



2015 ASSEMBLY BILL 209

May 8, 2015 – Introduced by Representatives SPIROS, RIPP and A. OTT, cosponsored by Senator PETROWSKI. Referred to Committee on Transportation.

1 **AN ACT to renumber** 343.17 (3) (e) 1. and 346.89 (4); **to renumber and amend**
2 343.14 (2) (i); **to amend** 343.01 (2) (i), 343.03 (3m), 343.04 (2) (b), 343.065 (3)
3 (a), 343.07 (1m) (d), 343.07 (3), 343.13 (2), 343.16 (1) (a), 343.16 (1) (b) 3. (intro.),
4 343.16 (2) (e), 343.16 (6) (a), 343.17 (3) (e) 2., 343.20 (1) (c), 343.25 (5) and
5 343.315 (2) (fm); and **to create** 343.04 (2) (bm), 343.14 (2) (im) (intro.), 343.14
6 (2) (im) 2m. a., 343.14 (2) (im) 2m. b., 343.16 (1) (b) 3. c., 343.16 (6) (am), 343.17
7 (3) (e) 1e., 343.17 (3) (e) 3., 343.17 (3) (e) 4., 343.17 (3) (e) 5., 343.17 (3) (e) 6.,
8 343.17 (3) (e) 7., 343.315 (2) (f) 9., 343.315 (2) (f) 10., 343.315 (2) (fp) and 346.89
9 (4) (b) of the statutes; **relating to:** commercial driver licenses.

Analysis by the Legislative Reference Bureau

This bill makes a number of miscellaneous changes to the statutes related to commercial motor vehicles (CMVs), including the following:

1. Current law prohibits inattentive driving of a motor vehicle, which means that a driver of a motor vehicle may not be so engaged or occupied as to interfere with the safe driving of the vehicle. Current law also specifically prohibits a person who holds a probationary license or instruction permit from driving a motor vehicle while using a cellular or other wireless telephone, except to report an emergency.

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This bill specifically prohibits a person from driving a CMV while using a cellular telephone or other wireless telephone, except to report an emergency.

2. Under current law, a person's operator's license may be cancelled for a variety of reasons. For example, a license may be cancelled if the Department of Transportation (DOT) finds that the application for the license contained a material false statement or if a license has been altered and returned to DOT for cancellation.

This bill specifies that the license of a person who secures, or attempts to secure, a license or endorsement by hiring or permitting another to appear in the person's place to take an examination or otherwise gaining or attempting to gain a passing score in an examination by fraud or otherwise obtain a commercial driver license (CDL) or CDL endorsement by fraud may be cancelled by DOT.

3. Under current law, if DOT has good cause to believe that a licensed operator is not qualified to be licensed, DOT may require the licensee to submit to an examination. After the examination, DOT may take any necessary action, including cancelling the license or permitting the licensee to retain the license subject to restrictions.

Under this bill, if DOT receives credible information that a person holding a CDL committed fraud related to the issuance of the CDL, DOT must require the person to submit to an examination.

4. Under current law, a person licensed to drive a CMV may be disqualified from operating a CMV for several reasons. Among these, a person may be disqualified upon being convicted of certain traffic-related offenses that are classified as "serious traffic violations." A person who is convicted of committing two serious traffic violations within a three-year period is disqualified from operating a CMV for 60 days and a person who is convicted of committing three serious traffic violations within a three-year period is disqualified from operating a CMV for 120 days.

Under this bill, driving a motor vehicle while composing or sending a text message and driving a CMV while using a cellular or other wireless phone are classified as serious traffic violations.

Also under this bill, a person whose CDL is cancelled because the person secured, or attempted to secure, a license or endorsement by hiring or permitting another to appear in the person's place to take an examination or otherwise gained or attempted to gain a passing score in an examination by fraud or otherwise obtain a CDL or CDL endorsement by fraud, is disqualified from operating a CMV for one year.

5. Under current law, a person may be issued a CDL that is subject to certain standard restrictions. Under current law, these standard restrictions are a prohibition from operating a CMV in interstate commerce and a restriction from operating a CMV that is equipped with air brakes.

This bill adds several standard restrictions that may be included on a CDL. These restrictions indicate that a person is prohibited from one of the following: operating a CMV equipped with a manual transmission, operating certain large passenger vehicles, operating tractor-trailer CMVs, operating a CMV equipped with full air brakes, or operating any CMV without a medical variance.

