

2019 DRAFTING REQUEST

Bill

For: **Jerry Petrowski (608) 266-2502** Drafter: **emueller**
 By: **Derek** Secondary Drafters:
 Date: **7/24/2019** May Contact:

Same as LRB:

Submit via email: **YES**
 Requester's email: **Sen.Petrowski@legis.wisconsin.gov**
 Carbon copy (CC) to: **eric.mueller@legis.wisconsin.gov**
zachary.wyatt@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Commercial driver license (CDL) exception for farmers

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	emueller 7/25/2019				
/P1	emueller 7/31/2019	kfollett 7/26/2019	dwalker 7/26/2019		State S&L
/P2	zwuyatt 8/22/2019	anienaja 8/23/2019	mbarman 8/1/2019		State S&L
/P3	emueller 9/19/2019		mbarman 8/23/2019		State S&L
/1		kfollett	jmurphy	jmurphy	State

Vers. Drafted

Reviewed
9/19/2019

Submitted
9/19/2019

Jacketed
9/19/2019

Required
S&L

FE Sent For:

<END>



A+
Intro:

Mueller, Eric

From: Punches, Derek
Sent: Tuesday, July 23, 2019 3:10 PM
To: Mueller, Eric
Subject: Draft Request: Commercial driver license waiver

Eric,

Our office would like to request a draft to make the following change to s. 343.055(1)(c):

(c) Farmers. The operator of the commercial motor vehicle is a farmer who is using the commercial motor vehicle ~~within 150 miles of the operator's farm~~ to transport agricultural products, farm machinery or farm supplies including transporting hazardous materials requiring placarding or a combination thereof to or from a farm and the commercial motor vehicle is operated and controlled by a farmer and not used in the operations of a common motor carrier or contract motor carrier, as defined in s. 194.01 (1) and (2). In this paragraph, "controlled" means leased or owned; and "farmer" and "leased" have the meanings given in s. 340.01 (18) (b).

Please let me know if you have any questions.

Derek Punches
Clerk, Senate Committee on Transportation, Veterans and Military Affairs
Office of Senator Jerry Petrowski
29th Senate District
(608) 266-2502



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-3780/P1

EVM...

bf
RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

7/26/19

- gen*
- 1 AN ACT ...; relating to: commercial driver license waiver for certain operation of
2 commercial motor vehicles by farmers.

Analysis by the Legislative Reference Bureau

This bill expands an exception from the commercial driver license (CDL) requirement for certain use of commercial motor vehicles (CMVs) by farmers.

Under current law, the definition of "commercial motor vehicle" includes a single vehicle or combination vehicle with a gross combination weight rating, registered weight, or actual gross weight (generally, the weight of vehicle while carrying a full load) of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating, registered weight, or actual gross weight of more than 10,000 pounds.

X
+
A person may not, in general, operate a CMV without a valid CDL. Current law, however, provides several exceptions from the CDL requirement allowing, for example, fire fighters, law enforcement officers, and rescue squad members who hold valid operators' licenses other than CDLs to operate CMVs under specified circumstances. Another current exception allows farmers to use a CMV without holding a CDL if all of the following apply: 1) the use is within 150 miles of the operator's farm; 2) the CMV is used to transport agricultural products, farm machinery, or farm supplies to or from a farm; and 3) the CMV is operated and controlled by a farmer.

This bill eliminates requirement 1) from the CDL exception for farmers. Thus, under this bill, a farmer may use a CMV without holding a CDL if the CMV is used to transport agricultural products, farm machinery, or farm supplies to or from a farm and the CMV is operated and controlled by a farmer.

Mueller, Eric

From: Punches, Derek
Sent: Wednesday, July 31, 2019 10:28 AM
To: Mueller, Eric
Subject: RE: Draft Request: Commercial driver license waiver

Eric,

Per our previous discussion, can we get a /P2 to -3780 that specifically stipulates that family members and employees of the farmer are included as well? There will be no other changes at this time.

