

1997-98 SESSION  
COMMITTEE HEARING  
RECORDS

Committee Name:

Joint Committee for  
Review of  
Administrative Rules  
(JCR-AR)

Sample:

- Record of Comm. Proceedings
- 97hrAC-EdR\_RCP\_pt01a
- 97hrAC-EdR\_RCP\_pt01b
- 97hrAC-EdR\_RCP\_pt02

➤ Appointments ... Appt

➤

➤ Clearinghouse Rules ... CRule

➤ 97hr\_JCR-AR\_CRule\_98-102

➤ Committee Hearings ... CH

➤

➤ Committee Reports ... CR

➤

➤ Executive Sessions ... ES

➤

➤ Hearing Records ... HR

➤

➤ Miscellaneous ... Misc

➤

➤ Record of Comm. Proceedings ... RCP

➤

98-102 - TRANS 157 VEHICLE  
TITLING - TRUSTS

WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC  
FORM 2

**RULES CLEARINGHOUSE**

Ronald Sklansky  
Director  
(608) 266-1946

Richard Sweet  
Assistant Director  
(608) 266-2982



David J. Stute, Director  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

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**CLEARINGHOUSE REPORT TO AGENCY**

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[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 98-102**

AN ORDER to repeal Trans 157.05 (2) (i); and to amend Trans 157.05 (1) and Note and (2) (intro.), relating to titling of vehicles held by trusts.

Submitted by **DEPARTMENT OF TRANSPORTATION**

07-17-98 RECEIVED BY LEGISLATIVE COUNCIL.

08-13-98 REPORT SENT TO AGENCY.

RNS:WF:kjf;rv

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

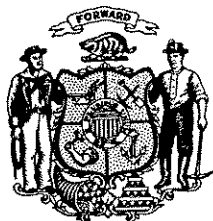
Comment Attached      YES       NO

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

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Madison, WI 53701-2536  
FAX: (608) 266-3830

## CLEARINGHOUSE RULE 98-102

### Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

#### 4. Adequacy of References to Related Statutes, Rules and Forms

Section 85.16 (1), Stats., is the correct reference to the statutory authority for Clearinghouse Rule 98-102. The analysis and the introductory clause of Clearinghouse Rule 98-102 incorrectly reference s. 85.15 (1), Stats., as the statutory authority for the rule.

The Wisconsin Department of Transportation proposes an order to repeal TRANS 157.05(2)(i); amend TRANS 157.05(1), (1)(note) and (2)(intro.), relating to titling of vehicles held by trusts.

**NOTICE OF INTENT TO ADOPT RULE  
WITHOUT PUBLIC HEARING  
AND  
TEXT OF PROPOSED RULE**

NOTICE IS HEREBY GIVEN that pursuant to the authority of ss. 85.15(1), Stats., and according to the procedure set forth in s. 227.16(2)(e), Stats., the Wisconsin Department of Transportation will adopt the following rule amending ch. Trans 157 without public hearing unless, within 30 days after publication of this notice [revisor to insert date], the Department of Transportation is petitioned for a public hearing by 25 natural persons who will be affected by the rule; a municipality which will be affected by the rule; or an association which is representative of a farm, labor, business or professional group which will be affected by the rule.

Questions about this rule and any petition for public hearing may be addressed to Dan Wassink, Division of Motor Vehicles, Bureau of Vehicle Services, Room 201, P. O. Box 7909, Madison, Wisconsin 53707-7909, telephone (608) 266-0993.

**Analysis Prepared by the Wisconsin Department of Transportation**

**STATUTORY AUTHORITY:** s. 85.15(1), Stats.

**STATUTES INTERPRETED:** ss. 340.01(42), 341.08, 341.10, 342.05, 342.06, 342.09, 342.10, 342.11, 342.15 and 342.18, Stats.

**General Summary of Proposed Rule.** The Trustee's Statement for Certificate of Title (MV 2790) was created for customers titling a vehicle in the name of a Trust. The form requires the Trustee to affirm that the Trust is valid, and it has also saved DMV staff a significant amount of time which used to be spent reviewing the actual trust papers for authenticity.

Based on experience to date, DMV has decided that the Trustee's signature is sufficient proof that the Trust does exist, and there is no need for a Notary Public to sign the MV 2790 as a witness to the Trustee's signature. Notarization does not give the Department any added protection in the case of a legal dispute since a notary is unlikely to remember a specific case many months after the fact. Eliminating the notarization requirement will also save processing time for DMV, as DMV often receives trust documents and MV 2790 forms without a Notary's signature, and must delay processing while waiting for a notarized form to be mailed.

Amendments to ch. Trans 157 replace references to "affidavit" with the term "application" and repeal the provision requiring that the signatures of trustees be notarized or witnessed by a department employee.

**Fiscal Impact.** The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, technical college district, sewerage district, or any federally-recognized American Indian tribes or bands.

**Initial Regulatory Flexibility Analysis.** This proposed rule will have no adverse impact on small businesses.

**Copies of Rule.** Copies of this proposed can be obtained upon request, without cost, by writing to Dan Wassink, Division of Motor Vehicles, Bureau of Vehicle Services, Room 201, P. O. Box 7909, Madison, Wisconsin 53707-7909, or by calling (608) 266-0993.

