

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2913/P2ins2
ARG:.....

✓
INSERT 1-11:

and providing a penalty

INSERT ANAL:

Definition of implement of husbandry

Current law includes various provisions relating to the operation on highways of implements of husbandry and farm tractors. An "implement of husbandry" is generally defined as a vehicle or piece of equipment or machinery designed for agricultural purposes, used exclusively in the conduct of agricultural operations, and used principally off the highway, or a trailer-mounted bulk liquid fertilizer container. However, an "implement of husbandry" does not include certain vehicles, such as motor trucks or farm trucks, with or without a trailer attached, when operated as a commercial motor vehicle on a highway. A "farm tractor" is defined as a motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

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This bill modifies the definition of implement of husbandry. Under the bill, an implement of husbandry is a self-propelled or towed vehicle manufactured, designed, or reconstructed to be used, and actually used, exclusively in the conduct of agricultural operations and the primary purpose of which is for off-highway use. An implement of husbandry includes a combination of vehicles in which each vehicle in the combination is an implement of husbandry. An implement of husbandry may include a farm tractor, farm trailer, self-propelled application-type vehicle such as a combine, or other vehicles. a

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The bill also creates a definition of a commercial motor vehicle converted for exclusive agricultural use, which is a type of implement of husbandry. A commercial motor vehicle converted for exclusive agricultural use is defined as a motor vehicle to which all of the following apply: 1) the vehicle is materially altered from its original construction, for the purpose of agricultural use, by the removal, addition, or substitution of essential parts; 2) prior to its alteration, the vehicle was designed and manufactured primarily for highway use; and 3) after its alteration, the vehicle is used exclusively in the conduct of agricultural operations and the vehicle's primary purpose is for off-highway use. apply

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Under the bill, the owner or operator of a commercial motor vehicle converted for exclusive agricultural use may certify, on a form prescribed by the Department of Transportation (DOT), that the vehicle and its operation satisfies all requirements to be a commercial motor vehicle converted for exclusive agricultural use. This certification may be offered to DOT or any traffic officer as evidence of the truth of satisfy

the matters asserted in the certification, but the certification is not conclusive of these matters.

Vehicle size and weight limitations

Under current law, with limited exceptions, no person may operate on a highway any vehicle or combination of vehicles that exceeds certain statutory limits on size, weight, or load unless that person obtains a permit issued by DOT or a local highway authority. Current law imposes certain weight limitations on vehicles and vehicle combinations, including limitations based on the number and spacing of axles. Certain exceptions allow vehicles or vehicle combinations to operate without a permit at weights higher than the general statutory weight limitations. For example, from September 1 to December 31, a person may, without a permit, exceed the general statutory weight limitations by not more than 15 percent in certain vehicles or vehicle combinations that are: 1) transporting corn, soybeans, potatoes, vegetables, or cranberries from the field to storage or processing; or 2) transporting manure to or from a farm.

Also under current law, DOT or a local highway authority may impose special weight limits on highways that, because of weakness of the roadbed due to deterioration or climatic conditions or other special or temporary conditions, would likely be seriously damaged or destroyed in the absence of the special limits. If special weight limits are imposed, the limits must be posted by highway signs along the affected highways. The special weight limits apply regardless of whether a vehicle is being operated under an overweight permit unless the permit expressly authorizes the special weight limits to be exceeded.

This bill creates an increased weight limit for all implements of husbandry that is approximately 15 percent higher than the general statutory weight limit. This increased weight allowance applies in lieu of, not in addition to, any other increased weight allowance for implements of husbandry. With this increased allowance, the maximum gross weight for an implement of husbandry operated on a highway without a permit or written authorization (discussed below) may not exceed 92,000 pounds. However, there is no weight limit for a potato harvester accompanied by one or more escort vehicles operating with hazard lights activated, except that a potato harvester is subject to posted special weight limits. If an implement of husbandry exceeds the increased weight allowance created under the bill, the amount of the overweight violation is computed based on the general statutory weight limitations, not on the weight allowance that is approximately 15 percent higher.

Under current law, unless an exception applies, a person may not, without a permit, operate on a highway any vehicle having a total width in excess of 8 feet 6 inches. Under one exception, there is no width limitation for an implement of husbandry temporarily operated on a highway in the course of performance of its work. Under another exception, a farm tractor may have a total outside width of up to 12 feet or, if operated on most parts of the interstate highway system, 9 feet. Under yet another exception, a farm tractor exceeding 12 feet in width, and an implement of husbandry not being operated in the course of performance of its work and exceeding 8 feet 6 inches in width, may be moved, towed, or hauled over the

numerals
OK

highways, without a permit, between one-half hour before sunrise and sunset on Mondays to Thursdays and from one-half hour before sunrise to 2 p.m. on Fridays, but this exception generally does not apply on the interstate highway system. DOT may issue annual or consecutive month permits for the movement, towing, or hauling of farm tractors exceeding 12 feet in width, and of implements of husbandry not being operated in the course of performance of their work and exceeding 8 feet 6 inches in width, on the interstate highway system.

Under this bill, there is generally no width limitation for implements of husbandry operated on a highway. However, if the implement of husbandry is a commercial motor vehicle converted for exclusive agricultural use, the vehicle's total width may not exceed 10 feet without a permit or written authorization (discussed below). Certain wide implements of husbandry are also subject to lighting and marking requirements (discussed below). The bill also repeals the exception under current law authorizing the operation of certain farm tractors and implements of husbandry that would otherwise not be authorized on the highway between one-half hour before sunrise and sunset on Mondays to Thursdays and from one-half hour before sunrise to 2 p.m. on Fridays.

Under current law, unless an exception applies, a person may not, without a permit, operate on a highway any single vehicle with an overall length in excess of 45 feet or any combination of two vehicles with an overall length in excess of 70 feet. Under one exception, there is no length limitation for implements of husbandry temporarily operated on a highway.

Also under current law, unless an exception applies, a person may not, without a permit, operate on a highway any vehicle towing, or having attached to it, two or more other vehicles. Under one exception, two trailers used primarily as implements of husbandry in connection with seasonal agricultural activities or one such trailer and any other implement of husbandry may be towed by a farm tractor if the operation of the vehicle combination (implement of husbandry train) is exclusively a farming operation and not for the transportation of property for hire and if the overall length of the vehicle combination does not exceed 60 feet. Under another exception, two trailers transporting empty tanks used for hauling or storing liquid agricultural fertilizer or two implements of husbandry, including two empty trailers used primarily as implements of husbandry in connection with seasonal agricultural activities, may be towed by a motor truck or truck tractor if the overall length of the vehicle combination (truck-drawn agricultural train) does not exceed 60 feet.

This bill creates length limitations for implements of husbandry operated on a highway without a permit or written authorization (discussed below) based in part on the number of vehicles being operated. Under the bill, if the implement of husbandry is a single vehicle, it may not exceed 60 feet in length. If the implement of husbandry is a two-vehicle combination, it may not exceed 100 feet in length. If the vehicle combination is an implement of husbandry train or a truck-drawn agricultural train, its length may not exceed 70 feet or, if it is traveling at a speed of 20 miles per hour or less, 100 feet. However, if the implement of husbandry is a potato harvester accompanied by one or more escort vehicles operating with hazard lights activated, there is no length limitation for the implement of husbandry. The

bill also modifies the statutory description of an implement of husbandry train to specify that ~~is~~ consists of three implements of husbandry.

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Under current law, unless an exception applies, a person may not, without a permit, operate on a highway any vehicle having an overall height in excess of 13.5 feet. Under one exception, there is no height limitation for implements of husbandry temporarily operated on a highway.

Under this bill, there is no height limitation for implements of husbandry operated on a highway. The bill also specifies that the operator of the implement of husbandry is responsible for ensuring that there is adequate height clearance between the implement of husbandry and any overhead structure or obstruction.

This bill also modifies the existing annual or consecutive month overwidth permit issued by DOT for farm tractors and implements of husbandry. Under the bill, this permit applies only to farm tractors that are not implements of husbandry and the permit is available whenever such a farm tractor exceeds statutory width limitations.

The bill creates a new annual or consecutive month permit issued by DOT for implements of husbandry. Under the bill, DOT may issue these permits for the movement, towing, or hauling of implements of husbandry that exceed statutory limitations on ~~statutory~~ size or weight.

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The bill also creates a permit for persons engaged in the business of selling, repairing, or servicing implements of husbandry (dealers). DOT may issue annual or consecutive month permits to dealers authorizing implements of husbandry exceeding statutory size or weight limitations to be operated or transported on the highway for purposes related to the purchase or sale, repair, or servicing of the implement of husbandry. A dealer operating or transporting an implement of husbandry under a permit must, to the extent possible, use state trunk highways and county trunk highways and avoid using highways that have limited-capacity structures and must notify DOT within 72 hours of the route that was used.

This bill allows DOT or a municipality or county (local authority) to issue a written authorization allowing the operation on highways under its jurisdiction, without a permit, of implements of husbandry that exceed statutory limitations on size or weight. To be eligible for a written authorization, the implement of husbandry must comply with any applicable equipment requirement for an implement of husbandry and the application must be accompanied by an approved highway route plan. However, instead of reviewing individual applications, a municipality may, by resolution or ordinance, authorize operation of implements of husbandry exceeding statutory size or weight limitations on any or all highways under the municipality's jurisdiction and issue a form letter and copy of the resolution or ordinance to serve as the written authorization. In such a municipality, an application is not required to be accompanied by an approved highway route plan.

Under the bill, a written authorization is generally valid for a period of one calendar year, but may be renewed annually for subsequent calendar years. The written authorization may be amended during this valid period, including to change the route plan. No fee may be charged for issuance, renewal, or amendment of a written authorization. The issuing authority may impose reasonable conditions in

~~for the purpose of changing~~

issuing a written authorization. A person who violates a condition of a written authorization, including any weight limit specified in the written authorization, is subject to the same penalties as would be applicable if that person were operating without a written authorization. The issuing authority may suspend a written authorization due to seasonal conditions or road conditions and may suspend or revoke a written authorization for good cause, including violation of any term or condition of the written authorization. A written authorization must be carried on an implement of husbandry while it is being operated.

Under the bill, if DOT or a local authority denies an application for a written authorization, it must immediately notify the applicant in writing of the denial and the specific reason for the denial. If the application is made with respect to a self-propelled implement of husbandry having a limited purpose essential to planting or harvesting operations, the denial must include a reasonable structurally-based explanation for the denial and a suggested alternative highway route plan. For applications to DOT, the decision on the application must initially be made in one of DOT's regional offices and, if the initial decision is a denial, must be reviewed in DOT's central office in Madison. Counties and municipalities must designate a person or governmental subunit responsible for receiving applications for written authorization, with default recipients specified by statute if the county or municipality fails to make such a designation.

