

**2013 DRAFTING REQUEST**

**Assembly Amendment (AA-SB509)**

Received: 3/12/2014 Received By: agary  
Wanted: As time permits Same as LRB:  
For: Keith Ripp (608) 266-3404 By/Representing: Elisabeth Portz  
May Contact: Drafter: agary  
Subject: Transportation - motor vehicles Addl. Drafters:  
Transportation - other  
Transportation - traffic laws Extra Copies:

Submit via email: YES  
Requester's email: Rep.Ripp@legis.wisconsin.gov  
Carbon copy (CC) to: aaron.gary@legis.wisconsin.gov

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**Pre Topic:**

No specific pre topic given

---

**Topic:**

Weight limits for certain implements of husbandry; opt in for category II IOH

---

**Instructions:**

See attached

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**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 3/14/2014	wjackson 3/13/2014	rschlue 3/13/2014	_____	sbasford 3/13/2014		
/P2	agary 3/18/2014	wjackson 3/17/2014	rschlue 3/17/2014	_____	lparisi 3/17/2014		
/P3	agary 3/19/2014	wjackson 3/18/2014	jfrantze 3/18/2014	_____	lparisi 3/18/2014		

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/P4	agary 3/20/2014	wjackson 3/20/2014	jmurphy 3/19/2014	_____ _____	mbarman 3/19/2014		
/1			rschluet 3/20/2014	_____ _____	srose 3/20/2014	srose 3/20/2014	

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1 WLJ 3/20

*Handwritten signature and date:*  
3/20

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1/23 WJ 3/18

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*1/2 WLJ 3/17*

*3/13/14 JM*  
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Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

/P1 agary

/P1 WJ 3/13  \_\_\_\_\_  
\_\_\_\_\_

FE Sent For:

3/13/14  
<END>

## Gary, Aaron

---

**From:** Portz, Elisabeth  
**Sent:** Wednesday, March 12, 2014 11:27 AM  
**To:** Gary, Aaron  
**Subject:** RE: IOH Opt In language for category II

Yes we do but please do not send it for introduction yet, we'd like to hold off.

---

**From:** Gary, Aaron  
**Sent:** Wednesday, March 12, 2014 11:25 AM  
**To:** Portz, Elisabeth  
**Cc:** Fiocchi, Tim  
**Subject:** RE: IOH Opt In language for category II

Thanks. Do you want this drafted as an amendment to SB-509? Aaron

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

---

**From:** Portz, Elisabeth  
**Sent:** Wednesday, March 12, 2014 11:09 AM  
**To:** Gary, Aaron  
**Cc:** Fiocchi, Tim  
**Subject:** RE: IOH Opt In language for category II

Opt in means that there is still a Gross vehicle weight of 92,000lb for category II, but there is no axle weight, unless they opt in, in which case they have to follow the procedure for category II laid out in the bill right now to provide category II with an approved alternate route. Does that make sense? It's a bit of a confusing process, but it's what we've got at this point.

---

**From:** Gary, Aaron  
**Sent:** Wednesday, March 12, 2014 11:07 AM  
**To:** Portz, Elisabeth  
**Cc:** Fiocchi, Tim  
**Subject:** RE: IOH Opt In language for category II

Hi Liz,

I don't believe I've drafted "opt in" language for you and Tim, although I do recall some discussion of it. To my recollection, "opt in" means that there is no weight limit for a category II IOH on a municipal or county road unless the municipality or county adopts an ordinance imposing a weight limit. (It would be a little bit like p. 27, lines 15-19 of SB-509.) Is that what you mean by "opt in"?

Thanks. Aaron

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

---

**From:** Portz, Elisabeth  
**Sent:** Wednesday, March 12, 2014 10:52 AM  
**To:** Gary, Aaron

**Cc:** Fiocchi, Tim

**Subject:** IOH Opt In language for category II

Hey Aaron,

I know we had explored language for IOH Opt in language only for category II. Do you already have that drafted? If so, can you send that to us?