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### **TEXT OF PROPOSED RULE**

Under the authority vested in the state of Wisconsin, department of transportation, by s. 85.15(1), Stats., the department of transportation hereby proposes an order to amend a rule interpreting ss. 340.01(42), 341.08, 341.10, 342.05, 342.06, 342.09, 342.10, 342.11, 342.15 and 342.18, Stats., relating to titling of vehicles held by trusts.

**SECTION 1.** Trans 157.05(1), (note) and (2)(intro.) are amended as follows:

Trans 157.05(1) An application for a certificate of title for a vehicle being transferred to or from a trust shall be made on forms specified by the department, shall include all information required by s. 342.06 (1), Stats., and shall include a trustee's ~~affidavit~~ application for certificate of title.

NOTE: Forms MV1, Application for Title/Registration, Odometer Disclosure Statement, and MV2790, Trustee's Affidavit Application for Certificate of Title, can be ordered from Document Sales, 202 S. Thornton Ave., Madison, WI 53704 or (608) 266-3358 or obtained at a motor vehicle services center. In cases involving the sale of titled vehicles, the Odometer Disclosure Statement on the reverse side of the certificate of title should be used.

(2)(intro.) A trustee's affidavit application for certificate of title shall contain the following information:

SECTION 2. Trans 157.05(2)(i) is repealed. *car*

(END OF RULE TEXT)

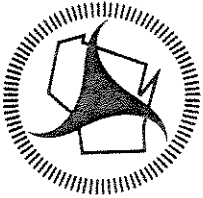
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**Effective Date.** This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Signed at Madison, Wisconsin, this 15 day of July, 1998.

*Charles H. Thompson*  
\_\_\_\_\_  
s/ CHARLES H. THOMPSON  
Secretary  
Wisconsin Department of Transportation





# Wisconsin Department of Transportation



Tommy G. Thompson  
Governor

Charles H. Thompson  
Secretary

OFFICE OF GENERAL COUNSEL  
P. O. Box 7910  
Madison, WI 53707-7910

June 11, 1998

JUN 12 1998

Mr. Gary L. Poulson, Deputy Revisor  
Revisor of Statutes Bureau  
131 West Wilson Street  
Suite 800  
Madison, Wisconsin 53703

RE: **STATEMENT OF SCOPE OF PROPOSED RULEMAKING, TRANS 157**

Dear Mr. Poulson:

Enclosed is the Statement of Scope for the proposed amendment of ch. Trans 157. Please publish this notice in the Administrative Register in accordance with § 227.135(3), Stats.

Sincerely,

Julie A. Johnson  
Paralegal

Enclosures

cc: Richard G. Chandler/DOA State Budget Director  
Senator Robert Welch, Co-Chair/JCRAR  
Representative Glenn Grothman, Co-Chair/JCRAR  
Gene Kussart  
Sandy Beaupre  
Mike Goetzman  
Roger Cross  
Dan Wassink  
Carson Frazier

## STATEMENT OF SCOPE

### DESCRIPTION OF THE OBJECTIVE OF THE RULE:

This amendment to Trans 157, relating to titling of vehicles held by trusts, would eliminate the requirement that a trustee's signature on a trustee's affidavit to title a motor vehicle in the name of a trust (MV2790 form) be witnessed by a DOT employee, or notarized.

### DESCRIPTION OF EXISTING POLICIES RELEVANT TO THE RULE AND OF NEW POLICIES PROPOSED TO BE INCLUDED IN THE RULE AND AN ANALYSIS OF POLICY ALTERNATIVES:

Applicants wishing to title a vehicle in the name of a trust must use the MV2790 form - Trustee's Affidavit for Certificate of Title. By rule, this form must be witnessed by a Department employee or notarized. The Division proposes to eliminate this requirement and accept the MV2790 form without a DOT employee witness or notarization. DMV expects this will save title and registration processing staff time, and help reduce the growing backlog of applications, as customers often mail their applications without notarization, requiring an additional customer contact and a delay in processing.

### STATUTORY AUTHORITY FOR THE RULE:

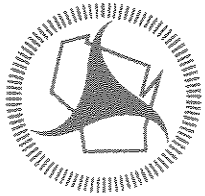
Chapter 227, Stats.

### ESTIMATES OF THE AMOUNT OF TIME THAT STATE EMPLOYEES WILL SPEND DEVELOPING THE RULE AND OF OTHER RESOURCES NECESSARY TO DEVELOP THE RULE:

It is estimated that about 10 hours of staff time would be necessary to develop the rule.

Signed at Madison, Wisconsin, this 11 day of  
June, 1998.

