



(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...  
PUBLIC HEARING - COMMITTEE RECORDS**

**2005-06**

(session year)

**Senate**

(Assembly, Senate or Joint)

**Committee on Natural Resources and  
Transportation...**

**COMMITTEE NOTICES ...**

- Committee Reports ... **CR**
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**INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL**

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
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- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**







## Wisconsin Department of Transportation

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The Honorable Senator Neal Kedzie  
Chairman, Senate Transportation Committee  
Room 313 South  
State Capitol  
Madison, Wisconsin 53707

January 4, 2005

The Honorable Representative John Ainsworth  
Chairman, Assembly Transportation Committee  
Room 309 North, State Capitol  
Madison, Wisconsin 53702

RE: Proposed Administrative Rule **TRANS 102**  
Notification of Legislative Standing Committees  
**CLEARINGHOUSE RULE 04-100**

Dear Senator Leibham and Representative Ainsworth:

In accordance with the Department of Transportation's efforts to keep you informed of its ongoing rule making actions, enclosed is a courtesy copy of Final Draft rule **Trans 102**, relating to **proof of identification**, which is being submitted to the Legislature for committee review.

Sincerely,

A handwritten signature in black ink that reads "Julie A. Johnson". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Julie A. Johnson  
Paralegal

JAJ/dim

Enclosure

cc: Beverly Larson  
Phil Alioto

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**CR 04-100**

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The Wisconsin Department of Transportation proposes an order to repeal TRANS 102.15(3)(a)12. to 14., (4)(a)8. to 10., 15. to 17. and 20., and (4)(b); renumber and amend TRANS 102.15(7); amend TRANS 102.15(2)(c)(intro.), (3)(a)2.(note), 4. to 8., 11., and 15. to 19., (3)(b)1., (4)(a)(intro.), 2., 5. to 7., 12., 18., 19. and 21., (4)(b)3., and (5)(a) to (c); repeal and recreate TRANS 102.15(4)(b), (c)2.; and create TRANS 102.02(7m), 102.025, 102.03(2m), 102.15(2)(c)8., (3)(a)20., (4)(a)11.(note), 22. and 23., (4)(c)5., (4m), (5)(a)4. and (bm) and (7), relating to proof of identification

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

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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:

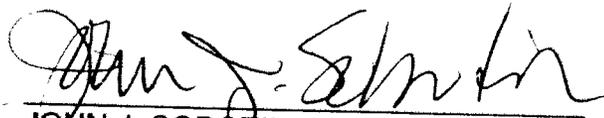
Part 1--Analysis prepared by the Department of Transportation.

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:



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## PART 1

### Analysis Prepared by the Wisconsin Department of Transportation

**STATUTORY AUTHORITY:** s. 343.14(2)(f), Stats.

**STATUTES INTERPRETED:** s. 343.14(2)(f), Stats.

**Plain Language Analysis:** This proposed rule modifies s. Trans 102.15, relating to proof of identification required to obtain a Wisconsin driver license or identification card. The amendment updates what documents the Department will accept for identification purposes when issuing driver licenses or identification cards. The Department proposes removing documents that no longer exist and removing documents with poor security and integrity. The Department also proposes to add acceptable identity documents that are useful in verifying a person's name, date of birth, identity and residency. The rule changes will help ensure that driver licenses and identification cards are issued to correctly identified people and not to persons using fictitious identities.

Other proposed changes include:

- Establishing acceptable documents as proof of Wisconsin residency.
- Giving law enforcement and Department employees the right to confiscate documents submitted for proof to support a false statement of the person's name and date of birth, identity or residency.
- Permitting the Department to require additional proof of identity in circumstances where identity theft has been reported.

This rule making creates s. Trans 102.025 which establishes criteria for all documents accepted by the Division of Motor Vehicles (DMV) as part of an application for driver license. This also sets the general rule that a document with a photograph of a person will not be accepted unless the person is readily recognizable from the photograph. Throughout s. Trans 102.15, the descriptive word "identifiable" is deleted because the now "readily recognizable" standard is adopted with regard to all documents that contain photographs. The intent is to give DMV field staff and processors more ability to request additional ID when a person is not easily recognized as being the person in a photo ID document.

Finally, this rule making proposes to permit the Department to enter into an agreement with the Department of Corrections (DOC) under which the DOC, as agent for the Department, can take digital photographs of inmates or to accept and transmit entire driver license applications to DMV. Permitting the Department of Corrections to transmit driver license applications to DMV may reduce DOC costs and enhance security by allowing driver license and ID card applications to be processed without requiring the DOC to transport inmates to DMV service centers.

**Summary of, and Preliminary Comparison with, Existing or Proposed Federal Regulation:** Federal law requires all commercial driver license (CDL) applicants provide social security numbers to the Department. Current statutes, however, require the Division of Motor Vehicles to issue a license without a social security number to any person who completes a form specified by the Department of Workforce Development (DWD). The DWD's form does not permit CDL applicants to obtain a waiver of the social security number requirement.

**Comparison with Rules in Adjacent States:** The following chart summarizes the provisions of proposed amendments to Ch. Trans 102 and how the issue is dealt with in the states bordering Wisconsin.

Wisconsin	Michigan	Minnesota	Illinois	Iowa
<p><b>Confiscation of Documents –</b> Proposed Trans 102.025(3) would permit DMV to seize suspected false identification documents.</p> <p>Does the state permit the DMV to confiscate suspected false identification?</p>	Yes, documents turned over to Investigative Unit	No, copy made, license not issued until issue resolved.	No, document turned over to investigator on-site	Yes
<p><b>SSN Religious Exemption –</b> Repeal of existing s. Trans 102.15(5)(b) would eliminate citizens' ability to cite religious grounds as a reason to decline to provide a social security number when obtaining a driver license.</p> <p>Does the state permit persons to decline to provide a SSN when obtaining a driver license?</p>	Yes	No	No	No

This rulemaking proposes to disallow use of a number of documents as identity documents in the driver licensing process. The following table shows whether the states identified permit or do not permit the use of the cited documents for identification purposes in driver licensing.

Wisconsin	Michigan	Minnesota	Illinois	Iowa
A notification of birth registration issued by the state division of health or a county or health department s. Trans 102.15(3)(a)12.	No	No	No	No
A federal I-181 "memorandum of creation of lawful permanent residence" s. Trans 102.15(3)(a)13.	No	No	No	No
A northern marina card s. Trans 102.15(3)(a)14.	No	Yes	No	No
A U.S. merchants service photo identification card s. Trans 102.15(4)(a)8.	No	No	No	No

<b>Wisconsin</b>	<b>Michigan</b>	<b>Minnesota</b>	<b>Illinois</b>	<b>Iowa</b>
A copy of the person's federal or state income tax return s. Trans 102.15(4)(a)9.	No	No	No	Only tax documents completed by gov. agency
A professional license s. Trans 102.15(4)(a)10.	No	No	No	No
A private investigator's license s. Trans 102.15(4)(a)15.	No	No	No	No
A life insurance policy s. Trans 102.15(4)(a)16.	No	No	No	No
A canceled check s. Trans 102.15(4)(a)17.	No	No	No	No
A Canadian social insurance card s. Trans 102.15(4)(a)20.	No	No	No	Yes
<b>Amended – Proof of Name and Date of Birth</b>				
Proposed s. Trans 102.15(3)(a)15. would permit DOT to accept Native American identification cards if they meet several requirements.  Does the state permit the use of Native American identification cards for identification purposes in driver licensing?	No	Permits use of the American Indian card (I-872)	No	Permits use of ID card issued by the Canadian Dept. of Indian Affairs. U.S. Bureau of Indian Affairs or tribal ID cards are not acceptable as primary, but are accepted as secondary document
The rule proposes to accept driver licenses or IDs from other jurisdictions that are expired for less than 8 years. s. Trans 102.15(3)(a)16. s. Trans 102.15(4)(a)2. and 5.  Does the state accept driver licenses or IDs from other jurisdictions as proof of ID? If so, may the license/ID be expired?	Accepts another state or a Canadian driver license or identification card with a photo.	Accepts a photo driver's license, state identification card, or permit issued by a US state other than MN, DC, Guam, US VI, or Canadian Province or territory that is current or expired for 5 years or less.	Accepts out-of state drivers license/ID card only if "current."	Accepts photo driver's license/ID card or certified copy of a license/ID card that is valid or has not been expired more than 1 yr.  (Specifically rejects state ID cards from a few selected states.)
This rule proposes to allow DMV to accept a court order under seal related to the adoption or divorce of the individual or to a name or gender change that includes the person's current full legal name, date of birth and, in the case of a name change or divorce orders, the person's prior	Court Orders with seals or be a true copy.	Certified Court Orders	Court Order	Court order containing the applicant's <b>full</b> name, date of birth and court seal may be used as primary

Wisconsin	Michigan	Minnesota	Illinois	Iowa
<p>name. s. Trans 102.15(3)(a)17.</p> <p>Does the state permit the use of court orders as ID?</p>				<p>identification. A court order that does not contain the applicant's date of birth but does have <b>full</b> name may be used as a secondary form of ID.</p>
<b>Amended – Proof of Identity</b>				
<p>Proposed s. Trans 102.15(4)(a)6. would allow employer IDs to be used as proof of ID if the ID meets certain requirements.</p> <p>Does the state permit use of employer IDs as proof of identity?</p>	No	No	No	Yes
<p>Proposed s. Trans 102.15(4)(a)7. would allow a student photo identification card containing a photograph of the person to be used as ID.</p> <p>Does the state permit photo student IDs to be used as proof of identity?</p>	Yes	Yes	No	Yes
<p>Proposed s. Trans 102.15(4)(a)12. would permit the use of a valid original driver license from a foreign country accompanied by an international driver's permit that translates the original license as ID.</p> <p>Does the state permit licenses from other countries and their translations to be used as proof of ID?</p>	Yes	No	No	No
<p>Does the state permit welfare cards (Wisconsin Quest cards) to be used as proof of ID? s. Trans 102.15(4)(a)18.</p>	No	No	No	Yes
<p>A Forward Wisconsin ID medical assistance card s. Trans 102.15(4)(a)19.</p>	No	No	No	Yes
<p>Does the state permit use of identification cards issued by a Mexican consulate bearing photographs and signatures, or reproduction of the signatures, of the person as proof of ID? s. Trans 102.15(3)(a)19.</p>	No	No	No	No

