



(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 06-089

Relating to licensing of driver schools and instructors.
Submitted by Department of Transportation.

- August 29, 2006 Referred to Committee on Natural Resources and Transportation.
- September 12, 2006 Germane modifications received from the agency pursuant to s.
227.19(4)(b)3., Stats.
- September 26, 2006 Germane modifications received from the agency pursuant to s.
227.19(4)(b)3., Stats.
- October 12, 2006 No action taken.

Matt Phillips
Committee Clerk



HI MATT-
THIS IS A COPY OF
CORRESPONDENCE
BETWEEN DMV &
KNIGHT RE: TRANSIOS.

WE DIDN'T RESPOND
TO THE 8/9/06 EMAIL,
AS OUR STAFF PERSON
WAS OUT FOR A FEW
DAYS WHEN WE GOT
IT. THE 1ST DAY
SHE WAS BACK WAS
THE HEARING, WHICH
MR. WITMER ATTENDED.

Thanks!

ERIN



Division of Motor Vehicles
4802 Sheboygan Ave
PO Box 7920
Madison, WI 53707-7920

Internet: www.dot.wisconsin.gov
Telephone: 608-264-7049
FAX: 608-261-8201
E-mail: dotdrvtrnschool@dot.state.wi.us

July 14, 2006

TO ALL DRIVER TRAINING SCHOOLS

Chapter Trans 105 of the Wisconsin Administrative Code must be updated to comply with 2005 Wisconsin Act 397. This new law made many substantial changes to the driver schools statutes. Representatives from the Division of Motor Vehicles, Department of Public Instruction, and Driver Training Schools met to update Trans 105 in accordance with this new law.

A public hearing for the proposed changes to Trans 105 will be held on Monday, August 14th at 1 p.m. in Room 254 of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, WI. Written comments may also be submitted, in lieu of or in addition to public hearing testimony. Written comments must be received by 4:30 on Tuesday, August 14th.

Written comments should be submitted to:

Erin Egan
DMV Administrator's Office
PO Box 7911
Madison, WI 53707-7911
erin.egan@dot.state.wi.us

You may also view the current rule, proposed changes, and submit written comments via e-mail by visiting the following website:

<http://www.dot.wisconsin.gov/library/research/law/rulenotices.htm>

You may view 2005 Wisconsin Act 397 by visiting the following website:

<http://www.legis.state.wi.us/2005/data/acts/05Act397.pdf>

Qualification and Issuance Section

klr

Egan, Erin

From: Knidrish409@aol.com
Sent: Sunday, July 30, 2006 11:39 AM
To: erin.egan@dot.state.wi.us
Subject: rulemaking

to: DOT, E Egan
from: Paul W. #2666 Knight Driver School
subject: Rulemaking

I was surprised by the recent letter noticing a rule making hearing on August 14, 06.

I am requesting that you consider a later date, preferably after the school year starts and driver schools have fewer obligations during much of the day.

Most smaller driver schools have owner/instructors who are committed months in advance, especially during the Summer, not anticipating an obligation as important as the hearing. Written comments are not as good as being there.

Secondly the July letter announcing the meeting was the only thing I got. Were any notices or documents sent to all licensees about the meetings, who was seated as driver schools representatives (what schools were they with), questionnaires, meeting minutes, or minute summaries? Could you please send those to me well before the hearing?

Who chaired the meetings and who will chair the public hearing? How long will individuals be allowed to speak at the hearing? Will it start early enough to allow for many speakers? I don't believe a meeting time was included in the July letter. Will there be sufficient parking space in the DOT lot for the driver schools owners? If you submit written comments can you still speak? Who will read written comments on behalf of those who cannot attend? Will they be written aloud or merely into the record. Is this meeting be recorded such as in video?

I want you to know that I was never contacted for input by any driver's school owners association or any DOT appointed driver school representative and am not a member of any driver's school association. This owners association doesn't seem to have a phone book listing or e mail address as an association, do you have one? Did they provide any proof of authorization to represent a significant number of schools?

Upon reviewing the proposed rules I have two personal areas of concern:

#1 will I be allowed to continue to use church facilities for classrooms and our office? If not, two Rock County churches will be forced to do without thousands in donations I make annually. At one of the churches our money helps fund a food bank for poor people that distributes large amounts of food monthly.

#2 As Karen Roscoe knows I have a disorderly conduct conviction from 1995. It's my only conviction ever, and it had nothing to do with teens, instruction or students. Will this disqualify me assuming the proposed rules are implemented without change?



Division of Motor Vehicles
4802 Sheboygan Ave
PO Box 7920
Madison, WI 53707-7920

Internet: www.dot.wisconsin.gov
Telephone: 608-264-7049
FAX: 608-261-8201
E-mail: dotdrvtrmschool@dot.state.wi.us

August 3, 2006

KNIGHT DISCOUNT DRIVING SCHOOL
PO BOX 8511
JANESVILLE, WI 53547

Mr. Witmer,

Thank you for contacting the Department of Transportation (DOT) with concerns and questions about the public hearing that is scheduled for August 14, 2006 on the proposed changes to Trans Rule 105.

Wisconsin Act 397 was signed into law on May 10, 2006 with an October effective date. This law required the department to promulgate rules quickly to reflect those changes and meet the timelines. Therefore, the above date cannot be changed.

The team members were selected by the Division of Motor Vehicles and included representation of small and large schools throughout the state. They were:
DOT - Division of Motor Vehicle – Karen Schwartz, Debbie Kraemer, Karen Roscoe, Dave Coady; Erin Egan
DOT - Office of General Counsel – Allyn Lepaska
Department of Instruction – Randy Thiel
Driver Training Schools – Michele Kahle from Cruisers Driving School, Kris Engebretson from Advanced Driver Training, Dave Ogrizovich from Assurance Driving School, Terry Grinde from Common Sense Driving School.

The proposed Tran Rule 105, are the results of the three full day meetings.

Erin Egan will run the hearing. Individuals will be allowed to speak as long as they wish, although most individuals do not speak for more than five minutes. The hearing will start promptly at 1 p.m. (as stated in the July letter), and will continue until everyone has had an opportunity to speak. You may still speak at the hearing if you have submitted written comments. Any written comments submitted prior to the meeting will be summarized and read into the record. All written comments and comments submitted at the meeting must be addressed in the next step of the rulemaking. No video recording will be done.

For information about the Driving School Association, please contact Michele Kahle at (715)-453-6008.

