

2003 DRAFTING REQUEST

Bill

Received: **08/18/2003**

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **Barbara Gronemus (608) 266-7015**

By/Representing: **Rex Loehe (aide)**

This file may be shown to any legislator: **NO**

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - driver licenses**

Extra Copies: **TNF, PJH**

Submit via email: **YES**

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Exempting photo requirement for driver license and identification card based upon religious convictions

Instructions:

Wants to exempt certain people, like the Amish, from photo requirement for driver licenses and identification cards based on religious convictions. Will forward materials from Joe Maassen from DOT. See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							State
/P1	agary 09/17/2003	wjackson 09/29/2003	rschluet 09/29/2003		mbarman 09/29/2003		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	agary 10/13/2003	wjackson 10/13/2003	chaugen 10/13/2003	_____	Inorthro 10/13/2003	Inorthro 10/13/2003	

FE Sent For:

↳ At
Intro.

<END>

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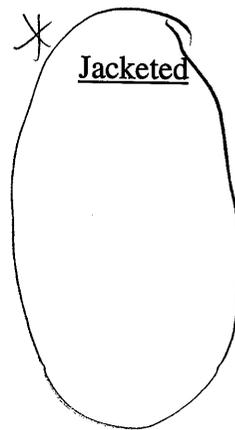
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1 WLj 10/13

Ch 10/13

Ch 09/29/03



PA's: Please send "/1" out jacketed. Thanks ARB



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<END>



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/? agary

1 WLj 9/26

Handwritten signatures and dates: 9-29-03

<END>

FE Sent For:

~~Handwritten scribbles and signatures at the top of the page.~~

Rex - Groenemus

8/18/03

bill draft

- Amish & photo IDs

← Joe Maassen →

except for religious reasons ~~for photo~~ - DC of photo IDs

- will send stuff for Joe

STATE OF WISCONSIN

To Aaron Gary

Date 8/12/03 Time _____

WHILE YOU WERE OUT

M Rex Loehe

of Rep. Barbara Gronemus

Phone 6-7015

Telephoned	<input type="checkbox"/>	Please Call	<input type="checkbox"/>
Called to See You	<input type="checkbox"/>	Rush	<input type="checkbox"/>
Returned Your Call	<input type="checkbox"/>	Will Call Again	<input type="checkbox"/>

Message _____



Party Receiving Call

Loehe, Rex

From: Maassen, Joe
Sent: Tuesday, April 29, 2003 8:55 AM
To: Ewing, Terry; Loehe, Rex
Subject: RE: Photo ID's and the Amish

Thanks Terry!

Rex, looks like this would best be addressed through legislation. Sec. 343.50(3), Stats., does say the card "shall" contain the person's photo. There is similar language in 343.17 for driver licenses. However, with driver licenses DOT pushed the edge of the envelope a number of years back and created, in rule, a religious exemption relative to photo's on licenses. DOT did not do that for ID's! I assume for two reasons (1) there was noone pushing for such relief, and (2) we likely believed that since the primary purpose of the ID cards is identification, it was harder to understand issuance of a document that lacked the common denominator for id purposes...the picture!

DOT is and has been walking on thin ice with the DL exemption in Trans 102. That is because of the use of the word "shall" in the DL statute as well. Practically though, we get enough people seriously objecting to a photo, or posse type people objecting to a photo and wanting a DL that we pushed the edge of the envelope there. It would be better for DOT and for persons who seriously object to photo from a religious perspective if this matter were codified. While I can't speak definitively for DOT, I can't imagine why, since we already took the leap with DL's that DOT would have a problem with legislation that would more directly authorize issuance of DL's and ID's when religious objection is noted and reasonably satisfied.

Problem, of course, is that in hits day and age id without photo or other personally unique identifier is much more likely to not be accepted for all the non driver licensing purposes that both the driver license and the ID are used for in this security conscious society!

Hope this helps! Joe

Original Message-----
From: Ewing, Terry
Sent: Tuesday, April 29, 2003 6:51 AM
To: Maassen, Joe; Loehe, Rex
Subject: RE: Photo ID's and the Amish

Good morning!

