

CHAPTER 343

OPERATORS' LICENSES

- GENERAL PROVISIONS
- 343 01 Words and phrases defined.
 343.02 Administration of operators' license law.
- ISSUANCE, EXPIRATION AND RENEWAL OF LICENSES
- 343 05 Operators to be licensed; exceptions.
 343 06 Persons not to be licensed.
 343 07 Instruction permits.
 343 08 Restricted licenses for persons under 18 years of age.
 343 085 Probationary licenses to new drivers.
 343 09 Temporary licenses for epileptics.
 343 10 Occupational licenses.
 343 11 Temporary license for persons previously licensed in another state.
 343 12 School bus operators to obtain special license.
 343 125 Chauffeurs to obtain special license; chauffeur's license for taxi drivers.
 343 126 Limited chauffeur's license after revocation.
 343 13 Restricted licenses.
 343 14 Application for license.
 343 15 Application of persons under 18; liability of sponsors; release from liability; notification of juvenile violation.
 343 16 Examination of applicants; re-examination of licensed persons.
 343 17 Contents and issuance of license.
 343 18 License to be carried; verification of signature.
 343 19 Duplicate licenses.
 343 20 Expiration of licenses.
 343 21 License fees.
 343 22 Notice of change of address or name.
 343 23 Records to be kept by the division.
- CANCELLATION, REVOCATION AND SUSPENSION OF LICENSES
- 343 25 Cancellation of licenses.
 343 26 License after cancellation.
 343 27 Accused to be instructed as to mandatory revocation and demerit point provisions.
 343 28 Courts to report convictions and forward licenses to the division.
 343 30 Suspension and revocation by the courts.
 343 305 Suspension of license on refusal to submit to chemical tests for intoxication.
- 343 31 Mandatory revocation of licenses after certain convictions.
 343 32 Other grounds for revocation of licenses.
 343 325 Courts to report appeals; when appeal stays revocation.
 343 33 Hearing on revocations.
 343 34 Suspension of licenses.
 343 345 Suspension for juvenile's failure to pay forfeiture.
 343 35 Surrender of licenses upon cancellation, revocation or suspension.
 343 36 Division to distribute suspension and revocation lists and nonresidents' records of conviction.
 343 37 No operation under foreign license during revocation or suspension.
 343 38 License after revocation or suspension; reinstatement of nonresident's operating privilege.
 343 39 When operating privilege automatically reinstated.
 343 40 Judicial review of suspension, revocation, cancellation or denial of license.
- UNLAWFUL PRACTICES RELATIVE TO LICENSES
- 343 43 Unlawful use of license.
 343 44 Driving after license revoked or suspended.
 343 45 Permitting unauthorized person to drive.
 343 46 Duty of persons renting vehicles to another.
- LICENSING OF DRIVER SCHOOLS AND INSTRUCTORS
- 343 60 Definitions.
 343 61 License required for driver school; fee.
 343 62 License required for instructor; fee.
 343 63 Examination of applicants for instructor's license.
 343 64 Denial of driver school license.
 343 65 Denial of instructor's license.
 343 66 Revocation or suspension of driver school license.
 343 67 Revocation or suspension of instructor's license.
 343 68 Renewal no bar to revocation of license.
 343 69 Hearings on license denials and revocations.
 343 70 Loss or surrender of licenses.
 343 71 Driver schools to maintain records.
 343 72 Rules for conducting driver schools; prohibited practices.
 343 73 Penalty.
 343 75 Control group testing by administrator.

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 chs. 343 and 344 the following words and phrases have the designated meanings:

(a) "Conviction" or "convicted" means that the court of original jurisdiction has made an adjudication of guilt, including such an adjudication made on a plea of nolo contendere. It is immaterial that an appeal has been taken. "Conviction" or "convicted" also includes:

1. A forfeiture of deposit under ss. 345.26 and 345.37, which forfeiture has not been vacated;

2. A stipulation of no contest pursuant to s. 345.27;

3. An adjudication of having violated a local ordinance enacted under ch. 349;

4. A finding by a juvenile court under ch. 48 of a violation of chs. 341 to 349 or a local ordinance enacted under ch. 349.

(b) "License" means any authority to operate a motor vehicle granted pursuant to ch. 343, including temporary and restricted licenses, chauffeurs' licenses and instruction permits, unless the context clearly indicates a different or more restricted meaning.

(c) "Other jurisdiction" or "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.

(d) "Record of conviction" means the report of conviction furnished to the division as required by this chapter, including a report of a forfeiture of deposit, stipulation of no contest, adjudication of ordinance violation or finding of a juvenile court as specified in par. (a).

(e) "Chauffeur" means every person, including the vehicle owner, who is employed for the principal purpose of operating a motor vehicle or when one of the principal duties is the operation of a truck for a major portion of his full working week, and every person who operates a motor vehicle while in use as a public carrier of persons or property for hire, except that a person is not a chauffeur within the meaning of this paragraph solely because:

1. He is engaged in operating or employed for the principal purpose of operating a motor vehicle in connection with providing funeral services; or

2. He is engaged in operating or employed for the principal purpose of operating a school bus, or a motor bus transporting children or school groups to or from a private school or to or from points designated by such private school; or

3. He is engaged in operating a farm truck and he is either the owner of the farm truck or a member of the owner's immediate family or an employe of the owner not employed primarily for the purpose of operating the farm truck; or

4. He is engaged in operating or employed for the principal purpose of operating a motor truck having a registered gross weight of not more than 16,000 pounds transporting unprocessed farm products.

5. He is engaged in operating an automobile or light truck and he is a student employed part time for drop-off or delivery purposes and is not carrying for hire.

6. He is engaged in operating or employed for the principal purpose of operating a motor truck having a registered gross weight of not more than 24,000 pounds transporting perishable fresh fruits or vegetables for canning or freezing within this state, provided he is not less than 18 years of age.

7. He is engaged in operating, or employed for the purpose of operating, a taxicab.

History: 1971 c. 164 s. 83; 1971 c. 278.

343.02 Administration of operators' license law. The division shall administer and enforce ch. 343.

History: 1971 c. 164 s. 83

ISSUANCE, EXPIRATION AND RENEWAL OF LICENSES

343.05 Operators to be licensed; exceptions. (1) Except as provided in sub. (2), no

person shall operate a motor vehicle upon a highway in this state unless such person has a license issued to him by the division, which license is not revoked, suspended, cancelled or expired. A valid chauffeur's license satisfies the requirements of this section only when the licensee is operating a vehicle in the performance of his duties as chauffeur. No person shall operate a motor-driven cycle unless he possesses a valid operator's license which has been specifically indorsed for motor-driven cycle operation.

(1a) 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 when such person's license is revoked or suspended.

(2) The following are exempt from the licensing requirements of ch. 343:

(a) Any person in the armed services while operating a motor vehicle owned by or leased to the United States government.

(b) Any person while operating any farm tractor or implement of husbandry temporarily operated or moved on a highway.

(c) Any nonresident who is at least 16 years of age and who has in his immediate possession a valid license issued to him in his home jurisdiction.

(d) Any person who speaks and reads the English language who holds an international license validated for use in the United States under either the 1943 regulation of inter-American automotive traffic or the 1949 Geneva convention on road traffic.

(e) Any person who speaks or reads the English language who holds a valid operator's license issued by West Germany, Japan or Switzerland.

(f) Exemptions under pars. (d) and (e) shall be for a period of one year only.

(3) Any person violating sub. (1) may be fined not more than \$100 or imprisoned not more than 6 months or both for the first offense and shall be fined not more than \$100 and imprisoned not less than 5 days nor more than 6 months for the 2nd offense and shall be fined not more than \$100 and imprisoned not less than 10 days nor more than 6 months for the 3rd conviction within 3 years.

History: 1971 c. 164 s. 83

Cross reference: See 343.37 for limitations on nonresident operators.

See note to 347.485, citing 58 Atty. Gen. 17

343.06 Persons not to be licensed. The division shall not issue a license:

(1) 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.

(2) 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.

(3) To any person under age 18 unless such person has satisfactorily completed a course in driver education in public schools approved by the department of public instruction, or in vocational, technical and adult education schools approved by the board of vocational, technical and adult education, and in nonpublic and private schools which meet the minimum standards set by the department of public instruction, or has satisfactorily completed a substantially equivalent course in driver training given by a school licensed by the division of motor vehicles under s. 343.61 and has attained the age of 16, except as provided in ss. 343.07 and 343.08. Such substantially equivalent course must be approved by the department of public instruction. The administrator shall prescribe rules for licensing of schools and instructors to qualify under this section. The driver education course shall be made available to every eligible student in the state. No operator's license shall be issued unless a driver's examination has been administered by the division of motor vehicles.

(4) To any person who is an habitual drunkard or who is addicted to the use of controlled substances as defined in s. 161.01 (4), unless one of the following conditions is fulfilled and then only in the discretion of the administrator:

(a) The applicant at the time of application has been legally declared to have recovered; or

(b) The applicant, in case he has been institutionalized, exhibits the certificate of the superintendent of the institution to the effect that the applicant has recovered or has been absolutely or conditionally released from the institution and, in the superintendent's opinion, is competent to drive a motor vehicle; or

(c) The applicant, in lieu of the certification specified in par. (b), submits to such medical or other examination as the division directs for the purpose of determining his recovery or his competency to drive a motor vehicle.

