

2013 DRAFTING REQUEST

Senate Amendment (SA-SB509)

Received: 1/24/2014 Received By: agary
Wanted: As time permits Same as LRB:
For: Jerry Petrowski (608) 266-2502 By/Representing: Tim Fiocchi
May Contact: Drafter: agary
Subject: Transportation - motor vehicles Addl. Drafters:
Transportation - other
Transportation - traffic laws Extra Copies: EVM

Submit via email: YES
Requester's email: Sen.Petrowski@legis.wisconsin.gov
Carbon copy (CC) to: aaron.gary@legis.wisconsin.gov
Elisabeth.Portz@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Changes relating to implements of husbandry and agricultural commercial motor vehicles

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	agary 2/25/2014	evinz 1/31/2014	jfrantze 1/31/2014	_____	mbarman 1/31/2014		
/P2	agary 3/3/2014	evinz 2/25/2014	jfrantze 2/26/2014	_____	mbarman 2/26/2014		
/P3	agary	evinz	jfrantze	_____	mbarman		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	3/5/2014	3/4/2014	3/4/2014	_____	3/4/2014		
/1		evinz 3/5/2014	jmurphy 3/5/2014	_____	srose 3/5/2014	srose 3/5/2014	

FE Sent For:

<END>

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/P2	agary 3/3/2014	evinz 2/25/2014	jfrantze 2/26/2014	_____	mbarman 2/26/2014		
/P3		evinz	jfrantze	_____	mbarman		

Vers. Drafted

Reviewed
3/4/2014

Typed
3/4/2014

Proofed

Submitted
3/4/2014

Jacketed

Required

FE Sent For:

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Jm
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Instructions:

See attached

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/P1	agary 2/25/2014	evinz 1/31/2014	jfrantze 1/31/2014	_____	mbarman 1/31/2014		
/P2	agary 2/26/2014	evinz 2/25/2014	jfrantze 2/26/2014	_____	mbarman 2/26/2014		

FE Sent For:

1p3 eev
3/4/14
1p3 eev
3/4/14
J 3/4/14
J

<END>

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/P1	agary 1/31/2014	evinz 1/31/2014	jfrantze 1/31/2014		mbarman 1/31/2014		
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FE Sent For:

1/22/14
2/25/14
1/22/14
2/25/14
5/14
2/25/14
<END>

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/P1	agary	1/pl eev 1/31/14	1/pl eev 1/31/14				
FE Sent For:							
<END>							

Gary, Aaron

From: Portz, Elisabeth
Sent: Thursday, January 23, 2014 11:00 AM
To: Gary, Aaron
Cc: Fiocchi, Tim
Subject: technical amendment for IoH bill

Good morning Aaron,

We are expecting that a technical amendment will be necessary for the IoH bill so we wanted to get you language as we receive it so you can start working on it.

FOR TECHNICAL AMENDMENT:

1. We are hearing concerns about Page 20, line 16 regarding utility lines. Farmers are concerned that if they go down the road and take down a utility line that was not at its legal minimum height, the farmer will still be liable. Can you address this concern? Some are suggesting we specify in the bill that farmers are only responsible if they take down a utility line at its legal minimum height. Tim and I would love your opinion on if that change would be necessary.
2. With respect to page 32, lines 3-9: We'd like to amend the process to clarify that when a governing body decides to "opt out" through resolution or ordinance, neither the maintaining authority nor the operator are required to do anything. So the farmer does not need to send in the no-fee permit application and the maintaining authority does not need to send any approved blanket letter.
 - a. We weren't entirely sure if this would need to be explicitly stated in the bill. If so, we'd like to see what the language would look like before adding it to the amendment
3. (from DOT) AG CMV DEFINITION: 340.01(1o)(c) - Page 10, Line 23 through Page 11, Line 2
 - a. "(c) Unless the vehicle ~~is a former military vehicle, as defined in s. 341.01 (2) (af), or~~ was manufactured prior to 1970, the vehicle was manufactured to meet federal motor vehicle safety standard certification label requirements as specified in 49 CFR 567."
 - b. *Rationale:* Omits reference to former military vehicles, which do not meet federal motor vehicle standards (road safety issue).
4. (from DOT) LIGHTING STANDARDS: 347.21(1m) - Page 14, Line 15
 - a. ~~husbandry,~~ at least one lamp emitting ~~a red or an amber~~ light visible from a distance..."
 - b. *Rationale:* Current vehicles have red lights. Either color (red or amber) is acceptable. This language change also reflects what is included on page 14, line 24 ("... red or amber in color.")
5. (from DOT) LIGHTING STANDARDS: 347.24(3)(b) - Page 15, Line 7
 - a. "and, ~~subject to s. 347.19,~~ any lamp or light required under this paragraph is lighted and visible at the time..."
 - b. *Rationale:* Ensures that the lighting and material used is visible at a distance of 500 feet.
6. (from DOT) PERMITS: 348.17(5)(a) - Page 28, Lines 15-16
 - a. "weight limitations under s. 348.15 by not more than 15 percent: ~~and that satisfies any all of the following:~~"
 - b. *Rationale:* Ensures reasonable payment of registration fees by these specific CMVs.

There is also another issue that we would not add to the technical amendment just yet, but we would like to see potential language. The bill currently requires an approved alternative route for self-propelled harvesting and planting equipment (category II). We would like to explore an option that would give category II presumptive exemption from axle weight unless the local unit adopts an ordinance creating the current system in the bill.

Tim and I both understand how counter-intuitive this option seems, we would just like to see what the language would look like.

Please let us know if you have any questions or comments on any of these items.

Thank you!

Liz

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

Gary, Aaron

From: Portz, Elisabeth
Sent: Wednesday, January 29, 2014 10:52 AM
To: Gary, Aaron
Cc: Fiocchi, Tim
Subject: RE: technical amendment for IoH bill

Hey Aaron,

After the hearing yesterday, here are several things we would like to fold into the amendment we already have you working on. As far as your questions to DOT on the other measures we sent you last week, I am still waiting on them for their thoughts and will get back to you with their answers as soon as I can.

Requests from the Public Hearing

1. Change incidental travel from .25 miles to .50 miles
2. Under the bill, towns currently have an "opt out" option, but they have to adopt that ordinance or resolution annually. We are interested in language that would allow the town to indefinitely adopt that resolution or ordinance so they don't HAVE to adopt it each year, but we also want to make sure that if the town would like to adopt it annually, they can. So a town can opt out indefinitely until they pass another resolution or ordinance opting back in; but that the decision can only be made with annual frequency.
3. Currently, Category III or "c" under the IoH definition deals with trailers and other IoH pulled mechanisms. There were concerns raised that a farm truck pulling an IoH is not an IoH. It is our understanding that the bill covers this situation adequately to ensure a farm truck pulling an IoH can still benefit from the additional envelope, but that the farm truck itself is not an IoH. Is there any language we could add to the IoH definition for "c" that would clarify this?
4. "Opt Out" resolution or ordinance should not require paperwork on either end, maintaining authority or farmer
 - a. We already sent this request to you. At this time, we would like to require that the maintaining authority would need to send the "opt out" resolution or ordinance to each registered farm in the jurisdiction.
5. The bill is currently silent on liability issues for excessive damage to the road. It is our understanding that the bill does not change current law regarding liability, specifically where the liability lies if the road is damaged while the operator is operating under a valid permit. Can you clarify what current law says about this, how the bill interacts, and if we could add cross references or clarification to the bill on this?
6. Keep the three-week presumptive approval and add a provision for a secondary permanent deadline of 6 weeks. If they still haven't heard back after the 6 weeks, the presumptive approval would be permanent.
7. For IoH length at 100ft, the current speed restriction is at 20mph. We would like to increase that to 25mph.
8. Move the requirement that implement dealers disclose the gross vehicle weight out to January 1, 2015?
9. Tail lamps should not be required to be hardwired to any other lighting or power component in an IoH train.
 - a. We believe the bill already reflects this, but we wanted to run this by you to see if we need or should add anything to the language that clarifies this.
10. Add spraying pesticides to the 12' exception in the Ag-CMV definition for tires and fender extension – Tom Bressner

Let us know if you have any questions!

Liz

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

From: Gary, Aaron
Sent: Friday, January 24, 2014 4:54 PM
To: Portz, Elisabeth
Cc: Fiocchi, Tim
Subject: RE: technical amendment for IoH bill

Thanks. One response, in orange.

