



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBs0301/1
ARG:kmg:jf

**SENATE SUBSTITUTE AMENDMENT 1,
TO 2001 SENATE BILL 258**

February 20, 2002 - Offered by Senator LAZICH.

1 **AN ACT** *to renumber* 85.01 (1); *to amend* 85.21 (3) (c) and 346.95 (4); and *to*
2 *create* 85.01 (1g), 85.01 (2m), 85.21 (3m), 85.21 (5), 165.83 (2) (ng), 341.10 (15)
3 and 346.923 of the statutes; **relating to:** the specialized transportation
4 assistance program, minimum qualifications for the operator of a human
5 service vehicle, the registration of human service vehicles, and providing
6 penalties.

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

7 **SECTION 1.** 85.01 (1) of the statutes is renumbered 85.01 (1m).

8 **SECTION 2.** 85.01 (1g) of the statutes is created to read:

9 85.01 (1g) "Background information form" means the background information
10 form prescribed by the department under s. 346.923 (3) (a).

11 **SECTION 3.** 85.01 (2m) of the statutes is created to read:

12 85.01 (2m) "Operator" has the meaning given in s. 340.01 (41).

1 **SECTION 4.** 85.21 (3) (c) of the statutes is amended to read:

2 85.21 **(3)** (c) To make and execute contracts with counties to ensure the
3 provision of specialized transportation service, subject to sub. (3m). Payments under
4 such contracts to eligible applicants shall not exceed the county proportionate share,
5 except as supplemented under par. (e) or (f). A contract under this paragraph shall
6 prohibit the department from making any payments under this paragraph to a
7 county that violates sub. (3m) (a) or, if a specialized transportation service is
8 operated by a county, sub. (3m) (b). A contract under this ~~section~~ paragraph shall
9 require the county to make a matching contribution of 20% of the contract amount
10 and to furnish information determined necessary by the department for periodic
11 program monitoring and year-end auditing and evaluation. A contract may permit
12 a county to hold aids received under this section on or after July 2, 1983, in trust,
13 according to rules promulgated by the department, for the exclusive purpose of
14 acquiring or maintaining equipment used for services authorized under this section.
15 All aids held in trust, as well as any accumulated interest, not expended for the
16 authorized purposes, shall be returned to the department for deposit in the
17 transportation fund. Nothing in this paragraph entitles a county to any investment
18 interest accumulated prior to the time the aid payment is actually received by the
19 county.

20 **SECTION 5.** 85.21 (3m) of the statutes is created to read:

21 85.21 **(3m)** CONTRACT RESTRICTIONS; SERVICE PROHIBITIONS. (a) No county may
22 enter into a contract for services under this section with a specialized transportation
23 service that has violated par. (b) within the previous 12 months unless the violation
24 has been remedied before the contract is entered into and the violation was remedied
25 no later than 30 days after the specialized transportation service received notice of

1 the violation. A contract between a county and a specialized transportation service
2 for services under this section shall provide that, if the specialized transportation
3 service violates par. (b) during the term of the contract, the county may terminate
4 the contract without liability for the uncompleted portion of the contract or the
5 county may, if the county determines that the violation of par. (b) is of a nature that
6 may be remedied, withhold payment under the contract until the specialized
7 transportation service remedies the violation.

8 (b) Notwithstanding ss. 111.321, 111.322, and 111.335, no specialized
9 transportation service that is operated by a county or that contracts with a county
10 for services under this section may do any of the following:

11 1. Employ as an operator any person who the specialized transportation service
12 knows or should have known has been convicted, within the previous 60 months, of
13 a violation of s. 346.923 other than a violation of s. 346.923 (1) (g).

14 2. Employ as an operator any person who the specialized transportation service
15 knows or should have known has been convicted, within the previous 24 months, of
16 a violation of s. 346.63 (1), (2m), or (5) or a local ordinance in conformity therewith,
17 or a violation of s. 346.63 (2) or (6), 940.09 (1), or 940.25, or a violation of federal law
18 or the law of a federally recognized American Indian tribe or band in this state or the
19 law of another jurisdiction that would be a violation of s. 346.63 (1), (2), (2m), (5), or
20 (6), 940.09 (1), or 940.25 if the person had committed the offense in this state and
21 been convicted of the offense under the laws of this state, or of an offense specified
22 in s. 343.12 (2) (d) other than an offense under s. 346.63 (7) or a local ordinance in
23 conformity with s. 346.63 (7) or a law of a federally recognized American Indian tribe
24 or band in this state in conformity with s. 346.63 (7), or of 2 or more offenses under
25 s. 346.63 (7) or a local ordinance in conformity with s. 346.63 (7) or a law of a federally

1 recognized American Indian tribe or band in this state in conformity with s. 346.63
2 (7).

