

Clearinghouse Rule 95-197

CERTIFICATE

STATE OF WISCONSIN)
) ss.
DEPARTMENT OF TRANSPORTATION)

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

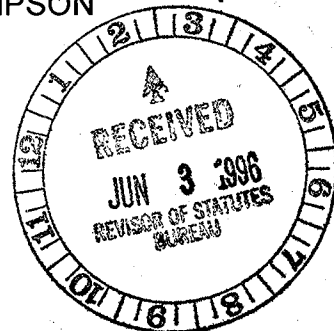
I, CHARLES H. THOMPSON, Secretary of the Wisconsin Department of Transportation and custodian of the official records, do hereby certify that the rule, relating to **examination procedures for operator's license**, was duly approved and adopted by this Department on May 29 1996.

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.



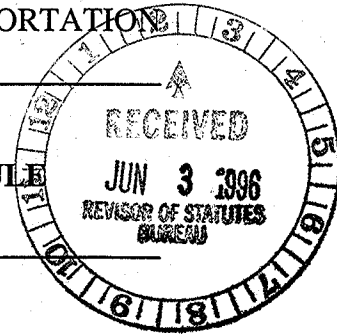
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Transportation at 4802 Sheboygan Avenue, in the City of Madison, Wisconsin, this 29 day of **May**, 1996.

Charles H. Thompson
CHARLES H. THOMPSON
Secretary



The Wisconsin Department of Transportation adopts an order to repeal and recreate Chapter TRANS 104, relating to examination procedures for operator's license.

ORDER ADOPTING RULE



Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 85.16(1) and 343.02, Stats.

STATUTES INTERPRETED: ss. 343.03, 343.06(1)(e), 343.12, 343.135, 343.16, 343.20, 343.25 and 343.32, Stats.

General Summary of Rule. This rule making repeals and recreates the Department's rules regarding the conduct of motor vehicle knowledge tests, skills tests and special examinations. These examinations are administered by the Department and authorized third party examiners prior to a person being licensed to operate a motor vehicle. When this rule making began, section 343.16(2)(c), Stats., provided that this rule could not go into effect absent a joint hearing by Senate and Assembly transportation committees followed by approval by joint resolution of the Senate and Assembly. This statute was subsequently amended to repeal that language. {1995 Wis. Act 195, effective April 18, 1996} The proposed rule provided that the rule would be effective following either event and publication.

The rule requires that all persons take and pass the appropriate tests required for any operating privilege they seek. "Class D" (regular vehicle) drivers need to take the standard knowledge and driving examinations offered by the Department. Drivers of other types and classes of vehicles are required to complete special knowledge and skills tests related to those vehicles. Statutory waivers for persons who have completed certain motorcycle training is, of course, permitted under this rule. A test result is valid for one year from the date of testing.

The knowledge required for a driver license is set forth in s. Trans 104.03(5) and (6). Special knowledge required for commercial motor vehicles is described in s. Trans 104.03(7) and (8). Cheating on a knowledge test results in an automatic failing grade on the examination.

Prior to conducting a skills test in a vehicle, an examiner gives the vehicle a cursory safety inspection. If the vehicle is unsafe for highway operation, the test is not conducted until the applicant provides a safe vehicle for testing (either by correcting the defects in the original vehicle or by providing a different vehicle). Skills tests are not conducted with drivers who refuse to wear seat belts or follow required safe driving practices.

Skills tests may be conducted in "Class A", "B" or "C" commercial motor vehicles or in "Class D" or "Class M" vehicles. If the person passes the test, the person's license will authorize operation of the vehicle class in which the examination was conducted and all lower classes, except motorcycles. For example, a driver who takes a skills test in a "Class B" vehicle

would be authorized to operate "Class B", "C" and "D" vehicles. The person would be required to undergo other skills tests to obtain "Class A" or "M" (motorcycle) operating privileges.

Special skills tests are required for drivers who seek authority to operate passenger vehicles, school buses or air-brake equipped vehicles.

From time to time, the Department needs to conduct special examinations of drivers to determine the person's continued ability to drive or capacity to compensate for any functional impairment. The grounds for such examinations and the means by which they are conducted are laid out at length in s. Trans 104.07.

Persons who fail skills tests or special examinations are required to wait minimum periods before being retested in order to ensure they have had time to practice their driving skills. In cases where a long delay in retesting would cause hardship to a driver or the driver's family, the Secretary may waive these mandatory waiting periods.

School bus drivers, hazardous materials haulers and specially restricted license holders are subject to repeated testing at each license renewal. School bus drivers over age 70 are subject to repeat skills testing every two years.

