

2015 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB320)

Received: 11/24/2015 Received By: **emueller**
For: **Jerry Petrowski (608) 266-2502** Same as LRB:
May Contact: By/Representing: **Nate**
Subject: **Transportation - highways** Drafter: **emueller**
Transportation - other Addl. Drafters:
Transportation - traffic laws Extra Copies:

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Pre Topic:

No specific pre topic given

Topic:

Transport of radiological materials, permit conditions, fees, appropriation

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	emueller 12/1/2015		_____			
/P1	emueller 12/4/2015	kfollett 12/1/2015	_____	rose 12/1/2015		
/P2	emueller	kfollett	_____	sbasford		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	12/4/2015	12/4/2015	_____	12/4/2015		
/1		kfollett 12/7/2015	_____	mbarman 12/7/2015	mbarman 12/7/2015	

FE Sent For:

<END>

TOPIC: Transport of radiological materials and providing penalties

STATUTE: Chapter 348, Wis. Stats.

Proposed Changes:

1) Page 2, line 8:

- Delete “or multiple-trip”.

2) Page 2, line 13:

- Delete “on forms” and substitute “to the department utilizing an electronic process”.

3) Page 2, line 14:

- Delete “may charge a fee” and substitute “shall charge a fee of \$1,800”.

[NOTE: Bill Authors requesting the \$1,800 permit issuance fee be added in the bill.]

4) Page 2, line 14:

- After “(b).” insert “All moneys received from fees imposed by the department under this subsection shall be deposited in the general fund and credited to the appropriation account under s. 20.395 (5) (dg).”

[NOTE: Mirrors language existing in s. 348.26(2), Stats.]

5) Add “348.10 (6)” to existing s. 348.28 (1) (a).

6) Under s. 348.10 (6), as created in the bill, apply the following various general permit provisions:

- “A permit under par. (b) may be issued only by the department, regardless of the highways to be used.”

[NOTE: Mirrors language existing in s. 348.26(4), Stats.]

- “The department shall prescribe an electronic application process for permits the granting of which is authorized by par. (b).”

[NOTE: Mirrors language existing in s. 348.25(3), Stats.]

- “The department may impose such reasonable conditions prerequisite to the granting of any permit authorized by par. (b) and adopt such reasonable rules for the operation of a permittee thereunder as it deems necessary for the safety of travel and protection of the highways. The department may limit use of the highways under any permit issued to specified hours of the day or days of the week.”

[NOTE: Mirrors language existing in s. 348.25(3), Stats.]

- “If the routes desired to be used by the applicant involve highways under the jurisdiction of local authorities, the department shall, prior to issuing the permit, submit the permit application to the officers in charge of maintenance of the local highways to be used, for their approval. The department may issue the permit, notwithstanding the objections of

PROPOSED MODIFICATIONS TO 2015 SB 320 (LRB-0043/2) and AB 426 (LRB-3463/1)

these officers, if, after consulting with these officers, the department determines that their objections lack merit.”

[NOTE: Mirrors language existing in s. 348.27(4m)(d), Stats.]

- The provisions relating to oversize and overweight permits under s. 348.25 (2) (a) and (b) shall also apply to permits issued under this subsection for the transportation of a load which exceeds statutory size or weight limitations.

[NOTE: Sections 348.25 (2) (a) and (b) relate to permit condition violations.]

- “The department authorized by par. (b) to issue permits may require the permittee to file a bond, certificate of insurance or certified check which, to the satisfaction of the department, saves the state and any county, city, village or town through which the vehicle or article will be operated or transported harmless from any claim, loss or damage that may result from the granting of such permit or that may arise from or on account of any act done pursuant thereto and conditioned to require the permittee to pay for restoration to a condition satisfactory to the officer in charge of the maintenance of any such highway any pavement, bridge, culvert, sewer pipe or other improvement that may be injured by reason of the use of the highways by the permittee. If a permittee refuses to pay for damage caused, the department who required the filing of a bond may maintain an action upon such bond.”

[NOTE: Mirrors language existing in s. 348.25(5), Stats.]

- “The department authorized by par. (b) to issue permits may require the permittee to file proof satisfactory to the department that personal injury and property damage insurance in an amount considered sufficient by the department will be in force to cover any claim for bodily injury or property damage which may occur in connection with operation under the permit and for which the permittee is legally responsible.”

[NOTE: Mirrors language existing in s. 348.25(6), Stats.]

- “The department which issued a permit may, for good cause, suspend or revoke such permit or may decline to issue additional permits or may decline to authorize the use of a telephone call-in procedure for any applicant after having given the permittee or applicant reasonable opportunity for a hearing.”

