

Chapter Trans 117

OCCUPATIONAL DRIVER'S LICENSE

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Trans 117.01 Purpose and scope. (1) The purpose of this chapter is to administratively interpret ss. 343.10, 343.20, 351.07 and 961.50, Stats., and the interaction of these statutory provisions with the general licensing requirements of ch. 343, Stats. This chapter establishes the procedure for obtaining an occupational license. It establishes department policy regarding the issuance of occupational licenses.

(2) This chapter applies to any person petitioning a court for review of a department order authorizing or denying the issuance of an occupational license and to all persons applying to the department or a court for the issuance of an occupational license.

Note: Procedure and eligibility requirements for occupational licenses are set forth in ss. 343.10 and 351.07, Stats.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; am. (1), Register, August, 1993, No. 452, eff. 9-1-93; emerg. am., eff. 11-1-96; am. (1) and (2), Register, June, 1997, No. 498, eff. 7-1-97.

Trans 117.02 Definitions. (1) The words and phrases defined in ss. 340.01, 343.01 and 343.04 (1), Stats., have the same meaning in this chapter unless a different meaning is specifically provided.

(2) In this chapter:

(a) "Alcohol offense" means a suspension, revocation or conviction that may be counted under s. 343.307 (1), Stats. Multiple suspensions, revocations or convictions arising out of the same incident or arrest shall be counted as one alcohol offense.

(b) "Basic driver license" means a regular license, commercial driver license, motorcycle only license, special restricted license or probationary license, as those terms are used in s. 343.03 (3), Stats., that has been revoked, suspended, cancelled or disqualified.

(c) "DMV service center" means a division of motor vehicles service center.

(d) "License" means any authority to operate a motor vehicle issued under ch. 343, Stats., or this chapter.

(e) "Occupational license" means an operator's license issued under s. 343.10, Stats.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; renum. (2) (a), (c) and (f) to be (2) (am), (c) and (d), cr. (2) (a), r. (2) (c) and (d), Register, August, 1993, No. 452, eff. 9-1-93; emerg. am. (2) (b), renum. (2) (c) and (d) and am. (2) (d), cr. (2) (c), eff. 11-1-96; renum. (2) (a), (am), (b), (c) and (d) to be (2) (b), (c), (d), (f) and (g) cr. (2) (a) and (e), Register, June, 1997, No. 498, eff. 7-1-97; CR 05-034: r. (2) (c) and (d) Register September 2005 No. 597, eff. 10-1-05.

Trans 117.025 Process. (1) A person whose license is revoked as a habitual traffic offender under ch. 351, Stats., shall petition a circuit court in the person's county of residence for an order authorizing the person to obtain an occupational license before applying for the license with the department.

(2) A person may apply to the department for an occupational license by submitting an application meeting the requirements of s. Trans 117.05 to any DMV service center, except an express service facility.

(3) The department shall accept the application for an occupational license and may issue a temporary driving receipt to an applicant if it appears to the DMV service center that the person is eligible for an occupational license. The temporary driving receipt shall be valid only until the earliest of the following:

(a) The date the department issues a photo occupational license to the person.

(b) The date the department preliminarily denies the person an occupational license.

(c) 15 days following issuance of the driving receipt.

(4) Following acceptance of the application, the department shall conduct a review of the application to determine eligibility for occupational licensing. After completion of the review, the department shall issue an occupational license to the driver or issue a letter constituting a preliminary denial of occupational license to the driver. A letter of denial shall state the specific reasons for the denial. The applicant may be required to return to a DMV service center, except an express service facility, so that a photo occupational license may be issued.

Note: See s. 343.10 (3) (b), Stats.

(5) A person may seek review of a preliminary denial of an occupational license by filing a petition for occupational license with a circuit court in the person's county of residence in the manner provided in s. 343.10 (4), Stats.

(6) The court shall consider the number and seriousness of prior traffic convictions in determining whether to grant or deny the petition. The court may, in conducting its review, order modification or changes to any prohibitions or restrictions ordered to be imposed on the person under s. Trans 117.03 (4) or (5).

(7) If a petition is denied by the court, the department may not issue an occupational license to the person, unless the petition was denied solely because of the person's failure to meet one or more of the criteria of s. Trans 117.03 (2), the person has taken action to meet each of those criteria, and the person meets each of those criteria.

Note: For example, a driver whose petition is denied by a court solely for failure to provide proof of financial responsibility for the future would be eligible for licensing upon filing proper proof of financial responsibility for the future, notwithstanding the court's order.

(8) If a petition is granted by the court, the department shall receive the court's order and treat it and the applicant's petition to the court as an application for occupational license. The department shall issue an occupational license to the person, subject to any restrictions ordered by the court or required under s. Trans 117.03 (3), unless issuance of an occupational license to the person is prohibited under s. Trans 117.03 (2).

