

📎 **05hr\_SC-NRT\_Misc\_pt08**



📎 Details: Department of Transportation Notice of Public Hearing and Text of Proposed Rules

(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**



## Wisconsin Department of Transportation

www.dot.wisconsin.gov

Jim Doyle  
Governor

Frank J. Busalacchi  
Secretary

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

August 22, 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  
**requiring motor vehicle dealers to issue vehicle titles and registrations**  
**electronically, unless exempted by the Department, Trans 141/156**

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,

A handwritten signature in black ink that reads "Julie A. Johnson".

Julie A. Johnson  
Paralegal

Enclosure

cc: Casey Newman  
Mike Goetzman  
Lynne B. Judd  
Carson Frazier

The Wisconsin Department of Transportation proposes an order to repeal TRANS 156.05(2) and (3); renumber TRANS 156.05(4); and amend ch. TRANS 156(title), 156.01(2) and (3), 156.03(1)(a), 156.04(1)(c), (2)(a) to (d) and (f), and 156.05(1)(a) and (b), relating to the Automated Processing Partnership System Program; and to create ch. TRANS 141, relating to requiring motor vehicle dealers to issue vehicle titles and registrations electronically, unless exempted by the Department.

**NOTICE OF HEARING  
AND  
TEXT OF PROPOSED RULE**

NOTICE IS HEREBY GIVEN that pursuant to ss. 85.16(1), 227.11(2), 342.16(1)(am), Stats., and interpreting ss. 218.0116(1)(gr), 218.0146(4), 342.16(1)(a) and (am), Stats., the Department of Transportation will hold a public hearing in **Room 144-B** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **12th** day of **October**, 2006, at **10:00 AM**, to consider the amendment of ch. Trans 156 and the creation of ch. Trans 141, Wisconsin Administrative Code, relating to requiring motor vehicle dealers to issue vehicle titles and registrations electronically, unless exempted by the Department.

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.

## Analysis Prepared by the Wisconsin Department of Transportation

**Statutes interpreted:** ss. 218.0116(1)(gr), 218.0146(4), 342.16(1)(a) and (am), Stats.

**Statutory authority:** ss. 85.16(1), 227.11(2), 342.16(1)(am), Stats.

**Explanation of agency authority:** The Department licenses motor vehicle dealers pursuant to ch. 218, Stats., and issues motor vehicle certificates of title and registration pursuant to chs. 341 and 342, Stats.

**Related statute or rule:** ss. 218.0111, 218.0116, 218.0152, 341.08, 341.21, 342.06 and 342.09, Stats.; chs. Trans 138 and Trans 139.

**Plain language analysis:** This proposed rule implements provisions enacted in 2005 Wis. Act 25 that require motor vehicle dealers licensed in Wisconsin to process applications for certificate of title for any vehicles the dealer sells. This proposed rule also specifies what categories of dealers are not required to process title and registration applications, and under what circumstances a dealer will be exempted from processing some of the dealer's transactions. The rule establishes penalties that DOT may impose on a non-exempt dealer, by law, required to process title and registration applications who fails to do so. The rule establishes a fee that a dealer will be charged by DOT for DOT to process the dealer's transactions, including not only those dealers or types of transactions that are exempted by DOT, but also a penalty for dealers who fail to comply with the law. The rule clarifies under what circumstances DOT may deny a dealer the authority to process title and registration applications, and the penalties that DOT may apply, including sanctions to the dealer's license.

**Summary of, and preliminary comparison with, existing or proposed federal regulation:** No federal regulations apply to the activities to be regulated by this rule.

### **Comparison with Rules in Adjacent States:**

**Michigan:** Michigan law does not require motor vehicle dealers to process titles and registrations. Michigan does have a voluntary program called Dealer Direct, which allows dealers to contract with a vendor to process titles and registrations for dealers.

**Minnesota:** Minnesota law does not require motor vehicle dealers to process titles and registrations. Minnesota currently allows dealers to use a vendor to process titles and registrations for dealers, but the applications must be submitted to DMV through Deputy Registrars Offices rather than electronically.

**Illinois:** Illinois law does not require motor vehicle dealers to process titles and registrations. Illinois is currently beginning a voluntary program to allow dealers to use a vendor to process titles and registrations.

**Iowa:** Iowa currently has no law that requires motor vehicle dealers to electronically process titles and registrations. Iowa is currently considering a program for electronic processing by dealers.

**Summary of factual data and analytical methodologies used and how the related findings support the regulatory approach chosen:** DOT utilized dealer sales volume and dealer sanction data to determine which dealers should be exempt from requirement to process title and registration applications. DOT considered DOT's data processing system requirements and scheduled programming to determine which transactions are exempt. DOT utilized its experience with dealer license requirements and contract requirements in the voluntary APPS program to determine what financial and contractual requirements apply to dealers.

**Analysis and supporting documentation used to determine effect on small businesses:** DOT analyzed dealer sales volume data to determine the exemption threshold. DOT analyzed its experience with dealer participants in the voluntary APPS program to determine financial, contractual, and reporting requirements for dealers under this law.

**Effect on small business:** This proposed rule implements a law that applies to all licensed motor vehicle dealers, some of which are small businesses. Effect on small business is that which results from the law. All licensed motor vehicle dealers are required to process title and registration applications, unless exempted by DOT. This rule exempts small dealers, which sell fewer than 4 vehicles a month or 48 vehicles per year, as DOT finds that these dealers likely do not have the computer hardware capability to engage in electronic processing. DOT has successfully operated a voluntary APPS program, in which small businesses (dealerships) participate in significant numbers. DOT has largely replicated that level of requirement in this mandatory program, as DOT has found this level is not onerous for small businesses. 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.

**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 Carson Frazier, Department of Transportation, Division of Motor Vehicles, Bureau of Vehicle Services, Room 255, P. O. Box 7911, Madison, WI 53707-7911. You may also contact Ms. Frazier by phone at (608) 266-7857.

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.** Chapter Trans 141 is created to read:

### CHAPTER TRANS 141

#### ELECTRONIC ISSUANCE OF MOTOR VEHICLE TITLES AND REGISTRATIONS BY MOTOR VEHICLE DEALERS

**Trans 141.01 Purpose and scope.** This chapter interprets ss. 218.0116(1)(gr), 218.0146(4), 342.16(1)(a) and (am), which requires all licensed motor vehicle dealers to issue motor vehicle titles and registrations electronically for vehicles they sell, unless exempted by the department.

**Trans 141.02 Definitions.** The words and phrases defined in s. 340.01, Stats., have the same meaning in this chapter unless a different definition is specifically provided. In this chapter:

(1) "APPS" means the automated processing partnership system program established by the DMV, in which DMV contracts with agents and vendors to provide vehicle registration and titling services.

(2) "Certificate of registration" means the certificate of registration as described in s. 341.11, Stats., which documents that the proper vehicle registration fee has been paid for the current registration period.

(3) "Certificate of title" means the certificate of title for a vehicle as required in ch. 342, Stats.

(4) "Department" means the Wisconsin department of transportation.

(5) "DMV" means the Wisconsin department of transportation division of motor vehicles.

(6) "Exempt" means that a dealer is not required or not authorized to process certificates of title or certificates of registration.

(7) "Motor vehicle dealer" or "dealer" means a motor vehicle dealer as defined in s. 218.0101(23), Stats.

(8) "Process" means required and authorized to electronically submit applications for certificates of title or certificates of registration and update the DMV vehicle record.

(9) "Vendor" means a person, business or organization that contracts with the DMV to provide a host computer system by which agents may obtain access to specified information services of the DMV in order to process registration and title transactions.

**Trans 141.03 Requirement to process certificates of title and registration.**

(a) Unless exempted under s. Trans 141.06, all licensed motor vehicle dealers shall process certificates of title and registration for motor vehicles sold by the dealer. A licensed Wisconsin motor vehicle dealer who does not elect to satisfy this requirement by contracting with the DMV as described in s. Trans 141.04 shall process title and registration applications using the e-MV11 Internet-based web application offered by the department.

(b) A licensed motor vehicle dealer who processes title and registration applications using the e-MV11 Internet-based web application shall make application to the DMV on the DMV application form and shall comply with all applicable

requirements, including those related to persons who have access to information subject to federal Driver Privacy Protection Act, 18 USC 2721-2725.

(c) A licensed motor vehicle dealer shall begin electronically processing title and registration applications using e-MV11 or under an approved APPS contract as described in s. Trans 141.04 within 30 days after the department approves the dealer's initial Wisconsin motor vehicle dealer license.

(d) The department may require a supplemental bond in addition to the bond required for licensing as a motor vehicle dealer under s. 218.0114(5)(a), in the following circumstances:

1. For a dealer that the department determines has insufficient funds to pay departmental registration and titling fees timely, or other similar situations.

2. For a dealer that the department determines has a history of errors in processing certificates of title and registration, or that has a history of not processing certificates of title and registration within statutory time requirements, or other similar situations.

**Trans 141.04 Dealer participation in the APPS program.** (1) A licensed Wisconsin motor vehicle dealer may satisfy its obligations under s. 342.16(1)(am), Stats., by contracting with the DMV as an agent in the APPS program under s. 341.21 (2), Stats. Participation in the APPS program allows a dealer to issue license plates to customers as well as process certificates of title and registration. A dealer who participates in the APPS program shall comply with all of the following:

(a) The motor vehicle dealer shall enter into an agreement with a vendor that is approved by the DMV under ch. Trans 156. A motor vehicle dealer may request service from, and enter into an agreement with, only one vendor.

