

Wanted
by Tues.
5/27
PM or
Wed 5/28 AM

CMR

This corresponds to
LFB paper 774, which
is set to be taken up
on Tues by JFC, and is
almost certain to pass -
it is therefore preliminary
to a budget amendment.
Thanks. Ann

READY FOR INTRODUCTION

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Gen. Cat.

AN ACT to amend 343.16 (1) (a), 343.17 (3) (d) 6. and 343.20 (1) (a); and to create
 343.125 of the statutes; relating to: ~~federal background investigations of~~
~~persons authorized~~ ^{authorization} to operate vehicles transporting ^{certain} hazardous materials
~~requiring placarding.~~

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

Insert
1-5

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

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~~SECTION 1. 343.125 of the statutes is created to read:~~

~~343.125 Endorsements for transporting hazardous materials
 requiring placarding. (1) Prior to the initial issuance or renewal of an
 endorsement specified in s. 343.17 (3) (d) 1m. to a commercial driver license, the
 department shall require the applicant for the endorsement to submit 2 fingerprint
 cards, each bearing a complete set of the person's fingerprints, to the department for~~

1 submittal to the federal transportation security administration of the federal
2 department of homeland security for the purposes of conducting a background
3 investigation of the applicant and verifying the applicant's eligibility under federal
4 law to transport hazardous materials requiring placarding.

5 (2) The department may not issue or renew an endorsement specified in s.
6 343.17 (3) (d) 1m. to a commercial driver license if the department has received notice
7 from the federal transportation security administration that the applicant is not
8 eligible to transport hazardous materials requiring placarding. Notwithstanding
9 sub. (3), the department shall cancel an endorsement issued under s. 343.17 (3) (d)
10 1m. to a commercial driver license at any time that the department receives notice
11 from the federal transportation security administration that the holder of the
12 commercial driver license is not eligible to transport hazardous materials requiring
13 placarding.

14 (3) An "H" endorsement to a commercial driver license issued under this
15 section expires 4 years after the date of issuance. The department may institute any
16 system of initial issuance or renewal of endorsements under this section that it
17 considers advisable for the purpose of gaining a uniform rate of renewals, including
18 providing for the initial issuance or first renewal after the effective date of this
19 subsection [revisor inserts date], of endorsements under this section that are valid
20 for any period less than 4 years. If the department issues or renews an endorsement
21 under this section that is valid for less than 4 years as authorized by this subsection,
22 the fees due under s. 343.21 (1) shall be prorated accordingly.

23 SECTION 2. 343.16 (1) (a) of the statutes is amended to read:

24 343.16 (1) (a) *General.* The department shall examine every applicant for an
25 operator's license, including applicants for license renewal as provided in sub. (3),

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

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~~SECTION 3.~~ 343.17 (3) (d) 6. of the statutes is amended to read:

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343.17 (3) (d) 6. "X" endorsement, which is an optional endorsement that may be used to indicate that the licensee holds both "H" and "N" endorsements. The department may not issue or renew an endorsement under this subdivision after the effective date of this subdivision ... [revisor inserts date].

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~~SECTION 4.~~ 343.20 (1) (a) of the statutes is amended to read:

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343.20 (1) (a) Except as otherwise expressly provided in this chapter, reinstated licenses, probationary licenses issued under s. 343.085 and original licenses other than instruction permits shall expire 2 years from the date of the applicant's next birthday. All Subject to s. 343.125 (3), all other licenses and license endorsements shall expire 8 years after the date of issuance. The department may institute any system of initial license issuance which it deems advisable for the purpose of gaining a uniform rate of renewals. In order to put such a system into operation, the department may issue licenses which are valid for any period less than the ordinary effective period of such license. If the department issues a license that is valid for less than the ordinary effective period as authorized by this paragraph, the fees due under s. 343.21 (1) (a), (b) and (d) shall be prorated accordingly.

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Handwritten notes: 17-18, 4-17, 18, 19, 4-18

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~~SECTION 5.~~ Nonstatutory provisions.

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~~(1) The department of transportation shall require any person who, on the effective date of this subsection, holds a valid endorsement issued under section 343.17 (3) (d) 1m. of the statutes to his or her commercial driver license to, not later than the first day of the 7th month beginning after the effective date of this subsection, submit 2 fingerprint cards, each bearing a complete set of the person's fingerprints, to the department of transportation for submittal to the federal transportation security administration of the federal department of homeland~~

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1 security for the purposes of conducting a background investigation of the person and
2 verifying the person's eligibility under federal law to transport hazardous materials
3 requiring placarding.

4 (2) Notwithstanding section 343.20 (1) (a) of the statutes, the department of
5 transportation shall cancel an endorsement issued under section 343.17 (3) (d) 1m.
6 of the statutes to the commercial driver license of a person specified under subsection
7 (1) if any of the following applies:

8 (a) The department of transportation receives notice from the federal
9 transportation security administration that the person is not eligible to transport
10 hazardous materials requiring placarding.