Thanks!

Liz

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

## Gary, Aaron

---

**From:** Portz, Elisabeth  
**Sent:** Wednesday, March 12, 2014 2:09 PM  
**To:** Gary, Aaron  
**Cc:** Fiocchi, Tim  
**Subject:** RE: question

Okay sounds good to me. And yes, it is our intention to have one amendment.

Thank you!

---

**From:** Gary, Aaron  
**Sent:** Wednesday, March 12, 2014 1:41 PM  
**To:** Portz, Elisabeth  
**Cc:** Fiocchi, Tim  
**Subject:** RE: question

Hi Liz,

Since this is an annual permit, I think we will need language specifying that the permit can be valid for longer than a year, so I will add that. I have entered an amendment as LRBa2107. I assume all of the changes you provide should be included in this one amendment.

FYI, amending a bill in the second house that was significantly amended in the first house gets pretty messy. If the amendment in the second house has to treat language in both the bill and the amendment (as I believe will be the case here), the amendment in the second house can become practically unreadable. For this reason, I have asked the chief clerk to let the LRB print the bill engrossed (ie SB-509 with SA1 incorporated) so that the assembly amendments will be easier to follow. If we do that, I think the engrossed bill will probably be ready tomorrow.

Aaron

---

**From:** Portz, Elisabeth  
**Sent:** Wednesday, March 12, 2014 12:41 PM  
**To:** Gary, Aaron  
**Cc:** Fiocchi, Tim  
**Subject:** question

Hey Aaron,

Have a quick question on IoH. In the ordinance and resolution portion of the bill, we stipulate that it is good for at least one year, but that the towns and counties have ability to make it longer than a year if they so choose. Does the bill address the ability for a town or county to make a permit approval permanent or longer than one year as well? If the bill does not address it, can you draft language for it? I'm not sure we will use that option yet, but with the quickness of the end of session, we would like to have it ready.

We anticipate that all of these additional changes will be one amendment to SB 509. In addition to the opt in language you are drafting, can you also add the language from a1986/P1 to that amendment as well? I've attached the amendment for your reference.

Thanks,  
Liz

Elisabeth Portz

**Gary, Aaron**

---

**From:** Portz, Elisabeth  
**Sent:** Wednesday, March 12, 2014 12:41 PM  
**To:** Gary, Aaron  
**Cc:** Fiocchi, Tim  
**Subject:** question  
**Attachments:** 13a1986/P1.pdf

*attached*

Hey Aaron,

Have a quick question on IoH. In the ordinance and resolution portion of the bill, we stipulate that it is good for at least one year, but that the towns and counties have ability to make it longer than a year if they so choose. Does the bill address the ability for a town or county to make a permit approval permanent or longer than one year as well? If the bill does not address it, can you draft language for it? I'm not sure we will use that option yet, but with the quickness of the end of session, we would like to have it ready.

We anticipate that all of these additional changes will be one amendment to SB 509. In addition to the opt in language you are drafting, can you also add the language from a1986/P1 to that amendment as well? I've attached the amendment for your reference.

Thanks,  
Liz

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

## Gary, Aaron

---

**From:** Portz, Elisabeth  
**Sent:** Wednesday, March 12, 2014 3:49 PM  
**To:** Gary, Aaron  
**Cc:** Fiocchi, Tim  
**Subject:** RE: question

Hey Aaron,

On the opt in language and the opt out language, we need to add a deadline for the local governments to make that decision and pass the resolution or ordinance. We'd like that date to be January 15<sup>th</sup> of each year. We'd also like to add a requirement that for adoption of both ordinances and resolutions, they must provide DOT with that information so DOT can add it to the website with the list of maintaining authorities.

On just the opt-in language specifically, as soon as we can see a preliminary draft of that, that would be helpful.

Thank you!

