

## 2011 DRAFTING REQUEST

### Bill

Received: **01/10/2012**

Received By: **emueller**

Wanted: **As time permits**

Companion to LRB: **-3915**

For: **Mary Lazich (608) 266-5400**

By/Representing: **Tricia Sieg**

May Contact:

Drafter: **emueller**

Subject: **Transportation - other  
Transportation - driver licenses**

Addl. Drafters: **agary**

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to:

---

### Pre Topic:

No specific pre topic given

---

### Topic:

Combine bills related to serious traffic offenses and disqualification from operating a commercial motor vehicle.

---

### Instructions:

Combine 11-0587 and 11-0594.

---

### 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>
/?	emueller 01/10/2012 agary 01/10/2012	csicilia 01/12/2012		_____			
/1			jfrantze 01/12/2012	_____	mbarman 01/12/2012		
/2	emueller	csicilia	jmurphy	_____	mbarman	ggodwin	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	01/20/2012	01/23/2012	01/23/2012	_____	01/23/2012	02/01/2012	

FE Sent For:

<END>

None  
~~2/3~~

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**Instructions:**

Combine 11-0587 and 11-0594.

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/1			jfrantze 01/12/2012	_____	mbarman 01/12/2012		
/2	emueller	csicilia	jmurphy	_____	mbarman		

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	01/20/2012	01/23/2012	01/23/2012	_____	01/23/2012		

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/?	emueller 01/10/2012 agary 01/10/2012	csicilia 01/12/2012		_____			
/1	emueller		jfrantze 01/12/2012	_____	mbarman 01/12/2012		

12 EUM  
1/20/12 1/23/12 Jm Rst+dm  
1/23/12 1/23/12

FE Sent For:

**<END>**

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Wanted: **As time permits**

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May Contact:

Drafter: **emueller**

Subject: **Transportation - other  
Transportation - driver licenses  
Transportation - traffic laws**

Addl. Drafters: **agary**

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to:

**Pre Topic:**

No specific pre topic given

**Topic:**

Combine several bills related to serious traffic offenses and disqualification from operating a commercial motor vehicle.

**Instructions:**

Combine 11-0587, 11-0594, and 11-0254.

**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>
/?	emueller 01/10/2012	csicilia 01/12/2012		_____			
	agary 01/10/2012			_____			
/1			jfrantze 01/12/2012	_____	mbarman 01/12/2012		

FE Sent For:

<END>



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1/2	emueller	1 js 1/12	js 1/12	js 1/12	js 1/12		

FE Sent For:

<END>



State of Wisconsin  
2011 - 2012 LEGISLATURE

in 1/10



LRB-0254/PI 3779/1

EVM:cjs:md

EVM&ARG:cjs:...

wanted 1/12

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

INSERTS

regen

1 AN ACT *to amend* 346.02 (10) and 346.02 (11); and *to create* 343.245 (3) (d),  
2 343.245 (4) (d), 343.315 (2) (f) 9., 346.89 (4) and 346.95 (12) of the statutes;  
3 **relating to:** prohibiting texting while driving a commercial motor vehicle and  
4 providing a penalty.

INS 1-3

INS ANAL-AG-A

INS ANAL-AG-B

**Analysis by the Legislative Reference Bureau**

Under current law, generally, no person may drive a motor vehicle while composing or sending an electronic text message. Persons who violate this prohibition may be required to forfeit not less than \$20 nor more than \$400.

Also under current law, a person licensed to drive a commercial motor vehicle (CMV) may be disqualified from operating a CMV upon being convicted of certain major traffic-related offenses or violations of other requirements related to operating a CMV. Among the offenses that may result in disqualification are several major traffic-related offenses that are classified as "serious traffic offenses." A person who is convicted of committing two serious traffic offenses within a three-year period is disqualified from operating a CMV for 60 days and a person who is convicted of committing three serious traffic offenses within a three-year period is disqualified from operating a CMV for 120 days.

