

Clearinghouse Rule 07-065

**PROPOSED ORDER OF THE STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION
ADOPTING RULES**

The Wisconsin Department of Transportation proposes an order to repeal and recreate ch. TRANS 128, relating to the traffic violation and registration program.

NOTICE IS HEREBY GIVEN that pursuant to ss. 85.13, 227.11, 345.28 and 345.47(1)(d), Stats., and interpreting ss. 85.13, 341.08(4m), 341.10(7) and (7m), 341.63, 341.64, 345.17, 345.28 and 345.47(1)(d), Stats., and ch. 342, Stats., the Department of Transportation will hold a public hearing in **Room 144-B** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **7th** day of **August**, 2007, at **9:30 AM**, to consider the amendment of ch. Trans 128, Wisconsin Administrative Code, relating to the traffic violation and registration program.

An interpreter for the hearing impaired will be available on request for this hearing. Please make reservations for a hearing interpreter at least 10 days prior to the hearing.

Parking for persons with disabilities and an accessible entrance are available.

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Analysis Prepared by the Wisconsin Department of Transportation

Statutes interpreted: ss. 85.13, 341.08(4m), 341.10(7) and (7m), 341.63, 341.64, 345.17, 345.28 and 345.47(1)(d), Stats., and ch. 342, Stats.

Statutory authority: ss. 85.13, 227.11, 345.28 and 345.47(1)(d), Stats.

Explanation of agency authority: The Department is charged with responsibility for suspending or refusing registration of vehicles for failure to pay various debts related to unpaid judgments, parking citations or towing and storage charges associated with parking citations. This chapter implements those requirements.

Related statute or rule: ss. 85.13, 341.08(4m), 341.10(7) and (7m), 341.63, 341.64, 345.17, 345.28 and 345.47(1)(d), Stats., and chs. 341 and 342, Stats.

Plain language analysis: This proposed rule makes the following changes to current rule regarding the Traffic Violations Registration Program (TVRP): First, it adds towing and storage charges as eligible for TVRP action, as enacted in 2003 Act 201. Second, it adds provisions to accommodate electronic submission of notices that suspending authorities submit to the Department of Transportation, as well as manual or paper submission of notices. Third, the rule includes language to clarify the effect of bankruptcy on vehicle registration suspensions, to comport with federal and state law. The remainder of the rule making consists of re-organizing existing provisions into more readable and understandable format, elaborating on current policies for added clarity, and adding definitions that may be needed.

Summary of, and preliminary comparison with, existing or proposed federal regulation: No federal regulations require, encourage or discuss registration suspension or refusal for unpaid debts such as judgments, citations, or towing and storage charges.

Comparison with Rules in Adjacent States:

Michigan: Michigan will sanction a person's driver's license for unpaid tickets rather than vehicle registration. If a person accumulates 6 or more parking tickets or 2 or more disabled parking tickets, the person is prevented from renewing his or her driver's license. Parking tickets only are included, not towing and storage charges. Information is submitted to DMV by the courts electronically. Some smaller jurisdictions may submit paper.

Minnesota: Minnesota will suspend the driver's licenses when the counties notify DMV. If there is an unpaid judgment, it could include unpaid towing/storage charges, but the parking citations do not. Information is submitted electronically from the counties to DMV.

Illinois: Illinois will suspend the person's driver's license, if the person accumulates 10 or more parking citations. The city determines the amount of the payment, so it may or may not include towing and storage charges. Information is sent to DMV in paper form.

Iowa: Iowa will suspend the person's driver's license, if parking ticket (and subsequent charges from towing) are not paid; all charges would have to be paid before the suspension is lifted. Most parking authorities submit information electronically.

Summary of factual data and analytical methodologies used and how the related findings support the regulatory approach chosen: The regulatory approach in this proposed rule reflects no change from current regulatory approach governing the TVRP administration. No data analysis was required.

Analysis and supporting documentation used to determine effect on small businesses: The statutory provisions upon which this rule is based apply to governmental units, not to small businesses. Thus, this rule does not apply to small businesses.

Effect on small business: This rule affects governmental units, authorized by law to enforce non-moving traffic violations. The rule has no effect on small business, with the exception of any small business that might engage by contract with a governmental unit to process non-moving traffic violation notices to the Department. In that case, the business would be bound by its contract with the governmental unit. The Department's Regulatory Review Coordinator may be contacted by e-mail at ralph.sanders@dot.state.wi.us, or by calling (414) 438-4585.

Fiscal effect and anticipated costs incurred by private sector: The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district, sewerage district, or federally-recognized tribes or bands. The Department estimates that there will be no fiscal impact on state revenues or liabilities. This rule also has no effect on costs incurred by the private sector.

Agency contact person and place where comments are to be submitted and deadline for submission: The public record on this proposed rule making will be held open until close of business the day of the hearing to permit the submission of comments in lieu of public hearing testimony or comments supplementing testimony offered at the hearing. Any such comments should be submitted to Carson Frazier, Department of Transportation, Bureau of Vehicle Services, Room 253, P. O. Box 7911, Madison, WI 53707-7911. You may also contact Ms. Frazier by phone at (608) 266-7857 or via e-mail: carson.frazier@dot.state.wi.us.

To view the proposed amendments to the rule, view the current rule, and submit written comments via e-mail/internet, you may visit the following website: <http://www.dot.wisconsin.gov/library/research/law/rulenotices.htm>.