Liz

---

**From:** Gary, Aaron  
**Sent:** Wednesday, March 12, 2014 1:41 PM  
**To:** Portz, Elisabeth  
**Cc:** Fiocchi, Tim  
**Subject:** RE: question

Hi Liz,

Since this is an annual permit, I think we will need language specifying that the permit can be valid for longer than a year, so I will add that. I have entered an amendment as LRBa2107. I assume all of the changes you provide should be included in this one amendment.

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Aaron

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**From:** Portz, Elisabeth  
**Sent:** Wednesday, March 12, 2014 12:41 PM  
**To:** Gary, Aaron  
**Cc:** Fiocchi, Tim  
**Subject:** question

Hey Aaron,

Have a quick question on IoH. In the ordinance and resolution portion of the bill, we stipulate that it is good for at least one year, but that the towns and counties have ability to make it longer than a year if they so choose. Does the bill address the ability for a town or county to make a permit approval permanent or longer than one year as well? If the bill does not address it, can you draft language for it? I'm not sure we will use that option yet, but with the quickness of the end of session, we would like to have it ready.

## Gary, Aaron

---

**From:** Fiocchi, Tim  
**Sent:** Thursday, March 13, 2014 1:06 PM  
**To:** Gary, Aaron; Portz, Elisabeth  
**Subject:** RE: Engrossed SB-509

My comments in blue.

---

**From:** Gary, Aaron  
**Sent:** Thursday, March 13, 2014 12:56 PM  
**To:** Portz, Elisabeth; Fiocchi, Tim  
**Subject:** RE: Engrossed SB-509

Thanks. Quick response.

Re e., the provision says: "A maintaining authority may disclose, on a permit issued under this subsection, any information necessary to carry out the purpose of the permit."

The disclosure is limited to the permit itself. Again, without something like this, permits could not be issued.

I think that covers it – the point is to prohibit any governmental unit from providing personally identifiable information on who applied for what to anyone other than law enforcement or DOT.

On the last comment, the context here is important. We are talking about a permit application and an alternative route for that permit. A permit will need to be issued with the alternate route if the alternate route is going to be used. There is nothing in the bill that allows a local govt. to issue a no-fee permit for highways that are not under its jurisdiction. You would need to create that authority in this amendment or, if you don't want such authority, no treatment is needed here.

We were asked to add further clarification (I don't think it's necessary but it isn't harmful) to clarify that if a local government wants to give you an approved route that includes a road for which they are not the maintaining authority, they are responsible to get approval from that other governmental unit. I think the bill requires that now, this is just for the comfort and security of some members.

Aaron

Aaron R. Gary  
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608.261.6926 (voice)  
608.264.6948 (fax)  
[aaron.gary@legis.state.wi.us](mailto:aaron.gary@legis.state.wi.us)

---

**From:** Portz, Elisabeth  
**Sent:** Thursday, March 13, 2014 12:34 PM  
**To:** Gary, Aaron; Fiocchi, Tim  
**Subject:** RE: Engrossed SB-509

See my comments below.

---

**From:** Gary, Aaron  
**Sent:** Thursday, March 13, 2014 12:23 PM

**To:** Portz, Elisabeth; Fiocchi, Tim  
**Subject:** RE: Engrossed SB-509

Liz,

On 2. below, taking out e. on p. 2 will mean that permits containing any meaningful information cannot be issued. The permit itself is a disclosure that will basically be prohibited under the bill. You might be able to narrow the language (I would need specific instruction on that), but removal of e. will mean a total failure of the permit system. Do you have any suggestions on how to narrow the language? It would seem that it would be a catch all to allow a maintaining authority to share any information they see fit. We don't want that.

As to your question in 1. in the second email below, 1.3.b. was simply the instruction I was given by Tauchen's office – I don't know who created it or why. Okay, let's take it out then.

As to item 2. in the second email below, I don't believe there is any authority in SB509 for a "maintaining authority" to do anything affecting another jurisdiction's roads. Do you want the bill to do that? This is a line that is almost never crossed and may pose significant additional complications. If this is your intent, I need more details on the changes you have in mind.

