

Gary, Aaron

From: Gary, Aaron
Sent: Wednesday, November 06, 2013 2:02 PM
To: Flocchi, Tim
Cc: Portz, Elisabeth
Subject: RE: Revisions LRB 2913

Hi Tim,

I am continuing to work on the redraft of LRB-2913. This should be my last email asking for clarification, although I understand additional information is still en route from DOT.

1. Under item 6. of your attached instructions, is it the intent to follow the study group addendum recommendation that there be no width limit for IOH (that is, take out bill section 10 and part of bill section 11 of the /P1 draft) and *instead* add these lighting/marketing/escort requirements? [The addendum would retain the width limit for "IOH-CMV" in created s. 348.05 (2) (a) 3. of bill section 11.] Or are the requirements you specify in item 6. *in addition* to what is now in bill sections 10 and 11?
2. Regarding the length limit for IOHs, the study group addendum would have added a new provision allowing a 3-IOH combination to be 70-100 feet if it is traveling at a speed of 20 mph or less. Based on your instructions, I assume you do *not* want to include this in the /P2 draft.
3. Regarding items 5. and 7. of your attached instructions, I deleted bill section 14 of the /P1 draft (but kept bill section 13, relating to farm tractors that are not IOH). Bill section 36 of the /P1 draft creates an *annual/consecutive month* permit for the movement, towing, or hauling of IOH that exceed width limitations. (I have eliminated the second sentence in bill section 36, since created s. 348.05 (3m) is deleted from the /P2 draft). Did you want this new IOH permit expanded so that it also covers overweight? (I'll also have to reconfigure it to account for width-related changes discussed in 1. above.) This IOH permit could be used by a dealer to deliver new equipment or provide repair services. (see discussion just below)

Current law allows DOT and local govts. to issue a *single trip* "general permit" under s. 348.26 (2). The permit issuer can attach whatever conditions it chooses. In item 5. of your instructions, is this general permit under s. 348.26 (2) the "general permit" you are referring to? Do you want me to amend s. 348.26 (2) to apply the requirements you describe to a permit under s. 348.26 (2) whenever such a permit is issued to a person in the business of selling or repairing IOH (dealer) and the permit is obtained for the purpose of transporting the IOH? Or do you want me to create a new single trip permit elsewhere in s. 348.26 that applies only to these IOH circumstances? Or is it the intent that the dealer obtain an annual/consecutive month permit, not a single trip permit, in which case the could probably be put in created s. 348.27 (14m) (bill section 36) described above.

4. Regarding item 8. of your attached instructions, what are potato harvesters exempt from? The weight limitations (ie, any weight is OK, without a permit, unless it exceeds posted limits)? The width and/or lighting /marketing/escort requirements for IOH discussed above in 1. (except that, by requiring accompanying "shadow" vehicles, I assume you mean escort vehicles)? Other?
5. Regarding item 3. of your attached instructions, the matter of administrative review is complicated. There is an existing review/appeal process in the statutes. Ch. 68 provides a review/appeal process for local govt. decisions (but also allows local govts. to establish an alternative review process). Ch. 227 provides a review/appeal process for state agency decisions (and governs review by Hearings and Appeals). Both of these chapters provide detailed guidance on review procedure and are well-known to the local governments and state agencies that follow these procedures regularly. I have tried to incorporate your instructions within the parameters of these existing statutes. However, I am no expert in administrative procedure and

the task is complicated. The reference to DOT's OGC in the instructions makes it more so. In addition to the fact that OGC is not a statutorily-recognized entity, OGC attorneys are the opponents in these administrative review proceedings. It seems a little awkward to make one OGC attorney DOT's advocate in the review proceeding and another OGC attorney the "judge" in the same proceeding. I would recommend using the normal agency review process under ch. 227, providing for traditional agency review and appeal to Hearings and Appeals.

6. Regarding item 1. of your attached instructions, what happens if a municipality, for example, fails to act on an application for a written authorization within 3 weeks. (Item 2. says that, for amendments, permission is presumed if the 5 day deadline isn't met.) Do you want to also add a presumption of permission if the 3 week deadline is missed, or do you want the bill to stay silent on the consequences if the deadline is missed (so that the local govt/DOT issuing the authorization knows of the expected timeline and a writ of mandamus could theoretically be sought to enforce it, if necessary, but other consequences would not be specified)?

It shouldn't take me that long to finish up the /P2 draft after I receive the info. from DOT (re item 6. of your instructions) and guidance on the questions/concerns above. In preparing the /P2 draft, should I take out all of the embedded ****NOTES, i.e. has anybody who would be interested in these notes already seen them in the /P1 draft?

Thanks. Aaron

Aaron R. Gary
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aaron.gary@legis.state.wi.us

From: Fiocchi, Tim
Sent: Thursday, October 31, 2013 2:18 PM
To: Gary, Aaron
Cc: Portz, Elisabeth
Subject: Revisions LRB 2913

Hi Aaron,

We need to get a new preliminary draft for IoH. I have tried to incorporate the changes in the addendum report from DOT (<http://www.dot.wisconsin.gov/business/ag/docs/addendumreport.pdf>) in the attached instructions as well as answering most of the questions in the draft you sent. DOT is working on some language for the lighting requirements that we will spell out in the bill.

Please feel free to call with questions.

Thank you,

Tim

Tim Fiocchi
Chief of Staff, Senator Jerry Petrowski
29th Senate District
(608) 266-2502

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Sent: Thursday, October 31, 2013 2:18 PM
To: Gary, Aaron
Cc: Portz, Elisabeth
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Attachments: Changes for IoH Draft - instructions.docx

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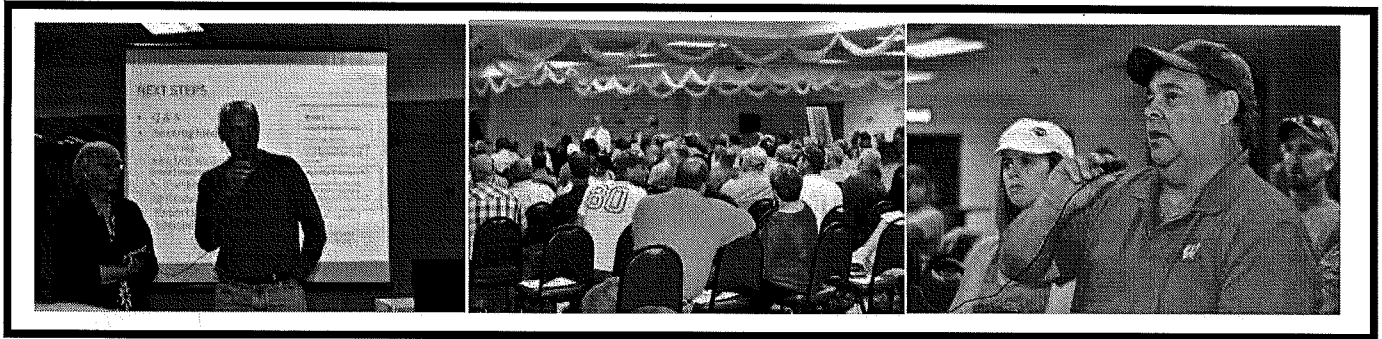
Tim

Tim Fiocchi
Chief of Staff, Senator Jerry Petrowski
29th Senate District
(608) 266-2502

Implements of Husbandry Study

*Phase II Addendum Report to the Secretary of the
Wisconsin Department of Transportation*

September 20, 2013



Implements of Husbandry Study

Prepared by

Wisconsin Department of Transportation

In partnership with

Wisconsin Department of Agriculture, Trade, and Consumer Protection

And with

UW Center for Agricultural Safety and Health
UW-Madison Department of Biological Systems Engineering
UW-Extension Environmental Resource Center
Wisconsin Traffic Operations and Safety Laboratory
Professional Nutrient Applicators Association of Wisconsin
Wisconsin Farm Bureau Federation
Professional Dairy Producers of Wisconsin
Wisconsin Towns Association
Wisconsin County Highway Association
Maxville Truck and Repair
Wisconsin Custom Operators
League of Wisconsin Municipalities
Wisconsin Agri-Business Association
Husky Farm Equipment (Ontario, Canada)
Association of Equipment Manufacturers (Milwaukee, Wisconsin)
Dairy Business Association
Wisconsin Independent Business – Agri-Business Coalition
RCI Engineering LLC

With additional support from

John Deere
Kubota Tractor Corporation
Case New Holland (CNH)
AGCO

Cover photos courtesy of the Wisconsin Farm Bureau.

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Executive Summary

From the outset, outreach and education were identified as essential elements of the Implements of Husbandry Study (IoH) Group's work. A subcommittee was established for that goal alone. Upon completion of the proposed recommendations of Phase II study, the group announced five town hall meetings (Madison, Stratford, Cashton, Green Bay and Chippewa Falls) to be held the last two weeks of August and the first week of September. The meetings were intended to:

- Get reaction to the Phase II recommendations.
- Provide education regarding the current Wisconsin laws governing the use of agricultural equipment on roadways.
- Obtain information about the agricultural equipment fleet in operation in the state. Information regarding the true size and numbers of equipment already in use by Wisconsin farmers had proved very difficult to obtain through any official channels. We also wanted to obtain information from local officials regarding the recommendation to require written authorizations for equipment that exceeded the recommended size and weight envelope.

The intent was to solicit feedback, analyze responses and then reconvene the IoH Study Group to make final recommendations that would be advanced to the legislature.

Attendance at the meetings exceeded expectations. The meeting in Green Bay had to be moved to accommodate all participants. Based on interest, a sixth town hall meeting was added in Belmont on Sept 4. In all, over 1,200 farmers, local highway superintendents, custom operators, elected officials and interested citizens attended the six meetings. More than half of the attendees indicated they were farmers and custom operators and a quarter of the town hall attendees were elected officials.

Outreach

The Wisconsin Department of Transportation Office of Public Affairs coordinated news release efforts with the Wisconsin Department of Agriculture, Trade and Consumer Protection to ensure coverage by both the mainstream and agricultural media. The meeting notifications were also shared with the members of the study group, many of them advocacy groups with large constituency. This enabled direct communication with interested stakeholders. The main message was that the study group was soliciting feedback on their initial recommendations.

The town hall meetings received excellent statewide coverage through newspaper, radio and television. In addition to announcing the meetings, reporters attended meetings and again emphasized that the group was inviting feedback.

Feedback mechanisms

Polling was built into the IoH Town Hall PowerPoint presentation to gauge audience make-up and their knowledge of the law, and to obtain fleet details.

A survey was developed and distributed at the town hall meetings. It was also posted online on the new Agricultural Vehicles and Equipment webpage (<http://www.dot.wisconsin.gov/business/ag/index.htm>), allowing anyone who could not attend a meeting to easily provide feedback.

A dedicated email box – IoHStudyFeedback@dot.wi.gov - was also established. The number of responses received from farmers was sufficient to provide statistically significant results.

Awareness of current law

Most participants in the town hall meetings were aware that there was a maximum per axle weight limit for IoH, with almost 60 percent choosing the correct answer of 20,000 pounds. Twenty-two percent of all attendees answered there was no limit. Green Bay had the largest percentage of people who answered no limit at 36 percent. The majority of attendees (80%) knew there was a gross vehicle weight of 80,000 pounds. Yet almost half of the participants (51%) responded they did not know the gross vehicle weight of the largest piece of equipment that they use on the road.

