



(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 ...

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INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

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 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
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- Miscellaneous ... **Misc**

Senate

Record of Committee Proceedings

Committee on Natural Resources and Transportation

Clearinghouse Rule 06-082

Relating to operator's licenses and identification cards, and affecting small businesses.

Submitted by Department of Transportation.

August 23, 2006 Referred to Committee on Natural Resources and Transportation.

September 22, 2006 No action taken.

Matt Phillips
Committee Clerk



2005 Assembly Bill 69

Date of enactment: **March 10, 2006**
Date of publication*: **March 24, 2006**

2005 WISCONSIN ACT 126

AN ACT to amend 343.50 (4), 343.50 (5) and 343.50 (6); and to create 343.06 (1) (L), 343.14 (2) (er), 343.17 (3) (a) 14., 343.20 (1) (f) and 343.20 (1m) of the statutes; relating to: operator's licenses and identification cards for aliens.

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

SECTION 1. 343.06 (1) (L) of the statutes is created to read:

343.06 (1) (L) To any person who does not provide the documentary proof described in s. 343.14 (2) (er).

SECTION 2. 343.14 (2) (er) of the statutes is created to read:

343.14 (2) (er) 1. **Documentary proof that the individual is a citizen of the United States or documentary proof that the individual is legally present in the United States.**

2. **If the individual is not a citizen of the United States, he or she shall provide documentary proof of his or her status as a legal permanent resident or conditional resident, a valid unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States, a pending or approved application for asylum in the United States, valid entry into the United States in refugee status, a pending or approved application for temporary protected status in the United States, approved deferred action status, or a pending application for adjustment of status to legal permanent resident status or conditional resident status.**

SECTION 3. 343.17 (3) (a) 14. of the statutes is created to read:

343.17 (3) (a) 14. If the person is not a citizen of the United States, ~~the date on which the person's legal presence in the United States expires.~~

SECTION 4. 343.20 (1) (f) of the statutes is created to read:

343.20 (1) (f) The department **shall cancel an operator's license if the department is notified by a local, state, or federal government agency that the operator is no longer a citizen of the United States, a legal permanent resident of the United States, or a conditional resident of the United States, or otherwise not legally present in the United States.**

SECTION 5. 343.20 (1m) of the statutes is created to read:

343.20 (1m) **A license that is issued to a person who is not a United States citizen and who provides documentary proof of legal status as provided under s. 343.14 (2) (er) shall expire on the date that the person's legal presence in the United States is no longer authorized.** If the documentary proof as provided under s. 343.14 (2) (er) does not state the date that the person's legal presence in the United States is no longer authorized, sub. (1) shall apply.

SECTION 6. 343.50 (4) of the statutes is amended to read:

343.50 (4) **APPLICATION.** The application for an identification card shall include any information required

* Section 991.11, WISCONSIN STATUTES 2003-04: 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 as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

under ss. 85.103 (2) and 343.14 (2) (a), (b), (bm), (br), ~~and (em), and (er)~~, and such further information as the department may reasonably require to enable it to determine whether the applicant is entitled by law to an identification card. The department shall, as part of the application process, take a photograph of the applicant to comply with sub. (3). No application may be processed without the photograph being taken. Misrepresentations in violation of s. 343.14 (5) are punishable as provided in s. 343.14 (9).

SECTION 7. 343.50 (5) of the statutes is amended to read:

343.50 (5) **VALID PERIOD; FEES.** The fee for an original card and for the reinstatement of an identification card after cancellation under sub. (10) shall be \$9. The card shall be valid for the succeeding period of 4 years from the applicant's next birthday after the date of issuance, ~~except that a card that is issued to a person who is not a United States citizen and who provides documentary proof of legal status as provided under s. 343.14 (2) (er) shall expire on the date that the person's legal presence in the United States is no longer authorized.~~ If the documentary proof as provided under s. 343.14 (2) (er) does not state the date that the person's legal presence in the United States is no longer authorized, then the card shall be valid for the succeeding period of 4 years from the applicant's next birthday after the date of issuance.

SECTION 8. 343.50 (6) of the statutes is amended to read:

343.50 (6) **RENEWAL.** At least 30 days prior to the expiration of the card, the department shall mail a renewal application to the last-known address of each identification card holder. The department shall include with the application information, as developed by all organ procurement organizations in cooperation with the department, that promotes anatomical donations and which relates to the anatomical donation opportunity available under s. 343.175. The fee for a renewal identification card shall be \$9, which card shall be valid for 4 years, except that a card that is issued to a person who is not a United States citizen and who provides documentary proof of legal status as provided under s. 343.14 (2) (er) shall expire on the date that the person's legal presence in the United States is no longer authorized. If the documentary proof as provided under s. 343.14 (2) (er) does not state the date that the person's legal presence in the United States is no longer authorized, then the card shall be valid for 4 years.

SECTION 9. Initial applicability.

(1) This act first applies to applications that are made on the effective date of this subsection.

SECTION 9m. Effective date.

(1) This act takes effect on the first day of the 13th month beginning after publication.



343.125 OPERATORS' LICENSES

fails to renew within the period specified by the department under this subsection. This subsection does not apply to "H" endorsements that are issued or renewed after November 1, 2003.

History: 2003 a. 33.

343.13 Restricted licenses. (1) The department upon issuing any license pursuant to this chapter may, whenever good cause appears, impose restrictions suitable to the licensee's operating ability with respect to the type of or special mechanical control devices required on a motor vehicle which the licensee may operate, or such other restrictions applicable to the licensee as the department may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(2) Notwithstanding sub. (1), the department shall restrict the commercial driver license of any person to prohibit the operation of any motor vehicle equipped with air brakes if the person fails the portion of an examination under s. 343.16 relating to air brakes or the person's driving skills test is conducted in a motor vehicle not equipped with air brakes.

History: 1977 c. 29 s. 1654 (7) (a); 1989 a. 105.

Cross Reference: See also ch. Trans 112, Wis. adm. code.

343.135 Special restricted operator's license.

(1) **ISSUANCE.** (a) Except as provided in par. (b), upon application therefor, the department shall issue a special restricted operator's license to any person who meets the following requirements:

1. Is at least 14 years of age and is physically disabled or is at least 16 years of age.

2. Does not possess a valid operator's license issued under this chapter.

3. Pays the required fee.

4. Has passed an examination which includes a test of the applicant's eyesight, ability to read and understand highway signs regulating, warning and directing traffic, knowledge of the traffic laws and an actual demonstration of ability to exercise ordinary and reasonable control in the operation of the vehicle for which the special restricted license is to be issued. An applicant shall furnish the motor vehicle he or she will be operating for use in testing his or her ability to operate the vehicle. The department may waive the demonstration of ability to exercise ordinary and reasonable control in the operation of a moped or motor bicycle as provided in s. 343.16 (2) (d).

