

2007 DRAFTING REQUEST

Bill

Received: 01/19/2007

Received By: agary

Wanted: As time permits

Identical to LRB:

For: Mark Gottlieb (608) 267-2369

By/Representing: Rob Richard (aide)

This file may be shown to any legislator: NO

Drafter: agary

May Contact:

Addl. Drafters:

Subject: Transportation - motor vehicles

Extra Copies: BAB

Submit via email: YES

Requester's email: Rep.Gottlieb@legis.wisconsin.gov

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

Pre Topic:

No specific pre topic given

Topic:

Special plates for gold star families of service members

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>
/?				_____			State
/1	agary 01/26/2007	jdye 01/29/2007	jfrantze 01/29/2007	_____	sbasford 01/29/2007 mbarman 01/29/2007	cduerst 01/31/2007	

FE Sent For:

*at intro
2/20*

<END>

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/?	agary	1/29 jw		1/29			

FE Sent For:

<END>

Gary, Aaron

From: Richard, Rob
Sent: Wednesday, January 24, 2007 11:39 AM
To: Gary, Aaron
Cc: Hardie, Anthony D - DVA
Subject: RE: Gold Star license plate bill draft

Aaron:

Below is the text of an e-mail (italicized) that Anthony Hardie (EA at DVA) sent to Sec. John Scocos at DVA explaining our request for a change in the Gold Star license plate. I believe it is the intent that the family would be eligible for the "gold star" special plate only if clause [1] and also either clause [2], [3], or [4] apply, but I want Anthony to verify this since he is well experienced and versed in military verbiage.

Anthony, can you please verify with Aaron our intent?

Thank you,
Rob

WISDOT has confirmed with a legislative office that they [DOT] take a narrow interpretation of the language "die in combat" with regards to the new Gold Star family license plates (see the email below).

After verification by the legislative office following a constituent's inquiry, the legislative office confirmed that WISDOT does not consider "die in combat" with regards to these license plates to include military service members who:

- 1) die in a combat theatre of operations (i.e. Iraq) due to accidental causes (such as a Humvee overturning, drowning, etc.);*
- 2) die in a military operation for which an Armed Forces Expeditionary Medal or Global War on Terrorism Expeditionary Medal is awarded but which is not formally a "combat" operation (i.e. Lebanon, Somalia, Grenada, Panama,*
- 3) die in a terrorist attack like the military service members killed in the Pentagon on 9/11.*

The legislator wants a recommendation on how that this language could be expanded to include these categories of individuals, but not to go so far as to expand it to a service member who dies in an accident or other non-combat cause outside a wartime theater of operations or an AFEM-type military operation in an accident, or who dies later in life due to a service-connected disability.

From: Gary, Aaron
Sent: Wednesday, January 24, 2007 10:51 AM
To: Richard, Rob
Subject: RE: Gold Star license plate bill draft

Hi Rob,

I'm having difficulty figuring out the intent behind this proposed language. For ease of discussion, I have inserted numbers in blue brackets to easily reference the various clauses.

Is the intent that the family would be eligible for the "gold star" special plate if any of these clauses [1] to [4] apply? Or is it only if clause [1] and also either clause [2], [3], or [4] apply? I assumed it was the former, but when I discussed it with our veterans affairs drafter he thought it could possibly be the latter.

If in fact it is the former, I am having conceptual difficulty with the language. I understand that the proposed language under clause [1] would broaden eligibility for the plates to allow plates for those who have lost loved ones serving in national guard units as well as the U.S. military, and would remove the "combat" restriction. From what I can discover on the internet, however, the medals referenced in clause [3] are limited to service members, so isn't this language in clause [3] duplicative of clause [1] and unnecessary? And I am not sure what the "combat theater of operation" language is intended to convey in clause [2] if not service members (which are already covered by clause [1]) - is it intended to cover private contractors, those working for other branches of the federal government (state department, Central Intelligence Agency, etc.), even journalists? The "gold star" plates issued under s. 341.14 (6r) (f) 19m. were intended to correspond to the various organizations for "gold star families," those who have had loved ones die during military service. The "terrorist

attack" language in clause [4] is broader - it would cover any family who lost a loved one as a result of domestic as well as foreign terrorist attacks, including the 9/11 attacks and Oklahoma City bombings, which, if this is the intent, doesn't seem to fit with the original "gold star families" association of the plate. (Another option would be to create a different plate for those who have lost loved ones in terrorist attacks, with a different design for the plates.)

