

2007 DRAFTING REQUEST

Bill

Received: **09/21/2006**

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

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

By/Representing: **Tim Gary**

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

Drafter: **agary**

May Contact:

Adtl. Drafters:

Subject: **Transportation - driver licenses**

Extra Copies: **BAB**

Submit via email: **YES**

Requester's email: **Rep.Friske@legis.wisconsin.gov**

Carbon copy (CC:) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

CDL exception/waiver for municipal officials

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 10/05/2006	kfollett 10/17/2006	rschlue 10/17/2006		lparisi 10/17/2006		S&L
/1	agary 05/04/2007 cduerst 05/22/2007	kfollett 05/04/2007	rschlue 05/04/2007		sbasford 05/04/2007	cduerst 05/22/2007	

FE Sent For:

at
intro

<END>

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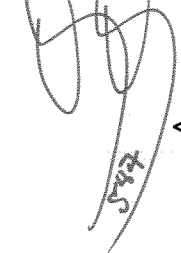
Instructions:

See Attached

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/?				_____			S&L
/P1	agary 10/05/2006	kfollett 10/17/2006	rschluet 10/17/2006	_____	lparisi 10/17/2006		

FE Sent For:

11/5/06
5/4


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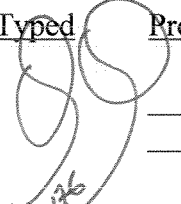
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/?	agary	1P1/gf 10/17		_____	_____	_____	S&L

FE Sent For:

<END>

Gary, Aaron

From: Gary, Tim
Sent: Thursday, September 21, 2006 4:19 PM
To: Gary, Aaron
Subject: RE:

I did not find that out. I was unaware of the federal guidelines.

If the Feds don't allow it, Friske would need to know that, very important catch, Aaron. Thank you.

Tim

From: Gary, Aaron
Sent: Thursday, September 21, 2006 4:18 PM
To: Gary, Tim
Subject: RE:

Tim,
Have you been advised whether this CDL exception is consistent with federal law? (Most CDL requirements are dictated by federal law.) It would be helpful to me to know if this issue has already been addressed. Thanks. Aaron

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

From: Gary, Tim
Sent: Thursday, September 21, 2006 4:04 PM
To: Gary, Aaron
Subject:

Aaron,

Rep. Friske respectfully requests LRB draft a bill, at its earliest convenience, for the upcoming legislative session that will create a CDL exemption under SS 343.055 for municipal officials operating commercial vehicles within their municipality for the purpose of conducting municipal business.

If you have any further questions regarding this request, please email me or call me at 266-7694.

Respectfully yours,
Tim Gary
Research Assistant to
Rep. Donald Friske

~~Rep. Friske draft the Tomahawk County bill as amended by the Wisconsin State Assembly, or at least it would be
will get this done but will need to wait for now.~~

soon

in 10/5

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

Gen

1 AN ACT ...; relating to: creating a commercial driver license exception for
2 municipal officials operating commercial motor vehicles.

Analysis by the Legislative Reference Bureau

X Under current law, with limited exceptions, no person may operate a commercial motor vehicle (CMV) unless the person holds a commercial driver license (CDL). Exceptions allow firefighters, rescue squad members, and farmers who hold valid operators' licenses other than CDLs to operate CMVs under specified circumstances. Federal law generally requires operators of CMVs to hold CDLs, but provides for certain exceptions. State law provides that the exceptions under state law apply to the extent permitted under federal law.

S This bill creates an exception to the CDL licensing requirement for municipal officials who operate CMVs within their municipality in connection with the authorized functions or duties of the municipality.

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:

3

SECTION 1. 343.055 (1) *ge* of the statutes is created to read:

1 343.055 (1) (e) *Municipal officials.* The operator of the commercial motor
2 vehicle is a municipal official who is operating the commercial motor vehicle within
3 the municipality of which he or she is an official and is operating the commercial
4 motor vehicle in connection with the authorized functions or duties of the
5 municipality.

6

(END)

(D-Note)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0343/P1dn

ARG: kjf

Date

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 firefighters 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 five 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

X
X
X

5 percent

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.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0343/P1dn
ARG:kjf:rs

October 17, 2006

ATTN: Tim Gary

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

Gary, Aaron

From: Gary, Tim
Sent: Friday, May 04, 2007 2:37 PM
To: Gary, Aaron
Subject: FW: Draft review: LRB 07-0343/P1 Topic: CDL exception/waiver for municipal officials
Attachments: LRB-0343_P1; LRB-0343_P1 Drafters_Note

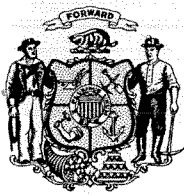
Aaron,

This bill draft looks good. Please convert it into a /1.

Tim Gary
Office of Don Friske

From: Parisi, Lori
Sent: Tuesday, October 17, 2006 11:56 AM
To: Rep.Friske
Subject: Draft review: LRB 07-0343/P1 Topic: CDL exception/waiver for municipal officials

Following is the PDF version of draft LRB 07-0343/P1 and drafter's note.



State of Wisconsin
2007 - 2008 LEGISLATURE

Wanted by 5/7 end of day

LRB-0343

ARG:kjfr

in 5/4

RMN

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

No changes

Regen

- 1 AN ACT *to create* 343.055 (1) (e) of the statutes; **relating to:** creating a
2 commercial driver license exception for municipal officials operating
3 commercial motor vehicles.

Analysis by the Legislative Reference Bureau

Under current law, with limited exceptions, no person may operate a commercial motor vehicle (CMV) unless the person holds a commercial driver license (CDL). Exceptions allow fire fighters, rescue squad members, and farmers who hold valid operators' licenses other than CDLs to operate CMVs under specified circumstances. Federal law generally requires operators of CMVs to hold CDLs, but provides for certain exceptions. State law provides that the exceptions under state law apply to the extent permitted under federal law.

This bill creates an exception to the CDL licensing requirement for municipal officials who operate CMVs within their municipality in connection with the authorized functions or duties of the municipality.

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:

Parisi, Lori

From: Gary, Tim
Sent: Tuesday, May 22, 2007 2:50 PM
To: LRB.Legal
Subject: Draft Review: LRB 07-0343/1 Topic: CDL exception/waiver for municipal officials

Please Jacket LRB 07-0343/1 for the ASSEMBLY.