

Clearinghouse Rule 97-144

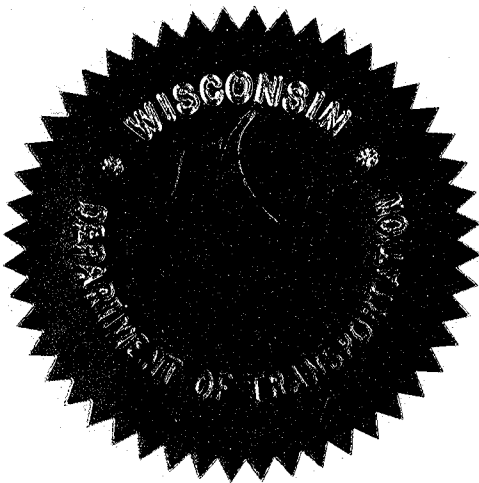
CERTIFICATE

STATE OF WISCONSIN)
) ss.
DEPARTMENT OF TRANSPORTATION)

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

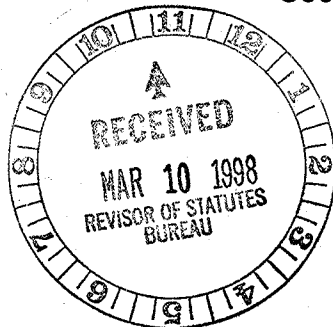
I, CHARLES H. THOMPSON, Secretary of the Wisconsin Department of Transportation and custodian of the official records, do hereby certify that the rule, relating to **vehicle marking**, was duly approved and adopted by this Department on March 9, 1998.

I further certify that this copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.



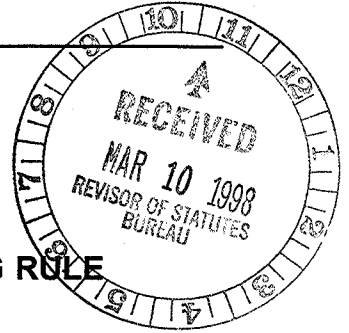
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Transportation at 4802 Sheboygan Avenue, in the City of Madison, Wisconsin, this 9 day of **March**, 1998.

Charles H. Thompson
CHARLES H. THOMPSON
Secretary



5-198

The Wisconsin Department of Transportation adopts an order to repeal TRANS 302.02, 302.03(1) and (2), 302.07(4) and 302.09(3) to (5); renumber TRANS 302.03(3); renumber and amend TRANS 302.03(4) to (7); amend TRANS 302.01(title), (1) and (2), 302.02, 302.04(1)(intro.) and (c), 302.05, 302.07(1)(intro.) and (2) and 302.08(2), and repeal and recreate TRANS 302.06, relating to vehicle marking.

ORDER ADOPTING RULE**Analysis Prepared by the Wisconsin Department of Transportation**

STATUTORY AUTHORITY: s. 194.43, Stats.

STATUTES INTERPRETED: ss. 194.09 and 348.185, Stats.

General Summary of Rule. The Division of State Patrol is aware that the current rule regulating vehicle markings is outdated and confusing to the motor carrier industry as well as to law enforcement officers. Many of the current terms and requirements found in the current rule are no longer relevant. The rule changes will eliminate obsolete language currently found in the rule and also reflect current requirements found in the federal regulations. The Division does not intend to change the current requirements or introduce new regulations in the area of vehicle markings.

Fiscal Impact. The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, technical college district, sewerage district, or any federally-recognized American Indian tribes or bands.

Final Regulatory Flexibility Analysis. This rule will have no adverse impact on small businesses.

Copies of Rule. Copies of the rule may be obtained upon request, without cost, by writing to Frieda Andreas, Division of State Patrol, P. O. Box 7912, Room 551, Madison, WI 53707-7912, or by calling (608) 266-6936. Alternate formats of the rule will be provided to individuals at their request.

TEXT OF RULE

Under the authority vested in the state of Wisconsin, department of transportation, by s. 194.43, Stats., the department of transportation hereby adopts an order amending a rule interpreting s. 194.09, Stats., relating to vehicle marking.

SECTION 1. Trans 302.01(title), (1) and (2) are amended to read:

Trans 302.01 (title) INTRODUCTION. (1)(title) **PURPOSE.** ~~The purpose of~~
Under the authority of s. 194.09, Stats., this chapter is to provide provides a uniform means for identifying the owner or operator of vehicles subject to ch. 194, Stats., and private vehicles having a gross vehicle weight of more than 12,000 pounds.

(2)(title) **SCOPE.** ~~The scope of this rule is~~ This chapter applies to include the marking requirements for various types of vehicles transporting various commodities either in private, common, or contract for hire carriage operating on Wisconsin highways.

SECTION 2. Trans 302.02 is repealed.

SECTION 3. Trans 302.03(1) and (2) are repealed.

SECTION 4. Trans 302.03(3) is renumbered 302.03(1).