Any assistance you can provide to help me understand the intent here would be greatly appreciated.

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, Aaron
Sent: Friday, January 19, 2007 1:46 PM
To: Richard, Rob
Subject: RE: Gold Star license plate bill draft

Hi Rob,

Since I drafted the original gold star plate legislation, I will handle this - I have entered the request as LRB-1597.

Aaron

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

From: Hurley, Peggy
Sent: Friday, January 19, 2007 1:01 PM
To: Richard, Rob
Cc: Gary, Aaron; Balinsky, Brett
Subject: RE: Gold Star license plate bill draft

Hi Rob,

I'm no longer drafting in transportation (except for drunken driving), so I am forwarding your request to Aaron Gary and Brett Balinsky, who are drafting transportation requests this session.

Peggy

From: Richard, Rob
Sent: Friday, January 19, 2007 8:42 AM
To: Hurley, Peggy
Subject: Gold Star license plate bill draft

Peggy:

Please draft the following:

Sec. 341.14 (6r) (f) 19m of the statutes is amended to read as follows:

19m. Persons who have had a family member die ~~in combat~~, while serving [1] in the U. S. armed forces or in forces incorporated as part of the U. S. armed forces, [2] in a combat theatre of operation, [3] in a military

operation for which the individual is entitled to receive an Armed Forces Expeditionary Medal or a Global War on Terrorism Expeditionary or Service Medal, or [4] as the result of a terrorist attack..

Thank you!

Rob Richard, Legislative Aide
Office of Rep. Mark Gottlieb
267-2369

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-CITE-

10 USC Sec. 1126

01/03/05

-EXPCITE-

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART II - PERSONNEL

CHAPTER 57 - DECORATIONS AND AWARDS

-HEAD-

Sec. 1126. Gold **star** lapel button: eligibility and distribution

-STATUTE-

(a) A lapel button, to be known as the gold **star** lapel button, shall be designed, as approved by the Secretary of Defense, to identify widows, parents, and next of kin of members of the armed forces -

(1) who lost their lives during World War I, World War II, or during any subsequent period of armed hostilities in which the United States was engaged before July 1, 1958;

(2) who lost or lose their lives after June 30, 1958 -

(A) while engaged in an action against an enemy of the United States;

(B) while engaged in military operations involving conflict with an opposing foreign force; or

(C) while serving with friendly foreign forces engaged in an armed conflict in which the United States is not a belligerent party against an opposing armed force; or

(3) who lost or lose their lives after March 28, 1973, as a

result of -

(A) an international terrorist attack against the United States or a foreign nation friendly to the United States, recognized as such an attack by the Secretary of Defense; or

(B) military operations while serving outside the United States (including the commonwealths, territories, and possessions of the United States) as part of a peacekeeping force.

(b) Under regulations to be prescribed by the Secretary of Defense, the Secretary concerned, upon application to him, shall furnish one gold **star** lapel button without cost to the widow and to each parent and next of kin of a member who lost or loses his or her life under any circumstances prescribed in subsection (a).

(c) Not more than one gold **star** lapel button may be furnished to any one individual except that, when a gold **star** lapel button furnished under this section has been lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was furnished, the button may be replaced upon application and payment of an amount sufficient to cover the cost of manufacture and distribution.

(d) In this section:

(1) The term "widow" includes widower.

