

1997-98 SESSION  
COMMITTEE HEARING  
RECORDS

Committee Name:

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

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- Record of Comm. Proceedings
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— March 20, 1997 Executive Session —

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Order of the Wisconsin Department of Transportation Adopting an Emergency Rule to repeal TRANS 117.04, 117.06 and 117.07(3); renumber TRANS 117.02(2)(c); renumber and amend TRANS 117.02(2)(d) and 117.07(4); amend TRANS 117.01(1) and (2), 117.02(2)(b), 117.05(2), (4)(intro.) and (note), 117.07(title), (1) and (2), 117.08(1)(b) and (c) and (5), 117.09(1), (2)(a) to (c), (3)(a), (e)3 and (f); repeal and recreate TRANS 117.03(2) and 117.05(3); and create TRANS 117.02(2)(c), 117.025, 117.03(1)(title), 117.05(1)(d) and (e), (4)(a) to (k) and (5), and 117.07(3)(b), and 117.10, relating to occupational driver's license.

**ORDER ADOPTING  
EMERGENCY RULE**

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

**STATUTORY AUTHORITY:** 343.10, 343.02, Stats.

**STATUTES INTERPRETED:** 343.10, 343.06, 343.38, 351.025, Stats.

**General Summary of Emergency Rule.** 1995 Wisconsin Act 269 rewrote the statute governing issuance of occupational driver licenses in Wisconsin. Under prior law, drivers who lost their operating privileges could petition any municipal or circuit judge in the state and request an occupational license. In many instances, the day-to-day task of reviewing applications and issuing licenses was being performed by court staff. 1995 Wis. Act 269 vested responsibility for reviewing applications and issuing licenses in the Department of Transportation instead of judges.

This emergency rulemaking provides the Department's administrative interpretation of the newly revised statute. In addition, this rulemaking ties together many of the other laws and regulations affecting driver licensing to present one coherent source of information on the issuance of occupational licenses.

There are two primary sections to this rulemaking: s. Trans 117.025, which lays out the occupational licensing process, and s. Trans 117.03, which describes the manner in which the Department will decide whether to issue an occupational license, what restrictions will be placed on the license. The amendments to s. Trans 117.03 also clarify which prohibitions or restrictions of occupational licensing may be waived by a court in conducting a review under s. 343.10(4), Stats.

To obtain an occupational license, a person makes an application to the Department at any DMV service center (except the "express service facilities" that are not equipped to handle any matters other than driver license and registration renewals). The application includes a petition for occupational license, proof of financial responsibility for the future, and the original or a certified copy of any required court order for issuance of the license, and a \$40 non-refundable application fee.

The DMV service center will accept the application and conduct an on-the-spot initial screening of the application. If the center detects no obvious defect in the application or reason the person would be ineligible for an occupational license, it will issue the person a 15 day temporary driving receipt and ask the person to return to the DMV service center on the next working day (or, if the center is a "travelling site," the next time the travel team returns to the location.) The application will then be forwarded to the Division of Motor Vehicles Compliance and Restoration Section for formal review.

The Compliance and Restoration Section will carefully review the application for occupational license and make an initial determination regarding the person's eligibility for occupational licensing and what restrictions should be placed on the license. If the person is ineligible for licensing, it will notify the driver by mail that the application was denied and the reasons for denial. If the person is eligible for licensing, the unit will advise the DMV service center to issue the person an occupational license and will set the restrictions to be placed on the license.

A person whose application for occupational license is denied may appeal the decision to deny the license, or the decision to impose certain restrictions on the license, to the circuit court in the county where the person resides. Section 343.10, Stats., requires the driver to provide the court with a copy of his or her driver record. WISDOT will encourage courts to adopt local rules also requiring the driver to provide a copy of DMV's denial letter to the court so that the court can see what prompted DMV's license denial.

The court can review the Department's decision de novo and grant or deny the person an occupational license or whether to change the restrictions imposed on the licensee by DMV. The court can change any of the discretionary decisions made by the Department in issuing the license. As was the case under prior law, the court may not overstep its statutory powers and order issuance of a license or waiver of a restriction where license denial or imposition of the restriction are mandatory. Upon completion of its review, the person may return to DMV and reapply for an occupational license. The Department will issue the license subject to any restrictions imposed by the court. As was the case under the prior law, the Department will not issue the license if the person is statutorily prohibited from being licensed, and will impose any statutorily required restrictions.