[NOTE: Mirrors language existing in s. 348.25(7), Stats.]

- “If a permit under par. (b) is denied, suspended or revoked, the permit applicant or holder may petition the division of hearings and appeals for a hearing on the matter within 30 days after the denial, suspension or revocation.”

[NOTE: Mirrors language existing in s. 348.25(9), Stats.]

- “Notwithstanding any other provision of this subsection or ss. 348.26 to 348.28, the department may enter into a reciprocal agreement with another jurisdiction for the recognition of permits for the transport of radiological materials if that jurisdiction's laws or rules on transporting radiological materials are substantially similar to those imposed

by this chapter. Any permit recognized by this state under a reciprocal agreement shall be considered a permit issued under par. (b) for purposes of this chapter.”

[NOTE: Mirrors language existing in s. 348.25(10), Stats.]

- “The department may not issue a permit under par. (b) unless the department determines that all of the following requirements are met:
- i. The applicant identifies each potential operator of a vehicle under the permit and provides proof that each such operator holds a valid commercial driver license, with any endorsement required under ch. 343 for operation of the class and type of vehicle to be used to transport radiological materials under the permit.
 - ii. The applicant provides proof of a valid motor carrier certificate or license of authority issued under ch. 194 or under federal law applicable for each vehicle to be used to transport radiological materials under the permit.
 - iii. The applicant provides proof, by a certificate of insurance filed with the department, that the applicant maintains a policy of comprehensive general liability insurance, issued by an insurer authorized to transact business in this state, that provides bodily injury liability coverage and property damage liability coverage, including for underground property damage, with a total limit of not less than \$1,000,000 for each occurrence.”

[NOTE: Mirrors language existing in s. 348.27(12m)(c), Stats.]

- “The department may deny any application for a permit under par. (b) if the department finds any of the following:
- i. That the applicant, or any potential operator identified in the permit application, has been convicted, within 3 years immediately preceding the date of application, of a violation of the valid licensing and insurance requirements under this subsection.
 - ii. That the applicant, or any potential operator identified in the permit application, has engaged in conduct endangering the safety of persons using the highways.
 - iii. That 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 radiological materials under a permit under this subsection.
 - iv. That the applicant, or any potential operator identified in the permit application, has abandoned radiological materials on a highway or on public or private property without permission of the property owner.”

[NOTE: Mirrors language existing in s. 348.27(12m)(d), Stats.]

- “The provisions of this subsection apply in addition to any other requirement imposed under this chapter, chs. 194, 343, 346, and 347, and federal law.”

[NOTE: Mirrors language existing in s. 348.27(12m)(e), Stats.]



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE SUBSTITUTE AMENDMENT ,
TO SENATE BILL 320

gen

1 AN ACT ...; relating to: transport of radiological materials, making an
2 appropriation, and providing a penalty.

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

3 SECTION 1. 20.395 (5) (dg) of the statutes is amended to read:
4 20.395 (5) (dg) *Escort, security, and traffic enforcement services, state funds.*
5 From the general fund, all moneys received under ~~s.~~ ss. 348.105 and 348.26 (2) for
6 motor carrier escort services and under s. 85.51 for security and traffic enforcement
7 services, for those purposes.

History: 1971 c. 40 s. 93; 1971 c. 42, 107; 1971 c. 125 ss. 122 to 137, 522 (1); 1971 c. 197, 211, 215, 307; 1973 c. 90, 142, 243, 333, 336; 1975 c. 39; 1975 c. 163 s. 16; 1975 c. 200, 224, 270, 288, 340, 422; 1977 c. 29, 377, 418; 1979 c. 34 ss. 322e to 420, 574, 575; 1979 c. 221; 1981 c. 20 ss. 238 to 300, 2202 (51) (c), (e); 1981 c. 165, 234; 1981 c. 314 s. 146; 1981 c. 347 s. 80; 1981 c. 362; 1983 a. 27 ss. 270g to 315, 2202 (20); 1983 a. 243; 1985 a. 29 ss. 357 to 402, 3202 (51) (a); 1985 a. 65, 76, 341; 1987 a. 27, 137, 349, 369, 399, 403; 1989 a. 31, 56; 1991 a. 39, 104, 239, 269; 1993 a. 16, 285, 354, 437; 1995 a. 27, 113, 201, 338, 445; 1997 a. 27, 35, 135, 237, 255; 1999 a. 9, 109, 146, 167, 185; 2001 a. 16, 104, 109; 2003 a. 33, 64, 139, 220, 320; 2005 a. 25, 319, 335; 2007 a. 20, 42; 2009 a. 28, 224, 226, 276; 2011 a. 32, 257; 2011 a. 260 s. 80; 2013 a. 20, 49, 125, 165, 266; 2015 a. 55; s. 13.92 (1) (bm) 2.

