

## Chapter Trans 119

### COMMERCIAL MOTOR VEHICLE OPERATOR ALCOHOL USE RESTRICTIONS

Trans 119.01 Definitions.

Trans 119.02 Twenty-four hour out of service orders.

Trans 119.03 Persons subject to out of service orders.

**Trans 119.01 Definitions.** (1) The words and phrases defined in ss. 340.01, 343.01, and 343.04, Stats., have the same meaning in this chapter unless a different definition is specifically provided in this chapter.

(2) Non-commercial motor vehicle means a motor vehicle that is not a commercial motor vehicle.

**History:** Cr. Register, December, 1990, No. 420, eff. 1-1-91.

**Trans 119.02 Twenty-four hour out of service orders.** (1) If a person refuses to submit to chemical testing under s. 343.305, Stats., or is issued a citation for a violation of s. 346.63 (7), Stats., an out of service order shall be issued notifying the operator that commercial motor vehicle operation is prohibited for the 24 hour period following issuance of the out of service order.

(2) If the arresting officer takes possession of the operator's license under s. 343.305 (7) (b), Stats., and the operator's driving status is valid, the officer shall issue the operator a 24 hour temporary driving receipt for the operation of non-commercial vehicles. The driving receipt shall be subject to the same restrictions as the license taken by the officer.

(3) The arresting officer shall forward copies of the out of service order, chemical test results and temporary driving receipt, if

any, to the department within 5 days of issuing the out of service order. Chemical test results may be forwarded to the department at the time they become available if they are not available within the 5 days following issuance of the citation and they are not forwarded with the other documents.

**Note:** s. 346.63(7), Stats., is Wisconsin's absolute sobriety statute for commercial motor vehicle operators. An officer is required to take the operator's license if the operator refuses chemical tests under s. 343.305, Stats., or has a BAC in excess of .10 under s. 343.305 (7), Stats. The officer may take the operator's license for violation of s. 346.63 (7), Stats. Form used: MV3546.

**History:** Cr. Register, December, 1990, No. 420, eff. 1-1-91.

**Trans 119.03 Persons subject to out of service orders.** Under s. 343.245 (3) (b) 3., Stats., a person is subject to an out of service order if the person operates a motor vehicle in violation of s. 346.63 (7) (a), Stats., or in violation of any federal or state law or regulation for which the person could be issued an out of service order.

**Note:** This rule is adopted to clarify the drafters' intent that an employer is subject to s. 343.245, Stats., sanctions if the employer orders or allows an employee to operate a commercial motor vehicle when the employee would violate Wisconsin's "not-a-drop" law if the employee operated a commercial motor vehicle. It is not intended to limit the scope of s. 343.245 (3) (b) 3., Stats.

**History:** Cr. Register, December, 1990, No. 420, eff. 1-1-91.