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Clearinghouse Rule 22-049

**STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION
PROPOSED ORDER AMENDING PERMANENT RULE**

The Wisconsin Department of Transportation proposes an order to:

Create ss. Trans 134.02 (3), 134.03 (2) (d) (Note), 134.04 (1) (a), (b), and (2) (dm) and (Note), 134.06 (1) (d) 1. (Note), and (4) (a) (Note);

Amend ss. Trans 134.02 (intro.), 134.03 (2) (a), (b), (c), (d), (e), and (g) and (Note), 134.04 (1) (intro.), (2) (a), (e), (f) and (3) and (Note), 134.05 (2), 134.06 (4) (d);

Repeal ss. Trans 134.03 (1) (b), (f), and (2) (f), 134.04 (2) (b) and (c), 134.06 (1) (d) 2. and (2) (b);

Repeal and recreate ss. Trans 134.06 (3) (a) and (Note), (4) (a), and (4) (c); and

Consolidate, renumber, and amend ss. Trans 134.06 (2) (intro.) and (a), relating to authorized special plate groups.

The Statement of Scope for this Permanent Rule, SS 005-22, was approved by the Governor on December 22, 2021, published in Register No. 793A4 on January 24, 2022, and approved by Secretary of the State of Wisconsin Department of Transportation (department) Craig Thompson, as required by s. 227.135 (2), Stats., on November 23, 2021. The analysis below was prepared by the department.

ANALYSIS

Statutes Interpreted: Chs. 340-349, s. 341.14 (6r) (fm), Stats.

Statutory Authority: ss. 85.16 (1), 227.11, and 341.14 (6r) (fm), Stats., and 2015 Wisconsin Act 227.

Explanation of Agency Authority: Chapter Trans 134 administratively interprets s. 341.14 (6r) (fm), Stats., as authorized by s. 341.14 (6r) (fm) (6), Stats. Section 85.16, Stats., grants the department authority to make rules deemed necessary to the discharge of the powers, duties, and functions vested in the department. Section 227.11 (1) (a), Stats., provides executive agencies with authority to promulgate rules interpreting the provisions of any statute administered by the agency if the agency considers it necessary to effectuate the purpose of the statute. The department believes these rules are necessary to effectuate the purpose of s. 341.14 (6r) (fm), Stats.

Related Statute or Rule: s. 341.14 (6r) (fm), Stats.

Plain Language Analysis:

Chapter Trans 134 administratively interprets s. 341.14 (6r) (fm), Stats., as authorized by s. 341.14 (6r) (fm) (6), Stats. Specifically, it establishes procedures for the designation of authorized special groups and the issuance or discontinuation of issuance of special group plates to members of an authorized special group including application procedures, eligibility determination procedures, license plate reservation, and sale procedures and discontinuance of license plate sale procedures for groups desiring to be designated as an authorized special group.

The process for obtaining special group plates under this rule is intended to be used by groups interested in sponsoring an authorized special group license plate. These plates provide recognition for the group. A

1 group may also receive contributions from the collection of annual \$25 donations with the issuance of each
2 plate and each subsequent registration renewal. Groups may choose not to accept donations for the plates.
3

4 In the past, groups needed to apply to their local state legislators to sponsor a bill to authorize issuance of
5 special group license plates. The bill needed to be approved by the Wisconsin State Legislature and signed
6 into law by the governor. 2015 Wisconsin Act 227 changed that process. Under this new process, groups
7 apply directly to the Division of Motor Vehicles (DMV) for a special group plate under s. 341.14 (6r) (fm),
8 Stats.
9

10 Under current law, to apply under this new process, groups must pay a \$15,500 fee for development costs
11 and collect signatures from 500 Wisconsin residents who intend to purchase the special plates. If authorized,
12 the group must maintain 500 valid special plate registrations after 3 years, or DMV will discontinue issuing
13 the plates and stickers associated with the plates. This rulemaking describes the manner in which DMV will
14 administer the plate and sticker discontinuance consistent with statutory requirements.
15

