

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 - traffic laws**
Transportation - motor vehicles

Extra Copies: **TNF, PJH**

Submit via email: NO

Requester's email:

Pre Topic:

No specific pre topic given

Topic:

Organ 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 | jfrantze 05/21/2001 | _____ | lrb_docadmin 05/21/2001 | lrb_docadmin 05/21/2001 | |

FE Sent For:

<END>

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|--------------|----------------|----------------------|--------------|----------------|------------------|-----------------|-----------------|
| /1 | agary | 1-5/ King 1-21-01 | 2/5/01 | Self 5/21 | | | |

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/ Rory 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

LRBa0551/1
ARG: King

ASSEMBLY AMENDMENT,
TO 2001 ASSEMBLY BILL 374

D-Note
needed by 5/22/01
at 11:00 am

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

2 1. Page 2, line 14: before the period insert “, and which have been issued a valid
3 certificate of authority, license, or permit under ch. 194”.

4 (END)

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

LRBa0551/1dn

ARG:.....

Arg

The attached amendment modifies AB-374 to require organ transport vehicles to obtain applicable motor carrier certificates, licenses, and permits under ch. 194 from the department of transportation (DOT) before these vehicles may operate as authorized emergency vehicles.

Pursuant to your request, this amendment's requirement that organ transport vehicles comply with the same DOT licensing requirements that apply to "licensed couriers" is included in lieu of a specific training requirement for operators of organ transport vehicles.

Because I am not familiar with the details of DOT's administration of ch. 194, I recommend that DOT review this amendment.

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

LRBa0551/1dn
ARG:kmg:jf

May 21, 2001

The attached amendment modifies AB-374 to require organ transport vehicles to obtain applicable motor carrier certificates, licenses, and permits under ch. 194 from the department of transportation (DOT) before these vehicles may operate as authorized emergency vehicles.

Pursuant to your request, this amendment's requirement that organ transport vehicles comply with the same DOT licensing requirements that apply to "licensed couriers" is included in lieu of a specific training requirement for operators of organ transport vehicles.

Because I am not familiar with the details of DOT's administration of ch. 194, I recommend that DOT review this amendment.

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

Aaron R. Gary
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