



1995 SENATE BILL 325

September 6, 1995 - Introduced by Senators WEEDEN, HUELSMAN and FARROW, cosponsored by Representatives LEHMAN, R. YOUNG, KRUG and WILDER, by request of The Director of State Courts. Referred to Committee on Transportation, Agriculture and Local Affairs.

1 **AN ACT to repeal** 25.40 (1) (im), 59.20 (8r), 343.10 (1) (c), 343.10 (7) (a), 343.10
2 (10) (title), 343.10 (10) (c) and (d), 343.30 (1q) (b) 6., 343.305 (10) (b) 6., 343.345
3 and 345.47 (4); **to renumber and amend** 343.10 (3), 343.10 (10) (a), 343.10 (10)
4 (am), 343.10 (10) (b) and 343.10 (10) (bm); **to amend** 343.05 (2) (a) 4., 343.10
5 (1) (title) and (a), 343.10 (1) (b), 343.10 (2) (a) 1. and 3., 343.10 (2) (b), 343.10 (3)
6 (title), 343.10 (5) (a), 343.10 (6), 343.10 (7) (b), (c) and (cm), 343.10 (7) (e) and
7 (f), 343.10 (9), 343.30 (3), 343.31 (3m), 343.32 (6) and 351.07 (1) and (1m); **to**
8 **repeal and recreate** 343.10 (4); and **to create** 343.10 (2) (a) 4., 343.10 (3) (b)
9 and 814.61 (14) of the statutes; **relating to:** the issuance of occupational
10 licenses by the department of transportation and suspension of a juvenile's
11 operating privilege for failure to pay a forfeiture.

Analysis by the Legislative Reference Bureau

Currently, a person who has had his or her operating privilege revoked or suspended and whose occupation or trade makes it essential that the person operate a motor vehicle may, after paying a fee of \$40 to the county treasurer, petition a judge of a court of record or of a municipal court in the county of his or her residence for an order directing the department of transportation (DOT) to issue the person an occupational license. Current law also permits administrative issuance by DOT of occupational licenses for commercial motor vehicle drivers. If issued, the occupational license restricts the person's operation of a motor vehicle as to the number of hours per day, hours per week and routes of travel permitted under the

license. A court may issue the person a temporary occupational license if insurance requirements are satisfied and a certain period of time since the date of suspension or revocation has elapsed. A judge who orders the issuance of an occupational license may revoke the license when, based on facts, the judge does not see fit to permit the person to retain the license.

This bill revises the procedure for obtaining an occupational license. Instead of petitioning a judge, except in administrative cases handled by DOT, a person whose operating privilege has been suspended or revoked applies, upon payment of the \$40 fee, directly to DOT for issuance of the occupational license. Issuance of the license by DOT is subject to the same considerations as an order for issuance of a license under current law by a judge, including the number and seriousness of the person's prior traffic offenses. If the person's operating privilege was suspended or revoked by a court or judge, an occupational license issued by DOT to the person shall include any restrictions specified by the court or judge.

Temporary occupational licenses are eliminated. Except for those instances in which the law currently specifies immediate eligibility or a different minimum waiting period for issuance of an occupational license, the bill provides that a person is not eligible for an occupational license until at least 15 days have elapsed since the date of revocation or suspension, or, in the case of an appeal which is subsequently dismissed or affirmed, until at least 15 days have elapsed since the date of the revocation or suspension following the dismissal or affirmance of the appeal.

DOT's denial of an application for an occupational license is not subject to judicial review. DOT must inform a person whose application is denied of the reasons for the denial and that he or she has the right, upon payment of a \$40 fee, to file a petition with the circuit court in the county of his or her residence for an order authorizing the issuance of an occupational license to the person. A person may not file more than one petition after DOT's denial of an occupational license application. The circuit court that orders the issuance of an occupational license retains the authority to revoke that license upon facts presented to the court.

