

1989 Assembly Bill 605

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1989 WISCONSIN ACT 105

AN ACT *to repeal* 343.01 (2) (a), 343.01 (2) (c), 343.05 (2) (a) 3, 343.10 (1) (a) and (b) (title), 343.10 (1) (c) (intro.), 343.10 (1r), 343.124, 343.125, 343.126, 343.16 (1) (c), 343.16 (1) (e), 343.20 (1) (b), 343.20 (1m), 343.30 (1q) (g), 343.305 (1) (a), 343.305 (8) (e), 343.32 (2) (h) and (4), 344.14 (3), 344.25 (4) and 885.235 (1) (a) 1; *to renumber* 341.01, 343.01 (2) (d), 343.06 (intro.) and (1), 343.06 (2), 343.06 (11), 343.06 (12), 343.10 (1) (c) 1 and 2, 343.10 (7), 343.13, 343.16 (1) (am), 343.16 (1) (d), 343.16 (1) (f), 343.16 (2) (b) to (d), 343.16 (3), (4) and (5), 343.20 (1), 343.23 (3), 346.93 and 349.01; *to renumber and amend* 340.01 (24), 343.01 (2) (b), 343.01 (2) (e), 343.06 (3), 343.06 (4), (7), (8), (9) and (10), 343.08 (2), 343.085 (2), 343.10 (1) (b), 343.10 (1) (d), 343.10 (1) (e), 343.10 (1) (f), 343.10 (1) (g), 343.10 (2), 343.10 (3) (a), 343.10 (3) (b), 343.10 (4), 343.10 (5), 343.10 (6), 343.10 (6m), 343.12 (1), 343.16 (1) (a) (intro.), 343.16 (1) (a) 1, 343.16 (1) (a) 2, 343.16 (1) (a) 3, 343.16 (1) (b), 343.16 (2) (a), 343.23 (4), 343.305 (4) (c), 343.305 (7), 343.307, 345.24, 346.14 (2), 940.09 (1) (c) and 940.25 (1) (c); *to consolidate, renumber and amend* 343.305 (9) (a) 5. c and d; *to amend* 25.40 (1) (im), 46.03 (18) (f), 59.20 (8r), 118.29 (2) (a) (intro.), 118.29 (3), 121.555 (2) (c) 1, 121.555 (2) (c) 5, 157.06 (6) (a) 5 and (b), 340.01 (35), 340.01 (40), 343.01 (2) (a) (intro.) and 8, 343.05 (2) (a) 2, 343.06 (1) (d), 343.07 (1) (intro.), 343.07 (4) (a), 343.11 (1), 343.12 (title), 343.12 (2) (intro.), 343.12 (2) (c), (d) and (e), 343.12 (2) (h), 343.12 (3), 343.135 (1) (a) 4, 343.135 (2) (a) (intro.), 343.135 (3), 343.14 (2) (a), (b) and (c), 343.14 (2) (f), 343.14 (2) (g) 3, 343.14 (3) and (4), 343.14 (5) and (6), 343.15 (4) (intro.) and (b), 343.18 (1), 343.19 (2), 343.20 (1) (a), 343.21 (1) (b), (ba), (bm), (c) and (cm), 343.21 (2), 343.22 (2m), 343.23 (1) (intro.), 343.23 (2), 343.25 (1), (4) and (5), 343.265 (1) (b), 343.265 (2), 343.28 (1) and (2), 343.30 (1q) (a), 343.30 (1q) (b) 1, 343.303, 343.305 (2), 343.305 (3) (a), 343.305 (3) (b), 343.305 (4) (intro.) and (b), 343.305 (5) (a), 343.305 (5) (b), 343.305 (5) (d), 343.305 (6) (b) 3, 343.305 (8) (a), 343.305 (8) (b) 2. bm, 343.305 (8) (b) 2. d, 343.305 (8) (b) 5, 343.305 (8) (c) 1, 343.305 (9) (a) (intro.), 343.305 (9) (a) 1, 343.305 (9) (a) 5. a, 343.305 (9) (b), (c) and (d), 343.305 (10) (b) 1, 343.305 (10) (b) 6, 343.307 (2), 343.31 (1) (intro.), 343.31 (2), 343.31 (3) (h), 343.31 (4), 343.32 (2) (f), 343.34 (2), 343.37 (2), 343.43 (1) (g), 343.44 (title), (1) and (2) (intro.), 343.44 (2) (a), 343.45 (2) and (3), 343.50 (3), 343.50 (13), 345.17, 345.20 (2) (c), 345.23 (2) (c), 345.28 (5) (b) 2. a, 346.10 (title), (1) and (2), 346.63 (2m), 346.635, 346.64, 346.65 (2m), (2r) and (3), 346.655 (1), 346.93 (title), 346.935 (4) (b), 347.04, 349.03 (4), 351.02 (1) (intro.), 351.02 (1) (c), 351.02 (1m), 351.07 (title) and (1), 351.07 (2), 800.04 (1) (d), 885.235 (1) (intro.), 885.235 (1) (a) 2, (b) and (c), 885.235 (1m), 885.235 (4) and (5) (a), 940.09 (1) (intro.), 940.09 (2), 940.25 (1) (intro.), 940.25 (2), 949.03 (1) (b), 967.055 (1) (a) and 967.055 (2) (a) and (3) (a) and (b); *to repeal and recreate* 118.29 (2) (a) (intro.), 118.29 (3), 121.555 (2) (c) 5, 343.01 (2) (a), 343.01 (2) (a) 8, 343.02, 343.05, 343.06 (1) (c), 343.07 (1m) (intro.) and (a), 343.07 (4) (a), 343.12 (2) (d), 343.12 (4), 343.17, 343.21 (1), 343.305 (3) (a), 343.305 (9) (a) (intro.), 343.305 (10) (b) 1, 343.31 (4), 343.43 (3), 345.23 (2) (c), 346.935 (4) (a) 1 and 351.07 (1m); and *to create* 340.01 (1q), 340.01 (1v), 340.01 (7m), 340.01 (7r), 340.01 (8), 340.01 (13m), 340.01 (15q), 340.01 (15r), 340.01 (19g), 340.01 (19r), 340.01 (24) (b), 340.01 (41g), 340.01 (41r), 340.01 (72m), 340.01 (74m), 341.01 (2), 343.01 (2) (cg), 343.01 (2) (cr), 343.01 (2) (f), 343.01 (2) (g), 343.01 (2) (i), 343.03, 343.04, 343.055, 343.06 (1) (k), 343.06 (2), 343.06 (3), 343.065, 343.07 (1m), 343.085 (2) (b), 343.10 (1) (title), 343.10 (1) (b), 343.10 (1) (c), 343.10 (2), 343.10 (5) (title), 343.10 (7) (title), (c) and (d), 343.10 (8) (title), (9) (title) and (10), 343.12 (1) (b), 343.12 (5), 343.13 (2), 343.14 (2) (h) and (i), 343.16 (1) (title), 343.16 (1) (b), 343.16 (2) (title), 343.16 (2) (a), 343.16 (2) (d) (title), 343.16

(3) (title) and (b), 343.16 (4) (title), (5) (title), (6) (title) and (7) (title), 343.17 (5), 343.175, 343.18 (3), 343.20 (1) (b), 343.20 (1) (c), (d) and (e), 343.23 (3) (b), 343.23 (4) (b), 343.24 (2m), 343.245, 343.265 (1m), 343.305 (3) (am), 343.305 (4) (c) 2 and 3, 343.305 (7) (b), 343.305 (8) (b) 2. f, 343.305 (9) (am), 343.307 (2), 343.31 (1) (ar), 343.315, 343.32 (2) (bg) and (bj), 343.32 (6), 343.44 (2m), 343.44 (2r), 343.44 (2s), 343.44 (4m), 345.11 (2m), 345.24 (2), 346.10 (4), 346.14 (2) (a) 2, 346.63 (5), 346.63 (6), 346.63 (7), 346.65 (2j) and (2w), 346.65 (2u), 346.93 (2), 346.935 (5), 349.01 (2), 349.24 (3), 351.02 (1) (a) 9 and 10, 351.02 (1) (f), 885.235 (1) (d), 940.09 (1) (bm), 940.25 (1) (bm) and 949.08 (2) (em) of the statutes, **relating to:** driver licensing and the operation of commercial motor vehicles, granting rule-making authority, providing penalties and making an appropriation.

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

SECTION 1. Legislative purpose. This act implements the requirements of the federal commercial motor vehicle safety act of 1986, 49 USC 2701 to 2716 and regulations adopted thereunder. The provisions implementing the federal commercial motor vehicle safety act are remedial laws which should be liberally construed to promote the public health, safety and welfare.

SECTION 2. 25.40 (1) (im) of the statutes is amended to read:

25.40 (1) (im) All moneys forwarded by county treasurers from fees under s. 343.10 ~~(2) (6)~~, as provided in ss. 59.20 (8r) and 343.10 ~~(2) (6)~~, and all moneys forwarded by municipal treasurers from fees under s. 343.10 ~~(2) (6)~~, as provided in s. 343.10 ~~(2) (6)~~, and all moneys forwarded by the department from fees under s. 343.10 (6).

SECTION 3. 46.03 (18) (f) of the statutes is amended to read:

46.03 (18) (f) Notwithstanding par. (a), any person who submits to an assessment or driver safety plan under s. 23.33 (13) (e), 30.80 (6) (d), 343.16 ~~(2) (5)~~ (a), 343.30 (1q), 343.305 (10) or 350.11 (3) (d) shall pay a reasonable fee therefor to the appropriate county department under s. 51.42 or traffic safety school under s. 345.60. The fee for the driver safety plan may be reduced or waived if the person is unable to pay the complete fee, but no fee for assessment or attendance at a traffic safety school under s. 345.60 may be reduced or waived.

SECTION 4. 59.20 (8r) of the statutes, as affected by 1989 Wisconsin Act 31, is amended to read:

59.20 (8r) Forward 50% of the fees received under s. 343.10 ~~(2) (6)~~ to the state treasurer for deposit in the transportation fund under s. 25.40 (1) (im).

SECTION 5. 118.29 (2) (a) (intro.) of the statutes is amended to read:

118.29 (2) (a) (intro.) Notwithstanding chs. 441, 447, 448 and 450, a school bus operator ~~licensed validly authorized~~ under s. 343.12 to operate the school bus he or she is operating, any school employe or volunteer, county handicapped children's education board employe or volunteer or cooperative educational service agency employe or volunteer authorized in writing by the administrator of the school district, the board or the agency, respectively, or by a school principal, and any private

school employe or volunteer authorized in writing by a private school administrator or private school principal:

SECTION 6. 118.29 (2) (a) (intro.) of the statutes, as affected by 1989 Wisconsin Act (this act), is repealed and recreated to read:

118.29 (2) (a) (intro.) Notwithstanding chs. 441, 447, 448 and 450, a school bus operator validly authorized under ss. 343.12 and 343.17 (3) (c) to operate the school bus he or she is operating, any school employe or volunteer, county handicapped children's education board employe or volunteer or cooperative educational service agency employe or volunteer authorized in writing by the administrator of the school district, the board or the agency, respectively, or by a school principal, and any private school employe or volunteer authorized in writing by a private school administrator or private school principal:

SECTION 7. 118.29 (3) of the statutes is amended to read:

118.29 (3) EMERGENCY CARE; CIVIL LIABILITY EXEMPTION. Any school bus operator ~~licensed validly authorized~~ under s. 343.12 to operate the school bus he or she is operating and any public or private school employe or volunteer, county handicapped children's education board employe or volunteer or cooperative educational service agency employe or volunteer, other than a health care professional, who in good faith renders emergency care to a pupil of a public or private school is immune from civil liability for his or her acts or omissions in rendering such emergency care. The immunity from civil liability provided under this subsection is in addition to and not in lieu of that provided under s. 895.48 (1).

SECTION 8. 118.29 (3) of the statutes, as affected by 1989 Wisconsin Act ... (this act), is repealed and recreated to read:

118.29 (3) Any school bus operator validly authorized under ss. 343.12 and 343.17 (3) (c) to operate the school bus he or she is operating and any public or private school employe or volunteer, county handicapped children's education board employe or volunteer or cooperative educational service agency employe or volunteer, other than a health care professional, who in good faith renders emergency care to a pupil of a public or private school is immune from civil liability for his or her acts or omissions in rendering such emergency care. The immunity from civil liability provided under this subsection is

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in addition to and not in lieu of that provided under s. 895.48 (1).

SECTION 9. 121.555 (2) (c) 1. of the statutes is amended to read:

121.555 (2) (c) 1. Shall possess a valid Wisconsin operator's license or a valid operator's license issued by another jurisdiction, as defined in s. 343.01 (2) (d) 340.01 (41m).

SECTION 10. 121.555 (2) (c) 5. of the statutes is amended to read:

121.555 (2) (c) 5. ~~May Notwithstanding ss. 111.321, 111.322 and 111.325, may~~ not be a person convicted within a 2-year period of reckless driving under s. 346.62, operating a motor vehicle while under the influence of an intoxicant or of a controlled substance under s. 346.63 (1) or a local ordinance in conformity therewith, ~~a violation of s. 346.63 (2), a violation of s. 346.63 (1m), 1985 stats., a refusal to submit to testing under s. 343.305 (9) (d) or any of the offenses enumerated under s. 343.31 (1) or (2) or a conviction of a law of another jurisdiction, as those terms are defined in s. 340.01 (9r) and (41m), respectively, which would be counted under s. 343.307 or a law prohibiting reckless or careless driving, as those or substantially similar terms are used in that jurisdiction's laws.~~ Upon request of the operator or school, the department shall certify whether the operator meets this requirement.

SECTION 11. 121.555 (2) (c) 5. of the statutes, as affected by 1989 Wisconsin Act (this act), is repealed and recreated to read:

121.555 (2) (c) 5. Notwithstanding ss. 111.321, 111.322 and 111.325, may not be a person convicted within a 2-year period of reckless driving under s. 346.62, operating a motor vehicle while under the influence of an intoxicant or of a controlled substance under s. 346.63 (1) or (5) or a local ordinance in conformity therewith, a violation of s. 346.63 (2) or (6), a violation of s. 346.63 (1m), 1985 stats., a refusal to submit to testing under s. 343.305 (9) (d) or any of the offenses enumerated under s. 343.31 (1) or (2) or 2. or more offenses under s. 346.63 (7) or a conviction of a law of another jurisdiction, as those terms are defined in s. 340.01 (9r) and (41m), respectively, which would be counted under s. 343.307 or a law prohibiting reckless or careless driving, as those or substantially similar terms are used in that jurisdiction's laws. Upon request of the operator or school, the department shall certify whether the operator meets this requirement.

SECTION 12. 157.06 (6) (a) 5. and (b) of the statutes are amended to read:

157.06 (6) (a) 5. Crossing out or amending the donor authorization in the space provided on the driver's license or donor card attached to a commercial driver license or a license labeled "CDL-Occupational" as prescribed in s. 343.17 (1) (e) 343.175 (2).

(b) Any document of gift which has not been delivered to the donee may be revoked by the donor in the manner set out in par. (a), or by destruction, cancellation or mutilation of the document and all executed copies of the document or by crossing out the authorization in the space provided on the license or attached donor card as prescribed in s. 343.17 (1) (e) 343.175 (2).

SECTION 13. 340.01 (1q) of the statutes is created to read:

340.01 (1q) "Alcohol" means any substance containing any form of alcohol including, but not limited to, ethanol, methanol, propanol and isopropanol.

SECTION 14. 340.01 (1v) of the statutes is created to read:

340.01 (1v) "Alcohol concentration" means any of the following:

(a) The number of grams of alcohol per 100 milliliters of a person's blood.

(b) The number of grams of alcohol per 210 liters of a person's breath.

SECTION 15. 340.01 (7m) of the statutes is created to read:

340.01 (7m) "Commercial driver license" means a license issued to a person by this state or another jurisdiction which is in accordance with the requirements of the federal commercial motor vehicle safety act of 1986, 49 USC 2701 to 2716, and which authorizes the licensee to operate certain commercial motor vehicles.

SECTION 16. 340.01 (7r) of the statutes is created to read:

340.01 (7r) "Commercial driver license information system" means the information system established pursuant to the federal commercial motor vehicle safety act of 1986, 49 USC 2701 to 2716, to serve as a clearinghouse for information related to the licensing and identification of commercial motor vehicle drivers.

SECTION 17. 340.01 (8) of the statutes is created to read:

340.01 (8) "Commercial motor vehicle" means a motor vehicle designed or used to transport passengers or property and having one or more of the following characteristics:

(a) The vehicle is a single vehicle with a gross vehicle weight rating of 26,001 or more pounds or the vehicle's registered weight or actual gross weight is more than 26,000 pounds.

(b) The vehicle is a combination vehicle with a gross combination weight rating, registered weight or actual gross weight of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating, registered weight or actual gross weight of more than 10,000 pounds.

(c) The vehicle is designed to transport or is actually transporting the driver and 15 or more passengers. If the vehicle is equipped with bench type seats intended to seat

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more than one person, the passenger carrying capacity shall be determined under s. 340.01 (31) or, if the vehicle is a school bus, by dividing the total seating space measured in inches by 13.

(d) The vehicle is transporting hazardous materials.

SECTION 18. 340.01 (13m) of the statutes is created to read:

340.01 (13m) “Disqualification” means the loss or withdrawal of a person’s privilege to operate a commercial motor vehicle relating to certain offenses committed by the person while driving or operating or on duty time with respect to a commercial motor vehicle.

SECTION 19. 340.01 (15q) of the statutes is created to read:

340.01 (15q) “On duty time” means, with respect to an operator of a commercial motor vehicle, the period from the time that the operator of the commercial motor vehicle begins to work or is required to be in readiness to work until the time that the operator of the commercial motor vehicle is relieved from work and all responsibility for performing work.

SECTION 20. 340.01 (15r) of the statutes is created to read:

340.01 (15r) “Endorsement” means an authorization to an operator’s license required to permit the operation of certain vehicles.

SECTION 21. 340.01 (19g) of the statutes is created to read:

340.01 (19g) “Gross combination weight rating” means the value specified by the manufacturer as the loaded weight of a combination or articulated vehicle. In the absence of a value specified by the manufacturer, the gross combination weight rating is determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed unit and any load carried.

SECTION 22. 340.01 (19r) of the statutes is created to read:

340.01 (19r) “Gross vehicle weight rating” means the value specified by the vehicle manufacturer, including secondary or final stage manufacturer, as the loaded weight of a vehicle.

SECTION 23. 340.01 (24) of the statutes is renumbered 340.01 (24) (intro.) and amended to read:

340.01 (24) (intro.) “Implement of husbandry” means:

(a) Means a vehicle or piece of equipment or machinery designed for agricultural purposes, used exclusively in the conduct of agricultural operations and used principally off the highway, or a trailer-mounted bulk liquid fertilizer container.

SECTION 24. 340.01 (24) (b) of the statutes is created to read:

340.01 (24) (b) Does not include any motor truck, farm truck, road tractor, truck tractor, or farm truck tractor or such a vehicle combined with a semitrailer, trailer

or farm trailer, when the vehicle or combination is a commercial motor vehicle operated on a highway.

SECTION 25. 340.01 (35) of the statutes, as affected by 1987 Wisconsin Act 399, is amended to read:

340.01 (35) “Motor vehicle” means a vehicle, including a combination of 2 or more vehicles or an articulated vehicle, which is self-propelled, except that a vehicle operated exclusively on a rail. “Motor vehicle” includes, without limitation, a commercial motor vehicle or a vehicle which is propelled by electric power obtained from overhead trolley wires but not operated on rails. A snowmobile and an all-terrain vehicle shall only be considered motor vehicles for purposes made specifically applicable by statute.

SECTION 26. 340.01 (40) of the statutes is amended to read:

340.01 (40) “Operating privilege” means, in the case of a person who is licensed under ch. 343, every the license so, including every endorsement and authorization to operate vehicles of specific vehicle classes or types, instruction permit, and temporary, restricted or occupational license granted to such person; in the case of a resident who is not so licensed, it means the privilege to secure a license under ch. 343; in the case of a nonresident, it means the operating privilege granted by s. 343.05 (2) ~~(e)~~ (a) 2. or (4) (b) 1.

SECTION 27. 340.01 (41g) of the statutes is created to read:

340.01 (41g) “Operator’s license” means the authorization granted to a person by this state, another jurisdiction or certain countries to operate a motor vehicle, including a driver’s license, temporary or restricted license or an instruction permit.

SECTION 28. 340.01 (41r) of the statutes is created to read:

340.01 (41r) “Out-of-service order” means a temporary prohibition against operating a commercial motor vehicle.

SECTION 29. 340.01 (72m) of the statutes is created to read:

340.01 (72m) “Transporting hazardous materials” means any of the following:

(a) Transporting any quantity of a material classified as a class A or B explosive, poison gas or “poison A”, radioactive material or flammable solid dangerous when wet or “flammable W” in the hazardous materials table, 49 CFR 172.101.

(b) Transporting an aggregate total of 1,000 pounds or more of one or more materials classified as a class C explosive, blasting agent, nonflammable gas, flammable gas, combustible liquid, flammable liquid, flammable solid, oxidizer, organic peroxide, poison or “poison B”, corrosive material, or irritating material in the hazardous materials table, 49 CFR 172.101.

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SECTION 30. 340.01 (74m) of the statutes is created to read:

340.01 (74m) "Vehicle group" means a class or type of vehicle with certain operating characteristics.

SECTION 31. 341.01 of the statutes is renumbered 341.01 (1).

SECTION 32. 341.01 (2) of the statutes is created to read:

341.01 (2) In this chapter notwithstanding s. 340.01 (24), "implement of husbandry" means a vehicle or piece of equipment or machinery designed for agricultural purposes, used exclusively in the conduct of agricultural operations and used principally off a highway, or a trailer-mounted bulk liquid fertilizer container.

SECTION 33. 343.01 (2) (a) of the statutes, as affected by 1989 Wisconsin Act (this act), sections 35 and 36, is repealed and recreated to read:

343.01 (2) (a) "Chauffeur" means every person who operates a commercial motor vehicle upon a highway, regardless of the frequency or purpose of the operation.

SECTION 34. 343.01 (2) (a) of the statutes, as affected by 1989 Wisconsin Act (this act), is repealed.

SECTION 35. 343.01 (2) (a) (intro.) and 8 of the statutes are amended to read:

343.01 (2) (a) (intro.) "Chauffeur" means every person, including the vehicle owner, who is employed for the principal sole purpose of operating a motor vehicle or when ~~one of the principal duties is the employment~~ includes the operation of a truck for a major portion of the full working 20 or more hours each week, and every person who operates a motor vehicle while in use as a public carrier of persons or property for hire, except that a person is not a chauffeur within the meaning of this paragraph solely because the person:

8. Is licensed validly authorized under s. 343.12 and operating a motor vehicle painted in accordance with s. 347.44 (1).

SECTION 36. 343.01 (2) (a) 8. of the statutes, as affected by 1989 Wisconsin Act (this act), is repealed and recreated to read:

343.01 (2) (a) 8. Is validly authorized under ss. 343.12 and 343.17 (3) (c) and operating a motor vehicle painted in accordance with s. 347.44 (1).

SECTION 37. 343.01 (2) (b) of the statutes is renumbered 340.01 (9r), and 340.01 (9r) (intro.), as renumbered, is amended to read:

340.01 (9r) (intro.) "Conviction" or "convicted" means ~~that the~~ an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction has made an adjudication of guilt, including such an adjudication made on a plea of no contest or an authorized administrative tribunal, an unvacated forfeiture of property deposited to secure the person's appearance in court, a plea of guilty or no contest accepted by the court, the payment of a fine or court cost, or violation of a condition

of release without the deposit of property, regardless of whether or not the penalty is rebated, suspended, or probated, in this state or any other jurisdiction. It is immaterial that an appeal has been taken. "Conviction" or "convicted" also includes:

SECTION 38. 343.01 (2) (c) of the statutes is repealed.

SECTION 39. 343.01 (2) (cg) of the statutes is created to read:

343.01 (2) (cg) "Moving violation" means a violation of ch. 110, of ch. 194 or of chs. 341 to 349 and 351, or a local ordinance in conformity therewith, or the laws of another jurisdiction for which being on duty time with respect to a commercial motor vehicle or driving or operating a motor vehicle is an element of the offense.

SECTION 40. 343.01 (2) (cr) of the statutes is created to read:

343.01 (2) (cr) "Occupational license" means an operator's license, issued in accordance with s. 343.10, which confers only limited authorization to operate a motor vehicle and imposes specified restrictions.