11 (b) The person fails to timely submit the information specified under subsection
12 (1).

13 (3) Notwithstanding section 343.125 of the statutes, as created by this act, a
14 person who has satisfied the requirements under subsection (1) is not required to
15 submit the information specified under section 343.125 (1) of the statutes, as created
16 by this act, upon application, within one year after the effective date of this
17 subsection, for renewal of an endorsement issued under section 343.17 (3) (d) 1m. of
18 the statutes to a commercial driver license.

19 **SECTION 6. Effective date.**

20 (1) This act takes effect on November 1, 2003, or on the day after publication,
21 whichever is later.

22

(END)

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2717/P2ins
ARG:.....

INSERT 1-5: ✓

SECTION 1. 340.01 (8) (d) of the statutes is amended to read:

340.01 (8) (d) The vehicle is transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73.

SECTION 2. 343.03 (1) (a) of the statutes is amended to read:

343.03 (1) (a) The department shall institute a classified driver license system meeting all federal standards under 49 USC 31301 to 31317 and 49 CFR 383 and 384.

SECTION 3. 343.04 (1) (c) 2. of the statutes is amended to read:

343.04 (1) (c) 2. The vehicle is transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73.

SECTION 4. 343.04 (2) (a) of the statutes is amended to read:

343.04 (2) (a) *Hazardous materials transporter.* Hazardous materials transporter vehicles are vehicles transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73.

SECTION 5. 343.055 (3) of the statutes is amended to read:

343.055 (3) VEHICLES TRANSPORTING HAZARDOUS MATERIALS, CARRYING PASSENGERS OR TOWING DOUBLE OR TRIPLE TRAILERS NOT WAIVED. Nothing in this section authorizes the operation of a combination vehicle with double or triple trailers, a vehicle transporting hazardous materials requiring placarding except as provided in sub. (1) (c), a vehicle transporting any quantity of a material listed as a select agent or toxin

under 42 CFR 73, or a vehicle carrying or designed to transport the driver and 15 or more persons, by a person who does not hold a valid operator's license properly endorsed to permit such operation.

SECTION 6. 343.07 (1m) (d) of the statutes is created to read:

343.07 (1m) (d) No person holding an instruction permit issued under this subsection may operate a vehicle transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73.

SECTION 7. 343.125 of the statutes is created to read:

343.125 Endorsements for transporting certain hazardous materials.

(1) In this section, "H" endorsement means an endorsement specified in s. 343.17 (3) (d) 1m.

(2) The department may not issue or renew an "H" endorsement to a commercial driver license unless all of the following apply:

(a) The applicant has submitted to the department documentary proof, in one or more of the following forms, that the applicant is a ^{U.S.} citizen of the United States or that the applicant's permanent presence in the United States is authorized under federal law:

1. A U.S. passport.
2. A birth certificate bearing an official seal or other mark of authentication and issued by a state, county, or municipality within the United States or by a territory or possession of the United States.
3. A certification of birth abroad issued by the federal department of state.
4. A certificate of naturalization.
5. A certificate of ~~United States~~ ^{U.S.} citizenship.

6. A permanent resident card or alien registration receipt card.

7. Any other proof specified in 49 CFR 383.71 (a) (9).

(b) If the applicant submits proof described under par. (a) 6. or 7., the applicant submits his or her bureau of citizenship and immigration services alien registration number.

(c) The applicant has passed any knowledge test required by the department.

(d) The department has received notice from the federal transportation security administration of the federal department of homeland security that the applicant does not pose a security threat warranting denial of an "H" endorsement or that the applicant has received a waiver under 49 CFR 1572.143.

(3) (a) An "H" endorsement shall expire 4 years after the licensee's next birthday after the date of issuance or renewal.

(b) Notwithstanding par. (a), the initial period for which an "H" endorsement is valid is the earlier of the following but not less than 12 months:

1. The date on which the licensee's commercial driver license expires. This subdivision does not apply if the licensee renews his or her commercial driver license at the same time that the "H" endorsement is issued.

2. The date 4 years before the date on which the licensee's commercial driver license expires.

(4) Within 15 days after receiving notice from the federal transportation security administration of the federal department of homeland security, the department shall do all of the following:

(a) Update the department's records to reflect the notice received, the issuance, denial, or cancellation of an "H" endorsement, and, if applicable, the expiration date of the "H" endorsement.

(b) Notify the commercial driver license information system of the notice received and the department's action.

(c) Issue the "H" endorsement, if the department received notice described in sub. (2) (d) and the applicant is otherwise eligible for issuance of the "H" endorsement.

(d) Cancel or deny the "H" endorsement, if the notice is of a final administrative determination that the applicant or licensee poses a security threat warranting denial of an "H" endorsement.

(5) Notwithstanding s. 227.42, there is no right to a hearing on any cancellation or denial of an "H" endorsement under this section.

