

2015 DRAFTING REQUEST

Senate Amendment (SA-SB158)

Received: 6/2/2015 Received By: emueller
For: Jerry Petrowski (608) 266-2502 Same as LRB:
May Contact: By/Representing: Nate
Subject: Transportation - driver licenses Drafter: emueller
Transportation - traffic laws Addl. Drafters:
Extra Copies: ZDW

Submit via email: YES
Requester's email: Sen.Petrowski@legis.wisconsin.gov
Carbon copy (CC) to: eric.mueller@legis.wisconsin.gov
aaron.gary@legis.wisconsin.gov
nate.yahn@dot.wi.gov

Pre Topic:

No specific pre topic given

Topic:

Conform to federal mobile telephone use requirements

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 6/3/2015		_____			
/P1	emueller 6/8/2015	aernsttr 6/4/2015	_____	mbarman 6/4/2015		
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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u> 6/8/2015	<u>Proofed</u> _____	<u>Submitted</u> 6/8/2015	<u>Jacketed</u> 6/8/2015	<u>Required</u>
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FE Sent For:

<END>

Mueller, Eric

From: Yahn, Nate - DOT <Nate.Yahn@dot.wi.gov>
Sent: Tuesday, June 02, 2015 2:02 PM
To: Mueller, Eric
Subject: RE: Amendment to SB 158
Attachments: RE: Amendment to SB 158

Eric,

The department would like to amend sections 30 and 34 of SB 158 and AB 209 (permission from Rep. Ripp's office is attached), relating to CDLs, to codify the prohibition regarding the "use of a hand-held mobile telephone", as defined in 49 CFR 390.5, for operators of commercial motor vehicles (CMV) while driving that is specified in 49 CFR 392.82.

The intent of these proposed changes are to allow operators of CMVs to continue using a hands-free telephone device in the same manner as what is currently allowed under existing Federal Motor Carrier Safety Administration (FMCSA) regulations. These changes will ensure that the bill is not more restrictive than what is required under federal law, in regards to the use of telephones by CMV operators.

Below is how we believe this would be accomplished, however, I'll obviously defer to LRB on exact changes. (Note: Our modifications to the bill are highlighted in yellow)

Please let me know if you have any questions. (608-513-7324)

When a draft of the amendment is ready, can you also please send it to me, so I can take a look at the proposed changes?

Nate

➤ **Page 11 of the bill:**

1) SECTION 30. 343.315 (2) (f) 10. of the statutes is created to read:

343.315 **(2)** (f) 10. Violating s. 346.89 (4) (b) or a local ordinance in conformity therewith or a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.89 (4) (b) or the law of another jurisdiction prohibiting driving a commercial motor vehicle, as defined in 49 CFR 390.5, while using a cellular or other wireless hand-held mobile telephone, as those or substantially similar terms are used in that jurisdiction's law. In this subdivision, "mobile telephone" has the meaning given in 49 CFR 390.5.

2) SECTION 34. 346.89 (4) (b) of the statutes is created to read:

346.89 **(4)** (b) Subject to sub. (3), no person may drive, as defined in s. 343.305 (1) (b), including while temporarily stationary because of traffic, a traffic control device or other momentary delays, any commercial motor vehicle, as defined in 49 CFR 390.5, while using a cellular or other wireless hand-held mobile telephone, except to report an emergency. emergency, by doing any of the following:

1. Using at least one hand to hold a mobile telephone or any connected accessories to conduct a voice communication.

2. Dialing or answering a mobile telephone by pressing more than a single button.

3. Reaching for a mobile telephone in a manner that requires a driver to maneuver so that he or she is no longer in a seated driving position.

SECTION 34m. 346.89 (4) (c) of the statutes is created to read:

346.89 (4) (c) In par. (b), "mobile telephone" has the meaning given in 49 CFR 390.5.

-
Nate Yahn

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

From: Punches, Derek [mailto:Derek.Punches@legis.wisconsin.gov]
Sent: Wednesday, May 27, 2015 4:44 PM
To: Mueller, Eric - LEGIS
Cc: Yahn, Nate - DOT
Subject: Amendment to SB 158

Eric –

Nate Yahn of DOT has permission from our office to work with you in drafting an amendment to Senate Bill 158. He is copied to this message should you have any questions.

Do not hesitate to contact me with any questions or concerns related to this request.

Best regards,
Derek

Derek Punches
Clerk, Senate Committee on Transportation and Veterans Affairs
Office of Senator Jerry Petrowski
29th Senate District
(608) 266-2502



State of Wisconsin
2015 - 2016 LEGISLATURE

LRBa0566/P1
EVM: *JKd*

DN

PMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE AMENDMENT ,
TO SENATE BILL 158

6/5/15

- 1 At the locations indicated, amend the bill as follows:
- 2 **1.** Page 11, line 4: before "Violating" insert "In this subdivision, "mobile
- 3 telephone" has the meaning given in 49 CFR 390.5."
- 4 **2.** Page 11, line 7: after "vehicle" insert ", as defined in 49 CFR 390.5,".
- 5 **3.** Page 11, line 7: delete "cellular or other wireless" and substitute "hand-held
- 6 mobile".
- 7 **4.** Page 11, line 21: delete lines 21 to 23 and substitute:
- 8 "346.89 (4) (b) 1. In this paragraph:
- 9 a. "Commercial motor vehicle" has the meaning given in 49 CFR 390.5.
- 10 b. "Drive" means the exercise of physical control over the speed and direction
- 11 of a motor vehicle while it is in motion or is temporarily stationary because of traffic,
- 12 a traffic control device, or other momentary delay.