TEXT OF PROPOSED RULE

SECTION 1. Chapter Trans 128 is repealed and recreated to read:

CHAPTER TRANS 128 TRAFFIC VIOLATION AND REGISTRATION PROGRAM

Trans 128.01 Purpose and scope. (1) STATUTORY AUTHORITY. As authorized by ss. 85.13, 227.11, 345.28 and 345.47(1)(d), Stats., the purpose of this chapter is to establish the department's administrative interpretation of ss. 85.13, 341.08(4m), 341.10(7) and (7m), 341.63, 341.64, 345.17, 345.28 and 345.47(1)(d), Stats., and ch. 342, Stats., relating to a traffic violation and registration program to refuse vehicle registration as a result of unpaid judgments and to suspend or refuse vehicle registration as a result of unpaid parking citations or unpaid towing and storage charges associated with parking citations.

(2) APPLICABILITY. This chapter applies to any local unit of government or other authority electing to participate in the traffic violation and registration program, to any court or authority or delegated agency processing cases on behalf of participating local units of government or other authority, and to any person subject to any unpaid judgment, unpaid parking citation or unpaid towing and storage charges associated with a parking citation.

NOTE: Forms used in administering this chapter include T050, License Plate Renewal Notice; T057, License Plate Renewal Notice Statement; MV 2458 and MV 2809, Notice of Unpaid Judgment, under s. 345.47(1)(d), Stats.; MV 2679 and MV 2502, Notice of Unpaid Citation (which is also used for unpaid towing and storage charges associated with the citation, under s. 345.28(4), Stats.; and MV 2451, Statement of Good Faith.

Trans 128.02 Definitions. Unless otherwise provided, the words and phrases in this chapter have the same meanings as provided in ss. 340.01 and 341.01, Stats., except ss. 340.01(24) and (42). In this chapter:

(1) “Applicant” means any person applying for Wisconsin vehicle registration.

(2) “Authority” or “local authority” means every county board, city council, town or village board or other local agency having authority under the constitution and laws of this state to adopt traffic regulations, a state agency, any campus of the University of Wisconsin system or any technical college district.

NOTE: This definition combines the statutory definitions found in ss. 340.01(26) and 345.28(1), Stats.

(3) “Case” or “TVRP case” means a suspension or refusal of vehicle registration triggered by a suspending authority’s report that is processed under the procedures described in ss. 345.28 and 345.47, Stats., and the satisfaction or termination thereof.

(4) “Debtor” means a person who is liable for a judgment debt, unpaid citation or unpaid towing and storage charges.

(5) “Debtor registrant” means a registrant whose registration is subject to a TVRP case.

(6) “Delegated agency” means the entity designated by an authority to submit unpaid citation or unpaid towing and storage charges associated with a citation and satisfaction notices on behalf of a local authority.

(7) “Department” means the Wisconsin department of transportation.

(8) “License plate type” means a designation in the format required by the department of a specific style of registration plate with a particular size, color and design that is intended to provide visible evidence of the period for which the vehicle is registered, the fee class into which the vehicle falls, a means of identifying the specific

vehicle or owner for which the plates were issued, and any affiliation with an authorized special group designated in accordance with s. 341.14(6r)(f), (fm) or (6w), Stats.

(9) “Local unit of government” means any county, city, village, town or other local agency having authority under the constitution and laws of this state to adopt traffic regulations.

(10) “Motor vehicle dealer” has the meaning given in s. 218.0101(23), Stats.

(11) “Own” or “owned” shall be construed in a manner consistent with s. 341.01(2)(b), Stats.

NOTE: The definition of “owner” in s. 341.01(2)(b), Stats., controls for purposes of this regulation. Long-term leaseholders are therefore considered “owners.”

(12) “Person” has the meaning given in s. 990.01(26), Stats.

(13) “Registrant” means any person who is the holder of Wisconsin vehicle registration.

(14) “State agency,” as used in the definition of authority, means any office, department, or independent agency of Wisconsin state government, including any sub-unit level with the authority to administer the provisions of this chapter.

(15) “Suspending authority” means the court or authority that issued a notice to suspend or refuse registration under this chapter.

NOTE: Authorities can both suspend and refuse registration.

(16) “TVRP suspension number” means a unique identifier generated and assigned to a TVRP case by a suspending authority in accordance with the numbering scheme required by the department for the TVRP program.

NOTE: At present, the TVRP Suspension Number is a 13 or 14 character alphanumeric string that includes a unique identifier assigned to each suspending authority, the date, and a serial number.

(17) “Unpaid citation or unpaid towing and storage charges associated with the citation” means a citation for a nonmoving traffic violation as defined in s. 345.28(1),

Stats., that has not been paid and for which the person has not appeared in court, or any unpaid towing and storage charges associated with a nonmoving traffic violation.

(18) “Unpaid judgment” means an unpaid traffic forfeiture judgment submitted to the department under ch. 345, Stats.

Trans 128.03 Local unit of government or other authority participation or termination. **(1) NOTIFICATION REQUIREMENTS.** A local unit of government or other authority electing to participate or terminate participation in the traffic violation and registration program shall notify the department in writing at least 30 days before the effective date of participation or termination. The department may delay the effective date of participation beyond the 30-day period if the participant anticipates submitting a high volume caseload.

(2) CONTENTS OF NOTIFICATION. The notification from the local unit of government or other authority shall include all of the following:

(a) The effective date of participation.

(b) Method of payment as described in s. Trans 128.13(4).

(c) Estimated annual volume of cases that will be sent to the department.

(d) Whether there is a municipal court and, if so, the name, address and phone number of the court and the address where court payments should be made.

(e) The name, address and phone number of the authority or delegated agency and the address where citation payments should be made.

(f) A statement describing the approval of participation action taken by the authority.

(g) The signature and title of the person submitting the notification on behalf of the local unit of government or other authority.

(3) COPIES TO COURT AND DELEGATED AGENCY. The local unit of government or other authority shall send a copy of a notification made under sub. (1) to the department under this section to the clerk of any circuit court or municipal court that hears its cases and to any delegated agency that processes cases on its behalf.

