in: This is based upon present s.

342.33; 1969 c.

342.32; 1969 c.

has been reduced from other places violation”

policy to lice

tion number be defaced from the block of an

ment that the identification number be

welding of the new number be done under

stamped upon the rear axle of a trailer or

mobile homes

practice for the manufacturer or dealer to re­

cretes and used as a taxicab or for public

transitionary. This means that operators of those vehicles

is new. The present law fails to

accomplish its purpose of preventing the de­

frauding of purchasers of motor vehicles pre­

viously used as taxicabs because the seller

who is intent on misleading the purchaser can

complete the sale before showing the pur­

chaser the stamped certificate of title.

The present law is broader than the new

provision in one respect. It imposes criminal

liability upon “every officer, agent or employe

of any person, firm or corporation” who vi­

olates the law. Literally interpreted, it means

that every employe of a corporation is guilty

if one employee of the corporation violates the

law. This goes far beyond general principles

of criminal liability and it is very doubtful

that it serves any good purpose. [301 99-S]

Sale of an automobile, which the seller

knows was formerly used as a taxicab, without

making sure that the certificate of title is

stamped, is a violation, even though the seller

does not know that the certificate has not

been stamped. 57 Attty. Gen. 461.

Motor vehicles leased by drive-yourself

companies are not vehicles “previously li­

censed and used as a taxicab or for public

transportation.” 57 Attty. Gen. 495.

342.34 History: 1957 c. 260; Stats. 1957 s.

343.04; 1969 c. 300 s. 30 (3) (l).

CHAPTER 343.

Operators’ Licenses.

On exercises of police power and exercises of taxin power see notes to sec. 1, art. 1.

343.01 History: 1957 c. 260, 551, 563, 694;

Stats. 1957 s. 343.01; 1959 c. 49, 52, 197, 183,

690; 1961 c. 662; 1959 c. 412.

Legislative Council Note, 1957: Among the

definitions in s. 340.01 which are pertinent in

this chapter are “commissioner,” “depart­

ment,” “hours of darkness,” “local ordinance

which is in conformity therewith,” “motor

vehicle,” “operating privilege,” “nonresident,”

“school bus,” “traffic officer” and “vehicle.”

The definition of “vehicle” in s. 340.01 dif­

fers from the definition in the present law in

that streetcars and trolley buses are included.

This means that operators of those vehicles

will be required to have operators’ licenses.

The definition of “operating privilege” in s.

340.01 is new and will result in a substantial

saving in the number of words required to

express concepts relating to revocation, sus­

pension and cancelation without resulting in

a change in the substance of the law.

The term “license” has been defined to

include all types of licenses issued under this

chapter, including instruction permits.

The present law is not clear on this point.

The definition of “conviction” has been

clarified. The present statutes state that con­

viction means a final conviction but this has

only to sale of a vehicle “in this state to any

resident thereof.” The quoted phrase was

dropped. Fraudulent sales should not go un­
punished merely because the victim happens to

be a resident of another state. (2) The provi­
sion requiring the certificate of title to be

exhibited to the vendee before the sale is con­
sumated is new. The present law fails to

accomplish its purpose of preventing the de­

frauding of purchasers of motor vehicles pre­

viously used as taxicabs because the seller

who is intent on misleading the purchaser can

complete the sale before showing the pur­
been construed to mean merely that an adjudication of guilt has been made by the court of original jurisdiction. State v. Berres, 270 W 103, 70 NW (2d) 197 (1956).

The definitions of "suspension," "revocation" and "canceled" contained in present s. 85.08 (1) have been dropped. The effect of suspension, revocation and cancelation of operating privileges is stated clearly in the proposed revision and there is no need for further definition of these terms. [Bill 98-S]

The determination of the "principal purpose" of a given employment in the administration of the chauffeur's licensing law involves a question of fact for the motor vehicle commissioner. 47 Atty. Gen. 248.

The exception from Wisconsin drivers' license requirements conferred upon nonresidents holding licenses issued by the states of their residence does not extend to a person whose privilege to operate in Wisconsin has been revoked and who has not complied with conditions imposed by Wisconsin law for restoring such privilege. 44 Atty. Gen. 208.

See note to 343.44, citing 51 Atty. Gen. 45.

The exemption from Wisconsin drivers' license requirements conferred upon nonresidents holding licenses issued by the states of their residence does not extend to a person whose privilege to operate in Wisconsin has been revoked and who has not complied with conditions imposed by Wisconsin law for restoring such privilege. 44 Atty. Gen. 208.

Operators of "power cycles" are required to have drivers' licenses. 39 Atty. Gen. 163.

Operation of a farm tractor on a highway between the garage where it has been repaired and the farm of the owner by one whose driver's license has been suspended is not a violation. 42 Atty. Gen. 66.

Where a farm tractor exempt from registration by reason of use in agricultural operations is nevertheless used regularly upon public highways as a road tractor, its operator must possess a motor vehicle operator's license. Such operation is not "temporary," and the exemption is inapplicable. 43 Atty. Gen. 248.

The exemption from Wisconsin drivers' license requirements conferred upon nonresidents holding licenses issued by the states of their residence does not extend to a person whose privilege to operate in Wisconsin has been revoked and who has not complied with conditions imposed by Wisconsin law for restoring such privilege. 44 Atty. Gen. 208.

