

## 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**Note:** Chapter MVD 11 as it existed on September 30, 1972 was repealed, and a new chapter MVD 11 was created effective October 1, 1972; chapter MVD 11 as it existed on June 30, 1981 was renumbered to be chapter Trans 101 effective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 to administratively interpret provisions of the statutes related to the 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, except as provided in sub. (3).

(3) In this chapter:

(a) "Federal traffic law" means any federal law that is in strict conformity with a state traffic law.

**Note:** s. 343.32 (2) (a), Stats.

(b) "Point case" or "demerit point case" means a suspension of operating privileges imposed upon an individual under s. 343.32 (2), Stats., and this chapter, as the result of the accumulation of demerit points. A conviction shall be considered part of a point case if the demerit points assessed for the conviction are used as part of the total in determining whether to suspend a person's operating privilege for accumulation of demerit points.

(c) "Released," when used with reference to a point case, means that the department has vacated a demerit point suspension affecting a driver due to the appeal, vacation, reversal, or amendment of a conviction that results in the driver not being subject to a suspension for accumulation of demerit points.

(d) "State traffic law" means any law under ch. 194, chs. 340 to 348 and ch. 351, Stats., in which the movement or operation of a motor vehicle is an element of the offense.

(e) "Tribal traffic law" means a law enacted by a federally-recognized American Indian tribe or band in this state that strictly conforms to a provision in chs. 341 to 348, Stats.

**Note:** s. 343.32 (2) (a), Stats.

**History:** Cr. Register, June, 1981, No. 306, eff. 7-1-81; r. and recr. (2), Register, December, 1990, No. 420, eff. 1-1-91; CR 07-081: am., cr. (3) Register June 2008 No. 630, eff. 7-1-08.

**Trans 101.02 Point schedule.** Pursuant to s. 343.32 (2), Stats., the department has established this demerit point system to identify habitually reckless or negligent operators or those who have repeatedly violated traffic laws. Upon receipt of a notice of conviction for an offense under the state traffic laws, a local ordinance, a tribal or federal traffic law, a violation of s. UWS 18.04, or a traffic regulation, the department shall assess demerit points against the driver record of the person convicted of the offense in the manner and to the extent required by this section and s. 343.32, Stats. 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, or knowingly resisting an officer by failing to stop a vehicle.

(c) Operating commercial vehicle with alcohol concentration of 0.04 or more but less than 0.1 and causing injury.

(d) Operating while intoxicated and causing injury.

(e) Operating while under influence of intoxicant or controlled substance, or with a prohibited alcohol concentration.

(f) Racing on public highway or engaging in a contest of speed or endurance.

(g) Reckless driving.

(h) Speeding 20 miles per hour or more in excess of lawful or posted speed.

(i) 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.

**Note:** Unnecessary acceleration is a valid traffic regulation. *City of Janesville v. Garthwaite*, 83 Wis. 2d 866 (1978).

(k) Under age 21, operating motor vehicle with any measured alcohol concentration.

(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.

(b) Failure to dim lamps or lights.

(c) Failure to give appropriate signal.

(d) 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.

(e) Following vehicle too closely.

(f) Illegal turn.

(g) Improper brakes.

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

(i) 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 slow.

(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.

(mn) Improper, unlit or missing 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.

(t) Permitting unauthorized person to operate.

(u) Refusal to submit to breath or chemical test for intoxication.

(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) SIMILAR OFFENSES.** The point schedule in this section covers violations of state traffic laws, local ordinances, tribal traffic laws, federal traffic laws, traffic regulations, s. UWS 18.04, and department administrative rules which are similar to the violations described in subs. (1) to (5), even if the language of the law, ordinance, regulation or rule may vary.

**(7) PROBATIONARY LICENSES.** (a) Any person who holds an instruction permit or probationary license on the date of a 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 be assessed double the demerit point value shown for convictions set forth in subs. (1) to (4) if the record indicates that the person has been previously convicted of an offense for which demerit points were assessed under s. 343.32, Stats. This paragraph does not apply to a conviction for violation of any offense under ch. 347, Stats.

