

Report From Agency

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

CR 10-142

The Wisconsin Department of Transportation proposes an order to repeal TRANS 132.05(2)(note); renumber and amend TRANS 132.02(7); amend TRANS 132.01(1) and (2), 132.03(intro.) and (2), 132.04(1)(a) to (c), (2) and (3)(a) and (c), 132.05(title), (1) and (2), 132.06(title) and (1) to (7)(a), 132.07(1) and (2), 132.08(1)(intro.) and (2), 132.09 and 132.10; repeal and recreate TRANS 132.04(3)(b); and create TRANS 132.02(7)(a) and (b), relating to temporary operation plates or permits.

**REPORT OF THE DEPARTMENT OF TRANSPORTATION
ON THE FINAL RULE DRAFT**

This report is submitted to the chief clerks of the Senate and Assembly for referral to the appropriate standing committees. The report consists of the following parts:

Part 1--Analysis prepared by the Department of Transportation.

Part 2--Rule text in final draft form.

Part 3--Recommendations of the Legislative Council.

Part 4--Analysis prepared pursuant to the provisions of s. 227.19(3), Stats.

Submitted by:

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PART 1

Analysis Prepared by the Wisconsin Department of Transportation

Statutes interpreted: ss. 341.04 and 341.09, Stats.

Statutory authority: ss. 85.16(1), 227.11 and 341.09, Stats.

Explanation of agency authority: The Department of Transportation is authorized and required to issue temporary operation plates for motor vehicles and to specify the size, color, design, form and specification of the temporary operation plates by rule, pursuant to s. 341.09, Stats. This rule is proposed to meet those requirements.

Related statute or rule: ss. 340.01, 341.04, 341.12, 341.13, 341.15, Stats., and chs. Trans 128 and 141.

Plain language analysis: Chapter Trans 132 specifies the size, color, design, form and specifications, and display of temporary operation plates that DOT is authorized to issue under s. 341.09, Stats.

The Division of Motor Vehicles (DMV) is developing an on-line program which will allow the public to apply for title and registration for certain vehicles electronically. To comply with s. 341.04(1), Stats., DMV will issue a temporary operation plate that the on-line program will print on paper at the applicant's printer and which shall be displayed in the rear window of the vehicle. The temporary plate number, vehicle description, expiration date, and owner information will be stored in the DMV database and will be available to law enforcement, real time and on-line.

This rule making amends ch. Trans 132 to specify size, color, design, form and specifications, and display of temporary operation plates that DOT will issue electronically as part of the on-line web application for electronic vehicle title and registration provided by the Department.

Summary of, and preliminary comparison with, existing or proposed federal regulation: No federal regulations apply to the activities to be regulated by the proposed rule.

Comparison with Rules in the Following States:

Michigan: Michigan does not issue temporary operation plates printed on paper at an applicant's printer and displayed in the rear window of the vehicle.

Minnesota: Minnesota issues temporary operation permits printed on paper and affixed in the rear window. The temporary operation permit is not printed at an applicant's printer; instead, it is purchased from the DMV.

Illinois: Illinois does not issue temporary operation plates printed on paper at an applicant's printer and displayed in the rear window of the vehicle.

Iowa: Iowa issues a temporary “in-transit” permit that is displayed in the rear window of the vehicle. The permit is not printed at an applicant’s printer; instead it is purchased in advance from the DMV and is available to dealers rather than individuals.

Summary of factual data and analytical methodologies used and how the related findings support the regulatory approach chosen: With an on-line title and registration process, DMV must be able to issue a temporary operation plate immediately to a person after the person completes the on-line process. This is to comply with s. 341.04(1), Stats. Otherwise, the registrant must refrain from operating the vehicle until the metal plate arrives.

DMV has considered alternative ways to immediately provide a temporary operation plate to on-line title and registration customers. DMV has concluded that a temporary operation plate printed on paper at the customer’s printer and displayed in the rear window of the vehicle meets the requirement under s. 341.04, Stats. Since the temporary operation plate number and vehicle and owner identifying information will be available real-time on-line to law enforcement, DMV has concluded that the risk of fraud or counterfeiting is minimized.