See note to 343.44, citing 51 Atty. Gen. 45.

The driver of a truck, who suffered an epileptic seizure, became unconscious, and lost control of the truck, with the result that the truck struck a workman at the side of the street, was negligent as a matter of law in driving the truck when he knew that he was subject to spells or seizures rendering him unconscious, although he did not know that he had epilepsy. In such circumstances, the epileptic seizure was not an "act of God" and the collision was not an unavoidable accident. Eisen v. Western Cas. & Surety Co. 254 W 1014, 35 NW (2d) 301.

433.02 History: 1957 c. 260; Stats. 1957 s. 343.02.

433.05 History: 1957 c. 260, 551, 684; Stats. 1957 s. 343.05; 1965 c. 192, 301; 1967 c. 292.

Legislative Council Note, 1957: This is largely a consolidation and restatement of s. 85.08 (3) and (4) (a), (b) and (c). Paragraph (d) of s. 85.08 (4) has been omitted on the ground that it is obsolete. All states now require licensing of drivers and foreign visitors are issued international permits.

Subsection (1) states the general requirement that all persons must be licensed in order to operate a motor vehicle on the highways of this state. It restates the first sentence of s. 85.08 (3). The last sentence of s. 85.08 (3) is covered in s. 343.26 and s. 343.38.

Subsection (2) states the exceptions to the licensing requirement. Paragraph (a) is a clarification of s. 85.08 (4) (a). The revised provision makes clear that the vehicle must be owned by or leased to the United States government and that the operator must be in the armed forces. The present provision does not make clear whether the operator must be in the armed forces.

Paragraph (b) is a restatement of s. 85.08 (4) (b). In regard to when a farm tractor is "temporarily operated," the statute in effect in 1955 (35) (g) and (41). [Bill 99-S]

An out-of-state student, coming here merely for the purpose of attending school and retaining residence of his own or with his parents in a foreign state, having the definite and present intention of returning to his residence out of state, is a nonresident. 17 Atty. Gen. 230.

Operators of "power cycles" are required to have drivers' licenses. 39 Atty. Gen. 163.

Operation of a farm tractor on a highway between the garage where it has been repaired and the farm of the owner by one whose driver's license has been suspended is not a violation. 42 Atty. Gen. 66.

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The exemption from Wisconsin drivers' license requirements conferred upon nonresidents holding licenses issued by the states of their residence does not extend to a person whose privilege to operate in Wisconsin has been revoked and who has not complied with conditions imposed by Wisconsin law for restoring such privilege. 44 Atty. Gen. 208.

See note to 343.44, citing 51 Atty. Gen. 45.

The driver of a truck, who suffered an epileptic seizure, became unconscious, and lost control of the truck, with the result that the truck struck a workman at the side of the street, was negligent as a matter of law in driving the truck when he knew that he was subject to spells or seizures rendering him unconscious, although he did not know that he had epilepsy. In such circumstances, the epileptic seizure was not an "act of God" and the collision was not an unavoidable accident. Eisen v. Western Cas. & Surety Co. 254 W 1014, 35 NW (2d) 301.

433.07 History: 1957 c. 260; Stats. 1957 s. 343.07; 1959 c. 34, 333, 542; 1967 c. 263, 267; 1969 c. 513; 1970 c. 221.

Legislative Council Note, 1957: Subsection (1) is a restatement of s. 85.08 (7). Subsection (2) is a restatement of s. 85.08 (7m). "Hours of darkness" has been substituted for "nighttime" as to conform to other provisions of the motor vehicle laws. The restrictions placed on general instruction permits have been made applicable to school instruction permits. This conforms to practice even though such restrictions were omitted from s. 85.08 (7m) (a) when revised in the 1968 session. The omission apparently was inadvertent. [Bill 99-S]

433.08 History: 1957 c. 260; Stats. 1957 s. 343.08; 1959 c. 19; 1967 c. 292; 1969 c. 500 s. 30 (3) (i).

A pretended permit by a county judge to a child under 16 years of age to operate a motor truck for delivery purposes is null and void, the act itself being illegal. 6 Atty. Gen. 627.
A motor vehicle operator who refuses or neglects to qualify for a restricted (occupational) operator’s license which has been ordered issued under §85.08 (25c), Stats. 1947, stands in the same position at the end of a year following revocation as an operator for whom no restricted license has been ordered, and accordingly must furnish proof of financial responsibility. 32 Atty. Gen. 42.

Conviction of a holder of a restricted (occupational) motor vehicle operator’s license for violation of restrictions requires mandatory revocation of the license. A court or judge has no power to permit such person to retain such license. 34 Atty. Gen. 1.

A person who has secured a restricted driver’s license pursuant to §85.08 (25c), Stats. 1947, and who thereafter regains his original unrestricted driver’s license need not file proof of financial responsibility. A motor vehicle operator who is issued an occupational license for his employer’s vehicles only need not file proof of financial responsibility. 37 Atty. Gen. 74.

The legislative history of chs. 30 and 384, Laws 1949, amending §85.08 (25c), clearly supports the conclusion that the petition for an occupational driver’s license is to be filed in the designated courts located in the county of petitioner’s residence. 39 Atty. Gen. 140.

