



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0714/2
ARG:bjk:jf

2009 ASSEMBLY BILL 178

March 30, 2009 – Introduced by Representatives GRIGSBY, KESSLER, FIELDS, YOUNG, ROYS, A. WILLIAMS, VRUWINK, TURNER, BERCEAU, A. OTT, SINICKI, COLON, HONADEL, TOLES and MASON, cosponsored by Senators TAYLOR, LEHMAN, ERPENBACH, GROTHMAN and PLALE. Referred to Committee on Transportation.

1 **AN ACT to repeal** 343.10 (2) (a) 3., 343.39 (1) (a) and 345.48 (3); **to renumber and**
2 **amend** 343.26 and 343.39 (3); **to amend** 118.163 (2) (a), 118.163 (2m) (a),
3 343.03 (1) (b), 343.05 (1) (a), 343.06 (2), 343.20 (1) (a), 343.28 (2), 343.28 (3),
4 343.30 (4), 343.30 (6) (d), 343.305 (7) (a), 343.305 (7) (b), 343.305 (9) (a) (intro.),
5 343.305 (9) (am) (intro.), 343.315 (3) (a), 343.315 (3) (b), 343.32 (1m) (d), 343.38
6 (title), 343.38 (1) (intro.), 343.38 (1) (a), 343.38 (2), 343.38 (3), 343.39 (1) (b),
7 343.39 (2), 345.24 (2), 345.47 (1) (c), 345.48 (2), 345.48 (4), 800.09 (1) (c), 938.17
8 (2) (d) 2., 938.34 (8), 938.34 (8d) (d), 938.34 (14m), 938.34 (14r) (a), 938.34 (14r)
9 (c), 938.342 (1g) (a), 938.343 (2), 938.344 (2e) (b), 938.344 (2e) (c), 938.355 (6)
10 (d) 2., 938.355 (6m) (a) 1m., 961.50 (1) (intro.) and 961.50 (3); **to repeal and**
11 **recreate** 343.20 (1) (a) and 343.26 (1); and **to create** 343.26 (2) and 343.38 (3g)
12 and (3r) of the statutes; **relating to:** motor vehicle operating privileges,

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1 seizures by courts or law enforcement officers of operator’s licenses, and
2 reinstatement of canceled identification cards.

Analysis by the Legislative Reference Bureau

Under current law, if a court suspends or revokes a person’s operating privilege, the court must take possession of the person’s operator’s license and forward it to the Department of Transportation (DOT). If a person is arrested for operating a motor vehicle while under the influence of an intoxicant (OWI), a law enforcement officer requests the person to take a test to determine the amount of alcohol in his or her blood or breath, and the person either refuses to take the test or the test results indicate a prohibited alcohol concentration, the officer must take possession of the person’s operator’s license and forward it to DOT.

Under this bill, a court that suspends or revokes a person’s operating privilege may take possession of a person’s operator’s license but is not required to do so. If a court does take possession of a person’s operator’s license, the court must destroy the license. Upon reinstatement of the person’s operating privilege, instead of returning the license, DOT must issue a new license. Also, a law enforcement officer who arrests a person for OWI may not take possession of a person’s operator’s license. The bill also allows a person who is otherwise eligible to obtain an occupational license to do so without surrendering his or her revoked operator’s license.

Under current law, if a court suspends a person’s operating privilege for certain violations and at the time of the suspension the person does not have a valid operator’s license, the period of operating privilege suspension does not begin until the person is eligible and applies for an operator’s license or until a specified period of time elapses, whichever occurs first.

Under this bill, a person need not apply for issuance, renewal, or reinstatement of an operator’s license to trigger the commencement of the period of operating privilege suspension. The period of operating privilege suspension begins when the person first becomes eligible for issuance, renewal, or reinstatement of an operator’s license. This bill also eliminates the requirement that a nonresident whose operating privilege is revoked in this state obtain a valid operator’s license issued by his or her resident state as a condition of reinstatement by DOT of the nonresident’s operating privilege.

Current law provides in most cases for automatic reinstatement of a person’s suspended operating privilege after the period of operating privilege suspension has terminated and the person has paid the reinstatement fee. However, after revocation of a person’s operating privilege, disqualification of a person’s authorization to operate a commercial motor vehicle, or cancellation of a person’s operator’s license, in most cases reinstatement requires DOT to issue a new operator’s license. Reinstated licenses expire two years from the person’s next birthday.

This bill provides for automatic reinstatement of a person’s revoked operating privilege if the applicable period of revocation has expired and the person has applied

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for reinstatement and paid to DOT the applicable fee. The bill also provides for automatic reinstatement of a person's canceled operator's license or identification card if the cancellation occurred for specified reasons, the person has paid to DOT the applicable fee, and the reasons for the cancellation have been rectified.

The bill clarifies the general requirements for reinstatement of a person's authorization to operate a commercial motor vehicle. Under the bill, upon a person's application for reinstatement, DOT may reinstate the person's authorization to operate a commercial motor vehicle and issue a commercial driver license to the person if the person has paid the required fees and taken any examination required by DOT; however, DOT may not do so during any period of disqualification under state or federal law, under the law of another jurisdiction disqualifying the person from operating a commercial motor vehicle under circumstances similar to those specified in state or federal law, or under a federal agency determination that the person is no longer qualified to operate a commercial motor vehicle. The bill also provides for automatic reinstatement if the disqualification results from the issuance of a 24-hour out-of-service order. The bill eliminates the two-year expiration period for reinstated licenses if the license is canceled on a basis for which automatic reinstatement applies.

