

2005 DRAFTING REQUEST

Bill

Received: **01/04/2005**

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **Karl Van Roy (608) 266-0616**

By/Representing: **Tanya Hein (aide)**

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

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - motor vehicles
Transportation - traffic laws**

Extra Copies: **PJH**

Submit via email: **YES**

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Operation of double decker buses and overheight permits issued by local authorities

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>
/?				_____			S&L
/P1	agary 01/21/2005	lkunkel 02/01/2005	rschluet 02/01/2005	_____	sbasford 02/01/2005		S&L
/P2	agary 02/17/2005	lkunkel 02/17/2005	jfrantze 02/18/2005	_____	sbasford 02/18/2005		S&L
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FE Sent For:

*AA
Intro.*

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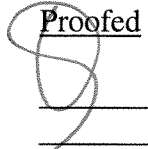
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1?	agary	/p/mk 1/31					S&L

FE Sent For:

<END>

1/4/05

Me w/ Tanya rep. Van Ravy

- double decker bus →

- limit speed of bus ~~to 45 mph~~
- limited to traveling on roads
of 45 mph or less

→ HOLD OFF
= =

- ~~scribble~~

- business could have it if local govt.
approves

- in GB, business set up a route plan

- municipality has to pass an ordinance but
then has to be a route plan submitted

s. 194.32 -

- max height for motor bus is 13' 6"
- this is 14' 5"

- couldn't get an oversize permit b/c
double decker buses banned anyway

- Reservey Suites - DOT sent plan to county / highway transportation
sup - city approved route plan - state patrol - will send DOT letter

Gary, Aaron

From: Hein, Tanya
Sent: Tuesday, January 04, 2005 11:20 AM
To: Gary, Aaron
Subject: Double Decker buses



Scan001.PDF

Aaron,

Here is the info on double-decker buses.