(9) A decision by the department to deny issuance of an occupational license or to deny licensing for certain classes of vehicles based on the criteria in s. Trans 117.03 (2) or (3) following circuit court review under s. 343.10 (4), Stats., is subject to judicial review in the manner provided in s. 343.40, Stats.

History: Emerg. cr., eff. 11-1-96; cr. Register, June, 1997, No. 498, eff. 7-1-97; CR 05-034: am. (8) Register September 2005 No. 597, eff. 10-1-05.

Trans 117.03 Eligibility. (1) GENERAL. An occupational license may be issued to a Wisconsin resident who meets the requirements of s. 343.10, Stats., who is otherwise eligible to receive a license in the state of Wisconsin, and whose petition for an occupational license is granted by a court or by the department.

(2) MANDATORY REQUIREMENTS. The department may not issue an occupational license unless all of the following criteria are met:

(a) The person is a resident of the state of Wisconsin.

Note: See s. 343.06 (1) (k), Stats.

(b) The person's license is suspended or revoked.

Note: Drivers with cancelled or disqualified licenses are not eligible for occupational licensing. s. 343.10 (1) (a), Stats.

(c) The person has filed proof of financial responsibility for the future covering all vehicles the person seeks permission to operate.

Note: See s. 343.10 (2) (a) 2., Stats.

(d) The person has submitted an application containing all materials and information required under s. Trans 117.05.

(f) The person has installed any ignition interlock devices the person has been ordered to install as a condition of an occupational license or pursuant to a court order under s. 343.301 (1g), Stats.

(g) The person has completed assessment and is in compliance with the driver safety plan required by the assessment if the person has 2 or more prior alcohol offenses. For purposes of this paragraph, a person shall be presumed to be in compliance with the driver safety plan if the department has not received a report of non-compliance or license denial from the assessment agency or traffic safety school.

Note: See s. 343.10 (2) (e), Stats.

(h) The person has reinstated all operating privileges in all other states in which the person's operating privilege or license was suspended or revoked if the occupational license will be the first license issued to the person after moving to this state.

Note: s. 343.38 (4), Stats.

(i) The person successfully passes any required examinations.

Note: See s. 343.06 (1) (f), Stats.

(j) The person is not prohibited from holding an operator's license as a result of conviction for a sex-related offense under s. 343.06 (1) (i) or 343.30 (2d), Stats.

(k) The person has not filed more than one petition with a circuit court for an occupational license since the last date on which the department issued an occupational license to the person.

Note: See s. 343.10 (4) (c), Stats.

(m) The person's operating privilege has not been suspended or revoked during the one year period preceding the present revocation or suspension. For purposes of this paragraph, multiple suspensions or revocations arising out of the same incident or occurrence shall count as one suspension or revocation.

Note: See s. 343.10 (2) (a) 1., Stats.

(n) Any minimum mandatory waiting period required under s. 343.10 (2) (a) 4., Stats., or specified in any other provision of law has expired. The waiting period commences on the date the suspension or revocation is imposed. Each revocation or suspension imposed has its own waiting period. The waiting periods may run concurrently. Where waiting periods do not run concurrently, no credit may be granted for waiting periods resulting from multiple suspensions or revocations arising out of one incident or occurrence. A reduction in the length of a suspension or revocation does not affect the length of the waiting period for an occupational license. An appeal or other judicial action that stays a suspension or revocation also stays the running of any required waiting period for that suspension or revocation.

Note: See s. 343.10 (2) (a) 4., Stats.

(3) MANDATORY RESTRICTIONS. Occupational licenses shall be restricted as follows:

(a) No occupational license may include a notation authorizing operation of a class of vehicle if the person's license, prior to suspension or revocation, did not bear a notation for that class of vehicle.

Note: See s. 343.10 (2) (b), Stats.

(b) No occupational license may include an endorsement if the person's license prior to suspension or revocation did not properly bear the endorsement.

Note: See s. 343.10 (2) (b), Stats.

(d) An occupational license shall prohibit a person from operating a motor vehicle with an alcohol concentration of more than 0.0% if the person's driver record contains 2 or more alcohol offenses.

Note: See s. 343.10 (5) (a) 2., Stats.

(e) No occupational license may permit the operation of a motor vehicle for which the person has not provided proof of financial responsibility for the future.

Note: See s. 343.10 (2) (a) 2., Stats.

(f) No occupational license may authorize the operation of a school bus or commercial motor vehicle.

Note: See ss. 343.10 (2) (c) and 343.10 (5) (a) 1.

(g) No occupational license may authorize operation of a motor vehicle for any purpose other than an occupation or trade, including homemaking, full-time or part-time study, church attendance, or travel necessary to comply with a driver safety plan.