SECTION 5. Trans 302.03(4) to (7) are renumbered 302.03(2)(a) and (b) to (5) and amended to read:

Trans 302.03(2)(a) "For hire motor carrier" means any person engaged in the transportation of passengers or property upon the public highways for compensation, and includes compensation obtained by a motor carrier indirectly, by subtraction from the purchase price or addition to the selling price of property transported, where the purchase or sale thereof is not a bona fide purchase or sale. Any person who pretends to purchase property to be transported by such person or who purchases property

immediately prior to and sells it immediately after the transportation thereof shall be deemed to be transporting the property for hire and not a bona fide purchaser or seller thereof. The lease or rental of a motor vehicle to a person for transportation of the person's property which lease or rental directly or indirectly includes the lessor's services as a driver shall be deemed to be transportation for hire and not private carriage.

(b) "For hire motor carrier" does not include a person who transports passengers in taxicab service or in commuter car pool or van pool vehicles designed to transport less than 16 passengers or in a school bus under s. 120.13(23), Stats. Nothing herein contained shall be construed to include motor vehicle operations which are conducted merely as an incident to or in furtherance of any business or industrial activity.

(3) "Person" means any individual, firm, ~~co~~partnership partnership, corporation, company, association, ~~including express and forwarding companies, or their lessees, trustees, or receivers~~ any other organized group of individuals.

(4) "Private motor carrier" means any person except a ~~common or contract~~ for hire motor carrier engaged in the transportation of property by motor vehicle other than an automobile or trailer used therewith, upon the public highways.

(5) "Rental company" means a "lessor" or "leasing company" referred to in ~~ss. s.~~ s. 194.04(3)(c) and ~~194.44(2),~~ Stats. It includes every person regularly engaged in the business of leasing motor vehicles without drivers or leasing trailers to be hauled or propelled by a motor vehicle. ~~These rules do~~ "Rental company" does not apply to include the renting of automobiles or trailers used therewith when such vehicles are operated in private motor carriage.

SECTION 6. Trans 302.04(1)(intro.) and (c) are amended to read:

Trans 302.04(1)(intro.) Except as otherwise provided in this chapter, every motor vehicle with a gross weight of more than 12,000 pounds operated by a private motor carrier and every motor vehicle operated by a ~~common or contract~~ for hire motor carrier shall display the following information on both sides of the power unit when operating on the highways of Wisconsin:

(c) The authority number ~~with the letters TCW either directly behind or below the authority number~~ if the vehicle is operated by a carrier holding authority from the Wisconsin department or federal transportation commission authority.

SECTION 7. Trans 302.05 is amended to read:

Trans 302.05 EMPTY WEIGHT MARKING. The empty weight of a power unit, trailer or semitrailer shall be placed on the left side of the power unit, trailer or semitrailer as required by s. 348.185, Stats., except that vehicles registered with Wisconsin base registration may write or type the empty weight on the registration certificate of ~~registration~~ in lieu of displaying the empty weight on the vehicle.

SECTION 8. Trans 302.06 is repealed and recreated to read:

Trans 302.06 EXCEPTIONS TO MARKING REQUIREMENTS. If a carrier subject to s. Trans 302.04 is marked in accordance with 49 CFR part 390.21, the carrier shall be deemed to meet the requirements of s. Trans 302.04(1)(a) and (b).

NOTE: 49 CFR Part 390.21 is printed as Appendix 1 at the end of this chapter.

SECTION 9. Trans 302.07(1)(intro.) and (2) are amended to read:

Trans 302.07(1)(intro.) ~~An~~ With approval of the department, an owner or operator may desire to use a recognized company logo or identification which that does not fully comply with the requirements of s. Trans 302.04(1)(a). Application to use an alternative type of marking shall be made to the Administrator, Division of State Patrol, P.O. Box

~~7912, Hill Farms State Office Building, 4802 Sheboygan Avenue, Madison, Wisconsin 53707.~~ The application shall contain all of the following:

(2) Alternative marking requests shall may not be granted if the alternative marking would give a false or distorted impression of the operation of the vehicle.

SECTION 10. Trans 302.07(4) is repealed.

SECTION 11. Trans 302.07(note) is created to read:

NOTE: Application to use an alternative type of marking shall be made to the Administrator, Division of State Patrol, P.O. Box 7912, Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin 53707.

SECTION 12. Trans 302.08(2) is amended to read:


Trans 302.08(2) The identification requirements of this chapter may be met through the use of removable devices which meet the requirements. These devices shall be of durable construction and securely attached to the power unit. The removable devices ~~must~~ shall be attached so that the identification is in a horizontal position. The removable device may not be attached to the side frame rail. The loss of a removable identification device shall is not be a defense to enforcement action taken for noncompliance of s. Trans 302.04.

SECTION 13. Trans 302.09(3) to (5) are repealed.

(END OF RULE TEXT)

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), Stats.

Signed at Madison, Wisconsin, this 9 day of March, 1998.

A handwritten signature in cursive script that reads "Charles H. Thompson". The signature is written in black ink and is positioned above a horizontal line.

CHARLES H. THOMPSON

Secretary

Wisconsin Department of Transportation

APPENDIX 1

§ 390.21 Marking of commercial motor vehicles.