16 Any group or organization may apply for special group license plates. All groups are subject to the approval
17 process.
18

19 To apply, an applicant must provide the department with all of the requirements of s. 341.14 (6r) (fm) 2.,
20 Stats., including:

- 21 • A development fee of \$15,500. (see s. 341.14(6r) (fm) 2. a., Stats.)
- 22 • 500 signatures from Wisconsin residents supporting the group's special group. (see 341.14 (6r)
23 (fm) 2. f., Stats.)
- 24 • A completed application form MV2090 Authorized Special Group License Plate Application and
25 Signature Page. (see s. Trans 134.03 (1) (a).)
26

27 Additional information and discussion of these authorized special group license plates may be found online
28 at <https://wisconsindot.gov/Pages/dmv/vehicles/title-plates/specialgroup.aspx>.
29

30 **Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations:**

31

32 The federal government does not issue license plates for automobiles. No existing or proposed federal
33 regulations address the issuance of license plates to special groups.
34

35 **Comparison with Rules in Adjacent States:**

36 **Illinois.** The Illinois special plates program is defined in 625 ILCS 5/3-600. It defines the program in
37 this manner:

38 Illinois Compiles Statutes, s. 3-600. Requirements for issuance of special plates.

39 (a) The Secretary of State shall issue only special plates that have been authorized by the
40 General Assembly. Except as provided in subsection (a-5), the Secretary of State shall not
41 issue a series of special plates, or Universal special plates associated with an organization
42 authorized to issue decals for Universal special plates, unless applications, as prescribed
43 by the Secretary, have been received for 2,000 plates of that series. Where a special plate
44 is authorized by law to raise funds for a specific civic group, charitable entity, or other
45 identified organization, or when the civic group, charitable entity, or organization is
46 authorized to issue decals for Universal special license plates, and where the Secretary of

1 State has not received the required number of applications to issue that special plate within
2 2 years of the effective date of the Public Act authorizing the special plate or decal, the
3 Secretary of State's authority to issue the special plate or a Universal special plate
4 associated with that decal is nullified. All applications for special plates shall be on a form
5 designated by the Secretary and shall be accompanied by any civic group's, charitable
6 entity's, or other identified fundraising organization's portion of the additional fee
7 associated with that plate or decal. All fees collected under this Section are non-refundable
8 and shall be deposited in the special fund as designated in the enabling legislation,
9 regardless of whether the plate or decal is produced. Upon the adoption of this amendatory
10 Act of the 99th General Assembly, no further special license plates shall be authorized by
11 the General Assembly unless that special license plate is authorized under subsection (a-5)
12 of this Section.

13 **Iowa.**

14 There is a legislative and an administrative process for the creation of new special license plates. For the
15 creation of a special plate through the legislative process, the special license plate concept must be in the
16 form of legislation sponsored by a state senator or state representative, or by a Senate or House committee.
17 The legislation must follow the traditional process of being approved by both the Senate and the House
18 before being sent to the governor for final approval. An alternate administrative process for the creation of
19 a special license plate is established in Iowa Administrative Code section 761, Chapter 401. Through this
20 administrative process, any individual, group, or State department may submit a proposal for a new special
21 license plate to the Department of Transportation (DOT). If the DOT approves the proposal, then the
22 requestor has one calendar year to submit 500 paid applications before the new plate can be manufactured
23 or issued.

24 **Michigan.**

25 In Michigan, fundraising plates (a non-profit benefits from plate sales & renewals) must be created
26 statutorily. The number of different designs available for sale is capped at 20, and the beneficiary
27 organization must pay for the upfront costs incurred by the Department of State for developing the plates
28 and making them available for sale.

