



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

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 02-085

AN ORDER to amend Trans 130.04 (1); and to create Trans 130.02 (5m) and (8), relating to disabled parking placards.

Submitted by **DEPARTMENT OF TRANSPORTATION**

06-11-2002 RECEIVED BY LEGISLATIVE COUNCIL.

07-02-2002 REPORT SENT TO AGENCY.

RS:PGC

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

The Wisconsin Department of Transportation proposes an order to amend TRANS 130.04(1); and create TRANS 130.02(5m) and (8), relating to disabled parking placards.

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

NOTICE IS HEREBY GIVEN that pursuant to ss. 85.16(1), 227.11(2)(a) and 343.51, Stats., and interpreting s. 343.51, Stats., the Department of Transportation will hold a public hearing in **Room 144-B** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **9th** day of **August**, 2002, at **10:00 AM**, to consider the amendment of ch. Trans 130, Wisconsin Administrative Code, relating to disabled parking placards.

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 August 16, 2002, 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 Carson Frazier, Department of Transportation, Bureau of Vehicle Services, Room 253, P. O. Box 7911, Madison, WI 53707-7911.

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

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 85.16(1), 227.11(2)(a) and 343.51, Stats.

STATUTES INTERPRETED: s. 343.51, Stats.

General Summary of Proposed Rule. The Division of Motor Vehicles accommodates persons who have a disability that limits or impairs the ability to walk. Disabled persons may receive a portable disabled parking identification placard, which allows parking in a specially reserved parking space. Disabled persons pay a fee of \$6 per placard, which is good for 4 years. A number of class action lawsuits have been filed against states (including Wisconsin) that charge a fee for disabled parking identification placards. These lawsuits allege that the practice of charging a fee for disabled parking identification placards violates the Americans with Disabilities Act (ADA). A settlement ended the Wisconsin lawsuit. Judge Nichol signed an order accepting the settlement, ordering DOT to cease collecting any fee for permanent placards after June 30, 2003, and dismissing the case. Jason, et al. v. Wisconsin DOT, Case No. 97-CV-3137, Dane County Circuit Court, April 15, 2002. The Department proposes to discontinue charging any fee for a permanent placard in compliance with the court order. The Department will continue to charge \$6 for temporary placards.

Fiscal Effect. The Transportation Fund will experience an annual revenue loss of approximately \$0.5 million.

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

Copies of Proposed Rule. Copies of the rule may be obtained upon request, without cost, by writing to Carson Frazier, Department of Transportation, Bureau of Vehicle Services, Room 253, P. O. Box 7911, Madison, WI 53707-7911, or by calling (608) 266-7857. 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.

TEXT OF PROPOSED RULE

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 85.16(1), 227.11(2)(a) and 343.51, Stats., the department of transportation hereby proposes to amend a rule interpreting s. 343.51, Stats., relating to disabled parking placards.

SECTION 1. Trans 130.02(5m) and (8) are created to read:

Trans 130.02(5m) "Permanent card" means a card that is valid for 4 years.

(8) "Temporary card" means a card that is valid for not more than 6 months.

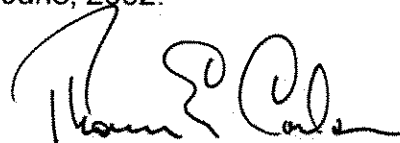
SECTION 2. Trans 130.04(1) is amended to read:

Trans 130.04(1) ISSUANCE FEE FOR A CARD. A fee of \$6.00 shall be charged for the issuance of ~~each card, or for the replacement, or extension or renewal of a temporary card.~~ Effective July 1, 2003, no fee may be charged for the issuance, replacement, extension or renewal of a permanent card.

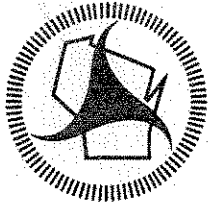
(END OF RULE TEXT)

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)(intro.), Stats.

Signed at Madison, Wisconsin, this 18 day of June, 2002.



