

1999 DRAFTING REQUEST

Bill

Received: **11/25/98**

Received By: **nilsepe**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Etzler**

This file may be shown to any legislator: **NO**

Drafter: **nilsepe**

May Contact:

Alt. Drafters:

Subject: **Transportation - miscellaneous**

Extra Copies: **TNF, RPN**

Topic:

DOA:.....Etzler - Hazardous materials registration program appropriations

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>
/?	nilsepe 11/30/98			_____			State
/P1	nilsepe 12/15/98	ygeller 12/15/98	hhagen 11/30/98	_____	lrb_docadmin 11/30/98		State
/P2			martykr 12/16/98	_____	lrb_docadmin 12/16/98		

FE Sent For:

<END>

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			<i>hm 12/12</i>	<i>JF 12/16</i>			

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/?	nilsepe	P1-11-25-98 JLG	# 11/30	# 11/30			State
			12/16	12/16			

FE Sent For:

<END>

CORRESPONDENCE MEMORANDUM

**STATE OF WISCONSIN
Department of Administration**

Date: November 25, 1998

To: Steve Miller *JmE*
Chief, Legislative Reference Bureau

From: John M. Etzler
Policy and Budget Analyst, State Budget Office

Subject: Department of Transportation (DOT) FY 1999-2001 Budget Statutory Language Proposal

The attached statutory language proposal needs to be included as part of the FY99-01 budget. The proposal may have been submitted to the LRB by DOT earlier in the year. Please call me at 266-1039 if this item has already been drafted or if you have any questions.

Department of Transportation
1999-2001 Biennial Budget Request
STATUTORY MODIFICATIONS

DIN NUMBER: 5511

TOPIC: Hazardous Materials Registration Program

DESCRIPTION OF CHANGE:

The Department of Transportation requests the appropriation created to support the costs of implementing the Hazardous Materials Registration Program in the Division of Motor Vehicles be repealed. In addition, any remaining balance should be deposited into the Transportation Fund.

Repeal the appropriation designated under s.20.395(4)(bh) and s.166.20(7g) associated with the hazardous materials registration program. Create a non-statutory provision requiring any remaining balance should be deposited into the Transportation Fund.

JUSTIFICATION:

1997 Wisconsin Act 27 eliminated the Hazardous Materials Registration Fee. Now that the program has been closed out, the department's appropriation which supports the costs of administering the registration fee program is no longer necessary. A repeal of this appropriation is requested. In addition, any remaining balance should be deposited into the Transportation Fund. Any remaining balance will be used to offset costs associated with administering and closing out the program, as well as those costs associated with refunding fees under court order in the disposition of the American Trucking Association lawsuit.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-10557

PEN jig P1

DOA:.....Etzler - Hazardous materials registration program appropriations
FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

D-Note

No cat

AN ACT relating to the hazardous materials transportation registration program.

Analysis by the Legislative Reference Bureau

TRANSPORTATION

OTHER TRANSPORTATION

Under current law, the division of emergency management in the department of military affairs establishes hazardous materials transportation registration fees. The fees are collected by the department of transportation (DOT) from persons who, because they transport hazardous materials, are required to file federal hazardous materials transportation registration statements. The collected fees are deposited in the general fund and used in part by DOT to administer the fee. This bill eliminates the hazardous materials transportation registration fee, and lapses the unencumbered balance of fees appropriated to DOT to administer the fees from the general fund to the transportation fund.

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:

PRINT w/ LINE NUMBERS

SECTION 1. 20.395 (4) (bh)^x of the statutes is repealed.

SECTION 2. 85.50^x of the statutes is repealed.

SECTION 3. 166.20 (7g)^x of the statutes is repealed.

SECTION ~~0150~~⁹²⁵⁰ ~~Nonstatutory provisions; transportation.~~ Appropriation changes ← (B)

(1) HAZARDOUS MATERIALS TRANSPORTATION REGISTRATION FEES. Notwithstanding section 20.002 (3m) of the statutes, on the effective date of this subsection, there is lapsed to the transportation fund, from the appropriation account to the department of transportation under section 20.395 (4) (bh) of the statutes, as affected by this act, an amount equal to the unencumbered balance in that appropriation account on the day before the effective date of this subsection.

