

2005 DRAFTING REQUEST

Bill

Received: 10/22/2004

Received By: agary

Wanted: As time permits

Identical to LRB:

For: Peggy Krusick (608) 266-1733

By/Representing: Christian Moran (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.Krusick@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Special identification cards for physically disabled

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 11/18/2004	kfollett 12/07/2004	rschluet 12/07/2004	_____	sbasford 12/07/2004		S&L
/P2	agary 02/18/2005	kfollett 02/22/2005	pgreensl 02/23/2005	_____	sbasford 02/23/2005		S&L
/1	agary 05/06/2005	kfollett 05/10/2005	rschluet 05/10/2005	_____	lnorthro 05/10/2005	lnorthro 09/28/2005	

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FE Sent For:

<END>

AA
INTD.

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FE Sent For:

11 kgf
5/10/05
S. J. O'Connell
5/10/05

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FE Sent For:

1P2 1/22
2/22

2/22
P8

<END>

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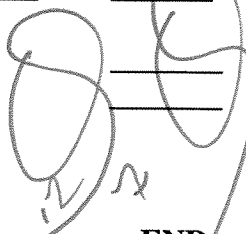

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/?	agary	1/11/04 12/7					S&L

FE Sent For:

<END>

Gary, Aaron

From: Moran, Christian
Sent: Wednesday, October 20, 2004 12:50 PM
To: Gary, Aaron
Subject: Bill draft request

Aaron,

We'd like to request a bill relating to Trans 130.03(1)(i)(5) and s. 340.01 (43g), Wis. Stats.

In general, the bill would tighten the requirements for receiving a permanent disability parking ID card, and provide penalties for misusing or falsifying an application for such a card.

First, the bill would amend s. 340.01 (43g), Stats., as it relates specifically to Trans 130.03(1)(i)(5). Basically, the statute would be amended to say that s. 340.01(43g) (a) is no longer a qualifying disability for the purposes of receiving a disabled parking ID unless it is related to one of the following four conditions listed in s. 340.01(43g) (b) (c) (d) or (e). Delete s. 340.01(43g)(f).

Second, the bill would provide for a penalty of up to \$1,000 for anyone who knowingly misuses or makes a false or misleading statement on an application for a permanent disability parking ID card. This penalty would apply both to applicants and healthcare providers.

Third, the bill would also provide for the revocation of a permanent disability parking ID card and/or a 30-day driver's license suspension for applicants who misuse or make a false or misleading statement on an application.

This bill is based on Illinois law. Attached is a copy of the Illinois application for a disabled parking IDs. The provisions mentioned here are in bold.

Just call with any questions.

Thanks,

Christian Moran
Office of Representative Peggy Krusick
6-1733

Handwritten notes:
343.50 + 343.51 + 343.52



Disabled parking
ID(IL).PDF

Persons with Disabilities Certification for Plates or Parking Placard

DIRECTIONS: Both sides of this document must be signed and completed. Side A must be completed by the physician. Side B must be completed by the applicant.

DEFINITION: "PERSONS WITH DISABILITIES" (625 ILCS 5/1-159.1)

"A natural person who, as determined by a licensed physician: (1) cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device; (2) is restricted by lung disease to such an extent that his or her forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than 60 mm/hg on room air at rest; (3) uses portable oxygen; (4) has a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV, according to standards set by the American Heart Association; (5) is severely limited in the person's ability to walk due to an arthritic, neurological, or orthopedic condition; (6) cannot walk 200 feet without stopping to rest because of one of the above 5 conditions."

(Please fill in the name of the person with the disability, state the diagnosis, and indicate the impairments below.)

Name of Person with Disabilities _____

Diagnosis _____

*****NOTE "Cannot walk 200 feet without stopping to rest" is no longer a qualifying disability unless it is related to one of the following conditions below.*****

- ___ Is restricted by lung disease to such a degree that the person's forced (respiratory) expiratory volume (FEV) in one second, when measured by spirometry, is less than one liter.
- ___ Uses portable oxygen.
- ___ Has a Class III or Class IV cardiac condition according to the standards set by the American Heart Association.
- ___ Cannot walk without the assistance of another person, prosthetic device, wheelchair, or other assistive device.
- ___ Is severely limited in the person's ability to walk due to an arthritic, neurological, or orthopedic condition.

LENGTH OF DISABILITY: Check one

- Disability is permanent
- Disability is temporary—must state duration (maximum 6 months) _____

I hereby certify that the physical condition of the person with disabilities listed herewith constitutes him/her as a person with disabilities as described under 625 ILCS 5/1-159.1. **WARNING: Any person who knowingly misuses or makes a false or misleading statement on an application can be fined up to \$1,000. PHYSICIANS: Do not sign this form if the named patient does not meet the above definition. (NOTE: If certification form is signed by a Licensed Physician Assistant or Advance Practice Nurse, the name and license number of the Supervising Physician is required).**

Physician's signature

Physician's license number

Supervising Physician's name

License number

PLEASE PRINT OR TYPE BELOW:

Physician's Name _____

Address _____

City _____ State _____ ZIP _____

Telephone (____) _____

Please mail all required documentation to Secretary of State, Persons with Disabilities License Plate/Placard Unit, 501 South 2nd St., Room 541, Springfield, IL 62756.

DIRECTIONS: Both sides of this document must be signed and completed in its entirety in order for the application to be processed. Complete Part 1, if the person with disabilities is applying for plates and/or placard. Complete Parts 1 and 2, if the parent, immediate family member or legal guardian of the person with disabilities is applying for license plates.