Tim, do you have thoughts on this point? For example, if a town wants to reroute an operator onto a county road, they can only do so if they get the county's approval first. Wouldn't that solve any issues on affecting another jurisdiction's roads?

Aaron

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608.264.6948 (fax)  
[aaron.gary@legis.state.wi.us](mailto:aaron.gary@legis.state.wi.us)

---

**From:** Portz, Elisabeth  
**Sent:** Thursday, March 13, 2014 12:03 PM  
**To:** Gary, Aaron; Fiocchi, Tim  
**Subject:** RE: Engrossed SB-509

Hey Aaron,

1. Can we also change the new weight limits effective date to the day of publication instead of 30 days after?
2. More requests for the a1986 portion of the amendment: can we limit section c on page 1 lines 9 and 11 to only DOT and not "any state agency"? Please also strike sections d. and e. on page 2 from our amendment.

Please let me know if you have any questions!

---

**From:** Portz, Elisabeth  
**Sent:** Thursday, March 13, 2014 11:02 AM  
**To:** Gary, Aaron; Fiocchi, Tim  
**Subject:** RE: Engrossed SB-509

Thanks Aaron!

A couple of things.



1. In Gary Tauchen's amendment (a1986), what is the purpose of the 1.3.b on page 1 line 7? If there is no purpose, we would like to remove it from our amendment to SB 509.
2. For the approved alternative route for category II, we'd like to specify that if a maintaining authority wants to provide the approved alternate route on a roadway for which they are not a maintaining authority, they must get the approval of the maintaining authority to do so.
3. Just to clarify, the opt in OR opt out decision (or change in status of current opt ins or opt outs) must be made prior to January 15<sup>th</sup> of that calendar year.

That's it for now!

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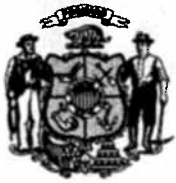
**From:** Gary, Aaron  
**Sent:** Thursday, March 13, 2014 10:40 AM  
**To:** Portz, Elisabeth; Fiocchi, Tim  
**Subject:** Engrossed SB-509

Liz and Tim,

Attached is Engrossed SB-509 that was sent to the chief clerk this morning. All amendments will be drafted to this document. It contains SB-509 with SA1.

Aaron

Aaron R. Gary  
*Attorney, Legislative Reference Bureau*  
608.261.6926 (voice)  
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[aaron.gary@legis.state.wi.us](mailto:aaron.gary@legis.state.wi.us)



in 3/13

TODAY  
or tomorrow  
by 10 AM



LRBa2107/P1  
ARG:|:....

WLy

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

D-note

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

2 ✓ 1. Page 28, line 6: delete "and (e)" and substitute ", (e), and (f)".

3 2. Page 29, line 22: after that line insert:

4 "(f) 1. Notwithstanding par. (c) and sub. (3) (b), (c), and (g), and except as  
5 provided in subd. 3. and par. (e), there is no weight limitation per wheel, axle, or  
6 group of axles, and no gross weight limitation other than that specified in par. (b),  
7 for an implement of husbandry described in s. 340.01 (24) (a) 1. b. being operated on  
8 a highway that is not designated under subd. 2. a.

9 2. a. The governing body of a municipality or county may, by ordinance,  
10 designate highways under the municipality's or county's jurisdiction, for  
11 maintenance purposes, on which the statutory weight limits prescribed under this  
12 section, other than this paragraph, for implements of husbandry apply to

1 implements of husbandry described in s. 340.01 (24) (a) 1. b. If an ordinance is  
2 adopted under this subd. 2. a., any weight limit violation resulting from the  
3 ordinance is considered to be a violation of the applicable weight limits prescribed  
4 under this section.

5 b. For an ordinance under this subdivision to be effective in any calendar year,  
6 the ordinance must be adopted on or before January 15 of that calendar year or in  
7 a prior year. An ordinance adopted under this subdivision shall be valid for at least  
8 one calendar year.

