

CHAPTER 351

HABITUAL TRAFFIC OFFENDERS

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351.01 Declaration of intent. The legislature intends by enacting this chapter:

(1) To provide maximum safety for all users of the highways of this state.

(2) To deny the privilege of operating motor vehicles to persons who by their conduct and record have demonstrated their indifference for the safety and welfare of others and their disrespect for the laws, courts and administrative agencies of this state.

(3) To discourage repetition of traffic violations by individuals against the peace and dignity of this state and its political subdivisions and to impose increased and added deprivation of the privilege to operate motor vehicles upon habitual traffic offenders who have been convicted repeatedly of traffic law violations.

History: 1979 c. 333

351.02 Definitions. In this chapter:

(1) "Habitual traffic offender" means any person, resident or nonresident, whose record, as maintained by the department shows that the person has accumulated the number of convictions for the separate and distinct offenses, regardless of the license under which the person was operating a motor vehicle, under par. (a) or (b) committed within a 5-year period as follows:

(a) Four or more convictions of the following separate and distinct offenses, including any combination thereof:

1. Homicide under s. 940.06, 940.08 or 940.09 involving the use of a vehicle.

2. Reckless driving under s. 346.62.

3. Driving or operating a motor vehicle in violation of s. 346.63 (1) or (2).

4. Operating a motor vehicle while his or her license or operating privilege is suspended or revoked under s. 343.44.

5. Making any false statement to the department under s. 345.17.

6. Any crime punishable as a felony under chs. 341 to 348 or any felony in the commission of which a motor vehicle is used.

7. Failure of the operator of a motor vehicle involved in an accident to stop at or near the scene of the accident and report his or her identity under s. 346.67.

8. Fleeing or attempting to elude an officer under s. 346.04 (3).

(b) Twelve or more convictions of moving violations, including violations under par. (a), of traffic regulations or of crimes in the operation of a motor vehicle which are required to be reported under s. 343.28 or 345.37 (5).

(c) The offenses under pars. (a) and (b) are deemed to include offenses under any valid ordinance enacted by a local authority under s. 349.06 which are in strict conformity with the offenses under pars. (a) and (b) and any federal law, law of another state or valid ordinance enacted by the local authority of another state which is in strict conformity with the offenses under pars. (a) and (b).

(d) If more than one offense under par. (a) or (b) arises out of the same occurrence, all of those offenses shall be treated as one offense, on the first such occasion, if the person charged has no record of prior offenses within the preceding 5-year period.

(e) For purposes of this subsection, the 5-year period does not extend back to any date which is prior to August 1, 1980.

(1m) "Repeat habitual traffic offender" means any person, resident or nonresident, whose record as maintained by the department shows that the person has been convicted of 2 offenses under sub. (1) (b) committed within one year following issuance of an occupational license to the person pursuant to s. 351.07 (1) or whose record as maintained by the department shows that the person has been convicted of one offense under sub. (1) (a) or 4 offenses under sub. (1) (b) committed within 3 years following

issuance of an occupational license to the person pursuant to s. 351.07 (1).

(2) "Traffic regulation" has the meaning set forth in s. 345.20 (1) (b).

History: 1979 c. 333; 1983 a. 189 s. 329 (34); 1983 a. 459, 525, 535

351.03 Secretary to certify copy of conviction record.

The secretary shall certify the record of conviction of any person whose record brings him or her within the definition of a habitual traffic offender or repeat habitual traffic offender, to the district attorney of the county in which the person resides or to the attorney general if the person is not a resident of this state. The certified record shall be prima facie evidence that the person named therein was duly convicted by the court wherein the conviction or finding was made, of each offense shown by the record. If the person denies any of the facts as stated in the record, he or she shall have the burden of proving that the fact is false.

History: 1979 c. 333; 1983 a. 525

351.04 Petition to be filed by district attorney or attorney general.

The district attorney for the county in which the person resides, upon receiving the certified copy of record from the secretary under s. 351.03, shall file a petition in the circuit court for the county in which the person resides. In the case of nonresidents, the attorney general shall file the petition in the circuit court for Dane county.

History: 1979 c. 333

351.05 Order to show cause; service on person named as habitual traffic offender or repeat habitual traffic offender; procedure where conviction denied.

