

Chapter Trans 327

MOTOR CARRIER SAFETY — INTRASTATE

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Trans 327.01 Definitions. Words and phrases defined in s. 340.01, Stats., and 49 CFR part 390.5 have the same meaning in this chapter. However, the definition of a word or phrase in s. 340.01, Stats., except s. 340.01 (8), Stats., shall apply when the word or phrase is defined in both s. 340.01, Stats., and 49 CFR part 390.5.

History: Cr. Register, May, 1987, No. 377, eff. 6-1-87; emerg. r. and recr. (intro.), renum. (1) and (2) to be (2) (b) and (d), cr. (1), (2) (intro.), (a), (c), (d) 9., eff. 4-1-95; r. and recr. (intro.), renum. (1) and (2) to be (2) (b) and (d) and am. (2) (d) (intro.) and 3., cr. (2) (a), (c) and (d) 9., Register, August, 1995, No. 476, eff. 9-1-95; correction in (2) (d) 3., made under s. 13.93 (2m) (b) 7., Stats., Register, October, 2000, No. 538; CR 02-080: renum. (2) (c), (d) and (4) to be (2) (d), (f) and (h) and am. (2) (f) 3., cr. (2) (c), (e) and (g) Register April 2003 No. 568, eff. 5-1-03; CR 06-043: r. (2) (b), (c), (e) to (h), renum. (2) (d) to be (2) (b) Register October 2006 No. 610, eff. 11-1-06; CR 22-051: r. (2) Register February 2024 No. 818, eff. 3-1-24.

Trans 327.03 Federal regulations adopted. The following federal motor carrier safety regulations adopted by the United States department of transportation are adopted by the department and shall be enforced in relation to those carriers, drivers or vehicles which operate in intrastate commerce in the same manner as though the regulations were set out in full in this chapter:

(1) 49 CFR part 390, federal motor carrier safety regulations — general, except 49 CFR 390.23 (a) (3);

(2) (a) 49 CFR part 391, qualifications of drivers, except:

1. 49 CFR 391.11 (b) (1).

2. 49 CFR 391.41 (b) (10), if a driver who does not meet the vision standards provides documentation from a licensed vision specialist that the driver does not have progressive eye disease; that the driver's vision in the best eye, corrected or uncorrected, is at least 20/40 (Snellen); and that the driver has a minimum of 70-degree visual field from the center of at least one eye. The documentation shall be accompanied by a statement from the specialist indicating that the driver's vision is not likely to cause a loss of ability to control or operate a commercial motor vehicle. A driver may apply for an exception or waiver to drive in intrastate commerce by submitting this information with the driver's application.

(b) A driver is not eligible for an exception or waiver under par. (a) if the driver has had any moving violations or any reportable at-fault accidents while driving any motor vehicle within the 3-year period prior to the date of the application. After a driver receives an exception or waiver, the driver's noncompliance with any applicable reporting requirements may result in cancellation of the exception or waiver.

Note: Refer to ch. Trans 112 for criteria requiring cancellation/voluntary temporary surrender of the CDL for medical purposes.

(3) 49 CFR part 392, driving of motor vehicles, except 49 CFR 392.16;

(4) 49 CFR part 393, parts and accessories necessary for safe operation, except 49 CFR 393.42 shall not apply to vehicles placed in operation in common, contract or private carriage prior to June 1, 1987;

(5) 49 CFR part 396, inspection, repair and maintenance;

(6) 49 CFR part 397, transportation of hazardous materials; driving and parking rules.

(7) Every traffic officer and state patrol inspector employed under the authority of s. 110.07, Stats., is authorized to declare vehicles and drivers out-of-service in accordance with the North American Standard Out-of-Service Criteria, except that sub. (10) shall be used to determine the maximum number of hours allowed to drive after coming on duty.

Note: The North American Standard Out-of-Service Criteria is on file with the Legislative Reference Bureau and the Department of Transportation, Division of State Patrol. A copy may be requested from the Commercial Vehicle Safety Alliance, or by calling 301-830-6143. You may also request copies via their website at www.cvsaa.org.

(8) 49 CFR part 382, federal motor carrier safety regulations — controlled substances and alcohol use and testing;

(9) 49 CFR part 40, procedures for transportation workplace drug and alcohol testing programs;

(10) (a) 49 CFR part 395, hours of service of drivers, except as follows:

1. 49 CFR 395.3 (a) (2) and (3) are not adopted.

2. 49 CFR 395.3 (b) is not adopted.

3. 49 CFR 395.8 (a) (1) (i) through (iv) does not apply to operation on or before March 31, 2025.