The new rule will not impact your ability to continue to have an office and classroom at a church location. If church classrooms are added, they can continue to be self-certified. The information we have on your 1995 conviction, indicates your licensing eligibility will not be impacted when the new rule is implemented.

Qualification and Issuance Section

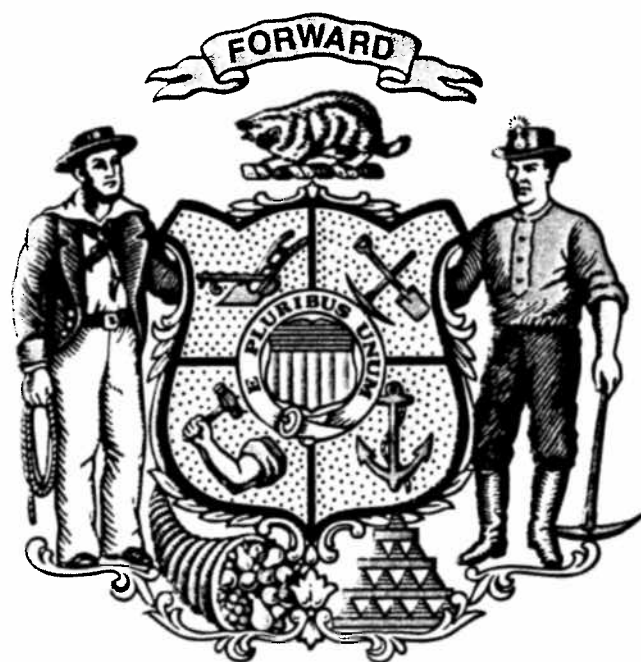
klr

Egan, Erin

From: Knidrish409@aol.com
Sent: Wednesday, August 09, 2006 12:46 PM
To: erin.egan@dot.state.wi.us
Subject: understanding the proposed rules

Would appreciate clarification on what you mean by the following in proposed rules:

1. What insurance companies have told you that they'll provide bonding for around \$200 per year?
2. Why are separate entrances and exit(s) required for the office. Can't they go out the same door they came in? P.6
3. Will a church be considered a traditional or "non traditional" business location?
p.6
4. Will the selected schools be able to charge for the cooperative testing since the dmV will still have their \$25 charge? P.6
5. Who will create the 20 question instructional procedure test and will there be a study guide? P7
6. What is on the vehicle check list for certification and will the certification still have to be done at the dmV as well? p17
7. What does "legitimate" mean for absence? A definition is needed here because there are different points of view. Is a note required. If a student needs to leave 10 minutes early or has some late arrivals can we assign reports on missed content? P19
8. What is a "standard liability policy" is this for vehicle?
9. What is meant by "actions that could harm the customer physically or financially?" Would this include enforcing your contract or filing suit for defamation?
Does this over ride normal civil rights between citizens? P.22
10. Can you give me some examples regarding the two #8 "negatively impact or harm customer or highway safety?" "unfair advantage or harms another school."
P.23
11. Please explain # 6. "filing complaints about another school that are not "substantiated." What is substantiated? Are licensees directed to not report rules and law violations by a competitor unless they can be documented by the reporter?



MICHAEL'S

COMMENT ✓

ATTACHED

Egan, Erin

From: Kris Engebretson [advdrivertraining@new.rr.com]

Sent: Wednesday, July 19, 2006 7:42 PM

To: Erin Egan

Subject: Trans 105 comments

Erin;

Here is a list of comments that the WPDSA come up with at our last meeting. Thanks for your work on this.

Kris Engebretson
WPDSA Communications Office

Section 5: (d) Separate entrance and exits for the office and classroom

I thought we deleted this. What does it mean? The way it sounds, you have to have a separate entrance and exit to your office, and then a separate entrance and exit to and from the classroom. Does this mean you can not go from your office to your classroom? Do you have to go out of the office before you can go into the classroom?

Section 5: (e) No other driver school business conducted within the office, unless approved by the department.

The office is the place to do the driver school business. Why would we not be allowed to conduct business in the business office. This sounds like you are not allow to conduct driver school business in your driver school business office. Should this be: **No business other than driver school business may be conducted in the driver school office unless approved by the department.**

Section 5: (f) No other driver business conducted within the driver training office.

Again, not sure why driver business should not be conducted in the driver training office.

Section 31: (c) Students years of age...

Should that be Students under 18 years of age... The under 18 has strike marks indicating that it is going to be deleted. Should the under 18 be underscored?

Egan, Erin

From: Roscoe, Karen
Sent: Friday, July 21, 2006 9:46 AM
To: Egan, Erin
Subject: FW: Trans 105

FYI, please follow up with them on this, thanks.

Karen

(the discussion was they could do other businesses, however, not another driving school with a different name, (Sears/Arcade) without the businesses functioning totally separate. Misleading to the customer. (you can verify with Debbie K and Karen S)

-----Original Message-----

From: cruisers [mailto:cruisers4536008@verizon.net]
Sent: Friday, July 21, 2006 8:34 AM
To: karen.roscoe@dot.state.wi.us
Subject: FW: Trans 105

Karen,

I am forwarding this email to you because it came back undeliverable 2 times when I tried to send it to Erin Egan.

Thanks,

Tammy

-----Original Message-----

From: cruisers [mailto:cruisers4536008@verizon.net]
Sent: Thursday, July 20, 2006 12:00 PM
To: 'egan@dot.state.wi.us'
Subject: Trans 105

Clarification on email sent from Kris at Driver Training

The separate entrance only applies to driving school office located in a home. They need a separate entrance without going thru their home. This requirement should not be listed for those who have their office in a business setting. The language we agreed on concerning the other business conducted was relative to prohibiting to driving schools operating out of one office. Certainly I can operate other businesses that will be relative to driving out of my business. We agreed you would not prohibit us from operating other businesses out of our business setting. I am still reviewing if I come up with any other concerns I will be in touch.

Thank you,

Michele

Michele S. Kahle, Owner
Cruisers Driving School L.L.C.
105 W. Wisconsin Avenue
P. O. Box 8
Tomahawk, WI 54487
Phone - (715) 453-6008

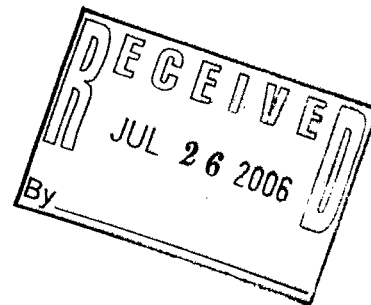
7/21/2006



Bay City Driving School, Inc.