We issue driver licenses without a photo for religious purposes, but all ID cards issued by the Department must have a photo - see s.343.50(3).

Have a great day!

-----Original Message-----
From: Maassen, Joe
Sent: Monday, April 28, 2003 4:58 PM
To: Loehe, Rex
Cc: Ewing, Terry
Subject: RE: Photo ID's and the Amish

Rex. Via this e-mail I'm contacting Terry Ewing in DMV. Terry, don't we already allow issuance of ID's without photos for religious reasons? I recall we certainly provided an option like that for DL's!!! Can you let Rex and me know on this? If not you can you pass to the appropriate person in DMV.

Rex, like I say, I recall that for DL's there is an exemption for religious reasons. I think it also applies to ID's! Terry, or someone in DMV will tell us for sure! Beyond that, is your constituent sure that these picturless documents will help for the purposes indicated? Not that DOT would be concerned, just curious if this will resolve the problem! Joe!

-----Original Message-----
From: Loehe, Rex
Sent: Monday, April 28, 2003 3:53 PM
To: Maassen, Joe

ect:

Photo ID's and the Amish

Hi Joe:

We had constituent contact us regarding the issue of the Amish and photo ID's. The Amish religion does not allow members to be photographed. This causes a problem for many Amish over the age 21, who more and more often for security reasons, are being refused check cashing privileges, gun, tobacco and alcohol purchases because they lack a photo ID.

Our constituent noted that when teens apply for their driving permits, they are issued permits resembling a license, which states on the card itself that the permit is valid without a photo. She further wonders why, with a few modifications, a similar permit couldn't be developed and issued as a valid legal ID for the Amish community.

Do you have any thoughts on this, or any suggestions who I could contact for further information on this? Could such a permit be developed by the DOT or do we need to draft legislation to make such a change?

Thanks, Joe. I appreciate any help you can provide on this.

Take care,

Rex Loehe
office of Rep. Barbara Gronemus
(608) 266-7015

soon
turned
in 9/17

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Note

LPS: Please
fix request
sheet.

GEN

- 1 AN ACT ...; relating to: photographs for motor vehicle operators' licenses and
- 2 identification cards.

Analysis by the Legislative Reference Bureau

Under current law, a person may apply for an identification card issued by the Department of Transportation (DOT) if he or she is a resident of the state and if he or she does not possess a valid motor vehicle operator's license that contains the person's photograph. Current law requires DOT to take a photograph of all applicants for an identification card and, with limited exceptions, all applicants for an operator's license. DOT may issue an operator's license without a photograph being taken if the applicant is stationed outside the state in military service and in specific situations where DOT deems such action appropriate. DOT, by rule, deems one such situation to be when the applicant has sincerely held religious convictions that do not allow the applicant to be photographed. If a photograph is required to be taken, the photograph must appear on the operator's license or identification card document.

Under this bill, an applicant for an identification card or operator's license may obtain an identification card or operator's license without a photograph being taken if the applicant provides an affidavit stating that he or she has a sincerely held religious belief against being photographed, identifying the religion to which he or she belongs or tenets which he or she adheres to, and stating that the tenets of the religion prohibit him or her from being photographed.

no
has sincerely

STET

religious

STET

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.** 103.73 (1) (a) of the statutes is amended to read:

2 103.73 (1) (a) Such evidence as is required by the department showing the age
3 of the minor. The department shall promulgate rules governing the proof of age of
4 minors who apply for labor permits that shall bind all persons authorized by law to
5 issue such permits. In promulgating those rules, the department shall include a
6 requirement that the department and its permit officers shall accept as evidence of
7 a minor's age a duly attested birth certificate, a verified baptismal certificate, a valid
8 operator's license issued under ch. 343 that contains the photograph of the license
9 holder or an identification card issued under s. 343.50 that contains the photograph
10 of the card holder. Those rules shall also require the department and its permit
11 officers to accept as evidence of a minor's age a valid operator's license issued under
12 ch. 343 that contains the photograph of the license holder or an identification card
13 issued under s. 343.50 ^{that contains the photograph of the cardholder} without requiring proof that the minor's birth certificate or
14 baptismal certificate cannot be secured.