The procedure to obtain an occupational license by a habitual traffic offender is unchanged by this bill. Upon receipt of an occupational license order by a court, DOT issues an occupational license to the habitual traffic offender.

Under current law, a court is required to suspend the operating privilege of any person under the age of 18 if the person fails to pay a forfeiture imposed for the person's first moving traffic violation. The court may, but is not required to, suspend the person's operating privilege for any subsequent failures to pay a forfeiture imposed for any moving traffic violations.

This bill repeals this provision of state law.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 25.40 (1) (im) of the statutes is repealed.

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1 **SECTION 2.** 59.20 (8r) of the statutes is repealed.

2 **SECTION 3.** 343.05 (2) (a) 4. of the statutes is amended to read:

3 343.05 **(2)** (a) 4. A person with a temporary license under s. ~~343.10 (4) or~~
4 343.305 (8) (a) which expressly authorizes the operation of the applicable class and
5 type of commercial motor vehicle and which is not expired.

6 **SECTION 4.** 343.10 (1) (title) and (a) of the statutes are amended to read:

7 343.10 **(1)** (title) ~~PETITION~~ APPLICATION FOR OCCUPATIONAL LICENSE.

8 (a) If a person's license or operating privilege is revoked or suspended under
9 this chapter or s. 161.50 and if the person is engaged in an occupation, including
10 homemaking or full-time or part-time study, or a trade making it essential that he
11 or she operate a motor vehicle, the person, after payment of the fee provided in sub.
12 (6), may file a ~~petition~~ an application with the department setting forth in detail the
13 need for operating a motor vehicle. No person may file more than one application
14 with respect to each revocation or suspension of the person's license or operating
15 privilege under this chapter or s. 161.50, except that this limitation does not apply
16 to an application to amend an occupational license restriction.

17 **SECTION 5.** 343.10 (1) (b) of the statutes is amended to read:

18 343.10 **(1)** (b) The ~~petition~~ application shall be in a form established by the
19 department and shall identify the specific motor vehicle that the ~~petitioner~~ applicant
20 seeks authorization to operate, including the vehicle classification and any required
21 endorsements. The ~~petition~~ application shall include an explanation of why
22 operating the motor vehicle is essential to the person's livelihood and identify the
23 person's occupation or trade. The ~~petition~~ application shall identify the ~~petitioner's~~
24 applicant's employer, and include proof of financial responsibility as specified in s.
25 343.38 (1) (c) covering the vehicle or vehicles that the ~~petitioner~~ applicant requests

1 authorization to operate. The ~~petition~~ application shall identify the hours of
2 operation and routes of travel being requested by the ~~petitioner~~ applicant in accord
3 with the restrictions of sub. (5). The ~~petitioner~~ applicant shall certify whether, to the
4 best of personal knowledge, he or she is disqualified under s. 343.315.

5 **SECTION 6.** 343.10 (1) (c) of the statutes is repealed.

6 **SECTION 7.** 343.10 (2) (a) 1. and 3. of the statutes are amended to read:

7 343.10 (2) (a) 1. Except for a revocation or suspension that arose out of the same
8 incident or occurrence for which the person's license or operating privilege is
9 currently revoked or suspended, the person's license or operating privilege was not
10 revoked or suspended previously under this chapter or ch. 344 or s. 161.50 within the
11 one-year period immediately preceding the present revocation or suspension.

12 3. The person surrenders his or her former operator's license, ~~including any~~
13 ~~license issued under sub. (10)~~, unless the license is already in the possession of the
14 court or the department.

15 **SECTION 8.** 343.10 (2) (a) 4. of the statutes is created to read:

16 343.10 (2) (a) 4. At least 15 days have elapsed since the date of revocation or
17 suspension, or, in the case of an appeal that is subsequently dismissed or affirmed,
18 at least 15 days have elapsed since the date of revocation or suspension following the
19 dismissal or affirmance of the appeal, unless another minimum waiting period or
20 immediate eligibility is expressly provided by law.

