

STATEMENT OF SCOPE

Department of Transportation

Rule No.: Trans 105

Relating to: Licensing of Driver Schools and Instructors

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A

2. Detailed description of the objective of the proposed rule:

The Wisconsin Department of Transportation (WisDOT) proposes to amend Wisconsin Administrative Code ch. 105 to interpret subchapter VI of Chapter 343, Stats., creating rules regarding the licensing and regulation of commercial driver education schools. Commercial driver education schools provide training and testing for students and training of instructors, who provide classroom and behind-the-wheel instruction to their customers.

This rulemaking will bring Wisconsin requirements into consistency with amended federal requirements for minimum training requirements for entry-level commercial motor vehicle operators and the federally-required training provider registry in amendments to 49 CFR Part 380, Subparts F and G and related Appendices and rules. The amended federal rules become effective February 7, 2022.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

The existing rule provides guidance for the licensing and regulation of commercial driver education schools and the training they provide to their instructors, and guidance for the licensing and regulation of commercial driver school instructors who provide both classroom and behind-the-wheel instruction to customers.

WisDOT proposes updating and clarifying the definitions in ch. Trans 105, Wis. Admin. Code, regarding safety organizations, internet courses, and students to better reflect state law and the obligations of the department. WisDOT also proposes examining changes to administrative aspects of the driver education program including:

- Office and classroom certification requirements
- Addressing the utilization of the internet for course work
- Clarifying instructor requirements
- Requirements for document handling
- Student transfers between schools
- The sharing of records between the department and the schools
- Removing dates and forms from the Trans rule that are no longer applicable
- Vehicle inspections
- Clarifying requirements for behind-the-wheel instruction
- Lesson plan and instruction topic revisions and clarifications
- Bond requirements

—Entry level commercial driver license (CDL) training requirements

WisDOT also proposes changes to the enforcement of the requirements and obligations of driver education schools. These changes could involve clarifications or additions regarding:

- Definitions, such as “substantiated” and “complaint”
- Clarification on the department’s handling of complaints
- The assignment of points to driving schools
- Penalties for improper loss/destruction/mutilation of documents
- Clarification and improvement of the revocation, suspension, cancelation, and disqualification processes
- Reinstatement requirements for schools that have had actions taken against them
- Ability to deny a school license prior to licensing for a duration of time

If the above measures are not taken to make ch. Trans 105, Wis. Admin. Code conform with the federal legal requirements in amendments to 49 CFR Part 380, which comes into effect February 7, 2022, WisDOT risks the loss of grant funds awarded to it by the Federal Motor Carrier Safety Administration (FMCSA) of up to 50% of the roughly \$6.5 million annual grant for long-term non-compliance.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 343.02, Stats. permits the WisDOT to promulgate rules for the purpose of enforcing ch. 343, Stats.

343.02 Administration of driver license law.

- (1) The department shall administer and enforce this chapter and may promulgate for that purpose such rules as the secretary considers necessary. Rules promulgated under this chapter may not conflict with and shall be at least as stringent as standards set by the federal commercial motor vehicle safety act, [49 USC 31301 to 31317](#) and the regulations adopted under that act.
- (2) The state of Wisconsin assents to the provisions of the federal law and regulations specified in sub. (1). The state of Wisconsin declares its purpose and intent to make provisions to implement and enforce that law and those regulations so as to ensure receipt by this state of any federal highway aids that have been or may be allotted to the state under [23 USC 104](#) (b) (1), (2), (5) and (6), including all increased and advanced appropriations.

Changes to 49 USC ch. 383 drive a need to change CDL driver school standards as indicated in s. 343.03(1)(a), Stats. which reads:

343.03 Classified driver license system.

- (1) Compliance with federal standards.
 - (a) The department shall institute a classified driver license system meeting all federal standards under 49 USC 30304 (e) and 31301 to 31317 and 49 CFR 383 and 384.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

1000 hours.

6. List with description of all entities that may be affected by the proposed rule:

This rule affects WisDOT, commercial driver education businesses, and their students.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule :

The proposed federal changes to 49 CFR Chapter 383 will have an effect on commercial driver education schools, which will require updates to ch. Trans 105 for conformity. The changes will take effect in February 2022.

The changes will also modify 49 CFR Part 380 Subparts F and G and referred Appendices to set new baseline requirements for training entry-level drivers and create within the FMCSA a Training Provider Registry to retain a record of which commercial driver license applicants have completed the new training and certification process outlined in these new regulations.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The department and Wisconsin trucking companies will encounter some costs, related to additional recordkeeping, while maintaining compliance with federal regulations in order to maintain a lawful and effective trucking industry.

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