

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 10/10/01

BILL NO. LRB 3856

OR
SUBJECT SB 273

Tom Duraka → DOR
Vicki Gibbons

(NAME)

(Street Address or Route Number)

(City and Zip Code)

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 10-10-01

BILL NO. _____

OR
SUBJECT LRB 3856

Tom Howells

(NAME)

(Street Address or Route Number)

(City and Zip Code)

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 10/10/01

BILL NO. LRB 3856

OR
SUBJECT Definition of

gunpowder carriers
Tom Baker (at McConell)

(NAME)

(Street Address or Route Number)

(City and Zip Code)

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 10-10-01

BILL NO. LRB 3850/1

OR
SUBJECT _____

Rep. Luther Olson
(NAME)

(Street Address or Route Number)

(City and Zip Code)

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

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State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 10/10/01

BILL NO. LRB 3856

OR
SUBJECT Sales/use tax

Chris Snyder
(NAME)

(Street Address or Route Number)

(City and Zip Code)

Madison, WI 53705-5345
(Representing)
Wt. Automobile & Truck Dealers Assoc.

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

Yamama, Arlicat, Skidog — ?

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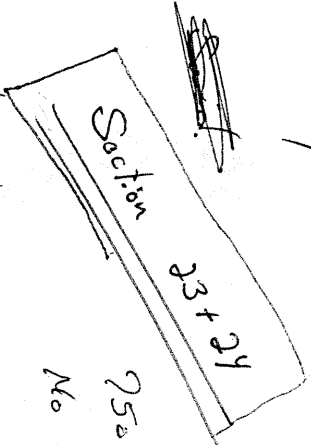
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J-192 Test 78
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32

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3 Robert
4 H 1



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75 miles of Trails
No closures Due To Sound
How many should we Give Them?

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M. J. ...

At 1:15 the page staff is going to pick up Lasee, Schwartz and Baumgart's stuff. When they do - do you want to mention that they're doing that because they're another hearing at 1:30?

Wausau
UP North
Yamaha
Articat
Smith Bros
Fred Miller
Dubai

FL

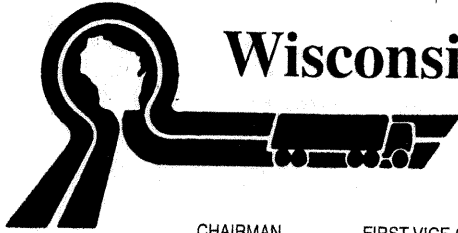
Challenger Fleet -

35 million since available

DU - 1st year 10,000

Farmers - 1st year 15,000

SB273



Wisconsin Motor Carriers Association

562 GRAND CANYON DRIVE
P.O. BOX 44849 • MADISON, WI 53744-4849
(608) 833-8200 • FAX (608) 833-2875
Web Page: www.witruck.org

CHAIRMAN Jerry Cherney Fox Midwest Transport	FIRST VICE CHAIRMAN Bill Maynard Cummins Great Lakes, Inc.	SECOND VICE CHAIRMAN Evelyn Skinner Skinner Transfer Corp.	SECRETARY Buck Jenkins Diamond Transportation System	TREASURER Tom Vandenberg Schneider National	PRESIDENT Thomas A. Howells
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October 10, 2001

To: Members,
Senate Insurance, Tourism & Transportation Committee

Subject: Support for LRB 3856/1

The Wisconsin Motor Carriers Association (WMCA) is a statewide organization with over 1,300 members. Our members are businesses that operate commercial motor vehicles such as trucks and buses.

The Wisconsin Motor Carriers Association supports LRB 3856/1, which will create definitions for common and contract carriers for sales tax and use tax purposes.

Background On Sales Tax Exemption

Statute 77.54(5) (b), exempts the following from Wisconsin sales tax:

"Motor trucks, truck tractors, road tractors, buses, trailers and semitrailers, and accessories, attachments, parts, supplies and materials thereof, sold to common or contract carriers who use such motor trucks, truck tractors, road tractors, buses, trailers, and semitrailers exclusively as common or contract carriers, including the urban mass transportation of passengers as defined in s. 71.18(2)(a)."

The sales tax exemption was enacted in 1962 based on the belief that the purchase of tools used by a business in production should not be taxed. That logic is still appropriate today.

1. The sales tax exemption is consistent with the treatment given other tools as ingredients such as:
 - Tractors, machines, accessories, attachments, fuel, parts and seeds used in farming.
 - Machines and specific processing equipment used by a manufacturer.

2. The Department in its own administrative rule, Tax 11.16, places a heavy emphasis on "the for hire" test by including the following note:

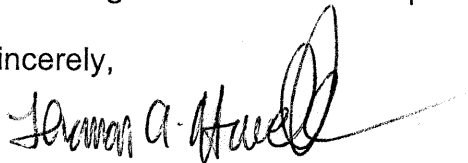
"Under department of transportation rules, a licensed carrier (LC) number is required if a common or contract carrier hauls goods for others for hire. The sales and use tax exemption in par.(a) applies only if the common or contract carrier used the vehicle exclusively for hauling goods of others for hire."