Trans 128.04 TVRP notices. (1) TVRP NOTICE OF DEBT. A TVRP notice from a suspending authority to the department for an unpaid judgment, citation or towing and storage charge shall be made on the department's form, or electronically in the manner provided in s. Trans 128.14, shall contain all information that is required in Table 1, and may include all information that is identified as being optional in Table 1.

(2) REGISTRATION RENEWAL NOTICE FOLLOWING NOTICE OF UNPAID JUDGMENT. DMV registration renewal forms sent to persons whose vehicles are subject to refusal of registration under s. 341.10(7), Stats., and this chapter shall include all of the information indicated as "Required" in the "Notice Following Unpaid Judgment" column of Table 1, and may include such other information as the department deems appropriate.

(3) REGISTRATION RENEWAL NOTICE FOLLOWING NOTICE OF UNPAID CITATION OR UNPAID TOWING AND STORAGE CHARGES ASSOCIATED WITH A CITATION. DMV registration renewal forms sent to persons whose vehicles are subject to refusal or suspension of registration under s. 341.10(7m), Stats., and this chapter shall include all of the following:

(a) A list of any unpaid citations for nonmoving traffic violations or any judgments for violation of ch. 110, 194, or 341 to 350, Stats., an administrative rule of the department, or an ordinance enacted in accordance with s. 349.06, Stats., including parking violations, and of any unpaid towing and storage charges associated with nonmoving traffic violations entered against the debtor registrant that remain unpaid. If

the suspending authority made a consolidated report under s. Trans 128.14(2), the TVRP suspension number may be provided in lieu of information about the individual citations.

(b) The information indicated as “Required” in the “Notice Following Unpaid Citations or Towing and Storage Charges” column of Table 1 with respect to each citation included in the list.

(c) Such other information as the department deems appropriate.

(4) REGISTRATION RENEWAL FOLLOWING A COMBINATION OF JUDGMENTS, UNPAID CITATIONS OR TOWING AND STORAGE CHARGES. DMV registration renewal forms sent to persons whose vehicles are subject to refusal of registration under both ss. 341.10(7) and (7m), Stats., and this chapter shall include the information specified in both subs. (2) and (3).

(5) SATISFACTION. A satisfaction shall be in the form of a copy of the form used by a suspending authority to refuse registration on which the information required in the “Notice of Satisfaction” section described in Table 1, Row 10 has been completed by the suspending authority.

(6) TIMELINESS. If the department receives a notice of debt from a suspending authority between the time it creates a registration renewal notice for a vehicle and the end of the registration period for the vehicle, the registration renewal notice will not include the information otherwise required under subs. (2) to (4).

Table 1 Information to be Included on Written Notices					
		Notice of Unpaid Judgment	Notice of Unpaid Citation or Towing & Storage Charge	Renewal Notice Following Unpaid Judgment	Renewal Notice Following Unpaid Citations or Towing & Storage Charge
1.	The name and address of the court, authority or delegated agency.	Required	Required	Required	

Table 1 Information to be Included on Written Notices					
		Notice of Unpaid Judgment	Notice of Unpaid Citation or Towing & Storage Charge	Renewal Notice Following Unpaid Judgment	Renewal Notice Following Unpaid Citations or Towing & Storage Charge
2.	The name of the local unit of government or other authority taking action.	Required			
3.	The signature or facsimile signature of the authorized representative of an authority or court, or a judge.	Required	Required		
4.	The title of the person signing.	Required	Required		
5.	The date the notice is signed.	Required	Required		
6.	The TVRP suspension number.	Required	Required	Required	Required
7.	License plate type for the vehicle involved.		Required		Required
8.	The year registration expires for the license number of the vehicle involved and the state of issuance if other than Wisconsin.	Optional	Required		Required
9.	The amount of payment due from the person against whom the judgment was entered, the citation was issued or the amount of unpaid towing and storage charges.	Required	Required		
10.	A section for notice of satisfaction containing: a. The signature or facsimile signature of a judge or of an authorized representative of the authority or court. b. The date paid or satisfied. c. The title of the person signing. d. The date signed, if related to a judgment.	Required	Required		

Table 1 Information to be Included on Written Notices					
		Notice of Unpaid Judgment	Notice of Unpaid Citation or Towing & Storage Charge	Renewal Notice Following Unpaid Judgment	Renewal Notice Following Unpaid Citations or Towing & Storage Charge
11.	Whether the department is to suspend the registration of the vehicle involved under s. 341.63(1)(c) or refuse registration of any vehicle owned by the person under s. 341.10 (7m) or both. (Note: s. 345.28(4)(a)2., Stats.)		Required		
12.	The name and last-known address of the person against whom judgment was entered or the citation was issued or against whom unpaid towing and storage charges apply.	Required	Required		
13.	The date the citation was issued.		Required		Required
14.	The date the judgment was entered.	Required		Required	
15.	The license number of the vehicle involved.		Required	Required	Required
16.	Certification that 2 notices which meet the requirements under par. 345.28(4)(c) 1. or sub. (5m) (d), Stats., have been mailed to the last-known address of the person against whom the citation was issued and that the citation remains unpaid on the date specified in the citation or, if no date is specified in the citation, 28 days after the citation was issued.		Required for Citations		