Tanya R. Hein
Legislative Aide

~~~~~  
State Representative Karl Van Roy  
8 West, State Capitol  
P.O. Box 8953  
Madison, WI 53708  
Tel: 608-266-0616  
Fax: 608-282-3690



## Wisconsin Department of Transportation

www.dot.wisconsin.gov

Jim Doyle  
Governor

Frank J. Busalacchi  
Secretary

Office of General Counsel  
4802 Sheboygan Ave., Rm. 115B  
P O Box 7910  
Madison, WI 53707-7910

December 8, 2004

Telephone: 608-266-8810  
FAX: 608-267-6734  
E-mail: ogc.exec@dot.state.wi.us

Ms. Kari Moody  
Regency Suites Hotel  
333 Main Street  
Green Bay, Wisconsin 54301

RE: Operation of Double-Decked Motor Bus with Passengers Prohibited in Wisconsin

Dear Ms. Moody:

I am pleased to respond on behalf of the Wisconsin Department of Transportation (WISDOT) to your request for legal review of the proposed operation of a double-decked motor bus with passengers. We are informed that the motor bus has been purchased by the Regency Suites. In responding to your request, I am relying on facts regarding the passenger operation as stated in the letter dated September 7, 2004 letter from KGM Charters to WISDOT. A copy is attached for your convenience.  
**Attachment A.**

- 1) **Longstanding safety concern with double-decked buses for passenger operations:** The first Wisconsin legislation dealing with the subject of operation of double-decked motor buses is Chapter 488, Section 3, Laws of Wisconsin of 1933, effective September 1933. As enacted, it read:

194.32 "No common motor carrier of passengers shall operate any passenger carrying bus over any public highway of this state with any trailer or semitrailer attached. No interurban motor bus which shall exceed thirty-three feet in length or eight feet in width or is double-decked shall be operated upon the public highways under the authority of a common carrier permit."

We believe that this legislation was prompted by concerns with the safety of transporting passengers on the upper level of a motor vehicle. The law is almost identical today. It reads:

194.32 "No common motor carrier of passengers shall operate any passenger-carrying bus over any public highway of this state with any trailer or semitrailer attached except for an articulated bus as defined in s.

340.01 (2m). Except for an articulated bus as defined in s. 340.01 (2m) which may be 65 feet in length, no interurban motor bus which exceeds 40 feet in length or 8 feet 6 inches in width or is double-decked shall be operated upon the public highways under the authority of this chapter. As used in this section an interurban motor bus is deemed "double-decked" when passengers are carried therein on an upper level throughout the length of the bus over passengers on a lower level throughout the length of the bus."

We believe that concerns for the safety of passengers in double-decked bus operations remain valid today. In all likelihood there are more overhead and other obstructions, such as power lines, cable lines, displays and bridges now than there were in the 1930s that are hazardous to passengers in the operation of this type of over height vehicle. The height of your double-decked motor bus, not including any exposed or unrestrained adult or minor passengers, is 14 feet, 2 inches. The statutory vehicle height limit is 13.5 feet. I am also advised that double-decked motor buses have been removed from passenger service in Great Britain largely due to safety concerns.

There is also a statutory statement of legislative intent that provides primary emphasis for the safety of motor carrier passenger operations:

194.02 "Legislative intent. It is the intent of the legislature to remove the economic regulations which limit motor carrier operations in the state. The legislature intends to let the market promote competitive and efficient transportation services, while maintaining the safety regulations necessary to protect the welfare of the traveling and shipping public. It is the intent of the legislature that this chapter be interpreted in a manner which gives the most liberal construction to achieve the aim of a safe, competitive transportation industry."

2) **Double-decked passenger operation prohibited by Wis. Stat. 194.32.** This statute prohibits what we understand is the current or proposed passenger operation of your double-decked bus:

a) The operation as detailed in **Attachment A** fits the definition of "for hire" carriage in Wis. Stat. 194.01(4)<sup>1</sup>. A for-hire carrier must have

<sup>1</sup> Wis. Stat. 194.01(4) "For hire" means for compensation, and includes compensation obtained by a motor carrier indirectly, by subtraction from the purchase price or addition to the selling price of property transported, where the purchase or sale thereof is not a bona fide purchase or sale. Any person who pretends to purchase property to be transported by such person or who purchases property immediately prior to and sells it immediately after the transportation thereof shall be deemed to be transporting the property for hire and not a bona fide purchaser or seller thereof. The rental of a motor vehicle to a person for transportation of the person's property which rental directly or indirectly includes the services of a driver shall be deemed to be transportation for hire and not private carriage. This subsection does not apply to motor vehicle operations which are conducted merely as an incident to or in furtherance of any business or industrial activity."

insurance on file with the Department of Transportation. I am informed, however, that the Regency Suites does not have motor carrier authority or insurance on file for this passenger and vehicle operation. We believe that this is required, based on the description of this operation.

- b) The operation as described fits the definition of "common motor carrier" of passengers or "contract motor carrier" of property, or both, in Wis. Stats. 194.01(1)<sup>2</sup> and (2)<sup>3</sup>, based on the information contained in **Attachment A** about your current or planned passenger use of the double-decked bus.
- c) There is no doubt that the bus fits the statutory definition of "double-decked" in Wis. Stat. 194.32 quoted above.
- d) There is no statutory definition of "interurban" in Wis. Stat. 194.32 or in Chapter 194, Laws of Wisconsin. In such cases, the law provides that the word "interurban" is to be interpreted according to common and approved usage.<sup>4</sup> The commonly understood definition of "interurban" is going between or connecting cities, villages or towns, as opposed to being within the limits of one particular city, village or town. We believe that at least some of your current or planned operation of the double-decked bus would be between municipalities in the greater Green Bay area and would, in all likelihood, be reasonably characterized as "interurban" in nature.
- e) The phrase in the above quoted statute "upon the public highways<sup>5</sup>" means that the prohibition of double-decked passenger operations applies to all public highways in Wisconsin, regardless of whether the highway, street, or road in question is under the jurisdiction of a city, village, town, county or the State of Wisconsin. Neither the Wisconsin Department of Transportation nor any other authority in charge of maintenance of any other highway, street or road may lawfully authorize motor carrier passenger operation of a double-decked motor bus in violation of Wis. Stat. 194.32.

