

1999 SENATE BILL 19

January 27, 1999 – Introduced by Senators ROESSLER, JAUCH, BURKE, DARLING, HUELSMAN, MOEN, ROSENZWEIG and WELCH, cosponsored by Representatives OLSEN, SPILLNER, BRANDEMUEHL, GOETSCH, J. LEHMAN, AINSWORTH, ALBERS, HAHN, KEDZIE, KLUSMAN, LADWIG, LA FAVE, M. LEHMAN, MUSSER, OTT, OWENS, PLALE, RILEY, RYBA, STONE, UNDERHEIM, URBAN, VRAKAS, WALKER and WARD. Referred to Committee on Insurance, Tourism, Transportation and Corrections.

1 **AN ACT to repeal** 343.07 (1) (c), 343.085 (3) and 343.085 (5); **to renumber and**
 2 **amend** 343.085 (1) and 343.32 (2) (c); **to consolidate, renumber and amend**
 3 343.07 (1) (a) and (b); **to amend** 343.07 (3), 343.085 (3), 343.085 (4), 343.085 (5),
 4 343.21 (1) (i) and 347.48 (2m) (gm); and **to create** 343.06 (1) (cm), 343.085 (1)
 5 (b), 343.085 (2m), 343.32 (2) (bc) and 343.32 (2) (c) 2. of the statutes; **relating**
 6 **to:** instruction permits, probationary licenses and regular licenses to operate
 7 motor vehicles; primary enforcement of requirements related to safety belt
 8 equipment, installation and use; granting rule-making authority; and
 9 providing a penalty.

Analysis by the Legislative Reference Bureau

For most people, the process of obtaining a driver's license in this state involves obtaining an instruction permit at 15 years six months of age, a probationary license at 16 years of age and a regular license at 18 years of age. Each of these three phases of licensing carries different privileges and possible penalties. This bill modifies certain eligibility requirements, privileges and penalties that apply to these three phases of licensing to implement a system commonly known as "graduated driver licensing".

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Current law prohibits a person who possesses an instruction permit (permittee) from driving a motor vehicle unless accompanied by a qualified driving instructor or a person who has possessed a driver's license for at least two years. If the permittee is under 16 years of age, the licensed accompanying person must have the written permission of the permittee's parent or guardian to accompany the permittee. Except for properly equipped driving school vehicles, no other passengers are allowed in a vehicle being driven by a permittee who is under 16 years of age. A permittee who is at least 16 years of age may drive a motor vehicle when accompanied by a third person, in addition to the qualified accompanying person, who is 25 years of age or older and has possessed a license for at least two years.

This bill changes the qualifications for persons accompanying an instruction permit holder while driving a motor vehicle. Under the bill, a permittee may drive only when accompanied by one of the following persons, who must hold a valid license and have at least two years of driving experience:

1. A driving school instructor who is at least 18 years of age. Up to three additional passengers may be present in the vehicle if the vehicle is a driving instruction vehicle equipped with dual controls.

2. The permittee's parent, guardian or spouse who is at least 18 years of age. The permittee's immediate family members may also be present in the vehicle with the permittee's parent, guardian or spouse.

3. Any person who is at least 21 years of age. If the permittee is younger than 19 years of age, the licensed person accompanying the permittee must have the written permission of the permittee's parent or guardian.

This bill also increases the valid period of an instruction permit from six months to one year and increases the fee for an instruction permit from \$20 to \$25.

Under current law, an applicant who qualifies for initial issuance of a driver's license is issued a probationary license and is subject to a probationary period (a qualified applicant who is at least 21 years of age and has been licensed to drive in another jurisdiction for at least three years is issued a regular license with no probationary period). The probationary period generally lasts two years, until the applicant's second birthday occurring after the date on which the probationary license is issued. During the probationary period, the number of demerit points assessed for a second or subsequent traffic conviction is increased by two demerit points. A person who accumulates an excessive total of demerit points may have his or her operating privilege suspended or revoked. In addition, the department of transportation (DOT) may extend this probationary period if the licensee repeatedly commits traffic violations.

This bill changes the eligibility requirements for a probationary license issued to an applicant for a driver's license who is under 19 years of age and who has less than two years of driving experience (youthful applicant). First, a youthful applicant must hold an instruction permit for at least six months before applying for initial issuance of a driver's license. Current law requires only a seven-day to fourteen-day instruction permit period. Second, a probationary license may be issued to a youthful applicant only if, during the six-month period preceding the application, the youthful applicant did not commit a traffic violation resulting in conviction. Finally,

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the bill requires a youthful applicant for initial issuance of a regular driver's license to complete the equivalent of at least 50 hours of behind-the-wheel driving. At least ten of those 50 hours must be nighttime driving.