1345 W. Mason Street
Green Bay, Wisconsin 54303
920-498-1515

July 20, 2006



Erin Egan
DMV Administrator's Office
P.O.Box 7911
Madison, WI. 53707-7911

Dear Erin:

I've reviewed the Trans 105 changes being considered. I agree with the items relating to reducing the amount of paper work required by driving schools.

In reviewing the bond requirements, I agree that new school applicants and schools with a "history" of problems should be required to have bonds. However, schools that have a long history of having a "clean" operation (in our case over 45 yrs) should be grandfathered from the bond requirement unless future problems arise.

The inspection requirement for vehicles over 3 model years could also be a problem. Anyone in the automobile business will tell you the amount of miles on a vehicle is more of a concern to safety and mechanical problems than the year of the vehicle. Some schools buy very high mileage late model vehicles because they are cheaper. I would suggest using a mileage figure (ie: vehicles in excess of 75,000 miles) would be a more practical solution.

All in all, remember, costs involved by driving schools in changes in Trans 105 will be passed on to the end user, the student.

Thank you for your consideration.

BAY CITY DRIVING SCHOOL, INC.

CHARLES R RABIDEAU

CC: Karen roscoe



Egan, Erin

From: Johnson, Julie
Sent: Tuesday, July 25, 2006 8:41 AM
To: Schwartz, Karen - DMV; Egan, Erin
Cc: Lepeska, Allyn
Subject: FW: Comments on Trans 105

Good morning everyone. I'm forwarding a comment I just received from the rules internet site this morning. Following the hearing, any comments received will have to be summarized in the Part 4 report and addressed with an "agency response." Please combine this comment with any others you may have received thus far. THANKS!!

-----Original Message-----

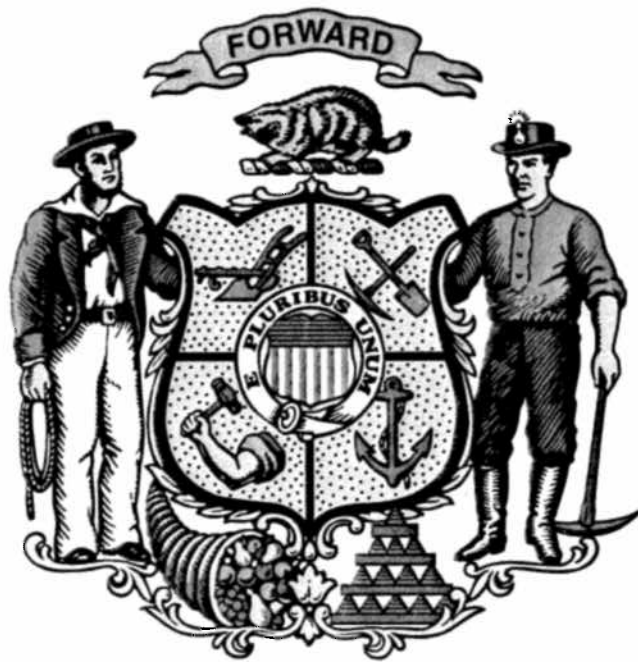
From: DOT-EXEC General-Counsel
Sent: Monday, July 24, 2006 9:34 PM
To: Johnson, Julie
Subject: FW: Comments on Trans 105

From: Arthur & Jayne Godleski[SMTP:AJGODLESKI@SBCGLOBAL.NET]
Sent: Monday, July 24, 2006 9:34:25 PM
To: ogc.exec@dot.state.wi.us
Subject: Comments on Trans 105
Auto forwarded by a Rule

To Whom It May Concern:

As a public school dr. ed. instructor I think the rules for commercial schools are becoming too lenient! 1st of all our basic requirements are a bachelor's degree with at least 4 years of education and graduating from the school of education. Most of us had to pick up 15 additional credit or a masters degree in Health and Safety or driver education. We are also performing our duties under the scrutiny of the DPI, Local school districts, curriculum directors, and principals. Too maintain our license we must pick up additional 6 credits every 5 years or additional workshop and conferences. To put it bluntly we are and will quite professional. Commercial schools, are paraprofessionals, and should not be given the same or equal benefits we worked hard to achieve. To put commercial schools on almost equal basis is not right or fair. 2nd Who is to be the watch guard of the commercial school? (They fudge now on many of the rules). I don't think they should be given the right to give the Knowledge Test. I also think the 2 1/2 hour class period should be retained. This class period fits our purpose better. In most schools today driver education had to be dropped during the school day and picked up after hours. Students are busy enough without adding extra days to the classroom sessions.

Art Godleski
Driver Education Coordinator
Fond du Lac Public Schools





UNIVERSAL ASSURANCE, Ltd.
d/b/a ASSURANCE DRIVING SCHOOL
7704 WEST BURLEIGH STREET
MILWAUKEE, WI 53222

Office: 414-444-3000
Facsimile: 414-444-4000

CHRISTINE TRAPMAN, PRESIDENT - TREASURER
DAVID OGRIZOVICH, VICE PRESIDENT - SECRETARY
DENNIS WARANKA, VICE PRESIDENT

July 25, 2006

Erin Egan
DMV Administrator's Office
P.O. Box 7911
Madison, WI 53707-7911

Attention: Erin Egan

Erin;

I am submitting some written comments that I think should become some of the rules
And regulations with the State of WI. They are as follows:

1.) Instructors that are Lic. For a school may only instruct for that particular school
and may not use there lic. For any other school even if several schools are owned by
the same school.

If an Instructor is caught using his or her Lic. For another school it should be revoked
for a period of 2 years.

If school is caught using Instructor For more than the school that is on there Lic. It
should Be grounds for assessing 6 points against them under the new points system.

2.) If Instructor leaves school they must surrender their Lic. And may not instruct at
a competing school for a period of 1 year.

3.) Training vehicles owned and operated by a named Lic. Driving School, may not be
used by another school (even if several schools are owned) unless first removed from
service by the Dept. Of Transportation, then they may be sold to another Driving School.

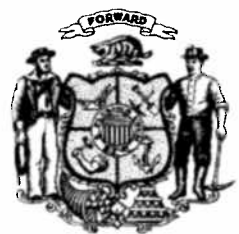
4.) Public Schools when interested in having Driver's Education in there school must take
bids from all private Driving Schools to make opportunity equal to everyone.

