CHAPTER 343

OPERATORS' LICENSES

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Cross−reference: See also chs. Trans 102 and 112, Wis. adm. code.

SUBCHAPTER I

GENERAL PROVISIONS

343.01 Words and phrases defined. (1) Words and phrases defined in s. 340.01 are used in the same sense in this chapter unless a different definition is specifically provided.

(2) In this chapter and ch. 344 the following words and phrases have the designated meanings:

(cb) "Motorized construction equipment" means motor−driven construction equipment designed principally for off−road use, including a motorscraper, backhoe, motorgrader, compacter, excavator, tractor, trencher and bulldozer.

(cg) "Moving violation" means a violation of ch. 110, of ch. 194 or of chs. 341 to 349 and 351, or a local ordinance in conformity therewith or a law of a federally recognized American Indian tribe or band in this state in conformity with one or more provisions of ch. 110, of ch. 194 or of chs. 341 to 349 and 351, or the laws of another jurisdiction for which being on duty time with respect to a commercial motor vehicle or driving or operating a motor vehicle is an element of the offense.

(cr) "Occupational license" means an operator's license, issued in accordance with s. 343.10, which confers only limited authorization to operate a motor vehicle and imposes specified restrictions.

(d) "Photograph" means an unretouched image recorded by a camera and reproduced on a photosensitive surface, or a digital image.

(f) "Representative vehicle" means a motor vehicle of the same vehicle class and type that an applicant or permittee for an operator's license operates or intends to operate.

(g) "Resident" means an adult whose one home and customary and principal residence, to which the person has the intention of returning whenever he or she is absent, is in this state. A child under 18 years of age may qualify as a resident if the child lives in this state and at least one of the child's parents, or the child's guardian, is a resident of this state or the child meets any of the following requirements:

1. Is attending and residing at a full−time boarding school or similar live−in facility located in this state.

2. Is a foreign−exchange student from outside the United States residing with and in the care of a host family.

3. Is residing with and in the care of a relative or other adult acting in the place of a parent, with the consent of the child's parents or legal guardian.

4. Is on active duty with the U.S. armed forces.

(i) "Tank vehicle" means any commercial motor vehicle that is designed to transport a liquid or gaseous materials within tanks having an individual rated capacity of more than 119 gallons and an aggregate rated capacity of 1,000 gallons or more that are either permanently or temporarily attached to the commercial motor vehicle or the chassis. "Tank vehicle" does not include a commercial motor vehicle transporting an empty storage container tank if the tank is not designated for transportation, has a rated capacity of 1,000 gallons or more, and is temporarily attached to a flatbed trailer. In this paragraph, "liquid" has the meaning given in 49 CFR 171.8.

History: 1971 c. 164 s. 83; 1971 c. 278; 1977 c. 29 s. 1654 (7) (a); 1977 c. 449; 1979 c. 110 s. 60 (6); 1979 c. 333 s. 5; 1981 c. 390 ss. 186, 252; 1983 a. 189, 223, 227, 270, 480, 538; 1989 a. 75, 105; 1991 a. 39; 1995 a. 113, 446; 2007 a. 20; 2015 a. 123.

Summary judgment is inapplicable in ch. 343 hearings. State v. Baratka, 2002 WI App 288, 258 Wis. 2d 342, 654 N.W.2d 875, 02−0770.

343.02 Administration of driver license law. (1) The department shall administer and enforce this chapter and may promulgate for that purpose such rules as the secretary considers necessary. Rules promulgated under this chapter may not conflict with and shall be at least as stringent as standards set by the federal commercial motor vehicle safety act, 49 USC 31301 to 31317 and the regulations adopted under that act.

(2) The state of Wisconsin assents to the provisions of the federal law and regulations specified in sub. (1). The state of Wisconsin declares its purpose and intent to make provisions to implement and enforce that law and those regulations so as to ensure receipt by this state of any federal highway aids that have been or may be allotted to the state under 23 USC 104 (b) (1), (2), (5) and (6), including all increased and advanced appropriations.

History: 1971 c. 164 s. 83; 1977 c. 29 s. 1654 (7) (a); 1981 c. 390 s. 252; 1989 a. 105; 1995 a. 113.

Cross−reference: See also chs. Trans 102 and 115, Wis. adm. code.

343.025 Medicare acceptance of assignment; information; report. (2) Beginning in 1991, the department shall annually submit a report to the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2) concerning the numbers of individuals, by counties in this state, to whom the department distributed explanatory materials under ss. 343.20 (2m) and 343.50 (4).

History: 1989 a. 294; 2003 a. 33.

343.027 Confidentiality of signatures. Any signature collected under this chapter may be maintained by the department and shall be kept confidential, except that the department shall release a signature or a facsimile of a signature to the department of revenue for the purposes of administering state taxes and collecting debt, to the elections commission, in electronic or digital format, for the purposes specified in s. 6.30 (5), to the person to whom the signature relates, to a court, district attorney, county corporation counsel, city, village, or town attorney, law enforcement agency, or to the driver licensing agency of another jurisdiction.

History: 1995 a. 113; 2005 a. 25, 59; 2007 a. 20; 2015 a. 261.

343.03 Classified driver license system. (1) COMPLIANCE WITH FEDERAL STANDARDS. (a) The department shall institute a classified driver license system meeting all federal standards under 49 USC 30304 (e) and 31301 to 31317 and 49 CFR 383 and 384.

(b) The department shall issue operator's licenses in conformity with the classified driver license system to each licensee upon renewal, initial application, or cancellation under s. 343.26 (1).

(2) AUTHORIZATIONS TO DRIVE SPECIFIC VEHICLE GROUPS. The department shall clearly indicate on each operator's license the class of vehicles that the licensee is authorized to operate. Additional authorization for the licensee to operate a vehicle type described in s. 343.04 (2) shall be shown by an endorsement, clearly indicated on the operator's license. If the authorizations are restricted in any way, the restrictions shall be clearly indicated on the document.

(3) LICENSE VARIANTS. Except for restricted licenses under s. 343.08 or temporary licenses under s. 343.10, 343.11 (1) or (3), 343.16 (6) (b), or 343.305 (8) (a), each operator's license issued by the department shall be in one of the following categories with a descriptive legend displayed on the top front side of the license document:

(a) *Regular license.* The standard license legend is "regular" or a readily recognizable abbreviation thereof. The regular license, without any express endorsements or restrictions as provided in this chapter, authorizes the licensee to operate only "class D" vehicles as described in s. 343.04 (1) (d), except as otherwise provided in this subsection. The license may be endorsed to permit operation of Type 1 motorcycles or school buses that are not commercial motor vehicles. A regular license may be subject to restrictions.

(b) *Commercial driver license.* A license authorizing the operation of "Class A", "Class B" or "Class C" vehicles, including a license issued under s. 343.065, shall be labeled "Commercial Driver License" or "CDL". A commercial driver license may be endorsed to permit the operation of any other class or type of vehicle described in s. 343.04. A commercial driver license may be subject to restrictions.

(c) *Motorcycle only license.* Except as provided in par. (f), a license authorizing only the operation of "Class M" vehicles shall be labeled "Motorcycle Only". A motorcycle only license may not be endorsed to permit the operation of any other class or type of vehicle. The license may be subject to restrictions.

(d) *Special restricted license.* A license issued under s. 343.135 shall be labeled "Special Restricted License" or a readily recognizable abbreviation thereof. The license may authorize the operation of only "Class D" vehicles and may not be endorsed to permit operation of the vehicle types described in s. 343.04 (2). The license may be subject to restrictions in addition to those provided in s. 343.135.

(e) *Occupational license.* A license issued under s. 343.10 authorizing only the operation of motor vehicles other than "Class A", "Class B" or "Class C" vehicles shall be labeled "Occupational License". An occupational license may authorize the operation of "Class D" or "Class M" vehicles, or both, but may not permit operation of the vehicle types described in s. 343.04 (2). The license may be subject to restrictions in addition to those provided in s. 343.10.

(f) *Probationary license.* If s. 343.085 applies, the license shall be labeled "Probationary" or a readily recognizable abbreviation thereof instead of as provided in par. (a) or (c). This paragraph does not apply to a license authorizing the operation of commercial motor vehicles.

(3m) NONCITIZEN LIMITED−TERM LICENSE. If the issuance of any license described under sub. (3) requires the license applicant to present any documentary proof specified in s. 343.14 (2) (es) 2. to 7. or (im) 2m. b., the license shall display on the front side of the license, in addition to any legend or label described in sub. (3), a legend identifying the license as limited term or, if the license authorizes the operation of a commercial motor vehicle, as a nondomiciled license. This noncitizen limited−term license may not be renewed except as provided in s. 343.165 (4) (c). A nondomiciled license may not be issued to a resident of Canada or Mexico.

(3r) REAL ID NONCOMPLIANT LICENSE. If any license described under sub. (3) is issued based upon the exception speci-

fied in s. 343.165 (7), the license shall, in addition to any legend or label described in sub. (3), be marked in a manner consistent with requirements under applicable federal law and regulations to indicate that the license is issued in accordance with P.L. 109−13, section 202 (d) (11), and is not intended to be accepted by any federal agency for federal identification or any other official purpose.

(4) ELIMINATION OF MULTIPLE LICENSES. The department shall not knowingly issue more than one license to a person.

(5) INQUIRIES BEFORE ISSUANCE. (a) Before issuing or renewing any license under this chapter, the department shall obtain driver record information from the national driver registry and commercial driver license information system to determine whether the applicant holds a commercial driver license, or a license that is revoked, suspended or canceled, or is otherwise disqualified. If the applicant is currently licensed in another state, the department shall obtain information on the applicant's license status with the state of licensure before issuing a license.

(b) 1. Before issuing or renewing a commercial driver license, the department shall, within the time period specified in 49 CFR 384.232, request from any other jurisdiction that has issued an operator's license or commercial driver license to the person within the previous 10 years the driving record of the person as required under 49 CFR 384.206 (a) (2) (ii).

2. Subdivision 1. does not apply to a renewal of a person's commercial driver license if the department has previously issued or renewed a commercial driver license after September 30, 2005, and, in connection with the previous issuance or renewal, the department recorded on the person's driving record under s. 343.23 (2) (a) the date on which the operator's record check under subd. 1. was performed.

(6) RELEASE OF RECORDS. (a) Notwithstanding ss. 343.027, 343.14 (2j), and 343.237 (2), the department shall, upon request, provide to the commercial driver license information system and the driver licensing agencies of other jurisdictions any applicant or driver record information maintained by the department of transportation, including providing electronic access to any record or file under s. 343.23 (1) or (2).

(b) The department shall, upon request and within 30 days of the request, provide to the driver licensing agencies of other jurisdictions the driving record of any person currently or previously licensed by the department, as required under 49 CFR 384.206 (a) (2) (iii).

(c) The department shall, upon request and within the time period specified in s. 343.23 (2) (am) 1. b. and c., provide the operating record file information specified in s. 343.23 (2) (am) 1. b. and c. to any of the following requesters:

1. The person holding the commercial driver license.

2. The U.S. secretary of transportation.

3. Any employer or prospective employer of the person holding the commercial driver license, after notice to such person.

4. Any driver licensing agency of another jurisdiction or law enforcement agency.

5. Any governmental entity having access to the commercial driver license information system.

6. Any authorized agent of a requester specified in subds. 1. to 5.

(7) NOTIFICATION OF COMMERCIAL DRIVER LICENSE ISSUANCE AND CERTAIN VIOLATIONS. (a) The department shall notify the commercial driver license information system within 10 days of an issuance, renewal or reinstatement of a commercial driver license, a commercial driver license upgrade authorizing the operation of a vehicle group not authorized on the prior commercial driver license, and of the surrender of a commercial driver license issued by another state.

(b) Within 10 days after the disqualification of the holder of a commercial driver license from operating a commercial motor vehicle for at least 60 days, or after the revocation, suspension, or cancellation of a commercial driver license for at least 60 days, the department shall notify the commercial driver license information system and, if the license was not issued by the department, the jurisdiction that issued the license of the disqualification, revocation, suspension, or cancellation and the violation that resulted in the disqualification, revocation, suspension, or cancellation.

(c) Within 10 days after a conviction of the holder of a commercial driver license issued by another jurisdiction for violating any state law or local ordinance of this state or any law of a federally recognized American Indian tribe or band in this state in conformity with any state law relating to motor vehicle traffic control, other than parking violations, or after a conviction of the holder of an operator's license issued by another jurisdiction, other than a commercial driver license, for any such violation while operating a commercial motor vehicle, the department shall notify the driver licensing agency of the jurisdiction that issued the license of the conviction.

History: 1989 a. 105; 1991 a. 12, 32, 39; 1995 a. 113; 2003 a. 33; 2007 a. 20; 2009 a. 28, 103; 2011 a. 23, 32; 2015 a. 77, 123.

343.04 Vehicle classifications. (1) VEHICLE CLASSES. For purposes of this chapter, motor vehicles are divided into the following classes:

(a) *Class A.* A "Class A" motor vehicle is any combination of vehicles with a gross vehicle weight rating, actual gross weight or registered weight of over 26,000 pounds, if the aggregate total gross vehicle weight rating, actual gross weight or registered weight of the vehicle or vehicles being towed is in excess of 10,000 pounds.

(b) *Class B.* A "Class B" motor vehicle is any single vehicle with a gross vehicle weight rating, actual gross weight or registered weight of over 26,000 pounds, and any such vehicle towing a vehicle or vehicles with an aggregate total gross vehicle weight rating, actual gross weight or registered weight of 10,000 pounds or less.

(c) *Class C.* A "Class C" motor vehicle is any single vehicle with a gross vehicle weight rating, actual gross weight and registered weight of 26,000 pounds or less, including any such vehicle towing a vehicle with a gross vehicle weight rating, actual gross weight and registered weight of less than 10,000 pounds, if any of the following applies:

1. The vehicle is designed to transport 16 or more passengers, including the driver.

2. The vehicle is transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73.

(d) *Class D.* A "Class D" vehicle is any motor vehicle not included in par. (a), (b), (c) or (e).

(e) *Class M.* A "Class M" vehicle is any Type 1 motorcycle.

(2) VEHICLE TYPES. For purposes of this chapter, certain vehicles intended to carry school children or other passengers, or having special operating characteristics, are divided into the following vehicle types specified in pars. (a) to (f):

(a) *Hazardous materials transporter.* Hazardous materials transporter vehicles are vehicles transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73.

(b) *Full air brakes equipped.* Full air brakes equipped vehicles are commercial motor vehicles equipped with a braking system operating fully on the air brake principle.

(bm) *Partial air brakes equipped.* Partial air brakes equipped vehicles are commercial motor vehicles equipped with a braking system operating partially on the air brake principle and partially on the air over hydraulic brake principle.

(c) *Tanks.* Tanks are commercial motor vehicles which are tank vehicles.

(d) *Passenger carrying.* Passenger−carrying vehicles are motor vehicles designed to carry, or actually carrying, 16 or more passengers, including the driver.

(e) *School buses.* All school buses, including those which are commercial motor vehicles.

(f) *Vehicles towing double or triple trailers.* Vehicles towing double or triple trailers are commercial motor vehicles with double or triple trailers.

History: 1989 a. 105; 1999 a. 140; 2003 a. 33; 2015 a. 123.

SUBCHAPTER II

ISSUANCE, EXPIRATION AND RENEWAL OF LICENSES

343.05 Operators to be licensed; exceptions. (1) GENERAL PROVISIONS. (a) Except as provided in this subsection, no person may at any time have more than one operator's license. This prohibition includes, without limitation, having licenses from more than one state, having licenses under more than one name or birthdate, and having more than one license issued for the operation of different types or classes of vehicles. This paragraph does not apply to any person who has only operator's licenses issued by this state and by a country, province, or subdivision that is a party to an agreement under s. 343.16 (1) (d).

(c) A person may have both an operator's license and a duly issued instruction permit allowing restricted operation of a vehicle group not authorized by the license.

(2) COMMERCIAL MOTOR VEHICLES. (a) No person may operate a commercial motor vehicle upon a highway in this state unless the person is one of the following:

1. A resident who is at least 18 years of age, who is not disqualified under s. 343.315, who has a valid commercial driver license which is not revoked, suspended, canceled or expired and, for the operation of any vehicle type under s. 343.04 (2), has an endorsement authorizing operation of the vehicle type.

2. A nonresident who has in his or her immediate possession a valid commercial driver license issued to the person in another jurisdiction or Mexico bearing all endorsements required for the specific class and type of vehicle being operated. A license is not valid under this subdivision if the license is restricted to operation inside the person's home jurisdiction, or if the person is otherwise violating restrictions or exceeding operating authorization stated on the person's license. If the nonresident is operating a commercial motor vehicle in interstate commerce, he or she must be at least 21 years of age.

4. A person with a temporary license under s. 343.305 (8) (a) which expressly authorizes the operation of the applicable class and type of commercial motor vehicle and which is not expired.

(b) This subsection does not apply to a person whose operation of a commercial motor vehicle is subject to waiver under s. 343.055.

(c) A tow truck operator holding a valid commercial driver license who is engaged in the removal of a disabled or wrecked vehicle from the highway or eliminating a hazard is not required to hold an endorsement to his or her commercial driver license regardless of the type of vehicle being towed. This exception to the requirement for an endorsement does not apply to any subsequent towing of the vehicle, including moving the vehicle from one repair facility to another, unless one of the following applies:

1. The tow truck operator is accompanied by a driver who holds the required endorsements.

2. The vehicle is a vehicle that requires a "P" endorsement for its operation.

(3) NONCOMMERCIAL VEHICLES. Except as provided in sub. (4):

(a) No person may operate a motor vehicle which is not a commercial motor vehicle upon a highway in this state unless the person possesses a valid operator's license issued to the person by the department which is not revoked, suspended, canceled or expired.

(b) No person may operate a Type 1 motorcycle unless the person possesses a valid operator's license specifically authorizing the operation of Type 1 motorcycles.

(c) No person may operate a moped or motor bicycle unless the person possesses a valid operator's license or a special restricted operator's license issued under s. 343.135 or a restricted license issued under s. 343.08. A license under this paragraph does not authorize operation of a moped or motor bicycle if the license is revoked, suspended, canceled or expired.

(4) EXEMPTIONS. (a) The following are exempt from the licensing requirements of this chapter:

1. A person in the armed services while operating a motor vehicle owned by or leased to the federal government.

2. A person while temporarily operating or moving a farm tractor or implement of husbandry on a highway between fields or between a farm and a field.

3m. A person while operating motorized construction equipment. This subdivision does not apply to a truck or a construction vehicle designed for use on a roadway or to any vehicle exceeding a speed of 35 miles per hour.

(b) The following are exempt from the licensing requirements of sub. (3):

1. A nonresident who is at least 16 years of age and who has in his or her immediate possession a valid operator's license issued to the person in the person's home jurisdiction.

1m. A person who operates a limited use off−highway motorcycle, as defined in s. 23.335 (1) (o), only as authorized under s. 23.335.

2. Any nonresident of the United States who holds an international driving permit or a valid operator's license issued by a country which is a signatory to either the 1943 regulation of inter−American automotive traffic or the 1949 Geneva convention on road traffic.

3. Any nonresident of the United States who holds an international driving permit or a valid operator's license issued by Germany, Mexico, or Switzerland or by any other nation having a reciprocal agreement with the United States concerning driving privileges.

(c) An exemption under par. (b) 2. or 3. applies only for a period of one year after a nonresident's arrival in the United States.

(5) PENALTIES. (ag) In this subsection, "great bodily harm" has the meaning given in s. 939.22 (14).

(am) Any person who violates sub. (1) or (2) shall be:

1. Fined not less than $200 nor more than $600 or imprisoned for not more than 6 months or both for the first such violation.

2. Fined not less than $300 nor more than $1,000 or imprisoned for not less than 5 days nor more than 6 months or both for the 2nd offense occurring within 3 years.

3. Fined not less than $1,000 nor more than $2,000 and imprisoned for not less than 10 days nor more than 6 months for the 3rd or subsequent offense occurring within 3 years.

(b) 1. Except as provided in subds. 2. to 5. and sub. (6), any person who violates sub. (3) (a) may be required to forfeit not more than $200 for the first offense, may be fined not more than $300 and imprisoned for not more than 30 days for the 2nd offense occurring within 3 years, and may be fined not more than $500 and imprisoned for not more than 6 months for the 3rd or subsequent offense occurring within 3 years. In this paragraph, a violation of a local ordinance in conformity with this section or a violation of a law of a federally recognized American Indian tribe or band in this state in conformity with this section shall count as a previous offense.

2. A person whose operator's license has expired not more than 3 months before a violation of sub. (3) (a) may be required to forfeit not more than $100 for the first offense.

4. Except as provided in subd. 2. and sub. (6), any person who violates sub. (3) (a) and, in the course of the violation, causes great bodily harm to another person is required to forfeit not less than $5,000 nor more than $7,500, except that, if the person knows at the time of the violation that he or she does not possess a valid operator's license, the person is guilty of a Class I felony.

5. Except as provided in subd. 2. and sub. (6), any person who violates sub. (3) (a) and, in the course of the violation, causes the death of another person is required to forfeit not less than $7,500 nor more than $10,000, except that, if the person knows at the time of the violation that he or she does not possess a valid operator's license, the person is guilty of a Class H felony.

(c) Any person who violates sub. (3) (b) or (c) may be required to forfeit not more than $100.

(6) OTHER OFFENSES; PENALTIES. Section 343.44 and the penalties thereunder shall apply in lieu of this section to any person operating a motor vehicle upon a highway in this state with an operator's license which is revoked or suspended.

History: 1971 c. 164 s. 83; 1977 c. 29 s. 1654 (7) (a); 1977 c. 273, 288, 447; 1979 c. 345; 1981 c. 42, 138; 1981 c. 390 s. 252; 1983 a. 243, 534, 535, 538; 1985 a. 65; 1989 a. 87, 105, 359; 1991 a. 32, 39; 1995 a. 113, 269, 347; 1997 a. 237; 2005 a. 412; 2009 a. 103, 276; 2011 a. 113; 2013 a. 163; 2015 a. 170.

Cross−reference: See s. 343.37 for limitations on nonresident operators.

The guidelines for operating a commercial vehicle under this section constitute a fundamental public policy to promote highway safety. The discharge of an at−will employee for refusing to violate this section was a wrongful discharge. Kempfer v. Automated Finishing, Inc. 211 Wis. 2d 100, 564 N.W.2d 692 (1997), 95−0649.

A person has a privilege, but not a right, to drive a motor vehicle upon a public highway. To exercise that privilege, the person must satisfy the licensing requirements of the state. County of Fond du Lac v. Kevin C. Derksen, 2002 WI App 160, 256 Wis. 2d 490, 647 N.W.2d 922, 01−2870.

Summary judgment is inapplicable in ch. 343 hearings. State v. Baratka, 2002 WI App 288, 258 Wis. 2d 342, 654 N.W.2d 875, 02−0770.

Three−wheeled trucks and automobiles, golf carts, and other special purpose vehicles such as street sweepers, industrial fork−lifts, and motorized wheelbarrows are not motorcycles, and operators are not required to have special driver licenses. 58 Atty. Gen. 17.

A driver license authorizing motor−driven cycle operation is not required for the operation of a motor−driven cycle on private property. 64 Atty. Gen. 79.

343.055 Commercial driver license waivers. (1) OPERATORS WAIVED. (a) *General.* Except as provided in subs. (3) and (4) and notwithstanding s. 343.05 (2), operators of certain commercial motor vehicles specified in pars. (b) to (h) or any rule of the department promulgated under sub. (5) are not required to hold commercial driver licenses, if the operator holds a valid operator's license not limited to "Class M" vehicles.

(b) *Fire fighters.* The operator of the commercial motor vehicle including, without limitation, fire trucks, hook and ladder trucks and foam or water transporters, is a person employed by a volunteer or paid fire organization and the person is operating emergency or fire fighting equipment necessary to the preservation of life or property or the execution of emergency management functions and equipped with a siren and warning lamps as provided in ss. 347.25 (1) and 347.38 (4) and the operation is in the routine performance of other duties of the fire organization or in response to an emergency call under s. 346.03 or during the return from a fire or other emergency response.

(c) *Farmers.* The operator of the commercial motor vehicle is a farmer who is using the commercial motor vehicle within 150 miles of the operator's farm to transport agricultural products, farm machinery or farm supplies including transporting hazardous materials requiring placarding or a combination thereof to or from a farm and the commercial motor vehicle is operated and controlled by a farmer and not used in the operations of a common motor carrier or contract motor carrier, as defined in s. 194.01 (1) and (2). In this paragraph, "controlled" means leased or owned; and "farmer" and "leased" have the meanings given in s. 340.01 (18) (b).

(d) *Recreational vehicle operators.* The operator of the commercial motor vehicle is a person operating a motor home, or a vehicle towing a 5th−wheel recreational vehicle or single−unit recreational vehicle and the vehicle or combination, including both units of a combination towing vehicle and the 5th−wheel recreational vehicle or recreational vehicle, is both operated and controlled by the person and is transporting only members of the person's family, guests or their personal property. This paragraph does not apply to any transportation for hire or the transportation of any property connected to a commercial activity. In this paragraph, "controlled" means leased or owned.

(e) *Law enforcement officers.* The operator of the commercial motor vehicle is a law enforcement officer who is operating an authorized emergency vehicle that is necessary to the preservation of life or property or the execution of emergency governmental functions and that is equipped with warning lamps and a siren as provided in ss. 347.25 and 347.38 (4).

(h) *Rescue squad members.* The operator of the commercial motor vehicle is a member of a legally organized rescue squad. This paragraph applies only to the operation of authorized emergency vehicles.

(2) DISQUALIFICATIONS NOT APPLICABLE. Notwithstanding s. 343.44, a person disqualified under s. 343.315 may operate a commercial motor vehicle as described in this section if the person holds a valid operator's license issued to the person authorizing the operation of "Class D" vehicles.

(3) VEHICLES TRANSPORTING HAZARDOUS MATERIALS, CARRYING PASSENGERS OR TOWING DOUBLE OR TRIPLE TRAILERS NOT WAIVED. Nothing in this section authorizes the operation of a combination vehicle with double or triple trailers, a vehicle transporting hazardous materials requiring placarding except as provided in sub. (1) (c), a vehicle transporting any quantity of a material listed as a select agent or toxin under 42 CFR 73, or a vehicle carrying or designed to transport the driver and 15 or more persons, by a person who does not hold a valid operator's license properly endorsed to permit such operation.

(4) EFFECT OF WAIVERS. The waivers under this section shall apply to the extent permitted under federal law and shall exempt a person only from the requirement in s. 343.05 (2) to hold a commercial driver license to operate a commercial motor vehicle upon a highway in this state. A commercial motor vehicle operated under this waiver remains a commercial motor vehicle.

(5) RULES. As soon as possible after the federal commercial motor vehicle safety act, 49 USC 31301 to 31317, or the regulations adopted under that act permit any commercial driver license waiver, the department shall promulgate rules governing eligibility for the waiver. This subsection applies to waivers not permitted by federal law on May 12, 1992.

History: 1989 a. 105; 1991 a. 39, 242; 1993 a. 19; 1995 a. 113, 247; 1999 a. 9, 140; 2003 a. 33; 2007 a. 11; 2009 a. 254.

343.06 Persons not to be licensed. (1) The department shall not issue a license:

(a) To any person whose operator's license or nonresident's operating privilege was withheld, suspended, revoked or canceled under the provisions of the law in effect prior to September 1, 1941, unless such person complies with the requirements of this chapter relative to obtaining a license or restoration of operating privileges after suspension, revocation or cancellation.

(b) To any person whose operating privilege has been suspended or revoked or is subject to immediate mandatory suspension or revocation under this chapter, except as otherwise expressly provided in this chapter.

(c) To any person under age 18 unless the person is enrolled in a school program or high school equivalency program and is not a habitual truant as defined in s. 118.16 (1) (a), has graduated from high school or been granted a declaration of high school graduation equivalency, or is enrolled in a home−based private educational program, as defined in s. 115.001 (3g), and has satisfactorily completed a course in driver education in public schools approved by the department of public instruction, or in technical colleges approved by the technical college system board, or in nonpublic and private schools or tribal schools, as defined in s. 115.001 (15m), that meet the minimum standards set by the department of

public instruction, or has satisfactorily completed a substantially equivalent course in driver training approved by the department and given by a school licensed by the department under s. 343.61, or has satisfactorily completed a substantially equivalent course in driver education or training approved by another state and has attained the age of 16, except as provided in s. 343.07 (1g). The department shall not issue a license to any person under the age of 18 authorizing the operation of "Class M" vehicles unless the person has successfully completed a basic rider course approved by the Wisconsin department of transportation motorcycle safety program. The department may, by rule, exempt certain persons from the basic rider course requirement of this paragraph. Applicants for a license under s. 343.08 or 343.135 are exempt from the driver education, basic rider or driver training course requirement. The secretary shall prescribe rules for licensing of schools and instructors to qualify under this paragraph. The driver education course shall be made available to every eligible student in the state. Except as provided under s. 343.16 (1) (bm) and (c) and (2) (cm) to (e), no operator's license may be issued unless a driver's examination has been administered by the department.

Cross−reference: See also ch. Trans 129, Wis. adm. code.

(cm) To operate "Class D" vehicles to any person under 18 years of age, unless the person has accumulated at least 30 hours of behind−the−wheel driving experience, at least 10 hours of which were during hours of darkness. Each hour of behind−the−wheel driving experience while accompanied by a qualified instructor, as defined in s. 343.07 (1c), shall be considered to be 2 hours of behind−the−wheel driving experience, except that no more than 5 hours of behind−the−wheel driving experience while accompanied by a qualified instructor may be counted in this manner. This paragraph does not apply to applicants for a restricted license under s. 343.08 or a special restricted operator's license under s. 343.135. The department may promulgate rules that waive the requirement of accumulating at least 30 hours of behind−the−wheel experience for qualified applicants who are licensed by another jurisdiction to operate "Class D" vehicles.

(d) To any person whose dependence on alcohol has attained such a degree that it interferes with his or her physical or mental health or social or economic functioning, or who is addicted to the use of controlled substances or controlled substance analogs, except that the secretary may issue a license if the person submits to an examination, evaluation or treatment in a treatment facility meeting the standards prescribed in s. 51.45 (8) (a), as directed by the secretary, in accordance with s. 343.16 (5).

(e) To any person who is unable to exercise reasonable control over a motor vehicle, as defined by the department by rule.

(f) To any person who is required by this chapter to take an examination, unless such person takes and successfully passes such examination. Deaf persons otherwise qualified under this chapter to receive a license shall be issued such license in the discretion of the secretary.

(g) To any person who is required under the motor vehicle financial responsibility laws of this state to furnish proof of financial responsibility, and who has not furnished such proof in the manner prescribed by statute and any lawful rules of the department pertaining thereto.

(h) To any person when the secretary has good cause to believe that the operation of a motor vehicle on the highways by such person will be inimical to the public safety or welfare.

(i) To any person who has been convicted of any offense specified under ss. 940.225, 948.02, 948.025, 948.07, or 948.085 or adjudged delinquent under ch. 938 for a like or similar offense, when the sentencing court makes a finding that issuance of a license will be inimical to the public safety and welfare. The prohibition against issuance of a license to the offenders shall apply immediately upon receipt of a record of the conviction and the court finding by the secretary, for a period of one year or until discharge from any jail or prison sentence or any period of probation, extended supervision or parole with respect to the offenses specified, whichever date is the later. Receipt by the offender of a certificate of discharge from the department of corrections or other responsible supervising agency, after one year has elapsed since the prohibition began, entitles the holder to apply for an operator's license. The applicant may be required to present the certificate of discharge to the secretary if the latter deems it necessary.

(k) To any person who is not a resident.

(L) To any person who does not satisfy the requirements under s. 343.165 (1).

(m) To any person who has been declared incompetent under s. 54.25 (2) (c) 1. d. to apply for an operator's license.

(2) The department shall not issue a commercial driver license, including a renewal or reinstated license, to any person, or reinstate a person's authorization to operate a commercial motor vehicle, during any period of disqualification under s. 343.315 or 49 CFR 383.51, under the law of another jurisdiction disqualifying a person from operating a commercial motor vehicle under circumstances similar to those specified in s. 343.315 or 49 CFR 383.51, or under a determination by the federal motor carrier safety administration that the person is no longer qualified to operate a commercial motor vehicle under 49 CFR 391, or to any person whose operating privilege is revoked, suspended, or canceled. Any person who is known to the department to be subject to disqualification as described in s. 343.44 (1) (d) shall be disqualified by the department as provided in s. 343.315.

(3) The department shall not issue a commercial driver license valid for use in interstate commerce to any person who is less than 21 years of age or who does not meet the physical qualifications for drivers contained in 49 CFR 391 or rules of the department concerning qualifications of drivers in interstate commerce.

History: 1971 c. 40 s. 93; 1971 c. 154 s. 79 (3); 1971 c. 219; 1975 c. 184 s. 13; 1975 c. 421; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 41, 238, 273, 360, 447; 1983 a. 17, 243; 1985 a. 202; 1987 a. 40, 122; 1987 a. 332 s. 64; 1987 a. 403; 1989 a. 31, 105; 1993 a. 16, 227, 363, 399, 491; 1995 a. 27 s. 9145 (1); 1995 a. 77, 113, 448; 1997 a. 27, 84, 283; 1999 a. 9, 140; 2001 a. 38; 2003 a. 33; 2005 a. 126, 149, 277, 387; 2007 a. 20, 97; 2009 a. 28, 103, 302; 2011 a. 23, 32, 260; 2013 a. 371.

Cross−reference: See also s. PI 21.04, Wis. adm. code.

Performance of the duty to apply sub. (7), 1987 stats. [now sub. (1) (e)], delegated to a state driver license examiner is within the rule of civil immunity. Lifer v. Raymond, 80 Wis. 2d 503, 259 N.W.2d 537 (1977).

The offering of driver education courses by public schools is optional rather than mandatory; but if offered, all qualified students must be allowed to participate. The state superintendent may require private schools to consent to on−site inspections for compliance verification as a condition of approval granted those schools under that section. 59 Atty. Gen. 27.

343.065 Restricted commercial driver license. (1) (a) If an applicant for a commercial driver license is less than 21 years of age or does not meet the physical qualifications for drivers contained in 49 CFR 391 or an alternative federally approved driver qualification program established by the department by rule but is at least 18 years of age and otherwise qualified under this chapter and, subject to par. (b), the rules of the department, the department may issue the applicant a commercial driver license restricted to authorizing the operation of commercial motor vehicles not in interstate commerce.

(b) An applicant with diabetes controlled by insulin is not eligible for a restricted commercial driver license under this section if the applicant had, in the 3−year period prior to the date of the application, any moving violation, or any reportable at−fault accident, due to diabetes while operating any motor vehicle. The department may not establish by rule a more restrictive eligibility standard relating to moving violations and at−fault accidents for applicants under this section who have diabetes controlled by insulin.

(2) A commercial driver license issued under this section shall clearly identify that the license does not authorize the operation of commercial motor vehicles in interstate commerce.

(3) (a) If a person issued any commercial driver license under this chapter authorizing operation of commercial motor vehicles in interstate commerce does not have on file with the department a current certification specified in s. 343.14 (2) (im) 1m. a. cover-

ing the person's physical qualifications, the department may downgrade the commercial driver license to a restricted commercial driver license under this section and impose a "K" restriction on the license.

(b) The department shall promulgate rules to define "downgrade" in accordance with federal law and regulations or guidance from the applicable federal agency, to establish the process for downgrading a commercial driver license and whether or not a new commercial driver license document will be issued after a commercial driver license is downgraded, and to establish the process for reinstating a downgraded commercial driver license after the department receives from the licensee a valid medical certification or other appropriate certification of physical qualifications.

History: 1989 a. 105; 1995 a. 113; 2011 a. 32; 2015 a. 123.

Cross−reference: See also ch. Trans 112, Wis. adm. code.

343.07 Instruction permits. (1c) DEFINITION. In this section, "qualified instructor" means a person employed by a public school, private school, or tribal school, as defined in s. 115.001 (15m), holding an operator's license and meeting the teaching certification standards of the department of public instruction or the technical college system board to teach driver education; or an instructor of a school licensed under s. 343.61; or a teacher or student teacher in a driver education course for teachers conducted by an institution of higher education.

(1g) REGULAR PERMIT; ISSUANCE, RESTRICTIONS. Upon application therefor by a person at least 15 years and 6 months of age who, except for age or lack of training in the operation of a motor vehicle, is qualified to obtain an operator's license and has passed such knowledge test as the department may require, the department may issue a regular instruction permit. If the application is made by a male who is at least 18 years of age but less than 26 years of age, the application shall include the information required under s. 343.14 (2) (em). The permit entitles the permittee to operate a motor vehicle, except a commercial motor vehicle, school bus, or Type 1 motorcycle, a motor bicycle, or a moped, upon the highways, subject to the following restrictions:

(a) Except as provided in this subsection, no permittee may operate a motor vehicle unless accompanied by a person who has at least 2 years of licensed driving experience, who presently holds a valid regular license, as defined in s. 343.03 (3) (a), who occupies the seat beside the permittee and who is one of the following:

1. A qualified instructor who is 19 years of age or older. If the motor vehicle is equipped with dual controls, up to 3 other persons, in addition to the qualified instructor, may occupy seats in the motor vehicle other than the front seat.

2. The permittee's parent, guardian or spouse who is 19 years of age or older. In addition to the parent, guardian or spouse, the permittee's immediate family members may occupy seats in the motor vehicle other than the front seat.

3. A person who is 21 years of age or older. If the permittee is under 18 years of age, this subdivision applies only if the licensed person has been designated in writing to accompany the permittee by the permittee's parent or guardian prior to operation of the vehicle by the permittee.

(bm) Except as provided in par. (a), no permittee may operate a motor vehicle upon a highway in this state whenever any person is in the motor vehicle.

(cm) If the permittee is at least 16 years of age, in addition to the licensed accompanying operator, one other licensed person 25 years of age or more with at least 2 years' driving experience may occupy a seat in the motor vehicle other than the front seat.

(d) The permittee shall not operate a motor vehicle during the hours of darkness unless accompanied by:

1. A licensed person 25 years of age or more, with at least 2 years' licensed driving experience, occupying the seat beside the permittee; or

2. A qualified instructor.

(e) The permittee may operate a motor vehicle when accompanied by an authorized license examiner for the purpose of examining the permittee's ability to operate a motor vehicle.

(1m) COMMERCIAL MOTOR VEHICLE AND SCHOOL BUS INSTRUCTION PERMITS; ISSUANCE, RESTRICTIONS. Upon application therefor by a person at least 18 years of age who holds a valid operator's license issued under this chapter and who, except for lack of training in the operation of a commercial motor vehicle or school bus, is qualified to obtain authorization for the operation of such vehicle including having passed the applicable knowledge tests, the department may issue an instruction permit for commercial motor vehicle or school bus operation. A permit limited to commercial motor vehicle instructional operation entitles the permittee to operate only a commercial motor vehicle upon the highways. A permit limited to school bus instructional operation entitles the permittee to operate only a school bus upon the highways. Both permits are subject to the following restrictions:

(a) Except as provided in par. (am), the permittee may not operate a commercial motor vehicle or school bus unless accompanied by a qualified instructor or a licensed person 21 years of age or older with a valid license authorizing the person to operate such vehicle, occupying the seating position nearest to the driver. No passengers are allowed in the vehicle, except that when the accompanying operator is a qualified instructor up to 3 other permittees also being trained may occupy seats in the vehicle. The permittee may operate a commercial motor vehicle carrying property under this paragraph.

(am) 1. A permittee may operate a commercial motor vehicle or school bus, other than a vehicle type specified in s. 343.04 (2) (a), (c) or (f), within this state unaccompanied by a qualified instructor or a licensed person 25 years of age or older with at least 2 years of licensed driving experience in a representative vehicle and a valid license authorizing the person to operate such vehicle if the permittee has taken and passed the applicable knowledge tests and all of the following requirements are met:

a. The permittee is operating the vehicle in connection with a driver training course or program approved by the department.

b. The vehicle is being used by the permittee exclusively for driver training purposes and not for the purposes of carrying property or passengers.

c. Direct, uninterrupted audio or audiovisual electronic communication between a qualified instructor and the permittee is maintained at all times the permittee is operating the vehicle.

2. This paragraph shall apply to the extent permitted under federal law.

(b) Unless the permittee is at least 21 years of age, the instruction permit is not valid authorization for operation in interstate commerce and that lack of authorization shall be clearly indicated on the permit.

(c) The permittee may operate a commercial motor vehicle or school bus when accompanied by an authorized license examiner for the purpose of examining his or her ability to operate a commercial motor vehicle or school bus.

(d) No person holding an instruction permit issued under this subsection may operate a tank vehicle unless the tanks are empty and, if the tanks contained hazardous materials, purged or a vehicle transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73.

(2) TRAINING CERTIFICATE REQUIRED. Except for persons who qualify for a license under s. 343.08, the department shall not issue an instruction permit to anyone under 18 years of age, unless it has a certificate from the applicant's qualified instructor to the effect that the applicant is enrolled in an approved driver education and training course for the purpose of the practice driving phase.

(3) DURATION; CANCELLATION. An instruction permit to operate vehicles other than commercial motor vehicles or school buses is valid for 12 months except that it may be canceled upon receipt of information, by the secretary, of noncompletion or unsatisfac-

tory completion of a driver education and training course by a permittee under the age of 18. An instruction permit to operate commercial motor vehicles or school buses is valid for 180 days.

(4) INSTRUCTION PERMITS; TYPE 1 MOTORCYCLE, MOTOR BICYCLE AND MOPED. (a) Subject to s. 343.16 (1) (a), upon application by a person who qualifies for issuance of a license under s. 343.06 (1) (c) and who wishes to qualify for the operation of a Type 1 motorcycle, the department may issue an instruction permit for the operation of "Class M" vehicles.

(b) The permit for Type 1 motorcycle operation shall be valid for 6 months. The department shall issue no more than 3 permits for Type 1 motorcycle operation to a person unless the person has successfully completed a rider course approved by the department. The department may, by rule, exempt certain persons from the rider course requirement of this paragraph. The permit for Type 1 motorcycle operation entitles the permittee to operate a Type 1 motorcycle subject to the following restrictions:

1. No passenger may accompany the permittee except that a person with at least 2 years of licensed driving experience and whose license is endorsed for Type 1 motorcycle operation may ride as a passenger−instructor.

2. The permittee may not operate a Type 1 motorcycle during hours of darkness unless accompanied by a licensed person 25 years of age or more and meeting the requirements of subd. 1.

(c) The permit for moped and motor bicycle operation shall be valid for 6 months and entitles the permittee to operate a moped or motor bicycle subject to restrictions specified by the department by rule.

Cross−reference: See also ch. Trans 129, Wis. adm. code.

(6) SPECIAL INSTRUCTIONAL PERMITS. This section does not apply to instructional permits issued under s. 343.075.

(7) PENALTY FOR RESTRICTION VIOLATIONS. (a) Notwithstanding s. 343.43 (1) (d) and (3m), any person who violates sub. (1g) (a), (bm), or (d) or (4) (b) 1. or 2. shall be required to forfeit $50 for the first offense and not less than $50 nor more than $100 for each subsequent offense.

(b) Upon receiving notice of a person's conviction for a violation of sub. (1g) (a), (bm), or (d) or (4) (b) 1. or 2., the department shall notify any adult sponsor who has signed for the person under s. 343.15 (1) of the conviction.

History: 1971 c. 164; 1973 c. 199; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 128, 273; 1979 c. 345; 1983 a. 243; 1985 a. 65, 202; 1987 a. 122; 1989 a. 87, 105, 359; 1991 a. 12, 269, 316; 1993 a. 16, 24, 399; 1995 a. 27 s. 9145 (1); 1997 a. 27; 1999 a. 9; 2001 a. 93; 2003 a. 33; 2005 a. 149, 294, 466; 2007 a. 97; 2009 a. 302; 2015 a. 123.

Although the liability of a passenger−teacher for the negligence of his student driver has generally been based on principles of agency, the passenger's liability may also arise from violation of an independent duty to supervise and control the automobile based upon his agreement, as an experienced driver, to instruct and supervise an inexperienced driver. Hoeft v. Friedel, 70 Wis. 2d 1022, 235 N.W.2d 918 (1975).

343.075 Instructional permits for applicants for special restricted operators' licenses. The department may require an applicant for a special restricted operator's license under s. 343.135 to first obtain an instructional permit if the department deems it advisable. The department shall determine the requirements for issuance of an instructional permit under this section and the restrictions, if any, on such permits.

History: 1979 c. 345.

343.08 Restricted licenses for persons under 18 years of age. (1) Upon application therefor, the department may issue a restricted license to a person who is at least 14 and less than 18 years of age if the following conditions, in addition to any others specified in this chapter, are fulfilled:

(a) The department must be satisfied that it is necessary for the applicant to operate an automobile, farm truck, dual purpose farm truck, Type 1 motorcycle powered with an engine of not more than 125 cubic centimeters displacement, Type 2 motorcycle, moped or motor bicycle owned and registered by the applicant's parent or guardian or a farm truck leased to the applicant's parent or guardian.

(b) The applicant, accompanied by a parent or guardian, must have appeared in person before an examining officer with a certificate of birth to show that the applicant is at least 14 years of age.

(c) The applicant must have passed an examination as specified in s. 343.16, including a test of the applicant's ability to safely operate the type of vehicle which the applicant is making application for license to operate.

(2) (a) A restricted license issued pursuant to this section is valid only until the licensee secures an operator's license issued pursuant to s. 343.03 or reaches 18 years of age and, except as provided in par. (b), entitles the licensee to operate an automobile, farm truck, dual purpose farm truck, Type 1 motorcycle powered with an engine of not more than 125 cubic centimeters displacement, Type 2 motorcycle, moped or motor bicycle owned and registered by the licensee's parent or guardian or a farm truck leased to the licensee's parent or guardian or any combination of these vehicles, depending on the restrictions placed by the department on the particular license.

(b) A license issued pursuant to this section does not authorize the licensee to operate any such vehicle during hours of darkness or to operate a vehicle for hire or in a city having a population of 500,000 or more or to operate a school bus or a commercial motor vehicle, including a farm truck or dual purpose farm truck defined as a commercial motor vehicle, or taxicab.

History: 1977 c. 29 s. 1654 (7) (a); 1977 c. 273; 1983 a. 223, 227, 243, 270, 538; 1985 a. 65; 1989 a. 105; 1991 a. 316.

343.085 Probationary licenses to new drivers. (1) (a) Except as provided in par. (b) and sub. (2), the department shall issue a probationary license to all applicants for an original license. The probationary license shall remain in effect as provided in s. 343.20 (1) (a).

(b) The department may not issue a probationary license to operate "Class D" vehicles under this section to an applicant who is under 18 years of age unless the applicant has held an instruction permit issued under s. 343.07 for not less than 6 months and, during the 6−month period immediately preceding application, has not committed a moving violation, specified by the department by rule, resulting in a conviction. The department may promulgate rules to waive the requirement of holding an instruction permit for not less than 6 months for qualified applicants who are licensed by another jurisdiction to operate "Class D" vehicles.

(2) (a) Any person moving to this state who has been licensed in another jurisdiction for at least 3 years, who presently holds a license, other than an instruction permit, from another jurisdiction which has not expired for more than 6 months and who has passed the person's 21st birthday is exempt from this section.

(b) Applicants issued a commercial driver license are exempt from this section.

(c) Any person entitled to a regular license under an agreement entered into under s. 343.16 (1) (d) is exempt from this section.

(2m) (a) Except as provided in this subsection, during the 9−month period after issuance of a probationary license under this section, no licensee under 18 years of age may operate a "Class D" vehicle upon a highway in this state:

1. If, in addition to the licensee, the vehicle is occupied by any person other than the following:

a. Any number of members of the licensee's immediate family.

b. A person who meets the requirements under s. 343.07 (1g) (a).

c. Not more than one other person not described in subd. 1. a. and b.