9 c. Each municipality or county that designates highways under subd. 2. a. shall  
10 forward to the department a list of all highways designated under subd. 2. a. and the  
11 department shall publish this information on the department's Internet site.

12 3. Subdivision 1. does not apply on any highway that is a part of the national  
13 system of interstate and defense highways or that is posted with a weight limitation  
14 as provided in s. 348.17 (1).<sup>√</sup>

15 <sup>√</sup> **3.** Page 30, line 6: after “(e)” insert “or (f) 1”.

16 **4.** Page 34, line 9: after “husbandry.” insert “The applicant may reapply to the  
17 maintaining authority or maintaining authorities for a permit or permits under this  
18 subsection using this approved alternate route or map of highways. However, a  
19 maintaining authority may not include in this approved alternate route or map of  
20 highways any highway that is not under its jurisdiction unless, before including the  
21 highway in the approved alternate route or map of highways, it first obtains approval  
22 from the maintaining authority having jurisdiction over the highway.”<sup>√</sup>

1       √**5.** Page 34, line 16: after “year.” insert “For a resolution or ordinance under  
2 this subd. 5. a. to be effective in any calendar year, the resolution or ordinance must  
3 be adopted on or before January 15 of that calendar year or in a prior year.”.

4       **6.** Page 35, line 5: after that line insert:

5       “d. Each municipality or county that adopts a resolution or ordinance under  
6 this subdivision shall notify the department of the resolution or ordinance and  
7 include a list of all highways to which the resolution or ordinance applies, along with  
8 any condition, restriction, or limitation imposed by the ordinance on the operation  
9 of implements of husbandry and agricultural commercial motor vehicles on these  
10 highways. The department shall publish this information on the department’s  
11 Internet site.”. ✓

12       **7.** Page 35, line 22: after that line insert:

13       “6. A maintaining authority under par. (a) 2. ✓ may issue permits under this  
14 subsection having a valid period that is longer than one year or for which there is no  
15 expiration.”. ✓

16       √**8.** Page 38, line 15: delete “348.05, 348.06, 348.07, 348.08,”. ✓

17       √**9.** Page 38, line 20: delete “348.05, 348.06, 348.07,”.

18       √**10.** Page 38, line 21: delete “348.08, 348.15,”<sup>or</sup> and substitute “348.15”<sup>and</sup>.

19       √**11.** Page 38, line 24: after that line insert:

20       √(am) Notwithstanding sections 348.05, 348.06, 348.07, and 348.08<sup>✓</sup> of the  
21 statutes, as affected by this act, but subject to paragraph (b), during the period  
22 beginning on the effective date of this paragraph and ending on December 31, 2014,  
23 no officer of the state traffic patrol under section 110.07 (1) of the statutes, and no  
24 inspector under section 110.07 (3) of the statutes, may issue a citation to a person for

1 violating any provision of sections 348.05, 348.06, 348.07, <sup>and</sup> ~~or~~ 348.08 of the statutes,  
 2 as affected by this act, while operating an implement of husbandry described in  
 3 section 340.01 (24) (a) 1. a. or b. of the statutes, as affected by this act. A state traffic  
 4 patrol officer or inspector may issue a warning notice for any violation specified in  
 5 this paragraph.” ↓

6 **12.** Page 39, line 16: after that line insert:

7 “(4m) The treatment of sections 340.01 (1o) and (24), 348.01 (2) (bg) and (bp),  
 8 348.15 (3) (b), (d), (f) 2., and (g), (8), and (9), 348.16 (2), and 348.21 (3) (intro.) and (3t)  
 9 of the statutes and SECTION 62 (4m) (a) and (b) of this act take effect on the day of  
 10 publication.” ↻

11

(END)

*\$-Note*



**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION  
ASSEMBLY AMENDMENT,  
TO ASSEMBLY BILL 648**

*INSERT*

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

2 1. Page <sup>36 21</sup> ~~34~~, line ~~8~~: after that line insert: *and g*

3 "3. a. Except as provided in subd. 3. b. *c., d., and e.* a maintaining authority  
4 shall keep confidential all information provided by an applicant for a permit under  
5 this subsection and this information is not open to public inspection, copying, or  
6 disclosure under s. 19.35.