**Note:** Commercial driver licenses are never issued on a probationary basis. S. 343.085 (2) (b), Stats. Chapter 347, Stats., deals with vehicle equipment requirements. DMV is required to double demerit points for most offenses and is prohibited from increasing points assessed to a driver for a vehicle equipment violation by s. 343.32 (2) (bc), 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.

**(8) GENERAL RULES FOR POINT CASES.** In determining whether a person appears by the records of the department to be a habitually reckless or negligent operator of a motor vehicle or to have repeatedly violated any of the state traffic laws and whether suspension of operating privileges pursuant to s. 343.32 (2), Stats., for the accumulation of demerit points is appropriate, the department shall conform to the following rules, which are set forth in their order of priority, and subject to the exceptions set forth in sub. (9), for purposes of initially determining whether to suspend a driver's operating privilege:

(a) *Violations used once.* Demerit points may be used in only one point case, except as provided in pars. (c), (e) and (f), and sub. (9) (c).

(b) *Revocations always imposed.* Revocations shall be imposed by the department whenever ordered by a court or required by statute without regard to potential demerit point ramifications.

(c) *Use of conviction resulting in withdrawal action in point case.* Demerit points from an offense that resulted in suspension or revocation of a person's operating privilege under s. 343.30 or 343.31, Stats., may not be used in a point case, except as provided in this paragraph or par. (e) or (f). Convictions that result only in disqualification under s. 343.315, Stats., or federal law may be used in a point case. Convictions that result in suspension of a person's operating privilege due to failure to pay the underlying fine or forfeiture resulting from the conviction or that result in revocation of the person's operating privilege as a habitual traffic offender under ch. 351, Stats., may be used in a point case.

(d) *Amendment of point case based on new conviction.* After the department has issued a demerit point suspension order, the department may amend the suspension order upon receipt of reports of conviction for additional offenses that qualify for use in a point case under pars. (a) to (c). The point case may be amended only if the suspension period did not expire prior to the date of conviction for the new offense. The amendment shall incorporate each violation that occurred within one year of all violations that

formed the basis of the original suspension order and that remain part of the case. In the event 2 or more violations occurred within one year of all other point case violations, but not within one year of each other, only the violations occurring within one year of the latest violation that was used in the existing point case shall be used as the basis for the amendment.

(e) *Court-ordered suspensions.* If the department receives notice of conviction and a court-ordered suspension under s. 343.30, Stats., and the person is subject to a demerit point suspension, the department shall act as follows:

1. If the person is not subject to an existing point case and the person's operating privilege would be suspended for a longer period under a point case that includes the conviction as one of the bases for the case, DMV shall suspend the person's operating privilege for that longer period in accordance with s. Trans 101.04 (3) or (3m) and need not note the court-ordered suspension on a public abstract of the person's driver record nor send notice to the driver of the court-ordered suspension.

2. If the person is not subject to an existing point case and the person would be subject to a suspension under s. Trans 101.04 (3) or (3m) that is equal to, or less than, the court order, then DMV shall suspend the driver's operating privilege in accordance with the court order, notify the driver of the court-ordered suspension, and show the suspension on a public abstract of the driver record. Demerit points from that conviction may not be used in a point case in accordance with par. (c).

3. If the person is subject to an existing point case and the date of the new conviction is on or before the date of the latest conviction used in the existing point case, DMV shall make the same evaluations described in subds. 1. and 2. and determine whether the court-ordered suspension or the demerit point suspension would have been imposed had the conviction report been made to DOT prior to the suspension order for the existing point case, amend the existing point case in accordance with subd. 1. or notify the driver of the court-ordered suspension in accordance with subd. 2 as required. If the court-ordered suspension is imposed, no change will be made to the existing point case.

4. If the person is subject to an existing point case and the date of the new conviction is later than the date of the latest conviction used in the point case, DMV shall impose the court-ordered suspension and may not amend the point case to include the new conviction.