This rulemaking would not noticeably change the Department's current driver testing practices. Its primary effect will be to more clearly codify the procedures and practices currently used by the Department to examine drivers.

Fiscal Estimate. The Department estimates that there will be no fiscal effect on the liabilities or revenues of any county, city, village, town, school district, technical college district or sewerage district. The Department estimates that there will be no fiscal effect on state revenues or liabilities.

Final Regulatory Flexibility Analysis. This rule will have no significant effect on small businesses.

Copies of Rule. This rule can be obtained upon request, without cost, by writing to Wes Geringer, Wisconsin Department of Transportation, Division of Motor Vehicles, Bureau of Driver Services, P. O. Box 7920, Room 351, Madison, Wisconsin 53707-7920, or by calling (608) 266-0614. Hearing-impaired individuals may contact the Department using TDD (608) 266-0396. Alternative formats of the rule will be provided to individuals at their request.

TEXT OF RULE

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 85.16(1) and 343.02, Stats., the department of transportation hereby repeals and recreates a rule

interpreting ss. 343.03, 343.06(1)(e), 343.12, 343.135, 343.16, 343.20, 343.25 and 343.32, Stats., relating to examination procedures for operator's licenses.

SECTION 1. Chapter Trans 104 is repealed and recreated to read:

CHAPTER TRANS 104

EXAMINATION PROCEDURES FOR OPERATOR'S LICENSE

Trans 104.01 PURPOSE AND SCOPE. (1) As authorized by ss. 85.16(1) and 343.02, Stats., the purpose of this chapter is to establish the department's administrative interpretation of ss. 343.03, 343.06(1)(e), 343.12, 343.135, 343.16, 343.20, 343.25 and 343.32, Stats., relating to procedures used in testing applicants for any classification of operator's license, endorsements to licenses, and the imposition and removal of license restrictions.

(2) No person may obtain or hold an operator's license or endorsement, or have any restriction removed from an operator's license, without meeting all of the requirements of this chapter.

Trans 104.02 DEFINITIONS. (1) The words and phrases defined in ss. 340.01 and 343.01, Stats., and s. Trans 112.02, have the same meaning in this chapter unless a different definition is specifically provided.

(2) In this chapter:

(a) "CDL" means commercial driver license.

(b) "Examiner" means a person authorized by the department to test driver license applicants for the purpose of determining license eligibility.

(c) "Exercising ordinary and reasonable control" means operating a motor vehicle in a well controlled manner that demonstrates ordinary abilities in those skills normally graded in a skills test or special examination.

(d) "License classifications" or "license class" means any of the classifications specified in s. 343.17(3)(c), Stats.

(e) "Pre-trip inspection test" means a demonstration of a person's ability to conduct the inspection that commercial drivers are expected to perform before driving a commercial motor vehicle on a highway.

(f) "Safety inspection" means a cursory inspection by the department or a third party examiner to determine whether vehicle equipment appears to conform to the requirements of law and is in safe operating condition for the purpose of conducting a driving or special examination.

(g) "Skills test" means an examination of a person's ability to exercise ordinary and reasonable control in the operation of a motor vehicle.

(h) "Special examination" means a limited skills test that is administered for the purpose of determining eligibility for licensing or determining whether and how a person's license should be restricted.

(i) "Third party examiner" means a person who is employed by a third party tester and who holds a valid examiner identification certificate issued by the department to conduct skills tests and pre-trip inspection tests required for commercial driver licenses.

(j) "Third party tester" means a person who is authorized by the department to administer an approved testing program for commercial driver license applicants under s. 343.16(1)(b), Stats., and ch. Trans 115.

(k) "Vehicle classification" or "vehicle class" means the classification assigned to a vehicle under s. 343.04(1), Stats.

(l) "Vehicle type" means the type assigned to a vehicle under s. 343.04(2), Stats.

Trans 104.03 KNOWLEDGE AND PRE-TRIP INSPECTION TESTS.

(1) KNOWLEDGE TESTS. (a) Except as provided in pars. (b) and (c), all persons applying

for a license, endorsement, or the removal of a license restriction shall take and pass all knowledge tests required under this section for the class of vehicle the person seeks authority to operate, for each endorsement sought, and for each restriction the person seeks to remove. A person whose operator's license has expired by more than 4 years and who has no proof of valid, licensed operation within the 4-year period preceding application shall take all required knowledge tests as if the person had never been licensed.

