

CR 85-20

CERTIFICATE

RECEIVED

STATE OF WISCONSIN)
) ss.
DEPARTMENT OF TRANSPORTATION)

JUL 9 1985
2:40
Revisor of Statutes
Bureau

TO ALL TO WHOM THESE PRESENTS COME, GREETINGS:

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 rule relating to the licensing of persons who have experienced episodes of altered consciousness or loss of body control was duly approved and adopted by this department on June 28, 1985.

I further certify that this 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 hereonto set my hand and affixed the official seal of the department at the Hill Farms State Office Building in the City of Madison, Wisconsin, this 28th day of June, 1985.

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

9-1-85

STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY

AN ORDER of the Department of Transportation adopting a rule, Chapter Trans 108, Wisconsin Administrative Code, relating to the licensing of persons who have experienced episodes of altered consciousness or loss of body control.

CR 85-20

ANALYSIS BY THE DEPARTMENT OF TRANSPORTATION

This amends Chapter Trans 108 relating to licensing of persons who have experienced episodes of altered consciousness or loss of body control. It includes establishing a revised Trans 108.07(1)(b) since this section was suspended by the Joint Committee for Review of Administrative Rules.

The suspended rule provision contained an absolute chauffeur license prohibition from transporting passengers for hire or hazardous material for persons who had ever experienced an "episode". ("Episode" is defined in Trans 108 as any incident or segment of time involving altered consciousness or loss of body control.) JCRAR voted to suspend the rule citing the hardship imposed on license applicants who may have experienced only one episode many years ago.

The emergency rule (Trans 108.07(1)(b)) provides that a person may apply for a chauffeur's license to carry passengers or hazardous cargo if the person has met the standards, established in Trans 108.06(3) for a private operator's license. (Trans 108.06(3) provides that a person who is episode free for more than 24 months shall be permitted to hold a private operator's license, which will usually be unrestricted.) This proposal creates a new permanent section in Trans 108.07(1)(b) to replace the emergency rule and makes other changes as follows:

1. Trans 108.02 is renumbered to list definitions in alphabetical order. The definition of "hazardous materials" is included.
2. Trans 108.06(1)(a) identifies one of the reasons when a person may be licensed sooner than 6 months after an episode. The amended rule reads that in order for a person to apply for a license on the grounds that their seizure occurred due to a deliberate change in or withdrawal of their medication, it must occur within 30 days of this change/withdrawal or else it would be attributed to some other cause.
3. Trans 108.06(1)(c)3. Refers to an "isolated" episode and clarifies that treating for the cause of an episode does not necessarily eliminate it from being called an "isolated" episode. If it was treated with anticonvulsant medication, however, it would not be an "isolated" episode.

4. Trans 108.07(1) (a) deletes "intrastate commerce" because it was referring to a rule of the U.S. Bureau of Motor Carrier Safety (BMCS). There are other rules of the BMCS that are not adopted and it is inconsistent to adopt one and not all. Since the prohibition on interstate commerce is mandated by federal regulations, it appears unnecessary to recodify it. The period of time the person has gone without having an episode is also considered when determining the issuance of a restricted chauffeurs license.
5. Trans 108.07(1) (b) provides that general chauffeur license restrictions established by s. Trans 108.07(1) (a), such as limiting hours of operation, will continue until the person has had no episodes for at least 10 years. It also provides that these restrictions apply for only 2 years, if the person has had only a "single episode". Section 343.09(1) Stats. requires a doctor's certificate to be filed at least yearly for a person having epilepsy, until free of seizures for a period of 10 years.
6. Trans 108.07(1) (c) prohibits issuance of a chauffeur's license for transporting persons for hire, for transporting hazardous materials, or operating an emergency vehicle except when the guidelines stated in the rule have been met. The guidelines are supported by the recommendations of the Wisconsin Medical Society's Committee on Safe Transportation and are also the guidelines for issuance of a school bus driver's license in Trans 110.13.
7. Trans 108.07(2) provides that restrictions applicable to an operator's license also apply to motorcycle operation. This change is due to the change in s. 343.05(1) (b) Stats. by 1983 Act 243, permitting issuance of an operator's license restricted to operation of only a motorcycle.
8. Trans 108.07(3) deletes the standard for school bus license that permanently prohibited licensing if a person had ever had an established medical history or clinical diagnosis of epilepsy. Since the permanent ban on issuing a chauffeur license to a person who wishes to haul passengers or hazardous material was suspended, the requirements for school bus operators were changed also.
9. Trans 108.08(2) (g) clarifies that the department will also consider how long it has been since the person had an episode and how long it has been since the person has taken anticonvulsant medication when removing or applying restrictions to an operators license.
10. Trans 108.11(2) deletes an unnecessary reference for judicial review since s. 343.40 Stats. covers judicial review options.

FISCAL ESTIMATE

No fiscal impact is anticipated from the promulgation of these rule changes.

REGULATORY FLEXIBILITY ANALYSIS

This rule will not have a significant economic impact on a substantial number of small businesses.

Persons to contact for further information are Dale Allen at (608) 266-7657 or Wesley Geringer at (608) 266-0614.

ORDER ADOPTING RULE

Pursuant to the authority vested in the State of Wisconsin department of transportation by s. 227.014(2)(a), Stats., the department hereby adopts Chapter Trans 108 as follows:

SECTION 1. Trans 108.02 (1) is renumbered (2), (2) is renumbered (3), (3) is renumbered (5), (4) is renumbered (8), (5) is renumbered (7), (6) is renumbered (1), (7) is renumbered (6), and (8) is renumbered (9).

