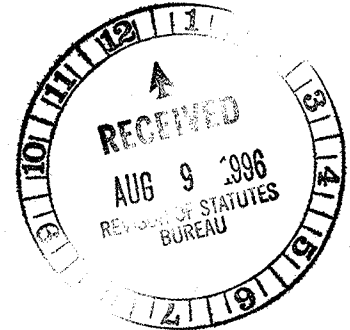


Clearinghouse Rule 96-088

CERTIFICATE

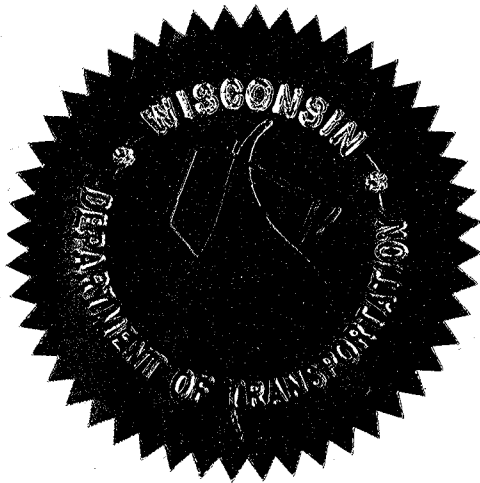
STATE OF WISCONSIN)
)
DEPARTMENT OF TRANSPORTATION) ss.



TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, CHARLES H. THOMPSON, Secretary of the Wisconsin Department of Transportation and custodian of the official records, do hereby certify that the rule, relating to **driver licensing of persons with chemical abuse or dependency problems**, was duly approved and adopted by this Department on August 8th, 1996.

I further certify that this copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Transportation at 4802 Sheboygan Avenue, in the City of Madison, Wisconsin, this 8th day of August, 1996.

Charles H. Thompson

CHARLES H. THOMPSON
Secretary

The Wisconsin Department of Transportation adopts an order to repeal TRANS 107.03(4), 107.04(1)(b), 107.06(title), (1) and (2), 107.08(6) and (note), and 107.09(4)(c); renumber TRANS 107.03(5) to (11), 107.04(1)(c) to (e) and 107.06(3)(a) to (g); renumber and amend TRANS 107.06(3)(title) and (intro.), and 107.09(4)(d); amend TRANS 107.07(1) and 107.08(1)(j)2 and 3, and (n); repeal and recreate TRANS 107.01(2)(note), 107.05(1)(note), 107.09(4)(intro.), (a) and (b)(intro.); and create TRANS 107.06(1) and 107.09(4)(b)6, relating to driver licensing of persons with chemical abuse or dependency problems.

ORDER ADOPTING RULE**Analysis Prepared by the Wisconsin Department of Transportation**

STATUTORY AUTHORITY: ss. 85.16, 227.11, and 343.02, and 343.305(11), Stats.

STATUTES INTERPRETED: s. 343.16, 343.30(1q) and 343.305, Stats.

General Summary of Rule. This rule making implements statutory changes enacted in 1995 Wis. Act 27 which provide for revocation of driver licenses based upon non-payment of the fee imposed for a driver safety plan required by a court ordered assessment.

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

Final Regulatory Flexibility Analysis. This rule will have no adverse impact on small businesses.

Preparation and Copies of Rule. Copies of this rule can be obtained upon request, without cost, from the Division of Motor Vehicles, Bureau of Driver Services, P.O. Box 7918, Madison, WI 53707-7918. For further information, contact Karen Smith, (608) 264-7143 or Linda Sunstad, (608) 266-0194. Alternate formats of the rule will be provided to individuals at their request.

TEXT OF RULE

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 85.16, 227.11, 343.02 and 343.305(11), Stats., the department of transportation hereby adopts order amending a rule interpreting ss. 343.16, 343.30(1q) and 343.305, Stats., relating to driver licensing of persons with chemical abuse or dependency problems.