Analysis and supporting documentation used to determine effect on small businesses: DMV is migrating toward as many applications as feasible to be conducted electronically, which will reduce time and cost burden to small businesses as well as individuals. Currently, any vehicle purchased through a Wisconsin-licensed motor vehicle dealer will be processed electronically by the dealer. DMV is developing a web-based electronic title and registration process for “private” – non-dealer – sales. DMV will offer this option for automobiles and light trucks (8,000 lbs or less) and motorcycles, which comprise almost 94% of all vehicles in Wisconsin.

Effect on small business: To the extent that small businesses purchase eligible vehicles through private sales, this application will have a positive effect on small businesses. The Department’s Regulatory Review Coordinator may be contacted by e-mail at ralph.sanders@dot.wisconsin.gov, or by calling (414) 438-4585.

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

Anticipated costs incurred by private sector: The Department estimates that there will be no fiscal impact on private sector revenues or liabilities.

Agency contact person and copies of proposed rule: Copies of the proposed rule can be obtained, without cost, by writing to Rhonda Alley, Department of Transportation, Division of Motor Vehicles, Bureau of Vehicle Services, Room 253, P. O. Box 7911, Madison, WI 53707-7911. You may also contact Ms. Alley by phone at (608) 264-7396 or via e-mail: rhonda.alley@wisconsin.gov.

PART 2
TEXT OF PROPOSED RULE

SECTION 1. Trans 132.01(1) and (2) are amended to read:

Trans 132.01 Purpose and scope. (1) STATUTORY AUTHORITY. As authorized by ss. 85.16 (1), 227.11 and 341.09, Stats., the purpose of this chapter is to establish the department's administrative interpretations of ss. 341.04 and 341.09, Stats., relating to issuance of temporary operation vehicle license ~~plate~~ plates and permits.

(2) APPLICABILITY. This chapter applies to any licensed Wisconsin motor vehicle dealer or contractor participating in the issuance of temporary operation plates or to any vehicle owner purchasing or obtaining a temporary operation plate from a dealer or the department.

SECTION 2. Trans 132.02(7) is renumbered Trans 132.02(7)(intro.) and is amended to read:

Trans 132.02(7)(intro.) "Plate" or "temporary plate" or "temporary operation plate" means a temporary operation plate issued under s. 341.09, Stats., and includes either of the following:

SECTION 3. Trans 132.02(7)(a) and (b) are created to read:

Trans 132.02(7)(a) An "on-line delivered temporary operation plate," which means a temporary operation plate issued by the department through its on-line web application for electronic vehicle title and registration, and which is delivered electronically to applicant's printer, which printer shall produce the temporary operation plate on white paper at the conclusion of the electronic vehicle title and registration process.

(b) A “manually delivered temporary operation plate,” which means a temporary operation plate that is issued by the department and delivered to the applicant by any means other than as provided in par. (a).

SECTION 4. Trans 132.03(intro.) and (2) are amended to read:

Trans 132.03 Plate. (intro.) A temporary operation plate issued under s. 341.09, Stats., shall be approximately 6” x 12” or, in the case of an on-line delivered temporary operation plate, shall be approximately 8.5” x 11” and shall contain:

(2) A ~~6-character~~ number of up to 8 characters determined by the department.

SECTION 5. Trans 132.04(1)(a) to (c), (2) and (3)(a) are amended to read:

Trans 132.04(1)(a) As provided by s. 341.15, Stats., only a single plate shall be issued per vehicle ~~and.~~ A manually delivered temporary operation plate shall be attached firmly and rigidly in a horizontal position to the rear of the vehicle, unless the vehicle is a truck tractor or a road tractor, as defined in s. 340.01 (53) and (73), Stats., then the plate shall be attached to the front of the vehicle. An on-line delivered temporary operation plate shall be displayed horizontally on the inside lower driver’s side of the rear window, in a manner that does not obstruct the driver’s view and is clearly readable from the outside of the vehicle.

(b) If the vehicle is equipped with a plate bracket provided by the vehicle manufacturer, ~~the~~ a manually delivered temporary operation plate shall be affixed to the bracket. If the vehicle is not equipped with a plate bracket, the a manually delivered temporary operation plate shall be conspicuously displayed as required in par. (a). If the vehicle does not allow for display of an on-line delivered temporary operation plate horizontally on the inside lower driver’s side rear window, an on-line delivered temporary operation plate shall be displayed in a location as close as possible to a

lower rear window display, in a manner that is conspicuous and clearly readable from the outside of the vehicle.

(c) No person may display upon any vehicle a temporary operation plate not issued for that vehicle.

