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## WISCONSIN LEGISLATIVE COUNCIL

### 2005-06 SESSION IN REVIEW

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## *Transportation*

The Wisconsin Legislature considered many items in the 2005-06 Session relating to transportation. Because of the large number of proposals, the number summarized in the memorandum is limited. Legislative Council Act Memos provide a more thorough description of the acts described in this memorandum and are available at [www.legis.state.wi.us/lc](http://www.legis.state.wi.us/lc).

The 2005-06 Legislature enacted legislation on various aspects of transportation, including driver's licenses, registration and operation of vehicles, and sign requirements.

### **LICENSING AND REGISTRATION**

***Documentation and Legal Status for Licensing*** - 2005 Wisconsin Act 126 requires a person applying for a license or identification (ID) card from the Department of Transportation (DOT) to provide, in addition to current required information, documentary proof that the individual is a U.S. citizen or documentary proof that the individual is legally present in the U.S. If the individual is not a U.S. citizen, he or she must provide proof of one of the items set forth in the Act. A license or ID card that is issued to a person who is not a U.S. citizen and who provides documentary proof of legal status expires on the date that the person's legal presence in the U.S. is no longer authorized.

***Disposal of Unregistered Vehicles*** - Act 185 for the purposes of the laws relating to immobilization, impoundment, and disposal of unregistered vehicles, changes the definition of "unregistered motor vehicle" so that it applies to any motor vehicle that: (1) is located upon a highway; and (2) is not displaying valid license plates, a temporary operation plate, or, for vehicles registered with DOT on a quarterly or consecutive monthly basis, other evidence of registration for the vehicle's current registration period or a registration period that expired the preceding month.

***Penalty for Violating Operating Restrictions*** - Act 294 changes the penalty for persons who violate operating restrictions under a motor vehicle probationary license or an instruction permit to a forfeiture of \$50 for a first offense and not less than \$50 nor more than \$100 for each subsequent offense.

***Licensing and Regulation of Driver Education Schools*** - Act 397 changes the standards for licensing, testing, and regulating driver education schools and driver education instructors. Among other provisions, the Act: (1) specifies that no person may operate a driver school, advertise, solicit bids for business, or provide services unless the person holds a valid driver school license issued by DOT;

and (2) extends the license period for driver schools to up to 24 months after issuance, and for instructors from one year to up to 24 months.

### **TRAFFIC SAFETY**

***Child Safety Restraints and Safety Belts*** - Act 106, among other provisions, creates a tiered structure, according to age and size, of restraint requirements for transporting children under the age of eight in a motor vehicle. A child who is: (1) less than one year old or who weighs less than 20 pounds must be properly restrained in a rear-facing child safety seat in the back seat of the vehicle if the vehicle is equipped with a back seat; (2) at least one year old and weighs at least 20 pounds but is less than four years old or weighs less than 40 pounds must be properly restrained in a forward-facing child safety seat in the back seat of the vehicle if the vehicle is equipped with a back seat; (3) at least four years old but less than eight years old, weighs at least 40 but not more than 80 pounds, and is no more than 57 inches tall must be properly restrained in a child booster seat; and (4) under the age of eight and exceeds the weight or height limits under item 3., above, must be properly restrained by a seat belt.

***Emergency Preemption Device*** - Act 193 prohibits a person from operating a vehicle, other than an authorized emergency vehicle, that is equipped with a transmitter that emits a signal for the purpose of activating an emergency preemption device or a vehicle in which such a transmitter is located. "Emergency preemption device" is defined as a device on a traffic control signal that permits an approaching vehicle to alter the normal sequence of the signal to provide or maintain a green light for the emergency vehicle.

***Transporting Firearm in a Vehicle*** - Act 345 creates a new exemption from current prohibitions on placing, possessing, or transporting a firearm in or on a vehicle. The exemption applies: (1) to a firearm that is unloaded but not encased; and (2) when specified vehicles are used to transport individuals involved in sport shooting activities at sport shooting ranges, the vehicles are operated entirely on private property and are not operated in the right-of-way of any highway, and the individuals using the vehicles are not hunting.

***Vehicle Owner Liability for Certain Offenses*** - Act 411 authorizes the imposition, under certain circumstances, of a civil forfeiture on a ***vehicle owner*** for failure-to-stop or "hit-and-run" violations involving the owned vehicle.

***Causing Damage or Injury While Operating Without a License*** - Act 412 provides that a person who knowingly operates a motor vehicle without a valid license or with an operator's license that has been revoked, suspended, or cancelled, will be penalized as follows: (1) causing damage to the property of another, a forfeiture of \$1,000; (2) causing injury to another person, a forfeiture of \$5,000; and (3) causing great bodily harm or death to another person, guilty of a Class A misdemeanor.

