

CR 81-80

C E R T I F I C A T E

STATE OF WISCONSIN )  
DEPARTMENT OF TRANSPORTATION ) SS

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

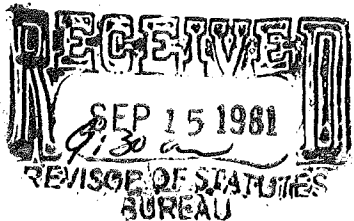
I, Owen Ayres, Secretary of the Wisconsin Department of Transportation and custodian of the official records of the department, do hereby certify that the annexed rule TRANS 128, relating to the Traffic Violation and Registration Program, was duly approved and adopted by this department in accordance with s. 227.026(1), Stats.

I further certify that the annexed copy has been compared by me with the original on file in this 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 of Transportation in the City of Madison, Wisconsin, this 17th day of September, 1981.

*Owen Ayres*

Owen Ayres  
Secretary



W I S C O N S I N

( ) DEPARTMENT OF STATE  
OR ( )  
( ) DEPARTMENT OF THE ARMY

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS;

I, Owen A. ... Secretary of the Wisconsin Department  
of Transportation and ... of the official records of the  
Department, ...  
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SECTION I

STATE OF WISCONSIN

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

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In the Matter of the Proposed	:	ORDER
Adoption of Chapter TRANS 128,	:	ADOPTING
Wis. Adm. Code, Relating to	:	RULE
<u>Traffic Violation and</u>	:	
Registration Program	:	

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CLEARING HOUSE RULE 81-80

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A copy of the proposed rule may be obtained upon request from the Wisconsin Department of Transportation, Division of Motor Vehicles, Room 255, Hill Farms State Office Building, 4802 Sheboygan Avenue, Madison, Wisconsin 53702 (608) 266-2233.

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Analysis by Department of Transportation

This proposal creates Chapter TRANS 128 to establish by rule the department's policies and procedures relating to the traffic violation and registration program created by Chapter 34, Laws of 1979. Statutory interpretations and policies included in the rule are:

1. TRANS 128.03 prescribes the requirements for a local unit of government to notify the department of its intent to participate in the program or discontinue participation. Requires that the participating local unit of government send a copy of the notice of participation/termination to courts which process cases for the participating unit. This is intended to advise the courts as to when a local unit of government is participating and it is appropriate to use the provisions of s. 345.47 (1)(d), Stats., in conjunction with cases processed.



2. TRANS 128.04 prescribes the document used by a court to notify the department of an unpaid judgment and the subsequent payment or satisfaction. The department will supply the document to participating courts in either a continuous feed or single sheet form depending on the needs of the courts. This allows the document to be adapted to an automated or manual court system. Allows a period of three working days for a court to notify the department when payment of a judgment is received. Notification of satisfaction must be mailed to the department by the court so that a complete record check for other existing cases can be made before allowing the issuance of any registration.

3. TRANS 128.05 prescribes the extent to which registration will be refused for any person named by a court on a notice of unpaid judgment. This is based on the department's interpretation of s.341.10(7), Stats., which appears to require the department to refuse any and all attempts to obtain vehicle registration by a person with an unpaid judgment. Par.(4) describes the method that will be used to identify a person who is subject to refusal of registration. The court notice will supply the name and address of a defendant and the license plate number of the vehicle involved. The department's record for the license number may provide a name which is not exactly the same, but reasonably similar. The record may also provide different address information than that supplied by the court notice.

For the purpose of refusing registration, the department will use the name shown on the court notice, the name obtained from the record for the license number supplied by the court notice, or logical variations of either of those names provided the address is the same as that shown on the court notice or the address obtained from the record for the license number supplied by the court notice. This is necessary due to the wide variations of names that can be legally used by an applicant for registration. For example, an individual could use William E. Smith, William Smith, W. E. Smith, W. Edmund Smith, Bill Smith. The department will only use a variation of a person's name when the address involved is the same as that supplied by the court or the department's record for the license number supplied by the court.