From: Portz, Elisabeth
Sent: Friday, January 24, 2014 4:28 PM
To: Gary, Aaron
Cc: Fiocchi, Tim
Subject: RE: technical amendment for IoH bill

See my comments in green.

From: Gary, Aaron
Sent: Friday, January 24, 2014 12:33 PM
To: Portz, Elisabeth
Cc: Fiocchi, Tim
Subject: RE: technical amendment for IoH bill

Hi Liz,

Please see responses below. Also, I will respond to your other email right after this one.

Aaron

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

From: Portz, Elisabeth
Sent: Thursday, January 23, 2014 11:00 AM
To: Gary, Aaron
Cc: Fiocchi, Tim
Subject: technical amendment for IoH bill

Good morning Aaron,

We are expecting that a technical amendment will be necessary for the IoH bill so we wanted to get you language as we receive it so you can start working on it.

FOR TECHNICAL AMENDMENT:

1. We are hearing concerns about Page 20, line 16 regarding utility lines. Farmers are concerned that if they go down the road and take down a utility line that was not at its legal minimum height, the farmer will still

be liable. Can you address this concern? Some are suggesting we specify in the bill that farmers are only responsible if they take down a utility line at its legal minimum height. Tim and I would love your opinion on if that change would be necessary. The provision doesn't specifically make the operator liable. It just puts the burden on the operator to check for clearance. Of course, in any litigation, this will probably lead to liability, but not necessarily if the utility has liability for a low line. So in part, this is a policy question. Shouldn't the operator be looking around and checking for clearance regardless of whether the line is "legal" or not? Perhaps I could add a sentence to p. 20, line 16 that reads something like "This subsection shall not be construed to impose liability on an operator for striking any utility line erected at a height lower than the legal minimum height." (FYI, the legal minimum isn't specified by statute or rule; it is in the electrical code and I'm not sure at the moment what the exact height would be). But does adding this sentence imply that the operator is liable if the utility line is at a proper height? If so, it goes farther than the existing language of the bill.

We are going to look into this further and get back to you.

2. With respect to page 32, lines 3-9: We'd like to amend the process to clarify that when a governing body decides to "opt out" through resolution or ordinance, neither the maintaining authority nor the operator are required to do anything. So the farmer does not need to send in the no-fee permit application and the maintaining authority does not need to send any approved blanket letter. The blanket letter serves as the "permit." With no application and no letter, would the ordinance be called a "permit" or would there be no permit at all? If there is no permit, various changes will have to be made throughout the draft recognizing this new instance where an oversize/overweight vehicle can operate without a permit. If the ordinance can be considered a "permit", then I would just have to do some tinkering with p. 32, lines 10-15. We'd go with the second option you mention, the ordinance or resolution can serve as the permit. Would we be requiring in the bill that the maintaining authority send it to all farmers or would the bill stay silent? If you don't want the maintaining authority to have to mail out copies of the ordinance, you wouldn't have to. I would just need to make an exception to the statute that says all permits must be carried in the vehicle.
 - a. We weren't entirely sure if this would need to be explicitly stated in the bill. If so, we'd like to see what the language would look like before adding it to the amendment
3. (from DOT) AG CMV DEFINITION: 340.01(1o)(c) – Page 10, Line 23 through Page 11, Line 2
 - a. "(c) Unless the vehicle ~~is a former military vehicle, as defined in s. 341.01(2)(af), or~~ was manufactured prior to 1970, the vehicle was manufactured to meet federal motor vehicle safety standard certification label requirements as specified in 49 CFR 567." I'm a little surprised by this comment. This provision (from "Unless" to "1970") was added based on DOT's comments passed on to me at our 12/17 meeting. Neither pre-1970 vehicles nor former military vehicles (FMV) are required to meet federal motor vehicle safety standards. That's the point of this clause. See s. 341.10 (6). If the vehicle can be registered and operated on the highway as an FMV, why can't it be used as an Ag CMV? Will send your comments to DOT and get back to you.
 - b. *Rationale:* Omits reference to former military vehicles, which do not meet federal motor vehicle standards (road safety issue).
4. (from DOT) LIGHTING STANDARDS: 347.21(1m) – Page 14, Line 15
 - a. ~~husbandry~~, at least one lamp emitting ~~a red or an amber~~ light visible from a distance..."
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5. (from DOT) LIGHTING STANDARDS: 347.24(3)(b) – Page 15, Line 7
 - a. "and, subject to s. 347.19, any lamp or light required under this paragraph is lighted and visible at the time..." I think I understand the intent but the way it is done here doesn't quite work. Section 347.19 doesn't actually apply to IOH (only provisions of ch. 347 that say they apply to IOH do). I guess what DOT wants to do is make it apply to IOH. But s. 347.19 actually applies to "clearance lamps" and "reflectors", neither of which is mentioned in created s. 347.24 (3) (b). So is it the intent to apply the "reflector" standards in s. 347.19 (1) to tape (conspicuity material) and the clearance lamp standards to the flashing warning lights (plus ensure tail lamps are visible from 500 feet)? (More on tail lamps in the next email.) Will send your comments to DOT and get back to you.
 - b. *Rationale:* Ensures that the lighting and material used is visible at a distance of 500 feet.

6. (from DOT) PERMITS: 348.17(5)(a) – Page 28, Lines 15-16

- a. “weight limitations under s. 348.15 by not more than 15 percent. and that satisfies any all of the following:”
- b. *Rationale:* Ensures reasonable payment of registration fees by these specific CMVs.

There is also another issue that we would not add to the technical amendment just yet, but we would like to see potential language. The bill currently requires an approved alternative route for self-propelled harvesting and planting equipment (category II). We would like to explore an option that would give category II presumptive exemption from axle weight unless the local unit adopts an ordinance creating the current system in the bill. I'm not quite sure what you mean by current system. So Cat II would have an axle weight exemption (like the potato harvester at p. 26, lines 13-19 but without the escort) on local highways unless the local govt. adopts an ordinance stating that the cat II IOH is subject to the weight limits in s. 348.15 (3) (b) and (g) and provides for issuance of no-fee permits? And this would only be on local highways, not state trunk highways (since the ordinance could not apply to STHs)?

This is something we are still talking about internally, we'll get back to you if it's something we plan to pursue.

Tim and I both understand how counter-intuitive this option seems, we would just like to see what the language would look like.

Please let us know if you have any questions or comments on any of these items.

Thank you!

Liz

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

Gary, Aaron

From: Portz, Elisabeth
Sent: Wednesday, January 29, 2014 2:22 PM
To: Gary, Aaron
Cc: Fiocchi, Tim
Subject: FW: Recommended Changes to IoH Bill

Aaron,

Here are DOT's comments on your questions for the amendment so far. As always, please let us know if you have any questions or comments.

Thanks!

Liz

From: Yahn, Nate - DOT [<mailto:Nate.Yahn@dot.wi.gov>]
Sent: Wednesday, January 29, 2014 2:11 PM
To: Portz, Elisabeth; Fiocchi, Tim
Cc: Rhatican, Tom M - DOT
Subject: RE: Recommended Changes to IoH Bill

See below for my comments (in red) in response to Aaron's comments.

-

Nate Yahn
Legislative Advisor
Office of the Secretary
Wisconsin Department of Transportation
Phone: (608) 266-1114

From: Portz, Elisabeth [<mailto:Elisabeth.Portz@legis.wisconsin.gov>]
Sent: Wednesday, January 29, 2014 9:24 AM
To: Yahn, Nate - DOT; Fiocchi, Tim - LEGIS
Cc: Rhatican, Tom M - DOT
Subject: RE: Recommended Changes to IoH Bill

Hey Nate,

We'd like to get comments back to Aaron so he can start drafting the technical amendment. Did you guys have thoughts on Aaron's comments below?

Thanks!

Liz

From: Yahn, Nate - DOT [<mailto:Nate.Yahn@dot.wi.gov>]
Sent: Friday, January 24, 2014 4:35 PM
To: Portz, Elisabeth; Fiocchi, Tim
Cc: Rhatican, Tom M - DOT
Subject: Re: Recommended Changes to IoH Bill

Thanks for passing this along. I'll get back to you soon with my comments.