Wisconsin	Michigan	Minnesota	Illinois	Iowa
<p>The department proposes to permit the department of corrections to take photos and accept driver license and ID applications from inmates and to accept the Wisconsin department of corrections ID cards as identity documents. s. Trans 102.15(3)(a)20.</p> <p>Does the state permit use of prison system IDs as proof of ID or permit prison staff to collect driver license applications on behalf of the driver licensing agency?</p>	No	No	No	No
<p>The department proposes to permit use of utility bills for water, gas, electric or land line phone service to be used as proof of Wisconsin residency. s. Trans 102.15(4m)(b)</p> <p>Does the state permit use of utility bills to prove residency?</p>	No	No	Yes	Yes
<p>The department proposes to permit the use of paycheck or pay stub with the customer's name and address, and the employer's name and address as proof of Wisconsin residency. s. Trans 102.15(4m)(c)</p> <p>Does the state permit use of pay stubs as proof of residency?</p>	No	No	yes	Yes
<p>The department proposes to permit use of an account statement at least 30 days old from a Wisconsin financial institution as proof of residency. s. Trans 102.15(4m)(d)</p> <p>Does the state permit use of financial institution account statements as proof of residency?</p>	No	No	Yes	Yes
<p>The department proposes to permit use of Milwaukee county ID cards issued after February 2000, but no later than July 1, 2003, as proof of residency. s. Trans 102.15(4m)(e)</p> <p>Does the state permit the use of county ID cards as proof of residency?</p>	No	No	No	No
<p>The department proposes to permit the use of an individual taxpayer identification number, or ITIN, along</p>	No	No	No	No

<b>Wisconsin</b>	<b>Michigan</b>	<b>Minnesota</b>	<b>Illinois</b>	<b>Iowa</b>
with the IRS letter listing a Wisconsin address as proof of residency. s. Trans 102.15(4m)(f)  Does the state permit use of tax ID numbers and IRS correspondence as proof of residency?				
The department proposes to permit use of Wisconsin work permits for minors to be used as proof of residency. s. Trans 102.15(4m)(g)  Does the state permit use of state issued work permits to be used as proof of residency?	No	No	No	No
The department proposes to permit an affirmation by an applicant's spouse, mother, father, child or legal guardian verifying that the applicant is a resident of Wisconsin as proof of residency if the person affirming holds a valid Wisconsin drivers license or ID card. s. Trans 102.15(4m)(h)  Does the state permit parents, spouses, children or legal guardians who hold driver licenses to affirm the residency of the driver?	No	No	No	No

**Summary of Factual Data and Analytical Methodologies Used and How the Related Findings Support the Regulatory Approach Chosen:** The Department compared the requirements of Wisconsin law with those of other states, AAMVA recommendations, and recommendations from Department staff in making changes to the types of documentation that will be acceptable as proof of name, date of birth, identity and residency.

**Effect on Small Business and, If Applicable, Any Analysis and Supporting Documentation Used to Determine Effect on Small Businesses:** This proposed rule will have no adverse impact on small businesses.

**Fiscal Effect and Anticipated Costs Incurred by Private Sector:** The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district, sewerage district, or federally-recognized tribes or bands. The Department estimates that there will be no fiscal impact on state or private sector revenues or liabilities.

**Copies of Rule:** Copies of the proposed rule may be obtained, without cost, by writing to Phil Alioto, Department of Transportation, Division of Motor Vehicles, Room

255, P. O. Box 7911, Madison, WI 53707-7911. You may also contact Mr. Alioto by phone at (608) 267-4524.

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**PART 2**  
**TEXT OF PROPOSED RULE**

**SECTION 1.** Trans 102.02(7m) is created to read:

Trans 102.02(7m) "Photograph" or "photo" means a printed image created by use of a photographic or digital camera process.

**SECTION 2.** Trans 102.025 is created to read:

**Trans 102.025 Document condition and authenticity.** (2) SUSPECT DOCUMENTS. The department may decline to accept any document required to be presented as part of an application for an operator's license or identification card if it has any reason to suspect the authenticity of the document, the identity of the person named in the document, the identity of the applicant, that the residency information provided by the applicant is inaccurate, or for any of the reasons specified in sub. (3). In such a case, the department may retain the document and investigate its authenticity, provide the document to local, state or federal authorities, require additional documentation from the individual to establish the fact that the document was offered to prove, or any combination of these actions. Documents determined to be genuine and to identify the person who presented them shall be returned to the person, except as provided in sub. (3). Documents containing photographs of the holder may be rejected if the person is not readily recognizable from the photograph. Documents bearing signatures or reproductions of signatures of the holder may be rejected if the signature or reproduced signature does not clearly match all other signatures provided by the presenter as part of the application or on file with the department. Documents containing other data will not

be accepted if any facts lead the department to question the authenticity of the document or accuracy of the data.

**NOTE: This provision permits the Department to reject documentation or photos, but does not create a duty to inspect all DOT files when processing each application.**

(3) CONFISCATION OF DOCUMENTS. (a) Employees or agents of the department may take possession of any document submitted as proof of the person's name and date of birth, identity, residency or any other fact sought to be proven to the department and may turn those documents over to local, state or federal authorities in any of the following circumstances:

1. The document is or appears to be counterfeit.
2. The applicant presents documents related to another individual under the guise that the applicant is the other individual.
3. The document appears not to be or is not a genuine document.
4. The document appears to have been altered.
5. Law enforcement has requested the department confiscate documents presented by a specific person.

(b) In the event the department confiscates a document and determines that it is genuine and relates to the person who presented it, the department shall return the document to the person, unless the department has provided it to other local, state or federal authorities.

**NOTE: Section 343.14(5), Stats., makes it a crime to present false information in connection with an application for a driver license or ID card.**

**SECTION 3.** Trans 102.03(2m) is created to read:

Trans 102.03(2m) The department may waive the requirement that a person appear at a motor vehicle service center if the department has entered into an agreement

with the department of corrections under which that agency will accept application materials or take photographs for the department, the person is an inmate at a department of corrections facility, and the department receives all required photographs or application materials for the person from the department of corrections.

**SECTION 4.** Trans 102.15(2)(c)(intro.) is amended to read:

Trans 102.15(2)(c)(intro.) A person shall provide proof of the person's name and date of birth under sub. (3) ~~and~~, of the person's identity under sub. (4), and of the person's residency under sub. (4m), upon the first application for an original, renewal, reinstatement or duplicate operator's license or identification card following:

**SECTION 5.** Trans 102.15(2)(c)8. is created to read:

Trans 102.15(2)(c)8. The department has confiscated a document from the person for any of the reasons set forth in s. Trans 102.025.

**SECTION 6.** Trans 102.15(3)(a)2.(note), 4. to 8. and 11. are amended to read:

Trans 102.15(3)(a)2.(note) Note: Neither a hospital birth certificate, a notification of birth registration nor baptismal certificate satisfies this requirement. Effective November 1, 1986 s. 69.24(1)(a), Stats., prohibits Wisconsin hospitals from issuing a document which appears to be a birth certificate.

4. A passport issued by a foreign country that bears ~~an identifiable~~ a photograph of the person and identifies the person's first and last names, and the person's day, month and year of birth;

5. A Wisconsin operator's license bearing ~~an identifiable~~ a photograph of the person;

6. A Wisconsin identification card issued under s. 343.50, Stats., bearing ~~an identifiable~~ a photograph of the person;

7. A federal ~~I-151~~ or I-551 "permanent resident alien registration receipt card";

8. A federal I-94 "parole edition" or "refugees version" arrival-departure record, together with a certification, on the department's form, by the person, of the person's name and date of birth, a copy of a U.S. department of state refugee data center reception and placement program assurance form and a letter from the person's sponsoring agency on its letterhead, supporting the person's application for a Wisconsin ID card or driver license and confirming the person's identification. Applicants who are unable to provide a reception and placement program assurance form may be issued a Wisconsin ID card or driver license, but only after their identification has been confirmed by the U.S. citizenship and immigration and naturalization service services;

11. A federal temporary resident card or employment authorization card, I-688, I-688A, I-688B, and I-766;

**SECTION 7.** Trans 102.15(3)(a)12. to 14. are repealed.

**SECTION 8.** Trans 102.15(3)(a)15. to 19. are amended to read:

Trans 102.15(3)(a)15. ~~An~~ A Native American Indian identification card meeting all of the following requirements:

a. Issued by a federally recognized tribe or a band of a federally recognized tribe.

b. Issued in Wisconsin.

c. Includes a photograph and signature or reproduction of a signature of the person.

d. Has been approved by the secretary for use as identification.

~~NOTE: Neither tribal issued cards nor U.S. Department of Indian Affairs issued cards are acceptable~~ The following have been approved as of November 1, 2004: Red Cliff Band of Lake Superior Chippewas issued on or after October 1, 2003; St. Croix Band of Lake Superior Chippewa Indians; the Menominee Indian Tribe of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians; Bad River Band of Lake Superior Chippewa Indians; Ho-Chunk Nation; Forest County Potawatomi; Sokaogan Chippewa Community Mole Lake Band issued on or after October 1, 2003; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin issued on or after October 18, 2004.

16. An operator's license or identification card of another jurisdiction that is valid or expired 4 8 years or less, bearing an ~~identifiable~~ a photograph and signature, or reproduction of the signature of the person;

NOTE: "Another jurisdiction" is defined in s. 340.01(41m), Stats.

17. A court order with under seal related to the adoption or divorce of the individual or to a name or gender change that includes the person's current full legal name, date of birth and ~~court seal~~. in the case of a name change or divorce order, the person's prior name;

18. An armed forces of the United States common access card or DD Form 2 identification card issued to military personnel;

19. A Mexican voter registration card bearing an ~~identifiable~~ a photograph and signature, or reproduction of the signature of the person;

**SECTION 9.** Trans 102.15(3)(a)20. is created to read:

Trans 102.15(3)(a)20. For a person in custody of the Wisconsin department of corrections, the inmate's social security number and a Wisconsin department of corrections form DOC 120 ID card, or other appropriate identification documentation produced by the department of corrections containing a photograph, physical description, birth date, full name and all aliases of an inmate.

**NOTE:** DOC 120 is commonly referred to as a "face card." See also s. Trans 102.03(2m).

**SECTION 10.** Trans 102.15(3)(b)1., (4)(a)(intro.), 2., and 5. to 7. are amended to read:

Trans 102.15(3)(b)1. A certification of the person's name ~~and~~, date of birth and current residence street address on the department's form;

(4)(a)(intro.) A supporting document identifying the person by name and bearing the person's signature, a reproduction of the person's signature, or ~~an identifiable a~~ a photograph of the person. Acceptable supporting documents include:

2. An operator's license, including ~~an out-of-state a~~ a license from another jurisdiction that is valid or expired 8 years or less, bearing a photograph of the person;

5. A ~~state-issued~~ photo identification card issued by Wisconsin or another jurisdiction that is valid or is expired 8 years or less, bearing a photograph of the person;

6. An employee photo identification card issued by the person's current employer containing the employer's name and address. The employer's phone number may be requested for verification;

7. A student photo identification card bearing a photograph of the person;

**SECTION 11.** Trans 102.15(4)(a)8. to 10. are repealed.

**SECTION 12.** Trans 102.15(4)(a)11.(note) is created to read:

Trans 102.15(4)(a)11.(note) A testament to the marriage document does not satisfy this requirement.