### **OPERATING A MOTOR VEHICLE WHILE INTOXICATED AND ABSOLUTE SOBRIETY**

***Absolute Sobriety*** - Act 317 increases the forfeiture for driving while under the legal drinking age (21 years) and having an alcohol concentration above 0.0 ("Absolute Sobriety" statute) from \$10 to \$200. If, at the time of the violation, there is a passenger under 16 years of age in the vehicle, the forfeiture is increased from \$20 to \$400. The violator is also assessed four demerit points.

***Discovery in Refusal Cases*** - Act 332 provides that, in general, with respect to a refusal hearing for failure to consent to a test for blood alcohol content, and with respect to a prosecution for a violation

of ch. 125, Stats. (alcohol beverage regulation), that may result in a forfeiture, neither party is entitled to pretrial discovery, with limited exceptions relating to inspection of documents and testing of devices.

***Pilot OWI Program*** - Act 389 creates a pilot program in Winnebago County that reduces the mandatory minimum periods of imprisonment if an OWI offender successfully completes a period of probation that includes alcohol and other drug treatment.

***Testing of Drivers Involved in Certain Accidents*** - Act 413 provides that if a driver is involved in an accident that causes the death of, or great bodily harm to, any person, and a law enforcement officer detects any presence of alcohol or a controlled substance or other drug, the officer may request the driver to provide one or more chemical samples for the purpose of determining the presence or quantity in his or her blood or breath of alcohol or a controlled substance or other drug. The person may be arrested for refusing to provide a sample.

### **PARKING**

***Reserved Parking Programs*** - Act 326 creates provisions relating to reserved parking and reserved parking programs including: (1) permitting a local authority, with respect to highways under its jurisdiction, to authorize persons whose residences abut a highway in a zone where parking is prohibited by official signs, guests of such persons, and commercial enterprises providing services to such persons to park their vehicles in the highway zone without regard to the posted prohibitions; and (2) specifying that if a University of Wisconsin System college campus located in a 1st class city (currently, the University of Wisconsin-Milwaukee) creates 721 parking spaces on campus, a 1st class city may initiate a program to reserve 721 parking spaces for persons whose residences are adjacent to the UW System college campus, guests of such persons, and commercial enterprises providing services to such persons.

***Parking Privileges for Disabled*** - Act 455 increases the forfeiture for certain violations relating to parking privileges for persons with physical disabilities, and makes some modification in the scope of the violations, including prohibiting any person or organization from: (1) selling as well as lending (current law) to another a special ID card, knowing that the person purchasing or borrowing the card is not authorized to use it; and (2) displaying a special ID card upon a vehicle knowing that the vehicle is not authorized by law to display the card.

### **MOTOR VEHICLES ON HIGHWAYS**

***Double-Decked Buses*** - Act 11 limits the previous complete prohibition on operation of double-decked motor buses on public highways to those of a soft-top or open-roof design. With reference to the exception created in the Act for hard-topped, closed-roof designed, double-decked buses, the Act: (1) creates an exception to the general vehicle height limitation for double-decker buses if certain specified conditions are satisfied; and (2) permits a local authority to deny, for any reason, approval for the operation of such a vehicle regardless of whether the Act's requirements are satisfied, on any highway under its jurisdiction.

***Three Vehicle Combination on Highway*** - Act 119 increases the maximum permissible overall length of a three-vehicle combination on a highway (the towing vehicle plus two towed vehicles) from 60 feet to 65 feet if the middle vehicle in the three-vehicle combination is equipped with brakes adequate to control the movement of and to stop and hold it.

***Neighborhood Electric Vehicle*** - Act 329 authorizes cities, villages, and towns (municipalities) to permit by ordinance the use of a neighborhood electric vehicle (defined in the Act) on a roadway that has a speed limit of 35 miles per hour or less and over which the governing body of the municipality has jurisdiction. The term “neighborhood electric vehicle” does not include golf carts.

### **COMMERCIAL MOTOR VEHICLES ON HIGHWAYS**

***Farm Trucks Exempt From Regulation as Motor Carriers*** - Act 65 exempts from regulation as a motor carrier any farm truck or dual purpose farm truck combined with any semitrailer or farm trailer, or any vehicle combined with a horse trailer, if the vehicle’s gross combination weight rating, registered weight, and actual gross weight do not exceed 26,000 pounds, the vehicle combination does not include a vehicle designed to transport or actually transporting the driver and 15 or more passengers or a vehicle transporting certain hazardous or toxic materials, and the vehicle combination is operated solely in intrastate commerce.