(b) No driver may drive a property-carrying vehicle for:

1. More than 12 hours following 10 consecutive hours off duty.

2. Any period after having been on duty for 16 hours following 10 consecutive hours off duty.

3. After having been on duty for 70 hours in any period of 7 consecutive days.

4. After having been on duty for 80 hours in any period of 8 consecutive days.

(11) 49 CFR part 385, safety fitness procedures, subpart C, certification of safety auditors, safety investigators and safety inspectors.

History: Cr. Register, May, 1987, No. 377, eff. 6-1-87; emerg. am. (intro.), (1), (4) and (5), eff. 4-1-95; am. (intro.), (1), (4) and (5), Register, August, 1995, No. 476, eff. 9-1-95; am. (intro.) and (2), Register, October, 2000, No. 538, eff. 11-1-00; CR 02-080: am. (intro.), renum. (1) to (6) to be (3) to (8) and am. (4) and (7), cr. (1), (2) and (9) Register April 2003 No. 568, eff. 5-1-03; CR 03-059: am. (intro.), renum. (1) to (3) to be (8), (9) and (1) and (5) to (8) to be (3) to (6), renum. and am. (4) to be (2) and (9) to be (7) Register December 2003 No. 576, eff. 1-4-04; CR 06-043: am. (intro.), (2) and (7), cr. (10) Register October 2006 No. 610, eff. 11-1-06; EmR0833: emerg. am. (intro.) and (7), cr. (11), eff. 11-5-08; CR 08-100: am. (intro.) and (7), cr. (11) Register April 2009 No. 640, eff. 5-1-09; CR 22-048: am. (2) (a) 2., (b) Register July 2023 No. 811, eff. 8-1-23; CR 22-051: am. (2) (a) 1., (7), r. and recr. (10) Register February 2024 No. 818, eff. 3-1-24; correction in (1), (2) (a), (3) to (9), (10) (a), (11) made under s. 35.17, Stats., Register February 2024 No. 818.

Trans 327.07 Enforcement. (1) The provisions of s. Trans 327.03 (4) and (5) shall be enforced under the provisions of ch. 110, Stats.

(2) The provisions of s. Trans 327.03 (1), (2), (3), (6), (8), and (10) shall be enforced under the provisions of ch. 194, Stats.

History: Cr. Register, May, 1987, No. 377, eff. 6-1-87; emerg. am. (2), eff. 4-1-95; am. (2), Register, August, 1995, No. 476, eff. 9-1-95; corrections made under s. 13.93 (2m) (b) 7., Stats., Register May 2003 No. 569; corrections made under s. 13.93 (2m) (b) 7., Stats., Register December 2003 No. 576; CR 06-043: am. (2) Register October 2006 No. 610, eff. 11-1-06; CR 22-051: am. Register February 2024 No. 818, eff. 3-1-24; correction made under s. 35.17, Stats., Register February 2024 No. 818.

Trans 327.09 Exemptions. (1) The provisions of s. Trans 327.03 do not apply to a driver of a school bus when the school bus is being used for authorized educational or extracurricular school-related activities.

Note: This section preserves exemptions authorized by 49 CFR 350.305(b)(2) that were in effect on March 31, 1988, for school bus drivers engaged in intrastate operations for authorized educational or extracurricular school-related activities.

(2) The provisions of s. Trans 327.03 (2) do not apply to the following:

(a) Drivers who operate motor vehicles which have a manufacturers' gross vehicle weight rating equal to or less than 26,000 pounds, except that this provision does not apply to vehicles transporting hazardous materials requiring placarding or vehicles transporting 16 or more passengers including the driver.

(b) Drivers who have met state medical qualifications and have been issued a valid Wisconsin commercial driver's license, or CDL, prior to July 29, 1996, which has not been revoked, and who continue to meet state medical requirements as found in ch. Trans 112.

(3) The provisions of s. Trans 327.03 (6) do not apply to drivers and vehicles transporting hazardous materials by a motor vehicle which is not required to be placarded.

(4) The provisions of s. Trans 327.03 (10) do not apply to the following:

(a) Drivers of authorized emergency vehicles, as defined in s. 340.01 (3), Stats.

(b) Drivers who operate motor vehicles that are not defined as a commercial motor vehicle in s. 340.01 (8), Stats.

(c) Drivers of tow trucks as defined in s. 340.01 (67n), Stats., operating at the request of a law enforcement officer.