Proposed s. Trans 117.03(1) lays out the mandatory qualifications for occupational licensing:

- Wisconsin residency;
- A revoked or suspended license;
- Proof of financial responsibility;
- A completed application;
- Surrender of old licenses;
- Proof of installation of any required ignition interlock device (repeat drunk drivers only);
- Proof of completion of alcohol assessment (repeat drunk drivers only);
- Valid license status in other states (if the person is moving to Wisconsin);
- Having passed their driving tests (primarily new drivers);
- Not being convicted of certain sexual offenses;
- Meeting all physical health requirements;
- Not being revoked more than once in the preceding year; and
- Not having "judge shopped" to more than one circuit court.

All of these mandatory requirements are taken from various statutory provisions within Ch. 343, Stats., and are reiterated in this emergency rulemaking for clarity.

Proposed s. Trans 117.03(2) details the restrictions which are required for occupational licensing under the statutes:

- The license can't grant any privileges the driver didn't have before his/her license was suspended or revoked;
- The license can't authorize operation of commercial motor vehicles if the driver is disqualified;
- An absolute sobriety requirement if the driver has 2 or more alcohol related convictions;
- The license can't authorize operation of any vehicle for which the person hasn't posted proof of financial responsibility; and
- The license can't authorize operation of a school bus.

Section 343.10, Stats., leaves a number of discretionary decisions in the Department's hands, subject to judicial review. Discretionary determinations to be made by the Department in deciding whether to issue an occupational license to a person include:

- Whether operating a motor vehicle is essential to the driver's livelihood; and
- The number and seriousness of prior offenses.

The Department will rely on drivers' affirmations that they need licenses for their livelihood. In considering the number and seriousness of prior offenses, the Department proposes to preliminarily deny occupational licenses to two types of drivers: those with 24 or more demerit points in the preceding year and those with 3 or more alcohol offenses in a 5 year period.

Drivers in either class will need to apply to a circuit court for license. The Department expects that approximately 1 in 500 occupational license applicants will

receive a preliminary denial based on points (44 people statewide per year). The number of drivers with 3 or more alcohol offenses in a 5-year period who will apply for occupational licenses is not known. With both groups of drivers, the Department believes a case-by-case review by a judge of the driver's request for an occupational license is appropriate.

The Department also has discretion regarding whether to impose certain restrictions on a driver. These restrictions include:

- Limitations on the hours or routes of travel to be authorized under the license;
- Whether to impose restrictions on the use of alcohol or controlled substances; and
- Whether to require an ignition interlock as a condition of licensing.

Under this emergency rule, the Department will decide the reasonableness of hours and routes of travel on a case by case basis. The Department will impose an ignition interlock device requirement only in instances where third offense drunk drivers are required to install the device on a vehicle following a conviction for operating while intoxicated. The Department will restrict the use of alcohol or controlled substances under the proposed rule for drivers convicted of 2 or more prior alcohol offenses as required by statute.

Any discretionary decision made by the Department may be reviewed by a circuit court upon the driver's request. The Department will implement the court's determinations on these discretionary matters.

This emergency rulemaking does not affect the Department's longstanding practice of permitting emergency service providers extended operating authority in bona fide emergencies. Clarification is made, however, that only persons engaged in activities to minimize threats to human life qualify for the emergency service provider endorsement.

**Fiscal Effect.** The fiscal effect of this rulemaking derives from that of 1995 Wis. Act 269. The Department has issued approximately 22,000 occupational licenses over the past few years and expects to issue approximately the same number in the coming year. This will result in an increase to state revenues of approximately \$440,000.

The Department expects to incur one-time data processing costs of at least \$21,000, and forms development, revision and distribution costs of \$5,000. The Department expects a workload increase of at least 1.2 FTEs at a cost of approximately \$37,500 and ongoing forms costs of approximately \$2,000 annually. {See attached fiscal estimate.}

**Initial Regulatory Flexibility Analysis.** This emergency rule is not expected to affect small businesses.

**Preparation and Copies of Emergency Rule.** Preparation of this emergency rule was done by Richard Kleist of the Division of Motor Vehicles. Copies of the emergency rule may be obtained upon request, without cost, by writing to Richard Kleist, Department of Transportation, Bureau of Driver Services, Room 301, P. O. Box 7920, Madison, WI 53707-7920, or by calling (608) 266-2261. Hearing-impaired individuals may contact the Department using TDD (608) 266-0396. Alternate formats of the rule will be provided to individuals at their request.

