

# Clearinghouse Rule 95-184

## CERTIFICATE

STATE OF WISCONSIN )  
 ) ss.  
DEPARTMENT OF TRANSPORTATION )

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

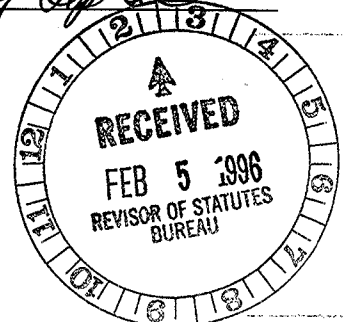
I, CHARLES H. THOMPSON, Secretary of the Wisconsin Department of Transportation and custodian of the official records, do hereby certify that the rule, relating to **certification of traffic safety programs and instructions**, was duly approved and adopted by this Department on February 5, 1996.

I further certify that this copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.



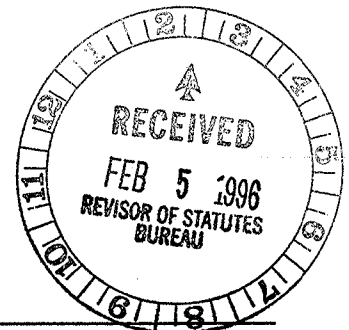
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Transportation at 4802 Sheboygan Avenue, in the City of Madison, Wisconsin, this 5 day of **February**, 1996.

*Charles H. Thompson*  
CHARLES H. THOMPSON/  
Secretary



4-1-96

The Wisconsin Department of Transportation adopts an order to repeal TRANS 106.03(3); renumber TRANS 106.02(1), (7) and (8), 106.03(4), (5), (7), (8), (10) and (11) to (13), 106.09 and 106.11; renumber and amend TRANS 106.03(6) and (9), 106.04 and 106.10; amend TRANS 106.01, 106.03(1), (2)(intro.), (a), (d) and (e), (3)(intro.), (a), (d) and (e), (4)(intro.), (a), (d) to (g), (6)(intro.), (a), (e), (f) and (10) to (12), 106.06(1)(a)1, (b), (c), (3)(b), (4) and (5), 106.10(3) and (4), 106.12(2) and (3)(b); repeal and recreate TRANS 106.02(4) and (9), 106.07 and 106.08; and create TRANS 106.02(1), (7), (10), (11) and (13), 106.03(13), 106.04(2) and (3), 106.06(1)(b)1 and 2, 106.09 and 106.10(7), relating to certification of traffic safety programs and instructions.

**ORDER ADOPTING RULE****Analysis Prepared by the Wisconsin Department of Transportation**

STATUTORY AUTHORITY: ss. 85.16(1), 227.11 and 345.60, Stats.

STATUTES INTERPRETED: s. 345.60, Stats.

**General Summary of Rule.** This rule is necessitated by changes to the content of traffic safety school programs. In addition, experience with the rule has indicated necessary revisions.

This rule making:

(1) Clarifies administrative policy and procedures regarding all traffic safety school courses.

(2) Clarifies instructor certification requirements by:

- Outlining the broader base of knowledge required to become certified.
- Further defining satisfactory driving record.
- Defining instructor evaluation procedures.

(3) Creates an appeal process for instructor or school certification denial or cancellation.

(4) Revises instructor in-service training requirements.

**Fiscal Effect.** This rule may have a slight fiscal impact on local WTC districts in the event that the Department is unable to continue instructor in-service training. There will be no fiscal impact on the state.

**Final Regulatory Flexibility Analysis.** This rule will have no adverse impact on small businesses.

**Preparation and Copies of Rule.** Preparation of this rule was done by Allyn Lepeska, Assistant General Counsel of the Department's Office of General Counsel, and Christine Smith of the Department's Division of Motor Vehicles. Copies of this rule may be obtained upon request, without cost, by writing to Christine Smith, Department of Transportation, Bureau of Driver Services, Room 351, P. O. Box 7920, Madison, WI 53707-7920, or by calling (608) 266-7658. Hearing-impaired individuals may contact the Department using TDD (608) 266-0396. Alternate formats of the rule will be provided to individuals at their request.

