

2013 DRAFTING REQUEST

Bill

Received: 9/24/2012 Received By: agary
Wanted: As time permits Same as LRB:
For: Administration-Budget By/Representing: Byrnes
May Contact: Drafter: agary
Subject: Transportation - motor vehicles Addl. Drafters:
Transportation - traffic laws Extra Copies: EVM

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

Pre Topic:

DOA:.....Byrnes, BB0252 -

Topic:

Intrastate compliance reviews for motor carriers

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>
/P1	agary 10/23/2012	scalvin 10/3/2012	rschluet 10/3/2012	_____	srose 10/3/2012		State
/P2	agary 11/26/2012	scalvin 10/24/2012	rschluet 10/24/2012	_____	srose 10/24/2012		State
/1		scalvin 11/27/2012	rschluet 11/28/2012	_____	sbasford 11/28/2012		State

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received: **9/24/2012** Received By: **agary**
Wanted: **As time permits** Companion to LRB:
For: **Transportation 267-7304** By/Representing: **Anna Richter**
May Contact: Drafter: **agary**
Subject: **Transportation - motor vehicles** Addl. Drafters:
Transportation - traffic laws Extra Copies: **EVM**

Submit via email: **YES**
Requester's email: **Anna.Richter@dot.wi.gov**
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Intrastate compliance reviews for motor carriers

Instructions:

See attached. Also per phone call w/ Anna on 9/24: Ch. 194 allows state patrol/DOT to conduct compliance reviews for interstate motor carriers. DOT exercises this authority by rule, and penalties are set based on federal law. DOT wants to expand the provision to cover intrastate carriers as well; give DOT authority to promulgate rules to cover intrastate carriers

Drafting History:

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/P1	agary 10/23/2012	scalvin 10/3/2012	10/3/2012	_____	srose 10/3/2012		State
/P2		scalvin 10/24/2012	10/24/2012	_____	srose 10/24/2012		State



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<END>

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For: **Transportation 267-7304** By/Representing: **Anna Richter**
May Contact: Drafter: **agary**
Subject: **Transportation - motor vehicles** Addl. Drafters:
Transportation - traffic laws Extra Copies: **EVM**

Submit via email: **YES**
Requester's email: **Anna.Richter@dot.wi.gov**
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

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Instructions:

See attached. Also per phone call w/ Anna on 9/24: Ch. 194 allows state patrol/DOT to conduct compliance reviews for interstate motor carriers. DOT exercises this authority by rule, and penalties are set based on federal law. DOT wants to expand the provision to cover intrastate carriers as well; give DOT authority to promulgate rules to cover intrastate carriers

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/P1	agary 10/2/2012	scalvin 10/3/2012	10/3/2012		srose 10/3/2012		State

FE Sent For: *1P2 SAC
10/24/12*

*1P2 10/24/12
SAC*

Handwritten signature and date: 10/24/12
<END>

2013 DRAFTING REQUEST

Bill

Received: **9/24/2012** Received By: **agary**
Wanted: **As time permits** Same as LRB:
For: **Administration-Budget** By/Representing: **Byrnes**
May Contact: Drafter: **agary**
Subject: **Transportation - motor vehicles** Addl. Drafters:
Transportation - traffic laws Extra Copies: **EVM**

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

Pre Topic:

DOA:.....Byrnes, BB0252 -

Topic:

Intrastate compliance reviews for motor carriers

Instructions:

See attached.

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/P1	agary 10/23/2012	scalvin 10/3/2012	rschluet 10/3/2012	_____	srose 10/3/2012		State
/P2		scalvin 10/24/2012	rschluet 10/24/2012	_____	srose 10/24/2012		State

FE Sent For: *11 Sac*
11/27/12

<END>

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Bill

Received: 9/24/2012 Received By: agary
 Wanted: As time permits Companion to LRB:
 For: Transportation 267-7304 By/Representing: Anna Richter
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 Transportation - traffic laws Extra Copies: EVM

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 Requester's email: Anna.Richter@dot.wi.gov
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Intrastate compliance reviews for motor carriers

