



2001 ASSEMBLY BILL 798

February 12, 2002 - Introduced by Representatives UNDERHEIM, MUSSER, STARZYK and TOWNSEND, cosponsored by Senators ROESSLER and ELLIS. Referred to Committee on Transportation.

1 **AN ACT to amend** 343.237 (title), (2), (3) (intro.), (a), (c) (intro.), and (d), (4m), (5),
2 (6), (7), (8), and (10), 343.237 (9) and 343.50 (4); and **to create** 343.14 (3m) of
3 the statutes; **relating to:** thumbprints on motor vehicle operators' licenses and
4 identification cards.

Analysis by the Legislative Reference Bureau

With limited exceptions, current law requires the department of transportation (DOT) to take a photograph of all applicants for an operator's license or identification card. The photograph must appear on the operator's license or identification card document. However, DOT may issue an operator's license without a photograph in specific situations where DOT deems such action appropriate. DOT may keep copies of photographs taken for an operator's license or identification card for DOT's own use but generally must keep the photographs confidential. However, DOT may release a photograph to the individual whose photograph was taken. In addition, DOT may, under certain circumstances, release a copy of a photograph taken on or after September 1, 1997, to a Wisconsin law enforcement agency or to a law enforcement agency of a physically adjacent state. DOT may release a copy of a photograph to a law enforcement agency only if the agency submits a written request on the agency's letterhead that specifies the name of the person whose photograph is requested, along with the name of the requester and the law enforcement agency that employs the requester, and states that the photograph is requested for the purpose of investigating unlawful activity, looking for a missing person, or identifying an accident victim or a deceased person. If a law enforcement agency

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receives a copy of a photograph from DOT, the agency must keep the copy of the photograph confidential and may disclose it only if necessary to perform a law enforcement function.

This bill requires DOT, with limited exceptions, to take a thumbprint of all applicants for an operator's license or identification card. The thumbprint may not appear on the operator's license or identification card document. However, DOT may issue an operator's license or identification card without taking a thumbprint in specific situations where DOT deems such action appropriate. DOT may keep copies of a thumbprint taken by DOT for DOT's own use but generally must keep the thumbprint confidential. However, DOT may release copies of a thumbprint to the individual whose thumbprint is taken. In addition, DOT may release written or electronic copies of a thumbprint to a law enforcement agency under the same circumstances and with the same limitations, with respect to the thumbprint, that apply to the release of photographs.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 343.14 (3m) of the statutes is created to read:

2 343.14 **(3m)** The department shall, as part of the application process, take a
3 thumbprint of the applicant. Except where specifically exempted by statute or by
4 rule of the department, no application may be processed without a thumbprint being
5 taken. In the case of renewal licenses, the thumbprint shall be taken once every 8
6 years, and shall coincide with the appearance for examination which is required
7 under s. 343.16 (3). The thumbprint shall not appear on the operator's license
8 document. The department may make provisions for issuance of a license without
9 a thumbprint if the applicant is physically unable to provide a thumbprint or is
10 stationed outside the state in military service, and in specific situations where the
11 department deems such action appropriate.

12 **SECTION 2.** 343.237 (title), (2), (3) (intro.), (a), (c) (intro.), and (d), (4m), (5), (6),
13 (7), (8), and (10) of the statutes are amended to read:

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1 **343.237** (title) **Access to license and identification card photographs**
2 **and thumbprints.**

3 **(2)** Any photograph taken of an applicant under s. 343.14 (3) or 343.50 (4), and
4 any thumbprint taken of an applicant under s. 343.14 (3m) or 343.50 (4), may be
5 maintained by the department and, except as provided in this section, shall be kept
6 confidential. Except as provided in this section, the department may release a
7 photograph or thumbprint only to the person whose photograph or thumbprint was
8 taken.

9 **(3)** (intro.) The department shall provide a Wisconsin law enforcement agency
10 with a copy of a photograph taken on or after September 1, 1997, of an applicant
11 under s. 343.14 (3) or 343.50 (4), or a printed or electronic copy of a thumbprint taken
12 of an applicant under s. 343.14 (3m) or 343.50 (4), if the department receives a
13 written request on the Wisconsin law enforcement agency's letterhead that contains
14 all of the following:

15 (a) The name of the person whose photograph or thumbprint is requested.

16 (c) (intro.) A statement signed by a division commander or higher authority
17 within the Wisconsin law enforcement agency that the photograph or thumbprint is
18 requested for any of the following purposes:

19 (d) ~~A~~ For requests for photographs only, a statement that the request is not
20 made solely to obtain a photograph for use as part of a photo lineup or photo array.