(6) Notwithstanding sub. (3) and s. 343.20 (1) (a), the department may require any person who holds a valid "H" endorsement on November 1, 2003, to apply for renewal of that endorsement, if that endorsement expires after November 1, 2008. The department shall provide the notice required under s. 343.20 (2) (b). The department may cancel the "H" endorsement of any person who fails to renew within the period specified by the department under this subsection. This subsection does not apply to "H" endorsements that are issued or renewed after November 1, 2003.

SECTION 8. 343.14 (2g) of the statutes is created to read:

343.14 (2g) (a) Notwithstanding ss. 111.321, 111.322, and 111.335 and any other provision of law, in addition to the information required under sub. (2), the application form for an "H" endorsement specified in s. 343.17 (3) (d) 1m. shall include all of the information and statements required under 49 CFR 1572.5 (e), including all of the following:

1. The list of disqualifying felony criminal offenses specified in 49 CFR 1572.103 (b).

2. A statement that the individual signing the application meets all of the following requirements:

The individual
a. Has not been convicted, or found not guilty by reason of insanity, of any disqualifying felony criminal offense described in subd. 1. in any jurisdiction during the 7-year period preceding the date of the application.

b. Has not been released from incarceration in any jurisdiction for committing any disqualifying felony criminal offense described in subd. 1. within the 5-year period preceding the date of the application.

c. Is not wanted or under indictment for any disqualifying felony criminal offense described in subd. 1.

d. Is a ^{U.S.} citizen of the United States who has not renounced that citizenship, or is lawfully admitted for permanent residence to the United States. If the applicant is lawfully admitted for permanent residence to the United States, the applicant shall provide the applicant's alien registration number issued by the federal department of homeland security.

3. A statement that the individual signing the application has been informed that s. 343.245 (2) (a) 1. and federal regulations under 49 CFR 1572.5 impose an ongoing obligation to disclose to the department within 24 hours if the individual is convicted, or found not guilty by reason of insanity, of any disqualifying felony criminal offense described in subd. 1., or adjudicated as a mental defective or committed to a mental institution, while he or she holds an "H" endorsement specified in s. 343.17 (3) (d) 1m.

4. Notwithstanding sub. (2) (br) and the provisions of any memorandum of understanding entered into under s. 49.857 (2), the applicant's social security number.

of transportation

(b) Upon receiving a completed application form for an "H" endorsement specified in s. 343.17 (3) (d) 1m., the department shall immediately forward the application to the federal transportation safety administration of the federal department of homeland security. The department shall also inform the applicant that the applicant has a right to obtain a copy of the applicant's criminal history record by submitting a written request for that record to the federal transportation security administration.

SECTION 9. 343.16 (1) (a) of the statutes is amended to read:

343.16 (1) (a) *General.* The department shall examine every applicant for an operator's license, including applicants for license renewal as provided in sub. (3), and every applicant for authorization to operate a vehicle class or type for which the applicant does not hold currently valid authorization, other than an instruction permit. Except as provided in sub. (2) (cm) and (e), the examinations of applicants for licenses authorizing operation of "Class A", "Class B", "Class C", "Class D" or "Class M" vehicles shall include both a knowledge test and an actual demonstration in the form of a driving skills test of the applicant's ability to exercise ordinary and reasonable control in the operation of a representative vehicle. The department shall not administer a driving skills test to a person applying for authorization to operate "Class M" vehicles who has failed 2 previous such skills tests unless the person has successfully completed a rider course approved by the department. The department may, by rule, exempt certain persons from the rider course requirement of this paragraph. The driving skills of applicants for endorsements authorizing the operation of commercial motor vehicles equipped with air brakes, the transportation of passengers in commercial motor vehicles or the operation of school buses, as provided in s. 343.04 (2) (b), (d) or (e), shall also be tested by an actual demonstration

of driving skills. The department may endorse an applicant's commercial driver license for transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73, subject to s. 343.125, or for the operation of tank vehicles or vehicles towing double or triple trailers, as described in s. 343.04 (2) (a), (c) or (f), based on successful completion of a knowledge test. In administering the knowledge test, the department shall attempt to accommodate any special needs of the applicant. Except as may be required by the department for an "H" or "S" endorsement, the knowledge test is not intended to be a test for literacy or English language proficiency. This paragraph does not prohibit the department from requiring an applicant to correctly read and understand highway signs.

SECTION 10. 343.17 (3) (d) 1m. of the statutes is amended to read:

343.17 (3) (d) 1m. "H" endorsement, which authorizes the driver to operate vehicles transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73.

INSERT 4-17:

SECTION 11. 343.20 (2) of the statutes is renumbered 343.20 (2) (a) and amended to read:

343.20 (2) (a) The department shall mail to the last-known address of a licensee at least 30 days prior to the expiration of the license a notice of the date upon which ~~such~~ ^{the} license must be renewed.

