

CR 90-149

CERTIFICATE

STATE OF WISCONSIN)
) ss.
DEPARTMENT OF TRANSPORTATION)

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 the **Employer Notification Program**, was duly approved and adopted by this Department on **October 16th, 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 16th day of October, 1990.

RONALD R. FIEDLER, P.E.
Secretary

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1-1-91

IN THE MATTER OF a rule to create chapter Trans 118, Wisconsin Administrative Code, relating to the Employer Notification Program

ORDER ADOPTING RULE

Analysis Prepared by the Wisconsin Department of Transportation

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Statutory Authority: ss. 85.16(1) and 343.245(3m), Stats.

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Statutes Interpreted: s. 343.245(3m), Stats.

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Summary of Rule. This rule establishes an employer notification program to permit an employer to register the name of an employee and be notified by the Department whenever a conviction or suspension, revocation, cancellation, disqualification or out-of-service order is recorded on the operating record of the employee.

Section 343.245(3m) allows the department to collect fees from employers in the program sufficient to defray the costs of instituting and maintaining the program, including the registration and withdrawal of employees. This rule establishes the fees, methods for payment and other procedures for the Department-generated employer notification documents.

Grounds for cancellation of an employer's participation in the notification program are for failure of the employer to pay the fees described in this rule.

The employer notification program established by this rule does not relieve the driver from notifying the Department and the employer of all convictions and license withdrawals.

Regulatory Flexibility Analysis. The rule has no significant impact on small business, other than the fees for this voluntary program.

Fiscal Impact.

Fiscal Note Conclusion

This rule will result in increased annual costs for the Department of Transportation. The rule, however, authorizes the Department to collect fees from participants in the program sufficient to defray the costs of instituting and maintaining the program, including the registration and withdrawal of employees. It is estimated that the net fiscal impact through the 91-93 biennium will be a net loss to the Transportation Fund of approximately \$27,000.

Basis for Conclusion

For the purposes of this estimate, a total maximum eligible enrollment level of 6,000 employers is assumed. The 6,000 estimate consists of approximately 5,000 resident motor

carriers qualified to enroll in this program, certain county highway and/or municipal motor pools eligible for registration in the program, school bus contractors, hazardous material common carriers and certain other employers also eligible for enrollment in the program.

An analogous DOT program for insurance companies has resulted in nearly 1,400 insurance company/agent accounts. The workload experiences from this program form the basis for the estimates and projections that are described below.

Revenues

Given the number of Commercial Motor Vehicle businesses affected by Act 105, which authorized this rule, and considering the serious penalties and forfeitures that these affected groups will face if they do not track a CDL driver's license record, it is expected that this program will be a popular one generating workloads beyond that currently experienced in the insurance company program.

At this point in time we have no basis for projecting the number of affected parties that may choose to enroll in this program. However, if one-half did enroll then 50% of eligible applicants would generate approximately 3,000 employer registrations. A \$20 employer registration fee would result in revenues of \$60,000 annually. This amount assumes that an equal number of employers would withdraw and enroll each calendar year so that the total would remain at approximately 3,000.

Furthermore, assuming each applicant registers an average of 50 employees then the Department would be registering 150,000 drivers into the employer notification program in the start up period; the base year of the current biennium (FY91). The \$2 registration fee would provide a one-time \$300,000 to the Transportation Fund.

Assuming these employers have an employee turnover rate of nearly 6%, the Department will process an additional 9,000 withdrawals and a corresponding number of new (replacement) drivers each year. Given the \$2 fee for every new driver added to the program (9,000) this transaction type will generate \$18,000 annually.

Costs

Computer generated driver abstracts incur data processing costs of approximately \$0.50 p/transaction. This includes the costs for postage to the employer. Assuming that the 150,000 drivers subject to this program generate approximately 225,000 employer notifications per year (based on a sample of current chauffeur driver records and the rate of driving incidents now being added to their records) then computer and postage costs will reach approximately \$112,500 annually ($\$0.50 \times 225,000$).

