

1973 Senate Bill 98

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CHAPTER 218, Laws of 1973

AN ACT to repeal 345.44; to renumber and amend 345.21; to amend 271.21 (3), 299.08, 341.08 (6), 341.51 (5), 341.61 (intro.), 341.62, 342.06 (3), 342.16 (3), 342.33, 343.10 (6), 343.12 (3), 343.125 (3), 343.19 (2), 343.22 (2), 343.30 (5), 343.73, 345.11 (5), 345.17, 345.23 (3), 345.26 (1) (a), 345.27 (1) and (2), 345.34 (3), 345.37 (1) and (5), 345.43 (1) (b), 345.47 (1) (intro.) and (b), 345.51, 346.60 (3), 346.65 (1), 346.74 (1) to (4) and 350.11; to repeal and recreate 341.04 (3), 345.26 (3) and 345.315 (4); and to create 345.21 (2), 345.23 (2) (d), 345.255, 345.375, 345.43 (4), 345.45 and 346.65 (4) of the statutes, relating to traffic court procedures, substitution of judges, jury trials, the standard of proof in traffic regulation cases and providing penalties.

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

SECTION 1. 271.21 (3) of the statutes is amended to read:

271.21 (3) ~~A~~ The state or a municipality need not advance the suit tax but shall be exempt from payment of such tax until the defendant pays costs pursuant to s. 299.25.

SECTION 2. 299.08 of the statutes is amended to read:

299.08 Clerk's fee. At the time of issuance of every summons or other process in a proceeding not commenced by a summons, the plaintiff shall pay to the clerk of said court, a clerk's fee of \$2 and the suit tax prescribed by s. 271.21 (1) (a), except that the state or a municipality need not advance these fees, but shall be exempt from payment of such fees until the defendant pays costs pursuant to s. 299.25.

SECTION 3. 341.04 (3) of the statutes is repealed and recreated to read:

341.04 (3) (a) Any person who violates sub. (1) or (2), where the vehicle used is an automobile, station wagon, or any other vehicle having a gross weight of 1,000 pounds or less, may be required to forfeit not more than \$200.

(b) Any person who violates sub. (1) or (2), where the vehicle used is a vehicle not enumerated under par. (a), may be fined not more than \$200 or imprisoned not more than 6 months or both.

(c) In addition to imposing the penalty under par. (a) or (b), the court shall order the offender to make application for registration or reregistration and to pay the required fee.

SECTION 4. 341.08 (6) of the statutes is amended to read:

341.08 (6) If the applicant for a certificate of registration is under 18 years of age, the application shall be accompanied by a statement made and signed by the applicant's father if he has custody of the applicant; or if the father does not have custody, then by the mother if she has custody; or if neither parent has custody, then by the person or guardian having such custody, stating that the applicant has the consent of such person or guardian to register such vehicle in the applicant's name. The signature on such statement shall not impute any liability for the negligence or misconduct of the applicant while operating such motor vehicle on the highways. Any person who violates this section may be fined required to forfeit not more than \$200 ~~or imprisoned not more than 6 months or both.~~

SECTION 5. 341.51 (5) of the statutes is amended to read:

341.51 (5) Except as provided in sub. (6), any dealer, distributor or manufacturer engaged in business in this state who fails to apply for registration or fails to apply for separate registrations for each Wisconsin municipality in which such dealer, distributor or manufacturer has an established place of business may be fined required to forfeit not more than \$200 ~~or imprisoned not more than 6 months or both.~~

SECTION 6. 341.61 (intro.) of the statutes is amended to read:

341.61 Improper use of evidence of registration. (intro.) Any person who does any of the following may be fined required to forfeit not more than \$200 ~~or imprisoned not more than 6 months or both:~~

SECTION 7. 341.62 of the statutes is amended to read:

341.62 False evidence of registration. Whoever operates or has in his possession a motor vehicle, mobile home, trailer or semitrailer having attached thereto any plate or similar device fashioned in imitation of or altered so as to resemble the current registration plate issued by the division may be fin~~ed~~ required to forfeit not more than \$200 ~~or imprisoned not more than 6 months or both.~~

SECTION 8. 342.06 (3) of the statutes is amended to read:

342.06 (3) Any person intending to use a vehicle as a taxicab or for public transportation who fails to state such intent in his application for certificate of title or any person who fails to furnish any other information required by sub. (1) (h) may be fin~~ed~~ required to forfeit not more than \$1,000 ~~or imprisoned not more than one year in county jail or both.~~

SECTION 9. 342.16 (3) of the statutes is amended to read:

342.16 (3) Any dealer who fails to comply with the requirements of sub. (2) may be fin~~ed~~ required to forfeit not more than \$200 ~~or imprisoned not more than 6 months or both.~~

SECTION 10. 342.33 of the statutes is amended to read:

342.33 Sale of vehicle used as taxicab. No person shall sell or exchange, authorize or direct the sale or exchange of, or offer for sale or exchange any motor vehicle which he knows has been used as a taxicab or for public transportation unless the certificate of title for such vehicle has been stamped by the division with the words "This motor vehicle has previously been used as a taxicab or for public transportation" and unless such certificate of title is exhibited by the vendor to the vendee before the sale of such vehicle is consummated. Any person who violates this section may be fin~~ed~~ required to forfeit not more than \$1,000 ~~or imprisoned not more than one year in county jail or both.~~

SECTION 11. 343.10 (6) of the statutes is amended to read:

343.10 (6) Any person convicted of violating any restriction of an occupational license may, in addition to the immediate revocation of the license, be fin~~ed~~ required to forfeit not less than \$50 nor more than \$200 ~~or imprisoned not more than 6 months or both.~~

SECTION 12. 343.12 (3) of the statutes is amended to read:

343.12 (3) Any person violating sub. (1) may be fin~~ed~~ required to forfeit not more than \$100 ~~or imprisoned not more than 6 months or both.~~

SECTION 13. 343.125 (3) of the statutes is amended to read:

343.125 (3) Any person violating ~~subs. sub.~~ sub. (1) or (2) may be fin~~ed~~ required to forfeit not more than \$100 ~~or imprisoned not more than 6 months, or both.~~

SECTION 14. 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 fails to return the original to the division upon finding it may be fin~~ed~~ required to forfeit not more than \$100 ~~or imprisoned not more than 6 months or both.~~

SECTION 15. 343.22 (2) of the statutes is amended to read:

343.22 (2) Any person who fails to comply with any of the requirements of this section may be fin~~ed~~ required to forfeit not more than \$100 ~~or imprisoned not more than 6 months or both.~~

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SECTION 16. 343.30 (5) of the statutes is amended to read:

343.30 (5) No court shall suspend or revoke an operating privilege except as authorized by this ~~section~~ chapter or ch. 345.

SECTION 17. 343.73 of the statutes is amended to read:

343.73 Penalty. Any person who violates ss. 343.60 to 343.72 may be ~~required to forfeit~~ fined not less than \$25 nor more than \$100 or imprisoned not more than 30 days for each offense.

SECTION 18. 345.11 (5) of the statutes is amended to read:

345.11 (5) Notwithstanding any other provision of the statutes, the use of the uniform traffic citation and complaint promulgated under sub. (4) by any peace officer in connection with the enforcement of any state traffic laws or any local traffic ordinances in strict conformity with the state traffic laws, shall be deemed adequate process to give the appropriate court jurisdiction over the ~~subject matter of the offense~~ person upon the filing with such court of the uniform traffic complaint.

SECTION 19. 345.17 of the statutes is amended to read:

345.17 Penalty for false statements. Any person making a false statement to the division of motor vehicles or administrator of said division of motor vehicles on which such division or the administrator relies in performing an act, issuing a duplicate title, license or operating privilege, or administering any law which the division or administrator is required by law to administer or perform, shall, on the first offense be ~~fined~~ required to forfeit not less than \$25 nor more than \$100; and, on the ~~second~~ 2nd and each subsequent offense ~~be fined~~ not less than \$100 nor more than \$500.

SECTION 20. 345.21 of the statutes is renumbered 345.21 (1) and amended to read:

345.21 (1) A person may be arrested for the violation of a traffic regulation with a warrant that substantially complies with ch. 968. ~~The~~ Except as provided in sub. (2), the person arrested shall be brought without unreasonable delay before a court having jurisdiction to try the action or a judge.

