

## Chapter Trans 106

### CERTIFICATION OF TRAFFIC SAFETY PROGRAMS AND INSTRUCTORS

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**Note:** Chapter MVD 23 as it existed on December 31, 1991 was repealed and a new chapter Trans 106 was created effective January 1, 1992.

**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'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 January 1, 1992 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 MV 3521—Student Enrollment Confirmation. Forms are available from the Wisconsin Department of Transportation, Maps and Publications Sales, 3617 Pierstorff Street, P.O. Box 7713, Madison, WI 53707-7713.

**History:** Cr. Register, December, 1991, No. 432, eff. 1-1-92; am. Register, March, 1996, No. 483, eff. 4-1-96.

**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) "AODA" means alcohol and other drug abuse.

(1m) "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. HFS 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.

**Note:** Sections HFS 61.50 to 61.68 were repealed eff. 8-1-00 and replaced by Ch. HFS 75 (currently ch. DHS 75).

(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) "Designated traffic safety school coordinator" means an individual appointed by the Wisconsin technical college district or assessment agency, for the Sauk and Dodge county programs, to oversee the traffic safety school program.

(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) "Moving violation" means a violation as defined in s. 343.01 (2) (cg), Stats.

(8) "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.

(9) "OWI" means operating while intoxicated.

(10) "OWI-related charge" means any charge involving the operation of a motor vehicle while intoxicated and not defined under s. 346.63 (1), Stats., or a local, tribal or other jurisdiction law in conformity with s. 346.63 (1), Stats. It includes a charge of causing injury while under the influence of an intoxicant or controlled substance to another person by the operation of a vehicle, a charge of refusing to submit to chemical testing, a charge of injury by intoxicated use of a vehicle or a charge of homicide by intoxicated use of a vehicle.

(11) "Satisfactory driving record" means a driving record that does not contain moving violations which result in more than 6 demerit points within a one year period, by date of violation, or does not indicate that the applicant was, within one year, by date of violation, causally negligent in 2 or more traffic collisions or does not contain a conviction for OWI or any OWI-related charge. Out-of-state traffic convictions and accidents shall be treated as though they occurred in Wisconsin.

(12) "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.

(13) "WTC" means Wisconsin technical college system.

**History:** Cr. Register, December, 1991, No. 432, eff. 1-1-92; renum. (1), (7) and (8) to be (1m), (8) and (12), cr. (1), (7), (10), (11) and (13), r. and recr. (4) and (9), Register, March, 1996, No. 483, eff. 4-1-96; correction in (2) made under s. 13.93 (2m) (b) 7, Stats., Register, April, 2000, No. 532.

**Trans 106.03 General rules for conducting traffic safety programs.** (1) General traffic safety, group dynamics and multiple offender traffic safety programs and their curricula shall be approved by the department.

(2) A general traffic safety program shall meet the following conditions:

(a) Only one traffic safety school program may be certified in each WTC 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. Sessions shall be held not less than once per month nor for a period of greater than 4 months, and may not exceed 6 hours per week.

(e) Class size may not exceed 20 students. Any exceptions to this limit shall be approved by the traffic safety school program manager prior to course completion.

(3) A group dynamics traffic safety program shall meet the following conditions:

(a) Only one group dynamics traffic safety school program may be certified in each WTC 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. Sessions shall be held not less than once per month nor for a period of greater than 4 months, and may not exceed 6 hours per week, and shall include an exit interview.

(e) Class size may not exceed 15 students. Any exceptions to this limit shall be approved by the traffic safety school program manager prior to course completion.

(4) A multiple offender traffic safety program shall meet the following conditions:

(a) Only one multiple offender traffic safety school program may be certified in each WTC 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. Sessions shall be held not less than once per month nor for a period of greater than 4 months and may not exceed 6 hours per week, and shall include an exit interview.

(e) No class may have more than 12 students. Any exceptions to this limit shall be approved by the traffic safety school program manager prior to course completion.

(f) A family member or friend who is significant in the life of the student shall be involved in the course as is designated by the department approved curriculum.

(g) A follow-up session shall be held with the student 3 months after completion of the basic 30 hours of the course. The session shall follow the guidelines of the department approved curriculum.

(5) 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. (6) and as required by ss. 343.30 (1q) (d) and 343.305 (10), Stats.

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

(a) Except as provided in subds. 3. to 5., attendance at all scheduled classes.

1. A student shall attend the first class session. If the student fails to attend the first class, the student shall either be allowed to register for another class within 10 business days or shall be placed in noncompliance.

2. A student may be excused only if the student is hospitalized, under a doctor's care, attending an immediate family member's funeral, or has a family health emergency or an emergency work situation. Verification of the excusable absence is required.