**SECTION 13.** Trans 102.15(4)(a)12. is amended to read:

Trans 102.15(4)(a)12. ~~An~~ A valid original driver license from a foreign country accompanied by an international driver's permit that translates the original license;

~~NOTE: Although many countries do not recognize U.S. driver's licenses, most countries accept an international driving permit (IDP). IDPs are honored in more than 150 countries outside the U.S. The U.S. Department of State and American Automobile Association maintain lists of countries where IDPs are accepted on their websites. IDPs function as an official translation of a U.S. or foreign driver's license into 10 languages. These permits are not intended to and do not replace valid U.S. state licenses and should only be used outside of the U.S. as a supplement to a valid license. IDPs are not valid in an individual's country of residence. Only people who are not residents of the United States and who are licensed outside of the United States may use an IDP with their original foreign license to drive legally in Wisconsin. Both the IDP and foreign license are required for identification under this subparagraph.~~

**SECTION 14.** Trans 102.15(4)(a)15. to 17. are repealed.

**SECTION 15.** Trans 102.15(4)(a)18. and 19. are amended to read:

Trans 102.15(4)(a)18. A welfare Wisconsin Quest card;

**NOTE: A Quest card is a credit card used for food stamps.**

19. A ~~medicaid~~ Forward Wisconsin ID medical assistance card;

**NOTE: A Forward Wisconsin card is a medical assistance card.**

**SECTION 16.** Trans 102.15(4)(a)20. is repealed.

**SECTION 17.** Trans 102.15(4)(a)21. is amended to read:

Trans 102.15(4)(a)21. ~~Identification~~ An identification card issued by a foreign Mexican consulate bearing ~~an identifiable~~ a photograph and signature, or reproduction of the signature, of the person.

**NOTE: Matricular Consular cards issued by Mexican consulates are acceptable under this provision.**

**SECTION 18.** Trans 102.15(4)(a)22. and 23. are created to read:

Trans 102.15(4)(a)22. A Guatemalan consular card issued on or after August 15, 2002.

23. Any document permitted under sub. (3)(a), if it bears a photograph of the person and was not used as proof of name and date of birth.

**NOTE: This permits a person to use two separate documents under sub. (3)(a) to satisfy the requirements of subs. (3) and (4).**

**SECTION 19.** Trans 102.15(4)(b) and (c)2. are repealed and recreated to read:

Trans 102.15(4)(b) A certified school record or transcript identifying the person by name.

(c)2. The person is applying without a personal appearance to reinstate a suspended or revoked license or identification card or to renew a license subject to s. Trans 102.03(2) and (5) or obtain a duplicate license or identification card if all of the following apply:

a. The department is able to produce an acceptable photograph and facsimile signature for the individual from its digital image computer records.

b. The person's name as shown on the license is unchanged.

c. The person is a Wisconsin resident.

**SECTION 20.** Trans 102.15(4)(c)5. and (4m) are created to read:

Trans 102.15(4)(c)5. The person is applying in person for a Wisconsin driver license or identification card, the department has a driver record or identification card record for the individual and a readily recognizable digital image of the person, and the person can establish that documentation under subs. (3)(a) and (4)(a) is unavailable.

**NOTE: The alternatives described in sub. (4) are not satisfactory proof of name and date of birth under sub. (3).**

(4m) **PROOF OF RESIDENCY.** The department may request additional documents to establish proof of residency if proofs of name and date of birth or identity are those described in sub. (3)(a)5., 6. or (4)(c), or do not include a current acceptable Wisconsin residence street address. A document listing a post office box or commercial receiving agency as the mailing address is not acceptable proof of residency. Any of the following are satisfactory proof of residency:

(a) Proofs of name and date of birth or identity listed in sub. (3) or (4), except proofs described in sub. (3)(a)5., 6. or (4)(c), that include an acceptable and current Wisconsin mailing address.

(b) A utility bill for water, gas, electric or land line phone service at least 30 days old.

(c) A paycheck or stub with the customer's name and address, and the employer's name and address. The employer's telephone number may be requested for verification.

(d) An account statement at least 30 days old from a Wisconsin financial institution.

(e) A Milwaukee county ID card issued after February 2000, but no later than July 1, 2003.

(f) An individual taxpayer identification number, or ITIN, along with the IRS letter listing a Wisconsin address.

(g) An affirmation by an applicant's spouse, mother, father, child who is age 18 or over, or legal guardian verifying that the applicant is a resident of Wisconsin if the person affirming holds a valid Wisconsin drivers license or ID card.

**SECTION 21.** Trans 102.15(5)(a) is amended to read:

Trans 102.15(5)(a) Each person who applies for an operator's license or ID card is required to provide his or her social security number, except that Class D and M license applicants may be issued licenses without social security numbers as provided in pars. (b) and (c). The department may verify the number with the federal social security administration prior to acceptance for issuance of an operator's license or identification, and may delay issuance of a license if verification cannot be completed at

the time of application, or may cancel a license if verification is requested after license issuance and the person does not provide verification. The original social security card or other documentation satisfactory to the department to prove the person's social security number shall be presented to the examiner for verification of the number, when any of the following apply:

**SECTION 22.** Trans 102.15(5)(a)4. is created to read:

Trans 102.15(5)(a)4. The department is advised by the federal social security administration, internal revenue service, department of revenue, department of workforce development, or other state, federal or local government agency that the social security number provided by the person is suspected to not belong to the applicant, to have been used by multiple persons, or to have been assigned to a person other than the applicant.

**SECTION 23.** Trans 102.15(5)(b) is amended to read:

Trans 102.15(5)(b) The department ~~shall~~ may issue a special number, in lieu of the social security number, to identify ~~the person~~ an applicant ~~when~~ if the person's seriously held religious convictions do not allow them to provide a social security number to the department. ~~When the~~ A person who objects to providing a social security number due to a religious conviction, ~~the person~~ shall complete, sign, and date a statement ~~certifying the~~ detailing and explaining the religious objection on a ~~form~~ forms provided by the department. The department may conduct a review in Madison to determine whether the conviction detailed in the application is a seriously held religious belief of the applicant. The applicant may be required to appear at the review or to interview with a department investigator.

**Note: See s. 343.14(2) (b), (bm) and (br), Stats. Form MV3415 Religious conviction exemption request.**

**SECTION 24.** Trans 102.15(5)(bm) is created to read:

Trans 102.15(5)(bm) The department shall issue a special number, in lieu of the social security number, to identify the person if the applicant does not have a social security number and submits a statement made or subscribed under oath or affirmation that the applicant does not have a social security number in the form prescribed by the department of workforce development.

**NOTE:** See s. 343.14(2)(br), Stats.

**SECTION 25.** Trans 102.15(5)(c) is amended to read:

Trans 102.15(5)(c) The department may issue a special number, in lieu of the social security number, to identify the person when the person has not been issued a social security number or the person's social security number is not available, and the person is being issued an original instruction permit and ~~the person~~ does not have an existing driver file in Wisconsin. The person is required to provide his or her social security number on any subsequent application following the original issuance of the instruction permit.

**SECTION 26.** Trans 102.15(7) is renumbered Trans 102.025(1) and amended to read:

Trans 102.025(1) **GENERAL DOCUMENT CONDITIONS.** All documents offered by persons applying for licenses ~~in accordance with this section~~ or identification cards issued by the department shall be original documents, unless otherwise expressly allowed. Certified copies of government documents shall bear an original certification and the seal of the appropriate agency, or otherwise exhibit evidence to the satisfaction of the department that the document is an authentic, accurate and unaltered copy of

the original government document. Mutilated, altered or uncertified photocopies of documents are not acceptable.

**SECTION 27.** Trans 102.15(7) is created to read:

Trans 102.15(7) The department may require additional documentation or proof of identity beyond the minimum requirements of this section from an applicant if the department has been notified that the person is or may be a victim of identity theft.

**(END OF RULE TEXT)**

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**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 22<sup>nd</sup> day of November, 2004.

  
FRANK J. BUSALACCHI

Secretary  
Wisconsin Department of Transportation



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Ronald Sklansky**  
*Clearinghouse Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

### PART 3 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 04-100

AN ORDER to repeal Trans 102.15 (3) (a) 12. to 14., (4) (a) 8. to 10., 15. to 17. and 20. and (b); to renumber and amend Trans 102.15 (7); to amend Trans 102.15 (2) (c) (intro.), (3) (a) 2. (note), 4. to 8., 11. and 15. to 19. and (b) 1., (4) (a) (intro.), 2., 5. to 7., 12., 18., 19. and 21 and (b) 3. and (5) (a) to (c); to repeal and recreate Trans 102.15 (4) (b), (c) 2.; and to create Trans 102.02 (7m), 102.025, 102.03 (2m), 102.15 (2) (c) 8., (3) (a) 20., (4) (a) 11. (note), 22. and 23. and (c) 5., (4m), (5) (a) 4. and (bm) and (7), relating to proof of identification.

Submitted by **DEPARTMENT OF TRANSPORTATION**

09-14-2004 RECEIVED BY LEGISLATIVE COUNCIL.

10-11-2004 REPORT SENT TO AGENCY.

RNS:DLS

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]  
Comment Attached      YES       NO
2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]  
Comment Attached      YES       NO
3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]  
Comment Attached      YES       NO
4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]  
Comment Attached      YES       NO
5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]  
Comment Attached      YES       NO
6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]  
Comment Attached      YES       NO
7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]  
Comment Attached      YES       NO



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Ronald Sklansky**  
*Clearinghouse Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

### CLEARINGHOUSE RULE 04-100

#### Comments

**[NOTE:** All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 2002.]

#### 2. Form, Style and Placement in Administrative Code

a. Since s. Trans 102.025 is a new section created in the rule, why does the numbering of the subsections in the new section begin with sub. (2)? Should it begin with sub. (1)? If so, all of the subsections should be renumbered. In addition, either both of the subsections should have titles or neither should.

In sub. (2), first sentence, the term “immediately” does not appear to be necessary and should be deleted. At the end of the second sentence, “the foregoing” should be replaced by “these actions.” In sub. (3), what does the phrase “person who prescribed it” mean? This needs to be clarified.

b. In s. Trans 102.15 (3) (a) 20., “of an inmate” should be moved to after “all aliases.” In sub. (4) (a) 5., “is expired 8 years or less” should replace “is not expired by more than 8 years.” This will parallel the language in subd. 2.

c. In s. Trans 102.15 (4) (a) 18. and 19., the provisions should be made more specific and the notes should be made to the current names of these cards, as follows:

18. A food stamp credit card under s. \_\_\_\_\_.

Note: This card is currently called a Wisconsin Quest card.