PART 1. PERSON WITH DISABILITIES

I hereby apply for:

Person with Disabilities Parking Placard

Person with Disabilities License Plates (Application and fee for registration must accompany this form. Fee is based upon the current plate expiration, date of purchase of vehicle if newly acquired or the date of application, whichever is applicable.) **MUST HAVE A PERMANENT DISABILITY TO OBTAIN PLATES.**

under the statutory provision, (625 ILCS 5/1-159.1) and certify that my physical condition entitles me to the issuance thereof. I am also aware that the person with disabilities parking device (whether plates or parking placard) must not be used unless I am the driver or passenger in the vehicle.

_____ Date _____ Applicant's Signature

WARNING: MISUSE OF OR FALSE APPLICATION FOR THE PERSON WITH DISABILITIES PARKING DEVICE can result in its revocation, a 30-day driver's license suspension, and a fine up to \$1,000. The person with disabilities must exit or enter the vehicle when parking in areas reserved for such person or when parking at metered spots.

PLEASE PRINT OR TYPE BELOW:

Name of Individual with Disability	<input type="checkbox"/> Male OR <input type="checkbox"/> Female	Date of Birth (Month/Day/Year)
Address	City	ZIP
Driver's License # OR State ID Card Number of Individual with Disability	Telephone ()	

PART 2. DISABILITY LICENSE PLATES FOR PARENT, IMMEDIATE FAMILY MEMBER OR LEGAL GUARDIAN ONLY:

I hereby apply for disability license plates as the parent or legal guardian of the individual with a disability. The above named person with disabilities, owns no vehicles and relies frequently on me for his/her mode of transportation.

Parent's Name, Legal Guardian's Name OR Family Member's Name	Date	
Address	City	ZIP
Telephone Number ()	Relationship to Disabled Person	

..... **FOR OFFICE USE ONLY**

Placard number _____ Exp. _____ Issued by _____ Date _____

Gary, Aaron

From: Gary, Aaron
Sent: Friday, October 22, 2004 9:55 AM
To: Moran, Christian
Subject: RE: Bill draft request

Hi Christian,

This is entered as LRB-0584. I will take a look and see what provisions in ss. 343.51 and 343.52 (the "substantive" sections for these ID cards) need to be changed. Some of the existing law provisions are pretty similar, and may only need changes of, for example, dollar amounts for penalty. Do you want the \$1,000 penalty to be a forfeiture amount (a civil, not criminal, offense)? Also, while sections ss. 343.51 and 343.52 are oddly placed in ch. 343, they relate more closely to vehicle registration than driver licensing. In most respects, the ID card is associated with a vehicle rather than a driver. While the holder of an ID card may be a licensed driver, the holder also may not. So, for example, an elderly person who cannot drive can obtain an ID card that can be used when his/her various children transport him/her in various cars. Even a company, in a company-owned car driven at different times by different drivers, can use the ID card if transporting a person who qualifies for a card. Do you want to provide for a 30 day driver license suspension if the holder is licensed and, if not, suspension of vehicle registration of any vehicle used in the offense? If so, should suspension be permissive or mandatory? And if so, do you want to provide for court suspension for violation or administrative suspension by DOT or both?

Thanks. Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

-----Original Message-----

From: Moran, Christian
Sent: Wednesday, October 20, 2004 12:50 PM
To: Gary, Aaron
Subject: Bill draft request

Aaron,

We'd like to request a bill relating to Trans 130.03(1)(i)(5) and s. 340.01 (43g), Wis. Stats.

In general, the bill would tighten the requirements for receiving a permanent disability parking ID card, and provide penalties for misusing or falsifying an application for such a card.

First, the bill would amend s. 340.01 (43g), Stats., as it relates specifically to Trans 130.03(1)(i)(5). Basically, the statute would be amended to say that s. 340.01(43g) (a) is no longer a qualifying disability for the purposes of receiving a disabled parking ID unless it is related to one of the following four conditions listed in s. 340.01(43g) (b) (c) (d) or (e). Delete s. 340.01(43g)(f).

Second, the bill would provide for a penalty of up to \$1,000 for anyone who knowingly misuses or makes a false or misleading statement on an application for a permanent disability parking ID card. This penalty would apply both to applicants and healthcare providers.

Third, the bill would also provide for the revocation of a permanent disability parking ID card and/or a 30-day driver's license suspension for applicants who misuse or make a false or misleading statement on an application.

This bill is based on Illinois law. Attached is a copy of the Illinois application for a disabled parking IDs. The provisions mentioned here are in bold.

Just call with any questions.

Thanks,

Gary, Aaron

From: Gary, Aaron
Sent: Monday, November 01, 2004 4:52 PM
To: Moran, Christian
Subject: RE: LRB-0584/P1

Christian,

On the first question, this shouldn't be an issue. WI law already uses term "displayed". See, eg, s. 346.50 (2a), 346.503 (1).

On the second question, the general format looks fine. Some changes may need to be made, and various other provisions must be treated. The main question I have is who will award the grants. If your intent is that DOT award the grants, typically the moneys go into the transportation fund and grants are then awarded from an appropriation in the transportation fund. If you want DOA to award the grants, that can be done too. Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

Handwritten notes:
11/1/04
He w/ Christian
- not going to pursue
2. - scrap it

-----Original Message-----

From: Moran, Christian
Sent: Monday, November 01, 2004 4:01 PM
To: Gary, Aaron
Subject: LRB-0584/P1

Aaron,

Here are the other two issues relating to the preliminary draft.

The first is a question. In the new Illinois law they changed the wording of "bearing a placard" to "clearly displaying" the placard. Evidently in one municipality, a judge threw out all tickets issued to people who claimed they owned a placard but forgot to display them. Does this issue even apply to Wisconsin law?