SECTION 2. Trans 108.02 (4) is created to read:

Trans 108.02 (4) "Hazardous material" means a material determined by the U.S. secretary of transportation to be capable of posing an unreasonable risk to health, safety and property and identified by the letter "E" in column one of the hazardous materials table in 49 C.F.R. 172.101.

SECTION 3. Trans 108.06(1)(a) and (1)(c)3 are amended to read:

Trans 108.06(1)(a) The episode was due to and occurred within 30 days of a deliberate change in or withdrawal of anticonvulsant medication ordered by the person's physician; and

(c)3. The physician is not treating and has not treated the person with anticonvulsant medication for the cause of the episode; and

SECTION 4. Trans 108.07(1)(a) is amended to read:

Trans 108.07 SPECIAL LICENSES. (1) CHAUFFEUR LICENSES. (a) A person who is ~~qualified for licensing under Trans 108.06-(2)-and-(3)~~ episode free for more than 6 months may be permitted to hold a restricted chauffeur license ~~for operation of motor vehicle in intrastate commerce~~ if the department determines from the criteria in s. Trans 108.03 that the person's condition is under control and licensing does not present a substantial risk to the safety of that person or the general public, taking into account:

1. The type of vehicle used;
2. The hours of operation;
3. The routes and distances normally travelled; and
4. The type of cargo hauled; and
5. The period of time the condition has been under control.

SECTION 5. Trans 108.07(1)(b), (1)(c), (2), and (3) are repealed and re-created to read:

Trans 108.07(1)(b) Chauffeur licenses issued in accordance with par. (a) are generally restricted until the person is episode free for a period of 10 years, except that a person may be eligible for an unrestricted license if at least 2 years have elapsed since a single episode as specified in Trans 108.06(1)(c).

(c) In addition to the criteria for restrictions established in par. (a), when a chauffeur license is issued to a person who has experienced an episode it will be restricted so that the person may not transport passengers for hire, nor transport hazardous materials nor operate an authorized emergency vehicle except when:

1. Only a single episode as specified in s. Trans 108.06(1)(c) has been experienced and at least 2 years have elapsed since the episode, or

2. If not exempt by 1., then only when the person:

a. Has not had an episode in the past 5 years; and

b. Has been off anti-convulsant medication for 5 years.

(2) MOTORCYCLE OPERATOR LICENSE. A person who is otherwise qualified for licensing under s. Trans 108.06(1) to (3) may hold an operator's license endorsed for operation of a motorcycle or may hold an operator's license restricted to operation of a motorcycle. Operator's license restrictions apply with equal force and effect to motorcycle operations.

(3) SCHOOL BUS OPERATOR LICENSES. In accordance with s. 343.12(2)(g), Stats., and s. Trans 110.13, persons subject to this chapter shall be considered for school bus licensing when:

1. Only a single episode as specified in s. Trans 108.06(1)(c) has been experienced and at least 2 years have elapsed since the episode, or

2. If not exempt by 1., then only when the person:

a. Has not had an episode in the past 5 years, and

b. Has been off anti-convulsant medication for 5 years.

SECTION 6. Trans 108.08(2)(f) is amended to read:

Trans 108.08(2)(f) Types of vehicles to be driven; and

SECTION 7. Trans 108.08(2)(g) is created to read:

Trans 108.08(2)(g) The period of time the person has not had an episode and has been off anticonvulsant medication.

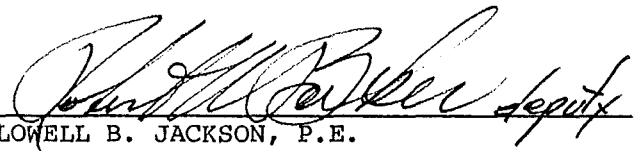
SECTION 8. Trans 108.11(2) is amended to read:

Trans 108.11(2) A person aggrieved by the department's decision based on recommendations of the medical review board to cancel or deny licenses under this chapter may seek judicial review in accordance with s. ~~343.09(4)~~ ~~343.16(2)(b)~~ or 343.40, Stats.

END OF TEXT

The rules contained in this order shall take effect on the first day of the month after publication as provided in s. 227.026(1), (intro.), Stats.

Dated at Madison, Wisconsin, this 28th
day of June, 1985.


LOWELL B. JACKSON, P.E.
Secretary
Wisconsin Department of Transportation



State of Wisconsin \

DEPARTMENT OF TRANSPORTATION



DIVISION OF MOTOR VEHICLES
4802 Sheboygan Avenue
P. O. Box 7949

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Madison, WI 53707-7949

July 3, 1985

JUL 9 1985
2:40
Revisor of Statutes
Bureau

Mr. Gary Poulson
Assistant Revisor of Statutes
411 West, State Capitol
Madison, Wisconsin 53702

Re: Clearinghouse Rule 85-20
Relating to the licensing of persons who have
experienced episodes of altered consciousness or
loss of body control;
Trans 108

Dear Mr. Poulson:

Enclosed for filing, pursuant to sec. 227.023, Wis. Stats., is a certified copy of CR 85-20, an administrative rule relating to the licensing of persons who have experienced episodes of altered consciousness or loss of body control. An additional, uncertified copy of CR 85-20 is enclosed to be used as a printer's copy. This rule is submitted by the Wisconsin Department of Transportation.

Sincerely,

Holly M. Luth

Holly M. Luth
Program Assistant

hml

Enclosures

cc: Sue Gallagher
DOT Office of Transportation Information
Joyce Gelderman
Wes Geringer