19. A medical assistance card under s. \_\_\_\_\_.

Note: This card is currently called a Forward Wisconsin card.

d. In s. Trans 102.15 (4) (a) 23., "if" should replace "provided."

e. In s. Trans 102.15 (4) (c) 2. c., it appears that "still" can be deleted as unnecessary. Also, in par. (c) 2. (intro.), "all of the following apply" should be inserted before the colon. In sub. (4m), second sentence, "A document" should be substituted for "Documents" and "is" should be substituted for "are." In sub. (4m) (a), "subs. (3) or (4)" should be "sub. (3) or (4)."

f. In s. Trans 102.15 (5) (a), the comma after "or may cancel a license if" should be deleted. In sub. (5) (a) 4., for clarity, "federal" should be inserted before "social security administration" and "internal revenue service." Note that these terms should not be capitalized. Also, is it possible to put, in a note to this paragraph, where in Madison the reviews will be held (specific address) or where specific information may be obtained?

**PART 4**  
CR 04-100

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ANALYSIS OF FINAL DRAFT OF TRANS 102

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(a) **Basis and Purpose of Rule**. The Department is charged with administration of Wisconsin driver licensing system under s. 343.02, Stats. This rule making modifies previous rules issued by the Department relating to driver license issuance. The amendment updates what documents the Department will accept for identification purposes when issuing driver licenses or identification cards. It proposes to disallow documents that no longer are issued and documents with poor security or integrity. The Department also proposes to accept new identity documents that verify a person's name, date of birth, identity and residency. The proposed changes would help ensure that driver licenses and identification cards are issued to correctly identified people and not to persons using fictitious identities.

Other changes to the rule provide for procedural efficiency and are described at length in the plain language analysis of the rule.

(b) **Modifications as a Result of Testimony at Public Hearing**. No modifications were made to the proposed rule as a result of testimony at the hearing.

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

(d) **Summary of Public Comments and Agency Response to those Comments**: The Department received no public comments on the proposed rule.

(e) **Explanation of any Changes Made to the Plain Language Analysis or Fiscal Estimate**: No changes were made.

(f) **Response to Legislative Council Recommendations**. The Legislative Council made several recommendations to the proposed rule, which have been accepted as follows:

2.a. Recommendation 2.a. asks why the first subsection appearing in Section 2 of the proposed rule (that proposes to create s. Trans 102.025) is subsection (2). The reason is that Section 26 of the proposed rule making rennumbers s. Trans 102.15(7) as Trans 102.025(1) and amends it. Accordingly, the remaining sections of s. Trans 102.25 appearing in Section 2 of the rule are numbered subs. (2) and (3), respectively.

A title for s. Trans 102.025(2) is provided as requested by the Rules Clearinghouse.

The word "prescribed" in sub. (3)(b) was a typographical error. The correct word is "presented." The proposed rule is changed accordingly.

2.c. Recommendation 2.c. suggests that the Department remove the recognized terms "Wisconsin Quest Card" and "Forward Wisconsin Card" which are issued by the Department of Health and Family Services as "A food stamp credit card issued under s. [49.31], Stats.," and "A medical assistance card issued under s. [49.31], Stats.," respectively. The Department has rejected this recommendation, but is amending the reference to the "Forward Wisconsin Card" to read "Forward Wisconsin ID medical assistance card."

There are two reasons for this. First, s. 49.31, Stats., is a general statute giving the Department of Health and Family Services broad authority to issue credit card type cards. A reference to s. 49.31, Stats., therefore, would be far more general than reference to the particular cards DOT will accept. Second, referring to the cards by name makes the regulation more understandable to citizens and DOT staff.

The Department does not believe the regulation as amended leaves any ambiguity about which cards the Department will accept as proof of identity. In the event new cards with different names are issued by the Department of Health and Family Services, the Department will need to analyze those cards and the security surrounding their issuance before accepting them as proof of identification.

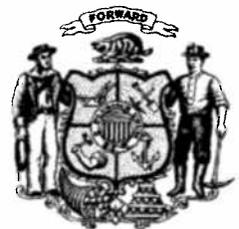
2.f. The Clearinghouse requests that the Department add a note to the rule regarding the place reviews will take place. The Department does not understand this comment. Section Trans 102.15(5)(a) makes clear that the Department will require a person who presents a social security number that may be false to produce their original social security card as evidence of their social security number. There is no review available. Persons whose social security numbers have indicia of potential falseness will be required to produce the actual card.

The Department could, alternatively, require all applicants to present original social security cards when applying for driver licenses. This alternative, however, would be costly to applicants and the Department because large numbers of drivers could be expected to forget their original social security cards. Therefore, the Department will simply accept the number from applicants unless it has reason to suspect the accuracy of the number. At that point, it will require production of the actual card. The card may be presented at a DMV customer service location.

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



WISCONSIN STATE LEGISLATURE



February 1, 2005

Secretary Frank Busalacchi  
Wisconsin Department of Transportation  
120B, Hills Farms State Transportation Building  
4802 Sheboygan Avenue  
Madison, WI 53705

Dear Secretary Busalacchi:

The Assembly Committee on Transportation and the Senate Committee on Transportation and Natural Resources have scheduled a joint public hearing on February 10, 2005, on Clearinghouse Rule 04-100, relating to proof of identification (Trans 102) – notice enclosed.

Subsequent to distributing the final rule draft, several committee members raised questions regarding the documents this rule establishes as valid proof of Wisconsin residency. Specific concerns include the following:

*Proof of Name and Date of Birth*

Why does the rule propose to accept driver licenses or IDs from other jurisdictions that are expired for less than 8 years? It is understood that Wisconsin maintains an 8-year driver license renewal schedule, however accepting an out-of-state license that has been expired for up to eight years raises questions regarding legitimacy and up-to-date documentation.

*Proof of Identity*

Committee members have expressed concerns as to why Wisconsin accepts several forms of identity documentation that are not accepted by any of the surrounding states. For instance, CHR 04-100 proposes to permit an affirmation by an applicant's spouse, mother, father, child or legal guardian verifying that the applicant is a resident of Wisconsin, as proof of residency, if the person affirming holds a valid Wisconsin driver license or ID card. This particular example seems easily subject to fraud. Secondly, by accepting several forms of identity documentation that are not accepted in the surrounding states, is Wisconsin opening itself up as a state where it is "easier" to obtain a license or ID?

Finally, in addition to the specific concerns addressed above, we believe committee members would welcome an overall explanation of the identification process used for the issuance of driver licenses and state IDs. As you may know, legislative colleagues have circulated legislation to amend the licensing process, specifically in regards to residency status. In anticipation of future consideration of such proposals, an overview from the Department would be much appreciated.

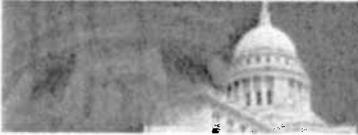
If you have any additional questions regarding the public hearing on CHR 04-100, please do not hesitate to contact either of our offices. Thank you in advance for the Department's attendance in addressing this rule.

Sincerely,

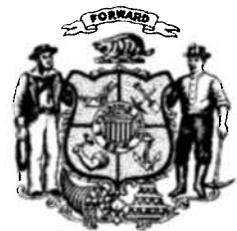
JOHN AINSWORTH  
Chairperson  
Assembly Transportation Committee

NEAL KEDZIE  
Chairperson  
Senate Transportation Committee

Enclosure:1



# WISCONSIN STATE LEGISLATURE



March 21, 2005

Secretary Frank Busalacchi  
Wisconsin Department of Transportation  
120B, Hills Farms State Transportation Building  
4802 Sheboygan Avenue  
Madison, WI 53705

Dear Secretary Busalacchi:

Thank you for the Department's cooperation in agreeing to consider modifications to Clearinghouse Rule 04-100 – relating to Proof of Identification. I appreciate your willingness to listen to the concerns of Transportation Committee members – and look forward to establishing compromise language all parties find appropriate.

As we all know, the Department of Transportation's role in issuing both driver licenses and general IDs has become essential. Knowing such, people want to feel secure that the issuance of a Wisconsin ID is credible, and that Wisconsin's requirements are just as stringent as in surrounding states. While I am sure that most persons agree that the Department is doing an exceptional job with this responsibility, there are some proposed changes to TRANS 102 that committee members are not comfortable with.

It is my hope that by providing a list of the concerns the majority of committee members would like addressed, we may commence a dialogue to resolve such issues. Once the appropriate representatives of your department have had a chance to review the delineated concerns, I would like to set up a meeting to discuss future changes.

### **Photograph Exemptions**

#### **Proposed Trans 102.03(2m)**

The department may waive the requirement that a person appear at a motor vehicle service center if the department has entered into an agreement with the department of corrections under which that agency will accept application materials or take photographs for the department, the person is an inmate at a department of corrections facility, and the department receives all required photographs or application materials for the person from the department of corrections.

*Committee members would like this section deleted.*

Additionally, while the topic is not specifically addressed in CHR 04-100, I would be interested in receiving information regarding the frequency with which department of corrections inmates are transported to DMV service centers for license application or

renewal. Are inmates transported to the DMV for license renewal based on their regular renewal cycle? Or, instead, are transports for DMV business only made for inmates approaching their release date?

**Amended – Proof of Name and Date of Birth**

**Proposed Trans 102.15(3)(a) 16.**

An operator's license or identification card of another jurisdiction that is valid or expired ~~for~~ 8 years or less, being ~~an identifiable~~ a photograph and signature, or reproduction of the signature of the person;

*Committee members would like this section amended by substituting 4 years for 8 years.*

**Proposed Trans 102.15(4)(a)**

2. An operator's license, including ~~an out of state~~ a license from another jurisdiction that is valid or is expired 8 years or less, being a photograph of the person;

*Committee members would like this section amended by substituting 4 years for 8 years.*

5. A ~~state issued~~ photo identification card issued by Wisconsin or another jurisdiction that is valid or is expired 8 years or less, bearing a photograph of the person;

*Committee members would like this section amended by substituting 4 years for 8 years.*

**Amended – Proof of Residency**

**Proposed Trans 102.15(4m)(e)**

A Milwaukee county ID card issued after February 2000, but no later than July 1, 2003.

*Committee members would like this section deleted.*

**Proposed Trans 102.15(4m)(g)**

An affirmation by an applicant's spouse, mother, father, child who is age 18 or over, or legal guardian verifying that the applicant is a resident of Wisconsin if the person affirming holds a valid Wisconsin drivers license or ID card.

*Committee members would like this section deleted.*

↳ Technical change  
Parental affirmation  
for under 18

Again, once the department has had opportunity for review, I would appreciate a contact to set up a meeting to discuss this topic. If you, or your colleagues have any additional questions regarding the committee's review of this language, please do not hesitate to contact me.

Please be advised that I have been in consultation with Senate Transportation Committee Chair Neal Kedzie regarding these concerns. Thank you in advance for consideration of these comments.

