



in
2/25
Wanted 2/26
end of day

RMR

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 10, line 23: delete the material beginning with "is" and ending with
3 "or" on line 24.

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

insert
1-5

or
motor truck

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

insert
1-6

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

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

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

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

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

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

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

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

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

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

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

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

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

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

insert
2-13

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

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

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

indented
3-9

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

14 **21.** Page 32, line 10: delete lines 10 to 15 and substitute;

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

21 **22.** Page 34, line 20: after that line insert: ^{renumbered 348.28(1)(a) and}

change component

22 “**SECTION 61m.** 348.28 (1) of the statutes is ^{amended} to read:

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

insert
4-3 → 3

4 **23.** Page 35, line 25: delete “the first day of the 3rd month beginning after
 5 publication” and substitute “January 1, 2015”.

6 (END)

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1520/P2ins
ARG:.....

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INSERT 1-5:

~~1~~. Page 14, line 10: after that line insert:

“SECTION 14m. 347.21 (1) of the statutes is amended to read:

347.21 (1) No person shall operate on a highway during hours of darkness any train of vehicles authorized by s. 348.08 (1) (d) unless there is mounted on each side of every vehicle in such train, including farm tractors and implements of husbandry, at least one lamp emitting a red or amber light visible from a distance of 500 feet to the side of the vehicle on which mounted or, in lieu thereof, at least one red or amber reflector or, notwithstanding s. 347.245, one slow moving vehicle emblem visible from all distances within 500 feet to 50 feet of the side of the vehicle when directly in front of lawful upper beams of headlamps.”

History: 1979 c. 143, 355; 1981 c. 276; 1981 c. 391 s. 210; 1987 a. 164.

INSERT 1-6:

~~2~~. Page 14, line 17: after “red” insert “or amber”.

~~3~~. Page 15, line 5: delete “No” and substitute “Except as provided in par. (bm), no”.

INSERT 2-13:

~~4~~. Page 15, line 23: after that line insert:

“(bm) A person may operate on a highway, at times other than hours of darkness, a wide implement of husbandry manufactured before January 1, 2014, that does not comply with par. (b) if all of the following apply:

1 1. The wide implement of husbandry is accompanied by an escort vehicle
2 operating with hazard lights activated.

3 2. Two orange or red flags, not less than 12 inches square, are attached to the
4 rear of the wide implement of husbandry, or as close to the rear as practicable, in a
5 manner that is clearly visible to the operator of a vehicle approaching from the rear
6 and that marks the extreme left and extreme right of the implement of husbandry." ✓

7 ~~5.~~ Page 15, line 24: after "(b)" insert "or (bm)". ✓

8 ~~6.~~ Page 15, line 25: delete "20" and substitute "22". ✓ *between*

9 ~~7.~~ Page 16, line 9: delete "and" and substitute "or a farm and a field and is". ✓

11 **INSERT 2-15:**

12 ~~8.~~ Page 20, line 15: delete the material beginning with "any" and ending with
13 "line." on line 16 and substitute "all of the following:". ✓

14 ~~9.~~ Page 20, line 16: after that line insert:

15 ^(B) "SECTION 34m. 348.06 (2) (a), (b) and (c) of the statutes are created to read:

16 ^{348.06(2)} (a) Except as provided in pars. (b) and (c), any overhead structure or
17 obstruction.

18 (b) Any overhead utility line that satisfies the requirements of the state electric
19 code promulgated by the public service commission.

20 (c) Any overhead electric line of a cooperative association that is organized
21 under ch. 185 and that complies with the National Electrical Safety Code." ✓

23 **INSERT 2-17:**

24 ~~10.~~ Page 26, line 21: delete "and" and substitute "or a farm and a field and is". ✓ *between*

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INSERT 2-18:

~~11~~ 11. Page 27, line 18: delete "and" and substitute "or ^{between} a farm and a field and is".

INSERT 3-9:

~~12~~ 12. Page 32, line 3: after "municipality" insert "or county".

~~13~~ 13. Page 32, line 4: after "municipality's" insert "or county's".