(5) To any person who has been adjudged mentally ill or mentally deficient, unless one of the following conditions is fulfilled and then only in the discretion of the administrator:

(a) The applicant at the time of application has been judicially declared restored to competency; or

(b) The applicant, in case he has been institutionalized, exhibits the certificate of the superintendent of the institution to the effect that he has recovered or has been released from the institution, absolutely or conditionally or on temporary discharge, and that, in the superintendent's opinion, the applicant is competent to drive a motor vehicle; or

(c) The applicant, in lieu of the certification specified in par. (b), submits to such medical or other examination as the division directs for the purpose of determining his recovery or his competency to drive a motor vehicle.

(6) To any person subject to epileptic seizures, except as provided in s. 343.09.

(7) To any person who is afflicted with or suffering from any mental or physical disability or disease such as to prevent him from exercising reasonable control over a motor vehicle.

(8) 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 administrator.

(9) 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 division pertaining thereto.

(10) To any person when the administrator 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.

(11) To any person who has been convicted of any offense specified under ss. 944.01, 944.02, 944.10 (2) and (3), 944.11, 944.12 and 944.17 or adjudged delinquent under ch. 48 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. Such prohibition against issuance of a license to said offenders shall apply forthwith upon receipt of a record of such conviction and such court finding by the administrator, for a period of one year or until discharge from any jail or prison sentence or any period of probation or parole with respect to the offenses specified, whichever date is the later. Receipt by such offender of a certificate of discharge from the department of health and social services or other responsible supervising agency shall, after one year has elapsed since said prohibition began, entitle the holder thereof to apply for an operator's license. Such applicant may be required to present his certificate of

discharge to the administrator if the latter deems it necessary.

History: 1971 c 40 s 93; 1971 c 154 s. 79 (3); 1971 c 219.

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.

343.07 Instruction permits. (1) **ISSUANCE, RESTRICTIONS.** Upon application therefor by a person at least 15 years and 6 months of age who, except for his age or lack of training in the operation of a motor vehicle, is qualified to obtain a license, the division may issue an instruction permit. The permit entitles the permittee, to operate a motor vehicle, except a motor-driven cycle, upon the highways, subject to the following restrictions:

(a) If the permittee is at least 16 years of age, he shall not operate a motor vehicle unless he is accompanied by a qualified instructor, or a licensed person with at least 2 years of licensed driving experience, who presently holds a valid license, occupying the seat beside the permittee. No other passengers are allowed in the vehicle except as provided in par. (c).

(b) A permittee under the age of 16 is restricted to operation of a motor vehicle only while accompanied by a qualified instructor, or his parent or guardian who meets the other qualifications of par. (a). Upon reaching the age of 16, the permittee gains the privilege of any other permittee.

(c) If the licensed accompanying operator is a qualified instructor and the vehicle used for instruction by the school is equipped with dual controls, up to 3 other persons may occupy seats 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 him; 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 his ability to operate a motor vehicle.

(2) **TRAINING CERTIFICATE REQUIRED.** Except for persons who qualify for a license under s. 343.08, the division 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 shall be valid for 6 months except that it may be canceled upon receipt of information, by the administrator, of noncompletion or unsatisfactory completion of a driver education and training course by a permittee under the age of 18.

(4) **INSTRUCTION PERMITS; MOTOR-DRIVEN CYCLE.** (a) Any person who wishes to qualify for the operation of a motor-driven cycle must first hold a valid operator's license by qualifying with an automobile, such license being indorsed as a temporary instruction permit with reference to a motor-driven cycle or a special temporary instruction permit for motor-driven cycle operation may be issued.

(b) Such permit shall be valid for 6 months and entitles the permittee to operate a motor-driven cycle subject to the following restrictions:

1. No passenger shall accompany the permittee except that a person with at least 2 years of licensed driving experience and whose license is indorsed for motor-driven cycle operation may ride as a passenger-instructor.

2. The permittee shall not operate a motor-driven cycle during hours of darkness unless accompanied by a licensed person 25 years of age or more and meeting the requirements of subd. 1.

(5) **DEFINITION.** In this section, "qualified instructor" means a person employed by a public or private school, holding an operator's license and meeting the teaching certification standards of the department of public instruction or the board of vocational, technical and adult education 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.

History: 1971 c 164; 1973 c 199

343.08 Restricted licenses for persons under 18 years of age. (1) Upon application therefor, the division 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 division must be satisfied that it is necessary for the applicant to operate either an automobile, farm truck or power driven cycle owned and registered by his parent or guardian.

(b) The applicant, accompanied by his 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 his ability to safely operate the type of

vehicle which he is making application for license to operate.

(d) If the application is for a license to operate a power driven cycle, the dealer from whom the power driven cycle was originally purchased or the manufacturer of the vehicle must have certified on a form to be supplied by the division that the vehicle meets all the specifications set forth in sub. (3).

(2) A restricted license issued pursuant to this section is valid only until the licensee secures a regular operator's license or reaches 18 years of age and entitles him to operate either an automobile or farm truck owned and registered by his parent or guardian or a motor-driven cycle owned and registered by his parent or guardian or both, depending on the restrictions placed by the division on the particular license. 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 in a city having a population of 500,000 or more or to operate a commercial motor truck, motor bus or taxicab.

(3) In this section, "power driven cycle" means a motor vehicle of the cycle type designed to travel on not more than 3 wheels, having a seat for use of the rider, weighing between 100 and 300 pounds fully equipped but without gasoline or oil, designed to travel not over 35 miles per hour with a 150-pound rider on a dry, level, hard surface with no wind and having brakes as specified in s. 347.35 (2) and lights as specified in ss. 347.09 and 347.13 (1).

343.085 Probationary licenses to new drivers. (1) Except as provided in sub. (2), the division shall issue a probationary license to all applicants for original license. The probationary license shall remain in effect during the entire period of the first issuance of an operator's license. Such license shall be of a special identifying color.

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

(3) The administrator 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. (4) and either holds a license issued under this section or by age comes under this section. The administrator may revoke such a person's operating privilege under this section if such person has a previous suspension under this section.

(4) The administrator 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 division to have repeatedly violated any of the state traffic laws or any local ordinance in conformity therewith. For the purpose of determining when to suspend or to continue a person on probationary status, the administrator 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 revocations under s. 343.32.

History: 1971 c 204

343.09 Temporary licenses for epileptics.

(1) The division may issue a temporary license to any person afflicted with epilepsy who is otherwise qualified to obtain a license, provided such person submits to the division a certificate in the form prescribed in sub. (2). Unless sooner revoked, suspended or canceled, such license continues in force as long as the licensee presents to the division 6 months from the date of issuance of such license and at 6-month intervals thereafter a certificate in the form prescribed in sub. (2), except that in no event is such license valid beyond the date of expiration shown on the license. On such date, the license is subject to renewal.

(2) The division shall not issue a license pursuant to this section unless the applicant has submitted to a physical examination by a physician or surgeon duly licensed to practice medicine in this state and unless such examining physician or surgeon has completed and signed the certificate required by sub. (1). Such certificate shall be devised by the administrator with the advice of such qualified experts in the field of diagnosing and treating epilepsy as he may select to assist him and shall be designed to elicit the maximum medical information necessary to aid in determining whether or not it would be a hazard to public safety to permit the applicant to operate a motor vehicle, including, if such is the fact, the examining physician's statement that the applicant is under medication and free from seizures while under medication. The certificate shall contain the recommendation of the examining physician to the administrator as to whether a temporary license should be issued to the applicant.

(3) The administrator is not bound by the recommendation of the examining physician but shall give fair consideration to such recommendation in exercising his discretion in acting upon the application, the criterion being whether or

not, upon all the evidence, it appears that it is safe to permit the applicant to operate a vehicle. The burden of proof of such fact is upon the applicant. In deciding whether to issue or deny a license the administrator may be guided by opinion of experts in the field of diagnosing and treating epilepsy and may take into consideration any other factors which bear on the issue of public safety.

(4) Whenever a license is denied by the administrator, such denial may be reviewed by a reviewing board upon written request of the applicant filed with the division within 10 days after receipt of notice of such denial. Reviewing boards shall consist of the administrator or his representative and 2 physicians from a list of physicians designated by the state health officer. The physicians designated by the state health officer shall be licensed to practice medicine in this state and shall receive the per diem and expenses provided in s. 15.08 (7) which shall be charged to the appropriation for the department of health and social services. Actions of the reviewing boards are subject to judicial review under s. 343.40.

History: 1971 c. 164 s. 82; 1973 c. 177

343.10 Occupational licenses. (1) If a person has had his chauffeur's license revoked he may file a petition with the administrator for a limited chauffeur's license under s. 343.126. If a person has had his license revoked under s. 343.30 (1q) or 343.31 (1) (b), (c), (d) or (e) 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 justice court 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 offense requiring the revocation or suspension of his license or resulting in an order revoking or suspending his license within the 18-month period immediately preceding the present conviction, the judge may order the administrator 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. If the petitioner holds a valid chauffeur's license at the time of filing petition the order for issuance shall further restrict operation under the occupational license to travel only between the licensee's place of residence and his place of employment, in addition to operation permitted under the chauffeur's license. The court may permit travel to and from church but such order shall specify

the hours during which such travel is to be permitted. A copy of the petition and the order for the occupational license shall be forwarded to the division. No order for an occupational license shall be issued until at least 30 days have elapsed, since the date of conviction or, in the case of an appeal which is subsequently dropped or affirmed, until at least 30 days have elapsed since the date of revocation following the dropping or affirmance of the appeal. If a certificate of insurance issued by the insuring company or an agent of the insuring company is submitted to the court, the court may issue a 30-day temporary occupational license. Such license shall be on forms provided to the court by the division.

