

1999 DRAFTING REQUEST

Bill

Received: **03/08/2000**

Received By: olsenje

Wanted: **As time permits**

Identical to LRB:

For: **Michael Huebsch (608) 266-0631**

By/Representing:

This file may be shown to any legislator: NO

Drafter: olsenje

May Contact:

Ah. Drafters:

Subject: Criminal Law - miscellaneous

Extra Copies: **MGD**

Pre Topic:

No specific pre topic given

Topic:

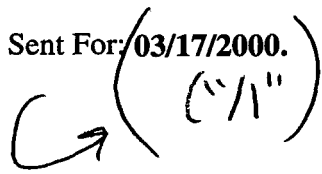
Theft of gasoline

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	olsenje 03/14/2000	ygeller 03/14/2000	jfrantze 03/14/2000	_____	lrb_docadmin 03/15/2000	lrb_docadminState 03/17/2000	

FE Sent For: **03/17/2000.**


<END>

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I?	olsenje	1 3/15 jg	129/14	16/14 3/14			

FE Sent For:

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BI
REQUEST FORM

LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street

4708
RP

Use of this form is optional. It is often better to talk **directly** with the **LRB** attorney who will draft the bill.

Use this form only for **BILL** drafts. Attach **more** pages if necessary.

Legislator, agency or other body requesting this **draft**: AUEBSCH

Date: 3-6-00 Person submitting request (name, phone number): 6-0631

Persons to contact for questions about this draft (names, phone numbers): _____

Describe the problem, including any helpful examples.
How do you want to solve the problem? 1147/1, wed like to redraft ^{as a new bill} 1147/1 to AB 620 as stated in the attached memo

Please attach a copy of any correspondence or other material that may help us.
If you know of any statute **sections** that might be affected, list them or provide a marked-up (not re-typed) **copy**. _____
You may attach a marked-up (not retyped) copy of any LRB draft, or provide its number (e.g., 1995 **LRB-2345/1** or 1993 **AB-67**): _____

Requests are confidential unless stated otherwise.

- May we tell others that we are working on this for you? Yes No
- If yes: Anyone who asks? Yes No Any legislator? Yes No Only the following persons: _____

Do you consider this request urgent? Yes No **If yes, please indicate why:** _____

Should we give this request priority over any other pending request of this legislator, agency or body? Yes No **If yes, sign your name here:** _____
Yes No

Drafting instructions:

- Add gasoline theft (intentional drive-offs) to the provisions of section 943.21, regarding fraud on innkeepers, restaurants and taxicabs.
- Make each incidence of gasoline theft subject to a Class D forfeiture.
- Include gasoline theft in the civil liability provisions of section 943.212, regarding fraud on innkeepers, restaurants and taxicabs.

**ASSEMBLY AMENDMENT,
TO 1999 ASSEMBLY BILL 620**

1 At the locations indicated, amend the bill as follows:

2 1. Page 1, line 9: after "actions," insert "suspension of operating privileges
3 after conviction for certain theft offenses,".

4 2. Page 3, line 1: delete that line and substitute:

5 **"SECTION 1d.** 343.10 (1) (a) of the statutes is amended to read:

6 343.10 (1) (a) If a person's license or operating privilege is revoked or
7 suspended under this chapter or s. ~~767.303, 943.20(3m)~~ or 961.50 and if the person
8 is engaged in an occupation, including homemaking or full-time or part-time study,
9 or a trade making it essential that he or she operate a motor vehicle, the person, after
10 payment of the fee provided in sub. (6), may file an application with the department
11 setting forth in detail the need for operating a motor vehicle. No person may file more
12 than one application with respect to each revocation or suspension of the person's
13 license or operating privilege under this chapter or s. ~~767.303, 943.20(3m)~~ or 961.50,

1 except that this limitation does not apply to an application to amend an occupational
2 license restriction.

3 **SECTION lh.** 343.10 (2) (a) 1. of the statutes is amended to read:

4 343.10 (2) (a) 1. Except for a revocation or suspension that arose out of the same
5 incident or occurrence for which the person's license or operating privilege is
6 currently revoked or suspended, the person's license or operating privilege was not
7 revoked or suspended previously under this chapter or ch. 344 or s. 943.20 (3m) or
8 961.50 within the one-year period immediately preceding the present revocation or
9 suspension, except as provided in s. 344.40.

