2013 DRAFTING REQUEST

Bill

Received:	**1/30/2014**	Received By:	**agary**
Wanted:	**As time permits**	Same as LRB:	**-0165**
For:	**Keith Ripp (608) 266-3404**	By/Representing:	**Elisabeth Portz**
May Contact:		Drafter:	**agary**
Subject:	**Transportation - driver licenses**	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
Requester's email: **Rep.Ripp@legis.wisconsin.gov**
Carbon copy (CC) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Driver schools skills test certification NB 1315-4

Instructions:

Companion to LRB-0165

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	agary 1/30/2014	kfollett 1/30/2014	jmurphy 1/30/2014	_____ _____			
/1				_____ _____	lparisi 1/30/2014	lparisi 1/30/2014	State

FE Sent For:

at mtnO

<END>

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/?	agary	/1/ef 1/30		JM 1/30			

FE Sent For:

PAs: Please jacket /1. Thx. ARG

<END>

State of Wisconsin
2013 – 2014 LEGISLATURE

TODAY

LRB-~~0165/1~~ -4153/1
ARG:jld:jm

in 1/30 stays RMNR

2013 BILL

Companion – no changes

Regen

AN ACT ***to repeal*** 343.16 (1) (bm); ***to amend*** 110.08 (2), 343.06 (1) (c), 343.16 (1) (a), 343.16 (1) (b) (intro.), 343.16 (1) (b) 3. (intro.), 343.16 (1) (b) 4., 343.16 (1) (b) 5., 343.72 (5m) and 343.72 (6); and ***to create*** 343.16 (1) (br) of the statutes; **relating to:** driving skills tests for certain noncommercial motor vehicle drivers.

Analysis by the Legislative Reference Bureau

Under current law, with limited exceptions, an applicant for an operator's license authorizing operation of "Class D" vehicles, which are automobiles and most passenger vehicles, is required to successfully complete a knowledge test and a driving skills (road) test. Generally, Department of Transportation (DOT) examiners must administer these tests, except: 1) DOT may authorize certain driver education instructors to administer knowledge tests; 2) DOT may contract with third–party testers to conduct road tests for "Class D" vehicle operators, but a third–party tester may not administer a road test for a person who has received instruction in driver training from the third–party tester; 3) DOT may contract with law enforcement agencies to administer knowledge and road tests for "Class D" vehicle operators if no DOT examining station is located in the municipality of the law enforcement agency; and 4) DOT may contract with counties or other local governments to provide certain services, including administering knowledge tests but not road tests.

This bill eliminates DOT's authority to contract with third–party testers and law enforcement agencies as described in items 2) and 3), above, and instead creates

a road test certification and waiver procedure. Under this bill, DOT may enter into a contract with any public or private entity permitted to offer courses in driver education or training (driver training school) authorizing the driver training school to certify that an individual who has received instruction in driver education or training from the school (student) is eligible to be exempted from the road test generally required to obtain an operator's license for a "Class D" vehicle. DOT's contract with the driver training school must include standards and eligibility requirements for this certification that ensure that a student who is certified as eligible to be exempted from the road test has demonstrated driving skills equivalent to or exceeding those necessary to successfully complete the road test administered by DOT. In addition, DOT must require the driver training school to have a signed agreement with each student that includes certain information and that advises the student that there is no guarantee the driver training school will provide a certification for the student and that, even if the school provides a certification, DOT may still require the student to take and pass a road test administered by DOT. Under the bill, if DOT receives from a driver training school a certification of eligibility for exemption relating to a student, DOT may waive the road test for that student when the student applies for an operator's license authorizing operation of "Class D" vehicles. A driver training school that certifies a student as eligible to be exempted from the road test administered by DOT is immune from civil liability for bodily injury, death, or property damage arising out of any act or omission relating to the certification.

For further information see the ***state*** fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 110.08 (2) of the statutes is amended to read:

2 110.08 **(2)** Except as provided under sub. (5) (b) and s. 343.16 (1) (b) ~~to~~ <u>and</u> (c),
3 all examinations for operator's licenses and permits shall be given by state
4 examiners.