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### **TEXT OF RULE**

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 85.16(1), 227.11 and 345.60, Stats., the department of transportation hereby amends a rule interpreting s. 345.60, Stats., relating to certification of traffic safety programs and instructions.

SECTION 1. Trans 106.01 is amended to read:

**Trans 106.01 PURPOSE AND SCOPE.** (1) As authorized by ss. 85.16(1), 227.11, and 345.60, Stats., the purpose of this chapter is to establish the ~~department of transportation's~~ department's administrative interpretation of ss. 343.30(1q)(d), 343.305(10) and 345.60, Stats., relating to the certification of traffic safety schools, curriculum and instructors.

(2) This chapter applies to any organization applying for traffic safety school certification and to any person applying for instructor certification. The provisions of this chapter shall apply to new instructors and new schools applying for certification after the

effective date of this rule chapter...[revisor inserts date], and to presently certified instructors applying for recertification.

**NOTE:** Forms used in this chapter include MVD 3301 - Instructor Report, MV 3302 - Quarterly Report, MV 3304 - Course Completion Certificate, MV 3306 - Instructor Application for Certification and MV 3521 - Student Enrollment Confirmation. Forms are available from the Bureau of Driver Services, Wisconsin Department of Transportation, 4802 Sheboygan Avenue, P. O. Box 7917, Maps and Publications Sales, 3617 Pierstorff Street, P.O. Box 7713, Madison 53707-7917 53707-7713.

**SECTION 2.** Trans 106.02(1) is renumbered Trans 106.02(1m).

**SECTION 3.** Trans 106.02(1) is created to read:

Trans 106.02(1) "AODA" means alcohol and other drug abuse.

**SECTION 4.** Trans 106.02(4) is repealed and recreated to read:

Trans 106.02(4) "Designated traffic safety school coordinator" means an individual appointed by the Wisconsin technical college district or assessment agency, for the Sauk and Dodge county programs, to oversee the traffic safety school program.

**SECTION 5.** Trans 106.02(7) is renumbered Trans 106.02(8).

**SECTION 6.** Trans 106.02(7) is created to read:

Trans 106.02(7) "Moving violation" means a violation as defined in s. 343.01(2)(cg), Stats.

**SECTION 7.** Trans 106.02(8) is renumbered Trans 106.02(12).

**SECTION 8.** Trans 106.02(9) is repealed and recreated to read:

Trans 106.02(9) "OWI" means operating while intoxicated.

**SECTION 9.** Trans 106.02(10), (11) and (13) are created to read:

Trans 106.02(10) "OWI-related charge" means any charge involving the operation of a motor vehicle while intoxicated and not defined under s. 346.63(1), Stats., or a local, tribal or other jurisdiction law in conformity with s. 346.63(1), Stats. It includes a charge

of causing injury while under the influence of an intoxicant or controlled substance to another person by the operation of a vehicle, a charge of refusing to submit to chemical testing, a charge of injury by intoxicated use of a vehicle or a charge of homicide by intoxicated use of a vehicle.

(11) "Satisfactory driving record" means a driving record that does not contain moving violations which result in more than 6 demerit points within a one year period, by date of violation, or does not indicate that the applicant was, within one year, by date of violation, causally negligent in 2 or more traffic collisions or does not contain a conviction for OWI or any OWI-related charge. Out-of-state traffic convictions and accidents shall be treated as though they occurred in Wisconsin.

(13) "WTC" means Wisconsin technical college system.

**SECTION 10.** Trans 106.03(1), (2)(intro.), (a), (d) and (e) are amended to read:

**Trans 106.03 GENERAL RULES FOR CONDUCTING TRAFFIC SAFETY PROGRAMS.** (1) General traffic safety, ~~defensive driving,~~ group dynamics and multiple offender traffic safety programs and their curricula shall be approved by the department.

(2) ~~Approval of a~~ A general traffic safety program ~~is subject to all of~~ shall meet the following conditions:

(a) Only one traffic safety school program may be certified in each ~~VTAE~~ WTC district.