(2) The term "parents" includes mother, father, stepmother, stepfather, mother through adoption, father through adoption, and foster parents who stood in loco parentis.

(3) The term "next of kin" includes only children, brothers, sisters, half brothers, and half sisters.

(4) The term "children" includes stepchildren and children through adoption.

(5) The term "World War I" includes the period from April 6, 1917, to March 3, 1921.

(6) The term "World War II" includes the period from September 8, 1939, to July 25, 1947, at 12 o'clock noon.

(7) The term "military operations" includes those operations involving members of the armed forces assisting in United States Government sponsored training of military personnel of a foreign nation.

(8) The term "peacekeeping force" includes those personnel assigned to a force engaged in a peacekeeping operation authorized by the United Nations Security Council.

-SOURCE-

(Added Pub. L. 89-534, Sec. 1(1), Aug. 11, 1966, 80 Stat. 345, Sec. 1124; renumbered Sec. 1126, Pub. L. 89-718, Sec. 9, Nov. 2, 1966, 80 Stat. 1117; amended Pub. L. 98-94, title XII, Sec. 1268(8), Sept. 24, 1983, 97 Stat. 706; Pub. L. 100-26, Sec. 7(k)(5), Apr. 21, 1987, 101 Stat. 284; Pub. L. 103-160, div. A, title XI, Sec. 1143, Nov. 30, 1993, 107 Stat. 1757.)

-MISC1-

AMENDMENTS

1993 - Subsec. (a). Pub. L. 103-160, Sec. 1143(a), struck out "of the United States" after "armed forces" in introductory provisions, redesignated cls. (i) to (iii) of par. (2) as subpars. (A) to (C), respectively, and added par. (3).

Subsec. (d)(7), (8). Pub. L. 103-160, Sec. 1143(b), added pars. (7) and (8).

1987 - Subsec. (d). Pub. L. 100-26 substituted colon for dash at end of introductory provisions, inserted "The term" in each par., and substituted periods for semicolons in pars. (1) to (4) and period for "; and" in par. (5).

1983 - Subsec. (a)(1). Pub. L. 98-94 substituted "who" for "Who".



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Office of the Law Revision Counsel, U.S. House of Representatives

Gary, Aaron

From: Hardie, Anthony D - DVA
Sent: Friday, January 26, 2007 2:56 PM
To: Gary, Aaron
Cc: Richard, Rob; Rosinski, John P - DVA
Subject: RE: Gold Star Legislation

Aaron and Rob,

If National Guard members are on federal (Title 10) military active duty, they would be considered federal troops.

If the incident happens while on some sort of state National Guard active duty (Title 32) such as training, state call-up disaster relief, they would not...

Anthony Hardie
WDVA Executive Assistant
Office of the Secretary
Wisconsin Department of Veterans Affairs

Direct Phone: (608) 266-0517 -- Fax: (608) 264-7616

Wisconsin Department of Veterans Affairs

30 West Mifflin Street

P.O. Box 7843

Madison, WI 53707-7843

Toll-Free: (800) WIS-VETS (800-947-8387)

Web Site: www.dva.state.wi.us

From: Gary, Aaron [<mailto:Aaron.Gary@legis.wisconsin.gov>]
Sent: Thursday, January 25, 2007 1:26 PM
To: Richard, Rob
Cc: Hardie, Anthony D - DVA
Subject: RE: Gold Star Legislation

It's not clear to me from the federal law whether families of national guard members are eligible for the lapel buttons. Do you know whether they are? And, regardless of whether they are, do you want such families to be eligible for gold star plates if they otherwise meet the same criteria?

Thanks. Aaron

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

From: Richard, Rob
Sent: Wednesday, January 24, 2007 4:15 PM
To: Gary, Aaron
Cc: Hardie, Anthony D - DVA
Subject: Gold Star Legislation

Aaron:

Again, below is an e-mail excerpt from Anthony Hardie. Gottlieb wants the draft to either directly reference the federal definition or include all of the federal criteria language in the draft, whichever is easier/cleaner.