SECTION 41. 343.01 (2) (d) of the statutes is renumbered 340.01 (41m).

SECTION 42. 343.01 (2) (e) of the statutes is renumbered 340.01 (48m) and amended to read:

340.01 (48m) "Record of conviction" means ~~the a~~ report of conviction furnished to the department by another jurisdiction or as required by this chapter, including a report of a forfeiture of deposit, stipulation of no contest, adjudication of ordinance violation or finding of a court assigned to exercise jurisdiction under ch. 48 as specified in par. (a) chs. 340 to 349 and 351.

SECTION 43. 343.01 (2) (f) of the statutes is created to read:

343.01 (2) (f) "Representative vehicle" means a motor vehicle of the same vehicle class and type that an applicant or permittee for an operator's license operates or intends to operate.

SECTION 44. 343.01 (2) (g) of the statutes is created to read:

343.01 (2) (g) "Resident" means an adult whose one home and customary and principal residence, to which the person has the intention of returning whenever he or she is absent, is in this state. A child under 18 years of age may qualify as a resident if the child lives in this state and at least one of the child's parents, or the child's guardian, is a resident of this state or the child meets any of the following requirements:

1. Is attending and residing at a full-time boarding school or similar live-in facility located in this state.
2. Is a foreign-exchange student from outside the United States residing with and in the care of a host family.
3. Is residing with and in the care of a relative or other adult acting in the place of a parent, with the consent of the child's parents or legal guardian.
4. Is on active duty with the U.S. armed forces.

SECTION 45. 343.01 (2) (i) of the statutes is created to read:

343.01 (2) (i) “Tank vehicle” means any commercial motor vehicle that is designed to transport a liquid or gaseous materials within a tank that is either permanently or temporarily attached to the commercial motor vehicle or the chassis. In this paragraph, “tank” does not include a portable tank, as defined in 49 CFR 171.8, having a rated capacity under 1,000 gallons. In this paragraph, “liquid” has the meaning given in 49 CFR 171.8.

SECTION 46. 343.02 of the statutes is repealed and recreated to read:

343.02 Administration of driver license law. (1) The department shall administer and enforce this chapter and may promulgate for that purpose such rules as the secretary considers necessary. Rules promulgated under this chapter may not conflict with and shall be at least as stringent as standards set by the federal commercial motor vehicle safety act, 49 USC 2701 to 2716 and the regulations adopted under that act.

(2) The state of Wisconsin assents to the provisions of the federal law and regulations specified in sub. (1). The state of Wisconsin declares its purpose and intent to make provisions to implement and enforce that law and those regulations so as to ensure receipt by this state of any federal highway aids that have been or may be allotted to the state under 23 USC 104 (b) (1), (2), (5) and (6), including all increased and advanced appropriations.

SECTION 47. 343.03 of the statutes is created to read:

343.03 Classified driver license system. (1) ISSUANCE TO BEGIN BY APRIL 1, 1991. (a) The department shall institute a classified driver license system meeting all federal standards under 49 USC 2701 to 2716 and 49 CFR 583.

(b) The department shall begin issuance of operator’s licenses in conformity with the classified driver license system to each licensee upon renewal, reinstatement or initial application by April 1, 1991.

(c) During the transition to a classified driver license system, the department may issue licenses under ch. 343, 1987 stats., as affected by 1989 Wisconsin Act 31, except that no such license shall authorize or be valid for the operation of commercial motor vehicles after March 31, 1992, except as provided in s. 343.055.

(2) **AUTHORIZATIONS TO DRIVE SPECIFIC VEHICLE GROUPS.** The department shall clearly indicate on each operator’s license the class of vehicles that the licensee is authorized to operate. Additional authorization for the licensee to operate a vehicle type described in s. 343.04 (2) shall be shown by an endorsement, clearly indicated on the operator’s license. If the authorizations are restricted in any way, the restrictions shall be clearly indicated on the document.

(3) **LICENSE VARIANTS.** Except for restricted licenses under s. 343.08 or temporary licenses, each operator’s license issued by the department shall be in one of the fol-

lowing categories with a descriptive legend displayed on the top front side of the license document:

(a) *Regular license.* The standard license legend is “regular” or a readily recognizable abbreviation thereof. The regular license, without any express endorsements or restrictions as provided in this chapter, authorizes the licensee to operate only “class D” vehicles as described in s. 343.04 (1) (d), except as otherwise provided in this subsection. The license may be endorsed to permit operation of Type 1 motorcycles or school buses. A regular license may be subject to restrictions, including the attachment of a special restrictions card as provided in s. 343.17 (4).

(b) *Commercial driver license.* A license authorizing the operation of “Class A”, “Class B” or “Class C” vehicles, including a license issued under s. 343.065, shall be labeled “Commercial Driver License” or “CDL”. A commercial driver license may be endorsed to permit the operation of any other class or type of vehicle described in s. 343.04. A commercial driver license may be subject to restrictions, including the attachment of a special restrictions card as provided in s. 343.17 (4).

(c) *Motorcycle only license.* Except as provided in par (f), a license authorizing only the operation of “Class M” vehicles shall be labeled “Motorcycle Only”. A motorcycle only license may not be endorsed to permit the operation of any other class or type of vehicle. The license may be subject to restrictions, including the attachment of a special restrictions card as provided in s. 343.17 (4).

(d) *Special restricted license.* A license issued under s. 343.135 shall be labeled “Special Restricted License” or a readily recognizable abbreviation thereof. The license may authorize the operation of only “Class D” vehicles and may not be endorsed to permit operation of the vehicle types described in s. 343.04 (2). The license may be subject to restrictions in addition to those provided in s. 343.135, including the attachment of a special restrictions card as provided in s. 343.17 (4).

(e) *Occupational license.* A license issued under s. 343.10 authorizing only the operation of motor vehicles other than “Class A”, “Class B” or “Class C” vehicles shall be labeled “Occupational License”. Licenses issued under s. 343.10 authorizing the operation of “Class A”, “Class B” or “Class C” vehicles shall be labeled “CDL–Occupational”. An occupational license may authorize the operation of “Class D” or “Class M” vehicles, or both, but may not be endorsed to permit operation of the vehicle types described in s. 343.04 (2). The license may be subject to restrictions in addition to those provided in s. 343.10, including the attachment of a special restrictions card as provided in s. 343.17 (4).

(f) *Probationary license.* If s. 343.085 applies, the license shall be labeled “Probationary” or a readily recognizable abbreviation thereof instead of as provided in

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par. (a) or (c). This paragraph does not apply to a license authorizing the operation of commercial motor vehicles.

(4) **ELIMINATION OF MULTIPLE LICENSES.** The department shall not knowingly issue more than one license to a person.

(5) **INQUIRIES BEFORE ISSUANCE.** Before issuing a license under this chapter, the department shall obtain driver record information from the national registry and commercial driver license information system to determine whether the applicant holds a commercial driver license, or a license that is revoked, suspended or canceled, or is otherwise disqualified. If the applicant is currently licensed in another state, the department shall obtain information on the applicant's license status with the state of licensure before issuing a license.

(6) **RELEASE OF RECORDS.** The department shall, upon request, provide to the commercial driver license information system and the driver licensing agencies of other states any applicant or driver record information maintained by the department.

(7) **NOTIFICATION OF COMMERCIAL DRIVER LICENSE ISSUANCE.** The department shall notify the commercial driver license information system within 10 days of an issuance, renewal or reinstatement of a commercial driver license, a commercial driver license upgrade authorizing the operation of a vehicle group not authorized on the prior commercial driver license, and of the surrender of a commercial driver license issued by another state.

(8) **DEADLINE FOR LICENSE COMPLIANCE.** (a) The department shall ensure that every resident qualified and authorized under this chapter to operate commercial motor vehicles who makes timely application is issued a commercial driver license by April 1, 1992.

(b) Beginning on January 1, 1991, and ending on March 31, 1992, the department may issue a commercial driver license without a driving skills test to an applicant who is eligible for a waiver under this paragraph. An applicant is eligible for a waiver of the driving skills test if he or she certifies and provides proof that he or she is regularly employed in a job requiring operation of a commercial motor vehicle, and has either operated a representative vehicle for which the applicant is seeking a commercial driver license for at least the 2 years preceding the application date or has taken and passed a behind-the-wheel driving skills test administered in a representative vehicle by a state with a classified licensing and testing system. The person shall also certify that he or she has not committed any of the conduct described in par. (c) 1. to 5. during the 2-year period immediately preceding the date of application. The department shall determine by rule the degree of operating experience needed to satisfy this requirement and the means by which the applicant shall prove compliance with the requirements of this paragraph.

(c) The department may not waive the driving skills test of any person who fails to provide satisfactory proof of eligibility under par. (b) or who, during the 2 years immediately preceding the date of application, is known from information available to the department to have done any of the following:

1. Held more than one operator's license at a time, except that for the purposes of this subdivision, a school bus or chauffeur license issued under s. 343.12 or 343.125, 1987 stats., shall be counted with a regular license issued by the department as a single license.

2. Had any license or operating privilege revoked, suspended or canceled.

3. Was convicted of a violation listed as disqualifying offenses under s. 343.315, regardless of whether the person was operating a commercial motor vehicle at the time of the offense. Conviction of a single serious traffic violation under s. 343.315 (2) (f) shall be considered a disqualifying offense for purposes of this subdivision.

4. Violated a law of this state, or a local ordinance in conformity therewith, or any law of another jurisdiction relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic accident.

5. Was at fault in any motor vehicle accident.

SECTION 48. 343.04 of the statutes is created to read:

343.04 Vehicle classifications. (1) **VEHICLE CLASSES.** For purposes of this chapter, motor vehicles are divided into the following classes:

(a) *Class A.* A "Class A" motor vehicle is any combination of vehicles with a gross vehicle weight rating, actual gross weight or registered weight of over 26,000 pounds, if the aggregate total gross vehicle weight rating, actual gross weight or registered weight of the vehicle or vehicles being towed is in excess of 10,000 pounds.

(b) *Class B.* A "Class B" motor vehicle is any single vehicle with a gross vehicle weight rating, actual gross weight or registered weight of over 26,000 pounds, and any such vehicle towing a vehicle or vehicles with an aggregate total gross vehicle weight rating, actual gross weight or registered weight of 10,000 pounds or less.

(c) *Class C.* A "Class C" motor vehicle is any single vehicle with a gross vehicle weight rating, actual gross weight and registered weight of 26,000 pounds or less, including any such vehicle towing a vehicle with a gross vehicle weight rating, actual gross weight and registered weight of less than 10,000 pounds, if any of the following applies:

1. The vehicle is designed to transport 16 or more passengers, including the driver.

2. The vehicle is transporting hazardous materials.

(d) *Class D.* A "Class D" vehicle is any motor vehicle not included in par. (a), (b), (c) or (e).

(e) *Class M.* A "Class M" vehicle is any Type 1 motorcycle.

(2) **VEHICLE TYPES.** For purposes of this chapter, certain vehicles intended to carry school children or other passengers, or having special operating characteristics, are divided into the following vehicle types specified in pars. (a) to (f).

(a) *Hazardous materials transporter.* Hazardous materials transporter vehicles are vehicles transporting hazardous materials.

(b) *Air brakes equipped.* Air brakes equipped vehicles are commercial motor vehicles equipped with a braking system operating fully or partly on the air brake principle.

(c) *Tanks.* Tanks are commercial motor vehicles which are tank vehicles.

(d) *Passenger carrying.* Passenger-carrying vehicles are motor vehicles designed to carry, or actually carrying, 16 or more passengers, including the driver.

(e) *School buses.* All school buses, including those which are commercial motor vehicles.

(f) *Vehicles towing double or triple trailers.* Vehicles towing double or triple trailers are commercial motor vehicles with double or triple trailers.

SECTION 49. 343.05 of the statutes is repealed and recreated to read:

343.05 Operators to be licensed; exceptions. (1)

GENERAL PROVISIONS. (a) Except as provided in this subsection, no person may at any time have more than one operator's license. This prohibition includes, without limitation, having licenses from more than one state, having licenses under more than one name or birthdate, having an occupational license without having surrendered the revoked or suspended license document, and having more than one license issued for the operation of different types or classes of vehicles.

(b) During the 10-day period beginning on the date on which the person is issued an operator's license, a person may hold more than one operator's license.

(c) A person may have both an operator's license and a duly issued instruction permit allowing restricted operation of a vehicle group not authorized by the license.

(2) **COMMERCIAL MOTOR VEHICLES.** (a) No person may operate a commercial motor vehicle upon a highway in this state unless the person is one of the following:

1. A resident who is at least 18 years of age, who is not disqualified under s. 343.315, who has a valid commercial driver license which is not revoked, suspended, canceled or expired and, for the operation of any vehicle type under s. 343.04 (2), has an endorsement authorizing operation of the vehicle type.

2. A nonresident who has in his or her immediate possession a valid operator's license issued to the person in his or her home jurisdiction authorizing operation of commercial motor vehicles and endorsed, if necessary, for the specific type of vehicle being operated. A license is not valid under this subdivision if the license is

restricted to operation inside the person's home jurisdiction, or if the person is otherwise violating restrictions or exceeding operating authorization stated on the person's license. If the nonresident is operating a commercial motor vehicle in interstate commerce, he or she must be at least 21 years of age.

3. A resident who is not disqualified under s. 343.315, who has a chauffeur license issued under s. 343.125 or 343.126, 1987 stats., that is not revoked, suspended, canceled or expired. This subdivision does not apply after March 31, 1992.

4. A person with a temporary license under s. 343.10 (4) or 343.305 (8) (a) which expressly authorizes the operation of the applicable class and type of commercial motor vehicle and which is not expired.

(b) This subsection does not apply to a person whose operation of a commercial motor vehicle is subject to waiver under s. 343.055.

(c) A tow truck operator holding a valid commercial driver license who is engaged in the removal of a disabled or wrecked vehicle from the highway or eliminating a hazard is not required to hold an endorsement to his or her commercial driver license regardless of the type of vehicle being towed. This exception to the requirement for an endorsement does not apply to any subsequent towing of the vehicle, including moving the vehicle from one repair facility to another, unless the tow truck operator holds a commercial driver license and is accompanied by a driver who holds the required endorsements.

(3) **NONCOMMERCIAL VEHICLES.** Except as provided in sub. (4):

(a) No person may operate a motor vehicle which is not a commercial motor vehicle upon a highway in this state unless the person possesses a valid operator's license issued to him or her by the department which is not revoked, suspended, canceled or expired.

(b) No person may operate a Type 1 motorcycle unless the person possesses a valid operator's license specifically authorizing the operation of Type 1 motorcycles.

(c) No person may operate a moped or motor bicycle unless the person possesses a valid operator's license or a special restricted operator's license issued under s. 343.135 or a restricted license issued under s. 343.08. A license under this paragraph does not authorize operation of a moped or motor bicycle if the license is revoked, suspended, canceled or expired.

(4) **EXEMPTIONS.** (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.

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3. A person temporarily operating motorized construction equipment designed principally for off-road use, including a motorscraper, backhoe, motor-grader, compacter, excavator, tractor, trencher and bulldozer. This subdivision does not apply to a truck or a construction vehicle designed or equipped for use on a highway 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 West 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. (a) 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 subd. 2 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. A violation of a local ordinance 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.

(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.

SECTION 50. 343.05 (2) (a) 2. of the statutes, as affected by 1989 Wisconsin Act (this act), is amended to read:

343.05 (2) (a) 2. A nonresident who has in his or her immediate possession a valid operator's commercial driver license issued to the person in his or her home jurisdiction ~~authorizing operation of commercial motor vehicles and endorsed, if necessary, bearing all endorsements required~~ for the specific class and type of vehicle being operated. A license is not valid under this subdivision if the license is restricted to operation inside the person's home jurisdiction, or if the person is otherwise violating restrictions or exceeding operating authorization stated on the person's license. If the nonresident is operating a commercial motor vehicle in interstate commerce, he or she must be at least 21 years of age.

SECTION 51. 343.05 (2) (a) 3. of the statutes, as affected by 1989 Wisconsin Act (this act), is repealed.

SECTION 52. 343.055 of the statutes is created to read:
343.055 Commercial driver license waivers. (1) OPERATORS WAIVED. (a) *General.* Except as provided in sub. (3) and notwithstanding s. 343.05 (2), operators of certain commercial motor vehicles specified in pars. (b) to (d) 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 government 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 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 mobile home or single-unit touring mobile home not exceeding 45 feet in length and the vehicle or combination, including both units of a combination towing vehicle and the 5th-wheel mobile home or mobile home, 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.

(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 except as provided in sub. (1) (c), 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 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.

SECTION 53. 343.06 (intro.) and (1) of the statutes are renumbered 343.06 (1) (intro.) and (a).

SECTION 54. 343.06 (1) (c) of the statutes, as affected by 1989 Wisconsin Act ... (this act), is repealed and recreated to read:

343.06 (1) (c) To any person under age 18 unless the person has satisfactorily completed a course in driver education in public schools approved by the department of public instruction, or in vocational, technical and adult education schools approved by the board of vocational, technical and adult education, or in nonpublic and private schools which 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 (1). Applicants for a license under s.

343.08 or 343.135 are exempt from the driver education 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) (c), no operator’s license may be issued unless a driver’s examination has been administered by the department.

SECTION 55. 343.06 (1) (d) of the statutes, as affected by 1989 Wisconsin Act ... (this act), is amended to read:

343.06 (1) (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, 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 (2) (5).

SECTION 56. 343.06 (1) (k) of the statutes is created to read:

343.06 (1) (k) To any person who is not a resident.

SECTION 57. 343.06 (2) of the statutes is renumbered 343.06 (1) (b).

SECTION 58. 343.06 (2) of the statutes is created to read:

343.06 (2) After March 31, 1992, the department shall not issue a commercial driver license, including a renewal, occupational or reinstated license, to any person during any period of disqualification under s. 343.315 or 49 CFR 383.51 or the law of another jurisdiction in substantial conformity therewith, as the result of one or more disqualifying offenses committed on or after July 1, 1987. Beginning on April 1, 1992, the department shall cancel any commercial driver license known to the department to have been issued to a person who is disqualified, unless the period of disqualification specified in s. 343.315 for the disqualifying offense has already expired.

SECTION 59. 343.06 (3) of the statutes, as affected by 1989 Wisconsin Act 31, is renumbered 343.06 (1) (c) and amended to read:

343.06 (1) (c) To any person under age 18 unless the person has satisfactorily completed a course in driver education in public schools approved by the department of public instruction, or in vocational, technical and adult education schools approved by the board of vocational, technical and adult education, or in nonpublic and private schools which 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 pro-

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vided in s. 343.07 (1). Applicants for a license under s. 343.08 or 343.135 are exempt from the driver education or driver training course requirement. The secretary shall prescribe rules for licensing of schools and instructors to qualify under this ~~section~~ paragraph. The driver education course shall be made available to every eligible student in the state. Except as provided under s. 343.16 (1) (a) 3., no operator's license may be issued unless a driver's examination has been administered by the department.

SECTION 60. 343.06 (3) of the statutes is created to read:

343.06 (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.

SECTION 61. 343.06 (4), (7), (8), (9) and (10) of the statutes are renumbered 343.06 (1) (d) to (h), and 343.06 (1) (d), as renumbered, is amended to read:

343.06 (1) (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 as defined in s. 161.01 (4), 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 (2).

SECTION 62. 343.06 (11) of the statutes, as affected by 1987 Wisconsin Act 332, is renumbered 343.06 (1) (i).

SECTION 63. 343.06 (12) of the statutes is renumbered 343.06 (1) (j).

SECTION 64. 343.065 of the statutes is created to read:

343.065 Intrastate 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 only within this state and 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 outside this state or in interstate commerce.

SECTION 65. 343.07 (1) (intro.) of the statutes is amended to read:

343.07 (1) (title) REGULAR PERMIT; ISSUANCE, RESTRICTIONS. (intro.) 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 a an operator's license and has passed such knowledge test as the department may require, the department may issue ~~an~~ a regular instruction permit. The permit entitles the permittee to operate a motor vehicle, except a commercial motor vehicle, school bus or Type 1 motorcycle, upon the highways, subject to the following restrictions:

SECTION 66. 343.07 (1m) of the statutes is created to read:

343.07 (1m) COMMERCIAL MOTOR VEHICLE AND SCHOOL BUS INSTRUCTION PERMITS; ISSUANCE, RESTRICTIONS. Upon application therefor by a person at least 18 years of age who holds a valid operator's license issued under this chapter and who, except for lack of training in the operation of a commercial motor vehicle or school bus, is qualified to obtain a license for the operation of such vehicle including having passed the applicable knowledge tests or was issued a chauffeur license under s. 343.125, 1987 stats., which expires after December 31, 1990, and has taken and passed the applicable driving skills test under s. 343.16 (1) or qualifies for a waiver under s. 343.03 (8) (b) and (c), the department may issue an instruction permit for commercial motor vehicle or school bus operation. A permit limited to commercial motor vehicle instructional operation entitles the permittee to operate only a commercial motor vehicle upon the highways. A permit limited to school bus instructional operation entitles the permittee to operate only a school bus upon the highways. Both permits are subject to the following restrictions:

(a) Any permit issued under this subsection is not valid authorization for the operation of bus after March 31, 1992, unless the permittee is accompanied by a qualified driving instructor or a licensed person 25 years of age or older with at least 2 years of licensed driving experience in a representative vehicle and a valid license authorizing the person to operate such vehicle, occupying the seating position nearest to the driver. The permittee may operate a commercial motor vehicle carrying property under this paragraph. No passengers are allowed in the commercial motor vehicle, except that when the permittee is accompanied by a qualified instructor up to 3 other permittees also being trained may occupy seats in the vehicle. The department may also authorize a permittee to operate a commercial motor vehicle carrying passengers if the permittee was issued a chauffeur license under s. 343.125, 1987 stats., which expires after December 31, 1990, has taken and passed the applicable driving skills test under s. 343.16 (1) or is eligible for a waiver under s. 343.03 (8) (b) and (c) and is an experienced bus driver to carry passengers.

(b) Unless the permittee is at least 21 years of age, the instruction permit is not valid authorization for operation

in interstate commerce and that lack of authorization shall be clearly indicated on the permit.

(c) The permittee may operate a commercial motor vehicle or school bus when accompanied by an authorized license examiner for the purpose of examining his or her ability to operate a commercial motor vehicle or school bus.

SECTION 66m. 343.07 (1m) (intro.) and (a) of the statutes, as created by 1989 Wisconsin Act (this act), are repealed and recreated to read:

343.07 (1m) COMMERCIAL MOTOR VEHICLE AND SCHOOL BUS INSTRUCTION PERMITS; ISSUANCE, RESTRICTIONS. (intro.) Upon application therefor by a person at least 18 years of age who holds a valid operator's license issued under this chapter and who, except for lack of training in the operation of a commercial motor vehicle or school bus, is qualified to obtain authorization for the operation of such vehicle including having passed the applicable knowledge tests, the department may issue an instruction permit for commercial motor vehicle or school bus operation. A permit limited to commercial motor vehicle instructional operation entitles the permittee to operate only a commercial motor vehicle upon the highways. A permit limited to school bus instructional operation entitles the permittee to operate only a school bus upon the highways. Both permits are subject to the following restrictions:

(a) The permittee may not operate a commercial motor vehicle or school bus unless accompanied by a qualified driving instructor or a licensed person 25 years of age or older with at least 2 years of licensed driving experience in a representative vehicle and a valid license authorizing the person to operate such vehicle, occupying the seating position nearest to the driver. No passengers are allowed in the vehicle, except that when the accompanying operator is a qualified instructor up to 3 other permittees also being trained may occupy seats in the vehicle. The permittee may operate a commercial motor vehicle carrying property under this paragraph.

SECTION 67. 343.07 (4) (a) of the statutes is amended to read:

343.07 (4) (a) Upon application by a person who qualifies for issuance of a license under s. 343.06 ~~(3)~~ (1) (c) and who wishes to qualify for the operation of a Type 1 motorcycle, the department may issue a special instruction permit for ~~motorcycle~~ the operation of "Class M" vehicles.

SECTION 68. 343.07 (4) (a) of the statutes, as affected by 1989 Wisconsin Act (this act), is repealed and recreated to read:

343.07 (4) (a) Upon application by a person who qualifies for issuance of a license under s. 343.06 (1) (c) and who wishes to qualify for the operation of a Type 1 motorcycle, the department may issue an instruction permit for the operation of "Class M" vehicles.