21 **SECTION 9.** 343.10 (2) (b) of the statutes is amended to read:

22 343.10 (2) (b) No occupational license may permit the operation of any motor
23 vehicles for which the ~~petitioner~~ applicant did not hold valid authorization at the
24 time of revocation or suspension of the person's license or operating privilege.

25 **SECTION 10.** 343.10 (3) (title) of the statutes is amended to read:

1 343.10 (3) (title) DETERMINATION ON PETITION APPLICATION.

2 **SECTION 11.** 343.10 (3) of the statutes is renumbered 343.10 (3) (a) and
3 amended to read:

4 343.10 (3) (a) If satisfied that the person is eligible under sub. (2), the judge
5 department shall consider the number and seriousness of prior traffic convictions in
6 determining whether to ~~order the issuance of~~ issue an occupational license and what
7 restrictions to specify. ~~If the court grants the petition, a copy of the petition and the~~
8 ~~order for the occupational license shall be forwarded to the department~~ The denial
9 by the department of an application for an occupational license is not subject to
10 judicial review.

11 **SECTION 12.** 343.10 (3) (b) of the statutes is created to read:

12 343.10 (3) (b) The department shall inform a person whose application for an
13 occupational license under sub. (1) is denied in whole or in part of the specific reasons
14 for the denial and that he or she may file one petition for an occupational license
15 under sub. (4).

16 **SECTION 13.** 343.10 (4) of the statutes is repealed and recreated to read:

17 343.10 (4) PETITION FOR OCCUPATIONAL LICENSE. (a) A person whose application
18 for an occupational license under sub. (1) is denied in whole or in part may file a
19 petition with the clerk of the circuit court in the county in which the person resides
20 for an order authorizing the issuance of an occupational license to the person. No
21 person may file a petition under this paragraph unless he or she first pays the fee
22 specified in s. 814.61 to the clerk of the circuit court. The person's petition shall
23 include a copy of the person's current operating record under s. 343.23 (2) and the
24 reasons why the person should be granted an occupational license. The court shall
25 consider the number and seriousness of prior traffic convictions in determining

1 whether to grant the petition and shall state, in writing, its reasons for granting or
2 denying the petition. No person may file more than one petition with respect to a
3 denial of an application for an occupational license under sub. (1).

4 (b) If the court grants the petition, the court shall issue an order authorizing
5 the issuance of an occupational license to the person. The order for issuance of an
6 occupational license shall include definite restrictions as to hours of the day, hours
7 per week, type of occupation and areas or routes of travel to be permitted under the
8 license as provided in sub. (5). A copy of the order shall be forwarded to the
9 department. Upon receipt of the court order, the petitioner shall be considered an
10 applicant by the department for purposes of this section. The occupational license
11 issued by the department under this paragraph shall contain the restrictions
12 ordered by the court. If the court denies the petition, the clerk of the court shall notify
13 the department of the denial of the petition.

14 (c) The department shall not issue an occupational license to a person upon
15 receipt of an order from a court under this subsection if the person appears by the
16 records of the department to have filed more than one petition with a court for an
17 occupational license under this subsection.

18 **SECTION 14.** 343.10 (5) (a) of the statutes is amended to read:

19 343.10 (5) (a) *Restrictions.* 1. In addition to any restrictions appearing on the
20 former operator's license of the ~~petitioner~~ applicant, ~~the order for issuance of an~~
21 occupational license shall contain definite restrictions as to hours of the day, not to
22 exceed 12, hours per week, not to exceed 60, type of occupation and areas or routes
23 of travel which are permitted under the license. ~~The order~~ occupational license may
24 permit travel to and from church during specified hours if the travel does not exceed
25 the restrictions as to hours of the day and hours per week in this subdivision. The

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1 ~~order~~ occupational license may permit travel necessary to comply with a driver
2 safety plan ordered under s. 343.30 (1q) or 343.305 if the travel does not exceed the
3 restrictions as to hours of the day and hours per week in this subdivision. The ~~order~~
4 occupational license may contain restrictions on the use of alcohol and of controlled
5 substances in violation of s. 161.41.