If DOT or a local authority denies an application for initial issuance, renewal, or amendment of a written authorization or suspends or revokes a written authorization based on an assertion of good cause, the person aggrieved by the decision may obtain administrative and judicial review. Administrative review of the decision of a municipality or county is by, respectively, the governing body of the municipality or the county highway committee. Administrative review of DOT's central office decision is by the Division of Hearings and Appeals (DHA) in the Department of Administration. The decision of, respectively, the governing body of a municipality, the county highway committee, or DHA is subject to judicial review. An aggrieved person may also bypass administrative review and directly file an action in circuit court challenging the adverse decision.

Vehicle lighting and marking requirements

Current law imposes various equipment requirements for vehicles operated on highways, including certain lighting and marking requirements. Although these requirements are generally inapplicable to implements of husbandry, farm tractors, and self-propelled farm implements, current law does impose various specific requirements with respect to lighting and marking of implements of husbandry and other agricultural vehicles.

Under current law, during hours of darkness, the following requirements apply with respect to each described vehicle operated on the highway:

1. A farm tractor or self-propelled farm implement must carry the lighted headlamps and tail lamps that would be required of other vehicles and the only color of light that may show to the rear is red.

2. An implement of husbandry must generally be equipped with at least two lighted lamps or lanterns exhibiting a white light to the front and either two lighted lamps or lanterns exhibiting a red light to the rear or two red reflectors mounted on the rear. Also, if the implement of husbandry extends at least four feet to the left of the center line of a towing vehicle, it must be equipped with an amber reflector mounted on the left side, facing forward, to mark the extreme width of the implement of husbandry to drivers of oncoming vehicles.

3. A truck-drawn agricultural train must have mounted on each side of every vehicle in the train at least one lamp emitting red light visible to the side or at least one red reflector or one slow moving vehicle (SMV) emblem visible from the side.

4. An implement of husbandry train must have mounted on each side of every vehicle in the train at least one lamp emitting a red light visible to the side or at least one red reflector visible from the side.

Certain requirements also apply to a farm tractor, implement of husbandry, or self-propelled farm implement, whether attended or unattended, parked or left standing on the roadway or shoulder of a highway during hours of darkness.

Under current law, at times other than hours of darkness, an implement of husbandry train operated on a highway must display a red flag at least 12 inches square on each rear corner of the rearmost vehicle in the train.

Under current law, a person may not operate on a highway, day or night, any vehicle that usually travels at speeds of less than 25 miles per hour unless an SMV emblem is displayed on the most practicable visible rear area. However, instead of the SMV emblem, a vehicle may be equipped with a yellow or amber flashing light at least four inches in diameter attached to the left rear. The SMV emblem is also not required if the vehicle is only moving directly across the highway. A towed vehicle is exempt from this requirement if an SMV emblem on the towing vehicle is visible from the rear. The SMV emblem must meet standards and specifications for design and mounting established by rule by DOT, but this rule must conform to standards and specifications approved by the American Society of Agricultural Engineers.

In addition to the lighting and marking requirements described above, this bill creates new lighting and marking requirements for implements of husbandry operated on the highway that exceed 15 feet in total width or that extend over the center of the roadway into a lane intended for the opposite direction of travel (wide implements of husbandry). A person may not operate on a highway a self-propelled wide implement of husbandry unless it is equipped with all of the following: 1) at least two amber flashing warning lamps, visible from both the front and rear; 2) at least two red retroreflective devices, visible during hours of darkness to the rear; 3) red retroreflective conspicuity material, and nonreflective red-orange fluorescent conspicuity material, visible to the rear; and 4) at least two strips of yellow retroreflective conspicuity material, visible to the front. A person may not operate on a highway a wide implement of husbandry that is not self-propelled unless it is equipped with all of the following: 1) at least two red tail lamps except that, if the implement of husbandry is less than 4 feet wide at its rearmost point, only one red tail lamp is required; 2) at least two amber flashing warning lamps, visible from both the front and rear, except that, if the implement of husbandry is asymmetrical and

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extends only to the left or right of the towing vehicle, only one flashing warning lamp is required; 3) if the implement of husbandry travels at a speed greater than 25 miles per hour, at least one stop lamp that lights when the operator has activated the brake or another control of the towing vehicle; 4) if the implement of husbandry is towed by or attached to the rear of another vehicle, red retroreflective conspicuity material, and nonreflective red-orange fluorescent conspicuity material, visible to the rear; 5) if the implement of husbandry is towed by or attached to the rear of another vehicle, at least two strips of yellow retroreflective conspicuity material visible to the front; and 6) retroreflective sheeting material, visible during hours of darkness to the rear. Any lamp or light required above must be lighted when the wide implement of husbandry is operated on a highway. The lamps or lights, devices, and material described above must be mounted in a certain way, generally to indicate the lateral extremities of the implement of husbandry. A wide implement of husbandry must also display an SMV emblem.

Under the bill, a person may not operate on a highway any self-propelled implement of husbandry exceeding 12 feet in total width unless it is equipped with a 360-degree yellow or amber rotating strobe or beacon light, mounted at the highest practicable point, and the light is activated. If an implement of husbandry exceeds 20 feet in total width, in addition to all of the the applicable foregoing requirements, it must be accompanied by one or more escort vehicles operating with hazard lights activated.

✓ Because this bill concerns an exception to the vehicle weight limits specified in ch. 348, stats., the Department of Transportation, as required by law, will prepare a report to be printed as an appendix to this bill.

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

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

LRB-2913/P2dn

ARG:.....

eev

date

ATTN: Tim Fiocchi

Please review the attached draft carefully to ensure that it is consistent with your intent.

This draft includes various lighting and marking requirements for wide implements of husbandry in ch. 347. There are also a few requirements in current law. See ss. 347.21, 347.22, 347.24, 347.245, and 347.27. For example, self-propelled implements of husbandry must usually be equipped with headlamps and tail lights in the same manner as other vehicles. See s. 347.22(1). As discussed, this draft generally creates lighting and marking requirements that are in addition to, not in lieu of, current requirements.

As discussed, there may be ambiguity as to whether current law allows overwidth implements of husbandry to operate over the center line of a roadway. The lighting and marking requirements for wide implements of husbandry in this draft do not clarify this existing ambiguity.

The table in s. 348.15(3)(g) of this draft is derived from Appendix D of the Implements of Husbandry Study. Appendix D does not include information for a 34-inch axle distance.

Please let me know if you would like any changes made to the attached draft or if you have any questions.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2913/P2dn
ARG:eev:rs

December 2, 2013

ATTN: Tim Fiocchi

Please review the attached draft carefully to ensure that it is consistent with your intent.

This draft includes various lighting and marking requirements for wide implements of husbandry in ch. 347. There are also a few requirements in current law. See ss. 347.21, 347.22, 347.24, 347.245, and 347.27. For example, self-propelled implements of husbandry must usually be equipped with headlamps and tail lights in the same manner as other vehicles. See s. 347.22 (1). As discussed, this draft generally creates lighting and marking requirements that are in addition to, not in lieu of, current requirements.

As discussed, there may be ambiguity as to whether current law allows overwidth implements of husbandry to operate over the center line of a roadway. The lighting and marking requirements for wide implements of husbandry in this draft do not clarify this existing ambiguity.

The table in s. 348.15 (3) (g) of this draft is derived from Appendix D of the Implements of Husbandry Study. Appendix D does not include information for a 34-inch axle distance.

Please let me know if you would like any changes made to the attached draft or if you have any questions.

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

Gary, Aaron

From: Fiocchi, Tim
Sent: Thursday, December 05, 2013 10:25 AM
To: Gary, Aaron
Subject: FW: IoH p-draft prelim review

1P3
instructions

Aaron,

Take a look at the comments from DOT. They're going to finalize the memo by tomorrow and we should have a conversation with them once they do. Would you be available for a meeting on Monday?

Thanks,

Tim

From: Rhatican, Tom M - DOT [<mailto:Tom.Rhatican@dot.wi.gov>]
Sent: Thursday, December 05, 2013 8:30 AM
To: Fiocchi, Tim
Cc: Yahn, Nate - DOT; Rhinesmith, Rory - DOT; Vieth, David - DOT
Subject: IoH p-draft prelim review

Tim....in an attempt to provide you with some quick feedback – to perhaps make some quick drafting changes, attached is our first (draft) memo outlining issues/recommendations. Let me know if you have any questions.

We are continuing to research and refine – we'll have a final draft for you tomorrow (Friday).

Anticipating the need for a more detailed discussion, should we set aside some time to review our final draft on Monday morning? I can make arrangements with WisDOT staff.

Tom Rhatican
Assistant Deputy Secretary
Wisconsin Department of Transportation
(608) 266-1114
tom.rhatican@dot.wi.gov



From DOT - first ^{memo} draft

**DRAFT: Memo Regarding LRB – 2913/P2 Preliminary Draft Pertaining to
Implements of Husbandry (IoH)**

Draft #1 – 12/4/2013

This memorandum is written to classify topics regarding LRB – 2013/P2 while outlining reference locations found within the preliminary draft, outlining the specific clause of potential concern and referencing a potential remedy of the specific clause.

Topic: DEFINITION & FEDERAL FUNDING

1. Reference Citation: Page 8, Line 13 to Page 9, Line 8.

Specific Clause: The draft language in Section 3 regarding Commercial Motor Vehicle converted for exclusive agricultural use” may be vague and open the definition for more vehicles than were intended. Altered for agricultural use could cause almost any motor vehicle currently with a “farm truck” plate to be considered an “Ag CMV.” Taking a dump truck and adding a wooden extension to one side of the dump box so a combine can more easily unload into the box could be “altered for agricultural use.”

More importantly, the definition may have the unintended consequence of putting Federal Motor Carrier Safety Assistance (FMCSA) funding at risk because the equipment standards in Chapter 347 and the Administrative Rule Trans. 305 would not be applicable to these commercial motor vehicles. The study group’s intention was only to provide agricultural commercial motor vehicles with new width and weight provisions.

The inclusion of the term “converted” may unintentionally and undesirably prevent equipment designed for exclusive use by the original manufacturer from qualifying.

Recommendation(s):

need to check to see if this is used anywhere

Replace the term “commercial motor vehicle converted for exclusive agricultural use” with the term, “agricultural commercial motor vehicle.” This term should be changed throughout the entire document.

Replace line 14 and 15 on page 8 with: s. 340.01 (8m) “Agricultural commercial motor vehicle” means a commercial motor vehicle to which all of the following applies:

Replace lines 1 through 3 on page 9 with: The vehicle is substantially designed or equipped for the purpose of agricultural use.

Replace lines 4 through 5 on page 9 with: The vehicle was designed and manufactured primarily for highway use and manufactured to Federal Motor Vehicle Safety Standard Certification.