SECTION 69. 343.08 (2) of the statutes is renumbered 343.08 (2) (a) and amended to read:

343.08 (2) (a) A restricted license issued pursuant to this section is valid only until the licensee secures a ~~regular~~ an operator's license issued pursuant to s. 343.03 or reaches 18 years of age and, except as provided in par. (b), entitles the licensee to operate an automobile, farm truck, dual purpose farm truck, Type 1 motorcycle powered with an engine of not more than 125 cubic centimeters displacement, Type 2 motorcycle, moped or motor bicycle owned and registered by the licensee's parent or guardian or a farm truck leased to the licensee's parent or guardian or any combination of these vehicles, depending on the restrictions placed by the department on the particular license.

(b) A license issued pursuant to this section does not authorize the licensee to operate any such vehicle during hours of darkness or to operate a vehicle for hire or in a city having a population of 500,000 or more or to operate a school bus or a commercial motor truck, motor bus vehicle, including a farm truck or dual purpose farm truck defined as a commercial motor vehicle, or taxicab.

SECTION 70. 343.085 (2) of the statutes is renumbered 343.085 (2) (a) and amended to read:

343.085 (2) (a) Any person moving to this state who has been licensed in another jurisdiction for at least 3 years, who presently holds a license, other than an instruction permit, from another jurisdiction which has not expired for more than 6 months and who has passed his 21st birthday is exempt from this section.

SECTION 71. 343.085 (2) (b) of the statutes is created to read:

343.085 (2) (b) Applicants issued a commercial driver license are exempt from this section.

SECTION 72. 343.10 (1) (title) of the statutes is created to read:

343.10 (1) (title) PETITION FOR OCCUPATIONAL LICENSE.

SECTION 73. 343.10 (1) (a) and (b) (title) of the statutes are repealed.

SECTION 74. 343.10 (1) (b) of the statutes, as affected by 1989 Wisconsin Act 38, is renumbered 343.10 (1) (a) and amended to read:

343.10 (1) (a) If a person's license or operating privilege is revoked or suspended under this chapter and if the person is engaged in an occupation, including homemaking or full-time or part-time study, or a trade making it essential that he or she operate a motor vehicle, the person, ~~after complying with sub. (2) payment of the fee provided in sub. (6),~~ may file with a judge of a circuit court in the county of his or her residence or of a municipal court in the county of his or her residence a petition setting forth in detail the need for operating a motor vehicle.

SECTION 75. 343.10 (1) (b) of the statutes is created to read:

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343.10 (1) (b) The petition shall be in a form established by the department and shall identify the specific motor vehicle that the petitioner seeks authorization to operate, including the vehicle classification and any required endorsements. The petition shall include an explanation of why operating the motor vehicle is essential to the person's livelihood and identify the person's occupation or trade. The petition shall identify the petitioner's employer, and include proof of financial responsibility as specified in s. 343.38 (1) (c) covering the vehicle or vehicles that the petitioner requests authorization to operate. The petition shall identify the hours of operation and routes of travel being requested by the petitioner in accord with the restrictions of sub. (5). The petitioner shall certify whether, to the best of personal knowledge, he or she is disqualified under s. 343.315.

SECTION 76. 343.10 (1) (c) (intro.) of the statutes is repealed.

SECTION 77. 343.10 (1) (c) 1. and 2. of the statutes are renumbered 343.10 (2) (a) 1. and 2.

SECTION 78. 343.10 (1) (c) of the statutes is created to read:

343.10 (1) (c) Except as provided in sub. (10), the petition shall be filed with a judge of a circuit court in the county of the petitioner's residence or of a municipal court in the county of the petitioner's residence.

SECTION 79. 343.10 (1) (d) of the statutes is renumbered 343.10 (4) and amended to read:

343.10 (4) (title) COURT ORDER AND ISSUANCE OF TEMPORARY LICENSE. ~~Upon receipt of a petition under par. (b) If the court grants a petition as provided in sub. (3), the judge may issue a 30-day temporary occupational license to the person on forms provided to the court by the department if the conditions under par. (c) are satisfied and at least 15 days have elapsed since the date of revocation or suspension, or, in the case of an appeal which is subsequently dismissed or affirmed, at least 15 days have elapsed since the date of revocation or suspension following the dismissal or affirmance of the appeal, unless another minimum waiting period or immediate eligibility is expressly provided by law.~~

SECTION 80. 343.10 (1) (e) of the statutes, as affected by 1989 Wisconsin Act 31, is renumbered 343.10 (5) (a) and amended to read:

343.10 (5) (a) *Restrictions.* ~~The In addition to any restrictions appearing on the former operator's license of the petitioner, the order for issuance of an occupational license shall contain definite restrictions as to hours of the day, not to exceed 12, hours per week, not to exceed 60, type of occupation and areas or routes of travel which are permitted under the license. If the person holds a valid chauffeur's license at the time of filing the petition, the order for issuance shall contain restrictions permitting operation of a motor vehicle by the person only for travel between the licensee's place of residence and his or her place of employment, in addition to operation per-~~

~~mitted under the chauffeur's license.~~ The order may permit travel to and from church during specified hours if the travel does not exceed the restrictions as to hours of the day and hours per week in this paragraph. The order may permit travel necessary to comply with a driver safety plan ordered under s. 343.30 (1q) or 343.305 if the travel does not exceed the restrictions as to hours of the day and hours per week in this paragraph. The order may contain restrictions on the use of alcohol and of controlled substances in violation of s. 161.41.

SECTION 81. 343.10 (1) (f) of the statutes is renumbered 343.10 (3) and amended to read:

343.10 (3) (title) DETERMINATION ON PETITION. ~~The If satisfied that the person is eligible under sub. (2), the judge shall consider the number and seriousness of prior traffic convictions in determining whether to order the issuance of an occupational license and what restrictions to specify. A If the court grants the petition, a copy of the petition and the order for the occupational license shall be forwarded to the department.~~

SECTION 82. 343.10 (1) (g) of the statutes is renumbered 343.10 (5) (b) and amended to read:

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

SECTION 83. 343.10 (1r) of the statutes is repealed.

SECTION 84. 343.10 (2) of the statutes, as affected by 1989 Wisconsin Act 31, is renumbered 343.10 (6) and amended to read:

343.10 (6) (title) FEE. No person may file a petition for an occupational license unless he or she first pays a fee of \$40 to the clerk of the circuit court if the petition is to a judge of the circuit court ~~or~~ to the municipal court if the petition is to a judge of the municipal court or to the department if the petition is to the department under sub. (10). The clerk of the circuit court or the municipal court official shall give the person a receipt and forward the fee to the county or municipal treasurer, respectively. That treasurer shall pay 50% of the fee to the state treasurer under s. 59.20 (8r) and retain the balance for the use of the county or municipality, respectively. The department shall give the person a receipt.

SECTION 85. 343.10 (2) of the statutes is created to read:

343.10 (2) ELIGIBILITY. (a) Except as provided in par. (b), (c) or (d), a person is eligible for an occupational license if the following condition are satisfied:

3. The person surrenders his or her former operator's license, including any license issued under sub. (10), unless the license is already in the possession of the court or the department.

(b) No occupational license may permit the operation of any motor vehicles for which the petitioner did not hold valid authorization at the time of revocation or suspension of the person's license or operating privilege.

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(c) No occupational license permitting the operation of a commercial motor vehicle may be granted to a person during a period of disqualification under s. 343.315.

(d) A person whose operating privilege is revoked under ch. 351 is not eligible for an occupational license except as provided in s. 351.07.

SECTION 86. 343.10 (3) (a) of the statutes is renumbered 343.10 (7) (b) and amended to read:

343.10 (7) (b) The department shall issue an occupational license as soon as practicable upon receipt of an order for such a license, ~~if the conditions for issuance under sub. (1) (c) are satisfied~~ department determines that the petitioner is eligible under sub. (2).

SECTION 87. 343.10 (3) (b) of the statutes is renumbered 343.10 (7) (a) and amended to read:

343.10 (7) (a) If the department determines that the person is eligible for and has been issued a temporary occupational license under sub. ~~(1) (d)~~ (4), the department may issue an occupational license to the person upon receipt of an order for such a license.

SECTION 88. 343.10 (4) of the statutes is renumbered 343.10 (7) (e) and amended to read:

343.10 (7) (e) The occupational license issued by the department shall contain such restrictions as are ordered by the judge. In addition to such restrictions an occupational license authorizes the licensee to operate a motor vehicle not to exceed 12 hours per day and then only when such operation is an essential part of the licensee's occupation or trade. ~~An occupational license is valid from the date of issuance until termination of the period of revocation or suspension, as provided by law, unless the occupational license is revoked, suspended or canceled prior to termination of that period. If the order permits operation of commercial motor vehicles and the department determines that the petitioner is eligible under sub. (2), the department may impose such conditions and limitations upon the authorization to operate commercial motor vehicles as in the secretary's judgment are necessary in the interest of public safety and welfare, including reexamination of the person's qualifications to operate a commercial motor vehicle or a particular type thereof. The department may limit such authorization to include, without limitation, the operation of particular vehicles, particular kinds of operation and particular traffic conditions.~~

SECTION 89. 343.10 (5) of the statutes is renumbered 343.10 (7) (f) and amended to read:

343.10 (7) (f) The expiration date of the occupational license is the date of termination of the period of revocation or suspension as provided by law. The occupational license may be revoked, suspended or canceled before termination of that period. An occupational license is not renewable when it expires. If an occupational license expires and is not revoked, suspended or canceled, the licensee may obtain a new license upon that expiration but only if he or she complies with the conditions speci-

fied in s. 343.38. Revocation, suspension or cancellation of an occupational license has the same effect as revocation, suspension or cancellation of any other license.

SECTION 90. 343.10 (5) (title) of the statutes is created to read:

343.10 (5) (title) RESTRICTIONS AND LIMITATIONS ON OCCUPATIONAL LICENSE.

SECTION 91. 343.10 (6) of the statutes is renumbered 343.10 (8) (a), and 343.10 (8) (a) 1., as renumbered, is amended to read:

343.10 (8) (a) 1. Shall forfeit not less than \$150 nor more than \$600, except as provided in ~~par. (b)~~ subd. 2.

SECTION 92. 343.10 (6m) of the statutes is renumbered 343.10 (8) (b) and amended to read:

343.10 (8) (b) The 5-year period under ~~sub. (6) par. (a) 2~~ shall be measured from the dates of the violations which resulted in the convictions.

SECTION 93. 343.10 (7) of the statutes is renumbered 343.10 (9).

SECTION 94. 343.10 (7) (title), (c) and (d) of the statutes are created to read:

343.10 (7) (title) DEPARTMENT TO ISSUE OCCUPATIONAL LICENSE.

(c) If the court order permits operation of both commercial motor vehicles and noncommercial motor vehicles and the person is disqualified under s. 343.315 but otherwise eligible under sub. (2), the department shall issue an occupational license authorizing operation only of vehicles other than commercial motor vehicles.

(d) An occupational license issued by the department under this subsection shall be in the form of a photo license and any special restrictions cards under s. 343.17 (4). The license shall clearly indicate that restrictions on a special restrictions card apply and that the special restrictions card is part of the person's license.

SECTION 95. 343.10 (8) (title), (9) (title) and (10) of the statutes are created to read:

343.10 (8) (title) VIOLATION OF RESTRICTIONS; PENALTIES.

(9) (title) NOTICE.

(10) ADMINISTRATIVE ISSUANCE OF OCCUPATIONAL LICENSE FOR COMMERCIAL MOTOR VEHICLE DRIVERS. (a) If the petitioner's commercial driver license has been suspended or revoked solely for a violation of s. 346.63 (1) and the person was not operating a commercial motor vehicle at the time of the violation, a petition seeking issuance of an occupational license authorizing operation of "Class A", "Class B" or "Class C" vehicles may be filed directly with the department. The petition may also seek authorization to operate "Class D" or "Class M" vehicles.

(b) There shall be no minimum waiting period before the issuance of an occupational license under this subsection authorizing operation of only "Class A", "Class B" or "Class C" vehicles. If the petition also seeks authorization to operate "Class D" or "Class M" vehicles, the

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department may issue an occupational license if at least 15 days have elapsed since the date of suspension or revocation unless another minimum waiting period or eligibility at any time is provided by law.

(bm) If the petitioner's commercial driver license has been suspended or revoked under s. 343.32 (2), a petition seeking issuance of an occupational license authorizing operation of "Class A", "Class B" or "Class C" vehicles may be filed directly with the department. The petition may also seek authorization to operate "Class D" or "Class M" vehicles. The department may issue an occupational license after at least 15 days have elapsed since the date of suspension or revocation.

(c) If satisfied that the person is eligible under sub. (2), the department shall consider the number and seriousness of prior traffic convictions in determining whether to issue a commercial motor vehicle occupational license and what restrictions to specify.

(d) An occupational license issued under this subsection shall contain all of the restrictions required by sub. (5). The department may also impose such conditions and limitations upon the operation of motor vehicles as in the secretary's judgment are necessary in the interest of public safety and welfare, including reexamination of the person's qualifications to operate a motor vehicle or a particular type thereof. The department may limit such authorization to include, without limitation, the operation of particular motor vehicles, particular kinds of operation and particular traffic conditions.

SECTION 96. 343.11 (1) of the statutes is amended to read:

343.11 (1) The department shall not issue a license to a person previously licensed in another jurisdiction unless such person surrenders to the department all valid operator's licenses possessed by the person issued by any other jurisdiction, which surrender operates as a cancellation of the surrendered licenses insofar as the person's privilege to operate a motor vehicle in this state is concerned. When such applicant surrenders the license to the department, the department shall issue a receipt therefor, which receipt shall constitute a temporary license to operate a motor vehicle for a period not to exceed 60 days if the applicant meets the standard required for eyesight and, in the opinion of the examiner, is not a dangerous hazard to the applicant and other users of the highways. ~~Such receipt~~ Except as provided in s. 343.055, the temporary license shall not be valid authorization for the operation of commercial motor vehicles. The temporary license shall be surrendered to the examiner for cancellation by the department if the 3rd attempt at the driving test is failed and the applicant shall be required to secure a temporary instruction permit for further practice driving.

SECTION 97. 343.12 (title) of the statutes is amended to read:

343.12 (title) School bus operators to obtain special authorization.

SECTION 98. 343.12 (1) of the statutes is renumbered 343.12 (1) (a) and amended to read:

343.12 (1) (a) No person shall operate a school bus without having first applied for and received a authorization from the department in the form of a school bus endorsement to the person's valid operator's license.

SECTION 99. 343.12 (1) (b) of the statutes is created to read:

343.12 (1) (b) A motor bus registered in compliance with s. 341.26 (7) and equipped as provided under ss. 347.25 (2) and 347.44 but not transporting children for any purpose is not a school bus within the meaning of this subsection while being used on a highway for purposes other than those specified in s. 340.01 (56) (a) or (am) if the flashing red warning lights are not used and all markings on the front and rear of the motor bus indicating that it is a school bus are removed or completely concealed.

SECTION 100. 343.12 (2) (intro.) of the statutes is amended to read:

343.12 (2) (intro.) The department shall issue a school bus operator's license endorsement to a person only if such person meets all of the following requirements:

SECTION 101. 343.12 (2) (c), (d) and (e) of the statutes are amended to read:

343.12 (2) (c) Holds a valid operator's license issued under this chapter ~~or in the case of residents of the states of Iowa, Illinois, Michigan and Minnesota holds a valid operator's license issued by the state of residence.~~

(d) ~~Subject to~~ Notwithstanding ss. 111.321, 111.322 and 111.335, has not been convicted of reckless driving under s. 346.62, any of the offenses enumerated under s. 346.63 (1) ~~or (2)~~ or under s. 346.63 (1m), 1985 stats., a refusal to submit to testing under s. 343.305 (9) (d) or any of the offenses enumerated under s. 343.31 (1) or (2) or a conviction of a law of another jurisdiction which would be counted under s. 343.307 or a law prohibiting reckless or careless driving, as those or substantially similar terms are defined by that jurisdiction's laws, within the 2-year period immediately preceding the date of application. Upon request of the operator or school, the department shall certify whether the operator meets this requirement.

(e) Subject to ss. 111.321, 111.322 and 111.335, has not been convicted of a felony or offense against public morals in this state or another jurisdiction within the past 5 years.

SECTION 102. 343.12 (2) (d) of the statutes, as affected by 1989 Wisconsin Act (this act), is repealed and recreated to read:

343.12 (2) (d) Notwithstanding ss. 111.321, 111.322 and 111.335, has not been convicted of reckless driving under s. 346.62, any of the offenses enumerated under s. 346.63 (1), (2), (5) or (6) or under s. 346.63 (1m), 1985

stats., a refusal to submit to testing under s. 343.305 (9) (d) or any of the offenses enumerated under s. 343.31 (1) or (2) or 2. or more offenses under s. 346.63 (7) or a conviction of a law of another jurisdiction which would be counted under s. 343.307 or a law prohibiting reckless or careless driving, as those or substantially similar terms are defined by that jurisdiction's laws, within the 2-year period immediately preceding the date of application. Upon request of the operator or school, the department shall certify whether the operator meets this requirement.

SECTION 103. 343.12 (2) (h) of the statutes is amended to read:

343.12 (2) (h) Prior to the initial issuance of the license and ~~prior to renewal of the license~~ endorsement, takes and passes a special examination prescribed and administered by the department to determine his or her ability to safely operate a school bus. The department may renew the endorsement without retesting the licensee, except under sub. (3).

SECTION 104. 343.12 (3) of the statutes is amended to read:

343.12 (3) The department may issue a school bus operator's license endorsement to a person who is more than 70 years of age if the person meets the requirements specified in sub. (2) (c) to (f) and (h) before issuance of the endorsement and annually takes and passes a physical examination prior to issuance or renewal of the license endorsement to determine that the person meets the physical standards established under sub. (2) (g).

SECTION 105. 343.12 (4) of the statutes is repealed and recreated to read:

343.12 (4) (a) Notwithstanding sub. (1), a person may operate a school bus in this state if one or more of the following requirements are met:

1. The person is a nonresident holding a valid commercial driver license with a "P" passenger endorsement and any additional endorsements required by the person's home jurisdiction for the operation of a school bus and the origin or destination of the trip is in another state.

2. The person is a resident of Iowa, Illinois, Michigan or Minnesota and was licensed under s. 343.12 (2) (c), 1987 stats. This subdivision applies only for 2 years after the effective date of this subdivision [revisor inserts date].

3. The person is a resident of Iowa, Illinois, Michigan or Minnesota and holds a valid operator's license authorizing the operation of a school bus.

(b) The department may, by rule, establish standards for the employment by an employer of a person under par. (a) 3. as an operator of a school bus in this state. The rules may require the person to meet the qualifications contained in sub. (2) or (3) and any rules of the department applicable to residents.

SECTION 106. 343.12 (5) of the statutes is created to read:

343.12 (5) Any person who violates sub. (1) shall be:

(a) Fined not less than \$200 nor more than \$600 and may be imprisoned for not more than 6 months or both for the first such offense.

(b) Fined not less than \$300 nor more than \$1,000 and imprisoned for not less than 5 days nor more than 6 months for the 2nd offense occurring within 3 years.

(c) 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.

SECTION 107. 343.124 of the statutes is repealed.

SECTION 108. 343.125 of the statutes is repealed.

SECTION 109. 343.126 of the statutes is repealed.

SECTION 110. 343.13 of the statutes is renumbered 343.13 (1).

SECTION 111. 343.13 (2) of the statutes is created to read:

343.13 (2) Notwithstanding sub. (1), the department shall restrict the commercial driver license of any person to prohibit the operation of any motor vehicle equipped with air brakes if the person fails the portion of an examination under s. 343.16 relating to air brakes or the person's driving skills test is conducted in a motor vehicle not equipped with air brakes.

SECTION 112. 343.135 (1) (a) 4. of the statutes is amended to read:

343.135 (1) (a) 4. Has passed an examination which includes a test of the applicant's eyesight, ability to read and understand highway signs regulating, warning and directing traffic, knowledge of the traffic laws and an actual demonstration of ability to exercise ordinary and reasonable control in the operation of the vehicle for which the special restricted license is to be issued. An applicant shall furnish the motor vehicle he or she will be operating for use in testing his or her ability to operate the vehicle. The department may waive the demonstration of ability to exercise ordinary and reasonable control in the operation of a moped or motor bicycle as provided in s. 343.16 ~~(1)-(f)~~ (2) (d).

SECTION 113. 343.135 (2) (a) (intro.) of the statutes is amended to read:

343.135 (2) (a) (intro.) A special restricted operator's license may be issued only for the specific vehicle or type of vehicle described on the license. A license under this paragraph may not be issued to authorize operation of a commercial motor vehicle or a school bus. A special restricted operator's license may be issued only for the following ~~types of~~ vehicles:

SECTION 114. 343.135 (3) of the statutes is amended to read:

343.135 (3) DESIGN OF LICENSE. The special restricted license shall be of the same size and general design of the operator's license, except that it shall bear the words "SPECIAL RESTRICTED LICENSE". The information on the license shall be the same as specified under s. 343.17 ~~(1)~~ (3) and the holder may affix a decal

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thereto as provided in s. 343.17 ~~343.175~~ (3). All restrictions imposed under sub. (6) shall be listed on the license or on an attachment thereto.

SECTION 115. 343.14 (2) (a), (b) and (c) of the statutes are amended to read:

343.14 (2) (a) The full name, and residence ~~and business address and occupation~~ of the applicant;

(b) The applicant's date of birth, social security number, color of eyes, color of hair, sex, height, weight and race;

(c) A statement as to whether the applicant has heretofore been licensed as an operator ~~or chauffeur~~ of any motor vehicle and, if so, when and by what jurisdiction;

SECTION 116. 343.14 (2) (f) of the statutes is amended to read:

343.14 (2) (f) Such further information as the department considers appropriate to identify the applicant, including biometric data, and such information as the department may reasonably require to enable it to determine whether the applicant is by law entitled to the license applied for; ~~and~~

SECTION 117. 343.14 (2) (g) 3. of the statutes is amended to read:

343.14 (2) (g) 3. An affirmative response to the question under this paragraph does not in itself authorize an anatomical gift. To authorize an anatomical gift, an applicant ~~may~~ shall comply with s. 157.06 (4) or ~~343.17 (1)-(b), 343.175 (2)~~;

SECTION 118. 343.14 (2) (h) and (i) of the statutes are created to read:

343.14 (2) (h) A certification by the applicant that the motor vehicle in which the person takes the driving skills test is a representative vehicle of the vehicle group that the person operates or expects to operate; and

(i) A certification by the applicant for a commercial driver license that he or she either:

1. Meets all of the driver qualifications contained in either 49 CFR 391 or in an alternative federally approved driver qualification program established by the department by rule. The department may require the applicant to show the medical certificate of physical examination required by 49 CFR 391.43; or

2. Meets all of the driver qualifications for drivers in intrastate commerce as established by the department by rule and is applying for a commercial driver license valid only in this state for noninterstate operation.

SECTION 119. 343.14 (3) and (4) of the statutes are amended to read:

343.14 (3) The department shall, as part of the application process, take a photograph of the applicant to comply with s. 343.17 ~~(2) (3) (a) 2.~~ Except where specifically exempted by statute or by rule of the department, no application may be processed without the photograph being taken. In the case of renewal licenses, the photograph shall be taken once every 4 years, and shall coincide with the appearance for examination which is

required under s. 343.16 ~~(1)-(a) 2. (3).~~ The department may make provision for issuance of a license without a photograph if the applicant is stationed outside the state in military service and in specific situations where the department deems such action appropriate.

(4) In instituting the photograph license system the department may, for the purpose of gaining a uniform rate of renewals involving photographs and examinations required under s. 343.16 ~~(1)-(a) 2. (3)~~, issue renewal licenses not containing the licensee's photograph which may be valid for a period of 2 years as prescribed in ss. 343.17, 1977 stats., and s. 343.20, 1977 stats. The period between examinations required under s. 343.16 ~~(1)-(a) 2. (3)~~ may be changed when necessary to conform such examinations to the renewal date of the person's operator's license. The fees for the nonphoto licenses issued under s. 343.17, 1977 stats., and s. 343.20, 1977 stats., shall be the fees in effect on the date before January 1, 1982.

SECTION 120. 343.14 (5) and (6) of the statutes are amended to read:

343.14 (5) Any person who uses a false or fictitious name in any application for a license or identification card or knowingly makes a false statement or knowingly conceals a material fact or otherwise commits a fraud in any such application may be fined not more than \$100 ~~\$1,000~~ or imprisoned ~~for~~ not more than 6 months or both.

