commercial licenses are not eligible to participate.
- Successful completion of the DIP results in deferred adjudication of the citation. A conviction is not recorded with the department.

Gary, Aaron

From: Rep.Kooyenga
Sent: Tuesday, September 10, 2013 10:31 AM
To: Gary, Aaron
Subject: RE: Legislation Draft Request

1. Aaron,

1 - Yes, the draft should apply to any traffic violations that are not crimes (for which the penalty is a forfeiture.)

2. 2 - The program we are contemplating would address the points at the court level only, through a deferred adjudication process. The intent is for the court to dispose of any citation for which the violator pays all court fees (fines associated with the citation) and also completes the 6 hour driver improvement program by the court assigned due date. The outcome is that the court would never report the conviction to the DOT, hence the points never appear on the driver record abstract. DOT never gets involved in the process.

3. 3 - Because the violator has the option to pay the fine based on the citation, a notice would need to be provided either on the citation itself, or via a separate instructional card provided by the officer issuing the citation.

Note: Based on conversations with DOT, the draft would also place the responsibility of building and maintaining the participation eligibility database with the contracted vendor. The vendor would track all participation and eligibility on behalf of the courts and DOT – inclusive of frequency and citation eligibility.

I hope this answers your questions. Please call or email for additional clarification. Thank you for your time.

Bill Neville
Research Assistant
Office of State Representative Dale Kooyenga
14th Assembly District
321 East, State Capitol
608-266-9180

From: Gary, Aaron
Sent: Friday, September 06, 2013 3:08 PM
To: Rep.Kooyenga
Subject: RE: Legislation Draft Request

Hi Bill,

The "model" materials provided are not a good fit with Wisconsin statutes, so they will be of some help but the language of the draft will differ significantly and will not simply be a "cut and paste" job. I do have a few questions.

1. The materials refer to "non-criminal minor traffic violations". It seems that "non-criminal" and "minor" are used redundantly in the materials and intended to mean the same thing. I will assume that you want the draft to apply to any traffic violations that are not crimes (ie violations for which the penalty is a forfeiture). If you think there are non-crime violations that are serious and not minor, then I'll need to know exactly which traffic violations this draft is intended to apply to.
2. Your voice mail indicated the purpose of the draft is to allow violators to take the course and avoid getting "points" on their driving record. I could prepare the draft to accomplish only this goal. However, the materials provided were broader. In addition to the "no points" benefit of taking the course, the materials "mask" the offense so that, for example, if the person committed the same violation later he/she would not

have a prior conviction on his/her record that would increase the forfeiture amount for the subsequent offense. (It also would not show up in DOT's records for insurance premium/underwriting purposes, etc.) Do you want the draft to only focus on "points" or do you also want to "mask" the offense (so it does not appear in DOT's records)?

3. The materials provided include a requirement that the court inform the offender of the course. Most traffic violations result in a citation that is paid and the offender never appears in court. Including the court notice requirement would seem to have only a minor effect unless you also require the citation (or the officer issuing the citation) to advise of the availability of the course (which may increase the fiscal effect).

Please let me know how I should proceed on these issues.

Thanks. Aaron

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

From: Rep.Kooyenga
Sent: Thursday, August 22, 2013 9:30 AM
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Aaron,

Rep Kooyenga would like to draft legislation dealing with driver safety training. I have attached some language that pertains to the bill. If you have any questions please give me a call.

<< File: DriverImprovementProgramLanguage.pdf >>

Bill Neville
Research Assistant
Office of State Representative Dale Kooyenga
14th Assembly District
321 East, State Capitol
608-266-9180

Gary, Aaron

From: Rep.Kooyenga
Sent: Thursday, September 19, 2013 9:29 AM
To: Gary, Aaron
Subject: RE: Legislation Draft Request

Aaron,

1. 1. Yes, this would be the date for the traffic violator's initial appearance in court. The 60 day timeline is no longer relevant.
2. 2. DOT would be the appropriate contracting entity. They already contract for an "advanced" driver improvement program, for repeat offenders at risk of losing their license. They are also the licensing entity for the "Failure to Yield" course and all driver education programs. We estimate that DOT (funding) requirements would need to cover .5 FTE to administer the program.