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.** 118.163 (2) (a) of the statutes is amended to read:

2 118.163 (2) (a) Suspension of the person's operating privilege for not less than
3 30 days nor more than one year. The court shall ~~immediately~~ may take possession
4 of any suspended license and forward it. If the court takes possession of a license,
5 it shall destroy the license. The court shall forward to the department of
6 transportation ~~together with~~ a notice stating the reason for and the duration of the
7 suspension.

8 **SECTION 2.** 118.163 (2m) (a) of the statutes is amended to read:

9 118.163 (2m) (a) A county, city, village or town may enact an ordinance
10 permitting a court to suspend the operating privilege of a person who is at least 16
11 years of age but less than 18 years of age and is a dropout. The ordinance shall

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1 provide that the court may suspend the person's operating privilege until the person
2 reaches the age of 18. The court shall immediately may take possession of any
3 suspended license and forward it. If the court takes possession of a license, it shall
4 destroy the license. The court shall forward to the department of transportation
5 ~~together with~~ a notice stating the reason for and the duration of the suspension.

6 **SECTION 3.** 343.03 (1) (b) of the statutes is amended to read:

7 343.03 (1) (b) The department shall issue operator's licenses in conformity with
8 the classified driver license system to each licensee upon renewal, ~~reinstatement or~~
9 ~~initial application, or cancellation under s. 343.26 (1).~~

10 **SECTION 4.** 343.05 (1) (a) of the statutes is amended to read:

11 343.05 (1) (a) Except as provided in this subsection, no person may at any time
12 have more than one operator's license. This prohibition includes, without limitation,
13 having licenses from more than one state, having licenses under more than one name
14 or birthdate, ~~having an occupational license without having surrendered the revoked~~
15 ~~or suspended license document,~~ and having more than one license issued for the
16 operation of different types or classes of vehicles. This paragraph does not apply to
17 any person who has only operator's licenses issued by this state and by a country,
18 province, or subdivision that is a party to an agreement under s. 343.16 (1) (d).

19 **SECTION 5.** 343.06 (2) of the statutes is amended to read:

20 343.06 (2) The department shall not issue a commercial driver license,
21 including a renewal or reinstated license, to any person, or reinstate a person's
22 authorization to operate a commercial motor vehicle, during any period of
23 disqualification under s. 343.315 or 49 CFR 383.51 ~~or, under~~ the law of another
24 jurisdiction ~~in substantial conformity therewith,~~ as the result of one or more
25 ~~disqualifying offenses committed on or after July 1, 1987,~~ disqualifying a person

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1 from operating a commercial motor vehicle under circumstances similar to those
2 specified in s. 343.315 or 49 CFR 383.51, or under a determination by the federal
3 motor carrier safety administration that the person is no longer qualified to operate
4 a commercial motor vehicle under 49 CFR 391, or to any person whose operating
5 privilege is revoked, suspended, or canceled. Any person who is known to the
6 department to be subject to disqualification as described in s. 343.44 (1) (d) shall be
7 disqualified by the department as provided in s. 343.315.

8 **SECTION 6.** 343.10 (2) (a) 3. of the statutes is repealed.

9 **SECTION 7.** 343.20 (1) (a) of the statutes is amended to read:

10 343.20 (1) (a) Except as otherwise expressly provided in this chapter,
11 ~~reinstated licenses, probationary licenses issued under s. 343.085, licenses issued~~
12 after cancellation under s. 343.26 (1), and original licenses other than instruction
13 permits shall expire 2 years from the date of the applicant's next birthday. Subject
14 to s. 343.125 (3), all other licenses and license endorsements shall expire 8 years after
15 the date of issuance. The department may institute any system of initial license
16 issuance which it deems advisable for the purpose of gaining a uniform rate of
17 renewals. In order to put such a system into operation, the department may issue
18 licenses which are valid for any period less than the ordinary effective period of such
19 license. If the department issues a license that is valid for less than the ordinary
20 effective period as authorized by this paragraph, the fees due under s. 343.21 (1) (a),
21 (b) and (d) shall be prorated accordingly.

22 **SECTION 8.** 343.20 (1) (a) of the statutes, as affected by 2007 Wisconsin Act 20
23 and 2009 Wisconsin Act (this act), is repealed and recreated to read:

24 343.20 (1) (a) Except as otherwise expressly provided in this chapter,
25 probationary licenses issued under s. 343.085, licenses issued after cancellation

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1 under s. 343.26 (1), and original licenses other than instruction permits shall expire
2 2 years from the date of the applicant's next birthday. Subject to s. 343.125 (3), all
3 other licenses and license endorsements shall expire 8 years after the date of
4 issuance. The department may institute any system of initial license issuance which
5 it deems advisable for the purpose of gaining a uniform rate of renewals. In order
6 to put such a system into operation, the department may issue licenses which are
7 valid for any period less than the ordinary effective period of such license. If the
8 department issues a license that is valid for less than the ordinary effective period
9 as authorized by this paragraph, the fees due under s. 343.21 (1) (b) and (d) shall be
10 prorated accordingly.

11 **SECTION 9.** 343.26 of the statutes is renumbered 343.26 (1) and amended to
12 read:

13 343.26 (1) Any Except as provided in sub. (2), any person whose license has
14 been canceled, whether the license has been canceled by the secretary or stands
15 canceled as a matter of law, may apply for a new license at any time. Upon receipt
16 of the application and all required fees, the department shall issue or refuse issuance
17 of the license as upon an original application. The department may, but need not,
18 require the applicant to submit to an examination as provided in s. 343.16.