Derek Punches
Clerk, Senate Committee on Transportation, Veterans and Military Affairs
Office of Senator Jerry Petrowski
29th Senate District
(608) 266-2502

From: Punches, Derek
Sent: Tuesday, July 30, 2019 12:53 PM
To: Mueller, Eric <Eric.Mueller@legis.wisconsin.gov>
Subject: RE: Draft Request: Commercial driver license waiver

Eric,

Do you believe the definition of farmer used in s. 343.055 (1) (c) is sufficiently broad to cover the same people listed in 49 CFR 383.3, which provides for operation without a CDL by not only the farmer, but employees and family members as well? It is unclear to me based on this section and the definition quoted in s. 340.01 (18) (b). WisDOT, however, seems to be operating under the assumption that they are included. See <https://wisconsin.gov/Pages/dmv/com-driv-vehs/cdl-how-apply/cdloverview.aspx>.

(d)Exception for farmers, firefighters, emergency response vehicle drivers, and drivers removing snow and ice. A State may, at its discretion, exempt individuals identified in paragraphs (d)(1), (d)(2), and (d)(3) of this section from the requirements of this part. The use of this waiver is limited to the driver's home State unless there is a reciprocity agreement with adjoining States.

(1)Operators of a farm vehicle which is:

- (i)** Controlled and operated by a farmer, including operation by employees or family members;
- (ii)** Used to transport either agricultural products, farm machinery, farm supplies, or both to or from a farm;
- (iii)** Not used in the operations of a for-hire motor carrier, except for an exempt motor carrier as defined in § 390.5 of this subchapter; and
- (iv)** Used within 241 kilometers (150 miles) of the farmer's farm.

[<https://www.law.cornell.edu/cfr/text/49/383.3>]

Derek Punches
Clerk, Senate Committee on Transportation, Veterans and Military Affairs
Office of Senator Jerry Petrowski
29th Senate District
(608) 266-2502

From: Mueller, Eric <Eric.Mueller@legis.wisconsin.gov>
Sent: Wednesday, July 24, 2019 10:43 AM
To: PUNCHES, Derek <Derek.Punches@legis.wisconsin.gov>
Subject: RE: Draft Request: Commercial driver license waiver

Derek,

I've entered this request, LRB-3780. Please let me know if you have any questions or further instructions.

Eric Mueller
Attorney, Legislative Reference Bureau
Phone: (608)261-7032
eric.mueller@legis.wisconsin.gov

From: PUNCHES, Derek <Derek.Punches@legis.wisconsin.gov>
Sent: Tuesday, July 23, 2019 3:10 PM
To: Mueller, Eric <Eric.Mueller@legis.wisconsin.gov>
Subject: Draft Request: Commercial driver license waiver

Eric,

Our office would like to request a draft to make the following change to s. 343.055(1)(c):

(c) Farmers. The operator of the commercial motor vehicle is a farmer who is using the commercial motor vehicle ~~within 150 miles of the operator's farm~~ to transport agricultural products, farm machinery or farm supplies including transporting hazardous materials requiring placarding or a combination thereof to or from a farm and the commercial motor vehicle is operated and controlled by a farmer and not used in the operations of a common motor carrier or contract motor carrier, as defined in s. 194.01 (1) and (2). In this paragraph, "controlled" means leased or owned; and "farmer" and "leased" have the meanings given in s. 340.01 (18) (b).

Please let me know if you have any questions.

Derek PUNCHES
Clerk, Senate Committee on Transportation, Veterans and Military Affairs
Office of Senator Jerry Petrowski
29th Senate District
(608) 266-2502



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

8/1/19

- 1 **AN ACT to amend** 343.055 (1) (c) of the statutes; **relating to:** commercial driver
2 license waiver for certain operation of commercial motor vehicles by farmers.

Analysis by the Legislative Reference Bureau

This bill expands an exception from the commercial driver license (CDL) requirement for certain use of commercial motor vehicles (CMVs) by farmers.

Under current law, the definition of “commercial motor vehicle” includes a single vehicle or combination vehicle with a gross combination weight rating, registered weight, or actual gross weight (generally, the weight of vehicle while carrying a full load) of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating, registered weight, or actual gross weight of more than 10,000 pounds.

A person may not, in general, operate a CMV without a valid CDL. Current law, however, provides several exceptions from the CDL requirement allowing, for example, fire fighters, law enforcement officers, and rescue squad members who hold valid operators’ licenses other than CDLs to operate CMVs under specified circumstances. Another current exception allows farmers to use a CMV without holding a CDL if all of the following apply: 1) the use is within 150 miles of the operator’s farm; 2) the CMV is used to transport agricultural products, farm machinery, or farm supplies to or from a farm; and 3) the CMV is operated and controlled by a farmer.