7 ~~b. A maintaining authority may disclose the name and address of an applicant  
8 for a permit under this subsection and the date of the application.~~

9 *b* c. A maintaining authority described in par. (a) 2. may disclose to ~~any state~~  
10 ~~agency~~, upon its request, information provided by an applicant for a permit under  
11 this subsection, but the ~~state agency receiving this information~~ *department* shall keep the  
12 information confidential, and this information is not open to public inspection,

*the department*

*insert*

1 copying, or disclosure under s. 19.35, unless an exception under this subdivision

2 authorizes disclosure.

3 ~~d. A maintaining authority may aggregate information from applications for~~  
4 ~~permits under this subsection, including information relating to the number of~~  
5 ~~permitted vehicles, vehicle size, and frequency of travel, and disclose the aggregated~~  
6 ~~data if no individual applicant's information is discernible from the aggregated data.~~

7 *c.f.* A maintaining authority may disclose, on a permit issued under this  
8 subsection, any information necessary to carry out the purpose of the permit.”.

9 (END)

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

LRBa2107/P1dn

ARG:.....

Wlj

Date

ATTN: Elisabeth Portz

Please review the attached draft carefully to ensure that it is consistent with your intent. In some instances, the draft may not precisely match the instructions but I have tried to prepare the draft in a way that reconciles the instructions with the unmodified text and structure of Engrossed SB-509.

In SB-509, the "opt out" provision is a no-fee permit. It allows an operator to exceed statutory weight limits because the operator is considered to hold a permit. (The ordinance is the permit.)

The "opt in" provision in this draft is conceptually different. There is no permit. The "opt in" provision involves a statutory increase to the weight limits that can be overridden by ordinance by local governments. I believe it is necessary to draft the "opt in" provision in the manner appearing in this draft.

As discussed by email, SB-509 does not allow a maintaining authority to issue a permit authorizing operation on highways that are not under its jurisdiction. I have tried to accomplish the intent of your instructions without creating language that is self-contradictory.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

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

- .....



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

LRBa2107/P1dn  
ARG:wlj:rs

March 13, 2014

ATTN: Elisabeth Portz

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In SB-509, the "opt out" provision is a no-fee permit. It allows an operator to exceed statutory weight limits because the operator is considered to hold a permit. (The ordinance is the permit.)

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

123 south

3/14 Mb. Tim, Liz, Vince Williams, Sandra Smith -  
David Moore, Mike Gwensland, ~~Harriet~~ Leomas

• p. 7-8: this can't apply to state roads

• date: only law enforcement & DOT

opt in →

- only limit is 92,000

• ordinance: about permit system created in the bill

- if applicant is going to be denied for route only,

• local govt should correct the route and approve it w/ the new route

rewrite  
ite 9.

- if approved route →  
then it can apply  
to another jurisdiction's  
road

p. 2 - copy of ordinance, p. 6 also

p. 4 - exempt for law enforcement

changes to the bill — provided by Tim at 3/14 mtg

1. Category II opt in — for local roads, unless they pass an ordinance adopting the permitting process in the bill for category II now, the only limit would be 92,000 gross weight.
2. Data privacy — exempting the personally identifiable records/permits people submit from open records laws.
3. Ongoing permits — allow towns and counties at their discretion to give permits that last more than one year.

