

- (a) The following are exempt from the licensing requirements of this chapter:
1. A person in the armed services while operating a motor vehicle owned by or leased to the federal government.
 2. A person while temporarily operating or moving a farm tractor or implement of husbandry on a highway between fields or between a farm and a field.
 - 3m. A person while operating motorized construction equipment. This subdivision does not apply to a truck or a construction vehicle designed for use on a roadway or to any vehicle exceeding a speed of 35 miles per hour.
- (b) The following are exempt from the licensing requirements of sub. (3):
1. A nonresident who is at least 16 years of age and who has in his or her immediate possession a valid operator's license issued to the person in the person's home jurisdiction.
 2. Any nonresident of the United States who holds an international driving permit or a valid operator's license issued by a country which is a signatory to either the 1943 regulation of inter-American automotive traffic or the 1949 Geneva convention on road traffic.
 3. Any nonresident of the United States who holds an international driving permit or a valid operator's license issued by Germany, Mexico, or Switzerland or by any other nation having a reciprocal agreement with the United States concerning driving privileges.
- (c) An exemption under par. (b) 2. or 3. applies only for a period of one year after a nonresident's arrival in the United States.

(5) PENALTIES.

(ag) In this subsection, "great bodily harm" has the meaning given in s. 939.22 (14).

(am) Any person who violates sub. (1) or (2) shall be:

1. Fined not less than \$200 nor more than \$600 or imprisoned for not more than 6 months or both for the first such violation.
2. Fined not less than \$300 nor more than \$1,000 or imprisoned for not less than 5 days nor more than 6 months or both for the 2nd offense occurring within 3 years.
3. Fined not less than \$1,000 nor more than \$2,000 and imprisoned for not less than 10 days nor more than 6 months for the 3rd or subsequent offense occurring within 3 years.

(b)

1. Except as provided in subds. 2. to 5. and sub. (6), any person who violates sub. (3) (a) may be required to forfeit not more than \$200 for the first offense, may be fined not more than \$300 and imprisoned for not more than 30 days for the 2nd offense occurring within 3 years, and may be fined not more than \$500 and imprisoned for not more than 6 months for the 3rd or subsequent offense occurring within 3 years. In this paragraph, a violation of a local ordinance in conformity with this section or a violation of a law of a federally recognized American Indian tribe or band in this state in conformity with this section shall count as a previous offense.
2. A person whose operator's license has expired not more than 3 months before a violation of sub. (3) (a) may be required to forfeit not more than \$100 for the first offense.
4. Except as provided in subd. 2. and sub. (6), any person who violates sub. (3)

(a) and, in the course of the violation, causes great bodily harm to another person is required to forfeit not less than \$5,000 nor more than \$7,500, except that, if the person knows at the time of the violation that he or she does not possess a valid operator's license, the person is guilty of a Class I felony.

5. Except as provided in subd. 2. and sub. (6), any person who violates sub. (3) (a) and, in the course of the violation, causes the death of another person is required to forfeit not less than \$7,500 nor more than \$10,000, except that, if the person knows at the time of the violation that he or she does not possess a valid operator's license, the person is guilty of a Class H felony.

(c) Any person who violates sub. (3) (b) or (c) may be required to forfeit not more than \$100.

(6) OTHER OFFENSES; PENALTIES. Section 343.44 and the penalties thereunder shall apply in lieu of this section to any person operating a motor vehicle upon a highway in this state with an operator's license which is revoked or suspended.

History: 1971 c. 164 s. 83; 1977 c. 29 s. 1654 (7) (a); 1977 c. 273, 288, 447; 1979 c. 345; 1981 c. 42, 138; 1981 c. 390 s. 252; 1983 a. 243, 534, 535, 538; 1985 a. 65; 1989 a. 87, 105, 359; 1991 a. 32, 39; 1995 a. 113, 269, 347; 1997 a. 237; 2005 a. 412; 2009 a. 103, 276; 2011 a. 113.

Cross-reference: See s. 343.37 for limitations on nonresident operators.

The guidelines for operating a commercial vehicle under this section constitute a fundamental public policy to promote highway safety. The discharge of an at-will employee for refusing to violate this section was a wrongful discharge. *Kempfer v. Automated Finishing, Inc.* 211 Wis. 2d 100, 564 N.W.2d 692 (1997), 95-0649.