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### **TEXT OF EMERGENCY RULE**

Under the authority vested in the state of Wisconsin, department of transportation, by s. 343.02, Stats., the department of transportation hereby adopts an order amending a rule interpreting s. 343.10, 343.06, 343.38, and 351.025, Stats., relating to occupational driver's license.

**SECTION 1.** Trans 117.01(1) and (2) are amended to read:

Trans 117.01(1) The purpose of this rule ~~rule~~ chapter is to administratively interpret ss. 961.50, 343.10, 343.20 and 351.07, Stats., and the interaction of these statutory provisions with the general licensing requirements of Ch. 343, Stats. ~~The rule supplements~~ This chapter establishes the ~~statutory~~ procedure for obtaining an order ~~authorizing the issuance of an~~ occupational license and for applying for the issuance of an occupational license. It establishes department policy regarding the ~~granting~~ issuance of ~~GDL occupational license petitions~~ occupational licenses.

(2) This chapter applies to any person petitioning a court ~~or the department~~ for ~~an~~ review of a department order authorizing or denying the issuance of an occupational license and to all persons applying to the department or a court for the issuance of an occupational license.

**NOTE:** Procedure and eligibility requirements for occupational licenses are set forth in ss. 343.10 and 351.07, Stats.

**SECTION 2.** Trans 117.02(2)(b) is amended to read:

Trans 117.02(2)(b) "CDL-occupational license" means an occupational license that bears a notation authorizing the operation of class A, B or C commercial motor vehicles. A CDL-occupational license may also authorize the operation of class D or class M motor vehicles, or both.

**SECTION 3.** Trans 117.02(2)(c) is renumbered 117.02(2)(d).

**SECTION 4.** Trans 117.02(2)(c) is created to read:

Trans 117.02(2)(c) "DMV service center" means a division of motor vehicles service center.

**SECTION 5.** Trans 117.02(2)(d) is renumbered 117.02(2)(e) and amended to read:

Trans 117.02(e) "Occupational license" means a an operators license issued under s. 343.10, Stats.

**SECTION 6.** Trans 117.025 is created to read:

**Trans 117.025 PROCESS.** (1) A person whose license is revoked as a habitual traffic offender under ch. 351, Stats., shall petition a circuit court in the person's county of residence for an order authorizing the person to obtain an occupational license before applying for the license with the department.

(2) A person may apply to the department for an occupational license by submitting an application meeting the requirements of s. Trans 117.05 to any DMV service center, except an express service facility.

(3) The department shall accept the application for an occupational license and may issue a temporary driving receipt to an applicant if it appears to the DMV service



center that the person is eligible for an occupational license. The temporary driving receipt shall be valid only until the earliest of the following:

(a) The date the department issues a photo occupational license to the person.

(b) The date the department preliminarily denies the person an occupational license.

(c) 15 days following issuance of the driving receipt.

(4) Following acceptance of the application, the department shall conduct a review of the application to determine eligibility for occupational licensing. After completion of the review, the department shall issue an occupational license to the driver or issue a letter constituting a preliminary denial of occupational license to the driver. A letter of denial shall state the specific reasons for the denial. The applicant may be required to return to a DMV service center, except an express service facility, so that a photo occupational license may be issued.

**NOTE: s. 343.10(3)(b), Stats.**

(5) A person may seek review of a preliminary denial of an occupational license by filing a petition for occupational license with a circuit court in the person's county of residence in the manner provided in s. 343.10(4), Stats.

(6) The court shall consider the number and seriousness of prior traffic convictions in determining whether to grant or deny the petition. The court may, in conducting its review, order modification or changes to any prohibitions or restrictions ordered to be imposed on the person under s. Trans 117.03(4) or (5).

(7) If a petition is denied by the court, the department may not issue an occupational license to the person, unless the petition was denied solely because of the

person's failure to meet one or more of the criteria of s. Trans 117.03(2) and the person has taken action to meet each of those criteria.

**NOTE:** For example, a driver whose petition is denied by a court solely for failure to provide proof of financial responsibility for the future would be eligible for licensing upon filing proper proof of financial responsibility for the future, notwithstanding the court's order.