(b) The motor vehicle dealer shall submit to the DMV a letter on company letterhead requesting appointment as a provider of processing or distribution services for vehicle registration or certificates of title. The letter shall include the legal business name and address of the physical location of the business.

(c) The department may require a supplemental bond in addition to the bond required for licensing as a motor vehicle dealer under s. 218.0114(5)(a), Stats.

(d) The motor vehicle dealer shall submit a signed agent contract to the DMV.

(e) The motor vehicle dealer shall be in compliance with all applicable laws governing the applicant's industry and not be under investigation by any regulatory or enforcement agency for suspected violations of applicable laws or regulations.

(f) The motor vehicle dealer shall employ at least one primary processing person and have at least one other employee trained as a back-up in order to ensure adequate service during business hours and that reports and documentation of registration and titling transactions are submitted to DMV within required time limits.

(2) The maximum fees that an agent who is a motor vehicle dealer participating in the APPS program may charge a customer shall be specified in the contract.

(3) A motor vehicle dealer may charge a customer any amount less than the maximum fee.

**Trans 141.05 Termination of APPS dealer contracts.** (1) DMV may terminate an APPS dealer contract or refuse to renew a contract with a motor vehicle dealer on the following grounds:

(a) Failure to provide information requested by DMV relating to the motor vehicle dealer's financial standing, solvency or compliance with motor vehicle related laws.

(b) DMV has reasonable cause to doubt the financial responsibility of the dealer licensee as prescribed in ch. Trans 140.

(c) DMV has reasonable cause to doubt the dealer's compliance with ss. 218.0101 to 218.0163, Stats., or rules interpreting ss. 218.0101 to 218.0163, Stats., where the violation constitutes grounds for denial, suspension or revocation of the dealer's license, stipulation to a conditional license or special order, the assessment of civil forfeitures or fines, or criminal prosecution.

(2) Reasonable cause under sub. (1) includes, but is not limited to, situations in which any dealer licensee has been found by the department, the division of hearings and appeals, or a court of law, to have violated ch. 218, Stats., or rules interpreting ch. 218, Stats., during the current or immediately preceding licensing period, or when the dealership has not given sufficient assurance that it has taken reasonable steps to prevent the recurrence of similar violations in future licensing periods.

(3) If a dealer's actions warrant termination of the agent or vendor from the program, DMV shall invoke termination provisions which are stated in the contract between DMV and the agent or vendor. The dealer shall be considered not authorized to process certificates of title and registration.

(4) If a dealer terminates the dealer's APPS contract, the dealer remains subject to the requirement of the law to process title and registration applications using the e-MV11 Internet-based web application offered by the department, and to all requirements of this chapter.

**Trans 141.06 Exemptions from requirement to process certificates of title and registration.** (1) EXEMPT MOTOR VEHICLE DEALERS. (a) A motor vehicle dealer is not required to process certificates of title and registration if the motor vehicle dealer sells an average of 4 or fewer vehicles per month, or 48 or fewer vehicles per year.

(b) The department shall deny a motor vehicle dealer the authority to process certificates of title and registration for the following reasons:

1. DMV has reasonable cause to doubt the financial responsibility of a motor vehicle dealer as prescribed in ch. Trans 140, or the dealer's financial situation, as determined by the department in connection with the department review of dealer licensing requirements.

2. DMV has reasonable cause to doubt the accuracy or timeliness of the certificate of title and registration transactions performed by a motor vehicle dealer.

3. Failure or refusal of a motor vehicle dealer to provide DMV with any documents or information required for completion of a motor vehicle sales transaction.

4. DMV has reasonable cause to doubt a motor vehicle dealer's compliance with any provision of written policies and procedures regarding electronic processing, including failure to successfully complete departmental training and technical assistance provided or approved by the department.

5. Failure to provide information requested by DMV relating to a motor vehicle dealer's financial standing, solvency or compliance with motor vehicle related laws.

6. DMV has reasonable cause to doubt the dealer's compliance with ss. 218.0101 to 218.0163, Stats., or rules interpreting ss. 218.0101 to 218.0163, Stats., where the violation constitutes grounds for denial, suspension or revocation of the dealer's license, stipulation to a conditional license or special order, the assessment of civil forfeitures or fines, or criminal prosecution, including insufficient funds. Reasonable cause includes, but is not limited to, situations in which any dealer licensee has been found by the department, the division of hearings and appeals, or a court of law, to have violated ch. 218, Stats., or rules interpreting ch. 218, Stats., during the current or immediately preceding licensing period, or when the dealership has not given sufficient assurance that it has taken reasonable steps to prevent the recurrence of similar violations in future licensing periods.

(c) If the department determines that any of the conditions in par. (b) are persistent and present after a reasonable time to cure, the department shall invoke sanctions against the dealer. Sanctions include any of the possible sanctions in s. 218.0116, Stats. A continuum of disciplinary actions may be taken beginning with informal advice, verbal warnings, advisory and warning letters, civil forfeitures, citations, special orders including suspension, denial, or revocation of the dealer's license to operate as a motor vehicle dealer.

(2) EXEMPT CERTIFICATES OF TITLE AND REGISTRATION. A motor vehicle dealer is not required to process certificate of title and registration transactions for a vehicle that is prohibited from successful registration processing because of an express

limitation on the vehicle title, registration, or customer record, or on the e-MV11 internet-based web application or APPS. For these specifically identified vehicle transactions, the department may not charge a motor vehicle dealer a transaction processing fee for processing applications on behalf of the dealer. A motor vehicle dealer is required to submit certificate of title and registration applications to the department within 7 business days after a motor vehicle sale.

**Trans 141.07 Fees.** (1) FEES PAID TO MOTOR VEHICLE DEALERS BY CONSUMERS. A motor vehicle dealer may charge a fee to consumers for processing certificate of title and registration applications. The fee shall be a reasonable amount, as determined by the department. The fee shall be included in the service fee that the dealer may charge a consumer under s. Trans 139.05(8)(2). A motor vehicle dealer may not charge the consumer any amount to offset any monetary penalty that the dealer is required to pay under this section.

(2) FEES PAID BY MOTOR VEHICLE DEALERS TO THE DEPARTMENT.

(a) Any exempt motor vehicle dealer who is not required to process certificates of title and registration under s. Trans 141.06(1)(a) shall pay the department a fee for each certificate of title and registration transaction that the department processes on behalf of the dealer. The fee shall be \$15 per transaction. If an exempt motor vehicle dealer who is not required to process certificates of title and registration under s. Trans 141.06(1)(a) submits to DMV by fast service or by a customer service center an application to be processed by DMV, the dealer shall pay the department the \$15 transaction fee, in addition to any other required fees such as counter service fee or fast service fee.

(b)1. Any exempt motor vehicle dealer who is not authorized to process certificates of title and registration under s. Trans 141.06(1)(b) shall pay the department a fee for each certificate of title and registration transaction that the department processes on behalf of the dealer. The fee shall include the following:

a. A fee of \$15 per transaction to process the transaction.

b. A monetary penalty to the dealer, in the amount of \$50 per transaction. The dealer may not charge this monetary penalty to the consumer.

2. In addition to the fee and the penalty that the dealer shall pay to DMV, the department may begin disciplinary actions against the dealer's license as described in s. Trans 141.06(1)(c). If an exempt motor vehicle dealer who is not authorized to process certificates of title and registration under s. Trans 141.06(1)(b) submits to DMV by fast service or by a customer service center an application to be processed by DMV, the dealer shall pay the department the \$15 transaction fee and the \$50 monetary penalty, in addition to any other required fees such as counter service fee or fast service fee.

(c)1. Any non-exempt motor vehicle dealer who fails to process certificates of title and registration as required under s. Trans 141.03 shall pay the department a fee for each certificate of title and registration transaction that the department processes on behalf of the dealer. The fee shall include the following:

a. A fee of \$15 per transaction to process the transaction.

b. A monetary penalty to the dealer, in the amount of \$50 per transaction. The dealer may not charge this monetary penalty to the consumer.

2. In addition to the fee and the penalty that the non-exempt dealer shall pay to DMV, the department may begin disciplinary actions against the dealer's license as described in s. Trans 141.06(1)(c). If a non-exempt motor vehicle dealer submits to DMV by fast service or by a customer service center an application to be processed by DMV, the dealer shall nevertheless pay the department the \$15 transaction fee and the \$50 monetary penalty, in addition to any other required fees such as counter service fee or fast service fee.

(d) The department may not charge a processing fee to any motor vehicle dealer for any transaction that the dealer is not required to process under s. Trans 141.06(2).

**Trans 141.08 Records.** (1) A motor vehicle dealer shall forward to the department within one business day after completing processing a transaction the following paper documents:

(a) Original certificate of title that was submitted from the prior owner, or original manufacturers statement of origin for a newly titled vehicle.

(b) Copy of the receipt generated by the computer at the completion of the transaction, or the original signed copy of the application for certificate of title.

(c) Original signed odometer statement on the MV11 form if the odometer statement is not included on the certificate of title from the prior owner or on the original manufacturers statement of origin for a newly titled vehicle.

**NOTE: Form MV11 can be obtained by writing to or calling GMA Printing, 136 West Main Street, Whitewater, WI 53190--(800) 747-4647 (phone), (262) 473-4575 (fax); Reynolds & Reynolds, 10533 West National Avenue, Suite 205, Milwaukee, WI 53227--(877) 287-3183 (phone), (800) 531-9055 (fax); or WATDASI Forms, P. O. Box 5345, Madison, WI 53705--(800) 236-7672 (phone), (608) 251-5557 (fax).**

(2) All records required to be kept by a motor vehicle dealer shall be retained for 5 years. The records may be retained in electronic format as determined by the department, or in paper format as determined by the department.