This bill specifically prohibits texting while driving a CMV. "Texting" is defined as "manually entering alphanumeric text into or reading text from an electronic device." The definition, however, specifically excludes 1) selecting or entering a telephone number, extension number, or voice mail retrieval code for the purpose of initiating or receiving a phone call or retrieving a voice mail or 2) reading information

COMMA

or inputting information into a global positioning system or navigation system device. "Driving" is defined as "the exercise of physical control over a [CMV] while the vehicle's motor is running, except when the vehicle is stopped to the side of or off a highway in a location where the vehicle can safely remain stationary." Any person who violates this prohibition may be required to forfeit not more than \$2,750. In addition, a violation of this prohibition is classified as a "serious traffic offense" for purposes of potential disqualification from operating a CMV.

Violation

Also under this bill, no employer that is a motor carrier may permit an employee to drive a commercial motor vehicle while texting. Any employer who violates this prohibition may be required to forfeit not more than \$11,000.

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

1 SECTION 1. 343.245 (3) (d) of the statutes is created to read:

2 343.245 (3) (d) No employer that is a motor carrier may allow or require an  
3 employee to violate s. 346.89 (4).

4 SECTION 2. 343.245 (4) (d) of the statutes is created to read:

5 343.245 (4) (d) Any person who violates sub. (3) (d) shall forfeit not more than  
6 \$11,000.

7 SECTION 3. 343.315 (2) (f) 9. of the statutes is created to read:

8 343.315 (2) (f) 9. Violating s. 346.89 (4) or a local ordinance in conformity  
9 therewith or a law of a federally recognized American Indian tribe or band in this  
10 state in conformity with s. 346.89 (4) or the law of another jurisdiction prohibiting  
11 driving a commercial motor vehicle while texting, as those or substantially similar  
12 terms are used in that jurisdiction's law.

13 SECTION 4. 346.02 (10) of the statutes is amended to read:

14 346.02 (10) APPLICABILITY TO SNOWMOBILES. The operator of a snowmobile upon  
15 a roadway shall in addition to the provisions of ch. 350 be subject to ss. 346.04,  
16 346.06, 346.11, 346.14 (1), 346.18, 346.19, 346.20, 346.21, 346.215 (3), 346.26,  
17 346.27, 346.33, 346.35, 346.37, 346.39, 346.40, 346.44, 346.46, 346.47, 346.48, 346.50

INS  
2-4  
MS  
2-6 AG  
INS  
2-7

✓  
✓  
✓  
✓

1 (1) (b), 346.51, 346.52, 346.53, 346.54, 346.55, 346.87, 346.88, 346.89 (1) to (3),  
2 346.90, 346.91, 346.92 (1) and 346.94 (1) and (9).

3 **SECTION 5.** 346.02 (11) of the statutes is amended to read: ✓

4 346.02 **(11)** APPLICABILITY TO ALL-TERRAIN VEHICLES. The operator of an  
5 all-terrain vehicle on a roadway is subject to ss. 346.04, 346.06, 346.11, 346.14 (1),  
6 346.18, 346.19, 346.20, 346.21, 346.215 (3), 346.26, 346.27, 346.33, 346.35, 346.37,  
7 346.39, 346.40, 346.44, 346.46, 346.47, 346.48, 346.50 (1) (b), 346.51, 346.52, 346.53,  
8 346.54, 346.55, 346.71, 346.87, 346.88, 346.89 (1) to (3), 346.90, 346.91, 346.92 (1)  
9 and 346.94 (1) and (9) but is not subject to any other provision of this chapter.

10 **SECTION 6.** 346.89 (4) of the statutes is created to read: ✓

11 346.89 **(4)** (a) In this subsection:

12 1. "Drive" means the exercise of physical control over a commercial motor  
13 vehicle while the vehicle's motor is running, except when the vehicle is stopped to the  
14 side of or off a highway in a location where the vehicle can safely remain stationary.

