

2001 ASSEMBLY BILL 896

March 7, 2002 – Introduced by Representatives PETROWSKI, MILLER and RYBA.
Referred to Committee on Highway Safety.

1 **AN ACT** *to amend* 347.28 (1) (intro.) and 347.29 (1) (intro.); and *to create* 25.40
2 (1) (fg), 194.60 and 346.45 (1) (f) of the statutes; **relating to:** transporting
3 buildings on the highways, granting rule-making authority, and providing a
4 penalty.

Analysis by the Legislative Reference Bureau

Under current law, with limited exceptions, a person who transports passengers or property (common motor carrier) or just property (contract motor carrier) for hire by motor vehicle over the highways of this state must apply for a certificate or license authorizing operation of a vehicle as a common or contract motor carrier. As part of the application process, the department of transportation (DOT) must determine the ability and fitness of the applicant to operate as a common or contract motor carrier and, if appropriate, issue a certificate or license to the applicant.

Current law also imposes size limits on vehicles that travel upon the highways. DOT may issue permits authorizing the permittee to operate a vehicle that exceeds these limits on vehicle size, weight, or load.

This bill requires DOT to issue licenses authorizing the transportation of buildings on the highways of this state. Buildings are defined to include dwellings or other structures, at least 14 feet wide or 22 feet long, that are raised and supported from an existing foundation, then moved and placed on a permanent foundation, but do not include modular homes or manufactured homes. These licenses are similar in nature to those issued to common and contract motor carriers. No person may

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operate a vehicle transporting a building on a highway of this state unless the person holds such a license. This license requirement is in addition to any applicable requirements imposed on common and contract motor carriers and to any oversize vehicle permit requirements.

Under the bill, prior to issuing a license, DOT must determine the ability and fitness of the applicant to transport a building, including consideration of: the applicant's safety record for all classes and type of vehicles; the applicant's reliability and service record and history of compliance with motor carrier laws if the applicant is a motor carrier; and the applicant's experience and training. DOT must issue a license if DOT finds that: the applicant is at least 21 years old; the applicant satisfies (with an exception) the same physical qualifications that are required under federal law for a commercial motor vehicle (CMV) operator; the applicant possesses a valid operator's license; the applicant is fit and able to safely operate a vehicle transporting a building in compliance with all legal requirements; and the applicant has filed a certificate of insurance with DOT. DOT may impose terms, conditions, or restrictions on a licensee with the issuance of any license. Each license must be renewed annually.

Under the bill, a licensee may not operate a vehicle transporting a building if: the licensee's ability or alertness is so impaired by fatigue or illness that operation of the vehicle would be unsafe; the licensee is under the influence of certain prohibited substances; the licensee has not, prior to operation, inspected certain equipment of the vehicle and certain safety equipment and satisfied himself or herself that all equipment is in good working order; a person is in the building being transported; or the vehicle is equipped with a radar detector. The bill requires the operator of a vehicle transporting a building to use extreme caution when encountering hazardous road conditions, to carry certain disabled vehicle warning devices, and to use these warning devices in specified circumstances. The bill further requires licensees to prominently display the licensee's name and address on any vehicle transporting a building that is operated by the licensee.

Under the bill, a licensee may not operate a vehicle transporting a building unless the vehicle's load is properly secured and distributed. The licensee must, prior to operating the vehicle, inspect the vehicle and satisfy himself or herself that the load is properly secured and distributed and does not obstruct the operator's view. The licensee must also stop the vehicle after 25 miles of operation, and thereafter every 150 miles or three hours of driving, whichever occurs first, to inspect the load and load-securing devices to satisfy himself or herself that the load remains properly secured and distributed. The licensee must further periodically inspect, repair, and maintain, or verify that such inspection, repair, and maintenance has been performed by another, any vehicle operated by the licensee to transport a building. A licensee may not operate a vehicle transporting a building unless, upon reasonable inspection, the licensee is satisfied that the vehicle is in safe and proper operating condition and complies with the same federal parts and accessories requirements that apply to CMVs.

The bill also requires that any vehicle used to transport a building be covered under a motor vehicle liability policy with a total limit of not less than \$500,000, and

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that a licensee maintain a comprehensive general liability policy with a total limit of not less than \$500,000.

Under the bill, DOT must promulgate rules to implement and administer the law.

A person who operates a vehicle transporting a building without a license, and a licensee who violates any of the provisions governing operation of such a vehicle, is required to forfeit not less than \$500 and not more than \$5,000. The department may also suspend, revoke, alter, or amend a license for violation of these provisions or for specified other reasons, but must revoke a license upon notice of the licensee's conviction for an operating-while-intoxicated offense or refusal.

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.** 25.40 (1) (fg) of the statutes is created to read:

2 25.40 (1) (fg) All moneys received as fees under s. 194.60 (3).