(8) If a petition is granted by the court, the department shall receive the court's order and treat it and the applicant's petition to the court as an application for occupational license. The department shall issue an occupational license to the person, subject to any restrictions ordered by the court, unless issuance of an occupational license to the person is prohibited under s. Trans 117.03(2). If the person is ineligible for a CDL-occupational license but is eligible for a class D or M license, the department may issue a class D or M license to the person, but may not authorize privileges to operate class A, B or C vehicles on the license.

(9) A decision by the department to deny issuance of an occupational license or to deny licensing for certain classes of vehicles based on the criteria in s. Trans 117.03(2) or (3) following circuit court review under s. 343.10(4), Stats, is subject to judicial review in the manner provided in s. 343.40, Stats.

**SECTION 7.** Trans 117.03(1)(title) is created to read:

Trans 117.03(1)(title) GENERAL.

**SECTION 8.** Trans 117.03(2) is repealed and recreated to read:

Trans 117.03(2) MANDATORY REQUIREMENTS. The department may not issue an occupational license unless all of the following criteria are met:

(a) The person is a resident of the state of Wisconsin.

**Note:** s. 343.06(1)(k), Stats.

(b) The person's license is suspended or revoked.

**NOTE: Drivers with cancelled or disqualified licenses are not eligible for occupational licensing. s. 343.10(1)(a), Stats.**

(c) The person has filed proof of financial responsibility for the future.

**Note: s. 343.10(2)(a)2, Stats.**

(d) The person has submitted an application containing all materials and information required under s. Trans 117.05.

(e) The person surrenders all licenses or certifies that all prior licenses are lost.

**Note: s. 343.10(2)(a)3, Stats.**

(f) The person has installed any ignition interlock devices the person has been ordered to install as a condition of an occupational license or pursuant to a court order under s. 346.65(6), Stats.

(g) The person has completed assessment and is in compliance with the driver safety plan required by the assessment if the person has 2 or more prior alcohol offenses. For purposes of this paragraph, a person shall be presumed to be in compliance with the driver safety plan if the department has not received a report of non-compliance or license denial from the assessment agency or traffic safety school.

**Note: s. 343.10(2)(e), Stats.**

(h) The person has reinstated all operating privileges in all other states in which the person's operating privilege or license was suspended or revoked if the occupational license will be the first license issued to the person after moving to this state.

**Note: s. 343.38(4), Stats.**

(i) The person successfully passes any required examinations.

**Note: s. 343.06(1)(f), Stats.**

(j) The person is not prohibited from holding an operators license as a result of conviction for a sex-related offense under ss. 343.06(1)(i) or 343.30(2d), Stats.

(k) The person has not filed more than one petition with a circuit court for an occupational license since the last date on which the department issued a basic, commercial or occupational license to the person.

**Note: s. 343.10(4)(c), Stats.**

(l) The person holds a federal medical card meeting the requirements of 49 CFR part 391 or the person provides evidence that he or she is exempt from those requirements under 49 CFR 390.3(f), if the person seeks a CDL-occupational license and the person's license was revoked on or after July 29, 1996.

**NOTE: s. Trans 327.09(2)(b). A CDL issued to a driver who does not present a federal medical card will be restricted from operation in interstate commerce.**

(m) The person's operating privilege has not been revoked more than once during the one year period preceding application. For purposes of this paragraph, multiple revocations arising out of the same incident or occurrence shall count as one revocation.

**NOTE: s. 343.10(2)(a)1, Stats.**

**SECTION 9.** Trans 117.03(3) to (5) are created to read:

Trans 117.03(3) **MANDATORY RESTRICTIONS.** Occupational licenses shall be restricted as follows:

(a) No occupational license may include a notation authorizing operation of a class of vehicle if the person's license, prior to suspension or revocation, did not bear a notation for that class of vehicle.

**Note: s. 343.10(2)(b), Stats.**

(b) No occupational license may include an endorsement if the person's license prior to suspension or revocation did not properly bear the endorsement.

**Note: s. 343.10(2)(b), Stats.**

(c) No occupational license may authorize the operation of commercial motor vehicles if the driver is disqualified.

**Note: s. 343.06(2), Stats.**

(d) An occupational license shall prohibit a person from operating a motor vehicle with an alcohol concentration of more than 0.0% if the person has 2 or more prior offenses that are countable under s. 343.307(1), Stats.