*insert
9-4*

Ag CMV: has to do any of the following:

Replace lines 6 through 8 on page 9 with: The vehicle is used exclusively in the conduct of agricultural operations and the vehicle's primary purpose is for off-highway use. The vehicle is directly engaged in harvesting farm products, directly applies fertilizer, spray, or seeds to a farm field, or distributes feed to livestock. An implement of husbandry does not include a vehicle whose existing design is primarily for the transportation of property on a highway. (This information is similar to a provision in Michigan law.)

what is this? doesn't work

Ag CMV

- 2. Reference Citation: Page 9, line 12

Recommendation: Remove the comma after the third word (used). The use of a comma requires the manufacturing, designing, or reconstruction of an implement of husbandry to be exclusively used for agricultural operations. Many vehicles are used in the agricultural industry, and treated as an IoH by State Patrol under current law (i.e. earth excavators and loaders) and are not "exclusively" intended to be used in agricultural practices.

doesn't work; need different solution

- 3. Reference Citation: Page 9, Lines 13 through 15

Recommendation: Remove the sentence "An "implement of husbandry" includes a commercial motor vehicle converted for exclusive agricultural use."

is the AgCMV an IOH? (no)

- 4. Reference Citation: Page 9 remove lines 15 through 22 and

Recommendation: Insert "Implements of husbandry" are vehicles that are directly engaged in harvesting farm products, or a vehicle which directly applies fertilizer, spray, or seeds to a farm field, or distributes feed to livestock. An implement of husbandry does not include a vehicle whose existing design is primarily for the transportation of property on a highway.

criteria: yes, add criteria

doesn't work

Yes

as of when?

Topic: REGISTRATION EXEMPTION FOR AGRICULTURAL COMMERCIAL MOTOR VEHICLES

Reference Citation: Section 6 Page 10, Line 7

While it is desirable to eliminate the separate and conflicting definition in s. 341.01 (2) (a) as done in Section 6, it may cause confusion with regard to the remaining use of the term "implement of husbandry" in s. 341.05 (17).

Why? IOH is defined?

Recommendation: Revise 341.05 (17) to include "or agricultural commercial motor vehicle as defined in 340.01 (24)" This will include references to both of these definitions in 340.01.

no - IS AgCMV an IOH or not? (no)

Topic: TECHNICAL ISSUE

- 1. Reference Citation: Page 10, Line 16

Recommendation: Section 8. 347.21 (2) of the statutes is repealed (not amended). Delete lines 17 through 20 on page 10. Removes obsolete provision.

OK

- 2. Reference Citation: Page 8, First Indented Paragraph

Because this bill concerns an exception to the weight limits specified in s. 348, WisDOT, as required by law under s.13.096, will prepare a report to be printed as an appendix to this bill. However, the

loH Study Group consisted of over 20 stakeholder organizations and the research conducted by the loH Study Group included very detailed engineering analysis. It is under this reasoning that the provisions under s.13.096 should be waived for this bill.

non-stat

Recommendation: It is recommended that the review of bills establishing vehicle weight limit exceptions under s.13.096 should be waived for this bill. The reasoning behind this is because of the large amount of stakeholder outreach and input received by the loH Study Group.

Topic: SAFETY

1. Reference Citation: Page 11, Line 3 – The department will verify that this section does not conflict with Rules of the Road “Center of Line” operation and “Adjacent Lane” operation. We will provide more on Friday. → *doesn't "help" though*

2. Reference Citation: Page 11, Line 8 AND Page 12, Line 6

? Recommendation: Add the language “is visible” at the end of the sentence of line 8. Vehicles become coated during field work and need to be checked prior to use on the road.

3. Reference Citation: Beginning on Page 11, Line 9. The draft is silent on the extent of marking (size, dimensions, location) in some key area. Other similar vehicles operating on the roadways do have more clear standards and the public has expectations for such markings.

? Recommendation: [?] The drafters should incorporate plain language guidance similar to provisions applicable to other commercial vehicles to make clear what lights and markings are required, and to clarify what is necessary for safe operation, as well as, for enforcement purposes to reduce the amount of discretion that my otherwise need to be exercised.

Topic: CLARIFICATION

Reference Citation: Page 16
We are unclear of the purpose of Section 17

so am I, but DOT says Farm Tractor might not be ICH

Topic: I-39 GRANDFATHERING LANGUAGE

Reference Citation: Page 16, Lines 16-17; Page 22, Line 23; Page 23, Lines 3-4
The provision that would increase weight allowances by 15% would be a new allowance and not a grandfathered provision. As drafted, the additional weight would be allowed on the portion of I-39 that is covered by the grandfather provision. Such change would put that grandfathered provision in jeopardy and it would be expected to invalidate that provision.

? Recommendation: The drafters should clarify that the portion of I-39 subject to the grandfather provision remains subject to weight provisions applicable to any Interstate highway. Alternately, consider excluding that segment of the Interstate from any changes with regard to operation of loH or agricultural commercial vehicles to preserve the grandfather provision. The Study Group did hear concerns from study participants about the loss of the grandfather provision.

Topic: POTATO HARVESTER

Reference Citation: Page 17, Line 12 and Page 22, Line 13

The broad exemption for this specific equipment seems unworkable. The Study Group did not gather information nor discuss this topic in any detail and there is significant uncertainty about what equipment would be covered by the description "potato harvester". Standards or parameters for this equipment are needed to assure safe operation and basic protection of infrastructure. In addition, this is a concern as such a broad exemption is inconsistent with the treatment of other agricultural equipment; there is a concern it will generate pressure for similar treatment for any number of other types of equipment.

Topic: WEIGHT CHART

Reference Citation: Page 21, Line 34

Specific Clause: The weight chart was missing information for line 34.

Recommendation: Insert the following numbers into the respectful columns - 4-axle column: 74,500; 5-axle column: 80,000; 6-axle column: 86,000; 7-axle column: 92,000.

Topic: PERMITS

1. Reference Citation: Page 24, Line 15 to Page 25, Line 2

Specific Clause: This is not an issue studied by the study group because it does not pertain to Implements of Husbandry. Worth noting, is that a permit is only for vehicles that can be registered or the permit must be for a vehicle that has a limited exception as written into law. Farm tractors are not registered vehicles. As a result, they are unable to get a permit

It might be worth determining what the intent of the drafters pertaining to the intent of this modified permit – i.e. is this permit for parades, FFA?

2. Reference Citation: Page 25, Line 4

This may be seen as a mechanism for avoiding the written authorizations and preserving local control that was so important to some members of the Study Group. In addition, some may see this as a means of avoiding the locally focused approach and the lack of bureaucracy envisioned in the recommendations.

Recommendation: Remove this provision. Alternatively, refer for further study outside of this bill.

3. Reference Citation: Page 25, Line 9 through Page 26, Line 8

What constitutes a dealer? ^{it's defined} The definition of a "dealer" should be examined carefully and should be referenced with existing statutory law for consistency. Instead of operating under a permit, dealers and repair facilities should be allowed to transport IoH via a permit exemption rather than a permit.

there is current law what does it do now?

yes?

*all size and weight?
if so, what limitations,
if any?*

yes, exempt OK - like septage

What is the intent of the drafters for creating such a permit - as this permit is not consistent with other permitting laws. *why not?*

Recommendation: There are four recommendations: 1) What is the intent of this particular permit? 2) On page 26, Line 7 the notification should occur pre-trip unless transport occurs outside of non-business hours. 3) The definition of a "dealer" should be examined and referenced for consistency with existing statutory law. 4) This permit should be a permit exemption rather than a permit.

Topic: WRITTEN AUTHORIZATION

→ not necessary - applies only here

Reference Citation: Page 26, Line 9 through Page 32, Line 19

The purpose for reviewing this section is to ensure that the process of written authorization maintains local control and that the process of obtaining written authorization is clear and accomplishes the objectives agreed upon by the IOH Study Group. The department will provide more information on Friday.

REF

Mtg of DOT

13-2913/P2

r/g

↓
 Ag CMV → add

- weight table applies
- ~~new with refs.~~
- 10'

p-16 - line 7 → new level

over center line →

- Rock Co. court → personal injury

346.09 & 346.13 etc. (list given by DOT)

trump
 " subject to ... " ↑ "

- still responsible for other stuff

• they can do it, but they have obligations if they do it

- overweight - 15%
- doesn't apply on interstates → not on any portion of the interstate
- same is true for written authorities

potato harvest → wide, large, heavy
- weight and length

- concern that they will be designed to get bigger & heavier
- "put a box around it"

• envelope

- may not really have axles, per-axle may not work

• offset wheels - not straight axles

- could there be a gross weight limit?

- how long are they?

- potato harvester - operating w/ no load
- do they have a capacity to carry a load?
- celery, parsnip → other tubers, root crops
- soil extracted crops?
- pear ~~har~~ vinters

"empty potato harvester"

Ch. 341

registration exemption → to school for ~~local~~ local farm day, ~~parades~~,

- IOH, Threshing, etc.
- DOT will work on this

dealer : exemption

- like septage

- DOT
- problems w/ dealer permit - doesn't fit w/ how they issue permits now

IOH includes operate to/for repair, service, sale etc.

- this becomes IOH definition

- need add'l language re giving notice, etc.

this is an agricultural operate →

exemption :

- exclude all roads except interstate

- like potato harvester exemption →
 - but only for a specific purpose

- excluding IOH train

- but CMV w/ IOH is OK

- non-divisible load →

- not including the interstate?
- can cross →

- DOT will work on this one

From DOT - second ^{memo} draft - provided at 12/9 mtg.

**DRAFT: Memo Regarding LRB – 2913/P2 Preliminary Draft Pertaining to
Implements of Husbandry (IoH)**

This memorandum is written to classify topics regarding LRB – 2013/P2 while outlining reference locations found within the preliminary draft, outlining the specific clause of potential concern and referencing a potential remedy of the specific clause.

Topic: DEFINITION & FEDERAL FUNDING

1. Reference Citation: Page 8, Line 13 to Page 9, Line 8.

Specific Clause: The draft language in Section 3 regarding Commercial Motor Vehicle converted for exclusive agricultural use” may be vague and open the definition for more vehicles than were intended. Altered for agricultural use could cause almost any motor vehicle currently with a “farm truck” plate to be considered an “Ag CMV.” Taking a dump truck and adding a wooden extension to one side of the dump box so a combine can more easily unload into the box could be “altered for agricultural use.”

More importantly, the definition may have the unintended consequence of putting Federal Motor Carrier Safety Assistance (FMCSA) funding at risk because the equipment standards in Chapter 347 and the Administrative Rule Trans. 305 would not be applicable to these commercial motor vehicles. The study group’s intention was only to provide agricultural commercial motor vehicles with new width and weight provisions.

The inclusion of the term “converted” may unintentionally and undesirably prevent equipment designed for exclusive use by the original manufacturer from qualifying.

Recommendation(s):

Replace the term “commercial motor vehicle converted for exclusive agricultural use” with the term “**agricultural commercial motor vehicle.**” This term should be changed throughout the entire document.

Replace line 14 and 15 on page 8 with: s. 340.01 (8m) “Agricultural commercial motor vehicle” means a commercial motor vehicle to which all of the following applies:

Replace lines 1 through 3 on page 9 with: The vehicle is substantially designed or equipped for the purpose of agricultural use. *keep materially altered*

Replace lines 4 through 5 on page 9 with: The vehicle was designed and manufactured primarily for highway use and manufactured to Federal Motor Vehicle Safety Standard Certification.

