

2013 DRAFTING REQUEST

Bill

Received: **9/27/2012** Received By: **agary**
 Wanted: **As time permits** Same as LRB:
 For: **Transportation** By/Representing: **Anna Richter**
 May Contact: Drafter: **agary**
 Subject: **Transportation - driver licenses** Addl. Drafters:
 Extra Copies: **EVM**

Submit via email: **YES**
 Requester's email: **Anna.Richter@dot.wi.gov**
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Driver schools skills test certification NB 1315-4

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 11/9/2012			_____			
/P1	agary 2/22/2013	jdyer 11/14/2012	jmurphy 11/14/2012	_____	srose 11/14/2012		State
/P2	agary 3/11/2013	jdyer 2/25/2013	rschluet 2/25/2013	_____	lparisi 2/25/2013		State
/P3	agary	jdyer	jfrantze	_____	mbarman		State

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 Sent
 to
 Sen.
 Petrowski
 per
 ARG

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	1/21/2014	3/12/2013	3/12/2013	_____	3/12/2013		
/1		jdyer 1/23/2014	jmurphy 1/24/2014	_____	sbasford 1/24/2014	sbasford 1/30/2014	State

FE Sent For:

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<END>

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/P3	agary	jdyer	jfrantze	_____	mbarman		State

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Subject: Transportation - driver licenses Addl. Drafters:
Extra Copies: EVM

Submit via email: YES
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Carbon copy (CC) to:

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1?	agary	PI 11/14 jld		Jfdm 11/14			

FE Sent For:

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LEGISLATIVE BUDGET/NON-BUDGET PROPOSAL
2013-2015 BIENNIUM

Wisconsin Department of Transportation

DT1586 6/2012

Instructions: Complete this form for any budget/non-budget legislative initiative for which a Division requests the Secretary's Office (SO) approval. Check the budget box only if the proposal has a fiscal impact on department expenditures or revenue. This form must be signed by the Division Administrator(s).

Include this form with your budget submittal materials or return one completed copy to the Office of Policy, Budget & Finance (OPBF), Attention: Paul Hammer. The form is available at: <http://dotnet/forms/authorized.htm>.

Short Title of Topic

Driver Schools Skills Test Certification

Type of Proposal <input type="checkbox"/> Budget <input checked="" type="checkbox"/> Non-Budget		OGC OFFICE USE ONLY "T" Number Assigned	"B" Number Assigned	"NB" Number Assigned 1315-4
Date Submitted 7/18/2012		Division(s) Motor Vehicles		
OPBF Contact Person Anna Richter		(Area Code) Telephone Number 608 267-7304		
Lead Division Contact Person Vicki Harkins		(Area Code) Telephone Number 608 266-1449		
OGC Contact Person Paul Nilsen		(Area Code) Telephone Number 608 261-0126		

Define Problem Precisely

Currently, s.343.16 requires the Department to examine every applicant applying for an original Class D operator's license. The exam includes a knowledge test and a driving skills test. In 2011 DMV conducted 106,036 Class D skills tests. Of those tests, 67,800 were for applicants under the age of 18, who are required to pass driver education/behind the wheel training. This proposal would allow driver training schools, who are certified by the department, to conduct the skills test for applicants, who are under the age of 18 and applying for an original Class D operator's license, and to provide certification indicating the student has passed the required skills test and can be waived from testing by the Department.

Description of Proposed Change

Amend s.343.16 to remove all references to 3rd party testers for a Class D license and replace it with language that would allow driver training schools, who are certified by the Department, to provide a skills test certification, for a class D license, to persons who successfully complete an approved driver education program which would allow the skills test requirement conducted by DMV to be waived.

Justification for Change

This proposal will shift a portion of the burden of providing skills test from the Department to the driving training schools who are already equipped and licensed to provide driver education and behind the wheel skills testing. This will offer convenience to the customer and allow the department to provide a larger number of skills tests and in a more timely manner to the rest of the population.

