

CR 89-74

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CERTIFICATE

STATE OF WISCONSIN)
) s.s.
DEPARTMENT OF TRANSPORTATION)

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Revisor of Statutes
Bureau


TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, RONALD R. FIEDLER, Secretary of the Wisconsin Department of Transportation and custodian of the official records do hereby certify that the rule relating to point values for speeding violations, reducing a driver's point totals and suspensions and revocations based on accumulated point in a given period was duly approved and adopted by this Department on January 19th, 1990.

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 hereunto set my hand and affixed the official seal of the Department of Transportation at 4802 Sheboygan Avenue, in the City of Madison, Wisconsin, this 19th day of January, 1990.



RONALD R. FIEDLER, P.E.
Secretary

4-1-90

| | | |
|---------------------------------------|---|---------------------|
| AN ORDER repealing s. Trans 101.06, | * | |
| amending ss. Trans 101.02 (20) and | * | |
| (26), 101.04 (2) to (4), 101.05 (1) | * | |
| and (2) and 101.07 (1), (2), and (8) | * | |
| and creating s. Trans 101.07 (11), | * | |
| Wisconsin Administrative Code, relat- | * | ORDER ADOPTING RULE |
| ing to point values for speeding | * | |
| violations, reducing a driver's point | * | |
| totals and suspensions and revoca- | * | |
| tions based on accumulated points in | * | |
| a given period. | * | |

Analysis Prepared by the Wisconsin Department of Transportation

General summary of rule. Section 343.32 (2), Wis. Stats., authorizes the Secretary of Department of Transportation to adopt an administrative rule assigning demerit points to traffic convictions according to their seriousness. The purpose of the rule-making authorization is to identify individuals who are habitually reckless or negligent drivers and to revoke or suspend their operating privileges. The Legislature specified the number of demerit points to be assigned to speeding violations in s. 343.32 (2) (b), Wis. Stats., and set the number of points in a 12 month, 24 month and 36 month period that would result in revocation or suspension in s. 343.32 (2) (c), Wis. Stats.

Section 343.32 (2) (b) and (c) were affected by 1987 Wis. Act 24. The Act repealed the escalator provision which increased the number of demerit points to be assessed for repeat speeding offenses. The Act also repealed the provisions requiring suspension or revocation of a person's operating privilege when the person accumulated 18 points in a 24-month period or 24 points in a 36-month period.

This rule amends ss. Trans 101.02 and 101.04, Wis. Admin. Code, and repeals s. Trans 101.06, Wis. Admin. Code, to bring the rule into conformity with s. 343.32 (2), Wis. Stats., as amended by 1987 Wis. Act 24. In addition, ss. Trans 101.05 (1) and (2) are amended to reflect the effective renumbering of s. 343.305 (9) (d), Stats., by 1987 Wis. Act 3. The amendments to ss. Trans 101.05 (1) and (2) also are intended to clarify the Department's policy that these provisions for reducing total accumulated demerit points when a person's operating privilege is reinstated do not apply to cases where the license revocation or suspension resulted from any provision of the current s. 343.305, Stats.

The amendment of s. Trans 101.07, Wis. Admin. Code, is mainly editorial to improve clarity. Several sentences are transferred from s. Trans 101.07 (1) to s. Trans 101.07 (2) and (11), Wis. Admin. Code. The only substantive change to s. Trans 101.07 is the deletion of the cross reference to s. MVD

23.02 (1), (4), (5) and (6), Wis. Admin. Code. Chapter MVD 23, Wis. Admin. Code, concerning driver counseling is currently being revised and renumbered as ch. Trans 106, Wis. Admin. Code, in separate rule-making.

At present, a driver may qualify for a reduction of total demerit points by completing certain schooling or counseling. This rule clarifies the procedure and the specific form (MVD 3304) to be used to certify completion of the course. This rule also adds language to s. Trans 101.07 (2), Wis. Admin. Code, to clarify that schools may reproduce the form, for example on school computers, provided the requisite copies are kept by the school and furnished to the student. A new Note following the subsection informs schools how to obtain copies of the MVD form.

Authority for Rule. This rule making is authorized by s. 343.32 (2), Wis. Stats.

Final fiscal estimate. The Department anticipates no fiscal effect of this rule, separate from the fiscal impact of 1987 Wis. Act 24, on the fiscal liabilities or revenues of the state or any county, city, village, town, school district, vocational, technical and adult education district or sewer district.

