

2003 DRAFTING REQUEST

Bill

Received: 08/29/2003

Received By: tfast

Wanted: Soon

Identical to LRB:

For: DuWayne Johnsrud (608) 266-3534

By/Representing: Scott Loomans (aide)

This file may be shown to any legislator: NO

Drafter: agary

May Contact:

Addl. Drafters:

Subject: Transportation - motor vehicles

Extra Copies: PJH

Submit via email: YES

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Exempting farm trucks and dual purpose farm trucks towing livestock from motor carrier enforcement

Instructions:

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>
/?	tfast 11/17/2003						State
/P1	agary 11/24/2003	kgilfoy 12/26/2003	rschluet 12/29/2003		sbasford 12/29/2003		State
/1	agary	kgilfoy	pgreensl		sbasford	lemery	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	02/11/2004	02/11/2004	02/11/2004 _____		02/11/2004	02/11/2004	

FE Sent For:

At
Intro.

<END>

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/P1	agary 11/24/2003	kgilfoy 12/26/2003	rschluet 12/29/2003	2/11 self	sbasford 12/29/2003		
	11-2/11 KMG		2/11 P8				

12/29/2003 09:53:58 AM

Page 2

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<END>

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Wanted: **Soon**

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By/Representing: **Scott Loomans (aide)**

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

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - motor vehicles**

Extra Copies: **PJH**

Submit via email: **YES**

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

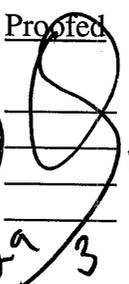
Topic:

Exempting farm trucks and dual purpose farm trucks towing livestock from motor carrier enforcement

Instructions:

See Attached

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1?	tfast 11/17/2003 agary	1/11-12/12/06 Kmg					
			12	29	3		

FE Sent For:

<END>

BILL
REQUEST FORM

LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street

Use of this form is optional. It is often better to talk directly with the LRB attorney who will draft the bill.

Use this form only for **BILL** drafts. Attach more pages if necessary.

Legislator, agency or other body requesting this draft:

Rep. Johnson

Date: 6/23/03

Person submitting request (name, phone number):
6-3534

Scott Loomans

Persons to contact for questions about this draft (names, phone numbers):

Scott Loomans,
Paul Zimmerman@Farm Bureau 608-828-5708

Describe the problem, including any helpful examples.

How do you want to solve the problem?

See attached

Please attach a copy of any correspondence or other material that may help us.

If you know of any statute sections that might be affected, list them or provide a marked-up (not retyped) copy.

You may attach a marked-up (not retyped) copy of any LRB draft, or provide its number (e.g., 1997 LRB-2345/1 or 1995 AB-67):

Requests are confidential unless stated otherwise.

● May we tell others that we are working on this for you? Yes No

● If yes: Anyone who asks? Yes No Any legislator? Yes No Only the following persons: _____

Do you consider this request urgent? Yes No If yes, please indicate why: _____

Should we give this request priority over any other pending request of this legislator, agency or body? Yes No If yes, sign your name here: _____



DuWayne Johnsrud

State Representative

June 23, 2003

Rep. Johnsrud bill drafting request

The Problem:

Wisconsin has adopted the Federal Motor Carrier Safety Program Code (49 CFR 350) for enforcement by the State Patrol. The program helps to guarantee the safety of commercial vehicles on Wisconsin highways. Pickup trucks pulling livestock trailers, which are privately owned by farmers, fall under the requirements of 49 CFR 350.

Many farmers are unaware of the fact that their livestock rigs are regulated in the same way that conventional tractor-trailer rigs are regulated. Farmers do not typically have identification plates on the cab of the truck, safety triangles, fire extinguishers and other gear. Many farmers do not think it is fair that a rig which may be used only once-or-twice a year should be held to the same standard as a conventional over-the-road-semi.

Wisconsin should not completely repeal our implementation of the Federal Motor Carrier Safety Program because we would lose eligibility for federal money.

The Solution:

Farmers should be exempted from state enforcement of the Federal Motor Carrier Safety Program. A possible way to do this would be to exempt owner-operated rigs with Wisconsin farm plates.

Legal citations:

and dual purpose

The Federal Motor Carrier Safety Program Code is found at 49 CFR 350. Wisconsin's TRANS 325 incorporates federal regulations by reference. DOT authority to implement the federal standards comes from our S 110.075 (6), 194.38 (2), 194.43, 194.01 (11).