A person has a privilege, but not a right, to drive a motor vehicle upon a public highway. To exercise that privilege, the person must satisfy the licensing requirements of the state. *County of Fond du Lac v. Kevin C. Derksen*, 2002 WI App 160, 256 Wis. 2d 490, 647 N.W.2d 922, 01-2870.

Summary judgment is inapplicable in ch. 343 hearings. *State v. Baratka*, 2002 WI App 288, 258 Wis. 2d 342, 654 N.W.2d 875, 02-0770.

Three-wheeled trucks and automobiles, golf carts, and other special purpose vehicles such as street sweepers, industrial fork-lifts, and motorized wheelbarrows are not motorcycles, and operators are not required to have special driver licenses. 58 Atty. Gen. 17.

A driver license authorizing motor-driven cycle operation is not required for the operation of a motor-driven cycle on private property. 64 Atty. Gen. 79.

343.055 Commercial driver license waivers.

(1) OPERATORS WAIVED.

(a) *General.* Except as provided in subs. (3) and (4) and notwithstanding s. 343.05 (2), operators of certain commercial motor vehicles specified in pars. (b) to (h) or any rule of the department promulgated under sub. (5) are not required to hold commercial driver licenses, if the operator holds a valid operator's license not limited to "Class M" vehicles.

(b) *Fire fighters.* The operator of the commercial motor vehicle including, without limitation, fire trucks, hook and ladder trucks and foam or water transporters, is a person employed by a volunteer or paid fire organization and the person is operating emergency or fire fighting equipment necessary to the preservation of life or property or the execution of emergency management functions and equipped with a siren and warning lamps as provided in ss. 347.25 (1) and 347.38 (4) and the operation is in the routine performance of other duties of the fire organization or in response to an emergency call under s. 346.03 or during the return from a fire or other emergency response.

(c) *Farmers.* The operator of the commercial motor vehicle is a farmer who is using the commercial motor vehicle within 150 miles of the operator's farm to transport agricultural products, farm machinery or farm supplies including transporting hazardous materials requiring placarding or a combination thereof to or from a farm and the commercial motor vehicle is operated and controlled by a farmer and not used in the operations of a common motor carrier or

contract motor carrier, as defined in s. 194.01 (1) and (2). In this paragraph, "controlled" means leased or owned; and "farmer" and "leased" have the meanings given in s. 340.01 (18) (b).

- (d) Recreational vehicle operators.** The operator of the commercial motor vehicle is a person operating a motor home, or a vehicle towing a 5th-wheel recreational vehicle or single-unit recreational vehicle and the vehicle or combination, including both units of a combination towing vehicle and the 5th-wheel recreational vehicle or recreational vehicle, is both operated and controlled by the person and is transporting only members of the person's family, guests or their personal property. This paragraph does not apply to any transportation for hire or the transportation of any property connected to a commercial activity. In this paragraph, "controlled" means leased or owned.
- (e) Law enforcement officers.** The operator of the commercial motor vehicle is a law enforcement officer who is operating an authorized emergency vehicle that is necessary to the preservation of life or property or the execution of emergency governmental functions and that is equipped with warning lamps and a siren as provided in ss. 347.25 and 347.38 (4).
- (h) Rescue squad members.** The operator of the commercial motor vehicle is a member of a legally organized rescue squad. This paragraph applies only to the operation of authorized emergency vehicles.
- (2) DISQUALIFICATIONS NOT APPLICABLE.** Notwithstanding s. 343.44, a person disqualified under s. 343.315 may operate a commercial motor vehicle as described in this section if the person holds a valid operator's license issued to the person authorizing the operation of "Class D" vehicles.
- (3) VEHICLES TRANSPORTING HAZARDOUS MATERIALS, CARRYING PASSENGERS OR TOWING DOUBLE OR TRIPLE TRAILERS NOT WAIVED.** Nothing in this section authorizes the operation of a combination vehicle with double or triple trailers, a vehicle transporting hazardous materials requiring placarding except as provided in sub. (1) (c), a vehicle transporting any quantity of a material listed as a select agent or toxin under 42 CFR 73, or a vehicle carrying or designed to transport the driver and 15 or more persons, by a person who does not hold a valid operator's license properly endorsed to permit such operation.
- (4) EFFECT OF WAIVERS.** The waivers under this section shall apply to the extent permitted under federal law and shall exempt a person only from the requirement in s. 343.05 (2) to hold a commercial driver license to operate a commercial motor vehicle upon a highway in this state. A commercial motor vehicle operated under this waiver remains a commercial motor vehicle.
- (5) RULES.** As soon as possible after the federal commercial motor vehicle safety act, 49 USC 31301 to 31317, or the regulations adopted under that act permit any commercial driver license waiver, the department shall promulgate rules governing eligibility for the waiver. This subsection applies to waivers not permitted by federal law on May 12, 1992.