This bill eliminates requirement 1) from the CDL exception for farmers. Thus, under this bill, a farmer may use a CMV without holding a CDL if the CMV is used to transport agricultural products, farm machinery, or farm supplies to or from a farm and the CMV is operated and controlled by a farmer.

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. 343.055 (1) (c) of the statutes is amended to read:

2. 343.055 (1) (c) *Farmers*. The operator of the commercial motor vehicle is a
3. farmer ^{of a family member or employee of a farmer} who is using the commercial motor vehicle ~~within 150 miles of the operator's~~
4. ~~farm~~ to transport agricultural products, farm machinery ^{or farm supplies} including ^{strike}
5. transporting hazardous materials requiring placarding ^{or a combination thereof to}
6. or from a farm and the commercial motor vehicle is ~~operated and~~ controlled by a
7. farmer and not used in the operations of a common motor carrier or contract motor
8. carrier, as defined in s. 194.01 (1) and (2). In this paragraph, "controlled" means
9. leased or owned; and "farmer" and "leased" have the meanings given in s. 340.01 (18)
10. (b).

11. (END)

Wyatt, Zachary

From: Punches, Derek
Sent: Wednesday, August 21, 2019 3:01 PM
To: Mueller, Eric
Cc: Wyatt, Zachary
Subject: RE: Draft Request: Commercial driver license waiver

Eric,

After further conversations with DOT and FMCSA, the federal regulations under 49 CFR 390.93 do not permit us to make an exemption to the 150-mile limitation for those operating vehicles transporting hazardous materials requiring a placard. Can we get a /P3 to -3780 drafted that delineates that particular use case?

49 CFR § 390.39 Exemptions for “covered farm vehicles.”

(a) **Federal requirements.** A covered farm vehicle, as defined in § 390.5, including the individual operating that vehicle, is exempt from the following:

- (1) Any requirement relating to commercial driver's licenses in 49 CFR Part 383 or controlled substances and alcohol use and testing in 49 CFR Part 382;
- (2) Any requirement in 49 CFR Part 391, Subpart E, Physical Qualifications and Examinations.
- (3) Any requirement in 49 CFR Part 395, Hours of Service of Drivers.
- (4) Any requirement in 49 CFR Part 396, Inspection, Repair, and Maintenance.

(b) *State requirements* -

(1) **In general.** Federal transportation funding to a State may not be terminated, limited, or otherwise interfered with as a result of the State exempting a covered farm vehicle, including the individual operating that vehicle, from -

- (i) A requirement described in paragraph (a) of this section; or
- (ii) Any other minimum standard provided by a State relating to the operation of that vehicle.

(2) **Exception.** Paragraph (b)(1) of this section does not apply with respect to a covered farm vehicle transporting hazardous materials that require a placard.

Derek Punches
Clerk, Senate Committee on Transportation, Veterans and Military Affairs
Office of Senator Jerry Petrowski
29th Senate District
(608) 266-2502

From: Punches, Derek
Sent: Wednesday, July 31, 2019 10:27 AM
To: Mueller, Eric <Eric.Mueller@legis.wisconsin.gov>
Subject: RE: Draft Request: Commercial driver license waiver

Eric,

Per our previous discussion, can we get a /P2 to -3780 that specifically stipulates that family members and employees of the farmer are included as well? There will be no other changes at this time.

Derek PUNCHES
Clerk, Senate Committee on Transportation, Veterans and Military Affairs
Office of Senator Jerry Petrowski
29th Senate District
(608) 266-2502

From: PUNCHES, Derek
Sent: Tuesday, July 30, 2019 12:53 PM
To: Mueller, Eric <Eric.Mueller@legis.wisconsin.gov>
Subject: RE: Draft Request: Commercial driver license waiver

Eric,

Do you believe the definition of farmer used in s. 343.055 (1) (c) is sufficiently broad to cover the same people listed in 49 CFR 383.3, which provides for operation without a CDL by not only the farmer, but employees and family members as well? It is unclear to me based on this section and the definition quoted in s. 340.01 (18) (b). WisDOT, however, seems to be operating under the assumption that they are included. See <https://wisconsin.gov/Pages/dmv/com-driv-vehs/cdl-how-aply/cdoverview.aspx>.