Information of current WI agricultural fleet

The IoH Study Group was unable to obtain quantitative information regarding the equipment used by today's Wisconsin farmer. Information gathered during the town halls and from the surveys was enlightening. Almost 75 percent of the participants of the town halls indicated they had at least one piece of equipment that exceeded the IoH study group's recommendations for envelope size (13'6" Height; 17' Width; 60'/100'/70' Length) and weight limits (23,000 per axle/92,000 lbs. gross vehicle weight).

The surveys provided more detailed information. Half of respondents had equipment that exceeded 13'6" in height. Half of the farmers who had equipment over 15 feet in width, indicated they had equipment that was greater than 19 feet wide. A little more than half (55%) knew the individual axle weight and gross vehicle weight of their largest piece of equipment used on the road and 33 percent indicated that they had an IoH that exceeded 23,000 pounds in individual axle weight or had a gross vehicle weight greater than 92,000 pounds. Again, three-quarters (76%) of respondents indicated they had vehicles that would exceed the recommended size and weight limits.

At the town hall meetings several attendees provided negative feedback regarding the recommended requirement that the operator of any large IoH be at least 18 years old. Two-thirds of the survey respondents said it would create problems for their operation, with one-third indicating it would be manageable. Of those saying it would create problems, about one-half indicated the requirement would have a significant negative impact.

Written Authorization

Less than 20 percent of local officials indicated that they currently issue written authorization for oversize or overweight farm machinery. Over 70 percent indicated they would be able to issue annual written authorizations in a timely manner if authorized to do so.

This information was distributed to the IoH Study Group before its final meeting on September 12. Based on the feedback the group chose to temper their final recommendations (page 7) so as not to unfairly create an economic disadvantage to Wisconsin farmers.

The group agreed that they had been successful in creating awareness of the challenging issues that have been created by the oversize and overweight agricultural equipment in use on today's roads.

There was also consensus that this is an issue that must be advanced to the national level for substantive changes. Tomorrow's solutions must involve agricultural equipment manufacturers, who have indicated they have an interest in developing international or national standards.

Final Recommendations

Final Recommendations: This Phase II Addendum Report does not explicitly establish statutory language; rather, provides guidance through a series of recommendations suggested by the IoH Study Group to update and reflect current agricultural operations in Wisconsin law. The IoH Study Group, by a vote of its members, and while noting additional comments and areas where consensus did not exist, offers the following recommendations:

Clarify the IoH Definition:

- Create a clearer, simpler definition of IoH to reflect today's agricultural equipment.
- All IoH will be exempt from registration.

Example Draft Language: Implement of husbandry" means a self-propelled or towed vehicle manufactured, designed, or reconstructed to be used exclusively in the conduct of agricultural operations and its primary purpose is for off-highway use. An "implement of husbandry" includes a farm tractor, self-propelled application-type vehicles (such as a combine, self propelled forage harvester, or self propelled fertilizer application implement), farm wagon, farm trailer, or trailer adapted to tow or pull another implement of husbandry, or any substantially similar equipment used to transport agricultural products necessary for agricultural production.

IoH-CMV Definition:

- Commercial motor vehicles (CMVs) used exclusively for agricultural operations are defined as an "IoH-CMV."
- A self-certification process will be developed and made available for IoH-CMVs.

Example Draft Language: An "implement of husbandry – commercial motor vehicle," or "IoH-CMV" means a reconstructed or principally designed and manufactured vehicle similar to other highway-use vehicles to be used exclusively in the conduct of agricultural operations and its primary purpose is for off-highway use is considered to be an implement of husbandry. The term "reconstructed" as used in this subsection means materially altered from the original construction by the removal, addition, or substitution of essential parts, new or used for agricultural purposes. A commercial motor vehicle – implement of husbandry designed for agricultural purposes and used, even temporarily, for non-agricultural purposes shall not be considered an implement of husbandry. An implement of husbandry – commercial motor vehicle is a type of vehicle subject to regulations that are different than an implement of husbandry that is not an IoH- commercial motor vehicle.

Create size limits or an "envelope" for IoH:

Width envelope:

- No width limit for IoH, however if IoH is wide enough that it crosses over the centerline of the roadway during operation then lights and markings are required. This requirement applies the lighting and marking standards of ASAE S279 (American Society of Agricultural Engineers) to **all IoH** (new and those in currently in service, including those purchased used) that operate across

the center line of a public roadway (the centerline of the roadway need not be marked by painted lines for the requirement to apply). Lighting and markings must be visible to traffic bi-directionally.

***Notation:** A majority of the loH Study Group consented with the final width recommendation, but a couple loH Study Group members stated additional feedback was needed from their membership affiliations.*

- Width of loH CMV – 10' (feet). This expanded width allowance is recommended as the maximum envelope for width of these vehicles and is inclusive of any protrusions for chutes, levers, controls, wider wheel gauge and for flotation tires or other configurations to serve the design or conversion to an loH-CMV.

***Notation:** A majority of the loH Study Group consented with the final width recommendation, with an understanding that certain self-propelled fertilizer applicators were most appropriately categorized as loH (category 2) rather than loH-CMV; a maximum width dimension for that specific type of self propelled loH may be necessary to avoid unintended consequences of allowing greater widths for this type of equipment. As with the first width recommendation, some loH Study Group members stated additional feedback was needed from their membership affiliations.*

Height envelope:

- No height limit, however the loH operator remains responsible for ensuring safe clearance of any overhead obstructions.

Length envelope:

- 60' (feet) for a single loH and 100' (feet) for combinations of two loH. For combinations of three loH the limit is 70' (feet), but a three loH combination may operate at lengths exceeding 70' (feet) to a limit of 100' (feet) at a speed no greater than 20 miles per hour (mph).

***Notation:** There was a majority of loH Study Group members that supported allowing combinations of three loH to operate from 70' (feet) up to 100' (feet) at a reduced speed (20 mph), but a few loH Study Group members, including WisDOT, declined to support this provision without additional research on operational impacts including braking and connection requirement, and concerns about affects on safe operations.*

loH Weight:

loH is given an expanded 15% weight allowance over the limits as established by the Federal Bridge Formula, except where posted and during periods of spring thaw. This equates to a maximum single axle weight of 23,000 pounds and a maximum gross vehicle weight of 92,000 pounds. A new loH weight table will be created to (e.g. 348.30 reflect the 15% allowance based on gross vehicle weight, axle weight and spacing.

Written Authorization:

Written authorization to exceed weight limits may be requested on an annual basis from the maintaining authority of the roadways. Written authorizations may only be granted when:

- A travel or route plan for the loH is submitted.
- Additional conditions may be set by each maintaining authority (local or state) for the roadway on which the loH is operating within the context of the written authorization.
- loH vehicles operating in excess of the 15% allowance will be fined for the amount in excess of standard gross motor vehicle weight or individual axle weight.

Notation: While half of the loH Study Group supported this recommendation, the other half did not take a position on this issue. Concern centered on the logistics of obtaining authorization from multiple jurisdictions. Forty percent of farmers and custom operators who responded to the survey said they travel on roadways in four or more municipalities.

This recommendation was advanced as a mechanism to foster communication between local officials and loH operators. Local officials repeatedly expressed their concern over the operation of overweight equipment on roads under their jurisdiction. Local officials felt strongly that they had to retain the authority to control use of their roadways to preserve the public investment and provide safe roads for all users. Written authorization would provide a means for overweight loH to still operate on Wisconsin roadways.

Support for Best Practices:

- Support exploration of best practices to assist in reducing the wear of roadways and structures. This includes supporting the development of emerging innovations and best practices in manure management.
 - Propose statutory changes that also provide authority for longitudinal accommodation. Create broad authority to issue permits to accommodate pipelines for liquid manure/nutrients including longitudinally in right of way when need is demonstrated, under specific conditions.

Age of Operator Requirements:

- Age requirements are to remain as presently allowed in statute, however, provide an option for advanced training for operating an oversize/overweight loH.

Ongoing loH Study Group: Establish a standing loH Study Group under the direction of the WisDOT Secretary with participation of DATCP to bring together stakeholders affected by issues related to transportation and agriculture. The forum will focus on encouraging broad stakeholder participation to address transportation needs and impacts related to agriculture.

Remaining Issues for Review: The following issues will be addressed in future reports:

- Use of “tracked” loH

- Ability to cite vehicles for passing on a double-yellow line; consider provision for reporting unsafe passing
- Slow Moving Vehicle (SMV) emblems
- Education & Outreach
- Hours of Operation (night time and weekend restrictions)
- Semi vs. Straight Truck (regulations differ based on type of operation)
- Regional and National standards [Federal Highway Administration (FHWA)/American Association of State Highway Traffic Officials (AASHTO)] for envelope of IoH
- Public service announcements and marketing of traffic safety messages and driver awareness of agricultural equipment operations on roadways during planting and harvest seasons
- Expansion of driver's education courses and/or materials to include more on vehicle/IOH interactions
- Opportunities to encourage national or international standards for agricultural equipment that recognize limitations of public roadways to accommodate large and heavy vehicles and that may assist in promoting engineering solutions to the weight and other challenges for safe roadway operation

Engineering Research Needs:

Within the tight timeframe of the study, the engineers were able to study the magnitude, repetitions and spacing of axle weights of vehicles and the effects of pavements and structures. Studies by Iowa and Minnesota Department of Transportation have produced similar findings in respect to damage and reduced lifecycles. The engineering analysis recommended by the engineering sub-group is preliminary and some additional research is still needed. The additional research needs include:

- Distribution factors related to specific types of IoH equipment to be used in the analysis of bridges;
- Impact factors related to IoH type equipment to be used in the analysis of bridges;
- Design code provisions for the inclusion of the effects of IoH on the design of new structures;
- Methods to retrofit existing structures that were designed with lower load configurations or have experience deterioration that has reduced the load capacity of the structure below the needs of IoH equipment; and
- Differential impacts of floatation tires.

Appendix A: Survey Results

The 135 pages of
appendix material is
omitted here.
ARG

From Tim
Froehi

10/31/13

Draft Changes for IoH Bill:

1. DOT shall create a uniform annual agricultural oversize/ overweight written permission form for use by farmers and other users throughout the state that can be submitted to all units of government. The form should provide all necessary information including but not limited to contact info, requested routes, types of equipment used, expected frequency of use and time of year used. The form should cover calendar years, renewing annually in February (Feb. need not be specified in statute). Counties, municipalities and DOT would have three weeks to review and respond to the annual application. Each unit shall designate a point of contact and provide that information to DOT. In the event a local government does not provide the information to DOT the default points of contact are town chairmen, village presidents, city superintendent of public works, and county highway commissioner.

All denials shall be done in writing and shall provide specific reasons for the denial. Permission may be suspended due to seasonal condition or road condition.