Replace lines 6 through 8 on page 9 with: The vehicle is used exclusively in the conduct of agricultural operations and the vehicle’s primary purpose is for off-highway use. The vehicle is directly engaged in harvesting farm products, directly applies fertilizer, spray, or seeds

to a farm field, or distributes feed to livestock. An implement of husbandry does not include a vehicle whose existing design is primarily for the transportation of property on a highway. (This information is similar to a provision in Michigan law.)

2. Reference Citation: Page 9, line 12

Recommendation: Remove the comma after the third word (used). The use of a comma requires the manufacturing, designing, or reconstruction of an implement of husbandry to be exclusively used for agricultural operations. Many vehicles are used in the agricultural industry, and treated as an IoH by State Patrol under current law (i.e. earth excavators and loaders) and are not “exclusively” intended to be used in agricultural practices.

3. Reference Citation: Page 9, Lines 13 through 15

Recommendation: Remove the sentence “An “implement of husbandry” includes a commercial motor vehicle converted for exclusive agricultural use.”

4. Reference Citation: Page 9 remove lines 15 through 22 and

Recommendation: Insert “Implements of husbandry” are vehicles that are directly engaged in harvesting farm products, or a vehicle which directly applies fertilizer, spray, or seeds to a farm field, or distributes feed to livestock. An implement of husbandry does not include a vehicle whose existing design is primarily for the transportation of property on a highway.

Topic: REGISTRATION EXEMPTION FOR AGRICULTURAL COMMERCIAL MOTOR VEHICLES

Reference Citation: Section 6 Page 10, Line 7

While it is desirable to eliminate the separate and conflicting definition in s. 341.01 (2) (a) as done in Section 6, it may cause confusion with regard to the remaining use of the term “implement of husbandry” in s. 341.05 (17).

Recommendation: Revise 341.05 (17) to include “or agricultural commercial motor vehicle as defined in 340.01 (24)” This will include references to both of these definitions in 340.01.

Topic: TECHNICAL ISSUE

1. Reference Citation: Page 10, Line 16

Recommendation: Section 8. 347.21 (2) of the statutes is repealed (not amended).
Delete lines 17 through 20 on page 10.
Removes obsolete provision.

2. Reference Citation: Page 8, First Indented Paragraph

Because this bill concerns an exception to the weight limits specified in s. 348, WisDOT, as required by law under s.13.096, will prepare a report to be printed as an appendix to this bill. However, the IoH Study Group consisted of over 20 stakeholder organizations and the research conducted by the IoH Study Group included very detailed engineering analysis. It is under this reasoning that the provisions under s.13.096 should be waived for this bill.

Recommendation: It is recommended that the review of bills establishing vehicle weight limit exceptions under s.13.096 should be waived for this bill. The reasoning behind this is because of the large amount of stakeholder outreach and input received by the IoH Study Group.

Topic: SAFETY

1. **Reference Citation:** Page 11, Line 3 – The department will verify that this section does not conflict with Rules of the Road “Center of Line” operation and “Adjacent Lane” operation. We will provide more on Friday.

DSP is seeking clarification on the intent of the language drafted. DSP does not have contention with the drafted language if Chapter 346.06 and 346.59 remain applicable. Although the drafted language of 346.05 (1)(g) is clear in the fact that an implement of husbandry may operate in an opposing lane when traffic is not present, DSP is seeking clarification if an implement of husbandry would be required to operate on the right half of the roadway, on a two lane highway, if opposing traffic is present? Further clarification is requested if 346.59 is applicable if an implement of husbandry is being operated left of the centerline at reduced speed and traffic approached from the rear. Will the operator be required to yield?

The suggested inference of an exclusion to 346.09 (2) and (3) has significant safety implications associated with it. Any movement of similar wide loads require a front and rear escort equipped with appropriate signing and warning lights to give indication of the approaching hazardous condition.

Drafted Language:

346.05 (1) (g) If the vehicle is a wide implement of husbandry, as defined in s. 347.24 (3) (a), being operated in compliance with any applicable requirement under s. 347.24 (3), 347.245 (1), or 347.25 (2g), and the vehicle is operated as much as practicable on the right half of the roadway and in the right-hand lane of a 3-lane highway, a portion of the vehicle may extend over the center of the roadway into any lane intended for travel in the opposite direction and may extend into any passing lane of a 3-lane highway.

346.09 Limitations on overtaking on left or driving on left side of roadway.

(2) Upon any roadway where traffic is permitted to move in both directions simultaneously, the operator of a vehicle shall not drive on the left side of the center of the roadway upon any part of a grade or upon a curve in the roadway where the operator's view is obstructed for such a distance as to create a hazard in the event another vehicle might approach from the opposite direction.

(3) (a) Except as provided in par. (b), the operator of a vehicle shall not drive on the left side of the center of a roadway on any portion thereof which has been designated a no-passing zone, either by signs or by a yellow unbroken line on the pavement on the right-hand side of and adjacent to the center line of the roadway, provided such signs or lines would be clearly visible to an ordinarily observant person.

346.06 Meeting of vehicles. Operators of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction each operator shall give to the other at least one-half of the main traveled portion of the roadway as nearly as possible.

346.13 Driving on roadways laned for traffic. Whenever any roadway has been divided into 2 or more clearly indicated lanes, including those roadways divided into lanes by clearly indicated longitudinal joints, the following rules, in addition to all others consistent with this section, apply:

(1) The operator of a vehicle shall drive as nearly as practicable entirely within a single lane and shall not deviate from the traffic lane in which the operator is driving without first ascertaining that such movement can be made with safety to other vehicles approaching from the rear.

346.59 Minimum speed regulation.

(1) No person shall drive a motor vehicle at a speed so slow as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or is necessary to comply with the law.

2. Reference Citation: Page 11, Line 8 AND Page 12, Line 6

Recommendation: Add the language "is visible" at the end of the sentence of line 8. Vehicles become coated during field work and need to be checked prior to use on the road.

add distance standard = 500 feet -> lights

3. Reference Citation: Beginning on Page 11, Line 9.

The draft is silent on the extent of marking (size, dimensions, location) in some key area. Other similar vehicles operating on the roadways do have more clear standards and the public has expectations for such markings.

Recommendation: The drafters should incorporate plain language guidance similar to provisions applicable to other commercial vehicles to make clear what lights and markings are required, and to clarify what is necessary for safe operation, as well as, for enforcement purposes to reduce the amount of discretion that my otherwise need to be exercised.

500 feet for everything unless longer (default, baseline)

Topic: CLARIFICATION

Reference Citation: Page 16

We are unclear of the purpose of Section 17.

RP

farm tractors are legal prior on I-39;

If retained the recommended Grandfathering Language is:

348.05 (2) (c) Twelve feet for farm tractors that are not implements of husbandry, except that the total outside width of such a farm tractor shall not exceed 9 feet when operated on any Wisconsin highway, ~~other than that portion of USH 51 between Wausau and STH 78 and that~~

portion of STH 78 between USH 51 and the I 90/94 interchange near Portage upon their federal designation as I-39, that is a part of the national system of interstate and defense highways, other than that portion of I 39 between STH 29 East near Wausau and the I 90/94/STH 78 Interchange near Portage and any other segment of interstate and defense highway authorized by federal approval.

Topic: I-39 GRANDFATHERING LANGUAGE

Reference Citation: Page 16, Lines 16-17; (See Above) and Page 23, Lines 3-4

The provision that would increase weight allowances by 15% would be a new allowance and not a grandfathered provision. As drafted, the additional weight would be allowed on the portion of I-39 that is covered by the grandfather provision. Such change would put that grandfathered provision in jeopardy and it would be expected to invalidate that provision.

Recommendation: The drafters should clarify that the portion of I-39 subject to the grandfather provision remains subject to weight provisions applicable to any Interstate highway. Alternately, consider excluding that segment of the Interstate from any changes with regard to operation of loH or agricultural commercial vehicles to preserve the grandfather provision. The Study Group did hear concerns from study participants about the loss of the grandfather provision.

348.17 (5) (b) This subsection does not apply to the national system of interstate and defense highways, except for that portion of I 39 between STH 29 East near Wausau and the I 90/94/STH 78 Interchange near Portage and any other segment of interstate and defense highway authorized by federal approval.

Topic: POTATO HARVESTER

Reference Citation: Page 17, Line 12 and Page 22, Line 13

The broad exemption for this specific equipment seems unworkable. The Study Group did not gather information nor discuss this topic in any detail and there is significant uncertainty about what equipment would be covered by the description "potato harvester". Standards or parameters for this equipment are needed to assure safe operation and basic protection of infrastructure. In addition, this is a concern as such a broad exemption is inconsistent with the treatment of other agricultural equipment; there is a concern it will generate pressure for similar treatment for any number of other types of equipment.

Topic: WEIGHT CHART

Reference Citation: Page 21, Line 34

Specific Clause: The weight chart was missing information for line 34.

Recommendation: Insert the following numbers into the respectful columns - 4-axle column: 74,500; 5-axle column: 80,000; 6-axle column: 86,000; 7-axle column: 92,000.

Topic: PERMITS

1. Reference Citation: Page 24, Line 15 to Page 25, Line 2

Specific Clause: This is not an issue studied by the study group because it does not pertain to Implements of Husbandry. Worth noting, is that a permit is only for vehicles that can be registered or the permit must be for a vehicle that has a limited exception as written into law. Farm tractors are not registered vehicles. As a result, they are unable to get a permit

It might be worth determining what the intent of the drafters pertaining to the intent of this modified permit – i.e. is this permit for parades, FFA?

2. Reference Citation: Page 25, Line 4

We are confused by the intent of this section. Is this section intended for state roads only? As written, this may be seen as a mechanism for avoiding the written authorizations and circumventing local control that was so important to some members of the Study Group. Some may see this as a means of avoiding the locally focused approach and the lack of bureaucracy envisioned in the recommendations.

Recommendation: Remove this provision. Alternatively, refer for further study outside of this bill.

3. Reference Citation: Page 25, Line 9 through Page 26, Line 8
s. 218.0101 (23)

Permits are issued to motor carriers and identified by a unique number – IoH dealers would not be able to provide this information at the time of issuance. Consider an exemption, rather than a permit.

Topic: WRITTEN AUTHORIZATION

Reference Citation: Page 26, Line 229 through Page 32, Line 19

Consider language that would allow the state to designate authority for the state highways to another maintaining authority.