(b) The department may not issue a special restricted license to a person whose operating privilege is suspended or revoked.

(2) **SCOPE.** (a) A special restricted operator's license may be issued only for the specific vehicle or type of vehicle described on the license. A license under this paragraph may not be issued to authorize operation of a commercial motor vehicle or a school bus. A special restricted operator's license may be issued only for the following vehicles:

1. Motor bicycles or mopeds; or

2. Specially designed vehicles having a maximum speed of 35 miles per hour which the department authorizes to be operated on the highway.

(b) If a special restricted operator's license is issued for operation of a vehicle described in par. (a) 2., the vehicle may be operated only by the following persons:

1. The holder of the restricted license.

2. A person licensed under this chapter who operates the vehicle for the limited purposes of repairing or testing the vehicle.

(3) **DESIGN OF LICENSE.** The special restricted license shall be of the same size and general design of the operator's license, except that it shall bear the words "SPECIAL RESTRICTED LICENSE". The information on the license shall be the same as specified under s. 343.17 (3) and the holder may affix a decal thereto as provided in s. 343.175 (3). All restrictions imposed under sub. (6) shall be listed on the license or on an attachment thereto.

(4) **PHYSICAL REQUIREMENTS.** The department may set such physical standards as it deems necessary for eligibility for licensing under this section. The standards shall include a vision standard.

(5) **EXAMINATION.** The department may require an applicant to submit to a medical examination to determine whether the applicant meets the standards set under sub. (4). The applicant shall pay the cost of any such examination.

(6) **RESTRICTIONS.** The department may impose such restrictions as it deems necessary on any license issued under this section. Such restrictions may include, but are not limited to, the type of vehicle, special equipment, time of day of operation, and specific geographic areas and streets or routes of travel. A vehicle operated under this section shall display a slow moving vehicle emblem as required under s. 347.245.

(7) **EXPIRATION; RENEWAL.** A special restricted operator's license issued under this section shall expire 2 years after the date of issuance. Within 90 days prior to the expiration of a license, the holder of the restricted license may renew the license by paying the required fee and passing the examination under sub. (1) (a) 4.

History: 1979 c. 345; 1981 c. 138; 1983 a. 243; 1989 a. 105.

Cross Reference: See also ch. Trans 112, Wis. adm. code.

343.14 Application for license. (1) Every application to the department for a license or identification card or for renewal thereof shall be made upon the appropriate form furnished by the department and shall be accompanied by the required fee. Names, addresses, license numbers, and social security numbers obtained by the department under this subsection shall be provided to the department of revenue for the purpose of administering ss. 71.93 and 71.935 and state taxes.

NOTE: Sub. (1) is affected by 2005 Wis. Acts 25 and 59. The 2 treatments are mutually inconsistent. Sub. (1) is shown as affected by the last enacted act, 2005 Wis. Act 59. As affected by 2005 Wis. Act 25, it reads:

(1) Every application to the department for a license or identification card or for renewal thereof shall be made upon the appropriate form furnished by the department and shall be accompanied by the required fee. The department shall provide the information it obtains under this subsection, excluding medical information, to the department of revenue for the purpose of administering set-offs under ss. 71.93 and 71.935 and state taxes.

(2) The forms for application shall be determined by the department and shall include:

(a) The full name and residence address of the applicant;

(b) The applicant's date of birth, color of eyes, color of hair, sex, height, weight and race;

(bm) Except as provided in par. (br), the applicant's social security number.

(br) If the applicant does not have a social security number, a statement made or subscribed under oath or affirmation that the applicant does not have a social security number. The form of the statement shall be prescribed by the department of workforce development. A license that is issued or renewed under s. 343.17 in reliance on a statement submitted under this paragraph is invalid if the statement is false.

(c) A statement as to whether the applicant has heretofore been licensed as an operator of any motor vehicle and, if so, when and by what jurisdiction;

(d) Whether any previous license or operating privilege has ever been suspended or revoked or whether application has ever been refused and, if so, the date and place of such suspension, revocation or refusal;

(e) If the application is made by a person under 18 years of age, documentary proof that the applicant is enrolled in a school program or high school equivalency program and is not a habitual truant as defined in s. 118.16 (1) (a), has graduated from high school or been granted a declaration of high school graduation equivalency or is enrolled in a home-based private educational program, as defined in s. 115.001 (3g). For purposes of this paragraph, "documentary proof" means the signature and verification of an adult sponsor as provided in s. 343.15 (1) or the applicant as provided in s. 343.15 (4) (b);

(em) If the application is made by a male who is at least 18 years of age but less than 26 years of age, the form shall notify the applicant that, by submitting the application to the department, the applicant gives his consent to be registered, if required by federal law, with the selective service system and that he authorizes the department to forward information to the selective service system under s. 343.234.

(er) 1. Documentary proof that the individual is a citizen of the United States or documentary proof that the individual is legally present in the United States.

2. If the individual is not a citizen of the United States, he or she shall provide documentary proof of his or her status as a legal permanent resident or conditional resident, a valid unexpired non-immigrant visa or nonimmigrant visa status for entry into the United States, a pending or approved application for asylum in the United States, valid entry into the United States in refugee status, a pending or approved application for temporary protected status in the United States, approved deferred action status, or a pending application for adjustment of status to legal permanent resident status or conditional resident status.

NOTE: Par. (er) is created eff. 4-1-07 by 2005 Wis. Act 126.

(f) Such further information as the department considers appropriate to identify the applicant, including biometric data, and such information as the department may reasonably require to enable it to determine whether the applicant is by law entitled to the license applied for;

(g) A question as to whether the applicant wishes to include his or her name as a donor of an anatomical gift in the record of potential donors maintained by the department. The form shall indicate the following:

1. The applicant is not required to respond to the question under this paragraph in order to obtain a license.

2. The purpose of maintaining the record of potential donors is to facilitate the determination of whether a person is a potential donor in the event of his or her death.

