

2001 DRAFTING REQUEST

Bill

Received: **03/22/2001**

Received By: **fasttn**

Wanted: **Soon**

Identical to LRB:

For: **Jerry Petrowski (608) 266-1182**

By/Representing: **Kathy Marschman (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, RJM**

Submit via email: **YES**

Requester's email: **Rep.Petrowski@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Vehicles transporting houses.

Instructions:

See Attached. Transferred from 01-2924.

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>
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lrb_docadmin
02/13/2002

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re-submitted
via e-mail
per their
request

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Instructions:

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To 1/30
J. P. S.

FE Sent For:

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Transportation - traffic laws

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Pre Topic:

No specific pre topic given

Topic:

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Instructions:

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LRB 2924

11/2/01

Telephone conference with Kathy Marschman in Rep. Petrowski's office. 6-1182. Wants redraft of this bill. Wants to pattern bill after Minnesota law; wants it to look more like Minnesota statute 221.81. The commissioner in Minnesota licenses these vehicles; not sure if it is an operator's license endorsement but thinks so. Wants insurance requirements to be same as in Minnesota; this provision is important. Perhaps some of what is in Minnesota law could still be done by DOT by rule, but believes that "1" draft was "too loose" and that statute needs to be more specific in setting forth requirements for DOT to follow.

ARG

2001 DRAFTING REQUEST

Bill

Copy - file transferred from 2924 -> 4223

Received: 03/22/2001

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Wanted: Soon

Identical to LRB:

For: Jerry Petrowski (608) 266-1182

By/Representing: Kathy (aide)

This file may be shown to any legislator: NO

Drafter: agary

May Contact:

Addl. Drafters:

Subject: Transportation - motor vehicles

Extra Copies: TNF, ARG - 1

Submit via email: NO

Pre Topic:

No specific pre topic given

Topic:

Require DOT rules on transportation of a house

Instructions:

Require DOT to promulgate rules re certification or licensure of persons moving houses on highways, ie., uniform standards that must be met. Consider certification, training, liability insurance, etc.

Drafting History:

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State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-2924/1
ARG:rs&cjs:jf

2001 BILL

1 **AN ACT** *to amend* 346.95 (1), and *to create* 85.38 and 346.94 (18) of the statutes;
2 **relating to:** transporting houses on the highways, granting rule-making
3 authority, and providing a 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, including permits authorizing the transportation of oversize mobile homes.

This bill requires DOT to promulgate rules for the safe transportation of houses, including manufactured and mobile homes, on the highways of this state and for the certification of persons authorized to operate vehicles transporting houses on the highways of this state. DOT must include in the rules criteria for determining the minimum qualifications, training, and safety record for any person to be authorized to operate a vehicle transporting a house on the highways of this state,

BILL

as well as minimum liability insurance coverage for any vehicle transporting a house on the highways of this state. DOT may charge a fee to cover the costs of certification. This certification by DOT is in addition to any applicable requirements imposed on common and contract motor carriers and to any oversize vehicle permit requirements.

The bill also provides that no person may operate a vehicle transporting a house on a highway of this state unless the person is certified by DOT. A person who violates this requirement may be required to forfeit not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the second or subsequent conviction within a year.

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.** 85.38 of the statutes is created to read:

2 **85.38 Transportation of houses.** (1) The department shall promulgate
3 rules for the safe transportation of houses, including manufactured homes as defined
4 in s. 101.91 (2), on the highways of this state and for the certification by the
5 department of persons authorized to operate vehicles transporting houses on the
6 highways of this state. The rules shall include criteria for determining the minimum
7 qualifications, training, and safety record for any person to be authorized to operate
8 a vehicle transporting a house on the highways of this state, as well as minimum
9 liability insurance coverage for any vehicle transporting a house on the highways of
10 this state. The department may establish by rule a fee to cover the costs of
11 certification under this section.

12 (2) The requirements imposed by the department under this section shall be
13 in addition to any requirements, rules, and orders imposed under chs. 194 and 348.

14 **SECTION 2.** 346.94 (18) of the statutes is created to read:

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2924/1dn
ARG:rs&cjs:jf

September 24, 2001

The attached draft requires the department of transportation (DOT) to promulgate rules for the safe transportation of houses (including manufactured and mobile homes) and for certification of persons authorized to transport houses on the highways of this state. The attached draft provides DOT significant discretion in creating these rules. If you believe the attached draft provides DOT too little guidance or too much discretion, the attached draft may be modified to specify more precisely the nature of the rules that DOT is being directed to promulgate.

The attached draft also imposes a penalty for operation of a vehicle transporting a house by a person who has not been certified by DOT as authorized to operate such a vehicle. The penalty imposed is the "standard" penalty under s. 346.95 (1), i.e., a forfeiture of between \$20 and \$40 for the first offense and \$50 to \$100 for a subsequent offense within a year. Because of various "add-on" penalties and assessments, the actual citation amount will be higher. If you would like a different penalty provision, please let me know.

The attached draft also includes a delayed effective date to allow DOT time to promulgate the specified rules.

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

CHAPTER 221

MOTOR CARRIERS; PIPELINE CARRIERS

- 221.011 Definitions.
MOTOR CARRIERS
- 221.021 Aggravated registration or local ordinance violation; sanctions.
- 221.022 Exception.
- 221.025 Exemptions.
- 221.0251 Motor carrier of property; registration.
- 221.0252 Passenger carrier; registration, exemptions.
- 221.026 Motor carrier of property; exemptions.
- 221.0269 Relief from safety regulation.
- 221.031 Intrastate carrier; operating requirements, exemptions.
- 221.0313 Controlled substance testing and procedures.
- 221.0314 Federal safety regulations; adoption.
- 221.0315 Investigative data provided.
- 221.033 Regulation of hazardous materials.
- 221.034 Report of hazardous material incident.
- 221.0355 Uniform hazardous material and hazardous waste registration and permit requirements.
- 221.036 Administrative orders; enforcement remedies.
- 221.037 Hazardous materials; information, inspection.
- 221.072 Class I carrier.
- 221.091 Local government authority.
- 221.101 Additional authority to petroleum carrier.
- 221.111 Permit to other motor carrier.
- 221.121 Permit: approval process; operating authority; fee.
- 221.122 Order granting permit or certificate; compliance.
- 221.123 Effect of death of permit holder.
- 221.124 Initial motor carrier contact program.
- 221.131 Carrier vehicle registration; fees, identification card.
- 221.137 Prepaid temporary vehicle identification card.
- 221.141 Insurance or bond.
- 221.151 Permit assignable or transferable.
- 221.152 Conversion of permit.
- 221.153 Armored carrier; conversion of operating authority.
- 221.161 Schedule of rates and charges.
- 221.165 Collective ratemaking.
- 221.171 Compensation of permit carrier fixed.
- 221.172 Shipping document.
- 221.173 Electronic signature.
- 221.178 Passenger carrier; criminal background check.
- 221.181 Interstate carrier; regulation.
- 221.185 Operating authority; suspension, cancellation.
- 221.221 Enforcement powers.
- 221.231 Reciprocal agreement.
- 221.241 Transporting food for human consumption.
- 221.251 Overcharge refund.
- 221.261 Complaint, action in district court.
- 221.271 Liability.
- 221.291 Violations, misdemeanors.
- 221.293 Complaint, hearing, and order.
- 221.295 Notice to metropolitan council.
- 221.296 Local cartage carrier.
- PIPELINE CARRIERS
- 221.54 Transportation by pipeline.
- 221.55 Certificate of public convenience and necessity.
- INTERSTATE MOTOR CARRIER OPERATIONS
- 221.60 Registration of interstate carrier.
- 221.601 Agreement with another state.
- 221.602 Interstate carrier registration.
- 221.605 Compliance by carrier.
- 221.65 Reciprocal agreement.
- 221.67 Service of process.
- 221.68 Registration violations; penalties.
- MISCELLANEOUS
- 221.71 Commuter van; driver liability.
- 221.81 Building mover.
- 221.82 Receipts credited to trunk highway fund.
- 221.83 Costs paid from trunk highway fund.
- 221.84 Limousine.
- 221.86 Partial immunity for motor carrier employer.