8 SECTION 2. 25.40 (1) (a) 14. of the statutes is amended to read:

1 25.40 (1) (a) 14. Fees received under ss. 85.51, 348.105, and 348.26 (2) that are
2 deposited in the general fund and credited to the appropriation account under s.
3 20.395 (5) (dg).

History: 1971 c. 125, 211; 1973 c. 90, 333; 1975 c. 39; 1975 c. 163 s. 16; 1975 c. 199; 1977 c. 29, 274, 418, 447; 1979 c. 34; 1979 c. 361 s. 113; 1981 c. 20; 1981 c. 347 s. 80 (2), (4); 1983 a. 27, 538; 1985 a. 16 s. 15; 1985 a. 29 ss. 638p, 3202 (51); 1985 a. 120 ss. 66, 3202 (56); 1985 a. 332; 1987 a. 3, 27, 110, 399, 403; 1989 a. 31, 102, 105, 359; 1991 a. 39, 104, 189, 269, 309, 315; 1993 a. 16, 123, 205, 253, 415, 437, 491; 1995 a. 27, 113, 201, 269, 280, 445; 1997 a. 27, 35, 41, 135, 237, 255; 1999 a. 9, 32, 92, 167; 2001 a. 16; 2003 a. 33, 139; 2005 a. 25, 45, 85, 179, 199, 260, 319; 2007 a. 42, 97, 107; 2009 a. 28, 100, 135, 224, 226; 2011 a. 32, 208; 2011 a. 260 s. 80; 2013 a. 20, 188, 266, 363; s. 13.92 (1) (bm) 2.

4 **SECTION 3.** 227.43 (1) (bg) of the statutes is amended to read:

5 227.43 (1) (bg) Assign a hearing examiner to preside over any hearing or review
6 under ss. 84.30 (18), 84.305, 84.31 (6) (a), 85.013 (1), 86.073 (3), 86.16 (5), 86.195 (9)
7 (b), 86.32 (1), 101.935 (2) (b), 101.951 (7) (a) and (b), 114.134 (4) (b), 114.135 (9),
8 114.20 (19), 175.05 (4) (b), 194.145 (1), 194.46, 218.0114 (7) (d) and (12) (b), 218.0116
9 (2), (4), (7) (a), (8) (a) and (10), 218.0131 (3), 218.11 (7) (a) and (b), 218.22 (4) (a) and
10 (b), 218.32 (4) (a) and (b), 218.41 (4), 218.51 (5) (a) and (b), 341.09 (2m) (d), 342.26,
11 343.69, 348.105 (4) (h), and 348.25 (9).

History: 1977 c. 418; 1981 c. 20 s. 2202 (1) (b); 1983 a. 27; 1985 a. 182 ss. 16 to 18, 29, 31; Stats. 1985 s. 227.43; 1993 a. 16; 1995 a. 370; 1997 a. 3, 27; 1999 a. 9, 31, 185, 186; 2003 a. 118; 2005 a. 465; 2007 a. 20 ss. 2998 to 3001, 9121 (6) (a); 2013 a. 115; 2015 a. 55.

12 **SECTION 4.** 348.105 of the statutes is created to read:

13 **348.105 Transport of radiological materials. (1)** In this section:

14 (a) "Highway route controlled quantity" has the meaning given in 49 CFR
15 173.403.

16 (b) "Permit" means a permit for the transport of radiological materials issued
17 under this section.

18 (2) No person may operate on a highway any motor vehicle, trailer, or
19 semitrailer carrying a highway route controlled quantity of radiological materials
20 without a permit.

21 (3) The department may issue single-trip permits for the transport of
22 radiological materials. A permit shall include all of the following:

23 (a) A designated route to be used by the permittee.

1 (b) A requirement for an escort by the state traffic patrol.

2 (4) An application for a permit shall be made to the department using an
3 electronic application process established by the department. The department shall
4 charge a fee of \$1,800 for a permit. All moneys received from fees imposed by the
5 department under this subsection shall be deposited in the general fund and credited
6 to the appropriation ^{account} under s. 20.395 (5) (dg).

****NOTE: This provision contains the material in the 2nd bullet point under item 6) of the instructions.

7 (5) All of the following apply to a permit:

8 (a) A permit may be issued only by the department, regardless of the highways
9 to be used.

10 (b) The department may establish reasonable conditions for permit application
11 and for operation under a permit. The department may limit the use of highways
12 under a permit to specified hours of the day or days of the week.