History: 1989 a. 105; 1991 a. 39, 242; 1993 a. 19; 1995 a. 113, 247; 1999 a. 9, 140; 2003 a. 33; 2007 a. 11; 2009 a. 254.

343.06 Persons not to be licensed.

- (1) The department shall not issue a license:**
- (a)** To any person whose operator's license or nonresident's operating privilege was withheld, suspended, revoked or canceled under the provisions of the law in effect prior to September 1, 1941, unless such person complies with the requirements of this chapter relative to obtaining a license or restoration of operating privileges after suspension, revocation or cancellation.
- (b)** To any person whose operating privilege has been suspended or revoked or is subject to immediate mandatory suspension or revocation under this chapter, except as otherwise expressly provided in this chapter.

- (c) To any person under age 18 unless the person is enrolled in a school program or high school equivalency program and is not a habitual truant as defined in s. 118.16 (1) (a), has graduated from high school or been granted a declaration of high school graduation equivalency, or is enrolled in a home-based private educational program, as defined in s. 115.001 (3g), and has satisfactorily completed a course in driver education in public schools approved by the department of public instruction, or in technical colleges approved by the technical college system board, or in nonpublic and private schools or tribal schools, as defined in s. 115.001 (15m), that meet the minimum standards set by the department of public instruction, or has satisfactorily completed a substantially equivalent course in driver training approved by the department and given by a school licensed by the department under s. 343.61, or has satisfactorily completed a substantially equivalent course in driver education or training approved by another state and has attained the age of 16, except as provided in s. 343.07 (1g). The department shall not issue a license to any person under the age of 18 authorizing the operation of "Class M" vehicles unless the person has successfully completed a basic rider course approved by the department. The department may, by rule, exempt certain persons from the basic rider course requirement of this paragraph. Applicants for a license under s. 343.08 or 343.135 are exempt from the driver education, basic rider or driver training course requirement. The secretary shall prescribe rules for licensing of schools and instructors to qualify under this paragraph. The driver education course shall be made available to every eligible student in the state. Except as provided under s. 343.16 (1) (bm) and (c) and (2) (cm) to (e), no operator's license may be issued unless a driver's examination has been administered by the department.

Cross-reference: See also ch. Trans 129, Wis. adm. code.

- (cm) To operate "Class D" vehicles to any person under 18 years of age, unless the person has accumulated at least 30 hours of behind-the-wheel driving experience, at least 10 hours of which were during hours of darkness. Each hour of behind-the-wheel driving experience while accompanied by a qualified instructor, as defined in s. 343.07 (1c), shall be considered to be 2 hours of behind-the-wheel driving experience, except that no more than 5 hours of behind-the-wheel driving experience while accompanied by a qualified instructor may be counted in this manner. This paragraph does not apply to applicants for a restricted license under s. 343.08 or a special restricted operator's license under s. 343.135. The department may promulgate rules that waive the requirement of accumulating at least 30 hours of behind-the-wheel experience for qualified applicants who are licensed by another jurisdiction to operate "Class D" vehicles.
- (d) To any person whose dependence on alcohol has attained such a degree that it interferes with his or her physical or mental health or social or economic functioning, or who is addicted to the use of controlled substances or controlled substance analogs, except that the secretary may issue a license if the person submits to an examination, evaluation or treatment in a treatment facility meeting the standards prescribed in s. 51.45 (8) (a), as directed by the secretary, in accordance with s. 343.16 (5).
- (e) To any person who is unable to exercise reasonable control over a motor vehicle, as defined by the department by rule.
- (f) To any person who is required by this chapter to take an examination, unless such person takes and successfully passes such examination. Deaf persons otherwise qualified under this chapter to receive a license shall be issued such license in the discretion of the secretary.
- (g) To any person who is required under the motor vehicle financial responsibility laws of this state to furnish proof of financial responsibility, and who has not furnished such proof in the manner prescribed by statute and any lawful rules

of the department pertaining thereto.