Under the projections described above and using current workload standards in the License Records section that will do the processing work it is estimated that an additional workload equal to 4 FTE positions will be needed during the final six (6) months of fiscal year 91. This FY91 cost is equal to the annual cost estimate for the 2 FTEs needed in

subsequent fiscal years. Thus, salary and fringes for these positions are estimated at \$52,000 through out the 91-93 biennium.

Every time a driver's name and license number is added to the mainframe computer for this program the Department incurs data processing costs. Assuming one CPU second per transaction for processing costs and using a CPU rate of 13.5¢/second for FY 91 and 13.0¢/second for FY 92 the costs for the 150,000 additions in 1991 and the 18,000 annual transactions in subsequent years (9,000 additions + 9,000 deletions) are \$20,300 and \$2,340 respectively.

The monthly billing system, required for this program and managed through fiscal services will result in increased work equal to one FTE account specialist. Annual salary and fringes for this position are \$28,300.

The combined net fiscal impact of this program is described below. The estimates are carried through the biennium under the assumption that the program will begin in January 1991.

Fiscal Impact Summary

Revenues and Costs (by Fiscal Year)	1990-91	1991-92	1992-93
<u>Revenues:</u>			
Annual Fee	60,000	60,000	60,000
New Processing	n/a	18,000	18,000
One-Time Fee (base year)	300,000	n/a	n/a
	-----	-----	-----
<u>Revenue Subtotal:</u>	360,000	78,000	78,000
<u>Costs:</u>			
Fiscal Service Cost	14,150	28,300	28,300
License Record Costs	52,000	52,000	52,000
Annual DP Costs	66,250	112,500	112,500
Processing Costs	20,300	2,340	2,340
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<u>Cost Subtotal:</u>	152,700	195,140	195,140
	=====	=====	=====
<u>Fiscal Year Net Revenue (Cost)</u>	207,350	(117,140)	(117,140)

The overall net impact by the end of the 1991-93 biennium is a loss of \$26,930.

Contact Persons. The persons to contact for further information are Jennifer Liddicoat, (608) 267-9558 or Paul Helkowski, (608) 266-0753.

TEXT OF RULE

Under the authority vested in the Wisconsin department of transportation by ss. 85.16(1), 343.02, and 343.245(3m), Stats., the department hereby creates chapter Trans 118 as follows:

SECTION 1. Trans 118 is created to read:

Chapter Trans 118

EMPLOYER NOTIFICATION PROGRAM

Trans 118.01 PURPOSE AND SCOPE. (1) The purpose of this chapter is to establish an employer notification program to permit an employer to register the name of an employe and be notified by the department whenever a conviction or suspension, revocation, cancellation, disqualification or out-of-service order is recorded on the driving record of the Wisconsin licensed employe and any other driving record information that the department may reasonably include in this program.

NOTE: Authority for this chapter can be found at s. 343.245(3m), Stats. Forms used in this chapter are MV3555 Employer Notification Customer Agreement and MV3556 Employe Enrollment Request. These forms are available from the Wisconsin Department of Transportation, Bureau of Driver Services, P.O. Box 7917, Madison, Wi., 53707.

Trans 118.02 DEFINITIONS. The words and phrases defined in s. 340.01, s. 343.01, and s. 343.25(1), Stats., have the same meaning in this chapter unless a different definition is specifically provided.

Trans 118.03 EMPLOYER NOTIFICATION APPLICATION REQUIREMENTS.

An application for the employer notification program shall be made to the department upon forms prescribed by the department, shall be accompanied by the required fees as set forth in s. Trans 118.08 and shall include such information as the department reasonably requires.

Trans 118.04 EMPLOYER ACCOUNT CODES. (1) **ISSUANCE.** The department shall issue an employer account code upon receipt of a properly completed employer notification customer agreement form.

(2) **USAGE.** The department may require that the employer use the employer account code for purposes of identification and invoicing procedures.