Under §85.08 (25c), Stats. 1953, petitions for occupational drivers’ licenses do not institute actions or special proceedings in the courts. No clerk fees or suit tax may properly be charged. 44 Atty. Gen. 30.

Where a holder of an occupational driver’s license is convicted of operating in violation of the license restrictions, §85.08 (25c), Stats. 1955, makes revocation of his license mandatory, neither the commissioner of motor vehicle department nor the judge having any discretion in the matter, and a new license may not be issued until one year after the date of revocation. 44 Atty. Gen. 348.

A motor vehicle operator who refuses or neglects to qualify for a restricted (occupational) operator’s license which has been ordered issued under §85.08 (25c), Stats. 1947, stands in the same position at the end of a year following revocation as an operator for whom no restricted license has been ordered, and accordingly must furnish proof of financial responsibility. 32 Atty. Gen. 42.

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ecuted criminally for dereliction of the chauffeur, even though he be in the automobile at the time. 5 Atty. Gen. 259.

343.126 History: 1957 c. 604; Stats. 1957 s. 343.126; 1969 c. 383.

343.13 History: 1957 c. 260; Stats. 1957 s. 343.13; 1969 c. 500 s. 30 (3) (h), (i).

Legislative Council Note, 1957: This section restates present law. Subsection (1) is based upon s. 85.08 (8) (b) and (18) (introductory phrase). "License" includes instruction permits by virtue of the definition in s. 343.01. This section pertains only to applications made to the department. In the case of an occupational license, the application is made to the court and the fee paid to the county treasurer as provided in s. 343.10.

Paragraphs (a), (b), (c) and (d) of sub. (2) are from s. 85.08 (8) (b). Paragraph (e) is from s. 85.08 (8) (c). Paragraph (f) is not clearly stated in the present law but must clearly be implied. Subsection (3) is from s. 85.08 (35) (c) and (41). [Bill 30-57]

343.15 History: 1957 c. 260; Stats. 1957 s. 343.15; 1961 c. 662; 1969 c. 383.

Legislative Council Note, 1957: The first sentence of sub. (1) is a restatement of s. 85.08 (6) (c). The second sentence makes the law conform to a long-standing practice on the part of the department.

Subsection (2) restates s. 85.08 (9) (c). The negligence is imputed to the sponsor even though the vehicle was operated without his consent. Employers Mutual Fire Ins. Co. v. Haucke, 267 W 72, 64 NW (2d) 426 (1954).

Subsection (3) is substantially a restatement of s. 85.08 (10) except that the law as to the time when the sponsor’s liability is terminated has been clarified.

Subsection (4) is new. There have been meritorious cases under present law where a minor whose parents are dead has been unable to obtain a license because of inability to obtain an adult sponsor. Paragraph (d) would permit such persons to obtain a license without a sponsor if they are adequately covered by liability insurance. [Bill 30-57]

The provision of s. 85.08 (1a), Stats. 1935, amounts to a legislative declaration that when a parent consents to the use of his car by his child the parent cannot claim that the child is a bailee of the car or, in driving it, that the child is acting independently of him, but such statutory provision does not preclude recovery from a third party for injuries sustained by the child while driving the parent’s car. Scheele v. Lincoln, 225 W 417, 271 NW 48.

The sponsor of a temporary instruction permit issued to his son was liable for the son’s wrecking of an automobile as the result of negligence in operating the same, although the son had stolen the car and wrecked it while attempting to escape capture. Employers Mut. Fire Ins. Co. v. Haucke, 267 W 72, 64 NW (2d) 426.

An exclusion clause in a liability policy providing that the policy does not apply to liability assumed by the named insured under any “contract or agreement,” did not operate to exclude coverage to the named insured for liability for injuries sustained in a collision caused by the negligence of the named insured’s minor son while driving an automobile, since any liability of the named insured in the premises was a liability imposed by statute. Klatt v. Zeru, 11 W (2d) 415, 105 NW (2d) 776. See also: McManuski v. Derweza, 11 W (2d) 497, 106 NW (2d) 778; Asleson v. Hardware Dealers Mut. Fire Ins. Co. 11 W (2d) 524, 106 NW (2d) 390; and Rosier v. General Ins. Co. 41 W (2d) 53, 163 NW (2d) 128.

343.15 (2) was not applicable in the case of a 17-year-old operator of an automobile which struck a pedestrian in Wisconsin while such minor was there driving it under authority of a license issued to him by the state of Minnesota pursuant to an application signed by his father, residing in Minnesota. Iles v. Tuttle, 19 W (2d) 971, 120 NW (2d) 719.

The liability imposed by 343.15 (2) on a person who sponsors an application for a minor’s driving license is a direct statutory one and not the result of contract. Groth v. Farmers Mut. Auto. Ins. Co. 21 W (2d) 655, 124 NW (2d) 308.

343.15 (2) does not prevent the sponsoring parent from recovering damages from his minor son. Dombeck v. Chicago, M., St. P. & P. R. Co. 24 W (2d) 429, 125 NW (2d) 168.

A parent who signed an application for a driver’s license for a son cannot recover for injuries caused by the son’s negligence, since 343.15 (2) imputes his negligence to the parent. Gilbertson v. DeLong, 201 F (2d) 294.