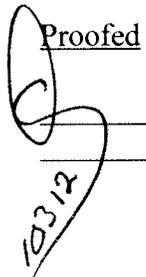
Instructions:

See attached. Also per phone call w/ Anna on 9/24: Ch. 194 allows state patrol/DOT to conduct compliance reviews for interstate motor carriers. DOT exercises this authority by rule, and penalties are set based on federal law. DOT wants to expand the provision to cover intrastate carriers as well; give DOT authority to promulgate rules to cover intrastate carriers

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/P1	agary						State

FE Sent For:



10/3/12

<END>

Gary, Aaron

To: Richter, Anna - DOT
Subject: RE: DOT Budget Drafts-State Patrol

From: Richter, Anna - DOT [<mailto:Anna.Richter@dot.wi.gov>]
Sent: Tuesday, September 25, 2012 3:34 PM
To: Gary, Aaron
Cc: Swissler, John - DOT
Subject: DOT Budget Drafts-State Patrol

One last email from me today, then that's it until next week...I promise! It really does help us organizationally to send our budget requests to you by program area instead of sending one big email request so thanks for your patience with us.

Attached are two statutory modifications to be included in our budget request that impact the Division of State Patrol. The first we discussed yesterday on the phone.

Chapter 194 provides civilian investigators with limited authority to conduct compliance reviews (review the records) of motor carriers engaged in interstate and foreign commerce (s.194.03). Section 194.11 authorizes a civilian investigator, as a duly authorized agent of the Department, to conduct on-site inspection of records of interstate and foreign commerce motor carrier records. The Department would like to expand this authorization to include intrastate motor carriers. We believe that currently there is no authorization for compliance reviews of intrastate carriers.

<< File: StatMod Intrastate CR program.docx >>

Thanks again,
Anna

**Department of Transportation
2013-15 Biennial Budget Request
STATUTORY MODIFICATIONS**

DIN NUMBER:

TOPIC: Making intrastate compliance reviews equivalent with interstate reviews

DESCRIPTION OF CHANGE:

The Department requests amending s. 194 Wis. Stats., to allow for more comprehensive inspection by the Division of State Patrol (DSP) of the records, premises or vehicles of a common motor carrier engaged in strictly intrastate movement of products and people.

This change would allow DSP to conduct compliance reviews of intrastate motor carriers identical to those currently conducted for intrastate carriers of hazardous materials as well as all interstate and international motor carriers. These compliance reviews are on-site examinations of a motor carrier's records and operations to assess the carrier's adherence to federal and state safety regulations covering drivers, vehicles and carrier operations.

Compliance reviews of intrastate carriers that do not transport hazardous materials are currently limited to confirming that a drug and alcohol program is in place, that drivers have a legal Commercial Drivers License (CDL) and a valid federal Medical card.

Compliance reviews for all other carriers consider many other factors including:

- Unsafe driving records of a carrier's drivers
- Hours of service record review of all drivers
- Fitness of all drivers in regards to training, experience, or medical issues
- Controlled substances / alcohol policies and plans for driver education and intervention
- Vehicle maintenance policies and records
- Cargo handling policies and records to prevent shifting loads, overloading, and spilled cargo
- Crash indicators including frequency and severity

Federal regulations allow state motor carrier safety agencies to investigate all these issues with all carriers, including those that operate entirely intrastate. State statute, however, limits the more extensive review to only intrastate carriers that transport hazardous materials as well as all interstate and international carriers domiciled in Wisconsin.

The following specific statutory changes are requested:

- Amend s. 194.03(1) and (2) Wis. Stats. to include motor carriers involved in intrastate commerce to be covered by this chapter.
- Amend s. 194.11 Wis. Stats. to state that, all intrastate motor carriers are subject to all safety and compliance reviews covering intrastate carriers of hazardous materials, as well as interstate and international motor carriers in the state.