15 2. "Electronic device" means a cellular telephone, personal digital assistant,  
16 pager, computer, or any other device used to input, write, send, receive, or read text.

17 3. "Texting" means manually entering alphanumeric text into or reading text  
18 from an electronic device, except that the term does not include any of the following:

19 a. Reading or selecting a telephone number, extension number, or voice mail  
20 retrieval code or command on, or entering a telephone number, extension number,  
21 or voice mail retrieval code or command into, an electronic device for the purpose of  
22 initiating or receiving a phone call or retrieving a voice mail.

23 b. Reading or selecting information on or inputting information into a global  
24 positioning system or navigation system device.

1 (b) No person may drive a commercial motor vehicle while texting, except when  
2 necessary for communication with law enforcement officers or other emergency  
3 services personnel.

4 **SECTION 7.** 346.95 (12) of the statutes is created to read: ✓

5 346.95 (12) Any person violating s. 346.89 (4) (b) may be required to forfeit not  
6 more than \$2,750.

7 (END)

7  
MSR+  
4-6  
AB

2011-2012 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3779?ins  
EVM:.....

INS 2-4



**SECTION 1.** 343.245 (4) (a) of the statutes is amended to read:

343.245 (4) (a) Except as provided in pars. (b) ~~and~~ (c), and (d), any person who violates sub. (2) or (3) shall forfeit not more than \$2,500.

**History:** 1989 a. 105; 1991 a. 39; 1993 a. 16; 1995 a. 113; 2001 a. 16, 109; 2003 a. 33; 2009 a. 28, 326.



**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

*INSERTS*

1 **AN ACT to amend** 343.315 (2) (f) (intro.) of the statutes; **relating to:**  
 2 disqualification of commercial motor vehicle operators (suggested as remedial  
 3 legislation by the Department of Transportation).

***Analysis by the Legislative Reference Bureau***

Under current law, the Department of Transportation (DOT) issues commercial driver licenses (CDLs) authorizing the licensee to operate commercial motor vehicles (CMVs). CMVs are generally defined as motor vehicles that are designed or used to transport property or passengers and weigh more than 26,000 pounds, that transport 15 or more passengers plus the driver, or that transport hazardous materials. A person is disqualified from operating a CMV for a 60-day period upon a second conviction, or for a 120-day period upon a third conviction, of a serious traffic violation within a three-year period if the violation is committed while the person is operating a CMV or if the person holds a CDL and commits the violation while operating a non-CMV vehicle. A "serious traffic violation" is defined to include various offenses committed: 1) while operating a CMV; or 2) while operating a non-CMV vehicle if the person has ever held a CDL, has ever operated a CMV on a highway, or has ever been convicted of a violation related to, or been disqualified from, operating a CMV.

Under this bill, the definition of "serious traffic violation" identified in item 2), above, applies only if the offense results in the revocation, cancellation, or suspension of the person's operating privilege.

*45 ANAL  
AG-A*

*125*

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Transportation and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

**SECTION 1.** 343.315 (2) (f) (intro.) of the statutes is amended to read:

343.315 (2) (f) (intro.) A person is disqualified for a period of 60 days from operating a commercial motor vehicle if convicted of 2 serious traffic violations, and 120 days if convicted of 3 serious traffic violations, arising from separate occurrences committed within a 3-year period while driving or operating a commercial motor vehicle or while driving or operating any motor vehicle if the person holds a commercial driver license. The 120-day period of disqualification under this paragraph shall be in addition to any other period of disqualification imposed under this paragraph. In this paragraph, "serious traffic violations" means any of the following offenses committed while engaged in commercial motor vehicle-related activities specified in sub. (1g) (a), or any of the following offenses committed while engaged in commercial motor vehicle-related activities specified in sub. (1g) (b) if the offense results in the revocation, cancellation, or suspension of the person's operating privilege:

**SECTION 2. Initial applicability.**

(1) This act first applies to ~~disqualifications~~ <sup>violations</sup> occurring on the effective date of this subsection.

