

CR 83-96

C E R T I F I C A T E

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STATE OF WISCONSIN )  
DEPARTMENT OF TRANSPORTATION ) SS

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Lowell B. Jackson, Secretary of the Wisconsin Department of Transportation and custodian of the official records of the department, do hereby certify that the annexed rule TRANS 107, relating to Driver Licensing of Persons With Chemical Abuse or Dependency Problems, was duly approved and adopted by this department in accordance with s. 227.026(1), Stats.

I further certify that the annexed 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 in the City of Madison, Wisconsin, this 13<sup>th</sup> day of February, 1984.

*Lowell B. Jackson*  
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Lowell B. Jackson, P.E.  
Secretary

SECTION I

STATE OF WISCONSIN

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

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IN THE MATTER OF REPEAL OF TRANS :  
107.02(1); RENUMBERING TRANS 107.02(2) :  
TO (9) AND 107.03(1); AMENDING TRANS :  
107.04(1)(b), 107.06, 107.06(3) AND :  
(a), 107.08(1)(b), (h), (i), and (j), :  
107.09(5) AND 107.11(3); REPEALING AND :  
RECREATING TRANS 107.06(1); AND :  
CREATING TRANS 107.02(9) and 107.06(3)(f), :  
WIS. ADMIN. CODE, RELATING TO DRIVER :  
LICENSING OR PERSONS WITH CHEMICAL ABUSE :  
OR DEPENDENCY PROBLEMS. :

NOTICE OF PROPOSED  
RULE REVISIONS

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LEGISLATIVE CLEARINGHOUSE RULE 83-96

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ANALYSIS BY THE DEPARTMENT OF TRANSPORTATION

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This proposal amends sections of Trans 107 to provide that the Department may refer persons directly to assessment in some cases. The Department has been conducting interviews when a person has two O.W.I. arrests or, for Wisconsin residents, has been convicted for O.W.I. in another jurisdiction. These interviews have usually resulted in referrals for an assessment. Since the majority of individuals are being referred for an assessment, the meeting with the driver analyst can be eliminated resulting in the person with the potential problem being assessed more quickly.

1. Trans 107.02(1). The definition of analyst has been eliminated and reference is now made to department representative. The department no longer limits interviewing persons with alcohol and drug related driving problems to an analyst job classification.

2. Trans 107.03(1)(d), changes language from analyst to department representative as an informational course. The reason for the change was explained in (1) Trans 107.02(1).

3. Trans 107.04(1)(b), changes language from analyst to department representative. This change is necessary to conform with the Trans 107.02(1), definition.

4. Trans 107.06(1). The reduction in the number of cases (2 OWI arrests and WI residents convicted out of state) requiring a driver improvement interview was explained in the introductory paragraph. One exception will be that the department will continue to interview when alcohol or other drug related behavior reports are received from law enforcement, public, etc. The department is required to have good cause to believe that a licensed operator is incompetent or otherwise not qualified to be licensed before any license action is taken based on the behavior report. The department conducts an interview to identify the need for an alcohol or other drug assessment.

5. Trans 107.06(1)(b) & (c), are repealed to eliminate the driver improvement interview requirement as described in the first paragraph. The Department no longer requires an interview as a screening component in the O.W.I. arrest and conviction area. These cases can be handled in a more timely and efficient manner by direct referral.

6. Trans 107.06(3)(a), requires any person who has two arrests for O.W.I. to be referred for an assessment by the department and deletes the blood alcohol content of .20 or above in at least one of the arrests requirement. The reason for this change was explained in (5) Trans 107.06(3)(a).

7. Trans 107.06(3)(f), requires any Wisconsin resident with a revocation from an O.W.I. conviction in another jurisdiction to be referred for an assessment by the Department. The reason for this change was explained in (5) TRANS 107.06(3)(a).

8. Trans 107.08(1)(b) changes the cancellation requirements from two arrests to one arrest. Statutory language dealt with two OWI arrests and the department used that language as a reference when dealing with an individual who has information on file within the past two years, recommending no further involvement with chemicals. However, the department feels that receiving one arrest report when there is information in a person's file recommending abstinence requires an immediate cancellation of all operating privileges and a referral for assessment.

9. Trans 107.08(1)(h) & (j), requires the department to consider a person to be in non-compliance whenever an O.W.I. arrest report is received and the person is participating in a rehabilitation or driver safety plan. This additional language provides the Department with the authority to immediately consider the person in non-compliance upon receipt of an O.W.I. arrest when the person is supposed to be participating in a rehabilitation or driver safety plan from a previous O.W.I. arrest or conviction. Whenever a person is currently participating in education and/or treatment plan and continues to use chemicals and operate a motor vehicle, immediate license action is justified because the person is not complying with his/her recommended plan.

10. Trans 107.09(5), changes inappropriate to appropriate. This change corrects a misprint in the present rule.

#### FORMS

No new forms were added and there are no changes in the present form.

FISCAL ESTIMATE

No fiscal effect is anticipated from the promulgation of these rule changes.

RULE TEXT

Pursuant to authority vested in the Department of Transportation by ss. 110.06(1). and 227.014, Wis. Stats., the Department of Transportation proposes to amend Trans 107 as follows:

SECTION 1. Trans 107.02(1) is repealed.

