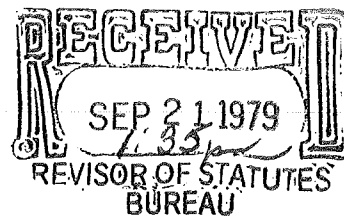


TRANS 105, MVD 19

C E R T I F I C A T E



STATE OF WISCONSIN)
) ss
DEPARTMENT OF TRANSPORTATION)

TO ALL TO WHOM THESE PRESENTS COME:

I, Lowell B. Jackson, Secretary of the Department of Transportation and custodian of the official records of the Department do hereby certify that the annexed rules relating to the repeal and recreation of Chapter MVD 19, Wisconsin Administrative Code pertaining to commercial driver schools and instructors, were duly approved and adopted by this Department on September 21, 1979.

I further certify that the copy has been compared by me with the original on file in the Department and that the same is a true copy thereof, and of the whole of such original.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Hill Farms State Office Building in the City of Madison, this 21st day of September, 1979.

Lowell B. Jackson
Lowell B. Jackson, P.E.
Secretary
Wisconsin Department of Transportation

IN THE MATTER OF THE RENUMBER- :
ING, REPEAL AND RECREATION OF :
CHAPTER MVD 19, WIS. ADMIN. : ORDER ADOPTING
CODE, RELATING TO RULES GOVERN- : RULES
ING COMMERCIAL DRIVER SCHOOLS :
AND INSTRUCTORS. :

Analysis Prepared by the Department of Transportation

This rule change renumbers current Ch. MVD 19 to TRANS 105, and repeals and recreates the current rule text. The renumbering is being done as a part of a general restructuring of the Department of Transportation's administrative rules. Most of the proposed changes are technical in nature, but some new provisions have been added and several current practices that have been established in recent years are now being incorporated in the Code. Also, some modifications to the original proposal are in response to testimony and comments received at the public hearing. The following substantive changes and additions are included in this draft:

(1) The addition of par. (h) to current MVD 19.01 (renumbered as TRANS 105.01) to allow the department to ask for other relevant, but currently unspecified, information from license applicants. [New]

(2) The addition to MVD 19.02(1) [renumbered as TRANS 105.02(1)] specifies that instructors who allow their licenses to lapse for one year or more will be retested when reapplying for a license. Also, the DOT can require the retesting of other previously licensed instructors when good cause is shown. [Current Practice]

(3) Added to MVD 19.04(3) [renumbered as TRANS 105.04 (3)] is the requirement of an instructor who changes employers to forward the current license certificate to the DOT. [Current Practice]

(4) Current MVD 19.05(2) [renumbered as TRANS 105.05 (2)] is changed to provide that the permanently bound record book maintained by licensed schools must include the total number of hours of instruction given each student. [New]

(5) Current MVD 19.06 [renumbered as TRANS 105.06] is changed to:

(a) Clarify the current requirement that driving schools own or lease a place of business that is used exclusively by the school. Under this proposal, the business offices of the school must be set aside exclusively for the school, but

classroom facilities need not be used exclusively for driver education if other uses do not interfere with proper instruction. This change is made in response to testimony received at the hearing and will allow driver schools to share classroom facilities with other schools, groups and organizations. It is not intended, however, that other activities be allowed while classes are in session.

(b) Include a limit of 35 students in any class section except that larger class sections will be allowed when facilities and lesson plans justify such instruction. (This is new. However, the original proposal was modified after hearing to allow class sections that exceed 35 students in some instances such as combined classes for film viewing and lecture presentations. Under the rule, all lesson plans are subject to review by the department and this flexibility in class size can be monitored and controlled to prevent abuses.)