Nate Yahn
Legislative Advisor
Office of the Secretary
Wisconsin Department of Transportation
Phone: (608) 266-1114
Email: nate.yahn@dot.wi.gov

www.dot.wisconsin.gov

From: Portz, Elisabeth [<mailto:Elisabeth.Portz@legis.wisconsin.gov>]
Sent: Friday, January 24, 2014 04:30 PM
To: Yahn, Nate - DOT; Fiocchi, Tim - LEGIS
Cc: Rhatican, Tom M - DOT
Subject: RE: Recommended Changes to IoH Bill

Nate and Tom,

We ran your suggestions by Aaron and he had additional thoughts or questions about two of them. Aaron's comments are in green.

1. (from DOT) AG CMV DEFINITION: 340.01(1o)(c) – Page 10, Line 23 through Page 11, Line 2
 - a. “(c) Unless the vehicle ~~is a former military vehicle, as defined in s. 341.01 (2) (af), or~~ was manufactured prior to 1970, the vehicle was manufactured to meet federal motor vehicle safety standard certification label requirements as specified in 49 CFR 567.” I’m a little surprised by this comment. This provision (from “Unless” to “1970”) was added based on DOT’s comments passed on to me at our 12/17 meeting. Neither pre-1970 vehicles nor former military vehicles (FMV) are required to meet federal motor vehicle safety standards. That’s the point of this clause. See s. 341.10 (6). If the vehicle can be registered and operated on the highway as an FMV, why can’t it be used as an Ag CMV?

Disregard this particular recommendation. Maintaining the language in its original draft form is fine.
 - b. *Rationale:* Omits reference to former military vehicles, which do not meet federal motor vehicle standards (road safety issue).
2. (from DOT) LIGHTING STANDARDS: 347.24(3)(b) – Page 15, Line 7
 - a. “and, subject to s. 347.19, any lamp or light required under this paragraph is lighted and visible at the time...” I think I understand the intent but the way it is done here doesn’t quite work. Section 347.19 doesn’t actually apply to IOH (only provisions of ch. 347 that say they apply to IOH do). I guess what DOT wants to do is make it apply to IOH. But s. 347.19 actually applies to “clearance lamps” and “reflectors”, neither of which is mentioned in created s. 347.24 (3) (b). So is it the intent to apply the “reflector” standards in s. 347.19 (1) to tape (**markings**) (conspicuity material) and the clearance lamp standards to the flashing warning lights (plus ensure tail lamps are visible from 500 feet)? (More on tail lamps in the next email.)

Correct; that is the intent. Apply the reflector standards, specified in s. 347.19 (1), to tape; and apply the clearance lamp standards, specified in s. 347.19 (2), to lighting.
 - b. *Rationale:* Ensures that the lighting and material used is visible at a distance of 500 feet.

Please let us know what your additional thoughts are and we can pass them on to Aaron. There are various technical fixes that we plan to roll into a technical amendment.

Gary, Aaron

To: Fiocchi, Tim
Subject: RE: technical amendment for IoH bill

From: Fiocchi, Tim
Sent: Thursday, January 30, 2014 11:42 AM
To: Portz, Elisabeth; Gary, Aaron
Subject: RE: technical amendment for IoH bill

I agree on all, but we missed one thing on number 6. We also need to address the amendment in the same way – presumed approved after 5 days and permanent after 10 days.

From: Portz, Elisabeth
Sent: Thursday, January 30, 2014 11:25 AM
To: Gary, Aaron
Cc: Fiocchi, Tim
Subject: RE: technical amendment for IoH bill

My responses in red. Tim, let us know if you disagree with anything I said.

From: Gary, Aaron
Sent: Thursday, January 30, 2014 11:10 AM
To: Portz, Elisabeth
Cc: Fiocchi, Tim
Subject: RE: technical amendment for IoH bill

Hi Liz,
I have included responses and questions below. Thanks. Aaron

From: Portz, Elisabeth
Sent: Wednesday, January 29, 2014 10:52 AM
To: Gary, Aaron
Cc: Fiocchi, Tim
Subject: RE: technical amendment for IoH bill

Hey Aaron,

After the hearing yesterday, here are several things we would like to fold into the amendment we already have you working on. As far as your questions to DOT on the other measures we sent you last week, I am still waiting on them for their thoughts and will get back to you with their answers as soon as I can.

Requests from the Public Hearing

1. Change incidental travel from .25 miles to .50 miles
2. Under the bill, towns currently have an “opt out” option, but they have to adopt that ordinance or resolution annually. We are interested in language that would allow the town to indefinitely adopt that resolution or ordinance so they don’t HAVE to adopt it each year, but we also want to make sure that if the town would like to adopt it annually, they can. So a town can opt out indefinitely until they pass another resolution or ordinance opting back in; but that the decision can only be made with annual frequency. I think the local government would have discretion as to how to write its ordinance, including whether to

include a sunset date or otherwise make it temporary or permanent. I don't think it is necessary for the statute to get into a lot of detail on this issue. However, if you want, one possibility would be to delete the sentence on p. 32, lines 6-9 and replace it with: "A resolution or ordinance adopted under this subd. 5. a. may be valid for any period equal to or exceeding one calendar year that is specified by the governing body, and the governing body may require that, if the resolution or ordinance is limited in period, the resolution or ordinance must be reaffirmed or adopted again to be valid in any calendar year subsequent to the expiration of this limited period." Is this what you had in mind? Another possibility would be to simply say: "If the governing body of a municipality adopts a resolution or ordinance under this subd. 5. a., the resolution or ordinance shall be valid for at least one calendar year." Then leave it up to the governing body to decide if they want a sunset date or want to keep reaffirming or re-adopting it. I think the second option is cleaner and essentially accomplishes the same thing. We'll just need to remind the Towns and Counties that they do have the ability to sunset in the ordinance or resolution.

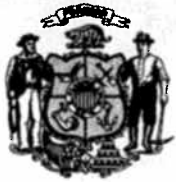
3. Currently, Category III or "c" under the IoH definition deals with trailers and other IoH pulled mechanisms. There were concerns raised that a farm truck pulling an IoH is not an IoH. It is our understanding that the bill covers this situation adequately to ensure a farm truck pulling an IoH can still benefit from the additional envelope, but that the farm truck itself is not an IoH. Is there any language we could add to the IoH definition for "c" that would clarify this? I'm not quite sure what you are looking for here. Are you saying that the farm truck should, or should not, be treated like an IOH? In either case, I think the placement would be the same. If it should not, I could add a sentence at the end of p. 11, line 20 that reads: "When an implement of husbandry that is a towed vehicle is being towed by a vehicle that is not an implement of husbandry, the towed vehicle remains an implement of husbandry even though the towing vehicle is not." However, I think such a sentence would be unnecessary. In contrast, if you want the farm truck/towed IOH combination to be treated as a unit that is an IOH, I could add the following phrase at the end of p. 11, line 20: "or in which an implement of husbandry described in subd. 1. c. is towed by a farm truck or farm truck tractor." (I note that farm truck and farm truck tractor are defined in s. 340.01 (18) and (18g) and that I have not included "dual purpose farm truck" as defined in s. 340.01 (15n)). The farm truck itself, on its own, would not be considered an IoH, so it still needs to register. However, when it is pulling an IoH, the whole thing would be subject to the new weight, length, and width limits. In my mind, the second option (I underlined it) seems to work best.
4. "Opt Out" resolution or ordinance should not require paperwork on either end, maintaining authority or farmer
 - a. We already sent this request to you. At this time, we would like to require that the maintaining authority would need to send the "opt out" resolution or ordinance to each registered farm in the jurisdiction. OK, so no application, but maintaining authority sends copy of the resolution or ordinance to each registered farm. I'm not that familiar with farming operations or what a "registered farm" would be. With whom do farms currently register? Or is the registration something that the farmer would do only for purposes of this bill/permit? And what about the requirement that a permit be carried in the vehicle - will the resolution or ordinance have to be carried in the vehicle as the "permit" or should I create an exception to that requirement? I think, instead of registered farms, we need to indicate that the town or county must make the ordinance or resolution readily available. Ideally, you'd stop by your town hall or library or something and there would be a pile of the ordinance or resolution there for the farmers. I'm not sure how to indicate that in the bill.
5. The bill is currently silent on liability issues for excessive damage to the road. It is our understanding that the bill does not change current law regarding liability, specifically where the liability lies if the road is