(c) Failure to receive notice to renew such a license or endorsement shall not be a defense to a charge of operating a motor vehicle without a valid operator's license or endorsement.

of transportation

SECTION 12. 343.20 (2) (b) of the statutes is created to read:

343.20 (2) (b) Notwithstanding par. (a), at least 180 days prior to the expiration of an "H" endorsement specified in s. 343.17 (3) (d) 1m., the department shall mail a notice to the last-known address of the licensee that the licensee is required to pass a security threat assessment screening by the federal transportation security administration of the federal department of homeland security as part of the application to renew the endorsement. The notice shall inform the licensee that the licensee may commence the federal security threat assessment screening at any time, but no later than 90 days before expiration of the endorsement.

SECTION 13. 343.23 (2) (a) (intro.) of the statutes is amended to read:

343.23 (2) (a) (intro.) The department shall maintain a file for each licensee or other person containing the application for license, permit or endorsement, a record of reports or abstract of convictions, any notice received from the federal transportation security administration concerning the person's eligibility for an "H" endorsement specified in s. 343.17 (3) (d) 1m., the status of the person's authorization to operate different vehicle groups, a record of any out-of-service orders issued under s. 343.305 (7) (b) or (9) (am) and a record of any reportable accident in which the person has been involved, including specification of any type of license and endorsements issued under this chapter under which the person was operating at the time of the accident and an indication whether or not the accident occurred in the course of any of the following:

SECTION 14. 343.245 (2) (a) 1. of the statutes is amended to read:

343.245 (2) (a) 1. 'To state.' A person, after applying for or receiving a commercial driver license issued by this state, who is convicted of violating in a motor vehicle any law of this state or local ordinance adopted in conformity therewith or

a law enacted by a federally recognized American Indian tribe or band in this state which is in conformity with any law of this state, or the law of another jurisdiction, relating to motor vehicle traffic control, other than parking violations, shall notify the department of the conviction in the manner specified by the department within 30 days after the date of conviction. Notwithstanding any other provision of law, a person who holds an "H" endorsement specified in s. 343.17 (3) (d) 1m. shall notify the department within 24 hours if the person is convicted, or found not guilty by reason of insanity, of any disqualifying felony criminal offense described in s. 343.14 (2g) (a) 1., or adjudicated as a mental defective or committed to a mental institution.

SECTION 15. 343.265 (1r) of the statutes is created to read:

343.265 (1r) Notwithstanding sub. (1), the department shall accept the voluntary surrender of an "H" endorsement specified in s. 343.17 (3) (d) 1m. Upon accepting the surrender, the department shall immediately cancel the endorsement if the licensee is not eligible for the endorsement. Following cancellation under this subsection, the department shall take the actions required in s. 343.125 (4) (a) and (b). Upon accepting the surrender from a person to whom the department would not be prohibited from issuing an "H" endorsement, the department may remove that endorsement from the licensee's commercial driver license as a temporary surrender. The department may not issue an "H" endorsement to any person whose "H" endorsement is removed as a temporary surrender under this subsection unless the person applies for initial issuance of an "H" endorsement.

SECTION 16. 343.28 (1) of the statutes is amended to read:

343.28 (1) Whenever a person is convicted of a moving traffic violation under chs. 341 to 349 or under a local ordinance enacted under ch. 349, the clerk of the court in which the conviction occurred, or the justice, judge or magistrate of a court not

having a clerk, shall, as provided in s. 345.48, forward to the department the record of such conviction. The record of conviction forwarded to the department shall state whether the offender was involved in an accident at the time of the offense, whether the offender was operating a commercial motor vehicle at the time of the offense and, if so, whether the offender was transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73, or was operating a vehicle designed to carry, or actually carrying, 16 or more passengers, including the driver. Whenever a person is convicted of exceeding a posted speed limit, the record of conviction forwarded to the department shall include the number of miles per hour in excess of the posted speed limit.

SECTION 17. 343.28 (2) of the statutes is amended to read:

343.28 (2) Whenever a person is convicted of any offense for which s. 343.31 makes mandatory the revocation by the secretary of such person's operating privilege, the court in which the conviction occurred shall require the surrender to it of any license then held by such person. The clerk of the court, or the justice, judge or magistrate if the court has no clerk, shall, as provided in s. 345.48, forward to the department the record of conviction and any surrendered licenses. The record of conviction forwarded to the department shall state whether the offender was involved in an accident at the time of the offense, whether the offender was operating a commercial motor vehicle at the time of the offense and, if so, whether the offender was transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73, or was operating a vehicle designed to carry, or actually carrying, 16 or more passengers, including the driver.

SECTION 18. 343.315 (2) (b) of the statutes is amended to read:

343.315 (2) (b) If any of the violations listed in par. (a) occurred in the course of transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73 on or after July 1, 1987, the person shall be disqualified from operating a commercial motor vehicle for a 3-year period.

SECTION 19. 343.315 (2) (i) of the statutes is amended to read:

343.315 (2) (i) If the violation listed in par. (h) occurred in the course of transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CR 73, or while operating a vehicle designed to carry, or actually carrying, 16 or more passengers, including the driver, the person shall be disqualified from operating a commercial motor vehicle for 180 days upon a first conviction, or for a 3-year period for a 2nd or subsequent conviction, arising from separate occurrences committed within a 10-year period while driving or operating a commercial motor vehicle. A disqualification under this paragraph shall be in addition to any penalty imposed under s. 343.44.