The court in which the petition under s. 351.04 is filed shall enter an order to show cause incorporating the certified record and directed to the person named therein, stating why he or she should not be barred from operating a motor vehicle in this state. A copy of the order to show cause, together with the record and a statement explaining the effects of being adjudged a habitual traffic offender or repeat habitual traffic offender, shall be served on the person named therein as prescribed for the service of a summons under ch. 801. Service on any nonresident may be made by service upon the secretary using the procedure specified in s. 345.09. If the person denies he or she was convicted or found in violation of any offense necessary for a holding that he or she is a habitual traffic offender or repeat habitual traffic offender, and if the court is not able to make the determination on the evidence before it, the court may certify the decision of the issue to the court in

which the conviction or finding of violation was made. The court to which the certification was made shall conduct a hearing to determine the issue and send a certified copy of its final order determining the issue to the court in which the petition was filed.

History: 1979 c. 333; 1983 a. 525

351.06 Order of court. If the court finds that the person before it is not the same person named in the record or that he or she is not a habitual traffic offender or repeat habitual traffic offender, the proceedings shall be dismissed. If the court finds that the person is the same person named in the record and that he or she is a habitual traffic offender or repeat habitual traffic offender, the court shall order the person's Wisconsin operating privilege revoked for a period of 5 years and shall require surrender to the court of any Wisconsin licenses then held by the person. The clerk of the court shall file a copy of the order with the department which shall become a part of the records of the department.

History: 1979 c. 333; 1983 a. 525

351.07 Review of order; conviction after issuance of occupational license.

(1) A person whose operating privilege has been revoked under this chapter as a habitual traffic offender may, after 2 years of the period of revocation have elapsed, petition the court which ordered the revocation for a modification of the order. The person's petition shall include a compelling reason why the person should be granted an occupational license and additional reasons why the court should believe that the person's previous conduct as a traffic offender will not be repeated. The court shall state its reasons for granting or denying the petition on the record. If the court grants the petition, the court shall modify the order of revocation to provide for issuance of an occupational license to the person under s. 343.10 (1r). The clerk of the court shall file a copy of a modified order with the department, which shall become a part of the records of the department.

(2) (a) Upon conviction of a person who is issued an occupational license as provided by sub. (1) of 2 offenses under s. 351.02 (1) (b) committed within one year following issuance of the occupational license or of one offense under s. 351.02 (1) (a) or 4 offenses under s. 351.02 (1) (b) committed within 3 years following issuance of the occupational license, the secretary shall proceed under s. 351.03.

(b) In lieu of the otherwise applicable penalties for the commission of the offenses enumerated in s. 351.02 (1) (a) and (b), a person who is issued an occupational license as provided by

sub. (1) and who is convicted of an offense under s. 351.02 (1) (a) or (b) as provided in par. (a) may be required to pay not more than 200% of the maximum forfeiture or fine applicable to the offense or may be imprisoned for not more than 2 times the maximum period of imprisonment applicable to the offense or both.

History: 1983 a. 525.

351.08 Operation of motor vehicle by habitual traffic offender or repeat habitual traffic offender prohibited; penalty; enforcement.

Any person who is adjudged a habitual traffic offender or repeat habitual traffic offender under s. 351.06 who is convicted of operating a motor vehicle in this state while the order of the court issued under s. 351.06 is in effect shall be fined not to exceed \$5,000 and shall be imprisoned not to exceed 180 days. No portion of the sentence may be suspended, except in a case where operating was made necessary by a situation of emergency, as determined by the court. Any person imprisoned under this section, on his or her request, may be allowed Huber law work privileges under s. 56.08. For the purpose of enforcing this section, in any case in which the accused is charged with driving a motor vehicle while his or her license, permit or privilege to drive is suspended or revoked or is charged with driving without a license, the court

before hearing the charge shall determine whether the person is a habitual traffic offender or repeat habitual traffic offender and therefor barred from operating a motor vehicle on the highways of this state. If the court determines that there is an order in effect revoking the accused's operating privileges under s. 351.06, it shall certify the case to the district attorney.

History: 1979 c. 333; 1983 a. 525, 535, 538.

351.10 Appeals. An appeal to the court of appeals may be taken from any final action or order of a court entered under this chapter in the same manner and form as such an appeal would be noted, perfected and tried in any criminal case, except s. 809.30 (1) (c) does not apply.

History: 1979 c. 333; 1983 a. 535.

351.11 Application of chapter. This chapter is in addition to and not in substitution for any provision of ch. 343 or 344 requiring the revocation of an operator's license. A license may be revoked in accordance with ch. 343 or 344 notwithstanding the fact that the revocation is not mandated by this chapter. The penalty imposed under s. 351.08 is in addition to the penalty imposed under any other law or ordinance for an offense specified in s. 351.02.

History: 1979 c. 333.