

## 1999 SENATE BILL 322

January 12, 2000 – Introduced by Senators DARLING, DRZEWIECKI, CLAUSING, HUELSMAN, LAZICH, FARROW and COWLES, cosponsored by Representatives LADWIG, JESKEWITZ, STONE, JENSEN, RYBA, WALKER, HASENOHRL, GUNDRUM, SPILLNER, NASS, KREIBICH, MONTGOMERY, OLSEN, KESTELL, URBAN, GOETSCH, MEYERHOFER and KELSO. Referred to Committee on Judiciary and Consumer Affairs.

1     **AN ACT** *to amend* 345.47 (1) (b), 800.09 (1) (c), 800.095 (4) (b) 4., 938.17 (2) (d),  
2           938.34 (8) and 938.343 (2) of the statutes; and *to affect* 1999 Wisconsin Act 9,  
3           section 9350 (11g); **relating to:** authority of a court to revoke or suspend a  
4           person's operating privilege for violations of ordinances unrelated to the  
5           operation of a motor vehicle or for failing to pay a penalty for such a violation.

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### ***Analysis by the Legislative Reference Bureau***

Under current law, circuit courts and municipal courts may suspend or revoke a person's motor vehicle operating privilege for a variety of reasons, including failure to pay an amount ordered by the court. Suspensions and revocations for failure to pay generally last until the person pays the amount owed. The suspensions and revocation orders are forwarded to the department of transportation (DOT), which updates the person's driving record to reflect the suspension or revocation. 1999 Wisconsin Act 9 eliminates the authority of circuit courts and municipal courts to suspend or revoke a person's operating privilege solely because of the person's failure to pay a forfeiture imposed for an ordinance violation unrelated to the operation of a motor vehicle, effective December 1, 1999.

This bill restores the authority of circuit courts and municipal courts to suspend or revoke a person's operating privilege solely because the person has not paid a forfeiture imposed for an ordinance violation unrelated to the operation of a motor vehicle. The bill does not restore funding or position authorization for DOT to process those revocations and suspensions ordered by a court.

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

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

1           **SECTION 1.** 345.47 (1) (b) of the statutes, as affected by 1999 Wisconsin Act 9,  
2 is amended to read:

3           345.47 (1) (b) In lieu of imprisonment and in addition to any other suspension  
4 or revocation, that the defendant's operating privilege be suspended. ~~The operating~~  
5 ~~privilege shall be suspended~~ for 30 days or until the person pays the forfeiture, the  
6 penalty assessment, if required by s. 757.05, the jail assessment, if required by s.  
7 302.46 (1), the railroad crossing improvement assessment, if required by s. 346.177,  
8 346.495 or 346.65 (4r), and the crime laboratories and drug law enforcement  
9 assessment, if required by s. 165.755, but not to exceed 5 years. Suspension under  
10 this paragraph shall not affect the power of the court to suspend or revoke under s.  
11 343.30 or the power of the secretary to suspend or revoke the operating privilege.  
12 ~~This paragraph does not apply if the judgment was entered solely for violation of an~~  
13 ~~ordinance unrelated to the violator's operation of a motor vehicle.~~

14           **SECTION 2.** 800.09 (1) (c) of the statutes, as affected by 1999 Wisconsin Act 9,  
15 is amended to read:

16           800.09 (1) (c) The court may suspend the defendant's operating privilege, as  
17 defined in s. 340.01 (40), until restitution is made and the forfeiture, assessments  
18 and costs are paid, if the defendant has not done so within 60 days after the date the  
19 restitution or payments or both are to be made under par. (a) and has not notified the  
20 court that he or she is unable to comply with the judgment, as provided under s.  
21 800.095 (4) (a), except that the suspension period may not exceed 5 years. The court

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1 shall take possession of the suspended license and shall forward the license, along  
2 with a notice of the suspension clearly stating that the suspension is for failure to  
3 comply with a judgment of the court, to the department of transportation. This  
4 paragraph does not apply if the forfeiture is assessed for violation of an ordinance  
5 that is unrelated to the violator's operation of a motor vehicle.

6 **SECTION 3.** 800.095 (4) (b) 4. of the statutes, as affected by 1999 Wisconsin Act  
7 9, is amended to read:

8 800.095 (4) (b) 4. That the defendant's operating privilege, as defined in s.  
9 340.01 (40), be suspended until the judgment is complied with, except that the  
10 suspension period may not exceed 5 years. This subdivision does not apply if the  
11 forfeiture is assessed for violation of an ordinance that is unrelated to the violator's  
12 operation of a motor vehicle.