343.16 History: 1957 c. 260; Stats. 1957 s. 343.16; 1959 c. 500 s. 30 (3) (b), (h), (i).

Legislative Council Note, 1957: This is largely a consolidation and restatement of s. 85.08 (12) and (33) so as to bring together in one section all provisions pertaining to examination of applicants and licensed persons. Paragraphs (b) and (e) of s. 85.08 (12) no longer are necessary now that the state examiners have taken over all driver examining and so they have been omitted. Failure or refusal of a licensed person to submit to examination when required pursuant to this section is constituting a ground for cancellation of the license is covered in s. 343.25. The concept of “cancellation” has been substituted for the concept of “surrender” presently used in s. 85.08 (33). This will reduce to 3 the concepts referring to termination of operating privileges—namely suspension, revocation and cancellation. “Surrender” will refer to the physical act of giving up the license card when the license has been suspended, revoked or canceled.

Two minor changes have been made so as to make the law conform to practice: (1) the requirement of the present law that the department shall make provision for giving an examination in the city or village of or nearest the applicant’s residence has been changed to read “at the examining station” in the city or village of or nearest the applicant’s residence.
Exempting stations have not been set up in every city or village in the state. (2) The $2 limitation on the physician's examination fee in the case of an examination ordered pursuant to sub. (3) has been dropped. The fee limitation is unrealistic and is universally ignored in practice. [Bill 99-S]

343.17 History: 1957 c. 260; Stats. 1957 s. 343.17; 1969 c. 300 s. 30 (3) (i).

343.18 History: 1957 c. 260; Stats. 1957 s. 343.18; 1969 c. 255.

Legislative Council Note, 1957: This is a restatement of s. 85.08 (14). "Traffic officer" has been substituted for "police officer . . . peace officer, a field deputy, officer of the department or county traffic officer." "Traffic officer" is broadly defined in s. 340.01 to include every officer authorized by law to direct or regulate traffic or to make arrests for violation of traffic regulations. [Bill 99-S]

Under 85.08 (14), 1949 Stats, the officers mentioned therein have implied authority to stop vehicles for the purpose of inspecting the operator's license of the driver. If the driver is unlicensed, the officer may arrest him on that charge, but if he claims to be licensed but does not produce the license he should be arrested for violating 85.08 (14). 38 Atty. Gen. 429.

343.19 History: 1957 c. 260; Stats. 1957 s. 343.19; 1969 c. 500 s. 30 (3) (i).

Legislative Council Note, 1957: Subsection (1) is a restatement of s. 85.08 (16). The term "license" includes instruction permits. Subsection (2) is based upon s. 85.08 (35) (g) and (41). [Bill 99-S]

343.20 History: 1957 c. 360, 584, 804; Stats. 1957 s. 343.20; 1969 c. 254; 1966 c. 500 s. 30 (3) (i).

343.21 History: 1957 c. 260, 684; Stats. 1957 s. 343.21; 1961 c. 510, 529; 1963 c. 208; 1967 c. 292; 1969 c. 500 s. 30 (3) (i).

Legislative Council Note, 1957: This is a restatement of s. 85.08 (18), (20) (am) and (29) (am), with certain additions so as to make the law conform to practice. There will also be one change in practice as a result of this section. Subsection (1) (e) will require a person who is 18 years of age or over when applying for reinstatement to pay the $10 fee even though he was under 18 when his license was revoked. The present law has been interpreted to mean that such a person pays only the $2 fee. [Bill 99-S]

343.22 History: 1957 c. 260; Stats. 1957 s. 343.22; 1969 c. 500 s. 30 (3) (i).

343.23 History: 1957 c. 260; Stats. 1957 s. 343.23; 1969 c. 500 s. 30 (3) (h), (i).

Legislative Council Note, 1957: This is primarily a restatement of s. 85.08 (20) and that part of s. 85.08 (13) requiring the department to keep proper records of all licenses issued. Two minor changes have been made so as to make the law conform to practice. The requirement that the file contain a copy of the license issued has been omitted. The license is a photostatic copy of part of the application. Hence, the copy of the application serves as a copy of the license. The provision to the effect that the commissioner shall consider only those records covering the preceding 4 years in determining whether to suspend a license has been changed to may consider so as to make clear that he need not go back 4 years. The present practice is to consider the operating record for only the 3 preceding years in determining whether to suspend. "Suspend" has been changed to "revoke" in accordance with the change in terminology in subsequent sections of this chapter. [Bill 99-S]

343.24 History: 1957 c. 260; Stats. 1957 s. 343.24; 1969 c. 500 s. 30 (3) (h).

Legislative Council Note, 1957: The provisions of s. 85.08 (21) which provides that a license issued upon an application which is untrue in any manner is void from the date of issuance. Under sub. (1) such license would be void only after cancellation. The primary reason for this change is to clarify the law by reducing the number of concepts which are used in reference to termination of operating rights. Moreover, there does not seem to be any good reason for stating that the license is void from the date of issuance and would operate unfairly from the licensee's standpoint in case he had made an honest error in his application. If he knowingly makes a false statement in the application or otherwise commits a fraud in the application he can be prosecuted under s. 948.14 (3).

Subsection (2) is a restatement of part of s. 85.08 (10).

Subsection (3) is a restatement of part of s. 85.08 (11).