INSERT 4-3:

SECTION 61p. 348.28 (1) (b) of the statutes is created to read:

348.28 (1) (b) Permits issued under s. 348.27 (19) that are required to be carried on the vehicle under par. (a) may be carried and produced in either printed or electronic format, including by display of electronic images on a cellular telephone or other electronic device. If the permit is displayed in electronic format on any cellular telephone or other electronic device, a traffic officer or inspector under s. 110.07 (3) may not view, and producing the permit in electronic format is not considered consent for the traffic officer or inspector to view, any content on the telephone or other device except the permit.

~~14~~ 14. Page 35, line 13: after that line insert:

"(4m) (a) Notwithstanding sections 348.05, 348.06, 348.07, 348.08, 348.15, 348.16, and 348.21 of the statutes, as affected by this act, and notwithstanding section 348.19 of the statutes, but subject to paragraph (b), during the period beginning on the effective date of this subsection and ending on December 31, 2014, ^{paragraph}

1 no officer of the state traffic patrol under section 110.07 (1) of the statutes, and no
2 inspector under section 110.07 (3) of the statutes, may do any of the following:

3 1. Issue a citation to a person for violating any provision of section 348.05,
4 348.06, 348.07, 348.08, 348.15, or 348.16 of the statutes, as affected by this act, while
5 operating an implement of husbandry described in section 340.01 (24) (a) 1. a. or b.
6 of the statutes, as affected by this act. A state traffic patrol officer or inspector may
7 issue a warning notice for any violation specified in this subdivision.

8 2. Except in connection with a violation of posted special weight limits under
9 section 348.17 (1) of the statutes, require any implement of husbandry described in
10 section 340.01 (24) (a) 1. a. or b. of the statutes, as affected by this act, to proceed to
11 any portable or certified stationary scale, to be unloaded or reloaded, or to cease
12 operation based on a weight violation.

13 ~~Paragraph~~ (b) Paragraph (a) does not apply to an implement of husbandry described in
14 section 340.01 (24) (a) 1. a. or b. of the statutes, as affected by this act, being operated
15 on any highway that is a part of the national system of interstate and defense
16 highways.”

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He a/
Tim

3/3

- IOT amendment : needs /P3 by noon

• take out 2, p. 6

• + Liz staff

• roads not covered in ordinance

• if there is a condition in the ordinance, can apply for permit to overcome the condition
^{limitation}
 exceed

• 341.01* off. date cleanup

Gary, Aaron

From: Portz, Elisabeth
Sent: Friday, February 28, 2014 1:15 PM
To: Gary, Aaron
Subject: RE: Support Implements of Husbandry Legislation

The ordinance option is designed to give municipalities and counties the ability to avoid the permitting process (we think many towns and counties will use this total opt out option) but we also want to give them the choice of making conditions. Rather than opting out completely, towns may want to pass an ordinance that says IOH can operate without a permit up to 30,000lb per axle, or something similar to this. Either way, if the ordinance places any sort of restriction, there will likely be some operators, albeit a small amount, that need to apply for a permit. It may not just be "don't drive on this road" so I'm not sure if your added provision would add clarity to the whole thing.

Thoughts?

From: Gary, Aaron
Sent: Friday, February 28, 2014 1:11 PM
To: Portz, Elisabeth
Subject: RE: Support Implements of Husbandry Legislation

Yes, I think that is a fair reading of the bill (with the amendment), but I also believe that it is not clear. I thought the ordinance option was to give municipalities and counties an opportunity to avoid the whole permitting process if they wanted.

If your intent is what you describe, it might be best to clarify it in the amendment by adding a par. 5. c. on p. 32 of the bill that basically says that if the ordinance applies to fewer than all of the highways under the municipality's or county's jurisdiction, then a person may apply for a permit under subd. 1. for any highway under the municipality's or county's jurisdiction to which the ordinance does not apply.

I'm planning to get back to you on your email with Rob's other questions later today.

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: Friday, February 28, 2014 12:16 PM
To: Gary, Aaron
Subject: RE: Support Implements of Husbandry Legislation

Hey Aaron,

One clarification point... if a town or county passes an ordinance or resolution, you are right that a farmer would not be able to amend that ordinance, but they still have the ability to apply for a permit and would in kind be allowed to offer an amendment. An example of when they would be needed: If a town passes an ordinance but they also include language that says that overweight travel is prohibited on such and such roads. If you are a farmer and your farm exists on those roads, you would still need to apply for a permit to operate.