Also prescribes in par.(3) that the refusal of registration will not affect the issuance of a certificate of title because the statutory authority for this program only addresses refusal of registration. Requires payment of a registration fee as part of an application for title if the vehicle was operated on public highways. Allows the department to assign the registration but withhold sending it to the vehicle owner until all judgments are paid. Provides for suspending registration when the vehicle owner has possession of registration issued previously.

4. TRANS 128.06 prescribes the content of renewal forms for vehicle registration. Provides for use of a different renewal form for a registration which is subject to unpaid judgments. It is necessary to have a different form to allow adequate space on the renewal to include a list of unpaid judgments against the vehicle owner. Prescribes that renewals will be sent by first class mail, but the Department will not keep any record of renewals mailed or those which are returned by the U.S. Postal Service as undeliverable. Also prescribes that a renewal will not be created or mailed when the registration record contains information which indicates that the registration is inactive or is prohibited by law.

5. TRANS 128.07 describes types of notices which may be sent in addition to the renewal registration forms.

6. TRANS 128.08 provides a method for a vehicle owner to submit information to the department to substantiate a claim that a refusal of registration by the department was in error. Also provides how a court may notify the department of any error it wishes to correct.

7. TRANS 128.09 provides the system for charging local units of government for the cost of development and operation of the traffic violation and registration program. Provides for amortizing the cost of the original development over the first four years of operation. Likewise, development cost for future modifications to the system are to be spread over the four years following implementation of the modifications. Also provides for accumulating and maintaining a working capital balance equal to an estimated 90 days of working capital needs.

Prescribes the factors to be used in establishing the payment required for each notice submitted by a court. The rate of payment will be calculated each July 1 and may be recalculated when the working capital balance falls below a 90 day level. The department is required to advise participating local units of government of the rate at least 30 days before the effective date.

Allows local units of government to select either one of two methods of paying the department. Payment may be submitted at the time notices are sent for processing or a pre-payment account may be established against which charges will be made for notices processed.

A special provision is included for crediting the City of Milwaukee for the payment of \$400,000 under s.20.395, Stats. The city will receive credit for the full amount paid. However, credits will be reduced if the working capital balance falls below the 90 day level. If the working capital balance falls below a 60 day level, Milwaukee will be required to pay for notices processed until the working capital balance is again at a 60 day level. This is intended to protect the department from sustaining any loss in connection with the program.

### Fiscal Estimate

This program is funded by local units of government who use the system. The cost of processing notices of unpaid judgments may be prepaid by the participating municipality or paid at the time notices are submitted to the department.

It is estimated that the City of Milwaukee and a small number of other local units of government will participate in the program the first year, submitting approximately 15,000 unpaid judgments to the department for processing. It will take 5 full time equivalent positions and support services the first year of operation at a cost of \$114,520 to process these notices.

As described in s. TRANS 128.09, the factors included in the per notice rate calculation for the first year are:

1.	One fourth of development costs	\$ 32,500
2.	One third of working capital accumulation	\$ 9,500
3.	Annual operating costs	\$114,500
		<u>\$156,500</u>

Total estimated first year costs are \$156,500, divided by an estimated first year volume of 15,000 notices, establishes the rate at the beginning of the first year at \$10.00 per notice.

Thus, it is estimated that costs for participating units of government for the first year will be approximately \$156,000. There is no cost to state government.

### Forms

A new form, MVD 2458, has been developed for a court to notify the department of an unpaid judgment and the subsequent payment or satisfaction as required by s.345.47(1)(d), Stats. (see attached sample.)

Existing vehicle license renewal forms(MVD 2148A and 2148B) have been modified to include the date upon which a registration must be renewed, as required by s.341.08(4m), Stats. (see attached samples.)

A different renewal form for a registration which is subject to unpaid judgments is in the process of development (see attached sample). The different renewal form is necessary to allow adequate space to include a list of unpaid judgments against the vehicle owner.