5 **SECTION 2.** 343.06 (1) (c) of the statutes, as affected by 2013 Wisconsin Act ....
6 (Senate Bill 270), is amended to read:

7 343.06 **(1)** (c) To any person under age 18 unless the person is enrolled in a
8 school program or high school equivalency program and is not a habitual truant as
9 defined in s. 118.16 (1) (a), has graduated from high school or been granted a

declaration of high school graduation equivalency, or is enrolled in a home–based private educational program, as defined in s. 115.001 (3g), and has satisfactorily completed a course in driver education in public schools approved by the department of public instruction, or in technical colleges approved by the technical college system board, or in nonpublic and private schools or tribal schools, as defined in s. 115.001 (15m), that meet the minimum standards set by the department of public instruction, or has satisfactorily completed a substantially equivalent course in driver training approved by the department and given by a school licensed by the department under s. 343.61, or has satisfactorily completed a substantially equivalent course in driver education or training approved by another state and has attained the age of 16, except as provided in s. 343.07 (1g). The department shall not issue a license to any person under the age of 18 authorizing the operation of "Class M" vehicles unless the person has successfully completed a basic rider course approved by the Wisconsin department of transportation motorcycle safety program. The department may, by rule, exempt certain persons from the basic rider course requirement of this paragraph. Applicants for a license under s. 343.08 or 343.135 are exempt from the driver education, basic rider or driver training course requirement. The secretary shall prescribe rules for licensing of schools and instructors to qualify under this paragraph. The driver education course shall be made available to every eligible student in the state. Except as provided under ~~s.~~ ss. 110.08 (5) (b) and 343.16 (1) ~~(bm) and~~ (b) to (c) and (2) (cm) to (e), no operator's license may be issued unless a driver's examination has been administered by the department.

SECTION 3. 343.16 (1) (a) of the statutes, as affected by 2013 Wisconsin Act .... (Senate Bill 270), is amended to read:

343.16 **(1)** (a) *General.* Except as provided in par. (br) 2. and sub. (2) (cm) and (e) and except when examination by a 3rd–party tester is permitted under ~~pars.~~ par. (b) ~~to~~ or (c), the department shall examine every applicant for an operator's license, including applicants for license renewal as provided in sub. (3), and every applicant for authorization to operate a vehicle class or type for which the applicant does not hold currently valid authorization, other than an instruction permit. Except as provided in par. (br) 2. and sub. (2) (cm) and (e), the examinations of applicants for licenses authorizing operation of "Class A", "Class B", "Class C", "Class D" or "Class M" vehicles shall include both a knowledge test and an actual demonstration in the form of a driving skills test of the applicant's ability to exercise ordinary and reasonable control in the operation of a representative vehicle. The department shall not administer a driving skills test to a person applying for authorization to operate "Class M" vehicles who has failed 2 previous such skills tests unless the person has successfully completed a rider course approved by the department. The department may, by rule, exempt certain persons from the rider course requirement of this paragraph. The department may not require a person who is applying for authorization to operate "Class M" vehicles and who has successfully completed a rider course approved by the Wisconsin department of transportation motorcycle safety program to hold an instruction permit under s. 343.07 (4) prior to the department's issuance of a license authorizing the operation of "Class M" vehicles. The department may not require a person applying for authorization to operate "Class M" vehicles who holds an instruction permit under s. 343.07 (4) to hold it for a minimum period of time before administering a driving skills test. The driving skills of applicants for endorsements authorizing the operation of commercial motor vehicles equipped with air brakes, the transportation of passengers in commercial

motor vehicles or the operation of school buses, as provided in s. 343.04 (2) (b), (d) or (e), shall also be tested by an actual demonstration of driving skills. The department may endorse an applicant's commercial driver license for transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73, subject to s. 343.125, or for the operation of tank vehicles or vehicles towing double or triple trailers, as described in s. 343.04 (2) (a), (c) or (f), based on successful completion of a knowledge test. In administering the knowledge test, the department shall attempt to accommodate any special needs of the applicant. Except as may be required by the department for an "H" or "S" endorsement, the knowledge test is not intended to be a test for literacy or English language proficiency. This paragraph does not prohibit the department from requiring an applicant to correctly read and understand highway signs.

SECTION 4. 343.16 (1) (b) (intro.) of the statutes is amended to read:

343.16 **(1)** (b) *Third–party driving skills testing.* (intro.) The department may contract with a person, including an agency or department of this state or its political subdivisions or another state, or a private employer of commercial motor vehicle drivers, to administer commercial motor vehicle skills tests required by 49 CFR 383.110 to 383.135, examinations required to be administered under s. 343.12 (2) (h), abbreviated driving skills tests required by sub. (3) (b), ~~or driving skills tests required by par. (a) for authorization to operate "Class D" vehicles,~~ or any combination of these tests and examinations. ~~This paragraph does not apply with respect to a law enforcement agency eligible to contract with the department under par. (bm).~~ A contract with a 3rd–party tester under this paragraph shall include all of the following provisions:

SECTION 5. 343.16 (1) (b) 3. (intro.) of the statutes is amended to read:

343.16 **(1)** (b) 3. (intro.) At least annually, the department shall conduct an on–site inspection of the 3rd–party tester to determine compliance with the contract and with department and federal standards for testing applicants for commercial driver licenses and with department standards for testing applicants for school bus endorsements ~~and applicants for operators' licenses to operate "Class D" vehicles~~. At least annually, the department shall also evaluate testing given by the 3rd–party tester by one of the following means:

SECTION 6. 343.16 (1) (b) 4. of the statutes is amended to read:

343.16 **(1)** (b) 4. Examiners of the 3rd–party tester shall meet the same qualifications and training standards as the department's license examiners to the extent established by the department as necessary to satisfactorily perform the skills tests required by 49 CFR 383.110 to 383.135, examinations required to be administered under s. 343.12 (2) (h), <u>and</u> abbreviated driving skills tests required by sub. (3) (b)~~, and driving skills tests required by par. (a) for authorization to operate "Class D" vehicles~~.

SECTION 7. 343.16 (1) (b) 5. of the statutes is amended to read:

343.16 **(1)** (b) 5. The department shall take prompt and appropriate remedial action against the 3rd–party tester in the event that the tester fails to comply with department or federal standards for commercial driver license testing, department standards for school bus endorsement testing ~~or testing for operators' licenses to operate "Class D" vehicles~~, or any provision of the contract. Such action may include immediate termination of testing by the 3rd–party tester and recovery of damages.

SECTION 8. 343.16 (1) (bm) of the statutes is repealed.

SECTION 9. 343.16 (1) (br) of the statutes is created to read:

343.16 (1) (br) *Driving skills test waiver for "Class D" vehicles.* 1. In this paragraph, "driver training school" means any of the following:

a. A public school offering courses in driver education approved by the department of public instruction.

b. A technical college offering courses in driver education approved by the technical college system board.

c. A nonpublic or private school or tribal school, as defined in s. 115.001 (15m), offering courses in driver education that meet the minimum standards set by the department of public instruction.

d. A driver school licensed by the department under s. 343.61 offering courses in driver training approved by the department.

2. The department may waive the driving skills test of an individual applying for authorization to operate "Class D" vehicles if the department has received from a driver training school a certification under subd. 3. relating to the individual.

3. The department may, by contract, authorize any driver training school to certify to the department that an individual who has received instruction in driver education or training from the driver training school is eligible to be exempted from the driving skills test under par. (a).

4. A contract with a driver training school under subd. 3. shall include all of the following:

a. Standards and eligibility requirements for certification to the department that an individual is eligible to be exempted from the driving skills test. These standards and eligibility requirements shall ensure that an individual who is certified as eligible to be exempted under subd. 3. has demonstrated to the driver training school driving skills equivalent to or exceeding those necessary to

successfully complete the driving skills test administered by the department under par. (a) for authorization to operate "Class D" vehicles.

b. A requirement that the driver training school has a signed agreement with each individual who receives instruction in driver education or training from the driver training school that describes the services to be provided to the individual and the costs of these services and also explains the process and requirements for certifications to the department under subd. 3., including all requirements for an individual to be eligible for a certification under subd. 3. The agreement between the driver training school and the individual must clearly advise the individual that there is no guarantee that the driver training school will provide to the department a certification under subd. 3. for the individual and that, even if the school provides a certification under subd. 3. for the individual, the department may nonetheless require the individual to successfully complete a driving skills test administered by the department.

5. A person is immune from civil liability for bodily injury, death, or property damage arising out of any act or omission relating to a driver training school's certification under subd. 3. of an individual.

SECTION 10. 343.72 (5m) of the statutes is amended to read:

343.72 **(5m)** No driver school may represent that completion of a course of instruction will guarantee that the student will pass the driving skills test administered by the department or by a 3rd–party tester under s. 343.16 (1) ~~(bm)~~ (b). A driver school may only represent by means of a certificate of completion that the student has satisfactorily completed the required course. This subsection does not prohibit a driver school from informing a student that the driver school is authorized to issue certifications under s. 343.16 (1) (br) 3., from providing to the student a copy

of any certification under s. 343.16 (1) (br) 3. relating to the student, or from providing the information required in s. 343.16 (1) (br) 4. b.

SECTION 11. 343.72 (6) of the statutes is amended to read:

343.72 **(6)** All licensees must ascertain from the department the routes in the licensee's locale on which road tests are given by state license examiners and by authorized examiners of 3rd–party testers under s. 343.16 (1) ~~(bm)~~ (b). No licensee may instruct on these routes, except that driver schools may operate on these routes if comparable training location opportunities are not otherwise available in the locale.

(END)