13 **SECTION 4.** 938.17 (2) (d) of the statutes, as affected by 1999 Wisconsin Act 9,  
14 is amended to read:

15 938.17 (2) (d) If a municipal court finds that the juvenile violated a municipal  
16 ordinance other than an ordinance enacted under s. 118.163 or an ordinance that  
17 conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 961.573 (2), 961.574 (2)  
18 or 961.575 (2), the court shall enter any of the dispositional orders permitted under  
19 s. 938.343 that are authorized under par. (cm). If a juvenile fails to pay the forfeiture  
20 imposed by the municipal court, the court may not impose a jail sentence but may  
21 suspend any license issued under ch. 29 for not less than 30 days nor more than 5  
22 years, or, unless the forfeiture was imposed for violating an ordinance unrelated to  
23 the juvenile's operation of a motor vehicle, may suspend the juvenile's operating  
24 privilege, as defined in s. 340.01 (40), for not less than 30 days nor more than 5 years.  
25 If a court suspends a license or privilege under this section, the court shall

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1 immediately take possession of the applicable license and forward it to the  
2 department that issued the license, together with the notice of suspension clearly  
3 stating that the suspension is for failure to pay a forfeiture imposed by the court. If  
4 the forfeiture is paid during the period of suspension, the court shall immediately  
5 notify the department, which shall thereupon return the license to the person.

6 **SECTION 5.** 938.34 (8) of the statutes, as affected by 1999 Wisconsin Act 9, is  
7 amended to read:

8 938.34 (8) FORFEITURE. Impose a forfeiture based upon a determination that  
9 this disposition is in the best interest of the juvenile and in aid of rehabilitation. The  
10 maximum forfeiture that the court may impose under this subsection for a violation  
11 by a juvenile is the maximum amount of the fine that may be imposed on an adult  
12 for committing that violation or, if the violation is applicable only to a person under  
13 18 years of age, \$100. Any such order shall include a finding that the juvenile alone  
14 is financially able to pay the forfeiture and shall allow up to 12 months for payment.  
15 If the juvenile fails to pay the forfeiture, the court may vacate the forfeiture and order  
16 other alternatives under this section, in accordance with the conditions specified in  
17 this chapter; or the court may suspend any license issued under ch. 29 for not less  
18 than 30 days nor more than 5 years, or, ~~unless the forfeiture was imposed for~~  
19 ~~violating an ordinance unrelated to the juvenile's operation of a motor vehicle, may~~  
20 suspend the juvenile's operating privilege as defined in s. 340.01 (40), for not less  
21 than 30 days nor more than 5 years. If the court suspends any license under this  
22 subsection, the clerk of the court shall immediately take possession of the suspended  
23 license and forward it to the department which issued the license, together with a  
24 notice of suspension clearly stating that the suspension is for failure to pay a  
25 forfeiture imposed by the court. If the forfeiture is paid during the period of

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1 suspension, the suspension shall be reduced to the time period which has already  
2 elapsed and the court shall immediately notify the department which shall then  
3 return the license to the juvenile. Any recovery under this subsection shall be  
4 reduced by the amount recovered as a forfeiture for the same act under s. 938.45 (1r)  
5 (b).

6 **SECTION 6.** 938.343 (2) of the statutes, as affected by 1999 Wisconsin Act 9, is  
7 amended to read:

8 938.343 (2) Impose a forfeiture not to exceed the maximum forfeiture that may  
9 be imposed on an adult for committing that violation or, if the violation is only  
10 applicable to a person under 18 years of age, \$50. Any such order shall include a  
11 finding that the juvenile alone is financially able to pay and shall allow up to 12  
12 months for the payment. If a juvenile fails to pay the forfeiture, the court may  
13 suspend any license issued under ch. 29 or, ~~unless the forfeiture was imposed for~~  
14 ~~violating an ordinance unrelated to the juvenile's operation of a motor vehicle, may~~  
15 suspend the juvenile's operating privilege as defined in s. 340.01 (40), for not less  
16 than 30 days nor more than 5 years. The court shall immediately take possession  
17 of the suspended license and forward it to the department which issued the license,  
18 together with the notice of suspension clearly stating that the suspension is for  
19 failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the  
20 period of suspension, the court shall immediately notify the department, which will  
21 thereupon return the license to the person. Any recovery under this subsection shall  
22 be reduced by the amount recovered as a forfeiture for the same act under s. 938.45  
23 (1r) (b).

24 **SECTION 7.** 1999 Wisconsin Act 9, section 9350 (11g) is repealed.

25

(END)