



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 09/17/2009 (Per: ARG)





Appendix A

 The 2009 drafting file for LRBa0684/P1 (For: Rep. Sherman)

has been copied/added to the drafting file for

2009 LRBa0741 (For: Rep. Sherman)

 The attached 2009 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

 This cover sheet was added to rear of the original 2009 drafting file. The drafting file was then returned, intact, to its folder and filed.

2009 DRAFTING REQUEST

Assembly Amendment (AA-AB342)

Received: 09/14/2009

Received By: agary

Wanted: As time permits

Identical to LRB:

For: Gary Sherman (608) 266-7690

By/Representing: Joe Hoey

This file may be shown to any legislator: NO

Drafter: agary

May Contact:

Addl. Drafters:

Subject: **Transportation - highways**
 Transportation - motor vehicles

Extra Copies:

Submit via email: YES

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

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

Pre Topic:

No specific pre topic given

Topic:

Lightweight utility vehicles on national forest roads

Instructions:

Wants amendment that tracks language in Forest Service letter re designations, types of vehicles, etc.

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>
/P1	agary 09/15/2009	bkraft 09/15/2009	phenry 09/15/2009	_____	lparisi 09/15/2009		

FE Sent For:

<END>

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/P1	agary	/P1 bjk 9/15	ag 15 ph	9/15 ph			

FE Sent For:

<END>

Gary, Aaron

From: Gary, Aaron
Sent: Thursday, September 10, 2009 8:54 AM
To: Hoey, Joseph
Subject: RE: LUVs and Forest Service letter

Joe,

I discussed the problems with adding "national forest" to the definition when Judy called me to ask for the change on October 31, and I also noted them in the /2 drafter's note to AB-342 (LRB-0095). The state cannot tell the federal government how to use its land, and this applies in national forests just like military bases. I would be happy to make any changes you want regarding national forests in an amendment, but as I noted in my drafter's note, the changes likely will have no legal effect, as the Supremacy Clause of the U.S. Constitution will nullify any state law specifying a use for land under exclusively federal jurisdiction (including permissible vehicle operation under federal roads).

I also need to note that the US Forest Service seems to have a misapprehension about the scope of the bill. The operative provision of AB-342 is a provision that says neither the *state* nor a *local government* can *prohibit* the use of LUVs on forest roads or town roads under the specified circumstances. This does not apply to the US Forest Service (for the reasons above, it could not apply to the US Forest Service). Despite having added "national forest" as Judy directed, the bill really does not impact the US Forest Service or roads exclusively under their jurisdiction, since the bill does not prevent the US Forest Service from prohibiting or restricting LUV operation on forest service roads under its exclusive jurisdiction.

With regard to the suggested change below, wouldn't this basically be saying that LUVs can operate where federal law already allows them to operate? It seems like the provision wouldn't have any actual effect, and to try to make it have an effect would probably be null under the federal Supremacy Clause.

I'll call you today to discuss this more and to discuss the other amendment.

Aaron

9/14 Hc w/ Joe

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

• see AA instructions

From: Hoey, Joseph
Sent: Wednesday, September 09, 2009 4:14 PM
To: Gary, Aaron
Subject:

Aaron,

This is the letter that I left you the voicemail message about. Representative Sherman is not interested in taking out national forests from the bill, instead he would like to come up with some language acknowledging that an LUV had to meet US Forest Service designations if used on roads under exclusive US Forest Service jurisdiction.

I would also like to talk with you about another amendment that Representative Sherman would like to have drafted. Please call me when you have a minute.

Thanks,

Joe

Joseph P. Hoey
Office of Rep. Gary Sherman
74th Assembly District
(608) 266-7690 / (888) 534-0074



United States
Department of
Agriculture

Forest
Service

CHEQUAMEGON-NICOLET NATIONAL FOREST
Park Falls Supervisor's Office
1170 4TH Avenue South
Park Falls, WI 54552
715-762-2461
715-762-5179 (Fax)
TTY: 711 (National Relay System)

Rhineland Supervisor's Office
68 S. Stevens St.
Rhineland, WI 54501
715-362-1300
715-362-1359 (Fax)
Internet: www.fs.fed.us/r9/cnnf

File Code: 7700

Date: September 1, 2009

Representative Gary Sherman
Room 304 East
State Capitol
P O Box 8953
Madison, WI 53708

Representative Ann Hraychuck
Room 6 North
State Capitol
P O Box 8952
Madison, WI 53708

RECEIVED
SEP 04 2009

BY:.....