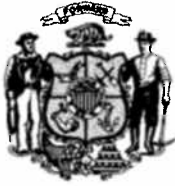
(END)

Insert  
2-6  
AG 7

Insert  
4-6  
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State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-0594/1  
EVM:kpe&kjf:rs

~~2011 BILL~~

INSERT

INS  
1-3

1 AN ACT *to amend* 343.315 (2) (f) 4. of the statutes; **relating to:** disqualification  
2 of commercial motor vehicle operators ~~for certain improper passing violations~~  
3 (suggested as remedial legislation by the Department of Transportation).

**Analysis by the Legislative Reference Bureau**

~~Under current law, a person licensed to drive a commercial motor vehicle (CMV) may be disqualified from operating a CMV upon being convicted of certain traffic-related offenses that are classified as "serious traffic violations." A person who is convicted of committing two serious traffic violations within a three-year period is disqualified from operating a CMV for 60 days and a person who is convicted of committing three serious traffic violations within a three-year period is disqualified from operating a CMV for 120 days. Current law classifies several traffic offenses relating to improper lane change or passing as serious traffic violations.~~

~~Also~~ under current law, if an authorized emergency vehicle, tow truck, or road maintenance vehicle is stopped on or within 12 feet of the paved portion of a highway and is giving a proper visual signal, an approaching motorist must move his or her vehicle into a lane not nearest the stopped vehicle and travel in that lane until he or she passes the stopped vehicle. If the roadway has only one lane for traffic traveling in the same direction as the approaching motorist or if the motorist cannot change lanes safely or without interfering with other traffic, the motorist must slow his or her vehicle until he or she has passed the stopped vehicle. This statute is commonly referred to as the "Move Over Law."

INS  
ANAL-  
AC-B



**BILL**

*INS* *AMAL* *MSB*

This bill classifies a violation of the "Move Over Law" as a serious traffic violation for purposes of disqualification from operating a CMV.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Transportation and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

**SECTION 1.** 343.315 (2) (f) 4. of the statutes is amended to read:

343.315 (2) (f) 4. Violating s. 346.07 (2), 346.072 (1), 346.08, 346.09, 346.10, 346.13, 346.24 (3), or 346.34 (1) (a) 3. or a local ordinance in conformity therewith or a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.07 (2), 346.072 (1), 346.08, 346.09, 346.10, 346.13, 346.24 (3), or 346.34 (1) (a) 3.; or the law of another jurisdiction prohibiting improper or erratic lane changes or improper passing, or otherwise prohibiting the conduct described in sections 11-304 to 306 and 11-309 of the uniform vehicle code and model traffic ordinance (1987), as those or substantially similar terms are used in that jurisdiction's law.

(END)

11

*INS*  
*2-7*

## Mueller, Eric

---

**From:** Gary, Aaron  
**Sent:** Friday, January 20, 2012 8:06 AM  
**To:** Mueller, Eric  
**Subject:** FW: Combine several bills related to serious traffic offenses and disqualification from operating a commercial motor vehicle.

**Attachments:** 11-37791.pdf



11-37791.pdf (36  
KB)

Eric,

I haven't looked at this yet, but I think it's for both of us. Aaron

-----Original Message-----

**From:** Sieg, Tricia  
**Sent:** Thursday, January 19, 2012 5:22 PM  
**To:** Gary, Aaron  
**Subject:** FW: Combine several bills related to serious traffic offenses and disqualification from operating a commercial motor vehicle.

-----Original Message-----

**From:** Krieser, Steven - DOT [mailto:Steven.Krieser@dot.wi.gov]  
**Sent:** Thursday, January 19, 2012 5:14 PM  
**To:** Fiocchi, Tim; Sieg, Tricia  
**Cc:** Yahn, Nate - DOA  
**Subject:** FW: Combine several bills related to serious traffic offenses and disqualification from operating a commercial motor vehicle.

