

2001 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-SB55)

Received: 06/21/2001

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Assembly Republican Caucus

By/Representing: Petri

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Addl. Drafters:

Subject: Criminal Law - miscellaneous
Transportation - driver licenses

Extra Copies: rlr
tnf
pjh

Submit via email: NO

Requester's email:

Pre Topic:

ARC:.....Petri - AM5,

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>
/?	mdsida 06/24/2001	gilfokm 06/25/2001		_____			
/1			jfrantze 06/25/2001	_____	lrb_docadmin 06/25/2001		

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/?	mdsida		<i>Jel/25</i>	==			

FE Sent For:

<END>

Budget Amendments 2001 - 2003

Prepared by the Assembly Republican Caucus

Statement of Intent Drive-off gas theft convictions resulting in the suspension of operating privileges for up to six months and a civil forfeiture of not more than \$200.

Legislator Montgomery **Amendment** 5

Legislator 2 **Pass or Fail** Pass

Legislator 3 **Spending Cut**

Legislator 4 **Withdrawn**

Staff contact Rose **Package**

Agency Justice

Summary This amendment is identical to AB 946, introduced during the '99-'00 session. The motion calls for theft conviction civil forfeiture penalties of not more than \$200, as well as the suspension of driving privileges of up to six months for motorists who fail to pay for gasoline or diesel fuel.

Current law provides for fines of up to \$10,000, nine months in prison or both.

Fiscal Impact Indeterminate at this time

Drafting Inst

ARC Analyst Petri

Request # 207

Wednesday, June 20, 2001

Page 2 of 8

2001

Date (time) needed _____

LRB b 1377, 1

**ARC CAUCUS BUDGET AMENDMENT
[ONLY FOR CAUCUS]**

mgd: kmq

See form **AMENDMENTS — COMPONENTS & ITEMS.**

**CAUCUS AMENDMENT
TO ASSEMBLY SUBSTITUTE AMENDMENT 1
TO 2001 SENATE BILL 55**

>>FOR CAUCUS SUPERAMENDMENT — NOT FOR INTRODUCTION<<

At the locations indicated, amend the substitute amendment as follows:

✓ #. Page 1104, line 13: *after that line insert:*

Insert A →

✓ #. Page 1109, line 10:

INS B

✓ #. Page 1237, line 16:

INS C

#. Page 1237, line 17:

*delete "that line."
" (a) " and substitute " (am) ".*

#. Page 1237, line 18: *delete "943.21 (3) (a) " and substitute "1."*

#. Page 1237, line 18:

#. Page _____, line _____:

2001

Date (time) needed _____

LRB b _____ / _____

**ARC CAUCUS BUDGET AMENDMENT
[ONLY FOR CAUCUS]**

_____ : _____ : _____

See form **AMENDMENTS — COMPONENTS & ITEMS.**

**CAUCUS AMENDMENT
TO ASSEMBLY SUBSTITUTE AMENDMENT 1
TO 2001 SENATE BILL 55**

>>FOR CAUCUS SUPERAMENDMENT — NOT FOR INTRODUCTION<<

At the locations indicated, amend the substitute amendment as follows:

✓ #. Page ¹²³⁷....., line ²¹.....: delete ^{that line.} "(b)" and substitute "(a) 2."

✓ #. Page ¹²³⁷....., line ²².....: delete "943.21 (3) (b)" and substitute "2." ^(B)

✓ #. Page ¹²³⁷....., line ²³.....: after that line insert:

✓ Insert D

#. Page....., line.....:

#. Page....., line.....:

#. Page....., line.....:

(End)

2001 BILL

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

BILL

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 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:

340966

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.

340969

SECTION 2. 343.10 (2) (a) 1. 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

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1 961.50 within the one-year period immediately preceding the present revocation or
2 suspension, except as provided in s. 344.40. //

3 ³⁹¹⁶² SECTION 3. 343.30 (5) of the statutes is amended to read:

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

14 ^{3939cg} SECTION 4. 943.21 (title) of the statutes is amended to read:

15 **943.21 (title) Fraud on hotel or restaurant keeper or, taxicab operator,**
16 **or gas station.**

17 ^{3939cl} SECTION 5. 943.21 (1) (d) of the statutes is created to read:

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

21 ^{3939cp} SECTION 6. 943.21 (2r) of the statutes is created to read:

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

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SECTION ~~7~~. 943.21 (3) of the statutes is renumbered 943.21 (3) (am) and ~~943.21~~

~~(3) (am) (intro) is renumbered (3) amended to read:~~

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

^{3939ee}
SECTION ~~8~~. 943.21 (3) (bm) of the statutes is created to read:

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

^{3939eg}
SECTION ~~9~~. 943.21 (3m) of the statutes is created to read:

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

^{3939eL}
SECTION ~~10~~. 943.212 (title) of the statutes is amended to read:

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

^{3939eq}
SECTION ~~11~~. 943.212 (1) (a) of the statutes is amended to read:

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

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

^{3939et}

IN SUB D

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. = .