(f) *Serious traffic offenses committed by occupational license holders.* Serious traffic offenses, as enumerated in s. 343.31 (2u), Stats., committed by a person who holds an occupational license may be used in a points case regardless of any suspension of the person's occupational license resulting from the conviction.

**Note:** A person whose occupational license is canceled will be shown in a suspended or revoked status as though no occupational license had been issued.

**(9) RULES FOR POINT CASES INVOLVING CHANGED CONVICTIONS.**

(a) *Scope.* This subsection addresses the effect of a conviction change on a point case.

(b) *Definition.* For purposes of this subsection, a "conviction change" means a conviction that was reported to the department on a previous occasion is reopened, vacated, appealed or amended.

(c) *Amended charges and errors.* Upon receipt of a report that a conviction or revocation or suspension order noted on a driver record has been changed or was reported to the department in error, the department shall note the change or correct the error on the driver record and recalculate any point suspension using the points assessed against the driver record under subs. (1) to (6), except as provided in pars. (d) to (f). If, upon recalculation, the department determines that the release or amendment of the point case is appropriate, the department shall release or amend the point case. The department shall provide notice to the person of any amendment in the form of an amended demerit point suspension order.

(d) *Convictions considered unused if point case is released.* If a point case is released because of a conviction change or notice that a conviction or revocation or suspension order was reported in error before the suspension period for the point case is complete, all convictions that formed the basis for the released point case shall be considered not to have been used in a point case for purposes of sub. (8) (a). Otherwise, the convictions shall be considered to have been used in a point case.

(e) *Released withdrawal due to amended charge.* If a court reopens a conviction and amends the charge for which the person was convicted, and as a result of that amendment a suspension or revocation order issued under s. 343.30 or 343.31, Stats., is released, demerit points for that conviction may be used in a point case unless the suspension or revocation initially imposed under s. 343.30 or 343.31, Stats., has already been served in its entirety or at least 2 months of the suspension or revocation has been served.

(f) *Released withdrawal without amended charge.* If a court amends a suspension or revocation order, but does not vacate or amend the conviction itself, and the person's operating privilege has been suspended or revoked for the entire period that was earlier ordered by the court or was suspended for 2 months or longer as a result of that earlier order, demerit points resulting from the conviction may not be used in a point case. Otherwise, the demerit points from the conviction may be used in a point case in the same manner as for a newly reported conviction and no credit for time served shall be granted for time served under the earlier court-ordered suspension or revocation when determining the length of the point suspension.

(g) *Released demerit point case violations reused.* In any case where a changed conviction or notice that a conviction was reported to the department in error results in the department releasing a point case and the affected driver accumulates sufficient demerit points to warrant suspension for accumulation of demerit points from a combination of offenses that were part of the released point case and other convictions, the department shall suspend the driver's operating privilege for accumulation of demerit points. In such a case, the department shall reduce the length of time to be suspended on the second point case by the amount of time served on the released point case if one-half or more of the convictions used in the released point case are used in the second point case. If fewer than one-half of the convictions used in the released point case are used in the second point case, the length of suspension shall be determined according to s. Trans 101.04 (3) or (3m) without regard to the released point case.

**Note:** This "credit for time served" applies only between demerit point cases. Time served for other suspensions or revocations may not be credited to a demerit point case. The Department counts the number of convictions, not points attributable to them, in deciding whether to grant this credit.

**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) (q), 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; CR 07-081: am. (intro.), (1) (b), (3) (i), (4) (c), (5) (m), (6), cr. (5) (mn), (8), renum. (5) (v) to be (2) (k), r. (7), renum. (8) to be (7) and am. (title) and (a), r. and recr. (9) Register June 2008 No. 630, eff. 7-1-08; correction in (8) (a) made under s. 13.92 (4) (b) 7., Stats., Register June 2008 No. 630; **CR 10-040: r. (4) (d), am. (5) (sm), (8) (a) and (c), cr. (8) (f) Register September 2010 No. 657, eff. 10-1-10.**

**Trans 101.03 Warnings.** The department may notify any operator of the points charged against the person's driver record when the record shows the person has accumulated 6 or more points in a 12-month period.