The Department of Transportation's original fiscal estimate on 1987 SB 86, enacted as 1987 Wis. Act 24, was prepared prior to adoption of amendments to the bill. Those amendments included a reduction of 1.75 SEG positions in the Department's authorized FTE positions as of July 1, 1987. The original fiscal estimate projected a \$46,000 reduction in work costs due to eliminating 7,377 revocation or suspension cases resulting each year from the speed escalator provision. An estimated 70% of those persons revoked or suspended will reinstate their licenses. The loss in reinstatement fees was therefore estimated at \$125,706. The net fiscal impact of the original bill was estimated at a \$79,706 reduction in state funds. Any savings resulting from the subsequent legislative amendments, which eliminated the 1.75 SEG positions, should be considered in offsetting that amount.

Copies of Rule. Copies of this rule are available without cost upon request to the Office of General Counsel, P.O. Box 7910, Madison, WI 53707, telephone (608) 266-8810.

Contact Persons. Persons with questions about this rule may call Wesley R. Geringer, telephone (608) 266-0614. Legal questions about this rule may be addressed to the Office of General Counsel, Wisconsin Department of Transportation, P.O. Box 7910, Madison, WI 53707, telephone (608) 266-8810.

TEXT OF RULE

SECTION 1. Trans 101.02 (20) (title) and (26), Trans 101.04 (2), (3) and (4), Trans 101.05 (1) and (2) are amended to read:

Trans 101.02 (20) (title) SPEEDING CONVICTIONS

5th-or
1st--2nd--3rd--4th----Subsequent

Trans 101.02 (20) (a) 10 mph or less in excess of lawful

or posted speed3 4----5----6-----7

(b) More than 10 mph but less than

20 mph in excess of lawful or

posted speed.....4 6----8----10-----12

(c) 20 mph or more in excess of

lawful or posted speed.....6 8----10---12-----14

(26) In determining the accumulated demerit points against an operator within 12 months, ~~24-months,-or-36-months,~~ the department shall use the date each violation was committed as the basis for the determination.

SECTION 2. Trans 101.04 (2), (3) and (4), Trans 101.05 (1) and (2) are amended to read:

Trans 101.04 (2) The department shall suspend or revoke the operating privileges of any person whose driving record shows that 12 points in 12 months, ~~-18-points-in-24-months-or-24-points-in-36-months~~ from the date of violation have been accumulated. Any person who has not had the operating privilege suspended or revoked under ch. 343, except s. 343.30 (6) or 343.345, Stats., shall have the operating privilege suspended. In all other cases, the operating privilege shall be revoked.

(3) The department shall revoke, or suspend if sub. (2) applies, the chauffeur license of any person, whose driving record shows an accumulation of 12 points in 12 months ~~or 18 points in 24 months or 24 points in 36 months~~ for offenses committed while operating as a chauffeur, or when the law requires assignment of points against the chauffeur's license.

(4) The following demerit point accumulations, calculated from the date of violation, shall result in the following revocation or suspension periods:

| Demerit Points Accumulated in a 12-Month Period | Length of Revocation or Suspension |
|--|---------------------------------------|
| 12 to 16 points | 2 months |
| 17 to 22 points | 4 months |
| 23 to 30 points | 6 months |
| More than 30 points | 1 year |

| -----Demerit Points Accumulated----- -----in a 24-Month Period----- | -----Length of Revocation -----or Suspension |
|--|---|
| -----18 to 22 points----- | -----2 months |
| -----23 to 28 points----- | -----4 months |
| -----29 to 36 points----- | -----6 months |
| -----More than 36 points----- | -----1 year |

| Demerit Points Accumulated | Length of Revocation or Suspension |
|----------------------------|---------------------------------------|
| in a 36-Month Period | |
| 24 to 28 points | 2 months |
| 29 to 36 points | 4 months |
| 37 to 44 points | 6 months |
| More than 44 points | 1 year |

Trans 101.05 DETERMINATION OF POINT VALUE AT REINSTATEMENT (1) The department, upon issuing a reinstated operator's license, shall reduce the accumulated point value to 6 points. If at the time of such reinstatement the demerit point value in the immediately preceding 12 month period is less than 6, then the lesser point value shall be carried forward in the record. Revocations and reinstatements under s. 343.305(9)(b) 343.305, ch. 48 or 344, Stats., do not qualify for a point reduction.

(2) The department, upon return of a license which has been suspended, except under chs. 48, 344, 345, Stats., and ss. 343.16 (2) (a), 343.30 (1q) (d), 343.30(6), 343.305(9)(d) 343.305 and 343.345, Stats., shall reduce the accumulated point value to 6 points. If at the time of return the demerit point value in the immediately preceding 12 month period is less than 6, then the lesser point value shall be carried forward in the record.

SECTION 3. Trans 101.06 is repealed.

