

State of Wisconsin



1995 Senate Bill 325

Date of enactment: April 22, 1996

Date of publication*: May 6, 1996

1995 WISCONSIN ACT 269

AN ACT *to repeal* 343.10 (1) (c), 343.10 (7) (a), 343.10 (10) (title), 343.10 (10) (c) and (d), 343.30 (1q) (b) 6., 343.305 (10) (b) 6., 343.345 and 345.47 (4); *to renumber and amend* 343.10 (3), 343.10 (10) (a), 343.10 (10) (am), 343.10 (10) (b) and 343.10 (10) (bm); *to amend* 25.40 (1) (im), 59.20 (8r), 343.05 (2) (a) 4., 343.10 (1) (title) and (a), 343.10 (1) (b), 343.10 (2) (a) 1., 343.10 (2) (a) 3., 343.10 (2) (b), 343.10 (3) (title), 343.10 (5) (a), 343.10 (6), 343.10 (7) (b), (c) and (cm), 343.10 (7) (e) and (f), 343.10 (9), 343.30 (3), 343.31 (3m), 343.32 (6) and 351.07 (1) and (1m); *to repeal and recreate* 343.10 (4); and *to create* 343.10 (2) (a) 4., 343.10 (3) (b), 351.07 (1g) and 814.61 (14) of the statutes; **relating to:** the issuance of occupational licenses by the department of transportation and suspension of a juvenile's operating privilege for failure to pay a forfeiture.

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

SECTION 1. 25.40 (1) (im) of the statutes is amended to read:

25.40 (1) (im) All moneys forwarded by county treasurers from fees under s. ~~343.10 (6)~~ 351.07 (1g), as provided in ss. 59.20 (8r) and ~~343.10 (6)~~, and all moneys forwarded by municipal treasurers from fees under s. 343.10 (6), as provided in s. ~~343.10 (6)~~, and all moneys forwarded by the department from fees under s. 343.10 (6).

SECTION 2. 59.20 (8r) of the statutes is amended to read:

59.20 (8r) Forward 50% of the fees received under s. ~~343.10 (6)~~ 351.07 (1g) to the state treasurer for deposit in the transportation fund under s. 25.40 (1) (im).

SECTION 3. 343.05 (2) (a) 4. of the statutes is amended to read:

343.05 (2) (a) 4. A person with a temporary license under s. ~~343.10 (4)~~ or 343.305 (8) (a) which expressly authorizes the operation of the applicable class and type of commercial motor vehicle and which is not expired.

SECTION 4. 343.10 (1) (title) and (a) of the statutes are amended to read:

343.10 (1) (title) ~~PETITION~~ APPLICATION FOR OCCUPATIONAL LICENSE. (a) If a person's license or operating privilege is revoked or suspended under this chapter or s. 161.50 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 a ~~petition~~ 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. 161.50, except that this limitation does not apply to an application to amend an occupational license restriction.

SECTION 5. 343.10 (1) (b) of the statutes is amended to read:

343.10 (1) (b) The ~~petition~~ application shall be in a form established by the department and shall identify the specific motor vehicle that the ~~petitioner~~ applicant seeks authorization to operate, including the vehicle classifica-

* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

tion and any required endorsements. The petition 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 petition application shall identify the petitioner's applicant's employer, and include proof of financial responsibility as specified in s. 343.38 (1) (c) covering the vehicle or vehicles that the petitioner applicant requests authorization to operate. The petition application shall identify the hours of operation and routes of travel being requested by the petitioner applicant in accord with the restrictions of sub. (5). The petitioner applicant shall certify whether, to the best of personal knowledge, he or she is disqualified under s. 343.315.

SECTION 6. 343.10 (1) (c) of the statutes is repealed.

SECTION 7. 343.10 (2) (a) 1. of the statutes, as affected by 1995 Wisconsin Act 113, is amended to read:

343.10 (2) (a) 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. 161.50 within the one-year period immediately preceding the present revocation or suspension, except as provided in s. 344.40.

SECTION 8. 343.10 (2) (a) 3. of the statutes is amended to read:

343.10 (2) (a) 3. The person surrenders his or her former operator's license, ~~including any license issued under sub. (10)~~, unless the license is already in the possession of the court or the department.

SECTION 9. 343.10 (2) (a) 4. of the statutes is created to read:

343.10 (2) (a) 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.

SECTION 10. 343.10 (2) (b) of the statutes is amended to read:

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

SECTION 11. 343.10 (3) (title) of the statutes is amended to read:

343.10 (3) (title) DETERMINATION ON PETITION APPLICATION.

SECTION 12. 343.10 (3) of the statutes is renumbered 343.10 (3) (a) and amended to read:

343.10 (3) (a) If satisfied that the person is eligible under sub. (2), the judge department shall consider the number and seriousness of prior traffic convictions in de-

termining whether to ~~order the issuance of~~ issue an occupational license and what restrictions to specify. ~~If the court grants the petition, a copy of the petition and the order for the occupational license shall be forwarded to the department~~ Notwithstanding s. 343.40, the denial by the department of an application for an occupational license is not subject to judicial review.