(6) The department shall disseminate information to applicants for a license relating to the anatomical donation opportunity available under s. 343.17 ~~(1)-(b) 343.175~~. The department shall maintain a record of applicants who respond in the affirmative to the question under sub. (2) (g). In the event of the death of a person, at the request of a law enforcement officer or other appropriate person, as determined by the department, the department shall examine its record of potential donors and shall advise the law enforcement officer or other person as to whether a decedent is recorded as a potential donor.

SECTION 121. 343.15 (4) (intro.) and (b) of the statutes are amended to read:

343.15 (4) (intro.) The department may issue a license to a person who is under 18 years of age even though an adult sponsor has not signed the application for license if such person is in one of the classes ~~specifically enumerated herein~~ specified in this subsection or in a substantially similar class specified by the department by rule and if a certificate of insurance to the effect that such person is covered by a motor vehicle policy of liability insurance meeting the requirements of s. 344.33 has been filed with the department. Such policy may be canceled or terminated only after notice as provided in s. 344.34.

(b) A person who does not reside ~~at home~~ with his or her parents and who is a full-time student or earning a living.

SECTION 122. 343.16 (1) (title) of the statutes is created to read:

343.16 (1) (title) REQUIRED TESTING OF KNOWLEDGE AND DRIVING SKILLS.

SECTION 123. 343.16 (1) (a) (intro.) of the statutes is renumbered 343.16 (1) (a) and amended to read:

343.16 (1) (a) (title) *General.* The department shall examine every applicant for an operator's license, ~~subject to the following general policy: including applicants for license renewal as provided in sub. (3), and every applicant for authorization to operate a vehicle class or type for which the applicant does not hold currently valid authorization, other than an instruction permit.~~ The examinations of applicants for licenses authorizing operation of "Class A", "Class B", "Class C", "Class D" or "Class M" vehicles shall include both a knowledge test and an actual demonstration in the form of a driving skills test of the applicant's ability to exercise ordinary and reasonable control in the operation of a representative vehicle. The driving skills of applicants for endorsements authorizing the operation of commercial motor vehicles equipped with air brakes, the transportation of passengers in commercial motor vehicles or the operation of school buses, as provided in s. 343.04 (2) (b), (d) or (e), shall also be tested by an actual demonstration of driving skills. The department may endorse an applicant's commercial driver license for transporting hazardous materials, or the operation of tank vehicles or vehicles towing double or triple trailers, as described in s. 343.04 (2) (a), (c) or (f), based on successful completion of a knowledge test. In administering the knowledge test, the department shall attempt to accommodate any special needs of the applicant. The knowledge test is not intended to be a test for literacy or English language proficiency. This paragraph does not prohibit the department from requiring an applicant to correctly read and understand highway signs.

SECTION 124. 343.16 (1) (a) 1. of the statutes is renumbered 343.16 (2) (b) and amended to read:

343.16 (2) (b) (title) *Specific requirements.* The standards developed by the department under par. (am) shall provide that the examination for persons making their first application for an operator's license shall include a test of the applicant's eyesight, ability to read and understand highway signs regulating, warning and directing traffic, knowledge of the traffic laws, including s. 346.26, understanding of fuel-efficient driving habits and the relative costs and availability of other modes of transportation, knowledge of the need for anatomical gifts and the ability to make an anatomical gift through the use of a donor card issued under s. 343.175 (2), and an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle. The test of knowledge of the traffic laws shall include at least 10 questions on the provisions of ss. 343.30 (1q), 343.303 to 343.31 and 346.63 to 346.655, relating to the operation

of a motor vehicle and the consumption of alcohol beverages. The test of knowledge may also include questions on the social, medical and economic effects of alcohol and other drug abuse. The examination of applicants for authorization to operate "Class M" vehicles shall test an applicant's knowledge of Type 1 motorcycle safety, including proper eye protection to be worn during hours of darkness. The department may require persons changing their residence to this state from another jurisdiction, and persons applying for a reinstated license after termination of a revocation period and any person who has received more than 6 demerit points under s. 343.32 (2) at any time since the last renewal unless during the preceding year the person has participated in the driver improvement program under s. 343.32 (2), to take all or parts of the examination required of persons making their first application for a ~~driver's~~ an operator's license. Any applicant who is required to give an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle shall furnish a representative vehicle in safe operating condition for use in testing ability.

SECTION 125. 343.16 (1) (a) 2. of the statutes is renumbered 343.16 (3) (a) and amended to read:

343.16 (3) (a) ~~In addition to those examinations specified in subd. 1,~~ The department shall examine every applicant for the renewal of an operator's license once every 4 years. The department may institute a method of selecting the date of renewal so that such examination shall be required for each applicant for renewal of a license to gain a uniform rate of examinations. The examination shall consist of a test of eyesight. The department shall make provisions for giving such examinations at examining stations in each county to all applicants for an operator's license. The person to be examined shall appear at the examining station nearest the person's place of residence or at such time and place as the department designates in answer to an applicant's request. In lieu of examination, the applicant may present or mail to the department a report of examination of the applicant's eyesight by an ophthalmologist, optometrist or physician licensed to practice medicine. The report shall be based on an examination made not more than 3 months prior to the date it is submitted. The report shall be on a form furnished and in the form required by the department. The department shall decide whether, in each case, the eyesight reported is sufficient to meet the current eyesight standards.

SECTION 126. 343.16 (1) (a) 3. of the statutes, as created by 1989 Wisconsin Act 31, is renumbered 343.16 (1) (c), and 343.16 (1) (c) (intro.), as renumbered, is amended to read:

343.16 (1) (c) (title) *Driver education course.* (intro.) The department may, after consultation with the department of public instruction and the board of vocational, technical and adult education, provide for admin-

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istration of and certification of the results of the test of an applicant's knowledge of the traffic laws and ability to read and understand highway signs in conjunction with a course in driver education specified in this ~~subdivision paragraph~~, by an instructor in that course. The test under this ~~subdivision paragraph~~ does not include that part of a driver's examination involving the actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle required for the issuance of a license other than an instruction permit. The test under this ~~subdivision paragraph~~ may be administered and certified by an instructor in any of the following:

SECTION 127. 343.16 (1) (am) of the statutes is renumbered 343.16 (2) (c).

SECTION 128. 343.16 (1) (b) of the statutes is renumbered 343.16 (4) (a) and amended to read:

343.16 (4) (a) An applicant who holds an expired instruction permit, expired out-of-state license or who seeks to reinstate his operating privilege may drive a motor vehicle only when accompanied by an authorized license examiner for the purpose of examining his ability to operate a motor vehicle. Such applicant must be driven to and from the examining area by a licensed driver. This exception to the requirement to hold a valid operator's license does not apply to the operation of a commercial motor vehicle. For purposes of examining applicants for a special restricted operator's license under s. 343.135, the department may waive the requirements of this paragraph in any case in which it considers a waiver desirable.

SECTION 129. 343.16 (1) (b) of the statutes is created to read:

343.16 (1) (b) *Third-party testing.* The department may contract with a person, including an agency or department of this state or its political subdivisions or another state, or a private employer of commercial motor vehicle drivers, to administer commercial motor vehicle skills tests required by 49 CFR 383.110 to 383.135. The department may not enter into such testing contracts with a private driver training school or other private institution. A contract with a 3rd-party tester shall include all of the following provisions:

1. All tests conducted by the 3rd-party tester shall be the same as those given by the department.
2. The department, the federal highway administration or its representative may conduct random examinations, inspections and audits of the 3rd-party tester without any prior notice.
3. At least annually, the department shall conduct an on-site inspection of the 3rd-party tester to determine compliance with the contract and with department and federal standards for testing applicants for commercial driver licenses. At least annually, the department shall also evaluate testing given by the 3rd-party by one of the following means:

a. Department employes shall take the tests actually administered by the 3rd-party tester as if the department employe were a test applicant.

b. The department shall retest a sample of drivers who were examined by the 3rd-party to compare the pass and fail results.

4. Examiners of the 3rd-party tester shall meet the same qualifications and training standards as the department's license examiners to the extent established by the department as necessary to satisfactorily perform the skills tests required by 49 CFR 383.110 to 383.135.

5. The department shall take prompt and appropriate remedial action against the 3rd-party tester in the event that the tester fails to comply with department or federal standards for commercial driver license testing or any provision of the contract. Such action may include immediate termination of testing by the 3rd-party tester and recovery of damages.

SECTION 130. 343.16 (1) (c) of the statutes is repealed.

SECTION 131. 343.16 (1) (d) of the statutes is renumbered 343.16 (4) (b).

SECTION 132. 343.16 (1) (e) of the statutes is repealed.

SECTION 133. 343.16 (1) (f) of the statutes is renumbered 343.16 (2) (d).

SECTION 134. 343.16 (2) (title) of the statutes is created to read:

343.16 (2) (title) TESTING STANDARDS.

SECTION 135. 343.16 (2) (a) of the statutes is renumbered 343.16 (5) (a) and amended to read:

343.16 (5) (a) The secretary may require any applicant for a license or any licensed operator to submit to a special examination by such persons or agencies as the secretary may direct to determine incompetency, physical or mental disability, disease or any other condition which might prevent such applicant or licensed person from exercising reasonable and ordinary control over a motor vehicle. When the department requires the applicant to submit to an examination, the applicant shall pay the cost thereof. If the department receives an application for a renewal or duplicate license after voluntary surrender under s. 343.265 or receives a report from a physician or optometrist under s. 146.82 (3), or if the department has a report of 2 or more arrests within a one-year period for any combination of violations of s. 346.63 (1) ~~or (5)~~, or a local ordinance in conformity therewith, or s. 346.63 (1m), 1985 stats., or s. 346.63 (2) ~~or (6)~~ or 940.25, or s. 940.09 where the offense involved the use of a vehicle, the department shall determine, by interview or otherwise, whether the operator should submit to an examination under this ~~subsection section~~. The examination may consist of an assessment. If the examination indicates that education or treatment for a disability, disease or

condition concerning the use of alcohol or a controlled substance is appropriate, the department may order a driver safety plan in accordance with s. 343.30 (1q). If there is noncompliance with assessment ~~and~~ or the driver safety plan, the department shall suspend the person's operating privilege in the manner specified in s. 343.30 (1q) (d).

SECTION 136. 343.16 (2) (a) of the statutes is created to read:

343.16 (2) (a) *Rules.* The department shall promulgate rules setting testing standards for commercial driver license applicants. The testing standards shall comply with 49 CFR 383.71 to 383.135.

SECTION 137. 343.16 (2) (b) to (d) of the statutes are renumbered 343.16 (5) (b) to (d).

SECTION 138. 343.16 (2) (d) (title) of the statutes is created to read:

343.16 (2) (d) (title) *Motor bicycle or moped waiver.*

SECTION 139. 343.16 (3), (4) and (5) of the statutes are renumbered 343.16 (6) and (7) (a) and (b).

SECTION 139m. 343.16 (3) (title) and (b) of the statutes are created to read:

343.16 (3) (title) TESTING UPON RENEWAL.

(b) The department shall require each applicant for the renewal of an operator's license with an endorsement authorizing the operation of school buses to take and pass the knowledge test under sub. (1) and an abbreviated driving skills test including, but not limited to, pretrip inspection, the loading and unloading of passengers and railroad crossing procedures.

SECTION 140. 343.16 (4) (title), (5) (title), (6) (title) and (7) (title) of the statutes are created to read:

343.16 (4) (title) CONDUCT OF DRIVING SKILLS TEST.

(5) (title) MEDICAL OR OTHER SPECIAL EXAMINATIONS.

(6) (title) SPECIAL RETESTING OF LICENSED OPERATORS.

(7) (title) PENALTIES.

SECTION 141. 343.17 of the statutes, as affected by 1989 Wisconsin Act (this act), is repealed and recreated to read:

343.17 Contents and issuance of operator's license. (1) LICENSE ISSUANCE. The department shall issue an operator's license and endorsements, as applied for, to every qualifying applicant who has paid the required fees.

(2) LICENSE DOCUMENT. The license shall be a single document, in one-part, consisting of 2 sides, except as otherwise provided in sub. (4) and s. 343.10 (7) (d). The document shall be, to the maximum extent practicable, tamper proof.

(3) CONTENTS. (a) The front side of the license document shall include, without limitation, all of the following:

1. The full name, date of birth and residence address of the person.
2. A color photograph of the person.

3. A physical description of the person, including sex, height, weight and hair and eye color, but excluding any mention of race.

4. A unique identifying driver number assigned by the department.

5. A facsimile of the person's signature, or a space upon which the licensee shall immediately write his or her usual signature with a pen and ink on receipt of the license, without which the license is not valid.

6. The classes of vehicles that the person is authorized to operate under par. (c), together with any endorsements or restrictions.

7. The name of this state.

8. The date of issuance of the license.

9. The date of expiration of the license.

10. A space for the sticker under s. 343.175 (3).

11. If the license authorizes the operation of certain commercial motor vehicles, the legend "Commercial Driver License", a readily recognizable abbreviation thereof or "CDL".

(b) The reverse side of the license shall contain an explanation of any restriction codes or endorsement abbreviations used on the front of the license, in sufficient detail to identify the nature of the restrictions or endorsements to a law enforcement officer of this state or another jurisdiction. Except for a commercial driver license or a license labeled "CDL—Occupational" as described in s. 343.03 (3) (b) and (e), a part of the reverse side of each license shall be printed to serve as an authorized donor's card under s. 157.06.

(c) The classifications on operator's licenses shall be as follows:

1. Classification "A", which authorizes the operation of "Class A" vehicles as described in s. 343.04 (1) (a). A driver who has passed the knowledge and driving skills tests for operating "Class A" vehicles shall receive a license authorizing the operation of "Class A", "Class B" and "Class C" vehicles if the person possesses any requisite endorsement.

2. Classification "B", which authorizes the operation of "Class B" vehicles as described in s. 343.04 (1) (b). A driver who has passed the knowledge and driving skills tests for operating "Class B" vehicles shall receive a license authorizing the operation of "Class B" and "Class C" vehicles if the person possesses any requisite endorsement.

3. Classification "C", which authorizes the operation of "Class C" vehicles as described in s. 343.04 (1) (c) if the person possesses any requisite endorsement.

4. Classification "D", which authorizes the operation of "Class D" vehicles as described in s. 343.04 (1) (d) if the person possesses any requisite endorsement.

5. Classification "M", which authorizes the operation of Type 1 motorcycles.

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(d) The endorsements on operator's licenses shall be as follows:

1. "H" endorsement, which authorizes the driver to operate vehicles transporting hazardous materials.
2. "N" endorsement, which authorizes operating tank vehicles.
3. "P" endorsement, which authorizes operating vehicles designed to carry, or actually carrying, 16 or more passengers including the driver, except this endorsement does not authorize the operation of school buses unless the licensee also holds an "S" endorsement.
4. "S" endorsement, which authorizes operating school buses.
5. "T" endorsement, which authorizes operating commercial motor vehicles with double or triple trailers where the operation of such combination vehicles is permitted.
6. "X" endorsement, which is an optional endorsement that may be used to indicate that the licensee holds both "H" and "N" endorsements.

(e) The standard restriction codes used on commercial driver licenses include:

1. "K" restriction, which restricts a person issued a license under s. 343.065 to operating commercial motor vehicles only within this state and not in interstate commerce.
2. "L" restriction, which prohibits a person from operating commercial motor vehicles equipped with air brakes, as required in s. 343.13 (2).

(4) SPECIAL RESTRICTIONS CARDS. (a) When an operator's license is subject to lengthy special restrictions or other restrictions not described in the standard codes on the front side of the license, the department shall indicate on the license document that the license is subject to restrictions contained on one or more separate special restrictions cards.

(b) A separate special restrictions card shall describe the restrictions, bear the issuance date of the card, specify the identifying driver number of the license to which it applies, and indicate the number and order of special restrictions cards currently issued by the department to the person, in the manner "1 of 2".

(5) NO PHOTOS ON TEMPORARY LICENSES. The temporary licenses issued under ss. 343.10, 343.11 (1) and (3), 343.16 (6) (b) and 343.305 (8) (a) shall be on forms provided by the department and shall contain the information required by sub. (3), except the license is not required to include a photograph of the licensee.

(6) RULES. Subject to subs. (2) and (3), the department shall promulgate rules setting the design and specifications for the license document and subsequent changes thereto.

SECTION 142. 343.17 (5) of the statutes is created to read:

343.17 (5) (a) Notwithstanding any other provision of this chapter, beginning no later than January 1, 1990,

the department shall begin the transition to a classified driver license system. As an interim measure, upon proper application for an original, duplicate, reinstated or reissued license, the department shall issue a license consolidating all of the person's licenses, other than occupational licenses or instruction permits, into a consolidated single license document. The consolidated license shall contain all of the information required under sub. (1) and the license shall be endorsed to specify any regular, chauffeur or school bus operator's license held by the licensee with the expiration date of each license. Persons applying in person to renew a license shall also receive a consolidated license. Persons electing to renew chauffeur licenses by mail may not receive the consolidated license. The department may not issue any separate non-photo school bus or chauffeur license to any person previously issued a consolidated license.

(b) Any person who holds a school bus operator's license issued under s. 343.12 or a chauffeur license issued under s. 343.125 may appear in person and surrender all licenses to the department in exchange for issuance of a consolidated license document under this subsection.

(c) The department shall charge only the fee for issuance of a duplicate license for issuance of a consolidated license document under this paragraph.

SECTION 143. 343.175 of the statutes is created to read:

343.175 Organ donor information. (1) DEPARTMENT TO SOLICIT AND RECORD INFORMATION. As part of every application for an original, duplicate, reinstated, reissued or renewal license or endorsement, the department shall inquire whether the applicant desires to be an organ donor. The department shall record the organ donor response in its file of the person.

(2) DONOR CARD. (a) Except as provided in par. (ag), a part of the reverse side of each license shall be printed to serve as an authorized donor's card under s. 157.06.

(ag) The department shall print a separate donor card to be issued to all persons issued a commercial driver license or a license labeled "CDL—Occupational" as described in s. 343.03 (3) (b) and (e) and make provisions so that the card may be attached to the reverse side of the license document along one edge. This card shall serve as an authorized donor's card under s. 157.06.

(ar) If the person desires to be an organ donor, he or she may so indicate in the space provided on the donor card. The donor may supply information in the space provided on the donor card, including the specific body parts or organs to be donated, the name of the donee, the purpose for which the gift is made and the physician whom the donor wishes to carry out the appropriate procedures. The anatomical gift described on the donor card shall be signed by the licensee.

(b) The licensee may revoke or amend his or her gift by crossing out the donor authorization in the space pro-

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vided on the donor card or as otherwise prescribed in s. 157.06.

(c) Persons authorizing gifts of their body parts remain subject to s. 157.06.

(3) ORGAN DONOR STICKER. (a) The department shall designate a space on the front side of the license document where the licensee may affix a sticker which indicates that the licensee is a potential donor of body organs or parts for the purposes of transplantation, therapy, medical research or education. The sticker shall not be larger than one-half inch in diameter and shall not conceal any of the contents required by s. 343.17 (3). The sticker shall be of a distinctive design and supplied to the donor by a nationally recognized organization that enlists donors of body organs or parts for the purposes of transplantation, therapy, medical research or education.

(b) The use of the sticker on the license document is proper and authorized only if the bearer has indicated his or her intent to make body organs or parts available by filling out and carrying a donor card.

SECTION 144. 343.18 (1) of the statutes is amended to read:

343.18 (1) Every licensee shall have his or her license document, including any special restrictions cards issued under s. 343.10 (7) (d) or 343.17 (4), in his or her immediate possession at all times when operating a motor vehicle and shall display the same upon demand from any judge, justice or traffic officer. ~~However, no~~

(1m) A person charged with violating this section shall sub. (1) may not be convicted if he or she produces in court or in the office of the arresting officer a license theretofore issued to him the licensee and valid at the time of his or her arrest.

SECTION 145. 343.18 (3) of the statutes is created to read:

343.18 (3) (a) Except as provided in pars. (b) and (c), any person who violates sub. (1) shall forfeit not more than \$200.

(b) If the special restrictions card is part of an occupational license issued under s. 343.10, any person who violates sub. (1) is subject to the penalties provided in s. 343.10 (8) and the person's operating privilege shall be revoked under s. 343.31 (3) (h).

(c) If the person is operating a commercial motor vehicle at the time of the violation, any person who violates sub. (1) shall forfeit not less than \$250 nor more than \$2,500.

SECTION 146. 343.19 (2) of the statutes is amended to read:

343.19 (2) Any person who knowingly makes a false statement in an application for a duplicate license or identification card or who fails to return the original to the department upon finding it or who fails to comply with any other requirement of this section may be fined not more than ~~\$100~~ \$1,000 or imprisoned for not more than 6 months or both.

SECTION 147. 343.20 (1) of the statutes is renumbered 343.20 (1) (a).

SECTION 148. 343.20 (1) (a) of the statutes, as affected by 1989 Wisconsin Act (this act), is amended to read:

343.20 (1) (a) Except as otherwise expressly provided in this chapter, ~~chauffeur's licenses and school bus operator's licenses issued under s. 343.12 (3), shall expire one year after the date of issuance, reinstated licenses, probationary licenses issued under s. 343.085 and original licenses, school bus operator's licenses and reinstated licenses other than instruction permits shall expire 2 years after from the date of issuance and the applicant's next birthday. All other licenses and license endorsements shall expire 4 years after the date of issuance. The department may institute any system of initial license renewals issuance which it deems advisable for the purpose of gaining a uniform rate of renewals. In order to put such a system into operation, the department may issue original licenses which are valid for any fraction of a year in excess of period less than the ordinary effective period of such license and may issue a renewal operator's license from an application made after expiration of the previous license which shall expire 4 years after the date of expiration of such previous license. If the department issues a license that is valid for less than the ordinary effective period as authorized by this paragraph, the fees due under s. 343.21 (1) (a), (b) and (d) shall be prorated accordingly.~~

SECTION 149. 343.20 (1) (b) of the statutes is created to read:

343.20 (1) (b) All licenses, including school bus licenses, issued by the department which authorize the operation of a commercial motor vehicle, but do not meet the commercial driver license standards of 49 USC 2701 to 2716 and 49 CFR 383, including testing requirements, shall expire no later than March 31, 1992.

SECTION 150. 343.20 (1) (b) of the statutes, as created by 1989 Wisconsin Act (this act), is repealed.

SECTION 151. 343.20 (1) (c), (d) and (e) of the statutes are created to read:

343.20 (1) (c) The department may, by rule, require any person who is issued an operator's license that is valid for a period of more than 2 years to demonstrate continuing qualifications to hold a license under this chapter at 2-year intervals. The rules may include, without limitation, requiring examination under s. 343.16 (6) or requiring current medical certification under s. 343.16 (5). The department rules shall require cancellation or suspension of the license for noncompliance and shall permit surrender of the operator's license under s. 343.265.

(d) The department shall cancel an operator's license that is endorsed for the operation of school buses under s. 343.12 (3), regardless of the license expiration date, if the licensee fails to provide proof to the department of an

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annual physical examination determining that the person meets the physical standards established under s. 343.12 (2) (g). The licensee may elect to surrender the license under s. 343.265 (1m).

(e) Upon payment in full of the fees required by s. 343.21, the department shall issue to a qualified person an original operator's license that expires 3 years after the person's next birthday, but only if the person meets one of the following requirements:

1. The person is moving to this state, surrenders his or her valid commercial driver license issued by another state and makes application for a commercial driver license in this state.

2. The person is 21 years of age or older and moving to this state, has been licensed in another jurisdiction for at least 3 years and presently holds a valid license, other than an instruction permit, from another jurisdiction which has not expired for more than 6 months.

SECTION 152. 343.20 (1m) of the statutes is repealed.

SECTION 153. 343.21 (1) of the statutes, as affected by 1989 Wisconsin Act (this act), is repealed and recreated to read:

343.21 (1) The following fees, in addition to any driving skills test fee, shall be paid to the department for the issuance, renewal, upgrading and reinstatement of licenses, endorsements and instruction permits:

(a) For the initial issuance or renewal of a license authorizing only the operation of "Class D" motor vehicles, \$9.

(b) For the initial issuance or renewal of authorization to operate "Class M" motor vehicles, \$4 in addition to any other fees due.

(c) For the initial issuance of authorization to operate school buses that are not commercial motor vehicles, \$5.