The second relates to the creation of a disability parking education program. Below is some sample language from Independence First. I still need to talk to Peggy about this, but I just wanted you to be aware of what's being considered. Any issues you see with this language? Thanks, Christian.

xx.xxx (5) Disability Parking Program; state funds. From the general fund, all monies received by the secretary of administration from the disability parking surcharge on court fines and forfeitures authorized under s. xxx.xx shall be credited to this appropriation for the purpose of awarding grants under xx.xx.

xx.xx Disability Parking Program. The department may award grants to fund a disability parking enforcement assistance council, as defined in s. 349.145 or to any Independent Living Center, as defined in s. 46.96 (1) (ah), to fund educational programs directed to law enforcement agencies or the public about the importance of compliance with disability parking laws. The amount of a grant under this section to any county or municipality may not exceed 50% of the costs necessary to provide the service. Grants awarded under this section shall be paid from the appropriation under s. xxxxxx.xx

11/1/04

Christrain

05-0584

6-1733

→ • civil offense

→ • license suspension or vehicle registration suspension -
do "may" for both - allow either / or

→ • "delete" should be (g), not (f)

→ delete (g) only w/ request to
ID cards, not other cases.

→ • you can get handicap ~~card~~^{plate} if you
qualify for those cards - OK to
change that

- need init app re not affect
plate issues

→ • want to only allow one ID card to
be issued

- need to show in writing why
they need two

- DOT now include 2 automatically
or request

penalties → diverting some funds

- will send

II - refers to bearer of ID
- will send in writing

want preliminary draft

soon
 turned in 11/18

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

Gen

- 1 AN ACT ...; relating to: special identification cards and special registration plates
 2 issued by the Department of Transportation providing parking privileges for
 3 persons with physical disabilities and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person with a disability that limits or impairs the ability to walk may apply for and obtain from the Department of Transportation (DOT) special motor vehicle registration plates or a special identification card, or both, entitling a motor vehicle used by the person with a disability to certain parking privileges, including parking in spaces reserved for use by such vehicles. An application for a special identification card must include a statement from a physician, chiropractor, physician assistant, advanced practice nurse, or Christian Science practitioner (health care provider) that the applicant is a person with a disability that limits or impairs the ability to walk. A person with a physical disability that limits or impairs the ability to walk is defined as a person with a disability under federal law or a person who meets any of the following conditions:

- 1. (a) Cannot walk 200 feet or more without stopping to rest.
- 2. (b) Cannot walk without the use of, or assistance from, another person or a medical assistive device, such as a cane or wheelchair.
- 3. (c) Is restricted by lung disease to the extent that the person meets a specified medical standard for lung volume.
- 4. (d) Uses portable oxygen.
- 5. (e) Has a cardiac condition that meets a specified medical standard.
- 6. (f) Is severely limited in the ability to walk due to an arthritic, neurological, or orthopedic condition.

1. 7. (g) Has a degree of disability equal to those specified in items (a) to (f)

This bill eliminates the criteria specified in items (a) and (g) for defining a person with a disability that limits or impairs the ability to walk, for purposes of both special identification cards and special disabled registration plates.

Under current law, with limited exceptions, a special identification card entitles any motor vehicle parked by or under the direction of the card holder, or any motor vehicle operated by or on behalf of an organization and used to transport a person eligible for a card, to parking privileges. A person or organization is subject to a forfeiture of not more than \$200 if the person or organization lends to another a special identification card knowing that the person borrowing the card is not authorized by law to use it or if the person or organization displays a special identification card on a vehicle that is not authorized by law to have the card displayed on it. A person or organization is required to forfeit not less than \$200 nor more than \$500 if the person or organization fraudulently procures, alters, reproduces, or uses a special identification card.

This bill increases the forfeiture for these violations to \$1,000 and makes some modification in the scope of the violations, including requiring that the improper display of a special identification card be done knowing that the vehicle is not authorized to display the card. The bill also creates two new violations, subject to the same \$1,000 forfeiture amount, for knowingly providing false or misleading information on an application for a special identification card and, for health care providers, for knowingly providing false or misleading information in a statement submitted in support of an application. In addition, the bill allows a court to suspend the operating privilege of any person convicted of any of these violations, except a false statement violation by a health care provider. The bill also allows DOT to suspend the registration of any vehicle owned by a person who violates any of these prohibitions, except a health care provider who provides a false statement, and the registration of any vehicle that improperly displays a special identification card, regardless of whether the owner of the vehicle has personally committed a violation.

The bill also prohibits DOT from issuing more than one special identification card to an applicant unless the applicant demonstrates a need for more than one card.

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. 340.01 (43g) (a) of the statutes is repealed.

****NOTE: I believe there is no reason to retain s. 340.01 (43g) (a) if a person must meet, in addition to par. (a), a requirement of par. (b) through (f), since meeting a requirement of par. (b) through (f) qualifies the person regardless of whether the person can walk 200 feet or more without stopping to rest. Do you want to amend par. (b) to make it less restrictive by providing under par. (b) that the person "cannot walk 200 feet or

more" rather than simply "cannot walk"? Do you want to amend par. (f) to replace "is severely limited in the ability to walk" with "cannot walk 200 feet or more"?

1 **SECTION 2.** 340.01 (43g) (g) of the statutes is repealed.

 ****NOTE: These changes to s. 340.01 (43g) will also affect s. 341.14 (1), (1a), (1e) (a), (1m), and (1q), with respect to issuance of disabled registration plates, but will not affect other provisions.