3. No student who is tardy by more than 20 minutes may receive credit for the class. Only one tardy, less than 20 minutes, shall be allowed.

4. Only one excusable absence shall be permitted in a course. No absence may be allowed for classes which meet for more than 3 hours.

5. 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) A student who enrolls for the third time in a group dynamics or multiple offender traffic safety course shall complete the entire course before the student is eligible for the return of an operator's license.

(f) A student shall complete a program within one year from the date of the student's assessment unless the driver safety plan is extended by the assessment agency.

(7) 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.

(8) During a course, a student may request a 3 point reduction in the points assessed against the student's operator's license. Within 30 days after the student completes a course, a student may notify the department in writing that the student has changed the student's 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.

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

(10) A school shall use the student and instructor evaluation reports found in the approved curriculum. If such evaluations are not part of an approved curriculum, the school shall develop its own forms, which shall be submitted to, and approved by, the department.

(11) 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. In those cases where the designated coordinator is also an instructor, the designated coordinator shall be evaluated by the designated coordinator's immediate supervisor. If an instructor teaches at more than one school, only one evaluation is required to be filed with the department. The evaluation to be filed shall be determined mutually by the schools involved.

(12) A school and its instructors shall participate in 6 hours of in-service training during each 2-year certification period. Attendance at all department-sponsored in-services is mandatory.

(13) A school may transfer a student to another location, but it shall report the transfer to the department, in writing as designated by the department, and forward a copy to the assessment agency of record.

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

**History:** Cr. Register, December, 1991, No. 432, eff. 1-1-92; am. (1), (2) (intro.), (a), (d) and (e), r. (3), renum. (4) to (13) to be (3) to (12) and am. (3) (intro.), (a), (d) and (e), (4) (intro.), (a), (d) to (g), (5), (6) (intro.), (a), (e) and (f), (8), (10) to (12), cr. (13), Register, March, 1996, No. 483, eff. 4-1-96.

**Trans 106.04 Cancellation of traffic safety school certification.** (1) A school certification may be suspended or cancelled for failure to comply with s. Trans 106.03.

(2) The appeal process for any school or instructor wishing to appeal the cancellation of a certification is as follows:

(a) A school or instructor may request a redetermination. The request for redetermination shall be written and shall set forth clearly and concisely the specific grievances to the action, including a statement of the relevant facts and provisions of law upon which the request is based.

(b) A request for redetermination shall be filed with the manager of the division of motor vehicles traffic safety school program and shall be received by the division of motor vehicles traffic safety school program within 30 days of the date that the department cancelled the certification.

(c) The division of motor vehicles traffic safety school manager, the supervisor of that position and the director of the bureau of driver services shall conduct a determination and shall notify the requestor of their decision within 30 days of receipt of the request for redetermination.

(d) If aggrieved, the requestor may, within 30 days of the date of the division's redetermination, appeal the division's redetermination by filing a written petition to the department of administration, division of hearings and appeals. The decision of the division of hearings and appeals is the final administrative decision but is subject to judicial review under s. 227.52, Stats.

**Note:** The Division of Hearings and Appeals is located at 5005 University Avenue, Suite 201, Madison, WI 53705.

(3) Any school found to be in violation of s. Trans 106.03 shall first be placed on a 6 month probation. Written notice of the probation and the reasons for the probation shall be provided. Written notification of the action taken to eliminate the deficiencies existing at the time the school was placed on probation shall be provided by the school at the end of the probation period. If deficiencies have not been eliminated, the school's certification shall be cancelled.

**History:** Cr. Register, December, 1991, No. 432, eff. 1-1-92; renum. to be (1), cr. (2) and (3), Register, March, 1996, No. 483, eff. 4-1-96.

**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.

**History:** Cr. Register, December, 1991, No. 432, eff. 1-1-92.

#### **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 the nonresident's 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.

1. An applicant may not be certified until 6 months from the date of conviction of the violation which places the point total over 6 points or until one year from the date of an OWI conviction.

2. An applicant is not eligible to receive a 3 point reduction by completing a traffic safety school course.

(c) Attend and observe all class sessions of the course for which the applicant has applied to be certified. All the sessions attended shall be taught by a certified program instructor.

(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 all sessions of each course for which the instructor is certified at least once during a certification period. A newly certified instructor shall teach the course for which the instructor is certified within 6 months after the date of receiving the certification.

(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 shall result in suspension of the instructor's certification for 6 months from the date of conviction for the violation which places the point total over 6, or for one year from the date of an OWI conviction. If additional points are incurred or the instructor is convicted of OWI during that suspension period, the instructor's certification shall be cancelled. An instructor is not eligible to receive a 3 point reduction by completing a traffic safety school course.

