

# State of Wisconsin



2017 Senate Bill 135

Date of enactment: **March 28, 2018**

Date of publication\*: **March 29, 2018**

## 2017 WISCONSIN ACT 172

AN ACT *to amend* 343.31 (3) (a), 343.38 (1) (intro.), 343.38 (1) (c) 1., 343.44 (2) (ar) 2. and 343.44 (2p) (intro.); and *to create* 343.31 (1m), 343.38 (1) (d) and 343.44 (2) (ar) 2m. of the statutes; **relating to:** revocation of operating privilege for certain offenses related to operating while intoxicated, operating after revocation, making an appropriation, and providing a criminal penalty.

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

**SECTION 1.** 343.31 (1m) of the statutes is created to read:

343.31 (1m) (a) In this subsection, “qualifying conviction” means any of the following:

1. A conviction for a violation under s. 940.06, 940.09, or 940.10 involving the use of a vehicle.

2. A conviction for a crime punishable as a felony under chs. 341 to 348 or a felony in the commission of which a motor vehicle is used.

(b) 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 4 or more, and the 4th conviction, suspension, or revocation occurs within 15 years of the previous conviction, suspension, or revocation, the department shall revoke the person’s operating privilege permanently. The person is not eligible for an occupational license under s. 343.10. After 10 years of the revocation period have elapsed, the person may apply for reinstatement under s. 343.38.

(c) 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 25–year period, equals 2 or more, and the person has 2 or more qualifying convictions, the department shall revoke the person’s operating privilege permanently. The person is not eligible for an occupational license under s. 343.10. After 10 years of the revocation period have elapsed, the person may apply for reinstatement under s. 343.38.

**SECTION 2.** 343.31 (3) (a) of the statutes is amended to read:

343.31 (3) (a) Except as otherwise provided in this subsection or sub. (1m), (2m), (2s), (2t), or (2x), all revocations or suspensions under this section shall be for a period of one year.

**SECTION 3.** 343.38 (1) (intro.) of the statutes is amended to read:

343.38 (1) REINSTATEMENT AFTER REVOCATION. (intro.) Except as provided in ss. 343.10, 343.31 (1m), 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:

**SECTION 4.** 343.38 (1) (c) 1. of the statutes is amended to read:

343.38 (1) (c) 1. Except as provided in subd. 2., files and maintains with the department proof of financial

\* Section 991.11, WISCONSIN STATUTES: 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.”

responsibility in the amount, form and manner specified in ch. 344. This Except for a reinstatement under s. 343.31 (1m), this subdivision does not apply after 3 years have elapsed since the expiration of the period of revocation. For a reinstatement under s. 343.31 (1m), this subdivision does not apply to a person after 3 years have elapsed since the reinstatement of the operating privilege of the person.

**SECTION 5.** 343.38 (1) (d) of the statutes is created to read:

343.38 (1) (d) If the person's operating privilege has been revoked under s. 343.31 (1m), satisfies all of the following:

1. The person has not been convicted of an offense that is a felony or a misdemeanor, that is counted under s. 343.307 (1) or specified under s. 351.02 (1) (a), and that was committed during the 10-year period immediately preceding the application for reinstatement.

2. Not more than 45 days before applying for reinstatement, the person submits to and complies 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.

**SECTION 6.** 343.44 (2) (ar) 2. of the statutes is amended to read:

343.44 (2) (ar) 2. Except as provided in subds. 2m., 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).

**SECTION 7.** 343.44 (2) (ar) 2m. of the statutes is created to read:

343.44 (2) (ar) 2m. Except as provided in subds. 3. and 4., any person who violates sub. (1) (b) shall be fined not more than \$10,000 or imprisoned for not more than one year or both if the revocation identified under sub. (1) (b) is under s. 343.31 (1m) and the person has been previously convicted of a violation of sub. (1) (b) where the

revocation identified under sub. (1) (b) was under s. 343.31 (1m).

**SECTION 8.** 343.44 (2p) (intro.) of the statutes is amended to read:

343.44 (2p) SENTENCING OPTION. (intro.) 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 revocation is a permanent revocation under s. 343.31 (1m) or if the suspension or revocation was for one of the following:

**SECTION 9. Nonstatutory provisions.**

(1) Notwithstanding section 16.42 (1) (e) of the statutes, if this subsection takes effect in fiscal year 2018-19, in submitting information under section 16.42 of the statutes for purposes of the 2019-21 biennial budget bill, the department of transportation shall submit information concerning the appropriation under section 20.395 (5) (cq) of the statutes as though the increase in the dollar amount of that appropriation by SECTION 10 (1) of this act had not been made.

**SECTION 10. Fiscal changes.**

(1) In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of transportation under section 20.395 (5) (cq) of the statutes, the dollar amount is increased by \$198,510 for the fiscal year in which this subsection takes effect to increase funding for purposes related to revocations of operating privilege under section 343.31 (1m) of the statutes.

**SECTION 11. Initial applicability.**

(1) This act first applies to violations committed on the effective date of this subsection, but does not preclude the counting of other convictions, suspensions, or revocations as prior convictions, suspensions, or revocations for purposes of administrative action by the department of transportation.

**SECTION 12. Effective dates.** This act takes effect on the first day of the 9th month beginning after publication, except as follows:

(1) SECTION 10 (1) of this act takes effect on the day after publication.