

No. 287, S.]

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CHAPTER 571

AN ACT to amend 343.10 (1), (3), (4) and (5), as created by chapter 260, laws of 1957 (Bill No. 99, S.); and to create 343.325 of the statutes, relating to the staying of license revocations when an appeal is taken.

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

SECTION 1. 343.10 (1), (3), (4) and (5) of the statutes, as created by chapter 260, laws of 1957 (Bill No. 99, S.), are amended to read:

343.10 (1) If a person has had or will have his license revoked because he has been convicted of operating a motor vehicle while under the influence of intoxicating liquor, and if such person is engaged in an occupation or trade making it essential that he operate a motor vehicle, he may after complying with sub. (2) file with a judge of a court of record or of a municipal court having criminal jurisdiction in the county of residence a verified petition setting forth in detail his need for operating a motor vehicle. Thereupon, if the petitioner has not been convicted of any such offense within the 18-month period immediately preceding the present conviction, the judge may order the commissioner to issue an occupational license to such person. The order for issuance of an occupational license shall contain definite restrictions as to hours of the day (not to exceed 12), type of occupation and areas or routes of travel to be permitted under the license. A copy of the petition and the order for the occupational license shall be forwarded to the department. No order for an occupational license shall be issued until * * * at least 90 days * * * have elapsed since the date of conviction or, in the case of an appeal which is subsequently dropped or affirmed, until at least 90 days have elapsed since the date of revocation following the dropping or affirmance of the appeal.

(3) The department shall issue an occupational license upon receipt of a court order for such a license if at least 90 days have elapsed since the conviction or, in the case of an appeal which is subsequently dropped or affirmed, if at least 90 days have elapsed since the date of revocation following the dropping or affirmance of the appeal and if proof of the

financial responsibility of the owners of all vehicles which the holder of the occupational license will be permitted to operate has been furnished as required by ch. 344.

(4) The occupational license issued by the department shall contain such restrictions as are ordered by the court. In addition to such restrictions * * * an occupational license authorizes the licensee to operate a motor vehicle not to exceed 12 hours per day and then only when such operation is an essential part of the licensee's occupation or trade. *Unless sooner revoked, suspended or canceled, an occupational license is valid from the date of issuance until one year following the date of conviction * * *, except that in a case where the operating privilege was revoked following the dropping or affirmance of an appeal of the conviction and the occupational license then issued, the occupational license is valid until one year following the date of such revocation.*

(5) An occupational license is not renewable when it expires * * *. If an occupational license expires without having been revoked, suspended or canceled, the licensee may obtain a new license upon such expiration but only if he 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.

SECTION 2. 343.325 of the statutes is created to read:

343.325 COURTS TO REPORT APPEALS; WHEN APPEAL STAYS REVOCATION. (1) Whenever a person takes an appeal from a conviction which constitutes cause for revocation of such person's operating privilege under ss. 343.31 or 343.32, the clerk of the court in which such conviction occurred, or the justice, judge or magistrate 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 and 343.32 and except as otherwise provided in sub. (4), the commissioner shall not revoke a person's operating privilege on the basis of a conviction if he receives from the court in which the conviction occurred a certificate stating that an appeal from the conviction has been taken. If he receives such certificate after he has revoked the operating privilege, he shall thereupon reinstate the operating privilege without requiring compliance with s. 343.38.

(3) Whenever revocation of an operating privilege 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 commissioner shall revoke such operating privilege on the same basis as he would have done if the appeal had not been taken, but the period of revocation shall run from the date of revocation following the affirmance of the conviction or dropping of the appeal.

(4) If a person, whose revocation was stayed pursuant to sub. (2), is convicted of an offense for which revocation is mandatory under s. 343.31, during the pendency of the appeal of the original conviction, the commissioner shall forthwith revoke such person's operating privilege on account of such convictions, notwithstanding the appeal of either or both convictions.

(5) This section shall not prevent revocation of an operating privilege if there are grounds for revocation other than the conviction in question.

SECTION 3. This act shall take effect July 1, 1958.

Approved August 8, 1957.