

## Chapter Trans 101

### DEMERIT POINT SYSTEM AND GRADUATED DRIVER LICENSE RESTRICTION EXTENSIONS

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**Note:** Chapter MVD 11 as it existed on September 30, 1972 was repealed, and a new chapter MVD 11 was created effective October 1, 1972; chapter MVD 11 as it existed on June 30, 1981 was renumbered to be chapter Trans 101 effective July 1, 1981.

**Trans 101.01 Purpose and definitions.** (1) The purpose of this chapter is to administratively interpret those portions of chs. 343 to 349, Stats., relating to establishing a traffic violation demerit point system and revocation and suspension of a person's operating privilege.

(2) The words and phrases defined in ss. 340.01 and 343.01, Stats., have the same meaning in this chapter.

**History:** Cr. Register, June, 1981, No. 306, eff. 7-1-81; r. and recr. (2), Register, December, 1990, No. 420, eff. 1-1-91.

**Trans 101.02 Point schedule.** Pursuant to s. 343.32 (2), Stats., the department has established a demerit point system to identify habitually reckless or negligent operators or those who have repeatedly violated traffic laws. The following scale lists violations according to the number of demerit points assessed, with higher point values being assessed for more severe offenses:

(1) SIX DEMERIT POINT VIOLATIONS. The department shall assess 6 demerit points for any of the following violations:

- (a) Failure to perform duty after accident under s. 346.67 or 346.68, Stats.
- (b) Fleeing or attempting to elude an officer.
- (e) Operating commercial vehicle with alcohol concentration of 0.04 or more but less than 0.1 and causing injury.
- (f) Operating while intoxicated and causing injury.
- (g) Operating while under influence of intoxicant or controlled substance, or with a prohibited alcohol concentration.
- (h) Racing on public highway or engaging in a contest of speed or endurance.
  - (i) Reckless driving.
  - (j) Speeding 20 miles per hour or more in excess of lawful or posted speed.
- (k) Failure to stop at a railroad crossing.

(2) FOUR DEMERIT POINT VIOLATIONS. The department shall assess 4 demerit points for any of the following violations:

- (a) Deviating from lane of traffic.
- (b) Driving on wrong side of highway.
- (c) Driving too fast for conditions.
- (d) Failure to have vehicle under control.
- (e) Failure by operator to stop for school bus when red lights are flashing.
- (f) Failure to yield right of way or failure to yield right of way to emergency vehicle.
- (g) Imprudent speed.
- (h) Inattentive driving.
- (i) Speeding more than 10 miles per hour but less than 20 miles per hour in excess of lawful or posted speed.
- (j) Unnecessary acceleration.

(3) THREE DEMERIT POINT VIOLATIONS. The department shall assess 3 demerit points for any of the following violations:

- (a) Violation of a restriction on a graduated driver license related to the time or route of travel or passengers permitted.
  - (c) Failure to dim lamps or lights.
  - (d) Failure to give appropriate signal.
  - (e) Failure to obey any official traffic control device.
- Note:** This includes arterial signs, one-way signs or traffic signs or signals. See s. 340.01 (38), Stats.
- (f) Following vehicle too closely.
  - (g) Illegal turn.
  - (h) Improper brakes.

(i) Improper or unlit or missing lamps or lights, including clearance lamps, spotlamps, head lamps, brake lamps, tail lamps and signal lamps, but not including use of cycle headlamps during daylight hours or registration plate lamps.

- (j) Operating with multiple licenses.
- (k) Operating without having obtained an operator's license, without a proper license endorsement, without proper license classification for the vehicle being operated, or with a license which has expired, and including the following:

- 1. Operating a commercial motor vehicle without having obtained a commercial driver license.
- 2. Operating a school bus without having obtained a school bus endorsement.
- 3. Operating a Type 1 motorcycle without a license authorizing the operation of class "M" vehicles.

- (L) Passing illegally.
- (m) Possession of intoxicating beverage while operating or being on duty time with respect to a commercial motor vehicle.
- (n) Speeding 10 miles per hour or less in excess of lawful or posted speed.
- (p) Violation of license restriction.
- (q) Operating after license is revoked or suspended.
- (r) Operating commercial motor vehicle while disqualified or out of service.