**1) The passenger operation is not conducted "merely as an incident to or in furtherance of any business or industrial activity?" As described in**

<sup>2</sup> Wis. Stat. 194.01(1) "Common motor carrier" means any person who holds himself or herself out to the public as willing to undertake for hire to transport passengers by motor vehicle between fixed end points or over a regular route upon the public highways or property over regular or irregular routes upon the public highways. The transportation of passengers in taxicab service or in commuter car pool or van pool vehicles with a passenger-carrying capacity of less than 16 persons or in a school bus under s. 120.13 (27) shall not be construed as being that of a common motor carrier."

<sup>3</sup> Wis. Stat. 194.01(2) "Contract motor carrier" means any person engaged in the transportation by motor vehicle over a regular or irregular route upon the public highways of property for hire."

<sup>4</sup> Wis. Stat. 990.01(1) "General rule. All words and phrases shall be construed according to common and approved usage; but technical words and phrases and others that have a peculiar meaning in the law shall be construed according to such meaning."

<sup>5</sup> Wis. Stat. 194.01(12) "Public highway" means every public street, alley, road, highway or thoroughfare of any kind, except waterways, in this state while open to public travel and use."

**Attachment A**, I do not believe this operation falls within the exemption for operations conducted merely as an incident to or in furtherance of any business or industrial activity. The general legal rule is that exemption statutes are matters of legislative grace and are to be strictly construed against granting an exemption. Ladish Malting Co. v. Dep't of Revenue, 98 Wis. 2d 496, 502 (1980); Ramrod, Inc. v. Dep't of Revenue, 64 Wis. 2d 499, 504 (1974). Doubts as to the applicability of the exemption are to be resolved against the exemption. Revenue Dep't v. Greiling, 112 Wis. 2d 602, 605 (1983). In this case, the primary issue is whether the public interest and legislative intent require this safety statute<sup>6</sup> to be applied to this proposed operation. I believe the statutory prohibition does and should apply because the double-decked bus will not primarily be transporting employees or property of Regency Suites in Regency Suites' own vehicle for Regency Suites' own purposes, but instead the double-decked bus will primarily transport members of the general public and their property from a variety of different locations for a variety of different purposes including Packers Games, shopping, railroad museum tours and bars on defined routes with defined stops where anyone may get on or off. These passengers are the very people the safety statute prohibiting double-decked passenger operations is designed to protect. If a passenger is injured in these operations, the entire operation of the double-decked bus may be considered negligent either because it foreseeably causes harm, or because it violates a safety statute where the statutory purpose is to avoid or diminish the likelihood of the harm that resulted. In the latter case, the courts will consider it negligence per se to conduct the passenger operation because it violates the statute, without any further evidence of any negligence by Regency Suites or its employees or vehicle operators.

- 4) **An oversize permit is not available and would provide no liability protection.** Maximum vehicle dimensions are established in Wis. Stats. 348.05 through 348.08. The maximum height for a motor bus is 13'06," the maximum width is 8'06" and the maximum length is 45'. Vehicles may only exceed legal dimensions to the extent authorized by oversize/overweight permits in special circumstances where there are not reasonable alternatives. You and representatives of the company that imports and sells double-decked buses, KGM, have requested a permit under Chapter 348, Wisconsin Statutes and Chapter Trans 230, Wis. Admin. Code, to operate this double-decked motor bus that exceeds the legal height limit. Certainly, permits can be issued "...for good cause in specified instances..."<sup>7</sup> It is my opinion, however, that a permit should

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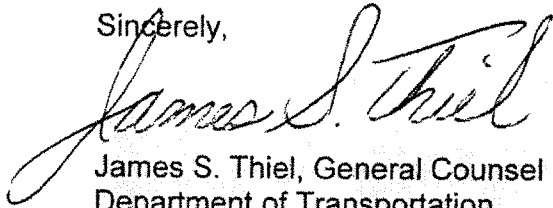
<sup>6</sup> The violation of a safety statute constitutes negligence per se if three elements are present: 1) the harm inflicted was the type the statute was designed to prevent; 2) the person injured was within the class of persons sought to be protected; and 3) there is some expression of legislative intent that the statute become a basis for the imposition of civil liability. See Tatur v. Solrud, 174 Wis.2d 735, 743, 498 N.W.2d 232 (1993)

<sup>7</sup> Trans 230.06(3)(a), Wis. Admin. Code: "General permits may be issued for the transportation of equipment or materials for specified construction or maintenance operations, and for good cause in specified instances or periods for other special types of operations."

not be and cannot be issued for operation of an over height vehicle, where as here the operation of that vehicle with passengers is banned entirely by a separate safety statute, Wis. Stat. 194.32. I would also advise that an over height permit provides no liability protection to the applicant or operator for any claim for bodily injury,<sup>8</sup> or property damage.

In conclusion, it is my opinion the Regency Suites should not and cannot lawfully operate the double-decked bus with passengers as proposed. If you, or your legal counsel, have follow-up questions, please contact me at (608) 266-8928.

Sincerely,



James S. Thiel, General Counsel  
Department of Transportation

Attachment:

A -- September 7, 2004 Letter from KGM Charters

cc: Senator Dave Hansen

Kari Silva, President and CEO  
Packer Country Regional Tourism Office  
1901 South Oneida Street  
P.O. Box 10596  
Green Bay, WI 54307-0596

---

<sup>8</sup> Trans 230.01(3)(d)1. "In applying for and accepting a permit, the permittee agrees to pay any claim for any bodily injury or property damage for which he is legally responsible resulting from operations under the permit and to save the state and its subdivisions harmless from any claim which may arise from operations over public highways under the permit."

soon

in 1/21

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

GenCat

1 AN ACT ...; relating to: operation of double-decked buses on highways under the  
2 jurisdiction of local authorities. ✓

*Analysis by the Legislative Reference Bureau*

Current law prohibits the operation on public highways of interurban motor buses that are double-decked. "Double-decked" means that passengers are carried on an upper level throughout the length of the bus over passengers on a lower level throughout the length of the bus. ✓