Hi guys,

Please see below. The feds created a new ban on most cell phone use while operating a CMV, which became effective on January 3. No point in crafting a texting-specific ban when we're eventually going to have to do a bil on the cell phone use. Please just remove the texting (and GPS!) language for now. We'll reapproach it next biennium.

Thanks!

Steve Krieser  
Executive Assistant  
Wisconsin Department of Transportation  
Phone: 608-266-1114

---

**From:** Harkins, Vicki - DOT  
**Sent:** Thursday, January 19, 2012 3:50 PM  
**To:** Krieser, Steven - DOT  
**Cc:** Judd, Lynne - DOT; Fernan, Patrick - DOT; Brown-Martin, Donna - DOT; Boardman, Kristina - DOT; McGinn, Reed - DOT  
**Subject:** FW: Combine several bills related to serious traffic offenses and disqualification from operating a commercial motor vehicle.

Hi Steve,

This is the legislation that you and I spoke of yesterday. DMV management has reviewed the draft and we are okay with the first two parts of the legislation as written. We would

like the third piece, which covers texting while operating with a CDL, to be pulled from this legislation due to the recent federal rule regarding the banning of cell phones while operating with a CDL. We've consulted with Dave Pabst and Sandra Huxtable of DSP and they concur that the texting language should be pulled until we can combine the two rules into one piece of legislation.

I've included a chart below which breaks down the three parts of this draft for quick reference. Let me know if there's anything else you need.

Thank you,  
Vicki

Vicki Harkins, Legislative Liaison  
Drivers-Division of Motor Vehicles  
WI Department of Transportation  
vicki.harkins@dot.wi.gov  
608-266-1449

0587/1

Disqualification required only when violation results in suspension or revocation of operating privilege. Keep as written.

Federal regulations require DOT to disqualify a CDL holder's driving privilege for a serious traffic offense only if the offense resulted in the revocation or suspension of the operator's license. Due to a drafting error in state law, DOT is required to disqualify for any serious traffic offense. This bill harmonizes state law with the federal law.

0594/1

Amend language for disqualifications for serious traffic offenses. Keep as written.

Add a violation of s.346.072 (The Move Over Law) to those statutes for which DOT can disqualify a commercial driver's license. This is in line with federal motor carrier safety regulations.

0254/1

Make texting while driving a disqualifying offense for commercial vehicle drivers. Pull this one out.

Effective October 27, 2010, the Federal Motor Carrier Safety Administration passed a rule that prohibits texting by commercial motor vehicle operators while operating in interstate commerce. Drivers who fail to comply can be disqualified from operating a commercial motor vehicle. Amend statutes to include texting while driving as a disqualifying CDL offense.

From: Judd, Lynne - DOT  
Sent: Tuesday, January 17, 2012 12:14 PM  
To: Harkins, Vicki - DOT; Lebowhl, Alison S - DOT; Miller, James - DOT  
Cc: Fernan, Patrick - DOT; Brown-Martin, Donna - DOT; Boardman, Kristina - DOT  
Subject: FW: Combine several bills related to serious traffic offenses and disqualification from operating a commercial motor vehicle.

Vicki—would you please take the lead, involve anyone who needs to be or should be involved, and assess whether the attached draft is OK? I've asked Steve for clarification on timing; for now, I think we have to assume it's a rush.

Thanks.

Lynne Judd  
608-266-7079

From: Krieser, Steven - DOT  
Sent: Tuesday, January 17, 2012 12:08 PM  
To: Judd, Lynne - DOT  
Subject: FW: Combine several bills related to serious traffic offenses and disqualification from operating a commercial motor vehicle.

Hi Lynne,

Can the appropriate DMV person(s) review and give me the thumbs up / thumbs down? Thanks!