(c) Eliminate the reference to the inspection sticker issued in accordance with Ch. MVD 5. [Current Practice]

(d) Eliminate the restriction that instruction given in a private auto be limited to a vehicle owned by the student or a member of the student's family. [New]

(e) Prohibit the use of driver school trade names that may be duplicative, confusing or fraudulent. [Current Practice]

(6) The changes in current MVD 19.07 [renumbered as TRANS 105.07] relating to special rules for instructing persons under 18 years of age in order to qualify for licenses under sec. 343.06, Stats., are:

(a) The reference to Department of Public Instruction approval or disapproval of courses of instruction offered by licensees to persons under age 18 is eliminated. [Reflects change in statutes]

(b) Behind-the-wheel driving time may be substituted for all or part of the observation time on the basis of 1 hour of driving replacing 2 hours of observation. Also, in response to testimony received at the hearing, the original proposal has been changed to allow schools to count 2 hours observation time per day. The limit in observation time to 1 hour per day often creates undue hardship for some students who must travel considerable distances to take instruction. Moreover, this practice is permitted in courses certified by the Department of Public Instruction. [New]

(c) The situation in which student is enrolled in or has completed the approved behind-the-wheel phase in a high school and wants to take additional instruction from a driver school is clarified. [Current practice clarified]

(d) No changes in a driver school course may be made without DOT approval. [Current practice clarified]

(e) Guidelines for course outlines and lesson plans are specified. [New]

(f) The minimum number of weeks for a classroom course is changed from 6 to 3. [New]

(g) All students must be present at every session unless absent for a legitimate reason and all sessions missed must be made up by the student. The original proposal required all students to be present at the first day of class. However, some driver school managers testified that this would make it difficult to call in students from their waiting lists when they find that some enrollees do not show up for the first session. The department is concerned that allowing students to enroll late will cause subsequent sessions to be used for necessary clerical work. However, it is recognized that the schools need some flexibility in this area and school operators ought to understand that every effort should be made to avoid using valuable classroom time for such activities. [Current practice modified]

(h) An instructor whose license has lapsed for 4 years or more must retake the instructor training course. [Current practice]

(i) The DOT may accept equivalent training in lieu of the 40-hour standard instructor training course. [Current practice]

(j) The DOT may issue a "regular" instructor's license to instructors who have held "temporary" licenses for at least 5 years and have been unable to complete the 100-hour course because it has not been offered in the areas of the state where they reside. However, such instructors must furnish evidence of other relevant training with objectives similar to the 100-hour course. This provision was added in response to concerns raised at the hearing. The 100-hour course has not been available throughout the state. It is hoped that steps will be taken in the various VTAE districts to increase availability of this instruction. This change is not intended to exempt instructors from the requirement when the course is available.

(k) Driver schools that are licensed to teach persons under the age of 18 may employ instructors who are licensed to teach adults only as long as those instructors are not involved in the instruction of students under 18 years of age. This change was suggested at the hearing in order to give schools needed flexibility in handling their businesses. Some concerns have been expressed that the change may invite some schools and instructors to circumvent the mandatory 100-hour training course. However, the Department will monitor this activity closely to determine whether any abuses arise that might need further regulation. [New]

Pursuant to authority vested in the Wisconsin Department of Transportation by secs. 110.06 and 227.014, Wis. Stats., the

Department of Transportation hereby renumbers, repeals and re-creates rules interpreting secs. 343.06(3) and 343.60 to 343.72, Wis. Stats., as follows:

Chapter MVD 19 of the Wisconsin Administrative Code is renumbered chapter TRANS 105, and as renumbered is repealed and recreated to read:

CHAPTER TRANS 105

LICENSING OF DRIVER SCHOOLS AND INSTRUCTORS

TRANS 105.01 Application forms for driver school and instructor licenses (sections 343.61 and 343.62, Stats.).

(1) Information required in the application may include, but is not limited to, the following:

- (a) Name of the applicant
- (b) Present address of applicant
- (c) Previous addresses of applicant in the past 5 years
- (d) Description of applicant and description of facilities
- (e) Training or experience instructing drivers
- (f) Character references
- (g) The names of instructors and a list of driver training cars, if applying for driver school license.
- (h) Any other information that may be deemed relevant to the decision to grant or deny a license.

(2) Application for a driver school license shall be accompanied by a schedule of maximum fees and charges per hour for instruction of students.

(3) Application for a driver school license shall be accompanied by a copy of the contract or agreement which constitutes the complete agreement for instruction of students.

TRANS 105.02 Examination of applicants for instructor's license (section 343.63, Stats.).

