

The Wisconsin Department of Transportation adopts an order to repeal ch. TRANS 302, Wisconsin Administrative Code, relating to vehicle marking, and affecting small businesses

ORDER ADOPTING RULE

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: s. 194.09, Stats.

STATUTES INTERPRETED: s. 194.09, Stats.

Plain Language Analysis: Wisconsin statutes require in s.194.09 that each motor vehicle operating in Wisconsin as a common motor carrier, as a contract carrier or as a private motor carrier, be clearly marked to identify that the motor carrier meets the regulations identified in ch. 194. Chapter 194 sets standards for motor carriers to ensure safe, competitive and efficient transportation services and includes regulations for licensing, permitting, certifications, inspections, penalties for violations of traffic laws, restrictions, appeal processes, insurance and taxation.

For the purposes of both statutory authority and administrative rule authority, the types of motor carriers are defined in ch. 194 as follows:

1. "Common motor carrier" means any person who can be hired to operate a motor carrier for the transport of persons and property. The focus of common carriers is to transport people over regular routes or routes with fixed endpoints. The transportation of property in conjunction with the transport of passengers is a secondary activity.
2. "Contract motor carrier" means any person who can be hired to operate a motor carrier to transport property over a regular or irregular route.
3. "Private motor carrier" means a person who operates her/his own motor carrier to transport property over a regular or irregular route.

Ch. Trans 302, Vehicle Marking, under the authority of Chapter 194, provides out-dated regulations for marking intrastate motor carriers operating in Wisconsin, including for-hire motor carriers and private vehicles having a gross vehicle weight of more than 12,000 pounds. However, regulations for operating motor carriers are found also in two other DOT administrative rules, Trans 325, Motor Carrier Safety Regulations for intrastate motor carriers, and Trans 327, Motor Carrier Safety for interstate motor

carriers. Trans 325 and Trans 327 have adopted federal regulations identified in Title 49 CFR Part 390.21 for marking commercial motor carriers. The adoption of these marking regulations by Trans 325 and Trans 327 makes Trans 302 inconsistent with 49 CFR Part 390.21 and thus confusing for the motor carrier industry.

To eliminate outdated information and information inconsistent with adopted federal guidelines, the DOT proposes that ch. Trans 302 be repealed.

Summary of, and Preliminary Comparison with, Existing or Proposed Federal Regulation: Federal motor carrier regulation 49 CFR Part 390.21 requires motor carriers to be marked to display:

1. The legal name or single trade name of the self-propelled motor carrier as listed on the motor carrier identification report (Form MCS 150) and submitted in accordance with federal regulations.

2. The USDOT motor carrier identification number.

3. The name of the operator of the motor carrier if different from the motor carrier owner by using the term “operated by”.

4. The ICCMC number where applicable.

5. Required identification in the prescribed format, color, and lettering size.

6. Required identification prescribed for rented motor vehicles.

Chapter Trans 302 requires intrastate motor carriers to be marked to display:

1. The legal name of the carrier.

2. The city and state of the motor carrier’s headquarters.

3. Any applicable federal transportation authority number.

4. The empty weight of the power unit.

5. Identification in the prescribed format, color, and lettering size.

6. In accordance with 43 CFR Part 390.21 as an alternative to meeting the regulations identified in Trans 302.

The intent of repealing ch. Trans 302 is to keep Wisconsin laws and motor carrier administrative rules compliant with existing federal regulations. Specifically, federal regulations regarding motor carrier marking, 49 CFR Part 390.21, have been adopted in ch. Trans 325 for intrastate motor carriers and ch. Trans 327 for interstate motor carriers.

Comparison with Rules in Adjacent States:

Michigan: Currently drafting legislation to adopt federal regulations except requirement for display of the USDOT number for intrastate motor carriers.

Minnesota: Adopted federal regulations in statute (221.031 subchapter 6).

Illinois: Has not adopted the federal regulations for intrastate motor carriers.

Iowa: Adopted federal regulations.

Summary of Factual Data and Analytical Methodologies Used and How the Related Findings Support the Regulatory Approach Chosen: Ch. Trans 302 was created in 1982 to provide a uniform means for identifying the owner or operator subject to ch. 194, Stats., and private vehicles having a gross vehicle weight of more than 12,000 pounds. Since 1982, 49 CFR Part 390.21 has been adopted by chs. Trans 325 and Trans 327 for motor carriers engaged in both interstate and intrastate commerce.

Effect on Small Business and, If Applicable, Any Analysis and Supporting Documentation Used to Determine Effect on Small Businesses: Small motor carrier businesses based in Wisconsin will benefit from the repeal of ch. Trans 302 through the elimination of inconsistencies related to vehicle marking. The small businesses that provide intrastate motor carrier services will have only one source of regulations, thus making their efforts to comply easier. Small businesses that provide both intrastate and interstate motor carrier services will be able to simultaneously comply with both Wisconsin and federal regulations thus making their efforts easier.

Enforcement of the rule will be performed as part of routine motor carrier enforcement in Wisconsin. The repeal of ch. Trans 302 will be made known to motor carriers through routine dialogue with industry representatives, contact with individual motor carrier services and in routine State Patrol documents. Since the result of the repeal of ch. Trans 302 will simplify marking regulations, small businesses motor carriers will generally be in compliance by simply following federal regulations.

Fiscal Effect and Anticipated Costs Incurred by Private Sector: The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district, sewerage district, or federally-recognized tribes or bands. The Department

estimates that there will be no fiscal impact on state revenues or liabilities. The private sector of the motor carrier industry will benefit by having a single set of regulations for vehicle marking, thus saving time and cost on obtaining applicable regulations and painting only minimal information on the vehicles.

Copies of Rule. Copies of this rule may be obtained without cost by writing to Lt. Charles Teasdale, Division of State Patrol, Room 551, P. O. Box 7912, Madison, Wisconsin 53707-7912, or by calling (608) 267-0305.

TEXT OF RULE

SECTION 1. Chapter Trans 302 is repealed.

(END OF RULE TEXT)

Effective Date. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Signed at Madison, Wisconsin, this ____ day of February, 2005.

FRANK J. BUSALACCHI
Secretary
Wisconsin Department of Transportation