2. Between the hours of 12 midnight and 5 a.m., unless the licensee's parent or guardian, or a person who meets the requirements under s. 343.07 (1g) (a), occupies the seat beside the licensee, or unless the licensee is traveling between his or her place of residence, school, and place of employment.

(am) 1. Paragraph (a) does not apply to any licensee to whom all of the following apply:

a. The licensee is operating the motor vehicle in the service of an organized program that, without compensation, transports teenagers to their homes.

b. The licensee possesses documentation that identifies the program and the licensee and that authorizes the licensee to operate a motor vehicle in service of the program on the date and time of the operation. The documentation is valid only if signed by a person who is at least 25 years of age and associated with the program.

c. The licensee is accompanied by another licensee, other than a teenager who is being transported, who is in the motor vehicle in the service of the program described in subd. 1. a. and who possesses the documentation described in subd. 1. b.

d. The licensee is accompanied by not more than 3 passengers in the vehicle. The licensee described in subd. 1. c. shall not be counted under this subd. 1. d.

2. Paragraph (a) does not apply to any licensee operating the motor vehicle to or from a program described in subd. 1. a., if the licensee possesses documentation described in subd. 1. b. A licensee described in this subdivision may be accompanied by any number of persons also traveling to or from a program described in subd. 1. a.

(ar) Paragraph (a) does not apply to any licensee operating a motor vehicle for emergency purposes.

(b) 1. The department shall extend the restrictions under par. (a) for an additional 6−month period or until the licensee's 18th birthday, whichever occurs earlier, if any of the following occurs while the licensee is subject to the restrictions under par. (a):

a. The licensee commits a moving violation specified by the department by rule, resulting in a conviction of the licensee.

b. The licensee violates par. (a).

c. A court or the department suspends or revokes the licensee's operating privilege for any reason other than a mental or physical disability.

2. If the department extends a restriction period under subd. 1., the department shall immediately provide notice of the extension by 1st class mail to the person's last−known residence address.

(c) A period of restriction under this subsection does not run while a person's operating privilege is suspended or revoked.

(d) The restrictions under this subsection apply until the period of restriction expires or until the licensee reaches 18 years of age, whichever occurs first.

(e) Nothing in this subsection may be construed to create a separate cause of action against the parent or guardian of a probationary licensee under this subsection or against the owner of any vehicle operated by a probationary licensee under this section.

(3) The secretary may suspend a person's operating privilege under this section when such person has been assigned sufficient demerit points after conviction for traffic violations to require suspension under the rule adopted under sub. (5) and either holds a license issued under this section or by age comes under this section. This subsection applies only to a person holding a probationary license issued before September 1, 2000. This subsection does not apply on or after October 1, 2003.

(4) The secretary may require that a person be continued on probationary status beyond the period of first issuance if such person appears by the records of the department to have repeatedly violated any of the state traffic laws or any local ordinance in conformity therewith or any law of a federally recognized American Indian tribe or band in this state in conformity with any of the state traffic laws. A person may not be continued on probationary status due to a suspension under s. 343.30 (6).

(5) For the purpose of determining when to suspend or to continue a person on probationary status, the secretary may determine and adopt by rule a method of weighing traffic convictions by their seriousness and may change such weighted scale from time to time as experience or the accident frequency in the state makes necessary or desirable. Such scale may be weighted differently for this licensee than the scale used to determine suspensions under s. 343.32. This subsection applies only to a person holding a probationary license issued before September 1, 2000. This subsection does not apply on or after October 1, 2003.

(6) (a) Notwithstanding s. 343.43 (1) (d) and (3m), any person who violates sub. (2m) (a) shall be required to forfeit $50 for the first offense and not less than $50 nor more than $100 for each subsequent offense.

(b) Upon receiving notice of a person's conviction for a violation of sub. (2m) (a), the department shall notify any adult sponsor who has signed for the person under s. 343.15 (1) of the conviction.

History: 1971 c. 204; 1977 c. 29 s. 1654 (7) (a), (c); 1979 c. 306; 1979 c. 331 ss. 59, 72; 1981 c. 314; 1989 a. 105, 359; 1991 a. 39; 1997 a. 84, 237; 1999 a. 9, 185; 2005 a. 149, 294.

343.10 Occupational licenses. (1) APPLICATION FOR OCCUPATIONAL LICENSE. (a) If a person's license or operating privilege is revoked or suspended under this chapter or s. 767.73, 938.34 (14q), 943.21 (3m), or 961.50 and if the person is engaged in an occupation, including homemaking or full−time or part−time study, or a trade making it essential that he or she operate a motor vehicle, the person, after payment of the fee provided in sub. (6), may file an application with the department setting forth in detail the need for operating a motor vehicle. No person may file more than one application with respect to each revocation or suspension of the person's license or operating privilege under this chapter or s. 767.73, 938.34 (14q), 943.21 (3m), or 961.50, except that this limitation does not apply to an application to amend an occupational license restriction.

(b) The application shall be in a form established by the department and shall identify the specific motor vehicle that the applicant seeks authorization to operate, including the vehicle classification and any required endorsements. The application shall include an explanation of why operating the motor vehicle is essential to the person's livelihood and identify the person's occupation or trade. The application shall identify the applicant's employer, and include proof of financial responsibility as specified in s. 343.38 (1) (c) covering the vehicle or vehicles that the applicant requests authorization to operate. The application shall identify the hours of operation and routes of travel being requested by the applicant in accord with the restrictions of sub. (5).

(2) ELIGIBILITY. (a) Except as provided in pars. (b) to (f), and subject to s. 343.165 (5), a person is eligible for an occupational license if the following conditions are satisfied:

1. Except for a revocation or suspension that arose out of the same incident or occurrence for which the person's license or operating privilege is currently revoked or suspended, the person's license or operating privilege was not revoked or suspended previously under this chapter or ch. 344 or s. 943.21 (3m) or 961.50 within the one−year period immediately preceding the present revocation or suspension, except as provided in s. 344.40.

2. The person files proof of financial responsibility as specified under s. 343.38 (1) (c) covering all vehicles for which the person seeks permission to operate.

4. At least 15 days have elapsed since the date of revocation or suspension, or, in the case of an appeal that is subsequently dismissed or affirmed, at least 15 days have elapsed since the date of revocation or suspension following the dismissal or affirmance of the appeal, unless another minimum waiting period or immediate eligibility is expressly provided by law.

(b) No occupational license may permit the operation of any motor vehicles for which the applicant did not hold valid authorization at the time of revocation or suspension of the person's license or operating privilege.

(c) No occupational license permitting the operation of a commercial motor vehicle may be granted to a person.

(d) A person whose operating privilege is revoked under ch. 351 is not eligible for an occupational license except as provided in s. 351.07.

(dm) A person whose operating privilege is suspended or revoked under s. 343.30 (1q) (d) or 343.305 (10) (d) is not eligible for an occupational license.

(e) If the court orders a person to submit to and comply with an assessment and driver safety plan and if the person has 2 or more prior convictions, suspensions or revocations, as counted under s. 343.307 (1), no occupational license may be granted until the person has completed the assessment and is complying with the driver safety plan.

(f) If the court orders under s. 343.301 (1g) that the person's operating privilege for the operation of "Class D" vehicles be restricted to operating vehicles that are equipped with an ignition interlock device, no occupational license may be granted until the person pays the surcharge under s. 343.301 (5) and submits proof that an ignition interlock device has been installed in each motor vehicle to which the order under s. 343.301 applies. A person who is subject to an order under s. 343.301 (1g) (am) 2. need not submit proof that an ignition interlock device has been installed if he or she is participating in a program designated in the order, unless he or she is also subject to an order under s. 343.301 (1g) (am) 1.

(3) DETERMINATION ON APPLICATION. (a) If satisfied that the person is eligible under sub. (2), the department shall consider the number and seriousness of prior traffic convictions in determining whether to issue an occupational license and what restrictions to specify. Notwithstanding s. 343.40, the denial by the department of an application for an occupational license is not subject to judicial review.

(b) The department shall inform a person whose application for an occupational license under sub. (1) is denied in whole or in part of the specific reasons for the denial and that he or she may file one petition for an occupational license under sub. (4).

(4) PETITION FOR OCCUPATIONAL LICENSE. (a) A person whose application for an occupational license under sub. (1) is denied in whole or in part may file a petition with the clerk of the circuit court in the county in which the person resides for an order authorizing the issuance of an occupational license to the person. No person may file a petition under this paragraph unless he or she first pays the fee specified in s. 814.61 (14) to the clerk of the circuit court. The person's petition shall include a copy of the person's current operating record under s. 343.23 (2) and the reasons why the person should be granted an occupational license. The court shall consider the number and seriousness of prior traffic convictions in determining whether to grant the petition and shall state, in writing, its reasons for granting or denying the petition. No person may file more than one petition with respect to a denial of an application for an occupational license under sub. (1).

(b) If the court grants the petition, the court shall issue an order authorizing the issuance of an occupational license to the person. The order for issuance of an occupational license shall include definite restrictions as to hours of the day, hours per week, type of occupation and areas or routes of travel to be permitted under the license as provided in sub. (5). A copy of the order shall be forwarded to the department. Upon receipt of the court order, the petitioner shall be considered an applicant by the department for purposes of this section. The occupational license issued by the department under this paragraph shall contain the restrictions ordered by the court. If the court denies the petition, the clerk of the court shall notify the department of the denial of the petition.

(c) The department shall not issue an occupational license to a person upon receipt of an order from a court under this subsection if the person appears by the records of the department to have filed more than one petition with a court for an occupational license under this subsection.

(5) RESTRICTIONS AND LIMITATIONS ON OCCUPATIONAL LICENSE. (a) *Restrictions*. 1. In addition to any restrictions appearing on the former operator's license of the applicant, the occupational license shall contain definite restrictions as to hours of the day, not to exceed 12, hours per week, not to exceed 60, type of occupation and areas or routes of travel which are permitted under the license. The occupational license may permit travel to and from church during specified hours if the travel does not exceed the restrictions as to hours of the day and hours per week in this subdivision. The occupational license may permit travel necessary to comply with a driver safety plan ordered under s. 343.30 (1q) or 343.305 if the travel does not exceed the restrictions as to hours of the day and hours per week in this subdivision. The occupational license may contain restrictions on the use of alcohol and of controlled substances and controlled substance analogs in violation of s. 961.41.

2. If the applicant has 2 or more convictions, suspensions or revocations, as counted under s. 343.307 (1), the occupational license shall prohibit the applicant from driving or operating a motor vehicle while he or she has an alcohol concentration of more than 0.0.

3. The occupational license of the applicant shall restrict the applicant's operation under the occupational license to vehicles that are equipped with a functioning ignition interlock device if the court has ordered under s. 343.301 (1g) that the person's operating privilege for Class D vehicles be restricted to operating vehicles that are equipped with an ignition interlock device or has ordered under s. 346.65 (6) (a) 1., 1999 stats., that the motor vehicle owned by the person and used in the violation or improper refusal be equipped with an ignition interlock device. A person to whom a restriction under this subdivision applies violates that restriction if he or she removes or disconnects an ignition interlock device, requests or permits another to blow into an ignition interlock device or to start a motor vehicle equipped with an ignition interlock device for the purpose of providing the person an operable motor vehicle without the necessity of first submitting a sample of his or her breath to analysis by the ignition interlock device, or otherwise tampers with or circumvents the operation of the ignition interlock device. Except as provided in s. 343.301 (3) (b), if the occupational license restricts the applicant's operation to a vehicle that is equipped with an ignition interlock device, the applicant shall be liable for the reasonable costs of equipping the vehicle with the ignition interlock device. This subdivision does not apply to an applicant who is subject to an order under s. 343.301 (1g) (am) 2. while the applicant is participating in a program designated in the order, unless he or she is also subject to an order under s. 343.301 (1g) (am) 1.

(b) *Limitations*. Occupational licenses are subject to the limitations specified in ss. 343.30 (1q) (b) and (h), 343.305 (8) (d) and (10) (b) and (em), 343.31 (3m), 343.32 (1m), 767.73 and 961.50.

(6) FEE. No person may file an application for an occupational license under sub. (1) unless he or she first pays to the department the fees specified in s. 343.21 (1) (k) and (n).

(7) DEPARTMENT TO ISSUE OCCUPATIONAL LICENSE. (b) Subject to s. 343.165 (5), the department shall issue an occupational license as soon as practicable upon receipt of an application to the department under sub. (1) or an order from a court under sub. (4) or s. 351.07 for such a license, if the department determines that the applicant is eligible under sub. (2).

(c) If the person is disqualified under s. 343.315 but otherwise eligible under sub. (2), the department shall issue an occupational license authorizing operation only of vehicles other than commercial motor vehicles.

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

(d) An occupational license issued by the department under this subsection shall be in the form of a license that includes a photograph described in s. 343.14 (3), unless the exception under s. 343.14 (3m) applies.

(e) The occupational license issued by the department shall contain the restrictions required by sub. (5). The occupational license authorizes the licensee to operate a motor vehicle only when that operation is an essential part of the licensee's occupation or trade. If the department determines that the applicant is eligible under sub. (2), the department may impose such conditions and limitations upon the authorization to operate motor vehicles as in the secretary's judgment are necessary in the interest of public safety and welfare, including reexamination of the person's qualifications to operate a motor vehicle or a particular type thereof. The department may limit such authorization to include, without limitation, the operation of particular vehicles, particular kinds of operation and particular traffic conditions.

(f) The expiration date of the occupational license is the 2nd working day after the date of termination of the period of revocation or suspension as provided by law, or the expiration date determined under s. 343.20 (1m), whichever is earlier. The occupational license may be revoked, suspended or canceled before termination of that period. An occupational license is not renewable when it expires. If an occupational license expires and is not revoked, suspended or canceled, the licensee may obtain a new license upon that expiration but only if he or she complies with the conditions specified in s. 343.38. Revocation, suspension or cancellation of an occupational license has the same effect as revocation, suspension or cancellation of any other license.

(8) VIOLATION OF RESTRICTIONS. Any person who violates a restriction on an occupational license as to hours of the day, area, routes or purpose of travel, vehicles allowed to be operated, use of an ignition interlock device, sobriety or use of alcohol, controlled substances or controlled substance analogs shall be:

(a) Prosecuted under s. 343.44 (1) (a) if the occupational license was issued while the person's operating privilege was suspended.

(b) Prosecuted under s. 343.44 (1) (b) if the occupational license was issued while the person's operating privilege was revoked.

(9) NOTICE. The department shall inform a person whose operating privilege is revoked or suspended under this chapter of his or her right to apply to the department for issuance of an occupational license under this section.

History: 1973 c. 90, 218; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 193; 1979 c. 102, 316, 355; 1981 c. 20; 1983 a. 27, 525, 526; 1985 a. 32 s. 3; 1985 a. 71, 337; 1987 a. 3; 1989 a. 31, 38, 105, 359; 1991 a. 39, 269, 277; 1995 a. 113, 201, 269, 401, 436, 448; 1997 a. 35, 84, 237; 1999 a. 109; 2001 a. 16 ss. 3409f, 3409g, 4060hw, 4060hy; 2003 a. 33, 80, 200, 326; 2005 a. 443 s. 265; 2007 a. 20, 94; 2009 a. 100, 103; 2011 a. 23, 32; 2015 a. 77, 389.

Cross−reference: See also ch. Trans 117, Wis. adm. code.

A court cannot impose restrictions on occupational licenses other than those in sub. (1), 1987 stats. [now sub. (5) (a)]. State v. Darling, 143 Wis. 2d 839, 422 N.W.2d 886 (Ct. App. 1988).

343.11 Temporary license for persons previously licensed in another state. (1) The department shall not issue a license to a person previously licensed in another jurisdiction unless such person surrenders to the department all valid operator's licenses possessed by the person issued by any other jurisdiction, which surrender operates as a cancellation of the surrendered licenses insofar as the person's privilege to operate a motor vehicle in this state is concerned. When such applicant surrenders the license to the department, the department shall issue a receipt therefor, which receipt shall constitute a temporary license to operate a motor vehicle for a period not to exceed 60 days if the applicant meets the standard required for eyesight and, in the opinion of the examiner, is not a dangerous hazard to the applicant and other users of the highways. The temporary license shall be surrendered to the examiner for cancellation by the department if the 3rd attempt at the driving test is failed and the applicant shall be required to secure a temporary instruction permit for further practice driving.

(2) Within 30 days following licensure in this state, the department shall destroy all surrendered licenses and report to the issuing jurisdiction that the licensee is now licensed in this state.

(2m) Within 30 days following surrender of a license under sub. (1), the department shall provide notice to the elections commission of the person's name and address, the name of the jurisdiction issuing the surrendered license, and the date on which the license was surrendered.

(3) Except as provided in sub. (1), the department may issue a receipt to any applicant for a license, which receipt shall constitute a temporary license to operate a motor vehicle while the application for license is being processed. Such temporary license shall be valid for a period not to exceed 60 days. If the application for a license is processed under the exception specified in s. 343.165 (7), the receipt shall include the marking specified in s. 343.03 (3r).

History: 1971 c. 204; 1975 c. 64; 1977 c. 29 s. 1654 (7) (a); 1977 c. 273; 1989 a. 105; 2003 a. 221; 2005 a. 451; 2007 a. 1; 2011 a. 23, 32; 2015 a. 118.

343.12 School bus operators to obtain special authorization. (1) (a) No person shall operate a school bus without having first applied for and received authorization from the department in the form of a school bus endorsement to the person's valid operator's license.

(b) A motor bus registered in compliance with s. 341.26 (7) and equipped as provided under ss. 347.25 (2) and 347.44 but not transporting children for any purpose is not a school bus within the meaning of this subsection while being used on a highway for purposes other than those specified in s. 340.01 (56) (a) or (am) if the flashing red or flashing red and amber warning lights are not used and all markings on the front and rear of the motor bus indicating that it is a school bus are removed or completely concealed.

(2) Except as provided in sub. (2m), the department shall issue or, except as provided in par. (h), renew a school bus endorsement to a person only if such person meets all of the following requirements:

(a) Subject to sub. (3), is at least 18 years and not more than 70 years of age.

(c) Holds a valid operator's license issued under this chapter.

(dm) Notwithstanding ss. 111.321, 111.322, and 111.335, has been subject to the background investigation specified in sub. (6) (a) and does not have a record of conviction or of adjudication of delinquency or operating privilege revocation that disqualifies the person from issuance or renewal of a school bus endorsement under sub. (7) or rules promulgated by the department under subs. (7) and (8).

(em) Is not, based upon the person's application, listed in the registry under s. 146.40 (4g) (a) 2.

(f) Has sufficient use of both hands and the foot normally employed to operate the foot brake and foot accelerator correctly and efficiently. Such use may be substantiated by competent medical proof submitted by the applicant.

(g) Has passed the physical examination required. Physical standards to be met may be established by the department.

(h) Prior to the initial issuance or renewal of the endorsement, takes and passes a special examination prescribed by the department and administered by the department or by a 3rd−party tester under s. 343.16 (1) (b) to determine his or her ability to safely operate a school bus. This special examination may include the examination required under sub. (3). The department may renew the endorsement without retesting the licensee, except under sub. (3).

(2m) The department shall issue a school bus endorsement to a person, authorizing operation of a school bus that is a commercial motor vehicle, only if such person meets all of the requirements specified in sub. (2) and, in addition, meets all of the following requirements:

(a) Has been or is at the same time issued a valid commercial driver license.

(b) Qualifies for the endorsement under s. 343.17 (3) (d) 3., including passing the knowledge and driving skills tests required for obtaining such an endorsement.

(c) Passes a knowledge test in compliance with the requirements of 49 CFR 383.123 (a) (2).

(d) Passes a driving skills test in compliance with the requirements of 49 CFR 383.123 (a) (3). If the test specified under sub. (2) (h) and s. 343.16 (1) meets the requirements of 49 CFR 383.123 (a) (3), no additional driving skills test is required under this paragraph.

(3) Notwithstanding sub. (2) (a) and (g), the department may issue a school bus endorsement under sub. (2) to a person who is more than 70 years of age if the person meets the requirements specified in sub. (2) (c) to (f) and (h) before issuance of the endorsement and annually takes and passes a physical examination prior to issuance or renewal of the endorsement to determine that the person meets the physical standards established under sub. (2) (g). Notwithstanding sub. (2) (a) and (g), the department may issue a school bus endorsement under sub. (2m) to a person who is more than 70 years of age if the person meets the requirements specified in subs. (2) (c) to (f) and (h) and (2m) (a) to (d) before issuance of the endorsement and annually takes and passes a physical examination prior to issuance or renewal of the endorsement to determine that the person meets the physical standards established under sub. (2) (g).

(4) (a) Notwithstanding sub. (1), a person may operate a school bus in this state if the person is a nonresident holding a valid commercial driver license with an "S" endorsement and the school bus is a commercial motor vehicle or, if the school bus is not a commercial motor vehicle, the person is a resident of Iowa, Illinois, Michigan, or Minnesota holding a valid operator's license and any additional endorsements required by the person's home jurisdiction for the operation of a school bus.

(b) The department shall, by rule, establish standards for the employment by an employer of a person under par. (a) as an operator of a school bus in this state. The rules may require the person to meet the qualifications contained in sub. (2), (2m), or (3) and any rules of the department applicable to residents, except that the rules shall require the person to meet the qualifications contained in sub. (2) (dm) and (em). The rules shall also require the employer to perform the actions specified in s. 121.555 (3) (a) 1. and 3.

(6) (a) Notwithstanding ss. 111.321, 111.322, and 111.335, prior to the initial issuance or renewal of a school bus endorsement, the department shall conduct a background investigation of the applicant. In conducting the background investigation, the department shall obtain from the records maintained by the department of justice a criminal history search of the applicant. If the applicant has not resided in this state at any time within the 2 years preceding the date of the search, the department shall make a good faith effort to obtain additional criminal history information from any state in which the applicant has resided during this time period or from any other applicable federal or state agency. The department shall record in the applicant's file specified in s. 343.23 (2) (a) the date on which the background investigation was completed.

(b) The department may require an applicant for the initial issuance or renewal of a school bus endorsement to be fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's fingerprints, or by other technologies approved by law enforcement agencies. The department of justice may provide for the submission of the fingerprint cards or fingerprints by other technologies to the federal bureau of investigation for the purposes of verifying the identity of the person fingerprinted and obtaining records of his or her criminal arrests and convictions.

(c) The department shall require an applicant for an endorsement under this section to specify on the application whether the applicant is listed in the registry under s. 146.40 (4g) (a) 2.

(d) Notwithstanding ss. 111.321, 111.322, and 111.335, 4 years after the initial issuance or renewal of a school bus endorsement, the department of transportation shall obtain from the records maintained by the department of justice a criminal history search of the person to whom the school bus endorsement is issued and, if applicable, take action under s. 343.20 (1) (d) 2.

(7) (a) Notwithstanding ss. 111.321, 111.322, and 111.335, the department may not issue or renew a school bus endorsement if, within the time period specified by the department by rule but not less than 2 years immediately preceding the date of application, the applicant has been convicted of a violation of any of the following state laws or any local ordinance in conformity with any of the following state laws or any federal law or law of a federally recognized American Indian tribe or band in this state or law of another jurisdiction that would be a violation of any of the following state laws if the person had committed the offense in this state and been convicted of the offense under the laws of this state:

1. Reckless driving under s. 346.62.

2. Operating a motor vehicle while operating privileges are suspended or revoked or while the operator is disqualified under s. 343.44 (1) (a), (b), or (d).

3. Second−degree reckless homicide under s. 940.06 if the offense results from the operation of a motor vehicle.

4. Homicide by intoxicated use of a vehicle under s. 940.09 (1).

5. Homicide by negligent operation of a vehicle under s. 940.10.

6. Injury by intoxicated use of a vehicle under s. 940.25 (1).

7. Causing injury by operating a motor vehicle under the influence of an intoxicant or other drug under s. 346.63 (2).

8. Causing injury by operating a commercial motor vehicle with a prohibited alcohol concentration under s. 346.63 (6).

9. Operating a motor vehicle under the influence of an intoxicant or other drug or with a prohibited alcohol concentration under s. 346.63 (1).

10. Operating a commercial motor vehicle with a prohibited alcohol concentration under s. 346.63 (5).

11. Operating a motor vehicle while under the legal drinking age with a prohibited alcohol concentration under s. 346.63 (2m).

12. Failure to stop and render assistance at the scene of a motor vehicle accident under s. 346.67 (1) (c).

13. Fleeing from or attempting to elude a traffic officer under s. 346.04 (3).

14. Operating a commercial motor vehicle or being on duty time while having any alcohol concentration, within 4 hours of consuming alcohol or being intoxicated, or while possessing alcohol under s. 346.63 (7) (a) if the applicant has been previously convicted of any offense under s. 346.63 (7) (a) or any local ordinance in conformity with s. 346.63 (7) (a) or any federal law or law of a federally recognized American Indian tribe or band in this state or law of another jurisdiction that would be a violation of s. 346.63 (7) (a) if the applicant had committed the offense in this state and been convicted of the offense under the laws of this state.

(b) Notwithstanding ss. 111.321, 111.322, and 111.335, the department may not issue or renew a school bus endorsement if, within 2 years immediately preceding the date of application, the applicant has had his or her operating privilege revoked under s. 343.305 (10) for refusal to submit to chemical testing or has been convicted in another jurisdiction or had his or her operating privilege in another jurisdiction suspended or revoked under any law of that jurisdiction prohibiting refusal of chemical testing that is comparable to s. 343.305.

(c) Notwithstanding ss. 111.321, 111.322, and 111.335, the department may not issue or renew a school bus endorsement if, within the time period specified by the department by rule but not less than 5 years immediately preceding the date of application, the applicant has been convicted of a violation of any of the following state laws or any local ordinance in conformity with any of the following state laws or any federal law or law of a federally recognized American Indian tribe or band in this state or law of another jurisdiction that would be a violation of any of the follow-

ing state laws if the person had committed the offense in this state and been convicted of the offense under the laws of this state:

1. First−degree intentional homicide under s. 940.01.

2. First−degree reckless homicide under s. 940.02.

3. Felony murder under s. 940.03.

4. Second−degree intentional homicide under s. 940.05.

5. Assisting suicide under s. 940.12.

6. Felony battery under s. 940.19 (2), (4), (5), or (6).

7. Sexual exploitation by a therapist under s. 940.22 (2).

8. Felony sexual assault under s. 940.225 (1), (2), or (3).

9. Abuse of a vulnerable adult under circumstances constituting a felony under s. 940.285 (2).

10. Abuse of a resident of a penal facility under s. 940.29.

11. Abuse or neglect of a patient or resident under circumstances constituting a felony under s. 940.295.

11m. Trafficking under s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies.

12. Sexual assault of a child under s. 948.02 (1) or (2).

13. Engaging in repeated acts of sexual assault of the same child under s. 948.025.

14. Physical abuse of a child under s. 948.03 (2).

14m. Engaging in repeated acts of physical abuse of the same child under s. 948.03 (5).

15. Sexual exploitation of a child under s. 948.05.

15m. Trafficking a minor under s. 948.051.

16. Causing a child to view or listen to sexual activity under s. 948.055.

17. Incest with a child under s. 948.06.

18. Child enticement under s. 948.07.

19. Use of a computer to facilitate a child sex crime under s. 948.075.

20. Soliciting a child for prostitution under s. 948.08.

20m. Sexual assault of a child placed in substitute care under s. 948.085.

21. Sexual assault of a student by a school instructional staff person under s. 948.095.

22. Felony exposing a child to harmful material or harmful descriptions or narrations under s. 948.11 (2) (a) or (am).

23. Possession of child pornography under s. 948.12.

24. Child sex offender working with children under s. 948.13 (2).

25. Neglecting a child under circumstances constituting a felony under s. 948.21.

26. Abduction of a child under s. 948.30.

27. Any felony crime in the commission of which a motor vehicle is used other than those crimes specified in this paragraph or par. (b).

(d) Notwithstanding ss. 111.321, 111.322, and 111.335, the department may not issue or renew a school bus endorsement if the applicant has been adjudicated delinquent on or after his or her 12th birthday for committing any crime or other offense specified under pars. (a) to (c) or by the department by rule under this subsection within the time period specified under pars. (a) to (c) or by the department by rule under this subsection.

(8) (a) The department shall promulgate rules specifying crimes or other offenses, in addition to those specified in sub. (7), the conviction for which, or adjudication of delinquency for which, disqualifies the applicant from initial issuance or renewal of a school bus endorsement and, for each such crime or offense, the time period within which the disqualification applies. The time period may be permanent but may not be less than the time period specified in sub. (7) (a) to (c) for a crime or other offense specified in sub. (7) (a) to (c). The disqualifying crimes or other offenses specified by the department shall apply notwithstanding ss. 111.321, 111.322, and 111.335 and shall include crimes under chs. 940 and 944.

(b) Notwithstanding ss. 111.321, 111.322, and 111.335, the department may promulgate rules specifying any registry maintained by an agency of the state related to a person being reported or investigated for criminal activity, in addition to the registry specified in sub. (6) (c), the listing of the applicant on which disqualifies the applicant from initial issuance or renewal of a school bus endorsement.

(c) The department shall promulgate rules to implement and administer this section, including all of the following:

1. For each disqualifying crime or offense specified in sub. (7) (a) and (c), the time period within which the disqualification applies.

2. Procedures for obtaining additional criminal history information in compliance with sub. (6) (a) for applicants who have not resided in this state at anytime in the preceding 2 years. The department may by rule establish fees for obtaining such information that are not greater than the fees charged to the department in connection with acquiring such information.

(9) Any person who violates sub. (1) shall be:

(a) Fined not less than $200 nor more than $600 and may be imprisoned for not more than 6 months or both for the first such offense.

(b) Fined not less than $300 nor more than $1,000 and imprisoned for not less than 5 days nor more than 6 months for the 2nd offense occurring within 3 years.

(c) Fined not less than $1,000 nor more than $2,000 and imprisoned for not less than 10 days nor more than 6 months for the 3rd or subsequent offense occurring within 3 years.

History: 1971 c. 213 s. 5; 1973 c. 174, 218; 1975 c. 19, 199; 1977 c. 29 s. 1654 (7) (a); 1977 c. 125; 1977 c. 193 s. 17; 1977 c. 273, 418, 447; 1981 c. 71; 1981 c. 334 s. 25 (1); 1983 a. 175, 459, 480; 1985 a. 337; 1987 a. 3; 1989 a. 105, 176, 359; 1991 a. 39, 277; 1993 a. 16; 1995 a. 113; 2003 a. 33, 280, 326, 327; 2005 a. 253, 277; 2007 a. 116; 2013 a. 96; 2015 a. 366.

Cross−reference: See also ch. Trans 112, Wis. adm. code.

Standards under sub. (2) (g) are not exempt from requirements under s. 111.34 (2) (b). Bothum v. DOT, 134 Wis. 2d 378, 396 N.W.2d 785 (Ct. App. 1986).

343.125 Endorsements for transporting certain hazardous materials. (1) In this section, ""H" endorsement" means an endorsement specified in s. 343.17 (3) (d) 1m.

(2) The department may not issue or renew an "H" endorsement to a commercial driver license unless all of the following apply:

(a) The applicant has submitted to the department documentary proof, in one or more of the following forms, that the applicant is a U.S. citizen or that the applicant's permanent presence in the United States is authorized under federal law:

1. A U.S. passport.

2. A birth certificate bearing an official seal or other mark of authentication and issued by a state, county, or municipality within the United States or by a territory or possession of the United States.

3. A certification of birth abroad issued by the federal department of state.

4. A certificate of naturalization.

5. A certificate of U.S. citizenship.

6. A permanent resident card or alien registration receipt card.

7. Any other proof specified in 49 CFR 383.71 (a) (9).

(b) If the applicant submits proof described under par. (a) 6. or 7., the applicant submits his or her bureau of citizenship and immigration services alien registration number.

(c) The applicant has passed any knowledge test required by the department.

(d) The department of transportation has received notice from the federal transportation security administration of the federal department of homeland security that the applicant does not pose

a security threat warranting denial of an "H" endorsement or that the applicant has received a waiver under 49 CFR 1572.143.

(3) (a) Except as provided in par. (b), an "H" endorsement shall expire 4 years after the licensee's next birthday after the date of issuance or renewal.

(b) 1. The initial period for which an "H" endorsement is valid is the period from the date on which the "H" endorsement is issued until the earlier of the following dates:

a. The date on which the licensee's commercial driver license expires. This subd. 1. a. does not apply if the licensee renews his or her commercial driver license at the same time that the "H" endorsement is issued.

b. The date 4 years before the date on which the licensee's commercial driver license expires.

2. Notwithstanding subd. 1., if the period as determined under subd. 1. is less than 12 months, the initial period for which an "H" endorsement is valid is the period from the date on which the "H" endorsement is issued until the later of the dates specified in subd. 1. a. or b.

(4) Within 15 days after receiving notice from the federal transportation security administration of the federal department of homeland security, the department of transportation shall do all of the following:

(a) Update the department's records to reflect the notice received, the issuance, denial, or cancellation of an "H" endorsement, and, if applicable, the expiration date of the "H" endorsement.

(b) Notify the commercial driver license information system of the notice received and the department's action.

(c) Issue the "H" endorsement, if the department received notice described in sub. (2) (d) and the applicant is otherwise eligible for issuance of the "H" endorsement.

(d) Cancel or deny the "H" endorsement, if the notice is of a final administrative determination that the applicant or licensee poses a security threat warranting denial of an "H" endorsement.

(5) Notwithstanding s. 227.42, there is no right to a hearing on any cancellation or denial of an "H" endorsement under this section.

(6) Notwithstanding sub. (3) and s. 343.20 (1) (a), the department may require any person who holds a valid "H" endorsement on November 1, 2003, to apply for renewal of that endorsement, if that endorsement expires after November 1, 2008. The department shall provide the notice required under s. 343.20 (2) (b). The department may cancel the "H" endorsement of any person who fails to renew within the period specified by the department under this subsection. This subsection does not apply to "H" endorsements that are issued or renewed after November 1, 2003.

History: 2003 a. 33.

343.13 Restricted licenses. (1) The department upon issuing any license pursuant to this chapter may, whenever good cause appears, impose restrictions suitable to the licensee's operating ability with respect to the type of or special mechanical control devices required on a motor vehicle which the licensee may operate, or such other restrictions applicable to the licensee as the department may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(2) Notwithstanding sub. (1), the department shall restrict the commercial driver license of any person to comply with 49 CFR 383.

(3) If a court has ordered that a person's operating privilege be restricted for a period of time after the person's operating privilege revocation period is completed to operating vehicles equipped with an ignition interlock device, the license shall include that restriction.

History: 1977 c. 29 s. 1654 (7) (a); 1989 a. 105; 2009 a. 103 s. 32; 2015 a. 123.

Cross−reference: See also ch. Trans 112, Wis. adm. code.

343.135 Special restricted operator's license. (1) ISSUANCE. (a) Except as provided in par. (b), upon application therefor, the department shall issue a special restricted operator's license to any person who meets the following requirements:

1. Is at least 14 years of age and is physically disabled or is at least 16 years of age.

2. Does not possess a valid operator's license issued under this chapter.

3. Pays all required fees.

4. Has passed an examination which includes a test of the applicant's eyesight, ability to read and understand highway signs regulating, warning and directing traffic, knowledge of the traffic laws and an actual demonstration of ability to exercise ordinary and reasonable control in the operation of the vehicle for which the special restricted license is to be issued. An applicant shall furnish the motor vehicle he or she will be operating for use in testing his or her ability to operate the vehicle. The department may waive the demonstration of ability to exercise ordinary and reasonable control in the operation of a moped or motor bicycle as provided in s. 343.16 (2) (d).

(b) The department may not issue a special restricted license to a person whose operating privilege is suspended or revoked.

(2) SCOPE. (a) A special restricted operator's license may be issued only for the specific vehicle or type of vehicle described on the license. A license under this paragraph may not be issued to authorize operation of a commercial motor vehicle or a school bus. A special restricted operator's license may be issued only for the following vehicles:

1. Motor bicycles or mopeds; or

2. Specially designed vehicles having a maximum speed of 35 miles per hour which the department authorizes to be operated on the highway.

(b) If a special restricted operator's license is issued for operation of a vehicle described in par. (a) 2., the vehicle may be operated only by the following persons:

1. The holder of the restricted license.

2. A person licensed under this chapter who operates the vehicle for the limited purposes of repairing or testing the vehicle.

(3) DESIGN OF LICENSE. The special restricted license shall be of the same size and general design of the operator's license, except that it shall bear the words "SPECIAL RESTRICTED LICENSE". The information on the license shall be the same as specified under s. 343.17 (3) and the holder may affix a decal thereto as provided in s. 343.175 (3). All restrictions imposed under sub. (6) shall be listed on the license or on an attachment thereto.

(4) PHYSICAL REQUIREMENTS. The department may set such physical standards as it deems necessary for eligibility for licensing under this section. The standards shall include a vision standard.

(5) EXAMINATION. The department may require an applicant to submit to a medical examination to determine whether the applicant meets the standards set under sub. (4). The applicant shall pay the cost of any such examination.

(6) RESTRICTIONS. The department may impose such restrictions as it deems necessary on any license issued under this section. Such restrictions may include, but are not limited to, the type of vehicle, special equipment, time of day of operation, and specific geographic areas and streets or routes of travel. A vehicle operated under this section shall display a slow moving vehicle emblem as required under s. 347.245.

(7) EXPIRATION; RENEWAL. A special restricted operator's license issued under this section shall expire 2 years after the date of issuance. Within 90 days prior to the expiration of a license, the

holder of the restricted license may renew the license by paying all required fees and passing the examination under sub. (1) (a) 4.

History: 1979 c. 345; 1981 c. 138; 1983 a. 243; 1989 a. 105; 2007 a. 20.

Cross−reference: See also ch. Trans 112, Wis. adm. code.

343.14 Application for license. (1) Every application to the department for a license or identification card or for renewal thereof shall be made upon the appropriate form furnished by the department and shall be accompanied by all required fees. Notwithstanding s. 343.50 (8) (b), names, addresses, license numbers, and social security numbers obtained by the department under this subsection shall be provided to the department of revenue for the purpose of administering ss. 71.93 and 71.935 and state taxes and to the department of workforce development for the sole purpose of enforcing or administering s. 108.22.

(2) The forms for application shall be determined by the department and shall include:

(a) The full legal name and principal residence address of the applicant;

(b) The applicant's date of birth, color of eyes, color of hair, sex, height, weight and race;

(bm) Except as provided in par. (br), the applicant's social security number.

(br) If the applicant does not have a social security number, a statement made or subscribed under oath or affirmation that the applicant does not have a social security number and is not eligible for a social security number. The statement shall provide the basis or reason that the applicant is not eligible for a social security number, as well as any information requested by the department that may be needed by the department for purposes of verification under s. 343.165 (1) (c). The form of the statement shall be prescribed by the department, with the assistance of the department of children and families. A license that is issued or renewed under s. 343.17 in reliance on a statement submitted under this paragraph is invalid if the statement is false.

(c) A statement as to whether the applicant has heretofore been licensed as an operator of any motor vehicle and, if so, when and by what jurisdiction;

(d) Whether any previous license or operating privilege has ever been suspended or revoked or whether application has ever been refused and, if so, the date and place of such suspension, revocation or refusal;

(e) If the application is made by a person under 18 years of age, documentary proof that the applicant is enrolled in a school program or high school equivalency program and is not a habitual truant as defined in s. 118.16 (1) (a), has graduated from high school or been granted a declaration of high school graduation equivalency or is enrolled in a home−based private educational program, as defined in s. 115.001 (3g). For purposes of this paragraph, "documentary proof" means the signature and verification of an adult sponsor as provided in s. 343.15 (1) or the applicant as provided in s. 343.15 (4) (b);

(em) If the application is made by a male who is at least 18 years of age but less than 26 years of age, the form shall notify the applicant that, by submitting the application to the department, the applicant gives his consent to be registered, if required by federal law, with the selective service system and that he authorizes the department to forward information to the selective service system under s. 343.234.

(es) Subject to sub. (2g) (a) 2. d. and s. 343.125 (2) (a) and (b), valid documentary proof that the individual is a citizen or national of the United States or an alien lawfully admitted for permanent or temporary residence in the United States or has any of the following:

1. Conditional permanent resident status in the United States.

2. A valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States.

3. An approved application for asylum in the United States or has entered into the United States in refugee status.

4. A pending application for asylum in the United States.

5. A pending or approved application for temporary protected status in the United States.

6. Approved deferred action status.

7. A pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States.

(f) Subject to s. 343.165 (1), such further information as the department considers appropriate to identify the applicant, including biometric data, and such information as the department may reasonably require to enable it to determine whether the applicant is by law entitled to the license applied for;

(g) A question as to whether the applicant wishes to include his or her name as a donor of an anatomical gift in the record of potential donors maintained by the department. The form shall indicate the following:

1. The applicant is not required to respond to the question under this paragraph in order to obtain a license.

2. The purpose of maintaining the record of potential donors is to facilitate the determination of whether a person is a potential donor in the event of his or her death.

3. An affirmative response to the question under this paragraph does not in itself authorize an anatomical gift. To authorize an anatomical gift, an applicant shall comply with s. 157.06 or 343.175 (2);

(gh) A question as to whether the applicant wishes to designate an additional $2 to support the efforts of Donate Life Wisconsin for the purposes described under s. 250.17 (1).

(h) A certification by the applicant that the motor vehicle in which the person takes the driving skills test is a representative vehicle of the vehicle group that the person operates or expects to operate; and

(im) In addition to the information required under this subsection, the application form for a commercial driver license shall include all of the following:

1m. A certification by the applicant that he or she either:

a. Meets all of the driver qualifications contained in either 49 CFR 391 or in an alternative federally approved driver qualification program established by the department by rule. The department may require the applicant to show the medical certificate of physical examination required by 49 CFR 391.43; or

b. Subject to s. 343.065 (1) (b), meets all of the driver qualifications for drivers in intrastate commerce as established by the department by rule and is applying for a commercial driver license valid only in this state for noninterstate operation.

2m. a. Notwithstanding par. (es), if the person is applying for a commercial driver license other than a license under s. 343.03 (3m), acceptable proof under 49 CFR 383.71 (b) (9) that the individual is a citizen or national of the United States or an alien lawfully admitted for permanent residence in the United States.

b. Notwithstanding par. (es), if the person is applying for a commercial driver license under s. 343.03 (3m), acceptable documentation under 49 CFR 383.71 (f) (2) (i).

(j) A statement as to whether the applicant is a veteran, as defined in s. 45.01 (12), and, if so, whether the applicant wishes to have his or her veteran status indicated on the license or identification card. If the applicant has indicated that he or she is a veteran and wishes to have his or her veteran status indicated on the license or identification card, the applicant shall provide verification from the department of veterans affairs or a county veterans service officer that the applicant is a veteran.

(2g) (a) Notwithstanding ss. 111.321, 111.322, and 111.335 and any other provision of law, in addition to the information required under sub. (2), the application form for an "H" endorsement specified in s. 343.17 (3) (d) 1m. shall include all of the information and statements required under 49 CFR 1572.5 (e), including all of the following:

1. The list of disqualifying felony criminal offenses specified in 49 CFR 1572.103 (b).

2. A statement that the individual signing the application meets all of the following requirements:

a. The individual has not been convicted, or found not guilty by reason of insanity, of any disqualifying felony criminal offense described in subd. 1. in any jurisdiction during the 7−year period preceding the date of the application.

b. The individual has not been released from incarceration in any jurisdiction for committing any disqualifying felony criminal offense described in subd. 1. within the 5−year period preceding the date of the application.

c. The individual is not wanted or under indictment for any disqualifying felony criminal offense described in subd. 1.

d. The individual is a U.S. citizen who has not renounced that citizenship, or is lawfully admitted for permanent residence to the United States. If the applicant is lawfully admitted for permanent residence to the United States, the applicant shall provide the applicant's alien registration number issued by the federal department of homeland security.

3. A statement that the individual signing the application has been informed that s. 343.245 (2) (a) 1. and federal regulations under 49 CFR 1572.5 impose an ongoing obligation to disclose to the department within 24 hours if the individual is convicted, or found not guilty by reason of insanity, of any disqualifying felony criminal offense described in subd. 1., or adjudicated as a mental defective or committed to a mental institution, while he or she holds an "H" endorsement specified in s. 343.17 (3) (d) 1m.

4. Notwithstanding sub. (2) (br) and the provisions of any memorandum of understanding entered into under s. 49.857 (2), the applicant's social security number.

(b) Upon receiving a completed application form for an "H" endorsement specified in s. 343.17 (3) (d) 1m., the department of transportation shall immediately forward the application to the federal transportation security administration of the federal department of homeland security. The department of transportation shall also inform the applicant that the applicant has a right to obtain a copy of the applicant's criminal history record by submitting a written request for that record to the federal transportation security administration.

(2j) Except as otherwise required to administer and enforce this chapter, the department of transportation may not disclose a social security number obtained from an applicant for a license under sub. (2) (bm) to any person except to the department of children and families for the sole purpose of administering s. 49.22, to the department of workforce development for the sole purpose of enforcing or administering s. 108.22, to the department of revenue for the purposes of administering state taxes and collecting debt, or to the driver licensing agency of another jurisdiction.

(2m) The forms for application for a license or identification card or for renewal thereof shall include the information required under s. 85.103 (2).

(2r) Notwithstanding sub. (2j), the department may, upon request, provide to the department of health services any applicant information maintained by the department of transportation and identified in sub. (2), including providing electronic access to the information, for the sole purpose of verification by the department of health services of birth certificate information.

(3) Except as provided in sub. (3m), the department shall, as part of the application process, take a digital photograph including facial image capture of the applicant to comply with s. 343.17 (3) (a) 2. Except as provided in sub. (3m), no application may be processed without the photograph being taken. Except as provided in sub. (3m) and s. 343.165 (4) (d), in the case of renewal licenses, the photograph shall be taken once every 8 years, and shall coincide with the appearance for examination which is required under s. 343.16 (3).

(3m) If the application for a license is processed under the exception specified in s. 343.165 (7), the application may be processed and the license issued or renewed without a photograph being taken of the applicant if the applicant provides to the department an affidavit stating that the applicant has a sincerely held religious belief against being photographed; identifying the religion to which he or she belongs or the tenets of which he or she adheres to; and stating that the tenets of the religion prohibit him or her from being photographed.

(4m) Subject to s. 343.17 (2), the department shall develop designs for licenses and identification cards which are resistant to tampering and forgery and licenses and identification cards issued on or after January 1, 1989, shall incorporate the designs required under this subsection.

(5) No person may use a false or fictitious name or knowingly make a false statement or knowingly conceal a material fact or otherwise commit a fraud in an application for any of the following:

(a) A license.

(b) An identification card.

(6) The department shall disseminate information to applicants for a license relating to the anatomical donation opportunity available under s. 343.175. The department shall maintain a record of applicants who respond in the affirmative to the question under sub. (2) (g). In the event of the death of a person, at the request of a law enforcement officer or other appropriate person, as determined by the department, the department shall examine its record of potential donors and shall advise the law enforcement officer or other person as to whether a decedent is recorded as a potential donor.

(7) A person may notify the department in writing at any time if he or she wishes to include his or her name in the record of potential donors maintained by the department. A donor who revokes his or her gift and who has requested that his or her name be included in the record shall request the department in writing to remove his or her name from the record.

(9) Any person who violates sub. (5) may be fined not more than $1,000 or imprisoned for not more than 6 months or both.

History: 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 124, 360, 447; 1979 c. 306; 1981 c. 20 s. 1848r; 1985 a. 227; 1987 a. 27; 1987 a. 403 s. 256; 1989 a. 105, 294, 298, 359; 1991 a. 269; 1993 a. 363; 1995 a. 113; 1997 a. 27, 119, 191; 1999 a. 9, 80, 88; 2001 a. 93; 2003 a. 33; 2005 a. 25, 59, 126; 2007 a. 20 ss. 3242 to 3254, 9121 (6) (a); 2009 a. 180; 2011 a. 23, 32; 2013 a. 17, 20, 36; 2015 a. 123.

