

2003 DRAFTING REQUEST

Bill

Received: 12/02/2003

Received By: agary

Wanted: Soon

Identical to LRB:

For: Joseph Leibham (608) 266-2056

By/Representing: Daniel Lindstedt (aide)

This file may be shown to any legislator: NO

Drafter: agary

May Contact:

Addl. Drafters:

Subject: Transportation - driver licenses

Extra Copies: PJH

Submit via email: YES

Requester's email: Sen.Leibham@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Allowing third-party testing for driving skills test for Class D operators licenses

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>
/?				_____			State
/P1	agary 12/10/2003	kfollett 12/12/2003 kfollett 12/17/2003	rschlue 12/18/2003	_____	sbasford 12/18/2003		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 02/04/2004	kfollett 02/04/2004	rschluet 02/04/2004	_____	Inorthro 02/04/2004	Inorthro 02/04/2004	

FE Sent For:

"/1" 2/4/04

<END>

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PA's
Jacket "1" for senate

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12/18 3
<END>

FE Sent For:

Bill Request Form

Legislative Reference Bureau
100 N. Hamilton Street
Legal Section 266-3561

You may use this form or talk directly with the LRB attorney who will draft the bill.

Date 2 - DEC - 03

Legislator, agency, or other person requesting this draft SENATOR JOE LEIBYAN

Person submitting request (name and phone number) DANIEL LINDSTEDT (6-2056)

Persons to contact for questions about this draft (names and phone numbers) _____

DANIEL LINDSTEDT (6-2056)

Describe the problem, including any helpful examples. How do you want to solve the problem?

PLEASE SEE ENCLOSURE FOR INSTRUCTIONS.

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 copy.

PLEASE SEE ENCLOSURE FOR INSTRUCTIONS.

You may attach a marked-up copy of any LRB draft or provide its number (e.g., 2001 LRB-2345/1 or 1999AB-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 pending request of this legislator, agency, or person?

YES NO

**Proposed Amendment to Wis. Stat. § 343.16
Third Party Testing for Class D Drivers Licenses**

***DRAFTERS NOTE:** This amendment is intended to allow the Department of Transportation to contract with a third party tester to administer Class D vehicle skills testing in the same manner that the Department currently contracts with third party testers to administer commercial motor vehicle skills tests. Any third party tester must use Department sanctioned tests and must comply with all Department rules and regulations.*

1 **SECTION 1.** 343.16(1) (b) of the statutes is amended to read:

2 (b) *Third-party testing.* The department may contract with a person, including an
3 agency or department of this state or its political subdivisions or another state, or a
4 private employer of commercial motor vehicle drivers, to administer commercial motor
5 vehicle skills tests required by 49 CFR 383.110 to 383.135, examinations required to be
6 administered under s. 343.12 (2) (h) ~~and~~, abbreviated driving skills tests required by sub.
7 (3) (b) and Class D vehicle skills tests in accordance with this section. The department
8 may not enter into such testing contracts with a private driver training school or other
9 private institution. A contract with a 3rd-party tester shall include all of the following
10 provisions:

11 1. All tests and examinations conducted by the 3rd-party tester shall be the same
12 as those given by the department.

13 2. The department, ~~the federal highway administration~~ or its representative may
14 conduct random examinations, inspections and audits of the 3rd-party tester without any
15 prior notice. The federal highway administration may conduct random examinations,
16 inspections and audits of the 3rd-party commercial driver license tester without any prior
17 notice.

18 3. At least annually, the department shall conduct an on-site inspection of the
19 3rd-party tester to determine compliance with the contract and with department and
20 federal standards for testing applicants for commercial driver licenses, ~~and~~ with
21 department standards for testing applicants for school bus endorsements and with
22 department standards for testing applicants for class D licenses. At least annually, the

1 department shall also evaluate testing given by the 3rd-party by one of the following
2 means:

3 a. Department employees shall take the tests and examinations actually
4 administered by the 3rd-party tester as if the department employee were an
5 applicant.

6 b. The department shall retest a sample of drivers who were examined by
7 the 3rd-party to compare the pass and fail results.