RULE TEXT

Pursuant to authority vested in the Department of Transportation by ss. 85.13, 110.06, 227.014 and 345.47(1)(d) Stats., the department proposes to create an administrative rule interpreting ss. 85.13, 341.08(4m), 341.10(7), 341.63, Chapter 342, and 345.47(1)(d), Stats., as follows:

SECTION 1. Chapter TRANS 128 of the Wisconsin Administrative Code is adopted to read:

CHAPTER TRANS 128

TRAFFIC VIOLATION AND REGISTRATION PROGRAM

TRANS 128.01 PURPOSE AND SCOPE. (1) As authorized by ss. 85.13, 110.06, 227.014 and 345.47(1)(d), Stats., the purpose of this chapter is to establish the department of transportation's administrative interpretation of ss. 85.13, 341.08(4m), 341.10(7), 341.63, Chapter 342, and 345.47(1)(d), Stats., relating to a traffic violation and registration program.

(2) This chapter applies to any local unit of government wishing to participate in the traffic violation and registration program, to any court processing cases on behalf of participating local units of government, and to any person subject to any judgment that remains unpaid.

TRANS 128.02 Definitions. In this chapter:

(1) "Applicant" means any person applying for vehicle registration.

(2) "Case" means an unpaid judgment case which includes both a notice of unpaid judgment and a subsequent notice of satisfaction.



- (3) "Department" means the Wisconsin department of transportation.
- (4) "Local unit of government" means any county, city village or town governing body.
- (5) "Registrant" means any person who is the holder of vehicle registration.
- (6) "Working capital" means the excess of current assets over current liabilities.

TRANS 128.03 LOCAL UNIT OF GOVERNMENT NOTICE OF INTENT TO PARTICIPATE OR TERMINATE. A local unit of government electing to participate or terminate participation in the traffic violation and registration program shall notify the department in writing at least 30 days before the effective date of participation or termination.

(1) CONTENTS OF NOTIFICATION. The notification shall include the effective date of participation, method of payment as described in s. TRANS 128.09(5), estimated annual volume, whether there is a municipal court, and if so, the name, address, and phone number of the court and the address where court payments should be made.

(2) COPIES TO COURTS. The local unit of government shall send a copy of all notices sent to the department to the clerk of any circuit court or municipal court that would process cases on its behalf.

TRANS 128.04 COURT NOTICE OF UNPAID JUDGMENT AND NOTICE OF SATISFACTION. (1) SIZE AND CONTENT. (a) The notice shall be 8½" x 5½" and, in addition to the information required by s. 345.47(1)(d), Stats., shall contain, and the court shall provide:

1. The name and address of the court;
2. The name of the local unit of government that the action is on behalf of;
3. The signature or facsimile signature of the judge or the representative authorized by the court;
4. The date the notice is signed;
5. The title of the person signing;
6. The 13 position judgment case number generated as prescribed by the department to include a unique number assigned to each court, the date, and a serial number; and
7. A section for notice of satisfaction containing;
  - a. The signature or facsimile signature of the judge or representative authorized by the court;
  - b. The date the judgment was satisfied;
  - c. The date the satisfaction is signed; and
  - d. The title of the person signing.

(b) The notice also shall allow for reporting of the following information at the discretion of the court.

1. The court case number assigned by the court;
2. The state of issue and year of expiration of the license number of the vehicle involved;

3. The state of issue and driver's license number of the person named on the notice; and
4. The date of birth of the person named on the notice.

Note: Creates form MVD 2458.

(2) SCOPE. A notice of unpaid judgment may be created for any and all violations included in any and all warrants, if all are included under one unpaid judgment case number. After a notice of unpaid judgment has been submitted to the department, any additional violation or violations which result in additional unpaid judgments shall be submitted as another notice of unpaid judgment.

(3) NOTIFICATION REQUIREMENTS. (a) When a court elects to notify the department, each notice of unpaid judgment or subsequent notice of satisfaction shall only be on the form prescribed in this section and acceptable only when mailed to the department by the court.