3 3. Notwithstanding subd. 2., employ as an operator any person who the
4 specialized transportation service knows or should have known has been convicted
5 of a violation of sub. (5) (c) or s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (3),
6 (4), (5), or (6), 940.22 (2) or (3), 940.225 (1), (2), or (3), 940.285 (2), 940.29, 940.295,
7 948.02 (1) or (2), 948.025, 948.03 (2), 948.05, 948.055, 948.06, 948.07, 948.08, 948.11
8 (2) (a) or (am), 948.12, 948.13, 948.21 (1), or 948.30 or a violation of federal law or the
9 law of a federally recognized American Indian tribe or band in this state or the law
10 of another jurisdiction that would be a violation of s. 940.01, 940.02, 940.03, 940.05,
11 940.12, 940.19 (2), (3), (4), (5), or (6), 940.22 (2) or (3), 940.225 (1), (2), or (3), 940.285
12 (2), 940.29, 940.295, 948.02 (1) or (2), 948.025, 948.03 (2), 948.05, 948.055, 948.06,
13 948.07, 948.08, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1), or 948.30 if the
14 person had committed the offense in this state and been convicted of the offense
15 under the laws of this state.

16 4. Notwithstanding subd. 2. and subject to subd. 3., employ as an operator any
17 person who the specialized transportation service knows or should have known does
18 not meet the requirements specified under s. 343.12 (2) (e) and any rule established
19 by the department under s. 343.12 (2) (e).

20 5. Employ as an operator any person who the specialized transportation service
21 knows or should have known does not possess a valid operator's license issued under
22 ch. 343 or by another jurisdiction that authorizes the operation of any human service
23 vehicle to be operated by that operator.

24 6. Employ as an operator any person who the specialized transportation service
25 knows or should have known was involved, in the previous 12 months, as the

1 operator of a motor vehicle in more than 2 traffic accidents that resulted in
2 convictions for violations of laws related to motor vehicle use or operation.

3 7. Employ as an operator any person for whom the specialized transportation
4 service has not obtained an operating record as required under par. (dm).

5 8. Allow a person to operate a human service vehicle prior to the specialized
6 transportation service issuing to the person an identification card containing the
7 information required under s. 346.923 (1) (g) and prior to designating a location for
8 conspicuous display of the identification card in clear view of passengers in each
9 human service vehicle.

10 9. Allow any operator to operate a human service vehicle for more than 10 hours
11 in any 18-hour period or, if the specialized transportation service does not operate
12 human service vehicles every day of the week, for any time exceeding 60 hours in any
13 period of 7 consecutive days or, if the specialized transportation service operates
14 human service vehicles every day of the week, for any time exceeding 70 hours in any
15 period of 8 consecutive days.

16 10. Employ as an operator any person who has not, within the previous 24
17 months, been fully trained in the proper use of all passenger restraint systems
18 available in the human service vehicle operated by that operator.

19 11. Employ as an operator any person who has not submitted to the specialized
20 transportation service any completed background information form required under
21 sub. (5) (a) or (b).

22 (c) Notwithstanding ss. 111.321, 111.322, and 111.335, if a background
23 information form submitted by a person under par. (b) 11. indicates that the person
24 is not eligible under s. 346.923 to operate a human service vehicle transporting any

1 passengers, a specialized transportation service may not employ the person as an
2 operator pending the receipt of the information sought under par. (d).

3 (d) Notwithstanding ss. 111.321, 111.322, and 111.335, within 60 days after
4 receipt of a completed background information form from a person specified in sub.
5 (5) (a) who would otherwise be hired as an operator by the specialized transportation
6 service or from a person specified in sub. (5) (b), a specialized transportation service
7 shall obtain from the records maintained by the department of justice, and the
8 department of justice shall provide, a criminal history search of the person.
9 Notwithstanding ss. 111.321, 111.322, and 111.335, if the person who is the subject
10 of the criminal history search is not a resident of this state, or if at any time within
11 the 3 years preceding the date of the search that person has not been a resident of
12 this state, the specialized transportation service shall make a good faith effort to
13 obtain promptly from any state in which the person is a resident, or was a resident
14 within the 3 years preceding the date of the search, information that is equivalent
15 to a criminal history.

