

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_98-168
-
- Committee Hearings ... CH
-
- Committee Reports ... CR
-
- Executive Sessions ... ES
-
- Hearing Records ... HR
-
- Miscellaneous ... Misc
-
- Record of Comm. Proceedings ... RCP
-

98-168 TRANS 102.02 - OPER. LIC.
S.I.D. CARDS

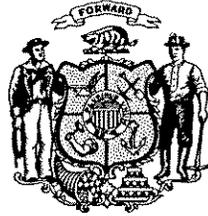
WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC
FORM 2

RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[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 98-168

AN ORDER to repeal Trans 102.02 (6) and 102.14 (1) (a); to renumber Trans 102.02 (6m); to 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. and (c) and (2), 102.14 (1) (b) and (c), 102.15 (2) (a), (c) (intro.) and 7., (3) (intro), (a), 8. and 16., (b) 1. and 3. and (c) and Note, (4) (c) Note and (6) (intro.) and (b), 102.16 (2) and (5) and 102.20 (10) (a), (11) and (13) (a) and (c); and to create Trans 102.02 (7m), 102.14 (6) and 102.16 (3m), relating to operator's licenses and identification cards.

Submitted by **DEPARTMENT OF TRANSPORTATION**

10-29-98 RECEIVED BY LEGISLATIVE COUNCIL.
11-25-98 REPORT SENT TO AGENCY.

RNS:MM:kjf;jt

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)]

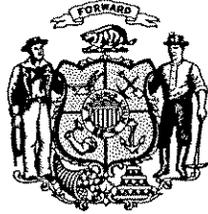
Comment Attached YES NO

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CLEARINGHOUSE RULE 98-168

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 September 1998.]

2. Form, Style and Placement in Administrative Code

- a. The analysis to the rule should explain that the rule deletes all references to the place of birth of an applicant for a driver license.
- b. In s. Trans 102.03 (2) (intro.), "any of the following" should be inserted before the colon.
- c. In s. Trans 102.03 (3), "however," should be deleted.
- d. The treatment clause for SECTION 13 should be rewritten to read:

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

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

It appears that the statutory provision cited as authority for promulgation of the rule is incorrect. The provision cited pertains only to eligibility for commercial driver license waivers. It appears that the citation of statutory authority should include ss. 343.02 and 343.17 (6), Stats. In addition, the citation of the statutes interpreted also appears to be incorrect, since the rule does not address either eligibility for a commercial driver license waiver or the waiver of any tests for a person applying for an "F" endorsement.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. Trans 102.02 (7m), should a word more precise than “picture” be used? “Picture” would include an artist’s rendering of a person as well as an actual photograph.

b. Section Trans 102.16 (3m) (a) and (b) should be consolidated to read:

Trans 102.16 (3m) An 8-year operator’s license and its endorsements shall expire 8 years from the licensed person’s next birthday if the application is made prior to the expiration date or 7 years from the licensed person’s next birthday if the application is made after the expiration date.

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.

should be 343.07? + 343.17(6)

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: s. 343.055(5), Stats. *eligibility for CDL waivers*

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

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. X (5)
- 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. (5)
- 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. *savings?*

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.

Update all references to "place of birth" (2)

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 ^{Commercial D.L.} 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. *Def of laminated photo license or photo id card*

SECTION 3. Trans 102.02(6m) is renumbered 102.02(6). *Def of license examiner or examiner*

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. *make ? 5)*

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: ^{any...}

(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). ^{OL}

(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 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 ~~1460~~ 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. *Deleting except you be revised when license type restriction*

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.

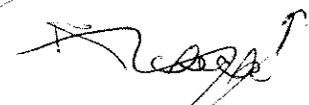
SECTION 12. Trans 102.14(6) is created to read:

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. ^{and} (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:

} *consolid.*
} *in (a) + (b)*

(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. *a driver who has* (6)

(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.

Perk → 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.

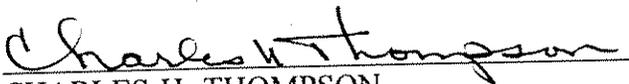
SECTION 21. Trans 102.20(13)(c) is amended to read:

(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)

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