****NOTE: I revised the provided language of s. 348.25 (3) fairly substantially to provide a clearer standard. Please let me know if this does not meet your intent.

13 (c) If an applicant's proposed route includes a highway under the jurisdiction
14 of a local authority, the department shall, prior to issuing a permit, submit the
15 permit application to the officer in charge of maintenance of that highway. The
16 department may issue the permit, notwithstanding any objections of the officer, if,
17 after consulting with the officer, the department determines that the objections lack
18 merit.

19 (d) Section 348.25 (2) applies to a permit if the load transported exceeds
20 statutory size or weight limitations.

X
****NOTE: This provision probably requires some clarification. Is this the only portion of s. 348.25 to 348.29 that you intend to apply to a vehicle transporting radiological materials? See s. 348.105 (6), as created in this draft. Will the radiological material permit contain limitations on size, weight, and load?

1 (e) The department may require the permittee to file a bond, certificate of
2 insurance, or certified check that holds the state and any city, village, town, or county
3 through which the vehicle, trailer, or semitrailer will be operated harmless from any
4 claim, loss, or damage that results from the granting of the permit or from any action
5 under the permit. The department may require that the bond, certificate of
6 insurance, or certified check be conditioned to require that the permittee pay for
7 restoration, to a condition satisfactory to the officer in charge of the maintenance of
8 the highway, of any pavement, bridge, culvert, sewer pipe, or other improvement that
9 is damaged by the use of the highway by the permittee under the permit. If a
10 permittee refuses to pay for damage caused by the permittee, the department may
11 maintain an action upon a bond, certificate of insurance, or certified check required
12 under this paragraph.

X [^]****NOTE: Is all of the material in this provision necessary, e.g., the reference to a
"bond, certificate of insurance, or certified check?"

13 (f) The department may require the permittee to file proof that the permittee
14 has in effect sufficient personal injury and property damage insurance to cover any
15 claim for bodily injury or property damage that may occur in connection with
16 operation under a permit and for which the permittee is legally responsible.

17 (g) The department may, for good cause, suspend or revoke a permit or may
18 decline to issue additional permits after having given the permittee or applicant
19 reasonable opportunity for a hearing.

20 (h) If an application for a permit is denied or a permit is suspended or revoked,
21 the applicant or holder may petition the division of hearings and appeals for a
22 hearing on the matter within 30 days after the denial, suspension, or revocation.

1 (i) The department may enter into a reciprocal agreement with another
2 jurisdiction for the issuance or recognition of permits if that jurisdiction's laws or
3 rules regarding permits for the transport of radiological materials are substantially
4 similar to those imposed by this section. Any permit recognized by this state under
5 a reciprocal agreement shall be considered a permit under this section.

6 (j) The department may not issue a permit unless the department determines
7 that all of the following requirements are met:

8 1. The applicant identifies each potential operator of a vehicle under the permit
9 and provides proof that each operator holds a valid commercial driver license, with
10 any endorsement required under ch. 343 for operation of the class and type of vehicle
11 to be used to transport radiological materials under the permit.

12 2. The applicant provides proof of a valid motor carrier certificate or license of
13 authority issued under ch. 194 or under federal law applicable for each vehicle to be
14 used to transport radiological materials under the permit.

15 3. The applicant files a certificate of insurance with the department
16 demonstrating that the applicant maintains a policy of comprehensive general
17 liability insurance, issued by an insurer authorized to transact business in this state,
18 that provides bodily injury liability coverage and property damage liability coverage,
19 including for underground property damage, with a total limit of not less than
20 \$1,000,000 for each occurrence.

****NOTE: Is this duplicative of s. 348.105 (5) (f), as created in this draft?

21 (k) The department may deny an application for a permit if the department
22 finds any of the following:



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE SUBSTITUTE AMENDMENT ,
TO SENATE BILL 320

INSERT

12/4/15

1 AN ACT *to amend* 20.395 (5) (dg), 25.40 (1) (a) 14. and 227.43 (1) (bg); and *to*
2 *create* 348.105 and 348.11 (3) of the statutes; **relating to:** transport of
3 radiological materials, making an appropriation, and providing a penalty.

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

4 SECTION 1. 20.395 (5) (dg) of the statutes is amended to read:
5 20.395 (5) (dg) *Escort, security, and traffic enforcement services, state funds.*
6 From the general fund, all moneys received under ~~s.~~ ss. 348.105 and 348.26 (2) for
7 motor carrier escort services and under s. 85.51 for security and traffic enforcement
8 services, for those purposes.