Current law also imposes size, weight, and load limits on vehicles that travel on the highways. DOT and local authorities may issue certain permits authorizing the permittee to operate a vehicle that exceeds these limits on vehicle size, weight, or load. No person, without a permit, may operate on a highway any motor vehicle having an overall height in excess of 13 feet six inches. Current law does not provide for any specific permit that authorizes general operation of an overheight vehicle on the highways. ✓

This bill eliminates the complete prohibition on operation of double-decked motor buses, but creates a permit system for operation of overheight double-decked motor buses. Under the bill, the governing body of any town, city, or village (municipality) or of any county may, by ordinance, provide for issuance of annual or consecutive month permits authorizing the operation on highways in the municipality or county, other than state trunk highways, of double-decked buses that exceed the statutory height limit. The officer in charge of maintenance of the highways in the municipality or county may issue these permits, and every permit must designate the route to be used by the permittee. If the officer issuing a permit

deems it necessary to have a traffic officer escort the double-decked bus through the municipality or county, a reasonable fee for the traffic officer's services must be paid by the permittee. If a county adopts an ordinance authorizing operation of double-decked buses under a permit, the approved designated route in the permit may include any highway within the county, other than a state trunk highway, regardless of whether any municipality in the county has enacted an ordinance authorizing issuance of these permits.

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. 194.32 of the statutes is amended to read:

2 194.32 Buses, restrictions. No common motor carrier of passengers shall  
3 operate any passenger-carrying bus over any public highway of this state with any  
4 trailer or semitrailer attached except for an articulated bus as defined in s. 340.01  
5 (2m). Except for an articulated bus as defined in s. 340.01 (2m) which may be 65 feet  
6 in length, no interurban motor bus which exceeds 40 feet in length or 8 feet 6 inches  
7 in width or is double-decked shall be operated upon the public highways under the  
8 authority of this chapter. As used in this section an interurban motor bus is deemed  
9 "double-decked" when passengers are carried therein on an upper level throughout  
10 the length of the bus over passengers on a lower level throughout the length of the  
11 bus.

History: 1981 c. 159; 1993 a. 16.

12 SECTION 2. 348.01 (2) (at) of the statutes is created to read:

13 348.01 (2) (at) "Double-decked bus" means a motor bus designed to carry  
14 passengers on an upper level throughout the length of the bus over passengers on a  
15 lower level throughout the length of the bus.

16 SECTION 3. 348.27 (12m) of the statutes is created to read:



1           348.26 (12m) PERMITS FOR OVERHEIGHT DOUBLE-DECKED BUSES. In any  
2 municipality or county that has adopted an ordinance under s. 349.165 authorizing  
3 operation of double-decked buses under a permit issued under this subsection, the  
4 officer in charge of maintenance of the highways in the municipality or county may  
5 issue annual or consecutive month permits authorizing the operation upon highways  
6 in the municipality or county of double-decked buses that exceed the height  
7 limitations under s. 348.06. Every permit issued under this subsection shall  
8 designate the route to be used by the permittee, and every application for a permit  
9 issued under this subsection shall be accompanied by a written statement of  
10 proposed route. A permit issued under this subsection does not authorize operation  
11 of overheight double-decked buses on any state trunk highway. Whenever the officer  
12 issuing a permit under this subsection deems it necessary to have a traffic officer  
13 escort the double-decked bus through the municipality or county, a reasonable fee  
14 for the traffic officer's services shall be paid by the permittee. If a county adopts an  
15 ordinance authorizing operation of double-decked buses under a permit issued  
16 under this subsection, the approved designated route in the permit may include any  
17 highway within the county, other than a state trunk highway, regardless of whether  
18 any municipality in the county has enacted an ordinance authorizing issuance of  
19 permits under this subsection.

20           SECTION 4. 349.165 of the statutes is created to read:

21           **349.165 Authority to issue overheight permits for double-decked**  
22 **buses.** The governing body of any town, city, village, or county may, by ordinance,  
23 provide for issuance of permits authorizing the operation of overheight  
24 double-decked buses as provided in s. 348.20 (12m).

25           (S) (END)

D-Note

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

LRB-1464/P1dn  
ARG:lk...

(date)

ATTN: Tanya Hein

Please review the attached draft carefully to ensure that it is consistent with your intent. ✓ To accomplish the purposes of the draft, I have had to make certain assumptions with respect to the drafting instructions, which may not be consistent with your expectations. ✓

The attached draft assumes that these double-decked buses are overheight but not overwidth. Please let me know if this is incorrect. ✓

I believe these double-decked buses would be commercial motor vehicles as defined in s. 340.01 (8)(c). I have not attempted to determine whether federal law includes any prohibitions against the operation of these vehicles on federal-aid or other highways. ✓

I cannot find in the statutes any other instance of a permit for overheight vehicles. You may wish to discuss this issue further with DOT or Legislative Council. ✓

With respect to created s. 348.27 (12m), this provision would be included in the series of cross-references under s. 348.28 (1), but would not be included in the series of cross-references under s. 348.25 (4). Is this consistent with your intent? ✓

Please let me know if you would like any changes made to the attached draft or if you have any questions. 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-1464/P1dn  
ARG:lmk:rs

February 1, 2005

ATTN: Tanya Hein

Please review the attached draft carefully to ensure that it is consistent with your intent. To accomplish the purposes of the draft, I have had to make certain assumptions with respect to the drafting instructions, which may not be consistent with your expectations.

The attached draft assumes that these double-decked buses are overheight but not overwidth. Please let me know if this is incorrect.

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

## Gary, Aaron

---

**From:** Hein, Tanya  
**Sent:** Monday, February 14, 2005 3:49 PM  
**To:** Gary, Aaron  
**Subject:** REP. KARL VAN ROY: Double-decker busesLRB 1464/P1

Aaron,

We have been reviewing the draft and talking with lots of people on this and we have decided to take a different approach. Below is what we would like to do. Please call me if you have any questions or need clarification.

**Tanya R. Hein**

Legislative Aide