2. Amendments to the permissions can be requested at any time to account for changes in plans, leasing of land, etc. The amendment would be requested using the same form. Government entities would have 5 business days to respond after which permission is presumed until and unless the user is informed otherwise in writing.
To document the date of submittal, forms may be submitted via certified mail, electronic mail receipt/response, or hand delivered to authorities.
3. Appeals process for denials: If a request is denied, a farmer or other operator may appeal the decision to the town or village board, city council, or county highway committee. For DOT the appeal would go to the department office of General Council and/or Division of Hearings and appeals.
The operator would have the option of bypassing the appeal to the local unit/DOT and going directly to court.
4. A municipality may, by annual vote of the board, provide blanket approval of all IoH activity or all activity with specific routes excluded. If they chose to do so, rather than providing individualized responses to specific requests they would send a form letter.
5. Exception for delivery and repair: In order to allow dealerships to deliver new equipment or provide repair services, IoH vehicles may be operated under a general permit provided by DOT. Operation under the permits must abide by lighting and escort vehicle requirements as well as local postings and should use higher capacity state and county roads to the extent possible. They shall also assure that the route doesn't have limited capacity structures.
6. Vehicles in excess of 15' in width or operating over the center line of a road must abide by lighting and marking requirements (DOT is working on language to include in the draft). Vehicles in excess of 20' in width must also be accompanied by escort vehicles. **Prospective width envelope for manufacturers/ sales: Vehicles manufactured after 2022 for which there is not a specific exemption may not exceed 20' in width.**
7. Hours of operation listed in current law shall be repealed.

8. Exemptions:

- Potato harvesters may be operated as needed but must be accompanied by shadow vehicles and abide by local postings.
9. Effective dates: the new standards (weight, height, width, length) shall be effective immediately. Local governments may begin using the DOT form as soon as it is available, but are not required to use it until January 1, 2015. Lighting requirements go into effect 18 months from the effective date of the bill.
 10. There has been a great deal of discussion about the written authorization not having a fee attached. This should be explicit in the bill.
 11. Change page 2 line 16 to reflect changes recommended in addendum “and its primary purpose is for off-highway use.”
 12. Per the note on the bottom of page seven – yes please amend the limit under 348.08 (d) to 70 feet.
 13. Return the age of operators language to current law per the addendum.
 14. On page 16 lines 3-6, we should not require them to identify who will be operating the equipment. The written authorization should go to the business to be carried on the equipment.
 15. Page 16 line 16 – section 4 (a) should end after “...under this section.”

Gary, Aaron

From: Gary, Aaron
Sent: Friday, November 01, 2013 4:24 PM
To: Fiocchi, Tim
Cc: Portz, Elisabeth
Subject: RE: Revisions LRB 2913

Tim,

As I work my way through this, I'll probably have a few questions.

At the moment, I need clarification on item 13. (No, I'm not almost done ... I'm starting with the easier stuff.) As I read item 13., there should be no requirement in the bill that a person operating an IOH (whether with or without a written authorization) be at least 18 years old, right? Also, under current law, there is no driver's license requirement for a person operating an IOH temporarily on a road. Did you want me to remove the language on p. 16, line 5 (and elsewhere) requiring a driver's license to operate an IOH under a written authorization?

Thanks. Aaron

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

Handwritten notes: "11/1 He w/Tim" with lines pointing to two circled "yes" responses.

From: Fiocchi, Tim
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Chief of Staff, Senator Jerry Petrowski
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Gary, Aaron

From: Fiocchi, Tim
Sent: Thursday, November 07, 2013 10:08 AM
To: Gary, Aaron
Cc: Portz, Elisabeth
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Aaron,

I put in answers after each item in your email. I'd be happy to come over and walk through any of this if you like.

Thanks,

Tim

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The intent is to follow the group's final recommendation to have no specific width limit but then add these more specific provisions i.e. lighting and marking if you exceed 15' or cross the centers line, escort vehicles for 20' or more...

2. Regarding the length limit for IOHs, the study group addendum would have added a new provision allowing a 3-IOH combination to be 70-100 feet if it is traveling at a speed of 20 mph or less. Based on your instructions, I assume you do *not* want to include this in the /P2 draft.

Sorry – I missed including that in the instructions but we do want to include it.

3. Regarding items 5. and 7. of your attached instructions, I deleted bill section 14 of the /P1 draft (but kept bill section 13, relating to farm tractors that are not IOH). Bill section 36 of the /P1 draft creates an *annual/consecutive month* permit for the movement, towing, or hauling of IOH that exceed width limitations. (I have eliminated the second sentence in bill section 36, since created s. 348.05 (3m) is deleted from the /P2 draft). Did you want this new IOH permit expanded so that it also covers overweight? (I'll also have to reconfigure it to account for width-related changes discussed in 1. above.) This IOH permit could be used by a dealer to deliver new equipment or provide repair services. (see discussion just below)

I would eliminate section 13 as well unless there are other places in statute that have similar time and day restrictions. They seem pointless and so far as I know aren't enforced.

Current law allows DOT and local govts. to issue a *single trip* "general permit" under s. 348.26 (2). The permit issuer can attach whatever conditions it chooses. In item 5. of your instructions, is this general

permit under s. 348.26 (2) the "general permit" you are referring to? Do you want me to amend s. 348.26 (2) to apply the requirements you describe to a permit under s. 348.26 (2) whenever such a permit is issued to a person in the business of selling or repairing IOH (dealer) and the permit is obtained for the purpose of transporting the IOH? Or do you want me to create a new single trip permit elsewhere in s. 348.26 that applies only to these IOH circumstances? Or is it the intent that the dealer obtain an annual/consecutive month permit, not a single trip permit, in which case the could probably be put in created s. 348.27 (14m) (bill section 36) described above.

I didn't have a particular permit in mind and was thinking they might use the same form as other IOH operators, but on further consideration this makes more sense as a blanket exemption. I don't know if it would be simpler to create a definition (unless one exists now – a business entity engaged in the sale and repair of IOH) of an implement dealer and allow them to operate as needed for purposes of delivery and repair, or if there is a cleaner option. For the sake of this draft, let's also require that after the fact they report the route used to DOT within 72 hours of transport taking place.

4. Regarding item 8. of your attached instructions, what are potato harvesters exempt from? The weight limitations (ie, any weight is OK, without a permit, unless it exceeds posted limits)? The width and/or lighting /marking/escort requirements for IOH discussed above in 1. (except that, by requiring accompanying "shadow" vehicles, I assume you mean escort vehicles)? Other?

Yes, they would be exempt from weight limitations but subject to local road/bridge postings and required to have lighting and escort vehicles.

5. Regarding item 3. of your attached instructions, the matter of administrative review is complicated. There is an existing review/appeal process in the statutes. Ch. 68 provides a review/appeal process for local govt. decisions (but also allows local govts. to establish an alternative review process). Ch. 227 provides a review/appeal process for state agency decisions (and governs review by Hearings and Appeals). Both of these chapters provide detailed guidance on review procedure and are well-known to the local governments and state agencies that follow these procedures regularly. I have tried to incorporate your instructions within the parameters of these existing statutes. However, I am no expert in administrative procedure and the task is complicated. The reference to DOT's OGC in the instructions makes it more so. In addition to the fact that OGC is not a statutorily-recognized entity, OGC attorneys are the opponents in these administrative review proceedings. It seems a little awkward to make one OGC attorney DOT's advocate in the review proceeding and another OGC attorney the "judge" in the same proceeding. I would recommend using the normal agency review process under ch. 227, providing for traditional agency review and appeal to Hearings and Appeals.

I will run this issue by the towns, counties and DOT and get back to you ASAP.

6. Regarding item 1. of your attached instructions, what happens if a municipality, for example, fails to act on an application for a written authorization within 3 weeks. (Item 2. says that, for amendments, permission is presumed if the 5 day deadline isn't met.) Do you want to also add a presumption of permission if the 3 week deadline is missed, or do you want the bill to stay silent on the consequences if the deadline is missed (so that the local govt/DOT issuing the authorization knows of the expected timeline and a writ of mandamus could theoretically be sought to enforce it, if necessary, but other consequences would not be specified)?

The presumptive permission should also apply to the 3 week turnaround.

It shouldn't take me that long to finish up the /P2 draft after I receive the info. from DOT (re item 6. of your instructions) and guidance on the questions/concerns above. In preparing the /P2 draft, should I take out all of the embedded ****NOTES, i.e. has anybody who would be interested in these notes already seen them in the /P1 draft?

To the extent any of those issues remain unresolved in the new draft it's fine to leave them in.

Thanks. Aaron

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

From: Fiocchi, Tim
Sent: Thursday, October 31, 2013 2:18 PM
To: Gary, Aaron
Cc: Portz, Elisabeth
Subject: Revisions LRB 2913

Hi Aaron,

We need to get a new preliminary draft for IoH. I have tried to incorporate the changes in the addendum report from DOT (<http://www.dot.wisconsin.gov/business/ag/docs/addendumreport.pdf>) in the attached instructions as well as answering most of the questions in the draft you sent. DOT is working on some language for the lighting requirements that we will spell out in the bill.

Please feel free to call with questions.

Thank you,

Tim

Tim Fiocchi
Chief of Staff, Senator Jerry Petrowski
29th Senate District
(608) 266-2502

Gary, Aaron

From: Fiocchi, Tim
Sent: Thursday, November 07, 2013 10:41 AM
To: Richard Stadelman; hwype@wwt.net; Rhinesmith, Rory - DOT; Vieth, David - DOT
Cc: Rhatican, Tom M - DOT (Tom.Rhatican@dot.wi.gov); Gary, Aaron
Subject: Appeals process in IoH draft

Good morning,

Late last week we requested a new preliminary draft for the IoH bill. Among the instructions was the following in regard to the appeals process should a written authorization request be denied:

Appeals process for denials: If a request is denied, a farmer or other operator may appeal the decision to the town or village board, city council, or county highway committee. For DOT the appeal would go to the department office of General Council and/or Division of Hearings and appeals.

The operator would have the option of bypassing the appeal to the local unit/DOT and going directly to court.

In response I got the following from the Aaron:

The matter of administrative review is complicated. There is an existing review/appeal process in the statutes. Ch. 68 provides a review/appeal process for local govt. decisions (but also allows local govts. to establish an alternative review process). Ch. 227 provides a review/appeal process for state agency decisions (and governs review by Hearings and Appeals). Both of these chapters provide detailed guidance on review procedure and are well-known to the local governments and state agencies that follow these procedures regularly. I have tried to incorporate your instructions within the parameters of these existing statutes. However, I am no expert in administrative procedure and the task is complicated. The reference to DOT's OGC in the instructions makes it more so. In addition to the fact that OGC is not a statutorily-recognized entity, OGC attorneys are the opponents in these administrative review proceedings. It seems a little awkward to make one OGC attorney DOT's advocate in the review proceeding and another OGC attorney the "judge" in the same proceeding. I would recommend using the normal agency review process under ch. 227, providing for traditional agency review and appeal to Hearings and Appeals.

This is going to be an essential and sensitive portion of the bill as we are talking about potential scenarios where farmers could be unable to reach a given field if their request is denied and the denial upheld. Please take a look at Aaron's comments and send me your thoughts or give us a call ASAP.