9 SECTION 2. 25.40 (1) (a) 14. of the statutes is amended to read:

1 25.40 (1) (a) 14. Fees received under ss. 85.51, 348.105, and 348.26 (2) that are
2 deposited in the general fund and credited to the appropriation account under s.
3 20.395 (5) (dg).

4 **SECTION 3.** 227.43 (1) (bg) of the statutes is amended to read:

5 227.43 (1) (bg) Assign a hearing examiner to preside over any hearing or review
6 under ss. 84.30 (18), 84.305, 84.31 (6) (a), 85.013 (1), 86.073 (3), 86.16 (5), 86.195 (9)
7 (b), 86.32 (1), 101.935 (2) (b), 101.951 (7) (a) and (b), 114.134 (4) (b), 114.135 (9),
8 114.20 (19), 175.05 (4) (b), 194.145 (1), 194.46, 218.0114 (7) (d) and (12) (b), 218.0116
9 (2), (4), (7) (a), (8) (a) and (10), 218.0131 (3), 218.11 (7) (a) and (b), 218.22 (4) (a) and
10 (b), 218.32 (4) (a) and (b), 218.41 (4), 218.51 (5) (a) and (b), 341.09 (2m) (d), 342.26,
11 343.69, 348.105 (5) (h), and 348.25 (9).

12 **SECTION 4.** 348.105 of the statutes is created to read:

13 **348.105 Transport of radiological materials.** (1) In this section:

14 (a) “Highway route controlled quantity” has the meaning given in 49 CFR
15 173.403.

16 (b) “Permit” means a permit for the transport of radiological materials issued
17 under this section.

18 (2) No person may operate on a highway any motor vehicle, trailer, or
19 semitrailer carrying a highway route controlled quantity of radiological materials
20 without a permit.

21 (3) The department may issue single-trip permits for the transport of
22 radiological materials. A permit shall include all of the following:

23 (a) A designated route to be used by the permittee.

24 (b) A requirement for an escort by the state traffic patrol.

1 (4) An application for a permit shall be made to the department using an
2 electronic application process established by the department. The department shall
3 charge a fee of \$1,800 for a permit. All moneys received from fees imposed by the
4 department under this subsection shall be deposited in the general fund and credited
5 to the appropriation account under s. 20.395 (5) (dg).

****NOTE: This provision contains the material in the 2nd bullet point under item
6) of the instructions.

6 (5) All of the following apply to a permit:

7 (a) A permit may be issued only by the department, regardless of the highways
8 to be used.

9 (b) The department may ^{impose any} establish reasonable conditions for permit application
10 and for operation under a permit. The department may limit the use of highways
11 under a permit to specified hours of the day or days of the week.

****NOTE: I revised the provided language of s. 348.25 (3) fairly substantially to
provide a clearer standard. Please let me know if this does not meet your intent.

12 (c) If an applicant's proposed route includes a highway under the jurisdiction
13 of a local authority, the department shall, prior to issuing a permit, submit the permit
14 application to the officer in charge of maintenance of that highway. The department
15 may issue the permit, notwithstanding any objections of the officer, if, after
16 consulting with the officer, the department determines that the objections lack
17 merit.

18 (d) Section 348.25 (2) applies to a permit if the load transported exceeds
19 statutory size or weight limitations.

****NOTE: This provision probably requires some clarification. Is this the only
portion of ss. 348.25 to 348.29 that you intend to apply to a vehicle transporting
radiological materials? See s. 348.105 (6), as created in this draft. Will the radiological
material permit contain limitations on size, weight, and load?

INS
3-19

that it seems necessary for the safety of travel and protection
of the highways

1 (e) The department may require the permittee to file a bond, certificate of
2 insurance, or certified check that holds the state and any city, village, town, or county
3 through which the vehicle, trailer, or semitrailer will be operated harmless from any
4 claim, loss, or damage that results from the granting of the permit or from any action
5 under the permit. The department may require that the bond, certificate of
6 insurance, or certified check be conditioned to require that the permittee pay for
7 restoration, to a condition satisfactory to the officer in charge of the maintenance of
8 the highway, of any pavement, bridge, culvert, sewer pipe, or other improvement that
9 is damaged by the use of the highway by the permittee under the permit. If a
10 permittee refuses to pay for damage caused by the permittee, the department may
11 maintain an action upon a bond, certificate of insurance, or certified check required
12 under this paragraph.

****NOTE: Is all of the material in this provision necessary, e.g., the reference to a
"bond, certificate of insurance, or certified check?"

13 (f) The department may require the permittee to file proof that the permittee
14 has in effect sufficient personal injury and property damage insurance to cover any
15 claim for bodily injury or property damage that may occur in connection with
16 operation under a permit and for which the permittee is legally responsible.