19 **SECTION 10.** 343.26 (1) of the statutes, as affected by 2007 Wisconsin Act 20,
20 section 3291, and 2009 Wisconsin Act (this act), is repealed and recreated to read:

21 343.26 (1) Except as provided in sub. (2), any person whose license has been
22 canceled, whether the license has been canceled by the secretary or stands canceled
23 as a matter of law, may apply for a new license at any time. Upon receipt of the
24 application and all required fees, and after processing the application as provided in
25 s. 343.165, the department shall issue or refuse issuance of the license as upon an

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1 original application. The department may, but need not, require the applicant to
2 submit to an examination as provided in s. 343.16.

3 **SECTION 11.** 343.26 (2) of the statutes is created to read:

4 343.26 (2) If a person's license has been canceled under s. 343.25 (2) or (3), or
5 canceled because of the person's nonpayment of a fee, the person's license may be
6 reinstated as provided in s. 343.38 (3g).

7 **SECTION 12.** 343.28 (2) of the statutes is amended to read:

8 343.28 (2) Whenever a person is convicted of any offense for which s. 343.31
9 makes mandatory the revocation by the secretary of such person's operating
10 privilege, the court in which the conviction occurred ~~shall~~ may require the surrender
11 to it of any license then held by such person. If the court requires surrender of a
12 license, the court shall destroy the license. The clerk of the court, or the justice, judge
13 or magistrate if the court has no clerk, shall, as provided in s. 345.48, forward to the
14 department the record of conviction and ~~any surrendered licenses.~~ ~~The record of~~
15 ~~conviction forwarded to the department, which~~ shall state whether the offender was
16 involved in an accident at the time of the offense, whether the offender was operating
17 a commercial motor vehicle at the time of the offense and, if so, whether the offender
18 was transporting hazardous materials requiring placarding or any quantity of a
19 material listed as a select agent or toxin under 42 CFR 73, or was operating a vehicle
20 designed to carry, or actually carrying, 16 or more passengers, including the driver.

21 **SECTION 13.** 343.28 (3) of the statutes is amended to read:

22 343.28 (3) If a person is convicted of committing a violation as defined by s.
23 343.30 (6) (a), the clerk of the court, or the justice, judge or magistrate if the court
24 has no clerk, shall, as provided in s. 345.48, forward to the department the record of
25 conviction and ~~any surrendered licenses.~~

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1 **SECTION 14.** 343.30 (4) of the statutes is amended to read:

2 343.30 (4) Whenever a court ~~or judge~~ suspends or revokes an operating
3 privilege under this section, the court ~~or judge shall immediately~~ may take
4 possession of any suspended or revoked license and If the court takes possession of
5 a license, it shall destroy the license. The court shall forward it, as provided in s.
6 345.48, to the department ~~together with~~ the record of conviction and notice of
7 suspension or revocation. Whenever a court ~~or judge~~ restricts the operating privilege
8 of a person, the court ~~or judge~~ shall forward notice of the restriction to the
9 department.

10 **SECTION 15.** 343.30 (6) (d) of the statutes is amended to read:

11 343.30 (6) (d) If the person subject to suspension under this subsection does not
12 hold a valid license under this chapter other than a license under s. 343.07 or 343.08
13 on the date of disposition, the suspension under par. (b) shall commence on the date
14 ~~that such a license would otherwise be reinstated or issued after the person applies~~
15 ~~and qualifies for issuance or 2 years from the date of disposition, whichever occurs~~
16 first on which the person is first eligible for issuance, renewal, or reinstatement of
17 an operator's license under this chapter.

18 **SECTION 16.** 343.305 (7) (a) of the statutes is amended to read:

19 343.305 (7) (a) If a person submits to chemical testing administered in
20 accordance with this section and any test results indicate the presence of a detectable
21 amount of a restricted controlled substance in the person's blood or a prohibited
22 alcohol concentration, the law enforcement officer shall report the results to the
23 department ~~and take possession of the person's license and forward it to the~~
24 ~~department.~~ The person's operating privilege is administratively suspended for 6
25 months.

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1 **SECTION 17.** 343.305 (7) (b) of the statutes is amended to read:

2 343.305 (7) (b) If a person who was driving or operating or on duty time with
3 respect to a commercial motor vehicle submits to chemical testing administered in
4 accordance with this section and any test results indicate an alcohol concentration
5 above 0.0, the law enforcement officer ~~may take possession of the person's license and~~
6 ~~retain the license for 24 hours. The person may reclaim a seized license in person~~
7 ~~or request return of the license by mail. The law enforcement officer shall issue a~~
8 citation for violation of s. 346.63 (7) (a) 1., issue citations for such other violations as
9 may apply and issue an out-of-service order to the person for the 24 hours after the
10 testing, and report both the out-of-service order and the test results to the
11 department in the manner prescribed by the department. If the person is a
12 nonresident, the department shall report issuance of the out-of-service order to the
13 driver licensing agency in the person's home jurisdiction.

