



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-0040/P1
ARG:nwn:md

DOA:.....Byrnes, BB0069 - PRISM implementation; changes to IRP
credential denial and suspension

FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT *to renumber* 341.63 (3); *to amend* 341.41 (7), 343.315 (2) (h) and 343.44 (1) (c); and *to create* 340.01 (18j), 341.10 (16), 341.10 (17), 341.405 (3m), 341.63 (1) (f), 341.63 (1m), 341.63 (1r) and 341.63 (3) (b) of the statutes; **relating to:** motor vehicle registration under the International Registration Plan and commercial motor vehicle out-of-service violations.

Analysis by the Legislative Reference Bureau

TRANSPORTATION

DRIVERS AND MOTOR VEHICLES

Under current law, DOT must refuse, or suspend, registration of a vehicle for certain specified reasons. Current law also requires DOT, subject to certain conditions, to implement the International Registration Plan (IRP). The IRP is a registration reciprocity agreement among various jurisdictions, including states and Canadian provinces, providing for apportionment by these jurisdictions of the vehicle registration fees of motor carriers operating in more than one jurisdiction.

This bill requires DOT to refuse registration of a vehicle if the applicant applies for IRP registration and the applicant identifies as the motor carrier responsible for vehicle safety a motor carrier that is subject to a federal out-of-service order for

unsatisfactory safety compliance, based upon notice received by DOT. For motor vehicles already registered with DOT under the IRP, if DOT receives notice that a motor carrier has been issued a federal out-of-service order for unsatisfactory safety compliance, DOT must suspend the registration of each motor vehicle for which this motor carrier is identified on the vehicle's registration application as the motor carrier responsible for vehicle safety. DOT must also refuse or suspend registration under the IRP for a vehicle that has been identified by the Federal Motor Carrier Safety Administration as having been assigned for safety to a motor carrier whose business is operated, managed, or otherwise controlled or affiliated with a person that has been issued a federal out-of-service order for unsatisfactory safety compliance. The bill also allows DOT to refuse or suspend registration of a vehicle under the IRP if DOT determines that the motor carrier identified on the motor vehicle's registration application as the motor carrier responsible for vehicle safety is the same or substantially the same business, or that elements of the motor carrier operation are the same or substantially the same business elements, as a motor carrier that has been issued a federal out-of-service order for unsatisfactory safety compliance. If DOT refuses or suspends registration of a motor vehicle under the IRP for any of these reasons, the motor vehicle may still be registered under any registration category, other than the IRP, for which the motor vehicle qualifies. If DOT suspends registration of a motor vehicle under the IRP for any of these reasons, DOT must reinstate the vehicle's registration when the reason for the suspension has been removed and applicable reinstatement fees are paid.

The bill allows DOT to seize and destroy vehicle registration plates if the vehicle is registered under the IRP of this state or another state and the motor carrier identified on the vehicle's registration application as the motor carrier responsible for vehicle safety has been issued a federal out-of-service order for unsatisfactory safety compliance.

Under current law, DOT may issue to nonresident owners or operators of vehicles not required to be registered in this state trip permits authorizing vehicle operation in this state for a 72-hour period. This bill prohibits DOT from issuing these trip permits for any motor vehicle for which the motor carrier identified on the permit application as the motor carrier responsible for safety of the vehicle has been issued a federal out-of-service order for unsatisfactory safety compliance.

Current law prohibits a person from operating a commercial motor vehicle while the person or the commercial motor vehicle is ordered out-of-service under state or federal law. A person is disqualified from operating a commercial motor vehicle for a specified time period if the person is convicted of operating a commercial motor vehicle while the operator or vehicle is ordered out-of-service under state or federal law.