(7) The provisions of this chapter do not apply to any farm truck or dual purpose farm truck combined with any semitrailer or farm trailer, or any vehicle combined with a horse trailer, if the vehicle combination's gross combination weight rating, registered weight, and actual gross weight do not exceed 26,000 pounds, the vehicle combination does not include a commercial motor vehicle described in s. 340.01 (8) (c) or (d), Stats., and the vehicle combination is operated solely in intrastate commerce.

History: Cr. Register, May, 1987, No. 377, eff. 6-1-87; emerg. am. (2) (a) and (3), r. and recr. (2) (b), renum. (4) (c) to be (5), cr. (4) (c), eff. 4-1-95; am. (2) (a) and (3), r. and recr. (2) (b), renum. (4) (c) to be (5) (intro.) and am., cr. (4) (c), (5) (a) to (d) and (6), r. (4) (d), Register, August, 1995, No. 476, eff. 9-1-95; renum. (6) to be (6) (a), cr. (6) (b), Register, October, 2000, No. 538, eff. 11-1-00; CR 02-080: renum. (6) to be (13) and am., cr. (6) to (12) Register April 2003 No. 568, eff. 5-1-03; corrections in (2) (intro.), (3) and (13) (a) made under s. 13.93 (2m) (b) 7., Stats., Register May 2003 No. 569; CR 03-059: am. (8) (intro) and (b) Register December 2003 No. 576, eff. 1-4-04; corrections in (2) (intro), (3) and (13) (a) made under s. 13.93 (2m) (b) 7., Stats., Register December 2003 No. 576; CR 06-043: am. (5) (intro.), (b) and (c), r. (6) to (12), renum. (13) to be (6) and am. (6) (a), cr. (7) Register October 2006 No. 610, eff. 11-1-06; CR 22-051: am. (1), (4) (intro.), (b), r. (5), (6) Register February 2024 No. 818, eff. 3-1-24; correction in (4) (a) made under s. 35.17, Stats., Register February 2024 No. 818.

Trans 327.11 Demerit points not applicable. No demerit points may be assessed for violations of the regulations adopted in this chapter.

History: Cr. Register, May, 1987, No. 377, eff. 6-1-87.

Trans 327.13 Copies of federal regulations. The department shall advise carriers upon request that copies of the federal regulations cited in s. Trans 327.03 may be obtained by con-

tacting the division of state patrol, Wisconsin department of transportation.

Note: Federal motor regulations may also be obtained through the Internet via: <http://www.fmcsa.dot.gov>.

History: Cr. Register, May, 1987, No. 377, eff. 6-1-87; emerg. am. eff. 4-1-95; am. Register, August, 1995, No. 476, eff. 9-1-95; CR 08-100: am. Register April 2009 No. 640, eff. 5-1-09.

Trans 327.14 Medical certification requirements as part of the commercial driver license. (1) PURPOSE. As

authorized by ss. 343.02 (1), 343.06 (3), and 343.065 (3), Stats., this section establishes the processes for a CDL holder to certify the appropriate type of driving in accordance with 49 CFR 383.71 (2012) and to provide any federal medical certificate required by 49 CFR 391.45, and for the department to downgrade the CDL of any person who does not make that certification or who does not provide or maintain in effect a medical certificate as required by 49 CFR 383.73. This section also establishes the process for reinstating a downgraded commercial driver license.

(2) DEFINITIONS. In this section:

(a) "CDL" means a commercial driver license.

(b) "Commercial learner's permit" means a permit issued to an individual by this state or other jurisdiction that, when carried with a valid driver's license issued by the same jurisdiction, authorizes the individual to operate a class of a commercial motor vehicle when accompanied by a holder of a valid CDL for purposes of behind-the-wheel training. When issued to a CDL holder, a commercial learner's permit serves as authorization for accompanied behind-the-wheel training in a commercial motor vehicle for which the holder's current CDL is not valid.

(c) "Downgrade" means to remove a person's privilege to operate commercial motor vehicles from a person's CDL by indicating on the person's driving record that all commercial vehicle classes and endorsements, other than an "H" endorsement, are voluntarily surrendered. "Downgrade" with respect to an "H" endorsement means suspension of the "H" endorsement.

(d) "Driving record" means the record under s. 343.23 (2) (a), Stats.

(e) "'H' endorsement" means the hazardous materials endorsement described in s. 343.17 (3) (d) 1m., Stats.

(f) "Medical certificate" means a completed, unexpired medical examiner's certificate issued in accordance with 49 CFR 391.43 (2012), on a form approved by the department, stating that the person is physically qualified under 49 CFR 391.41 (2012) to drive a commercial motor vehicle, together with any medical variance described in 49 CFR 390.5 and required under 49 CFR 383.73 (o) (2012).

