

Chapter Trans 117

OCCUPATIONAL DRIVER'S LICENSE

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Trans 117.01 Purpose and scope. (1) The purpose of this rule is to administratively interpret ss. 161.50, 343.10, 343.20 and 351.07, Stats. The rule supplements the statutory procedure for obtaining an order authorizing the issuance of an occupational license and for applying for the issuance of an occupational license. It establishes department policy regarding the granting of CDL-occupational license petitions.

(2) This chapter applies to any person petitioning a court or the department for an order authorizing the issuance of an occupational license.

Note: Procedure and eligibility requirements for occupational licenses are set forth in ss. 343.10 and 351.07, Stats.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; am. (1), Register, August, 1993, No. 452, eff. 9-1-93. *Emergency am. eff.*

Trans 117.02 Definitions. (1) The words and phrases defined in ss. 340.01, 343.01 and 343.04 (1), Stats., have the same meaning in this chapter unless a different meaning is specifically provided.

(2) In this chapter:

(a) "Basic driver license" means a regular license, commercial driver license, motorcycle only license, special restricted license or probationary license, as those terms are used in s. 343.03 (3), Stats., that has been revoked, suspended, cancelled or disqualified.

(am) "Basic occupational license" means an occupational license authorizing the operation of class D or class M motor vehicles, or both, but not commercial motor vehicles.

(b) "CDL-occupational license" means an occupational license authorizing the operation of commercial motor vehicles. A CDL-occupational license may also authorize the operation of class D or class M motor vehicles, or both.

(c) "License" means any authority to operate a motor vehicle issued under ch. 343, Stats., or this chapter.

(d) "Occupational license" means a license issued under s. 343.10, Stats.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; renum. (2) (a), (e) and (f) to be (2) (am), (c) and (d), cr. (2) (a), r. (2) (c) and (d), Register, August, 1993, No. 452, eff. 9-1-93.

Trans 117.03 Eligibility. (1) An occupational license may be issued to a Wisconsin resident who meets the requirements of s. 343.10, Stats., who is otherwise eligible to receive a license in the state of Wisconsin, and whose petition for an occupational license is granted by a court or by the department.

(2) The department may not issue an occupational license to a person if the order granting the person's petition for occupational license restricts the person to operating vehicles equipped with an ignition interlock device or if as part of the criminal sentence in the underlying OWI case the person was ordered to have an ignition interlock device installed as a condition of an occupational license, and the person cannot prove that such a device has been installed in each vehicle the person seeks authority to operate under the occupational license. A device shall not be considered to be installed under this section unless it meets all department specifications for ignition interlock devices.

Note: Ignition interlock devices are governed by ch. Trans 313.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; renum. to be (1), cr. (2), Register, August, 1993, No. 452, eff. 9-1-93. *Emergency (3) to (5) eff.*

Trans 117.04 Petition. (1) A petition for occupational license shall be made on a form prescribed by the department and shall include all requested information.

(2) The explanation of why operating a motor vehicle is essential to a person's livelihood made in a person's petition for occupational license under s. 343.10 (1) (b), Stats., shall describe the person's occupation and shall state why it is necessary for the person seeking the occupational license to have the authority to operate a motor vehicle during the hours and at the locations specified in the petition.

(3) The compelling reason why a person should be granted an occupational license given in a petition for an occupational license under s. 351.07 (1), Stats., shall describe the person's occupation and shall state why it is necessary for the person seeking the occupational license to have the authority to operate a motor vehicle during the hours and at the locations specified in the petition and such other information as the court may require.

(4) A petition for occupational license shall not be granted unless the times and areas or routes of travel for which occupational privileges are requested in the petition are reasonable in light of the nature of the person's occupation, trade, or duties as a homemaker or student.

(5) In addition to the requirements contained in this section, persons ordered by the court to install an ignition interlock device must include a copy of the order and proof of installation in their petition for an occupational license.

Note: Form MV3027, Petition, Order of Issuance and Temporary Occupational License is available at motor vehicle service centers and from clerks of court.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; cr. (5), Register, August, 1993, No. 452, eff. 9-1-93.