Loomans, Scott

From: Sweet, Richard
Sent: Friday, January 24, 2003 2:33 PM
To: Loomans, Scott
Subject: FW: Farm vehicles

Importance: High

Scott,

This is the response I got from Paul Nilsen of DOT on your question relating to intrastate farm vehicle equipment. I'll take a look at the federal regs he cited and give you a call early next week.

He indicated that Oregon had applied for an exemption to the equipment requirements for farm vehicles, but that the request was still pending.

Dick Sweet

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

From: Nilsen, Paul
Sent: Friday, January 24, 2003 12:57 PM
To: Sweet, Richard
Subject: RE: Farm vehicles
Importance: High

Hi Dick,

The relevant code language is at 49 CFR 350. The Federal Motor Carrier Safety Administration ("FMCSA") awards Motor Carrier Safety Administration Program ("MCSAP") grants to states whose laws, regulations and enforcement practices are compatible with the federal motor carrier safety regulations (49 CFR 390-397). 49 CFR 350.201 (a). 49 CFR 393, about which you asked, must be incorporated by a state. 49 CFR 350.337. Basically, if we adopt the federal regulations, they give us a grant equal to up to 80% of our enforcement costs: Wisconsin received \$4,000,000 this fiscal year. If state law, regulation or enforcement practices are incompatible, we lose the grant. 49 CFR 350.335 (a), (d). Intrastate compliance accounts for 50% of the grant. 49 CFR 350.335 (c). Note that 'commercial motor vehicle' is defined with reference to the vehicle and its load, not to its area of operation (definition makes no distinction between interstate and intrastate travel).

49 CFR 350.343 outlines the process for a state to obtain an intrastate exemption. FMCSA authorizes 'tolerance guidelines' or limited deviations applicable solely to intrastate operations. There is a list of prohibited deviations, but 49 CFR 393 is not among those listed, so presumably it is possible to exempt intrastate commercial motor vehicles from those requirements. Note, however, that "The FMCSA strongly discourages exemptions for specific industries". 49 CFR 350.345 specify the conditions for exemptions. I suggest you read 49 CFR 350.341 to 345. My understanding is that if FMCSA grants the exemption, eligibility for the grant is unaffected (although I suppose it may reduce enforcement costs, resulting in proportionate decrease in the amount awarded).

FMCSA recently did a compliance check of Wisconsin and denied our exemption request that would have applied to intrastate road-building equipment. Two of our neighboring states currently have an exemption similar to the one Wisconsin applied for, but theirs exist under a grandfather provision--so even common exemptions seem to be frowned upon if intended for a specific industry. The state of Oregon is currently seeking an exemption for farmers from all of 49 CFR 393 and 396 requirements, so that could be watched closely.

As a practical matter, though, please urge others to bear in mind the additional complexity of enforcement if interstate and intrastate CMVs are subject to different regulations; it's very difficult to tell where a moving truck is coming from or going to.

Hope this puts you in the ballpark. Please let me know if you have follow-up questions. If you have MCSAP grant money questions, contact Brian Shah in WisDOT Office of Policy and Budget, 264-9524; for MCSAP enforcement, administration questions, please contact Lt. Charles Teasdale, Wisconsin State Patrol, 266-0305.

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

From: Sweet, Richard
Sent: Wednesday, January 22, 2003 1:37 PM

To: Nilsen, Paul
Subject: Farm vehicles

Paul,

Last summer you gave me some information about state enforcement of equipment requirements (e.g. fire extinguishers and triangular signs) for farm stock trailers, in response to a request from Rep. Johnsrud. The issue is back again. I have a couple of follow-up questions:

The state has incorporated, by reference, 49 CFR part 393 in ss. Trans 325.02(4) and 327.03(4). Is this something the feds require that we do or penalize us for not doing for interstate travel? Same question for intrastate travel--do the feds make us do this for intrastate travel?

Any information (and cites) you could provide me with would be greatly appreciated. Thanks.

Dick Sweet
Senior Staff Attorney
Wisconsin Legislative Council
(608)266-2982
richard.sweet@legis.state.wi.us

To: Kelly Gunderson
(Joan asked me to send this
to you) DuWayne



DuWayne Johnsrud

NEWS RELEASE

State Representative

FOR IMMEDIATE RELEASE:

May 31, 2002

FOR INFORMATION CONTACT:

Rep. DuWayne Johnsrud (608)266-3534

Don't take your cow to town, son. Leave your cow at home!