21 **(4m)** The department shall attach to each copy of a photograph or thumbprint
22 provided under this section the notation: "This photograph is subject to the
23 requirements and restrictions of section 343.237 of the Wisconsin Statutes" or "This
24 thumbprint is subject to the requirements and restrictions of section 343.237 of the
25 Wisconsin Statutes."

ASSEMBLY BILL 798**SECTION 2**

1 (5) Any law enforcement agency that has in its possession a copy of a
2 photograph or thumbprint provided to it under sub. (3) or (4) shall destroy any copies
3 of the photograph or thumbprint in its possession when the photograph or
4 thumbprint is no longer necessary for the investigatory or identification purpose
5 specified in its request for the copy of the photograph or thumbprint.

6 (6) For each copy of a photograph or thumbprint provided under sub. (3) or (4),
7 the department shall record and maintain the written request for the copy of the
8 photograph or thumbprint and may not disclose any record or other information
9 concerning or relating to the written request to any person other than a court, district
10 attorney, county corporation counsel, city, village, or town attorney, law enforcement
11 agency, the applicant or identification card holder or, if the applicant or identification
12 card holder is under 18 years of age, his or her parent or guardian.

13 (7) The department may not charge a fee for providing a copy of any photograph
14 or thumbprint to a Wisconsin law enforcement agency under this section.

15 (8) (a) Any law enforcement agency that receives a photograph or thumbprint
16 provided to a law enforcement agency under this section shall keep the copy of the
17 photograph or thumbprint confidential and may disclose it only if disclosure is
18 necessary to perform a law enforcement function and the person to whom the copy
19 of the photograph or thumbprint is disclosed agrees to comply with par. (c).

20 (b) If a law enforcement agency discloses a copy of a photograph or thumbprint
21 to another person under par. (a), the copy of the photograph or thumbprint shall have
22 attached to it the notation specified in sub. (4m)

23 (c) Any person who receives a copy of a photograph or thumbprint from a law
24 enforcement agency under par. (a) shall destroy any copies of the photograph or
25 thumbprint in his or her possession when the photograph or thumbprint is no longer

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1 necessary to perform the law enforcement function for which the photograph or
2 thumbprint was disclosed.

3 (10) Any person who wilfully discloses a copy of a photograph or thumbprint
4 in violation of this section may be required to forfeit not more than \$500 for each
5 violation. Each copy disclosed constitutes a separate offense.

6 **SECTION 3.** 343.237 (9), as affected by 2001 Wisconsin Act ... (Assembly Bill
7 110), of the statutes is amended to read:

8 343.237 (9) Not later than August 1, 1998, and annually thereafter with
9 regard to photographs, and not later than August 1, 2003, and annually thereafter
10 with regard to thumbprints, the department of transportation and the department
11 of justice jointly shall submit a report to the chief clerk of each house of the legislature
12 for distribution to the legislature under s. 13.172 (2) concerning the copies of
13 photographs and thumbprints provided under this section, including the agencies to
14 whom and the purposes for which the copies of the photographs and thumbprints
15 were provided. The department of transportation and the department of justice shall
16 consult with other interested persons when preparing a report under this subsection.

17 **SECTION 4.** 343.50 (4) of the statutes is amended to read:

18 343.50 (4) APPLICATION. The application for an identification card shall include
19 any information required under ss. 85.103 (2) and 343.14 (2) (a), (b), (bm), and (br),
20 such further information as the department may reasonably require to enable it to
21 determine whether the applicant is entitled by law to an identification card and, for
22 applicants who are aged 65 years or older, material, as provided by the department,
23 explaining the voluntary program that is specified in s. 71.55 (10) (b). The
24 department shall, as part of the application process, take a photograph of the
25 applicant to comply with sub. (3) and, except in specific situations where the

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1 department deems such action appropriate, take a thumbprint of the applicant if the
2 applicant is physically able to provide a thumbprint. No application may be
3 processed without the photograph being taken and, except in specific situations
4 where the department deems such action appropriate, without a thumbprint being
5 taken unless the applicant is physically unable to provide a thumbprint.
6 Misrepresentations in violation of s. 343.14 (5) are punishable as provided in s.
7 343.14 (9).

SECTION 5. Initial applicability.

8
9 (1) This act first applies to applications for an operator's license or
10 identification card, or renewal of an operator's license or identification card,
11 submitted to the department of transportation on the effective date of this
12 subsection.

SECTION 6. Effective date.

13
14 (1) This act takes effect on the first day of the 7th month beginning after
15 publication.

16 (END)