

## Chapter Trans 105

### LICENSING OF DRIVER SCHOOLS AND INSTRUCTORS

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**Trans 105.003 Introduction. (1) PURPOSE.** This chapter interprets subch. VI of ch. 343, Stats., by creating rules relating to:

(a) The licensing and regulation of commercial driver schools that provide driver training and testing for students and training of instructors.

(b) The licensing and regulation of commercial driver school instructors who provide classroom and behind-the-wheel instructions to customers.

**(2) SCOPE.** This chapter applies to all persons operating a commercial driver school for customers or giving instruction in the driving of a motor vehicle to customers except as specifically excluded.

**History:** CR 06-089; cr. Register December 2006 No. 612, eff. 1-1-07.

**Trans 105.007 Definitions.** In this chapter:

**(1)** "Authorized medical practitioner" means a physician licensed to practice medicine in any state, an advanced practice nurse licensed to practice nursing in any state, a physician assistant licensed or certified to practice in any state, a chiropractor licensed to practice chiropractic in any state, or a Christian Science practitioner residing in this state, and listed in the Christian Science journal.

**(2)** "Driver school" or "school" has the meaning given in s. 343.60 (1), Stats.

**(3)** "Instructor" has the meaning given in s. 343.60 (3), Stats.

**(4)** "Student" means a customer less than 18 years of age who is applying to or is enrolled at a driver school for instruction in driving a motor vehicle.

**(5)** "Substantiated" in reference to a complaint means that the complaint is written, was submitted to the school or instructor at issue, was not resolved within 10 business days by the school or instructor, and directly involves a matter regulated by subch. VI of ch. 343, Stats., or this chapter, with probable cause to believe that a violation occurred.

**(6)** "Vehicle" means a 4-wheeled self-propelled device meeting federal motor vehicle safety standards with a minimum capacity of 2 persons.

**History:** CR 06-089; cr. Register December 2006 No. 612, eff. 1-1-07.

**Trans 105.01 Driver school and instructor license applications. (1)** Information required in the application may include, but is not limited to, the following:

- (a) Name of the applicant.
- (b) Present address of applicant.
- (c) Previous addresses of applicant in the past 5 years.
- (d) Description of applicant and description of facilities.
- (e) Training or experience instructing drivers.
- (g) The names of instructors and a list of driver training cars, if applying for driver school license.
- (h) Any other information that may be deemed relevant to the decision to grant or deny a license.

**(2)** Application for a driver school license shall be accompanied by a schedule of maximum fees and charges per hour for instruction of students.

**(3)** Application for a driver school license shall be accompanied by a copy of the contract or agreement which constitutes the complete agreement for instruction of students.

**(4)** An applicant for a driver school license may self-certify the condition of its school offices and classrooms to the department on the approved department form submitted with the application unless the office is in a home residence. The self-certification of the school offices and classrooms shall certify all of the following:

- (a) The address of any office and any classroom being self-certified.
- (b) The measurement and configuration of any office and classroom, including entrances, exits, windows, and records storage.
- (c) Adequate lighting and temperature control.
- (d) Two or more licensed driver schools cannot operate out of the same office.
- (e) Zoning verification if the office is located in a non-traditional business location.
- (f) Access to restroom facilities for classrooms.
- (g) Authorization from a public school if public classrooms are used to provide instruction.

**Note:** Form MV3110 can be obtained by writing to the Division of Motor Vehicles, Bureau of Driver Services, P. O. Box 7920, Madison, WI 53707-7920, or by calling (608) 264-7495.

**(5)** A driver school office in a home residence may be conditionally self-certified if the office is visited and approved by the department prior to filing a school license application, and all of the following requirements apply:

- (a) Students are not allowed at the office unless accompanied by a parent or sponsor.
- (b) The applicant verifies that local zoning allows the office in a non-traditional business location.
- (c) The office complies with the requirements of s. Trans 105.06 (2) (f). Driver schools licensed prior to January 1, 1969 are exempt from this requirement.

**(6)** An applicant who will be an owner or manager of a driver school shall pass the test, administered by the department, on driver school and instructor criteria. The applicant must receive a minimum score of 80% to pass the test.

**History:** Cr. Register, November, 1979, No. 287, eff. 12-1-79; CR 06-089; r. (1) (f), cr. (4) to (6) Register December 2006 No. 612, eff. 1-1-07.

**Trans 105.015 Cooperative driver testing program.**

**(1)** The department may enter into a cooperative driver testing agreement with the driving school to conduct knowledge tests as permitted by s. 343.16 (1) (c), Stats. Driver schools may administer the knowledge and highway signs tests to students who are currently enrolled in driver education. A driver school that has accumulated 2 or more points in the past 24 months under s. Trans

105.11 may not enter into the testing agreement with the department.

(2) The agreement under sub. (1) is voluntary and can be terminated by either the department or the driver school.

(3) A school that is participating in the cooperative driver testing program under s. 343.16 (1) (c), Stats., may provide the knowledge and highway signs tests required under s. 343.62 (4) (a) 1., Stats., to its own instructors.

History: CR 06-089; cr. Register December 2006 No. 612, eff. 1-1-07.