**Note:** Under Graduated Driver Licensing, few drivers receive warning letters before being suspended for demerit points. This is because ch. 343, Stats., has reinstated point doubling. A probationary driver with any prior violation on his or her record who is convicted of a 6-point violation will be assessed 12 points for that offense and be immediately suspended. Similarly, a driver who accumulates two 4-point offenses will be summarily suspended without warning. The first 4-point ticket will not trigger a warning under this rule. The second 4-point ticket will result in an 8-point assessment after doubling, resulting in a total of 12 demerit points and a suspension.

**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; CR 07-081: am. Register June 2008 No. 630, eff. 7-1-08.

**Trans 101.04 Suspension of license for accumulation of demerit points. (1)** The department shall suspend the operating privilege of any person whose driver record shows the accumulation of 12 points for violations committed within any 12-month period.

**Note:** The date offenses were committed is used by the Department to determine point cases. Violation dates are inviolate and may not be changed by a court to subvert the intent of these rules or other statutory requirements. *State v. DeBruin*, 140 Wis. 2d 631 (Ct. App. 1987); *State v. Walczak*, 157 Wis. 2d 661 (1990).

**(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 suspension periods:

Demerit Points Accumulated in a 12-month Period	Length of 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 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 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 suspension order issued by the department under this chapter takes effect on the date of the suspension order.

**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; CR 07-081: (am) (title), (1), (3) and (3m), r. (2), (5) and (6), r. and recr. (4) Register June 2008 No. 630, eff. 7-1-08.

**Trans 101.06 Revocation and suspension of operating privileges. (1)** This section is intended to address operating privilege suspension and revocation matters not addressed elsewhere in statute or administrative rules.

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

**Note:** Section 343.16 (7) (b), Stats., involves persons taking DMV examinations on behalf of others.

**(3)** Revocations under s. 343.32 (1) (c), Stats., and suspensions under s. 343.32 (1s), Stats., shall be effective for 6 months.

**Note:** Section 343.32 (1) (c), Stats., revocations result from convictions in another jurisdiction which, if committed in Wisconsin, would have resulted in revocation of the person's operating privilege. Section 343.32 (1s), Stats., violations involve altering, unlawful, or fraudulent use of a license or loaning a license.

**(4)** Except for revocations imposed under ch. 351, Stats., a revocation or suspension imposed by the department as the result of a conviction in another jurisdiction shall be imposed and be effective on the date of conviction in that other jurisdiction.

**History:** CR 07-081: cr. Register June 2008 No. 630, eff. 7-1-08.

**Trans 101.07 Reduction of point value for attendance at driver improvement counseling, traffic safety school or defensive driving courses. (1)** THREE DEMERIT POINT REDUCTION FOR COMPLETION OF QUALIFIED CLASS. In accordance with the authority in s. 343.32 (5), Stats., and the requirements of this section, the points assessed to a person's driver record shall be reduced by 3 points or by the number of points accumulated up to 3, upon application for a demerit point reduction and satisfactory completion of any of the following:

(a) A department-approved course of instruction at a traffic safety school.

(b) A department-approved course of instruction in defensive driving or similar course.

(c) Driver improvement counseling conducted under the program authorized by s. 110.08, Stats.

(d) 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) CERTIFICATION OF COURSE COMPLETION.** The instructor or counselor who conducts a course or counseling program under sub. (1) (a) to (d) shall file a certification of course completion with the department. 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 either assigned the student to the school, and one copy shall be retained by the school. The department may approve the use of a reproduction of this form, at the request of a school, including computerized versions. The certification shall be considered proof of course completion and may include an indication of whether the student is requesting a demerit point reduction under this section.

**(3) ONE REDUCTION MAXIMUM IN ANY 3-YEAR PERIOD.** Each person may seek only one point reduction under this section in a 3-year period. A point reduction shall be considered to have been sought under this subsection once the department has posted the course completion to the person's driver record, regardless of whether the driver's demerit point total is actually reduced. When appropriate, the department will apply the point reduction in a manner that permits the department to release a point suspension already in effect, prevents a suspension that would otherwise be imposed under this chapter from taking effect, or reduces points that may have accumulated on the person's driver record prior to the date of course completion due to violations that occurred before the date of course completion.