Sincerely,

Christine Trapman/President



WISCONSIN STATE LEGISLATURE



Egan, Erin

From: Johnson, Julie
Sent: Wednesday, July 26, 2006 12:45 PM
To: Schwartz, Karen - DMV; Egan, Erin
Cc: Lepaska, Allyn
Subject: FW: Comments on Trans 105

Hi all.....here's another comment that came in from the rules internet page on Trans 105. :)

-----Original Message-----

From: DOT-EXEC General-Counsel
Sent: Wednesday, July 26, 2006 9:15 AM
To: Johnson, Julie
Subject: FW: Comments on Trans 105

From: Duane Apel[SMTP:DAPEL@NCONNECT.NET]
Sent: Wednesday, July 26, 2006 9:14:48 AM
To: ogc.exec@dot.state.wi.us
Subject: Comments on Trans 105
Auto forwarded by a Rule

I have been a Driver Education instructor in a public school for many years. The problem with letting private driving businesses conduct the cooperative test is that too many are poorly run and unprofessional. Based on my experiences with them, I can almost guarantee that many of those places will give out answers or facsimilies of those tests (which the DMV wants guarded closely) in advance so that there kids can pass it on the first try. I know firsthand people that have worked for both (public and private schools) and were disgusted/ amazed by the lack of accountability and professionalism in some private driving schools. To put it bluntly, they were a joke.

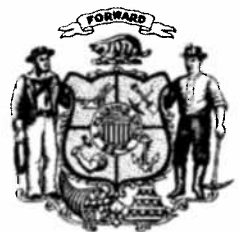
This law attempts to make them more professional quality--the only problem is they are poorly trained (public educators are required to have 12 college credit courses in Driver Education, while private instructors need only ONE WEEK of training!), and since they operate for profit, some only care about collecting their students' money, not giving them quality instruction. My daughter's private school instructor informed them on day one that they need not pass any tests or take notes, just make sure to show up!

Some private driving businesses are very good, but there are many that are a farce, and this industry has not policed itself, and seems to have little government accountability, so in my opinion this law is off base. A better idea would be to legislate in such a way that upgrades their requirements and improves the quality of their instruction!

7/26/2006



WISCONSIN STATE LEGISLATURE



Egan, Erin

From: Johnson, Julie
Sent: Thursday, July 27, 2006 8:11 AM
To: Schwartz, Karen - DMV; Egan, Erin
Cc: Lepaska, Allyn
Subject: FW: Comments on Trans 105 105

Here's another comment I received from the rules internet website. :)

-----Original Message-----

From: DOT-EXEC General-Counsel
Sent: Wednesday, July 26, 2006 11:11 PM
To: Johnson, Julie
Subject: FW: Comments on Trans 105 105

From: Anne Abel[SMTP:AA5328@SBCGLOBAL.NET]
Sent: Wednesday, July 26, 2006 11:11:12 PM
To: ogc.exec@dot.state.wi.us
Subject: Comments on Trans 105 105
Auto forwarded by a Rule

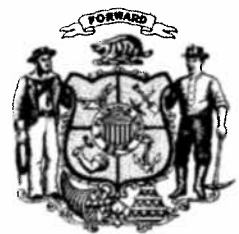
Private driving schools are in a different category than those run by the Public School System. In the Public School System, teachers are certified by the Department of Public Instruction after numerous graduate classes. Additionally, every five years, re-certification is required. That means additional classes, workshops, etc. Public School teachers are in the business of testing and hold high ethical standards in administering tests. I believe that a business whose bread and butter is based on students passing a test, may not have the ethical standards that should exist. Therefore, I believe the DMV should be doing the testing for private schools.

In regard to classroom instruction time, it is difficult enough for many students to attend all the classes currently required with two and one half hours of instruction each time. Students and parents are very busy people. To extend the number of sessions would be a disservice to them. My experience is that two and one half hours is very workable and productive for students.

7/27/2006



WISCONSIN STATE LEGISLATURE



Egan, Erin

From: Knidrish409@aol.com
Sent: Sunday, July 30, 2006 11:39 AM
To: erin.egan@dot.state.wi.us
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to: DOT, E Egan
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#2 As Karen Roscoe knows I have a disorderly conduct conviction from 1995. It's my only conviction ever, and it had nothing to do with teens, instruction or students. Will this disqualify me assuming the proposed rules are implemented without change?

Testimony of Paul Witmer

Good afternoon. On behalf of Knight Discount Driving School, I would like to thank the Department for conducting today's public hearing and accepting comments on the proposed amendments to Ch. Trans. 105 of the Administrative code, regarding the licensing of driver schools and instructors.

I have been an instructor and later a driving school owner for a period of over 10 years. I wanted to make a living but more importantly I wanted to make the roads a safer place. When being trained by my first school employer I observed unchecked chaos in the classroom tolerated inattention by students. I was mystified as to why this could be and it took me some years to understand that, perhaps, the school was trying to avoid complaints by avoiding the discipline of willful teenagers who essentially were allowed to run that classroom. I thought a tighter run classroom would be appreciated.

The current driver school manual says on page 20 that you the school has the right to dismiss for misbehavior. But if you do, a complaint is highly likely.

This two line entry is the only guidance DOT has provided driving schools as to acceptable ways to deal with misbehavior.

The school must drop other obligations and respond within a short period to a complaint constructed, and coached by someone at DOT, which does not focus on the reasons for the discipline but on peripheral issues. DOT personnel conduct lengthy conversations with would be complaintants and even encourage them and disclose

complaint information from others who have complained. All of this is prejudicial to a fair evaluation of the facts of the instant complaint. The proposed rules have articulated virtually no due process procedures. The disposition letter never said guilty or innocent, just that it is being put in your file. My complaint experience is less than 1/2 of 1% of students enrolled. Invariably the complaints were after discipline but the fact that they were clearly retaliatory, given the time line, was not considered by dot staff. No disposition letter I have received, involving a parent complaint, ever directed we do anything different in the future. I just don't think the staff has been interested in a fair outcome, just whole sale complaint repression. Unfortunately this is corrosive to the traffic safety mission. Teens who won't behave in class are not going to behave on the road. Driving is a cooperative effort that relies more on student maturity than knowledge. Of course knowledge is limited when the instructor has to tolerate inattention, late arrivals, late return from breaks, insolent questions, students distracting students, etc. No disposition letter I've ever gotten has ever said a complaint was "substantiated." The proposed rules don't promise any fairer treatment. DOT staff should be prohibited from aggravating complaints by pre complaint discussions. They should only be able to ask for it in writing without any consulting like it works over at R&L. It would be helpful if staff had teen classroom teaching experience. Parents don't back the teacher today. They view themselves as friends rather than mentors. If an instructor, after progressive discipline, dismisses a student for repeated misbehavior or failure to follow rules they should get a ^{medal}~~metal~~ from dot, not a hard time. My belief that many schools have responded to this lack of backing from dot by running lax classrooms

because no one complains about not being disciplined. DOT staff should stop viewing the relationship between schools and students as a retail, total customer satisfaction, situation. Training implies challenging and screening. I believe the roads would be safer if driver schools were free to screen for maturity. Training is inherently regulatory. Won't you stand behind discipline in the classroom?