(d) For the initial issuance or renewal of authorization to operate "Class A", "Class B" or "Class C" motor vehicles, or upgrading an existing regular license which only authorizes the operation of "Class D" motor vehicles, \$32. This fee includes issuance of any "H", "N", "P", "S" or "T" endorsements or "Class D" authorization applied for at the same time for which the applicant is qualified.

(e) For upgrading an existing commercial driver license to add an "H", "N", "P", "S" or "T" endorsement, \$5.

(f) For upgrading an existing commercial driver license to add authorization to operate another class of commercial motor vehicles, \$5.

(g) For removing a "K" restriction against operation of commercial motor vehicles outside this state or in interstate commerce, the same fee as for a duplicate license.

(h) For removing an "L" restriction prohibiting operation of commercial motor vehicles equipped with air brakes, \$5.

(i) For an instruction permit, \$15.

(j) For reinstatement of a license previously revoked or suspended, \$50.

(k) For an occupational license, \$40.

(L) For a duplicate license, \$4.

SECTION 154. 343.21 (1) (b), (ba), (bm), (c) and (cm) of the statutes are amended to read:

343.21 (1) (b) For the issuance of an original license, other than a chauffeur's license, \$9; for an original school bus operator's license other than a school bus operator's license issued under s. 343.12 (3), ~~\$6.50~~ \$8.50. No fee may be charged for issuance of a restricted license under s. 343.08.

(ba) For the issuance of a chauffeur's license, ~~\$6~~ \$8.

(bm) For the issuance of an original school bus operator's license under s. 343.12 (3), ~~\$3.25~~ \$5.25.

(c) For the renewal of a license, \$9, except that ~~\$6~~ \$8 shall be charged for renewal of a chauffeur's license and ~~\$4~~ \$6 for renewal of a school bus operator's license other than a school bus operator's license under s. 343.12 (3).

(cm) For renewal of a school bus operator's license issued under s. 343.12 (3), ~~\$2~~ \$4.

SECTION 155. 343.21 (2) of the statutes is amended to read:

343.21 (2) (a) In addition to the fees set for the issuance of the licenses enumerated under sub. (1) (b), ~~(ba), (bm) and (c), there shall be paid, any applicant whose application for a permit, license, upgrade or endorsement, taken together with the applicant's currently valid license, if any, requires the department to administer a driving skills test of the applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle shall pay to the department an examination fee of \$20 for an examination in a commercial motor vehicle other than a school bus and \$5 for an examination in any other vehicle.~~ Payment of the examination fee entitles the applicant to not more than 3 tests of the applicant's ability to exercise reasonable control in the operation of a motor vehicle. If the applicant does not qualify for issuance of a license, upgraded license or endorsement in 3 such tests, then a 2nd examination fee of \$5 in the same amount shall be paid, which payment entitles the applicant to not more than 3 additional tests.

(b) The operator shall pay to the department an examination fee of \$5 for conducting the special examination requested under s. 121.555 (2) (cm), except that if the examination is in a commercial motor vehicle other than a school bus the fee is \$20. Payment of the examination fee entitles the person to not more than 3 tests of the person's ability to safely operate the vehicle proposed to be used under s. 121.555 (1) (a). If the applicant does not pass the examination for safe operation of the vehicle in 3 such tests, then a 2nd examination fee of \$5 in the same amount shall be paid, which payment entitles the person to not more than 3 additional tests.

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SECTION 156. 343.22 (2m) of the statutes is amended to read:

343.22 (2m) Whenever any person, after applying for or receiving a license containing a photograph under this chapter, or an identification card under s. 343.50, is notified by the local authorities or by the postal authorities that the address named in the application or in the license or identification card issued to him or her has been changed, the person shall, within 10 days thereafter, apply for a duplicate license or identification card showing on the application the correct name and address. The licensee or identification card holder shall return the current license or identification card to the department along with the application for duplicate. If the licensee also holds any license not containing a photograph, the licensee shall endorse the new address on the license as provided in sub. (1). Notwithstanding ss. 343.21 (1) (F) (L) and 343.50 (7), no fee shall be charged for a duplicate license or identification card issued under this subsection.

SECTION 157. 343.23 (1) (intro.) of the statutes, as affected by 1989 Wisconsin Act 31, is amended to read:

343.23 (1) (intro.) The department shall maintain a record of every application for license, permit or endorsement received by it and shall maintain suitable indices containing:

SECTION 158. 343.23 (2) of the statutes is amended to read:

343.23 (2) The department shall maintain a file for each licensee containing the application for license, permit or endorsement, a record of reports or abstract of convictions, the status of the licensee's authorization to operate different vehicle groups, a record of any out-of-service orders issued under s. 343.305 (7) (b) or (9) (am) and a record of any reportable accident in which the licensee has been involved, including the type of license and endorsements issued under this chapter under which the licensee was operating at the time of the accident. This information must be filed by the department so that the complete operator's record is available for the use of the secretary in determining whether operating privileges of such person shall be suspended, revoked, canceled or withheld in the interest of public safety. The record of convictions for disqualifying offenses under s. 343.315 (2) (f) shall be maintained for at least 3 years. The record of convictions for disqualifying offenses under s. 343.315 (2) (a) to (e) shall be maintained permanently, except that 5 years after a licensee transfers residency to another state such record may be transferred to another state of licensure of the licensee if that state accepts responsibility for maintaining a permanent record of convictions for disqualifying offenses. Such reports and records may be cumulative beyond the period for which a license is granted, but the secretary, in exercising the power of revocation granted under s. 343.32 (2) may consider only those reports and records entered

during the 4-year period immediately preceding the exercise of such power of revocation.

SECTION 159. 343.23 (3) of the statutes is renumbered 343.23 (3) (a).

SECTION 160. 343.23 (3) (b) of the statutes is created to read:

343.23 (3) (b) The department record of a person's conviction for exceeding a posted speed limit shall include the number of miles per hour in excess of the posted speed limit, as reported to the department.

SECTION 161. 343.23 (4) of the statutes is renumbered 343.23 (4) (intro.) and amended to read:

343.23 (4) (intro.) The department shall purge all of the following from the file of a licensee any:

(a) Any record of an administrative suspension upon receipt of a report from the court hearing the action arising out of the same incident or occurrence that the action has been dismissed or the person has been found innocent of the charge arising out of that incident or occurrence.

SECTION 162. 343.23 (4) (b) of the statutes is created to read:

343.23 (4) (b) Any record of issuance of an out-of-service order under s. 343.305 (7) (b) or (9) (am) upon receipt of a report from the court hearing the action arising out of the same incident or occurrence that the action has been dismissed or the person has been found innocent of the charge of violating s. 346.63 (7) arising out of that incident or occurrence. In the case of a nonresident, the department shall also inform the state of licensure of the dismissal or finding of innocence.

SECTION 163. 343.24 (2m) of the statutes is created to read:

343.24 (2m) If the department, in maintaining a computerized operating record system, makes copies of its operating record file data base, or a portion thereof, on computer tape or other electronic media, copies of the tape or media may be furnished to any person on request. The department shall charge a fee of \$2 for each file of vehicle operators' records contained in the tape or media. Nothing in this subsection requires the department to produce records of particular files or data in a particular format except as those records or data are made by the department for its purposes.

SECTION 164. 343.245 of the statutes is created to read:

343.245 Duties of commercial motor vehicle drivers; employer responsibilities; penalties. (1) DEFINITIONS. In this section:

(a) "Employee" means any operator of a commercial motor vehicle who is either directly employed by or under lease to an employer, including a full-time, regularly employed driver, a volunteer driver, a casual, intermittent or occasional driver, a leased driver, and an independent, owner-operator contractor while in the course of operating a commercial motor vehicle.

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(b) “Employer” means any person, including the state or a political subdivision thereof, who owns or leases a commercial motor vehicle or assigns a person to drive a commercial motor vehicle.

(2) NOTIFICATIONS BY DRIVER. (a) *Notification of convictions.* 1. ‘To state.’ A person, after applying for or receiving a commercial driver license issued by this state, who is convicted of violating in a motor vehicle any law of this state or local ordinance adopted in conformity therewith, or the law of another jurisdiction, relating to motor vehicle traffic control, other than parking violations, shall notify the department of the conviction in the manner specified by the department within 30 days after the date of conviction.

2. ‘To employers.’ An employe, after applying for or receiving a commercial driver license issued by this state, who is convicted of violating in a motor vehicle any law of this state or local ordinance adopted in conformity therewith, or the law of another jurisdiction, relating to motor vehicle traffic control, other than parking violations, shall notify his or her current employer in writing of the conviction within 30 days after the date of conviction.

(b) *Notification of suspensions, revocations and cancellations.* An employe whose commercial driver license is suspended, revoked or canceled by a state, or who loses the privilege to operate a commercial motor vehicle in any state for any period, including being disqualified from operating a commercial motor vehicle or subject to an out-of-service order, shall notify his or her current employer of that fact before the end of the first business day after the day on which the employe receives notice of the suspension, revocation, cancellation, disqualification or out-of-service order.

(c) *Notification of previous employment.* An applicant for employment as a commercial motor vehicle driver shall provide, at the time of application, information on his or her employment history as a commercial motor vehicle driver as requested by the prospective employer, certified as true and complete by the applicant, including all of the following information for the 10 years preceding the date of application:

1. The names and addresses of any previous employers for which the applicant was a commercial motor vehicle driver.

2. The dates of employment with each employer in subd. 1.

3. The reason for leaving each employer in subd. 1.

(3) EMPLOYER RESPONSIBILITIES. (a) Every employer shall request each applicant for employment as a commercial motor vehicle driver to provide the information specified in sub. (2) (c), and no employer may employ as a commercial motor vehicle driver an applicant who refuses or otherwise fails to provide true and complete information.

(b) No employer may knowingly allow, permit or authorize an employe to operate a commercial motor vehicle during any period when the employe:

1. Has had his or her commercial driver license suspended, revoked or canceled by any state;

2. Is disqualified from operating a commercial vehicle;

3. Is subject to an out-of-service order in any state; or

4. Has more than one operator’s license, except during the 10-day period beginning on the date on which the employe is issued an operator’s license.

(3m) EMPLOYER NOTIFICATION PROGRAM. (a) The department shall establish by rule an employer notification program to permit an employer to register the name of an employe and be notified by the department whenever a conviction or suspension, revocation, cancellation, disqualification or out-of-service order is recorded on the operating record of the employe. An employer may withdraw an employe’s name from the program at any time.

(b) The department shall establish and collect reasonable fees from employers in the program sufficient to defray the costs of instituting and maintaining the program, including the registration and withdrawal of employes. The fee for each notification by the department to an employer under par. (a) shall be \$2.

(4) PENALTIES. (a) Except as provided in par. (b), any person who violates sub. (2) or (3) shall forfeit not more than \$2,500.

(b) Any person who violates sub. (3) (b) shall be fined not more than \$5,000 or imprisoned for not more than 90 days or both.

SECTION 165. 343.25 (1), (4) and (5) of the statutes are amended to read:

343.25 (1) Whenever he determines that the license or endorsement was issued upon an application which contains a false statement as to any material matter; or

(4) When the person holding the license falls into one of the classes of persons to whom the law prohibits issuance of a license or a particular endorsement; or

(5) Whenever the secretary determines that a person has secured a license or endorsement by hiring or permitting another to appear in the person’s place to take an examination; or

SECTION 166. 343.265 (1) (b) of the statutes is amended to read:

343.265 (1) (b) The person surrenders his or her operator’s license to the department within 10 days after the department sends the person by 1st class mail addressed to the person’s last-known address a request to submit to a special examination under s. 343.16 ~~(2)~~ (5).

SECTION 167. 343.265 (1m) of the statutes is created to read:

343.265 (1m) The department may accept the voluntary surrender of the operator's license of a person who no longer intends to exercise the privilege of operating a vehicle class or type authorized by that license, if the person's operating privilege is not subject to suspension or revocation for any reason. The department may issue a license under sub. (2), omitting the authorizations to operate a vehicle class or type that the person has relinquished.

SECTION 168. 343.265 (2) of the statutes is amended to read:

343.265 (2) A person whose voluntary surrender of license under sub. (1) ~~or (1m)~~ has been accepted by the department may apply for a duplicate license under s. 343.19, or, if the person's license has expired during the period of surrender, a renewal license, at any time. Upon receipt of the person's application and the applicable fee under s. 343.21 (1) ~~(e) or (f)~~, the department shall issue or deny the license as provided in this subchapter. The department may require the person to submit to an examination under s. 343.16 ~~(2)~~ (5).

SECTION 169. 343.28 (1) and (2) of the statutes are amended to read:

343.28 (1) Whenever a person is convicted of a moving traffic violation under chs. 341 to 349 or under a local ordinance enacted under ch. 349, the clerk of the court in which the conviction occurred, or the justice, judge or magistrate of a court not having a clerk, shall, as provided in s. 345.48, forward to the department the record of such conviction. The record of conviction forwarded to the department shall state whether the offender was involved in an accident at the time of the offense ~~and, whether the offender was operating as a private person or as a chauffeur a commercial motor vehicle at the time of the offense and, if so, whether the offender was transporting hazardous materials.~~ Whenever a person is convicted of exceeding a posted speed limit, the record of conviction forwarded to the department shall include the number of miles per hour in excess of the posted speed limit.

(2) Whenever a person is convicted of any offense for which s. 343.31 makes mandatory the revocation by the secretary of such person's operating privilege, the court in which the conviction occurred shall require the surrender to it of any license then held by such person. The clerk of the court, or the justice, judge or magistrate if the court has no clerk, shall, as provided in s. 345.48, forward to the department the record of conviction and any surrendered licenses. The record of conviction forwarded to the department shall state whether the offender was involved in an accident at the time of the offense ~~and, whether the offender was operating as a private person or as a chauffeur a commercial motor vehicle at the time of the offense and, if so, whether the offender was transporting hazardous materials.~~

SECTION 170. 343.30 (1q) (a) of the statutes is amended to read:

343.30 (1q) (a) If a person is convicted under s. 346.63 (1) or a local ordinance in conformity therewith, the court shall proceed under this subsection. If a person is convicted under s. 346.63 (2) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, the court shall proceed under pars. (c) and (d). If a person is referred by the department acting under s. 343.16 ~~(2)~~ (5) (a), the department shall proceed under pars. (c) and (d) without the order of the court.

SECTION 171. 343.30 (1q) (b) 1. of the statutes is amended to read:

343.30 (1q) (b) 1. The court shall suspend or revoke the person's operating privilege under this paragraph according to the number of previous improper refusals under s. 343.305 (9) (d) or convictions under s. 346.63 (1), or a local ordinance in conformity therewith, or s. 346.63 (1m), 1985 stats., or s. 346.63 (2) or 940.25, or s. 940.09 where the offense involved the use of a vehicle. Refusals and convictions arising out of the same incident shall be counted as one. If a person has a conviction for any offense under a local ordinance in ~~or a state statute of another state which is in conformity with s. 346.63 (1) (a) or (b) or both,~~ or under the law of another jurisdiction that prohibits refusal of chemical testing or use of a motor vehicle while intoxicated or under the influence of alcohol, a controlled substance or a combination thereof, or with an excess or specified range of alcohol concentration, or under the influence of any drug to a degree that renders the person incapable of safely driving, as those or substantially similar terms are used in that jurisdiction's laws, that conviction shall count as a prior conviction under this subdivision.

SECTION 172. 343.30 (1q) (g) of the statutes is repealed.

SECTION 173. 343.303 of the statutes is amended to read:

343.303 Preliminary breath screening test. If a law enforcement officer has probable cause to believe that the person is violating or has violated s. 346.63 (1) or (2m) or a local ordinance in conformity therewith, or s. 346.63 (2) or ~~(6) or~~ 940.25 or s. 940.09 where the offense involved the use of a vehicle, or if the officer detects any presence of alcohol, a controlled substance or other drug, or a combination thereof, on a person driving or operating or on duty time with respect to a commercial motor vehicle or has reason to believe that the person is violating or has violated s. 346.63 (7) or a local ordinance in conformity therewith, the officer, prior to an arrest, may request the person to provide a sample of his or her breath for a preliminary breath screening test using a device approved by the department for this purpose. The result of this preliminary breath screening test may be used by the law enforcement officer for the purpose of deciding whether or not the person shall be arrested for a violation of s. 346.63 (1) ~~or (2m), (5) or (7)~~ or a local ordinance in conformity therewith, or s. 346.63 (2) ~~or (6),~~

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940.09 or 940.25 and whether or not to require or request chemical tests as authorized under s. 343.305 (3). The result of the preliminary breath screening test shall not be admissible in any action or proceeding except to show probable cause for an arrest, if the arrest is challenged, or to prove that a chemical test was properly required or requested of a person under s. 343.305 (3). Following the screening test, additional tests may be required or requested of the driver under s. 343.305 (3). The general penalty provision under s. 939.61 (1) does not apply to a refusal to take a preliminary breath screening test.

SECTION 174. 343.305 (1) (a) of the statutes is repealed.

SECTION 175. 343.305 (2) of the statutes is amended to read:

343.305 (2) **IMPLIED CONSENT.** Any person who is on duty time with respect to a commercial motor vehicle or drives or operates a motor vehicle upon the public highways of this state, or in those areas enumerated in s. 346.61, is deemed to have given consent to one or more tests of his or her breath, blood or urine, for the purpose of determining the presence or quantity in his or her blood or breath, of alcohol, controlled substances, a combination of alcohol and controlled substances, other drugs or a combination of alcohol and other drugs when requested to do so by a law enforcement officer under sub. (3) (a) or (am) or when required to do so under sub. (3) (b). Any such tests shall be administered upon the request of a law enforcement officer. The law enforcement agency by which the officer is employed shall be prepared to administer, either at its agency or any other agency or facility, 2 of the 3 tests under sub. (3) (a) or (am), and may designate which of the tests shall be administered first.

SECTION 176. 343.305 (3) (a) of the statutes is amended to read:

343.305 (3) (a) Upon arrest of a person for violation of s. 346.63 (1) or (2m) or a local ordinance in conformity therewith, or for a violation of s. 346.63 (2) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, a law enforcement officer may request the person to provide one or more samples of his or her breath, blood or urine for the purpose specified under sub. (2). Compliance with a request for one type of sample does not bar a subsequent request for a different type of sample.

SECTION 177. 343.305 (3) (a) of the statutes, as affected by 1989 Wisconsin Act (this act), is repealed and recreated to read:

343.305 (3) (a) Upon arrest of a person for violation of s. 346.63 (1), (2m) or (5) or a local ordinance in conformity therewith, or for a violation of s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, a law enforcement officer may request the person to provide one or more samples of his or her breath, blood or urine for the purpose specified under sub. (2). Compliance with a request for one type of sam-

ple does not bar a subsequent request for a different type of sample.

SECTION 178. 343.305 (3) (am) of the statutes is created to read:

343.305 (3) (am) Prior to arrest, a law enforcement officer may request the person to provide one or more samples of his or her breath, blood or urine for the purpose specified under sub. (2) whenever a law enforcement officer detects any presence of alcohol, a controlled substance or other drug, or a combination thereof, on a person driving or operating or on duty time with respect to a commercial motor vehicle or has reason to believe the person is violating or has violated s. 346.63 (7). Compliance with a request for one type of sample does not bar a subsequent request for a different type of sample. For the purposes of this paragraph, "law enforcement officer" includes inspectors in the performance of duties under s. 110.07 (3).

SECTION 179. 343.305 (3) (b) of the statutes is amended to read:

343.305 (3) (b) A person who is unconscious or otherwise not capable of withdrawing consent is presumed not to have withdrawn consent under this subsection, and if a law enforcement officer has probable cause to believe that the person has violated s. 346.63 (1) ~~or~~ (2m) or (5) or a local ordinance in conformity therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, or detects any presence of alcohol, controlled substance or other drug, or a combination thereof, on a person driving or operating or on duty time with respect to a commercial motor vehicle or has reason to believe the person has violated s. 346.63 (7), one or more tests under samples specified in par. (a) or (am) may be administered to the person.

SECTION 180. 343.305 (4) (intro.) and (b) of the statutes are amended to read:

343.305 (4) (intro.) At the time a chemical test specimen is requested under sub. (3) (a) or (am), the person shall be orally informed by the law enforcement officer that:

(b) If testing is refused, the person's operating privilege will be revoked under this section and, if the person was driving or operating or on duty time with respect to a commercial motor vehicle, the person will be issued an out-of-service order for the 24 hours following the refusal;

SECTION 181. 343.305 (4) (c) of the statutes is renumbered 343.305 (4) (c) (intro.) and amended to read:

343.305 (4) (c) (intro.) If one or more tests are taken and the results of any test indicate that the person ~~has a~~ blood:

1. Has an alcohol concentration of 0.1% 0.1 or more and was driving or operating a motor vehicle, the person will be subject to penalties and the person's operating privilege will be suspended under this section; ~~and~~

SECTION 182. 343.305 (4) (c) 2. and 3. of the statutes are created to read:

343.305 (4) (c) 2. Has an alcohol concentration of 0.04 or more and was driving or operating a commercial motor vehicle, the person will, upon conviction of such offense, be subject to penalties and disqualified from operating a commercial motor vehicle; and

3. Has any measured alcohol concentration above 0.0 and was driving or operating or on duty time with respect to a commercial motor vehicle, the person will be subject to penalties and issuance of an out-of-service order for the 24 hours following the refusal; and

SECTION 183. 343.305 (5) (a) of the statutes is amended to read:

343.305 (5) (a) If the person submits to a test under this section, the officer shall direct the administering of the test. A blood test is subject to par. (b). The person who submits to the test is permitted, upon his or her request, the alternative test provided by the agency under sub. (2) or, at his or her own expense, reasonable opportunity to have any qualified person of his or her own choosing administer a chemical test for the purpose specified under sub. (2). If the person has not been requested to provide a sample for a test under sub. (3) (a) or (am), the person may request a breath test to be administered by the agency or, at his or her own expense, reasonable opportunity to have any qualified person administer any test specified under sub. (3) (a) or (am). The failure or inability of a person to obtain a test at his or her own expense does not preclude the admission of evidence of the results of any test administered under sub. (3) (a) or (am). If a person requests the agency to administer a breath test and if the agency is unable to perform that test, the person may request the agency to perform a test under sub. (3) (a) or (am) that it is able to perform. The agency shall comply with a request made in accordance with this paragraph.

SECTION 184. 343.305 (5) (b) of the statutes, as affected by 1987 Wisconsin Act 399, is amended to read:

343.305 (5) (b) Blood may be withdrawn from the person arrested for violation of s. 346.63 (1), (2) ~~or~~, (2m), (5) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, or a local ordinance in conformity with s. 346.63 (1) ~~or~~, (2m) or (5), or as provided in sub. (3) (am) or (b) to determine the presence or quantity of alcohol, a controlled substance, a combination of alcohol and a controlled substance, any other drug or a combination of alcohol and any other drug in the blood only by a physician, registered nurse, medical technologist, physician's assistant or person acting under the direction of a physician.

SECTION 185. 343.305 (5) (d) of the statutes is amended to read:

343.305 (5) (d) At the trial of any civil or criminal action or proceeding arising out of the acts committed by a person alleged to have been driving or operating a motor vehicle while under the influence of an intoxicant

or a controlled substance or a combination of alcohol and a controlled substance, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving, or having a blood an alcohol concentration of ~~0.1%~~ 0.1 or more, or alleged to have been driving or operating or on duty time with respect to a commercial motor vehicle while having any measured alcohol concentration above 0.0 or possessing an intoxicating beverage, regardless of its alcohol content, or within 4 hours of having consumed or having been under the influence of an intoxicating beverage, regardless of its alcohol content, or of having an alcohol concentration of 0.04 or more, the results of a test administered under ~~sub. (3) or this subsection in accordance with this section~~ are admissible on the issue of whether the person was under the influence of an intoxicant or a controlled substance or a combination of alcohol and a controlled substance, under the influence of any other drug to a degree which renders him or her incapable of safely driving or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving or any issue relating to the person's ~~blood~~ alcohol concentration. Test results shall be given the effect required under s. 885.235.

SECTION 186. 343.305 (6) (b) 3. of the statutes is amended to read:

343.305 (6) (b) 3. Have trained technicians, approved by the secretary, test and certify the accuracy of the equipment to be used by law enforcement officers for chemical analysis of a person's breath under sub. (3) (a) or (am) before regular use of the equipment and periodically thereafter at intervals of not more than 120 days; and

SECTION 187. 343.305 (7) of the statutes is renumbered 343.305 (7) (a) and amended to read:

343.305 (7) (a) If a person submits to chemical testing administered in accordance with this section and any test results indicate a blood an alcohol concentration of ~~0.1%~~ 0.1 or more, the law enforcement officer shall report the results to the department and take possession of the person's license and forward it to the department. The person's operating privilege is administratively suspended for 6 months.

