



(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 05-109**

Relating to the time period within which a person moving to Wisconsin may operate a motor vehicle under a driver license from his or her previous state of residence.

Submitted by Department of Transportation.

January 18, 2006      Referred to Committee on Natural Resources and Transportation.

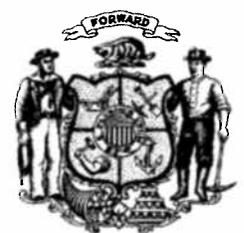
February 16, 2006      No action taken.

---

Matt Phillips  
Committee Clerk



# WISCONSIN STATE LEGISLATURE





## Wisconsin Department of Transportation

www.dot.wisconsin.gov

Jim Doyle  
Governor

Frank J. Busalacchi  
Secretary

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

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

January 17, 2006

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

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 05-109**

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 the **time period within which a person moving to Wisconsin may operate a motor vehicle under a driver license from his or her previous state of residence**, which is being submitted to the Legislature for committee review.

Sincerely,

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

Julie A. Johnson  
Paralegal

JAJ/dim

Enclosure

cc: Lynne B. Judd  
Erin Egan

---

**CR 05-109**

---

The Wisconsin Department of Transportation proposes an order to amend TRANS 102.14(4) and 102.15(6)(intro.), and create TRANS 102.15(16)(note), relating to the time period within which a person moving to Wisconsin may operate a motor vehicle under a driver license from his or her previous state of residence.

---

**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:



---

JOHN J. SOBOTIK  
Assistant General Counsel  
Office of General Counsel  
Department of Transportation  
Room 115-B, Hill Farms State  
Transportation Building  
P. O. Box 7910  
Madison, WI 53707-7910  
(608) 267-9320

## **PART 1**

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

**Statutes interpreted:** s. 343.05(4)(b)1., Stats.

**Statutory authority:** s. 343.02(1), Stats.

**Explanation of agency authority:** Section 343.02(1), Stats., grants the Department responsibility for administering and enforcing Chapter 343, Stats., and authority to promulgate such rules as the secretary considers necessary for that purpose.

**Related statute or rule:**

- Section 340.01(37), the definition of "Nonresident" for the motor vehicle code.
- Section 343.01(2)(g), the definition of "Resident" for driver licensing purposes.
- Section 343.06(1)(k), which prohibits issuance of licenses to nonresidents.

**Plain language analysis:** Current law requires all persons to have driver licenses as a condition of operating a motor vehicle on a highway. Residents must hold a Wisconsin driver license. s. 343.05, Stats. Nonresidents must be at least 16 years old have a license from their home jurisdiction. Nothing in the statutes deals with the situation of a person moving to Wisconsin and establishing residence here. Statutorily, once a person establishes their one permanent home in this state, they cannot operate on the license from their old state of residence. The statutes do not provide any leeway or time period within which a person may operate on their out-of-state license upon moving to this state.

Because this circumstance arises frequently, WisDOT promulgated an administrative rule that provides a 30-day deadline for new residents to obtain a driver license. In practice, police agencies statewide do not arrest persons for driving without a driver license within the first 30 days after they move to this state following the spirit of the regulation.

In the past year, WisDOT has implemented new, more stringent proof of identity requirements as a condition of obtaining a Wisconsin driver license. Rather than simply accepting the out-of-state license as evidence of identity, the Department also requires documentation such as a certified birth certificate or passport.

DMV has found that a person moving to this state often cannot obtain these required documents within 30 days of moving to this state. Accordingly, this rule making proposes to extend the time period within which people should obtain a Wisconsin driver license after moving to this state to 60 days.

**Summary of, and preliminary comparison with, existing or proposed federal regulation:** There is no federal legislation on this point. Federal CDL law, in fact, permits states to issue CDLs to drivers who are not residents of their states.

**Comparison with Rules in Adjacent States:**

**Michigan:** Michigan law does not appear to allow a driver any grace period. Mich. Comp. Laws, ss. 257.301 and .302.

**Minnesota:** Allows new resident 60 days to obtain Class D or M Minnesota license, 30 days to obtain a Minnesota CDL. s. 171.03, Minn. Stats.