(4) TWO DEMERIT POINT VIOLATIONS. The department shall assess 2 demerit points for any of the following violations:

- (a) Defective speedometer.
- (b) Obstructed view or control, including illegally tinted windows.
- (c) Obstructing traffic, or driving excessively slowly.
- (d) Parking on highway in traffic lane.
- (e) All other moving traffic convictions except as provided in sub. (5).

(5) ZERO DEMERIT POINT VIOLATIONS. The department may not assess demerit points for any of the following violations:

- (a) Child safety restraint violation.
- (b) Failure to fasten seat belt.
- (c) Failure to report an accident under s. 346.69 or 346.70, Stats.

- (d) Failure to transfer certificate of title.
- (e) Failure to wear mandatory protective headgear while operating a Type 1 motorcycle.
- (f) Falsified accident report.
- (g) Falsified application for operator's license, identification card or motor vehicle title or registration.
- (gm) Immobilization device tampering.
- (h) Improper license plates.
- (i) Improper muffler.
- (im) Interlock device tampering.
- (j) Intoxicant in vehicle carrying underage person.
- (k) License not in operator's immediate possession.
- (L) Littering on highway.
- (m) No motorcycle headlamps during daylight hours or no registration plate lamps.
- (n) Open intoxicant in vehicle.
- (o) Operating a Type 1 motorcycle with handlebars that exceed the legal height limit.
- (p) Operating a Type 1 motorcycle with rear passenger pegs that are at an illegal height.
- (q) Operating a commercial motor vehicle or being on duty time with respect to a commercial motor vehicle while having any measured alcohol concentration above 0.0 but less than 0.04 or within 4 hours of having consumed or having been under the influence of an intoxicating beverage, regardless of its alcohol content.
- (r) Operating a commercial motor vehicle with an alcohol concentration of 0.04 or more but less than 0.1 and not causing injury.
- (s) Operating illegally with studded tires.
- (sm) Parking on a highway but off the roadway.
- (t) Permitting unauthorized person to operate.
- (u) Refusal to submit to breath or chemical test for intoxication.
- (v) Under age 21, operating motor vehicle with any measured alcohol concentration.
- (w) Unnecessary blowing or sounding of horn.
- (wm) Unnecessary noise or loud radio audible from a distance of 75 feet or more.
- (x) Unregistered vehicle.
- (y) Violation of size, weight or load restriction.

**(6)** The point schedule in this section also covers similar ordinance violations and similar violations of department administrative rules even though the language of the ordinance or rule may vary.

**(7)** When restriction, suspension, or revocation of operating privileges is ordered by a court under s. 343.30, Stats., the point value charged against the record of the offender shall be in strict accordance with the charge for which conviction is made as described in subs. (1) to (5), except as provided in sub. (8) (a).

**(8)** (a) The demerit points charged against the record of any person who holds an instruction permit or probationary license on the date of the conviction, or an unlicensed person who would be issued a probationary license or instruction permit if proper application were made and all other requirements for license were met, shall have the demerit point value shown for the convictions set forth in subs. (1) to (4) doubled on the second and all subsequent convictions, unless the conviction is for a violation of ch. 347, Stats.

**Note:** Commercial driver licenses are never issued on a probationary basis. s. 343.085 (2) (b), Stats.

(b) Any person whose operating privilege has been revoked or canceled while unlicensed or while licensed under a probationary license shall be issued a reinstated probationary license for the same period as an original probationary license.

**(9)** In determining the accumulated demerit points against an operator within 12 months, the department shall use the date each violation was committed as the basis for the determination.

