LRB-2286

2003 DRAFTING REQUEST

Bill

Received: **03/12/2003**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Scott Fitzgerald (608) 266-5660**

By/Representing: **Judi**

This file may be shown to any legislator: **NO**

Drafter: **mdsida**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - miscellaneous**

Extra Copies: **rlr**

Submit via email: **YES**

Requester's email: **Sen.Fitzgerald@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Theft of gasoline or diesel fuel

Instructions:

Same as 03-1582

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	mdsida 03/12/2003	jdyer 03/13/2003		_____ _____			S&L
/1			rschluet 03/13/2003	_____ _____ _____ _____	sbasford 03/13/2003	sbasford 03/13/2003 sbasford 03/13/2003	

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required

FE Sent For: At intro.

<END>

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/?	mdsida	1 3/13 jld					

FE Sent For:

3-13-3

<END>

2286/1

2003 – 2004 LEGISLATURE

LRB–~~1582/1~~
MGD:jld:jf
stays

2003 BILL

Same as

Soon

Regen

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.

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

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

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

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

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

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

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

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

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

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

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

SECTION 7. 943.21 (3) of the statutes, as affected by 2001 Wisconsin Act 109, is renumbered 943.21 (3) (am), and 943.21 (3) (am) (intro.), as renumbered, is amended to read:

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

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.

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

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

1. "Operating privilege" has the meaning given in s. 340.01 (40).

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

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

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

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

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

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.**

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 renumbered 943.212 (4) (a).

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

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

(END)

Mentkowski, Annie

From: Rhodes-Engels, Judi
Sent: Thursday, March 13, 2003 10:02 AM
To: LRB.Legal
Subject: Draft review: LRB 03-2286/1 Topic: Theft of gasoline or diesel fuel

It has been requested by <Rhodes-Engels, Judi> that the following draft be jacketed for the SENATE:

Draft review: LRB 03-2286/1 Topic: Theft of gasoline or diesel fuel

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX -

PLEASE DO NOT REMOVE FROM DRAFTING FILE

Date Added To File: 03-12-2003 (Per MGD)

○ ☞ The drafting file for **2001 LRB** _____ has been

transferred to the drafting file for **2003 LRB** _____

Done
MB

☞ This cover sheet, the final request sheet, and the final version of the 2001 draft were copied on yellow paper, and returned to the original 2001 drafting file.

☞ For research purposes, because the attached 2001 draft was incorporated into a new 2003 draft, this cover sheet and the complete drafting file was transferred, as a separate appendix, to the 2003 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

○ ☞ The drafting file for **2003 LRB** -1582 has been

copied/added to the drafting file for **2003 LRB** -2286

☞ For research purposes, because the attached 2003 draft was incorporated into another 2003 draft, the attached drafting file was copied on yellow paper (darkened/auto centered/reduced to 90%), and added, as a appendix, to the new 2003 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

☞ This cover sheet was copied on yellow paper and added to rear of the original 2003 drafting file. The drafting file was then returned, intact, to its folder and filed.