State of Wisconsin
2025 - 2026 LEGISLATURE

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ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO SENATE BILL 179

February 19, 2026 - Offered by Representative GUNDRUM.

AN ACT ***to amend*** 78.12 (4) (b) 2. and 78.12 (5); ***to create*** 15.407 (19), 16.5185 (6), 78.12 (4) (b) 1m., 78.12 (4) (b) 1n., 78.12 (6), 78.201 and 101.138 of the statutes; **relating to:** the regulation of certain equipment operators, applying the motor vehicle fuel tax supplier's administrative allowance to diesel fuel, and a motor vehicle fuel tax refund for evaporation losses, and providing a penalty.

Analysis by the Legislative Reference Bureau

Regulation of equipment operators involved in highway improvement

This bill provides that no individual employed by a local government may operate heavy equipment in this state for construction, renovation, grading, or demolition purposes for a highway improvement unless the individual holds a valid license issued by the Department of Safety and Professional Services. The bill defines "heavy equipment," generally, as equipment, whether operating on site or remotely, that is not a crane; that has a dry weight, as determined by the manufacturer of the equipment, of 26,000 pounds or more; and that is used to

perform various tasks such as moving, compacting, breaking, placing, or grading construction materials, earth, or other heavy materials. Under the bill, a "highway improvement" is an improvement resulting from construction and other processes incidental to building, fabricating, or bettering a highway, street, or bridge but does not include maintenance.

Under the bill, DSPS must issue a license to an individual employed by a local government to operate heavy equipment for construction, renovation, grading, or demolition purposes for a highway improvement if the individual is at least 18 years of age and has at least 2,000 hours of experience operating heavy equipment in the five-year period immediately preceding applying for a license or at least 10,000 hours of experience operating heavy equipment prior to applying for a license. In addition, if the individual does not have at least 10,000 hours of experience operating heavy equipment, the individual must provide proof that he or she has successfully completed an apprenticeship program in the operation of heavy equipment recognized by the U.S. Department of Labor. The license is valid for five years and may be renewed.

DSPS may issue an apprentice heavy equipment operator license to an individual employed by a local government who does not have the requisite experience, if the individual is at least 18 years of age, has passed a written examination approved by DSPS, and is enrolled in a training program for operating heavy equipment that is recognized by the U.S. Department of Labor. The apprentice license is valid for three years. Under the bill, an apprentice must be supervised by an individual who holds a valid heavy equipment operator license issued by DSPS.

Finally, the bill creates the Heavy Equipment Council in DSPS to advise DSPS on administering the regulation of heavy equipment operators in this state. The council consists of four members who represent entities engaged in operating heavy equipment in this state or engaged in construction involving a highway improvement in this state. The bill requires the council to meet at least twice in each year and requires DSPS to consider any recommendation made by the council.

The bill takes effect after the Employment Relations Commission sends a notice for publication in the Wisconsin Administrative Register that a municipal employer may collectively bargain with a collective bargaining unit containing a general municipal employee with respect to wages, hours, and conditions of employment. Current law prohibits municipal employers from collectively bargaining with a collective bargaining unit containing a general municipal employee on a factor or condition of employment other than total base wages.

Administrative allowance of the motor vehicle fuel tax

Current law allows a motor vehicle fuel supplier to retain as an administrative allowance 1.35 percent of the motor vehicle fuel tax the supplier collects on the first sale of gasoline in this state. The bill allows a motor vehicle fuel supplier to retain the same administrative allowance for the motor vehicle fuel tax the supplier collects on the first sale of diesel fuel in this state.

Retailer refund for motor vehicle fuel evaporation

The bill allows a retailer who sells gasoline, diesel fuel, or both (motor vehicle

fuel) in this state to claim a refund equal to 0.5 percent of the state motor vehicle fuel tax paid on the retailer's purchase of the motor vehicle fuel to compensate for motor vehicle fuel stored on site that is lost by shrinkage or evaporation. A claim for a refund under the bill must be made to the Department of Revenue no later than 12 months after the date on which the retailer purchased the motor vehicle fuel and must be accompanied with invoices prepared by the motor vehicle fuel supplier or a list of purchases prepared by the retailer. Prior to 2019, the state provided such refunds to compensate gasoline retailers for shrinkage and evaporation losses.

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

SECTION 1. 15.407 (19) of the statutes is created to read:

15.407 **(19)** HEAVY EQUIPMENT COUNCIL. (a) There is created in the department of safety and professional services a heavy equipment council consisting of the following members appointed for staggered 3-year terms:

1. Two members who represent a labor organization whose members are engaged in the operation of heavy equipment, each of whom is actively involved in providing, or in administering the provision of, skills improvement and apprenticeship training programs.