Subsection (4) is based upon s. 85.08 (6m) which provides that a person shall surrender his license to the department upon demand whenever he fails into one of the classes to whom the law prohibits issuance of a license. Again, in order to keep the concepts straight, the new provision will require an order of cancellation. The duty to surrender the license card then becomes automatic by virtue of s. 343.35. [Bill 99-S]

343.26 History: 1957 c. 260; Stats. 1957 s. 343.26; 1969 c. 500 s. 30 (3) (h), (i).

Legislative Council Note, 1957: The present law does not state very clearly what are the rights of a person whose license has been cancelled. As an original operating record, this section makes that fact clear, but provides that the department need not require an examination of the applicant as would be required in case the application was an original one. The important thing to note is that there is no waiting period or requirement that proof of financial responsibility be filed, such as in the case of a revocation. [Bill 99-S]
persons on the charge of operating a motor
vehicle while under the influence of intox-
cating liquor. 39 Atty. Gen. 120.

A nonresident convicted of an offense for
which revocation of his driving privileges is
mandatory should be required to surrender
his foreign driver's license in the same manner
that a resident is required to surrender his
Wisconsin driver's license. 46 Atty. Gen. 141.

343.28 History: 1957 c. 260, 684; Stats. 1957
s. 343.28; 1969 c. 500 s. 30 (3) (b), (l).

343.30 History: 1957 c. 260, 674; Stats. 1957
s. 343.30; 1969 c. 143, 144, 374, 428, 554; 1966
s. 185, 197, 232, 480; 1969 c. 366 s. 117 (2) (b);
1969 c. 383, 440; 1969 c. 500 s. 30 (g), (h), (l).

343.32 History: 1957 c. 260, 684; Stats. 1957
s. 343.28; 1969 c. 500 s. 30 (3) (b), (l).

343.33 History: 1957 c. 260, 674; Stats. 1957
s. 343.32; 1969 c. 500 s. 30 (3) (b), (l).

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mandatory should be required to surrender
his foreign driver's license in the same manner
that a resident is required to surrender his
Wisconsin driver's license. 46 Atty. Gen. 141.

343.28 History: 1957 c. 260, 684; Stats. 1957
s. 343.28; 1969 c. 500 s. 30 (3) (b), (l).

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which revocation of his driving privileges is
mandatory should be required to surrender
his foreign driver's license in the same manner
that a resident is required to surrender his
Wisconsin driver's license. 46 Atty. Gen. 141.

343.33 History: 1957 c. 260, 674; Stats. 1957
s. 343.32; 1969 c. 500 s. 30 (3) (b), (l).

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which revocation of his driving privileges is
mandatory should be required to surrender
his foreign driver's license in the same manner
that a resident is required to surrender his
Wisconsin driver's license. 46 Atty. Gen. 141.

343.33 History: 1957 c. 260, 674; Stats. 1957
s. 343.32; 1969 c. 500 s. 30 (3) (b), (l).

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343.33 History: 1957 c. 260, 674; Stats. 1957
s. 343.32; 1969 c. 500 s. 30 (3) (b), (l).

A nonresident convicted of an offense for
which revocation of his driving privileges is
mandatory should be required to surrender
his foreign driver's license in the same manner
that a resident is required to surrender his
Wisconsin driver's license. 46 Atty. Gen. 141.
The term “operating privilege” replaces s. 85.08 (22) (a) and (26m) of the present law.

Subsections (1), (2) and (3) of the new section are based respectively upon subs. (27) (a), (24c) and (26c) (d) of s. 85.08. There is no change in the law except for the change in procedure and change in terminology mentioned above.

Subsection (4) is largely new law but is a necessary provision if the actual suspension or revocation is to be done by the courts rather than by the commissioner. It restates present law insofar as suspension of licenses of juveniles is concerned.

Subsection (5) is a clarification and restatement of s. 85.08 (45). [Bill 99-S]


Subsection (6) restates s. 85.08 (23) (a). Subsection (3) restates present law as reflected in s. 85.08 (23) (a). Subsection (4) restates s. 85.08 (23) (a). Subsection (5) restates s. 85.08 (23) (a). Subsection (6) restates s. 85.08 (23) (a).

Subsection (2) restates s. 85.08 (23) (a).

Subsection (3) restates present law as reflected in s. 85.08 (23) (a).

Section 85.08 (25) (g) has been dropped. This provision was designed to lure convicted persons to file proof of financial responsibility by a temporary suspension under the financial responsibility law pending processing of the accident case. The provision has not worked in practice. [Bill 99-S]

See note to 288.10, citing Oshkosh v. Lloyd, 255 W 661, 35 NW 2d 772.

Where a driver convicted of ordinance violation under s. 85.08 (25) appeals to circuit court, and neither the state, the motor vehicle department nor the commissioner is a party, service on the department of an order to show cause why the driver’s license should not be suspended pending the appeal did not give the circuit court jurisdiction over either the state or the commissioner in the absence of a general appearance, so that a subsequent order requiring the department to suspend such license was a nullity. Madison v. Pierce, 266 W 399, 63 NW 2d 916.

The term “operating privilege” as used in 85.08 (22) (a) and (26m) of the present law.

The revocation, by the administrator of the division of motor vehicles, of a person’s operating privilege upon receiving a record of the latter’s conviction of any offense therein listed (including operating a motor vehicle while “operating privileges” are suspended or revoked), encompasses every operator’s license granted under ch. 343. Jicha v. Karns, 39 W 2d 676, 159 NW 2d 691.

The provisions of 85.08 (10), Stats. 1935, apply even though the court has not ordered revocation. 34 Atty. Gen. 706.

The motor vehicle operator’s license of a person convicted of operating a road grader under the influence of intoxicating liquor in violation of a city ordinance enacted in conformity to state statute is subject to mandatory revocation. 38 Atty. Gen. 173.

“Felony in the commission of which a motor vehicle is used” includes statutory rape committed in an automobile while parked away from the highway. 39 Atty. Gen. 456.

The commissioner must revoke an operator’s license upon receipt of the record of conviction of operating a vehicle while intoxicated, in violation of a city ordinance conforming to the state statute, notwithstanding the person convicted claims that the evidence was insufficient to support such conviction. 40 Atty. Gen. 7.

The term “operating privilege,” as used in 85.08 (22) (a) and (26m) of the present law, replaces s. 85.08 (22) (a) and (26m) of the present law.
Where a man was convicted of driving without a license (a 4-point violation) the commissioner cannot administratively find that he was actually guilty of driving after revocation of a license and assess him with 12 points and thereafter revoke his driving privileges for one year. Goodman v. Karns, 29 W2d 140, 138 NW (2d) 276.

Subsection (3) is based upon the last sentence of s. 85.08 (32) stating that refusal to submit to an examination is grounds for requiring surrender of the license. In the new section “surrender” has been substituted for “suspended.” The term “surrender” has been reserved for the process of actually giving up the license card as required by s. 343.35 upon cancellation, revocation or suspension of an operating privilege. (Bill 99-S)

The purpose of this bill is to provide for stay of revocation of a person’s operating privilege when such person takes an appeal from the conviction which would be cause for revocation. If such person subsequently drops or loses his appeal, his operating privilege will be revoked and the period of revocation will run from the date of such revocation. In other words, he cannot shorten the period of revocation by appealing. On the other hand, if the conviction is reversed on appeal, he will have been spared the inconvenience of having his operating privilege revoked pending the decision on appeal. (Bill 287-S)

Where revocation of an operator’s license has been stayed by order of a circuit court pending appeal to the supreme court from a judgment of conviction for operating a motor vehicle while under the influence of intoxicating liquor upon a trial de novo in circuit court (following appeal from an inferior court pursuant to justice court practice) and such circuit court judgment is affirmed by the supreme court, it is mandatory for the motor vehicle department to revoke such operator’s unrestricted license for one year following receipt of notification of affirmance of the judgment by the supreme court. Assuming the operator’s ability to satisfy requirements, he may petition the judge of the circuit court who convicted him for an order directing issuance of an occupational license. 34 Atty. Gen. 287-S.

The right to a hearing before the motor vehicle department under s. 85.08 (28) may be denied where the department is satisfied from records and information that no hearing is warranted. 32 Atty. Gen. 2.

The present provision seems to require a license to be surrendered. Under the new law, the license card as required by s. 343.35 upon cancellation, revocation or suspension of an operating privilege. (Bill 99-S)

The term “surrender” has been substituted for “suspended.” The term “surrender” has been reserved for the process of actually giving up the license card as required by s. 343.35 upon cancellation, revocation or suspension of an operating privilege. (Bill 99-S)

The practice of the motor vehicle department as to the driving privilege of an inmate has been revoked, canceled or suspended, the superintendent of a mental institution must deliver to the commissioner the driver’s license of such inmate if it comes into his possession. 46 Atty. Gen. 503. Compare 37 Atty. Gen. 467.

Upon being notified by the commissioner of the motor vehicle department that the driving privilege of an inmate has been revoked, canceled or suspended, the superintendent of a mental institution must deliver to the commissioner the driver’s license of such inmate if it comes into his possession. 46 Atty. Gen. 503. Compare 37 Atty. Gen. 467.

This section lists or refers to the circumstances under which an operating privilege may be suspended. As explained in the note to s. 343.30, suspension under the new sections is a concept quite distinct from revocation because of the provision for automatic reinstatement of suspended operating privileges. Subsection (1) of this section is based upon s. 85.08 (15) (b) which provides that the commissioner shall suspend or revoke the license upon receiving satisfactory evidence of a violation of a restriction on a license. Under present law, therefore, the person whose license is thus revoked or suspended is required to make application for a new license, pay the reinstatement fee and file proof of financial responsibility before his license can be reinstated. Under the new law, the license will be automatically reinstated at the end of the period of suspension.

Subsection (2) is not clearly stated in the present law but represents departmental policy and interpretations with respect to reinstatement of nonresidents’ operating privileges after revocation. Subsection (3) provides for automatic reinstatement of operating privileges in those cases where operating privileges have been

Subsection (2) is not clearly stated in the present law but represents departmental policy and interpretations with respect to reinstatement of nonresidents’ operating privileges after revocation. Subsection (3) provides for automatic reinstatement of operating privileges in those cases where operating privileges have been
"suspended" within the meaning of the new sections. [Bill 99-S]

A person convicted for driving while intoxicated should have his driver's license restored when pardoned, upon application, without furnishing proof of financial responsibility. 27 Atty. Gen. 331. See also 27 Atty. Gen. 629.