(2) No person 18 years of age or over shall file a petition for an occupational license unless he first pays to the county treasurer a fee of \$5. The treasurer shall give such person a receipt and shall pay the full amount of the fee to the state treasurer for deposit in the general fund.

(3) The division shall issue an occupational license upon receipt of a court order for such a license if at least 30 days have elapsed since the conviction or, in the case of an appeal which is subsequently dismissed or affirmed, if at least 30 days have elapsed since the date of revocation following the dismissal or affirmance of the appeal and if proof of financial responsibility covering all vehicles which the applicant will be permitted to operate has been furnished as specified in s. 343.38 (1) (c).

(4) The occupational license issued by the division 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.

(6) Any person convicted of violating any restriction of an occupational license may, in addition to the immediate revocation of the license, be required to forfeit not less than \$50 nor more than \$200.

History: 1973 c 90, 218

Temporary occupational licenses may be issued only after 30 days from the date of conviction. 60 Atty Gen 364.

343.11 Temporary license for persons previously licensed in another state. (1)

The division shall not issue a license to a person previously licensed in another jurisdiction unless such person surrenders to the division all valid operator's licenses in his possession issued to him 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 his license to the division, the division 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 himself and other users of the highways. Such receipt shall be surrendered to the examiner for cancellation by the division 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) Upon the expiration of 30 days following the application, the division shall return all surrendered licenses to the issuing department together with information that the licensee is now licensed in this state or has been refused a license by this state, whichever the case may be.

(3) The division may issue a receipt to any applicant for a first operator's license in this state, a renewal of a previous license in this state or an original or renewal of a school bus operator's license or chauffeur's 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 30 days. No such temporary license shall be issued to any applicant for reinstatement of an operating privilege which was revoked or canceled.

History: 1971 c 204.

343.12 School bus operators to obtain special license. (1) No person shall operate a school bus, or a motor bus transporting children or school groups to or from a private school or to or from points designated by such private school, without having first applied for and received a school bus operator's license.

(2) The division shall issue a school bus operator's license to a person only if such person meets all of the following requirements:

(a) Is at least 18 years and not more than 70 years of age.

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

(d) Has not been convicted of reckless driving under s. 346.62, operating a motor vehicle while under the influence of an intoxicant or of a controlled substance under s. 346.63 (1) (a), or any of the offenses enumerated under s. 343.31 (1), within the 2-year period immediately preceding the date of application.

(e) Has not been convicted of a felony or offense against public morals within the past 5 years.

(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 of public instruction.

(h) Takes and passes once each year a special examination prescribed and administered by the division to determine his ability to safely operate a school bus.

(3) Any person violating sub. (1) may be required to forfeit not more than \$100.

History: 1971 c 213 s 5; 1973 c 174, 218

343.125 Chauffeurs to obtain special license; chauffeur's license for taxi drivers. (1) No person shall operate a motor vehicle as a chauffeur upon any highway in this state unless such person holds a valid chauffeur's license issued to him by the division pursuant to this section or s. 343.126.

(2) No person shall hire any person to operate a motor vehicle as chauffeur unless such employe is duly licensed as required by sub. (1).

(3) No person shall hire any person to operate a motor vehicle as chauffeur unless such employe is duly licensed as required by sub. (1).

(3) Any person violating sub. (1) or (2) may be required to forfeit not more than \$100.

(4) The division shall issue a chauffeur's license to a person whether or not he holds a valid operator's license, but only if such person:

(a) Is at least 18 years of age; and

(b) Except as otherwise provided, takes and passes a special examination which indicates that he has practical knowledge of the construction, mechanism and operation of motor vehicles and a sufficient knowledge of the traffic laws of the state and other needful qualifications, including physical qualifications, to enable him to drive with safety. It shall be the general policy of the division not to require such examination

for renewal of a chauffeur's license prior to the expiration thereof.

(4a) The division may issue a chauffeur's license for the operation of a taxicab to an applicant who is otherwise qualified and who has passed the examination required of a private operator. Such license shall be restricted to the operation of a taxicab only.

(4b) To any person who holds a valid operator's license, who has never been denied a chauffeur's license for any cause and who advises the division that he desires a chauffeur's license for the operation of a taxicab and makes appropriate application, the division shall forthwith issue a temporary permit restricted to the operation of a taxicab and valid for 30 days from issue. The permit shall have the force of a chauffeur's license; and nothing contained in this chapter shall be construed to bar, restrict or penalize the operation of a taxicab by the permit holder. The division may renew the temporary permit for an additional period not to exceed 30 days if it determines that delay in issuance of the chauffeur's license is not primarily the fault of the applicant.

(5) Any person who holds a valid operator's license issued to him by the division and who on July 1, 1959, was operating a motor vehicle for the operation of which a chauffeur's license is required, shall be granted a chauffeur's license automatically by the division upon application therefor and payment of a fee of \$2, provided such application is made prior to September 1, 1960. The applicant shall present a certification, signed by his employer, to the effect that the applicant is employed as a chauffeur or, if the applicant is self-employed, a statement by such applicant to the effect that he works as a chauffeur.

History: 1971 c 164 s 83; 1973 c 218

343.126 Limited chauffeur's license after revocation. (1) When at least 30 days of a period for which a person's chauffeur's license has been revoked have elapsed or, in the case of an appeal which is subsequently dropped or affirmed, if at least 30 days have elapsed since the date of revocation following the dropping or affirmance of the appeal, the administrator may, upon application therefor accompanied by a filing fee of \$5, issue a limited chauffeur's license to such person if:

(a) Such person's livelihood depends upon his employment as a licensed chauffeur; and

(b) Proof of financial responsibility covering all vehicles which the applicant will be permitted to operate has been furnished as specified in s. 343.38 (1) (c).

(2) The administrator may impose such conditions and limitations upon such limited

chauffeur's license as in his judgment are necessary in the interest of public safety and welfare, including reexamination as to the chauffeur's qualifications. Such license may be limited to the operation of particular vehicles, to particular classes of operation and to particular conditions of traffic.

History: 1971 c 164 s 82

343.13 Restricted licenses. The division 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 division may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

343.14 Application for license. (1) Every application to the division for a license or for renewal thereof shall be made upon a form furnished by the division and shall be accompanied by the required fee.

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

(a) The full name, residence and business address and occupation of the applicant;

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

(c) A statement as to whether the applicant has heretofore been licensed as an operator or chauffeur 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, the signature of an adult sponsor as provided in s. 343.15 (1);

(f) Such further information as the division may reasonably require to enable it to determine whether the applicant is by law entitled to the license applied for.

(3) Any person who uses a false or fictitious name in any application for a license or knowingly makes a false statement or knowingly conceals a material fact or otherwise commits a fraud in any such application may be fined not more than \$100 or imprisoned not more than 6 months or both.

343.15 Application of persons under 18; liability of sponsors; release from liability; notification of juvenile violation. (1) The

application of any person under 18 years of age for a license shall be signed and verified before a person duly authorized to administer oaths, by either of the applicant's parents; or if neither parent has custody, then by the person or guardian having such custody or by the applicant's employer, subject to the exception stated in sub (4). If the adult sponsor is the applicant's parent, the application may be signed and verified before a traffic officer or before a duly authorized agent of the department in lieu of being signed and verified before a person duly authorized to administer oaths.

(2) Any negligence or wilful 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 parent 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 wilful misconduct.

(3) Any adult who signed the application of a person under the age of 18 years for a license may thereafter file with the administrator a verified written request that the license of such minor be canceled. Within 10 days after the receipt of such request the administrator 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 his having signed such application, or being a parent or guardian, insofar as any negligence or wilful misconduct on the part of the minor while operating a motor vehicle subsequent to the cancellation concerned.

(4) The division 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 specifically enumerated herein 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 division. Such policy may be canceled or terminated only after notice as provided in s. 344.34.

(a) A person who does not have a living parent.

(b) A person who does not reside at home and who is earning his own livelihood.

(c) 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.

(d) A person who is married and whose spouse is under 18 years of age.

(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 a person who is under 18 years of age and required to have a sponsor under this section, the issuing agency shall, within 7 days, notify the person's sponsor or parents of the violation.

History: 1971 c. 45; 1971 c. 213 s. 5; 1971 c. 223; 1973 c. 90

See note to 204.30, citing *Limpert v. Smith*, 56 W (2d) 632, 203 NW (2d) 29

343.16 Examination of applicants; re-examination of licensed persons. (1) (a)

The division shall examine every applicant for an operator's license, subject to the following general policy:

1. The examination for persons making their first application for an operator's license shall include a test of the applicant's eyesight, his ability to read and understand highway signs regulating, warning and directing traffic, his knowledge of the traffic laws, including s. 346.26, and an actual demonstration of his ability to exercise ordinary and reasonable control in the operation of a motor vehicle. The division may require persons changing their residence to this state from another jurisdiction, persons applying for a reinstated license after termination of a revocation period and any person who has received more than 6 demerit points under s. 343.32 (2) at any time since his last renewal unless during the preceding year he has participated in the driver improvement program under s. 343.32 (2), to take all or parts of the examination required of persons making their first application for a driver's license. Any applicant who is required to give an actual demonstration of his ability to exercise ordinary and reasonable control in the operation of a motor vehicle shall furnish a vehicle in safe operating condition for use in testing his ability.

2. In addition to those examinations specified in subd. 1, the division shall examine every applicant for the renewal of an operator's license once every 4 years. The division 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. The examination shall consist of a test of eyesight. The division 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 his place of residence or at such time and place as the division designates in answer to an applicant's request. In lieu of examination, the applicant may present or mail to the division a report of examination of his eyesight by his ophthalmologist, optometrist or

physician licensed to practice medicine in this state. 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 division. The division shall decide whether, in each case, the eyesight reported is sufficient to meet the current eyesight standards.