8 4. Examiners of the 3rd-party tester shall meet the same qualifications and
9 training standards as the department's license examiners to the extent established by the
10 department as necessary to satisfactorily perform the skills tests required by 49 CFR
11 383.110 to 383.135, examinations required to be administered under s. 343.12 (2) (h)
12 ~~and~~, abbreviated driving skills tests required by sub. (3) (b) and Class D vehicle skills
13 tests in accordance with this section depending on the class of skills test the examiner is
14 authorized to conduct.

Soon
turned
in 12/10

ARG: *[Signature]*

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

Regen

third

1 AN ACT ...; relating to: permitting 3rd-party testers to administer driving skills
2 tests for certain noncommercial motor vehicle drivers. X

Analysis by the Legislative Reference Bureau

Under current law, with limited exceptions, applicants for an operator's license are required to successfully complete a knowledge test and a driving skills (road) test. Generally Department of Transportation (DOT) examiners must administer road tests except that DOT may contract with third-party testers to conduct road tests for commercial motor vehicle operators and school bus operators.

This bill permits DOT to contract with third-party testers to conduct road tests for "Class D" vehicle operators. "Class D" vehicles include most noncommercial motor vehicles other than Type 1 motorcycles.

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:

3 SECTION 1. 343.16 (1) (a) of the statutes, as affected by 2003 Wisconsin Act 33,
4 is amended to read:

5 343.16 (1) (a) *General.* The Except when examination by a 3rd-party tester is
6 permitted under pars. (b) and (c), the department shall examine every applicant for

1 an operator's license, including applicants for license renewal as provided in sub. (3),
2 and every applicant for authorization to operate a vehicle class or type for which the
3 applicant does not hold currently valid authorization, other than an instruction
4 permit. Except as provided in sub. (2) (cm) and (e), the examinations of applicants
5 for licenses authorizing operation of "Class A", "Class B", "Class C", "Class D" or
6 "Class M" vehicles shall include both a knowledge test and an actual demonstration
7 in the form of a driving skills test of the applicant's ability to exercise ordinary and
8 reasonable control in the operation of a representative vehicle. The department shall
9 not administer a driving skills test to a person applying for authorization to operate
10 "Class M" vehicles who has failed 2 previous such skills tests unless the person has
11 successfully completed a rider course approved by the department. The department
12 may, by rule, exempt certain persons from the rider course requirement of this
13 paragraph. The driving skills of applicants for endorsements authorizing the
14 operation of commercial motor vehicles equipped with air brakes, the transportation
15 of passengers in commercial motor vehicles or the operation of school buses, as
16 provided in s. 343.04 (2) (b), (d) or (e), shall also be tested by an actual demonstration
17 of driving skills. The department may endorse an applicant's commercial driver
18 license for transporting hazardous materials requiring placarding or any quantity
19 of a material listed as a select agent or toxin under 42 CFR 73, subject to s. 343.125,
20 or for the operation of tank vehicles or vehicles towing double or triple trailers, as
21 described in s. 343.04 (2) (a), (c) or (f), based on successful completion of a knowledge
22 test. In administering the knowledge test, the department shall attempt to
23 accommodate any special needs of the applicant. Except as may be required by the
24 department for an "H" or "S" endorsement, the knowledge test is not intended to be
25 a test for literacy or English language proficiency. This paragraph does not prohibit

1 the department from requiring an applicant to correctly read and understand
2 highway signs.

3 **Cross Reference: Cross Reference: Cross Reference:** See also ch. Trans 129, Wis. adm. code. **Cross Reference:**
History: 1971 c. 164 s. 83; 1973 c. 90, 176; 1975 c. 36, 199; 1977 c. 29 ss. 1456, 1654 (7) (a), (c); 1977 c. 273, 418; 1979 c. 34 ss. 1067m, 2102 (52) (a); 1979 c. 221, 345;
1981 c. 20; 1983 a. 74, 243, 534, 538; 1985 a. 65, 337; 1987 a. 3, 40, 215; 1989 a. 31, 105, 359; 1991 a. 21, 32, 39, 316; 1993 a. 16, 19, 183, 399; 1995 a. 27 s. 9145 (1); 1995
a. 113, 195, 448; 1997 a. 27, 84, 237; 1999 a. 32, 140; 2001 a. 105; 2003 a. 33. ✓