JUSTIFICATION:

This proposed statutory modification will reduce fatalities and injuries for intrastate motor carriers where regulation, education and compliance require attention. The proposed change will promote program efficiency as all carriers would then be subject to the same rules; additionally, carriers would no longer need to worry about whether they can send a driver or a truck for an out-of-state delivery or pick-up. The proposed change would also address recent criticisms by the Federal Motor Carrier Safety Association of DSP's compliance reviews that they do not sufficiently review intrastate carriers. Finally, DSP managers indicate this proposed change will provide them with greater flexibility when imposing fines on intrastate carriers. Currently, if an intrastate carrier is found in violation of one of the few federal regulations

reviewed during a compliance review, DSP must impose the federally established fine. If a carrier is found in violation under state statute, however, DSP can impose lower and more flexibly applied fines.

Gary, Aaron

From: Richter, Anna - DOT <Anna.Richter@dot.wi.gov>
Sent: Monday, October 01, 2012 8:18 AM
To: Gary, Aaron
Subject: FW: DOT Budget Drafts-State Patrol

Hi Aaron,

Yes, that is our intent. Thanks!

From: Coxhead, Bernard - DOT
Sent: Friday, September 28, 2012 11:01 AM
To: Richter, Anna - DOT; McClain, Timothy A - DOT; Pabst, David - DOT
Cc: Swissler, John - DOT
Subject: RE: DOT Budget Drafts-State Patrol

The answer to the question is Yes: I also took a walk downstairs spoke with Motor Carrier Services as well to verify my thinking and to make sure we covered all the bases.

From: Richter, Anna - DOT
Sent: Thursday, September 27, 2012 3:07 PM
To: McClain, Timothy A - DOT; Pabst, David - DOT; Coxhead, Bernard - DOT
Cc: Swissler, John - DOT
Subject: FW: DOT Budget Drafts-State Patrol

Can you help answer Aaron's question?

From: Gary, Aaron [<mailto:Aaron.Gary@legis.wisconsin.gov>]
Sent: Thursday, September 27, 2012 3:06 PM
To: Richter, Anna - DOT
Subject: RE: DOT Budget Drafts-State Patrol

Hi Anna,

On the first (ch. 194) draft, if I am interpreting the instructions correctly, an intrastate common motor carrier would be required to obtain a certificate of authority under ss. 194.04, 194.20, and 194.23 and an intrastate contract motor carrier would be required to obtain a license under ss. 194.04, 194.20, and 194.34. Both would also have to comply with the insurance requirements under s. 194.41. Is this a correct description of DOT's intent?

Thanks. Aaron

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

From: Richter, Anna - DOT [<mailto:Anna.Richter@dot.wi.gov>]
Sent: Tuesday, September 25, 2012 3:34 PM



Agency Budget Draft

State of Wisconsin
2013 - 2014 LEGISLATURE

in
10/2



LRB-0140/P1

ARG:):...

sac

Seen

D-Note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT ^{do not gen} relating to: applying motor carrier regulations to motor carriers
2 operating in intrastate commerce.

Analysis by the Legislative Reference Bureau

TRANSPORTATION ✓

DRIVERS AND MOTOR VEHICLES ✓

Under current law, with limited exceptions, a person who transports passengers or property for hire by motor vehicle on the highways of this state is a common motor carrier or a contract motor carrier (motor carrier). Current law includes certain regulation of motor carriers engaged in interstate commerce. With limited exceptions, a motor carrier engaged in interstate commerce must operate under a motor carrier certificate of authority or license and must meet certain insurance requirements. Various other state laws, including laws relating to vehicle equipment and vehicle inspection, govern motor carriers engaged in interstate commerce. Federal laws, including federal motor carrier safety standards, also govern motor carriers engaged in interstate commerce. DOT has authority under state law to promulgate rules regulating the safety of interstate motor carrier operations, including rules implementing federal motor carrier safety standards.

This bill expands current law relating to motor carriers, including DOT's regulatory authority over motor carriers, to also apply to motor carriers engaged in intrastate commerce.

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.** 194.03 (title) of the statutes is amended to read:

2 **194.03** (title) ~~Interstate and foreign commerce~~ and intrastate
3 commerce.