(g) "Tier 1 driver" means a person who certifies as Tier 1 under sub. (3) (b) 1.

(3) SELF-CERTIFICATION OF THE TYPE OF DRIVING TO BE DONE. (a) A person applying for a CDL shall certify to the department the tier of operation in which the person intends to engage. A person may change the person's certification at any time. The department shall deny as incomplete an application for any of the following that is submitted without a certification required under this subsection or a required medical certificate:

1. A commercial learner's permit.

2. An initial commercial driver's license.

3. A transfer of a commercial driver's license from another jurisdiction to this state.

4. Renewal of a commercial driver's license.

5. A license upgrade authorizing the operation of a vehicle group not authorized on the prior commercial driver license or an endorsement authorizing the operation of a commercial motor vehicle not covered by the current commercial driver's license.

(b) A person may certify one of the following tiers of operation under this subsection:

1. Tier 1, or non-excepted interstate. Tier 1, or non-excepted interstate, means the person operates or expects to operate in interstate commerce, is both subject to and meets the qualification requirements under 49 CFR part 391 (2012), and is required to obtain a medical examiner's certificate by 49 CFR 391.45 (2012).

2. Tier 2, or excepted interstate. Tier 2, or excepted interstate, means the person operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations that are excepted by 49 CFR 390.3 (f), 391.2, 391.68, or 398.3 (2012) from all or parts of the qualification requirements of 49 CFR part 391 (2012), and is therefore not required to obtain a medical examiner's certificate by 49 CFR 391.45 (2012).

3. Tier 3, or non-excepted intrastate. Tier 3, or non-excepted intrastate, means the person operates only in intrastate commerce and therefore is subject only to state driver qualification requirements.

4. Tier 4, or excepted intrastate. Tier 4, or excepted intrastate, means the person operates in intrastate commerce, but engages exclusively in transportation or operations excepted from all or parts of the state driver qualification requirements.

(4) MEDICAL CERTIFICATE REQUIREMENTS. (a) No person may operate a commercial motor vehicle in non-excepted interstate or foreign commerce unless the person is certified as a Tier 1 driver, has provided a medical certificate to the department, and has verified that the department has recorded the certification and indicated the person's status as "Certified" on the person's driving record.

(b) A person who certifies himself or herself as a Tier 3 driver is subject to state driver qualification requirements and shall provide a medical certificate to the department when applying for initial issuance or renewal of a CDL and must possess a medical certificate whenever operating a commercial motor vehicle, but is not required to maintain a medical certificate on file with the department.

(c) A person who certifies himself or herself as Tier 4 driver is subject to state driver qualification requirements but is not required to provide a medical certificate to the department.

(d) A CDL holder who obtained a medical certificate required by 49 CFR 383.71 (h) with a medical variance from the federal motor carrier safety administration must have in his or her possession a copy of that medical variance documentation whenever on-duty.

(5) DEPARTMENT RECORDS OF MEDICAL CERTIFICATE. (a) Within 10 days after receiving a medical certificate from a Tier 1 driver the department shall record the certification on the person's driving record and shall record the person's status as "Certified", together with all required information from the medical certificate. The department shall then file the medical certificate of a Tier 1 driver and retain that medical certificate for at least 3 years after the date of the medical examination.

(b) If the federal motor carrier safety administration notifies the department that a CDL holder has been issued a medical variance, the department shall indicate the existence of the medical variance on the person's driving record, on the commercial driver license information system and on the CDL using the medical variance restriction code "V".

(c) Only the medical certificate relating to the most recent medical examination may be considered unexpired. The department shall consider any medical certificate relating to an earlier medical examination to be expired.

(6) DOWNGRADE PROCESS. (a) Notwithstanding ss. Trans

112.16 (1) (c) and 327.09 (2) (b), the department shall downgrade the CDL of any of the following:

1. A Tier 1 driver, upon the expiration of the driver's medical certificate.

2. A Tier 1 driver, upon receiving notice that the federal motor carrier safety administration has removed or rescinded a medical certificate or medical variance relating to the driver.

3. Any person who fails to submit an updated medical certificate or to have a corrected CDL issued within 60 days after notification under sub. (8) (a) 4.

(b) If the department downgrades a CDL, the department shall do all of the following:

1. Record the downgrade on the person's driving record. The department may record as voluntarily surrendered any commercial vehicle classes or endorsements that are expired or are already suspended, revoked, cancelled, disqualified or otherwise withdrawn for another reason.

