



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1995 ASSEMBLY BILL 106**

December 6, 1995 - Offered by Representative WIRCH.

1 **AN ACT to renumber** 351.11; **to amend** 343.10 (2) (a) (intro.), 343.10 (2) (e),
2 343.10 (5) (a) 2. and 3., 343.10 (7) (cm), 343.23 (2), 343.30 (1q) (b) 4., 343.305 (4),
3 343.305 (10) (b) 4., 343.31 (2), 343.31 (3) (a) (intro.), 343.31 (3) (bm) 4. and
4 343.44 (1); and **to create** 343.10 (2) (f), 343.30 (1q) (b) 4m., 343.305 (4) (b) 2. and
5 (c) 2., 343.305 (10) (b) 4m., 343.31 (2c), 343.31 (3) (bm) 4m., 343.445 and 351.11
6 (2) of the statutes; **relating to:** revocation of a person's motor vehicle operating
7 privilege for life and providing a penalty.

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

8 **SECTION 1.** 343.10 (2) (a) (intro.) of the statutes is amended to read:
9 343.10 (2) (a) (intro.) Except as provided in pars. (b) to ~~(e)~~ (f), a person is eligible
10 for an occupational license if the following conditions are satisfied:

11 **SECTION 2.** 343.10 (2) (e) of the statutes is amended to read:
12 343.10 (2) (e) If the court orders a person to submit to and comply with an
13 assessment and driver safety plan ~~and if~~, the person has 2 or more prior convictions,
14 suspensions or revocations, as counted under s. 343.307 (1), ~~no~~ and the person's

1 operating privilege is not revoked for life, an occupational license may be granted
2 ~~until~~ if the person has completed the assessment and is complying with the driver
3 safety plan.

4 **SECTION 3.** 343.10 (2) (f) of the statutes is created to read:

5 343.10 (2) (f) A person whose operating privilege is revoked for life under this
6 chapter is not eligible for an occupational license except as provided in s. 343.30 (1q)
7 (b) 4m., 343.305 (10) (b) 4m. or 343.31 (2c) or (3) (bm) 4m.

8 **SECTION 4.** 343.10 (5) (a) 2. and 3. of the statutes are amended to read:

9 343.10 (5) (a) 2. If the petitioner has 2 or more convictions, suspensions or
10 revocations, as counted under s. 343.307 (1), ~~the~~ and the person's operating privilege
11 is not revoked for life, an order for issuance of an occupational license shall prohibit
12 the petitioner from driving or operating a motor vehicle while he or she has a blood
13 alcohol concentration of more than 0.0% by weight of alcohol in the person's blood or
14 more than 0.0 grams of alcohol in 210 liters of that person's breath.

15 3. If the petitioner has 2 or more prior convictions, suspensions or revocations,
16 as counted under s. 343.307 (1), ~~the~~ and the person's operating privilege is not
17 revoked for life, an order for issuance of an occupational license to a person may
18 restrict the person's operation under the occupational license to vehicles that are
19 equipped with a functioning ignition interlock device as provided under s. 346.65 (6).
20 A person to whom a restriction under this subdivision applies violates that
21 restriction if he or she requests or permits another to blow into an ignition interlock
22 device or to start a motor vehicle equipped with an ignition interlock device for the
23 purpose of providing the person an operable motor vehicle without the necessity of
24 first submitting a sample of his or her breath to analysis by the ignition interlock
25 device.

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

2 343.10 (7) (cm) If ~~the~~ an order includes the restriction specified in sub. (5) (a)
3 3., the department shall not issue the occupational license until the person provides
4 evidence satisfactory to the department that any motor vehicle that the person will
5 be permitted to operate has been equipped with a functioning ignition interlock
6 device.

7 **SECTION 6.** 343.23 (2) of the statutes is amended to read:

8 343.23 (2) The department shall maintain a file for each licensee containing
9 the application for license, permit or endorsement, a record of reports or abstract of
10 convictions, the status of the licensee's authorization to operate different vehicle
11 groups, a record of any out-of-service orders issued under s. 343.305 (7) (b) or (9)
12 (am) and a record of any reportable accident in which the licensee has been involved,
13 including specification of the type of license and endorsements issued under this
14 chapter under which the licensee was operating at the time of the accident and an
15 indication whether or not the accident occurred in the course of the licensee's
16 employment as a law enforcement officer, fire fighter or emergency medical
17 technician — paramedic or as a person engaged, by an authority in charge of the
18 maintenance of the highway, in highway winter maintenance snow and ice removal
19 during either a storm or cleanup following a storm. This information must be filed
20 by the department so that the complete operator's record is available for the use of
21 the secretary in determining whether operating privileges of such person shall be
22 suspended, revoked, canceled or withheld in the interest of public safety. The record
23 of suspensions, revocations and convictions that would be counted under s. 343.307
24 (2) shall be maintained for at least 10 years. The record of a revocation for life under
25 s. 343.30 (1q) (b) 4. or 4m., 343.305 (10) (b) 4. or 4m. or 343.31 (2), (2c) or (3) (bm) 4.