This bill prohibits a person from operating a commercial motor vehicle for which the motor carrier identified on the motor vehicle's registration application as the motor carrier responsible for vehicle safety has been issued a federal out-of-service order for unsatisfactory safety compliance, while this federal out-of-service order is in effect. A person who violates this prohibition is

disqualified from operating a commercial motor vehicle for the same time periods applicable to other out-of-service violations.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

SECTION 1. 340.01 (18j) of the statutes is created to read:

340.01 (18j) “Federal out-of-service order for unsatisfactory safety compliance” means an out-of-service order issued by the federal motor carrier safety administration under 49 CFR 385.13 (a), 385.105 (b), 385.111 (a) or (c), 385.325 (c), 385.337 (b), 386.72 (b) (2), 386.83 (a) (1), or 386.84 (a) (1).

SECTION 2. 341.10 (16) of the statutes is created to read:

341.10 (16) The applicant has applied for registration under the international registration plan specified in s. 341.405 and, in the registration application, the applicant has identified as the motor carrier responsible for the safety of the motor vehicle to be registered a motor carrier for which the department has received notice that the motor carrier is subject to a federal out-of-service order for unsatisfactory safety compliance. This subsection does not prohibit the applicant from registering the motor vehicle under any applicable provision of this chapter other than s. 341.405.

SECTION 3. 341.10 (17) of the statutes is created to read:

341.10 (17) The applicant has applied for registration under the international registration plan specified in s. 341.405 and the motor vehicle for which application is made has been identified by the federal motor carrier safety administration as having been assigned for safety to a motor carrier whose business is operated, managed, or otherwise controlled or affiliated with a person that has been issued a

federal out-of-service order for unsatisfactory safety compliance. This subsection does not prohibit the applicant from registering the motor vehicle under any applicable provision of this chapter other than s. 341.405.

SECTION 4. 341.405 (3m) of the statutes is created to read:

341.405 **(3m)** (a) If the registration of a motor vehicle registered under this section is suspended under s. 341.63 (1) (f), (1m), or (1r), or if an application for registration is refused under s. 341.10 (16) or (17), the motor vehicle may be registered, subject to all applicable requirements and fees, under any applicable provision of this chapter other than this section.

(b) All of the following apply to a person who registers a motor vehicle under another applicable provision of this chapter as described in par. (a):

1. The person is not entitled to credit for any registration fee previously paid to register the motor vehicle under this section.

2. If the motor vehicle's registration under this section is reinstated after this registration period has expired, in renewing the motor vehicle's registration under this section the person is entitled to credit for the registration fee paid to register the motor vehicle as described in par. (a), calculated based upon the unused portion of that registration period.

(c) Notwithstanding s. 341.10 (16) and (17), the department may refuse registration of a motor vehicle under this section if the department determines that the motor carrier identified on the motor vehicle's registration application as the motor carrier responsible for safety of the vehicle is the same or substantially the same business, or that elements of the motor carrier operation are the same or substantially the same business elements, as a motor carrier that has been issued a federal out-of-service order for unsatisfactory safety compliance.

SECTION 5. 341.41 (7) of the statutes is amended to read:

341.41 (7) Except as to foreign owned vehicles required by s. 341.07 to be registered in this state, vehicles owned or operated by a nonresident in interstate or intrastate movement may be qualified by advance purchase of a trip permit which authorizes operation for a 72-hour period when the vehicle is not eligible for reciprocal privileges. Unless waived by the secretary, the fee for the trip permit shall be not less than \$15. The secretary may, upon determining that a special transportation need exists, waive the fee for the trip permit. The secretary shall make rules and regulations for the issuance and use of the permits. No permit may be issued under this subsection for any motor vehicle for which the motor carrier identified on the permit application as the motor carrier responsible for safety of the vehicle has been issued a federal out-of-service order for unsatisfactory safety compliance.

SECTION 6. 341.63 (1) (f) of the statutes is created to read:

341.63 (1) (f) The motor vehicle is registered under the international registration plan specified in s. 341.405 and the motor vehicle has been identified by the federal motor carrier safety administration as having been assigned for safety to a motor carrier whose business is operated, managed, or otherwise controlled or affiliated with a person that has been issued a federal out-of-service order for unsatisfactory safety compliance.