**Trans 105.02 Examination of applicants for instructor's license.** (1) Each applicant for an instructor's license shall take the road test administered by the department. The road test shall be scored in the same manner as are tests given for regular operator's licenses and shall also include an actual demonstration of procedures and techniques used instructing drivers. Tests required by s. 343.62 (4) (a), Stats., are required of all applicants for original instructor's license and applicants whose instructor's licenses have lapsed for one or more years. The department may also require retesting of currently licensed instructors either as a part of a routine retesting program or when it has reasonable cause to doubt the continued competency of any individual instructor. An applicant shall complete a test on instructional procedures or demonstrating teaching skills administered by the department. This test may be administered orally. An applicant must receive a minimum score of 80% to pass the test.

(2) An instructor who has held an instructor's license for both behind-the-wheel and classroom training, but is no longer eligible for an operator's license because of a medical condition, may upon request to the department by the school, obtain a classroom-only license.

(4) An applicant for an instructor's license shall have a medical statement completed within the 24 months prior to the application date by an authorized medical practitioner on a form supplied by the department and submitted to the department with the school renewal. If the applicant has a medical condition that impacts safe vehicle operation, the department may request medical documentation more frequently based on ch. Trans 112.

(5) If the information filed by the authorized medical practitioner is such as to indicate the person is not physically fit to teach driving, the department may require the applicant to submit to further medical examination or deny the license.

(6) An authorized departmental representative may visit classroom sessions and ride in driver training cars during instruction for the purpose of evaluating the teacher's preparation, knowledge of the subject matter, and teaching ability, and determining if the approved course is being followed.

History: Cr. Register, November, 1979, No. 287, eff. 12-1-79; CR 06-089: am. (1), renum. (2), (3), (4) to be (4), (5), (6) and am. (4) and (5), cr. (2) Register December 2006 No. 612, eff. 1-1-07; correction in (1) made under s. 13.93 (2m) (b) 7., Stats.

**Trans 105.03 Satisfactory driving record for driver instructor applicant or licensee.** (1) A person's driving record shall not be considered satisfactory to hold an instructor's license if that person:

(a) Has accumulated more than 6 demerit points under s. 343.32 (2), Stats., during a one-year period, as specified in this paragraph and sub. (2).

1. The one-year period under this paragraph shall be measured from the dates of the violations which resulted in the accumulation of demerit points.

2. Demerit point reduction under s. Trans 101.07 does not apply to the computation of accumulated points under this paragraph.

(b) Has been involved in 2 or more accidents in a one-year period where the crash report indicates that such person may have been causally negligent. If there is no traffic citation resulting in a conviction associated with the crash, the person is not considered negligent.

(c) Has had his or her operator's license revoked, suspended or cancelled for a traffic violation other than a parking violation, at any time during the past 4 years, based on the conviction date or upon the effective date of the withdrawal of operating privileges, whichever is earlier.

(2) (a) If an applicant for an instructor's license accumulates more than 6 demerit points in a one-year period as provided in sub. (1) (a) in the year preceding application, the department shall deny the instructor's license until one year elapses from the date of the most recent violation that resulted in the person's accumulation of more than 6 demerit points.

(b) If a licensed instructor accumulates more than 6 demerit points in a one-year period as provided under sub. (1) (a), the department shall suspend the instructor's license for a period of one year. The period of suspension shall be measured from the date that the department receives notice of the most recent conviction that resulted in the person's accumulation of more than 6 demerit points.

History: Cr. Register, November, 1979, No. 287, eff. 12-1-79; am. (1) (c) and (2), Register, October, 1985, No. 358, eff. 11-1-85.; renum. (1) (a) and (2) to be (1) (a) (intro) and Trans 105.035 (1) and am., cr. (1) (a) 1. and 2. and (2), Register, September, 1990, No. 417, eff. 10-1-90; CR 06-089: am. (1) (b) and (c) Register December 2006 No. 612, eff. 1-1-07.

**Trans 105.035 Fitness for driver school license.**

(1) For the purpose of determining the fitness of a person to hold a driver school license under s. 343.62 (4) (a) 8. and 9., Stats., the department shall consider all relevant arrests and convictions, and make such further examinations and checks as it determines are necessary.

(2) The department may not issue or renew a driver school or instructor's license issued under s. 343.61 or 343.62, Stats., to any person who, during their lifetime was convicted of any of the following state laws or any local ordinance in conformity with any of the following state laws or any federal law or law of a federally recognized American Indian tribe or band in this state or law of another jurisdiction that would be a violation of any of the following state laws if the person had committed the offense in this state and been convicted of the offense under the laws of this state:

Statute	Description
940.01	1 <sup>st</sup> degree intentional homicide
940.03	Felony murder
940.05	2 <sup>nd</sup> degree intentional homicide
940.225 (1) to (3m)	Sexual assault
940.305	Taking hostages
940.31	Kidnapping
941.32	Administering dangerous or stupefying drug
944.34	Keeping a place of prostitution
946.01	Treason
946.02	Sabotage
946.03	Sedition
948.02 (1) and (2)	Sexual assault of a child
948.025	Engaging in repeated acts of sexual assault of the same child
948.03 (2)	Physical abuse of a child
948.04 (1)	Causing mental harm to a child
948.05	Sexual exploitation of a child
948.055	Causing a child to view or listen to sexual activity
948.06	Incest with a child
948.07	Child enticement