4 History: 1977 c. 29 s. 1654 (7) (a); 1987 a. 27; 1993 a. 16.

5 **SECTION 2.** 194.03 (1) of the statutes is amended to read:

6 194.03 (1) This chapter shall apply to motor carriers engaged in interstate and
7 ~~foreign~~ commerce upon the public highways of this state, in all particulars and
8 provisions lawful under the constitution of the United States and to motor carriers
9 engaged in intrastate commerce upon the public highways of this state.

10 History: 1977 c. 29 s. 1654 (7) (a); 1987 a. 27; 1993 a. 16.

11 **SECTION 3.** 194.03 (2) of the statutes is amended to read:

12 194.03 (2) Fees and taxes provided in this chapter shall be assessed against
13 operations in interstate ~~and foreign~~ commerce and intrastate commerce and
14 collected from the carriers performing such operations, as partial compensation for
15 the use of the highways and policing of the same.

16 History: 1977 c. 29 s. 1654 (7) (a); 1987 a. 27; 1993 a. 16.

17 **SECTION 4.** 194.03 (6) of the statutes is renumbered 194.01 (6m) and amended

18 to read:

19 194.01 (6m) ~~Whenever the term "interstate~~ Interstate commerce" is used in
20 ~~this chapter it shall be interpreted as including~~ includes foreign commerce.

21 History: 1977 c. 29 s. 1654 (7) (a); 1987 a. 27; 1993 a. 16.

22 **SECTION 5.** 194.20 (title) of the statutes is amended to read:

1 **194.20 (title) Certificates and licenses for carriers in interstate and**
2 **foreign commerce and intrastate commerce.**

3 History: 1981 c. 347 ss. 47, 80 (1); 1993 a. 16.

3 **SECTION 6.** 194.20 (1) of the statutes is amended to read:

4 194.20 (1) Motor carriers operating in interstate ~~and foreign~~ commerce or
5 intrastate commerce shall obtain certificates and licenses as provided in ss. 194.23
6 and 194.34. ~~Certificates~~ These certificates and licenses ~~which involve operations in~~
7 ~~interstate and foreign commerce~~ may be denied by the department if it finds that the
8 record and experience of the applicant evinces a disposition to violate or evade the
9 laws or regulations of the state applicable to the operations proposed by the
10 applicant.

11 History: 1981 c. 347 ss. 47, 80 (1); 1993 a. 16.

11 **SECTION 9345. Initial applicability; Transportation.**

12 (1) INTRASTATE MOTOR CARRIERS. The treatment of sections 194.03 (title), (1) and
13 (2), 194.03 (6), and 194.20 (title) and (1) of the statutes first applies to motor carrier
14 operations occurring on, and fees and taxes assessed on, the effective date of this
15 subsection.

16 **SECTION 9445. Effective dates; Transportation.**

17 (1) INTRASTATE MOTOR CARRIERS. The treatment of sections 194.03 (title), (1) and
18 (2), 194.03 (6), and 194.20 (title) and (1) of the statutes takes effect on January 1,
19 2014, or on the day after publication, whichever is later.

20

(END)

D - Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0140/P1dn

ARG.:j:...

Sac

- date -

ATTN: Anna Richter

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

Section 194.03 (1), stats., provides, "This chapter shall apply to motor carriers engaged in interstate and foreign commerce upon the public highways of this state, in all particulars and provisions lawful under the constitution of the United States." My understanding is that DOT interprets this provision to mean that ch. 194 applies only to interstate motor carriers (except as otherwise expressly provided in ch. 194). This is not the only possible interpretation of s. 194.03 (1), stats., but I have relied on this interpretation in preparing the bill's analysis. Please advise if my understanding of DOT's interpretation is mistaken.

Should the second and third sentences of s. 194.04 (3), stats., be deleted?

I have not modified s. 194.03 (5m), stats. Please advise if you believe this provision should be treated.

With the changes in this bill, ch. 194 will apply to intrastate motor carriers as well as interstate motor carriers. I therefore do not believe that changes in s. 194.11, stats., are necessary. I also believe that, after enactment of this bill, s. 194.38 (1) (b), stats., in its current form, will authorize DOT to promulgate safety rules for intrastate motor carriers.

