

Clearinghouse Rule 07-072

**PROPOSED ORDER OF THE STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION
ADOPTING RULES**

The Wisconsin Department of Transportation proposes an order to repeal TRANS 130.07(3)(e)5.; amend TRANS 130.02(4), 130.03(1)(intro.), (title), (i)5., (2)(intro.), (title) and (e), 130.04(1), 130.05(2)(b), (d), (f)(intro.), and (g) to (i), 130.06, 130.07(1) and (3)(intro.), 130.08 to 130.10, 130.11(1)(intro.), (c), (2) and (3)(note); and create TRANS 130.02(4m) and (5g), 130.03(1)(k), (2)(bm), (h) and (i), and 130.07(4), relating to special identification cards and special registration plates for physically disabled.

NOTICE IS HEREBY GIVEN that pursuant to ss. 85.16(1) and 343.51(1) and (2), Stats., and interpreting ss. 340.01(43g), 341.14(1), (1a), (1e), (1m), (1q) or (1r)(a), 343.51, 343.52, 346.50(1m), (2a)(h), (j), and (k) and (3), Stats., the Department of Transportation will hold a public hearing in **Room 144-B** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **15th** day of **August**, 2007, at **1:00 PM**, to consider the amendment of ch. Trans 130, Wisconsin Administrative Code, relating to special identification cards and special registration plates for physically disabled.

An interpreter for the hearing impaired will be available on request for this hearing. Please make reservations for a hearing interpreter at least 10 days prior to the hearing.

Parking for persons with disabilities and an accessible entrance are available.

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Analysis Prepared by the Wisconsin Department of Transportation

Statutes interpreted: ss. 340.01(43g), 341.14(1), (1a), (1e), (1m), (1q) or (1r)(a), 343.51, 343.52, 346.50(1m), (2a)(h), (j), and (k) and (3), Stats.

Statutory authority: ss. 85.16(1) and 343.51(1) and (2), Stats.

Explanation of agency authority: The Department is required to provide special identification cards, to be used for access to reserved parking spaces, for persons with disabilities that limit or impair the ability to walk.

Related statute or rule: Section 343.51, Stats., and Ch. Trans 130

Plain language analysis: Chapter Trans 130 governs the issuance and use of cards and special registration plates that authorize special parking privileges for persons with certain physical disabilities, and for organizations that regularly transport such persons.

This rule amendment updates language to conform to recent statute changes: expanding the persons who are authorized to sign a health care provider statement, and requiring the applicant to retain a copy of the health care provider statement.

In addition, as required by s. 343.51(2m)(b), Stats., this rule amendment provides policy and procedure for requesting replacement cards, in order to deter practice of obtaining replacement cards which are not legitimately needed and may be fraudulently distributed.

Finally, this rule amendment distinguishes between cards issued to individuals and to organizations.

Summary of, and preliminary comparison with, existing or proposed federal regulation: The federal Americans with Disabilities Act (ADA) and consequent regulations of the federal National Highway Traffic Safety Administration (NHTSA) govern

states' issuance of disabled parking cards and license plates. Ch. Trans 130 conforms to federal regulation.

Comparison with Rules in the Following States:

Michigan: No fee is charged to replace a mutilated card, but the applicant must return the mutilated card. Replacement fee for lost or stolen card is \$10. There is no limit on the number of replacements that can be requested. Initial permanent card is valid for 5 years and then renewed every 4 years.

Minnesota: Disability placards may be replaced if they are reported lost, stolen, or damaged. If a person reports 3 certificates lost in any 36-month period, they must explain why so many placards needed to be replaced, what they are doing to assure that placards are not lost in the future, and get permission from the State Council on Disability to receive another placard. By policy, damaged placards are requested to be turned in at the time of application for replacement and applications for placards reported stolen should include a copy of the police report; if this procedure is followed the stolen or damaged certificates do not count toward the lost certificate restriction. Long-term and permanent replacement placards are issued at no fee. Temporary and short-term placards require a \$5 fee for replacement.