**History:** Cr. Register, September, 1972, No. 201, eff. 10-1-72; am. (20), Register, April, 1977, No. 256, eff. 5-1-77; emerg. r. and recr. (19) (intro.), (a) and (b), renum. (19) (c) to be (19m), cr. (19) (c) and (26), eff. 7-1-80; r. and recr. (19) (intro.), (a) and (b), renum. (19) (c) to be (19m), cr. (19) (c) and (26), Register, November, 1980, No. 299, eff. 12-1-80; renum. from MVD 11.03 and renum. (1) to (26) to be (1) to (27) and am., cr. (15) (a) to (d), Register, June, 1981, No. 306, eff. 7-1-81; cr. (11a) and (22) (o), Register, April, 1982, No. 316, eff. 5-1-82; emerg. cr. (15) (e) and (f), eff. 5-1-82; cr. (15) (e) and (f), Register, November, 1982, No. 323, eff. 12-1-82; am. (20) and (26), Register, March, 1990, No. 411, eff. 4-1-90, r. and recr. (intro.) to (22), renum. (23) to (26) to be (6) to (9) and am. (7) and (8) (a), r. (27), Register, December, 1990, No. 420, eff. 1-1-91; reprinted to restore dropped copy in (2) (f), Register, June, 1991, No. 426; reprinted to correct printing errors, Register, October, 1991, No. 430; am. (3) (k), cr. (5) (gm), (im), (sm) and (wm), Register, March, 1994, No. 459, eff. 4-1-94; renum. (1) (c) to be (3) (g), renum. and am. (1) (d) to be (3) (r), Register, March, 1999, No. 519, eff. 4-1-99; am. (1) (g), (3) (e), (5) (intro.), (v) and (8) (a), r. and recr. (1) (k) and (3) (a), r. (3) (b) and (o), Register, August, 2000, No. 536, eff. 9-1-00.

**Trans 101.03 Warnings.** The department may notify any operator of the point value charged against the record when the record shows 6 or more points to have been accumulated in a 12-month period.

**History:** Cr. Register, September, 1972, No. 201, eff. 10-1-72; renum. from MVD 11.04 and am., Register, June, 1981, No. 306, eff. 7-1-81.

**Trans 101.04 Suspension or revocation of license.**

**(1)** The department shall suspend or revoke the operating privilege of any person whose driving record shows that 12 points in 12 months from the date of violation have been accumulated. Any person who has had the operating privilege suspended or revoked under ch. 343, except s. 343.30 (6) or 343.345, Stats., shall have the operating privilege revoked. In all other cases the operating privilege shall be suspended.

**(2)** The department shall suspend for 2 months the operating privilege of any person convicted of violating s. 343.16 (7) (b), Stats.

**(3)** Except as provided in sub. (3m) with respect to probationary driver licenses, the following demerit point accumulations, calculated from the date of violation, shall result in the following revocation or suspension periods:

| Demerit Points Accumulated in a 12-month Period | Length of Revocation or Suspension |
|---|------------------------------------|
| 12 to 16 points                                 | 2 months                           |
| 17 to 22 points                                 | 4 months                           |
| 23 to 30 points                                 | 6 months                           |
| More than 30 points                             | 1 year                             |

**(3m)** Notwithstanding subs. (1) and (3), the following demerit point accumulations, calculated from the date of violation, shall result in the following suspension or revocation periods, if the driver holds an instruction permit or a probationary driver license, or would be issued an instruction permit or probationary driver license upon proper application and meeting other requirements:

| Demerit Points Accumulated in a 12-month Period | Length of Revocation or Suspension |
|---|------------------------------------|
| 12 to 30 points                                 | 6 months                           |
| More than 30 points                             | 1 year                             |

**Note:** See s. 343.22 (2) (a) and (c), Stats.

**(4)** A departmental revocation or suspension under this chapter takes effect on the date of the suspension or revocation order, except that a revocation for a conviction in another jurisdiction for an offense which, if committed in this state, would have required revocation of the person's operating privilege under s. 343.32(1), Stats., takes effect on the date of the conviction.

**(5)** Suspensions under the provisions of s. 343.32 (1) (c) or (1s), Stats., shall be effective for 6 months.

(6) If a court orders suspension of a person's operating privilege under s. 343.30 (1), Stats., and the person is also subject to a demerit point suspension or revocation under s. 343.32, Stats., and this chapter, as a result of the same violation, the longer suspension or revocation period shall apply.

**History:** Cr. Register, September, 1972, No. 201, eff. 10-1-72; emerg. cr. (4) to (6), eff. 11-18-80; cr. (4) to (7), Register, March, 1981, No. 303, eff. 4-1-81; emerg. am. (2) and (3), eff. 5-7-81; renum. from MVD 11.05 and am. (1) to (3), Register, June, 1981, No. 306, eff. 7-1-81; am. (2) to (4), Register, March, 1990, No. 411, eff. 4-1-90, am. (1) to (3), r. and recr. (5), renum. (7) to be (7) (a) and am., cr. (7) (b), Register, December, 1990, No. 420, eff. 1-1-91; reprinted to correct printing errors, Register, October, 1991, No. 430; r. (1), renum. (2), (4) to (7) to be (1), (3) to (6) and am. (5), r. and recr. (3), cr. (4) (d), Register, March, 1994, No. 459, eff. 5-1-94; correction in (5) made under s. 13.93 (2m) (b) 7., Stats., Register, March, 1999, No. 519; am. (3) (intro.) and (5), cr. (3m), r. and recr. (4) and (6), Register, August, 2000, No. 536, eff. 9-1-00; correction in (5) made under s. 13.93 (2m) (b) 7., Stats.; reprinted to correct printing error in (6), Register January 2002 No. 553.

