



## 2009 ASSEMBLY BILL 216

April 17, 2009 - Introduced by Representatives NERISON, M. WILLIAMS, J. FITZGERALD, NYGREN, A. OTT, TAUCHEN, LOTHIAN, TOWNSEND, MURSAU, MURTHA, SPANBAUER, VOS, KERKMAN, LEMAHIEU, STRACHOTA and VAN ROY, cosponsored by Senators LEIBHAM, SCHULTZ, GROTHMAN, S. FITZGERALD, HARSDORF, COWLES and LAZICH. Referred to Committee on Transportation.

1     **AN ACT** *to amend* 343.16 (1) (a), 343.16 (1) (b) (intro.), 343.16 (1) (b) 2., 343.16  
2           (1) (b) 3. (intro.), 343.16 (1) (b) 4. and 343.16 (1) (b) 5.; and *to create* 343.16 (1)  
3           (b) 6. of the statutes; **relating to:** permitting third-party testers to administer  
4           driving skills tests for certain noncommercial motor vehicle drivers.

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### *Analysis by the Legislative Reference Bureau*

Under current law, with limited exceptions, applicants for an operator's license are required to successfully complete a knowledge test and a driving skills (road) test. Generally Department of Transportation (DOT) examiners must administer road tests except that DOT may contract with third-party testers to conduct road tests for commercial motor vehicle operators and school bus operators. However, DOT may not contract for third-party testing with a private driver training school or another private institution. A contract between DOT and a third-party tester must include specified provisions.

This bill permits DOT to contract with third-party testers to conduct road tests for "Class D" vehicle operators. "Class D" vehicles include most noncommercial motor vehicles other than Type 1 motorcycles. The bill also removes the prohibition on DOT contracting for third-party testing with private driver training schools or other private institutions but requires each contract between DOT and a third-party tester to include a provision prohibiting the third-party tester from administering any test of a person who has received instruction in driver training from the third-party tester or from an affiliate of the third-party tester.

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 343.16 (1) (a) of the statutes is amended to read:

2           343.16 (1) (a) *General.* The Except when examination by a 3rd-party tester is  
3 permitted under pars. (b) and (c), the department shall examine every applicant for  
4 an operator’s license, including applicants for license renewal as provided in sub. (3),  
5 and every applicant for authorization to operate a vehicle class or type for which the  
6 applicant does not hold currently valid authorization, other than an instruction  
7 permit. Except as provided in sub. (2) (cm) and (e), the examinations of applicants  
8 for licenses authorizing operation of “Class A”, “Class B”, “Class C”, “Class D” or  
9 “Class M” vehicles shall include both a knowledge test and an actual demonstration  
10 in the form of a driving skills test of the applicant’s ability to exercise ordinary and  
11 reasonable control in the operation of a representative vehicle. The department shall  
12 not administer a driving skills test to a person applying for authorization to operate  
13 “Class M” vehicles who has failed 2 previous such skills tests unless the person has  
14 successfully completed a rider course approved by the department. The department  
15 may, by rule, exempt certain persons from the rider course requirement of this  
16 paragraph. The department may not require a person applying for authorization to  
17 operate “Class M” vehicles who has successfully completed a basic rider course  
18 approved by the department to hold an instruction permit under s. 343.07 (4) prior  
19 to the department’s issuance of a license authorizing the operation of “Class M”  
20 vehicles. The department may not require a person applying for authorization to  
21 operate “Class M” vehicles who holds an instruction permit under s. 343.07 (4) to