A notice of approved deferred action status issued pursuant to the federal Deferred Action for Childhood Arrivals program constitutes satisfactory proof of legal presence. OAG 2−12.

343.15 Application of persons under 18; liability of sponsors; release from liability; notification of juvenile violation. (1) (a) Except as provided in sub. (4), the application of any person under 18 years of age for a license shall be signed and verified by either of the applicant's parents, or a stepparent of the applicant or other adult sponsor, as defined by the department by rule. The application shall be signed and verified before a traffic officer, a duly authorized agent of the department or a person duly authorized to administer oaths. A signature and verification under this paragraph may be provided electronically in a format designated by the department.

(b) The adult sponsor under par. (a) shall sign and verify on the application that the person under 18 years of age is enrolled in a school program or high school equivalency program and is not a habitual truant as defined in s. 118.16 (1) (a), has graduated from high school or been granted a declaration of high school graduation equivalency or is enrolled in a home−based private educational program, as defined in s. 115.001 (3g).

(2) (a) In this subsection, "custody" does not mean joint legal custody as defined in s. 767.001 (1s).

(b) Any negligence or willful misconduct of a person under the age of 18 years when operating a motor vehicle upon the highways is imputed to the parents where both have custody and either par-

ent signed as sponsor, otherwise, it is imputed to the adult sponsor who signed the application for such person's license. The parents or the adult sponsor is jointly and severally liable with such operator for any damages caused by such negligent or willful misconduct. The liability imputed under this paragraph is limited to a maximum total of the higher of the following:

1. $300,000 for all parents or adult sponsors to all parties arising from any one accident.

2. The limits of any insurance coverage provided to the minor under the parent's or adult sponsor's applicable insurance policies.

(3) Any adult who signed the application of a person under the age of 18 years for a license may thereafter file with the department a verified written request that the license of such minor be canceled. Within 10 days after the receipt of such request the department shall cancel the license. When the license has been so canceled, the adult who signed the application and the parents or guardian of such minor is relieved from the liability which otherwise would be imposed under sub. (2) by reason of having signed such application, or being a parent or guardian, insofar as any negligence or willful misconduct on the part of the minor while operating a motor vehicle subsequent to the cancellation concerned.

(4) (a) The department may issue a license to a person who is under 18 years of age even though an adult sponsor has not signed the application for license if such person is in one of the classes specified in this paragraph or in a substantially similar class specified by the department by rule and if a certificate of insurance to the effect that such person is covered by a motor vehicle policy of liability insurance meeting the requirements of s. 344.33 has been filed with the department. Such policy may be canceled or terminated only after notice as provided in s. 344.34.

1. A person who does not have a living parent.

2. A person who does not reside with his or her parents and who is a full−time student or earning a living.

3. A person who is a ward of the state, county, or court and who has been placed in a foster home or in the care of a religious welfare service.

4. A person who is married and whose spouse is under 18 years of age.

(b) A person who is not required to have an adult sponsor under par. (a) shall sign and verify on the application that he or she is enrolled in a school program or high school equivalency program and is not a habitual truant as defined in s. 118.16 (1) (a), has graduated from high school or been granted a declaration of high school graduation equivalency or is enrolled in a home−based private educational program, as defined in s. 115.001 (3g).

(5) When a citation for a moving traffic violation, under chs. 341 to 349 or under a local ordinance in conformity therewith, is issued to or a notice of revocation under s. 351.027 is sent to a person who is under 18 years of age and required to have a sponsor under this section, the issuing or filing agency shall, within 7 days, notify the person's sponsor or parents of the violation or notice. When the secretary suspends or revokes the operating privilege of a person who is under 18 years of age and who possesses a license and who is required to have a sponsor under this section or when the secretary receives notice that a court has suspended or revoked the operating privilege of such a person, the secretary shall, within 14 days after the suspension or revocation or receipt of the notice of suspension or revocation by the court, respectively, notify the person's sponsor or parents of the suspension or revocation.

History: 1971 c. 45; 1971 c. 213 s. 5; 1971 c. 223; 1973 c. 90; 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 273; 1979 c. 215, 333, 338, 355; 1985 a. 71; 1987 a. 355; 1989 a. 105, 244; 1993 a. 162, 363, 446, 491; 1995 a. 100; 2009 a. 28; 2015 a. 55, 202.

A *Pierringer* release of a minor did not bar the plaintiff's action under sub. (2) against a sponsor. Swanigan v. State Farm Insurance Co. 99 Wis. 2d 179, 299 N.W.2d 234 (1980).

A *Pierringer* release of a minor barred an action for contribution by nonsettling defendants against a sponsor who was not joined in the action by the plaintiff. Jackson v. Ozaukee County, 111 Wis. 2d 462, 331 N.W.2d 338 (1983).

Sub. (2) does not violate the constitutional guarantees of due process or equal protection. Mikaelian v. Woyak, 121 Wis. 2d 581, 360 N.W.2d 706 (Ct. App. 1984).

Parent sponsors are liable under this section for punitive damages assessed against their child. Evidence of the sponsors' wealth is not admissible for purposes of assessing punitive damages against an underage driver. Franz v. Brennan, 150 Wis. 2d 1, 440 N.W.2d 562 (1989).

The suspension of a minor's license does not relieve the sponsoring adult from liability if after suspension of the license the minor, while operating without a license, causes injury. Relief from liability can only be had by applying for cancellation of the license under sub. (3). Johnson v. Schlitt, 211 Wis. 2d 832, 565 N.W.2d 305 (Ct. App. 1997), 96−1304.

The scope of parental liability under this section does not extend to a child's conduct distinct from operating a vehicle. The child's shooting of a gun from a car while driving was outside the ambit of the statute. Reyes v. Greatway Insurance Co. 227 Wis. 2d 357, 597 N.W.2d 687 (1999), 97−1587.

Parents are both liable under this statute when one signs as a sponsor. It is irrelevant that one withdrew as the sponsor when the other signed the documents to assume sponsorship. Beerbohm v. State Farm Mutual Automobile Insurance Co. 2000 WI App 105, 235 Wis. 2d 182, 612 N.W.2d 338, 99−1784.

As sub. (2) (a) excludes joint legal custody under s. 767.001 (1s) from the meaning of custody under sub. (2) (b), custody in sub. (2) (b) can only mean the natural legal custody that married parents share. Because divorced parents do not share that type of custody, liability may not be imputed to the non−sponsoring parent under sub. (2) (b). LaCount v. Salkowski, 2002 WI App 287, 258 Wis. 2d 635, 654 N.W.2d 295, 02−0630.

343.16 Examination of applicants; reexamination of licensed persons. (1) REQUIRED TESTING OF KNOWLEDGE AND DRIVING SKILLS. (a) *General.* Except when examination by a 3rd−party tester is permitted under pars. (b) to (c), the department shall examine every applicant for an operator's license, including applicants for license renewal as provided in sub. (3), and every applicant for authorization to operate a vehicle class or type for which the applicant does not hold currently valid authorization, other than an instruction permit. Except as provided in sub. (2) (cm) and (e), the examinations of applicants for licenses authorizing operation of "Class A", "Class B", "Class C", "Class D" or "Class M" vehicles shall include both a knowledge test and an actual demonstration in the form of a driving skills test of the applicant's ability to exercise ordinary and reasonable control in the operation of a representative vehicle. The department shall not administer a driving skills test to a person applying for authorization to operate "Class M" vehicles who has failed 2 previous such skills tests unless the person has successfully completed a rider course approved by the department. The department may, by rule, exempt certain persons from the rider course requirement of this paragraph. The department may not require a person who is applying for authorization to operate "Class M" vehicles and who has successfully completed a rider course approved by the Wisconsin department of transportation motorcycle safety program to hold an instruction permit under s. 343.07 (4) prior to the department's issuance of a license authorizing the operation of "Class M" vehicles. The department may not require a person applying for authorization to operate "Class M" vehicles who holds an instruction permit under s. 343.07 (4) to hold it for a minimum period of time before administering a driving skills test. The driving skills of applicants for endorsements authorizing the operation of commercial motor vehicles equipped with air brakes, the transportation of passengers in commercial motor vehicles or the operation of school buses, as provided in s. 343.04 (2) (b), (bm), (d) or (e), shall also be tested by an actual demonstration of driving skills. The department may endorse an applicant's commercial driver license for transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73, subject to s. 343.125, or for the operation of tank vehicles or vehicles towing double or triple trailers, as described in s. 343.04 (2) (a), (c) or (f), based on successful completion of a knowledge test. In administering the knowledge test, the department shall attempt to accommodate any special needs of the applicant. Except as may be required by the department for an "H" or "S" endorsement, the knowledge test is not intended to be a test for literacy or English language proficiency. This paragraph does not prohibit the department from requiring an applicant to correctly read and understand highway signs.

(b) *Third−party driving skills testing.* The department may contract with a person, including an agency or department of this state or its political subdivisions or another state, or a private employer of commercial motor vehicle drivers, to administer

commercial motor vehicle skills tests required by 49 CFR 383.110 to 383.135, examinations required to be administered under s. 343.12 (2) (h), abbreviated driving skills tests required by sub. (3) (b), or driving skills tests required by par. (a) for authorization to operate "Class D" vehicles, or any combination of these tests and examinations. This paragraph does not apply with respect to a law enforcement agency eligible to contract with the department under par. (bm). A contract with a 3rd−party tester under this paragraph shall include all of the following provisions:

1. All tests and examinations conducted by the 3rd−party tester shall be the same as those given by the department.

2. The department, or the applicable federal agency or its representative with respect to testing for commercial driver licenses, may conduct random examinations, inspections, and audits of the 3rd−party tester without any prior notice.

3. At least biennially, the department shall conduct an on−site inspection of the 3rd−party tester to determine compliance with the contract and with department and federal standards for testing applicants for commercial driver licenses and with department standards for testing applicants for school bus endorsements and applicants for operators' licenses to operate "Class D" vehicles. The department shall also evaluate testing given by the 3rd−party tester by one of the following means:

a. Department employees shall take the tests and examinations actually administered by the 3rd−party tester as if the department employee were an applicant.

b. The department shall retest a sample of drivers who were examined by the 3rd−party tester to compare the pass and fail results.

c. The department shall score drivers along with the 3rd−party tester during skills tests to compare the scoring results.

4. Examiners of the 3rd−party tester shall meet the same qualifications and training standards as the department's license examiners to the extent established by the department as necessary to satisfactorily perform the skills tests required by 49 CFR 383.110 to 383.135, examinations required to be administered under s. 343.12 (2) (h), abbreviated driving skills tests required by sub. (3) (b), and driving skills tests required by par. (a) for authorization to operate "Class D" vehicles.

5. The department shall take prompt and appropriate remedial action against the 3rd−party tester in the event that the tester fails to comply with department or federal standards for commercial driver license testing, department standards for school bus endorsement testing or testing for operators' licenses to operate "Class D" vehicles, or any provision of the contract. Such action may include immediate termination of testing by the 3rd−party tester and recovery of damages.

6. The 3rd−party tester may not administer any test or examination of a person who has received instruction in driver training from the 3rd−party tester or from any person who controls, is controlled by, or is under common control with the 3rd−party tester.

(bm) *Third−party testing by certain law enforcement agencies.* The department may contract with any law enforcement agency, other than a local law enforcement agency of a municipality in which an examining station of the department is located, to administer knowledge, driving skills, and eyesight tests required by par. (a) and sub. (2) (b) and (c) for authorization to operate "Class D" vehicles. A contract with a 3rd−party tester under this paragraph shall include all of the following provisions:

1. All tests conducted by the 3rd−party tester shall be the same as those given by the department.

2. The department or its representative may conduct random examinations, inspections, and audits of the 3rd−party tester without any prior notice.

3. The department may conduct an on−site inspection of the 3rd−party tester to determine compliance with the contract and with department and federal standards for testing applicants for operators' licenses to operate "Class D" vehicles. The department may also evaluate testing given by the 3rd−party tester by one of the following means:

a. Department employees may take the tests actually administered by the 3rd−party tester as if the department employees were applicants.

b. The department may retest a sample of drivers who were tested by the 3rd−party tester to compare the pass and fail results.

4. Examiners of the 3rd−party tester shall meet the same qualifications and training standards as the department's license examiners to the extent established by the department as necessary to satisfactorily perform the knowledge, driving skills, and eyesight tests required by par. (a) and sub. (2) (b) and (c) for authorization to operate "Class D" vehicles.

5. The department shall take prompt and appropriate remedial action against the 3rd−party tester in the event that the tester fails to comply with department or federal standards for testing for operators' licenses to operate "Class D" vehicles or with any provision of the contract, including immediate termination of testing by the 3rd−party tester.

(c) *Driver education course.* The department may, after consultation with the department of public instruction and the technical college system board, provide for administration of and certification of the results of the test of an applicant's knowledge of the traffic laws and ability to read and understand highway signs in conjunction with a course in driver education specified in this paragraph, by an instructor in that course. The test under this paragraph does not include that part of a driver's examination involving the actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle required for the issuance of a license other than an instruction permit. The test under this paragraph may be administered and certified by an instructor in any of the following:

1. A course in driver education in public schools approved by the department of public instruction.

2. A course in driver education in technical colleges approved by the technical college system board.

3. A course in driver education in nonpublic and private schools or tribal schools, as defined in s. 115.001 (15m), that meets the minimum standards set by the department of public instruction.

(d) *Foreign license reciprocity.* The chief administrator of the division of motor vehicles may, with the appropriate official of another country or of a province or other subdivision of another country, enter into a reciprocal agreement under which this state and the other country, province or other subdivision agree to waive any knowledge test and driving skills test of an applicant for an operator's license to operate "Class D" vehicles, as described in s. 343.04 (1) (d), or "Class M" vehicles, as described in s. 343.04 (1) (e), or both, if the applicant possesses a valid license to operate those vehicles, other than an instructional permit, issued by this state or the other country, province or other subdivision. The chief administrator may enter into an agreement under this paragraph only if the criteria for any knowledge test and driving skills test required by the other country, province or other subdivision for those types of vehicles are at least as stringent as the requirements of this state. The agreement shall specify all of the following:

1. That the department will issue a regular license, as described in s. 343.03 (3) (a), to any person moving to this state who has been licensed by the other country, province or other subdivision for at least 3 years, who presently holds a license to operate that type of vehicle, other than an instructional permit, from the other country, province or other subdivision and who is at least 21 years of age. Notwithstanding s. 343.03 (3) (a), a regular license issued under this subdivision may be endorsed to permit operation of Type 1 motorcycles, but may not be endorsed to permit operation of school buses. The department shall issue a probationary

license under s. 343.085 to any other applicant who holds a valid operator's license issued by the other country, province or other subdivision.

2. That whenever the secretary has good cause to believe that an operator licensed under an agreement entered into under this paragraph is incompetent or otherwise not qualified to be licensed, the secretary may, upon written notice of at least 5 days to the licensee, require the licensee to submit to an examination including all or part of the tests specified in par. (a). Upon the conclusion of such examination the secretary shall take such action as is appropriate under this chapter, including cancellation of the license or permitting the licensee to retain the license subject to such restrictions as the secretary may order or without restrictions.

3. That the other country, province or other subdivision will treat operators licensed by this state similarly to how this state will treat operators licensed by the other country, province or other subdivision.

(2) TESTING STANDARDS. (a) *Rules*. The department shall promulgate rules setting testing standards for commercial driver license applicants. The testing standards shall comply with 49 CFR 383.71 to 383.135.

(b) *Specific requirements*. The standards developed by the department under par. (c) shall provide that the examination for persons making their first application for an operator's license shall include, subject to sub. (3) (am), a test of the applicant's eyesight, ability to read and understand highway signs regulating, warning and directing traffic, knowledge of the traffic laws, including ss. 346.072 and 346.26, understanding of fuel−efficient driving habits and the relative costs and availability of other modes of transportation, knowledge of the need for anatomical gifts and the ability to make an anatomical gift through the use of a donor card issued under s. 343.175 (2), and an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle. The test of knowledge of the traffic laws shall include questions on the provisions of ss. 343.30 (1q), 343.303 to 343.31 and 346.63 to 346.655, relating to the operation of a motor vehicle and the consumption of alcohol beverages. The test of knowledge may also include questions on the social, medical and economic effects of alcohol and other drug abuse. The examination of applicants for authorization to operate 'Class M' vehicles shall test an applicant's knowledge of Type 1 motorcycle safety, including proper eye protection to be worn during hours of darkness. The department may require persons changing their residence to this state from another jurisdiction and persons applying for a reinstated license after termination of a revocation period to take all or parts of the examination required of persons making their first application for an operator's license. Any applicant who is required to give an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle shall furnish a representative vehicle in safe operating condition for use in testing ability.

(c) *Standards*. The department shall promulgate rules setting standards to govern driver license examinations and reexaminations. Such standards shall take into consideration any federal standards or requirements which may apply.

(cm) *Motorcycle waiver.* The department shall waive the driving skills test of a person applying for authorization to operate "Class M" vehicles if the applicant has successfully completed a rider course approved by the Wisconsin department of transportation motorcycle safety program.

Cross−reference: See also s. Trans 129.03, Wis. adm. code.

(d) *Motor bicycle or moped waiver.* The department may promulgate rules authorizing a license examiner to waive the operating skill examination of a person applying for a license to operate a motor bicycle or moped if the applicant has the physical ability to operate the vehicle safely. The rules shall ensure that the applicant demonstrates knowledge of the traffic laws necessary for the safe operation of the vehicle.

(e) *Farm service industry employee waiver.* To the extent permitted under applicable federal law or regulation, the department may waive any knowledge test and shall waive the commercial driver license driving skills test of a person applying for an "F" endorsement, except as provided under s. 343.16 (5) or (6) (a).

(f) *Application by military license holder.* 1. In this paragraph, "military commercial driver license" means, notwithstanding s. 340.01 (7m) and (41m), an authorization from the national guard of any state, from a branch of the U.S. armed forces, or from forces incorporated as part of the U.S. armed forces, authorizing a person to operate vehicles that the department determines are equivalent to those described in s. 340.01 (8) (a) or (b).

2. An applicant for a commercial driver license who holds a military commercial driver license shall submit to the department, in addition to the application, the applicant's military commercial driver license and other documentation that the department considers necessary to determine the equivalent classes of vehicles under s. 343.04 (1) that the applicant's military commercial driver license authorizes the applicant to operate.

3. Notwithstanding pars. (a) to (c) and sub. (1) (a), with respect to equivalent classes of vehicles under s. 343.04 (1), the department shall treat an application for a commercial driver license submitted with a military commercial driver license and other related documentation the same as an application for that license submitted by a person holding a commercial driver license from another jurisdiction, except that the department shall waive the fees under s. 343.21 (1) (d) and (n) for the commercial driver license and any applicable endorsement, and shall require the applicant to take and pass the applicable knowledge tests, unless the applicant is exempt from, or eligible for a waiver of, these knowledge tests under 49 CFR 383.

(3) TESTING UPON RENEWAL. (a) Except as provided in s. 343.165 (4) (d), the department shall examine every applicant for the renewal of an operator's license once every 8 years. The department may institute a method of selecting the date of renewal so that such examination shall be required for each applicant for renewal of a license to gain a uniform rate of examinations. Subject to par. (am), the examination shall consist of a test of eyesight. The department shall make provisions for giving such examinations at examining stations in each county to all applicants for an operator's license. The person to be examined shall appear at the examining station nearest the person's place of residence or at such time and place as the department designates in answer to an applicant's request. In lieu of examination, the applicant may present or mail to the department a report of examination of the applicant's eyesight by an ophthalmologist, optometrist or physician licensed to practice medicine. The report shall be based on an examination made not more than 3 months prior to the date it is submitted. The report shall be on a form furnished and in the form required by the department. The department shall decide whether, in each case, the eyesight reported is sufficient to meet the current eyesight standards.

(am) 1. If an applicant for a probationary license authorizing operation of only "Class D" vehicles satisfies eligibility criteria established by the department under subd. 3., the applicant may apply for the license, and the department may issue the license, by any electronic means offered by the department. A license may be issued under this subdivision without a test of eyesight and without a photograph being taken.

2. If an applicant for the renewal of a license authorizing operation of only "Class D" vehicles is currently a probationary license holder and satisfies eligibility criteria established by the department under subd. 3., the applicant may apply for the license, and the department may renew the license, by any electronic means offered by the department. A license may be renewed under this subdivision without a test of eyesight and without a photograph being taken.

3. The department shall establish criteria for eligibility for license issuance and renewal by electronic means under this paragraph.

(b) The department shall require each applicant for the renewal of an operator's license with an endorsement authorizing the operation of school buses to take and pass the knowledge test under sub. (1) and an abbreviated driving skills test including, but not limited to, pretrip inspection, the loading and unloading of passengers and railroad crossing procedures.

(4) CONDUCT OF DRIVING SKILLS TEST. (a) An applicant who holds an expired instruction permit, expired out−of−state license or who seeks to reinstate his or her operating privilege may drive a motor vehicle only when accompanied by an authorized license examiner for the purpose of examining the applicant's ability to operate a motor vehicle. Such applicant must be driven to and from the examining area by a licensed driver. This exception to the requirement to hold a valid operator's license does not apply to the operation of a commercial motor vehicle. For purposes of examining applicants for a special restricted operator's license under s. 343.135, the department may waive the requirements of this paragraph in any case in which it considers a waiver desirable.

(b) More than one authorized operator's license examiner or supervisor may ride with any licensed operator or applicant for an operator's license for the purpose of examining the person's ability to operate a motor vehicle.

(5) MEDICAL OR OTHER SPECIAL EXAMINATIONS. (a) The secretary may require any applicant for a license or any licensed operator to submit to a special examination by such persons or agencies as the secretary may direct to determine incompetency, physical or mental disability, disease, or any other condition that might prevent such applicant or licensed person from exercising reasonable and ordinary control over a motor vehicle. If the department requires the applicant to submit to an examination, the applicant shall pay for the examination. If the department receives an application for a renewal or duplicate license after voluntary surrender under s. 343.265 or receives a report from a physician, physician assistant, as defined in s. 448.01 (6), advanced practice nurse prescriber certified under s. 441.16 (2), or optometrist under s. 146.82 (3), or if the department has a report of 2 or more arrests within a one−year period for any combination of violations of s. 346.63 (1) or (5) or a local ordinance in conformity with s. 346.63 (1) or (5) or a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.63 (1) or (5), or s. 346.63 (1m), 1985 stats., or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, the department shall determine, by interview or otherwise, whether the operator should submit to an examination under this section. The examination may consist of an assessment. If the examination indicates that education or treatment for a disability, disease or condition concerning the use of alcohol, a controlled substance or a controlled substance analog is appropriate, the department may order a driver safety plan in accordance with s. 343.30 (1q). If there is noncompliance with assessment or the driver safety plan, the department shall revoke the person's operating privilege in the manner specified in s. 343.30 (1q) (d).

(b) Whenever the department receives the results of a special examination required under this subsection, the department shall give fair consideration to the recommendation of the examining person or agency together with other evidence in determining if it is in the interest of public safety to issue, renew, deny or cancel a license. If a license is denied or canceled by the department after a special examination as provided in par. (a), such denial or cancellation shall be reviewed by a reviewing board upon written request of the applicant filed with the department within 10 days after receipt of notice of such denial or cancellation. Notice of denial or cancellation shall be in writing and contain specific reasons. The notice shall contain a statement that the applicant has 10 days within which to file a written request with the department for review of the department's decision by the reviewing board. The applicant shall have the right to appear personally before the review board, to present witnesses and additional information, and to be represented by counsel. The department's representative may administer oaths, issue subpoenas for the attendance of witnesses and the production of relevant documents and may require a reexamination of the applicant. No law enforcement officer or other witness produced by the applicant to testify on the applicant's behalf shall be paid a witness fee nor shall any law enforcement officer called to appear for the department be paid any witness fee. A record including the recommendations of the board shall be made of the proceeding. If a license is denied or canceled, the applicant shall be given specific reasons in writing. Review boards shall consist of the department's representative and at least 2 members appointed by the secretary from a list of physicians licensed to practice medicine in this state and a list of optometrists licensed to practice optometry in this state. Optometrists shall be limited to reviewing cases concerning vision only. In cases concerning mental disability or disease at least one of the physicians shall have specialized training in psychiatry. In cases concerning seizure disorders at least one of the physicians shall have specialized training in neurology. The members of the board shall receive the per diem and expenses provided in s. 15.08 (7) which shall be charged to the appropriation under s. 20.395 (5) (cq). A decision of the department based on the recommendation of a reviewing board is subject to judicial review under s. 343.40.

(c) All reports, records or information furnished by or on behalf of an applicant or licensed operator under this subsection are confidential and shall be for the sole use of the department, the applicant or licensed driver, the review board and the courts in administering this section and are not admissible as evidence for any other purpose in any civil or criminal action. The applicant or licensed driver may give informed written consent for release of this information to others.

(d) Nothing in this subsection shall be interpreted to require the release of this information which was obtained under a pledge of confidentiality and such a clear pledge was made in order to obtain the information and was necessary to obtain the information.

(6) SPECIAL RETESTING OF LICENSED OPERATORS. (a) Except as provided in par. (am), whenever the secretary has good cause to believe that a licensed operator is incompetent or otherwise not qualified to be licensed, the secretary may, upon written notice of at least 5 days to the licensee, require the licensee to submit to an examination including all or part of the tests specified in sub. (1). Upon the conclusion of such examination the secretary shall take such action as is appropriate under this chapter, including cancellation of the license or permitting the licensee to retain the license subject to such restrictions as the secretary may order or without restrictions.

(am) If the secretary receives credible information that a person holding a commercial driver license committed fraud related to the issuance of the license, the secretary shall provide written notice to the person that the person is required to submit to an examination, including all or part of the tests required under sub. (1). A person receiving a notice under this paragraph shall, within 30 days of receiving notice, arrange to take the next available examination.

(b) Whenever the department requires an examination for renewal of an operator's license, it shall issue a receipt at the time of request for appearance for such examination which receipt shall constitute a temporary license to operate a motor vehicle for not to exceed 60 days pending such examination.

(7) PENALTIES. (a) Any person required by or pursuant to this section to submit to an examination who by any means secures the services of another person to appear in that person's place to take such examination may be fined not less than $100 nor more than $200 or imprisoned not more than 6 months or both.

(b) Any person who appears for an examination under this section in the place of another person required to take such examination may be fined not less than $100 nor more than $200 or imprisoned not more than 6 months or both for the first offense and may

be fined not less than $200 nor more than $500 or imprisoned not more than one year in county jail or both for the second or each subsequent offense thereafter.

History: 1971 c. 164 s. 83; 1973 c. 90, 176; 1975 c. 36, 199; 1977 c. 29 ss. 1456, 1654 (7) (a), (c); 1977 c. 273, 418; 1979 c. 34 ss. 1067m, 2102 (52) (a); 1979 c. 221, 345; 1981 c. 20; 1983 a. 74, 243, 534, 538; 1985 a. 65, 337; 1987 a. 3, 40, 215; 1989 a. 31, 105, 359; 1991 a. 21, 32, 39, 316; 1993 a. 16, 19, 183, 399; 1995 a. 27 s. 9145 (1); 1995 a. 113, 195, 448; 1997 a. 27, 84, 237; 1999 a. 32, 140; 2001 a. 105; 2003 a. 33; 2005 a. 187, 253, 466; 2007 a. 20, 68, 97, 162; 2009 a. 28, 302; 2011 a. 32, 161; 2013 a. 94; 2013 a. 166 s. 77; 2013 a. 371; 2015 a. 55, 123.

Cross−reference: See also ch. Trans 104, Wis. adm. code.

343.165 Processing license and identification card applications. (1) Subject to ss. 343.14 (3m) and 343.50 (4g), the department may not complete the processing of an application for initial issuance or renewal of an operator's license or identification card [January 1, 2013] and no such license or identification card may be issued or renewed, unless the applicant presents or provides, and, subject to sub. (7), the department verifies under sub. (3), all of the following information:

NOTE: Sub. (1) (intro.) is shown as affected by 2015 Wis. Acts 193 and 197 and as merged by the legislative reference bureau under s. 13.92 (2) (i). The language in brackets was rendered surplusage by Act 193. Corrective legislation is pending.

(a) An identification document that includes either the applicant's photograph or both the applicant's full legal name and date of birth.

(b) Documentation showing the applicant's date of birth, which may be the identification document under par. (a).

(c) Proof of the applicant's social security number or, except as provided in s. 343.14 (2g) (a) 4., verification that the applicant is not eligible for a social security number.

(d) Documentation showing the applicant's name and address of principal residence.

(e) Subject to ss. 343.125 (2) (a) and (b) and 343.14 (2g) (a) 2. d., the documentary proof described in s. 343.14 (2) (es).

(2) (a) Subject to sub. (7), the department shall, in processing any application for an operator's license or identification card under sub. (1), capture a digital image of each document presented or provided to the department by an applicant. Images captured under this paragraph shall be maintained, in electronic storage and in a transferable format, in the applicant's file or record as provided under ss. 343.23 (2) (a) and 343.50 (8) (a).

(b) Subject to sub. (7), the department shall record in the applicant's file under s. 343.23 (2) (a) or record under s. 343.50 (8) (a) the date on which verification under subs. (1) and (3) is completed.

(3) (a) Except as provided in pars. (b) and (c) and subject to sub. (7), the department shall verify, in the manner and to the extent required under federal law, each document presented or provided to the department that is required to be presented or provided to the department by an applicant under sub. (1).

(b) The department may not accept any foreign document, other than an official passport, to satisfy a requirement under sub. (1).

(c) For purposes of par. (a) and sub. (1) (c), if an applicant presents a social security number that is already registered to or associated with another person, the department shall direct the applicant to investigate and take appropriate action to resolve the discrepancy and shall not issue any operator's license or identification card until the discrepancy is resolved. The department shall adopt procedures for purposes of verifying that an applicant is not eligible for a social security number.

(4) (a) Subsection (1) does not apply to an application for renewal of an operator's license or identification card [January 1, 2013] if in connection with a prior application [January 1, 2013] the applicant previously presented or provided, and the department verified under sub. (3) or (7), the information specified in sub. (1) and, if verified under sub. (3), the department recorded the date on which the verification procedures were completed as described in sub. (2) (b).

NOTE: Par. (a) is shown as affected by 2015 Wis. Acts 193 and 197 and as merged by the legislative reference bureau under s. 13.92 (2) (i). The language in brackets was rendered surplusage by Act 193. Corrective legislation is pending.

(b) The department shall establish an effective procedure to confirm or verify an applicant's information for purposes of any application described in par. (a). The procedure shall include verification of the applicant's social security number or ineligibility for a social security number.

(c) Notwithstanding pars. (a) and (b), no operator's license displaying the legend required under s. 343.03 (3m) or identification card displaying the legend required under s. 343.50 (3) (a) may be renewed unless the applicant presents or provides valid documentary proof under sub. (1) (e) and this proof shows that the status by which the applicant qualified for the license or identification card has been extended by the secretary of the federal department of homeland security.

(d) With any license or identification card renewal following a license or identification card expiration established under s. 343.20 (1m) or 343.50 (5) (c) at other than an 8−year interval, the department may determine whether the applicant's photograph is to be taken, or if the renewal is for a license the applicant is to be examined, or both, at the time of such renewal, so long as the applicant's photograph is taken, and if the renewal is for a license the applicant is examined, with a license or card renewal at least once every 8 years and the applicant's license or identification card at all times includes a photograph unless an exception under s. 343.14 (3m) or 343.50 (4g) applies.

(5) The department may, by rule, require that applications for reinstatement of operator's licenses or identification cards, issuance of occupational licenses, reissuance of operator's licenses, or issuance of duplicate operator's licenses or identification cards [January 1, 2013] be processed in a manner consistent with the requirements established under this section for applications for initial issuance or renewal of operator's licenses and identification cards.

NOTE: Sub. (5) is shown as affected by 2015 Wis. Acts 193 and 197 and as merged by the legislative reference bureau under s. 13.92 (2) (i). The language in brackets was rendered surplusage by Act 193. Corrective legislation is pending.

(6) During the period in which the department processes an application under this section, the department may issue a receipt under s. 343.11 (3) or 343.50 (1) (c).

(7) (a) The department may process an application for, and issue or renew, an operator's license or identification card without meeting the requirements under subs. (2) and (3) if all of the following apply:

1. The operator's license contains the marking specified in s. 343.03 (3r) or the identification card contains the marking specified in s. 343.50 (3) (b).

2. The operator's license or identification card is processed and issued or renewed in compliance with applicable department practices and procedures that were in effect on December 31, 2012 [January 1, 2013].

NOTE: Subd. 2. is shown as affected by 2015 Wis. Acts 193 and 197 and as merged by the legislative reference bureau under s. 13.92 (2) (i). The language in brackets was rendered surplusage by Act 193. Corrective legislation is pending.

(b) In addition to other instances of original issuance or renewal, this subsection specifically applies to renewals occurring after [December 31, 2012] January 1, 2013, of operator's licenses or identification cards originally issued prior to January 1, 2013.

NOTE: Par. (b) is shown as affected by 2015 Wis. Acts 193 and 197 and as merged by the legislative reference bureau under s. 13.92 (2) (i). The date in brackets was inserted by Act 193 to replace an indeterminate date with the actual date, but is the incorrect date. The correct date, January 1, 2013, was inserted by 2015 Wis. Act 197. Corrective legislation is pending.

History: 2007 a. 20; 2011 a. 23, 32; 2015 a. 193, 197; s. 13.92 (2) (i).

Who are you? Prove it! The Federal REAL ID Act and Its Fate in Wisconsin. Gary. Wis. Law. Aug. 2008.

343.17 Contents and issuance of operator's license. (1) LICENSE ISSUANCE. Subject to s. 343.165, the department shall issue an operator's license and endorsements, as applied for, to every qualifying applicant who has paid the required fees.

(2) LICENSE DOCUMENT. The license shall be a single document, in one part, consisting of 2 sides. The document shall be, to the maximum extent practicable, tamper proof and shall contain physical security features consistent with any requirement under federal law.

(3) CONTENTS. (a) The front side of the license document shall include, without limitation, all of the following:

1. The full legal name, date of birth, and principal residence address of the person.

2. A photograph of the person, unless the exception under s. 343.14 (3m) applies.

3. A physical description of the person, including sex, height, weight and hair and eye color, but excluding any mention of race.

4. A unique identifying driver number assigned by the department.

5. The person's signature.

6. The classes of vehicles that the person is authorized to operate under par. (c), together with any endorsements or restrictions.

7. The name of this state.

8. The date of issuance of the license.

9. The date of expiration of the license.

10. A space for the sticker under s. 343.175 (3).

11. If the license authorizes the operation of certain commercial motor vehicles, the legend "Commercial Driver License", a readily recognizable abbreviation thereof or "CDL".

12. If the person is not the legal drinking age, as defined in s. 125.02 (8m), at the time of issuance of the license, a distinctive appearance specified by the department that clearly identifies to the public that the person was not the legal drinking age at the time of issuance of the license.

13. If the person is under 18 years of age at the time of issuance of the license, a distinctive appearance specified by the department that clearly identifies to the public that the person was under 18 years of age at the time of issuance of the license.

14. If the license contains the marking specified in s. 343.03 (3r), a distinctive appearance specified by the department that clearly distinguishes the license from other operator's licenses or identification cards issued by the department and that alerts federal agency and other law enforcement personnel that the license may not be accepted for federal identification or any other official purpose.

15. If the person is a veteran, has indicated that he or she wishes to have his or her veteran status indicated on the license, and has provided the verification required under s. 343.14 (2) (j), an indication that the person is a veteran.

(b) The reverse side of the license shall contain an explanation of any restriction codes or endorsement abbreviations used on the front of the license, in sufficient detail to identify the nature of the restrictions or endorsements to a law enforcement officer of this state or another jurisdiction. Except for a commercial driver license, a part of the reverse side of each license shall be printed to serve as a record of gift under s. 157.06 (2) (t) or a record of refusal under s. 157.06 (2) (u).

(c) The classifications on operator's licenses shall be as follows:

1. Classification "A", which authorizes the operation of "Class A" vehicles as described in s. 343.04 (1) (a). A driver who has passed the knowledge and driving skills tests for operating "Class A" vehicles shall receive a license authorizing the operation of "Class A", "Class B" and "Class C" vehicles if the person possesses any requisite endorsement.

2. Classification "B", which authorizes the operation of "Class B" vehicles as described in s. 343.04 (1) (b). A driver who has passed the knowledge and driving skills tests for operating "Class B" vehicles shall receive a license authorizing the operation of "Class B" and "Class C" vehicles if the person possesses any requisite endorsement.

3. Classification "C", which authorizes the operation of "Class C" vehicles as described in s. 343.04 (1) (c) if the person possesses any requisite endorsement.

4. Classification "D", which authorizes the operation of "Class D" vehicles as described in s. 343.04 (1) (d) if the person possesses any requisite endorsement.

5. Classification "M", which authorizes the operation of Type 1 motorcycles.

(d) The endorsements on operator's licenses shall be as follows:

1g. "F" endorsement, which authorizes a seasonal employee of a farm service industry employer who is eligible for a restricted commercial driver license under applicable federal law or regulation to operate "Class B" and "Class C" vehicles as described in s. 343.04 (1) (b) and (c) for a seasonal period not to exceed 180 days in any calendar year. This endorsement permits the transporting of liquid fertilizers in vehicles or implements of husbandry with total capacities of 3,000 gallons or less, solid fertilizers that are not transported with any organic substance or 1,000 gallons or less of diesel fuel, but no combination of these materials. The endorsement does not permit operation of a commercial motor vehicle beyond 150 miles of the farm service industry employer's place of business or, in the case of custom harvesters, the farm currently being served.

1m. "H" endorsement, which authorizes the driver to operate vehicles transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73.

2. "N" endorsement, which authorizes operating tank vehicles.

3. "P" endorsement, which authorizes operating vehicles designed to carry, or actually carrying, 16 or more passengers including the driver, except this endorsement does not authorize the operation of school buses unless the licensee also holds an "S" endorsement.

4. "S" endorsement, which authorizes operating school buses.

5. "T" endorsement, which authorizes operating commercial motor vehicles with double or triple trailers where the operation of such combination vehicles is permitted.

6. "X" endorsement, which is an optional endorsement that may be used to indicate that the licensee holds both "H" and "N" endorsements. The department may not issue or renew an endorsement under this subdivision after November 1, 2003.

(e) The standard restriction codes used on commercial driver licenses include:

1e. "E" restriction, which prohibits a person from operating commercial motor vehicles equipped with a manual transmission.

1m. "K" restriction, which restricts a person issued a license under s. 343.065 from operating commercial motor vehicles in interstate commerce.

2. "L" restriction, which prohibits a person from operating commercial motor vehicles equipped with air brakes.

3. "M" restriction, which prohibits a person from operating "Class A" passenger commercial motor vehicles.

4. "N" restriction, which prohibits a person from operating "Class A" and "Class B" passenger commercial motor vehicles.

5. "O" restriction, which prohibits a person from operating tractor−trailer commercial motor vehicles.

6. "V" restriction, which restricts a person from operating commercial motor vehicles without a medical variance.

7. "Z" restriction, which prohibits a person from operating commercial motor vehicles equipped with full air brakes.

(4m) LENGTHY SPECIAL RESTRICTIONS. If an operator's license is subject to restrictions that do not fit within the available space on the license document, the restrictions shall be provided to the licensee in a format determined by the department.

(5) NO PHOTOS ON TEMPORARY LICENSES. The temporary licenses issued under ss. 343.10, 343.11 (1) and (3), 343.16 (6) (b), and 343.305 (8) (a) shall be on forms provided by the department and shall contain the information required by sub. (3), except that temporary licenses under ss. 343.16 (6) (b) and 343.305 (8) (a) are not required to include a photograph of the licensee. This subsection does not apply to a noncitizen temporary license, as described in s. 343.03 (3m).

(6) RULES. Subject to subs. (2) and (3), the department shall promulgate rules setting the design and specifications for the license document and subsequent changes thereto.

History: 1971 c. 140; 1977 c. 29 s. 1654 (7) (a); 1977 c. 124, 272; 1979 c. 89, 306, 355; 1981 c. 20; 1985 a. 316 s. 25; 1989 a. 105, 298; 1991 a. 269; 1993 a. 19; 1995 a. 113; 1997 a. 27; 1999 a. 9, 140; 2003 a. 33; 2005 a. 126; 2007 a. 20, 106; 2011 a. 23, 32, 241; 2013 a. 17, 165; 2015 a. 77, 123.

343.175 Organ donor information. (1) DEPARTMENT TO SOLICIT AND RECORD INFORMATION. As part of every application for an original, duplicate, reinstated, reissued or renewal license or endorsement, the department shall inquire whether the applicant desires to be an organ donor. The department shall record the organ donor response in its file of the person. If a procurement organization, as defined in s. 157.06 (2) (p), reasonably identifies a person and requests the information recorded in the person's file under this subsection, the department shall promptly provide this information to the procurement organization.

(1r) DEPARTMENT TO PROVIDE INFORMATION. In addition to the inquiry under sub. (1), if the applicant is at least 15 and one−half years of age, the department shall orally state to the applicant that he or she has the opportunity to indicate his or her willingness to be an organ donor. If the applicant indicates that he or she is undecided in response to the inquiry under sub. (1), the department shall provide the applicant with written information that all organ procurement organizations and the department have together developed. If the applicant makes an affirmative response to the inquiry under sub. (1), the department shall request at that time that the applicant write on the license the information that is specified under sub. (2) (ar) and affix a sticker, as described in sub. (3), to the front side of the license document.

(2) RECORD OF GIFT OR REFUSAL. (a) Except as provided in par. (ag), a part of the reverse side of each license shall be printed to serve as a record of gift under s. 157.06 (2) (t) or a record of refusal under s. 157.06 (2) (u).

(ag) The department shall print a separate document to be issued to all persons issued a commercial driver license and make provisions so that the document may be attached to the reverse side of the license document along one edge. This document shall serve as a record of gift under s. 157.06 (2) (t) or a record of refusal under s. 157.06 (2) (u).

(ar) If the person desires to be an organ donor, he or she may so indicate in the space provided on the license. The donor may supply information in the space provided on the license, including the specific body parts or organs to be donated, the name of the donee, the purpose for which the gift is made and the physician whom the donor wishes to carry out the appropriate procedures. The anatomical gift described on the license shall be signed by the licensee.

(b) The licensee may revoke or amend his or her gift by crossing out the donor authorization in the space provided on the license or as otherwise prescribed in s. 157.06. The licensee may refuse to make an anatomical gift by so indicating in the space provided on the license or as otherwise prescribed in s. 157.06.

(c) Persons authorizing gifts of their body parts remain subject to s. 157.06.

(3) ORGAN DONOR STICKER. The department shall designate a space on the front side of the license document where the licensee may affix a sticker which indicates that the licensee is a potential donor of body organs or parts for the purposes of transplantation, therapy, medical research or education. The sticker shall not be larger than one−half inch in diameter and shall not conceal any of the contents required by s. 343.17 (3). The sticker shall be of a distinctive design and supplied to the donor by a nationally recognized organization that enlists donors of body organs or parts for the purposes of transplantation, therapy, medical research or education.

History: 1989 a. 105, 298; 1995 a. 446; 2003 a. 33; 2007 a. 106.

343.18 License to be carried; verification of signature. (1) Every licensee shall have his or her license document in his or her immediate possession at all times when operating a motor vehicle and shall display the license document upon demand from any judge, justice, or traffic officer.

(1m) A person charged with violating sub. (1) may not be convicted if he or she produces in court or in the office of the arresting officer a license theretofore issued to the licensee and valid at the time of his or her arrest.

(2) For the purpose of verifying the signature on a license, any judge, justice or traffic officer may require the licensee to write the licensee's signature in the presence of such officer.

(3) (a) Except as provided in par. (c), any person who violates sub. (1) shall forfeit not more than $200.

(c) If the person is operating a commercial motor vehicle at the time of the violation, any person who violates sub. (1) shall forfeit not less than $250 nor more than $2,500.

History: 1989 a. 105; 1991 a. 316; 1997 a. 84; 2015 a. 77.

There is a public interest in permitting police to request a motorist's license and to run a status check on the license. State v. Ellenbecker, 159 Wis. 2d 91, 464 N.W.2d 427 (Ct. App. 1990).

Under *Ellenbecker*, it was reasonable for an officer who stopped a motorist whose vehicle and general appearance matched that of a criminal suspect to make a report of the incident, even if the officer had already decided that the driver was not the suspect. For that purpose, it was reasonable to ask for the motorist's name and identification. Once the motorist stated that he had no identification, there was a reasonable grounds for further detention. State v. Williams, 2002 WI App 306, 258 Wis. 2d 395, 655 N.W.2d 462, 02−0384.

343.19 Duplicate licenses or identification cards. (1) If a license issued under this chapter or an identification card issued under s. 343.50 is lost or destroyed or the name or address named in the license or identification card is changed or the condition specified in s. 343.17 (3) (a) 12. or 13. no longer applies, the person to whom the license or identification card was issued may obtain a duplicate thereof or substitute therefor upon furnishing proof satisfactory to the department of full legal name and date of birth and that the license or identification card has been lost or destroyed or that application for a duplicate license or identification card is being made for a change of address or name or because the condition specified in s. 343.17 (3) (a) 12. or 13. no longer applies. If the applicant is a male who is at least 18 years of age but less than 26 years of age, the application shall include the information required under s. 343.14 (2) (em). If the original license or identification card is found it shall immediately be transmitted to the department.

(1m) If a license issued under this chapter has been surrendered under s. 343.265 and has not expired, the person to whom the license was issued may obtain a duplicate license upon furnishing to the department the applicable information under sub. (1) and complying with the requirements for reissuance of a license after surrender provided under s. 343.265 (2).

(2) No person may knowingly make a false statement or fail to return the original license or identification card to the department upon finding it or fail to comply with any other requirement of this section relating to an application for any of the following:

(a) A duplicate license.

(b) A duplicate identification card.

(4) Any person who violates sub. (2) may be fined not more than $1,000 or imprisoned for not more than 6 months or both.

History: 1973 c. 218; 1977 c. 29 s. 1654 (7) (a); 1977 c. 360, 447; 1979 c. 306; 1981 c. 20 s. 1848r; 1987 a. 27, 40; 1989 a. 105; 1991 a. 39, 269; 1997 a. 27; 1999 a. 9, 80; 2001 a. 93; 2007 a. 20.

343.20 Expiration of licenses. (1) (a) Except as otherwise expressly provided in this chapter, probationary licenses issued under s. 343.085 shall expire 2 years from the date of the applicant's next birthday. Licenses issued after cancellation shall expire on the expiration date for the prior license at the time of cancellation. Subject to s. 343.125 (3), all other licenses and license endorsements shall expire 8 years after the date of issuance. The department may institute any system of initial license issuance which it deems advisable for the purpose of gaining a uniform rate of renewals. In order to put such a system into operation, the department may issue licenses which are valid for any period less than the ordinary effective period of such license. If the department issues a license that is valid for less than the ordinary effective period as authorized by this paragraph, the fees due under s. 343.21 (1) (b) and (d) shall be prorated accordingly.

(c) The department may, by rule, require any person who is issued an operator's license that is valid for a period of more than 2 years to demonstrate continuing qualifications to hold a license under this chapter at 2−year intervals. The rules may include, without limitation, requiring examination under s. 343.16 (6) (a) or requiring current medical certification under s. 343.16 (5). The department rules shall require cancellation or suspension of the license for noncompliance and shall permit surrender of the operator's license under s. 343.265.

(d) 1. The department shall cancel an operator's license that is endorsed for the operation of school buses under s. 343.12 (3), regardless of the license expiration date, if the licensee fails to provide proof to the department of an annual physical examination determining that the person meets the physical standards established under s. 343.12 (2) (g). The licensee may elect to surrender the license under s. 343.265 (1m).

