

CHAPTER 42 , Laws of 1981

AN ACT to amend 194.34 (1) (a), 194.38 (5), 343.05 (2) (d) and (e), 343.125 (title), 343.20 (3) and 346.41 (3); and to create 341.405 (3) of the statutes, relating to clarifying the permit and licensing requirement for contract motor carriers, correcting a reference to a section of the interstate commerce act which has been renumbered, waiver of fees of \$2 or less due under the international registration plan, exemption from state motor vehicle operator's license requirements for residents of certain foreign countries, the removal of an inaccurate reference, the renewal fee for an operator's license after discharge from the armed services, and removing a reference to a date in a section relating to reflectors at the entrance to a private road or driveway (suggested as remedial legislation by the department of transportation).

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of transportation, and introduced by the law revision committee under s. 13.83 (1) (c) 4 of the statutes. After careful consideration of the various provisions of this bill, the law revision committee has determined that this bill makes remedial changes in the statutes, and that these changes are desirable to maintain the accuracy and usefulness of the statutes.

SECTION 1. 194.34 (1) (a) of the statutes is amended to read:

194.34 (1) (a) No person may operate a motor vehicle upon the public highways as a contract motor carrier without first having obtained from the commission a license for the operation of such vehicle and a permit from the department. The commission, upon the filing of an application for such license, may as the public interest requires, upon a finding of public convenience and necessity as to service to be performed for the public generally or any (well defined) class thereof, and of convenience and necessity as to other contract motor carrier services, grant or deny the license prayed for in whole or in part, and may attach to the exercise of the privilege granted by the license such terms and conditions as in its judgment the public interest requires. No application for a license or permit to operate a motor vehicle for automobile wrecking or tow service when such motor vehicle is used to transport other vehicles for emergency repairs shall be denied for failure of the applicant to show or the commission to find convenience and necessity therefor. Before granting a license to a contract motor carrier the commission shall take into consideration all existing transportation facilities in the territory for which a license is sought.

NOTE: This SECTION makes s. 194.34 (1) (a) of the statutes conform with the requirement of a permit for contract carriers under s. 194.04 (4) of the statutes.

SECTION 2. 194.38 (5) of the statutes is amended to read:

194.38 (5) To act in accordance with 49 USC ~~section 302 (b)~~ 11506 by making any finding, determination and otherwise doing any other thing necessary to proceed under that statute. Nothing in this subsection shall permit the department to extend the length or weight of motor vehicles.

NOTE: On October 17, 1978, the U.S. congress recodified the interstate commerce act, without making substantive changes in the act. Section 194.38 (5) of the statutes contains a reference to 49 USC 302 (b). In the recodification,

this provision of the interstate commerce act was renumbered as 49 USC 11506.

This SECTION makes the corresponding change in the cross-reference.

SECTION 3. 341.405 (3) of the statutes is created to read:

341.405 (3) Any fee of \$2 or less due under this section may be waived by the department.

NOTE: Section 341.405 (3), as created by this bill, permits the department of transportation to waive fees of \$2 or less due under the provisions of the international registration plan. This will improve the administration of the department of transportation.

SECTION 4. 343.05 (2) (d) and (e) of the statutes are amended to read:

343.05 (2) (d) ~~Any person nonresident of the United States who speaks and reads the English language who holds an international driving permit or a valid operator's license validated for use in the United States under~~ issued by a country which is a signatory to either the 1943 regulation of inter-American automotive traffic or the 1949 Geneva convention on road traffic.

(e) ~~Any person who speaks or reads the English language nonresident of the United States who holds an international driving permit or a valid operator's license issued by West Germany, Japan Mexico or Switzerland or by any other nation having a reciprocal agreement with the United States concerning driving privileges.~~

NOTE: Current law requires that any person who operates a motor vehicle on Wisconsin highways must have an operator's license issued by the department of transportation, unless the person falls within one of the exceptions enumerated in s. 343.05 (2) of the statutes. One of these exceptions pertains to persons who speak and read the English language and who possess an international driver's license validated for use in the United States. In an opinion dated October 3, 1979, the attorney general stated that the English language requirement is invalid as a restriction on rights granted by international treaties and thereby violates the supremacy clause of the U.S. constitution.

This SECTION eliminates the English language requirement of s. 343.05 (2) (d) and (e) of the statutes.

This SECTION also provides that persons holding a valid operator's license issued by West Germany, Mexico or Switzerland are exempt from the Wisconsin operator's license requirement. This SECTION corrects an error in the statute, since Japan, but not Mexico, is a signatory to the 1949 Geneva agreement. The reference to Mexico is inserted to conform to current practices of the department of transportation. A general phrase is added in s. 343.05 (2) (e) of the statutes so that a person holding a valid operator's license from any other nation having a reciprocal agreement with the United States concerning driving privileges is exempt from the Wisconsin operator's license requirement.

SECTION 5. 343.125 (title) of the statutes is amended to read:

**343.125 (title) Chauffeurs to obtain special license.**

NOTE: This SECTION amends the title of s. 343.125 of the statutes, by deleting the reference to a chauffeur's license for taxi drivers, a requirement which no longer exists.

SECTION 6. 343.20 (3) of the statutes is amended to read:

343.20 (3) Any person who holds a valid license and who is unable to make a renewal application within the period declared by the department, due to serving with any branch of the armed services, may apply for a renewal of the license at any time during such service or within 6 months after the date of discharge from such services. ~~The department shall charge only the standard renewal fee upon renewal of such license.~~

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NOTE: This SECTION repeals an exception to the charge for late renewal of a driver's license, which was made superfluous by the repeal of any late renewal fee in the 1975 legislative session.

SECTION 7. 346.41 (3) of the statutes is amended to read:

346.41 (3) No person shall, ~~after January 1, 1970,~~ place or maintain, or allow to be displayed any red or amber reflector within the limits of the highway boundaries at or near the entrance to a private road or driveway. The use of blue reflectors is permitted provided there is no disapproval by the highway authority in charge of maintenance of the highway.

NOTE: This SECTION removes the date for compliance with the ban on red or amber reflectors at private roads or driveways. Since that date has passed, the reference to the date is unnecessary.

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