SECTION 7. 341.63 (1m) of the statutes is created to read:

341.63 (1m) Upon receiving notice that a motor carrier has been issued a federal out-of-service order for unsatisfactory safety compliance, the department shall suspend the registration of each motor vehicle to which all of the following apply:

(a) The motor carrier is identified on the motor vehicle's registration application as the motor carrier responsible for the safety of the vehicle.

(b) The motor vehicle is registered under the international registration plan specified in s. 341.405.

SECTION 8. 341.63 (1r) of the statutes is created to read:

341.63 (1r) The department may suspend the registration of a motor vehicle registered under the international registration plan specified in s. 341.405 if the department determines that the motor carrier identified on the motor vehicle's registration application as the motor carrier responsible for safety of the vehicle is the same or substantially the same business, or that elements of the motor carrier operation are the same or substantially the same business elements, as a motor carrier that has been issued a federal out-of-service order for unsatisfactory safety compliance.

SECTION 9. 341.63 (3) of the statutes is renumbered 341.63 (3) (a).

SECTION 10. 341.63 (3) (b) of the statutes is created to read:

341.63 (3) (b) In addition to or in lieu of ordering the return of registration plates under par. (a), the department may seize and destroy the registration plates of any motor vehicle for which all of the following apply:

1. The motor carrier identified on the motor vehicle's registration application as the motor carrier responsible for safety of the vehicle has been issued a federal out-of-service order for unsatisfactory safety compliance.

2. The motor vehicle is registered under the international registration plan specified in s. 341.405 or under a similar international registration plan under the law of another jurisdiction.

SECTION 11. 343.315 (2) (h) of the statutes is amended to read:

343.315 (2) (h) Except as provided in par. (i), a person shall be disqualified for a period of 90 days from operating a commercial motor vehicle if convicted of an out-of-service violation, or 2 years if convicted of 2 out-of-service violations, or 3 years if convicted of 3 or more out-of-service violations, arising from separate occurrences committed within a 10-year period while operating a commercial motor vehicle. A disqualification under this paragraph shall be in addition to any penalty imposed under s. 343.44. In this paragraph, "out-of-service violation" means violating s. 343.44 (1) (c) or a law of another jurisdiction for an offense therein which, if committed in this state, would have been a violation of s. 343.44 (1) (c), ~~by operating a commercial motor vehicle while the operator or vehicle is ordered out-of-service under the law of this state or another jurisdiction or under federal law,~~ if the operator holds a commercial driver license or is required to hold a commercial driver license to operate the commercial motor vehicle.

SECTION 12. 343.44 (1) (c) of the statutes is amended to read:

343.44 (1) (c) *Operating while ordered out-of-service.* No person may operate a commercial motor vehicle while the person or the commercial motor vehicle is ordered out-of-service under the law of this state or another jurisdiction or under federal law. No person may operate a commercial motor vehicle for which the motor carrier identified on the motor vehicle's registration application as the motor carrier responsible for safety of the vehicle has been issued a federal out-of-service order for unsatisfactory safety compliance, while this federal out-of-service order is in effect.

SECTION 9348. Initial applicability; Transportation.

(1) The treatment of sections 341.10 (16) and (17) and 341.63 (1) (f) and (1m) of the statutes first applies with respect to notices or identifications received by the department of transportation on the effective date of this subsection.

(2) The treatment of sections 341.405 (3m) (c), 341.41 (7), and 341.63 (1r) of the statutes first applies to applications received by the department of transportation on the effective date of this subsection.

(3) The treatment of sections 343.315 (2) (h) and 343.44 (1) (c) of the statutes first applies to violations committed on the effective date of this subsection, but does not preclude the counting of other violations as prior violations for purposes of administrative action by the department of transportation or sentencing by a court.

(4) The treatment of section 341.63 (3) (b) of the statutes first applies with respect to federal out-of-service orders issued on the effective date of this subsection.

(END)