Trans 117.05 Application. (1) All applications for occupational licenses shall include:

(a) An operator's license application form.

(b) A conviction status report from the court that convicted the applicant of the offense for which the applicant's license has been revoked or suspended, unless the court has previously reported the conviction to the department and the conviction appears on the department's computer data base of driver records.

(c) The fee required under s. 343.10 (6), Stats.

(2) The application for a CDL-occupational license of a person whose license is revoked under s. 351.025, Stats., shall include the original or a certified copy of the court order authorizing the issuance of a basic occupational license to the person and a petition for a CDL-occupational license.

(3) The application for a CDL-occupational license of a person whose license is revoked or suspended under s. 161.50, ch. 343 or 344, Stats., shall include a petition to the department for issuance of a CDL-occupational license and the fee specified in s. 343.10 (6), Stats.

(4) All applications, conviction status reports and petitions for occupational license submitted in applying for an occupational li-

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cense shall be on department forms and shall include all requested information.

Note: Form MV3001, Application for License, is available at motor vehicle service centers. Form MV3435, Conviction Status Report, is issued to eligible drivers by clerks of court. Form MV3027, Petition, Order of Issuance and Temporary Occupational License, is available both at motor vehicle service centers and from clerks of court.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; cr. (1) (c), am. (3), Register, August, 1993, No. 452, eff. 9-1-93.

Trans 117.06 No occupational licenses for school buses. The department shall not issue an occupational license authorizing the operation of a school bus.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91.

Trans 117.07 Petitions to amend or reinstate occupational licenses. (1) A petition to amend an occupational license or to reinstate a revoked occupational license shall be made in the same manner as an original petition for an occupational license.

(2) A petition seeking to amend an occupational license issued pursuant to an order entered by a court shall be presented to and approved or denied by the court which originally ordered issuance of the occupational license, or, if the driver has changed his or her place of residence to a location outside the jurisdiction of the original court, by a court in the person's county of residence.

(3) A petition seeking to amend an occupational license issued pursuant to an order entered by the department shall be presented to and approved or denied by the department.

(4) A person applying to reinstate or amend an occupational license shall pay the fee specified in s. 343.10(6), Stats. No fee shall be paid if the application is to amend the license and the application seeks only to correct a clerical error made by the court or the department in the issuance of the occupational license. Fees collected under this subsection shall be distributed in accordance with s. 343.10(6), Stats.

Note: See s. 343.26, Stats., regarding reinstatement of canceled licenses.
History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; correction in (2) made under s. 13.93 (2m) (b) 5., Stats., Register, August, 1993, No. 452, eff. 9-1-93.

Trans 117.08 Expiration of occupational licenses. (1) A CDL occupational driver license issued to a person whose operating privilege is revoked under ch. 344, Stats., shall expire:

(a) No later than the expiration date of the person's basic driver license if the person's operating privilege is revoked for failure to pay a damage judgment under s. 344.25, Stats., or if the person's operating privilege is revoked under s. 344.14, Stats., and notice of a civil action against the person has been filed with the department.

(b) One year from the date of revocation if the person's license is revoked under s. 344.14, Stats., and notice of the commencement of a civil action has not been filed with the department.

(c) At the end of the longest running revocation or suspension of the person's operating privilege in effect at the time the occupational license is issued if the person's operating privilege is also suspended or revoked for any reason other than under s. 344.14 or 344.25, Stats.

(2) A person whose CDL occupational license would expire under sub. (1) (a), less than one year from the date of application, may apply for a license which would expire 4 years from that person's next birthday if the person completes all examinations required to renew his or her basic driver license.

(3) A person whose CDL occupational license would expire under sub. (1) (a), less than 90 days from the date of application, shall submit to all examinations required to renew the person's basic driver license. The person's occupational license shall expire 4 years from the person's next birthday.

(4) A person whose CDL occupational license expires under sub. (1) (a) or (b) may extend his or her occupational license upon completion of all examinations required to renew the person's basic driver license.