SECTION 1. Trans 107.01(2)(note) is repealed and recreated to read:

NOTE: Forms used in administering this chapter are department of transportation forms MV 3304 course completion certificate, MV3521 student enrollment confirmation, MV 3141 driver behavior report, MV 3630 assessment of the problem drinker, MV 3631 driver safety plan final report, MV 3632 court order for intoxicated driver assessment and driver safety plan, MV 3633 driver safety plan order, MV 3634 order for assessment and driver safety plan report, MV 3635 assessment and driver safety plan status report, MV 3644 medical exam report, and MV 3649 Wisconsin assessment of the impaired driver (WAID).

SECTION 2. Trans 107.03(4) is repealed.

SECTION 3. Trans 107.03(5) to (11) are renumbered 107.03(4) to (10).

SECTION 4. Trans 107.04(1)(b) is repealed.

SECTION 5. Trans 107.04(1)(c) to (e) are renumbered 107.04(1)(b) to (d).

SECTION 6. Trans 107.05(1)(note) is repealed and recreated to read:

NOTE: Form MV3644 may be obtained upon request from the Division of Motor Vehicles, Bureau of Driver Services, P. O. Box 7918, Madison, Wisconsin 53707-7918, telephone (608) 266-2233.

SECTION 7. Trans 107.06(title), (1) and (2) are repealed.

SECTION 8. Trans 107.06(3)(title) and (intro.) are renumbered Trans 107.06(title) and (intro.) and are amended to read:

Trans 107.06 (title) ASSESSMENT REFERRAL. (intro.) A person shall be referred for assessment ~~without the interview described in sub. (2)~~ when:

SECTION 9. Trans 107.06(1) is created to read:

Trans 107.06(1) The person is identified by a source described in s. Trans 107.03 as possibly having a chemical abuse or dependency problem, unless the person is in treatment, does not require treatment, or has completed treatment since the identification.

SECTION 10. Trans 107.06(3)(a) to (g) are renumbered 107.06(2) to (8).

SECTION 11. Trans 107.07(1) is amended to read:

Trans 107.07(1) Assessments and assessment reporting procedures shall be those established by ch. HSS 62. Standard department forms shall be used for all reports.

SECTION 12. Trans 107.08(1)(j)2 and 3, and (n) are amended to read:

Trans 107.08(1)(j)2. The person fails to timely pay an assessment fee ~~or any installment of an assessment fee~~ resulting from a court ordered assessment or a driver safety plan fee, or an installment of either fee, except driver safety plan fees imposed as the result of a court ordered assessment dated on or before July 28, 1995.

(j)3. The person fails to timely pay an assessment fee ~~or any installment of an assessment fee~~ resulting from a department ordered or voluntary assessment or a driver safety plan, or any installment of any of these fees, if and the driver person has been convicted of an offense for which assessment is mandatory, except driver safety plan fees imposed as the result of a court ordered assessment dated on or before July 28, 1995.

(n) The department may not deny, cancel or suspend the operating privilege of the following:

1. ~~A~~ a person who submits to a department ordered or voluntary assessment and who does not pay the assessment fee or driver safety plan fee, unless the person is convicted of an offense for which assessment and compliance with a driver safety plan is mandatory.

~~2. A person for noncompliance based upon a report of failure to pay the driver safety plan fees.~~

NOTE: After conviction, failure to pay assessment or driver safety plan fees will result in suspension under s. Trans 107.08(1)(j)3.

SECTION 13. Trans 107.08(6) and (note) are repealed.

SECTION 14. Trans 107.09(4)(intro.), (a) and (b)(intro.) are repealed and recreated to read:

Trans 107.09(4)(a) The department shall conduct a review of an assessment, driver safety plan, or amended driver safety plan upon receipt of a written request for review under s. 343.30(1q)(d) or 343.305(10)(d), Stats. The review shall be completed within 10 business days of receipt of the request by the department.

