

2001 DRAFTING REQUEST

Assembly Amendment (AA-AB374)

Received: 05/18/2001

Received By: agary

Wanted: Soon

Identical to LRB:

For: Suzanne Jeskewitz (608) 266-3796

By/Representing: Erin (aide)

This file may be shown to any legislator: NO

Drafter: agary

May Contact:

Addl. Drafters:

Subject: **Transportation - motor vehicles**
Transportation - traffic laws

Extra Copies: **TNF, PJH**

Submit via email: NO

Requester's email:

Pre Topic:

No specific pre topic given

Topic:

Organ, implant, and drug transport vehicles

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>
/1	agary 05/21/2001	gilfokm 05/21/2001	pgreensl 05/21/2001	_____	lrb docadmin 05/21/2001	lrb docadmin 05/21/2001	

FE Sent For:

<END>

2001 DRAFTING REQUEST

Assembly Amendment (AA-AB374)

Received: 05/18/2001

Received By: agary

Wanted: Soon

Identical to LRB:

For: Suzanne Jeskewitz (608) 266-3796

By/Representing: Erin (aide)

This file may be shown to any legislator: NO

Drafter: agary

May Contact:

Alt. Drafters:

Subject: Transportation - motor vehicles
Transportation - traffic laws

Extra Copies: TNF, PJH

Pre Topic:

No specific pre topic given

Topic:

Organ, implant, and drug transport vehicles

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>
/1	agary	1-5/KMS 12-01	5/21 PS	5/21 Self			

FE Sent For:

<END>

LRB a0550 & a0551

5/14/01 Telephone conference with Erin from Rep. Jeskewitz's office. Wants to limit organ transport vehicles in AB-374 to licensed couriers. Wants a simple amendment. This is in lieu of training. Constituent will call me. I am also authorized to speak with Carson Frazier at DOT.

See e-mails.

5/18/01 Telephone conference with Corey from Rep. Stone's office. Include change from blue lights to red lights in amendment for Rep. Jeskewitz. Will do it all in one amendment. Will also send over hard copy showing one other change wanted by Rep. Stone.

5/18/01 Telephone conference with Corey again. Wants simple amendment on three things: lights, training, drug vehicles. Wants it today.

5/18/01 Telephone conference with Erin again. Wants two separate amendments. One treating the three emergency vehicles, organ, implant, and drug. The second treating the DOT registration issue. Wants to keep these separate.

ARG

Gary, Aaron

From: Gary, Aaron
Sent: Tuesday, May 15, 2001 12:19 PM
To: Bilot, Erin
Cc: Fast, Timothy
Subject: amendment to AB-374

Erin,

I spoke with your constituent Rory Holms and with DOT, and wanted to update you on those conversations to make sure that the amendment I am drafting meets your intent.

Based upon our conversation yesterday, I understand that Rep. Jeskewitz would like a simple amendment to AB-374 that requires organ transport vehicles, to qualify as authorized emergency vehicles, to be licensed by DOT as couriers under DOT's existing licensing scheme. Requiring licensing would be in lieu of adding training requirements to AB-374.

Mr. Holms advised me that he is licensed as a courier with the state DOT and as a state and federal motor carrier. He could not tell me under what legal authority he is licensed, except he believes part of it is under 382, 383, and 387 of the federal motor carrier safety rules (discussed below). When I asked Mr. Holms what changes he believed should be made in AB-374, he advised me that the bill should be changed to require that, to operate as an emergency vehicle, organ transport vehicles, vehicles transporting artificial and synthetic implants, and vehicles transporting drugs should be licensed as couriers by DOT and comply with courier licensing guidelines, as his company is required to. His viewpoint was that the bill should include treatment of each of these vehicles.

I spoke with Carson Frazier at DOT, who has significant knowledge in the area of motor vehicles. As I discussed with you, I spoke with her to obtain background information and did not reveal the nature of the drafting request. Carson advised me that there is no specific DOT licensing of couriers. However, motor carriers for hire, such as Dunham or taxi cabs that deliver packages, must be licensed with DOT. Carson indicated that regulation of these couriers is not stringent, and mostly consists of filling out an application and paying the fee for an operating authority. Carson indicated the only other licensing that may be applicable is licensing of commercial motor vehicles, such as semi trucks.