Thank you,

Tim

Tim Fiocchi
Chief of Staff, Senator Jerry Petrowski
29th Senate District
(608) 266-2502

Gary, Aaron

From: Gary, Aaron
Sent: Monday, September 30, 2013 10:53 AM
To: Vieth, David - DOT; Fiocchi, Tim
Cc: Portz, Elisabeth; Yahn, Nate - DOT; Rhatican, Tom M - DOT; Rhinesmith, Rory - DOT
Subject: RE: Draft review: LRB -2913/P1 Topic: Implements of husbandry

Tim and Dave,

There is definitely a grey area here, but I don't see how we can leave it grey in this bill. The fact that there is a list of exceptions to the operating over centerline statute but none of the exceptions are for an overwidth IOH would be pretty compelling for a court. As you recall, we started this IOH drafting with LRB-1968 based on the Implements of Husbandry Study Interim Report dated January 31, 2013. Centerline movements were discussed in the Best Practices section on p. 22 with the statement "there is no ruling that legally allows over-width equipment to operate left of center on any state highway." I read the report's discussion on this topic as a recognition that this is a legal grey area. I'm wondering if the industry groups are aware of any court decision where an overwidth implement of husbandry has been over the centerline, been struck by another vehicle, and the plaintiff suing for personal injury has asserted negligence per se (i.e. that the IOH operator was negligent as a matter of law because the IOH was violating s. 346.05 at the time of the accident).

The bottom line to me is that this bill is supposed to help IOH operators understand the legal requirements applicable to them and if this bill is supposed to tell IOH operators that they can operate overwidth and over-center if they comply with lighting and markings, then the statutes should clearly reflect this. In other words, it would not be appropriate to have an IOH operator comply with the lighting and marking requirements in the bill and then, despite these good faith efforts, be found liable for an over-center violation of s. 346.05. Just as important, an over-center violation can give rise to automatic liability (negligence per se) if there is an accident, so having the IOH operator comply with the bill's lighting and marking requirements but still possibly be in violation of s. 346.05 has significant civil liability implications. Therefore, I believe an explicit treatment of s. 346.05 is necessary if the intention is that overwidth, over-center operation of an IOH is legal if the operator meets specified lighting and marking requirements.

Aaron

From: Vieth, David - DOT [mailto:David.Vieth@dot.wi.gov]
Sent: Friday, September 27, 2013 4:56 PM
To: Fiocchi, Tim; Gary, Aaron
Cc: Portz, Elisabeth; Gary, Aaron; Yahn, Nate - DOT; Rhatican, Tom M - DOT; Rhinesmith, Rory - DOT
Subject: RE: Draft review: LRB -2913/P1 Topic: Implements of husbandry

Tim and Aaron,

I'll offer my view of the two topics:

1. We are obtaining the most current standards (ASAE S279) and will prepare a description of the essential details as you have indicated would be preferable. In addition, I am following up with UW-Extension to understand how those standards were adopted in Wisconsin as I understand they are currently applicable to new equipment sold in the state.
2. It was our understanding that current law does allow (or at least provide for) operation over the centerline in certain described instances. For example:
 - s. 346.13 (1) ...as nearly as practicable entirely within a single lane...
 - s. 346.05 (1) Upon all roadways of sufficient width the operator of a vehicle shall drive on the right half...

These are not specific to farm equipment, and while there is no exception under current law allowing IOH to operate over the centerline, the fact that current law establishes no width limit on IOH for temporary on-road operation, they could legally exceed the width of a lane.

The lighting and marking requirement would apply to any IOH that may legally operate over the centerline, presuming that the provisions in law do create legal authority to do so. If the authority does not exist under current law, we may need to re-think the approach.

Dave Vieth
608-267-8999

From: Fiocchi, Tim [<mailto:Tim.Fiocchi@legis.wisconsin.gov>]
Sent: Thursday, September 26, 2013 12:59 PM
To: Rhinesmith, Rory - DOT; Vieth, David - DOT
Cc: Portz, Elisabeth; Gary, Aaron - LEGIS; Yahn, Nate - DOT; Rhatican, Tom M - DOT
Subject: RE: Draft review: LRB -2913/P1 Topic: Implements of husbandry

Hi guys,

Aaron had a couple technical questions we'll need to send him some direction on. We're scheduling some meetings for next week to with some of the groups and won't be asking for any further drafting work until after that but if you could send Aaron some feedback on these issues we'd appreciate it.

Thank you,

Tim

From: Gary, Aaron
Sent: Wednesday, September 25, 2013 9:48 AM
To: Fiocchi, Tim
Cc: Portz, Elisabeth
Subject: RE: Draft review: LRB -2913/P1 Topic: Implements of husbandry

Tim,

I did look over the materials last night. The changes in the addendum are pretty modest, so the "/P1" that you have is a good start.

I will need some follow up information on the new idea of lighting and marking requirements instead of a width restriction.

First, I will need some specific information on what requirements are actually imposed under ASAE S279 because, at a minimum, I will need to compare these standards with current law to determine what statutory changes are needed. In addition, I note that referring in a statute to ASAE S279 is disfavored; it is preferable to figure what the requirements are and state them in the statute. There are a couple of reasons for this LRB drafting policy. First, the referenced industry standard could be changed in numbering or content at any time, which would make the statute inaccurate. In fact, from what I can find on the internet, this has already happened with this particular standard. It appears the American Society of Agricultural Engineers has now become the American Society of Agricultural and Biological Engineers and their standards are now ASABE and not ASAE. Second, ASABE standards are proprietary. A person reading the statute does not know what the legal standard is from the statutory text and must purchase material containing the standard or find another means of accessing it; these standard are only available to the public for a fee. If

public accessibility is important (as DOT has suggested in the context of the IOH statutory weight chart), it would be preferable to state the essential details of ASAE S279 in the statutes or rules promulgated by DOT.

Second, there is no exception under current law allowing IOH to operate over the centerline. To say that IOH operating over the centerline must meet ASAE S279 lighting and marking standards implies that IOH may legally operate over the centerline if they meet these requirements. Is it the intent to amend s. 346.05 to explicitly authorize IOH extending to the left of the center of the roadway to operate if they meet the ASAE S279 lighting and marking standards? (The penalty for a left-of-center violation is higher than a vehicle lighting violation.)

When you are ready to proceed with the drafting, I will need some feedback on these issues.

Thanks. Aaron

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

From: Fiocchi, Tim
Sent: Tuesday, September 24, 2013 3:13 PM
To: Gary, Aaron; Portz, Elisabeth
Subject: RE: Draft review: LRB -2913/P1 Topic: Implements of husbandry

Thanks Aaron, I'd say hold off on revisions until you hear back from us. We have some work to do on this.

----- Original message -----

From: "Gary, Aaron" <Aaron.Gary@legis.wisconsin.gov>
Date: 09/24/2013 3:07 PM (GMT-06:00)
To: "Fiocchi, Tim" <Tim.Fiocchi@legis.wisconsin.gov>, "Portz, Elisabeth" <Elisabeth.Portz@legis.wisconsin.gov>
Subject: FW: Draft review: LRB -2913/P1 Topic: Implements of husbandry

Tim and Liz,

Here is the IOH draft. It is based on the "Final Report" of the IOH study group dated July 31, 2013. It will need to be revised to incorporate the changes in the latest documents attached to Tim's email yesterday. There are numerous questions and comments for DOT in the embedded notes within the draft, many of which are still relevant and will need to be considered for the redrafting to move forward.

Aaron

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

From: LRB.Legal
Sent: Tuesday, September 24, 2013 2:54 PM
To: Gary, Aaron
Subject: Draft review: LRB -2913/P1 Topic: Implements of husbandry

Draft Requester: Sen. Jerry Petrowski

Following is the PDF version of draft LRB -2913/P1.

Gary, Aaron

From: Fiocchi, Tim
Sent: Monday, November 11, 2013 2:35 PM
To: Gary, Aaron
Cc: Portz, Elisabeth
Subject: Review/ Appeals

Hi Aaron,

I'm still trying to get a couple answers from DOT on the process for them, but for the municipal and county governments let's go with their current appeal process.

Thank you,

Tim

Tim Fiocchi
Chief of Staff, Senator Jerry Petrowski
29th Senate District
(608) 266-2502

Gary, Aaron

From: Fiocchi, Tim
Sent: Wednesday, November 13, 2013 3:15 PM
To: Gary, Aaron
Cc: Portz, Elisabeth
Subject: FW: ANSI ASAE S279 Lighting and Marking of Ag Equipment Summary

Hi Aaron,

Please draft the width/lighting requirement per the email below. Feel free to call me with any questions.

Thank you,

Tim

From: Vieth, David - DOT [mailto:David.Vieth@dot.wi.gov]
Sent: Wednesday, November 13, 2013 2:30 PM
To: Rhinesmith, Rory - DOT; Fiocchi, Tim
Cc: Rhatican, Tom M - DOT; Portz, Elisabeth
Subject: RE: ANSI ASAE S279 Lighting and Marking of Ag Equipment Summary

I agree. Some of the references left in were thought to be useful for those attempting to comply; for example when they go to their dealer or parts store to help them describe what they are looking for. But I do agree the statutory language is sufficient without that complication, and Tim correctly points out the need to edit the text down for purposes of the draft.

We may want to offer, or encourage others who regularly communicate with the ag community to offer, some resources on the web to help those applying the law to figure out how to do it right, with lights or markings that accomplish the expected functionality. That is separate from the language in the law.

Dave

From: Rhinesmith, Rory - DOT
Sent: Wednesday, November 13, 2013 2:17 PM
To: Fiocchi, Tim - LEGIS
Cc: Vieth, David - DOT; Rhinesmith, Rory - DOT; Rhatican, Tom M - DOT; Portz, Elisabeth
Subject: Re: ANSI ASAE S279 Lighting and Marking of Ag Equipment Summary

I just read through this and think it looks good. It should be understandable by folks not versed in the formal industry standards.

Tom/Dave?

Sent from my iPhone

On Nov 13, 2013, at 2:01 PM, "Fiocchi, Tim" <Tim.Fiocchi@legis.wisconsin.gov> wrote:

Hi guys,

Thank you for putting those two documents together. Keeping in mind that ANSI and ASAE are manufacturing standards and per federal regulation will apply to all new IoH going forward I've edited the requirements down. The plain language below is intended to reflect what I think would be practical requirements for farmers to comply with using aftermarket lighting that they will most

likely (given the manufacturers/distributors, fearing liability problems, won't provide any installation services) would be able to comply with and would still provide adequate safety for the equipment and other drivers. I'd like your thoughts on this before we send the request to Aaron.

Tractors and self-propelled equipment

Width and Lighting:

Any loH 15' or wider or operated at any time over the centerline of a roadway shall display all of the following when operated on a roadway. Any loH 20' or wider shall also be accompanied by shadow vehicles operating with their hazard lights engaged.

Warning lights

At least two amber flashing warning lamps shall be mounted and as widely spaced laterally as practicable, visible from both front and rear, mounted between 1.3 and 12 ft high within 16 in. of the lateral extremities of the machine.

Rotating beacons or strobes

Any machine wider than 12 feet, when operated on a roadway, shall display a yellow or amber rotating beacon or strobe beacon.

Retroreflective markings

At least two red retroreflective devices shall be visible to the rear at night from all distances from 1000 to 100 ft when directly in front of lawful vehicle low beam headlamps and mounted to indicate, as nearly as practicable, the extreme left and extreme right projections. Conspicuity material shall be provided which is visible from the front and rear of the unit.