10 **SECTION lp.** 343.30 (5) of the statutes is amended to read:

11 343.30 (5) No court may suspend or revoke an operating privilege except as
12 authorized by this chapter or ch. 345,351 or 938 or s. 767.303, 800.09 (1) (c), 800.095
13 (4) (b) 4., 943.20 (3m) or 961.50. When a court revokes, suspends or restricts a
14 juvenile's operating privilege under ch. 938, the department of transportation shall
15 not disclose information concerning or relating to the revocation, suspension or
16 restriction to any person other than a court, district attorney, county corporation
17 counsel, city, village or town attorney, law enforcement agency, or the minor whose
18 operating privilege is revoked, suspended or restricted, or his or her parent or
19 guardian. Persons entitled to receive this information shall not disclose the
20 information to other persons or agencies.

21 **SECTION lt.** 757.69 (1) (p) of the statutes is created to read:“.

22 3. Page 11, line 18: after that line insert:

23 “**SECTION 28m.** 943.20 (3m) of the statutes is created to read:

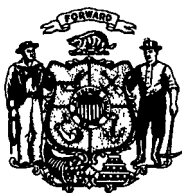
1 **943.20 (3m) SUSPENSION OF OPERATING PRIVILEGES.** If a person is convicted of a
2 violation of sub. (1) and the property involved in the violation is gasoline or diesel fuel
3 that was misappropriated from a service station, filling station, garage or other place
4 where gasoline or diesel fuel is sold at retail or offered for sale at retail, the court
5 shall, in addition to the penalty provided in sub. (3), suspend the person's operating
6 privilege, as defined in s. 340.01 (40), for not more than 6 months, except that if the
7 person has previously had his or her operating privilege suspended under this
8 subsection the court shall suspend the person's operating privilege for one year. The
9 court shall immediately take possession of any suspended license and forward it to
10 the department of transportation together with the record of conviction and notice
11 of the suspension.“.

12 4. Page 13, line 19: delete “This act” and substitute “**GENERALLY.** The
13 treatment of sections 757.69 (1) (p), 799.01 (1) (c) and (d) (intro.) and (2), 812.34 (1)
14 (a) and (2) (a), (b) 1. and(c), 812.37 (1) and (2), 812.38 (1) (b) and (2), 812.44 (3) (form)
15 3. and (4) (form) 1. and 3., 814.04 (1) (a) and(b) and (2), **814.07, 815.18 (3) (k), 895.035**
16 **(2), 895.08, 895.80 (2), (3) (a), (b) and (c), (4) and (6), 943.24 (3) (b) and (c), 943.245**
17 **(3) and (4), 943.50 (3) and 943.51 (3) and (3m) of the statutes”.**

18 **5.** Page 13, line 20: after that line insert:

19 “(2m) **SUSPENSION OF OPERATING PRMLEGES FOR CERTAIN THEFT OFFENSES.** The
20 treatment of section 943.20 (3m) of the statutes first applies to offenses committed
21 on the effective date of this subsection.“.

22 (END)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-4708/1

JEO:.,;....

Soon

JG

1999 BILL

gen

1 **AN ACT** ...; **relating to:** failure to pay for gasoline or diesel fuel, suspension of
2 operating privileges after conviction for theft of gasoline or diesel fuel and
3 providing penalties. ✓

Analysis by the Legislative Reference Bureau

Current law prohibits a person from intentionally absconding without paying for taxicab service or without paying for beverage, food, lodging or other service or accommodation at a hotel, motel, campground, boarding or lodging house or restaurant. If a person is convicted ^{of} violating this prohibition, he or she may be fined not more than \$10,000 or imprisoned for not more than nine months or both, except that the maximum term of imprisonment increases to five years if the value of the service or accommodation exceeds \$1,000. In addition, current law provides for a special civil action for victims of this crime. Using this special civil action, a victim may recover the value of the service or accommodation involved in the crime, any other property damage resulting from the crime and limited exemplary damages and attorneys fees.

