

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

LRB-0343/P1dn  
ARG:kjf:rs

October 17, 2006

ATTN: Tim Gary

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

Federal law generally prohibits a person from operating a commercial motor vehicle (CMV) without a valid commercial driver license (CDL), even if the person operates the CMV only intrastate. See 49 USC 31302. Federal CDL requirements generally apply to “every person who operates a commercial motor vehicle in interstate, foreign, or intrastate commerce, to all employers of such persons, and to all States.” 49 CFR 383.3 (a). (However, a “commercial motor vehicle” is one used in interstate operation or intrastate operation that “affects” interstate trade, traffic, or transportation. See 49 CFR 381.110 and 383.5.) Federal law provides a mandatory exception to this CDL requirement for military drivers. 49 CFR 383.3 (c). Federal law also allows states the discretion to create exceptions to the CDL requirement for certain farm vehicle operators and for fire fighters and other emergency responders under certain circumstances. Federal law also allows states the discretion to create an exception for municipal or county employees who operate a CMV to remove snow or ice from the roadway within the municipality or county if a CDL-holding employee who would normally operate the CMV cannot do so or if the municipality or county determines that, due to a snow or ice emergency, additional assistance is necessary. 49 CFR 383.3 (d). In addition to these exceptions, the U.S. Secretary of Transportation may grant more specific waivers and exemptions, including for a “class” of persons, and authorize pilot programs. A request can be made to the U.S. DOT (although I am not sure if it can be made by WisDOT or only by operators and motor carriers) for a renewable, two-year exemption from CDL requirements or for the establishment of a pilot program. See 49 USC 31315; 49 CFR 381. If a state fails to comply with federal law regarding CDL requirements, U.S. DOT may sanction the state by withholding from the state 5 to 10 percent of the state’s federal highway aid. 49 USC 31311 and 31314. However, existing provisions of state law relating to CDL waivers state that these waivers “apply to the extent permitted under federal law.” See s. 343.055 (4), stats.

I believe that the exception created in s. 343.055 (1) (e) of this draft would not comply with federal law. You may want to seek another opinion from DOT on this issue. Nonetheless, because of s. 343.055 (4), stats., enactment of this bill probably would not jeopardize federal highway aid to this state, but instead would result in the exception

created by the bill having no legal effect. Do you want the bill narrowed to fit within the federal snow-and-ice-removal exception described above?

Also, the existing CDL exceptions apply even if the CMV operator holds a CDL but is disqualified due to the commission of a disqualifying offense. Under the attached bill, this rule also applies with respect to the new exception created in the bill. Is this okay?

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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