  
\_\_\_\_\_  
CHARLES H. THOMPSON  
Secretary  
Wisconsin Department of Transportation



ROUTE TO:

BOB \_\_\_\_\_ BF \_\_\_\_\_

LW \_\_\_\_\_ ML \_\_\_\_\_

PLC \_\_\_\_\_ TSS \_\_\_\_\_

**Wisconsin Department of Transportation**



Tommy G. Thompson  
Governor

RETURN  
Charles H. Thompson  
Secretary

OFFICE OF GENERAL COUNSEL  
P. O. Box 7910  
Madison, WI 53707-7910

The Honorable Robert Welch  
Senate Chairman  
Joint Committee for Review  
of Administrative Rules  
One East Main, Suite 201  
Madison, Wisconsin 53707

July 17, 1998

The Honorable Glenn Grothman  
Assembly Chairman  
Joint Committee for Review  
of Administrative Rules  
Room 125, State Capitol  
Madison, Wisconsin 53707

JUL 20 1998

RE: **NOTICE OF INTENT TO ADOPT RULE WITHOUT PUBLIC HEARING** and Text  
of Proposed Rule, relating to the **titling of vehicles held by trusts**, Trans 157

Dear Senator Welch and Representative Grothman:

Enclosed for your information is a Notice of Intent to Adopt Rule Without Public Hearing and Text of Proposed Rule making relating to the above-entitled matter. This document has also been filed with the Legislative Council and with the Revisor of Statutes in accordance with the requirements of ss. 227.15(1) and 227.16(2)(e), Stats.

Sincerely,

*Julie A. Johnson*  
Julie A. Johnson  
Paralegal

Enclosure

cc: Gene Kussart  
Sandy Beaupre  
Mike Goetzman  
Roger Cross  
Dan Wassink  
Carson Frazier

The Wisconsin Department of Transportation proposes an order to repeal TRANS 157.05(2)(i); amend TRANS 157.05(1), (1)(note) and (2)(intro.), relating to titling of vehicles held by trusts.

**NOTICE OF INTENT TO ADOPT RULE  
WITHOUT PUBLIC HEARING  
AND  
TEXT OF PROPOSED RULE**

NOTICE IS HEREBY GIVEN that pursuant to the authority of ss. 85.15(1), Stats., and according to the procedure set forth in s. 227.16(2)(e), Stats., the Wisconsin Department of Transportation will adopt the following rule amending ch. Trans 157 without public hearing unless, within 30 days after publication of this notice [revisor to insert date], the Department of Transportation is petitioned for a public hearing by 25 natural persons who will be affected by the rule; a municipality which will be affected by the rule; or an association which is representative of a farm, labor, business or professional group which will be affected by the rule.

Questions about this rule and any petition for public hearing may be addressed to Dan Wassink, Division of Motor Vehicles, Bureau of Vehicle Services, Room 201, P. O. Box 7909, Madison, Wisconsin 53707-7909, telephone (608) 266-0993.

---

**Analysis Prepared by the Wisconsin Department of Transportation**

**STATUTORY AUTHORITY:** s. 85.15(1), Stats.

**STATUTES INTERPRETED:** ss. 340.01(42), 341.08, 341.10, 342.05, 342.06, 342.09, 342.10, 342.11, 342.15 and 342.18, Stats.

**General Summary of Proposed Rule.** The Trustee's Statement for Certificate of Title (MV 2790) was created for customers titling a vehicle in the name of a Trust. The form requires the Trustee to affirm that the Trust is valid, and it has also saved DMV staff a significant amount of time which used to be spent reviewing the actual trust papers for authenticity.

Based on experience to date, DMV has decided that the Trustee's signature is sufficient proof that the Trust does exist, and there is no need for a Notary Public to sign the MV 2790 as a witness to the Trustee's signature. Notarization does not give the Department any added protection in the case of a legal dispute since a notary is unlikely to remember a specific case many months after the fact. Eliminating the notarization requirement will also save processing time for DMV, as DMV often receives trust documents and MV 2790 forms without a Notary's signature, and must delay processing while waiting for a notarized form to be mailed.

Amendments to ch. Trans 157 replace references to "affidavit" with the term "application" and repeal the provision requiring that the signatures of trustees be notarized or witnessed by a department employee.

**Fiscal Impact.** The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, technical college district, sewerage district, or any federally-recognized American Indian tribes or bands.

**Initial Regulatory Flexibility Analysis.** This proposed rule will have no adverse impact on small businesses.

**Copies of Rule.** Copies of this proposed can be obtained upon request, without cost, by writing to Dan Wassink, Division of Motor Vehicles, Bureau of Vehicle Services, Room 201, P. O. Box 7909, Madison, Wisconsin 53707-7909, or by calling (608) 266-0993.

---

### **TEXT OF PROPOSED RULE**

Under the authority vested in the state of Wisconsin, department of transportation, by s. 85.15(1), Stats., the department of transportation hereby proposes an order to amend a rule interpreting ss. 340.01(42), 341.08, 341.10, 342.05, 342.06, 342.09, 342.10, 342.11, 342.15 and 342.18, Stats., relating to titling of vehicles held by trusts.

**SECTION 1.** Trans 157.05(1), (note) and (2)(intro.) are amended as follows:

Trans 157.05(1) An application for a certificate of title for a vehicle being transferred to or from a trust shall be made on forms specified by the department, shall include all information required by s. 342.06 (1), Stats., and shall include a trustee's affidavit application for certificate of title.

NOTE: Forms MV1, Application for Title/Registration, Odometer Disclosure Statement, and MV2790, Trustee's Affidavit Application for Certificate of Title, can be ordered from Document Sales, 202 S. Thornton Ave., Madison, WI 53704 or (608) 266-3358 or obtained at a motor vehicle services center. In cases involving the sale of titled vehicles, the Odometer Disclosure Statement on the reverse side of the certificate of title should be used.