My review of the statutes and administrative code reveals the following: Vehicles used in the business of delivering passengers and property are termed common motor carriers and vehicles used in the business of delivering property only are termed contract motor carriers. See s. 194.01, stats. The owner/operator of these vehicles must make annual application to DOT for a certificate or authority for operation and pay an annual fee. See ss. 194.04 and 194.34, stats. The application process includes a determination by DOT of the fitness of the applicant, the applicant's compliance with ch. 194, the applicant's safety record, the applicant's reliability and service record, and the applicant's financial resources. See ss. 194.23 and 194.34, stats. Applicants must also prove insurance before the certificate or authority to operate may be issued, and applicants are subject to vehicle inspection. See ss. 194.11 and 194.41, stats. See also Wis. Admin. Code, Trans 177. DOT may also prescribe rules regarding safety of operation and hours of operation. See s. 194.38, stats. See also Wis. Admin. Code, Trans 327. There are no statutory or code guidelines for operator training. This is the statutory scheme that Mr. Holms is referring to when he refers to himself as a licensed courier. This is also the statutory scheme that would be applicable for this draft.

I presume that Mr. Holms also maintains authority to operate as a commercial motor vehicle, which is subject to state and federal regulation. A commercial motor vehicle is a vehicle having a gross vehicle weight over 10,000 pounds, or a vehicle used to transport more than 8 passengers for compensation, or a vehicle used to transport certain quantities of hazardous substances. See 49 CFR 390.5. The most obvious example of a commercial motor vehicle is a semi truck and trailer. Categorization as a commercial motor vehicle gives rise to a host of operating restrictions under federal and state law, such as the need for a CDL, potential drug testing, limited hours of vehicle operation, maintenance of certain records, etc. Mr. Holms' reference to 382, 383, and 387, above, are references to federal regulations of commercial motor vehicles. While Mr. Holms' business may transport cargo requiring authority to operate as a

commercial motor vehicle, it is clear that an organ transport vehicle (described at the hearing as a slightly modified Suburban) would not typically qualify as a commercial motor vehicle and would not be appropriate to treat under this licensing scheme.

With the foregoing as background, I would like to clarify this drafting request:

1. It is my understanding that Rep. Jeskewitz would like an amendment to AB-374 requiring that, before an organ transport vehicle may be considered as an authorized emergency vehicle and equipped with warning lights and a siren, the vehicle must be licensed with DOT as a common motor carrier or contract motor carrier and must comply with all statutes governing these motor carriers. Is this correct?
2. Does Rep. Jeskewitz want to include in this amendment vehicles transporting implants and drugs, and subject them to the same DOT licensing requirements?

Thank you. I will resume working on the request when I hear back from you.

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

5/17/01 4:30 pm

H/c w/ Larry Holms

1. Correct

2. Yes

Gary, Aaron

From: Bilot, Erin
Sent: Friday, May 18, 2001 11:51 AM
To: Gary, Aaron
Subject: RE: AB 374 Amendments

Please make the correction to the lights and whatever other change Corey wanted.
I really appreciate all of the work you've done for this.

Erin Bilot
Office of Suzanne Jeskewitz
State Representative
24th Assembly District

-----Original Message-----

From: Gary, Aaron
Sent: Friday, May 18, 2001 11:16 AM
To: Bilot, Erin
Subject: RE: AB 374 Amendments

Erin,

I spoke with Rory Holms yesterday and have been preparing the new amendment, which is now LRBa0548. I just received a telephone call from Corey in Rep. Stone's office. She advised me that I should include in this amendment for Rep. Jeskewitz the changes I made in an amendment for Rep. Stone earlier this week (i.e. allowing these vehicles to be equipped with red and white lights instead of red and blue lights) along with one other change requested by Rep. Stone. Since Rep. Jeskewitz is the requester of this amendment, I need to confirm with you that I am authorized to follow the instructions I received from Corey. Please let me know. Thanks. Aaron

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

-----Original Message-----

From: Bilot, Erin
Sent: Thursday, May 17, 2001 3:10 PM
To: Gary, Aaron
Subject: AB 374 Amendments

Aaron,

I just got off of the phone with Rory Holmes, our constituent who would like to amend the organ courier legislation. Because I'm not as familiar with the legislation, I asked him to call you directly to discuss the information that you sent me the other day. Rep. Jeskewitz will be fine with whatever amendment he would like drafted.

Thanks again,
Erin Bilot
Office of Suzanne Jeskewitz
State Representative
24th Assembly District



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBa0550/1

ARGK...
needed by 5/22/01
at 11:00 am

D-Note

ASSEMBLY AMENDMENT,
TO 2001 ASSEMBLY BILL 374

1 At the locations indicated, amend the bill as follows:

2 ✓ 1. Page 1, line 4: delete "or" and substitute "for transplantation,".