damaged while the operator is operating under a valid permit. Can you clarify what current law says about this, how the bill interacts, and if we could add cross references or clarification to the bill on this? Under current law, any person who injures a highway is liable to the maintaining authority for 3 times the amount of the damage caused. See s. 86.02. This bill does not affect that. Operating under a permit also does not relieve a person of liability for causing damage to the highway. However, a permit issuer can require the permit applicant to post a bond or proof of insurance that would cover the cost of damage to the highway if the permit issuer believes that operation under the permit might cause damage. See s. 348.25 (5). The bond or insurance could be required by the maintaining authority as security when these “no fee permits” are issued, but would not be available for a municipality that decides to use the “opt out” ordinance or resolution. As a practical matter, it is difficult to prove that one particular vehicle/operator caused identifiable damage to the highway so s. 86.02 isn’t actually enforced that much unless the damage is so repeated and significant that local authorities are willing to do a surveillance or sting operation to document that one particular vehicle/operator caused specific, identifiable damage. If you want the “no-fee permit” provision (s. 348.27 (19)) to state that the operator of the IOH or Ag CMV is liable for damage to the highway, I could do that but I don’t see any reason to do so. We would agree with this, no need to put it in the bill. Also, unless you specify that the liability is for treble damages, you may be creating an ambiguity. I should note that, a few sessions ago when I drafted a permit for building movers for then-Rep. Petrowski, one of the provisions was that the permit issuer (DOT) could deny the application if “the applicant has failed to provide reimbursement for damage, which is not paid for by the applicant’s insurer, to a highway caused while transporting a building under a permit under this subsection.” (Under that permit, insurance was required.) If damage to the highway is a concern, the threat of not being able to get a new/renewed permit might be something to consider. I’m thinking we don’t want to deal with any of this in the bill, especially the threat of not being able to get a new permit. Tim, your thoughts?

6. Keep the three-week presumptive approval and add a provision for a secondary permanent deadline of 6 weeks. If they still haven’t heard back after the 6 weeks, the presumptive approval would be permanent.
7. For IOH length at 100ft, the current speed restriction is at 20mph. We would like to increase that to 25mph.
- ~~8.~~ Move the requirement that implement dealers disclose the gross vehicle weight out to January 1, 2015?
9. Tail lamps should not be required to be hardwired to any other lighting or power component in an IOH train.
 - a. We believe the bill already reflects this, but we wanted to run this by you to see if we need or should add anything to the language that clarifies this. I think clarifying this would be a good idea. I think the concern relates to s. 347.13 (4), which is not actually applicable here (and is not made applicable on p. 15, line 21). However, when s. 347.22 (1) is read together with s. 347.13 (4), it could be ambiguous with respect to self-propelled IOH. So I think clarification is warranted. Okay we will go with your judgment on that.
10. Add spraying pesticides to the 12’ exception in the Ag-CMV definition for tires and fender extension – Tom Bressner So on p. 19, line 4, “spraying pesticides” should be added along with the “spreading lime or fertilizer”, right? Yes that is correct.

Let us know if you have any questions!

Liz



in ~~SR~~ **TODAY**
1/30



Leev

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE AMENDMENT ,
TO SENATE BILL 509

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 11, line 22: after "1." insert "or in which an implement of husbandry
3 described in subd. 1. c. is towed by a farm truck or farm truck tractor."

4 **2.** Page 14, line 15: delete "~~a red an~~" and substitute "a red or".

****NOTE: Should s. 347.21 (1) also be amended to specify that the light may be red or amber?

5 **3.** Page 15, line 10: after "husbandry." insert "When lighted, these lamps shall
6 be capable of being seen and distinguished under normal atmospheric conditions
7 during hours of darkness at a distance of 500 feet from the front and rear of the
8 implement of husbandry."

9 **4.** Page 15, line 15: after "practicable." insert "This conspicuity material shall
10 be of such size and characteristics and so maintained as to be readily visible during

1 the hours of darkness from all distances within 500 feet to 50 feet from the implement
2 of husbandry when directly in front of lawful upper beams of headlamps.”. ✓

3 **5.** Page 15, line 20: after “husbandry.” insert “This conspicuity material shall
4 be of such size and characteristics and so maintained as to be readily visible during
5 the hours of darkness from all distances within 500 feet to 50 feet from the implement
6 of husbandry when directly in front of lawful upper beams of headlamps.”. ✓

7 **6.** Page 15, line 23: after “practicable.” insert “These tail lamps are not
8 required to be wired to light when headlamps or other lamps light. When lighted,
9 these tail lamps shall be capable of being seen and distinguished under normal
10 atmospheric conditions during hours of darkness at a distance of 500 feet from the
11 rear of the implement of husbandry.”. ✓

12 **7.** Page 16, line 9: delete “0.25” and substitute “0.5”. ✓

13 **8.** Page 19, line 4: before “spreading” insert “spraying pesticides or”. ✓

14 **9.** Page 21, line 24: delete “20” and substitute “25”. ✓

15 **10.** Page 22, line 7: delete “20” and substitute “25”. ✓

16 **11.** Page 26, line 22: delete “0.25” and substitute “0.5”. ✓

17 **12.** Page 27, line 18: delete “0.25” and substitute “0.5”. ✓

18 **13.** Page 28, line 16: delete “any” and substitute “all”. ✓

19 **14.** Page 31, line 1: delete “subd. 3.” and substitute “subds. 3. and 5. b.”. ✓

20 **15.** Page 31, line 8: after “this” insert “3-week”. ✓

21 **16.** Page 31, line 9: after “4.” insert “or until 6 weeks from receipt of the
22 application. If the maintaining authority fails to approve or deny the application
23 within 6 weeks of its receipt, the application is approved.”. ✓

1 17. Page 31, line 17: after "period" insert "of 5 business days".

2 18. Page 31, line 18: after "4." insert "or until 10 business days from receipt
3 of the application. If the maintaining authority fails to approve or deny the
4 application within 10 business days of its receipt, the application is approved. This
5 subdivision does not apply if the permit is a resolution or ordinance adopted under
6 subd. 5.".

7 19. Page 32, line 6: delete the material beginning with "A" and ending with
8 municipality." on line 9 and substitute "If the governing body of a municipality adopts
9 a resolution or ordinance under this subd. 5. a., the resolution or ordinance shall be
10 valid for at least one calendar year.".

11 20. Page 32, line 10: delete lines 10 to 15 and substitute:
12 "b. If the governing body of a municipality adopts a resolution or ordinance
13 under subd. 5. a., then subd. 3. and par. (c) 3. do not apply, no permit application is
14 required, and the resolution or ordinance shall serve as the permit under this
15 subsection. The governing body of the municipality shall make copies of the
16 resolution or ordinance readily available to the public at multiple locations within
17 the municipality.".

18 21. Page 34, line 20: after that line insert:
19 "SECTION 61m. 348.28 (1) of the statutes is amended to read:
20 348.28 (1) Permits issued under ss. 348.25, 348.26 and 348.27, other than a
21 permit described in s. 348.27 (19) (b) 5. b., shall be carried on the vehicle during
22 operations so permitted."

Gary, Aaron

From: Yahn, Nate - DOT <Nate.Yahn@dot.wi.gov>
Sent: Friday, January 31, 2014 10:46 AM
To: Gary, Aaron
Subject: Fw: Recommended Changes to IoH Bill

Please call me (608-513-7324).

1/31 Hc w/ Nate

Nate Yahn
Legislative Advisor
Office of the Secretary
Wisconsin Department of Transportation
Phone: (608) 266-1114
Email: nate.yahn@dot.wi.gov

• re FMV - if used commercially, needs to comply w/ FMVSS →

www.dot.wisconsin.gov

From: Portz, Elisabeth [mailto:Elisabeth.Portz@legis.wisconsin.gov]
Sent: Wednesday, January 29, 2014 02:21 PM
To: Yahn, Nate - DOT; Fiocchi, Tim - LEGIS
Cc: Rhatigan, Tom M - DOT
Subject: RE: Recommended Changes to IoH Bill

make change after all →

Great thanks! I will forward to Aaron.

disregard the disregard

From: Yahn, Nate - DOT [mailto:Nate.Yahn@dot.wi.gov]
Sent: Wednesday, January 29, 2014 2:11 PM
To: Portz, Elisabeth; Fiocchi, Tim
Cc: Rhatigan, Tom M - DOT
Subject: RE: Recommended Changes to IoH Bill

See below for my comments (in red) in response to Aaron's comments.