3. An affirmative response to the question under this paragraph does not in itself authorize an anatomical gift. To authorize an anatomical gift, an applicant shall comply with s. 157.06 or 343.175 (2);

(h) A certification by the applicant that the motor vehicle in which the person takes the driving skills test is a representative vehicle of the vehicle group that the person operates or expects to operate; and

(i) A certification by the applicant for a commercial driver license that he or she either:

1. Meets all of the driver qualifications contained in either 49 CFR 391 or in an alternative federally approved driver qualification program established by the department by rule. The department may require the applicant to show the medical certificate of physical examination required by 49 CFR 391.43; or

2. Meets all of the driver qualifications for drivers in intrastate commerce as established by the department by rule and is applying for a commercial driver license valid only in this state for non-interstate operation.

(2g) (a) Notwithstanding ss. 111.321, 111.322, and 111.335 and any other provision of law, in addition to the information required under sub. (2), the application form for an "H" endorsement specified in s. 343.17 (3) (d) 1m. shall include all of the information and statements required under 49 CFR 1572.5 (e), including all of the following:

1. The list of disqualifying felony criminal offenses specified in 49 CFR 1572.103 (b).

2. A statement that the individual signing the application meets all of the following requirements:

a. The individual has not been convicted, or found not guilty by reason of insanity, of any disqualifying felony criminal offense described in subd. 1. in any jurisdiction during the 7-year period preceding the date of the application.

b. The individual has not been released from incarceration in any jurisdiction for committing any disqualifying felony criminal offense described in subd. 1. within the 5-year period preceding the date of the application.

c. The individual is not wanted or under indictment for any disqualifying felony criminal offense described in subd. 1.

d. The individual is a U.S. citizen who has not renounced that citizenship, or is lawfully admitted for permanent residence to the United States. If the applicant is lawfully admitted for permanent residence to the United States, the applicant shall provide the applicant's alien registration number issued by the federal department of homeland security.

3. A statement that the individual signing the application has been informed that s. 343.245 (2) (a) 1. and federal regulations under 49 CFR 1572.5 impose an ongoing obligation to disclose to the department within 24 hours if the individual is convicted, or found not guilty by reason of insanity, of any disqualifying felony criminal offense described in subd. 1., or adjudicated as a mental defective or committed to a mental institution, while he or she holds an "H" endorsement specified in s. 343.17 (3) (d) 1m.

4. Notwithstanding sub. (2) (br) and the provisions of any memorandum of understanding entered into under s. 49.857 (2), the applicant's social security number.

(b) Upon receiving a completed application form for an "H" endorsement specified in s. 343.17 (3) (d) 1m., the department of transportation shall immediately forward the application to the federal transportation security administration of the federal department of homeland security. The department of transportation shall also inform the applicant that the applicant has a right to obtain a copy of the applicant's criminal history record by submitting a written request for that record to the federal transportation security administration.

(2j) (a) Subject to any exceptions provided for in a memorandum of understanding entered into under s. 49.857 (2), the department shall deny an application for the issuance or renewal of a license if the applicant has not included his or her social security number in the application, or, if the applicant does not have a social security number, has not included a statement made or subscribed under oath or affirmation that the applicant does not have a social security number in the application.

(b) Except as otherwise required to administer and enforce this chapter, the department of transportation may not disclose a social security number obtained from an applicant for a license under sub. (2) (bm) to any person except to the department of workforce development for the sole purpose of administering s. 49.22 or to the department of revenue for the purposes of administering state taxes and collecting debt.

NOTE: Par. (b) is affected by 2005 Wis. Acts 25 and 59. The 2 treatments are mutually inconsistent. Par. (b) is shown as affected by the last enacted act, 2005 Wis. Act 59. As affected by 2005 Wis. Act 25, it reads:

(b) Except as otherwise required to administer and enforce this chapter, the department of transportation may not disclose a social security number obtained from an applicant for a license under sub. (2) (bm) to any person except to the department of workforce development for the sole purpose of administering s. 49.22 or to the department of revenue for the purpose of administering set-offs under ss. 71.93 and 71.935 and state taxes.

(2m) The forms for application for a license or identification card or for renewal thereof shall include the information required under s. 85.103 (2).

(3) The department shall, as part of the application process, take a photograph of the applicant to comply with s. 343.17 (3) (a) 2. Except where specifically exempted by statute or by rule of the department, no application may be processed without the photograph being taken. In the case of renewal licenses, the photograph shall be taken once every 8 years, and shall coincide with the appearance for examination which is required under s. 343.16 (3). The department may make provision for issuance of a license without a photograph if the applicant is stationed outside the state in military service and in specific situations where the department deems such action appropriate.

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(4m) The department shall develop designs for licenses and identification cards which are resistant to tampering and forgery no later than January 1, 1989. Licenses and identification cards issued on or after January 1, 1989, shall incorporate the designs required under this subsection.

(5) No person may use a false or fictitious name or knowingly make a false statement or knowingly conceal a material fact or otherwise commit a fraud in an application for any of the following:

- (a) A license.
- (b) An identification card.

(6) The department shall disseminate information to applicants for a license relating to the anatomical donation opportunity available under s. 343.175. The department shall maintain a record of applicants who respond in the affirmative to the question under sub. (2) (g). In the event of the death of a person, at the request of a law enforcement officer or other appropriate person, as determined by the department, the department shall examine its record of potential donors and shall advise the law enforcement officer or other person as to whether a decedent is recorded as a potential donor.

(7) A person may notify the department in writing at any time if he or she wishes to include his or her name in the record of potential donors maintained by the department. A donor who revokes his or her gift and who has requested that his or her name be included in the record shall request the department in writing to remove his or her name from the record.

(9) Any person who violates sub. (5) may be fined not more than \$1,000 or imprisoned for not more than 6 months or both.

History: 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 124, 360, 447; 1979 c. 306; 1981 c. 20 s. 1848r; 1985 a. 227; 1987 a. 27; 1987 a. 403 s. 256; 1989 a. 105, 294, 298, 359; 1991 a. 269; 1993 a. 363; 1995 a. 113; 1997 a. 27, 119, 191; 1999 a. 9, 80, 88; 2001 a. 93; 2003 a. 33; 2005 a. 25, 59, 126.

343.15 Application of persons under 18; liability of sponsors; release from liability; notification of juvenile violation.

(1) (a) Except as provided in sub. (4), the application of any person under 18 years of age for a license shall be signed and verified by either of the applicant's parents, or a stepparent of the applicant or other adult sponsor, as defined by the department by rule. The application shall be signed and verified before a traffic officer, a duly authorized agent of the department or a person duly authorized to administer oaths.