(am) The administrator shall develop new and revised standards to govern driver license examinations and re-examinations, taking into consideration any federal standards or requirements which may apply. A public hearing shall be held before a joint session of the assembly committee on highways and the senate committee on highways to review such proposed standards. Such standards shall enter into effect only upon approval as a joint resolution by a majority of the members of the assembly and of the senate.

(b) An applicant who holds an expired instruction permit, expired out-of-state license or who seeks to reinstate his operating privilege may drive a motor vehicle only when accompanied by an authorized license examiner for the purpose of examining his ability to operate a motor vehicle. Such applicant must be driven to and from the examining area by a licensed driver.

(c) The division shall examine every applicant for a license to operate a motor-driven cycle.

(d) 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 his ability to operate a motor vehicle.

(2) The administrator may in his discretion require any applicant for a license or any licensed operator to submit to a special examination by such persons or agencies as the administrator may direct to determine incompetency, physical or mental disability, disease or any other condition which might prevent such applicant or licensed person from exercising reasonable and ordinary control over a motor vehicle. When the division requires the applicant to submit to a physical examination, the applicant shall pay the cost thereof.

(3) (a) Whenever the administrator has good cause to believe that a licensed operator is incompetent or otherwise not qualified to be licensed, he may, upon written notice of at least 5 days to the licensee, require him to submit to an examination including all or part of the tests specified in sub. (1). Upon the conclusion of such examination the administrator 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 he may order or without restrictions.

(b) Whenever the division 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.

(4) 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 his 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.

(5) 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

343.17 Contents and issuance of license.

(1) The division shall issue to every applicant qualifying therefor and who has paid the required fee a license as applied for, which license shall bear thereon a distinguishing number assigned to the licensee, the date of expiration of the license, the full name, date of birth and residence address and a brief description of the licensee, and either a facsimile of the licensee's signature or a space upon which he shall write his usual signature with pen and ink immediately upon receipt of the license. No license is valid until it has been so signed, unless the facsimile signature of the licensee appears thereon.

(2) The various types of licenses issued by the division pursuant to this chapter shall be in such form or so designed, colored or marked that each type may readily be distinguished from the others. If the license is subject to restrictions, they shall be shown on the license.

(3) (a) The licensee may affix a decal on the front of the license to the right of the address, 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 decal shall not conceal any of the contents required by subs. (1) and (2). Such decal shall be of a distinctive design and supplied to the donor by a nationally recognized organization which enlists donors of body organs or parts for the purpose of transplantation, therapy, medical research or education. The

decal shall not be larger than one-half inch in diameter.

(b) The use of the decal on the motor vehicle operator's license is proper or authorized only if the bearer has indicated his intent to make body organs or parts available for the above purposes by carrying a duly signed and witnessed donor card as authorized by the uniform anatomical gift act.

History: 1971 c 140.

343.18 License to be carried; verification of signature.

(1) Every licensee shall have his license in his immediate possession at all times when operating a motor vehicle and shall display the same upon demand from any judge, justice or traffic officer. However, no person charged with violating this section shall be convicted if he produces in court or in the office of the arresting officer a license theretofore issued to him and valid at the time of his arrest.

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

343.19 Duplicate licenses. (1) If a license issued pursuant to this chapter is lost or destroyed, the person to whom the license was issued may obtain a duplicate thereof or substitute therefor upon furnishing proof satisfactory to the division that such license has been lost or destroyed. If the original license is found it shall immediately be transmitted to the division.

(2) Any person who knowingly makes a false statement in an application for a duplicate license or fails to return the original to the division upon finding it may be required to forfeit not more than \$100.

History: 1973 c 218.

343.20 Expiration of licenses. (1) Except as otherwise expressly provided in this chapter, chauffeur's licenses shall expire one year after the date of issuance and other licenses shall expire 2 years after the date of issuance, but the division may institute any system of license renewals which it deems advisable for the purpose of gaining a uniform rate of renewals and, in order to put such system into operation, may issue original licenses which are valid for any fraction of a year in excess of the ordinary effective period of such license and may issue a renewal operator's license from an application made after expiration of the previous license which may be valid for 2 years from the date of expiration of such previous license.

(2) The division shall mail to the last-known address of a licensee at least 30 days prior to the expiration of his license a notice of the date upon

which such license must be renewed. Failure to receive notice to renew such license shall not be a defense to a charge of operating a motor vehicle without a valid operator's license.

(3) Any person who holds a valid license and who is unable to make a renewal application within the period declared by the division, due to his serving with any branch of the armed services, may apply for a renewal of his license at any time during such service or within 6 months after the date of his discharge from such services. The division shall charge only the standard renewal fee upon renewal of such license.

343.21 License fees. (1) The following fees shall be paid to the division for conducting examinations and for the issuance, renewal and reinstatement of licenses and instruction permits:

(a) For the issuance of an instruction permit, \$5.

(b) For the issuance of a license, other than a chauffeur's license, to a person not previously licensed in this state or previously licensed only under s 343.08, \$6.50. No fee shall be charged for issuance of a restricted license under s 343.08.

(ba) For the issuance of a chauffeur's license, \$4.

(c) For the renewal of a license, \$4.

(d) For the reinstatement of a license after cancellation or which was not renewed prior to the date of expiration, \$2 in case of an instruction permit and \$4 in case of any other license.

(e) For the reinstatement of a license previously revoked, \$25.

(f) For the issuance of a duplicate license, \$2, except that no fee shall be charged if the reason for issuance of the duplicate license is a change of name and the original license is returned with the application.

(g) In addition to the fees set for the issuance of the licenses enumerated under pars. (b), (ba) and (e), there shall be paid to the division an examination fee of \$2. Payment of such examination fee shall entitle the applicant to not more than 3 tests of his ability to exercise reasonable control in the operation of a motor vehicle. If the applicant does not qualify for issuance of a license in 3 such tests, then a second examination fee of \$2 shall be paid, which payment shall entitle the applicant to not more than 3 additional tests.

(h) For the validation of a current operator's license for operation of a motor-driven cycle, \$2.

(j) For the reinstatement of a license previously suspended under this chapter, \$10.

History: 1973 c 90, 309

343.22 Notice of change of address or name. (1) Whenever any person, after applying for or receiving a license, moves from the address named in such application or in the license issued to him, or when the name of a licensee is changed by marriage or otherwise, such person shall within 10 days thereafter notify the division in writing of his old and new address or of such former and new names and of the number of any license then held by him. If there has been a change of name, the licensee shall return his original license to the division at the time of giving the notice required by this section and shall make application for a duplicate license showing his correct name and address. If there has only been a change of address, the licensee shall endorse his new address on his present license and need not apply for a duplicate.

(2) 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

343.23 Records to be kept by the division.

(1) The division shall file every application for license received by it and shall maintain suitable indices 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 licensee whose license has been suspended, revoked or canceled by the division and note thereon the reason for such action.

(2) The division shall maintain a file for each licensee containing the application for license, a record of reports or abstract of convictions, and a record of any reportable accident in which the licensee has been involved. This information must be filed by the division so that the complete operator's record is available for the use of the administrator in determining whether operating privileges of such person shall be suspended, revoked, canceled or withheld in the interest of public safety. Such reports and records may be cumulative beyond the period for which a license is granted, but the administrator, in exercising the power of revocation granted him 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 revocation.

CANCELLATION, REVOCATION AND SUSPENSION OF LICENSES.

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

(1) Whenever he determines that the license 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 administrator 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.

When a demand for surrender and cancellation of a driver's license is made under this section or statutes incorporated therein by reference, the department should identify the particular provision relied on. Where the driver had had 3 lapses into unconsciousness within 6 months, his license could be cancelled without a hearing. *Gleason v Dept of Transportation*, 61 W (2d) 562, 213 NW (2d) 74.

343.26 License after cancellation. Any person whose license has been canceled, whether the license has been canceled by the administrator or stands canceled as a matter of law, may apply for a new license at any time. Upon receipt of the application and the required fee, the division shall issue or refuse issuance of the license as upon an original application. The division may, but need not, require the applicant to submit to an examination as provided in s. 343.16.

343.27 Accused to be instructed as to mandatory revocation and demerit point provisions.

(1) Whenever a person is charged with a violation of law which requires upon conviction that his operating privilege be revoked, the enforcement officer, city or village attorney or district attorney handling the case shall inform him that a plea of guilty or no contest or a forfeiture of deposit under ch. 345 will result in such revocation and shall require him to sign a statement to the effect that he has been so informed. One copy of such statement shall be given to the defendant, except where the statement and deposit are mailed under s. 345.25, and one copy shall be filed with the court. If the conviction will result in such person's operator's record being charged with demerit points as established by rule under s. 343.32 (2), such officer or attorney shall inform him that a plea of guilty or no contest or a forfeiture of deposit under ch. 345 will result in his operator's record being charged with demerit points as prescribed by such rules and shall inform him of the number of points which is cause for revocation of an operating privilege.