1 or 4m. shall be maintained permanently. The record of convictions for disqualifying
2 offenses under s. 343.315 (2) (f) shall be maintained for at least 3 years. The record
3 of convictions for disqualifying offenses under s. 343.315 (2) (a) to (e) shall be
4 maintained permanently, except that 5 years after a licensee transfers residency to
5 another state such record may be transferred to another state of licensure of the
6 licensee if that state accepts responsibility for maintaining a permanent record of
7 convictions for disqualifying offenses. Such reports and records may be cumulative
8 beyond the period for which a license is granted, but the secretary, in exercising the
9 power of revocation granted under s. 343.32 (2) may consider only those reports and
10 records entered during the 4-year period immediately preceding the exercise of such
11 power of revocation. For purposes of this subsection, “highway winter maintenance
12 snow and ice removal” includes plowing, sanding, salting and the operation of
13 vehicles in the delivery of those services.

14 **SECTION 7.** 343.30 (1q) (b) 4. of the statutes is amended to read:

15 343.30 (1q) (b) 4. If the number of convictions, suspensions and revocations
16 within a 10-year period equals 3 or more, the court shall revoke the person’s
17 operating privilege for a period of not less than 2 years nor more than 3 years or for
18 life. After the first 90 days of ~~the~~ a revocation period of not more than 3 years, the
19 person is eligible for an occupational license under s. 343.10 if he or she has
20 completed the assessment and is complying with the driver safety plan ordered
21 under par. (c). If the person’s operating privilege is revoked for life under this
22 subdivision, the person is never eligible for an occupational license under s. 343.10
23 except as provided under subd. 4m.

24 **SECTION 8.** 343.30 (1q) (b) 4m. of the statutes is created to read:

1 343.30 (1q) (b) 4m. The department may, by rule, establish guidelines and
2 conditions under which a revocation for life under subd. 4. may be reduced to a period
3 of not less than 10 years. The rules shall include standards for a rehabilitation
4 program to be successfully completed by the applicant for reinstatement. If a
5 person's operating privilege is reinstated after successful completion of the
6 rehabilitation program and the person is subsequently convicted of violating s.
7 346.63 (1) or a local ordinance in conformity therewith or a law of a federally
8 recognized American Indian tribe or band in this state in conformity with s. 346.63
9 (1) or an offense enumerated under s. 343.31 (2) or improperly refuses to take a test
10 under s. 343.305 (3) (a) or (am), the person's operating privilege shall be permanently
11 revoked for life and the person is ineligible to apply for a reduction of the lifetime
12 revocation under this subdivision or for an occupational license under s. 343.10.

13 **SECTION 9.** 343.305 (4) of the statutes is amended to read:

14 343.305 (4) INFORMATION. At the time a chemical test specimen is requested
15 under sub. (3) (a) or (am), the person shall be orally informed by the law enforcement
16 officer that shall inform the person of all of the following:

17 (a) ~~He~~ That he or she is deemed to have consented to tests under sub. (2);

18 (b) ~~If 1. That, if~~ testing is refused, a motor vehicle owned by the person may be
19 immobilized, seized and forfeited or equipped with an ignition interlock device if the
20 person has 2 or more prior suspensions, revocations or convictions within a 10-year
21 period that would be counted under s. 343.307 (1) and the person's operating
22 privilege will be revoked under this section;

23 (c) ~~If 1. That, if~~ one or more tests are taken and the results of any test indicate
24 that the person has a prohibited alcohol concentration and was driving or operating
25 a motor vehicle, the person will be subject to penalties, the person's operating

1 privilege will be suspended under this section and a motor vehicle owned by the
2 person may be immobilized, seized and forfeited or equipped with an ignition
3 interlock device if the person has 2 or more prior convictions, suspensions or
4 revocations within a 10-year period that would be counted under s. 343.307 (1); and,

5 (d) ~~After That,~~ after submitting to testing, the person tested has the right to
6 have an additional test made by a person of his or her own choosing.

7 **SECTION 10.** 343.305 (4) (b) 2. and (c) 2. of the statutes are created to read:

8 343.305 (4) (b) 2. That, if testing is refused and the person has 2 or more prior
9 suspensions, revocations or convictions within a 10-year period that would be
10 counted under s. 343.307 (1), the person's operating privilege may be revoked for life.