Describe any legislative history and related statutory language

s.343.16 (1) s.343.16 (1)(b)

X

(Division Administrator Signature)

(Date)

X

(Division Administrator Signature)

(Date)

X

(Division Administrator Signature)

(Date)

13-0165

Gary, Aaron

From: Harkins, Vicki - DOT <Vicki.Harkins@dot.wi.gov>
Sent: Tuesday, October 23, 2012 4:38 PM
To: Gary, Aaron
Subject: RE: DOT Non-Budget Legislative Proposals-Tier 1

Hi Aaron,
I answered all of your questions below in red. Let me know if it makes sense or if you need more info.

Thanks,
Vicki

Vicki Harkins, Legislative Liaison
DMV Administrator's Office
WI Department of Transportation
vicki.harkins@dot.wi.gov
608-266-1449

From: Gary, Aaron [mailto:Aaron.Gary@legis.wisconsin.gov]
Sent: Tuesday, October 09, 2012 10:19 AM
To: Harkins, Vicki - DOT
Subject: RE: DOT Non-Budget Legislative Proposals-Tier 1

Thanks Vicki. There's no rush. I'm giving priority to DOT's budget drafts and I have a time-consuming new one to work on. (Plus *lots* of other drafts for other requesters.) So I'm not in a hurry unless DOT is. Thanks. Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Harkins, Vicki - DOT [mailto:Vicki.Harkins@dot.wi.gov]
Sent: Tuesday, October 09, 2012 10:07 AM
To: Gary, Aaron
Subject: FW: DOT Non-Budget Legislative Proposals-Tier 1

Hi Aaron,
I'm working on researching all of your questions with the program areas involved in this legislation request and I was wondering how soon you need this information?

Thanks,
Vicki

Vicki Harkins, Legislative Liaison
DMV Administrator's Office
WI Department of Transportation
vicki.harkins@dot.wi.gov
608-266-1449

From: Richter, Anna - DOT
Sent: Friday, October 05, 2012 2:41 PM

To: Harkins, Vicki - DOT
Subject: FW: DOT Non-Budget Legislative Proposals-Tier 1

Hi Vicki,

Can you help answer Aaron's questions on the driver school bill?

Thanks!
Anna

From: Gary, Aaron [<mailto:Aaron.Gary@legis.wisconsin.gov>]
Sent: Friday, October 05, 2012 12:49 PM
To: Richter, Anna - DOT
Subject: RE: DOT Non-Budget Legislative Proposals-Tier 1

Hi Anna,

I'm going to need some clarification on NB 1315-4, skills testing for "Class D" licenses. I worked on this issue for the changes made to the applicable statutes in the 2009 budget and the 2011 budget.

In the 2009 budget, changes were made to allow a law enforcement agency in a municipality where there is no DMV station to administer "Class D" knowledge, skills, and eyesight tests if DOT contracts with the agency to do so. We would like this repealed because DMV now has a station in every county in the state (92 total) so we are able to provide skills tests in areas that otherwise were unavailable. We no longer want or need LE to administer these (and actually none ever have).

In the 2011 budget, changes were made to basically allow any person/entity to contract with DOT to administer "Class D" driving skills tests. This would include driver training schools. However, because of the concern that the incentive would be too great to pass their own students, a provision was included prohibiting the driver training school from administering the skills test to its own students – however, it could administer a skills test to students of other driver training schools. See s. 343.16 (1) (b) 6., stats. Do you want to simply repeal s. 343.16 (1) (b) 6.? Our thought was to amend this but if it needs to be repealed in order to have the legislation be exactly what we need that is fine with DMV.

What we want is to allow any entity that provides driver education and training (tech colleges, DPI, private driving schools, CESA) to allow their students who have completed a DOT approved training curriculum, have demonstrated their skills to the training entity and, based on this training and skills demonstration, be eligible to have the DOT required skills test waived based on the school/training entity certifying the student meets the qualifications for a waiver.

Or is it DOT's intent to eliminate the contract with the driver training schools entirely? NO-see above And if you eliminate the contract, what would require the driver training school to use the same standards as DOT in administering the skills test? Also, is it the intent to narrow the scope so that only driver training schools (and DOT and possibly law enforcement agencies where there is no DMV station) can administer the "Class D" skills test? No.