(2)(intro.) A trustee's affidavit application for certificate of title shall contain the following information:


SECTION 2. Trans 157.05(2)(i) is repealed.

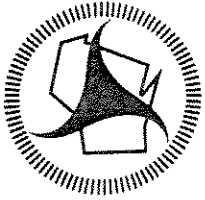
(END OF RULE TEXT)

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**Effective Date.** This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Signed at Madison, Wisconsin, this 15 day of July, 1998.

  
s/ CHARLES H. THOMPSON  
Secretary  
Wisconsin Department of Transportation



## Wisconsin Department of Transportation



Tommy G. Thompson  
Governor

Charles H. Thompson  
Secretary

OFFICE OF GENERAL COUNSEL  
P. O. Box 7910  
Madison, WI 53707-7910

September 17, 1998

The Honorable Fred Risser  
President, Wisconsin State Senate  
Room 422  
119 MLK Jr. Blvd.  
Madison, Wisconsin 53707

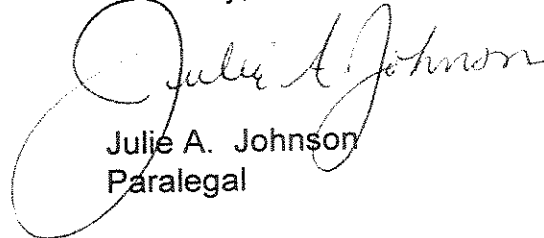
The Honorable Scott Jensen  
Speaker, Wisconsin State Assembly  
Room 315 North, State Capitol  
Madison, Wisconsin 53707

RE: Proposed Administrative Rule **TRANS 157**  
Notification of Legislative Standing Committees  
**CLEARINGHOUSE RULE 98-102**

Gentlemen:

Enclosed is a copy of Clearinghouse Rule **98-102**, relating to **titling of vehicles held by trusts**. The rule is submitted to you for referral to the appropriate standing committees.

Sincerely,



Julie A. Johnson  
Paralegal

JAJ/dim

Enclosure

cc: Gary Poulson (Deputy Revisor of Statutes)/Senator Robert Welch/  
Representative Glenn Grothman/Gene Kussart/Roger Cross/Dan Wassink  
Carson Frazier

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CR 98-102

The Wisconsin Department of Transportation proposes an order to repeal TRANS 157.05(2)(i); amend TRANS 157.05(1), (1)(note) and (2)(intro.), relating to titling of vehicles held by trusts.

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**REPORT OF THE DEPARTMENT OF TRANSPORTATION  
ON THE FINAL RULE DRAFT**

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This report is submitted to the presiding officers of the Senate and Assembly for referral to the appropriate standing committees. The report consists of the following parts:

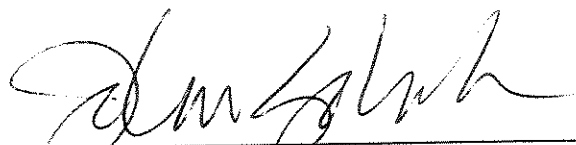
Part 1--Analysis prepared by the Department of Transportation.

Part 2--Rule text in final draft form.

Part 3--Recommendations of the Legislative Council.

Part 4--Analysis prepared pursuant to the provisions of s. 227.19(3), Stats.

Submitted by:



---

JOHN J. SOBOTH  
Assistant General Counsel  
Office of General Counsel  
Department of Transportation  
Room 115-B, Hill Farms State  
Transportation Building  
P. O. Box 7910  
Madison, WI 53707-7910  
(608) 267-9320



**PART 1**

**Analysis Prepared by the Wisconsin Department of Transportation**

**STATUTORY AUTHORITY:** s. 85.16(1), Stats.

**STATUTES INTERPRETED:** ss. 340.01(42), 341.08, 341.10, 342.05, 342.06, 342.09, 342.10, 342.11, 342.15 and 342.18, Stats.

**General Summary of Proposed Rule.** The Trustee's Statement for Certificate of Title (MV 2790) was created for customers titling a vehicle in the name of a Trust. The form requires the Trustee to affirm that the Trust is valid, and it has also saved DMV staff a significant amount of time which used to be spent reviewing the actual trust papers for authenticity.

Based on experience to date, DMV has decided that the Trustee's signature is sufficient proof that the Trust does exist, and there is no need for a Notary Public to sign the MV 2790 as a witness to the Trustee's signature. Notarization does not give the Department any added protection in the case of a legal dispute since a notary is unlikely to remember a specific case many months after the fact. Eliminating the notarization requirement will also save processing time for DMV, as DMV often receives trust documents and MV 2790 forms without a Notary's signature, and must delay processing while waiting for a notarized form to be mailed.

Amendments to ch. Trans 157 replace references to "affidavit" with the term "application" and repeal the provision requiring that the signatures of trustees be notarized or witnessed by a department employee.

**Fiscal Impact.** The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, technical college district, sewerage district, or any federally-recognized American Indian tribes or bands.

**Copies of Rule.** Copies of this proposed can be obtained upon request, without cost, by writing to Dan Wassink, Division of Motor Vehicles, Bureau of Vehicle Services, Room 201, P. O. Box 7909, Madison, Wisconsin 53707-7909, or by calling (608) 266-0993.