2. The department shall cancel an operator's license that is endorsed for the operation of school buses under s. 343.12, regardless of the license expiration date, upon receiving a record of conviction or of adjudication of delinquency or results of a criminal history search showing that the person has been convicted of, or adjudicated delinquent for, a crime or other offense specified under s. 343.12 (7) or rules of the department promulgated under s. 343.12 (7) and (8) after issuance or renewal of the endorsement or at a time when, if known by the department, the conviction or adjudication would have prevented issuance or renewal of the endorsement.

(f) The department shall cancel an operator's license, regardless of the license expiration date, if the department receives information from a local, state, or federal government agency that the licensee no longer satisfies the requirements for issuance of a license under ss. 343.14 (2) (es) and 343.165 (1) (e).

(1m) Notwithstanding sub. (1) (a), and except as provided in s. 343.165 (4) (c) and as otherwise provided in this subsection, a license that is issued to a person who is not a United States citizen or permanent resident and who provides documentary proof of legal status as provided under s. 343.14 (2) (es) 2., 4., 5., 6., or 7. shall expire on the date that the person's legal presence in the United States is no longer authorized or on the expiration date determined under sub. (1), whichever date is earlier. If the documentary proof as provided under s. 343.14 (2) (es) does not state the date that the person's legal presence in the United States is no longer authorized, sub. (1) shall apply except that, if the license was issued or renewed based upon the person's presenting of any documentary proof specified in s. 343.14 (2) (es) 4. to 7., the license shall, subject to s. 343.165 (4) (c), expire one year after the date of issuance or renewal.

(2) (a) At least 30 days prior to the expiration of an operator's license, the department shall provide to the licensee notice of renewal of the license either by mail at the licensee's last−known address or, if desired by the licensee, by any electronic means offered by the department. If the license was issued or last renewed based upon the person's presenting of any documentary proof specified in s. 343.14 (2) (es) 4. to 7., the notice shall inform the licensee of the requirement under s. 343.165 (4) (c).

(b) Notwithstanding par. (a), at least 60 days prior to the expiration of an "H" endorsement specified in s. 343.17 (3) (d) 1m., the department of transportation shall provide a notice to the licensee either by mail at the licensee's last−known address or, if desired by the licensee, by any electronic means offered by the department of transportation that the licensee is required to pass a security threat assessment screening by the federal transportation security administration of the federal department of homeland security as part of the application to renew the endorsement. The notice shall inform the licensee that the licensee may commence the federal security threat assessment screening at any time, but no later than 30 days before expiration of the endorsement.

(c) Failure to receive notice to renew a license or endorsement shall not be a defense to a charge of operating a motor vehicle without a valid operator's license or endorsement.

(2m) The department shall include with the notice that it mails under sub. (2) information regarding the requirements of s. 347.48 (4) and information, as developed by all organ procurement organizations in cooperation with the department, that promotes anatomical donations and which relates to the anatomical donation opportunity available under s. 343.175.

(3) Any person who holds a valid license and who is unable to make a renewal application within the period declared by the department, due to serving with any branch of the armed services or as a member of the U.S. foreign service appointed under 22 USC 3942 (a) (1) or 3943, may apply for a renewal of the license at any time during such service or within 6 months after the date of discharge from such services.

(4) Any license issued under this chapter does not expire on the expiration date on the license if, on that expiration date, the licensee is on active duty in the U.S. armed forces and is absent from this state or is a member of the U.S. foreign service appointed under 22 USC 3942 (a) (1) or 3943 who is on active duty and is absent from this state. Any license extended under this subsection expires 30 days after the licensee returns to this state or 90 days after the licensee is discharged from active duty, whichever is earlier. If a license is renewed after an extension under this subsection, the renewal period shall begin on the day after the expiration date on the license.

History: 1977 c. 29 s. 1654 (7) (a); 1977 c. 273; 1979 c. 306; 1981 c. 20, 42, 71; 1989 a. 31, 105, 294; 1991 a. 13; 1995 a. 255, 446; 1997 a. 27, 237; 2001 a. 105; 2003 a. 33, 280; 2005 a. 126; 2007 a. 20; 2009 a. 28, 103; 2011 a. 32; 2013 a. 367; 2015 a. 55, 123, 323.

343.21 License fees. (1) The following fees, in addition to any driving skills test fee, shall be paid to the department for the issuance, renewal, upgrading and reinstatement of licenses, endorsements and instruction permits:

(a) For the initial issuance or renewal of a license authorizing only the operation of "Class D" motor vehicles, other than a probationary license under s. 343.085, $24.

(ag) For the issuance of a probationary license under s. 343.085, $18.

(b) For the initial issuance of authorization to operate "Class M" motor vehicles, $12 in addition to any other fees due.

(bg) For the renewal of authorization to operate "Class M" motor vehicles, $8 in addition to any other fees due.

(c) For the initial issuance or renewal of authorization to operate school buses that are not commercial motor vehicles, $10.

(d) Except as provided in s. 343.16 (2) (f) 3., for the initial issuance or renewal of authorization to operate "Class A", "Class B" or "Class C" motor vehicles, or upgrading an existing regular license which only authorizes the operation of "Class D" motor vehicles, $64. This fee includes issuance of any "H", "N", "P",

or "T" endorsements or "Class D" authorization applied for at the same time for which the applicant is qualified. Except as provided in s. 343.16 (2) (f) 3., an additional fee of $5 is required for the issuance or renewal of any "S" endorsement applied for or renewed at the same time for which the applicant is qualified.

(e) For upgrading an existing commercial driver license to add an "H", "N", "P", or "T" endorsement, $5, or, to add an "S" endorsement, $10.

(f) For upgrading an existing commercial driver license to add authorization to operate another class of commercial motor vehicles, $5.

(g) For removing a "K" restriction against operation of commercial motor vehicles in interstate commerce, the same fee as for a duplicate license.

(h) For removing an "L" restriction prohibiting operation of commercial motor vehicles equipped with air brakes, $5.

(i) Except as provided in par. (im) or (ir), for an instruction permit, $20.

(im) For an instruction permit authorizing the operation of "Class M" vehicles, $22.

(ir) For an instruction permit authorizing the operation of "Class D" vehicles, $25.

(j) For reinstatement of an operating privilege previously revoked or suspended, $50.

(jm) For reinstatement of a previously disqualified authorization to operate a commercial motor vehicle, $50. This fee is not applicable to disqualifications under s. 343.315 (2) (g).

(jr) In addition to any other fee under this subsection, for reinstatement of an operating privilege previously revoked or suspended under s. 343.305 (7) or resulting from the commission of an offense listed in s. 343.307, $140.

(k) For an occupational license, $40.

(L) For a duplicate license, $4.

(m) For reinstatement of a previously canceled license or endorsement, $50. This fee includes reinstatement of any classification or endorsement applied for at the same time for which the applicant is qualified.

(n) Except as provided in s. 343.16 (2) (f) 3., in addition to any other fee under this subsection, for the issuance, renewal, upgrading, or reinstatement of any license, endorsement, or instruction permit, a license issuance fee of $10.

(o) In addition to any other fee under this subsection, $2 for any person making a designation of an additional $2 to support the efforts of Donate Life Wisconsin under s. 343.14 (2) (gh) or 343.50 (4). From the moneys received under this paragraph, 90 percent shall be deposited into the general fund and credited to the appropriation account under s. 20.435 (1) (g).

(1m) In addition to the fee specified in sub. (1) (a), (b), or (d), an applicant whose application for renewal of a license or authorization under sub. (1) (a), (b), or (d) is filed after the date of expiration of the license or authorization shall pay to the department a late fee of $5.

(2) (a) In addition to the fees set under sub. (1), any applicant whose application for a permit, license, upgrade or endorsement, taken together with the applicant's currently valid license, if any, requires the department to administer a driving skills test of the applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle shall pay to the department an examination fee of $20 for an examination in a commercial motor vehicle other than a school bus and $15 for an examination in any other vehicle. Except with respect to examination in a "Class D" vehicle, payment of the examination fee entitles the applicant to not more than 3 tests of the applicant's ability to exercise reasonable control in the operation of a motor vehicle. If the applicant does not qualify for issuance of a license, upgraded license or endorsement in 3 such tests, then a 2nd examination fee in the same amount shall be paid, which payment entitles the applicant to not more than 3 additional tests. For an examination in a "Class D" vehicle, a $15 examination fee shall be paid for each examination.

(b) The operator shall pay to the department an examination fee of $15 for conducting the special examination requested under s. 121.555 (2) (cm), except that if the examination is in a commercial motor vehicle other than a school bus the fee is $20. Payment of the examination fee entitles the person to not more than 3 tests of the person's ability to safely operate the vehicle proposed to be used under s. 121.555 (1) (a). If the applicant does not pass the examination for safe operation of the vehicle in 3 such tests, then a 2nd examination fee in the same amount shall be paid, which payment entitles the person to not more than 3 additional tests.

(3) In addition to any fee required under sub. (1) (c), (d), or (e), the department may require payment to the department of any fee established by rule under s. 343.12 (8) (c) 2.

History: 1973 c. 90, 309; 1975 c. 5; 1977 c. 29 ss. 1459, 1654 (7) (a); 1977 c. 273; 1979 c. 221, 306; 1981 c. 20, 71; 1983 a. 243; 1985 a. 29, 65; 1987 a. 3, 358; 1989 a. 105; 1991 a. 39; 1993 a. 16; 1995 a. 113; 1997 a. 27; 1999 a. 9; 2003 a. 280; 2007 a. 20; 2009 a. 28, 100; 2011 a. 32; 2013 a. 20; 2015 a. 55.

343.22 Notice of change of address or name. (2) Whenever any person, after applying for or receiving a license under this chapter, or an identification card under s. 343.50, moves from the address named in the application or in the license or identification card issued to him or her or is notified by the local authorities or by the postal authorities that the address so named has been changed, the person shall, within 30 days thereafter, do one of the following:

(a) Apply for a duplicate license or identification card showing on the application the correct full legal name and address. The licensee or identification card holder shall return the current license or identification card to the department along with the application for duplicate.

(b) In lieu of applying for a duplicate license or identification card, notify the department in writing of his or her change of address. This paragraph does not apply to persons issued a commercial driver license.

(2m) Whenever any person, after applying for or receiving a license under this chapter, or an identification card under s. 343.50, is notified by the local authorities or by the postal authorities that the address named in the application or in the license or identification card issued to him or her has been changed and the person applies for a duplicate license or identification card under sub. (2), no fees shall be charged under s. 343.21 (1) (L) and (n) or 343.50 (5m) and (7) for the duplicate license or identification card.

(3) When the name of a licensee or identification card holder is changed, such person shall, within 30 days thereafter, apply for a duplicate license or identification card showing the correct full legal name and address. The licensee or identification card holder shall return the current license or identification card to the department along with the application for a duplicate. If the licensee holds more than one type of license under this chapter, the licensee shall return all such licenses to the department along with one application and fees for a duplicate license for which the licensee may be issued a duplicate of each such license.

(4) Any person who fails to comply with any of the requirements of this section may be required to forfeit not more than $50.

History: 1973 c. 129, 218, 336; 1977 c. 29 s. 1654 (7) (a); 1977 c. 273, 360, 447; 1979 c. 306; 1981 c. 20 s. 1848r; 1985 a. 14; 1989 a. 105; 1991 a. 39; 2003 a. 33; 2007 a. 20.

343.23 Records to be kept by the department. (1) The department shall maintain a record of every application for license, permit, or endorsement received by it and of every suspension, revocation, cancellation, and disqualification by the department and shall maintain suitable indexes containing:

(a) All applications denied and on each thereof note the reason for such denial;

(b) All applications granted; and

(c) The name of every person whose license or operating privilege has been suspended, revoked, or canceled, or who is disqualified, by the department and note thereon the reason for such action.

(2) (a) The department shall maintain a file for each licensee or other person containing the application for license, permit or endorsement, a record of reports or abstract of convictions, any demerit points assessed under authority of s. 343.32 (2), the information in all data fields printed on any license issued to the person, any notice received from the federal transportation security administration concerning the person's eligibility for an "H" endorsement specified in s. 343.17 (3) (d) 1m., the status of the person's authorization to operate different vehicle groups, a record of any out−of−service orders issued under s. 343.305 (7) (b) or (9) (am), a record of the date on which any background investigation specified in s. 343.12 (6) (a) or (d) was completed, a record of the date on which any verification specified in s. 343.165 (1) and (3) was completed, all documents required to be maintained under s. 343.165 (2) (a), and a record of any reportable accident in which the person has been involved, including specification of any type of license and endorsements issued under this chapter under which the person was operating at the time of the accident and an indication whether or not the accident occurred in the course of any of the following:

1. The person's employment as a law enforcement officer as defined in s. 165.85 (2) (c), fire fighter as defined in s. 102.475 (8) (b), or emergency medical technician as defined in s. 256.01 (5).

2. The licensee's employment as a person engaged, by an authority in charge of the maintenance of the highway, in highway winter maintenance snow and ice removal during either a storm or cleanup following a storm. For purposes of this subdivision, "highway winter maintenance snow and ice removal" includes plowing, sanding, salting and the operation of vehicles in the delivery of those services.

3. The licensee's performance of duties as a first responder, as defined in s. 256.01 (9).

(am) 1. The file specified in par. (a) shall include the following:

a. For a person holding a commercial driver license issued by the department, a record of any disqualification by another jurisdiction of the person from operating a commercial motor vehicle for at least 60 days or of the revocation, suspension, or cancellation by another jurisdiction of the person's commercial driver license for at least 60 days, and the violation that resulted in the disqualification, revocation, suspension, or cancellation, as specified in any notice received from the other jurisdiction.

b. For a person holding a commercial driver license issued by the department, a record of any violation in another jurisdiction of any law of that jurisdiction, including any local law of that jurisdiction, or of any law of a federally recognized American Indian tribe or band in that jurisdiction, in conformity with any law of this state relating to motor vehicle traffic control, other than a parking violation, as specified in any notice received from that jurisdiction. The department shall record this information within 10 days after receipt of the notice.

c. For a person holding a commercial driver license issued by this state or another jurisdiction, a record of each violation, while operating any motor vehicle, of any state law or local ordinance of this state or any law of a federally recognized American Indian tribe or band in this state in conformity with any law of this state relating to motor vehicle traffic control, other than a parking violation. The department shall record the information under this subdivision within 10 days after the date of conviction.

2. In maintaining the department's file specified in subd. 1. and par. (a), the department may not conceal, withhold, or mask from the department's file, or otherwise allow in any way a person to avoid the department's recording in the department's file of, any information required to be recorded in the department's file under 49 CFR 384.225 and 384.226, regardless of whether the person has obtained deferral of imposition of judgment, been allowed to enter a diversion program, or otherwise obtained delayed or suspended judgment or alternative sentencing from a court.

(b) The information specified in pars. (a) and (am) must be filed by the department so that the complete operator's record is available for the use of the secretary in determining whether operating privileges of such person shall be suspended, revoked, canceled, or withheld, or the person disqualified, in the interest of public safety. The record of suspensions, revocations, and convictions that would be counted under s. 343.307 (2) shall be maintained permanently. The record of convictions for disqualifying offenses under s. 343.315 (2) (h) shall be maintained for at least 10 years. The record of convictions for disqualifying offenses under s. 343.315 (2) (f), (j), and (L), and all records specified in par. (am), shall be maintained for at least 3 years. The record of convictions for disqualifying offenses under s. 343.315 (2) (a) to (e) shall be maintained permanently, except that 5 years after a licensee transfers residency to another state such record may be transferred to another state of licensure of the licensee if that state accepts responsibility for maintaining a permanent record of convictions for disqualifying offenses. Such reports and records may be cumulative beyond the period for which a license is granted, but the secretary, in exercising the power of suspension granted under s. 343.32 (2) may consider only those reports and records entered during the 4−year period immediately preceding the exercise of such power of suspension. The department shall maintain the digital images of documents specified in s. 343.165 (2) (a) for at least 10 years.

Cross−reference: See also ch. Trans 100, Wis. adm. code.

(3) (a) The department shall maintain a file, for each person convicted of a violation as defined by s. 343.30 (6) (a), containing a record of reports of convictions of violations as defined by s. 343.30 (6) (a) and suspensions and revocations under s. 343.30 (6). The department may purge the record of any such conviction 24 months after it is reported.

(b) The department record of a person's conviction for exceeding a posted speed limit shall include the number of miles per hour in excess of the posted speed limit, as reported to the department.

(4) The department shall purge all of the following from the file of a person:

(a) Notwithstanding subs. (1) and (2) (b), any record of an administrative suspension upon receipt of a report from the court hearing the action arising out of the same incident or occurrence that the action has been dismissed or the person has been found innocent of the charge arising out of that incident or occurrence, except that the record of an administrative suspension for a person holding a commercial driver license may be purged only upon receipt of a court order.

(b) Any record of issuance of an out−of−service order under s. 343.305 (7) (b) or (9) (am) upon receipt of a report from the court hearing the action arising out of the same incident or occurrence that the action has been dismissed or the person has been found innocent of the charge of violating s. 346.63 (7) arising out of that incident or occurrence. In the case of a nonresident, the department shall also inform the state of licensure of the dismissal or finding of innocence.

(5) The department shall maintain the files specified in this section in a form that is appropriate to the form of the records constituting those files. Records under sub. (1) and files under sub. (2) shall be maintained in an electronic and transferable format accessible for the purpose specified in s. 343.03 (6) (a).

History: 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 273; 1979 c. 331; 1981 c. 178; 1983 a. 74; 1987 a. 3; 1989 a. 31, 105, 133, 359; 1991 a. 277; 1993 a. 65; 1995 a. 113, 184, 338; 1997 a. 35, 84, 237; 1999 a. 32, 109; 2001 a. 38, 109; 2003 a. 30, 33, 280, 320; 2007 a. 20, 130; 2009 a. 28, 100; 2011 a. 258.

343.234 Department to furnish information to the selective service system. Notwithstanding any other provision in this chapter, the department shall forward to the selective service system, in electronic format, any information on an appli-

cation for a driver's license, permit, or identification card submitted under this chapter by a male who is at least 18 years of age but less than 26 years of age that is requested by the selective service system for the purpose of registering the applicant with the selective service system. This section does not apply if the selective service system does not register applicants with the selective service system on the basis of information forwarded under this section.

History: 2001 a. 93.

343.235 Access to license and identification card records. (1) In this section:

(a) "Agent" means an authorized person who acts on behalf of or at the direction of another person.

(b) "Insurer" has the meaning given in s. 600.03 (27).

(c) "Personal identifier" has the meaning given in s. 85.103 (1).

(d) "State authority" has the meaning given in s. 19.62 (8).

(2) In providing copies under s. 19.35 (1) (a) of any written information collected or prepared under this chapter which consists in whole or in part of the personal identifiers of 10 or more persons, the department may not disclose a personal identifier of any person who has made a designation under s. 85.103 (2) or (3).

(3) Subsection (2) does not apply to any of the following:

(a) A law enforcement agency, a state authority, a district attorney, a driver licensing agency of another jurisdiction, a federal governmental agency, or the commission to perform a legally authorized function.

(b) An insurer authorized to write property and casualty or life, disability or long−term care insurance in this state or an agent of the insurer, if the insurer or agent uses the personal identifiers for purposes of issuing or renewing a policy and related underwriting, billing or processing or paying a claim. Notwithstanding sub. (5), no insurer, or agent of an insurer, may disclose to another person for marketing purposes any personal identifier received under this paragraph.

(5) Any person who has received under sub. (3) a personal identifier of any person who has made a designation under s. 85.103 (2) or (3) shall keep the personal identifier confidential and may not disclose it except for a purpose applicable to that person under sub. (3).

(6) (a) Any person who discloses a personal identifier in violation of this section may be required to forfeit not more than $500 for each violation.

(b) Any person who requests or obtains a personal identifier from the department under this section under false pretenses may be required to forfeit not more than $500 for each violation.

(c) Paragraphs (a) and (b) do not apply to a legal custodian under s. 19.33 of the department.

History: 1991 a. 269; 1999 a. 88; 2007 a. 20, 27; 2009 a. 180.

343.237 Access to license and identification card photographs and fingerprints. (1) In this section:

(ag) "Federal law enforcement agency" means a governmental unit of one or more persons employed by the federal government for the purpose of preventing and detecting crime and enforcing federal laws, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority.

(ar) "Law enforcement agency of another state" means a governmental unit of one or more persons employed by a state other than this state or by a political subdivision of a state other than this state for the purpose of preventing and detecting crime and enforcing laws or ordinances of that state or a political subdivision of that state, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority.

(b) "Wisconsin law enforcement agency" has the meaning given in s. 175.46 (1) (f).

(2) Any photograph taken of an applicant under s. 343.14 (3) or 343.50 (4), and any fingerprint taken of an applicant under s. 343.12 (6) (b), may be maintained by the department and, except as provided in this section and s. 165.8287, shall be kept confidential. Except as provided in this section and s. 165.8287, the department may release a photograph or fingerprint only to the person whose photograph or fingerprint was taken or to the driver licensing agency of another jurisdiction.

(3) The department shall provide a Wisconsin law enforcement agency or a federal law enforcement agency with a print or electronic copy of a photograph taken on or after September 1, 1997, of an applicant under s. 343.14 (3) or 343.50 (4), or a printed or electronic copy of a fingerprint taken of an applicant under s. 343.12 (6) (b), if the department receives a written request on the law enforcement agency's letterhead that contains all of the following:

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

(b) The name of the person making the request and the law enforcement agency that employs the requester.

(c) A statement signed by a division commander or higher authority within the law enforcement agency that the photograph or fingerprint is requested for any of the following purposes:

1. An investigation of unlawful activity.
2. A missing person investigation.
3. The identification of an accident victim.
4. The identification of a deceased person.

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

(e) If the requester is a federal law enforcement agency, a statement that the agency agrees to comply with all of the requirements under this section.

(4) If a law enforcement agency of another state or the commission makes a request meeting all the requirements specified for a request by a Wisconsin law enforcement agency or a federal law enforcement agency under sub. (3), the department shall comply with the request if all of the following apply:

(a) The law enforcement agency of the other state or the commission agrees to comply with all of the requirements under this section.

(b) The other state or the commission allows Wisconsin law enforcement agencies similar or greater access to similar information from that state or the commission.

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

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

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

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

(8) (a) Any law enforcement agency that receives a photograph or fingerprint provided to a law enforcement agency under this section shall keep the copy of the photograph or fingerprint

confidential and may disclose it only if disclosure is necessary to perform a law enforcement function and the person to whom the copy of the photograph or fingerprint is disclosed agrees to comply with par. (c).

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

(c) Any person who receives a copy of a photograph or fingerprint from a law enforcement agency under par. (a) shall destroy any copies of the photograph or fingerprint in his or her possession when the photograph or fingerprint is no longer necessary to perform the law enforcement function for which the photograph or fingerprint was disclosed.

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

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

History: 1997 a. 119, 237; 2001 a. 41; 2003 a. 36, 280; 2007 a. 20, 27; 2009 a. 167.

343.24 Department to furnish operating record. (1) The department shall upon request furnish any person an abstract of the operating record of any person. The abstract shall be certified if certification is requested. Such abstract is not admissible in evidence in any action for damages arising out of a motor vehicle accident.

(2) Except as provided in pars. (b) and (c), the department shall charge the following fees to any person for conducting searches of vehicle operators' records:

(a) For each file search, $5.

(b) For each computerized search, $5. The department may not charge this fee to any governmental unit, as defined in s. 895.51 (1) (dm).

(c) For each search requested by telephone, $6, or an established monthly service rate determined by the department. The department may not charge this fee to any governmental unit, as defined in s. 895.51 (1) (dm).

(d) For providing a paper copy of an abstract, $2.

(2m) If the department, in maintaining a computerized operating record system, makes copies of its operating record file database, or a portion thereof, on computer tape or other electronic media, copies of the tape or media may be furnished to any person on request. The department may also furnish to any person upon request records on computer tape or other electronic media that contain information from files of uniform traffic citations or motor vehicle accidents and that were produced for or developed by the department for purposes related to maintenance of the operating record file database. The department shall charge a fee of $5 for each file of vehicle operators' records contained in the tape or media. The department shall charge a fee of not more than $5 for each file of uniform traffic citations or motor vehicle accidents contained in the tape or media. Nothing in this subsection requires the department to produce records of particular files or data in a particular format except as those records or data are made by the department for its purposes.

(3) The department shall not disclose information concerning or related to a violation as defined by s. 343.30 (6) to any person other than a court, district attorney, county corporation counsel, city, village, or town attorney, law enforcement agency, driver licensing agency of another jurisdiction, or the minor who committed the violation or his or her parent or guardian.

(4) (a) In this subsection:

1. "Agent" means an authorized person who acts on behalf of or at the direction of another person.

2. "Insurer" has the meaning given in s. 600.03 (27).

3. "Personal identifier" has the meaning given in s. 85.103 (1).

4. "State authority" has the meaning given in s. 19.62 (8).

(b) In furnishing 10 or more operating records to a person under sub. (1) or (2m), the department may not disclose a personal identifier of any person who has made a designation under s. 85.103 (2) or (3).

(c) Paragraph (b) does not apply to any of the following:

1. A law enforcement agency, a state authority, a district attorney, a driver licensing agency of another jurisdiction, or a federal governmental agency, to perform a legally authorized function.

2. An insurer authorized to write property and casualty or life, disability or long−term care insurance in this state or an agent of the insurer, if the insurer or agent uses the names or addresses for purposes of issuing or renewing a policy and related underwriting, billing or processing or paying a claim. Notwithstanding par. (e), no insurer, or agent of an insurer, may disclose to another person for marketing purposes any personal identifier received under this subdivision.

(e) Any person who has received under par. (c) a personal identifier of any person who has made a designation under s. 85.103 (2) or (3) shall keep the personal identifier confidential and may not disclose it except for a purpose applicable to that person under par. (c).

(f) 1. Any person who discloses a personal identifier in violation of this subsection may be required to forfeit not more than $500 for each violation.

2. Any person who requests or obtains a personal identifier from the department under this subsection under false pretenses may be required to forfeit not more than $500 for each violation.

3. Subdivisions 1. and 2. do not apply to a legal custodian under s. 19.33 of the department.

History: 1975 c. 297 s. 9; Stats. 1975 s. 343.24; 1977 c. 29 s. 1654 (7) (e); 1979 c. 221, 331, 355; 1989 a. 105; 1991 a. 269; 1993 a. 16, 490; 1995 a. 113; Sup. Ct. Order No. 99−04, 228 Wis. 2d xxiii (2000); 1999 a. 88, 185; 2001 a. 16; 2007 a. 20; 2009 a. 28.

Cross−reference: See also ch. Trans 195, Wis. adm. code.

343.245 Duties of commercial motor vehicle drivers; employer responsibilities; penalties. (1) DEFINITIONS. In this section:

(a) "Employee" means any operator of a commercial motor vehicle who is either directly employed by or under lease to an employer, including a full−time, regularly employed driver, a volunteer driver, a casual, intermittent or occasional driver, a leased driver, and an independent, owner−operator contractor while in the course of operating a commercial motor vehicle.

(b) "Employer" means any person, including the state or a political subdivision thereof, who owns or leases a commercial motor vehicle or assigns a person to drive a commercial motor vehicle.

(2) NOTIFICATIONS BY DRIVER. (a) *Notification of convictions.* 1. 'To state.' A person, after applying for or receiving a commercial driver license issued by this state, who is convicted of violating in a motor vehicle any law of this state or local ordinance adopted in conformity therewith or a law enacted by a federally recognized American Indian tribe or band in this state which is in conformity with any law of this state, or the law of another jurisdiction, relating to motor vehicle traffic control, other than parking violations, shall notify the department of the conviction in the manner specified by the department within 30 days after the date of conviction. Notwithstanding any other provision of law, a person who holds an "H" endorsement specified in s. 343.17 (3) (d) 1m. shall notify the department within 24 hours if the person is

convicted, or found not guilty by reason of insanity, of any disqualifying felony criminal offense described in s. 343.14 (2g) (a) 1., or adjudicated as a mental defective or committed to a mental institution.

2. 'To employers.' An employee, after applying for or receiving a commercial driver license issued by this state, who is convicted of violating in a motor vehicle any law of this state or local ordinance adopted in conformity therewith or a law enacted by a federally recognized American Indian tribe or band in this state which is in conformity with any law of this state, or the law of another jurisdiction, relating to motor vehicle traffic control, other than parking violations, shall notify his or her current employer in writing of the conviction within 30 days after the date of conviction.

(b) *Notification of suspensions, revocations and cancellations.* An employee whose commercial driver license is suspended, revoked or canceled by a state, or who loses the privilege to operate a commercial motor vehicle in any state for any period, including being disqualified from operating a commercial motor vehicle or subject to an out−of−service order, shall notify his or her current employer of that fact before the end of the first business day after the day on which the employee receives notice of the suspension, revocation, cancellation, disqualification or out−of−service order.

(c) *Notification of previous employment.* An applicant for employment as a commercial motor vehicle driver shall provide, at the time of application, information on his or her employment history as a commercial motor vehicle driver as requested by the prospective employer, certified as true and complete by the applicant, including all of the following information for the 10 years preceding the date of application:

1. The names and addresses of any previous employers for which the applicant was a commercial motor vehicle driver.

2. The dates of employment with each employer in subd. 1.

3. The reason for leaving each employer in subd. 1.

(3) EMPLOYER RESPONSIBILITIES. (a) Every employer shall request each applicant for employment as a commercial motor vehicle driver to provide the information specified in sub. (2) (c), and no employer may employ as a commercial motor vehicle driver an applicant who refuses or otherwise fails to provide true and complete information.

(b) No employer may knowingly allow, permit or authorize an employee to operate a commercial motor vehicle during any period when the employee:

1. Has had his or her commercial driver license suspended, revoked or canceled by any state;

2. Is disqualified from operating a commercial vehicle;

3. Is subject to an out−of−service order in any state;

4. Has more than one operator's license, except during the 10−day period beginning on the date on which the employee is issued an operator's license; or

5. Does not possess a valid commercial driver license properly endorsed to permit operation of the vehicle.

(c) No employer may knowingly allow, permit, or authorize an employee to operate a commercial motor vehicle in violation of any federal, state, or local law, rule, or regulation relating to railroad crossings.

(4) PENALTIES. (a) Except as provided in pars. (b) and (c), any person who violates sub. (2) or (3) shall forfeit not more than $2,500.

(b) Any person who violates sub. (3) (b) shall be fined not less than $2,750 nor more than $25,000 or imprisoned for not more than 90 days or both.

(c) Any person who violates sub. (3) (c) shall forfeit not more than $10,000.

History: 1989 a. 105; 1991 a. 39; 1993 a. 16; 1995 a. 113; 2001 a. 16, 109; 2003 a. 33; 2009 a. 28, 326.

Cross−reference: See also ch. Trans 118, Wis. adm. code.

343.247 Employer notification program. (1) In this section:

(a) "Employee" has the meaning given in s. 343.245 (1) (a) and also includes any person whose employment responsibilities include the operation of any motor vehicle.

(b) "Employer" has the meaning given in s. 343.245 (1) (b) and also includes any person, including the state or a political subdivision thereof, who employs a person whose employment responsibilities include the operation of any motor vehicle.

(2) (a) The department shall establish by rule an employer notification program to permit an employer to register the name of an employee and be notified by the department whenever a conviction or suspension, revocation, cancellation, disqualification or out−of−service order is recorded on the operating record of the employee. An employer may withdraw an employee's name from the program at any time.

(b) The department shall establish and collect reasonable fees from employers in the program sufficient to defray the costs of instituting and maintaining the program, including the registration and withdrawal of employees. The fee for each notification by the department to an employer under par. (a) shall be $5.

History: 2009 a. 326 ss. 2 to 4.

SUBCHAPTER III

CANCELLATION, REVOCATION AND SUSPENSION OF LICENSES

343.25 Cancellation of licenses. The secretary shall cancel a license:

(1) Whenever the secretary determines that the license or endorsement was issued upon an application which contains a false statement as to any material matter; or

(2) Within 10 days after receiving a written request from a person who signed the application of a person under 18 years of age, or a notice of cancellation or termination of insurance, as provided in s. 343.15; or

(3) When the license is held by a person under 18 years of age and the secretary receives satisfactory evidence of the death of the adult who signed the application for the license; or

(4) When the person holding the license falls into one of the classes of persons to whom the law prohibits issuance of a license or a particular endorsement; or

(5) Whenever the secretary determines that a person has secured a license or endorsement, or attempted to secure a license or endorsement, by hiring or permitting another to appear in the person's place to take an examination or otherwise gaining or attempting to gain a passing score on an examination by fraud or otherwise obtain a commercial license or endorsement by fraud; or

(6) Whenever the secretary determines that a license has been altered and returned for cancellation under s. 343.43 (2); or

(7) When a person who has been ordered to submit to an examination under s. 343.16 or to appear for either group or individual counseling or examination under s. 343.32 (2) fails or refuses to do so. Such cancellation shall continue until compliance with the order has been made or the order is rescinded.

History: 1975 c. 5, 199; 1977 c. 29 s. 1654 (7) (c); 1989 a. 105, 359; 2015 a. 123.

343.26 License after cancellation. (1) Except as provided in sub. (2), any person whose license has been canceled, whether the license has been canceled by the secretary or stands canceled as a matter of law, may apply for a new license at any time. Upon receipt of the application and all required fees, and after processing the application as provided in s. 343.165, the department shall issue or refuse issuance of the license as upon an original application. The department may, but need not, require the applicant to submit to an examination as provided in s. 343.16.

(2) If a person's license has been canceled under s. 343.25 (2) or (3), or canceled because of the person's nonpayment of a fee, the person's license may be reinstated as provided in s. 343.38 (3g).

History: 1977 c. 29 s. 1654 (7) (a), (c); 2007 a. 20; 2009 a. 103.

343.265 Voluntary surrender and reissuance after surrender. (1) The department may accept the voluntary surrender of the operator's license of a person who has a mental or physical disability or disease or a medical condition which prevents or may prevent the person from exercising reasonable control over a motor vehicle if the person's operating privilege is not subject to suspension or revocation for any reason.

(1m) The department may accept the voluntary surrender of the operator's license of a person who no longer intends to exercise the privilege of operating a vehicle class or type authorized by that license, if the person's operating privilege is not subject to suspension or revocation for any reason. The department may issue a license under sub. (2), omitting the authorizations to operate a vehicle class or type that the person has relinquished.

(1r) Notwithstanding sub. (1), the department shall accept the voluntary surrender of an "H" endorsement specified in s. 343.17 (3) (d) 1m. Upon accepting the surrender, the department shall immediately cancel the endorsement if the licensee is not eligible for the endorsement. Following cancellation under this subsection, the department shall take the actions required in s. 343.125 (4) (a) and (b). Upon accepting the surrender from a person to whom the department would not be prohibited from issuing an "H" endorsement, the department may remove that endorsement from the licensee's commercial driver license as a temporary surrender. The department may not issue an "H" endorsement to any person whose "H" endorsement is removed as a temporary surrender under this subsection unless the person applies for initial issuance of an "H" endorsement.

(2) A person whose voluntary surrender of license under sub. (1) or (1m) has been accepted by the department may apply for a duplicate license under s. 343.19, or, if the person's license has expired during the period of surrender, a renewal license, at any time. Upon receipt of the person's application and the applicable fees under s. 343.21, the department shall issue or deny the license as provided in this subchapter. The department may require the person to submit to an examination under s. 343.16 (5).

History: 1987 a. 40; 1989 a. 105; 1995 a. 113; 2003 a. 33; 2007 a. 20.

343.28 Courts to report convictions and forward licenses to the department. (1) Whenever a person is convicted of a moving traffic violation under chs. 341 to 349 or under a local ordinance enacted under ch. 349, the clerk of the court in which the conviction occurred, or the justice, judge or magistrate of a court not having a clerk, shall, as provided in s. 345.48, forward to the department the record of such conviction. The record of conviction forwarded to the department shall state whether the offender was involved in an accident at the time of the offense, whether the offender was operating a commercial motor vehicle at the time of the offense and, if so, whether the offender was transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73, or was operating a vehicle designed to carry, or actually carrying, 16 or more passengers, including the driver. Whenever a person is convicted of exceeding a posted speed limit, the record of conviction forwarded to the department shall include the number of miles per hour in excess of the posted speed limit.

(2) Whenever a person is convicted of any offense for which s. 343.31 makes mandatory the revocation by the secretary of such person's operating privilege, the court in which the conviction occurred may require the surrender to it of any license then held by such person. If the court requires surrender of a license, the court shall destroy the license. The clerk of the court, or the justice, judge or magistrate if the court has no clerk, shall, as provided in s. 345.48, forward to the department the record of conviction, which shall state whether the offender was involved in an accident at the time of the offense, whether the offender was operating a commercial motor vehicle at the time of the offense and, if so, whether the offender was transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73, or was operating a vehicle designed to carry, or actually carrying, 16 or more passengers, including the driver.

(3) If a person is convicted of committing a violation as defined by s. 343.30 (6) (a), the clerk of the court, or the justice, judge or magistrate if the court has no clerk, shall, as provided in s. 345.48, forward to the department the record of conviction.

(4) Any person who fails to comply with any provision of this section relative to forwarding records of convictions to the department may be fined not more than $100 or imprisoned not more than 6 months or both.

History: 1971 c. 278; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 273; 1979 c. 331; 1989 a. 105; 1995 a. 113; 1999 a. 140; 2003 a. 33; 2009 a. 103.

343.30 Suspension and revocation by the courts. (1) A court may suspend a person's operating privilege for any period not exceeding one year upon such person's conviction in such court of violating any of the state traffic laws or any local ordinance enacted under ch. 349, other than a violation of s. 346.18 or a local ordinance in conformity with s. 346.18 for which operating privilege suspension is required under s. 343.31 (2t) (a).

(1d) A court shall revoke a person's operating privilege upon the person's conviction for violating s. 343.05 (3) (a) or a local ordinance in conformity therewith if the person, in the course of the violation, causes great bodily harm, as defined in s. 939.22 (14), to another person or the death of another person. Any revocation under this subsection shall be for a period of 6 months, unless the court orders a period of revocation of less than 6 months and places its reasons for ordering the lesser period of revocation on the record.

(1g) (a) Subject to pars. (b) and (c), a court may suspend a person's operating privilege for any period not exceeding 6 months upon the person's conviction for violating s. 343.44 (1) (a), (b), or (d) or a local ordinance in conformity therewith.

(b) Except as provided in par. (c), a court may revoke a person's operating privilege upon the person's conviction for violating s. 343.44 (1) (a), (b), or (d) or a local ordinance in conformity therewith if the person has been convicted of 3 or more prior violations of s. 343.44 (1) (a), (b), or (d), or similar violations under s. 343.44 (1), 1997 stats., or a local ordinance in conformity therewith, within the 5−year period preceding the violation.

(c) A court shall revoke a person's operating privilege upon the person's conviction for violating s. 343.44 (1) (a) or (b), or a local ordinance in conformity with s. 343.44 (1) (a), if the person, in the course of the violation, causes great bodily harm, as defined in s. 939.22 (14), to another person or the death of another person.

(d) Any revocation under this subsection shall be for a period of 6 months, unless the court orders a period of revocation of less than 6 months and places its reasons for ordering the lesser period of revocation on the record.

(1n) A court shall suspend the operating privilege of a person for a period of 15 days upon the person's conviction by the court of exceeding the applicable speed limit as established by s. 346.57 (4) (gm) or (h), by 25 or more miles per hour. If the conviction makes the person subject to suspension under s. 343.085 or 343.32, the court shall order the suspension of the person's operating privilege and notify the secretary of the order. Upon receiving the notice, the secretary shall act as authorized under s. 343.32 or 343.085. Any suspension under this subsection shall date from the day the secretary acts on the order of suspension of the operating privilege.

(1o) Upon conviction of a person for violating s. 346.072, the court shall suspend the violator's operating privilege as follows:

(a) For a period of not less than 90 days nor more than one year, if the offense resulted in damage to the property of another but did not result in bodily harm to another.

(b) For a period of not less than 180 days nor more than 2 years, if the offense resulted in bodily harm to another but did not result in the death of another.

(c) For a period of 2 years, if the offense resulted in the death of another.

(1p) Notwithstanding sub. (1), a court shall suspend the operating privilege of a person for 3 months upon the person's conviction by the court for violation of s. 346.63 (2m) or a local ordinance in conformity with s. 346.63 (2m). If there was a minor passenger under 16 years of age in the motor vehicle at the time of the violation that gave rise to the conviction under s. 346.63 (2m) or a local ordinance in conformity with s. 346.63 (2m), the court shall suspend the operating privilege of the person for 6 months.

(1q) (a) If a person is convicted under s. 346.63 (1) or a local ordinance in conformity therewith, the court shall proceed under this subsection. If a person is convicted under s. 346.63 (2) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, the court shall proceed under pars. (c) and (d). If a person is referred by the department acting under s. 343.16 (5) (a), the department shall proceed under pars. (c) and (d) without the order of the court.

(b) For persons convicted under s. 346.63 (1) or a local ordinance in conformity therewith:

1. Except as provided in subds. 3. and 4., the court shall revoke the person's operating privilege under this paragraph according to the number of previous suspensions, revocations or convictions that would be counted under s. 343.307 (1). Suspensions, revocations and convictions arising out of the same incident shall be counted as one. If a person has a conviction, suspension or revocation for any offense that is counted under s. 343.307 (1), that conviction, suspension or revocation shall count as a prior conviction, suspension or revocation under this subdivision.

2. Except as provided in sub. (1r) or subd. 3., 4. or 4m., for the first conviction, the court shall revoke the person's operating privilege for not less than 6 months nor more than 9 months. The person is eligible for an occupational license under s. 343.10 at any time.

3. Except as provided in sub. (1r) or subd. 4m., if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other convictions, suspensions, and revocations counted under s. 343.307 (1) within a 10−year period, equals 2, the court shall revoke the person's operating privilege for not less than one year nor more than 18 months. After the first 45 days of the revocation period has elapsed, the person is eligible for an occupational license under s. 343.10 if he or she has completed the assessment and is complying with the driver safety plan ordered under par. (c).

4. Except as provided in sub. (1r) or subd. 4m., if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other convictions, suspensions, and revocations counted under s. 343.307 (1), equals 3 or more, the court shall revoke the person's operating privilege for not less than 2 years nor more than 3 years. After the first 45 days of the revocation period has elapsed, the person is eligible for an occupational license under s. 343.10 if he or she has completed the assessment and is complying with the driver safety plan ordered under par. (c).

4m. If there was a minor passenger under 16 years of age in the motor vehicle at the time of the violation that gave rise to the conviction under s. 346.63 (1) or a local ordinance in conformity with s. 346.63 (1), the applicable minimum and maximum revocation periods under subd. 2., 3. or 4. for the conviction are doubled.

5. The time period under this paragraph shall be measured from the dates of the refusals or violations which resulted in the suspensions, revocations or convictions.

(c) 1. Except as provided in subd. 1. a., b., or d., the court shall order the person to submit to and comply with an assessment by an approved public treatment facility as defined in s. 51.45 (2) (c) for examination of the person's use of alcohol, controlled substances or controlled substance analogs and development of a driver safety plan for the person. The court shall notify the department of transportation of the assessment order. The court shall notify the person that noncompliance with assessment or the driver safety plan will result in revocation of the person's operating privilege until the person is in compliance. The assessment order shall:

a. If the person is a resident, refer the person to an approved public treatment facility in the county in which the person resides. The facility named in the order may provide for assessment of the person in another approved public treatment facility. The order shall provide that if the person is temporarily residing in another state, the facility named in the order may refer the person to an appropriate treatment facility in that state for assessment and development of a driver safety plan for the person satisfying the requirements of that state.

b. If the person is a nonresident, refer the person to an approved public treatment facility in this state. The order shall provide that the facility named in the order may refer the person to an appropriate treatment facility in the state in which the person resides for assessment and development of a driver safety plan for the person satisfying the requirements of that state.

c. Require a person who is referred to a treatment facility in another state under subd. 1. a. or b. to furnish the department written verification of his or her compliance from the agency which administers the assessment and driver safety plan program. The person shall provide initial verification of compliance within 60 days after the date of his or her conviction. The requirement to furnish verification of compliance may be satisfied by receipt by the department of such verification from the agency which administers the assessment and driver safety plan program.

d. Include a statement that if the person is a member or the relative of a member of a federally recognized American Indian tribe or band, the person may receive the assessment required under this subdivision from an approved tribal treatment facility as defined in s. 51.01 (2c).

1m. The person may voluntarily submit to an assessment by an approved public treatment facility, as defined in s. 51.45 (2) (c), and driver safety plan under this paragraph before the conviction. A prosecutor may not use that voluntary submission to justify a reduction in the charge made against the person. Upon notification of the person's submission to the voluntary assessment and driver safety plan, the court may take that voluntary submission into account when determining the person's sentence, and shall suspend the order to submit to assessment pending the person's completion of the voluntary assessment and driver safety plan.

2. The department of health services shall establish standards for assessment procedures and the driver safety plan programs by rule. The department of health services shall establish by rule conflict of interest guidelines for providers. The conflict of interest guidelines may not preclude an approved tribal treatment facility, as defined in s. 51.01 (2c), from conducting assessments and providing treatment under this subsection.

3. Prior to developing a plan which specifies treatment, the facility shall make a finding that treatment is necessary and appropriate services are available. The facility shall submit a report of the assessment and the driver safety plan within 14 days to the county department under s. 51.42, the plan provider, the department of transportation and the person, except that upon request by the facility and the person, the county department may extend the period for assessment for not more than 20 additional workdays. The county department shall notify the department of transportation regarding any such extension.

(d) 1. The assessment report shall order compliance with a driver safety plan. The report shall inform the person of the fee provisions under s. 46.03 (18) (f). The driver safety plan may include a component that makes the person aware of the effect of his or her offense on a victim and a victim's family. The driver safety plan may include treatment for the person's misuse, abuse

or dependence on alcohol, controlled substances or controlled substance analogs, or attendance at a school under s. 345.60, or both. If the plan requires treatment at an approved tribal treatment facility, as defined in s. 51.01 (2c), the plan may include traditional tribal treatment modes. If the plan requires inpatient treatment, the treatment shall not exceed 30 days. A driver safety plan under this paragraph shall include a termination date consistent with the plan which shall not extend beyond one year.

2. The county department under s. 51.42 or approved tribal treatment facility under s. 51.45 (7) (h) shall assure notification of the department of transportation, in a manner prescribed by the department, and the person of the person's compliance or noncompliance with assessment and with treatment. The school under s. 345.60 shall notify the department, the county department under s. 51.42, and the person of the person's compliance or noncompliance with the requirements of the school. Nonpayment of the assessment fee or, if the person has the ability to pay, nonpayment of the driver safety plan fee is noncompliance with the court order. If the department is notified of any noncompliance, other than for nonpayment of the assessment fee or driver safety plan fee, it shall revoke the person's operating privilege until the county department under s. 51.42, the approved tribal treatment facility under s. 51.45 (7) (h), or the school under s. 345.60 notifies the department that the person is in compliance with assessment or the driver safety plan. If the department is notified that a person has not paid the assessment fee, or that a person with the ability to pay has not paid the driver safety plan fee, the department shall suspend the person's operating privilege for a period of 2 years or until it receives notice that the person has paid the fee, whichever occurs first.

3. The department shall notify the person of the suspension or revocation under subd. 2., the reason for the suspension or revocation and the person's right to a review. A person may request a review of a revocation based upon failure to comply with a driver safety plan within 10 days of notification. The review shall be handled by the subunit of the department of transportation designated by the secretary. The issues at the review are limited to whether the driver safety plan, if challenged, is appropriate and whether the person is in compliance with the assessment order or the driver safety plan. The review shall be conducted within 10 days after a request is received. If the driver safety plan is determined to be inappropriate, the department shall order a reassessment and, if the person is otherwise eligible, the department shall reinstate the person's operating privilege. If the person is determined to be in compliance with the assessment or driver safety plan, and if the person is otherwise eligible, the department shall reinstate the person's operating privilege. If there is no decision within the 10−day period, the department shall issue an order reinstating the person's operating privilege until the review is completed, unless the delay is at the request of the person seeking the review.