Steve Krieser  
Executive Assistant  
Wisconsin Department of Transportation  
Phone: 608-266-1114

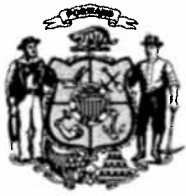
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From: Sieg, Tricia [Tricia.Sieg@legis.wisconsin.gov]  
Sent: Monday, January 16, 2012 12:16 PM  
To: Krieser, Steven - DOT; Fiocchi, Tim - LEGIS  
Subject: Combine several bills related to serious traffic offenses and disqualification from operating a commercial motor vehicle.  
Dear Steve and Tim,

So I am having brain fart. I don't think I sent this to you both to look at but I may have. Last week was one of those weeks.

Let me know if this bill looks okay to you both.

Tricia



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-37791

EVM&ARG:cjs:jf

Stays

12  
RMR

2011 BILL

In 1/20/12

SAV

5001

repeal

1 AN ACT **to amend** 343.245 (4) (a), 343.315 (2) (f) (intro.), 343.315 (2) (f) 4., 346.02  
 2 (10) and 346.02 (11); and **to create** 343.245 (3) (d), 343.245 (4) (d), 343.315 (2)  
 3 (f) 9., 346.89 (4) and 346.95 (12) of the statutes, **relating to:** disqualification  
 4 of commercial motor vehicle operators **prohibiting texting while driving a**  
 5 **commercial motor vehicle, and providing a penalty**

**Analysis by the Legislative Reference Bureau**

Under current law, the Department of Transportation (DOT) issues commercial driver licenses (CDLs) authorizing the licensee to operate commercial motor vehicles (CMVs). CMVs are generally defined as motor vehicles that are designed or used to transport property or passengers and weigh more than 26,000 pounds, that transport 15 or more passengers plus the driver, or that transport hazardous materials. A person is disqualified from operating a CMV for a 60-day period upon a second conviction, or for a 120-day period upon a third conviction, of a serious traffic violation within a three-year period if the violation is committed while the person is operating a CMV or if the person holds a CDL and commits the violation while operating a non-CMV vehicle. A "serious traffic violation" is defined to include various offenses committed: 1) while operating a CMV; or 2) while operating a non-CMV vehicle if the person has ever held a CDL, has ever operated a CMV on a highway, or has ever been convicted of a violation related to, or been disqualified from, operating a CMV.

**BILL**

Under this bill, the definition of "serious traffic violation" identified in item 2), above, applies only if the offense results in the revocation, cancellation, or suspension of the person's operating privilege.

Under current law, if an authorized emergency vehicle, tow truck, or road maintenance vehicle is stopped on or within 12 feet of the paved portion of a highway and is giving a proper visual signal, an approaching motorist must move his or her vehicle into a lane not nearest the stopped vehicle and travel in that lane until he or she passes the stopped vehicle. If the roadway has only one lane for traffic traveling in the same direction as the approaching motorist or if the motorist cannot change lanes safely or without interfering with other traffic, the motorist must slow his or her vehicle until he or she has passed the stopped vehicle. This statute is commonly referred to as the "Move Over Law."

This bill classifies a violation of the "Move Over Law" as a serious traffic violation for purposes of disqualification from operating a CMV.

Under current law, generally, no person may drive a motor vehicle while composing or sending an electronic text message. Persons who violate this prohibition may be required to forfeit not less than \$20 nor more than \$400.

This bill specifically prohibits texting while driving a CMV. "Texting" is defined as "manually entering alphanumeric text into or reading text from an electronic device." The definition, however, specifically excludes 1) selecting or entering a telephone number, extension number, or voice mail retrieval code for the purpose of initiating or receiving a phone call or retrieving a voice mail or 2) reading information or inputting information into a global positioning system or navigation system device. "Driving" is defined as "the exercise of physical control over a [CMV] while the vehicle's motor is running, except when the vehicle is stopped to the side of or off a highway in a location where the vehicle can safely remain stationary." Any person who violates this prohibition may be required to forfeit not more than \$2,750. In addition, a violation of this prohibition is classified as a serious traffic violation for purposes of disqualification from operating a CMV.