(1) The road test shall be scored in the same manner as are tests given for regular operator's licenses and shall also include an actual demonstration of procedures and techniques used in instructing drivers. Tests required by s. 343.63(1), (2), and (3), Stats., is required of all applicants for original instructor's license and applicants whose instructor's licenses have lapsed for one or more years. The department may also require retesting of currently licensed instructors either as a part of a routine retesting program or when it has reasonable cause to doubt the continued competency of any individual instructor.

(2) The statement submitted by the physician required by section 343.63(4), Stats., shall be on a form supplied by the department.

(3) If the information filed by the physician is such as to indicate the person is not physically fit to teach driving, the department may require the applicant to submit to further medical examination or deny the license.

(4) An authorized departmental representative may visit classroom sessions and ride in driver training cars during instruction for the purpose of evaluating the teacher's

preparation, knowledge of the subject matter, and teaching ability, and determining if the approved course is being followed.

TRANS 105.03 Determination of satisfactory driving record and moral character (section 343.65(2), Stats.).

(1) A person's driving record shall not be considered satisfactory to hold an instructor's license if that person:

(a) Has accumulated more than 6 demerit points under section 343.32(2), Stats., during any one-year period in the past 3 years.

(b) Has been involved in 2 or more accidents in a one-year period where the accident report indicates that such person may have been causally negligent.

(c) Has had his or her operator's license revoked, suspended or cancelled at any time during the past 4 years.

(2) For the purpose of determining good moral character, the department shall consider all relevant arrests and convictions on record, contact at least 2 character references of the 3 named by the applicant, and make such further examinations and checks as are deemed necessary.

TRANS 105.04 Loss or surrender of license.

(1) Application for a duplicate of a lost or destroyed license shall contain the information set forth in section

TRANS 105.01(1) (a), (b), and (d) and shall be accompanied by a certified statement that the original was lost or destroyed.

(2) If a school terminates active participation in the business of teaching driver training for a fee, the school shall immediately forward such license to the department for cancellation.

(3) If an instructor is no longer employed with a driver school or is changing employment from one school to another, the instructor shall notify the department of that fact and forward his or her license to the department for cancellation.

TRANS 105.05 Driver schools to maintain records.

(1) The records required by sec. 343.71, Stats., shall be made available for inspection at all reasonable times to an authorized representative of the department.

(2) (a) The records required by sec. 343.71(1), Stats., shall be contained in a permanently bound book having consecutively numbered pages, on which are set forth for each person to whom instruction is given:

1. The student's last name, first name and middle initial;
2. The student's date of birth;
3. The student's home address;
4. The contract or agreement number; and
5. The total number of hours of lessons, lectures, tutoring and other instruction or services of any kind relating to motor vehicle operation instructions.

(b) The information required under par. (a)1 to 4 shall be entered in the book within one working day after the making of a contract or agreement between the school and the student.

(c) The information required under par. (a)5 shall be entered in the book within one working day after the last instruction or other service has been received by the student.

(3) The records required by sec. 343.71(2), Stats., shall be in the form of an individual permanent student record card on each person listed in the record book required by sec. 343.71(1), Stats. Such record card shall show the student's name, date of birth, and address, the contract or agreement number, receipt number, permanent register page number, dates, types, duration and fees charged for each lesson, lecture, tutoring, period of instruction or other service relating to instructions in the operation of motor vehicles; the name and license number of the instructor having given each lesson or period of instruction of service relating to instruction in the operation of motor vehicles, and identification of the vehicle in which any behind-the-wheel instruction was given, including type of transmission. The information required by this section shall be entered on the student record card within one working day after the completion of each lesson.

(4) To be approved, the agreement form required to be filed by sec. 343.71(3), Stats., shall be consecutively

numbered, contain the date of application, name of school, type or types of lessons, lectures, tutoring or instruction to be given, fee to be charged or the word none if no charge, the statement, "This constitutes the entire agreement between the school and the student and no verbal statement or promises will be recognized," signature of student, address of student, and signature of owner of school or his or her authorized representative.