221.01 [Repealed, Ex1957 c 17 s 31]

221.011 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. **Department.** "Department" means the department of transportation.

Subd. 2a. **Commissioner.** "Commissioner" means the commissioner of transportation.

Subd. 2b. **Board.** "Board" means the transportation regulation board.

Subd. 3. **Vehicle.** "Vehicle" means a vehicle or combination of vehicles used upon the highways for the transportation of persons or property.

Subd. 4. [Repealed, 1983 c 371 s 44]

Subd. 5. **Public highway.** "Public highway" means every public street, alley, road, highway or thoroughfare of any kind, except waterways, open to public travel and use.

Subd. 6. **Person.** "Person" means any individual, firm, copartnership, cooperative, company, association and corporation, or their lessees, trustees, or receivers.

Subd. 7. [Repealed, 1999 c 238 art 2 s 92]

(2) in the same manner that the federal regulations apply to interstate transportation.

(c) Intrastate carriers who are required to comply with the adopted federal regulations are exempt from the requirements of sections 181.950 to 181.957. This exemption applies only to the testing of drivers.

Subd. 2. Definitions. For purposes of this section, the following terms used in the federal regulations adopted in subdivisions 4 and 5 have the meanings given them in this subdivision:

- (a) "DOT agency" means the commissioner of transportation.
- (b) "DOT agency regulations" means the federal regulations adopted in subdivisions 4 and 5.
- (c) "Motor carrier" means:
 - (1) a motor carrier as defined in section 221.011, subdivision 15; and
 - (2) a private carrier as defined in section 221.011, subdivision 26, or a person providing transportation described in section 221.025 when the private carrier or person:
 - (i) is subject to the rules of the commissioner for driver qualifications under section 221.031; and
 - (ii) is operating a commercial motor vehicle.

The term "motor carrier" includes a motor carrier's agents; officers; representatives; employees responsible for hiring, supervising, training, assigning, or dispatching drivers; and employees concerned with installing, inspecting, and maintaining motor vehicle equipment or accessories. The definition of motor carrier includes the term "employer."

Subd. 3. Applicability. The regulations adopted in subdivisions 4 and 5 apply to a motor carrier providing transportation by commercial motor vehicle in intrastate commerce.

Subd. 4. Driver qualifications; federal regulations adopted. Code of Federal Regulations, title 49, sections 391.41, paragraph (c); 391.43, paragraph (a)(2); 391.81, paragraphs (a) and (b); 391.85; 391.87; 391.89; 391.95 to 391.123; and part 391, appendix D, are incorporated by reference.

Subd. 5. Controlled substance testing; federal regulations adopted. Code of Federal Regulations, title 49, sections 40.1; 40.3; 40.21, paragraphs (a), (c), and (d); 40.23 to 40.39; and part 40, appendix A, are incorporated by reference.

Subd. 6. Applicability of other testing programs. (a) If a drug testing program established under this section is limited to testing for the controlled substances listed in Code of Federal Regulations, title 49, section 40.21, paragraph (a), sections 181.950 to 181.957 do not apply.

(b) Persons subject to this section may test for drugs, in addition to those listed in Code of Federal Regulations, title 49, section 40.21, paragraph (a), or for alcohol, only in accordance with sections 181.950 to 181.957, and rules adopted under those sections.

History: 1992 c 578 s 28; 1993 c 117 s 20

221.0314 FEDERAL SAFETY REGULATIONS; ADOPTION.

Subdivision 1. Applicability. (a) Intrastate motor carriers must comply with the federal regulations incorporated in this section. Private carriers and persons providing intrastate transportation described in section 221.025 must comply with the federal regulations incorporated in this section to the extent required by section 221.031. Every carrier and its officers, agents, representatives, and employees responsible for managing, maintaining, equipping, operating, or driving motor vehicles, or hiring, supervising, training, assigning, or dispatching drivers, must be instructed in and comply with the rules incorporated in this section and shall require that its agents, representatives, drivers, and employees comply.

(b) In the rule

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Subd. 2. **Qua**
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(b) In the rules incorporated in subdivisions 2 to 11:

(1) the term "motor carrier" means a carrier required to comply with this section;

(2) a reference to a federal agency or office means the Minnesota department of transportation; and

(3) a reference to a federal administrative officer means the commissioner of the Minnesota department of transportation.

Subd. 2. Qualification of driver. Code of Federal Regulations, title 49, part 391 and appendixes D and E, are incorporated by reference except for sections 391.2; 391.11; paragraph (b)(1); 391.47; 391.49; 391.62; 391.64; 391.67; 391.68; 391.69; 391.71; and 391.73. In addition, cross-references to sections or paragraphs not incorporated in this subdivision are not incorporated by reference.

Subd. 3. Waiver for limb impairment. A person who is not physically qualified to drive under subdivision 2, but who meets the other qualifications under subdivision 2, may drive a motor vehicle if the commissioner grants a waiver to that person. The commissioner may grant a waiver to a person who is not physically qualified to drive under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(1) or (b)(2), according to rules adopted under section 221.031.

Subd. 3a. Waiver for other medical condition. (a) The commissioner may grant a waiver to a person who is not physically qualified to drive under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(3) to (b)(13). A waiver granted under this subdivision applies to intrastate transportation only.

(b) A person who wishes to obtain a waiver under this subdivision must give the commissioner the following information:

(1) the applicant's name, address, and telephone number;

(2) the name, address, and telephone number of an employer coapplicant, if any;

(3) a description of the applicant's experience in driving the type of vehicle to be operated under the waiver;

(4) a description of the type of driving to be done under the waiver;

(5) a description of any modifications to the vehicle the applicant intends to drive under the waiver that are designed to accommodate the applicant's medical condition or disability;

(6) whether the applicant has been granted another waiver under this subdivision;

(7) a copy of the applicant's current driver's license;

(8) a copy of a medical examiner's certificate showing that the applicant is medically unqualified to drive unless a waiver is granted;

(9) a statement from the applicant's treating physician that includes:

(i) the extent to which the physician is familiar with the applicant's medical history;

(ii) a description of the applicant's medical condition for which a waiver is necessary;

(iii) assurance that the applicant has the ability and willingness to follow any course of treatment prescribed by the physician, including the ability to self-monitor or manage the medical condition; and

(iv) the physician's professional opinion that the applicant's condition will not adversely affect the applicant's ability to operate a motor vehicle safely; and

(10) any other information considered necessary by the commissioner including requiring a physical examination or medical report from a physician who specializes in a particular field of medical practice.

(c) In granting a waiver under this subdivision, the commissioner may impose conditions the commissioner considers necessary to ensure that an applicant is able to operate a motor vehicle safely and that the safety of the general public is protected.

(d) A person who is granted a waiver under this subdivision must:

(1) at intervals specified in the waiver, give the commissioner periodic reports from the person's treating physician, or a medical specialist if the commissioner so requires in the waiver, that contain the information described in paragraph (b), clause (9), together with a description of any episode that involved the person's loss of consciousness or loss of ability to operate a motor vehicle safely; and

(2) immediately report the person's involvement in an accident for which a report is required under section 169.09, subdivision 7.

