

School Bus and Alternative Vehicle Driver Compliance with 2003 Wisconsin Act 280 Facts Sheet

On April 19, 2004, [2003 Wisconsin Act 280](#) was enacted. This act significantly modifies the criminal background check procedures that apply to school bus and alternative vehicle drivers. It also requires the school boards to release the name of each driver who transports a pupil upon written request of the pupil's parent or guardian. These changes are applicable on several different dates. This fact sheet is provided to assist school districts, private schools and contractors in complying with Act 280, especially as it relates to [Wisconsin Statutes §121.555](#).

I. Click on the link for the text of [2003 Wisconsin Act 280](#)

II. Click on the link for the text of [Wisconsin Department of Transportation Administrative Rules related to Act 280](#)

III. Click on the link for [additional information from the Wisconsin Legislative Council](#)

IV. School Bus Endorsement Changes

The Department of Transportation (DOT) issues school bus endorsements (S endorsements). Click on the link for an [information sheet provided by DOT](#) about the changes. An individual must have an S endorsement to operate a school bus. The [Department of Transportation website](#) provides information concerning the requirements to obtain an S endorsement. The biggest change as a result of Act 280 is the criminal background check that is required and the list of crimes that disqualify a person from obtaining an S endorsement. Click on the link for a complete [list of crimes](#). When a person applies for an S endorsement, he or she is now required to certify that he or she is not disqualified due to a prior criminal conviction. The DOT has developed a new background information form that drivers must complete when applying for a new or renewal S endorsement. To apply for or renew a school bus endorsement the driver must contact the [Department of Transportation](#).

V. Alternative Vehicle Drivers

The law has been amended to require any person that employs or contracts with an individual, who does not already have a school bus endorsement, to transport pupils in an alternative vehicle to obtain a completed background information form from the driver and conduct a criminal and driver's record background check. [Wisconsin Statutes §121.555\(3\)](#)

[Wisconsin Statutes § 121.52\(2\)\(b\)](#) requires that any contract entered into, modified or renewed on or after February 1, 2005, between a school board and an owner or lessee of privately owned motor vehicles transporting pupils for compensation must include a requirement for the owner or lessee to take any action necessary for the school board or the owner or lessee to comply with these requirements.

If the driver was hired on or after February 1, 2005, the check must be done and the driver must be qualified before he or she may drive. If the driver was hired before February 1, 2005, the employer has until September 1, 2005 to collect the form, conduct the background check and ensure that only qualified drivers are operating alternative vehicles. Completion of the background information form and background checks must be repeated every four years. [Wisconsin Statutes §121.555\(3\)\(a\)](#).

A. Background Information Form

Just like a school bus driver, if the alternative vehicle driver has been convicted of any of the disqualifying offenses, he or she cannot drive an alternative vehicle. An alternative vehicle driver must use the [Alternative Vehicle Driver Information Request Form](#). This may **only** be used for alternative vehicle drivers. School bus drivers must use a multiple copy version of form MV3740 from the DOT. The applicant should keep a copy for him or herself and submit the original to the employer.

B. Conducting Background Checks

Any person that employs or contracts with an individual is required to conduct both a criminal background check and driver record check for drivers of alternative vehicles who do not have a school bus endorsement (S endorsement).

The *driver record check* must be done through the Department of Transportation. [Wisconsin Statutes §121.555\(3\)\(a\)2](#). Many school districts are already familiar with this type of check. Click on the link for [information from the DOT on obtaining driver records](#). For further information, contact the Department of Transportation.

The *criminal background check* must be done through the Department of Justice. [Wisconsin Statutes §121.555\(3\)\(a\)1](#). Some school districts are familiar with this process. If you are not, click on the link to go to the [DOJ website](#) to learn how to set up an account and obtain the required information.

Employers are required to make a good faith effort to obtain additional criminal history information from any state in which the individual has resided in the last two years, or from any other applicable federal or state agency. [Wisconsin Statutes §121.555\(3\)\(a\)1](#). While the law does not require a particular kind of record check, the Department of Public Instruction strongly recommends using the process available through the Department of Justice under the 1998 Volunteers with Children Act that provides access to the federal record database. The DOJ provides

this information on their website
(<http://www.doj.state.wi.us/dles/cib/crimback.asp>).