(2) USAGE. Use of the temporary operation plate is limited to the vehicle purchased, as evidenced by the issued receipt.

(3) RESTRICTIONS. (a) No person may duplicate, reproduce or copy any temporary operation plate.

SECTION 6. Trans 132.04(3)(b) is repealed and recreated to read:

Trans 132.04(3)(b) A temporary operation plate shall be displayed as originally delivered to the applicant and may not be altered in any way.

SECTION 7. Trans 132.04(3)(c) is amended to read:

Trans 132.04(3)(c) Use of the temporary operation plate does not allow a vehicle to be operated at a gross weight greater than that for which regular registration fees have been paid.

SECTION 8. Trans 132.05(title), (1) and (2) are amended to read:

Trans 132.05(title) Issuance Distribution to dealers. (1) A dealer may obtain manually delivered temporary operation plates from the department for issuance on behalf of the department to either a resident or non-resident vehicle purchaser.

(2) A dealer may order manually delivered temporary operation plates by a written request that includes the dealer license number, phone number and dealership name and address.

SECTION 9. Trans 132.05(2)(note) is repealed.

SECTION 10. Trans 132.06(title) and (1) to (7)(a) are amended to read:

Trans 132.06(title) Issuance by dealers on behalf of the department to purchasers. (1) A dealer may issue a manually delivered temporary operation plate on behalf of the department at the fee established by s. 341.09 (2m) (a) 1. (intro.), Stats., to any resident or non-resident who purchases from the dealer any type of vehicle except buses, for-hire vehicles, and IRP vehicles, except as provided in sub. (2).

(2) A dealer shall issue a manually delivered temporary operation plate on behalf of the department at no charge to any resident who purchases from the dealer an automobile, station wagon or motor truck with a registered weight of 8,000 pounds or less if the dealer has received all information and money required under sub. (4).

(3) A dealer may issue a manually delivered temporary operation plate on behalf of the department at the fee established by s. 341.09 (2m) (a) 1. (intro.), Stats., to any resident who purchases an automobile, station wagon or motor truck having a registered weight of 8,000 pounds or less from a person other than the dealer if the dealer has received all information and money required under sub. (4). The dealer may collect a special handling fee of not more than \$5 as provided in s. 341.09 (1) (c), Stats., if the dealer provides special assistance to the purchaser.

(4) A dealer may not issue a manually delivered temporary operation plate on behalf of the department to a resident purchaser unless the dealer receives from the purchaser a complete application for registration and title for the vehicle together with all required fees, including regular registration fees and sales tax.

(5) The dealer shall write the ~~temporary plate~~ number of the manually delivered temporary operation plate on the application for title and registration. The dealer shall give a copy of the application form to the purchaser.

(6) For each manually delivered temporary operation plate issued on behalf of the department, the dealer shall validate and affix the plate to the vehicle purchased in the manner specified by s. Trans 132.04 (1). The manually delivered temporary operation plate is validated by legibly writing the expiration date, which shall be plainly visible, in the specified area on the plate and securing with transparent tape, by removing backing, over the stated expiration date which, under s. 341.09 (1) (a) and (4), Stats., is 30 days from delivery date for non-residents and 90 days from delivery date for residents.

(7) As provided by s. ~~341.16~~ 342.16 (1), Stats., whether or not the dealer issues a manually delivered temporary operation plate on behalf of the department and receipt to the purchaser, except as provided in pars. (a) and (b), within 7 business days following sale and delivery of a vehicle to a purchaser, the dealer shall, unless exempted by the department by rule, process the application for certificate of title, and within the next business day after processing the application, mail or deliver to the department the purchaser's original application for title and registration application and fees, and all associated materials required by the department. In the case of exempted dealers and transactions and for dealer issuance of a manually-delivered temporary operation plate as authorized under sub. (3), the dealer shall within 7 business days following sale and delivery of a vehicle to a purchaser mail or deliver to the department the purchaser's title and registration application and fees and all associated materials required by the department. This section is applicable except that:

(a) Upon sale of a vehicle to a non-resident, the dealer need not process the purchaser's application for Wisconsin title and submit to the department the purchaser's original application for Wisconsin title and all associated materials required by the

department or, in the case of exempted dealers and transactions and issuance under sub. (3), mail or deliver to the department the purchaser's title and registration application and fees and all associated materials required by the department, unless the dealer determines that the Wisconsin title is necessary to protect the interests of a secured party.