14 **SECTION 18.** 343.305 (9) (a) (intro.) of the statutes is amended to read:

15 343.305 (9) (a) (intro.) If a person refuses to take a test under sub. (3) (a), the
16 law enforcement officer shall immediately ~~take possession of the person's license and~~
17 prepare a notice of intent to revoke, by court order under sub. (10), the person's
18 operating privilege. If the person was driving or operating a commercial motor
19 vehicle, the officer shall issue an out-of-service order to the person for the 24 hours
20 after the refusal and notify the department in the manner prescribed by the
21 department. The officer shall issue a copy of the notice of intent to revoke the
22 privilege to the person and submit or mail a copy ~~with the person's license to the~~
23 circuit court for the county in which the arrest under sub. (3) (a) was made or to the
24 municipal court in the municipality in which the arrest was made if the arrest was
25 for a violation of a municipal ordinance under sub. (3) (a) and the municipality has

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1 a municipal court. The officer shall also mail a copy of the notice of intent to revoke
2 to the attorney for that municipality or to the district attorney for that county, as
3 appropriate, and to the department. Neither party is entitled to pretrial discovery
4 in any refusal hearing, except that, if the defendant moves within 30 days after the
5 initial appearance in person or by an attorney and shows cause therefor, the court
6 may order that the defendant be allowed to inspect documents, including lists of
7 names and addresses of witnesses, if available, and to test under s. 804.09, under
8 such conditions as the court prescribes, any devices used by the plaintiff to determine
9 whether a violation has been committed. The notice of intent to revoke the person's
10 operating privilege shall contain substantially all of the following information:

11 **SECTION 19.** 343.305 (9) (am) (intro.) of the statutes is amended to read:

12 343.305 (9) (am) (intro.) If a person driving or operating or on duty time with
13 respect to a commercial motor vehicle refuses a test under sub. (3) (am), the law
14 enforcement officer shall immediately ~~take possession of the person's license~~, issue
15 an out-of-service order to the person for the 24 hours after the refusal and notify the
16 department in the manner prescribed by the department, and prepare a notice of
17 intent to revoke, by court order under sub. (10), the person's operating privilege. The
18 officer shall issue a copy of the notice of intent to revoke the privilege to the person
19 and submit or mail a copy ~~with the person's license~~ to the circuit court for the county
20 in which the refusal is made or to the municipal court in the municipality in which
21 the refusal is made if the person's refusal was in violation of a municipal ordinance
22 and the municipality has a municipal court. The officer shall also mail a copy of the
23 notice of intent to revoke to the attorney for that municipality or to the district
24 attorney for that county, as appropriate, and to the department. Neither party is
25 entitled to pretrial discovery in any refusal hearing, except that, if the defendant

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1 moves within 30 days after the initial appearance in person or by an attorney and
2 shows cause therefor, the court may order that the defendant be allowed to inspect
3 documents, including lists of names and addresses of witnesses, if available, and to
4 test under s. 804.09, under such conditions as the court prescribes, any devices used
5 by the plaintiff to determine whether a violation has been committed. The notice of
6 intent to revoke the person's operating privilege shall contain substantially all of the
7 following information:

8 **SECTION 20.** 343.315 (3) (a) of the statutes is amended to read:

9 343.315 (3) (a) ~~Notwithstanding s. 343.39, if~~ If a person's license or operating
10 privilege is revoked or suspended as the result of an offense committed after
11 March 31, 1992, which results in disqualification under sub. (2), the department
12 shall immediately disqualify the person from operating a commercial motor vehicle
13 for the period required under sub. (2). ~~The Notwithstanding s. 343.38 (3r), the~~
14 person's authorization to operate a commercial motor vehicle shall not be reinstated
15 upon expiration of the period of revocation or suspension unless the period of
16 disqualification has also expired. During any period of disqualification in which the
17 person's license or operating privilege is not revoked or suspended, the department
18 may issue an operator's license to the person for the operation of vehicles other than
19 commercial motor vehicles.

20 **SECTION 21.** 343.315 (3) (b) of the statutes is amended to read:

21 343.315 (3) (b) If a person's license or operating privilege is not otherwise
22 revoked or suspended as the result of an offense committed after March 31, 1992,
23 which results in disqualification under sub. (2) (a) to (f), (h), (i), or (j), the department
24 shall immediately disqualify the person from operating a commercial motor vehicle
25 for the period required under sub. (2) (a) to (f), (h), (i), or (j). Upon proper application

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1 by the person and payment of the fees specified in s. 343.21 (1) (L) and (n), the
2 department may issue a separate license authorizing only the operation of vehicles
3 other than commercial motor vehicles. ~~Upon expiration of the period of~~
4 ~~disqualification, the person may apply for authorization to operate commercial~~
5 ~~motor vehicles under s. 343.26.~~

6 **SECTION 22.** 343.32 (1m) (d) of the statutes is amended to read:

7 343.32 (1m) (d) If the person's license or operating privilege is currently
8 suspended or revoked or the person does not currently possess a valid operator's
9 license issued under this chapter, the suspension or revocation under this subsection
10 is effective on the date on which the person is first eligible and applies for issuance,
11 renewal, or reinstatement of an operator's license under this chapter.