Sincerely,



JOHN AINSWORTH  
State Representative  
6th Assembly District

JA/khb

cc: Senator Neal Kedzie, Senate Transportation Committee Chairperson  
Gary Guenther, Director – DMV Bureau of Driver Services  
Phil Alioto – DMV Bureau of Driver Services





**Badger State Sheriff's Association, Inc.**  
*An Association of Wisconsin Sheriffs*

CRule  
04-100

President Sheriff Scott E. Pedley  
1st Vice President Ron D. Cramer  
2nd Vice President David A. Graves  
Secretary Sheriff Eric A. Runaas  
Treasurer Everett S. Muhlhause

March 31, 2005

Richard F. Raemisch, Deputy Secretary  
Wisconsin Department of Corrections  
P.O. Box 7952  
Madison, WI 53707-7925

Re: Letter of Support / Draft of TRANS.102

Dear Rick:

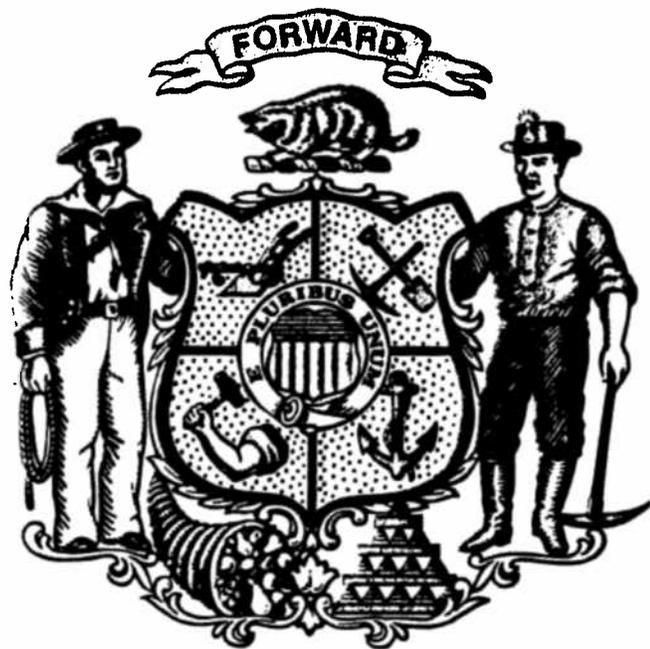
The Badger State Sheriff's Association supports efforts to amend TRANS. 102 to allow for the Wisconsin Department of Corrections to assist newly released offenders to obtain a State issued photographic identification card. It seems to me that not only is the newly released offender better off with an identification card in his/her possession, prospective employers would also be well served by being able to verify the accurate identity of persons applying for employment.

Additionally, law enforcement officers are greatly aided whenever an authentic photographic identification card is presented to them during any of the variety of contacts we may have with citizens. A State issued photographic identification card is a very credible means of verifying the identity of an individual and, again, we do support this initiative.

Please feel free to contact me if you have any questions about the information outlined above.

Very truly yours,

Sheriff Scott E. Pedley  
President



CRule 04-100



# Wisconsin Department of Transportation

www.dot.wisconsin.gov

Jim Doyle  
Governor

Frank J. Busalacchi  
Secretary

Office of the Secretary  
4802 Sheboygan Ave., Rm. 120B  
P.O. Box 7910  
Madison, WI 53707-7910

Telephone: 608-266-1113  
FAX: 608-266-9912  
E-Mail: sec.exec@dot.state.wi.us

April 11, 2005

The Honorable John Ainsworth  
Wisconsin State Representative  
Room 309 North, State Capitol  
Madison, WI 53702

Dear Representative Ainsworth:

Thank you for providing Transportation Committee member's comments and concerns with some of the proposed language changes to Administrative Rule Trans 102 "Operator's Licenses and Identification Cards". I have shared these with Division of Motor Vehicles (DMV) staff. We appreciate your willingness to work together to provide sufficient regulations to ensure system integrity and personal security as well as efficient customer service.

Our agency is eager to work with you in resolving the issues and implementing this very important rule.

DOT has reviewed your comments and is willing to accept the changes suggested in the proposed Trans 102.15(3)(a)16; 102.15(4)(a) and 102.15(4m)(e). We are comfortable with the changes (i.e. accepting a license expired no more than 4 years rather than expired for 8 years) and do not believe that it should have a negative effect on our customers or service.

We are also willing to eliminate Trans 102.15(4m)(g) "affirmation of a parent.." for residency purposes, but would ask that the committee allow for a small technical change in the introduction of Trans 102.(15)(4)(m). The proposed change would add language that limits residency proof to persons 18 years of age or over". Elimination of the affirmation proof in Trans 102.15(4m)(g) would require residency proof other than parental affirmation for children under the age of majority. Since children can be issued DOT Identification Cards at any age, it would be difficult without the affirmation to provide residency documentation. Further, a driver license application for a minor requires parental sponsorship. DMV has not experienced residency fraud for persons under the age of 18 and currently requires proof for persons 18 years of age or older.

DMV has asked the Wisconsin Department of Corrections (DOC) whether they would be inclined to include comments regarding the committee's disagreement with proposed Trans 102.03(2m). This provision allows the DMV to establish an agreement with DOC for the electronic submittal of inmate photographs for the issuance of identification cards. The DMV included the proposed rule language in an effort to work with another state agency to reduce costs and create efficiency. The proposal is an issue with the DOC, and we felt compelled to allow them the opportunity to provide comments. We have invited the DOC Executive Assistant to the meeting on Wednesday and anticipate that their comments will be provided at that time.

Representative John Ainsworth  
April 11, 2005  
Page 2 of 2

Persons attending the meeting scheduled for Wednesday, April 13, 2005 are DMV representatives Administrator Lynne Judd and Bureau of Field Services Director Gary Guenther. Office of General Counsel Attorney John Sobotik, and Executive Assistant Randy Romanski would also likely attend as well as DOC Executive Assistant Jessica Clark.

Sincerely,

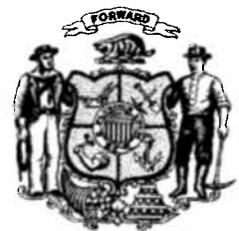


Frank J. Busalacchi  
Secretary

cc: Lynne Judd  
Gary Guenther  
Randy Romanski



# WISCONSIN STATE LEGISLATURE



**Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.**

tive glasses that do not adjust sufficiently to clearly show the eyes shall also be removed.

(4) Hair shall be brushed away from the eye area for the photograph.

(5) Any clothing or device obscuring all or part of a person's face shall be removed when being photographed to show a full facial image, except that any appliances or prosthesis normally used by a person with a permanent facial or dental disfigurement need not be removed.

**History:** Cr. Register, September, 1982, No. 321, eff. 10-1-82; cr. (5), Register, December, 1990, No. 420, eff. 1-1-91.

**Trans 102.11 Prorated fees.** To maintain the existing license renewal cycle when upgrading a valid license, the department shall prorate the statutory fees under s. 343.21 (1) (a), (b) and (d), Stats., required to be paid to the department to upgrade a license.

(1) **UPGRADED LICENSE.** If a license is upgraded by adding class A, B, C, D or M privileges to an existing operator's license, the following apply to determine the applicable fee under s. 343.21 (1) (a), (b) or (d), Stats.:

(a) When 365 days or more remain on the existing license, the license holder shall pay the prorated fee for the upgraded license determined by the department as follows:

1. Multiply the number of days remaining on the existing license from the date of application by the statutory fee and divide by 2920. The number of days include the day of expiration, but not the day of application.

2. Round the resulting quotient to the nearest whole dollar amount. The license upgraded for this fee shall expire on the expiration date of the existing license.

(b) When more than 90 but less than 365 days remain on the existing license, the license holder may do either of the following:

1. Pay the prorated fee as determined under sub. (1) (a). The license upgraded for this fee shall expire on the expiration date of the existing license.

2. Pay the prorated fee as determined under sub. (1) (a) and the statutory fee. The license upgraded for this fee shall expire 8 years from the expiration date of the existing license.

(c) When 90 days or less remain on the existing license, the license holder shall pay the prorated fee as determined under sub. (1) (a) and the statutory fee. The license upgraded for this fee shall expire 8 years from the expiration date of the existing license.

(2) **MANUAL CALCULATION.** Notwithstanding sub. (1) (a), if the automated processing system is not available, the prorated fee shall be determined by the department by multiplying the number of months remaining on the existing license from the date of application by the statutory fee and dividing by 96. The number of months include the month of expiration, but not the month of application. The resulting quotient is rounded to the nearest whole dollar amount.

**Note:** See s. 343.20 (1) (a), Stats., regarding the department's authority to prorate fees.

**History:** Cr. Register, September, 1982, No. 321, eff. 10-1-82; r. and recr. Register, December, 1990, No. 420, eff. 1-1-91; cr. (intro.), r. and recr. (1) and (2), r. (3), Register, September, 1992, No. 441, eff. 10-1-92; am. (1) (a) 1., (b) 2., (c) and (2), Register, December, 1999, No. 528, eff. 1-1-00.

**Trans 102.14 Issuance.** (1) The department shall issue operator's licenses and identification cards directly to eligible Wisconsin residents at motor vehicle services centers upon completion of application processing and payment of required fees, unless:

(b) The computer system is down and a backup system must be used to produce the photo operator's license or photo identification card.

(c) Further verification of eligibility is necessary to comply with licensing qualifications in ch. 343, Stats., or the department

determines that the person is ineligible for licensing under ch. 343, Stats.

(d) There are administrative reasons for not issuing the operator's license or identification card immediately, for purposes including, but not limited to, conducting a study or establishing a control group.

(e) The person does not provide the department with the information required under sub. (2) or does not provide a sample signature for reproduction on the operator's license in the format first name, middle initial or name, last name. A person may not include in a signature a disclaimer of any type or any information other than the person's name.

(2) A Wisconsin resident may be issued an operator's license or an identification card if the person surrenders all operator licenses and identification cards issued to the person by other jurisdictions, and the person is otherwise eligible to be issued an operator's license or identification card under Wisconsin law.

(3) A person may not be required to have resided in Wisconsin for any minimum amount of time in order to be eligible for a Wisconsin operator's license.

(4) Persons who establish Wisconsin residency and who are not exempt from Wisconsin licensing requirements under s. 343.05 (4), Stats., shall apply for a Wisconsin operator's license within 30 days of establishing Wisconsin residency.

**Note:** See s. 343.01 (2) (g), Stats., regarding establishing residency for driver license purposes.

(5) No license will be issued to a person under the age of 18 unless the person provides satisfactory proof that the person has successfully completed a driver education or training course which meets the requirements of s. 343.06 (1) (c), Stats., an approved driver education course of another jurisdiction, or the person is exempt from those requirements under s. 343.08 or 343.135, Stats.

(6) A license shall be reissued without fee if it is defective or inaccurate because of a department error.