(END) ✓

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

PI
LRB-1055/3dn
PEN.....

19

November 25, 1998

The encumbered balance of a repealed appropriation may be used to pay off the encumbrances. It is not necessary to lapse the balance to the transportation fund to make DOT whole for its efforts collecting the fees. See s. 20.002 (3) and (3m), stats.

Paul E. Nilsen
Legislative Attorney
261-6926

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

LRB-1055/P1dn
PEN;jlg:hmh

Monday, November 30, 1998

The encumbered balance of a repealed appropriation may be used to pay off the encumbrances. It is not necessary to lapse the balance to the transportation fund to make DOT whole for its efforts collecting the fees. See s. 20.002 (3) and (3m), stats.

Paul E. Nilsen
Legislative Attorney
261-6926

Nilsen, Paul

From: Gorenstein, Elisabeth [elisabeth.gorenstein@dot.state.wi.us]
Sent: Sunday, December 13, 1998 1:45 PM
To: Etzler, John
Cc: Frazier, Carson; Nilsen, Paul; Smith, Thomas
Subject: LRB Draft 1055/P1 (Hazardous Materials Registration Program)

The draft looks fine. However, DOT has some concerns with the analysis because it may lead legislators to believe this is a fee that is currently being collected. The following language is simply a suggestion:

DOT has not collected the Hazardous Materials Registration Fee since a successful court challenge of the fee by the American Trucking Association in 1996. All Hazardous Materials Registration Fees have since been refunded to the registrants. In the 1997-99 biennial budget, the legislature changed the funding source for the Department of Military Affairs and Hazardous Materials Response Team Grant Program from the Transportation Fund to GPR funds. This eliminated the need for collecting the Hazardous Materials Registration Fee, which had served to partially reimburse the Transportation Fund for expenditures on the Hazardous Materials Response Team Grant Program. However, the language requiring the Hazardous Materials Registration Fee collection and promulgation of rules pertaining to fee collection was not removed.

*Lis Gorenstein
Office of Policy and Budget (Rm. 132-B)
(608) 266-0179
Email: elisabeth.gorenstein@dot.state.wi.us*



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1055/F1
PEN:jlg:hmh

SOON

P2

DOA:.....Etzler – Hazardous materials registration program appropriations
FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

do not gen

1 AN ACT ...; relating to: the hazardous materials transportation registration
2 program.

Analysis by the Legislative Reference Bureau

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insert

14

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1 **SECTION 1.** 20.395 (4) (bh) of the statutes is repealed.

2 **SECTION 2.** 85.50 of the statutes is repealed.

3 **SECTION 3.** 166.20 (7g) of the statutes is repealed.

4 **SECTION 9250. Appropriation changes; transportation**

5 (1) **HAZARDOUS MATERIALS TRANSPORTATION REGISTRATION FEES.** Notwithstanding
6 section 20.002 (3m) of the statutes, on the effective date of this subsection, there is
7 lapsed to the transportation fund, from the appropriation account to the department
8 of transportation under section 20.395 (4) (bh) of the statutes, as affected by this act,
9 an amount equal to the unencumbered balance in that appropriation account on the
10 day before the effective date of this subsection.

11

(END) ✓

**1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1055/P2
PEN.....

article 7,
section 8, of

The Supreme Court of Wisconsin has held that the hazardous materials transportation registration fee violates the commerce clause of the U.S. Constitution, *Article 7, Section 8, American Trucking Ass'n vs. State*, 205 Wis. 2d 494, 509 (1996).



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1055/P2
PEN:jlg:km

DOA:.....Etzler – Hazardous materials registration program appropriations

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

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9 an amount equal to the unencumbered balance in that appropriation account on the
10 day before the effective date of this subsection.

11

(END)

NOTE TO DRAFTING FILE for LRB-1055:

Per the drafter, this draft has been redrafted to a “/1” as no problems remain in the draft that require resolution before introduction of the budget bill. There are no changes between the “/PX” and the “/1.”

DOA:.....Etzler – Hazardous materials registration program appropriations

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