11 (c) 2. That, if one or more tests are taken and the results of any test indicate
12 that the person has a prohibited alcohol concentration and was driving or operating
13 a motor vehicle and the person has 2 or more prior convictions, suspensions or
14 revocations within a 10-year period that would be counted under s. 343.307 (1), the
15 person's operating privilege may be revoked for life.

16 **SECTION 11.** 343.305 (10) (b) 4. of the statutes is amended to read:

17 343.305 (10) (b) 4. If the number of convictions, suspensions and revocations
18 in a 10-year period equals 3 or more, the court shall revoke the person's operating
19 privilege for 3 years or for life. After the first 120 days of ~~the a~~ a revocation period of
20 3 years, the person is eligible for an occupational license under s. 343.10 if he or she
21 has completed the assessment and is complying with the driver safety plan. If the
22 person's operating privilege is revoked for life under this subdivision, the person is
23 never eligible for an occupational license under s. 343.10 except as provided under
24 subd. 4m.

25 **SECTION 12.** 343.305 (10) (b) 4m. of the statutes is created to read:

1 343.305 (10) (b) 4m. The department may, by rule, establish guidelines and
2 conditions under which a revocation for life under subd. 4. may be reduced to a period
3 of not less than 10 years. The rules shall include standards for a rehabilitation
4 program to be successfully completed by the applicant for reinstatement. If a
5 person's operating privilege is reinstated after successful completion of the
6 rehabilitation program and the person subsequently improperly refuses to take a
7 test under sub. (3) (a) or (am) or is convicted of violating s. 346.63 (1) or a local
8 ordinance in conformity therewith or a law of a federally recognized American Indian
9 tribe or band in this state in conformity with s. 346.63 (1) or an offense enumerated
10 under s. 343.31 (2), the person's operating privilege shall be permanently revoked for
11 life and the person is ineligible to apply for a reduction of the lifetime revocation
12 under this subdivision or for an occupational license under s. 343.10.

13 **SECTION 13.** 343.31 (2) of the statutes is amended to read:

14 343.31 (2) The department shall revoke or suspend, respectively, the operating
15 privilege of any resident upon receiving notice of the conviction of such person in
16 another jurisdiction for an offense therein which, if committed in this state, would
17 have been cause for revocation or suspension under this section or under s. 343.30
18 (1q). Such offenses shall include violation of any law of another jurisdiction that
19 prohibits use of a motor vehicle while intoxicated or under the influence of a
20 controlled substance, or a combination thereof, or with an excess or specified range
21 of alcohol concentration, or under the influence of any drug to a degree that renders
22 the person incapable of safely driving, as those or substantially similar terms are
23 used in that jurisdiction's laws. Upon receiving similar notice with respect to a
24 nonresident, the department shall revoke or suspend, respectively, the privilege of
25 the nonresident to operate a motor vehicle in this state. ~~Such~~ If the conviction of the

1 resident or nonresident could result in a revocation of the person's operating
2 privilege for life if committed in this state, the department may revoke the person's
3 operating privilege for life. If a person's operating privilege is revoked for life under
4 this subsection, the person is never eligible for an occupational license under s.
5 343.10 except as provided under sub. (2c). A suspension or revocation of a
6 nonresident's operating privilege shall not apply to the operation of a commercial
7 motor vehicle by a nonresident who holds a valid commercial driver license issued
8 by another state.

9 **SECTION 14.** 343.31 (2c) of the statutes is created to read:

10 343.31 (2c) The department may, by rule, establish guidelines and conditions
11 under which a revocation for life under sub. (2) may be reduced to a period of not less
12 than 10 years. The rules shall include standards for a rehabilitation program to be
13 successfully completed by the applicant for reinstatement. If a person's operating
14 privilege is reinstated after successful completion of the rehabilitation program and
15 the person is subsequently convicted of an offense enumerated under sub. (2) or of
16 violating s. 346.63 (1) or a local ordinance in conformity therewith or a law of a
17 federally recognized American Indian tribe or band in this state in conformity with
18 s. 346.63 (1) or improperly refuses to take a test under sub. (3) (a) or (am), the person's
19 operating privilege shall be permanently revoked for life and the person is ineligible
20 to apply for a reduction of the lifetime revocation under this subsection or for an
21 occupational license under s. 343.10.

22 **SECTION 15.** 343.31 (3) (a) (intro.) of the statutes is amended to read:

23 343.31 (3) (a) (intro.) Except as otherwise provided in this subsection or sub.
24 (2), (2c) or (2m), all revocations or suspensions under this section shall be for a period
25 of one year.

