



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2009 Wisconsin Act 103
[2009 Assembly Bill 178]

**Seizure of Motor Vehicle
Operator's Licenses; Reinstatement
of Cancelled Identification Cards**

TAKING POSSESSION OF PERSON'S OPERATOR'S LICENSE

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

2009 Wisconsin Act 103:

- ***Allows*** a court that suspends or revokes a person's operating privilege to take possession of a person's operator's license, but ***the court is not required to do so***. If a court does take possession of a person's operator's license, the court must destroy the license. Upon reinstatement of the person's operating privilege, instead of returning the license, DOT must issue a new license.
- ***Prohibits*** a law enforcement officer who ***arrests a person for OWI to take possession*** of a person's operator's license.
- Allows a person who is otherwise eligible to obtain an occupational license to do so without surrendering his or her revoked operator's license.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

WHEN PERIOD OF OPERATING PRIVILEGE SUSPENSION BEGINS

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

2009 Wisconsin Act 103:

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

REINSTATEMENT OF LICENSE

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

2009 Wisconsin Act 103:

- Provides for automatic reinstatement of a person's revoked operating privilege if the applicable period of revocation has expired and the person has applied for reinstatement and paid to DOT the applicable fee.
- Provides for automatic reinstatement of a person's canceled operator's license or identification card if the cancellation occurred for specified reasons, the person has paid to DOT the applicable fee, and the reasons for the cancellation have been rectified.
- Clarifies the general requirements for reinstatement of a person's authorization to operate a *commercial motor vehicle*. Under the Act, upon a person's application for reinstatement, DOT may reinstate the person's authorization to operate a commercial motor vehicle and issue a commercial driver license to the person if the person has paid the required fees and taken any examination required by DOT; *however*, DOT may not do so during any period of disqualification under state or federal law, under the law of another jurisdiction disqualifying the person from operating a commercial motor vehicle under circumstances similar to those specified in state or federal law, or under a federal agency determination that the person is no longer qualified to operate a commercial motor vehicle.

- Provides for automatic reinstatement if the commercial driver disqualification results from the issuance of a 24-hour, out-of-service order.

- *Eliminates* the two-year expiration period for reinstated licenses if the license is canceled on a basis for which automatic reinstatement applies.

Effective date: 2009 Wisconsin Act 103 takes effect on July 1, 2010.

Prepared by: Don Salm, Senior Staff Attorney

March 9, 2010

DLS:jal