(b) The adult sponsor under par. (a) shall sign and verify on the application that the person under 18 years of age is enrolled in a school program or high school equivalency program and is not a habitual truant as defined in s. 118.16 (1) (a), has graduated from high school or been granted a declaration of high school graduation equivalency or is enrolled in a home-based private educational program, as defined in s. 115.001 (3g).

(2) (a) In this subsection, "custody" does not mean joint legal custody as defined in s. 767.001 (1s).

(b) Any negligence or willful misconduct of a person under the age of 18 years when operating a motor vehicle upon the highways is imputed to the parents where both have custody and either parent signed as sponsor, otherwise, it is imputed to the adult sponsor who signed the application for such person's license. The parents or the adult sponsor is jointly and severally liable with such operator for any damages caused by such negligent or willful misconduct.

(3) Any adult who signed the application of a person under the age of 18 years for a license may thereafter file with the department a verified written request that the license of such minor be canceled. Within 10 days after the receipt of such request the department shall cancel the license. When the license has been so canceled, the adult who signed the application and the parents or guardian of such minor is relieved from the liability which otherwise would be imposed under sub. (2) by reason of having signed such application, or being a parent or guardian, insofar as any neg-

ligence or willful misconduct on the part of the minor while operating a motor vehicle subsequent to the cancellation concerned.

(4) (a) The department may issue a license to a person who is under 18 years of age even though an adult sponsor has not signed the application for license if such person is in one of the classes specified in this paragraph or in a substantially similar class specified by the department by rule and if a certificate of insurance to the effect that such person is covered by a motor vehicle policy of liability insurance meeting the requirements of s. 344.33 has been filed with the department. Such policy may be canceled or terminated only after notice as provided in s. 344.34.

- 1. A person who does not have a living parent.
- 2. A person who does not reside with his or her parents and who is a full-time student or earning a living.
- 3. A person who is a ward of the state, county or court and who has been placed in a foster home or a treatment foster home or in the care of a religious welfare service.
- 4. A person who is married and whose spouse is under 18 years of age.

(b) A person who is not required to have an adult sponsor under par. (a) shall sign and verify on the application that he or she is enrolled in a school program or high school equivalency program and is not a habitual truant as defined in s. 118.16 (1) (a), has graduated from high school or been granted a declaration of high school graduation equivalency or is enrolled in a home-based private educational program, as defined in s. 115.001 (3g).

(5) When a citation for a moving traffic violation, under chs. 341 to 349 or under a local ordinance in conformity therewith, is issued to or a notice of revocation under s. 351.027 is sent to a person who is under 18 years of age and required to have a sponsor under this section, the issuing or filing agency shall, within 7 days, notify the person's sponsor or parents of the violation or notice. When the secretary suspends or revokes the operating privilege of a person who is under 18 years of age and who possesses a license and who is required to have a sponsor under this section or when the secretary receives notice that a court has suspended or revoked the operating privilege of such a person, the secretary shall, within 14 days after the suspension or revocation or receipt of the notice of suspension or revocation by the court, respectively, notify the person's sponsor or parents of the suspension or revocation.

History: 1971 c. 45; 1971 c. 213 s. 5; 1971 c. 223; 1973 c. 90; 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 273; 1979 c. 215, 333, 338, 355; 1985 a. 71; 1987 a. 355; 1989 a. 105, 244; 1993 a. 162, 363, 446, 491; 1995 a. 100.

A *Pierringer* release of a minor did not bar the plaintiff's action under sub. (2) against a sponsor. *Swanigan v. State Farm Insurance Co.* 99 Wis. 2d 179, 299 N.W.2d 234 (1980).

A *Pierringer* release of a minor barred an action for contribution by nonsettling defendants against a sponsor who was not joined in the action by the plaintiff. *Jackson v. Ozaukee County*, 111 Wis. 2d 462, 331 N.W.2d 338 (1983).

Sub. (2) does not violate the constitutional guarantees of due process or equal protection. *Mikaelian v. Woyak*, 121 Wis. 2d 581, 360 N.W.2d 706 (Ct. App. 1984).

Parent sponsors are liable under this section for punitive damages assessed against their child. Evidence of the sponsors' wealth is not admissible for purposes of assessing punitive damages against an underage driver. *Franz v. Brennan*, 150 Wis. 2d 1, 440 N.W.2d 562 (1989).

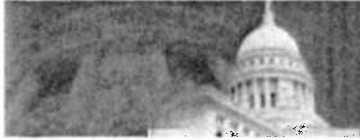
The suspension of a minor's license does not relieve the sponsoring adult from liability if after suspension of the license the minor, while operating without a license, causes injury. Relief from liability can only be had by applying for cancellation of the license under sub. (3). *Johnson v. Schlitt*, 211 Wis. 2d 832, 565 N.W.2d 305 (Ct. App. 1997), 96-1304.

The scope of parental liability under this section does not extend to a child's conduct distinct from operating a vehicle. The child's shooting of a gun from a car while driving was outside the ambit of the statute. *Reyes v. Greatway Insurance Co.* 227 Wis. 2d 357, 597 N.W.2d 687 (1999), 97-1587.

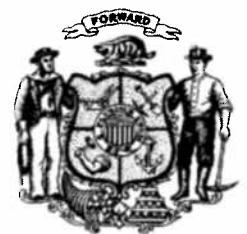
Parents are both liable under this statute when one signs as a sponsor. It is irrelevant that one withdrew as the sponsor when the other signed the documents to assume sponsorship. *Beerbohm v. State Farm Mutual Automobile Insurance Co.* 2000 WI App 105, 235 Wis. 2d 182, 612 N.W.2d 338, 99-1784.

As sub. (2) (a) excludes joint legal custody under s. 767.001 (1s) from the meaning of custody under sub. (2) (b), custody in sub. (2) (b) can only mean the natural legal custody that married parents share. Because divorced parents do not share that type of custody, liability may not be imputed to the non-sponsoring parent under sub. (2) (b). *LaCourt v. Salkowski*, 2002 WI App 287, 258 Wis. 2d 635, 654 N.W.2d 295, 02-0630.

343.16 Examination of applicants; reexamination of licensed persons. (1) REQUIRED TESTING OF KNOWLEDGE AND



WISCONSIN STATE LEGISLATURE



PART 1
Analysis Prepared by the Wisconsin Department of Transportation

Statutes interpreted: s. 343.14(2)(er), Stats.