16 (dm) 1. Every specialized transportation service that is operated by a county
17 or that contracts with a county for services under this section shall, prior to
18 employing any person as an operator, obtain the person's operating record from the
19 department under s. 343.24 or, if the operating record has already been obtained by
20 another entity, from that entity if there are reasonable grounds to believe that the
21 operating record obtained from that entity is accurate and was furnished by the
22 department to that entity not more than 2 months previously.

23 2. No later than every 4 years, every specialized transportation service that is
24 operated by a county or that contracts with a county for services under this section

1 shall obtain, in the manner provided in subd. 1., an updated operating record for any
2 person employed as an operator by the specialized transportation service.

3 (e) Every specialized transportation service that is operated by a county under
4 this section shall maintain all records and furnish all information determined
5 necessary by the department to determine compliance with this section or s. 346.923.
6 Every specialized transportation service that contracts with a county for services
7 under this section shall maintain all records and furnish all information determined
8 necessary by the county or the department for purposes of program or contract
9 monitoring, auditing, or evaluation, or to determine compliance with this section or
10 s. 346.923.

11 (f) Any person who violates par. (b) or (c) shall be fined not more than \$1,000
12 for the first offense and shall be fined not less than \$1,000 nor more than \$5,000 for
13 each subsequent offense. Each day of violation after the first conviction constitutes
14 a separate offense.

15 (g) Any person who violates par. (d) or (dm) may be required to forfeit not more
16 than \$200. Each failure to obtain a criminal history search under par. (d) or an
17 operating record under par. (dm) constitutes a separate offense.

18 **SECTION 6.** 85.21 (5) of the statutes is created to read:

19 **85.21 (5) OPERATOR BACKGROUND INFORMATION FORMS.** (a) Every person who
20 applies to be employed as an operator by a specialized transportation service that is
21 operated by a county or that contracts with a county for services under this section
22 shall complete a background information form and provide it to the specialized
23 transportation service prior to being employed by the specialized transportation
24 service.

1 (b) No later than every 4 years, any person who is employed as an operator by
2 a specialized transportation service that is operated by a county or that contracts
3 with a county for services under this section shall complete an updated background
4 information form and provide it to the specialized transportation service.

5 (c) No person may provide false or incomplete information with respect to any
6 material fact on a background information form required to be completed under this
7 subsection. Any person who violates this paragraph may be required to forfeit not
8 more than \$1,000.

9 **SECTION 7.** 165.83 (2) (ng) of the statutes is created to read:

10 165.83 (2) (ng) Perform the duties required of the department by ss. 85.21 (3m)
11 (d) and 346.923 (4) relating to human service vehicle operators.

12 **SECTION 8.** 341.10 (15) of the statutes is created to read:

13 341.10 (15) The vehicle is required to be inspected under s. 110.05 and any of
14 the following applies:

15 (a) The vehicle has not been inspected.

16 (b) The most recent inspection of the vehicle indicates noncompliance with ss.
17 110.05 and 110.075 or ch. 347 or rules promulgated under those sections or ch. 347.

18 **SECTION 9.** 346.923 of the statutes is created to read:

19 **346.923 Human service vehicles; minimum operator qualifications. (1)**

20 Notwithstanding ss. 111.321, 111.322, and 111.335, no person may operate a human
21 service vehicle transporting any passenger unless all of the following apply:

22 (a) The operator possesses a valid operator's license issued under ch. 343 or by
23 another jurisdiction that authorizes the operation of the human service vehicle.

24 (b) The operator has not been involved as the operator of a motor vehicle in more
25 than 2 traffic accidents that resulted in convictions for violations of laws related to

1 motor vehicle use or operation during the 12 months immediately preceding the
2 operation of the human service vehicle.

3 (c) The operator has not been convicted of a violation of this section, other than
4 a violation of par. (g), during the 60 months immediately preceding the operation of
5 the human service vehicle.

6 (d) The operator has not been convicted of a violation of s. 346.63 (1), (2m), or
7 (5) or a local ordinance in conformity therewith, or a violation of s. 346.63 (2) or (6),
8 940.09 (1), or 940.25, or a violation of federal law or the law of a federally recognized
9 American Indian tribe or band in this state or the law of another jurisdiction that
10 would be a violation of s. 346.63 (1), (2), (2m), (5), or (6), 940.09 (1), or 940.25 if the
11 person had committed the offense in this state and been convicted of the offense
12 under the laws of this state, or of an offense specified in s. 343.12 (2) (d) other than
13 an offense under s. 346.63 (7) or a local ordinance in conformity with s. 346.63 (7) or
14 a law of a federally recognized American Indian tribe or band in this state in
15 conformity with s. 346.63 (7), or of 2 or more offenses under s. 346.63 (7) or a local
16 ordinance in conformity with s. 346.63 (7) or a law of a federally recognized American
17 Indian tribe or band in this state in conformity with s. 346.63 (7), during the 24
18 months immediately preceding the operation of the human service vehicle.