**SECTION 2.** Chapter Trans 156(title) is amended to read:

**AUTOMATED PARTNERSHIP PROCESSING PARTNERSHIP SYSTEM PROGRAM**

**SECTION 3.** Trans 156.01(2) and (3) are amended to read:

Trans 156.01(2) SCOPE. This chapter governs administration of the automated partnership processing partnership system, or APPS, program, authorized by s. 341.21, Stats.

(3) APPLICABILITY. This chapter applies to any person performing either title and original registration services, or registration renewal services, who uses automated transmittal of transactions to the DMV.\* This chapter also applies to any vendor providing automated interface between agents and the DMV in the APPS program. This chapter does not apply to licensed Wisconsin motor vehicle dealers who participate in the APPS program to meet their obligations under s. 342.16(1)(am), Stats. Licensed motor vehicle dealers are subject to the requirements of ch. Trans 141. This chapter does not apply to persons who issue temporary registration plates under ch. Trans 132.

**SECTION 4.** Trans 156.03(1)(a) is amended to read:

Trans 156.03(1)(a) A request to participate as a vendor submitted to the Wisconsin Department of Transportation, DMV Bureau of Vehicle Services, Third Party Programs Dealer and Agent Section, P. O. Box 7909, Madison, WI 53707-7909.

**SECTION 5.** Trans 156.04(1)(c), (2)(a) to (d) and (f) are amended to read:

Trans 156.04(1)(c) The applicant shall provide a surety bond or letter of credit along with the request for appointment in a form prescribed by the DMV. The bond or letter of credit shall be \$10,000 for an agent doing renewal transactions and \$25,000 for an agent doing title transactions and original registration. The bond shall indemnify the department against claims arising from the acts or omissions of agents under the contract including, but not limited to, missing or stolen license plates, stickers, and temporary certificate of registration paper stock. The requirement for a bond does not apply to units of government, ~~or to dealers which are bonded and regulated by the department,~~ or to financial institutions.

(2)(a) The type of business the ~~vendor~~ [agent] is in.

(b) The ~~vendor's~~ [agent's] familiarity with and relationship to Wisconsin motor vehicle titling and registration.

(c) The ~~vendor's~~ [agent's] past practice, reliability, and record of customer service.

(d) The amount of technical support the ~~vendor~~ [agent] is likely to need from DMV to competently process title or registration transactions.

(f) The results of background checks on the ~~vendor~~ [agent] and its owners and employees including arrest and conviction records.

**NOTE:** ~~It was the intent of the department to use the word agent rather than vendor in sub. (2).~~

**SECTION 6.** Trans 156.05(1)(a) and (b) are amended to read:

Trans 156.05(1)(a) DMV has reasonable cause to doubt the accuracy or timeliness of the title and registration ~~Transactions~~ transactions performed by the agent or vendor.

(b) Failure of the agent or vendor to provide any documents or information required to complete a ~~Transaction~~ transaction.

**SECTION 7.** Trans 156.05(2) and (3) are repealed.

**SECTION 8.** Trans 156.05(4) is renumbered Trans 156.05(2).

**(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 August, 2006.



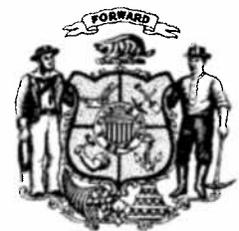
FRANK J. BOSALACCHI

Secretary

Wisconsin Department of Transportation



# WISCONSIN STATE LEGISLATURE





## Wisconsin Department of Transportation

[www.dot.wisconsin.gov](http://www.dot.wisconsin.gov)

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

September 11, 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 **Specific Information Signs, Trans 200**

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,

A handwritten signature in black ink that reads "Julie A. Johnson".

Julie A. Johnson  
Paralegal

Enclosure

cc: Casey Newman  
Mike Goetzman  
Dave Vieth  
John Noll

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The Wisconsin Department of Transportation proposes an order to amend TRANS 200.015(2)(m) and (n)1., 200.06(2) and (7)(c)1.; and create TRANS 200.06(2m), (2r) and (12) relating to Specific Information Signs

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**NOTICE OF HEARING  
AND  
TEXT OF PROPOSED RULE**

NOTICE IS HEREBY GIVEN that pursuant to ss. 86.195(1)(d), 86.195(3), 86.195(4)(b), 86.195(8), Stats., and interpreting ss. 84.02(4)(e) and 86.195, Stats., the Department of Transportation will hold a public hearing in **Room 144-B** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **14th** day of **November**, 2006, at **10:30 AM**, to consider the amendment of ch. Trans 200, Wisconsin Administrative Code, relating to Specific Information Signs.

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

**Statutes interpreted:** ss. 84.02(4)(e) and 86.195, Stats.

**Statutory authority:** ss. 86.195(1)(d), 86.195(3), 86.195(4)(b), 86.195(8), Stats.

**Explanation of agency authority:** The Department has the authority to regulate the number and types of specific information signs on signposts near interchanges.

**Related statute or rule:** Section Trans 200.06(2), Wis. Admin. Code.

**Plain language analysis:** The current administrative rule allows four types of motorist services signs to be displayed on a specific information sign. This proposed rule will amend ch. Trans 200, relating to displaying attractions on highway specific information signs, to include the category of "Attractions" within the Specific Information Sign program and establish guidelines for criteria of qualification for "Attractions."

**Summary of, and preliminary comparison with, existing or proposed federal regulation:** 2005 Wis. Act 136 amended s. 86.195, Stats., which adds the "Attractions" category to the Specific Information Sign program and authorizes the amendment of ch. Trans 200 to include specific criteria addressing the qualifications of an attraction. This also would give the Department a chance to add different types of tourist type businesses to the program that may not have had the chance to be included in any directional signing programs.

**Comparison with Rules in the Following States:**

**Michigan:** Does not include "Attractions" in their program.

**Minnesota:** Does not include "Attractions" in their program.

**Illinois:** Currently involved in "Attractions" pilot program.

**Iowa:** Recently included "Attractions" in their program.

**Summary of factual data and analytical methodologies used and how the related findings support the regulatory approach chosen:** This rule making would establish more detailed criteria on qualifications to the attractions category, therefore, Wisconsin would be consistent with the Federal Highway Administration Manual on Uniform Traffic Control Devices by adding the "Attractions" category to the Specific Information sign program.

**Analysis and supporting documentation used to determine effect on small businesses:** The rule change is being requested by small business. The cost impact is minimal and voluntary.

**Effect on small business:** The proposed rule provides additional participation opportunities for small businesses. Since businesses request that they be identified on state-installed signs, the sign application process will enforce the rule. 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 net fiscal impact on state or private sector revenues or liabilities. Added administrative costs will be recovered through participant's fees. The private sector presumably will only choose to incur the costs when they anticipate the signs will generate a net benefit to the business.

**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 John Noll, Department of Transportation System Development, Traffic Engineering Section, Room 501, and P. O.

Box 7986, Madison, WI 53707-7986. You may also contact Mr. Noll by phone at (608) 266-0318.

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 200.015(2)(m) and (n)1. are amended to read:

Trans 200.015(2)(m) "Motorist service sign" means an official traffic sign that includes one or more of the words "GAS," "FOOD," "LODGING" or "CAMPING" or "ATTRACTION" and directional information, but does not identify the business offering the service or the name of the brand of products offered.

(n)1. One or more of the words, "GAS," "FOOD," "LODGING" or "CAMPING" or "ATTRACTION";

**SECTION 2.** Trans 200.06(2) is amended to read:

Trans 200.06(2) SERVICES PERMITTED. The motorist services for which the department may authorize the erection and maintenance of business signs on specific information signs within a highway are limited to "GAS," "FOOD," "LODGING" and "CAMPING;" or "ATTRACTION" in accordance with s. 86.195(3), Stats.

**SECTION 3.** Trans 200.06(2m) is created to read:

Trans 200.06(2m)(a) GENERAL REQUIREMENTS FOR "ATTRACTION" ELIGIBILITY. To be eligible for an "ATTRACTION" sign, the facility shall meet the following criteria:

1. Have the primary purpose of providing amusement, historical, cultural or leisure activities to the public.

2. Provide public accommodations without regard to race, religion, color, age, sex or national origin.

3. Have licensing and approval, where required.

4. Be of regional significance.

5. Provide adequate parking to accommodate normal traffic volumes for the facility with a minimum of 10 spaces.

6. Not be identified on other supplemental guide signs on the same route as the specific information sign or trailblazing signs.

7. Provide sanitary public restroom facilities and drinking water.

8. Be in continuous operation at least 8 hours a day, 5 days per week during normal operating season for the type of business, except this requirement may not apply to certain facilities such as arenas, auditoriums, civic centers and stadiums.

9. Be located within 3 miles of the interchange and have adequate signage to direct motorist to their location after exiting the highway. If no business, facility, or activity in the category of "ATTRACTION" is available within the 3-mile limit, the limit may be extended to a maximum distance of not more than 5 miles from the highway.

10. Minimum annual attendance of not less than 2,500.

(b) In addition to par. (a), the following are activities that may qualify as an "ATTRACTION" and specific requirements that apply to certain categories of activities:

1. Agri-tourism—breweries, gardens, vineyards, wineries. These types of facilities shall provide regularly scheduled or self-guided tours available no less than 4 times per day and providing tour opportunities through the majority of the hours open to the public.