(2) Before taking the plea of a person charged with a violation of law which requires upon conviction that such person's operating privilege be revoked or that his operator's record be charged with demerit points as established by rule under s. 343.32 (2), the presiding judge or justice shall inform the defendant that conviction will result in his operating privilege being revoked or his record being charged with such points, including a statement as to the number of points which is cause for revocation. No deposit shall be forfeited on a charge concerning which a statement must be filed with the court under sub. (1), unless such statement has been so filed, but this shall not be construed to prevent revocation authorized by law on the basis of forfeiture of deposit or plea of guilty or no contest in a court in another jurisdiction even though the person in question was not given notice as provided in this section. Whenever a person has been convicted in this state on the basis of a forfeiture of deposit or a plea of guilty or no contest and such person was not informed as required by this section, he may, within 60 days after being notified of the revocation of his operating privilege, petition the court for reopening the judgment and for an opportunity to defend on the merits and the court shall so order. Such an order automatically reinstates the revoked operating privilege.

(3) Whenever a person is charged with a violation of law which requires upon conviction that his operating privilege be revoked or that his operator's record be charged with demerit points as established by rule under s. 343.32 (2), the official authorized to receive the stipulation of no contest shall inform the offender before accepting the stipulation that it will result in his operating privilege being revoked or his record being charged with such points, including a statement as to the number of points which is cause for revocation, and shall require him to sign a statement to the effect that he has been so informed. Such statement shall be a part of or attached to the stipulation of no contest.

History: 1971 c. 278.

Defendant, convicted of operating an automobile without the owner's consent, did not establish denial of due process in automatic revocation of his driver's license, where he does not show that he was not given notice, hearing and opportunity to present evidence. *Nusberger v. Div. of Motor Vehicles*, 352 F Supp 515

343.28 Courts to report convictions and forward licenses to the division.

(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 division the record of such conviction. The record of conviction forwarded

to the division shall state whether the offender was involved in an accident at the time of the offense and whether he was operating as a private person or as a chauffeur at the time of the offense.

(2) Whenever a person is convicted of any offense for which s. 343.31 makes mandatory the revocation by the administrator of such person's operating privilege, the court in which the conviction occurred shall require the surrender to it of any license then held by such person. 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 division the record of conviction and any surrendered licenses. The record of conviction forwarded to the division shall state whether the offender was involved in an accident at the time of the offense and whether he was operating as a private person or as a chauffeur at the time of the offense.

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

History: 1971 c. 278.

343.30 Suspension and revocation by the courts.

(1) A court may suspend or revoke 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. In exercising the authority to suspend or revoke an operating privilege, the court may suspend such privilege only when the operator has not had his operating privilege suspended or revoked previously, except under s. 344.14 (1), or when his present demerit point accumulation is not more than 25% above the demerit point accumulation set for suspension or revocation. In all other cases under this section, the court shall revoke the operating privilege of such operator.

(1m) A court shall suspend the operating privilege of a person for a period of not less than 30 days nor more than one year upon such person's conviction by the court for violating s. 346.04 (3). If such conviction makes the person subject to revocation under s. 343.32, the court shall immediately suspend the license, taking possession of such license and shall forward it to the division which shall proceed to act as authorized under s. 343.32. Any revocation by the administrator shall date from the day the court took possession of the license.

(1n) A court shall suspend the operating privilege of a person for a period of 15 days upon such person's conviction by the court of exceeding the speed limit as established by s. 346.57 (4) (h) or a higher speed limit

established under s. 349.11 (2) (a), by 20 or more miles per hour. If such conviction makes the person subject to revocation under s. 343.32, the court shall immediately suspend the license, taking possession of such license and shall forward it to the division which shall proceed to act as authorized under s. 343.32, but any revocation by the administrator shall date from the day the court took possession of the license.

(1q) A court shall revoke the operating privilege of a person for a period of not less than 90 days nor more than 6 months upon such person's first conviction for violating s. 346.63 (1) (a) or a local ordinance which is in conformity therewith except that the court shall revoke the operating privilege of a person who refuses to take a test under s. 343.305 for a period of not less than one year upon such person's first conviction for violating s. 346.63 (1) (a) or a local ordinance which is in conformity therewith. If a person licensed as a chauffeur is convicted for operation of a motor vehicle while under the influence of intoxicating liquor and such person was not operating a vehicle as a chauffeur at the time of the offense, his chauffeur's license shall not be revoked under this section.

(2d) A court may suspend or revoke a person's operating privilege upon conviction of any offense specified under ss. 944.01, 944.02, 944.10 (2) and (3), 944.11, 944.12 and 944.17, when the court finds that it is inimical to the public safety and welfare for the offender to have operating privileges. The suspension or revocation shall be for one year or until discharge from prison or jail sentence or probation or parole with respect to the offenses specified, whichever date is later. Receipt of a certificate of discharge from the department of health and social services or other responsible supervising agency shall, after one year has elapsed since such suspension or revocation, entitle the holder thereof to reinstatement of his operating privileges. He may be required to present such certificate to the administrator if the latter deems necessary.

(2m) A court may suspend a person's operating privilege upon such person's first conviction for violating s. 346.93 and may revoke a person's operating privilege upon such person's second or subsequent conviction for violating s. 346.93. Such suspension or revocation shall be for a period of not less than 30 days nor more than one year.

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

(4) Whenever a court or judge suspends or revokes an operating privilege, the court or judge

shall immediately take possession of any suspended or revoked license and shall forward it as provided in s. 345.48 to the division together with the record of conviction and notice of suspension or revocation. Whenever a court or judge restricts the operating privilege of a person such restriction shall be endorsed upon the operator's license and notice of such restriction forwarded to the division.

(5) No court shall suspend or revoke an operating privilege except as authorized by this chapter or ch. 345.

(6) (a) A court shall restrict or suspend the operating privilege of a person under the age of 18 convicted under s. 66.054 (24) for unlawful possession of fermented malt beverages, for any period not exceeding one year in addition to the penalties provided in s. 66.054 (24).

(b) A court shall restrict or suspend the operating privilege of a person convicted of a violation of s. 176.31 (1) or (2) for any period not to exceed one year.

History: 1971 c. 213 s. 5; 1971 c. 278; 1973 c. 70, 218

343.305 Suspension of license on refusal to submit to chemical tests for intoxication.

(1) Any person who drives or operates a motor vehicle upon the public highways of this state, or in those areas enumerated in s. 346.61, shall be deemed to have given consent to a chemical test of his breath, blood or urine, for the purpose of determining the alcoholic content of his blood if arrested and issued a citation for driving or operating a motor vehicle while under the influence of an intoxicant in violation of s. 346.63 (1) (a) or a local ordinance which is in conformity therewith. The test shall be administered upon the request of a traffic officer. The law enforcement agency by which the officer is employed shall be prepared to administer 2 of the aforesaid 3 tests and may designate which of the aforesaid tests shall be administered. The blood test shall not be the first test administered by the agency. A person who is unconscious or otherwise incapacitated is presumed not to have withdrawn his consent under this subsection.

(2) (a) If a person is arrested and issued a citation for driving or operating a motor vehicle while under the influence of an intoxicant the arresting officer shall inform him:

1. That he is deemed to have consented to a chemical test under sub. (1);

2. That if he refuses to submit to the test he shall have his driving privilege suspended for a period of 60 days as provided in sub. (7);

4. That in addition to the test designated by the law enforcement agency under sub. (1), he may have an additional test as provided in sub. (4).

(b) If the person refuses the request of a traffic officer to submit to a chemical test, no test shall be given, but the traffic officer shall prepare a written report of the refusal and have it delivered within 5 days to a court of record in the county in which the person resides or in the county in which the arrest was made. He shall promptly deliver a copy to the person requested to take such test. The report shall contain the following information:

1. That the person at the time he was requested to submit to a test was under arrest for driving or operating a motor vehicle while under the influence of an intoxicant;

2. That the person refused to submit to a test;

3. That such person was informed of the consequences of his refusal to submit to the test; and

4. That such person was informed of his rights under subs. (4) and (5) (a).

5. That the refusal of the person to submit to a test was unreasonable.

(3) An individual who performs a chemical analysis of breath, blood or urine under sub. (1) or (4) shall prepare and sign a written report of the findings of the test which shall include the identification of the traffic officer or person upon whose request the test was administered. He shall promptly transmit a copy thereof to the law enforcement agency and the person from whose breath, blood or urine the analysis is made.

(4) In addition to a chemical test of the breath, blood or urine administered upon the request of a traffic officer, a person arrested for driving or operating a motor vehicle while under the influence of an intoxicant shall be permitted upon his request the alternative test provided by the agency under sub. (1) or, at his own expense, reasonable opportunity to have any qualified person of his own choosing administer a chemical test for the purpose of determining the alcoholic content of his blood. The failure or inability of a person to obtain a test at his own expense shall not preclude the admission of evidence relating to a test taken upon the request of a traffic officer.

(5) (a) Blood may be withdrawn from the person arrested for the purpose of determining its alcoholic content only by a physician or by one acting under the directions of a physician.

(b) No physician, or other person acting under the directions of a physician, withdrawing blood for the purpose of determining its alcoholic content, nor the employer of anyone withdrawing blood for such purpose, shall incur any civil or criminal liability for such act when requested by a traffic officer to perform it, except for civil liability for negligence in its performance.

(6) At the trial of any civil or criminal action, suit 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, the amount of alcohol in the person's breath, blood or urine is admissible on the issue of intoxication and shall be given effect as set forth in s. 885.235.

(7) (a) Upon receipt of the report of the traffic officer as required in sub. (2), the court shall promptly give notice in writing by registered mail to the reported person of the intention of the division to suspend the reported person's operating privilege for a period of 60 days and that he is given 60 days from the date thereof in which to request a hearing under this section.

(b) If the reported person fails to make the request within 60 days, or makes a written waiver prior to this time, the court shall order the administrator to suspend the person's operating privilege for 60 days.

