

**STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION
PROPOSED ORDER AMENDING PERMANENT RULE
CR 22-049**

The Wisconsin Department of Transportation proposes an order to **repeal** ss. Trans 134.02 (1), 134.03 (1) (b), (f), and (2) (f), 134.04 (2) (b) and (c), and 134.06 (1) (d) 2. and (2) (b); to **renumber and amend** s. Trans 134.04 (1); to **consolidate, renumber, and amend** ss. Trans 134.06 (2) (intro.) and (a); to **amend** ss. Trans 134.02 (intro.), 134.03 (2) (a), (b), (c), (d), (e), and (g) and (Note), 134.04 (2) (a), (e), (f), and (3) and (Note), 134.05 (2), and 134.06 (4) (d); to **repeal and recreate** ss. 134.06 (3) (a) and (Note), (4) (a), and (c); and to **create** ss. Trans 134.02 (3) and (Note), 134.03 (2) (a) (Note) and (d) (Note), 134.04 (1) (a), (b), and (2) (dm) and (Note), and 134.06 (1) (d) 1. (Note) and (4) (a) (Note), 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: Sections 340.01, 341.14 (6r) (fm), and 341.145, Stats.

Statutory Authority: Sections 85.16 (1), 227.11 (2) (a) (intro.), 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 (1), 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 (2) (a) (intro.), 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: Section 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 group may also receive contributions from the collection of annual \$25 donations with the issuance of each plate and each subsequent registration renewal. Groups may choose not to accept donations for the plates.

Prior to 2015 Wisconsin Act 227, groups needed to apply to their local state legislators to sponsor a bill to authorize issuance of special group fundraising plates. The bill needed to be approved by the Wisconsin State Legislature and signed into law by the governor. Under 2015 Wisconsin Act 227, groups apply directly to the Division of Motor Vehicles (DMV) for a special group fundraising plate under s. 341.14 (6r) (fm), Stats. Groups must also pay a \$15,500 fee for development costs and collect signatures from 500 Wisconsin residents who intend to purchase the special plates. If authorized, the group must maintain 500 valid special plate registrations after 3 years, or DMV will discontinue issuing the plates and stickers associated with the plates. This rulemaking describes the manner in which DMV will administer the plate and sticker discontinuance consistent with statutory requirements.

Any group or organization may apply for special group license plates. All groups are subject to the approval process. To apply, an applicant must provide the department with all of the requirements of s. 341.14 (6r) (fm) 2., Stats., including:

- A development fee of \$15,500. (see s. 341.14(6r) (fm) 2. a., Stats.)
- 500 signatures from Wisconsin residents who intend to purchase the group's special plate. (see s. 341.14 (6r) (fm) 2. f., Stats.)
- A completed application form MV2090 Authorized Special Group License Plate Application and Signature Page. (see s. Trans 134.03 (1) (a).)

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

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

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

Comparison with Rules in Adjacent States:

Illinois. Illinois has two types of specialty plates. Printed plates specific to a group or organization are allowed only if authorized by the Illinois General Assembly. "Universal special plates," in contrast, are plates with a blank space into which a state--approved decal may be affixed. The requirements for these plates are defined in 625 ILCS 5/3-600:

Illinois Compiled Statutes, s. 5/3-600. Requirements for issuance of special plates.

(a) The Secretary of State shall issue only special plates that have been authorized by the General Assembly. Except as provided in subsection (a-5), the Secretary of State shall not issue a series of special plates, or Universal special plates associated with an organization authorized to issue decals for Universal special plates, unless applications, as prescribed by the Secretary, have been received for 2,000 plates of that series. Where a special plate is authorized by law to raise funds for a specific civic group, charitable entity, or other identified organization, or when the civic group, charitable entity, or organization is authorized to issue decals for Universal special license plates, and where the Secretary of State has not received the required number of applications to issue that special plate within 2 years of the effective date of the Public Act authorizing the special plate or decal, the Secretary of State's authority to issue the special plate or a Universal special plate associated with that decal is nullified. All applications for special plates shall be on a form designated by the Secretary and shall be accompanied by any civic group's, charitable

entity's, or other identified fundraising organization's portion of the additional fee associated with that plate or decal. All fees collected under this Section are non-refundable and shall be deposited in the special fund as designated in the enabling legislation, regardless of whether the plate or decal is produced. Upon the adoption of this amendatory Act of the 99th General Assembly, no further special license plates shall be authorized by the General Assembly unless that special license plate is authorized under subsection (a-5) of this Section.