3 **SECTION 2.** 194.60 of the statutes is created to read:

4 **194.60 Vehicles transporting buildings. (1)** In this section, “building”
5 means a dwelling or other structure, at least 14 feet wide or 22 feet long, that is
6 transportable as a whole or in sections and that is raised and supported from an
7 existing foundation to be moved and placed on a permanent foundation at a new
8 location where the dwelling or other structure is to be delivered. “Building” does not
9 include a modular housing unit or a manufactured home as defined in s. 101.91 (2).

10 **(2)** No person may operate a vehicle transporting a building on a highway of
11 this state unless the person holds a license issued by the department under this
12 section.

13 **(3)** Application for initial issuance or renewal of a license issued under this
14 section shall be made annually to the department upon forms prescribed by it. A
15 license issued or renewed under this section shall expire on December 31 of each year.

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1 Each application shall be accompanied by a fee paid to the department of \$150 for
2 initial issuance of a license and \$100 for renewal of a license.

3 (4) (a) Upon receipt of the application and fees specified in sub. (3), the
4 department shall determine the ability and fitness of a person to transport a building
5 on the highways of this state, including consideration of all of the following:

6 1. The applicant's safety record, including the applicant's driving record for all
7 classes and types of vehicles that the applicant is licensed to operate.

8 2. Whether the applicant has at any time held a certificate, license, or permit
9 under this chapter, the applicant's reliability and service record and whether the
10 applicant has complied with the requirements of the certificate, license, or permit
11 and with the provisions of this chapter.

12 3. The applicant's experience and training, including experience or training
13 related to the requirements under sub. (6).

14 (b) The department shall issue a license authorizing a person to operate a
15 vehicle transporting a building on the highways of this state if the department finds
16 that all of the following requirements are met:

17 1. The applicant is at least 21 years old.

18 2. The applicant certifies that he or she meets all of the physical qualifications
19 required of a commercial motor vehicle operator under 49 CFR 391.41 (b), unless the
20 department finds that the applicant is able to safely operate a vehicle transporting
21 a building despite the applicant's failure to meet these physical qualifications.

22 3. The applicant possesses a valid operator's license issued by this state or
23 another jurisdiction for the class and type of vehicle to be used to transport any
24 building.

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1 4. The applicant is fit and able to safely operate a vehicle transporting a
2 building in compliance with the requirements of this section.

3 5. The applicant has satisfied the insurance filing requirement under sub. (5)
4 (c).

5 (c) In issuing a license under par. (b), the department may attach to the
6 privilege granted by the license any terms, conditions, or restrictions on the
7 applicant's operation of a vehicle transporting a building that the department deems
8 necessary to ensure safe operation by the applicant of such a vehicle and compliance
9 with this section.

10 (d) Upon any change in an applicant's circumstances that causes the applicant
11 to no longer satisfy the requirements of par. (b), the applicant shall notify the
12 department within 10 days of the change in circumstances and the department shall
13 immediately revoke the license, notwithstanding sub. (12).

14 (e) If the department denies issuance of a license, the department shall notify
15 the applicant in writing of the reason. The applicant shall have 30 days from receipt
16 of the writing to correct the deficiency and reapply without payment of an additional
17 application fee or to file a petition with the division of hearings and appeals under
18 s. 194.145.

19 **(5)** (a) No vehicle may be used to transport a building in this state unless a
20 motor vehicle policy of liability insurance, issued by an insurer authorized to
21 transact business in this state, is maintained thereon that provides bodily injury
22 liability coverage and property damage liability coverage with a total limit of not less
23 than \$500,000 for each accident.

24 (b) No licensee may operate a vehicle transporting a building in this state
25 unless the licensee maintains a policy of comprehensive general liability insurance,

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1 issued by an insurer authorized to transact business in this state, that provides
2 bodily injury liability coverage and property damage liability coverage, including for
3 building collapse and underground property damage, with a total limit of not less
4 than \$500,000 for each occurrence.

5 (c) The department may not issue a license under this section unless there is
6 on file with the department a certificate of insurance showing that any vehicle to be
7 operated by an applicant or licensee to transport a building is insured in compliance
8 with par. (a) and that the licensee maintains a policy of insurance in compliance with
9 par. (b). No such policies may be terminated prior to their expiration or canceled for
10 any reason unless a notice thereof is filed by the insurer with the department at least
11 30 days prior to the date of termination or cancellation. On request of the
12 department, the insurer must furnish to the department a duplicate original of any
13 policy and any endorsements under the policy.

14 **(6)** (a) A licensee under this section may not operate a vehicle transporting a
15 building unless the load being transported is securely fastened to the vehicle and
16 distributed in a manner that will prevent side sway under all conditions of operation.

17 (b) A licensee under this section shall, prior to operating a vehicle transporting
18 a building, inspect the vehicle and satisfy himself or herself that the requirements
19 of par. (a) and s. 346.88 are met.