2 **SECTION 3.** 341.36 (1m) of the statutes is amended to read:

3 341.36 (1m) Except as provided in sub. (2), the department shall charge a fee
4 of \$50 to reinstate a registration previously suspended or revoked under s. 341.635
5 (1) or ch. 344. The fee under this subsection is in addition to any other fee required
6 to complete the registration of the vehicle.

7 History: 1989 a. 31; 1991 a. 269.

8 **SECTION 4.** 341.36 (3) of the statutes is amended to read:

9 341.36 (3) If the registrations of more than one vehicle owned by a person are
10 suspended or revoked under s. 341.635 (1) (a) or ch. 344 as a result of the same
11 occurrence, payment of one fee under sub. (1m) applies to the reinstatement of the
registrations of all of those vehicles.

12 History: 1989 a. 31; 1991 a. 269.

13 **SECTION 5.** 341.635 of the statutes is created to read:

14 **341.635 Suspension for special identification card violation.** (1) In
15 addition to any penalty imposed by a court under s. 343.52 (1), the department may
suspend for 30 days:

16 (a) Any or all vehicle registrations of a person who violates s. 343.52 (1) (a) 1.,
17 2., 3., or 4.

18 (b) The vehicle registration for any vehicle on which is displayed a special
19 identification card issued under s. 343.51 and which is not authorized by law to have
20 the card displayed on it, regardless of whether the owner of the vehicle has violated

1 s. 343.52 (1) (a) 2., unless the owner of the vehicle demonstrates that the vehicle was
2 operated or parked without the owner's permission.

****NOTE: Under this provision, par. (a) allows DOT to suspend the registration of any vehicle involved in the violation if owned by the violator and of any other vehicle owned by the violator, even if not involved in the violation. If the violator did not own the vehicle involved in the violation, par. (b) allows DOT to suspend the registration of a vehicle involved in a violation (that improperly displays a special identification card), even if the owner did not personally commit a violation. However, par. (a) does not allow vehicle registration suspension for a health care provider whose violation is submitting a false statement. Also, I note that it is DOT, and not a court, that makes the decision on whether to suspend vehicle registration.

3 (2) Any registration suspended under sub. (1) shall remain suspended and
4 shall not be renewed or reinstated until the period specified in sub. (1) has expired
5 and the person pays the fee required under s. 341.36 (1m).

6 (3) Whenever the registration of a vehicle is suspended under this section, the
7 department may order the owner or person in possession of the registration plates
8 to return them to the department. Any person who fails to return the plates when
9 ordered to do so by the department may be required to forfeit not more than \$200.

10 SECTION 6. 343.30 (1j) of the statutes is created to read:

11 343.30 (1j) A court may suspend the operating privilege of a person for a period
12 of 30 days upon the person's conviction by the court for violating s. 343.52 (1) (a) 1.,
13 2., 3., or 4.

****NOTE: I note that a court, not DOT, makes the decision on whether to suspend a person's operator's license, and suspension may occur only upon a court conviction. As with vehicle registration suspensions, this provision does not apply to a health care provider for a false statement. Is this okay?

14 SECTION 7. 343.51 (2) (a) of the statutes is amended to read:

15 343.51 (2) (a) The Subject to sub. (2m), the department shall prescribe the form
16 and size of identification cards issued under this section and shall promulgate rules
17 regarding the issuance and use of the cards. The identification cards shall be
18 designed and displayed so as to enable law enforcement officers to determine that the

1 vehicle, when parked, is entitled to parking privileges under s. 346.50 (2), (2a) and
2 (3), but shall not be unnecessarily conspicuous when the vehicle is operated. The
3 department may establish an expiration date for any special identification card
4 issued prior to July 1, 1994. Except as provided in par. (b), any special identification
5 card issued after June 30, 1994, shall be valid for 4 years.

History: 1979 c. 276; 1981 c. 119, 255; 1985 a. 87 s. 5; 1985 a. 202, 332; 1987 a. 19; 1989 a. 304; 1991 a. 240, 269; 1993 a. 16; 1995 a. 147; 1997 a. 27, 67, 252; 1999 a.
88.

****NOTE: If DOT advises that there are no valid cards issued prior to July 1, 1994,
I would like to "clean up" this text if it is okay with you.

6 SECTION 8. 343.51 (2m) of the statutes is created to read:

7 343.51 (2m) The department may issue only one special identification card
8 under this section to an applicant unless the applicant demonstrates in the
9 application, or subsequently in writing, the need for more than one such card.

10 SECTION 9. 343.52 (1) of the statutes is renumbered 343.52 (1) (a) and amended
11 to read:

12 343.52 (1) (a) Any person or organization who does any of the following may
13 be required to forfeit not more than \$200 \$1,000:

14 1. Lends to another a special identification card issued under s. 343.51,
15 knowing that the person borrowing the card is not authorized by law to use it; or,

16 2. Displays a special identification card issued under s. 343.51 upon a vehicle
17 which knowing that the vehicle is not authorized by law to have the card displayed
18 thereon.

History: 1979 c. 276; 1981 c. 119; 1985 a. 29; 1993 a. 16, 256.

19 SECTION 10. 343.52 (1) (a) 3. of the statutes is created to read:

20 343.52 (1) (a) 3. Knowingly provides information that is false or misleading in
21 any material respect on an application for a special identification card under s.
22 343.51.

23 SECTION 11. 343.52 (1) (a) 5. of the statutes is created to read:

SECTION 11

1 343.52 (1) (a) 5. If the person is a physician, advanced practice nurse, physician
 2 assistant, chiropractor, or Christian Science practitioner, knowingly provides
 3 information that is false or misleading in any material respect in a statement
 4 specified in s. 343.51 (1) submitted in support of an application for a special
 5 identification card under s. 343.51.

