

2001 DRAFTING REQUEST

Senate Amendment (SA-SB10)

Received: 02/21/2001

Received By: fasttn

Wanted: Today

Identical to LRB:

For: Brian Burke (608) 266-8535

By/Representing: Cindy (aide)

This file may be shown to any legislator: NO

Drafter: fasttn

May Contact:

Alt. Drafters:

Subject: Transportation - traffic laws

Extra Copies: PJH, ARG - 1

Pre Topic:

No specific pre topic given

Topic:

Highway maintenance equipment

Instructions:

Redraft LRBa0258, changing "that is lighted as provided in s. 347.23" to "that is displaying the lights specified in s. 347.23 (1) (a) or (b)"

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>
/?	fasttn 02/21/2001	jdye 02/21/2001					
/1			kfollet 02/21/2001		lrb_docadmin 02/21/2001	lrb_docadmin 02/21/2001	

FE Sent For:

<END>

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1?	fasttn	1 2/21 jld	6/21	6/21 pg			

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<END>

Fast, Timothy

To: Mcginnis, Cindy
Subject: RE: 2001 SB 10

Cindy,

I reviewed the concerns of DOT with Joe Maassen, Deputy General Counsel. I am preparing a new amendment that you should have very soon (LRBa0265) to replace LRBa0258/2. Briefly re the concerns in Lorelee Brumund's e-mail:

Item #1: The term "highway maintenance equipment" is not used in the actual statutory provision (only in "relating to" clause and title of section), therefore no problem.

Item #2: LRBa0258/2 could be confusing because I used the term "that is lighted as provided in s. 347.23" to cover any time (day or night) when lights being used. I think it may be ambiguous, thus Joe and I discussed alternatives and agreed on "that is displaying the lights specified in s. 347.23(1)(a) or (b)" to address this concern. This is the only change in the new amendment.

Item #3: See Item #2 discussion.

Item #4: Not a real concern; statutes not in conflict and many traffic laws are "redundant" to the extent that a prosecutor could charge someone under more than one statutory provision for the same conduct. Note that s. 346.57(3) requires "appropriate reduced speed ... when passing ... highway construction or maintenance workers".

Item #5: Amendment doesn't deal with utility work areas (and I assume you don't want to include).

Hope this helps. You should have amendment soon.

Peace, Tim

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

From: Mcginnis, Cindy
Sent: Wednesday, February 21, 2001 8:40 AM
To: Fast, Timothy
Subject: FW: 2001 SB 10

Tim-

Here are the concerns of DOT. We'd like a new amendment drafted in time for the 10:00 hearing today if we can.

Thanks

Cindy

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

From: Piliouras, Elizabeth
Sent: Tuesday, February 20, 2001 5:05 PM
To: Mcginnis, Cindy
Subject: FW: 2001 SB 10

Cindy:

Vaughn wanted me to forward this to you regarding SA1 to SB10. Let me know if there's anything I can do!

Beth

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

From: Brumund, Lorelee
Sent: Tuesday, February 20, 2001 4:24 PM
To: Piliouras, Elizabeth
Cc: Maassen, Joe; Cook, Robert; Frazier, Carson; Huxtable, Sandra; Young, Robert

Subject: 2001 SB 10

As per our telephone conversation earlier today, I have some *technical concerns* regarding the wording of the *Senate Amendment to SB 10* that is scheduled for a hearing tomorrow, Feb. 21, at the Senate Insurance, Tourism and Transportation Committee. I do not offer a position on the amendment, just some questions I discovered during my review.

The DOT/DSP will be offering testimony in support of the original SB 10, but will also be offering some technical concerns on the anticipated amendment:

1) The term "highway maintenance equipment" is not defined in statute, but "road machinery" is defined in ss.340.01 (52).

You may want to review the equipment and machinery included in the definition of "road machinery" and see if it better describes the intent of the amendment.

2) Reference to the lighting requirements in ss.347.23 indicate that the "road machinery or motor vehicle used in highway construction or maintenance" is lighted only "*during hours of darkness*". I anticipate this is not the intent of the amendment, and it would be inconsistent with the lighting requirements of the authorized emergency vehicles and the tow trucks found elsewhere in the original bill.

3) Perhaps a better reference to required lighting for road machinery can be found in ss.347.26(7). However, be aware that a strict interpretation of that reference is that the lighting requirement is only for those vehicles *owned* by "the department or county or municipal highway department", and would not necessarily include those privately owned vehicles subcontracted by the governmental agency.

4) Ss.340.01(22e) already defines a "highway maintenance or construction area" including the specific signs that must be placed to identify that area to motorists. This definition is used to clarify the zones in which fines are doubled

for speeders, and for zones in which workers are present and speeds are reduced by authorized signs.

The amendment may want to exempt these work zones from the motorist requirement to either slow down or move into another lane if road machinery is included in the original proposal. These would be conflicting and redundant requirements for the motorist.

5) Be aware that there are also "utility work areas" as defined in ss.340.01(73m) and lighting requirements for utility vehicles as found in ss.347.26(9) & (11).

Please contact me if you have questions or comments.

RUSK
-2-Now

JLD

SENATE AMENDMENT,
TO 2001 SENATE BILL 10

(1)(a) or (b) ✓

displaying the lights
specified

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

2 1. Page 1, line 3: after "vehicles" insert ", highway maintenance equipment,".

3 2. Page 3, line 1: after "vehicles" insert ", highway maintenance
4 equipment,".

5 3. Page 3, line 3: after "signal" insert ", any road machinery or motor vehicle
6 used in highway construction or maintenance that is ~~lighted as provided~~ in s.
7 347.23,".

8 4. Page 3, line 6: delete the material beginning with "parked" and ending with
9 "truck" on line 7 and substitute "authorized emergency vehicle, road machinery or
10 motor vehicle used in highway construction or maintenance, or tow truck that is
11 parked or stopped,".