Nate Yahn
Legislative Advisor
Office of the Secretary
Wisconsin Department of Transportation
Phone: (608) 266-1114

From: Portz, Elisabeth [mailto:Elisabeth.Portz@legis.wisconsin.gov]
Sent: Wednesday, January 29, 2014 9:24 AM
To: Yahn, Nate - DOT; Fiocchi, Tim - LEGIS
Cc: Rhatigan, Tom M - DOT
Subject: RE: Recommended Changes to IoH Bill

Hey Nate,

We'd like to get comments back to Aaron so he can start drafting the technical amendment. Did you guys have thoughts on Aaron's comments below?

Thanks!

Liz

From: Yahn, Nate - DOT [mailto:Nate.Yahn@dot.wi.gov]
Sent: Friday, January 24, 2014 4:35 PM
To: Portz, Elisabeth; Fiocchi, Tim
Cc: Rhatican, Tom M - DOT
Subject: Re: Recommended Changes to IoH Bill

Thanks for passing this along. I'll get back to you soon with my comments.


-
Nate Yahn
Legislative Advisor
Office of the Secretary
Wisconsin Department of Transportation
Phone: (608) 266-1114
Email: nate.yahn@dot.wi.gov

www.dot.wisconsin.gov

From: Portz, Elisabeth [mailto:Elisabeth.Portz@legis.wisconsin.gov]
Sent: Friday, January 24, 2014 04:30 PM
To: Yahn, Nate - DOT; Fiocchi, Tim - LEGIS
Cc: Rhatican, Tom M - DOT
Subject: RE: Recommended Changes to IoH Bill

Nate and Tom,

We ran your suggestions by Aaron and he had additional thoughts or questions about two of them. Aaron's comments are in green.

1. (from DOT) AG CMV DEFINITION: 340.01(1o)(c) – Page 10, Line 23 through Page 11, Line 2
 - a. ~~“(c) Unless the vehicle is a former military vehicle, as defined in s. 341.01 (2) (af), or~~ was manufactured prior to 1970, the vehicle was manufactured to meet federal motor vehicle safety standard certification label requirements as specified in 49 CFR 567.” I’m a little surprised by this comment. This provision (from “Unless” to “1970”) was added based on DOT’s comments passed on to me at our 12/17 meeting. Neither pre-1970 vehicles nor former military vehicles (FMV) are required to meet federal motor vehicle safety standards. That’s the point of this clause. See s. 341.10 (6). If the vehicle can be registered and operated on the highway as an FMV, why can’t it be used as an Ag CMV?

Disregard this particular recommendation. Maintaining the language in its original draft form is fine.
 - b. *Rationale:* Omits reference to former military vehicles, which do not meet federal motor vehicle standards (road safety issue).
2. (from DOT) LIGHTING STANDARDS: 347.24(3)(b) – Page 15, Line 7
 - a. “and, ~~subject to s. 347.19,~~ any lamp or light required under this paragraph is lighted and visible at the time...” I think I understand the intent but the way it is done here doesn’t quite work. Section 347.19 doesn’t actually apply to IOH (only provisions of ch. 347 that say they apply to IOH do). I guess what DOT wants to do is make it apply to IOH. But s. 347.19 actually applies to “clearance lamps” and “reflectors”, neither of which is mentioned in created s. 347.24 (3) (b). So is it the intent to apply the “reflector” standards in s. 347.19 (1) to tape **(markings)** (conspicuity material) and



TODAY



in
4/31

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE AMENDMENT ,
TO SENATE BILL 509

insert 1-1

1 At the locations indicated, amend the bill as follows:

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4 **2.** Page 14, line 15: delete "a red an" and substitute "a red or".

***NOTE: Should s. 347.21 (1) also be amended to specify that the light may be red or amber?

5 **3.** Page 15, line 10: after "husbandry." insert "When lighted, these lamps shall
6 be capable of being seen and distinguished under normal atmospheric conditions
7 during hours of darkness at a distance of 500 feet from the front and rear of the
8 implement of husbandry."

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10 be of such size and characteristics and so maintained as to be readily visible during

1 the hours of darkness from all distances within 500 feet to 50 feet from the implement
2 of husbandry when directly in front of lawful upper beams of headlamps.”.

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11 rear of the implement of husbandry.”.

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13 **8.** Page 19, line 4: before “spreading” insert “spraying pesticides or”.

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19 **14.** Page 31, line 1: delete “subd. 3.” and substitute “subds. 3. and 5. b.”.

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21 **16.** Page 31, line 9: after “4.” insert “or until 6 weeks from receipt of the
22 application. If the maintaining authority fails to approve or deny the application
23 within 6 weeks of its receipt, the application is approved.”.

1 **17.** Page 31, line 17: after “period” insert “of 5 business days”.

2 **18.** Page 31, line 18: after “4.” insert “or until 10 business days from receipt
3 of the application. If the maintaining authority fails to approve or deny the
4 application within 10 business days of its receipt, the application is approved. This
5 subdivision does not apply if the permit is a resolution or ordinance adopted under
6 subd. 5.”.

7 **19.** Page 32, line 6: delete the material beginning with “A” and ending with
8 municipality.” on line 9 and substitute “If the governing body of a municipality adopts
9 a resolution or ordinance under this subd. 5. a., the resolution or ordinance shall be
10 valid for at least one calendar year.”.

11 **20.** Page 32, line 10: delete lines 10 to 15 and substitute:

12 “b. If the governing body of a municipality adopts a resolution or ordinance
13 under subd. 5. a., then subd. 3. and par. (c) 3. do not apply, no permit application is
14 required, and the resolution or ordinance shall serve as the permit under this
15 subsection. The governing body of the municipality shall make copies of the
16 resolution or ordinance readily available to the public at multiple locations within
17 the municipality.”.

18 **21.** Page 34, line 20: after that line insert:

19 “**SECTION 61m.** 348.28 (1) of the statutes is amended to read:

20 348.28 (1) Permits issued under ss. 348.25, 348.26 and 348.27, other than a
21 permit described in s. 348.27 (19) (b) 5. b., shall be carried on the vehicle during
22 operations so permitted.”.

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1520/P1ins
ARG:.....

1 **INSERT 1-1:**

2 **1.** Page 10[✓], line 23: delete the material beginning with “is”[✓] and ending with
3 “or”[✓] on line 24[✓].

4

Gary, Aaron

From: Portz, Elisabeth
Sent: Friday, January 31, 2014 12:36 PM
To: Gary, Aaron; Fiocchi, Tim
Subject: RE: technical amendment for IoH bill

Hey Aaron,

We have one more provision for you to add to the amendment. Right now, the lighting requirements are required for all wide IoH after 15'. We would like to add a provision that would give farmers the option to forego the lighting requirement during the day if they use an escort vehicle. If farmers use this option, we would also require an orange/red flag similar to over-dimensional loads to mark extreme width. The lighting requirement would still be required for all wide IoH over 15' during night time hours.

Please let us know if you have any questions! Thanks,

Liz

From: Gary, Aaron
Sent: Friday, January 31, 2014 11:24 AM
To: Fiocchi, Tim; Portz, Elisabeth
Subject: RE: technical amendment for IoH bill

I'll try to get you a preliminary draft today.
Aaron

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

From: Fiocchi, Tim
Sent: Friday, January 31, 2014 11:18 AM
To: Gary, Aaron; Portz, Elisabeth
Subject: RE: technical amendment for IoH bill

If you can send preliminary language that we could review that would be great. We want to sit down with the Department and the advocates one more time next week.

From: Gary, Aaron
Sent: Friday, January 31, 2014 11:15 AM
To: Fiocchi, Tim; Portz, Elisabeth
Subject: RE: technical amendment for IoH bill

Hi Liz and Tim,

What is the time frame on this amendment? At this point, I have drafted everything for which I have instructions. I'm assuming you'll have more to add. Do you want to see the amendment so far, or should I wait for further additions?