SECTION 4. Trans 101.07 (1), (2) and (8) are amended to read:
Trans 101.07. REDUCTION OF POINT VALUES FOR ATTENDANCE AT DRIVER IMPROVEMENT COUNSELING, TRAFFIC SAFETY SCHOOL OR DEFENSIVE DRIVING COURSES. (1) In

accordance with the authority in s. 343.32 (5), Stats., and the requirements of this section, a person's point record shall be reduced by 3 points or the number of points accumulated up to 3, ~~if acceptable certification is furnished to the department that a~~ upon satisfactory completion of one of the following courses approved, in advance, by the department:

(a) A course of instruction at a traffic safety school; as authorized, approved and administered under s. 345.60, Stats.; or a

(b) A course of instruction in defensive driving or similar course, which course has been approved in advance by the department; has been satisfactorily completed; or if a driver; or,

(c) Driver improvement course counseling conducted under the program authorized by s. 110.08, Stats.

~~the department has been satisfactorily completed. The certification must be filed with the department within 30 days of completion of the course to qualify for point reduction. Definitions of such schools and courses are established in s. MVD-23:02-(1), (4), (5) and (6). The person seeking the reduction shall be responsible for any and all fees charged for the course.~~

NOTE: See ch. MVD 23 or ch. Trans 106 concerning authorization, approval and administration of traffic safety schools and defensive driving courses.

(2) The certified instructor of the traffic safety or defensive driving course or the driver improvement analyst of the driver improvement counseling program shall furnish to the department a certification of completion of an approved course. A separate certification shall be provided to the department on an individual person basis for each individual in the course. The certification shall be on the form prescribed by the department and must be made within 30 days of satisfactory completion of the course in order to

qualify for point reduction. A copy of the completed certification form shall be furnished to the student, another copy sent to the court or assessment agency, if the student was assigned to the school, and one copy shall be retained by the school. The department will prescribe the information necessary to be supplied from an approved school or supply the necessary forms to complete the certification for administering this program. The department may approve the use of a reproduction of this form, at the request of a school, including computerized versions.

Note: The multipart form MVD-3304, course completion certificate, is available by mail upon request. Each form produces an original and 3 copies. Send requests to DOT Document Sales, P.O. Box 7713, Madison, Wisconsin 53707-7713.

(8) Persons who have accumulated less than the demerit points required for suspension or revocation on their record under the point system may be processed as provided by department rule for counseling and re-examination of drivers. Upon receipt of certification of satisfactory completion of one of the department approved courses, ~~provided in s. MVD-23.02(1), (4), (5) or (6)~~, such person may be given a point reduction as provided in this chapter if otherwise entitled to it.

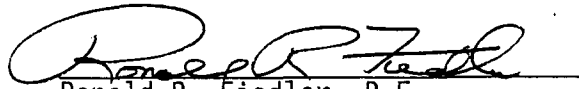
SECTION 5. Trans 101.07 (11) is created to read:

Trans 101.07 (11) The person seeking the point reduction under this section shall be responsible for any and all fees charged for the course.

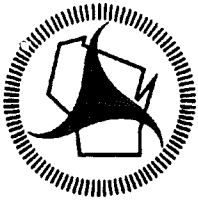
(END OF RULE TEXT)

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.), Wis. Stats.

Signed at Madison, Wisconsin this 19th day of January, 1990.

A handwritten signature in black ink, appearing to read "Ronald R. Fiedler", written over a horizontal line.

Ronald R. Fiedler, P.E.
Secretary
Wisconsin Department of Transportation



Wisconsin Department of Transportation

Tommy G. Thompson
Governor

Ronald R. Fiedler, PE
Secretary

OFFICE OF GENERAL COUNSEL
P. O. Box 7910
Madison, WI 53707-7910

January 19, 1990

Mr. Gary Poulson
Assistant Revisor of Statutes
30 West Mifflin Street
Suite 702
Madison, Wisconsin 53703

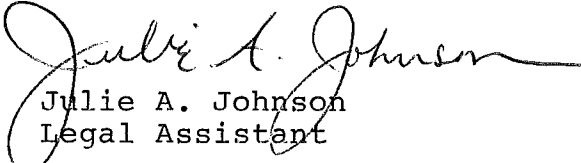
RE: Clearinghouse Rule 89-74

In the Matter of the Adoption of Trans 101, Wisconsin Administrative Code, Relating to Point Values for Speeding Violations, Reducing a Driver's Point Totals and Suspensions and Revocations Based on Accumulated Point in a Given Period

Dear Mr. Poulson:

Enclosed for filing, pursuant to sec. 227.20, Wis. Stats., is a certified copy of CR 89-74, an administrative rule relating to point values for speeding violations, reducing a driver's point totals and suspensions and revocations based on accumulated point in a given period. This rule is submitted by the Wisconsin Department of Transportation.

Sincerely,


Julie A. Johnson
Legal Assistant

Enclosures

cc: Tom Walker
Linda Thelke
Sandy Beaupre
Senator Plewa
Representative Antaramian
Joyce Gelderman
Wes Geringer
Al Johnson