12 **SECTION 23.** 343.38 (title) of the statutes is amended to read:

13 **343.38** (title) **License Reinstatement after revocation or, suspension;**
14 **reinstatement of nonresident's operating privilege, cancellation, or**
15 **disqualification.**

16 **SECTION 24.** 343.38 (1) (intro.) of the statutes is amended to read:

17 343.38 (1) **LICENSE REINSTATEMENT AFTER REVOCATION.** (intro.) Except as
18 provided in ss. 343.10, 343.39, and 351.07, the department shall not issue a license
19 to reinstate the operating privilege of a person whose operating privilege has been
20 duly revoked unless the period of revocation has expired and such the person:

21 **SECTION 25.** 343.38 (1) (a) of the statutes is amended to read:

22 343.38 (1) (a) ~~Files with Pays to the department an application for license~~
23 ~~together with all required fees; and~~

24 **SECTION 26.** 343.38 (2) of the statutes is amended to read:

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1 343.38 (2) REINSTATEMENT OF NONRESIDENT'S OPERATING PRIVILEGE AFTER
2 ~~REVOCA~~TION BY WISCONSIN. A nonresident's operating privilege revoked or suspended
3 under the laws of this state is reinstated as a matter of law when the period of
4 revocation or suspension has expired and ~~such~~ the nonresident ~~obtains a valid~~
5 operator's license issued by the jurisdiction of the nonresident's residence and pays
6 the fees specified in s. 343.21 (1) (j) and (n).

7 **SECTION 27.** 343.38 (3) of the statutes is amended to read:

8 343.38 (3) REINSTATEMENT AFTER SUSPENSION. ~~Except as provided in sub. (2) and~~
9 s. 343.10, the department shall not issue a license to reinstate the operating privilege
10 of a person whose operating privilege has been duly suspended while the suspension
11 remains in effect. Upon the expiration of the period of suspension, the person's
12 operating privilege is reinstated ~~as provided in s. 343.39~~ upon receipt by the
13 department of the fees specified in s. 343.21 (1) (j) and (n) and, for reinstatement of
14 an operating privilege suspended under ch. 344, the filing with the department of
15 proof of financial responsibility, if required, in the amount, form, and manner
16 specified under ch. 344.

17 **SECTION 28.** 343.38 (3g) and (3r) of the statutes are created to read:

18 343.38 (3g) REINSTATEMENT AFTER CERTAIN CANCELLATIONS. (a) The department
19 may reinstate the operator's license of a person whose operator's license has been
20 duly canceled under s. 343.25 (2) or (3) if the person pays the fees specified in s. 343.21
21 (1) (m) and (n) and either the person is at least 18 years of age or the requirements
22 specified in s. 343.15 are satisfied.

23 (b) The department may reinstate the operator's license or identification card
24 of a person whose operator's license or identification card has been duly canceled
25 because of the person's nonpayment of a fee if the person pays that fee, pays any fee

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1 required by the department under s. 20.905 (2), and pays the fees specified in s.
2 343.21 (1) (m) and (n).

3 **(3r)** REINSTATEMENT OF COMMERCIAL DRIVING PRIVILEGES FOLLOWING
4 DISQUALIFICATION. (a) Except as provided in pars. (b) and (c), upon application for
5 reinstatement after a person's disqualification by the department, the department
6 may issue a commercial driver license to the person if the person has paid the fees
7 required under s. 343.21 (1) (jm) and (n), taken any examination required by the
8 department under s. 343.16, and satisfied any other requirement under this chapter
9 for reinstatement.

10 (b) Any disqualification under s. 343.315 (2) (g) terminates at the beginning of
11 the 25th hour following issuance of the citation specified in s. 343.315 (2) (g). If a
12 person has been disqualified solely on the basis of s. 343.315 (2) (g), the person's
13 authorization to operate a commercial motor vehicle is automatically reinstated
14 upon termination of the disqualification, as provided in this paragraph, and no
15 application or fee is required for reinstatement.

16 (c) If a person is authorized to operate a commercial motor vehicle under s.
17 343.055, the person's authorization to operate a commercial motor vehicle may be
18 reinstated without issuance of a commercial driver license to the person.

19 **SECTION 29.** 343.39 (1) (a) of the statutes is repealed.

20 **SECTION 30.** 343.39 (1) (b) of the statutes is amended to read:

21 343.39 (1) (b) When, in the case of a revocation ~~or~~, suspension, or
22 disqualification based on a conviction, the conviction is reversed, set aside or
23 vacated. This paragraph applies whether or not the conviction occurred in this state
24 and whether or not the conviction was cause for revocation ~~or~~, suspension, or

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1 disqualification only when considered in connection with the person's previous entire
2 operating record.

3 **SECTION 31.** 343.39 (2) of the statutes is amended to read:

4 343.39 (2) Whenever a person's operating privilege is automatically reinstated,
5 the department shall forthwith notify such person thereof and shall return any
6 surrendered and unexpired license in its possession. If the person's license is expired
7 during the period of revocation or suspension, such, the person may renew the license
8 at the standard renewal fee at any time within 30 days after the reinstatement of the
9 person's operating privilege. If the person states to the department that he or she
10 no longer possesses the license because the license was surrendered to a court, and
11 the person has satisfied all requirements under sub. (1), the department shall issue
12 a new license without any additional fee for the license.

13 **SECTION 32.** 343.39 (3) of the statutes is renumbered 343.13 (3) and amended
14 to read:

15 343.13 (3) If a court has ordered that ~~the~~ a person's operating privilege be
16 restricted for a period of time after the ~~suspension~~ person's operating privilege
17 revocation period is completed to operating vehicles equipped with an ignition
18 interlock device, the license shall include that restriction.

