

## 2005 SENATE BILL 592

1     **AN ACT** *to renumber* 125.14 (6); *to amend* 343.305 (9) (a) (intro.) and 343.305  
2           (9) (am) (intro.); and *to create* 125.14 (6) (title) and 125.14 (6) (b) of the statutes;  
3           **relating to:** discovery in implied consent cases involving drunken driving and  
4           in certain prosecutions for alcohol beverage violations.

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*Analysis by the Legislative Reference Bureau*

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

5           **SECTION 1.** 125.14 (6) (title) of the statutes is created to read:  
6           125.14 **(6)** (title) PROCEDURE.  
7           **SECTION 2.** 125.14 (6) of the statutes is renumbered 125.14 (6) (a).  
8           **SECTION 3.** 125.14 (6) (b) of the statutes is created to read:  
9           125.14 **(6)** (b) *Discovery*. In a prosecution for a violation of this chapter that may  
10          result in the imposition of a forfeiture, neither party is entitled to pretrial discovery,

**SENATE BILL 592****SECTION 3**

1 except that, if the defendant moves within 30 days after the initial appearance in  
2 person or by an attorney and shows cause therefor, the court may order that the  
3 defendant be allowed to inspect documents, including lists of names and addresses  
4 of witnesses, if available, and to test under s. 804.09, under such conditions as the  
5 court prescribes, any devices used by the plaintiff to determine whether a violation  
6 has been committed.

7 **SECTION 4.** 343.305 (9) (a) (intro.) of the statutes is amended to read:

8 343.305 **(9)** (a) (intro.) If a person refuses to take a test under sub. (3) (a), the  
9 law enforcement officer shall immediately take possession of the person's license and  
10 prepare a notice of intent to revoke, by court order under sub. (10), the person's  
11 operating privilege. If the person was driving or operating a commercial motor  
12 vehicle, the officer shall issue an out-of-service order to the person for the 24 hours  
13 after the refusal and notify the department in the manner prescribed by the  
14 department. The officer shall issue a copy of the notice of intent to revoke the  
15 privilege to the person and submit or mail a copy with the person's license to the  
16 circuit court for the county in which the arrest under sub. (3) (a) was made or to the  
17 municipal court in the municipality in which the arrest was made if the arrest was  
18 for a violation of a municipal ordinance under sub. (3) (a) and the municipality has  
19 a municipal court. The officer shall also mail a copy of the notice of intent to revoke  
20 to the attorney for that municipality or to the district attorney for that county, as  
21 appropriate, and to the department. Neither party is entitled to pretrial discovery  
22 in any refusal hearing, except that, if the defendant moves within 30 days after the  
23 initial appearance in person or by an attorney and shows cause therefor, the court  
24 may order that the defendant be allowed to inspect documents, including lists of  
25 names and addresses of witnesses, if available, and to test under s. 804.09, under

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1 such conditions as the court prescribes, any devices used by the plaintiff to determine  
2 whether a violation has been committed. The notice of intent to revoke the person's  
3 operating privilege shall contain substantially all of the following information:

4 **SECTION 5.** 343.305 (9) (am) (intro.) of the statutes is amended to read:

5 343.305 **(9)** (am) (intro.) If a person driving or operating or on duty time with  
6 respect to a commercial motor vehicle refuses a test under sub. (3) (am), the law  
7 enforcement officer shall immediately take possession of the person's license, issue  
8 an out-of-service order to the person for the 24 hours after the refusal and notify the  
9 department in the manner prescribed by the department, and prepare a notice of  
10 intent to revoke, by court order under sub. (10), the person's operating privilege. The  
11 officer shall issue a copy of the notice of intent to revoke the privilege to the person  
12 and submit or mail a copy with the person's license to the circuit court for the county  
13 in which the refusal is made or to the municipal court in the municipality in which  
14 the refusal is made if the person's refusal was in violation of a municipal ordinance  
15 and the municipality has a municipal court. The officer shall also mail a copy of the  
16 notice of intent to revoke to the attorney for that municipality or to the district  
17 attorney for that county, as appropriate, and to the department. Neither party is  
18 entitled to pretrial discovery in any refusal hearing, except that, if the defendant  
19 moves within 30 days after the initial appearance in person or by an attorney and  
20 shows cause therefor, the court may order that the defendant be allowed to inspect  
21 documents, including lists of names and addresses of witnesses, if available, and to  
22 test under s. 804.09, under such conditions as the court prescribes, any devices used  
23 by the plaintiff to determine whether a violation has been committed. The notice of  
24 intent to revoke the person's operating privilege shall contain substantially all of the  
25 following information:

