

2009 DRAFTING REQUEST

Bill

Received: **02/13/2009**

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **Lee Nerison (608) 266-3534**

By/Representing: **Sandra**

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

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - driver licenses**

Extra Copies: **EVM**

Submit via email: **YES**

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

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

Pre Topic:

No specific pre topic given

Topic:

Allowing third-party testing for driving skills test for Class D operator's licenses

Instructions:

Wants companion to Sen. Leibham's LRB-0717; call Larry Konopacki; wants to address issue that came up in bill section 2 of AB-743 last session

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 03/05/2009	bkraft 03/06/2009		_____			State
/1			jfrantze 03/06/2009	_____	cduerst 03/06/2009	sbasford 03/13/2009	

FE Sent For: **"1" @ intro. 4/17/09**

<END>

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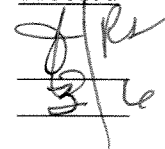
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/?	agary	1 bjk 3/6	 3/6	 3/6			

FE Sent For:

<END>

Gary, Aaron

From: Smith-Loomans, Sandra
Sent: Tuesday, March 03, 2009 9:43 AM
To: Gary, Aaron
Subject: RE: LRB-2137: companion to SB-58

Hi Aaron,

Could you please draft LRB-2137 for introduction with the drafting insert included?

Thanks again,

Sandra Smith-Loomans
Office of Representative Lee Nerison
Phone: (608) 266-3534
Toll-free: (888) 534-0096

From: Gary, Aaron
Sent: Monday, February 23, 2009 11:34 AM
To: Smith-Loomans, Sandra
Cc: Konopacki, Larry
Subject: LRB-2137: companion to SB-58

Sandra,

Larry and I discussed the problem in bill section 2 of SB-58. There is not a single obvious fix for the problem - rather various options are available. I have put together a potential remedy (see attached document), replacing bill section 2 with the attached treatment and adding the new treatment of created s. 343.16 (1) (b) 6. This approach would allow your constituent to continue to train semi drivers and administer skills tests to high school students. Let me know if the following approach is acceptable to you and, if so, I will finish your companion (LRB-2137) to include these changes:

Thanks. Aaron

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

500h

- 2137/1
LRB-07171
ARG:bjk:jf
Stacy
RMNR

in 3/5

From 0717/1

2009 SENATE BILL 58

SA
x-ref

Inserts

February 12, 2009 - Introduced by Senators LEIBHAM, HARS DORF, COWLES, S FITZGERALD, LAZICH and GROTHMAN, cosponsored by Representatives NERISON, TOWNSEND, M. WILLIAMS, LEMAHIEU, KERKMAN, MURTHA, SPANBAUER, GUNDERSON, STRACHOTA, NYGREN, VOS and MURSAU. Referred to Committee on Transportation, Tourism, Forestry, and Natural Resources.

- regen.

1 AN ACT to amend 343.16 (1) (a), 343.16 (1) (b) (intro.), 343.16 (1) (b) 2., 343.16
2 (1) (b) 3. (intro.), 343.16 (1) (b) 4. and 343.16 (1) (b) 5. of the statutes; relating
3 to: permitting third-party testers to administer driving skills tests for certain
4 noncommercial motor vehicle drivers.

Analysis by the Legislative Reference Bureau

Under current law, with limited exceptions, applicants for an operator's license are required to successfully complete a knowledge test and a driving skills (road) test. Generally Department of Transportation (DOT) examiners must administer road tests except that DOT may contract with third-party testers to conduct road tests for commercial motor vehicle operators and school bus operators.

This bill permits DOT to contract with third-party testers to conduct road tests for "Class D" vehicle operators. "Class D" vehicles include most noncommercial motor vehicles other than Type 1 motorcycles.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

Insert
ANAL-A

Insert
ANAL-B

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 SECTION 1. 343.16 (1) (a) of the statutes is amended to read:

SENATE BILL 58**SECTION 1**

1 343.16 (1) (a) *General.* The Except when examination by a 3rd-party tester is
2 permitted under pars. (b) and (c), the department shall examine every applicant for
3 an operator's license, including applicants for license renewal as provided in sub. (3),
4 and every applicant for authorization to operate a vehicle class or type for which the
5 applicant does not hold currently valid authorization, other than an instruction
6 permit. Except as provided in sub. (2) (cm) and (e), the examinations of applicants
7 for licenses authorizing operation of "Class A", "Class B", "Class C", "Class D" or
8 "Class M" vehicles shall include both a knowledge test and an actual demonstration
9 in the form of a driving skills test of the applicant's ability to exercise ordinary and
10 reasonable control in the operation of a representative vehicle. The department shall
11 not administer a driving skills test to a person applying for authorization to operate
12 "Class M" vehicles who has failed 2 previous such skills tests unless the person has
13 successfully completed a rider course approved by the department. The department
14 may, by rule, exempt certain persons from the rider course requirement of this
15 paragraph. The department may not require a person applying for authorization to
16 operate "Class M" vehicles who has successfully completed a basic rider course
17 approved by the department to hold an instruction permit under s. 343.07 (4) prior
18 to the department's issuance of a license authorizing the operation of "Class M"
19 vehicles. The department may not require a person applying for authorization to
20 operate "Class M" vehicles who holds an instruction permit under s. 343.07 (4) to
21 hold it for a minimum period of time before administering a driving skills test. The
22 driving skills of applicants for endorsements authorizing the operation of
23 commercial motor vehicles equipped with air brakes, the transportation of
24 passengers in commercial motor vehicles or the operation of school buses, as provided
25 in s. 343.04 (2) (b), (d) or (e), shall also be tested by an actual demonstration of driving

SENATE BILL 58

1 skills. The department may endorse an applicant's commercial driver license for
 2 transporting hazardous materials requiring placarding or any quantity of a material
 3 listed as a select agent or toxin under 42 CFR 73, subject to s. 343.125, or for the
 4 operation of tank vehicles or vehicles towing double or triple trailers, as described
 5 in s. 343.04 (2) (a), (c) or (f), based on successful completion of a knowledge test. In
 6 administering the knowledge test, the department shall attempt to accommodate
 7 any special needs of the applicant. Except as may be required by the department for
 8 an "H" or "S" endorsement, the knowledge test is not intended to be a test for literacy
 9 or English language proficiency. This paragraph does not prohibit the department
 10 from requiring an applicant to correctly read and understand highway signs.

11 **SECTION 2.** 343.16 (1) (b) (intro.) of the statutes is amended to read:

12 343.16 (1) (b) *Third-party testing.* (intro.) The department may contract with
 13 a person, including an agency or department of this state or its political subdivisions
 14 or another state, or a private employer of commercial motor vehicle drivers, to
 15 administer commercial motor vehicle skills tests required by 49 CFR 383.110 to
 16 383.135, examinations required to be administered under s. 343.12 (2) (h) and,
 17 abbreviated driving skills tests required by sub. (3) (b), or driving skills tests
 18 required by par. (a) for authorization to operate "Class D" vehicles, or any
 19 combination of these tests and examinations. The department may not enter into
 20 such testing contracts with a private driver training school or other private
 21 institution except a private employer of commercial motor vehicle drivers. A contract
 22 with a 3rd-party tester shall include all of the following provisions:

23 **SECTION 3.** 343.16 (1) (b) 2. of the statutes is amended to read:

24 343.16 (1) (b) 2. The department, ~~the federal highway administration~~ or its
 25 representative, or the federal highway administration with respect to testing for

insert
3-11

SENATE BILL 58**SECTION 3**

1 commercial driver licenses, may conduct random examinations, inspections, and
2 audits of the 3rd-party tester without any prior notice.

3 **SECTION 4.** ^X 343.16 (1) (b) 3. (intro.) of the statutes is amended to read:

4 343.16 **(1)** (b) 3. (intro.) At least annually, the department shall conduct an
5 on-site inspection of the 3rd-party tester to determine compliance with the contract
6 and with department and federal standards for testing applicants for commercial
7 driver licenses and with department standards for testing applicants for school bus
8 endorsements and applicants for operators' licenses to operate "Class D" vehicles.

9 At least annually, the department shall also evaluate testing given by the 3rd-party
10 tester by one of the following means:

11 **SECTION 5.** ^X 343.16 (1) (b) 4. of the statutes is amended to read:

12 343.16 **(1)** (b) 4. Examiners of the 3rd-party tester shall meet the same
13 qualifications and training standards as the department's license examiners to the
14 extent established by the department as necessary to satisfactorily perform the skills
15 tests required by 49 CFR 383.110 to 383.135, examinations required to be
16 administered under s. 343.12 (2) (h) and, abbreviated driving skills tests required by
17 sub. (3) (b), and driving skills tests required by par. (a) for authorization to operate
18 "Class D" vehicles.

19 **SECTION 6.** ^X 343.16 (1) (b) 5. of the statutes is amended to read:

20 343.16 **(1)** (b) 5. The department shall take prompt and appropriate remedial
21 action against the 3rd-party tester in the event that the tester fails to comply with
22 department or federal standards for commercial driver license testing, department
23 standards for school bus endorsement testing or testing for operators' licenses to

SENATE BILL 58

1 operate "Class D" vehicles, or any provision of the contract. Such action may include
2 immediate termination of testing by the 3rd-party tester and recovery of damages.

(END)

insert
5-2 →
3

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2137/1ins
ARG:.....

1

2

INSERT ANAL-A:

(no #) However, DOT may not contract for third-party testing with a private driver training school or another private institution. A contract between DOT and a third-party tester must include specified provisions.

3

INSERT ANAL-B:

(no #) The bill also removes the prohibition on DOT contracting for third-party testing with private driver training schools or other private institutions but requires each contract between DOT and a third-party tester to include a provision prohibiting the third-party tester from administering any test of a person who has received instruction in driver training from the third-party tester or from an affiliate of the third-party tester.

4

INSERT 3-11:

5

343.16 (1) (b) *Third-party testing.* (intro.) The department may contract with

6

a person, including an agency or department of this state or its political subdivisions

7

or another state, or a private employer of commercial motor vehicle drivers, to

8

administer commercial motor vehicle skills tests required by 49 CFR 383.110 to

9

383.135, examinations required to be administered under s. 343.12 (2) (h) and,

10

abbreviated driving skills tests required by sub. (3) (b). ~~The department may not~~

11

~~enter into such testing contracts with a private driver training school or other private~~

12

~~institution, or driving skills tests required by par. (a) for authorization to operate~~

13

“Class D” vehicles, or any combination of these tests and examinations. A contract

14


with a 3rd-party tester shall include all of the following provisions:

15

INSERT 5-2:

16

SECTION 1. 343.16 (1) (b) 6. of the statutes is created to read:

1 343.16 (1) (b) 6. The 3rd-party tester may not administer any test or
2 examination of a person who has received instruction in driver training from the
3 3rd-party tester or from any person who controls, is controlled by, or is under
4 common control with the 3rd-party tester. 

Barman, Mike

From: Smith-Loomans, Sandra
Sent: Friday, March 13, 2009 9:15 AM
To: LRB.Legal
Subject: Draft Review: LRB 09-2137/1 Topic: Allowing third-party testing for driving skills test for Class D operator's licenses

Please Jacket LRB 09-2137/1 for the ASSEMBLY.