Statute	Description
948.075	Use of computer to facilitate a child sex crime
948.08	Soliciting a child for prostitution
948.095	Sexual assault of a student age 16 or older by a school instructional staff person
948.10	Exposing genitals or pubic area to child
948.11 (2) (a) or (am)	Exposing a child to harmful material or harmful descriptions or narrations
948.12	Possession of child pornography
948.13 (2)	Child sex offender working with children
944.06	Incest
940.22 (2)	Sexual exploitation by a therapist

(3) The department may not issue or renew a driver school or instructor's license issued under s. 343.61 or 343.62, Stats., to any person who within the past 10 years immediately preceding the date of application was convicted of any of the following state laws or any local ordinance in conformity with any of the following state laws or any federal law or law of a federally recognized American Indian tribe or band in this state or law of another jurisdiction that would be a violation of any of the following state laws if the person had committed the offense in this state and been convicted of the offense under the laws of this state:

Statute	Description
948.21	Abandonment of a child – neglecting a child
948.23	Concealing death of a child (at birth)
948.30	Abduction of another's child, constructive custody
961.42 (1)	Keep or maintain any place for drug use, manufacture, keeping or delivering
961.41 (1) (a) to (j)	Manufacture, distribution or delivery of drugs
961.41 (1m) (a) to (j)	Possession with intent to manufacture, distribute or deliver drugs
961.41 (4) (am)	Distribution or delivery or attempt to deliver or distribute an imitation controlled substance
961.455	Using a child for illegal drug distribution or manufacturing
961.46	Distribution of controlled substances to persons under age 18
944.17	Sexual gratification
944.30	Prostitution
944.31	Patronizing prostitutes
944.32	Soliciting prostitutes
944.33	Pandering
941.21	Disarming a peace officer
943.201	Unauthorized use of an individual's personal identifying information or documents
940.02	1 <sup>st</sup> degree reckless homicide
940.06	2 <sup>nd</sup> degree reckless homicide
940.09	Homicide by intoxicated use of vehicle or firearm
943.32	Robbery
948.09	Sexual intercourse with a child age 16 or older

(4) The department may not issue or renew a driver school or instructor's license issued under s. 343.61 or 343.62, Stats., to any person who within the past 5 years immediately preceding the date of application was convicted of any of the following state laws or any local ordinance in conformity with any of the following state laws or any federal law or law of a federally recognized American Indian tribe or band in this state or law of another jurisdiction that would be a violation of any of the following state laws if the person had committed the offense in this state and been convicted of the offense under the laws of this state:

Statute	Description
944.15	Public fornication
944.20	Lewd and lascivious behavior
944.21	Obscene material or performance
944.23	Making lewd, obscene or indecent drawings
944.25	Sending obscene or sexually explicit electronic messages
940.25 (1)	Injury by intoxicated use of a vehicle
941.26	Possession of machine guns and other weapons
941.28	Possession of short-barreled shotgun or rifle
941.29	Possession of firearm by felon
941.295	Possession of electric weapon
941.296	Use or possession of a handgun and an armor-piercing bullet during crime
941.298	Firearm silencer
941.30	Recklessly endangering safety
941.31	Possession of explosives
941.325	Placing foreign objects in edibles
941.327	Tampering with household products
943.02	Arson of buildings, damage of property by explosives
943.03	Arson of property other than buildings
943.04	Arson with intent to defraud
943.06	Molotov cocktails
934.10	Burglary
943.28	Loan sharking
943.30	Threats to injure or accuse of crime
943.38 (1) or (2)	Forgery
946.415	Failure to comply with officer's attempt to take person into custody
946.43	Assaults by prisoners
946.44	Assisting or permitting escape
946.47	Harboring or aiding felons
946.48	Kidnapped or missing persons; false information
946.60	Destruction of documents subject to subpoena
946.65	Obstructing justice
947.015	Bomb scare
961.41 (1n)	Possession of piperidine
961.41 (3g) (f)	Possession – gamma-hydroxybutyric acid, gamma-butyrolactone, ketamine or flunitrazepam
961.41 (1x)	Conspiracy

Statute	Description
961.41 (2) (a) to (d)	Counterfeit substances
961.41 (3g)	Possession of controlled substance
961.43 (1), (2)	Acquiring or obtaining possession of controlled substance by fraud or forgery – counterfeit substance or packaging
961.67	Possession or disposal of waste from manufacture of methamphetamine
940.10	Homicide by negligent operation of a vehicle
940.19 (2), (4), (5), or (6)	Battery, substantial battery or aggravated battery
940.195	Batter to a pregnant woman or unborn child
940.21	Mayhem
941.38	Criminal gang member solicitation and contact
940.23	Reckless injury
940.285	Abuse of vulnerable adults
940.295	Abuse and neglect of patients and residents
948.40	Contributing to the delinquency of a minor
948.55	Leaving or storing a loaded firearm within reach or easy access of child
948.605	Possession of a firearm in school zone