Also under this bill, no employer that is a motor carrier may permit an employee to drive a commercial motor vehicle while texting. Any employer who violates this prohibition may be required to forfeit not more than \$11,000.

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

1 **SECTION 1.** 343.245 (3) (d) of the statutes is created to read:

2 343.245 (3) (d) No employer that is a motor carrier may allow or require an  
3 employee to violate s. 346.89 (4).

4 **SECTION 2.** 343.245 (4) (a) of the statutes is amended to read:

**BILL**

1 343.245 (4) (a) Except as provided in pars. (b) ~~and~~, (c), and (d), any person who  
2 violates sub. (2) or (3) shall forfeit not more than \$2,500.

3 **SECTION 3.** 343.245 (4) (d) of the statutes is created to read:

4 343.245 (4) (d) Any person who violates sub. (3) (d) shall forfeit not more than  
5 \$11,000.

6 **SECTION 4.** 343.315 (2) (f) (intro.) of the statutes is amended to read:

7 343.315 (2) (f) (intro.) A person is disqualified for a period of 60 days from  
8 operating a commercial motor vehicle if convicted of 2 serious traffic violations, and  
9 120 days if convicted of 3 serious traffic violations, arising from separate occurrences  
10 committed within a 3-year period while driving or operating a commercial motor  
11 vehicle or while driving or operating any motor vehicle if the person holds a  
12 commercial driver license. The 120-day period of disqualification under this  
13 paragraph shall be in addition to any other period of disqualification imposed under  
14 this paragraph. In this paragraph, "serious traffic violations" means any of the  
15 following offenses committed while engaged in commercial motor vehicle-related  
16 activities specified in sub. (1g) (a), or any of the following offenses committed while  
17 engaged in commercial motor vehicle-related activities specified in sub. (1g) (b) if the  
18 offense results in the revocation, cancellation, or suspension of the person's  
19 operating privilege:

20 **SECTION 5.** 343.315 (2) (f) 4. of the statutes is amended to read:

21 343.315 (2) (f) 4. Violating s. 346.07 (2), 346.072 (1), 346.08, 346.09, 346.10,  
22 346.13, 346.24 (3), or 346.34 (1) (a) 3. or a local ordinance in conformity therewith or;  
23 a law of a federally recognized American Indian tribe or band in this state in  
24 conformity with s. 346.07 (2), 346.072 (1), 346.08, 346.09, 346.10, 346.13, 346.24 (3),  
25 or 346.34 (1) (a) 3.; or the law of another jurisdiction prohibiting improper or erratic



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1 lane changes or improper passing, or otherwise prohibiting the conduct described in  
2 sections 11-304 to 306 and 11-309 of the uniform vehicle code and model traffic  
3 ordinance (1987), as those or substantially similar terms are used in that  
4 jurisdiction's law.

5 **SECTION 6.** 343.315 (2) (f) 9. of the statutes is created to read:

6 343.315 (2) (f) 9. Violating s. 346.89 (4) or a local ordinance in conformity  
7 therewith or a law of a federally recognized American Indian tribe or band in this  
8 state in conformity with s. 346.89 (4) or the law of another jurisdiction prohibiting  
9 driving a commercial motor vehicle while texting, as those or substantially similar  
10 terms are used in that jurisdiction's law.

11 **SECTION 7.** 346.02 (10) of the statutes is amended to read:

12 346.02 (10) APPLICABILITY TO SNOWMOBILES. The operator of a snowmobile upon  
13 a roadway shall in addition to the provisions of ch. 350 be subject to ss. 346.04,  
14 346.06, 346.11, 346.14 (1), 346.18, 346.19, 346.20, 346.21, 346.215 (3), 346.26,  
15 346.27, 346.33, 346.35, 346.37, 346.39, 346.40, 346.44, 346.46, 346.47, 346.48, 346.50  
16 (1) (b), 346.51, 346.52, 346.53, 346.54, 346.55, 346.87, 346.88, 346.89 (1) to (3),  
17 346.90, 346.91, 346.92 (1) and 346.94 (1) and (9).