SECTION 20. 345.11 (2m) (b) of the statutes is amended to read:

345.11 (2m) (b) Whether the vehicle was transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73.

INSERT 4-18:

(1) Notwithstanding section 343.20 (2) (b) of the statutes, as created by this act, the department of transportation shall provide the holder of an "H" endorsement specified in section 343.17 (3) (d) 1m. of the statutes, as affected by this act, that

expires before May 1, 2004, with as much advance written notice as practicable of the renewal requirements for the endorsement.

(2) Notwithstanding section 343.125 (2) and (3) of the statutes, as created by this act, the department of transportation may renew a commercial driver license with an "H" endorsement until such time as the department receives from the federal transportation security administration of the federal department of homeland security a final notice of threat assessment or a notice of no security threat concerning the applicant, or until April 29, 2004, whichever is earlier.



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2717/P2
ARG:kmg:cph

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to renumber and amend* 343.20 (2); *to amend* 340.01 (8) (d), 343.03
2 (1) (a), 343.04 (1) (c) 2., 343.04 (2) (a), 343.055 (3), 343.16 (1) (a), 343.17 (3) (d)
3 1m., 343.17 (3) (d) 6., 343.20 (1) (a), 343.23 (2) (a) (intro.), 343.245 (2) (a) 1.,
4 343.28 (1), 343.28 (2), 343.315 (2) (b), 343.315 (2) (i) and 345.11 (2m) (b); and *to*
5 *create* 343.07 (1m) (d), 343.125, 343.14 (2g), 343.20 (2) (b) and 343.265 (1r) of
6 the statutes; **relating to:** authorization to operate vehicles transporting
7 certain hazardous materials.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

8 **SECTION 1.** 340.01 (8) (d) of the statutes is amended to read:
9 340.01 (8) (d) The vehicle is transporting hazardous materials requiring
10 placarding or any quantity of a material listed as a select agent or toxin under 42 CFR
11 73.

1 SECTION 2. 343.03 (1) (a) of the statutes is amended to read:

2 343.03 (1) (a) The department shall institute a classified driver license system
3 meeting all federal standards under 49 USC 31301 to 31317 and 49 CFR 383 and 384.

4 SECTION 3. 343.04 (1) (c) 2. of the statutes is amended to read:

5 343.04 (1) (c) 2. The vehicle is transporting hazardous materials requiring
6 placarding or any quantity of a material listed as a select agent or toxin under 42 CFR
7 73.

8 SECTION 4. 343.04 (2) (a) of the statutes is amended to read:

9 343.04 (2) (a) *Hazardous materials transporter.* Hazardous materials
10 transporter vehicles are vehicles transporting hazardous materials requiring
11 placarding or any quantity of a material listed as a select agent or toxin under 42 CFR
12 73.

13 SECTION 5. 343.055 (3) of the statutes is amended to read:

14 343.055 (3) VEHICLES TRANSPORTING HAZARDOUS MATERIALS, CARRYING PASSENGERS
15 OR TOWING DOUBLE OR TRIPLE TRAILERS NOT WAIVED. Nothing in this section authorizes
16 the operation of a combination vehicle with double or triple trailers, a vehicle
17 transporting hazardous materials requiring placarding except as provided in sub. (1)
18 (c), a vehicle transporting any quantity of a material listed as a select agent or toxin
19 under 42 CFR 73, or a vehicle carrying or designed to transport the driver and 15 or
20 more persons, by a person who does not hold a valid operator's license properly
21 endorsed to permit such operation.

22 SECTION 6. 343.07 (1m) (d) of the statutes is created to read:

23 343.07 (1m) (d) No person holding an instruction permit issued under this
24 subsection may operate a vehicle transporting hazardous materials requiring

1 placarding or any quantity of a material listed as a select agent or toxin under 42 CFR
2 73.

3 SECTION 7. 343.125 of the statutes is created to read:

4 **343.125 Endorsements for transporting certain hazardous materials.**

5 (1) In this section, “H” endorsement” means an endorsement specified in s.
6 343.17 (3) (d) 1m.

7 (2) The department may not issue or renew an “H” endorsement to a
8 commercial driver license unless all of the following apply:

9 (a) The applicant has submitted to the department documentary proof, in one
10 or more of the following forms, that the applicant is a U.S. citizen or that the
11 applicant’s permanent presence in the United States is authorized under federal law:

12 1. A U.S. passport.

13 2. A birth certificate bearing an official seal or other mark of authentication and
14 issued by a state, county, or municipality within the United States or by a territory
15 or possession of the United States.

16 3. A certification of birth abroad issued by the federal department of state.

17 4. A certificate of naturalization.

18 5. A certificate of U.S. citizenship.

19 6. A permanent resident card or alien registration receipt card.

