

## 2001 ASSEMBLY BILL 522

September 28, 2001 – Introduced by Representatives MONTGOMERY, LADWIG, RYBA, KRAWCZYK, MEYERHOFER, GROTHMAN, GRONEMUS, STARZYK, SUDER, LA FAVE, DUFF, ALBERS, AINSWORTH, STONE, HUEBSCH, OWENS, M. LEHMAN, URBAN, HUNDERTMARK, VRAKAS, OTT, RHOADES, NASS, STASKUNAS and HAHN, cosponsored by Senators M. MEYER, ROESSLER, DARLING, PLACHE and BRESKE. Referred to Committee on Criminal Justice.

1     **AN ACT** *to renumber* 943.212 (4); *to renumber and amend* 943.21 (3); *to*  
2           *amend* 343.10 (1) (a), 343.10 (2) (a) 1., 343.30 (5), 943.21 (title), 943.212 (title)  
3           and 943.212 (1) (a); and *to create* 943.21 (1) (d), 943.21 (2r), 943.21 (3) (bm),  
4           943.21 (3m) and 943.212 (4) (b) of the statutes; **relating to:** failure to pay for  
5           gasoline or diesel fuel and suspension of operating privileges after conviction  
6           for theft of gasoline or diesel fuel and providing penalties.

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### ***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 attorney fees.

This bill prohibits a person from intentionally absconding from a service station, garage, or other place where gasoline or diesel fuel is offered for sale at retail

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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: 1) for a first or second offense a court may suspend the person's motor vehicle operating privileges for not more than six months; 2) for a third offense the court must suspend the person's operating privileges for six months; and 3) for a fourth or subsequent offense, the court must suspend the person's operating privileges for one year. Finally, with certain modifications, 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 and local* 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.** 343.10 (1) (a) of the statutes is amended to read:

2           343.10 **(1)** (a) If a person's license or operating privilege is revoked or  
3 suspended under this chapter or s. 767.303, 943.21 (3m), or 961.50 and if the person  
4 is engaged in an occupation, including homemaking or full-time or part-time study,  
5 or a trade making it essential that he or she operate a motor vehicle, the person, after  
6 payment of the fee provided in sub. (6), may file an application with the department  
7 setting forth in detail the need for operating a motor vehicle. No person may file more  
8 than one application with respect to each revocation or suspension of the person's  
9 license or operating privilege under this chapter or s. 767.303, 943.21 (3m), or 961.50,  
10 except that this limitation does not apply to an application to amend an occupational  
11 license restriction.

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

13           343.10 **(2)** (a) 1. Except for a revocation or suspension that arose out of the same  
14 incident or occurrence for which the person's license or operating privilege is  
15 currently revoked or suspended, the person's license or operating privilege was not

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1       revoked or suspended previously under this chapter or ch. 344 or s. 943.21 (3m) or  
2       961.50 within the one-year period immediately preceding the present revocation or  
3       suspension, except as provided in s. 344.40.

4               **SECTION 3.** 343.30 (5) of the statutes is amended to read:

5               343.30 (5) No court may suspend or revoke an operating privilege except as  
6       authorized by this chapter or ch. 345, 351 or 938 or s. 767.303, 800.09 (1) (c), 800.095  
7       (4) (b) 4., 943.21 (3m), or 961.50. When a court revokes, suspends or restricts a  
8       juvenile's operating privilege under ch. 938, the department of transportation shall  
9       not disclose information concerning or relating to the revocation, suspension or  
10       restriction to any person other than a court, district attorney, county corporation  
11       counsel, city, village or town attorney, law enforcement agency, or the minor whose  
12       operating privilege is revoked, suspended or restricted, or his or her parent or  
13       guardian. Persons entitled to receive this information shall not disclose the  
14       information to other persons or agencies.

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

16               **943.21 (title) Fraud on hotel or restaurant keeper ~~or~~, taxicab operator,**  
17       **or gas station.**

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

19               943.21 (1) (d) Having obtained gasoline or diesel fuel from a service station,  
20       garage, or other place where gasoline or diesel fuel is sold at retail or offered for sale  
21       at retail, intentionally absconds without paying for the gasoline or diesel fuel.

22               **SECTION 6.** 943.21 (2r) of the statutes is created to read:

23               943.21 (2r) The failure or refusal to pay a service station, garage, or other place  
24       where gasoline or diesel fuel is sold at retail or offered for sale at retail the  
25       established charge for gasoline or diesel fuel provided by the service station, garage,

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1 or other place constitutes prima facie evidence of an intent to abscond without  
2 payment.

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

5 943.21 (3) (am) (intro.) Whoever violates ~~this section~~ sub. (1) (a), (b), or (c):

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

7 943.21 (3) (bm) Whoever violates sub. (1) (d) is subject to a Class D forfeiture.

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

9 943.21 (3m) (a) In this subsection:

10 1. “Operating privilege” has the meaning given in s. 340.01 (40).

11 2. “Repeat offense” means a violation of sub. (1) (d) that occurs after a person  
12 has been found by a court to have violated sub. (1) (d).

13 (b) Subject to pars. (c) and (d), if a person violates sub. (1) (d), the court, in  
14 addition to imposing any penalty under sub. (3) (bm), may suspend the person’s  
15 operating privilege for not more than 6 months.

16 (c) Subject to par. (d), if a person violates sub. (1) (d) after having been found  
17 by a court to have committed an offense that constitutes a repeat offense, the court,  
18 in addition to imposing any penalty under sub. (3) (bm), shall suspend the person’s  
19 operating privilege for not more than 6 months.

20 (d) If a person violates sub. (1) (d) after having his or her operating privilege  
21 suspended under par. (c), the court, in addition to imposing any penalty under sub.  
22 (3) (bm), shall suspend the person’s operating privilege for one year.

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

24 **943.212 (title) Fraud on hotel or restaurant keeper or, taxicab operator**  
25 **or gas station; civil liability.**