2. Record the person's medical certification status as "Not Certified" on the commercial driver license information system, if the person was last certified as a Tier 1 driver.

3. Notify the person as provided in sub. (8).

4. Complete the actions required under this paragraph within 60 days after the expiration of the medical certificate or the deadline for providing a medical certificate. The department shall record the entry required under this subdivision within 10 days after expiration of the medical certificate or receiving notice that a medical certificate or medical variance is removed or rescinded.

(c) 1. A downgrade does not affect the operating privileges of any non-commercial vehicle classifications. A person whose CDL is downgraded under this subsection may retain an operator's license that indicates commercial driver classes and endorsement without making any physical alterations to that operator's license.

2. A downgrade under this subsection affecting an "H" endorsement is considered suspension of that endorsement, not a voluntary surrender under s. 343.265 (1r), Stats. The department may not cancel an "H" endorsement under s. 343.265, Stats., as a result of a downgrade under this subsection.

(7) REINSTATEMENT. (a) A person whose CDL is downgraded may reinstate his or her CDL at any time prior to the CDL expiration date by making the certification required under sub. (3), or, if required, providing a medical certification, or both, or by changing the person's certification to something other than a Tier 1 driver.

(b) Reinstating a CDL that is downgraded has no effect on any suspension, revocation, cancellation, disqualification or withdrawal for another reason.

(c) The department may not charge a fee to reinstate a CDL that is downgraded, but may charge a fee to reinstate a CDL that is also suspended, revoked, cancelled, disqualified or otherwise withdrawn for another reason, or to change restrictions that require the issuance of a duplicate CDL.

(d) Upon reinstatement under this paragraph, the department shall record the reinstatement on the person's driving record and on the commercial driver license information system and shall make applicable record entries relating to the medical certification.

(e) Reinstating a CDL under this paragraph reinstates any endorsement, including an "H" endorsement, held at the time of voluntary surrender if the person otherwise remains eligible to hold those endorsements.

(8) NOTICES TO DRIVERS AND EMPLOYERS. (a) The depart-

ment shall provide written notice to a Tier 1 driver of each of the following, as applicable:

1. The expiration date of the person's medical certificate; that the person may not operate in interstate commerce after the medical certificate expires; and that the person's CDL will be downgraded if the person does not maintain a medical certificate on file with the department. Whenever practicable, the department shall provide notice under this subdivision at least 55 days before the expiration of the medical certificate.

2. That the person's medical certificate is expired, that the person is no longer certified to operate in interstate commerce, and that the person's CDL may be downgraded. The department shall provide notice under this subdivision upon expiration of the medical certificate.

3. That the department has downgraded the person's CDL and of how the person may reinstate his or her CDL. The department shall provide notice under this subdivision upon completing the downgrade.

4. That the federal motor carrier safety administration has notified the department that a CDL holder has been issued a medical variance and the most recent medical certificate on file with the department does not contain a medical variance. The notice shall require the driver to submit a current medical certificate reflecting the variance.

(b) The department may use the online method established under sub. (9) to provide written notices required under this sub-

section. The department shall use the employer notification system under s. 343.247, Stats., to inform an employer of any notice provided under par. (a) 1., 2., or 3., if at the time of that notice the employer is enrolled in the employer notification system and the affected driver is shown in that employer's list of enrolled drivers.

(9) DEPARTMENT ONLINE SERVICES. The department may maintain on its website a means for any person to make the certification required in sub. (3). The department shall maintain on its website a means for all of the following:

(a) For any person to verify the status of his or her CDL, including any authorized vehicle classes and endorsements.

(b) For any Tier 1 driver to submit an electronic copy of his or her medical certificate.

(c) For any employer enrolled in the employer notification system established under s. 343.247, Stats., to verify its driver's current certified tier of operation and the expiration date of the medical certificate for its Tier 1 driver employees.

(d) For any Tier 1 driver to verify the department has completed the actions required in sub. (5).

(e) For any driver to confirm a downgraded CDL has been reinstated.

History: EmR1426: emerg. cr. eff 12-4-14; CR 14-031: cr. Register August 2015 No. 716, eff. 9-1-15; correction in (6) (a) made under s. 35.17, Stats., Register August 2015 No. 716; correction in (8) (b) made under s. 13.92 (4) (b) 7., Stats., Register January 2021 No. 781; CR 22-048: am. (3) (a) (intro.), (6) (a) 1., (7) (a), (8) (a) 1. Register July 2023 No. 811, eff. 8-1-23.