(e) The commissioner shall deny an application if, during the three years preceding the application, the applicant's driver's license has been suspended, canceled, or revoked or the applicant has been convicted of a disqualifying offense, as defined in Code of Federal Regulations, title 49, section 383.51, paragraph (b)(2), which is incorporated by reference.

(f) The commissioner may deny an application or may immediately revoke a waiver granted under this subdivision. Notice of the commissioner's reasons for denying an application or for revoking a waiver must be in writing and must be mailed to the applicant's or waiver holder's last known address by certified mail, return receipt requested. A person whose application is denied or whose waiver is revoked is entitled to a hearing under chapter 14.

(g) A waiver granted under this subdivision expires on the date of expiration shown on the medical examiner's certificate described in paragraph (b), clause (8).

Subd. 4. Age requirement for driver. Drivers of vehicles engaged in intrastate transportation and subject to subdivision 2 must be at least 18 years of age. Drivers of vehicles subject to section 221.033 must be at least 21 years of age, except as provided in that section.

Subd. 5. Location of driver qualification file. A carrier subject to subdivision 2 must keep each driver's qualification file at the carrier's principal place of business for as long as a driver is employed by that carrier and for three years after the driver leaves employment. Upon written request to and with the written approval of the commissioner, a carrier may retain driver qualification files at a regional or terminal office.

Subd. 6. Driving of motor vehicle. Code of Federal Regulations, title 49, part 392, is incorporated by reference.

Subd. 7. Parts and accessories necessary for safe operation. Code of Federal Regulations, title 49, part 393, is incorporated by reference except for paragraph (d) of section 393.43. In addition, despite the first paragraph of Code of Federal Regulations, title 49, section 393.95, a lightweight vehicle must carry a fire extinguisher meeting the requirements in Code of Federal Regulations, title 49, section 393.95.

Subd. 8. Accident by carrier. The definitions of "accident," "disabling damage," and "fatality" in Code of Federal Regulations, title 49, sections 390.5 and 390.15, are incorporated by reference.

Subd. 9. Hours of service of driver. Code of Federal Regulations, title 49, part 395, is incorporated by reference, except that paragraphs (a), (c), (d), (f), (i), (j), (l), (m), (n), and (o) of section 395.1 and section 395.13 of that part are not incorporated. In addition, cross-references to sections or paragraphs not incorporated in this subdivision are not incorporated by reference. The requirements of Code of Federal Regulations, title 49, part 395, do not apply to drivers of lightweight vehicles.

Subd. 9a. Hours of service exemptions. The federal regulations incorporated in subdivision 9 for maximum driving and on-duty time do not apply to drivers engaged in the interstate or intrastate transportation of:

(1) agricultural commodities or farm supplies for agricultural purposes in Minnesota during the planting and harvesting seasons from March 15 to December 15 of each year; or

(2) sugar beets during the harvesting season for sugar beets from September 1 to May 15 of each year;

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if the transportation is limited to an area within a 100-air-mile radius from the source of the commodities or the distribution point for the farm supplies.

Subd. 10. Inspection, repair, and maintenance. Code of Federal Regulations, title 49, part 396, is incorporated by reference, except that sections 396.9; 396.11, paragraph (d); 396.17; 396.19; 396.21; and 396.23 of that part are not incorporated.

Subd. 11. Transporting hazardous materials; driving and parking. A person who transports hazardous materials shall comply with this section and rules adopted under section 221.031 when that person is transporting a hazardous material, hazardous waste, or hazardous substance in a vehicle that must be marked or placarded in accordance with Code of Federal Regulations, title 49, section 172.504, incorporated by reference in section 221.033. Code of Federal Regulations, title 49, part 397, is incorporated by reference. A petroleum transport driver shall not park on a public street adjacent to a bridge, tunnel, dwelling, building, or place where persons work, congregate, or assemble, except when necessary to unload.

History: 1993 c 117 s 21; 1994 c 600 s 8; 1995 c 265 art 2 s 22; 1996 c 387 s 1-3; 1996 c 456 s 22; 1997 c 230 s 7-13; 1998 c 403 s 21; 1999 c 230 s 25

221.0315 INVESTIGATIVE DATA PROVIDED.

The commissioner may provide to the board investigative data about a petitioner or carrier that is subject to the jurisdiction of the board. When the data are transferred to the board, the commissioner shall notify the petitioner or carrier in writing that the data are being provided to the board.

History: 1988 c 544 s 10; 1988 c 670 s 11

221.032 [Repealed, 1983 c 371 s 44]

221.033 REGULATION OF HAZARDOUS MATERIALS.

Subdivision 1. Requirements. Except as provided in subdivisions 2 to 3, no person may transport or offer or accept for transportation within the state of Minnesota a hazardous material, hazardous substance, or hazardous waste except in compliance with United States Code, title 49, sections 1801 to 1811 and the provisions of Code of Federal Regulations, title 49, parts 171 to 199. Those provisions apply to transportation in intrastate commerce to the same extent they apply to transportation in interstate commerce.

Subd. 2. Exemption for farmer. (a) This subdivision applies to persons engaged in intrastate commerce.

(b) Farmers or their employees transporting diesel fuel, gasoline, agricultural chemicals, or agricultural fertilizers for use on the transporter's farm are not required to comply with the rules adopted in section 221.0314, subdivisions 2 to 5, for driver qualifications or with the shipping paper requirements of the Code of Federal Regulations, title 49, sections 172.200 and 177.817 or with section 397.7(R) or 397.9(A) of the Federal Motor Carrier Safety Regulations when:

(1) transporting diesel fuel or gasoline in motorized tank truck vehicles of less than 1,500-gallon capacity owned by the transporter, or in tanks securely mounted in other motor vehicles with a gross vehicle weight of less than 10,000 pounds and owned by the transporter; or

(2) transporting agricultural chemicals and agricultural fertilizers.

Subd. 2a. Agriculturally related exemption. (a) This subdivision applies to persons engaged in intrastate commerce.

(b) Fertilizer and agricultural chemical retailers or their employees are exempt from the rule in section 221.0314, subdivision 4, requiring that drivers must be at least 21 years of age when:

action against the carrier or the carrier's executor, administrator, personal representative, heirs, successors, or assigns which is so served shall be of the same legal force and validity as if served upon the carrier personally. Service shall be made according to section 5.25 and the plaintiff's affidavit of compliance with the provisions of this section and sections 221.60, 221.65, and 221.68 must be attached to the summons.

History: 1963 c 399 s 7; 1980 c 541 s 3; 3Sp1981 c 2 art 1 s 30; 1985 c 299 s 29; 1986 c 444; 1987 c 404 s 157; 1989 c 335 art 1 s 184; 1995 c 128 art 1 s 5

221.68 REGISTRATION VIOLATIONS; PENALTIES.

Any person who violates or procures, aids, or abets violation of, or fails to comply with, the provisions of Laws 1985, chapter 299, sections 27 to 29 or any valid order or rule of the commissioner or board issued hereunder shall be guilty of a misdemeanor; and, additionally, shall be subject to a penalty of \$50 for each and every day of such failure to so comply, to be recovered for the state in a civil action. Each distinct violation shall be a separate offense.

History: 1963 c 399 s 8; 1971 c 25 s 67; 1976 c 166 s 110; 1980 c 534 s 85; 1985 c 299 s 30

MISCELLANEOUS

221.71 COMMUTER VAN; DRIVER LIABILITY.

Subdivision 1. Employment relationship. Notwithstanding any other law to the contrary, the services performed by a driver of a commuter van shall be deemed to be those of an independent contractor and not those of an employee acting within the scope of employment, unless provided in writing to the contrary.

Subd. 2. Standard of care. A driver or owner of a commuter van shall not be held to the standard of care applicable to drivers or owners of common carriers, nor shall they be subject to ordinances or rules which relate exclusively to the regulation of drivers or owners of automobiles for hire or other common carriers or public transit carriers.