(b) Notice of satisfaction shall be mailed to the department not later than 3 working days after the court receives payment of the judgment or otherwise determines that the unpaid judgment has been satisfied.

(c) The court is responsible for assuring that a notice of unpaid judgment sent to the department is a correct and appropriate submission.

(4) FORMS SUPPLY. The court notice of unpaid judgment and notice of satisfaction form shall be supplied to participating courts by the department. The cost of the forms shall be included in the cost for operation of the program.

Note: Form MVD 2458

TRANS 128.05 REFUSAL OF REGISTRATION. (1) SCOPE. As required by s. 341.10(7), Stats., a person named by a court under s. 345.47 (1)(d), Stats., who has an unpaid judgment within the scope of this chapter, shall not be allowed to register any vehicle. From the date the department receives notification by a court of an unpaid judgment:

(a) No original registration shall be allowed.

(b) No renewal registration shall be allowed provided the notification requirements of s. 341.08(4m), Stats., can be met in one of the following ways:

1. When the department is notified by the court prior to creating a notification of renewal, the special renewal registration notice described in s. TRANS 128.06(2) shall be mailed.
2. When the department is notified by a court after mailing notification of renewal but before the beginning of the new registration period, the letter described in s. TRANS 128.07(2) shall be mailed.

(c) No re-registration (replacement plates, change in gross weight, change in operating status, etc.) shall be allowed.

(d) No transfer of registration to another vehicle shall be allowed.

(e) No transfer of registration as part of the transfer of ownership of a vehicle shall be allowed.

(f) No registration which is non-expiring shall be allowed to continue to be valid.

(2) WITHDRAWAL OF REGISTRATION BY SUSPENSION. The department shall suspend registration under s. 341.63(1)(a), Stats., when the registration types are those described in subd. (1)(b)2. and pars. (1)(d), (e) and (f).

(3) AFFECT ON ISSUING CERTIFICATE OF TITLE. (a) The refusal of registration shall not affect the issuance of a certificate of title except as provided under s. 342.11, Stats.

(b) If the application for certificate of title indicates that the vehicle was operated upon public highways, any required registration fee shall be collected and retained at the time of issuing title, even though registration is not issued. The department shall assign registration to the vehicle according to the provisions of Chapter 341, Stats., but shall withhold sending the registration to the vehicle owner until the department receives evidence that all judgments are paid. The certificate of title shall be sent to the vehicle owner with a letter providing information about the unpaid judgments and indicating that the registration shall be withheld until the department receives evidence that all judgments are paid.

(4) CRITERIA FOR IDENTIFYING A PERSON SUBJECT TO REFUSAL OF REGISTRATION. The refusal of registration shall be based on information supplied by a court on the notice required under

s. 345.47(1)(d), Stats., and s. TRANS 128.04, and shall be supplemented by information obtained from department records. The department shall refuse the renewal, transfer or issuance of registration when:

(a) The applicant or registrant name and address are both the same as the name and address supplied by the court notice.

(b) The name shown on the department's record for the license plate number supplied by the court notice is similar or a reasonably logical variation of the name supplied by the court notice regardless of whether the address information is the same.

(c) The applicant or registrant name is exactly the same or a reasonably logical variation of a name as stated in pars. (a) and (b), and the address is the same as the address supplied by the court notice or the address obtained from the department's record for the license plate number supplied by the court notice, or the address obtained from department driver license records using information supplied by the court notice.

TRANS 128.06 RENEWAL FORMS FOR VEHICLE REGISTRATION. (1)  
REGULAR RENEWAL FORMS. Application forms for renewal of vehicle registration shall contain the information required under s. 341.08(2), Stats., and shall also contain and serve as a notice of, the date upon which the registration must be renewed as required under s. 341.08(4m), Stats.

Note: Registration renewal forms MVD 2148A and 2148B.