- 1 c. "Mobile telephone" has the meaning given in 49 CFR 390.5. ✓
- 2 2. Subject to sub. (3), ✓ except to report an emergency, ✓ no person may drive any
- 3 commercial motor vehicle while using a hand-held mobile telephone ✓ in any the
- 4 following manners:
- 5 a. Using at least one hand ✓ to hold a mobile telephone or any connected
- 6 accessory to conduct a voice communication. ✓
- 7 b. Dialing or answering a mobile telephone ✓ by pressing more than a single
- 8 button.
- 9 c. Reaching for a mobile telephone in a manner that requires the driver to
- 10 maneuver ✓ so that he or she is no longer in a seated driving position." ✓

11

(END)

d-note
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0566/P1dn

EVM: *↑*

Jld

date

ATTN: Sen. Jerry Petrowski ✓

amendment

Please review the attached draft carefully to ensure that it is consistent with your intent. The following are several issues you may wish to consider in your review of this draft.

1. Please note the definition of "drive" in s. 346.89 (4) (b) *2*. *1* This definition includes the text from s. 343.305 (1) (b) and the additional language from 49 CFR 392.82. I removed the cross-reference to s. 343.305 (1) (b) because I wanted to avoid affecting how s. 343.305 is interpreted regarding temporary stops. Please let me know if you have any questions.

b.

2. Does s. 349.89 (4) (b) 2. *c.* require reference to the driver being unrestrained by a properly adjusted safety belt? See 49 CFR 390.5 (definition of "use a hand-held mobile telephone" item 3.).

amendment

amendment

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.

Eric V. Mueller
Legislative Attorney
(608) 261-7032
eric.mueller@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0566/P1dn
EVM:jld&ae

June 4, 2015

ATTN: Sen. Jerry Petrowski

Please review the attached amendment carefully to ensure that it is consistent with your intent. The following are several issues you may wish to consider in your review of this amendment.

1. Please note the definition of "drive" in s. 346.89 (4) (b) 1. b. This definition includes the text from s. 343.305 (1) (b) and the additional language from 49 CFR 392.82. I removed the cross-reference to s. 343.305 (1) (b) because I wanted to avoid affecting how s. 343.305 is interpreted regarding temporary stops. Please let me know if you have any questions.
2. Does s. 349.89 (4) (b) 2. c. require reference to the driver being unrestrained by a properly adjusted safety belt? See 49 CFR 390.5 (definition of "use a hand-held mobile telephone" item 3.).

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

Eric V. Mueller
Legislative Attorney
(608) 261-7032
eric.mueller@legis.wisconsin.gov

Mueller, Eric

From: Yahn, Nate - DOT <Nate.Yahn@dot.wi.gov>
Sent: Friday, June 05, 2015 6:44 PM
To: Mueller, Eric
Subject: RE: Draft review: LRB a0566/P1 Topic: Conform to federal mobile telephone use requirements

Hi Eric,

The department has one minor modification (proposed change is highlighted below) to the draft amendment (LRB-a0566/P1), to SB 158, which is the following:

- Page 2, line 2: delete “emergency,” and substitute “emergency to law enforcement officials or other emergency service providers,”.

“2. Subject to sub. (3), except to report an emergency, to law enforcement officials or other emergency service providers, no person may drive any commercial motor vehicle while using a hand-held mobile telephone in any the following manners:”

In regards to item #2 in your drafter's note, since there is an existing requirement for a seat belt to be used (s. 347.48(2m), Stats.), does a provision relating to the seat-belt requirement need to be also referenced in this bill, or is the provision listed in ch. 347 suffice? Staff believed that since there was already an existing requirement for a seat belt to be used, this particular federal provision (“... *restrained by a seat belt*...”) was not necessary for inclusion in the bill, but I will defer to your judgment.

The other changes included in the draft amendment look good. I'll give you a call on Monday to briefly discuss.

Thanks again for working on these changes for us.

Nate

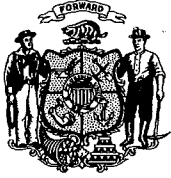
Nate Yahn

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

From: LRB.Legal [mailto:lrblegal@legis.wisconsin.gov]
Sent: Thursday, June 04, 2015 8:25 AM
To: Yahn, Nate - DOT
Subject: Draft review: LRB a0566/P1 Topic: Conform to federal mobile telephone use requirements

Draft Requester: Sen. Jerry Petrowski

Following is the PDF version of draft LRB a0566/P1 and drafter's note.



State of Wisconsin
2015 - 2016 LEGISLATURE

LRBa0566/P1
EVM:jld&ae

RMB

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

SENATE AMENDMENT ,
TO SENATE BILL 158

6/8/15

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3 telephone” has the meaning given in 49 CFR 390.5.”.

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6 mobile”.

7 **4.** Page 11, line 21: delete lines 21 to 23 and substitute:

8 “346.89 (4) (b) 1. In this paragraph:

9 a. “Commercial motor vehicle” has the meaning given in 49 CFR 390.5.

10 b. “Drive” means the exercise of physical control over the speed and direction
11 of a motor vehicle while it is in motion or is temporarily stationary because of traffic,
12 a traffic control device, or other momentary delay.