(c) If the reported person requests a hearing within the 60 days, the court shall set a time and place for the hearing, with notice to the person. Requests for hearing as herein provided shall go to the head of the docket wherein filed. The hearing shall be transcribed and shall be limited to the issues stated in sub. (2) (b). Nothing in this subsection shall prohibit the person from introducing evidence on his own behalf to establish the reasonableness of his refusal to submit to a chemical test provided under s. 343.305 (1). At the close of the hearing or within 10 days thereafter, the court shall determine whether or not the conditions of sub. (2) (b) have been complied with. If the conditions of sub. (2) (b) have been complied with, the court shall direct the administrator to suspend the operating privilege of such person for a period of 60 days. If the conditions of sub. (2) (b) have not been complied with, the court shall order that the report be dismissed and that no action be taken on the driving privilege. Nothing in this subsection shall preclude the prosecution for violation of s. 346.63 (1) (a) or a local ordinance which is in conformity therewith.

(d) If upon the trial of the charge of driving a motor vehicle while under the influence of an intoxicant in violation of s. 346.63 (1) (a) or a local ordinance which is in conformity therewith the charge is dismissed or the person is found not guilty, the court shall order the administrator to immediately reinstate the operating privilege if suspended under this subsection. The courts shall advance requests for trials under s. 346.63 (1) (a) or a local ordinance which is in conformity therewith to the head of the docket.

(8) After the expiration of the 60 day suspension period, the operating privilege shall be returned by the division as provided in s. 343.39, unless within that period he has had his

driving or operating privilege revoked, suspended or canceled pursuant to law:

(9) (a) Chemical analyses of the person's blood or urine to be considered valid under this section shall have been performed according to methods approved by the laboratory of hygiene and by an individual possessing a valid permit to perform such analyses issued by the department of health and social services. The department shall approve laboratories for the purpose of performing chemical analyses of blood or urine for alcohol and shall develop and administer a program for regular monitoring of laboratories performing blood and urine alcohol analyses. 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 each sheriff's department in this state with an ample supply of urine and blood specimen containers to permit all law enforcement officers to comply with the requirements of this act.

(b) The division of motor vehicles 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 traffic officers in the chemical analysis of a person's breath; 2. Certify the qualifications and competence of individuals to conduct such analysis; 3. Have trained technicians, approved by the administrator, test and certify the accuracy of the equipment to be used by traffic officers for chemical analysis of a person's breath before regular use of such equipment and periodically thereafter at intervals of not more than 60 days; and 4. Issue permits to individuals according to their qualifications.

History: 1971 c. 278

See note to Art. 1, sec. 8, citing *State v. Driver*, 59 W (2d) 35, 207 NW (2d) 850.

An order of the county court suspending a driver's license must be appealed directly to the supreme court. *State v. Jakubowski*, 61 W (2d) 220, 212 NW (2d) 155.

Where 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 Hough, 43 WBB No. 3.

343.31 Mandatory revocation of licenses after certain convictions. (1) The administrator shall forthwith revoke a person's operating privilege upon receiving a record of conviction showing that such person has been convicted of any of the following offenses under a state law or under a local ordinance which is in conformity therewith, except that if a person licensed as a chauffeur was convicted for operation of a motor vehicle while under the influence of intoxicating liquor and such person was not operating a

vehicle as a chauffeur at the time of such offense, only his regular license shall be revoked as provided in this section:

(a) Homicide resulting from the operation of a motor vehicle and which is criminal under s. 940.06, 940.08 or 940.09.

(b) Upon the 2nd or any subsequent conviction for operation of a motor vehicle while under the influence of an intoxicating liquor or controlled substance.

(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.

(e) Perjury or the making of a false affidavit or the making of a false statement or certification to the division under this chapter or any other law relating to the ownership or operation of motor vehicles.

(f) Operating a motor vehicle while operating privileges are suspended or revoked.

(g) Operating a motor vehicle without having furnished proof of financial responsibility when proof of financial responsibility is required.

(h) Violation of a restriction on his license or a serious traffic violation by the holder of an occupational license.

(2) The administrator shall revoke the operating privilege of any resident of this state 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 mandatory revocation under this section. Upon receiving similar notice with respect to a nonresident, the administrator shall revoke the privilege of such nonresident to operate a motor vehicle in this state.

(3) All revocations under this section shall be for a period of one year.

(4) Any person denied a motor vehicle operator's license under s. 343.06 (11) or whose motor vehicle operator's license was revoked under s. 343.31 (1) (i) [Stats. 1961], prior to October 9, 1963, may be granted such license or reinstated his operating privileges upon recommendation of the department of health and social services or other responsible agency having supervision of the applicant, and approval of the court in which the applicant was convicted of the offense upon which the revocation or suspension was based.

History: 1971 c. 219

343.32 Other grounds for revocation of licenses. (1) The administrator shall revoke a person's operating privilege whenever one or more of the following conditions exist:

(a) A record of conviction has been received showing that such person has been convicted under a state law or under a local ordinance enacted under ch. 349 of a traffic violation which is a cause of an accident resulting in the death of another.

(b) Such person has been convicted under state law or under a local ordinance which is in conformity therewith of altering his license, loaning his license to another or unlawfully or fraudulently using or permitting an unlawful or fraudulent use of a license.

(c) 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.

(d) Revocation is required under ch. 344.

(2) The administrator may suspend or revoke a person's operating privilege if such person appears by the records of the division to be an habitually reckless or negligent operator of a motor vehicle or to have repeatedly violated any of the state traffic laws or any local ordinance enacted under ch. 349. For the purpose of determining when to suspend or revoke an operating privilege under this subsection, the administrator may determine and adopt by rule a method of weighing traffic convictions by their seriousness and may change such weighted scale as experience or the accident frequency in the state makes necessary or desirable. When an operator accumulates more than 6 demerit points required for suspension or revocation of an operating privilege or has been involved in 2 or more accidents in a one-year period where the accident report indicates that such person may have been causally negligent, the administrator may require such operator to present himself at an examining station for driver improvement counseling, consisting of either group or individual counseling, reexamination or both. The administrator may require any person who has had his operating privilege suspended or revoked, whether such suspension or revocation is the result of action under s. 343.30 or 343.32, or conviction for an offense which requires mandatory revocation under s. 343.31 to participate in such counseling, reexamination or both. Such reexamination may consist of all or part of the tests specified in s. 343.16 (1) (a) 1, or any other special examination as required under s. 343.16 (2). Upon conclusion of such counseling, interview and examination, the administrator shall take action as authorized at conclusion of other examinations under s. 343.16 (3) (a). In exercising the authority to suspend or revoke an operating privilege, the administrator may suspend such privilege only when the operator has not had his operating privilege

suspended or revoked previously, except under s. 344.14 (1), or when his present demerit point accumulation is not more than 25% above the demerit point accumulation set for suspension or revocation. In all other cases under this section, the administrator shall revoke the operating privilege of such operator. In regard to convictions which are not by themselves grounds for mandatory revocation of a license, such rule shall provide that demerit points accumulated when a person is not operating a vehicle as a chauffeur shall not be counted against his chauffeur's license but such rule may provide that demerit points accumulated by a person when operating a vehicle as a chauffeur shall be counted against his regular license. When a person who has had his regular license revoked continues to operate as a private operator and who also has a chauffeur's license and is convicted of any traffic violation, 12 demerit points shall be assigned against his chauffeur's license.

(3) A revocation under this section may be for any period not exceeding one year unless a different period is specifically prescribed by law.

(4) A revocation based on the condition stated in sub. (1) (d) shall affect only the person's operator's license and shall not operate to revoke the person's chauffeur's license or affect his operating privilege thereunder.

(5) In adopting rules for weighing traffic convictions by their seriousness under sub. (2), the administrator also may provide by rule for a reduction of points if a person shows to the division satisfactory evidence of completion of a course of instruction in traffic safety, defensive driving or similar course or driver improvement counseling approved by the administrator.

History: 1971 c. 42, 278, 281; 1973 c. 90

343.325 Courts to report appeals; when appeal stays revocation. (1) Whenever a person perfects an appeal from a conviction 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 division a certificate stating that such appeal has been taken; and

(b) If the appeal is subsequently dropped, promptly certify such fact to the division; and

(c) Upon determination of the appeal by the appellate court, promptly certify such decision to the division.

(2) Notwithstanding ss. 343.31 and 343.32 and except as otherwise provided in sub. (4), the administrator 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

343.325 OPERATORS' LICENSES

3560

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 division receives notice that the conviction in question has been affirmed on appeal or that the appeal has been dropped, the administrator 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 affirmation 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 administrator 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.

History: 1971 c. 278.

343.33 Hearing on revocations. (1) Whenever the administrator under authority of s. 343.32 revokes a person's operating privilege, the division shall immediately notify such person thereof in writing and upon his request shall afford him an opportunity for a hearing on the revocation unless the division is satisfied from the records and information in its possession that a hearing is not warranted. If the division is not so satisfied and the person requests a hearing, the division 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 division 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 division 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 forfeits his right to a hearing.

(2) Upon the hearing the administrator or his duly authorized agent 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 behalf shall be paid a witness fee by the division nor shall any law enforcement officer called to appear for the division be paid any witness fee by the division. All testimony shall be taken and transcribed.

(3) Upon completion of the hearing, the division shall make findings of fact and the administrator shall either let the order of revocation stand or, upon good cause appearing therefor, rescind the order of revocation or modify the period of revocation.