~~~~~  
State Representative Karl Van Roy
8 West, State Capitol
P.O. Box 8953
Madison, WI 53708
Tel: 608-266-0616
Fax: 608-282-3690

- 1) Definition of Double Decker bus: In addition to what you wrote we would like to clarify that we are referring only to **closed ceiling** double-decked buses, as opposed to one of those open-air tourist type buses. In other words, we do not want to allow open-air style of double-decked buses on our roads.
- 2) We would like to specify that double deck buses may only be operated on **any roads/highways (state, local, or county)** that have a **posted speed limit of 45 MPH or less**. (In other words, we don't feel these buses are appropriate on any roads that are 55 or 65 mph. Besides, the bus only has a top speed of 42 mph.)
- 3) Instead of going through the permitting process you described, DOT suggested that we **amend 348.06** and enumerate an exception to the height limit of vehicles like was done in 348.07 regarding length of vehicles. Therefore, we would like an exception allowing **double-decked buses** that do not exceed **14 feet 5 inches** in overall height.
- 4) Finally, we want a requirement that the operator of the bus shall **coordinate with the county highway department** in which the proposed travel is to take place to ensure that their route has adequate height clearance.
- 5) And, if it's not already obvious somewhere in the statutes/code, we want to make it clear that 1) no government entity would be required to raise, alter, construct or reconstruct any overhead objects (overpass, bridge, pole, wire, trestle or other structure) to accomodate an overheight bus, and 2) any damage to any overhead obstruction caused by the height of an overheight vehicle shall be the responsibility of the owner of the vehicle.