20 7. Any other proof specified in 49 CFR 383.71 (a) (9).

21 (b) If the applicant submits proof described under par. (a) 6. or 7., the applicant
22 submits his or her bureau of citizenship and immigration services alien registration
23 number.

24 (c) The applicant has passed any knowledge test required by the department.

1 (d) The department of transportation has received notice from the federal
2 transportation security administration of the federal department of homeland
3 security that the applicant does not pose a security threat warranting denial of an
4 "H" endorsement or that the applicant has received a waiver under 49 CFR 1572.143.

5 (3) (a) An "H" endorsement shall expire 4 years after the licensee's next
6 birthday after the date of issuance or renewal.

7 (b) Notwithstanding par. (a), the initial period for which an "H" endorsement
8 is valid is the earlier of the following, but not less than 12 months:

9 1. The date on which the licensee's commercial driver license expires. This
10 subdivision does not apply if the licensee renews his or her commercial driver license
11 at the same time that the "H" endorsement is issued.

12 2. The date 4 years before the date on which the licensee's commercial driver
13 license expires.

14 (4) Within 15 days after receiving notice from the federal transportation
15 security administration of the federal department of homeland security, the
16 department of transportation shall do all of the following:

17 (a) Update the department's records to reflect the notice received, the issuance,
18 denial, or cancellation of an "H" endorsement, and, if applicable, the expiration date
19 of the "H" endorsement.

20 (b) Notify the commercial driver license information system of the notice
21 received and the department's action.

22 (c) Issue the "H" endorsement, if the department received notice described in
23 sub. (2) (d) and the applicant is otherwise eligible for issuance of the "H"
24 endorsement.

1 (d) Cancel or deny the “H” endorsement, if the notice is of a final administrative
2 determination that the applicant or licensee poses a security threat warranting
3 denial of an “H” endorsement.

4 (5) Notwithstanding s. 227.42, there is no right to a hearing on any cancellation
5 or denial of an “H” endorsement under this section.

6 (6) Notwithstanding sub. (3) and s. 343.20 (1) (a), the department may require
7 any person who holds a valid “H” endorsement on November 1, 2003, to apply for
8 renewal of that endorsement, if that endorsement expires after November 1, 2008.
9 The department shall provide the notice required under s. 343.20 (2) (b). The
10 department may cancel the “H” endorsement of any person who fails to renew within
11 the period specified by the department under this subsection. This subsection does
12 not apply to “H” endorsements that are issued or renewed after November 1, 2003.

13 **SECTION 8.** 343.14 (2g) of the statutes is created to read:

14 343.14 (2g) (a) Notwithstanding ss. 111.321, 111.322, and 111.335 and any
15 other provision of law, in addition to the information required under sub. (2), the
16 application form for an “H” endorsement specified in s. 343.17 (3) (d) 1m. shall
17 include all of the information and statements required under 49 CFR 1572.5 (e),
18 including all of the following:

19 1. The list of disqualifying felony criminal offenses specified in 49 CFR
20 1572.103 (b).

21 2. A statement that the individual signing the application meets all of the
22 following requirements:

23 a. The individual has not been convicted, or found not guilty by reason of
24 insanity, of any disqualifying felony criminal offense described in subd. 1. in any
25 jurisdiction during the 7-year period preceding the date of the application.

1 b. The individual has not been released from incarceration in any jurisdiction
2 for committing any disqualifying felony criminal offense described in subd. 1. within
3 the 5-year period preceding the date of the application.

4 c. The individual is not wanted or under indictment for any disqualifying felony
5 criminal offense described in subd. 1.

6 d. The individual is a U.S. citizen who has not renounced that citizenship, or
7 is lawfully admitted for permanent residence to the United States. If the applicant
8 is lawfully admitted for permanent residence to the United States, the applicant
9 shall provide the applicant's alien registration number issued by the federal
10 department of homeland security.

11 3. A statement that the individual signing the application has been informed
12 that s. 343.245 (2) (a) 1. and federal regulations under 49 CFR 1572.5 impose an
13 ongoing obligation to disclose to the department within 24 hours if the individual is
14 convicted, or found not guilty by reason of insanity, of any disqualifying felony
15 criminal offense described in subd. 1., or adjudicated as a mental defective or
16 committed to a mental institution, while he or she holds an "H" endorsement
17 specified in s. 343.17 (3) (d) 1m.

18 4. Notwithstanding sub. (2) (br) and the provisions of any memorandum of
19 understanding entered into under s. 49.857 (2), the applicant's social security
20 number.

21 (b) Upon receiving a completed application form for an "H" endorsement
22 specified in s. 343.17 (3) (d) 1m., the department of transportation shall immediately
23 forward the application to the federal transportation safety administration of the
24 federal department of homeland security. The department of transportation shall
25 also inform the applicant that the applicant has a right to obtain a copy of the

1 applicant's criminal history record by submitting a written request for that record
2 to the federal transportation security administration.