Does that make sense? Let me know your thoughts.

Thanks!

From: Gary, Aaron
Sent: Friday, February 28, 2014 10:08 AM
To: Portz, Elisabeth
Subject: RE: Support Implements of Husbandry Legislation

Hi Liz,
These provisions don't really accomplish the same thing, and I believe the way the amendment is drafted is the clearest way to do it. The reason for the language I have highlighted in red (below) is that , where a municipality or county passes an ordinance, the whole concept of an application for amendment is inapplicable (a permittee cannot apply to amend the ordinance). That is why subd. 2. would not apply at all if there is an ordinance. I think the approach in the amendment works best.

Aaron

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

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

From: Portz, Elisabeth
Sent: Thursday, February 27, 2014 4:23 PM
To: Gary, Aaron
Subject: RE: Support Implements of Husbandry Legislation

Sounds good. We also got the following question:

In the amendment, page 4, line 16, Aaron deletes "subd. 3" and substitutes "subds. 3. and 5. b." In the amendment, page 5, line 1-3, he adds "This subdivision does not apply if the permit is a resolution or ordinance adopted under subd. 5" Is there a reason why you can't just delete "subd. 3" on page 31, line 10 of the bill and substitute "subds. 3. and 5. b." Does that accomplish the same thing?

Thanks for looking into it!

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

From: Gary, Aaron
Sent: Thursday, February 27, 2014 4:14 PM
To: Portz, Elisabeth
Subject: RE: Support Implements of Husbandry Legislation



in 3/3
TODAY
3/4
by noon

RMV

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 10, line 23: delete the material beginning with “is” and ending with
- 3 “or” on line 24.
- 4 **2.** Page 11, line 22: after “1.” insert “or in which an implement of husbandry
- 5 described in subd. 1. c. is towed by a farm truck, farm truck tractor, or motor truck.”.
- 6 **3.** Page 14, line 10: after that line insert:
- 7 “SECTION 14m. 347.21 (1) of the statutes is amended to read:
- 8 347.21 (1) No person shall operate on a highway during hours of darkness any
- 9 train of vehicles authorized by s. 348.08 (1) (d) unless there is mounted on each side
- 10 of every vehicle in such train, including farm tractors and implements of husbandry,
- 11 at least one lamp emitting a red or amber light visible from a distance of 500 feet to
- 12 the side of the vehicle on which mounted or, in lieu thereof, at least one red or amber

insert
1-5 →

1 reflector or, notwithstanding s. 347.245, one slow moving vehicle emblem visible
2 from all distances within 500 feet to 50 feet of the side of the vehicle when directly
3 in front of lawful upper beams of headlamps.”.

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

5 **5.** Page 14, line 17: after “red” insert “or amber”.

6 **6.** Page 15, line 5: delete “No” and substitute “Except as provided in par. (bm),
7 no”.

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

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

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

20 **10.** Page 15, line 23: after “practicable.” insert “These tail lamps are not
21 required to be wired to light when headlamps or other lamps light. When lighted,
22 these tail lamps shall be capable of being seen and distinguished under normal

1 atmospheric conditions during hours of darkness at a distance of 500 feet from the
2 rear of the implement of husbandry.”.

3 **11.** Page 15, line 23: after that line insert:

4 “(bm) A person may operate on a highway, at times other than hours of
5 darkness, a wide implement of husbandry manufactured before January 1, 2014,
6 that does not comply with par. (b) if all of the following apply:

7 1. The wide implement of husbandry is accompanied by an escort vehicle
8 operating with hazard lights activated.

9 2. Two orange or red flags, not less than 12 inches square, are attached to the
10 rear of the wide implement of husbandry, or as close to the rear as practicable, in a
11 manner that is clearly visible to the operator of a vehicle approaching from the rear
12 and that marks the extreme left and extreme right of the implement of husbandry.”.

13 **12.** Page 15, line 24: after “(b)” insert “or (bm)”.

14 **13.** Page 15, line 25: delete “20” and substitute “22”.

15 **14.** Page 16, line 9: delete “and” and substitute “or between a farm and a field
16 and is”.

17 **15.** Page 16, line 9: delete “0.25” and substitute “0.5”.