(d) Classroom instruction shall be a minimum of 12 hours, ~~extending over consecutive weeks, and not exceeding.~~ Sessions shall be held not less than once per month nor for a period of greater than 4 months, and may not exceed 6 hours per week.

(e) Class size may not exceed 20 students. Any exceptions to this limit shall be approved by the traffic safety school program manager prior to course completion.

**SECTION 11.** Trans 106.03(3) is repealed.

**SECTION 12.** Trans 106.03(4) is renumbered Trans 106.03(3) and, as renumbered, Trans 106.03(3)(intro.), (a), (d) and (e) are amended to read:

Trans 106.03(3) ~~Approval of a A group dynamics traffic safety program is subject to all of shall meet~~ the following conditions:

(a) Only one group dynamics traffic safety school program may be certified in each ~~VTAE~~ WTC district unless the department determines that there is a need for additional programs in a district.

(d) Classroom instruction shall be a minimum of 21 hours, ~~extending over consecutive weeks, and not exceeding.~~ Sessions shall be held not less than once per month nor for a period of greater than 4 months and may not exceed 6 hours per week, and shall include an exit interview.

(e) Class size may not exceed 15 students. Any exceptions to this limit shall be approved by the traffic safety school program manager prior to course completion.

**SECTION 13.** Trans 106.03(5) is renumbered Trans 106.03(4) and, as renumbered, Trans 106.03(4)(intro.) and (a), and (d) to (g) are amended to read:

Trans 106.03(4) ~~Approval of a A multiple offender traffic safety program is subject to all of shall meet~~ the following conditions:

(a) Only one multiple offender traffic safety school program may be certified in each ~~VTAE~~ WTC district unless the department determines that there is a need for additional programs in a district.

(d) Classroom instruction shall be a minimum of 30 hours, ~~extending over consecutive weeks, and not exceeding.~~ Sessions shall be held not less than once per

month nor for a period of greater than 4 months and may not exceed 6 hours per week, and shall include an exit interview.

(e) ~~Class size~~ No class may not exceed have more than 12 students. Any exceptions to this limit shall be approved by the traffic safety school program manager prior to course completion.

(f) ~~A person such as a family member or friend who is significant in the life of the student is~~ shall be involved in the course as is designated by the department approved curriculum.

(g) ~~A follow-up session is~~ shall be held with the student 3 months after completion of the basic 30 hours of the course. The session shall follow the guidelines of the department approved curriculum.

**SECTION 14.** Trans 106.03(6) is renumbered Trans 106.03(5) and amended to read:

Trans 106.03(5) A school shall notify the department, the assessment facility, and the student of a student's compliance or noncompliance with the requirements of the school as specified in sub. ~~(7)~~ (6) and as required by ss. 343.30(1q)(d) and 343.305(10), Stats.

**SECTION 15.** Trans 106.03(7) is renumbered Trans 106.03(6) and, as renumbered, Trans 106.03(6)(intro.), (a), (e) and (f) are amended to read:

Trans 106.03(6) Satisfactory completion of a the course shall require all of the following:

(a) Except as provided in subds. 2 3 to 4 5, attendance at all scheduled classes.

1. ~~A student may be excused from attendance only if the student is hospitalized, under a doctor's care, or attending an immediate family member's funeral.~~ shall attend

the first class session. If the student fails to attend the first class, the student shall either be allowed to register for another class within 10 business days or shall be placed in noncompliance.

2. A student may be excused only if the student is hospitalized, under a doctor's care, attending an immediate family member's funeral, or has a family health emergency or an emergency work situation. Verification of the excusable absence is required.

~~2- 3.~~ A No student who is tardy by more than 20 minutes may not receive credit for the class. Only one tardy, less than 20 minutes, shall be allowed.

~~3- 4.~~ Only one excusable absence shall be permitted in a course. No absence may be allowed for classes which meet for more than 3 hours.

~~4- 5.~~ If an excusable absence occurs, the missed time shall be made up to the satisfaction of the instructor.

~~(e) Compliance with the requirement that a~~ A student who enrolls for the third time in a group dynamics or multiple offender traffic safety course shall complete the entire course before he or she the student is eligible for the return of an operator's license.