More discussion is needed in this section.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2013/P2
ARG:eev:rs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

My annotations from/during
mtg at DOT on 12/9
ARG

1 **AN ACT to repeal** 341.01 (2) (a), 348.05 (3) and 348.17 (6) (a) 3.; **to renumber and**
2 **amend** 348.05 (2) (a), 348.07 (2) (e) and 348.17 (5); **to consolidate, renumber**
3 **and amend** 341.01 (2) (intro.) and (b); **to amend** 227.43 (1) (bg), 347.21 (1m),
4 347.21 (2), 347.22 (2), 347.245 (1), 347.245 (5), 348.05 (2) (c), 348.06 (2), 348.08
5 (1) (b), 348.08 (1) (d), 348.08 (2), 348.15 (3) (b), 348.15 (3) (d), 348.15 (3) (f) 2.,
6 348.15 (8), 348.17 (6) (a) 2., 348.21 (3) (intro.), subchapter IV (title) of chapter
7 348 [precedes 348.25], 348.25 (1) and 348.27 (14); **to repeal and recreate**
8 340.01 (24); and **to create** 227.01 (13) (rs), 340.01 (8m), 347.24 (3), 347.25 (2g),
9 348.03, 348.05 (2) (a) 2., 348.07 (2) (e) 1. and 3., 348.15 (3) (g), 348.15 (9), 348.17
10 (5) (a) 1. and 2., 348.21 (3t), 348.27 (14m), 348.27 (14r) and 348.40 of the
11 statutes; **relating to:** operation of agricultural vehicles on highways and
12 providing a penalty.

Analysis by the Legislative Reference Bureau

Definition of implement of husbandry

Current law includes various provisions relating to the operation on highways of implements of husbandry and farm tractors. An “implement of husbandry” is

a 360-degree yellow or amber rotating strobe or beacon light, mounted at the highest practicable point, and the light is activated. If an implement of husbandry exceeds 20 feet in total width, in addition to all of the the applicable foregoing requirements, it must be accompanied by one or more escort vehicles operating with hazard lights activated.

Because this bill concerns an exception to the vehicle weight limits specified in ch. 348, stats., the Department of Transportation, as required by law, will prepare a report to be printed as an appendix to this bill.

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

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

1 **SECTION 1.** 227.01 (13) (rs) of the statutes is created to read:

2 227.01 (13) (rs) Relates to any form prescribed by the department of
3 transportation under s. 348.03 (1) or 348.40 (8) (a) or procedure prescribed under s.
4 348.40 (8) (c).

5 **SECTION 2.** 227.43 (1) (bg) of the statutes is amended to read:

6 227.43 (1) (bg) Assign a hearing examiner to preside over any hearing or review
7 under ss. 84.30 (18), 84.305, 84.31 (6) (a), 85.013 (1), 86.073 (3), 86.16 (5), 86.195 (9)
8 (b), 86.32 (1), 101.935 (2) (b), 101.951 (7) (a) and (b), 114.134 (4) (b), 114.135 (9),
9 114.20 (19), 175.05 (4) (b), 194.145 (1), 194.46, 218.0114 (7) (d) and (12) (b), 218.0116
10 (2), (4), (7) (a), (8) (a) and (10), 218.0131 (3), 218.11 (7) (a) and (b), 218.22 (4) (a) and
11 (b), 218.32 (4) (a) and (b), 218.41 (4), 218.51 (5) (a) and (b), 341.09 (2m) (d), 342.26,
12 343.69 and, 348.25 (9), and 348.40 (9) (c).

13 **SECTION 3.** 340.01 (8m) of the statutes is created to read:

14 340.01 (8m) "~~Commercial motor vehicle converted for exclusive agricultural~~
15 use" means a ^{agricultural} ~~commercial motor~~ motor vehicle to which all of the following applies:

1
2
3

(a) The vehicle is ^{or substantially designed or equipped} ~~materially altered from its original construction,~~ for the purpose of agricultural use ^(keep) ~~by the removal, addition, or substitution of essential new or used parts.~~

4
5

(b) ^{insert 9-4} Prior to the alteration described in par. (a), the vehicle was designed and manufactured primarily for highway use.

6
7
8

(c) ~~After the alteration described in par. (a),~~ the vehicle is used exclusively in the conduct of agricultural operations and the vehicle's primary purpose is for off-highway use.

9

SECTION 4. 340.01 (24) of the statutes is repealed and recreated to read:

10

340.01 (24) "Implement of husbandry" means all of the following: ^{not exclusive}

11
12
13
14
15

(a) A self-propelled or towed vehicle manufactured, designed, or reconstructed to be used, and actually used, exclusively in the conduct of agricultural operations and the primary purpose of which ~~is~~ for off-highway use. ^{out} ~~An "implement of husbandry" includes a commercial motor vehicle converted for exclusive agricultural use.~~ An "implement of husbandry" may also include any of the following:

16
17
18
19
20
21
22

- 1. A farm tractor.
- 2. A self-propelled application-type vehicle ^{or a harvester.} ~~such as a combine.~~ ^{out}
- 3. A farm wagon, farm trailer, or trailer adapted to tow or pull another implement of husbandry.
- 4. Any vehicle or equipment substantially similar to that described in subds. 1. to 3. and that is used to transport agricultural products necessary for agricultural production.

23
24

(b) A combination of vehicles in which each vehicle in the vehicle combination is an implement of husbandry as described in par. (a).

Handwritten note: JSH does not include an Ag CMV. (put in)

1 **SECTION 10.** 347.24 (3) of the statutes is created to read:

2 347.24 (3) (a) In this subsection, “wide implement of husbandry” means any
3 implement of husbandry that has a total width in excess of 15 feet or that partly
4 extends, when operated primarily on the right half of the roadway, over the center
5 of the roadway into any lane intended for travel in the opposite direction.

6 (b) No person may operate on a highway any self-propelled wide implement
7 of husbandry unless it is equipped with all of the following and any lamp or light
8 required under this paragraph is lighted: *and visible ???*

9 1. At least 2 amber flashing warning lamps, visible from both the front and rear
10 of the implement of husbandry. These lamps shall be mounted at a height of not less
11 than 1.3 feet nor more than 12 feet and shall be mounted, as nearly as practicable,
12 to indicate the extreme width of the implement of husbandry, but not more than 16
13 inches from the lateral extremities of the implement of husbandry.

14 2. At least 2 red retroreflective devices, visible during hours of darkness from
15 all distances within 1,000 to 100 feet of the rear of the implement of husbandry when
16 directly in front of lawful lower beams of headlamps. These retroreflective devices
17 shall be mounted, as nearly as practicable, to indicate the extreme left and extreme
18 right of the implement of husbandry, including any projections.

19 3. Red retroreflective conspicuity material, and nonreflective red-orange
20 fluorescent conspicuity material, visible to the rear of the implement of husbandry.
21 The outer edge of the nonreflective conspicuity material shall be mounted within 25
22 inches of, respectively, the extreme left and extreme right of the implement of
23 husbandry and spaced as evenly as practicable.

24 4. At least 2 strips of yellow retroreflective conspicuity material visible to the
25 front of the implement of husbandry. On the left and right sides of the implement

1 of husbandry, the outer edge of at least one strip of this material shall be mounted
2 within 16 inches of, respectively, the extreme left and extreme right of the implement
3 of husbandry.

4 (c) No person may operate on a highway any wide implement of husbandry that
5 is not self-propelled unless it is equipped with all of the following and any lamp or
6 light required under this paragraph is lighted: *and visible? (?) no, if distance standard*

7 1. At least 2 red tail lamps mounted symmetrically to the rear of the implement
8 of husbandry, or as close to the rear as practicable, at a height of not less than 1.3 feet
9 nor more than 10 feet and positioned laterally between 2 feet and 5 feet to the left
10 and to the right of the center line of the implement of husbandry except that, if the
11 tail lamps on the towing vehicle are not obscured, the tail lamps on the implement
12 of husbandry may be positioned more than 5 feet from the center line of the
13 implement of husbandry. However, if the implement of husbandry is less than 4 feet
14 wide at its rearmost point, only one red tail lamp is required under this subdivision.

15 2. At least 2 amber flashing warning lamps, visible from both the front and rear
16 of the implement of husbandry. These lamps shall be mounted at a height of not less
17 than 1.3 feet nor more than 12 feet and shall be mounted at a height of 10 feet or less
18 if practicable. These lamps shall be mounted, as nearly as practicable, to indicate
19 the extreme width of the implement of husbandry, but not more than 16 inches from
20 the lateral extremities of the implement of husbandry. However, if the implement
21 of husbandry is asymmetrical and extends only to the left or right of the towing
22 vehicle, the implement of husbandry is required to be equipped with only one
23 flashing warning lamp, which shall be mounted within 16 inches, laterally, of the
24 outermost edge of the implement of husbandry, including any projection.

1 **SECTION 15.** 348.05 (2) (a) of the statutes is renumbered 348.05 (2) (a) 1. and
2 amended to read:

3 348.05 (2) (a) 1. ~~No~~ Except as provided in subd. 2., and subject to ss. 347.24 (3),
4 347.245 (1), and 347.25 (2g), no limitation for implements of husbandry temporarily
5 operated upon a highway in the course of performance of its work.

6 **SECTION 16.** 348.05 (2) (a) 2. of the statutes is created to read:

7 348.05 (2) (a) 2. Ten feet for a commercial motor vehicle converted for exclusive
8 agricultural use, unless a written authorization has been issued under s. 348.40
9 allowing this width to be exceeded.

10 **SECTION 17.** 348.05 (2) (c) of the statutes is amended to read:

11 348.05 (2) (c) Twelve feet for farm tractors that are not implements of
12 husbandry, except that the total outside width of such a farm tractor shall not exceed
13 9 feet when operated on any Wisconsin highway, other than that portion of USH 51
14 between Wausau and STH 78 and that portion of STH 78 between USH 51 and the
15 I 90/94 interchange near Portage upon their federal designation as I 39, that is a part
16 of the national system of interstate and defense highways, other than that portion
17 of I 39 between USH 51 and I 90/94.

18 **SECTION 18.** 348.05 (3) of the statutes is repealed.

19 **SECTION 19.** 348.06 (2) of the statutes is amended to read:

20 348.06 (2) Implements of husbandry of any height may be temporarily
21 operated upon a highway without a permit for excessive height. The operator of the
22 implement of husbandry is responsible for ensuring that there is adequate height
23 clearance between the implement of husbandry and any overhead structure or
24 obstruction, including any utility line.

1 348.15 (8) Unless the department provides otherwise by rule, any axle of a
 2 vehicle or combination of vehicles which does not impose on the highway at least 8%
 3 of the gross weight of the vehicle or combination of vehicles may not be counted as
 4 an axle for the purposes of sub. (3) (c) and (g).

*any interstate -
 doesn't apply*

5 **SECTION 30.** 348.15 (9) of the statutes is created to read:

6 348.15 (9) (a) Except as provided in par. (b), the increased weight allowance for
 7 implements of husbandry under sub. (3) (b) and (g) applies in lieu of, not in addition
 8 to, any other increased weight allowance for implements of husbandry authorized
 9 under this chapter. Except as provided in par. (b) and s. 348.40, the maximum gross
 10 weight for an implement of husbandry operated on a highway without a permit may
 11 not exceed 92,000 pounds.

*interstate?
 5-39?*

12 (b) Notwithstanding sub. (3) (b), (c), and (g), there is no weight limitation for
 13 an implement of husbandry that is ^{an empty} potato harvester if the potato harvester is
 14 accompanied by one or more escort vehicles operating with hazard lights activated,
 15 except that such a potato harvester is subject to any weight limitation posted as
 16 provided in s. 348.17 (1).