SECTION 21. 345.21 (2) of the statutes is created to read:

345.21 (2) In traffic regulation actions, the judge or municipal justice who issues a warrant under sub. (1) may indorse upon the warrant the amount of the deposit. If no indorsement is made the deposit schedule under s. 345.26 (2) shall apply unless the court directs that the person be brought before the court.

SECTION 22. 345.23 (2) (d) of the statutes is created to read:

345.23 (2) (d) Presents a guaranteed arrest bond certificate under s. 345.61.

SECTION 23. 345.23 (3) of the statutes is amended to read:

345.23 (3) ~~May~~ Shall, if the alleged violator ~~does not have a valid Wisconsin operator's license appropriate to the type of operation in which he was engaged at the time of arrest and does not choose to act under sub. (2) (a) or (b) or if he has such license and does not choose to act under sub. (2) (a), (b) or (c)~~ is not released under sub. (1) or (2), bring him without unreasonable delay before a judge or, for ordinance violations, before a municipal justice in the county in which the violation was alleged to have been committed.

SECTION 24. 345.255 of the statutes is created to read:

345.255 Deposit after release. A person arrested under s. 345.22 for the violation of a traffic regulation who is released under s. 345.23 (1) shall be permitted to make a deposit any time prior to the court appearance date. The deposit shall be made in person or by mailing it to the clerk of the court of the county in which the alleged violation occurred.

SECTION 25. 345.26 (1) (a) of the statutes is amended to read:

345.26 (1) (a) A person arrested under s. 345.22 for the violation of a traffic regulation who is allowed to make a deposit under s. 345.23 (2) (a) shall deposit the money as the arresting officer directs by either mailing the deposit at a nearby mailbox to the office of the sheriff, headquarters of the county traffic patrol, district headquarters or station of the state traffic patrol, city, village or town police headquarters or a precinct station, the office of the municipal justice ~~or, if previously approved by the court,~~ the office of the clerk of court, or by going, in the custody of the arresting officer, to any of those places to make the deposit. Before allowing the arrested person to make the deposit the arresting officer or the person receiving the deposit shall comply with s. 343.27 or, if the deposit is mailed, the signed statement required under s. 343.27 shall be mailed with it.

SECTION 26. 345.26 (3) of the statutes is repealed and recreated to read:

345.26 (3) (a) The arresting officer or the person accepting the deposit may allow the alleged violator to submit a check for the amount of the deposit, and such check shall be considered a receipt in lieu of par. (b).

(b) The person receiving the deposit shall furnish a receipt on a serially numbered form, and shall deliver the original receipt to the alleged violator, and shall state to the alleged violator that he may inquire at the office of the clerk of court or justice regarding the disposition of the deposit. The receipt referred to in this subsection may be included as part of the uniform citation under s. 345.25.

SECTION 27. 345.27 (1) and (2) of the statutes are amended to read:

345.27 (1) If a person is issued a citation for a violation of a traffic regulation, he may make a stipulation of no contest and deposit in accordance with the schedule established under s. 345.26 (2) (a) at the office of the clerk of court, sheriff, or city, village or town police department or a precinct station, headquarters of the county traffic patrol, district headquarters or station of the state traffic patrol, or the office of the municipal justice in the county in which the citation was issued as designated by the arresting officer or he may mail the stipulation and deposit to the place designated by the arresting officer. The deposit shall include court costs and suit tax if applicable. The stipulation shall be made received within 5 10 days of the date of the alleged violation. The person who has mailed or filed a stipulation under this subsection may, however, appear in court on the court appearance date. If a person appears in court after making a stipulation, s. 345.37 (3) applies. Stipulations are not permitted for violations of ss. 346.62 (1) and 346.63 (1) ~~or ordinances lawfully enacted in conformity therewith~~ a local ordinance which is in conformity therewith.