(am) The driver assessment and required driver safety plan shall be found to be appropriate if the diagnostic or certainty level of symptoms identified on the assessment report of physiological, behavioral, psychological or attitudinal symptoms, supports the assessment findings made by the assessor on department forms as follows:

1. 'Chemical dependency.' An assessment finding of chemical dependency is appropriate if assessment shows the presence of any of the following:

a. One or more level 1 indicators of physiological dependency from the major criteria.

b. One or more level 1 indicators of dependency from the psychological, attitudinal or behavioral minor or major criteria are present together with 3 or more level 2 indicators of any type.

2. 'Suspected chemical dependency.' An assessment finding of suspected chemical dependency is appropriate if assessment shows 5 or more level 2 indicators of any type from the minor and major criteria.

3. 'Borderline chemical abuse.' An assessment finding of borderline chemical abuse is appropriate if assessment shows any of the following:

a. One level 1 indicator of substance problems from the psychological, attitudinal or behavioral criteria.

b. Three or 4 level 2 indicators of any type are present together with any level 3 indicators of any type.

4. 'Chemical abuse.' An assessment finding of chemical abuse is appropriate if assessment shows any of the following:

a. An absence of level 1 indicators and some level 2 or 3 indicators, but fewer level 2 and 3 indicators than are needed to justify a finding of chemical dependency, suspected chemical dependency or borderline chemical abuse.

b. A conviction for OWI.

NOTE: The Wisconsin Assessment of the Impaired Driver, form MV3649, and the Order For Assessment and Driver Safety Plan Report, form MV3634, refer to "chemical abuse" and "borderline chemical abuse" as "Irresponsible Substance Use" and "Irresponsible Substance Use - Borderline." The form refers to the criteria in s. Trans 107.09(4)(am)4. as "insufficient evidence for a progressive pattern of substance abuse."

(b)(intro.) The department shall consider the following in determining the appropriateness of a driver safety plan:

SECTION 15. Trans 107.09(4)(b)6. is created to read:

Trans 107.09(4)(b)6. A finding of borderline chemical abuse does support short term outpatient individual or group counselling, or a combination of education and outpatient counselling.

SECTION 16. Trans 107.09(4)(c) is repealed.


SECTION 17. Trans 107.09(4)(d) is renumbered 107.09(4)(c) and amended to read:

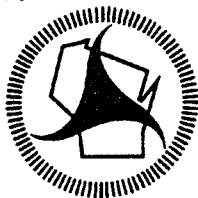
Trans 107.09(4)(c) ~~is~~ A driver safety plan shall be considered inappropriate if it is a program in another state that does not meet the standards of sub. (9).

(END OF RULE TEXT)

Effective Date. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Signed at Madison, Wisconsin, this 8th day of August, 1996.


CHARLES H. THOMPSON
Secretary
Wisconsin Department of Transportation



Wisconsin Department of Transportation

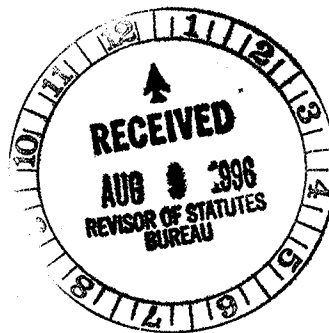
Tommy G. Thompson
Governor

Charles H. Thompson
Secretary

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

August 9, 1996

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




RE: **CLEARINGHOUSE RULE 96-88**

In the Matter of the Adoption of **TRANS 107**, Wisconsin Administrative Code, relating to **driver licensing of persons with chemical abuse or dependency problems**.

Dear Mr. Poulson:

Enclosed for filing, pursuant to s. 227.20, Wis. Stats., is a certified copy of **CR 96-88**, an administrative rule relating to the above-mentioned matter.

Sincerely,

for 
Julie A. Johnson
Paralegal

Enclosures

cc: Ann Agnew
Dorothy Kapke
Jim McDonnell
Roger Cross
Linda Sunstad
Wes Geringer