(b) A person moving to Wisconsin from another jurisdiction whose operating privilege in the other jurisdiction is not suspended or revoked and who holds a license that is valid or that is not expired by more than 4 years, may not be required to submit to knowledge tests for the classes of vehicles and endorsements held under the other jurisdiction's license, except that knowledge examinations shall be required if the person is seeking a school bus or hazardous materials endorsement. If the person holds a CDL from the other jurisdiction that is not restricted to prohibit the operation of air-brake equipped vehicles, the person may not be required to take air-brake examinations to avoid imposition of an air-brake restriction.

(c) A person who provides proof of passing a "Class D" knowledge test as part of a driver education program authorized to administer "Class D" knowledge examinations under s. 343.16(1)(c), Stats., shall not be required to take a "Class D" knowledge examination administered by the department.

NOTE: Persons who do not speak English are encouraged to advise the Department of the languages they can read and speak when scheduling their examinations. The Department will attempt to accommodate special language needs of applicants.

(2) TYPES OF KNOWLEDGE TESTS. (a) "Class D" license. A person applying for a "Class D" license shall take and pass the basic driver knowledge test.

NOTE: "Class D" vehicles generally are cars and light trucks. Vehicles which are not commercial motor vehicles or motorcycles are "Class D" vehicles.

(b) "Class M" license. A person applying for "Class M" operating privileges shall take and pass a motorcycle operation knowledge test.

NOTE: "Class M" vehicles are motorcycles.

(c) Commercial driver license. A person applying for a commercial driver license shall take and pass a CDL knowledge test. All CDL knowledge tests administered by the department shall meet the requirements of 49 CFR 383.110 to 383.135. The knowledge test for a "Class A" license shall include a combination vehicle test.

(d) CDL and school bus endorsements. A person seeking a CDL or school bus endorsement shall take and pass a knowledge test related to the endorsement sought.

(e) CDL pre-trip inspection. A person applying for a commercial driver license shall take and pass a general pre-trip inspection test.

(f) CDL air brake restriction. A person applying for a commercial driver license that is not restricted to prohibit operation of air-brake equipped vehicles shall take and pass an air-brake knowledge test and an air-brake pre-trip inspection test.

(3) **PASSING SCORE**. Knowledge tests, except for air-brake pre-trip inspection tests, shall be scored on the basis of percent of correct responses. A score of 80% or more correct is a passing grade.

NOTE: Air brake pre-trip inspection tests are scored under s. Trans 104.03(8)(b).

(4) **FAILED TESTS**. A person who fails a knowledge or pre-trip inspection test may not retake the test sooner than the next day following the failed test.

(5) **KNOWLEDGE TEST REQUIREMENTS**. A knowledge test may include a highway sign test and shall determine the applicant's knowledge of traffic laws and related matters, including knowledge of the following:

(a) The rules of the road.

- (b) Highway signs.
- (c) Vehicle equipment requirements.
- (d) Safe driving practices.
- (e) Fuel efficient operation of motor vehicles.
- (f) The effects of alcohol or controlled substance use in connection with the operation of motor vehicles.

(g) The need for anatomical gifts.

(h) The need for vehicle control in the proximity of sight-impaired pedestrians.

(6) HIGHWAY SIGN TESTS. A highway sign test shall be administered to a person:

(a) Applying for an original or renewal school bus endorsement.

(b) Being re-examined to determine the person's ability to understand the meaning of common highway signs.

(7) CMV PRE-TRIP INSPECTION TESTS. (a) A pre-trip inspection test shall be conducted prior to any commercial motor vehicle skills test on the vehicle in which the license applicant is to be tested.

(b) The pre-trip inspection shall test the person's ability to inspect vehicle components for road worthiness and shall include identification and inspection of:

1. Fluid systems for leaks and levels.
2. Any interference with clear visibility for the driver.
3. Wheels, rims and tires.
4. Drive train, suspension, steering and brake systems.
5. Engine components and belts.
6. Gauges, meters and indicators.
7. Lights.

8. Coupling systems.
9. Cargo loading and securing.
10. Trailer or cargo area components.
11. Required safety and emergency equipment.

NOTE: Forms MV3542, CDL Pre-trip Inspection Combination Vehicle and MV3560, CDL Pre-trip Inspection Straight Truck/Bus are used by motor vehicle examiners to conduct these tests. Copies of the forms may be obtained from an examiner and are provided to each driver as a report of the applicant's test result.

(8) **AIR-BRAKE PRE-TRIP INSPECTION.** (a) An air-brake pre-trip inspection test shall be conducted prior to any commercial motor vehicle skills test on the vehicle in which the license applicant is to be tested if that vehicle is equipped with air brakes.