29
30 In addition to the initial startup payment, the organization must file an annual report accounting for the
31 disposition of the proceeds, as well as maintain a sales quota, in order for the plates to remain available for
32 sale for new registrations under s. MCLA 257.811h:

- 33 • 2,000 plates sold the first year the plate is made available for purchase,
- 34 • and 500 new plates each of the next 5 years,
- 35 • and 500 new plates every 2 years thereafter.

36
37 If the sales numbers are not met, the Department of State is required to cease sales of the plate.

38 **Minnesota.**

39 Under Minnesota law, new special plates must be created by legislative enactment. Under a 2003 law that was
40 modified in 2010, proponents for a new special plate must submit an application to the Department of Public
41 Safety that includes information on the plate, a proposed plate fee amount, an analysis of likely plate purchasers,
42 an application fee to cover administrative costs, and a plate marketing plan. The department must provide
43 information to the legislature on each special plate proposal, including determination of whether the application
44 requirements have been met. Minn. Stat. s. 168.1293.

1
2 **Summary of the Factual Data and Analytical Methodologies:**
3

4 The proposed modifications are not based on data analysis. The department is updating this rule to comply
5 with 2015 Wisconsin Act 227.
6

7 **Analysis Regarding Rule’s Effect on Small Businesses:**
8

9 This rulemaking is not expected to have any effect on small businesses. State registration plates do not
10 compete with any products manufactured and sold in the private sector. Participation in a special plate
11 program is entirely voluntary and is not required of any individual or business.
12

13 The agency contact person listed below is also the small business regulatory coordinator for this proposed
14 rule. This proposed rule, fiscal estimate, and other related documents may be viewed at
15 <https://docs.legis.wisconsin.gov/code>.
16

17 **Agency Contact Person:**
18

19 Reed McGinn
20 DMV Program Officer
21 Wisconsin Department of Transportation
22 4822 Madison Yards Way
23 Second Floor South
24 Madison, WI 53707
25 (608) 266-7857
26 DOTAdminRules@dot.wi.gov
27

28 **Place Where Comments Should Be Submitted and Deadline:** Comments may be submitted to the
29 agency contact person listed above or through the Legislature’s Administrative Rules website
30 <http://docs.legis.wisconsin.gov/code> until the deadline given in the forthcoming notice of public hearing.
31
32

33 **TEXT OF RULE**
34

35 **SECTION 1. Trans 134.02 (intro.) is amended to read:**
36

37 **Trans 134.02 (intro.) Definitions.** The words and phrases defined in ~~ss.~~ ss. 341.14 (6r), 341.01, and
38 340.01, Stats., have the same meaning in this chapter, in that order of priority, unless a different definition
39 is specifically provided. In this chapter:
40

41 **SECTION 2. Trans 134.02 (3) is created to read:**
42

43 **Trans 134.02 (3)** “Special plate” means a license plate imprinted with a message for an authorized
44 special group or a decal plate for which stickers are issued for an authorized special group.
45

46 **SECTION 3. Trans 134.03 (1) (b) and (f) are repealed.**
47

48 **SECTION 4. Trans 134.03 (2) (a), (b), (c), and (d) are amended to read:**
49

1 **Trans 134.03 (2) (a)** Along with the application, the group shall submit a deposit of \$15,500 by check
2 made payable to the department of transportation. If the application is not approved, ~~up to \$12,000 of the~~
3 ~~deposit may be returned~~ the department shall return the deposit to the group as provided in s. 341.14 (6r)
4 (fm) 2. a., Stats.

5
6 **(b)** The department shall do an initial review of the group's application, and if the application is not
7 acceptable after the initial review, the department shall return the application and the ~~check~~ deposit.

8
9 **(c)** If the department's initial review of the application indicates that further review is necessary, the
10 department shall deposit the ~~check funds received~~ in the general fund and ~~credit~~ debit the appropriation
11 under s. 20.395 (5) (c), Stats.

12
13 **(d)** If the department ~~rejects~~ denies the group's application, it shall credit the appropriation under
14 s. 20.395 (5) (c), Stats., and refund the deposit to the group.