**History:** Emerg. cr. eff. 3-14-83; cr. Register, January, 1984, No. 337, eff. 2-1-84; renum. (intro.) to (4) to be (1) (intro.) to (d) and am. (1) (intro.) and (a), cr. (2) to (5), Register, December, 1990, No. 420, eff. 1-1-91; reprinted to restore dropped copy in (4), Register, September, 1991, No. 429; cr. (1) (e), Register, January, 1997, No. 493, eff. 2-1-97; r. (1) (a), am. (1) (b) and (c), cr. (6), Register, December, 1999, No. 528, eff. 1-1-00.

**Trans 102.15 Proof of identification.** (1) "UNAVAILABLE" DEFINED. In this section, "unavailable" does not include documents which persons have forgotten to bring with them when applying for a license or identification card, or a lost or destroyed document if a replacement original or a certified copy of the document is available to those persons upon proper request.

(2) **REQUIREMENTS.** (a) Satisfactory proof of date of birth, as specified under sub. (3) and satisfactory proof of identity as specified under sub. (4) shall be submitted by a person applying for an original Wisconsin operator's license or identification card.

(b) Satisfactory proof of identity as specified under sub. (4) shall be submitted by a person applying for a renewal, reissue, reinstatement or duplicate of a Wisconsin operator's license or identification card.

(c) A person shall provide proof of the person's name and date of birth under sub. (3) and of the person's identity under sub. (4) upon the first application for an original, renewal, reinstatement or duplicate operator's license or identification card following:

1. Any action which results in the department creating an AKA record in the person's driver file;

2. Cancellation of the person's license or identification card for altering a license or identification card, or cancellation for making a fraudulent or falsified application for a license or identification card, or cancellation for violation of s. 343.25 (1), (4), (5) or (6), Stats.;

3. Suspension of the person's license under s. 343.34 (2), Stats.;

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4. Revocation or suspension of the person's operating privilege under s. 343.31 (2r), Stats.;

5. Revocation of the person's operating privilege under s. 343.32 (1s), Stats.;

6. Revocation or suspension of an instructor's license pursuant to s. 343.67 (4), Stats.; or

7. Conviction for violation of ss. 343.14 (5), 343.16 (7) (a) or (b), 343.19 (2), 343.43 (1), 343.50 (4) or (12) or 345.17, Stats.

**(3) PROOF OF NAME AND DATE OF BIRTH.** (a) One of the following is satisfactory proof of a person's name and date of birth:

1. For a person born in Wisconsin, a copy of the person's Wisconsin birth certificate issued and certified in accordance with s. 69.21, Stats.;

2. For a person born outside Wisconsin, a certified copy of his or her birth certificate or the equivalent document from the state, territory or foreign country of birth;

**Note:** Neither a hospital birth certificate nor baptismal certificate satisfies this requirement. Effective November 1, 1986 s. 69.24 (1) (a), Stats., prohibits Wisconsin hospitals from issuing a document which appears to be a birth certificate.

3. A US passport;

4. A passport issued by a foreign country that bears an identifiable photograph of the person and identifies the person's first and last names, and the person's day, month and year of birth;

5. A Wisconsin operator's license bearing an identifiable photograph of the person;

6. A Wisconsin identification card issued under s. 343.50, Stats., bearing an identifiable photograph of the person;

7. A federal I-151 or I-551 "alien registration receipt card";

8. A federal I-94 "parole edition" or "refugees version" arrival-departure record, together with a certification, on the department's form, by the person, of the person's name and date of birth, a copy of a U.S. department of state refugee data center reception and placement program assurance form and a letter from the person's sponsoring agency on its letterhead, supporting the person's application for a Wisconsin ID or driver license and confirming the person's identification. Applicants who are unable to provide a reception and placement program assurance form may be issued a license, but only after their identification has been confirmed by the U.S. immigration and naturalization service;

9. A U.S. certificate of naturalization;

10. A certificate of U.S. citizenship;

11. A federal temporary resident card or employment authorization card;

12. A notification of birth registration issued by the Wisconsin division of health or a Wisconsin county or city health department;

13. A federal I-181 "memorandum of creation of lawful permanent residence."

14. A northern marina card;

15. An American Indian card;

**Note:** Neither tribal issued cards nor U.S. Department of Indian Affairs issued cards are acceptable.

16. An operator's license or identification card of another jurisdiction that is valid or expired 4 years or less, bearing an identifiable photograph and signature, or reproduction of the signature of the person.

17. A court order with full name, date of birth and court seal.

**Note:** Examples include, but are not limited to, adoption document, name change document, or gender document. This does not include abstract of criminal or civil conviction.

18. An armed forces of the United States identification card issued to military personnel.

19. A Mexican voter registration card bearing an identifiable photograph and signature, or reproduction of the signature of the person.

(b) If a person is unable to provide documentation under par. (a), and the documents are unavailable to the person, the person

may make a written petition to the administrator of the division of motor vehicles for an exception to the requirements of par. (a). The application shall include supporting documentation required by sub. (4) and:

1. A certification of the person's name and date of birth on the department's form;

2. An explanation of the circumstances by which the person is unable to provide any of the documents described in par. (a); and

3. Whatever documentation is available which states the person's name and date of birth.

(c) The administrator may delegate to the administrator's subordinates the authority to accept or reject such extraordinary proof of name and date of birth.

**Note:** Form MV3002 certification of name and date of birth.

**(4) PROOF OF IDENTITY.** One of the following is satisfactory proof of identity:

(a) A supporting document identifying the person by name and bearing the person's signature, a reproduction of the person's signature, or an identifiable photograph of the person. Acceptable supporting documents include:

1. A driver education course completion certificate;

2. An operator's license, including an out-of-state license bearing a photograph of the person;

3. Military discharge papers (including certified copy of federal form DD-214);

4. A U.S. government and military dependent identification card;

5. A state-issued photo identification card;

6. An employee photo identification card;

7. A student photo identification card;

8. A U.S. merchants service photo identification card;

9. A copy of the person's federal or state income tax return;

10. A professional license;

11. A marriage certificate or certified copy of judgment of divorce;

12. An international driver's license;

13. A social security card issued by the social security administration;

**Note:** Metal or other duplicate Social Security Cards are not acceptable.

14. A credit card;

15. A private investigator's license;

16. A life insurance policy;

17. A canceled check;

18. A welfare card;

19. A medicaid card;

20. A Canadian social insurance card.

21. Identification card issued by a foreign consulate bearing an identifiable photograph and signature, or reproduction of the signature, of the person.

(b) Any of the following supporting documents identifying the person by name:

1. A certified school record or transcript.

2. A vehicle title issued 30 or more days prior to the date on which it is presented to the department as proof of identity under this section.

**Note:** Proof of registration is not sufficient.

3. A prison release document.

4. An affidavit from a physician who testifies as to the person's identity and to have known the person for more than 2 years, together with copies of the physician's medical chart for the person.

(c) As an alternative to par. (a) or (b), the department may accept the following as satisfactory proof of identity for purposes of this subsection:

1. The person is personally known to the license examiner;

**Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.**

2. The person is applying by mail to reinstate a suspended license which is in the actual possession of the department, the person's name, as shown on the license, is unchanged, the person is still a Wisconsin resident, and the suspended license itself is not expired, altered, mutilated or otherwise in a condition unsatisfactory for proper use;

3. The person is applying for an operator's license or identification card, is identified in person by the person's spouse, and the spouse presents a valid Wisconsin operator's license or identification card issued by the department; or

4. The person is applying for an operator's license or identification card, is identified, in person, by a parent, child, or guardian having legal custody, and the parent, child or guardian shows a valid Wisconsin operator's license or identification card issued by the department.

**Note:** These alternatives are not satisfactory proof of name and date of birth under sub. (3).

**(5) PROOF OF SOCIAL SECURITY NUMBER.** (a) Each person who applies for an operator's license is required to provide his or her social security number, except as provided in pars. (b) and (c). The department may verify the number with the federal social security administration prior to acceptance for issuance of an operator's license or identification card. The original social security card or other documentation satisfactory to the department to prove the person's social security number shall be presented to the examiner for verification of the number, when any of the following apply:

1. A duplicate social security number is found on the department's driver files and assigned to another person;

2. The social security number provided on the person's current application does not match the number provided by the person on a previous application that is recorded on the person's driver file;

3. The social security number being submitted does not match the format of social security numbers issued by the federal social security administration.

(b) The department shall issue a special number, in lieu of the social security number, to identify the person when the person's seriously held religious convictions do not allow them to provide a social security number to the department. When the person objects to providing a social security number due to a religious conviction, the person shall complete, sign, and date a statement certifying the objection on a form provided by the department.

**Note:** See s. 343.14 (2) (b), Stats. Form MV3415 Religious conviction exemption request.

(c) The department may issue a special number, in lieu of the social security number, to identify the person when the person has not been issued a social security number or the social security number is not available, and the person is being issued an original instruction permit and the person does not have an existing driver file in Wisconsin. The person is required to provide his or her social security number on any subsequent application following the original issuance of the instruction permit.

**(6) TEMPORARY DRIVER RECEIPT.** The department may issue a temporary driver receipt to a person who is temporarily unable to meet the identification requirements of sub. (3). The temporary driver receipt shall state the date of issue, shall be clearly marked "NOT VALID FOR IDENTIFICATION," and shall be validated for the operation of a vehicle for a stated period of up to 60 days from the date issued. The person may complete his or her license application within this period by presenting proof of the person's name and date of birth in accordance with sub. (3) (a). For good cause shown, the department may renew the driving receipt once for an additional period of no more than 30 days. This subsection does not prohibit a person from proceeding under sub. (3) (b). This subsection applies only to persons who meet all of the following:

(a) Were previously licensed in another jurisdiction who surrender to the department the driver's license issued by the other jurisdiction.

(b) Are unable to immediately provide proof of name and date of birth in accordance with sub. (3) (a), but state that they will be able to do so.

(c) Submit an otherwise complete and acceptable application, including the proof of identity required by sub. (4) and social security number required by sub. (5).

**Note:** Form MV3432, Receipt.

**(7) GENERAL DOCUMENT CONDITIONS.** All documents offered by persons applying for licenses in accordance with this section shall be original documents, unless otherwise expressly allowed. Certified copies of government documents shall bear an original certification and the seal of the appropriate agency, or otherwise exhibit evidence to the satisfaction of the department that the document is an authentic, accurate and unaltered copy of the original government document. Mutilated, altered or uncertified photocopies of documents are not acceptable.

**(8) FOREIGN LANGUAGE DOCUMENTS.** Documents offered to meet the requirements of sub. (3) or (4) which are in a foreign language shall be accompanied by a photocopy of the foreign language document, to be retained by the department, and by a written English language translation, on the form provided by the department, that is certified as accurate by the translator. The person applying for a license may not certify the translation. The administrator may waive the written translation if the translation is made by an authorized and qualified employee of the department.