(e) Notwithstanding par. (c), if the court finds that the person is already covered by an assessment or is participating in a driver safety plan or has had evidence presented to it by a county department under s. 51.42 that the person has recently completed assessment, a driver safety plan or both, the court is not required to make an order under par. (c). This paragraph does not prohibit the court from making an order under par. (c), if it deems such an order advisable.

(f) The department may make any order which the court is authorized or required to make under this subsection if the court fails to do so.

(h) The court or department shall provide that the period of suspension or revocation imposed under this subsection shall be reduced by any period of suspension or revocation previously served under s. 343.305 if the suspension or revocation under s. 343.305 and the conviction for violation of s. 346.63 (1) or (2m) or a local ordinance in conformity therewith arise out of the same incident or occurrence. The court or department shall order that the period of suspension or revocation imposed under this subsection run concurrently with any period of time remaining on a suspension or revocation imposed under s. 343.305 arising out of the same incident or occurrence. The court may modify an occupational license authorized under s. 343.305 (8) (d) in accordance with this subsection.

(1r) For any revocation the court orders under sub. (1q), the court shall extend the revocation period by the number of days to which the court sentences the person to imprisonment in a jail or prison for an offense related to the revocation.

(1z) If a court imposes a driver improvement surcharge under s. 346.655 or a safe ride program surcharge under s. 346.657 and the person fails to pay all surcharges imposed under s. 346.655 or 346.657 within 60 days after the date by which the court ordered payment, the court may suspend the person's operating privilege until the person pays all surcharges imposed under s. 346.655 or 346.657, except that the suspension period may not exceed 2 years.

(2d) A court may suspend a person's operating privilege upon conviction of any offense specified under ss. 940.225, 948.02, 948.025, 948.07, or 948.085, if the court finds that it is inimical to the public safety and welfare for the offender to have operating privileges. The suspension shall be for one year or until discharge from prison or jail sentence or probation, extended supervision or parole with respect to the offenses specified, whichever date is later. Receipt of a certificate of discharge from the department of corrections or other responsible supervising agency, after one year has elapsed since the suspension, entitles the holder to reinstatement of operating privileges. The holder may be required to present the certificate to the secretary if the secretary deems necessary.

(2g) A court may suspend or revoke a person's operating privilege for any period not exceeding one year upon conviction of that person for violating s. 346.67, 346.68 or 346.69. This subsection does not apply to circumstances that require the department to revoke a person's operating privilege under s. 343.31 (1) (d) or (3) (i) or (j).

(2j) (a) A court may suspend a person's operating privilege upon the person's first conviction for violating s. 346.44 or 346.62 (2m) and shall suspend a person's operating privilege upon the person's 2nd or subsequent conviction within a 5−year period for violating s. 346.44 or 346.62 (2m). The suspension shall be for a period of 6 months. For purposes of determining prior convictions for purposes of this paragraph, the 5−year period shall be measured from the dates of the violations that resulted in the convictions. Each conviction under s. 346.44 or 346.62 (2m) shall be counted, except that convictions under s. 346.44 and 346.62 (2m) arising out of the same incident or occurrence shall be counted as a single conviction.

(3) The court that ordered the issuance of an occupational license under s. 343.10 (4) (b) may withdraw the order to issue the license whenever the court, upon the facts, does not see fit to permit the licensee to retain the occupational license. Upon receiving notice that a court has withdrawn its order to issue an occupational license, the department shall cancel that license.

(4) Whenever a court suspends or revokes an operating privilege under this section, the court may take possession of any suspended or revoked license. If the court takes possession of a license, it shall destroy the license. The court shall forward, as provided in s. 345.48, to the department the record of conviction and notice of suspension or revocation. Whenever a court restricts the operating privilege of a person, the court shall forward notice of the restriction to the department.

(5) No court may suspend or revoke an operating privilege except as authorized by this chapter or ch. 345, 351, or 938 or s. 767.73, 800.095 (1) (a), 943.21 (3m), or 961.50. When a court revokes, suspends, or restricts a juvenile's operating privilege under ch. 938, the department of transportation shall not disclose information concerning or relating to the revocation, suspension, or restriction to any person other than a court, district attorney, county corporation counsel, city, village, or town attorney, law

enforcement agency, driver licensing agency of another jurisdiction, or the minor whose operating privilege is revoked, suspended, or restricted, or his or her parent or guardian. Persons entitled to receive this information shall not disclose the information to other persons or agencies.

(6) (a) In this subsection, "violation" means a violation of s. 125.07 (4) (a) or (b), 125.085 (3) (b) or 125.09 (2) or a local ordinance that strictly conforms to one of those statutes or a law of a federally recognized American Indian tribe or band in this state that strictly conforms to one of those statutes.

(b) If a court imposes suspension of a person's operating privilege under s. 125.07 (4) (bs) or (c), 346.93 (2f) or (2g) or 938.344 (2), (2b) or (2d), the suspension imposed shall be one of the following:

1. For a first violation, suspension for 30 to 90 days.

2. For a violation committed within 12 months of a previous violation, suspension for not more than one year.

3. For a violation committed within 12 months of 2 or more previous violations, suspension for not more than 2 years.

(bm) If the court imposes a suspension of a person's operating privilege under s. 125.085 (3) (bd), the suspension shall be for 30 to 90 days.

(c) Except as provided by par. (d), the suspension of the operating privilege under this subsection shall commence on the date of disposition.

(d) If the person subject to suspension under this subsection does not hold a valid license under this chapter other than a license under s. 343.07 or 343.08 on the date of disposition, the suspension under par. (b) shall commence on the date on which the person is first eligible for issuance, renewal, or reinstatement of an operator's license under this chapter.

History: 1971 c. 213 s. 5; 1971 c. 278; 1973 c. 70, 218; 1975 c. 5; 1975 c. 184 s. 13; 1975 c. 199, 297, 421; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 30, 64, 193, 203; 1979 c. 221, 300, 331, 333, 355; 1981 c. 20; 1981 c. 79 s. 18; 1983 a. 17; 1983 a. 74 ss. 23m to 26, 32; 1983 a. 192; 1985 a. 80, 176, 337; 1987 a. 3, 17, 285; 1987 a. 332 s. 64; 1989 a. 7, 31, 105, 121, 336; 1991 a. 39, 251, 277, 316; 1993 a. 16, 227, 317; 1995 a. 27, 77, 269, 338, 401, 425, 448; 1997 a. 35, 84, 135, 237, 283; 1999 a. 32, 109, 143; 2001 a. 15, 16, 38; 2003 a. 30, 80; 2005 a. 277; 2005 a. 443 s. 265; 2005 a. 466; 2007 a. 20 ss. 3300, 9121 (6) (a); 2007 a. 134; 2009 a. 100, 102, 103, 402; 2011 a. 113, 173, 262; 2013 a. 246; 2015 a. 55.

Cross−reference: See also ch. DHS 62, Wis. adm. code.

The limitation under sub. (5) that no court may suspend or revoke an operating privilege except as authorized by statute precludes not only restrictions on obtaining a physical license document, but also on the privilege to operate a vehicle. A court's broad authority to fashion appropriate conditions of extended supervision is limited by the provisions of this section concerning suspension and revocation of operating privileges by the courts. State v. Hoppe, 2014 WI App 51, 354 Wis. 2d 219, 847 N.W.2d 869, 13−1457.

Suspension or revocation of operating privileges applies to both a regular driver license and to a chauffeur's license. 63 Atty. Gen. 240.

343.301 Installation of ignition interlock device. (1g)

(a) A court shall enter an order under par. (am) if either of the following applies:

1. The person improperly refused to take a test under s. 343.305.

2. The person violated s. 346.63 (1) or (2), 940.09 (1), or 940.25 and either of the following applies:

a. The person had an alcohol concentration of 0.15 or more at the time of the offense.

b. The person has a total of one or more prior convictions, suspensions, or revocations, counting convictions under ss. 940.09 (1) and 940.25 in the person's lifetime and other convictions, suspensions, and revocations counted under s. 343.307 (1).

(am) A court shall order one or more of the following:

1. That the person's operating privilege for the operation of "Class D" vehicles be restricted to operating vehicles that are equipped with an ignition interlock device and, except as provided in sub. (1m), shall order that each motor vehicle for which the person's name appears on the vehicle's certificate of title or registration be equipped with an ignition interlock device.

2. That the person participate in a program described in s. 165.957 or that meets the definition of a 24−7 sobriety program under 23 USC 405 (d) (7) (A) and regulations adopted thereunder. If the court enters an order under this subdivision, when the person completes or otherwise does not participate in the program, the court shall order that the person's operating privilege for the operation of "Class D" vehicles be restricted to operating vehicles that are equipped with an ignition interlock device, shall specify the duration of the order, shall, except as provided in sub. (1m), order that each motor vehicle for which the person's name appears on the vehicle's certificate of title or registration be equipped with an ignition interlock device, and shall notify the department of such order.

(1m) If equipping each motor vehicle with an ignition interlock device under sub. (1g) would cause an undue financial hardship, the court may order that one or more vehicles described in sub. (1g) not be equipped with an ignition interlock device.

(2m) (a) If the court enters an order under sub. (1g) (am) 1., the court shall restrict the operating privilege under sub. (1g) (am) 1. for a period of not less than one year nor more than the maximum operating privilege revocation period permitted for the refusal or violation, beginning on the date the department issues any license granted under this chapter, except that if the maximum operating privilege revocation period is less than one year, the court shall restrict the operating privilege under sub. (1g) (am) 1. for one year. The court may order the installation of an ignition interlock device under sub. (1g) (am) 1. immediately upon issuing an order under sub. (1g) (am) 1.

(b) If the court enters an order under sub. (1g) (am) 2. that does not restrict a person's operating privilege for the operation of "Class D" vehicles to operating vehicles that are equipped with an ignition interlock device while he or she participates in a program, the court shall order that the time period during which the person participates in a program, combined with the time period for which the person's operating privilege is restricted under sub. (1g) (am) 2. equals not less than one year nor more than the maximum operating privilege revocation period permitted for the refusal or violation, except that if the maximum operating privilege revocation period is less than one year, the time period shall equal one year. The time period for which the person's operating privilege is restricted under sub. (1g) (am) 2. begins on the date the department issues any license granted under this chapter. The court may order the person to install an ignition interlock device under sub. (1g) (am) 2. immediately after his or her participation in the program ends or while the person completes the program and for the additional period of time required under this paragraph, and shall notify the department of the date the person's participation ended and the duration of the order restricting the operating privilege. A person subject to an order requiring installation of an ignition interlock device shall, within 2 weeks after the date on which installation of the ignition interlock device is required under the order, submit proof to the sheriff in his or her county of residence that an ignition interlock device has been installed in each motor vehicle to which the order applies.

(3) (a) Except as provided in par. (b), if the court enters an order under sub. (1g), the person shall be liable for the reasonable cost of equipping and maintaining any ignition interlock device installed on his or her motor vehicle.

(b) If the court finds that the person who is subject to an order under sub. (1g) has a household income that is at or below 150 percent of the nonfarm federal poverty line for the continental United States, as defined by the federal department of labor under 42 USC 9902 (2), the court shall limit the person's liability under par. (a) to one−half of the cost of equipping each motor vehicle with an ignition interlock device and one−half of the cost per day per vehicle of maintaining the ignition interlock device.

(4) A person to whom an order under sub. (1g) applies violates that order if he or she fails to have an ignition interlock device installed as ordered, removes or disconnects an ignition interlock device, requests or permits another to blow into an ignition interlock device or to start a motor vehicle equipped with an ignition

interlock device for the purpose of providing the person an operable motor vehicle without the necessity of first submitting a sample of his or her breath to analysis by the ignition interlock device, or otherwise tampers with or circumvents the operation of the ignition interlock device.

(5) If the court enters an order under sub. (1g), the court shall impose and the person shall pay to the clerk of court an ignition interlock surcharge of $50. The clerk of court shall transmit the amount to the county treasurer.

History: 1999 a. 109; 2001 a. 16 ss. 3417m to 3420t, 4060gj, 4060hw, 4060hy; 2001 a. 104; 2009 a. 100; 2013 a. 168; 2015 a. 389.

Sub. (1g) (b) 2. requires an order for ignition interlock devices when a person violates s. 346.63 (1) and has one or more prior OWI convictions. Sub. (1g) (b) 2. provides no restrictions on how to count prior convictions for purposes of ordering ignition interlock devices. The ten−year look−back provision in s. 346.65 (2) (am) 2. for purposes of determining whether to charge or penalize a repeat OWI offender civilly or criminally is independent of and has no effect on orders for ignition interlock devices under this section. Village of Grafton v. Seatz, 2014 WI App 23, 352 Wis. 2d 747, 845 N.W.2d 672, 13−1414.

Wisconsin's New OWI Law. Mishlove & Stuckert. Wis. Law. June 2010.

343.303 Preliminary breath screening test. If a law enforcement officer has probable cause to believe that the person is violating or has violated s. 346.63 (1) or (2m) or a local ordinance in conformity therewith, or s. 346.63 (2) or (6) or 940.25 or s. 940.09 where the offense involved the use of a vehicle, or if the officer detects any presence of alcohol, a controlled substance, controlled substance analog or other drug, or a combination thereof, on a person driving or operating or on duty time with respect to a commercial motor vehicle or has reason to believe that the person is violating or has violated s. 346.63 (7) or a local ordinance in conformity therewith, the officer, prior to an arrest, may request the person to provide a sample of his or her breath for a preliminary breath screening test using a device approved by the department for this purpose. The result of this preliminary breath screening test may be used by the law enforcement officer for the purpose of deciding whether or not the person shall be arrested for a violation of s. 346.63 (1), (2m), (5) or (7) or a local ordinance in conformity therewith, or s. 346.63 (2) or (6), 940.09 (1) or 940.25 and whether or not to require or request chemical tests as authorized under s. 343.305 (3). The result of the preliminary breath screening test shall not be admissible in any action or proceeding except to show probable cause for an arrest, if the arrest is challenged, or to prove that a chemical test was properly required or requested of a person under s. 343.305 (3). Following the screening test, additional tests may be required or requested of the driver under s. 343.305 (3). The general penalty provision under s. 939.61 (1) does not apply to a refusal to take a preliminary breath screening test.

History: 1981 c. 20; 1985 a. 32 s. 3; 1985 a. 337; 1987 a. 3; 1989 a. 105; 1991 a. 277; 1995 a. 448.

A prosecutor's statement that the defendant failed a preliminary breath test was improper, but evidence that the defendant refused to take a breathalyzer test was relevant and constitutionally admissible. State v. Albright, 98 Wis. 2d 663, 298 N.W.2d 196 (Ct. App. 1980).

A preliminary breath test result is not determinative of probable cause to arrest for driving while intoxicated. A low test result does not void the grounds for arrest. Dane County v. Sharpee, 154 Wis. 2d 515, 453 N.W.2d 508 (Ct. App. 1990).

The bar of preliminary breath tests under this section is limited to proceedings related to arrests for offenses contemplated under this statute including those related to motor vehicles and intoxication. State v. Beaver, 181 Wis. 2d 959, 512 N.W.2d 254 (Ct. App. 1994).

This section bars the evidentiary use of preliminary breath test results in motor vehicle violation cases, but not in other actions. Prosecutors who wish to rely on PBT results are required to present evidence of the device's scientific accuracy as a foundation for admission. State v. Doerr, 229 Wis. 2d 616, 599 N.W.2d 897 (Ct. App. 1999), 98−1047.

"Probable cause to believe" refers to a quantum of evidence greater than reasonable suspicion to make an investigative stop, but less than probable cause to make an arrest. County of Jefferson v. Renz, 231 Wis. 2d 293, 603 N.W.2d 541 (1999), 97−3512.

Blood may be drawn in a search incident to an arrest for a non−drunk−driving offense if the police reasonably suspect that the defendant's blood contains evidence of a crime. This section does not prohibit the consideration of a suspect's refusal to submit to a PBT for purposes of determining whether a warrantless involuntary draw of the suspect's blood was supported by reasonable suspicion. State v. Repenshek, 2004 WI App 229, 277 Wis. 2d 780, 691 N.W.2d 369, 03−3089

A preliminary breath test may be requested when an officer has a basis to justify an investigative stop but has not established probable cause to justify an arrest. Under the facts of this case, the officer would have been justified in asking the defendant to take a preliminary breath test without asking him to perform any field−sobriety tests. That the defendant successfully completed all properly administered field−sobriety tests did not subtract from the common−sense view that the defendant may have had an impermissible blood−alcohol level. State v. Felton, 2012 WI App 114, 344 Wis. 2d 483, 824 N.W.2d 871, 11−2119.

Under *State v. St. George*, 2002 WI 50, for a defendant to establish a constitutional right to the admissibility of proffered expert testimony, the defendant must satisfy a two−part inquiry determining whether the evidence is clearly central to the defense and the exclusion of the evidence is arbitrary and disproportionate to the purpose of the rule of exclusion, so that exclusion undermines fundamental elements of the defendant's defense. In an OWI prosecution, even if a defendant establishes a constitutional right to present an expert opinion that is based in part on PBT results, the right to do so is outweighed by the state's compelling interest to exclude that evidence. State v. Fischer, 2010 WI 6, 322 Wis. 2d 265, 778 N.W.2d 629, 07−1898. But see Fischer v. Ozaukee County Circuit Court, 741 F. Supp. 2d 944 (2010).

Probable cause exists to request a preliminary breath test sample when the driver is known to be subject to a .02 prohibited alcohol content standard, the officer knows it would take very little alcohol for the driver to exceed that limit, and the officer smells alcohol on the driver. State v. Goss, 2011 WI 104, 338 Wis. 2d 72, 806 N.W.2d 918, 10−1113.

The Wisconsin Supreme Court's decision in *Fischer* affirming the exclusion of the defendant's expert's testimony using PBT results involved an unreasonable application of federal law as determined by the United States Supreme Court. Fischer v. Ozaukee County Circuit Court, 741 F. Supp. 2d 944 (2010).

343.305 Tests for intoxication; administrative suspension and court−ordered revocation. (1) DEFINITIONS. In this section:

(b) "Drive" means the exercise of physical control over the speed and direction of a motor vehicle while it is in motion.

(c) "Operate" means the physical manipulation or activation of any of the controls of a motor vehicle necessary to put it in motion.

(2) IMPLIED CONSENT. Any person who is on duty time with respect to a commercial motor vehicle or drives or operates a motor vehicle upon the public highways of this state, or in those areas enumerated in s. 346.61, is deemed to have given consent to one or more tests of his or her breath, blood or urine, for the purpose of determining the presence or quantity in his or her blood or breath, of alcohol, controlled substances, controlled substance analogs or other drugs, or any combination of alcohol, controlled substances, controlled substance analogs and other drugs, when requested to do so by a law enforcement officer under sub. (3) (a) or (am) or when required to do so under sub. (3) (ar) or (b). Any such tests shall be administered upon the request of a law enforcement officer. The law enforcement agency by which the officer is employed shall be prepared to administer, either at its agency or any other agency or facility, 2 of the 3 tests under sub. (3) (a), (am), or (ar), and may designate which of the tests shall be administered first.

(3) REQUESTED OR REQUIRED. (a) Upon arrest of a person for violation of s. 346.63 (1), (2m) or (5) or a local ordinance in conformity therewith, or for a violation of s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, or upon arrest subsequent to a refusal under par. (ar), a law enforcement officer may request the person to provide one or more samples of his or her breath, blood or urine for the purpose specified under sub. (2). Compliance with a request for one type of sample does not bar a subsequent request for a different type of sample.

(am) Prior to arrest, a law enforcement officer may request the person to provide one or more samples of his or her breath, blood or urine for the purpose specified under sub. (2) whenever a law enforcement officer detects any presence of alcohol, a controlled substance, a controlled substance analog or other drug, or a combination thereof, on a person driving or operating or on duty time with respect to a commercial motor vehicle or has reason to believe the person is violating or has violated s. 346.63 (7). Compliance with a request for one type of sample does not bar a subsequent request for a different type of sample. For the purposes of this paragraph, "law enforcement officer" includes inspectors in the performance of duties under s. 110.07 (3).

(ar) 1. If a person is the operator of a vehicle that is involved in an accident that causes substantial bodily harm, as defined in s. 939.22 (38), to any person, and a law enforcement officer detects any presence of alcohol, a controlled substance, a controlled substance analog or other drug, or a combination thereof, the law enforcement officer may request the operator to provide one or

more samples of his or her breath, blood, or urine for the purpose specified under sub. (2). Compliance with a request for one type of sample does not bar a subsequent request for a different type of sample. A person who is unconscious or otherwise not capable of withdrawing consent is presumed not to have withdrawn consent under this subdivision and one or more samples specified in par. (a) or (am) may be administered to the person. If a person refuses to take a test under this subdivision, he or she may be arrested under par. (a).

2. If a person is the operator of a vehicle that is involved in an accident that causes the death of or great bodily harm to any person and the law enforcement officer has reason to believe that the person violated any state or local traffic law, the officer may request the operator to provide one or more samples of his or her breath, blood, or urine for the purpose specified under sub. (2). Compliance with a request for one type of sample does not bar a subsequent request for a different type of sample. A person who is unconscious or otherwise not capable of withdrawing consent is presumed not to have withdrawn consent under this subdivision and one or more samples specified in par. (a) or (am) may be administered to the person. If a person refuses to take a test under this subdivision, he or she may be arrested under par. (a).

(b) A person who is unconscious or otherwise not capable of withdrawing consent is presumed not to have withdrawn consent under this subsection, and if a law enforcement officer has probable cause to believe that the person has violated s. 346.63 (1), (2m) or (5) or a local ordinance in conformity therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, or detects any presence of alcohol, controlled substance, controlled substance analog or other drug, or a combination thereof, on a person driving or operating or on duty time with respect to a commercial motor vehicle or has reason to believe the person has violated s. 346.63 (7), one or more samples specified in par. (a) or (am) may be administered to the person.

(c) This section does not limit the right of a law enforcement officer to obtain evidence by any other lawful means.

(4) INFORMATION. At the time that a chemical test specimen is requested under sub. (3) (a), (am), or (ar), the law enforcement officer shall read the following to the person from whom the test specimen is requested:

"You have either been arrested for an offense that involves driving or operating a motor vehicle while under the influence of alcohol or drugs, or both, or you are the operator of a vehicle that was involved in an accident that caused the death of, great bodily harm to, or substantial bodily harm to a person, or you are suspected of driving or being on duty time with respect to a commercial motor vehicle after consuming an intoxicating beverage.

This law enforcement agency now wants to test one or more samples of your breath, blood or urine to determine the concentration of alcohol or drugs in your system. If any test shows more alcohol in your system than the law permits while driving, your operating privilege will be suspended. If you refuse to take any test that this agency requests, your operating privilege will be revoked and you will be subject to other penalties. The test results or the fact that you refused testing can be used against you in court.

If you take all the requested tests, you may choose to take further tests. You may take the alternative test that this law enforcement agency provides free of charge. You also may have a test conducted by a qualified person of your choice at your expense. You, however, will have to make your own arrangements for that test.

If you have a commercial driver license or were operating a commercial motor vehicle, other consequences may result from positive test results or from refusing testing, such as being placed out of service or disqualified."

(5) ADMINISTERING THE TEST; ADDITIONAL TESTS. (a) If the person submits to a test under this section, the officer shall direct the administering of the test. A blood test is subject to par. (b). The person who submits to the test is permitted, upon his or her request, the alternative test provided by the agency under sub. (2) or, at his or her own expense, reasonable opportunity to have any qualified person of his or her own choosing administer a chemical test for the purpose specified under sub. (2). If the person has not been requested to provide a sample for a test under sub. (3) (a), (am), or (ar), the person may request a breath test to be administered by the agency or, at his or her own expense, reasonable opportunity to have any qualified person administer any test specified under sub. (3) (a), (am), or (ar). The failure or inability of a person to obtain a test at his or her own expense does not preclude the admission of evidence of the results of any test administered under sub. (3) (a), (am), or (ar). If a person requests the agency to administer a breath test and if the agency is unable to perform that test, the person may request the agency to perform a test under sub. (3) (a), (am), or (ar) that it is able to perform. The agency shall comply with a request made in accordance with this paragraph.

(b) Blood may be withdrawn from the person arrested for violation of s. 346.63 (1), (2), (2m), (5), or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, or a local ordinance in conformity with s. 346.63 (1), (2m), or (5), or as provided in sub. (3) (am) or (b) to determine the presence or quantity of alcohol, a controlled substance, a controlled substance analog, or any other drug, or any combination of alcohol, controlled substance, controlled substance analog, and any other drug in the blood only by a physician, registered nurse, medical technologist, physician assistant, phlebotomist, or other medical professional who is authorized to draw blood, or person acting under the direction of a physician.

(c) A person acting under par. (b), the employer of any such person and any hospital where blood is withdrawn by any such person have immunity from civil or criminal liability under s. 895.53.

(d) At the trial of any civil or criminal action or proceeding arising out of the acts committed by a person alleged to have been driving or operating a motor vehicle while under the influence of an intoxicant, a controlled substance, a controlled substance analog or any other drug, or under the influence of any combination of alcohol, a controlled substance, a controlled substance analog and any other drug, to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving, or having a prohibited alcohol concentration, or alleged to have been driving or operating or on duty time with respect to a commercial motor vehicle while having an alcohol concentration above 0.0 or possessing an intoxicating beverage, regardless of its alcohol content, or within 4 hours of having consumed or having been under the influence of an intoxicating beverage, regardless of its alcohol content, or of having an alcohol concentration of 0.04 or more, the results of a test administered in accordance with this section are admissible on the issue of whether the person was under the influence of an intoxicant, a controlled substance, a controlled substance analog or any other drug, or under the influence of any combination of alcohol, a controlled substance, a controlled substance analog and any other drug, to a degree which renders him or her incapable of safely driving or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving or any issue relating to the person's alcohol concentration. Test results shall be given the effect required under s. 885.235.

(e) At the trial of any civil or criminal action or proceeding arising out of the acts committed by a person alleged to have been driving or operating a motor vehicle while having a detectable amount of a restricted controlled substance in his or her blood, the results of a blood test administered in accordance with this section are admissible on any issue relating to the presence of a detectable amount of a restricted controlled substance in the person's blood. Test results shall be given the effect required under s. 885.235.

(6) REQUIREMENTS FOR TESTS. (a) Chemical analyses of blood or urine to be considered valid under this section shall have been

performed substantially according to methods approved by the laboratory of hygiene and by an individual possessing a valid permit to perform the analyses issued by the department of health services. The department of health services shall approve laboratories for the purpose of performing chemical analyses of blood or urine for alcohol, controlled substances or controlled substance analogs and shall develop and administer a program for regular monitoring of the laboratories. A list of approved laboratories shall be provided to all law enforcement agencies in the state. Urine specimens are to be collected by methods specified by the laboratory of hygiene. The laboratory of hygiene shall furnish an ample supply of urine and blood specimen containers to permit all law enforcement officers to comply with the requirements of this section.

(b) The department of transportation shall approve techniques or methods of performing chemical analysis of the breath and shall:

1. Approve training manuals and courses throughout the state for the training of law enforcement officers in the chemical analysis of a person's breath;

2. Certify the qualifications and competence of individuals to conduct the analysis;

3. Have trained technicians, approved by the secretary, test and certify the accuracy of the equipment to be used by law enforcement officers for chemical analysis of a person's breath under sub. (3) (a), (am), or (ar) before regular use of the equipment and periodically thereafter at intervals of not more than 120 days; and

4. Issue permits to individuals according to their qualifications.

Cross−reference: See also ch. Trans 311, Wis. adm. code.

(bm) Any relevant instruction, as defined in s. 101.02 (24) (a) 1., that an applicant for an approval, certification, or permit under par. (b) has obtained in connection with any military service, as defined in s. 111.32 (12g), counts toward satisfying any requirement for instruction for an approval, certification, or permit under par. (b) if the applicant demonstrates to the satisfaction of the department of transportation that the instruction obtained by the applicant is substantially equivalent to the instruction required for the approval, certificate, or permit under par. (b).

(c) For purposes of this section, if a breath test is administered using an infrared breath−testing instrument:

1. The test shall consist of analyses in the following sequence: one adequate breath sample analysis, one calibration standard analysis, and a 2nd, adequate breath sample analysis.

2. A sample is adequate if the instrument analyzes the sample and does not indicate the sample is deficient.

3. Failure of a person to provide 2 separate, adequate breath samples in the proper sequence constitutes a refusal.

(d) The department of transportation may promulgate rules pertaining to the calibration and testing of preliminary breath screening test devices.

(e) 1. In this paragraph, "licensor" means the department of health services or, with respect to permits issued under par. (b) 4., the department of transportation.

2. In addition to any other information required by the licensor, an application for a permit or laboratory approval under this subsection shall include the following:

a. Except as provided in subd. 2. am., in the case of an individual, the individual's social security number.

am. In the case of an individual who does not have a social security number, a statement made or subscribed under oath or affirmation that the applicant does not have a social security number. The form of the statement shall be prescribed by the department of children and families. A permit or approval that is issued or renewed under this section in reliance on a statement submitted under this subd. 2. am. is invalid if the statement is false.

b. In the case of a person who is not an individual, the person's federal employer identification number.

3. a. The licensor shall deny an application for the issuance or, if applicable, renewal of a permit or laboratory approval if the information required under subd. 2. a., am. or b. is not included in the application.

b. The licensor may not disclose any information received under subd. 2. a. or b. except to the department of children and families for purposes of administering s. 49.22, the department of revenue for the sole purpose of requesting certifications under s. 73.0301, and the department of workforce development for the sole purpose of requesting certifications under s. 108.227.

4. A permit under this subsection shall be denied, restricted, limited or suspended if the applicant or licensee is an individual who is delinquent in making court−ordered payments of child or family support, maintenance, birth expenses, medical expenses or other expenses related to the support of a child or former spouse, as provided in a memorandum of understanding entered into under s. 49.857.

5. If the licensor is the department of health services, the department of health services shall deny an application for the issuance or renewal of a permit or laboratory approval, or revoke a permit or laboratory approval already issued, if the department of revenue certifies under s. 73.0301 that the applicant or holder of the permit or laboratory approval is liable for delinquent taxes. An applicant for whom a permit or laboratory approval is not issued or renewed, or an individual or laboratory whose permit or laboratory approval is revoked, under this subdivision for delinquent taxes is entitled to a notice under s. 73.0301 (2) (b) 1. b. and a hearing under s. 73.0301 (5) (a) but is not entitled to any other notice or hearing under this subsection.

6. If the licensor is the department of health services, the department of health services shall deny an application for the issuance or renewal of a permit or laboratory approval, or revoke a permit or laboratory approval already issued, if the department of workforce development certifies under s. 108.227 that the applicant or holder of the permit or laboratory approval is liable for delinquent unemployment insurance contributions. An applicant for whom a permit or laboratory approval is not issued or renewed, or an individual or laboratory whose permit or laboratory approval is revoked, under this subdivision for delinquent unemployment insurance contributions is entitled to a notice under s. 108.227 (2) (b) 1. b. and a hearing under s. 108.227 (5) (a) but is not entitled to any other notice or hearing under this subsection.

(7) CHEMICAL TEST; ADMINISTRATIVE SUSPENSION. (a) If a person submits to chemical testing administered in accordance with this section and any test results indicate the presence of a detectable amount of a restricted controlled substance in the person's blood or a prohibited alcohol concentration, the law enforcement officer shall report the results to the department. The person's operating privilege is administratively suspended for 6 months.

(b) If a person who was driving or operating or on duty time with respect to a commercial motor vehicle submits to chemical testing administered in accordance with this section and any test results indicate an alcohol concentration above 0.0, the law enforcement officer shall issue a citation for violation of s. 346.63 (7) (a) 1., issue citations for such other violations as may apply and issue an out−of−service order to the person for the 24 hours after the testing, and report both the out−of−service order and the test results to the department in the manner prescribed by the department. If the person is a nonresident, the department shall report issuance of the out−of−service order to the driver licensing agency in the person's home jurisdiction.

(8) CHEMICAL TEST; ADMINISTRATIVE SUSPENSION; ADMINISTRATIVE AND JUDICIAL REVIEW. (a) The law enforcement officer shall notify the person of the administrative suspension under sub. (7) (a). The notice shall advise the person that his or her operating

privilege will be administratively suspended and that he or she has the right to obtain administrative and judicial review under this subsection. This notice of administrative suspension serves as a 30−day temporary license. An administrative suspension under sub. (7) (a) becomes effective at the time the 30−day temporary license expires. The officer shall submit or mail a copy of the notice to the department.

(am) The law enforcement officer shall provide the person with a separate form for the person to use to request the administrative review under this subsection. The form shall clearly indicate how to request an administrative review and shall clearly notify the person that this form must be submitted within 10 days from the notice date indicated on the form or the person's hearing rights will be deemed waived. The form shall, in no less than 16−point boldface type, be titled: IMPORTANT NOTICE — RESPOND WITHIN TEN (10) DAYS.

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

2. The administrative hearing under this paragraph is limited to the following issues:

a. The correct identity of the person.

b. Whether the person was informed of the options regarding tests under this section as required under sub. (4).

bm. Whether the person had a prohibited alcohol concentration or a detectable amount of a restricted controlled substance in his or her blood at the time the offense allegedly occurred.

c. Whether one or more tests were administered in accordance with this section.

d. If one or more tests were administered in accordance with this section, whether each of the test results for those tests indicate the person had a prohibited alcohol concentration or a detectable amount of a restricted controlled substance in his or her blood.

e. If a test was requested under sub. (3) (a), whether probable cause existed for the arrest.

f. Whether the person was driving or operating a commercial motor vehicle when the offense allegedly occurred.

g. Whether the person had a valid prescription for methamphetamine or one of its metabolic precursors or gamma−hydroxybutyric acid or delta−9−tetrahydrocannabinol in a case in which subd. 4m. a. and b. apply.

3. The hearing examiner shall conduct the administrative hearing in an informal manner. No testimony given by any witness may be used in any subsequent action or proceeding. The hearing examiner may permit testimony by telephone if the site of the administrative hearing is equipped with telephone facilities to allow multiple party conversations.

4. The hearing examiner shall consider and determine the reliability of all of the evidence presented at the administrative hearing. Statements and reports of law enforcement officers are subject to the same standards of credibility applied to all other evidence presented.

4m. If, at the time the offense allegedly occurred, all of the following apply, the hearing officer shall determine whether the person had a valid prescription for methamphetamine or one of its metabolic precursors, gamma−hydroxybutyric acid, or delta−9−tetrahydrocannabinol:

a. A blood test administered in accordance with this section indicated that the person had a detectable amount of methamphetamine, gamma−hydroxybutyric acid, or delta−9−tetrahydrocannabinol but did not have a detectable amount of any other restricted controlled substance in his or her blood.

b. No test administered in accordance with this section indicated that the person had a prohibited alcohol concentration.

5. If the hearing examiner finds that any of the following applies, the examiner shall order that the administrative suspension of the person's operating privilege be rescinded without payment of any fee under s. 343.21 (1) (j), (jr), or (n):

a. The criteria for administrative suspension have not been satisfied.

b. The person did not have a prohibited alcohol concentration or a detectable amount of a restricted controlled substance in his or her blood at the time the offense allegedly occurred.

c. In a case in which subd. 4m. a. and b. apply, the person had a valid prescription for methamphetamine or one of its metabolic precursors, gamma−hydroxybutyric acid, or delta−9−tetrahydrocannabinol.

6. If the hearing examiner finds that all of the following apply, the administrative suspension shall continue regardless of the type of vehicle driven or operated at the time of the violation:

a. The criteria for administrative suspension have been satisfied.

b. The person had a prohibited alcohol concentration or a detectable amount of a restricted controlled substance in his or her blood at the time the offense allegedly occurred.

c. In a case in which subd. 4m. a. and b. apply, the person did not have a valid prescription for methamphetamine or one of its metabolic precursors, gamma−hydroxybutyric acid, or delta−9−tetrahydrocannabinol.

7. The hearing examiner shall notify the person in writing of the hearing decision, of the right to judicial review and of the court's authority to issue a stay of the suspension under par. (c). The administrative suspension is vacated and the person's operating privilege shall be automatically reinstated under s. 343.39 if the hearing examiner fails to mail this notice to the person within 30 days after the date of the notification under par. (a).

(c) 1. An individual aggrieved by the determination of the hearing examiner may have the determination reviewed by the court hearing the action relating to the applicable violation listed under sub. (3) (a), (am), or (ar). If the individual seeks judicial review, he or she must file the request for judicial review with the court within 20 days of the issuance of the hearing examiner's decision. The court shall send a copy of that request to the department. The judicial review shall be conducted at the time of the trial of the underlying offense under s. 346.63. The prosecutor of the underlying offense shall represent the interests of the department.

2. The court shall order that the administrative suspension be either rescinded or sustained and forward its order to the department. The department shall vacate the administrative suspension under sub. (7) unless, within 60 days of the date of the request for judicial review of the administrative hearing decision, the department has been notified of the result of the judicial review or of an

order of the court entering a stay of the hearing examiner's order continuing the suspension.

3. Any party aggrieved by the order of a circuit court under subd. 2. may appeal to the court of appeals. Any party aggrieved by the order of a municipal court under subd. 2 may appeal to the circuit court for the county where the offense allegedly occurred.

4. A request for judicial review under this subsection does not stay any administrative suspension order.

5. If any court orders under this subsection that the administrative suspension of the person's operating privilege be rescinded, the person need not pay any fee under s. 343.21 (1) (j), (jr), or (n).

(d) A person who has his or her operating privilege administratively suspended under this subsection and sub. (7) (a) is eligible for an occupational license under s. 343.10 at any time.

(9) REFUSALS; NOTICE AND COURT HEARING. (a) If a person refuses to take a test under sub. (3) (a), the law enforcement officer shall immediately prepare a notice of intent to revoke, by court order under sub. (10), the person's operating privilege. If the person was driving or operating a commercial motor vehicle, the officer shall issue an out−of−service order to the person for the 24 hours after the refusal and notify the department in the manner prescribed by the department. The officer shall issue a copy of the notice of intent to revoke the privilege to the person and submit or mail a copy to the circuit court for the county in which the arrest under sub. (3) (a) was made or to the municipal court in the municipality in which the arrest was made if the arrest was for a violation of a municipal ordinance under sub. (3) (a) and the municipality has a municipal court. The officer shall also mail a copy of the notice of intent to revoke to the attorney for that municipality or to the district attorney for that county, as appropriate, and to the department. Neither party is entitled to pretrial discovery in any refusal hearing, except that, if the defendant moves within 30 days after the initial appearance in person or by an attorney and shows cause therefor, the court may order that the defendant be allowed to inspect documents, including lists of names and addresses of witnesses, if available, and to test under s. 804.09, under such conditions as the court prescribes, any devices used by the plaintiff to determine whether a violation has been committed. The notice of intent to revoke the person's operating privilege shall contain substantially all of the following information:

1. That prior to a request under sub. (3) (a), the officer had placed the person under arrest for a violation of s. 346.63 (1), (2m) or (5) or a local ordinance in conformity therewith or s. 346.63 (2) or (6), 940.09 (1) or 940.25 or had requested the person to take a test under sub. (3) (ar).

2. That the officer complied with sub. (4).

3. That the person refused a request under sub. (3) (a).

4. That the person may request a hearing on the revocation within 10 days by mailing or delivering a written request to the court whose address is specified in the notice. If no request for a hearing is received within the 10−day period, the revocation period commences 30 days after the notice is issued.

5. That the issues of the hearing are limited to:

a. Whether the officer had probable cause to believe the person was driving or operating a motor vehicle while under the influence of alcohol, a controlled substance or a controlled substance analog or any combination of alcohol, a controlled substance and a controlled substance analog, under the influence of any other drug to a degree which renders the person incapable of safely driving, or under the combined influence of alcohol and any other drug to a degree which renders the person incapable of safely driving, having a restricted controlled substance in his or her blood, or having a prohibited alcohol concentration or, if the person was driving or operating a commercial motor vehicle, an alcohol concentration of 0.04 or more and whether the person was lawfully placed under arrest for violation of s. 346.63 (1), (2m) or (5) or a local ordinance in conformity therewith or s. 346.63 (2) or (6), 940.09 (1) or 940.25.

b. Whether the officer complied with sub. (4).

c. Whether the person refused to permit the test. The person shall not be considered to have refused the test if it is shown by a preponderance of evidence that the refusal was due to a physical inability to submit to the test due to a physical disability or disease unrelated to the use of alcohol, controlled substances, controlled substance analogs or other drugs.

6. That, if it is determined that the person refused the test, there will be an order for the person to comply with assessment and a driver safety plan.

(am) If a person driving or operating or on duty time with respect to a commercial motor vehicle refuses a test under sub. (3) (am), the law enforcement officer shall immediately issue an out−of−service order to the person for the 24 hours after the refusal and notify the department in the manner prescribed by the department, and prepare a notice of intent to revoke, by court order under sub. (10), the person's operating privilege. The officer shall issue a copy of the notice of intent to revoke the privilege to the person and submit or mail a copy to the circuit court for the county in which the refusal is made or to the municipal court in the municipality in which the refusal is made if the person's refusal was in violation of a municipal ordinance and the municipality has a municipal court. The officer shall also mail a copy of the notice of intent to revoke to the attorney for that municipality or to the district attorney for that county, as appropriate, and to the department. Neither party is entitled to pretrial discovery in any refusal hearing, except that, if the defendant moves within 30 days after the initial appearance in person or by an attorney and shows cause therefor, the court may order that the defendant be allowed to inspect documents, including lists of names and addresses of witnesses, if available, and to test under s. 804.09, under such conditions as the court prescribes, any devices used by the plaintiff to determine whether a violation has been committed. The notice of intent to revoke the person's operating privilege shall contain substantially all of the following information:

1. That the officer has issued an out−of−service order to the person for the 24 hours after the refusal, specifying the date and time of issuance.

2. That the officer complied with sub. (4).

3. That the person refused a request under sub. (3) (am).

4. That the person may request a hearing on the revocation within 10 days by mailing or delivering a written request to the court whose address is specified in the notice. If no request for a hearing is received within the 10−day period, the revocation period commences 30 days after the notice is issued.

5. That the issues of the hearing are limited to:

a. Whether the officer detected any presence of alcohol, controlled substance, controlled substance analog or other drug, or a combination thereof, on the person or had reason to believe that the person was violating or had violated s. 346.63 (7).

b. Whether the officer complied with sub. (4).

c. Whether the person refused to permit the test. The person shall not be considered to have refused the test if it is shown by a preponderance of evidence that the refusal was due to a physical inability to submit to the test due to a physical disability or disease unrelated to the use of alcohol, controlled substances, controlled substance analogs or other drugs.

6. That if it is determined that the person refused the test there will be an order for the person to comply with assessment and a driver safety plan.

(b) The use of the notice under par. (a) or (am) by a law enforcement officer in connection with the enforcement of this section is adequate process to give the appropriate court jurisdiction over the person.

(c) If a law enforcement officer informs the circuit or municipal court that a person has refused to submit to a test under sub. (3) (a), (am), or (ar), the court shall be prepared to hold any requested hearing to determine if the refusal was proper. The

scope of the hearing shall be limited to the issues outlined in par. (a) 5. or (am) 5. Section 967.055 applies to any hearing under this subsection.

(d) At the close of the hearing, or within 5 days thereafter, the court shall determine the issues under par. (a) 5. or (am) 5. If all issues are determined adversely to the person, the court shall proceed under sub. (10). If one or more of the issues is determined favorably to the person, the court shall order that no action be taken on the operating privilege on account of the person's refusal to take the test in question. This section does not preclude the prosecution of the person for violation of s. 346.63 (1), (2m), (5) or (7) or a local ordinance in conformity therewith, or s. 346.63 (2) or (6), 940.09 (1) or 940.25.

(10) REFUSALS; COURT–ORDERED REVOCATION. (a) If the court determines under sub. (9) (d) that a person improperly refused to take a test or if the person does not request a hearing within 10 days after the person has been served with the notice of intent to revoke the person's operating privilege, the court shall proceed under this subsection. If no hearing was requested, the revocation period shall begin 30 days after the date of the refusal. If a hearing was requested, the revocation period shall commence 30 days after the date of refusal or immediately upon a final determination that the refusal was improper, whichever is later.

(b) 1. Except as provided in subds. 3. and 4., the court shall revoke the person's operating privilege under this paragraph according to the number of previous suspensions, revocations or convictions that would be counted under s. 343.307 (2). Suspensions, revocations and convictions arising out of the same incident shall be counted as one. If a person has a conviction, suspension or revocation for any offense that is counted under s. 343.307 (2), that conviction, suspension or revocation shall count as a prior conviction, suspension or revocation under this subdivision.

2. Except as provided in subd. 3., 4. or 4m., for the first improper refusal, the court shall revoke the person's operating privilege for one year. After the first 30 days of the revocation period, the person is eligible for an occupational license under s. 343.10.

3. Except as provided in subd. 4m., if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other convictions, suspensions, and revocations counted under s. 343.307 (2) within a 10−year period, equals 2, the court shall revoke the person's operating privilege for 2 years. After the first 90 days of the revocation period or, if the total number of convictions, suspensions, and revocations counted under this subdivision within any 5−year period equals 2 or more, after one year of the revocation period has elapsed, the person is eligible for an occupational license under s. 343.10 if he or she has completed the assessment and is complying with the driver safety plan.

4. Except as provided in subd. 4m., if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other convictions, suspensions, and revocations counted under s. 343.307 (2), equals 3 or more, the court shall revoke the person's operating privilege for 3 years. After the first 120 days of the revocation period or, if the total number of convictions, suspensions, and revocations counted under this subdivision within any 5−year period equals 2 or more, after one year of the revocation period has elapsed, the person is eligible for an occupational license under s. 343.10 if he or she has completed the assessment and is complying with the driver safety plan.

4m. If there was a minor passenger under 16 years of age in the motor vehicle at the time of the incident that gave rise to the improper refusal, the applicable minimum and maximum revocation periods under subd. 2., 3. or 4. for the improper refusal are doubled.

5. The time period under this paragraph shall be measured from the dates of the refusals or violations which resulted in revocations or convictions.

(c) 1. Except as provided in subd. 1. a. or b., the court shall order the person to submit to and comply with an assessment by an approved public treatment facility as defined in s. 51.45 (2) (c) for examination of the person's use of alcohol, controlled substances or controlled substance analogs and development of a driver safety plan for the person. The court shall notify the person and the department of transportation of the assessment order. The court shall also notify the person that noncompliance with assessment or the driver safety plan will result in license suspension until the person is in compliance. The assessment order shall:

a. If the person is a resident, refer the person to an approved public treatment facility in the county in which the person resides. The facility named in the order may provide for assessment of the person in another approved public treatment facility. The order shall provide that if the person is temporarily residing in another state, the facility named in the order may refer the person to an appropriate treatment facility in that state for assessment and development of a driver safety plan for the person satisfying the requirements of that state.

b. If the person is a nonresident, refer the person to an approved public treatment facility in this state. The order shall provide that the facility named in the order may refer the person to an appropriate treatment facility in the state in which the person resides for assessment and development of a driver safety plan for the person satisfying the requirements of that state.

c. Require a person who is referred to a treatment facility in another state under subd. 1. a. or b. to furnish the department written verification of his or her compliance from the agency which administers the assessment and driver safety plan program. The person shall provide initial verification of compliance within 60 days after the date of his or her conviction. The requirement to furnish verification of compliance may be satisfied by receipt by the department of such verification from the agency which administers the assessment and driver safety plan program.

2. The department of health services shall establish standards for assessment procedures and the driver safety plan programs by rule. The department of health services shall establish by rule conflict of interest guidelines for providers.

3. Prior to developing a plan which specifies treatment, the facility shall make a finding that treatment is necessary and appropriate services are available. The facility shall submit a report of the assessment and the driver safety plan within 14 days to the county department under s. 51.42, the plan provider, the department of transportation and the person, except that upon request by the facility and the person, the county department may extend the period for assessment for not more than 20 additional workdays. The county department shall notify the department of transportation regarding any such extension.

(d) The assessment report shall order compliance with a driver safety plan. The report shall inform the person of the fee provisions under s. 46.03 (18) (f). The driver safety plan may include a component that makes the person aware of the effect of his or her offense on a victim and a victim's family. The driver safety plan may include treatment for the person's misuse, abuse or dependence on alcohol, controlled substances or controlled substance analogs, attendance at a school under s. 345.60, or both. If the plan requires inpatient treatment, the treatment shall not exceed 30 days. A driver safety plan under this paragraph shall include a termination date consistent with the plan which shall not extend beyond one year. The county department under s. 51.42 shall assure notification of the department of transportation and the person of the person's compliance or noncompliance with assessment and treatment. The school under s. 345.60 shall notify the department, the county department under s. 51.42 and the person of the person's compliance or noncompliance with the requirements of the school. Nonpayment of the assessment fee or, if the person has the ability to pay, nonpayment of the driver safety plan fee is noncompliance with the court order. If the department is

notified of noncompliance, other than for nonpayment of the assessment fee or driver safety plan fee, it shall revoke the person's operating privilege until the county department under s. 51.42 or the school under s. 345.60 notifies the department that the person is in compliance with assessment or the driver safety plan. If the department is notified that a person has not paid the assessment fee, or that a person with the ability to pay has not paid the driver safety plan fee, the department shall suspend the person's operating privilege for a period of 2 years or until it receives notice that the person has paid the fee, whichever occurs first. The department shall notify the person of the suspension or revocation, the reason for the suspension or revocation and the person's right to a review. A person may request a review of a revocation based upon failure to comply with a driver safety plan within 10 days of notification. The review shall be handled by the subunit of the department of transportation designated by the secretary. The issues at the review are limited to whether the driver safety plan, if challenged, is appropriate and whether the person is in compliance with the assessment order or the driver safety plan. The review shall be conducted within 10 days after a request is received. If the driver safety plan is determined to be inappropriate, the department shall order a reassessment and if the person is otherwise eligible, the department shall reinstate the person's operating privilege. If the person is determined to be in compliance with the assessment or driver safety plan, and if the person is otherwise eligible, the department shall reinstate the person's operating privilege. If there is no decision within the 10−day period, the department shall issue an order reinstating the person's operating privilege until the review is completed, unless the delay is at the request of the person seeking the review.

(e) Notwithstanding par. (c), if the court finds that the person is already covered by an assessment or is participating in a driver safety plan or has had evidence presented to it by a county department under s. 51.42 that the person has recently completed assessment, a driver safety plan or both, the court is not required to make an order under par. (c). This paragraph does not prohibit the court from making an order under par. (c), if it deems such an order advisable.

(em) One penalty for improperly refusing to submit to a test for intoxication regarding a person arrested for a violation of s. 346.63 (2m) or (7) or a local ordinance in conformity therewith is revocation of the person's operating privilege for 6 months. If there was a minor passenger under 16 years of age in the motor vehicle at the time of the incident that gave rise to the improper refusal, the revocation period is 12 months. After the first 15 days of the revocation period, the person is eligible for an occupational license under s. 343.10. Any such improper refusal or revocation for the refusal does not count as a prior refusal or a prior revocation under this section or ss. 343.30 (1q), 343.307 and 346.65 (2). The person shall not be required to submit to and comply with any assessment or driver safety plan under pars. (c) and (d).

(f) The department may make any order which the court is authorized or required to make under this subsection if the court fails to do so.

(g) The court or department shall provide that the period of suspension or revocation imposed under this subsection or under sub. (7) shall be reduced by any period of suspension or revocation previously served under s. 343.30 (1p) or (1q) if both suspensions or revocations arose out of the same incident or occurrence. The court or department shall order that the period of suspension or revocation imposed under this subsection or sub. (7) run concurrently with any time remaining on a suspension or revocation imposed under s. 343.30 (1p) or (1q) arising out of the same incident or occurrence.

(10g) SUSPENSIONS AND REVOCATIONS; EXTENSIONS. For any suspension or revocation the court orders under sub. (10), the court shall extend the suspension or revocation period by the number of days to which the court sentences the person to imprisonment in a jail or prison.

(10m) REFUSALS; IGNITION INTERLOCK OF A MOTOR VEHICLE. The requirements and procedures for installation of an ignition interlock device under s. 343.301 apply when an operating privilege is revoked under sub. (10).

(11) RULES. The department shall promulgate rules under ch. 227 necessary to administer this section. The rules shall include provisions relating to the expeditious exchange of information under this section between the department and law enforcement agencies, circuit courts, municipal courts, attorneys who represent municipalities, district attorneys, and driver licensing agencies of other jurisdictions. The rules may not affect any provisions relating to court procedure.

History: 1987 a. 3, 27, 399; 1989 a. 7, 31, 56, 105, 359; 1991 a. 39, 251, 277; 1993 a. 16, 105, 315, 317, 491; 1995 a. 27 ss. 6412cnL, 9126 (19); 1995 a. 113, 269, 425, 426, 436, 448; 1997 a. 35, 84, 107, 191, 237, 290; 1999 a. 9, 32, 109; 2001 a. 16 ss. 3421m to 3423j, 4060gk, 4060hw, 4060hy; 2001 a. 104; 2003 a. 97, 199; 2005 a. 332, 413; 2007 a. 20 ss. 3303 to 3315, 9121 (6) (a); 2007 a. 136; 2009 a. 100, 103, 163; 2011 a. 120, 242; 2013 a. 36, 224.

Cross−reference: See also chs. DHS 62 and Trans 107 and 113, Wis. adm. code.

Administration of a blood or breathalyzer test does not violate a defendant's privilege against self−incrimination. State v. Driver, 59 Wis. 2d 35, 207 N.W.2d 850 (1973).

The implied consent law must be liberally construed to effectuate its policies since it was intended to facilitate the taking of tests for intoxication and not to inhibit the ability of the state to remove drunken drivers from the highway. Scales v. State, 64 Wis. 2d 485, 219 N.W.2d 286 (1974).

Miranda warnings are not required when an arrested driver is asked to submit to a test for intoxication under the implied consent statute. State v. Bunders, 68 Wis. 2d 129, 227 N.W.2d 727 (1975).

There is no right to counsel prior to submitting to an intoxication test. A driver is obliged to promptly take or refuse the test. State v. Neitzel, 95 Wis. 2d 191, 289 N.W.2d 828 (1980).

The state need not prove that notices were sent to state officers under sub. (3) (b), 1985 stats. [now sub. (9) (a)]. State v. Polinski, 96 Wis. 2d 43, 291 N.W.2d 465 (1980).

When an officer initially requested a breath test, it was not an irrevocable election preventing the officer from requesting a urine test instead. The driver's refusal to submit urine justified revocation of his driver's license. State v. Pawlow, 98 Wis. 2d 703, 298 N.W.2d 220 (Ct. App. 1980).

The state need not affirmatively prove compliance with administrative code procedures as a foundation for admission of a breathalyzer test. City of New Berlin v. Wertz, 105 Wis. 2d 670, 314 N.W.2d 911 (Ct. App. 1981).

When a driver pled guilty to the underlying OWI charge, a charge of refusing a test under s. 343.305, 1979 stats., was properly dismissed as unnecessary. State v. Brooks, 113 Wis. 2d 347, 335 N.W.2d 354 (1983).

A breathalyzer approved in the administrative code has a prima facie presumption of accuracy. State v. Dwinell, 119 Wis. 2d 305, 349 N.W.2d 739 (Ct. App. 1984).

When blood alcohol content is tested under statutory procedures, the results of the test are mandatorily admissible. The physical sample tested is not evidence intended, required, or even susceptible of being produced by state under s. 971.23. State v. Ehlen, 119 Wis. 2d 451, 351 N.W.2d 503 (1984).

A judge's erroneous exclusion of a defendant's explanation for a refusal to take a blood test was not harmless error. State v. Bolstad, 124 Wis. 2d 576, 370 N.W.2d 257 (1985).

At a revocation hearing under sub. (3) (b) 5., 1985 stats. [now sub. (9) (a) 5.], the state need not establish to a reasonable certainty that the defendant was the actual driver of the vehicle stopped by the police. The probable cause standard satisfies due process. State v. Nordness, 128 Wis. 2d 15, 381 N.W.2d 300 (1986).

In sub. (2) (c), 1985 stats. [now sub. (3) (b)], "not capable of withdrawing consent," must be construed narrowly and applied infrequently. State v. Disch, 129 Wis. 2d 225, 385 N.W.2d 140 (1986).

Under the facts of the case, the state's refusal to provide an alternative blood alcohol test did not violate due process. State v. McCrossen, 129 Wis. 2d 277, 385 N.W.2d 161 (1986).

An arresting officer need not inform an accused that a test refusal can be used against the accused at trial. State v. Crandall, 133 Wis. 2d 251, 394 N.W.2d 905 (1986).

A mental disorder cannot justify a test refusal unless it is severe enough that the driver is deemed under sub. (3) (b) not to have refused at all. State v. Hagaman, 133 Wis. 2d 381, 395 N.W.2d 617 (Ct. App. 1986).

The implied consent law does not prevent the state from obtaining chemical test evidence by alternative constitutional means. State v. Zielke, 137 Wis. 2d 39, 403 N.W.2d 427 (1987).

Appeal of an oral revocation order under sub. (10) may not be taken under s. 808.03 (1). State v. Borowski, 164 Wis. 2d 730, 476 N.W.2d 316 (Ct. App. 1991).

Evidence of refusal was not admissible when the defendant was not fully informed of the consequences in accordance with (former) sub. (4). State v. Algaier, 165 Wis. 2d 515, 478 N.W.2d 292 (Ct. App. 1991).

Substantial compliance with the requirements of (former) sub. (4) when the defendant was actually informed of all rights and penalties relating to him was sufficient. State v. Piskula, 168 Wis. 2d 135, 483 N.W.2d 250 (Ct. App. 1992). See also Village of Oregon v. Bryant, 188 Wis. 2d 680, 524 N.W.2d 635 (1994).

The sub. (9) (a) requirement that a notice of intent to revoke be prepared and served immediately is directory and not mandatory. State v. Moline, 170 Wis. 2d 531, 489 N.W.2d 667 (Ct. App. 1992).

An accused's request under sub. (5) (a) for his or her own test only requires the arresting agency to make the accused available to obtain the test, not to take an active

part in obtaining the test. State v. Vincent, 171 Wis. 2d 124, 490 N.W.2d 761 (Ct. App. 1992).

When an officer knew the defendant was licensed as a commercial operator and the ensuing revocation revoked all operating privileges, the commercial operator warnings, under (former) sub. (4) were required. State v. Geraldson, 176 Wis. 2d 487, 500 N.W.2d 415 (Ct. App. 1993).

Overstatement of the potential penalties for refusal to submit to a chemical test was substantial compliance with (former) sub. (4) and not grounds for reversing a revocation for refusal. State v. Sutton, 177 Wis. 2d 709, 503 N.W.2d 326 (Ct. App. 1993).

There was no error in informing a driver of all warnings under (former) sub. (4), including those applying to only commercial operators and those applying to only noncommercial operators, regardless of the driver's status. Village of Elm Grove v. Landowski, 181 Wis. 2d 137, 510 N.W.2d 752 (Ct. App. 1993).

Sub. (5) (b) requires a person drawing blood "under the direction of a physician" to have general authorization from the physician rather than a specific order in each case. State v. Penzkofer, 184 Wis. 2d 262, 516 N.W.2d 774 (Ct. App. 1994).

The state's burden of persuasion at a suppression hearing is significantly greater than at a refusal hearing. Consequently a defendant is not precluded from relitigating the issue of probable cause at a suppression hearing. State v. Wille, 185 Wis. 2d 673 518 N.W.2d 325 (Ct. App. 1994).

Once a suspect has refused a second alternate blood alcohol test, there is no continuing obligation to accommodate future requests for an alternate test. State v. Stary, 187 Wis. 2d 266, 522 N.W.2d 32 (Ct. App. 1994).

Refusal to submit to a field sobriety test was properly admitted as evidence to determine probable cause for arrest for intoxicated operation of a motor vehicle. State v. Babbit, 188 Wis. 2d 349, 525 N.W.2d 102 (Ct. App. 1994).

A suspect must be properly informed under the implied consent law before evidence of a refusal may be admitted at a subsequent trial, but the state is not prevented from using the evidence if a revocation hearing is not held. State v. Donner, 192 Wis. 2d 305, 531 N.W.2d 369 (Ct. App. 1995).

A driver's "subjective confusion" over the right not to take the chemical test is not grounds for challenging the propriety of the warnings given prior to administering the test. There is a 3−part standard to be applied in determining the adequacy of the warnings. County of Ozaukee v. Quelle, 198 Wis. 2d 269, 542 N.W.2d 196 (Ct. App. 1995), 95−1074. But see Washburn County v. Smith, 2008 WI 23, 308 Wis. 2d 65, 746 N.W.2d 243, 06−3163.

The implied consent law does not expressly require a suspect's written consent to the blood alcohol test. A consent form will be liberally construed to determine whether it misinforms the suspect of the law. State v. Spring, 204 Wis. 2d 343, 555 N.W.2d 384 (Ct. App. 1996), 96−3565.

Criminal prosecution for operating a motor vehicle with a prohibited blood alcohol content subsequent to an administrative suspension of a driver's operating privileges in the same case does not constitute multiple punishment and does not constitute double jeopardy. State v. McMaster, 206 Wis. 2d 30, 556 N.W.2d 673 (1996), 95−1159.

A finding in an administrative review under sub. (8) that there was no probable cause for an arrest does not preclude the consideration of the same issue in a criminal proceeding. State v. Kasian, 207 Wis. 2d 611, 558 N.W.2d 687 (Ct. App. 1996), 96−1603.

When an officer exceeds the duty to give warnings prior to administering the test and gives erroneous information, it is the defendant's burden to prove by a preponderance of the evidence that the erroneous information caused the defendant's refusal. State v. Ludwigson, 212 Wis. 2d 871, 569 N.W.2d 762 (Ct. App. 1997), 97−0417.

Willingness to submit to a blood alcohol test, subsequent to an earlier refusal, does not cure the refusal. State v. Rydeski, 214 Wis. 2d 101, 571 N.W.2d 417 (Ct. App. 1997), 97−0169.

A verbal refusal to submit to a blood alcohol test is not required to find a refusal. Conduct may serve as the basis for finding a refusal. State v. Rydeski, 214 Wis. 2d 101, 571 N.W.2d 417 (Ct. App. 1997), 97−0169.

The chief of the DOT chemical test section is given authority to determine the procedures for evaluation of breath testing instruments. The consideration of modifications made to a new model of a previously tested machine and determination that the 2 models were analytically the same was sufficient testing. State v. Busch, 217 Wis. 2d 429, 576 N.W.2d 904 (1998), 96−2822.

When a defendant submitted to a blood test prior to being placed under arrest, the test was not made pursuant to this section. As such, there was no right to an alternative test under sub. (5). State v. Thurk, 224 Wis. 2d 662, 592 N.W.2d 1 (Ct. App. 1999), 98−0251.

There is no constitutional duty to inform suspected drunk drivers that the right to counsel does not attach to the implied consent statute. State v. Reitter, 227 Wis. 2d 213, 595 N.W.2d 646 (1999), 98−0915.

A warrantless blood draw is permissible when: 1) the blood is taken to obtain evidence of intoxication from a person lawfully arrested; 2) there is a clear indication that evidence of intoxication will be produced; 3) the method used is reasonable and performed in a reasonable manner; and 4) the arrestee presents no reasonable objection. State v. Thorstad, 2000 WI App 199, 238 Wis. 2d 666, 618 N.W.2d 240, 99−1765.

Although a notice of intent to revoke operating privileges under sub. (9) (a) did not contain "substantially all" of the statutorily required information, it provided meaningful notice and opportunity to be heard. As such the error was technical and required a finding of prejudice for dismissal of the action. State v. Gautschi, 2000 WI App 274, 240 Wis. 2d 83, 622 N.W.2d 24, 99−3065.

The notice under sub. (4) regarding the consequences for failing to submit to a blood alcohol does not violate due process. It does not mislead accused persons regarding taking or refusing the blood alcohol test. State v. Nord, 2001 WI App 48, 241 Wis. 2d 387, 625 N.W.2d 302, 00−1529.

In giving the warnings required under sub (4), an officer is required to utilize methods that, according to the circumstances at the time, are reasonable and will convey the warnings. Whether the accused driver comprehends the warnings is not part of the inquiry. A driver's hearing impairment must be taken into account and accommodated as is reasonably possible under the circumstances. State v. Piddington, 2001 WI 24, 241 Wis. 2d 754, 623 N.W.2d 528, 99−1250.

Drivers have no right to refuse a chemical test and need not consent to a test. When there is a refusal, the implied consent law does not preclude police from pursuing other constitutional avenues for collecting evidence. State v. Gibson, 2001 WI App 71, 242 Wis. 2d 267, 626 N.W.2d 73, 00−2399.

That a person agreed to a breath test but not a blood test, did not render police insistence on a blood test unreasonable. State v. Wodenjak, 247 Wis. 2d 554, 634 N.W.2d 867.

By consenting to the taking of a blood sample, the defendant also consented to the chemical analysis of the sample. These are not separate events for warrant requirement purposes. State v. VanLaarhoven, 2001 WI App 275, 248 Wis. 2d 881, 637 N.W.2d 411, 01−0222.

A warrantless blood draw by a physician in a jail setting may be unreasonable if it invites an unjustified element of personal risk of pain and infection. Absent evidence of those risks, a blood draw under those circumstances was reasonable. State v. Daggett, 2002 WI App 32, 250 Wis. 2d 112, 640 N.W.2d 546, 01−1417.

The circuits court's improper denial of a hearing requested under sub. (8) as the result of its miscalculation of time that resulted in a suspension without a hearing was not a fundamental error entitling the defendant to dismissal of the conviction against him when the court, on realizing the error, conducted a hearing and found that the defendant's refusal was improper and a license suspension was in order. State v. Carlson, 2002 WI App 44, 250 Wis. 2d 562, 641 N.W.2d 451, 01−1088.

Sub. (9) (a) does not provide the exclusive option when faced with an arrestee who refuses to submit to s chemical test. An officer may acknowledge the refusal, complete the sub. (9) (a) intent to revoke form, and then proceed with an involuntary blood test, using reasonable force to withdraw blood from a noncompliant suspect. The officer may necessarily inform a suspect that such a procedure is a possibility upon his or her refusal. State v. Marshall, 2002 WI App 73, 251 Wis. 2d 408, 642 N.W.2d 571, 01−1403.

When the arresting officer makes no specific threats beyond what arises under this section, the threat of lost driving privileges does not constitute a coercive measure that invalidates a defendant's consent for 4th amendment purposes. An arresting officer, by reading the informing the accused form, simply states the truth: refusal to submit to a chemical test will result in driving privileges being revoked. Officers are entitled to make true statements. Village of Little Chute v. Walitalo, 2002 WI App 211, 256 Wis. 2d 1032, 650 N.W.2d 891, 01−3060. See also, State v. Wintlend, 2002 WI App 314, 258 Wis. 2d 875, 655 N.W.2d 745, 02−0965.

Repeated requests for an attorney can amount to a refusal as long as the officer informs the driver that there is no right to an attorney at that point. State v. Baratka, 2002 WI App 288, 258 Wis. 2d 342, 654 N.W.2d 875, 02−0770.

If an officer explicitly assures or implicitly suggests that a custodial defendant has a right to consult counsel before deciding whether to submit to the test, the defendant relied on the offering, and the officer nonetheless marked a refusal despite the defendant's reliance, then the refusal was reasonably made. State v. Verkler, 2003 WI App 37, 260 Wis. 2d 391, 659 N.W.2d 137, 02−1545.

This section does not require that test results must be suppressed when there is a failure to reasonably convey the implied consent warnings to an apprehended driver. Under the circumstances of this case on remand the defendant was entitled to pursue an order prohibiting the automatic admissibility of the blood test result pursuant to s. 885.235, which if granted would require the state to establish the admissibility of the blood test, including establishing a foundation. State v. Begicevic, 2004 WI App 57, 270 Wis. 2d 675, 678 N.W.2d 293, 03−1223.

The approval of an instrument under sub. (6) (b) without promulgation of an administrative rule under ch. 227 did not constitute creation of an invalid administrative rule. County of Dane v. Winsand, 2004 WI App 86, 271 Wis. 2d 786, 679 N.W.2d 885, 03−2004.

Sub. (5) (a) does not impose a requirement that the request for an additional blood test be made after the first test is completed. State v. Schmidt, 2004 WI App 235, 277 Wis. 2d 561, 691 N.W.2d 379, 04−0904.

When police have informed a suspect of his or her right to an alternative test at agency expense, the suspect has ample opportunity to make a request, the suspect makes no request, and the suspect is released from custody and leaves the presence of custodial police, a subsequent request for an alternative test at agency expense is not a request within the meaning of sub. (5) (a). State v. Fahey, 2005 WI App 171, 285 Wis. 2d 679, 702 N.W.2d 400, 04−0102.

There is no right to counsel at the refusal hearing because such a hearing is civil, not criminal, in nature and therefore there is no constitutional right to effective assistance of counsel. State v. Krause, 2006 WI App 43, 289 Wis. 2d 573, 712 N.W.2d 67, 05−0472.

Giving *Miranda* warnings prior to reading Informing the Accused warnings under this section does not lead to a conclusion that the officer explicitly assured or implicitly suggested that a defendant has a right to consult counsel or to stand silent in the face of the implied consent warnings. Such a conclusion requires that the accused must be told he or she has the right to consult with counsel before deciding to submit to chemical testing and that the accused relied on the assurance or suggestion when responding to the request for a chemical test. State v. Kliss, 2007 WI App 13, 298 Wis. 2d 275, 728 N.W.2d 9, 06−0113.

There cannot be substantial compliance with sub. (4) when the law enforcement officer fails to give the defendant the statutorily required information about penalties. If the circuit court determines that the officer failed to inform the accused in compliance with the statute, the court shall order that no action be taken on the operating privilege on account of the person's refusal to take the test in question. This does not apply misstatements of information beyond the required information, which are governed by *Ludwigson*. Washburn County v. Smith, 2008 WI 23, 308 Wis. 2d 65, 746 N.W.2d 243, 06−3163.

When law enforcement invokes this section to obtain a primary test for intoxication, it must: 1) provide the primary test of its choice at its own expense; 2) provide an opportunity for a second test of its choice at agency expense; and 3) if the second test is refused by the suspect in favor of one at his or her own expense, it must provide a reasonable opportunity for a test of the suspect's choice at the suspect's expense. State v. Batt, 2010 WI App 155, 330 Wis. 2d 159, 793 N.W.2d 104, 09−3069.

Sub. (9) (a) 5. a. does not limit the circuit court to considering whether, based on all the evidence gathered up until the moment of the arrest, the officer had probable cause to believe the defendant was operating while under the influence of an intoxi-

cant. A defendant may also contest whether he or she was lawfully placed under arrest. As part of this inquiry, the circuit court may entertain an argument that the arrest was unlawful because the traffic stop that preceded it was not justified by either probable cause or reasonable suspicion. State v. Anagnos, 2012 WI 64, 341 Wis. 2d 576, 815 N.W.2d 675, 10−1812.

Under *Brooks,* a circuit court has the discretionary authority to dismiss a refusal charge only if the defendant has already pleaded guilty to the underlying OWI or OWI−related charge by the time of his or her refusal hearing, which was timely requested. Extending *Brooks* to allow circuit courts the discretionary authority to dismiss refusal charges in cases in which a defendant has pleaded not guilty to the underlying OWI, PAC, or other related charge would contravene the purpose of this section. State v. Bentdahl, 2013 WI 106, 351 Wis. 2d 739, 840 N.W.2d 704, 12−1426.

It is incorrect to say that a driver who consents to a blood draw after receiving the advisement contained in the "Informing the Accused" form has given "implied consent." If a driver consents under that circumstance, that consent is actual consent, not implied consent. If the driver refuses to consent, he or she thereby withdraws "implied consent" and accepts the consequences of that choice. The implied consent law is explicitly designed to allow the driver, and not the police officer, to make the choice as to whether the driver will give or decline to give actual consent to a blood draw when put to the choice between consent or automatic sanctions. State v. Padley, 2014 WI App 65, 354 Wis. 2d 545, 849 N.W.2d 867, 13−0852.

Sub. (3) (ar) 2. is not facially unconstitutional. It does not authorize law enforcement to compel an unreasonable search, as it does not authorize searches. It authorizes law enforcement to require a driver to choose between giving actual consent to a blood draw, or withdrawing "implied consent" and suffering implied−consent−law sanctions. State v. Padley, 2014 WI App 65, 354 Wis. 2d 545, 849 N.W.2d 867, 13−0852.

The "reason to believe" standard in sub. (3) (ar) 2. requires that the law enforcement officer have a "minimal suspicion" that the defendant has committed a traffic violation. State v. Padley, 2014 WI App 65, 354 Wis. 2d 545, 849 N.W.2d 867, 13−0852.

The premise that a defendant's consent was coerced on the grounds that the defendant would have won at a refusal hearing is rejected. The fact that the defendant could have prevailed at a refusal hearing due to the legislature's failure to amend the refusal hearing statute does not transform the defendant's freely given actual consent under the implied consent law into a coerced submittal. State v. Blackman, 2016 WI App 69, ___ Wis. 2d ___, ___ N.W.2d ___, 15−0450.

When a law enforcement officer has reasonable grounds to believe that an unconscious person is guilty of driving while intoxicated, a blood sample may be taken, and the test results are admissible in evidence and may not be excluded by the trial court. 59 Atty. Gen. 183.

Implied consent is discussed. 62 Atty. Gen. 174.

The method by which a law enforcement agency may provide 2 tests for blood alcohol content under sub. (1), 1985 stats. [now sub. (2)] is discussed. The agency is not required to actually own or physically possess the testing devices. 63 Atty. Gen. 119.

Under s. 343.305 (1) and (4), 1985 stats., hospital personnel must administer tests and report results at the request of officers, subject to penalty under s. 946.40. 68 Atty. Gen. 209.

Federal law requiring confidentiality of patient records has no application to the taking of a blood sample under this section. 73 Atty. Gen. 45.

A law enforcement officer may use physical restraint, subject to constitutional limitations, in order to draw a legally justified blood sample. Refusal by a health professional to comply with a law enforcement officer's authorized request to take a blood sample from a person whom the officer has legally restrained by force constitutes refusal to aid an officer under s. 946.40. 74 Atty. Gen. 123.

Refusal hearings under this section are discussed. 77 Atty. Gen. 4.

A Massachusetts implied consent law that mandates suspension of a license for refusal to take a breath−analysis test did not violate the due process clause. Mackey v. Montrym, 443 U.S. 1 (1979).

The admission into evidence of a defendant's refusal to submit to a blood−alcohol test did not deny the right against self−incrimination. South Dakota v. Neville, 459 U.S. 553 (1983).

Wisconsin's new administrative suspension statute. 72 MLR 120 (1988).

The new OMVWI law: Wisconsin changes its approach to the problem of drinking and driving. Hammer, WBB April, May 1982.

Technical problems corrected: Operating while intoxicated. Hancock and Maassen. WBB Apr. 1987.

Wisconsin's breath testing program. Booker. WBB Oct. 1988.

Rethinking Refusal: Wisconsin's Implied Consent Law. Lotke. Wis. Law. July 1993.

Using Preliminary Breath Test Results in Trials? Don't Hold Your Breath. Anderegg. Wis. Law. Jan. 2015

343.307 Prior convictions, suspensions or revocations to be counted as offenses. (1) The court shall count the following to determine the length of a revocation under s. 343.30 (1q) (b) and to determine the penalty under ss. 114.09 (2) and 346.65 (2):

(a) Convictions for violations under s. 346.63 (1), or a local ordinance in conformity with that section.

(b) Convictions for violations of a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.63 (1).

(c) Convictions for violations under s. 346.63 (2) or 940.25, or s. 940.09 where the offense involved the use of a vehicle.

(d) Convictions under the law of another jurisdiction that prohibits a person from refusing chemical testing or using a motor vehicle while intoxicated or under the influence of a controlled substance or controlled substance analog, or a combination thereof; with an excess or specified range of alcohol concentration; while under the influence of any drug to a degree that renders the person incapable of safely driving; or while having a detectable amount of a restricted controlled substance in his or her blood, as those or substantially similar terms are used in that jurisdiction's laws.

(e) Operating privilege suspensions or revocations under the law of another jurisdiction arising out of a refusal to submit to chemical testing.

(f) Revocations under s. 343.305 (10).

(g) Convictions for violations under s. 114.09 (1) (b) 1. or 1m.

(2) The court shall count the following to determine the length of a revocation under s. 343.305 (10) and to determine the penalty under s. 346.65 (2j) and to determine the prohibited alcohol concentration under s. 340.01 (46m):

(a) Convictions for violations under s. 346.63 (1) or (5), or a local ordinance in conformity with either section.

(b) Convictions for violations of a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.63 (1) or (5).

(c) Convictions for violations under s. 346.63 (2) or (6).

(d) Convictions under the law of another jurisdiction that is in substantial conformity with 49 CFR 383.51 (b) Table 1, items (1) to (4).

(e) Convictions under the law of another jurisdiction that prohibits a person from refusing chemical testing or using a motor vehicle while intoxicated or under the influence of a controlled substance or controlled substance analog, or a combination thereof; with an excess or specified range of alcohol concentration; while under the influence of any drug to a degree that renders the person incapable of safely driving; or while having a detectable amount of a restricted controlled substance in his or her blood, as those or substantially similar terms are used in that jurisdiction's laws.

(f) Operating privilege suspensions or revocations under the law of another jurisdiction arising out of a refusal to submit to chemical testing.

(g) Revocations under s. 343.305 (10).

(h) Convictions for violations under s. 940.09 (1) or 940.25.

(3) If the same elements of the offense must be proven under a local ordinance or under a law of a federally recognized American Indian tribe or band in this state as under s. 346.63 (1) (a), (am), or (b), any combination of s. 346.63 (1) (a), (am), or (b), or s. 346.63 (5), the local ordinance or the law of a federally recognized American Indian tribe or band in this state shall be considered to be in conformity with s. 346.63 (1) (a), (am), or (b), any combination of s. 346.63 (1) (a), (am), or (b), or s. 346.63 (5), for purposes of ss. 343.30 (1q) (b) 1., 343.305 (10) (b) 1. and 346.65 (2) and (2j).

History: 1977 c. 193; 1981 c. 20, 184; 1985 a. 80, 337; 1987 a. 3; 1989 a. 105, 271, 359; 1991 a. 39, 277; 1995 a. 448; 1997 a. 84; 2003 a. 33, 97; 2007 a. 20; 2009 a. 276.

An Illinois court's placement of an OWI offender under court supervision is a conviction that is counted as a prior offense under sub. (1) (d) when charging an OWI suspect in Wisconsin. Placement under court supervision as a result of a determination that the defendant violated or failed to comply with the law in a court of original jurisdiction meets the definition of conviction under s. 340.01 (9r). State v. List, 2004 WI App 230, 277 Wis. 2d 836, 691 N.W.2d 366, 03−3149.

The final phrase of sub. (1) (d), "as those or substantially similar terms are used in that jurisdiction's laws," indicates the broad scope of that provision. When determining a penalty, Wisconsin counts prior offenses committed in states with OWI statutes that differ significantly from Wisconsin's. "Substantially similar" simply emphasizes that the out−of−state statute need only prohibit conduct similar to the list of prohibited conduct in sub. (1) (d). State v. Puchacz, 2010 WI App 30, 323 Wis. 2d 741, 780 N.W.2d 536, 09−0840.

The definition of "conviction" in s. 340.01 (9r) applies to "convictions" in sub. (1) (d). Under sub. (1) (d), the other jurisdiction need only have a law that prohibits conduct specified in sub. (1) (d). The Illinois "zero tolerance" law punishes a person who is less than 21 years of age for refusing to submit to a chemical test, or for using a motor vehicle with an alcohol concentration above 0.00 and thus, in the context of sub. (1) (d), was a conviction under a law of another jurisdiction that prohibits refusal of chemical testing or prohibits using a motor vehicle with an excess or specified

range of alcohol concentration. State v. Carter, 2010 WI 132, 330 Wis. 2d 1, 794 N.W.2d 213, 08−3144

In sub. (1) (d), the phrase "with an excess or specified range of alcohol concentration" modifies the phrase "using a motor vehicle," not the phrase "using a motor vehicle while intoxicated or under the influence of a controlled substance or controlled substance analog, or a combination thereof." Thus, the statute should be read as follows: convictions under the law of another jurisdiction that prohibits a person from using a motor vehicle with an excess or specified range of alcohol concentration. State v. Carter, 2010 WI 132, 330 Wis. 2d 1, 794 N.W.2d 213, 08−3144.

Section 340.01 (9r) defines "conviction" as including having "violated or failed to comply with the law in a court of original jurisdiction." By not appearing in court on the specified date, as directed, the defendant did not "comply with the law." State v. Marilee Devries, 2011 WI App 78, 334 Wis. 2d 430, 801 N.W.2d 336, 09−3166.

The elements of an underlying first−offense OWI need not be proven to a jury beyond a reasonable doubt in a criminal proceeding for a subsequent OWI violation. State v. Verhagen, 2013 WI App 16, 346 Wis. 2d 196, 827 N.W.2d 891, 11−2033.

Sub. (1) (d)'s inclusion of out−of−state convictions under a law that prohibits driving "with an excess or specified range of alcohol concentration" does not violate the Equal Protection Clause, even if a consequence is to treat Illinois zero tolerance offenses differently than Wisconsin absolute sobriety offenses. Ease of administration in Wisconsin courts provides a rational basis for a single, straightforward, and broad definition of out−of−state offenses applicable to all other jurisdictions. The definition consistently counts all convictions under out−of−state laws prohibiting driving with an excess or specified range of alcohol concentration regardless of their labels or treatment. State v. Hirsch, 2014 WI App 39, 353 Wis. 2d 453, 847 N.W.2d 192, 13−0427.

Every term in sub. (1) (d) relates in some way to a person operating a motor vehicle with either drugs or alcohol, or both, in his or her system. That critical aspect is completely absent from the reckless driving offense of which the defendant was convicted. The initial charge, sanctions, and potential future consequences are of no moment. State v. Jackson, 2014 WI App 50, 354 Wis. 2d 99, 851 N.W.2d 465, 13−1282.

A conviction that has been collaterally attacked meets the definition of "conviction" under s. 340.01 (9r) because a collateral attack does not overturn or vacate the conviction. Instead, it attempts to avoid the conviction's force of law in a subsequent criminal proceeding. Thus, as long as the adjudication of guilt is unvacated, the conviction remains on DOT's records and should be counted in determining whether to revoke the offender's operating privilege. OAG 2−14

343.31 Revocation or suspension of licenses after certain convictions or declarations. (1) The department shall revoke a person's operating privilege upon receiving a record of conviction showing that the person has been convicted of any of the following offenses under a state law or under a local ordinance which is in conformity therewith or under a law of a federally recognized American Indian tribe or band in this state which is in conformity with state law:

(a) Homicide or great bodily harm resulting from the operation of a motor vehicle and which is criminal under s. 346.62 (4), 940.06, 940.09, 940.10 or 940.25.

(am) Injury by the operation of a vehicle while under the influence of an intoxicant, a controlled substance or a controlled substance analog, or any combination of an intoxicant, a controlled substance and a controlled substance analog, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving or while the person has a detectable amount of a restricted controlled substance in his or her blood or has a prohibited alcohol concentration and which is criminal under s. 346.63 (2).

(ar) Injury by the operation of a commercial motor vehicle while the person has an alcohol concentration of 0.04 or more but less than 0.08 and which is criminal under s. 346.63 (6).

(b) Upon conviction for operation of a motor vehicle while under the influence of an intoxicant, controlled substance, controlled substance analog or a combination thereof, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving, in accordance with the order of the court.

(c) Any felony in the commission of which a motor vehicle is used.

(d) Failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in death of or personal injury to another or in serious property damage.

(g) Operating a motor vehicle without having furnished proof of financial responsibility when proof of financial responsibility is required.

(i) Knowingly fleeing or attempting to elude a traffic officer under s. 346.04 (3).

(2) The department shall revoke the operating privilege of any resident upon receiving notice of the conviction of such person in another jurisdiction for an offense therein which, if committed in this state, would have been cause for revocation under this section or for revocation under s. 343.30 (1q). Such offenses shall include violation of any law of another jurisdiction that prohibits a person from using a motor vehicle while intoxicated or under the influence of a controlled substance or controlled substance analog, or a combination thereof; with an excess or specified range of alcohol concentration; while under the influence of any drug to a degree that renders the person incapable of safely driving; or while having a detectable amount of a restricted controlled substance in his or her blood, as those or substantially similar terms are used in that jurisdiction's laws. Upon receiving similar notice with respect to a nonresident, the department shall revoke the privilege of the nonresident to operate a motor vehicle in this state. Such revocation shall not apply to the operation of a commercial motor vehicle by a nonresident who holds a valid commercial driver license issued by another state.

(2m) The department may suspend or revoke, respectively, the operating privilege of any resident upon receiving notice of the conviction of that person under a law of another jurisdiction or a federally recognized American Indian tribe or band in this state for an offense which, if the person had committed the offense in this state and been convicted of the offense under the laws of this state, would have permitted suspension or revocation of the person's operating privilege under s. 343.30 (1d) or (1g). Upon receiving similar notice with respect to a nonresident, the department may suspend or revoke the privilege of the nonresident to operate a motor vehicle in this state. The suspension or revocation shall not apply to the operation of a commercial motor vehicle by a nonresident who holds a valid commercial driver license issued by another state. A suspension or revocation under this subsection shall be for any period not exceeding 6 months.

(2r) The department shall suspend a person's operating privilege upon receiving a record of conviction showing that the person has been convicted of perjury or the making of a false affidavit or the making of a false statement or certification to the department under this chapter or any other law relating to the ownership or operation of motor vehicles.

(2s) The department may suspend a person's operating privilege for 2 years upon receiving a record of conviction under s. 973.137. If the department receives a record of conviction under s. 973.137 or a notice of suspension under s. 938.34 (14q) for a person whose license or operating privilege is currently suspended or revoked or for a person who does not currently possess a valid operator's license, the suspension is first effective on the date on which the person is first eligible for issuance, renewal, or reinstatement of an operator's license.

(2t) (a) The department shall suspend a person's operating privilege upon receiving a record of conviction for a violation of s. 346.18, or a local ordinance in conformity with s. 346.18, resulting in bodily harm, as defined in s. 939.22 (4), great bodily harm, as defined in s. 939.22 (14), or death, as follows:

1. For a period of 2 months, if the offense resulted in bodily harm to another but did not result in great bodily harm or the death of another.

2. For a period of 3 months, if the offense resulted in great bodily harm to another but did not result in the death of another.

3. For a period of 9 months, if the offense resulted in the death of another.

(b) If a person is convicted of violating s. 346.18 or a local ordinance in conformity with s. 346.18, in addition to any other penalty provided by law, the department shall order the person to attend a vehicle right−of−way course whose mode of instruction is approved by the secretary and which is conducted by any regularly established safety organization, by the provider of driver education courses approved under s. 38.04 (4) or 115.28 (11), or by a driver school licensed under s. 343.61. The course of instruction shall acquaint the person with vehicle right−of−way rules and provide instruction on motorcycle, pedestrian, and bicycle awareness. If the course is conducted by the provider of approved driver education courses or a driver school, the provider or driver school shall issue to the person a certificate upon successful completion of the course. If a person's operating privilege has been suspended under par. (a), the department may not reinstate the person's operating privilege unless the person has successfully completed the course required under this paragraph.

(2u) The department shall suspend the operating privilege of a person who has been issued an occupational license upon receiving a record of conviction showing that the person has been convicted of any of the following offenses.

(a) Any offense that may be counted under s. 351.02 (1) (a), other than s. 351.02 (1) (a) 5.

(b) Exceeding by 20 or more miles per hour any lawful or posted maximum speed limit.

(c) Participating in any race or speed or endurance contest.

(2x) The department shall suspend a person's operating privilege upon receiving a record of a declaration under s. 54.25 (2) (c) 1. d. that the person is incompetent to apply for an operator's license. The department may reinstate the person's operator's license upon receiving a record of a declaration that the person is no longer incompetent to apply for an operator's license under s. 54.25 (2) (c) 1. d., if the person is otherwise qualified under this chapter to obtain an operator's license.

(3) (a) Except as otherwise provided in this subsection or sub. (2m), (2s), (2t), or (2x), all revocations or suspensions under this section shall be for a period of one year.

(b) If the revocation results from a first conviction of operation of a motor vehicle while under the influence of an intoxicant, controlled substance, controlled substance analog or a combination thereof, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving and the conviction occurs in another jurisdiction, the period of revocation shall be 6 months.

(bm) For any person convicted under a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.63 (1):

1. Except as provided in subds. 3. and 4., the department shall revoke the person's operating privilege under this paragraph according to the number of previous suspensions, revocations or convictions that would be counted under s. 343.307 (1). Suspensions, revocations and convictions arising out of the same incident shall be counted as one. If a person has a conviction, suspension or revocation for any offense that is counted under s. 343.307 (1), that conviction, suspension or revocation shall count as a prior conviction, suspension or revocation under this subdivision.

2. Except as provided in subd. 3., 4. or 4m., for the first conviction, the department shall revoke the person's operating privilege for not less than 6 months nor more than 9 months. If an Indian tribal court in this state revokes the person's privilege to operate a motor vehicle on tribal lands for not less than 6 months nor more than 9 months for the conviction specified in par. (bm) (intro.), the department shall impose the same period of revocation. The person is eligible for an occupational license under s. 343.10 at any time.

3. Except as provided in subd. 4m., if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations, and other convictions counted under s. 343.307 (1) within a 10−year period, equals 2, the department shall revoke the person's operating privilege for not less than one year nor more than 18 months. If an Indian tribal court in this state revokes the person's privilege to operate a motor vehicle on tribal lands for not less than one year nor more than 18 months for the conviction specified in par. (bm) (intro.), the department shall impose the same period of revocation. After the first 60 days of the revocation period or, if the total number of convictions, suspensions, and revocations counted under this subdivision within any 5−year period equals 2 or more, after one year of the revocation period has elapsed, the person is eligible for an occupational license under s. 343.10.

4. Except as provided in subd. 4m., if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other suspensions, revocations and convictions counted under s. 343.307 (1), equals 3 or more, the department shall revoke the person's operating privilege for not less than 2 years nor more than 3 years. If an Indian tribal court in this state revokes the person's privilege to operate a motor vehicle on tribal lands for not less than 2 years nor more than 3 years for the conviction specified in par. (bm) (intro.), the department shall impose the same period of revocation. After one year of the revocation period has elapsed, the person is eligible for an occupational license under s. 343.10.

4m. If the Indian tribal court that convicted the person determined that there was a minor passenger under 16 years of age in the motor vehicle at the time of the incident that gave rise to the conviction, the applicable minimum and maximum revocation periods under subd. 2., 3. or 4. for the conviction are doubled.

5. The time period under this paragraph shall be measured from the dates of the refusals or violations which resulted in the suspensions, revocations or convictions.

(c) Any person convicted under s. 940.09 of causing the death of another or of an unborn child by the operation or handling of a motor vehicle shall have his or her operating privilege revoked for 5 years. If there was a minor passenger under 16 years of age or an unborn child, as defined in s. 939.75 (1), in the motor vehicle at the time of the violation that gave rise to the conviction under s. 940.09, the revocation period is 10 years.

(d) Any person convicted of knowingly fleeing or attempting to elude a traffic officer under s. 346.04 (3) shall have his or her operating privilege revoked as follows:

1. If the offense did not result in bodily harm to another or damage to the property of another, for 6 months.

2. If the offense results in bodily harm to another or causes damage to the property of another, as provided in par. (a).

3. If the offense results in great bodily harm to another, for 2 years.

4. If the offense results in the death of another, for 5 years.

(e) Any person convicted under s. 346.63 (2) shall have his or her operating privilege revoked for not less than one year nor more than 2 years. If there was a minor passenger under 16 years of age in the motor vehicle at the time of the violation that gave rise to the conviction under s. 346.63 (2), the minimum and maximum revocation periods are doubled.

(f) Any person convicted under s. 940.25 shall have his or her operating privilege revoked for 2 years. If there was a minor passenger under 16 years of age or an unborn child, as defined in s. 939.75 (1), in the motor vehicle at the time of the violation that gave rise to the conviction under s. 940.25, the revocation period is 4 years.

(i) If a person is convicted for a violation of s. 346.67 (1) where the accident involved great bodily harm, the period of revocation is 2 years.

(j) If a person is convicted for a violation of s. 346.67 (1) where the accident involved death, the period of revocation is 5 years.

(3m) (a) Any person who has his or her operating privilege revoked under sub. (3) (c) or (f) is eligible for an occupational

license under s. 343.10 after the first 120 days of the revocation period, except that if the total number of convictions, suspensions, or revocations for any offense that is counted under s. 343.307 (1) within any 5−year period equals 2 or more, the person is eligible for an occupational license under s. 343.10 after one year of the revocation period has elapsed.

(b) Any person who has his or her operating privilege revoked under sub. (3) (e) is eligible for an occupational license under s. 343.10 after the first 60 days of the revocation period, except that if the total number of convictions, suspensions, or revocations for any offense that is counted under s. 343.307 (1) within any 5−year period equals 2 or more, the person is eligible for an occupational license under s. 343.10 after one year of the revocation period has elapsed.

(4) For any revocation the department orders under sub. (1) (a), (am), (ar), or (b), if the offense is criminal under s. 940.09 and involved the use of a motor vehicle, or if the offense is criminal under s. 940.25, or under sub. (3), the department shall extend the revocation period by the number of days to which a court sentences the person to imprisonment in a jail or prison.

History: 1971 c. 219; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 193, 447; 1979 c. 221; 1981 c. 20, 70; 1983 a. 192 s. 304; 1983 a. 459; 1985 a. 80, 82; 1985 a. 293 s. 3; 1987 a. 3, 399; 1989 a. 31, 105; 1991 a. 39, 277, 316; 1993 a. 317; 1995 a. 269, 425, 448; 1997 a. 84, 237, 258, 295; 1999 a. 109, 143; 2001 a. 16, 38, 109; 2003 a. 30, 97, 200; 2005 a. 387; 2009 a. 100, 102, 121; 2011 a. 113, 173 ss. 2, 3, 6.

The court cannot waive the revocation ordered by the division of motor vehicles. 62 Atty. Gen. 31.

When a person is charged under with a second offense OWI, the charge may not be reduced to or punished as a first. The department must treat this as a second offense for purposes of revocation. 69 Atty. Gen. 47.

343.315 Commercial motor vehicle disqualifications; effects. (1g) DEFINITION. In this section, "engaged in commercial motor vehicle−related activities" means all of the following:

(a) Operating or using a commercial motor vehicle.

(b) Operating or using any motor vehicle on or after September 30, 2005, if the person operating or using the vehicle has ever held a commercial driver license, has ever operated a commercial motor vehicle on a highway, or has ever been convicted of a violation related to, or been disqualified from, operating a commercial motor vehicle.

(1m) EMPLOYER RESPONSIBILITY. An employer may not allow, permit or authorize a driver who is disqualified to operate a commercial motor vehicle during a period of disqualification after March 31, 1992. An employer who knowingly violates this subsection shall be fined not more than $5,000 or imprisoned for not more than 90 days or both. An employer who negligently violates this subsection shall forfeit not more than $2,500.