15
16 **SECTION 5. Trans 134.03 (2) (d) (Note) is created to read:**

17
18 **Trans 134.03 (2) (d) (Note)** See s. Trans 134.04 (3) and s. 341.14 (6r) (fm) 2. a., Stats.

19
20 **SECTION 6. Trans 134.03 (2) (e) is amended to read:**

21
22 **Trans 134.03 (2) (e)** A group may withdraw its application any time before the department has approved
23 the application, ~~and the department shall refund the entire deposit.~~ If the application is withdrawn by an
24 applicant, the department shall deny the application and refund the entire deposit. In order to receive a ~~full~~
25 refund, a notice of withdrawal must be received by the department prior to ~~its~~ any decision approving the
26 application.

27
28 **SECTION 7. Trans 134.03 (2) (f) is repealed.**

29
30 **SECTION 8. Trans 134.03 (2) (g) and (Note) are amended to read:**

31
32 **Trans 134.03 (g)** If the group withdraws its application after the department has approved the application
33 ~~and after plates are ordered, the department shall retain the entire \$15,500 deposit to offset the cost of data~~
34 ~~processing work and the cost of purchasing and issuing the plates~~ may not issue any refund to the
35 applicant.

36
37 **(Note)** Refunds may only be issued if an application is denied. s. 341.14 (6r) (fm) 2. a., Stats. To apply
38 for designation as an authorized special group, complete Form ~~MV2908~~ MV2090 which can be obtained
39 by writing to the Department of Transportation, Bureau of Vehicle Services, P. O. Box 7911, Madison,
40 WI 53707, or by calling ~~(608) 266-3041~~ online at
41 <https://wisconsin.gov/Documents/formdocs/mv2090.pdf>. Additional information about special plates
42 may be viewed online at <https://wisconsin.gov/pages/dmv/vehicles/title-plates/special-list.aspx>

43
44 **SECTION 9. Trans 134.04 (1) (intro.) is amended to read:**

45
46 **Trans 134.04 (1) (intro.)** The department shall approve an application by a group or organization for
47 designation as an authorized special group if ~~the department determines that the group or organization~~
48 ~~meets all of the criteria specified in s. 341.14 (6r) (fm) 1., Stats.~~ all of the following conditions are met:

49
50 **SECTION 10. Trans 134.04 (1) (a) and (b) are created to read:**

51

1 **Trans 134.04 (1) (a)** The applicant group or organization files a complete application and all required
2 fees with the department.
3

4 **(b)** The department determines that the applicant group or organization meets all of the criteria specified
5 in s. 341.14 (6r) (fm), Stats.
6

7 **SECTION 11. Trans 134.04 (2) (a) is amended to read:**
8

9 **Trans 134.04 (2) (a)** The department shall notify the group ~~immediately~~ after initial screening if the
10 application is not acceptable and the notice shall specify why the application is not acceptable.
11

12 **SECTION 12. Trans 134.04 (2) (b) and (c) are repealed.**
13

14 **SECTION 13. Trans 134.04 (2) (dm) and (Note) are created to read:**
15

16 **Trans 134.04 (2) (dm)** Upon receiving a complete application and payment, the department shall follow
17 the required steps set forth in s. 341.14 (6r) (fm) 1m., Stats., to determine whether there are objections to
18 the group and, if objections are made, to obtain a decision on approval of designation from the
19 appropriate standing committees of the legislature. The application shall not be considered approved
20 unless each standing committee to which the application was referred under s. 341.14 (6r) (fm) 1m. c.,
21 Stats., expressly approves the application. If the legislative session ends and an application that has been
22 referred to one or more committees of the legislature has not been approved by each of those committees,
23 the department shall deny the application and refund fees to the applicant.
24

25 **(Note)** Section 341.14 (6r) (fm) 1m., Stats., provides:

26 a. Upon receiving a complete application and payment under subd. 2., the department
27 shall post a notice of the application on the department's Internet site. The notice shall
28 identify the group or organization applying for designation as an authorized special
29 group, include the date that the notice is posted, and describe the process by which a
30 person may object to designation of the group or organization as an authorized special
31 group and the deadline under subd. 1m. b. for submitting the objection.

