

State of Wisconsin



2015 Senate Bill 158

Date of enactment: **December 16, 2015**
Date of publication*: **December 17, 2015**

2015 WISCONSIN ACT 123

AN ACT *to renumber* 343.17 (3) (e) 1. and 346.89 (4); *to renumber and amend* 343.065 (1) and 343.14 (2) (i); *to amend* 343.01 (2) (i), 343.03 (3m), 343.04 (2) (b), 343.065 (3) (a), 343.07 (1m) (d), 343.07 (3), 343.13 (2), 343.14 (2) (im) 1m. b., 343.16 (1) (a), 343.16 (1) (b) 3. (intro.), 343.16 (2) (e), 343.16 (6) (a), 343.17 (3) (e) 2., 343.20 (1) (c), 343.25 (5) and 343.315 (2) (fm); and *to create* 343.04 (2) (bm), 343.065 (1) (b), 343.14 (2) (im) (intro.), 343.14 (2) (im) 2m. a., 343.14 (2) (im) 2m. b., 343.16 (1) (b) 3. c., 343.16 (6) (am), 343.17 (3) (e) 1e., 343.17 (3) (e) 3., 343.17 (3) (e) 4., 343.17 (3) (e) 5., 343.17 (3) (e) 6., 343.17 (3) (e) 7., 343.315 (2) (f) 9., 343.315 (2) (f) 10., 343.315 (2) (fp) and 346.89 (4) (b) of the statutes; **relating to:** commercial driver licenses.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 343.01 (2) (i) of the statutes is amended to read:

343.01 (2) (i) "Tank vehicle" means any commercial motor vehicle that is designed to transport a liquid or gaseous materials within ~~a tank~~ tanks having an individual rated capacity of more than 119 gallons and an aggregate rated capacity of 1,000 gallons or more that is are either permanently or temporarily attached to the commercial motor vehicle or the chassis. ~~In this paragraph, "tank" does not include a portable tank, as defined in 49 CFR 171.8, having a rated capacity under 1,000 gallons. "Tank vehicle" does not include a commercial motor vehicle transporting an empty storage container tank if the tank is not designated for transportation, has a rated capacity of 1,000 gallons or more, and is temporarily attached to a flatbed trailer.~~ In this paragraph, "liquid" has the meaning given in 49 CFR 171.8.

SECTION 2. 343.03 (3m) of the statutes is amended to read:

343.03 (3m) ~~NONCITIZEN TEMPORARY LIMITED-TERM~~ LICENSE. If the issuance of any license described under sub. (3) requires the license applicant to present any documentary proof specified in s. 343.14 (2) (es) ~~4., 2.~~ to 7. or (im) 2m. b., the license shall display on the front side of the license, in addition to any legend or label described in sub. (3), a legend identifying the license as ~~temporary limited term or, if the license authorizes the operation of a commercial motor vehicle, as a nondomiciled license.~~ This noncitizen ~~temporary limited-term~~ license may not be renewed except as provided in s. 343.165 (4) (c). A nondomiciled license may not be issued to a resident of Canada or Mexico.

SECTION 3. 343.04 (2) (b) of the statutes is amended to read:

343.04 (2) (b) ~~Air Full air brakes equipped.~~ Air Full air brakes equipped vehicles are commercial motor vehicles equipped with a braking system operating fully ~~or partly~~ on the air brake principle.

SECTION 4. 343.04 (2) (bm) of the statutes is created to read:

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

343.04 (2) (bm) *Partial air brakes equipped.* Partial air brakes equipped vehicles are commercial motor vehicles equipped with a braking system operating partially on the air brake principle and partially on the air over hydraulic brake principle.

SECTION 4g. 343.065 (1) of the statutes is renumbered 343.065 (1) (a) and amended to read:

343.065 (1) (a) If an applicant for a commercial driver license is less than 21 years of age or does not meet the physical qualifications for drivers contained in [49 CFR 391](#) or an alternative federally approved driver qualification program established by the department by rule but is at least 18 years of age and otherwise qualified under this chapter and, subject to par. (b), the rules of the department, the department may issue the applicant a commercial driver license restricted to authorizing the operation of commercial motor vehicles not in interstate commerce.

SECTION 4m. 343.065 (1) (b) of the statutes is created to read:

343.065 (1) (b) An applicant with diabetes controlled by insulin is not eligible for a restricted commercial driver license under this section if the applicant had, in the 3-year period prior to the date of the application, any moving violation, or any reportable at-fault accident, due to diabetes while operating any motor vehicle. The department may not establish by rule a more restrictive eligibility standard relating to moving violations and at-fault accidents for applicants under this section who have diabetes controlled by insulin.