***Raw Forest Products, Fruits, and Vegetables Permit*** - Act 167 modifies the raw forest products, fruits, and vegetables permit with respect to the transportation of raw forest products so that the current version of the permit will no longer be issued after January 1, 2011. A new version of the permit will be available on the effective date of the Act, and in the interim an applicant may apply for either version of the permit. Under the new version of the permit, DOT may issue a raw forest products, fruits, and vegetables permit for the transportation of raw forest products in vehicle combinations that exceed generally applicable statutory gross weight limitations by not more than 18,000 pounds if the vehicle combination has six or more axles and the gross weight imposed on the highway by the wheels of any one axle of the vehicle combination does not exceed 18,000 pounds, except that the gross weight imposed on the highway by the wheels of any steering axle on the power unit may not exceed the greater of 13,000 pounds or the manufacturer’s rated capacity, but not to exceed 18,000 pounds. The permit does not authorize the operation of any vehicle combination at a maximum gross weight in excess of 98,000 pounds. The permit is also not valid on interstate highways, on highways or bridges with posted weight limitations less than the vehicle combination’s gross weight, and on state trunk highways that DOT has designated by rule as routes on which the permit is not valid.

***Transportation of Agricultural Crops*** - Under Act 364, from September 1 to November 30 of each year, certain vehicles with a gross weight of 50,000 pounds or more transporting certain agricultural crops from the field to initial storage to initial processing may, without a permit, exceed weight limits by not more than 15%. This exception does not apply to certain specified highways.

### **SIGNS**

***“Attractions” Listed on Specific Information Signs*** - Act 136 allows specific information signs to display the word “attraction,” along with “gas,” “food,” “lodging,” and “camping,” and allows a sign mounted on the specific information sign to identify the attraction. An attraction must have: (1) a primary purpose of providing amusement, historical, cultural, or leisure activities to the public; (2) regional significance; and (3) adequate parking accommodations.

***Variable Messages on Outdoor Advertising Signs*** - Act 464 provides that off-premises business area signs may contain multiple or variable messages, including messages on louvers that are rotated and messages formed solely by use of lights or other electronic or digital displays, that may be changed by any electronic process, subject to the restrictions set forth in the Act.

***Removal of Vegetation Obstructing Signs*** - Act 465 creates a DOT permit system for the maintenance and removal by sign owners of vegetation obstructing the view of signs along highways under the jurisdiction of DOT for maintenance purposes. Under the Act, DOT may issue permits to sign owners for the trimming, removal, or relocation of vegetation that is located in the right-of-way of a state trunk highway and that obstructs a sign if, within various specified distances along the main-traveled way of the highway, the face of the sign is not viewable because of an obstruction to sight by vegetation in the highway right-of-way.

### **MISCELLANEOUS**

***Biodiesel Fuel and School Transportation Aids*** - Act 43 permits the Department of Public Instruction (DPI) to provide school transportation aids to school districts that use biodiesel fuel (defined in the Act) for school bus transportation to cover, with certain restrictions, the increased cost of using this fuel as compared to the cost of using petroleum-diesel fuel for school bus transportation.

***Biodiesel Fuel Labeling*** - Act 83 (effective July 1, 2007): (1) prohibits sellers of biodiesel fuel from advertising or offering for sale fuel labeled as pure biodiesel fuel unless the fuel contains no other type of petroleum product, the fuel is registered as biodiesel fuel with the federal government, and the fuel meets all of the applicable requirements of the American Society for Testing and Materials (ASTM); and (2) prohibits sellers from selling fuel labeled as a biodiesel blend unless the fuel contains at least two percent pure biodiesel fuel and meets all of applicable requirements of the ASTM.

***Motor Vehicle Dealers*** - Act 256 clarifies certain duties a motor vehicle manufacturer, importer, or distributor has concerning motor vehicle dealers. Under the Act, a manufacturer, importer, or distributor may be liable for damages, including actual costs and attorneys fees, if it engages in action or fails to act in a way that is arbitrary and causes material damage to the dealer.

***Salvage Dealers*** - Act 339 requires every applicant for a new or renewed motor vehicle salvage dealer license to provide to DOT proof that a permit, if required by DNR, has been issued by DNR relating to storm water discharge and proof that certification, if required by DNR, has been issued by DNR relating to refrigerant recovery.

***Railroads*** - Act 179: (1) repeals many provisions of state law relating to railroad regulation that may be inconsistent with federal law; and (2) modernizes certain provisions of state law.

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