Bill Neville
Research Assistant
Office of State Representative Dale Kooyenga
14th Assembly District
321 East, State Capitol
608-266-9180

From: Gary, Aaron
Sent: Thursday, September 12, 2013 3:11 PM
To: Rep.Kooyenga
Subject: RE: Legislation Draft Request

Thanks Bill. Couple of follow ups:

1. Regarding the "court assigned due date" in red below, this would be the date for the traffic violator's initial appearance in court, right? In other words, the date by which a person must presently pay the ticket or appear in court. (Also, the initial instructions suggested this date must be at least 60 days after the date the ticket is issued. Is that still the intent?)
2. Will it still be DOT that enters into the contract with the private vendor? Or do you want DOA or the court system to enter into the contract on behalf of the state? Also, if DOT isn't going to be doing anything (except maybe entering into a contract), I assume I can ignore that part of the initial instructions that would have directed money to DOT, right?

Thanks. Aaron

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3. 3 - Because the violator has the option to pay the fine based on the citation, a notice would need to be provided either on the citation itself, or via a separate instructional card provided by the officer issuing the citation.

Note: Based on conversations with DOT, the draft would also place the responsibility of building and maintaining the participation eligibility database with the contracted vendor. The vendor would track all participation and eligibility on behalf of the courts and DOT – inclusive of frequency and citation eligibility.

I hope this answers your questions. Please call or email for additional clarification. Thank you for your time.

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offense. (It also would not show up in DOT's records for insurance premium/underwriting purposes, etc.) Do you want the draft to only focus on "points" or do you also want to "mask" the offense (so it does not appear in DOT's records)?

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Research Assistant
Office of State Representative Dale Kooyenga
14th Assembly District
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soon

in 9/23



ef

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

PB

Gen

- 1 **AN ACT ...; relating to:** requiring the Department of Transportation to contract
- 2 for driver improvement course services, forwarding by courts of traffic violation
- 3 convictions, and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, whenever a person is convicted of a traffic violation, the court must, within five working days, forward the record of conviction to the Department of Transportation (DOT). DOT must then enter the conviction in the person's operating record maintained by DOT.

This bill requires DOT to contract with a vendor to develop and administer a driver improvement course and computerized database related to the course. Under the bill, with exceptions, a person issued a citation for violating a traffic regulation is eligible to attend the driver improvement course. A traffic regulation is a traffic law for which the penalty for a violation is a civil forfeiture. The citation for violating a traffic regulation, or a card provided by the traffic officer issuing the citation, must advise the person to whom it is issued of certain information relating to the opportunity to take a driver improvement course. If a person successfully completes a driver improvement course prior to the date scheduled for the person's initial court appearance or, if no such date is scheduled, not later than 60 days after the date of the violation, the provider of the driver improvement course must send a notice of successful completion of the course to the court having jurisdiction over the citation. Upon receiving this notice, a court may not forward to DOT a record of conviction for the traffic regulation violation.

Under the bill, a person is not eligible to take a driver improvement course under specified circumstances, including the following: 1) the violation occurred

while the person held a commercial driver license or was operating a commercial motor vehicle; 2) the violation is one for which DOT may assess at least four demerit points or for which operating privilege suspension or revocation is mandatory; 3) the person completed a driver improvement course within the previous 18 months; or 4) the person was issued a citation for another traffic regulation violation within the previous 60 days.

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

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

1 SECTION 1. 20.395 (5) (fr) of the statutes is created to read:

2 20.395 (5) (fr) *Driver improvement courses, state funds.* All moneys received
3 under s. 345.62 (2) (d) for the purpose of administering s. 345.62.

