

2003 SENATE BILL 86

April 2, 2003 – Introduced by Senators S. FITZGERALD, M. MEYER, COWLES, BRESKE, WELCH, ROESSLER, LAZICH, KEDZIE, LEIBHAM and STEPP, cosponsored by Representatives WEBER, VRUWINK, MONTGOMERY, HUEBSCH, GRONEMUS, VRAKAS, FREESE, OTT, MCCORMICK, J. FITZGERALD, HAHN, NASS, TOWNSEND, OWENS, ZEPNICK, LOEFFELHOLZ, SHILLING, TOWNS, F. LASEE, JESKEWITZ, GUNDERSON, HINES, KESTELL, LADWIG, SUDER and LASSA. Referred to Committee on Judiciary, Corrections and Privacy.

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.

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 and the value of the goods or services was \$2,500 or less, he or she is guilty of a misdemeanor and may be fined not more than \$10,000 or imprisoned in the county jail for not more than nine months or both. If the value of the goods or services exceeds \$2,500, the person is guilty of a felony and the maximum term of imprisonment (consisting of a term of confinement in state prison and a term of extended supervision) increases to three and one-half years. 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.

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This bill prohibits a person from intentionally absconding from a service station, garage, or other place where gasoline or diesel fuel is offered for retail sale 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 second offense a court may suspend the person's driver's licenses for not more than six months; 2) for a third offense the court must suspend the person's license for six months; and 3) for a fourth or subsequent offense, the court must suspend the person's license 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.

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, as affected by 2001 Wisconsin Act 109,
4 is renumbered 943.21 (3) (am), and 943.21 (3) (am) (intro.), as renumbered, is
5 amended to read:

6 943.21 (3) (am) (intro.) Whoever violates ~~this section~~ sub. (1) (a), (b), or (c):

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

8 943.21 (3) (bm) Whoever violates sub. (1) (d) is subject to a Class D forfeiture.

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

10 943.21 (3m) (a) *Definitions.* In this subsection:

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

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

14 (b) *Driver’s license suspension; 2nd offense.* Subject to pars. (c) and (d), if a
15 person commits a repeat offense, the court, in addition to imposing any penalty under
16 sub. (3) (bm), may suspend the person’s operating privilege for not more than 6
17 months.

18 (c) *Driver’s license suspension; 3rd offense.* Subject to par. (d), if a person
19 violates sub. (1) (d) after having been found by a court to have committed an offense
20 that constitutes a repeat offense, the court, in addition to imposing any penalty
21 under sub. (3) (bm), shall suspend the person’s operating privilege for not more than
22 6 months.

23 (d) *Driver’s license suspension; 4th offense.* If a person violates sub. (1) (d) after
24 having his or her operating privilege suspended under par. (c), the court, in addition

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1 to imposing any penalty under sub. (3) (bm), shall suspend the person's operating
2 privilege for one year.

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

4 **943.212 (title) Fraud on hotel or restaurant keeper ~~or~~ taxicab operator,**
5 **or gas station; civil liability.**

6 **SECTION 11.** 943.212 (1) (a) of the statutes is amended to read:

7 943.212 (1) (a) The retail value of the beverage, food, lodging, accommodation,
8 gasoline or diesel fuel, transportation or service involved in the violation. A person
9 may recover under this paragraph only if he or she exercises due diligence in
10 demanding payment for the beverage, food, lodging, accommodation, gasoline or
11 diesel fuel, transportation or service.

12 **SECTION 12.** 943.212 (4) of the statutes is renumbered 943.212 (4) (a).

13 **SECTION 13.** 943.212 (4) (b) of the statutes is created to read:

14 943.212 (4) (b) This subsection does not apply to an action based on acts that
15 constitute a violation of s. 943.21 (1) (d).

16 (END)