THOMAS E. CARLSEN, P.E.
Acting Secretary
Wisconsin Department of Transportation



Wisconsin Department of Transportation

www.dot.state.wi.us

Scott McCallum
Governor

Thomas E. Carlsen, P.E.
Acting Secretary

Office of General Counsel
4802 Sheboygan Ave., Rm. 115B
P.O. Box 7910
Madison, WI 53707-7910

Telephone: 608-266-8810
FAX: 608-267-6734
E-mail: ogc.exec@dot.state.wi.us

April 25, 2002

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 130

Dear Mr. Poulson:

Enclosed is the Statement of Scope for the proposed amendment of ch. Trans 130. Please publish the Scope Statement in accordance with § 227.135(3), Stats., in the Administrative Register.

Sincerely,


Julie A. Johnson
Paralegal

Enclosures

cc: David Schmiedicke/DOA State Budget Director
Senator Judy Robson, Co-Chair/JCRAR
Representative Glenn Grothman, Co-Chair/JCRAR
Alice Morehouse
Mike Goetzman
Carson Frazier

STATEMENT OF SCOPE

DESCRIPTION OF THE OBJECTIVE OF THE RULE:

The Division of Motor Vehicles accommodates persons who have a disability that limits or impairs the ability to walk. Disabled persons may receive a portable disabled parking identification placard, which allows parking in a specially reserved parking space. Disabled persons pay a fee of \$6 per placard, which is good for 4 years. A number of class action lawsuits have been filed against states (including Wisconsin) that charge a fee for disabled parking identification placards. These lawsuits allege that the practice of charging a fee for disabled parking identification placards violates the Americans with Disabilities Act (ADA). A settlement ended the Wisconsin lawsuit. Judge Nichol signed an order dismissing the case. Jason, et al. v. Wisconsin DOT, Case No. 97-CV-3137, Dane County Circuit Court, April 15, 2002. The Department proposes to discontinue charging the placard fee on July 1, 2003, by amending ch. Trans 130.

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:

Currently, DMV charges \$6 for a disabled parking placard, which is good for 4 years, as authorized by s. 343.51(1), Stats., and s. Trans 130.04(1), Wis. Adm. Code. Pursuant to a court order and stipulation, DMV will discontinue charging a fee for permanent placards effective July 1, 2003.

STATUTORY AUTHORITY FOR THE RULE:

s. 343.51(1), Stats.

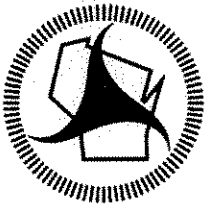
ESTIMATES OF THE AMOUNT OF TIME THAT STATE EMPLOYEES WILL SPEND DEVELOPING THE RULE AND OF OTHER RESOURCES NECESSARY TO DEVELOP THE RULE:

50 hours.

Signed at Madison, Wisconsin, this 24 day of
April, 2002.



THOMAS E. CARLSEN, P.E.
Acting Secretary
Wisconsin Department of Transportation



Wisconsin Department of Transportation

www.dot.state.wi.us

Scott McCallum
Governor

Thomas E. Carlsen, P.E.
Acting Secretary

Office of General Counsel
4802 Sheboygan Ave., Rm. 115B
P.O. Box 7910
Madison, WI 53707-7910

Telephone: 608-266-8810
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E-mail: ogc.exec@dot.state.wi.us

The Honorable Judy Robson
Senate Chairman
Joint Committee for Review
of Administrative Rules
Room 15 South, State Capitol
Madison, Wisconsin 53702

June 11, 2002

The Honorable Glenn Grothman
Assembly Chairman
Joint Committee for Review
of Administrative Rules
Room 15 North, State Capitol
Madison, Wisconsin 53702

RE: **NOTICE OF PUBLIC HEARING** and Text of Proposed Rule, relating to **disabled parking placards**, Trans 130

Dear Senator Robson 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,

A handwritten signature in cursive script that reads "Julie A. Johnson".

Julie A. Johnson
Paralegal

Enclosure

cc: Alice Morehouse
Mike Goetzman
Carson Frazier

The Wisconsin Department of Transportation proposes an order to amend TRANS 130.04(1); and create TRANS 130.02(5m) and (8), relating to disabled parking placards.

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

NOTICE IS HEREBY GIVEN that pursuant to ss. 85.16(1), 227.11(2)(a) and 343.51, Stats., and interpreting s. 343.51, Stats., the Department of Transportation will hold a public hearing in **Room 144-B** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **9th** day of **August**, 2002, at **10:00 AM**, to consider the amendment of ch. Trans 130, Wisconsin Administrative Code, relating to disabled parking placards.