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1 hold it for a minimum period of time before administering a driving skills test. The  
2 driving skills of applicants for endorsements authorizing the operation of  
3 commercial motor vehicles equipped with air brakes, the transportation of  
4 passengers in commercial motor vehicles or the operation of school buses, as provided  
5 in s. 343.04 (2) (b), (d) or (e), shall also be tested by an actual demonstration of driving  
6 skills. The department may endorse an applicant's commercial driver license for  
7 transporting hazardous materials requiring placarding or any quantity of a material  
8 listed as a select agent or toxin under 42 CFR 73, subject to s. 343.125, or for the  
9 operation of tank vehicles or vehicles towing double or triple trailers, as described  
10 in s. 343.04 (2) (a), (c) or (f), based on successful completion of a knowledge test. In  
11 administering the knowledge test, the department shall attempt to accommodate  
12 any special needs of the applicant. Except as may be required by the department for  
13 an "H" or "S" endorsement, the knowledge test is not intended to be a test for literacy  
14 or English language proficiency. This paragraph does not prohibit the department  
15 from requiring an applicant to correctly read and understand highway signs.

16 **SECTION 2.** 343.16 (1) (b) (intro.) of the statutes is amended to read:

17 343.16 (1) (b) *Third-party testing.* (intro.) The department may contract with  
18 a person, including an agency or department of this state or its political subdivisions  
19 or another state, or a private employer of commercial motor vehicle drivers, to  
20 administer commercial motor vehicle skills tests required by 49 CFR 383.110 to  
21 383.135, examinations required to be administered under s. 343.12 (2) (h) and,  
22 abbreviated driving skills tests required by sub. (3) (b). ~~The department may not~~  
23 ~~enter into such testing contracts with a private driver training school or other private~~  
24 ~~institution, or driving skills tests required by par. (a) for authorization to operate~~

**ASSEMBLY BILL 216****SECTION 2**

1 “Class D” vehicles, or any combination of these tests and examinations. A contract  
2 with a 3rd-party tester shall include all of the following provisions:

3 **SECTION 3.** 343.16 (1) (b) 2. of the statutes is amended to read:

4 343.16 (1) (b) 2. The department, ~~the federal highway administration~~ or its  
5 representative, or the federal highway administration with respect to testing for  
6 commercial driver licenses, may conduct random examinations, inspections, and  
7 audits of the 3rd-party tester without any prior notice.

8 **SECTION 4.** 343.16 (1) (b) 3. (intro.) of the statutes is amended to read:

9 343.16 (1) (b) 3. (intro.) At least annually, the department shall conduct an  
10 on-site inspection of the 3rd-party tester to determine compliance with the contract  
11 and with department and federal standards for testing applicants for commercial  
12 driver licenses and with department standards for testing applicants for school bus  
13 endorsements and applicants for operators’ licenses to operate “Class D” vehicles.  
14 At least annually, the department shall also evaluate testing given by the 3rd-party  
15 tester by one of the following means:

16 **SECTION 5.** 343.16 (1) (b) 4. of the statutes is amended to read:

17 343.16 (1) (b) 4. Examiners of the 3rd-party tester shall meet the same  
18 qualifications and training standards as the department’s license examiners to the  
19 extent established by the department as necessary to satisfactorily perform the skills  
20 tests required by 49 CFR 383.110 to 383.135, examinations required to be  
21 administered under s. 343.12 (2) (h) ~~and,~~ abbreviated driving skills tests required by  
22 sub. (3) (b), and driving skills tests required by par. (a) for authorization to operate  
23 “Class D” vehicles.

24 **SECTION 6.** 343.16 (1) (b) 5. of the statutes is amended to read:

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1           343.16 (1) (b) 5. The department shall take prompt and appropriate remedial  
2           action against the 3rd-party tester in the event that the tester fails to comply with  
3           department or federal standards for commercial driver license testing, department  
4           standards for school bus endorsement testing or testing for operators' licenses to  
5           operate "Class D" vehicles, or any provision of the contract. Such action may include  
6           immediate termination of testing by the 3rd-party tester and recovery of damages.

7           **SECTION 7.** 343.16 (1) (b) 6. of the statutes is created to read:

8           343.16 (1) (b) 6. The 3rd-party tester may not administer any test or  
9           examination of a person who has received instruction in driver training from the  
10          3rd-party tester or from any person who controls, is controlled by, or is under  
11          common control with the 3rd-party tester.

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(END)