Note: See ss. 343.10 (1) (a) and (5) (a) 1.

(j) An occupational license shall include all restrictions that applied to the person's basic driver license, including any graduated driver license restrictions.

Note: See s. 343.10 (5) (a) 1., Stats.

(4) DISCRETIONARY PROHIBITIONS. The department may not issue an occupational license to any person who does any of the following:

(a) Accumulates 24 or more demerit points in the one year period preceding application.

(b) Accumulates 3 or more alcohol offenses on the person's driver record that were committed in the 5 year period preceding application.

Note: Section 343.10 (3) (a), Stats., requires the Department to consider the number and seriousness of offenses in determining whether to issue an occupational license. Circuit courts may order issuance of occupational licenses to drivers whose applications are rejected by the Department under this provision. See s. Trans 117.025 (6).

(5) DISCRETIONARY RESTRICTIONS. The department may restrict occupational licenses as follows:

(a) The department shall require installation of an ignition interlock device as a condition of an occupational license for a person in any of the following instances:

1. The person is convicted of an offense for which an ignition interlock is ordered to be imposed on the person's vehicle under s. 343.301 (1g), Stats.

2. A court orders or recommends the person's operating privilege be restricted to vehicles equipped with an ignition interlock device.

Note: Section 343.10 (5) (a) 3., Stats., permits the Department to require ignition interlock devices of drivers who have 2 or more prior alcohol offenses. This provision provides that the Department will impose the restriction whenever courts order or recommend it. This discretionary decision may be reviewed on a de novo basis by a circuit court following a petition by the driver. See s. Trans 117.025 (6).

(b) An occupational license may be restricted to operation at those certain times of the day or in those certain areas which are necessary for the person to engage in the person's occupation, including homemaking, full-time or part-time study, participation in a driver safety plan ordered under s. 343.30 (1q), Stats., or church attendance.

Note: See s. 343.10 (5) (a), Stats.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; renum. to be (1), cr. (2), Register, August, 1993, No. 452, eff. 9-1-93; emerg. r. and recr. (2), cr. (3) to (5), eff. 11-1-96; r. and recr. (2), cr. (3) to (5), Register, June, 1997, No. 498, eff. 7-1-97; am. (3) (j), Register, August, 2000, No. 536, eff. 9-1-00; CR 05-034: r. (2) (e) and (L), (3) (c), (h) and (i), am. (2) (f) and (k), (3) (f), (5) (a) 1. Register, September 2005 No. 597, eff. 10-1-05; CR 08-072: cr. (2) (n) Register, November 2008 No. 635, eff. 12-1-08; corrections in (2) (f) and (5) (a) 1. made under s. 13.92 (4) (b) 7., Stats., Register, February 2010 No. 650.

Trans 117.05 Application. (1) All applications for occupational licenses shall include:

(a) An operator's license application form.

(b) A conviction status report from the court that convicted the applicant of the offense for which the applicant's license has been

revoked or suspended, unless the court has previously reported the conviction to the department and the conviction appears on the department's computer data base of driver records.

(c) The fee required under s. 343.10 (6), Stats.

(d) A completed application for occupational license form.

(e) Proof of financial responsibility for the future which shall specify the vehicle or vehicles the person seeks authority to operate.

(2) The application for an occupational license of a person whose license is revoked under s. 351.025, Stats., shall include the original or a certified copy of the court order authorizing the issuance of an occupational license to the person.

(3) An application for occupational license submitted following circuit court review of a preliminary denial of occupational license shall include a copy of all findings and orders issued by the reviewing court.

(4) All applications, conviction status reports and petitions for occupational license submitted in applying for an occupational license shall be on department forms and shall include all requested information. The completed occupational license application form shall include all of the following information:

(a) The person's full name, birth date, driver license number, address, telephone number, if any, and social security number, except as provided in s. Trans 102.15 (5) (b) and (c).

(b) The area in which the person seeks authority to operate designated by county or state.

(c) An indication of whether the person seeks authorization to operate for purposes of work, church, homemaker duties, compliance with a driver safety plan, or full-time or part-time study.

(e) An indication of whether the person seeks emergency service operator privileges under s. Trans 117.09 (2).

(f) A description of the person's occupation and the name of the person's employer.

(g) Specification of the hours of operation requested by the driver.

(h) An affirmation by the person that operating a motor vehicle at the times and locations specified in the application is essential to the person's livelihood and necessary to fulfill the duties of the person's occupation.

(i) The person's signature in the format first name, middle name or initial, last name.

(j) Any other requested information.

(5) An application for occupational license submitted by a person who has been ordered to install an ignition interlock device under s. 343.301 (1g), Stats., shall include a copy of the order and proof of installation.