Thanks. Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau

Gary, Aaron

From: Portz, Elisabeth
Sent: Monday, February 03, 2014 11:43 AM
To: Gary, Aaron
Subject: RE: IoH Draft Amendment

Aaron,

Can we also change the language for the farm trucks pulling an IoH to also include regular trucks?

Thanks,

Liz

From: Fiocchi, Tim
Sent: Monday, February 03, 2014 11:20 AM
To: Gary, Aaron
Cc: Portz, Elisabeth
Subject: FW: IoH Draft Amendment

From: Yahn, Nate - DOT [<mailto:Nate.Yahn@dot.wi.gov>]
Sent: Monday, February 03, 2014 11:19 AM
To: Fiocchi, Tim
Cc: Portz, Elisabeth; Rhatican, Tom M - DOT
Subject: RE: IoH Draft Amendment

In answering Aaron's question, the answer is yes. It should also be amended.

Thanks.

-

Nate Yahn
Legislative Advisor
Office of the Secretary
Wisconsin Department of Transportation
Phone: (608) 266-1114

From: Fiocchi, Tim [<mailto:Tim.Fiocchi@legis.wisconsin.gov>]
Sent: Monday, February 03, 2014 11:09 AM
To: Rhatican, Tom M - DOT
Cc: Portz, Elisabeth; Yahn, Nate - DOT
Subject: IoH Draft Amendment

Aaron,

Attached is list of the changes we're looking to add to the bill, and two preliminary drafts of what will be a single omnibus amendment. I think we're good to go with the language Aaron has drafted, but would like your guys' opinion on the question he included under item 3.

Thank you,

Gary, Aaron

From: Fiocchi, Tim
Sent: Monday, February 03, 2014 5:17 PM
To: Gary, Aaron
Cc: Portz, Elisabeth; Queensland, Michael; Moore, David
Subject: loH utility line fix
Attachments: NESC Powerline Clearances.pdf

Aaron,

Unless you or one of our fine leg council attorneys tells me otherwise, here's the fix for the utility line issue raised in committee.

Page 20 Line 16 after "utility line" add "installed in compliance with the National Electrical Safety Code (NESC)".

It's incorporated by reference in PSC admin rules now.

Thank you,

Tim

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

ft

**Table 232-1—
Vertical clearance of wires, conductors, and cables above ground,
roadway, rail, or water surfaces[®]**

(Voltages are phase to ground for effectively grounded circuits and those other circuits where all ground faults are cleared by promptly de-energizing the faulted section, both initially and following subsequent breaker operations. See the definitions section for voltages of other systems.
See Rules 232B1, 232C1a, and 232D4.)

Nature of surface underneath wires, conductors, or cables	Neutrals Insulated communication conductors and cable; messengers; overhead shield/ surge-protection wires; grounded guys; ungrounded guys exposed to 0 to 300 V ^{① ② ③} ; neutral conductors meeting Rule 230E1; supply cables meeting Rule 230C1 (ft)	Secondaries Triplex Noninsulated communication conductors; supply cables of 0 to 750 V meeting Rule 230C2 or 230C3 (ft)	Supply cables over 750 V meeting Rule 230C2 or 230C3; open supply conductors, 0 to 750 V ^① ; ungrounded guys exposed to over 300 V to 750 V ^② (ft)	Primary Phase Open supply conductors, over 750 V to 22 kV; unground- ed guys exposed to 750 V to 22 kV ^③ (ft)	Trolley and electrified railroad contact conductors and associated span or messenger wires	
					0 to 750 V to ground (ft)	Over 750 V to 22 kV to ground (ft)
Where wires, conductors, or cables cross over or overhang						
1. Track rails of railroads (except electrified railroads using overhead trolley conductors) ^{① ② ③}	23.5	24.0	24.5	26.5	22.0 ^①	22.0 ^②
2. Roads, streets, and other areas subject to truck traffic ^③	15.5	16.0	16.5	18.5	18.0 ^①	20.0 ^②
3. Driveways, parking lots, and alleys ^③	15.5 ^{② ③}	16.0 ^{② ③}	16.5 ^②	18.5	18.0 ^①	20.0 ^②
4. Other land traversed by vehicles, such as cultivated, grazing, forest, orchards, etc. ^③	15.5	16.0	16.5	18.5	—	—
5. Spaces and ways subject to pedestrians or restricted traffic only ^①	9.5	12.0 ^①	12.5 ^①	14.5	16.0	18.0
6. Water areas not suitable for sailboating or where sailboating is prohibited ^①	14.0	14.5	15.0	17.0	—	—
7. Water areas suitable for sailboating including lakes, ponds, reservoirs, tidal waters, rivers, streams, and canals with an unobstructed surface area of ^{① ② ③ ④ ⑤}						

Gary, Aaron

From: Portz, Elisabeth
Sent: Thursday, February 06, 2014 1:19 PM
To: Gary, Aaron; Fiocchi, Tim
Subject: RE: IoH utility line fix

Hey Aaron,

Can you add this language into the amendment as well?

Section 15 - Page 14 line 17. After "red" insert "or amber".

The rationale is to be consistent in color options for this reflector requirement like you did with the light being red or amber in line 15 above.

Let us know if you have any questions! Thanks,

Liz

From: Gary, Aaron
Sent: Wednesday, February 05, 2014 10:43 AM
To: Fiocchi, Tim
Cc: Portz, Elisabeth; Queensland, Michael; Moore, David
Subject: RE: IoH utility line fix

Tim,

This looks fine to me.

I've been holding off on the "/P2" of the amendment until I get the green light from you or Liz that you want to see another draft of LRBa1520. So far, I think I have 3 or 4 changes to pull into it.

Aaron

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

From: Fiocchi, Tim
Sent: Monday, February 03, 2014 5:17 PM
To: Gary, Aaron
Cc: Portz, Elisabeth; Queensland, Michael; Moore, David
Subject: IoH utility line fix

Aaron,

Unless you or one of our fine leg council attorneys tells me otherwise, here's the fix for the utility line issue raised in committee.

Page 20 Line 16 after "utility line" add "installed in compliance with the National Electrical Safety Code (NESC)".

It's incorporated by reference in PSC admin rules now.

Gary, Aaron

From: Portz, Elisabeth
Sent: Friday, February 07, 2014 12:10 PM
To: Gary, Aaron
Cc: Fiocchi, Tim
Subject: FW: IOH amendment

Hey Aaron,

One more thing to add into the amendment draft.

Let me know if you have any questions! Thanks,

Liz

From: Karen Gefvert [<mailto:kgefvert@wfbf.com>]
Sent: Friday, February 07, 2014 9:39 AM
To: Portz, Elisabeth
Subject: IOH amendment

Good morning Liz,

We were looking through the bill and have another small technical amendment, but it will need to be made in three locations in the bill.

It deals with the "incidental movement" provision. Currently the language states "traveling between fields" and we thought we should add for clarification that it also states "or farm and fields".

Locations where this language occurs is:

Section 18: Page 16 Line 9
Section 48: Page 26 Line 21
 : Page 27 Line 18

I hope this makes sense and our thoughts were that this was the intent of the incidental movement provision but the language doesn't specifically spell that out. Let me know if this is not the intent that was in mind.

Thanks,

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

Gary, Aaron

From: Portz, Elisabeth
Sent: Tuesday, February 18, 2014 2:40 PM
To: Gary, Aaron
Cc: Fiocchi, Tim
Subject: RE: technical IoH question

Thank you! That was our intent.

From: Gary, Aaron
Sent: Tuesday, February 18, 2014 2:40 PM
To: Portz, Elisabeth
Cc: Fiocchi, Tim
Subject: RE: technical IoH question

Yes, the option to "opt out" of the permit by adopting an ordinance does not apply to counties. I will revise the amendment so that it does. Aaron

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

From: Portz, Elisabeth
Sent: Tuesday, February 18, 2014 2:34 PM
To: Gary, Aaron
Cc: Fiocchi, Tim
Subject: technical IoH question

Hey Aaron,

We received a technical question from Farm Bureau I wanted to run by you. On page 30, line 23, the bill states "the municipality or county responsible" implying that counties are not included in the definition of "municipality." However, on page 32, line 3, it states "the governing body of a municipality may, by resolution or ordinance." It makes no reference to a county. The same language occurs in the amendment language. Do we need to add "or county" to that language to make sure they are covered? If so, we'd like to add that to the amendment.