Table 1 Information to be Included on Written Notices					
		Notice of Unpaid Judgment	Notice of Unpaid Citation or Towing & Storage Charge	Renewal Notice Following Unpaid Judgment	Renewal Notice Following Unpaid Citations or Towing & Storage Charge
17.	Certification that 2 notices that meet the requirements of s. 345.28(4)(c)2., Stats., have been mailed to the last-known address of the person against whom the towing and storage charges apply and that said charges remain unpaid.		Required for Towing and Storage Charges		
18.	The place that the citation, judgment, or unpaid towing and storage charges may be paid.	Required	Required	Required	Required
19.	The means by which the citation may be contested.		Optional		
20.	The citation number.		Optional		Included if provided to department.
21.	Certification by the court that a warrant has been served on the person against whom the judgment was entered or, in the case of a judgment entered under s. 345.28, that the person has been notified of the entry of judgment and the judgment remains unpaid.	Required			
22.	The court case number assigned by the court.	Optional		Included if reported to the department.	
23.	The state of issue and driver's license number, tax ID number or social security number of the person named on the notice.	Optional			
24.	The date of birth of the person named on the notice.	Optional			

Table 1 Information to be Included on Written Notices					
		Notice of Unpaid Judgment	Notice of Unpaid Citation or Towing & Storage Charge	Renewal Notice Following Unpaid Judgment	Renewal Notice Following Unpaid Citations or Towing & Storage Charge
25.	Notification that registration will not be renewed until a citation, judgment or unpaid towing and storage charge is paid, and that registration may be renewed in spite of an unpaid citation if the person appears in court to respond to the citation.			Required	Required

NOTE: No. 15, the license number of the vehicle involved, is required to be included in notices of judgment by s. 345.47(1)(d), Stats., but is not needed for any administrative purpose. Under s. 341.10(7), Stats., all of a debtor's vehicle registrations must be suspended regardless of which vehicle was used in the matter leading to the judgment. Accordingly, identification of that person is essential, but individual license plate numbers are not. Therefore the license number is not required for such cases under this rule making.

No. 19, the means by which a citation may be contested, is required by s. 345.28(4)(b)1., Stats., but is not used for any administrative purpose. The requirement is therefore listed as optional and cases will be processed without that information.

Trans 128.05 Department to refuse or suspend registration. (1) REFUSAL UPON PROPER NOTICE. Upon receipt of a notice from a suspending authority meeting the requirements of this chapter, the department shall do one of the following:

(a) If a court notifies the department under s. 345.47(1)(d) that a judgment has been entered against the applicant and the judgment remains unpaid, the department shall refuse registration of vehicles owned by the judgment debtor.

(b) If an authority notifies the department under s. 345.28(4) that a citation for a nonmoving traffic violation has been issued for a vehicle and the vehicle owner has not paid the citation or appeared in court to respond to the citation, or notifies the department a vehicle owner has not paid towing and storage charges associated with a citation for a nonmoving traffic violation issued for that owner's vehicle, the department

may suspend the registration of the vehicle that is identified in the citation or any other vehicle of the owner to which that registration number has been assigned, and may refuse registration for that vehicle or all of the owner's vehicles as directed by the authority.

(2) OFFICIAL NOTICE REQUIRED. The department may not suspend or refuse registration based on judgments, citations, or unpaid storage or towing charges which are not identified in a notice filed with the department.

(3) ADMINISTRATIVE ERRORS. Nothing in this chapter prohibits the department from refusing or suspending registration based on a notice that fails to comply with one or more requirements of sub (1).

NOTE: The requirements of sub. (1) are administrative. The Department may, at its discretion, process a TVRP case based on an order or notice that is defective in some manner but that provides sufficient information for the Department to comply with the intent of the notice or order.

(4) INCOMPLETE OR IMPROPER NOTICE. (a) Upon receipt of a request to suspend registration of a vehicle that identifies a vehicle plate number that does not exist, or that contains a plate number that is not associated with the identified debtor, the department may not suspend registration for that plate, but shall refuse registration for the debtor identified in the notice.

(b) Upon receipt of a notice to suspend registration of a particular plate number, where the department has issued new registration plates to the identified debtor to replace the plates identified on the notice, the department shall suspend the new registration plates.

(5) SUSPENSION OR REFUSAL LIMITED. (a) *Out-of-state registration.* The department may not suspend registration issued by another state.

(b) *Rental and lease vehicles.* Notwithstanding subs. (1) to (4), where a rental or leased motor vehicle is involved in a parking violation or accrues towing and storage

charges while in possession of a vehicle renter or lessee, the department may suspend or refuse registration of that vehicle if the vehicle owner does not pay 50% of the forfeiture or towing and storage charges as required by s. 345.28(5m)(c) or (5r)(c).

(6) MULTIPLE JUDGMENT REPORTING PROHIBITED. A court may not provide notice of multiple judgments under one TVRP suspension case.

(7) MULTIPLE CITATION OR CHARGE REPORTING PROHIBITED. Except in the case of electronic notices filed with the department under s. Trans 128.14, an authority may not provide notice of multiple unpaid citations or unpaid towing and storage charges under one TVRP suspension case. Each unpaid citation or towing and storage charge shall be filed by a separate notice meeting the requirements of this chapter.

(8) NO AMENDMENTS. A notice may not be amended, but additional notices may be filed under different TVRP suspension numbers by a suspending authority if the suspending authority desires to have registration suspended or refused for additional or different judgments, citations, or unpaid towing and storage charges.

(9) PROMPT SATISFACTION. A suspending authority shall mail or deliver a notice of satisfaction on the form prescribed in s. Trans 128.04(5) to the department not later than 3 working days after the suspending authority receives payment of the judgment, citation or unpaid towing or storage charge, otherwise determines that the unpaid citation, judgment or unpaid storage charge has been satisfied or, in the case of an unpaid citation or a towing and storage charge associated with a citation, the person appears in court to contest the citation.

(10) ACCURACY. The suspending authority is responsible for assuring that a notice sent to the department under this chapter is a correct and appropriate submission and that it is not submitted in violation of any injunction or a bankruptcy stay.

(11) RECORD DISPOSAL. A TVRP case may be deleted from the department's records in any of the following circumstances:

(a) Six years after the date of filing.

(b) Upon receipt of notice that collection of debts against the vehicle owner is stayed under 11 USC s. 362.

NOTE: The Department disposes of records of cases more than 6 years old on a semi-annual basis. Cases released under par. (b) may be refiled under sub. (12) once the bankruptcy stay is lifted.

(12) REFILING. Nothing herein prohibits a suspending authority from re-filing notice of nonpayment if a judgment remains unpaid and has been removed from the department's records under sub. (11).

(13) PER CASE FEE ASSESSMENT. The department shall assess the fee determined under s. Trans 128.13(3) for each TVRP case processed under the procedure described in this section. Multiple citations or towing and storage charges reported electronically as one case under s. Trans 128.14 shall be treated as one TVRP case for purposes of this subsection.

Trans 128.06 Actions associated with unpaid judgment cases. Pursuant to s. 341.10(7), Stats., upon notification by a court under s. 345.47 (1) (d), Stats., that a person has an unpaid judgment, the department shall send an initial notification letter to the person named by the court to the address supplied by the court or to any more recent address for the person known to the department. The letter shall notify the person that the department will refuse registration of vehicles titled or registered to the person in the manner required by s. Trans 128.04(1). Failure of the department to send the notice, or of the debtor to receive it, is not a defense to refusal of registration.

Trans 128.07 Record of action. When a department issued suspension or refusal order is computer-created, the computer shall also create a computer image file

or microfiche of the text of the letter as the record of action, or shall store the information included on the suspension order so that a copy of the text of the suspension order may be recreated. Records stored under this subsection may be destroyed at the same time or after any record of the suspension is removed from the department's database of vehicle records.

Trans 128.08 Refusal of registration. (1) SCOPE. If the department refuses registration, it may not permit the person to do any of the following:

- (a) Register a vehicle.
- (b) Re-register a vehicle.
- (c) Renew the registration of a vehicle.
- (d) Change the gross weight at which a vehicle is registered.
- (e) Change the operating status of a vehicle.
- (f) Transfer registration to another vehicle.
- (g) Acquire registration as part of the transfer of ownership of a vehicle.
- (h) Continue a nonexpiring registration.
- (i) Obtain replacement license plates for any vehicle.

(2) WITHDRAWAL OF REGISTRATION BY CANCELLATION. The department shall cancel any registration issued in violation of the provisions of this chapter.

NOTE: Section 342.255(3) requires the Department to cancel any registration issued in violation of any law.

(3) APPLICATIONS FOR CERTIFICATE OF TITLE AND REGISTRATION BY DEBTOR REGISTRANT. (a) Titling of vehicles is generally governed by ch. 342, Stats., and not by this chapter, except as provided in s. Trans 128.09. The department may issue a title to a vehicle transferred to a person to whom registration must be refused under this chapter.

NOTE: Refusal of registration is different than suspension, revocation or cancellation of registration.

(b) If an application for certificate of title identifies a vehicle or vehicle owner that is subject to refusal of registration and indicates that the vehicle has been operated upon public highways, any required registration fee shall be collected and retained at the time of issuing title, but the department may not issue registration for that vehicle. The department shall assign registration to the vehicle according to the provisions of ch. 341, Stats., but shall withhold sending the proof of registration to the vehicle owner until the department receives evidence that all judgments, citations and towing and storage charges are paid. The certificate of title shall be sent to the vehicle owner with a notice that registration is being withheld because of unpaid judgments, unpaid citations, or unpaid towing and storage charges associated with the citations, and indicating that the registration shall be withheld until the department receives evidence that each identified debt is paid.

(4) CRITERIA FOR IDENTIFYING A PERSON SUBJECT TO REFUSAL OF REGISTRATION. The department may rely on information supplied by a court or an authority to identify persons whose registration may be refused and may supplement that information with department records. The department shall refuse the renewal, transfer or issuance of registration when:

(a) The applicant's or registrant's name and address are both the same as the name and address supplied on a notice of unpaid judgment or unpaid citation or unpaid towing and storage charges associated with the citation.

(b) The name shown on the department's record for the license plate number supplied on the notice of unpaid judgment or notice of unpaid citation or unpaid towing and storage charges associated with the citation is similar or a reasonably logical variation of the name supplied on the notice of unpaid judgment or notice of unpaid

citation or unpaid towing and storage charges associated with the citation regardless of whether the address information is the same.

(c) The applicant's or registrant's name is exactly the same or a reasonably logical variation of a name as stated in pars. (a) and (b), and the address is the same as one of the following:

1. The address supplied on the notice of unpaid judgment or notice of unpaid citation or unpaid towing and storage charges associated with the citation.

2. The address obtained from the department's record for the license plate number supplied on the notice of unpaid judgment or notice of unpaid citation or unpaid towing and storage charges associated with the citation.

3. The address obtained from department's driver license records using information supplied by the notice of unpaid judgment.

(d) The applicant or registrant has the same customer identification number, driver license number or social security number on the department's records as the person identified on the notice of unpaid judgment or unpaid citation or unpaid towing and storage charges associated with the citation.

Trans 128.09 Transfer of vehicle ownership while registration suspended.

(1) TRANSFER PROHIBITED. No person may transfer ownership of any vehicle that is subject to a suspending authority's registration refusal or suspension under s. 341.63(1)(c), Stats., for nonpayment of citations or towing and storage charges until the registration is reinstated under s. 341.63(2), Stats., or until the department is satisfied that the transfer is proposed in good faith and not for the purpose or with the effect of defeating the purpose of a TVRP case. Except as provided in sub. (3), the department may decline to issue a vehicle title to any person other than the debtor registrant.