6 SECTION 12. 343.52 (1m) of the statutes is renumbered 343.52 (1) (a) 4. and
 7 amended to read:

8 343.52 (1) (a) 4. ~~Any person or organization that fraudulently procures,~~ Makes,
 9 alters, reproduces, or uses duplicates a special identification card issued under s.
 10 343.51 ~~or reproduces by any means whatever a special identification card shall~~
 11 ~~forfeit not less than \$200 nor more than \$500, except as authorized by the~~
 12 department.

*win score
no strike*

History: 1979 c. 276; 1981 c. 119; 1985 a. 29; 1993 a. 16, 256.

13 SECTION 13. 343.52 (1) (b) of the statutes is created to read:

14 343.52 (1) (b) In addition to any penalty imposed under par. (a), any person
 15 violating par. (a) 1., 2., 3., or 4. may have his or her operating privilege suspended
 16 as provided under s. 343.30 (1j).

****NOTE: This provision allows driver license suspension of a violator even if the violator was not the operator of the vehicle involved in the violation. For example, it would allow driver license suspension for submitting a false application. Do you want to limit driver license suspension to the operator of a motor vehicle?

17 SECTION 14. 343.52 (2) of the statutes is renumbered 343.52 (2) (a) and
 18 amended to read:

19 343.52 (2) (a) The department shall cancel the special identification card of any
 20 person or organization who ~~improperly uses a card as described in sub. (1) or who~~
 21 ~~reproduces or fraudulently procures, alters or uses a card under sub. (1m)~~ violates
 22 sub. (1)(a). The department may order a person or organization whose identification

1 card has expired or has been canceled to surrender the card to the department. The
2 department may take possession of any expired identification card or any
3 identification card required to be canceled or may direct any traffic officer to take
4 possession thereof and return it to the department.

History: 1979 c. 276; 1981 c. 119; 1985 a. 29; 1993 a. 16, 256.

5 **SECTION 15.** 343.52 (2) (b) and (c) of the statutes is created to read:

6 343.52 (2) (b) The department may suspend the registration of any vehicle
7 owned by a person who violates sub. (1) (a) 1., 2., 3., or 4. or of any vehicle on which
8 is displayed a special identification card issued under s. 343.51 and which is not
9 authorized by law to have the card displayed on it, as provided under s. 341.635 (1).

10 **SECTION 16.** 345.28 (1) (c) of the statutes is amended to read:

11 345.28 (1) (c) "Nonmoving traffic violation" is any parking of a vehicle in
12 violation of a statute, an ordinance, a rule under s. 36.11 (8) or a resolution under s.
13 38.14 (13). A "nonmoving traffic violation" does not include any violation specified
14 in s. 343.52 (1) (a).

History: 1981 c. 165; 1983 a. 103, 169; 1983 a. 189 s. 329 (32); 1983 a. 330; 1983 a. 538 ss. 219, 269 (1), (2); 1989 a. 31, 105; 1991 a. 67; 1993 a. 399, 437; 1997 a. 237; 2003 a. 201.

****NOTE: Because the violation under s. 343.52 (1) (a) 2. is related to the parking of a vehicle, I have amended s. 345.28 (1) (c) to ensure that, under s. 345.48 (1m), DOT will receive the record of conviction, which will notify DOT of the violation and allow DOT to take action against a vehicle registration if it sees fit to do so. It is unclear to me whether, under existing ss. 343.28 and 345.48, stats., convictions for misuse of special identification card violations are forwarded to DOT.

15 **SECTION 17. Initial applicability.**

16 (1) The ^{treatment} ~~creation~~ of section 343.51 (2m) of the statutes ^{s. and} and the repeal of sections
17 340.01 (43g) (a) and (g) of the statutes first applies to applications for special
18 identification cards and for vehicle registration received by the department of
19 transportation on the effective date of this subsection.

20 (2) The treatment of sections 341.36 (1m) and (3) of the statutes, the
21 343.52 (1m) of the statutes, the renumbering and amendment of section 343.52 (1) (1m), and (2) of the statutes, and
341.635, 343.30 (1j), and

SECTION 17

① the creation of sections ~~341.635, 343.30 (1j), and 343.52 (1) (a) 3. and 5. and (b) and~~
② (2) (b) of the statutes first applies to violations committed on the effective date of this
3 subsection.

4

(END)

J-Note

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

LRB-0584/P1dn

ARG: *[Signature]*

Date

ATTN: Christian Moran

Numerous issues related to this draft are raised in notes in the draft. A few other issues merit mention.

Section 343.51 (2) (b) should be amended to "clean up" the reference to a "physician's statement required under sub. (1)" to include the other health care providers specified in sub. (1) as well. Because treatment of s. 343.51 (2) (b) was not necessary to accomplish the drafting instructions, I have not treated the provision in this draft. Do you want me to?

S.
Under existing law, the statutes do not specifically describe what is a proper use or a misuse of a special identification card, although they do describe in s. 343.51 (1) to what uses the card entitles the holder. The statutes delegate to DOT the responsibility for establishing rules regarding the use of special identification cards. See s. 343.51 (2) (a), stats.; Wis. Adm. Code, Trans 130.05. Do you want to create any additional statutory treatment regarding use of the card?

*
Please review the attached draft carefully. In a number of instances, I have made assumptions with respect to your intent, which assumptions may be incorrect.

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-0584/P1dn
ARG:kjf:rs

December 7, 2004

ATTN: Christian Moran

Numerous issues related to this draft are raised in notes in the draft. A few other issues merit mention.