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U.S. Code collection

TITLE 10 > Subtitle A > PART II > CHAPTER 57 > § 1126

[Prev](#) | [Next](#)

§ 1126. Gold star lapel button: eligibility and distribution

How Current is This?

(a) A lapel button, to be known as the gold star lapel button, shall be designed, as approved by the Secretary of Defense, to identify widows, parents, and next of kin of members of the armed forces—

(1) who lost their lives during World War I, World War II, or during any subsequent period of armed hostilities in which the United States was engaged before July 1, 1958;

(2) who lost or lose their lives after June 30, 1958—

(A) while engaged in an action against an enemy of the United States;

(B) while engaged in military operations involving conflict with an opposing foreign force; or

(C) while serving with friendly foreign forces engaged in an armed conflict in which the United States is not a belligerent party against an opposing armed force; or

(3) who lost or lose their lives after March 28, 1973, as a result of—

(A) an international terrorist attack against the United States or a foreign nation friendly to the United States, recognized as such an attack by the Secretary of Defense; or

(B) military operations while serving outside the United States (including the commonwealths, territories, and possessions of the United States) as part of a peacekeeping force.

(b) Under regulations to be prescribed by the Secretary of Defense, the Secretary concerned, upon application to him, shall furnish one gold star lapel button without cost to the widow and to each parent and next of kin of a member who lost or loses his or her life under any circumstances prescribed in subsection (a).

(c) Not more than one gold star lapel button may be furnished to any one individual except that, when a gold star lapel button furnished under this section has been lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was furnished, the button may be replaced upon application and payment of an amount sufficient to cover the cost of manufacture and distribution.

(d) In this section:

(1) The term "widow" includes widower.

(2) The term "parents" includes mother, father, stepmother, stepfather, mother through adoption, father through adoption, and foster parents who stood in loco parentis.

*Search
this title:*

Notes
Updates
Parallel
authorities
(CFR)
Your
comments

- (3)** The term "next of kin" includes only children, brothers, sisters, half brothers, and half sisters.
- (4)** The term "children" includes stepchildren and children through adoption.
- (5)** The term "World War I" includes the period from April 6, 1917, to March 3, 1921.
- (6)** The term "World War II" includes the period from September 8, 1939, to July 25, 1947, at 12 o'clock noon.
- (7)** The term "military operations" includes those operations involving members of the armed forces assisting in United States Government sponsored training of military personnel of a foreign nation.
- (8)** The term "peacekeeping force" includes those personnel assigned to a force engaged in a peacekeeping operation authorized by the United Nations Security Council.

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Soon
in 1/26
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D-Note

2007 BILL

Gen

1 AN ACT ...; relating to: special distinguishing registration plates for persons who
2 have had an immediate family member die while in military service. ✓

Analysis by the Legislative Reference Bureau

Under current law, any group or organization may apply to the Department of Transportation (DOT) for designation as an authorized special group. If the application is approved, members of the authorized special group may obtain special distinguishing registration plates for certain vehicles, including automobiles and motor homes, that are owned or leased by special group members. A fee, in addition to the regular registration fee for the particular kind of vehicle, is assessed for the issuance or reissuance of most special plates.

Before October 2, 1998, authorized special groups whose members may obtain special distinguishing registration plates were specifically enumerated in state law. Current law provides that specific enumeration in state law of authorized special groups is limited to those special groups enumerated before October 2, 1998. In 2005 Wisconsin Act 25 (the biennial budget bill), a special group was enumerated for persons who have had an immediate family member die in combat while serving in the U.S. armed forces. The design of these special plates, which are colored red, white, and blue, must include a gold star flag.