(a) General. Every self-propelled commercial motor vehicle operated in interstate commerce and subject to the rules of subchapter B of this chapter must be marked as specified in paragraphs (b), (c) and (d) of this section. Self-propelled commercial motor vehicles operated by for-hire motor carriers under authority issued by the Interstate Commercial Commission (ICC) may meet the requirements of this section by complying with the marking requirements set forth in 49 CFR Part 1058.

(b) Nature of marking. The marking must display the following information:

- (1) The name or trade name of the motor carrier operating the self-propelled commercial motor vehicle.
- (2) The city or community and State (name abbreviated), in which the carrier maintains its principal place of business or in which the commercial motor vehicle is customarily based.
- (3) The motor carrier identification number, if issued by the FHWA, preceded by the letters "USDOT".
- (4) If the name of any person other than the operating carrier appears on the commercial motor vehicle operated under its own power, either alone or in combination, the name of the operating carrier shall be followed by the information required by paragraphs (b)(1), (2), and (3) of this section, and be preceded by the words "operated by."
- (5) Other identifying information may be displayed on the commercial motor vehicle if it is not inconsistent with the information required by this paragraph.

(c) Size, shape, location, and color of marking. The marking must-

- (1) Appear on both sides of the self-propelled commercial motor vehicle;
- (2) Be in letters that contrast sharply in color with the background on which the letters are placed;
- (3) Be readily legible, during daylight hours, from a distance of 50 feet while the commercial motor vehicle is stationary; and
- (4) Be kept and maintained in a manner that retains the legibility required by paragraph (c)(3) of this section.

(d) Construction and durability. The marking may be painted on the commercial motor vehicle or may consist of a removable device, if that device meets the identification and legibility requirements of this section, and such marking shall be maintained in such a manner as to remain legible as required by this section.

(e) Rented commercial motor vehicles. A motor carrier operating a self-propelled commercial motor vehicle under a rental agreement having a term not in excess of 30 calendar days may meet the requirements of this section in either one of two ways:

- (1) The commercial motor vehicle is marked in accordance with the provisions of paragraphs (b) through (d) of this section; or
- (2) The commercial motor vehicle is marked as set forth below:
 - (i) The name or trade name of the lessor is displayed in accordance with paragraphs (c) and (d) of this section;
 - (ii) The city or community and State (name abbreviated), in which the lessor maintains its principal place of business or in which the commercial motor vehicle is customarily based is displayed in accordance with paragraphs (c) and (d) of this section;
 - (iii) The lessor's identification number, issued by the FHWA, preceded by the letters "USDOT" is displayed in accordance with paragraphs (c) and (d) of this section; and
 - (iv) The rental agreement entered into by the lessor and the renting motor carrier conspicuously contains the following information:
 - (A) The name and complete physical address of the principal place of business of the renting motor carrier;
 - (B) The identification number issued the renting motor carrier by the Federal Highway Administration, preceded by the letters "USDOT," if the motor carrier has been issued such a number.

In lieu of the identification number required in this paragraph, the following may be shown:

- (1) Information which will indicate if the motor carrier is engaged in "interstate" or "intrastate" commerce; and
- (2) Information which will indicate if the renting motor carrier is transporting hazardous materials in the rented commercial motor vehicle;
 - (C) The sentence: "This lessor cooperates with all federal, state, and local law enforcement officials nationwide to provide the identity of customers who operate this rental commercial motor vehicle;" and
- (v) The rental agreement entered into by the lessor and the renting motor carrier is carried on the rental commercial motor vehicle during the full term of the rental agreement.

[53 FR 18052, May 19, 1988; 53 FR 27689, July 22, 1988, as amended at 53 FR 47543, Nov. 23, 1988; 55 FR 6993, Feb. 28, 1990; 57 FR 3142, Jan. 28, 1992; 60 FR 38744, July 28, 1995]



Wisconsin Department of Transportation



Tommy G. Thompson
Governor

Charles H. Thompson
Secretary

OFFICE OF GENERAL COUNSEL
P. O. Box 7910
Madison, WI 53707-7910

March 10, 1998

Mr. Gary Poulson
Deputy Revisor of Statutes
131 West Wilson Street, Suite 800
Madison, Wisconsin 53703

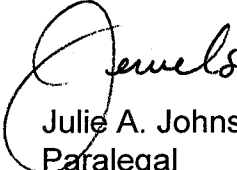
RE: **CLEARINGHOUSE RULE 97-144**

In the Matter of the Adoption of **TRANS 302**, Wisconsin Administrative Code,
relating to **vehicle marking**.

Dear Mr. Poulson:

Enclosed for filing, pursuant to s. 227.20, Wis. Stats., is a certified copy of **CR 97-144**, an administrative rule relating to the above-mentioned matter.

Sincerely,


Julie A. Johnson
Paralegal

Enclosures

cc: Gene Kussart
Mike Goetzman
Sandy Beaupre
Bill Singletary
Lt. Tim Carnahan
Frieda Andreas