3. There is currently a clear distinction and understanding of who is a "for hire" carrier. Using the department's criteria of determining "value" of the property that is hauled will lead to a great amount of uncertainty and confusion.
 - A carrier hauling snow for hire would be eligible for the tax exemption if the snow is dumped at a ski resort, but would not qualify if the snow were just dumped into a field.
 - A carrier hauling a waste product would be eligible if the waste product is recycled, but would not be eligible if the waste were not recycled.

LRB 3856/1 makes it clear that a common or contract carrier is eligible for the exemption even though they are hauling property for hire that may not have any value.

We hope that the committee endorses LRB 3856/1, clarifying the state statues on who is eligible for the tax exemption for common and contract carriers.

Sincerely,



Thomas A. Howells
President

- The sales tax exemption is consistent with the treatment of other modes of transportation such as:
 - * Packaging and shipping containers
 - * Rail freight cars, accessories, attachments, parts or lubricants or fuel.
 - * Commercial vehicles and barges engaged in commercial fishing or interstate commerce.
- The sales tax exemption is consistent with the treatment offered in many of our surrounding states.

It should also be kept in mind that truck owners pay a 12% federal excise tax on new trucks and trailers purchased.

The Issue

There are definitions for common or contract carrier in chapter 194 of the statutes, but no definition in chapter 77 dealing with Wisconsin sales and use taxes. As a result, there has been at least one dispute with the Department of Revenue over who is eligible for the sales tax exemption.

Chapter 194.01 defines a common carrier as the following:

"Common motor carrier means any person who holds himself or herself out to the public as willing to undertake for hire to transport passengers by motor vehicle between fixed end points or over a regular route upon the public highways or property over regular or irregular routes upon the public highways."

For years, the distinction on who qualifies for the exemption has been whether or not the carrier is operating for hire (being compensated) rather than a carrier hauling its own goods (private carriage).

Recently, the Department of Revenue has held that in at least one case, that in order to qualify for the exemption the property must have "value". That appears to be a cumbersome interpretation, is inconsistent with the U.S. code and will lead to a tremendous amount of confusion.

1. The U.S. Code at Section 13102(12) defines a motor carrier as "a person providing motor vehicle transportation for compensation". In that definition there is no reference to the term "property" or its value, only to whether or not the carrier is being compensated for the transportation.

PAPER BALLOT
Committee on Insurance, Tourism and Transportation

Senate Bill 273

Relating to: creating definitions for common and contract carriers for sales tax and use tax purposes.

By Senator Breske; cosponsored by Representative Stone.

October 10, 2001 Referred to Committee on Insurance, Tourism, and Transportation.

October 10, 2001 **PUBLIC HEARING HELD**

Present: (4) Senators Breske, Grobschmidt, Baumgart and Schultz.
Absent: (1) Senator A. Lasee.

Appearances for

- Tom Howells, WI Motor Carriers Association
- Jim Butler, Green Lake
- Pat McConnell, Green Lake

Appearances against

- None.

Appearances for Information Only

- Tom Ourada, WI DOR
- Vicki Gibbons, WI DOR

Registrations for

- Representative Luther Olsen
- Chris Snyder, WI Automobile & Truck Dealer Association

Registrations against

- None.

MOTION: By *Senator Breske* to introduce and adopt the Senate Substitute Amendment s0247/1 as a committee amendment.

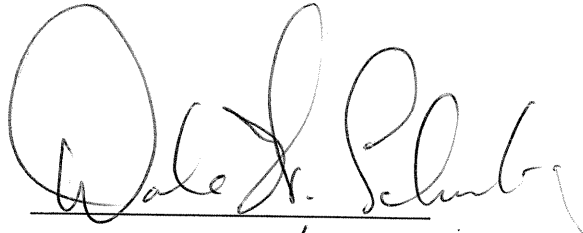
Aye
 Nay

MOTION: By *Senator Breske* to recommend passage of Senate Bill 273 as amended.

Aye

Nay

Signature:

A handwritten signature in cursive script, appearing to read "Wade R. Schumbert". The signature is written over a horizontal line.

Date:

~~1/02/02~~ 1/02/02

PAPER BALLOT
Committee on Insurance, Tourism and Transportation

Senate Bill 273

Relating to: creating definitions for common and contract carriers for sales tax and use tax purposes.

By Senator Breske; cosponsored by Representative Stone.

October 10, 2001 Referred to Committee on Insurance, Tourism, and Transportation.

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Appearances against

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- Vicki Gibbons, WI DOR

Registrations for

- Representative Luther Olsen
- Chris Snyder, WI Automobile & Truck Dealer Association

Registrations against

- None.

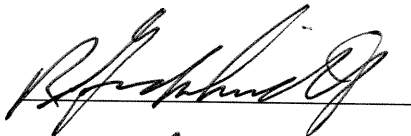
MOTION: By *Senator Breske* to introduce and adopt the Senate Substitute Amendment s0247/1 as a committee amendment.

