

2003 DRAFTING REQUEST

Bill

Received: 01/29/2004

Received By: agary

Wanted: Soon

Identical to LRB:

For: Joseph Leibham (608) 266-2056

By/Representing: Dan Lindstedt (aide)

This file may be shown to any legislator: NO

Drafter: agary

May Contact:

Addl. Drafters:

Subject: **Transportation - motor vehicles**
Transportation - highways

Extra Copies:

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:

Overweight permits for vehicles transporting forest products near Michigan-Wisconsin border

Instructions:

Companion to 03-4060

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> |
|--------------|---------------------|---------------------|------------------------|----------------|------------------------|--|-----------------|
| /? | agary 01/29/2004 | jdyer 01/30/2004 | | _____ | | | S&L |
| /1 | | | rschluet 01/30/2004 | _____ | sbasford 01/30/2004 | sbasford 01/30/2004 sbasford 01/30/2004 | |

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

<END>

↳ At
Intro.

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| /? | agary 01/29/2004 | jdye 01/30/2004 | | _____ | | per Dan | S&L |
| /1 | | | rschluet 01/30/2004 | _____ | sbasford 01/30/2004 | in Leibham's office | |

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| 1? | agary | 1/30 jld | 1 | 30 4 | | | |
|----|-------|----------|---|------|--|--|--|

FE Sent For:

<END>

Gary, Aaron

From: Marschman, Kathy
Sent: Thursday, January 29, 2004 2:00
To: Gary, Aaron
Cc: Lindstedt, Daniel
Subject: LRB 4060

Aaron-
Sen. Leibham will be offering the Senate companion to Rep. Petrowski's LRB 4060. Dan Lindstedt is the point of contact for Sen. Leibham regarding this issue.

Let me know if you have any questions.
Thanks!

Kathy

Kathy Marschman
Research Assistant/Committee Clerk
Representative Jerry Petrowski
86th Assembly District
608.266.1182/Toll-Free: 888.534.0086

www.jerrypetrowski.com

Needed
by 1/30
end of day

4161/1
LRB-40607
ARGoldch

Q stays

2003 BILL

D-note

Regen

1 AN ACT to amend 348.27 (9) (a) of the statutes; relating to: annual or
2 consecutive month permits for vehicles or combinations of vehicles
3 transporting loads near the Wisconsin-Michigan border.

Analysis by the Legislative Reference Bureau

Under current law, with limited exceptions, no person may operate upon a highway any vehicle or combination of vehicles that exceeds certain statutory limits on size, weight, or load unless that person possesses a permit issued by the Department of Transportation (DOT). DOT may issue an annual or consecutive month permit for an oversize or overweight vehicle or combination of vehicles transporting loads over any state highway within 11 miles of the Wisconsin-Michigan state line and, if previously approved by local highway authorities, on local highways within that 11-mile area.

This bill extends the area for which such a permit may be issued for certain vehicles or combinations of vehicles traveling on USH 2. Under the bill, a vehicle or combination of vehicles transporting exclusively peeled or unpeeled forest products cut crosswise may operate under such a permit anywhere upon USH 2 in Ashland County or Iron County if the vehicle or combination of vehicles is traveling between Wisconsin and Michigan and does not violate length or weight limitations established under current Michigan law. The permit does not authorize travel upon local roads unless previously approved by local highway authorities.

Under current law, if any bill introduced in either house of the legislature directly or indirectly establishes an exception to vehicle weight limitations, DOT

BILL

must prepare a report, containing specified information, relating to the bill within six weeks after the bill is introduced and before any vote is taken on the bill. This bill directs DOT not to prepare such a report on this bill.

For further information see the *state and local* 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.** 348.27 (9) (a) ^x of the statutes is amended to read:

2 348.27 (9) (a) The department may issue annual or consecutive month permits
3 for the transportation on a vehicle or combination of vehicles of loads exceeding
4 statutory length or weight limitations over any class of highway for a distance not
5 to exceed 11 miles from the Michigan-Wisconsin state line, ~~provided that if except~~
6 that a vehicle or combination of vehicles transporting exclusively peeled or unpeeled
7 forest products cut crosswise may operate under such a permit anywhere upon USH
8 2 in Iron County or Ashland County if the vehicle or combination of vehicles is
9 traveling between this state and Michigan and does not violate length or weight
10 limitations established, as of the effective date of this paragraph ... [revisor inserts
11 date], under Michigan law. If the roads desired to be used by the applicants involve
12 streets or highways other than those within the state trunk highway system, the
13 application shall be accompanied by a written statement of route approval by the
14 officer in charge of maintenance of the other highway.

15 **SECTION 2. Nonstatutory provisions.**

16 (1) EXCEPTION TO REVIEW BY THE DEPARTMENT OF TRANSPORTATION.
17 Notwithstanding section 13.096 (2) of the statutes, the department of transportation
18 shall not prepare a report on this bill under section 13.096 (2) and (3) of the statutes.

19 **SECTION 3. Initial applicability.**

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

4161/1
LRB-4000/11dn
ARG/jlors

Keep

January 21, 2004

ATTN: ~~_____~~

g Daniel Lindstedt

~~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.~~

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-4161/1dn
ARG:jld:rs

January 30, 2004

ATTN: Daniel Lindstedt

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.

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