3 SECTION 9. 343.16 (1) (a) of the statutes is amended to read:

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

1 test. In administering the knowledge test, the department shall attempt to
2 accommodate any special needs of the applicant. Except as may be required by the
3 department for an “H” or “S” endorsement, the knowledge test is not intended to be
4 a test for literacy or English language proficiency. This paragraph does not prohibit
5 the department from requiring an applicant to correctly read and understand
6 highway signs.

7 SECTION 10. 343.17 (3) (d) 1m. of the statutes is amended to read:

8 343.17 (3) (d) 1m. “H” endorsement, which authorizes the driver to operate
9 vehicles transporting hazardous materials requiring placarding or any quantity of
10 a material listed as a select agent or toxin under 42 CFR 73.

11 SECTION 11. 343.17 (3) (d) 6. of the statutes is amended to read:

12 343.17 (3) (d) 6. “X” endorsement, which is an optional endorsement that may
13 be used to indicate that the licensee holds both “H” and “N” endorsements. The
14 department may not issue or renew an endorsement under this subdivision after the
15 effective date of this subdivision ... [revisor inserts date].

16 SECTION 12. 343.20 (1) (a) of the statutes is amended to read:

17 343.20 (1) (a) Except as otherwise expressly provided in this chapter,
18 reinstated licenses, probationary licenses issued under s. 343.085 and original
19 licenses other than instruction permits shall expire 2 years from the date of the
20 applicant’s next birthday. All Subject to s. 343.125 (3), all other licenses and license
21 endorsements shall expire 8 years after the date of issuance. The department may
22 institute any system of initial license issuance which it deems advisable for the
23 purpose of gaining a uniform rate of renewals. In order to put such a system into
24 operation, the department may issue licenses which are valid for any period less than
25 the ordinary effective period of such license. If the department issues a license that

1 is valid for less than the ordinary effective period as authorized by this paragraph,
2 the fees due under s. 343.21 (1) (a), (b) and (d) shall be prorated accordingly.

3 SECTION 13. 343.20 (2) of the statutes is renumbered 343.20 (2) (a) and
4 amended to read:

5 343.20 (2) (a) The department shall mail to the last-known address of a
6 licensee at least 30 days prior to the expiration of the license a notice of the date upon
7 which such the license must be renewed.

8 (c) Failure to receive notice to renew such a license or endorsement shall not
9 be a defense to a charge of operating a motor vehicle without a valid operator's license
10 or endorsement.

11 SECTION 14. 343.20 (2) (b) of the statutes is created to read:

12 343.20 (2) (b) Notwithstanding par. (a), at least 180 days prior to the expiration
13 of an "H" endorsement specified in s. 343.17 (3) (d) 1m., the department of
14 transportation shall mail a notice to the last-known address of the licensee that the
15 licensee is required to pass a security threat assessment screening by the federal
16 transportation security administration of the federal department of homeland
17 security as part of the application to renew the endorsement. The notice shall inform
18 the licensee that the licensee may commence the federal security threat assessment
19 screening at any time, but no later than 90 days before expiration of the
20 endorsement.

21 SECTION 15. 343.23 (2) (a) (intro.) of the statutes is amended to read:

22 343.23 (2) (a) (intro.) The department shall maintain a file for each licensee or
23 other person containing the application for license, permit or endorsement, a record
24 of reports or abstract of convictions, any notice received from the federal
25 transportation security administration concerning the person's eligibility for an "H"

1 endorsement specified in s. 343.17 (3) (d) 1m., the status of the person's authorization
2 to operate different vehicle groups, a record of any out-of-service orders issued
3 under s. 343.305 (7) (b) or (9) (am) and a record of any reportable accident in which
4 the person has been involved, including specification of any type of license and
5 endorsements issued under this chapter under which the person was operating at
6 the time of the accident and an indication whether or not the accident occurred in the
7 course of any of the following:

8 **SECTION 16.** 343.245 (2) (a) 1. of the statutes is amended to read:

9 343.245 (2) (a) 1. "To state." A person, after applying for or receiving a
10 commercial driver license issued by this state, who is convicted of violating in a motor
11 vehicle any law of this state or local ordinance adopted in conformity therewith or
12 a law enacted by a federally recognized American Indian tribe or band in this state
13 which is in conformity with any law of this state, or the law of another jurisdiction,
14 relating to motor vehicle traffic control, other than parking violations, shall notify
15 the department of the conviction in the manner specified by the department within
16 30 days after the date of conviction. Notwithstanding any other provision of law, a
17 person who holds an "H" endorsement specified in s. 343.17 (3) (d) 1m. shall notify
18 the department within 24 hours if the person is convicted, or found not guilty by
19 reason of insanity, of any disqualifying felony criminal offense described in s. 343.14
20 (2g) (a) 1., or adjudicated as a mental defective or committed to a mental institution.