---

**PART 2**

**TEXT OF PROPOSED RULE**

Under the authority vested in the state of Wisconsin, department of transportation, by s. 85.16(1), Stats., the department of transportation hereby proposes an order to

amend a rule interpreting ss. 340.01(42), 341.08, 341.10, 342.05, 342.06, 342.09, 342.10, 342.11, 342.15 and 342.18, Stats., relating to titling of vehicles held by trusts.

**SECTION 1.** Trans 157.05(1), (note) and (2)(intro.) are amended as follows:

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(2)(intro.) A trustee's affidavit application for certificate of title shall contain the following information:

**SECTION 2.** Trans 157.05(2)(i) is repealed.

**(END OF RULE TEXT)**

---

**Effective Date.** This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Signed at Madison, Wisconsin, this 16 day of September, 1998.



CHARLES H. THOMPSON

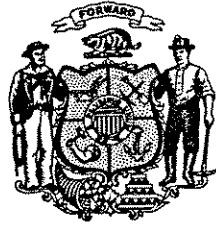
Secretary

Wisconsin Department of Transportation

**RULES CLEARINGHOUSE**

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FAX: (608) 266-3830

PART 3

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**CLEARINGHOUSE REPORT TO AGENCY**

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[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 98-102**

AN ORDER to repeal Trans 157.05 (2) (i); and to amend Trans 157.05 (1) and Note and (2) (intro.), relating to titling of vehicles held by trusts.

Submitted by **DEPARTMENT OF TRANSPORTATION**

07-17-98      RECEIVED BY LEGISLATIVE COUNCIL.  
08-13-98      REPORT SENT TO AGENCY.

RNS:WF:kjf;rv

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

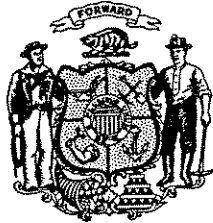
Comment Attached      YES       NO

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

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Director  
(608) 266-1946

Richard Sweet  
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## CLEARINGHOUSE RULE 98-102

### Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

#### 4. Adequacy of References to Related Statutes, Rules and Forms

Section 85.16 (1), Stats., is the correct reference to the statutory authority for Clearinghouse Rule 98-102. The analysis and the introductory clause of Clearinghouse Rule 98-102 incorrectly reference s. 85.15 (1), Stats., as the statutory authority for the rule.

**PART 4**  
**CR 98-102**

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ANALYSIS OF FINAL DRAFT OF TRANS 157

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(a) **Need for Amended Rule.** The Trustee's Statement for Certificate of Title (MV 2790) was created for customers titling a vehicle in the name of a Trust. The form requires the Trustee to affirm that the Trust is valid, and it has also saved DMV staff a significant amount of time which used to be spent reviewing the actual trust papers for authenticity.

Based on experience to date, DMV has decided that the Trustee's signature is sufficient proof that the Trust does exist, and there is no need for a Notary Public to sign the MV 2790 as a witness to the Trustee's signature. Notarization does not give the Department any added protection in the case of a legal dispute since a notary is unlikely to remember a specific case many months after the fact. Eliminating the notarization requirement will also save processing time for DMV, as DMV often receives trust documents and MV 2790 forms without a Notary's signature, and must delay processing while waiting for a notarized form to be mailed.

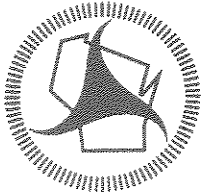
Amendments to ch. Trans 157 replace references to "affidavit" with the term "application" and repeal the provision requiring that the signatures of trustees be notarized or witnessed by a department employee.

(b) **Modifications as a Result of Testimony at Public Hearing.** Notice of intent to adopt this proposed rule without public hearing was given under the procedure set forth in s. 227.16(2)(e), Stats. No one petitioned for a public hearing and no public hearing was held.

(c) **List of Persons who Appeared or Registered at Public Hearing.** Because there was no hearing, there were none.

(d) **Response to Legislative Council Recommendations.** The Legislative Council report revealed one typographical error which has been corrected in the proposed rule.

(e) **Final Regulatory Flexibility Analysis.** This proposed rule will have no adverse impact on small businesses.



## Wisconsin Department of Transportation



Tommy G. Thompson  
Governor

Charles H. Thompson  
Secretary

OFFICE OF GENERAL COUNSEL  
P. O. Box 7910  
Madison, WI 53707-7910

The Honorable Robert Welch  
Senate Chairman  
Joint Committee for Review  
of Administrative Rules  
One East Main, Suite 201  
Madison, Wisconsin 53707

October 29, 1998

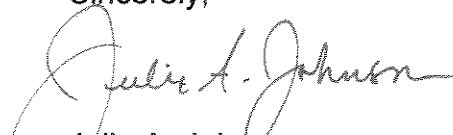
The Honorable Glenn Grothman  
Assembly Chairman  
Joint Committee for Review  
of Administrative Rules  
Room 125, State Capitol  
Madison, Wisconsin 53707

RE: **NOTICE OF PUBLIC HEARING** and Text of Proposed Rule, relating to  
**Operator's Licenses and Identification Cards, Trans 102**

Dear Senator Welch and Representative Grothman:

Enclosed for your information is a Notice of Public Hearing and Text of Proposed Rulemaking relating to the above-entitled matter. These documents have also been filed with the Revisor of Statutes, the Legislative Council, and the Department of Administration in accordance with the requirements of §§ 227.15 and 227.17, Stats.

