



**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2011 ASSEMBLY BILL 491**

February 6, 2012 – Offered by Representative PETROWSKI.

- 1 **AN ACT to amend** 343.305 (8) (b) 1. of the statutes; **relating to:** hearings  
2 regarding administrative suspension of operating privilege.

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***Analysis by the Legislative Reference Bureau***

Current law prohibits a person from driving or operating a motor vehicle with a prohibited concentration of alcohol or a detectable amount of a controlled substance or while under the influence of an intoxicant (OWI). If a chemical test given to the person on suspicion of, or subsequent to arrest for, OWI indicates that the person has committed OWI, the law enforcement officer seizes the driver's license of the person, informs the person that his or her operating privilege is administratively suspended for six months, and provides the person with a written explanation of his or her right to request a review of the administrative suspension.

The person may, within ten days, submit a written request for the Department of Transportation (DOT) to review his or her administrative suspension. If a hearing is requested, DOT must hold the review hearing in the county where the alleged offense took place within 30 days of the date on which the person received the written explanation of his or her right to review. A person is allowed to present evidence and be represented by counsel at a review hearing. Unless subpoenaed, the arresting officer need not appear at the review hearing, but must provide a copy of his or her report and the results of the chemical test.

This substitute amendment allows DOT, upon request by the person seeking review, to conduct a review hearing by telephone, video conference, or other remote

communication mechanism or by review of the record submitted by the arresting officer and written arguments. If a review hearing is by remote communication mechanism or record review, DOT need not hold the hearing in the county in which the offense allegedly took place. The substitute amendment also provides that the arresting officer need not appear in person at a hearing conducted by remote communication mechanism or record review.

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

1           **SECTION 1.** 343.305 (8) (b) 1. of the statutes is amended to read:

2           343.305 (8) (b) 1. Within 10 days after the notification under par. (a), or, if the  
3 notification is by mail, within 13 days, excluding Saturdays, Sundays and holidays,  
4 after the date of the mailing, the person may request, in writing, that the department  
5 review the administrative suspension. The review procedure is not subject to ch. 227.  
6 The Unless the hearing is by remote communication mechanism or record review, the  
7 department shall hold the hearing on the matter in the county in which the offense  
8 allegedly occurred or at the nearest office of the department if the offense allegedly  
9 occurred in a county in which the department does not maintain an office. The  
10 department, upon request of the person, may conduct a hearing under this  
11 paragraph by telephone, video conference, or other remote communication  
12 mechanism or by review of only the record submitted by the arresting officer and  
13 written arguments. The department shall hold a hearing regarding the  
14 administrative suspension within 30 days after the date of notification under par. (a).  
15 The person may present evidence and may be represented by counsel. The arresting  
16 officer need not appear at the administrative hearing unless subpoenaed under s.  
17 805.07 and need not appear in person at a hearing conducted by remote  
18 communication mechanism or record review, but he or she must submit a copy of his  
19 or her report and the results of the chemical test to the hearing examiner.