4 SECTION 2. 343.28 (1) and (2) of the statutes are amended to read:

5 343.28 (1) ~~Whenever~~ Except as provided in s. 345.48 (5), whenever a person is
6 convicted of a moving traffic violation under chs. 341 to 349 or under a local ordinance
7 enacted under ch. 349, the clerk of the court in which the conviction occurred, or the
8 justice, judge or magistrate of a court not having a clerk, shall, as provided in s.
9 345.48, forward to the department the record of such conviction. The record of
10 conviction forwarded to the department shall state whether the offender was
11 involved in an accident at the time of the offense, whether the offender was operating
12 a commercial motor vehicle at the time of the offense and, if so, whether the offender
13 was transporting hazardous materials requiring placarding or any quantity of a
14 material listed as a select agent or toxin under 42 CFR 73, or was operating a vehicle
15 designed to carry, or actually carrying, 16 or more passengers, including the driver.
16 Whenever a person is convicted of exceeding a posted speed limit, the record of
17 conviction forwarded to the department shall include the number of miles per hour
18 in excess of the posted speed limit.

1 (2) Whenever a person is convicted of any offense for which s. 343.31 makes
2 mandatory the revocation by the secretary of such person's operating privilege, the
3 court in which the conviction occurred may require the surrender to it of any license
4 then held by such person. If the court requires surrender of a license, the court shall
5 destroy the license. The Except as provided in s. 345.48 (5), the clerk of the court,
6 or the justice, judge or magistrate if the court has no clerk, shall, as provided in s.
7 345.48, forward to the department the record of conviction, which shall state whether
8 the offender was involved in an accident at the time of the offense, whether the
9 offender was operating a commercial motor vehicle at the time of the offense and, if
10 so, whether the offender was transporting hazardous materials requiring placarding
11 or any quantity of a material listed as a select agent or toxin under 42 CFR 73, or was
12 operating a vehicle designed to carry, or actually carrying, 16 or more passengers,
13 including the driver.

History: 1971 c. 278; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 273; 1979 c. 331; 1989 a. 105; 1995 a. 113; 1999 a. 140; 2003 a. 33; 2009 a. 103.

14 **SECTION 3.** 345.11 (2r) of the statutes is created to read:

15 345.11 (2r) (a) Except as provided in par. (b), in addition to the information
16 required under subs. (2) and (2m), each uniform traffic citation shall advise the
17 person to whom the citation is issued of all of the following:

18 1. That the person may have the option of attending a driver improvement
19 course under s. 345.62.

20 2. That there may be advantages to the person in attending a driver
21 improvement course, as well as the deadline by which the course must be
22 successfully completed to gain these advantages.

23 3. A toll-free telephone number and Internet site address through which the
24 person can obtain further information about attending a driver improvement course.

1 (b) The information in par. (a) is not required to be included on a uniform traffic
2 citation if the traffic officer issuing the uniform traffic citation provides to the person
3 to whom the citation is issued a card that contains all of the information in par. (a).

4 **SECTION 4.** 345.48 (1m) and (2) of the statutes are amended to read:

5 **345.48 (1m)** If Except as provided in sub. (5), if the defendant is found guilty
6 the court shall, within 5 working days, forward to the department the record of such
7 conviction.

8 **(2)** If the defendant is found guilty of a traffic violation for which revocation of
9 his or her operating privilege is mandatory under s. 343.31, or for which the court
10 revokes or suspends his or her operating privilege under s. 343.30, the court may take
11 possession of the suspended or revoked license. If the court takes possession of a
12 license, it shall destroy the license. The revocation or suspension is effective
13 immediately. The court ordered suspension or revocation shall be included as part
14 of the report of conviction under sub. (1m) except that, if the record of conviction may
15 not be forwarded to the department under sub. (5), the court ordered suspension or
16 revocation shall be separately forwarded to the department.

17 **History:** 1971 c. 278; 1977 c. 29 s. 1654 (7) (a); 1983 a. 304; 1985 a. 135 s. 85; Sup. Ct. Order, 146 Wis. 2d xiii (1975); 1991 a. 39; 1993 a. 16; 2005 a. 155; 2009 a. 103.

17 **SECTION 5.** 345.48 (5) of the statutes is created to read:

18 **345.48 (5)** Upon receiving a notice provided under s. 345.62 (4), a court may not
19 forward to the department a record of conviction for the traffic regulation violation
20 identified in the notice.