The cooperative testing program will foster polarity between competing schools, encourage misleading advertising (there is no real advantage for the student who must go to the dmv service center anyway) empower cheating because supplied answers may end up as part of the 30 hours course, testing may be performed during class hours with little detectability. It doesn't address proctoring issues such as how many students an instructor can effectively monitor during testing. And it will reward schools who avoid complaints by permitting lax student discipline. Strict schools get more complaints.

No other State of Wisconsin agency determines bonding requirements by business volume and the number of complaints.

The proposed rules lack important definitions such as "legitimate" regarding absences. This needs to be clearly defined for consistent application.

The proposed rules requirement that offices have separate entrances and exists serves no purpose and only raises costs to the public. Offices should be permitted in the back of the classroom because business appointments can be scheduled at other than class times. The industry practice is to not lock classroom doors and parents do walk in at will. It is less disruptive to allow a parent to enter and wait in the back of the classroom until a video is shown then to tell them ~~to return later~~ ^{to return later}.

Student

J.R. Mulvey

Driver Schools and Instructors Manual

Published by:

The Wisconsin Department of Transportation
Bureau of Driver Services (BDS)
Commercial Driver School Program (CDS)
PO Box 7995
Madison, WI 53507-7995

Phone: 608-264-7049

FAX: 608-261-8201

E-Mail: dre.dmv@dot.state.wi.us

CURRICULUM - COURSE OUTLINE AND LESSON PLANS	13
<i>Classroom Lesson Plans</i>	13
<i>Behind-the-Wheel Lesson Plans</i>	13
DURATION OF LESSONS FOR STUDENTS UNDER 18	14
<i>Classroom instruction</i>	14
<i>Behind-the-Wheel (B-T-W) Instruction</i>	14
MAINTENANCE AND INSPECTION OF RECORDS	14
CHAPTER 4	15
OFFICE AND CLASSROOM- REQUIREMENTS	15
DRIVER SCHOOL OFFICE.....	15
<i>Definition of Office</i>	15
<i>Completing the Driving School Office Certification MV3683</i>	15
DRIVER SCHOOL CLASSROOM	16
<i>Approval of Classroom Location</i>	16
<i>Completing the Driving School Classroom Certification MV3684</i>	16
<i>Displaying Classroom Approval Letter</i>	17
CHAPTER 5	18
DRIVER EDUCATION VEHICLE – REQUIREMENTS	18
DRIVER EDUCATION VEHICLE – EQUIPMENT REQUIRED	18
DRIVER TRAINING CAR REGISTRATION AND INSPECTION CARD (MV3264)	18
INSURANCE.....	18
ADDING AND REPLACING VEHICLES	19
ANNUAL RE-INSPECTION OF VEHICLES	19
USE OF STUDENT’S VEHICLE	19
CHAPTER 6	20
ATTENDANCE AND COURSE COMPLETION	20
CLASSROOM ATTENDANCE.....	20
<i>Attendance Requirements - Trans 105.07(2) WI Administrative Code</i>	20
<i>Make-up Sessions</i>	20
<i>Student Behavior</i>	20
<i>Concurrent enrollment in Classroom and B-T-W</i>	20
COMPLETION CERTIFICATES – MV3192.....	21
<i>Issuing Completion Certificates to Students</i>	21
<i>If student loses the MV3192</i>	21
<i>Classroom and Behind the Wheel (B-T-W) Completed at Different Schools</i>	21
<i>Supplies of MV3192 certificates</i>	22
CHAPTER 7	23
DRIVER SCHOOL AND INSTRUCTOR LICENSE TERMINATIONS	23
DRIVER SCHOOL LICENSE DENIALS AND TERMINATIONS	23
<i>Denial of Driver School Application</i>	23
<i>Denial or Suspension for Delinquency on Court-ordered Support Payments</i>	23
<i>Suspension or Revocation for Delinquent Taxes</i>	23
<i>Driver School License – Other Suspensions, Revocations, and Refusals</i>	24
<i>School Closing/Going out of Business</i>	24

Chapter 6

Attendance and Course Completion

Classroom Attendance

Attendance Requirements - Trans 105.07(2) WI Administrative Code

- Each new class should begin as a group with all students present. Except for emergency situations, all students should be present for each successive session.
- It may be necessary for a student to miss one or two sessions for legitimate reasons. The student's record card must indicate "absent" for the date(s) missed. The student must, however, complete the full course, and will have to make up the session(s) missed. If the entire group is absent or the session is cancelled, the session must be rescheduled.
- Only 2 excused absences (4 hours) are allowed per classroom student and only if an appropriate make-up session is completed. The student should be dropped from the course if absent more than twice.

Make-up Sessions

- A classroom session that is missed for a legitimate reason can be made-up. Any make-up session must pertain to the session that was missed. Possible methods for make-up sessions include:
 - A substantial written assignment on a topic covered in the missed session. The written assignment should include the date missed, topic covered, date handed in, and student name. It should be held for review for at least one year.
 - Equal time in a private lesson or attending a class with another group that is covering the material missed. The student's record should be notated with the date and instructor for the make-up session.
- It is permissible to reschedule a student with another group when the group reaches the point where a re-scheduled student was dropped (i.e. a student misses lessons 3, 5 and 8. The student is dropped from the group. The student can then make-up sessions 3 and 5 and wait until the 8th session to continue with another group). If re-enrolled with another group, the student cannot have another absence or he/she must start the class over from the beginning.

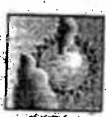
Student Behavior

- A student may be dismissed from the class for disruptive behavior. The school may refuse to refund all or part of the fee if there is a statement to that effect in the contract/agreement.