I have included a delayed effective date. Is this okay?

Please let me know if you would like any changes made to the attached draft or if you have any questions.

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-0140/P1dn
ARG:sac:rs

October 3, 2012

ATTN: Anna Richter

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

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Should the second and third sentences of s. 194.04 (3), stats., be deleted?

I have not modified s. 194.03 (5m), stats. Please advise if you believe this provision should be treated.

With the changes in this bill, ch. 194 will apply to intrastate motor carriers as well as interstate motor carriers. I therefore do not believe that changes in s. 194.11, stats., are necessary. I also believe that, after enactment of this bill, s. 194.38 (1) (b), stats., in its current form, will authorize DOT to promulgate safety rules for intrastate motor carriers.

I have included a delayed effective date. Is this okay?

Please let me know if you would like any changes made to the attached draft or if you have any questions.

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

Gary, Aaron

From: Swissler, John - DOT <John.Swissler@dot.wi.gov>
Sent: Tuesday, October 23, 2012 2:10 PM
To: Gary, Aaron
Cc: Richter, Anna - DOT; Pabst, David - DOT; Graff, Daniel A - DOT
Subject: RE: Stat Mod for Intrastate Compliance Reviews

Hi Aaron:

Wow, I think I've muddied the waters sufficiently! Sorry.

I think we were worried that "contract" and "common" were excluded, and by offering our suggestion, we ended up including them and EXCLUDING the "privates"! Good job John!

Anyway, how about if we go back to the original language; as long as the term "motor carriers" covers all 3 groups (common, contract and private), that is fine with us.

Again, sorry for the confusion.

John

From: Gary, Aaron [mailto:Aaron.Gary@legis.wisconsin.gov]
Sent: Tuesday, October 23, 2012 1:54 PM
To: Swissler, John - DOT
Cc: Richter, Anna - DOT; Pabst, David - DOT; Graff, Daniel A - DOT
Subject: RE: Stat Mod for Intrastate Compliance Reviews

Hi John,

In the text of ch. 194 and the definitions in s. 194.01, "motor carriers" seem to be broken down into three sub-categories: common motor carriers, contract motor carriers, and private motor carriers. See, e.g., 194.01, 194.07, 194.08.

In the redraft instructions below, you asked that section 2 be modified to insert "common motor carriers" and "contract motor carriers" instead of just "motor carriers." While I believe that section 2 as now written in the /p1 draft would apply to all 3 types of motor carriers, inserting the more specific "common motor carriers and contract motor carriers" by implication excludes "private motor carriers," so I believe the result of making this change is to exclude intrastate private motor carriers. That's why I asked the question and now I know this is not your intent. Therefore I think we should either leave this language as is in the /P1 draft (simply "motor carriers") or also add reference in section 2 to private motor carriers. Which of these options do you prefer?

Thanks. Aaron

From: Swissler, John - DOT [mailto:John.Swissler@dot.wi.gov]
Sent: Tuesday, October 23, 2012 1:29 PM
To: Gary, Aaron
Cc: Richter, Anna - DOT; Pabst, David - DOT; Graff, Daniel A - DOT
Subject: RE: Stat Mod for Intrastate Compliance Reviews

Hi Aaron:

Our intention is exactly the opposite! We want private motor carriers in intrastate commerce included as well.

Is there something in 194 that I'm missing that would result in what you asked about?

John

From: Gary, Aaron [<mailto:Aaron.Gary@legis.wisconsin.gov>]
Sent: Tuesday, October 23, 2012 1:06 PM
To: Swissler, John - DOT
Cc: Richter, Anna - DOT
Subject: RE: Stat Mod for Intrastate Compliance Reviews

Hi John,

Thanks for your feedback. I have made the changes and should have a revised version out to you shortly.

On item 2. below, is the intent that "private motor carriers" engaged in intrastate commerce continue to be excluded from the scope of ch. 194?

On item 4. b., I think it is OK to not delete those sentences.

On item 1., I made slight changes to the analysis, but I cannot incorporate DOT's suggested language, which is too promotional to appear in an LRB analysis.