We want to model this after the motorcycle waiver found under 343.16 (2)(cm). I hope this information makes our request clearer. Please let me know what else you need.

Thanks,

Vicki

Thanks for your help.

Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Richter, Anna - DOT [<mailto:Anna.Richter@dot.wi.gov>]
Sent: Tuesday, September 25, 2012 8:12 AM
To: Gary, Aaron
Cc: Nilsen, Paul - DOT; LaSage, Stephanie A - DOT
Subject: DOT Non-Budget Legislative Proposals-Tier 1

Hi Aaron,

We have our non-budget legislative proposals ready for drafting for the 2013-14 legislative session. We've separated them in to two tiers. Tier 1 proposals are the Department's top priority and are needed to comply with goals of the administration or existing federal regulations. I've attached those proposals to this email. I'll send Tier 2 proposals in a separate email—this email would have just been too big if I attached them all.

Hopefully there's enough detail and direction included to start drafting. Please let me know if you have any questions about any of them or need more information.

Thanks,

Anna

<< File: 1315-1.docx >> << File: 1315-2.docx >> << File: 1315-3.docx >> << File: 1315-4.docx >> << File: 1315-6.docx >> << File: 1315-7.docx >> << File: 1315-8.docx >> << File: 1315-10.docx >> << File: 1315-11.docx >> << File: 1315-12.docx >> << File: 1315-13.docx >> << File: 1315-28.docx >>



in
11/9



Handwritten initials "jld" with a checkmark above them.

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note (circled)

RWF
Jan 1/14 (circled)

Handwritten "LX"

Handwritten "Gen"

1 AN ACT ...; relating to: driving skills tests for certain noncommercial motor
2 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.

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 is exempt 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 an individual who is certified as

exempt from the road test has demonstrated driving skills equivalent to or exceeding those necessary to successfully complete the road test administered by DOT. Under the bill, if DOT receives from a driver training school a certification of exemption relating to an individual, DOT must waive the road test for that individual when the individual applies for an operator's license authorizing operation of "Class D" vehicles.

* The bill also allows a third-party tester that contracts with DOT to administer road tests for "Class D" vehicle operators who received instruction in driver training from the third-party tester. The bill eliminates the provision identified as (3), above, authorizing DOT to contract with law enforcement agencies to administer knowledge and road tests in municipalities where there is no DOT examining station. item

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

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 and (c),
3 all examinations for operator's licenses and permits shall be given by state
4 examiners.

5 History: 1971 c. 164; 1977 c. 29 ss. 1050, 1654 (7) (a); 1989 a. 31; 1991 a. 32; 1995 a. 113, 446; 2007 a. 20; 2009 a. 28; 2011 a. 32.

5 **SECTION 2.** 343.06 (1) (c) of the statutes is amended to read:

6 343.06 (1) (c) To any person under age 18 unless the person is enrolled in a
7 school program or high school equivalency program and is not a habitual truant as
8 defined in s. 118.16 (1) (a), has graduated from high school or been granted a
9 declaration of high school graduation equivalency, or is enrolled in a home-based
10 private educational program, as defined in s. 115.001 (3g), and has satisfactorily
11 completed a course in driver education in public schools approved by the department
12 of public instruction, or in technical colleges approved by the technical college system
13 board, or in nonpublic and private schools or tribal schools, as defined in s. 115.001
14 (15m), that meet the minimum standards set by the department of public