(2) SHAM TRANSACTIONS INEFFECTIVE. An attempt to transfer ownership of a vehicle that is subject to a registration suspension or refusal for nonpayment of a citation under s. 341.63(1)(c), Stats., shall be considered to be an effort to defeat the purpose of that TVRP case in any of the following circumstances:

(a) Any situation in which the debtor registrant would continue to have possession, use of, or receive any benefit from the operation of the vehicle.

(b) Any situation in which the vehicle is transferred to a person residing at the same address as the debtor registrant.

NOTE: The prohibition on transfer of ownership is set forth in s. 341.64, Stats., and does not prohibit transfer of ownership of vehicles subject to registration refusal because of unpaid judgments or unpaid towing and storage charges.

(3) EXCEPTIONS TO REFUSING A TRANSFER OF OWNERSHIP.

Notwithstanding sub. (1), the department may transfer title to a vehicle and issue a title to a person other than the debtor registrant if any of the following apply:

(a) The transfer is from the debtor registrant to a person who meets the definition of motor vehicle dealer in s. 218.0101(23), Stats.

(b) The purchaser does not reside at the same address as the debtor registrant and provides the department with a signed statement that the seller of the vehicle will not have possession, use of, or receive any benefit from the operation of the vehicle after the requested transfer of title is completed by the department.

(c) The transfer constitutes an involuntary transfer of ownership under any of the following circumstances:

1. The vehicle is repossessed by a secured party and title and registration are applied for pursuant to s. 342.17(2), Stats.

2. Application for title to a vehicle owned by a decedent, ward or bankrupt is made under s. 342.17(4), Stats.

3. Transfer is required under a divorce settlement or order and the transferring party does not execute and deliver the title to the vehicle to the transferee.

4. A bankruptcy trustee seeks title to a vehicle titled in the name of a debtor or transfers ownership to a third person.

NOTE: See s. 342.17(4), Stats.

5. The vehicle is an abandoned vehicle that was or is being disposed of by a duly authorized municipal or county representative under s. 342.40(2), Stats.

6. The vehicle is sold under s. 779.48(2), Stats., to enforce a towing or storage lien under s. 779.415, Stats., a garage or livery lien granted by s. 779.43(3), Stats., or a mechanics lien granted by s. 779.41, Stats.

7. The vehicle is sold to enforce a landlord storage lien under s. 704.05(5), Stats.

8. Transfer of title to the vehicle is ordered by a court, or a court declares a person to be the vehicle owner.

9. Any other situation in which the interest of an owner in a vehicle passes to a different person other than by voluntary transfer.

NOTE: A person attempting to register a vehicle that is subject to suspension for an unpaid citation may be subject to the forfeiture in s. 341.04(2), Stats. Making a knowingly false statement on an application for title is a Class H felony. s. 342.06(2). Making a false statement on an application for a duplicate title or license or to induce any other action by the department subjects a person to a forfeiture of up to \$500. s. 345.17(2), Stats.

(4) REQUESTS FOR ADDITIONAL INFORMATION. The department may request information sufficient to make a determination as to the applicability of the exceptions specified in sub. (3) from a purchaser and may withhold issuance of title and registration pending receipt of that information.

NOTE: Section 342.12(2), Stats., permits withholding of title where ownership is unclear.

(5) APPLICATION DISPOSITION WHEN TRANSFER OF OWNERSHIP REFUSED. When the department refuses to allow a transfer of ownership under s. 341.63(1)(c), Stats., because of unpaid citations, and a transfer of ownership is determined not to have been made in good faith or in order to defeat the purpose of the TVRP case under sub. (2), the department may:

(a) Create a new title, without charge, in the name of the seller and send it to the seller with a letter explaining why the transfer of ownership was refused.

(b) Return to the purchaser all fees submitted by the purchaser with an explanation why the transfer of ownership was refused. If proof of registration was issued in error, the fees may be returned only after the purchaser complies with a department request for return of that proof of registration.

(c) Notify by letter any secured party shown on the purchaser's application for transfer of ownership that transfer of ownership was refused.

(d) The decision to refuse registration under this section is reviewable. All decisions shall include the reason transfer of title was denied and include the following notice or a similar writing providing notice of the person's right to a hearing:

RIGHT TO A HEARING: s. 342.26, Stats., provides you a right to a hearing on this order to decline to issue a title before the Division of Hearings and Appeals as a Ch. 227 Contested Case.

You may request a hearing by filing a written appeal within 30 days of the date of this order with the Division of Hearings and Appeals, 5005 University Avenue, Room 201 Madison, WI 53705. s. HA 1.04(1), Wis. Admin. Code.

All appeals must include the name and address of the appellant, a description of the action that is being contested, the effective date of the action, a copy of this order if possible, a concise statement of the reasons for objecting to the action, the type of relief the appellant is seeking, the name and address of any person who may be expected to appear on behalf of the appellant, and the request for a hearing. s. HA 1.04(2), Wis. Admin. Code.

Trans 128.10 Effect of bankruptcy on vehicle registration suspensions.

(1) BANKRUPTCY THAT PRECEDES TVRP SUSPENSION. In any case in which the department is notified of a pending bankruptcy proceeding and applicability of a stay under 11 USC s. 362, the department shall release any registration suspension imposed under this chapter affecting the vehicle registration of the debtor. The authority may not refile its notice of unpaid judgment, citation or towing and storage charges until the stay is no longer in effect.

NOTE: The co-debtor stay under 11 USC s. 1301 applies only to consumer debt. Fines, forfeitures, and towing and storage charges associated with citations are not consumer debt. Therefore the co-debtor stay of 11 USC s. 1301 does not impact TVRP cases.

(2) EFFECT ON VEHICLE REGISTRATION. (a) *Reinstatement.* A vehicle owner whose vehicle registration is suspended or subject to refusal under this chapter who files a petition in bankruptcy, and from whom collection of a pre-bankruptcy debt arising prior to the filing of the petition is stayed under 11 USC s. 362, may reinstate his or her vehicle registration. The person shall be subject to all the same reinstatement, filing and fee requirements as any other person seeking registration reinstatement following a registration refusal or suspension.

NOTE: Liability for forfeitures is not "consumer debt" under 11 USC s. 101(7). Therefore, Ch. 13 co-debtor stay does not prohibit collection against non-bankrupt persons.

(b) *Release of suspension ordered in violation of automatic stay.* If the department is notified that a stay prohibiting action against a debtor under 11 USC s. 362 was in effect at the time the department suspended a debtor's vehicle registration under this chapter, the department shall reinstate the bankruptcy debtor's vehicle registration without any reinstatement fee.

(c) *Reimposition of suspension.* The department may suspend or refuse a debtor's vehicle registration that was released under sub. (1) or (2) upon a subsequent

TVRP case filing by a suspending authority. Such a filing shall be deemed a representation by the authority that the debt described in the filing was not discharged or satisfied within the bankruptcy proceeding and that no bankruptcy stay is in effect.

NOTE: While forfeitures are not generally dischargeable under 11 USC s. 523(a)(7), towing and storage charges would ordinarily be discharged in a bankruptcy proceeding. Authorities and delegated agencies are encouraged to consider each type of debt separately in deciding whether to order the department to suspend or refuse registration.

(d) *Proof.* The department may require satisfactory proof that a registrant's forfeiture or towing and storage charges have been discharged in a bankruptcy proceeding in any case where a debtor seeks to reinstate a vehicle registration after the bankruptcy case is closed or dismissed, a discharge has been granted, the automatic stay has been lifted, terminated, annulled or modified, or a suspending authority has filed a subsequent notice under par. (c). Acceptable proof may include copies of the schedules for the bankruptcy case listing the suspending authority as a claimant in the bankruptcy, proof of the filing date, such as the notice of bankruptcy filing mailed by the bankruptcy court or a copy of the petition containing the clerk's file stamp showing the date the petition was filed, and an affidavit that the debt is dischargeable under the United States bankruptcy code and has been discharged.

NOTE: Forfeitures and fine debts are not dischargeable in Ch. 7 bankruptcies. 23 USC s. 527(a)(7). Criminal fines are not dischargeable in Ch. 13 bankruptcies either. 23 USC s. 1328(a)(3).

(e) *Disputes.* In any case where a debtor registrant and a suspending authority dispute whether a discharge has affected debt for which registration refusal or suspension is requested, or in any case where a debtor registrant claims a forfeiture was discharged in a ch. 7 bankruptcy or a criminal fine was discharged in any bankruptcy proceeding, the department may require one or both parties to obtain a court order that decides whether the debt is discharged.

(f) *Court determinations.* The department shall accept court findings or orders regarding discharge of a claim in an action between the registrant and the suspending authority as determinative, and may impose or release a registration suspension or refusal in accordance with the determination of the court.

NOTE: While the Department does not have authority to require debtors to provide a certain type of notice of bankruptcy filing to it under federal law, debtors who are subject vehicle registration suspensions under s. 345.28(4)(a)2., Stats., will find that the Department's reaction to a bankruptcy filing is faster and more predictable under this section if the Department is listed on the mailing matrix for the proceeding with an address of Wisconsin Department of Transportation, Uninsured Motorists Unit, P.O. Box 7919, Madison, WI 53707-7919.

(3) VOLUNTARY PROCEEDINGS BY WAGE EARNERS FOR AMORTIZATION OF DEBTS. The department may not release a registration refusal or suspension based solely upon a court order entered under s. 128.21, Stats.

NOTE: Voluntary wage earner proceedings affect only executions, attachments or garnishments, and do not affect suspensions of vehicle registration. s. 128.21(1), Stats.

Trans 128.11 Renewal forms for vehicle registration. (1) RECORD KEEPING. The department is not required to keep copies of renewal notices nor to maintain any record of evidence of mailing renewal notices or of renewal notices that are returned to the department or its agent as undeliverable by the U.S. postal service.

(2) RENEWAL NOTICE NOT PROVIDED. The department is not required to create or mail a vehicle registration renewal notice to a registrant if any of the following apply:

(a) The registration is suspended under s. 20.905(2), 341.63(1), 344.08 or 344.14, Stats.

(b) The registration is revoked under s. 344.25, Stats.

(c) The registration is canceled under s. 342.255, Stats.

(d) The vehicle was not registered in the preceding registration period.

NOTE: If a person did not register a vehicle during the last registration period (lengths of these periods vary by vehicle type), the Department assumes the vehicle does not need to be registered because it was sold, scrapped, or moved to another state.

Trans 128.12 Resolution of errors. (1) ERRORS IDENTIFIED BY PERSON.

(a) If a person notifies the department that a department error has resulted in suspension or refusal of a vehicle's registration, the department shall review its records related to the suspension and conduct such additional investigations as it deems appropriate. If the department concludes as a result of the review and any investigation that refusal or suspension of registration is unwarranted, the department shall modify its records and allow registration for the vehicles to be issued.

(b) If the department does not modify its records and allow registration to be issued under sub. (2), the department shall direct the person to contact the suspending authority that submitted the order for registration refusal or suspension to the department and have it investigate the matter and, if appropriate, submit a notice of satisfaction to the department in the manner described in s. Trans 128.04(5).