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

19 **17.** Page 20, line 15: delete the material beginning with “any” and ending with
20 “line.” on line 16 and substitute “all of the following:”.

21 **18.** Page 20, line 16: after that line insert:

22 “**SECTION 34m.** 348.06 (2) (a), (b) and (c) of the statutes are created to read:

1 348.06 (2) (a) Except as provided in pars. (b) and (c), any overhead structure
2 or obstruction.

3 (b) Any overhead utility line that satisfies the requirements of the state electric
4 code promulgated by the public service commission.

5 (c) Any overhead electric line of a cooperative association that is organized
6 under ch. 185 and that complies with the National Electrical Safety Code.”.

7 **19.** Page 21, line 24: delete “20” and substitute “25”.

8 **20.** Page 22, line 7: delete “20” and substitute “25”.

9 **21.** Page 26, line 21: delete “and” and substitute “or between a farm and a field
10 and is”.

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

12 **23.** Page 27, line 18: delete “and” and substitute “or between a farm and a field
13 and is”.

14 **24.** Page 27, line 18: delete “0.25” and substitute “0.5”.

15 **25.** Page 28, line 16: delete “any” and substitute “all”.

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

17 **27.** Page 31, line 8: after “this” insert “3-week”.

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

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

22 **30.** Page 31, line 18: after “4.” insert “or until 10 business days from receipt
23 of the application. If the maintaining authority fails to approve or deny the

1 application within 10 business days of its receipt, the application is approved. This
2 subdivision does not apply if the permit is a resolution or ordinance adopted under
3 subd. 5.”.

4 **31.** Page 32, line 3: after “municipality” insert “or county”.

5 **32.** Page 32, line 4: after “municipality’s” insert “or county’s”.

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

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

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

17 **35.** Page 34, line 20: after that line insert:

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

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

23 **SECTION 61p.** 348.28 (1) (b) of the statutes is created to read:

Insert
5-16

1 348.28 (1) (b) Permits issued under s. 348.27 (19) that are required to be carried
2 on the vehicle under par. (a) may be carried and produced in either printed or
3 electronic format, including by display of electronic images on a cellular telephone
4 or other electronic device. If the permit is displayed in electronic format on any
5 cellular telephone or other electronic device, a traffic officer or inspector under s.
6 110.07 (3) may not view, and producing the permit in electronic format is not
7 considered consent for the traffic officer or inspector to view, any content on the
8 telephone or other device except the permit.”

9 **36.** Page 35, line 13: after that line insert:

10 “(4m) (a) Notwithstanding sections 348.05, 348.06, 348.07, 348.08, 348.15,
11 348.16, and 348.21 of the statutes, as affected by this act, and notwithstanding
12 section 348.19 of the statutes, but subject to paragraph (b), during the period
13 beginning on the effective date of this paragraph and ending on December 31, 2014,
14 no officer of the state traffic patrol under section 110.07 (1) of the statutes, and no
15 inspector under section 110.07 (3) of the statutes, may do any of the following:

16 (no A) 1. Issue a citation to a person for violating any provision of sections 348.05,
17 348.06, 348.07, 348.08, 348.15, or 348.16 of the statutes, as affected by this act, while
18 operating an implement of husbandry described in section 340.01 (24) (a) 1. a. or b.
19 of the statutes, as affected by this act. A state traffic patrol officer or inspector may
20 issue a warning notice for any violation specified in this subdivision. *paragraph*

21 2. Except in connection with a violation of posted special weight limits under
22 section 348.17 (1) of the statutes, require any implement of husbandry described in
23 section 340.01 (24) (a) 1. a. or b. of the statutes, as affected by this act, to proceed to

1 ~~any portable or certified stationary scale, to be unloaded or reloaded, or to cease~~
2 ~~operation based on a weight violation.~~

3 (b) Paragraph (a) does not apply to an implement of husbandry described in
4 section 340.01 (24) (a) 1. a. or b. of the statutes, as affected by this act, being operated
5 on any highway that is a part of the national system of interstate and defense
6 highways.”.

7 **37.** Page 35, line 25: delete “the first day of the 3rd month beginning after
8 publication” and substitute “January 1, 2015”.