(5) Notwithstanding subs. (1) to (4) or any expiration date stated on the face of an occupational license, an occupational license shall expire immediately upon the end of all cancellations, suspensions, revocations and disqualifications of the driver's operating privilege in effect at the time the occupational license was issued.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; r. and recr. Register, August, 1993, No. 452, eff. 9-1-93.

Trans 117.09 Specific time and routes or areas of travel limitations. (1) GENERAL. A petition for occupational license shall specify definite hours of operation by specifying the exact times and days of the week during which the operator requires authority to operate a motor vehicle to or from church, in connection with a driver safety plan, or in order to perform their occupation, trade, or duties as a homemaker or student.

(2) EMERGENCY SERVICE PROVIDERS. (a) "Emergency service provider" means a person who is employed by a unit of government, is providing services to a unit of government, or is employed by a public utility or medical services provider, and whose occupation involves providing essential life sustaining emergency services to the public. The term includes, but is not limited to, law enforcement officers, fire fighters, forest rangers, correctional officers, snow plow and emergency vehicle drivers, doctors, emergency medical technicians, certified first responders, paramedics, and electric, telephone and natural or propane gas repair technicians. A person who claims to be an emergency service provider may be required to provide documentation to the department proving the person provides essential life sustaining emergency services to the public as part of the person's occupation.

(b) In a petition for occupational license, an emergency services provider may request authorization to operate a motor vehicle, during an emergency threatening injury to person or property, outside the specific hours of operation set forth in the petition. An order authorizing such operation shall authorize only the operation of motor vehicles directly to and from the location of the emergency or the person's place of employment and shall not authorize operation of a motor vehicle in excess of 12 hours per day or 60 hours per week.

(c) An emergency services provider who has authority to operate a motor vehicle under par. (b) and who is charged with an offense stemming from the person's operating a motor vehicle outside the specified hours of operation set forth in the occupational license shall not be convicted if the person produces in court or in the office of the arresting officer satisfactory documentation that the person was operating a motor vehicle in response to a bona fide emergency at the time of the citation.

(3) COMMERCIAL OPERATORS. (a) A person whose essential occupational duties involve the operation of a commercial motor vehicle at any hour of the day or night may request in their petition to the department for a CDL-occupational license a request for 24 hour authorization. The petition shall also specify specific hours during which the operator seeks authority to operate a class D or class M vehicle.

(b) A 24 hour authorization on a CDL-occupational license shall authorize the licensed person to operate specified commercial motor vehicles for up to 12 hours per day, not to exceed 60 hours per week; in addition to any authority granted to operate class D or class M vehicles during specific hours. In no event shall the total specific hours plus authorized CDL-occupational hours total more than 12 hours per day or 60 hours per week.

(c) A person operating a commercial motor vehicle under a 24 hour authorization shall maintain an operating log, shall have the operating log in the vehicle when operating a motor vehicle, and shall make the log available to a law enforcement officer upon request.

(d) A person who fails to maintain an operating log, maintains a materially inaccurate operating log, or fails to produce an opera-

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tor's log upon the request of a law enforcement officer shall be deemed to have operated a commercial motor vehicle outside the hours of operation permitted under the CDL-occupational license.

(e) An operating log shall include the following:

- 1. The date on which the person operated a commercial motor vehicle.
- 2. An identification of the vehicle driven.
- 3. The starting time, including notations for a.m. and p.m. Midnight and noon shall be transcribed as midnight and noon.
- 4. Origin and destination of the trip.
- 5. The odometer reading of the vehicle driven at the begin-

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ning of the trip.

6. The odometer reading of the vehicle driven at the end of the trip.

7. The number of miles driven.

8. The total hours driven.

(f) An operating log shall be kept current at all times. An operator shall transcribe the items set forth in par. (e) 1. to 5. in the operating log at the beginning of each trip and shall record the remaining items immediately upon arrival at the person's destination.

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(g) A driver's record of duty status maintained in accordance with 49 CFR 395.8 shall satisfy the operating log requirement.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; am. (2) (a), Register, August, 1993, No. 452, eff. 9-1-93.

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