17 **SECTION 31.** 348.17 (5) of the statutes is renumbered 348.17 (5) (a) and
 18 amended to read:

19 348.17 (5) (a) From September 1 to December 31 of each year, no permit shall
 20 be required for the transportation of corn, soybeans, potatoes, vegetables, or
 21 cranberries from the field to storage on the grower's owned or leased land, from the
 22 field to initial storage at a location not owned or leased by the grower, or from the field
 23 to initial processing in a vehicle or combination of vehicles having a registered gross
 24 weight of 50,000 pounds or more or described in s. 340.01 (24) (b) that exceeds the

1 (b) In the case of a violation of s. 348.15 (3) (b) involving an implement of
2 husbandry, the penalty shall be computed on the basis of a permissible weight of
3 20,000 pounds.

4 SECTION 37. Subchapter IV (title) of chapter 348 [precedes 348.25] of the
5 statutes is amended to read:

6 CHAPTER 348

7 SUBCHAPTER IV

8 PERMITS AND WRITTEN AUTHORIZATIONS

9 SECTION 38. 348.25 (1) of the statutes is amended to read:

10 348.25 (1) ~~No Except as provided in s. 348.40, no person shall operate a vehicle~~
11 ~~on or transport an article over a highway without first obtaining a permit therefor~~
12 ~~as provided in s. 348.26 or 348.27 if such vehicle or article exceeds the maximum~~
13 ~~limitations on size, weight or projection of load imposed by this chapter.~~

14 SECTION 39. 348.27 (14) of the statutes is amended to read:

15 348.27 (14) FARM MACHINERY TRACTOR PERMITS. The department may issue
16 annual or consecutive month permits for the movement, towing, or hauling of farm
17 ~~tractors exceeding 12 feet in width and all other farm machinery and implements of~~
18 ~~husbandry exceeding 8 feet 6 inches in width not being operated in the course of~~
19 ~~performance of its work on highways designated as part of the national system of~~
20 ~~interstate and defense highways. A permit under this subsection is not required for~~
21 ~~the movement, towing or hauling of any overwidth machinery that is not a~~
22 ~~commercial motor vehicle and which is authorized by s. 348.05 (3) on that portion of~~
23 ~~USH 51 between Wausau and STH 78 and that portion of STH 78 between USH 51~~
24 ~~and the I 90/94 interchange near Portage upon their federal designation as I 39 that~~

1 are not implements of husbandry and that exceed the width limitations in s. 348.05

2 (2) (c).

3 **SECTION 40.** 348.27 (14m) of the statutes is created to read:

4 348.27 (14m) IMPLEMENTS OF HUSBANDRY PERMITS. The department may issue
5 annual or consecutive month permits for the movement, towing, or hauling of
6 implements of husbandry exceeding any limitation on size or weight specified in s.
7 348.05 (2) (a) 2., 348.07 (2) (e), 348.08 (1), or 348.15 (3) (b) or (g).

8 **SECTION 41.** 348.27 (14r) of the statutes is created to read:

9 348.27 (14r) IMPLEMENTS OF HUSBANDRY DEALER PERMITS. (a) In this subsection,
10 “dealer” means any person engaged in the business of selling, repairing, or servicing
11 implements of husbandry.

12 (b) The department may issue annual or consecutive month permits to dealers
13 authorizing implements of husbandry exceeding size or weight limitations under
14 this chapter to be operated or transported on the highway for purposes related to the
15 purchase or sale, repair, or servicing of the implement of husbandry.

16 (c) Any person operating or transporting an implement of husbandry under a
17 permit issued under this subsection shall comply with ss. 347.24 (3), 347.245 (1), and
18 347.25 (2g), as applicable. For purposes of this paragraph, the requirements under
19 ss. 347.24 (3), 347.245 (1), and 347.25 (2g) shall apply to an implement of husbandry
20 being transported to the same extent as if the implement of husbandry were being
21 operated.

22 (d) A permit issued under this subsection may not authorize the operation or
23 transportation of any implement of husbandry in excess of any weight limitation
24 posted as provided in s. 348.17 (1).

delete?

Gary, Aaron

From: Fiocchi, Tim
Sent: Monday, December 16, 2013 8:39 AM
To: Gary, Aaron
Subject: Fwd: IOH Bill Draft Comments
Attachments: IOH Draft Comments - final.docx

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

From: Karen Gefvert <kgefvert@wfbf.com>
Date: 12/13/2013 4:26 PM (GMT-06:00)
To: "Fiocchi, Tim" <Tim.Fiocchi@legis.wisconsin.gov>, "Portz, Elisabeth" <Elisabeth.Portz@legis.wisconsin.gov>
Subject: IOH Bill Draft Comments

Tim & Liz,

Attached are our comments on the Implements of Husbandry bill draft that you distributed last Monday, Dec. 2. Please feel free to contact myself or any of the named representatives from the cosigning associations on this letter.

Karen
Karen Gefvert
Director of Governmental Relations
Wisconsin Farm Bureau Federation
Office: (608) 828-5713
kgefvert@wfbf.com

A Voice for Farmers. A Vision for Agriculture. ®

This message is intended only for the person to whom it is addressed and may contain information that is privileged, confidential and exempt from disclosure. Use, distribution or copying by anyone else is prohibited. If you receive this in error, please notify us promptly and then destroy this communication.

December 13, 2013

To: Senator Jerry Petrowski
Representative Keith Ripp

From: Dairy Business Association – Angela James & Laurie Fischer
Cooperative Network – Tim Clay
Wisconsin Agri-Business Association – Tom Bressner
Wisconsin Cattlemen’s Association – Jordan Lamb
Wisconsin Corn Growers Association – Bob Welch
Wisconsin Farm Bureau Federation – Karen Gefvert
Wisconsin Independent Businesses – Brian Dake
Wisconsin Pork Association – Jordan Lamb
Wisconsin Potato and Vegetable Growers Association – Jordan Lamb
Wisconsin Soybean Association – Jordan Lamb
Wisconsin State Cranberry Growers Association – Jordan Lamb

Re: Comments on Implements of Husbandry bill draft (LRB-2913/P2)

The above listed organizations appreciate the opportunity to provide comments on the Implements of Husbandry bill draft. In the past few days we have collaborated together in order to provide a cohesive message, but we did not have the opportunity to share the draft of our comments with the Boards or Legislative Committees from each of these trade associations. Accordingly, our members may have additional concerns that we have failed to identify in this short response time. We appreciate your efforts to provide Wisconsin agriculture with enhancements and clarity to the definitions, size and weight regulations for implements of husbandry. After reviewing the draft and discussing the unique needs of Wisconsin’s agricultural community, we have compiled our list of comments regarding the bill draft and submit them for your consideration.

IoH Definition

Section 3. Pg. 9 Line 6:

(c) After the alteration described in par. (a), the vehicle is used exclusively in the conduct of agricultural operations ~~and the vehicle’s primary purpose is for off highway use.~~

Section 4. Pg. 9 Line 11:

(a) A self-propelled or towed vehicle manufactured, designed, or reconstructed to be used, and actually used, exclusively in the conduct of agricultural operation, ~~and the primary purpose of which is for off highway use. An “implement of husbandry” includes a commercial motor vehicle converted for exclusive agricultural use. An “implement of husbandry” may also include, but is not limited to, any of the following categories:~~

- 1. Category 1: Prime – farm tractors*
- 2. Category 2: Self-Propelled – Combines, forage harvesters and fertilizer or pesticide application*

equipment

~~3. **Category 3: Converted Motor Vehicles – truck mounted manure tanks and truck mounted feed mixers**~~

~~3. **Category 4: Vehicle trains – A farm wagon, farm trailer, or trailer adapted to be towed by and/or to tow or pull another implement of husbandry**~~

~~4. **Category 5: Any vehicle or equipment substantially similar to that described in subds. 1. to 3. 4. and that is used to transport agricultural products necessary for agricultural production.**~~

Explanation for Suggested Amendments: We request the deletion of the language related to “primary purpose” in recreated Section 340.01(24)(a) in order to proactively anticipate an adverse court interpretation of this undefined phrase.

We are concerned that the draft’s use of the phrase “primary purpose of which is for off-highway use” will create the situation in which a court will be left to make a determination as to whether a vehicle that otherwise meets the loH definitions has a “primary purpose” that is off-highway use and the court will be forced to establish some test for “primary purpose.” It is unclear how a court may define such a test and we strive toward regulatory certainty in this new statutory framework for loH. We also do not believe that this phrase is critical to this regulation because the definition of loH is so greatly improved in this draft as compared to current law (*i.e.*, include very specific examples of what is meant by an loH.) Accordingly, we suggest that this phrase be deleted from the draft.

In addition, we request the specific inclusion of the five (5) categories created by the loH Stakeholder Group in the definition section of this draft. One of the most valuable pieces of work that the Stakeholder Group provided was the ability for all interested parties to clearly identify specific loH’s, as they created a system – the categories – that all could easily understand. After approximately one year of referring to the different pieces of equipment as “Category 1” or “Category 2,” etc., the ability for all to discuss and debate the substance of the regulation was increased. We had created a language that all could speak and established a system for identifying a great variety of equipment. Yet, this progress was eliminated in this draft. Accordingly, we believe that this draft would be greatly improved with the inclusion of those categories in the definitions. It will greatly increase the ability of the farmers, the local regulators and the State DOT to readily identify a vehicle and apply the appropriate standard of regulation to that vehicle.

Lighting Standards

Section 10:

~~Strike the following language: Section 10, Pg. 11 Line 9 – Pg. 15 Line 6; Section 12 & Section 13. Replace with language similar to the requirements provided below from MN.~~

Request for Revisions to Lighting Restrictions. The legislative draft includes exceptionally detailed and specific restrictions on the requirements for the placement of lights and reflectors for a variety of different types and configurations of loH. While, we appreciate regulatory certainty, the proposed lighting requirements are overly burdensome, as they far exceed what is needed in order to ensure that loH’s are lit in a way that maintains highway safety. Accordingly, we respectfully request that you amend the lighting requirements such that an easily discernible system of lighting is created. We offer, for your consideration, the loH lighting requirements adopted in the State of Minnesota:

"2013 MN Statutes s. 169.55 LIGHTS ON ALL VEHICLES.

Subdivision 1. Lights or reflectors required.

At the times when lighted lamps on vehicles are required each vehicle including an animal-drawn vehicle and any vehicle specifically excepted in sections 169.47 to 169.79, with respect to equipment and not hereinbefore specifically required to be equipped with lamps, shall be equipped with one or more lighted lamps or lanterns projecting a white light visible from a distance of 500 feet to the front of the vehicle and with a lamp or lantern exhibiting a red light visible from a distance of 500 feet to the rear, except that reflectors meeting the maximum requirements of this chapter may be used in lieu of the lights required in this subdivision. It shall be unlawful except as otherwise provided in this subdivision, to project a white light to the rear of any such vehicle while traveling on any street or highway, unless such vehicle is moving in reverse. A lighting device mounted on top of a vehicle engaged in deliveries to residences may project a white light to the rear if the sign projects one or more additional colors to the rear. An authorized emergency vehicle may display an oscillating, alternating, or rotating white light used in connection with an oscillating, alternating, or rotating red light when responding to emergency calls.

