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STATE OF WISCONSIN )  
 ) ss.  
DEPARTMENT OF TRANSPORTATION )

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, RONALD R. FIEDLER, Secretary of the Wisconsin Department of Transportation and custodian of the official records, do hereby certify that the rule, relating to **certification of instructors, course content, and mode of instruction for the Traffic Safety Program**, was duly approved and adopted by this Department on **October 28<sup>th</sup>, 1991**.

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 28<sup>th</sup> day of October, 1991.

*for* Donald H. Janssen, Deputy  
RONALD R. FIEDLER, P.E.  
Secretary

NOV 1 1991

Revisor of Statutes  
Bureau

STATE OF WISCONSIN

DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY

IN THE MATTER OF a rule to repeal ch. MVD 23 and recreate ch. Trans 106, Wisconsin Administrative Code, relating to certification of instructors, course content, and mode of instruction for the Traffic Safety Program.

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

STATUTORY AUTHORITY: ss. 85.16(1), 227.11 and 345.60(1), Stats.

STATUTES INTERPRETED: ss. 343.30(1q)(d), 343.305(10), and 345.60(1)

**General Summary of Rule.** This rule repeals chapter MVD 23 and creates chapter Trans 106, Wis. Admin. Code, to establish by rule the Department's current policies and procedures relating to the certification of instructors, course content, and mode of instruction of the Traffic Safety programs. Statutory interpretations and policies include:

Trans 106.01 designates the purpose, scope, and authority for adoption of the rule.

Trans 106.02 establishes definitions for terms used in the chapter.

Trans 106.03 establishes general rules for conducting traffic safety programs, i.e., certification requirements, classroom hours, class size, evaluation reports, and participation in mandated workshops, in-services, or both.

Trans 106.04 provides the cancellation authority for schools failing to comply with Trans 106.03.

Trans 106.05 prescribes the procedures a cancelled school is required to take for recertification.

Trans 106.06 establishes the basic requirements to obtain instructor certification.

Trans 106.07 specifies the qualifications necessary to be certified as a Group Dynamics or Multiple Offender Traffic Safety Program Instructor.

Trans 106.08 specifies the qualifications necessary to be certified as a General Traffic Safety Program or Defensive Driving Instructor or both.

Trans 106.09 prescribes standards for denial or cancellation of instructor certification.

Trans 106.10 prescribes the procedures a cancelled or denied instructor is required to take for certification.

Trans 106.11 establishes the advisory committee for the purpose of recommending uniform standards and guidelines for the traffic safety programs and to promote interagency relationships in the education and rehabilitation of persons who have driven while intoxicated.

**Final Regulatory Flexibility Analysis.** This rule has no significant impact on small businesses.

**Fiscal Impact.** No fiscal impact is anticipated from the promulgation of these rule changes.

**Contact Person.** The person to contact for further information on this rule is Wes Geringer, (608) 266-0614.

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### **TEXT OF RULE**

Under the authority vested in the department of transportation by ss. 85.16(1), 227.11, and 345.60, Stats., the department hereby repeals and recreates an administrative rule interpreting s. 345.60, Stats., relating to certification of instructors, course content and mode of instruction for the Traffic Safety program as follows:

SECTION 1. Chapter MVD 23 is repealed.

SECTION 2. Chapter Trans 106 is created to read:

#### **CHAPTER TRANS 106**

#### **CERTIFICATION OF TRAFFIC**

#### **SAFETY PROGRAMS AND INSTRUCTORS**

**Trans 106.01 PURPOSE AND SCOPE.** (1) As authorized by ss. 85.16(1), 227.11, and 345.60, Stats., the purpose of this chapter is to establish the department of transportation's administrative interpretation of ss. 343.30(1q)(d), 343.305(10) and 345.60, Stats., relating to the certification of traffic safety schools, curriculum and instructors.

(2) This chapter applies to any organization applying for traffic safety school certification and to any person applying for instructor certification. The provisions of this

chapter shall apply to new instructors and new schools applying for certification after the effective date of this rule, and to presently certified instructors applying for recertification.

**NOTE: Forms used in this chapter include MVD 3301 - Instructor Report, MV 3302 - Quarterly Report, MV 3304 - Course Completion Certificate, MV 3306 - Instructor Application for Certification and MV3521 - Student Enrollment Confirmation. Forms are available from the Bureau of Driver Services, Department of Transportation, 4802 Sheboygan Avenue, P. O. Box 7917, Madison 53707-7917.**

**Trans 106.02 DEFINITIONS.** The words and phrases defined in ss. 340.01 and 343.01, Stats., have the same meaning in this chapter unless a different definition is specifically provided. In this chapter:

(1) "Assessment" means an examination of a person's use of alcohol or other drugs, or both, and the development of a driver safety plan for the person by an approved public treatment facility as defined in s. 51.45(2)(c), Stats., or by a comparable treatment facility lawfully established in another state.