2. Aquarium, wildlife facility/preserve/sanctuary, zoo.

3. Cultural, historic or scientific site, gallery, hall of fame, museum, performing arts facility. A performing arts facility shall provide a minimum of 250 seats.

4. Nature or scenic area--beach, gorge, nature facility/preserve/sanctuary, observation point/tower, park, scenic area, trail, waterfall, waterway.

5. Recreation facility--amusement park, casino, racetrack, speedway, theme park.

6. Religious site/shrine. This facility shall demonstrate that at least 50% of average daily annual visitors originate from 50 or more miles from the attraction. Religious sites/shrines do not include cathedrals, local churches, chapels, synagogues, temples, or mosques.

7. Scenic ride/sightseeing tours--balloon, boat, helicopter, lift, airplane, train, trolley. These tours shall demonstrate that at least 50% of average daily annual visitors originate from 50 or more miles from the attraction.

8. Sport arena/facility/stadium. These facilities shall provide a minimum of 2,500 seats and have minimum annual attendance of 25,000.

**SECTION 4.** Trans 200.06(2r) is created to read:

Trans 200.06(2r) **ADVISORY COUNCIL.** The department may appoint an advisory council under ss. 15.04(1)(c) and 15.09, Stats., to review applications for the "ATTRACTION" category signs. This 7-member council shall include representatives from the department of tourism, department of commerce, and other organizations as determined by the department and shall make recommendations to the department to approve or deny applications for "ATTRACTION" category signs. The department shall make the final decision on applications. The department shall furnish to the advisory council minimum criteria and requirements for the uniform evaluation and assessment

of applications. The department, in collaboration with the advisory council, may make revisions to the application evaluation criteria if at any time it is apparent that the criteria or implementation process are inequitable to the applicants or that the signing itself creates operational or safety concerns. The advisory council shall meet not less than once each month, unless otherwise directed by the department, to consider and make recommendations on applications received by the department. The department may act on any application not acted upon by the advisory council within 60 days of forwarding of the application to the council. Members of the advisory council shall not be compensated for their services or reimbursed for their expenses, except the department may reimburse private citizen members in hardship cases for actual and necessary expenses incurred in the performance of their duties.

**SECTION 5.** Trans 200.06(7)(c)1. is amended to read:

Trans 200.06(7)(c)1. 'Business sign size.' Each business sign displayed on a "GAS" specific information sign shall be contained within a 48-inch-wide and 36-inch-high rectangular background area, including border. Each business sign displayed on a "FOOD," "LODGING," or "CAMPING" or "ATTRACTION" specific information sign shall be contained within a 60-inch-wide and 36-inch-high rectangular background area, including border. If 2 business signs are displayed for 3 different types of motorist services on one specific information sign, the business sign size shall be contained within a 48-inch-wide and 36-inch-high rectangular background area, including border.

**SECTION 6.** Trans 200.06(12) is created to read:

Trans 200.06(12)(a) PRIORITY. Signs will be available on a first-come, first-serve basis. If, during initial erection of a sign, there are too many applicants for the available

space, then the businesses' prior year attendance will be used with the sign space going to the business with the greatest attendance. Remaining applicants will be placed on a waiting list in this order. After the sign has been erected, attractions cannot be bumped off a sign or out of the waiting list based on attendance alone.

(b) DISTANCE. If the attraction is greater than 3 miles but less than the 5-mile limit from the highway interchange, the ramp sign shall include the number of miles to that location as part of the business logo.

(c) SEASONAL ATTRACTIONS. If the attraction is seasonal, the attraction business sign will be removed or covered with a closed plaque during the off-season. If a waiting list exists, the department may offer the spot temporarily, but the seasonal business will go back on the sign during the next "open" season.

**NOTE: A different rate may be necessary to accommodate seasonal businesses due to the increased maintenance necessary.**

**(END OF RULE TEXT)**

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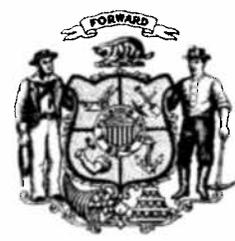
**Effective Date.** This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2)(intro.), Stats.

Signed at Madison, Wisconsin, this 11<sup>th</sup> day of September, 2006.

  
FRANK J. BISALACCHI  
Secretary  
Wisconsin Department of Transportation



# WISCONSIN STATE LEGISLATURE





## Wisconsin Department of Transportation

[www.dot.wisconsin.gov](http://www.dot.wisconsin.gov)

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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 **allowing the operation of double bottoms and certain other vehicles on specified highways, Trans 276**

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,

A handwritten signature in black ink that reads "Julie A. Johnson".

Julie A. Johnson  
Paralegal

Enclosure

cc: Casey Newman  
Mike Goetzman  
Ashwani Sharma

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

The Wisconsin Department of Transportation proposes an order to repeal TRANS 276.075(intro.); renumber TRANS 276.02(2)(a); amend TRANS 276.01(1), 276.02(1), 276.04, 276.06, 276.07(title), (intro.), (3) and (note) and 276.075; and create TRANS 276.02(2)(ar), (cm), (fg), (fm) and (hm), and 276.065, relating to allowing the operation of certain 2-vehicle combinations on certain highways without a permit

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NOTICE IS HEREBY GIVEN that pursuant to s. 348.07, Stats., as amended by 2005 Wis. Act 363, and interpreting s. 348.07, Stats., as amended by 2005 Wis. Act 363, the Department of Transportation will hold a public hearing in **Room 501 (Eau Claire Room)** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **11th** day of **January**, 2007, at **10:00 AM**, to consider the amendment of ch. Trans 276, Wisconsin Administrative Code, relating to allowing the operation of certain 2-vehicle combinations on certain highways without a permit.

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**

The Wisconsin Department of Transportation proposes an order to repeal TRANS 276.075(intro.); renumber TRANS 276.02(2)(a); amend TRANS 276.01(1), 276.02(1), 276.04, 276.06, 276.07(title), (intro.), (3) and (note) and 276.075; and create TRANS 276.02(2)(ar), (cm), (fg), (fm) and (hm), and 276.065, relating to allowing the operation of certain 2-vehicle combinations on certain highways without a permit

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

**Statutes interpreted:** s. 348.07, Stats., as amended by 2005 Wis. Act 363

**Statutory authority:** s. 348.07, Stats., as amended by 2005 Wis. Act 363

**Explanation of agency authority:** Section 7 of 2005 Wis. Act 363 requires the Department to adopt rules for purposes of implementing that Act.

**Related statute or rule:** s. 348.07, Stats., and ch. Trans 276, Wis. Admin. Code

**Plain language analysis:** Section 348.07(1), Stats., historically has limited vehicle lengths on Wisconsin highways to 65 feet. Section 348.07(2), Stats., allowed vehicles meeting the specifications of that subsection to operate without permits despite exceeding the 65-foot limit of subsection (1).

2005 Wis. Act 363 amended s. 348.07, Stats., and essentially made 75 feet the default permitted length on the state trunk highway system. Wisconsin's old default 65-foot overall length limit still applies on all local roads but only applies to state trunk highways that are designated as 65-foot restricted routes by the Department. This proposed rule making establishes a preliminary list of such "65-foot restricted routes."

Prior to Act 363, s. 348.07(4), Stats., permitted the Department to designate "long truck routes" upon which no overall length limits apply. The Department designates the state's long truck routes in s. Trans 276.07. This rule making does not affect those longstanding designations.

The new "default" 75-foot overall length limit applies on state highways that are neither designated as 65-foot restricted routes under this rule making nor long truck routes under s. Trans 276.07.

Definitions have been added to the rule to make it easier to identify the nature of designations made by the Department in Ch. Trans 276.

In drafting this rule the Department noticed several items that it believes may be of special interest to the legislature and which, in the Department's view, deserve special legislative attention. First, Act 363 did not grant any authority for 75-foot vehicles using the new 75-foot routes to leave those routes to reach fuel, food, maintenance, repair, rest, staging, terminal or vehicle assembly facilities or points of loading or unloading. The Department does not believe this oversight was intentional and, on an emergency basis, designated the intersection of each 75-foot route and any other highway as a long truck route under its authority in s. 348.07(4), Stats. The existing emergency rule permits trucks to exceed the 65-foot default length limit on local roads to access such facilities and make deliveries. The Department has not attempted to continue that emergency provision in this rule making and encourages the legislature to consider statutorily establishing access rights for vehicles using 75-foot restricted routes.

The second consequence of Act 363 the Department has discovered in drafting this proposed rule is that one statute that formerly restricted double-bottom tractor-trailer combinations to the state's long-truck network was repealed by the deletion of the reference to s. 348.07(2)(gm), Stats., by the Act's amendment of s. 348.07(4), Stats. Under the amended statute, as revised by Act 363, it might appear to a reader that double bottom trucks of unlimited length may operate upon any highway in the state, including local roads and streets, without permits. Section 348.08(1)(e), Stats., however, continues to provide that double-bottom trucks be restricted to highways designated by the department under s. 348.07(4). WisDOT believes this provision continues to limit double-bottom operation to long truck routes designated by the Department under s. 348.07(4), Stats. WisDOT would suggest the deleted reference to (2)(gm) in 348.07(4), Stats., be re-inserted into the statute to avoid confusion.

