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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 04-117

#### 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 October 2002.]**

#### 1. Statutory Authority

In s. Trans 112.155 (3) and (4), the department proposes to impose two types of fees on an applicant for a school bus endorsement. The first fee applies in a situation in which the applicant has resided in another state within the two years preceding the date of application. This fee specifically is authorized in ss. 343.12 (8) (c) 2. and 343.21 (3), Stats., as created by 2003 Wisconsin Act 280. The second fee appears to apply whenever the department requires an applicant, including a Wisconsin applicant, to provide two sets of fingerprints for a criminal history records search. What statutory authority exists for this second fee?

#### 2. Form, Style and Placement in Administrative Code

a. In s. Trans 112.12 (3) (b) 3., delete “are currently” and substitute “are, at the time of the application for or renewal or holding of the endorsement,”.

b. In s. Trans 112.15 (2) (m), the first part of the provision should read: “Battery, substantial battery, or aggravated battery under s. 940.19 (2)...” In par. (s), delete the parentheses around “by felon.” In par. (gg), delete “prohibited (extortionate means-use or threat of violence for non-payment).” In par. (oo), substitute a semicolon for the hyphen. In par. (ss) 5., delete “Distribute or deliver” and substitute “Distribution or delivery.” In par. (tt), delete “Acquire or obtain” and substitute “Acquiring or obtaining.” In par. (xx), the first part of the provisions should read: “An attempt to commit, or being a party to commission of, an offense....” In sub. (4) (a) (intro.), second sentence, substitute “the” for “such.”

c. In s. Trans 112.155 (3), first sentence, substitute “the” for “such.” The second and third sentences can be combined as follows: “Upon receiving...history records from the other states of residence, including submitting the person’s fingerprints to the department...” Subsection (4) states “after that date.” After that date of what occurrence? This needs to be clarified.

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

In s. Trans 112.15 (2) (j), the notation “, Stats.,” should follow each occurrence of the reference to “s. 346.63 (7) (a).”

#### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. The following comments apply to the plain language analysis:

(1) In the first sentence of the second paragraph, a comma should be inserted after the second occurrence of the “requirements.”

(2) On page 3 of the rule-making order, item 1. should be rewritten to read: “Allows a physician to certify whether a driver is following the treatment plan for...”

b. In the portion of the preface relating to a comparison to federal regulation, the final semicolon in the first paragraph should be moved to precede the word “and.”

c. In the portion of the preface relating to a comparison with rules in adjacent states, the word “School” is misspelled in the last sentence of the comparison to Minnesota. In the last sentence to the comparison to Iowa, the name “Illinois” should be replaced by the name “Iowa.”

d. In s. Trans 112.15 (1) to (3), the list of offenses does not appear to include the offenses under s. 343.12 (7) (a) 1., 2., and 7., Stats., as created by 2003 Wisconsin Act 280. Is this the reason for the note following sub. (4)? Given the length of the lists in the rule, it may be helpful to include the remaining statutory offenses.

e. In s. Trans 112.155 (1), the word “drivers” in the last sentence should be replaced by the word “driver’s.”

f. In s. Trans 112.20 (2), the new clause would be clearer if it read: “, and a person who does not meet those standards may not request a review board assessment.”