History: 1976 c 233 s 10; 1985 c 248 s 70; 1986 c 444

221.81 BUILDING MOVER.

Subdivision 1. Definitions. For the purposes of this section, the terms used in this section have the meanings given them in this subdivision.

(a) "Building mover" means a person, corporation, or other entity who raises, supports off the foundation, and moves buildings on and over public streets and highways. Building mover does not include a person who moves manufactured homes or modular homes, farmers moving their own farm buildings, or persons moving buildings which are less than 16 feet wide by 20 feet long.

(b) "Political subdivision" means a city, town, or county.

(c) "Road authority" has the meaning given it in section 160.02, subdivision 9.

Subd. 2. License. No person may operate as a building mover in this state unless licensed by the commissioner. The commissioner may inspect a building mover's vehicles or records to determine compliance with this section.

Subd. 3. License application. To obtain a license to operate as a building mover an applicant shall file an application with the commissioner specifying the name and address of its officers and other information as the commissioner may reasonably require. The commissioner shall issue the license upon compliance by the applicant with insurance requirements and payment of an initial \$150 filing fee. A license once granted continues in full force and effect, subject to a \$100 annual renewal fee and compliance with insurance requirements, unless revoked or suspended.

The commissioner, upon approval of a license for a building mover, shall issue a sufficient number of cab cards to each licensed mover to provide one cab card for each

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power unit used in moving buildings. The fee is \$10 for each cab card issued. The cab card must be carried at all times in a readily available place in the cab of the power unit for which it was issued. The building mover may also purchase up to five floater cab cards for a fee of \$100 for each floater card issued. Cab cards are effective for a 12-month period and continue from year to year thereafter upon payment of the required fee. Cab cards are only good for the period for which the license is effective.

Subd. 3a. **Insurance.** Each building mover shall have in effect the following:

(1) comprehensive general liability insurance including completed operations, underground property damage, and collapse coverage in the amount of at least \$500,000 for bodily injury or property damage; and

(2) motor vehicle liability insurance in the amount of at least \$500,000 for bodily injury or property damage.

The insurance must be written by an insurer licensed to do business in the state of Minnesota. Each building mover shall file with the commissioner a certificate evidencing the insurance. The insurance policy must provide that the policy may not be canceled without the insurer first giving 30 days' written notice to the commissioner of the impending cancellation.

On request of the commissioner, the insurer must furnish a duplicate original of the policy and all endorsements to the policy.

Subd. 3b. **Local permit.** A building mover may not move a building on or across a street or highway without first obtaining a permit from the road authority having jurisdiction over the street or highway. A permit for the movement of a building may not be granted to a building mover who does not possess a current license issued by the commissioner.

Subd. 3c. **Local regulation.** No license to move buildings or bond, cash deposit, or insurance coverage may be required by a political subdivision of the state other than the license and insurance coverage required by the commissioner. A road authority may charge a fee for services performed and may require a permit which reasonably regulates the hours, routing, movement, parking, or speed limit for a building mover operating on streets or highways under its jurisdiction. A building mover shall comply with the State Building Code in jurisdictions which have adopted the State Building Code, and with local ordinances which regulate the moving or removing of buildings. A building mover may not be required to pay a route approval fee to, or obtain a permit for the movement of a building on streets or highways from, a political subdivision which is not also the road authority. This section does not prohibit a political subdivision from charging a permit fee for regulation of activities which do not involve the use of public streets or highways. Neither the state nor a political subdivision may regulate rates charged by building movers.

Subd. 3d. **Identification.** (a) A building mover's name and address must be displayed on the power unit of a vehicle used to move buildings and on buildings being moved.

(b) Vehicles and buildings must show the name or "doing business as" name of the license holder operating the vehicle and the community and abbreviation of the state in which the license holder maintains its principal office or in which the vehicle is customarily based. If the building mover operates a leased vehicle, it may show its name and the name of the lessor on the vehicle, if the lease relationship is clearly shown. If the name of a person other than the building mover appears on the vehicle, the words "operated by" must immediately precede the name of the building mover.

(c) The name and address must be in letters that contrast sharply in color with the background, be readily legible during daylight hours from a distance of 50 feet while the vehicle or building is stationary, and be maintained in a manner that retains the legibility of the markings. The name and address may be shown by use of a removable device if that device meets the identification and legibility requirements of this subdivision.

Subd. 3e. **Safety rules.** (a) A building mover must comply with the rules adopted in section 221.0314: (1) subdivision 6 for driving of motor vehicles; (2) subdivision 7 for parts and accessories necessary for the safe operation, except as provided in paragraph (b); (3) subdivision 10 for inspection, repair, and maintenance; (4) subdivision 8 for accident reporting; and, (5) on and after August 1, 1994, subdivisions 2 to 5 for driver qualifications.

(b) A towed vehicle, other than a full trailer, pole trailer, or semitrailer, as those terms are defined in Code of Federal Regulations, title 49, section 390.5, used by a building mover to move a building on a highway is not required to comply with rules for parts and accessories necessary for safe operation.

Subd. 4. **License revocation, suspension, denial.** The commissioner, after notice and a hearing, may revoke, suspend, or deny a license for:

(1) failure of the applicant or license holder to reimburse the road authority for damage to public highways, roads, streets, or utilities that are not paid for by the license holder's insurer;

(2) conduct of the applicant or license holder that endangers the health and safety of users of the public highways, roads, streets, or utilities;

(3) conduct of the applicant or license holder that obstructs traffic in a manner other than as authorized in the permit;

(4) violation of this section;

(5) failure to obtain or comply with required local moving permits or permits required by section 169.86;

(6) placing or leaving a building on property without the permission of the owner of the property or in violation of local ordinances; or

(7) abandoning a building after it is first moved under the road permit. For purposes of this subdivision, "abandon" means conduct that shows that a building mover has failed to use reasonable diligence in moving a building to the location described in the road permit.

Subd. 5. **Suspension by commissioner.** (a) The commissioner shall suspend a license without a hearing for the following reasons:

(1) failure to pay the renewal fee; or

(2) failure to comply with insurance requirements.

(b) The suspension continues until the fees are paid and the insurance requirements are satisfied.

Subd. 6. **Misdemeanor.** A person who violates, or aids or abets the violation of, any of the provisions of this section is guilty of a misdemeanor. Every distinct violation is a separate offense.

Subd. 7. [Repealed, 1983 c 293 s 84]

Subd. 8. [Repealed, 1983 c 293 s 84]

Subd. 9. [Repealed, 1983 c 293 s 84]

History: 1979 c 111 s 1; 1981 c 209 s 12; 1981 c 365 s 9; 1982 c 617 s 21; 1983 c 293 s 84; 1984 c 520 s 23; 1985 c 299 s 31; 1988 c 544 s 26; 1992 c 578 s 48-51; 1993 c 117 s 29

221.82 RECEIPTS CREDITED TO TRUNK HIGHWAY FUND.

Money received by the commissioner under the provisions of this chapter shall be paid into the state treasury and credited to the trunk highway fund.

History: 1983 c 293 s 85

221.83 COSTS

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History: 19

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Analysis by the Legislative Reference Bureau

This bill requires DOT to issue licenses authorizing the transportation of houses on the highways of this state. These licenses are similar in nature to those issued to common and contract motor carriers, but issuance of these licenses is not limited to motor carriers. No person may operate a vehicle transporting a house 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 house, 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 house 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 house 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 a blood alcohol concentration above 0.0 or has consumed or been under the influence of an intoxicating beverage within ^{four} 4 hours previously; 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 house being transported; ~~or the vehicle is equipped with a radar detector.~~ The bill requires the operator of a vehicle transporting a house 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 house that is operated by the licensee.

three Under the bill, a licensee may not operate a vehicle transporting a house 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 ³ 3 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 house. A licensee may not operate a vehicle transporting a house 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 house be covered under a motor vehicle liability policy with a total limit of not less than \$500,000, and that a licensee maintain a comprehensive general liability policy with a total limit of not less than \$500,000.