(2) SPECIAL RENEWAL FORM. A special renewal form shall be used for a registration which is subject to unpaid judgments based on information obtained under s. 345.47(1)(d), Stats. In addition to the information contained on a regular renewal form, the form shall include:

- (a) The date judgment was entered;
- (b) The amount of the judgment;
- (c) The place where the judgment may be paid;
- (d) The court case number;
- (e) The judgment case number;
- (f) A notification that the registration shall not be renewed until all judgments are paid; and
- (g) Other information or instructions to assist the vehicle owner.

Note: Creation of special registration renewal form.

(3) MAILING. The mailing of vehicle registration renewal shall be in accordance with s. 341.08(4m), Stats., and shall be by means of first class mailing.

(a) The department shall not maintain any record or evidence of mailing renewals.

(b) The department shall not maintain any record or evidence of renewals that are returned to the department as undeliverable by the U.S. postal service.

(c) Failure to receive a renewal notice shall not be a defense for failing to register a vehicle.

(4) EXCEPTIONS. A vehicle registration renewal notice form shall not be created by the department or mailed to the vehicle owner when the department's record indicates that the registration is:

- (a) Suspended under ss. 344.08 or 344.14, Stats.;
- (b) Revoked under s. 344.25. Stats;
- (c) Suspended under s. 20.905(2), Stats.;

- (d) Suspended under s. 341.63(1), Stats.;
- (e) Canceled under s. 342.255, Stats.; or
- (f) For a period which has previously expired.

TRANS 128.07 OTHER NOTICES. (1) INITIAL NOTIFICATION LETTER OF UNPAID JUDGMENT. When the department is notified by a court of an unpaid judgment, an initial notification letter shall be sent to the person named by the court at the address supplied by the court unless the department has a different address that appears to be more recent than the date judgment was entered by the court. The letter shall provide the person with advance notice of registration refusal, including information about the unpaid judgment, and may include a 30 day notification described in par. (2)(b). The letter shall be mailed, except:

(a) When the conditions in par. (2)(a) apply.

(b) When establishing a control group for testing the effectiveness of the letter.

(c) When for some or all cases the letter does not appear to improve the promptness with which unpaid judgments are satisfied or does not appear to be cost-effective.

(2) 30 DAY NOTICE. (a) When the department is notified by a court of an unpaid judgment after a regular renewal notice has been mailed, but before the beginning of the new registration period, in order to meet the requirements of s. 341.08(4m), Stats., a letter shall be mailed to the registrant. The letter shall provide information about the unpaid judgment and indicate that although a regular renewal registration form has been or will



be mailed, the department shall suspend registration after the expiration of 30 days from the date of mailing the letter unless the department receives evidence required by s. TRANS 128.04 that all judgments have been satisfied.

(b) When the department is notified by a court of an unpaid judgment, and the person named by the court is the owner of a vehicle with a non-expiring registration, a letter shall be mailed providing information about the unpaid judgment and indicating the department shall suspend the registration. Suspension of registration shall occur after the expiration of 30 days from the date of mailing the letter to the registrant unless the department receives evidence required by s. TRANS 128.04 that all judgments have been satisfied.

(3) ORDER OF SUSPENSION. Order of suspension of registration shall be mailed for those registrations described in s. TRANS 128.05(2). The order of suspension shall indicate that the suspension shall continue until the department receives evidence required by s. TRANS 128.04 that all judgments have been satisfied.

TRANS 128.08 RESOLUTION OF ERRORS. (1) ERROR IDENTIFIED BY PERSON. (a) If the department is satisfied that the refusal of registration was an error, the department shall modify its records and allow the person to be issued registration.

(b) If the department is not satisfied that a registration refusal was in error, the person shall submit to the department a signed statement containing:

1. A list of the description and license number of all vehicles owned;
2. Wisconsin operator's license number;
3. Date of birth; and
4. Any other information relevant to the claim.

(c) If the department is not satisfied with the information provided in sub. (2), the person shall contact the court that submitted the information to the department. If the court is satisfied that an error was made, the court shall submit a notice of satisfaction to the department as required in s. TRANS 128.04.