Sincerely,



Julie A. Johnson  
Paralegal

Enclosure

cc: Gene Kussart  
Sandy Beaupre  
Mike Goetzman  
Roger Cross  
Karen Schwartz  
John Alley

The Wisconsin Department of Transportation proposes an order to repeal TRANS 102.02(6) and 102.14(1)(a); renumber TRANS 102.02(6m); amend TRANS 102.01(note), 102.02(9)(intro.), (a) and (b), 102.03(2) and (3), 102.07(2), 102.09(1) and (3), 102.11(1)(a)1., (b)2., (c) and (2), 102.14(1)(b) and (c), 102.15(2)(a), (c)(intro.), (c)7., (3)(intro.), (a), (a)8. and 16., (b)1. and 3., (c) and (note), (4)(c)(note), (6)(intro.) and (b), 102.16(2) and (5), and 102.20(10)(a), (11), (13)(a) and (c), and create TRANS 102.02(7m), 102.14(6) and 102.16(3m), relating to Operator's Licenses and Identification Cards

**NOTICE OF HEARING  
AND  
TEXT OF PROPOSED RULE**

NOTICE IS HEREBY GIVEN that pursuant to s. 343.055(5), Stats., and interpreting s. 343.16(2)(e), Stats., the Department of Transportation will hold a public hearing in Room 115-B of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the 2nd day of December, 1998, at 9:00 AM, to consider the amendment of ch. Trans 102, Wisconsin Administrative Code, relating to Operator's Licenses and Identification Cards.

An interpreter for the hearing impaired will be available on request for this hearing. Please make reservations for a hearing interpreter at least 10 days prior to the hearing.

The public record on this proposed rule making will be held open until close of business on December 2, 1998, to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such comments should be submitted to Karen Schwartz, Department of Transportation, Bureau of Driver Services, Room 351, P. O. Box 7993, Madison, WI 53707-7993.



Parking for persons with disabilities and an accessible entrance are available on the north and south sides of the Hill Farms State Transportation Building.

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**Analysis Prepared by the Wisconsin Department of Transportation**

**STATUTORY AUTHORITY:** s. 343.055(5), Stats.

**STATUTES INTERPRETED:** ss. 343.055(5) and 343.16(2)(e), Stats.

**General Summary of Proposed Rule.** This proposed rulemaking proposes to make routine updates to the driver licensing provisions of the administrative code. The changes are as follows:

- Update references to licenses and restriction cards to reflect the fact that the Division of Motor Vehicles is now producing driver licenses in a new manner that contain digital images of drivers. For example, provisions related to restriction cards are repealed because the Department no longer issues restriction cards under the new system.
- Update provisions, where appropriate, to reflect the fact that this new technology will allow the Department to issue photo licenses by mail in appropriate situations, such as to annually update farm service restrictions on a license. Provides authority for the Department to cancel licenses issued by mail if the driver does not surrender his or her prior license.
- Prohibits the Department from issuing a person a first regular driver license in Wisconsin if the Department's computer database is not operational and the person's driver record cannot be checked.
- Reflects the fact that driver licenses are now issued for 8 years rather than for 4 years.
- Modifies the lists of acceptable identification documents.

**Fiscal Effect.** The Department anticipates no fiscal effect from this proposed rulemaking.

**Initial Regulatory Flexibility Analysis.** This proposed rulemaking will have no effect on small businesses.

**Preparation and Copies of Proposed Rule.** Preparation of this proposed rule was done by Karen Schwartz. Copies of the rule may be obtained upon request, without cost, by writing to Karen Schwartz or by calling (608) 266-0054. Hearing-impaired individuals may contact the Department using TDD (608) 266-3096. Alternate formats of the proposed rule will be provided to individuals at their request.

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## TEXT OF PROPOSED RULE

Under the authority vested in the state of Wisconsin, department of transportation, by s. 343.055(5), Stats., the department of transportation hereby proposes an order to amend a rule interpreting s. 343.055 and 343.16(2)(e), Stats., relating to operator's licenses and identification Cards

**SECTION 1.** Trans 102.01(note) is amended to read:

Trans 102.01(note) Forms used in administering this rule are MV3392 data card, MV3390 examination worksheet, MV3269A pocket envelope, MV3394 renewal information insert, MV3004 identification card application, MV3001 license application, MV3166 license form, MV3166A special restrictions card, MV3006 renewal license notice, and MV3007 identification card renewal notice, MV3415 religious conviction exemption request, MV3002 certification of name, and date and place of birth, MV3125 additional information for operator license application, MV3452 foreign language document translation certification, MV3432 receipt and MV3501 temporary operator's license.

**SECTION 2.** Trans 102.02(6) is repealed.

**SECTION 3.** Trans 102.02(6m) is renumbered 102.02(6).

**SECTION 4.** Trans 102.02(7m) is created to read:

Trans 102.02(7m) "Photograph" or "photo" means a picture or digitized image of a person.