Under the bill, DOT may stop and inspect any vehicle transporting a house, and inspect records of any licensee, to determine compliance with all legal requirements. DOT must promulgate rules to implement and administer the law.

A person who operates a vehicle transporting a house 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.

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 houses.** (1) In this section, "house" means
5 a building, at least 8 feet 6 inches wide or 20 feet long, that is transportable as a whole
6 or in sections on a trailer or temporary undercarriage, is designed to be placed on a
7 permanent foundation or chassis at the location where the building is to be delivered,
8 and is used or intended to be used for human occupancy. "House" includes a modular
9 housing unit, a manufactured home as defined in s. 101.91 (2), and a building raised ✓
10 and supported from an existing foundation to be moved to a new location. ✓

11 (2) No person may operate a vehicle transporting a house on a highway of this
12 state unless the person holds a license issued by the department under this 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.
16 Each application shall be accompanied by a fee paid to the department of \$150 for
17 initial issuance of a license and \$100 for renewal of a license.

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

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

23 2. If the applicant has at any time held a certificate, license, or permit under
24 this chapter, ✓ the applicant's reliability and service record and whether the applicant

1 complied with the requirements of the certificate, license, or permit and with the
2 provisions of this chapter. ✓

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

5 (b) The department shall issue a license authorizing a person to operate a
6 vehicle transporting a house on the highways of this state if the department finds
7 that all of the following requirements are met: ✓

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

9 2. The applicant ^{certifies that he or she meets all of the} ~~satisfies the same~~ physical qualifications required of a
10 commercial motor vehicle operator under 49 CFR 391.41 (b), unless the department
11 finds that the applicant is able to safely operate a vehicle transporting a house
12 despite the applicant's ^{failure to meet} ~~inability to satisfy~~ these physical qualifications. ✓

13 3. The applicant possesses a valid operator's license issued by this state or
14 another jurisdiction for the class and type of vehicle to be used to transport any
15 house. ✓

16 4. The applicant is fit and able to safely operate a vehicle transporting a house
17 in compliance with the requirements of this section. ✓

18 5. The applicant has satisfied the insurance filing requirement under sub. (5)
19 (c). ✓

20 (c) In issuing a license under par. (b), the department may attach to the
21 privilege granted by the license any terms, conditions, or restrictions on the
22 applicant's operation of a vehicle transporting a house that the department deems
23 necessary to ensure safe operation by the applicant of such a vehicle and compliance
24 with this section. ✓

1 (d) Upon any change in an applicant's circumstances that causes the applicant
 2 to no longer satisfy the requirements of par. (b), the applicant shall notify the
 3 department within 10 days of the change in circumstances and the department shall
 4 immediately ^{revoke} ~~commence revocation of~~ the license ^{notwithstanding} ~~under~~ sub. (13).

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

10 (5) (a) No vehicle may be used to transport a house in this state unless a motor
 11 vehicle policy of liability insurance, issued by an insurer authorized to transact
 12 business in this state, is maintained thereon that provides bodily injury liability
 13 coverage and property damage liability coverage with a total limit of not less than
 14 \$500,000 for each accident.

15 (b) No licensee may operate a vehicle transporting a house in this state unless
 16 the licensee maintains a policy of comprehensive general liability insurance, issued
 17 by an insurer authorized to transact business in this state, that provides bodily
 18 injury liability coverage and property damage liability coverage, including for house
 19 collapse and underground property damage, with a total limit of not less than
 20 \$500,000 for each occurrence.

21 (c) The department may not issue a license under this section unless there is
 22 on file with the department a certificate of insurance showing that any vehicle to be
 23 operated by an applicant or licensee to transport a house is insured in compliance
 24 with par. (a) and (b). No such ^{policies} ~~policy~~ may be terminated prior to ^{their} ~~its~~ expiration or
 25 canceled for any reason unless a notice thereof is filed by the insurer with the

and that the ^{licensee} licensee maintains a policy of insurance
 in compliance with par.

1 department at least 30 days prior to the date of termination or cancellation. On ✓
2 request of the department, the insurer must furnish to the department a duplicate
3 original of any policy and any endorsements under the policy. ✓

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

7 (b) A licensee under this section shall, prior to operating a vehicle transporting
8 a house, inspect the vehicle and satisfy himself or herself that the requirements of
9 par. (a) and s. 346.88 are met. ✓ ✓

10 (c) A licensee under this section may not operate a vehicle transporting a house
11 for more than 25 miles from the location where the transportation was commenced
12 without stopping to inspect the load and the load-securing devices and satisfying
13 himself or herself that the requirements of par. (a) continue to be met. A licensee
14 shall thereafter stop periodically, at least every 150 miles or 3 hours of driving,
15 whichever occurs first, to inspect the load and the load-securing devices and satisfy
16 himself or herself that the requirements of par. (a) continue to be met. ✓

17 (d) A licensee under this section shall systematically and periodically inspect,
18 repair, and maintain, or verify that such inspection, repair, and maintenance has
19 been performed by another, any vehicle operated by the licensee to transport a house.

20 A licensee may not operate a vehicle transporting a house unless, upon reasonable
21 inspection, the licensee is satisfied that the vehicle is in safe and proper operating
22 condition and complies with the same parts and accessories requirements that apply
23 to commercial motor vehicles specified in 49 CFR ~~393~~ 393. All records of inspection,
24 repair, or maintenance performed or arranged by the licensee shall be maintained
25 by the licensee for one year.

1 (7) A licensee under this section may not operate a vehicle transporting a house
2 if any of the following apply:

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

5 (b) The licensee is under the influence of any substance identified as a
6 prohibited substance in 49 CFR 392.4 or operation of the vehicle would otherwise be
7 in violation of s. ³⁴⁶~~346~~.63. ✓

8 (c) The licensee has an alcohol concentration, as defined in s. 340.01 (1v), above ✓
9 0.0 or has, within 4 hours previously, consumed or been under the influence of an
10 intoxicating beverage.

11 (d) Prior to operation, the licensee has not inspected the vehicle and satisfied
12 himself or herself that all brakes, steering apparatus, lights and lamps, tires, horns,
13 windshield wipers, mirrors, and coupling devices are in good working order and that
14 no light, lamp, or reflector is obstructed. ✓

15 (e) Prior to operation, the licensee has not inspected the vehicle and satisfied
16 himself or herself that the vehicle contains a fire extinguisher, warning devices
17 specified in s. 347.28 (1), red flags, and spare fuses that are in good working order
18 and ready for use. ✓

19 (f) Any person is in the house. ✓

20 (g) The vehicle is equipped with any device used to detect radar signals utilized
21 by a law enforcement officer to measure the speed of motor vehicles. ✓

22 (8) A licensee under this section shall do all of the following while operating
23 a vehicle transporting a house:

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

4 (b) Prominently display the licensee's name and address on any vehicle
5 operated by the licensee to transport a house.

6 (9) The department or its duly authorized agents may at any time stop and
7 inspect a vehicle under this section, and inspect any record related to the provisions
8 of this section, to determine compliance with this section.