(2) DISQUALIFYING OFFENSES. (a) Except as provided in pars. (b) and (bm), a person shall be disqualified from operating a commercial motor vehicle for a one−year period upon a first conviction of any of the following offenses while engaged in commercial motor−vehicle related activities:

1. Section 346.63 (1) (a) or a local ordinance in conformity therewith or a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.63 (1) (a) or the law of another jurisdiction prohibiting driving or operating a motor vehicle while intoxicated or under the influence of alcohol, a controlled substance, a controlled substance analog or a combination thereof, or under the influence of any drug which renders the person incapable of safely driving, as those or substantially similar terms are used in that jurisdiction's laws.

1m. Section 346.63 (1) (am) or a local ordinance in conformity therewith or a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.63 (1) (am) or the law of another jurisdiction that prohibits a person from driving or operating a commercial motor vehicle while having a detectable amount of a restricted controlled substance in his or her blood, as those or substantially similar terms are used in that jurisdiction's laws.

2. Section 346.63 (1) (b) or (5) (a) or a local ordinance in conformity therewith or a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.63 (1) (b) or (5) (a) or the law of another jurisdiction prohibiting driving or operating a commercial motor vehicle while the person's alcohol concentration is 0.04 or more or with an excess or specified range of alcohol concentration, as those or substantially similar terms are used in that jurisdiction's laws.

3. Section 346.67 (1), 346.68 or 346.69 or a local ordinance in conformity therewith or a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.67 (1), 346.68 or 346.69 or the law of another jurisdiction prohibiting leaving the scene of an accident involving a motor vehicle driven or operated by the person, as those or substantially similar terms are used in that jurisdiction's laws.

4. Using a motor vehicle in the commission of a felony in this state, including a violation of a law of a federally recognized American Indian tribe or band in this state for an offense therein which, if the person had been convicted of the offense under the laws of this state, would have constituted a felony, or in another jurisdiction.

5. Section 343.305 (7) or (9) or a local ordinance in conformity therewith or a law of a federally recognized American Indian tribe or band in this state in conformity with s. 343.305 (7) or (9) or the law of another jurisdiction prohibiting refusal of a person driving or operating a motor vehicle to submit to chemical testing to determine the person's alcohol concentration or intoxication or the amount of a restricted controlled substance in the person's blood, or prohibiting positive results from such chemical testing, as those or substantially similar terms are used in that jurisdiction's laws.

6. Section 346.63 (2) or (6), 940.09 (1) or 940.25 or a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.63 (2) or (6), 940.09 (1) or 940.25, or the law of another jurisdiction prohibiting causing or inflicting injury, great bodily harm or death through use of a motor vehicle while intoxicated or under the influence of alcohol, a controlled substance, a controlled substance analog or a combination thereof, or with an alcohol concentration of 0.04 or more or with an excess or specified range of alcohol concentration, while under the influence of any drug to a degree that renders the person incapable of safely driving, or while having a detectable amount of a restricted controlled substance in the person's blood, as those or substantially similar terms are used in that jurisdiction's laws.

7. Operating a commercial motor vehicle when the person's commercial driver license is revoked, suspended, or canceled based on the person's operation of a commercial motor vehicle or when the person is disqualified from operating a commercial motor vehicle.

8. Causing a fatality through negligent or criminal operation of a motor vehicle.

(am) Except as provided in par. (b), a person shall be disqualified from operating a commercial motor vehicle for a one−year period upon a first conviction of causing a fatality through negligent or criminal operation of a motor vehicle, committed on or after July 1, 1987, and before September 30, 2005, while driving or operating any motor vehicle.

(b) If any of the violations listed in par. (a) or (am) occurred in the course of transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73 on or after July 1, 1987, the person shall be disqualified from operating a commercial motor vehicle for a 3−year period.

(bm) The period of disqualification under par. (a) for a disqualification imposed under par. (a) 5. shall be reduced by any period of suspension, revocation, or disqualification under this chapter previously served for an offense if all of the following apply:

1. The offense arises out of the same incident or occurrence giving rise to the disqualification.

2. The offense relates to a vehicle operator's alcohol concentration or intoxication or the amount of a restricted controlled substance in the operator's blood.

(c) A person shall be disqualified for life from operating a commercial motor vehicle if convicted of 2 or more violations of any of the offenses listed in par. (a) or (am), or any combination of those offenses, arising from 2 or more separate incidents. The department shall consider only offenses committed on or after July 1, 1987, in applying this paragraph.

(d) The department may, by rule, establish guidelines and conditions under which a disqualification for life under par. (c) may be reduced to a period of not less than 10 years. The rules shall include standards for a rehabilitation program to be successfully completed by the applicant for reinstatement. If a person is reinstated after successful completion of the rehabilitation program and is subsequently convicted of any offense listed in par. (a), the person shall be permanently disqualified for life and ineligible to apply for a reduction of the lifetime disqualification under this paragraph.

(e) A person is disqualified for life from operating a commercial motor vehicle if, in the commission of a felony involving the manufacture, distribution, delivery, or dispensing of a controlled substance or controlled substance analog, or possession with intent to manufacture, distribute, deliver, or dispense a controlled substance or controlled substance analog, the person is engaged in commercial motor vehicle−related activities. No person who is disqualified under this paragraph is eligible for reinstatement under par. (d).

(f) A person is disqualified for a period of 60 days from operating a commercial motor vehicle if convicted of 2 serious traffic violations, and 120 days if convicted of 3 serious traffic violations, arising from separate occurrences committed within a 3−year period while driving or operating a commercial motor vehicle or while driving or operating any motor vehicle if the person holds a commercial driver license. The 120−day period of disqualification under this paragraph shall be in addition to any other period of disqualification imposed under this paragraph. In this paragraph, "serious traffic violations" means any of the following offenses committed while engaged in commercial motor vehicle−related activities specified in sub. (1g) (a), or any of the following offenses committed while engaged in commercial motor vehicle−related activities specified in sub. (1g) (b) if the offense results in the revocation, cancellation, or suspension of the person's operating privilege:

1. Violating s. 346.57 (4) or a local ordinance in conformity therewith or a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.57 (4) by excessive speeding, or the law of another jurisdiction prohibiting excessive speeding by exceeding the posted speed limit by 15 or more miles per hour as those or substantially similar terms are used in that jurisdiction's law.

2. Violating any state or local law of this state or any law of a federally recognized American Indian tribe or band in this state in conformity with any state law or any law of another jurisdiction relating to motor vehicle traffic control, arising in connection with a fatal accident, other than parking, vehicle weight or vehicle defect violations, or violations described in par. (a) 8. or (am).

3. Violating s. 346.62 or a local ordinance in conformity therewith or a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.62 or the law of another jurisdiction prohibiting reckless or careless driving of a motor vehicle or driving or operating a motor vehicle with willful or wanton disregard for the safety of persons or property, as those or substantially similar terms are used in that jurisdiction's law.

4. Violating s. 346.07 (2), 346.08, 346.09, 346.10, 346.13, 346.24 (3) or 346.34 (1) (a) 3. or a local ordinance in conformity therewith or a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.07 (2), 346.08, 346.09, 346.10, 346.13, 346.24 (3) or 346.34 (1) (a) 3. or the law of another jurisdiction prohibiting improper or erratic lane changes or improper passing, or otherwise prohibiting the conduct described in sections 11−304 to 306 and 11−309 of the uniform vehicle code and model traffic ordinance (1987), as those or substantially similar terms are used in that jurisdiction's law.

5. Violating s. 346.14 or a local ordinance in conformity therewith or a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.14 or the law of another jurisdiction prohibiting following a vehicle too closely, or otherwise prohibiting the conduct described in section 11−310 of the uniform vehicle code and model traffic ordinance (1987), as those or substantially similar terms are used in that jurisdiction's law.

6. Operating a commercial motor vehicle when the person has not obtained a commercial driver license.

7. Operating a commercial motor vehicle when the person does not have in his or her immediate possession the person's commercial driver license document unless the person produces in court or in the office of the law enforcement officer that issued the citation, by the date that the person must appear in court or pay any fine or forfeiture with respect to the citation, a commercial driver license document issued to the person prior to the date of the citation and valid at the time of the citation.

8. Operating a commercial motor vehicle without the proper class of commercial driver license or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported.

9. Violating s. 346.89 (3) (a) or a local ordinance in conformity therewith or a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.89 (3) (a) or the law of another jurisdiction prohibiting driving a motor vehicle while composing or sending an electronic text message or electronic mail message, as those or substantially similar terms are used in that jurisdiction's law.

10. In this subdivision, "mobile telephone" has the meaning given in 49 CFR 390.5. Violating s. 346.89 (4) (b) or a local ordinance in conformity therewith or a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.89 (4) (b) or the law of another jurisdiction prohibiting driving a commercial motor vehicle, as defined in 49 CFR 390.5, while using a hand−held mobile telephone, as those or substantially similar terms are used in that jurisdiction's law.

(fm) A person is disqualified for a period of 60 days from operating a commercial motor vehicle if the person is convicted of violating s. 343.14 (5) or 345.17 and the violation of s. 343.14 (5) or 345.17 relates to an application for a commercial driver license or if the person's commercial driver license is cancelled by the secretary under s. 343.25 (1).

(fp) A person is disqualified for a period of one year from operating a commercial motor vehicle if the person's commercial driver license is canceled by the secretary under s. 343.25 (5).

(g) A person is disqualified from operating a commercial motor vehicle for the 24−hour period following issuance of a citation for violation of s. 346.63 (7) or a local ordinance in conformity therewith or a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.63 (7) or issuance of an out−of−service order for violating 49 CFR 392.5 or the law of another jurisdiction in substantial conformity therewith.

(h) Except as provided in par. (i), a person shall be disqualified for a period of 180 days from operating a commercial motor vehicle if convicted of an out−of−service violation, or 2 years if convicted of 2 out−of−service violations, or 3 years if convicted of 3 or more out−of−service violations, arising from separate occurrences committed within a 10−year period while operating a commercial motor vehicle. A disqualification under this paragraph shall be in addition to any penalty imposed under s. 343.44. In this

paragraph, "out−of−service violation" means violating s. 343.44 (1) (c) or a law of another jurisdiction for an offense therein which, if committed in this state, would have been a violation of s. 343.44 (1) (c), if the operator holds a commercial driver license or is required to hold a commercial driver license to operate the commercial motor vehicle.

(i) If the violation listed in par. (h) occurred in the course of transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73, or while operating a vehicle designed to carry, or actually carrying, 16 or more passengers, including the driver, the person shall be disqualified from operating a commercial motor vehicle for 180 days upon a first conviction, or for 3 years for a 2nd or subsequent conviction, arising from separate occurrences committed within a 10−year period while operating a commercial motor vehicle. A disqualification under this paragraph shall be in addition to any penalty imposed under s. 343.44.

(j) A person is disqualified for a period of 60 days from operating a commercial motor vehicle if convicted of a railroad crossing violation, or 120 days if convicted of 2 railroad crossing violations or one year if convicted of 3 or more railroad crossing violations, arising from separate occurrences committed within a 3−year period while driving or operating a commercial motor vehicle. In this paragraph, "railroad crossing violation" means a violation of a federal, state, or local law, rule, or regulation, or the law of another jurisdiction, relating to any of the following offenses at a railroad crossing:

1. If the operator is not always required to stop the vehicle, failing to reduce speed and determine that the tracks are clear of any approaching railroad train or railroad track equipment.

2. If the operator is not always required to stop the vehicle, failing to stop before reaching the crossing if the tracks are not clear.

3. If the operator is always required to stop the vehicle, failing to do so before proceeding onto the crossing.

4. Failing to have sufficient space to proceed completely through the crossing without stopping the vehicle.

5. Failing to obey any official traffic control device or the directions of any traffic officer, railroad employee, or other enforcement official.

6. Failing to successfully proceed through the crossing because of insufficient undercarriage clearance.

(k) A person disqualified by federal authorities under 49 USC 31310 (f) and 49 CFR 383.52 on the basis that the person's continued operation of a commercial motor vehicle would create an imminent hazard, as defined in 49 USC 5102 and 49 CFR 383.5, is disqualified from operating a commercial motor vehicle for the period of disqualification determined by the federal authority upon receipt by the department of the notice of disqualification provided for in 49 CFR 383.52 (d).

(L) If the department receives notice from another jurisdiction of a failure to comply violation by a person issued a commercial driver license by the department arising from the person's failure to appear to contest a citation issued in that jurisdiction or failure to pay a judgment entered against the person in that jurisdiction, the person is disqualified from operating a commercial motor vehicle until the department receives notice from the other jurisdiction terminating the failure to comply violation except that the disqualification may not be less than 30 days nor more than 2 years.

(3) EFFECT OF DISQUALIFICATION. (a) If a person's license or operating privilege is revoked or suspended as the result of an offense committed after March 31, 1992, which results in disqualification under sub. (2), the department shall immediately disqualify the person from operating a commercial motor vehicle for the period required under sub. (2). Notwithstanding s. 343.38 (3r), the person's authorization to operate a commercial motor vehicle shall not be reinstated upon expiration of the period of revocation or suspension unless the period of disqualification has also expired. During any period of disqualification in which the person's license or operating privilege is not revoked or suspended, the department may issue an operator's license to the person for the operation of vehicles other than commercial motor vehicles.

(b) If a person's license or operating privilege is not otherwise revoked or suspended as the result of an offense committed after March 31, 1992, which results in disqualification under sub. (2) (a) to (f), (h) to (j), or (L), the department shall immediately disqualify the person from operating a commercial motor vehicle for the period required under sub. (2) (a) to (f), (h) to (j), or (L). Upon proper application by the person and payment of the fees specified in s. 343.21 (1) (L) and (n), the department may issue a separate license authorizing only the operation of vehicles other than commercial motor vehicles.

(bm) Notwithstanding pars. (a) and (b) and the time periods for disqualification specified in sub. (2), if a person is convicted in another jurisdiction of a disqualifying offense specified in sub. (2) while the person is not licensed in or a resident of this state, that other jurisdiction disqualified the person from operating a commercial motor vehicle as a result of the conviction, and the period of disqualification in that other jurisdiction has expired, the department may not disqualify the person from operating a commercial motor vehicle as a result of the conviction.

(c) Nothing in this subsection exempts a person from reinstatement fees under s. 343.21 or complying with applicable provisions of s. 343.38.

(d) Disqualifications shall be effective from the date of conviction of the disqualifying offense.

(4) NOTIFICATION AND COMMENCEMENT. The department shall send the notice of disqualification by 1st class mail to a person's last−known residence address. A period of disqualification ordered under this section commences on the date on which the notice is sent under this subsection. This subsection does not apply to disqualifications under sub. (2) (g).

History: 1989 a. 105; 1991 a. 39, 277; 1995 a. 113, 448; 1997 a. 84, 258; 1999 a. 85, 140; 2001 a. 38, 109; 2003 a. 33, 97; 2007 a. 20; 2009 a. 28, 103; 2011 a. 32, 101, 244, 258; 2011 a. 260 s. 81; 2013 a. 100; 2015 a. 77, 123.

343.32 Other grounds for revocation or suspension of licenses; demerit points. (1) The secretary shall revoke a person's operating privilege whenever notice has been received of the conviction of such person in another jurisdiction for an offense therein which, if committed in this state, would have required revocation of such person's operating privilege under this subsection.

(1m) (a) In this subsection, "another jurisdiction" means any state other than Wisconsin and includes the District of Columbia, the commonwealth of Puerto Rico and any territory or possession of the United States and any province of the Dominion of Canada.

(b) The secretary may suspend a person's operating privilege for not less than 6 months nor more than 5 years whenever notice has been received of the conviction of such person under federal law or the law of a federally recognized American Indian tribe or band in this state or the law of another jurisdiction for any offense therein which, if the person had committed the offense in this state and been convicted of the offense under the laws of this state, would have permitted suspension of such person's operating privilege under s. 961.50. The person is eligible for an occupational license under s. 343.10 as follows:

1. For the first such conviction, at any time.

2. For a 2nd conviction within a 5−year period, after the first 60 days of the suspension period.

3. For a 3rd or subsequent conviction within a 5−year period, after the first 90 days of the suspension period.

(c) For purposes of counting the number of convictions under par. (b), convictions of any violation of ch. 961 shall be counted and given the effect specified under par. (b). The 5−year period

under this subsection shall be measured from the dates of the violations which resulted in the convictions.

(d) If the person's license or operating privilege is currently suspended or revoked or the person does not currently possess a valid operator's license issued under this chapter, the suspension or revocation under this subsection is effective on the date on which the person is first eligible for issuance, renewal, or reinstatement of an operator's license under this chapter.

(1s) The secretary shall suspend the operating privilege of any person who has been convicted under state law or under a local ordinance which is in conformity therewith or under a law of a federally recognized American Indian tribe or band in this state which is in conformity with state law of altering the person's license, loaning the person's license to another or unlawfully or fraudulently using or permitting an unlawful or fraudulent use of a license.

(2) (a) The secretary may suspend a person's operating privilege if the person appears by the records of the department to be a habitually reckless or negligent operator of a motor vehicle or to have repeatedly violated any of the state traffic laws, any local ordinance enacted under ch. 349 or any traffic laws enacted by a federally recognized American Indian tribe or band in this state if the tribal traffic laws violated strictly conform to provisions in chs. 341 to 348 or, if the offense occurred on a federal military installation located in this state, any federal law which is in strict conformity with a state traffic law. For the purpose of determining when to suspend an operating privilege under this subsection, the secretary may determine and adopt by rule a method of weighing traffic convictions by their seriousness and may, subject to the limitations in this subsection, change such weighted scale as experience or the accident frequency in the state makes necessary or desirable.

(b) The scale adopted by the secretary shall assign, for each conviction, 3 demerit points for exceeding the lawful speed limit by 10 or less miles per hour, 4 demerit points for exceeding the lawful speed limit by more than 10 but less than 20 miles per hour or 6 demerit points for exceeding the lawful speed limit by 20 or more miles per hour. Except as provided in s. 343.085 (5), the scale adopted by the secretary may not assign more demerit points for a subsequent conviction for exceeding the lawful speed limit than the number of demerit points specified for the conviction in this paragraph.

(bc) 1. Except as provided in subd. 2., the scale adopted by the secretary shall assess, for each conviction, twice the number of demerit points that are assessed for the same offense committed by the holder of a regular license, if the convicted person has been previously convicted of an offense for which demerit points are assessed and the person is one of the following:

a. A person who holds a probationary license.

b. An unlicensed person who would hold a probationary license if licensed.

c. A person who holds an instruction permit under s. 343.07.

2. The secretary may not increase under subd. 1. the number of demerit points that are assessed for a violation of ch. 347.

(bd) The scale adopted by the secretary shall assess, for each conviction, 6 demerit points for a violation of s. 346.44 or 346.62 (2m), except that convictions under s. 346.44 and 346.62 (2m) arising out of the same incident or occurrence shall be counted as a single conviction.

(be) The scale adopted by the secretary shall assess, for each conviction, 2 demerit points for a violation of s. 346.94 (22) (c) or (d), except that convictions arising out of the same incident or occurrence shall be counted as a single conviction.

(bg) The scale adopted by the secretary shall assign, for each conviction, 3 demerit points for operating a motor vehicle while disqualified, revoked, suspended or out−of−service under s. 343.44 or a local ordinance in conformity therewith.

(bj) The scale adopted by the secretary shall assess, for each conviction, 6 demerit points for a violation of s. 346.63 (6), 4 demerit points for a violation of s. 346.63 (2m), and 3 demerit points for a violation of s. 346.63 (7) (a) 3. The scale adopted by the secretary shall not assess any demerit points for conviction of a violation of s. 346.63 (5) or (7) (a) 1. or 2.

(bk) The scale adopted by the secretary shall assess, for each conviction, 6 demerit points for a violation of s. 346.70 (1) by the operator of a vehicle.

(bm) 1. The scale adopted by the secretary may not assess any demerit points for operating a motor vehicle without a valid operator's license in the operator's immediate possession in violation of s. 343.18 (1).

2. The scale adopted by the secretary may not assess more than 2 demerit points for operating a motor vehicle with a defective or improper speedometer in violation of s. 347.41.

(br) The scale adopted by the secretary may not assess any demerit points for modifying the height of a vehicle in violation of s. 347.455.

(bt) The scale adopted by the secretary may not assess any demerit points for a violation of s. 346.922 or 347.48 (2m) (b), (c) or (d) or (4) (am).

(c) 1. Except as provided in subd. 2., in order for the secretary to suspend an operating privilege under this subsection, the operator must have accumulated 12 demerit points in any 12−month period.

2. The secretary shall suspend, for a period of 6 months, the operating privilege of any person who holds a probationary license issued on or after September 1, 2000, and who has accumulated 12 demerit points in any 12−month period.

(d) When an operator accumulates more than 6 demerit points or has been involved in 2 or more accidents in a one−year period where the accident report indicates that the person may have been causally negligent, the secretary may require the operator to report to an examining station for driver improvement counseling, consisting of either group or individual counseling, reexamination or both.

(e) The secretary may require any person who has had his or her operating privilege suspended or revoked, whether the suspension or revocation is the result of action under this section or s. 343.30, or conviction for an offense which requires mandatory revocation under s. 343.31 to participate in driver improvement counseling, consisting of either group or individual counseling, reexamination or both.

(f) A reexamination required under par. (d) or (e) may consist of all or part of the tests specified in s. 343.16 (2) (b), or any other special examination as required under s. 343.16 (5). Upon conclusion of the counseling, interview and examination, the secretary shall take action as authorized at the conclusion of other examinations under s. 343.16 (6) (a).

(3) Except as provided in sub. (1m), a revocation or suspension under this section may be for any period not exceeding one year unless a different period is specifically prescribed by law.

(4) In adopting rules for weighing traffic convictions by their seriousness under sub. (2), the secretary shall provide by rule for a reduction of up to 3 points if a person shows to the department satisfactory evidence of completion of a rider course approved by the secretary. This subsection applies only to demerit points relating to violations committed before completion of the rider course by a person while driving or operating a Type 1 motorcycle.

(5) In adopting rules for weighing traffic convictions by their seriousness under sub. (2), the secretary also may provide by rule for a reduction of points if a person shows to the department satisfactory evidence of completion of a course of instruction in traffic safety, defensive driving or similar course or driver improvement counseling approved by the secretary.

(6) There shall be no minimum waiting period before issuance of an occupational license under s. 343.10 to a person whose operating privilege has been suspended under sub. (2) if the person is otherwise eligible for issuance of an occupational license.

History: 1971 c. 42, 278, 281; 1973 c. 90; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 273; 1979 c. 221; 1981 c. 31, 216, 327; 1987 a. 24, 132; 1989 a. 22, 75, 105, 195, 359; 1991 a. 26, 32, 39, 189; 1993 a. 16, 314, 480; 1995 a. 113, 269, 338, 420, 448; 1997 a. 84, 135; 1999 a. 9, 185; 2005 a. 106, 317; 2009 a. 8, 103, 311; 2011 a. 256; 2013 a. 151.

Cross−reference: See also ch. Trans 101, Wis. adm. code.

343.325 Courts to report appeals; when appeal stays suspension, revocation or disqualification. (1) If a person files a notice of appeal from a conviction the clerk of the court in which such conviction occurred, or the judge of a court not having a clerk, shall:

(a) Promptly forward to the department a certificate stating that such appeal has been taken; and

(b) If the appeal is subsequently dropped, promptly certify such fact to the department; and

(c) Upon determination of the appeal by the appellate court, promptly certify such decision to the department.

(2) Notwithstanding ss. 343.31, 343.315 and 343.32 and except as otherwise provided in sub. (4), the secretary shall not suspend or revoke a person's operating privilege or disqualify a person from operating a commercial motor vehicle on the basis of a conviction if the secretary receives from the court in which the conviction occurred a certificate stating that an appeal from the conviction has been taken. If the secretary receives such certificate after suspension or revocation of the operating privilege, the operating privilege shall be reinstated without requiring compliance with s. 343.38. If the secretary receives the certificate after suspension of the operating privilege or disqualification, the operating privilege or authorization to operate a commercial motor vehicle shall be reinstated automatically.

(3) Whenever suspension or revocation of an operating privilege or a disqualification has been withheld as provided in sub. (2) and the department receives notice that the conviction in question has been affirmed on appeal or that the appeal has been dropped, the secretary shall suspend or revoke such operating privilege or disqualify the person from operating a commercial motor vehicle on the same basis as if the appeal had not been taken, but the period of suspension, revocation or disqualification shall run from the date of suspension, revocation or disqualification following the affirmance of the conviction or dropping of the appeal, less any time the operating privilege had been suspended or revoked or the authorization to operate a commercial motor vehicle had been disqualified prior to the receipt by the secretary of the certificate under sub. (2).

(3m) Whenever the suspension or revocation of an operating privilege or a disqualification has been rescinded or withheld because of administrative action, an appeal, or a court order to reopen, stay or vacate a conviction, suspension, revocation or disqualification, and that suspension, revocation or disqualification is subsequently reimposed, the period of suspension, revocation or disqualification so reimposed shall be reduced by the period of suspension, revocation or disqualification previously served.

(4) If a person whose suspension, revocation or disqualification was stayed pursuant to sub. (2) is convicted of an offense for which revocation or disqualification is mandatory under s. 343.31 or 343.315, during the pendency of the appeal of the original conviction, the secretary shall forthwith revoke such person's operating privilege or disqualify the person from operating a commercial motor vehicle on account of the latter conviction, notwithstanding the appeal of either or both convictions.

(5) This section shall not prevent suspension or revocation of an operating privilege or a disqualification if there are grounds for suspension, revocation or disqualification other than the conviction in question.

(6) (a) If a court enters an order reopening, vacating or staying a conviction or a suspension or revocation of an operating privilege or a disqualification, the court shall promptly forward a copy of that order to the department.

(b) If there is subsequent court action affecting the order to reopen, vacate or stay, the court shall promptly notify the department of that action.

(7) The department, upon receipt of an order under sub. (6), shall proceed under this section as if an appeal had been taken.

History: 1971 c. 278; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 273; Sup. Ct. Order, 146 Wis. 2d xiii (1988); 1989 a. 7, 72; 1995 a. 113.

343.33 Hearing on suspensions and revocations. (1) Whenever the department under authority of s. 343.32 or 343.34 revokes or suspends a person's operating privilege, the department shall immediately notify such person thereof in writing and upon his or her request shall afford him or her an opportunity for a hearing on the revocation or suspension unless the department is satisfied from the records and information in its possession that a hearing is not warranted. If the department is not so satisfied and the person requests a hearing, the department shall hold a hearing as soon as practicable and in any event within 20 days after receipt of the request therefor. If the person requesting the hearing is a resident of this state, the department shall fix the place of the hearing as close as practicable to the applicant's residence and in no event shall it be set for a place not in the county of the applicant's residence or a county contiguous thereto without the consent of the applicant. If the applicant is a nonresident, the department shall determine the place of the hearing. Any person who fails without cause to appear at the time and place specified in the notice served on him or her forfeits the right to a hearing.

(2) Upon the hearing, the department or its hearing examiner may administer oaths, issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. No law enforcement officer or other witness produced by the person who has requested a hearing to testify on his or her behalf shall be paid a witness fee by the department nor shall any law enforcement officer called to appear for the department be paid any witness fee. All testimony shall be taken and transcribed.

(3) Upon completion of the hearing, the department shall make findings of fact and shall either let the order of suspension or revocation stand or, upon good cause appearing therefor, rescind the order or modify the period of suspension or revocation.

History: 1977 c. 29 ss. 1460, 1654 (7) (a), (c); 1977 c. 418; 1981 c. 347 s. 80 (2); 1989 a. 72; 1993 a. 16.

343.34 Suspension of licenses. The secretary may suspend operating privileges under this section under the following circumstances:

(1) Whenever the secretary is satisfied that a person has violated a restriction on the license and that it is in the interests of public safety to suspend the license, the secretary shall suspend such license for a period not exceeding one year unless the violation is cause for revocation.

(2) When a person has been convicted under s. 343.16 (7) (b).

History: 1971 c. 164 s. 82; 1975 c. 5; 1977 c. 29 s. 1654 (7) (c); 1977 c. 273; 1989 a. 105; 1991 a. 269.

343.345 Restriction, limitation or suspension of operating privilege. The department shall restrict, limit or suspend a person's operating privilege if the person is delinquent in making court−ordered payments of child or family support, maintenance, birth expenses, medical expenses or other expenses related to the support of a child or former spouse, or who fails to comply, after appropriate notice, with a subpoena or warrant issued by the department of children and families or a county child support agency under s. 59.53 (5) and related to paternity or child support proceedings, as provided in a memorandum of understanding entered into under s. 49.857.

History: 1997 a. 191; 2007 a. 20.

343.35 Surrender of licenses upon cancellation, revocation or suspension. (1) The department may order any

person whose operating privilege has been canceled, revoked or suspended to surrender his or her license or licenses to the department. The department may order any person who is in possession of a canceled, revoked or suspended license of another to surrender the license to the department.

(2) Any person who fails to surrender a license as required by this section may be required to forfeit not more than $100.

(3) The secretary or an appointed agent may take possession of any license required to be surrendered to the department or may direct any traffic officer to take possession thereof and return it to the department.

History: 1971 c. 278; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 273; 1985 a. 29; 2007 a. 20; 2009 a. 28.

343.36 Department to distribute suspension, revocation and disqualification lists and nonresidents' records of conviction. (2) Once each month, the department shall compile a list of the names and addresses of all residents of this state whose operating privileges were revoked or suspended or who were disqualified under s. 343.315 during the preceding month and the periods of those revocations, suspensions and disqualifications and, upon request, shall forward the list to the sheriff of each county, to the chief of police or the constable, respectively, of each city, village and town and to all county traffic officers.

(3) Upon receiving a record of conviction showing that a nonresident operator of a motor vehicle has been convicted in this state of an offense which is grounds for revocation, suspension or disqualification under the laws of this state, the department shall forward a certified copy of such record to the motor vehicle administrator in the state wherein the person so convicted is a resident.

History: 1977 c. 29 s. 1654 (7) (a); 1977 c. 273; 1989 a. 167; 1995 a. 338.

343.37 No operation under foreign license during revocation or suspension. (1) An operator's license or permit issued by another jurisdiction does not authorize a resident of this state whose operating privilege has been revoked or suspended pursuant to the laws of this state to operate a motor vehicle in this state until that person has obtained a new license when and as provided in this chapter. This subsection applies to a resident of this state even though that person was a nonresident at the time that person's operating privilege was revoked or suspended.

(2) Notwithstanding the privilege conferred on nonresidents by s. 343.05 (4) (b) 1., a nonresident whose operating privilege has been revoked or suspended pursuant to the laws of this state is not authorized to operate a motor vehicle in this state under an operator's license or permit issued by another jurisdiction until the nonresident's operating privilege in this state has been reinstated pursuant to the laws of this state. This subsection applies to a nonresident even though the nonresident was a resident of this state at the time the nonresident's operating privilege was revoked or suspended. This section does not limit the operating privilege granted to nonresidents by s. 343.05 (2) (a) 2.

History: 1989 a. 105, 359; 1991 a. 316.

343.38 Reinstatement after revocation, suspension, cancellation, or disqualification. (1) REINSTATEMENT AFTER REVOCATION. Except as provided in ss. 343.10, 343.39, and 351.07, the department shall not reinstate the operating privilege of a person whose operating privilege has been duly revoked unless the period of revocation has expired and the person:

(a) Pays to the department all required fees; and

(b) If the secretary so prescribes, passes an examination including the tests specified in s. 343.16 or such parts thereof as the secretary may require; and

(c) 1. Except as provided in subd. 2., files and maintains with the department proof of financial responsibility in the amount, form and manner specified in ch. 344. This subdivision does not apply after 3 years have elapsed since the expiration of the period of revocation.

2. No proof under subd. 1. shall be required for any of the following:

a. A vehicle subject to the requirements of s. 121.53, 194.41 or 194.42.

b. A vehicle owned by or leased to the United States, this state or any county or municipality of this state.

c. Reinstatement of an operating privilege revoked under s. 343.30 (1q) (b) 2. or (d), 343.305 (10) (d) or 343.31 (3) (b) or (bm) 2.

d. Reinstatement of an operating privilege revoked under s. 343.31 (1) (b) or (2) if, within the 5−year period preceding the violation, the person has not been convicted of a prior offense that may be counted under s. 343.307 (2) and if, within the 10−year period preceding the violation, the person has not been convicted of 2 or more prior offenses that may be counted under s. 343.307 (2).

(2) REINSTATEMENT OF NONRESIDENT'S OPERATING PRIVILEGE. A nonresident's operating privilege revoked or suspended under the laws of this state is reinstated as a matter of law when the period of revocation or suspension has expired and the nonresident pays the fees specified in s. 343.21 (1) (j), (jr), if applicable, and (n).

(3) REINSTATEMENT AFTER SUSPENSION. Except as provided in sub. (2) and s. 343.10, the department shall not reinstate the operating privilege of a person whose operating privilege has been duly suspended while the suspension remains in effect. Subject to s. 343.31 (2t) (b), upon the expiration of the period of suspension, the person's operating privilege is reinstated upon receipt by the department of the fees specified in s. 343.21 (1) (j) and (n) and, for reinstatement of an operating privilege suspended under ch. 344, the filing with the department of proof of financial responsibility, if required, in the amount, form, and manner specified under ch. 344.

(3g) REINSTATEMENT AFTER CERTAIN CANCELLATIONS. (a) The department may reinstate the operator's license of a person whose operator's license has been duly canceled under s. 343.25 (2) or (3) if the person pays the fees specified in s. 343.21 (1) (m) and (n) and either the person is at least 18 years of age or the requirements specified in s. 343.15 are satisfied.

(b) The department may reinstate the operator's license or identification card of a person whose operator's license or identification card has been duly canceled because of the person's nonpayment of a fee if the person pays that fee, pays any fee required by the department under s. 20.905 (2), and pays the fees specified in s. 343.21 (1) (m) and (n).

(3r) REINSTATEMENT OF COMMERCIAL DRIVING PRIVILEGES FOLLOWING DISQUALIFICATION. (a) Except as provided in pars. (b) and (c), upon application for reinstatement after a person's disqualification by the department, the department may issue a commercial driver license to the person if the person has paid the fees required under s. 343.21 (1) (jm) and (n), taken any examination required by the department under s. 343.16, and satisfied any other requirement under this chapter for reinstatement.

(b) Any disqualification under s. 343.315 (2) (g) terminates at the beginning of the 25th hour following issuance of the citation specified in s. 343.315 (2) (g). If a person has been disqualified solely on the basis of s. 343.315 (2) (g), the person's authorization to operate a commercial motor vehicle is automatically reinstated upon termination of the disqualification, as provided in this paragraph, and no application or fee is required for reinstatement.

(c) If a person is authorized to operate a commercial motor vehicle under s. 343.055, the person's authorization to operate a commercial motor vehicle may be reinstated without issuance of a commercial driver license to the person.

(4) FIRST ISSUANCE OF LICENSE IN WISCONSIN AFTER SUSPENSION OR REVOCATION BY ANOTHER STATE. The department may issue an operator's license to a person moving to this state whose operating privileges have been previously suspended or revoked

in another state when their operating privilege has been reinstated in that state and the following conditions have been met:

(a) When the period of suspension or revocation required by law for conviction for the same traffic violation in this state has terminated.

(b) Acceptable proof of financial responsibility has been filed.

(c) Application for a Wisconsin operator's license has been made.

(d) Any required examination has been passed.

(e) The fees required for the issuance of an original license have been paid.

(5) RESTRICTIONS ON LICENSE. If a court has ordered that the person's operating privilege be restricted for a period of time after the revocation period is completed to operating vehicles equipped with an ignition interlock device, the license issued under this section shall include that restriction.

History: 1977 c. 29 s. 1654 (7) (a), (c); 1979 c. 306, 316; 1983 a. 525; 1989 a. 72; 1991 a. 277, 316; 1997 a. 27, 84; 1999 a. 143; 2007 a. 20; 2009 a. 100, 103; 2011 a. 173, 258.

343.39 When operating privilege automatically reinstated. (1) An operating privilege is automatically reinstated under any of the following circumstances:

(b) When, in the case of a revocation, suspension, or disqualification based on a conviction, the conviction is reversed, set aside or vacated. This paragraph applies whether or not the conviction occurred in this state and whether or not the conviction was cause for revocation, suspension, or disqualification only when considered in connection with the person's entire operating record.

(c) Whenever any other provision of law provides for automatic reinstatement.

(2) Whenever a person's operating privilege is automatically reinstated, the department shall forthwith notify such person thereof. If the person's license is expired, the person may renew the license at the standard renewal fee at any time after the reinstatement of the person's operating privilege. If the person states to the department that he or she no longer possesses the license because the license was surrendered to a court, and the person has satisfied all requirements under sub. (1), the department shall issue a new license without any additional fee for the license.

History: 1973 c. 90; 1977 c. 29 s. 1654 (7) (a); 1977 c. 273; 1991 a. 39, 277; 1993 a. 16; 1997 a. 84; 2007 a. 20; 2009 a. 100, 103.

Reinstatement under sub. (1) (b) is not retroactive to the date of conviction. State v. Orethun, 84 Wis. 2d 487, 267 N.W.2d 318 (1978).

343.40 Judicial review of suspension, revocation, cancellation or denial of license. The denial or cancellation of a license or the revocation or suspension of an operating privilege is subject to judicial review in the manner provided in ch. 227 for the review of administrative decisions.

History: 1977 c. 43, 187.

SUBCHAPTER IV

UNLAWFUL PRACTICES RELATIVE TO LICENSES

343.43 Unlawful use of license. (1) No person shall:

(a) Represent as valid any canceled, revoked, suspended, fictitious or fraudulently altered license; or

(b) Sell or lend that person's license to any other person or knowingly permit the use thereof by another; or

(c) Represent as one's own any license not issued to that person; or

(d) Violate any of the restrictions placed on that person's license by or pursuant to law; or

(e) Permit any unlawful use of a license issued to that person; or

(f) Reproduce by any means whatever a copy of a license, unless the reproduction is done pursuant to rules promulgated by the department and for a valid business or occupational purpose; or

(g) Deface or alter a license except to endorse a change of address authorized by s. 343.22 (2).

(2) Whenever a license or identification card which appears to be altered is displayed to a law enforcement officer, agent of the secretary or the court, that person shall take possession of the license or identification card and return it to the department for cancellation. A notation of change of address properly endorsed on the license under s. 343.22 shall not of itself be reason to consider the license altered.

(3) Except as provided in sub. (3m), any person who violates sub. (1) shall be:

(a) Fined not less than $200 nor more than $600 and may be imprisoned for not more than 6 months or both for the first such violation.

(b) Fined not less than $300 nor more than $1,000 and imprisoned for not less than 5 days nor more than 6 months for the 2nd offense occurring within 3 years.

(c) Fined not less than $1,000 nor more than $2,000 and imprisoned for not less than 10 days nor more than 6 months for the 3rd or subsequent offense occurring within 3 years.

(3m) Any person who violates sub. (1) (d) while operating a "Class D" or "Class M" vehicle as described in s. 343.04 (1) (d) and (e), except a school bus, may be required to forfeit not more than $200 for the first offense, may be fined not more than $300 and imprisoned for not more than 30 days for the 2nd offense occurring within 3 years, and may be fined not more than $500 and imprisoned for not more than 6 months for the 3rd or subsequent offense occurring within 3 years. A violation of a local ordinance in conformity with this section shall count as a previous offense.

History: 1975 c. 5, 199; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 360, 447; 1979 c. 306; 1981 c. 20 s. 1848r; 1983 a. 36, 534; 1989 a. 105; 1991 a. 189, 230; 1999 a. 9; 2007 a. 20; 2009 a. 28.

Convictions for presenting a fraudulently altered driver license are restricted to situations having a direct bearing on the license, such as the granting of driving privileges. Changing the date of birth did not affect the owner's driving privileges. State v. Scholwin, 57 Wis. 2d 764, 204 N.W.2d 677 (1973).

343.435 License not to be used as security. (1) No person may require or accept an operator's license, chauffeur's license, occupational license, instructional permit or any other license or permit issued under this chapter as security.

(2) Any person violating this section may be required to forfeit not less than $20 nor more than $100.

(3) This section does not apply to the action by a state, county, city, village or town of requiring or accepting a license or permit when such action is authorized by some other provision of law.

History: 1983 a. 355.

343.44 Operating while suspended, revoked, ordered out−of−service or disqualified. (1) OPERATING OFFENSES. (a) *Operating while suspended.* No person whose operating privilege has been duly suspended under the laws of this state may operate a motor vehicle upon any highway in this state during the period of suspension or in violation of any restriction on an occupational license issued to the person during the period of suspension. A person's knowledge that his or her operating privilege is suspended is not an element of the offense under this paragraph. In this paragraph, "restriction on an occupational license" means restrictions imposed under s. 343.10 (5) (a) as to hours of the day, area, routes or purpose of travel, vehicles allowed to be operated, use of an ignition interlock device, sobriety or use of alcohol, controlled substances or controlled substance analogs.

(b) *Operating while revoked.* No person whose operating privilege has been duly revoked under the laws of this state may knowingly operate a motor vehicle upon any highway in this state during the period of revocation or in violation of any restriction on an occupational license issued to the person during the period of revocation. In this paragraph, "restriction on an occupational license" means restrictions imposed under s. 343.10 (5) (a) as to

hours of the day, area, routes or purpose of travel, vehicles allowed to be operated, use of an ignition interlock device, sobriety or use of alcohol, controlled substances or controlled substance analogs.

(c) *Operating while ordered out−of−service.* No person may operate a commercial motor vehicle while the person or the commercial motor vehicle is ordered out−of−service under the law of this state or another jurisdiction or under federal law. No person may operate a commercial motor vehicle for which the motor carrier identified on the motor vehicle's registration application as the motor carrier responsible for safety of the vehicle has been issued a federal out−of−service order for unsatisfactory safety compliance, while this federal out−of−service order is in effect.

(d) *Operating while disqualified.* No person may operate a commercial motor vehicle while disqualified under s. 343.315 or 49 CFR 383.51, under the law of another jurisdiction or Mexico that provides for disqualification of commercial drivers in a manner similar to 49 CFR 383.51, or under a determination by the federal motor carrier safety administration under the federal rules of practice for motor carrier safety contained in 49 CFR 386 that the person is no longer qualified to operate a vehicle under 49 CFR 391.

(1g) REINSTATEMENT REQUIRED. Notwithstanding any specified term of suspension, revocation, cancellation or disqualification, the period of any suspension, revocation, cancellation or disqualification of an operator's license issued under this chapter or of an operating privilege continues until the operator's license or operating privilege is reinstated.

(2) PENALTIES. (ad) In this subsection, "great bodily harm" has the meaning given in s. 939.22 (14).

(ag) 1. Except as provided in subds. 2. and 3., any person who violates sub. (1) (a) shall be required to forfeit not less than $50 nor more than $200.

2. Any person who violates sub. (1) (a) and, in the course of the violation, causes great bodily harm to another person is required to forfeit not less than $5,000 nor more than $7,500, except that, if the person knows at the time of the violation that his or her operating privilege has been suspended, the person is guilty of a Class I felony.

3. Any person who violates sub. (1) (a) and, in the course of the violation, causes the death of another person is required to forfeit not less than $7,500 nor more than $10,000, except that, if the person knows at the time of the violation that his or her operating privilege has been suspended, the person is guilty of a Class H felony.

(ar) 1. Except as provided in subds. 2. to 4., any person who violates sub. (1) (b) shall forfeit not more than $2,500.

2. Except as provided in subds. 3. and 4., any person who violates sub. (1) (b) shall be fined not more than $2,500 or imprisoned for not more than one year in the county jail or both if the revocation identified under sub. (1) (b) resulted from an offense that may be counted under s. 343.307 (2).

3. Any person who violates sub. (1) (b) and, in the course of the violation, causes great bodily harm to another person shall be fined not less than $5,000 nor more than $7,500 or imprisoned for not more than one year in the county jail or both, except that, if the person knows at the time of the violation that his or her operating privilege has been revoked, the person is guilty of a Class I felony.

4. Any person who violates sub. (1) (b) and, in the course of the violation, causes the death of another person shall be fined not less than $7,500 nor more than $10,000 or imprisoned for not more than one year in the county jail or both, except that, if the person knows at the time of the violation that his or her operating privilege has been revoked, the person is guilty of a Class H felony.

(b) In imposing a sentence under par. (ar) or (br), the court shall review the record and consider the following:

1. The aggravating and mitigating circumstances in the matter, using the guidelines described in par. (d).

2. The class of vehicle operated by the person.

3. The number of prior convictions of the person for violations of this section within the 5 years preceding the person's arrest.

4. The reason that the person's operating privilege was revoked, or the person was disqualified or ordered out of service, including whether the person's operating privilege was revoked for an offense that may be counted under s. 343.307 (2).

5. Any convictions for moving violations arising out of the incident or occurrence giving rise to sentencing under this section.

(bm) Any person who violates sub. (1) (c) shall forfeit $2,500 for the first offense and $5,000 for the 2nd or subsequent offense within 10 years.

(br) Any person who violates sub. (1) (d) shall be fined not more than $2,500 or imprisoned for not more than one year in the county jail or both.

(c) In addition to other penalties for violation of this section, if a person violates this section while his or her operating privilege is revoked as provided in ch. 351, the penalties may be enhanced by imprisonment and additional fines as provided in s. 351.08. For the purpose of enforcing this paragraph, in any case in which the accused is charged with operating a motor vehicle while his or her operator's license, permit or privilege to operate is suspended or revoked or is charged with operating without a valid operator's license, the court, before hearing the charge, shall determine whether the person is a habitual traffic offender or repeat habitual traffic offender and therefore barred from operating a motor vehicle on the highways of this state.

(d) The chief judge of each judicial administrative district shall adopt guidelines, under the chief judge's authority to adopt local rules under SCR 70.34, for the consideration of aggravating and mitigating factors. Such guidelines shall treat operators of commercial motor vehicles at least as stringently as operators of other classes of motor vehicles.

(2p) SENTENCING OPTION. The legislature intends that courts use the sentencing option under s. 973.03 (4) whenever appropriate for persons subject to sub. (2) to provide cost savings for the state and for local governments. This option shall not be used if the suspension or revocation was for one of the following:

(a) Improperly refusing to take a test under s. 343.305.

(b) Violating s. 346.63 (1) or (5) or a local ordinance in conformity therewith.

(c) Violating s. 346.63 (2) or (6), 940.09 (1) or 940.25.

(2r) PRIOR CONVICTIONS. For purposes of determining prior convictions under this section, the 5−year period shall be measured from the dates of the violations that resulted in the convictions and each conviction under sub. (2) shall be counted. Convictions of s. 343.44 (1), 1997 stats., other than for operating a commercial motor vehicle while ordered out−of−service shall be counted under this section as prior convictions.

(2s) CITATIONS. Within 30 days after receipt by the department of a report from a law enforcement officer under s. 343.305 (7) or a court order under s. 343.28 of a violation committed by a person operating a commercial motor vehicle while subject to an out−of−service order under s. 343.305 (7) (b) or (9) (am), a traffic officer employed under s. 110.07 may prepare a uniform traffic citation under s. 345.11 for a violation of sub. (1) (c) or (d) and serve it on the person. The citation may be served anywhere in this state and shall be served by delivering a copy to the person personally or by leaving a copy at the person's usual place of abode with a person of discretion residing therein or by mailing a copy to the person's last−known residence address. The venue for prosecution may be the county where the alleged offense occurred or in the person's county of residence.

(3) FAILURE TO RECEIVE NOTICE. Refusal to accept or failure to receive an order of revocation, suspension or disqualification mailed by 1st class mail to such person's last−known address shall not be a defense to the charge of driving after revocation, suspension or disqualification. If the person has changed his or her address and fails to notify the department as required in s. 343.22

then failure to receive notice of revocation, suspension or disqualification shall not be a defense to the charge of driving after revocation, suspension or disqualification.