MADISON - - "Don't take your cow to town, son. Leave your cow at home." It sounds like a famous country song but it's actually what the Wisconsin Department of Transportation is telling farmers, according to State Representative DuWayne Johnsrud, R-Eastman. "If you are a farmer who has a pickup and a stock trailer, DOT is now treating you like a semi-truck that is an over the road business," he said.

Wisconsin transportation officials are using a new grant of federal money from the Motor Carrier Safety Assistance Program to pay for officer overtime to increase the frequency of vehicle inspections. Especially in the Vernon County area, officers have been pulling trucks over to do just that.

"Just to take your cow to town is really getting complicated for farmers who simply hook their farm pickup to the trailer and go to town. Frankly, most farm trailers are used a couple times a year; requiring them to be maintained for interstate use seems silly. DOT could find better things to do than lump together everything that is over 10,000 gross weight including the trailer."

Representative Johnsrud said that he would pursue a rule change by DOT that would, "put some common sense back into the way they regulate farm pickups pulling farm trailers."

Johnsrud said that rural folks have had some trouble with DOT lately. "First we had to put up with their power grab over private driveways. Then DOT decided they did not like rural church signs and said they would cut them down unless the churches pay DOT a fee for having small signs that are on private property. Now DOT says you need a sign on each side of the pickup that says who you are and where you are from or you will get a ticket, just like on the semi-trucks. That's really something because if you put the same sign out by your mailbox, DOT tells you to remove it!"

###

ARG: King

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

12/30

D-Note

Gen. Conf.

1

AN ACT relating to: private motor carriers transporting livestock.

Analysis by the Legislative Reference Bureau

Under current law, with limited exceptions, a person who transports passengers or property for hire by motor vehicle on the highways is a common motor carrier, a person who transports only property for hire by motor vehicle on the highways is a contract motor carrier, and any other person who transports property by motor vehicle on the highways is a private motor carrier. With limited exceptions, a common motor carrier or contract motor carrier must operate under a certificate or license (certificate of authority) issued by the Department of Transportation (DOT) or issued under federal law authorizing operation of a vehicle as a common motor carrier or contract motor carrier. Various state laws, including laws relating to vehicle marking and vehicle inspection, govern private motor carriers as well as common motor carriers and contract motor carriers. Federal law, including federal motor carrier safety standards established under regulations promulgated by the Federal Motor Carrier Safety Administration, also governs common motor carriers, contract motor carriers, and private motor carriers. DOT has authority under state law to promulgate rules regulating the operation of all motor carriers, including rules implementing federal motor carrier safety standards.

Current law also requires all motor vehicles operated on a highway, including vehicles operated by motor carriers, to meet specified vehicle equipment standards. Upon request, any operator of a motor vehicle must submit the vehicle to inspection by a vehicle inspector or traffic officer to determine compliance with vehicle equipment standards and, if the vehicle is found to be unsafe for operation, the inspector or officer may order the vehicle to be removed from the highway and not

operated except as necessary for repair. DOT may establish standards and adopt rules related to vehicle inspections, including rules implementing federal motor carrier equipment standards.

This bill exempts from regulation as a motor carrier any person transporting livestock in a farm truck or dual purpose farm truck combined with any semitrailer or farm trailer when the transportation is provided by the registered owner of the farm truck or dual purpose farm truck and is not for hire. The bill prohibits DOT from promulgating any rule under which certain federal motor carrier safety standards, including equipment standards, are applicable to, or enforceable with respect to, these vehicles transporting livestock.

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. 110.075 (6) of the statutes is amended to read:

2 110.075 (6) The secretary shall set standards and adopt rules to establish a
3 plan of inspection to implement the inspection program provided by this section.
4 Nothing in this section shall permit the department to promulgate any rule under
5 which the provisions of 49 CFR 393 and 396 are applicable to, or enforceable with
6 respect to, the transportation of livestock by any farm truck or dual purpose farm
7 truck combined with any semitrailer or farm trailer when such transportation is
8 provided by a private motor carrier to whom the farm truck or dual purpose farm
9 truck is registered under ch. 341.

History: 1973 c. 90; 1977 c. 29 ss. 1049, 1654 (7) (c); 1977 c. 273, 325; 1979 c. 154; 1983 a. 175; 1987 a. 235.

10 SECTION 2. 194.05 (4) of the statutes is created to read:

11 194.05 (4) This chapter shall not apply to ^{the} transportation of livestock by any
12 farm truck or dual purpose farm truck combined with any semitrailer or farm trailer
13 when such transportation is provided by a private motor carrier to whom the farm
14 truck or dual purpose farm truck is registered under ch. 341.