19 **SECTION 33.** 345.24 (2) of the statutes is amended to read:

20 345.24 (2) If the person was issued an out-of-service order under s. 343.305
21 (7) (b), the person may be released as provided under sub. (1) ~~but the person's license~~
22 ~~may be retained until the out-of-service period has expired.~~

23 **SECTION 34.** 345.47 (1) (c) of the statutes is amended to read:

24 345.47 (1) (c) If a court ~~or judge~~ suspends an operating privilege under this
25 section, the court ~~or judge~~ shall immediately may take possession of the suspended

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1 ~~license and. If the court takes possession of a license, it shall destroy the license. The~~
2 ~~court shall forward it to the department together with the notice of suspension,~~
3 ~~which shall clearly state that the suspension was for failure to pay a forfeiture, plus~~
4 ~~costs, fees, and surcharges imposed under ch. 814. The notice of suspension and the~~
5 ~~suspended license, if it is available, shall be forwarded to the department within 48~~
6 ~~hours after the order of suspension. If the forfeiture, plus costs, fees, and surcharges~~
7 ~~imposed under ch. 814, are paid during a period of suspension, the court or judge~~
8 ~~shall immediately notify the department. Upon receipt of the notice and payment~~
9 ~~of the fees under s. 343.21 (1) (j) and (n), the department shall return the surrendered~~
10 ~~license.~~

11 **SECTION 35.** 345.48 (2) of the statutes is amended to read:

12 345.48 (2) If the defendant is found guilty of a traffic violation for which
13 revocation of his or her operating privilege is mandatory under s. 343.31, or for which
14 the court revokes or suspends his or her operating privilege under s. 343.30, the court
15 shall immediately may take possession of the suspended or revoked license. If the
16 court takes possession of a license, it shall destroy the license. The revocation or
17 suspension is effective immediately. The court ordered suspension or revocation
18 shall be included as part of the report of conviction under sub. (1m).

19 **SECTION 36.** 345.48 (3) of the statutes is repealed.

20 **SECTION 37.** 345.48 (4) of the statutes is amended to read:

21 345.48 (4) If notice of appeal is filed the court shall, within 5 working days after
22 it is filed, forward to the department a certificate stating that a notice of appeal has
23 been filed and shall return any surrendered license. Thereafter, the court shall
24 notify the department as required under s. 343.325 (1) (b) and (c).

25 **SECTION 38.** 800.09 (1) (c) of the statutes is amended to read:

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1 800.09 (1) (c) The court may suspend the defendant's operating privilege, as
2 defined in s. 340.01 (40), until restitution is made and the forfeiture, assessments
3 and costs are paid, if the defendant has not done so within 60 days after the date the
4 restitution or payments or both are to be made under par. (a) and has not notified the
5 court that he or she is unable to comply with the judgment, as provided under s.
6 800.095 (4) (a), except that the suspension period may not exceed 2 years. The court
7 ~~shall~~ may take possession of the suspended license ~~and shall.~~ If the court takes
8 possession of a license, it shall destroy the license. The court shall forward the
9 license, along with a notice of the suspension clearly stating that the suspension is
10 for failure to comply with a judgment of the court, to the department of
11 transportation. This paragraph does not apply if the forfeiture is assessed for
12 violation of an ordinance that is unrelated to the violator's operation of a motor
13 vehicle.

14 **SECTION 39.** 938.17 (2) (d) 2. of the statutes is amended to read:

15 938.17 (2) (d) 2. If a court suspends a license or privilege under subd. 1., the
16 court shall immediately take possession of the applicable license ~~and forward it~~ if
17 issued under ch. 29 or, if the license is issued under ch. 343, the court may take
18 possession of, and if possession is taken, shall destroy, the license. The court shall
19 forward to the department that issued the license, ~~together with~~ the notice of
20 suspension stating that the suspension is for failure to pay a forfeiture imposed by
21 the court, together with any license issued under ch. 29 of which the court takes
22 possession. If the forfeiture is paid during the period of suspension, the court shall
23 immediately notify the department, which shall then, if the license is issued under
24 ch. 29, return the license to the person.

25 **SECTION 40.** 938.34 (8) of the statutes is amended to read:

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1 938.34 (8) Impose a forfeiture based upon a determination that this disposition
2 is in the best interest of the juvenile and the juvenile’s rehabilitation. The maximum
3 forfeiture that the court may impose under this subsection for a violation by a
4 juvenile is the maximum amount of the fine that may be imposed on an adult for
5 committing that violation or, if the violation is applicable only to a person under 18
6 years of age, \$100. The order shall include a finding that the juvenile alone is
7 financially able to pay the forfeiture and shall allow up to 12 months for payment.
8 If the juvenile fails to pay the forfeiture, the court may vacate the forfeiture and order
9 other alternatives under this section; or the court may suspend any license issued
10 under ch. 29 for not less than 30 days nor more than 5 years, or suspend the juvenile’s
11 operating privilege, as defined in s. 340.01 (40), for not more than 2 years. If the court
12 suspends any license under this subsection, the clerk of the court shall immediately
13 take possession of the suspended license ~~and forward it~~ if issued under ch. 29 or, if
14 the license is issued under ch. 343, the court may take possession of, and if possession
15 is taken, shall destroy, the license. The court shall forward to the department which
16 issued the license, ~~together with~~ a notice of suspension stating that the suspension
17 is for failure to pay a forfeiture imposed by the court, ~~together with any license issued~~
18 under ch. 29 of which the court takes possession. If the forfeiture is paid during the
19 period of suspension, the suspension shall be reduced to the time period which has
20 already elapsed and the court shall immediately notify the department which shall
21 then, if the license is issued under ch. 29, return the license to the juvenile. Any
22 recovery under this subsection shall be reduced by the amount recovered as a
23 forfeiture for the same act under s. 938.45 (1r) (b).

