



(FORM UPDATED: 08/11/2010)

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

2009-10

(session year)

Joint

(Assembly, Senate or Joint)

Committee for Review of Administrative Rules ...

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**



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

Jim Doyle, Governor
Frank J. Busalacchi, Secretary
Internet: www.dot.wisconsin.gov
Telephone: 608-266-8810
Facsimile (FAX): 608-267-6734
E-mail: ogc.exec@dot.state.wi.us

Robert J. Marchant
Senate Chief Clerk
Room B-20 Southeast, State Capitol
Madison, Wisconsin 53707

September 10, 2009

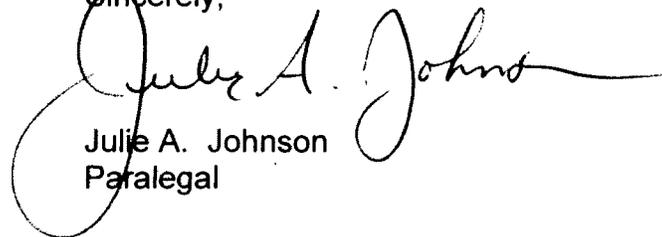
Patrick E. Fuller
Assembly Chief Clerk
17 West Main, Room 401
Madison, Wisconsin 53707

RE: Proposed Administrative Rule **TRANS 315**
Notification of Legislative Standing Committees
CLEARINGHOUSE RULE 09-058

Gentlemen:

Enclosed is a copy of Clearinghouse Rule **09-058**, relating to **safety belt medical use exemption**. The rule is submitted to you for referral to the appropriate standing committees.

Sincerely,



Julie A. Johnson
Paralegal

Enclosure

cc: David Schmiedicke, DOA State Budget Director
Bruce Hoesly
Senator Jim Holperin
Rep. Josh Zepnick
Supt. David Collins
Laura Andreasson



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The Honorable Senator Jim Holperin
Chairman, Senate Transportation Committee
Room 409 South
State Capitol
Madison, Wisconsin 53707

September 10, 2009

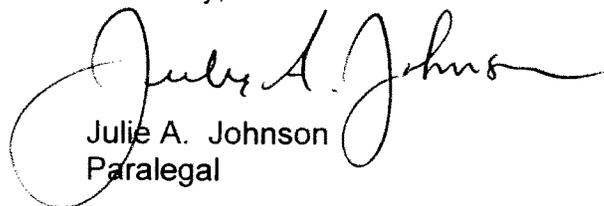
The Honorable Representative John Steinbrink
Chairman, Assembly Transportation Committee
Room 104 North, State Capitol
Madison, Wisconsin 53702

RE: Proposed Administrative Rule **TRANS 315**
Notification of Legislative Standing Committees
CLEARINGHOUSE RULE 09-058

Dear Senator Holperin and Representative Steinbrink:

In accordance with the Department of Transportation's efforts to keep you informed of its ongoing rule making actions, enclosed is a courtesy copy of Final Draft rule **Trans 315**, relating to **safety belt medical use exemption**, which is being submitted to the Legislature for committee review.

Sincerely,



Julie A. Johnson
Paralegal

Enclosure

cc: Supt. David Collins
Laura Andreasson

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

CR 09-058

The Wisconsin Department of Transportation proposes an order to amend TRANS 315.03(1)(a) and (c), relating to safety belt medical use exemption.

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

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

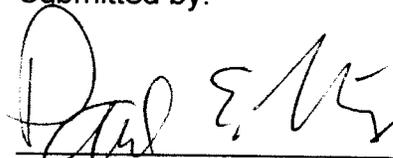
Part 1--Analysis prepared by the Department of Transportation.

Part 2--Rule text in final draft form.

Part 3--Recommendations of the Legislative Council.

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

Submitted by:



PAUL E. NILSEN

Assistant General Counsel
Office of General Counsel
Department of Transportation
Room 115-B, Hill Farms State
Transportation Building
P. O. Box 7910
Madison, WI 53707-7910
(608) 261-0126

PART 1

Analysis Prepared by the Wisconsin Department of Transportation

Statutes interpreted: s. 347.48(2m)(e), Stats.

Statutory authority: ss. 84.015, 84.41(7) and 347.48(2m)(e), Stats.

Explanation of agency authority: Current law requires every person over 8 years of age to be properly restrained by a safety belt whenever traveling in a motor vehicle. Current law allows the Department to exempt from this safety belt use requirement any person who, because of a physical or medical condition, cannot properly be restrained in a safety belt. Department rules authorize physicians, chiropractors and Christian Science practitioners to grant exemptions from wearing safety belts. Federal law makes highway safety grant moneys available for safety belt use requirements, but federal law recognizes only medical exemptions issued by physicians. Federal grant moneys expire on July 1, 2009, and this state may not qualify for approximately \$15,000,000 in federal moneys if persons other than physicians are authorized to exempt persons from safety belt use laws.

Related statute or rule: 23 USC 406, 71 Fed. Reg. 4196 (Jan. 25, 2006).