- (h) To any person when the secretary has good cause to believe that the operation of a motor vehicle on the highways by such person will be inimical to the public safety or welfare.
- (i) To any person who has been convicted of any offense specified under ss. 940.225, 948.02, 948.025, 948.07, or 948.085 or adjudged delinquent under ch. 938 for a like or similar offense, when the sentencing court makes a finding that issuance of a license will be inimical to the public safety and welfare. The prohibition against issuance of a license to the offenders shall apply immediately upon receipt of a record of the conviction and the court finding by the secretary, for a period of one year or until discharge from any jail or prison sentence or any period of probation, extended supervision or parole with respect to the offenses specified, whichever date is the later. Receipt by the offender of a certificate of discharge from the department of corrections or other responsible supervising agency, after one year has elapsed since the prohibition began, entitles the holder to apply for an operator's license. The applicant may be required to present the certificate of discharge to the secretary if the latter deems it necessary.
- (j) To any person applying for his or her first license or identification card or for a reinstated license in this state unless the person has submitted satisfactory proof of his or her name and date of birth.

NOTE: Par. (j) is repealed eff. the date stated in the notice provided by the secretary of transportation and published in the Wisconsin Administrative Register under section 85.515 (2) (b) of the statutes by 2007 Wis. Act 20.

- (k) To any person who is not a resident.
 - (L) To any person who does not provide the documentary proof described in s. 343.14 (2) (er).
- NOTE: Par. (L) is amended by 2007 Wis. Act 20 and 2011 Wis. Acts 23 and 32 effective the date stated in the notice provided by the secretary of transportation and published in the Wisconsin Administrative Register under section 85.515 (2) (b) to read:**
- (L) To any person who does not satisfy the requirements under s. 343.165 (1).
 - (m) To any person who has been declared incompetent under s. 54.25 (2) (c) 1. d. to apply for an operator's license.

- (2) The department shall not issue a commercial driver license, including a renewal or reinstated license, to any person, or reinstate a person's authorization to operate a commercial motor vehicle, during any period of disqualification under s. 343.315 or 49 CFR 383.51, under the law of another jurisdiction disqualifying a person from operating a commercial motor vehicle under circumstances similar to those specified in s. 343.315 or 49 CFR 383.51, or under a determination by the federal motor carrier safety administration that the person is no longer qualified to operate a commercial motor vehicle under 49 CFR 391, or to any person whose operating privilege is revoked, suspended, or canceled. Any person who is known to the department to be subject to disqualification as described in s. 343.44 (1) (d) shall be disqualified by the department as provided in s. 343.315.
- (3) The department shall not issue a commercial driver license valid for use in interstate commerce to any person who is less than 21 years of age or who does not meet the physical qualifications for drivers contained in 49 CFR 391 or rules of the department concerning qualifications of drivers in interstate commerce.

History: 1971 c. 40 s. 93; 1971 c. 154 s. 79 (3); 1971 c. 219; 1975 c. 184 s. 13; 1975 c. 421; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 41, 238, 273, 360, 447; 1983 a. 17, 243; 1985 a. 202; 1987 a. 40, 122; 1987 a. 332 s. 64; 1987 a. 403; 1989 a. 31, 105; 1993 a. 16, 227, 363, 399, 491; 1995 a. 27 s. 9145 (1); 1995 a. 77, 113, 448; 1997 a. 27, 84, 283; 1999 a. 9, 140; 2001 a. 38; 2003 a. 33; 2005 a. 126, 149, 277, 387; 2007 a. 20, 97; 2009 a. 28, 103, 302; 2011 a. 23, 32, 260.

Cross-reference: See also s. PI 21.04, Wis. adm. code.

Performance of the duty to apply sub. (7), 1987 stats. [now sub. (1) (e)], delegated to a state driver license examiner is within the rule of civil immunity. *Lifer v. Raymond*, 80 Wis. 2d 503, 259 N.W.2d 537 (1977).

The offering of driver education courses by public schools is optional rather than mandatory; but if offered, all qualified students must be allowed to participate. The state superintendent may require private schools to consent to on-site inspections for compliance verification as a condition of approval granted those schools under that section. 59 Atty. Gen. 27.