Aaron

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

From: Swissler, John - DOT [<mailto:John.Swissler@dot.wi.gov>]
Sent: Thursday, October 18, 2012 4:10 PM
To: Gary, Aaron
Cc: Richter, Anna - DOT
Subject: Stat Mod for Intrastate Compliance Reviews

Hi Aaron:

Anna asked that I reply to you. We've met with State Patrol and OGC's Dan Graff a few times about this and the draft you sent looks great; we have just a few requests/comments:

1. In the LRB Analysis section, could the 2nd paragraph beginning "This bill expands..." be revised to the following: "This bill amends current law to apply to intrastate carriers as well, in order to equitably regulate interstate and intrastate motor carriers to include DOT's regulatory authority over all carriers conducting business with Wisconsin. This will ensure the economic considerations required for competitive and efficient

transportation services as stated in s. 194.02 and provide consistent regulatory requirements for all motor carriers in Wisconsin.”

2. In section 2 of the draft bill, could we use the terms “common motor carriers and contract motor carriers” rather than simply “motor carriers”?
3. State Patrol managers wanted to stress their wish that “interstate carriers” and “intrastate carriers” be treated as two distinct entities. They don’t want them conflated.
4. Finally, regarding your cover note to Anna with various questions:
 - a. Your understanding of DOT’s interpretation re: 194.03(1) is correct.
 - b. DSP does not believe the 2nd and 3rd sentences of 194.04(3) should be deleted. Although it is archaic language they fear unnecessarily raising points that could result in problems caused by legislative tinkering. Do you feel it should be deleted?
 - c. We agree with the points made in your paragraph addressing 194.11 and 194.38(1)(b).

Please let me know if you need anything else. Thanks Aaron.

John Swissler

Budget & Policy Analyst

Office of Policy, Budget and Finance

Wisconsin Department of Transportation

4802 Sheboygan Ave., 132-B

Madison, WI 53707-7910

Phone: (608) 266-0349

Fax: (608) 261-8626

E-mail: john.swissler@dot.wi.gov



5000



in
10/23

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Agency budget draft

common motor carrier or contract

do not gen

- 1 AN ACT *relating to*; relating to: applying motor carrier regulations to motor carriers
- 2 operating in intrastate commerce.

Analysis by the Legislative Reference Bureau

TRANSPORTATION

DRIVERS AND MOTOR VEHICLES

Under current law, with limited exceptions, a person who transports passengers or property for hire by motor vehicle on the highways ~~of this state~~ is a common motor carrier or a contract motor carrier ~~(motor carrier)~~. Current law includes certain regulation of motor carriers engaged in interstate commerce. With limited exceptions, a motor carrier engaged in interstate commerce must operate under a motor carrier certificate of authority or license and must meet certain insurance requirements. Various other state laws, including laws relating to vehicle equipment and vehicle inspection, govern motor carriers engaged in interstate commerce. Federal laws, including federal motor carrier safety standards, also govern motor carriers engaged in interstate commerce. DOT has authority under state law to promulgate rules regulating the safety of interstate motor carrier operations, including rules implementing federal motor carrier safety standards.

This bill expands current law relating to motor carriers, including DOT's regulatory authority over motor carriers, to also apply to motor carriers engaged in intrastate commerce.

sheet ANAC

Under this bill, these provisions of

interstate

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. 194.03 (title) of the statutes is amended to read:

2 **194.03 (title) Interstate ~~and foreign~~ commerce and intrastate**
3 **commerce.**

4 SECTION 2. 194.03 (1) of the statutes is amended to read:

5 194.03 (1) This chapter shall apply to motor carriers engaged in interstate and
6 ~~foreign~~ commerce upon the public highways of this state, in all particulars and
7 provisions lawful under the constitution of the United States and to motor carriers
8 engaged in intrastate commerce upon the public highways of this state.

9 SECTION 3. 194.03 (2) of the statutes is amended to read:

10 194.03 (2) Fees and taxes provided in this chapter shall be assessed against
11 operations in interstate ~~and foreign~~ commerce and intrastate commerce and
12 collected from the carriers performing such operations, as partial compensation for
13 the use of the highways and policing of the same.

