



2005 ASSEMBLY BILL 256

March 18, 2005 – Introduced by Representatives JENSEN, GRIGSBY, KESSLER, A. WILLIAMS, FIELDS, YOUNG, JESKEWITZ, TOLES, BENEDICT, NISCHKE, POCAN and BERCEAU, cosponsored by Senator COGGS. Referred to Committee on Criminal Justice and Homeland Security.

1 **AN ACT** *to repeal* 343.30 (1g) (b), 343.32 (1m), 343.44 (2) (am), 351.02 (1) (a) 5.,
2 351.02 (1) (a) 9., 767.303 and 961.50; *to renumber and amend* 343.30 (1g) (a);
3 and *to amend* 343.10 (1) (a), 343.10 (2) (a) 1., 343.10 (5) (b), 343.30 (5), 343.31
4 (1) (hm), 343.31 (2m), 343.31 (2u) (a), 343.32 (3), 343.44 (1) (d), 343.44 (1) (d),
5 343.44 (2) (b) (intro.), 343.44 (2) (b) (intro.), 343.44 (2) (bm), 351.02 (1) (a) 6. and
6 351.02 (1) (b) of the statutes; **relating to:** operating a vehicle after suspension
7 or revocation of operating privileges and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person may not operate a motor vehicle while his or her operating privilege has been suspended or revoked (OAR). A person who operates a motor vehicle while his or her operating privilege is suspended is required to forfeit not less than \$50 nor more than \$200, and a court may suspend his or her operating privilege for up to six months. A person who operates a motor vehicle while his or her operating privilege is revoked may be fined not more than \$2,500, imprisoned for not more than one year, or both, and a court may suspend his or her operating privilege for up to six months. A person who operates a commercial motor vehicle while he or she is disqualified or ordered out-of-service is subject to the same penalties as a person who operates a motor vehicle while his or her operating privilege is revoked. However, if the person had been convicted of three or more prior

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convictions for operating a vehicle while his or her operating privilege was suspended or revoked, current law requires a court to revoke the person's operating privilege for six months, with limited exceptions.

Under this bill, a first violation of operating a motor vehicle after a person's operating privilege is suspended or revoked is a civil violation. The fines are converted to civil forfeitures, and a person who is found to have violated the prohibition is not subject to imprisonment. However, a person who commits a second or subsequent offense would be fined the same amount and subject to the same amount of imprisonment as under current law.

Under current law, a court may suspend or revoke a person's operating privilege as a penalty for several different offenses, including being a habitual traffic offender, failing to pay child support, or being convicted of certain drug offenses. Under the bill, a court may not suspend or revoke a person's operating privilege for failing to pay child support or being convicted of certain drug offenses, and may only suspend or revoke the operating privilege of a habitual traffic offender if the person committed certain traffic violations that are felonies or that involve reckless or intoxicated driving.

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

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

1 **SECTION 1.** 343.10 (1) (a) of the statutes is amended to read:

2 343.10 (1) (a) If a person's license or operating privilege is revoked or
3 suspended under this chapter or s. ~~767.303, 938.34 (14q), or 943.21 (3m), or 961.50~~
4 and if the person is engaged in an occupation, including homemaking or full-time
5 or part-time study, or a trade making it essential that he or she operate a motor
6 vehicle, the person, after payment of the fee provided in sub. (6), may file an
7 application with the department setting forth in detail the need for operating a motor
8 vehicle. No person may file more than one application with respect to each revocation
9 or suspension of the person's license or operating privilege under this chapter or s.
10 ~~767.303, 938.34 (14q), or 943.21 (3m), or 961.50~~, except that this limitation does not
11 apply to an application to amend an occupational license restriction.

12 **SECTION 2.** 343.10 (2) (a) 1. of the statutes is amended to read:

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1 343.10 (2) (a) 1. Except for a revocation or suspension that arose out of the same
2 incident or occurrence for which the person's license or operating privilege is
3 currently revoked or suspended, the person's license or operating privilege was not
4 revoked or suspended previously under this chapter or ch. 344 or s. 943.21 (3m) or
5 961.50 within the one-year period immediately preceding the present revocation or
6 suspension, except as provided in s. 344.40.