**Note: s. 343.10(5)(a)2, Stats.**

(e) No occupational license may permit the operation of a motor vehicle for which the person has not provided proof of financial responsibility for the future.

**Note: s. 343.10(2)(a)2, Stats.**

(f) No occupational license may authorize the operation of a school bus.

(4) DISCRETIONARY PROHIBITIONS. The department may not issue an occupational license to any person who does any of the following:

(a) Accumulates 24 or more demerit points in the one year period preceding application.

(b) Is convicted of 3 violations for offenses which may be counted under s. 343.307(2), Stats.

**Note: s. 343.10(3)(a), Stats., requires the Department to consider the number and seriousness of offenses in determining whether to issue an occupational license. Circuit courts may order issuance of occupational licenses to drivers whose applications are rejected by the Department under this provision. See s. Trans 117.025(6).**

(5) DISCRETIONARY RESTRICTIONS. The department may restrict occupational licenses as follows:

(a) The department shall require installation of an ignition interlock device as a condition of an occupational license for any driver who is convicted of an offense for

which an ignition interlock is ordered to be imposed on the person's vehicle under s. 346.65(6), Stats.

**NOTE:** s. 343.10(5)(a)3, Stats., permits the Department to require ignition interlock devices of drivers who have 2 or more prior alcohol offenses. This provision provides that the Department will impose the restriction only on persons convicted of third offense OWI whose vehicles are ordered to have ignition interlocks installed under s. 346.65(6), Stats. This discretionary decision may be reviewed on a de novo basis by the circuit court following a petition by the driver. See s. Trans 117.025(6).

(b) An occupational license may be restricted to operation at those certain times of the day or in those certain areas which are necessary for the person to engage in the person's occupation, including homemaking, full or part-time study, participation in a driver safety plan ordered under s. 343.30(1q), Stats., or church.

**Note:** s. 343.10(5)(a), Stats.

**SECTION 10.** Trans 117.04 is repealed.

**SECTION 11.** Trans 117.05(1)(d) and (e) are created to read:

Trans 117.05(1)(d) A completed application for occupational license form.

(e) Proof of financial responsibility for the future which shall specify the vehicle or vehicles the person seeks authority to operate.

**SECTION 12.** Trans 117.05(2) is amended to read:

Trans 117.05(2) The application for ~~a CDL occupational~~ an occupational license of a person whose license is revoked under s. 351.025, Stats., shall include the original or a certified copy of the court order authorizing the issuance of ~~a basic~~ an occupational license to the person ~~and a petition for a CDL occupational license.~~

**SECTION 13.** Trans 117.05(3) is repealed and recreated to read:

Trans 117.05(3) An application for occupational license submitted following circuit court review of a preliminary denial of occupational license shall include a copy of all findings and orders issued by the reviewing court.

**SECTION 14.** Trans 117.05(4)(intro.) is amended to read:

Trans 117.05(4)(intro.) All applications, conviction status reports and petitions for occupational license submitted in applying for an occupational license shall be on department forms and shall include all requested information. The completed occupational license application form shall include all of the following information:

**SECTION 15.** Trans 117.05(4)(a) to (k) and (5) are created to read:

Trans 117.05(4)(a) The person's full name, birth date, driver license number, address, telephone number, if any, and social security number, except as provided in s. Trans 102.15(5)(b) and (c).

(b) An indication as to whether the person seeks authority to operate any vehicle or a specific vehicle, and an identification of any specific vehicle.

(c) The area in which the person seeks authority to operate designated by county or state.

(d) An indication of whether the person seeks authorization to operate for purposes of work, church, homemaker duties, compliance with a driver safety plan, student activities, or some other reason.

(e) An indication of whether the person seeks 24-hour authorization to operate a commercial motor vehicle under s. Trans 117.09(3).

(f) An indication of whether the person seeks emergency service operator privileges under s. Trans 117.09(2).

(g) A description of the person's occupation and the name of the person's employer.

(h) Specification of the hours of operation requested by the driver.

(i) An affirmation by the person that operating a motor vehicle at the times and locations specified in the petition is essential to the person's livelihood and necessary to fulfill the duties of the person's occupation.

(j) The person's signature in the format first name, middle name or initial, last name.