## Gary, Aaron

---

**To:** Gary, Aaron  
**Subject:** RE: Draft review: LRB a2107/P1 Topic: Weight limits for certain implements of husbandry; opt in for category II IOH

**From:** Gary, Aaron  
**Sent:** Friday, March 14, 2014 4:49 PM  
**To:** Fiocchi, Tim  
**Cc:** Queensland, Michael; Moore, David; Portz, Elisabeth  
**Subject:** RE: Draft review: LRB a2107/P1 Topic: Weight limits for certain implements of husbandry; opt in for category II IOH

Attached is a mark-up of the amendment redraft that I put into editing this afternoon. The mark-up shows the changes from the /P1. The /P2 amendment should be out Monday morning, but I thought it could be useful to you to see what the amendment will look like (for now). If you know that some of the text doesn't meet your intent, let me know and I might (or might not) be able to catch it and correct it before the /P2 comes out on Monday morning. On p. 2, line 12, the insertion of "state trunk highway" corrects a drafting mistake flagged by Mike, so with this correction the "opt in" won't apply to highways under DOT's jurisdiction – only to local roads. A state trunk highway is defined to include interstate highways, so the provision will still exclude interstates. Changes at the top of p. 2 will make it a little more clear that, if local govt "opts in", the no-fee permit can then be obtained to exceed the weight limits imposed as a result of the opting in.

Aaron

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

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**From:** Gary, Aaron  
**Sent:** Friday, March 14, 2014 9:37 AM  
**To:** Fiocchi, Tim; Portz, Elisabeth  
**Cc:** Queensland, Michael; Moore, David  
**Subject:** RE: Draft review: LRB a2107/P1 Topic: Weight limits for certain implements of husbandry; opt in for category II IOH

Hi Tim,

Please see my comments below - as always, in multicolor!

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

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**From:** Fiocchi, Tim  
**Sent:** Friday, March 14, 2014 4:39 AM  
**To:** Gary, Aaron; Portz, Elisabeth  
**Cc:** Queensland, Michael; Moore, David  
**Subject:** RE: Draft review: LRB a2107/P1 Topic: Weight limits for certain implements of husbandry; opt in for category II IOH

We may also want to be more explicit that if the locals are going to pass an ordinance they may only adopt the regs under this section. Please see response just below.

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

From: "Fiocchi, Tim"

Date: 03/13/2014 10:15 PM (GMT-06:00)

To: "Gary, Aaron" , "Portz, Elisabeth"

Cc: "Queensland, Michael" , "Moore, David"

Subject: RE: Draft review: LRB a2107/P1 Topic: Weight limits for certain implements of husbandry; opt in for category II IOH

Hi Aaron,

I read through the amendment several times and while we should definitely find a time - preferably before noon tomorrow - to go through this, I wanted to try to supply some response. I copied David and Mike as we need to have them up to speed immediately to supply an explanatory memo once this is finalized.

I had some trouble following the language in section 2. I get that you are putting all of the implements in part b of the IOH definition into the exemption created for incidental travel and transport to and from a dealer, but the "opt in" mechanism in the next paragraph is confusing. I assume the idea is to allow locals to "opt in" only to the extent they wish to hence the listing of roads for which they opt in? I think that would work in so far as some may only want to regulate travel on a few routes where there are issues with pavement or structure, but is the intent for towns or counties like Marathon who will want to opt in all of their roads to just have them designate it in that way i.e. they would indicate to DOT "All county roads in Marathon County"? I think that works, but we'll have to explain it very thoroughly.

Yes, Marathon County could designate all county roads.

What section 2. is saying is that the locals can adopt an ordinance to make the statutes apply as if this new par. (f) didn't exist. The ordinance doesn't have to cover all highways; it can cover any or all highways selected by the local govt. In response to your question above, there is almost no latitude in what the local govt can do with the ordinance. It can pick the highways, but in terms of the scope all it can do is revert to the general stats covering IOH. It cannot formulate new requirements, weights, etc.