7 **SECTION 3.** 343.10 (5) (b) of the statutes is amended to read:

8 343.10 (5) (b) *Limitations.* Occupational licenses are subject to the limitations
9 specified in ss. 343.30 (1q) (b) and (h), 343.305 (8) (d) and (10) (b) and (em), and 343.31
10 (3m), ~~343.32 (1m), 767.303 and 961.50.~~

11 **SECTION 4.** 343.30 (1g) (a) of the statutes is renumbered 343.30 (1g) and
12 amended to read:

13 343.30 (1g) ~~Except as provided in par. (b),~~ a A court may suspend a person's
14 operating privilege for any period not exceeding 6 months upon the person's
15 conviction for violating s. 343.44 (1) (a), (b) or (d) or a local ordinance in conformity
16 therewith.

17 **SECTION 5.** 343.30 (1g) (b) of the statutes is repealed.

18 **SECTION 6.** 343.30 (5) of the statutes is amended to read:

19 343.30 (5) No court may suspend or revoke an operating privilege except as
20 authorized by this chapter or ch. 345, 351, or 938 or s. ~~767.303,~~ 800.09 (1) (c), 800.095
21 (4) (b) 4., or 943.21 (3m), ~~or 961.50.~~ When a court revokes, suspends, or restricts a
22 juvenile's operating privilege under ch. 938, the department of transportation shall
23 not disclose information concerning or relating to the revocation, suspension, or
24 restriction to any person other than a court, district attorney, county corporation
25 counsel, city, village, or town attorney, law enforcement agency, or the minor whose

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1 operating privilege is revoked, suspended, or restricted, or his or her parent or
2 guardian. Persons entitled to receive this information shall not disclose the
3 information to other persons or agencies.

4 **SECTION 7.** 343.31 (1) (hm) of the statutes is amended to read:

5 343.31 (1) (hm) A violation of s. 343.44 (1) (a), (b) or (d), or a local ordinance in
6 conformity therewith, if the person has been convicted of 3 or more prior violations
7 of s. 343.44 (1) (a), (b) or (d), or similar violations under s. 343.44 (1), 1997 stats., or
8 a local ordinance in conformity therewith within the 5-year period preceding the
9 violation. ~~Revocation under this paragraph shall be for a period of 6 months unless~~
10 ~~a lesser period of revocation is ordered under s. 343.30 (1g) (b).~~

11 **SECTION 8.** 343.31 (2m) of the statutes is amended to read:

12 343.31 (2m) The department may suspend ~~or revoke, respectively,~~ the
13 operating privilege of any resident upon receiving notice of the conviction of that
14 person under a law of another jurisdiction or a federally recognized American Indian
15 tribe or band in this state for an offense which, if the person had committed the
16 offense in this state and been convicted of the offense under the laws of this state,
17 would have permitted suspension ~~or revocation~~ of the person's operating privilege
18 under s. 343.30 (1g). Upon receiving similar notice with respect to a nonresident, the
19 department may suspend ~~or revoke~~ the privilege of the nonresident to operate a
20 motor vehicle in this state. The suspension ~~or revocation~~ shall not apply to the
21 operation of a commercial motor vehicle by a nonresident who holds a valid
22 commercial driver license issued by another state. A suspension ~~or revocation~~ under
23 this subsection shall be for any period not exceeding 6 months.

24 **SECTION 9.** 343.31 (2u) (a) of the statutes is amended to read:

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1 343.31 **(2u)** (a) Any offense that may be counted under s. 351.02 (1) (a), ~~other~~
2 ~~than s. 351.02 (1) (a) 5.~~

3 **SECTION 10.** 343.32 (1m) of the statutes is repealed.

4 **SECTION 11.** 343.32 (3) of the statutes is amended to read:

5 343.32 **(3)** ~~Except as provided in sub. (1m),~~ a Δ revocation or suspension under
6 this section may be for any period not exceeding one year unless a different period
7 is specifically prescribed by law.

8 **SECTION 12.** 343.44 (1) (d) of the statutes is amended to read:

9 343.44 **(1)** (d) *Operating while disqualified.* No person may operate a
10 commercial motor vehicle while disqualified under s. 343.315 or 49 CFR 383.51,
11 under the law of another jurisdiction or Mexico that provides for disqualification of
12 commercial drivers in a manner similar to 49 CFR 383.51, or under a determination
13 by the federal highway administration under the federal rules of practice for motor
14 carrier safety contained in 49 CFR 386 that the person is no longer qualified to
15 operate a vehicle under 49 CFR 391. This paragraph does not apply to a person who
16 is disqualified under s. 343.315 (2) (a) 3. or 7., or under s. 343.315 (2) (a) 4. unless the
17 person is disqualified for a felony under chapter 346.