(4) IMPOUNDMENT. In addition to other penalties for violation of this section, if a person has violated this section with respect to a motor vehicle which he or she is the owner, the court may order the vehicle impounded. The court may determine the manner and period of impoundment. The cost of keeping the vehicle constitutes a lien on the vehicle.

(4r) VIOLATION OF OUT−OF−SERVICE ORDER. In addition to other penalties for violation of this section, if a person has violated this section after the person or the commercial motor vehicle operated by the person was ordered out−of−service under the law of this state or another jurisdiction or under federal law, the violation shall result in disqualification under s. 343.315 (2) (h) or (i).

(5) VEHICLE IMPOUNDMENT; LESSORS AND SECURED CREDITORS. If a motor vehicle impounded under sub. (4) is subject to a security agreement or lease contract, the vehicle shall be released by the court to the lessor or secured creditor upon the filing of an affidavit by the lessor or secured creditor that the security agreement or lease contract is in default and shall be delivered to the lessor or secured creditor upon payment of the accrued cost of keeping the motor vehicle.

History: 1971 c. 164 s. 83; 1971 c. 280, 307; 1973 c. 90; 1977 c. 29 s. 1654 (7) (a); 1977 c. 165, 272; 1979 c. 221; 1981 c. 20; 1983 a. 535; 1989 a. 12, 105, 336; 1991 a. 39, 64, 189, 277; 1995 a. 113; 1997 a. 84; 1999 a. 9, 32, 143; 2003 a. 33; 2005 a. 25, 254, 412; 2009 a. 28; 2011 a. 32, 113, 258; 2013 a. 165.

A certified copy of the department order revoking the defendant's driver license was admissible under s. 889.18 (2). State v. Mullis, 81 Wis. 2d 454, 260 N.W.2d 696 (1978).

The time between the violations underlying convictions, not the time between convictions, determines whether penalty enhancers apply. State v. Walczak, 157 Wis. 2d 661, 460 N.W.2d 797 (Ct. App. 1990).

The general requirements for establishing prior criminal offenses in s. 973.12 are not applicable to the penalty enhancement provisions for offenses under sub. (2). The convictions must be established by defendant's admission, copies of prior judgments, or a teletype of the DOT driving record. State v. Spaeth, 206 Wis. 2d 135, 556 N.W.2d 728 (1996), 95−1827.

A circuit court may not determine the validity of a prior conviction during an enhanced sentencing proceeding predicated on the prior conviction unless the offender alleges that a violation of the right to a lawyer occurred in the prior conviction. The offender may use whatever means are available to challenge the other conviction in another forum, and if successful, seek to reopen the enhanced sentence. State v. Hahn, 2000 WI 118, 238 Wis. 2d 889, 618 N.W.2d 528, 99−0554.

A person has a privilege, but not a right, to drive a motor vehicle upon a public highway. To exercise that privilege, the person must satisfy the licensing requirements of the state. Failing that, the person may be properly prosecuted and convicted of operating after suspension of his or her operating privileges. County of Fond du Lac v. Kevin C. Derksen, 2002 WI App 160, 256 Wis. 2d 490, 647 N.W.2d 922, 01−2870.

A defendant may collaterally attack a prior conviction in an enhanced sentence proceeding on the ground that he or she was denied the constitutional right to counsel in the earlier case. The U. S. Supreme Court recognized that the information a defendant must possess to execute a valid waiver of counsel depends on a range of case−specific factors, including the defendant's education or sophistication. The Supreme Court's reference to a defendant's "education or sophistication" suggests that a court may take the defendant's cognitive limitations into account when determining the validity of his or her waiver. State v. Bohlinger, 2013 WI App 39, 346 Wis. 2d 549, 828 N.W.2d 900, 12−1060.

Sub. (2) (ar) 4. makes clear that a person knowingly operating a vehicle while revoked faces the penalties applicable for a Class H felony if, in the course of the violation, he or she causes the death of another. That a prosecutor could charge a person with a misdemeanor instead of a felony for the same offense does not mean the prohibited conduct is unclear or that the public is not on notice that such an offense may well result in a felony conviction. State v. Villamil, 2016 WI App 61, ___ Wis. 2d ___, ___ N.W.2d ___, 15−0791.

The requirement in sub. (2) (b) that in "imposing sentence under par. (ar) or (br), the court shall . . . consider" the specifically identified factors requires that the record of the sentencing hearing must demonstrate that the court actually considered those factors. State v. Villamil, 2016 WI App 61, ___ Wis. 2d ___, ___ N.W.2d ___, 15−0791.

Section 351.08 authorizes enhancements to penalties under this section; it does not create a separate substantive offense. 75 Atty. Gen. 106.

343.45 Permitting unauthorized person to drive. (1) No person shall cause or knowingly permit the person's child or ward under 18 years of age to operate a motor vehicle upon any highway in violation of this chapter or when such minor is not authorized under this chapter to operate a motor vehicle.

(2) No person shall authorize or knowingly permit a motor vehicle owned by the person or under the person's control to be operated upon any highway in violation of this chapter or by a person who is not authorized under this chapter to operate a motor vehicle. No dealer as defined in s. 340.01 (11) (intro.) but including the persons specified in s. 340.01 (11) (a), (b), (c) and (d), shall permit any person to operate any motor vehicle owned by the dealer or in the dealer's possession or control on a trial run unless the dealer has been shown the person's valid operator's license, issued by this state or other jurisdiction, before permitting the trial run.

(3) Except as another penalty is provided by s. 343.245 (4) (b), any person violating this section may be required to forfeit not more than $100.

History: 1971 c. 278; 1989 a. 105, 359.

A parent's unrestricted entrustment of a motorcycle to minor child in violation of this section constituted negligence per se. Kempf v. Boehrig, 95 Wis. 2d 435, 290 N.W.2d 563 (Ct. App. 1980).

343.46 Duty of persons renting vehicles to another. (1) No person shall rent a motor vehicle, trailer or semitrailer to another unless the person who is to operate such rented vehicle is duly licensed under this chapter or, in the case of a nonresident, is duly licensed under the laws of the jurisdiction of the nonresident's residence.

(2) No person shall rent a motor vehicle, trailer or semitrailer to another until that person has inspected the license of the person who is to operate the vehicle and has compared and verified the signature thereon with the signature of such person written in his or her presence.

(3) Every person renting a motor vehicle, trailer or semitrailer to another shall keep a record of the registration number of the motor vehicle so rented or, in the case of a trailer or semitrailer, the registration number of the motor vehicle to which such trailer or semitrailer is to be attached, the name and address of the person who is to operate such rented vehicle, the number of the license of such person and the date when and place where such license was issued. Such record shall be open to inspection by any traffic officer or employee of the department.

(4) Any person violating this section may be required to forfeit not more than $100.

History: 1971 c. 278; 1977 c. 29 s. 1654 (7) (a); 1991 a. 316.

SUBCHAPTER V

IDENTIFICATION CARDS

343.50 Identification cards. (1) ISSUANCE. (a) Subject to par. (b) and s. 343.165, the department shall issue to every qualified applicant, who has paid all required fees, an identification card as provided in this section.

(b) The department may not issue an identification card to a person previously issued an operator's license in another jurisdiction unless the person surrenders to the department any valid operator's license possessed by the person issued by another jurisdiction, which surrender operates as a cancellation of the license insofar as the person's privilege to operate a motor vehicle in this state is concerned. Within 30 days following issuance of the identification card under this section, the department shall destroy any operator's license surrendered under this paragraph and report to the jurisdiction that issued the surrendered operator's license that the license has been destroyed and the person has been issued an identification card in this state.

(c) The department may issue a receipt to any applicant for an identification card, which receipt shall constitute a temporary identification card while the application is being processed and shall be valid for a period not to exceed 60 days. If the application for an identification card is processed under the exception specified in s. 343.165 (7), the receipt shall include the marking specified in sub. (3) (b).

(2) WHO MAY APPLY. Any resident of this state who does not possess a valid operator's license issued under this chapter may apply to the department for an identification card pursuant to this

section. The card is not a license for purposes of this chapter and is to be used for identification purposes only.

(3) DESIGN AND CONTENTS OF CARD. (a) The card shall be the same size as an operator's license but shall be of a design which is readily distinguishable from the design of an operator's license and bear upon it the words "IDENTIFICATION CARD ONLY." The information on the card shall be the same as specified under s. 343.17 (3). If the issuance of the card requires the applicant to present any documentary proof specified in s. 343.14 (2) (es) 4. to 7., the card shall display, on the front side of the card, a legend identifying the card as temporary. The card shall contain physical security features consistent with any requirement under federal law. The card may serve as a record of gift under s. 157.06 (2) (t) and the holder may affix a sticker thereto as provided in s. 343.175 (3). The card may also serve as a record of refusal under s. 157.06 (2) (u). Except as provided in sub. (4g), the card shall contain the holder's photograph and, if applicable, shall be of the design specified under s. 343.17 (3) (a) 12.

(b) If an identification card is issued based upon the exception specified in s. 343.165 (7), the card shall, in addition to any other required legend or design, be of the design specified under s. 343.17 (3) (a) 14. and include a marking similar or identical to the marking described in s. 343.03 (3r).

(4) APPLICATION. The application for an identification card shall include any information required under ss. 85.103 (2) and 343.14 (2) (a), (b), (bm), (br), (em), (es), (gh), and (j), and such further information as the department may reasonably require to enable it to determine whether the applicant is entitled by law to an identification card. Except with respect to renewals described in s. 343.165 (4) (d) or renewals by mail or electronic means as authorized under sub. (6), and except as provided in sub. (4g), the department shall, as part of the application process for original issuance or renewal of an identification card, take a digital photograph including facial image capture of the applicant to comply with sub. (3). Misrepresentations in violation of s. 343.14 (5) are punishable as provided in s. 343.14 (9).

(4g) PHOTOGRAPH REQUIREMENT; EXCEPTION. If the application for an identification card is processed under the exception specified in s. 343.165 (7), the application may be processed and the identification card issued or renewed without a photograph being taken of the applicant if the applicant provides to the department an affidavit stating that the applicant has a sincerely held religious belief against being photographed; identifying the religion to which he or she belongs or the tenets of which he or she adheres to; and stating that the tenets of the religion prohibit him or her from being photographed.

(4m) ORGAN DONOR INFORMATION. (a) As part of every application for an identification card, the department shall inquire whether the applicant desires to be an organ donor. The department shall record the organ donor response in its file of the person. If a procurement organization, as defined in s. 157.06 (2) (p), reasonably identifies a person and requests the information recorded in the person's file under this paragraph, the department shall promptly provide this information to the procurement organization.

(b) In addition to the inquiry under par. (a), if the applicant is at least 15 and one−half years of age, the department shall orally state to the applicant that he or she has the opportunity to indicate his or her willingness to be an organ donor. If the applicant indicates that he or she is undecided in response to the inquiry under par. (a), the department shall provide the applicant with written information that all organ procurement organizations and the department have together developed. If the applicant makes an affirmative response to the inquiry under par. (a), the department shall request at that time that the applicant write on the identification card the information that is required to make an anatomical gift under s. 157.06 (5) and affix a sticker thereto as provided in s. 343.175 (3).

(5) VALID PERIOD; FEES. (a) 1. Except as provided in subds. 2. and 3., the fee for an original card, for renewal of a card, and for the reinstatement of an identification card after cancellation under sub. (10) shall be $18.

2. The department may not charge a fee to an applicant for the initial issuance of an identification card if any of the following apply:

a. The department has canceled the applicant's valid operator's license after a special examination under s. 343.16 (5) and, at the time of cancellation, the expiration date for the canceled license was not less than 6 months after the date of cancellation.

b. The department has accepted the applicant's voluntary surrender of a valid operator's license under s. 343.265 (1) and, at the time the department accepted surrender, the expiration date for the surrendered license was not less than 6 months after the date that the department accepted surrender.

3. The department may not charge a fee to an applicant for the initial issuance, renewal, or reinstatement of an identification card if the applicant is a U.S. citizen who will be at least 18 years of age on the date of the next election and the applicant requests that the identification card be provided without charge for purposes of voting.

(b) Except as provided in pars. (c) and (d) and s. 343.165 (4) (c), an original or reinstated card shall be valid for the succeeding period of 8 years from the applicant's next birthday after the date of issuance, and a renewed card shall be valid for the succeeding period of 8 years from the card's last expiration date.

(c) Except as provided in s. 343.165 (4) (c) and as otherwise provided in this paragraph, an identification card that is issued to a person who is not a United States citizen and who provides documentary proof of legal status as provided under s. 343.14 (2) (es) shall expire on the date that the person's legal presence in the United States is no longer authorized or on the expiration date determined under par. (b), whichever date is earlier. If the documentary proof as provided under s. 343.14 (2) (es) does not state the date that the person's legal presence in the United States is no longer authorized, then the card shall be valid for the period specified in par. (b) except that, if the card was issued or renewed based upon the person's presenting of any documentary proof specified in s. 343.14 (2) (es) 4. to 7., the card shall, subject to s. 343.165 (4) (c), expire one year after the date of issuance or renewal.

(d) Except as provided in par. (c), an identification card that is issued to a person who is 65 years of age or older at the time of issuance may be non−expiring. A non−expiring card under this paragraph shall, in addition to any other required legend or design, be of the design specified under s. 343.17 (3) (a) 14. and include a marking similar or identical to the marking described in s. 343.03 (3r).

(5m) CARD ISSUANCE FEE. In addition to any other fee under this section, for the issuance of an original identification card or duplicate identification card or for the renewal or reinstatement of an identification card after cancellation under sub. (10), a card issuance fee of $10 shall be paid to the department. The fee under this subsection does not apply to an applicant if the department may not charge the applicant a fee under sub. (5) (a) 2. or 3. or (7).

(6) RENEWAL NOTICE. At least 30 days prior to the expiration of an identification card, the department shall provide to the card holder notice of renewal of the card either by mail at the card holder's last−known address or, if desired by the card holder, by any electronic means offered by the department. If the card was issued or last renewed based upon the person's presenting of any documentary proof specified in s. 343.14 (2) (es) 4. to 7., the notice shall inform the card holder of the requirement under s. 343.165 (4) (c). The department shall include with the notice information, as developed by all organ procurement organizations in cooperation with the department, that promotes anatomical donations and which relates to the anatomical donation opportunity available

under s. 343.175. The department may renew an identification card by mail or by any electronic means available to the department, but the department may not make consecutive renewals by mail or electronic means.

(7) DUPLICATE. The fee for a duplicate card is $6 except that, if the card holder satisfies the requirements for an applicant specified in sub. (5) (a) 3., there is no fee for a duplicate card.

(8) RECORDS AND OTHER INFORMATION. (a) The department shall maintain current records of all identification card holders under this section in the same manner as required under s. 343.23 for operator's licenses. For each identification card applicant, the record shall include any application for an identification card received by the department, any reinstatement or cancellation of an identification card by the department, the information in all data fields printed on any identification card issued to the applicant, a record of the date on which any verification specified in s. 343.165 (1) and (3) was completed, and all documents required to be maintained under s. 343.165 (2) (a). The department shall maintain the digital images of documents specified in s. 343.165 (2) (a) for at least 10 years. Records under this paragraph shall be maintained in an electronic and transferable format accessible for the purpose specified in par. (c) 1.

(b) The department may not disclose any record or other information concerning or relating to an applicant or identification card holder to any person other than a court, district attorney, county corporation counsel, city, village, or town attorney, law enforcement agency, driver licensing agency of another jurisdiction, a procurement organization as provided in sub. (4m) (a), the applicant or identification card holder or, if the applicant or identification card holder is under 18 years of age, his or her parent or guardian. Except for photographs for which disclosure is authorized under s. 343.237, persons entitled to receive any record or other information under this paragraph shall not disclose the record or other information to other persons or agencies. This paragraph does not prohibit the disclosure of a person's name or address, of the name or address of a person's employer or of financial information that relates to a person when requested under s. 49.22 (2m) by the department of children and families or a county child support agency under s. 59.53 (5).

(c) 1. Notwithstanding par. (b) and ss. 343.027, 343.14 (2j), and 343.237 (2), the department shall, upon request, provide to the driver licensing agencies of other jurisdictions any record maintained by the department of transportation under this subsection, including providing electronic access to any such record.

2. Notwithstanding par. (b) and s. 343.14 (2j), the department may, upon request, provide to the department of health services any applicant information maintained by the department of transportation and identified in s. 343.14 (2), including providing electronic access to the information, for the sole purpose of verification by the department of health services of birth certificate information.

4. Notwithstanding par. (b) and s. 343.14 (2j), the department may, upon request, provide to the department of revenue any applicant information, including social security numbers, maintained by the department of transportation and identified in s. 343.14 (2), including providing electronic access to the information. Any information obtained by the department of revenue under this subdivision is subject to the confidentiality provisions of s. 71.78.

5. Nothing in par. (b) prohibits disclosure under this paragraph.

(10) CANCELLATION. The department shall cancel an identification card under any of the following circumstances:

(a) Whenever the department determines that the card was issued upon an application which contains a false statement as to any material matter.

(b) Whenever the department determines that an identification card has been altered and returned for cancellation under s. 343.43 (2).

(c) Whenever the department receives information from a local, state, or federal government agency that the card holder no longer satisfies the requirements for issuance of a card under ss. 343.14 (2) (es) and 343.165 (1) (e). A card cancelled under this paragraph may not be reinstated under sub. (5) until these requirements are again satisfied.

(11) SURRENDER OF CARD UPON CANCELLATION. The department may order any person whose identification card has been canceled to surrender the card to the department. The department may take possession of any identification card required to be canceled or may direct any traffic officer to take possession thereof and return it to the department.

(12) UNLAWFUL USE. No person may:

(a) Represent as valid any canceled, fictitious or fraudulently altered identification card;

(b) Sell or lend his or her identification card to any other person or knowingly permit the use thereof by another;

(c) Represent as one's own, any identification card not issued to him or her;

(d) Permit any unlawful use of an identification card issued to him or her;

(e) Reproduce by any means whatever an identification card; or

(f) Deface or alter an identification card.

(13) PENALTY. Any person who fails to comply with an order under sub. (11) or who violates sub. (12) may be required to forfeit not more than $1,000.

History: 1977 c. 360, 447; 1979 c. 226, 306; 1981 c. 20 s. 1848r; 1985 a. 29, 98; 1987 a. 27, 304; 1989 a. 105, 294, 298; 1991 a. 86, 269; 1995 a. 446; 1997 a. 27, 119, 191; 1999 a. 9, 32, 80, 85, 88, 186; 2001 a. 93; 2003 a. 33; 2005 a. 126; 2007 a. 20 ss. 3374 to 3390, 9121 (6) (a); 2007 a. 106; 2009 a. 28, 180; 2011 a. 23, 32, 75; 2013 a. 17, 20, 173; 2015 a. 55.

To require payments to government agencies for documents necessary to obtain Department of Transportation (DOT) photo identification cards for voting would severely burden the right to vote because it would condition that right on payment to a government agency. The exercise of discretion by DOT requires the issuance of photo identification cards for voting without requiring documents for which a fee continues to be charged by a government agency. Milwaukee Branch of the NAACP v. Walker, 2014 WI 98, 357 Wis. 2d 469, 851 N.W.2d 337, 12−1652.

343.51 Special identification cards for physically disabled. (1) Any person who qualifies for registration plates of a special design under s. 341.14 (1), (1a), (1m), or (1q) or any other person with a disability that limits or impairs the ability to walk may request from the department a special identification card that will entitle any motor vehicle parked by, or under the direction of, the person, or a motor vehicle operated by or on behalf of the organization when used to transport such a person, to parking privileges under s. 346.50 (2), (2a), and (3). The department shall issue the card at a fee to be determined by the department, upon submission by the applicant, if the applicant is an individual rather than an organization, of a statement from a physician licensed to practice medicine in any state, from an advanced practice nurse licensed to practice nursing in any state, from a public health nurse certified or licensed to practice in any state, from a physician assistant licensed or certified to practice in any state, from a podiatrist licensed to practice in any state, from a chiropractor licensed to practice chiropractic in any state, or from a Christian Science practitioner residing in this state and listed in the Christian Science journal that the person is a person with a disability that limits or impairs the ability to walk. The statement shall state whether the disability is permanent or temporary and, if temporary, the opinion of the physician, advanced practice nurse, public health nurse, physician assistant, podiatrist, chiropractor, or practitioner as to the duration of the disability. The department shall issue the card upon application by an organization on a form prescribed by the department if the department believes that the organization meets the requirements under this subsection.

(1m) (a) The form for application for a special identification card under sub. (1) shall include the information required under s. 85.103 (2) and shall advise the applicant of the requirement under par. (b).

(b) If the department issues to a person a special identification card under sub. (1), the person shall retain, for the period during which the special identification card is valid, any statement specified in sub. (1) submitted by the person to the department in support of the application. Any time that a special identification card issued under sub. (1) is displayed on a vehicle, the person issued the special identification card shall carry on the person or in the vehicle a copy of this statement and shall, upon request by any traffic officer, produce the statement for inspection.

(2) (a) Subject to sub. (2m), the department shall prescribe the form and size of identification cards issued under this section and shall promulgate rules regarding the issuance and use of the cards. The identification cards shall be designed and displayed so as to enable law enforcement officers to determine that the vehicle, when parked, is entitled to parking privileges under s. 346.50 (2), (2a) and (3), but shall not be unnecessarily conspicuous when the vehicle is operated. Except as provided in par. (b), special identification cards shall be valid for 4 years.

(b) The department shall issue special identification cards which are valid for limited periods of time if the statement required by sub. (1) indicates that the applicant's disability is temporary.

(c) At least 30 days prior to the expiration of the card, the department shall mail a renewal application to the last−known address of each identification card holder. The application shall include all of the information required for issuance of a special identification card under sub. (1). The fee for a renewal identification card shall be the fee established by the department under sub. (1). Except as provided in par. (b), each card shall be valid for 4 years.

(2m) (a) The department may issue only one special identification card under this section to an applicant unless the applicant requests in the application, or subsequently in writing, a 2nd card.

(b) The department shall provide by rule for the issuance of special identification cards to replace special identification cards that have been lost or destroyed.

(3) The department shall disseminate information to all applicants for a special identification card under sub. (1) relating to the parking privileges granted under s. 346.50 (2), (2a) or (3) and their right to request enforcement of s. 346.505.

History: 1979 c. 276; 1981 c. 119, 255; 1985 a. 87 s. 5; 1985 a. 202, 332; 1987 a. 19; 1989 a. 304; 1991 a. 240, 269; 1993 a. 16; 1995 a. 147; 1997 a. 27, 67, 252; 1999 a. 88; 2005 a. 455; 2007 a. 120; 2013 a. 359.

Cross−reference: See also ch. Trans 129, Wis. adm. code.

343.52 Unlawful use of special identification cards. **(1)** Any person or organization who does any of the following may be required to forfeit not less than $50 nor more than $300:

(a) Lends to another a special identification card issued under s. 343.51, knowing that the person borrowing the card is not authorized by law to use it.

(b) Displays a special identification card issued under s. 343.51 upon a vehicle that is not authorized by law to have the card displayed thereon or otherwise fraudulently uses a special identification card issued under s. 343.51 to the person or organization.

(c) Knowingly provides information that is false or misleading in any material respect on an application for a special identification card under s. 343.51.

(d) Knowingly provides information that is false or misleading in any material respect in a statement specified in s. 343.51 (1) submitted in support of an application for a special identification card under s. 343.51.

(1m) Any person or organization that does any of the following shall forfeit not less than $200 nor more than $500:

(a) Fraudulently procures, makes, alters, reproduces, or duplicates a special identification card issued under s. 343.51, except as authorized by the department.

(b) Fraudulently uses a special identification card issued under s. 343.51 that was not issued to the person or organization by the department.

(c) Sells to another a special identification card issued under s. 343.51.

(1r) Any person who violates s. 343.51 (1m) (b) may be required to forfeit not more than $10, except that a person charged with violating s. 343.51 (1m) (b) may not be convicted if he or she produces the statement in court or in the office of the officer issuing the citation, within 10 days after the date on which the citation is issued.

(2) The department shall cancel the special identification card of any person or organization who violates sub. (1) or (1m). The department may order a person or organization whose identification card has expired or has been canceled to surrender the card to the department. The department may take possession of any expired identification card or any identification card required to be canceled or may direct any traffic officer to take possession thereof and return it to the department.

(3) (b) A member of a disabled parking enforcement assistance council under s. 349.145 who observes a violation of this section may prepare a written report indicating that a violation has occurred. The report shall contain, if applicable, the time and location at which the violation occurred, and any other relevant information relating to the violation.

(c) Within 24 hours after observing the violation, the member may deliver the report to a traffic officer of the political subdivision in which the violation occurred. A report which does not contain all of the information in par. (b) shall nevertheless be delivered and shall be maintained by the political subdivision for statistical purposes.

(d) 1. Within 48 hours after receiving a report containing all of the information in par. (b) and after conducting an investigation, the traffic officer may prepare a uniform traffic citation under s. 345.11 for the violation and may personally serve it upon the person or organization.

2. If with reasonable diligence the person or organization cannot be served under subd. 1. or if the person or organization lives outside of the jurisdiction of the issuing authority, service may be made by certified mail addressed to the person's or organization's last−known address.

History: 1979 c. 276; 1981 c. 119; 1985 a. 29; 1993 a. 16, 256; 2005 a. 455; 2011 a. 98.

SUBCHAPTER VI

LICENSING OF DRIVER SCHOOLS AND INSTRUCTORS

Cross−reference: See also ch. Trans 105, Wis. adm. code.

343.60 Definitions. In ss. 343.60 to 343.73:

(1) "Driver school" means a business that gives instruction, for compensation, in the operation of motor vehicles, except that it does not include any of the following:

(a) A high school or technical college that teaches driver training as part of its regular school program and whose course of study in driver training meets the criteria for a driver education course under this chapter has been approved by the department of public instruction or technical college system board.

(b) An institution of higher learning that teaches driver training as part of its teacher training program.

(c) A motorcycle training school that offers a basic or experienced rider training course approved by the department.

(d) Any driver training school that offers training exclusively in the operation of vehicles designed and manufactured for off−highway operation.

(e) An instructor.

(1g) "Driver school classroom" means any facility that is approved by the department and used to conduct driver training, but does not include a motor vehicle.

(1m) " Driver school office" means the location at which the driver school business is conducted and approved by the department. "Driver school office" does not include any facility used only as a driver school classroom.

(2) "Fraudulent practices" includes, but is not limited to:

(a) Any conduct or representation tending to give the impression that a license to operate a motor vehicle or any other license, registration or service granted by the secretary or department may be obtained by any means other than the means prescribed by law or by furnishing or obtaining the same by illegal or improper means; or

(b) The requesting, accepting, exacting or collecting of money for such purpose.

(3) "Instructor" means any person who is employed by a driver school licensed under this chapter and who, for compensation, gives instruction in the operation of a motor vehicle.

History: 1971 c. 154 s. 79 (2); 1977 c. 29 s. 1654 (7) (a), (c); 1983 a. 189; 1993 a. 399; 1995 a. 27 s. 9145 (1); 1997 a. 27; 2005 a. 397.

343.61 Driver school requirements. (1) The department shall issue and renew driver school licenses in conformity with the requirements of this subchapter. No person may operate a driver school, advertise, solicit bids for business, or provide services unless the person holds a valid driver school license issued by the department.

(2) (a) Application for a driver school license shall be made in the form and manner prescribed by the department, shall contain such information as is required by the department and shall be accompanied by the required fee. An application shall include the following:

1. Except as provided in subd. 1m., in the case of an individual, the individual's social security number.

1m. In the case of an individual who does not have a social security number, a statement made or subscribed under oath or affirmation that the individual does not have a social security number. The form of the statement shall be prescribed by the department of children and families. A license that is issued by the department in reliance on a statement submitted under this subdivision is invalid if the statement is false.

2. In the case of a person who is not an individual, the person's federal employer identification number.

3. Identification of all driver school office locations and identification of all driver school classroom locations and, if instruction is to be provided by means of the Internet, a statement to this effect.

4. Proof of insurance required under sub. (3m) (a).

(am) A driver school may provide to the department a written certification that the driver school has complied with all applicable driver school office and driver school classroom requirements imposed under this subchapter or under any rule promulgated by the department under this subchapter. For purposes of this paragraph, classroom instruction includes instruction provided by means of the Internet if the driver school provides instruction by means of the Internet.

(b) The department of transportation may not disclose any information received under par. (a) 1. or 2. to any person except to the department of children and families for purposes of administering s. 49.22, the department of revenue for the sole purpose of requesting certifications under s. 73.0301, and the department of workforce development for the sole purpose of requesting certifications under s. 108.227.

(2m) The department may not issue or renew a driver school license if any of the following applies:

(a) The applicant or licensee or any officer, director, partner or other person directly interested in or actively involved in the driver school business was a former holder of, or actively involved in a driver school business operating under, a license issued under this section or a similar license issued by another jurisdiction or was directly interested in or a party actively involved in another driver school which held a license under this section or a similar license issued by another jurisdiction, or was the former holder of an instructor license issued under s. 343.62, and any such license was revoked or suspended.

(b) Subject to ss. 111.321, 111.322, and 111.335, the applicant or licensee or any officer, director, stockholder, partner or any person directly interested in or actively involved in the driver school business has been convicted of a felony, or any other disqualifying offense as established by rule by the department, in this state, or in another jurisdiction, including a conviction under the law of a federally recognized American Indian tribe or band in this state, for an offense that if committed in this state would be a felony or disqualifying offense, unless the person so convicted has been officially pardoned.

(c) The applicant or licensee does not have a driver school office.

(d) The applicant or licensee is not the true owner of the driver school.

(e) The applicant or licensee fails to provide the information or statement required under sub. (2) (a) 1. to 2.

(f) The applicant has made a material false statement or concealed a material fact in an application.

(3) (a) 1. The required fee for any driver school license, or for any annual renewal thereof, is $95.

2. A driver school license expires on the date stated on the license, but not later than 24 months after the date on which the license is issued. The department may institute any system of initial license issuance that it considers advisable for the purpose of gaining a uniform rate of renewals. To put such a system into operation, the department may issue licenses that are valid for any period less than one year. If the department issues a license that is valid for less than one year, the department shall accordingly prorate the fees specified under subd. 1.

(b) In addition to the fee under par. (a), an applicant or licensee under this section shall pay a one−time fee of $10 for each mailing address where one or more driver school classrooms are located.

(c) The fee for a duplicate license certificate provided under sub. (4) (a) is $10.

(d) The department shall charge a fee of $10 for any change to a license certificate, including a change in the location of a driver school office.

(e) If any driver school license is lost, the department shall issue a replacement upon receipt of a completed application, satisfactory proof of eligibility, satisfactory proof of loss, and a fee established by the department by rule.

(3m) (a) A driver school shall maintain a standard liability insurance policy in the name of the school, with the minimum insurance coverage specified by rule by the department. The insurance policy shall require the insurer to notify the department not less than 30 days before the policy expires or is materially changed or canceled.

(b) A driver school shall file with the department a bond in the form and amount established by the department by rule.

(4) (a) If the department approves an application for a driver school license and the applicant pays the required fee, the department shall issue a license, and provide a license certificate, to the applicant. The licensee shall display the certificate in the licensee's driver school office, but is not required to display the certificate in any driver school classroom.

(b) The location of each driver school office shall be identified in the license. Except as provided by the department by rule, no licensee may establish any driver school office within 1,500 feet of a department office where operator's licenses are issued, nor within 1,500 feet of any headquarters where official driving skills tests are given. Any change in address of any driver school office

or driver school classroom must be reported to and approved by the department. A driver school may maintain driver school classrooms at locations other than the driver school office. A driver school may provide driver training instruction by means of the Internet in addition to providing instruction at a driver school classroom or, if the driver school also offers behind−the−wheel instruction in this state, instead of providing instruction at a driver school classroom.

(c) The use of the word "Wisconsin" or "State" in any firm name is prohibited.

(5m) Any driver school licensed under this section may be authorized by the department to provide testing, limited to knowledge and signs tests, for students of the driver schools who are under the age of 18 and for driver school instructors. Authorized driver schools providing such testing shall meet standards and follow procedures established by the department by rule.

History: 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 273; 1989 a. 31; 1993 a. 455; 1997 a. 27, 191, 237; 1999 a. 9, 32, 124; 2005 a. 397, ss. 6 to 18, 31 to 38, 55, 67, and 72; 2005 a. 466; 2007 a. 20; 2013 a. 36; 2015 a. 70.

Cross−reference: See also ch. Trans 105, Wis. adm. code.

343.62 Instructor requirements. (1) The department shall issue and renew instructor's licenses in conformity with the requirements of this subchapter. No person, including a person holding a driver school license, may act as an instructor in a driver school unless the person holds a valid instructor's license issued by the department. No driver school may employ any person as an instructor unless the person holds a valid instructor's license issued by the department.

(2) (a) Application for an instructor's license shall be made in the form and manner prescribed by the department, shall contain such information as is required by the department and shall be accompanied by the required fee. Except as provided in par. (am), the application shall include the applicant's social security number.

(am) If the applicant does not have a social security number, a statement made or subscribed under oath or affirmation that the applicant does not have a social security number. The form of the statement shall be prescribed by the department of children and families. A license that is issued by the department in reliance on a statement submitted under this paragraph is invalid if the statement is false.

(b) The department of transportation may not disclose a social security number obtained under par. (a) to any person except to the department of children and families for the sole purpose of administering s. 49.22, the department of revenue for the sole purpose of requesting certifications under s. 73.0301, and the department of workforce development for the sole purpose of requesting certifications under s. 108.227.

(3) (a) 1. The annual fee for an instructor's license is $25, except that no fee is required for an individual who is eligible for the veterans fee waiver program under s. 45.44.

2. An instructor's license expires on the date stated on the license, but not later than 24 months after the date on which the license is issued. The department may institute any system of initial license issuance that it considers advisable for the purpose of gaining a uniform rate of renewals. To put such a system into operation, the department may issue licenses that are valid for any period less than one year. If the department issues a license that is valid for less than one year, the department shall accordingly prorate the fee specified in subd. 1.

(b) If an instructor's license is lost, the department shall issue a replacement upon receipt of a completed application, satisfactory proof of the instructor's eligibility, satisfactory proof of loss, and a fee established by the department by rule.

(4) (a) Except as provided in par. (b), the department may not issue an original instructor's license to an applicant unless all of the following apply:

1. The applicant completes a knowledge test developed by the department and administered as provided by rule, and designed to evaluate the applicant's knowledge of instruction procedures, motor vehicle and traffic laws, safety equipment requirements, and functions of essential automotive equipment, and the applicant passes the test with a score of at least 80 percent. An applicant who fails to receive a passing score may be reexamined, except that an applicant who fails to pass the test after 2 successive attempts may not be reexamined until one year has elapsed since the date of the last test. The department may by rule provide for an alternative requirement for the issuance of an instructor license in lieu of taking and passing the test under this subdivision. An applicant may not seek review under s. 343.69 of any determination by the department under this subdivision.

2. The applicant passes, with a score that exceeds the minimum standard for obtaining an operator's license, a driving skills test that includes driving maneuvers and parking involved in typical traffic situations. An applicant who fails to receive a passing score may be reexamined, except that an applicant who fails to pass the test after 2 successive attempts may not be reexamined until one year has elapsed since the date of the last test. The department may by rule provide for an alternative requirement for the issuance of an instructor license in lieu of taking and passing the test under this subdivision. An applicant may not seek review under s. 343.69 of any determination by the department under this subdivision.

3. The applicant is at least 19 years of age, holds a valid regular operator's license, and has at least 2 years of licensed experience operating a motor vehicle.

4. The applicant submits with the application a statement completed within the immediately preceding 24 months, except as provided by rule, by a physician licensed to practice medicine in any state, from an advanced practice nurse licensed to practice nursing in any state, from a physician assistant licensed or certified to practice in any state, from a podiatrist licensed to practice in any state, from a chiropractor licensed to practice chiropractic in any state, or from a Christian Science practitioner residing in this state, and listed in the Christian Science journal certifying that, in the medical care provider's judgment, the applicant is physically fit to teach driving.

5. The applicant is able to safely operate and control, from the passenger seat, a motor vehicle of the vehicle class and type in which the applicant will provide instruction for which satisfactory accommodation cannot be provided by adaptive vehicle equipment.

6. The applicant provides his or her social security number or the statement specified in sub. (2) (am) as required under sub. (2).

7. The applicant has provided to the department satisfactory evidence of the facts required of the applicant under sub. (2) (a).

8. The applicant has a driving record that is satisfactory to the department, as specified by rule.

9. Subject to ss. 111.321, 111.322 and 111.335, the applicant has not been convicted of a felony, or any other disqualifying offense as established by rule by the department, in this state, or in another jurisdiction, including a conviction under the law of a federally recognized American Indian tribe or band in this state, for an offense that if committed in this state would be a felony or disqualifying offense, unless the person so convicted has been officially pardoned.

(b) Notwithstanding par. (a), the department may issue an original instructor's license that is restricted to classroom instruction to an applicant who does not otherwise qualify for a license because the applicant does not meet the requirements specified in par. (a) 2., 3., or 5. The department may not issue an instructor's license that is restricted to classroom instruction under this paragraph unless the applicant satisfies standards established by the department by rule relating to the ability of the applicant to communicate clearly and concisely and to control the classroom environment and behavior and establishing any further certification required by the department. For purposes of this paragraph and par. (c), classroom instruction includes instruction provided by

means of the Internet if the driver school provides instruction by means of the Internet.

(c) The department may not renew an instructor's license issued under this section unless the licensee meets the requirements specified under par. (a) 3. to 9., except that an instructor's license that is restricted to classroom instruction may be renewed to an applicant who meets the requirements specified in par. (a) 4. and 6. to 9.

History: 1977 c. 29 s. 1654 (7) (e); 1989 a. 31; 1997 a. 27, 191, 237; 1999 a. 9; 2005 a. 397 ss. 19 to 25, 27, 29, 41 and 42; 2007 a. 20; 2009 a. 113; 2011 a. 209; 2013 a. 36; 2015 a. 70.

Cross−reference: See also ch. Trans 105, Wis. adm. code.

343.66 Revocation, suspension, cancellation, or denial of renewal of driver school licenses and instructor's licenses. (1) The department may suspend, revoke, or cancel any driver school license issued under s. 343.61 or instructor's license issued under s. 343.62, or, subject to ss. 343.61 and 343.62, refuse to renew a driver school license or instructor's license if, during any period, any of the following applies:

(a) The licensee has made a material false statement or concealed a material fact in connection with the application for a license or the renewal of a license.

(b) Subject to ss. 111.321, 111.322 and 111.335, the licensee or any partner, member, manager or officer of the licensee has been convicted of a felony, or any other disqualifying offense as established by rule by the department, in this state, or in another jurisdiction, including a conviction under the law of a federally recognized American Indian tribe or band in this state, for an offense that if committed in this state would be a felony or disqualifying offense, unless the person so convicted has been officially pardoned.

(c) The licensee has failed to comply with any of the requirements of ss. 343.60 to 343.72 or rules promulgated under those sections.

(d) The licensee or any partner, member, manager or officer of the licensee has been guilty of fraud or fraudulent practices in relation to the business conducted under the license or in relation to securing for himself or herself or another a license to operate a motor vehicle, or guilty of inducing another person to resort to fraud or fraudulent practices in relation to securing for himself or herself or another the license to operate a motor vehicle.

(e) Subject to ss. 111.321, 111.322 and 111.335, the licensee has knowingly employed, as an instructor, a person who does not meet the requirements under s. 343.62.

(f) The licensee has failed to maintain insurance as required by the department under s. 343.61 (3m) (a).

(2) The secretary shall deny, restrict, limit or suspend any driver school license issued under s. 343.61 or instructor's license issued under s. 343.62 or refuse to renew a driver school license or instructor's license if the applicant or licensee is an individual who is delinquent in making court−ordered payments of child or family support, maintenance, birth expenses, medical expenses or other expenses related to the support of a child or former spouse, or who fails to comply, after appropriate notice, with a subpoena or warrant issued by the department of children and families or a county child support agency under s. 59.53 (5) and related to paternity or child support proceedings, as provided in a memorandum of understanding entered into under s. 49.857.

(3) The secretary shall suspend or revoke a driver school license issued under s. 343.61 or an instructor's license issued under s. 343.62, if the department of revenue certifies under s. 73.0301 that the licensee is liable for delinquent taxes. A licensee whose driver school license or instructor's license is suspended or revoked under this subsection for delinquent taxes is entitled to a notice under s. 73.0301 (2) (b) 1. b. and a hearing under s. 73.0301 (5) (a) but is not entitled to any other notice or hearing under this subchapter.

(3m) The secretary shall suspend or revoke a driver school license issued under s. 343.61 or an instructor's license issued under s. 343.62, if the department of workforce development certifies under s. 108.227 that the licensee is liable for delinquent unemployment insurance contributions. A licensee whose driver school license or instructor's license is suspended or revoked under this subsection for delinquent unemployment insurance contributions is entitled to a notice under s. 108.227 (2) (b) 1. b. and a hearing under s. 108.227 (5) (a) but is not entitled to any other notice or hearing under this subchapter.

(4) If a driver school or instructor's license is revoked, canceled, or suspended, the licensee shall surrender all driver school and instructor licenses to the department and no portion of any license fee shall be refunded.

History: 1977 c. 29 s. 1654 (7) (c); 1977 c. 125; 1981 c. 334 s. 25 (1); 1981 c. 380, 391; 1991 a. 316; 1993 a. 112; 1997 a. 191; 2005 a. 397 ss. 43, 44, 46, 47, 56; 2007 a. 20; 2013 a. 36.

343.69 Hearings on license denials, cancellations, restrictions, suspensions, and revocations, and progressive enforcement action. (1) If the department denies an application for original issuance or renewal of a driver school license or instructor's license, or revokes, suspends, cancels, or restricts any such license, the department shall notify the applicant or licensee in writing of the action by sending notice of the action by registered or certified mail to the last−known address of the licensee or applicant. Any person who is aggrieved by a decision of the department under this subsection may, within 10 days after the date of receiving notice of the department's action, request review of the action by the division of hearings and appeals in the department of administration under ch. 227. This subsection does not apply to denials, cancellations, restrictions, suspensions, or revocations of licenses under s. 343.66 (2), (3), or (3m).

(2) The department shall establish by rule a system of progressive enforcement action taken against licensees for violations of this subchapter or rules promulgated under this subchapter. This system shall include a procedure for addressing consumer complaints and taking action against licensees when such complaints are found to be substantiated.

History: 1977 c. 29 ss. 1461, 1654 (7) (a), (c); 1977 c. 418; 1981 c. 347 s. 80 (2); 1993 a. 16; 1997 a. 191, 237; 2005 a. 397; 2013 a. 36.

343.71 Driver school records, curriculum, and operations. (1m) Every licensed driver school shall maintain all of the following records:

(a) A record showing the date, type, and duration of, and the name and address of each person receiving, all lessons, lectures, tutoring, instructions or other services relating to instructions in the operation of motor vehicles, and this record shall include the name of the instructor giving such lessons or instructions and identification of the vehicle in which any driving skills lesson is given.

(b) A file containing a copy of every agreement required under this paragraph. No driver school or instructor may provide lessons, lectures, tutoring or other services relating to instructions in the operation of motor vehicles unless a written agreement in a form approved by the department has been executed by the school and either the student if the student is at least 18 years of age or, if the student is under 18 years of age, the student's parent or legal guardian. The driver school shall give the student, or the parent or guardian if the student is under 18 years of age, the original agreement and shall retain and preserve a duplicate copy of the agreement.

(2m) No licensee may agree to give unlimited driver lessons, nor represent or agree, orally or in writing or as a part of an inducement to sign any agreement, to give instructions until the student obtains an operator's license.

(3m) No agreement may contain a "no refund" clause, but may contain the following: "The school will not refund any tuition or part of tuition if the school is ready, willing and able to fulfill its part of the agreement".

(4) All records of agreement must include the following statement: "This constitutes the entire agreement between the school

and the student and no verbal statement or promises will be recognized".

(5) The department may not license a driver school unless its approved course of instruction does all of the following:

(a) Acquaints each student with the hazards posed by farm machinery and animals on highways and provides instruction in safely dealing with such hazards.

(b) Provides at least 30 minutes of instruction relating to organ and tissue donation and organ and tissue donation procedures.

(c) Provides at least 30 minutes of instruction on motorcycle awareness, as approved by a recognized motorcycle safety and awareness organization, and pedestrian and bicycle awareness, as approved by a recognized pedestrian and bicycle safety and awareness organization.

(d) Includes instruction relating to passing stopped emergency vehicles, tow trucks, and highway machinery equipment.

(e) Acquaints each student with the hazards posed by railroad highway grade crossings and provides at least 30 minutes of instruction in safely dealing with these hazards.

(f) Acquaints each student with the hazards posed by composing or sending electronic text messages or electronic mail messages while driving and with the provisions of s. 346.89 (3).

(g) Acquaints each student with the hazards posed by motor vehicles to vulnerable highway users and provides at least 30 minutes of instruction in safely dealing with these hazards.

(6) A driver school shall notify the department of the name and address of each person who is under the age of 18 years at the commencement of a course in driver training and who fails to satisfactorily complete the course.

History: 1977 c. 29 s. 1654 (7) (a); 2005 a. 397 ss. 18, 57 to 62, 64 to 66; 2005 a. 466 s. 8; 2007 a. 68; 2007 a. 96 s. 129; 2007 a. 97; 2009 a. 64, 180, 220; 2011 a. 173; 2013 a. 253.

343.72 Rules for conducting driver schools; prohibited practices. (1) No licensee may agree to give refresher lessons, unless the student states that he or she has had previous experience operating a motor vehicle.

(5m) No driver school may represent that completion of a course of instruction will guarantee that the student will pass the driving skills test administered by the department or by a 3rd−party tester under s. 343.16 (1) (bm). A driver school may only represent by means of a certificate of completion that the student has satisfactorily completed the required course.

(6) All licensees must ascertain from the department the routes in the licensee's locale on which road tests are given by state license examiners and by authorized examiners of 3rd−party testers under s. 343.16 (1) (bm). No licensee may instruct on these routes, except that driver schools may operate on these routes if comparable training location opportunities are not otherwise available in the locale.

(7) Licensees may not publish, advertise, or create the impression that a license is guaranteed or assured. The display of a sign such as "License Secured Here" is forbidden.

(10) All driver training cars used by the school must be identified by a sign visible to other vehicles from behind stating that the vehicle is a driver school vehicle.

(11) All driver training vehicles must be registered with the department with a brief description of each, including the make, model, and registration number, and shall be kept in safe working condition, as established by the department by rule. The department may promulgate rules authorizing the department to place any driver training vehicle out of service for a vehicle equipment violation or for failure to file with the department proof of insurance for the vehicle.

(12) All driver training vehicles shall be equipped with dual controls so that the instructor can stop the vehicle promptly. The department may inspect these vehicles at its discretion. After initial inspection of any driver training vehicle by the department, a driver school may, as provided by rule, certify to the department the condition of any driver training vehicle of a model year not more than 3 years old.

History: 1977 c. 29 s. 1654 (7) (a), (e); 1981 c. 314; 1991 a. 316; 2005 a. 397; 2009 a. 28.

343.73 Penalty. Any person who violates ss. 343.60 to 343.72 may be required to forfeit not less than $100 nor more than $200 for each offense.

History: 1971 c. 278; 1973 c. 218; 2005 a. 397.

343.75 Control group testing by department. The department may exempt certain persons from one or more of the mandatory requirements of this chapter to establish a test group in order to compare this group with a group of persons not exempted from any of the mandatory requirements of this chapter. After comparing these 2 groups, the department shall determine what effect, if any, that a particular mandatory requirement may have on highway safety in this state. The department shall submit any findings in this regard to the secretary who shall include them in the report required under s. 15.04 (1) (d).

History: 1977 c. 29 s. 1654 (7) (e); 1977 c. 196 s. 131; 1977 c. 273; 1981 c. 390 s. 252.