**Note:** Form MV3452 Foreign language document translation certification.

**History:** Cr. Register, January, 1984, No. 337, eff. 2-1-84; emerg. am. eff. 6-24-86; r. and rec. Register, December, 1990, No. 420, eff. 1-1-91; am. (6) (intro.), Register, January, 1993, No. 445, eff. 2-1-93; am. (3) (a) 5., 6., 11., (4) (a) (intro.), 2., 4. to 8., 13., 19., (5) (a) (intro.), cr. (3) (a) 14. to 18., (4) (intro.), (a) 20., (b), renum. (4) (b) (intro.), 1., 4., 6. and 7. to be (4) (c) (intro.), 1. to 4. and am. (4) (c) (intro.), r. (4) (b) 2., 3., 5., Register, January, 1997, No. 493, eff. 2-1-97; am. (2) (a), (c) (intro.), 7., (3) (a) (intro.), 8., 16., (3) (b) 1., 3., (c) and (4) (a) 1., (4) (b) 2., (6) (intro.) and (b), cr. (3) (a) 19., (4) (a) 21., Register, December, 1999, No. 528, eff. 1-1-00; emerg. am. (3) (a) 8., eff. 12-21-01; CR 02-005; am. (3) (a) 8. Register May 2002 No. 557, eff. 6-1-02; corrections in (2) (c) 4. and 5. made under s. 13.93 (2m) (b) 7., Stats., Register May 2002 No. 557.

**Trans 102.16 Operator's license and license endorsement issuance periods.** (1) ORIGINAL, REINSTATED AND PROBATIONARY LICENSES. Reinstated licenses, probationary licenses, and original licenses other than instruction permits and license endorsements shall expire 2 years from the licensed person's next birthday.

**Note:** See s. 343.20 (1) (a), Stats.

(2) EYESIGHT TESTS. The eyesight test shall be given to each person who applies for renewal of a 2, 4 or 8 year license at the time application is made.

**Note:** See s. 343.16 (3) (a), Stats.

(3) RENEWED REGULAR, COMMERCIAL DRIVER AND MOTORCYCLE ONLY LICENSES. Regular, commercial and motorcycle only licenses shall expire 8 years from the expiration date of the license being renewed if the license is renewed prior to its expiration, or 7 years from the person's next birthday in all other circumstances, except as otherwise provided in this section.

(3m) LICENSE EXTENSIONS. A regular license issued by the department may be extended by the department for 4 years from the expiration date of the license if the department has selected the license for 4 year extension rather than renewal in order to balance the number of licenses that will expire in future years. The department may consider a person's driving history in deciding whether to extend the person's license. Vision examinations may not be required for extensions.

**Note:** s. 343.20 (1) (f), Stats., provides that this extension program sunsets on December 31, 2001.

(4) LICENSE RENEWAL. No person may renew:





# WISCONSIN LEGISLATURE

P.O. BOX 8952 · MADISON, WI 53708

February 1, 2005

Secretary Frank Busalacchi  
Wisconsin Department of Transportation  
120B, Hills Farms State Transportation Building  
4802 Sheboygan Avenue  
Madison, WI 53705

Dear Secretary Busalacchi:

The Assembly Committee on Transportation and the Senate Committee on Transportation and Natural Resources have scheduled a joint public hearing on February 10, 2005, on Clearinghouse Rule 04-100, relating to proof of identification (Trans 102) – notice enclosed.

Subsequent to distributing the final rule draft, several committee members raised questions regarding the documents this rule establishes as valid proof of Wisconsin residency. Specific concerns include the following:

### ***Proof of Name and Date of Birth***

Why does the rule propose to accept driver licenses or IDs from other jurisdictions that are expired for less than 8 years? It is understood that Wisconsin maintains an 8-year driver license renewal schedule, however accepting an out-of-state license that has been expired for up to eight years raises questions regarding legitimacy and up-to-date documentation.

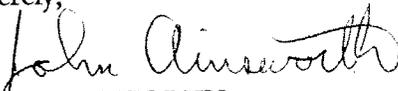
### ***Proof of Identity***

Committee members have expressed concerns as to why Wisconsin accepts several forms of identity documentation that are not accepted by any of the surrounding states. For instance, CHR 04-100 proposes to permit an affirmation by an applicant's spouse, mother, father, child or legal guardian verifying that the applicant is a resident of Wisconsin, as proof of residency, if the person affirming holds a valid Wisconsin driver license or ID card. This particular example seems easily subject to fraud. Secondly, by accepting several forms of identity documentation that are not accepted in the surrounding states, is Wisconsin opening itself up as a state where it is "easier" to obtain a license or ID?

Finally, in addition to the specific concerns addressed above, we believe committee members would welcome an overall explanation of the identification process used for the issuance of driver licenses and state IDs. As you may know, legislative colleagues have circulated legislation to amend the licensing process, specifically in regards to residency status. In anticipation of future consideration of such proposals, an overview from the Department would be much appreciated.

If you have any additional questions regarding the public hearing on CHR 04-100, please do not hesitate to contact either of our offices. Thank you in advance for the Department's attendance in addressing this rule.

Sincerely,

  
JOHN AINSWORTH  
Chairperson  
Assembly Transportation Committee

  
NEAL KEDZIE  
Chairperson  
Senate Transportation Committee

Enclosure:1





# JOHN AINSWORTH

STATE REPRESENTATIVE • 6<sup>TH</sup> ASSEMBLY DISTRICT

CHAIRMAN:

COMMITTEE ON TRANSPORTATION

March 21, 2005

Secretary Frank Busalacchi  
Wisconsin Department of Transportation  
120B, Hills Farms State Transportation Building  
4802 Sheboygan Avenue  
Madison, WI 53705

Dear Secretary Busalacchi:

Thank you for the Department's cooperation in agreeing to consider modifications to Clearinghouse Rule 04-100 – relating to Proof of Identification. I appreciate your willingness to listen to the concerns of Transportation Committee members – and look forward to establishing compromise language all parties find appropriate.

As we all know, the Department of Transportation's role in issuing both driver licenses and general IDs has become essential. Knowing such, people want to feel secure that the issuance of a Wisconsin ID is credible, and that Wisconsin's requirements are just as stringent as in surrounding states. While I am sure that most persons agree that the Department is doing an exceptional job with this responsibility, there are some proposed changes to TRANS 102 that committee members are not comfortable with.

It is my hope that by providing a list of the concerns the majority of committee members would like addressed, we may commence a dialogue to resolve such issues. Once the appropriate representatives of your department have had a chance to review the delineated concerns, I would like to set up a meeting to discuss future changes.

### Photograph Exemptions

#### **Proposed Trans 102.03(2m)**

The department may waive the requirement that a person appear at a motor vehicle service center if the department has entered into an agreement with the department of corrections under which that agency will accept application materials or take photographs for the department, the person is an inmate at a department of corrections facility, and the department receives all required photographs or application materials for the person from the department of corrections.

Committee members would like this section deleted.

Additionally, while the topic is not specifically addressed in CHR 04-100, I would be interested in receiving information regarding the frequency with which department of corrections inmates are transported to DMV service centers for license application or

District:  
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(715) 526-3810

Toll-Free: (888) 529-0006  
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Office:  
P.O. Box 8952, State Capitol  
Madison, Wisconsin 53708-8952  
(608) 266-3097 • Fax: (608) 282-3606

renewal. Are inmates transported to the DMV for license renewal based on their regular renewal cycle? Or, instead, are transports for DMV business only made for inmates approaching their release date?

**Amended – Proof of Name and Date of Birth**

**Proposed Trans 102.15(3)(a) 16.**

An operator's license or identification card of another jurisdiction that is valid or expired ~~four~~ 8 years or less, being ~~an identifiable~~ a photograph and signature, or reproduction of the signature of the person;

*Committee members would like this section amended by substituting 4 years for 8 years.*

**Proposed Trans 102.15(4)(a)**

2. An operator's license, including ~~an out of state~~ a license from another jurisdiction that is valid or is expired 8 years or less, being a photograph of the person;

*Committee members would like this section amended by substituting 4 years for 8 years.*

5. A ~~state issued~~ photo identification card issued by Wisconsin or another jurisdiction that is valid or is expired 8 years or less, bearing a photograph of the person;

*Committee members would like this section amended by substituting 4 years for 8 years.*

**Amended – Proof of Residency**

**Proposed Trans 102.15(4m)(e)**

A Milwaukee county ID card issued after February 2000, but no later than July 1, 2003.

*Committee members would like this section deleted.*

**Proposed Trans 102.15(4m)(g)**

An affirmation by an applicant's spouse, mother, father, child who is age 18 or over, or legal guardian verifying that the applicant is a resident of Wisconsin if the person affirming holds a valid Wisconsin drivers license or ID card.

*Committee members would like this section deleted.*

Again, once the department has had opportunity for review, I would appreciate a contact to set up a meeting to discuss this topic. If you, or your colleagues have any additional questions regarding the committee's review of this language, please do not hesitate to contact me.

Please be advised that I have been in consultation with Senate Transportation Committee Chair Neal Kedzie regarding these concerns. Thank you in advance for consideration of these comments.

Sincerely,



JOHN AINSWORTH  
State Representative  
6th Assembly District

JA/khb

cc: Senator Neal Kedzie, Senate Transportation Committee Chairperson  
Gary Guenther, Director – DMV Bureau of Driver Services  
Phil Alioto – DMV Bureau of Driver Services



CRule  
04-100



**Wisconsin Department of Transportation**

www.dot.wisconsin.gov

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Governor

Frank J. Busalacchi  
Secretary

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E-mail: ogc.exec@dot.state.wi.us

The Honorable Senator Neal Kedzie  
Chairman, Senate Transportation Committee  
Room 313 South, State Capitol  
Madison, Wisconsin 53702

November 29, 2006

The Honorable Representative John Ainsworth  
Chairman, Assembly Transportation Committee  
Room 309 North, State Capitol  
Madison, Wisconsin 53702

RE: **NOTICE OF PUBLIC HEARING** and Text of Proposed Rule, relating to **proof of identity**, Trans 102

Dear Senator Kedzie and Representative Ainsworth:

In accordance with the Department of Transportation's practice of notifying the Legislative Transportation Committees concerning rulemaking actions, I submit the enclosed documents for your information. These documents have also been filed with the Revisor of Statutes and with the Legislative Council, with copy to the Department of Administration, in accordance with the requirements of §§ 227.15 and 227.17, Stats.

