

Clearinghouse Rule 19-058

**STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION**

PETITION AND ORDER TO REPEAL UNAUTHORIZED RULES

The Department of Transportation hereby petitions the Joint Committee for Review of Administrative Rules to repeal rules the department has determined to be unauthorized, using the process under s. 227.26 (4), Stats.

PROPOSED ORDER

The Department of Transportation proposes an order to repeal ss. Trans 128.05 (5) (b) and 128.15, relating to the Traffic Violation and Registration Program.

ANALYSIS

Statutes interpreted: Sections 85.13, 341.08 (4m), 341.10 (7) and (7M), 341.64, 345.17, 345.28 and 345.47 (1) (d), Stats.

Statute authority: Sections 85.13, 227.11, 345.28 and 345.47 (1) (d), Stats.

Explanation of the agency's authority: Trans 128.05 (5) (b): There is no statutory authority for the Department of Transportation (Department) to require only 50 percent payment of forfeiture or storage charges for leased or rented vehicles.

Related statute or rule: Trans 128.05 (5) (b) and s. 345.47 (1) (d), Stats.

Plain language analysis: Trans 128 implements the Traffic Violation and Registration program, under which the Department refuses or suspends vehicle registrations upon receiving a report from a municipality or county that the vehicle has unpaid parking forfeitures or towing and storage fees. The registration suspension remains in effect until the forfeitures are paid.

Trans 128.05 (5) (b) allows the department to avoid the registration suspension for a leased vehicle or rental vehicle if the owner pays 50 percent of those delinquent charges. The department lacks authority to treat rental or leased vehicles differently than other vehicles.

Trans 128.05 (5) (b) should be repealed because the Department lacks the authority in statute to require only 50 percent payment of forfeiture or storage charges.

Trans 128.15 allowed a 2-year pilot program to determine the effectiveness of notices

required under Trans 128. The control group testing is complete and the Rule is no longer needed.

Agency contact person:

Reed McGinn
Wisconsin Department of Transportation
Division of Motor Vehicles
4822 Madison Yards Way
Madison, WI 53705
(608) 266-7857
reed.mcginn@dot.wi.gov

PROPOSED RULE

SECTION 1. TRANS 128.05 (5) (b) is repealed.

SECTION 2. TRANS 128.15 is repealed.

SECTION 3. EFFECTIVE DATE. The rules repealed in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF RULE TEXT)

Signed this ____ day of _____ 2019.

Joel Nilsestuen
Assistant Deputy Secretary
State of Wisconsin Department of Transportation