



(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2005-06

(session year)

Senate

(Assembly, Senate or Joint)

**Committee on Natural Resources and
Transportation...**

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Senate

Record of Committee Proceedings

Committee on Natural Resources and Transportation

Clearinghouse Rule 04-114

Relating to vehicle marking, and affecting small businesses.
Department of Transportation

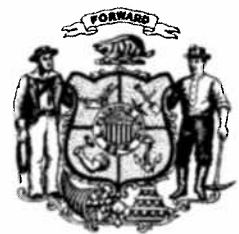
January 05, 2005 Referred to Committee on Natural Resources and Transportation.

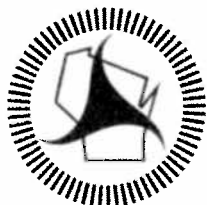
February 7, 2005 No action taken.

Matt Phillips
Committee Clerk



WISCONSIN STATE LEGISLATURE





Wisconsin Department of Transportation

www.dot.wisconsin.gov

Jim Doyle
Governor

Frank J. Busalacchi
Secretary

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The Honorable Senator Neal Kedzie
Chairman, Senate Transportation Committee
Room 313 South
State Capitol
Madison, Wisconsin 53707

January 4, 2004

The Honorable Representative John Ainsworth
Chairman, Assembly Transportation Committee
Room 309 North, State Capitol
Madison, Wisconsin 53702

RE: Proposed Administrative Rule **TRANS 302**
Notification of Legislative Standing Committees
CLEARINGHOUSE RULE 04-114

Dear Senator Kedzie and Representative Ainsworth:

In accordance with the Department of Transportation's efforts to keep you informed of its ongoing rule making actions, enclosed is a courtesy copy of Final Draft rule **Trans 302**, relating to **vehicle marking**, which is being submitted to the Legislature for committee review.

Sincerely,

A handwritten signature in cursive script that reads "Julie A. Johnson".

Julie A. Johnson
Paralegal

JAJ/dim

Enclosure

cc: Supt. David Collins
Lt. Chuck Teasdale
Loralee Brumund

CR 04-114

The Wisconsin Department of Transportation proposes an order to repeal ch. TRANS 302, Wisconsin Administrative Code, relating to vehicle marking, and affecting small businesses.

**REPORT OF THE DEPARTMENT OF TRANSPORTATION
ON THE FINAL RULE DRAFT**

This report is submitted to the presiding officers of the Senate and Assembly for referral to the appropriate standing committees. The report consists of the following parts:

Part 1--Analysis prepared by the Department of Transportation.

Part 2--Rule text in final draft form.

Part 3--Recommendations of the Legislative Council.

Part 4--Analysis prepared pursuant to the provisions of s. 227.19(3), Stats.

Submitted by:



JOE MAASSEN
Deputy General Counsel
Office of General Counsel
Department of Transportation
Room 115-B, Hill Farms State
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P. O. Box 7910
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(608) 266-8810

PART 1

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: s. 194.09, Stats.

STATUTES INTERPRETED: s. 194.09, Stats.

Plain Language Analysis: Wisconsin statutes require in s.194.09 that each motor vehicle operating in Wisconsin as a common motor carrier, as a contract carrier or as a private motor carrier, be clearly marked to identify that the motor carrier meets the regulations identified in ch. 194. Chapter 194 sets standards for motor carriers to ensure safe, competitive and efficient transportation services and includes regulations for licensing, permitting, certifications, inspections, penalties for violations of traffic laws, restrictions, appeal processes, insurance and taxation.

For the purposes of both statutory authority and administrative rule authority, the types of motor carriers are defined in ch. 194 as follows:

1. "Common motor carrier" means any person who can be hired to operate a motor carrier for the transport of persons and property. The focus of common carriers is to transport people over regular routes or routes with fixed endpoints. The transportation of property in conjunction with the transport of passengers is a secondary activity.

2. "Contract motor carrier" means any person who can be hired to operate a motor carrier to transport property over a regular or irregular route.

3. "Private motor carrier" means a person who operates her/his own motor carrier to transport property over a regular or irregular route.

Ch. Trans 302, Vehicle Marking, under the authority of Chapter 194, provides outdated regulations for marking intrastate motor carriers operating in Wisconsin, including for-hire motor carriers and private vehicles having a gross vehicle weight of more than 12,000 pounds. However, regulations for operating motor carriers are found also in two other DOT administrative rules, Trans 325, Motor Carrier Safety Regulations for intrastate motor carriers, and Trans 327, Motor Carrier Safety for interstate motor carriers. Trans 325 and Trans 327 have adopted federal regulations identified in Title 49 CFR Part 390.21 for marking commercial motor carriers. The adoption of these marking regulations by Trans 325 and Trans 327 makes Trans 302 inconsistent with 49 CFR Part 390.21 and thus confusing for the motor carrier industry.

To eliminate outdated information and information inconsistent with adopted federal guidelines, the DOT proposes that ch. Trans 302 be repealed.

Summary of, and Preliminary Comparison with, Existing or Proposed Federal Regulation: Federal motor carrier regulation 49 CFR Part 390.21 requires motor carriers to be marked to display:

1. The legal name or single trade name of the self-propelled motor carrier as listed on the motor carrier identification report (Form MCS 150) and submitted in accordance with federal regulations.

2. The USDOT motor carrier identification number.

3. The name of the operator of the motor carrier if different from the motor carrier owner by using the term "operated by".