Iowa.

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

Michigan.

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

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

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

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

Minnesota.

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

Summary of the Factual Data and Analytical Methodologies:

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

Analysis Regarding Rule’s Effect on Small Businesses:

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

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

Place Where Comments may be Submitted:

A public hearing was held in-person at 4822 Madison Yards Way, Room N134, Madison, WI 53705 at 9:30 a.m. Comments could be submitted at the hearing, by postal mail, or by email to DOTAdminRules@dot.wi.gov. The published deadline for submission of comments was 4:30 p.m. on June 29, 2022.

Agency Contact Person:

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TEXT OF RULE

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

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

SECTION 2. Trans 134.02 (1) is repealed.

SECTION 3. Trans 134.02 (3) and (Note) are created to read:

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

(Note) The term “authorized special group” as used in this chapter is defined in s. 341.14 (6r) (a) 1., Stats., to mean a special group enumerated in s. 341.14 (6r) (f), Stats., or designated by the department under s. 341.14 (6r) (fm), Stats.

SECTION 4. Trans 134.03 (1) (b) and (f) are repealed.

SECTION 5. Trans 134.03 (2) (a) is amended to read:

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

SECTION 6. Trans 134.03 (2) (a) (Note) is created to read:

Trans 134.03 (2) (a) (Note) Currently, deposits are made by a single check payable to Wisconsin Department of Transportation.

SECTION 7. Trans 134.03 (2) (b), (c), and (d) are amended to read:

Trans 134.03 (2) (b) The department shall do an initial review of the group's application, and if the application is not acceptable after the initial review, the department shall return the application and return or refund the check deposit.

(c) If the group's application is not returned to the group following the department's initial review of the application indicates that further review is necessary, the department shall deposit the check funds received in the general fund and credit debit the appropriation under s. 20.395 (5) (c), Stats.

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

SECTION 8. Trans 134.03 (2) (d) (Note) is created to read:

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

SECTION 9. Trans 134.03 (2) (e) is amended to read:

Trans 134.03 (2) (e) A group may withdraw its application any time before the department has approved the application, ~~and the department shall refund the entire deposit.~~ If the application is timely withdrawn by an applicant, the department shall deny the application and refund the deposit in accordance with par. (2) (d). In order to receive a ~~full~~ refund, a notice of withdrawal must be received by the department prior to its ~~any~~ decision approving the application.

SECTION 10. Trans 134.03 (2) (f) is repealed.

SECTION 11. Trans 134.03 (2) (g) and (Note) are amended to read:

Trans 134.03 (2) (g) If the group withdraws its application after the department has approved the application ~~and after plates are ordered, the department shall retain the entire \$15,500 deposit to offset the cost of data processing work and the cost of purchasing and issuing the plates~~ may not issue any refund to the applicant.

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

SECTION 12. Trans 134.04 (1) is renumbered 134.04 (1) (intro.) and amended to read:

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

SECTION 13. Trans 134.04 (1) (a) and (b) are created to read:

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

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

SECTION 14. Trans 134.04 (2) (a) is amended to read:

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

SECTION 15. Trans 134.04 (2) (b) and (c) are repealed.

