

2007 DRAFTING REQUEST**Bill**Received: **08/28/2006**Received By: **agary**Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**By/Representing: **Kornely**This file may be shown to any legislator: **NO**Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - driver licenses**Extra Copies: **BAB, PJK**Submit via email: **YES**

Requester's email:

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

DOA:.....Kornely, BB0188 -

Topic:

Implementing national Driver License Agreement

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>
/?	agary 08/28/2006	jdye 08/28/2006		_____			S&L Revocation
/P1	agary 09/29/2006	chanaman 11/06/2006	rschluet 08/29/2006	_____	sbasford 08/29/2006		S&L Revocation
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Handwritten signatures and initials, including "agary" and "PJK", are present over the Drafting History table.

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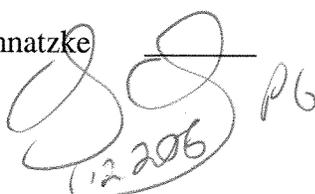
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Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

1 WJ 11/27

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BBO 188

2007-09 Budget Bill Statutory Language Drafting Request

- Topic: Conversion - all pending DOT Statutory Language Requests
- Tracking Codes: 0011/P1 ARG [REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
- SBO team: Environmental and Commercial Resources
- SBO analyst: Sara Kornely
 - Phone: 266-1039
 - Email: sara.kornely@wisconsin.gov
- Agency acronym: DOT
- Agency number: 395
- Priority (Low, Medium, High): Medium

Please convert all drafting requests above from DOT requests to DOA requests.

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Extra Copies: **BAB**

Submit via email: **YES**

Requester's email: **Erin.Egan@dot.state.wi.us**

Carbon copy (CC:) to: **Kristie.Nielson@dot.state.wi.us**
aaron.gary@legis.wisconsin.gov

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No specific pre topic given

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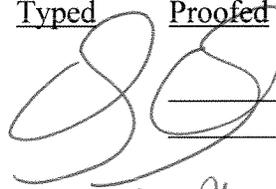
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8285 PL6
<END>

Gary, Aaron

From: Egan, Erin
Sent: Tuesday, July 18, 2006 10:24 AM
To: Gary, Aaron; Balinsky, Brett
Cc: Nilsen, Paul
Subject: DMV Comments on DLA draft
Attachments: Comments for LRB.xls; DLA review LRB-4848 Paul N.doc

Hi Aaron and Brett,

I have attached two files for discussion at our meeting on July 31st for DLA. As you can see, our thoughts about including Mexico have changed quite a bit since the passage of REAL ID (see attached spreadsheet). Otherwise, the draft was very good and we had few comments on our sections. Here are two other questions for you as well:

1. Why do certain sections of the draft (ex: 63, 86, 92, 113, 115, etc) treat out of state residents of non-member jurisdictions differently? In Section 80, all out of state residents are treated the same, even those of non-member jurisdictions.
2. For Wisconsin residents, only certain sections (ex: 60, 61, 84, 85) revocations / suspensions included the following language: "This subsection does not apply if the jurisdiction in which the offense occurred suspended or revoked the person's operating privilege in that jurisdiction as a result of the conviction and the period of suspension or revocation in that jurisdiction has expired, or if, at the time of the conviction, the person was licensed in or resided in another jurisdiction." Why don't other sections (ex: 58, 61, 62, 67-74) that talk about revocations / suspensions include this language?

Paul Nilsen has also come up with some ideas about streamlining the draft. See the attached Word document.

I am going through the REAL ID draft now, and will send along those comments before the 31st as well. I wish we had the draft rules from DHS, but that is beyond my control.