Trans 118.05 EMPLOYER NOTIFICATION CUSTOMER AGREEMENT

FORM. The employer shall submit an employer notification customer agreement form under any of the following situations:

(1) When the employer is submitting an original application for enrollment in the employer notification program.

(2) When the employer is requesting that an additional account code be issued to the same employer name or to another account under the same employer name.

(3) When the employer changes its name or address, or both.

(4) When the employer requests a renewal of registration for the employer notification procedure.

Trans 118.06 EMPLOYEE ENROLLMENT REQUEST FORM. (1) **EMPLOYEE ENROLLMENT.** An employer may enroll an employee in the employer notification program by submitting a written request to the department.

(2) **CONTENT.** The written request shall contain the following information:

(a) The employer's name and address.

(b) The employer's account code.

(c) The employee's driver license number.

(d) The employee's name as it appears on the employee's driver license.

(e) The employee's date of birth.

(f) The employee's social security number.

(g) Such other information as the department may require.

NOTE: The department will make Employee Enrollment Request Forms (MV3556) available to the public for the purpose of enrolling employees in this program. For information on obtaining forms, see s. Trans. 118.01 [note].

Trans 118.07 WITHDRAWAL OF EMPLOYEES AND EMPLOYERS. (1)

EMPLOYEE WITHDRAWAL. An employer may withdraw an employee from the employer notification program by submitting a written request to the department. The written request shall contain the information set forth in s. Trans 118.06(2)(a) to (f).

(2) EMPLOYER WITHDRAWAL. An employer may withdraw from the employer notification program by submitting a written request to the department. The request shall include the employer's name, account code, and any other information the department reasonably requires.

Trans 118.08 PROCEDURE AND FEES. (1) EMPLOYER INITIAL ENROLLMENT. The department shall register an employer in the employer notification program upon receipt of a properly completed employer notification customer agreement form together with the proper fee. The registration of an employer in the employer notification program shall be issued for the calendar year and is valid only during the calendar year for which issued. For each account code issued to an employer, the fee shall be \$20 for an application submitted before July 1 of a year and \$10 for an application submitted on or after July 1.

(2) RENEWAL. At least 30 days prior to the expiration of an employer notification customer agreement form, the department shall mail to the last known address of the employer a notice of the date upon which the employer's registration fee must be paid and the new employer notification customer agreement form returned. An employer who does not return the renewal form and fee by the date provided in the notice may be removed from the program. The renewal fee for the employer notification program is \$20 per account code assigned to the employer.

(3) EMPLOYEE REGISTRATION. An application to register an employee in the employer notification program shall be made to the department in writing and shall be accompanied by the required fee of \$2.00 per employee enrolled.

(4) EMPLOYEE WITHDRAWAL. An application to withdraw an employee from the employer notification program shall be made to the department in writing.

NOTE: The fee for notification documents shall be \$2.00 as established by s. 343.245 (3m) (b), Stats.

(5) ANNUAL REVIEWS. Annual reviews of the fees established under this section will commence on April 1, 1993, and if the fees need to be raised so as to make the employer notification program self supporting, the fees shall be changed effective 90 days after the annual review date.

(6) FEES. The Department shall establish the rate of payment for the employer notification program based on all of the following factors:

(a) The estimated annual volume of employer applications.

(b) The estimated annual volume of employer-generated registrations of employees.

(c) The estimated annual volume of employer-generated withdrawal orders of employees.

(d) The estimated costs of operation, including employee salaries and fringe benefits, office space, office supplies and equipment, postage, computer charges, forms and other necessary expenses.

(e) Such other matters which the department determines have a fiscal impact on the program.

Trans 118.09 INVOICES. (1) SCHEDULE. The department shall mail a monthly invoice to any employer that owes employer notification fees assessed under this chapter.

(2) BILLING PERIOD. Monthly invoices will bill an employer for each notification document produced between date of the previous invoice and the date of the current invoice.