(b) To pass an air-brake pre-trip inspection a person must successfully complete all of the following air-brake system inspections:

1. Determine the motor vehicle's brake system condition for proper adjustment and that air system connections between motor vehicles have been properly made and secured.
2. Inspect the low pressure warning devices to ensure that they will activate in emergency situations.
3. Ascertain, with the engine running, that the system maintains an adequate supply of compressed air.
4. Determine that required minimum air pressure build up time is within acceptable limits and that required alarms and emergency devices automatically deactivate at the proper pressure level.
5. Operationally test the brake system for performance.

NOTE: These tests are required under 49 CFR 383.135 and 383.113(c)(1).

Trans 104.04 UNAUTHORIZED ASSISTANCE. An applicant who cheats or uses unauthorized assistance during any part of a knowledge test shall fail the test and may not be

allowed to retake the knowledge test for 7 days. Unauthorized assistance includes assistance from another person, notes, or the use of any materials during an examination, without the prior approval of the examiner. If the infraction is observed during the course of a test, the test shall be immediately ended.

Trans 104.05 VEHICLE SAFETY INSPECTION. (1) INSPECTION REQUIRED.

Prior to conducting any driving skills test or special examination, the examiner shall conduct a safety inspection of the vehicle furnished by the applicant for the test. The examiner may refuse to conduct the skills test or special examination if the test vehicle does not pass a safety inspection or the vehicle is unregistered.

(2) APPLICANT CONDUCT. The examiner may not conduct a skills test or special examination when:

(a) The applicant refuses to wear a safety belt during the driving skills test, unless the vehicle was manufactured prior to January 1, 1972, and has never been equipped with seat belts.

(b) The applicant refuses to follow required safe driving practices.

(c) The vehicle is a commercial motor vehicle and the applicant:

1. Cannot produce evidence of vehicle registration; or
2. Does not hold a valid instruction permit, temporary operator's license or driver receipt that authorizes operation for the appropriate class and endorsement of vehicle.

(d) The vehicle is not a commercial motor vehicle, is not registered, and no person has applied to renew the vehicle's registration. It shall be conclusively presumed that no person has applied to renew the vehicle's registration if the applicant does not have evidence of filing an application for registration and the vehicle's registration has expired by more than 30 days.

(e) The vehicle is a motorcycle and the applicant does not wear an approved protective helmet when required under s. 347.485(1)(a), Stats.

(f) The vehicle is a motorcycle and the applicant is not wearing a protective face shield, glasses or goggles, unless the windshield rises at least 15 inches above the handlebars.

(g) The applicant appears to be impaired by alcohol or a controlled substance, disoriented, or otherwise unfit to operate a motor vehicle.

(3) VEHICLE CONDITION. The examiner may not conduct a skills test or special examination when the test vehicle exhibits one or more of the following conditions:

(a) A brake light on either side of the vehicle is not functioning.

(b) A directional signal is missing or inoperable. This does not prohibit testing in a motorcycle that was manufactured without directional signals and on which directional signals have not been installed.

(c) The exhaust system is defective or missing.

(d) The windshield, a front side window or the back window is defective or missing.

(e) The driver or passenger door is inoperable.

(f) A required inside or outside mirror is defective or missing.

(g) The speedometer is defective, inoperable or missing. This does not prohibit testing in a specially designed vehicle that was not manufactured with a speedometer and on which a speedometer has not been installed.

(h) The horn is defective, inoperable or missing.

(i) The brakes, except the parking brake, are defective, inoperable or missing.

(j) The headlamps or tail lamps are defective, inoperable or missing and are required for visibility or driving conditions during the test.

(k) The tires are defective or excessively worn.

(l) The windshield wipers or defroster are defective, inoperable or missing and are necessary due to weather conditions during the test.

(m) The vehicle lacks a permanently attached front seat for the examiner.

(n) The safety belts in a motor vehicle manufactured on or after January 1, 1972, are missing, inoperable, defective or extremely dirty.

(o) The vehicle is a moped or motor bicycle that does not meet the requirements specified in ss. 347.488 and 347.489, Stats.

(4) In addition to the conditions specified in subs. (2) and (3), an examiner may not conduct a commercial driver license skills test or special examination when the test vehicle exhibits one or more of the following conditions:

(a) Four-way hazard warning lamps are defective, inoperable or missing.

(b) Passenger side access pegs or ladder are defective, inoperable or missing.

(c) A right or left outside mirror is missing, obstructed, inoperable or defective.

(d) The parking brake is defective, inoperable or missing.

(5) In addition to the conditions under subs. (2) and (3), the examiner may not conduct a skills test or special examination for a Type 1 motorcycle when the motorcycle exhibits one or more of the following conditions:

(a) The handlebars are defective, repaired or improvised, or rise more than 30 inches above the lowest part of the top of the seat when occupied.