Erin Egan
Legislative Liaison
Division of Motor Vehicles
(608) 266-1449

08/17/2006

Summary of LRB 05-0064/2 - DLA Draft from 05-07 BB Issue Paper

Section	Statute	Purpose/intent of changes	Comments
4	125.07 (4)(cm)	Adds "driver licensing agency of another jurisdiction or Mexico"	Please strike reference to Mexico
5	125.085 (3)(bp)	Adds "driver licensing agency of another jurisdiction or Mexico"	Please strike reference to Mexico
10	343.027	Allows dept to release signatures to courts, DA, muni attorneys, LE agencies, and DL agency in another jurisdiction	Please strike reference to Mexico
13	343.03 (6)(b)	Adds Mexico to the list of agencies who can get driving records	Please strike reference to Mexico
14	343.03 (6)(c)	Adds Mexico	Please strike reference to Mexico
16	343.05 (1)(b)	Adds violations of laws of another jurisdiction or Mexico	Please strike reference to Mexico
19	343.06 (2)	Adds Mexico	Please strike reference to Mexico
20	343.085 (4)	Amends to include OOS/Mexican violations to extend GDL restrictions	Please strike reference to Mexico
22	343.14 (2)(b)	Allows dept to disclose SS#s to DL agencies in other jurisdictions or Mexico	Please strike reference to Mexico
23	343.16 (5)(a)	Allows dept to include OOS / Mexican violations when considering special / medical re-exams	Please strike reference to Mexico
24	343.20 (1)(e)1	Verbiage - changes "states" to "jurisdictions", and adds Mexico	Please strike reference to Mexico
25	343.23 (2)(a)	Amends to require dept to maintain a file for everyone who is a licensee or resident (including OOS convictions and Mexico)	Strike reference to Mexico
26	343.23 (2)(am) 1. A.	Adds Mexico	Please strike reference to Mexico
27	343.23 (2)(am) 1.b.	Adds Mexico	Please strike reference to Mexico
28	343.23 (2)(am) 1.c.	Adds Mexico	Please strike reference to Mexico
30	343.23 (2m)	State shall maintain file that includes nonresident violations, OOS convictions for licensee or residents, and dept may use info to wdrrw op priv for nonresidents for violations not identified in DLA	This should apply to mandatory convictions only (ie, OWI, refusals, and s. 343.31)
33	343.235 (3)(a)	Dept may disclose personal identifiers to other DL agencies in other jurisdictions	Please strike reference to Mexico
34	343.237 (2)	Dept may release photos to DL agencies in other jurisdictions	Please strike reference to Mexico
35	343.24 (3)	Dept may furnish information about violations to DL agencies in other jurisdictions	Please strike reference to Mexico
38	343.251	Term "other jurisdiction" or "another jurisdiction" has the meaning given in 340.01, and includes Mexico	Please strike reference to Mexico. Do we need this section, if Mexico is not included, since other jurisdiction / another jurisdiction is already included in 340.01? Also, if this section is struck, do we still need to renumber s. 343.25 (Section 37).
57	343.305 (11)	Adds DL agencies of another jurisdiction or Mexico for releasing info	Please strike reference to Mexico
59	343.31 (1)(hm)	Requires dept to consider OOS violations for admin sus on 4th and sub OAR	Repeal
61	343.31 (2m)	Amends so revs under s. 343.31 (1)(hm) & (2) only apply to licensees or residents only	Repeal
86	343.32 (1s)(b)	Requires secy to suspend op priv for altering, loaning, or fraudulently using DL, if the person is licensed or a resident of a jurisdiction that does not belong to DLA, or is this is not a DLA offense	Use HTO Language (need to re-visit, per Mary J's comments)
94	343.36 (title)	Adds notices of administrative action	Amendment not needed; admin actions are covered by other wdrrl actions already taken

