

2011 DRAFTING REQUEST

Bill

Received: 01/06/2012

Received By: agary

Wanted: As time permits

Companion to LRB: -0063

For: Mary Lazich (608) 266-5400

By/Representing: Tricia Sieg

May Contact:

Drafter: agary

Subject: Transportation - traffic laws

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Sen.Lazich@legis.wisconsin.gov

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

Pre Topic:

No specific pre topic given

Topic:

Revise list of hazardous materials that require stop at railroad crossings

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 01/10/2012	jdye 01/10/2012		_____			
/P1			rschluet 01/10/2012	_____	ggodwin 01/10/2012		
/1	agary 02/27/2012	jdye 02/27/2012	phenry 02/27/2012	_____	ggodwin 02/27/2012	ggodwin 02/27/2012	

FE Sent For:

None

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PA's: Please
jacket 1/1.

Thx. Aaron

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1?	agary	PC 1/10 jld		_____	_____		

FE Sent For:

<END>

Gary, Aaron

From: Gary, Aaron
Sent: Monday, January 09, 2012 9:37 AM
To: Krieser, Steven - DOT; Fiocchi, Tim
Cc: Punches, Derek; Sieg, Tricia
Subject: RE: Drafting request for some transportation Senate companion bills

I am drafting the senate companion for LRB-0063. This draft has been complicated by the intervening rules overhaul this session in Acts 21 and 32. I don't believe that this draft continues to work, because of the new procedure and timing of the rules process. One option is for me to "notwithstanding" (that is, override) the newly-created delays in the rule-making process for emergency rules. As the draft now stands, I believe there may be a timing gap between the time that the statutory requirements vanish and the replacement requirements created by rule go into effect. I encourage DOT to take another look at this one.

After you have reviewed, please let me know how to proceed on this one.

Thanks. Aaron

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

1/9 H/C w/ Tim Fiocchi →
 - make the rulemaking process work

From: Krieser, Steven - DOT [mailto:Steven.Krieser@dot.wi.gov]
Sent: Thursday, January 05, 2012 3:38 PM
To: Fiocchi, Tim
Cc: Punches, Derek; Mueller, Eric; Sieg, Tricia; Gary, Aaron
Subject: Re: Drafting request for some transportation Senate companion bills

Ok to release the drafts as Tim requests. Sorry for the delay.

From: Fiocchi, Tim [mailto:Tim.Fiocchi@legis.wisconsin.gov]
Sent: Thursday, January 05, 2012 03:16 PM
To: Krieser, Steven - DOT
Cc: Punches, Derek - LEGIS; Mueller, Eric - LEGIS; Sieg, Tricia - LEGIS; Gary, Aaron - LEGIS
Subject: RE: Drafting request for some transportation Senate companion bills

Second try – Steve, can you give Aaron and Eric the okay to give us these drafts.

Thanks

From: Fiocchi, Tim
Sent: Thursday, January 05, 2012 8:41 AM
To: Gary, Aaron
Cc: Punches, Derek; Mueller, Eric; Sieg, Tricia
Subject: RE: Drafting request for some transportation Senate companion bills

Hi Steve,

Can you give Aaron the go ahead on these – it's been so long I forgot about this.

Thanks,

Tim

From: Gary, Aaron
Sent: Wednesday, January 04, 2012 6:59 PM
To: Sieg, Tricia
Cc: Fiocchi, Tim; PUNCHES, Derek; Mueller, Eric
Subject: RE: Drafting request for some transportation Senate companion bills

Hi Tricia, Tim, and Derek,

At this time we will prepare companion drafts for LRB-2402 to -2404. Unfortunately the rest of the drafts are not introduced and Rep. Petrowski is not identified as the requester on those drafts. While I imagine arrangements have already been made, because of our strict confidentiality protocol, we will need an official green light from the requester on those other drafts before we can proceed with them for Rep. Petrowski or Sen. Lazich. (If you have already passed along the permission from the original requester on those other drafts, I apologize, but I cannot recall receiving it or find any note of it.) Thanks. Aaron

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

From: Sieg, Tricia
Sent: Wednesday, January 04, 2012 12:09 PM
To: Gary, Aaron
Cc: Fiocchi, Tim; PUNCHES, Derek
Subject: Drafting request for some transportation Senate companion bills

Aaron,

Good afternoon! Hope you had a great holiday and got to take some time off.