4 **SECTION 2.** 343.16 (1) (b) (intro.) of the statutes is amended to read:

5 343.16 (1) (b) *Third-party testing.* (intro.) The department may contract with
6 a person, including an agency or department of this state or its political subdivisions
7 or another state, or a private employer of commercial motor vehicle drivers, to
8 administer commercial motor vehicle skills tests required by 49 CFR 383.110 to
9 383.135, examinations required to be administered under s. 343.12 (2) (h) and,
10 abbreviated driving skills tests required by sub. (3) (b), or driving skills tests
11 required by par. (a) for authorization to operate "Class D" vehicles, or any
12 combination of these tests and examinations. The department may not enter into
13 such testing contracts with a private driver training school or other private
14 institution except a private employer of commercial motor vehicle drivers. A contract
15 with a 3rd-party tester shall include all of the following provisions:

History: 1971 c. 164 s. 83; 1973 c. 90, 176; 1975 c. 36, 199; 1977 c. 29 ss. 1456, 1654 (7) (a), (c); 1977 c. 273, 418; 1979 c. 34 ss. 1067m, 2102 (52) (a); 1979 c. 221, 345;
1981 c. 20; 1983 a. 74, 243, 534, 538; 1985 a. 65, 337; 1987 a. 3, 40, 215; 1989 a. 31, 105, 359; 1991 a. 21, 32, 39, 316; 1993 a. 16, 19, 183, 399; 1995 a. 27 s. 9145 (1); 1995
a. 113, 195, 448; 1997 a. 27, 84, 237; 1999 a. 32, 140; 2001 a. 105; 2003 a. 33. ✓

16 **SECTION 3.** 343.16 (1) (b) 2. of the statutes is amended to read:

17 343.16 (1) (b) 2. The department, ~~the federal highway administration~~ or its
18 representative, or the federal highway administration with respect to testing for
19 commercial driver licenses, may conduct random examinations, inspections, and
20 audits of the 3rd-party tester without any prior notice.

History: 1971 c. 164 s. 83; 1973 c. 90, 176; 1975 c. 36, 199; 1977 c. 29 ss. 1456, 1654 (7) (a), (c); 1977 c. 273, 418; 1979 c. 34 ss. 1067m, 2102 (52) (a); 1979 c. 221, 345;
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a. 113, 195, 448; 1997 a. 27, 84, 237; 1999 a. 32, 140; 2001 a. 105; 2003 a. 33. ✓

21 **SECTION 4.** 343.16 (1) (b) 3. (intro.) of the statutes is amended to read:

22 343.16 (1) (b) 3. (intro.) At least annually, the department shall conduct an
23 on-site inspection of the 3rd-party tester to determine compliance with the contract

1 and with department and federal standards for testing applicants for commercial
 2 driver licenses and with department standards for testing applicants for school bus
 3 endorsements and applicants for operators' licenses to operate "Class D" vehicles.

4 At least annually, the department shall also evaluate testing given by the 3rd-party tester X
 5 by one of the following means:

History: 1971 c. 164 s. 83; 1973 c. 90, 176; 1975 c. 36, 199; 1977 c. 29 ss. 1456, 1654 (7) (a), (c); 1977 c. 273, 418; 1979 c. 34 ss. 1067m, 2102 (52) (a); 1979 c. 221, 345; 1981 c. 20; 1983 a. 74, 243, 534, 538; 1985 a. 65, 337; 1987 a. 3, 40, 215; 1989 a. 31, 105, 359; 1991 a. 21, 32, 39, 316; 1993 a. 16, 19, 183, 399; 1995 a. 27 s. 9145 (1); 1995 a. 113, 195, 448; 1997 a. 27, 84, 237; 1999 a. 32, 140; 2001 a. 105; 2003 a. 33.