Sincerely,

Julie A. Johnson  
Paralegal

Enclosure

cc: Casey Newman  
Mike Goetzman  
Lynne B. Judd  
Erin Egan

**PROPOSED ORDER OF THE STATE OF WISCONSIN  
DEPARTMENT OF TRANSPORTATION  
ADOPTING RULES**

The Wisconsin Department of Transportation proposes an order to repeal TRANS 102.15(3)(a)16., 19. and 20., (4)(a)1., 6., 7., 12., 14., 18., 19., 21. and 22., (b), (c)(intro.), 1., 3., 4. and 5., (4m)(a) and (e), and (8); renumber TRANS 102.14(3); renumber and amend TRANS 102.15(4)(c)2.(intro.); amend TRANS 102.15(3)(a)2. and 4., (4)(a)2. and 5.; and create TRANS 102.14(3)(b), and 102.15(3)(a)21., (4)(a)24. and (4m)(f), relating to proof of identity.

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NOTICE IS HEREBY GIVEN that pursuant to ss. 85.16, 343.02, 343.05(4)(c), 343.06, 343.14 and 343.50, Stats., and interpreting ss. 340.01(37) and (40), 343.01(2)(g), 343.05(4)(b) and (c), 343.06 (1)(k), 343.14 and 343.50(2), Stats., the Department of Transportation will hold a public hearing in **Room 254** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **8<sup>th</sup>** day of **January, 2007, at 1:30 PM**, to consider the amendment of ch. Trans 102, Wisconsin Administrative Code, relating to proof of identity.

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.

Parking for persons with disabilities and an accessible entrance are available.

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**PROPOSED ORDER OF THE STATE OF WISCONSIN  
DEPARTMENT OF TRANSPORTATION  
ADOPTING RULES**

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The Wisconsin Department of Transportation proposes an order to repeal TRANS 102.15(3)(a)16., 19. and 20., (4)(a)1., 6., 7., 12., 14., 18., 19., 21. and 22., (b), (c)(intro.), 1., 3., 4. and 5., (4m)(a) and (e), and (8); renumber TRANS 102.14(3); renumber and amend TRANS 102.15(4)(c)2.(intro.); amend TRANS 102.15(3)(a)2. and 4., (4)(a)2. and 5.; and create TRANS 102.14(3)(b), and 102.15(3)(a)21., (4)(a)24. and (4m)(f), relating to proof of identity.

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

**Statutes interpreted:** ss. 340.01(37) and (40), 343.01(2)(g), 343.05(4)(b) and (c), 343.06(1)(k), 343.14 and 343.50(2), Stats.

**Statutory authority:** ss. 85.16, 343.02, 343.05(4)(c), 343.06, 343.14 and 343.50, Stats.

**Explanation of agency authority:** 2005 Wisconsin Act 126 requires that a person applying for a driver's license (DL) or identification card (ID) provide documentary proof of citizenship or legal presence in the United States. Altering the list of documents acceptable as proof of name and date of birth, identity, residency, and Social Security number will serve two purposes:

1. Making documents that could be used by persons without legal presence in this country unacceptable.
2. Conforming the list of acceptable documents to what is used other states and American Association of Motor Vehicle Administrator (AAMVA) standards. The federal government will likely use AAMVA standards to determine state compliance with REAL ID.

Current law also prohibits the Department from issuing a driver's license or identification card to any person who is not a resident. It should be noted that any nonresident of the United States may operate on an international driving permit, and a resident of another state may operate on a license issued by that other state for up to one year, and are exempt from licensing requirements of Chapter 343, Stats.

**Related statute or rule:** ss. 343.05, 343.06, 343.14 and 343.20, Stats., and ch. Trans 102.

**Plain language analysis:** This proposed rule making limits the list of acceptable documents for proof of name and date of birth, identity, residency, and Social Security number to be consistent with other states and standards established by the American Association of Motor Vehicle Administrators (AAMVA). The rule making establishes a minimum duration stay for temporary visitors of one year for a driver's license or six

months for an identification card and those applicants must have at least six or three months, respectively, of that authorized stay remaining to be eligible; temporary visitors are immediately eligible for those documents if their minimum legal stay is equal to or longer than those minimum durations.

**Summary of, and preliminary comparison with, existing or proposed federal regulation:** Adopting the AAMVA list of acceptable documents for proof of name and date of birth, identity, residency, and Social Security number moves Wisconsin towards compliance with the federal REAL ID Act (Public Law 109-013). REAL ID also requires that DL/IDs issued to temporary visitors expire on the date their authorized stay ends (i.e., a “temporary license”).

**Comparison with Rules in Adjacent States:** All states will be required to comply with REAL ID by May 11, 2008 or their citizens will not be able to use their driver’s license (DL) or identification card (ID) for any federal purpose such as boarding airplanes or entering federal buildings. For temporary visitors, surrounding states have the following requirements for minimum length of stay and temporary licenses:

**Michigan:** No legal presence required (no minimum length of stay or temporary license requirement). Michigan presumes that any person who obtains employment intends to remain in the state. MCLS 257.51a. Michigan law prohibits issuing a driver’s license to a “foreign exchange student.” MCLS 257.303(1)(h).

**Minnesota:** No minimum length of stay required to be eligible for a driver’s license. Licenses for temporary visitors are issued for the same amount of time as citizens (i.e., four years), with an end date included on the license for the end of the authorized stay. If a person’s authorized stay ends before the regular expiration date of the license, the license is cancelled when the authorized stay ends.

**Illinois:** Temporary visitor’s driver’s licenses may be issued to any foreign national authorized to be in the country for at least one year and having at least six months of the authorized stay remaining. 625 ILCS 5/6-105.1, 92 Ill. Adm. Code 1030.11(d).

**Iowa:** Temporary visitors must be authorized to be in the country for at least 30 days to be eligible for a driver’s license. The term of the DL/ID is limited to the length of authorized stay, not to exceed two years. Iowa Code 321.196.

**Summary of factual data and analytical methodologies used and how the related findings support the regulatory approach chosen:** N/A

**Analysis and supporting documentation used to determine effect on small businesses:** This is not expected to have any significant impact on small businesses, as the list of acceptable documents for proof of name and date of birth, identity, residency, and Social Security number is being changed to align with the upcoming legal presence requirements. In addition, temporary visitors may operate for up to one year on an International Driving Permit, so the minimum length of stay requirement will not impact drivers licensed in their home countries. Any temporary visitor whose length of stay goes beyond one year would be eligible for a driver’s license.

**Effect on small business:** This rule making will have no effect on small businesses. The Department's Regulatory Review Coordinator may be contacted by e-mail at [ralph.sanders@dot.state.wi.us](mailto:ralph.sanders@dot.state.wi.us), or by calling (414) 438-4585.

**Fiscal effect and anticipated costs incurred by private sector:** The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district, sewerage district, or federally-recognized tribes or bands. The Department estimates that there will be no fiscal impact on state revenues or liabilities or any costs incurred by the private sector.

**Agency contact person and place where comments are to be submitted and deadline for submission:** The public record on this proposed rule making will be held open until close of business the day of the hearing to permit the submission of comments in lieu of public hearing testimony or comments supplementing testimony offered at the hearing. Any such comments should be submitted to Gary Guenther, Department of Transportation, Bureau of Field Services, Room 266, P. O. Box 8917, Madison, WI 53708-8917. You may also contact Mr. Guenther by phone at (608) 266-2743 or via e-mail: [gary.guenther@dot.state.wi.us](mailto:gary.guenther@dot.state.wi.us).

To view the proposed amendments to the rule, view the current rule, and submit written comments via e-mail/internet, you may visit the following website: <http://www.dot.wisconsin.gov/library/research/law/rulenotices.htm>.

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### TEXT OF PROPOSED RULE

**SECTION 1.** Trans 102.14(3) is renumbered Trans 102.14(3)(a).

**SECTION 2.** Trans 102.14(3)(b) is created to read:

Trans 102.14(3)(b)1. A person whose legal presence or authorized stay in this country is a period of 12 months or less and ends not more than 6 months after he or she applies for an operator's license is not a resident of this state within the meaning of s. 343.01(2)(g), Stats.

2. A person whose legal presence or authorized stay in this country is a period of 6 months or less and ends not more than 3 months after he or she applies for an identification card is not a resident of this state within the meaning of s. 343.01(2)(g), Stats.

**SECTION 3.** Trans 102.15(3)(a)2. and 4. are amended to read:

Trans 102.15(3)(a)2. For a person born outside Wisconsin, a certified copy of his or her birth certificate or the equivalent document from the state, territory, ~~Canadian province or foreign country of birth~~ certificate of birth abroad issued by the U.S. department of state (federal form FS-545 or DS-1350);

4. A valid, unexpired passport issued by a foreign country with federal I-551 resident alien registration receipt card or federal I-94 arrival and departure record that bears a photograph of the person and identifies the person's first and last names, and the person's day, month and year of birth;

**SECTION 4.** Trans 102.15(3)(a)16., 19. and 20. are repealed.

**SECTION 5.** Trans 102.15(3)(a)21. is created to read:

Trans 102.15(3)(a)21. Department of homeland security/transportation security administration transportation worker identification credential.

**SECTION 6.** Trans 102.15(4)(a)1. is repealed.

**SECTION 7.** Trans 102.15(4)(a)2. and 5. are amended to read:

~~An operator's~~ A valid operator's license, including a license from another jurisdiction that is valid or expired 4 years or less, except a province of the Dominion of Canada, bearing a photograph of the person;

**NOTE: Temporary driving receipts from other jurisdictions are not acceptable. "Another jurisdiction" is defined at s. 340.01(41m), Stats.**

5. A valid photo identification card issued by Wisconsin or another jurisdiction that is valid or is expired 4 years or less, except a province of the Dominion of Canada, bearing a photograph of the person;

**SECTION 8.** Trans 102.15(4)(a)6., 7., 12., 14., 18., 19., 21. and 22. are repealed.

**SECTION 9.** Trans 102.15(4)(a)24. is created to read:

Trans 102.15(4)(a)24. Department of homeland security/transportation security administration transportation worker identification credential.

**SECTION 10.** Trans 102.15(4)(b) is repealed.

**SECTION 11.** Trans 102.15(4)(c)(intro.) and 1. are repealed.

**SECTION 12.** Trans 102.15(4)(c)2.(intro.) is renumbered Trans 102.15(4)(c) and amended to read:

Trans 102.15(4)(c) The A person is applying without a personal appearance to reinstate a suspended or revoked license or identification card or to renew a license subject to s. Trans 102.03(2) and (5) or obtain a duplicate license or identification card, if all of the following apply:

**SECTION 13.** Trans 102.15(4)(c)3., 4. and 5. are repealed.

**SECTION 14.** Trans 102.15(4m)(a) and (e) are repealed.

**SECTION 15.** Trans 102.15(4m)(f) is created to read:

Trans 102.15(4m)(f) Mortgage documents for a residential real property located in Wisconsin.

**SECTION 16.** Trans 102.15(8) is repealed.

**(END OF RULE TEXT)**

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**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 29<sup>th</sup> day of November, 2006.

  
FRANK J. BUSALACCHI  
Secretary  
Wisconsin Department of Transportation