~~(f) A student shall complete a program within one year from the date of his or her~~ the student's assessment unless the driver safety plan is extended by the assessment agency.

**SECTION 16.** Trans 106.03(8) is renumbered Trans 106.03(7).

**SECTION 17.** Trans 106.03(9) is renumbered Trans 106.03(8) and amended to read:

Trans 106.03(8) During a course, a student may request a 3 point reduction in the points assessed against his or her the student's operator's license. Within 30 days after he or she the student completes a course, a student may notify the department in writing



that ~~he or she~~ the student has changed ~~his or her~~ the student's position about point reduction. Pursuant to s. 343.32(5), Stats., and s. Trans 101.07(1), the 3 point reduction is conditioned on satisfactory completion of an approved program.

**SECTION 18.** Trans 106.03(10) is renumbered Trans 106.03(9).

**SECTION 19.** Trans 106.03(11) to (13) are renumbered Trans 106.03(10) to (12) and, as renumbered, are amended to read:

Trans 106.03(10) A school shall ~~develop its own~~ use the student and instructor self evaluation reports found in the approved curriculum. If such evaluations are not part of an approved curriculum, the school shall develop its own forms, which shall be submitted to, and approved by, the department.

(11) A school shall evaluate all certified instructors during each certification period. An evaluation shall be based on a visitation to at least one of an instructor's class sessions. An instructor evaluation form completed for every instructor shall be filed with the department and a copy given to the instructor. In those cases where the designated coordinator is also an instructor, the designated coordinator shall be evaluated by the designated coordinator's immediate supervisor. If an instructor teaches at more than one school, only one evaluation is required to be filed with the department. The evaluation to be filed shall be determined mutually by the schools involved.

(12) A school and its instructors shall participate in ~~all department required workshops and in-service training activities~~ 6 hours of in-service training during each 2-year certification period. Attendance at all department-sponsored in-services is mandatory.

**SECTION 20.** Trans 106.03(13) is created to read:

Trans 106.03(13) A school may transfer a student to another location, but it shall report the transfer to the department, in writing as designated by the department, and forward a copy to the assessment agency of record.

**SECTION 21.** Trans 106.04 is renumbered 106.04(1) and amended to read:

**Trans 106.04 Cancellation of traffic safety school certification.** A school certification shall ~~may~~ be suspended or cancelled for failure to comply with s. Trans 106.03.

**SECTION 22.** Trans 106.04(2) and (3) are created to read:

Trans 106.04(2) The appeal process for any school or instructor wishing to appeal the cancellation of a certification is as follows:

(a) A school or instructor may request a redetermination. The request for redetermination shall be written and shall set forth clearly and concisely the specific grievances to the action, including a statement of the relevant facts and provisions of law upon which the request is based.

(b) A request for redetermination shall be filed with the manager of the division of motor vehicles traffic safety school program and shall be received by the division of motor vehicles traffic safety school program within 30 days of the date that the department cancelled the certification.

(c) The division of motor vehicles traffic safety school manager, the supervisor of that position and the director of the bureau of driver services shall conduct a determination and shall notify the requestor of their decision within 30 days of receipt of the request for redetermination.

(d) If aggrieved, the requestor may, within 30 days of the date of the division's redetermination, appeal the division's redetermination by filing a written petition to the

department of administration, division of hearings and appeals. The decision of the division of hearings and appeals is the final administrative decision but is subject to judicial review under s. 227.52, Stats.

**NOTE:** The Division of Hearings and Appeals is located at 5005 University Avenue, Suite 201, Madison, WI 53705.

(3) Any school found to be in violation of s. Trans 106.03 shall first be placed on a 6 month probation. Written notice of the probation and the reasons for the probation shall be provided. Written notification of the action taken to eliminate the deficiencies existing at the time of the school was placed on probation shall be provided by the school at the end of the probation period. If deficiencies have not been eliminated, the school's certification shall be cancelled.

**SECTION 23.** Trans 106.06(1)(a)1 and (b) are amended to read:

Trans 106.06(1)(a)1. A record of ~~his or her~~ the nonresident's operator's license status and traffic convictions at the time of application for certification.