18 **SECTION 13.** 343.44 (1) (d) of the statutes, as affected by 2003 Wisconsin Act 33,
19 is amended to read:

20 343.44 **(1)** (d) *Operating while disqualified.* No person may operate a
21 commercial motor vehicle while disqualified under s. 343.315 or 49 CFR 383.51,
22 under the law of another jurisdiction or Mexico that provides for disqualification of
23 commercial drivers in a manner similar to 49 CFR 383.51, or under a determination
24 by the federal motor carrier safety administration under the federal rules of practice
25 for motor carrier safety contained in 49 CFR 386 that the person is no longer qualified

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1 to operate a vehicle under 49 CFR 391. This paragraph does not apply to a person
2 who is disqualified under s. 343.315 (2) (a) 3. or 7., or under s. 343.315 (2) (a) 4. unless
3 the person is disqualified for a felony under chapter 346.

4 **SECTION 14.** 343.44 (2) (am) of the statutes is repealed.

5 **SECTION 15.** 343.44 (2) (b) (intro.) of the statutes is amended to read:

6 343.44 (2) (b) (intro.) ~~Except as provided in par. (am), any~~ Any person who
7 violates commits a first violation of sub. (1) (b), (c), or (d) shall forfeit not more than
8 \$2,500. Any person who commits a 2nd or subsequent violation of sub. (1) (b), (c), or
9 (d) shall be fined not more than \$2,500 or imprisoned for not more than one year in
10 the county jail or both. In imposing a sentence under this paragraph, or a local
11 ordinance in conformity with this paragraph, the court shall review the record and
12 consider the following:

13 **SECTION 16.** 343.44 (2) (b) (intro.) of the statutes, as affected by 2003 Wisconsin
14 Act 33, is amended to read:

15 343.44 (2) (b) (intro.) ~~Except as provided in par. (am), any~~ Any person who
16 violates commits a first violation of sub. (1) (b) or (d) shall forfeit not more than
17 \$2,500. Any person who commits a 2nd or subsequent violation of sub. (1) (b) or (d)
18 shall be fined not more than \$2,500 or imprisoned for not more than one year in the
19 county jail or both. In imposing a sentence under this paragraph, or a local ordinance
20 in conformity with this paragraph, the court shall review the record and consider the
21 following:

22 **SECTION 17.** 343.44 (2) (bm) of the statutes, as created by 2003 Wisconsin Act
23 33, is amended to read:

24 343.44 (2) (bm) Any person who violates commits a first violation of sub. (1) (c)
25 shall forfeit not less than \$1,000 nor more than \$2,750. Any person who commits a

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1 2nd or subsequent violation of sub. (1) (c) shall be fined not less than \$1,100 nor more
2 than \$2,750 or imprisoned for not more than one year in the county jail or both. In
3 imposing a sentence under this paragraph, the court shall review the record and
4 consider the factors specified in par. (b) 1. to 5.

5 **SECTION 18.** 351.02 (1) (a) 5. of the statutes is repealed.

6 **SECTION 19.** 351.02 (1) (a) 6. of the statutes is amended to read:

7 351.02 (1) (a) 6. Any crime punishable as a felony under ~~chs. 341 to 348 or any~~
8 ~~felony in the commission of which a motor vehicle is used~~ chapter 346.

9 **SECTION 20.** 351.02 (1) (a) 9. of the statutes is repealed.

10 **SECTION 21.** 351.02 (1) (b) of the statutes is amended to read:

11 351.02 (1) (b) Twelve or more convictions of moving violations under chapter
12 346, including violations under par. (a), of traffic regulations or of crimes in the
13 operation of a motor vehicle which are required to be reported under s. 343.28 ~~or~~
14 ~~345.37 (5).~~

15 **SECTION 22.** 767.303 of the statutes is repealed.

16 **SECTION 23.** 961.50 of the statutes is repealed.

17 **SECTION 24. Initial applicability.**

18 (1) The treatment of section 343.10 (1) (a) of the statutes first applies to persons
19 whose license or operating privilege is revoked or suspended on the effective date of
20 this subsection.

21 **SECTION 25. Effective date.**

22 (1) The treatment of section 343.44 (1) (d) (by SECTION 13), 343.44 (2) (b) (intro.)
23 (by SECTION 16), and 343.44 (2) (bm) of the statutes takes effect on September 30,
24 2005.

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(END)