The conspicuity material visible to the rear shall be red retroreflective material and nonreflective red-orange fluorescent material. The outer edge of the nonreflective red-orange fluorescent material shall be within 25 in. of the left and right extremities of the machine and as evenly spaced as practicable.

The conspicuity material visible to the front shall be at least two strips of yellow retroreflective material. The outer edge of the left and right strips shall be within 16 in. of the left and right lateral extremities of the machine respectively.

Slow-moving vehicle emblem

One SMV (slow-moving vehicle) identification emblem as described in ANSI/SAE S276 shall be installed on the back of the machine.

Marking of non-self-propelled equipment

Width and Lighting:

Any loH 15' or wider or operated at any time over the centerline of a roadway shall display all of the following when operated on a roadway. Any loH 20' or wider shall also be accompanied by shadow vehicles operating with their hazard lights engaged.

Slow-moving vehicle emblem

Equipment that when towed or attached to the propelling machine obscures the SMV on the propelling machine shall be equipped with one SMV emblem on the back of the machine.

Marking for equipment width

Equipment mounted and/or towed to the rear of the propelling machine shall have conspicuity material.

The conspicuity material to the rear shall be red retroreflective material and nonreflective red-orange fluorescent material. The strips of nonreflective red-orange fluorescent material and retroreflective material shall be as horizontal, in line and evenly spaced as practicable. The outer edge of the outermost strips of retroreflective material shall be within 16 in. of the left and right extremities of the equipment.

The conspicuity material visible to the front shall be at least two strips of yellow retroreflective material. The outer edge of the left and right strips shall be within 16 in. of the left and right lateral extremities of the machine respectively.

Lighting of non-self propelled equipment that obscures vehicle illumination

If the tail lamps on the propelling machine are obscured, at least two red tail lamps mounted to the rear of the machine and positioned between 2 and 5 ft to the left and right of the machine center and between 1.3 and 10 ft high.

If the rear flashing warning lamps are obscured, at least two amber flashing warning lamps visible from the rear shall be provided.

On non-symmetrical equipment extending only to the left or right which only obscures one flashing warning lamp, such as mouldboard plows or windrowers, one flashing warning lamp shall be provided spaced laterally to within 16 in. of the projecting extremity.

Lighting for non-self propelled equipment width

At least two amber flashing warning lamps visible from front and rear shall be provided. The lamps shall be spaced to within 16 in. of the lateral extremities of the machine, preferably mounted between 1.3 and 10 ft high, but may be mounted between 1.3 ft and 12 ft high if required by machine design. On non-symmetrical equipment extending only to the left or right, such as mouldboard plows or windrowers, one flashing warning lamp shall be provided spaced laterally to within 16 in. of the projecting extremity.

Two red tail lamps symmetrically mounted to the rear of the machine and positioned between 2 ft and 5 ft to the left and right of the machine center. If the tail lamps on the propelling machine are not obscured, the tail lamps may be positioned more than 5 ft to the left and right of the machine center. On equipment that is less than 4 ft wide at the rear most part of the equipment, only one red tail lamp is required (e.g. grain augers). The red tail lamps shall be mounted as close to the rear as practicable and between 1.3 and 10 ft high.

Lighting for non-self propelled equipment speed

Stop lamp(s) shall be provided on equipment designed for and that travel at rates of speed greater than 25 miles per hour. The stop lamp(s) shall illuminate when the operator has activated the service brake or another primary control used to slow the towing machine.

Any lamps required shall be connected to a seven-terminal plug. The plug location and cable length shall be compatible with the location of the seven-terminal receptacle on the tractor or self-propelled machine.

Retroreflective material for non-self propelled equipment

Visibility. The material shall be visible at night from all distances between 1000 and 100 ft when directly in front of lawful vehicle low beam headlamps.

Retroreflective sheeting shall consist of a smooth, flat, transparent exterior film with retroreflective elements embedded or suspended beneath the film so as to form a non-exposed retroreflective optical system.

Retroreflective sheeting shall meet requirements of ASTM D-4956 for type V sheeting, except that the photometric requirements shall meet the minimum photometric performance requirements.

From: Vieth, David - DOT [<mailto:David.Vieth@dot.wi.gov>]

Sent: Monday, November 11, 2013 11:08 PM

To: Fiocchi, Tim

Cc: Rhinesmith, Rory - DOT

Subject: FW: ANSI ASAE S279 Lighting and Marking of Ag Equipment Summary

Tim, you had asked for a review of the standards for marking and lighting that had been referred to from the ASAE (ANSI/ASAE S279), with an attempt at summarizing those in a fashion that could be incorporated into the legislative draft. We have two documents to offer at this time: one is a still rather technical summation of the standards; the second is an attempt to go toward a more plain language description.

If there is something more useful we can help with, please let me know. From the conversations we have had, these standards would apply only to those units that would exceed the general provisions, and require written authorization, and when any equipment was of such a width that it would operate over the center of the roadway.. It wasn't clear to me whether it would be intended to also apply to loH (non-CMV) operating over 25 mph.

The two documents are attached. Please let me know if we can do more to help.

Dave Vieth

- 2913

11/12

Tim - Sen. Petrowski 6-2502

- lighting
- local permit

• DOT docs :

- lighting regs. →
- yellow flasher
- red flasher

• admin. review - local OK

• Kathleen Nichols ⇒

• review not workable → not fast enough

- any denial must be based on an engineering evaluation → have to suggest an alternative route

- based on a reasonable engineering evaluation / standards

• will get back to me

11/20 Mc w/ Tim

- discussed lighting and marking - OK to revise to fit existing law, eg. SMV emblem
- explained duplication for some things, like turned on and tail lights

He w/ Tim

11/13

- DOT : regional offices would ~~be~~ issue authorization

- denied by regional etc. → appeal would go to central office in Madison for review

- DOT will determine exactly how that happens

- farmers concerned about denied access down off road to their field

- ~~the~~ category 2 vehicles

- denial : reasonable structure based explanation → + suggested alternative route

- will send email

Gary, Aaron

From: Fiocchi, Tim
Sent: Wednesday, November 13, 2013 3:48 PM
To: Gary, Aaron
Cc: Portz, Elisabeth
Subject: IoH - Written authorization for Category II

Hi Aaron,

Regarding the written authorization we need to make one specific caveat. For category II vehicles essential to planting or harvesting operations, if a request for written authorization is denied, the denial shall include a reasonable structurally based explanation and a suggested alternative route.

Please let me know if you have any questions.

Thank you,

Tim

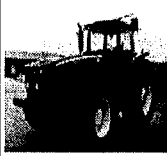

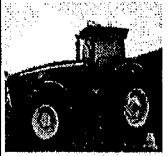


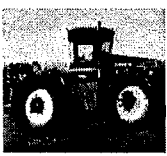
Tim Fiocchi
Chief of Staff, Senator Jerry Petrowski
29th Senate District
(608) 266-2502

Implements of Husbandry Study





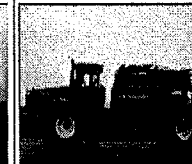
IoH Categories

For the purposes of this study, the roadway, pavement, structure, and implement engineers grouped equipment into four categories as identified in the Phase I report. The categories of equipment are as follows:

Category I (IoH – Primes): A multi-purpose farm tractor designed and used to tow farm equipment, with or without fully-mounted or semi-mounted equipment attached.

Vehicle ID	T1	T2	T6	T7	T8	G1
Vehicle Make	John Deere 8430	M. Ferguson 8470	John Deere 8230	Case IH 275	Case IH Stieger 485	Case IH 9340
Image of Vehicle						

Category II (Self-Propelled IoH): Limited purpose self-propelled equipment designed to perform an agricultural function such as harvesting of crops, for example a self-propelled combine or self-propelled forage chopper.

Vehicle ID	N/A	S3	R4	R5	R6
Vehicle Make	John Deere Forage Harvester 7980	AGCO Terragator 8204	AGCO Terragator 9203	AGCO Terragator 8144	AGCO Terragator 3104
Image of Vehicle					

Gary, Aaron

From: Portz, Elisabeth
Sent: Thursday, January 09, 2014 4:59 PM
To: Gary, Aaron
Cc: Fiocchi, Tim
Subject: Instructions for /2 IoH draft
Attachments: Instructions for Aaron on -2 draft.docx

Hey Aaron,

Tim and I wanted to get you these instructions for a /2 IoH draft before the end of the day. We need these revisions done ASAP, but please don't send us the finished draft until we've called you after the DOT meeting we have tomorrow at 2:30pm.

We think these are the final changes, pending the meeting with DOT and any serious problem they may bring up. We would like to be able to have the final draft by COB tomorrow if at all possible. We know this puts you in a crunch, so please let us know you have any questions or concerns.

Thank you so much for all your hard work on this!

Liz

Elisabeth Portz
Clerk, Assembly Committee on Transportation
Office of Wisconsin State Representative Keith Ripp
42nd Assembly District
(608) 266-3404

Instructions for /2 draft

1. Page 9, line 10: remove “and axles weights”
 - a. Seems we were leaning this way?
 - b. Tim, not sure what we do with this now that the dealers have an issue. For our purposes, I would take this off the list until we’ve talked to DOT.
2. Page 10, line 13- Remove “primary purpose is for off-highway use.”
3. Page 11, add in “towed tillage, planting and cultivation equipment and towing power unit”
4. Page 17, lines 1-5: add language for alternative to 360-degree strobe- two flashing amber lights visible from front and back
5. Page 28: insert language that refers to the no-fee permit as an annual or consecutive month permit
6. Page 28, line 13: add back in “presumptive approval” language that was in the first draft
7. Page 28, line 25: further clarify that “structurally based” includes protection and maintenance of the roadways only: ... *structurally based explanation related to the preservation of the roadway.*

Page 29, line 2: strike “suggested” and insert “approved”. Strike “list” and insert “route”. *any denial shall also include an approved alternate route or map of highways for operation of the implement of husbandry.*

8. Change the lighting requirement of dealers to ensure they are not required by the bill to retrofit IoH they sell
 - a. just change that provision (100.47) to say that the farm equipment must be sold with all lighting and marking required under ch. 347 *at the time it was manufactured.*
2. Definition of Agricultural CMV:

Act 103, which is effective March 1, 2014, no longer requires former military vehicles to meet the federal safety standards. This could impact the drafted definition of Ag CMV.

 - a. Aaron - This is from DOT – address as needed.
3. Page 13, line 24: after ‘other than’ insert “amber or”
 - a. Recommendation from DOT
4. Page 13, after line 24, insert “347.22 (3) of the statutes is created to read: (3) Any farm tractor, self-propelled farm implement, or lightweight utility vehicle may be equipped as described in 347.25 (2g).”
 - a. Recommendation from DOT
5. No Fee Permits for Ag Equipment “Dealers” (recommendation from DOT):
 - a. 348.27 (14r) Recommendation: Exempt Ag “Dealers” and farmers from acquiring a permit for the delivery, repair, or servicing of agricultural equipment between the business location and the farm within a 75 mile radius.