A revocation of a driver's license while a driver was under requirement to maintain proof of financial responsibility does not prevent the commissioner from requiring surrender of plates if proof of financial responsibility is not maintained. 40 Atty. Gen. 219.

343.39 History: 1957 c. 260; Stats. 1957 s. 343.39; 1969 c. 500 s. 30 (3) (i).

Legislative Council Note, 1957: This section lists the situations in which reinstatement of an operating privilege is "automatic" and describes the effect of an automatic reinstatement. The point of primary importance is that all suspensions will involve automatic reinstatement. In order to preserve the substance of the present law, all terminations of operating privileges which call for automatic reinstatement under the present law will be denominated "suspension" in the new law. Those requiring proof of financial responsibility and special application for reinstatement and payment of a reinstatement fee will be denominated "revocation." Thus, an important clarification in terminology and concepts will be achieved without any basic change in the substance of the law.

Subsection (1) (b) deals with a special situation calling for automatic reinstatement under the present law (s. 343.35 (b) and (25a)). It makes one change in the law. Present sub. (25a) requires reinstatement of a license suspended or revoked in this state as a result of a conviction in another state whenever the license is reinstated in the other state while that provision has been omitted from the new section. Insofar as such reinstatement in the other state is due to the fact that the laws of that state are more liberal with respect to reinstatement of operating privileges, it has the effect of weakening the laws of this state. It also means that residents of this state are given unequal treatment under substantially identical circumstances. The present law is retained and clarified insofar as reinstatement is required in the state of reversal or vacation of conviction in the other state is concerned.

Subsection (2) states the effect of an automatic reinstatement. It is new in the statutes but is basically a statement of present departmental policy on automatic reinstatements. [Bill 99-S]

343.40 History: 1957 c. 260; Stats. 1957 s. 343.40.

A mandatory revocation of a license under 343.31 is not subject to review under ch. 227, since 343.40 authorizes such review only if the revocation is not mandatory. 268.025 (2) applies to orders restraining the enforcement of a statutory order of an administrative officer. Carlyle v. Karns, 9 W (2d) 394, 101 NW (2d) 92.

343.43 History: 1957 c. 260, 674; Stats. 1957 s. 343.43; 1959 c. 543.

Legislative Council Note, 1957: This section lists and prohibits a number of miscellaneous abuses to which licenses are subject. The section restates s. 85.08 (35) with some modifications.

Subsection (1) (a) is a modification of s. 85.08 (35) (a). The present provision seems too broad because it makes criminal merely having a revoked, suspended or canceled license in one's possession or the displaying of such a license. The provision in s. 343.35 making it a crime to fail to surrender a revoked, suspended or canceled license upon demand plus the provisions of sub. (1) (a) of this section are sufficient.

Subsection (1) (b) and (c) of sub. (1) (d) restate s. 85.08 (35) (b) and (c) respectively.

Subsection (1) (d) is based upon the "any other violation" provision in s. 85.08 (35). It is somewhat broader than the present law in that there seems to be nothing in the present law making it a crime to violate a restriction imposed on a license by the department as distinguished from a restriction imposed by law. Paragraphs (e) and (f) of sub. (1) (d) restate s. 85.08 (35) (f) and (b) respectively.

The penalty in sub. (2) is from s. 85.08 (41). [Bill 99-S]

343.44 History: 1957 c. 260, 292, 684; Stats. 1957 s. 343.44; 1963 c. 379; 1967 c. 292.

A driver whose operator's license has been revoked cannot claim that he is validly driving under his chauffeur's license when on route home after having spent 5 hours at a tavern drinking and visiting friends. Saywise v. Berthiaume, 26 W (2d) 102, 136 NW (2d) 232.

Those who drive on the public highway after the driving privileges have been revoked and never properly reinstated are subject to the penalty prescribed by 343.44 (2). 51 Atty. Gen. 45.

343.45 History: 1957 c. 260; Stats. 1957 s. 343.45; 1965 c. 75.

An owner's act of loaning his automobile to a 10-year-old boy who was not eligible to drive would not render the owner responsible for injuries to his automobile unless he knew or ought to have known such fact. Canzoneri v. Heckert, 223 W 25, 269 NW 716.

An employer who orders his employee, a boy under 16 years, to drive an automobile in violation of sec. 1664-49, Stats. 1921, may be prosecuted as a principal in the crime. 11 Atty. Gen. 615.

343.46 History: 1957 c. 260; Stats. 1957 s. 343.46; 1969 c. 500 s. 30 (3) (i).

343.60 History: 1957 c. 674; Stats. 1957 s. 343.60; 1969 c. 500 s. 30 (3) (h), (i).

343.61 History: 1957 c. 674; Stats. 1957 s. 343.61; 1969 c. 500 s. 30 (3) (h), (i).
Any form of instruction, for compensation, in the driving of motor vehicles constitutes a
school's and such school is required to
be licensed. 47 Atty. Gen. 177.

343.62 History: 1957 c. 674; Stats. 1957 s.
1969 c. 509 s. 30 (3) (h).

Anyone who gives instruction, for compensa-
tion, in the driving of a motor vehicle must
be licensed as an instructor. 47 Atty. Gen.
177.