The bill also creates driving restrictions that apply to certain youthful licensees while driving under a probationary license. During the first nine months following issuance of a probationary license, a licensee who was under 19 years of age at the time the probationary license was issued (youthful licensee) may not: 1) transport persons, other than immediate family members and persons who may accompany a person driving under an instruction permit; or 2) drive between the hours of 12 midnight and 5 a.m., unless accompanied by his or her parent, guardian or spouse or by a person who may accompany a person who is driving under an instruction permit, or unless traveling to or from employment or school. These driving restrictions are extended for an additional six months if the youthful licensee violates these restrictions, commits an offense specified by DOT by rule or has his or her operating privilege suspended for any reason other than a mental or physical disability.

The bill creates a limited exception to the driving restrictions to allow a probationary licensee to drive in an organized "teen safe-ride program", which provides teenagers with free rides to their homes if specific requirements are met.

Currently, DOT may suspend an operating privilege for excessive demerit point accumulation if a person accumulates 12 demerit points in 12 months. This bill doubles the number of demerit points assessed against a youthful licensee who is subject to the driving restrictions described above and requires DOT to suspend the operating privilege of a probationary licensee who accumulates 12 demerit points in 12 months. The bill requires DOT to continue a youthful licensee on probationary status while the person is subject to the driving restrictions described above and specifies that a period of restriction does not run while a person's operating privilege is suspended or revoked.

Under current law, a law enforcement officer may not stop or inspect a vehicle solely to determine compliance with safety belt equipment, installation or use requirements, but may issue a citation for a violation observed in the course of a stop or inspection made for other purposes. A law enforcement officer may not take a person into physical custody solely for a violation of those requirements. This bill authorizes primary enforcement of safety belt equipment, installation and use requirements if the driver of the vehicle reasonably appears to be under 19 years of age. A law enforcement officer may stop or inspect a vehicle being driven by such a driver solely to determine compliance with safety belt equipment, installation or use requirements, but may not take such a person into physical custody solely for a violation of those requirements.

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:

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1 **SECTION 1.** 343.06 (1) (cm) of the statutes is created to read:

2 343.06 (1) (cm) To any person under 19 years of age, unless the person has
3 accumulated at least 50 hours of behind-the-wheel driving experience, at least 10
4 hours of which were during hours of darkness. Each hour of behind-the-wheel
5 driving experience while accompanied by a qualified instructor, as defined in s.
6 343.07 (5), shall be considered to be 2 hours of behind-the-wheel driving experience,
7 except that no more than 5 hours of behind-the-wheel driving experience while
8 accompanied by a qualified instructor may be counted in this manner. This
9 paragraph does not apply to applicants for a restricted license under s. 343.08 or a
10 special restricted operator's license under s. 343.135.

11 **SECTION 2.** 343.07 (1) (a) and (b) of the statutes are consolidated, renumbered
12 343.07 (1) (a) (intro.) and amended to read:

13 343.07 (1) (a) (intro.) ~~If the permittee is at least 16 years of age, the permittee~~
14 ~~shall not~~ Except as provided in this subsection, no permittee may operate a motor
15 vehicle unless accompanied by a qualified instructor, ~~or a licensed person with who~~
16 has at least 2 years of licensed driving experience, who presently holds a valid
17 license, ~~occupying who occupies~~ the seat beside the permittee. ~~No other passengers~~
18 ~~are allowed in the vehicle except as provided in par. (c) or (cm).~~ (b) and who is one
19 of the following:

20 1. A permittee under the age of 16 is restricted to operation of a motor vehicle
21 only while accompanied by a qualified instructor, the who is 18 years of age or older.
22 If the motor vehicle is equipped with dual controls, up to 3 other persons, in addition
23 to the qualified instructor, may occupy seats in the motor vehicle other than the front
24 seat.

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1 ~~2. The permittee's parent or guardian who meets the other qualifications of~~
2 ~~par. (a) or a licensed or spouse who is 18 years of age or older. In addition to the~~
3 ~~parent, guardian or spouse, the permittee's immediate family members may occupy~~
4 ~~seats in the motor vehicle other than the front seat.~~

5 ~~3. A person who is 21 years of age or older who meets the other qualifications~~
6 ~~of par. (a) and who has. If the permittee is under 19 years of age, this subdivision~~
7 ~~applies only if the licensed person has been designated in writing to accompany the~~
8 ~~permittee by the permittee's parent or guardian prior to operation of the vehicle by~~
9 ~~the permittee. Upon reaching the age of 16, the permittee gains the privilege of any~~
10 ~~other permittee.~~

11 **SECTION 3.** 343.07 (1) (c) of the statutes is repealed.