2. Two members who represent an association that is engaged in construction involving a highway improvement, as defined in s. 101.138 (1) (c), in this state and whose membership includes employers of heavy equipment operators.

(b) The council shall meet at least twice each year.

SECTION 2. 16.5185 (6) of the statutes is created to read:

16.5185 **(6)** Beginning on June 30, 2027, in each fiscal year, the secretary shall transfer from the general fund to the transportation fund the amount determined under s. 78.12 (6).

SECTION 3. 78.12 (4) (b) 1m. of the statutes is created to read:

78.12 **(4)** (b) 1m. Subtract from the amount under subd. 1. an amount equal to 0.0125 multiplied by the number of gallons under subd. 1.

SECTION 4. 78.12 (4) (b) 1n. of the statutes is created to read:

78.12 **(4)** (b) 1n. Subtract from the amount under subd. 1m. an amount equal to 0.001 multiplied by the number of gallons under subd. 1.

SECTION 5. 78.12 (4) (b) 2. of the statutes is amended to read:

78.12 **(4)** (b) 2. Multiply the number of gallons under subd. ~~1.~~ 1n. by the rate published under s. 78.015 as increased under s. 78.017.

SECTION 6. 78.12 (5) of the statutes is amended to read:

78.12 **(5)** PAYMENT OF TAX. Licensed suppliers shall pay taxes on motor vehicle fuel no later than the 15th day of the month for motor vehicle fuel sold during the previous month. At the option of a wholesaler distributor, a licensed supplier shall allow the wholesaler distributor to delay paying the tax to the licensed supplier until the date that the tax is due to this state. A wholesaler distributor who makes delayed payments shall make the payments by electronic funds transfer. If a wholesaler distributor fails to make timely payments, the licensed supplier may terminate the right of the wholesaler distributor to make delayed payments. Each licensed supplier shall notify the department of each wholesaler distributor who makes delayed payments of the tax. The department may require any wholesaler distributor who makes delayed payments of the tax to furnish the department a surety bond payable to this state in an amount not to exceed 3 times the highest estimated monthly tax owed by the wholesaler distributor. Whenever the wholesaler distributor pays the licensed supplier, the licensed supplier shall credit the wholesaler distributor's account for the amount of

tax reduction that results from the ~~calculation~~ calculations under s. 78.12 (4) (a) 2. and (b) 1m.

SECTION 7. 78.12 (6) of the statutes is created to read:

78.12 **(6)** (a) On June 30, 2027, the department shall determine the amount that licensees retained as administrative allowances under sub. (4) (b) in the 2026-27 fiscal year and certify that amount to the department of administration.

(b) Beginning on June 30, 2028, in each fiscal year, the department shall determine the amount that licensees retained as administrative allowances in the previous fiscal year under sub. (4) (b) and certify that amount to the department of administration.

(c) The department of administration shall transfer the amounts determined under pars. (a) and (b) from the general fund to the transportation fund, as provided under s. 16.5185 (6).

SECTION 8. 78.201 of the statutes is created to read:

78.201 Refund to retailers. (1) Any retail dealer who operates a service station, store, garage, or other place of business within this state for the retail sale of motor vehicle fuel from that place of business who has paid the tax imposed under s. 78.01 on the motor vehicle fuel received into storage at that place of business may claim a refund to cover motor vehicle fuel shrinkage and evaporation losses in an amount equal to 0.5 percent of the tax imposed under s. 78.01 on the purchase of the motor vehicle fuel.

(2) Subject to the requirements and limitations provided in this section, a retail dealer shall receive the refund under this section if the retail dealer files a

claim with the department no later than 12 months after the date on on which the retail dealer purchased the motor vehicle fuel.

(3) For purposes of this section, a supplier shall furnish each retail dealer with an invoice prepared at the time of delivering the motor vehicle fuel and the retail dealer shall send that invoice or a list of purchases to the department when filing a claim under this section. The supplier shall ensure that the invoice contains all of the following information:

(a) The date of sale.

(b) The name and address of the supplier.

(c) The name and address of the retail dealer.

(d) The number of gallons purchased by the retail dealer and the price per gallon.

(e) As a separate item, the amount of the tax imposed under s. 78.01 on the motor vehicle fuel.

(4) (a) For purposes of filing a claim under this section, if the retail dealer sends invoices prepared under sub. (3) to the department, the retail dealer shall send a separate invoice for each sale.

(b) For purposes of filing a claim under this section, if, instead of sending invoices, the retail dealer sends a list of purchases to the department, the retail dealer shall retain for 4 years the invoices prepared and received under sub. (3) as evidence of those purchases and shall allow the department to inspect the invoices.