(5) All records required by this section shall be retained for 6 years from date of origin and maintained in a businesslike manner. All entries shall be made in ink and corrections shall be made by drawing or striking a single line through the error and making a new entry. Only standard abbreviations are to be used.

(6) The loss, mutilation, or destruction of records required under this section shall be reported immediately to the department by affidavit, stating:

(a) The date such records were lost, destroyed, or mutilated;

(b) The circumstances involving such loss, destruction, or mutilation; and

(c) To whom and when the loss was reported, if the circumstances of the loss warranted a report to the local law enforcement agency or fire department.

TRANS 105.06 General rules for conducting driver schools.

(1) Licenses shall issue receipts for all fees collected.

(2) To be approved by the department, a driver school's specific place of business required by sec. 343.72(5), Stats., shall:

(a) Be owned or leased by the driver school and used exclusively by that driver school, except that classroom facilities need not be used exclusively for driver education if other uses do not interfere with the proper conduct of instruction.

(b) Be in an area zoned to permit this type of business. The department may require the applicant to furnish written proof thereof from the municipality where the driver school is located.

(c) Contain sufficient space, designated as the office facility, with equipment and personnel to properly maintain and secure the records required by sec. 343.71, Stats., and this chapter.

(d) Not consist of a tent, temporary stand, house trailer, hotel room, room in a rooming house or temporary address.

(e) Not consist solely of a telephone answering service. A telephone used in the driver school business for incoming calls shall be located in the office facility.

(f) Not consist of or include a single or multiple family residence, unless it is separated from residential use

by a door or partition and it can be reached from the outside without entering the residential rooms of the building.

Driver schools licensed prior to January 1, 1969 are exempt from this requirement until either the location or ownership is changed.

(3) Any facility to be used as a classroom shall be designated in writing by the licensee, and no instruction shall begin without written authorization by the department. Authorization by the department does not supersede local ordinances or the building, heating and ventilation code established by the department of industry, labor and human relations relating to public health, safety and sanitation. The department shall consider the following criteria in determining the suitability of the classroom learning environment:

(a) Size of room at least 20 square feet per occupant.

(b) Cleanliness.

(c) Absence of conflicting noise, disturbances or distractions.

(d) Audio-visual aids.

(e) Adequacy of lighting, heating and ventilation.

(4) No more than 35 students may be placed in any class section without the department's approval. Class sections in excess of 35 students may be allowed only when facilities and lesson plans justify such instruction.

(5) Licensees may not post advertising or solicit business within 1500 feet of any department of transportation office where official road tests are given.

(6) Licensees not authorized to teach students under 18 years of age may not advertise in a manner that states or implies that such services are provided.

(7) Licensees may advertise only by the school name and specific street address shown on its license.

(8) Licensees shall supply the information required by sec. 343.72(11), Stats., to the attention of the department immediately upon purchase or lease of each driver training car.

(9) Licensees may not charge fees in excess of those on file with the department. Fees may be amended at any time, provided such changes are filed with the department not later than the day they become effective.

(10) Approved dual controls required by sec. 343.72(12), Stats., include but are not limited to a separate brake for the instructor which is located on the right side of the car so the instructor can operate it with the foot normally used to operate the brake and accelerator and a separate mirror on the right, outside of the car, positioned so the instructor can view traffic to the rear. To assure the safety of students and the public, all driver training cars shall be inspected by the department within 30 days of purchase or lease by the school and, at the department's discretion, may be inspected each year thereafter. An authorized representative of the department may make random inspections to assure compliance with this subsection.

(11) Licensees shall give behind-the-wheel instruction only in driver training cars, except such instruction may be given to persons who now hold or previously held an operator's license or have completed 6 clock hours of behind-the-wheel instruction given by a high school, school of vocational, technical, and adult education, institution of higher learning, or school licensed by the department.

(12) The department may deny the application if it determines the school name could be duplicative, confusing or fraudulent. Any change of the school's name, address, or ownership must be approved in advance by the department.

TRANS 105.07 Special rules for instruction of students under 18 years of age.

(1) (a) Except as otherwise provided by this section, a licensed driver school may not offer courses in driver education specified in sec. 343.06, Stats., without first obtaining the department's approval which shall be evidenced by an endorsement on the license certificate. The endorsement shall specify whether the licensee is authorized to provide classroom instruction or behind-the-wheel instruction, or both to persons under 18 years of age.