(b) Have a satisfactory driving record. ~~A driving record shall be considered satisfactory unless it contains 6 or more demerit points within one year or indicates the applicant was, within one year, causally negligent in 2 or more traffic collisions involving 2 or more motor vehicles or a vehicle and other property. Out of state traffic convictions and accidents shall be treated as though they occurred in Wisconsin.~~

**SECTION 24.** Trans 106.06(1)(b)1 and 2 are created to read:

Trans 106.06(1)(b)1. An applicant may not be certified until 6 months from the date of conviction of the violation which places the point total over 6 points or until one year from the date of an OWI conviction.

2. An applicant is not eligible to receive a 3 point reduction by completing a traffic safety school course.

**SECTION 25.** Trans 106.06(1)(c), (3)(b), (4) and (5) are amended to read:

Trans 106.06(1)(c) Attend and observe all class sessions of ~~at least one traffic safety course as an observer~~ the course for which the applicant has applied to be certified. All the sessions attended shall be taught by a certified program instructor. ~~The class sessions observed shall be the same as the course for which the person will be certified.~~

(3)(b) Teach ~~or monitor~~ all sessions of each program course for which ~~he or she~~ the instructor is certified at least once during a certification period. A newly certified instructor shall teach the course for which the instructor is certified within 6 months after the date of receiving the certification.

(4) An instructor's failure to maintain a satisfactory driving record ~~or report traffic convictions to the department as required under sub . (1) (a) 1 or 2~~ is cause to suspend or cancel his or her instructor certification shall result in suspension of the instructor's certification for 6 months from the date of conviction for the violation which places the point total over 6, or for one year from the date of an OWI conviction. If additional points are incurred or the instructor is convicted of OWI during that suspension period, the instructor's certification shall be cancelled. An instructor is not eligible to receive a 3 point reduction by completing a traffic safety school course.

(5) A group dynamics ~~or multiple offender~~ traffic safety instructor shall meet the requirements of s. Trans 106.07. A ~~general traffic safety or defensive driving~~ multiple offender instructor shall meet the requirements of s. Trans 106.08. A general traffic safety instructor shall meet the requirements of s. Trans 106.09.

**SECTION 26.** Trans 106.07 and 106.08 are repealed and recreated to read:

**Trans 106.07 GROUP DYNAMICS TRAFFIC SAFETY PROGRAM INSTRUCTOR**

**QUALIFICATIONS.** To be certified, a group dynamics traffic safety instructor shall meet at least 2 of the following 3 subsections, including par. (a) from at least one subsection, at the time of application. An individual who does not meet a requirement specified in sub. (1) shall monitor a general traffic safety course:

(1) Traffic safety experience equal to one of the following:

(a) Two years of occupational experience, or a comparable amount of experience and education in the area of traffic safety or a related field, such as driver education, law enforcement, fleet safety management, or experience in a safety related position with the division of motor vehicles.

(b) Monitor the WTC general traffic safety course plus have completed a one semester, or 45 hour, traffic safety studies or accident prevention course.

(2) AODA experience equal to one of the following:

(a) Two years of occupational experience or a comparable amount of experience and education in the area of AODA counseling, education, or treatment or related fields, such as student assistance program director or employe assistance program director.

(b) Completed a minimum of 45 hours in an accredited college level course in the area of AODA education or treatment.

(3) Group process experience equal to one of the following:

(a) Two years occupational experience in group process work or group counseling as a treatment or education professional.

(b) Completed a minimum of 45 hours in an accredited college level course in the area of group work methods, group counseling or group process.

**Trans 106.08 MULTIPLE OFFENDER TRAFFIC SAFETY PROGRAM INSTRUCTOR QUALIFICATIONS.** To obtain certification, a multiple offender traffic safety instructor shall:

(1) Meet the minimum requirements of s. Trans 106.07.

(2) Teach at least 3 group dynamics courses in their entirety or have a bachelor's or master's degree in guidance counseling, psychology, behavioral studies or social work.

**SECTION 27.** Trans 106.09 is renumbered Trans 106.10 and, as renumbered, Trans 106.10(3) and (4) are amended to read:

Trans 106.10(3) ~~Excessive or abusive use~~ Report of a conviction of a violation which occurred as the result of alcohol or controlled substances substance use.