(END)

Insert
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2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1520/P3ins
ARG:.....

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INSERT 1-5:

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1. Page 12, line 3: delete "(a)" and substitute "(am)".

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INSERT 5-16:

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c. If the governing body of a municipality or county adopts a resolution or

8

ordinance under subd. 5. a. that applies to fewer than all of the highways under the

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municipality's or county's jurisdiction or that authorizes operation of implements of

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husbandry and agricultural commercial motor vehicles but imposes conditions,

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restrictions, or limitations on this operation, then a person may apply for a permit

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under subd. 1. for operation of an implement of husbandry or agricultural

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commercial motor vehicle on any highway or under any circumstance not authorized

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by the resolution or ordinance."

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INSERT 7-8:

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2. Page 36, line 1: delete lines 1 and 2.

19

Gary, Aaron

From: Fiocchi, Tim
Sent: Wednesday, March 05, 2014 11:34 AM
To: Gary, Aaron; Queensland, Michael
Cc: Konopacki, Larry; Lovell, David; Kunkel, Mark; Portz, Elisabeth
Subject: RE: 2013 Senate Bill 509 - LRBa1520/P3

To be honest I think it reads fine, but I need the answer in committee to be unambiguous, so if you could please make that one change and send me the /1 draft.

Thank you,

Tim

From: Gary, Aaron
Sent: Wednesday, March 05, 2014 11:01 AM
To: Queensland, Michael; Fiocchi, Tim
Cc: Konopacki, Larry; Lovell, David; Kunkel, Mark
Subject: RE: 2013 Senate Bill 509 - LRBa1520/P3

Sorry but I don't see the ambiguity and disagree with the part I marked in red below. Par. (a) says "any overhead ... obstruction" and there are exceptions because, if the overhead obstruction is a utility line or electric line, it is not any overhead obstruction but only an obstruction (line) that meets code. I see the language in the amendment doing the same thing as the alternative proposed below. That said, I think the alternative language works too (except for the structure – the "intro." doesn't work with (a) and (b), so I would have to tweak that) and I am happy to use the alternative language instead. Tim, please let me know if you want me to make that change when you're ready for a redraft of LRBa1520/P3. Thanks. Aaron

From: Queensland, Michael
Sent: Wednesday, March 05, 2014 9:35 AM
To: Fiocchi, Tim
Cc: Gary, Aaron; Konopacki, Larry; Lovell, David
Subject: 2013 Senate Bill 509 - LRBa1520/P3

Hi Tim,

I just wanted to recap our earlier conversation so you know how I will answer questions in committee, if asked, regarding the height limitations for implements of husbandry provided in LRBa1520/P3, the amendment to Senate Bill 509 that you forwarded to me yesterday. At your request, I have copied Aaron on this email to get his take on my interpretation.

LRBa1520/P3

Regarding height limitations, the amendment, read together with the bill, provides the following:

348.06 (2) Implements of husbandry of any height may be operated upon a highway without a permit for excessive height. 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:

(a) Except as provided in pars. (b) and (c), any overhead structure or obstruction.

(b) Any overhead utility line that satisfies the requirements of the state electric code promulgated by the public service commission.

(c) Any overhead electric line of a cooperative association that is organized under ch. 185 and that complies with the National Electrical Safety Code.

[Emphasis added.]

Ambiguity

Paragraph (a) provides that the operator is responsible for ensuring that there is adequate height clearance between the implement of husbandry and any overhead structure **other than** the types of structures listed in pars. (b) and (c). Paragraphs (b) and (c) provide that the operator **is responsible** for ensuring that there is adequate height clearance between the implement of husbandry and any overhead utility or electric line that meets code. Therefore, specifying that pars. (b) and (c) are exceptions to par. (a) appears to conflict with the separate requirement that pars. (b) and (c) apply to implements of husbandry travel; therefore it is unclear how the above provision will be interpreted. Under one interpretation, the operator of an implement of husbandry is responsible for ensuring that there is adequate clearance between the implement of husbandry and any overhead structure or obstruction, with no exceptions. The alternative interpretation is that the operator is that the operator of an implement of husbandry is responsible for ensuring adequate clearance between an implement of husbandry and any overhead obstruction, except electric and utility lines that meet code. It is unclear which interpretation a court would follow. My colleagues, Larry Konopacki and David Lovell, agree with this analysis.

