

## Chapter Trans 115

## THIRD PARTY TESTING

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**Trans 115.01 Purpose.** As authorized by s. 343.02, Stats., the purpose of this chapter is to establish policies and procedures to authorize persons, other than employes of the department to conduct the commercial driver license skills tests required of commercial driver license applicants. Authority to administer CDL skills tests will be granted only to third party testers under agreement with the department and utilizing third party examiners recognized and deemed qualified by the department.

**Note:** Forms used in this chapter are MV3442 pre-trip score sheet, MV3543 road test score sheet for A, B, & C class licenses, MV3547 application-CDL tester-organization, MV3548 application-CDL examiner, MV3549 agreement-CDL tester, MV3550 authority-CDL tester, MV3551 CDL test annual log, MV3552 record-CDL operator test, MV3553 certification-CDL skills test, MV3554 record-CDL tester audit and MV3557 third party examiner certificate. A sample copy of these forms may be obtained, free of charge, from the Wisconsin Department of Transportation, Bureau of Driver Services, P.O. Box 7917, Madison, WI 53707-7917.

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

**Trans 115.02 Definitions.** The words and phrases defined in ss. 340.01 and 343.01, Stats., have the same meaning in this chapter unless a different definition is specifically provided. In addition, in this chapter:

(1) "Authority" or "authorization" means the document issued to a third party tester allowing the holder to administer the authorized testing program on behalf of the department.

(2) "Authorized testing program" means the CDL skills tests required by the department which shall be administered by a third party tester.

(3) "CDL" means commercial driver license.

(4) "CDL skills test" means the test of a person's ability to drive a commercial motor vehicle by performing the pre-trip, basic control and road test maneuvers required by ch. Trans 104.

(5) "CMV" means commercial motor vehicle.

(6) "Department sanctioned CDL examiner training course" means a course conducted by the department or a school of the Wisconsin technical college system authorized by the department, to prepare a person to conduct the CDL skills test.

(7) "Examiner identification certificate" means a certificate issued to a person who has been authorized by the department as a qualified third party examiner to conduct the CDL skills test.

(8) "FHWA" means the federal highway administration or its representatives.

(9) "FMCSR" means the federal motor carrier safety regulations promulgated by the U.S. department of transportation.

(10) "Primary place of business" means the central operating location of the third party tester in the state of Wisconsin.

(11) "Third party examiner" means a person who is employed by a third party tester and who holds a valid examiner identification certificate issued by the department.

(12) "Third party tester" means a person including, but not limited to, an agency or department of this state or its political subdivisions or another state, or a private employer authorized by the department to administer the authorized testing program for CDL applicants in accordance with this chapter.

Note: Private driver training schools are prohibited from becoming third party testers by s. 343.16(1)(b), Stats.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; am. (1), Register, November, 1995, No. 479, eff. 12-1-95; correction in (6) made under s. 13.93 (2m) (b) 6., Stats., Register, November, 1995, No. 479.

**Trans 115.03 Employment of department employees.** No third party tester granted authority under the provisions of this chapter may engage the service of an employe of the department as an examiner, agent or employe.

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

**Trans 115.04 Requirements for third party testers.** (1) To be granted third party tester authority, a party shall:

(a) Make application to and enter into an agreement with the department. The application shall be made on a form supplied by the department and include all of the following:

1. Certification that the applicant maintains a primary place of business with at least one permanent regularly occupied structure.

2. Certification that the primary place of business is safe and meets all requirements of state law and local ordinances.

3. The official name, address and telephone number of the primary place of business.

4. Certification that the applicant employs a safety officer or official who is responsible for the organization's third party testing operation.

5. The name, title, address and telephone number of the safety officer or other official who has been designated as a contact person with the department.

6. Certification that the applicant employs at least one third party examiner.

7. The type of organization the applicant represents including, but not limited to, governmental entity, association, motor carrier, educational institution.

8. If applicable, a description of the vehicle fleet owned or leased by the applicant, including the number of CMVs by class and type.

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(c) A certificate of self insurance indicating a net worth in excess of \$20,000,000 issued by the department.

(3) A certificate of insurance or self insurance shall include a make, model, year and identification number of every vehicle which will be used by the third party tester to administer CDL skills tests.

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

**Trans 115.10 Test administration.** (1) Skills tests shall be conducted strictly in accordance with the provisions of ch. Trans 104 and with current test instructions provided by the department. Such instructions may include information on CDL skills test content, route selection, test forms, examiner procedures, and administrative procedures.

(2) Skills tests shall be conducted:

(a) On test routes authorized by the department.

(b) In a CMV that is representative of the class and endorsement for which the CDL applicant seeks to be licensed and for which the third party examiner is qualified to test.

(c) Using department authorized content, forms and scoring procedures.

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

**Trans 115.11 Denial and cancellation of third party testing.** (1) The department may cancel, deny or refuse to renew a third party tester authorization or an examiner's identification certificate for any of the following:

(a) The organization or person does not qualify as a third party tester or examiner under the provisions of this chapter.

(b) Failure to comply with or satisfy any of the provisions of a third party tester agreement or any other requirements of this chapter.

(c) Fraud or misrepresentation.

(d) Falsification of any records or information relating to third party tester or examiner program.

(e) Commission of any act which compromises the integrity of the third party tester or examiner program.

(2) The department shall cancel or refuse to renew a certificate when the third party examiner's operator's license is suspended, revoked, or canceled.

(3) If the department determines that grounds for cancellation exist for failure to comply with or satisfy any of the requirements of this chapter or the third party tester contract, the department may postpone the cancellation and allow the third party tester or examiner 30 days to correct the deficiency.

(4) A person whose application, examiner identification certificate or third party tester authorization has been denied or canceled under this chapter may request that the department conduct a hearing. The request shall be in writing and filed with the department within 20 days after the date of such denial or cancellation. The department shall schedule the

hearing no later than 30 days from the receipt of the request unless a later date is agreed to between the department and the person requesting the hearing. A hearing notice shall be sent to the person's last known address by first class mail.

(5) The results of the hearing conducted by the department for denial or cancellation under this chapter is subject to judicial review in the manner provided in ch. 227, Stats., for the review of administrative decisions.

(6) Any third party tester or examiner shall surrender the authorization or certificate upon demand by the department.

(7) A person whose authorization or certificate has been denied or canceled under this chapter may reapply upon termination of the period of time, if any, set by the department. The department shall require the applicant to provide proof that the conditions that caused the denial or cancellation have been corrected or are no longer applicable.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; am. (4), Register, November, 1995, No. 479, eff. 12-1-95.

**Trans 115.12 Program cancellation.** The department reserves the right to cancel the third party testing program.

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