Plain language analysis: This rule making deletes authority of any person other than physicians to exempt persons from safety belt use requirements. This rule making will result in increased use of safety belts, and increase receipt of federal moneys for highway safety activities.

Summary of, and preliminary comparison with, existing or proposed federal regulation: Federal policy states that safety belt use requirements do not apply to, "Persons with medical conditions who are unable to use a safety belt, provided there is written documentation from a physician." The Department's current rules go further by allowing chiropractors and Christian Science practitioners to grant those exemptions.

Comparison with Rules in Adjacent States:

Michigan: Mich. Comp. Laws. Annot. 257.710e(1)(e) exempts a person who possesses a written statement from a physician from safety belt use requirements. The Department was unable to identify any administrative rules on this topic.

Minnesota: Minn. Stats. Annot. § 169.686 (2)(3) allows physicians to exempt persons from safety belt use requirements. The Department was unable to identify any administrative rules on this topic.

Illinois: 92 IL Admin. Code 1030.84 exempts from safety belt use requirements only to a person "possessing a written statement from a physician that the person is unable, for medical or physical reasons, to wear a seat safety belt."

Iowa: IA Admin. Code 761-600.16(321) authorizes physicians and chiropractors to exempt a person from safety belt use requirements for medical reasons. The Department identified no authority for Christian Science practitioners to exempt persons from safety belt use requirements.

Summary of factual data and analytical methodologies used and how the related findings support the regulatory approach chosen: None. NHTSA legal counsel informed the Department that in order to qualify for funds under 23 USC 406, any administrative rule that exempts a person from safety belt use requirements must be consistent with the medical exemption permitted in the implementing guidelines for section 406 eligibility. Those guidelines limit the exemption to physicians.

Analysis and supporting documentation used to determine effect on small businesses: This rule making has no effect on small businesses.

Effect on small business: This rule making will eliminate one issue of noncompliance specifically identified by NHTSA that makes Wisconsin ineligible for approximately \$15,000,000 in federal safety belt use grant moneys. The Department's Regulatory Review Coordinator may be contacted by e-mail at ralph.sanders@wisconsin.gov, or by calling (414) 438-4585.

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

Copies of proposed rule and agency contact person: Copies of the proposed rule may be obtained, without cost, by writing to Laura Andreasson, Department of Transportation, Division of State Patrol, Room 551, P. O. Box 7936, Madison, WI 53707-7936. You may also contact Laura by phone at (608) 267-5136 or via e-mail at laura.andreasson@wisconsin.gov.

PART 2

TEXT OF PROPOSED RULE

SECTION 1. Trans 315.03(1)(a) and (c) are amended to read:

Trans 315.03(1)(a) The person has a written statement signed by a licensed physician, ~~chiropractor or a Christian Science practitioner residing in this state and listed in the Christian Science Journal~~ indicating the person cannot be restrained by a safety belt because of a physical or medical condition, or words to that effect.

Trans 315.03(1)(c) The statement in par. (a) contains an address and telephone number of the physician, ~~chiropractor, or Christian Science practitioner.~~

(END OF RULE TEXT)

Effective Date. This rule shall take effect upon publication in the official state newspaper as provided in s. 227.24(1)(c), Stats.

Signed at Madison, Wisconsin, this 9th day of **September**, 2009.



FRANK J. BUSLACCHI
Secretary
Wisconsin Department of Transportation



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

PART 3 **CLEARINGHOUSE REPORT TO AGENCY**

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 09-058

AN ORDER to amend Trans 315.03 (1) (a) and (c), relating to safety belt medical use exemption.

Submitted by **DEPARTMENT OF TRANSPORTATION**

07-31-2009 RECEIVED BY LEGISLATIVE COUNCIL.

08-28-2009 REPORT SENT TO AGENCY.

RNS:DLS

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

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

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

PART 4
CR 09-058

ANALYSIS OF FINAL DRAFT OF TRANS 315

(a) **Basis and Purpose of Rule.** This rule making deletes authority of any person other than physicians to exempt persons from safety belt use requirements. This rule making will result in increased use of safety belts, and increase receipt of federal moneys for highway safety activities.

(b) **Modifications as a Result of Testimony at Public Hearing.** The public hearing was held in Madison on September 8, 2009. No modifications were made as a result of testimony at the hearing.

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

(d) **Summary of Public Comments and Agency Response to those Comments.** The Department received one comment. Tom Moore, representing the Wisconsin Chiropractic Association, commented that the federal definition of "physician" in 42 USC 1395x includes chiropractors and urged the Department to adopt this broader definition of 'physician' for purposes of issuing safety belt exemptions. The Department responds that the definition includes chiropractors only for the limited purpose of defining "medical and other health services," and "only with respect to treatment by means of manual manipulation of the spine (to correct a subluxation)" and that the definition has no bearing on safety belt usage grants under 23 USC 406. Incorporating this definition would also add dentists, podiatrists and optometrists to those who could issue safety belt exemptions. The Department declines the suggestion.

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

(f) **Response to Legislative Council Recommendations.** The Legislative Council report contained no comments.

(g) **Final Regulatory Flexibility Analysis.** This rule making has no effect on small businesses.