(2) "Assessment facility or agency" means an alcohol and drug abuse approved public treatment facility, as defined in s. 51.45(2)(c), Stats., which is also approved for one or more programs under ss. HSS 61.54 to 61.57 and 61.59 to 61.68 and is designated by a board to conduct assessments, or by a comparable treatment facility lawfully established in another state.

(3) "Board" means the county department under s. 51.42, Stats., which is responsible for each county's provision of alcohol and drug abuse services under ss. 51.42 and 51.45, Stats.

(4) "Defensive driving program" means a traffic safety course that is approved by the department under s. 345.60, Stats., and that stresses safe driving techniques to avoid accidents. The "defensive driving program" includes, but is not limited to, the national

safety council approved curriculum course taught in schools approved by the board of vocational, technical and adult education and by the department.

(5) "General traffic safety program" means a course that is approved by the department under s. 345.60, Stats., and that encourages students to examine and change their driving habits, attitudes and life styles to improve their ability to operate a motor vehicle safely.

(6) "Group dynamics traffic safety program" means a course that is approved by the department under s. 345.60, Stats., and that encourages students to examine their chemical use habits, discuss their chemical use and their driving behavior and formulate an alternative life style which would improve their ability to safely operate a motor vehicle.

(7) "Multiple offender traffic safety program" means a course that is approved by the department under s. 345.60, Stats., and encourages students who have had multiple traffic offenses involving chemical use to examine their chemical use habits, discuss their chemical use and their driving behavior and formulate an alternative life style which would improve their ability to safely operate a motor vehicle.

(8) "School" means an institution providing one or more of the programs defined in sub. (4), (5), (6) or (7) and authorized under s. 345.60, Stats.

(9) "VTAE" means the vocational, technical and adult education system.

**Trans 106.03 GENERAL RULES FOR CONDUCTING TRAFFIC SAFETY PROGRAMS.** (1) General traffic safety, defensive driving, group dynamics and multiple offender traffic safety programs and their curricula shall be approved by the department.

(2) Approval of a general traffic safety program is subject to all of the following conditions:

(a) Only one traffic safety school program may be certified in each VTAE district.

(b) Within each program, all site locations shall be approved by the department and issued a site certification number. Population density shall be considered in the approval process.

(c) At each site, one general traffic safety program course shall be conducted each year.

(d) Classroom instruction shall be a minimum of 12 hours, extending over consecutive weeks, and not exceeding 6 hours per week.

(e) Class size may not exceed 20 students.

(3) A defensive driving program is optional in each VTAE district but, if offered, shall meet the requirements described in sub. (2).

(4) Approval of a group dynamics traffic safety program is subject to all of the following conditions:

(a) Only one group dynamics traffic safety school program may be certified in each VTAE district unless the department determines that there is a need for additional programs in a district.

(b) Within each program, all site locations shall be approved by the department and issued a site certification number. Population density shall be considered in the approval process.

(c) At each site, one group dynamics traffic safety program course shall be conducted each year.

(d) Classroom instruction shall be a minimum of 21 hours, extending over consecutive weeks, not exceeding 6 hours per week, and shall include an exit interview.

(e) Class size may not exceed 15 students.

(5) Approval of a multiple offender traffic safety program is subject to all of the following conditions:

(a) Only one multiple offender traffic safety school program may be certified in each VTAE district unless the department determines that there is a need for additional programs in a district.

(b) Within each program, all site locations shall be approved by the department and issued a site certification number. Population density shall be considered in the approval process.

(c) At each site, one multiple offender traffic safety program course shall be conducted each year.

(d) Classroom instruction shall be a minimum of 30 hours, extending over consecutive weeks, not exceeding 6 hours per week, and shall include an exit interview.

(e) Class size may not exceed 12 students.

(f) A person such as a family member or friend who is significant in the life of the student is involved in the course.

(g) A follow-up session is held with the student 3 months after completion of the basic 30 hours of the course.

(6) A school shall notify the department, the assessment facility, and the student of a student's compliance or noncompliance with the requirements of the school as specified in sub. (7) and as required by ss. 343.30(1q)(d) and 343.305(10).

(7) Satisfactory completion of a course shall require all of the following:

(a) Except as provided in subds. 2 to 4, attendance at all scheduled classes.

1. A student may be excused from attendance only if the student is hospitalized, under a doctor's care, or attending an immediate family member's funeral.