- b. Possibly place in 348.17 (7) where other permit exemptions are located: In this subsection, “dealer” means any person engaged in the business of delivery, repairing, or servicing implements of husbandry.
 - i. No permit shall be required for implements of husbandry (as defined under 340.24 (24), if being operated directly from a farmer’s owned or leased land to a dealer, within a 75 mile radius.
 - ii. No permit shall be required for implements of husbandry (as defined under 340.24 (24), if being operated directly from a dealer to a farmer’s owned or leased land, within a 75 mile radius.
 - iii. With this language, remove the 72 hour reporting requirement from the bill.
6. Remove Page 15, lines-4-7.
7. Create language that allows full weight exemption for category II IoH for incidental travel up to ¼ mile from the farm. Functionally, this would allow farmers to cross the road to their field without unloading fertilizer, pesticides, etc.
8. Create language that allows for an exemption from the escort vehicle requirement for incidental travel up to ¼ mile.
9. Townline and County Line roads: Aaron – do we need to clarify in the draft that for town and county line roads the entity that maintains the road via local agreement is the entity that must give approval for a permit? The towns and counties thought we should clarify this but I’m not sure there needs to be language added to make this clear.-
10. Also – do we need to clarify that the option for a local government to give blanket approval includes an ability for them to approve operations on all but a given set of routes? That’s the intent and I think there’s enough inherent flexibility, but if not we need to make that clear.

Gary, Aaron

From: Portz, Elisabeth
Sent: Friday, January 10, 2014 11:25 AM
To: Gary, Aaron
Subject: FW: Co-sponsorship memo - LRB – 3299/2 – relating to: overtaking and passing vehicles

Hey Aaron,

Keith, Tim, Jerry, and I had been discussing adding this into the IoH bill for several weeks now. Can you draft language into the /2 draft that would take care of this? I think we also need to apply this to Ag-CMV's as well.

Thoughts?

Thanks!

Liz

From: Rep.Vruwink
Sent: Thursday, January 09, 2014 3:40 PM
To: *Legislative All Assembly; *Legislative All Senate
Subject: Co-sponsorship memo - LRB – 3299/2 – relating to: overtaking and passing vehicles

DATE: Thursday, January 9, 2013
TO: All Legislators
FROM: Representative Amy Sue Vruwink
RE: LRB – 3299/2 – relating to: overtaking and passing vehicles
DEADLINE: Friday, January 17, 2014 @ 5:00 p.m.

Under a law passed last year, you can now pass any vehicle going less than half the speed limit on a double line. I've heard concerns from my farmers about their safety. This bill simply prohibits passing an implement of husbandry in the same situation. A driver can still pass a car or horse and buggy with caution.

If you are interested in cosponsoring this bill, simply reply to this email or call Representative Vruwink's office (6-8366) no later than **Friday, January 17, 2014 @ 5:00 p.m.**

The full text of this legislation can be found in the attachment below.



Gary, Aaron

From: Portz, Elisabeth
Sent: Friday, January 10, 2014 12:51 PM
To: Gary, Aaron
Subject: RE: Co-sponsorship memo - LRB – 3299/2 – relating to: overtaking and passing vehicles

30 day delay is fine. Thanks!

From: Gary, Aaron
Sent: Friday, January 10, 2014 12:44 PM
To: Portz, Elisabeth
Subject: RE: Co-sponsorship memo - LRB – 3299/2 – relating to: overtaking and passing vehicles

OK. Should the effective date be the same as LRB-2913 (30 day delay) or as in -3299 (about a 2 month delay)?

Aaron

From: Portz, Elisabeth
Sent: Friday, January 10, 2014 11:25 AM
To: Gary, Aaron
Subject: FW: Co-sponsorship memo - LRB – 3299/2 – relating to: overtaking and passing vehicles

Hey Aaron,

Keith, Tim, Jerry, and I had been discussing adding this into the IoH bill for several weeks now. Can you draft language into the /2 draft that would take care of this? I think we also need to apply this to Ag-CMV's as well.

Thoughts?

Thanks!

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RE: LRB – 3299/2 – relating to: overtaking and passing vehicles

Gary, Aaron

From: Fiocchi, Tim
Sent: Thursday, January 09, 2014 6:04 PM
To: Gary, Aaron
Subject: Fwd: Exemption for IoH dealers

----- Original message -----

From: "Knowles, Mae - DOT"
Date: 01/09/2014 5:47 PM (GMT-06:00)
To: "Fiocchi, Tim"
Cc: "Rhinesmith, Rory - DOT" , "Vieth, David - DOT" , "Warren, Mitchell - DOT" , "Bernander, Paul - DOT" , "Boardman, Kristina - DOT" , "Ausloos, Brian - DOT" , "Yahn, Nate - DOT" , "Rhatigan, Tom M - DOT"
Subject: Exemption for IoH dealers

Tim –

Here are answers to Aaron's questions regarding the elimination of the IoH dealer permit.
Let me know if you have other questions,
Mae

From: Warren, Mitchell - DOT
Sent: Thursday, January 09, 2014 3:38 PM
To: Knowles, Mae - DOT
Subject: FW: Recommendation from DOT

Comments from Paul Bernander embedded in Aaron's questions.

From: Gary, Aaron
Sent: Thursday, January 09, 2014 11:22 AM
To: Fiocchi, Tim
Cc: Portz, Elisabeth
Subject: RE: Recommendation from DOT

Tim,

This doesn't quite work, but I could do some type of variation on this. The provision isn't a permit exemption; it is an exemption to the statutory size/weight limit. The other provisions in s. 348.17 specify that a vehicle can exceed the statutory weight by either 10% or 15% without a permit under certain limited conditions.

It'd be really nice to not have to have a narrow-use ag dealer/service entity permit, so create the exemptions with that thought in mind.

What would the exemption here apply to? The current 348.15(3) allows unlimited width during daylight M-F (ending 2 pm F), so any IoH width should be included. 348.15(3) is to be eliminated, including the hours restrictions. I don't think we need the hours restrictions because we think they're not complied with currently.

Weight only? I like the idea of IoH weight (115%), since this is limited to/from farm. Excess length and height should not be included. I'd be OK with it on a CMV, too, because of the to/from farm restriction.

The begrudging continuation of height allowance for IOH is based in part on farmer familiarity with near-farm routes. I don't give that credit to dealers/service entities. I'd be ok with length up to IOH lengths, but only for a two-vehicle combination, not three.

Or all size and weight limitations? Would it apply only to vehicles being operated on the highway or those being transported (on a flatbed, etc.) on the highway also? I'd be ok with transported on a CMV, as this is the current authority.

And would it apply only to IOH or both IOH and Ag CMV? Both.

I'm sure I can fashion some type of exemption (in lieu of the dealer permit) to capture the substance of the proposed changes below.

Thanks. Aaron

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

From: Fiocchi, Tim
Sent: Thursday, January 09, 2014 10:50 AM
To: Gary, Aaron
Cc: Portz, Elisabeth
Subject: Recommendation from DOT

Aaron,

I know we talked about this previously, but wanted to run the below option (from the department) by you to see if it would be feasible the way they suggest.

Let me know what you think. This would be in lieu of them having the permit and being required to do 72 hour reporting.

Tim

No Fee Permits for Ag Equipment "Dealers":

348.27 (14r) Recommendation: Exempt Ag "Dealers" and farmers from acquiring a permit for the delivery, repair, or servicing of agricultural equipment between the business location and the farm within a 75 mile radius.

Possibly place in 348.17 (7) where other permit exemptions are located:

In this subsection, "dealer" means any person engaged in the business of delivery, repairing, or servicing implements of husbandry.

No permit shall be required for implements of husbandry (as defined under 340.24 (24), if being operated directly from a farmer's owned or leased land to a dealer, within a 75 mile radius.

No permit shall be required for implements of husbandry (as defined under 340.24 (24), if being operated directly from a dealer to a farmer's owned or leased land, within a 75 mile radius.

Tim Fiocchi
Chief of Staff, Senator Jerry Petrowski
29th Senate District
(608) 266-2502

Gary, Aaron

From: Portz, Elisabeth
Sent: Thursday, January 09, 2014 5:24 PM
To: Gary, Aaron
Cc: Fiocchi, Tim
Subject: RE: Instructions for /2 IoH draft

Aaron,

We have additional instructions:

- delete the requirement for plastic reflectors. The modern standard is the retro reflective tape and is more durable.
- Require DOT to create a document describing the operational limits beyond which an operator is required to have a permit to be given to the implement dealers to distribute to customers at Point of Sale.

↳ no - change cancelled

Thanks!

Liz

From: Portz, Elisabeth
Sent: Thursday, January 09, 2014 4:59 PM
To: Gary, Aaron
Cc: Fiocchi, Tim
Subject: Instructions for /2 IoH draft

Hey Aaron,

Tim and I wanted to get you these instructions for a /2 IoH draft before the end of the day. We need these revisions done ASAP, but please don't send us the finished draft until we've called you after the DOT meeting we have tomorrow at 2:30pm.

We think these are the final changes, pending the meeting with DOT and any serious problem they may bring up. We would like to be able to have the final draft by COB tomorrow if at all possible. We know this puts you in a crunch, so please let us know you have any questions or concerns.

Thank you so much for all your hard work on this!

Liz

Elisabeth Portz
Clerk, Assembly Committee on Transportation
Office of Wisconsin State Representative Keith Ripp
42nd Assembly District
(608) 266-3404

Gary, Aaron

From: Gary, Aaron
Sent: Friday, January 10, 2014 12:40 PM
To: Portz, Elisabeth
Cc: Fiocchi, Tim
Subject: RE: Instructions for /2 IoH draft

Hi Liz,

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I do need to follow up on a few items related to the attached document and the other emails you sent.

Regarding item 1. of the attached doc, I made the change on p. 9, line 10. I'm not sure what to make of the comments below that, but assume I don't need to know more at this time.

Regarding item 3. of the attached doc, where do you want this language added? (No line number is indicated, and I was uncertain precisely where you wanted it placed.)

Regarding the second item 4 of the attached doc, p. 13, line 24, I think the approach suggested by DOT is problematic and I'm a little uncertain of the intent here. For self-propelled IOH manufactured before 1/1/14, the light is mandatory, while DOT's recommendation that applies in part to the same vehicles (farm tractor, self-propelled farm implement) suggests that it is permissive ("may be equipped"). So there's that potential conflict. Also, the placement of any change should be in 347.25, not 347.22. Is it the intent to specify that, for an IOH where the light under s. 347.25 is not required, a person who wants to put one on can do so? If so, this could be added in 347.25. In doing so, is it OK to omit the lightweight utility vehicle reference?