SUMMARY: We want a law crafted that automatically allows closed-ceiling double-decked buses that are 14 feet 5 inches or less, to be driven on any road/highway 45 mph or less, so long as they have worked with the county highway department where the travel is to take place to make sure they have established a route plan that has adequate height clearance.

We would appreciate the re-draft as soon as possible. We've been getting numerous calls from our district regarding the status of this draft. Thanks for your help!

Tanya R. Hein
Legislative Aide

~~~~~  
State Representative Karl Van Roy  
8 West, State Capitol  
P.O. Box 8953  
Madison, WI 53708  
Tel: 608-266-0616  
Fax: 608-282-3690



State of Wisconsin  
2005 - 2006 LEGISLATURE

soon  
in 2/17

LRB-1464/P2

ARG:lmk:rs  
keep

R M R

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

Refer

1 AN ACT to amend 194.32; and to create 348.01 (2) (at), 348.27 (12m) and 349.165  
2 of the statutes; relating to: operation of double-decked buses on highways  
3 under the jurisdiction of local authorities.

*Analysis by the Legislative Reference Bureau*

Current law prohibits the operation on public highways of interurban motor buses that are double-decked. "Double-decked" means that passengers are carried on an upper level throughout the length of the bus over passengers on a lower level throughout the length of the bus.

Current law also imposes size, weight, and load limits on vehicles that travel on the highways. DOT and local authorities may issue certain permits authorizing the permittee to operate a vehicle that exceeds these limits on vehicle size, weight, or load. No person, without a permit, may operate on a highway any motor vehicle having an overall height in excess of 13 feet 6 inches. Current law does not provide for any specific permit that authorizes general operation of an overheight vehicle on the highways.

This bill eliminates the complete prohibition on operation of double-decked motor buses, but creates a permit system for operation of overheight double-decked motor buses. Under the bill, the governing body of any town, city, or village (municipality) or of any county may, by ordinance, provide for issuance of annual or consecutive month permits authorizing the operation on highways in the municipality or county, other than state trunk highways, of double-decked buses that exceed the statutory height limit. The officer in charge of maintenance of the highways in the municipality or county may issue these permits, and every permit

insert  
ANAL-A

exception or

insert  
ANAL-B

must designate the route to be used by the permittee. If the officer issuing a permit deems it necessary to have a traffic officer escort the double-decked bus through the municipality or county, a reasonable fee for the traffic officer's services must be paid by the permittee. If a county adopts an ordinance authorizing operation of double-decked buses under a permit, the approved designated route in the permit may include any highway within the county, other than a state trunk highway, regardless of whether any municipality in the county has enacted an ordinance authorizing issuance of these permits.

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. 194.32 of the statutes is amended to read:

2 194.32 Buses, restrictions. No common motor carrier of passengers shall  
3 operate any passenger-carrying bus over any public highway of this state with any  
4 trailer or semitrailer attached except for an articulated bus as defined in s. 340.01  
5 (2m). Except for an articulated bus as defined in s. 340.01 (2m) which may be 65 feet

6 in length, no interurban motor bus which exceeds 40 feet in length or 8 feet 6 inches  
7 in width <sup>delete strike</sup> ~~or is double-decked~~ <sup>of a</sup> ~~shall be operated upon the public highways under the~~ <sup>open-roof design</sup>

8 authority of this chapter. <sup>open-roof design</sup> As used in this section an interurban motor bus is deemed  
9 "double-decked" when passengers are carried therein on an upper level throughout

10 the length of the bus over passengers on a lower level throughout the length of the  
11 bus <sup>plain</sup> ~~and the roof of the bus does not extend throughout the~~ <sup>length of the bus</sup>

12 SECTION 2. 348.01 (2) (at) of the statutes is created to read:

13 348.01 (2) (at) "Double-decked bus" means a motor bus designed to carry  
14 passengers on an upper level throughout the length of the bus over passengers on a

15 lower level throughout the length of the bus <sup>and the roof of which extends</sup> ~~and the roof of the bus does not extend throughout the length of the bus~~ <sup>throughout the length of the bus</sup>

16 SECTION 3. 348.27 (12m) of the statutes is created to read:

to be of a  
LPS  
delete  
all  
striking  
PLAIN  
except for new  
scoring.

insert  
2-15

1            **348.27 (12m)** PERMITS FOR OVERHEIGHT DOUBLE-DECKED BUSES. In any  
2 municipality or county that has adopted an ordinance under s. 349.165 authorizing  
3 operation of double-decked buses under a permit issued under this subsection, the  
4 officer in charge of maintenance of the highways in the municipality or county may  
5 issue annual or consecutive month permits authorizing the operation upon highways  
6 in the municipality or county of double-decked buses that exceed the height  
7 limitations under s. 348.06. Every permit issued under this subsection shall  