This bill prohibits a person from intentionally absconding from a service station, garage or other place where gasoline or diesel fuel is sold at retail or offered for sale at retail without paying for the gasoline or diesel fuel. A person who violates this prohibition may be subject to a forfeiture (a civil monetary penalty) of not more than \$200. ✓ The bill also provides that in addition to the forfeiture, a court must suspend the person's motor vehicle operating privileges for not more than six months, except that the court must suspend the person's operating privileges for one

BILL

year if the person has previously been convicted of absconding without paying for gasoline or diesel fuel. Finally, the bill extends the special civil action that covers crimes for absconding for services or accommodations to cover offenses involving absconding without paying for gasoline or diesel fuel.

For further information see the **state** 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:

SECTION 1. 343.10 (1) (a) [✓] of the statutes is amended to read:

343.10 (1) (a) If a person's license or operating privilege is revoked or suspended under this chapter or s. ~~767.303, 943.21 (3m)~~[✓] or 961.50 and if the person is engaged in an occupation, including homemaking or full-time or part-time study, or a trade making it essential that he or she operate a motor vehicle, the person, after payment of the fee provided in sub. (6), may file an application with the department setting forth in detail the need for operating a motor vehicle. No person may file more than one application with respect to each revocation or suspension of the person's license or operating privilege under this chapter or s. ~~767.303, 943.21 (3m)~~ or 961.50, except that this limitation does not apply to an application to amend an occupational license restriction.

History: 1973 c. 90,218; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a),(e); 1977 193; 1979 c. 102, 316, 355; 1981 c. 20; 1983 a. 27, 525, 526; 1985 a. 32 s. 3; 1985 a. 71, 337; 1987 a. 3; 1989 a. 31, 38, 105, 359; 1991 a. 39, 269, 277; 1995 a. 113, 201, 401, 436, 448; 1997 a. 35, 84, 237.

SECTION 2. 343.10 (2) (a) 1. ~~209~~[✓] of the statutes is amended to read:

343.10 (2) (a) 1. Except for a revocation or suspension that arose out of the same incident or occurrence for which the person's license or operating privilege is currently revoked or suspended, the person's license or operating privilege was not revoked or suspended previously under this chapter or ch. 344 or s. ~~943.21 (3m)~~[✓] or 961.50 within the one-year period immediately preceding the present revocation or suspension, except as provided in s. 344.40.

History: 1973 c. 90,218; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a), (e); 1977 c. 193; 1979 c. 102, 316, 355; 1981 c. 20; 1983 a. 27, 525, 526; 1985 a. 32 s. 3; 1985 a. 71, 337; 1987 a. 3; 1989 a. 31, 38, 105, 359; 1991 a. 39, 269, 277; 1995 a. 113, 201, 269, 401, 436, 448; 1997 a. 35, 84, 237.

BILL

1 **SECTION 3.** 343.30 (5) [✓] of the statutes is amended to read:

2 343.30 (5) No court may suspend or revoke an operating privilege except as
3 authorized by this chapter or ch. 345,351 or 938 or s. 767.303, 800.09 (1) (c), 800.095
4 (4) (b) 4y943.21 (3m) or 961.50. When a court revokes, suspends or restricts a
5 juvenile's operating privilege under ch. 938, the department of transportation shall
6 not disclose information concerning or relating to the revocation, suspension or
7 restriction to any person other than a court, district attorney, county corporation
8 counsel, city, village or town attorney, law enforcement agency, or the minor whose
9 operating privilege is revoked, suspended or restricted, or his or her parent or
10 guardian. Persons entitled to receive this information shall not disclose the
11 information to other persons or agencies.

History: 1971 c. 213 s. 5; 1971 c. 278; 1973 c. 70, 218; 1975 c. 5; ^{983 a}17; c. 184 s. 13; 1975 c. 199, 297, 421; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 30, 64, 193, 203; 1979 c. 221, 300, 331, 333, 355; 1981 c. 20; 1981 c. 79 s. 18; 1983 a. 17; 1983 ⁷⁴ss. 23m to 26, 32; 1983 a. 192; 1985 a. 80, 176, 337; 1987 a. 3, 17, 285; 1987 a. 332 s. 64; 1989 a. 7, 31, 105, 121, 336; 1991 a. 39, 251, 277, 316; 1993 a. 16, 227, 37; 995 a. 27, 77, 269, 338, 401, 425, 448; 1997 a. 35, 84, 135, 237, 283; s. 13.93 (2) (c).