(b) The motorcycle has a missing or inoperable headlamp.

(c) There is no adequate seat for the operator.

(d) The footpegs or footrest for the operator are missing.

Trans 104.06 SKILLS TESTS. (1) SKILLS TESTS REQUIRED. (a) All persons applying for a license classification not held in this state or another jurisdiction at the time of application, other than an instruction permit, shall take and pass skills tests for the classes and types of vehicles the person seeks authority to operate. A person whose operator's license has

expired by more than 4 years and who has no proof of valid, licensed operation within the 4-year period preceding application shall take all required skills tests as if the person had never been licensed.

(b) A skills test conducted in a "Class A" vehicle may be used as the basis for the issuance of a license authorizing "Class A", "B", "C" and "D" privileges.

(c) A skills test conducted in a "Class B" vehicle may be used as the basis for the issuance of a license authorizing class "B", "C" and "D" privileges.

(d) A skills test conducted in a "Class C" vehicle may be used as the basis for the issuance of a license authorizing "Class C" and "D" privileges.

(e) A skills test conducted in a "Class D" vehicle may only be used as the basis for the issuance of a license authorizing "Class D" privileges.

(f) A skills test conducted in a "Class M" vehicle may only be used as the basis for the issuance of a license authorizing "Class M" privileges.

(2) ADMINISTRATION OF SKILLS TESTS. (a) Department conducted examinations.

All skills tests shall be administered by the department, except as provided in par. (b).

(b) CDL third party tester examinations. CDL skills tests and pre-trip inspection tests may be administered by a third party tester under contract with the department pursuant to s. 343.16(1)(b), Stats. The department may accept certification from a third party tester that a person has taken and passed required CDL skills tests and pre-trip inspection tests.

(c) Third party examiner audits. Notwithstanding par. (b), as part of its auditing of CDL third party testers, the department may require a CDL applicant who provides a certification of test completion from a third party tester to submit to CDL pre-trip inspection or skills tests administered by the department. In such event, no fee shall be charged for the examinations conducted by the department and the results of those tests shall be used to determine whether

a license is issued to the driver, or if a license has already been issued to the driver, whether the license should be cancelled.

(3) LICENSE REQUIREMENTS FOR SKILLS TESTING. (a) "Class D" skills tests.

No person may take or pass a "Class D" skills test unless the person holds an instruction permit that is more than 7 days old or is reinstating a cancelled, suspended or revoked operator's license. The following operator's licenses may be used as authorization to operate a motor vehicle during a skills test under this subsection:

1. A person may take one "Class D" skills test using an instruction permit that has an expiration date not more than one year prior to the examination date.

2. A person may take "Class D" skills tests using an expired, cancelled, suspended or revoked operator's license, other than an instruction permit. The department may require any person who fails an examination conducted under this subdivision to obtain an instruction permit as a prerequisite to any subsequent test if, in the examiner's opinion, the person needs additional driving skills practice before the person will be capable of passing a skills test.

NOTE: A person who fails a "Class D" skills test on an expired permit will need to obtain an instruction permit and hold it for 7 or 14 days before the person may be retested. A person who has never held a license will need to obtain an instruction permit before testing. See s. Trans. 104.09(2) and (3).

(b) CDL skills tests. No person may take or pass a CDL skills test unless the person holds a valid CDL instruction permit, temporary operator's license or driving receipt that authorizes operation of vehicles of the class and type used for the CDL skills test.

NOTE: There is no minimum period a person must hold a CDL instruction permit prior to CDL skills testing.

(4) PASSENGER AND SCHOOL BUS ENDORSEMENTS. All persons applying for a passenger or Wisconsin school bus endorsement who do not hold such an endorsement at the time of application shall take and pass a skills test designed for those endorsements.

NOTE: Persons holding school bus endorsements from states other than Wisconsin are required to take and pass Wisconsin school bus endorsement knowledge and skills tests.

(5) **AIR BRAKES RESTRICTION.** (a) Full skills test. All persons applying for a commercial driver license that is not restricted to prohibit operation of a motor vehicle equipped with air brakes shall take and pass a skills test in an air-brake equipped motor vehicle. This paragraph does not apply to a person holding an unrestricted license from another jurisdiction who is exempt from air brakes testing under s. Trans. 104.03(1)(b).

(b) Abbreviated skills test. A person holding a commercial driver license with proper classes who applies only to remove an air-brake restriction may be administered an abbreviated skills test in an air-brake equipped vehicle. A person who fails an abbreviated test once shall be required to pass a full skills test in an air-brake equipped vehicle to have the air brake restriction removed from the person's license.