(5) The department may not issue or renew a driver school or instructor’s license issued under s. 343.61 or 343.62, Stats., to any person who within the past 2 years immediately preceding the date of application was convicted of any of the following state laws or any local ordinance in conformity with any of the following state laws or any federal law or law of a federally recognized American Indian tribe or band in this state or law of another jurisdiction that would be a violation of any of the following state laws if the person had committed the offense in this state and been convicted of the offense under the laws of this state:

Statute	Description
Various	Any felony not listed in subs. (3) to (5)
940.12	Assisting suicide
941.01	Negligent operation of a motor vehicle
941.20	Endangering safety by use of a dangerous weapon
941.37	Obstructing emergency or rescue personnel
943.07	Criminal damage to railroads
941.11	Unsafe burning of a building

**History:** Cr. (2), (1) renum. from Trans 105.03 (2) and am., Register, September, 1990, No. 417, eff. 10–1–90; reprinted to correct error in (2), Register, November, 1990, No. 419, eff. 12–1–90; **CR 06–089: am. (1), r. (2), cr. (2) to (5) Register December 2006 No. 612, eff. 1–1–07.**

**Trans 105.04 Driver school administrative procedures.** (1) Application for a duplicate of a lost or destroyed license shall contain the information set forth in s. Trans 105.01 (1) (a), (b), and (d) and shall be accompanied by a certified statement that the original was lost or destroyed. The fee for a duplicate license is \$5.

(2) If a school terminates active participation in the business of teaching driver training for a fee, the school shall immediately forward such license to the department for cancellation. All unissued course completion slips shall be returned to the department.

**Note:** Form MV3192, course completion slips, may be obtained from the Division of Motor Vehicles, P. O. Box 7920, Madison, WI 53707–7920.

(3) (a) If a driver school terminates active participation in teaching driver training for a fee, the student shall do either of the following:

1. Begin the driver training over at a new school if the terminating school does not provide documentation to the new school of what instruction was completed.
2. Receive credit for the completed hours of driver training instruction when documentation of instruction is provided by the terminating school to the new school, but shall complete the remaining training with another school to meet the required driver education requirement.

(b) If the driver school does not refund the fees for the training paid for but not provided, the customer or his or her parent or legal guardian may contact the entity that provided the bond requirements under s. Trans 105.10 for a refund of the fees.

(5) If an instructor is no longer employed with a driver school, the instructor shall surrender his or her license to the driver school. The driver school shall destroy the instructor’s license and notify the department in writing to cancel the license.

**History:** Cr. Register, November, 1979, No. 287, eff. 12–1–79; **CR 06–089: am. (1) and (2), renum. (3) to be (5) and am., cr. (3) Register December 2006 No. 612, eff. 1–1–07.**

**Trans 105.05 Driver schools to maintain records.**

(1) The records required by s. 343.71, Stats., shall be made available for inspection at all reasonable times to an authorized representative of the department.

(2) (a) The records required by s. 343.71 (1m), Stats., shall be kept for 4 years in a readily accessible format, and shall include the following information for each person to whom instruction is given:

1. The student’s last name, first name and middle initial;
2. The student’s date of birth;
3. The student’s home address;
4. The contract or agreement number; and
5. The total number of hours of lessons, lectures, tutoring and other instruction or services of any kind relating to motor vehicle operation instructions.

(b) The information required under par. (a) 1. to 4. shall be recorded within 3 business days after the signing of a contract or agreement between the school and the student.

(c) The information required under par. (a) 5. shall be recorded within 3 business days after the last instruction or other service has been received by the student.

(3) The records required by s. 343.71 (1m) (a), Stats., shall be in the form of an individual student record for each person listed in the records required by s. 343.71 (1m), Stats. Such record shall show the student’s name, date of birth, and address, and contract or agreement number, dates, types, duration and fees charged, lecture, tutoring, period of instruction or other service relating to instructions in the operation of motor vehicles; the name and license number of the instructor having given each lesson or period of instruction or service relating to instruction in the operation of motor vehicles, and identification of the vehicle in which any behind-the-wheel instruction was given. Schools participating in the cooperative driver testing program under s. Trans 105.015 shall also record the knowledge and highway signs scores for all tests attempted in the student record. The information required by this section shall be entered on the student record within one business day after the completion of each lesson.

(4) To be approved, the agreement form required to be filed by s. 343.71 (1m) (b), Stats., shall be consecutively numbered, contain the date of application, name of school, type or types of lessons, lectures, tutoring or instruction to be given, fee to be charged or the word none if no charge, the statement, “This constitutes the entire agreement between the school and the customer and no verbal statement or promises will be recognized,” signature of customer, signature of student’s parent or guardian for customers

under the age of 18, address of customer, and signature of owner of school or his or her authorized representative.

(6) The loss, mutilation, or destruction of records required under this section shall be reported immediately to the department by affidavit, stating:

- (a) The date such records were lost, destroyed, or mutilated;
- (b) The circumstances involving such loss, destruction, or mutilation; and
- (c) To whom and when the loss was reported, if the circumstances of the loss warranted a report to the local law enforcement agency or fire department.