(d)Exception for farmers, firefighters, emergency response vehicle drivers, and drivers removing snow and ice. A State may, at its discretion, exempt individuals identified in paragraphs (d)(1), (d)(2), and (d)(3) of this section from the requirements of this part. The use of this waiver is limited to the driver's home State unless there is a reciprocity agreement with adjoining States.

(1)Operators of a farm vehicle which is:

- (i) Controlled and operated by a farmer, including operation by employees or family members;**
- (ii) Used to transport either agricultural products, farm machinery, farm supplies, or both to or from a farm;**
- (iii) Not used in the operations of a for-hire motor carrier, except for an exempt motor carrier as defined in § 390.5 of this subchapter; and**
- (iv) Used within 241 kilometers (150 miles) of the farmer's farm.**

[<https://www.law.cornell.edu/cfr/text/49/383.3>]

Derek PUNCHES
Clerk, Senate Committee on Transportation, Veterans and Military Affairs
Office of Senator Jerry Petrowski
29th Senate District
(608) 266-2502

From: Mueller, Eric <Eric.Mueller@legis.wisconsin.gov>
Sent: Wednesday, July 24, 2019 10:43 AM
To: PUNCHES, Derek <Derek.PUNCHES@legis.wisconsin.gov>
Subject: RE: Draft Request: Commercial driver license waiver

Derek,

I've entered this request, LRB-3780. Please let me know if you have any questions or further instructions.

Eric Mueller
Attorney, Legislative Reference Bureau
Phone: (608)261-7032
eric.mueller@legis.wisconsin.gov

From: Punches, Derek <Derek.Punches@legis.wisconsin.gov>
Sent: Tuesday, July 23, 2019 3:10 PM
To: Mueller, Eric <Eric.Mueller@legis.wisconsin.gov>
Subject: Draft Request: Commercial driver license waiver

Eric,

Our office would like to request a draft to make the following change to s. 343.055(1)(c):

(c) Farmers. The operator of the commercial motor vehicle is a farmer who is using the commercial motor vehicle ~~within 150 miles of the operator's farm~~ to transport agricultural products, farm machinery or farm supplies including transporting hazardous materials requiring placarding or a combination thereof to or from a farm and the commercial motor vehicle is operated and controlled by a farmer and not used in the operations of a common motor carrier or contract motor carrier, as defined in s. 194.01 (1) and (2). In this paragraph, "controlled" means leased or owned; and "farmer" and "leased" have the meanings given in s. 340.01 (18) (b).

Please let me know if you have any questions.

Derek Punches
Clerk, Senate Committee on Transportation, Veterans and Military Affairs
Office of Senator Jerry Petrowski
29th Senate District
(608) 266-2502



in 8/22/2019
out 8/23/2019

LRB-3780/P2 1P3
EVM:kjf + amn

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA
Xref

Region

- 1 AN ACT *to amend* 343.055 (1) (c) of the statutes; **relating to:** commercial driver
- 2 license waiver for certain operation of commercial motor vehicles by farmers.

Analysis by the Legislative Reference Bureau

This bill expands an exception from the commercial driver license (CDL) requirement for certain use of commercial motor vehicles (CMVs) by farmers.

Under current law, the definition of "commercial motor vehicle" includes a single vehicle or combination vehicle with a gross combination weight rating, registered weight, or actual gross weight (generally, the weight of vehicle while carrying a full load) of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating, registered weight, or actual gross weight of more than 10,000 pounds.

A person may not, in general, operate a CMV without a valid CDL. Current law, however, provides several exceptions from the CDL requirement allowing, for example, fire fighters, law enforcement officers, and rescue squad members who hold valid operators' licenses other than CDLs to operate CMVs under specified circumstances. Another current exception allows farmers to use a CMV without holding a CDL if all of the following apply: 1) the use is within 150 miles of the operator's farm; 2) the CMV is used to transport agricultural products, farm machinery, or farm supplies to or from a farm; and 3) the CMV is operated and controlled by a farmer.

WSA

This bill eliminates requirement 1) from the CDL exception for farmers. Thus, under this bill, a farmer may use a CMV without holding a CDL if the CMV is used to transport agricultural products, farm machinery, or farm supplies to or from a farm and the CMV is operated and controlled by a farmer.