14 SECTION 4. 194.03 (6) of the statutes is renumbered 194.01 (6m) and amended
15 to read:

16 194.01 (6m) ~~Whenever the term "interstate~~ "Interstate commerce" is used in
17 ~~this chapter it shall be interpreted as including~~ includes foreign commerce.

18 SECTION 5. 194.20 (title) of the statutes is amended to read:

19 **194.20 (title) Certificates and licenses for carriers in interstate and**
20 **foreign commerce and intrastate commerce.**

21 SECTION 6. 194.20 (1) of the statutes is amended to read:

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0140/P2ins
ARG:.....

INSERT ANAL:

(no ~~¶~~) and a person other than a common motor carrier or contract motor carrier that transports property on the highways by motor vehicle other than automobile or automobile and trailer is a private motor carrier (collectively motor

Gary, Aaron

From: Hanaman, Cathlene
Sent: Monday, November 26, 2012 8:18 AM
To: Gary, Aaron; Mueller, Eric
Subject: FW: Statutory Language Drafting Request - BB0252
Attachments: Maintenance and Sate Highway Rehab Def.pdf

From: Tyler.Byrnes@Wisconsin.gov [<mailto:Tyler.Byrnes@Wisconsin.gov>]
Sent: Friday, November 23, 2012 12:21 PM
To: Hanaman, Cathlene
Cc: Thornton, Scott - DOA; Frederick, Caitlin - DOA; Byrnes, Tyler - DOA
Subject: Statutory Language Drafting Request - BB0252

Biennial Budget: 2013-15

Topic: Make Intrastate Motor Carrier Compliance Reviews Equivalent with Interstate Motor Carrier Reviews

Tracking Code: BB0252

SBO Team: TLGED

SBO Analyst: Byrnes, Tyler - DOA
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Agency Acronym: WisDOT

Agency Number: 395

Priority: High

Intent:

Please prepare a draft, consistent with LRB 13-0140, that makes compliance reviews of intrastate motor carriers the same as reviews of interstate carriers. Please see Page 1 of the attached drafting instructions.

Attachments: True

Please send completed drafts to statlanguage@wisapps.wi.gov

**Department of Transportation
2013-15 Biennial Budget Request
STATUTORY MODIFICATIONS**

DIN NUMBER: 5502

TOPIC: Making intrastate compliance reviews equivalent with interstate reviews

DESCRIPTION OF CHANGE:

The Department requests amending Chapter 194 Wis. Stats., to allow for more comprehensive inspections by the Division of State Patrol (DSP) of the records, premises, or vehicles of a common motor carrier engaged in strictly intrastate movement of products and people.

This change would allow DSP to conduct compliance reviews of intrastate motor carriers identical to those currently conducted for intrastate carriers of hazardous materials as well as all interstate and international motor carriers. These compliance reviews are on-site examinations of a motor carrier's records and operations to assess the carrier's adherence to federal and state safety regulations covering drivers, vehicles, and carrier operations.

Compliance reviews of intrastate carriers that do not transport hazardous materials are currently limited to confirming that a drug and alcohol program is in place, that drivers have a legal commercial driver license, and a valid federal medical card.

In contrast, compliance reviews for all other carriers consider many other factors including:

- Unsafe driving records of a carrier's drivers
- Hours of service record review of all drivers
- Fitness of all drivers in regards to training, experience, or medical issues
- Controlled substances/alcohol policies and plans for driver education and intervention
- Vehicle maintenance policies and records
- Cargo handling policies and records to prevent shifting loads, overloading, and spilled cargo
- Crash indicators including frequency and severity

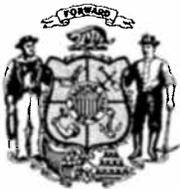
Federal regulations allow state motor carrier safety agencies to investigate these issues with all carriers, including those that operate entirely intrastate. State statute, however, limits the more extensive review to only intrastate carriers that transport hazardous materials as well as all interstate and international carriers domiciled in Wisconsin.

