



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2003 Wisconsin Act 280 [2003 Senate Bill 350]	Criminal Background Checks for School Bus and School Van Operators
2003 Acts: www.legis.state.wi.us/2003/data/acts/	Act Memos: www.legis.state.wi.us/lc/act_memo/act_memo.htm

2003 Wisconsin Act 280 relates to criminal background checks for operators of school buses and vehicles that are used as alternatives to school buses.

General Background

If the operator of a school bus is a Wisconsin resident, the operator must have an “S” endorsement to his or her motor vehicle operator’s license or commercial driver’s license (CDL) issued by the Department of Transportation (DOT). With certain limited exceptions, a Wisconsin operator’s license or CDL is issued for eight years, and the “S” endorsement expires when the operator’s license or CDL expires. Before issuing or renewing an “S” endorsement, DOT conducts a criminal background check. Under prior law, the statutes and administrative code specified the disqualifying crimes and time periods of disqualification for an “S” endorsement. (For individuals who are not residents of Wisconsin, the authority to operate a school bus in Wisconsin is prescribed by statute, which 2003 Wisconsin Act 33 amends effective September 30, 2005.)

As an alternative to a school bus, a school board or the governing body of a private school may use a vehicle other than a school bus to transport pupils. While larger vehicles may be used temporarily in the event of an emergency with special permission from the Secretary of Transportation, the statute concerning alternative school vehicles, as a practical matter, applies to a motor vehicle transporting nine or fewer passengers (in addition to the operator) which is typically referred to as a school van. An “S” endorsement is *not* required to operate a school van. However, prior law required the school board or governing body of a private school to determine that the operator of an alternative school vehicle had not been convicted within certain time periods of certain driving-related crimes. While there was some overlap with respect to driving-related offenses, the disqualifying crimes under prior law for a school van operator were not identical to the disqualifying crimes for an “S” endorsement. Moreover, in

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents.

contrast to the “S” endorsement, no nondriving-related offenses were specified as disqualifying crimes for operating an alternative school vehicle.

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In very general terms, 2003 Wisconsin Act 280 amends prior law by:

- Modifying the disqualifying crimes for an “S” endorsement by specifying additional disqualifying crimes, including adjudications of delinquency for certain crimes, and authorizing DOT to specify other disqualifying crimes by administrative rule; and prohibiting DOT from issuing an “S” endorsement if the individual’s application indicates that the individual is listed on the Department of Health and Family Services (DHFS) client abuse registry for neglecting or abusing or misappropriating the property of a client.
- Establishing minimum periods of disqualification for an “S” endorsement for the specified crimes; and authorizing DOT to increase the period of disqualification by administrative rule.
- Applying those same disqualifying crimes and periods of disqualification for an “S” endorsement to operators of alternative school vehicles and to nonresidents who operate a school bus in Wisconsin.
- Providing that the disqualifying crimes apply notwithstanding the Fair Employment Act, that is, without separately considering if the circumstances of the conviction substantially relate to operating a school bus or alternative school vehicle.
- Requiring more frequent criminal background checks for an “S” endorsement (generally, every four years, rather than eight years); and requiring criminal background checks every four years for operators of alternative school vehicles who do not hold an “S” endorsement.
- Specifying the method for conducting criminal background checks, including: conducting the criminal history search by obtaining records maintained by the Department of Justice, requiring a good faith effort to obtain out-of-state criminal history information if the person resided outside Wisconsin within the two years preceding the search, authorizing fingerprinting and submission to the Federal Bureau of Investigation (FBI) to check FBI arrest and conviction records, requiring the employer of a nonresident who will operate a school bus in Wisconsin to conduct a background check, and requiring a person who employs or contracts with an individual to operate an alternative school vehicle to conduct a background check unless the individual holds an “S” endorsement issued by DOT (in which case, DOT will have conducted the background check).
- Requiring that driving records be periodically obtained for operators of alternative school vehicles; and requiring that such operators report motor vehicle accidents, suspensions or revocations of operating privileges, and any conviction or revocation that makes the individual ineligible to operate an alternative school vehicle or hold an “S” endorsement.
- Requiring the release of the name of an operator of a school bus or alternative school vehicle upon the request of the parent of a pupil who is being transported by that operator.

- Requiring the Department of Public Instruction (DPI) to study the use of video cameras on school buses and strategies to improve the training of school bus and alternative school vehicle operators. DPI must report to the Legislature on its study by December 1, 2004.
- Requiring DOT to study the costs and benefits of integrating within DOT the computer linkup to access information obtained from the criminal history search and of developing an automated search system to search the DHFS client abuse registry. DOT must report to the Legislature on its study by April 1, 2005.
- Increasing fees by \$5 for issuing an “S” endorsement; and increasing the appropriation to DOT by \$10,000 for fiscal year 2004-05 to increase funding for determining the qualifications of applicants for issuance or renewal of an “S” endorsement to an operator’s license.

Effective Date; Initial Applicability Dates: In general, the Act takes effect on February 1, 2005. DOT’s authority to promulgate administrative rules relating to disqualifying crimes and periods of disqualification for an “S” endorsement takes effect on May 1, 2004. (The deadline for beginning the rules promulgation process is February 1, 2005, and DOT must promulgate emergency rules before that date.)

The Act’s applicability with regard to several issues is delayed as follows:

- If an individual was, on January 31, 2005, employed or under contract to transport pupils in an alternative school vehicle, the provisions requiring criminal background checks and driving record checks of alternative school vehicle drivers who do not hold an “S” endorsement and the associated record keeping, requiring completion of the DPI background information form, requiring alternative school vehicle operators to report certain convictions or incidents to the employer or contractor, and prohibiting operation of an alternative school vehicle if the person has disqualifying convictions or adjudications of delinquency, do not apply until September 1, 2005.
- The requirement that a contract between a school board and the owner or lessee of a privately owned motor vehicle transporting pupils for compensation include the provision relating to providing information to the school board to enable the school board to comply with a request by a parent or guardian of a pupil to disclose the name of each driver who transports the pupil and the provisions to enable a school board to comply with the revised provisions relating to alternative school vehicles apply to contracts that are entered into, modified, or renewed on or after February 1, 2005.
- The provisions relating to “S” endorsements apply to applications for initial issuance or renewal of an “S” endorsement that are submitted to DOT on or after February 1, 2005.

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