(4) Failure to teach ~~or monitor~~ the program during the previous certification period.

**SECTION 28.** As renumbered, Trans 106.10(7) is created to read:

Trans 106.10(7) Instructing a course for which an individual is not certified.

**NOTE:** Forms MV 3304 and MV 3306.

**SECTION 29.** Trans 106.09 is created to read:

**Trans 106.09 GENERAL TRAFFIC SAFETY PROGRAM INSTRUCTOR QUALIFICATIONS.** To be certified, a general traffic safety program instructor shall have a minimum of traffic safety experience equal to one of the following:

(1) Two years of occupational experience, or a comparable amount of experience and education in the area of traffic safety or a related field, such as driver education, law enforcement, fleet safety management, or experience in a safety related position with the division of motor vehicles.

(2) Monitor the WTC general traffic safety course plus have completed a one semester, or 45 hour, traffic safety studies or accident prevention course.

**SECTION 30.** Trans 106.10 is renumbered Trans 106.11 and amended to read:

**Trans 106.11 (title) INSTRUCTOR RECERTIFICATION AFTER DENIAL, CANCELLATION OR EXPIRATION.** (1) An instructor may be recertified after denial, or cancellation or expiration of certification if the instructor submits an instructor certification application approved by the program coordinator and accompanied by a letter or other document that provides information and assurances about the action taken to eliminate the deficiencies existing at the time of denial or cancellation. In addition to the above, the letter shall verify that the instructor has:

(a) Monitored all courses for which the instructor wishes to be certified if it has been 2 years since the expiration or cancellation.

(b) Has a satisfactory driving record.

(2) The department's recertification decision shall be based on the appropriateness of the action taken in response to the deficiencies.

**SECTION 31.** Trans 106.11 is renumbered Trans 106.12 and, as renumbered, Trans 106.12(2) and (3)(b) are amended to read:

Trans 106.12(2) Members of the council shall include, ~~but shall not be limited to,~~ representatives from the office of transportation safety, the American automobile association, the board of the VTAE WTC, the department of public instruction, the department, ~~the department of health and social services,~~ the county assessment agencies, and a representative from each of ~~5 regions established by the VTAE system~~ traffic safety school programs.


(3)(b) Promoting program cooperation among law enforcement agencies, prosecutors, courts, treatment centers, assessment agencies, educational agencies, the board of the VTAE WTC, the American automobile association and the department.

(END OF RULE TEXT)

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**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 5 day of February, 1996.

  
s/ CHARLES H. THOMPSON  
Secretary  
Wisconsin Department of Transportation





## Wisconsin Department of Transportation

Tommy G. Thompson  
Governor

Charles H. Thompson  
Secretary

OFFICE OF GENERAL COUNSEL  
P. O. Box 7910  
Madison, WI 53707-7910

February 5, 1996

Mr. Gary Poulson  
Deputy Revisor of Statutes  
131 West Wilson Street, Suite 800  
Madison, Wisconsin 53703

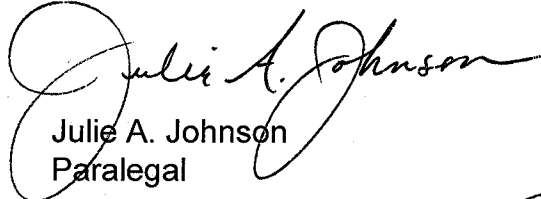
**RE: CLEARINGHOUSE RULE 95-184**

In the Matter of the Adoption of **TRANS 106**, Wisconsin Administrative Code, relating to **certification of traffic safety programs and instructions**.

Dear Mr. Poulson:

Enclosed for filing, pursuant to s. 227.20, Wis. Stats., is a certified copy of **CR 95-184**, an administrative rule relating to the above-mentioned matter. This rule is submitted by the Wisconsin Department of Transportation.

Sincerely,

  
Julie A. Johnson  
Paralegal

Enclosures

cc: Ann Agnew  
Dorothy Kapke  
Jim McDonnell  
Roger Cross  
Wes Geringer  
Christine Smith