8 designate the route to be used by the permittee, and every application for a permit  
9 issued under this subsection shall be accompanied by a written statement of  
10 proposed route. A permit issued under this subsection does not authorize operation  
11 of overheight double-decked buses on any state trunk highway. Whenever the officer  
12 issuing a permit under this subsection deems it necessary to have a traffic officer  
13 escort the double-decked bus through the municipality or county, a reasonable fee  
14 for the traffic officer's services shall be paid by the permittee. If a county adopts an  
15 ordinance authorizing operation of double-decked buses under a permit issued  
16 under this subsection, the approved designated route in the permit may include any  
17 highway within the county, other than a state trunk highway, regardless of whether  
18 any municipality in the county has enacted an ordinance authorizing issuance of  
19 permits under this subsection.

20            **SECTION 4.** 349.165 of the statutes is created to read:

21            **349.165 Authority to issue overheight permits for double-decked**  
22 **buses.** The governing body of any town, city, village, or county may, by ordinance,  
23 provide for issuance of permits authorizing the operation of overheight  
24 double-decked buses as provided in s. 348.27 (12m).

25            (END)

dn



2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1464/P2ins  
ARG:.....

**INSERT ANAL-A:**

This bill limits the complete prohibition on operation of double-decked motor buses to those of an open-roof design.

**INSERT ANAL-B:**

This bill creates an exception to the general vehicle height limitation if certain conditions are satisfied. Under the bill, double-decked buses of a closed-roof design having an overall height not exceeding 14 feet 5 inches may be operated without a permit for excessive height upon a highway that has a speed limit of 45 or less miles per hour if the vehicle operator has coordinated with the agency or officer in charge of maintenance of the highway on any highway of the vehicle's proposed route to ensure that there is adequate height clearance for the vehicle on all parts of the proposed route. The owner of any double-decked bus exceeding the general height limit of 13 feet 6 inches is liable to the maintaining authority for any damage to any highway or overhead structure or device above the highway caused by the height of the double-decked bus, regardless of whether the double-decked bus is operated in compliance with the overheight exception for closed-roof double-decked buses.

**INSERT 2-15:**

**SECTION 1.** 348.06 (1) of the statutes is amended to read:

348.06 (1) Except as provided in sub. ~~sub.~~ subs. (2) and (2m), no person, without a permit therefor, may operate on a highway any motor vehicle, mobile home, trailer, or semitrailer having an overall height in excess of 13 1/2 feet.

History: 1999 a. 85.

**SECTION 2.** 348.06 (2m) of the statutes is created to read:

348.06 (2m) Double-decked buses having an overall height not exceeding 14 feet 5 inches may be operated without a permit for excessive height upon a highway that has a speed limit of 45 or less miles per hour if the vehicle operator has coordinated with the agency or officer in charge of maintenance of the highway on any highway of the vehicle's proposed route to ensure that there is adequate height clearance for the vehicle on all parts of the proposed route. The owner of any

double-decked bus exceeding the height specified in sub. (1) is liable to the maintaining authority for any damage to any highway or overhead structure or device above the highway caused by the height of the double-decked bus, regardless of whether the double-decked bus is operated in compliance with this subsection.

**SECTION 3. Initial applicability.**

(1) This act first applies to motor vehicles operated on the effective date of this subsection.

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

LRB-1464/P2dn

ARG:.....

lmk

(date)

ATTN: Tanya Hein

Please review the attached draft carefully to ensure that it is consistent with your intent. I have assumed that, by "county highway authority," you intended to indicate the authority having jurisdiction over the highway. ✓

Please let me know if you would like any changes made to the attached draft or if you have any questions. 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-1464/P2dn

ARG:lmk:jf

February 18, 2005

ATTN: Tanya Hein

Please review the attached draft carefully to ensure that it is consistent with your intent. I have assumed that, by "county highway authority," you intended to indicate the authority having jurisdiction over the highway.

Please let me know if you would like any changes made to the attached draft or if you have any questions. 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](mailto:aaron.gary@legis.state.wi.us)

2/18/05

He w/ Tampa Hein

analysis:  
general

permits:

- annual / consecutive:

-  $\left\{ \begin{array}{l} \text{can issue over height under} \\ \text{size/weight (oversize)} \end{array} \right.$   
348.27  $\rightarrow$

- 348.26  $\rightarrow$  single trip  $\rightarrow$  (oversize)

- DOT confirmed over-height permits for single trip & annual / consecutive are issued (up to 16') under the general oversize vehicle/load provisions

- other than correction in analysis, draft looks good; make a /c & wanted today



State of Wisconsin  
2005 - 2006 LEGISLATURE

TODAY

LRB-1464/1  
