

**2005 DRAFTING REQUEST**

**Assembly Amendment (AA-ASA1-AB678)**

Received: **01/25/2006**

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **Donald Friske (608) 266-7694**

By/Representing: **Tim Gary (aide)**

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

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - miscellaneous**

Extra Copies: **PJH**

Submit via email: **YES**

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

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

admissibility of weight scale records required to be retained

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**Instructions:**

See Attached

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**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>
/1	agary 01/25/2006	kfollett 01/25/2006	jfrantze 01/25/2006	_____	lemery 01/25/2006	lemery 01/25/2006	

FE Sent For:

<END>

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/1	agary	1/16/06 1/25/06		J. Sell 1/25/06			

FE Sent For:

<END>

1/25/06

file from Tim

6-7694

- Rep. Frishe

- Am to ASA1 # AB678

• allow scale records held for 30 days

- may be admissible <sup>as evidence</sup> under 904.01 or

904.06

• scale shack records

- exec tomorrow 9:00

Now

*in 1/25*

*D-Note*

**ASSEMBLY AMENDMENT ,  
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2005 ASSEMBLY BILL 678**

1  
2  
3  
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7

At the locations indicated, amend the substitute amendment as follows:

**1.** Page 6, line 3: after that line insert:

“(5) In any prosecution of a person for transporting raw forest products in violation of the requirements of this subchapter, the records required to be retained under sub. (1) and produced under sub. (2) may be relevant evidence under s. 904.01 and admissible under s. 904.06.”.

(END)

DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBa2168/1dn

ARG: *kyf*

*Date*

ATTN: Tim Gary

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

The attached amendment wouldn't actually change current law, but simply calls attention to the indicated provisions on evidence. The court still has discretion to determine whether the weight records satisfy the standard for admissibility under s. 904.06 (whether they show "habit or routine practice"). I note that these records held for 30 days would usually show overweight violations *unrelated* to the specific violation for which the person is being prosecuted. The weight scale records for the specific violation that is the subject of the prosecution is already admissible under s. 348.15 (5r). If you want to *require* a court to admit weight records unrelated to the specific violation being prosecuted, irrespective of the standard under s. 904.06, I should redraft this amendment to clearly achieve that result and to "notwithstanding" s. 904.06. I also note that, even though the weight records are to be kept for only 30 days, once they are obtained by a traffic officer, the records could be admitted under this amendment without any time limitation (although the more time that goes by, the less likely the records show "habit or routine practice" unless additional violations also occur).

Please let me know if you would like any changes made to the attached amendment or if you have any questions.

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**

LRBa2168/1dn  
ARG:kjfjf

January 25, 2006

ATTN: Tim Gary

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Phone: (608) 261-6926  
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State of Wisconsin  
LEGISLATIVE REFERENCE BUREAU

**RESEARCH APPENDIX -  
PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 01/25/2006 (Per: ARG)



**Appendix A**

The 2005 drafting file for LRB 05a2168/1  
has been copied/added to the 2005 drafting file for  
**LRB 05a2170**

\*\*\* The attached 2005 draft was incorporated into the new 2005 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2005 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

\*\*\* This cover sheet was added to rear of the original 2005 drafting file. The drafting file was then returned, intact, to its folder and filed.