21 **SECTION 6.** 345.62 of the statutes is created to read:

22 **345.62 Contracts for driver improvement course services.** (1) In this
23 section, "traffic regulation" has the meaning given in s. 345.20 (1) (b).

1 (2) The department shall contract with a vendor to develop and administer the
2 driver improvement course and database under this section. The contract shall
3 require the vendor to do all of the following:

4 (a) Develop the driver improvement course curriculum and requirements. The
5 course shall consist of not less than 6 hours of instruction. The curriculum shall be
6 designed to improve driver safety, to teach accident avoidance techniques, and to
7 promote driver awareness, including awareness of risks associated with poor driver
8 attitude and irresponsible driver behavior such as speeding, failing to stop at red
9 lights and stop signs, and using electronic devices while driving.

10 (b) Develop and maintain a computerized statewide database that includes
11 identification of persons who have successfully completed a driver improvement
12 course and information relating to eligibility for a driver improvement course. This
13 database may be used only for the purposes of this section. Information in this
14 database concerning a person shall be maintained for the life of that person.

15 (c) Provide driver improvement courses following the curriculum and
16 requirements under par. (a). These courses may be delivered through in-person
17 instruction or through alternative methods, including by means of the Internet.

18 (d) Authorize the vendor to charge a fee of not more than \$100 per person for
19 participation in a driver improvement course and, if applicable, a certificate of
20 successful course completion. The contract shall also specify the portion of this fee,
21 if any, that the vendor must retain and remit annually to the department for the
22 department's administrative costs associated with this section. All moneys received
23 by the department under this paragraph shall be credited to the appropriation under
24 s. 20.395 (5) (fr).

1 (e) Establish and maintain a toll-free telephone number and Internet site
2 address through which a person can obtain information about eligibility for a driver
3 improvement course and scheduling attendance at a driver improvement course.

4 (3) (a) Except as provided in par. (b), a person issued a citation for a traffic
5 regulation is eligible to attend a driver improvement course under this section.

6 (b) A person is not eligible under par. (a) if any of the following applies:

7 1. The violation occurred while the person was operating a commercial motor
8 vehicle or was operating any other motor vehicle and held a commercial driver
9 license at the time of the violation.

10 2. The violation is a violation for which the department may assess 4 or more
11 demerit points under s. 343.32 (2) and the rules adopted under s. 343.32 (2).

12 3. The citation was issued to the person for violating 2 or more traffic
13 regulations arising from the same incident or occurrence.

14 4. The violation for which the citation is issued is one that requires suspension
15 or revocation of the person's operating privilege under s. 343.30 or 343.31.

16 5. At the time of the violation, the person did not hold a valid operator's license
17 for the class or type of vehicle being operated.

18 6. Within the 18-month period immediately preceding the violation for which
19 the citation is issued, the person successfully completed a driver improvement
20 course.

21 7. Within the 60-day period immediately preceding the violation for which the
22 citation is issued, the person was issued a prior citation for violation of a traffic
23 regulation.

24 (4) If a person convicted of a traffic regulation successfully completes a driver
25 improvement course under this section prior to the date scheduled for the person's

1 initial court appearance for the violation or, if no such date is scheduled, not later
2 than 60 days [✓] after the date of the violation, the vendor providing the driver
3 improvement course shall send a notice of successful completion of the course to the
4 court having jurisdiction over the citation. Whenever possible, the notice shall be
5 provided electronically.

6 **SECTION 7. Effective dates.** This act takes effect on the first day of the 13th
7 month ^{beginning} after publication, except as follows:

8 (1) The treatment of sections 20.395 (5) (fr) [✓] and 345.62 (1) ^{✓ ✓ ✓} and (2) of the statutes
9 takes effect on the first day of the 7th month beginning after publication.

10

(END)

A-Note

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

LRB-2977/P1dn

ARG:...

Date

kgf

ATTN: Bill Neville

Please review the attached draft carefully to ensure that it is consistent with your intent.