**History:** Cr. Register, November, 1979, No. 287, eff. 12-1-79; CR 06-089: am. (2) (a) (intro.), (b), (c), (3) and (4), r. (5) Register December 2006 No. 612, eff. 1-1-07.

**Trans 105.06 General rules for conducting driver schools.** (1) Licensees shall issue receipts for all fees collected.

(2) To be approved by the department, a driver school's specific place of business required by s. 343.61 (4) (b), Stats., shall:

(b) Be in an area zoned to permit this type of business or a variance that authorizes the business to operate at this address. The department may require the applicant to furnish written proof thereof from the municipality where the driver school is located.

(c) Contain sufficient space, designated as the office facility, with equipment and personnel to properly maintain and secure the records required by s. 343.71, Stats., and this chapter.

(d) Not consist of a tent, temporary stand, house trailer, hotel room, room in a rooming house or temporary address.

(e) Not consist solely of a telephone answering service. Each school shall have a listed telephone number for the driver training school, in the school's name.

(f) 1. Not consist of or include a single or multiple family residence, unless it is a separate room with direct entrance from outside of the residence. This paragraph applies to driver schools first licensed on or after January 1, 2007.

2. Not consist of or include a single or multiple family residence, unless it is separated from residential use by a door or partition and it can be reached from the outside without entering the residential rooms of the building. This paragraph applies to driver schools first licensed between January 1, 1969 and January 1, 2007. Driver schools licensed prior to January 1, 1969 are exempt from this requirement until either the location or ownership is changed.

(3) Any facility to be used as a classroom shall be designated in writing by the licensee, and no instruction shall begin without written authorization by the department. Authorization by the department does not supersede local ordinances or the building, heating and ventilation code established by the department of industry, labor and human relations relating to public health, safety and sanitation. The department shall consider the following criteria in determining the suitability of the classroom learning environment:

- (a) Size of room at least 20 square feet per occupant.
- (b) Cleanliness.
- (c) Absence of conflicting noise, disturbances or distractions.
- (d) Audio-visual aids.
- (e) Adequacy of lighting, heating and ventilation.
- (f) Availability of restroom facilities.

(4) No more than 35 students may be placed in any class section without the department's approval. Class sections in excess of 35 students may be allowed only when facilities and lesson plans justify such instruction.

(5) A licensee may not solicit business within 1500 feet of any department office where official road tests are given. This section does not apply in any of the following circumstances:

(a) The department relocates or establishes a new office within 1500 feet of an existing driver school.

(b) The municipality where the department office is located has a population less than 10,000 and the business district in which the office is located is less than 1500 feet long.

(c) The department conducts business at the office less than 3 times per month.

(d) The driver school petitions the department for an exception, and the department, after researching customer needs, location, population, zoning and access, grants an exception.

(6) Licensees not authorized to teach students under 18 years of age may not advertise in a manner that states or implies that such services are provided.

(7) Licensees may advertise only by the school name shown on its license.

(8) Licensees shall supply the information required by s. 343.72 (11), Stats., to the attention of the department immediately upon purchase or lease of each driver training car.

(9) Licensees may not charge fees in excess of those on file with the department. Fees may be amended at any time, provided such changes are filed with the department not later than the day they become effective.

(10) Approved dual controls required by s. 343.72 (12), Stats., include but are not limited to a separate brake for the instructor which is located on the right side of the car so the instructor can safely operate the controls, and a separate mirror on the right, outside of the car, positioned so the instructor can view traffic to the rear. An authorized representative of the department may make random inspections to assure compliance with this subsection.

(11) A licensee using a vehicle that is more than 3 years old or whose odometer reading is greater than 100,000 miles to conduct behind-the-wheel training shall ensure all of the following with respect to the vehicle:

(a) Be certified to meet all manufacture specifications for the vehicle type, model, and year, within 30 days of being put into service. Certification may be completed by a motor vehicle repair shop. For purposes of this paragraph, a "motor vehicle repair shop" means a natural person, corporation, partnership or other business association or entity engaged in the motor vehicle repair business, but does not include a shop that repairs motor vehicles for a single business entity or for 2 or more entities subject to common control.

(b) Submit to an annual vehicle inspection certification by an authorized service facility. The inspection shall be done before the annual anniversary date of the certification that the vehicle was put into service. If a vehicle was less than 3 years old, the inspection should be done before the vehicle is 3 years old or before the vehicle's odometer reading is greater than 100,000 miles. The safety certification shall be on a form defined by the department and at a minimum include the name of school, vehicle make, vehicle model, vehicle identification number, and a date and signature certifying the vehicle meets or exceeds safety standards.

**Note:** Form MV3264 can be obtained by writing to the Division of Motor Vehicles, Bureau of Driver Services, P. O. Box 7920, Madison, WI 53707-7920, or by calling (608) 264-7095.

(12) If the department deems a vehicle of any age unsafe, the department shall order a vehicle out of service until it is repaired. If the only vehicle in the school fleet is ordered out of service, the school may not perform behind the wheel instruction until the vehicle is certified as safe. Use of a vehicle after being ordered out of service shall result in points being assessed under s. Trans 105.11.