SECTION 13. 343.10 (3) (b) of the statutes is created to read:

343.10 (3) (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).

SECTION 14. 343.10 (4) of the statutes is repealed and recreated to read:

343.10 (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.

SECTION 15. 343.10 (5) (a) of the statutes is amended to read:

343.10 (5) (a) *Restrictions*. 1. In addition to any restrictions appearing on the former operator's license of the ~~petitioner applicant~~, the order for issuance of an 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 order ~~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 order ~~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 order ~~occupational license~~ may contain restrictions on the use of alcohol and of controlled substances in violation of s. 161.41.

2. If the ~~petitioner applicant~~ has 2 or more convictions, suspensions or revocations, as counted under s. 343.307 (1), the order for issuance of an occupational license shall prohibit the ~~petitioner applicant~~ from driving or operating a motor vehicle while he or she has a blood alcohol concentration of more than 0.0% by weight of alcohol in the person's blood or more than 0.0 grams of alcohol in 210 liters of that person's breath.

3. If the ~~petitioner applicant~~ has 2 or more prior convictions, suspensions or revocations, as counted under s. 343.307 (1), the order for issuance of an occupational license to a person ~~of the applicant~~ may restrict the person's ~~applicant's~~ operation under the occupational license to vehicles that are equipped with a functioning ignition interlock device as provided under s. 346.65 (6). A person to whom a restriction under this subdivision applies violates that restriction if he or she 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.

SECTION 16. 343.10 (6) of the statutes is amended to read:

343.10 (6) FEE. No person may file a ~~petition an application~~ for an occupational license ~~under sub. (1)~~ unless he or she first pays a fee of \$40 ~~to the clerk of the circuit court if the petition is to a judge of the circuit court, to the municipal court if the petition is to a judge of the municipal court or to the department if the petition is to the department under sub. (10).~~ The clerk of the circuit court or the municipal court official shall give the person a receipt and forward the fee to the county or municipal treasurer, respectively. That treasurer shall pay 50% of the fee to the state treasurer under s. 59.20 (8r) and retain the balance for the use of the county or municipality, respectively. The department shall give the person a receipt.

SECTION 17. 343.10 (7) (a) of the statutes is repealed.

SECTION 18. 343.10 (7) (b), (c) and (cm) of the statutes are amended to read:

343.10 (7) (b) 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 ~~petitioner applicant~~ is eligible under sub. (2).

(c) If the ~~court order permits operation of both commercial motor vehicles and noncommercial motor vehicles and 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 ~~order occupational license~~ includes the restriction specified in sub. (5) (a) 3., the department shall not issue the occupational license until the ~~person applicant~~ provides evidence satisfactory to the department that any motor vehicle that the ~~person applicant~~ will be permitted to operate has been equipped with a functioning ignition interlock device.

SECTION 19. 343.10 (7) (e) and (f) of the statutes are amended to read:

343.10 (7) (e) The occupational license issued by the department shall contain ~~such the~~ restrictions ~~as are ordered by the judge. In addition to such restrictions an required by sub. (5).~~ The occupational license authorizes the licensee to operate a motor vehicle ~~not to exceed 12 hours per day and then only when such that~~ operation is an essential part of the licensee's occupation or trade. If the ~~order permits operation of commercial motor vehicles and the department determines that the petitioner applicant is eligible under sub. (2)~~, the department may impose such conditions and limitations upon the authorization to operate commercial or noncommercial 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 commercial or noncommercial 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. 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.

SECTION 20. 343.10 (9) of the statutes is amended to read:

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

SECTION 21. 343.10 (10) (title) of the statutes is repealed.

SECTION 22. 343.10 (10) (a) of the statutes, as affected by 1995 Wisconsin Act 113, is renumbered 343.10 (1) (d) and amended to read:

343.10 (1) (d) If the ~~petitioner's~~ applicant's commercial driver license has been suspended or revoked for a violation of s. 346.63 (1) 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) and the person was not operating a commercial motor vehicle at the time of the violation, ~~a petition~~ an application seeking issuance of an occupational license authorizing operation of "Class A", "Class B" or "Class C" vehicles may be filed ~~directly~~ with the department. The ~~petition~~ application may also seek authorization to operate "Class D" or "Class M" vehicles.

SECTION 23. 343.10 (10) (am) of the statutes is renumbered 343.10 (1) (f) and amended to read:

343.10 (1) (f) If the ~~petitioner's~~ applicant's commercial driver license has been suspended or revoked under ch. 344, ~~a petition~~ an application seeking issuance of an occupational license authorizing operation of "Class A", "Class B" or "Class C" vehicles may be filed ~~directly~~ with the department. The ~~petition~~ application may not seek authorization to operate "Class D" or "Class M" vehicles.