20 (c) A licensee under this section may not operate a vehicle transporting a
21 building for more than 25 miles from the location where the transportation was
22 commenced without stopping to inspect the load and the load-securing devices and
23 satisfying himself or herself that the requirements of par. (a) continue to be met. A
24 licensee shall thereafter stop periodically, at least every 150 miles or 3 hours of

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1 driving, whichever occurs first, to inspect the load and the load-securing devices and
2 satisfy himself or herself that the requirements of par. (a) continue to be met.

3 (d) A licensee under this section shall systematically and periodically inspect,
4 repair, and maintain, or verify that such inspection, repair, and maintenance has
5 been performed by another, any vehicle operated by the licensee to transport a
6 building. A licensee may not operate a vehicle transporting a building unless, upon
7 reasonable inspection, the licensee is satisfied that the vehicle is in safe and proper
8 operating condition and complies with the same parts and accessories requirements
9 that apply to commercial motor vehicles specified in 49 CFR 393. All records of
10 inspection, repair, or maintenance performed or arranged by the licensee shall be
11 maintained by the licensee for one year.

12 (7) A licensee under this section may not operate a vehicle transporting a
13 building if any of the following apply:

14 (a) The licensee's ability or alertness is so impaired by fatigue, illness, or any
15 other cause that operation of the vehicle would be unsafe.

16 (b) The licensee is under the influence of any substance identified as a
17 prohibited substance in 49 CFR 392.4.

18 (c) Prior to operation, the licensee has not inspected the vehicle and satisfied
19 himself or herself that all brakes, steering apparatus, lights and lamps, tires, horns,
20 windshield wipers, mirrors, and coupling devices are in good working order and that
21 no light, lamp, or reflector is obstructed.

22 (d) Prior to operation, the licensee has not inspected the vehicle and satisfied
23 himself or herself that the vehicle contains a fire extinguisher, warning devices
24 specified in s. 347.28 (1), red flags, and spare fuses that are in good working order
25 and ready for use.

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1 (e) Any person is in the building.

2 (f) The vehicle is equipped with any device used to detect radar signals utilized
3 by a law enforcement officer to measure the speed of motor vehicles.

4 **(8)** A licensee under this section shall do all of the following while operating
5 a vehicle transporting a building:

6 (a) Use extreme caution, including reduction of speed, when encountering
7 hazardous conditions that may adversely affect visibility or traction, including
8 conditions arising from snow, ice, sleet, fog, mist, rain, dust, sand, or smoke.

9 (b) Prominently display the licensee's name and address on any vehicle
10 operated by the licensee to transport a building.

11 **(9)** The department shall promulgate rules to implement and administer this
12 section.

13 **(10)** The requirements imposed under this section shall be in addition to any
14 other requirements, rules, and orders imposed under this chapter and chs. 343, 347,
15 and 348.

16 **(11)** Any person who violates a provision of this section shall forfeit not less
17 than \$500 nor more than \$5,000. Each violation constitutes a separate offense.

18 **(12)** (a) The department may, after notice to the licensee and a hearing at which
19 the licensee has the opportunity to be heard, suspend, revoke, alter, or amend a
20 license issued under this section if the department finds any of the following:

21 1. That the licensee has violated or refused to comply with a provision of this
22 section, or an order or rule of the department.

23 2. That the licensee does not meet the requirements for issuance of a license
24 under sub. (3) (b).

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1 3. That the licensee has engaged in conduct endangering the safety of persons
2 using the highways.

3 4. That the licensee has engaged in conduct obstructing traffic in an
4 unauthorized manner.

5 5. That the licensee has failed to provide reimbursement for damage caused by
6 the licensee to a highway that was not paid for by the licensee's insurer.

7 6. That the licensee has abandoned a building on any highway or on public or
8 private property without permission of the property owner.

9 (b) The department shall revoke a license issued under this section upon
10 receiving notice of the licensee's conviction under s. 346.63 (1), (2m), (5), or (7) or a
11 local ordinance in conformity therewith, or s. 346.63 (2) or (6), or s. 940.09 (1) or
12 940.25, or upon receiving notice of revocation of the licensee's operating privilege
13 under s. 343.305 (10). A person whose license is revoked under this paragraph may
14 not apply for another license issued under this section.

15 (c) A person who is aggrieved by an order of the department under this
16 subsection may, within 30 days after the date that the order is issued, request a
17 review of the order by the division of hearings and appeals under s. 194.145.

18 (d) If the department revokes a person's license under par. (a), the department
19 may prohibit the person from applying for another license issued under this section
20 or may specify a date, not less than one year following the revocation, after which the
21 person may apply for another license issued under this section.

22 **SECTION 3.** 346.45 (1) (f) of the statutes is created to read:

23 346.45 (1) (f) Every vehicle transporting a building, as defined in s. 194.60 (1).

24 **SECTION 4.** 347.28 (1) (intro.) of the statutes is amended to read:

