

# KEITH RIPP

STATE REPRESENTATIVE ★ 42<sup>ND</sup> ASSEMBLY DISTRICT

September 24, 2013

## Testimony on Assembly Bill 262

Representative Keith Ripp  
Assembly Committee on Transportation

I want to thank committee members for allowing me to present testimony today in favor of Assembly Bill 262.

This bill is the product of hard work in this committee to review the Transportation Administrative Code. Members, as you will remember, back in February of this year our committee reviewed sixteen different chapters of the code. At the same time, we also reviewed several suggested changes to those rules from the Small Business Regulatory Review Board (SBRRB). Most of those changes were technical in nature and served to clean up the Code and make it easier to read. We also reached out to relevant stakeholders to identify any issues or concerns they may have with these sixteen rules.

This omnibus bill is a culmination of our findings during that committee meeting. This bill will remove several instances of obsolete language and update the code to current practices in state and federal law. It is important to note that almost all of the changes in this bill are technical in nature and are not major policy changes to current practice. I would like to have Nate Yahn from the Wisconsin Department of Transportation briefly review each change for the committee. I have also attached a summary to my testimony of each change in the bill.

I would also like to briefly mention an amendment I will be offering on the bill during the Executive Session. It is a small technical change that was suggested by DOT and the Legislative Reference Bureau that clears up an error in relation to TRANS 133. I have included the amendment in my testimony packet for your convenience.

Under current law, DOT's current policy is that those using telephone registration can cancel for twenty-four hours. However, there is no loophole that allows for those using telephone registration to operate their registered vehicle and then cancel the registration. With the language that is currently in AB 262, this loophole could be created. Our amendment simply inserts the phrase "and vehicle operation has not commenced" so those who have registered and operated cannot cancel within the cancellation timeframe.

Thank you members, I ask for your support and I would be more than happy to answer any questions.

## Change to Transportation Administrative Code

### **Motor Vehicle Inspection Program (TRANS 131)**

1. Repeals requirement that inspector refuse inspection if “the vehicle operator refuses to yield the driver’s seat.”
  - a. Previous test methods required vehicles to be tested in a dynamometer, which required the testing technician to operate the vehicles from the driver’s seat. The rules require a technician to refuse to test a vehicle if the driver does not yield the driver’s seat. However, the vehicles are no longer driven by the inspectors, as part of the Inspection Maintenance (IM) test. The current testing method does not require the driver to yield the driver’s seat.
    - i. Requiring the driver to yield the driver’s seat can create confusion and anger customers that do not feel comfortable having to yield the driver seat in their vehicle. Many private inspection facilities are small businesses and want to avoid conflicts with their customers. Repealing this rule will simplify the vehicle emission testing process.
2. Changes references to “registered automotive emission repair facilities” to “recognized automotive emission repair technicians and recognized repair facilities.”
  - a. The emission inspection program does not ‘register’ repair facilities, but does define ‘recognized’ repair facilities and repair technicians. A list of recognized repair facilities is given to vehicle owners upon a failed emission test.
3. Repeals appeal procedures applicable to contractor employees removed from their inspection duties due to DOT audit of inspection facilities.
  - a. This particular rule is obsolete. Presently, WisDOT contracts with one party for operation of a decentralized testing program, in which tests are now performed by subcontractors and their employees, having no direct contractual relationship with WisDOT.
    - i. Tests are no longer performed directly by employees of the contractor. WisDOT may withdraw approval of an emissions testing subcontractor, or the subcontractor’s employee, but any rights or remedies for the subcontractor or subcontractor’s employee would come through the contract, not through administrative rule.

### **Telephone Authorization for Quarterly or Consecutive Month Registration (TRANS 133)**

4. Deletes definition of “authorization code” applicable to telephone call-in procedure and removes related references.
  - a. The rule requires WisDOT to issue, and, if WisDOT requires it, for applicants to use a 6-character authorization code. WisDOT does not require use of the authorization code. Repealing the references to it would simplify the rule.

5. Clarifies that requests for telephone authorizations will be accepted at any time but will be processed only during the department's regular business hours.
  - a. WisDOT accepts telephone applications any day and at any time, but the telephone applications are processed by staff during working hours. The existing rule suggests that telephone requests may be made only during working hours.
    - i. This rule is not enforced, it merely informs small businesses when they may use the automated application system and of the days on which the process will not be completed. Because the information is misleading, it may confuse or hinder small business operations. Requests for telephone Authorizations are accepted 24 hours a day, 7 days a week by leaving a recorded message. Requests will only be processed during these stated hours. Accepting Telephone Authorization requests 24 hours a day provides more convenient service to small businesses. Wisconsin legal holidays have also changed since this rule was created.
6. Repeals \$5 late payment fee and subsequent references to the fee.
  - a. The late fee is obsolete and not enforced. WisDMV no longer charges a late fee since the implementation of its modern title and registration system. Instead, WisDMV has the ability to refuse future registration requests until the telephone call-in procedure fee is paid.
7. Changes time frame in which applicant may cancel request for telephone authorization.
  - a. The rule allows a customer to cancel registration that he or she requested by telephone only if the cancellation occurs before the registration period has commenced. Recent changes to the automated system make the registration period commence immediately upon request.
    - i. The cancellation policy is obsolete and unnecessarily denies the opportunity to cancel. The registration period commences immediately upon the telephone authorization. Instead, WisDMV currently allows cancellation within 24 hours of the original request. This allows small businesses a longer period to cancel mistakes.

#### **Dealer Facilities, Records, and Licenses (TRANS 138)**

8. Amends requirements regarding the records that motor vehicle wholesale auction dealers are required to retain.
  - a. Failure to comply with this obsolete rule could, theoretically, serve as sufficient grounds for suspending an auction dealer's license to engage in business. Modifying the rule to eliminate the creation and retention of irrelevant records will simplify business practices. The rule is outdated, and this change will reflect current practice.

### **Motor Vehicle Dealer Financial Eligibility and Bond Claim Requirements (TRANS 140)**

9. Raises the amount of the bond or letter of a credit a dealer must provide and maintain in force from \$25,000 to \$50,000 and amends related references.
  - a. 2003 Wisconsin Act 76 amended the statutes to increase the amount of the bond or letter of credit to \$50,000, making the existing rule insufficient. Consistent with the statutes, WisDOT requires existing dealers and new applicants to post \$50,000 bonds or letters of credit, notwithstanding the lesser amount shown in the rule.
10. Repeals a provision that prohibited a president of a corporation from also holding the office of secretary or vice-president of the corporation.
  - a. 1989 Wisconsin Act 303 rewrote state corporate law. It repealed, renumbered and recreated ch. 180. s. 180.41, Wis. Stat. was repealed and a statute on officers was rewritten under s. 189.0840, Wis. Stat. Under this new statute, an individual may hold more than one office in a corporation. A corporate officer can now be president and secretary and/or vice-present. Repealing this section benefits small business corporations, since it makes filling corporate officer positions less stringent.

### **Recreational Vehicle Dealer Trade Practices, Facilities and Records (TRANS 142)**

11. Amends requirements regarding the records that recreational vehicle dealers are required to retain.
  - a. This may reduce costs or confusion by small businesses by eliminating the apparent requirement that motor vehicle dealers that submit electronic title and registration applications also retain a paper copy of that application. By eliminating the requirement that a recreational motor vehicle dealer retain records of sales tax collections, any failure by a dealer to retain such records would no longer be considered a violation appertaining to the dealer license (but would remain subject to the penalties, if any, imposed by the Wisconsin Department of Revenue).

### **Licensing Periods and Fees for Dealers, Manufacturers and Salespersons (TRANS 144)**

12. Changes references to “mobile home” to “recreational vehicle.”
  - a. The term, “mobile home” was replaced in statutes by the term “recreational vehicle.” WisDOT regulates dealers of recreational vehicles, which are motor vehicles, but not dealers of mobile homes, which are dwelling units. This rule is outdated and could cause confusion by failing to prescribe a fee for a recreational vehicle license, and by prescribing a fee for a non-existent mobile home dealer license. This change will reflect current practice.
13. Eliminates a provision relating to a transition period that ended on June 30, 1991.
  - a. This rule became obsolete in 1994. Repealing this obsolete rule simplifies the administrative code.

## **Wisconsin Interstate Fuel Tax Agreement and International Registration Program (TRANS 152)**

14. Eliminates a reference to single state insurance registration.
  - a. In 2005, Congress replaced the single-state registration system with the Unified Carrier Registration, which serves a similar purpose of requiring payment of a single fee to a single state by motor carriers based on fleet size. References to a single state insurance registration are obsolete.

## **Automated Processing Partnership System (TRANS 156)**

15. Modifies the surety bond or letter of credit requirements applicable to contractors who contract with the department to perform emission tests and equipment inspections, desire to also contract with DMV to process or distribute renewal or original vehicle registrations or certificates of title, and who have more than 100 subcontractors.
  - a. The current bond structure creates an unnecessary burden on any vendor that wants a bond to cover multiple agents having different owners, or creates an unnecessary collective burden on small businesses wishing to serve as vehicle emission inspection facilities and who also wish to offer vehicle registration renewal services to their customers.
16. Repeals a reference to a fee submitted pursuant to a statute that has been repealed.
  - a. The fees under this subsection no longer exist. Repealing obsolete provisions shortens the code and reduces risk of unnecessary confusion.

## **Rental Companies (TRANS 175)**

17. Repeals a reference to a statute that has been repealed.
  - a. 1987 Wisconsin Act 369 repealed s. 194.44, stats., to “eliminate private motor carrier permits.” Section 194.44 (2), stats., set standards for anyone leasing vehicles to private motor carriers. Since s. 194.44, Wis. Stat. no longer exists, WisDOT no longer sets conditions to rental company registrations that would enforce compliance with that statute. Noncompliance with permit conditions can be grounds for revocation of the permit, but these conditions are no longer applied to these registrations.
18. Amends rental agreement copy requirements
  - a. The bill also amends DOT’s rule so that the rental agreement is required to be executed in duplicate, not triplicate, with the copy provided to the renter also being the copy carried on the leased motor vehicle, which is standard rental car practice nationwide. Changing the requirement from in triplicate to in duplicate is sufficient and will also be helpful to businesses, as it will reduce costs.
  - b. This change was not suggested by the Small Business Regulatory Review Board, but was added to the bill after constituents came forward during the outreach process. However, this change was suggested and discussed during the committee meeting on all other changes.

### **Motor Carriers (TRANS 177)**

19. Repeals a reference to the single state registration system.
  - a. In 2005, Congress replaced the single-state registration system with the Unified Carrier Registration, which serves a similar purpose of requiring payment of a single fee to a single state by motor carriers based on fleet size. This rule became obsolete when Congress required states to implement the Unified Carrier Registration system. Wisconsin responded by repealing s. 194.405, Stats., and substituting s. 194.407, Stats. Trans 178 implements s. 194.407, Stats. Motor carriers are currently operating under the Unified Carrier Registration system, which replaced the Single State Registration System in 2005.

### **Counter Service and Special Handling Service for Certificates of Title and Registration (TRANS 196)**

20. Eliminates provisions relating to a “special department telephone registration service.”
  - a. Telephone registration service was created as a pilot project in 1990, but the Department no longer offers it. This service is obsolete, and therefore, the rule referencing this service is obsolete.
  - b. Expedited vehicle registration renewal is now available via the Internet or at any of more than 3,500 third party registration renewal agents statewide.

### **Local High Cost Bridge Projects (TRANS 215)**

21. Eliminates references to apportionment of cost provisions contained in a statute that has been repealed.
  - a. 1997 Wisconsin Act 252 repealed s. 84.11(5) and (7), Wis. Stat. The Act also amended s. 84.11(5m) and (7m), Wis. Stat. removing mention of June 30, 1993, leaving those subsections as the only statutes addressing the apportionment of costs and execution and control of work on local bridge construction. This will eliminate obsolete language.
22. Amends DOT’s rule to increase the cost eligibility requirement from \$5,000,000 to \$16,000,000.
  - a. The provision specified in Trans 215.07(2)(b)1., describing the minimum amount of estimated costs required for eligibility, is obsolete. The effective date of Section Trans 215.07 was June 1, 1990. Given the changes to the Consumer Price Index (CPI) that have occurred since 1990, the original amount of \$5 million is estimated to be the equivalent of \$16 million today. Increasing the amount will help retain purchasing power.

### **Permits for Loads Exceeding Size, Weight and Vehicle Combination Limits (TRANS 230)**

23. Eliminates a reference to an oversize permit that no longer exists.
  - a. Eliminating this obsolete language simplifies the administrative code.

### **Pole and Pipe Transportation Permits (TRANS 257)**

24. Eliminates a chapter on an oversize permit that no longer exists.

- a. The chapter is obsolete, and this will simplify the administrative code. 2011 Wisconsin Act 53 eliminated the permit for vehicles carrying poles and pipes that are longer than generally authorized, and repealed the Department's authority to issue the permits. Current law now allows, without a permit, the operation, by specified operators, of a single vehicle with an overall length not exceeding 60 feet, or a two-vehicle combination with an overall length not exceeding 120 feet.

### **Equipment Standards for Special Vehicles (TRANS 303)**

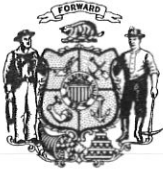
25. Eliminates the definition of a "power driven cycle," which defined the term by reference to a statute that no longer exists.
  - a. 1983 Wisconsin Act 243 repealed s. 340.01(45), Wis. Stat., which defined "power driven cycles." Repealing an obsolete term in the rules will avoid ambiguity and minimize confusion.

### **Ambulance Inspection (TRANS 309)**

26. Eliminates definition of "advanced skill," which defined the term by reference to a Department of Health Services Administrative Code provision that no longer exists.
  - a. Eliminating this obsolete language simplifies the administrative code.
  - b. During the committee process, a much larger overhaul of TRANS 309 was discussed. DOT and DHS later collaborated with legislators and came to an agreement on those larger changes. However, because of the large technical nature of those changes, they are not included in this bill.

### **Weigh Station Stopping Requirements (TRANS 312)**

27. Raises the gross weight required to trigger a truck operator's responsibility to stop at a weigh station from 8,000 pounds to 10,000 pounds.
  - a. Federal law provides law enforcement discretion for vehicles weighing 10,000 lbs or less. The revision would reduce costs through the elimination of lost time for businesses operating vehicles that weigh 8,000 to 10,000 lbs that are currently required to report for load weighing, measuring and inspecting at an open weigh station.



**ASSEMBLY AMENDMENT 1,  
TO ASSEMBLY BILL 262**

September 19, 2013 – Offered by Representative RIPP.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 7, line 22: after that line insert:

3 “**SECTION 6g.** 35.93 (2) (b) 4. of the statutes, as affected by 2013 Wisconsin Act  
4 20, is amended to read:

5 35.93 (2) (b) 4. Copies of all rules filed with the legislative reference bureau  
6 under s. 227.20 (1) or modified under s. 227.265 since the compilation of the  
7 preceding register, including emergency rules filed under s. 227.24 (3).

8 **SECTION 6r.** 35.93 (2) (c) 1. of the statutes, as affected by 2013 Wisconsin Act  
9 20, is amended to read:

10 35.93 (2) (c) 1. Each chapter of the Wisconsin administrative code that has been  
11 affected by rules filed with legislative reference bureau under s. 227.20 (1) or  
12 modified under s. 227.265, in accordance with sub. (3) (e) 1.”.

13 **2.** Page 8, line 12: after that line insert:



1           **“SECTION 7g.** 35.93 (3) (e) (intro.) of the statutes, as affected by 2013 Wisconsin  
2           Act 20, is amended to read:

3           35.93 (3) (e) (intro.) The legislative reference bureau shall incorporate into the  
4           appropriate chapters of the Wisconsin administrative code each permanent rule filed  
5           with the legislative reference bureau under s. 227.20 (1) or modified under s. 227.265  
6           and, for each chapter of the administrative code affected by a rule, do all of the  
7           following:

8           **SECTION 7r.** 35.93 (3) (e) 1. of the statutes, as affected by 2013 Wisconsin Act  
9           20, is amended to read:

10          35.93 (3) (e) 1. Publish the chapter in the appropriate end-of-month register  
11          in accordance with the filing deadline for publication established in the rules  
12          procedures manual published under s. 227.15 (7) ~~or~~, in an end-of-month register  
13          agreed to by the submitting agency and the legislative reference bureau, or, in the  
14          case of a rule modified under s. 227.265, in the end-of-month register for the month  
15          in which the bill modifying the rule is enacted.”.

16          **3.** Page 12, line 24: after “authorization” insert “and vehicle operation has not  
17          commenced”.

18          **4.** Page 21, line 18: after that line insert:

19          **“SECTION 72m. Effective dates.** This act takes effect on the day after  
20          publication, except as follows:

21          (1) The treatment of section 35.93 (2) (b) 4. and (c) 1. and (3) (e) (intro.) and 1.  
22          of the statutes takes effect on January 1, 2015.”.

23   (END)