(k) Any other requested information.

(5) An application for occupational license submitted by a person who has been ordered to install an ignition interlock device as part of a criminal sentence under s. 346.65(6), Stats., shall include a copy of the order and proof of installation.

**SECTION 16.** Trans 117.05(note) is amended to read:

NOTE: Forms MV3001, Application for License, and MV3027, Petition, Order of Issuance and Temporary Occupational License, is are available at motor vehicle service centers. ~~Form MV3435, Conviction Status Report, is issued to eligible drivers by clerks of court. Form MV3027, Petition, Order of Issuance and Temporary Occupational License, is available both at motor vehicle service centers and from clerks of court.~~

**SECTION 17.** Trans 117.06 is repealed.

**SECTION 18.** Trans 117.07(title), (1) and (2) are amended to read:

**Trans 117.07 (title) APPLICATIONS TO AMEND OR REINSTATE OCCUPATIONAL LICENSES.** (1) ~~A petition~~ An application to amend an occupational license or to reinstate a revoked occupational license shall be made in the same manner as an original ~~petition~~ application for an occupational license.



(2) ~~A petition~~ An application seeking to amend an occupational license issued pursuant to an order entered by a court on or after November 1, 1996, shall be presented to and approved or denied by the court which originally ordered issuance of the occupational license, ~~or, if the driver has changed his or her place of residence to a location outside the jurisdiction of the original court, by a court in the person's county of residence.~~

**SECTION 19.** Trans 117.07(3) is repealed.

**SECTION 20.** Trans 117.07(4) is renumbered 117.07(3) and amended to read:

Trans 117.07(3) A person applying to reinstate or amend an occupational license shall pay the fee specified in s. 343.10(6), Stats. Fees collected under this subsection shall be distributed in accordance with s. 343.10(6), Stats. No fee shall be paid may be required if the application is to amend the license ~~and the application seeks only to is made only for any of the following reasons:~~

(a) To correct a clerical error made by the court or the department in the issuance of the occupational license. ~~Fees collected under this subsection shall be distributed in accordance with s. 343.10(6), Stats.~~

**SECTION 21.** Trans 117.07(3)(b) is created to read:

Trans 117.07(3)(b) To specify the hours of operation necessary for complying with a driver safety plan if no hours are specified for that purpose on the occupational license previously issued to the person.

**SECTION 22.** Trans 117.08(1)(b) and (c), and (5) are amended to read:

Trans 117.08(1)(b) One year and 2 working days from the date of revocation if the person's license is revoked under s. 344.14, Stats., and notice of the commencement of a civil action has not been filed with the department.

(c) At Two working days after the end of the longest running revocation or suspension of the person's operating privilege in effect at the time the occupational license is issued if the person's operating privilege is also suspended or revoked for any reason other than under s. 344.14 or 344.25, Stats.

(5) Notwithstanding subs. (1) to (4) or any expiration date stated on the face of an occupational license, an occupational license shall expire ~~immediately upon~~ 2 working days after the end of all ~~cancellations, suspensions, and~~ revocations and disqualifications of the driver's operating privilege in effect at the time the occupational license was issued.

**SECTION 23.** Trans 117.09(1), (2)(a) to (c), (3)(a), (e)3 and (f) are amended to read:

**117.09 SPECIFIC TIME AND ROUTES OR AREAS OF TRAVEL LIMITATIONS.**

(1) GENERAL. ~~A petition for~~ An occupational license shall specify definite hours of operation by specifying the exact times and days of the week during which the operator ~~requires authority to~~ may operate a motor vehicle to or from church, in connection with a driver safety plan, or in order to perform ~~their~~ the person's occupation, trade, or duties as a homemaker or student.

(2)(a) "Emergency service provider" means a person who is employed by a unit of government, is providing services to a unit of government, or is employed by a public utility or medical services provider, and whose occupation involves providing essential human life sustaining emergency services to the public. The term includes, but is not limited to, law enforcement officers, fire fighters, forest rangers, correctional officers, snow plow and emergency vehicle drivers, doctors, emergency medical technicians, certified first responders, paramedics, and electric, telephone and natural or propane gas

repair technicians. A person who claims to be an emergency service provider may be required to provide documentation to the department proving the person provides essential human life sustaining emergency services to the public as part of the person's occupation.