I am wondering if we could get some Senate companion bills drafted to some bills Rep. Petrowski has had drafted. The bills that we would like Senate companion bills too are:

LRB 0041
LRB 0042
LRB 0055/3
LRB 0063
LRB 0594
LRB 2402
LRB 2403
LRB 2404

Let me know if this is a problem. As always thank you for your help

Tricia



State of Wisconsin
2011 - 2012 LEGISLATURE

TODAY
if possible



LRB-000001-3743/P1

ARG:jld:jf

1/10 keep

RMNR

2011 BILL

LX

Regen

1 AN ACT *to repeal* 346.45 (1) (c) 1. to 10.; *to renumber and amend* 346.45 (1)
2 (c) (intro.); and *to amend* 346.45 (4) of the statutes; **relating to:** vehicles
3 required to stop at railroad crossings, providing an exemption from emergency
4 rule procedures, and requiring the exercise of rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Transportation (DOT) must adopt rules, consistent with federal regulations, for the marking and placarding of vehicles being used to transport hazardous materials.

Also under current law, the operator of certain vehicles, before crossing an at-grade railroad crossing, must stop the vehicle within 50 feet but not less than 15 feet from the nearest rail. Among the vehicles required to stop are motor vehicles that, in accordance with DOT rules, must be marked or placarded with one of ten specified hazardous materials markings.

This bill eliminates the statutory enumeration of ten specific hazardous materials markings that require a marked or placarded vehicle to stop at an at-grade railroad crossing. Instead, the bill requires DOT to promulgate rules identifying classifications of markings or placarding that, consistent with federal

BILL

regulations, require a marked or placarded vehicle to stop at an at-grade railroad crossing.

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

1 **SECTION 1.** 346.45 (1) (c) (intro.) of the statutes is renumbered 346.45 (1) (c) and
2 amended to read:

3 346.45 **(1)** (c) Every motor vehicle which, in accordance with sub. (4), is
4 required to be marked or placarded with ~~one of the following markings:~~ a
5 classification of marking or placarding that requires the vehicle to stop.

6 **SECTION 2.** 346.45 (1) (c) 1. to 10. of the statutes are repealed.

7 **SECTION 3.** 346.45 (4) of the statutes is amended to read:

8 346.45 **(4)** The department shall adopt rules for the marking and placarding
9 of vehicles being used to transport hazardous materials which are potentially
10 dangerous to life and property, which rules shall be in accordance with the
11 regulations of the U.S. department of transportation. These rules shall identify
12 classifications of markings or placarding that, consistent with federal regulations,
13 when required on a vehicle also require the vehicle to stop as provided in sub. (1) (c).

14 **SECTION 4. Nonstatutory provisions.**

15 (1) The department of transportation shall submit in proposed form the rules
16 required under section 346.45 (4) of the statutes to the legislative council staff under
17 section 227.15 (1) of the statutes no later than the first day of the 4th month
18 beginning after the effective date of this subsection.

19 (2) ~~Using the emergency rules procedure under section 227.24 of the statutes,~~
20 ~~the department of transportation shall promulgate the rules required under section~~
21 ~~346.45 (4) of the statutes, for the period before the effective date of the rules~~

BILL *2*

1 submitted under subsection (1), but not to exceed the period authorized under section
 2 227.24 (1) (c) of the statutes, subject to extension under section 227.24 (2) of the
 3 statutes. The department shall promulgate these emergency rules no later than the
 4 first day of the 4th month beginning after the effective date of this subsection.
 5 Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department
 6 is not required to provide evidence that promulgating a rule under this subsection
 7 as an emergency rule is necessary for the preservation of the public peace, health,
 8 safety, or welfare and is not required to provide a finding of emergency for a rule
 9 promulgated under this subsection.

SECTION 5. Initial applicability.

(1) This act first applies to violations committed on the effective date of this subsection.

SECTION 6. Effective dates. This act takes effect on the first day of the 4th month beginning after publication, except as follows:

(1) SECTION 4 [✓](1) and (2) of this act takes effect on the day after publication.