6 2. If the ~~petitioner~~ applicant has 2 or more convictions, suspensions or
7 revocations, as counted under s. 343.307 (1), the ~~order for issuance of an occupational~~
8 license shall prohibit the ~~petitioner~~ applicant from driving or operating a motor
9 vehicle while he or she has a blood alcohol concentration of more than 0.0% by weight
10 of alcohol in the person's blood or more than 0.0 grams of alcohol in 210 liters of that
11 person's breath.

12 3. If the ~~petitioner~~ applicant has 2 or more prior convictions, suspensions or
13 revocations, as counted under s. 343.307 (1), the ~~order for issuance of an occupational~~
14 license ~~to a person of the applicant~~ may restrict the ~~person's~~ applicant's operation
15 under the occupational license to vehicles that are equipped with a functioning
16 ignition interlock device as provided under s. 346.65 (6). A person to whom a
17 restriction under this subdivision applies violates that restriction if he or she
18 requests or permits another to blow into an ignition interlock device or to start a
19 motor vehicle equipped with an ignition interlock device for the purpose of providing
20 the person an operable motor vehicle without the necessity of first submitting a
21 sample of his or her breath to analysis by the ignition interlock device.

22 **SECTION 15.** 343.10 (6) of the statutes is amended to read:

23 343.10 (6) FEE. No person may file a ~~petition~~ an application for an occupational
24 license under sub. (1) or be issued an occupational license upon receipt of an order
25 of a court under sub. (4) or s. 351.07 unless he or she first pays a fee of \$40 ~~to the clerk~~

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1 of the circuit court if the petition is to a judge of the circuit court, to the municipal
2 court if the petition is to a judge of the municipal court or to the department if the
3 petition is to the department under sub. (10). The clerk of the circuit court or the
4 municipal court official shall give the person a receipt and forward the fee to the
5 county or municipal treasurer, respectively. That treasurer shall pay 50% of the fee
6 to the state treasurer under s. 59.20 (8r) and retain the balance for the use of the
7 county or municipality, respectively. The department shall give the person a receipt.

8 **SECTION 16.** 343.10 (7) (a) of the statutes is repealed.

9 **SECTION 17.** 343.10 (7) (b), (c) and (cm) of the statutes are amended to read:

10 343.10 (7) (b) The department shall issue an occupational license as soon as
11 practicable upon receipt of an application to the department under sub. (1) or an
12 order from a court under sub. (4) or s. 351.07 for such a license, if the department
13 determines that the ~~petitioner~~ applicant is eligible under sub. (2).

14 (c) If the ~~court order permits operation of both commercial motor vehicles and~~
15 ~~noncommercial motor vehicles and the person is disqualified under s. 343.315 but~~
16 otherwise eligible under sub. (2), the department shall issue an occupational license
17 authorizing operation only of vehicles other than commercial motor vehicles.

18 (cm) If the ~~order~~ occupational license includes the restriction specified in sub.
19 (5) (a) 3., the department shall not issue the occupational license until the ~~person~~
20 applicant provides evidence satisfactory to the department that any motor vehicle
21 that the ~~person~~ applicant will be permitted to operate has been equipped with a
22 functioning ignition interlock device.

23 **SECTION 18.** 343.10 (7) (e) and (f) of the statutes are amended to read:

24 343.10 (7) (e) The occupational license issued by the department shall contain
25 such the restrictions as are ordered by the judge. ~~In addition to such restrictions an~~

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1 required by sub. (5). The occupational license authorizes the licensee to operate a
2 motor vehicle ~~not to exceed 12 hours per day and then only when such~~ that operation
3 is an essential part of the licensee's occupation or trade. If the ~~order permits~~
4 ~~operation of commercial motor vehicles and the department determines that the~~
5 ~~petitioner~~ applicant is eligible under sub. (2), the department may impose such
6 conditions and limitations upon the authorization to operate commercial or
7 noncommercial motor vehicles as in the secretary's judgment are necessary in the
8 interest of public safety and welfare, including reexamination of the person's
9 qualifications to operate a commercial or noncommercial motor vehicle or a
10 particular type thereof. The department may limit such authorization to include,
11 without limitation, the operation of particular vehicles, particular kinds of operation
12 and particular traffic conditions.