**Illinois:** Allows new resident 90 days to obtain an Illinois driver license. 625 ILCS 5/6.102(7).

**Iowa:** License must be obtained immediately upon establishing residency in Iowa. s. 321.174, Iowa Code.

**Summary of factual data and analytical methodologies used and how the related findings support the regulatory approach chosen:** Not applicable.

**Analysis and supporting documentation used to determine effect on small businesses:** None.

**Effect on small business:** This proposed rule would have no effect on small business. The Department's Regulatory Review Coordinator may be contacted by e-mail at [andrew.ruiz@dot.state.wi.us](mailto:andrew.ruiz@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 or private sector revenues or liabilities.

**Copies of Proposed Rule.** Copies of the proposed rule may be obtained at no cost by writing to Erin Egan, Department of Transportation, Division of Motor Vehicles, Office of Program Operations, Room 351, P. O. Box 7911, Madison, WI 53707-7911. You may also contact Ms. Egan by phone at (608) 266-1449.

---

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

**SECTION 1.** Trans 102.14(4) is amended to read:

Trans 102.14(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 as follows:

(a) Within 30 days of establishing Wisconsin residency if the person holds a commercial driver license from another jurisdiction or Mexico and seeks a Wisconsin commercial driver license.

**Note: Commercial drivers are required to transfer their CDL within 30 days of moving between states by federal law. 49 CFR 383.71 (b).**

(b) Within 60 days of establishing Wisconsin residency in situations not described in par. (a).

**SECTION 2.** Trans 102.15(6)(intro.) is amended to read:

Trans 102.15(6)(intro.) TEMPORARY DRIVER RECEIPT. The department may issue a temporary driver receipt for operation of class D or M vehicles 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~~ 60 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:

**SECTION 3.** Trans 102.15(6)(note) is created to read:

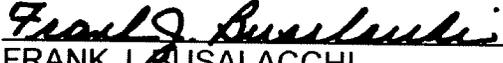
**Trans 102.15(6)(note)** Section 343.11(1), Stats., prohibits issuance of temporary driving receipts in situations where a CDL is required. A temporary driving receipt may be used by drivers who are exempt from CDL requirements under s. 343.055, Stats.

**(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 17<sup>th</sup> day of January, 2006.

  
FRANK J. BUSALACCHI  
Secretary  
Wisconsin Department of Transportation



---

---

**WISCONSIN LEGISLATIVE COUNCIL  
RULES CLEARINGHOUSE**

---

---

**Ronald Sklansky**  
*Clearinghouse Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

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

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

**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 05-109**

AN ORDER to amend Trans 102.14 (4) and 102.15 (6) (intro.); and to create Trans 102.15 (16) (note), relating to the time period within which a person moving to Wisconsin may operate a motor vehicle under a driver license from his or her previous state of residence.

Submitted by **DEPARTMENT OF TRANSPORTATION**

11-30-2005 RECEIVED BY LEGISLATIVE COUNCIL.

12-16-2005 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

---

---

**Ronald Sklansky**  
*Clearinghouse Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

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

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

### CLEARINGHOUSE RULE 05-109

#### 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**

a. In the last paragraph of the plain language analysis, the word “a” should be inserted before the word “person.”

b. In s. Trans 102.14 (4) (a), why is the phrase “another jurisdiction or Mexico” used? It leads the reader to believe that the term “jurisdiction” refers to another state and that persons from countries other than Mexico are not included in this provision. It seems clearer to use a phrase such as “a licensing jurisdiction other than Wisconsin.”

c. Section Trans 102.14 (4) (b) should be rewritten to read: “Within 60 days of establishing Wisconsin residency in situations not described in par. (a).”

**PART 4**  
CR 05-109

---

ANALYSIS OF FINAL DRAFT OF TRANS 102

---

(a) **Basis and Purpose of Rule.** Current law requires all persons to have driver licenses as a condition of operating a motor vehicle on a highway. Residents must hold a Wisconsin driver license. s. 343.05, Stats. Nonresidents must be at least 16 years old and have a license from their home jurisdiction. Nothing in the statutes deals with the situation of a person moving to Wisconsin and establishing residence here. Statutorily, once a person establishes their one permanent home in this state, they cannot operate on the license from their old state of residence. The statutes do not provide any leeway or time period within which a person may operate on their out-of-state license upon moving to this state.