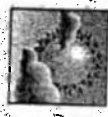
Concurrent enrollment in Classroom and B-T-W

- Classroom and behind-the-wheel instruction may be given concurrently **only** if the same school is providing both courses. In no situation may behind-the-wheel instruction be given before commencement of classroom lessons.

Relationships • Social clubs help seniors cope with aging -- 1D



THURSDAY
90°/65°
Partly sunny
and hot



FRIDAY
92°/72°
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and hot

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The Janesville Gazette

Schools set expulsion record

Card dismisses 58 students for request for crackdown

By Frank Schultz
fschultz@gazetteextra.com

ESVILLE
The school board asked for a crackdown. Result was a record number of expulsions in the Janesville public schools.

Turn to **EXPUL** on Page 8A

The school board expelled 58 students in the past school year. That surpassed the previous record of 50, set in 2003-04.

But times have changed. Drugs were the reason for most of the expulsions in 2003-04. This year, the most common reason was repeated refusal to follow school rules.

Last summer, the school board asked principals to focus on chronic misbehaviors. Get these students into the expulsion process faster.

REASONS FOR EXPULSIONS FROM THE JANESVILLE SCHOOL DISTRICT

Year	Drugs	Rules	Fighting	Weapons	Other	Total
2001-02	9	n/a	n/a	3	15**	22
2002-03	13	n/a	n/a	0	5	18
2003-04	29	n/a	n/a	4	14	50
2004-05	22	4	5	9	10**	47
2005-06	14	16	12	11	5	58

Repeated refusal to follow rules
**Some students were expelled for more than one type of offense
Source: Janesville School District

Sheepish, but stubborn

Gaze

Feds drive
The U.S. a federal coalition against former ident Robert due to Mani was accused Waukesha h legal campaign candidate

Racing!
The pig the only on ing Tuesday eis floored debut of 1 Racing Pig Paddy Pork Rock Count
The piglets names like Spurends, She Hambe race around water hazard
Special
Walworth county office for special budget to if will have to special educ to cut costs

Testimony of Ben Grawe, v
Attorney - DeWitt, Ross
Stevens on behalf
of Knight

Knight Discount Driving School
Janesville, Wisconsin

Wisconsin Department of Transportation
Public Hearing on Amendment to Ch. Trans. 105, Wis. Admin. Code
August 14, 2006
Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin

Discount
Driving
School

Testimony of Knight Discount Driving School

Good afternoon. On behalf of Knight Discount Driving School, I would like to thank the Department for conducting today's public hearing and accepting comments on the proposed amendments to Ch. Trans. 105 of the Administrative Code, regarding the licensing of driver schools and instructors. Knight Discount Driving School has been in business for over 10 years and provides driving instruction to between 200 and 300 students each year in and around Janesville and Beloit. The school holds classes in local churches and contributes to the community on a regular basis. The proposed amendments to chapter 105 will directly affect the school.

As currently drafted, there are significant deficiencies in the amendments to chapter 105. These deficiencies will result in the denial of due process for driver school operators as a result of the Department's arbitrary administration of consumer complaints. To avoid this procedural problem, clarification is needed in certain key provisions of chapter 105. My comments today focus on five ways the Department can clarify its proposed rule.

First, as directed by the legislature pursuant to 2005 Wisconsin Act 397, the Department

...shall establish by rule a system of progressive enforcement action taken against licensees for violations of this subchapter or rules promulgated under this subchapter. This system shall include a procedure for addressing consumer complaints and taking action against licensees when such complaints are found to be substantiated.

See Wis. Stat. § 343.69(2). Despite this clear directive from the Legislature, however, there is little in the proposed amendments that establish any meaningful procedure for addressing consumer complaints, much less responding to or disputing them. Significant attention is needed in this area. An ambiguous, and inherently ineffective, complaint process serves neither the licensee nor the Department in accomplishing the Department's goal of ensuring compliance with the statute and applicable regulations, and ultimately safeguarding Wisconsin's citizens.

The licensees have valid interests in maintaining their credentials. Many have spent significant money and time establishing themselves and their businesses in their respective communities. Their ability to serve students often turns on not just their size and availability, but their reputation as reliable and respected instructors. It is critical to these licensees, therefore, that their credentials not be unfairly challenged or abridged. Specific procedures are needed to outline a clear analytical and adjudicatory procedure for addressing consumer complaints.

The proposed amendments to chapters 105.11, *Driver school point system*, and 105.12, *Progressive enforcement actions*, fail to specifically address how the Department intends to process consumer complaints against driver schools and driver instructors. These amendments merely provide for notice to the licensee of a point assessment and, in the case of progressive enforcement action, a discretionary advisory letter seeking corrective action or a warning letter. In both instances, the Department has already (1)

received a complaint; (2) in some fashion evaluated it; and (3) made a determination as to its validity. How this is accomplished is unclear. The licensee, indeed even the complainant, are left to speculate.

Specifically, there is no indication as to how complaints are processed initially, by whom, how and in what format they are accepted, how and when the Department will contact the licensee, how or whether the complaint will be screened, investigated and evaluated, whether legal counsel will be consulted in connection with the complaint, and whether a formal administrative hearing will take place. The proposed rules merely state that "all administrative licensing suspensions, revocations, denials or conditional licenses issued can be appealed under ch. 227, Stats." Appellate procedure is not enough.

Amendments to chapter 105.11 also refer to "substantiated customer complaints," yet nothing in the proposed rule explains what is meant by "substantiated" and/or how a customer goes about "substantiating" a complaint. The term "substantiate" can be interpreted to mean a number of things, yet ultimately its definition must involve a degree of proof. Where the Department draws that line is unclear. Again, for the benefit of the complainant, the licensee, and the Department, this term should be defined in the proposed rule.

With regard to the process of administering and evaluating consumer complaints, the Department's procedure should identify at least the following elements, in this order:

1. **Intake.** The consumer's signed written complaint is received and processed. The complaint is screened by Department staff knowledgeable of the Department rules and aware of the particular business challenges faced by licensees to determine if an investigation is required. If no investigation is warranted, or if the complaint is frivolous or retaliatory in nature, the complaint is closed. A letter of information, and if necessary education, shall be sent to the licensee. If the complaint has merit, or requires

further investigation, the Department shall contact the licensee and provide him or her with a copy of the written complaint and advise the licensee of his or her rights under the complaint procedures set forth herein and explain the next steps. The licensee shall have the opportunity to respond to the complaint, and be given a reasonable period of time (30 days) to do so. At this point, the complaint is opened as a case and identified for investigative action.