12 **SECTION 4.** 943.21 (title) of the statutes is amended to read:

13 **943.21 (title) Fraud on hotel or restaurant keeper ~~or~~, taxicab operator**
14 **or Pas station.** [✓]

History: 1977 c. 173; 1979 c. 239, 242; 1991 a. 39, 65, 189; 1995 a. ¹⁶⁰160.

15 **SECTION 5.** 943.21 (1) (d) of the statutes is created to read:

16 943.21 (1) (d) Having obtained gasoline or diesel fuel from a service station,
17 garage or other place where gasoline or diesel fuel is sold at retail or offered for sale
18 at retail, intentionally absconds without paying for the gasoline or diesel fuel. [✓]

19 **SECTION 6.** 943.21 (2r) [✓] of the statutes is created to read:

20 943.21 (2r) [✓] The refusal to pay a service station, garage or other place where
21 gasoline or diesel fuel is sold at retail or offered for sale at retail the established
22 charge for gasoline or diesel fuel provided by the service station, garage or other place
23 constitutes prima facie evidence of an intent to abscond without payment.

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SECTION 7

1 SECTION 7. 943.21 (3) of the statutes is renumbered 943.21 (3) (am), and 943.21
 2 (3) (am) (intro.), as renumbered, is amended to read:

3 943.21 (3) (am) (intro.) Whoever violates ~~this section~~ sub. (1) (a), (b) or (c):

4 History: 1977 c. 173; 1919 c. 239,242; 1991 a. 39, 65, 189; 1995 a. 160.

4 SECTION 8. 943.21 (3) (bm) of the statutes is created to read:

5 943.21 (3) (bm) Whoever violates sub. (1) (d) is guilty of a Class D forfeiture.

6 SECTION 9. 943.21 (3m) of the statutes is created to read:

7 **943.21 (3m)** If a person is found to have violated sub. (1) (d) the court shall, in
 8 addition to the penalty provided in sub. (3) (bm), suspend the person's operating
 9 privilege, as defined in s. 340.01 (40), for not more than 6 months, except that if the
 10 person has previously had his or her operating privilege suspended under this
 11 subsection the court shall suspend the person's operating privilege for one year. The
 12 court shall immediately take possession of any suspended license and forward it to
 13 the department of transportation together with the judgment of violation and notice
 14 of the suspension.

15 SECTION 10. 943.212 (title) of the statutes is amended to read:

16 **943.212 (title) Fraud on hotel or restaurant keeper or taxicab operator**
 17 **or gas station; civil liability.**

18 History: 1991 a. 65; 1995 a. 160.

18 SECTION 11. 943.212 (1) (a) of the statutes is amended to read:

19 943.212 (1) (a) The retail value of the beverage, food, lodging, accommodation,
 20 gasoline or diesel fuel, transportation or service involved in the violation. A person
 21 may recover under this paragraph only if he or she exercises due diligence in
 22 demanding payment for the beverage, food, lodging, accommodation, gasoline or
 23 diesel fuel, transportation or service.

24 History: 1991 a. 65; 1995 a. 160.

24 SECTION 12. 943.212 (4) of the statutes is amended to read:

BILL

1 943.212 (4) At least 20 days prior to commencing an action, as specified in s.
2 801.02, under this section, the plaintiff shall notify the defendant, by mail, of his or
3 her intent to bring the action and of the acts constituting the basis for the violation
4 of s. 943.21. The plaintiff shall send the notice by regular mail supported by an
5 affidavit of service of mailing or by a certificate of mailing obtained from the U.S. post
6 office from which the mailing was made. The plaintiff shall mail the notice to the
7 defendant's last-known address or to the address provided on the check or order. If
8 the defendant pays the amount due for the beverage, food, lodging, accommodation,
9 gasoline or diesel fuel,[✓] transportation or service prior to the commencement of the
10 action, he or she is not liable under this section.

History: 1991 a. 65; 1995 a. 160

11

(END)

**SUBMITTAL
F & M**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 03/15/2000

To: Representative Huebsch

Relating to LRB drafting number: LRB-4708

Topic

Theft of gasoline

Subject(s)

Criminal Law - miscellaneous

1. **JACKET** the draft for introduction _____

in the Senate _____ or the Assembly (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-356 1. If you have any questions relating to the attached draft, please feel free to call me.

Jefren E. Olsen, Senior Attorney
Telephone: (608) 266-8906

Done
03-17-00
9MB