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. 343.055 (1) (c) of the statutes is amended to read:

2 343.055 (1) (c) *Farmers*. The operator of the commercial motor vehicle is a
3 farmer or a family member or employee of a farmer who is using the commercial
4 motor vehicle ~~within 150 miles of the operator's farm~~ to transport agricultural
5 products, farm machinery, or farm supplies, ~~including transporting hazardous~~
6 ~~materials requiring placarding,~~ or a combination thereof to or from a farm and the
7 commercial motor vehicle is ~~operated and~~ controlled by a farmer and not used in the
8 operations of a common motor carrier or contract motor carrier, as defined in s.
9 194.01 (1) and (2). In this paragraph, "controlled" means leased or owned; and
10 "farmer" and "leased" have the meanings given in s. 340.01 (18) (b).

11

(END)

2019-2020 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3780/P3ins
ZDW:...*am*

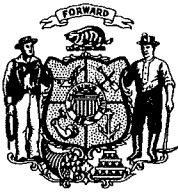
INS A

machinery, or farm supplies, including hazardous materials requiring placarding, to or from a farm; and 3) the CMV is operated and controlled by a farmer.

This bill eliminates requirement 1) from the CDL exception for farmers and family members or employees of ^{ja}the farmer, except when transporting hazardous materials. Thus, under this bill, a farmer or family member or employee of ^{ja}the farmer may use a CMV without holding a CDL if the CMV is used to transport agricultural products, farm machinery, or farm supplies to or from a farm and the CMV is controlled by a farmer. Current law pertaining to transporting hazardous materials requiring placarding would remain unchanged.

INS 3-9

If the operator of the commercial motor vehicle is transporting hazardous materials requiring placarding, the waiver under this paragraph applies only within 150 miles of a farm where the operator is a farmer or a family member or employee of a farmer.



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-3780/P3
EVM:kjf&amn

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

No changes

9/19/19

- 1 AN ACT *to amend* 343.055 (1) (c) of the statutes; **relating to:** commercial driver
- 2 license waiver for certain operation of commercial motor vehicles by farmers.

Analysis by the Legislative Reference Bureau

This bill expands an exception from the commercial driver license (CDL) requirement for certain use of commercial motor vehicles (CMVs) by farmers.

Under current law, the definition of "commercial motor vehicle" includes a single vehicle or combination vehicle with a gross combination weight rating, registered weight, or actual gross weight (generally, the weight of vehicle while carrying a full load) of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating, registered weight, or actual gross weight of more than 10,000 pounds.

A person may not, in general, operate a CMV without a valid CDL. Current law, however, provides several exceptions from the CDL requirement allowing, for example, fire fighters, law enforcement officers, and rescue squad members who hold valid operators' licenses other than CDLs to operate CMVs under specified circumstances. Another current exception allows farmers to use a CMV without holding a CDL if all of the following apply: 1) the use is within 150 miles of the operator's farm; 2) the CMV is used to transport agricultural products, farm machinery, or farm supplies, including hazardous materials requiring placarding, to or from a farm; and 3) the CMV is operated and controlled by a farmer.

This bill eliminates requirement 1) from the CDL exception for farmers and family members or employees of a farmer, except when transporting hazardous materials. Thus, under this bill, a farmer or family member or employee of a farmer

may use a CMV without holding a CDL if the CMV is used to transport agricultural products, farm machinery, or farm supplies to or from a farm and the CMV is controlled by a farmer. Current law pertaining to transporting hazardous materials requiring placarding would remain unchanged.

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. 343.055 (1) (c) of the statutes is amended to read:

2 343.055 (1) (c) *Farmers.* The operator of the commercial motor vehicle is a
3 farmer or a family member or employee of a farmer who is using the commercial
4 motor vehicle within 150 miles of the operator's farm to transport agricultural
5 products, farm machinery, or farm supplies including transporting hazardous
6 materials requiring placarding, or a combination thereof to or from a farm and the
7 commercial motor vehicle is ~~operated~~ and controlled by a farmer and not used in the
8 operations of a common motor carrier or contract motor carrier, as defined in s.
9 194.01 (1) and (2). If the operator of the commercial motor vehicle is transporting
10 hazardous materials requiring placarding, the waiver under this paragraph applies
11 only within 150 miles of a farm where the operator is a farmer or a family member
12 or employee of a farmer. In this paragraph, "controlled" means leased or owned; and
13 "farmer" and "leased" have the meanings given in s. 340.01 (18) (b).

14 (END)