

1989 Assembly Bill 536

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1989 WISCONSIN ACT 167

AN ACT *to repeal* 343.36 (1); and *to amend* 86.303 (7) (a) and (b), 110.07 (3), 343.36 (2) and 349.18 (2) (a) and (3) of the statutes, **relating to:** distribution of names of persons whose operating privileges have been denied; registration of motor bicycles; highway-related cost data audits; and authorizing state motor vehicle inspectors to enforce laws relating to all-terrain vehicles (suggested as remedial legislation by the department of transportation).

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of transportation, and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of this bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

SECTION 1. 86.303 (7) (a) and (b) of the statutes are amended to read:

86.303 (7) (a) The department shall analyze the county and municipal highway-related cost data to identify that data that does not conform to reasonable averages and statistical groups or with previous reported costs. The department may request information from those municipalities or counties to explain the deviation. If not satisfied, the department may order the municipality or county to conduct and report to the department an independent certified audit of ~~their~~ its financial report, ~~and the audit or, if the county or municipality has already conducted an audit of its financial report which complies with requirements under 31 USC 7501 to 7505, may require the county or municipality to provide the department with an itemization of data comprising that audit.~~ The costs of an audit or of providing the department itemized data comprising an audit shall be a reportable cost item if the audit substantially verifies the original financial report.

(b) If the county or municipality fails to conduct ~~such~~ an independent audit when ordered to do so by the department, the aids payable during the following year shall be equal to 90% of the aids actually paid during the preceding year. If the department has reason to believe that the 90% payment will be greater than the actual payment should be, the department may itself order an independent audit and deduct the audit costs from the transportation aids paid to the county or municipality under s. 86.30 (2). Any underpayment or overpayment of aids resulting from financial reporting errors shall be rectified by adjusting aids paid in the following year.

NOTE: Currently, if the department of transportation (DOT) is not satisfied with county or municipal highway-related cost data, DOT may order the municipality or county to conduct an independent audit of its financial report. This amendment will avoid duplicative auditing by authorizing DOT to require, in lieu of an entire independent audit, additional information from an audit consistent with federal requirements which has already been performed.

SECTION 2. 110.07 (3) of the statutes is amended to read:

110.07 (3) The secretary may employ inspectors who may not wear the uniform of the state patrol, whose duties shall be to enforce and assist in administering this chapter and chs. 194, 218, 340 to 345 and 347 to 351, s. 23.33, the inspection requirements of s. 121.555 (2) (b) and the requirements under s. 346.45 (4) for vehicles being used to transport hazardous materials. Such inspectors, in the performance of these duties, shall have the powers and authority of state traffic officers. For the purpose of

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death, disability and retirement coverage, such inspectors shall be subject to ch. 40 as is the state traffic patrol. The secretary may clothe and equip inspectors as the interest of public safety and their duties require.

NOTE: Section 23.33 (12) (a), stats., gives state motor vehicle inspectors authority to enforce all-terrain vehicle (ATV) laws. This amendment includes enforcement of the ATV laws in the powers and duties of these inspectors.

SECTION 3. 343.36 (1) of the statutes is repealed.

SECTION 4. 343.36 (2) of the statutes is amended to read:

343.36 (2) Once each month, the department 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 of those revocations and suspensions and, upon request, shall forward such the list to the sheriff of each county, to the chief of police or the constable, respectively, of each city, village and town and to all county traffic officers.

NOTE: The repeal of s. 343.36 (1), stats., deletes the requirement for DOT to notify local police and traffic officials when a resident's operating privilege is denied or otherwise adversely affected. Sufficient information is provided to local officials in the monthly lists required under s. 343.36 (2), stats.

SECTION 5. 349.18 (2) (a) and (3) of the statutes are amended to read:

349.18 (2) (a) Except as provided in par. (b), any city, town or village may by ordinance regulate the operation of bicycles and motor bicycles and require registration of any bicycle or motor bicycle owned by a resident of the city, town or village, including the payment of a registration fee.

(3) Any county, by ordinance, may require the registration of any bicycle or motor bicycle owned by a resident of the county if the bicycle or motor bicycle is not subject to registration under sub. (2). Such ordinance does not apply to any bicycle or motor bicycle subject to registration under sub. (2), even if the effective date of the ordinance under sub. (2) is later than the effective date of the county ordinance. A county may charge a fee for the registration.

NOTE: The authority for cities, towns and villages to require registration of motor bicycles in s. 349.18 (2), stats., was unintentionally eliminated by 1985 Wisconsin Act 197. Under the current statute, municipalities may regulate operations of bicycles and motor bicycles but may only register bicycles since motor bicycles are specifically exempted from registration under s. 341.05 (23), stats. This amendment of s. 349.18 (2) (a), stats., restores the authority of municipalities to require the registration of motor bicycles. The bill also authorizes counties to require the registration of motor bicycles which are not subject to a city, town or village registration requirement.