343.065 Restricted commercial driver license.

- (1) If an applicant for a commercial driver license is less than 21 years of age or does not meet the physical qualifications for drivers contained in 49 CFR 391 or an alternative federally approved driver qualification program established by the department by rule but is at least 18 years of age and otherwise qualified under this chapter and the rules of the department, the department may issue the applicant a commercial driver license restricted to authorizing the operation of commercial motor vehicles not in interstate commerce.
- (2) A commercial driver license issued under this section shall clearly identify that the license does not authorize the operation of commercial motor vehicles in interstate commerce.
- (3)
 - (a) If a person issued any commercial driver license under this chapter authorizing operation of commercial motor vehicles in interstate commerce does not have on file with the department a current certification specified in s. 343.14 (2) (i) 1. covering the person's physical qualifications, the department may downgrade the commercial driver license to a restricted commercial driver license under this section and impose a "K" restriction on the license.
 - (b) The department shall promulgate rules to define "downgrade" in accordance with federal law and regulations or guidance from the applicable federal agency, to establish the process for downgrading a commercial driver license and whether or not a new commercial driver license document will be issued after a commercial driver license is downgraded, and to establish the process for reinstating a downgraded commercial driver license after the department receives from the licensee a valid medical certification or other appropriate certification of physical qualifications.

NOTE: Sub. (3) is created by 2011 Wis. Act 32 effective the date stated in the notice provided by the secretary of transportation and published in the Wisconsin Administrative Register under section 85.515 (2) (b).

History: 1989 a. 105; 1995 a. 113; 2011 a. 32.

Cross-reference: See also ch. Trans 112, Wis. adm. code.

343.07 Instruction permits.

- (1c) **DEFINITION.** In this section, "qualified instructor" means a person employed by a public school, private school, or tribal school, as defined in s. 115.001 (15m), holding an operator's license and meeting the teaching certification standards of the department of public instruction or the technical college system board to teach driver education; or an instructor of a school licensed under s. 343.61; or a teacher or student teacher in a driver education course for teachers conducted by an institution of higher education.
- (1g) **REGULAR PERMIT; ISSUANCE, RESTRICTIONS.** Upon application therefor by a person at least 15 years and 6 months of age who, except for age or lack of training in the operation of a motor vehicle, is qualified to obtain an operator's license and has passed such knowledge test as the department may require, the department may issue a regular instruction permit. If the application is made by a male who is at least 18 years of age but less than 26 years of age, the application shall include the information required under s. 343.14 (2) (em). The permit entitles the permittee to operate a motor vehicle, except a commercial

motor vehicle, school bus, or Type 1 motorcycle, a motor bicycle, or a moped, upon the highways, subject to the following restrictions:

- (a)** Except as provided in this subsection, no permittee may operate a motor vehicle unless accompanied by a person who has at least 2 years of licensed driving experience, who presently holds a valid regular license, as defined in s. 343.03 (3) (a), who occupies the seat beside the permittee and who is one of the following:

 - 1.** A qualified instructor who is 19 years of age or older. If the motor vehicle is equipped with dual controls, up to 3 other persons, in addition to the qualified instructor, may occupy seats in the motor vehicle other than the front seat.
 - 2.** The permittee's parent, guardian or spouse who is 19 years of age or older. In addition to the parent, guardian or spouse, the permittee's immediate family members may occupy seats in the motor vehicle other than the front seat.
 - 3.** A person who is 21 years of age or older. If the permittee is under 18 years of age, this subdivision applies only if the licensed person has been designated in writing to accompany the permittee by the permittee's parent or guardian prior to operation of the vehicle by the permittee.
- (bm)** Except as provided in par. (a), no permittee may operate a motor vehicle upon a highway in this state whenever any person is in the motor vehicle.
- (cm)** If the permittee is at least 16 years of age, in addition to the licensed accompanying operator, one other licensed person 25 years of age or more with at least 2 years' driving experience may occupy a seat in the motor vehicle other than the front seat.
- (d)** The permittee shall not operate a motor vehicle during the hours of darkness unless accompanied by:

 - 1.** A licensed person 25 years of age or more, with at least 2 years' licensed driving experience, occupying the seat beside the permittee; or
 - 2.** A qualified instructor.