4. The ICCMC number where applicable.

5. Required identification in the prescribed format, color, and lettering size.

6. Required identification prescribed for rented motor vehicles.

Chapter Trans 302 requires intrastate motor carriers to be marked to display:

1. The legal name of the carrier.

2. The city and state of the motor carrier's headquarters.

3. Any applicable federal transportation authority number.

4. The empty weight of the power unit.

5. Identification in the prescribed format, color, and lettering size.

6. In accordance with 43 CFR Part 390.21 as an alternative to meeting the regulations identified in Trans 302.

The intent of repealing ch. Trans 302 is to keep Wisconsin laws and motor carrier administrative rules compliant with existing federal regulations. Specifically, federal regulations regarding motor carrier marking, 49 CFR Part 390.21, have been adopted in ch. Trans 325 for intrastate motor carriers and ch. Trans 327 for interstate motor carriers.

Comparison with Rules in Adjacent States:

Michigan: Currently drafting legislation to adopt federal regulations except requirement for display of the USDOT number for intrastate motor carriers.

Minnesota: Adopted federal regulations in statute (221.031 subchapter 6).

Illinois: Has not adopted the federal regulations for intrastate motor carriers.

Iowa: Adopted federal regulations.

Summary of Factual Data and Analytical Methodologies Used and How the Related Findings Support the Regulatory Approach Chosen: Ch. Trans 302 was created in 1982 to provide a uniform means for identifying the owner or operator subject to ch. 194, Stats., and private vehicles having a gross vehicle weight of more than 12,000 pounds. Since 1982, 49 CFR Part 390.21 has been adopted by chs. Trans 325 and Trans 327 for motor carriers engaged in both interstate and intrastate commerce.

Effect on Small Business and, If Applicable, Any Analysis and Supporting Documentation Used to Determine Effect on Small Businesses: Small motor carrier businesses based in Wisconsin will benefit from the repeal of ch. Trans 302 through the elimination of inconsistencies related to vehicle marking. The small businesses that provide intrastate motor carrier services will have only one source of regulations, thus making their efforts to comply easier. Small businesses that provide both intrastate and interstate motor carrier services will be able to simultaneously comply with both Wisconsin and federal regulations thus making their efforts easier.

Enforcement of the rule will be performed as part of routine motor carrier enforcement in Wisconsin. The repeal of ch. Trans 302 will be made known to motor carriers through routine dialogue with industry representatives, contact with individual motor carrier services and in routine State Patrol documents. Since the result of the repeal of ch. Trans 302 will simplify marking regulations, small businesses motor carriers will generally be in compliance by simply following federal regulations.

Fiscal Effect and Anticipated Costs Incurred by Private Sector: The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district, sewerage district, or federally-recognized tribes or bands. The Department estimates that there will be no fiscal impact on state revenues or liabilities. The private sector of the motor carrier industry will benefit by having a single set of regulations for vehicle marking, thus saving time and cost on obtaining applicable regulations and painting only minimal information on the vehicles.

Copies of Rule. Copies of this proposed rule may be obtained without cost by writing to Lt. Charles Teasdale, Division of State Patrol, Room 551, P. O. Box 7912, Madison, Wisconsin 53707-7912, or by calling (608) 267-0305.


PART 2
TEXT OF PROPOSED RULE

SECTION 1. Chapter Trans 302 is repealed.

(END OF RULE TEXT)

Effective Date. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Signed at Madison, Wisconsin, this 7th day of December, 2004.


FRANK J. BUSALACCHI
Secretary
Wisconsin Department of Transportation



**WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE**

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

**PART 3
CLEARINGHOUSE REPORT TO AGENCY**

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 04-114

AN ORDER to repeal chapter Trans 302, relating to vehicle marking, and affecting small businesses.

Submitted by **DEPARTMENT OF TRANSPORTATION**

10-14-2004 RECEIVED BY LEGISLATIVE COUNCIL.

11-08-2004 REPORT SENT TO AGENCY.

RNS:PGC

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

PART 4
CR 04-114

ANALYSIS OF FINAL DRAFT OF TRANS 302

(a) **Basis and Purpose of Rule.** Ch. Trans 302, Vehicle Marking, under the authority of Chapter 194, provides out-dated regulations for marking intrastate motor carriers operating in Wisconsin, including for-hire motor carriers and private vehicles having a gross vehicle weight of more than 12,000 pounds. However, regulations for operating motor carriers are found also in two other DOT administrative rules, Trans 325, Motor Carrier Safety Regulations for intrastate motor carriers, and Trans 327, Motor Carrier Safety for interstate motor carriers. Trans 325 and Trans 327 have adopted federal regulations identified in Title 49 CFR Part 390.21 for marking commercial motor carriers. The adoption of these marking regulations by Trans 325 and Trans 327 makes Trans 302 inconsistent with 49 CFR Part 390.21 and thus confusing for the motor carrier industry.

To eliminate outdated information and information inconsistent with adopted federal guidelines, the DOT proposes that ch. Trans 302 be repealed.

(b) **Modifications as a Result of Testimony at Public Hearing.** Notice of intent to adopt this proposed rule without public hearing was given under the procedure set forth in s. 227.16(2)(e), Stats. No one petitioned for a public hearing and no public hearing was held.

(c) **List of Persons who Appeared or Registered at Public Hearing.** Because there was no hearing, there were none.

(d) **Summary of Public Comments and Agency Response to those Comments:** No petition for public hearing was received and there were no public comments.

(e) **Explanation of any Changes Made to the Plain Language Analysis or Fiscal Estimate:** No changes were made.

(f) **Response to Legislative Council Recommendations.** The Legislative Council report contained no recommendations.

(g) **Final Regulatory Flexibility Analysis.** Small motor carrier businesses based in Wisconsin will benefit from the repeal of ch. Trans 302 through the elimination of inconsistencies related to vehicle marking. The small businesses that provide intrastate motor carrier services will have only one source of regulations, thus making their efforts to comply easier. Small businesses that provide both intrastate and interstate motor carrier services will be able to simultaneously comply with both Wisconsin and federal regulations thus making their efforts easier.