(5) Upon receiving a claim under this section, the department shall determine the amount of refund due. The department may make such investigation of the correctness of the facts stated in the claim as the department deems necessary. The

department may not deny a claim filed under this section for failure of the invoices or list of purchases submitted by the retail dealer to show the amount of the tax imposed under s. 78.01 on the motor vehicle fuel as a separate item if the department is able to determine the amount of the tax from the information stated on the invoices or list of purchases.

SECTION 9. 101.138 of the statutes is created to read:

101.138 Regulation of equipment operators involved in highway improvement. (1) DEFINITION. In this section:

(a) "Crane" means power-operated equipment, when used in construction, that can hoist, lower, and horizontally move a suspended load, as regulated by 29 CFR 1926.1400.

(b) 1. "Heavy equipment" means equipment, whether operating on site or remotely, that is not a crane; that has a dry weight, as determined by the manufacturer of the equipment, of 26,000 pounds or more; and that is used to do any of the following:

a. Move, compact, break, place, or grade construction materials, earth, or other heavy materials.

b. Clear or grade land.

c. Excavate or dig earth or other heavy materials.

d. Drive vertically into the earth.

2. "Heavy equipment" includes all of the following:

a. Caisson rigs.

b. Pile drivers used to install piles and posts.

c. Pile extractors.

d. Dredges.

e. Excavators.

f. Power shovels.

g. Tractor loader backhoes.

h. Concrete breakers.

i. Subgraders.

j. Concrete grinding and planing machines.

k. Slipform curb and gutter machines.

L. Shoulder wideners.

m. Milling machines.

n. Planers.

o. Scarifiers.

p. Graders.

q. Scrapers.

r. Bulldozers.

s. Pushers.

t. End loaders.

u. Side boom tractors.

v. Off-road material haulers.

w. Straddle carriers.

x. Rollers.

y. Compactors.

z. Shouldering machines.

za. Self-propelled chip spreaders.

zb. Back fillers.

zc. Portable crusher screens.

zd. Rock breakers.

ze. Telehandlers.

zf. Heavy equipment identified by majority vote of the members of the heavy equipment council under s. 15.407 (19).

(c) 1. "Highway improvement" means an improvement resulting from construction of, reconstruction of, rehabilitation of, and processes incidental to building, fabricating, or bettering, a highway, street, or bridge.

2. "Highway improvement" does not include any of the following:

a. Maintenance activities described in s. 84.07 (1).

b. The installation, replacement, rehabilitation, or maintenance of signs, lighting, or pavement markings or the maintenance of traffic control signals or intelligent transportation systems, unless incidental to building, fabricating, or bettering a highway, street, or bridge.

(d) "Local government" means a city, village, town, or county.

(e) "Operate" means to operate, assemble, maintain, or disassemble.

(2) LICENSES AND CERTIFICATIONS. Beginning on the first day of the 12th month beginning after the effective date of this paragraph …. [LRB inserts date], no individual employed by a local government may operate heavy equipment in this state for construction, renovation, grading, or demolition purposes for a highway improvement unless the individual holds a valid license issued under sub. (3) or (4). If an individual employed by a local government holds an apprentice license issued under sub. (4), he or she may not operate heavy equipment in this state for

construction, renovation, grading, or demolition purposes for a highway improvement unless he or she is being supervised by another individual who holds a valid license issued under sub. (3).

(3) LICENSING QUALIFICATIONS; HEAVY EQUIPMENT OPERATORS. The department shall issue a license to operate heavy equipment in this state to each individual employed by a local government who submits an application under sub. (6) and who meets all of the following requirements:

(a) The individual is at least 18 years of age.

(b) The individual has either of the following:

1. At least 2,000 hours of experience in operating heavy equipment in the 5-year period immediately preceding his or her license application under sub. (6) and proof that the individual has successfully completed an apprenticeship program in the operation of heavy equipment that is recognized by the U.S. department of labor.

2. At least 10,000 hours of experience in operating heavy equipment, as certified by the individual, prior to submitting an application under sub. (6).

(c) The individual does not have a license, certification, or other permission to operate heavy equipment issued by the department or by a comparable licensing agency in another jurisdiction that is suspended or revoked at the time of the individual submitting a license application under sub. (6).

(4) LICENSING QUALIFICATIONS; APPRENTICE HEAVY EQUIPMENT OPERATORS. The department shall issue an apprentice heavy equipment operator license to each individual employed by a local government who submits an application under sub. (6) and who meets all of the following requirements:

(a) The individual is at least 18 years of age.

(b) The individual has passed a written examination approved by the department and is enrolled in a training program for operating heavy equipment that is recognized by the U.S. department of labor.