SECTION 24. 343.10 (10) (b) of the statutes is renumbered 343.10 (7) (g) and amended to read:

343.10 (7) (g) ~~There Notwithstanding sub. (2) (a) 4., there shall be no minimum waiting period before the issuance of an occupational license under this subsection authorizing operation of only "Class A", "Class B" or "Class C" vehicles if the applicant's commercial driver license has been suspended or revoked for a violation of s. 346.63 (1) 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) and the person was not operating a commercial motor vehicle at the time of the violation or has been suspended or revoked under ch. 344.~~ If the ~~petition~~ application also seeks authorization to operate "Class D" or "Class M" vehicles, the department may issue an occupational license if at least 15 days have elapsed since the date of suspension or revocation unless another minimum waiting period or eligibility at any time is provided by law.

SECTION 25. 343.10 (10) (bm) of the statutes is renumbered 343.10 (1) (e) and amended to read:

343.10 (1) (e) If the ~~petitioner's~~ applicant's commercial driver license has been suspended or revoked under s. 343.32 (2), ~~a petition~~ an application seeking issuance of an occupational license authorizing operation of "Class A", "Class B" or "Class C" vehicles may be filed ~~directly~~ with the department. The ~~petition~~ application may also seek authorization to operate "Class D" or "Class M" vehicles. ~~The department may issue an occupational license after at least 15 days have elapsed since the date of suspension or revocation.~~

SECTION 26. 343.10 (10) (c) and (d) of the statutes are repealed.

SECTION 27. 343.30 (1q) (b) 6. of the statutes is repealed.

SECTION 28. 343.30 (3) of the statutes is amended to read:

343.30 (3) The ~~judge who~~ court that ordered the issuance of an occupational license ~~under sub. (4)~~ may revoke ~~such the~~ license whenever the ~~judge~~ court, upon the facts, does not see fit to permit the licensee to retain the occupational license. ~~Such The~~ revocation shall be for a period of one year.

SECTION 29. 343.305 (10) (b) 6. of the statutes is repealed.

SECTION 30. 343.31 (3m) of the statutes is amended to read:

343.31 (3m) (a) Any person who has his or her operating privilege revoked under sub. (3) (c) or (f) ~~may apply~~ is eligible for an occupational license under s. 343.10 after the first 120 days of the revocation period.

(b) Any person who has his or her operating privilege revoked under sub. (3) (e) ~~may apply~~ is eligible for an occupational license under s. 343.10 after the first 60 days of the revocation period.

SECTION 31. 343.32 (6) of the statutes is amended to read:

343.32 (6) There shall be no minimum waiting period before ~~a petition~~ for issuance of an occupational license under s. 343.10 to a person whose operating privilege has been suspended or revoked under sub. (2) ~~may be considered~~ if the person is otherwise eligible for issuance of an occupational license.

SECTION 32. 343.345 of the statutes is repealed.

SECTION 33. 345.47 (4) of the statutes is repealed.

SECTION 34. 351.07 (1) and (1m) of the statutes are amended to read:

351.07 (1) A person whose operating privilege has been revoked under this chapter as a habitual traffic offender may, after 2 years of the period of revocation have elapsed, petition a judge of the circuit court for the county in which the person resides for an order authorizing the issuance of an occupational license allowing the operation of vehicles other than commercial motor vehicles. The person's petition shall include a compelling reason why the person should be granted an occupational license

and additional reasons why the judge should believe that the person's previous conduct as a traffic offender will not be repeated. The judge shall state his or her reasons for granting or denying the petition on the record. If the judge grants the petition, the judge shall issue an order authorizing the issuance of an occupational license, limited to the operation of vehicles other than commercial motor vehicles, to the person under s. 343.10. The clerk of the court shall file a copy of the order with the department, which shall become a part of the records of the department. Upon receipt of the court order, the petitioner shall be considered an applicant by the department for purposes of s. 343.10.

(1m) Any person whose petition for issuance of an occupational license under sub. (1) is granted may ~~petition~~ apply to the department for authorization to operate commercial motor vehicles. The ~~petitioner~~ applicant shall proceed as provided in s. 343.10.

SECTION 35. 351.07 (1g) of the statutes is created to read:

351.07 (1g) No person may file a petition for an occupational license under sub. (1) unless he or she first pays a fee of \$40 to the clerk of the circuit court. The clerk of the circuit court shall give the person a receipt and forward the fee to the county treasurer. That treasurer shall pay 50% of the fee to the state treasurer under s. 59.20 (8r) and retain the balance for the use of the county.

SECTION 36. 814.61 (14) of the statutes is created to read:

814.61 (14) PETITION FOR OCCUPATIONAL LICENSE. On filing a petition for an occupational license under s. 343.10 (4), \$40.

SECTION 37. Initial applicability.

(1) This act first applies to an application or petition for an occupational license or for an amendment of an occupational license restriction submitted on the effective date of this subsection.

SECTION 38. Effective date.

(1) This act takes effect on the first day of the 6th month beginning after publication.