15 **SECTION 2.** 103.76[↓] of the statutes is amended to read:

16 **103.76 Proof of age in court.** Whenever in any proceeding in any court under
17 any of the labor laws or under ch. 102 there is any doubt of the age of a minor, a duly
18 issued child labor permit or age certificate shall be conclusive evidence. In the
19 absence of such permit or certificate, a duly attested birth certificate, a verified
20 baptismal certificate, a valid operator's license issued under ch. 343 that contains the
21 photograph of the license holder or an identification card issued under s. 343.50 that

1 contains the photograph of the card holder shall be produced and filed with the court.

2 Upon proof that the birth certificate, baptismal certificate, operator's license or
3 identification card cannot be secured, the record of age stated in the first school
4 enrollment of the child shall be admissible as evidence of the minor's age.

5 SECTION 3. 125.085 (1)[↓] of the statutes is amended to read:

6 125.085 (1) DEFINITION. In this section, "official identification card" means a
7 valid operator's license issued under ch. 343 that contains the photograph of the
8 holder, an identification card issued under s. 343.50 that contains the photograph of
9 the holder, or an identification card issued under s. 125.08, 1987 stats.

10 SECTION 4. 343.14 (3)[↓] of the statutes is amended to read:

11 343.14 (3) The department shall, as part of the application process, take a
12 photograph of the applicant to comply with s. 343.17 (3) (a) 2. Except where
13 specifically exempted by statute or by rule of the department, no application may be
14 processed without the photograph being taken. In the case of renewal licenses, the
15 photograph shall be taken once every 8 years, and shall coincide with the appearance
16 for examination which is required under s. 343.16 (3). The department may make
17 provision for issuance of a license without a photograph if the applicant is stationed
18 outside the state in military service, if the applicant provides an affidavit containing
19 the information specified in s. 343.50 (4g)[↓], and in specific situations where the
20 department deems such action appropriate.

21 SECTION 5. 343.17 (3) (a) 2.[↓] of the statutes is amended to read:

22 343.17 (3) (a) 2. A color photograph of the person unless no photograph is
23 required under s. 343.14 (3).[↓]

24 SECTION 6. 343.50 (3)[↓] of the statutes is amended to read:

1 343.50 (3) DESIGN AND CONTENTS OF CARD. The card shall be the same size as
2 an operator's license but shall be of a design which is readily distinguishable from
3 the design of an operator's license and bear upon it the words "IDENTIFICATION
4 CARD ONLY". The information on the card shall be the same as specified under s.
5 343.17 (3). The card may serve as a document of gift under s. 157.06 (2) (b) and (c)
6 and the holder may affix a sticker thereto as provided in s. 343.175 (3). The card may
7 also serve as a document of refusal to make an anatomical gift under s. 157.06 (2) (i).
8 The Except as provided in sub. (4g), the card shall contain the holder's photograph
9 and, if applicable, shall be of the design specified under s. 343.17 (3) (a) 12.

10 SECTION 7. 343.50 (4) of the statutes, as affected by 2003 Wisconsin Act 33, is
11 amended to read:

12 343.50 (4) APPLICATION. The application for an identification card shall include
13 any information required under ss. 85.103 (2) and 343.14 (2) (a), (b), (bm), (br), and
14 (em), and such further information as the department may reasonably require to
15 enable it to determine whether the applicant is entitled by law to an identification
16 card. The Except as provided in sub. (4g), the department shall, as part of the
17 application process, take a photograph of the applicant to comply with sub. (3). No
18 Except as provided in sub. (4g), no application may be processed without the
19 photograph being taken. Misrepresentations in violation of s. 343.14 (5) are
20 punishable as provided in s. 343.14 (9).

21 SECTION 42t. 343.50 (4g) of the statutes is created to read:

22 343.50 (4g) PHOTOGRAPH REQUIREMENT; EXCEPTION. An application may be
23 processed and an original or renewal identification card issued under this section
24 without a photograph being taken to an applicant who provides to the department
25 an affidavit stating that the applicant has a sincerely held religious belief against

1 being photographed; identifying the religion to which he or she belongs or the tenets
2 of which he or she adheres to; and stating that the tenets of the religion prohibit him
3 or her from being photographed.