2. A student who is tardy by more than 20 minutes may not receive credit for the class.

3. Only one excusable absence shall be permitted in a course.

4. If an excusable absence occurs, the missed time shall be made up to the satisfaction of the instructor.

(b) Completion of all course requirements, whether assigned to be completed during class or during other times.

(c) Completion of course registration.

(d) Compliance with the requirement that no alcohol, other drugs or disruptive behavior shall be permitted in the class.

(e) Compliance with the requirement that a student who enrolls for the third time in a group dynamics or multiple offender traffic safety course shall complete the entire course before he or she is eligible for the return of an operator's license.

(f) A student shall complete a program within one year from the date of his or her assessment.

(8) After a student completes a course, the school shall do all of the following:

(a) File the original course completion certificate with the department within 30 days following the course completion date.

(b) Retain a copy of the course completion certificate and provide a copy to the following:

1. The court, when required.
2. The assessment agency, when required.
3. The student.



(9) During a course, a student may request a 3 point reduction in the points assessed against his or her operator's license. Within 30 days after he or she completes a course, a student may notify the department that he or she has changed his or her position about point reduction. Pursuant to s. 343.32(5), Stats., and s. Trans 101.07(1), the 3 point reduction is conditioned on satisfactory completion of an approved program.

(10) A quarterly report on a form provided by the department shall be completed by each school and submitted to the department.

(11) A school shall develop its own student and instructor self evaluation reports, which shall be submitted to, and approved by, the department.

(12) A school shall evaluate all certified instructors during each certification period. An evaluation shall be based on a visitation to at least one of an instructor's class sessions. An instructor evaluation form completed for every instructor shall be filed with the department and a copy given to the instructor.

(13) A school and its instructors shall participate in all department required workshops and in-service training activities.

**NOTE: Forms MVD 3301, MV 3302, MV 3304.**

**Trans 106.04 CANCELLATION OF TRAFFIC SAFETY SCHOOL CERTIFICATION.** A school certification shall be cancelled for failure to comply with s. Trans 106.03.

**Trans 106.05 SCHOOL RECERTIFICATION AFTER DENIAL OR CANCELLATION.** A school may be recertified after denial or cancellation of certification if the school submits an application to the department accompanied by letters or other documents that provide sufficient information about the methods for change it has initiated or accomplished. A recertification decision shall be based on the action taken to eliminate the deficiencies that existed at the time of the denial or cancellation.

**Trans 106.06 INSTRUCTOR CERTIFICATION STANDARDS.** (1) To obtain a

department instructor certification, a person shall do all of the following:

(a) Hold a valid motor vehicle operator's license from the department or from the appropriate authority in the other jurisdiction in which the person resides. A nonresident shall provide the department with all of the following:

1. A record of his or her operator's license status and traffic convictions at the time of application for certification.

2. A report of any traffic conviction, while the person is certified, within 30 days of that conviction, whether it occurs in Wisconsin or another jurisdiction.

(b) Have a satisfactory driving record. A driving record shall be considered satisfactory unless it contains 6 or more demerit points within one year or indicates the applicant was, within one year, causally negligent in 2 or more traffic collisions involving 2 or more motor vehicles or a vehicle and other property. Out-of-state traffic convictions and accidents shall be treated as though they occurred in Wisconsin.

(c) Attend all class sessions of at least one traffic safety course as an observer. All the sessions attended shall be taught by a certified program instructor. The class sessions observed shall be the same as the course for which the person will be certified.

(d) Submit to the department an instructor certification application for each school.

(2) An instructor's certification is valid from the date of the department's approval until July 1 of an odd-numbered year.

(3) A certified instructor shall do all of the following:

(a) Adhere to the procedures and curriculum established by the department and the school.

(b) Teach or monitor all sessions of each program for which he or she is certified at least once during a certification period.

(c) Participate in all mandatory department and school workshops and in-service training activities.

(4) An instructor's failure to maintain a satisfactory driving record as required in sub. (1)(b) or report traffic convictions to the department as required under sub. (1)(a) 1 or 2 is cause to suspend or cancel his or her instructor certification.

(5) A group dynamics or multiple offender traffic safety instructor shall meet the requirements of s. Trans 106.07. A general traffic safety or defensive driving instructor shall meet the requirements of s. Trans 106.08.

**NOTE: Form MV 3306.**

**Trans 106.07 GROUP DYNAMICS OR MULTIPLE OFFENDER TRAFFIC SAFETY PROGRAM INSTRUCTOR QUALIFICATIONS.** To be certified, a group dynamics or multiple offender traffic safety instructor shall comply with all of the following:

(1) Complete a traffic safety education course such as behavior aspects of accident prevention or an approved course offered by the VTAE, or monitor a general traffic safety course as defined in s. Trans 106.02(5).