Thanks,

Liz

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

Gary, Aaron

From: Portz, Elisabeth
Sent: Wednesday, February 12, 2014 3:03 PM
To: Gary, Aaron
Cc: Fiocchi, Tim
Subject: RE: addition to the IoH amendment

Hey Aaron,

DOT is still talking over your question below so I will get back to you once I hear from them on that hopefully this afternoon. In the meantime, we'd like to change the escort vehicle requirement in the bill from 20ft to 22ft.

Please let me know if you have any questions, thanks!

Liz

From: Gary, Aaron
Sent: Wednesday, February 12, 2014 11:24 AM
To: Portz, Elisabeth
Subject: RE: addition to the IoH amendment

Do you want this to apply only to these new "no fee" permits under s. 348.27 (19), or should it apply generally to all of the overweight/oversize permits issued under ch. 348? (Either way would require amending the same (single) provision.)

Thanks. Aaron

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

From: Portz, Elisabeth
Sent: Wednesday, February 12, 2014 10:43 AM
To: Gary, Aaron
Subject: addition to the IoH amendment

Hey Aaron,

Tim and I would like to add a provision to the amendment that would allow operators to carry their permits electronically.

Please let me know if you have any questions. Thanks!

Liz

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

Gary, Aaron

From: Portz, Elisabeth
Sent: Friday, February 21, 2014 1:24 PM
To: Gary, Aaron
Subject: FW: addition to the IoH amendment

To get you a final answer on this issue, we would only allow operators to carry their no-fee permits electronically. This provision should not apply to other types of ag permits.

Thanks!

From: Rhatican, Tom M - DOT [<mailto:Tom.Rhatican@dot.wi.gov>]
Sent: Friday, February 14, 2014 10:41 AM
To: Portz, Elisabeth
Subject: RE: addition to the IoH amendment

Ooops. Let me double check!

From: Portz, Elisabeth [<mailto:Elisabeth.Portz@legis.wisconsin.gov>]
Sent: Friday, February 14, 2014 10:40 AM
To: Rhatican, Tom M - DOT
Subject: RE: addition to the IoH amendment

We weren't talking about eliminating the fees, just allowing them to carry their permits electronically.

From: Rhatican, Tom M - DOT [<mailto:Tom.Rhatican@dot.wi.gov>]
Sent: Friday, February 14, 2014 10:39 AM
To: Portz, Elisabeth
Cc: Boardman, Kristina - DOT; Nichols, Kathleen - DOT; Yahn, Nate - DOT
Subject: RE: addition to the IoH amendment

Quick answer: no. Some farmers who already pay a permit fee (ex., sub para 18 – fruits and vegetables) may qualify as IoH – and therefore pursue a no-fee permit. But the circumstances surrounding the other types of ag permits are too varied – so we don't want to eliminate the fees.

Thanks for checking.

Tom

From: Portz, Elisabeth [<mailto:Elisabeth.Portz@legis.wisconsin.gov>]
Sent: Friday, February 14, 2014 10:17 AM
To: Rhatican, Tom M - DOT
Subject: FW: addition to the IoH amendment

Tom,
Did you guys ever end up talking about whether you'd like this to apply to all permits? We can leave it to just no-fee permits right now if that is your preference! Thanks,

Liz

From: Gary, Aaron
Sent: Wednesday, February 12, 2014 11:24 AM
To: Portz, Elisabeth
Subject: RE: addition to the IoH amendment

Do you want this to apply only to these new "no fee" permits under s. 348.27 (19), or should it apply generally to all of the overweight/oversize permits issued under ch. 348? (Either way would require amending the same (single) provision.)

Thanks. Aaron

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

From: Portz, Elisabeth
Sent: Wednesday, February 12, 2014 10:43 AM
To: Gary, Aaron
Subject: addition to the IoH amendment

Hey Aaron,

Tim and I would like to add a provision to the amendment that would allow operators to carry their permits electronically.

Please let me know if you have any questions. Thanks!

Liz

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

Gary, Aaron

From: Portz, Elisabeth
Sent: Tuesday, February 25, 2014 11:19 AM
To: Fiocchi, Tim; Gary, Aaron
Subject: RE: IoH grace period

Not that I can think of, I think we're good!

From: Fiocchi, Tim
Sent: Tuesday, February 25, 2014 11:13 AM
To: Gary, Aaron
Cc: Portz, Elisabeth
Subject: RE: IoH grace period

Aaron – answers incorporated into your email.

From: Gary, Aaron
Sent: Tuesday, February 25, 2014 10:58 AM
To: Fiocchi, Tim
Cc: Portz, Elisabeth
Subject: RE: IoH grace period

OK.

Regarding the delayed enforcement:

1. Will this apply to violations of weight, length, width, and height? Or only some of these? Also, I assume it will not apply to a violation of a posted weight limit or on an interstate, right? (ie tickets can still be issued for violating a posted weight limit)

It would not apply on the interstate, but for all other roads it would and yes, it should apply to all dimensional limitations. The point is to allow a period of time during which what might otherwise be an enforcement action to serve as an educational tool as everyone adjusts to the new law. For the local postings, local law enforcement would still be able to write tickets.

2. Although DOT inspectors can enforce overweight violations, I assume that's not an issue here because (I think) they work from the inspection stations and don't really patrol rural roads (so I don't need to mention inspectors in the bill language). Please let me know if you want inspectors also mentioned with state patrol.

It should apply to both. I think you're correct that they mostly work from the stations, but I think they also respond to complaints using the portable scales.

3. In addition to writing tickets, state patrol can order a vehicle to proceed to the nearest scales, order an overweight vehicle to be unloaded or reloaded, and order an overweight vehicle to cease operation. I assume you want to prohibit all of this as well as writing a ticket.

The language, again only as applied to 340.01 (24) (a) (1) a and b should limit their actions to issuing a warning.

With regard to the utility line issue, was the language I previously sent sufficient? Yes, go with the language you provided.

DOT had raised the issue of whether item 2. in LRBa1520/P1 should be deleted or modified. Do you want any change made on that issue? We don't agree with their assessment of that issue, so the only change would be what I think Liz already sent to also allow non-farm trucks to be the power unit.

Liz – anything else?

Thanks. Aaron

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

From: Fiocchi, Tim
Sent: Tuesday, February 25, 2014 9:47 AM
To: Gary, Aaron
Cc: Portz, Elisabeth
Subject: RE: IoH grace period

Aaron,

After further discussion I need to get draft language for this. I expect to hear back shortly on the "opt in" provision, however I doubt we'll be pursuing that. These should be the last two pieces.

Thank you,

Tim

From: Fiocchi, Tim
Sent: Monday, February 24, 2014 9:32 AM
To: Gary, Aaron
Cc: Portz, Elisabeth
Subject: RE: IoH grace period

I'll give you a call later today once I hear back from a couple people. It would be my intent to apply the non-stat only to State Patrol and limit the prohibition to violations by implements listed under 340.01 (24) (a) (1) a and b.

From: Gary, Aaron
Sent: Saturday, February 22, 2014 2:41 PM
To: Fiocchi, Tim
Cc: Portz, Elisabeth
Subject: RE: IoH grace period

Yes, this is doable. If I understand your intent, we could include a non-stat that prohibits traffic officers from issuing citations for violations until 1/1/15 and provide for issuance of warnings only during this period. I would have to know what violations you want covered - would it be weight only or any violation in the bill? Give me a call and we can discuss on Monday. Aaron

From: Fiocchi, Tim
Sent: Friday, February 21, 2014 11:01 AM
To: Gary, Aaron
Cc: Portz, Elisabeth
Subject: IoH grace period

Hi Aaron,

I've been asked to get some language that would create an enforcement grace period for IoH/Ag CMV until January 2015. Essentially require State Patrol to only issue warnings until that time to provide time for farmers to

get up to speed on the changes we're making, find out how much their equipment weighs, and figure out their road usage.

I don't know if there are any precedents you can use to draft something to that effect, but I need to find out if this is doable. If you could give me a call this afternoon, we should talk about time frame for the overall amendment as well.