Subd. 2. Implement of husbandry.

(a) At the times when lighted lamps on vehicles are required:

(1) every self-propelled implement of husbandry must be equipped with at least one lamp displaying a white light to the front, and at least one lamp displaying a red light to the rear;

(2) every self-propelled implement of husbandry must also display two red reflectors visible to the rear;

(3) every combination of a self-propelled and towed implement of husbandry must be equipped with at least one lamp mounted to indicate as nearly as practicable the extreme left projection of the combination and displaying a white or amber light to the front and a red or amber light to the rear of the self-propelled implement of husbandry; and

(4) the last unit of every combination of implements of husbandry must display two red reflectors visible to the rear.

(b) The reflectors must be of the type approved for use upon commercial vehicles. The reflectors must be mounted as close as practicable to the extreme edges of the implement of husbandry. The reflectors must be reflex reflectors that are visible at night from all distances within 600 feet to 100 feet when directly in front of lawful lower beams of headlamps.

Subd. 3. Implement of husbandry; hazard warning lights.

No person may operate a self-propelled implement of husbandry manufactured after January 1, 1970, on a highway unless the implement of husbandry displays

vehicular hazard warning lights visible to the front and rear in normal sunlight.”
<https://www.revisor.mn.gov/statutes/?id=169.55>

In addition, we have included a copy of a publication produced by the Minnesota of Public Safety that includes a very easy-to-understand diagram explaining to farmers where these various lights and reflectors should be attached to an IoH.

Width – Escort Vehicle Requirement

Section 10, Pg. 14 Lines 7-10:

347.24(3)(d) In addition to any applicable requirement under par. (b) or (c), if a wide implement of husbandry has a total width in excess of 20 feet, no person may operate the implement of husbandry on a highway unless the implement of husbandry is accompanied by one or more escort vehicles operating with hazard lights activated.

Explanation for Suggested Amendments: Currently, there is no width limitation for implements of husbandry operating on a highway. The proposed language for new lighting standards included in this letter, we feel, adequately addresses highway safety for wide implements. The use of an escort vehicle may be an option a farmer chooses to use to go beyond the legal requirements for wide implements of husbandry while operated on the roadway but in no way should be mandatory.

Weight Limits

Section 25. Pg. 18 Line 17:

348.15 (3) (b) The gross weight imposed on the highway by the wheels of any one axle may not exceed 20,000 pounds or, if the vehicle or combination of vehicles is an implement of husbandry, 23,000 pounds except as in paragraph (bf). In addition, the gross weight imposed on the highway by the wheels of the steering axle of a truck tractor may not exceed 13,000 pounds unless the manufacturer's rated capacity of the axle and the tires is sufficient to carry the weight, but not to exceed 20,000 pounds.

(bf) Category 2 (self-propelled) implements of husbandry are exempt from any axle weight limit but are limited to 80,000 pounds for Gross Vehicle Weight and must be operated empty, otherwise the axle limit in paragraph (b) applies. For the purposes of this paragraph, "empty" means less than 20% full.

Explanation for Suggested Amendments: Category 2 Implements of husbandry are limited use, seasonal vehicles with no other reasonable alternative equipment or availability to accomplish their purposes. The requirement for these implements to run empty ensure that they are operated on the roadways with as little additional weight on the roads as possible.

Written Authorization – “Route Plans”

Section 42. Pg. 29 Line 1:

348.40 (3)(a) 2 Except as provided in sub. (2)(e)2., the application is accompanied by a listing or map of highways to be traveled by the implement of husbandry, ~~route plan for operation of the implement of husbandry on the highway~~ and this ~~route plan~~ listing or map of highways is approved by the maintaining authority."

Section 42. Page 30 Line 21:

348.40 (8)(a) 2., The applicant's ~~route plan~~ listing or map of highways to be traveled under sub. (3)(a) 2.

Explanation for Suggested Amendments: The ability for farmers or agribusiness to determine a specific route or routes isn't realistic. In a typical season, it is not unusual for plans to change abruptly. For farmers, this means working fields when field conditions are most favorable. For agribusiness, some equipment may service 30,000 acres or more. Some of the equipment used may operate in multiple counties and numerous towns each day. Field conditions dictate when and where equipment can be used and road routes are continuously adjusted for this reason. We believe the same outcome can be achieved by requiring only the following information. (1) a list of the overweight equipment; (2) season(s) of use; and (3) roads used, not route maps.

Written Authorization – Authorization Within a Specific Timeframe

Section 42, page 26, line 23 – page 27, line 1-2:

If the maintaining authority fails to approve or deny the application within this period, the application is considered approved until the applicant receives a denial meeting the requirements under par. (d)1.

Section 42, page 27, Line 8:

If the maintaining authority fails to approve or deny the application within this period, the application is considered approved until the applicant receives a denial meeting the requirements under par. (d)1.

Explanation for Suggested Amendments: The time limits imposed on local governments to review and grant/deny written authorization are reasonable. If the local government fails to grant or deny a written authorization or request for amendment, that approval should be deemed approved. As currently drafted, there is no limit on the time period under which a local government could issue a subsequent denial. The legislation already contains provisions allowing the revocation of written authorization "for cause", which should be sufficient protection against an inappropriate written authorization.

Written Authorization – Conditions for Denial

Section 42, p. 27, lines 15-21:

(d) 1. ~~If a~~ A maintaining authority denies may only deny an application under par. (a) or (b); if specific conditions of the highway, including pavement integrity and limitations on road structures, within its jurisdiction are insufficient to allow the requested usage by the applicant. In the event of a denial, the maintaining authority ~~it shall immediately notify the applicant in writing of the denial and the specific reason or reasons for the denial. If the application is made with respect to a self-propelled implement of~~

husbandry having a limited purpose essential to planting or harvesting operations, any denial shall include a reasonable, structurally based explanation for the denial and provide a suggested viable alternative route plan for operation of the implement of husbandry on the highway.

Section 42, p. 29, lines 12-14:

(4)(a) A maintaining authority may impose reasonable conditions in conjunction with, or as a prerequisite to, the issuance of any written authorization under this section only if these conditions are reasonably related to the protection of highways under the control of the maintaining authority. Any such condition shall include a reasonable, structurally-based description of its purpose and application during operation of the implement of husbandry.

what about motorist safety?

Explanation for Suggested Amendments: The draft legislation provides no direction to local governments in reviewing requests for written authorization. Written authorization should be granted unless the local government identifies, in writing, a concern related to the protection of highways within their jurisdiction. This denial should be specific, and technically supported. Local governments should be encouraged to identify alternative routes within their jurisdiction, and limit conditions on approval to those provisions reasonably and directly related to the interest the local government is seeking to protect.

Operation Without a Permit

Is it not clear how receiving written authorization relates to requirements to obtain permits. When written authorization is granted by a local government to operate "without a permit," would a permit be otherwise required? If so, which permit is this and who is the granting authority? See Section 42, p. 26, lines 18-19; p. 28, lines 6, 13, and 19-20.

its clear to me

Conclusion

The impact of this legislation will be felt by farmers and agribusinesses throughout Wisconsin. Our goal is for common sense legislation that continues to keep Wisconsin agriculture thriving. We appreciate the opportunity to review the draft legislation and offer our suggested amendments and comments and look forward to working through the bill process. Please contact Karen Gefvert at 608.828.5713 or any of the contacts representing each agricultural commodity association if you have questions or need additional information. Thank you.

12/17

Meeting w/ Tim & Liz

- Ag CMV → not on IOH

- review by DOT → like every other permit
• same as any other permit they
are issuing

- compare new provisions w/ s. 348.25

- left of center : proceed

- /P3 →

- try to make dealer permit an
exempt

- report w/in 72 hrs,
when they went

- Class B →

- potato harvesters → posted
• make sure it is compliant

• double yellow line → passing

• potato harvester → DOT will set back

• box ground if → exempt only
up to certain weight & length

• circulate / P3 in 1st week of Jan.;
Hrg. 3rd week

provided by Tim & Liz at 12/17 mtg

Weight/Dealership

As of one month from the effective date of the bill, implement dealers operating in Wisconsin shall provide anyone purchasing and IoH with the gross and axle weights for the vehicle.

Definition

Section 4. Pg. 9 Line 11:

(a) A self-propelled or towed vehicle manufactured, designed, or reconstructed to be used off of the roadway, and actually used, exclusively in the conduct of agricultural operation, and the primary purpose of which is for off highway use. An "implement of husbandry" includes a commercial motor vehicle converted for exclusive agricultural use. An "implement of husbandry" may also include, but is not limited to, any of the following categories:

(a) Category 1: Prime - farm tractors.

keep self-propelled ↑ implied

(b) Category 2: Self-Propelled Combines, forage harvesters and fertilizer or pesticide application equipment or vehicle directly engaged in harvesting farm products, directly applying fertilizer, spray, or seeds, or that distributes feed to livestock excluding manure application equipment. (Not including agricultural commercial motor vehicles as defined...)

↑ keep

↑ Ag CMV is not an IOH - make clear

(c) Category 3 (*Formerly listed as IV in DOT chart): Vehicle trains - A farm wagon, farm trailer, or trailer adapted to be towed by and/or to tow or pull another implement of husbandry.

Lighting

Section 10

Pg. 11 L 8

To the extent this language remains intact after further input from DOT, the standard should be amended to read "is lighted and visible."

keep → DOT working in it

Pg. 14 L 7

Regarding escort vehicles, the draft should define that for vehicles over 20' wide, on a two lane road they must have a lead vehicle and on a four lane road they must have a follow vehicle.

↳ one vehicle →

Route Description

Section 42. Pg. 29 Line 1:

348.40 (3)(a) 2 Except as provided in sub. (2)(e)2., the application is accompanied by a listing or map of potential highways to be traveled by the implement of husbandry route plan for operation of the implement of husbandry on the highway and this route plan listing or map of highways is approved by the maintaining authority."

Section 42. Page 30 Line 21:

348.40 (8)(a) 2., The applicant's ~~route plan~~ listing or map of highways to be traveled under sub. (3)(a) 2.

348.02 (6) - The provisions of this chapter apply to implements of husbandry otherwise exempt from registration.

348.27 (19)....add a new type of permit to the existing section

NO FEE PERMITS FOR IMPLEMENTS OF HUSBANDRY THAT EXCEED LIMITATIONS ON LENGTH OR WEIGHT, OR BOTH

- needed*
- (1) For permits issued under this section, "maintaining authority" means the following:
 - a. The department, or its designee, with respect to state trunk highways.
 - b. The municipality or county responsible for maintenance of the highway, or its designee, with respect to any highway that is not a state trunk highway, including any connecting highway.

 - (2) (a) Subject to.....a person may apply to the maintaining authority of a highway, or its designee, for a no-fee permit to operate an implement of husbandry that exceeds limitations on length or weight, or both, imposed by this chapter. Upon receiving an application for a no-fee permit under this section, the maintaining authority shall provide the applicant with a final decision on the application within 3 weeks of its receipt.