Aye
 Nay

MOTION: By *Senator Breske* to recommend passage of Senate Bill 273 as amended.

Aye
 Nay

Signature:



Date:

1-9-02

PAPER BALLOT
Committee on Insurance, Tourism and Transportation

Senate Bill 273

Relating to: creating definitions for common and contract carriers for sales tax and use tax purposes.

By Senator Breske; cosponsored by Representative Stone.

October 10, 2001 Referred to Committee on Insurance, Tourism, and Transportation.

October 10, 2001 **PUBLIC HEARING HELD**

Present: (4) Senators Breske, Grobschmidt, Baumgart and Schultz.
Absent: (1) Senator A. Lasee.

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- Jim Butler, Green Lake
- Pat McConnell, Green Lake

Appearances against

- None.

Appearances for Information Only

- Tom Ourada, WI DOR
- Vicki Gibbons, WI DOR

Registrations for

- Representative Luther Olsen
- Chris Snyder, WI Automobile & Truck Dealer Association

Registrations against

- None.

MOTION: By *Senator Breske* to introduce and adopt the Senate Substitute Amendment s0247/1 as a committee amendment.

- Aye
- Nay

MOTION: By *Senator Breske* to recommend passage of Senate Bill 273 as amended.

Aye
 Nay

Signature: _____

Date: _____

PAPER BALLOT
Committee on Insurance, Tourism and Transportation

Senate Bill 273

Relating to: creating definitions for common and contract carriers for sales tax and use tax purposes.

By Senator Breske; cosponsored by Representative Stone.

October 10, 2001 Referred to Committee on Insurance, Tourism, and Transportation.

October 10, 2001 **PUBLIC HEARING HELD**

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Absent: (1) Senator A. Lasee.

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- Pat McConnell, Green Lake

Appearances against

- None.

Appearances for Information Only

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- Vicki Gibbons, WI DOR

Registrations for

- Representative Luther Olsen
- Chris Snyder, WI Automobile & Truck Dealer Association

Registrations against

- None.

MOTION: By *Senator Breske* to introduce and adopt the Senate Substitute Amendment s0247/1 as a committee amendment.

Aye
 Nay

MOTION: By *Senator Breske* to recommend passage of Senate Bill 273 as amended.

- Aye
- Nay

Signature:

Roger Breske

Date:

1-9-02

PAPER BALLOT
Committee on Insurance, Tourism and Transportation

Senate Bill 273

Relating to: creating definitions for common and contract carriers for sales tax and use tax purposes.

By Senator Breske; cosponsored by Representative Stone.

October 10, 2001 Referred to Committee on Insurance, Tourism, and Transportation.

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- Representative Luther Olsen
- Chris Snyder, WI Automobile & Truck Dealer Association

Registrations against

- None.

MOTION: By *Senator Breske* to introduce and adopt the Senate Substitute Amendment s0247/1 as a committee amendment.

Aye
 Nay

MOTION: By *Senator Breske* to recommend passage of Senate Bill 273 as amended.

- Aye
- Nay



Signature: _____

Date: 01-09-02

SB273
SSA

Vote Record

Senate - Committee on Insurance, Tourism, and Transportation

Date: 1.9.02

Moved by: _____

Seconded by: _____

Clearinghouse Rule: _____

AB: _____ SB: 273

Appointment: _____

AJR: _____ SJR: _____

Other: _____

AR: _____ SR: _____

A/S Amdt: _____

A/S Amdt: _____

to A/S Amdt: _____

A/S Sub Amdt: _____

A/S Amdt: _____

to A/S Sub Amdt: _____

A/S Amdt: _____

to A/S Amdt: _____ to A/S Sub Amdt: _____

Be recommended for:

- Passage
- Introduction
- Adoption
- Rejection

- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence
- Confirmation

Committee Member

- Sen. Roger Breske, Chair
- Sen. Richard Grobschmidt
- Sen. Jim Baumgart
- Sen. Alan Lasee
- Sen. Dale Schultz

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Sen. Roger Breske, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Richard Grobschmidt	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Jim Baumgart	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Alan Lasee	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Dale Schultz	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: _____

Motion Carried

Motion Failed

SB273

Vote Record

Senate - Committee on Insurance, Tourism, and Transportation

Date: 1.9.02

Moved by: _____

Seconded by: _____

Clearinghouse Rule: _____

AB: _____ SB: 273

Appointment: _____

AJR: _____ SJR: _____

Other: _____

AR: _____ SR: _____

A/S Amdt: _____

A/S Amdt: _____ to A/S Amdt: _____

A/S Sub Amdt: _____

A/S Amdt: _____ to A/S Sub Amdt: _____

A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

Be recommended for:

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- Introduction
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- Rejection

- Indefinite Postponement
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- Concurrence
- Nonconcurrence
- Confirmation

Committee Member

- Sen. Roger Breske, Chair
- Sen. Richard Grobschmidt
- Sen. Jim Baumgart
- Sen. Alan Lasee
- Sen. Dale Schultz

<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Totals: _____

Motion Carried

Motion Failed