This bill also does all of the following:

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1. Incorporates certain federal regulations regarding the documentation necessary to receive, and restrictions on, a CDL and requires the labeling of certain CDLs as nondomiciled licenses.

2. Modifies the standards for determining which vehicles are air brake equipped.

3. Changes the period of an instruction permit to operate CMVs or school buses from 6 months to 180 days.

4. Modifies the definition of “tank vehicle” and limits the operation of tank vehicles by persons holding an instruction permit.

5. Requires on-site inspections of third-party driver skills testers biennially rather than annually and permits scoring drivers along with the third-party tester during skills tests as an acceptable manner of evaluating the performance of these testers.

For further information see the *state and local* 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.** 343.01 (2) (i) of the statutes is amended to read:

2 343.01 (2) (i) “Tank vehicle” means any commercial motor vehicle that is
3 designed to transport a liquid or gaseous materials within ~~a tank tanks having an~~
4 individual rated capacity of more than 119 gallons and an aggregate rated capacity
5 of 1,000 gallons or more that is are either permanently or temporarily attached to the
6 commercial motor vehicle or the chassis. ~~In this paragraph, “tank” does not include~~
7 ~~a portable tank, as defined in 49 CFR 171.8, having a rated capacity under 1,000~~
8 ~~gallons. “Tank vehicle” does not include a commercial motor vehicle transporting an~~
9 empty storage container tank if the tank is not designated for transportation, has a
10 rated capacity of 1,000 gallons or more, and is temporarily attached to a flatbed
11 trailer. In this paragraph, “liquid” has the meaning given in 49 CFR 171.8.

12 **SECTION 2.** 343.03 (3m) of the statutes is amended to read:

13 343.03 (3m) NONCITIZEN TEMPORARY LIMITED-TERM LICENSE. If the issuance of
14 any license described under sub. (3) requires the license applicant to present any

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1 documentary proof specified in s. 343.14 (2) (es) ~~4. 2.~~ to 7. or (im) 2m. b., the license
2 shall display on the front side of the license, in addition to any legend or label
3 described in sub. (3), a legend identifying the license as ~~temporary~~ limited term or,
4 if the license authorizes the operation of a commercial motor vehicle, as a
5 nondomiciled license. This noncitizen ~~temporary~~ limited-term license may not be
6 renewed except as provided in s. 343.165 (4) (c). A nondomiciled license may not be
7 issued to a resident of Canada or Mexico.

8 **SECTION 3.** 343.04 (2) (b) of the statutes is amended to read:

9 343.04 (2) (b) ~~Air~~ Full air brakes equipped. ~~Air~~ Full air brakes equipped
10 vehicles are commercial motor vehicles equipped with a braking system operating
11 fully ~~or partly~~ on the air brake principle.

12 **SECTION 4.** 343.04 (2) (bm) of the statutes is created to read:

13 343.04 (2) (bm) Partial air brakes equipped. Partial air brakes equipped
14 vehicles are commercial motor vehicles equipped with a braking system operating
15 partially on the air brake principle and partially on the air over hydraulic brake
16 principle.

17 **SECTION 5.** 343.065 (3) (a) of the statutes is amended to read:

18 343.065 (3) (a) If a person issued any commercial driver license under this
19 chapter authorizing operation of commercial motor vehicles in interstate commerce
20 does not have on file with the department a current certification specified in s. 343.14
21 (2) (i) ~~1.~~ (im) 1m. a. covering the person's physical qualifications, the department may
22 downgrade the commercial driver license to a restricted commercial driver license
23 under this section and impose a "K" restriction on the license.

24 **SECTION 6.** 343.07 (1m) (d) of the statutes is amended to read:

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1 343.07 **(1m)** (d) No person holding an instruction permit issued under this
2 subsection may operate a tank vehicle unless the tanks are empty and, if the tanks
3 contained hazardous materials, purged or a vehicle transporting hazardous
4 materials requiring placarding or any quantity of a material listed as a select agent
5 or toxin under 42 CFR 73.