343.34 Suspension of licenses. In addition to suspensions authorized under ch. 344, the administrator may suspend operating privileges under the following circumstances:

(1) Whenever the administrator is satisfied that a person has violated a restriction on his license and that it is in the interests of public safety to suspend the license, the administrator shall suspend such license for a period not exceeding one year unless the violation is cause for revocation.

(2) When a licensee who has been ordered pursuant to s. 343.16 to submit to an examination fails or refuses to do so, the administrator shall suspend such person's license until compliance with the order has been secured or the order is rescinded.

History: 1971 c. 164 s. 82.

343.345 Suspension for juvenile's failure to pay forfeiture. (1) If a person under the age of 18 fails to pay the forfeiture imposed by a court for his first moving vehicle violation, the court or judge shall in lieu of a jail sentence, suspend the person's operating privilege for a period not less than 30 days nor more than 90 days. The time set by the court for payment of the forfeiture shall not exceed 30 days. If the person pays the forfeiture after suspension under this section, the suspension shall be reduced to the minimum period of 30 days.

(2) If a court or judge suspends an operating privilege under this section, the court or judge shall immediately take possession of the suspended license and shall forward it to the division together with the notice of suspension, which shall clearly state that the suspension was for failure to pay a forfeiture imposed by the court. If the forfeiture is paid during a period of suspension the court or judge shall immediately notify the division. Upon receipt of such notice, the division shall return the license when the minimum period of suspension has passed.

(3) If a person operates a motor vehicle during a period of suspension under this section, he shall be proceeded against under s. 343.44.

History: 1971 c. 164 s. 83.

343.35 Surrender of licenses upon cancellation, revocation or suspension.

(1) Whenever a person is notified that his operating privilege has been canceled, revoked or suspended, such person or any other person in whose possession the license may be shall forthwith surrender such license to the division upon being notified of such action on the part of the administrator and to the court or judge for return to the division upon being notified of such action on the part of a court or judge.

(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 administrator or his duly appointed agent may take possession of any license required to be surrendered to the division or may direct any traffic officer to take possession thereof and return it to the division.

History: 1971 c. 278.

343.36 Division to distribute suspension and revocation lists and nonresidents' records of conviction.

(1) Whenever the operating privilege of a resident of this state is canceled, revoked or suspended or his application for license denied, the division forthwith shall forward the name and address of such person to the sheriff and county traffic department of the county in which such person resides and to the police department of the municipality wherein such person resides.

(2) Once each month, the division shall compile a list of the names and addresses of all residents of this state whose operating privileges were revoked or suspended during the preceding month and the periods thereof and shall forward such list to the sheriff of each county, to the chief of police of each city 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 or suspension under the laws of this state, the division shall forward a certified copy of such record to the motor vehicle administrator in the state wherein the person so convicted is a resident.

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 he has obtained a new license when and as provided in this chapter. This subsection applies to a resident of this state even though he was a nonresident at

the time his operating privilege was revoked or suspended.

(2) Notwithstanding the privilege conferred on nonresidents by s. 343.05 (2) (c), 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 his operating privilege in this state has been reinstated pursuant to the laws of this state. This subsection applies to a nonresident even though he was a resident of this state at the time his operating privilege was revoked or suspended.

343.38 License after revocation or suspension; reinstatement of nonresident's operating privilege.

(1) LICENSE AFTER REVOCATION. Except as provided in ss. 343.10 and 343.39, the division shall not issue a license to a person whose operating privilege has been duly revoked unless the period of revocation has expired and such person:

(a) Files with the division an application for license together with the required fee; and

(b) If the administrator so prescribes, passes an examination including the tests specified in s. 343.16 or such parts thereof as the administrator may require; and

(c) Unless 3 years have elapsed since the expiration of the period of revocation, files with the division proof of financial responsibility in the amount, form and manner specified in ch. 344. Such proof of financial responsibility shall be maintained at all times during such 3-year period when the license is in effect. No such proof shall be required for a vehicle subject to the requirements of s. 121.53, 194.41 or 194.42 or a vehicle owned by or leased to the United States, this state or any county or municipality of this state.

(2) REINSTATEMENT OF NONRESIDENT'S OPERATING PRIVILEGE AFTER REVOCATION BY WISCONSIN. A nonresident's operating privilege revoked pursuant to the laws of this state is reinstated as a matter of law when the period of revocation has expired and such nonresident:

(a) Obtains a valid operator's license in the jurisdiction of his residence; and

(b) Files proof of financial responsibility in this state in the manner and for the period required of residents of this state whose operating privileges have been revoked.

(3) REINSTATEMENT AFTER SUSPENSION. The division shall not issue a license to a person whose operating privilege has been duly suspended while such suspension remains in effect but, upon the expiration of the period of suspension, such person's operating privilege is automatically reinstated as provided in s. 343.39.

(4) FIRST ISSUANCE OF LICENSE IN WISCONSIN AFTER REVOCATION BY ANOTHER STATE. The division 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 examination fee of \$2 and the fee of \$2.50 required of persons not previously licensed in this state has been paid.

343.39 When operating privilege automatically reinstated. (1) An operating privilege is automatically reinstated under any of the following circumstances:

(a) When, in the case of a suspended operating privilege, the period of suspension has terminated and the reinstatement fee specified in s. 343.21 (1) (j) has been paid to the division.

(b) When, in the case of a revocation or suspension 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 or suspension only when considered in connection with the person's previous operating record.

(c) Whenever any other provision of law provides for automatic reinstatement.

(2) Whenever a person's operating privilege is automatically reinstated, the division shall forthwith notify such person thereof and shall return to him any surrendered and unexpired license in its possession. If the license expired during the period of revocation or suspension, such person may renew his license at the standard renewal fee at any time within 30 days after the reinstatement of his operating privilege.

History: 1973 c. 90.

343.40 Judicial review of suspension, revocation, cancellation or denial of license. Unless mandatory under this chapter, 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, except that if the petitioner resides in Wisconsin the place of

review shall be the circuit court of the county in which he resides.

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 his 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 him; or

(d) Violate any of the restrictions placed on his license by or pursuant to law; or

(e) Permit any unlawful use of a license issued to him; or

(f) Reproduce by any means whatever a copy of a license.

(2) Unless a different penalty is specifically prescribed, any person who violates any provision of sub. (1) may be fined not more than \$100 or imprisoned not more than 6 months or both.

Conviction of representing as valid a fraudulently altered driver's license reversed where the license was shown to a traffic officer on request and it appeared defendant had altered his birth date so as to be able to go into a bar. *State v. Scholwin*, 57 W (2d) 764.

343.44 Driving after license revoked or suspended. (1) No person whose operating privilege has been duly revoked or suspended pursuant to the laws of this state shall operate a motor vehicle upon any highway in this state during such suspension or revocation or thereafter before filing proof of financial responsibility or before he has obtained a new license in this state or his operating privilege has been reinstated under the laws of this state. No person whose regular license has been duly revoked or suspended pursuant to the laws of this state, but whose chauffeur's license is still valid, shall operate a motor vehicle upon any highway in this state other than as a chauffeur before he has obtained a new license or has had his license reinstated under the laws of this state.

(2) Any person violating this section may be fined not less than \$100 nor more than \$400 and shall be imprisoned not less than 10 days nor more than one year in the county jail, except that if a person violates this section after having had his operating privilege revoked because of a conviction of any of the offenses mentioned in s. 343.31, he shall be imprisoned not less than 10 days nor more than one year in the county jail for the first violation of this section and shall be imprisoned not less than 90 days nor more than one year in the county jail for the 2nd such

violation and shall be imprisoned for one year in the county jail for the 3rd and each subsequent violation. Refusal to accept or failure to receive an order of revocation or suspension mailed by 1st class mail to such person's last-known address shall not be a defense to the charge of driving after revocation or suspension. If such person has changed his address and fails to notify the division as required in s. 343.22 then failure to receive notice of revocation or suspension shall not be a defense to the charge of driving after revocation or suspension.

History: 1971 c. 164 s. 83; 1971 c. 280, 307; 1973 c. 90

Under (2) the court must impose a jail sentence upon conviction for driving after revocation and has no authority to grant probation. *State v. Duffy*, 54 W. (2d) 61, 194 NW (2d) 624

343.45 Permitting unauthorized person to drive. (1) No person shall cause or knowingly permit his 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 him or under his 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 him or in his possession or control on a trial run unless he has been shown the person's valid operator's or chauffeur's license (issued by this state or other jurisdiction) before permitting the trial run.

(3) Any person violating this section may be required to forfeit not more than \$100.

History: 1971 c. 278

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 his residence.

(2) No person shall rent a motor vehicle, trailer or semitrailer to another until he 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 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 employe of the division.

(4) Any person violating this section may be required to forfeit not more than \$100.

History: 1971 c. 278

LICENSING OF DRIVER SCHOOLS AND INSTRUCTORS

343.60 Definitions. In ss. 343.60 to 343.73:

(1) "Driver school" means the business of giving instruction, for compensation, in the driving of motor vehicles, except that it does not include a high school or vocational, technical and adult education school which teaches driver training as part of its regular school program and whose course of study in driver training has been approved by the department of public instruction or board of vocational, technical and adult education and it does not include an institution of higher learning which teaches driver training as part of its teacher training program.

(2) "Instructor" means any person who gives instruction in the driving of a motor vehicle, except a person who is employed as a full time instructor by a high school, vocational, technical and adult education school or institution of higher learning as provided in sub. (1).

(3) "Place of business" means the location at which the driver school is conducted.

(4) "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 administrator or division 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.

History: 1971 c. 154 s. 79 (2)

343.61 License required for driver school; fee. (1) No person shall conduct a driver school without being licensed therefor by the division.