**Trans 101.05 Determination of point value at reinstatement.** (1) The department, upon issuing a reinstated operator's license or upon return of a license which has been suspended, shall reduce the accumulated point value to 6 points. If at the time of reinstatement or suspension termination, the demerit point value in the immediately preceding 12 month period is less than 6, the lesser point value shall be carried forward in the record. Revocations and suspensions under chs. 48, 344, 345, 767, 800, 938 and 961, Stats., and ss. 343.30 (1q) (d), 343.30 (6), 343.305 (10), 343.32 (1m) (b) and 343.345, Stats., do not qualify for point reduction under this section.

(2) Demerit point reductions under this section shall apply only to demerit points based on convictions dated before the reinstatement or suspension termination date. Demerit points for convictions dated on or after the date of reinstatement or suspension termination date shall be added to the demerit point value on the date of reinstatement.

**History:** Cr. Register, September, 1972, No. 201, eff. 10-1-72; renum. from MVD 11.06 and am. (1) and (2), cr. (3), Register, June, 1981, No. 306, eff. 7-1-81; emerg. am. (1) and (2), eff. 5-1-82; am. (1) and (2), Register, November, 1982, No. 323, eff. 12-1-82; am. (1) and (2), Register, March, 1990, No. 411, eff. 4-1-90; r. and recr. (1), r. (2), renum. (3) to be (2), Register, December, 1990, No. 420, eff. 1-1-91; reprinted to correct printing errors, Register, October, 1991, No. 430; am. (1), Register, March, 1994, No. 459, eff. 4-1-94; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, March, 1999, No. 519.

**Trans 101.07 Reduction of point value for attendance at driver improvement counseling, traffic safety school or defensive driving courses.** (1) In accordance with the authority in s. 343.32 (5), Stats., and the requirements of this section, a person's point record shall be reduced by 3 points or the number of points accumulated up to 3, upon satisfactory completion of one of the following courses approved, in advance, by the department:

- A course of instruction at a traffic safety school;
- A course of instruction in defensive driving or similar course; or
- Driver improvement counseling conducted under the program authorized by s. 110.08, Stats.
- A motorcycle rider course offered under s. Trans 129.03 provided that the person has not had a prior point reduction resulting from attending a motorcycle rider course.

**Note:** See ch. Trans 106 concerning authorization, approval and administration of traffic safety schools and defensive driving courses.

(2) The certified instructor of the traffic safety, motorcycle rider or defensive driving course or the driver improvement analyst of the driver improvement counseling program shall furnish to the department a certification of completion of an approved course. A separate certification shall be provided to the department for each individual in the course. The certification shall be on the form prescribed by the department and must be made within 30 days of satisfactory completion of the course in order to qualify for point reduction. A copy of the completed certification form shall be furnished to the student, another copy sent to the court or assessment agency, if the student was assigned to the school, and one copy shall be retained by the school. The depart-

ment may approve the use of a reproduction of this form, at the request of a school, including computerized versions.

**Note:** The multipart form MV-3304, course completion certificate, is available by mail upon request. Each form produces an original and 3 copies. Send requests to DOT Document Sales, P.O. Box 7713, Madison, Wisconsin 53707-7713.

(3) Each person is limited to only one point reduction under this section in a 5-year period.

(5) In those instances where the person attends an approved course and is otherwise entitled to point reduction and the person's record has less than 3 points, the person's record will be reduced by the record point value. No credit will be applied toward future point assessments nor shall the opportunity be given to have the point record reduced again within a 5-year period.

(6) When a person has accumulated 6 to 11 points in 12 months, the department may notify a person by first class mail to the last known address that there is an opportunity to attend a course on a voluntary basis, advising the person may seek the assistance of the department for assignment to an approved course if enrollment is desired.