SECTION 16

1 **SECTION 16.** 343.31 (3) (bm) 4. of the statutes is amended to read:

2 343.31 (3) (bm) 4. If the number of suspensions, revocations and convictions
3 within a 10-year period equals 3 or more, the department shall revoke the person's
4 operating privilege for a period of not less than 2 years nor more than 3 years or for
5 life. If an Indian tribal court in this state revokes the person's privilege to operate
6 a motor vehicle on tribal lands for a period of not less than 2 years nor more than 3
7 years or for life for the conviction specified in par. (bm) (intro.), the department shall
8 impose the same period of revocation. After the first 90 days of the a revocation
9 period of not more than 3 years, the person is eligible for an occupational license
10 under s. 343.10. If the person's operating privilege is revoked for life, the person is
11 never eligible for an occupational license under s. 343.10 except as provided under
12 subd. 4m.

13 **SECTION 17.** 343.31 (3) (bm) 4m. of the statutes is created to read:

14 343.31 (3) (bm) 4m. The department may, by rule, establish guidelines and
15 conditions under which a revocation for life under subd. 4. may be reduced to a period
16 of not less than 10 years. The rules shall include standards for a rehabilitation
17 program to be successfully completed by the applicant for reinstatement. If a
18 person's operating privilege is reinstated after successful completion of the
19 rehabilitation program and the person is subsequently convicted of violating s.
20 346.63 (1) or a local ordinance in conformity therewith or a law of a federally
21 recognized American Indian tribe or band in this state in conformity with s. 346.63
22 (1) or an offense enumerated under sub. (2) or improperly refuses to take a test under
23 s. 343.305 (3) (a) or (am), the person's operating privilege shall be permanently
24 revoked for life and the person is ineligible to apply for a reduction of the lifetime
25 revocation under this subdivision or for an occupational license under s. 343.10.

1 **SECTION 18.** 343.44 (1) of the statutes is amended to read:

2 343.44 (1) No person whose operating privilege has been duly revoked or
3 suspended pursuant to under the laws of this state shall operate a motor vehicle upon
4 any highway in this state during such suspension or revocation or thereafter before
5 filing proof of financial responsibility or before that person has obtained a new
6 license in this state, including an occupational license, or the person's operating
7 privilege has been reinstated under the laws of this state. This subsection does not
8 apply to a person whose operating privilege is revoked for life under this chapter
9 unless the person's operating privilege is reinstated under s. 343.30 (1q) (b) 4m.,
10 343.305 (10) (b) 4m. or 343.31 (2c) or (3) (bm) 4m. No person may operate a
11 commercial motor vehicle while ordered out-of-service as provided in s. 343.305 (7)
12 (b) or (9) (am). No person may operate a commercial motor vehicle after March 31,
13 1992, while disqualified as provided in s. 343.315.

14 **SECTION 19.** 343.445 of the statutes is created to read:

15 **343.445 Operation of motor vehicle by a person whose operating**
16 **privilege is permanently revoked.** No person whose operating privilege has been
17 revoked for life under this chapter shall operate a motor vehicle upon any highway
18 in this state. Any person who is convicted of operating a motor vehicle upon any
19 highway in this state after his or her operating privilege is revoked for life under this
20 chapter shall be fined not more than \$10,000 and imprisoned in the Wisconsin state
21 prisons for not less than one year nor more than 2 years. No portion of the sentence
22 may be suspended, except in a case where operating was made necessary by a
23 situation of emergency, as determined by the court. This section does not apply to
24 a person whose operating privilege is reinstated under s. 343.30 (1q) (b) 4m., 343.305
25 (10) (b) 4m. or 343.31 (2c) or (3) (bm) 4m.

1 **SECTION 20.** 351.11 of the statutes is renumbered 351.11 (1).

2 **SECTION 21.** 351.11 (2) of the statutes is created to read:

3 351.11 (2) Notwithstanding sub. (1), this chapter does not apply to any person
4 whose operating privilege is revoked for life under ch. 343 unless the person's
5 operating privilege is reinstated under s. 343.30 (1q) (b) 4m., 343.305 (10) (b) 4m. or
6 343.31 (2c) or (3) (bm) 4m.

7 **SECTION 22. Initial applicability.**

8 (1) This act first applies to violations committed or improper refusals made on
9 the effective date of this subsection, but does not preclude the counting of other
10 convictions, suspensions, revocations, disqualifications or refusals as prior
11 convictions, suspensions, revocations, disqualifications or refusals for purposes of
12 administrative action by the department of transportation or sentencing by a court.

13

(END)