6 **SECTION 7.** 343.07 (3) of the statutes is amended to read:

7 343.07 **(3)** DURATION; CANCELLATION. An instruction permit to operate vehicles
8 other than commercial motor vehicles or school buses is valid for 12 months except
9 that it may be canceled upon receipt of information, by the secretary, of
10 noncompletion or unsatisfactory completion of a driver education and training
11 course by a permittee under the age of 18. An instruction permit to operate
12 commercial motor vehicles or school buses is valid for ~~-6 months~~ 180 days.

13 **SECTION 8.** 343.13 (2) of the statutes is amended to read:

14 343.13 **(2)** Notwithstanding sub. (1), the department shall restrict the
15 commercial driver license of any person to ~~prohibit the operation of any motor vehicle~~
16 ~~equipped with air brakes if the person fails the portion of an examination under s.~~
17 ~~343.16 relating to air brakes or the person's driving skills test is conducted in a motor~~
18 ~~vehicle not equipped with air brakes~~ comply with 49 CFR 383.

19 **SECTION 9.** 343.14 (2) (i) of the statutes is renumbered 343.14 (2) (im) 1m., and
20 343.14 (2) (im) 1m. (intro.), as renumbered, is amended to read:

21 343.14 **(2)** (im) 1m. (intro.) A certification by the applicant ~~for a commercial~~
22 ~~driver license~~ that he or she either:

23 **SECTION 10.** 343.14 (2) (im) (intro.) of the statutes is created to read:

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1 343.14 (2) (im) (intro.) In addition to the information required under this
2 subsection, the application form for a commercial driver license shall include all of
3 the following:

4 **SECTION 11.** 343.14 (2) (im) 2m. a. of the statutes is created to read:

5 343.14 (2) (im) 2m. a. Notwithstanding par. (es), if the person is applying for
6 a commercial driver license other than a license under s. 343.03 (3m), acceptable
7 proof under 49 CFR 383.71 (b) (9) that the individual is a citizen or national of the
8 United States or an alien lawfully admitted for permanent residence in the United
9 States.

10 **SECTION 12.** 343.14 (2) (im) 2m. b. of the statutes is created to read:

11 343.14 (2) (im) 2m. b. Notwithstanding par. (es), if the person is applying for
12 a commercial driver license under s. 343.03 (3m), acceptable documentation under
13 49 CFR 383.71 (f) (2) (i).

14 **SECTION 13.** 343.16 (1) (a) of the statutes is amended to read:

15 343.16 (1) (a) *General.* Except when examination by a 3rd-party tester is
16 permitted under pars. (b) to (c), the department shall examine every applicant for an
17 operator's license, including applicants for license renewal as provided in sub. (3),
18 and every applicant for authorization to operate a vehicle class or type for which the
19 applicant does not hold currently valid authorization, other than an instruction
20 permit. Except as provided in sub. (2) (cm) and (e), the examinations of applicants
21 for licenses authorizing operation of "Class A", "Class B", "Class C", "Class D" or
22 "Class M" vehicles shall include both a knowledge test and an actual demonstration
23 in the form of a driving skills test of the applicant's ability to exercise ordinary and
24 reasonable control in the operation of a representative vehicle. The department shall
25 not administer a driving skills test to a person applying for authorization to operate

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1 “Class M” vehicles who has failed 2 previous such skills tests unless the person has
2 successfully completed a rider course approved by the department. The department
3 may, by rule, exempt certain persons from the rider course requirement of this
4 paragraph. The department may not require a person who is applying for
5 authorization to operate “Class M” vehicles and who has successfully completed a
6 rider course approved by the Wisconsin department of transportation motorcycle
7 safety program to hold an instruction permit under s. 343.07 (4) prior to the
8 department’s issuance of a license authorizing the operation of “Class M” vehicles.
9 The department may not require a person applying for authorization to operate
10 “Class M” vehicles who holds an instruction permit under s. 343.07 (4) to hold it for
11 a minimum period of time before administering a driving skills test. The driving
12 skills of applicants for endorsements authorizing the operation of commercial motor
13 vehicles equipped with air brakes, the transportation of passengers in commercial
14 motor vehicles or the operation of school buses, as provided in s. 343.04 (2) (b), (bm),
15 (d) or (e), shall also be tested by an actual demonstration of driving skills. The
16 department may endorse an applicant’s commercial driver license for transporting
17 hazardous materials requiring placarding or any quantity of a material listed as a
18 select agent or toxin under 42 CFR 73, subject to s. 343.125, or for the operation of
19 tank vehicles or vehicles towing double or triple trailers, as described in s. 343.04 (2)
20 (a), (c) or (f), based on successful completion of a knowledge test. In administering
21 the knowledge test, the department shall attempt to accommodate any special needs
22 of the applicant. Except as may be required by the department for an “H” or “S”
23 endorsement, the knowledge test is not intended to be a test for literacy or English
24 language proficiency. This paragraph does not prohibit the department from
25 requiring an applicant to correctly read and understand highway signs.

