



2005 ASSEMBLY BILL 342

April 19, 2005 - Introduced by Representatives NERISON, AINSWORTH, PETROWSKI, HAHN, OTT, LAMB, DAVIS, GRONEMUS, VRUWINK, ALBERS, M. WILLIAMS, LOEFFELHOLZ, TOWNS, BALLWEG, BIES, BOYLE, FREESE, GUNDERSON, GUNDRUM, HINES, HUNDERTMARK, KESTELL, KLEEFISCH, LEMAHIEU, MUSSER, OWENS, PETTIS, PRIDEMORE, SCHNEIDER, TOWNSEND, WARD and WOOD, cosponsored by Senators HARSDFORF, KAPANKE, BROWN, OLSEN, A. LASEE and GROTHMAN. Referred to Committee on Transportation.

1 **AN ACT** *to renumber and amend* 194.38; *to amend* 110.075 (6) and 194.43; and
2 *to create* 194.05 (4) and 194.38 (2) of the statutes; **relating to:** private motor
3 carriers transporting livestock.

Analysis by the Legislative Reference Bureau

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, a person who transports only property for hire by motor vehicle on the highways is a contract motor carrier, and any other person who transports property by motor vehicle on the highways is a private motor carrier. With limited exceptions, a common motor carrier or contract motor carrier must operate under a certificate or license (certificate of authority) issued by the Department of Transportation (DOT) or issued under federal law authorizing operation of a vehicle as a common motor carrier or contract motor carrier. Various state laws, including laws relating to vehicle marking and vehicle inspection, govern private motor carriers as well as common motor carriers and contract motor carriers. Federal law, including federal motor carrier safety standards established under regulations promulgated by the Federal Motor Carrier Safety Administration, also governs common motor carriers, contract motor carriers, and private motor carriers. DOT has authority under state law to promulgate rules regulating the operation of all motor carriers, including rules implementing federal motor carrier safety standards.

Current law also requires all motor vehicles operated on a highway, including vehicles operated by motor carriers, to meet specified vehicle equipment standards.

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Upon request, any operator of a motor vehicle must submit the vehicle to inspection by a vehicle inspector or traffic officer to determine compliance with vehicle equipment standards and, if the vehicle is found to be unsafe for operation, the inspector or officer may order the vehicle to be removed from the highway and not operated except as necessary for repair. DOT may establish standards and adopt rules related to vehicle inspections, including rules implementing federal motor carrier equipment standards.

This bill exempts from regulation as a motor carrier any person transporting livestock in a farm truck or dual purpose farm truck combined with any semitrailer or farm trailer when the transportation is provided by the registered owner of the farm truck or dual purpose farm truck and is not for hire. The bill prohibits DOT from promulgating any rule under which certain federal motor carrier safety standards, including equipment standards, are applicable to, or enforceable with respect to, these vehicles transporting livestock.

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.** 110.075 (6) of the statutes is amended to read:

2 110.075 **(6)** The secretary shall set standards and adopt rules to establish a
3 plan of inspection to implement the inspection program provided by this section.
4 Nothing in this section shall permit the department to promulgate any rule under
5 which the provisions of 49 CFR 393 and 396 are applicable to, or enforceable with
6 respect to, the transportation of livestock by any farm truck or dual purpose farm
7 truck combined with any semitrailer or farm trailer when such transportation is
8 provided by a private motor carrier to whom the farm truck or dual purpose farm
9 truck is registered under ch. 341.

10 **SECTION 2.** 194.05 (4) of the statutes is created to read:

11 194.05 **(4)** This chapter shall not apply to the transportation of livestock by any
12 farm truck or dual purpose farm truck combined with any semitrailer or farm trailer

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1 when such transportation is provided by a private motor carrier to whom the farm
2 truck or dual purpose farm truck is registered under ch. 341.

3 **SECTION 3.** 194.38 of the statutes is renumbered 194.38 (1), and 194.38 (1) (e),
4 as renumbered, is amended to read:

5 194.38 (1) (e) To act in accordance with 49 USC 14504 by making any finding,
6 determination and otherwise doing any other thing necessary to proceed under that
7 statute. Nothing in this ~~subsection~~ paragraph shall permit the department to extend
8 the length or weight of motor vehicles.

9 **SECTION 4.** 194.38 (2) of the statutes is created to read:

10 194.38 (2) Nothing in this section shall permit the department to promulgate
11 any rule under which the provisions of 49 CFR 391, 392, 395, and 397 are applicable
12 to, or enforceable with respect to, the transportation of livestock by any farm truck
13 or dual purpose farm truck combined with any semitrailer or farm trailer when such
14 transportation is provided by a private motor carrier to whom the farm truck or dual
15 purpose farm truck is registered under ch. 341.

16 **SECTION 5.** 194.43 of the statutes is amended to read:

17 **194.43 Private motor carriers; regulation by department.** The Except
18 as provided in s. 194.05 (4), the department may regulate the operations of private
19 motor carriers, including the power to designate from time to time the public
20 highways over which private motor carrier vehicles may or may not be operated and
21 to designate the time that such vehicles may or may not be operated thereon so as
22 to prevent congestion which shall affect the safety of persons and property upon such
23 public highways; to require the display of satisfactory evidence that such vehicle is
24 not being used for common or contract motor carrier purposes; and to prescribe

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SECTION 5

1 reasonable and necessary rules and regulations for the safety of operation of private
2 motor carriers.

3 **SECTION 6. Initial applicability.**

4 (1) This act first applies to vehicles transporting livestock on the effective date
5 of this subsection.

6 (END)