SECTION 188. 343.305 (7) (b) of the statutes is created to read:

343.305 (7) (b) If a person who was driving or operating or on duty time with respect to a commercial motor vehicle submits to chemical testing administered in accordance with this section and any test results indicate any measured alcohol concentration above 0.0, the law enforcement officer may take possession of the person's license and retain the license for 24 hours. The person may reclaim a seized license in person or request return of the license by mail. The law enforcement officer shall

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issue a citation for violation of s. 346.63 (7) (a) 1., issue citations for such other violations as may apply and issue an out-of-service order to the person for the 24 hours after the testing, and report both the out-of-service order and the test results to the department in the manner prescribed by the department. If the person is a nonresident, the department shall report issuance of the out-of-service order to the driver licensing agency in the person's home jurisdiction.

SECTION 189. 343.305 (8) (a) of the statutes, as affected by 1989 Wisconsin Act 7, is amended to read:

343.305 (8) (a) The law enforcement officer shall notify the person of the administrative suspension under sub. (7) (a). The notice shall advise the person that his or her operating privilege will be administratively suspended and that he or she has the right to obtain administrative and judicial review under this subsection. This notice of administrative suspension serves as a 30-day temporary license. An administrative suspension under sub. (7) (a) becomes effective at the time the 30-day temporary license expires. The officer shall submit or mail a copy of the notice to the department.

SECTION 190. 343.305 (8) (b) 2. ~~bm~~ of the statutes is amended to read:

343.305 (8) (b) 2. ~~bm~~. Whether the person had a blood ~~an~~ alcohol concentration of ~~0.1%~~ 0.1 or more at the time the offense allegedly occurred.

SECTION 191. 343.305 (8) (b) 2. d. of the statutes is amended to read:

343.305 (8) (b) 2. d. If one or more tests were administered in accordance with this section, whether each of the test results for those tests indicate the person had a blood ~~an~~ alcohol concentration of ~~0.1%~~ 0.1 or more.

SECTION 192. 343.305 (8) (b) 2. f. of the statutes is created to read:

343.305 (8) (b) 2. f. Whether the person was driving or operating a commercial motor vehicle when the offense allegedly occurred.

SECTION 193. 343.305 (8) (b) 5. of the statutes, as affected by 1989 Wisconsin Act 7, is amended to read:

343.305 (8) (b) 5. If the hearing examiner finds that the criteria for administrative suspension have not been satisfied or that the person did not have a blood ~~an~~ alcohol concentration of ~~0.1%~~ 0.1 or more at the time the offense allegedly occurred, the examiner shall order that the administrative suspension of the person's operating privilege be rescinded without payment of the fee under s. 343.21 (1) (j). If the hearing examiner finds that the criteria for administrative suspension have been satisfied and that the person had a blood ~~an~~ alcohol concentration of ~~0.1%~~ 0.1 or more at the time the offense allegedly occurred, the administrative suspension shall continue regardless of the type of vehicle driven or operated at the time of the violation. The hearing examiner shall notify the person in writing of the hearing decision, of the right to judicial review and of the court's authority to issue a

stay of the suspension under par. (c). The administrative suspension is vacated and the person's operating privilege shall be automatically reinstated under s. 343.39 if the hearing examiner fails to mail this notice to the person within 30 days after the date of the notification under par. (a).

SECTION 194. 343.305 (8) (c) 1. of the statutes, as affected by 1989 Wisconsin Act 7, is amended to read:

343.305 (8) (c) 1. An individual aggrieved by the determination of the hearing examiner may have the determination reviewed by the court hearing the action relating to the applicable violation listed under sub. (3) (a) or (am). If the individual seeks judicial review, he or she must file the request for judicial review with the court within 20 days of the issuance of the hearing examiner's decision. The court shall send a copy of that request to the department. The judicial review shall be conducted at the time of the trial of the underlying offense under s. 346.63 ~~(1) or (2m)~~. The prosecutor of the underlying offense shall represent the interests of the department.

SECTION 195. 343.305 (8) (e) of the statutes is repealed.

SECTION 196. 343.305 (9) (a) (intro.) of the statutes is amended to read:

343.305 (9) (a) (intro.) ~~In addition to the requirements under subs. (1) to (8), if~~ If a person refuses to take a test under sub. (3) (a), the law enforcement officer shall immediately take possession of the person's license and prepare a notice of intent to revoke, by court order under sub. (10), the person's operating privilege. The officer shall issue a copy of the notice of intent to revoke the privilege to the person and submit or mail a copy with the person's license to the circuit court for the county in which the refusal is made. ~~The officer shall also mail a copy of the notice of intent to revoke to~~ the district attorney for that county and the department. The notice of intent to revoke the person's operating privilege shall contain substantially all of the following information:

SECTION 197. 343.305 (9) (a) (intro.) of the statutes, as affected by 1989 Wisconsin Act ... (this act), is repealed and recreated to read:

343.305 (9) (a) If a person refuses to take a test under sub. (3) (a), the law enforcement officer shall immediately take possession of the person's license and prepare a notice of intent to revoke, by court order under sub. (10), the person's operating privilege. If the person was driving or operating a commercial motor vehicle, the officer shall issue an out-of-service order to the person for the 24 hours after the refusal and notify the department in the manner prescribed by the department. The officer shall issue a copy of the notice of intent to revoke the privilege to the person and submit or mail a copy with the person's license to the circuit court for the county in which the refusal is made. The officer shall also mail a copy of the notice of intent to revoke to the district attorney for that county and the department. The notice of

intent to revoke the person's operating privilege shall contain substantially all of the following information:

SECTION 198. 343.305 (9) (a) 1. of the statutes is amended to read:

343.305 (9) (a) 1. That prior to a request under sub. (3) (a), the officer had placed the person under arrest and issued a citation, if appropriate, for a violation of s. 346.63 (1) ~~or~~ (2m) or (5) or a local ordinance in conformity therewith or s. 346.63 (2) or (6), 940.09 or 940.25.

SECTION 199. 343.305 (9) (a) 5. a of the statutes is amended to read:

343.305 (9) (a) 5. a. Whether the officer had probable cause to believe the person was driving or operating a motor vehicle while under the influence of alcohol, a controlled substance or a combination of both, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of alcohol and any other drug to a degree which renders him or her incapable of safely driving or having a blood ~~an~~ alcohol concentration of ~~0.1%~~ 0.1 or more or, if the person driving or operating a commercial motor vehicle, an alcohol concentration of 0.04 or more and whether the person was lawfully placed under arrest for violation of s. 346.63 (1) ~~or~~ (2m) or (5) or a local ordinance in conformity therewith or s. 346.63 (2) or (6), 940.09 or 940.25.

SECTION 200. 343.305 (9) (a) 5. c. and d of the statutes are consolidated, renumbered 343.305 (9) (a) 5. c. and amended to read:

343.305 (9) (a) 5. c. Whether the person refused to permit the test. ~~d. The person shall be deemed not be considered~~ to have refused the test if it is shown by a preponderance of evidence that the refusal was due to a physical inability to submit to the test due to a physical disability or disease unrelated to the use of alcohol, controlled substances or other drugs.

SECTION 201. 343.305 (9) (am) of the statutes is created to read:

343.305 (9) (am) If a person driving or operating or on duty time with respect to a commercial motor vehicle refuses a test under sub. (3) (am), the law enforcement officer shall immediately take possession of the person's license, issue an out-of-service order to the person for the 24 hours after the refusal and notify the department in the manner prescribed by the department, and prepare a notice of intent to revoke, by court order under sub. (10), the person's operating privilege. The officer shall issue a copy of the notice of intent to revoke the privilege to the person and submit or mail a copy with the person's license to the circuit court for the county in which the refusal is made. The officer shall also mail a copy of the notice of intent to revoke to the district attorney for that county and the department. The notice of intent to revoke the person's operating privilege shall contain substantially all of the following information:

1. That the officer has issued an out-of-service order to the person for the 24 hours after the refusal, specifying the date and time of issuance.

2. That the officer complied with sub. (4).

3. That the person refused a request under sub. (3) (am).

4. That the person may request a hearing on the revocation within 10 days by mailing or delivering a written request to the court whose address is specified in the notice. If no request for a hearing is received within the 10-day period, the revocation period commences 30 days after the notice is issued.

5. That the issues of the hearing are limited to:

a. Whether the officer detected any presence of alcohol, controlled substance or other drug, or a combination thereof, on the person or had reason to believe that the person was violating or had violated s. 346.63 (7).

b. Whether the officer complied with sub. (4).

c. Whether the person refused to permit the test. The person shall not be considered to have refused the test if it is shown by a preponderance of evidence that the refusal was due to a physical inability to submit to the test due to a physical disability or disease unrelated to the use of alcohol, controlled substances or other drugs.

6. That if it is determined that the person refused the test there will be an order for the person to comply with assessment and a driver safety plan.

SECTION 202. 343.305 (9) (b), (c) and (d) of the statutes are amended to read:

343.305 (9) (b) The use of the notice under par. (a) or (am) by a law enforcement officer in connection with the enforcement of this section is adequate process to give the appropriate court jurisdiction over the person.

(c) If a law enforcement officer informs the circuit court that a person has refused to submit to a test under sub. (3) (a) or (am), the court shall be prepared to hold any requested hearing to determine if the refusal was proper. The scope of the hearing shall be limited to the issues outlined in par. (a) 5. or (am) 5. Section 967.055 applies to any hearing under this subsection.

(d) At the close of the hearing, or within 5 days thereafter, the court shall determine the issues under par. (a) 5. or (am) 5. If all issues are determined adversely to the person, the court shall proceed under sub. (10). If one or more of the issues is determined favorably to the person, the court shall order that no action be taken on the operating privilege on account of the person's refusal to take the test in question. This section does not preclude the prosecution of the person for violation of s. 346.63 (1) ~~or~~ (2m), ~~(5) or (7)~~ or a local ordinance in conformity therewith, s. 346.63 (2) or (6), 940.09 or 940.25.

SECTION 203. 343.305 (10) (b) 1. of the statutes is amended to read:

343.305 (10) (b) 1. The court shall revoke the person's operating privilege under this paragraph according

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to the number of previous improper refusals under sub. (9) (d) or convictions under s. 346.63 (1) or a local ordinance in conformity therewith, or s. 346.63 (1m), 1985 stats., or s. 346.63 (2) or 940.25, or s. 940.09 where the offense involved the use of a vehicle. Refusals and convictions arising out of the same incident shall be counted as one. If a person has a conviction for any offense under a local ordinance in ~~or a state statute of another state which is in~~ conformity with s. 346.63 (1) (a) or (b) or both, or under the law of another jurisdiction that prohibits its refusal of chemical testing or use of a motor vehicle while intoxicated or under the influence of a controlled substance, or a combination thereof, or with an excess or specified range of alcohol concentration, or under the influence of any drug to a degree that renders the person incapable of safely driving, as those or substantially similar terms are used in that jurisdiction's laws, that conviction shall count as a prior conviction under this subdivision.

SECTION 204. 343.305 (10) (b) 1. of the statutes, as affected by 1989 Wisconsin Act (this act), is repealed and recreated to read:

343.305 (10) (b) 1. The court shall revoke the person's operating privilege under this paragraph according to the number of previous improper refusals under sub. (9) (d) or convictions under s. 346.63 (1) or (5) or a local ordinance in conformity therewith, or s. 346.63 (1m), 1985 stats., or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle. Refusals and convictions arising out of the same incident shall be counted as one. If a person has a conviction for any offense under a local ordinance in substantial conformity with s. 346.63 (1) (a) or (b) or both, or s. 346.63 (1) (a) or (5) (a), or both, or under the law of another jurisdiction that is in conformity with 49 CFR 383.51 (b) (2) (i) or (ii) or both, or that prohibits refusal of chemical testing or use of a motor vehicle while intoxicated or under the influence of a controlled substance, or a combination thereof, or with an excess or specified range of alcohol concentration, or under the influence of any drug to a degree that renders the person incapable of safely driving, as those or substantially similar terms are used in that jurisdiction's laws, that conviction shall count as a prior conviction under this subdivision.

SECTION 205. 343.305 (10) (b) 6. of the statutes is amended to read:

343.305 (10) (b) 6. The court may not order a temporary occupational license under s. 343.10 ~~(4)~~ (4) to a person under this subsection before he or she is eligible for an occupational license.

SECTION 206. 343.307 of the statutes is renumbered 343.307 (1) and amended to read:

343.307 (1) For purposes of counting the number of refusals, revocations and convictions under s. 343.30 (1q), ~~343.305 (9) (d) or (10)~~ or 346.65 (2) on and after July 1, 1978, convictions for violations under s. 346.63

(1), or a local ordinance in conformity therewith ~~or a local ordinance in or a state statute of another state in conformity therewith,~~ or s. 346.63 (1m), 1985 stats., or s. 346.63 (2) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, convictions under the law of another jurisdiction that prohibits refusal of chemical testing or use of a motor vehicle while intoxicated or under the influence of a controlled substance, or a combination thereof, or with an excess or specified range of alcohol concentration, or under the influence of any drug to a degree that renders the person incapable of safely driving, as those or substantially similar terms are used in that jurisdiction's laws, refusals under s. 343.305 (9) (d) and revocations under s. 343.305 (10) prior to and after the treatment of any of those sections by chapter 193, laws of 1977, shall be counted and given the effect specified under s. 343.30 (1q), ~~343.305 (9) (d) or (10)~~ or 346.65 (2) on and after July 1, 1978. If the same elements of the offense must be proved under a local ordinance ~~or state statute of another state~~ as under s. 346.63 (1) (a) or (b) or both, the local ordinance ~~or state statute of the other state~~ shall be considered to be in conformity with s. 346.63 (1) (a) or (b) or both, for purposes of s. 343.30 (1q) (b) 1., 343.305 (10) (b) 1 and 346.65 (2) (b) and (c).

SECTION 207. 343.307 (2) of the statutes is created to read:

343.307 (2) For purposes of counting the number of refusals, revocations and convictions under s. 343.305 (9) (d) or (10) on and after the effective date of this subsection [revisor inserts date], convictions for violations under s. 346.63 (1) or a local ordinance in conformity therewith, or s. 346.63 (1m), 1985 stats., or s. 346.63 (2) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, convictions under the law of another jurisdiction that prohibits refusal of chemical testing or use of a motor vehicle while intoxicated or while under the influence of a controlled substance, or a combination thereof, or with an excess or specified range of alcohol concentration, or under the influence of any drug to a degree that renders the person incapable of safely driving, as those or substantially similar terms are used in that jurisdiction's laws, refusals under s. 343.305 (9) (d) and revocations under s. 343.305 (10) before and after the treatment of any of those sections by chapter 193, laws of 1977, shall be counted and given the effect specified under s. 343.305 (9) (d) or (10) on and after the effective date of this subsection [revisor inserts date]. If the same elements of the offense must be proved under a local ordinance as under s. 346.63 (1) (a) or (b) or both, the local ordinance shall be considered to be in conformity with s. 346.63 (1) (a) or (b) or both, for purposes of ss. 343.305 (10) (b) 1.

SECTION 208. 343.307 (2) of the statutes, as created by 1989 Wisconsin Act (this act), is amended to read:

343.307 (2) For purposes of counting the number of refusals, revocations and convictions under s. 343.305

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(9) (d) or (10) or 346.65 (2j) on and after the effective date of this subsection ... [revisor inserts effective date of previous SECTION], convictions for violations under s. 346.63 (1) or (5), or a local ordinance in conformity therewith, or s. 346.63 (1m), 1985 stats., or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, convictions under the law of another jurisdiction that is in substantial conformity with 49 CFR 383.51 (b) (2) (i) or (ii) or both, or that prohibits refusal of chemical testing or use of a motor vehicle while intoxicated or while under the influence of a controlled substance, or a combination thereof, or with an excess or specified range of alcohol concentration, or under the influence of any drug to a degree that renders the person incapable of safely driving, as those or substantially similar terms are used in that jurisdiction's laws, refusals under s. 343.305 (9) (d) and revocations under s. 343.305 (10) prior to and after the treatment of any of those sections by chapter 193, laws of 1977, shall be counted and given the effect specified under s. 343.305 (9) (d) or (10) or 346.65 (2j) on and after the effective date of this subsection [revisor inserts effective date of previous SECTION]. If the same elements of the offense must be proved under a local ordinance as under s. 346.63 (1) (a) or (b) or both, or s. 346.63 (5), the local ordinance shall be considered to be in conformity with s. 346.63 (1) (a) or (b) or both, or s. 346.63 (5), for purposes of ~~s. ss.~~ 343.305 (10) (b) 1. and 346.65 (2j) (b) and (c).

SECTION 209. 343.31 (1) (intro.) of the statutes is amended to read:

343.31 (1) (intro.) The department shall revoke a person's operating privilege upon receiving a record of conviction showing that the person has been convicted of any of the following offenses under a state law or under a local ordinance which is in conformity therewith, ~~except that if a person licensed as a chauffeur was convicted for operation of a motor vehicle while under the influence of an intoxicant or controlled substance or a combination thereof, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving and the person was not operating a vehicle as a chauffeur at the time of the offense, only his or her regular license shall be revoked as provided in this section:~~

SECTION 210. 343.31 (1) (ar) of the statutes is created to read:

343.31 (1) (ar) Injury by the operation of a commercial motor vehicle while the person has an alcohol concentration of 0.04 or more but less than 0.1 and which is criminal under s. 346.63 (6).

SECTION 211. 343.31 (2) of the statutes is amended to read:

343.31 (2) The department shall revoke or suspend, respectively, the operating privilege of any resident of

this state upon receiving notice of the conviction of such person in another jurisdiction for an offense therein which, if committed in this state, would have been cause for revocation or suspension under this section or under s. 343.30 (1q). Such offenses shall include violation of any law of another jurisdiction that prohibits use of a motor vehicle while intoxicated or under the influence of a controlled substance, or a combination thereof, or with an excess or specified range of alcohol concentration, or under the influence of any drug to a degree that renders the person incapable of safely driving, as those or substantially similar terms are used in that jurisdiction's laws. Upon receiving similar notice with respect to a nonresident, the department shall revoke or suspend, respectively, the privilege of the nonresident to operate a motor vehicle in this state. Such suspension or revocation shall not apply to the operation of a commercial motor vehicle by a nonresident who holds a valid commercial driver license issued by another state.

SECTION 212. 343.31 (3) (h) of the statutes is amended to read:

343.31 (3) (h) Any person subject to s. 343.10 ~~(6)~~ (8) shall have his or her operating privilege revoked for 6 months.

SECTION 213. 343.31 (4) of the statutes is amended to read:

343.31 (4) Any person denied a motor vehicle operator's license under s. 343.06 ~~(1)~~ (1) (i) or whose motor vehicle operator's license was revoked under s. 343.31 (1) (i), 1961 stats., prior to October 9, 1963, may be granted such license or reinstated his operating privileges upon recommendation of the department of health and social services or other responsible agency having supervision of the applicant, and approval of the court in which the applicant was convicted of the offense upon which the revocation or suspension was based.

SECTION 214. 343.31 (4) of the statutes, as affected by 1989 Wisconsin Acts 31 and (this act), is repealed and recreated to read:

343.31 (4) Any person denied an operator's license under s. 343.06 (1) (i) or whose operator's license was revoked under s. 343.31 (1) (i), 1961 stats., before October 9, 1963, may be granted the license or have his or her operating privileges reinstated upon recommendation of the department of corrections or other responsible agency having supervision of the applicant, and approval of the court in which the applicant was convicted of the offense upon which the revocation or suspension was based.

SECTION 215. 343.315 of the statutes is created to read:

343.315 Commercial motor vehicle disqualifications; effects. (1) GENERAL. (a) A person who is disqualified under this section or 49 CFR 383.51 or by a determination by the federal highway administration under the federal rules of practice for motor carrier safety

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contained in 49 CFR 386 that a person is no longer qualified to operate a vehicle under 49 CFR 391 may not operate a commercial motor vehicle during a period of disqualification after March 31, 1992. Any violation of this paragraph shall be punished as provided in s. 343.44 (2m).

(b) An employer may not allow, permit or authorize a driver who is disqualified to operate a commercial motor vehicle during a period of disqualification after March 31, 1992. An employer who knowingly violates this paragraph shall be fined not more than \$5,000 or imprisoned for not more than 90 days or both. An employer who negligently violates this paragraph shall forfeit not more than \$2,500.

(2) **DISQUALIFYING OFFENSES.** (a) Except as provided in par. (b), a person shall be disqualified from operating a commercial motor vehicle for a one-year period upon a first conviction of any of the following offenses, committed on or after July 1, 1987, while driving or operating a commercial motor vehicle:

1. Section 346.63 (1) (a) or the law of another jurisdiction prohibiting driving or operating a motor vehicle while intoxicated or under the influence of alcohol, a controlled substance, or a combination thereof, or under the influence of any drug which renders the person incapable of safely driving, as those or substantially similar terms are used in that jurisdiction's laws.

2. Section 346.63 (1) (b) or (5) (a) or the law of another jurisdiction prohibiting driving or operating a commercial motor vehicle while the person's alcohol concentration is 0.04 or more or with an excess or specified range of alcohol concentration, as those or substantially similar terms are used in that jurisdiction's laws.

3. Section 346.67, 346.68 or 346.69 or the law of another jurisdiction prohibiting leaving the scene of an accident involving a motor vehicle driven or operated by the person, as those or substantially similar terms are used in that jurisdiction's laws.

4. Using a motor vehicle in the commission of a felony in this state or another jurisdiction.

5. Section 343.305 (9) or the law of another jurisdiction prohibiting refusal of a person driving or operating a motor vehicle to submit to chemical testing to determine the person's alcohol concentration or intoxication, as those or substantially similar terms are used in that jurisdiction's laws.

6. Section 346.63 (2) or (6), 940.09 or 940.25 or the law of another jurisdiction prohibiting causing or inflicting injury, great bodily harm or death through use of a motor vehicle while intoxicated or under the influence of alcohol, a controlled substance or a combination thereof, or with an alcohol concentration of 0.04 or more or with an excess or specified range of alcohol concentration, or under the influence of any drug to a degree that renders the person incapable of safely driving, as those or sub-

stantially similar terms are used in that jurisdiction's laws.

(b) If any of the violations listed in par. (a) occurred in the course of transporting hazardous materials on or after July 1, 1987, the person shall be disqualified from operating a commercial motor vehicle for a 3-year period.

(c) A person shall be disqualified for life from operating a commercial motor vehicle if convicted of 2 or more violations of any of the offenses listed in par. (a), or any combination of those offenses, arising from 2 or more separate incidents. The department shall consider only offenses committed on or after July 1, 1987, in applying this paragraph.

(d) The department may, by rule, establish guidelines and conditions under which a disqualification for life under par. (c) may be reduced to a period of not less than 10 years. The rules shall include standards for a rehabilitation program to be successfully completed by the applicant for reinstatement. If a person is reinstated after successful completion of the rehabilitation program and is subsequently convicted of any offense listed in par. (a), the person shall be permanently disqualified for life and ineligible to apply for a reduction of the lifetime disqualification under this paragraph.

(e) A person is disqualified for life from operating a commercial motor vehicle if the person uses a commercial motor vehicle on or after July 1, 1987, in the commission of a felony involving the manufacture, distribution or dispensing of a controlled substance, or possession with intent to manufacture, distribute or dispense a controlled substance. No person who is disqualified under this paragraph is eligible for reinstatement under par. (d).

(f) A person is disqualified for a period of 60 days from operating a commercial motor vehicle if convicted of 2 serious traffic violations, or 120 days if convicted of 3 serious traffic violations, arising from separate occurrences committed within a 3-year period while driving or operating a commercial motor vehicle. The department shall consider only offenses committed on or after November 2, 1989 in applying this paragraph. In this paragraph, "serious traffic violations" means:

1. Violating s. 346.57 (4) by excessive speeding, or the law of another jurisdiction prohibiting excessive speeding by exceeding the posted speed limit by 15 or more miles per hour as those or substantially similar terms are used in that jurisdiction's law.

2. Violating any state or local law of this state or another jurisdiction relating to motor vehicle traffic control, arising in connection with a fatal accident, other than parking, vehicle weight or vehicle defect violations.