17 (g) The department may, for good cause, suspend or revoke a permit or may
18 decline to issue additional permits after having given the permittee or applicant
19 reasonable opportunity for a hearing.

20 (h) If an application for a permit is denied or a permit is suspended or revoked,
21 the applicant or holder may petition the division of hearings and appeals for a
22 hearing on the matter within 30 days after the denial, suspension, or revocation.

1 (i) The department may enter into a reciprocal agreement with another
2 jurisdiction for the issuance or recognition of permits if that jurisdiction's laws or
3 rules regarding permits for the transport of radiological materials are substantially
4 similar to those imposed by this section. Any permit recognized by this state under
5 a reciprocal agreement shall be considered a permit under this section.

6 (j) The department may not issue a permit unless the department determines
7 that all of the following requirements are met:

8 1. The applicant identifies each potential operator of a vehicle under the permit
9 and provides proof that each operator holds a valid commercial driver license, with
10 any endorsement required under ch. 343 for operation of the class and type of vehicle
11 to be used to transport radiological materials under the permit.

12 2. The applicant provides proof of a valid motor carrier certificate or license of
13 authority issued under ch. 194 or under federal law applicable for each vehicle to be
14 used to transport radiological materials under the permit.

15 3. The applicant files a certificate of insurance ^{provides proof, by} with the department ^{filed}
16 demonstrating that the applicant maintains ^{has in effect} a policy of comprehensive general
17 liability insurance, issued by an insurer authorized to transact business in this state,
18 that provides bodily injury liability coverage and property damage liability coverage,
19 including for underground property damage, with a total limit of not less than ^{in amounts}
\$1,000,000 for each occurrence ^{are required under 49 CFR 387}

***NOTE: Is this duplicative of s. 348.105 (5) (f), as created in this draft? ee

21 (k) The department may deny an application for a permit if the department
22 finds any of the following:

2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0189/P2ins
EVM:kjf

1 INS 3-19

2

3 1. Vehicles, trailers, and semitrailers operated or transported under a permit
4 are exempt from the restrictions and limitations imposed by this chapter on size,
5 weight, and load to the extent stated in the permit. Except as provided in subd. 2.,
6 any person who violates a condition of a permit under which that person is operating
7 is subject to the same penalties as would be applicable if that person were operating
8 without a permit.

9 2. If a permit authorizes overweight operation, and the vehicle exceeds the
10 weight stated in the permit, any overweight violation shall be computed on the basis
11 of the weight authorized in the permit. The amount of the forfeiture for overweight
12 violations determined under this subdivision shall be calculated as provided in s.
13 348.21 (3) and (3r).

****NOTE: Do you want the material in subd. 2. included in this draft? Basically
subd. 1. would require that any violation of a permit condition is subject to a \$2,000 -
\$5,000 forfeiture. Under subd. 2., if the violation is a violation of a weight condition in
a radiological materials permit, the penalty would be calculated under s. 348.21 (3) and
(3r).

14

15 INS 6-18

16

17 **SECTION 1.** 348.21 (3) (intro.) of the statutes is amended to read:

18 348.21 (3) (intro.) Except as provided in sub. (3g), and subject to sub. (3t), any
19 person violating s. 348.15 or 348.16 or any weight limitation posted as provided in
20 s. 348.17 (1) or in a declaration issued under s. 348.175 or authorized under s. 348.17

1 (3), (5), or (6) or in an overweight permit issued under s. 348.26 or 348.27 or in a
2 permit issued under s. 348.105 may be penalized as follows:

History: 1971 c. 164 s. 83; 1971 c. 278, 307; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a); 1981 c. 312; 1985 a. 201, 332; 1995 a. 348; 1997 a. 27; 2005 a. 167, 364; 2007 a. 20, 97; 2009 a. 28, 180, 222, 241; 2011 a. 279; 2013 a. 20, 377; 2015 a. 15.

3 **SECTION 2.** 348.21 (3) (a) of the statutes is amended to read:

4 348.21 (3) (a) If the weight exceeds by 1,000 pounds or less the maximum set
5 forth in s. 348.15 (3) or 348.16 or posted as provided in s. 348.17 (1) or in a declaration
6 issued under s. 348.175 or authorized under s. 348.17 (3), (5), or (6) or in an
7 overweight permit issued under s. 348.26 or 348.27 or in a permit issued under s.
8 348.105, a forfeiture of not less than \$50 nor more than \$100 upon the first conviction
9 and, upon the 2nd and each subsequent conviction within a 12-month period, a
10 forfeiture of not less than \$100 nor more than \$200.