Alternative Proposal

It is my understanding that your intent is to provide that the operator of an implement of husbandry is responsible for ensuring that there is adequate height clearance between the implement of husbandry and any overhead structure or obstruction, except any overhead utility line or electric line that, in general, does **not** meet code. If this is your intent, you could accomplish this goal by making s. 348.06 (2), Stats. read as follows:

348.06 (2) Implements of husbandry of any height may be operated upon a highway without a permit for excessive height. 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, other than a structure or obstruction specified in pars. (a) or (b).

(a) Any overhead utility line that **does not** satisfy the requirements of the state electric code promulgated by the public service commission.

(b) Any overhead electric line of a cooperative association that is organized under ch. 185 and that **does not** comply with the National Electrical Safety Code.

Liability



TODAY



LRBa1520/1

ARG:eev:jf

in 3/5

RMR

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 10, line 23: delete the material beginning with “is” and ending with
3 “or” on line 24.

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

6 **3.** Page 12, line 3: delete “(a)” and substitute “(am)”.

7 **4.** Page 14, line 10: after that line insert:

8 “**SECTION 14m.** 347.21 (1) of the statutes is amended to read:

9 347.21 (1) No person shall operate on a highway during hours of darkness any
10 train of vehicles authorized by s. 348.08 (1) (d) unless there is mounted on each side
11 of every vehicle in such train, including farm tractors and implements of husbandry,
12 at least one lamp emitting a red or amber light visible from a distance of 500 feet to

1 the side of the vehicle on which mounted or, in lieu thereof, at least one red or amber
2 reflector or, notwithstanding s. 347.245, one slow moving vehicle emblem visible
3 from all distances within 500 feet to 50 feet of the side of the vehicle when directly
4 in front of lawful upper beams of headlamps.”.

5 **5.** Page 14, line 15: delete “~~a red an~~” and substitute “a red or”.

6 **6.** Page 14, line 17: after “red” insert “or amber”.

7 **7.** Page 15, line 5: delete “No” and substitute “Except as provided in par. (bm),
8 no”.

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

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

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

21 **11.** Page 15, line 23: after “practicable.” insert “These tail lamps are not
22 required to be wired to light when headlamps or other lamps light. When lighted,
23 these tail lamps shall be capable of being seen and distinguished under normal

1 atmospheric conditions during hours of darkness at a distance of 500 feet from the
2 rear of the implement of husbandry.”.

3 **12.** Page 15, line 23: after that line insert:

4 “(bm) A person may operate on a highway, at times other than hours of
5 darkness, a wide implement of husbandry manufactured before January 1, 2014,
6 that does not comply with par. (b) if all of the following apply:

7 1. The wide implement of husbandry is accompanied by an escort vehicle
8 operating with hazard lights activated.

9 2. Two orange or red flags, not less than 12 inches square, are attached to the
10 rear of the wide implement of husbandry, or as close to the rear as practicable, in a
11 manner that is clearly visible to the operator of a vehicle approaching from the rear
12 and that marks the extreme left and extreme right of the implement of husbandry.”.

13 **13.** Page 15, line 24: after “(b)” insert “or (bm)”.

14 **14.** Page 15, line 25: delete “20” and substitute “22”.

15 **15.** Page 16, line 9: delete “and” and substitute “or between a farm and a field
16 and is”.

17 **16.** Page 16, line 9: delete “0.25” and substitute “0.5”.

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

19 **18.** Page 20, line 15: delete the material beginning with “any” and ending with
20 “line.” on line 16 and substitute “all of the following:”.

21 **19.** Page 20, line 16: after that line insert:

22 **SECTION 34m.** 348.06 (2) (a) ^{and} (b) and (c) of the statutes are created to read:

1 348.06 (2) (a) ~~Except as provided in pars. (b) and (c), any overhead structure~~
 2 ~~or obstruction.~~ *does not satisfy*

3 (b) Any overhead utility line that ~~satisfies~~ the requirements of the state electric
 4 code promulgated by the public service commission.

5 (f) Any overhead electric line of a cooperative association that is organized
 6 under ch. 185 and that ~~complies~~ *does not comply* with the National Electrical Safety Code.”.