~~(END)~~

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D

ARC:.....Petri – AM5, Theft of gasoline

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS ASSEMBLY AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 1104, line 13: after that line insert:

3 **“SECTION 3409bb.** 343.10 (1) (a) of the statutes is amended to read:

4 343.10 (1) (a) If a person’s license or operating privilege is revoked or
5 suspended under this chapter or s. 767.303, 943.21 (3m), or 961.50 and if the person
6 is engaged in an occupation, including homemaking or full-time or part-time study,
7 or a trade making it essential that he or she operate a motor vehicle, the person, after
8 payment of the fee provided in sub. (6), may file an application with the department
9 setting forth in detail the need for operating a motor vehicle. No person may file more
10 than one application with respect to each revocation or suspension of the person’s

1 license or operating privilege under this chapter or s. 767.303, 943.21 (3m), or 961.50,
2 except that this limitation does not apply to an application to amend an occupational
3 license restriction.

4 **SECTION 3409bq.** 343.10 (2) (a) 1. of the statutes is amended to read:

5 343.10 (2) (a) 1. Except for a revocation or suspension that arose out of the same
6 incident or occurrence for which the person's license or operating privilege is
7 currently revoked or suspended, the person's license or operating privilege was not
8 revoked or suspended previously under this chapter or ch. 344 or s. 943.21 (3m) or
9 961.50 within the one-year period immediately preceding the present revocation or
10 suspension, except as provided in s. 344.40.”.

11 **2.** Page 1109, line 10: after that line insert:

12 “**SECTION 3416q.** 343.30 (5) of the statutes is amended to read:

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

23 **3.** Page 1237, line 16: after that line insert:

24 “**SECTION 3939cg.** 943.21 (title) of the statutes is amended to read:

1 **943.21 (title) Fraud on hotel or restaurant keeper or, taxicab operator,**
2 **or gas station.**

3 **SECTION 3939cL.** 943.21 (1) (d) of the statutes is created to read:

4 943.21 (1) (d) Having obtained gasoline or diesel fuel from a service station,
5 garage, or other place where gasoline or diesel fuel is sold at retail or offered for sale
6 at retail, intentionally absconds without paying for the gasoline or diesel fuel.

7 **SECTION 3939cp.** 943.21 (2r) of the statutes is created to read:

8 943.21 (2r) The refusal to pay a service station, garage, or other place where
9 gasoline or diesel fuel is sold at retail or offered for sale at retail the established
10 charge for gasoline or diesel fuel provided by the service station, garage, or other
11 place constitutes prima facie evidence of an intent to abscond without payment.

12 **SECTION 3939ct.** 943.21 (3) of the statutes is renumbered 943.21 (3) (am) and
13 amended to read:

14 943.21 (3) (am) Whoever violates ~~this section~~ sub. (1) (a), (b), or (c).”

15 **4.** Page 1237, line 17: delete that line.

16 **5.** Page 1237, line 18: delete “943.21 (3) (a)” and substitute “1.”

17 **6.** Page 1237, line 21: delete that line.

18 **7.** Page 1237, line 22: delete “943.21 (3) (b)” and substitute “2.”

19 **8.** Page 1237, line 23: after that line insert:

20 **“SECTION 3939ee.** 943.21 (3) (bm) of the statutes is created to read:

21 943.21 (3) (bm) Whoever violates sub. (1) (d) is subject to a Class D forfeiture.

22 **SECTION 3939eg.** 943.21 (3m) of the statutes is created to read:

23 943.21 (3m) If a person is found to have violated sub. (1) (d), the court shall,
24 in addition to the penalty provided in sub. (3) (bm), suspend the person’s operating

1 privilege, as defined in s. 340.01 (40), for not more than 6 months, except that if the
2 person has previously had his or her operating privilege suspended under this
3 subsection the court shall suspend the person's operating privilege for one year. The
4 court shall immediately take possession of any suspended license and forward it to
5 the department of transportation together with the judgment of violation and notice
6 of the suspension.

7 **SECTION 3939eL.** 943.212 (title) of the statutes is amended to read:

8 **943.212 (title) Fraud on hotel or restaurant keeper ~~or~~ taxicab operator**
9 **or gas station; civil liability.**

10 **SECTION 3939eq.** 943.212 (1) (a) of the statutes is amended to read:

11 943.212 (1) (a) The retail value of the beverage, food, lodging, accommodation,
12 gasoline or diesel fuel, transportation or service involved in the violation. A person
13 may recover under this paragraph only if he or she exercises due diligence in
14 demanding payment for the beverage, food, lodging, accommodation, gasoline or
15 diesel fuel, transportation or service.

16 **SECTION 3939et.** 943.212 (4) of the statutes is amended to read:

17 943.212 (4) At least 20 days prior to commencing an action, as specified in s.
18 801.02, under this section, the plaintiff shall notify the defendant, by mail, of his or
19 her intent to bring the action and of the acts constituting the basis for the violation
20 of s. 943.21. The plaintiff shall send the notice by regular mail supported by an
21 affidavit of service of mailing or by a certificate of mailing obtained from the U.S. post
22 office from which the mailing was made. The plaintiff shall mail the notice to the
23 defendant's last-known address or to the address provided on the check or order. If
24 the defendant pays the amount due for the beverage, food, lodging, accommodation,

1 gasoline or diesel fuel, transportation or service prior to the commencement of the
2 action, he or she is not liable under this section.”.

3 (END)