(3) CONTENT OF INVOICE. Each invoice shall include:

(a) The name and address of the employer.

(b) The department invoice date.

(c) The quantity of notification documents mailed to the employer for which fees are owed.

(d) The employer account code.

(e) The total amount payable to the department.

Trans 118.10 FAILURE TO COMPLY WITH TERMS OF PROGRAM. The department may not provide employer notification documents to an employer if the employer has failed to comply with any of the provisions of this chapter including, but not limited to, paying any invoice or fee when due.

Trans 118.11 ACTIONS RESULTING FROM UNPAID FEES. (1) CANCELLATION OF EMPLOYER NOTIFICATION CUSTOMER AGREEMENT. Failure to comply with any fee provision in this chapter may result in the cancellation of the employer's customer agreement for the employer notification program. A cancellation shall continue until the department receives payment of all fees due under this chapter and the employer is reinstated into the program.

(2) REINSTATEMENT. An employer who has had an employer notification customer agreement with the employer notification program canceled by the department shall pay all outstanding obligations and pay a \$30 reinstatement fee before an account will be reestablished.

Trans 118.12 THE EMPLOYER NOTIFICATION DOCUMENT. (1) CONTENT.

The employer notification document will contain all of the following information:

- (a) The employee's driver license number.
- (b) The employee's driver license type and expiration date.
- (c) The employee's date of birth.
- (d) The employer's name and account code.
- (e) The employee's name and address.
- (f) The employee's driver record information, excluding confidential data, maintained on the department's computer.

(2) SOURCE. The source of the information supplied to the employer on the notification document shall be limited to the data retained and available in the department's computer database for holders of Wisconsin drivers licenses or identification cards.

(3) WHEN ISSUED. Employer notification documents will be issued when there is any change in the driver record maintained by the department for an enrolled driver.

NOTE: No notification will be provided upon initial enrollment. Employers may obtain driver abstracts when hiring employees under ch. Trans. 195.

Trans 118.13 EMPLOYEE AND EMPLOYER RESPONSIBILITIES.

(1) EMPLOYEE RESPONSIBILITIES. Nothing in this chapter shall be construed to relieve the employee from the driver notification requirements described under s. 343.245 (2), Stats.

(2) EMPLOYER RESPONSIBILITIES. Nothing in this chapter shall be construed to relieve the employer from the employer responsibilities described under s. 343.245 (3), Stats.

Trans 118.14 CONSTRUCTION OF THIS RULE. Nothing in this chapter shall be construed to relieve the applicant for an employer notification document from submitting a complete application with the fees described in this chapter. In the event of a conflict

between the provisions of ch. Trans 195 and the provisions of this chapter, the provisions of this chapter shall control.

(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 16th day of October, 1990.



Ronald R. Fielder, P. E.

Secretary

Wisconsin Department of Transportation

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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

October 16, 1990

Mr. Gary Poulson
Assistant Revisor of Statutes
119 Martin Luther King, Jr. Blvd.
2nd Floor
Madison, Wisconsin 53703

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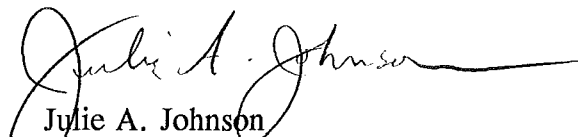
RE: **CLEARINGHOUSE RULE 90-149**

In the Matter of the Adoption of **TRANS 118**, Wisconsin Administrative Code, Relating to the Employer Notification Program

Dear Mr. Poulson:

Enclosed for filing, pursuant to s. 227.20, Wis. Stats., is a certified copy of **CR 90-149**, an administrative rule relating to the above-mentioned matter. This rule is submitted by the Wisconsin Department of Transportation.

Sincerely,


Julie A. Johnson
Paralegal

Enclosures

cc: Tom Walker
Linda Thelke
Sandy Beaupre
Joyce Gelderman
Jennifer Liddicoat
Paul Helkowski