Dear Representatives Sherman and Hraychuck,

This letter is in regard to 2009 Assembly Bill 342 that was introduced on July 8, 2009. AB-342 relates to the operation of lightweight utility vehicles on certain highways by persons with disabilities to access hunting and fishing areas. I would like to specifically comment on the definition of "Forest road" in Section 1.

The definition of "Forest road" in Section 1 is written as "a public road within a county forest, state forest, or national forest that is open and used for travel and that is not a state trunk highway or county trunk highway or a town road." AB-342 as written with this definition would dictate the type of vehicles allowed on roads within the Chequamegon-Nicolet National Forest (CNNF) and could be in opposition to vehicle designations we as a national forest have already determined. The roads accessing the CNNF are under multiple jurisdictions including the State, the counties, the towns, as well as the U.S. Forest Service. Many of the roads on the CNNF that access hunting and fishing areas are under U.S. Forest Service jurisdiction only.

In 2005 the U.S. Forest Service published the Travel Management Rule (36 CFR Parts 212, 251, 261, and 295). This rule revised the regulations regarding travel management on all National Forest System lands to clarify policy related to motor vehicle use, including the use of off-highway vehicles. The rule requires the designation of those roads, trails, and areas that are open to motor vehicle use. Designations are made by class of vehicle and, if appropriate, by time of year. These designations apply only to roads under U.S. Forest Service jurisdiction. Designations are published on a motor vehicle use map (MVUM), which is to be updated annually. Our first MVUM was published in January 2009. The expected date for our next revision is March 2010.

I respectfully request that "national forest" be removed from the definition of "Forest road" in Section 1 of AB-342. We are also willing to work with the State to reach a solution.

CONSISTENT W/ FEDERAL
DESIGNATIONS



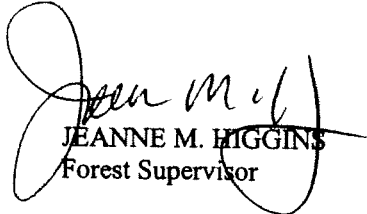
Caring for the Land and Serving People

Printed on Recycled Paper



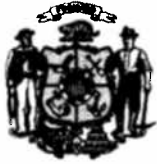
If you have any questions please contact Joan Marburger, Travel Management
Coordinator, at 715-762-7178 or jmarburger@fs.fed.us

Sincerely,



JEANNE M. HIGGINS
Forest Supervisor

cc: Senator Holperin



State of Wisconsin
2009 - 2010 LEGISLATURE

5000

in
9/15

LRBa0684/P1
ARG:.....

bjk

→ D-Note

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY AMENDMENT ,
TO 2009 ASSEMBLY BILL 342**

bh

- 1 At the locations indicated, amend the bill as follows:
- 2 **1.** Page 2, line 13: after "(11m)," insert "and subject to sub. (4)."
- 3 **2.** Page 3, line 14: after that line insert:
- 4 "(4) In addition to the requirements under sub. (2) (a) to (d), operation of a
- 5 lightweight utility vehicle on a forest road under the exclusive jurisdiction of the U.S.
- 6 forest service is subject to all applicable requirements and restrictions under 36 CFR
- 7 212, 251, 261, and 295."

8 (END)

D-note

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

LRBa0684/P1dn
ARG:.....

Date

Lbjk

ATTN: Joe Hoey

Please review the attached draft carefully to ensure that it is consistent with your intent. As discussed, I don't believe this amendment is actually necessary to protect the U.S. Forest Service's interests.

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**

LRBa0684/P1dn
ARG:bjk:ph

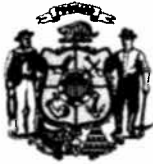
September 15, 2009

ATTN: Joe Hoey

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



State of Wisconsin
2009 - 2010 LEGISLATURE

LRBa0684/P1
ARG:bjk:ph

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