

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

LRB-3402/P1dn  
ARG:wlj:rs

July 29, 2005

ATTN: Representative Friske

Please review the attached draft carefully to ensure that it is consistent with your intent.

As requested, this draft includes "intermediary lumber" in the definition of "raw forest products." "Intermediary lumber" is not itself a defined term in the statutes and may be subject to interpretation; however, you have advised that it is a recognized and known term in the industry.

Please again review the configuration provisions in created s. 348.27 (9m) (a) 4. Based upon the diagram of configuration C that your office provided to me, I wonder whether this configuration would satisfy the "25 feet" drive axle to trailer axle requirement set forth in the created statutory text. In addition, created s. 348.27 (9m) (a) 4. would only provide for permits for vehicle combinations; unlike current s. 348.27 (9m) (a) 1., the new permit would not be available for single vehicles.

Based upon ss. 349.03 and 349.06, I believe that local governments already have authority to enact ordinances adopting state weight limitations and to issue citations under those ordinances. (I am not sure to what extent they currently do so.) Accordingly, I have not created any new treatment in the draft related to this authorization, but I have amended s. 348.22 to clarify that if such ordinances are enacted, courts must send conviction records to DOT for such violations just as they currently send conviction records for overweight violations cited under state statute.

As requested, the attached draft requires raw forest products transporters to retain weight tickets for 30 days and to provide them to prosecutors upon request. As I understand it, these weight tickets could then be used for purposes of sentencing. Under s. 348.21, the court has no discretion in determining the amount of the forfeiture for an overweight violation that is based on the "total excess load," but does have some discretion in determining the "base" amount of the forfeiture. If a weight ticket provided to a prosecutor by a raw forest products transporter showed a violation unrelated to the overweight violation being charged, no separate conviction could be entered based upon that separate violation but the prosecutor could use the separate violation to argue that the court should exercise its discretion in sentencing to set the "base" amount of the forfeiture toward the top of the forfeiture range. Also, as with LRB-3070, since records only have to be kept for 30 days, I have limited the period

during which they must be provided to the prosecutor to this same 30-day period. I also added a 10-day deadline for providing these records following a prosecutor's request, since some deadline needs to be included. Is this OK? Finally, the attached draft requires a raw forest products transporter to retain weight tickets for 30 days. If you would like a prosecutor to be able to request and use weight tickets for the 30-day period prior to the violation being prosecuted, the attached draft will need to be modified. This could be done by adding a provision requiring a raw forest products transporter to retain for a longer period (perhaps six months) any weight tickets received within 30 days prior to an overweight citation.

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.

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