1 instruction, or has satisfactorily completed a substantially equivalent course in
 2 driver training approved by the department and given by a school licensed by the
 3 department under s. 343.61, or has satisfactorily completed a substantially
 4 equivalent course in driver education or training approved by another state and has
 5 attained the age of 16, except as provided in s. 343.07 (1g). The department shall not
 6 issue a license to any person under the age of 18 authorizing the operation of "Class
 7 M" vehicles unless the person has successfully completed a basic rider course
 8 approved by the department. The department may, by rule, exempt certain persons
 9 from the basic rider course requirement of this paragraph. Applicants for a license
 10 under s. 343.08 or 343.135 are exempt from the driver education, basic rider or driver
 11 training course requirement. The secretary shall prescribe rules for licensing of
 12 schools and instructors to qualify under this paragraph. The driver education course
 13 shall be made available to every eligible student in the state. Except as provided
 14 under s. ss. 110.08 (5) (b) and 343.16 (1) (b) to (c) and (2) (cm) to (e), no
 15 operator's license may be issued unless a driver's examination has been
 16 administered by the department.

17 Cross-reference: Cross-reference: Cross-reference: See also ch. Trans 129, Wis. adm. code. Cross-reference:

History: 1971 c. 40 s. 93; 1971 c. 154 s. 79 (3); 1971 c. 219; 1975 c. 184 s. 13; 1975 c. 421; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 41, 238, 273, 360, 447; 1983 a. 17, 243; 1985 a. 202; 1987 a. 40, 122; 1987 a. 332 s. 64; 1987 a. 403; 1989 a. 31, 105; 1993 a. 16, 227, 363, 399, 491; 1995 a. 27 s. 9145 (1); 1995 a. 77, 113, 448; 1997 a. 27, 84, 283; 1999 a. 9, 140; 2001 a. 38; 2003 a. 33; 2005 a. 126, 149, 277, 387; 2007 a. 20, 97; 2009 a. 28, 103, 302; 2011 a. 23, 32, 260.

18 **SECTION 3.** 343.16 (1) (a) of the statutes is amended to read:

19 343.16 (1) (a) *General.* Except as provided in par. (br) 2. and sub. (2) (cm) and
 20 (e) and except when examination by a 3rd-party tester is permitted under par. par.
 21 (b) to or (c), the department shall examine every applicant for an operator's license,
 22 including applicants for license renewal as provided in sub. (3), and every applicant
 23 for authorization to operate a vehicle class or type for which the applicant does not
 24 hold currently valid authorization, other than an instruction permit. Except as

1 provided in par. (br) 2. and sub. (2) (cm) and (e), the examinations of applicants for
2 licenses authorizing operation of "Class A", "Class B", "Class C", "Class D" or
3 "Class M" vehicles shall include both a knowledge test and an actual demonstration
4 in the form of a driving skills test of the applicant's ability to exercise ordinary and
5 reasonable control in the operation of a representative vehicle. The department shall
6 not administer a driving skills test to a person applying for authorization to operate
7 "Class M" vehicles who has failed 2 previous such skills tests unless the person has
8 successfully completed a rider course approved by the department. The department
9 may, by rule, exempt certain persons from the rider course requirement of this
10 paragraph. The department may not require a person applying for authorization to
11 operate "Class M" vehicles who has successfully completed a basic rider course
12 approved by the department to hold an instruction permit under s. 343.07 (4) prior
13 to the department's issuance of a license authorizing the operation of "Class M"
14 vehicles. The department may not require a person applying for authorization to
15 operate "Class M" vehicles who holds an instruction permit under s. 343.07 (4) to
16 hold it for a minimum period of time before administering a driving skills test. The
17 driving skills of applicants for endorsements authorizing the operation of
18 commercial motor vehicles equipped with air brakes, the transportation of
19 passengers in commercial motor vehicles or the operation of school buses, as provided
20 in s. 343.04 (2) (b), (d) or (e), shall also be tested by an actual demonstration of driving
21 skills. The department may endorse an applicant's commercial driver license for
22 transporting hazardous materials requiring placarding or any quantity of a material
23 listed as a select agent or toxin under 42 CFR 73, subject to s. 343.125, or for the
24 operation of tank vehicles or vehicles towing double or triple trailers, as described
25 in s. 343.04 (2) (a), (c) or (f), based on successful completion of a knowledge test. In

1 administering the knowledge test, the department shall attempt to accommodate
2 any special needs of the applicant. Except as may be required by the department for
3 an “H” or “S” endorsement, the knowledge test is not intended to be a test for literacy
4 or English language proficiency. This paragraph does not prohibit the department
5 from requiring an applicant to correctly read and understand highway signs.