18 **SECTION 8.** 346.02 (11) of the statutes is amended to read:

19 346.02 (11) APPLICABILITY TO ALL-TERRAIN VEHICLES. The operator of an  
20 all-terrain vehicle on a roadway is subject to ss. 346.04, 346.06, 346.11, 346.14 (1),  
21 346.18, 346.19, 346.20, 346.21, 346.215 (3), 346.26, 346.27, 346.33, 346.35, 346.37,  
22 346.39, 346.40, 346.44, 346.46, 346.47, 346.48, 346.50 (1) (b), 346.51, 346.52, 346.53,  
23 346.54, 346.55, 346.71, 346.87, 346.88, 346.89 (1) to (3), 346.90, 346.91, 346.92 (1)  
24 and 346.94 (1) and (9) but is not subject to any other provision of this chapter.

25 **SECTION 9.** 346.89 (4) of the statutes is created to read:

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346.89 (4) (a) In this subsection:

1. "Drive" means the exercise of physical control over a commercial motor vehicle while the vehicle's motor is running, except when the vehicle is stopped to the side of or off a highway in a location where the vehicle can safely remain stationary.

2. "Electronic device" means a cellular telephone, personal digital assistant, pager, computer, or any other device used to input, write, send, receive, or read text.

3. "Texting" means manually entering alphanumeric text into or reading text from an electronic device, except that the term does not include any of the following:

a. Reading or selecting a telephone number, extension number, or voice mail retrieval code or command on, or entering a telephone number, extension number, or voice mail retrieval code or command into, an electronic device for the purpose of initiating or receiving a phone call or retrieving a voice mail.

b. Reading or selecting information on or inputting information into a global positioning system or navigation system device.

(b) No person may drive a commercial motor vehicle while texting, except when necessary for communication with law enforcement officers or other emergency services personnel.

**SECTION 10.** 346.95 (12) of the statutes is created to read:

346.95 (12) Any person violating s. 346.89 (4) (b) may be required to forfeit not more than \$2,750.

**SECTION 11. Initial applicability.**

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

(END)

**Godwin, Gigi**

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**From:** Sen.Lazich  
**Sent:** Wednesday, February 01, 2012 3:47 PM  
**To:** Godwin, Gigi  
**Subject:** RE: JACKET REQUEST: LRB 11-3779/1 Topic: Combine several bills related to serious traffic offenses and disqualification from operating a commercial motor vehicle.

Yes Gigi please jacket the /2

Thanks Tricia

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**From:** Godwin, Gigi  
**Sent:** Wednesday, February 01, 2012 3:01 PM  
**To:** Sen.Lazich  
**Subject:** RE: JACKET REQUEST: LRB 11-3779/1 Topic: Combine several bills related to serious traffic offenses and disqualification from operating a commercial motor vehicle.  
**Importance:** High

Good afternoon, Senator Lazich. You requested that 11-3779/1 be jacketed, however, this is now a “/2” draft. The “/2” draft was submitted Monday, January 23. Would you like that draft jacketed? Thanks, Gigi

**Gigi Godwin, Program Assistant**  
**State of Wisconsin - Legislative Reference Bureau**  
**1 East Main Street, Suite 200**  
**Madison, WI 53703**  
**(608) 266-3561**  
**Gigi.Godwin@legis.wisconsin.gov**

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**From:** Sen.Lazich  
**Sent:** Wednesday, February 01, 2012 2:52 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 11-3779/1 Topic: Combine several bills related to serious traffic offenses and disqualification from operating a commercial motor vehicle.

Please Jacket LRB 11-3779/1 for the SENATE.