Illinois: Replacement fee \$10. If a card is lost, stolen or damaged, the cardholder must submit a signed replacement card application. Only one card is issued per applicant. Fines for using lost, stolen, fraudulent, or altered card range from \$1,000 to \$2,500.

Iowa: No fee is charged for a replacement placard. If the request is for replacement of a temporary card, Iowa requires a new medical certification. No new certification needed for replacing a permanent card. There is no limit on the number of replacements that can be requested.

Summary of factual data and analytical methodologies used and how the related findings support the regulatory approach chosen: Chapter Trans 130 currently requires a person to check the reason that the person requires a replacement card: lost, stolen, destroyed, mutilated or illegible, or name change; but DMV does not deny replacement card issuance.

DMV has considered several possible approaches to strengthen replacement card issuance:

- Ask for the return of mutilated or damaged cards; possibly ask for a police report for stolen cards. This approach may reduce requests but places some burden on the applicant.
- Ask a person to file request via law enforcement or court. The disadvantage is workload burden on the law enforcement or court.

- Establish a replacement fee, possibly coupled with no charge if there's a stolen card report. Again, this approach may reduce requests but places some burden on the applicant.
- Put some unique feature on a replacement card, coupled with establishing more frequent renewal or reissue periods – to more frequently purge the database of obsolete cards. However, this would result in large cost to DOT and a burden to all cardholders.
- Not allow a person to apply for a replacement card within a period of time after their last replacement card. A disadvantage is this could deny a legitimate replacement to someone who needs a replacement immediately.
- Informing local law enforcement whenever a person receives a replacement card. This approach results in cost to DMV and law enforcement and it is uncertain whether this would actually have any value.

DOT has chosen to require additional documentation in the form of a signed, notarized statement from applicants who have had possibly excessive requests for replacement cards. DOT has chosen not to charge a fee for replacement cards, and not to ask cardholders to return cards to DOT, to minimize the burden on customers, the vast majority of whom have a legitimate need to obtain a replacement card. The signed, notarized statement additionally provides a record of facts that the applicant is attesting to, in requesting a replacement card.

Analysis and supporting documentation used to determine effect on small businesses: This rule making affects disabled individuals and organizations that provide transportation to disabled individuals. The rule has no effect on small business.

Effect on small business: The rule has no effect on small business. The Department's Regulatory Review Coordinator may be contacted by e-mail at ralph.sanders@dot.state.wi.us, or by calling (414) 438-4585.

Fiscal effect: 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.

Anticipated costs incurred by private sector: The Department estimates that there will be no fiscal impact on state or private sector revenues or liabilities.

Agency contact person and place where comments are to be submitted and deadline for submission: The public record on this proposed rule making will be held open until close of business the day of the hearing to permit the submission of comments in lieu of public hearing testimony or comments supplementing testimony offered at the hearing. Any such comments should be submitted to Carson Frazier, Department of Transportation, Division of Motor Vehicles, Room 255, P. O. Box 7911, Madison, WI

53707-7911. You may also contact Ms. Frazier by phone at (608) 266-7857 or via e-mail: carson.frazier@dot.state.wi.us.

To view the proposed amendments to the rule, view the current rule, and submit written comments via e-mail/internet, you may visit the following website: <http://www.dot.wisconsin.gov/library/research/law/rulenotices.htm>.

TEXT OF PROPOSED RULE

SECTION 1. Trans 130.02(4) is amended to read:

Trans 130.02(4) "Health care specialist" means a physician licensed to practice medicine in any state, an advanced practice nurse licensed to practice nursing in any state, a physician assistant licensed or certified to practice in any state, a chiropractor licensed to practice chiropractic in any state, a Christian science Science practitioner residing in this state and listed in the Christian science Science journal, or an authorized representative of the U.S. department of veterans affairs.