Under current federal law, gold star lapel buttons may be furnished to the widows, parents, and next of kin of members of the armed forces who lost their lives: (1) during World War I, World War II, or during any subsequent period of armed hostilities in which the United States was engaged before July 1, 1958; (2) after June 30, 1958, while engaged in an action against an enemy of the United States, while

*
*
*

BILL

engaged in military operations involving conflict with an opposing foreign force, or while serving with friendly foreign forces engaged in an armed conflict in which the United States was not a belligerent party against an opposing armed force; or (3) after March 28, 1973, as a result of an international terrorist attack against the United States or a foreign nation friendly to the United States or as a result of military operations while serving outside the United States as part of a peacekeeping force.

*

This bill makes changes to who may obtain these "gold star" special plates by identifying the special group as persons who have had an immediate family member die while serving in the U.S. armed forces or in forces incorporated as part of the U.S. armed forces if the immediate family member meets any of the eligibility criteria specified under federal law for a gold star lapel button. The bill does not change the definition under current law for "immediate family member."

For further information see the *state* 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. 341.14 (6r) (f) 19m. of the statutes is amended to read:

2 341.14 (6r) (f) 19m. Persons who have had an immediate family member die
3 ~~in combat~~ while serving in the U.S. armed forces or in forces incorporated as part of
4 the U.S. armed forces if the immediate family member meets any of the eligibility
5 criteria specified in 10 USC 1126 (a) (1) to (3) for a gold star lapel button.

History: 1971 c. 164 s. 83; 1971 c. 299; 1975 c. 384, 417; 1977 c. 16; 1977 c. 29 ss. 1417, 1418, 1654 (7) (a), (c); 1977 c. 43, 183, 292, 418, 447; 1979 c. 236; 1981 c. 255; 1983 a. 227, 430, 511; 1985 a. 29, 55; 1985 a. 87 ss. 1, 5; 1985 a. 124, 202; 1985 a. 332 ss. 191, 251 (4); 1987 a. 19, 64, 112, 145, 315, 399, 403; 1989 a. 31, 54, 56, 137, 302, 304, 312, 359; 1991 a. 2, 39, 100, 240; 1993 a. 16, 291, 303, 415, 491; 1995 a. 147, 253, 255, 445; 1997 a. 27, 67, 252, 255; 1999 a. 9, 32, 80, 92, 167, 186; 2001 a. 16, 38, 103, 109; 2003 a. 83, 184; 2005 a. 22, 25, 109, 199, 260, 319, 472; s. 13.93 (1) (b) and (2) (c).

6 SECTION 2. Effective date.

7 (1) This act takes effect on the first day of the 2nd month beginning after
8 publication.

9 (END)

J. Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1597/1dn

ARG: 1:....

date

JLD

ATTN: Rob Richard

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

The attach draft incorporates the federal criteria relating to the deceased service member. As mentioned in the analysis, it does not change the definition under s. 341.14 (6r) (a) 2.✓ of "immediate family member." There are subtle differences, therefore, between the scope of surviving family that may obtain a lapel button under federal law and that may obtain a special plate under state law.

While DOT will not have to redesign the special plates issued under s. 341.14 (6r) (f) 19m.✓ as a result of this bill, it might have to change its application and information materials. I have therefore included a short delayed effective date to allow DOT time to do so. Please advise if this is not consistent with your intent.

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

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-1597/1dn
ARG:jld:jf

January 29, 2007

ATTN: Rob Richard

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

The attach draft incorporates the federal criteria relating to the deceased service member. As mentioned in the analysis, it does not change the definition under s. 341.14 (6r) (a) 2. of "immediate family member." There are subtle differences, therefore, between the scope of surviving family that may obtain a lapel button under federal law and that may obtain a special plate under state law.

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

Basford, Sarah

From: Richard, Rob
Sent: Tuesday, January 30, 2007 3:27 PM
To: LRB.Legal
Subject: Draft Review: LRB 07-1597/1 Topic: Special plates for gold star families of service members

Please Jacket LRB 07-1597/1 for the ASSEMBLY.