(2) Have at least one of the following:

(a) A bachelor's or masters degree from an accredited university or college with a major in one or more of the following:

1. Psychology, sociology, guidance and counseling or behavioral studies.
2. Education and academic work or occupational experience and knowledge in group counseling and the group process.

(b) A minimum of 20 classroom hours in alcohol and other drug education, group counseling and group process or alcohol and other drug study courses offered by an accredited university, the VTAE, or approved by the department and at least one of the following:

1. A teaching license issued by the Wisconsin department of public instruction or the VTAE.

2. A high school diploma or a general educational development certificate and a minimum of 2 years occupational experience as a paraprofessional in traffic safety, alcohol and other drug counseling, or related work experience.

**Trans 106.08 GENERAL TRAFFIC SAFETY AND DEFENSIVE DRIVING INSTRUCTOR QUALIFICATIONS.** (1) Except as provided in sub. (2), a general traffic

safety or defensive driving instructor shall have at least 10 classroom hours of alcohol and other drug education and either of the following:

(a) A bachelor's or master's degree from an accredited university or college with courses in safety education, group counseling, and the group process.

(b) A high school diploma or general educational development certificate and a minimum of 2 years experience or training in traffic safety or alcohol and other drug abuse counseling. Completion of an approved general traffic safety program is acceptable in lieu of the requisite 2 years experience in traffic safety education.

(2) Completion of a group dynamics traffic safety school program is acceptable in lieu of the 10 hours of alcohol and other drug education.

(3) Instructors requesting certification to teach the 12 hour defensive driving program shall first be certified by the national safety council and shall then meet the requirements under sub. (1) or (2).

**Trans 106.09 DENIAL OR CANCELLATION OF INSTRUCTOR CERTIFICA-**

**TION.** An instructor certification shall be denied or cancelled for any of the following reasons:

(1) Unsatisfactory driving record as defined in s. Trans 106.06(1)(b).

(2) Unsatisfactory classroom performance in the classroom, based on either of the following:

(a) Excessive or continual deviation from the department approved curriculum.

(b) Failure to adhere to traffic safety program policies.

(3) Excessive or abusive use of alcohol or controlled substances.

(4) Failure to teach or monitor the program during the previous certification period.

(5) Failure to participate in mandatory department or school workshops or in-service training activities.

(6) Falsifying an instructor certification application or a course completion certificate.

**NOTE:** Forms MV 3304 and MV 3306.

**Trans 106.10 INSTRUCTOR RECERTIFICATION AFTER DENIAL OR CAN-**

**CELLATION.** An instructor may be recertified after denial or cancellation of certification if the instructor submits an instructor certification application approved by the program coordinator and accompanied by a letter or other document that provides information and assurances about the action taken to eliminate the deficiencies existing at the time of denial or cancellation. The department's recertification decision shall be based on the appropriateness of the action taken in response to the deficiencies.

**NOTE:** Form MVD 3306.

**Trans 106.11 ADVISORY COUNCIL.** (1) A traffic safety school advisory council is established to recommend to the department uniform standards and guidelines for initiating

and maintaining statewide traffic safety school programs and to promote interagency relations concerning the education and rehabilitation of persons who have driven while intoxicated or have demonstrated other unsafe driving practices.

(2) Members of the council shall include, but shall not be limited to, representatives from the office of transportation safety, the American Automobile Association, the board of the VTAE, the department of public instruction, the department, the department of health and social services, and a school representative from each of 5 regions established by the VTAE system.

(3) The functions and responsibilities of the council include all of the following:

(a) Recommending program guidelines, such as length of program, curriculum, instructor qualifications, fees, state and regional in-service training, evaluation criteria, program changes, coordinator responsibilities, program supervision, education techniques and program procedures for communicating with law enforcement agencies, prosecutors, courts, alcohol and other drug abuse referral agencies, the department and other agencies.

(b) Promoting program cooperation among law enforcement agencies, prosecutors, courts, treatment centers, assessment agencies, educational agencies, the board of the VTAE, the American Automobile Association and the department.

(c) Developing and disseminating traffic safety school program resources.

(d) Furthering traffic safety school program public relations and education.

(e) Reviewing and recommending approval of traffic safety school pilot programs.

**(END OF RULE TEXT)**

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**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 28<sup>th</sup> day of  
October, 1991.

*for* Donald R. Fiedler, Deputy  
RONALD R. FIEDLER, P.E.  
Secretary  
Wisconsin Department of Transportation