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 August 16, 2002, 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 Carson Frazier, Department of Transportation, Bureau of Vehicle Services, Room 253, P. O. Box 7911, Madison, WI 53707-7911.

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Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 85.16(1), 227.11(2)(a) and 343.51, Stats.

STATUTES INTERPRETED: s. 343.51, Stats.

General Summary of Proposed Rule. The Division of Motor Vehicles accommodates persons who have a disability that limits or impairs the ability to walk. Disabled persons may receive a portable disabled parking identification placard, which allows parking in a specially reserved parking space. Disabled persons pay a fee of \$6 per placard, which is good for 4 years. A number of class action lawsuits have been filed against states (including Wisconsin) that charge a fee for disabled parking identification placards. These lawsuits allege that the practice of charging a fee for disabled parking identification placards violates the Americans with Disabilities Act (ADA). A settlement ended the Wisconsin lawsuit. Judge Nichol signed an order accepting the settlement, ordering DOT to cease collecting any fee for permanent placards after June 30, 2003, and dismissing the case. Jason, et al. v. Wisconsin DOT, Case No. 97-CV-3137, Dane County Circuit Court, April 15, 2002. The Department proposes to discontinue charging any fee for a permanent placard in compliance with the court order. The Department will continue to charge \$6 for temporary placards.

Fiscal Effect. The Transportation Fund will experience an annual revenue loss of approximately \$0.5 million.

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

Copies of Proposed Rule. Copies of the rule may be obtained upon request, without cost, by writing to Carson Frazier, Department of Transportation, Bureau of Vehicle Services, Room 253, P. O. Box 7911, Madison, WI 53707-7911, or by calling (608) 266-7857. 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.

TEXT OF PROPOSED RULE

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 85.16(1), 227.11(2)(a) and 343.51, Stats., the department of transportation hereby proposes to amend a rule interpreting s. 343.51, Stats., relating to disabled parking placards.

SECTION 1. Trans 130.02(5m) and (8) are created to read:

Trans 130.02(5m) "Permanent card" means a card that is valid for 4 years.

(8) "Temporary card" means a card that is valid for not more than 6 months.

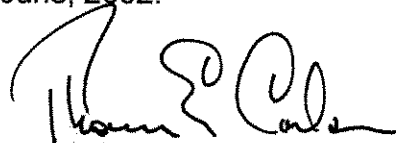
SECTION 2. Trans 130.04(1) is amended to read:

Trans 130.04(1) ISSUANCE FEE FOR A CARD. A fee of \$6.00 shall be charged for the issuance of ~~each card, or for the replacement, or~~ extension or renewal of a temporary card. Effective July 1, 2003, no fee may be charged for the issuance, replacement, extension or renewal of a permanent card.

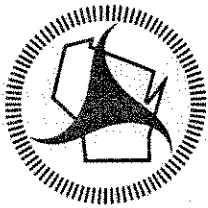
(END OF RULE TEXT)

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)(intro.), Stats.

Signed at Madison, Wisconsin, this 10 day of June, 2002.



THOMAS E. CARLSEN, P.E.
Acting Secretary
Wisconsin Department of Transportation



Wisconsin Department of Transportation

www.dot.state.wi.us

Scott McCallum
Governor

Thomas E. Carlsen, P.E.
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E-mail: ogc.exec@dot.state.wi.us

The Honorable Fred Risser
President, Wisconsin State Senate
Room 220 South, State Capitol
Madison, Wisconsin 53707

August 22, 2002

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

RE: Proposed Administrative Rule **TRANS 130**
Notification of Legislative Standing Committees
CLEARINGHOUSE RULE 02-085

Gentlemen:

Enclosed is a copy of Clearinghouse Rule **02-085**, relating to **disabled parking placards**. The rule is submitted to you for referral to the appropriate standing committees.

Sincerely,

A handwritten signature in cursive script that reads "Julie A. Johnson".

Julie A. Johnson
Paralegal

JAJ/dim

Enclosure

cc: Gary Poulson (Deputy Revisor of Statutes)/Senator Judy Robson/
Representative Glenn Grothman/Roger Cross/Carson Frazier

CR 02-085

The Wisconsin Department of Transportation proposes an order to amend TRANS 130.04(1); and create TRANS 130.02(5m), relating to disabled parking placards.