7 **20.** Page 21, line 24: delete “20” and substitute “25”.

8 **21.** Page 22, line 7: delete “20” and substitute “25”.

9 **22.** Page 26, line 21: delete “and” and substitute “or between a farm and a field
 10 and is”.

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

12 **24.** Page 27, line 18: delete “and” and substitute “or between a farm and a field
 13 and is”.

14 **25.** Page 27, line 18: delete “0.25” and substitute “0.5”.

15 **26.** Page 28, line 16: delete “any” and substitute “all”.

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

17 **28.** Page 31, line 8: after “this” insert “3-week”.

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

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

22 **31.** Page 31, line 18: after “4.” insert “or until 10 business days from receipt
 23 of the application. If the maintaining authority fails to approve or deny the

1 application within 10 business days of its receipt, the application is approved. This
2 subdivision does not apply if the permit is a resolution or ordinance adopted under
3 subd. 5.”.

4 **32.** Page 32, line 3: after “municipality” insert “or county”.

5 **33.** Page 32, line 4: after “municipality’s” insert “or county’s”.

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

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

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

17 c. If the governing body of a municipality or county adopts a resolution or
18 ordinance under subd. 5. a. that applies to fewer than all of the highways under the
19 municipality’s or county’s jurisdiction or that authorizes operation of implements of
20 husbandry and agricultural commercial motor vehicles but imposes conditions,
21 restrictions, or limitations on this operation, then a person may apply for a permit
22 under subd. 1. for operation of an implement of husbandry or agricultural
23 commercial motor vehicle on any highway or under any circumstance not authorized
24 by the resolution or ordinance.”.

1 **36.** Page 34, line 20: after that line insert:

2 “**SECTION 61m.** 348.28 (1) of the statutes is renumbered 348.28 (1) (a) and
3 amended to read:

4 348.28 (1) (a) Permits issued under ss. 348.25, 348.26 and 348.27, other than
5 a permit described in s. 348.27 (19) (b) 5. b., shall be carried on the vehicle during
6 operations so permitted.

7 **SECTION 61p.** 348.28 (1) (b) of the statutes is created to read:

8 348.28 (1) (b) Permits issued under s. 348.27 (19) that are required to be carried
9 on the vehicle under par. (a) may be carried and produced in either printed or
10 electronic format, including by display of electronic images on a cellular telephone
11 or other electronic device. If the permit is displayed in electronic format on any
12 cellular telephone or other electronic device, a traffic officer or inspector under s.
13 110.07 (3) may not view, and producing the permit in electronic format is not
14 considered consent for the traffic officer or inspector to view, any content on the
15 telephone or other device except the permit.”

16 **37.** Page 35, line 13: after that line insert:

17 “(4m) (a) Notwithstanding sections 348.05, 348.06, 348.07, 348.08, 348.15,
18 348.16, and 348.21 of the statutes, as affected by this act, but subject to paragraph
19 (b), during the period beginning on the effective date of this paragraph and ending
20 on December 31, 2014, no officer of the state traffic patrol under section 110.07 (1)
21 of the statutes, and no inspector under section 110.07 (3) of the statutes, may issue
22 a citation to a person for violating any provision of sections 348.05, 348.06, 348.07,
23 348.08, 348.15, or 348.16 of the statutes, as affected by this act, while operating an
24 implement of husbandry described in section 340.01 (24) (a) 1. a. or b. of the statutes,

1 as affected by this act. A state traffic patrol officer or inspector may issue a warning
2 notice for any violation specified in this paragraph.

3 (b) Paragraph (a) does not apply to an implement of husbandry described in
4 section 340.01 (24) (a) 1. a. or b. of the statutes, as affected by this act, being operated
5 on any highway that is a part of the national system of interstate and defense
6 highways.”.

7 **38.** Page 35, line 25: delete “the first day of the 3rd month beginning after
8 publication” and substitute “January 1, 2015”.

9 **39.** Page 36, line 1: delete lines 1 and 2.

10

(END)

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1520/lins
ARG:.....

1
2
3
4
5
6
7

INSERT 3-19:

1. Page 20, line 16: delete "including any utility line." and substitute "other than a structure or obstruction that is any of the following:".