(b) Requests for initial approval under this section shall be accompanied by a course outline with lesson plans. After the course outline with lesson plans has been initially

approved, the licensee must submit to the department for approval any proposed changes prior to their implementation.

1. The course outline shall specify a minimum of one main topic or more for each hour and be arranged chronologically in the order of presentation. The classroom course shall cover, but is not limited to the following:

- a. Evolution and impact of vehicles and highways
- b. Responsibility of vehicle operation
- c. Mechanical and control features of the vehicle
- d. Environmental dynamics of driving
- e. Driving procedures: Pre-driving skills and basic

maneuvers

- f. City driving
- g. Rural driving
- h. Freeway driving
- i. Psychophysical aspects of driving
- j. Vehicle ownership
- k. Traffic citizenship and highway safety progress

2. The behind-the-wheel course shall cover, but is not limited to the following:

- a. Introduction to the automobile
- b. City driving
- c. Left and right turns
- d. Backing and Y turns
- e. Parking
- f. Rural driving (including multiple lane and freeway

if possible)

3. Each classroom lesson plan shall cover no more than two hours. Each behind-the-wheel lesson plan shall cover no more than one hour. The lesson plan shall specify the following:

- a. Title of lesson
- b. Session number
- c. Time allotted to this lesson
- d. Type of lesson (method; such as lecture, demonstration, informal discussion, role playing, laboratory, drill and practice, test, etc.)
- e. Training aides (chalkboard, slide projector, etc.)
- f. Statement of objectives
- g. Reference material (textbooks, pamphlets, movies, film strips, slides, charts, etc.)
- h. Detailed lesson outline (which includes an introduction, development and summary with assignment for next lesson)

(c) Students under 18 years of age who satisfactorily complete the approved course shall be given a certificate of completion on a form approved by the department.

(2) (a) In order to be eligible for approval under this section, a classroom phase of instruction shall consist of 30 clock hours in the classroom, extending over a minimum of 3 weeks for each student at no more than 2 clock hours per day. A course is not approved when students begin the class on alternate dates. All students must be present for

every session except if a student is absent for any legitimate reason, the absence must be marked on the student's record card and the sessions missed must be made up. The maximum number of hours that may be made up is 4. A student who is absent for more than 4 hours cannot continue with that group. Classroom instruction and behind-the-wheel instruction may be given concurrently only if both phases are given by the same school.

(b)1. In order to be eligible for approval under this subsection, a behind-the-wheel phase of instruction shall consist of 6 clock hours of observation in the vehicle and 6 clock hours of actual vehicle operation. This phase shall extend over a minimum of 3 weeks for each student with no more than 1 hour of behind-the-wheel driving and no more than 2 hours of observation each day.

2. Behind-the-wheel instruction may be substituted for observation if the agreement specifies the hours and cost of both the basic course and the alternate. This substitution may be on a ration of 1 hour of driving to 2 hours of observation. (Example: 7 hours driving and 4 hours observation or 8 hours driving and 2 hours observation or 9 hours driving and no observation.)

(3) Licensees may not enroll students for only the behind-the-wheel phase unless certified proof of completion of an approved classroom phase, on a form provided by the department, is on file with the agreement in the licensee's office. However, this subdivision does not apply if the

student is either enrolled in an approved behind-the-wheel phase at a different school or has completed the approved course, and the agreement specifies that the instruction does not qualify the student to apply for a license under sec. 343.06(3), Stats.

(4) (a) Licensees not meeting the requirements of sub. (2) (a) and (b) shall be restricted to instruction of students who are 18 years of age or over.

(b) Licensees meeting the requirement of sub. (2)(b) but not (2) (a) shall be restricted when instructing students under 18 years of age to a behind-the-wheel course only.

(c) Licensees may employ instructors who are licensed to teach adults only so long as those instructors are not involved directly or indirectly in the instruction of persons under 18 years of age.