(b) In ~~a petition~~ an application for occupational license, an emergency services provider may request authorization to operate a motor vehicle, during an emergency threatening injury to person or property which may endanger a human life, outside the specific hours of operation set forth in the petition. An order authorizing such operation shall authorize only the operation of motor vehicles directly to and from the location of the emergency or the person's place of employment and shall not authorize operation of a motor vehicle in excess of 12 hours per day or 60 hours per week.

(c) An emergency services provider who has authority to operate a motor vehicle under par. (b) and who is charged with an offense stemming from the person's operating a motor vehicle outside the specified hours of operation set forth in the occupational license ~~shall~~ may not be convicted if the person produces in court or in the office of the arresting officer satisfactory documentation that the person was operating a motor vehicle in response to a bona fide emergency that may have endangered a human life at the time of the citation.

(3)(a) A person who held a CDL prior to the suspension or revocation of the person's regular operator's license and whose essential occupational duties involve the operation of a commercial motor vehicle at any hour of the day or night may ~~request~~ include in ~~their petition~~ an application to the department for a CDL-occupational license a request for 24 hour authorization. The ~~petition~~ application shall also specify specific hours during which the operator seeks authority to operate a class D or class M vehicle.

(e)3. The starting time, including notations for a.m. and p.m. ~~Midnight~~ midnight and noon shall be transcribed as midnight and noon.

(f) An operating log shall be kept current at all times. An operator shall transcribe the items set forth in par. (e)1. to 5. in the operating log at the beginning of each trip and shall record the remaining items immediately upon arrival at the person's destination. The person is not required to make entries in the log relating to class D or M vehicle operation.

**SECTION 24.** Trans 117.10 is created to read:

**Trans 117.10 INTERIM PROVISIONS.** During the period from November 1, 1996 to December 1, 1996, the department will process applications for occupational licenses based on orders issued by judges prior to November 1, 1996. The department may not assess the \$40 occupational license fee to drivers presenting orders approved by a judge during that period. Eligibility for licensing based on such an order shall be determined under the regulations established in this rulemaking.

**(END OF RULE TEXT)**

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**FINDING OF EMERGENCY**

1995 Wis. Act 269 rewrote state law regarding the issuance of occupational licenses. That Act goes into effect on November 1, 1996. Absent this emergency rule making, the Department will lack rule authority necessary to administer the new law. This emergency rule will permit the Department to issue occupational licenses until the permanent rule establishing procedures for issuing occupational licenses are in place. Therefore, the Department of Transportation finds that an emergency exists and that the attached rule is necessary.

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**1995 Session**

LRB or Bill No./Adm. Rule No.  
Trans 117

Amendment No. if Applicable

**FISCAL ESTIMATE**

DOA-2048 (R10/92)

- ORIGINAL       UPDATED  
 CORRECTED     SUPPLEMENTAL

**Subject**

Issuance of occupational licenses by DOT

**Fiscal Effect**

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

- Increase Existing Appropriation     Increase Existing Revenues  
 Decrease Existing Appropriation     Decrease Existing Revenues  
 Create New Appropriation

Increase Costs - May be possible to Absorb Within Agency's Budget     Yes     No

Decrease Costs

Local:  No local government costs

1.  Increase Costs  
     Permissive     Mandatory  
2.  Decrease Costs  
     Permissive     Mandatory

3.  Increase Revenues  
     Permissive     Mandatory  
4.  Decrease Revenues  
     Permissive     Mandatory

5. Types of Local Governmental Units Affected:  
 Towns     Villages     Cities  
 Counties     Others  
 School Districts     VTAE Districts

**Fund Sources Affected**

- GPR     FED     PRO     PRS     SEG     SEG-S

Affected Ch. 20 Appropriations  
20.395(5)(c)

**Assumptions Used in Arriving at Fiscal Estimate**

Amending Trans 117, Occupational Driver's License, to implement 95 Act 269.

1. All occupational licenses will be issued by DOT/DMV, except court-ordered habitual traffic offender (HTO) occupationals,
2. The HTO and CDL occupationals will not be affected by this bill.
3. The 30-day temporary occupationals issued by the courts will be eliminated.
4. The occupational petition will be replaced by an application.
5. Persons may apply only once for each revocation/suspension, except to apply for an amended occupational.
6. DMV informs drivers if their application is denied. Upon denial, drivers may petition the circuit court for an occupational order. DMV will be notified of any denials. We estimate court-ordered occupationals after DMV denial to be very low.
7. Applicants must pay a \$40 fee to DOT for the occupational.
8. Repeal of s.343.345 will have no impact on our operations.