2. **Investigation.** The Department staff shall develop an investigative plan, gather evidence and make contacts with witnesses as needed. Senior staff members and the Department's attorney shall be consulted in the development of the investigative plan. Cases that do not warrant action are closed and licensees are notified of same. Cases that evidence a violation proceed to the legal action process.
3. **Legal Action.** Cases that evidence a violation are reviewed by senior Department staff and the Department attorney, and evaluated based upon the results of the investigation. Senior staff and the attorney may conduct additional investigation into the complaint, and receive additional testimony. They also shall evaluate the appropriate range of discipline for the licensee. Cases may be resolved by means of stipulated agreements, informal settlement conferences, or administrative warnings. In all events, however, the Department shall issue the licensee a written decision, indicating how and on what basis the complaint was resolved.
4. **Hearing.** Complaints that are unresolved in the legal action process are litigated by the Department attorney before an administrative law judge. Cases may result in dismissal or a disciplinary order. The disciplinary order may then suspend, revoke, deny or conditionally issue a license.

By installing these procedural steps into the complaint process, the Department will provide structure, predictability and consistency in its treatment of licensees, resulting in a higher rate of compliance and ultimately fewer violations. The Department also provides a means of identifying and evaluating those complaints that merit real attention, that are true violations of the law, as opposed to treating each and every filed complaint as "substantiated" or "not substantiated." One can imagine a complaint that,

while substantiated, does not involve a violation that constitutes grounds for suspension or revocation of a license. These complaints must be screened accordingly, and the process by which they are screened must be promulgated by rule. This is, after all, the Legislature's directive under Act 397.

The second point I would like to make today involves competition. As the business of driver instruction is competitive, the Department should take special care to address situations where driver schools encourage or aid students or other parties to file complaints against their competitor's schools. Penalties for such actions would serve to further the Department's goal of overall compliance and reduce the number of frivolous complaints.

Third, the Department also should amend the proposed rule to clarify that only those complaints that result in disciplinary action are a matter of public record. Complaints that are closed during the screening or investigative stage should not be disclosed to complainants or would-be complainants so as to prejudice the licensee.

Fourth, with regard to the driver school point system, the Department should install an appeal process for disputing the assessment of points against a licensee. There currently is no such process contained in the proposed rule. The licensee should be entitled to a forum in which the licensee may present evidence and offer testimony on the matter disputed. This process should be fair in application and administered by a neutral decision maker.

And as a final thought on the proposed amendments, I would like to call attention to chapter 105.035(2) through (5). These newly created provisions require that the Department deny or withdraw the driver school or instructor license for various periods

of time, including indefinitely, if certain convictions appear in the Department's background check. Missing from these provisions, however, is a temporal limitation on how far back the Department may look for a conviction. This open-ended evaluation is inconsistent with Wisconsin's policy of rehabilitation and second-chances, and may result in the closure of existing businesses. A reasonable limitation should be added to the time period for some, if not all, of the convictions listed in the proposed rule.

Thank you again for your time today. We look forward to your response to our comments.

EASY METHOD DRIVING SCHOOL

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✓ received ✓
8/14/06
@heaney

August 14, 2006

HAND DELIVERED

Department of Transportation

Division of Motor Vehicles

Attn. Ms. Erin Egan

Room 255

P.O.Box 7911

Madison, Wisconsin 53707-7911

RE: Wis.Admin.Code: *Trans 105* proposed amendments

Dear Ms. Egan:

Easy Method Driving School of Milwaukee, Wisconsin submits the following objections and comments to the proposed amendments to Administrative Rule *Trans 105*. I begin with the point system as it has many flaws that need to be addressed before it can be implemented.

1. **Section 36 Trans 105.11 found on pages 21-24. To be fair, any point system should be weighted to allow for a greater amount of complaints for larger commercial driving schools.**
 - a. For example, six "substantiated" complaints for a driving school with say, 5,000 students per year is proportionately (.001%) much less severe than for a driving school with 500 students per year (.01%).
 - b. A "graduated" point system would address any student number disparity unfairness.
 - c. This weighting could be accomplished in a number of ways including providing the schools with larger students numbers a shorter period within which complaints are considered for assessing points. Or, larger schools could be allotted a greater number of complaints before disciplinary action is taken. For example, a driving school with 5000 students could be allowed ten times the number of complaints within a license period compared to a school with 500 students.

2. The proposed point system does not define the term "*substantial*" complaint.

- a. Who in the department determines whether any given complaint is substantial?
- b. Since in the past the DOT has dealt with every kind of complaint imaginable, why can't the Department list what it currently considers substantial complaints? (Something similar to the numerous charts for felony charges found on pages 9-13 of the proposed rules).
- c. There are no written guidelines available to which a driving school (or it's instructors) can conform their behavior. For example, would the fact that a driving school instructor was late for a class constitute a "*substantial*" complaint by a student or parent?

3. The proposed point system should prohibit any complainant from filing a formal complaint until such time as the complainant has given the commercial driving school (or instructor):

- (1) a written notice of their complaint within 48 hours of the event; and**
- (2) a reasonable opportunity to address the complaint issued.**

- a. The DOT form should contain a sworn statement by any complainant that he or she has met the above two requirement before the DOT will accept it for review.
- b. Without being given at least the possibility of mediating the problem, both the DOT and the driving schools may end up spending numerous hours sorting out petty complaints that could have been handled locally, in house.

4. The proposed point system should be bifurcated.

- a. Any complaint-based point system should deal with driving schools separate from instructors.
- b. To restrict, suspend or revoke a driving school's license (and affect the livelihood of it's other instructors) based solely on one instructor's malfeasance is blatantly unfair and not likely to withstand a judicial challenge.
- c. Unless a driving school ignores the fact that one of it's instructors cannot conform his behavior to delineated rules set down by the DOT the system should not punish the driving school. The object should be for the DOT and the driving school to jointly ferret out these individuals and remove them from the profession.

5. The proposed point system fails to incorporate a due process hearing at which the driving school (or individual instructor) is given the opportunity to confront the complainant and present evidence in opposition to a complaint.

