

2003 Assembly Bill 232

Date of enactment: **November 20, 2003**

Date of publication*: **December 5, 2003**

2003 WISCONSIN ACT 80

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

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

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.

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 oper-

ating 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 991.11, WISCONSIN STATUTES 2001-02 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

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).