9 (10) The department shall promulgate rules to implement and administer this
10 section. ✓

11 (11) The requirements imposed under this section shall be in addition to any
12 other requirements, rules, and orders imposed under this chapter and ^{Chs. 343 and} ~~Ch.~~ 348. ✓

13 (12) Any person who violates ^{a provision of} this section shall forfeit not less than \$500 nor
14 more than \$5,000. Each violation constitutes a separate offense. ✓

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

18 1. That the licensee has violated or refused to comply with ⁽²⁾ ~~any~~ provisions
19 of this section, or ^{an} ~~any~~ orders or rules of the department. ✓

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

22 3. That the licensee has engaged in conduct endangering the safety of persons
23 using the highways. ✓

24 4. That the licensee has engaged in conduct obstructing traffic in an
25 unauthorized manner. ✓

1 5. That the licensee has failed to provide ^{reimbursement} reimbursemet for damage caused by
2 the licensee to a highway that was not paid for by the licensee's insurer. ✓

3 6. That the licensee has abandoned a house on any highway or on private
4 property without permission of the property owner. ✓

5 (b) A person who is aggrieved by an order of the department under this
6 subsection may, within 30 days after the date that the order is issued, request a
7 review of the order by the division of hearings and appeals under s. 194.145. ✓

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

9 346.45 (1) (f) Every vehicle transporting a house as defined in s. 194.60 (1). ✓

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

11 347.28 (1) (intro.) No person shall operate a motor truck or motor bus more than
12 80 inches in width or a truck tractor or road tractor or vehicle transporting a house
13 as defined in s. 194.60 (1) on any highway outside the corporate limits of a city or
14 village during hours of darkness unless such vehicle carries in a place readily
15 accessible to the driver the following warning devices:

16 **SECTION 5.** 347.29 (1) (intro.) of the statutes is amended to read:

17 347.29 (1) (intro.) Except as provided in s. 347.26 (11) (b), whenever any motor
18 truck, motor bus, trailer or semitrailer more than 80 inches in width or truck tractor
19 or road tractor or vehicle transporting a house as defined in s. 194.60 (1) is left
20 standing, whether attended or unattended, during hours of darkness upon the
21 traveled portion of any highway or the shoulder adjacent thereto outside the
22 corporate limits of a city or village, the operator of such vchicle shall display the
23 following warning devices upon the highway during the entire time the vehicle is so
24 left standing and such devices shall be placed in the following order:

25 →

(END)

Insert
C

D - Note

2001 BILL

1 AN ACT to amend 346.95 (1); and to create 85.38 and 346.94 (18) of the statutes,
 2 relating to transporting houses on the highways, granting rule-making
 3 authority, and providing a penalty.

Insert A

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, including permits authorizing the transportation of oversize mobile homes.

This bill requires DOT to promulgate rules for the safe transportation of houses, including manufactured and mobile homes, on the highways of this state and for the certification of persons authorized to operate vehicles transporting houses on the highways of this state. DOT must include in the rules criteria for determining the minimum qualifications, training, and safety record for any person to be authorized to operate a vehicle transporting a house on the highways of this state,

Insert B

BILL

as well as minimum liability insurance coverage for any vehicle transporting a house on the highways of this state. DOT may charge a fee to cover the costs of certification. This certification by DOT is in addition to any applicable requirements imposed on common and contract motor carriers and to any oversize vehicle permit requirements.

The bill also provides that no person may operate a vehicle transporting a house on a highway of this state unless the person is certified by DOT. A person who violates this requirement may be required to forfeit not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the second or subsequent conviction within a year.

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.** 85.38 of the statutes is created to read:

2 **85.38 Transportation of houses.** (1) The department shall promulgate
3 rules for the safe transportation of houses, including manufactured homes as defined
4 in s. 101.91 (2), on the highways of this state and for the certification by the
5 department of persons authorized to operate vehicles transporting houses on the
6 highways of this state. The rules shall include criteria for determining the minimum
7 qualifications, training, and safety record for any person to be authorized to operate
8 a vehicle transporting a house on the highways of this state, as well as minimum
9 liability insurance coverage for any vehicle transporting a house on the highways of
10 this state. The department may establish by rule a fee to cover the costs of
11 certification under this section.

12 (2) The requirements imposed by the department under this section shall be
13 in addition to any requirements, rules, and orders imposed under chs. 194 and 348.

14 **SECTION 2.** 346.94 (18) of the statutes is created to read:

BILL

1 ~~346.94 (18) TRANSPORTING HOUSES. No person may operate a vehicle~~
2 ~~transporting a house, including a manufactured home as defined in s. 101.91 (2), on~~
3 ~~a highway of this state unless the person is certified by the department under s.~~
4 ~~85.38.~~

5 **SECTION 3.** 346.95 (1) of the statutes is amended to read:

6 346.95 (1) Any person violating s. 346.87, 346.88, 346.89 (2), 346.90 to 346.92
7 or 346.94 (1), (9), (10), (11), (12) ~~or~~ (15), or (18) may be required to forfeit not less than
8 \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100
9 for the 2nd or subsequent conviction within a year.

10 **SECTION 4. Effective date.**

11 (1) This act takes effect on the first day of the 7th month beginning after
12 publication.

13 ~~(END)~~

insert
C

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4223/p1dn

ARG./.....

cjs

As requested, the attached draft is patterned after Minnesota statute 221.81. The Minnesota statute authorizes the commissioner of transportation to license building movers. This license is not an operator's license endorsement but is rather a license similar to that required of motor carriers. The attached draft creates a similar licensing scheme. The Minnesota statute references numerous provisions of federal law relating to motor carriers and commercial motor vehicles. Although a person operating a vehicle transporting a house is likely to be a motor carrier and likely to be operating a commercial motor vehicle, the attached draft applies to all persons regardless of whether they are motor carriers or operate commercial motor vehicles. Most of the details in the attached draft are taken from the federal provisions referenced in the Minnesota statute. To the extent a person operating a vehicle transporting a house is an interstate motor carrier operating a commercial motor vehicle, the person would be bound by these federal law provisions even if they were not included in this state's statutes.

I also note that the attached draft requires a person who operates a vehicle transporting a house to meet all requirements under the attached draft in addition to, if applicable, all existing requirements for motor carriers under ch. 194 and for oversized vehicles and loads under ch. 348.

✓
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

LRB-4223/P1dn
ARG:cjs:pg

November 21, 2001

As requested, the attached draft is patterned after Minnesota statute 221.81. The Minnesota statute authorizes the commissioner of transportation to license building movers. This license is not an operator's license endorsement but is rather a license similar to that required of motor carriers. The attached draft creates a similar licensing scheme. The Minnesota statute references numerous provisions of federal law relating to motor carriers and commercial motor vehicles. Although a person operating a vehicle transporting a house is likely to be a motor carrier and likely to be operating a commercial motor vehicle, the attached draft applies to all persons regardless of whether they are motor carriers or operate commercial motor vehicles. Most of the details in the attached draft are taken from the federal provisions referenced in the Minnesota statute. To the extent a person operating a vehicle transporting a house is an interstate motor carrier operating a commercial motor vehicle, the person would be bound by these federal law provisions even if they were not included in this state's statutes.

I also note that the attached draft requires a person who operates a vehicle transporting a house to meet all requirements under the attached draft in addition to, if applicable, all existing requirements for motor carriers under ch. 194 and for oversize vehicles and loads under ch. 348.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary

LRB 4223

1/03/02

Telephone conference with Kathy in Rep. Petrowski's office, 6-1182.
Wants this redrafted as a "1", taking out references to modular homes and
manufactured homes. Need to change the definition. Wants the draft to
apply only to houses picked up off the foundation. I will e-mail her new
definition for review, then redraft from there.