Section 343.51 (2) (b) should be amended to "clean up" the reference to a "physician's statement required under sub. (1)" to include the other health care providers specified in sub. (1) as well. Because treatment of s. 343.51 (2) (b) was not necessary to accomplish the drafting instructions, I have not treated the provision in this draft. Do you want me to?

Under existing law, the statutes do not specifically describe what is a proper use or a misuse of a special identification card, although they do describe in s. 343.51 (1) to what uses the card entitles the holder. The statutes delegate to DOT the responsibility for establishing rules regarding the use of special identification cards. See s. 343.51 (2) (a), stats.; s. Trans 130.05, Wis. Adm. Code. Do you want to create any additional statutory treatment regarding use of the card?

Please review the attached draft carefully. In a number of instances, I have made assumptions with respect to your intent, which assumptions may be incorrect.

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

file w/ Christon

2/8/05

• call into IL

• Independence First:

• application to doctors - want it to apply to health care providers

• can make health care change

- redraft to "1/2"

file w/ Christon - rm 2/18

- take out provision re DL suspension
- re fed issue on def., leave as is - conservative on def. re fed ~~issue~~

Rep. Krusidig

SAK

1/11/05

/PI D-Note, 3rd R

• use/misuse : no opinion as to whether there should be something else in the statute - no change - OK as is

• ~~municipal tickets :~~
- ~~money collected used in part for education~~

• person ^{has to be} entering or exiting the vehicle ?
↳ applicant - person to whom issued

/PI D-Note : clean up - yes
2nd R

/PI : 5-14 - second card ; also
replacem^t cards by rule

bill sec. 1 : ? fed issue ; bill sec. 2 - OK
DOT want ~~veh~~ veh reg susp by court, not DOT
note after 4-7 : OK
6-6 to 8 : compromise : drop intro.
7-15 + 18 : OK

Gary, Aaron

From: Gary, Aaron
Sent: Tuesday, December 21, 2004 4:28 PM
To: Moran, Christian
Subject: RE: DOT comments on Disabled ID LRB draft

Hi Christian,

With respect to item 1., Carson is correct. The fed regs do impose requirements on states with respect to this issue in order to create uniformity among the states. Section 340.01 (43g) (a) is part of the fed definition and would be a requirement under fed law, but s. 340.01 (43g) (g) is not. FYI, for some federal requirements, non-compliance gives rise to a penalty of forfeiture of federal highway aid. As drafted, the amended definition would not comply with federal law, but I am unsure what the penalty for such non-compliance would be, whether it might give grounds for lawsuits or loss of federal highway aid or other. Perhaps DOT's office of general counsel has more information on that issue.

With respect to item 2., this is really a policy issue - whether a tougher punishment has any deterrent effect. I can't really add anything to the DOT discussion.

With respect to item 3., again I think this is a policy issue. In other situations, DOT does suspend vehicle registrations (eg, ch. 344 violations) and DOT also makes discretionary decisions re driver license suspension. If DOT wants to be put in a ministerial role of simply carrying out a court order, it can be drafted that way, however this change would take some of the "teeth" out of the bill. The bill is drafted to allow administrative enforcement by DOT through a procedural process less exacting than the court system. As drafted, a person could complain directly to DOT of violations and DOT could take administrative action based upon the evidence it had available. DOT wants a more formal court procedure requiring citation and court resolution, etc. Again, I think this is a policy issue.

With respect to item 4., yes, there will be a fiscal impact, and such a note is included at the end of the analysis.

With respect to item 5., again I think this is a policy issue.

If you want to discuss further or need this redrafted, please let me know. Aaron

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-----Original Message-----

From: Moran, Christian
Sent: Friday, December 17, 2004 9:07 AM
To: Gary, Aaron
Subject: FW: DOT comments on Disabled ID LRB draft

Hi Aaron,

Here are DOT's comments on the disabled parking ID bill. We're still reviewing this, but I wanted to get you a copy to review as well. We'd appreciate your comments.

Thanks,

Christian

-----Original Message-----

From: Frazier, Carson
Sent: Thursday, December 16, 2004 1:02 PM
To: Moran, Christian
Cc: Romanski, Randy; Klein, Rose
Subject: DOT comments on Disabled ID LRB draft

Hi, Christian, we've reviewed LRB-0584/P1, and offer the following comments

1. LRB may wish to check the federal Americans with Disabilities Act, and NHTSA regulations that implement disabled parking, 23 CFR Part 1235, Uniform System for Handicapped Parking. (I am

old enough to remember that all federal agencies had to establish regulations implementing ADA in their respective programs). We believe that S.340.01(43g)(a) -- the provision involving inability to walk 200 feet or more without stopping to rest -- is directly from the federal law and regulations.

I have a faint recollection that when S.340.01(43g) was enacted, the reason that it first refers to the federal law, and then lists the specifics, is so that persons reading the statutes would not be forced to find the federal law.....my memory is faint, but I believe the specified provisions are actually a repetition of the federal law. In that case, I don't believe the state has the right to repeal one of those provisions.

We do believe the last provision in state definition, S.340.01(43g)(g), that allows an equivalent degree of disability, is only in state law, and it could be repealed unilaterally. Perhaps Aaron could check.

2. You may find the driver license sanctions to be problematic. Taking away the driver license may actually run counter to your objective. In our discussions with courts, we are finding that courts are looking for alternatives to license withdrawals, as this is not an effective way to change behavior. It merely means that more people will drive without a license. We found, in a confidential survey, that at least 75% of the people whose licenses have been suspended or revoked admit that they drive without a license.