**SECTION 5.** Trans 102.02(9)(intro.), (a) and (b) are amended to read:

Trans 102.02(9) "Reissue" means the process of issuing a license or identification card because of any of the following:

- (a) A change in license restrictions;~~or,~~
- (b) Department errors ~~on the data card~~ or defects in the license such as an unrecognizable photograph;~~or,~~

**SECTION 6.** Trans 102.03(2) and (3) are amended to read:

Trans 102.03(2) A license ~~without photograph~~ may be issued without a photograph or with a prior photograph on file with the department when to:

(a) A Wisconsin resident who is out of state and is not able to return to Wisconsin for a renewal or duplicate license.

**NOTE:** See s. 343.14(3), Stats., and sub. (3).

(b) A Wisconsin resident who has seriously held religious convictions that do not allow the resident to be photographed. To qualify for this exemption, the person shall complete, sign and date a statement, on a form provided by the department, certifying that the person objects to being photographed due to a seriously held religious conviction.

(c) A Wisconsin resident who requests a photograph exemption on the grounds that a photograph would not accurately reflect the person's appearance because of the person's temporary disfigurement, and the department finds that an exemption should be granted. In cases where an exemption is granted, the person shall apply for a duplicate operator's license with photograph when the reason for the exemption no longer exists.

**NOTE:** The fee for a duplicate license may be found in s. 343.21(1)(L), Stats. Wisconsin law does not permit the department to issue an ID without a photograph.

(3) A person who is issued a license without a photograph under sub. (2)(a) may be excused from the requirement of appearing in person at a motor vehicle service center at the time the duplicate or renewal license is issued. Within 30 days of return to Wisconsin, however, a the person who has received a photograph exemption license under sub. (2)(a) shall appear at a motor vehicle service center and obtain a license containing a photograph. A notation of that requirement may be placed on a license issued under sub. (2)(a).

**SECTION 7.** Trans 102.07(2) is amended to read:

Trans 102.07(2) When the information systems described in sub. (1) are inoperative, the person's class D or M license may be processed based on the information certified by the person on the license application and any Wisconsin driver record available except that licenses may not be issued prior to a record check for the following persons:

(a) A person who is obtaining his or her first regular driver license.

(b) A person who is licensed in another state and is seeking to obtain a regular Wisconsin license.

**SECTION 8.** Trans 102.09(1) and (3) are amended to read:

Trans 102.09(1) As determined by the department, a license or identification card photograph shall be retaken ~~without fee when:~~ if

~~(a) The~~ the photograph of the person is indistinguishable, unclear, incomplete, or becomes lost or damaged ~~in the film and card processing procedure; or,~~

~~(b) The data recorded by the department on the data card is in error.~~

(3) Any person not satisfied with the photograph after receipt of a license or identification card may request to have the photograph retaken. If the photograph ~~does not meet the requirements of,~~ is not indistinguishable, unclear or incomplete to the extent that the department demands another photograph of the person be taken under sub. (1), the person shall apply for a duplicate license or identification card, surrender the existing license or identification card and pay the fee required in s. 343.21(1)(L), Stats.

**SECTION 9.** Trans 102.11(1)(a)1., (b)2., (c) and (2) are amended to read:

Trans 102.11(1)(a)1. Multiply the number of days remaining on the existing license from the date of application by the statutory fee and divide by ~~4460~~ 2920. The number of days include the day of expiration, but not the day of application.

(b)2. Pay the prorated fee as determined under sub. (1) (a) and the statutory fee. The license upgraded for this fee shall expire 4 8 years from the expiration date of the existing license.

(c) When 90 days or less remain on the existing license, the license holder shall pay the prorated fee as determined under sub. (1)(a) and the statutory fee. The license upgraded for this fee shall expire 4 8 years from the expiration date of the existing license.

(2) MANUAL CALCULATION. Notwithstanding sub. (1)(a), if the automated processing system is not available, the prorated fee shall be determined by the department by multiplying the number of months remaining on the existing license from the date of application by the statutory fee and dividing by 48 96. The number of months include the month of expiration, but not the month of application. The resulting quotient is rounded to the nearest whole dollar amount.

**SECTION 10.** Trans 102.14(1)(a) is repealed.

**SECTION 11.** Trans 102.14(1)(b) and (c) are amended to read:

Trans 102.14(1)(b) The computer system is down and a backup system ~~in the central office~~ must be used to produce the photo operator's license or photo identification card.

(c) Further verification of eligibility is necessary to comply with licensing qualifications in ch. 343, Stats., or the department determines that the person is ineligible for licensing under ch. 343, Stats.

**SECTION 12.** Trans 102.14(6) is created to read:

Trans 102.14(6) A license shall be reissued without fee if it is defective or inaccurate because of a department error.

**SECTION 13.** Trans 102.15(2)(a), (c)(intro.), (c)7., (3)(intro.), (3)(a), (3)(a)8. and 16., (b)1. and 3. are amended to read:

Trans 102.15(2)(a) Satisfactory proof of date ~~and place~~ of birth, as specified under sub. (3) and satisfactory proof of identity as specified under sub. (4) shall be submitted by a person applying for an original Wisconsin operator's license or identification card.