15 SECTION 3. 194.38⁽²⁾~~(4)~~ of the statutes is created to read:

SECTION # 194.38 of the statutes is renumbered 194.38(1), and
194.38(1)(e), as renumbered, is amended to read:
→ INS. KA-1 ←

(3)
(2)

1

194.38 (3) Nothing in this section shall permit the department to promulgate
2 any rule under which the provisions of 49 CFR 391, 392, 395, and 397 are applicable
3 to, or enforceable with respect to, the transportation of livestock by any farm truck
4 or dual purpose farm truck combined with any semitrailer or farm trailer when such
5 transportation is provided by a private motor carrier to whom the farm truck or dual
6 purpose farm truck is registered under ch. 341.

7

SECTION 4. 194.43 of the statutes is amended to read:

8

194.43 Private motor carriers; regulation by department. The Except
9 as provided in s. 194.05 (4), the department may regulate the operations of private
10 motor carriers, including the power to designate from time to time the public
11 highways over which private motor carrier vehicles may or may not be operated and
12 to designate the time that such vehicles may or may not be operated thereon so as
13 to prevent congestion which shall affect the safety of persons and property upon such
14 public highways; to require the display of satisfactory evidence that such vehicle is
15 not being used for common or contract motor carrier purposes; and to prescribe
16 reasonable and necessary rules and regulations for the safety of operation of private
17 motor carriers.

18

History: 1977 c. 29 s. 1654 (7) (a); 1985 a. 202.

SECTION 5. Initial applicability.

19

(1) This act first applies to vehicles transporting livestock on the effective date
20 of this subsection.

21

(END)

D - Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3185/P1dn

ARG:.....

King

ATTN: Scott Loomans

I have tried to draft this bill narrowly, but there is still a possibility that the enactment of this legislation could impact the amount of federal funding received by the state. I recommend that you confer with DOT or the Fiscal Bureau, or perhaps the Federal Highway Administration or Federal Motor Carrier Safety Administration, on this issue.

Please review the attached draft carefully to ensure that it is consistent with your intent. If you would like any changes, please let me know. If the attached draft meets with your approval, please 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

KA-1

(B)

194.38

(1)(e)

To act in accordance with 49 USC 14504 by making any finding, determination and otherwise doing any other thing necessary to proceed under that statute. Nothing in this subsection shall permit the department to extend the length or weight of motor vehicles.

paragraph

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3185/P1dn
ARG:kmg:rs

December 29, 2003

ATTN: Scott Loomans

I have tried to draft this bill narrowly, but there is still a possibility that the enactment of this legislation could impact the amount of federal funding received by the state. I recommend that you confer with DOT or the Fiscal Bureau, or perhaps the Federal Highway Administration or Federal Motor Carrier Safety Administration, on this issue.

Please review the attached draft carefully to ensure that it is consistent with your intent. If you would like any changes, please let me know. If the attached draft meets with your approval, please 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

245 -
Gary, Aaron

From: Loomans, Scott
Sent: Wednesday, February 11, 2004 8:49 AM
To: Gary, Aaron
Subject: LRB 3185/p1

We like the bill as drafted and are ready for an introducible draft.

Scott Loomans
Office of Representative Johnsrud
(608) 266-3534 or toll free 888-534-0096
*For news and information about the 96th Assembly
District and Natural Resources Committee, go to:
www.repjohnsrud.com*



State of Wisconsin
2003 - 2004 LEGISLATURE

TODAY

LRB-3185/1

ARG:kmg:rs

RMR

~~PRELIMINARY DRAFT NOT READY FOR INTRODUCTION~~

No changes -
/P1 -> /1

1 AN ACT to renumber and amend 194.38; to amend 110.075 (6) and 194.43; and
2 to create 194.05 (4) and 194.38 (2) of the statutes; relating to: private motor
3 carriers transporting livestock.

Analysis by the Legislative Reference Bureau

Under current law, with limited exceptions, a person who transports passengers or property for hire by motor vehicle on the highways is a common motor carrier, a person who transports only property for hire by motor vehicle on the highways is a contract motor carrier, and any other person who transports property by motor vehicle on the highways is a private motor carrier. With limited exceptions, a common motor carrier or contract motor carrier must operate under a certificate or license (certificate of authority) issued by the Department of Transportation (DOT) or issued under federal law authorizing operation of a vehicle as a common motor carrier or contract motor carrier. Various state laws, including laws relating to vehicle marking and vehicle inspection, govern private motor carriers as well as common motor carriers and contract motor carriers. Federal law, including federal motor carrier safety standards established under regulations promulgated by the Federal Motor Carrier Safety Administration, also governs common motor carriers, contract motor carriers, and private motor carriers. DOT has authority under state law to promulgate rules regulating the operation of all motor carriers, including rules implementing federal motor carrier safety standards.