SECTION 5. 343.065 (3) (a) of the statutes is amended to read:

343.065 (3) (a) If a person issued any commercial driver license under this chapter authorizing operation of commercial motor vehicles in interstate commerce does not have on file with the department a current certification specified in s. 343.14 (2) (i) ~~1.~~, (im) 1m. a., covering the person's physical qualifications, the department may downgrade the commercial driver license to a restricted commercial driver license under this section and impose a "K" restriction on the license.

SECTION 6. 343.07 (1m) (d) of the statutes is amended to read:

343.07 (1m) (d) No person holding an instruction permit issued under this subsection may operate a tank vehicle unless the tanks are empty and, if the tanks contained hazardous materials, purged or a vehicle transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under [42 CFR 73](#).

SECTION 7. 343.07 (3) of the statutes is amended to read:

343.07 (3) **DURATION; CANCELLATION.** An instruction permit to operate vehicles other than commercial motor vehicles or school buses is valid for 12 months except that it may be canceled upon receipt of information, by the

secretary, of noncompletion or unsatisfactory completion of a driver education and training course by a permittee under the age of 18. An instruction permit to operate commercial motor vehicles or school buses is valid for ~~6 months~~ 180 days.

SECTION 8. 343.13 (2) of the statutes is amended to read:

343.13 (2) Notwithstanding sub. (1), the department shall restrict the commercial driver license of any person to ~~prohibit the operation of any motor vehicle equipped with air brakes if the person fails the portion of an examination under s. 343.16 relating to air brakes or the person's driving skills test is conducted in a motor vehicle not equipped with air brakes~~ comply with [49 CFR 383](#).

SECTION 9. 343.14 (2) (i) of the statutes is renumbered 343.14 (2) (im) 1m., and 343.14 (2) (im) 1m. (intro.), as renumbered, is amended to read:

343.14 (2) (im) 1m. (intro.) A certification by the applicant ~~for a commercial driver license~~ that he or she either:

SECTION 10. 343.14 (2) (im) (intro.) of the statutes is created to read:

343.14 (2) (im) (intro.) In addition to the information required under this subsection, the application form for a commercial driver license shall include all of the following:

SECTION 10m. 343.14 (2) (im) 1m. b. of the statutes, as affected by 2015 Wisconsin Act ... (this act), is amended to read:

343.14 (2) (im) 1m. b. ~~Meets~~ Subject to s. 343.065 (1) (b), meets all of the driver qualifications for drivers in intrastate commerce as established by the department by rule and is applying for a commercial driver license valid only in this state for noninterstate operation.

SECTION 11. 343.14 (2) (im) 2m. a. of the statutes is created to read:

343.14 (2) (im) 2m. a. Notwithstanding par. (es), if the person is applying for a commercial driver license other than a license under s. 343.03 (3m), acceptable proof under [49 CFR 383.71](#) (b) (9) that the individual is a citizen or national of the United States or an alien lawfully admitted for permanent residence in the United States.

SECTION 12. 343.14 (2) (im) 2m. b. of the statutes is created to read:

343.14 (2) (im) 2m. b. Notwithstanding par. (es), if the person is applying for a commercial driver license under s. 343.03 (3m), acceptable documentation under [49 CFR 383.71](#) (f) (2) (i).

SECTION 13. 343.16 (1) (a) of the statutes is amended to read:

343.16 (1) (a) *General.* Except when examination by a 3rd-party tester is permitted under pars. (b) to (c), the department shall examine every applicant for an operator's license, including applicants for license renewal as provided in sub. (3), and every applicant for authoriza-

tion to operate a vehicle class or type for which the applicant does not hold currently valid authorization, other than an instruction permit. Except as provided in sub. (2) (cm) and (e), the examinations of applicants for licenses authorizing operation of “Class A”, “Class B”, “Class C”, “Class D” or “Class M” vehicles shall include both a knowledge test and an actual demonstration in the form of a driving skills test of the applicant’s ability to exercise ordinary and reasonable control in the operation of a representative vehicle. The department shall not administer a driving skills test to a person applying for authorization to operate “Class M” vehicles who has failed 2 previous such skills tests unless the person has successfully completed a rider course approved by the department. The department may, by rule, exempt certain persons from the rider course requirement of this paragraph. The department may not require a person who is applying for authorization to operate “Class M” vehicles and who has successfully completed a rider course approved by the Wisconsin department of transportation motorcycle safety program to hold an instruction permit under s. 343.07 (4) prior to the department’s issuance of a license authorizing the operation of “Class M” vehicles. The department may not require a person applying for authorization to operate “Class M” vehicles who holds an instruction permit under s. 343.07 (4) to hold it for a minimum period of time before administering a driving skills test. The driving skills of applicants for endorsements authorizing the operation of commercial motor vehicles equipped with air brakes, the transportation of passengers in commercial motor vehicles or the operation of school buses, as provided in s. 343.04 (2) (b), (bm), (d) or (e), shall also be tested by an actual demonstration of driving skills. The department may endorse an applicant’s commercial driver license for transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73, subject to s. 343.125, or for the operation of tank vehicles or vehicles towing double or triple trailers, as described in s. 343.04 (2) (a), (c) or (f), based on successful completion of a knowledge test. In administering the knowledge test, the department shall attempt to accommodate any special needs of the applicant. Except as may be required by the department for an “H” or “S” endorsement, the knowledge test is not intended to be a test for literacy or English language proficiency. This paragraph does not prohibit the department from requiring an applicant to correctly read and understand highway signs.