The following specific statutory changes are requested:

- Amend s. 194.03(1) and (2) Wis. Stats. to include motor carriers involved in intrastate commerce to be covered by this chapter.
- Amend s. 194.11 Wis. Stats. to state that all intrastate motor carriers are subject to all safety and compliance reviews covering intrastate carriers of hazardous materials, as well as interstate and international motor carriers in the state.

JUSTIFICATION:

This change will allow DSP to equitably regulate interstate and intrastate motor carriers, improving the safety of intrastate motor carriers where regulation, education and compliance require attention. The proposal will promote program efficiency as all carriers would then be subject to the same rules. The proposed change will also address recent criticisms by the Federal Motor Carrier Safety Administration regarding the adequacy of DSP intrastate carrier reviews. DSP managers indicate this proposed change will provide them with greater flexibility when imposing fines on intrastate carriers. Currently, if an intrastate carrier is found in violation of one of the few federal regulations reviewed, DSP must impose the federally established fine. Under this proposal, however, DSP can use flexibility when imposing fines.



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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

LPS: The 11 is now a budget draft.

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1 AN ACT ...; relating to: applying motor carrier regulations to motor carriers

2 operating in intrastate commerce.

Analysis by the Legislative Reference Bureau

TRANSPORTATION

DRIVERS AND MOTOR VEHICLES

Under current law, with limited exceptions, a person who transports passengers or property for hire by motor vehicle on the highways is a common motor carrier or a contract motor carrier and a person other than a common motor carrier or contract motor carrier that transports property on the highways by motor vehicle other than automobile or automobile and trailer is a private motor carrier (collectively motor carrier). Current law includes certain regulation of motor carriers engaged in interstate commerce. With limited exceptions, a common motor carrier or contract motor carrier engaged in interstate commerce must operate under a motor carrier certificate of authority or license and must meet certain insurance requirements. Various other state laws, including laws relating to vehicle equipment and vehicle inspection, govern motor carriers engaged in interstate commerce. Federal laws, including federal motor carrier safety standards, also govern motor carriers engaged in interstate commerce. DOT has authority under state law to promulgate rules regulating the safety of interstate motor carrier operations, including rules implementing federal motor carrier safety standards.

Under this bill, these provisions of current law relating to interstate motor carriers, including DOT's regulatory authority over interstate motor carriers, also apply to motor carriers engaged in intrastate commerce.

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.** 194.03 (title) of the statutes is amended to read:

2 **194.03** (title) **Interstate ~~and foreign~~ commerce and intrastate**
3 **commerce.**

4 **SECTION 2.** 194.03 (1) of the statutes is amended to read:

5 **194.03 (1)** This chapter shall apply to motor carriers engaged in interstate ~~and~~
6 ~~foreign~~ commerce upon the public highways of this state, in all particulars and
7 provisions lawful under the constitution of the United States and to motor carriers
8 engaged in intrastate commerce upon the public highways of this state.

9 **SECTION 3.** 194.03 (2) of the statutes is amended to read:

10 **194.03 (2)** Fees and taxes provided in this chapter shall be assessed against
11 operations in interstate ~~and foreign~~ commerce and intrastate commerce and
12 collected from the carriers performing such operations, as partial compensation for
13 the use of the highways and policing of the same.

14 **SECTION 4.** 194.03 (6) of the statutes is renumbered 194.01 (6m) and amended
15 to read:

16 **194.01 (6m)** ~~Whenever the term "interstate~~ "Interstate commerce" is used in
17 ~~this chapter it shall be interpreted as including~~ includes foreign commerce.

18 **SECTION 5.** 194.20 (title) of the statutes is amended to read:

19 **194.20** (title) **Certificates and licenses for carriers in interstate ~~and~~**
20 **foreign commerce and intrastate commerce.**

21 **SECTION 6.** 194.20 (1) of the statutes is amended to read:



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0140/1
ARG:sac:rs

DOA:.....Byrnes, BB0252 – Intrastate compliance reviews for motor carriers

FOR 2013-2015 BUDGET – NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

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