- a. The rules do not define how a complaint becomes a *Substantiated Complaint* and therefore the basis to assess points. *An allegation is not in and of itself evidence.*
 - b. No forum is provided by the DOT in which a driving school or it's instructor can present evidence which challenges a given complaint. Even the current point system for driver's licensing allows an individual the opportunity to appear in municipal and circuit court in order to challenge the alleged allegation (i.e., speeding, etc.) BEFORE points may be assessed.
 - c. It is unlikely that the point system in its present form will past judicial muster should a driving school or instructor license be affected or it's bonding/insurance rates increased based on a unilateral DOT determination of what constitutes a "Substantiated Complaint".
6. **The terms employed in the point assessment portion of the proposed rules are vague, ambiguous and confusing.**
- a. Page 22 (4)(a)1. It reads: "*Six points are assessed for the following: (1) School or instructor license withdrawal.*" What does that phrase mean?
 - b. Page 22 (4)(a)2. What does "substantiated" customer complaint mean? Is it merely a unilateral determination by the DOT that a given complaint was a "substantial" complaint? Or is it a substantial complaint that has been actually substantiated by some evidence produced by a complainant at or during some due process hearing on the matter? How does a substantial complaint become a substantiated complaint?
 - c. Page 22 (4)(a)3. The providing-false-documentation prohibition should allow for harmless or inadvertent misinformation as opposed to substantive misinformation.
 - d. Page 24 (4)(d)1. Should read: *Three or less* substantiated complaints within a license period." and not three or more.
7. **Section 2 Trans 105.007(5) found on page 5. Vehicle capacity should not be set at 4 persons.**
- a. In the near future the era of the SUV may be supplanted by numerous 2 passenger vehicles which are more fuel efficient and less expensive to operate.
 - b. There does not appear to be any rational basis to set a minimum capacity for a vehicle over two.
 - c. A clause should be added to grandfather-in any two passenger vehicles already in use.

- 8. Section 6 Trans 105.015 found on pages 6-7. The Cooperative driver testing program should not be subject to the point system.**
- a. To sanction a driving school with a mere two(2) points for violations is oppressive.
 - b. The sanction should be limited to substantial (and substantiated) violations of knowledge-testing program itself. To place a driving school at a major disadvantage in this competitive field is preposterous and invites judicial intervention.
- 9. Section 18 Trans 105(2)(a)(intro) found on page 14. Records required by §343.71(a) 1.to 4.of the Statutes should allow for a commercial driving school to "capture" the required information within three (3) business days, not "one working" day.**
- a. Larger driving schools that cover a wider area do not require instructors to return to the office on a daily basis. The expanded period would allow for such an operation.
 - b. The ambiguous term "capture" should be defined as it has replaced the previously clear phrase "entered in the book".
 - c. There does not appear to be any rational basis to require a ONE day requirement.
 - d. Whether the instructor or the driving school must "capture" the information is likewise unclear.
- 10. Section 27 Trans 105.06(11)(b) found on page 17. This should be clarified as to whether certification of a vehicle is required annually (i.e., on December 31st) or twelve months after each vehicle was put in service.**
- 11. Section 31 Trans 105.07 (2)(a) found on page 19. The "Content missed must be made up" phrase is ambiguous, vague and will lead to confusion and unworkable classroom attendance policy.**
- a. As currently proposed, a student could miss sessions 2,3 and 4. Simply make up the content and then go on to miss any number of subsequent sessions without any penalty. The provision sets no limits to the number of classes a student may miss and make up nor is there a "Maximum" time frame within which a student must complete the course.
 - b. Such a system is unworkable for the driving school that has to schedule classroom space for a limited amount of students.

- c. Based on past experience, students will simply disappear and reappear (at their leisure) demanding to make up missed class content. This will inevitably lead to more driving school paperwork and tracking procedures which will: (1) increase the costs of the programs; and (2) lead to more cancellation of driving permits by the DOT due to inactivity.
- d. The section does not define what constitutes a "legitimate" reason for an absence therefore the driving school is required to act at it's peril if it refuses to allow a student to make up the content of a class or a number of classes. (The point system hanging over it's head like the sword of Damocles.
- e. If the student has a "legitimate" excuse for an absence, the rule appears to require driving schools to allow students to make up the content as it states: "*the content must be made up*"

12. Section 36 Trans 105.10 found on page 21. The minimum bond for all commercial driving schools should be \$25,000.00.

In summary, the demerit point system, as presently proposed appears unworkable, unfair, and unenforceable in a court of law. The extensive redrafting of this proposed system needed to make it palatable and economically feasible statewide for all sizes of commercial driving schools is self evident. Likewise, the bureaucratic layers of enforcement will lead to numerous constitutional challenges based on unfair application of the rules. The rules, at best present vague, ambiguous and overly broad standards. This, added to a total lack of any due process in the enforcement of the various rules, should be a harbinger of their inevitable demise should the Department of Transportation implement these as proposed.

Thank you for taking a few moments to review my objections and comments.

Very Truly Yours,

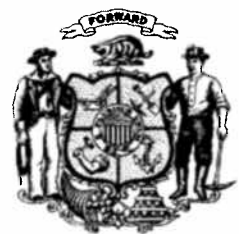
EASY METHOD DRIVING SCHOOL

By: 

Jay Frohwirth



WISCONSIN STATE LEGISLATURE



Egan, Erin



From: tgrinde@chorus.net
Sent: Monday, August 14, 2006 7:59 AM
To: erin.egan@dot.state.wi.us
Subject: Trans 105 Written Comments

As a participant in the Trans 105 process, and a voice for driving schools with a home based office, the main point that I made at the meetings finalizing Trans 105 rules should be reiterated.

Home based offices for driving schools must be allowed to continue to operate in Wisconsin. As in my case, serving a village of about 2,000 people, I can't afford the cost of maintaining a store front. It would cost nearly half the school's annual income to do so. I would be forced out of business if I could not maintain my office in my home. If I were forced to close, the people of Poynette would be forced to drive long distances for driver education alternatives, a hardship that is totally avoidable. There are dozens of communities in Wisconsin in the same situation.

There are no valid reasons for not allowing home based schools. As DMV reps at the meetings pointed out, for many years they have operated just as professionally, and in some cases with less problems, than store-front based schools. No problems related specifically to home based offices have ever been documented.

It is my belief that larger schools represented by The Wisconsin Professional Driving School Owners (a meaningless and mis-leading moniker) would like to see smaller schools forced out so that they could move into our areas. Please remember that despite their claims to the contrary, WPDSO's objections to home offices is almost certainly to gain a greater market share, and not an attempt to "be more professional". Home based offices provide a valuable service to Wisconsin consumers. They must be allowed to continue.

Terry Grinde
Owner and Instructor
Common Sense Driving School
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