This draft includes an appropriation that provides some funding to DOT. The draft does not specifically increase authorized DOT positions. DOT could request an increase in authorized positions from the Joint Committee on Finance or I could add a provision to this draft that increases DOT's positions by 0.5 FTE. Please advise if you would like such a provision added to the draft.

I'm not sure how you would like the phase-in of this draft to work. DOT will first need to enter into a contract with a vendor. The vendor must then create a course curriculum and develop a database. This draft gives DOT approximately six months to enter into the contract and then gives the vendor approximately six months to develop the curriculum and database. Please advise if this timeline is not consistent with your intent.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "1" draft.

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

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

LRB-2977/P1dn
ARG:kjf:jf

September 27, 2013

ATTN: Bill Neville

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

Gary, Aaron

From: Rep. Kooyenga
Sent: Thursday, October 03, 2013 9:32 AM
To: Gary, Aaron
Subject: LRB 2977/P1

Aaron,

Rep Kooyenga would like you to strike out lines 21-23 of page 6 of LRB 2977/P1. The text is under (3)(b)(7) beginning with the words, "Within the 60-day..." and ending with, "traffic regulation."

Thank you for your time.

Bill Neville
Research Assistant
Office of State Representative Dale Kooyenga
14th Assembly District
321 East, State Capitol
608-266-9180

10/3
A/c from Bill Neville - VM msg.
• wants /1



in
10/3



LRB-2977/1
ARG:kjf:jf

needed
by 10/4

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

only changes - pp. 2, 6

Regen

1 AN ACT ~~to amend~~ 343.28 (1) and (2) and 345.48 (1m) and (2); and **to create**
2 20.395 (5) (fr), 345.11 (2r), 345.48 (5) and 345.62 of the statutes; **relating to:**
3 requiring the Department of Transportation to contract for driver improvement
4 course services, forwarding by courts of traffic violation convictions, and
5 making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, whenever a person is convicted of a traffic violation, the court must, within five working days, forward the record of conviction to the Department of Transportation (DOT). DOT must then enter the conviction in the person's operating record maintained by DOT.

This bill requires DOT to contract with a vendor to develop and administer a driver improvement course and computerized database related to the course. Under the bill, with exceptions, a person issued a citation for violating a traffic regulation is eligible to attend the driver improvement course. A traffic regulation is a traffic law for which the penalty for a violation is a civil forfeiture. The citation for violating a traffic regulation, or a card provided by the traffic officer issuing the citation, must advise the person to whom it is issued of certain information relating to the opportunity to take a driver improvement course. If a person successfully completes a driver improvement course prior to the date scheduled for the person's initial court appearance or, if no such date is scheduled, not later than 60 days after the date of the violation, the provider of the driver improvement course must send a notice of

successful completion of the course to the court having jurisdiction over the citation. Upon receiving this notice, a court may not forward to DOT a record of conviction for the traffic regulation violation.

Under the bill, a person is not eligible to take a driver improvement course under specified circumstances, including the following: 1) the violation occurred while the person held a commercial driver license or was operating a commercial motor vehicle; 2) the violation is one for which DOT may assess at least four demerit points or for which operating privilege suspension or revocation is mandatory; 3) the person completed a driver improvement course within the previous 18 months; or 4) ~~the person was issued a citation for another traffic regulation violation within the previous 60 days.~~ ^{or}

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

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

SECTION 1. 20.395 (5) (fr) of the statutes is created to read:

20.395 (5) (fr) *Driver improvement courses, state funds.* All moneys received under s. 345.62 (2) (d) for the purpose of administering s. 345.62.

SECTION 2. 343.28 (1) and (2) of the statutes are amended to read:

343.28 (1) ~~Whenever~~ Except as provided in s. 345.48 (5), whenever a person is convicted of a moving traffic violation under chs. 341 to 349 or under a local ordinance enacted under ch. 349, the clerk of the court in which the conviction occurred, or the justice, judge or magistrate of a court not having a clerk, shall, as provided in s. 345.48, forward to the department the record of such conviction. The record of conviction forwarded to the department shall state whether the offender was involved in an accident at the time of the offense, whether the offender was operating a commercial motor vehicle at the time of the offense and, if so, whether the offender was transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73, or was operating a vehicle designed to carry, or actually carrying, 16 or more passengers, including the driver.

