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RE: Germane Modification to Proposed Final Draft Rule
Trans 102, relating to Operator's Licenses and Identification Cards
CLEARINGHOUSE RULE 23-042

Dear Legislators:

The State of Wisconsin Department of Transportation (Department) hereby submits, on its own initiative, germane modifications to the proposed permanent rule CR 23-042 (Ch. Trans 102, relating to Operator's Licenses and Identification Cards), currently under review before your committees. On April 8, 2024, the Department submitted CR 23-042 to the legislature in final draft form. The Department submits these modifications to the final draft rule under s. 227.19(4)(b)3., of the statutes. The Department believes and intends that these modifications are germane to the proposed rule. The modifications are as follows:

- In the final rule draft, proposed Trans 102.15(7) prescribes a procedure for issuing a driver's license to an applicant who lacks proof of identity. There is no statutory authority for such a procedure and the department neither does nor intends to issue a driver's license under such circumstances. The remaining language in that proposed Trans 102.15(7) pertaining to identification cards is redundant of other language in the final draft rule and is deleted for clarity, by SECTION 3 below. The modifications delete proposed Trans 102.15(7) shown at page 49 of the final draft rule, and correct cross-references to that deleted subsection, as follows:

SECTION 1. At page 5, delete the sentence reading: "Sections Trans 102.15 (7) and (8) complement these provisions by allowing the department to demand more stringent identity documentation from persons who apply for products and who have presented unverifiable identity documents to the department in the past or from persons who are known victims of identity theft." and substitute: "Section Trans 102.15 (7) complements these provisions by allowing the department to demand more stringent identity documentation from persons who apply for products and who have presented unverifiable identity documents to the department in the past or from persons who are known victims of identity theft."

SECTION 2. At page 32, delete the line reading: "based upon extraordinary proof of name, date of birth, or U.S. citizenship under s. Trans 102.15 (7) or s." and substitute: "based upon extraordinary proof of name, date of birth, or U.S. citizenship under s."

SECTION 3. At page 49, delete the material beginning with "**(7) (a)**" and ending with "s. 343.165 (8)(b), Stats."

SECTION 4. At page 50, delete the sentence reading: "This subsection does not prohibit a person from proceeding under sub. (7) (a)."

- The final draft rule contains language allowing an applicant for a regular driver's license, a motorcycle license or an identification card to refuse to provide a social security number if the applicant has a seriously held religious belief against doing so. There is no statutory authority for this exemption, so it is deleted from the final draft rule. The statutes allow an applicant to refuse to provide a social security number only if the applicant does not have a social security number and is not eligible for one, and provides a written oath or affirmation of those facts. This germane modification includes these statutory requirements.

SECTION 5. At page 48, delete the following material:

"(c) A person who applies for a REAL ID non-compliant product is required to provide a social security number, except for:

1. A Class D license not containing a hazardous materials endorsement.
2. A Class M operator's license or an identification card if any of the following apply:
 - a. The applicant's sincerely held religious convictions do not allow the applicant to

provide a social security number to the department. An applicant who objects to providing a social security number due to a religious conviction shall complete, sign, and date a form provided by the department detailing the religious objection.

b. The applicant does not have a social security number and submits a statement on a form provided by the department and subscribed under oath or affirmation or witnessed by a division of motor vehicles customer service representative that the applicant does not have a social security number.”

and substitute:

“(c) A person who applies for a REAL ID non-compliant product is required to provide a social security number, unless the applicant does not have a social security number and is not eligible for a social security number and submits a statement on a form provided by the department and subscribed under oath or affirmation or witnessed by a division of motor vehicles customer service representative that the applicant does not have a social security number and is not eligible for a social security number.”

These modifications have been typed into the final draft rule, including “GERMANE MODIFICATIONS” in the caption. I have adjusted the formatting to preserve the pagination of the Final Draft Rule submitted to the Legislature, to assist in comparing the GERMANE MODIFICATIONS with the Final Draft Rule. I have included the revised final draft rule with this letter.

If you have any questions or concerns about this submission, please contact me at (608) 261-0126, or Paul.Nilsen@dot.wi.gov.

Very truly yours,



Paul E. Nilsen
Assistant General Counsel

Encls.

cc: Linsay Hale, Acting Senate Chief Clerk (via e-mail only w/attachments)
Edward A. Blazel, Assembly Chief Clerk (via e-mail only w/attachments)
Senator Steve Nass (via e-mail only w/attachments)
Representative Adam Neylon (via e-mail only w/attachments)
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