(13) Licensees shall give behind-the-wheel instruction only in driver training cars, except such instruction may be given to persons who now hold or previously held an operator's license or have completed 6 clock hours of behind-the-wheel instruction given by a high school, technical college, institution of higher learning, or school licensed by the department.

(14) The department may deny the application if it determines the school name could be duplicative, confusing or fraudulent. Any change of the school's name, address, or ownership must be approved in advance by the department.

**History:** Cr. Register, November, 1979, No. 287, eff. 12-1-79; correction in (11) made under s. 13.93 (2m) (b) 6., Stats., Register, August, 1996, No. 488; **CR 06-089: am. (2) (intro.), (b), (c), (7) and (10), r. (2) (a), renum. (2) (f), (11) and (12) to be (2) (f) 2., (13) and (14) and am. (2) (f) 2., cr. (2) (f) 1., (3) (f), (11) and (12), r. and recr. (5) Register December 2006 No. 612, eff. 1-1-07.**

**Trans 105.07 Special rules for instruction of students under 18 years of age.** (1) (a) Except as otherwise provided by this section, a licensed driver school may not offer courses in driver education specified in s. 343.06, Stats., without first obtaining the department's approval which shall be evidenced by an endorsement on the license certificate. The endorsement shall specify whether the licensee is authorized to provide classroom instruction or behind-the-wheel instruction, or both to persons under 18 years of age.

(b) Requests for initial approval under this section shall be accompanied by a course summary. After the course summary has been initially approved, the licensee shall submit to the department for approval any substantial proposed changes prior to their implementation.

1. The course summary shall specify a minimum of one main topic or more for each hour. The classroom course shall cover, but is not limited to the following:

- b. Responsibility of vehicle operation.
- c. Mechanical and control features of the vehicle.
- d. Environmental dynamics of driving.
- e. Driving procedures: Pre-driving skills and basic maneuvers.
- f. City driving.
- g. Rural driving.
- h. Freeway driving.
- i. Psychophysical aspects of driving.
- j. Vehicle ownership.
- k. Traffic citizenship and highway safety progress.
- L. Instruction required under s. 343.71 (5), Stats.

**Note:** This includes hazards posed by farm machinery, 30 minutes of instruction on organ and tissue donation, and information on motorcycle, bicycle, and pedestrian awareness.

2. The behind-the-wheel course shall cover, but is not limited to the following:

- a. Introduction to the automobile.
- b. City driving.
- c. Left and right turns.
- d. Backing and Y turns.
- e. Parking.
- f. Rural driving (including multiple lane and freeway if possible).

3. Each classroom lesson plan shall cover no more than 2 hours. Each behind-the-wheel lesson plan shall cover no more than one hour. Lesson plans shall be kept on file with the driver school. The lesson plan shall specify the following:

- a. Title of lesson.
- b. Session number.
- c. Time allotted to this lesson.
- d. Type of lesson (method; such as lecture, demonstration, informal discussion, role playing, laboratory, drill and practice, test, etc.).
- e. Training aides (chalkboard, slide projector, etc.).
- f. Statement of objectives.
- g. Reference material (textbooks, pamphlets, movies, film strips, slides, charts, etc.).

h. Detailed lesson outline (which includes an introduction, development and summary with assignment for next lesson).

(c) A student who satisfactorily completes the approved course and satisfies all financial obligations required by his or her contract with the school shall be given a certificate of completion on a form approved by the department.

(2) (a) In order to be eligible for approval under this section, a classroom phase of instruction shall consist of 30 clock hours in the classroom, extending over a minimum of 3 weeks for each student at no more than 2 clock hours per day. A course is not approved when students begin the class on alternate days. All students must be present for every session except if a student is absent for any legitimate reason, the absence must be marked on the student's record and the lessons missed must be made up. Classroom instruction and behind-the-wheel instruction may be given concurrently only if both phases are given by the same school.

(b) 1. In order to be eligible for approval under this subsection, a behind-the-wheel phase of instruction shall consist of 6 clock hours of observation in the vehicle and 6 clock hours of actual vehicle operation. This phase shall extend over a minimum of 3 weeks for each student with no more than 1 hour of behind-the-wheel driving and no more than 2 hours of observation each day.

2. Behind-the-wheel instruction may be substituted for observation if the agreement specifies the hours and cost of both the basic course and the alternate. This substitution may be on a ratio of 1 hour of driving to 2 hours of observation.

**Note:** Example: 7 hours driving and 4 hours observation or 8 hours driving and 2 hours observation or 9 hours driving and no observation.

(3) For behind-the-wheel only instruction, a licensee may not begin behind-the-wheel training with a new student unless certified proof of completion of an approved classroom phase is on file with the agreement in the licensee's office. However, this subdivision does not apply if the student is either enrolled in an approved behind-the-wheel phase at a different school or has completed the approved course, and the agreement specifies that the instruction does not qualify the student to apply for a license under s. 343.06 (3), Stats.

(4) (a) Licensees not meeting the requirements of sub. (2) (a) and (b) shall be restricted to instruction of students who are 18 years of age or over.

