



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-5095/1
EVM:all

2017 SENATE BILL 717

January 19, 2018 - Introduced by LAW REVISION COMMITTEE. Referred to Committee on Senate Organization.

1 **AN ACT** *to repeal* 194.03 (5); and *to amend* 85.07 (7) (a), 194.03 (5m) (a), 194.03
2 (5m) (b), 194.04 (1) (title), 194.04 (1) (b), 194.04 (1) (c), 342.155 (4) (b) and 346.65
3 (2) (am) 1. of the statutes; **relating to:** planning for certain federal highway
4 money distribution transfers; correcting a cross-reference related to penalties
5 for drunk driving; penalties for violations of motor vehicle mileage disclosure
6 requirements; certain references to obsolete federal motor carrier law; and
7 providing a criminal penalty (suggested as remedial legislation by the
8 Department of Transportation).

Analysis by the Legislative Reference Bureau

Under current federal law, if a state does not have a qualifying safety belt statute, as a penalty certain federal highway moneys distributed to the state may be transferred from, generally, highway construction funding to highway safety funding. Currently, the Department of Transportation must annually prepare a plan to use, for purposes of state and local emergency medical services, at least 25 percent of the federal funds that would be transferred under this federal penalty provision were it to be applied to the state. Current law also requires DOT to consult with the Council on Highway Safety, the Department of Health Services, and the Emergency Medical Services Board before preparing the plan.

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Under this bill, DOT must prepare the plan only in years in which DOT expects that federal funds distributed to the state will be transferred under the penalty provision and DOT is not required to consult with the Council on Highway Safety before preparing the plan.

This bill corrects an erroneous cross-reference related to penalties for driving under the influence of an intoxicant.

Current law imposes certain requirements related to reporting a motor vehicle's mileage upon transfer of the vehicle. Specifically, 1) a transferor may not transfer ownership of a motor vehicle without disclosing the vehicle's mileage in writing to the transferee; 2) a transferor may not knowingly make a false statement in disclosing the vehicle's mileage to a transferee; and 3) no person may alter, erase, or obliterate any information contained on a mileage disclosure statement. Current law provides two inconsistent penalties for a person who violates one of these provisions with intent to defraud. Specifically, the current provision provides that a person who violates one of the above provisions with intent to defraud 1) may be fined not more than \$5,000 or imprisoned for not more than seven years and six months or both; and 2) is guilty of a Class H felony, which is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed six years or both.

This bill eliminates the reference to a fine of not more than \$5,000 or imprisonment for not more than seven years and six months or both. Under this bill, any person who violates one of the above provisions with intent to defraud is guilty of Class H felony.

Currently, two statutory provisions reference the no longer extant Interstate Commerce Commission. This bill replaces those references with references to the federal Surface Transportation Board. Also under current law, three statutory provisions reference state motor carrier certificates for interstate operation that are no longer authorized under federal law. This bill removes these references.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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.** 85.07 (7) (a) of the statutes is amended to read:
 2 85.07 (7) (a) The In any year that the department expects that federal funds
 3 will be transferred under 23 USC 153 (h), the department shall annually prepare a
 4 plan to use, for purposes of state and local emergency medical services, at least 25
 5 percent of ~~any federal~~ the funds transferred under 23 USC 153 (h). The department

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1 shall prepare the plan after consulting with ~~the council on highway safety~~, the
2 department of health services and the emergency medical services board. Funds
3 expended under the plan may not be used to supplant other federal and state funds
4 used for emergency medical services purposes. Funds may not be expended under
5 the plan unless any necessary federal approval of the plan has been obtained.

NOTE: SECTION 1 eliminates the requirement that the Department of Transportation (DOT) must annually prepare a plan, in consultation with the Council on Highway Safety, Department of Health Services, and the Emergency Medical Services Board, to use federal funds transferred to highway safety funding as a penalty under 23 USC 153 (h). The bill provides instead that DOT must prepare the plan only in years in which it expects a penalty transfer of federal funds will occur, and removes the requirement that DOT consult with the Council on Highway Safety before preparing the plan.

6 **SECTION 2.** 194.03 (5) of the statutes is repealed.

7 **SECTION 3.** 194.03 (5m) (a) of the statutes is amended to read:

8 194.03 (5m) (a) A person may assert as a defense to the claim the existence of
9 a freight charge agreement between the person and the motor carrier which applies
10 to the carriage of the freight at issue and which has not been filed as a tariff with the
11 ~~interstate commerce commission~~ federal surface transportation board.

12 **SECTION 4.** 194.03 (5m) (b) of the statutes is amended to read:

13 194.03 (5m) (b) A court shall request the ~~interstate commerce commission~~
14 federal surface transportation board or other appropriate federal agency to issue an
15 advisory opinion on any issue which the court determines is within the primary
16 jurisdiction of that agency.

NOTE: SECTIONS 3 and 4 eliminate references to the no longer extant Interstate Commerce Commission and replace those references with references to the federal Surface Transportation Board.

17 **SECTION 5.** 194.04 (1) (title) of the statutes is amended to read:

18 194.04 (1) (title) AUTHORITY TO OPERATE IN INTRASTATE COMMERCE.

19 **SECTION 6.** 194.04 (1) (b) of the statutes is amended to read:

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1 194.04 (1) (b) Every applicant for a certificate shall pay a fee of \$500 for a
2 common motor carrier of property certificate or \$50 for a common motor carrier of
3 passengers certificate, ~~except that an applicant for a certificate under the federal~~
4 ~~motor carrier act of 1935 or for authority to transport in interstate commerce~~
5 ~~commodities which are exempt from regulation by the interstate commerce~~
6 ~~commission shall pay a fee of \$25.~~

7 **SECTION 7.** 194.04 (1) (c) of the statutes is amended to read:

8 194.04 (1) (c) Every applicant for a license shall pay a fee of \$500, ~~except that~~
9 ~~an applicant for a license under the federal motor carrier act of 1935 or for authority~~
10 ~~to transport in interstate commerce commodities which are exempt from regulation~~
11 ~~by the interstate commerce commission shall pay a fee of \$25.~~

NOTE: SECTIONS 2, 5, 6, and 7 eliminate references to state motor carrier certificates
for interstate operation that are no longer required by federal law.

12 **SECTION 8.** 342.155 (4) (b) of the statutes is amended to read:

13 342.155 (4) (b) Any person who violates this section with intent to defraud ~~may~~
14 ~~be fined not more than \$5,000 or imprisoned for not more than 7 years and 6 months~~
15 ~~or both is guilty of Class H felony.~~

NOTE: SECTION 8 eliminates language that provides a person may be fined not more
than \$5,000 or imprisoned for not more than 7 years and 6 months or both for certain
violations of motor vehicle mileage disclosure requirements. The bill retains current
language that the penalty for such violations is a Class H Felony.

16 **SECTION 9.** 346.65 (2) (am) 1. of the statutes is amended to read:

17 346.65 (2) (am) 1. Shall forfeit not less than \$150 nor more than \$300, except
18 as provided in subds. 2. to ~~5.~~ 7. and par. (f).

NOTE: SECTION 9 corrects a cross-reference to clarify that the penalties in s. 346.65
(2) (am) 6. and 7., stats., apply to persons who are subject to those subdivisions.

19 **SECTION 10. Initial applicability.**