This permanent rule making proposes to repeal s. Trans 276.075. That regulation permitted an 11-mile stretch of U.S.H. 12 from its intersection with S.T.H. 128 east of Hersey to S.T.H. 79 Northwest of Menomonie to be used as an access route for food, fuel, and access to points of loading and unloading, notwithstanding the fact that it was longer than the 5-mile former limit for access routes used for such purposes. The provision is not needed because the length of the route is less than the 15-mile access now permitted by statute. Moreover, because this section of highway is a designated alternate to I-94, the Department believes it is appropriate to simply designate this stretch of highway as a long truck route. Accordingly, s. 276.07(3) is amended to extend U.S.H. 12's long truck route that currently runs from STH 79 to STH 25 in Menomonie through the intersection of U.S.H. 12 with S.T.H. 128 east of Hersey.

Finally, the Department notes that s. 348.07, Stats., is becoming difficult to decipher from a legal standpoint because of the many amendments that have been made to it over the years. It may be that recodifying the statute for the purpose of clarification of the length limitations of Wisconsin law would be helpful to truck and long vehicle operators in this state.

**Comparison with Existing Emergency Rule.** This rule making differs from the Department's existing emergency rule in that it removes the following highway segments from the 65 foot route system, thereby making them 75 foot routes:

<b>Route</b>	<b>From</b>	<b>To</b>
USH 10	IH 43 N. of Manitowoc	Car Ferry Dock in Manitowoc
STH 11	USH 51 in Janesville	IH 90 E. of Janesville
STH 11	USH 14-STH 89, 5 miles W. of Delavan	IH 43 E. of Elkhorn
STH 11	STH 31 in Racine	Junction STH 32 in Racine
USH 12	IH 90 at STH 35 E of Hudson	STH 79 N.W. of Menomonie
USH 12	STH 25 in Menomonie	IH 94-CTH "EE" W. of Eau Claire
USH 12	USH 27 at Black River Falls	IH 90-94 at Lake Delton
STH 13	STH 23	STH 82 S. of Adams
STH 15	Jct. USH 41 at Appleton	Jct. STH 45 at New London
STH 16	MN State Line in La Crosse	CTH J N. of Rockland
STH 16	IH 90/94, W. of Wisconsin Dells	STH 33 in Portage
USH 18	STH 89 W. of Jefferson	STH 164 E. of Waukesha
USH 18	IH 94 E. of Waukesha	Michigan St. and N. Lincoln Memorial Dr. in Milwaukee
STH 20	STH 36	STH 31 in Racine
STH 24	Milwaukee/Waukesha County Line	STH 241 in Milwaukee
STH 25	STH 29 S of Menomonie	STH 29 N of Menomonie
STH 26	US 151 SE of Waupun	US 151 NE of Waupun
STH 27	STH 40 in Radisson	Douglas CTH A
STH 28	IH 43 in Sheboygan	STH 23/42 in Sheboygan
STH 28	Taylor Drive	STH 23/42 in Sheboygan
STH 29	STH 35 in River Falls	North Jct 25 / 29 in Menomonie
STH 29	North Jct 12/ 29	IH 94 W. of Elk Mound
STH 29	USH 41 in Green Bay	USH 141 at Bellevue
STH 31	STH 20 in Racine	STH 32

<b>Route</b>	<b>From</b>	<b>To</b>
STH 32	IL State Line	IH 43 in River Hills
STH 32	IH 43 E. of Grafton	IH 43 N. of Port Washington
STH 32	Fond du Lac Rd	STH 23
STH 32	STH 57 in De Pere	USH 41 N. of De Pere
STH 35	IL State Line	STH 11 N.E. of E. Dubuque
STH 35	IH 94 E. of Hudson	STH 243 in Osceola
STH 36	STH 120 in Springfield	STH 11 at Burlington
STH 36	USH 45 in Franklin	STH 241 in Milwaukee
STH 37	STH 35 N. of Alma	USH 10 at Mondovi
STH 38	STH 32 in Racine	STH 59 in Milwaukee
USH 41	IH 94 S.W. of Oak Creek	National Avenue in Milwaukee
USH 41	Garfield Avenue in Milwaukee	107th St. in Milwaukee
STH 42	STH 23/28 in Sheboygan	IH 43 N.W. of Sheboygan
STH 42	STH 32 at Howards Grove	IH 43 at Manitowoc
STH 44	USH 41 S.W. of Oshkosh	USH 45 in Oshkosh
USH 45	West of Menasha	STH 76 at Greenville
STH 46	USH 8 S. of Balsam Lake	STH 35 in Milltown
STH 47	STH 114 in Menasha	USH 10 in Appleton
STH 48	STH 35 S in Luck	STH 63 W of Cumberland
STH 48	STH 87 S. of Grantsburg	STH 35 in Frederic
STH 50	STH 11 in Delavan	USH 12 W. of Lake Geneva
STH 50	45 <sup>th</sup> Ave in Kenosha	STH 32 in Kenosha
US 51	IL State Line in Beloit	STH 11 in Janesville
US 51	US 14 at Janesville	I-39/90 E of Stoughton
USH 53	USH 10 in Osseo	IH 94 S.E. of Eau Claire
USH 53	USH 53/STH 93 E. of Galesville	STH 71 at Melrose
STH 54	USH 41 at Green Bay	IH 43 in Green Bay
STH 55	USH 151 N. of Brothertown	USH 41 in Kaukauna

<b>Route</b>	<b>From</b>	<b>To</b>
STH 55	STH 29	MI State Line
STH 56	STH 35 in Genoa	STH 80 N. of Richland Center
STH 57	STH 59 in Milwaukee	IH 43 /STH 32 in Mequon
STH 57	STH 172 S. of Green Bay	IH 43 in Green Bay
STH 58	US 14 E of Richland Center	STH 80 S of Necedah
STH 59	USH 164 E. of Waukesha	STH 32 in Milwaukee
STH 60	US 12 E of Sauk City	STH 113 in Lodi
USH 61	STH 129 S.E. of Lancaster	STH 129 N.E. of Lancaster
STH 67	IL State Line	IH 94 S. of Oconomowoc
STH 67	STH 28 in Mayville	CTH B S. of St. Cloud
STH 69	CTH PB at Paoli	US 18/151 E of Verona
STH 70	USH 53-63 in Spooner	STH 40 at Radisson
STH 70	Loretta	STH 13 in Fifield
STH 72	USH 10/63 at CTH C E. of Ellsworth	CTH S
STH 72	CTH P	STH 25
STH 74	CTH VV in Sussex	USH 41/45 in Menomonee Falls
STH 75	STH 50	STH 20
STH 76	STH 21/USH 45 Oshkosh	USH 41 N. of Oshkosh
STH 76	USH 45 at Greenville	STH 22/USH 45 at Bear Creek
STH 77	MN State Line	USH 53 in Minong
STH 80	IL State Line	STH 11 at Hazel Green
STH 82	IA State Line	STH 80 W. of Hillsboro
STH 83	IL State Line	STH 50
STH 83	STH 50 E. of Munster	STH 11 in Burlington
STH 83	STH 20 in Waterford	STH 167 S. of Hartford
STH 83	STH 60 in Hartford	STH 175
STH 91	STH 49 (Berlin)	USH 41 (Oshkosh)

<b>Route</b>	<b>From</b>	<b>To</b>
STH 92	STH 69 W of Belleville	STH 78 in Mt. Horeb
STH 96	STH 47	IH-43
STH 100	STH 32 (Oak Creek)	IH 94 (Oak Creek)
STH 108	Jackson County Line	STH 71 S of Melrose
STH 114	USH 41	STH 32/57 (Hilbert)
STH 120	IL State Line	IH 43 (East Troy)
STH 125	USH 41 in Appleton	STH 47 in Appleton
STH 128	STH 72 at Village of Elmwood	STH 29
STH 131	STH 60 E of Wauzeka	US 61 at Soldiers Grove
STH 137	US 2 W of Ashland	STH 13 in Ashland
STH 142	STH 11 at Burlington	IH 94
STH 144	STH 175 at Slinger	STH 33
STH 145	USH 41/45	USH 41 in Washington County
STH 147	STH 42 at Two Rivers	IH 43
USH 151	USH 41 in Fond du Lac	STH 23 in Fond du Lac
STH 157	STH 35 at Onalaska	STH 16 at La Crosse
STH 158	STH 31 in Kenosha	52 <sup>ND</sup> Street & 6 <sup>TH</sup> Avenue in Kenosha
STH 164	STH 190 E. of Pewaukee	CTH W in Sussex
STH 164	CTH Q W. of Colgate	STH 60
STH 165	STH 31 in Kenosha	STH 32 in Kenosha
STH 167	STH 83	STH 32/IH 43
STH 170	STH 79 in Boyceville	STH 25
STH 172	STH 54 in Brown County	USH 41
STH 175	USH 41/45/STH 100 in Milwaukee	CTH P S. of Theresa
STH 175	STH 67 in Lomira	USH 45 in Winnebago County
STH 178	STH 124 in Chippewa Falls	CTH S in Chippewa Falls
STH 178	Jim Falls	CTH R

Route	From	To
STH 179	At Eastman	STH 131 at Steuben
STH 180	At Marinette	USH 141 in Wausaukee
STH 181	STH 59 in West Allis	STH 60, Ozaukee County
STH 187	STH 54 at Shiocton	STH 156 in Shawano County
STH 190	STH 100 in Wauwatosa	STH 32 in Shorewood
STH 193	STH 60 N. of Muscoda	STH 80 in Richland County
STH 241	USH 41/IH 94	STH 24 in Milwaukee
STH 243	MN State Line, Polk County	STH 35 in Osceola
STH 253	USH 53 N. of Sarona	USH 63 S. of Spooner
STH 312	IH 94 in Eau Claire	USH 53 and Bypass USH 53
STH 341	STH 59 at Miller Park	I-94 and US 41 in Milwaukee
STH 441	STH 47 in Menasha	USH 41 N. of Appleton
STH 794	IH 794/Carferry Drive	College Avenue in Cudahy
B 41	US 41	STH 32 DePere
X 51	US 51 in Beloit	STH 213 in Beloit

In addition, the emergency rule currently in effect designated the intersection of any 75-foot restricted route and another highway as a "long truck route" in order to provide access from the 75-foot routes to points of loading and unloading, food, fuel, and other services. This permanent rule making does not propose such a provision. The Department believes that the creation or designation of access from 75-foot routes should be determined by the legislature.