Note: Forms MV3001, Application for License, and MV3027, Application/Petition and Order for Occupational Operator License, are available at motor vehicle service centers.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; cr. (1) (c), am. (3), Register, August, 1993, No. 452, eff. 9-1-93; emerg. cr. (1) (d) and (e), (4) (a) to (k) and (5), am. (2) and (4), r. and recr. (3), eff. 11-1-96; cr. (1) (d), (e) and (5), am. (2), r. and recr. (3), renum. (4) to be (4) (intro.) and cr. (4) (a) to (j), Register, June, 1997, No. 498, eff. 7-1-97; CR 05-034: r. (4) (d), am. (5) Register September 2005 No. 597, eff. 10-1-05; correction in (5) made under s. 13.92 (4) (b) 7., Stats., Register February 2010 No. 650.

Trans 117.07 Applications to amend or reinstate occupational licenses. (1) An application to amend an occupational license or to reinstate a revoked occupational license shall be made in the same manner as an original application for an occupational license.

(2) An application seeking to amend an occupational license issued pursuant to an order entered by a court on or after November 1, 1996, shall be presented to and approved or denied by the court which originally ordered issuance of the occupational license.

(3) A person applying to reinstate or amend an occupational license shall pay the fee specified in s. 343.10 (6), Stats. Fees collected under this subsection shall be distributed in accordance with s. 343.10 (6), Stats. No fee may be required if the application to amend the license is made only for any of the following reasons:

(a) To correct a clerical error made by the court or the department in the issuance of the occupational license.

(b) To specify the hours of operation necessary for complying with a driver safety plan if no hours are specified for that purpose on the occupational license previously issued to the person.

Note: See s. 343.26, Stats., regarding reinstatement of canceled licenses.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; correction in (2) made under s. 13.93 (2m) (b) 5., Stats., Register, August, 1993, No. 452, eff. 9-1-93; emerg. am. (1) and (2), r. (3), renum. (4) to be (3), cr. (3) (b), eff. 11-1-96; am. (1) and (2), r. (3), renum. (4) to be (3), cr. (3) (b), Register, June, 1997, No. 498, eff. 7-1-97.

Trans 117.08 Expiration of occupational licenses.

An occupational license shall expire 2 working days after the end of all suspensions and revocations of the driver's operating privilege in effect at the time the occupational license was issued.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; r. and recr. Register, August, 1993, No. 452, eff. 9-1-93; emerg. am. (1) (b), (c) and (5), eff. 11-1-96; am. (1) (b), (c) and (5), Register, June, 1997, No. 498, eff. 7-1-97; CR 05-034: r. (1) to (4), renum. (5) and am. Register September 2005 No. 597, eff. 10-1-05.

Trans 117.09 Specific time and routes or areas of travel limitations. (1) GENERAL.

An occupational license shall specify definite hours of operation by specifying the exact times and days of the week during which the operator may operate a motor vehicle to or from church, in connection with a driver safety plan, or in order to perform the person's occupation, trade, or duties as a homemaker or student.

(2) EMERGENCY SERVICE PROVIDERS. (a) "Emergency service provider" means a person who is employed by a unit of government, is providing services to a unit of government, or is employed by a public utility or medical services provider, and whose occupation involves providing essential life sustaining emergency services to the public. The term includes, but is not limited to, law enforcement officers, fire fighters, forest rangers, correctional officers, snow plow and emergency vehicle drivers, doctors, veterinarians, emergency medical technicians, certified first responders, paramedics, and electric, telephone and natural or propane gas repair technicians. A person who claims to be an emergency service provider may be required to provide documentation to the department proving the person provides essential life-sustaining emergency services to the public as part of the person's occupation.

(b) In an application for occupational license, an emergency services provider may request authorization to operate a motor vehicle, during an emergency threatening injury to a person or property, outside the specific hours of operation set forth in the application. An order authorizing such operation shall authorize only the operation of motor vehicles directly to and from the location of the emergency or the person's place of employment and shall not authorize operation of a motor vehicle in excess of 12 hours per day or 60 hours per week.

(c) An emergency services provider who has authority to operate a motor vehicle under par. (b) and who is charged with an offense stemming from the person's operating a motor vehicle outside the specified hours of operation set forth in the occupational license may not be convicted if the person produces in court or in the office of the arresting officer satisfactory documentation that the person was operating a motor vehicle in response to a bona fide emergency at the time of the citation.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; am. (2) (a), Register, August, 1993, No. 452, eff. 9-1-93; em. am. (1) to (3) (a), (e) 3. and (f), eff. 11-1-96; am. (1), (2) (a) to (c), (3) (a) and (f), Register, June, 1997, No. 498, eff. 7-1-97; CR 05-034: r. (3) Register September 2005 No. 597, eff. 10-1-05.