Current law also requires all motor vehicles operated on a highway, including vehicles operated by motor carriers, to meet specified vehicle equipment standards. Upon request, any operator of a motor vehicle must submit the vehicle to inspection

by a vehicle inspector or traffic officer to determine compliance with vehicle equipment standards and, if the vehicle is found to be unsafe for operation, the inspector or officer may order the vehicle to be removed from the highway and not operated except as necessary for repair. DOT may establish standards and adopt rules related to vehicle inspections, including rules implementing federal motor carrier equipment standards.

This bill exempts from regulation as a motor carrier any person transporting livestock in a farm truck or dual purpose farm truck combined with any semitrailer or farm trailer when the transportation is provided by the registered owner of the farm truck or dual purpose farm truck and is not for hire. The bill prohibits DOT from promulgating any rule under which certain federal motor carrier safety standards, including equipment standards, are applicable to, or enforceable with respect to, these vehicles transporting livestock.

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. 110.075 (6) of the statutes is amended to read:

2 110.075 (6) The secretary shall set standards and adopt rules to establish a
3 plan of inspection to implement the inspection program provided by this section.
4 Nothing in this section shall permit the department to promulgate any rule under
5 which the provisions of 49 CFR 393 and 396 are applicable to, or enforceable with
6 respect to, the transportation of livestock by any farm truck or dual purpose farm
7 truck combined with any semitrailer or farm trailer when such transportation is
8 provided by a private motor carrier to whom the farm truck or dual purpose farm
9 truck is registered under ch. 341.

10 SECTION 2. 194.05 (4) of the statutes is created to read:

11 194.05 (4) This chapter shall not apply to the transportation of livestock by any
12 farm truck or dual purpose farm truck combined with any semitrailer or farm trailer
13 when such transportation is provided by a private motor carrier to whom the farm
14 truck or dual purpose farm truck is registered under ch. 341.

1 **SECTION 3.** 194.38 of the statutes is renumbered 194.38 (1), and 194.38 (1) (e),
2 as renumbered, is amended to read:

3 194.38 (1) (e) To act in accordance with 49 USC 14504 by making any finding,
4 determination and otherwise doing any other thing necessary to proceed under that
5 statute. Nothing in this ~~subsection~~ paragraph shall permit the department to extend
6 the length or weight of motor vehicles.

7 **SECTION 4.** 194.38 (2) of the statutes is created to read:

8 194.38 (2) Nothing in this section shall permit the department to promulgate
9 any rule under which the provisions of 49 CFR 391, 392, 395, and 397 are applicable
10 to, or enforceable with respect to, the transportation of livestock by any farm truck
11 or dual purpose farm truck combined with any semitrailer or farm trailer when such
12 transportation is provided by a private motor carrier to whom the farm truck or dual
13 purpose farm truck is registered under ch. 341.

14 **SECTION 5.** 194.43 of the statutes is amended to read:

15 **194.43 Private motor carriers; regulation by department.** The Except
16 as provided in s. 194.05 (4), the department may regulate the operations of private
17 motor carriers, including the power to designate from time to time the public
18 highways over which private motor carrier vehicles may or may not be operated and
19 to designate the time that such vehicles may or may not be operated thereon so as
20 to prevent congestion which shall affect the safety of persons and property upon such
21 public highways; to require the display of satisfactory evidence that such vehicle is
22 not being used for common or contract motor carrier purposes; and to prescribe
23 reasonable and necessary rules and regulations for the safety of operation of private
24 motor carriers.

25 **SECTION 6. Initial applicability.**

Barman, Mike

From: Loomans, Scott
Sent: Wednesday, February 11, 2004 3:13 PM
To: LRB.Legal
Subject: Draft review: LRB 03-3185/1 Topic: Exempting farm trucks and dual purpose farm trucks towing livestock from motor carrier enforcement

It has been requested by <Loomans, Scott> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 03-3185/1 Topic: Exempting farm trucks and dual purpose farm trucks towing livestock from motor carrier enforcement