



(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**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- 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**

Senate

Record of Committee Proceedings

Committee on Natural Resources and Transportation

Clearinghouse Rule 04-141

Relating to military vehicle operator CDL exemption.
Department of Transportation

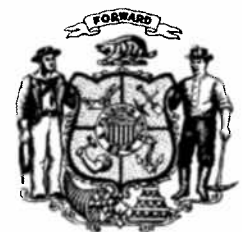
February 15, 2005 Referred to Committee on Natural Resources and Transportation.

March 16, 2005 No action taken.

Matt Phillips
Committee Clerk



WISCONSIN STATE LEGISLATURE





Wisconsin Department of Transportation

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Governor

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Secretary

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

February 9, 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 04-141

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 **military vehicle operator CDL exemption**, which is being submitted to the Legislature for committee review.

Sincerely,


Julie A. Johnson
Paralegal

JAJ/dim

Enclosure

cc: Beverly Larson
Supt. David Collins
Phil Alioto
Loralee Brumund

CR 04-141

The Wisconsin Department of Transportation proposes an order to amend TRANS 102.22(1)(note); and create TRANS 102.23, relating to military vehicle operator CDL exemption

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

This report is submitted to the presiding officers of the Senate and Assembly for referral to the appropriate standing committees. The report consists of the following parts:

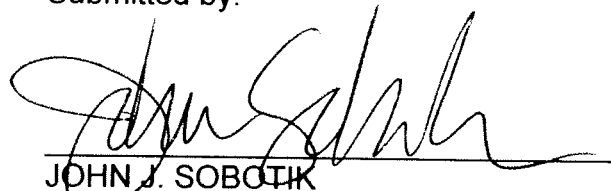
Part 1--Analysis prepared by the Department of Transportation.

Part 2--Rule text in final draft form.

Part 3--Recommendations of the Legislative Council.

Part 4--Analysis prepared pursuant to the provisions of s. 227.19(3), Stats.

Submitted by:



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Office of General Counsel
Department of Transportation
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PART 1

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 343.055(5), Stats.

STATUTES INTERPRETED: ss. 343.055, Stats.

Plain Language Analysis: Section 343.05(4)(a)1., Stats., currently exempts military persons from all state licensing requirements if they are members of the armed services driving a motor vehicle owned by or leased by the federal government.

Section 49 C.F.R. 383.3(c) permits states to exempt drivers operating a commercial motor vehicle for military purposes from CDL requirements. The federal government has requested that Wisconsin exempt all persons operating CMVs for military purposes from CDL requirements without regard to vehicle ownership. This proposed rule making would grant an exemption from CDL requirements for military purposes to the extent permitted by federal law.

Section 343.055(5) requires WisDOT to issue administrative rules implementing all federal CDL waivers.

Summary of, and Preliminary Comparison with, Existing or Proposed Federal Regulation: Section 49 C.F.R. 383.3(c) permits states to exempt drivers operating a commercial motor vehicle for military purposes from CDL requirements. The federal government has requested that Wisconsin exempt all persons operating CMVs for military purposes from CDL requirements without regard to vehicle ownership. This proposed rule making would implement that exemption as required by s. 343.055(5), Stats.

Comparison with Rules in Adjacent States: All states and Washington D.C. have a CDL exemption for military drivers similar to this provision.

Summary of Factual Data and Analytical Methodologies Used and How the Related Findings Support the Regulatory Approach Chosen: No data or analytical methodology was employed in considering this proposed rule making.

Effect on Small Business and, If Applicable, Any Analysis and Supporting Documentation Used to Determine Effect on Small Businesses: This proposed rule making has no effect on small business. This affects only drivers working for the U.S. Military.

Fiscal Effect and Anticipated Costs Incurred by Private Sector: There is no fiscal effect for implementing this rule making, nor will the private sector incur any costs.

Copies of Proposed Rule: Copies of the proposed rule may be obtained, without cost, by writing to Gary Prideaux-Wentz, Department of Transportation, Division of Motor

Vehicles, Room 351, P. O. Box 7995, Madison, WI 53707-7995. You may also contact Mr. Prideaux-Wentz by phone at (608) 264-8714.