History: 1971 c. 164 s. 83; 1973 c. 90, 176; 1975 c. 36, 199; 1977 c. 29 ss. 1456, 1654 (7) (a), (c); 1977 c. 273, 418; 1979 c. 34 ss. 1067m, 2102 (52) (a); 1979 c. 221, 345; 1981 c. 20; 1983 a. 74, 243, 534, 538; 1985 a. 65, 337; 1987 a. 3, 40, 215; 1989 a. 31, 105, 359; 1991 a. 21, 32, 39, 316; 1993 a. 16, 19, 183, 399; 1995 a. 27 s. 9145 (1); 1995 a. 113, 195, 448; 1997 a. 27, 84, 237; 1999 a. 32, 140; 2001 a. 105; 2003 a. 33; 2005 a. 187, 253, 466; 2007 a. 20, 68, 97, 162; 2009 a. 28, 302; 2011 a. 32, 161.

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

7 343.16 (1) (b) *Third-party driving skills testing.* (intro.)[✓] The department may
8 contract with a person, including an agency or department of this state or its political
9 subdivisions or another state, or a private employer of commercial motor vehicle
10 drivers, to administer commercial motor vehicle skills tests required by 49 CFR
11 383.110 to 383.135, examinations required to be administered under s. 343.12 (2) (h),
12 abbreviated driving skills tests required by sub. (3) (b), or driving skills tests
13 required by par. (a) for authorization to operate “Class D” vehicles, or any
14 combination of these tests and examinations. ~~This paragraph does not apply with~~
15 ~~respect to a law enforcement agency eligible to contract with the department under~~
16 ~~par. (bm).~~[✓] A contract with a 3rd-party tester under this paragraph shall include all
17 of the following provisions:

History: 1971 c. 164 s. 83; 1973 c. 90, 176; 1975 c. 36, 199; 1977 c. 29 ss. 1456, 1654 (7) (a), (c); 1977 c. 273, 418; 1979 c. 34 ss. 1067m, 2102 (52) (a); 1979 c. 221, 345; 1981 c. 20; 1983 a. 74, 243, 534, 538; 1985 a. 65, 337; 1987 a. 3, 40, 215; 1989 a. 31, 105, 359; 1991 a. 21, 32, 39, 316; 1993 a. 16, 19, 183, 399; 1995 a. 27 s. 9145 (1); 1995 a. 113, 195, 448; 1997 a. 27, 84, 237; 1999 a. 32, 140; 2001 a. 105; 2003 a. 33; 2005 a. 187, 253, 466; 2007 a. 20, 68, 97, 162; 2009 a. 28, 302; 2011 a. 32, 161.

18 **SECTION 5.** 343.16 (1) (b) 6. of the statutes is repealed.

19 **SECTION 6.** 343.16 (1) (bm)[✗] of the statutes is repealed.

20 **SECTION 7.** 343.16 (1) (br)[✗] of the statutes is created to read:

21 343.16 (1) (br) *Driving skills test waiver for “Class D”*[✓] *vehicles.* 1. In this
22 paragraph,[✓] “driver training school” means any of the following:

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

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

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

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

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

13 3. The department may, by contract, authorize any driver training school to
14 certify to the department that an individual who has received instruction in driver
15 education or training from the driver training school is exempt from the driving skills
16 test under[✓] par. (a).