24 **SECTION 41.** 938.34 (8d) (d) of the statutes is amended to read:

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1 938.34 (8d) (d) If the juvenile fails to pay the surcharge under par. (a), the court
2 may vacate the surcharge and order other alternatives under this section, in
3 accordance with the conditions specified in this chapter; or the court may suspend
4 any license issued under ch. 29 for not less than 30 days nor more than 5 years, or
5 suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not less
6 than 30 days nor more than 5 years. If the court suspends any license under this
7 subsection, the clerk of the court shall immediately take possession of the suspended
8 license and forward it if issued under ch. 29 or, if the license is issued under ch. 343,
9 the court may take possession of, and if possession is taken, shall destroy, the license.
10 The court shall forward to the department which issued the license, ~~together with~~
11 a notice of suspension stating that the suspension is for failure to pay a surcharge
12 imposed by the court, together with any license issued under ch. 29 of which the court
13 takes possession. If the surcharge is paid during the period of suspension, the
14 suspension shall be reduced to the time period which has already elapsed and the
15 court shall immediately notify the department which shall then, if the license is
16 issued under ch. 29, return the license to the juvenile.

17 **SECTION 42.** 938.34 (14m) of the statutes is amended to read:

18 938.34 (14m) Restrict or suspend the operating privilege, as defined in s.
19 340.01 (40), of a juvenile who is adjudicated delinquent under a violation of any law
20 in which a motor vehicle is involved. If the court suspends a juvenile's operating
21 privilege under this subsection, the court shall immediately may take possession of
22 the suspended license ~~and forward it.~~ If the court takes possession of a license, it
23 shall destroy the license. The court shall forward to the department of
24 transportation ~~together with~~ a notice stating the reason for and duration of the
25 suspension. If the court limits a juvenile's operating privilege under this subsection,

ASSEMBLY BILL 178**SECTION 42**

1 the court shall immediately notify the department of transportation of that
2 limitation.

3 **SECTION 43.** 938.34 (14r) (a) of the statutes is amended to read:

4 938.34 (14r) (a) In addition to any other dispositions imposed under this
5 section, if the juvenile is found to have violated ch. 961, the court shall suspend the
6 juvenile's operating privilege, as defined in s. 340.01 (40), for not less than 6 months
7 nor more than 5 years. The court ~~shall immediately~~ may take possession of any
8 suspended license ~~and forward it. If the court takes possession of a license, it shall~~
9 destroy the license. The court shall forward to the department of transportation
10 ~~together with~~ the notice of suspension stating that the suspension or revocation is
11 for a violation of ch. 961.

12 **SECTION 44.** 938.34 (14r) (c) of the statutes is amended to read:

13 938.34 (14r) (c) If the juvenile's license or operating privilege is currently
14 suspended or revoked or if the juvenile does not currently possess a valid operator's
15 license issued under ch. 343, the suspension under this subsection is effective on the
16 date on which the juvenile is first eligible ~~and applies~~ for issuance or reinstatement
17 of an operator's license under ch. 343.

18 **SECTION 45.** 938.342 (1g) (a) of the statutes is amended to read:

19 938.342 (1g) (a) Suspend the person's operating privilege, as defined in s.
20 340.01 (40), for not less than 30 days nor more than one year. The court ~~shall~~
21 ~~immediately~~ may take possession of the suspended license ~~and forward it. If the~~
22 court takes possession of a license, it shall destroy the license. The court shall
23 forward to the department of transportation ~~together with~~ a notice stating the reason
24 for and duration of the suspension.

25 **SECTION 46.** 938.343 (2) of the statutes is amended to read:

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1 938.343 (2) FORFEITURE. Impose a forfeiture not to exceed the maximum
2 forfeiture that may be imposed on an adult for committing that violation or, if the
3 violation is only applicable to a person under 18 years of age, \$50. The order shall
4 include a finding that the juvenile alone is financially able to pay and shall allow up
5 to 12 months for the payment. If a juvenile fails to pay the forfeiture, the court may
6 suspend any license issued under ch. 29 or suspend the juvenile's operating privilege,
7 as defined in s. 340.01 (40), for not more than 2 years. The court shall immediately
8 take possession of the suspended license ~~and forward it if issued under ch. 29 or, if~~
9 the license is issued under ch. 343, the court may take possession of, and if possession
10 is taken, shall destroy, the license. The court shall forward to the department which
11 issued the license, ~~together with the notice of suspension stating that the suspension~~
12 is for failure to pay a forfeiture imposed by the court, together with any license issued
13 under ch. 29 of which the court takes possession. If the forfeiture is paid during the
14 period of suspension, the court shall immediately notify the department, which shall,
15 if the license is issued under ch. 29, return the license to the person. Any recovery
16 under this subsection shall be reduced by the amount recovered as a forfeiture for
17 the same act under s. 938.45 (1r) (b).

18 **SECTION 47.** 938.344 (2e) (b) of the statutes is amended to read:

19 938.344 (2e) (b) Whenever a court suspends a juvenile's operating privilege
20 under this subsection, the court ~~shall immediately~~ may take possession of any
21 suspended license ~~and forward it.~~ If the court takes possession of a license, it shall
22 destroy the license. The court shall forward to the department of transportation,
23 ~~together with the notice of suspension stating that the suspension is for a violation~~
24 under s. 961.573 (2), 961.574 (2), or 961.575 (2), or a local ordinance that strictly
25 conforms to one of those statutes.