1 Whenever a person is convicted of exceeding a posted speed limit, the record of
2 conviction forwarded to the department shall include the number of miles per hour
3 in excess of the posted speed limit.

4 (2) Whenever a person is convicted of any offense for which s. 343.31 makes
5 mandatory the revocation by the secretary of such person's operating privilege, the
6 court in which the conviction occurred may require the surrender to it of any license
7 then held by such person. If the court requires surrender of a license, the court shall
8 destroy the license. The Except as provided in s. 345.48 (5), the clerk of the court,
9 or the justice, judge or magistrate if the court has no clerk, shall, as provided in s.
10 345.48, forward to the department the record of conviction, which shall state whether
11 the offender was involved in an accident at the time of the offense, whether the
12 offender was operating a commercial motor vehicle at the time of the offense and, if
13 so, whether the offender was transporting hazardous materials requiring placarding
14 or any quantity of a material listed as a select agent or toxin under 42 CFR 73, or was
15 operating a vehicle designed to carry, or actually carrying, 16 or more passengers,
16 including the driver.

17 **SECTION 3.** 345.11 (2r) of the statutes is created to read: ✓

18 345.11 (2r) (a) Except as provided in par. (b), in addition to the information
19 required under subs. (2) and (2m), each uniform traffic citation shall advise the
20 person to whom the citation is issued of all of the following:

21 1. That the person may have the option of attending a driver improvement
22 course under s. 345.62.

23 2. That there may be advantages to the person in attending a driver
24 improvement course, as well as the deadline by which the course must be
25 successfully completed to gain these advantages.

1 3. A toll-free telephone number and Internet site address through which the
2 person can obtain further information about attending a driver improvement course.

3 (b) The information in par. (a) is not required to be included on a uniform traffic
4 citation if the traffic officer issuing the uniform traffic citation provides to the person
5 to whom the citation is issued a card that contains all of the information in par. (a).

6 SECTION 4. 345.48 (1m) and (2) of the statutes are amended to read:

7 345.48 (1m) If Except as provided in sub. (5), if the defendant is found guilty
8 the court shall, within 5 working days, forward to the department the record of such
9 conviction.

10 (2) If the defendant is found guilty of a traffic violation for which revocation of
11 his or her operating privilege is mandatory under s. 343.31, or for which the court
12 revokes or suspends his or her operating privilege under s. 343.30, the court may take
13 possession of the suspended or revoked license. If the court takes possession of a
14 license, it shall destroy the license. The revocation or suspension is effective
15 immediately. The court ordered suspension or revocation shall be included as part
16 of the report of conviction under sub. (1m) except that, if the record of conviction may
17 not be forwarded to the department under sub. (5), the court ordered suspension or
18 revocation shall be separately forwarded to the department.

19 SECTION 5. 345.48 (5) of the statutes is created to read:

20 345.48 (5) Upon receiving a notice provided under s. 345.62 (4), a court may not
21 forward to the department a record of conviction for the traffic regulation violation
22 identified in the notice.

23 SECTION 6. 345.62 of the statutes is created to read:

24 **345.62 Contracts for driver improvement course services.** (1) In this
25 section, "traffic regulation" has the meaning given in s. 345.20 (1) (b).

1 (2) The department shall contract with a vendor to develop and administer the
2 driver improvement course and database under this section. The contract shall
3 require the vendor to do all of the following:

4 (a) Develop the driver improvement course curriculum and requirements. The
5 course shall consist of not less than 6 hours of instruction. The curriculum shall be
6 designed to improve driver safety, to teach accident avoidance techniques, and to
7 promote driver awareness, including awareness of risks associated with poor driver
8 attitude and irresponsible driver behavior such as speeding, failing to stop at red
9 lights and stop signs, and using electronic devices while driving.