4 **SECTION 8. Initial applicability.**

5 (1) This act first applies to applications for an operator’s license or
6 identification card, or renewal of an operator’s license or identification card,
7 submitted to the department of transportation on the effective date of this
8 subsection.

9 **SECTION 9. Effective date.**

10 (1) This act takes effect on the first day of the 2nd month beginning after
11 publication.

12 (END)



A handwritten note consisting of the text "D-Note" written in cursive, enclosed within a hand-drawn black oval.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3127/P1dn

ARG: /.....

wlj

ATTN: Rex Loehle

Under existing law, all identification cards must contain the photograph of the card holder. The attached draft treats ss. 103.73 (1) (a), 103.76, and 125.085 (1) to maintain exact consistency with existing law. For example, under current s. 125.085 (1), proper forms of identification to purchase alcohol beverages include an operator's license with a photograph or an identification card (all of which have photographs). Since the attached draft creates a new "photograph exception" under specified circumstances for identification cards, failure to treat s. 125.085 (1) in this draft may allow a person to obtain and use an identification card for purchase of alcohol beverages even though the card does not contain a photograph of the person. Is the treatment of ss. 103.73 (1) (a), 103.76, and 125.085 (1) in the attached draft consistent with your intent? Although similar in language, s. 343.22 is not treated in the attached draft because treatment does not seem necessary to accomplish the purpose of that provision. Is this okay?

The language of created s. 343.50 (4g) in the attached draft is similar to that included in engrossed AB-111, which was passed by the legislature and vetoed by the governor.

Please let me know if you have any questions or would like any changes to the attached draft. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

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-3127/P1dn
ARG:wlj:rs

September 29, 2003

ATTN: Rex Loehe

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

03-3127

He fra Rex Coebe - VM

- looks good - make it a "1",

send out jacketed



TODAY

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

REGEN

1 AN ACT *to amend* 103.73 (1) (a), 103.76, 125.085 (1), 343.14 (3), 343.17 (3) (a) 2.,
2 343.50 (3) and 343.50 (4); and *to create* 343.50 (4g) of the statutes; **relating**
3 **to:** photographs for motor vehicle operators' licenses and identification cards.

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Under current law, a person may apply for an identification card issued by the Department of Transportation (DOT) if he or she is a resident of the state and if he or she does not possess a valid motor vehicle operator's license that contains the person's photograph. Current law requires DOT to take a photograph of all applicants for an identification card and, with limited exceptions, of all applicants for an operator's license. DOT may issue an operator's license without a photograph being taken if the applicant is stationed outside the state in military service and in specific situations where DOT deems such action appropriate. DOT, by rule, deems one such situation to be when the applicant has sincerely held religious convictions that do not allow the applicant to be photographed. If a photograph is required to be taken, the photograph must appear on the operator's license or identification card document.

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18 Except as provided in sub. (4g), no application may be processed without the
19 photograph being taken. Misrepresentations in violation of s. 343.14 (5) are
20 punishable as provided in s. 343.14 (9).

21 **SECTION 42t.** 343.50 (4g) of the statutes is created to read:

22 343.50 (4g) PHOTOGRAPH REQUIREMENT; EXCEPTION. An application may be
23 processed and an original or renewal identification card issued under this section
24 without a photograph being taken to an applicant who provides to the department
25 an affidavit stating that the applicant has a sincerely held religious belief against

1 being photographed; identifying the religion to which he or she belongs or the tenets
2 of which he or she adheres to; and stating that the tenets of the religion prohibit him
3 or her from being photographed.

4 **SECTION 8. Initial applicability.**

5 (1) This act first applies to applications for an operator's license or
6 identification card, or renewal of an operator's license or identification card,
7 submitted to the department of transportation on the effective date of this
8 subsection.

9 **SECTION 9. Effective date.**

10 (1) This act takes effect on the first day of the 2nd month beginning after
11 publication.

12 (END)