(c) The individual does not have a license, certification, or other permission to operate heavy equipment issued by the department or by a comparable licensing agency in another jurisdiction that is suspended or revoked at the time of the individual submitting a license application under sub. (6).

(5) PERIOD OF VALIDITY; RENEWALS. (a) A license issued under sub. (3) is valid for 5 years and a license issued under sub. (4) is valid for 3 years.

(b) The department shall renew a heavy equipment operator license under sub. (3) if all of the following apply:

1. The holder of the license has at least 2,000 hours of experience in operating regulated heavy equipment in the 5-year period immediately preceding his or her application for renewal.

2. The holder's license has not been suspended or revoked.

3. The holder of the license has not violated any requirement under this section.

(6) APPLICATION AND EXAMINATION PROCEDURES. (a) 1. An individual who seeks a license under sub. (3) or (4), or a license renewal under sub. (5), shall apply for the license by submitting an application on a form provided by the department with the applicable fee established under par. (c). The fee paid under this paragraph shall be nonrefundable.

2. The department may accept an applicant's successful examination result

from another state to satisfy the examination requirement under sub. (4) (b), but only if the examination was issued by a training program for operating heavy equipment recognized by the U.S. department of labor.

(b) The department may charge a nonrefundable fee for administering the written examinations described under sub. (4) (b). The department may contract with joint apprenticeship committees, as defined in 29 CFR 29.2, to administer the examinations.

(c) 1. The fee for application for a license under sub. (3) or for a renewal of that license is $100.

2. The fee for application for a license under sub. (4) is $60.

(7) ADMINISTRATION. (a) For purposes of subs. (3) (b) 1. and 2. and (5) (b) 1., the following hours shall be counted as hours for meeting requirements for a heavy equipment operator license issued under sub. (3) or renewed under sub. (5):

1. Hours spent operating heavy equipment.

2. Hours spent in an apprenticeship program operating heavy equipment that is recognized by the U.S. department of labor or in a training program for operating heavy equipment that is recognized by the U.S. department of labor.

3. Hours spent supervising the operation of heavy equipment by another individual.

(b) If the department contracts with joint apprenticeship committees, as defined under 29 CFR 29.2, to administer the examinations under sub. (5) (b), the department shall periodically review the administration of the examinations to ensure compliance with this section.

(c) The department shall consider all recommendations made by the heavy equipment council regarding the administration of this section.

(8) ENFORCEMENT. (a) On its own initiative or on the basis of a complaint filed with the department, the department may issue an order or commence a civil action to enforce this section.

(b) Whoever operates heavy equipment in this state in violation of this section is subject to a forfeiture not exceeding $1,000 for the first violation, $3,000 for a 2nd violation, and $5,000 for each subsequent violation. Each day of continued violation constitutes a separate violation.

SECTION 10. Nonstatutory provisions.

(1) COUNCIL MEMBERSHIP. Notwithstanding the length of terms of the members of the heavy equipment council under s. 15.407 (19), the initial members shall be appointed for the following terms:

(a) Two members for a term that expires on the 2nd July 1 occurring after the date identified in the notice under sub. (2).

(b) Two members for a term that expires on the 3rd July 1 occurring after the date identified in the notice under sub. (2).

(2) NOTICE BY THE EMPLOYMENT RELATIONS COMMISSION. No later than 15 days after a municipal employer, as defined in s. 111.70 (1) (j), may bargain collectively with a collective bargaining unit containing a general municipal employee with respect to the subjects set forth in s. 111.70 (1) (a) applicable to public safety employees or transit employees, the employment relations commission shall send a notice to the legislative reference bureau for publication in the Wisconsin Administrative Register that states the date on which the notice is sent.

SECTION 11. Initial applicability.

(1) DIESEL ADMINISTRATIVE ALLOWANCE AND RETAILER REFUND. The treatment of ss. 78.12 (4) (b) 1m., 1n., and 2., (5), and (6) and 78.201 first applies to motor vehicle fuel taxes due and payable on the effective date of this subsection.

SECTION 12. Effective dates. This act takes effect on the day after publication, except as follows:

(1) REGULATION OF HEAVY EQUIPMENT OPERATORS INVOLVED IN HIGHWAY IMPROVEMENT. The treatment of ss. 15.407 (19) and 101.138 takes effect on the first day of the 2nd month beginning after the date identified in the notice under SECTION 10 (2) of this act.

(2) DIESEL ADMINISTRATIVE ALLOWANCE AND RETAILER REFUND. The treatment of ss. 78.12 (4) (b) 1m., 1n., and 2., (5), and (6) and 78.201 takes effect on the first day of the 3rd month beginning after publication.

(END)