Regarding the second item 5, the dealer permits, the follow up email from Mae Knowles with responses from Paul Bernander is not consistent with my conversations with Tim. As I read Paul's comments, DOT is asking that the dealer exemption contain the following parameters:

1. It is a weight exemption for IOH and Ag CMV but only up to 15%, the same allowance provided under the bill for IOH/Ag CMV used in farming operations. In prior conversations with Tim, he said this was not what he wanted. He wanted dealers/farmers to be able to exceed (without a permit) the 15% weight allowance under the bill when operating/transporting for repair, delivery, etc. Is this latter still the intent? If so, is there an upper max on weight (like 92,000 for potato harvester), or no max on weight, for dealer exemption?
2. Dealer exemption would not apply to height.
3. Dealer exemption would apply to length of IOH (not Ag CMV) but only for one-vehicle or 2-vehicle IOH, not 3-vehicle IOH. Exemption would not be open-ended – it would be limited to same max length allowed for IOH used in farming operations.
4. Dealer exemption would apply to width (I think), with no width limit, but just for IOH and not Ag CMV (I think).
5. Dealer exemption would allow both operation and transporting IOH/Ag CMV on a flatbed. However, an IOH transported on a flatbed is considered a "load". There are certain limitations on load that I will have to create exceptions for. See 348.09 and 348.10. Also, vehicle dimension requirements apply to the vehicle and its load. See s. 348.02 (2). So, for example, the 13.5 feet height limit would apply to an IOH or Ag CMV sitting on a flatbed trailer (measured from the pavement to the top of the vehicle/equipment) if the dealer exemption doesn't include height. More importantly, the applicable weight for the IOH on the flatbed would include both the weight of the vehicle hauling and the weight of the IOH, so that would very much affect the weight limit discussion here. (At the DOT meeting I attended, DOT said it is routine to pull permits to transport IOH on flatbeds and this "doubling" of weight I'm sure is accounted for in the permit terms.)

The bill doesn't create a new dealer permit, so to the extent any of the parameters above are not met, the dealer/farmer would need to get one of the existing permits that DOT currently issues.

Also, if DOT's parameters suggested above are acceptable, it might make more sense to simply add the "dealer exemption" as part of the definition of IOH, as Tim and I had earlier discussed.

Regarding item 9. on p. 2 of the attached doc, the townline/county line road issue should be adequately covered in the existing draft, with no change needed. The draft refers to "the municipality or county responsible for maintenance"

Regarding item 10. on p. 2 of the attached doc, I think this issue is also adequately covered in the existing draft, with no change needed. The blanket approval can be given for "any or all highways" It's up to the municipality how to designate them.

Regarding the follow up email to delete the requirement for reflectors, there are quite a few reflectors mentioned in the current statutes. Is your intent to replace "reflector" with "retroreflective conspicuity material" in each place in the current stats applicable to IOH/ag vehicles? I note there is a general requirement for placement of reflectors that sometimes (but not always) applies to ag vehicles, but there is no similar provision for "retroreflective conspicuity material". See s. 347.18 (1). In replacing references to reflectors with references to the retroreflective conspicuity material, do you want to omit any specification as to how/where the retroreflective conspicuity material is applied, or do you want me to create some language like s. 347.18 (1) but applicable to the tape? If so, I'll need some direction on how that language should read.

Regarding the follow up email on the DOT information document regarding operational limits, would that cover only IOH or both IOH and Ag CMVs?

Aaron

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

From: Portz, Elisabeth
Sent: Thursday, January 09, 2014 4:59 PM
To: Gary, Aaron
Cc: Fiocchi, Tim
Subject: Instructions for /2 IoH draft

Hey Aaron,

Tim and I wanted to get you these instructions for a /2 IoH draft before the end of the day. We need these revisions done ASAP, but please don't send us the finished draft until we've called you after the DOT meeting we have tomorrow at 2:30pm.

We think these are the final changes, pending the meeting with DOT and any serious problem they may bring up. We would like to be able to have the final draft by COB tomorrow if at all possible. We know this puts you in a crunch, so please let us know you have any questions or concerns.

Thank you so much for all your hard work on this!

Liz

Gary, Aaron

From: Portz, Elisabeth
Sent: Friday, January 10, 2014 5:39 PM
To: Gary, Aaron
Cc: Fiocchi, Tim
Subject: RE: Instructions for /2 IoH draft

Our comments are in orange below. This is fun...

From: Gary, Aaron
Sent: Friday, January 10, 2014 2:36 PM
To: Portz, Elisabeth
Cc: Fiocchi, Tim
Subject: RE: Instructions for /2 IoH draft

Just a couple brief follow ups in green below. Thanks. Aaron

From: Portz, Elisabeth
Sent: Friday, January 10, 2014 1:09 PM
To: Gary, Aaron
Cc: Fiocchi, Tim
Subject: RE: Instructions for /2 IoH draft

Hey Aaron,

Thanks for getting back to us. I have included my comments in red below. Please let me know if you have any further questions!

From: Gary, Aaron
Sent: Friday, January 10, 2014 12:40 PM
To: Portz, Elisabeth
Cc: Fiocchi, Tim
Subject: RE: Instructions for /2 IoH draft

Hi Liz,

I'm working on this but it seems unlikely that I can get it drafted, edited, and typed by the end of the day, especially since there are still some loose ends.

I do need to follow up on a few items related to the attached document and the other emails you sent.

Regarding item 1. of the attached doc, I made the change on p. 9, line 10. I'm not sure what to make of the comments below that, but assume I don't need to know more at this time.

The comments were for Tim and I, not for you. Sorry about that!

Regarding item 3. of the attached doc, where do you want this language added? (No line number is indicated, and I was uncertain precisely where you wanted it placed.)

We are adding item three to the definition of category II, so you can add that where you see fit anywhere in 320.01(24)(a)(1)(b).

Regarding the second item 4 of the attached doc, p. 13, line 24, I think the approach suggested by DOT is problematic and I'm a little uncertain of the intent here. For self-propelled IOH manufactured before 1/1/14, the light is

mandatory, while DOT's recommendation that applies in part to the same vehicles (farm tractor, self-propelled farm implement) suggests that it is permissive ("may be equipped"). For the self-propelled, it should include either a 360 strobe OR two flashing amber lights on the corners. One or the other is required, not optional. So there's that potential conflict. Also, the placement of any change should be in 347.25, not 347.22. This is fine with us. Is it the intent to specify that, for an IOH where the light under s. 347.25 is not required, a person who wants to put one on can do so? No this is not the intent. If so, this could be added in 347.25. In doing so, is it OK to omit the lightweight utility vehicle reference? Yes.

Regarding response "no this is not the intent", then I don't understand what this recommended change is supposed to do. It seems to me to serve no purpose and to create confusion. Unless DOT can articulate a reason for it, it seems like it should be omitted.

Can you clarify what you are talking about omitting? What is the second item 4 on the attached doc? With all the emails and documents, we're lost on what you are referring to.

Regarding the second item 5, the dealer permits, the follow up email from Mae Knowles with responses from Paul Bernander is not consistent with my conversations with Tim. As I read Paul's comments, DOT is asking that the dealer exemption contain the following parameters:

1. It is a weight exemption for IOH and Ag CMV but only up to 15%, the same allowance provided under the bill for IOH/Ag CMV used in farming operations. In prior conversations with Tim, he said this was not what he wanted. He wanted dealers/farmers to be able to exceed (without a permit) the 15% weight allowance under the bill when operating/transporting for repair, delivery, etc. Is this latter still the intent? If so, is there an upper max on weight (like 92,000 for potato harvester), or no max on weight, for dealer exemption? No max weight
2. Dealer exemption would not apply to height. (this is right)
3. Dealer exemption would apply to length of IOH (not Ag CMV) but only for one-vehicle or 2-vehicle IOH, not 3-vehicle IOH. Exemption would not be open-ended – it would be limited to same max length allowed for IOH used in farming operations. This is correct but the exemption would also apply to Ag-CMV
4. Dealer exemption would apply to width (I think), with no width limit, but just for IOH and not Ag CMV (I think). Yes this is correct
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The bill doesn't create a new dealer permit, so to the extent any of the parameters above are not met, the dealer/farmer would need to get one of the existing permits that DOT currently issues. yes

Also, if DOT's parameters suggested above are acceptable, it might make more sense to simply add the "dealer exemption" as part of the definition of IOH, as Tim and I had earlier discussed. If that is the easiest way to do it, then you should do it that way, but the exemption also applies to Ag-CMV so it might not be the easiest option.

This must have been miscommunication with DOT. If the exemption is going into the bill in place of a permit, then the exemption should be for length (for 1 and 2 vehicle combos) and weight. We will discuss this whole section with DOT, but please add what we've discussed here into the /2 for now.

Regarding item 9. on p. 2 of the attached doc, the townline/county line road issue should be adequately covered in the existing draft, with no change needed. The draft refers to "the municipality or county responsible for maintenance"

We were thinking that was the case, thanks for the clarification.

Regarding item 10. on p. 2 of the attached doc, I think this issue is also adequately covered in the existing draft, with no change needed. The blanket approval can be given for "any or all highways" It's up to the municipality how to designate them.

Sounds good to us.

Regarding the follow up email to delete the requirement for reflectors, there are quite a few reflectors mentioned in the current statutes. Is your intent to replace "reflector" with "retroreflective conspicuity material" in each place in the current stats applicable to IOH/ag vehicles? I note there is a general requirement for placement of reflectors that sometimes (but not always) applies to ag vehicles, but there is no similar provision for "retroreflective conspicuity material". See s. 347.18 (1). In replacing references to reflectors with references to the retroreflective conspicuity material, do you want to omit any specification as to how/where the retroreflective conspicuity material is applied, or do you want me to create some language like s. 347.18 (1) but applicable to the tape? If so, I'll need some direction on how that language should read.

It should only apply to the new requirement, not existing statute regarding lighting requirements. Sorry for my confusion. The bill doesn't refer to reflectors in the new requirements, so I assumed you meant current statutes. The only new requirement that would seem to cover reflectors is at p. 14, line 13 – I assume the "red retroreflective devices" would mean reflectors. But if the "devices" term is deleted and replaced with reflective tape, wouldn't that make the provision the same as subd. 3. just below it (p. 14, line 16). Do you want me to eliminate subd. 2 altogether and keep subd. 3.?

Yes, the "red retroreflective devices" are what we meant by reflectors. The term "reflectors" was mentioned in meetings, so we didn't clarify. Page 14, line 13-15 is what we are intending to delete. The only thing we were looking to remove was those lines. We don't need to add in language for reflective tape if subd 3 takes care of it.

Regarding the follow up email on the DOT information document regarding operational limits, would that cover only IOH or both IOH and Ag CMVs?

Do what Tim told you, not what they said.

I was referring to DOT's brochure to be given to implement dealers to be distributed at point of sale. Would the brochure have to discuss both IOH and Ag CMVs?

Post meeting with DOT, just delete the provision discussing the brochure. We have decided not to move forward with that requirement in the bill.

Aaron

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

From: Portz, Elisabeth
Sent: Thursday, January 09, 2014 4:59 PM
To: Gary, Aaron
Cc: Fiocchi, Tim
Subject: Instructions for /2 IoH draft

Hey Aaron,

Gary, Aaron

From: Portz, Elisabeth
Sent: Friday, January 10, 2014 5:41 PM
To: Gary, Aaron
Cc: Fiocchi, Tim
Subject: RE: Instructions for /2 IoH draft

Sticking with orange.

From: Gary, Aaron
Sent: Friday, January 10, 2014 4:29 PM
To: Portz, Elisabeth
Cc: Fiocchi, Tim
Subject: RE: Instructions for /2 IoH draft

Sorry, two more questions, related to the ¼ mile exception in items 7. and 8. on p. 2.

On 7., "Full weight exemption" for category II IOH means no weight limits at all, right? Yes, this is correct.

On 8., do you mean only the overwide (20 ft. +) escorts, or also the potato harvester escorts? Yes because an escort vehicle is only required after 20. We are also including the potato harvesters in the exemption for incidental travel from escort requirement.

