

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4060/P1dn

ARG:jld:rs

January 21, 2004

ATTN: Kathy Marschman

The attached bill incorporates the suggested language drafted by Attorney Nilsen and the comments from Attorney Thiel.

Because the new statutory language in s. 348.27 (9) (a) is not created as its own statutory unit, a traditional sunset provision cannot be used. Instead, to carry out your directive of a two-year sunset, the statutory changes are repealed as of July 1, 2006, and the statute is restored to its current form.

I have modified the suggested language in s. 348.27 (9) (a) in part for clarity and in part to incorporate Attorney Thiel's second comment. I have retained the term "peeled or unpeeled forest products" in the bill. Under s. 348.01 (2) (bt), "raw forest products" are defined to include "wood chips." Certainly "peeled or unpeeled forest products" is a different term, but I wonder whether, if the intent is to exclude transporting of wood chips from the scope of the change effected by the bill, the use of "forest products" might be confusing. Would the term "logs" work?

As you point out in your instructions, there is a "Catch-22" here with regard to the existing requirement for a DOT report on this vehicle weight exception. Under current law, DOT must prepare the report within six weeks of introduction of the bill and before the legislature takes action on the bill. See s. 13.096. On its face, it is a legal impossibility that the nonstatutory provision in the bill could be passed and have legal effect prior to DOT, under existing law, being required to prepare the report. However, if the enactment of the bill without a DOT report were challenged in court, a strong argument could be made that s. 13.096, stats., is in reality an internal rule of proceeding, governing the process for enacting legislation, and that, under art. IV, sec. 8, of the Wisconsin Constitution, the legislature may choose not to comply with s. 13.096. For this reason, I have included the nonstatutory provision, as requested, and omitted the customary report requirement in the analysis. Yet, it is unclear how the Speaker Pro Tempore would rule on an objection to action on the bill without the report required under s. 13.096. Please advise if you would like the nonstatutory provision removed.

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

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