(b) Licensees meeting the requirement of sub. (2) (b) but not (2) (a) shall be restricted when instructing students under 18 years of age to a behind-the-wheel course only.

(c) Licensees may employ instructors who are licensed to teach adults only, so long as those instructors are not involved directly or indirectly in the instruction of persons under 18 years of age.

(5) All applicants for an instructor's license shall have satisfactorily completed 40 clock hours of classroom instruction in safety and driver education as given by an approved driving school instructor training program as a minimum requirement to teach students except that:

(a) Instructors licensed prior to January 1, 1971 with more than 1 year experience teaching students in a complete course of instruction as set forth in sub. (2) (a) and (b) are exempt from this requirement.

(b) Instructors licensed prior to January 1, 1971 with more than 1 year experience teaching students in a behind-the-wheel course as set forth in sub. (2) (b) are exempt from this requirement only to continue teaching a behind-the-wheel course.

(c) Teachers who are at the time of application certified to teach driver education in secondary schools or technical colleges by current rules of the department of public instruction or the technical college system board are exempt from this requirement.

(6) Applicants for instructor's license renewal whose license has been expired for 4 years or more must satisfactorily complete

the course specified in sub. (5), unless certified as specified in sub. (5) (c).

(7) An applicant for an instructor’s license renewal shall attend at least one approved traffic safety related workshop or conference per licensing period.

**History:** Cr. Register, November, 1979, No. 287, eff. 12-1-79; corrections in (5) made under s. 13.93 (2m) (b) 6., Stats., Register, August, 1996, No. 488; **CR 06-089: am. (1) (b) (intro.), 1. (intro.), 3. (intro.), (c), (2) (a), (3) and (5) (intro.), r. (1) (b) 1. a. and (5) (d), cr. (1) (b) 1. L. and (7) Register December 2006 No. 612, eff. 1-1-07.**

**Trans 105.08 Temporary instructor licenses. History:** Cr. Register, November, 1979, No. 287, eff. 12-1-79; **CR 06-089: r. Register December 2006 No. 612, eff. 1-1-07.**

**Trans 105.09 Time period for review and determination of eligibility. (1)** A determination of the eligibility for instructor’s license shall be made no later than the close of the business day 5 full business days after the day a complete application is received by the department’s bureau responsible for driver schools and instructors. An application is complete when:

- (a) All the required sections of the application are accurately completed.
- (b) All examinations have been passed.
- (c) The official conviction record has been received.

(2) A determination of the eligibility for a driver school license shall be made no later than the close of the business day, 5 full business days after the day a completed application is received by the department’s bureau responsible for driver schools and instructors. An application is complete when:

- (a) All the required sections of the application are accurately completed.
- (b) All the applicable requirements of this chapter including inspection of place of business, required records, driver training cars, insurance policy and driver education program have been completed or are available for review.
- (c) The official conviction record has been received.

(3) When a hearing is provided it will be held after the determination of eligibility by the department. Hearings for driver schools and instructors are held by the division of hearings and appeals as required by s. 343.69, Stats.

**Note:** Applications can be obtained from, and should be returned to: Department of Transportation, Bureau of Driver Services, Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin 53702.

**History:** Cr. Register, October, 1985, No. 358, eff. 11-1-85; correction in (3) made under s. 13.93 (2m) (b) 6., Stats., Register, August, 1996, No. 488.

**Trans 105.10 Insurance and bond requirements. (1)** A driver school shall do all of the following:

- (a) Hold minimum insurance of not less than \$500,000 because of bodily injury to or death of one person in any one accident and, subject to that limit for one person, to a limit of not less than \$500,000 because of bodily injury to or death of 2 or more persons in any one accident and, if the accident has resulted in injury to or destruction of property, to a limit of not less than \$50,000 because of injury to or destruction of property of others in any one accident.
- (b) Adjust the insurance amounts under par. (a) every 5 years by multiplying the requirement amounts by the percentage increase of the consumer price index from January 1, 2007 to January 1 of the next fifth year [2012, 2017] and adding that amount to the amounts in par. (a) rounded to the nearest \$10,000 increment.
- (c) Maintain a standard liability insurance of not less than \$500,000.
- (d) File certification of insurance with the department.
- (e) Require the insurance carrier to notify the department not less than 30 days before the policy expires or is materially changed or canceled.

(2) The schools shall file a bond or acceptable alternative based on size and performance. The size of the school and points

assessed during the last previous license period shall be used to calculate the bond amount.

**CALCULATIONS**

Number of Points in 24 Months	0	1-2	3-6	7 or More
School size based on signed completion slips for the prior period				
0-300	\$5,000	\$10,000	\$15,000	\$30,000
301-1100	\$10,000	\$15,000	\$20,000	\$45,000
1101 or more	\$15,000	\$20,000	\$25,000	\$60,000

(3) Customer shall apply to bond company if obligations of the training contract cannot be met.

(4) Points are assessed based on violation frequency and severity. Points are assessed based on the system specified in s. Trans 105.11.

(5) Certification of the bond must be filed with the department at renewal of the school license.

