

2005 DRAFTING REQUEST

Senate Amendment (SA-AB762)

Received: 11/08/2005

Received By: **agary**

Wanted: **Soon**

Identical to LRB:

For: **Cathy Stepp (608) 266-1832**

By/Representing: **Jay Risch (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: **Sen.Stepp@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

motor carrier regulation of intrastate vehicle combinations under 26,000 pounds

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>
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FE Sent For:

<END>

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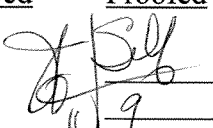
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/?	agary	1/mk 11/8					

FE Sent For:

<END>

11/2/05

Jay - Stepp

AB 762

- why just apply it to farmers?
- in touch w/ FMCSA → have AB 762
- AM to AB 762 →
- bill to be sent to feds
- send e-mail
- hrg but no exec.

Gary, Aaron

From: Risch, Jay
Sent: Tuesday, November 08, 2005 10:28 AM
To: Gary, Aaron
Subject: AB 762 amendment needed

Attachments: FarmTrucksExemptUSDOT.doc

Aaron -

Thanks for your help on this. Per our conversation from moments ago, here is the amendment Sen. Stepp wants.

All vehicles, not just farmers, should be exempt from regulation as a motor carrier if they are under 26,000 lbs weight threshold.

Thanks - Jay

From: Risch, Jay
Sent: Monday, November 07, 2005 3:20 PM
To: 'michael.falk@fmcsa.dot.gov'
Subject: FW: FMSCA contact person

Michael,

Thanks so much for the prompt return of my call. Here is the bill:
<http://www.legis.state.wi.us/2005/data/AB762hst.html>

<http://www.legis.state.wi.us/2005/data/AB-762.pdf>

My boss is of the opinion that, if it is OK to exempt farm trucks from regulation as a motor carrier if they are under 26,000 lbs, than it would make sense to exempt other small business folks that may be hauling around landscaping supplies, for instance. After all, the road cannot tell the difference and weight is weight, whether it is a trailer full of pigs or a trailer full of sod.

What we want is something in writing from your shop that an amendment like the one I describe above would not put at risk the roughly \$4 to \$5 million per year Wisconsin receives in MCSAP money. Below is Mr. Medalen's memo.

Thanks for your time, Michael!

Jay Risch, Chief of Staff
Office of State Senator Cathy Stepp
608-266-1832

From: Loomans, Scott
Sent: Thursday, November 03, 2005 12:35 PM
To: Rasmussen, Pat
Subject: FMSCA contact person



FarmTrucksExempt
USDOT.doc (38 ...)

Subject: Wisconsin Assembly Substitute Amendment
To 2005 Assembly Bill 342

From: Charles Medalen October 11, 2005
Attorney Advisor, Office of Chief Counsel
Federal Motor Carrier Safety Administration (FMCSA)

To: Mark Jefferson
Office of Assembly Majority Leader Michael D. Huebsch
Wisconsin State Assembly

You called FMCSA's Office of Chief Counsel on Friday, October 7, to request a review of a bill pending in the Wisconsin Assembly, the Substitute Amendment to 2005 Assembly Bill 342. Deputy Chief Counsel Judith Rutledge asked me to handle the matter, and you sent me a copy of the bill that afternoon. Your cover e-mail noted that the Assembly is trying to ensure that the exemption described in the bill "will not violate federal requirements or jeopardize federal funding."

The Substitute Amendment is completely consistent with Federal law and would not endanger the Motor Carrier Safety Assistance Program (MCSAP) grants otherwise available to the State of Wisconsin.

Sec. 1 of the bill amends s. 110.075(6) of the Wisconsin statutes to provide, among other things, that:

Nothing in this section shall permit the department to promulgate any rule under which the provisions of 49 CFR 393 and 396 are applicable to, or enforceable with respect to, any farm truck or dual purpose farm truck combined with any semitrailer or farm trailer, or any vehicle combined with a horse trailer, if the vehicle combination's gross combination weight rating, registered weight, and actual gross weight do not exceed 26,000 pounds, the vehicle combination does not include a commercial motor vehicle described in s. 340.01(8)(c) or (d), and the vehicle combination is operated solely in intrastate commerce.

S. 340.01(8)(c) and (d) of the Wisconsin statutes read as follows:

(8) "Commercial motor vehicle means a motor vehicle designed or used to transport passengers or property and having one or more of the following characteristics: . . .

(c) The vehicle is designed to transport or is actually transporting the driver and 15 or more passengers. If the vehicle is equipped with bench type seats intended to seat more than one person, the passenger carrying capacity shall be determined under s. 340.01(31) or, if the vehicle is a school bus, by dividing the total seating space measured in inches by 13.

(d) The vehicle is transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73.

Sec. 5 of the bill creates a new s. 198.38(2) providing that:

Nothing in this section shall permit the department to promulgate any rule under which the provisions of 49 CFR 390, 391, 392, 395, and 397 are applicable to, or enforceable with respect to, any farm truck or dual purpose farm truck combined with any semitrailer or farm trailer, or any vehicle combined with a horse trailer, if the vehicle combination's gross combination weight rating, registered weight, and actual gross weight do not exceed 26,000 pounds, the vehicle combination does not include a commercial motor vehicle described in s. 340.01(8)(c) or (d), and the vehicle combination is operated solely in intrastate commerce.

Other provisions of the bill are essentially identical.

In short, the Substitute Amendment would prohibit the Wisconsin Department of Transportation from applying State regulations compatible with 49 CFR Parts 390, 391, 392, 393, 395, and 397 to certain farm vehicles with weights of 26,000 pounds or less operating in intrastate commerce. Although the MCSAP rules in 49 CFR Part 350 generally require States to adopt regulations compatible with FMCSA regulations, the definition of compatibility for intrastate commerce [see § 350.105] is qualified by the variances allowed by § 350.341, including the following:

(a) A State may exempt a CMV [commercial motor vehicle] from all or part of its laws or regulations applicable to intrastate commerce, provided that neither the GVW [gross vehicle weight], GVWR [gross vehicle weight rating], GCW [gross combination weight], nor GCWR [gross combination weight rating] of the vehicle equals or exceeds 11,801 kg (26,001 lbs.). However, a State may not exempt a CMV from such laws or regulations if the vehicle

(1) Transports hazardous materials requiring a placard.

(2) Is designed or used to transport 16 or more people, including the driver.

49 CFR 350.341(a).

Because the exemptions allowed by the Substitute Amendment, as limited by the cross-reference to s. 340.01(8)(c) and (d), are entirely consistent with the variances allowed by § 350.341(a), Wisconsin may enact the bill without risking the loss of MCSAP funding.

Sen

lmk

in 11/8

**SENATE AMENDMENT,
TO 2005 ASSEMBLY BILL 762**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 6: delete the material beginning with "any farm" and ending
3 with "horse trailer," on line 7 and substitute "any vehicle combination".

4 **2.** Page 3, line 5: delete the material beginning with "any farm" and ending
5 with "horse trailer," on line 7 and substitute "any vehicle combination".

6 **3.** Page 3, line 16: delete the material beginning with "any farm" and ending
7 with "horse trailer," on line 17 and substitute "any vehicle combination".

8 **4.** Page 4, line 6: delete the material beginning with "any farm" and ending
9 with "horse trailer," on line 8 and substitute "any vehicle combination".

10

(END)