

State of Wisconsin



2003 Assembly Bill 833

Date of enactment:
Date of publication*:

2003 WISCONSIN ACT

AN ACT *to amend* 343.16 (1) (a), 343.16 (1) (b) (intro.), 343.16 (1) (b) 2., 343.16 (1) (b) 3. (intro.), 343.16 (1) (b) 4. and 343.16 (1) (b) 5. of the statutes; **relating to:** permitting third-party testers to administer driving skills tests for certain noncommercial motor vehicle drivers and audit of the Department of Transportation.

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

SECTION 1. 343.16 (1) (a) of the statutes, as affected by [2003 Wisconsin Act 33](#), is amended to read:

343.16 (1) (a) *General.* The Except when examination by a 3rd-party tester is permitted under pars. (b) and (c), the department shall examine every applicant for an operator's license, including applicants for license renewal as provided in sub. (3), and every applicant for authorization to operate a vehicle class or type for which the applicant does not hold currently valid authorization, other than an instruction permit. Except as provided in sub. (2) (cm) and (e), the examinations of applicants for licenses authorizing operation of "Class A", "Class B", "Class C", "Class D" or "Class M" vehicles shall include both a knowledge test and an actual demonstration in the form of a driving skills test of the applicant's ability to exercise ordinary and reasonable control in the operation of a representative vehicle. The department shall not administer a driving skills test to a person applying for authorization to operate "Class M" vehicles who has failed 2 previous such skills tests unless the person has successfully completed a rider course approved by the department. The department may, by rule, exempt certain persons from the rider course requirement of this

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

SECTION 2. 343.16 (1) (b) (intro.) of the statutes is amended to read:

343.16 (1) (b) *Third-party testing.* (intro.) The department may contract with a person, including an agency or department of this state or its political subdivisions or another state, or a private employer of commer-

* Section 991.11, WISCONSIN STATUTES 2001-02 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

cial motor vehicle drivers, to administer commercial motor vehicle skills tests required by [49 CFR 383.110 to 383.135](#), examinations required to be administered under s. 343.12 (2) (h) ~~and~~ abbreviated driving skills tests required by sub. (3) (b), or driving skills tests required by par. (a) for authorization to operate "Class D" vehicles, or any combination of these tests and examinations. The department may not enter into such testing contracts with a private driver training school or other private institution except a private employer of commercial motor vehicle drivers. A contract with a 3rd-party tester shall include all of the following provisions:

SECTION 3. 343.16 (1) (b) 2. of the statutes is amended to read:

343.16 (1) (b) 2. The department, ~~the federal highway administration or its representative, or the federal highway administration with respect to testing for commercial driver licenses,~~ may conduct random examinations, inspections, and audits of the 3rd-party tester without any prior notice.

SECTION 4. 343.16 (1) (b) 3. (intro.) of the statutes is amended to read:

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

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

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

SECTION 6. 343.16 (1) (b) 5. of the statutes is amended to read:

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

SECTION 7g. Nonstatutory provisions.

(1) The legislative audit bureau shall perform an audit of the department of transportation's expenditures of revenues received from applications for the original issuance and renewal of, and from administration of knowledge tests and driving skills tests related to, operators' licenses authorizing operation of "Class D" vehicles. The legislative audit bureau shall file its report, in the manner described under section 13.94 (1) (b) of the statutes, no later than June 29, 2005.

SECTION 7r. Effective date.

(1) This act takes effect on the day after the legislative audit bureau files its report as specified in SECTION 7g (1) of this act.