(7) Persons who have accumulated less than the demerit points required for suspension or revocation on their record under the point system may be processed as provided by department rule for counseling and re-examination of drivers. Upon receipt of certification of satisfactory completion of one of the department approved courses, such person may be given a point reduction as provided in this chapter if otherwise entitled to it.

(8) No reduction in points under this section shall be permitted when a person accumulates sufficient demerit points to require suspension or revocation under this chapter.

(9) Demerit point reductions under this section shall apply only to demerit points based on convictions dated before the date of course completion. Demerit point reductions under this section resulting from attending a motorcycle rider course shall apply only to demerit points from convictions for offenses which were committed by the driver while operating a class "M" vehicle. Demerit points for convictions on or after the date of course completion shall be added to any current demerit point value.

(10) The person seeking the point reduction under this section shall be responsible for any and all fees charged for the course.

**History:** Cr. Register, September, 1972, No. 201, eff. 10-1-72; renum. from MVD 11.08 and am. (1) to (9), cr. (10), Register, June, 1981, No. 306, eff. 7-1-81; am. (1), (2) and (8), cr. (11), Register, March, 1990, No. 411, eff. 4-1-90; r. (6), renum. (7) to (11) to be (6) to (10) and am. (8), Register, December, 1990, No. 420, eff. 1-1-91; reprinted to correct error in (8), Register, October, 1991, No. 430; cr. (1) (d), am. (2) and (9), r. (4), Register, March, 1994, No. 459, eff. 4-1-94.

**Trans 101.10 Graduated driver license eligibility and restriction extensions.** (1) The department may not issue a license to a person under s. 343.085(1) (b), Stats., if the person has committed any offense for which demerit points are assessed under this chapter, or any offense under the law of another jurisdiction for which demerit points would be assessed if the offense were committed in this state, within the preceding 6 months, except:

- Any violation of ch. 347, Stats., resulting in the assignment of 2 or fewer demerit points under this chapter, or a similar violation under law of another jurisdiction, except child safety restraint, seat belt and defective speedometer violations.
- Illegal riding.

(2) (a) Except as provided in par. (b), the department shall extend graduated driver license restrictions required under s. 343.085 (2m) (a), Stats., if the person has committed any offense for which demerit points are assessed under this chapter or any of the following offenses:

- Operation of a motor vehicle by a person who has not attained the legal drinking age while having an alcohol concentration greater than 0.0 and less than 0.1.
- Refusal of chemical testing under the implied consent law.

3. Operation of a commercial motor vehicle with an alcohol concentration greater than 0.04 and less than 0.10.

4. Operation of a commercial motor vehicle with an alcohol concentration above 0.0, within 4 hours of having consumed or having been under the influence of an intoxicating beverage, or while possessing an alcoholic beverage.

5. Failure to notify the owner of any property on or adjacent to a highway that is damaged in an accident.

6. Any offense committed in another jurisdiction for which demerit points would be assessed if the offense were committed in this state.

(b) Notwithstanding par. (a), the department may not extend the graduated driver license restrictions required under s. 343.085(2m) (a), Stats., solely for committing any of the following offenses:

1. Any violation of ch. 347, Stats., resulting in the assignment of 2 or fewer demerit points under this chapter, except child safety restraint, seat belt and defective speedometer violations, or a similar violation under the law of another jurisdiction.

2. Illegal riding.

3. Operating with multiple licenses.

4. Operating without having obtained an operator's license, without a proper license endorsement, without proper license classification for the vehicle being operated, or with a license which has expired, and including the following:

a. Operating a commercial motor vehicle without having obtained a commercial driver license.

b. Operating a school bus without having obtained a school bus endorsement.

c. Operating a Type 1 motorcycle without a license authorizing the operation of class "M" vehicles.

**Note:** The Division of Motor Vehicles' charge codes for these offenses are OWL—"Operating Without a License," s. 343.05(3), Stats., and CUL—"Commercial Unlawful License," s. 343.05(2), Stats.

5. Operating while suspended or revoked.

6. Operating while disqualified.

(c) Only one extension of graduated driver license restrictions may result from any one incident or occurrence.

**History:** Cr. Register, August, 2000, No. 536, eff. 9-1-00.