17 4. A contract with a driver training school under[✓] subd. 3. shall include
18 standards and eligibility requirements for certification to the department that an
19 individual is exempt from the driving skills test. These standards and eligibility
20 requirements shall ensure that an individual who is certified as exempt under subd.
21 3.[✓] has demonstrated to the driver training school driving skills equivalent to or
22 exceeding those necessary to successfully complete the driving skills test
23 administered by the department under par. (a)[✓] for authorization to operate "Class
24 D" vehicles.✓

25 **SECTION 8.** 343.72 (5m)[✓] of the statutes is amended to read:

1 343.72 (5m) No driver school may represent that completion of a course of
2 instruction will guarantee that the student will pass the driving skills test
3 administered by the department or by a 3rd-party tester under s. 343.16 (1) ~~(bm)~~[✓]
4 (b). A driver school may only represent by means of a certificate of completion that
5 the student has satisfactorily completed the required course. This ~~sub~~[✓]section does
6 not prohibit a driver school from informing a student that the ~~driver school~~[✓] is
7 authorized to issue certifications under s. 343.16 (1) (br) 3. ~~or from providing to the~~[✓]
8 student a copy of any certification under s. 343.16 (1) (br) 3. ~~relating to the student.~~[✓]

9 History: 1977 c. 29 s. 1654 (7) (a), (e); 1981 c. 314; 1991 as ~~316~~[✓]; 2005 a. 397; 2009 a. 28.

SECTION 9. 343.72 (6) of the statutes is amended to read:

10 343.72 (6) All licensees must ascertain from the department the routes in the
11 licensee's locale on which road tests are given by state license examiners and by
12 authorized examiners of 3rd-party testers under s. 343.16 (1) ~~(bm)~~[✓] (b). No licensee
13 may instruct on these routes, except that driver schools may operate on these routes
14 if comparable training location opportunities are not otherwise available in the
15 locale.

16 History: 1977 c. 29 s. 1654 (7) (a), (e); 1981 c. 314; 1991 a. 316; 2005 a. 397; 2009 a. 28.

(END)

A-Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0165/P1dn

ARG:↑:....

date

Jld

ATTN: Vicki Harkins ✓

Please review the attached draft carefully to ensure that it is consistent with DOT's intent. Even after your email clarification, I am still somewhat uncertain about how DOT wants this draft structured. Based on the email response, I have created a new testing "waiver" procedure but have not eliminated the possibility of ~~third~~ party testing for "Class D" licenses. ✓ Please advise if this is not consistent with DOT's intent.

third-

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0165/P1dn
ARG:jld:jm

November 14, 2012

ATTN: Vicki Harkins

Please review the attached draft carefully to ensure that it is consistent with DOT's intent. Even after your e-mail clarification, I am still somewhat uncertain about how DOT wants this draft structured. Based on the e-mail response, I have created a new testing "waiver" procedure but have not eliminated the possibility of third-party testing for "Class D" licenses. Please advise if this is not consistent with DOT's intent.

Aaron R. Gary
Legislative Attorney
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Gary, Aaron

From: Bergum, Megan M - DOT <Megan.Bergum@dot.wi.gov>
Sent: Friday, February 22, 2013 10:36 AM
To: Gary, Aaron
Subject: LRB-0165

Hi Aaron,

Here are a few items for our discussion.

- 1) Under School Eligibility – we will need to have some reference to a signed agreement with each student that outlines the services to be provided, costs, and explanation of waivers (including what the student must do to be eligible to get a waiver). The agreement (or legislation) must be clear that the student is not guaranteed a waiver and if they do receive a waiver, they may still have to take a DMV skills test.
 - a. The last sentence in that first point, is important. It stipulates that we as the DMV still retain the authority to randomly test any driver to ensure skill testing quality.
- 2) Schools will issue eligibility for waiver but the decision is made by the Department if the student will be eligible for waiver and needs to test.
- 3) Section 7 - Schools who issue the waiver are immune from subsequent liability.

I tried calling you back. I should be at my desk for a bit for any questions.

