

State of Wisconsin



2015 Assembly Bill 426

Date of enactment: **February 4, 2016**

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2015 WISCONSIN ACT 137

AN ACT *to amend* 20.395 (5) (dg), 25.40 (1) (a) 14. and 227.43 (1) (bg); and *to create* 348.105 and 348.11 (3) of the statutes; **relating to:** transport of 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:

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

20.395 (5) (dg) *Escort, security, and traffic enforcement services, state funds.* From the general fund, all moneys received under ~~ss. 348.105 and~~ 348.26 (2) for motor carrier escort services and under s. 85.51 for security and traffic enforcement services, for those purposes.

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

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

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

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

SECTION 4. 348.105 of the statutes is created to read:
348.105 Transport of radiological materials. (1)

In this section:

(a) "Highway route controlled quantity" has the meaning given in [49 CFR 173.403](#).

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

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

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

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

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

(4) An application for a permit shall be made to the department using an electronic application process established by the department. The department shall charge a fee of \$1,800 for a permit. 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).

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

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

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

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

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

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

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

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

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

(h) If an application for a permit is denied or a permit is suspended or revoked, the 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.

(i) The department may enter into a reciprocal agreement with another jurisdiction for the issuance or recog-

inition of permits if that jurisdiction's laws or rules regarding permits for the transport of radiological materials are substantially similar to those imposed by this section. Any permit recognized by this state under a reciprocal agreement shall be considered a permit under this section.

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

1. The applicant identifies each potential operator of a vehicle under the permit and provides proof that each 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.

2. 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.

3. The applicant provides proof, by a certificate of insurance filed with the department, demonstrating that the applicant has in effect 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, in amounts not less than are required under [49 CFR 387](#).

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

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

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

3. 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.

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

(L) The provisions of this section apply in addition to any other requirement imposed under this chapter, chs. 194, 343, 346, and 347, and federal law.

(6) Sections 348.25 to 348.29 do not apply to a permit.

SECTION 5. 348.11 (3) of the statutes is created to read:

348.11 (3) Any person violating s. 348.105 may be required to forfeit not less than \$2,000 nor more than \$5,000.

SECTION 6. Effective date.

(1) This act takes effect on the 90th day after the day of publication.