For purposes of this estimate assume that:

- 22,000 drivers will apply and be issued an occupational license.
- An additional 15% or 3,300 applicants will be denied because of ineligibility. It is difficult to determine how many drivers who are denied will petition the court for an occupational.
- An additional \$20/occupational fee will increase Transportation Fund revenues by \$440,000. Because occupationals are presently issued in both municipal and circuit courts, it is difficult to determine their revenue loss.
- Forms will need to be developed and revised and Trans 113 will have to be revised

(continued on page 2)

**Long-Range Fiscal Implications**

Agency/Prepared by: (Name & Phone No.)

Julie A. Clark 266-2239  
Department of Transportation

Authorized Signature/Telephone No.

*[Signature]*  
266-2233

Date

10/11/96

CONCLUSIONS:

One time data processing costs equal \$20,925.

Ongoing DMV workload increase of 1.2 FTE equals \$37,200.

One time costs for forms development, revision and distribution would be \$5,000.

Ongoing forms costs would be \$2,000 annually.

Revenue into the Transportation Fund will be increased by \$440,000.

BASIS FOR CONCLUSIONS:

The data processing changes will include: elimination of ineligible letter to the courts, modification of program to calculate expiration date beyond suspension/revocation termination date, modification of fee system, changing revocation/suspension order and other system changes.

1.2 FTEs will be required in DMV's Bureau of Field Services to answer questions and assist applicants applying for occupational. An additional 5 minutes/transaction is estimated.  $25,300 \times 5 \text{ min}/60/1725 = 1.2 \text{ FTE (MVSS4)}$

$1.2 \text{ FTE} \times \$31,000 \text{ (salary + FB)} = \$37,200.$

The petition form will be revised into an application form including a section for court denials.

# FISCAL ESTIMATE WORKSHEET

1995 SESSION

Detailed Estimate of Annual Fiscal Effect  
DOA-2047(R10/92)

ORIGINAL  
 CORRECTED

UPDATED  
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.  
Trans. 117

Amendment No.

Subject  
Issuance of occupational licenses by DOT

I. One-time Costs or Revenue Fluctuations for State and/or Local Government (do not include in annualized fiscal effect):  
DP - \$20,925 Forms \$ 5,000

II. Annualized Costs:

A. State Costs by Category

	Annualized Fiscal Impact on State Funds from:	
	Increased Costs	Decreased Costs
State Operations-Salaries and Fringes	\$37,200	\$ -
(FTE Position Changes)	(1.2 FTE)	(- FTE)
State Operations-Other Costs	2,000	-
Local Assistance		-
Aids to Individuals or Organizations		-
<b>TOTAL State Costs by Category</b>	<b>\$39,200</b>	

B. State Costs by Source of Funds

	Increased Costs	Decreased Costs
GPR	\$	\$ -
FED	\$	\$ -
PRO/PRS	\$	\$ -
SEG/SEG-S	\$39,200	\$ -

III. State Revenues-

Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fees, etc.)

	Increased Rev.	Decreased Rev.
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S	\$ 440,000	-
<b>TOTAL State Revenues</b>	<b>\$ 440,000</b>	<b>\$ -</b>

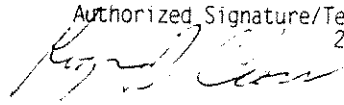
NET ANNUALIZED FISCAL IMPACT

	STATE	LOCAL
NET CHANGE IN COSTS	\$ 39,200	Unknown
NET CHANGE IN REVENUES	\$440,000	\$ Unknown

Agency/Prepared by: (Name & Phone No.)  
Department of Transportation  
Julie Clark/266-2239

Authorized Signature/Telephone No.  
266-2233

Date  
10/11/96



**Effective Date.** This rule shall take effect upon publication in the official state newspaper as provided in s. 227.24(1)(c), Stats.

Signed at Madison, Wisconsin, this 28 day of October, 1996.

A handwritten signature in cursive script that reads "Charles H. Thompson". The signature is written in black ink and is positioned above a horizontal line.

CHARLES H. THOMPSON

Secretary

Wisconsin Department of Transportation