**History:** CR 06-089: cr. Register December 2006 No. 612, eff. 1-1-07.

**Trans 105.11 Driver school point system. (1)** The department may assess points against a driver school or instructor that has violated any provision in ss. 343.60 to 343.72, Stats., or rules interpreting ss. 343.60 to 343.72, Stats., that constitute grounds for the suspension or revocation of their license. The department shall provide a licensee or applicant written notice of a point assessment. Written notice of a point assessment shall specify the reasons for the point assessment. All points assessed by the department shall remain in effect for the duration for the next 24 months, and any new point assessments shall be added to the existing point total for that licensee throughout the next 24 months.

(2) The department shall use the points assessed to determine the amount of bond required for the next licensing period.

(3) The department may take licensing action under the system of progressive enforcement described in s. Trans 105.12, based on the number of points assessed. If applicable, the written notice specified in sub. (1) may include the issuance of a complaint to revoke or suspend a license, a written stipulation to a conditional license, a civil forfeiture complaint, or notice of denial of a license.

(4) Points shall be assessed according to the following scale:

- (a) Six points are assessed for any of the following:
  - 1. Having one’s school or instructor license withdrawn.
  - 2. Having 6 or more substantiated customer complaints within a license period.
  - 3. Providing documentation or information to the department on any matter regulated by subch. VI of ch. 343, Stats., or this chapter which contains a false statement as to any material matter.
  - 4. Permitting actions that could harm the customer physically or financially.
  - 5. Performing work duties after consuming any alcohol or controlled substance or other drug that impairs ability to drive a motor vehicle.
  - 6. Failing to comply with DMV warning letter.
  - 7. Substantiated complaint from a parent, legal guardian or customer of inappropriate conduct or actions with the customer.
  - 8. Violating ss. 343.60 to 343.72, Stats., that significantly harm highway safety.
  - 9. Instructing at a driver training school without the proper license.

(b) Four points are assessed for any of the following:

1. Not complying with renewal criteria within 30 days of written request by DMV.
2. Having 5 substantiated customer complaints in a license period.
3. Continuing to use a vehicle that is out of service for driver training.
4. Having not filed school insurance and/or bond with the department.
5. Failing to resolve audit violations or discrepancies in time specified.
6. Filing complaints about another school that are not substantiated.
7. Soliciting complaints or providing training prior to licensure.
8. Insolvency or bankruptcy.
9. Failing to timely pay debts owed the state.
10. Violating ss. 343.60 to 343.72, Stats., that result in unfair advantage to a school or harms another school.

(c) Two points are assessed for any of the following:

1. Having 4 substantiated customer complaints within a license period.
2. Not filing required vehicle inspections with the department.
3. Not notifying the department when students are no longer enrolled.
4. Having a significant discrepancy in business records.
5. Providing a student with a signed MV3001 document prior to receipt of a signed contract or agreement.
6. Violating ss. 343.60 to 343.72, Stats., that do not harm the customer or impact highway safety.

(d) One point is assessed for either of the following:

1. Three substantiated customer complaints within a license period.
2. Violation of s. 343.61 (4) (b), Stats., relating to office location and facility locations.

**History:** CR 06-089: cr. Register December 2006 No. 612, eff. 1-1-07; correction in (4) (d) 2. made under s. 13.93 (2m) (b) 7., Stats.

**Trans 105.12 Progressive enforcement actions.**

**(1)** Before recording points, the department shall notify the school or the instructor of the reason for the proposed action. The school or instructor may respond within 10 days. Upon due consideration the department shall act. The department may:

(a) Record points assessed to driver schools under s. Trans 105.11.

(b) Record points assessed to instructors, including points assessed by a driver school the instructor has worked for or owned previously. Points assessed to instructor may also be assessed to a school.

(c) Issue a conditional license when appropriate.

(d) Record less than the assessed points.

**(2)** Based on the points assessed to driver schools and instructors under s. Trans 105.11 in the past 24 months, the following enforcement actions shall apply:

(a) Level one enforcement action – one point assessed. An advisory letter may be sent to the driver school or instructor, asking for corrective action.

(b) Level two enforcement action – one to 3 points assessed. The department may conduct an on-site inspection or audit. An advisory letter shall be sent. If a situation is unresolved after time specified in the advisory letter, the department may issue a conditional license under s. 343.61 or 343.62, Stats., restricted to classroom instruction only. Vehicles used by the driver school may also be ordered out of service, if the violation is related to the vehicle inspection. The restricted license may remain in effect until situation is resolved.

(c) Level three enforcement action – 4 to 6 points assessed. A warning letter may be sent. The licenses issued under s. 343.61 or 343.62, Stats., may be revoked, suspended, or denied for 90 days.

(d) Level four enforcement action – 6 or more points assessed. The licenses issued under s. 343.61 or 343.62, Stats., shall be revoked, suspended, or denied for 4 months to one year, based on point accumulation.

**(3)** All points assessed, administrative licensing suspensions, revocations, denials, or conditional licenses issued may be appealed under ch. 227, Stats.

**History:** CR 06-089: cr. Register December 2006 No. 612, eff. 1-1-07.