12 **SECTION 4.** 343.07 (3) of the statutes is amended to read:

13 343.07 **(3)** DURATION; CANCELLATION. An instruction permit ~~shall be to operate~~
14 ~~vehicles other than commercial motor vehicles or school buses is valid for 6 12~~
15 ~~months except that it may be canceled upon receipt of information, by the secretary,~~
16 ~~of noncompletion or unsatisfactory completion of a driver education and training~~
17 ~~course by a permittee under the age of 18. An instruction permit to operate~~
18 ~~commercial motor vehicles or school buses is valid for 6 months.~~

19 **SECTION 5.** 343.085 (1) of the statutes is renumbered 343.085 (1) (a) and
20 amended to read:

21 343.085 **(1)** (a) Except as provided in ~~par. (b) and~~ sub. (2), the department shall
22 issue a probationary license to all applicants for an original license. The
23 probationary license shall remain in effect ~~during the entire period of the first~~
24 ~~issuance of the original license as provided in s. 343.20 (1) (a).~~

25 **SECTION 6.** 343.085 (1) (b) of the statutes is created to read:

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1 343.085 (1) (b) The department may not issue a probationary license under this
2 section to an applicant who is under 19 years of age unless the applicant has held an
3 instruction permit issued under s. 343.07 for not less than 6 months and, during the
4 6-month period immediately preceding application, has not committed a moving
5 violation resulting in a conviction.

6 **SECTION 7.** 343.085 (2m) of the statutes is created to read:

7 343.085 (2m) (a) Except as provided in this subsection, during the 9-month
8 period after issuance of a probationary license under this section, no licensee may
9 operate a motor vehicle upon a highway in this state:

10 1. Whenever any person, other than the licensee or a member of the licensee's
11 immediate family or a person who meets the requirements under s. 343.07 (1) (a), is
12 in the motor vehicle.

13 2. Between the hours of 12 midnight and 5 a.m., unless his or her parent or
14 guardian, or a person who meets the requirements under s. 343.07 (1) (a), occupies
15 the seat beside the licensee, or unless the licensee is traveling between his or her
16 place of residence, school or place of employment.

17 (am) Paragraph (a) does not apply to any licensee to whom all of the following
18 apply:

19 1. The licensee is operating the motor vehicle in the service of an organized
20 program that, without compensation, transports teenagers to their homes.

21 2. The licensee possesses documentation that identifies the program and the
22 licensee and that authorizes the licensee to operate a motor vehicle in service of the
23 program on the date and time of the operation. The documentation is valid only if
24 signed by a person who is at least 25 years of age and associated with the program.

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1 3. The licensee is accompanied by another licensee, other than a teenager who
2 is being transported, who is in the motor vehicle in the service of the program
3 described in subd. 1. and who possesses the documentation described in subd. 2.

4 4. The licensee is accompanied by not more than 3 passengers in the vehicle.
5 The licensee described in subd. 3. shall not be counted under this subdivision.

6 (b) 1. The department shall extend the restrictions under par. (a) for an
7 additional 6-month period if any of the following occurs while the licensee is subject
8 to the restrictions under par. (a):

9 a. The licensee commits an offense specified by the department by rule,
10 resulting in a conviction of the licensee.

11 b. The licensee violates par. (a).

12 c. A court or the department suspends the licensee's operating privilege for any
13 reason other than a mental or physical disability.

14 2. If the department extends a restriction period under subd. 1., the
15 department shall immediately provide notice of the extension by 1st class mail to the
16 person's last-known residence address.

17 (c) A period of restriction under this subsection does not run while a person's
18 operating privilege is suspended or revoked.

19 (d) This subsection applies only to a licensee who is under 19 years of age on
20 the date on which the probationary license is first issued to him or her.

21 **SECTION 8.** 343.085 (3) of the statutes is amended to read:

22 343.085 (3) The secretary may suspend a person's operating privilege under
23 this section when such person has been assigned sufficient demerit points after
24 conviction for traffic violations to require suspension under the rule adopted under
25 sub. (5) and either holds a license issued under this section or by age comes under

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1 this section. The secretary may revoke such a person's operating privilege under this
2 section if such person has a previous suspension under this section. This subsection
3 applies only to a person holding a probationary license that the person applied for
4 before the effective date of this subsection [revisor inserts date].

5 **SECTION 9.** 343.085 (3) of the statutes, as affected by 1997 Wisconsin Acts 84
6 and 1999 Wisconsin Act (this act), is repealed.

7 **SECTION 10.** 343.085 (4) of the statutes is amended to read:

8 343.085 (4) The secretary may require that a person be continued on
9 probationary status beyond the period of first issuance if such person appears by the
10 records of the department to have repeatedly violated any of the state traffic laws or
11 any local ordinance in conformity therewith or any law of a federally recognized
12 American Indian tribe or band in this state in conformity with any of the state traffic
13 laws. A person may not be continued on probationary status due to a suspension
14 under s. 343.30 (6). The secretary shall require that a person be continued on
15 probationary status while the person is subject to restrictions under sub. (2m) (a).