(c) Air brake examinations not class specific. A person who passes an air-brake examination in any class vehicle is not required to take subsequent commercial driver license examinations in air brake equipped vehicles to avoid imposition of an air-brake restriction.

(6) **SKILLS TEST REQUIREMENTS.** (a) All skills tests shall examine the following driving skills:

1. Right and left turn skills.
2. Operation at intersections.
3. Hill stop and start.
4. Operator's attention.
5. Operator's ability to control the vehicle.
6. Operator's obeying the rules of the road.
7. Urban driving.

8. Coping with the driving task.
9. Following safe driving practices.

(b) Any skills test may include a test of the operator's ability to stop the vehicle quickly.

(7) **COMMERCIAL MOTOR VEHICLE SKILLS TESTS.** (a) All commercial driver license skills tests shall examine the following driving skills:

1. Railroad crossing procedures, if the vehicle in which the operator is tested is required to stop at a railroad crossing.
2. Operation on a curve.
3. Expressway or rural driving.
4. Downgrade driving.
5. Upgrade driving.
6. Backing skills.

(b) A commercial driver license skills test may include an air brake examination if the skills test is conducted in a commercial motor vehicle that is equipped with air brakes. If the vehicle does not have air brakes and the applicant has not previously passed a skills test in an air-brake equipped vehicle, a restriction prohibiting the operation of air-brake equipped vehicles shall be applied to a commercial driver license issued to the person.

(8) **SCHOOL BUS ENDORSEMENT TEST.** All school bus endorsement skills tests shall examine whether the applicant demonstrates sufficient use of both hands and the foot normally used to operate the brake and accelerator, simulated rural student discharge procedures, and railroad crossing stop procedures.

(9) **REGULAR VEHICLE SKILLS TESTS.** All "Class D" license driving skills tests shall examine the following driving skills:

- (a) Backing skills.

(b) Turnabout, Y turn or U turn.

(c) Parking skills.

(10) MOTORCYCLE AND MOPED TESTS. All "Class M" license and "Class D" restricted license for moped or motorcycle operation driving skills tests shall include a U turn.

NOTE: See ss. 343.08 and 343.135, Stats., for information regarding "Class D" restricted licenses.

(11) CANCELLATION OF SKILLS TEST OR SPECIAL EXAMINATION. A skills test or special examination may be canceled or discontinued at any time the examiner determines that it would constitute a hazard to the applicant, the examiner or the public. Grounds for cancelling or discontinuing a skills test or special examination include:

(a) Severe weather.

(b) Hazardous road conditions.

(c) Vehicle equipment defects.

(d) Inability of the examiner to communicate essential traffic instructions to the person taking the test.

(e) Dangerous driving by the applicant.

(f) The applicant appears to be impaired by alcohol or a controlled substance, disoriented, or otherwise unfit to continue the examination.

(12) ASSISTANCE PROHIBITED. No person other than personnel authorized by the department may accompany an applicant during the skills test or special examination.

(13) DANGEROUS DRIVING. A person shall fail a skills test or special examination, regardless of points earned, if the person:

(a) Is involved in any accident which the applicant could have prevented, or contacts any fixed object or pedestrian, except for minor bumper to bumper contact that occurs as part of a parking maneuver.

(b) Commits a dangerous act that causes another person to take a defensive action to avoid an accident or that causes the examiner to warn the driver in order to prevent an accident.

(c) Commits a moving traffic violation.

(d) Does not drive attentively.

(e) Demonstrates an inordinate lack of ability, knowledge or skills in any of the following:

1. Exercising ordinary and reasonable vehicle control.
2. Coping with the driving task or conditions.
3. Exercising safe driving practices.

NOTE: Form MV3543, Commercial Driver Skills Examination Report, MV3544, "Class D" Skills Test and MV3583, "Class M" Skills Test are used by examiners to score examinations. Copies of the forms are provided to applicants as a report of their test results and can be obtained from driver examiners.

Trans 104.07 SPECIAL EXAMINATIONS. (1) REASONS FOR SPECIAL

EXAMINATIONS. The department may conduct a special examination for any of the following reasons:

(a) To determine whether a person adequately compensates for a medical condition or functional impairment.

(b) To determine whether to remove, add or modify restrictions.

(c) To determine whether a person is able to exercise ordinary and reasonable control of a motor vehicle.

(d) To investigate a report received by the department that a licensed operator may be incompetent or otherwise not qualified to be licensed.

(e) To determine whether the person has the knowledge necessary to operate a motor vehicle with the classes, endorsements and restrictions for which the person is licensed.

(f) To evaluate an applicant from another jurisdiction holding a driver license from that jurisdiction that does not contain any restrictions related to any functional impairment or medical condition for which a restriction is usually imposed by the department.