Statutory authority: ss. 343.14 (2)(er), 343.17(3), 343.20(1m) and 343.50(5) and (6), Stats.

Explanation of agency authority: 2005 Wisconsin Act 126 requires that a person applying for a driver's license or identification card provide documentary proof of citizenship or legal presence in the United States.

Related statute or rule: ss. 343.06, 343.14 and 343.20, Stats.

Plain language analysis: 2005 Wisconsin Act 126 requires all persons applying for an original, reissue, reinstatement, renewal or duplicate Wisconsin driver's license or identification card on or after April 1, 2007 to show documentary proof of citizenship or legal presence in this country. Currently, applicants for a driver's license or identification card are required to show proof of identity, name and date of birth, and residency. 2005 Wisconsin Act 126 also requires operator's licenses and identification cards to expire on the date the person's legal presence in the United States is no longer authorized. This rule implements these expiration dates.

Summary of, and preliminary comparison with, existing or proposed federal regulation: This proposed rule making moves Wisconsin towards compliance with the legal presence requirements of the federal REAL ID Act, which takes effect May 11, 2008.

Comparison with Rules in Adjacent States:

Michigan: No legal presence requirement.

Minnesota: Legal presence required.

Illinois: Legal presence required.

Iowa: Legal presence required.

Summary of factual data and analytical methodologies used and how the related findings support the regulatory approach chosen: Not applicable.

Analysis and supporting documentation used to determine effect on small businesses: Some small businesses may be affected, if their employees who are not U.S. citizens do not have legal presence and consequently lose their driving privileges and require driving privileges to attend or perform their jobs. These costs are indeterminable.

Effect on small business: Indeterminable. The Department's Regulatory Review Coordinator may be contacted by e-mail at andrew.ruiz@dot.state.wi.us, or by calling (414) 438-4585.

Fiscal effect and anticipated costs incurred by private sector: Costs incurred by the private sector is indeterminable. This rule does not directly affect business but may affect the work force. 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.

Contact person and copies of proposed rule: Copies of the proposed rule can be obtained, without cost, by writing to Erin Egan, Department of Transportation, Bureau of Driver Services, Room 255, P. O. Box 7911, Madison, WI 53707-7911. You may also contact Ms. Egan by phone at (608) 266-1449.

PART 2 **TEXT OF PROPOSED RULE**

SECTION 1. Trans 102.11(1)(a)2., (b)1. and 2. and (c) are amended to read:

Trans 102.11(1)(a)2. Round the resulting quotient to the nearest whole dollar amount. The license upgraded for this fee shall expire on the expiration date of the existing license or on the date that the person's legal presence in the United States is no longer authorized, whichever occurs sooner.

(b)1. Pay the prorated fee as determined under par. (a). The license upgraded for this fee shall expire on the expiration date of the existing license or on the date that the person's legal presence in the United States is no longer authorized, whichever occurs sooner.

2. Pay the prorated fee as determined under par. (a) and the statutory fee. The license upgraded for this fee shall expire 8 years from the expiration date of the existing license or on the date that the person's legal presence in the United States is no longer authorized, whichever occurs sooner.

(c) When 90 days or less remain on the existing license, the license holder shall pay the prorated fee as determined under par. (a) and the statutory fee. The license upgraded for this fee shall expire 8 years from the expiration date of the existing license or on the date that the person's legal presence in the United States is no longer authorized, whichever occurs sooner.

SECTION 2. Trans 102.15(2)(bm) and (3m) are created to read:

Trans 102.15(2)(bm)1. ~~Any person applying for an original Wisconsin operator's license or identification card shall submit satisfactory proof of citizenship, legal permanent resident or conditional resident status of the United States, or legal presence in the United States, as specified under sub. (3m).~~

2. ~~The department may require any person applying for a reissue, reinstatement, renewal or duplicate operator's license or identification card to provide satisfactory proof of citizenship, legal permanent resident or conditional resident status of the United States as specified under sub. (3m) to determine the person's eligibility for the operator's license or identification card.~~

(3m) PROOF OF CITIZENSHIP, LEGAL PERMANENT RESIDENT STATUS, CONDITIONAL RESIDENT STATUS OR LEGAL PRESENCE. (a) One of the following is satisfactory proof of a person's citizenship, legal permanent resident status, conditional resident status or legal presence in the United States:

1. U.S. state or local government issued certificate of birth.
2. Valid U.S. passport.
3. Valid foreign passport with appropriate immigration documents, which shall include or be accompanied by federal form I-94, arrival and departure record.

NOTE: The appropriate immigration documents determine legal presence, not the passport itself.

4. Certificate of U.S. citizenship (federal form N-560).
5. U.S. Certificate of naturalization (federal form N-550).
6. Valid department of homeland security/U.S. citizenship and immigration services federal form I-551, resident alien registration receipt card, issued since 1997.
7. Valid department of homeland security/U.S. citizenship and immigration services federal form I-688, temporary resident identification card.
8. Valid department of homeland security/U.S. citizenship and immigration services federal form I-688B or I-766, employment authorization document.
9. Valid department of homeland security/U.S. citizenship and immigration services federal form I-571, refugee travel document.
10. Department of homeland security/U.S. citizenship and immigration services federal form I-797, notice of action.
11. Department of homeland security/transportation security administration transportation worker identification credential.
12. U.S. department of state reception and placement program assurance form (refugee version), which shall include or be accompanied by federal form I-94, arrival and departure record.
13. Documentary proof specified in s. 343.14(2)(er), Stats., that is approved by the appropriate federal authority.

SECTION 3. Trans 102.16(1), (3m), (5), (6) and (8) are amended to read:

Trans 102.16(1) ORIGINAL, REINSTATED AND PROBATIONARY LICENSES. Reinstated licenses, probationary licenses, and original licenses other than instruction permits and license endorsements shall expire 2 years from the licensed person's next

birthday, or on the date that the person's legal presence in the United States is no longer authorized, whichever occurs sooner. If the expiration date of a person's probationary license is the date the person's legal presence in the United States is no longer authorized, and the person's legal presence is extended, the department may reissue the probationary license with an expiration date of the latest date determined under this section at the time of initial issuance or the date that the person's legal presence in the United States is no longer authorized, whichever occurs sooner. The department may not, as a consequence of expiration dates based on the person's legal presence in the United States, require any person to possess a probationary license beyond the latest date determined under this section at the time of initial issuance.