16 **SECTION 11.** 343.085 (5) of the statutes is amended to read:

17 343.085 (5) For the purpose of determining when to suspend or to continue a
18 person on probationary status, the secretary may determine and adopt by rule a
19 method of weighing traffic convictions by their seriousness and may change such
20 weighted scale from time to time as experience or the accident frequency in the state
21 makes necessary or desirable. Such scale may be weighted differently for this
22 licensee than the scale used to determine revocations under s. 343.32. This
23 subsection applies only to a person holding a probationary license that the person
24 applied for before the effective date of this subsection [revisor inserts date].

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1 **SECTION 12.** 343.085 (5) of the statutes, as affected by 1997 Wisconsin Acts 84
2 and 1999 Wisconsin Act (this act), is repealed.

3 **SECTION 13.** 343.21 (1) (i) of the statutes is amended to read:

4 343.21 **(1)** (i) Except as provided in par. (im), for an instruction permit, \$20 \$25.

5 **SECTION 14.** 343.32 (2) (bc) of the statutes is created to read:

6 343.32 **(2)** (bc) The scale adopted by the secretary shall assess to a person who
7 holds a probationary license and who is subject to the restrictions under s. 343.085
8 (2m) on the date of conviction, for each conviction, twice the number of demerit points
9 that are assessed for the same offense to a person who possesses a regular license.

10 **SECTION 15.** 343.32 (2) (c) of the statutes is renumbered 343.32 (2) (c) 1. and
11 amended to read:

12 343.32 **(2)** (c) 1. In Except as provided in subd. 2., in order for the secretary to
13 suspend or revoke an operating privilege under this subsection, the operator must
14 have accumulated 12 demerit points in any 12-month period.

15 **SECTION 16.** 343.32 (2) (c) 2. of the statutes is created to read:

16 343.32 **(2)** (c) 2. The secretary shall suspend, for a period of 6 months, the
17 operating privilege of any person who has accumulated 12 demerit points in any
18 12-month period, if the person holds a probationary license and was under 19 years
19 of age when the probationary license was first issued to him or her.

20 **SECTION 17.** 347.48 (2m) (gm) of the statutes is amended to read:

21 347.48 **(2m)** (gm) Notwithstanding s. 349.02, a law enforcement officer may not
22 stop or inspect a vehicle solely to determine compliance with this subsection or sub.
23 (1) or (2) or a local ordinance in conformity with this subsection, sub. (1) or (2) or rules
24 of the department, unless the person operating the vehicle reasonably appears to be
25 under 19 years of age. This paragraph does not limit the authority of a law

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1 enforcement officer to issue a citation for a violation of this subsection or sub. (1) or
2 (2) or a local ordinance in conformity with this subsection, sub. (1) or (2) or rules of
3 the department observed in the course of a stop or inspection made for other
4 purposes, except that a law enforcement officer may not take a person into physical
5 custody solely for a violation of this subsection or sub. (1) or (2) or a local ordinance
6 in conformity with this subsection, sub. (1) or (2) or rules of the department.

SECTION 18. Nonstatutory provisions.

7
8 (1) OFFENSES REQUIRING AN EXTENSION OF A PROBATIONARY LICENSEE'S RESTRICTION
9 PERIOD. Not later than the first day of the 4th month beginning after the effective
10 date of this subsection, the secretary of transportation shall submit in proposed form
11 rules required under section 343.085 (2m) (b) 1. of the statutes, as created by this act,
12 to the legislative council staff under section 227.15 (1) of the statutes. The rules may
13 not propose to extend a period of restriction under section 343.085 (2m) (b) of the
14 statutes, as created by this act, for a violation of section 343.05 (1) or (3), 343.12 (1),
15 346.595 (1) or (6), 347.20, 347.28, 347.29 (1), 347.38 (1), (2) or (4), 347.40, 347.42,
16 347.46, 347.47, 347.485 (2), 347.486 (2), 347.487 or 347.488 of the statutes, nor for
17 operating a motor vehicle with an operating privilege that is suspended or revoked
18 or with an operator's license that is expired.

SECTION 19. Initial applicability.

19
20 (1) INSTRUCTIONAL PERMITS AND PROBATIONARY LICENSES. The treatment of
21 sections 343.06 (1) (cm), 343.07 (1) (a), (b) and (c) and (3), 343.085 (2m) and (4), 343.21
22 (1) (i) and 343.32 (2) (bc) of the statutes, the renumbering and amendment of section
23 343.085 (1) and 343.32 (2) (c) of the statutes and the creation of sections 343.085 (1)
24 (b) and 343.32 (2) (c) 2. of the statutes first apply to licenses and permits applied for
25 on the effective date of this subsection.