SECTION 14. 343.16 (1) (b) 3. (intro.) of the statutes is amended to read:

343.16 (1) (b) 3. (intro.) At least ~~annually~~ biennially, the department shall conduct an on-site inspection of the 3rd-party tester to determine compliance with the contract and with department and federal standards for testing applicants for commercial driver licenses and with department standards for testing applicants for school

bus endorsements and applicants for operators’ licenses to operate “Class D” vehicles. ~~At least annually, the~~ The department shall also evaluate testing given by the 3rd-party tester by one of the following means:

SECTION 15. 343.16 (1) (b) 3. c. of the statutes is created to read:

343.16 (1) (b) 3. c. The department shall score drivers along with the 3rd-party tester during skills tests to compare the scoring results.

SECTION 16. 343.16 (2) (e) of the statutes is amended to read:

343.16 (2) (e) *Farm service industry employee waiver.* To the extent permitted under applicable federal law or regulation, the department may waive any knowledge test and shall waive the commercial driver license driving skills test of a person applying for an “F” endorsement, except as provided under s. 343.16 (5) or (6) (a).

SECTION 17. 343.16 (6) (a) of the statutes is amended to read:

343.16 (6) (a) ~~Whenever~~ Except as provided in par. (am), whenever the secretary has good cause to believe that a licensed operator is incompetent or otherwise not qualified to be licensed, the secretary may, upon written notice of at least 5 days to the licensee, require the licensee to submit to an examination including all or part of the tests specified in sub. (1). Upon the conclusion of such examination the secretary shall take such action as is appropriate under this chapter, including cancellation of the license or permitting the licensee to retain the license subject to such restrictions as the secretary may order or without restrictions.

SECTION 18. 343.16 (6) (am) of the statutes is created to read:

343.16 (6) (am) If the secretary receives credible information that a person holding a commercial driver license committed fraud related to the issuance of the license, the secretary shall provide written notice to the person that the person is required to submit to an examination, including all or part of the tests required under sub. (1). A person receiving a notice under this paragraph shall, within 30 days of receiving notice, arrange to take the next available examination.

SECTION 19. 343.17 (3) (e) 1. of the statutes is renumbered 343.17 (3) (e) 1m.

SECTION 20. 343.17 (3) (e) 1e. of the statutes is created to read:

343.17 (3) (e) 1e. “E” restriction, which prohibits a person from operating commercial motor vehicles equipped with a manual transmission.

SECTION 21. 343.17 (3) (e) 2. of the statutes is amended to read:

343.17 (3) (e) 2. “L” restriction, which prohibits a person from operating commercial motor vehicles equipped with air brakes, ~~as required in s. 343.13 (2).~~

SECTION 22. 343.17 (3) (e) 3. of the statutes is created to read:

343.17 (3) (e) 3. “M” restriction, which prohibits a person from operating “Class A” passenger commercial motor vehicles.

SECTION 23. 343.17 (3) (e) 4. of the statutes is created to read:

343.17 (3) (e) 4. “N” restriction, which prohibits a person from operating “Class A” and “Class B” passenger commercial motor vehicles.

SECTION 24. 343.17 (3) (e) 5. of the statutes is created to read:

343.17 (3) (e) 5. “O” restriction, which prohibits a person from operating tractor-trailer commercial motor vehicles.

SECTION 25. 343.17 (3) (e) 6. of the statutes is created to read:

343.17 (3) (e) 6. “V” restriction, which restricts a person from operating commercial motor vehicles without a medical variance.

SECTION 26. 343.17 (3) (e) 7. of the statutes is created to read:

343.17 (3) (e) 7. “Z” restriction, which prohibits a person from operating commercial motor vehicles equipped with full air brakes.