(b) Subject to, any person to whom a no-fee permit to operate an implement of husbandry that exceeds limitations on length or weight, or both, has been issued under this section may, at any time, apply for an amendment to the permit to reflect a change in the applicant's circumstances or information, including a change in the route plan. Upon receiving an application for amendment under this paragraph, the maintaining authority shall provide the applicant with a decision on the application within 5 business days of its receipt.

(c) Except as provided in paragraph (e) (2), an application under (a) or (b) shall be made on the form prescribed by the department. The application form shall require the applicant to provide, on the form or as an attachment, all of the following information:
 - (1) The applicant's contact information.
 - (2) A listing or map of potential roadways.
 - (3) Identification of the types of implements of husbandry for which the application is made, the length, number of axles, make, model, model year, and estimated weight of the implements of

2

husbandry, and the time of year and frequency that these implements of husbandry are expected to be operated on the highway.

(4) Changes to the original application when requesting an amendment to previously issued permit.

(5) Any other information considered necessary by the department.

(d) If a maintaining authority, or its designee, denies a permit application under par (a) or (b), it shall notify the applicant in writing of the denial which shall include a reasonable and structurally based explanation. If the application is made with respect to a self-propelled implement of husbandry having a limited purpose essential to planting or harvesting operations **defined in 340.01 (24) (2)**, any denial shall also include a suggested alternate route plan for operation of the implement of husbandry on the highway.

any
↓
category
2
(b)

(e) (1) The governing body of a municipality may, by resolution or ordinance, authorize operation on any or all highways under the municipality's jurisdiction of implements of husbandry that exceed limitations on length or weight, or both, imposed by this chapter. A resolution or ordinance adopted under this paragraph is valid only for one calendar year and, to be valid in any succeeding calendar year, must be reaffirmed by the governing body of the municipality.

(2) If a person applies for a no-fee permit for an implement of husbandry that exceeds limitations on length or weight, or both, on a highway for which route authorization has been provided by resolution or ordinance under subd. 1., then the maintaining authority, or its designee, may respond with a form letter and a copy of the resolution or ordinance, which shall serve as the approved permit.

(3) A no-fee permit to operate an implement of husbandry that exceeds limitations on length or weight, or both, imposed by this chapter does not exempt the implement of husbandry from all equipment and other requirements for an implement of husbandry specified in ch. 347.

(4) The department shall prescribe a procedure for the submission of applications to the maintaining authority, or its designee, under sub (1) (a) and (b). The procedure shall allow an application to be submitted by mail, including certified mail, by electronic transmission, or in person, and shall include a method for accurately documenting the date of receipt of the application regardless of which delivery method is used.

(5) (a) In this subsection, "adverse determination" means the denial of an application for initial issuance, renewal or amendment of a no-fee permit for an implement of husbandry that exceeds limitations on length or weight, or both.

(b) Any person aggrieved by an adverse determination by a municipality or county may obtain review of the adverse determination in the manner provided in ch. 68 or as provided under an ordinance or resolution adopted under s. 68.16. However, review of the initial determination of the municipality or county under s. 68.09 or 68.10, or under the equivalent provision of an ordinance or resolution adopted by a municipality under s. 68.16, shall be made by, respectively, the governing body of the municipality or the county highway committee of the county.

(c) Any person aggrieved by an adverse determination by the department may appeal the determination via the process provided in 348.25 (9). ***(Aaron – is this the correct citation? I believe you mentioned Chapter 227?)***

Gary, Aaron

From: Fiocchi, Tim
Sent: Friday, December 20, 2013 3:27 PM
To: Gary, Aaron
Subject: Fwd: IoH Issues to be resolved

Aaron,

I wanted to get you this right away. I read through it quickly but will have to talk to the boss to get further direction.

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

From: "Vieth, David - DOT" <David.Vieth@dot.wi.gov>
Date: 12/20/2013 10:51 AM (GMT-06:00)
To: "Fiocchi, Tim" <Tim.Fiocchi@legis.wisconsin.gov>, "Portz, Elisabeth" <Elisabeth.Portz@legis.wisconsin.gov>
Cc: "Rhatican, Tom M - DOT" <Tom.Rhatican@dot.wi.gov>, "Yahn, Nate - DOT" <Nate.Yahn@dot.wi.gov>, "Rhinesmith, Rory - DOT" <Rory.Rhinesmith@dot.wi.gov>, "Boardman, Kristina - DOT" <Kristina.Boardman@dot.wi.gov>, "Warren, Mitchell - DOT" <Mitchell.Warren@dot.wi.gov>, "Nichols, Kathleen - DOT" <Kathleen.Nichols@dot.wi.gov>, "Ausloos, Brian - DOT" <brian.ausloos@dot.wi.gov>, "Mulder, Daniel J - DOT" <Daniel.Mulder@dot.wi.gov>, "Knowles, Mae - DOT" <Mae.Knowles@dot.wi.gov>, "Brotheridge, Kenneth - DOT" <Kenneth.Brotheridge@dot.wi.gov>
Subject: RE: IoH Issues to be resolved

Tim and Liz,

We've reviewed the issues and have some suggestions to offer.

- Operation left of center

This issue has important implications for safety. The recommendation is to modify the draft language to make clear that the operator of an IoH, when operating over the center or lane line, must yield to oncoming traffic and not impede traffic approaching from the rear on multilane facilities. To accomplish the desired clarity, DSP suggests, with concurrence from the DOT group reviewing the draft, adding references to existing statutes as noted below to make clear the IoH operator's responsibility.

346.06 Meeting of vehicles. Operators of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction each operator shall give to the other at least one-half of the main traveled portion of the roadway as nearly as possible.

346.59 Minimum speed regulation.

346.59(1) (1) No person shall drive a motor vehicle at a speed so slow as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or is necessary to comply with the law.

- Lighting

The information from Minnesota, while simple, in essence is outdated and doesn't move the bar forward in order to address the safety concerns associated with the larger equipment. The balance for providing an opportunity to operate these very large and long pieces of equipment is to take steps to assure it can be done in a more safe manner. The requirements for conspicuity markings (sufficient retro reflective tape) and adequate lighting is important for safety. The decades old minimalist standards are no longer adequate; the MN provisions are in essence those old standards. While simple, they are not effective. The standards for new equipment are well known by the industry and can be applied as retrofits when the over sized equipment needs to operate on public roadways.

The intent of the Study Group was to increase the visibility of implements of husbandry as indicated by the language contained in the original draft. This is a trade off to open up the previously restrictive hours of operation. There are some pieces of equipment that will be difficult to keep the markings and lights visible, but those requirements exist for new equipment doing the same work. It is achievable. The original draft spelled these additional requirements out. Earlier discussion resulted in adding a minimum of 500 feet visibility as well. Highway safety advocates would appreciate the fact that additional safety requirements are being applied to equipment that is over dimensional and would have a better chance to support this proposal rather than oppose it. The recommendation is to include requirements that do replicate the standards for new equipment, and which are more consistent with expectations for other over dimensional vehicles.

- Creation of an exemption/ permit for implement dealer and repair shops

The recommendation is to exempt farmers taking their IOH to or from an IOH dealer, within a 75 mile radius, from the permit requirement. The owner of the repair shop should not have a permit exemption, because that is a commercial activity, and often involves a licensed truck/trailer. The mechanism for accomplishing that could perhaps be a change to 348.17, although Aaron may have a better means of achieving the intent.

348.17 (7).....*Does it make sense under the "special or seasonal weight limitations" area where other permit exemptions are located?*

FARMER TRAVEL BETWEEN IMPLEMENT OF HUSBANDRY DEALER AND FARM:

- (a) In this subsection, "dealer" means any person engaged in the business of selling, repairing, or servicing implements of husbandry.
- (b) No permit shall be required for implements of husbandry (as defined under 340.24(24)), if engaged in the following operation:
 - 1. A farmer is traveling directly from one's owned or leased land to a dealer, within a 75 mile radius.
 - 2. A farmer is traveling directly from a dealer to one's owned or leased land, within a 75 mile radius.

This approach should avoid dealing with the 72 hour notification and a concern about operating in the absence of an otherwise required permit. The dealer or repair shop would remain subject to current provisions for permits, which is consistent with their normal business operation.

- Potato harvester maximum gross weight

We suggest a provision to establish a maximum gross weight of 92,000 pounds for potato harvesters, subject to any posted limits that may include axle weight limitations. It seems important to provide a definition of a potato harvester. From our review, we understood the issue to relate to self propelled equipment designed and used exclusively for harvesting potatoes.

It is our understanding that the length exemption was not intended and not necessary; the largest units we found were 45' long, so should be covered under existing proposed language. While this approach raises some concern about axle weights on these pieces of equipment, should additional information come forward with new research about these particular types of "axles", it can be addressed later, perhaps when dealing with the issue of tracked equipment, or could potentially generate a need in some situations to post a structure for a specific axle line weight. The approach recommended reflects the understanding that this equipment is operating now, with no issues that have been brought to our attention.

- Provision for kids taking equipment to ag day

This topic was not addressed by the Study Group. As a result, our preference would be it not be addressed as part of the IoH legislation. The issue does not impact operation of Implements of Husbandry – except with regard to certain non-IoH use. Operation outside the scope of "used, exclusively in the conduct of agricultural operation" would be considered a violation. If these issues (ag day, tractor pulls, tractor/wagon rides) were not specifically requested to be addressed it may be best to leave the multitude of scenarios alone. There was some concern expressed about the controversy or concern about an issue seen as peripheral to the Study Group's focus.

Later today I expect to send you a mock up of the standard form that would be made available for use in applying for a permit from the appropriate jurisdictions.

Please let me know if you have questions about the suggestions or need some further information.

Dave Vieth

From: Fiocchi, Tim [mailto:Tim.Fiocchi@legis.wisconsin.gov]
Sent: Tuesday, December 17, 2013 1:38 PM
To: Rhatican, Tom M - DOT; Yahn, Nate - DOT
Cc: Rhinesmith, Rory - DOT; Vieth, David - DOT; Portz, Elisabeth
Subject: IoH Issues to be resolved

Good afternoon,

Liz and I met with Aaron Gary this morning to go over changes for the bill. I wanted to pass along a list of the issues we are still looking for further direction on from the department:

- Operation left of center.
- Lighting – MN vs. current draft (Aaron indicated a significant portion of MN law is current here)
- We would like some further comment on the creation of an exemption/ permit for implement dealer and repair shops. In the event this provision is included in the final draft the question is if it is more workable as an exemption or an annual free permit. The question came up as to how someone delivering or retrieving an implement would demonstrate to law enforcement that they were acting in their capacity as a dealer/repair shop if they didn't have a permit. Related to that, we would also like to hear further about the desirability for the notice within 72 hours of the route traveled.
- Dave was working on putting a "box" around the potato harvester exemption (max gross weight?).

- Is there a need to have a provision for kids taking implements to ag day?

Liz – any I missed?

Thank you,

Tim

Tim Fiocchi
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