3. Violating s. 346.62 or the law of another jurisdiction prohibiting reckless or careless driving of a motor vehicle or driving or operating a motor vehicle with willful or wanton disregard for the safety of persons or prop-

erty, as those or substantially similar terms are used in that jurisdiction's law.

4. Violating s. 346.07 (2), 346.08, 346.09, 346.10, 346.13, 346.24 (3) or 346.34 (1) (a) 3 or the law of another jurisdiction prohibiting improper or erratic lane changes or improper passing, or otherwise prohibiting the conduct described in sections 11–304 to 306 and 11–309 of the uniform vehicle code and model traffic ordinance (1987), as those or substantially similar terms are used in that jurisdiction's law.

5. Violating s. 346.14 or the law of another jurisdiction prohibiting following a vehicle too closely, or otherwise prohibiting the conduct described in section 11–310 of the uniform vehicle code and model traffic ordinance (1987), as those or substantially similar terms are used in that jurisdiction's law.

(g) A person is disqualified from operating a commercial motor vehicle for the 24-hour period following issuance of a citation for violation of s. 346.63 (7) or issuance of an out-of-service order for violating 49 CFR 392.5 or the law of another jurisdiction in substantial conformity therewith.

(3) EFFECT OF DISQUALIFICATION. (a) Notwithstanding s. 343.39, if a person's license or operating privilege is revoked or suspended as the result of an offense committed after March 31, 1992, which results in disqualification under sub. (2), the person's authorization to operate a commercial motor vehicle shall not be reinstated upon expiration of the period of revocation or suspension unless the period of disqualification has also expired. During any period of disqualification in which the person's license or operating privilege is not revoked or suspended, the department may issue an operator's license to the person for the operation of vehicles other than commercial motor vehicles. Upon expiration of the period of disqualification, the person may apply for authorization to operate commercial motor vehicles as provided in s. 343.14.

(b) If a person's license or operating privilege is not otherwise revoked or suspended as the result of an offense committed after March 31, 1992, which results in disqualification under sub. (2) (a) to (f), the department shall immediately cancel the person's license. Upon proper application by the person and payment of a duplicate license fee, the department may issue a separate license authorizing only the operation of vehicles other than commercial motor vehicles. Upon expiration of the period of disqualification, the person may apply for authorization to operate commercial motor vehicles under s. 343.26.

(c) Nothing in this subsection exempts a person from reinstatement fees under s. 343.21 or complying with applicable provisions of s. 343.38.

(d) Disqualifications shall be effective from the date of conviction of the disqualifying offense.

(4) NOTIFICATION. Beginning on April 1, 1992, the department shall send the notice of disqualification by 1st class mail to a person's last-known residence address. This subsection does not apply to disqualifications under sub. (2) (g).

SECTION 216. 343.32 (2) (bg) and (bj) of the statutes are created to read:

343.32 (2) (bg) The scale adopted by the secretary shall assign, for each conviction, 6 demerit points for operating a commercial motor vehicle while disqualified, revoked, suspended or out-of-service under s. 343.44.

(bj) The scale adopted by the secretary shall assess, for each conviction, 6 demerit points for a violation of s. 346.63 (6) and 3 demerit points for a violation of s. 346.63 (7) (a) 3. The scale adopted by the secretary shall not assess any demerit points for conviction of a violation of s. 346.63 (5) or (7) (a) 1. or 2.

SECTION 217. 343.32 (2) (f) of the statutes is amended to read:

343.32 (2) (f) A reexamination required under par. (d) or (e) may consist of all or part of the tests specified in s. 343.16 ~~(1) (a) 1.~~ ~~(2) (b).~~ or any other special examination as required under s. 343.16 ~~(2) (5).~~ Upon conclusion of the counseling, interview and examination, the secretary shall take action as authorized at the conclusion of other examinations under s. 343.16 ~~(3) (6)~~ (a).

SECTION 218. 343.32 (2) (h) and (4) of the statutes are repealed.

SECTION 218m. 343.32 (6) of the statutes is created to read:

343.32 (6) There shall be no minimum waiting period before a petition for issuance of an occupational license under s. 343.10 to a person whose operating privilege has been suspended or revoked under sub. (2) may be considered if the person is otherwise eligible for issuance of an occupational license.

SECTION 219. 343.34 (2) of the statutes is amended to read:

343.34 (2) When a person has been convicted under s. 343.16 ~~(5) (7) (b).~~

SECTION 220. 343.37 (2) of the statutes is amended to read:

343.37 (2) Notwithstanding the privilege conferred on nonresidents by s. 343.05 ~~(2) (e) (4) (b) 1.~~, a nonresident whose operating privilege has been revoked or suspended pursuant to the laws of this state is not authorized to operate a motor vehicle in this state under an operator's license or permit issued by another jurisdiction until his operating privilege in this state has been reinstated pursuant to the laws of this state. This subsection applies to a nonresident even though he was a resident of this state at the time his operating privilege was revoked or suspended. This section does not limit the operating privilege granted to nonresidents by s. 343.05 (2) (a) 2.

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SECTION 221. 343.43 (1) (g) of the statutes is amended to read:

343.43 (1) (g) Deface or alter a license except for endorsement of to endorse a change of address authorized by s. 343.22 (1) or (2).

SECTION 222. 343.43 (3) of the statutes is repealed and recreated to read:

343.43 (3) Any person who violates sub. (1) shall be:

(a) Fined not less than \$200 nor more than \$600 and may be imprisoned for not more than 6 months or both for the first such violation.

(b) Fined not less than \$300 nor more than \$1,000 and imprisoned for not less than 5 days nor more than 6 months for the 2nd offense occurring within 3 years.

(c) 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.

SECTION 223. 343.44 (title), (1) and (2) (intro.) of the statutes are amended to read:

343.44 (title) Driving while disqualified, out of service or after license revoked or suspended. (1) No person whose operating privilege has been duly revoked or suspended pursuant to the laws of this state shall operate a motor vehicle upon any highway in this state during such suspension or revocation or thereafter before filing proof of financial responsibility or before ~~he~~ that person has obtained a new license in this state, including an occupational license, or ~~his~~ the person's operating privilege has been reinstated under the laws of this state. No person whose regular license has been duly revoked or suspended pursuant to the laws of this state, but whose chauffeur's license is still valid, shall operate a motor vehicle upon any highway in this state other than as a chauffeur before he has obtained a new license or has had his license reinstated under the laws of this state may operate a commercial motor vehicle while ordered out-of-service as provided in s. 343.305 (7) (b) or (9) (am). No person may operate a commercial motor vehicle after March 31, 1992, while disqualified as provided in s. 343.315.

(2) (intro.) Any Except as provided in sub. (2m), any person violating this section:

SECTION 224. 343.44 (2) (a) of the statutes is amended to read:

343.44 (2) (a) For the first conviction under this section or a local ordinance in conformity with this section within 5 years, the person shall forfeit not less than \$150 nor more than \$600, except that, if the person's operating privilege was revoked under ch. 351 at the time of the offense, the penalty shall be a fine of not less than \$150 nor more than \$600.

SECTION 225. 343.44 (2m) of the statutes is created to read:

343.44 (2m) Any person violating this section while operating a commercial motor vehicle shall:

(a) For the first conviction under this section or a local ordinance in conformity therewith within 5 years, be fined not less than \$300 nor more than \$1,000 and imprisoned for not less than 6 days nor more than 10 days.

(b) For a 2nd conviction under this section or a local ordinance in conformity therewith within 5 years, be fined not less than \$1,000 nor more than \$2,000 and shall be imprisoned for not less than 30 days nor more than 9 months.

(c) For a 3rd or subsequent conviction under this section or a local ordinance in conformity therewith within 5 years, be fined not less than \$1,500 nor more than \$5,000 and shall be imprisoned for not less than 60 days nor more than one year in the county jail.

SECTION 226. 343.44 (2r) of the statutes is created to read:

343.44 (2r) For purposes of determining prior convictions under this section, each conviction under sub. (2) or (2m) shall be counted. The vehicle operated at the time of the offense shall determine whether the penalties of sub. (2) or (2m) apply.

SECTION 227. 343.44 (2s) of the statutes is created to read:

343.44 (2s) Within 30 days after receipt by the department of a report from a law enforcement officer under s. 343.305 (7) or a court order under s. 343.28 of a violation committed by a person operating a commercial motor vehicle while subject to an out-of-service order under s. 343.305 (7) (b) or (9) (am), a traffic officer employed under s. 110.07 may prepare a uniform traffic citation under s. 345.11 for a violation of sub. (1) and serve it on the person. The citation may be served anywhere in this state and shall be served by delivering a copy to the person personally or by leaving a copy at the person's usual place of abode with a person of discretion residing therein or by mailing a copy to the person's last-known residence address. The venue for prosecution may be the county where the alleged offense occurred or in the person's county of residence.

SECTION 228. 343.44 (4m) of the statutes is created to read:

343.44 (4m) In addition to other penalties for violation of this section, if a person has violated this section after his or her operating privilege was revoked as provided in ch. 351, the penalties shall be enhanced by imprisonment and additional fines as provided in s. 351.08. For the purpose of enforcing this subsection, in any case in which the accused is charged with operating a motor vehicle while his or her license, permit or privilege to operate is suspended or revoked or is charged with operating without a valid license, the court, before hearing the charge, shall determine whether the person is a habitual traffic offender or repeat habitual traffic offender and therefore barred from operating a motor vehicle on the highways of this state.

SECTION 229. 343.45 (2) and (3) of the statutes are amended to read:

343.45 (2) No person shall authorize or knowingly permit a motor vehicle owned by him or under his control to be operated upon any highway in violation of this chapter or by a person who is not authorized under this chapter to operate a motor vehicle. No dealer as defined in s. 340.01 (11) (intro.) but including the persons specified in s. 340.01 (11) (a), (b), (c) and (d), shall permit any person to operate any motor vehicle owned by him or in his possession or control on a trial run unless he has been shown the person's valid operator's or ~~chauffeur's~~ license ~~issued by this state or other jurisdiction~~, before permitting the trial run.

(3) ~~Any~~ Except as another penalty is provided by s. 343.245 (4) (b), any person violating this section may be required to forfeit not more than \$100.

SECTION 230. 343.50 (3) of the statutes is amended to read:

343.50 (3) DESIGN AND CONTENTS OF CARD. The card shall be the same size as an operator's license but shall be of a design which is readily distinguishable from the design of an operator's license and bear upon it the words "IDENTIFICATION CARD ONLY". The information on the card shall be the same as specified under s. 343.17 ~~(4)~~ (3) and the holder may affix a sticker thereto as provided in s. ~~343.17~~ 343.175 (3). The card shall contain the holder's photograph.

SECTION 231. 343.50 (13) of the statutes is amended to read:

343.50 (13) Any person who fails to comply with an order under sub. (11) or who violates sub. (12) may be required to forfeit not more than \$100 \$1,000.

SECTION 232. 344.14 (3) of the statutes is repealed.

SECTION 233. 344.25 (4) of the statutes is repealed.

SECTION 234. 345.11 (2m) of the statutes is created to read:

345.11 (2m) In addition, by January 1, 1991, the uniform traffic citation shall provide space for each of the following:

(a) A full description of the class and type of vehicle, as provided in s. 343.04, including each special operating characteristic under s. 343.04 (2) that requires an endorsement.

(b) Whether the vehicle was transporting hazardous materials.

(c) Whether the operator holds a commercial driver license regardless of the type or class of vehicle used at the time of the alleged offense.

(d) Whether any specific waiver provision in s. 343.055 may apply to operation of the vehicle at the time of the alleged offense.

SECTION 235. 345.17 of the statutes is amended to read:

345.17 Penalty for false statements. Any Unless another civil or criminal penalty is expressly prescribed

by law, any person making a false statement to the department or secretary of said department on which such department or the secretary relies in performing an act, issuing a duplicate title, license or operating privilege, or administering any law which the department or secretary is required by law to administer or perform, shall, on the first offense be required to forfeit not less than \$25 nor more than \$100; and, on the 2nd and each subsequent offense not less than \$100 nor more than \$500.

SECTION 236. 345.20 (2) (c) of the statutes is amended to read:

345.20 (2) (c) Section 967.055 applies to traffic forfeiture actions for violations of s. 346.63 (1) or (5) or a local ordinance in conformity therewith.

SECTION 237. 345.23 (2) (c) of the statutes is amended to read:

345.23 (2) (c) Deposits his valid Wisconsin operator's license ~~as defined in s. 343.01 (2) (e)~~ with the officer. The license deposited shall be the license under which he was operating at the time of arrest. If the license is deposited with the officer, the officer shall issue to the licensee a receipt which shall be valid as a driver's license through the date specified on the receipt, which shall be the same as the court appearance date, and the officer shall, at the earliest possible time prior to the court appearance date, deposit the license with the court.

SECTION 238. 345.23 (2) (c) of the statutes, as affected by 1989 Wisconsin Act (this act), is repealed and recreated to read:

345.23 (2) (c) Deposits his valid Wisconsin operator's license with the officer. If the license is deposited with the officer, the officer shall issue to the licensee a receipt which shall be valid as a driver's license through the date specified on the receipt, which shall be the same as the court appearance date, and the officer shall, at the earliest possible time prior to the court appearance date, deposit the license with the court.

SECTION 239. 345.24 of the statutes is renumbered 345.24 (1) and amended to read:

345.24 (1) A person arrested under s. 346.63 (1) or (5) or an ordinance in conformity therewith or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, may not be released until 12 hours have elapsed from the time of his or her arrest or unless a chemical test administered under s. 343.305 shows that there is ~~0.05%~~ 0.04% or less by weight of alcohol in the person's blood or ~~0.05~~ 0.04 grams or less of alcohol in 210 liters of the person's breath, but the person may be released to his or her attorney, spouse, relative or other responsible adult at any time after arrest.

SECTION 240. 345.24 (2) of the statutes is created to read:

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

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SECTION 241. 345.28 (5) (b) 2. a of the statutes is amended to read:

345.28 (5) (b) 2. a. The officer shall accept a deposit of money or a deposit of the person's valid Wisconsin operator's license as defined in s. 343.01 (2)-(e) in lieu of serving the warrant and arresting the person. If the license is deposited with the officer, the officer shall issue to the licensee a receipt, on a form provided by the department, which is valid as an operator's license through a date specified on the receipt, not to exceed 30 days from the date of contact, which shall be the same as the court appearance date and the officer shall at the earliest possible time prior to the court appearance date deposit the license with the court. If a deposit of money is made, s. 345.26 (1) (a) and (2) to (5) applies. The officer shall notify the person who deposits money or his or her license, in writing, of the specific actions which the authority and the courts are authorized to take under this section if the person fails to appear in court at the time specified by the officer, not to exceed 30 days from the date of contact, or at any subsequent court appearance for the nonmoving traffic violation citation. If the person makes a deposit of money or deposits his or her valid Wisconsin operator's license, the officer shall return the warrant to the court or judge who issued the warrant and the court or judge shall vacate the warrant.

SECTION 242. 346.10 (title), (1) and (2) of the statutes are amended to read:

346.10 (title) When passing at a railroad crossing, intersection, bridge, viaduct or tunnel prohibited. (1) The operator of a vehicle shall not overtake and pass any other vehicle proceeding in the same direction at when approaching within 100 feet of or traversing any railroad crossing unless the roadway is of sufficient width for 2 or more lines of vehicles to lawfully proceed simultaneously in the direction in which such vehicle is proceeding or unless permitted or directed by a traffic officer to pass at such crossing.

(2) Subject to the exception stated in sub. (3), the operator of a vehicle shall not overtake and pass any other vehicle proceeding in the same direction at when approaching within 100 feet of or traversing any intersection unless the roadway is marked or posted for 2 or more lines of vehicles moving simultaneously in the direction in which such vehicle is proceeding or unless permitted or directed by a traffic officer to pass at such intersection.

SECTION 243. 346.10 (4) of the statutes is created to read:

346.10 (4) The operator of a vehicle shall not overtake and pass any other vehicle proceeding in the same direction when the view is obstructed upon approaching within 100 feet of any bridge, viaduct or tunnel unless the roadway is of sufficient width for 2 or more lines of vehicles to lawfully proceed simultaneously in the direction in which such vehicle is proceeding or unless per-

mitted or directed by a traffic officer to so overtake and pass.

SECTION 244. 346.14 (2) of the statutes is renumbered 346.14 (2) (a) (intro.) and amended to read:

346.14 (2) (a) (intro.) Upon a highway outside a business or residence district, the operator of any motor truck with a gross weight of more than 10,000 pounds or of any motor vehicle which is drawing or towing another vehicle where the combined gross weight is more than 10,000 pounds shall ~~keep~~ do all of the following:

1. Keep the vehicle he or she is operating at a distance of not less than 500 feet to the rear of any vehicle immediately preceding it, being driven in the same direction.

(b) This subsection does not apply upon any lane especially designated for use by motor trucks or by truck tractor-semitrailer or tractor-trailer units nor does it apply when overtaking and passing another vehicle, but the fact that the operator of any vehicle or combination of vehicles mentioned in this subsection follows the preceding vehicle more closely than 500 feet for one mile or more or follows more closely than 500 feet when the preceding vehicle is moving at the maximum speed then and there permissible for such following vehicle is prima facie evidence that the operator of such following vehicle is violating this subsection.

SECTION 245. 346.14 (2) (a) 2. of the statutes is created to read:

346.14 (2) (a) 2. Leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger.

SECTION 246. 346.63 (2m) of the statutes is amended to read:

346.63 (2m) If a person has not attained the age of 19, the person may not drive or operate a motor vehicle while he or she has a blood alcohol concentration of more than 0.0% but not more than 0.1% by weight of alcohol in the person's blood or more than 0.0 grams but not more than 0.1 grams of alcohol in 210 liters of that person's breath. One penalty for violation of this subsection is suspension of a person's operating privilege under s. 343.30 (1p). The person is eligible for an occupational license under s. 343.10 (4) at any time. If a person arrested for a violation of this subsection refuses to take a test under s. 343.305, the refusal is a separate violation and the person is subject to revocation of the person's operating privilege under s. 343.305 (10) (em).

SECTION 247. 346.63 (5) of the statutes is created to read:

346.63 (5) (a) No person may drive or operate a commercial motor vehicle while the person has an alcohol concentration of 0.04 or more but less than 0.1.

(b) A person may be charged with and a prosecutor may proceed upon a complaint based on a violation of par. (a) or sub. (1) (a) or both for acts arising out of the same incident or occurrence. If the person is charged

with violating both par. (a) and sub. (1) (a), the offenses shall be joined. Paragraph (a) and sub. (1) (a) each require proof of a fact for conviction which the other does not require. If the person is found guilty of violating both par. (a) and sub. (1) (a) for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions. Each conviction shall be reported to the department and counted separately for purposes of suspension or revocation of the operator's license and disqualification.

SECTION 248. 346.63 (6) of the statutes is created to read:

346.63 (6) (a) No person may cause injury to another person by the operation of a commercial motor vehicle while the person has an alcohol concentration of 0.04 or more but less than 0.1.

(b) A person may be charged with and a prosecutor may proceed upon a complaint based upon a violation of par. (a) or sub. (2) (a) 1. or both for acts arising out of the same incident or occurrence. If the person is charged with violating both par. (a) and sub. (2) (a) 1. in the complaint, the crimes shall be joined under s. 971.12. If the person is found guilty of violating both par. (a) and sub. (2) (a) 1. for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions. Paragraph (a) and sub. (2) (a) 1 each require proof of a fact for conviction which the other does not require.

(c) Under par. (a), the person charged has a defense if it appears by a preponderance of the evidence that the injury would have occurred even if he or she had not been under the influence of an intoxicant or a controlled substance or a combination thereof, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving or did not have an alcohol concentration described under par. (a).

SECTION 249. 346.63 (7) of the statutes is created to read:

346.63 (7) (a) No person may drive or operate or be on duty time with respect to a commercial motor vehicle under any of the following circumstances:

1. While having any measured alcohol concentration above 0.0.

2. Within 4 hours of having consumed or having been under the influence of an intoxicating beverage, regardless of its alcohol content.

3. While possessing an intoxicating beverage, regardless of its alcohol content. This subdivision does not apply to possession of an intoxicating beverage if the beverage is unopened and is manifested and transported as part of a shipment.

(b) A person may be charged with and a prosecutor may proceed upon complaints based on a violation of this

subsection and sub. (1) (a) or (b) or both, or sub. (1) (a) or (5) (a), or both, for acts arising out of the same incident or occurrence. If the person is charged with violating this subsection and sub. (1) or (5), the proceedings shall be joined. If the person is found guilty of violating both this subsection and sub. (1) or (5) for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions. This subsection and subs. (1) and (5) each require proof of a fact for conviction which the others do not require. Each conviction shall be reported to the department and counted separately for purposes of suspension or revocation of the operator's license and disqualification.

SECTION 250. 346.635 of the statutes is amended to read:

346.635 (title) Report arrest or out-of-service order to department. Whenever a law enforcement officer arrests a person for a violation of s. 346.63 (1), ~~(5) or (7)~~, or a local ordinance in conformity therewith, or s. 346.63 (2) ~~or (6)~~ or 940.25, or s. 940.09 where the offense involved the use of a vehicle, the officer shall notify the department of the arrest and of issuance of an out-of-service order under s. 343.305 (7) (b) or (9) (am) as soon as practicable.

SECTION 251. 346.64 of the statutes is amended to read:

346.64 Employment of drunken operators. (1) No person who owns or has direct control of a commercial motor vehicle or any vehicle operated upon a highway for the conveyance of passengers for hire shall employ as an operator of such vehicle and retain in his employment any person who is addicted to the excessive use of intoxicating liquor or to the use of a controlled substance under ch. 161. In addition to being subject to fine or imprisonment as prescribed by law, such person shall forfeit \$5 for each day such operator is retained in his employ.

(2) Upon conviction of an operator of a commercial motor vehicle or any vehicle operated for the conveyance of passengers for hire, for driving or operating such vehicle while under the influence of an intoxicant, the owner or person having direct control of such vehicle shall discharge such operator from such employment. No person shall employ or retain in employment as an operator of a commercial motor vehicle or a vehicle operated upon a highway for the conveyance of passengers for hire any person who has been so convicted within the preceding 6-month period or any person during a period of disqualification under s. 343.315, unless s. 343.055 (2) applies. In addition to being subject to fine or imprisonment as prescribed by law, such person shall forfeit \$5 for each day such operator is retained in his employ contrary to the provisions of this subsection.

SECTION 252. 346.65 (2j) and (2w) of the statutes are created to read:

346.65 (2j) Any person violating s. 346.63 (5):

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(a) Shall forfeit not less than \$150 nor more than \$300 except as provided in par. (b) or (c).

(b) Shall be fined not less than \$300 nor more than \$1,000 and imprisoned for not less than 5 days nor more than 6 months if the total of prior convictions equals 2 in a 5-year period.

(c) Shall be fined not less than \$600 nor more than \$2,000 and imprisoned for not less than 30 days nor more than one year in the county jail if the total of prior convictions equals 3 or more in a 5-year period.

(2w) In determining the number of prior convictions for purposes of sub. (2j), the court shall count revocations under s. 343.305 (10) (b) and convictions under s. 346.63 (1) or (5) or a local ordinance in conformity therewith, or s. 346.63 (1m), 1985 stats., or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle. Revocations under s. 343.305 (10) (b) and convictions arising out of the same incident or occurrence shall be counted as one. The 5-year period shall be measured from the dates of the refusals or violations which resulted in the revocation or convictions. If a person has a conviction for any offense under a local ordinance in conformity with s. 346.63 (1) (a) or (b) or both, or s. 346.63 (5), or under the law of another jurisdiction that is in substantial conformity with 49 CFR 383.51 (b) (2) (i) or (ii) or both, or that prohibits refusal of chemical testing or use of a motor vehicle while intoxicated or under the influence of a controlled substance, or a combination thereof, or with an excess or specified range of alcohol concentration, or under the influence of any drug to a degree that renders the person incapable of safely driving, as those or substantially similar terms are used in that jurisdiction's laws, that conviction shall count as a prior conviction under this section.

SECTION 253. 346.65 (2m), (2r) and (3) of the statutes are amended to read:

346.65 **(2m)** In imposing a sentence under sub. (2) for a violation of s. 346.63 (1) (b) or (5) or a local ordinance in conformity therewith, the court shall review the record and consider the aggravating and mitigating factors in the matter. If the level of the person's blood alcohol level is known, the court shall consider that level as a factor in sentencing. The chief judge of each judicial administrative district shall adopt guidelines, under the chief judge's authority to adopt local rules under SCR 70.34, for the consideration of aggravating and mitigating factors.