13 (f) The expiration date of the occupational license is the 2nd working day after
14 the date of termination of the period of revocation or suspension as provided by law.
15 The occupational license may be revoked, suspended or canceled before termination
16 of that period. An occupational license is not renewable when it expires. If an
17 occupational license expires and is not revoked, suspended or canceled, the licensee
18 may obtain a new license upon that expiration but only if he or she complies with the
19 conditions specified in s. 343.38. Revocation, suspension or cancellation of an
20 occupational license has the same effect as revocation, suspension or cancellation of
21 any other license.

22 **SECTION 19.** 343.10 (9) of the statutes is amended to read:

23 343.10 (9) NOTICE. The department shall inform a person whose operating
24 privilege ~~has been~~ is revoked or suspended under this chapter of his or her right to

1 ~~petition the court~~ apply to the department for issuance of an occupational license
2 under this section.

3 **SECTION 20.** 343.10 (10) (title) of the statutes is repealed.

4 **SECTION 21.** 343.10 (10) (a) of the statutes is renumbered 343.10 (1) (d) and
5 amended to read:

6 343.10 (1) (d) If the ~~petitioner's~~ applicant's commercial driver license has been
7 suspended or revoked solely for a violation of s. 346.63 (1) and the person was not
8 operating a commercial motor vehicle at the time of the violation, ~~a petition~~ an
9 application seeking issuance of an occupational license authorizing operation of
10 "Class A", "Class B" or "Class C" vehicles may be filed ~~directly~~ with the department.
11 The ~~petition~~ application may also seek authorization to operate "Class D" or "Class
12 M" vehicles.

13 **SECTION 22.** 343.10 (10) (am) of the statutes is renumbered 343.10 (1) (f) and
14 amended to read:

15 343.10 (1) (f) If the ~~petitioner's~~ applicant's commercial driver license has been
16 suspended or revoked solely under ch. 344, ~~a petition~~ an application seeking issuance
17 of an occupational license authorizing operation of "Class A", "Class B" or "Class C"
18 vehicles may be filed ~~directly~~ with the department. The ~~petition~~ application may not
19 seek authorization to operate "Class D" or "Class M" vehicles.

20 **SECTION 23.** 343.10 (10) (b) of the statutes is renumbered 343.10 (7) (g) and
21 amended to read:

22 343.10 (7) (g) ~~There~~ Notwithstanding sub. (2) (a) 4., there shall be no minimum
23 waiting period before the issuance of an occupational license under this subsection
24 authorizing operation of only "Class A", "Class B" or "Class C" vehicles if the
25 applicant's commercial driver license has been suspended or revoked solely for a

1 violation of s. 346.63 (1) and the person was not operating a commercial motor vehicle
2 at the time of the violation or has been suspended or revoked solely under ch. 344.

3 If the ~~petition~~ application also seeks authorization to operate “Class D” or “Class M”
4 vehicles, the department may issue an occupational license if at least 15 days have
5 elapsed since the date of suspension or revocation unless another minimum waiting
6 period or eligibility at any time is provided by law.