I think the way I drafted it is the most accurate and complete. However, I did consider drafting the ordinance in a different, more specific way. This was the other option:

"2. a. The governing body of a municipality or county may, by ordinance, designate any or all highways under the municipality's or county's jurisdiction, for maintenance purposes, on which implements of husbandry described in s. 340.01 (24) (a) 1. b. may not be operated in excess of the weight limitations imposed under sub. (3) (b) and (g) [s. 348.15 (3) (b) and (g)], subject to any applicable exceptions in pars. [s. 348.15 (9)] (c) and (e). If an ordinance is adopted under this subd. 2. a., any weight limit violation resulting from the ordinance is considered to be a violation of the applicable weight limits prescribed under this section [the applicable provision of s. 348.15]."

If you like this wording better, I would be happy to use it.

The only issue I think needs revision is the "reapply" reference in section 4. The intent is that the farmer should not have to reapply, but rather that prior to responding to the application, if a local town or county wants to provide an approved route for which they are not the maintaining authority, they must get approval from that other maintaining authority prior to responding. I think this could be accomplished by simply deleting the first sentence in section 4 and "However" at the start of the second sentence.

I worded this provision to correspond with the language of the bill that you hadn't asked to be changed. To accomplish your intent here I will need to make more extensive revisions to the bill. The context that you are putting this into is denial of the application. The bill's language, relating to a notice of denial, is as follows:

4. If a maintaining authority denies a permit application under subd. 1. or 2., it shall notify the applicant in writing of the denial and the notice shall include a reasonable and structurally based explanation of the denial that relates to the preservation of the roadway. If the application is made with respect to an implement of husbandry described in s. 340.01 (24) (a) 1. b., any denial shall also include an approved alternate route or map of highways for operation of the implement of husbandry.

The only way for me to make sense of the second sentence above is that it could be used for a revised application and the application resubmitted, since this information is provided as part of an application denial. What you seem to be saying here is that a local govt cannot deny an application based on route. The local govt. must essentially re-write the application for the applicant and pick a new, approved route. This will require more revision to the language on p. 34, lines 3-9 of the bill if this is what you want.

The other issue is the granting of a permit over roads that the local govt doesn't maintain. If this is your intent, there are at least 2 other areas in the bill that have to be modified, because they clearly limit the permit authority to highways under the local govt's jurisdiction.

I should note that, when you combine the fact that the local govt cannot deny the application based on route, with the issuance of permits covering other jurisdictions' roads, you're going to have a system where it is pervasive for local govts to be issuing permits for operation extending beyond their own roads. I also wonder what will happen in those cases where the local govt. not receiving the application refuses to give approval? If the permit application cannot be denied for route, and an alternate approved route must be provided, and the adjoining municipality or the county refuses to give approval to the muni that receives the application for a certain piece of heavy equipment to be used at the proposed permit weight on their road, what happens? (It creates a logical impasse and the statute cannot be complied with.) →

*no, issuing authority must issue permit for its own roads*

The annual nature and deadline for opting in seems clear. Does this mirror the opt out language? Because of context, the language is not identical but is very, very similar. Compare p. 2, lines 5-8 of the amendment (opt in) with p. 3 lines 1-3 of the amendment and p. 34, lines 14-16 of the engrossed bill (opt out). My understanding is that both allow ordinances to be one year, multiple years, or permanent, but not less than a year.

Thanks for all your work on this. Once we iron out this last amendment, short of any huge surprises, we have the votes.

Tim

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**From:** Gary, Aaron  
**Sent:** Thursday, March 13, 2014 5:01 PM  
**To:** Portz, Elisabeth; Fiocchi, Tim  
**Subject:** FW: Draft review: LRB a2107/P1 Topic: Weight limits for certain implements of husbandry; opt in for category II IOH

Here's a first cut at it .....

Aaron

---

**From:** LRB.Legal  
**Sent:** Thursday, March 13, 2014 5:01 PM  
**To:** Gary, Aaron  
**Subject:** Draft review: LRB a2107/P1 Topic: Weight limits for certain implements of husbandry; opt in for category II IOH

**Draft Requester: Rep. Keith Ripp**

**Following is the PDF version of draft LRB a2107/P1 and drafter's note.**