**Summary of, and preliminary comparison with, existing or proposed federal regulation:** Federal regulations are intended to identify a National Network of highways available to vehicles authorized by provisions of the Surface Transportation Act of 1982 as amended, and to prescribe national policies that govern truck and bus size and weight. The objective of those federal regulations, found in Part 658 of 23 CFR Chapter I, is to provide a safe and efficient network of highways that can safely and efficiently accommodate the large vehicles authorized in federal law. The network includes the Interstate system and other qualifying primary highways. The federal regulation seeks to assure there is reasonable access to the National Network for commercial motor vehicles and to preserve the national network in order to accommodate large vehicles.

States are required to allow the following vehicles on the national network subject to the criteria listed:

- (1) A semitrailer operating in a truck tractor-semitrailer combination may not be subject to a length limitation of less than 48 feet. 23 CFR 658.13(b)(1).
- (2) Any semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination may not be subject to a length limitation of less than 28 feet. 23 CFR 658.13(b)(2).
- (3) Commercial vehicles operating in truck tractor-semitrailer or truck tractor-semitrailer-trailer combinations may not be subjected to an overall length limitation. 23 CFR 658.13(b)(3).
- (4) Commercial motor vehicles operating in truck tractor-semitrailer-trailer combinations ("double-bottoms") may not be prohibited. 23 CFR 658.13(b)(4).
- (5) Some vehicles types that were in use in 1982, and various specialized vehicles must be permitted to operate on the national network. 23 CFR 658.13.

This proposed rule making is consistent with federal regulation in that the objective is to provide a safe and efficient system for accommodating large vehicles that integrates with the national network. The rule making is intended to provide reasonable access while applying size limits to other highways as needed to preserve safety and efficiency in system operations. None of the changes made by 2005 Wis. Act 363 nor this rule making are in conflict with the federal length limitations.

#### **Comparison with Rules in Adjacent States:**

**Michigan:** Allows 53 ft. semi-trailers on designated highways only approved by the state transportation department or a local authority. Maximum length from kingpin to axle is 37.5 ft. to 40.5 ft. There is no restriction on maximum overall tractor-semitrailer length. Allows 5-mile access provision on state highways for food, fuel, repairs or rest.

**Minnesota:** Allows 53 ft. semi-trailers on any road with an overall length restriction of 75 ft. No restriction on divided highways. Commissioner may designate other than divided highways, subject to local approval, for the purpose of providing reasonable access between divided highways.

**Illinois:** Allows 53 ft. semi-trailers on designated highways on Class I, II and III highways. Maximum length from kingpin to axle is 45.5 ft. There is no restriction on maximum overall tractor-semitrailer length for Class I and II highways, but a 65 ft. restriction on Class III highway, and a 55 ft. restriction on non-state highways. Allows a 5-mile access provision off a state route.

**Iowa:** Allows 53-ft. semi-trailers on any highway and no maximum overall semi-trailer length restriction.

**Summary of factual data and analytical methodologies used and how the related findings support the regulatory approach chosen:** The process for identifying

routes of importance for commerce has been in place for many years. Most routes of importance have been reviewed for adequacy to accommodate long trucks based on requests from shippers or receivers. As a result, there is a reasonable basis for identifying those routes where 53-foot trailers may not be appropriate and require further consideration through the permanent rule making process. Department traffic engineers and law enforcement personnel familiar with the routes have been involved in these decisions, along with input from local county highway officials and county elected officials. Of primary concern to local units of government was abuse of the 15-mile access provision for food and fuel. County authorities agree that permitting 15-mile access to points of loading and unloading would promote commerce and be enforceable. Food and fuel, they point out, was reachable under the old 5-mile rule. They further contend the 15-mile limit for food and fuel leads to serious enforcement problems. Because the 15-mile access provision is statutory, the Department believes any changes to that limit must be made by the legislature.

**Analysis and supporting documentation used to determine effect on small businesses:** There has been no analysis to determine the effect on small business as the statutory change has provided significant additional opportunities to use longer trailers when accessing businesses that are not located on routes designated for long trucks, both on and off the state highway system, and therefore the impact is assumed to be positive for small businesses. This would not be the case had the Department not included in the emergency rule the provision to allow access by the designation of intersections of each 75-foot route as a designated long truck route. Since the majority of shipping points or destinations will be accessible based on the expanded access provision, these benefits are assumed to be substantially greater than the impacts of any remaining restrictions on routes that may be reconsidered for designation during the permanent rule making. If the 75-foot access provision is not legislatively adopted, the effect on small business will still be positive, but less so than if the ability to travel off of 75-foot routes were permitted.

**Effect on small business:** The rule expands freight access for small businesses by allowing delivery with 53-foot trailers when located within 15 miles of a designated route. The expanded freight opportunities are expected to benefit small businesses. There is no expectation that enforcement of the rule provisions will change. 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 of the rule, and anticipated costs incurred by private sector:** The fiscal effect of the rule is negligible. The Department is obligated to provide maps as deemed necessary, and those maps and materials require periodic updating. The results of this rule making will be incorporated in a routine update. The Department will take into consideration the potential impacts to infrastructure in determining those routes that are appropriate for specific truck lengths and types. Costs to be incurred by the private sector are voluntary. The rule change will not mandate any equipment changes, but rather will allow expanded use of certain types of existing equipment.

**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 Ashwani Sharma, Department of Transportation, Bureau of Highway Operations, Room 501, P. O. Box 7986, Madison, WI 53707-7986. You may also contact Mr. Sharma by phone at (608) 266-1273.

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 276.01(1) is amended to read:

Trans 276.01(1) SCOPE. This chapter administratively interprets s. 348.07 and 348.08, Stats. ~~In particular, it identifies and designates a list lists of qualifying highways for the operation of vehicles and combinations of vehicles the overall lengths of which cannot be limited upon which those statutes permit the secretary to set vehicle and trailer length limits.~~ In addition, this chapter clarifies other statutory provisions or federal rules affecting the weight, width and length of vehicles and combinations of vehicles and the number of vehicles in combination.

**SECTION 2.** Trans 276.02(1) is amended to read:

Trans 276.02(1) In this chapter words and phrases have the meanings designated set forth in chs. 340 and 348, Stats., and ch. Trans 250, unless a different meaning is expressly provided in this chapter.

**SECTION 3.** Trans 276.02(2)(a) is renumbered Trans 276.02(2)(ag).

**SECTION 4.** Trans 276.02(2)(ar), (cm), (fg), (fm) and (hm) are created to read:

Trans 276.02(ar) "Combination vehicle" or "combination" means a vehicle that is towing or pushing one or more vehicles.

(cm) "Long truck route" means a highway designated by the secretary pursuant to s. 348.07(4), Stats., and under ss. Trans 276.07 to 276.077.

(fg) "75-foot restricted route" means a highway that is part of the state highway system and is neither a long truck route nor a 65-foot restricted route.

**NOTE: See s. 348.07(2)(fm), Stats., regarding the definitions in pars. (cm) and (fg). 2005 Wis. Act 363 amended s. 348.07, Stats, and made 75 feet the default permitted length on the state highway system. Wisconsin's old default 65-foot overall length limit still applies on all local roads but only applies to state highways that are designated as 65-foot restricted routes under this chapter. Long truck route limits apply on highways identified in s. Trans 276.07. A 75-foot overall length limit applies on state highways that are neither 65-foot highways nor long truck routes. Significantly, vehicles may not leave 75-foot restricted routes to access food, fuel and to make deliveries in the manner that they may leave designated long truck routes for up to 15 miles.**

(fm) "65-foot restricted route" means a highway designated by the secretary pursuant to s. 348.07(4m), Stats., and under s. Trans 276.065, upon which overall vehicle length of vehicles is limited to 65 feet under s. 348.07(1), Stats., and upon which operation of 53 foot semitrailers with kingpin to axle lengths of 43 feet or less that are operated as part of 2-vehicle combinations are not permitted.

**NOTE: 65-foot restricted routes are those designated by the Secretary under s. 348.07(4m), Stats.**

(hm) "Straight vehicle" means a vehicle that is not a combination vehicle.

**SECTION 5.** Trans 276.04 is amended to read:

**Trans 276.04 Width, metric equivalent.** For purposes of enforcement of ch. 348, Stats., 23 CFR 658, and this chapter, the approximate metric equivalent of 102 inches is deemed to be within the ~~402 limit~~ 8 foot 6 inch length limit of s. 348.05, Stats. The approximate metric equivalent of 102 inches is 2.6 meters, which equals approximately 102.36 inches.