(2) ERROR IDENTIFIED BY COURT. To correct an error in a notice of unpaid judgment sent to the department, a court shall submit a notice of satisfaction to the department as described in s. TRANS 128.04. To establish a correct record, the court shall submit a new notice of unpaid judgment containing the correct information and per case payment required by s. TRANS 128.09(4).

TRANS 128.09 COST OF TRAFFIC VIOLATION AND REGISTRATION PROGRAM. (1) GENERAL. In accordance with s. 85.13, Stats., the department shall charge the cost of the development and operation of the traffic violation and registration program to all participating local units of government based on the number of cases processed on behalf of each participating local unit of government.

(2) DEVELOPMENT COST AMORTIZATION. (a) The cost of the original development of the system for the traffic violation and registration program shall be amortized over the first 4 year period of operation.

(b) The cost of enhancements, improvements or additional development of the system after the initial implementation date shall be amortized over the 4 year period following the implementation of such enhancements, improvements or additional development.

(3) WORKING CAPITAL ACCUMULATION. (a) In order to comply with s. 20.903(2), Stats., an amount necessary to establish a working capital balance at a level equal to 90 days of working capital needs shall be accumulated during the first 3 years of operation.

(b) Any adjustments necessary to maintain the working capital balance at a 90 day level shall be accumulated or credited over a one year period.

(4) RATE OF PAYMENT. (a) The department shall establish the rate of payment required for each case submitted by a court under s. 345.47(1)(d), Stats., based on the following factors:

1. The estimated annual volume of cases that will be received by the department;
2. The amount of amortized enhancement, improvement or development costs, as described in sub. (2);
3. The estimated costs of operation, including employee salaries and fringe benefits, office space, office supplies and equipment, postage, computer charges, printing and forms, other necessary expenses, and adjustments for the previous payment rate period to reflect actual experience; and
4. The working capital balance needs as described in sub. (3).

(b) The rate of payment shall be calculated each July and, in addition, may be recalculated whenever the working capital balance falls below a 90 day level of working capital needs.

(c) The department shall notify all participating local units of government of the rate of payment at least 30 days prior to the effective date of the rate.

(5) METHOD OF PAYMENT. Participating local units of government shall pay the department for cases processed in one of the following methods:

(a) Payment at the time the notice of unpaid judgment is submitted by a court to the department for processing.

(b) Pre-payment by establishing an account with the department against which charges shall be made at the time a notice of unpaid judgment is processed for the local unit of government identified by a court on the notice of unpaid judgment form.

(6) REFUNDS. When a participating local unit of government has elected to pay under s. TRANS 128.09(5)(b), and later terminates participation as provided in s. TRANS 128.03, any unused balance in the account shall be refunded by the department.

(7) SPECIAL PROVISION FOR CITY OF MILWAUKEE. The payment of \$400,000 under s. 20.395, Stats., made by the city of Milwaukee, shall be credited to the city as follows:

(a) Whenever the working capital balance of the appropriation for this program exceeds 90 days cash requirements, the city of Milwaukee shall receive credit for notices processed for 100% of the charges.

(b) Whenever the working capital balance of the appropriation is between 60 and 90 days cash requirements, the city of Milwaukee shall receive credit for cases processed for the amortized amount of development costs.

(c) Whenever the working capital balance of the appropriation is less than 60 days cash requirements, no credit shall be given to the city of Milwaukee, and the city shall pay for cases processed according to sub. (5) until the working capital balance is again at a 60 day level.

(d) These crediting provisions shall only apply to the extent of the \$400,000 payment by the city of Milwaukee.

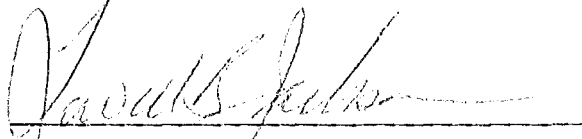
(END)

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The rules contained in this order shall take effect according to s. 227.026 (intro.), Stats.

Signed at Madison, Wisconsin

This 7<sup>th</sup> day of July, 1981



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