(5) All applicants for an instructor's license shall have satisfactorily completed 100 clock hours of classroom instruction in safety and driver education as given by an approved college, university, or a school of vocational, technical and adult education, as a minimum requirement to teach students under 18 years of age except that:

(a) Instructors licensed prior to January 1, 1971 with more than 1 year experience teaching students in a complete course of instruction as set forth in sub. (2) (a) and (b) are exempt from this requirement.

(b) Instructors licensed prior to January 1, 1971 with more than 1 year experienced teaching students in a behind-the-wheel course as set forth in sub. (2)(b) are exempt from this requirement only to continue teaching a behind-the-wheel course.

(c) Teachers who are at the time of application certified to teach driver education in secondary schools or schools of vocational, technical and adult education by current rules of the Department of Public Instruction or the State Board of Vocational, Technical and Adult Education are exempt from this requirement.

(d) Instructors who have continuously held a temporary license issued under sec. TRANS 105.08 for at least 5 years may apply for an exemption to this requirement if:

1. No 100-hour course has been available near his or her residence during that time; and
2. They furnish evidence of other relevant training with objectives similar to the 100-hour course. The applicant for an exemption under this paragraph must also meet the requirements of secs. 343.60 to 343.72, Stats.

(6) Applicants for instructor's license renewal whose license has been expired for four years or more must satisfactorily complete the course specified in sub. (5), unless certified as specified in sub. (5)(c).

TRANS 105.08 Temporary instructor licenses.

(1) The department may grant a temporary instructor's license to those persons who otherwise qualify by meeting the requirements of secs. 343.60 to 343.72, Stats., and this chapter, except sec. TRANS 105.07(5), upon a written agreement with the applicant to enroll in the first available course of 100-hour instruction described in sec. TRANS 105.07(5), given nearest his or her residence. The temporary license shall be valid for the period of time set by the department, subject to the provisions of sec. 343.62, Stats.

(a) In order to qualify for the temporary license the applicant must show proof of at least 40 clock hours of instruction in a course for driver instructors given by an instructor licensed in accordance with sec. 343.62, Stats., or equivalent instruction as determined by the department. The course content must be approved in advance by the department. Any driver school which prepares prospective instructors must notify the Bureau of Driver Control, commercial driver schools unit prior to commencement of the course, for each prospective instructor. The notification shall be in writing and include the school name, the trainee's full name, address and date of birth; also the time and place the instruction is to be given. A departmental representative may visit classroom sessions and ride in driver training cars for the purpose of supervising the course. Certification of completion of the course on forms provided by the department shall be

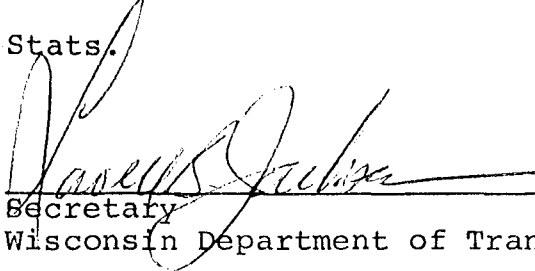
forwarded to the Bureau of Driver Control, commercial driver schools unit immediately upon completion of the course. The certification shall be in writing and include the school name, the instructor's full name, the trainee's full name, address and the date of birth, and a record of instruction including date, time, specific subject covered, and duration of each lesson.

(b) Subject to a hearing as provided by sec. 343.69, Stats., the department may suspend and require the temporary license to be surrendered to the department immediately upon commencement of a course described in sec. TRANS 105.07(5), if the holder of the license is not enrolled in the first available course or upon withdrawal or failure to satisfactorily complete the course. The person shall not again be entitled to a temporary license unless the department is satisfied there was valid reason for failing to enroll or for dropping the course.

(c) A new temporary license may be issued beyond the expiration date established if no course described in sec. TRANS 105.07(5) has been available to the licensee in the area near the licensee's residence and the licensee otherwise meets the requirements of secs. 343.60 to 343.72, Stats., and this chapter.

(End)

The rules, amendments and repeals contained in this order shall take effect upon publication as provided in sec. 227.026(1) (intro.), Wis. Stats.


Secretary
Wisconsin Department of Transportation

Dated: September 21, 1979