(2) SPECIAL EXAMINATION SKILLS TESTS. (a) Full skills test. A special examination skills test shall be conducted in the same manner as a skills test under s. Trans 104.06 if the department is investigating or evaluating a person's ability to exercise ordinary and reasonable control in the operation of a representative vehicle.

(b) Limited skills test. A limited special examination skills test may be conducted in a limited area, on a non-standard route, or to test only selected skills if it is administered to:

1. Evaluate a person's ability to compensate for a functional impairment or medical condition.

2. Investigate a driver condition or behavior report.

3. Evaluate a person's ability to exercise ordinary and reasonable control of a motor vehicle for the purpose of issuing a license that is restricted to certain areas or times of operation.

(3) SPECIAL EXAMINATION KNOWLEDGE TESTS. Special examination knowledge tests shall be the examinations required under s. Trans 104.03 for the license classes and endorsements held by the driver.

(4) CLASS OF VEHICLES TESTED. The department shall determine the class and type of vehicle in which a special examination shall be conducted.

(5) MULTIPLE SPECIAL EXAMINATIONS. More than one special examination skills or knowledge test may be required if the person's license authorizes operation of more than one class of vehicle or contains endorsements.

(6) EXPIRED LICENSES. A person may take a special examination for "Class D" vehicles using an expired operator's license, other than an instruction permit, that has an expiration date not more than 4 years prior to the examination date.

Trans 104.08 SCORING DRIVING SKILLS TESTS AND SPECIAL EXAMINATIONS. (1) Evaluated driving skills shall be assigned a point value and points shall be awarded for all skills successfully completed or which are not tested.

(2) A passing score for a skills test shall be determined by the accumulated point total for the class and endorsement being tested.

Trans 104.09 WAITING PERIODS FOLLOWING FAILED SKILLS TESTS AND SPECIAL EXAMINATIONS. (1) A person who fails a skills test or special examination solely as a result of committing a moving traffic violation shall wait a minimum of one day before retaking the test.

(2) A person who fails a skills test or special examination by 10 points or less shall wait a minimum of one week before retaking the test.

(3) A person who fails a skills test or special examination by more than 10 points or because of dangerous driving behavior described in s. Trans 104.06(13)(e) shall wait a minimum of 2 weeks before retaking the test.

(4) Waiting periods under this section include the day of the unsuccessful test.

(5) A person who fails 5 skills tests or special examinations within one year may be authorized a sixth attempt only after requesting and receiving permission from the department to do so.

NOTE: See s. Trans 104.12 regarding potential waiver of these time periods in appropriate cases.

Trans 104.10 RENEWAL TESTING. (1) SCHOOL BUS ENDORSEMENTS.

(a) Any person who applies to renew a Wisconsin school bus endorsement shall take and pass a school bus knowledge test, vision and hearing screening, highway sign test and an abbreviated skills test in a school bus.

(b) An abbreviated school bus skills test includes at least the following:

1. Pre-trip inspection.
2. Simulated rural student discharge.
3. Railroad crossing stop.

(c) The components of the skills test shall be scored as pass or fail. If a driver commits a moving traffic violation or dangerous act or is involved in an accident, the driver shall fail the skills test.

(d) If a person with a school bus endorsement fails the abbreviated renewal test, a complete driving school bus skills test shall be required. This test may be taken no sooner than the day following the failed test.

(e) A person who holds a license with a school bus endorsement that is restricted from operation of air-brake equipped vehicles may not take a school bus endorsement renewal examination in an air-brake equipped vehicle unless the person first completes all knowledge and skills examinations required to remove an air-brake restriction under ss. Trans 104.03(2)(f) and (8) and 104.06(5)(b). The air-brake pre-inspection test and abbreviated air-brake skills test may be conducted as part of a school bus renewal examination.

(f) Persons who are 70 years of age or older and hold a school bus endorsement shall demonstrate their continuing ability to meet the licensing requirements of this subsection at 2-

year intervals and shall file a medical certification annually. The 2-year periods described under this paragraph shall be measured from the date of the driver's preceding examination.

NOTE: Form MV3030B, Medical Examination Report, is used for school bus medical certification. It may be obtained from a Division of Motor Vehicles Service Center or by writing, Wisconsin Department of Transportation, Medical/Alcohol Review Section, P.O. Box 7918, Madison, WI 53707-7918.

(2) **HAZARDOUS MATERIALS ENDORSEMENTS.** Any person who applies to renew a hazardous materials endorsement or who holds a license from another jurisdiction and applies for an original Wisconsin license endorsed to permit transportation of hazardous materials shall take the hazardous materials knowledge test.