21 **SECTION 17.** 343.265 (1r) of the statutes is created to read:

22 343.265 (1r) Notwithstanding sub. (1), the department shall accept the
23 voluntary surrender of an "H" endorsement specified in s. 343.17 (3) (d) 1m. Upon
24 accepting the surrender, the department shall immediately cancel the endorsement
25 if the licensee is not eligible for the endorsement. Following cancellation under this

1 subsection, the department shall take the actions required in s. 343.125 (4) (a) and
2 (b). Upon accepting the surrender from a person to whom the department would not
3 be prohibited from issuing an “H” endorsement, the department may remove that
4 endorsement from the licensee’s commercial driver license as a temporary surrender.
5 The department may not issue an “H” endorsement to any person whose “H”
6 endorsement is removed as a temporary surrender under this subsection unless the
7 person applies for initial issuance of an “H” endorsement.

8 **SECTION 18.** 343.28 (1) of the statutes is amended to read:

9 343.28 (1) Whenever a person is convicted of a moving traffic violation under
10 chs. 341 to 349 or under a local ordinance enacted under ch. 349, the clerk of the court
11 in which the conviction occurred, or the justice, judge or magistrate of a court not
12 having a clerk, shall, as provided in s. 345.48, forward to the department the record
13 of such conviction. The record of conviction forwarded to the department shall state
14 whether the offender was involved in an accident at the time of the offense, whether
15 the offender was operating a commercial motor vehicle at the time of the offense and,
16 if so, whether the offender was transporting hazardous materials requiring
17 placarding or any quantity of a material listed as a select agent or toxin under 42 CFR
18 73, or was operating a vehicle designed to carry, or actually carrying, 16 or more
19 passengers, including the driver. Whenever a person is convicted of exceeding a
20 posted speed limit, the record of conviction forwarded to the department shall
21 include the number of miles per hour in excess of the posted speed limit.

22 **SECTION 19.** 343.28 (2) of the statutes is amended to read:

23 343.28 (2) Whenever a person is convicted of any offense for which s. 343.31
24 makes mandatory the revocation by the secretary of such person’s operating
25 privilege, the court in which the conviction occurred shall require the surrender to

1 it of any license then held by such person. The clerk of the court, or the justice, judge
2 or magistrate if the court has no clerk, shall, as provided in s. 345.48, forward to the
3 department the record of conviction and any surrendered licenses. The record of
4 conviction forwarded to the department shall state whether the offender was
5 involved in an accident at the time of the offense, whether the offender was operating
6 a commercial motor vehicle at the time of the offense and, if so, whether the offender
7 was transporting hazardous materials requiring placarding or any quantity of a
8 material listed as a select agent or toxin under 42 CFR 73, or was operating a vehicle
9 designed to carry, or actually carrying, 16 or more passengers, including the driver.

10 SECTION 20. 343.315 (2) (b) of the statutes is amended to read:

11 343.315 (2) (b) If any of the violations listed in par. (a) occurred in the course
12 of transporting hazardous materials requiring placarding or any quantity of a
13 material listed as a select agent or toxin under 42 CFR 73 on or after July 1, 1987,
14 the person shall be disqualified from operating a commercial motor vehicle for a
15 3-year period.

16 SECTION 21. 343.315 (2) (i) of the statutes is amended to read:

17 343.315 (2) (i) If the violation listed in par. (h) occurred in the course of
18 transporting hazardous materials requiring placarding or any quantity of a material
19 listed as a select agent or toxin under 42 CR 73, or while operating a vehicle designed
20 to carry, or actually carrying, 16 or more passengers, including the driver, the person
21 shall be disqualified from operating a commercial motor vehicle for 180 days upon
22 a first conviction, or for a 3-year period for a 2nd or subsequent conviction, arising
23 from separate occurrences committed within a 10-year period while driving or
24 operating a commercial motor vehicle. A disqualification under this paragraph shall
25 be in addition to any penalty imposed under s. 343.44.

1 **SECTION 22.** 345.11 (2m) (b) of the statutes is amended to read:

2 345.11 (2m) (b) Whether the vehicle was transporting hazardous materials
3 requiring placarding or any quantity of a material listed as a select agent or toxin
4 under 42 CFR 73.

5 **SECTION 23. Nonstatutory provisions.**

6 (1) Notwithstanding section 343.20 (2) (b) of the statutes, as created by this act,
7 the department of transportation shall provide the holder of an “H” endorsement
8 specified in section 343.17 (3) (d) 1m. of the statutes, as affected by this act, that
9 expires before May 1, 2004, with as much advance written notice as practicable of the
10 renewal requirements for the endorsement.

11 (2) Notwithstanding section 343.125 (2) and (3) of the statutes, as created by
12 this act, the department of transportation may renew a commercial driver license
13 with an “H” endorsement until such time as the department of transportation
14 receives from the federal transportation security administration of the federal
15 department of homeland security a final notice of threat assessment or a notice of no
16 security threat concerning the applicant, or until April 29, 2004, whichever is earlier.

17 **SECTION 24. Effective date.**

18 (1) This act takes effect on November 1, 2003, or on the day after publication,
19 whichever is later.

20

(END)