Thanks so much!
Megan

Megan Bergum, Legislative Liaison
DMV Administrator's Office
WI Department of Transportation
megan.bergum@dot.wi.gov
608-266-1449

H/c 2/22
• needs these changes
• needs by 3/1



in
2/12



LRB-0165/BA PZ
ARG:jld:jm

wanted
by 3/1

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

✓ Regen

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

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 ~~is exempt~~ from the road

(student) is eligible to be exempted ✓

eligible to be exempted

of a student

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 an individual who is certified as exempt from the road test has demonstrated driving skills equivalent to or exceeding those necessary to successfully complete the road test administered by DOT. Under the bill, if DOT receives from a driver training school a certification of exemption relating to an individual, DOT ~~must~~ ^{may} waive the road test for that individual when the individual applies for an operator's license authorizing operation of "Class D" vehicles.

insert ANA 2-B

a student
student

eligibility for

insert ANA 2-B

may

student

The bill also allows a third-party tester that contracts with DOT to administer road tests for "Class D" vehicle operators who received instruction in driver training from the third-party tester. The bill eliminates the provision identified as item 3), above, authorizing DOT to contract with law enforcement agencies to administer knowledge and road tests in municipalities where there is no DOT examining station.

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 and (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 is amended to read:
 6 343.06 (1) (c) To any person under age 18 unless the person is enrolled in a
 7 school program or high school equivalency program and is not a habitual truant as
 8 defined in s. 118.16 (1) (a), has graduated from high school or been granted a
 9 declaration of high school graduation equivalency, or is enrolled in a home-based
 10 private educational program, as defined in s. 115.001 (3g), and has satisfactorily
 11 completed a course in driver education in public schools approved by the department
 12 of public instruction, or in technical colleges approved by the technical college system
 13 board, or in nonpublic and private schools or tribal schools, as defined in s. 115.001

1 (15m), that meet the minimum standards set by the department of public
2 instruction, or has satisfactorily completed a substantially equivalent course in
3 driver training approved by the department and given by a school licensed by the
4 department under s. 343.61, or has satisfactorily completed a substantially
5 equivalent course in driver education or training approved by another state and has
6 attained the age of 16, except as provided in s. 343.07 (1g). The department shall not
7 issue a license to any person under the age of 18 authorizing the operation of “Class
8 M” vehicles unless the person has successfully completed a basic rider course
9 approved by the department. The department may, by rule, exempt certain persons
10 from the basic rider course requirement of this paragraph. Applicants for a license
11 under s. 343.08 or 343.135 are exempt from the driver education, basic rider or driver
12 training course requirement. The secretary shall prescribe rules for licensing of
13 schools and instructors to qualify under this paragraph. The driver education course
14 shall be made available to every eligible student in the state. Except as provided
15 under ~~s. ss. 110.08 (5) (b) and 343.16 (1) (bm) and (b) to (c) and (2) (cm) to (e)~~, no
16 operator’s license may be issued unless a driver’s examination has been
17 administered by the department.

18 **SECTION 3.** 343.16 (1) (a) of the statutes is amended to read:

19 343.16 (1) (a) *General.* Except as provided in par. (br) 2. and sub. (2) (cm) and
20 (e) and except when examination by a 3rd-party tester is permitted under ~~pars. par.~~
21 ~~(b) to or (c)~~, the department shall examine every applicant for an operator’s license,
22 including applicants for license renewal as provided in sub. (3), and every applicant
23 for authorization to operate a vehicle class or type for which the applicant does not
24 hold currently valid authorization, other than an instruction permit. Except as
25 provided in par. (br) 2. and sub. (2) (cm) and (e), the examinations of applicants for