Summary of LRB 05-0064/2 - DLA Draft from 05-07 BB Issue Paper			
Section	Statute	Purpose/intent of changes	Comments
96	343.36 (3)(b), (c), and (d)	Requires dept to forward notices of wdrl to DL agencies of home jurisdictions for non-residents; includes refusals, OOS, test result. Requires dept to forward convictions and related items, and suspension notices.	Paragraph (3)(b) 1 & 3 should be amended to include hearing results.
119	344.19 (2)	For nonresidents, reg sus must be sent to admin of DMV or equivalent state official	Note to DMV: Registration suspensions must be automated, as part of DLA programming. This is a manual, paper based process now.
133	345.23 (2)(c)	Strikes "Wisconsin", so OOS licenses may be deposited in lieu of posting bond.	Note to DMV: must ask for waiver under DLA. Changes to statutory language okay.
134	345.28 (5)(b) 1	Strikes "Wisconsin", so OOS licenses may be deposited in lieu of posting bond.	Note to DMV: must ask for waiver under DLA. Changes to statutory language okay.
135	345.28 (5)(b) 2	Strikes "Wisconsin", so OOS licenses may be deposited in lieu of posting bond.	Note to DMV: must ask for waiver under DLA. Changes to statutory language okay.
140	346.65 (2c)	Changed "state" to "jurisdiction or Mexico"	Please strike reference to Mexico
145	351.025 (3)	Secy may only revoke nonresidents if their home jurisdiction does not belong to DLA	Do not want to take any action on non-residents for HTO. Will only take actions on OOS convictions for new WI residents if new convictions occur.
145	351.025 (3)	Secy may only revoke nonresidents if their home jurisdiction does not belong to DLA	Do not want to take any action on non-residents for HTO. Will only take actions on OOS convictions for new WI residents if new convictions occur.
160	961.50 (2)	Adds reference to 343.251, and strikes reference to 343.32 (1m)	Reference to revocation must remain, as we have over 600 revs still on our records for this offense.
9348	Initial applicability	First applies to violations or refusals committed after effective date, but does not preclude counting of other convictions, suspensions, or revocations as priors	Initial applicability should be based on when the violation, hearing notice, or withdrawal is received by the department, not when it occurs. (See Section 9348 of 2005 Act 25 for HTO initial applicability language, which was similar).
9448	Effective dates	1st day of the 13th month following publication	Tie to REAL ID?

C:\Documents and Settings\agary\Local Settings\Temporary Internet Files\OLK1B\DLA
review LRB-4848 Paul N.doc
Paul Nilsen June 26, 2006

P21, L16, delete “who is a licensee under this chapter or, if the person has not been issued an operator’s license by any jurisdiction, is a resident and” and substitute “for whom the department maintains a file under sub. (2)(a)”.

P 21, L4, delete “person who is a”

Rationale: ‘nonresident’ is defined as a person who resides in another state.

Same change: P37, L6; P37, L12; P44, L20; P47, L15; P49, L5;

Page 14, L 11: delete “that jurisdiction” (or ‘the jurisdiction’) and substitute ‘that other jurisdiction’.

Rationale: ‘jurisdiction’, without modification, is not defined; use defined term ‘other jurisdiction’.

Same change: P17, L15; P18, LL14-18; P22, L4; P25, L3; P34,L24; P35,LL17, 23,24; P36, L17-20; P43, LL19, 21,22; P44,LL13,14,15; P45,L18; P47, L20,21;

Page 10, L 20: delete ‘by any jurisdiction, the’ and substitute “, the other”

Rationale: Wisconsin could be residence of person to whom no license is issued and would therefore be considered ‘home jurisdiction’.

P25, L22, delete “or, if the person has not been issued an operator’s license by any jurisdiction, is a resident” and substitute “or is a resident to whom another jurisdiction has not issued an operator’s license”.

Same change: P17, L11; P21, L16; P33, L 2; P34, L11; P35, L5; P36, L4; P36, L23; P38, L2; P38, L6; P38, L16; P38, L22; P39, L6; P39, L14; P39, L20; P42, L19; P43, L12; P44, L5; P45, L5; P45, L21; P47, L11; P48, L1

Rationale: simpler. ‘Resident’ is defined as resident of this state. Avoids using undefined term, “any jurisdiction”.

P21, L 6 delete “in or a resident of” and substitute “by or resides within”.