History: 1971 c. 164 s. 83; 1971 c. 278, 307; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a); 1981 c. 312; 1985 a. 201, 332; 1995 a. 348; 1997 a. 27; 2005 a. 167, 364; 2007 a. 20, 97; 2009 a. 28, 180, 222, 241; 2011 a. 279; 2013 a. 20, 377; 2015 a. 15.

11 **SECTION 3.** 348.21 (3) (b) (intro.) of the statutes is amended to read:

12 348.21 (3) (b) (intro.) If the weight exceeds by more than 1,000 pounds the
13 maximum set forth in s. 348.15 (3) or 348.16 or posted as provided in s. 348.17 (1) or
14 in a declaration issued under s. 348.175 or authorized under s. 348.17 (3), (5), or (6)
15 or in an overweight permit issued under s. 348.26 or 348.27 or in a permit issued
16 under s. 348.105, the forfeiture shall be computed according to the following schedule
17 and in the case of violation of s. 348.15 (3) (bg) or (br) shall be computed on the basis
18 of the weights stated in s. 348.15 (3) (bg) or (br):

History: 1971 c. 164 s. 83; 1971 c. 278, 307; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a); 1981 c. 312; 1985 a. 201, 332; 1995 a. 348; 1997 a. 27; 2005 a. 167, 364; 2007 a. 20, 97; 2009 a. 28, 180, 222, 241; 2011 a. 279; 2013 a. 20, 377; 2015 a. 15.

12/3 Note taken

348.105 (5)(b)

- establish → impose
- add back "as deems necessary"
- strike last sentence - included

(d) recreate language of 348.25(2)

- (j) 3
- app. provides proof by cut of ins.
 - maintains → has in effect a policy
 - not less than req. by 49 CFR 387
instead of \$1 M

(6) \$200 → \$2,000
\$500 → \$5,000



State of Wisconsin
2015 - 2016 LEGISLATURE

LRBs 0190/1 0189/1
EVM:kjf&wlj

SENATE
ASSEMBLY ~~SUBSTITUTE~~ AMENDMENT,
SENATE
TO ASSEMBLY BILL 426 320

12/7/15

1 AN ACT *to amend* 20.395 (5) (dg), 25.40 (1) (a) 14. and 227.43 (1) (bg); and *to*
2 *create* 348.105 and 348.11 (3) of the statutes; **relating to:** transport of
3 radiological materials, making an appropriation, and providing a penalty.

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

4 SECTION 1. 20.395 (5) (dg) of the statutes is amended to read:

5 20.395 (5) (dg) *Escort, security, and traffic enforcement services, state funds.*

6 From the general fund, all moneys received under s. ss. 348.105 and 348.26 (2) for
7 motor carrier escort services and under s. 85.51 for security and traffic enforcement
8 services, for those purposes.

9 SECTION 2. 25.40 (1) (a) 14. of the statutes is amended to read:

10 25.40 (1) (a) 14. Fees received under ss. 85.51, 348.105, and 348.26 (2) that are
11 deposited in the general fund and credited to the appropriation account under s.
12 20.395 (5) (dg).

1 **SECTION 3.** 227.43 (1) (bg) of the statutes is amended to read:

2 227.43 (1) (bg) Assign a hearing examiner to preside over any hearing or review
3 under ss. 84.30 (18), 84.305, 84.31 (6) (a), 85.013 (1), 86.073 (3), 86.16 (5), 86.195 (9)
4 (b), 86.32 (1), 101.935 (2) (b), 101.951 (7) (a) and (b), 114.134 (4) (b), 114.135 (9),
5 114.20 (19), 175.05 (4) (b), 194.145 (1), 194.46, 218.0114 (7) (d) and (12) (b), 218.0116
6 (2), (4), (7) (a), (8) (a) and (10), 218.0131 (3), 218.11 (7) (a) and (b), 218.22 (4) (a) and
7 (b), 218.32 (4) (a) and (b), 218.41 (4), 218.51 (5) (a) and (b), 341.09 (2m) (d), 342.26,
8 343.69, 348.105 (5) (h), and 348.25 (9).

9 **SECTION 4.** 348.105 of the statutes is created to read:

10 **348.105 Transport of radiological materials. (1)** In this section:

11 (a) “Highway route controlled quantity” has the meaning given in 49 CFR
12 173.403.

13 (b) “Permit” means a permit for the transport of radiological materials issued
14 under this section.

15 (2) No person may operate on a highway any motor vehicle, trailer, or
16 semitrailer carrying a highway route controlled quantity of radiological materials
17 without a permit.

18 (3) The department may issue single-trip permits for the transport of
19 radiological materials. A permit shall include all of the following:

20 (a) A designated route to be used by the permittee.