Thanks. Aaron

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3. Dealer exemption would apply to length of IOH (not Ag CMV) but only for one-vehicle or 2-vehicle IOH, not 3-vehicle IOH. Exemption would not be open-ended – it would be limited to same max length allowed for IOH used in farming operations. This is correct but the exemption would also apply to Ag-CMV
4. Dealer exemption would apply to width (I think), with no width limit, but just for IOH and not Ag CMV (I think). Yes this is correct
5. Dealer exemption would allow both operation and transporting IOH/Ag CMV on a flatbed. However, an IOH transported on a flatbed is considered a "load". There are certain limitations on load that I will have to create exceptions for. See 348.09 and 348.10. Also, vehicle dimension requirements apply to the vehicle and its load. See s. 348.02 (2). So, for example, the 13.5 feet height limit would apply to an IOH or Ag CMV sitting on a flatbed trailer (measured from the pavement to the top of the vehicle/equipment) if the dealer exemption doesn't include height. (you're right that the dealer exemption does not apply to height) More importantly, the applicable weight for the IOH on the flatbed would include both the weight of the vehicle hauling and the weight of the IOH, so that would very much affect the weight limit discussion here. (At the DOT meeting I attended, DOT said it is routine to pull permits to transport IOH on flatbeds and this "doubling" of weight I'm sure is accounted for in the permit terms.)

The bill doesn't create a new dealer permit, so to the extent any of the parameters above are not met, the dealer/farmer would need to get one of the existing permits that DOT currently issues. yes
Also, if DOT's parameters suggested above are acceptable, it might make more sense to simply add the "dealer exemption" as part of the definition of IOH, as Tim and I had earlier discussed. If that is the easiest way to do it, then you should do it that way, but the exemption also applies to Ag-CMV so it might not be the easiest option.

This must have been miscommunication with DOT. If the exemption is going into the bill in place of a permit, then the exemption should be for length (for 1 and 2 vehicle combos) and weight. We will discuss this whole section with DOT, but please add what we've discussed here into the /2 for now.

Regarding item 9. on p. 2 of the attached doc, the townline/county line road issue should be adequately covered in the existing draft, with no change needed. The draft refers to "the municipality or county responsible for maintenance"

We were thinking that was the case, thanks for the clarification.

Regarding item 10. on p. 2 of the attached doc, I think this issue is also adequately covered in the existing draft, with no change needed. The blanket approval can be given for "any or all highways" It's up to the municipality how to designate them.

Sounds good to us.

Regarding the follow up email to delete the requirement for reflectors, there are quite a few reflectors mentioned in the current statutes. Is your intent to replace "reflector" with "retroreflective conspicuity material" in each place in the current stats applicable to IOH/ag vehicles? I note there is a general requirement for placement of reflectors that sometimes (but not always) applies to ag vehicles, but there is no similar provision for "retroreflective conspicuity material". See s. 347.18 (1). In replacing references to reflectors with references to the retroreflective conspicuity material, do you want to omit any specification as to how/where the retroreflective conspicuity material is applied, or do you want me to create some language like s. 347.18 (1) but applicable to the tape? If so, I'll need some direction on how that language should read.

It should only apply to the new requirement, not existing statute regarding lighting requirements. Sorry for my confusion. The bill doesn't refer to reflectors in the new requirements, so I assumed you meant current statutes. The only new requirement that would seem to cover reflectors is at p. 14, line 13 – I assume the "red retroreflective devices" would mean reflectors. But if the "devices" term is deleted and replaced with reflective tape, wouldn't that make the provision the same as subd. 3. just below it (p. 14, line 16). Do you want me to eliminate subd. 2 altogether and keep subd. 3.?

Regarding the follow up email on the DOT information document regarding operational limits, would that cover only IOH or both IOH and Ag CMVs?

Do what Tim told you, not what they said.

I was referring to DOT's brochure to be given to implement dealers to be distributed at point of sale. Would the brochure have to discuss both IOH and Ag CMVs?

Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)

Gary, Aaron

From: Gary, Aaron
Sent: Friday, January 10, 2014 7:12 PM
To: Portz, Elisabeth
Subject: RE: Instructions for /2 IOH draft

No response

Just one follow up to the responses below, to this : Can you clarify what you are talking about omitting? What is the second item 4 on the attached doc? With all the emails and documents, we're lost on what you are referring to.

I'm referring to this:

1. Page 13, after line 24, insert "347.22 (3) of the statutes is created to read: 347.22(2) (3) Any farm tractor, self-propelled farm implement, or lightweight utility vehicle may be equipped as described in 347.25 (2g)."

Here's the applicable provision in the draft (as revised per your instructions):

347.25 (2g) No person may operate on a highway any self-propelled implement of husbandry manufactured before January 1, 2014, and having a total width in excess of 12 feet, unless it is equipped with a 360-degree yellow or amber rotating strobe or beacon light, mounted at the highest practicable point, or 2 flashing amber lights visible to the front and rear, and the light or lights are activated.

So for the vehicles described (IOH mfg'd pre-2014, 12+ feet wide), the light(s) is required. If the intent is NOT to allow this as optional equipment for IOH falling outside the description, then I don't understand why DOT wants this provision, except perhaps it has a concern that 347.25 (2g) allows a yellow light to show to the rear. Such a concern, however, is better addressed in another way (and s. 347.22 (2) is being amended to allow amber, as well as red, lights to show to the rear). My preference at this point would be to not include this item but to make it clear that the amber lights and yellow strobe can in fact show to the rear.

FYI, for your convenience, here's the rest of your response to my original question:

Regarding the second item 4 of the attached doc, p. 13, line 24, I think the approach suggested by DOT is problematic and I'm a little uncertain of the intent here. For self-propelled IOH manufactured before 1/1/14, the light is mandatory, while DOT's recommendation that applies in part to the same vehicles (farm tractor, self-propelled farm implement) suggests that it is permissive ("may be equipped"). For the self-propelled, it should include either a 360 strobe OR two flashing amber lights on the corners. One or the other is required, not optional. So there's that potential conflict. Also, the placement of any change should be in 347.25, not 347.22. This is fine with us. Is it the intent to specify that, for an IOH where the light under s. 347.25 is not required, a person who wants to put one on can do so? No this is not the intent. If so, this could be added in 347.25. In doing so, is it OK to omit the lightweight utility vehicle reference? Yes.

Regarding response "no this is not the intent", then I don't understand what this recommended change is supposed to do. It seems to me to serve no purpose and to create confusion. Unless DOT can articulate a reason for it, it seems like it should be omitted.

Can you clarify what you are talking about omitting? What is the second item 4 on the attached doc? With all the emails and documents, we're lost on what you are referring to.

Gary, Aaron

From: Fiocchi, Tim
Sent: Friday, January 10, 2014 7:57 PM
To: Gary, Aaron; Portz, Elisabeth
Subject: RE: Instructions after DOT meeting

For item 1 we want the tires and fenders/flares to be allowed the additional 2 feet but not the rest of the vehicle. This should be allowed if the Ag-CMV is spreading lime or fertilizer, but NOT if it is spreading manure. The Ag-CMV's that are the retrofit manure tanker/spreaders should be limited to 10 feet including the tires.

On a related note, not that I think we need to say anything specific in the draft, but I wanted to note that in part "b" of the definition of IoH we refer to spray and fertilizer then explicitly exclude manure. If not for that specific exclusion, it's clear manure is a type of fertilizer right?

On item 2, it could be 49 CFR 390.5 - the intent is to reference the federal CMV definition that specifies vehicles exceeding 10,000 pounds rather than use the state definition that refers to 26,000.

THANK YOU!

From: Gary, Aaron
Sent: Friday, January 10, 2014 7:11 PM
To: Portz, Elisabeth
Cc: Fiocchi, Tim
Subject: RE: Instructions after DOT meeting

I'm almost out of questions! Last batch coming up.

The way item 1. is worded, I believe it will always result in a width for Ag CMV of 12 feet. If I am understanding the intent right, another way to write it is to say the width limit is 10 feet plus an additional 2 feet for extending tires, fenders, or fender flares.

I have drafted it as suggested below and will stick with that unless you would rather me refer to the additional 2 feet extensions instead.

Also, to clarify, if the Ag CMV is spreading lime or fertilizer, the width limit is 8' 6"?

Regarding item 2., I can't find 49 CFR 390.50. Could it be 49 CFR 390.5 ?

A couple emails to follow

From: Portz, Elisabeth
Sent: Friday, January 10, 2014 5:56 PM
To: Gary, Aaron
Cc: Fiocchi, Tim
Subject: Instructions after DOT meeting

Hey Aaron,

After meeting with DOT, this is the last bit of instructions we've got for you.

1. Page 18, line 1: add this language “unless operated for purposes of spreading lime or fertilizer, but not including manure application, if the tires, fenders, or fender flares have extended beyond 10 feet, not to exceed 12 feet.”
 - a. Call with questions on this but the intent is to account for manufactured IoH that look like Ag CMVs.
2. Page 11- line 9, after “vehicle” delete the remainder of line 9 and 10, and insert “is a commercial motor vehicle under 49 CFR 390.50.”
 - a. Call with questions.
3. Page 30, line 25, add “to determine the acceptability of proposed no-fee permit application.”

This is all we've got for the /2 draft so you can finalize it. Let us know if you have any questions!

Tim: 608-712-7727

Liz: 920-471-8150

Liz

Elisabeth Portz
Clerk, Assembly Committee on Transportation
Office of Wisconsin State Representative Keith Ripp
42nd Assembly District
(608) 266-3404

Gary, Aaron

From: Fiocchi, Tim
Sent: Friday, January 10, 2014 7:46 PM
To: Gary, Aaron; Portz, Elisabeth
Subject: RE: Instructions for /2 IoH draft

Incidental travel for weight or escort exemptions should be a distance between fields of .25 miles or less.

If it's instructive, the issue being addressed is vehicles spraying or spreading fertilizer having to go from one field to the next that functionally cannot be unloaded in between, or the wide vehicles having to stop and call the escort vehicle to just to cross into the next field.

From: Gary, Aaron
Sent: Friday, January 10, 2014 7:12 PM
To: Portz, Elisabeth
Cc: Fiocchi, Tim
Subject: RE: Instructions for /2 IoH draft

Thanks. For the escort, can I consider a distance on the highway of 0.25 miles or less to be "incidental"? Or do you want it to say both that it is incidental and 0.25 miles or less? If so, what is travel on the highway incidental to – field operation?

From: Portz, Elisabeth
Sent: Friday, January 10, 2014 5:41 PM
To: Gary, Aaron
Cc: Fiocchi, Tim
Subject: RE: Instructions for /2 IoH draft

Sticking with orange.

From: Gary, Aaron
Sent: Friday, January 10, 2014 4:29 PM
To: Portz, Elisabeth
Cc: Fiocchi, Tim
Subject: RE: Instructions for /2 IoH draft

Sorry, two more questions, related to the ¼ mile exception in items 7. and 8. on p. 2.

On 7., "Full weight exemption" for category II IOH means no weight limits at all, right? Yes, this is correct.

On 8., do you mean only the overwide (20 ft. +) escorts, or also the potato harvester escorts? Yes because an escort vehicle is only required after 20. We are also including the potato harvesters in the exemption for incidental travel from escort requirement.

Thanks. Aaron