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

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:

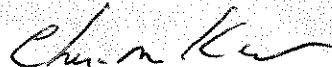
Part 1--Analysis prepared by the Department of Transportation.

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:



CHARLES M. KERNATS
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) 267-7940

PART 1

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 85.16(1), 227.11(2)(a) and 343.51, Stats.

STATUTES INTERPRETED: s. 343.51, Stats.

General Summary of Proposed Rule. The Division of Motor Vehicles accommodates persons who have a disability that limits or impairs the ability to walk. Disabled persons may receive a portable disabled parking identification placard, which allows parking in a specially reserved parking space. Disabled persons pay a fee of \$6 per placard, which is good for 4 years. A number of class action lawsuits have been filed against states (including Wisconsin) that charge a fee for disabled parking identification placards. These lawsuits allege that the practice of charging a fee for disabled parking identification placards violates the Americans with Disabilities Act (ADA). A settlement ended the Wisconsin lawsuit. Judge Nichol signed an order accepting the settlement, ordering DOT to cease collecting any fee for permanent placards after June 30, 2003, and dismissing the case. Jason, et al. v. Wisconsin DOT, Case No. 97-CV-3137, Dane County Circuit Court, April 15, 2002. The Department proposes to discontinue charging any fee for a permanent placard in compliance with the court order. The Department will continue to charge \$6 for temporary placards.

Fiscal Effect. The Transportation Fund will experience an annual revenue loss of approximately \$0.5 million.

Copies of Proposed Rule. Copies of the rule may be obtained upon request, without cost, by writing to Carson Frazier, Department of Transportation, Bureau of Vehicle Services, Room 253, P. O. Box 7911, Madison, WI 53707-7911, or by calling (608) 266-7857. 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.

PART 2

TEXT OF PROPOSED RULE

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 85.16(1), 227.11(2)(a) and 343.51, Stats., the department of transportation hereby proposes to amend a rule interpreting s. 343.51, Stats., relating to disabled parking placards.

SECTION 1. Trans 130.02(5m) and (8) are created to read:

Trans 130.02(5m) "Permanent card" means a card that is valid for 4 years.

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SECTION 2. Trans 130.04(1) is amended to read:

Trans 130.04(1) ISSUANCE FEE FOR A CARD. A fee of \$6.00 shall be charged for the issuance of ~~each card, or for the replacement, or~~ extension or renewal of a temporary card. Effective July 1, 2003, no fee may be charged for the issuance, replacement, extension or renewal of a permanent card.

(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)(intro.), Stats.

Signed at Madison, Wisconsin, this 21ST day of August, 2002.


THOMAS E. CARLSEN, P.E.

Acting Secretary
Wisconsin Department of Transportation

PART 4
CR 02-085

ANALYSIS OF FINAL DRAFT OF TRANS 130

(a) **Need for Amended Rule.** The Division of Motor Vehicles accommodates persons who have a disability that limits or impairs the ability to walk. Disabled persons may receive a portable disabled parking identification placard, which allows parking in a specially reserved parking space. Disabled persons pay a fee of \$6 per placard, which is good for 4 years. A number of class action lawsuits have been filed against states (including Wisconsin) that charge a fee for disabled parking identification placards. These lawsuits allege that the practice of charging a fee for disabled parking identification placards violates the Americans with Disabilities Act (ADA). A settlement ended the Wisconsin lawsuit. Judge Nichol signed an order accepting the settlement, ordering DOT to cease collecting any fee for permanent placards after June 30, 2003, and dismissing the case. Jason, et al. v. Wisconsin DOT, Case No. 97-CV-3137, Dane County Circuit Court, April 15, 2002. The Department proposes to discontinue charging any fee for a permanent placard in compliance with the court order. The Department will continue to charge \$6 for temporary placards.

(b) **Modifications as a Result of Testimony at Public Hearing.** The public hearing was held in Madison on August 9, 2002. No modifications were made as a result of testimony at the hearing.

(c) **List of Persons who Appeared or Registered at Public Hearing.** No one appeared/registered at the hearing.

The written comment period was held open until close of business August 16, 2002. Written comments were received from:

Donna Fortin, E8901 730th Avenue, Colfax, WI 54730—in favor of the rule.

(d) **Response to Legislative Council Recommendations.** The Legislative Council made no recommendations to the proposed rule.

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