(2) Application for a driver school license shall be made in writing; shall contain such information as is required by the administrator and shall be accompanied by the required fee.

(3) The required fee for any driver school license, or for any annual renewal thereof, is \$25.

(4) If the application for a driver school license is approved by the administrator and the

required fee paid, the applicant shall be granted a license and shall be issued a license certificate. The licensee shall display such certificate in his place of business.

(5) A driver school license expires at the end of the calendar year, for which it is granted.

343.62 License required for instructor; fee. (1) No person holding a driver school license shall employ any person as an instructor unless such person is licensed by the administrator to act as such instructor. No person, including the person holding the driver school license, shall act as an instructor in such school unless such person is licensed by the administrator to act as such instructor.

(2) Application for an instructor's license, shall be made in writing, shall contain such information as is required by the administrator and shall be accompanied by the required fee.

(3) The required fee for any instructor's license, or for any annual renewal thereof, is \$5.

343.63 Examination of applicants for instructor's license. All applicants for an original instructor's license shall be examined, and other applicants may be examined, by the division as follows:

(1) A written and oral test shall be completed by the applicant and shall be designed to evaluate the applicant's knowledge of instruction procedures, motor vehicle and traffic laws, safety equipment requirements and functions of essential automotive equipment. The applicant must receive a score of at least 80 per cent.

(2) The applicant must pass a road test not less than 5 miles long, which shall include driving maneuvers and parking involved in typical traffic situations. The passing score of the applicant must exceed the minimum standard set for obtaining an operator's license by the state.

(3) The applicant must pass a psychophysical test with the following grades:

(a) Visual acuity—20/40 in either eye and at least 20/100 in the other eye, with or without corrective glasses, as measured in the Snellen type test;

(b) Color perception—ability to perceive and distinguish colors commonly used to regulate and control traffic;

(c) Depth perception—20 per cent stereopsis, using the ortho-rater depth perception test built into the road sign identification target.

(d) Field of vision—lateral range of at least 85 per cent or more from a focus line to each eye;

(e) Reaction time—at least 50/100 second, using portable brake reaction test, or 75/100 second when using detonator method; and

(f) Hearing—adequate hearing with or without corrective help.

(4) The applicant shall submit with his application a statement completed by a registered physician showing that he is physically fit to teach driving.

(5) No license shall be issued to an applicant who has suffered an amputation or loss of the full use of either upper limb, or the natural use of the foot normally employed to operate the foot brake and foot accelerator.

(6) Applicants who fail to pass a satisfactory examination after 2 successive attempts shall not be re-examined until one year has elapsed since the date of the last examination.

343.64 Denial of driver school license. The administrator may deny the application of any person for a driver school license if in his discretion he determines that:

(1) Such applicant has made a material false statement or concealed a material fact in his application;

(2) Such applicant or any officer, director, partner or other person directly interested in the business was a former holder of a license granted under s. 343.61 or was directly interested in another driver school which held a license under s. 343.61 and which license was revoked or suspended;

(3) Such applicant or any officer, director, stockholder, partner or any person directly interested in the business has been an habitual petty law offender or has been convicted of an offense against the laws punishable as a felony, unless the person so convicted has been duly pardoned;

(4) Such applicant has failed to furnish satisfactory evidence of good character, reputation and fitness;

(5) Such applicant does not have a place of business as required by s. 343.72 (5);

(6) Such applicant is not the true owner of the school; or

(7) The application is not accompanied by a copy of a standard liability insurance policy in the amount of \$50,000 for personal injury to, or death of any one person and subject to said limit for any one person, \$100,000 for personal injury to, or death of any number of persons involved in any one accident, and \$10,000 for property damage in any one accident, suffered or caused by reason of the negligence of the applicant or any agent or employe of the applicant.

343.65 Denial of instructor's license. The administrator may deny the application of any person for an instructor's license if in his discretion he determines that:

(1) Such applicant has made a material false statement or concealed a material fact in connection with his application therefor; or

(2) Such applicant has failed to furnish satisfactory evidence of the facts required of him, is not of good moral character, has not held a license to drive a motor vehicle within this state for the past year, has not had a driving record satisfactory to the administrator, or has been convicted of a felony and has not been duly pardoned.

343.66 Revocation or suspension of driver school license. The administrator may suspend or revoke any driver school license issued under s. 343.61 or refuse to issue a renewal thereof if:

(1) The licensee has made a material false statement or concealed a material fact in connection with the application for a license or the renewal thereof;

(2) The licensee or any partner or officer of the licensee has been an habitual petty law offender or has been convicted of a felony;

(3) The licensee has failed to comply with any of the requirements of ss. 343.60 to 343.72;

(4) The licensee or any partner or officer of such licensee has been guilty of fraud or fraudulent practices in relation to the business conducted under the license, or guilty of inducing another person to resort to fraud or fraudulent practices in relation to securing for himself or another the license to drive a motor vehicle;

(5) The licensee has knowingly employed, as an instructor, a person who has been an habitual petty law offender or has been convicted of a felony or has retained such a person in such employ after knowledge of his conviction; or

(6) The licensee has failed to maintain satisfactory insurance to meet damage claims in the amounts specified by s. 343.64 (7).

343.67 Revocation or suspension of instructor's license. The administrator may suspend or revoke any instructor's license issued under s. 343.62 or refuse to issue a renewal thereof if:

(1) The licensee has made a material false statement or concealed a material fact in connection with his application for the license or any renewal thereof;

(2) The licensee has been convicted of a felony or has been an habitual petty law offender;

(3) The licensee has failed to comply with any of the requirements of ss. 343.60 to 343.72; or

(4) The licensee has been guilty of fraud or fraudulent practices in relation to securing for

himself or another a license to drive a motor vehicle.

343.68 Renewal no bar to revocation of license. In reviewing the renewal of a license, the administrator may deny or delay such renewal for causes and violations as prescribed by ss. 343.64 to 343.72 occurring during any prior license period.

343.69 Hearings on license denials and revocations. Before the administrator denies an application for a driver school license or instructor's license or revokes any such license, the division shall notify the applicant or licensee of the pending action and that it will hold a hearing on the pending denial or revocation. The division shall send notice of the hearing by registered or certified mail to the last known address of the licensee or applicant, at least 10 days prior to the date of the hearing. The division shall conduct the hearing and may subpoena witnesses, administer oaths to witnesses and take testimony of any person or cause his deposition to be taken.

343.70 Loss or surrender of licenses. (1) If any driver school or instructor's license is lost, it shall be reissued by the division upon application therefor accompanied by satisfactory proof of loss and a fee of \$1.

(2) If a driver school or instructor's license is suspended or revoked, the licensee shall surrender all licenses to the division and no portion of the license fee shall be refunded.

343.71 Driver schools to maintain records. Every licensed driver school shall maintain the following records:

(1) A permanently bound book with pages consecutively numbered setting forth the name and address of every person given lessons, lectures, tutoring, instructions of any kind or any services relating to instructions in the operation of motor vehicles;

(2) A record showing the date, type and duration of 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 road lesson is given, including type of transmission;

(3) A file containing a duplicate copy of every agreement entered into between the school and every person given lessons, lectures, instructions or other services relating to instructions in the operation of motor vehicles. No person shall be given lessons, lectures, tutoring or other services relating to instructions in the operation

of motor vehicles until a written agreement in a form approved by the division has been executed by both the school and the student. The student shall be given the original, while the school shall retain and preserve the carbon duplicate thereof.

343.72 Rules for conducting driver schools; prohibited practices. (1) No licensee may agree to give refresher lessons, unless the student states that he has had previous driving experience.

(2) No licensee shall agree to give unlimited driver's lessons, nor represent or agree, orally or in writing or as a part of an inducement to sign any agreement, to give instructions until an operator's license is obtained.

(3) No agreement shall 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 licensee shall have a specific place of business described in the license. No licensee shall establish its headquarters within 1,500 feet of any motor vehicle division office where licenses are issued, nor within 1,500 feet of any headquarters where official road tests are given, and locations shall be filed with the division as part of the license application. Any change in address must be reported to and approved by the administrator.

(6) All licensees must ascertain from state license examiners the route over which road tests are given, and no licensee may instruct in those areas.

(7) Licensees shall not publish, advertise or intimate that a license is guaranteed or assured. The display of a sign such as "License Secured Here" is forbidden.

(8) A driver school may display on its premises only a sign reading: "This School is Licensed by the State of Wisconsin".

(9) Except as provided by sub. (8), the use of the word "Wisconsin", "State" or the name of the city in which the school is located, in any sign, firm name or other medium of advertising is prohibited.

(10) All driver training cars used by the school must be identified by a sign on the rear of the vehicle stating that it is a driver school vehicle.

(11) All driver training cars must be registered with the administrator with a brief description of each, including the make, model, registration number and type of transmission.

(12) All driver training cars shall be equipped with approved dual controls so that the instructor can stop the car promptly. The division may inspect these cars at its discretion.

343.73 Penalty. Any person who violates ss. 343.60 to 343.72 may be fined not less than \$25 nor more than \$100 or imprisoned not more than 30 days for each offense.

History: 1971 c. 278; 1973 c. 218.

343.75 Control group testing by administrator. The administrator may exempt certain persons from one or more of the mandatory requirements of ch. 343 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 ch. 343. After comparing these 2 groups, the administrator shall determine what effect, if any, that a particular mandatory requirement may have on highway safety in this state. The administrator shall submit any findings in this regard to the secretary who shall include them in his report required under s. 15.04 (4).