SECTION 16. Trans 134.04 (2) (dm) and (Note) are created to read:

Trans 134.04 (2) (dm) (intro.) Upon receiving a complete application and payment, the department shall follow the required steps set forth in s. 341.14 (6r) (fm) 1m., Stats., to determine whether there are any objections to designation of the group and, if any objections are made, to obtain a decision on approval of designation from the standing committees of each house of the legislature dealing with transportation matters. If the department receives any objections within 30 days after the date of the department's notice under s. 341.14 (6r) (fm) 1m. a., Stats., the department shall refer the application to those standing committees.

1. If fewer than 61 days remain in a legislative session, the referral shall not be made sooner than the first day of the next legislative session.

2. If, within 14 days of a department referral of an application to the standing committees dealing with transportation matters, no chairperson of one or both of the standing committees notifies the department that one or both of the committees has scheduled a meeting for the purpose of reviewing the application, the department shall process the application as if approved by the legislature notwithstanding the objection.

3. If the chairperson of one or both of the standing committees dealing with transportation matters notifies the department that the committee has scheduled a meeting for the purpose of reviewing the application, the application is approved only if each standing committee to which the application was referred under s. 341.14 (6r) (fm) 1m. c., Stats., expressly approves the application.

4. If the express approval by each standing committee dealing with transportation matters is required, and the legislative session ends without express approval of the group plate application by each applicable standing committee, the application is not approved by the legislature and the department shall deny the application and refund any deposit in accordance with s. Trans 134.03 (2) (d).

(Note) Unless modified by the legislature, the applicable standing committees are the Assembly and Senate Transportation Committees. Express approval of the standing committees is not required for approval of a special group plate following an objection. Specific approval is required only if one of the committees to which the objection is referred to notifies the department within 14 days of the referral that it will hold a hearing. If either committee schedules a hearing, an application must be specifically approved by both standing committees or it is deemed denied under s. 341.14 (6r) (fm) (1m) d., Stats. Because committees terminate at the end of the legislative session, this rule prohibits the department from referring an objection to the standing committees during the final days of a legislative session. To ensure that the committees have adequate time to schedule and hold committee meetings, the department is prohibited from referring a matter to the standing committees in the last 61 days of a legislative session. Assuming a session ends on December 31 every even-numbered year, no referrals will be made from November 1 of that year until the start of the next legislative session.

SECTION 17. Trans 134.04 (2) (e), (f), and (3) and (Note) are amended to read:

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

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

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

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

SECTION 18. Trans 134.05 (2) is amended to read:

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

SECTION 19. Trans 134.06 (1) (d) 1. (Note) is created to read:

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

SECTION 20. Trans 134.06 (1) (d) 2. is repealed.

SECTION 21. Trans 134.06 (2) (intro.) and (a) are consolidated, renumbered Trans 134.06 (2), and amended to read:

Trans 134.06 (2) GENERAL REQUIREMENTS. ~~(a)~~ The department may not conduct any special advertising or promotion for authorized special group license plates. Any promotion shall be the responsibility of the authorized special group. Nothing in this paragraph shall prohibit the department from issuing a press

release related to the plates or from including the special group plate on any website related to special group plates.

SECTION 22. Trans 134.06 (2) (b) is repealed.

SECTION 23. Trans 134.06 (3) (a) and (Note), and (4) (a) are repealed and recreated to read:

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

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

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

SECTION 24. Trans 134.06 (4) (a) (Note) is created to read:

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

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

SECTION 25. Trans 134.06 (4) (c) is repealed and recreated to read:

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

SECTION 26. Trans 134.06 (4) (d) is amended to read:

Trans 134.06 (4) (d) If an authorized special group plate has been discontinued and the group decides to re-apply for designation as an authorized special group, ~~the department may waive up to \$3,500 of the fee deposit if its data processing system will need no changes to reissue the special group plate~~ group must apply for authorized special group status following the procedure set forth in s. 341.14 (6r) (fm), Stats.

SECTION 27. 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.

(END OF RULE TEXT)

Signed this ____ day of _____ 2022.

Craig Thompson, Secretary
State of Wisconsin Department of Transportation