6 **SECTION 5.** 343.16 (1) (b) 4. of the statutes is amended to read:

7 343.16 (1) (b) 4. Examiners of the 3rd-party tester shall meet the same
 8 qualifications and training standards as the department's license examiners to the
 9 extent established by the department as necessary to satisfactorily perform the skills
 10 tests required by 49 CFR 383.110 to 383.135, examinations required to be
 11 administered under s. 343.12 (2) (h) ~~and~~, abbreviated driving skills tests required by
 12 sub. (3) (b), and driving skills tests required by par. (a) for authorization to operate
 13 "Class D" vehicles.

History: 1971 c. 164 s. 83; 1973 c. 90, 176; 1975 c. 36, 199; 1977 c. 29 ss. 1456, 1654 (7) (a), (c); 1977 c. 273, 418; 1979 c. 34 ss. 1067m, 2102 (52) (a); 1979 c. 221, 345; 1981 c. 20; 1983 a. 74, 243, 534, 538; 1985 a. 65, 337; 1987 a. 3, 40, 215; 1989 a. 31, 105, 359; 1991 a. 21, 32, 39, 316; 1993 a. 16, 19, 183, 399; 1995 a. 27 s. 9145 (1); 1995 a. 113, 195, 448; 1997 a. 27, 84, 237; 1999 a. 32, 140; 2001 a. 105; 2003 a. 33.

14 **SECTION 6.** 343.16 (1) (b) 5. of the statutes is amended to read:

15 343.16 (1) (b) 5. The department shall take prompt and appropriate remedial
 16 action against the 3rd-party tester in the event that the tester fails to comply with
 17 department or federal standards for commercial driver license testing, department
 18 standards for school bus endorsement testing or testing for operators' licenses to
 19 operate "Class D" vehicles, or any provision of the contract. Such action may include
 20 immediate termination of testing by the 3rd-party tester and recovery of damages.

History: 1971 c. 164 s. 83; 1973 c. 90, 176; 1975 c. 36, 199; 1977 c. 29 ss. 1456, 1654 (7) (a), (c); 1977 c. 273, 418; 1979 c. 34 ss. 1067m, 2102 (52) (a); 1979 c. 221, 345; 1981 c. 20; 1983 a. 74, 243, 534, 538; 1985 a. 65, 337; 1987 a. 3, 40, 215; 1989 a. 31, 105, 359; 1991 a. 21, 32, 39, 316; 1993 a. 16, 19, 183, 399; 1995 a. 27 s. 9145 (1); 1995 a. 113, 195, 448; 1997 a. 27, 84, 237; 1999 a. 32, 140; 2001 a. 105; 2003 a. 33.

21 (END)

D - Note

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

LRB-3816/P1dn

ARG: *Kijf*

Date

ATTN: Daniel Lindstedt

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 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

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

LRB-3816/P1dn
ARG:kjfrs

December 18, 2003

ATTN: Daniel Lindstedt

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



State of Wisconsin
2003 - 2004 LEGISLATURE

Needed by
2/5
AM

LRB-3816/114

ARG:kjf:rs

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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1 AN ACT to amend 343.16 (1) (a), 343.16 (1) (b) (intro.), 343.16 (1) (b) 2., 343.16
2 (1) (b) 3. (intro.), 343.16 (1) (b) 4. and 343.16 (1) (b) 5. of the statutes; relating
3 to: permitting third-party testers to administer driving skills tests for certain
4 noncommercial motor vehicle drivers.

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6 permit. Except as provided in sub. (2) (cm) and (e), the examinations of applicants
7 for licenses authorizing operation of "Class A", "Class B", "Class C", "Class D" or
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10 reasonable control in the operation of a representative vehicle. The department shall
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15 paragraph. The driving skills of applicants for endorsements authorizing the
16 operation of commercial motor vehicles equipped with air brakes, the transportation
17 of passengers in commercial motor vehicles or the operation of school buses, as
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16 department or federal standards for commercial driver license testing, department
17 standards for school bus endorsement testing or testing for operators' licenses to
18 operate "Class D" vehicles, or any provision of the contract. Such action may include
19 immediate termination of testing by the 3rd-party tester and recovery of damages.

20 (END)