ARG

Gary, Aaron

From: Gary, Aaron
Sent: Friday, January 04, 2002 3:01 PM
To: Marschman, Kathy
Subject: LRB-4223

Kathy,

Would something like the following revised definition of "house" work in terms of the intended scope of LRB-4223 (in lieu of s. 194.60 (1) on p.3):

"(1) In this section, 'house' means a building, at least 8 feet 6 inches wide or 20 feet long, that is transportable as a whole or in sections, is raised and supported from an existing foundation to be moved and placed on a permanent foundation at a new location where the building is to be delivered, and is used or intended to be used for human occupancy. 'House' does not include a modular housing unit or a manufactured home as defined in s. 101.91 (2)."

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

1/14/02

Re w/ Kathy - definition
is OK except make width

14 ft. and length 22 feet;

DOT has reviewed & they are

looking at an application to

situations beyond those

currently covered by permits

Gary, Aaron

From: Marschman, Kathy
Sent: Monday, January 14, 2002 3:47 PM
To: Gary, Aaron
Subject: RE: clarification: houses

no, 14 feet wide OR 22 feet long.

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

From: Gary, Aaron
Sent: Monday, January 14, 2002 2:52 PM
To: Marschman, Kathy
Subject: clarification: houses

Kathy,

In the "/P1" draft of this bill, the length/width language is at least 8 1/2 feet wide or 20 feet long. You would like this changed in the redraft to at least 14 feet wide and 22 feet long, correct? Thanks. Aaron

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

5002

RMR
D-Note
soon turned in 1/22

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen cat

and used for human occupancy

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 houses 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, ~~including permits authorizing the transportation of oversize mobile homes.~~

>
> This bill requires DOT to issue licenses authorizing the transportation of houses on the highways of this state. These licenses are similar in nature to those issued to common and contract motor carriers, ~~but issuance of these licenses is not limited to motor carriers.~~ No person may operate a vehicle transporting a house on a highway of this state unless the person holds such a license. This license

no 9
A house is defined to include buildings, 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 does not include modular homes or manufactured homes.

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 house, 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 house 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.

via addition to prohibited

Under the bill, a licensee may not operate a vehicle transporting a house 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 a blood alcohol concentration above 0.0 or has consumed or been under the influence of an intoxicating beverage within four hours previously;~~

*under
exception
[unclear]*

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 house being transported; or the vehicle is equipped with a radar detector. The bill requires the operator of a vehicle transporting a house 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 house that is operated by the licensee.

3

Under the bill, a licensee may not operate a vehicle transporting a house 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 house. A licensee may not operate a vehicle transporting a house 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 house be covered under a motor vehicle liability policy with a total limit of not less than \$500,000, and

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

Under the bill, ~~DOT may stop and inspect any vehicle transporting a house, and inspect records of any licensee, to determine compliance with all legal requirements.~~ DOT must promulgate rules to implement and administer the law.

A person who operates a vehicle transporting a house 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.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

but must revoke a license upon notice of the licensee's conviction for an operating-while-intoxicated offense or refusal.

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 houses.** (1) In this section, "house" means

5 a building, at least ¹⁴ 8 feet ~~wide~~ ^{inches} wide or ²² 8 feet long, that is transportable as a whole

6 or in sections ~~on a trailer or temporary undercarriage, is designed to be placed on a~~

7 ~~permanent foundation or chassis at the~~ location where the building is to be delivered,

8 and is used or intended to be used for human occupancy. "House" ^{does not} includes a modular

9 housing unit ^{which} ~~(a~~ manufactured home as defined in s. 101.91 (2) ^{or} ~~and a building raised~~

10 ~~and supported from an existing foundation to be moved to a new location.~~

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

is raised and supported from an existing foundation to be moved and placed on a permanent foundation at a new

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 house
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} ~~If the applicant has~~ at any time held a certificate, license, or permit under
9 this chapter, the applicant's reliability and service record and whether the applicant ^{has}
10 complied with the requirements of the certificate, license, or permit and with the
11 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 house 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 house 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 house.

1 4. The applicant is fit and able to safely operate a vehicle transporting a house
2 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 house 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⁾ ~~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 house in this state unless a motor
20 vehicle policy of liability insurance, issued by an insurer authorized to transact
21 business in this state, is maintained thereon that provides bodily injury liability
22 coverage and property damage liability coverage with a total limit of not less than
23 \$500,000 for each accident.

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

1 by an insurer authorized to transact business in this state, that provides bodily
2 injury liability coverage and property damage liability coverage, including for house
3 collapse and underground property damage, with a total limit of not less than
4 \$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 house is insured in compliance
8 with par. (a) and that the licensee^e 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 house 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 house, inspect the vehicle and satisfy himself or herself that the requirements of
19 par. (a) and s. 346.88 are met.

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

1 whichever occurs first, to inspect the load and the load-securing devices and satisfy
2 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 house.
6 A licensee may not operate a vehicle transporting a house unless, upon reasonable
7 inspection, the licensee is satisfied that the vehicle is in safe and proper operating
8 condition and complies with the same parts and accessories requirements that apply
9 to commercial motor vehicles specified in 49 CFR 393. All records of inspection,
10 repair, or maintenance performed or arranged by the licensee shall be maintained
11 by the licensee for one year.

12 (7) A licensee under this section may not operate a vehicle transporting a house
13 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 ~~or operation of the vehicle would otherwise be~~
18 ~~in violation of s. 346.63.~~

19 (c) The licensee has an alcohol concentration, as defined in s. 340.01 (1v), above
20 0.0 or has, within 4 hours, previously, consumed or been under the influence of an
21 intoxicating beverage.

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

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

5 ^(e)~~(a)~~ Any person is in the house.

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

8 (8) A licensee under this section shall do all of the following while operating
 9 a vehicle transporting a house:

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

13 (b) Prominently display the licensee's name and address on any vehicle
 14 operated by the licensee to transport a house.

15 ~~(9) The department or its duly authorized agents may at any time stop and~~
 16 ~~inspect a vehicle under this section, and inspect any record related to the provisions~~
 17 ~~of this section, to determine compliance with this section.~~

18 ^(b) ⁽⁹⁾~~(10)~~ The department shall promulgate rules to implement and administer this
 19 section.

20 ^(b) ⁽¹⁰⁾~~(11)~~ The requirements imposed under this section shall be in addition to any
 21 other requirements, rules, and orders imposed under this chapter and chs. 343 and
 22 348.

✓
 347,

23 ^(b) ⁽¹¹⁾~~(12)~~ Any person who violates a provision of this section shall forfeit not less
 24 than \$500 nor more than \$5,000. Each violation constitutes a separate offense.

1

(b) (12)

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

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

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

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

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

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

public or

6. That the licensee has abandoned a house on any highway or on private property without permission of the property owner.

Insert A

14

16

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

Insert B

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

20

346.45 (1) (f) Every vehicle transporting a house² as defined in s. 194.60 (1).

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

347.28 (1) (intro.) No person shall operate a motor truck or motor bus more than 80 inches in width or a truck tractor or road tractor ^a or vehicle transporting a house² as defined in s. 194.60 (1) ² on any highway outside the corporate limits of a city

23

24

1 or village during hours of darkness unless such vehicle carries in a place readily
2 accessible to the driver the following warning devices:

3 SECTION 5. 347.29 (1) (intro.) of the statutes is amended to read:

4 347.29 (1) (intro.) Except as provided in s. 347.26 (11) (b), whenever any motor
5 truck, motor bus, trailer or semitrailer more than 80 inches in width or truck tractor
6 or road tractor or vehicle transporting a house as defined in s. 194.60 (1) is left
7 standing, whether attended or unattended, during hours of darkness upon the
8 traveled portion of any highway or the shoulder adjacent thereto outside the
9 corporate limits of a city or village, the operator of such vehicle shall display the
10 following warning devices upon the highway during the entire time the vehicle is so
11 left standing and such devices shall be placed in the following order:

12 SECTION 6. Effective date.

13 (1) This act takes effect on the first day of the 7th month beginning after
14 publication.