SECTION 2. Trans 107.02(2) to (9) are renumbered Trans 107.02 (1) to (8).

SECTION 3. Trans 107.02(9) is created to read:

(9) "Interview" means a meeting as described in s. Trans 107.06(2) between a department representative and a licensed driver or applicant for the purpose of evaluating the probability of an alcohol or other drug problem.

SECTION 4. Trans 107.03(1) is renumbered as an introductory paragraph, subsections (a) through (i) are renumbered (1) through (9), and Section (4) is amended as follows:

(4) Interviews with analysts,

SECTION 5. Trans 107.04(1)(b) (Intro) and 107.04(3) are amended to read:

(b) Analyst Interview documenting the effects of chemical use on a person's social or economic functioning in terms of:

(3) Reasons Persons may be required to furnish additional medical or assessment reports, or combination of, if the department determines that the information available is not adequate to make a licensing decision.

SECTION 6. Trans 107.06 (Title) is amended to read:

Trans 107.06. Assessment referrals and ~~driver-improvement~~ interviews.

SECTION 7. Trans 107.06(1) is repealed and recreated to read:

(1) WHEN INTERVIEW REQUIRED. Except under the circumstances described in s. Trans 107.08 (2)(a) to (c), an interview shall be scheduled when a person is identified by a source described in s. Trans 107.03(3) as possibly having a chemical abuse or dependency problem and this is the first time the department has received any information that this person may have a problem.

SECTION 8. Trans 107.06(3) (Intro) is amended to read:

(3) IMMEDIATE ASSESSMENT REFERRAL. A person shall be referred for assessment without the ~~driver-improvement~~ interview described in sub (2) when:

SECTION 9. Trans 107.06(3)(a) is amended to read:

(a) The department has information that a person has had 2 OWI arrests within 12 months. ~~with a blood alcohol content of .20 or above in at least one of the arrests, and there is no previous chemically related information on file with the department.~~

SECTION 10. Trans 107.06(3)(f) is created to read:

(f) There is an O.W.I. revocation and the person is not or has not participated in a rehabilitation or driver safety plan including a Wisconsin driver convicted in another jurisdiction.

SECTION 11. Trans 107.08(1)(b) is amended to read:

(b) When a person has one ~~2~~ OWI ~~arrests~~ arrest in 12 months and there is an assessment, final report, medical report, or combination of, on file with the department within the previous 2 years identifying chemical abuse or dependency and recommending no further involvement with chemicals, the person shall be immediately referred for assessment and the operating privilege shall be denied or canceled until the conditions in sub (2) (b) have been met.

SECTION 12. Trans 107.08(1)(h) is amended to add:

(h) Under ss. 343.06(4), 343.16(2)(a) or 343.25(7), Stats., failure to meet with a department representative, analyst obtain an assessment as directed by the department, comply with the recommended rehabilitation or driver safety plan, or submit the required medical report shall result in denial or cancellation of all licenses, including an occupational license, until the department is notified of compliance. An arrest for OWI while participating in a rehabilitation or driver safety plan shall be considered as non-compliance by the department and shall result in denial, cancellation, or suspension of all licenses.

SECTION 13. Trans 107.08(1)(i) is amended to read:

(i) Under s. 343.25 (7) Stats., failure to ~~meet with an analyst~~ attend the interview scheduled according to s. Trans 107.06(1) shall result in denial or cancellation of the operating privilege.

SECTION 14. Trans 107.08(1)(j) is amended to add:

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(j) Under ss. 343.16(2)(a), 343.30(1q)(c) or (d), or s. 343.305(9)(c) or (d), Stats., failure to comply with court-ordered or department-ordered assessment ~~fee~~, assessment fee, or driver safety plan, shall result in the suspension of the operating privilege, including an occupational license. An arrest for OWI while participating in a driver safety plan shall be considered as non-compliance by the department. Non-payment of any treatment fee shall not be grounds for a non-compliance suspension. The suspension shall be ordered upon receipt of a non-compliance report from the 51.42 board, traffic safety school approved under s. 345.60, Stats., or an arrest report for OWI. The suspension shall remain in effect during any department review and for the 5 year period that the department maintains records, or until the conditions in sub. (2) have been met. ~~No~~ An occupational license shall not be issued during a suspension for non-compliance.

SECTION 15. Trans 107.09(5) is amended to read:

(5) When the driver safety plan is found to be appropriate, ~~inappropriate~~ the suspension shall remain in effect until notification from a 51.42 board that the person is complying with the driver safety plan received by the department and the person has paid the reinstatement fee(s) required by s. 343.21(1)(j), Stats.

SECTION 16. Trans 107.11(3) is amended to read:


(3) Persons completing group dynamics as a result of violations prior to May 1, 1982, and for whom the group dynamics instructor documents a need for additional assessment, shall be required to attend a driver improvement meet for an interview and, if documentation supports a referral to a 51.42 agency, comply with any additional treatment recommendation prior to reinstatement. No ~~driver improvement~~ interviews shall be required for reinstatement if the violation occurred after May 1, 1982.

END

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The rule revisions contained in this order shall take effect on the first day of the month following publication as provided in s. 227.026(1), Stats.

Signed at Madison, Wisconsin  
this 14 day of November, 1983.

  
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Lowell B. Jackson, P.E.  
Secretary  
Department of Transportation