Same change: P37, L8; P37, L14; P44,L24; P47, L16; P55, L11; P56, L 4; P59, L14;

Rationale: ‘resident’ is defined as resident of this state.

P42, L24; delete “not a resident,” and substitute “a nonresident”

P 37, L 12, delete ‘person who is a’

Same change: P44 L 20; P47 L 15; P49, L 5.

P59, L 15 delete “another jurisdiction that is not”

Gary, Aaron

From: Gary, Aaron
Sent: Monday, July 24, 2006 1:59 PM
To: Egan, Erin
Cc: Nilsen, Paul; Balinsky, Brett
Subject: RE: DMV Comments on DLA draft

Erin,

Thank you very much for getting me all of this information so far in advance of our meeting. This will help me be ready to get into the nitty-gritty when we meet. In answer to your questions below:

1. Basically there are two interrelated reasons. First, these provisions are drafted in this way due partly to (my understanding of) the DOT instructions and responses to my questions during the first round of the DLA drafting. Secondly, and *more helpful* to you, I think there is a logic behind it. As part of each state's entering into the DLA, the licensing state makes a formal commitment to take administrative action against licensees for offenses committed in other jurisdictions. Then that action shows up on the licensee's record that is available to the other DLA member jurisdictions. However, if a state is not a member of the DLA, the state has made no such formal commitment - so there is less certainty that a non-DLA member state which receives a forwarded record of conviction from WI will actually take action against the licensee. I think this is the rationale for the distinction. Perhaps this is overly picky, especially if MI has a good track record of dealing with convictions forwarded from WI. But since the statutory framework will endure well into the future, it may be best not to assume that MI will be the only non-DLA state, as states are free to withdraw from the DLA. With regard to the different approach in Section 80, that is because Section 80 deals with DQs. My understanding of the instructions was that DQs would basically be their own animal and that I should not draw any resident/nonresident distinctions relating to DQs except as set out in Section 80. The context for DQs is also a little different in that federal law (MCSIA) imposes requirements for driver record documentation of CDL-holder/CMV convictions.

2. This language was added to provisions where the conviction triggering the action against the license is an out-of-state conviction. The language was originally suggested in Section 60 and 61 by DOT, and I added it to other similar provisions. The language is not added to section 58 and 62 because those are not "out-of-state" convictions (though they cover tribal lands within the state). Same with the other indicated provisions - I think that none of them contemplate the conviction occurring in another state - where the same **conduct** results in a conviction in another state, the withdrawal action would actually feed back through another provision, such as that of Section 60 and 61, I think.

Aaron

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From: Egan, Erin
Sent: Tuesday, July 18, 2006 10:24 AM
To: Gary, Aaron; Balinsky, Brett
Cc: Nilsen, Paul
Subject: DMV Comments on DLA draft

08/18/2006

05-21848

7/31

Meeting at DOT

Erin Egan, Paul Nike, BAB, ARB

* add law enforcement / electronic photo access to draft

* add ...



Keep in file for Wendy

Wendy,

I ^{re-entered it} converted 05-4848 to an 07

draft. I changed the ~~changed the~~

section headings at 11-24[✓], 12-8[✓], 12-20[✓], 14-19[✓],
 15-16 & 17[✓], 16-1 & 2[✓], 17-7 & 8[✓], 19-4 & 5[✓],
 23-7[✓], 30-4 & 5[✓], 31-3 & 4[✓], 40-1 & 2[✓], 40-18 & 19[✓],
 52-22 & 23[✓], 64-14[✓], 64-23[✓], 67-17 & 18[✓], 68-4[✓],
 69-4 & 5[✓], 70-7 & 8[✓], 70-23[✓], 71-18 & 19[✓], 73-7[✓],
 (nothing on the inserts) to reflect the
 07-08 session.

I also made one change to the D-Note.

Ron already finished typing on this, so
 he'll need to know exactly what changes
 are being made.

Thanks! Aaron