(2r) (a) In addition to the other penalties provided for violation of s. 346.63 ~~(4)~~, a judge may order a defendant to pay restitution under s. 973.20.

(b) This subsection is applicable in actions concerning violations of local ordinances in conformity with s. 346.63 ~~(4)~~.

(3) Any person violating s. 346.62 (3) or 346.63 (2) or (6) shall be fined not less than \$300 nor more than

\$2,000 and may be imprisoned not less than 30 days nor more than one year in the county jail.

SECTION 254. 346.65 (2u) of the statutes is created to read:

346.65 **(2u)** (a) Any person violating s. 346.63 (7) shall forfeit \$10.

(b) Upon his or her arrest for a violation of s. 346.63 (7), a person shall be issued an out-of-service order for a 24-hour period by the arresting officer under s. 343.305 (7) (b) or (9) (am).

(c) If a person arrested for a violation of s. 346.63 (7) refuses to take a test under s. 343.305, the refusal is a separate violation and the person is subject to revocation of the person's operating privilege under s. 343.305 (10) (em).

SECTION 255. 346.655 (1) of the statutes is amended to read:

346.655 **(1)** On or after July 1, 1988, if a court imposes a fine or a forfeiture for a violation of s. 346.63 (1) or (5), or a local ordinance in conformity therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, it shall impose a driver improvement surcharge in an amount of \$250 in addition to the fine or forfeiture, penalty assessment and jail assessment.

SECTION 256. 346.93 (title) of the statutes is amended to read:

346.93 (title) Intoxicants in vehicle; underage persons.

SECTION 257. 346.93 of the statutes is renumbered 346.93 (1).

SECTION 258. 346.93 (2) of the statutes is created to read:

346.93 **(2)** In addition to any other penalty prescribed by law, any violation of this section by an underage person driving or operating or on duty time with respect to a commercial motor vehicle shall be punished under s. 346.65 (2u).

SECTION 259. 346.935 (4) (a) 1. of the statutes is repealed and recreated to read:

346.935 **(4)** (a) 1. "Chauffeur" means a person employed full time or on a regular basis, including leased drivers, for the principal purpose of operating a motor vehicle.

SECTION 260. 346.935 (4) (b) of the statutes is amended to read:

346.935 **(4)** (b) This section does not apply to passengers in a limousine ~~operated by a chauffeur licensed under s. 343.125~~ or in a motor bus if the vehicle is operated by a chauffeur holding a valid license and endorsements authorizing operation of the vehicle as provided in ch. 343 and is in compliance with any local ordinance or regulation adopted under s. 349.24.

SECTION 261. 346.935 (5) of the statutes is created to read:

346.935 (5) In addition to any other penalty prescribed by law, any violation of this section by an operator of a commercial motor vehicle shall be punished under s. 346.65 (2u).

SECTION 262. 347.04 of the statutes is amended to read:

347.04 Owner responsible for improperly equipped vehicle. Any owner of a vehicle not equipped as required by this chapter who knowingly causes or permits such vehicle to be operated on a highway in violation of this chapter is guilty of the violation the same as if he or she had operated the vehicle himself personally. No demerit points shall be assessed or counted pursuant to s. 343.32 against the operator's or chauffeur's license of the owner of the vehicle on account of or by reason of his guilt or the owner's conviction of any such violation unless he the owner was personally operating the vehicle at the time of the violation.

SECTION 263. 349.01 of the statutes is renumbered 349.01 (1).

SECTION 264. 349.01 (2) of the statutes is created to read:

349.01 (2) In this chapter, "chauffeur" means a person employed full time or on a regular basis, including leased drivers, for the principal purpose of operating a motor vehicle.

SECTION 265. 349.03 (4) of the statutes is amended to read:

349.03 (4) If a violation under s. 343.305 or 346.63 or a local ordinance in conformity with s. 346.63 (1), (5) or (7) occurs within a law enforcement officer's jurisdiction, he or she may enforce the violation anywhere in the state.

SECTION 266. 349.24 (3) of the statutes is created to read:

349.24 (3) Any person licensed under this section is required to comply with the licensing requirements of ch. 343.

SECTION 267. 351.02 (1) (intro.) of the statutes is amended to read:

351.02 (1) (intro.) "Habitual traffic offender" means any person, resident or nonresident, whose record, as maintained by the department shows that the person has accumulated the number of convictions for the separate and distinct offenses, regardless of the license under which the person was operating a class or type of motor vehicle being operated, under par. (a) or (b) committed within a 5-year period as follows:

SECTION 268. 351.02 (1) (a) 9. and 10. of the statutes are created to read:

351.02 (1) (a) 9. Refusal to submit to testing under s. 343.305 (9) (d).

10. Any offense under the law of another jurisdiction prohibiting conduct described in sections 6-207, 6-302, 6-303, 10-102, 10-103, 10-104, 11-901, 11-902, 11-907 or 11-908 of the uniform vehicle code and model

traffic ordinance (1987), or prohibiting homicide or manslaughter resulting from the operation of a motor vehicle, use of a motor vehicle in the commission of a felony, reckless or careless driving or driving a motor vehicle with wilful or wanton disregard for the safety of persons or property, driving or operating a motor vehicle while under the influence of alcohol, a controlled substance or any other drug or a combination thereof as prohibited, refusal to submit to chemical testing, operating a motor vehicle while the operating privilege or operator's license is revoked or suspended, perjury or the making false statements or affidavits to a governmental agency in connection with the ownership or operation of a motor vehicle, failing to stop and identify oneself as the driver or operator in the event of a motor vehicle accident with a person or an attended motor vehicle or fleeing from or attempting to elude a police, law enforcement or other peace officer, as those or substantially similar terms are used in that jurisdiction's laws.

SECTION 269. 351.02 (1) (c) of the statutes is amended to read:

351.02 (1) (c) The offenses under pars. (a) and (b) are deemed to include offenses under any valid ordinance enacted by a local authority under s. 349.06 which are in strict conformity with the offenses under pars. (a) and (b), and any federal law which is in strict substantial conformity with the offenses under pars. (a) and (b) and any law of another state or valid ordinance enacted by the local authority of another state which is in strict conformity with the offenses under par. (a).

SECTION 270. 351.02 (1) (f) of the statutes is created to read:

351.02 (1) (f) The department may, by rule, exempt specific moving violations from being counted under par. (b) if the department determines that the violation is a petty offense, except that the department may not exempt any violation for which the department assigns demerit points under s. 343.32 (2) or rules promulgated thereunder.

SECTION 271. 351.02 (1m) of the statutes is amended to read:

351.02 (1m) "Repeat habitual traffic offender" means any person, resident or nonresident, whose record as maintained by the department shows that the person has been convicted of 2 offenses under sub. (1) (b) committed within one year following issuance of an occupational license or limited chauffeur's license to the person pursuant to s. 351.07 or whose record as maintained by the department shows that the person has been convicted of one offense under sub. (1) (a) or 4. offenses under sub. (1) (b) committed within 3 years following issuance of an occupational license or limited chauffeur's license to the person pursuant to s. 351.07, regardless of the license under which the person was operating a motor vehicle or the classification of the vehicle being operated.

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SECTION 272. 351.07 (title) and (1) of the statutes are amended to read:

351.07 (title) Occupational license; conviction after issuance. (1) A person whose operating privilege has been revoked under this chapter as a habitual traffic offender may, after 2 years of the period of revocation have elapsed, petition a judge of the circuit court for the county in which the person resides for an order authorizing the issuance of an occupational license allowing the operation of vehicles other than commercial motor vehicles. The person's petition shall include a compelling reason why the person should be granted an occupational license and additional reasons why the judge should believe that the person's previous conduct as a traffic offender will not be repeated. The judge shall state his or her reasons for granting or denying the petition on the record. If the judge grants the petition, the judge shall issue an order authorizing the issuance of an occupational license, limited to the operation of vehicles other than commercial motor vehicles, to the person under s. 343.10 (~~1~~). The clerk of the court shall file a copy of the order with the department, which shall become a part of the records of the department.

SECTION 273. 351.07 (1m) of the statutes is repealed and recreated to read:

351.07 (1m) Any person whose petition for issuance of an occupational license under sub. (1) is granted may petition the department for authorization to operate commercial motor vehicles. The petitioner shall proceed as provided in s. 343.10.

SECTION 274. 351.07 (2) of the statutes is amended to read:

351.07 (2) (a) Upon conviction of a person who is issued an occupational license as provided by sub. (1) or a ~~limited chauffeur's license as provided by sub. (1m) and s. 343.126 (1m)~~ of 2 offenses under s. 351.02 (1) (b) committed within one year following issuance of the occupational license or ~~limited chauffeur's license~~ or of one offense under s. 351.02 (1) (a) or 4. offenses under s. 351.02 (1) (b) committed within 3 years following issuance of the occupational license or ~~limited chauffeur's license~~, the secretary shall proceed under s. 351.025.

(b) In lieu of the otherwise applicable penalties for the commission of the offenses enumerated in s. 351.02 (1) (a) and (b), a person who is issued an occupational license as provided by sub. (1) or ~~limited chauffeur's license as provided by sub. (1m) and s. 343.126 (1m)~~ and who is convicted of an offense under s. 351.02 (1) (a) or (b) as provided in par. (a) may be required to pay not more than 200% of the maximum forfeiture or fine applicable to the offense or may be imprisoned for not more than 2 times the maximum period of imprisonment applicable to the offense or both.

SECTION 275. 800.04 (1) (d) of the statutes is amended to read:

800.04 (1) (d) If a defendant charged with the violation of an ordinance which is in conformity with s. 346.63 (1) or (5) pleads not guilty and within 10 days after entry of the plea requests a jury trial and pays the required fees, the municipal judge shall promptly transmit all papers and fees in the cause to the clerk of the circuit court of the county where the violation occurred for a jury trial under s. 345.43. The plea of not guilty and request for jury trial may be made by mail. The amount of deposit set out in the citation shall accompany the mailed request. Upon receipt of the request, the circuit court shall set a time for trial. Any deposit made personally or by mail is forfeited upon nonappearance at the time set for trial. The required fee for a jury is prescribed in s. 814.61 (4).

SECTION 276. 885.235 (1) (intro.) of the statutes, as affected by 1987 Wisconsin Act 399, is amended to read:

885.235 (1) (intro.) In any action or proceeding in which it is material to prove that a person was under the influence of an intoxicant or had a blood alcohol concentration of 0.1% or more or a specified alcohol concentration while operating or driving a motor vehicle or, if the vehicle is a commercial motor vehicle, on duty time, while operating a motorboat, except a sailboat operating under sail alone, while operating a snowmobile, while operating an all-terrain vehicle or while handling a firearm, evidence of the amount of alcohol in the person's blood at the time in question, as shown by chemical analysis of a sample of the person's blood or urine or evidence of the amount of alcohol in the person's breath, is admissible on the issue of whether he or she was under the influence of an intoxicant or had a blood alcohol concentration of 0.1% or more or a specified alcohol concentration if the sample was taken within 3 hours after the event to be proved. The chemical analysis shall be given effect as follows without requiring any expert testimony as to its effect:

SECTION 277. 885.235 (1) (a) 1. of the statutes is repealed.

SECTION 278. 885.235 (1) (a) 2., (b) and (c) of the statutes are amended to read:

885.235 (1) (a) 2. The fact that the analysis shows that there was more than 0.0% but less than 0.1% by weight of alcohol in the person's blood or more than 0.0 grams but less than 0.1 grams of alcohol in 210 liters of the person's breath is relevant evidence on the issue of being under the combined influence of alcohol and a controlled substance or any other drug but, except as provided in par. (d) or sub. (1m), is not to be given any prima facie effect.

(b) The Except with respect to the operation of a commercial motor vehicle as provided in par. (d), the fact that the analysis shows that there was more than 0.05% 0.04% but less than 0.1% by weight of alcohol in the person's blood or more than 0.05 0.04 grams but less than 0.1 grams of alcohol in 210 liters of the person's breath is relevant evidence on the issue of intoxication or blood an

alcohol concentration of ~~0.1%~~ 0.1 or more but is not to be given any prima facie effect.

(c) The fact that the analysis shows that there was 0.1% or more by weight of alcohol in the person's blood or 0.1 grams or more of alcohol in 210 liters of the person's breath is prima facie evidence that he or she was under the influence of an intoxicant and is prima facie evidence that he or she had a blood ~~an~~ alcohol concentration of ~~0.1%~~ 0.1 or more.

SECTION 279. 885.235 (1) (d) of the statutes is created to read:

885.235 (1) (d) The fact that the analysis shows that there was 0.04% or more by weight of alcohol in the person's blood or 0.04 grams or more of alcohol in 210 liters of the person's breath is prima facie evidence that he or she was under the influence of an intoxicant with respect to operation of a commercial motor vehicle and is prima facie evidence that he or she had an alcohol concentration of 0.04 or more.

SECTION 280. 885.235 (1m) of the statutes, as affected by 1987 Wisconsin Act 399, is amended to read:

885.235 (1m) In any action under s. 23.33 (4c) (a) 3., 346.63 (2m) ~~or (7)~~ 350.101 (1) (c), evidence of the amount of alcohol in the person's blood at the time in question, as shown by chemical analysis of a sample of the person's blood or urine or evidence of the amount of alcohol in the person's breath, is admissible on the issue of whether he or she had a blood alcohol concentration in the range specified in s. 23.33 (4c) (a) 3., 346.63 (2m) or 350.101 (1) (c) ~~or a measured alcohol concentration under s. 346.63 (7)~~ if the sample was taken within 3 hours after the event to be proved. The fact that the analysis shows that there was more than 0.0% but not more than 0.1% by weight of alcohol in the person's blood or more than 0.0 grams but not more than 0.1 grams of alcohol in 210 liters of the person's breath is prima facie evidence that the person had a blood alcohol concentration in the range specified in s. 23.33 (4c) (a) 3., 346.63 (2m) or 350.101 (1) (c) ~~or a measured alcohol concentration under s. 346.63 (7)~~.

SECTION 281. 885.235 (4) and (5) (a) of the statutes are amended to read:

885.235 (4) The provisions of this section relating to the admissibility of chemical tests for alcohol concentration, intoxication or blood alcohol concentration shall not be construed as limiting the introduction of any other competent evidence bearing on the question of whether or not a person was under the influence of an intoxicant, had a blood ~~specified~~ alcohol concentration of ~~0.1% or more~~ or had a blood alcohol concentration in the range specified in s. 23.33 (4c) (a) 3., 346.63 (2m) ~~or 350.101 (1) (c)~~.

(5) (a) “~~Blood alcohol~~ Alcohol concentration of ~~0.1% or more~~” means a ~~blood alcohol concentration of 0.1% or more by weight~~ the number of grams of alcohol in 100 milliliters of a person's blood or ~~0.1~~ the number of

grams ~~or more~~ of alcohol in 210 liters of a person's breath.

SECTION 282. 940.09 (1) (intro.) of the statutes is amended to read:

940.09 (1) (intro.) Any person who does ~~either any~~ either any of the following ~~under par. (a) or (b)~~ is guilty of a Class D felony:

SECTION 283. 940.09 (1) (bm) of the statutes is created to read:

940.09 (1) (bm) Causes the death of another by the operation of a commercial motor vehicle while the person has an alcohol concentration of 0.04 or more but less than 0.1.

SECTION 284. 940.09 (1) (c) of the statutes is renumbered 940.09 (1m) and amended to read:

940.09 (1m) A person may be charged with and a prosecutor may proceed upon an information based upon a violation of ~~par. sub. (1) (a) or (b) or both~~ or of sub. (1) (a) or (bm) or both for acts arising out of the same incident or occurrence. If the person is charged with violating both ~~par. sub. (1) (a) and (b) or both sub. (1) (a) and (bm)~~ in the information, the crimes shall be joined under s. 971.12. If the person is found guilty of both ~~par. sub. (1) (a) and (b) or of sub. (1) (a) and (bm)~~ for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions under s. 23.33 (13) (b) 2. and 3., under s. 30.80 (6) (a) 2. and 3., under ss. 343.30 (1q) and 343.305 or under s. 350.11 (3) (a) 2. and 3. ~~Paragraphs Subsection (1) (a) and (b) and (bm) each require proof of a fact for conviction which the other does not require.~~

SECTION 285. 940.09 (2) of the statutes is amended to read:

940.09 (2) The actor has a defense if it appears by a preponderance of the evidence that the death would have occurred even if the actor had not been under the influence of an intoxicant or did not have a blood alcohol concentration described under sub. (1) (b) ~~or if the actor did not have an alcohol concentration of 0.04 or more but less than 0.1 under sub. (1) (bm)~~.

SECTION 286. 940.25 (1) (intro.) of the statutes is amended to read:

940.25 (1) (intro.) Any person who does ~~either any~~ either any of the following ~~under par. (a) or (b)~~ is guilty of a Class E felony:

SECTION 287. 940.25 (1) (bm) of the statutes is created to read:

940.25 (1) (bm) Causes great bodily harm to another human being by the operation of a commercial motor vehicle while the person has an alcohol concentration of 0.04 or more but less than 0.1.

SECTION 288. 940.25 (1) (c) of the statutes is renumbered 940.25 (1m) and amended to read:

940.25 (1m) A person may be charged with and a prosecutor may proceed upon an information based upon a violation of ~~par. sub. (1) (a) or (b) or both~~ or of sub. (1)

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(a) or (bm) or both for acts arising out of the same incident or occurrence. If the person is charged with violating both ~~pars. sub. (1) (a) and (b)~~ or both sub. (1) (a) and (bm) in the information, the crimes shall be joined under s. 971.12. If the person is found guilty of both ~~pars. sub. (1) (a) and (b)~~ or of sub. (1) (a) and (bm) for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions under s. 23.33 (13) (b) 2. and 3., under s. 30.80 (6) (a) 2. or 3., under ss. 343.30 (1q) and 343.305 or under s. 350.11 (3) (a) 2. and 3. Paragraphs Subsection (1) (a) and (b) and (bm) each require proof of a fact for conviction which the other does not require.

SECTION 289. 940.25 (2) of the statutes is amended to read:

940.25 (2) The actor has a defense if it appears by a preponderance of the evidence that the great bodily harm would have occurred even if the actor had not been under the influence of an intoxicant or did not have a blood alcohol concentration described under sub. (1) (b) or if the actor did not have an alcohol concentration of 0.04 or more but less than 0.1 under sub. (1) (bm).

SECTION 290. 949.03 (1) (b) of the statutes is amended to read:

949.03 (1) (b) The commission or the attempt to commit any crime specified in s. 346.62 (4), 346.63 (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08, 940.09, 940.10, 940.19, 940.20, 940.21, 940.22 (2), 940.225 (1) to (3), 940.23, 940.24, 940.25, 940.285, 940.29, 940.30, 940.305, 940.31, 941.327, 943.02, 943.03, 943.04, 943.10, 943.20, 943.32, 948.02, 948.03, 948.04, 948.07, 948.20, 948.30 or 948.51.

SECTION 291. 949.08 (2) (em) of the statutes is created to read:

949.08 (2) (em) Is an adult passenger in the offender's commercial motor vehicle and the crime involved is specified in s. 346.63 (6) or 940.25 and the passenger knew the offender was under the influence of an intoxicant, a controlled substance or both or had an alcohol concentration of 0.04 or more but less than 0.1. This paragraph does not apply if the victim is also a victim of a crime specified in s. 940.30, 940.305, 940.31 or 948.30.

SECTION 292. 967.055 (1) (a) of the statutes is amended to read:

967.055 (1) (a) The legislature intends to encourage the vigorous prosecution of offenses concerning the operation of motor vehicles by persons under the influence of an intoxicant, a controlled substance or both, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving or having a blood alcohol concentration of 0.1% or more or offenses concerning the operation of commercial motor vehicles by persons with an alcohol concentration of 0.04 or more.

SECTION 293. 967.055 (2) (a) and (3) (a) and (b) of the statutes are amended to read:

967.055 (2) (a) Notwithstanding s. 971.29, if the prosecutor seeks to dismiss or amend a charge under s. 346.63 (1) or (5) or a local ordinance in conformity therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle or an improper refusal under s. 343.305, the prosecutor shall apply to the court. The application shall state the reasons for the proposed amendment or dismissal. The court may approve the application only if the court finds that the proposed amendment or dismissal is consistent with the public's interest in deterring the operation of motor vehicles by persons who are under the influence of an intoxicant, a controlled substance or both, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving, or in deterring the operation of commercial motor vehicles by persons with an alcohol concentration of 0.04 or more.

(3) (a) A violation of s. 346.63 (1) or (5) or a local ordinance in conformity therewith.

(b) A violation of s. 346.63 (2) or (6).

SECTION 294. Nonstatutory provisions; transportation. (1) RULE MAKING. The department of transportation shall submit the proposed rules required under sections 343.03 (8) (b), 343.16 (2) and 343.17 (6) of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than June 1, 1990, and shall promulgate final rules to be effective no later than January 1, 1991.

(2) CLASSIFIED DRIVER LICENSE SYSTEM. The authorized FTE positions for the department of transportation are increased by 20.5 SEG project positions to administer a classified driver license system for the period beginning on October 1, 1990, and ending on March 31, 1992, to be funded from the appropriation under section 20.395 (5) (cq) of the statutes.

SECTION 295. Appropriation changes; transportation. (1) CLASSIFIED DRIVER LICENSE SYSTEM. The dollar amounts in the schedule under section 20.005 (3) of the statutes for the appropriation to the department of transportation under section 20.395 (5) (cq) of the statutes, as affected by the acts of 1989, are increased by \$90,500 for fiscal year 1989-90 and by \$1,402,500 for fiscal year 1990-91 to fund the classified driver license system and to increase the authorized FTE positions of the department by 12.0 SEG positions on July 1, 1990, and 20.5 SEG project positions authorized under SECTION 294 (2) of this act for the purpose of performing classified driver license system responsibilities assigned to the department under this act.

SECTION 296. Effective dates. This act takes effect on January 1, 1991, except as follows:

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(1) The treatment of sections 121.555 (2) (c) 1., 340.01 (1q), (1v), (7m), (7r), (8), (13m), (15q), (15r), (19g), (19r), (35), (41g), (41r), (72m) and (74m), 343.01 (2) (a) (intro.), (b), (c), (cg), (cr), (d), (e) and (g), 343.02, 343.06 (intro.), (1), (4), (7), (8), (9), (10), (11) and (12), 343.07 (1) (intro.), 343.12 (2) (c) and (e) and (4), 343.14 (2) (a), (b), (c) and (f) and (5), 343.15 (4) (intro.) and (b), 343.19 (2), 343.23 (3), 343.24 (2m), 343.30 (1q) (b) 1., 343.305 (8) (b) 2. bm and d and 5 and (9) (a) 5. c. and d, 343.31 (2), 343.43 (1) (g), 343.44 (2) (a) and (4m), 343.50 (13), 345.11 (2m), 345.17, 345.28 (5) (b) 2. a, 346.10 (title), (1), (2) and (4), 346.14 (2), 347.04, 349.24 (3) and 351.02 (1) (a) 9. and 10., (c) and (f); the renumbering of sections 343.06 (2) and 343.20 (1) of the statutes; the renumbering and amendment of sections 343.06 (3) and 343.307 of the statutes; the amendment of sec-

tions 118.29 (2) (a) (intro.) and (3), 121.555 (2) (c) 5., 343.01 (2) (a) 8., 343.07 (4) (a), 343.12 (2) (d), 343.21 (1) (b), (ba), (bm), (c) and (cm), 343.305 (3) (a), (9) (a) (intro.) and (10) (b) 1., 343.31 (4) and 345.23 (2) (c) of the statutes; the creation of sections 343.06 (1) (k) and (2), 343.17 (5), 343.20 (1) (b), 343.23 (3) (b), 343.307 (2) and 346.14 (2) (a) 2. of the statutes; and SECTIONS 294 and 295 of this act take effect on the day after publication.

(2) The repeal and recreation of section 343.31 (4) of the statutes takes effect on January 1, 1990.

(3) The repeal of sections 343.01 (2) (a), 343.05 (2) (a) 3. and 343.20 (1) (b) of the statutes; the amendment of section 343.05 (2) (a) 2. of the statutes; and the repeal and recreation of sections 343.07 (1m) (intro.) and (a) and 345.23 (2) (c) of the statutes take effect on April 1, 1992.