**Note:** For example, if a driver who is suspended with 13 points completes a course, the driver's point reduction shall be applied to reduce his point total to 10 points and the case will be released. (Potentially making the driver eligible for reinstatement if he/she is otherwise eligible for licensing). Similarly, a driver who has accumulated 10 points and attends traffic safety school would receive the 3-point reduction to seven points. If he then received a 4-point assessment for a violation, his point total will be 11 points and he will not be subject to suspension. If a driver has 2 or fewer demerit points on his record before attending driver school and accumulates an additional 12 demerit points after course completion, the Department will apply the demerit point reduction only to reduce the 2-point total the driver had before attending the school. [See subs. (1) (intro.) and (5)] Thus, upon using the reduction, this driver's demerit point total would be 12 points and the driver would be subject to a demerit point suspension.

**(5) DRIVER RECORDS WITH FEWER THAN THREE ASSESSED DEMERIT POINTS.** In those instances where the person successfully completes an approved course and is otherwise entitled to point reduction and the person's record has less than 3 points, the per-

son's record will be reduced by the number of points on the record. No credit will be applied toward future point assessments nor shall the opportunity be given to have the point total reduced again within a 3-year period.

**(6) NOTICE REGARDING POINT REDUCTION.** The department may notify individuals of the opportunity for point reduction under this section.

**(7) CREDIT APPLIES AS OF THE DATE OF COURSE COMPLETION.** Any demerit point credit granted under this section shall be applied as of the date the instructor certifies the student successfully completed the course.

**(8) POINT CASE RELEASE RESULTING FROM POINT REDUCTION.** The department shall release a point case suspension of a driver who was suspended for demerit points if application of a point reduction under this section results in the total assessed demerit points on the person's driver record being less than 12 demerit points.

**(9) REDUCTION APPLIES ONLY TO POINT ASSESSMENTS BASED ON PRIOR VIOLATIONS.** Demerit point reductions under this section shall apply only to demerit points assessed as a result of convictions for violations that occurred on or 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 on or before the date of the course completion. Demerit points for violations occurring after the date of course completion shall be added to any current demerit point value and may not be reduced by a credit granted under this section as a result of attending that course.

**Note:** A person who commits violations after course completion may be able to retake the course or take a different course for point reduction, provided the person does not seek more than one reduction in a 3-year period.

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

**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; CR 07-081: am. (1) (intro.), (a) and (b), (2), (3), (5), (9) and (10), r. and recr. (6) to (8) Register June 2008 No. 630, eff. 7-1-08.

**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:

(a) 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.

(b) Illegal riding of a moped or motorcycle.

**(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:

1. 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.

2. 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.

7. Child safety restraint, seat belt and defective speedometer violations.

(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 of a moped or motorcycle.

**Note:** These offenses are specified in ss. 346.595 and 347.487, Stats.

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.

7. Unnecessary acceleration.

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

**Note:** Unnecessary acceleration is not a violation of ch. 110, 194, 341 to 349, or 351, Stats., but is an ordinance violation. Because s. 343.085 (2) (b) 1. a., Stats., provides that GDL restrictions can only be extended for "moving violations" and ordinance violations for ordinances not conforming to chs. 110, 194, 341 to 349, or 351, Stats., are not "moving violations," as that term is defined in s. 343.01 (1) (cg), Stats., GDL restrictions cannot be extended for unnecessary acceleration or squealing tire violations.

**History:** Cr. Register, August, 2000, No. 536, eff. 9-1-00; CR 07-081: cr. (2) (a) 7. Register June 2008 No. 630, eff. 7-1-08; **CR 10-040: am. (1) (b) and (2) (b) 2., cr. (2) (b) 7. Register September 2010 No. 657, eff. 10-1-10.**