(3) **SPECIAL RESTRICTED LICENSES.** Any person who applies to renew a special restricted license issued under s. 343.135, Stats., shall successfully complete the knowledge and skills tests required for the license that is being renewed.

Trans 104.11 EXPIRATION OF KNOWLEDGE AND SKILLS TESTS RESULTS.

The department may not issue any license or endorsement, remove any restriction, nor renew any license or endorsement for which an examination is required based upon examination results that are more than one year old.


Trans 104.12 REDUCTION OF WAITING PERIODS. The department may reduce the waiting periods specified in ss. Trans 104.06(3) and 104.09(2) and (3) in cases where imposition of the required waiting period would impose an undue hardship on a person or the person's family. The department may reduce the minimum waiting period under this section to such shorter time frame as will permit the license applicant to complete necessary driving practice, but in no event may it be reduced to less than one day. Written application for such a waiver shall be made to the administrator of the division of motor vehicles, or the administrator's delegate, and shall contain a description of the undue hardship and a planned

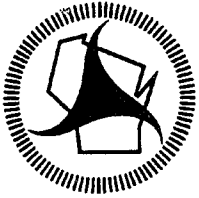
driving practice schedule. No person may be granted more than one reduction under this section.

(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 29 day of May, 1996.


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

June 3, 1996

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

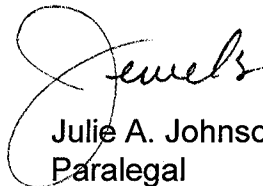
RE: **CLEARINGHOUSE RULE 95-197**

In the Matter of the Adoption of **TRANS 104**, Wisconsin Administrative Code,
relating to **examination procedures for operator's license**.

Dear Mr. Poulson:

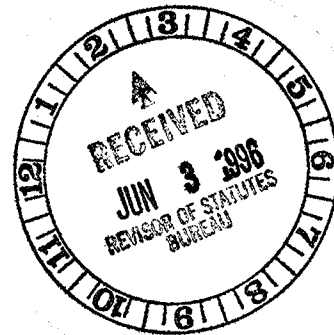
Enclosed for filing, pursuant to s. 227.20, Wis. Stats., is a certified copy of **CR 95-197**, an administrative rule relating to the above-mentioned matter.

Sincerely,


Julie A. Johnson
Paralegal

Enclosures

cc: Ann Agnew
Dorothy Kapke
Jim McDonnell
Roger Cross
Wes Geringer
Jerry Bown
Julie Clark





Wisconsin Department of Transportation

Tommy G. Thompson
Governor

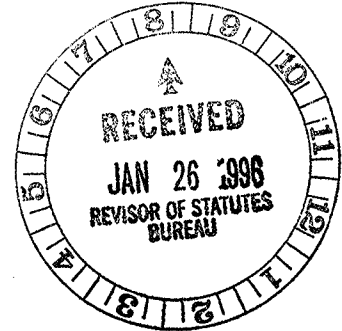
Charles H. Thompson
Secretary

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

January 25, 1996

The Honorable Senator Alan J. Lasee
Chairman, Senate Transportation Committee
119 MLK Jr. Blvd., Room 303
Madison, Wisconsin 53707

The Honorable Representative David Brandemuehl
Chairman, Assembly Committee on Highways & Transportation
Room 317 North, State Capitol
Madison, Wisconsin 53707



**RE: Proposed Administrative Rule
Chapter Trans 104, Wisconsin Administrative Code
Clearinghouse Rule No. 95-197**

Gentlemen:

The Wisconsin Department of Transportation is submitting a germane amendment to Clearinghouse Rule 95-197, relating to examination procedures for operator's license. The Department is amending the effective date language on page 23 in order to coordinate the rule's effective date provision with the bill drafts you have requested from the LRB.

Accordingly, pursuant to §227.19(4)(b)3, Stats., the Department hereby submits the following germane amendment:

Effective Date. This rule shall take effect upon the adoption of a joint resolution of the Senate and Assembly following a public hearing before a joint session of Senate and Assembly transportation committees as required by s. 343.16(2)(c), Stats., or the repeal of those statutory requirements, and upon subsequent publication in the Wisconsin Administrative register as provided in s. 227.22(2)(intro.), Stats.

These germane amendments will not extend the committees' review period.

Thank you for your consideration of this proposal.

Sincerely,

A handwritten signature in cursive script that reads "John J. Sobotik".

John J. Sobotik
Assistant General Counsel

cc: Senator Robert Welch
Representative Glenn Grothman
Gary Poulson
Roger Cross
Wes Geringer
Jerry Bown