(3m) LICENSE EXTENSIONS. A regular license issued by the department may be extended by the department for 4 years from the expiration date of the license if the department has selected the license for 4 year extension rather than renewal in order to balance the number of licenses that will expire in future years. The department may not extend an expiration date under this subsection beyond the date that the person's presence in the United States is legally authorized. The department may consider a person's driving history in deciding whether to extend the person's license. Vision examinations may not be required for extensions.

(5) NEW STATE RESIDENTS. Original operator's licenses issued under s. 343.20 (1) (e), Stats., shall expire 3 years after the licensed person's next birthday or on the date that the person's legal presence in the United States is no longer authorized or on the following date, whichever occurs sooner.

(6) SPECIAL RESTRICTED LICENSES. Special restricted license renewals ~~shall be issued to expire as follows~~ on the date that the person's legal presence in the United States is no longer authorized or on the following date, whichever occurs sooner:

(8) EXPIRATION DATE DOES NOT CHANGE WITH CHANGES IN AUTHORITY. The expiration date of a valid license document shall remain the same when subsequent upgrades to classifications or endorsements are applied to the license, except that if the date that the person's legal presence in the United States is no longer authorized occurs sooner, the expiration date shall become the date that the person's legal presence in the United States is no longer authorized.

SECTION 4. Trans 102.18(1) and (2) are amended to read:

Trans 102.18(1) Original and reinstatement identification cards expire 4 years from the identified person's next birthday, or on the date that the person's legal presence in the United States is no longer authorized, whichever occurs sooner.

(2) Renewal identification cards expire on the date that the person's legal presence in the United States is no longer authorized or on the following date, whichever occurs sooner:

(END OF RULE TEXT)

Effective Date. This rule shall take effect on April 1, 2007.

Signed at Madison, Wisconsin, this ____ day of
August, 2006.

FRANK J. BUSALACCHI
Secretary
Wisconsin Department of Transportation

PART 4
CR 06-082

ANALYSIS OF FINAL DRAFT OF TRANS 102

(a) **Basis and Purpose of Rule.** 2005 Wisconsin Act 126 requires all persons applying for an original, reissue, reinstatement, renewal or duplicate Wisconsin driver's license or identification card on or after April 1, 2007 to show documentary proof of citizenship or legal presence in this country. Currently, applicants for a driver's license or identification card are required to show proof of identity, name and date of birth, and residency. 2005 Wisconsin Act 126 also requires operator's licenses and identification cards to expire on the date the person's legal presence in the United States is no longer authorized. This rule implements these expiration dates.

(b) **Modifications as a Result of Testimony at Public Hearing.** The public hearing was held in Madison on August 3, 2006. No modifications were made as a result of testimony at the hearing.

(c) **List of Persons who Appeared or Registered at Public Hearing.** No one registered/appeared at the public hearing. Erik Greenfield of WTDY radio attended only for information. Following the hearing, Mr. Greenfield interviewed Erin Egan (DMV), Gary Guenther (DMV) and Paul Nilsen (Office of General Counsel) about the changes.

(d) **Summary of Public Comments and Agency Response to those Comments:** The written comment period was held open until close of business the day of the hearing. No public comments were received either at the hearing or in writing.

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

(f) **Response to Legislative Council Recommendations.** The Legislative Council report contained a number of recommendations and are addressed as follows:

1. & 2a. Statutory Authority and Form, Style and Placement. The rule text made each license and identification card expire on the normal expiration date, or on the date the person's legal presence in this country is no longer authorized "or on the following date" whichever occurs sooner. Legislative Council questioned the legal authority for extending the expiration date beyond the date the person's legal presence in this country is no longer authorized, the date specified in 2005 Wis. Act 89. The Department agrees with this comment and has deleted the language quoted above. Legislative Council also suggested reorganizing the text if the quoted language were retained. Because the language is not retained, it is unnecessary to reorganize the text.

2b. The Legislative Counsel also suggested deleting "(refugee)" from the description of the Reception and Placement Program Assurance Form. The Department has verified the title of this form with the U.S. Department of State and added to it the

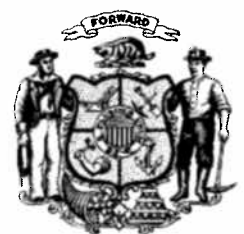
necessary supporting document I-94. The remainder of Legislative Council's comments have been adopted.

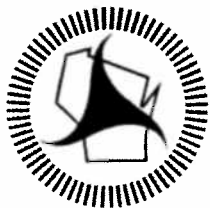
2c. Adopted.

(g) **Final Regulatory Flexibility Analysis.** Some small businesses may be affected, if their employees who are not U.S. citizens do not have legal presence and consequently lose their driving privileges and require driving privileges to attend or perform their jobs. These costs are indeterminable.



WISCONSIN STATE LEGISLATURE





Wisconsin Department of Transportation

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Frank J. Busalacchi
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E-mail: ogc.exec@dot.state.wi.us

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

August 22, 2006

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

RE: Proposed Administrative Rule **TRANS 102**
Notification of Legislative Standing Committees
CLEARINGHOUSE RULE 06-082

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 102**, relating to **operator's licenses and identification cards**, which is being submitted to the Legislature for committee review.

Sincerely,

A handwritten signature in black ink that reads "Julie A. Johnson".

Julie A. Johnson
Paralegal

JAJ/dim

Enclosure

cc: Lynne B. Judd
Erin Egan

CR 06-082

The Wisconsin Department of Transportation proposes an order to amend TRANS 102.11(1)(a)2., (b)1. and 2. and (c), 102.16(1), (3m), (5), (6) and (8), and 102.18(1) and (2); and to create TRANS 102.15(2)(bm) and (3m), relating to operator's licenses and identification cards, and affecting small businesses.

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

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

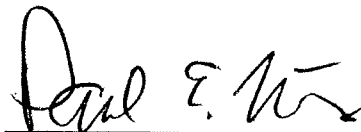
Part 1--Analysis prepared by the Department of Transportation.

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:



PAUL NILSEN
Assistant General Counsel
Office of General Counsel
Department of Transportation
Room 115-B, Hill Farms State
Transportation Building
P. O. Box 7910
Madison, WI 53707-7910
(608) 261-0126

PART 1

Analysis Prepared by the Wisconsin Department of Transportation

Statutes interpreted: s. 343.14(2)(er), Stats.

Statutory authority: ss. 343.14 (2)(er), 343.17(3), 343.20(1m) and 343.50(5) and (6), Stats.