SECTION 11. Trans 132.07(1) and (2) are amended to read:

Trans 132.07(1) The dealer shall maintain for 5 years complete and accurate records of all manually delivered temporary operation plates issued by the dealer on behalf of the department, which shall be open for inspection by the department or any law enforcement official, as provided by s. 342.16 (2), Stats., in numerical order by plate number. The record keeping system may be manual or electronic. The records shall contain at a minimum the manually delivered temporary operation plate number, date of issuance, expiration date, purchaser's name and address, fees paid, description of the vehicle, the vehicle identification number and the name of the person issuing the manually delivered temporary operation plate on behalf of the department.

(2) The dealer shall be responsible for security and accountability of manually delivered temporary operation plates obtained from the department, but not yet issued on behalf of the department to vehicle purchasers.

SECTION 12. Trans 132.08(1)(intro.) and (2) are amended to read:

Trans 132.08(1)(intro.) A dealer shall have the privilege to issue manually delivered temporary operation plates on behalf of the department withdrawn and manually delivered temporary operation plates ordered by, ~~issued~~ distributed to, or in possession of a dealer shall be returned to the department under s. 341.09 (2m) (d), Stats., when the dealer:

(2) Within 30 days after denial or issuance of an order, the dealer may request a hearing before the division of hearings and appeals under s. 341.09 (2m) (d), Stats. The dealer may not issue any manually delivered temporary operation plates on behalf of the department until the division of hearings and appeals has held its hearing and not unless the finding is in the dealer's favor.

SECTION 13. Trans 132.09 and 132.10 are amended to read:

Trans 132.09(title) Temporary operation plate for military personnel. Under s. 341.09 (3), Stats., military personnel may obtain a manually delivered temporary operation plate from the department, which shall be the manually delivered temporary operation plate described in s. Trans 132.03 (1), upon presenting to the department military leave or furlough papers. No fee may be charged for issuance of this plate.

Trans 132.10 Plate issuance by contractors. Any person contracting with the department under s. 341.21, Stats., to issue manually delivered temporary operation plates on behalf of the department under s. 341.09, Stats., shall, within 7 business days following issuance of a manually delivered temporary operation plate to an applicant, mail or deliver to the department the purchaser's title and registration application and fees and all associated materials required by the department, and shall comply with all other provisions of this chapter applicable to dealers issuing manually delivered temporary operation plates on behalf of the department.

(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
March, 2011

MARK GOTTLIEB, P.E.
Secretary
Wisconsin Department of Transportation

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PART 4
CR 10-142

ANALYSIS OF FINAL DRAFT OF TRANS 132

(a) **Basis and Purpose of Rule.** The Division of Motor Vehicles (DMV) is developing an on-line program which will allow the public to apply for title and registration for certain vehicles electronically. To comply with s. 341.04(1), Stats., DMV will issue a temporary operation plate that the on-line program will print on paper at the applicant's printer and which shall be displayed in the rear window of the vehicle. The temporary plate number, vehicle description, expiration date, and owner information will be stored in the DMV database and will be available to law enforcement, real time and on-line.

This rule making amends ch. Trans 132 to specify size, color, design, form and specifications, and display of temporary operation plates that DOT will issue electronically as part of the on-line web application for electronic vehicle title and registration provided by the Department.

(b) **Modifications as a Result of Testimony at Public Hearing.** The public hearing was held in Madison on January 6, 2011. No modifications were made as a result of testimony at the hearing.

(c) **List of Persons who Appeared or Registered at Public Hearing.** None.

(d) **Summary of Public Comments and Agency Response to those Comments:** None.

(e) **Explanation of any Changes Made to the Plain Language Analysis or Fiscal Estimate:** The plain language analysis was amended to clarify the applicability of this section to include contractors, and to clarify the definition of temporary operation plates to conform with current practice and usage. The anticipated fiscal impact on the state is now described under the heading "fiscal effect," instead of under the heading "anticipated costs incurred by the private sector."

(f) **Response to Legislative Council Recommendations.** The Legislative Council report contained three comments, two of which were incorporated into the proposed rule, as described under (e) changes to plain language analysis and fiscal estimate. The comment to include a note indicating the Web site address was not incorporated because there is no Web site address yet.

(g) **Final Regulatory Flexibility Analysis.** To the extent that small businesses purchase eligible vehicles through private sales, this application will have a positive effect on small businesses.