(2) If a person is cited for a violation for which a stipulation is authorized and makes a timely stipulation and pays the required deposit, the person need not appear in court ~~and no witness fees, suit tax or other court fees shall be taxed.~~ Before allowing the arrested person to make a stipulation and deposit, the arresting officer or the person receiving the stipulation and deposit shall comply with s. 343.27 or, if the

stipulation and deposit are mailed, the signed statement required under s. 343.27 shall be mailed with it. The official receiving the stipulation and deposit shall ~~also comply with s. 345.37 (5)~~ promptly transmit the stipulation and deposit to the clerk of court or the municipal justice having jurisdiction in the county. The clerk of ~~a~~ the court or the municipal justice having jurisdiction in the county may receive stipulations according to this subsection and ~~on the court appearance date~~ shall receive all other stipulations made pursuant to sub. (1) but the municipal justice shall process a stipulation when a citation is issued within his municipality. The clerk or municipal justice shall, for all stipulations, record on the court appearance date, a judgment of conviction and enter deposits as fines or forfeitures and shall comply with ~~s. ss.~~ ss. 343.28 and 345.37 (5). The judge or the court may relieve any person from a stipulation or any other order, judgment or conviction entered or made as provided in s. 345.37 (3).

SECTION 28. 345.315 (4) of the statutes is repealed and recreated to read:

345.315 (4) In municipal court, upon receipt of the written request accompanied by a fee of \$4, the justice shall transfer the case to another justice or to the county court of the county where the offense occurred. Upon transfer, the justice shall transmit to the appropriate court all the papers in the action and the action shall proceed as if it had been commenced therein.

SECTION 29. 345.34 (3) of the statutes is amended to read:

345.34 (3) If a summons or citation is issued by a police officer for a violation of any municipal ordinance or of chs. 194 or 340 to 348 ~~to a~~ and 350, the defendant ~~who, if a natural person, resides or, if a corporation, has its principal place of business outside the county in which the judge or justice is located,~~ the defendant may enter a plea of not guilty based on such summons or citation by ~~registered~~ letter to the judge or justice at the address indicated on the summons or citation, the letter to show the defendant's return address. Such letter may include a request for trial during normal daytime business hours. Upon receipt of the letter, the judge or justice shall reply by ~~certified~~ mail to the defendant's address setting forth a time and place for trial, such time to be during normal business hours if requested by the defendant. The ~~reply shall include the warrant and complaint and the~~ date of the trial shall be at least 10 days from the mailing by the judge or justice. Nothing in this subsection forbids the setting of the trial at any time convenient to all parties concerned.

SECTION 30. 345.37 (1) and (5) of the statutes are amended to read:

345.37 (1) If he has not made a deposit under s. 345.26 or a stipulation of no contest under s. 345.27, the court ~~shall~~ may issue a warrant under ch. 968.

(5) Within ~~48 hours~~ 5 working days after forfeiture of deposit or ~~stipulation to entry of a plea of no contest~~ entry of default judgment, the official receiving the forfeiture shall forward to the division a ~~certified copy~~ certification of the ~~stipulation of no contest~~ entry of default judgment or a judgment of forfeiture.

SECTION 31. 345.375 of the statutes is created to read:

345.375 Judgment against a corporation. (1) If a corporation fails to appear within the time required by the citation, the default of such corporation may be recorded and the charge against it taken as true and judgment shall be rendered accordingly.

(2) Upon default of the defendant corporation or upon conviction, judgment for the amount of the forfeiture shall be entered.

SECTION 32. 345.43 (1) (b) of the statutes is amended to read:

345.43 (1) (b) The fee for a 12-man jury is \$24, plus the applicable suit tax and clerk's fee. The fee for a 6-man jury is \$12, plus the applicable suit tax and clerk's fee.

SECTION 33. 345.43 (4) of the statutes is created to read:

345.43 (4) Any jury fee paid under this section shall be refunded if:

- (a) The case is dismissed by the court prior to the commencement of the trial; or
- (b) The defendant pleads guilty to the charge or a lesser charge more than 24 hours before the jury is required to report to the court.

SECTION 34. 345.44 of the statutes is repealed.

SECTION 35. 345.45 of the statutes is created to read:

345.45 Burden of proof. The standard of proof for conviction of any person charged with violation of any traffic regulation shall be evidence that is clear, satisfactory and convincing.