21 (b) A requirement for an escort by the state traffic patrol.

22 (4) An application for a permit shall be made to the department using an
23 electronic application process established by the department. The department shall
24 charge a fee of \$1,800 for a permit. All moneys received from fees imposed by the

1 department under this subsection shall be deposited in the general fund and credited
2 to the appropriation account under s. 20.395 (5) (dg).

3 (5) All of the following apply to a permit:

4 (a) A permit may be issued only by the department, regardless of the highways
5 to be used.

6 (b) The department may impose any reasonable conditions for permit
7 application and for operation under a permit that it deems necessary for the safety
8 of travel and protection of the highways.

9 (c) If an applicant's proposed route includes a highway under the jurisdiction
10 of a local authority, the department shall, prior to issuing a permit, submit the permit
11 application to the officer in charge of maintenance of that highway. The department
12 may issue the permit, notwithstanding any objections of the officer, if, after
13 consulting with the officer, the department determines that the objections lack
14 merit.

15 (d) Vehicles, trailers, and semitrailers operated or transported under a permit
16 are exempt from the restrictions and limitations imposed by this chapter on size,
17 weight, and load to the extent stated in the permit. Any person who violates a
18 condition of a permit under which that person is operating is subject to the same
19 penalties as would be applicable if that person were operating without a permit.

20 (e) The department may require the permittee to file a bond, certificate of
21 insurance, or certified check that holds the state and any city, village, town, or county
22 through which the vehicle, trailer, or semitrailer will be operated harmless from any
23 claim, loss, or damage that results from the granting of the permit or from any action
24 under the permit. The department may require that the bond, certificate of
25 insurance, or certified check be conditioned to require that the permittee pay for

1 restoration, to a condition satisfactory to the officer in charge of the maintenance of
2 the highway, of any pavement, bridge, culvert, sewer pipe, or other improvement that
3 is damaged by the use of the highway by the permittee under the permit. If a
4 permittee refuses to pay for damage caused by the permittee, the department may
5 maintain an action upon a bond, certificate of insurance, or certified check required
6 under this paragraph.

7 (f) The department may require the permittee to file proof that the permittee
8 has in effect sufficient personal injury and property damage insurance to cover any
9 claim for bodily injury or property damage that may occur in connection with
10 operation under a permit and for which the permittee is legally responsible.

11 (g) The department may, for good cause, suspend or revoke a permit or may
12 decline to issue additional permits after having given the permittee or applicant
13 reasonable opportunity for a hearing.

14 (h) If an application for a permit is denied or a permit is suspended or revoked,
15 the applicant or holder may petition the division of hearings and appeals for a
16 hearing on the matter within 30 days after the denial, suspension, or revocation.

17 (i) The department may enter into a reciprocal agreement with another
18 jurisdiction for the issuance or recognition of permits if that jurisdiction's laws or
19 rules regarding permits for the transport of radiological materials are substantially
20 similar to those imposed by this section. Any permit recognized by this state under
21 a reciprocal agreement shall be considered a permit under this section.

22 (j) The department may not issue a permit unless the department determines
23 that all of the following requirements are met:

24 1. The applicant identifies each potential operator of a vehicle under the permit
25 and provides proof that each operator holds a valid commercial driver license, with

1 any endorsement required under ch. 343 for operation of the class and type of vehicle
2 to be used to transport radiological materials under the permit.

3 2. The applicant provides proof of a valid motor carrier certificate or license of
4 authority issued under ch. 194 or under federal law applicable for each vehicle to be
5 used to transport radiological materials under the permit.

6 3. The applicant provides proof, by a certificate of insurance filed with the
7 department, demonstrating that the applicant has in effect a policy of comprehensive
8 general liability insurance, issued by an insurer authorized to transact business in
9 this state, that provides bodily injury liability coverage and property damage
10 liability coverage, including for underground property damage, in amounts not less
11 than are required under 49 CFR 387.

12 (k) The department may deny an application for a permit if the department
13 finds any of the following:

14 1. That the applicant, or any potential operator identified in par. (j) 1., has been
15 convicted, within 3 years immediately preceding the date of application, of a
16 violation of this section.

17 2. That the applicant, or any potential operator identified in par. (j) 1., has
18 engaged in conduct endangering the safety of persons using the highways.

19 3. That the applicant has failed to provide reimbursement for damage, which
20 is not paid for by the applicant's insurer, to a highway caused while transporting
21 radiological materials under a permit.

22 4. That the applicant, or any potential operator identified in par. (j) 1., has
23 abandoned radiological materials on a highway or on public or private property
24 without permission of the property owner.