ASSEMBLY BILL 178**SECTION 48**

1 **SECTION 48.** 938.344 (2e) (c) of the statutes is amended to read:

2 938.344 **(2e)** (c) If the juvenile's license or operating privilege is currently
3 suspended or revoked or the juvenile does not currently possess a valid operator's
4 license under ch. 343, the suspension under this subsection is effective on the date
5 on which the juvenile is first eligible ~~and applies~~ for issuance or reinstatement of an
6 operator's license under ch. 343.

7 **SECTION 49.** 938.355 (6) (d) 2. of the statutes is amended to read:

8 938.355 **(6)** (d) 2. Suspension of or limitation on the use of the juvenile's
9 operating privilege, as defined under s. 340.01 (40), or of any approval issued under
10 ch. 29 for a period of not more than 3 years. If the juvenile does not hold a valid
11 operator's license under ch. 343, other than an instruction permit under s. 343.07 or
12 a restricted license under s. 343.08, on the date of the order issued under this
13 subdivision, the court may order the suspension to begin on the date ~~that the~~
14 ~~operator's license would otherwise be reinstated or issued after the juvenile applies~~
15 ~~and qualifies for issuance or 2 years after the date of the order issued under this~~
16 ~~subdivision, whichever occurs first~~ on which the juvenile is first eligible for issuance
17 or reinstatement of an operator's license under ch. 343. If the court suspends the
18 juvenile's operating privileges or an approval issued under ch. 29, the court shall
19 immediately take possession of the suspended license ~~or approval and forward it~~ may
20 take possession of, and if possession is taken, shall destroy, the suspended license.
21 The court shall forward to the department that issued it, together with the license
22 or approval the notice of suspension, together with any approval of which the court
23 takes possession.

24 **SECTION 50.** 938.355 (6m) (a) 1m. of the statutes is amended to read:

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1 938.355 **(6m)** (a) 1m. Suspension or limitation on the use of the juvenile's
2 operating privilege, as defined under s. 340.01 (40), or of any approval issued under
3 ch. 29 for not more than one year. If the juvenile does not hold a valid operator's
4 license under ch. 343, other than an instruction permit under s. 343.07 or a restricted
5 license under s. 343.08, on the date of the order issued under this subdivision, the
6 court may order the suspension or limitation to begin on the date ~~that the operator's~~
7 ~~license would otherwise be reinstated or issued after the juvenile applies and~~
8 ~~qualifies for issuance or 2 years after the date of the order issued under this~~
9 ~~subdivision, whichever occurs first~~ on which the juvenile is first eligible for issuance
10 or reinstatement of an operator's license under ch. 343. If the court suspends a
11 juvenile's operating privilege or an approval issued under ch. 29, the court shall
12 immediately take possession of the suspended license ~~or approval and forward it~~ may
13 take possession of, and if possession is taken, shall destroy, the suspended license.
14 The court shall forward to the department that issued the license or approval ~~with~~
15 a notice stating the reason for and the duration of the suspension, together with any
16 approval of which the court takes possession.

17 **SECTION 51.** 961.50 (1) (intro.) of the statutes is amended to read:

18 961.50 **(1)** (intro.) If a person is convicted of any violation of this chapter, the
19 court shall, in addition to any other penalties that may apply to the crime, suspend
20 the person's operating privilege, as defined in s. 340.01 (40), for not less than 6
21 months nor more than 5 years. The court shall immediately may take possession of
22 any suspended license ~~and forward it.~~ If the court takes possession of a license, it
23 shall destroy the license. The court shall forward to the department of
24 transportation ~~together with~~ the record of conviction and notice of the suspension.
25 The person is eligible for an occupational license under s. 343.10 as follows:

ASSEMBLY BILL 178**SECTION 52**

1 **SECTION 52.** 961.50 (3) of the statutes is amended to read:

2 961.50 (3) If the person's license or operating privilege is currently suspended
3 or revoked or the person does not currently possess a valid operator's license issued
4 under ch. 343, the suspension or revocation under this section is effective on the date
5 on which the person is first eligible and ~~applies~~ for issuance, renewal, or
6 reinstatement of an operator's license under ch. 343.

7 **SECTION 53. Initial applicability.**

8 (1) The treatment of sections 343.30 (6) (d), 343.32 (1m) (d), 938.34 (14r) (c),
9 938.344 (2e) (c), 938.355 (6) (d) 2. and (6m) (a) 1m., and 961.50 (3) of the statutes first
10 applies to convictions, suspensions, revocations, and refusals occurring on the
11 effective date of this subsection.

12 (2) The treatment of sections 343.03 (1) (b), 343.06 (2), 343.20 (1) (a) (by SECTION
13 7), 343.315 (3) (a) and (b), 343.38 (title), (1) (intro.) and (a), (2), (3), (3g), and (3r), and
14 343.39 (1) (a) and (b), (2), and (3) of the statutes, the renumbering and amendment
15 of section 343.26 of the statutes, and the creation of section 343.26 (2) of the statutes
16 first apply to reinstatements for which reinstatement fees are received by the
17 department of transportation on the effective date of this subsection.

18 **SECTION 54. Effective dates.** This act takes effect on the first day of the 5th
19 month beginning after publication, except as follows:

20 (1) The repeal and recreation of sections 343.20 (1) (a) and 343.26 (1) of the
21 statutes takes effect on the first day of the 5th month beginning after publication,
22 or on the date on which the creation of section 343.165 of the statutes by 2007
23 Wisconsin Act 20 takes effect, whichever is later.

24

(END)