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1 **SECTION 14.** 343.16 (1) (b) 3. (intro.) of the statutes is amended to read:

2 343.16 (1) (b) 3. (intro.) At least ~~annually~~ biennially, the department shall
3 conduct an on-site inspection of the 3rd-party tester to determine compliance with
4 the contract and with department and federal standards for testing applicants for
5 commercial driver licenses and with department standards for testing applicants for
6 school bus endorsements and applicants for operators' licenses to operate "Class D"
7 vehicles. ~~At least annually, the~~ The department shall also evaluate testing given by
8 the 3rd-party tester by one of the following means:

9 **SECTION 15.** 343.16 (1) (b) 3. c. of the statutes is created to read:

10 343.16 (1) (b) 3. c. The department shall score drivers along with the 3rd-party
11 tester during skills tests to compare the scoring results.

12 **SECTION 16.** 343.16 (2) (e) of the statutes is amended to read:

13 343.16 (2) (e) *Farm service industry employee waiver.* To the extent permitted
14 under applicable federal law or regulation, the department may waive any
15 knowledge test and shall waive the commercial driver license driving skills test of
16 a person applying for an "F" endorsement, except as provided under s. 343.16 (5) or
17 (6) (a).

18 **SECTION 17.** 343.16 (6) (a) of the statutes is amended to read:

19 343.16 (6) (a) ~~Whenever~~ Except as provided in par. (am), whenever the
20 secretary has good cause to believe that a licensed operator is incompetent or
21 otherwise not qualified to be licensed, the secretary may, upon written notice of at
22 least 5 days to the licensee, require the licensee to submit to an examination
23 including all or part of the tests specified in sub. (1). Upon the conclusion of such
24 examination the secretary shall take such action as is appropriate under this

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1 chapter, including cancellation of the license or permitting the licensee to retain the
2 license subject to such restrictions as the secretary may order or without restrictions.

3 **SECTION 18.** 343.16 (6) (am) of the statutes is created to read:

4 343.16 (6) (am) If the secretary receives credible information that a person
5 holding a commercial driver license committed fraud related to the issuance of the
6 license, the secretary shall provide written notice to the person that the person is
7 required to submit to an examination, including all or part of the tests required under
8 sub. (1). A person receiving a notice under this paragraph shall, within 30 days of
9 receiving notice, arrange to take the next available examination.

10 **SECTION 19.** 343.17 (3) (e) 1. of the statutes is renumbered 343.17 (3) (e) 1m.

11 **SECTION 20.** 343.17 (3) (e) 1e. of the statutes is created to read:

12 343.17 (3) (e) 1e. "E" restriction, which prohibits a person from operating
13 commercial motor vehicles equipped with a manual transmission.

14 **SECTION 21.** 343.17 (3) (e) 2. of the statutes is amended to read:

15 343.17 (3) (e) 2. "L" restriction, which prohibits a person from operating
16 commercial motor vehicles equipped with air brakes, ~~as required in s. 343.13 (2).~~

17 **SECTION 22.** 343.17 (3) (e) 3. of the statutes is created to read:

18 343.17 (3) (e) 3. "M" restriction, which prohibits a person from operating "Class
19 A" passenger commercial motor vehicles.

20 **SECTION 23.** 343.17 (3) (e) 4. of the statutes is created to read:

21 343.17 (3) (e) 4. "N" restriction, which prohibits a person from operating "Class
22 A" and "Class B" passenger commercial motor vehicles.

23 **SECTION 24.** 343.17 (3) (e) 5. of the statutes is created to read:

24 343.17 (3) (e) 5. "O" restriction, which prohibits a person from operating
25 tractor-trailer commercial motor vehicles.