SECTION 36. 345.47 (1) (intro.) and (b) of the statutes are amended to read:

345.47 (1) (intro.) If the defendant is found guilty, the court ~~may suspend or revoke his license under s. 343.30 and, in addition,~~ may enter judgment against him for a monetary amount not to exceed the maximum forfeiture provided for the violation and for costs under s. 345.53 and, in addition, may suspend or revoke his operating privilege under s. 343.30. If the judgment is not paid, the court shall order:

(b) In lieu of imprisonment and in addition to any other suspension or revocation, that the defendant's operating privilege be suspended for a period of time not less than 30 days nor more than 6 months. If the person pays the forfeiture after suspension under this section, the suspension shall be reduced to the minimum period of 30 days. Suspension under this paragraph shall not affect the power of the court to suspend or revoke under s. 343.30 or the power of the administrator to suspend or revoke ~~under s. 343.32~~ such operating privilege.

SECTION 37. 345.51 of the statutes is amended to read:

345.51 Reopening of default judgment. Except as provided in s. 345.37, there shall be no reopening of default judgments unless allowed by order of the trial court after notice and motion duly made and upon good cause shown. The notice of motion must be filed within ~~10 days~~ 6 months after entry of judgment in the case docket. Default judgments for purposes of this section include pleas of guilty, no contest and forfeitures of deposit.

SECTION 38. 346.60 (3) of the statutes are amended to read:

346.60 (3) Any person violating s. 346.57 (2), (3) or (4) (a) to (c) may be required to forfeit not less than \$40 nor more than \$300 for the first offense and may be ~~fined~~ required to forfeit not less than \$80 nor more than \$600 ~~or imprisoned not more than one year in county jail or both~~ for the 2nd or subsequent conviction within a year.

SECTION 39. 346.65 (1) of the statutes is amended to read:

346.65 (1) Any person violating s. 346.62 (1) ~~or 346.64~~ may be required to forfeit not less than \$25 nor more than \$200 for the first offense and, for the 2nd or subsequent violation of s. 346.62 (1) within 4 years ~~and the 2nd or subsequent violation of s. 346.64 within one year,~~ may be fined not less than \$50 nor more than \$500 or imprisoned not more than one year in county jail or both.

SECTION 40. 346.65 (4) of the statutes is created to read:

346.65 (4) Any person violating s. 346.64 may be fined not less than \$50 nor more than \$500 or imprisoned not more than 6 months or both.

SECTION 41. 346.74 (1) to (4) of the statutes are amended to read:

346.74 (1) Any person violating s. 346.72 may be required to forfeit not less than \$20 nor more than \$40 for the first offense and may be ~~fin~~ required to forfeit not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within a year.

(2) Any person violating s. 346.70 (1), (2) or (3), 346.71 or 346.73 may be required to forfeit not less than \$40 nor more than \$200 for the first offense and may be ~~fin~~ required to forfeit not less than \$100 nor more than \$500 for the 2nd or subsequent conviction within a year.

(3) Any person violating s. 346.68 or 346.69 may be required to forfeit not more than \$200 ~~for the first offense and, for a 2nd or subsequent conviction within a year, may be fined not more than \$200 or imprisoned not more than 6 months or both.~~

(4) Any person violating s. 346.70 (5) may be required to forfeit not less than \$25 nor more than \$50 ~~for a first offense and, for a 2nd or subsequent conviction within a year, may be fined not less than \$25 nor more than \$50 or imprisoned not less than 30 nor more than 60 days or both.~~

SECTION 42. 350.11 of the statutes is amended to read:

350.11 Penalties. Any person who violates any provision of this chapter, except ss. 350.07, 350.08 and 350.10 (3) may be ~~fin~~ required to forfeit not less than \$10 nor more than \$250. Any person who violates s. 350.07 may be fined not less than \$200 nor more than \$500. Any person violating s. 350.08 or 350.10 (3) may be ~~fin~~ required to forfeit not more than \$200 ~~or imprisoned not more than 6 months or both for the first offense and, upon the 2nd or subsequent conviction within 5 years shall be imprisoned not less than 5 days nor more than one year and in addition may be fined not more than \$200.~~