Explanation of agency authority: 2005 Wisconsin Act 126 requires that a person applying for a driver's license or identification card provide documentary proof of citizenship or legal presence in the United States.

Related statute or rule: ss. 343.06, 343.14 and 343.20, Stats.

Plain language analysis: 2005 Wisconsin Act 126 requires all persons applying for an original, reissue, reinstatement, renewal or duplicate Wisconsin driver's license or identification card on or after April 1, 2007 to show documentary proof of citizenship or legal presence in this country. Currently, applicants for a driver's license or identification card are required to show proof of identity, name and date of birth, and residency. 2005 Wisconsin Act 126 also requires operator's licenses and identification cards to expire on the date the person's legal presence in the United States is no longer authorized. This rule implements these expiration dates.

Summary of, and preliminary comparison with, existing or proposed federal regulation: This proposed rule making moves Wisconsin towards compliance with the legal presence requirements of the federal REAL ID Act, which takes effect May 11, 2008.

Comparison with Rules in Adjacent States:

Michigan: No legal presence requirement.

Minnesota: Legal presence required.

Illinois: Legal presence required.

Iowa: Legal presence required.

Summary of factual data and analytical methodologies used and how the related findings support the regulatory approach chosen: Not applicable.

Analysis and supporting documentation used to determine effect on small businesses: Some small businesses may be affected, if their employees who are not U.S. citizens do not have legal presence and consequently lose their driving privileges and require driving privileges to attend or perform their jobs. These costs are indeterminable.

Effect on small business: Indeterminable. The Department's Regulatory Review Coordinator may be contacted by e-mail at andrew.ruiz@dot.state.wi.us, or by calling (414) 438-4585.

Fiscal effect and anticipated costs incurred by private sector: Costs incurred by the private sector is indeterminable. This rule does not directly affect business but may affect the work force. 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.

Contact person and copies of proposed rule: Copies of the proposed rule can be obtained, without cost, by writing to Erin Egan, Department of Transportation, Bureau of Driver Services, Room 255, P. O. Box 7911, Madison, WI 53707-7911. You may also contact Ms. Egan by phone at (608) 266-1449.

PART 2
TEXT OF PROPOSED RULE

SECTION 1. Trans 102.11(1)(a)2., (b)1. and 2. and (c) are amended to read:

Trans 102.11(1)(a)2. Round the resulting quotient to the nearest whole dollar amount. The license upgraded for this fee shall expire on the expiration date of the existing license or on the date that the person's legal presence in the United States is no longer authorized, whichever occurs sooner.

(b)1. Pay the prorated fee as determined under par. (a). The license upgraded for this fee shall expire on the expiration date of the existing license or on the date that the person's legal presence in the United States is no longer authorized, whichever occurs sooner.

2. Pay the prorated fee as determined under par. (a) and the statutory fee. The license upgraded for this fee shall expire 8 years from the expiration date of the existing license or on the date that the person's legal presence in the United States is no longer authorized, whichever occurs sooner.

(c) When 90 days or less remain on the existing license, the license holder shall pay the prorated fee as determined under par. (a) and the statutory fee. The license upgraded for this fee shall expire 8 years from the expiration date of the existing license or on the date that the person's legal presence in the United States is no longer authorized, whichever occurs sooner.

SECTION 2. Trans 102.15(2)(bm) and (3m) are created to read:

Trans 102.15(2)(bm)1. Any person applying for an original Wisconsin operator's license or identification card shall submit satisfactory proof of citizenship, legal permanent resident or conditional resident status of the United States, or legal presence in the United States, as specified under sub. (3m).

2. The department may require any person applying for a reissue, reinstatement, renewal or duplicate operator's license or identification card to provide satisfactory proof of citizenship, legal permanent resident or conditional resident status of the United States as specified under sub. (3m) to determine the person's eligibility for the operator's license or identification card.

(3m) PROOF OF CITIZENSHIP, LEGAL PERMANENT RESIDENT STATUS, CONDITIONAL RESIDENT STATUS OR LEGAL PRESENCE. (a) One of the following is satisfactory proof of a person's citizenship, legal permanent resident status, conditional resident status or legal presence in the United States:

1. U.S. state or local government issued certificate of birth.
2. Valid U.S. passport.
3. Valid foreign passport with appropriate immigration documents, which shall include or be accompanied by federal form I-94, arrival and departure record.

NOTE: The appropriate immigration documents determine legal presence, not the passport itself.

4. Certificate of U.S. citizenship (federal form N-560).
5. U.S. Certificate of naturalization (federal form N-550).
6. Valid department of homeland security/U.S. citizenship and immigration services federal form I-551, resident alien registration receipt card, issued since 1997.
7. Valid department of homeland security/U.S. citizenship and immigration services federal form I-688, temporary resident identification card.
8. Valid department of homeland security/U.S. citizenship and immigration services federal form I-688B or I-766, employment authorization document.
9. Valid department of homeland security/U.S. citizenship and immigration services federal form I-571, refugee travel document.
10. Department of homeland security/U.S. citizenship and immigration services federal form I-797, notice of action.
11. Department of homeland security/transportation security administration transportation worker identification credential.
12. U.S. department of state reception and placement program assurance form (refugee version), which shall include or be accompanied by federal form I-94, arrival and departure record.
13. Documentary proof specified in s. 343.14(2)(er), Stats., that is approved by the appropriate federal authority.

SECTION 3. Trans 102.16(1), (3m), (5), (6) and (8) are amended to read:

Trans 102.16(1) ORIGINAL, REINSTATED AND PROBATIONARY LICENSES. Reinstated licenses, probationary licenses, and original licenses other than instruction permits and license endorsements shall expire 2 years from the licensed person's next

birthday, or on the date that the person's legal presence in the United States is no longer authorized, whichever occurs sooner. If the expiration date of a person's probationary license is the date the person's legal presence in the United States is no longer authorized, and the person's legal presence is extended, the department may reissue the probationary license with an expiration date of the latest date determined under this section at the time of initial issuance or the date that the person's legal presence in the United States is no longer authorized, whichever occurs sooner. The department may not, as a consequence of expiration dates based on the person's legal presence in the United States, require any person to possess a probationary license beyond the latest date determined under this section at the time of initial issuance.

(3m) LICENSE EXTENSIONS. A regular license issued by the department may be extended by the department for 4 years from the expiration date of the license if the department has selected the license for 4 year extension rather than renewal in order to balance the number of licenses that will expire in future years. The department may not extend an expiration date under this subsection beyond the date that the person's presence in the United States is legally authorized. The department may consider a person's driving history in deciding whether to extend the person's license. Vision examinations may not be required for extensions.