(END)

D-note
↓

15

16

2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3743/P1ins
ARG:.....

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INSERT 2-15:

(no #) PROPOSED PERMANENT RULES.

NO
#

INSERT 2-18:

(2) EXCEPTION TO ECONOMIC IMPACT REPORT FOR RULES. Notwithstanding section 227.137 (2) of the statutes, the department of transportation is not required to prepare an economic impact analysis for the rules required under section 346.45 (4) of the statutes.

(3) EMERGENCY RULES. Using the procedure under section 227.24 of the statutes, the department of transportation shall promulgate the rules required under section 346.45 (4) of the statutes, for the period before the effective date of the permanent rules promulgated under section 346.45 (4) of the statutes, but not to exceed the period authorized under section 227.24 (1) (c) of the statutes, subject to extension under section 227.24 (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of an emergency for a rule promulgated under this subsection. Notwithstanding section 227.24 (1) (e) 1d. and 1g. of the statutes, the department is not required to obtain approval of a statement of scope as provided in section 227.135 (2) or (4) of the statutes, or submit the proposed emergency rule in final draft form to the governor for approval and obtain such approval, for a rule promulgated under this subsection.

(end ins 2-18)

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

LRB-3743/P1dn

ARG: A:...

date

JLd

ATTN: Tricia Sieg

* Please review the attached draft carefully to ensure that it is consistent with your intent. This is a redraft of LRB-0063, with changes made to the emergency rule procedure. ↗ 2011

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.state.wi.us

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

LRB-3743/P1dn
ARG:jld:rs

January 10, 2012

ATTN: Tricia Sieg

Please review the attached draft carefully to ensure that it is consistent with your intent. This is a redraft of 2011 LRB-0063, with changes made to the emergency rule procedure.

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.

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Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

Gary, Aaron

From: Sieg, Tricia
Sent: Monday, February 27, 2012 10:07 AM
To: Gary, Aaron
Subject: Happy Monday Morning

Aaron,

I think (fingers crossed knocking on wood) that this is the last transportation bill we will be asking you to draft this session!!! Can I get the senate companion to AB 611 drafted. Just send over the jacket when its ready.

Thank you very much

Tricia



TODAY



in 2/27 LRB-3743/11
ARG:jld:rs

2011 BILL

EMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

No changes -
same as AB611

X

Regen

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10 dangerous to life and property, which rules shall be in accordance with the
11 regulations of the U.S. department of transportation. These rules shall identify
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13 when required on a vehicle also require the vehicle to stop as provided in sub. (1) (c).

14 **SECTION 4. Nonstatutory provisions.**

15 (1) PROPOSED PERMANENT RULES. The department of transportation shall submit
16 in proposed form the rules required under section 346.45 (4) of the statutes to the
17 legislative council staff under section 227.15 (1) of the statutes no later than the first
18 day of the 4th month beginning after the effective date of this subsection.

19 (2) EXCEPTION TO ECONOMIC IMPACT REPORT FOR RULES. Notwithstanding section
20 227.137 (2) of the statutes, the department of transportation is not required to

1 prepare an economic impact analysis for the rules required under section 346.45 (4)
2 of the statutes.

3 (3) **EMERGENCY RULES.** Using the procedure under section 227.24 of the statutes,
4 the department of transportation shall promulgate the rules required under section
5 346.45 (4) of the statutes, for the period before the effective date of the permanent
6 rules promulgated under section 346.45 (4) of the statutes, but not to exceed the
7 period authorized under section 227.24 (1) (c) of the statutes, subject to extension
8 under section 227.24 (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2)
9 (b), and (3) of the statutes, the department is not required to provide evidence that
10 promulgating a rule under this subsection as an emergency rule is necessary for the
11 preservation of public peace, health, safety, or welfare and is not required to provide
12 a finding of an emergency for a rule promulgated under this subsection.
13 Notwithstanding section 227.24 (1) (e) 1d. and 1g. of the statutes, the department is
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16 to the governor for approval and obtain such approval, for a rule promulgated under
17 this subsection.

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21 **SECTION 6. Effective dates.** This act takes effect on the first day of the 4th
22 month beginning after publication, except as follows:

23 (1) SECTION 4 of this act takes effect on the day after publication.

24 (END)