Because this circumstance arises frequently, WisDOT promulgated an administrative rule that provides a 30-day deadline for new residents to obtain a driver license. In practice, police agencies statewide do not arrest persons for driving without a driver license within the first 30 days after they move to this state following the spirit of the regulation.

In the past year, WisDOT has implemented new, more stringent proof of identity requirements as a condition of obtaining a Wisconsin driver license. Rather than simply accepting the out-of-state license as evidence of identity, the Department also requires documentation such as a certified birth certificate or passport.

DMV has found that a person moving to this state often cannot obtain these required documents within 30 days of moving to this state. Accordingly, this rule making proposes to extend the time period within which people should obtain a Wisconsin driver license after moving to this state to 60 days.

(b) **Modifications as a Result of Testimony at Public Hearing.** The public hearing was held in Madison on January 11, 2006. No modifications to the proposed rule were made as a result of testimony at the hearing as no one appeared at the hearing.

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

(d) **Summary of Public Comments and Agency Response to those Comments:** No persons appeared and no public comments were made.

(e) **Explanation of any Changes Made to the Plain Language Analysis or Fiscal Estimate:** None.

(f) **Response to Legislative Council Recommendations.** The Legislative Council Clearing House report contained two comments or suggestions which have both been incorporated into the proposed rule.

Item 5.b. in the "Clarity, Grammar, Punctuation and Use of Plain Language" section also asked why the phrase "another jurisdiction or Mexico" was used in proposed s. Trans 102.14(4)(a). 49 C.F.R. 384.214 requires states to grant reciprocity to honor CDLs issued by other states, Canada or Mexico. The U.S. Department of Transportation's promulgation of 49 CFR part 384 that appeared in the Federal Register for May 18, 1994, [FHWA Docket No. MC-93-9] explained this requirement as follows:

The statute specifies that each State shall allow any non-disqualified holder of a valid CDL issued by any other State to operate a CMV in its State. 49 U.S.C. app. 2708 (a)(14). Section 383.73(h) makes a State's granting of this licensing reciprocity mandatory. This rule explicitly conditions the State's substantial compliance with the CDL program on the same licensing reciprocity intended in part 383, with two clarifications. First, the phrase "State or jurisdiction" was used to make it clear that a State must accept CDLs issued by countries named in footnote 1 to Sec. 383.23(b). Currently, Canadian licenses issued under the National Safety Code, and Mexico's new Licencia Federal de Conductor must be reciprocally accepted because the FHWA has determined that those countries test drivers and issue CDLs in accordance with the part 383 standards or their equivalent.

In discussions with the FHWA, federal officials have expressed the opinion that two treaties require the United States to recognize Canadian and Mexican CDLs: the 1943 regulation of inter-American automotive traffic and the 1949 Geneva convention on road traffic. These treaties are already recognized under Wisconsin law. s. 343.05(4)(b)2., Stats.

Thus, Wisconsin is obliged to honor CDLs issued by Canadian provinces or Mexico.

The term "other jurisdiction" is defined in s. 340.01(41m) to include the District of Columbia, the commonwealth of Puerto Rico and any territory or possession of the United States, any federal military installation located within the territorial boundaries of Wisconsin and any province of the Dominion of Canada. Thus, the term includes all of the places from which CDLs are accepted by Wisconsin, except Mexico. Because we must also include Mexico, the phrase "other jurisdiction or Mexico" was used to make clear that the CDL can be from any of the places included in the definition or "other jurisdiction" or from Mexico.

Licenses from countries not included in the definition of "other jurisdiction" or from Mexico are not valid for purposes of operating commercial motor vehicles.

(g) **Final Regulatory Flexibility Analysis**. This proposed rule will have no impact upon small businesses. It applies only to individuals moving to Wisconsin from other jurisdictions.