3 ✓ 2. Page 1, line 5: before the period insert ", or medical devices, medical
4 equipment, or medication for emergency purposes".

5 ✓ 3. Page 2, line 14: after that line insert:

6 SECTION 2g. 340.01 (3) (dh) of the statutes is created to read:

7 340.01 (3) (dh) Privately owned motor vehicles being operated in the course of
8 a business and being used, in response to an emergency call from a treating physician
9 or his or her designee declaring the transportation to be an emergency, to transport
10 medical devices or equipment to a hospital or ambulatory surgery center, or to pick
11 up medical devices or equipment for immediate transportation to a hospital or
12 ambulatory surgery center, if the medical devices or equipment are to be used for

No (ES)
No (B)

organsA
organsA

1 human implantation or for urgent medical treatment immediately after the
2 transportation.

3 SECTION 2h. 340.01 (3) (di) of the statutes is created to read:

4 340.01 (3) (di) Privately owned motor vehicles being used to transport
5 prescription medication to a person in response to an emergency call from the
6 physician who prescribed the medication or his or her designee declaring the
7 transportation of the medication to be an emergency.”.

8 ✓4. Page 3, line 9: delete the material beginning with that line and ending with
9 page 5, line 4, and substitute:

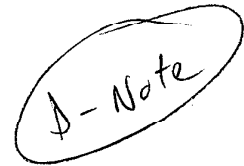
10 ✓SECTION 4m. 347.25 (1) of the statutes is amended to read:

11 347.25 (1) Except as provided in subs. (1m) (a), (1r), and (1s), an authorized
12 emergency vehicle may be equipped with one or more flashing, oscillating, or
13 rotating red lights, except that ambulances, fire department equipment, and
14 privately owned motor vehicles under s. 340.01 (3) (d) or (dm) being used by
15 personnel of a full-time or part-time fire department or by members of a volunteer
16 fire department or rescue squad, privately owned motor vehicles under s. 340.01 (3)
17 (dg) being used by an organ procurement organization or any person under an
18 agreement with an organ procurement organization, and privately owned motor
19 vehicles under s. 340.01 (3) (dh) or (di) being used to transport medical devices or
20 equipment or prescription medication, may be equipped with red or red and white
21 lights, and shall be so equipped when the operator thereof is exercising the privileges
22 granted by s. 346.03. The lights shall be so designed and mounted as to be plainly
23 visible and understandable from a distance of 500 feet both during normal sunlight
24 and during hours of darkness. No operator of an authorized emergency vehicle may

1 use the warning lights except when responding to an emergency call or when in
2 pursuit of an actual or suspected violator of the law, when responding to but not upon
3 returning from a fire alarm, when transporting an organ for human transplantation,
4 when transporting medical personnel for the purpose of performing human organ
5 harvesting or transplantation immediately after the transportation, or when
6 necessarily parked in a position which is likely to be hazardous to traffic.”

7

(END)

A handwritten note in a circle, reading "§ - Note".

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

LRBa0550/1dn

ARG: 

2 The attached amendment makes two changes to AB-374: (1) it adds, as authorized emergency vehicles, vehicles transporting implants and prescription medication; and (2) it allows these vehicles, as well as organ transport vehicles, to be equipped with red or red and white warning lights and a siren, but not red and blue warning lights.

This amendment modifies the "relating to" clause because of the treatment of vehicles transporting implants and prescription medication. This change may raise a germaneness question because it could be argued that the amendment violates Assembly Rule 54 (3) (f) because it "substantially expands the scope of the proposal."

If you have any questions, please feel free to call or e-mail me.

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

LRBa0550/1dn
ARG:kmg:pg

May 21, 2001

The attached amendment makes two changes to AB-374: 1) it adds, as authorized emergency vehicles, vehicles transporting implants and prescription medication; and 2) it allows these vehicles, as well as organ transport vehicles, to be equipped with red or red and white warning lights and a siren, but not red and blue warning lights.

This amendment modifies the "relating to" clause because of the treatment of vehicles transporting implants and prescription medication. This change may raise a germaneness question because it could be argued that the amendment violates Assembly Rule 54 (3) (f) because it "substantially expands the scope of the proposal."

If you have any questions, please feel free to call or e-mail me.

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