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1 **SECTION 25.** 343.17 (3) (e) 6. of the statutes is created to read:

2 343.17 (3) (e) 6. “V” restriction, which restricts a person from operating
3 commercial motor vehicles without a medical variance.

4 **SECTION 26.** 343.17 (3) (e) 7. of the statutes is created to read:

5 343.17 (3) (e) 7. “Z” restriction, which prohibits a person from operating
6 commercial motor vehicles equipped with full air brakes.

7 **SECTION 27.** 343.20 (1) (c) of the statutes is amended to read:

8 343.20 (1) (c) The department may, by rule, require any person who is issued
9 an operator’s license that is valid for a period of more than 2 years to demonstrate
10 continuing qualifications to hold a license under this chapter at 2-year intervals.
11 The rules may include, without limitation, requiring examination under s. 343.16 (6)
12 (a) or requiring current medical certification under s. 343.16 (5). The department
13 rules shall require cancellation or suspension of the license for noncompliance and
14 shall permit surrender of the operator’s license under s. 343.265.

15 **SECTION 28.** 343.25 (5) of the statutes is amended to read:

16 343.25 (5) Whenever the secretary determines that a person has secured a
17 license or endorsement, or attempted to secure a license or endorsement, by hiring
18 or permitting another to appear in the person’s place to take an examination or
19 otherwise gaining or attempting to gain a passing score on an examination by fraud
20 or otherwise obtain a commercial license or endorsement by fraud; or

21 **SECTION 29.** 343.315 (2) (f) 9. of the statutes is created to read:

22 343.315 (2) (f) 9. Violating s. 346.89 (3) (a) or a local ordinance in conformity
23 therewith or a law of a federally recognized American Indian tribe or band in this
24 state in conformity with s. 346.89 (3) (a) or the law of another jurisdiction prohibiting
25 driving a motor vehicle while composing or sending an electronic text message or

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1 electronic mail message, as those or substantially similar terms are used in that
2 jurisdiction's law.

3 **SECTION 30.** 343.315 (2) (f) 10. of the statutes is created to read:

4 343.315 (2) (f) 10. Violating s. 346.89 (4) (b) or a local ordinance in conformity
5 therewith or a law of a federally recognized American Indian tribe or band in this
6 state in conformity with s. 346.89 (4) (b) or the law of another jurisdiction prohibiting
7 driving a commercial motor vehicle while using a cellular or other wireless
8 telephone, as those or substantially similar terms are used in that jurisdiction's law.

9 **SECTION 31.** 343.315 (2) (fm) of the statutes is amended to read:

10 343.315 (2) (fm) A person is disqualified for a period of 60 days from operating
11 a commercial motor vehicle if the person is convicted of violating s. 343.14 (5) or
12 345.17 and the violation of s. 343.14 (5) or 345.17 relates to an application for a
13 commercial driver license or if the person's commercial driver license is cancelled by
14 the secretary under s. 343.25 (1) ~~or (5)~~.

15 **SECTION 32.** 343.315 (2) (fp) of the statutes is created to read:

16 343.315 (2) (fp) A person is disqualified for a period of one year from operating
17 a commercial motor vehicle if the person's commercial driver license is canceled by
18 the secretary under s. 343.25 (5).

19 **SECTION 33.** 346.89 (4) of the statutes is renumbered 346.89 (4) (a).

20 **SECTION 34.** 346.89 (4) (b) of the statutes is created to read:

21 346.89 (4) (b) Subject to sub. (3), no person may drive, as defined in s. 343.305
22 (1) (b), any commercial motor vehicle while using a cellular or other wireless
23 telephone, except to report an emergency.

24 **SECTION 35. Initial applicability.**

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SECTION 35

1 (1) The treatment of section 343.07 (3) of the statutes first applies to a permit
2 issued on the effective date of this subsection.

3 (2) The treatment of section 343.315 (2) (f) 9. and 10. of the statutes first applies
4 to violations occurring on the effective date of this subsection.

5 (3) The treatment of section 343.315 (2) (fm) and (fp) first applies to
6 cancellations occurring on the effective date of this subsection.

7 **SECTION 36. Effective date.**

8 (1) This act takes effect on the first day of the 7th month beginning after
9 publication.

10 (END)