PART 2
TEXT OF PROPOSED RULE

SECTION 1. Trans 102.22(1)(note) is amended to read:

Trans 102.22(1)(note) **Note:** The current federal waiver appears at ~~61 Fed. Reg. 14677, April 3, 1996~~ 49 CFR s. 383.3(d)(3).

SECTION 2. Trans 102.23 is created to read:

Trans 102.23 Military vehicle operator CDL exemption. (1) **PURPOSE.** The purpose of this section is to administratively implement the federal waiver for vehicles operated by the United States armed forces permitted under 49 CFR 383.3(c). This section shall be interpreted and administered consistent with that regulation and in a manner that complies with federal guidelines issued pursuant to that regulation.

(2) **DEFINITIONS.** In this section, "CDL class, endorsement or restriction" means authorization to operate class A, B or C commercial motor vehicles or any endorsement described in s. 343.17(3)(d), Stats.

(3) **MILITARY WAIVER.** No CDL class, endorsement or restriction shall be required of or applied to a person operating a commercial motor vehicle for military purposes, including all of the following:

- (a) Active duty military personnel.
- (b) Members of the military reserves.
- (c) Members of the national guard on active duty, including personnel on full-time national guard duty.
- (d) Personnel on part-time national guard training.

(e) National guard military technicians.

NOTE: National guard military technicians are civilians who are required to wear military uniforms. 49 CFR 383.3(c).

(f) Active duty U.S. Coast Guard personnel.

(4) WAIVER INAPPLICABLE. Sub. (3) does not apply to U.S. reserve technicians.

(END OF RULE TEXT)

Effective Date. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2)(intro.), Stats.

Signed at Madison, Wisconsin, this 8th day of February, 2005.


FRANK J. BUSALACCHI
Secretary
Wisconsin Department of Transportation



**WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE**

Ronald Sklansky
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Richard Sweet
Clearinghouse Assistant 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 04-141

AN ORDER to amend TRANS 102.22 (1) (Note); and to create TRANS 102.23, relating to military vehicle operator CDL exemption.

Submitted by **DEPARTMENT OF TRANSPORTATION**

12-23-2004 RECEIVED BY LEGISLATIVE COUNCIL.

01-14-2005 REPORT SENT TO AGENCY.

RS:PGC

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

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

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



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 04-141

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 January 2005.]

5. Clarity, Grammar, Punctuation and Use of Plain Language

The preface to the rule states in part that all “50 states” have a commercial driver license exemption for military drivers similar to the exemption contained in s. Trans 102.33. Since Wisconsin does not yet have this exemption, no more than 49 states could have a similar exemption.

PART 4
CR 04-141

ANALYSIS OF FINAL DRAFT OF TRANS 102

(a) **Basis and Purpose of Rule**. Section 49 C.F.R. 383.3(c) permits states to exempt drivers operating a commercial motor vehicle for military purposes from CDL requirements. The federal government has requested that Wisconsin exempt all persons operating CMVs for military purposes from CDL requirements without regard to vehicle ownership. This proposed rule making would grant an exemption from CDL requirements for military purposes to the extent permitted by federal law.

Section 343.05(4)(a)1., Stats., currently exempts military persons from all state licensing requirements if they are members of the armed services driving a motor vehicle owned by or leased by the federal government. Section 343.055(5) requires WisDOT to issue administrative rules implementing all federal CDL waivers.

(b) **Modifications as a Result of Testimony at Public Hearing**. The public hearing was held in Madison on January 27, 2005. No modifications were made as a result of testimony at the hearing.

(c) **List of Persons who Appeared or Registered at Public Hearing**. None.

(d) **Summary of Public Comments and Agency Response to those Comments**: No public comments were received.

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

(f) **Response to Legislative Council Recommendations**. The Legislative Council report suggested a change in the Comparison with Rules in Adjacent States. The Department has changed the comparison to reflect the fact that the other 49 states and Washington D.C. all have CDL exemptions for military drivers.

(g) **Final Regulatory Flexibility Analysis**. This proposed rule making has no effect on small business. This affects only drivers working for the U.S. Military.