Thank you,

Tim

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

Gary, Aaron

From: Gary, Aaron
Sent: Thursday, February 13, 2014 10:02 AM
To: Fiocchi, Tim
Cc: Portz, Elisabeth
Subject: FW: Electrical clearances

Tim,

As we discussed in the context of the lighting requirements, we're writing the statutes not only for the moment but also for the future, and we (at the LRB) are generally reluctant to be too specific in cross-referencing outside materials because, for example, we don't know exactly what will be in "volume 1" ten years from now. I asked Mark Kunkel, the PSC drafter, for help in reviewing the language in your email – here's the language we came up with, with a brief explanation. The reason subd. 3. is added is that a co-op is technically not a utility so its line might not be considered a utility line. More importantly, coops are not subject to **Volume 1 of the Wisconsin State Electrical Code (PSC 114)**, as they are not regulated by PSC. They must only comply with the NESC. There are not that many coops, but where they do exist, these are the same locations where this IOH bill will have the most impact – in rural and agricultural areas.

Please let me know if the language below will satisfy your intent. Thanks. Aaron

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

From: Kunkel, Mark
Sent: Wednesday, February 12, 2014 5:07 PM
To: Gary, Aaron
Subject: RE: Electrical clearances

How about the following:

The operator of the implement of husbandry is responsible for ensuring that there is adequate height clearance between the implement of husbandry and all of the following:

1. Except as provided in subds. 2. and 3., any overhead structure or obstruction.
2. Any overhead utility line that satisfies the requirements of the state electric code promulgated by the public service commission.
3. Any overhead electric line of a cooperative association that is organized under ch. 185 and that complies with the National Electrical Safety Code.

[For language similar to item 2, see s. 182.018(3): "All wires strung over any railroad on or after August 1, 1949, shall be strung in such a way as to meet requirements of the provisions of the state electrical code promulgated by the public service commission." See also s. 86.16 (2): "All poles used in the construction of such lines shall be set in such manner as not to interfere with the use of such highway by the public, nor with the use of the adjoining land by the owner thereof; and all pole lines shall hereafter be constructed so as to meet the requirements of the provisions of the state electrical code promulgated by the public service commission."]

From: Gary, Aaron
Sent: Wednesday, February 12, 2014 4:09 PM
To: Kunkel, Mark
Subject: FW: Electrical clearances
Importance: High

Do you have any thoughts on how you would draft the part in bold below (if it were your draft)?
Thanks. Aaron

From: Fiocchi, Tim
Sent: Wednesday, February 12, 2014 4:05 PM
To: Gary, Aaron
Cc: Portz, Elisabeth
Subject: FW: Electrical clearances
Importance: High

Aaron,

I received the email below from WPS regarding how we address the clearance for electrical lines. I'm fine with doing it their way unless you see an issue.

Thanks,

Tim

From: LaRowe, Christopher W [<mailto:CWLarowe@integrysgroup.com>]
Sent: Wednesday, February 12, 2014 2:55 PM
To: Fiocchi, Tim
Subject: FW: Electrical clearances
Importance: High

Tim,

Sorry for not getting back to you sooner, but after discussing internally, we believe it is probably better to refer to PSC 114 (Wisconsin's adoption of the NESC with some changes) vs. the NESC directly:

- **"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, including any utility line in compliance with Volume 1 of the Wisconsin State Electrical Code (PSC 114)."**

Not to complicate matters, but there are some situations where the clearance minimums may be a bit greater than PSC 114 requires. For instance, I believe the DOT requires a minimum of 17 ft over state highways as a general rule for all conductors. For a neutral or communication cable the PSC 114 (NESC) minimum clearance would be 15.5 ft. I suppose PSC 114 indirectly covers this by stating something similar to "nothing prevents municipal authorities from having greater requirements than the PSC 114 minimums." The only other issue could arise if there is a "non-utility" cable/conductor crossing. This would technically fall under the requirements of Volume 2 of the Wisconsin State Electric Code (Wisconsin's adoption of the NEC with some changes (SPS 316)).

Christopher W. LaRowe
Director - Government Relations
Wisconsin Public Service Corporation

10 E. Doty Street, Suite 800
Madison, WI 53703
(608) 204-5870
(608) 772-0840 (cell)
cwlarowe@integrysgroup.com

From: Fiocchi, Tim [<mailto:Tim.Fiocchi@legis.wisconsin.gov>]
Sent: Thursday, February 06, 2014 9:33 AM
To: LaRowe, Christopher W
Subject: RE: Electrical clearances

Sounds good. The intent of the amendment is to maintain the status quo for liability for lines getting clipped. There was a concern the original language put farmers on the hook even if the line was hanging down to 10 feet or some such.

----- Original message -----
From: "LaRowe, Christopher W"
Date: 02/06/2014 9:02 AM (GMT-06:00)
To: "Fiocchi, Tim"
Subject: RE: Electrical clearances

Thanks for reaching out. Checking.....

Christopher W. LaRowe
Director - Government Relations
Wisconsin Public Service Corporation
10 E. Doty Street, Suite 800
Madison, WI 53703
(608) 204-5870
(608) 772-0840 (cell)
cwlarowe@integrysgroup.com

From: Fiocchi, Tim [<mailto:Tim.Fiocchi@legis.wisconsin.gov>]
Sent: Wednesday, February 05, 2014 12:58 PM
To: LaRowe, Christopher W
Subject: RE: Electrical clearances

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From: LaRowe, Christopher W [<mailto:CWLarowe@integrysgroup.com>]
Sent: Wednesday, February 05, 2014 12:57 PM
To: Fiocchi, Tim
Subject: RE: Electrical clearances

What Section # of the bill is that?

Christopher W. LaRowe
Director - Government Relations
Wisconsin Public Service Corporation

10 E. Doty Street, Suite 800
Madison, WI 53703
(608) 204-5870
(608) 772-0840 (cell)
cwlarowe@integrysgroup.com

From: Fiocchi, Tim [<mailto:Tim.Fiocchi@legis.wisconsin.gov>]
Sent: Wednesday, February 05, 2014 12:52 PM
To: LaRowe, Christopher W
Subject: RE: Electrical clearances

Thanks Chris,

I've been out sick – just tried your cell. Here's what I sent the drafter:

SB 509
Page 20 Line 16 after "utility line" add "installed in compliance with the National Electrical Safety Code (NESC)".

Per your email, please advise if you believe we would also need to reference the National Electric Code. Give me a call if you want to discuss further.

Thanks,

Tim

From: LaRowe, Christopher W [<mailto:CWLarowe@integrysgroup.com>]
Sent: Wednesday, February 05, 2014 12:45 PM
To: Fiocchi, Tim
Subject: FW: Electrical clearances
Importance: High


FYI

Christopher W. LaRowe
Director - Government Relations
Wisconsin Public Service Corporation
10 E. Doty Street, Suite 800
Madison, WI 53703
(608) 204-5870
(608) 772-0840 (cell)
cwlarowe@integrysgroup.com

From: Spees, Kerry A
Sent: Wednesday, February 05, 2014 11:17 AM
To: Sen.Petrowski@legis.wisconsin.gov
Cc: LaRowe, Christopher W
Subject: FW: Can you get me the page(s) ...

Senator Petrowski:

Attached is the line clearance information requested by your office. See the following message.

Kerry Spees
Senior Public Relations Consultant
Integrus Energy Group
(920) 433-1589
kaspees@integrysgroup.com
 [Follow WPSstorm on Twitter](#)

From: Vander Grinten, Allan M
Sent: Tuesday, February 04, 2014 4:05 PM
To: Spees, Kerry A
Cc: LeMere, Timothy A
Subject: Can you get me the page(s) ...

Kerry,

Electrical clearances in general are governed by the National Electrical Safety Code (Utility) or the National Electric Code (non-utility). The Wisconsin Public Service Commission adopts the code with changes and exceptions detail in Administrative code PSC 113 and 114. This rule making is ultimately approved by the Wisconsin State Legislature.

Either myself or Tim Lemere would gladly speak with the Senators office about these code clearances if they should have any questions.

I attached section 7 of the electric service rules which deal with clearances to service wires. This document is for general public use and can be found on the internet. The link to the service rules book is;

<http://www.wisconsinpublicservice.com/business/manual.aspx>

The file Composite-Cl.pdf is not for general public distribution and is an internal WPS document summarizing various electrical clearance requirements. This document deals with our various operating voltages in addition to the service rules clearances discussed in Section 7.

Allan Vander Grinten, P.E.
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