We know this is a major issue in Milwaukee, as more people need to drive to get to work, as jobs move to the suburbs. In fact, the Milwaukee Municipal Court and the Milwaukee Driver License Task Force have been looking at ways for people to get and keep their licenses, rather than withdrawing licenses. We recently looked at statistics that show that in Milwaukee County most of the Habitual Traffic Offenders -- who lose their license for five years -- fall into the HTO category simply because they have failed to pay forfeitures and then have been convicted of driving while suspended or revoked; not because of any actual moving traffic violation. You may wish to discuss this with the Milwaukee Municipal Court -- we have had contacts from Kris Hinrichs, Court Administrator, and James Gramling, Municipal Court Judge.

3. The bill as drafted gives DOT the responsibility to decide whether to place vehicle registration suspensions on vehicles involved. We oppose this provision, because the responsibility should belong to the court. In other cases involving vehicle sanctions, the court orders the sanction and DOT carries out the order. In the case of parking violations under the Traffic Violation Registration Program, the municipality that issued the parking citation directs DOT to place the vehicle registration suspension. In either case, DOT is carrying out the order. DOT does not have the wherewithal to make this sort of decision, as it is a penalty decision, more appropriate for the entity that establishes the penalty.

4. This bill would have a fiscal impact for DMV. We know that there would be significant one-time cost to establish a new charge code for the driver license sanction, plus workload increase that would depend on the volume of license sanctions. So, while we can't now say exactly what the cost would be, we know it would be sizeable.

5. You may wish to get wider input on the question of limiting a person to one disabled ID card. It's our understanding that, while Independence First believes only one card is necessary, other

disability groups believe that a person needs two cards -- we've always been told that for example a disabled person needs one to park in the airport parking garage and another to take to their destination to use on a rental car. Also, federal regulations require that a state must, upon request, one additional placard to a person who does not have a special license plate. We understand that Illinois will issue a second placard, but only upon written request justifying it. So, you might not find consensus among the disabled community on this proposal.

5. As to some of Aaron's questions:

- page 4, note after line 18, it would be ok with DOT to have vehicle and driver license sanctions not apply to health care providers for false statement; however, you may find that health care providers do not wish to be implicated in any way in the bill.
- page 5, note after line 10, yes, all cards issued before July 1, 1994, are gone, so it is ok to clean up the language.
- page 6, note after line 14, DOT says no, the driver license suspension should not be limited to the operator of a motor vehicle -- but, we again suggest that driver license sanctions may not be effective in any case.
- page 7, note after line 18, the "nonmoving traffic violation" under TVRP involves a vehicle which is not eligible, parking in a disabled parking spot. Municipalities currently use TVRP for the parking citation. Aaron is correct, the violation of fraud/misuse would be separate. Again, DOT suggests that the court make the decision on vehicle sanctions, not DOT.
- drafter's note, first, we have no objection to cleaning up references to health care providers; second, while we see no need for additional statutory treatment regarding use of the card, we have no strong feelings on this issue.

Thank you very much for asking our thoughts on the draft. Just let us know if you wish to discuss further.

<< Message: Preliminary bill draft >>

Persons with Disabilities Certification for Plates or Parking Placard

DIRECTIONS: Both sides of this document must be signed and completed. Side A must be completed by the physician. Side B must be completed by the applicant.

DEFINITION: "PERSONS WITH DISABILITIES" (625 ILCS 5/1-159.1)

"A natural person who, as determined by a licensed physician: (1) cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device; (2) is restricted by lung disease to such an extent that his or her forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than 60 mm/hg on room air at rest; (3) uses portable oxygen; (4) has a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV, according to standards set by the American Heart Association; (5) is severely limited in the person's ability to walk due to an arthritic, neurological, or orthopedic condition; (6) cannot walk 200 feet without stopping to rest because of one of the above 5 conditions."

(Please fill in the name of the person with the disability, state the diagnosis, and indicate the impairments below.)

Name of Person with Disabilities _____

Diagnosis _____

*****NOTE "Cannot walk 200 feet without stopping to rest" is no longer a qualifying disability unless it is related to one of the following conditions below.*****

- ___ Is restricted by lung disease to such a degree that the person's forced (respiratory) expiratory volume (FEV) in one second, when measured by spirometry, is less than one liter.
- ___ Uses portable oxygen.
- ___ Has a Class III or Class IV cardiac condition according to the standards set by the American Heart Association.
- ___ Cannot walk without the assistance of another person, prosthetic device, wheelchair, or other assistive device.
- ___ Is severely limited in the person's ability to walk due to an arthritic, neurological, or orthopedic condition.

LENGTH OF DISABILITY: Check one

- Disability is permanent Disability is temporary—must state duration (maximum 6 months) _____

I hereby certify that the physical condition of the person with disabilities listed herewith constitutes him/her as a person with disabilities as described under 625 ILCS 5/1-159.1. **WARNING: Any person who knowingly misuses or makes a false or misleading statement on an application can be fined up to \$1,000. PHYSICIANS: Do not sign this form if the named patient does not meet the above definition. (NOTE: If certification form is signed by a Licensed Physician Assistant or Advance Practice Nurse, the name and license number of the Supervising Physician is required).**

Physician's signature

Physician's license number

Supervising Physician's name

License number

PLEASE PRINT OR TYPE BELOW:

Physician's Name _____

Address _____

City _____ State _____ ZIP _____

Telephone (____) _____

Please mail all required documentation to Secretary of State, Persons with Disabilities License Plate/Placard Unit, 501 South 2nd St., Room 541, Springfield, IL 62756.