15

(END)

J. Note

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4223/p2ins
ARG:.....

Insert A

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

Insert B

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4223/p2

ARG:.....

cjs

ATTN: Kathy Marschman

I have prepared the attached draft as a [↓]"/p2" because, in addition to changing the definition of "house", I have made changes recommended by my supervisor that are described below:

1. I have eliminated what was s. 194.60 (9) on p. 8 of the [↓]"/p1" draft, "creating" department of transportation (DOT) enforcement powers, because in every foreseeable circumstance involving violation of newly-created s. 194.60, DOT would already have these enforcement powers. See, e.g., s. 194.11, stats. ✓

2. I have eliminated what was s. 194.60 (7) (c) and the second half of (7) (b) on p. 7 of the [↓]"/p1" draft, relating to operation of vehicles transporting houses while under the influence of alcohol, because in every foreseeable circumstance such operation would already be illegal under existing law and these provisions of existing law, including the implied consent statutes and counting of "prior offense" penalties, are better suited to address operating-while-intoxicated (OWI) circumstances. However, I have added a provision to s. 194.60 (13) requiring DOT to revoke a license issued under s. 194.60 upon receiving notice of a licensee's OWI conviction or refusal (regardless of what vehicle the offense was committed in). This provision also prohibits the licensee from later applying for another license under s. 194.60. I have also added another provision to s. 194.60 (13) (of the [↓]"/p1" draft) allowing DOT to specify, for all other revocations, whether (and when) the person may apply for another license under s. 194.60. ✓

3. I have added a statutory cross-reference to what was s. 194.60 (11) on p. 8 of the [↓]"/p1" draft. ✓

4. I have clarified in what was s. 194.60 (13) (a) 6. on p. 9 of the [↓]"/p1" draft that a license may be revoked for abandoning a house on public, as well as private, property. ✓

Where necessary, I have also made corresponding changes to the analysis.

If the foregoing changes are okay, please let me know and I will turn this draft into a "/1". If not, please call me to discuss. Thank you.

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

(of the
"P1"
draft)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4223/P2
ARG:cjs:jf

January 30, 2002

ATTN: Kathy Marschman

I have prepared the attached draft as a "/P2" because, in addition to changing the definition of "house", I have made changes recommended by my supervisor that are described below:

1. I have eliminated what was s. 194.60 (9) on p. 8 of the "/P1" draft, "creating" department of transportation (DOT) enforcement powers, because in every foreseeable circumstance involving violation of newly-created s. 194.60, DOT would already have these enforcement powers. See, e.g., s. 194.11, stats.
2. I have eliminated what was s. 194.60 (7) (c) and the second half of (7) (b) on p. 7 of the "/P1" draft, relating to operation of vehicles transporting houses while under the influence of alcohol, because in every foreseeable circumstance such operation would already be illegal under existing law and these provisions of existing law, including the implied consent statutes and counting of "prior offense" penalties, are better suited to address operating-while-intoxicated (OWI) circumstances. However, I have added a provision to s. 194.60 (13) (of the "P1" draft) requiring DOT to revoke a license issued under s. 194.60 upon receiving notice of a licensee's OWI conviction or refusal (regardless of what vehicle the offense was committed in). This provision also prohibits the licensee from later applying for another license under s. 194.60. I have also added another provision to s. 194.60 (13) (of the "/P1" draft) allowing DOT to specify, for all other revocations, whether (and when) the person may apply for another license under s. 194.60.
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Where necessary, I have also made corresponding changes to the analysis.

If the foregoing changes are okay, please let me know and I will turn this draft into a "/1". If not, please call me to discuss. Thank you.

Aaron R. Gary
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LRB 4223
1/30/02

Telephone conference with Kathy in Rep. Petrowski's office, 6-1182.
Change draft from "houses" to "buildings" and make it a "/1."

ARG

TODAY

Stays

RMC

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

~~Stays~~

turned in 1/31

SA ✓

Reger cat

- 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 ~~houses~~ buildings on the highways, granting rule-making authority, and providing a
- 4 penalty.

dwelling or other structures

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 ~~houses~~ buildings on the highways of this state. ~~A house is~~ defined to include buildings, at least 14 feet wide or 22 feet long ~~and used for human occupancy~~, 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.

Buildings are

buildings

>
>
>

6

> No person may operate a vehicle transporting a ~~house~~^{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 ~~house~~^{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 ~~house~~^{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 ~~house~~^{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 ~~house~~^{building} being transported; or the vehicle is equipped with a radar detector. The bill requires the operator of a vehicle transporting a ~~house~~^{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 ~~house~~^{building} that is operated by the licensee.

> Under the bill, a licensee may not operate a vehicle transporting a ~~house~~^{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 ~~house~~^{building}. A licensee may not operate a vehicle transporting a ~~house~~^{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 ~~house~~^{building} be covered under a motor vehicle liability policy with a total limit of not less than \$500,000, and

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 ~~house~~ ^{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} ~~houses~~.** (1) In this section, ~~house~~ ^{"building"} means
5 a ~~building~~ ^{dwelling or other structure}, at least 14 feet wide or 22 feet long, that is transportable as a whole or
6 in sections ^{and that} is raised and supported from an existing foundation to be moved and
7 placed on a permanent foundation at a new location where the ~~building~~ ^{dwelling or other structure} is to be
8 delivered ~~and is used or intended to be used for human occupancy.~~ ^{"Building"} ~~house~~ 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 ~~house~~ ^{building} on a highway of this
11 state unless the person holds a license issued by the department under this section.

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

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 ~~house~~^{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 ~~house~~^{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 ~~house~~^{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 ~~house~~^{building}.

① 4. The applicant is fit and able to safely operate a vehicle transporting a ~~licensee~~^{building}
2 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 ~~licensee~~^{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 ~~licensee~~^{building} in this state unless a motor
20 vehicle policy of liability insurance, issued by an insurer authorized to transact
21 business in this state, is maintained thereon that provides bodily injury liability
22 coverage and property damage liability coverage with a total limit of not less than
23 \$500,000 for each accident.

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

1 by an insurer authorized to transact business in this state, that provides bodily
 2 injury liability coverage and property damage liability coverage, including for ~~house~~^{building}
 3 collapse and underground property damage, with a total limit of not less than
 4 \$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 ~~house~~^{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 ~~house~~^{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 ~~house~~^{building}, inspect the vehicle and satisfy himself or herself that the requirements of
 19 par. (a) and s. 346.88 are met.

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

1 whichever occurs first, to inspect the load and the load-securing devices and satisfy
2 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 ~~house~~^{building}.

6 A licensee may not operate a vehicle transporting a ~~house~~^{building} unless, upon reasonable
7 inspection, the licensee is satisfied that the vehicle is in safe and proper operating
8 condition and complies with the same parts and accessories requirements that apply
9 to commercial motor vehicles specified in 49 CFR 393. All records of inspection,
10 repair, or maintenance performed or arranged by the licensee shall be maintained
11 by the licensee for one year.

12 (7) A licensee under this section may not operate a vehicle transporting a ~~house~~^{building}
13 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.

- 1 (e) Any person is in the ~~house~~ ^{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 ~~house~~ ^{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 ~~house~~ ^{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).

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}~~house~~ 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}~~house~~, as defined in s. 194.60 (1).

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



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

February 13, 2002

MEMORANDUM

To: Representative Petrowski

From: Aaron R. Gary, Attorney

Re: LRB-4223/1 Vehicles transporting houses.

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

~~_____~~ JACKET FOR ASSEMBLY _____ JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 261-6926 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.