SECTION 27. 343.20 (1) (c) of the statutes is amended to read:

343.20 (1) (c) The department may, by rule, require any person who is issued an operator’s license that is valid for a period of more than 2 years to demonstrate continuing qualifications to hold a license under this chapter at 2-year intervals. The rules may include, without limitation, requiring examination under s. 343.16 (6) (a) or requiring current medical certification under s. 343.16 (5). The department rules shall require cancellation or suspension of the license for noncompliance and shall permit surrender of the operator’s license under s. 343.265.

SECTION 28. 343.25 (5) of the statutes is amended to read:

343.25 (5) Whenever the secretary determines that a person has secured a license or endorsement, or attempted to secure a license or endorsement, by hiring or permitting another to appear in the person’s place to take an examination or otherwise gaining or attempting to gain a passing score on an examination by fraud or otherwise obtain a commercial license or endorsement by fraud; or

SECTION 29. 343.315 (2) (f) 9. of the statutes is created to read:

343.315 (2) (f) 9. Violating s. 346.89 (3) (a) or a local ordinance in conformity therewith or a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.89 (3) (a) or the law of another jurisdiction prohibiting driving a motor vehicle while composing or sending an electronic text message or elec-

tronic mail message, as those or substantially similar terms are used in that jurisdiction’s law.

SECTION 30. 343.315 (2) (f) 10. of the statutes is created to read:

343.315 (2) (f) 10. In this subdivision, “mobile telephone” has the meaning given in 49 CFR 390.5. Violating s. 346.89 (4) (b) or a local ordinance in conformity therewith or a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.89 (4) (b) or the law of another jurisdiction prohibiting driving a commercial motor vehicle, as defined in 49 CFR 390.5, while using a hand-held mobile telephone, as those or substantially similar terms are used in that jurisdiction’s law.

SECTION 31. 343.315 (2) (fm) of the statutes is amended to read:

343.315 (2) (fm) A person is disqualified for a period of 60 days from operating a commercial motor vehicle if the person is convicted of violating s. 343.14 (5) or 345.17 and the violation of s. 343.14 (5) or 345.17 relates to an application for a commercial driver license or if the person’s commercial driver license is cancelled by the secretary under s. 343.25 (1) ~~or (5)~~.

SECTION 32. 343.315 (2) (fp) of the statutes is created to read:

343.315 (2) (fp) A person is disqualified for a period of one year from operating a commercial motor vehicle if the person’s commercial driver license is canceled by the secretary under s. 343.25 (5).

SECTION 33. 346.89 (4) of the statutes is renumbered 346.89 (4) (a).

SECTION 34. 346.89 (4) (b) of the statutes is created to read:

346.89 (4) (b) 1. In this paragraph:

a. “Commercial motor vehicle” has the meaning given in 49 CFR 390.5.

b. “Drive” means the exercise of physical control over the speed and direction of a motor vehicle while it is in motion or is temporarily stationary because of traffic, a traffic control device, or other momentary delay.

c. “Mobile telephone” has the meaning given in 49 CFR 390.5.

2. Subject to sub. (3), except to report an emergency to law enforcement officials or other emergency service providers, no person may drive any commercial motor vehicle while using a hand-held mobile telephone in any the following manners:

a. Using at least one hand to hold a mobile telephone or any connected accessory to conduct a voice communication.

b. Dialing or answering a mobile telephone by pressing more than a single button.

c. Reaching for a mobile telephone in a manner that requires the driver to maneuver so that he or she is no longer in a seated driving position.

SECTION 35. Initial applicability.

(1) The treatment of section 343.07 (3) of the statutes first applies to a permit issued on the effective date of this subsection.

(2) The treatment of section 343.315 (2) (f) 9. and 10. of the statutes first applies to violations occurring on the effective date of this subsection.

(3) The treatment of section 343.315 (2) (fm) and (fp) first applies to cancellations occurring on the effective date of this subsection.

(4) The renumbering and amendment of section 343.065 (1) of the statutes, the amendment of section

343.14 (2) (im) 1m. b. of the statutes, and the creation of section 343.065 (1) (b) of the statutes first apply to applications for a commercial driver license received by the department of transportation on the effective date of this subsection.

SECTION 36m. Effective dates. This act takes effect on the first day of the 7th month beginning after publication, except as follows:

(1) The renumbering and amendment of section 343.065 (1) of the statutes, the amendment of section 343.14 (2) (im) 1m. b. of the statutes, and the creation of section 343.065 (1) (b) of the statutes and SECTION 35 (4) of this act take effect on the first day of the 4th month beginning after publication.