1 licenses authorizing operation of “Class A”, “Class B”, “Class C”, “Class D” or
2 “Class M” vehicles shall include both a knowledge test and an actual demonstration
3 in the form of a driving skills test of the applicant’s ability to exercise ordinary and
4 reasonable control in the operation of a representative vehicle. The department shall
5 not administer a driving skills test to a person applying for authorization to operate
6 “Class M” vehicles who has failed 2 previous such skills tests unless the person has
7 successfully completed a rider course approved by the department. The department
8 may, by rule, exempt certain persons from the rider course requirement of this
9 paragraph. The department may not require a person applying for authorization to
10 operate “Class M” vehicles who has successfully completed a basic rider course
11 approved by the department to hold an instruction permit under s. 343.07 (4) prior
12 to the department’s issuance of a license authorizing the operation of “Class M”
13 vehicles. The department may not require a person applying for authorization to
14 operate “Class M” vehicles who holds an instruction permit under s. 343.07 (4) to
15 hold it for a minimum period of time before administering a driving skills test. The
16 driving skills of applicants for endorsements authorizing the operation of
17 commercial motor vehicles equipped with air brakes, the transportation of
18 passengers in commercial motor vehicles or the operation of school buses, as provided
19 in s. 343.04 (2) (b), (d) or (e), shall also be tested by an actual demonstration of driving
20 skills. The department may endorse an applicant’s commercial driver license for
21 transporting hazardous materials requiring placarding or any quantity of a material
22 listed as a select agent or toxin under 42 CFR 73, subject to s. 343.125, or for the
23 operation of tank vehicles or vehicles towing double or triple trailers, as described
24 in s. 343.04 (2) (a), (c) or (f), based on successful completion of a knowledge test. In
25 administering the knowledge test, the department shall attempt to accommodate

1 any special needs of the applicant. Except as may be required by the department for
2 an “H” or “S” endorsement, the knowledge test is not intended to be a test for literacy
3 or English language proficiency. This paragraph does not prohibit the department
4 from requiring an applicant to correctly read and understand highway signs.

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

6 343.16 (1) (b) *Third-party driving skills testing.* (intro.) The department may
7 contract with a person, including an agency or department of this state or its political
8 subdivisions or another state, or a private employer of commercial motor vehicle
9 drivers, to administer commercial motor vehicle skills tests required by 49 CFR
10 383.110 to 383.135, examinations required to be administered under s. 343.12 (2) (h),
11 abbreviated driving skills tests required by sub. (3) (b), or driving skills tests
12 required by par. (a) for authorization to operate “Class D” vehicles, or any
13 combination of these tests and examinations. ~~This paragraph does not apply with~~
14 ~~respect to a law enforcement agency eligible to contract with the department under~~
15 ~~par. (bm).~~ A contract with a 3rd-party tester under this paragraph shall include all
16 of the following provisions:

17 **SECTION 5.** 343.16 (1) (b) 6. of the statutes is repealed.

18 **SECTION 6.** 343.16 (1) (bm) of the statutes is repealed.

19 **SECTION 7.** 343.16 (1) (br) of the statutes is created to read:

20 343.16 (1) (br) *Driving skills test waiver for “Class D” vehicles.* 1. In this
21 paragraph, “driver training school” means any of the following:

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

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

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

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

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

9 3. The department may, by contract, authorize any driver training school to
10 certify to the department that an individual who has received instruction in driver
11 education or training from the driver training school is ^{eligible to be} exempt^{ed} from the driving skills
12 test under par. (a). *all of the following:*

13 4. A contract with a driver training school under subd. 3. shall include
14 standards and eligibility requirements for certification to the department that an
15 individual is ^{eligible to be} exempt^{ed} from the driving skills test. These standards and eligibility
16 requirements shall ensure that an ^{eligible to be} individual who is certified as ^{ed} exempt under subd.
17 3. has demonstrated to the driver training school driving skills equivalent to or
18 exceeding those necessary to successfully complete the driving skills test
19 administered by the department under par. (a) for authorization to operate "Class
20 D" vehicles.

21 **SECTION 8.** 343.72 (5m) of the statutes is amended to read:

22 343.72 (5m) No driver school may represent that completion of a course of
23 instruction will guarantee that the student will pass the driving skills test
24 administered by the department or by a 3rd-party tester under s. 343.16 (1) ~~(b)~~ (b).
25 A driver school may only represent by means of a certificate of completion that the

eligible to be

Asent 6-20

1 student has satisfactorily completed the required course. This subsection does not
 2 prohibit a driver school from informing a student that the driver school is authorized
 3 to issue certifications under s. 343.16 (1) (br) 3. ^{score} ~~br~~ from providing to the student a
 4 copy of any certification under s. 343.16 (1) (br) 3. relating to the student.

5 SECTION 9. 343.72 (6) of the statutes is amended to read:

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

12 (END)

✓ insert 7-4