(5) A group dynamics traffic safety instructor shall meet the requirements of s. Trans 106.07. A multiple offender instructor shall meet the requirements of s. Trans 106.08. A general traffic safety instructor shall meet the requirements of s. Trans 106.09.

**Note:** Form MV 3306.

**History:** Cr. Register, December, 1991, No. 432, eff. 1-1-92; am. (1) (a) 1., (b), (c), (3) (b), (4), (5), cr. (1) (b) 1. and 2., Register, March, 1996, No. 483, eff. 4-1-96.

**Trans 106.07 Group dynamics traffic safety program instructor qualifications.** To be certified, a group dynamics traffic safety instructor shall meet at least 2 of the following 3 subsections, including sub. (1) (a), (2) (a) or (3) (a) from at least one subsection, at the time of application. An individual who does not meet a requirement specified in sub. (1) shall monitor a general traffic safety course:

(1) Traffic safety experience equal to one of the following:

(a) Two years of occupational experience, or a comparable amount of experience and education in the area of traffic safety or a related field, such as driver education, law enforcement, fleet safety management, or experience in a safety related position with the division of motor vehicles.

(b) Monitor the WTC general traffic safety course plus have completed a one semester, or 45 hour, traffic safety studies or accident prevention course.

(2) AODA experience equal to one of the following:

(a) Two years of occupational experience or a comparable amount of experience and education in the area of AODA counseling, education, or treatment or related fields, such as student assistance program director or employee assistance program director.

(b) Completed a minimum of 45 hours in an accredited college level course in the area of AODA education or treatment.

(3) Group process experience equal to one of the following:

(a) Two years occupational experience in group process work or group counseling as a treatment or education professional.

(b) Completed a minimum of 45 hours in an accredited college level course in the area of group work methods, group counseling or group process.

**History:** Cr. Register, December, 1991, No. 432, eff. 1-1-92; r. and recr. Register, March, 1996, No. 483, eff. 4-1-96; correction in (1) (intro.) made under s. 13.92 (4) (b) 7., Stats., Register March 2012 No. 675.

**Trans 106.08 Multiple offender traffic safety program instructor qualifications.** To obtain certification, a multiple offender traffic safety instructor shall:

(1) Meet the minimum requirements of s. Trans 106.07.

(2) Teach at least 3 group dynamics courses in their entirety or have a bachelor's or master's degree in guidance counseling, psychology, behavioral studies or social work.

**History:** Cr. Register, December, 1991, No. 432, eff. 1-1-92; r. and recr. Register, March, 1996, No. 483, eff. 4-1-96.

**Trans 106.09 General traffic safety program instructor qualifications.** To be certified, a general traffic safety program instructor shall have a minimum of traffic safety experience equal to one of the following:

(1) Two years of occupational experience, or a comparable amount of experience and education in the area of traffic safety or a related field, such as driver education, law enforcement, fleet safety management, or experience in a safety related position with the division of motor vehicles.

(2) Monitor the WTC general traffic safety course plus have completed a one semester, or 45 hour, traffic safety studies or accident prevention course.

**History:** Cr. Register, March, 1996, No. 483, eff. 4-1-96.

**Trans 106.10 Denial or cancellation of instructor certification.** 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) Report of a conviction of a violation which occurred as the result of alcohol or controlled substance use.

(4) Failure to teach 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.

(7) Instructing a course for which an individual is not certified.

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

**History:** Cr. Register, December, 1991, No. 432, eff. 1-1-92; renum. from Trans 106.09, am. (3) and (4), cr. (7), Register, March, 1996, No. 483, eff. 4-1-96.

**Trans 106.11 Instructor recertification after denial, cancellation or expiration.** (1) An instructor may be recertified after denial, cancellation or expiration 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. In addition to the above, the letter shall verify that the instructor has:

(a) Monitored all courses for which the instructor wishes to be certified if it has been 2 years since the expiration or cancellation.

(b) Has a satisfactory driving record.

(2) The department's recertification decision shall be based on the appropriateness of the action taken in response to the deficiencies.

**Note:** Form MVD 3306.

**History:** Cr. Register, December, 1991, No. 432, eff. 1-1-92; renum. from Trans 106.10 and am. Register, March, 1996, No. 483, eff. 4-1-96.

**Trans 106.12 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 representatives from the office of transportation safety, the American automobile association, the board of the WTC, the department of public instruction, the department, the county assessment agencies, and a representative from each of the traffic safety school programs.

(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 WTC, 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.

**History:** Cr. Register, December, 1991, No. 432, eff. 1-1-92; renum. from Trans 106.11 and am. (2) and (3) (b), Register, March, 1996, No. 483, eff. 4-1-96.