ARG:lmk/jf  
Keep  
RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Only change is  
in analysis

Reben

1 AN ACT *to amend* 194.32 and 348.06 (1); and *to create* 348.01 (2) (at) and 348.06  
2 (2m) of the statutes; **relating to:** operation of double-decked buses on  
3 highways.

***Analysis by the Legislative Reference Bureau***

Current law prohibits the operation on public highways of interurban motor buses that are double-decked. "Double-decked" means that passengers are carried on an upper level throughout the length of the bus over passengers on a lower level throughout the length of the bus.

This bill limits the complete prohibition on operation of double-decked motor buses to those of an open-roof design.

Current law also imposes size, weight, and load limits on vehicles that travel on the highways. DOT and local authorities may issue certain permits authorizing the permittee to operate a vehicle that exceeds these limits on vehicle size, weight, or load. No person, without a permit, may operate on a highway any motor vehicle having an overall height in excess of 13 feet 6 inches. ~~Current law does not provide for any specific exception or permit that authorizes general operation of an overheight vehicle on the highways.~~

This bill creates an exception to the general vehicle height limitation if certain conditions are satisfied. Under the bill, double-decked buses with a closed-roof design having an overall height not exceeding 14 feet 5 inches may be operated without a permit for excessive height upon a highway that has a speed limit of 45 miles per hour or less if the vehicle operator has coordinated with the agency or officer in charge of maintenance of the highway on any highway of the vehicle's

proposed route to ensure that there is adequate height clearance for the vehicle on all parts of the proposed route. The owner of any double-decked bus exceeding the general height limit of 13 feet 6 inches is liable to the maintaining authority for any damage to any highway or overhead structure or device above the highway caused by the height of the double-decked bus, regardless of whether the double-decked bus is operated in compliance with the overheight exception for closed-roof double-decked buses.

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.** 194.32 of the statutes is amended to read:

2           **194.32 Buses, restrictions.** No common motor carrier of passengers shall  
3 operate any passenger-carrying bus over any public highway of this state with any  
4 trailer or semitrailer attached except for an articulated bus as defined in s. 340.01  
5 (2m). Except for an articulated bus as defined in s. 340.01 (2m) which may be 65 feet  
6 in length, no interurban motor bus which exceeds 40 feet in length or 8 feet 6 inches  
7 in width or is of a double-decked open-roof design shall be operated upon the public  
8 highways under the authority of this chapter. As used in this section an interurban  
9 motor bus is deemed to be of a "double-decked open-roof design" when passengers  
10 are carried therein on an upper level throughout the length of the bus over  
11 passengers on a lower level throughout the length of the bus and the bus roof does  
12 not extend throughout the length of the bus.

13           **SECTION 2.** 348.01 (2) (at) of the statutes is created to read:

14           **348.01 (2) (at)** "Double-decked bus" means a motor bus designed to carry  
15 passengers on an upper level throughout the length of the bus over passengers on a  
16 lower level throughout the length of the bus and the roof of which extends throughout  
17 the length of the bus.

1           **SECTION 3.** 348.06 (1) of the statutes is amended to read:

2           348.06 (1) Except as provided in ~~sub.~~ subs. (2) and (2m), no person, without a  
3 permit therefor, may operate on a highway any motor vehicle, mobile home, trailer,  
4 or semitrailer having an overall height in excess of 13 1/2 feet.

5           **SECTION 4.** 348.06 (2m) of the statutes is created to read:

6           348.06 (2m) Double-decked buses having an overall height not exceeding 14  
7 feet 5 inches may be operated without a permit for excessive height upon a highway  
8 that has a speed limit of 45 miles per hour or less if the vehicle operator has  
9 coordinated with the agency or officer in charge of maintenance of the highway on  
10 any highway of the vehicle's proposed route to ensure that there is adequate height  
11 clearance for the vehicle on all parts of the proposed route. The owner of any  
12 double-decked bus exceeding the height specified in sub. (1) is liable to the  
13 maintaining authority for any damage to any highway or overhead structure or  
14 device above the highway caused by the height of the double-decked bus, regardless  
15 of whether the double-decked bus is operated in compliance with this subsection.

16           **SECTION 5. Initial applicability.**

17           (1) This act first applies to motor vehicles operated on the effective date of this  
18 subsection.

19

(END)



**Northrop, Lori**

---

**From:** Hein, Tanya  
**Sent:** Friday, February 18, 2005 1:55 PM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 05-1464/1 Topic: Operation of double decker buses and overheight permits issued by local authorities

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

Draft review: LRB 05-1464/1 Topic: Operation of double decker buses and overheight permits issued by local authorities