DIRECTIONS: Both sides of this document must be signed and completed in its entirety in order for the application to be processed. Complete Part 1, if the person with disabilities is applying for plates and/or placard. Complete Parts 1 and 2, if the parent, immediate family member or legal guardian of the person with disabilities is applying for license plates.

PART 1. PERSON WITH DISABILITIES

I hereby apply for:

- Person with Disabilities Parking Placard
- Person with Disabilities License Plates (Application and fee for registration must accompany this form. Fee is based upon the current plate expiration, date of purchase of vehicle if newly acquired or the date of application, whichever is applicable.) **MUST HAVE A PERMANENT DISABILITY TO OBTAIN PLATES.**

under the statutory provision, (625 ILCS 5/1-159.1) and certify that my physical condition entitles me to the issuance thereof. I am also aware that the person with disabilities parking device (whether plates or parking placard) must not be used unless I am the driver or passenger in the vehicle.

_____ Date _____ Applicant's Signature

WARNING: MISUSE OF OR FALSE APPLICATION FOR THE PERSON WITH DISABILITIES PARKING DEVICE can result in its revocation, a 30-day driver's license suspension, and a fine up to \$1,000. The person with disabilities must exit or enter the vehicle when parking in areas reserved for such person or when parking at metered spots.

PLEASE PRINT OR TYPE BELOW:

Name of Individual with Disability	<input type="checkbox"/> Male OR <input type="checkbox"/> Female	Date of Birth (Month/Day/Year)
Address	City	ZIP
Driver's License # OR State ID Card Number of Individual with Disability	Telephone ()	

PART 2. DISABILITY LICENSE PLATES FOR PARENT, IMMEDIATE FAMILY MEMBER OR LEGAL GUARDIAN ONLY:

I hereby apply for disability license plates as the parent or legal guardian of the individual with a disability. The above named person with disabilities, owns no vehicles and relies frequently on me for his/her mode of transportation.

Parent's Name, Legal Guardian's Name OR Family Member's Name	Date	
Address	City	ZIP
Telephone Number ()	Relationship to Disabled Person	

..... **FOR OFFICE USE ONLY**

Placard number _____ Exp. _____ Issued by _____ Date _____

Gary, Aaron

From: Gary, Aaron
Sent: Monday, February 21, 2005 10:25 AM
To: Moran, Christian
Subject: RE: federal law regarding definition of

Hi Christian, There were two provisions related to the definition in the draft, one of which is impacted by federal law (par. (a)) and one of which is not (par. (g)). At the meeting, all agreed (including DOT) that there would be no problem with changing the definition with regard to the paragraph NOT impacted by federal law (par. (g)). The e-mail from DOT suggests this is still the case and that they are only talking about par. (a). As indicated in my e-mail to you on Friday, I have finished a redraft of this bill and it is in editing. In that redraft, I still repealed par. (g) but did not affect par. (a). I think that is consistent with DOT's e-mail and with the discussion at the meeting. Please let me know if that is not in fact what you want. Thanks. Aaron

2/21 He w/ Christian - good J

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-----Original Message-----

From: Moran, Christian
Sent: Monday, February 21, 2005 10:13 AM
To: Gary, Aaron
Subject: FW: federal law regarding definition of

Hi Aaron--

Please delete the provision in LRB-0584/P1 that would change the definition of disability for the purposes of obtaining disabled ID cards or disabled registration plates.

We want to maintain current law.

Thanks,

Christian

-----Original Message-----

From: Frazier, Carson
Sent: Monday, February 21, 2005 6:56 AM
To: Moran, Christian
Cc: Romanski, Randy; Klein, Rose; Maassen, Joe
Subject: federal law regarding definition of

Christian: Joe Maassen has researched the definition of "person with a disability that limits or impairs the ability to walk." Joe offers the following comments.

The definition comes from 23 CFR Part 1235.2 (b). If Wisconsin changed the definition of disabled person, regardless of possible NHTSA sanctions, Wisconsin would not be in compliance with the ADA, as this definition is the ADA definition of a disabled person eligible for a card or a plate. *(PS, Christian, I remember someone at the meeting in your office thought that this has nothing to do with ADA, but it seems that indeed Wisconsin could still be out of compliance with ADA itself, not just NHTSA regulations)*

Each Wisconsin resident denied a card or plate, because of a more restrictive definition of disabled person, would likely have a valid cause of action against Wisconsin for violating their ADA rights.

Such a change would also be contrary to the requirement at 23 CFR Part 1235.8 which requires states to provide reciprocity for disabled persons with cards/plates from another state. If Wisconsin provided blanket reciprocity, and other states were using the federal definition, which is almost certainly the case, then their residents with disabilities not covered under Wisconsin law could park in the spaces, but Wisconsin residents with the same disability couldn't. Those same Wisconsin residents would be at a disadvantage when traveling to other states. Since they wouldn't be eligible for a Wisconsin plate or card, they couldn't use disabled spaces in other states.

Joe also offers the following thought with regard to why the federal definition is as broad as it is, for your consideration:

Another thing to think about, what exactly would "limiting ability to walk" mean? If statute just said that, who would decide who that phrase applies to and who it doesn't? DOT? How would DOT know who should or shouldn't be covered? Would that phrase include or exclude people in wheel chairs, they don't need to walk by the very fact they are in a wheel chair? Would it include or exclude people with heart disease, emphysema, asthma, people with artificial limbs and on and on? Could blind people get cards or plates? These questions simply point out why the current federal definition is as broad as it is. Disabilities that "limit ability to walk" come in all sizes and forms, some physically obvious, some not so physically obvious. I would counsel that moving away from the federal definition is fraught with all kinds of problems/consequences many of which wouldn't be foreseeable ahead of time!