10 (b) Develop and maintain a computerized statewide database that includes
11 identification of persons who have successfully completed a driver improvement
12 course and information relating to eligibility for a driver improvement course. This
13 database may be used only for the purposes of this section. Information in this
14 database concerning a person shall be maintained for the life of that person.

15 (c) Provide driver improvement courses following the curriculum and
16 requirements under par. (a). These courses may be delivered through in-person
17 instruction or through alternative methods, including by means of the Internet.

18 (d) Authorize the vendor to charge a fee of not more than \$100 per person for
19 participation in a driver improvement course and, if applicable, a certificate of
20 successful course completion. The contract shall also specify the portion of this fee,
21 if any, that the vendor must retain and remit annually to the department for the
22 department's administrative costs associated with this section. All moneys received
23 by the department under this paragraph shall be credited to the appropriation under
24 s. 20.395 (5) (fr).

1 (e) Establish and maintain a toll-free telephone number and Internet site
2 address through which a person can obtain information about eligibility for a driver
3 improvement course and scheduling attendance at a driver improvement course.

4 (3) (a) Except as provided in par. (b), a person issued a citation for a traffic
5 regulation is eligible to attend a driver improvement course under this section.

6 (b) A person is not eligible under par. (a) if any of the following applies:

7 1. The violation occurred while the person was operating a commercial motor
8 vehicle or was operating any other motor vehicle and held a commercial driver
9 license at the time of the violation.

10 2. The violation is a violation for which the department may assess 4 or more
11 demerit points under s. 343.32 (2) and the rules adopted under s. 343.32 (2).

12 3. The citation was issued to the person for violating 2 or more traffic
13 regulations arising from the same incident or occurrence.

14 4. The violation for which the citation is issued is one that requires suspension
15 or revocation of the person's operating privilege under s. 343.30 or 343.31.

16 5. At the time of the violation, the person did not hold a valid operator's license
17 for the class or type of vehicle being operated.

18 6. Within the 18-month period immediately preceding the violation for which
19 the citation is issued, the person successfully completed a driver improvement
20 course.

21 7. Within the 60-day period immediately preceding the violation for which the
22 citation is issued, the person was issued a prior citation for violation of a traffic
23 regulation.

24 (4) If a person convicted of a traffic regulation successfully completes a driver
25 improvement course under this section prior to the date scheduled for the person's

1 initial court appearance for the violation or, if no such date is scheduled, not later
2 than 60 days after the date of the violation, the vendor providing the driver
3 improvement course shall send a notice of successful completion of the course to the
4 court having jurisdiction over the citation. Whenever possible, the notice shall be
5 provided electronically.

6 **SECTION 7. Effective dates.** This act takes effect on the first day of the 13th
7 month beginning after publication, except as follows:

8 (1) The treatment of sections 20.395 (5) (fr) and 345.62 (2) of the statutes takes
9 effect on the first day of the 7th month beginning after publication.

10

(END)

Rose, Stefanie

From: Neville, William
Sent: Friday, February 07, 2014 12:05 PM
To: LRB.Legal
Subject: Draft Review: LRB -2977/1 Topic: Contracts for driver improvement courses; forwarding conviction records to DOT

Please Jacket LRB -2977/1 for the ASSEMBLY.

Barman, Mike

From: Gary, Aaron
Sent: Friday, February 07, 2014 1:16 PM
To: Barman, Mike
Subject: FW: Driver Safety Training Bill

Importance: High

From: Rep.Kooyenga
Sent: Friday, February 07, 2014 12:29 PM
To: Gary, Aaron
Cc: nath.yahn@dot.wisconsin.gov
Subject: FW: Driver Safety Training Bill
Importance: High

The committee clerk for Judiciary has informed Rep Kooyenga that she needs a fiscal note on LRB 2977 published by 8:59 AM, Thursday, February 13th. The bill has been jacketed and is awaiting a bill number. Thank you for your time.



Bill Neville
Research Assistant
Office of State Representative Dale Kooyenga
14th Assembly District
321 East, State Capitol
608-266-9180