32 b. Subject to subd. 1r., any person may, within 30 days after the date of the department's
33 notice under subd. 1m. a., object to designation of the group or organization as an
34 authorized special group by submitting a written objection to the department in the
35 manner prescribed by the department.

36 c. If no timely objection is received under subd. 1m. b., the department shall designate the
37 group or organization as an authorized special group. If the department receives a timely
38 objection under subd. 1m. b., the department shall refer the application to the standing
39 committees of each house of the legislature dealing with transportation matters.

40 d. If an application is referred under subd. 1m. c. and the chairperson of each applicable
41 standing committee does not notify the department within 14 days after the date on which
42 the application is referred that the committee has scheduled a meeting for the purpose of
43 reviewing the application, the application is approved. If, within 14 days after the date on
44 which the application is referred by the department, the chairperson of any applicable
45 standing committee notifies the department that the committee has scheduled a meeting
46 for the purpose of reviewing the application, the application is approved only if each
47 standing committee to which the application was referred under subd. 1m. c. expressly
48 approves the application.

49 e. After referring an application to the standing committees under subd. 1m. c., the
50 department shall designate the applicant as an authorized special group only if the
51 application is approved under subd. 1m. d.

1
2 Objections to groups may be made on DMV form MV 2091 which is available online at
3 <https://wisconsindot.gov/Documents/formdocs/mv2091.pdf>. Directions for objecting can be
4 found at <https://wisconsindot.gov/Pages/dmv/vehicles/title-plates/groupreview.aspx>.
5

6 **SECTION 14. Trans 134.04 (2) (e), (f), and (3) and (Note) are amended to read:**
7

8 **Trans 134.04 (2) (e)** The department shall begin data processing work as soon as it approves the group's
9 application as an authorized special group. The department shall endeavor to complete data processing
10 work within 6 12 months.
11

12 **(f)** After the department and the authorized special group agree on a plate design concept, the department
13 shall endeavor to complete a production-ready plate design and purchase plate materials within 6 12
14 months.
15

16 **(3)** If the department denies an application by a group or organization, it shall return the application and
17 deposit promptly in the manner provided in s. Trans 134.03 (2) (d), and shall notify the group or
18 organization of the reasons for the denial.
19

20 **(Note)** Section 341.14 (6r) (fm) 4., Stats., provides that the decision of the department or legislature
21 denying an application for designation as an authorized special group is final and is not subject to judicial
22 review under ch. 227, Stats.
23

24 **SECTION 15. Trans 134.05 (2) is amended to read:**
25

26 **Trans 134.05 (2)** A special group plate shall display, ~~on the left of the plate,~~ a symbol representing the
27 special group. The symbol may not exceed $\frac{1}{4}$ the width of the plate.
28

29 **SECTION 16. Trans 134.06 (1) (d) 1. (Note) is created to read:**
30

31 **Trans 134.06 (1) (d) 1. (Note)** Certification of eligibility is generally accomplished by a representative of
32 the group signing a verification of the person's membership in the group as part of the person's
33 application for the special plate.
34

35 **SECTION 17. Trans 134.06 (1) (d) 2. is repealed.**
36

37 **SECTION 18. Trans 134.06 (2) (intro.) and (a) are consolidated, renumbered Trans 134.06 (2)**
38 **(intro.), and amended to read:**
39

40 **Trans 134.06 (2) (intro.)** GENERAL REQUIREMENTS. ~~(a)~~ The department may not conduct any special
41 advertising or promotion for authorized special group license plates. Any promotion shall be the
42 responsibility of the authorized special group. Nothing in this paragraph shall prohibit the department
43 from issuing a press release related to the plates or from including the special group plate on any website
44 related to special group plates.
45

46 **SECTION 19. Trans 134.06 (2) (b) is repealed.**
47

1 **SECTION 20. Trans 134.06 (3) (a) and (Note), and (4) (a) are repealed and recreated to read:**

2
3 **Trans 134.06 (3) (a)** Except as provided in ss. Trans 134.03 (2) (a) to (e) and Trans 134.04 (2) (d) and
4 (3), the department may not refund a deposit.