Once the employer has the background information about the applicant or driver, it must be compared to the [disqualification list](#). This list is very detailed. Depending on the circumstances, you may want to seek the assistance of your company or district legal counsel in comparing the list to the conviction record. If the person is convicted of a crime listed on the disqualified list, the person may not drive an alternative vehicle until the period of disqualification has passed. There is no process in the law that provides for early reinstatement of privileges or appeal of the determination. The background information form and the background check results should be maintained by the employer as long as it is necessary to show or determine compliance with these laws. [Wisconsin Statutes §121.555\(7\)](#)

C. Continuing Duty to Report

Under [Wisconsin Statutes §121.555\(4\)](#), an individual employed or under contract to transport pupils in an alternative vehicle shall report to his or her employer within 10 days of the occurrence of any of the following:

1. Any accident in which the individual was involved as the operator of a motor vehicle, regardless of whether the individual received a citation, was charged with any offense or whether the individual was transporting children under the contract.
2. Any conviction or operating privilege revocation that would make the person ineligible under these laws to transport pupils as either an alternative vehicle driver or school bus driver.
3. Any suspension or revocation of the individual's operating privilege or cancellation of a school bus endorsement in Wisconsin or any other jurisdiction.

If an individual fails to report this information or operates an alternative vehicle when he or she is disqualified could be prosecuted by the local authorities and fined up to \$100 for the first offense and \$200 for each subsequent offense. If a person provides false or incomplete information with respect to any material fact on the background information form, he or she may be prosecuted by the local authorities and fined up to \$1,000.

VI. Disclosure of Bus Driver's Name to parents

Effective February 1, 2005, [Wisconsin Statutes Section 121.52\(5\)](#) requires school boards to release the name of each driver who transports a pupil upon written request of the pupil's parent or guardian. [Wisconsin Statutes §121.52\(2\)\(b\)](#) requires that any contract entered into, modified or renewed on or after February 1, 2005, between a school board and an owner or lessee of privately owned motor vehicles transporting pupils for compensation must include a requirement for the owner or lessee to take any action necessary for the school board or the owner or lessee to comply with this requirement.



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2003 Wisconsin Act 280 [2003 Senate Bill 350]	Criminal Background Checks for School Bus and School Van Operators
2003 Acts: www.legis.state.wi.us/2003/data/acts/	Act Memos: www.legis.state.wi.us/lc/act_memo/act_memo.htm

2003 Wisconsin Act 280 relates to criminal background checks for operators of school buses and vehicles that are used as alternatives to school buses.

General Background

If the operator of a school bus is a Wisconsin resident, the operator must have an “S” endorsement to his or her motor vehicle operator’s license or commercial driver’s license (CDL) issued by the Department of Transportation (DOT). With certain limited exceptions, a Wisconsin operator’s license or CDL is issued for eight years, and the “S” endorsement expires when the operator’s license or CDL expires. Before issuing or renewing an “S” endorsement, DOT conducts a criminal background check. Under prior law, the statutes and administrative code specified the disqualifying crimes and time periods of disqualification for an “S” endorsement. (For individuals who are not residents of Wisconsin, the authority to operate a school bus in Wisconsin is prescribed by statute, which 2003 Wisconsin Act 33 amends effective September 30, 2005.)

As an alternative to a school bus, a school board or the governing body of a private school may use a vehicle other than a school bus to transport pupils. While larger vehicles may be used temporarily in the event of an emergency with special permission from the Secretary of Transportation, the statute concerning alternative school vehicles, as a practical matter, applies to a motor vehicle transporting nine or fewer passengers (in addition to the operator) which is typically referred to as a school van. An “S” endorsement is *not* required to operate a school van. However, prior law required the school board or governing body of a private school to determine that the operator of an alternative school vehicle had not been convicted within certain time periods of certain driving-related crimes. While there was some overlap with respect to driving-related offenses, the disqualifying crimes under prior law for a school van operator were not identical to the disqualifying crimes for an “S” endorsement. Moreover, in

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents.

contrast to the “S” endorsement, no nondriving-related offenses were specified as disqualifying crimes for operating an alternative school vehicle.