(2) ERROR IDENTIFIED BY SUSPENDING AUTHORITY. To correct an error in a notice of unpaid judgment, unpaid citation or unpaid towing and storage charges associated with the citation sent to the department, a suspending authority shall submit a notice of satisfaction to the department as described in s. Trans 128.04(5). To establish a correct record, the suspending authority shall submit a new notice of unpaid judgment, unpaid citation or unpaid towing and storage charges associated with the citation containing the correct information and fee required by s. Trans 128.05(13).

Trans 128.13 Cost of traffic violation and registration program.

(1) GENERAL. In accordance with s. 85.13, Stats., the department shall charge the cost of the development and operation of the traffic violation and registration program to

all participating local units of government or other authorities based on the number of cases processed on their behalf.

(2) DEVELOPMENT COST AMORTIZATION. (a) The cost of development of systems for the traffic violation and registration program shall be amortized over the 4-year period following implementation of those systems.

(b) The cost of enhancements, improvements or additional development of the system shall be amortized over the 4-year period following the implementation of such enhancements, improvements or additional development.

(3) RATE OF PAYMENT. (a) The department shall establish the rate of payment required for each TVRP case submitted by a suspending authority based on the following factors:

1. The estimated annual volume of cases that will be processed by the department as calculated under ss. Trans 128.04(2) to (5) and Trans 128.14 which serves as the denominator in the rate calculation equation.

2. The estimated cost of operation, including employee salaries and fringe benefits, office space, office supplies and equipment, postage, computer charges, printing and forms, the annual amount of amortized enhancement, as described in sub. (2), any deficit from prior fiscal periods, and other necessary expenses which serves as the numerator in the rate calculation equation.

(b) The rate of payment may be recalculated from time to time to reflect the costs of the program to the department. Rate increases, if any, may be imposed only on or after the next July 1 following the recalculation.

(c) The department shall notify all participants of the rate of payment at least 30 days prior to the effective date of the rate.

(4) METHOD OF PAYMENT. Participants shall pay the department for cases processed by one of the following methods:

(a) Payment at the time the notice of unpaid judgment is submitted by a court to the department for processing.

(b) Payment at the time the notice of unpaid citation or unpaid towing and storage charges associated with the citation is submitted by an authority or delegated agency to the department for processing.

(c) Pre-payment by establishing an account with the department against which charges shall be made at the time:

1. Notice of unpaid judgment is processed for the local unit of government or other authority identified by a court on the notice of unpaid judgment form.

2. Notice of unpaid citation or unpaid towing and storage charges associated with the citation is processed for the authority or delegated agency of the local unit of government.

(d) Automatic debit of the participants banking account through the automated clearing house, or ACH, transaction system of the federal reserve bank.

(5) ACCOUNTING REPORT. The department shall provide to each active participant a monthly report on the status of their financial account established under sub. (4)(c).

(6) REFUNDS. When a participating local unit of government or other authority has elected to pay under sub. (4)(c), and later terminates participation as provided in s. Trans 128.03, any unused balance in the account shall be refunded by the department. An authority may request a refund of an unused balance under sub. (4)(c) at any time, but must elect another means of payment as a condition of continued participation in the program.

Trans 128.14 Electronic notification of unpaid judgments, citations or towing and storage charges. (1) AGREEMENT. A suspending authority may enter into an agreement with the department to provide for electronic reporting of unpaid judgments, citations, or towing and storage charges.

(2) CONSOLIDATED REPORTING. A suspending authority that has entered into an agreement under sub. (1) may report multiple unpaid judgments applicable to a single person, or multiple citations or towing and storage charges applicable to a single vehicle or registration number in one consolidated report, provided that the suspending authority maintains a mechanism by which persons may determine the court case number, citation number, amount due and other identifying information related to unpaid judgments, citations, towing and storage charges by contacting the suspending authority and providing the TVRP suspension number or the registration number of any vehicle affected. A consolidated report is composed of a discrete set of unpaid judgments, citations or towing and storage charges. After submitting the report to the department, an authority may not subsequently add unpaid judgments, citations or towing and storage charges to a consolidated report TVRP case.

(3) REPORTING REQUIREMENTS. Electronic notification reports submitted under this section shall be completed in the manner directed by the department and contain all information required by the department.

(4) PROCESSING. The department may reject any electronic notification that does not meet the requirements of sub. (3).

(5) RECORDS. The department may remove all records of unpaid judgments, citations or towing and storage charges reported under this section from the department's records 6 years after the date of entry into the department's records. Nothing herein shall prohibit a suspending authority from refiling notices of unpaid

judgments, citations or towing and storage charges following removal from department records if they remain unpaid. The fee required by s. Trans 128.13 shall be payable for each refiled judgment, citation or towing and storage charge.

(6) NOTICE TO VEHICLE OWNER. A registration renewal notice sent to a person for a vehicle that is subject to a suspension issued following notice provided under this section shall include the TVRP suspension number for the citations, judgments or towing and storage charges for each TVRP case and the contact information for the suspending authority that filed the notice with the department. The department may include other information in the notice at its discretion.

Trans 128.15 Control group testing. The department may decline to issue any notice required by this chapter, or amend a notice to exclude information otherwise required under s. Trans 128.04, for the purpose of testing the effectiveness of such notice. Any such pilot program shall be limited to a defined portion of the vehicles registered in this state. The study shall be limited to 2 years in duration, but may be extended an additional 2 years upon the introduction of legislation or administrative rules to extend the pilot to vehicles not within the scope of the pilot.

(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)(intro.), Stats.

Signed at Madison, Wisconsin, this ____ day of June, 2007.

FRANK J. BUSALACCHI
Secretary
Wisconsin Department of Transportation