343.63 History: 1957 c. 674; Stats. 1957 s.
1969 c. 509 s. 30 (3) (h).

The definition
of words "Wisconsin," "state" or the name of
the city in which a school is located,
in any sign, firm name or other medium of ad-
vertising in connection with operation of dri-
vers' schools is a criminal violation under
344.01; 1969 c. 165.

Atty. Gen. 177.

343.64 History: 1957 c. 674; Stats. 1957 s.
1969 c. 509 s. 30 (3) (h).

343.65 History: 1957 c. 674; Stats. 1957 s.
1969 c. 509 s. 30 (3) (h).

343.66 History: 1957 c. 674; Stats. 1957 s.
1969 c. 509 s. 30 (3) (h).

343.67 History: 1957 c. 674; Stats. 1957 s.
1969 c. 509 s. 30 (3) (h).

343.68 History: 1957 c. 674; Stats. 1957 s.
1969 c. 509 s. 30 (3) (h).

343.69 History: 1957 c. 674; Stats. 1957 s.
1969 c. 509 s. 30 (3) (h).

343.70 History: 1957 c. 674; Stats. 1957 s.
1969 c. 509 s. 30 (3) (h).

343.71 History: 1957 c. 674; Stats. 1957 s.
1969 c. 509 s. 30 (3) (h).

343.72 History: 1957 c. 674; Stats. 1957 s.
1969 c. 509 s. 30 (3) (h).

343.73 History: 1957 c. 674; Stats. 1957 s.
1969 c. 509 s. 30 (3) (h).

343.74 History: 1957 c. 674; Stats. 1957 s.
1969 c. 509 s. 30 (3) (h).

343.75 History: 1957 c. 674; Stats. 1957 s.
1969 c. 509 s. 30 (3) (h).

CHAPTER 344.

Financial Responsibility.

344.01 History: 1957 c. 260; Stats. 1957 s.
1969 c. 165.

Legislative Council Note. 1957: Among the
pertinent definitions which sub. (1) incorpo-
rates into this chapter by reference are "com-
mis­sioner," "conviction," "department," "li-
cense," "operating privilege" and "traffic of-
ferces.

The definitions in sub. (2) are substantially
as in the present law. The definition of "ve-
he­
icle" is from s. 85.10 and is incorporated by
reference in present s. 85.09 (1). The defini-
tions of "motor vehicle," "judgment," "oper-
ator," "proof of financial responsibility" and
"state" are from s. 85.09 (1). The definition
of "registration" in present s. 85.09 (1) has
been modified so as to refer to the actual reg-
istration of a vehicle rather than the evi-
dence of registration and so as to include the
privilege to register a vehicle and the recipro-
cal privilege granted to nonresidents. This is
the concept involved when "registration" is
revoked or suspended. The actual evidence of
registration in this state (registration plates
and certificate of registration) must be sur-
rendered upon revocation of a person's "regis-
tration." This revision of the definition of
registration is a clarification of rather than a
change in the law as presently administered.

The definition of "person" in present s.
85.09 (1) has been omitted because of the
generally applicable definition of that word
in s. 990.01. The definition of "safety re-
ponsibility" has been omitted because it is
covered by s. 344.22. [Bill 98-S]

344.03 History: 1957 c. 260; Stats. 1957 s.
1969 c. 118; 1969 c. 509 s. 30 (3) (h).

Legislative Council Note. 1957: This is a
restatement of s. 85.09 (2) (b). The provision
stating that the filing of a petition for
review does not suspend the commissioner's
act or order unless a stay is ordered by the
court has been omitted from this section on
the ground that it is adequately covered by s.
257.17 of the statutes. [Bill 96-S]

Legislative Council Note. 1957: This bill
amends the present law relating to judicial
review of commissioner's orders to provide
for a greater length of time to file a peti-
tion. Under the statutory scheme, notice is
sent to the driver informing him that his
privilege will be suspended in 10 days unless
he complies with the commissioner's order.
The 10 days begins to run 5 days after the
notice is mailed because of the general mail-
ing statute. Under this bill, the driver, in
addition to 15 days prior to suspension is
given 30 days after suspension. In effect, a
petition can be filed within 45 days after the
order is mailed by the commissioner. It
should also be noted that s. 344.14 (1), at
the request of the driver, provides for a 20-
day extension for filing a petition for post-
ponement of the effective date of suspension.
Sub. (3) has been added to provide for an
extension of time allowed for petition for re-
view in the case where a person may be
incapacitated due to an accident. [Bill 4-A]

A proceeding commenced under 344.03, by
petition to the circuit court for review of an
order of the commission of motor vehicle
suspending the vehicle registrations of the
petitioner under 344.15 (4) is, a special pro-
cceeding as to which, by its very nature, the
commissioner is a party, and the circuit court
can acquire jurisdiction therein over the per-
son of the commissioner by service of the pe-
tition and order to show cause. (Madison v.
Pierce, 260 W 353, distinguished.) Burk v.
Commissioner of Motor Vehicles, 8 W (2d)
650, 99 NW (2d) 726.

The remedy provided in 344.03 is the exclu-
sive remedy for review of the commissioner's
suspension of a driver's operating privilege,
and mandamus will not lie to compel rein-
forcement of any order of suspension.