5
6 **(Note)** Statutory provisions related to the collection and remittal of voluntary fundraising amounts for
7 groups qualifying for special plates is found at s. 341.14 (6r) (fm) 8., Stats.

8
9 **(4) (a)** If, at any time after 3 years from the date that special plates associated with an authorized special
10 group are first issued under s. 341.14 (6r) (fm), Stats., there are fewer than 500 motor vehicles registered
11 for which these special plates have been issued and are valid for the motor vehicles' then current
12 registration period, the department shall follow the process set forth in s. 341.14 (6r) (fm) 3m., Stats., to
13 determine whether the authorized special group's designation should be continued or rescinded.

14
15 **SECTION 21. Trans 134.06 (4) (a) (Note) is created to read:**

16
17 **Trans 134.06 (4) (a) (Note)** Section 341.14 (6r) (fm) 3m., Stats., provides:

- 18 a. If, at any time after 3 years from the date that special plates associated with an authorized
19 special group are first issued under this paragraph, there are fewer than 500 motor vehicles
20 registered for which these special plates have been issued and are valid for the motor vehicles'
21 then current registration period, the department shall give notice to the authorized special group
22 that it will rescind its designation of the authorized special group and cease issuing special plates
23 associated with the authorized special group unless, within one year after the date of this notice,
24 this threshold of at least 500 currently registered vehicles displaying these special plates is met.
25 b. If one year elapses after the department has given notice under subd. 3m. a. and the threshold
26 under subd. 3m. a. is still not met, the department shall rescind its designation of the authorized
27 special group and, except as provided in subd. 3m. c., cease issuing special plates associated with
28 the authorized special group.
29 c. After rescinding its designation of an authorized special group under subd. 3m. b., the
30 department may continue issuing special plates associated with the authorized special group until
31 the department's inventory of these special plates is depleted and the department may continue to
32 renew registrations of vehicles displaying these special plates and continue to collect the
33 involuntary payment under subd. 8. a. After the department's inventory of these special plates is
34 depleted, the department may not accept applications for initial issuance of these special plates or
35 issue these special plates as replacement plates, but may continue to renew registrations of
36 vehicles displaying these special plates and may continue to collect the involuntary payment
37 under subd. 8. a. in connection with these registration renewals.
38 d. This subdivision does not apply to any group or organization designated by the department as
39 an authorized special group prior to October 1, 2016.

40
41 **SECTION 22. Trans 134.06 (4) (c) is repealed and recreated to read:**

42
43 **Trans 134.06 (4) (c)** If the department rescinds designation of a group under s. 341.14 (6r) (fm) 3m. b.,
44 Stats., the department shall not replenish its supply of that group's special plates and shall cease issuing
45 the plates and any related decals once its supply is exhausted.

46
47 **SECTION 23. Trans 134.06 (4) (d) is amended to read:**

48
49 **Trans 134.06 (4) (d)** If an authorized special group plate has been discontinued and the group decides to
50 re-apply for designation as an authorized special group, the department may waive up to \$3,500 of the fee

1 ~~deposit if its data processing system will need no changes to reissue the special group plate group must~~
2 apply for authorized special group status following the procedure set forth in s. 341.14 (6r) (fm), Stats.

3
4 **SECTION 24. EFFECTIVE DATE.** This rule shall take effect on the first day of the month following
5 publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.
6

7 **(END OF RULE TEXT)**

8
9 Signed this ____ day of _____ 2022.

10
11
12
13
14
15 _____
16 Craig Thompson, Secretary
17 State of Wisconsin Department of Transportation