

2003 SENATE BILL 442

February 9, 2004 – Introduced by Senators LEIBHAM, KANAVAS, REYNOLDS, A. LASEE and S. FITZGERALD, cosponsored by Representatives AINSWORTH, KESTELL, HINES, MONTGOMERY, ALBERS, NASS, OTT, HUNDERTMARK, TAYLOR, TOWNSEND and GUNDERSON. Referred to Committee on Transportation and Information Infrastructure.

1 **AN ACT to amend** 343.16 (1) (a), 343.16 (1) (b) (intro.), 343.16 (1) (b) 2., 343.16
 2 (1) (b) 3. (intro.), 343.16 (1) (b) 4. and 343.16 (1) (b) 5. of the statutes; **relating**
 3 **to:** permitting third-party testers to administer driving skills tests for certain
 4 noncommercial motor vehicle drivers.

Analysis by the Legislative Reference Bureau

Under current law, with limited exceptions, applicants for an operator's license are required to successfully complete a knowledge test and a driving skills (road) test. Generally Department of Transportation (DOT) examiners must administer road tests except that DOT may contract with third-party testers to conduct road tests for commercial motor vehicle operators and school bus operators.

This bill permits DOT to contract with third-party testers to conduct road tests for "Class D" vehicle operators. "Class D" vehicles include most noncommercial motor vehicles other than Type 1 motorcycles.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 **SECTION 1.** 343.16 (1) (a) of the statutes, as affected by 2003 Wisconsin Act 33,
 6 is amended to read:

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1 343.16 (1) (a) *General.* ~~The~~ Except when examination by a 3rd-party tester is
2 permitted under pars. (b) and (c), the department shall examine every applicant for
3 an operator's license, including applicants for license renewal as provided in sub. (3),
4 and every applicant for authorization to operate a vehicle class or type for which the
5 applicant does not hold currently valid authorization, other than an instruction
6 permit. Except as provided in sub. (2) (cm) and (e), the examinations of applicants
7 for licenses authorizing operation of "Class A", "Class B", "Class C", "Class D" or
8 "Class M" vehicles shall include both a knowledge test and an actual demonstration
9 in the form of a driving skills test of the applicant's ability to exercise ordinary and
10 reasonable control in the operation of a representative vehicle. The department shall
11 not administer a driving skills test to a person applying for authorization to operate
12 "Class M" vehicles who has failed 2 previous such skills tests unless the person has
13 successfully completed a rider course approved by the department. The department
14 may, by rule, exempt certain persons from the rider course requirement of this
15 paragraph. The driving skills of applicants for endorsements authorizing the
16 operation of commercial motor vehicles equipped with air brakes, the transportation
17 of passengers in commercial motor vehicles or the operation of school buses, as
18 provided in s. 343.04 (2) (b), (d) or (e), shall also be tested by an actual demonstration
19 of driving skills. The department may endorse an applicant's commercial driver
20 license for transporting hazardous materials requiring placarding or any quantity
21 of a material listed as a select agent or toxin under 42 CFR 73, subject to s. 343.125,
22 or for the operation of tank vehicles or vehicles towing double or triple trailers, as
23 described in s. 343.04 (2) (a), (c) or (f), based on successful completion of a knowledge
24 test. In administering the knowledge test, the department shall attempt to
25 accommodate any special needs of the applicant. Except as may be required by the

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1 department for an “H” or “S” endorsement, the knowledge test is not intended to be
2 a test for literacy or English language proficiency. This paragraph does not prohibit
3 the department from requiring an applicant to correctly read and understand
4 highway signs.

5 **SECTION 2.** 343.16 (1) (b) (intro.) of the statutes is amended to read:

6 343.16 (1) (b) *Third-party testing.* (intro.) The department may contract with
7 a person, including an agency or department of this state or its political subdivisions
8 or another state, or a private employer of commercial motor vehicle drivers, to
9 administer commercial motor vehicle skills tests required by 49 CFR 383.110 to
10 383.135, examinations required to be administered under s. 343.12 (2) (h) and,
11 abbreviated driving skills tests required by sub. (3) (b), or driving skills tests
12 required by par. (a) for authorization to operate “Class D” vehicles, or any
13 combination of these tests and examinations. The department may not enter into
14 such testing contracts with a private driver training school or other private
15 institution except a private employer of commercial motor vehicle drivers. A contract
16 with a 3rd-party tester shall include all of the following provisions:

17 **SECTION 3.** 343.16 (1) (b) 2. of the statutes is amended to read:

18 343.16 (1) (b) 2. The department, ~~the federal highway administration~~ or its
19 representative, or the federal highway administration with respect to testing for
20 commercial driver licenses, may conduct random examinations, inspections, and
21 audits of the 3rd-party tester without any prior notice.

22 **SECTION 4.** 343.16 (1) (b) 3. (intro.) of the statutes is amended to read:

23 343.16 (1) (b) 3. (intro.) At least annually, the department shall conduct an
24 on-site inspection of the 3rd-party tester to determine compliance with the contract
25 and with department and federal standards for testing applicants for commercial

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1 driver licenses and with department standards for testing applicants for school bus
2 endorsements and applicants for operators' licenses to operate "Class D" vehicles.

3 At least annually, the department shall also evaluate testing given by the 3rd-party
4 tester by one of the following means:

5 **SECTION 5.** 343.16 (1) (b) 4. of the statutes is amended to read:

6 343.16 (1) (b) 4. Examiners of the 3rd-party tester shall meet the same
7 qualifications and training standards as the department's license examiners to the
8 extent established by the department as necessary to satisfactorily perform the skills
9 tests required by 49 CFR 383.110 to 383.135, examinations required to be
10 administered under s. 343.12 (2) (h) ~~and~~, abbreviated driving skills tests required by
11 sub. (3) (b), and driving skills tests required by par. (a) for authorization to operate
12 "Class D" vehicles.

13 **SECTION 6.** 343.16 (1) (b) 5. of the statutes is amended to read:

14 343.16 (1) (b) 5. The department shall take prompt and appropriate remedial
15 action against the 3rd-party tester in the event that the tester fails to comply with
16 department or federal standards for commercial driver license testing, department
17 standards for school bus endorsement testing or testing for operators' licenses to
18 operate "Class D" vehicles, or any provision of the contract. Such action may include
19 immediate termination of testing by the 3rd-party tester and recovery of damages.

20 (END)