SECTION 2. Trans 130.02(4m) and (5g) are created to read:

Trans 130.02(4m) "Individual card" means a special identification card as described in s. Trans 130.03(1) issued under this chapter and s. 343.51, Stats., to an individual for the purpose of obtaining special parking privileges.

(5g) "Organization card" means a special identification card as described in s. Trans 130.03(2) issued under this chapter and s. 343.51, Stats., to an organization for the purpose of obtaining special parking privileges.

SECTION 3. Trans 130.03(1)(intro.), (title) and (i)5. are amended to read:

Trans 130.03(1)(intro.) (title) APPLICATION BY A PERSON FOR A AN INDIVIDUAL CARD AND APPLICATION FOR SPECIAL REGISTRATION PLATES. Each application by a person for a permanent individual or temporary individual card and each application for special registration plates shall be on a form provided by the

department or in a letter, except as allowed in s. Trans 130.10, and shall contain the following information:

(i)5. ~~Whether~~ In application for a permanent individual card, whether or not the health care specialist believes that the person's disability impairs the person's ability to drive safely.

SECTION 4. Trans 130.03(1)(k) is created to read:

Trans 130.03(1)(k) As required by s. 343.51(1m)(b), Stats., the person making application to the department shall make and retain a copy of the statement from the health care specialist, for the period of time in which the special identification card is valid. The person shall carry the copy of the statement on the person or in the vehicle and shall, upon request by any traffic officer, produce the statement for inspection.

SECTION 5. Trans 130.03(2)(intro.) and (title) are amended to read:

Trans 130.03(2)(intro.) (title) APPLICATION BY AN ORGANIZATION FOR A PERMANENT ORGANIZATION CARD. Each application for a permanent organization card by an organization shall be on a form provided by the department or in a letter, and shall contain the following information:

SECTION 6. Trans 130.03(2)(bm) is created to read:

Trans 130.03(2)(bm) The Federal Employer Identification Number, or FEIN, of the organization.

SECTION 7. Trans 130.03(2)(e) is amended to read:

Trans 130.03(2)(e) The number of organization cards being requested.

SECTION 8. Trans 130.03(2)(h) and (i) are created to read:

Trans 130.03(2)(h) As required in s. 343.51(1m)(b), Stats., the organization making application shall make and retain at its regular place of business for the period

of time in which the organization card is valid, a copy of the certification by the organization that it regularly transports persons as defined in s. Trans 130.02 (6), and shall make the certification available for inspection to a traffic officer upon request.

(i) The organization shall maintain a record of the name of any person to whom the organization has issued one of its organization cards, and the date of issue. Whenever any person no longer operates a vehicle on behalf of the organization, the organization shall make a good faith effort to retrieve the organization card from that person.

SECTION 9. Trans 130.04(1) is amended to read:

Trans 130.04(1) ISSUANCE FEE FOR A CARD. A fee of \$6.00 shall be charged for the issuance, replacement or extension of a temporary individual card. Effective July 1, 2003, no fee may be charged for the issuance, replacement, extension or renewal of a permanent individual or organization card.

SECTION 10. Trans 130.05(2)(b), (d), (f)(intro.) and (g) to (i) are amended to read:

Trans 130.05(2)(b) A temporary individual card may not be issued for a period of more than 6 months.

(d) The certification of a person's eligibility for a an individual card or registration plates by a U.S. department of veterans affairs representative is not to be considered as a claim for veterans affairs benefits.

(f)(intro.) A An organization card issued to an organization shall be used only for a motor vehicle operated by or on behalf of the organization when transporting persons as defined in s. Trans 130.02 (6). This includes the following:

(g) No organization may be issued more organization cards than the total number of motor vehicles operated by or on behalf of the organization to regularly transport persons as defined in s. Trans 130.02 (6).

(h) A person who has special registration plates issued under s. 341.14 (1a), (1m), (1q) or (1r) (a), Stats., may be issued no more than one individual card.

(i) A person who has no special registration plates issued under s. 341.14 (1a), (1e), (1m), (1q) or (1r) (a), Stats., may be issued no more than 2 individual cards.