(c)(intro.) A person shall provide proof of the person's name; and date ~~and place~~ of birth under sub. (3) and of the person's identity under sub. (4) upon the first application for an original, renewal, reinstatement or duplicate operator's license or identification card following:

(c)7. Conviction for violation of ss. 343.14(5), ~~343.16(4)~~ 343.16(7)(a) or ~~(5)~~ (b), 343.19(2), 343.43(1), 343.50(4) or (12) or 345.17, Stats.

(3) PROOF OF NAME AND DATE ~~AND PLACE~~ OF BIRTH. (a) One of the following is satisfactory proof of a person's name; and date ~~and place~~ of birth:

(a)8. A federal I-94 "parole edition" or "refugees version" arrival-departure record, together with a certification, on the department's form, by the person, of the person's name; and date ~~and place~~ of birth;

16. An operator's license or identification card of another jurisdiction that is valid or expired 4 years or less, bearing an identifiable photograph and signature, or reproduction of the signature, of the person; ~~together with some other reliable evidence of the person's place of birth.~~

**SECTION 14.** Trans 102.15(3)(a)19. is created to read:

Trans 102.15(3)(a)19. A Mexican voter registration card.

**SECTION 15.** Trans 102.15(3)(b)1. and 3., (c) and (c)(note), (4)(a)1., (4)(c)(note), (6)(intro.) and (b) are amended to read:

Trans 102.15(3)(b)1. A certification of the person's name; and date; ~~and place~~ of birth on the department's form;

3. Whatever documentation is available which states the person's name; and date of birth ~~and place of birth.~~

(c) The administrator may delegate to the administrator's subordinates the authority to accept or reject such extraordinary proof of name, and date ~~and~~ place of birth.

NOTE: Form MV3002 certification of name, and date ~~and~~ place of birth.

(4)(a)1. A driver education course completion certificate.

(4)(c)(note) These alternatives are not satisfactory proof of name and date ~~and~~ place of birth under sub. (3).

(6) TEMPORARY DRIVER RECEIPT. The department may issue a temporary driver receipt to a person who is temporarily unable to meet the identification requirements of sub. (3). The temporary driver receipt shall state the date of issue, shall be clearly marked "NOT VALID FOR IDENTIFICATION," and shall be validated for the operation of a vehicle for a stated period of up to 60 days from the date issued. The person may complete his or her license application within this period by presenting proof of the person's name, and date ~~and~~ place of birth in accordance with sub. (3)(a). For good cause shown, the department may renew the driving receipt once for an additional period of no more than 30 days. This subsection does not prohibit a person from proceeding under sub. (3)(b). This subsection applies only to persons who meet all of the following:

(b) Are unable to immediately provide proof of name, and date ~~and~~ place of birth in accordance with sub. (3)(a), but state that they will be able to do so.

**SECTION 16.** Trans 102.16(2) is amended to read:

Trans 102.16(2) The eyesight test shall be given to each person who applies for renewal of a 2 ~~or~~, 4 or 8 year license at the time application is made.

**SECTION 17.** Trans 102.16(3m) is created to read:

Trans 102.16(3m) An 8 year operator's license and its endorsements:

(a) Shall expire 8 years from the licensed person's next birthday when the application is made prior to the expiration date of the license.

(b) Shall expire 7 years from the licensed person's next birthday when the application is made after the expiration date of the license.

**SECTION 18.** Trans 102.16(5) is amended to read:

Trans 102.16(5) Original operator's licenses issued under s. 343.20(1)(e), Stats., shall ~~be expired~~ expire 3 years after the licensed person's next birthday.

**NOTE:** Section 343.20, Stats., provides for licensing of qualified drivers previously licensed in other jurisdictions.

**SECTION 19.** Trans 102.20(10)(a) and (b), (11), and (13)(a) are amended to read:

Trans 102.20(10)(a) Except when a license is due for renewal, at least once each calendar year in which an applicant seeks farm service CDL privileges, the person shall apply to the department for a farm service CDL ~~restriction card~~ replacement license designating the person's next seasonal period.

(b) The department shall confirm the driver's continued eligibility for the farm service CDL before each seasonal period and, if the driver is eligible for the license under sub. (3), shall issue a ~~restriction card~~ replacement farm service CDL to the driver. If a replacement license is issued by mail and the driver fails to return the license document it replaces to the department, the department may cancel the replacement license.

(11) LICENSE FORM. A farm service CDL shall be subject to the restrictions set forth on a ~~restriction card~~ the license.

(13)(a) The fee for the farm service CDL shall be ~~\$32.00~~ the fee established in s. 343.21(1)(d), Stats., or the prorated amount due under s. Trans 102.10.

**NOTE:** The fee for a CDL under s. 343.21(1)(d), Stats., is currently \$64.



**SECTION 20.** Trans 102.20(13)(b) is repealed.

**SECTION 21.** Trans 102.20(13)(c) is amended to read:

(c) The fee for changing the seasonal period on a farm service CDL after a person has specified a seasonal period in a given calendar year shall be the fee for obtaining a duplicate license under s. 343.21(1)(L), Stats.

**(END OF RULE TEXT)**

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**Effective Date.** This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Signed at Madison, Wisconsin, this 28 day of October, 1998.



CHARLES H. THOMPSON

Secretary

Wisconsin Department of Transportation