**NOTE: The use of the metric equivalent of 102 inches (8 feet 6 inches) is authorized in 23 CFR 658.15.**

**SECTION 6.** Trans 276.06 is amended to read:

**Trans 276.06 Permits for vehicles operating in saddlemount combination or motor buses.** For enforcement purposes, no permit is required for vehicles operating in double or triple saddlemount combination provided the overall length of the combination is 75 feet or less, or for the operation of any motor bus provided the overall length of the motor bus is 45 feet or less. This section applies to the national network and 5-mile access routes.

**NOTE:** The provision of Wisconsin law requiring a permit for these combinations (s. 348.27(13), Stats.), was preempted by the federal rule (23 CFR 658.13(d)(1)iii.) when these vehicles operate on the designated system and access routes.

**NOTE:** The provision of Wisconsin law requiring a permit for the operation of motor buses in excess of 40 feet in length (s. 348.07(1), Stats.) was preempted by federal law (49 USC Appx. Section 2311(a) as amended by section 4006(b) of the Intermodal Surface Transportation Efficiency Act of 1991) when these vehicles operate on the federally designated system and access routes.

**SECTION 7.** Trans 276.065 is created to read:

**Trans 276.065 Designated 65-foot restricted routes.** Section 348.07(4m), Stats., permits the department to designate those parts of the state highway system upon which paragraphs s. 348.07(2)(fs) and (gv), Stats., do not apply. The following highways are designated 65-foot restricted routes pursuant to s. 348.07(4m), Stats.:

<b>Route</b>	<b>From</b>	<b>To</b>
STH 13	I-90/94, W of Wisconsin Dells	STH 23
STH 13	Bayfield	Jct. US 2/53 E of Superior
STH 16	I-90/94, W of Wisconsin Dells	STH 33 in Portage
STH 17	Phelps	MI State Line
STH 19	US 14/STH 78 E of Mazomanie	US 12 S of Springfield Corners
STH 22	STH 110 E of Waupaca	US 45 W of Bear Creek
STH 23	I-90/94 W of Lake Delton	I-39 in Endeavor

<b>Route</b>	<b>From</b>	<b>To</b>
STH 27	Douglas County CTH A	US 2
STH 29	STH 25 S of Menomonie	USH 12 in Menomonie
STH 32	STH 28 S of Sheboygan Falls	Fond du Lac Rd
STH 32	STH 55 in Crandon	US 45 in Three Lakes
STH 33	STH 16/US 61/US 14 in La Crosse	STH 80 W of Hillsboro
STH 33	US 151 in Beaver Dam	De Clark St in Beaver Dam
STH 35	STH 48 in Frederic	STH 70 N of Siren
STH 39	US 18 in Edmund	US 151 in Mineral Point
STH 40	STH 64 N of Bloomer	STH 27/70 in Radisson
STH 42	STH 57 N of Sturgeon Bay	STH 57 at Sister Bay
STH 44	STH 22 in Pardeeville	STH 73 at Manchester
US 45	STH 67 E of Campbellsport	US 41 N of Oshkosh
STH 46	US 8 S of Balsam Lake	STH 35 in Milltown
STH 47	STH 29 in Shawano	US 45 N of Aniwa
STH 47	US 51 in Woodruff	STH 182
STH 49	US 10 at Waupaca	STH 29 W of Wittenberg
US 51	STH 16 SE of Portage	I-39 N of Portage (exit 92)
STH 52	US 51/STH 29 in Wausau	US 45 N of Aniwa
STH 52	STH 64 NE of Antigo	STH 32 W of Wabeno
STH 54	STH 80 at Dexterville	STH 73 in Port Edwards
STH 55	STH 29 in Shawano	MI State Line
STH 59	US 14 in Union	STH 26 in Milton
STH 64	MN State Line	STH 35 West Jct in Houlton
STH 65	STH 64 at New Richmond	US 8
STH 72	CTH S West of Elmwood	CTH P in Elmwood
STH 73	STH 64 E of Gilman	US 8 at Ingram
STH 78	IL State Line	US 14 at Black Earth
STH 78	US 12 in Sauk City	I-39/90/94

<b>Route</b>	<b>From</b>	<b>To</b>
STH 79	STH 170 at Boyceville	STH 64 in Connorsville
STH 81	STH 133 in Cassville	STH 35 NE of Beetown
STH 81	STH 23 in Darlington	STH 78 in Argyle
STH 86	STH 13 W of Ogema	US 51 in Tomahawk
STH 88	STH 35 N of Fountain City	STH 37 in South of Mondovi
STH 92	STH 78 at Mt. Horeb	US 14 E of Brooklyn
STH 95	STH 35 at Fountain City	CTH A in Arcadia
STH 96	STH 47 in Appleton	I-43 W of Denmark
STH 101	US 8 at Armstrong Creek	STH 70 W of Florence
STH 102	STH 13 N of Chelsea	STH 86 at Spirit
STH 104	STH 11 at Brodhead	STH 92 at Brooklyn
STH 105	MN State line	STH 35
STH 106	STH 73 E of Albion	STH 59 at Palmyra
STH 107	STH 153 E of Halder	STH 64 W of Merrill
STH 107	STH 64 in Merrill	CTH S (S of the City of Tomahawk)
STH 108	STH 16 E of West Salem	Jackson County Line
STH 110	STH 96 (Village of Fremont)	US 10 (Village of Fremont)
STH 110	US 10 at Weyauwega	US 45 at Marion
STH 111	US 8 E of Catawba	STH 13 S of Phillips
STH 112	STH 13 N of Marengo	STH 137 at Ashland
STH 113	STH 60 in Lodi	STH 33 at Baraboo
STH 116	STH 21 at Omro	STH 91 S of Waukau
STH 118	USH 63 N of Mason (Bayfield County)	STH 112 S of Ashland
STH 121	STH 88 at Gilmanton	STH 93 S of Elk Creek
STH 122	STH 77 at Upson	MI Line
STH 123	Devil's Lake State Park	STH 33 at Baraboo
STH 126	STH 81 S of Belmont	USH 151 at Belmont

Route	From	To
STH 127	STH 16 E of Wisconsin Dells	STH 16 at Portage
STH 128	STH 170 at Glenwood City	STH 64 E of Forest
STH 130	STH 23 N of Dodgeville	STH 154 W of Hill Point in Sauk County
STH 131	STH 56 at Viola	STH 71 at Wilton
STH 133	STH 35/USH 61 at Tennyson	STH 35 at Bloomington
STH 133	US 18 at Mt. Hope	USH 61 at Boscobel
STH 134	US 12/18 at Cambridge	Main Street in London
STH 136	STH 23/33, E of Reedsburg	US 12 at West Baraboo
STH 138	STH 59 at Cooksville	US 51 at Stoughton
STH 140	IL State Line	US 14 N of Avalon
STH 146	STH 16, W of Fall River	STH 33 N of Cambria
US 151	E Jct with US 14 in Madison (Exit 251, Park Street)	I-39/90/94
STH 152	STH 21 at Wautoma	Mt. Morris
STH 153	STH 13 N of Spencer	US 45 S of Wittenberg
STH 154	STH 58 S of Loyd	STH 23 at Loganville
STH 154	STH 23 S of Reedsburg	STH 136 at Rock Springs
STH 155	STH 70 at St. Germain	Sayner
STH 156	STH 22 at Clintonville	STH 29 W of Howard
STH 159	US 12 S of Baraboo	STH 123
STH 160	STH 29 E of Angelica	STH 32 at Pulaski
STH 161	US 10 at Amherst Jct.	STH 22/STH 110 at Symco
STH 162	USH 14 at Coon Valley	I 90 at Bangor
STH 169	STH 13 in Mellen	US 2 N of Gurney
STH 170	STH 25 in Wheeler	STH 40 in Colfax
STH 171	STH 35 at S of Ferryville	US 14 N of Boaz
STH 173	STH 80 at Babcock	STH 73 at Nekoosa
STH 178	Chippewa County CTH R N of Jim Falls	STH 64 in Cornell

Route	From	To
STH 187	STH 54 E of Shiocton	STH 156 N of Leeman
STH 188	STH 12 E of Sauk City	STH 113 W of Okee
STH 191	STH 23 in Dodgeville	STH 39 in Hollandale
STH 213	STH 81 in Beloit	STH 11 in Orfordville
B 13	US 10 in Marshfield	STH 13 in Marshfield
B 51	I-39/US 51/STH 54	IH 39/US 51 in Stevens Point
B51	I-39/US 51 in Rothschild	US 51 in Wausau
X 42	STH 42 S of Gills Rock	Ferry Dock, Town of Liberty Grove

**NOTE: Section 348.07(2)(fs), Stats., permits tractor-semitrailer combinations of up to 75 feet in overall length to be operated on any part of the state trunk highway system, except where prohibited by the Department under s. 348.07(4m), Stats. Similarly, s. 348.07(2)(gv), Stats., permits the operation of 53-foot semitrailers whose lengths from kingpin to axle does not exceed 43 feet and which are operated as part of 2-vehicle combinations on any part of the state trunk highway system, except where prohibited by the Department under s. 348.07(4m), Stats. This section specifies those sections of the state trunk highway system where 75-foot tractor-semitrailer combinations and such 53-foot semitrailers are prohibited.**

**SECTION 8.** Trans 276.07(title), (intro.), (3) and (note) are amended to read:

Trans 276.07 (title) Designated highways long truck routes. (intro.) The following highways are designated long truck routes for purposes of the operation of the specified vehicles and combinations with lengths as stated in described in ss. 348.07(2)(f), (fm) and (gr) and s. 348.08(1)(e), Stats., pursuant to s. 348.07(4), Stats.:

	<u>Route</u>	<u>From</u>	<u>To</u>
(3)	USH 10	MN Line at Prescott	IH 43 N. of Manitowoc
	STH 11	USH 61-151 E. of Dubuque, Iowa	USH 51 in Janesville
	STH 11	IH 90 E. of Janesville	USH 14-STH 89, 5 miles W. of Delavan

STH 11	IH 43 E. of Elkhorn	STH 31 in Racine
USH 12	<del>STH 79 N.W. of Menomonie</del> 128 E. of Hersey	STH 25 in Menomonie
USH 12	IH 94-CTH "EE" W. of Eau Claire	USH 10 at Fairchild
USH 12	IH 90-94 at Lake Delton	IL Line at Genoa City
STH 13	STH 82 S. of Adams	Bayfield
USH 14	MN Line at LaCrosse	IL Line

(note) ~~The county~~ County trunk highways and other local roads or streets designated as long truck routes by s. Trans 276.07(27) to (45) may be subject to weight restrictions imposed by local authorities and not known to the department. Seasonal weight restrictions may be imposed by local authorities under s. 349.16, Stats., but must be posted. Under s. 349.15, Stats., county trunk highways may be designated as Class "B" highways by the county highway committee. Similarly, other local authorities may designate highways they maintain as Class "B". Wheel, axle, axle group and gross weights are limited on Class "B" highways as provided by s. 348.16, Stats. Neither posting of Class "B" designations nor notification to the department is required. Therefore, the department recommends that motor carriers avoid overweight violations by verifying the applicable weight limits on these highways with the local authorities, before use operating upon those roads. Double bottom combination vehicles may be operated only on the highways set forth in this section. See s. 348.08(1)(e), Stats.

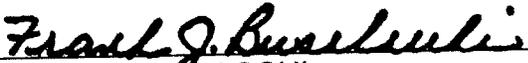
**SECTION 9.** Trans 276.075(intro.) is repealed.

**(END OF RULE TEXT)**

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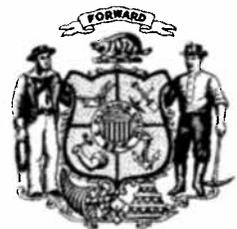
**Effective Date.** This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2)(intro.), Stats.

Signed at Madison, Wisconsin, this 29<sup>th</sup> day of **November**, 2006.

  
FRANK J. BUSLACCHI  
Secretary  
Wisconsin Department of Transportation



# WISCONSIN STATE LEGISLATURE





## Wisconsin Department of Transportation

www.dot.wisconsin.gov

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Governor

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

December 11, 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 **dealer facilities, records and licenses**, Trans 138

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,

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

Julie A. Johnson  
Paralegal

Enclosure

cc: Casey Newman  
Mike Goetzman  
Lynne B. Judd  
Chuck Supple  
Rick Soletski  
Carson Frazier

**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 amend TRANS 138.03(1)(a)(intro.) and (6); and create TRANS 138.08(5), relating to dealer facilities, records and licenses.

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NOTICE IS HEREBY GIVEN that pursuant to ss. 85.16(1), 110.06, 218.0152, and 227.11(2), Stats., and interpreting ch. 218, Stats., the Department of Transportation will hold a public hearing in **Room 144-B** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **18th** day of **January**, 2007, at **10:00 AM**, to consider the amendment of ch. Trans 138, Wisconsin Administrative Code, relating to dealer facilities, records and licenses.

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 is available.

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

---

The Wisconsin Department of Transportation proposes an order to amend TRANS 138.03(1)(a)(intro.) and (6); and create TRANS 138.08(5), relating to dealer facilities, records and licenses.

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

**Statutes interpreted:** Ch. 218, Stats.

**Statutory authority:** ss. 85.16(1), 110.06, 218.0152, 227.11(2), Stats.

**Explanation of agency authority:** The Department licenses and regulates motor vehicle dealers. This rule making deals with the topic of sales facility locations.

**Related statute or rule:** Ch. 218, Stats., Ch. Trans 138 and 139, Wis. Admin. Code.

**Plain language analysis:** This rule amendment relates to temporary sales locations, such as at fairs or auto shows, by licensed Wisconsin motor vehicle dealers. Chapter Trans 138 requires that licensed dealers maintain business facilities in the state. In addition, ch. Trans 138 allows licensed Wisconsin dealers to conduct a certain number of sales at temporary sales locations during a year.

Recently, ch. Trans 138 was amended to permit out-of-state motor vehicle sellers, such as Internet vendors, to be licensed as dealers in this state and to sell vehicles to Wisconsin residents via the Internet or similar methods without having to maintain business facilities in the state.

This rule making clarifies two points. First, a licensed Wisconsin motor vehicle dealer's business facilities must be a permanent building in the state of Wisconsin. Second, persons who avail themselves of the out-of-state dealer licensing provisions available to internet sellers may not conduct face-to-face sales in Wisconsin without first obtaining permanent facilities in this state like any other Wisconsin based dealership. To conduct face-to-face sales within the state, a dealer must have a permanent facility in this state.

**Summary of, and preliminary comparison with, existing or proposed federal regulation:** Motor vehicle dealers are not licensed by the federal government.

### Comparison with Rules in Adjacent States:

**Michigan:** Requires dealers to be licensed and to have an established place of business in the state. Temporary sales locations require an additional application and 30 days notice. Different procedures are required depending if the temporary location is inside or outside the Michigan county of licensure.

**Minnesota:** Requires dealers to be licensed and to have an established place of business in the state. Requires notification by the dealer to the Department of Public Safety of temporary sales locations. Non-Minnesota dealers are ineligible to participate in face-to-face sales at temporary locations in Minnesota.

**Illinois:** Requires dealers to be licensed and to have an established place of business in the state. Sales at temporary sales locations are permitted. An application and fee are required.

**Iowa:** Requires dealers to be licensed and have an established place of business in the state. Temporary sales locations or display at "Fair," "Vehicle Show," or "Vehicle Exhibition" requires an application and fee. The Department (Transportation) may grant a variance from the requirements of these rules and grant a special limited permit for the display only of motor homes or travel trailers at a convention sponsored by an established national association, if the Department determines that granting the permit would not encourage evasion of these rules and that the public interest so demands. The Department may impose alternative permit requirements.

**Summary of factual data and analytical methodologies used and how the related findings support the regulatory approach chosen:** There is currently one out-of-state dealer with Wisconsin dealer license that is exempt from Wisconsin's business facility requirement. From October 1, 2003, to September 30, 2005, there were nine out-of-state dealers that were exempt from the business facility requirement. None currently has approval to conduct sales at a temporary sales location. Of these nine out-of-state dealers, nine had previously received approval to conduct sales at temporary sales locations. All approvals have expired.

**Analysis and supporting documentation used to determine effect on small businesses:** This rule will affect any out-of-state dealers who are required to have a Wisconsin motor vehicle dealer license in order to sell to Wisconsin residents via face-to-face sales. This rule making will require such dealers to establish permanent offices in this state. So long as these dealers confine their sales to Internet, telephone or other remote sale methods, those dealers will be exempt from requirement of keeping a Wisconsin business facility. Such dealers will, however, be prohibited from selling vehicles at temporary sales locations, fairs and conventions. There are no businesses that hold a Wisconsin dealer license and are exempt from business facility requirement, which are currently allowed to hold sales at temporary sales locations.

**Effect on small business:** This proposed rule will have no impact on licensed Wisconsin motor vehicle dealers who have business facilities in Wisconsin and sell to

Wisconsin residents. These businesses will continue to be able to sell vehicles at temporary sales locations. This proposed rule will affect businesses that hold a Wisconsin dealer license, are not located in Wisconsin, and are currently exempt from the Wisconsin business facility requirement. There are currently no businesses in this situation.

This rule making may also limit out-of-state participants at car shows, conventions and fairs from selling motor vehicles at those events without first establishing Wisconsin business facilities. 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:** No fiscal impact on any local government. No fiscal impact or anticipated costs incurred by the private sector as a result of this rule.

**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 Carson Frazier, Department of Transportation, Division of Motor Vehicles, Bureau of Vehicle Services, Room 253, P. O. Box 7911, Madison, WI 53707-7911. You may also contact Ms. Frazier by phone at (608) 266-7857.

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 138.03(1)(a)(intro.) and (6) are amended to read:

Trans 138.03(1)(a)(intro.) A permanent building in this state wherein there are facilities for:

(6) A motor vehicle dealer who is not located in this state, who accepts vehicle purchase orders or lease agreements placed by fax, telephone, the Internet, mail, or some other remote means from persons within this state, and who delivers vehicles to persons within this state is exempt from the dealer business facilities requirements of sub. (1), provided that the dealer maintains a business office in another jurisdiction at which the books, records and files pertaining to vehicle sales or leases to persons in this state are

maintained and the dealer makes these documents available to the department for inspection upon demand. Nothing herein shall be construed to exempt the dealer from the license requirement of s. 218.0114(1), Stats.

**SECTION 2.** Trans 138.08(5) is created to read:

Trans 138.08(5) The dealer maintains a permanent facility in this state in the manner required by s. Trans 138.03(1)(a).

**NOTE: Dealers without permanent facilities in the state may not conduct any sales in this state, including sales at temporary locations, except as provided in s. Trans 138.03(6).**

**(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 11<sup>th</sup> day of December, 2006.



FRANK J. BUSALACCHI

Secretary

Wisconsin Department of Transportation