2003 Wisconsin Act 280

In very general terms, 2003 Wisconsin Act 280 amends prior law by:

- Modifying the disqualifying crimes for an “S” endorsement by specifying additional disqualifying crimes, including adjudications of delinquency for certain crimes, and authorizing DOT to specify other disqualifying crimes by administrative rule; and prohibiting DOT from issuing an “S” endorsement if the individual’s application indicates that the individual is listed on the Department of Health and Family Services (DHFS) client abuse registry for neglecting or abusing or misappropriating the property of a client.
- Establishing minimum periods of disqualification for an “S” endorsement for the specified crimes; and authorizing DOT to increase the period of disqualification by administrative rule.
- Applying those same disqualifying crimes and periods of disqualification for an “S” endorsement to operators of alternative school vehicles and to nonresidents who operate a school bus in Wisconsin.
- Providing that the disqualifying crimes apply notwithstanding the Fair Employment Act, that is, without separately considering if the circumstances of the conviction substantially relate to operating a school bus or alternative school vehicle.
- Requiring more frequent criminal background checks for an “S” endorsement (generally, every four years, rather than eight years); and requiring criminal background checks every four years for operators of alternative school vehicles who do not hold an “S” endorsement.
- Specifying the method for conducting criminal background checks, including: conducting the criminal history search by obtaining records maintained by the Department of Justice, requiring a good faith effort to obtain out-of-state criminal history information if the person resided outside Wisconsin within the two years preceding the search, authorizing fingerprinting and submission to the Federal Bureau of Investigation (FBI) to check FBI arrest and conviction records, requiring the employer of a nonresident who will operate a school bus in Wisconsin to conduct a background check, and requiring a person who employs or contracts with an individual to operate an alternative school vehicle to conduct a background check unless the individual holds an “S” endorsement issued by DOT (in which case, DOT will have conducted the background check).
- Requiring that driving records be periodically obtained for operators of alternative school vehicles; and requiring that such operators report motor vehicle accidents, suspensions or revocations of operating privileges, and any conviction or revocation that makes the individual ineligible to operate an alternative school vehicle or hold an “S” endorsement.
- Requiring the release of the name of an operator of a school bus or alternative school vehicle upon the request of the parent of a pupil who is being transported by that operator.

- Requiring the Department of Public Instruction (DPI) to study the use of video cameras on school buses and strategies to improve the training of school bus and alternative school vehicle operators. DPI must report to the Legislature on its study by December 1, 2004.
- Requiring DOT to study the costs and benefits of integrating within DOT the computer linkup to access information obtained from the criminal history search and of developing an automated search system to search the DHFS client abuse registry. DOT must report to the Legislature on its study by April 1, 2005.
- Increasing fees by \$5 for issuing an “S” endorsement; and increasing the appropriation to DOT by \$10,000 for fiscal year 2004-05 to increase funding for determining the qualifications of applicants for issuance or renewal of an “S” endorsement to an operator’s license.

Effective Date; Initial Applicability Dates: In general, the Act takes effect on February 1, 2005. DOT’s authority to promulgate administrative rules relating to disqualifying crimes and periods of disqualification for an “S” endorsement takes effect on May 1, 2004. (The deadline for beginning the rules promulgation process is February 1, 2005, and DOT must promulgate emergency rules before that date.)

The Act’s applicability with regard to several issues is delayed as follows:

- If an individual was, on January 31, 2005, employed or under contract to transport pupils in an alternative school vehicle, the provisions requiring criminal background checks and driving record checks of alternative school vehicle drivers who do not hold an “S” endorsement and the associated record keeping, requiring completion of the DPI background information form, requiring alternative school vehicle operators to report certain convictions or incidents to the employer or contractor, and prohibiting operation of an alternative school vehicle if the person has disqualifying convictions or adjudications of delinquency, do not apply until September 1, 2005.
- The requirement that a contract between a school board and the owner or lessee of a privately owned motor vehicle transporting pupils for compensation include the provision relating to providing information to the school board to enable the school board to comply with a request by a parent or guardian of a pupil to disclose the name of each driver who transports the pupil and the provisions to enable a school board to comply with the revised provisions relating to alternative school vehicles apply to contracts that are entered into, modified, or renewed on or after February 1, 2005.
- The provisions relating to “S” endorsements apply to applications for initial issuance or renewal of an “S” endorsement that are submitted to DOT on or after February 1, 2005.

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