(5) NEW STATE RESIDENTS. Original operator's licenses issued under s. 343.20 (1) (e), Stats., shall expire 3 years after the licensed person's next birthday or on the date that the person's legal presence in the United States is no longer authorized or on the following date, whichever occurs sooner.

(6) SPECIAL RESTRICTED LICENSES. Special restricted license renewals shall be issued to expire as follows on the date that the person's legal presence in the United States is no longer authorized or on the following date, whichever occurs sooner:

(8) EXPIRATION DATE DOES NOT CHANGE WITH CHANGES IN AUTHORITY. The expiration date of a valid license document shall remain the same when subsequent upgrades to classifications or endorsements are applied to the license, except that if the date that the person's legal presence in the United States is no longer authorized occurs sooner, the expiration date shall become the date that the person's legal presence in the United States is no longer authorized.

SECTION 4. Trans 102.18(1) and (2) are amended to read:


Trans 102.18(1) Original and reinstatement identification cards expire 4 years from the identified person's next birthday, or on the date that the person's legal presence in the United States is no longer authorized, whichever occurs sooner.

(2) Renewal identification cards expire on the date that the person's legal presence in the United States is no longer authorized or on the following date, whichever occurs sooner:

(END OF RULE TEXT)

Effective Date. This rule shall take effect on April 1, 2007.

Signed at Madison, Wisconsin, this 22nd day of **August**, 2006.


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 **06-082**

AN ORDER to amend Trans 102.11 (1) (a) 2., (b) 1. and 2., and (c), 102.16 (1), (3m), (5), (6), and (8), and 102.18 (1) and (2); and to create Trans 102.15 (2) (bm) and (3m), relating to operator's licenses and identification cards, and affecting small businesses.

Submitted by **DEPARTMENT OF TRANSPORTATION**

06-29-2006 RECEIVED BY LEGISLATIVE COUNCIL.

07-28-2006 REPORT SENT TO AGENCY.

RNS:DLS

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



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

CLEARINGHOUSE RULE 06-082

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated January 2005.]

1. Statutory Authority

What is the statutory authority for including the language “or on the following date” in the four provisions in SECTION 1 and in ss. Trans 102.16 (5) and (6) and 102.18 (2)? The statutes only refer to “the date on which the person’s legal presence in the United States expires” and not to “or on the following date.”

2. Form, Style and Placement in Administrative Code

a. If the language “or on the following date” (referred to in item 1., Statutory Authority, above) is retained, the provisions referred to are confusing and should be redrafted. The intent is obvious that “whichever occurs sooner” applies to the two phrases: (1) “on the expiration date of the existing license”; and (2) “on the date that the person’s legal presence in the United States is no longer authorized or on the following date.” It is confusing, though, to have “whichever comes sooner” placed directly after second phrase since the second phrase contains two alternative dates. The solution is to restructure the provision. For example:

2. The license shall expire on the earlier of the following:
 - a. On the expiration date of the existing license.
 - b. On the date that the person’s legal presence in the United States is no longer authorized or on the following date.

However, it is not clear that "or on the following date" is needed. It is not clear to what date it refers.

b. In s. Trans 102.15 (3m) (a) 3., the bracketed material should be replaced by: ", which shall include or be accompanied by federal form I-94, arrival and departure record." In subds. 6. and 7., a comma should be inserted after the form number (e.g., "federal form I-551, resident alien..."). In subd. 8, there is mention of two forms. As written, it appears that the subject matter of federal form I-688B is ", federal form I-766 employment authorization card." If necessary, this subdivision should be clarified. In subd. 11. "(TWIC)" should be deleted. In subd. 12., what does the parenthetical "(refugee)" mean? If a description of this program assurance form is necessary, it should be set forth after a comma. Otherwise, "(refugee)" should be deleted.

c. In s. Trans 102.16 (3m), in the created sentence, "beyond" should be substituted for "past."

PART 4
CR 06-082

ANALYSIS OF FINAL DRAFT OF TRANS 102

(a) **Basis and Purpose of Rule.** 2005 Wisconsin Act 126 requires all persons applying for an original, reissue, reinstatement, renewal or duplicate Wisconsin driver's license or identification card on or after April 1, 2007 to show documentary proof of citizenship or legal presence in this country. Currently, applicants for a driver's license or identification card are required to show proof of identity, name and date of birth, and residency. 2005 Wisconsin Act 126 also requires operator's licenses and identification cards to expire on the date the person's legal presence in the United States is no longer authorized. This rule implements these expiration dates.

(b) **Modifications as a Result of Testimony at Public Hearing.** The public hearing was held in Madison on August 3, 2006. No modifications were made as a result of testimony at the hearing.

(c) **List of Persons who Appeared or Registered at Public Hearing.** No one registered/appeared at the public hearing. Erik Greenfield of WTDY radio attended only for information. Following the hearing, Mr. Greenfield interviewed Erin Egan (DMV), Gary Guenther (DMV) and Paul Nilsen (Office of General Counsel) about the changes.

(d) **Summary of Public Comments and Agency Response to those Comments:** The written comment period was held open until close of business the day of the hearing. No public comments were received either at the hearing or in writing.

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

(f) **Response to Legislative Council Recommendations.** The Legislative Council report contained a number of recommendations and are addressed as follows:

1. & 2a. Statutory Authority and Form, Style and Placement. The rule text made each license and identification card expire on the normal expiration date, or on the date the person's legal presence in this country is no longer authorized "or on the following date" whichever occurs sooner. Legislative Council questioned the legal authority for extending the expiration date beyond the date the person's legal presence in this country is no longer authorized, the date specified in 2005 Wis. Act 89. The Department agrees with this comment and has deleted the language quoted above. Legislative Council also suggested reorganizing the text if the quoted language were retained. Because the language is not retained, it is unnecessary to reorganize the text.

2b. The Legislative Counsel also suggested deleting "(refugee)" from the description of the Reception and Placement Program Assurance Form. The Department has verified the title of this form with the U.S. Department of State and added to it the

necessary supporting document I-94. The remainder of Legislative Council's comments have been adopted.

2c. Adopted.

(g) **Final Regulatory Flexibility Analysis**. Some small businesses may be affected, if their employees who are not U.S. citizens do not have legal presence and consequently lose their driving privileges and require driving privileges to attend or perform their jobs. These costs are indeterminable.