19 (e) Notwithstanding par. (d), the operator has not been convicted of a violation
20 of s. 85.21 (5) (c), 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (3), (4), (5), or (6),
21 940.22 (2) or (3), 940.225 (1), (2), or (3), 940.285 (2), 940.29, 940.295, 948.02 (1) or (2),
22 948.025, 948.03 (2), 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 (2) (a) or (am),
23 948.12, 948.13, 948.21 (1), or 948.30 or a violation of federal law or the law of a
24 federally recognized American Indian tribe or band in this state or the law of another
25 jurisdiction that would be a violation of s. 940.01, 940.02, 940.03, 940.05, 940.12,

1 940.19 (2), (3), (4), (5), or (6), 940.22 (2) or (3), 940.225 (1), (2), or (3), 940.285 (2),
2 940.29, 940.295, 948.02 (1) or (2), 948.025, 948.03 (2), 948.05, 948.055, 948.06,
3 948.07, 948.08, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (1), or 948.30 if the
4 person had committed the offense in this state and been convicted of the offense
5 under the laws of this state.

6 (f) Notwithstanding par. (d) and subject to par. (e), the operator meets the
7 requirements specified under s. 343.12 (2) (e) and any rule established by the
8 department under s. 343.12 (2) (e).

9 (g) The operator conspicuously displays an identification card issued by the
10 specialized transportation service that identifies the bearer as an operator, states his
11 or her name, and contains his or her photograph.

12 (h) The operator has, within the 2 previous years, been fully trained in the
13 proper use of all passenger restraint systems available in the human service vehicle;
14 the operator ascertains that all passengers required by statute or rule to be properly
15 restrained are so restrained; and the operator responds to requests from passengers
16 with respect to being properly restrained.

17 (2) A person employed as an operator by a specialized transportation service
18 that is operated by a county or that contracts with a county for services under s. 85.21
19 shall report to the specialized transportation service in writing within 10 days of the
20 occurrence of any of the following:

21 (a) Any accident in which the person was involved as the operator of a motor
22 vehicle, regardless of whether the person was issued a uniform traffic citation or
23 charged with any offense or whether the person was operating a human service
24 vehicle.

1 (b) Any suspension or revocation of the person's operating privilege by this
2 state or another jurisdiction.

3 **(3)** The department shall do all of the following:

4 (a) Prescribe a background information form that directs a person employed or
5 seeking employment as an operator of a human service vehicle to provide
6 information for the purposes of determining whether the person may operate a
7 human service vehicle under sub. (1) or may be employed as an operator by a
8 specialized transportation service under s. 85.21 (3m). The department shall provide
9 counties and specialized transportation services with copies of the form upon
10 request.

11 (b) Prepare and make available to counties and specialized transportation
12 services informational materials, in printed or electronic form, relating to
13 compliance with this section and s. 85.21 (3m) and (5), and establish a method of
14 communication, which may include a statewide, toll-free telephone hotline, to
15 respond to questions regarding compliance with this section and s. 85.21 (3m) and
16 (5).

17 **(4)** The department of justice shall prepare and make available to counties and
18 specialized transportation services informational materials, in printed or electronic
19 form, relating to criminal background information specified under this section and
20 s. 85.21 (3m) and (5), and shall establish a method of communication, which may
21 include a statewide, toll-free telephone hotline, to respond to questions regarding
22 criminal background information specified under this section and s. 85.21 (3m) and
23 (5).

24 **SECTION 10.** 346.95 (4) of the statutes is amended to read:

1 346.95 (4) Any person violating s. 346.923 (1) or (2), 346.925, or 346.94 (8) or
2 (8m) may be required to forfeit not to exceed more than \$20 for the first offense or
3 ~~not to exceed~~ and not more than \$50 for each subsequent offense.

4 **SECTION 11. Nonstatutory provisions.**

5 (1) In this SECTION:

6 (a) “Background information form” means the background information form
7 prescribed by the department of transportation under section 346.923 (3) (a) of the
8 statutes, as created by this act.

9 (b) “Specialized transportation service” means a specialized transportation
10 service, as defined in section 85.21 (2) (g) of the statutes, that is operated by a county
11 or that contracts with a county for services under section 85.21 of the statutes.

12 (2) Notwithstanding section 85.21 (5) of the statutes, as created by this act,
13 every person who, on the effective date of this subsection, is employed as an operator
14 by a specialized transportation service shall, not later than the first day of the 13th
15 month beginning after the effective date of this subsection, complete a background
16 information form and provide it to the specialized transportation service. A person
17 who provides false or incomplete information with respect to any material fact on a
18 background information form required to be completed under this subsection is
19 subject to the penalty provided in section 85.21 (5) (c) of the statutes, as created by
20 this act. A violation of this subsection shall be considered a violation of section 85.21
21 (5) (c) of the statutes for purposes of sections 85.21 (3m) (b) 3. and 346.923 (1) (e) of
22 the statutes, as created by this act.

23 (3) Notwithstanding sections 111.321 and 111.322 of the statutes, and section
24 111.335 of the statutes, as affected by 2001 Wisconsin Act 16, within 60 days after
25 receipt of a completed background information form from a person specified under

1 subsection (2), a specialized transportation service shall obtain from the records
2 maintained by the department of justice, and the department of justice shall provide,
3 a criminal history search of the person. Notwithstanding sections 111.321 and
4 111.322 of the statutes, and section 111.335 of the statutes, as affected by 2001
5 Wisconsin Act 16, if the person who is the subject of the criminal history search is not
6 a resident of this state, or if at any time within the 3 years preceding the date of the
7 search that person has not been a resident of this state, the specialized
8 transportation service shall make a good faith effort to obtain promptly from any
9 state in which the person is a resident, or was a resident within the 3 years preceding
10 the date of the search, information that is equivalent to a criminal history. Any
11 person who violates this subsection is subject to the penalty provided in section 85.21
12 (3m) (g) of the statutes, as created by this act.

13 (4) Notwithstanding sections 111.321 and 111.322 of the statutes, and section
14 111.335 of the statutes, as affected by 2001 Wisconsin Act 16, no specialized
15 transportation service may employ as an operator any person who has not submitted
16 to the specialized transportation service a completed background information form
17 required under subsection (2). A specialized transportation service that violates this
18 subsection is subject to the penalty provided in section 85.21 (3m) (f) of the statutes,
19 as created by this act. A violation of this subsection shall be considered a violation
20 of section 85.21 (3m) (b) 11. of the statutes, as created by this act, for purposes of
21 section 85.21 (3) (c) of the statutes, as affected by this act, and section 85.21 (3m) (a)
22 of the statutes, as created by this act.

23 (5) Notwithstanding section 85.21 (5) of the statutes, as created by this act, for
24 every person employed as an operator by a specialized transportation service on the
25 effective date of this subsection, the specialized transportation service shall, not

1 later than the first day of the 13th month beginning after the effective date of this
2 subsection, obtain the person's operating record from the department of
3 transportation under section 343.24 of the statutes or, if the operating record has
4 already been obtained by another entity, from that entity if there are reasonable
5 grounds to believe that the operating record obtained from that entity is accurate and
6 was furnished by the department to that entity not more than 2 months previously.
7 A specialized transportation service that violates this subsection is subject to the
8 penalty provided in section 85.21 (3m) (g) of the statutes, as created by this act. A
9 violation of this subsection shall be considered a violation of section 85.21 (3m) (b)
10 7. of the statutes, as created by this act, for purposes of section 85.21 (3) (c) of the
11 statutes, as affected by this act, and section 85.21 (3m) (a) of the statutes, as created
12 by this act.

13 **SECTION 12. Initial applicability.**

14 (1) The treatment of section 85.21 (3) (c) and (3m) (a) of the statutes first applies
15 to contracts that are entered into on the effective date of this subsection.

16 (2) The treatment of section 341.10 (15) of the statutes first applies to
17 applications for registration submitted on the first day of the 4th month beginning
18 after publication.

19 (3) The treatment of sections 85.21 (3m) (b) 1. to 7., 10., and 11., (c), (d), and (dm)
20 and (5) and 346.923 (1) (a) to (f) and (h), (2), and (3) (a) of the statutes first applies
21 to persons specified under SECTION 11 (2) of this act on the first day of the 13th month
22 beginning after the effective date of this subsection.

23 **SECTION 13. Effective date.**