7 **SECTION 24.** 343.10 (10) (bm) of the statutes is renumbered 343.10 (1) (e) and
8 amended to read:

9 343.10 (1) (e) If the ~~petitioner's~~ applicant's commercial driver license has been
10 suspended or revoked under s. 343.32 (2), a ~~petition~~ an application seeking issuance
11 of an occupational license authorizing operation of “Class A”, “Class B” or “Class C”
12 vehicles may be filed ~~directly~~ with the department. The ~~petition~~ application may also
13 seek authorization to operate “Class D” or “Class M” vehicles. ~~The department may~~
14 ~~issue an occupational license after at least 15 days have elapsed since the date of~~
15 ~~suspension or revocation.~~

16 **SECTION 25.** 343.10 (10) (c) and (d) of the statutes are repealed.

17 **SECTION 26.** 343.30 (1q) (b) 6. of the statutes is repealed.

18 **SECTION 27.** 343.30 (3) of the statutes is amended to read:

19 343.30 (3) The ~~judge who~~ court that ordered the issuance of an occupational
20 license under sub. (4) may revoke ~~such~~ the license whenever the ~~judge~~ court, upon
21 the facts, does not see fit to permit the licensee to retain the occupational license.
22 ~~Such~~ The revocation shall be for a period of one year.

23 **SECTION 28.** 343.305 (10) (b) 6. of the statutes is repealed.

24 **SECTION 29.** 343.31 (3m) of the statutes is amended to read:

1 343.31 **(3m)** (a) Any person who has his or her operating privilege revoked
2 under sub. (3) (c) or (f) ~~may apply~~ is eligible for an occupational license under s.
3 343.10 after the first 120 days of the revocation period.

4 (b) Any person who has his or her operating privilege revoked under sub. (3)
5 (e) ~~may apply~~ is eligible for an occupational license under s. 343.10 after the first 60
6 days of the revocation period.

7 **SECTION 30.** 343.32 (6) of the statutes is amended to read:

8 343.32 **(6)** There shall be no minimum waiting period before a ~~petition for~~
9 issuance of an occupational license under s. 343.10 to a person whose operating
10 privilege has been suspended or revoked under sub. (2) ~~may be considered~~ if the
11 person is otherwise eligible for issuance of an occupational license.

12 **SECTION 31.** 343.345 of the statutes is repealed.

13 **SECTION 32.** 345.47 (4) of the statutes is repealed.

14 **SECTION 33.** 351.07 (1) and (1m) of the statutes are amended to read:

15 351.07 **(1)** A person whose operating privilege has been revoked under this
16 chapter as a habitual traffic offender may, after 2 years of the period of revocation
17 have elapsed, petition a judge of the circuit court for the county in which the person
18 resides for an order authorizing the issuance of an occupational license allowing the
19 operation of vehicles other than commercial motor vehicles. The person's petition
20 shall include a compelling reason why the person should be granted an occupational
21 license and additional reasons why the judge should believe that the person's
22 previous conduct as a traffic offender will not be repeated. The judge shall state his
23 or her reasons for granting or denying the petition on the record. If the judge grants
24 the petition, the judge shall issue an order authorizing the issuance of an
25 occupational license, limited to the operation of vehicles other than commercial

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1 motor vehicles, to the person under s. 343.10. The clerk of the court shall file a copy
2 of the order with the department, which shall become a part of the records of the
3 department. Upon receipt of the court order, the petitioner shall be considered an
4 applicant by the department for purposes of s. 343.10.

5 (1m) Any person whose petition for issuance of an occupational license under
6 sub. (1) is granted may ~~petition~~ apply to the department for authorization to operate
7 commercial motor vehicles. The ~~petitioner~~ applicant shall proceed as provided in s.
8 343.10.

9 **SECTION 34.** 814.61 (14) of the statutes is created to read:

10 814.61 (14) PETITION FOR OCCUPATIONAL LICENSE. On filing a petition for an
11 occupational license under s. 343.10 (4), \$40.

12 **SECTION 35. Initial applicability.**

13 (1) This act first applies to an application for an occupational license or for an
14 amendment of an occupational license restriction submitted on the effective date of
15 this subsection.

16 **SECTION 36. Effective date.**

17 (1) This act takes effect on the first day of the 6th month beginning after
18 publication.

19 (END)