SECTION 11. Trans 130.06 is amended to read:

Trans 130.06 Change of name or address. When the name or address of a an individual or organization card holder is changed, the person or spouse, parent, step-parent, foster parent or guardian of the person, if applicable, or organization in the case of organization card shall, within 10 days, notify the department of the individual or organization card number, the former address and the new address, or the former name and the new name.

~~**NOTE: Notifications should be sent to the Special Plates Unit/ID, P. O. Box 7306, Madison, WI 53707-7306.**~~

SECTION 12. Trans 130.07(1) and (3)(intro.) are amended to read:

Trans 130.07(1) WHEN REQUIRED. If a person or organization has a card and the card is mutilated, destroyed, illegible, lost or stolen, ~~or the name of the card holder changes,~~ the card holder may apply to the department for a replacement.

(3)(intro.) APPLICATION. A person or organization applying for a replacement individual or organization card shall provide the following:

SECTION 13. Trans 130.07(3)(e)5. is repealed.

SECTION 14. Trans 130.07(4) is created to read:

Trans 130.07(4) EXCESSIVE REPLACEMENTS. (a) If a person has previously been issued 2 or more replacement individual cards during the 36 months prior to the current application, or if an organization has been issued 2 or more replacement organization cards during the 36 months prior to the current application, the person or organization shall also submit to the department a signed, notarized, statement as prescribed by the department.

(b) If the person or organization does not submit the signed, notarized statement to the department within 30 days after the department receives the replacement individual or organization card application, the department shall consider the application for replacement individual or organization card withdrawn.

SECTION 15. Trans 130.08 to 130.10 are amended to read:

Trans 130.08 Extension of a temporary card. A person needing an extension of a temporary individual card because the temporary disability continues beyond the expiration of the previously issued temporary individual card shall submit a new application as specified in s. Trans 130.03.

Trans 130.09 (title) Renewal of a permanent individual or organization card and special registration plates. The department shall request submittal every 4 years of the information for a person as specified under s. Trans 130.03 (1), or for an organization as specified under s. Trans 130.03 (2), in order to verify the person or organization's continuing qualifications for a permanent individual or organization card or special registration plates and to renew the card or special registration plates.

Trans 130.10 Use of other statements. At the department's discretion, a statement or application already on file with the department used to establish eligibility for a an individual or organization card, or special registration plates issued under s.

341.14 (1), (1a), (1e), (1m), (1q) or (1r) (a), Stats., may be used to establish eligibility for issuance or renewal of a an individual or organization card or special registration plates.

SECTION 16. Trans 130.011(1)(intro.), (c), (2) and (3)(note) are amended to read:

Trans 130.11(1)(intro.) The department may cancel a an individual or organization card or special registration plates in the following instances:

(c) When a person is deceased, or can no longer make proper use of the individual card or registration plates.

(2) Whenever a an individual or organization card is canceled under sub. (1)(a), the card shall be surrendered to the department.

(3)(note) Forms used in administering this chapter are MV2548, Permanent Disabled Parking Identification Card for Individuals; MV 2933, Temporary Disabled Parking Identification for Individuals; MV2595, Disabled Parking Identification Cards for Organizations; MV2162, Disabled Parking License Plates Application; MV2172, U.S. Veteran Disabled Parking License Plates Application; ~~and MV2741, Application Return Notice~~; MV 2752, Important Information for Persons Authorized Disabled Parking Privileges; and MV 2967, Excessive Individual or Organization Replacement Card Notarized Statement. Forms may be obtained from the Wisconsin Department of Transportation, Division of Motor Vehicles, Bureau of Vehicle Services, P. O. Box 7907, Room 253, Madison, WI 53707-7907 or from the department's web site www.dot.state.wi.us.

(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)(intro.), Stats.

Signed at Madison, Wisconsin, this ____ day of July, 2007.

FRANK J. BUSALACCHI
Secretary
Wisconsin Department of Transportation